

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH,
NORTHERN DIVISION

Markie Transue v. Davis County and Arnold Butcher

Transue · No. 1:24-cv-00120 · Decided April 14, 2026

SUMMARY

The court grants Markie Transue’s motion to compel Davis County and Arnold Butcher to produce documents underlying summary charts concerning sexual-harassment and gender-based-misconduct complaints. The court finds the requested materials relevant and proportional to the needs of the case, but denies attorneys’ fees because the defendants’ position was substantially justified.

CASE DETAILS

COURT	United States District Court for the District of Utah, Northern Division
WRITING FOR THE COURT	Daphne A. Oberg
JURISDICTION	United States District Court for the District of Utah, Northern Division
DECIDED	April 14, 2026
DOCKET	1:24-cv-00120
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved to compel defendants to produce documents underlying summary charts concerning other sexual-harassment and gender-based-misconduct complaints and requested attorney's fees. The district court granted the motion to compel but denied the fee request.
PRECEDENTIAL VALUE	Unknown; memorandum decision and order from a federal district court.
PARTIES	Markie Transue v. Davis County, a political subdivision of the State of Utah, Arnold Butcher

TOPICS

- discovery dispute
- civil procedure
- sexual harassment
- employment discrimination
- section 1983

PRACTICE AREAS

- civil procedure
- employment discrimination
- civil rights
- discovery

QUESTIONS PRESENTED

1. Whether documents concerning defendants' handling and investigation of other sexual-harassment and gender-based-misconduct complaints were relevant and proportional to the needs of the case under Federal Rule of Civil Procedure 26(b)(1).
2. Whether defendants could satisfy document requests by producing summary charts and witness testimony instead of the underlying responsive documents.
3. Whether Transue was entitled to attorney's fees under Federal Rule of Civil Procedure 37(a)(5)(A) after prevailing on the motion to compel.

HOLDINGS

1. Documents relating to defendants' handling and investigation of other sexual-harassment and gender-based-misconduct complaints were relevant to Transue's claims and proportional to the needs of the case.
2. Defendants could not create summary charts or rely on witness testimony as a substitute for producing documents responsive to Transue's document requests.
3. Attorney's fees were denied because defendants' position was substantially justified insofar as they made a colorable argument concerning burden.

KEY QUOTATIONS

“The defendants cannot simply create summarizing charts in response to her interrogatories while withholding documents responsive to her document requests.”

“And witness testimony about the complaints is not a sufficient substitute for production.”

FACTUAL BACKGROUND

Transue alleges that defendants handled her sexual-harassment complaints differently from complaints made by male employees. In discovery, she requested information and documents concerning other sexual-harassment or gender-based-misconduct complaints, including investigation materials and documents underlying defendants' summary charts. Defendants provided summary charts and testimony but withheld the underlying materials, asserting irrelevance, privacy concerns, burden, and disproportionality.

PROCEDURAL HISTORY

Transue brought a civil-rights action alleging that Davis County and Arnold Butcher discriminated against her during her county employment, including by mishandling her sexual-harassment complaints. During discovery, defendants produced summary charts and testimony but did not produce the underlying complaint and investigation materials. The court granted Transue's motion to compel production and denied attorney's fees because defendants' position was substantially justified as to burden.

DISPOSITION

other

CASES CITED

- Pierce v. Underwood, 487 U.S. 552, 565 (1988)

OPINION

Transue

PER CURIAM.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

NORTHERN DIVISION

MARKIE TRANSUE, MEMORANDUM DECISION AND

ORDER GRANTING MOTION TO

Plaintiff, COMPEL PRODUCTION

(DOC. NO. 31)

v. DAVIS COUNTY, a political subdivision of Case No. 1:24-cv-00120 the State of Utah; and ARNOLD BUTCHER, an individual, District Judge Ann Marie McIff Allen Defendants. Magistrate Judge Daphne A. Oberg In this civil rights action, Markie Transue claims Davis County and Arnold Butcher discriminated against her during her employment with the county, including through their mishandling of sexual harassment complaints.¹ In discovery, Ms. Transue requested information and documents relating to the defendants' handling of other sexual harassment complaints during the relevant time period. After receiving only summary charts of these complaints in response to certain interrogatories and requests for production, Ms. Transue moves to compel the defendants to produce the underlying documents.² Specifically, she seeks to compel production of all documents regarding 1 (Compl. ¶¶ 3, 6, 56–79, Doc. No. 1.) 2 (Pl.'s Short Form Mot. to Compel Defs.' to Produc. Information Regarding Compls. of Discrimination (Mot.), Doc. No. 31 at 2–3.) In the discovery requests at issue, Ms. Transue seeks information relating to employee complaints of sexual harassment or other gender-based misconduct, and “investigation materials reviewed or created” regarding those complaints. (Ex. 1 to Mot., Pl.'s First Set of Disc. Reqs. to Def. Davis complaints of gender-based misconduct underlying the summary charts.³ And Ms. Transue seeks attorneys' fees incurred in bringing this motion.⁴ Davis County and Mr. Butcher oppose on various grounds. They contend Ms. Transue brought this case under 42 U.S.C. § 1983 because she could not bring it under Title VII.⁵ They argue one of the summary charts provides nearly all the information Ms. Transue requested in her interrogatories,⁶ and Chief Butcher provided detailed testimony “about almost every investigation.”⁷ As for the documentation underlying the charts, the defendants generally contend (in a footnote) that the “[u]nderlying investigation materials and reports comprise hundreds of pages that are irrelevant to this dispute and would require substantial redaction for employee and witness privacy.”⁸ Finally,

