

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

JUDY NICHOLS

PLAINTIFF

v.

No. 3:09CV00224 JLH

HYTROL CONVEYOR COMPANY, INC.

DEFENDANT

ORDER

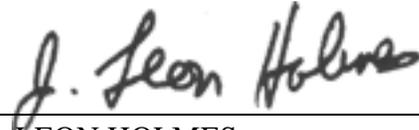
Hytrol Conveyor Company has filed a motion *in limine* to exclude from trial the Position Statement that Hytrol submitted to the Equal Employment Opportunity Commission (“EEOC”) during the EEOC’s investigation of Judy Nichol’s discrimination charge.

First, Hytrol contends that the EEOC Position Statement is not relevant and lacks probative value. The Court disagrees. In the EEOC Position Statement, Hytrol explains its reasons for terminating Nichols. It states that “Nichols was discharged due to her poor job performance” and that “Hytrol was [] forced to reduce its workforce in an attempt to counter the effects of a significant downturn in business.” (Def.’s Ex. A.) This explanation is relevant to the issue of whether Nichols’ sex was a motivating factor in her termination.

Hytrol also contends that the two-page Position Statement would be cumulative of other evidence that will be offered at trial. Without knowing what evidence will be received, it would be premature for the Court to exclude the EEOC Position Statement on that basis alone. Furthermore, the Court is not convinced that laying a proper foundation for the admission of the two-page document will require numerous witnesses and documents presented by both parties, as the defendant argues. (Def.’s Br. at 4.)

For these reasons, Hytrol’s first motion *in limine* is DENIED. Document #29.

IT IS SO ORDERED this 29th day of April, 2011.

A handwritten signature in black ink that reads "J. Leon Holmes". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

J. LEON HOLMES
UNITED STATES DISTRICT JUDGE