

**U.S. District Court
District of Colorado (Denver)
CIVIL DOCKET FOR CASE #: 1:11-cv-02557-CMA-CBS**

Equal Employment Opportunity Commission v. Beverage
Distributors Company, LLC
Assigned to: Judge Christine M. Arguello
Referred to: Magistrate Judge Craig B. Shaffer
Case in other court: USCA, 14-01012
Cause: 42:12112 American with Disabilities Act (ADA-
Discrimination)

Date Filed: 09/29/2011
Date Terminated: 12/04/2015
Jury Demand: Plaintiff
Nature of Suit: 445 Civil Rights:
Americans with Disabilities -
Employment
Jurisdiction: U.S. Government Plaintiff

Plaintiff

**Equal Employment Opportunity
Commission**

represented by **David Andrew Winston**
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TERMINATED: 07/24/2015

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TERMINATED: 06/26/2015

V.

Defendant

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Defendant

Beverage Distributors Holding, Inc.
TERMINATED: 01/09/2012

represented by **Joshua B. Kirkpatrick**
 (See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
09/29/2011	<u>1</u>	COMPLAINT and Jury Trial Demand against Beverage Distributors Company, LLC, Beverage Distributors Holding, Inc. Summons Issued, filed by Equal Employment Opportunity Commission. (Attachments: # <u>1</u> Civil Cover Sheet)(lygsl,) (Entered: 09/29/2011)
10/04/2011	<u>2</u>	MEMORANDUM RETURNING CASE for reassignment by Senior District Judge Lewis T. Babcock. (sah2,) (Entered: 10/04/2011)
10/04/2011	<u>3</u>	LETTER REASSIGNING CASE. Case reassigned to Judge Christine M. Arguello for all further proceedings. Judge Lewis T. Babcock no longer assigned to the case. (sah2,) (Entered: 10/04/2011)
10/18/2011	4	ORDER REFERRING CASE to Magistrate Judge Craig B. Shaffer. Magistrate Judge Shaffer is designated to conduct NDISPO proceedings pursuant to 28 U.S.C. § 636(b)(1)(A) and (B) and Fed.R.Civ.P. 72(a) and (b). ALSO ORDERED that unless service has otherwise been completed or arranged, Plaintiff's counsel is directed to effect service of the summons and complaint pursuant to Rule 4 of the Federal Rules of Civil Procedure no later than 11/18/2011 in order for the initial scheduling conference to be held promptly. The parties should expect to be given a firm trial setting that is 60 to 120 days from the date of the final pretrial conference, and should be available for trial accordingly. By Judge Christine M. Arguello on 10/18/11. Text Only Entry (cmasec) (Entered: 10/18/2011)
10/20/2011	<u>5</u>	ORDER setting a Scheduling Conference on 12/20/2011 at 10:00 a.m. in Courtroom A 402 before Magistrate Judge Craig B. Shaffer, by Magistrate Judge Craig B. Shaffer on 10/20/11. (cbssec) (Entered: 10/20/2011)

11/02/2011	<u>6</u>	NOTICE of Entry of Appearance by David Andrew Winston on behalf of Equal Employment Opportunity Commission (Winston, David) (Entered: 11/02/2011)
11/22/2011	<u>7</u>	WAIVER OF SERVICE Returned Executed by Equal Employment Opportunity Commission. Beverage Distributors Company, LLC waiver sent on 10/21/2011, answer due 12/20/2011; Beverage Distributors Holding, Inc. waiver sent on 10/21/2011, answer due 12/20/2011. (Struble, Stephanie) (Entered: 11/22/2011)
12/13/2011	<u>8</u>	Proposed Scheduling Order by Plaintiff Equal Employment Opportunity Commission. (Struble, Stephanie) (Entered: 12/13/2011)
12/20/2011	<u>9</u>	MINUTE ENTRY for proceedings held before Magistrate Judge Craig B. Shaffer: Scheduling Conference held on 12/20/2011. Discovery due by 6/22/2012. Dispositive Motions due by 7/20/2012. Final Pretrial Conference set for 10/10/2012 09:15 AM in Courtroom A 402 before Magistrate Judge Craig B. Shaffer. (FTR: Laura Galera and Robin Mason) (cbscd) (Entered: 12/20/2011)
12/20/2011	<u>10</u>	SCHEDULING ORDER: by Magistrate Judge Craig B. Shaffer on 12/20/2011. (cbscd) (Entered: 12/20/2011)
12/20/2011	<u>11</u>	STIPULATION for Extension of Time to <i>Answer or Otherwise Respond to The Complaint</i> by Defendants Beverage Distributors Company, LLC, Beverage Distributors Holding, Inc.. (Kirkpatrick, Joshua) (Entered: 12/20/2011)
01/09/2012	<u>12</u>	NOTICE of Voluntary Dismissal of Party <i>Beverage Distributors Holding, Inc.</i> by Plaintiff Equal Employment Opportunity Commission (Struble, Stephanie) (Entered: 01/09/2012)
01/09/2012	19	Party Beverage Distributors Holding, Inc. terminated pursuant to the notice of dismissal or stipulation to dismiss filed in this case on 1/9/12. Text Only Entry (cmacd) (Entered: 04/30/2012)
01/10/2012	<u>13</u>	ANSWER to <u>1</u> Complaint by Beverage Distributors Company, LLC.(Kirkpatrick, Joshua) (Entered: 01/10/2012)
02/21/2012	<u>14</u>	Joint MOTION to Amend/Correct/Modify <u>10</u> Scheduling Order , Joint MOTION for Extension of Time to <i>Designate Expert Witnesses</i> by Plaintiff Equal Employment Opportunity Commission. (Struble, Stephanie) (Entered: 02/21/2012)
02/21/2012	15	MEMORANDUM regarding <u>14</u> Joint MOTION to Amend/Correct/Modify <u>10</u> Scheduling Order Joint MOTION for Extension of Time to <i>Designate Expert Witnesses</i> filed by Equal Employment Opportunity Commission. Motion referred to Magistrate Judge Craig B. Shaffer by Judge Christine M. Arguello on 02/21/12. Text Only Entry (cmasec) (Entered: 02/21/2012)
02/22/2012	16	ORDER granting <u>14</u> Motion to Amend/Correct/Modify; granting <u>14</u> Motion for Extension of Time. The deadline for Rule 26(a)(2) affirmative expert disclosures is extended to 4/27/12 and the deadline for Rule 26(a)(2) rebuttal expert disclosures is extended to 6/1/12. All deadlines previously set by this court, not modified herein, remain in effect, by Magistrate Judge Craig B. Shaffer on 2/22/12. Text Only Entry(cbssec) (Entered: 02/22/2012)
04/27/2012	<u>17</u>	Unopposed MOTION for Extension of Time to <i>Designate Experts and to Extend the Discovery Cut-Off</i> by Plaintiff Equal Employment Opportunity Commission. (Struble, Stephanie) (Entered: 04/27/2012)
04/27/2012	18	MEMORANDUM regarding <u>17</u> Unopposed MOTION for Extension of Time to <i>Designate Experts and to Extend the Discovery Cut-Off</i> filed by Equal Employment Opportunity Commission. Motion referred to Magistrate Judge Craig B. Shaffer by Judge Christine M. Arguello on 04/27/12. Text Only Entry (cmasec) (Entered: 04/27/2012)
05/02/2012	20	ORDER granting <u>17</u> Motion for Extension of Time. ORDERED that the deadline for Rule 26(a)(2) affirmative expert disclosures is extended to 6/8/12 and the deadline for Rule 26(a)(2) rebuttal expert disclosures is extended to 6/29/12. FURTHER ORDERED that the Discovery deadline is extended to on or before 7/20/2012 and the Dispositive Motion deadline is extended to 8/17/2012, by Magistrate Judge Craig B. Shaffer on 5/2/12. Text Only Entry(cbssec) (Entered: 05/02/2012)

