

MAR 22 2002

Michael N. Milby, Clerk of Court

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

v.

PARTY BOAT, INC.

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CIVIL ACTION NO. C-97-258

39.

**ORDER DENYING RESPONDENT'S MOTION TO DISMISS, DENYING
RESPONDENT'S MOTION FOR SUMMARY JUDGMENT, DENYING AS MOOT
PLAINTIFF'S MOTION TO DISMISS RESPONDENT'S MOTION FOR SUMMARY
JUDGMENT, AND DENYING RESPONDENT'S MOTION FOR SANCTIONS**

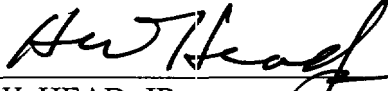
The Court rules on the pending motions as follows:

1. The Court construes respondent Dolphin Dock's motion to dismiss (D.E. 29-3) the EEOC's motion for enforcement of consent decree against successor-in-interest to defendant as a motion to dismiss for failure to state a claim upon which relief can be granted. See Federal Rule of Civil Procedure 12(b)(6). Respondent's motion to dismiss is DENIED.
2. Respondent's motion for summary judgment (D.E. 36) is DENIED.
3. Plaintiff EEOC's motion to dismiss respondent's motion for summary judgment (D.E. 38) is DENIED as moot.
4. To the extent respondent moved for sanctions against the EEOC (D.E. 29-2), such motion is DENIED.

The evidentiary hearing on EEOC's motion to enforce consent decree against successor-in-interest to defendant (D.E. 27) remains set for March 28, 2002, at 9 a.m. Respondent is not entitled

to have a jury resolve the fact issues raised by EEOC's motion.¹ See In Re Corrugated Container Antitrust Litigation, 752 F.2d 137 (5th Cir. 1985).

ORDERED this 20 day of March, 2002.



H.W. HEAD, JR.
UNITED STATES DISTRICT JUDGE

¹At the December 6, 2001, hearing, the Court told counsel for respondent Dolphin Dock to file a five-page memo by December 16, 2001, if counsel thought Dolphin Dock was entitled to a jury trial on EEOC's motion to enforce consent decree. No such motion was filed.