Davis County and Mr. Butcher argue generally that Ms. Transue's request County 5–6, Doc. No. 31-1.) She also seeks identities of employees “reported or investigated for sexual harassment or discrimination,” and “all documents reviewed or referenced” in responding to those interrogatories. (Ex. 4 to Mot., Pl.'s Third Set of Disc. Reqs. to Def. Davis County 5–6, Doc. No. 31-4.) 3 (Mot., Doc. No. 31 at 1–2.) 4 (Id. at 1.) 5 (Davis County Defs.' Resp. in Opp'n to Mot. (Opp'n) 2, Doc. No. 32 (referencing 42 U.S.C. § 2000e).) 6 (Id. (referencing interrogatory numbers 6, 16, and 17).) 7 (Id. at 3.) The defendants only refer to one of the charts at issue. (Ex. B to Opp'n, Doc. No. 32-2 (chart with bates number DAVIS COUNTY-BUTCHER 006612a); Ex. 9 to Mot., Doc. No. 31-9 (same).) They do not directly discuss the others. (Ex. 5 to Mot., Doc. No. 31-5 at 5–6 (charts with bates number DAVIS COUNTY-BUTCHER 005482– 83).) 8 (Opp'n 2 n.2, Doc. No. 32.) reflects a fishing expedition, and producing additional materials would be unduly burdensome and disproportionate to the needs of this case.⁹ Not so. Regardless of whether Ms. Transue brings claims under Title VII or § 1983, this litigation centers on the defendants' alleged disparate handling of her sexual harassment complaints compared to those of male employees. Accordingly, documents relating to those complaints and investigations are relevant.¹⁰ And Ms. Transue specifically requested documents relating to these complaints, reports, and investigations.¹¹ The defendants cannot simply create summarizing charts in response to her interrogatories while withholding documents responsive to her document requests. And witness testimony about the complaints is not a sufficient substitute for production. Ms. Transue is entitled to assess relevant materials and test any witness testimony as appropriate. And the defendants have not shown that reviewing and redacting “hundreds of pages” constitutes an undue burden. In other words, the ⁹ (Id. at 3.) ¹⁰ See Fed. R. Civ. P. 26(b)(1) (providing that parties “may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case”). ¹¹ (See Ex. 1 to Mot., Pl.'s First Set of Disc. Reqs. to Def. Davis County 5–6, Doc. No. 31-1 (requesting all “investigation materials reviewed or created” regarding employee complaints of sexual harassment and gender-based misconduct identified in response to interrogatory 6); Ex. 4 to Mot., Pl.'s Third Set of Disc. Reqs. to Def. Davis County 5–6, Doc. No. 31-4 (requesting “all documents reviewed or referenced to respond” to interrogatories 16 and 17, which seek information regarding employees reported or investigated for sexual harassment or discrimination).) information Ms. Transue seeks is relevant to her claims and proportional to the needs of this case. For these reasons, Ms. Transue's motion is granted. However, her request for attorneys' fees is denied where the defendants' position is substantially justified insofar as they made a colorable argument as to burden. ²

CONCLUSION

The motion to compel" is granted. By May 5, 2026, or a date mutually agreed to by the parties, the defendants must produce all documents underlying the complaints in the charts they created and produced, such as complaints, investigation reports, and documentation of investigation outcomes. DATED this 14th day of April, 2026. BY THE COURT: DapHne A. Oberg United States

Magistrate Jud 12 See Fed. R. Civ. P. 37(a)(5)(A)(ii) (providing that a court must not award attorney's fees to a movant who prevails on a motion to compel if "the opposing party's nondisclosure, response, or objection was substantially justified"); *Pierce v. Underwood*, 487 U.S. 552, 565 (1988) (explaining "substantially justified" under Rule 37 means only a "genuine dispute" or that "reasonable people could differ as to the appropriateness of the contested action" (citation modified)). 13 (Doc. No. 31.)