06/05/2012	<u>21</u>	Joint MOTION to Amend/Correct/Modify <u>10</u> Scheduling Order <i>To Extend Discovery Deadlines</i> by Defendant Beverage Distributors Company, LLC, Plaintiff Equal Employment Opportunity Commission. (Attachments: # <u>1</u> Proposed Order (PDF Only))(Kirkpatrick, Joshua) (Entered: 06/05/2012)
06/05/2012	22	MEMORANDUM regarding <u>21</u> Joint MOTION to Amend/Correct/Modify <u>10</u> Scheduling Order <i>To Extend Discovery Deadlines</i> filed by Equal Employment Opportunity Commission, Beverage Distributors Company, LLC. Motion referred to Magistrate Judge Craig B. Shaffer by Judge Christine M. Arguello on 6/5/12. Text Only Entry (cmacd) (Entered: 06/05/2012)
06/06/2012	23	ORDER Setting Hearing on <u>21</u> Joint MOTION to Amend <u>10</u> Scheduling Order To Extend Discovery Deadlines by Magistrate Judge Craig B. Shaffer on 6/6/12. ORDERED that a Telephonic Motion Hearing will take place on 6/7/2012 at 9:15 AM before Magistrate Judge Craig B. Shaffer. <i>Counsel shall coordinate to create a conference call among themselves before contacting the court (303.844.2117) at the scheduled time.</i> Text Only Entry (cbssec) (Entered: 06/06/2012)
06/07/2012	<u>24</u>	MINUTE ENTRY for proceedings held before Magistrate Judge Craig B. Shaffer: Telephonic Motion Hearing held on 6/7/2012. The court GRANTS IN PART and DENIES IN PART <u>21</u> Motion to Amend/Correct/Modify. The court shall extend the discovery cut date to August 17, 2012. The court shall not move the dispositive motions deadline. The designation of all expert witnesses shall be extended to June 26, 2012. The designation of rebuttal experts shall be extended to July 20, 2012. (FTR: RobinMason) (cbscd,) (Entered: 06/07/2012)
06/07/2012	<u>25</u>	NOTICE of Entry of Appearance by Scott Alan Forman on behalf of Beverage Distributors Company, LLC (Forman, Scott) (Entered: 06/07/2012)
08/16/2012	<u>26</u>	WITHDRAWN – MOTION for Protective Order , MOTION to Quash <i>3d Party Subpoena</i> by Plaintiff Equal Employment Opportunity Commission. (Attachments: # <u>1</u> Exhibit subpoena, # <u>2</u> Exhibit Calahan v. PSC, # <u>3</u> Exhibit Blasio v. UPS, # <u>4</u> Exhibit Paystub)(Struble, Stephanie) Modified on 1/29/2013 to withdraw pursuant to 58 Order (dkals,). (Entered: 08/16/2012)
08/17/2012	<u>27</u>	MOTION for Summary Judgment by Defendant Beverage Distributors Company, LLC. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G)(Kirkpatrick, Joshua) (Entered: 08/17/2012)
08/17/2012	<u>28</u>	MOTION for Partial Summary Judgment by Plaintiff Equal Employment Opportunity Commission. (Attachments: # <u>1</u> Exhibit Mr. Sungaila's Application, # <u>2</u> Exhibit HealthOne Evaluation, # <u>3</u> Exhibit Discovery Responses, # <u>4</u> Exhibit Charge of Discrimination, # <u>5</u> Exhibit EEOC Determination, # <u>6</u> Exhibit Declaration of Helbis Varangot, # <u>7</u> Exhibit Notice of Failed Conciliation, # <u>8</u> Exhibit 7.1 Letter, # <u>9</u> Deposition Excerpts Linda Holman, # <u>10</u> Deposition Excerpts John Johnson, # <u>11</u> Deposition Excerpts Bob Pieron, # <u>12</u> Deposition Excerpts Tom Rogers)(Struble, Stephanie) (Entered: 08/17/2012)
08/21/2012	<u>29</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>27</u> MOTION for Summary Judgment by Plaintiff Equal Employment Opportunity Commission. (Struble, Stephanie) (Entered: 08/21/2012)
08/22/2012	30	ORDER granting <u>29</u> Motion for Extension of Time to File Response/Reply.By Judge Christine M. Arguello on 8/22/2012. Text Only Entry(cmacd,) (Entered: 08/22/2012)
09/06/2012	<u>31</u>	RESPONSE to <u>26</u> MOTION for Protective Order MOTION to Quash <i>3d Party Subpoena</i> filed by Defendant Beverage Distributors Company, LLC. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit)(Kirkpatrick, Joshua) (Entered: 09/06/2012)
09/06/2012	<u>32</u>	Exhibits in Support of <u>27</u> MOTION for Summary Judgment (<i>Defendant's Lodging of Declaration of Dr. John D. Sanidas</i>) by Defendant Beverage Distributors Company, LLC. (Attachments: # <u>1</u> Declaration of Dr. John D. Sanidas)(Kirkpatrick, Joshua) (Entered: 09/06/2012)
09/10/2012	33	MEMORANDUM regarding <u>26</u> MOTION for Protective Order MOTION to Quash <i>3d Party Subpoena</i> filed by Equal Employment Opportunity Commission. Motion referred to Magistrate Judge Craig B. Shaffer by Judge Christine M. Arguello on

