

PROSKAUER ROSE LLP  
Bettina B. Plevan  
Joseph C. O’Keefe  
1585 Broadway  
New York, New York 10036  
Tel: 212.969.3000  
Fax: 212.969.2900  
bplevan@proskauer.com  
jokeefe@proskauer.com  
*Attorneys for Defendant*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,  
  
Plaintiff,  
  
-against-  
  
KELLEY DRYE & WARREN LLP,  
  
Defendant.

No. 10 Civ. 655 (LTS)(MHD)

**Filed Under Seal**

**DECLARATION OF JOSEPH C. O’KEEFE PURSUANT TO 28 U.S.C. § 1746**

Joseph C. O’Keefe 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 and a Senior Counsel with the law firm Proskauer Rose LLP, counsel for defendant Kelley Drye & Warren LLP (“Kelley Drye” or the “Firm”). I submit this declaration in opposition to the motion of plaintiff Equal Employment Opportunity Commission (“EEOC”) for partial summary judgment in the above-captioned action.

2. Kelley Drye has produced in discovery documents in which charging party Eugene T. D’Ablemont (“D’Ablemont”) apparently recorded the time that he devoted to work for two Firm clients, Redacted and Redacted.

This work was performed in connection with retainer agreements between D’Ablemont and these two clients and was recorded outside of the Firm’s time recording system. Kelley Drye was only able to locate a limited number of these documents. Specifically, Kelley Drye produced (1) a chart showing the total number of hours D’Ablemont “billed” on [Redacted] matters for each month in 2004; (2) D’Ablemont’s “time entries” for [Redacted] matters for August–December 2007, January–July 2008, and January–June 2009; and (3) D’Ablemont’s “time entries” for [Redacted] for January–June 2009. Kelley Drye believes that D’Ablemont possesses the remainder of these records, which are responsive to both the Firm’s document requests to EEOC and its subpoena to D’Ablemont, and has requested them from EEOC.

3. According to the limited data described above for 2004 and only parts of 2007–2009, and based on D’Ablemont’s regular billing rate for each of those years, we have calculated that the Firm would have billed [Redacted] and [Redacted] for, and collected, well over \$ [Redacted] for D’Ablemont’s time in just that limited time frame alone.

4. D’Ablemont admitted in a letter to [Redacted] that his retainer agreement had “significantly reduced” the legal fees that Kelley Drye received from [Redacted]. A true copy of this letter is annexed hereto as Exhibit A. In particular, D’Ablemont wrote that “[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge and/or based upon my review of the records of Kelley Drye.

Executed on April 28, 2011



JOSEPH C. O'KEEFE