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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-06-2303-PHX-MHM

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Plaintiff,

**ORDER**

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vs.

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University of Phoenix, Inc., an Arizona  
corporation, and Apollo Group, Inc., an  
Arizona corporation,

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Defendants.

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The Court has reviewed the parties’ memoranda addressing the question of whether this action is properly considered a “pattern or practice” case. Although the Plaintiffs brought the action under 42 U.S.C. § 2000e-5 (“§ 706”) as opposed to 42 U.S.C. § 2000e-6 (“§ 707”) — the traditional provision used for pattern or practice cases — the Court finds that there is authority to support the Plaintiffs’ claim that pattern or practice actions may be brought under either section. See EEOC v. Int’l Profit Associates, Inc., No. 01-C-4427, 2007 WL 3120069, at \*2 (N.D. Ill. Oct. 23, 2007) (“the EEOC is statutorily authorized to bring a pattern or practice action to enjoin systematic unlawful employment practices, as defined by 42 U.S.C. § 200e-2(a)(1), under either section 706 or 707.”). The Defendants have cited to no authority to the contrary. Although the Plaintiffs had previously failed to specify that this is a pattern or practice case, the Defendants should have been on notice that the Plaintiffs intended to bring pattern or practice claims based on the number and type of allegations made

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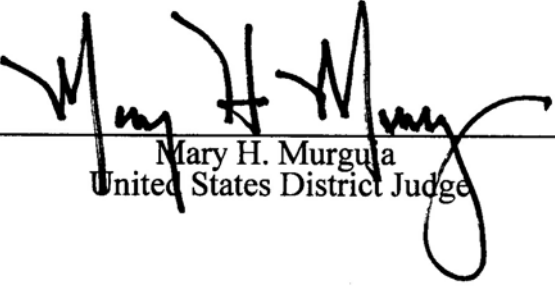
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1 in the case. Further, the Defendants have not indicated how they will be prejudiced by such  
2 a reading of the Plaintiffs' Complaint; to the contrary, the Plaintiffs assert that this will have  
3 no effect on the type or amount of discovery in the case. Accordingly, the Court finds that  
4 the Plaintiffs may proceed with their pattern or practice claims.

5 **IT IS ORDERED** permitting the Plaintiffs to proceed with the construction of this  
6 case as alleging a pattern or practice of discrimination.

7 DATED this 19<sup>th</sup> day of September, 2008.

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Mary H. Murgula  
United States District Judge