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 22 Chapter 11 Trustee of Defendant and  
 23 Debtor Kobra Associates, Inc.,  
 24 Beverly N. McFarland

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U.S. EQUAL EMPLOYMENT  
 OPPORTUNITY COMMISSION,

Plaintiff,

vs.

KOBRA ASSOCIATES, INC. d/b/a  
 JACK IN THE BOX,

Defendant.

Case No. **2:09-CV-03546-MCE-JFM**

**STIPULATION AND ORDER TO  
 REOPEN CASE AND STAY  
 ACTION FOR SIXTY DAYS**

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After filing its complaint in the District Court, the EEOC filed a proof of claim in an estimated amount of \$930,000.00 with the bankruptcy court in which Defendant had filed for bankruptcy protection.<sup>1</sup> The EEOC's monetary claim is contingent and unliquidated. The EEOC believes that, absent a stipulation of the parties on liability, the appropriate mechanism to remove the contingency and liquidate the claim is through a jury finding of liability for the sexually hostile environment and an award of damages in a specific amount; the duly appointed Chapter 11 Trustee for Defendant debtor disagrees such relief is required before the EEOC's monetary claims can be liquidated.

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<sup>1</sup> *In re Kobra Associates, Inc.*, Case No. 09-40068, filed in the Bankruptcy Court for the Eastern District of California, Sacramento Division, subsequently consolidated with three related cases to be jointly administered in the same venue as *In re Food Services Management, et al.*, Case No. 09-40066.

<sup>1</sup> *In re Kobra Associates, Inc.*, Case No. 09-40068, filed in the Bankruptcy Court for the Eastern District of California, Sacramento Division, subsequently consolidated with three related cases to be jointly administered in the same venue as *In re Food Services Management, et al.*, Case No. 09-40066.

1 Defendant's liability or the EEOC's monetary claim against it. (*See* Docket No.  
2 17, 2:18-24).

3 The EEOC and Defendant, through its duly appointed Chapter 11 Trustee,  
4 (collectively, the "Parties") hereby stipulate as follows:

5 WHEREAS, this Court's dismissal of the above-captioned lawsuit with  
6 prejudice in its entirety deprives the EEOC of the mechanism it seeks by which  
7 liability and monetary damages on its claim may be determined;

8 WHEREAS, the Parties believe that events expected to take place in the  
9 bankruptcy court proceeding within the next sixty days may further a mutually  
10 agreeable resolution of the above-captioned action;

11 THEREFORE, the Parties stipulate and respectfully request that this Court,  
12 pursuant to Federal Rules of Civil Procedure 60(a), (b)(1) or (b)(6), issue an Order  
13 reversing its dismissal of the above-captioned action with prejudice as to the issues  
14 of liability and monetary damages, and Order that the action be reinstated; and

15 FURTHERMORE, the parties stipulate and respectfully request that this  
16 Court stay all proceedings in this matter for sixty (60) days from entry of this  
17 Order, including Defendant's motion to dismiss (Docket No. 6).

18  
19 Respectfully submitted,

20 Dated: June 2, 2010

U.S. EQUAL EMPLOYMENT  
21 OPPORTUNITY COMMISSION

22 By: \_\_\_\_\_/s/  
23 Dana C. Johnson

24 Attorney for Plaintiff EEOC

25  
26 Dated: June 1, 2010

WINSTON & STRAWN LLP


1 By: /s/ as authorized by Jeffrey Bosley  
2 on 6/1/10)

3 Jeffrey S. Bosley

4 Attorney for the Duly Appointed Chapter 11  
5 Trustee of Defendant Kobra Associates,  
6 Inc., Beverly N. McFarland

7  
8 IT IS SO ORDERED.

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10 Dated: 06/04/2010

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13 MORRISON C. ENGLAND, JR.  
14 UNITED STATES DISTRICT JUDGE  
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