		09/10/12. Text Only Entry (cmasec) (Entered: 09/10/2012)
09/10/2012	<u>34</u>	RESPONSE to <u>28</u> MOTION for Partial Summary Judgment filed by Defendant Beverage Distributors Company, LLC. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J, # <u>11</u> Exhibit K, # <u>12</u> Exhibit L, # <u>13</u> Exhibit M, # <u>14</u> Exhibit N, # <u>15</u> Exhibit O)(Kirkpatrick, Joshua) (Entered: 09/10/2012)
09/11/2012	35	ORDER setting hearing on <u>26</u> MOTION for Protective Order/to Quash. ORDERED that a Motion Hearing will take place on 10/11/2012 at 3:00 PM in Courtroom A 402 before Magistrate Judge Craig B. Shaffer. Text Only Entry by Magistrate Judge Craig B. Shaffer on 9/11/12. (cbssec) Modified on 9/12/2012 to correct signature date (dkals,). (Entered: 09/11/2012)
09/17/2012	<u>36</u>	RESPONSE to <u>27</u> MOTION for Summary Judgment filed by Plaintiff Equal Employment Opportunity Commission. (Attachments: # <u>1</u> Exhibit Declaratin of Dr. Lervick, # <u>2</u> Exhibit Application, # <u>3</u> Exhibit Position Statement, # <u>4</u> Exhibit photo of Conveyor Belts with Netting, # <u>5</u> Exhibit Photo of more netting, # <u>6</u> Exhibit Photo of Truck Loading Job, # <u>7</u> Exhibit Photo of Truck Loading Job, # <u>8</u> Exhibit Photo of Truck Loading Job, # <u>9</u> Exhibit Expert Report, # <u>10</u> Exhibit Agility Test Results, # <u>11</u> Exhibit qualification for Truck Loader, # <u>12</u> Exhibit doctor's report, # <u>13</u> Deposition Excerpts Cook, # <u>14</u> Deposition Excerpts Hollman, # <u>15</u> Deposition Excerpts Johnson, # <u>16</u> Deposition Excerpts Pieron, # <u>17</u> Deposition Excerpts Rogers, # <u>18</u> Deposition Excerpts Sungaila)(Struble, Stephanie) (Entered: 09/17/2012)
09/24/2012	<u>37</u>	REPLY to Response to <u>26</u> MOTION for Protective Order MOTION to Quash <i>3d Party Subpoena</i> filed by Plaintiff Equal Employment Opportunity Commission. (Struble, Stephanie) (Entered: 09/24/2012)
09/25/2012	<u>38</u>	MOTION for Leave to Restrict Document by Plaintiff Equal Employment Opportunity Commission. (Struble, Stephanie) (Entered: 09/25/2012)
09/25/2012	<u>39</u>	Exhibits in Support of <u>36</u> Response to Motion,,, <i>Amended Exhibit 1</i> by Plaintiff Equal Employment Opportunity Commission. (Attachments: # <u>1</u> Exhibit Amended Exhibit 1 to Dkt. # 36)(Struble, Stephanie) (Entered: 09/25/2012)
09/27/2012	<u>40</u>	REPLY to Response to <u>28</u> MOTION for Partial Summary Judgment filed by Plaintiff Equal Employment Opportunity Commission. (Attachments: # <u>1</u> Exhibit Investigator Log of investigation, # <u>2</u> Exhibit Investigator notes from witness interviews)(Struble, Stephanie) (Entered: 09/27/2012)
10/03/2012	<u>41</u>	Proposed Pretrial Order by Plaintiff Equal Employment Opportunity Commission. (Attachments: # <u>1</u> Exhibit EEOC Exhibit List, # <u>2</u> Exhibit Defendant Exhibit List)(Struble, Stephanie) (Entered: 10/03/2012)
10/04/2012	42	ORDER <i>sua sponte</i> resetting hearing to combine the 10/10/12 Final Pretrial Conference with the 10/11/12 Motions Hearing. ORDERED that the Final Pretrial Conference will take place on 10/11/2012 at 3:00 PM in Courtroom A 402 before Magistrate Judge Craig B. Shaffer. Text Only Entry by Magistrate Judge Craig B. Shaffer on 10/4/12. (cbssec) (Entered: 10/04/2012)
10/04/2012	<u>43</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>27</u> MOTION for Summary Judgment by Defendant Beverage Distributors Company, LLC. (Attachments: # <u>1</u> Proposed Order (PDF Only))(Kirkpatrick, Joshua) (Entered: 10/04/2012)
10/09/2012	<u>44</u>	Amended MOTION for Extension of Time to File Response/Reply as to <u>27</u> MOTION for Summary Judgment , <u>43</u> Unopposed MOTION for Extension of Time to File Response/Reply as to <u>27</u> MOTION for Summary Judgment by Defendant Beverage Distributors Company, LLC. (Attachments: # <u>1</u> Proposed Order (PDF Only))(Kirkpatrick, Joshua) (Entered: 10/09/2012)
10/09/2012	45	ORDER GRANTING <u>44</u> Motion for Extension of Time to File Response/Reply. Defendant shall have to and including 10/10/12 within which to file its Reply to Plaintiff's Response to Defendant's Motion for Summary Judgment. SO ORDERED BY Judge Christine M. Arguello on 10/09/12. Text Only Entry (cmasec) (Entered: 10/09/2012)

