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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ONI B. COLE,

Plaintiff,

v.

ARAMARK,

Defendant.

**DEFENDANT'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS
DIRECTED TO PLAINTIFF ONI COLE**

Civil Action No. 07-CV-0105S(F)

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Defendant ARAMARK Management Services Limited Partnership ("ARAMARK" or "Defendant") (incorrectly named herein as ARAMARK), by its counsel, requests that Plaintiff respond to the following Request for Production of Documents and produce the following documents for inspection and copying at the law offices of Bond, Schoeneck & King, PLLC, 40 Fountain Plaza, Suite 600, Buffalo, NY 14202-2200 within 30 days of service hereof. In responding to this Request, the following instructions and definitions shall apply:

INSTRUCTIONS

1. In responding to these Requests, produce all documents that are available to you, including documents in the possession of your attorneys, investigators or experts, and not merely documents in your own personal possession.
2. Each document is to be produced (together with all drafts thereof) in its entirety, without redaction or expurgation of any kind or nature whatever.
3. Each Request shall be construed independently and without reference to any other Request for the purpose of limitation.

4. In the event that any document or portion thereof is withheld on the basis of any privilege or otherwise claimed to be protected against production, such document shall be identified in a privilege log to be served with the responses to these requests by stating: (i) the nature of the privilege or reason for withholding which you contend applies; (ii) the factual basis for your assertion of privilege or the reason for withholding; (iii) the type of document (e.g., letter, memorandum, telex, etc.); (iv) all authors and addressees; (v) all indicated and blind copies; (vi) all persons to whom the document was distributed, shown or explained; (vii) the document's date; (viii) a summary description of the document's subject matter; (ix) the number of pages and attachments or appendices comprising the document; and (x) its present custodian.

5. In the event that any document called for by any Request has been destroyed or discarded, such document shall be identified by stating all of the information requested in subparagraphs (iii) through (x) of Instruction No. 4 and, in addition: its date of destruction or discard, the manner of destruction or discard and the reason for the document's destruction or discard; the persons who authorized and carried out such destruction or discard; and whether any copies of the document presently exist and, if so, the name of the custodian of each copy.

6. If Plaintiff or any agent of Plaintiff, including his attorney, is aware of the existence of any document within the scope of these document requests that is not within the custody, possession or control of Plaintiff or his agents, identify any such document in a written response to the request for the production of the document. In identifying a document in this fashion, please provide the following information: the name, address and telephone number of the person who has possession, custody or control over the document; a brief summary of the nature of the information contained in the document; the date the document was created and any drafts of same, and the name of the person who prepared the document.

7. These requests are to be deemed continuing and require supplementation in accordance with Rule 26(e) of the Federal Rules of Civil Procedure.

DEFINITIONS

1. The term “document” or “documents” shall mean any written, recorded, filmed, or graphic matter, whether produced, reproduced or on paper, cards, tapes, film, electronic facsimile, computer storage devices or any other media, including but not limited to, memoranda, notes, minutes, records, employment files, case files, pleadings, photographs, compact discs, DVDs, correspondence, telegrams, diaries, bookkeeping entries, financial statements, tax returns, checks, check stubs, reports, studies, responses to questionnaires, charts, graphs, statements, notebooks, handwritten notes, applications, agreements, books, pamphlets, periodicals, E-mails, appointment calendars, recordings of oral conversations, and work papers, and also including but not limited to, originals, drafts and all copies which are different in any way from the original whether by interlineation, receipt stamp, notation, indication of copies sent or received, or otherwise, that are in the possession, custody or control of Plaintiff, Plaintiff’s agents, representatives, or attorneys or any and all persons acting on Plaintiff’s behalf.

2. The term “person” and “persons” as used herein means and includes, without limiting the generality of its meaning, any natural or individual person, corporation, firm, partnership, association, governmental body, agency or subdivision, committee, commission, or other organization or entity.

3. The term “contact” or “communication” shall mean any contact between two or more persons, including any of the agents, employees, or representatives thereof, and shall include without limitation, written contact by such means as letters, memoranda, e-mail,

telegrams, faxes, telex, or any other documents, and oral contact by such means as face-to-face meetings, telephone conversations and video conferences.

4. The terms “you,” “your” and “Plaintiff” refer to Oni Cole, his attorneys, agents, representatives and all other persons acting or purporting to act on behalf of Plaintiff.

5. The term “Defendant” refers to ARAMARK Management Services Limited Partnership and any of its current or former employees or agents, parents, subsidiaries, predecessors, successors and/or assigns.

6. “Health care provider” means any doctor or other practitioner of medical science or healing arts, including but not limited to counselors, nurses, chiropractors, psychologists, psychiatrists, social workers, physical therapists, and hospitals, clinics, hospices and other institutions providing health care.

7. The term “any” means each and every, as well as any one.

8. The terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

9. The singular includes the plural, and vice versa.

10. The terms “refer” and “relate” shall mean concerning, containing, consisting of, relating or referring to, evidencing or constituting, either in whole or in part.

11. “Concerning” shall mean and include concerning, about, evidencing, constituting, pertaining to, referring to, with respect or regard to and/or relating to.

12. The terms “Complaint” and “this Action” mean Plaintiff’s Complaint in the action captioned Oni Cole v. ARAMARK, No. 07-CV-0105S(F) (W.D.N.Y.), and any allegation made therein.

