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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

ERIKA MORALES, et al.,

Plaintiff Intervenors,

vs.

ABM INDUSTRIES INCORPORATED
AND ABM JANITORIAL
SERVICES, INC., et. al,

Defendants.

CASE NO. CV F 07-1428 LJO BAK

**ORDER ON MOTION TO BAR ADDITIONAL
CLASS MEMBERS**
(Docs. 86, 89.)

Several defendants¹ seek on shortened time to bar additional class members and to dismiss anonymous plaintiffs seven and eight. The ABM defendants claim that this Court’s August 20, 2008 preliminary scheduling order bars additional class members in that it set “a March 20, 2009 cutoff for discovery regarding class certification only” and no class members have been named other than plaintiff Erika Morales and eight anonymous plaintiffs.

The ABM defendants appear to misunderstand or misconstrue the preliminary scheduling order, which set a deadline to complete class certification discovery and did not address identifying or naming class members. At the April 23, 2009 scheduling conference, the parties will be expected to address identifying or naming additional class members, if they are not identified or named in advance, and remaining discovery. The ABN defendants fail to establish factual or legal grounds to bar additional

¹ The defendants requesting relief are ABM Industries Incorporated, ABM Janitorial Services, Inc. and ABM Janitorial Services – Northern California (collectively the “ABM defendants”).

1 class members.

2 As to dismissal of anonymous plaintiffs seven and eight, the ABM defendants fail to establish
3 circumstances to justify to address the matter on shortened time. Although anonymous plaintiffs seven
4 and eight may be dismissed, there is no reason to expedite briefing on the issue.

5 For the reasons discussed above, this Court:

- 6 1. DENIES the ABM defendants' request to hear on shortened time their motions to bar
7 additional class members and to dismiss anonymous plaintiffs seven and eight;
- 8 2. DENIES the ABM defendants' motion to bar additional class members;
- 9 3. ORDERS counsel for anonymous plaintiffs seven and eight, no later than April 28, 2009,
10 to file and serve papers to address or oppose dismissal of anonymous plaintiffs seven and
11 eight, including, if appropriate, a F.R.Civ.P. 41(a)(2) request to dismiss them;
- 12 4. ORDERS the ABM defendants' counsel, no later than May 5, 2009, to file and serve
13 reply papers, if any, for its motion to dismiss anonymous plaintiffs seven and eight; and
- 14 5. VACATES the May 12, 2009 hearing on the ABM defendants' motions to dismiss
15 anonymous plaintiffs seven and eight and to bar additional class members.

16 In keeping with its practice, this Court will address dismissal of anonymous plaintiffs seven and eight
17 on the record and without oral argument, unless this Court orders otherwise.

18 IT IS SO ORDERED.

19 **Dated:** April 10, 2009

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE

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