10/09/2012	46	ORDER DENYING AS MOOT <u>43</u> Motion for Extension of Time to File Response/Reply, by Judge Christine M. Arguello on 10/09/12. Text Only Entry (cmasec) (Entered: 10/09/2012)
10/10/2012	<u>47</u>	REPLY to Response to <u>27</u> MOTION for Summary Judgment filed by Defendant Beverage Distributors Company, LLC. (Attachments: # <u>1</u> Exhibit H, # <u>2</u> Exhibit I, # <u>3</u> Exhibit J, # <u>4</u> Exhibit K)(Kirkpatrick, Joshua) (Entered: 10/10/2012)
10/11/2012	<u>48</u>	MINUTE ENTRY for proceedings held before Magistrate Judge Craig B. Shaffer: Final Pretrial Conference/Motion Hearing held on 10/11/2012. Magistrate Judge Shaffer advises the parties that he will issue a written order ruling on this motion. The court further advises the parties that until a ruling has been made, the subpoena shall not go out. The parties were instructed to put together a conference call to Judge Arguello's chambers in order to obtain trial dates. FTR: Robin Mason. (cbscd,) Modified on 10/12/2012 to add text (romsl,). (Entered: 10/12/2012)
10/11/2012	<u>49</u>	FINAL PRETRIAL ORDER by Magistrate Judge Craig B. Shaffer on 10/11/2012. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Envelope B) (cbscd,) (Entered: 10/12/2012)
10/16/2012	50	ORDER GRANTING <u>38</u> Motion for Leave to Restrict. Exhibits No. 2 and No. 9 to <u>36</u> Plaintiff's Response to Defendant's Motion for Summary Judgment have been placed under RESTRICTED LEVEL 1. Plaintiff is DIRECTED to file with the Court REDACTED versions of Doc. Nos. 36-2 and 36-9 as a supplement to Doc. No. 36. SO ORDERED BY Judge Christine M. Arguello on 10/16/12. Text Only Entry (cmasec) (Entered: 10/16/2012)
10/16/2012	51	MINUTE ORDER. This matter is before the Court sua sponte. Upon completion of the Final Pretrial Conference, this matter is ready to be set for trial. The Parties anticipate a seven-day jury trial. The Court hereby ORDERS a Status Conference set for 10/19/2012 at 1:30 PM in Courtroom A602 before Judge Christine M. Arguello, to determine the number of days this matter should be set for trial. All counsel, with full knowledge of the case, should be present at this status conference. SO ORDERED BY Judge Christine M. Arguello on 10/16/12. Text Only Entry (cmasec) (Entered: 10/16/2012)
10/19/2012	<u>52</u>	SUPPLEMENT/AMENDMENT to <u>36</u> Response to Motion,,, <i>Exhibits 2 and 9</i> by Plaintiff Equal Employment Opportunity Commission. (Attachments: # <u>1</u> Exhibit Application, # <u>2</u> Exhibit Dr. Cook's Expert Report)(Struble, Stephanie) (Entered: 10/19/2012)
10/19/2012	53	MINUTE ENTRY for proceedings held before Judge Christine M. Arguello: Status Conference held on 10/19/2012. Counsel are directed to amend their witness lists. A Final Trial Preparation Conference is set for 3/22/2013 at 02:30 PM before Judge Christine M. Arguello. A Five-day Jury Trial is set to commence on 4/8/2013 at 9:00 AM before Judge Christine M. Arguello. (Total time: 00:20, Hearing time: 1:31-1:51) APPEARANCES: Stephanie Struble on behalf of the plaintiff, Joshua Kirkpatrick on behalf of the defendant. Court Reporter: Darlene Martinez. (cmacd) Text Only Entry (Entered: 10/22/2012)
12/07/2012	<u>54</u>	ORDER denying <u>27</u> Motion for Summary Judgment by Judge Christine M. Arguello on 12/7/12.(dkals,) (Entered: 12/07/2012)
12/14/2012	<u>55</u>	ORDER granting in part and denying in part <u>28</u> Motion for Partial Summary Judgment by Judge Christine M. Arguello on 12/14/12.(dkals,) (Entered: 12/14/2012)
01/10/2013	56	ORDER setting hearing on <u>26</u> MOTION for Protective Order and MOTION to Quash Third Party Subpoena. ORDERED that a further Motion Hearing will be held on 1/29/2013 at 1:30 PM in Courtroom A 402 before Magistrate Judge Craig B. Shaffer. As oral argument was held on the instant motion on October 11, 2012, the purpose of this hearing will be to issue a ruling from the bench, no further argument will be necessary. Text Only Entry by Magistrate Judge Craig B. Shaffer on 1/10/13. (cbssec) (Entered: 01/10/2013)
01/28/2013	<u>57</u>	Joint MOTION to Withdraw <u>26</u> MOTION for Protective Order MOTION to Quash <i>3d Party Subpoena</i> by Plaintiff Equal Employment Opportunity Commission. (Struble, Stephanie) (Entered: 01/28/2013)

