

2004 U.S. Dist. LEXIS 2257, *

LEXSEE 2004 U.S. DIST. LEXIS 2257

**BEVERLY ZAKRE, Plaintiff, - against - NORDDEUTSCHE LANDESBANK
GIROZENTRALE, Defendant.**

03 Civ. 0257 (RWS)

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
NEW YORK**

2004 U.S. Dist. LEXIS 2257

February 11, 2004, Decided

February 17, 2004, Filed

SUBSEQUENT HISTORY: Motion denied by *Zakre v. Norddeutsche Landesbank Girozentrale*, 2004 U.S. Dist. LEXIS 6026 (S.D.N.Y., Apr. 6, 2004)

PRIOR HISTORY: *Zakre v. Norddeutsche Landesbank Girozentrale*, 2003 U.S. Dist. LEXIS 16702 (S.D.N.Y., Sept. 19, 2003)

DISPOSITION: [*1] Plaintiff's motion for discovery of documents granted in part and denied in part.

CASE SUMMARY:

PROCEDURAL POSTURE: Plaintiff employee sought documents and interrogatory responses from defendant employer in an action alleging sex discrimination and retaliation.

OVERVIEW: The complaint alleged that the employer discriminated against the employee by failing to promote her to treasurer in its New York branch and by retaliating against her following her complaint against the discrimination. She requested documents and interrogatories answers relating to the performance of two subgroups, complaints against the branch manager who chose the three finalists for the treasurer position, identification of all employees who complained about the manager, and reasons for the departure of any former female officers. The court held that documents relating to the performance of the subgroups might have led to admissible evidence of retaliation and discrimination. Discovery relating to complaints about the manager and the reasons for departure of other female officers might have led to evidence of conduct relating to gender discrimination. The discovery regarding the treatment of female officers and their reasons for departing from the

employer in nine other countries where the employer had branches was burdensome and it was not shown that it would have led to evidence with respect to compliance with the laws applicable to the employer in the United States.

OUTCOME: The court granted in part and denied in part the employee's motion seeking discovery.

COUNSEL: For Beverly Zakre, Plaintiff: Anne L. Clark, LEAD ATTORNEY, Vladeck, Waldman, Elias & Engelhard, P.C., New York, NY.

For Norddeutsche Landesbank Girozentrale, Defendant: Joel E. Cohen, LEAD ATTORNEY, McDermott Will & Emery, New York, NY.

JUDGES: ROBERT W. SWEET, U.S.D.J.

OPINIONBY: ROBERT W. SWEET

OPINION:

MEMORANDUM OPINION

Sweet, D.J.,

The plaintiff Beverly Zakre ("Zakre") seeks documents and interrogatory responses from defendant Norddeutsche Landesbank Girozentrale ("Nord L/B") in this action in which Zakre has alleged sex discrimination and retaliation. As set forth below, the motion is granted in part and denied in part.

The complaint alleges that Nord L/B discriminated against Zakre by failing to promote her to Treasurer in its New York branch and by retaliating against her following her complaint against [*2] the discrimination.

The parties have appropriately conferred and failed to resolve their differences.

The issues relate to:

Document Request 7 which requests documents relating to the performance of the Product Development/Investment Bank subgroup of the Treasury Department;

Document Request 8 which makes a similar request with respect to the Money Markets subgroup;

Document Request 15 requesting documents concerning complaints against Jons Westrick ("Westrick"), the branch manager who chose the three finalists for the Treasurer position;

Interrogatory 11 requesting identification of all Nord L/B employees who complained about Westrick to Nord L/B management;

Document Request 23 requesting documents reflecting reasons for the departure of any former female officers in Nord L/B's New York office;

Document Request 25 requesting documents reflecting when females were made officers in any Nord L/B branch other than the New York branch; and

Document Request 26 requesting documents reflecting the reason for the departure of any female officer in any Nord L/B branch other than the New York branch.

From the parties' submission [*3] it appears that the decision with respect to the selection of the Treasurer was made in Germany by Jurgen Kusters, a member of the Board of Management of Nord L/B. The defendant has 30 branches and other offices in 10 countries with over 9,000 employees.

Zakre was working in the Capital Markets subgroup, one of three subgroups in the Treasury Department of the New York branch which is the only Nord L/B branch in the United States and which has 68 employees. The Product Development/Investment Banking group came into existence after the selection of the Treasurer in September 2001.

The documents relating to the performance of the subgroup may lead to admissible evidence of retaliation and, in the instance of the Money Markets subgroup, evidence of discrimination.

Similarly, the documents and interrogatory answers relating to complaints about Westrick may lead to evidence of conduct relating to gender discrimination. The same reasoning applies to the reasons for the departure of other female officers.

The discovery sought regarding the treatment of female officers and their reasons for departing from the bank in the nine other countries where Nord L/B has branches under the circumstances [*4] is burdensome and it has not been shown that it would lead to evidence with respect to compliance with the laws applicable to Nord L/B in the United States.

Document Requests 7, 8, 15 and 23 and Interrogatory Request 11 are granted. Document Requests 25 and 26 are denied.

It is so ordered.

February 11, 2004

ROBERT W. SWEET

U.S.D.J.