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10 U.S. EQUAL EMPLOYMENT
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12 333 Las Vegas Boulevard South, Ste 8112
13 Las Vegas, Nevada 89101
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16 E-Mail: elizabeth.naccarato@eeoc.gov

17 Attorneys for Plaintiff
18 U.S. EQUAL EMPLOYMENT
19 OPPORTUNITY COMMISSION

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

17 U.S. EQUAL EMPLOYMENT
18 OPPORTUNITY COMMISSION,
19 Plaintiff,
20 vs.
21 WEDCO, INC., and DOES 1-10,
22 Defendants

) Case No.: 3:12-CV-00523-RCJ-VPC
)
) **PLAINTIFF EEOC'S EMERGENCY**
) **MOTION FOR STAY, OR IN THE**
) **ALTERNATIVE, A CONTINUANCE**
) **DUE TO GOVERNMENT SHUTDOWN**
) **AND ~~PROPOSED~~ ORDER**
)
) Judge: Honorable Valerie P. Cooke
) United States Magistrate Judge

24 TO DEFENDANT WEDCO, INC. AND ITS ATTORNEYS OF RECORD:
25 PLEASE TAKE NOTICE THAT: Plaintiff Equal Employment Opportunity Commission
26 ("EEOC") moves this Court for a stay of all deadlines for the duration of shutdown of Federal
27 Government operations or, in the alternative, a continuance of all deadlines in this matter for
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1 thirty (30) days or such continuance as deemed appropriate by the Court, due to the shutdown of
2 operations of the Federal Government.

3 Specifically, EEOC brings this motion on an emergency basis due to the upcoming
4 October 3, 2013 deadline to file a reply to Defendant Wedco's Case Management Report [Doc.
5 #36] and the subsequent hearing on the parties' pending discovery disputes set for October 10,
6 2013. EEOC makes this motion on an emergency basis because the shutdown commenced at
7 midnight October 1, 2013 and the reply brief deadline falls a mere two (2) days after the shut
8 down began. (Declaration of EEOC Trial Attorney Elizabeth Naccarato ¶¶ 2-5). EEOC seeks the
9 Court's assistance to grant this motion on an expedited basis in order to avoid non-compliance
10 with the Court's deadlines. (Dec. of Elizabeth Naccarato ¶¶ 6-7). The shutdown was uncertain
11 until 12:01 p.m. October 1, 2013 and EEOC was unable to resolve this matter prior to the
12 shutdown commencing. Counsel for the EEOC informed counsel for Wedco on September 30,
13 2013, via letter and telephone, that in the event of a shut down EEOC would seek a motion to
14 stay, or in the alternative for a continuance on October 1, 2013. (Dec. of Elizabeth Naccarato ¶¶
15 8-9, Exhibit A, September 30, 2013 Letter from EEOC Counsel to Counsel for Wedco re: shut
16 down).

17 EEOC seeks a stay or continuance for the following reasons:

- 18 1. EEOC is the Federal Government agency charged by Congress with interpreting,
19 administering, and enforcing the Federal Government's major employment discrimination laws.
- 20 2. As of October 1, 2013, appropriations for funding Federal Government operations lapsed.
- 21 3. As a Federal Government agency, EEOC is subject to the federal Antideficiency Act
22 which provides in part that an "officer or employee of the United States Government ... may not
23 - ... involve [the] government in a contract or obligation for the payment of money before an
24 appropriation is made unless authorized by law...." (31 U.S.C. § 1341(a)(1)(B)) and "... may not
25 accept voluntary services ... or employ personal services exceeding that authorized by law except
26 for emergencies involving the safety of human life or the protection of property" (31 U.S.C. §
27 1342). Such emergencies "do[] not include ongoing, regular functions of the government the
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1 suspension of which would not imminently threaten the safety of human life or the protection of
2 property” (id.).