01/28/2013	58	ORDER granting <u>57</u> Motion to Withdraw and withdrawing <u>26</u> Motion for Protective Order and Motion to Quash. The motion hearing set for 1/29/13 is vacated. Text Only Entry by Magistrate Judge Craig B. Shaffer on 1/28/13. (cbssec) (Entered: 01/28/2013)
02/13/2013	<u>59</u>	MOTION in Limine to Exclude Evidence by Plaintiff Equal Employment Opportunity Commission. (Attachments: # <u>1</u> Exhibit Medical Exam, # <u>2</u> Deposition Excerpts Pieron, # <u>3</u> Deposition Excerpts Rogers, # <u>4</u> Deposition Excerpts Sungaila)(Struble, Stephanie) (Entered: 02/13/2013)
03/08/2013	<u>60</u>	MOTION to Exclude <i>opinions of Dr. Robin Cook</i> by Plaintiff Equal Employment Opportunity Commission. (Attachments: # <u>1</u> Exhibit 1 – Initial Report, # <u>2</u> Exhibit 2 – Rebuttal Designation, # <u>3</u> Deposition Excerpts Dr. Cook)(Struble, Stephanie) (Entered: 03/08/2013)
03/11/2013	<u>61</u>	RESPONSE to <u>59</u> MOTION in Limine to Exclude Evidence filed by Defendant Beverage Distributors Company, LLC. (Kirkpatrick, Joshua) (Entered: 03/11/2013)
03/12/2013	<u>62</u>	Exhibits in Support of <u>61</u> Response to Motion by Defendant Beverage Distributors Company, LLC. (Kirkpatrick, Joshua) (Entered: 03/12/2013)
03/14/2013	<u>63</u>	MOTION to Exclude <i>Expert Testimony of Julia Kothe</i> by Defendant Beverage Distributors Company, LLC. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Proposed Order (PDF Only))(Kirkpatrick, Joshua) (Entered: 03/14/2013)
03/15/2013	<u>64</u>	MOTION in Limine to Preclude Plaintiff From Providing Testimony of Dr. Lervick At Trial by Defendant Beverage Distributors Company, LLC. (Attachments: # <u>1</u> Exhibit A)(Kirkpatrick, Joshua) (Entered: 03/15/2013)
03/15/2013	<u>65</u>	Joint MOTION for Extension of Time to <i>Submit Exhibit List, Objections to Exhibit List, and Briefs re Jury Instructions</i> by Plaintiff Equal Employment Opportunity Commission. (Struble, Stephanie) (Entered: 03/15/2013)
03/18/2013	66	ORDER GRANTING <u>65</u> Motion for Extension of Time. The parties shall have to and including 03/20/2013 within which to submit their Exhibit Lists, Objections to Exhibit Lists, and Briefs re Jury Instructions. SO ORDERED BY Judge Christine M. Arguello on 03/18/13. Text Only Entry (cmasec) (Entered: 03/18/2013)
03/18/2013	<u>67</u>	NOTICE of Entry of Appearance by Jennifer S. Harpole on behalf of Beverage Distributors Company, LLC (Harpole, Jennifer) (Entered: 03/18/2013)
03/20/2013	<u>68</u>	REPLY to Response to <u>59</u> MOTION in Limine to Exclude Evidence filed by Plaintiff Equal Employment Opportunity Commission. (Attachments: # <u>1</u> Deposition Excerpts Sungaila Depo excerpts)(Struble, Stephanie) (Entered: 03/20/2013)
03/20/2013	<u>69</u>	OBJECTIONS to <i>Defendant's Proposed Jury Instructions</i> by Plaintiff Equal Employment Opportunity Commission. (Struble, Stephanie) (Entered: 03/20/2013)
03/20/2013	<u>70</u>	OBJECTIONS to <i>Defendant's Trial Exhibits</i> by Plaintiff Equal Employment Opportunity Commission. (Struble, Stephanie) (Entered: 03/20/2013)
03/22/2013	71	MINUTE ENTRY for proceedings held before Judge Christine M. Arguello: Final Pretrial Conference held on 3/22/2013. MOTIONS: Plaintiff's Motion in Limine to Exclude Evidence <u>59</u> is granted in part and denied in part. Plaintiff EEOC's Motion to Exclude Opinions of Robin Cook <u>60</u> is deferred. Defendant's Motion to Exclude Expert Testimony of Julia Kothe <u>63</u> is deferred. Defendant's Motion in Limine to Preclude Plaintiff From Providing Testimony of Dr. Lervick at Trial <u>64</u> is deferred. Response to the remaining Motions are due by noon on March 29, 2013. Any replies are due by 5:00 PM on March 29, 2013. TRIAL: Case shall be tried to a jury of ten. Jury selection will be on April 1, 2013 at 1:30 PM. Jury selection is by simultaneous strikes. Jurors will be allowed to take notes. Parties agree to the sequestration of witnesses. Parties waive the reporting of Jury Instructions. (Total time: 00:38, Hearing time: 2:29–3:07) APPEARANCES: Stephanie Struble and David Winston on behalf of the Plaintiff, Joshua Kirkpatrick and Jennifer Harpole on behalf of the defendant. Court Reporter: Darlene Martinez. (cmacd) Text Only Entry. Modified on 4/1/2013 to add attorneys (cmacd) Modified on 4/2/2013 to correct the ruling on the motion <u>59</u> (cmacd). Modified on 4/4/2013 to add time in text (cmacd). (Entered: 03/27/2013)

