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14 OPPORTUNITY COMMISSION

15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA

17 EQUAL EMPLOYMENT OPPORTUNITY  
18 COMMISSION,

19 Plaintiff,

20 v.

21 ABM INDUSTRIES, INC.,

22 Defendant.

Civil Action No. CV9-4593 BZ

**PLAINTIFF EEOC'S REQUEST  
FOR MORE TIME TO FILE ITS  
REPLY TO DEFENDANT'S  
OPPOSITION TO PLAINTIFF'S  
MOTION FOR SANCTIONS FOR  
DEFENDANT'S SPOILIATION OF  
EVIDENCE, SUPPORTING  
DECLARATION OF DAVID F.  
OFFEN-BROWN, AND  
~~PROPOSED~~ ORDER**

**Date:**

**Ctrm: G, 15th Floor**

23 **MOTION FOR MORE TIME**

24 The U.S. Equal Employment Opportunity Commission (EEOC) hereby requests an  
25 additional week to file its Reply To Defendant's Opposition To Plaintiff's Motion For Sanctions  
26 For Defendant's Spoliation Of Evidence (Reply) because of illness of Cindy O'Hara, the lead  
27 counsel on this case. The Reply is currently due today. Yesterday opposing counsel was asked to  
28

1 agree, but they have not yet. This motion is made because Ms. O'Hara was planning to work at  
2 least two days this past weekend on the Reply, but she became sick Friday night and has been  
3 unable to work since. Since the absence of co-counsel Debra Smith, only Ms. O'Hara can write  
4 the Reply. The EEOC therefore requests more time. Ms. O'Hara is still unable to work as of this  
5 filing, and it is not known when she will be able to work again; therefore we request a week's  
6 extension to allow her recovery or another EEOC lawyer to acquire the knowledge necessary to  
7 draft the reply.

8 Respectfully submitted,  
9 DATED: May 31, 2011

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

10 By: /s/ David F. Offen-Brown

11 DAVID F. OFFEN-BROWN

12 Attorney for Plaintiff EEOC

13 **SUPPORTING DECLARATION OF DAVID F. OFFEN-BROWN**

14 I, David Offen-Brown, declare under penalty of perjury under the laws of the State of  
15 California that I am over eighteen years of age; I am competent to testify to the following from  
16 personal knowledge, except the facts herein concerning Cindy O'Hara are based on what she told  
17 me, which based on her statements to me I believe are true; and the following statements are true  
18 and correct:

19 1. I am the Supervisory Trial Attorney employed by the U.S. Equal Employment  
20 Opportunity Commission (EEOC) in the San Francisco District Office overseeing the litigation of  
21 this case, *EEOC v. ABM Industries, Inc.*

22 2. The EEOC's Reply To Defendant's Opposition To Plaintiff's Motion For  
23 Sanctions For Defendant's Spoliation Of Evidence (Reply) is now due today, May 31, 2011.

24 3. Since Debra Smith went on leave, one of the reasons for the Order Re Plaintiff's  
25 Motion to Extend the Discovery Deadline dated May 9, 2011 (docket 79) extending this case's  
26 dates, Cindy O'Hara is the only EEOC attorney with the knowledge required to prepare the Reply  
27 described in the next paragraph.

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1           4.       Because of other work demands through May 26, 2011, Ms. O’Hara told me she  
2 did not begin preparing our Reply until May 27th. She planned to work two or three days the  
3 weekend of May 28 – 30 and on May 31 to prepare our Reply.

4           5.       In the evening of May 27, 2011, Ms. O’Hara became ill, and by the next morning,  
5 Saturday, May 28th, she was too ill to do any substantial work. She has been continuously unable  
6 to work from May 28th through today, May 31, 2011. The EEOC has therefore been unable to  
7 draft the Reply and cannot file it today, which would prejudice the EEOC.

8           6.       Counsel for ABM has been asked to stipulate to this request for more time.  
9 Yesterday I sent an email to Matthew Marca requesting such a stipulation; today he replied that  
10 he needed to consult his client before agreeing, and would get back to me shortly after 11:30 this  
11 morning. It is 12:20 p.m. as I file this, and Mr. Marca has not further responded.

12           7.       We therefore request until June 7, 2011 to file our Reply.

13           8.       There has been no previous extension of this deadline. The schedule for this case  
14 was previously extended by the Order described in paragraph 3 above. This extension will not  
15 affect the rest of the schedule for this case.

16  
17 DATED: May 31, 2011

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

By:  /s/ David F. Offen-Brown  
DAVID F. OFFEN-BROWN

Attorney for Plaintiff EEOC

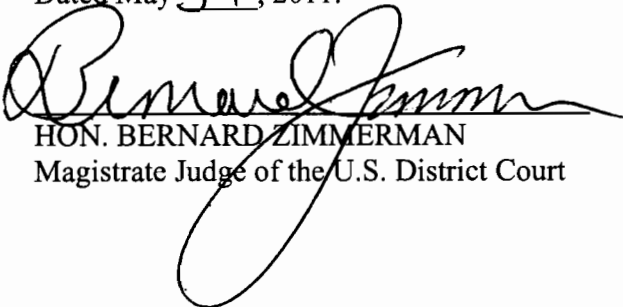
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**PROPOSED ORDER EXTENDING TIME TO REPLY**

Good cause appearing from the foregoing, the EEOC's Motion to Extend Time to Reply To Defendant's Opposition To Plaintiff's Motion For Sanctions For Defendant's Spoliation Of Evidence is granted. The last day for the EEOC to file said Reply is extended to June 7, 2011.

IT IS SO ORDERED.  
Dated May 31, 2011.

  
HON. BERNARD ZIMMERMAN  
Magistrate Judge of the U.S. District Court