

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

v.

THE GEORGE WASHINGTON UNIVERSITY,

Defendant.

Civil Action No. 1:17-cv-01978-CKK

DECLARATION OF MELANIE MARIE PETERSON

1. My name is Melanie Marie Peterson. I am over the age of 18 and have personal knowledge of the events described below.

2. I am a Senior Trial Attorney employed by the United States Equal Employment Opportunity Commission.

3. By letter dated May 22, 2020, Defendant sent a letter to me and co-counsel Jessi Isenhardt (who was on maternity leave at the time) asserting that emails contained in two documents produced by EEOC to Defendant were attorney-client privileged and alleging that EEOC counsel engaged in unethical conduct concerning the emails. Defendant provided no privilege log identifying the emails over which it asserted privilege. Defendant offered legal authority to support its claim, including Rule of Professional Conduct 1.15 and D.C. Ethics Opinion 318, all of which I read.

4. As to both items cited in Defendant's letter, to the best of my recollection I reviewed the headers and glanced at or skimmed portions that Defendant claimed made it readily apparent they were privileged on their face. For one email mentioned in Defendant's letter, I reviewed the

header and saw that a lawyer was copied on the email which did not, itself, demonstrate that the privileged status of the email was readily apparent; my other review was just a quick glance at a reference to a comment that Defendant said proved its privileged status, which also was not readily apparent. As to another email, I also reviewed the header and skimmed the communication that Defendant mentioned in its letter; again, the privileged status of the email was not readily apparent.

5. The documents described in Defendant's May 22 letter were held pursuant to the Protective Order. I did not disseminate them or disclose them in any manner inconsistent with the Protective Order. EEOC has not used the documents in this litigation. EEOC did intend, however, to seek *in camera* review, which since, has resulted in this briefing.

6. At the time of the above events, it was my belief that Defendant had waived any privilege that otherwise may have been asserted over the emails described above.

7. At all times I acted in good faith and based on my assessment that the above limited review was permissible.

8. At all times, I complied with court orders; I did not review any of the emails described above during the hearing conducted on July 28, 2020, nor did I review them in preparing this Declaration.

9. This Declaration is submitted pursuant to 28 U.S.C. § 1746 and I declare under penalty of perjury that it is true and correct to the best of my knowledge.

/s/Melanie M. Peterson
MELANIE MARIE PETERSON

Dated: September 1, 2020