U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

Office of
General Counsel

June 22, 2015

Mr. John Ley, Clerk of the Court
U.S. Court of Appeals, Eleventh Circuit
Elbert Parr Tuttle Court of Appeals Building
56 Forsyth Street, N.W.
Atlanta, GA 30303

Re: *EEOC v. Catastrophe Management Solutions,*
No. 14-13482 (11th Cir.)

Dear Mr. Ley:

Please accept for filing in the above-captioned case this response on behalf of the Equal Employment Opportunity Commission ("EEOC" or "Commission"), plaintiff-appellant, to defendant-appellee Catastrophe Management Solutions's ("Catastrophe") supplemental authority pursuant to Fed. R. App. P. 28(j).

On June 16, 2015, Catastrophe filed a Rule 28(j) letter offering the United State Supreme Court's decision in *EEOC v. Abercrombie & Fitch Stores*, Inc., 135 S. Ct. 2028 (2015), as supplemental authority in the above-captioned case. Catastrophe's reliance on the "neutral policy" and "accommodation" analysis in *Abercrombie* is misplaced. Indeed, the Commission has never sought an accommodation based on race and the key issue in *Abercrombie* -- notice to the employer -- is not a question in the case at bar.

Rather, the EEOC claims in the instant case that Catastrophe's interpretation and application of its grooming policy as prohibiting dreadlocks in its workplace is not race-neutral and thus violates Title VII. In other words, Catastrophe's practice of banning dreadlocks in its workplace discriminates on the basis of race because it constitutes a ban on natural hair texture associated with people of African descent. Thus, contrary to Catastrophe's contention, the Commission has alleged elements of a disparate treatment claim and framed an issue of intentional discrimination based on race. *See Young v. United Parcel Service, Incorporated*, 135 S. Ct. 1338 (2015) ("a plaintiff can prove disparate treatment either . . . by direct evidence that a workplace policy, practice, or decision relies expressly on a protected characteristic"); *Roberts v. Gadsden Memorial Hosp.*, 835 F.2d 793, 796-97 (11th Cir. 1988) ("the ultimate question in a racial discrimination case

under Title VII: whether the employer discriminated against the claimant on the basis of race"). As a result, nothing in the *Abercrombie* decision detracts from this premise or addresses the issues presented in this case.

Sincerely,

s/PAULA R. BRUNER
Attorney
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Office of General Counsel
131 M Street, N.E., 5th Floor
Washington, D.C. 20507
(202) 663-4731
paula.bruner@eeoc.gov

CC: T.M. Johnson
E. Scalia
D.J. Middlebrooks
W.R. Brown
M.L. Hubbard
J.P. Thompson
K.C. Todd
W.S. Consovoy