

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIAUS EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION, EMMA  
CATE ROBERTSON and MX. HARRIS,

Plaintiff,

v.

LUSH HANDMADE COSMETICS, LLC,

Defendant.

Case No. 24-cv-06859-PCP

**ORDER DISMISSING EEOC'S  
CLAIMS WITHOUT PREJUDICE**

Re: Dkt. No. 25

In September 2024, the United States Equal Employment Opportunity Commission sued defendant Lush Handmade Cosmetics, LLC on behalf of charging party Emma Robertson and similarly aggrieved employees under Title VII of the Civil Rights Act of 1964. The First Amended Complaint alleged that Lush subjected Robertson and others to a hostile work environment due to their sex, sexual orientation, and gender identity. Upon taking office, President Trump signed Executive Order 14168, which set the “policy of the United States to recognize two sexes, male and female.” Shortly thereafter, the EEOC and Lush stipulated to dismiss the EEOC’s complaint with prejudice. Robertson and another employee Mx. Harris filed a motion to intervene with a proposed complaint-in-intervention.

On April 10, 2025 the Court held a hearing on both the EEOC and Lush’s stipulation and the motion to intervene. At that hearing, the EEOC stated that its withdrawal from the case does not reflect an assessment of the case’s merits or what constitutes harassment in violation of Title VII. Rather, its changed posture reflects only a change in enforcement priorities. The Court subsequently granted Robertson and Harris’s motion to intervene and then stayed all proceedings regarding the EEOC’s complaint. The complaint-in-intervention is now the operative complaint.

1 Lush filed an answer to the complaint-in-intervention on May 12, 2025.

2 At the Court's case management hearing on July 30, 2025, the Court again discussed the  
3 EEOC's request to withdraw from the case with counsel for plaintiffs and Lush. Plaintiffs  
4 expressed their desire that dismissal of the EEOC be without prejudice. Specifically, plaintiffs  
5 acknowledged that just as Executive Order 14168 reflected a shift in enforcement priorities,  
6 priorities may again shift before this case is resolved. Plaintiffs noted that the EEOC has particular  
7 expertise in crafting injunctive relief that could be relevant should its priorities change in the  
8 future. Lush stated that it would defer to the Court's position.

9 The Court agrees with plaintiffs that dismissal of the EEOC's claims should be without  
10 prejudice. Dismissal with prejudice is generally reserved for decisions on the merits. But as the  
11 EEOC stated during the Court's April 10 hearing, its withdrawal from the case does not reflect an  
12 assessment of the underlying merits of Robertson or Harris's claims. Nor does that withdrawal  
13 reflect a view regarding the requirements of Title VII or the validity of the Supreme Court's  
14 holding in *Bostock v. Clayton Cnty.*, 590 U.S. 644, 651–52 (2020), that Title VII's prohibition of  
15 employment discrimination based on sex extends to discrimination based on sexual orientation or  
16 gender identity. The Court therefore grants the parties' request to dismiss the EEOC's complaint  
17 but dismisses the EEOC's claims and complaint without prejudice.

18  
19 **IT IS SO ORDERED.**

20 Dated: August 4, 2025

21  
22   
23 P. Casey Pitts  
24 United States District Judge  
25  
26  
27  
28