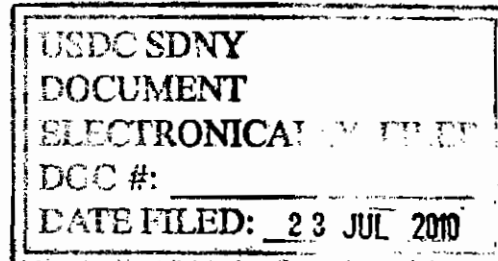


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July 21, 2010

VIA OVERNIGHT MAIL  
Hon. Laura T. Swain, U.S.D.J.  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, N.Y. 10007-1312

**MEMO ENDORSED**

Re: Equal Employment Opportunity Commission v. Kelley Drye & Warren LLP. 10-CV-0655  
(LTS) (MHD)

Dear Judge Swain:

I represent Plaintiff Equal Employment Opportunity Commission (EEOC) in this matter. On June 30, 2010, Your Honor entered an Order denying EEOC's motion to strike certain of Defendant's Affirmative Defenses "without prejudice to renewal as against any answer to the Amended Complaint contemplated by the June 30, 2010, stipulation between the parties granting Plaintiff leave to amend the Complaint." As EEOC believes that there could be two differing constructions of Your Honor's Order, this letter respectfully seeks clarification. Specifically, one possible construction of the Order is that Your Honor did not decide the merits of EEOC's motion to strike because a new Answer was about to be filed by Defendant, and authorized EEOC to re-file the motion to strike once such Answer to the Amended Complaint was filed, which in fact occurred on July 13, 2010 (as this recently filed Answer contains identical Affirmative Defenses as in the original Answer, if this construction of the Order is correct and if so permitted by the Court, EEOC would re-file its original motion to strike). The alternative construction is that EEOC's motion to strike is denied on the merits, and that EEOC could renew the motion only if Defendant raised new Affirmative Defenses in its Answer to the Amended Complaint (which it did not).

I greatly appreciate Your Honor's attention to this request for clarification of Your Honor's June 30, 2010 Order.

Respectfully submitted,

  
\_\_\_\_\_  
Jeffrey Burstein

c: Bettina B. Plevan, Esq. (by e-mail)  
Joseph C. O'Keefe, Esq. (by e-mail)

The first proposition above is the correct one. The motion may be reviewed as against the amended answer. Counsel should consult and inform the Court as to whether the motion should be reinstated and determined based on the original briefing.

**SO ORDERED.**

NEW YORK, NY

  
\_\_\_\_\_  
LAURA TAYLOR SWAIN

July 23, 2010 UNITED STATES DISTRICT JUDGE