03/28/2013	<u>72</u>	TRIAL BRIEF <i>Re: In-Court Experiment or Demonstration Evidence of Mike Sungaila's Vision</i> by Plaintiff Equal Employment Opportunity Commission. (Winston, David) (Entered: 03/28/2013)
03/29/2013	<u>73</u>	RESPONSE to <u>64</u> MOTION in <i>Limine to Preclude Plaintiff From Providing Testimony of Dr. Lervick At Trial</i> filed by Plaintiff Equal Employment Opportunity Commission. (Attachments: # <u>1</u> Deposition Excerpts Dr. Sanidas)(Struble, Stephanie) (Entered: 03/29/2013)
03/29/2013	<u>74</u>	RESPONSE to <u>60</u> MOTION to Exclude <i>opinions of Dr. Robin Cook</i> filed by Defendant Beverage Distributors Company, LLC. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(Kirkpatrick, Joshua) (Entered: 03/29/2013)
03/29/2013	<u>75</u>	RESPONSE to <u>63</u> MOTION to Exclude <i>Expert Testimony of Julia Kothe</i> filed by Plaintiff Equal Employment Opportunity Commission. (Attachments: # <u>1</u> Exhibit Position Description, # <u>2</u> Deposition Excerpts Kothe, # <u>3</u> Deposition Excerpts Hollman, # <u>4</u> Deposition Excerpts Johnson)(Struble, Stephanie) (Entered: 03/29/2013)
03/29/2013	<u>76</u>	REPLY to Response to <u>60</u> MOTION to Exclude <i>opinions of Dr. Robin Cook</i> filed by Plaintiff Equal Employment Opportunity Commission. (Winston, David) (Entered: 03/29/2013)
03/29/2013	<u>77</u>	REPLY to Response to <u>63</u> MOTION to Exclude <i>Expert Testimony of Julia Kothe</i> filed by Defendant Beverage Distributors Company, LLC. (Kirkpatrick, Joshua) (Entered: 03/29/2013)
03/29/2013	<u>78</u>	MOTION for Leave to Restrict Document by Defendant Beverage Distributors Company, LLC. (Attachments: # <u>1</u> Proposed Order (PDF Only))(Kirkpatrick, Joshua) (Entered: 03/29/2013)
03/29/2013	<u>79</u>	RESTRICTED DOCUMENT – Level 1: by Defendant Beverage Distributors Company, LLC.. (Kirkpatrick, Joshua) (Entered: 03/29/2013)
03/29/2013	<u>80</u>	REPLY to Response to <u>64</u> MOTION in <i>Limine to Preclude Plaintiff From Providing Testimony of Dr. Lervick At Trial</i> filed by Defendant Beverage Distributors Company, LLC. (Attachments: # <u>1</u> Exhibit)(Kirkpatrick, Joshua) (Entered: 03/29/2013)
03/29/2013	81	Exhibit B in Support of <u>79</u> Restricted Document – Level 1 by Defendant Beverage Distributors Company, LLC. Public entry to <u>78</u> filed on 3/29/2013. TEXT ONLY ENTRY. (cmacd) (Entered: 04/01/2013)
04/01/2013	82	MINUTE ENTRY for proceedings held before Judge Christine M. Arguello: Jury Selection held on 4/1/2013. JURY: Voire Dire. Jury of 10 impaneled and sworn. Jury is excused with the instruction to return on April 8, 2013 at 7:30 AM. MOTIONS: Plaintiff's Motion to Exclude Opinions of Dr. Robin Cook <u>60</u> is denied. Defendant's Motion to Exclude Expert Testimony of Julia Kothe <u>63</u> is denied. Defendant's Motion in <i>Limine to Preclude Plaintiff from Providing Testimony of Dr. Lervick at Trial</i> <u>64</u> ruling is deferred. A trial brief is due by April 5, 2013 by 5:00 PM. Response to the trial brief is due by 5:00 PM on April 5, 2013. (Total time: 03:05, Hearing time: 1:22–4:43) APPEARANCES: Stephanie Struble and David Winston on behalf of the plaintiff, Scott Forman and Joshua Kirkpatrick on behalf of the defendant. ALSO PRESENT: Rita Kittle, Mike Sungaila, John Johnson (corporate representative for Beverage Distributors Company, LLC.) Court Reporter: Darlene Martinez. (cmacd) Text Only Entry (Entered: 04/02/2013)
04/03/2013	<u>83</u>	TRIAL BRIEF <i>re Offer of Proof of Dr. Lervick's Testimony</i> by Plaintiff Equal Employment Opportunity Commission. (Struble, Stephanie) (Entered: 04/03/2013)
04/05/2013	<u>84</u>	Witness List (<i>Notice of Amended Witness List</i>) by Plaintiff Equal Employment Opportunity Commission. (Struble, Stephanie) (Entered: 04/05/2013)
04/05/2013	<u>85</u>	TRIAL BRIEF <i>in Response to Plaintiff's Trial Brief Regarding In-Court Experiment or Demonstration Evidence of Mike Sungaila's Vision</i> by Defendant Beverage Distributors Company, LLC. (Kirkpatrick, Joshua) (Entered: 04/05/2013)

04/08/2013	86	<p>MINUTE ENTRY for proceedings held before Judge Christine M. Arguello: Jury Trial–DAY ONE held on 4/8/2013. Opening statements. WITNESSES SWORN AND TESTIFIED: Robert Pieron, Dr. John Sanidas, Tom Rogers. EXHIBITS RECEIVED: 14,1,4,3,2,8,32. Trial continued. (Total time: 05:56, Hearing time: 7:46–2:51)</p> <p>APPEARANCES: Stephanie Struble and David Winston on behalf of the plaintiff, Scott Forman and Joshua Kirkpatrick on behalf of the defendant. ALSO PRESENT: Mike Sungaila, John Johnson (corporate representative for Beverage Distributors Company, LLC.) Court Reporter: Darlene Martinez. (cmacd) Text Only Entry (Entered: 04/09/2013)</p>
04/09/2013	<u>87</u>	<p>NOTICE of Authority by Defendant Beverage Distributors Company, LLC (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D)(Harpole, Jennifer) (Entered: 04/09/2013)</p>
04/09/2013	88	<p>MINUTE ENTRY for proceedings held before Judge Christine M. Arguello: Jury Trial–DAY TWO held on 4/9/2013. WITNESSES SWORN AND TESTIFIED: Joe Linacre, Julia Kothe, Rogelio Cobos, Robert LaJeunesse, Mike Sungaila. EXHIBITS RECEIVED: 7(pages 1,2,3,4,5,7,10),19, 28(pages 1,3),24,25,27,26,13. Trial continued. (Total time: 05:26, Hearing time: 9:05–3:21)</p> <p>APPEARANCES: Stephanie Struble and David Winston on behalf of the plaintiff, Scott Forman and Joshua Kirkpatrick on behalf of the defendant. ALSO PRESENT: Mike Sungaila, John Johnson (corporate representative for Beverage Distributors Company, LLC.) Court Reporter: Darlene Martinez. (cmacd) Text Only Entry (Entered: 04/10/2013)</p>
04/10/2013	<u>89</u>	<p>NOTICE of Entry of Appearance by Rita Byrnes Kittle on behalf of Equal Employment Opportunity Commission (Kittle, Rita) (Entered: 04/10/2013)</p>
04/10/2013	90	<p>MINUTE ENTRY for proceedings held before Judge Christine M. Arguello: Jury Trial–DAY THREE held on 4/10/2013. WITNESSES SWORN AND TESTIFIED: Mike Sungaila, Joseph Moffett, Helbis Varangot, John Johnson, Robin Cook.EXHIBITS RECEIVED: 12, 21, 22, 23,15,16. MOTION: Defendants Oral Motion Under Rule 50 for Judgment as a Matter of Law is denied. Trial continued. (Total time: 6:12, Hearing time: 7:55–3:24)</p> <p>APPEARANCES: Stephanie Struble and David Winston on behalf of the plaintiff, Scott Forman and Joshua Kirkpatrick on behalf of the defendant. ALSO PRESENT: Mike Sungaila, John Johnson (corporate representative for Beverage Distributors Company, LLC.) Court Reporter: Darlene Martinez. (cmacd) Text Only Entry (Entered: 04/11/2013)</p>
04/11/2013	91	<p>MINUTE ENTRY for proceedings held before Judge Christine M. Arguello: Jury Trial–DAY FOUR held on 4/11/2013. WITNESSES SWORN AND TESTIFIED: Robin Cook, Linda Hollman, Dale Lervick. EXHIBITS RECEIVED: 42 (demonstrative purposes only). MOTIONS: Plaintiffs Oral Motion Pursuant to Rule 50 as a Matter of Law denied. Defendants Renewed Oral Motion Pursuant to Rule 50 as a Matter of Law is denied as previously stated. Charging conference. Closing arguments. Jury deliberations. (Total time: 06:41, Hearing time: 8:17–5:03)</p> <p>APPEARANCES: Rita Kittle,Stephanie Struble and David Winston on behalf of the plaintiff, Jennifer Harpoole, Scott Forman and Joshua Kirkpatrick on behalf of the defendant. ALSO PRESENT: Mike Sungaila, John Johnson (corporate representative for Beverage Distributors Company, LLC.) Court Reporter: Darlene Martinez. (cmacd) Text Only Entry (Entered: 04/12/2013)</p>
04/12/2013	<u>92</u>	<p>Court's Proposed Final Jury Instructions Sent to Parties on April 6, 2013. (cmacd) (Entered: 04/15/2013)</p>
04/12/2013	93	<p>MINUTE ENTRY for proceedings held before Judge Christine M. Arguello: Jury Trial–DAY FIVE completed on 4/12/2013. JURY VERDICT. Jurors are dismissed with thanks from the Court. (Total time: 00:08, Hearing time: 11:03–11:11)</p> <p>APPEARANCES: Rita Kittle,Stephanie Struble and David Winston on behalf of the plaintiff, Jennifer Harpoole, Scott Forman and Joshua Kirkpatrick on behalf of the defendant. ALSO PRESENT: Mike Sungaila, John Johnson (corporate representative for Beverage Distributors Company, LLC.) Court Reporter: Darlene Martinez.</p>

