

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED
DEC 30 2002
Phil Lombardi, Clerk
U.S. DISTRICT COURT

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

JOHN PICKLE COMPANY, INC.

Defendant.

CIVIL ACTION NO.

02C V 979K (C)

**PLAINTIFF EEOC's MOTION TO CONSOLIDATE
AND REQUEST FOR HEARING**

COMES NOW the Plaintiff, Equal Employment Opportunity Commission (EEOC), Plaintiff in the above-captioned action, and pursuant to Rule 42(a) of the Federal Rules of Civil Procedure and Local Court Rule 7.1(G), moves to consolidate the above-captioned case, with Civil Action No. 02 CV 85 EA(M), Chellen et al. v. John Pickle Company, Inc. et al., which is pending before Judge Claire V. Eagan in the U.S. District Court, Northern District of Oklahoma.

Consolidation is sought because of common issues of fact and law in the EEOC's case and the private action that make consolidation appropriate and necessary to the consistent adjudication of the claims of the parties. Consolidation would not result in prejudice to any party or in undue delay. Consolidation would facilitate the orderly trial of all issues of the case for the individual as well as the public interests in a single proceeding, thereby conserving the resources and time of the Court and all parties.

The EEOC further requests that the Court order a hearing that would allow the parties an opportunity to be heard on the merits of consolidation if the court deems it necessary to entertain

oral argument. If, however, the Court Orders Consolidation without a hearing, the EEOC urges the court to conduct a hearing in which the Court and all affected parties could discuss the nature, extent and schedule for future proceedings consistent with consolidation of the cases.

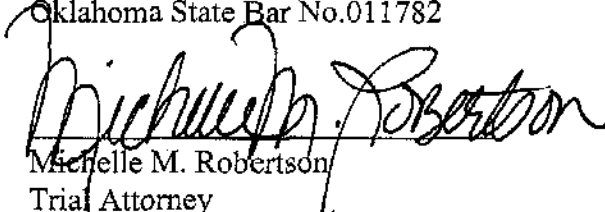
The EEOC files contemporaneous with this Motion, a Memorandum in Support setting forth more fully the facts and grounds for the Motion. A proposed Order is also filed herewith.

Pursuant to Local Rule 7.1(e) for the United States District Court for the Northern District of Oklahoma, EEOC Regional Attorney Robert Canino contacted Plaintiffs' attorneys, B. Kent Felty and Joe McDoulett, prior to filing its action and the anticipated Motion to Consolidate. The Plaintiffs' attorneys did not oppose consolidation. EEOC also attempted to contact defendant John Pickle Company's attorneys, Philip and Linda McGowan, to discuss the matter. Messages were left with the office of CARPENTER, MASON & MCGOWAN in an attempt to ascertain whether defense counsel agreed with or opposed the EEOC's Motion to Consolidate. The EEOC's attorney was informed that defense counsel would not be available until Monday, December 30, 2002, a situation quite understandable given the holiday season. A detailed message was left as to the purpose of the call with regard to obtaining defendant's position on EEOC's proposed consolidation. On Monday morning, December 30, 2002, another attempt was made to obtain the defense counsel's position on the matter, but again, the attorneys could not be reached prior to the filing of this Motion. Despite the inability of the EEOC to confirm whether there were any objections by defendant, it is in the interest of justice, given the circumstances surrounding the two civil actions, for the Court to Order consolidation on its own authority and discretion. In any event, if defense counsel is not reached prior to the filing of EEOC's suit and Motion, the Court will be holding a Pretrial Conference in the private action on December 30, 2002, and will be able to raise the matter with defense counsel at that time.

For the above stated reasons, and as more fully set forth in the Memorandum in Support filed herewith, the EEOC requests that the Court issue an Order consolidating this case filed by the Equal Employment Opportunity Commission, Civil Action No. _____ with the prior filed private civil action No. 02 CV 85 EA(M) presently pending before U.S. District Judge Claire V. Eagan. The EEOC further requests a hearing on this matter after January 3, 2003, but before the scheduled trial date in the private action for the purpose of allowing the parties to meet with the Court and discuss any approaches to case management if consolidation is granted.

Respectfully submitted,

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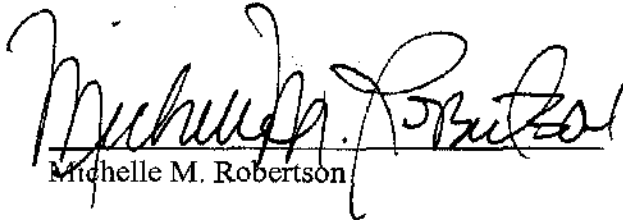
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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above Motion to Consolidate filed by the EEOC was served on the following persons by U.S. Mail delivery on this 30th day of December 2002.

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