

Brent O. Hatch (5715)  
Mark F. James (5295)  
HATCH, JAMES & DODGE, PC  
10 West Broadway, Suite 400  
Salt Lake City, Utah 84101  
Telephone: (801) 363-6363  
Facsimile: (801) 363-6666

Robert Silver (admitted pro hac vice)  
Edward Normand (admitted pro hac vice)  
BOIES, SCHILLER & FLEXNER LLP  
333 Main Street  
Armonk, New York 10504  
Telephone: (914) 749-8200  
Facsimile: (914) 749-8300

Stuart H. Singer (admitted pro hac vice)  
BOIES, SCHILLER & FLEXNER LLP  
401 East Las Olas Boulevard – Suite 1200  
Ft. Lauderdale, Florida 33301  
Telephone: (954) 356-0011  
Facsimile: (954) 356-0022

Stephen N. Zack (admitted pro hac vice)  
BOIES, SCHILLER & FLEXNER LLP  
Bank of America Tower – Suite 2800  
100 Southeast Second Street  
Miami, Florida 33131  
Telephone: (305) 539-8400  
Facsimile: (305) 539-1307

*Attorneys for The SCO Group, Inc.*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH**

THE SCO GROUP, INC.

Plaintiff/Counterclaim-Defendant,

v.

INTERNATIONAL BUSINESS  
MACHINES CORPORATION,

Defendant/Counterclaim-Plaintiff.

**[PROPOSED] ORDER GRANTING EX  
PARTE MOTION FOR LEAVE  
TO FILE SCO'S REPLY  
MEMORANDUM IN FURTHER  
SUPPORT OF SCO'S MOTION FOR  
RECONSIDERATION  
OF THE MAGISTRATE JUDGE'S  
ORDER DENYING SCO'S MOTION  
FOR RELIEF FOR IBM'S  
SPOILIATION OF EVIDENCE**

Case No. 2:03CV0294DAK

Honorable Dale A. Kimball  
Magistrate Judge Brooke C. Wells

This matter comes before the Court on the Ex Parte Motion of Plaintiff/Counterclaim-Defendant The SCO Group (“SCO”) for Leave to File their over length Reply Memorandum In Further Support Of SCO's Motion For Reconsideration Of The Magistrate Judge's Order Denying SCO's Motion For Relief For IBM's Spoliation Of Evidence (the “Reply Memorandum”). The Court, having considered the matter, hereby determines that good cause and exceptional circumstances exist and hereby ORDERS that SCO be granted leave to file its over-length Reply Memorandum consisting of 25 pages, exclusive of face sheet, table of contents and authorities, appendixes and exhibits.

DATED: \_\_\_\_\_, 2007

BY THE COURT:

\_\_\_\_\_  
Honorable Dale A. Kimball

**CERTIFICATE OF SERVICE**

Plaintiff/Counterclaim-Defendant, The SCO Group, Inc., hereby certifies that a true and correct copy of the foregoing [PROPOSED] ORDER GRANTING EX PARTE MOTION FOR LEAVE TO FILE SCO'S REPLY MEMORANDUM IN FURTHER SUPPORT OF SCO'S MOTION FOR RECONSIDERATION OF THE MAGISTRATE JUDGE'S ORDER DENYING SCO'S MOTION FOR RELIEF FOR IBM'S SPOILIATION OF EVIDENCE was served on Defendant/Counterclaim-Plaintiff, International Business Machines Corporation, on this 25<sup>th</sup> Day of May, 2007, via CM/ECF and electronic mail (by agreement of the parties) to the following:

David Marriott, Esq. ([dmarrriott@cravath.com](mailto:dmarrriott@cravath.com))  
Cravath, Swain & Moore LLP  
Worldwide Plaza  
825 Eighth Avenue  
New York, New York 10019

Todd Shaughnessy, Esq. ([tshaughnessy@swlaw.com](mailto:tshaughnessy@swlaw.com))  
Snell & Wilmer LLP  
1200 Gateway Tower West  
15 West South Temple  
Salt Lake City, Utah 84101-1004

By: \_\_\_\_\_/s/Mark F. James