		(cmacd) Text Only Entry Modified on 4/16/2013 to add time and appearances(cmacd). (Entered: 04/15/2013)
04/12/2013	<u>94</u>	Jury Instructions. (cmacd) (Entered: 04/15/2013)
04/12/2013	<u>95</u>	Jury Notes. (Attachments: # <u>1</u> Court Note 2)(cmacd) (Entered: 04/15/2013)
04/12/2013	<u>96</u>	JURY VERDICT. (cmacd) (Entered: 04/15/2013)
04/15/2013	<u>97</u>	JUDGMENT in favor of Equal Employment Opportunity Commission and against Beverage Distributors Company, LLC in the amount of \$29,543,253.25 pursuant to 93 Minute Entry. Post-judgment interest shall accrue at the rate of 0.12%. Plaintiff shall have its costs. By Judge Christine M. Arguello on 4/15/13. (dkals,) (Entered: 04/17/2013)
04/15/2013	<u>98</u>	AMENDED JUDGMENT in favor of Equal Employment Opportunity Commission and against Beverage Distributors Company, LLC in the amount of \$29,543.25 pursuant to 93 Minute Entry. Post-judgment interest shall accrue at the rate of 0.12%. Plaintiff shall have its costs. By Judge Christine M. Arguello on 4/15/13 (dkals,) (Entered: 04/17/2013)
04/30/2013	<u>99</u>	Partial TRANSCRIPT of Jury Trial Day 4 – Testimony of Dr. R. Cook held on 4/10/13 before Judge Arguello. Pages: 1–61. <P> NOTICE – REDACTION OF TRANSCRIPTS: Within seven calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal identifiers from the electronic transcript of the court proceeding. If a Notice of Intent to Redact is not filed within the allotted time, this transcript will be made electronically available after 90 days. Please see the Notice of Electronic Availability of Transcripts document at www.cod.uscourts.gov. </P> Transcript may only be viewed at the court public terminal or purchased through the Court Reporter/Transcriber prior to the 90 day deadline for electronic posting on PACER. Release of Transcript Restriction set for 8/1/2013. (Martinez, Darlene) (Entered: 04/30/2013)
04/30/2013	<u>100</u>	Partial TRANSCRIPT of Jury Trial Day 5 – Cont'd Testimony of Dr. R. Cook held on 4/11/13 before Judge Arguello. Pages: 62–107. <P> NOTICE – REDACTION OF TRANSCRIPTS: Within seven calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal identifiers from the electronic transcript of the court proceeding. If a Notice of Intent to Redact is not filed within the allotted time, this transcript will be made electronically available after 90 days. Please see the Notice of Electronic Availability of Transcripts document at www.cod.uscourts.gov. </P> Transcript may only be viewed at the court public terminal or purchased through the Court Reporter/Transcriber prior to the 90 day deadline for electronic posting on PACER. Release of Transcript Restriction set for 8/1/2013. (Martinez, Darlene) (Entered: 04/30/2013)
04/30/2013	<u>101</u>	Partial TRANSCRIPT of Jury Trial Day 5 – Defendant's Closing Argument held on 4/11/13 before Judge Arguello. Pages: 1–29. <P> NOTICE – REDACTION OF TRANSCRIPTS: Within seven calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal identifiers from the electronic transcript of the court proceeding. If a Notice of Intent to Redact is not filed within the allotted time, this transcript will be made electronically available after 90 days. Please see the Notice of Electronic Availability of Transcripts document at www.cod.uscourts.gov. </P> Transcript may only be viewed at the court public terminal or purchased through the Court Reporter/Transcriber prior to the 90 day deadline for electronic posting on PACER. Release of Transcript Restriction set for 8/1/2013. (Martinez, Darlene) (Entered: 04/30/2013)
04/30/2013	<u>102</u>	Proposed Bill of Costs <i>and Stipulation</i> by Plaintiff Equal Employment Opportunity Commission. (Attachments: # <u>1</u> Exhibit Stipulation)(Struble, Stephanie) (Entered: 04/30/2013)
05/06/2013	<u>103</u>	Costs Taxed in amount of \$6,544.66 against Beverage Distributors Company, LLC (dkals,) (Entered: 05/06/2013)

