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HONORABLE JOHN C. COUGHENOUR

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UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
 )  
v. )  
 )  
MARITIME EMPLOYMENT SERVICES, )  
INC. )  
 )  
Defendant. )  
\_\_\_\_\_ )

CIVIL ACTION NO. CV 02-3053

EEOC'S RESPONSE TO COURT'S  
ORDER TO SHOW CAUSE AND  
APPLICATION FOR ENTRY OF  
DEFAULT JUDGMENT

NOTE ON MOTION CALENDAR:  
March 4, 2004

Plaintiff, Equal Employment Opportunity Commission ("EEOC" or "the Commission")  
files this Response to the Court's March 1, 2004 Minute Order requiring EEOC to "show cause  
why this matter should not be dismissed for Plaintiff's failure to prosecute pursuant to  
Fed.R.Civ.P. 41(b)." The parties had previously jointly moved for entry of default based on

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1 defendant Maritime Employment Services, Inc.'s ("Maritime" or "defendant") failure to defend.  
2 See Parties' Agreed Motion for Entry of Default. The Court entered default against Maritime.  
3 See Order Granting Parties' Agreed Motion for Entry of Default. This matter should not be  
4 dismissed pursuant to Fed.R.Civ.P. 41(b) since defendant has already been found to be in default  
5 and this action will be otherwise be dismissed upon entry of a default judgment, for which EEOC  
6 is now applying.

8 APPLICATION FOR ENTRY OF DEFAULT JUDGMENT

9 Pursuant to Fed.R.Civ.P. 55(b)(2), EEOC applies to the Court for entry of a default  
10 judgment against Maritime. Pursuant to Fed.R.Civ.P. 55, EEOC shall serve Maritime written  
11 notice of the application for judgment at least 3 days prior to the hearing on EEOC's application.  
12 The parties moved for default because defendant is no longer doing business, recently dissolved  
13 as a corporation, has no assets from which to pay monetary damages and lacks liability insurance  
14 to cover EEOC's monetary claims. Thus, no hearings are necessary for the Court "to take an  
15 account or to determine the amount of damages or to establish the truth of any averment by  
16 evidence or to make any investigation of any other matter," to enable the court to enter judgment  
17 or to carry it into effect. Fed.R.Civ.P. 55(b)(2).

18 CONCLUSION

19 For the foregoing reasons, EEOC respectfully requests that the Court not dismiss this  
20 action pursuant to Fed.R.Civ.P. 41(b) but instead enter default judgment pursuant to  
21 Fed.R.Civ.P. 55(b)(2).  
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DATED this 4<sup>th</sup> day of March, 2004.

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BY: /s/ Wesley Katahira  
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