

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,**

Plaintiff,

v.

Case No. 05-C-1063

**BRINKER INTERNATIONAL
PAYROLL COMPANY, L.P.
d/b/a CHILI'S GRILL & BAR,**

Defendant.

DECISION AND ORDER

The Equal Employment Opportunity Commission ("EEOC") has thus far identified twenty-two individuals on whose behalf it seeks relief. The defendant, Brinker International Payroll Company, L.P. ("Brinker"), requested to depose these twenty-two individuals, but the EEOC is only able to locate two of them. The EEOC told Brinker that it will produce the remaining twenty individuals for depositions when the EEOC locates them. The EEOC has further represented that if it cannot locate the remaining twenty individuals by the discovery deadline, which is September 18, 2006, the EEOC will exclude those individuals from the class.

On June 21, 2006, Brinker filed a Rule 7.4 Motion to Compel the deposition of the twenty remaining class members that have not yet been located. Brinker argues that it needs

to depose them soon, so as to determine how much and what kind of additional discovery it should undertake after it deposes the class members.

The Court is persuaded by Brinker's argument. Brinker requested to depose the twenty-two identified class member over three months ago. However, Brinker has only been able to depose two members of the class. Brinker needs enough time between the deposition of the class members and the discovery deadline to determine what further discovery it wishes to pursue. Accordingly, this Court directs the EEOC to produce the remaining twenty individuals in the class for depositions no later than August 14, 2006.

NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT:

Brinker's Rule 7.4 Motion to Compel Depositions (Docket No. 28) is **GRANTED**. The EEOC is directed to produce the twenty individuals requested by Brinker for deposition no later than **August 14, 2006**.

Dated at Milwaukee, Wisconsin this 14th day of July, 2006.

BY THE COURT

s/ Rudolph T. Randa

Hon. Rudolph T. Randa
Chief Judge