

2. In *Crossman v. Carrington Mortg. Servs., LLC*, 2020 WL 2114639 (M.D. Fla. May 4, 2020), Magistrate Judge Patricia D. Barksdale of the Middle District of Florida granted defendant's motion to compel discovery of plaintiff's social media accounts, finding no merit to plaintiff's objections on relevance, privacy, and vagueness grounds.

In this employment discrimination litigation, plaintiff sought compensation for emotional distress, mental anguish, and loss of enjoyment of life due to defendant's alleged racial and disability discrimination and retaliation. *Id.* at *1.

Defendant sought discovery of plaintiff's Facebook and Instagram accounts. Plaintiff originally objected to all of defendant's discovery requests on the grounds that the requests were "overly broad, invasive, and not reasonably calculated to lead to the discovery of admissible evidence." When faced with the motion to compel, plaintiff supplemented her objections related to the social media requests on the basis of relevance and privacy.

Magistrate Judge Barksdale began her analysis by discussing the applicable portions of Federal Rules of Civil Procedure 26 and 37 that applied to defendant's motion as well as the "non-binding but highly persuasive" Middle District Discovery Handbook. *Id.* at *2-3. Magistrate Judge Barksdale highlighted that the 2015 amendments to Federal Rule 26 eliminated the "reasonably calculated" standard for discovery by substituting the word "relevant" and made clear that "relevant" means within the scope of discovery. Magistrate Judge Barksdale also explained that Federal Rule 34(b)(2)(C) requires objections to state whether responsive materials are being withheld and that the Middle District Handbook disfavors generalized objections. *Id.* at *3.

Applying these standards, Magistrate Judge Barksdale noted that plaintiff's original objections were improper because plaintiff used boilerplate objections and used the obsolete "reasonably calculated" standard in objecting. *Id.* at *4. Nevertheless, Magistrate Judge Barksdale considered plaintiff's objections on the basis of relevancy, privacy, and vagueness.

Magistrate Judge Barksdale disposed of each objection. "On relevancy, common sense dictates that information in [plaintiff's] social media, including her Facebook and Instagram accounts, relates to her contemporaneous mental and emotional states and therefore relates to the injuries she claims she suffered at the hands of [defendant], including loss of enjoyment of life." With regard to the privacy objection, Magistrate Judge Barksdale noted that plaintiff "ceded some [privacy] by sharing her personal information with others on social media and by bringing this lawsuit subject to the public right of access." Further, the implementation of a confidentiality agreement between the parties was sufficient to protect plaintiff's privacy interests. Finally, with regard to vagueness, Magistrate Judge Barksdale observed that "counsel can 'reasonably and naturally' interpret the requests in view of the claims and defenses and through communication with opposing counsel to provide the information obviously sought." *Id.* (citing to the Middle District Handbook).

Magistrate Judge Barksdale also rejected plaintiff's contention that the information sought could be more easily obtained by deposing witnesses. Plaintiff failed to make any showing that deposing witnesses would "equate to the information on her social media." Without such a showing, Magistrate Judge Barksdale found no reason to accept plaintiff's assertion.

Finally, Magistrate Judge Barksdale found that awarding expenses was unwarranted, despite disposing of all of plaintiff's objections and the fact that plaintiff originally used only generalized objections and failed to apply the correct standard. Rather, Magistrate Judge Barksdale noted that "both sides find some support in caselaw for their respective positions, which indicates reasonable minds can differ on the dispute."