

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

MARVIN CUMMINGS,)	
)	
Plaintiff(s),)	
)	
v.)	No.: 1:13-cv-01085-JDB-egb
)	
TAYLOR EXPRESS, INC.,)	
)	
Defendant(s).)	

ORDER

On referral for determination is Defendant’s motion for a qualified protective order [D.E. 11]. The jurisdiction of this U.S. District Court is based on diversity of citizenship between the parties.

Plaintiff, who is 76 years old and has extensive driving experience, had applied for a truck driver position with Defendant Taylor Express, Inc. without success. He now brings this lawsuit under the Tennessee Human Rights Act, T.C.A. §4-21-101, et seq. Plaintiff alleges that he met all the qualifications, but was not hired because of his age. On July 11, 2013, oral arguments were presented and the parties agreed that a protective order is appropriate but did not agree on the scope of the protective order. Defendant argued for additional restrictions on personal information sought in Requests for Production 3, 4, 5 and 6 of the original seven requests.

Rule 26(c) addresses when Courts may issue protective orders. The Rule provides that the Court “may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense” The burden is upon the movant to show the necessity of the protective order sought, “which contemplates a particular and specific

demonstration of fact as distinguished from stereotyped and conclusory statements, in order to establish good cause.” *Amway Corp. v. P&G*, 2001 U.S. Dist. LEXIS 2880, 5-6 (W.D. Mich. Mar. 7, 2001).

Determination

First, regarding the end date of discoverable information, the Court determines that the period of time shall end with the date of the filing of his lawsuit. Secondly, the Court determines that the Qualified Protective Order proposed by Defendant is reasonable insofar as broadly protecting the information to be provided Plaintiff by Defendant and shall be executed by the parties.

Of the four specific discovery requests at issue, the first two relate to the applications and personnel files of those applicants who were hired. The last two requests relate to compensation and benefits available to those drivers hired during this time.

Request No. 3 is for each and every application the Defendant received in response to the ads produced in response to Request No.1 after February 2012 to present.

Request No. 4 is for the personnel files, including the initial employment applications, resumes of each and every OTR (over the road) driver who’s been hired by Defendant since February 2012 to the present.

Request No. 5 is a request as to any record which indicates all actual pay and benefits received by each and every OTR driver who’s been hired by the Defendant since February 2012 to the present.

Request No. 6 is a request as to all bonus and benefit plans provided to or made available to each OTR driver who has been hired by Defendant since February 2012 to the present.

In consideration of the above, the Court determines that a copy of the application and, if hired, personnel file of the truck driver applicants who were hired following the subject ads (and ending at the filing of this lawsuit) shall be made available to the attorney for Plaintiff. However,

each such file first shall be reviewed by Defendant and its attorneys in order to redact the following information from the designated personnel files: names, social security numbers, addresses, telephone numbers, email addresses, financial institutions, religious affiliation, next of kin, family members and any other personal identifiers. As well, the same information for family members shall be redacted. The parties may agree to additional limitations on this information.

Finally, as to the general financial information requested in Nos. 5 and 6, the Plaintiff shall be provided a comparable amount he would have received as pay and benefits had he, with his experience, been hired, as well as any bonus and benefit plans available to him.

IT IS SO ORDERED.

s/Edward G. Bryant
EDWARD G. BRYANT
UNITED STATES MAGISTRATE JUDGE

Date: **August 21, 2013**