

IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF ALABAMA
 SOUTHERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY	}	
COMMISSION,	}	
	}	
Plaintiff,	}	CIVIL ACTION NO.
	}	10-AR-2627-S
v.	}	
	}	
THE MCPHERSON COMPANIES,	}	
INC.,	}	
	}	
Defendant.	}	

MEMORANDUM OPINION AND ORDER

The stay in this action is hereby **LIFTED**. Before the court is the motion of plaintiff, Equal Employment Opportunity Commission ("EEOC"), to be allowed to take the deposition of Jenna Bedsole ("Bedsole"), counsel for defendant, The McPherson Companies, Inc. ("McPherson").

McPherson has asserted the affirmative defense that EEOC failed to conciliate in good faith. (Doc. 9, at 9). It is conceded that Bedsole was McPherson's sole representative during whatever conciliation efforts were made. EEOC's motion for allowance to take the deposition of attorney Bedsole is hereby **DENIED**, subject to two choices: 1) McPherson may withdraw its affirmative defense number twenty-six (26) that the EEOC did not engage in good faith conciliation; or 2) Bedsole will be disqualified from participation in this action in any manner whatsoever. See Alabama Rules of Professional Conduct **Rule 3.7** "A lawyer shall not act as advocate

at a trial in which the lawyer is likely to be a necessary witness....”

McPherson shall notify the court of its decision by **4:30 p.m., April 25, 2012.**

The dispositive motion deadline is re-set for **4:30 p.m. on June 15, 2012.** If McPherson continues to insist upon the affirmative defense of failure to conciliate in good faith, EEOC is invited to file a motion for partial summary judgment addressing this affirmative defense before the new dispositive motion deadline.

DONE this 19th day of April, 2012.


WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE