

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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EQUAL EMPLOYMENT OPPORTUNITY :
COMMISSION, : **ECF Case**
: **Civil Action No. 10-cv-0655 (LTS) (MHD)**
Plaintiff, :
: **v.** :
KELLEY DRYE & WARREN, LLP, :
: **Defendant.** :
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**PLAINTIFF EEOC’S NOTICE OF MOTION FOR PARTIAL SUMMARY JUDGMENT
DISMISSING DEFENDANT’S NINETEENTH AFFIRMATIVE DEFENSE**

Plaintiff Equal Employment Opportunity Commission (“EEOC”) respectfully files this Motion pursuant to Federal Rule of Civil Procedure 56 for Partial Summary Judgment Dismissing Defendant’s Nineteenth Affirmative Defense. For the reasons stated more fully in EEOC’s Memorandum of Law in Support of this Motion, this challenged Affirmative Defense, involving claims for various setoffs to any award of damages to be awarded to Charging Party Eugene T. D’Ablemont, improperly raises personalized disputes in this governmental enforcement action where Mr. D’Ablemont is not a party.

The undersigned hereby certifies that EEOC attempted to resolve the issues in this motion with Defendant, first by sending Defendant’s counsel two letters detailing EEOC’s issues with the Affirmative Defense that are the subject of this Motion, and thereafter conferring with counsel for Defendant by telephone. Such informal efforts to resolve this dispute were unsuccessful.

In support of this Motion, EEOC is filing herewith a Memorandum of Law, a Statement under Local Rule 56.1, and Declarations with Exhibits of Eugene T. D’Ablemont and Jeffrey Burstein.

Dated: March 30, 2011

Respectfully submitted,

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

s/

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