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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

) No. CV 06-926-PHX-SMM

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) **ORDER**

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Plaintiff,

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v.

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AUTOZONE, INC., a Nevada
corporation,

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Defendant.

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Before the Court is Defendant Autozone Inc.’s Motion for Clarification and Incorporated Memorandum in Support (Doc. 144). Defendant requests clarification regarding the Court’s recent Memorandum of Decision and Order addressing one of Defendant’s Motions in Limine (Doc. 143).

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Defendant’s Motion in Limine sought to exclude evidence of Defendant’s net worth, financial condition, size, and/or market share “during the liability phase of the trial” and “unless and until the EEOC first produces sufficient evidence that warrants an instruction on punitive damages.” (Doc. 127) In the Memorandum of Decision and Order, the Court found evidence of Defendant’s net worth was relevant to the issue of punitive damages and thus, admissible at trial. However, evidence of Defendant’s market share and size was deemed inadmissible. Defendant now seeks clarification regarding the timing of the introduction of such net worth evidence and whether the EEOC can use this evidence in its opening statement or before it produces evidence warranting a punitive damages instruction.

1 After reviewing the motion filed by Defendant, and good cause appearing,
2 **IT IS HEREBY ORDERED GRANTING** Defendant Autozone Inc.'s Motion
3 for Clarification and Incorporated Memorandum in Support (Doc. 144). In an effort to
4 clarify its prior ruling, the Court finds that evidence of Defendant's net worth is
5 potentially relevant to the amount of punitive damages in this case and as a result, such
6 evidence is admissible. Once the Court determines there is sufficient evidence to submit
7 the issue of punitive damages to the jury, such evidence will be admitted subject to a
8 limiting instruction.

9 DATED this 15th day of January, 2009.

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12 Stephen M. McNamee
13 United States District Judge
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