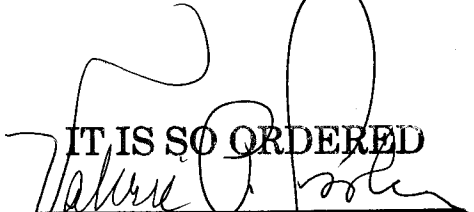
3 4. Because of the lapse in appropriations of Federal Government funding and the
4 requirements of the Antideficiency Act, EEOC lawyers are prohibited from engaging in litigation
5 activities in the present circumstances. Plaintiff EEOC, therefore, requests a continuance in this
6 case with respect to the matters described above until appropriations for funding Federal
7 Government operations are restored.

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Dated: October 1, 2013

Respectfully submitted,

s/Elizabeth A. Naccarato
Elizabeth A. Naccarato
U.S. EEOC
333 Las Vegas Blvd South
Ste. 8112
Las Vegas, NV 89101
Telephone: (702) 388-5072
Facsimile: (702) 388-5094

IT IS SO ORDERED

U.S. MAGISTRATE JUDGE
DATED: October 4, 2013

ORDER

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IT IS SO ORDERED, this _____ day of _____, 2013.

DATED

THE HONORABLE VALERIE P. COOKE
UNITED STATES MAGISTRATE JUDGE

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CERTIFICATE OF CM/ECF SERVICE

I am, and was at the time the herein mentioned service took place, a citizen of the United States, over the age of eighteen (18) years.

I am employed in the Legal Unit of the Las Vegas Local Office of the U. S. Equal Employment Opportunity Commission. My business address is U.S. Equal Employment Opportunity Commission, 333 Las Vegas Boulevard South, Suite 8112 Las Vegas, Nevada 89101. On the date that this declaration was executed, as shown below, I served the foregoing: **PLAINTIFF EEOC'S EMERGENCY MOTION FOR STAY, OR IN THE ALTERNATIVE, A CONTINUANCE DUE TO GOVERNMENT SHUTDOWN AND [PROPOSED] ORDER** via the Case Management/Electronic Case Filing (CM/ECF) system at Las Vegas, Clark County, Nevada, to:

Anthony L. Hall, Esq., &
Ricardo N. Cordova, Esq.
HOLLAND & HART LLP
5441 Kietzke Lane, Second Floor
Reno, Nevada 89511
Telephone: (775) 327-3000
Facsimile: (775) 786-6179
ahall@hollandhart.com
mcordova@hollandhart.com

I declare under penalty of perjury that the foregoing is true and correct.
Executed on October 1, 2013 at Las Vegas, Nevada .

/s/Elizabeth A. Naccarato
Elizabeth A. Naccarato

1 Anna Y. Park, SBN 164242
2 U.S. EQUAL EMPLOYMENT
3 OPPORTUNITY COMMISSION
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17 Attorneys for Plaintiff
18 U.S. EQUAL EMPLOYMENT
19 OPPORTUNITY COMMISSION

20 UNITED STATES DISTRICT COURT
21 DISTRICT OF NEVADA

22 U.S. EQUAL EMPLOYMENT OPPORTUNITY)
23 COMMISSION,)

24 Plaintiff,

25 vs.

26 WEDCO, INC., AND DOES 1-10,)

27 Defendant)

Case No: 3:12-CV-00523-RCJ-VPC

DECLARATION OF ELIZABETH A.
NACCARATO IN SUPPORT OF
PLAINTIFF EEOC'S EMERGENCY
MOTION FOR STAY, OR IN THE
ALTERNATIVE, A CONTINUANCE DUE
TO GOVERNMENT SHUTDOWN AND
[PROPOSED] ORDER

