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FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
FEB 23 2001
By: JAMES W. McCORMACK, CLERK
DEP. CLERK

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION**

PLAINTIFF

vs.

NO. 5:00CV00352 WRW

GLOBAL MATERIALS SERVICE, INC.

DEFENDANT

ORDER

Pending is Plaintiff's Motion to Strike Defendant's Affirmative Defenses (Doc. No. 8) and Defendant's response (Doc. No. 10).

Defendant's Answer was due on December 11, 2000. Defendant filed its Answer nine days late. Plaintiff asks that Defendant's affirmative defenses be stricken. A district court has discretion to deny a party's attempt to assert an untimely defense. See Irons v. Burlington Northern Railroad Company, 1993 U.S. App. LEXIS 12859 (8th Cir. 1993) (unpublished opinion) (citing Radio Corp. v. Hazeltine Research, Inc., 401 U.S. 321, 330-33 (1971) and L & L Marine Service, Inc. v. Insurance Co. of North America, 796 F.2d 1032, 1038 (8th Cir. 1986)).

The delay in the instant case was only a few days late and I see no prejudice to Plaintiff in this short delay. Accordingly, Plaintiff's motion is DENIED.

IT IS SO ORDERED this 20th day of February, 2001.

W. M. R. W.

UNITED STATES DISTRICT JUDGE

THIS DOCUMENT ENTERED ON DOCKET SHEET IN
COMPLIANCE WITH RULE 58 AND/OR 79(a) FRCP
ON 2-23-01 BY EJ

UNITED STATES DISTRICT COURT
Eastern District of Arkansas
U.S. Court House
600 West Capitol, Suite 402
Little Rock, Arkansas 72201-3325

February 23, 2001

* * MAILING CERTIFICATE OF CLERK * *

Re: 5:00-cv-00352.

True and correct copies of the attached were mailed by the clerk to the following:

William A. Cash Jr., Esq.
Equal Employment Opportunity Commission
425 West Capitol Avenue
Suite 625
Little Rock, AR 72201

Pamela B. Dixon, Esq.
Equal Employment Opportunity Commission
425 West Capitol Avenue
Suite 625
Little Rock, AR 72201

Terry Beck, Esq.
Equal Employment Opportunity Commission
1407 Union Avenue
Suite 621
Memphis, TN 38104

Katharine W. Kores, Esq.
Equal Employment Opportunity Commission
1407 Union Avenue
Suite 621
Memphis, TN 38104

Sara M. Falkinham, Esq.
Armstrong, Allen, Prewitt, Gentry, Johnston & Holmes
80 Monroe Avenue
Suite 700
Memphis, TN 38103-2467

Michael D. Kaplan, Esq.
Armstrong, Allen, Prewitt, Gentry, Johnston & Holmes
80 Monroe Avenue
Suite 700
Memphis, TN 38103-2467

Morgan E. Welch, Esq.
Eubanks, Welch, Baker & Schulze, LLP
620 West Third Street, Suite 100
Post Office Drawer 3685
Little Rock, AR 72203-3685

James W. McCormack, Clerk

Date: 2-23-01

BY: *E. J. Myers*