

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

UNITED STATES EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION,

Plaintiff,

-vs-

Case No. 8:03-cv-568-T-24MAP

CHECKERS DRIVE-IN RESTAURANTS, INC.,

Defendant.

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**ORDER**

This cause comes before the Court for consideration of Defendant's Motion for Summary Judgment (Doc. No. 75). Plaintiff filed a Response in Opposition thereto (Doc. No. 80).

Defendant argues that summary judgment should be entered in favor of Defendant because of the EEOC's failure to make a bona fide effort to conciliate this case in a reasonable and responsive manner prior to filing this action as required by 42 U.S.C. §§ 2000e-5(b) and (f)(1). The Court notes that it previously addressed this precise issue when considering Defendant's Motion to Dismiss Complaint. See Order denying Defendant's Motion to Dismiss (Doc. No. 12).

After careful review of the summary judgment motion and the response thereto, the Court again finds that the EEOC's actions were well within the requirements of both 42 U.S.C. §§ 2000e-5(b) and (f)(1) and the controlling case law articulated in EEOC v. Klingler Electric Corp., 636 F.2d 104, 107 (5th Cir. 1981)<sup>1</sup> and EEOC v. Asplundh Tree Expert Co., 340 F.3d 1256 (11th Cir. 2003).

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<sup>1</sup>The case law of the Fifth Circuit prior to September 30, 1981 has been adopted as precedent in this judicial circuit. Bonner v. City of Prichard, 661 F.2d 1206 (11th Cir. 1981) (en banc).

Accordingly, it is **ORDERED AND ADJUDGED** that Defendant's Motion for Summary Judgment (Doc. No. 75) is **DENIED**.

**DONE AND ORDERED** at Tampa, Florida, this 14th day of February, 2005.

  
SUSAN C. BUCKLEW  
United States District Judge

Copies to:

Counsel of Record