

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,**

**Plaintiff,**

**v.**

**KELLEY DRYE & WARREN, LLP,**

**Defendant.**

**ECF Case  
Civil Action No. 10-cv-0655(LTS)(MHD)**

**DECLARATION OF EUGENE T. D'ABLEMONT PURSUANT TO 28 U.S.C. § 1746**

Eugene T. D'Ablemont declares under penalty of perjury:

1. I am an attorney duly admitted to practice before this Court and the courts of the State of New York.
2. I am the Charging Party in this matter, having filed the charge under the Age Discrimination in Employment Act with Plaintiff Equal Employment Opportunity Commission on February 29, 2008 that resulted in this litigation.
3. The Kelley Drye Partnership Agreement provision at issue in this litigation, attached hereto as "Exhibit A", required that equity partners fully relinquish their equity interest in the Firm and enter into "Life Partner" status at 70 years of age. I turned 70 years of age in the year of 2000. That year I involuntarily fully lost my equity interest in the Firm and became a "Life Partner". As a Life Partner, I was not entitled to receive any compensation from the Firm except monthly unfunded pension payments called Life Partner Payments which were deferred compensation payments for my years of prior service to the Firm. A Life Partner had the option to retire or otherwise become inactive or remain active in the practice of the partnership at his or her election. In December 1999, the Firm's Executive Committee announced its intention to incentivize Life Partners who continued to make a significant contribution to the Firm. I elected to continue to remain active – a so-called Active Life Partner. Under the Partnership Agreement, whether and in what amount as an Active Life Partner I might receive a bonus compensation for those current services I rendered the Firm was determined each year in the sole discretion of the Firm's Executive Committee.
4. Prior to and upon my becoming a Life Partner in January 2000, I had notified the Firm and the Firm approved retainer agreements that I had been offered and agreed to with my clients of long-standing [REDACTED] and [REDACTED]

[REDACTED], which are related indirect wholly-owned subsidiaries of [REDACTED]. Copies of these two retainer agreements are attached hereto as Exhibit B. Under the retainer agreements, [REDACTED] agreed to keep their legal business with Kelley Drye, and not transfer it to [REDACTED] regular outside counsel, so long as I remained their "lead counsel" with authority to select Kelley Drye or any other firm to assist me; permitted me to continue to service my other clients at Kelley Drye as an Active Life Partner; and required that my time not be charged by Kelley Drye to them, but the time of all other Kelley Drye attorneys would be charged. Kelley Drye agreed that the term "Partnership Revenues" in the Partnership Agreement would not be deemed to include the companion or other fees paid to me by [REDACTED]. Attached hereto as Exhibit C is a copy of my December 14, 2000 memo with attachments to [REDACTED], showing Kelley Drye's awareness of these arrangements.

5. These arrangements were identical in nature to those entered into by various other Kelley Drye attorneys who received direct payments from clients for services rendered, both before 2000 and thereafter, while continuing to work and receive compensation from Kelley Drye for services performed for Kelley Drye as part-time Partners. Under those arrangements, the Partners did not record their time working for the third parties as billable Kelley Drye time and did not share with Kelley Drye the compensation payments they received from the third parties. [REDACTED]

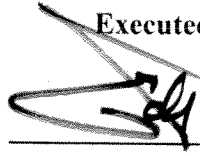
6. In February 2000, the only issues arising from my receipt that month of the client retainer payments were my requests that I continue to receive a client development allowance and, in addition to my retainer payments, be eligible to receive an Active Life Partner bonus for my contributions to the Firm on the same basis as other Active Life Partners. Initially Kelley Drye said no to both. In a memorandum, dated February 22, 2000, the Firm awarded me a client development allowance of \$10,000 and stated that I could continue to receive the retainer payments or choose to be eligible for a Kelley Drye Active Life Partner bonus, but not receive both. I persisted in my request that my client development allowance should be \$20,000 and that I should be eligible to receive a Firm bonus on the same basis of Active Life Partners, notwithstanding my receipt of the [REDACTED] retainer payments. Pursuant to my memorandum to [REDACTED] and [REDACTED], dated March 10, 2000, my client development allowance was raised to \$20,000. In a March 12, 2001 memo addressed to [REDACTED], a copy of which is attached as Exhibit I, I argued that I should be permitted to obtain a bonus payment for work performed as a Life Partner in addition to these [REDACTED] payments. Two days later, on March 14, 2001, I met with the [REDACTED] who told me that I would receive a bonus payment for work performed for Kelley Drye in addition to the [REDACTED] and [REDACTED] payments. Pursuant to this agreement, on April 10, 2001, I received my bonus of \$75,000 for my work

performed in the year 2000, a copy of which payment invoice is attached hereto as Exhibit J.

7. In my role as counsel for [REDACTED] and [REDACTED] since 2000, I selected only Kelley Drye attorneys to perform legal work for [REDACTED] and [REDACTED] (apart from the legal services I provided), which has resulted in Kelley Drye's receipt of well over [REDACTED] in revenue during the back pay period.
8. The payments from [REDACTED] and [REDACTED] that I received routinely were noted on my annual tax returns prepared by Kelley Drye. Additionally, the cover letters to the bills I sent to these clients each month for legal services performed by myself and other Kelley Drye attorneys reflected that pursuant to the above-noted [REDACTED] and [REDACTED] agreements, there were no charges for my time.
9. The issue of the [REDACTED] and [REDACTED] payments did not arise after my March 14, 2001 meeting with [REDACTED] referenced in paragraph 6 above until someone at the Firm "accidentally" opened a check in July 2008 with an [REDACTED] payment sent to me at the Firm (as had been occurring on a monthly basis since 2000).
10. The opening of this check by Kelley Drye resulted in an inquiry from [REDACTED] [REDACTED] years after the understanding I had reached with [REDACTED] in March 2001 as described in paragraph 6. One of my responses to [REDACTED] is a memo dated October 28, 2008, a correct copy of which is attached hereto as Exhibit K in which I explained the history of this arrangement and asserted my belief that this issue resurfaced after 7 years as a result of my recently having filed a discrimination charge with the EEOC.
11. My son and I were involved in a real estate matter and litigation ensued over fees owed to a law firm that had represented my son and myself. While I appeared in this litigation pro se, because I was a witness, I was assisted at the trial in 2006 by a Kelley Drye partner (which trial resulted in full vindication of my position). Pursuant to standard practice at Kelley Drye, I was not charged for such services; and Kelley Drye wrote off the time spent on this litigation in June 2007.
12. A Kelley Drye attorney also performed limited work related to a patent application of [REDACTED]. The issue of time spent by this attorney was resolved on July 18, 2008, as seen in the memo of [REDACTED], a copy of which is attached hereto as Exhibit L.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 9, 2011

A handwritten signature in black ink, appearing to read "E. D'Ablemont", is written over a horizontal line.

EUGENE T. D'ABLEMONT