Judge: Honorable Valerie P. Cooke
United States Magistrate Judge

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1 **DECLARATION OF EEOC TRIAL ATTORNEY ELIZABETH A. NACCARATO**

2 I, Elizabeth A. Naccarato, declare and state:

- 3 1. I am a trial attorney with the Las Vegas Local Office of the United States Equal
4 Employment Opportunity Commission (EEOC). I have personal knowledge of the facts
5 stated herein, and if called as a witness to testify as to the matters stated herein, I could
6 and would competently do so.
- 7 2. At 12:01 a.m. on October 1, 2013, appropriations funding EEOC's operations lapsed.
- 8 3. As a federal government agency, EEOC is subject to the Antideficiency Act which
9 provides in part that an, "officer or employee of the United States Government ... may not
10 - ...involve [the] government in a contract or obligation for the payment of money before
11 an appropriation is made unless authorized by law...." (31 U.S.C. § 1341(a)(1)(B)) and
12 "... may not accept voluntary services ...or employ personal services exceeding that
13 authorized by law except for emergencies involving the safety of human life or the
14 protection of property" (31 U.S.C. § 1342). EEOC's ongoing regular functions do not
15 threaten the safety of human life or protection of property.
- 16 4. Therefore, because of the lapse in appropriations and the requirements of the
17 Antideficiency Act, EEOC attorneys are prohibited from engaging in litigation activity
18 under the present circumstances.
- 19 5. Because the lapse in funding was not known or certain until 12:01 p.m. on October 1,
20 2013, EEOC could not resolve this matter prior to the shut down commencing.
- 21 6. As the deadline for the EEOC's reply is October 3, 2013, EEOC could not know it would
22 not be able to comply with the Court's deadline until 12:01 a.m. on October 1, 2013.
- 23 7. EEOC seeks this stay and/or continuance in order to avoid non-compliance with this
24 Court's deadline because the Commission must comply with the Antideficiency Act.
- 25 8. On September 30, 2013, I contacted counsel for Wedco via letter, a true and correct copy
26 of which is attached hereto as Exhibit A.
- 27 9. On September 30, 2013, I also contacted counsel for Wedco via telephone. I left
28 messages with Marcia Filipas, assistant to Anthony Hall and Rico Cordova, and on Mr.

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Cordova's voicemail. Mr. Cordova returned my call and I informed him of the circumstances of a lapse in appropriations and that EEOC would seek the instant motion and would do so on an emergency basis due to the impending deadline of October 3, 2013 in the event of a shutdown at 12:01 p.m. October 1, 2013.

10. The movant is located at 333 Las Vegas Boulevard South Suite 8112 Las Vegas, Nevada 89101. Telephone Number: 702.388.5072.

11. The affected party is Wedco, Inc. c/o Holland and Hart 5441 Kietzke Lane, Second Floor, Reno, Nevada 89511. Telephone: 775.327.3000.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 1, 2013 in Las Vegas, Nevada.

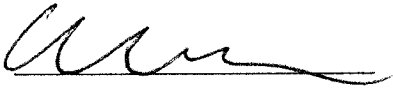
By: 
Elizabeth A. Naccarato

EXHIBIT A



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Las Vegas Local Office

333 Las Vegas Blvd. South, Suite 8112
Las Vegas, NV 89101
Intake Information Group: (800) 669-4000
Intake Information Group TTY: (800) 669-6820
Las Vegas Status Line: (866) 408-8075
Las Vegas Direct Dial: (702) 388-5013
TTY (702) 388-5098
FAX (702) 388-5094
Website: www.eeoc.gov

September 30, 2013

Via E-mail to: ahall@hollandhart.com; RNcordova@hollandhart.com
Holland & Hart
5441 Kietzke Lane
Second Floor
Reno, Nevada 89511

Dear Msrs. Hall and Cordova,

As you may be aware, the EEOC and other federal agencies face a potential lapse in appropriations at midnight on October 1, 2013. While we hope that this will not happen, if it does, the EEOC will seek a stay and/or continuance in our litigation against Wedco, Inc. to last for the term of the lapse in appropriations. Specifically, because the deadline to filed replies to each side's Case Management Report outlining our respective positions as to the pending discovery disputes is this Thursday October 3, 2013 and the subsequent hearing is October 10, 2013, EEOC will file the motion for stay and/or continuance on an emergency basis in accordance with Local Rule 7-5(d). All other discovery deadlines will likewise be postponed if there is a lapse in EEOC appropriations.

If there is a lapse, Regional Attorney Anna Y. Park will be the contact person for all litigation matters in the EEOC's Los Angeles District inclusive of Las Vegas, Nevada. You may contact her at anna.park@eeoc.gov or 312.894.1080. In the meantime, please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Beth Naccarato".

Beth Naccarato