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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

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9 Equal Employment Opportunity)
Commission,)

No. CV-06-2303-PHX-MHM

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Plaintiff,)

ORDER

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vs.)

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13 University of Phoenix, Inc., an Arizona)
corporation, and Apollo Group, Inc., an)
14 Arizona corporation,)

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Defendants.)

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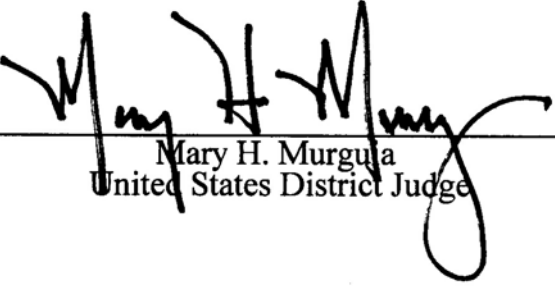
17 The Court has reviewed the parties’ memoranda addressing the question of whether
18 this action is properly considered a “pattern or practice” case. Although the Plaintiffs
19 brought the action under 42 U.S.C. § 2000e-5 (“§ 706”) as opposed to 42 U.S.C. § 2000e-6
20 (“§ 707”) — the traditional provision used for pattern or practice cases — the Court finds
21 that there is authority to support the Plaintiffs’ claim that pattern or practice actions may be
22 brought under either section. See EEOC v. Int’l Profit Associates, Inc., No. 01-C-4427, 2007
23 WL 3120069, at *2 (N.D. Ill. Oct. 23, 2007) (“the EEOC is statutorily authorized to bring
24 a pattern or practice action to enjoin systematic unlawful employment practices, as defined
25 by 42 U.S.C. § 200e-2(a)(1), under either section 706 or 707.”). The Defendants have cited
26 to no authority to the contrary. Although the Plaintiffs had previously failed to specify that
27 this is a pattern or practice case, the Defendants should have been on notice that the Plaintiffs
28 intended to bring pattern or practice claims based on the number and type of allegations made

1 in the case. Further, the Defendants have not indicated how they will be prejudiced by such
2 a reading of the Plaintiffs' Complaint; to the contrary, the Plaintiffs assert that this will have
3 no effect on the type or amount of discovery in the case. Accordingly, the Court finds that
4 the Plaintiffs may proceed with their pattern or practice claims.

5 **IT IS ORDERED** permitting the Plaintiffs to proceed with the construction of this
6 case as alleging a pattern or practice of discrimination.

7 DATED this 19th day of September, 2008.

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Mary H. Murgula
United States District Judge