DOCUMENTS TO BE PRODUCED

1. All documents identified by you in response to ARAMARK's First Set of Interrogatories.
2. All documents upon which you relied in responding to ARAMARK's First Set of Interrogatories.
3. All documents identified by you in your Rule 26(a) Initial Disclosures.
4. All documents that relate in any way to your employment with ARAMARK, the termination of that employment, and the allegations in your Complaint, including, but not limited to employment applications; résumés; records of wages and fringe benefits; performance evaluations; commendations; date books; calendars; memorandum; employee handbooks; policy manuals; disciplinary rules; job assignments; job postings; applications or requests for promotions, job assignments or job postings; other documents relating to such applications or requests; notifications of wage increases; explanations or promises of benefits; warnings or other disciplinary communications; or any document relating or referring to any communication between you and ARAMARK or its representatives.
5. All documents that you maintain or have maintained as personal records, notes, calendars and/or diaries during or after your employment with ARAMARK that relate to your employment with ARAMARK, the termination of that employment, or any of the allegations in your Complaint.
6. All documents that relate to or otherwise evidence any admission or declaration against interest that you allege ARAMARK or its representatives have made relating to this matter.

7. All written or recorded statements or affidavits by individuals that relate to this matter, including any made by ARAMARK or its representatives.

8. All written or recorded statements or affidavits that you or others obtained on your behalf that relate to any alleged discrimination by ARAMARK against you or any other employees.

9. Any and all documents that relate to or otherwise evidence communications between you and any current or former employees or agents of ARAMARK concerning this lawsuit, your claims or beliefs that ARAMARK acted unlawfully or illegally or any of the factual bases of your suit against ARAMARK.

10. All documents that relate to or otherwise evidence the damages that you allege to have sustained in this matter or to any other relief you are seeking in this action including, but not limited to, any documents describing the method you used to calculate or establish the amount of such damages or relief.

11. All documents that relate to or otherwise evidence your attempts to obtain employment or self-employment outside of ARAMARK since April 27, 2005 to the present, including but not limited to, copies of employment applications, resumés, and correspondence, notes, memoranda and other documents sent by you to, or received by you from, potential employers and/or any private or public employment search agency.

12. Any and all documents that relate to or otherwise evidence any job (including self-employment and consulting) you have held from April 27, 2005 to the present including, but not limited to, any offer letters, employment agreements, documents relating to your job title, job status, rate of pay and benefits, descriptions of jobs held and work performed, employee handbooks, benefit statements, plan documents and summary plan descriptions.

13. Any and all documents that relate to or otherwise evidence the amount and sources of income received by you or accruing to you from April 27, 2005 to the present including, but not limited to, your federal or state income tax forms, W-2 forms, payroll check stubs, and any documents reflecting unemployment compensation that you have collected.

14. Any and all documents that relate to or otherwise evidence your allegation that your attending physician took you out of work on April 27, 2005 due to your alleged disability and then released you back to work on September 19, 2005.

15. Any and all documents that relate to or otherwise evidence communications between you and any current or former employees or agents of ARAMARK regarding any medical condition, disability or impairment that you allegedly suffered from during your employment with ARAMARK, including but not limited to, diabetes, hypertension, and thyroid problems.

16. Any and all documents that relate to or otherwise evidence any request(s) by you or on your behalf made during the course of your employment with ARAMARK for medical leave or accommodation for any medical condition, disability or impairment.

17. Any and all documents that relate to or otherwise evidence communications between you and any current or former employees or agents of ARAMARK regarding the management development program described in the Affidavit of Oni B. Cole in Support of Motion to Amend Pleadings.

18. The correspondence dated April 27, 2005 that you received from ARAMARK as allege in the Complaint.

19. The two letters that you sent to ARAMARK as you allege in the Complaint.

20. All documents that relate in any way to your medical history including, but not limited to, any medical treatment, therapy or mental health treatment or counseling that you have received from any Health Care Provider in the last ten years including, but not limited to, records of visits, bills for services, treatment records, diagnoses, test results, records of hospitalization or institutionalization, prescriptions and payments for prescriptions.

21. All documents that relate in any way to any litigation, charge, complaint or action, other than the instant action, brought by you before any federal or state agency or court.

22. All documents that relate or refer to any criminal arrests or convictions of you, including but not limited to police reports, arrest records and court dispositions.

23. All documents that relate to or otherwise evidence any state or federal court action, or state or federal administrative action, to which you are, or were in the past, a party.

24. All documents that relate to or otherwise evidence any claims that you have made seeking unemployment compensation, workers' compensation, disability insurance, or Social Security benefits from August 1, 2004 to the present.

25. Any and all documents submitted by you to, or received by you from, the Equal Employment Opportunity Commission, or any other federal, state or local agency, that relate to or otherwise evidence any charge or complaint of employment discrimination, harassment, retaliation or adverse treatment filed by you or on your behalf against ARAMARK.

Dated: Buffalo, New York
August 2, 2007

/s/ James J. Rooney
James J. Rooney, Esq.
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Attorneys for Defendant
ARAMARK Management Services Limited
Partnership

TO: Oni B. Cole
P.O. Box 1214
Buffalo, N.Y. 14215
Pro Se

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 2, 2007, I electronically filed the within **DEFENDANT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFF ONI COLE** with the Clerk of the District Court using the CM/ECF system, and I hereby certify that I served a copy of the within **DEFENDANT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFF ONI COLE** by first-class mail, through the United States Postal Service, upon the following non-CM/ECF participant:

Oni B. Cole
P.O. Box 1214
Buffalo, N.Y. 14215

/s/ James J. Rooney
James J. Rooney

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