05/13/2013	<u>104</u>	MOTION for Judgment as a Matter of Law <i>on Defendant's Failure-to-Mitigate Defense</i> , MOTION to Amend/Correct/Modify <u>98</u> Judgment, by Plaintiff Equal Employment Opportunity Commission. (Attachments: # <u>1</u> Exhibit Trial Transcript – Cook Testimony, # <u>2</u> Exhibit Trial Transcript – Cook Cross Examination)(Struble, Stephanie) (Entered: 05/13/2013)
05/13/2013	<u>105</u>	MOTION to Amend/Correct/Modify <u>98</u> Judgment, <i>to Include Injunctive Relief</i> by Plaintiff Equal Employment Opportunity Commission. (Attachments: # <u>1</u> Exhibit BDC Employee Handbook, # <u>2</u> Exhibit Prejudgment Interest, # <u>3</u> Exhibit Prejudgment Interest on Full Back Pay Award, # <u>4</u> Exhibit Trial Exhibit 26, # <u>5</u> Exhibit Front Pay Calculation, # <u>6</u> Exhibit Proposed Order re Injunctive Relief)(Struble, Stephanie) (Entered: 05/13/2013)
05/21/2013	<u>106</u>	Partial TRANSCRIPT of Jury Trial Day 3 – Testimony of M. Sungaila held on 4/9/13 before Judge Arguello. Pages: 1–68. <P> NOTICE – REDACTION OF TRANSCRIPTS: Within seven calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal identifiers from the electronic transcript of the court proceeding. If a Notice of Intent to Redact is not filed within the allotted time, this transcript will be made electronically available after 90 days. Please see the Notice of Electronic Availability of Transcripts document at www.cod.uscourts.gov. </P> Transcript may only be viewed at the court public terminal or purchased through the Court Reporter/Transcriber prior to the 90 day deadline for electronic posting on PACER. Release of Transcript Restriction set for 8/22/2013. (Martinez, Darlene) (Entered: 05/21/2013)
05/21/2013	<u>107</u>	Partial TRANSCRIPT of Jury Trial Day 4 – M. Sungaila Testimony held on 4/10/13 before Judge Arguello. Pages: 69–145. <P> NOTICE – REDACTION OF TRANSCRIPTS: Within seven calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal identifiers from the electronic transcript of the court proceeding. If a Notice of Intent to Redact is not filed within the allotted time, this transcript will be made electronically available after 90 days. Please see the Notice of Electronic Availability of Transcripts document at www.cod.uscourts.gov. </P> Transcript may only be viewed at the court public terminal or purchased through the Court Reporter/Transcriber prior to the 90 day deadline for electronic posting on PACER. Release of Transcript Restriction set for 8/22/2013. (Martinez, Darlene) (Entered: 05/21/2013)
05/31/2013	<u>108</u>	Partial TRANSCRIPT of Jury Trial Day 4 – Rule 50 Motion held on 4/10/13 before Judge Arguello. Pages: 1–19. <p> NOTICE – REDACTION OF TRANSCRIPTS: Within seven calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal identifiers from the electronic transcript of the court proceeding. If a Notice of Intent to Redact is not filed within the allotted time, this transcript will be made electronically available after 90 days. Please see the Notice of Electronic Availability of Transcripts document at www.cod.uscourts.gov. </p> Transcript may only be viewed at the court public terminal or purchased through the Court Reporter/Transcriber prior to the 90 day deadline for electronic posting on PACER. Release of Transcript Restriction set for 9/3/2013. (Martinez, Darlene) (Entered: 05/31/2013)
05/31/2013	<u>109</u>	Partial TRANSCRIPT of Jury Trial Day 5 – Charging Conference held on 4/11/13 before Judge Arguello. Pages: 1–110. <p> NOTICE – REDACTION OF TRANSCRIPTS: Within seven calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal identifiers from the electronic transcript of the court proceeding. If a Notice of Intent to Redact is not filed within the allotted time, this transcript will be made electronically available after 90 days. Please see the Notice of Electronic Availability of Transcripts document at www.cod.uscourts.gov. </p> Transcript may only be viewed at the court public terminal or purchased through the Court Reporter/Transcriber prior to the 90 day deadline for electronic posting on PACER. Release of Transcript Restriction set for 9/3/2013. (Martinez, Darlene) (Entered: 05/31/2013)

06/06/2013	<u>110</u>	RESPONSE to <u>104</u> MOTION for Judgment as a Matter of Law on <i>Defendant's Failure-to-Mitigate Defense</i> MOTION to Amend/Correct/Modify <u>98</u> Judgment, filed by Defendant Beverage Distributors Company, LLC. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E)(Kirkpatrick, Joshua) (Entered: 06/06/2013)
06/06/2013	<u>111</u>	RESPONSE to <u>105</u> MOTION to Amend/Correct/Modify <u>98</u> Judgment, to <i>Include Injunctive Relief</i> filed by Defendant Beverage Distributors Company, LLC. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Kirkpatrick, Joshua) (Entered: 06/06/2013)
06/20/2013	<u>112</u>	Partial TRANSCRIPT of Jury Trial Day 3 – Testimony of Dr. LaJeunesse held on 4/9/13 before Judge Arguello. Pages: 1–31. NOTICE – REDACTION OF TRANSCRIPTS: Within seven calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal identifiers from the electronic transcript of the court proceeding. If a Notice of Intent to Redact is not filed within the allotted time, this transcript will be made electronically available after 90 days. Please see the Notice of Electronic Availability of Transcripts document at www.cod.uscourts.gov. Transcript may only be viewed at the court public terminal or purchased through the Court Reporter/Transcriber prior to the 90 day deadline for electronic posting on PACER. Release of Transcript Restriction set for 9/23/2013. (Martinez, Darlene) (Entered: 06/20/2013)
06/21/2013	<u>113</u>	REPLY to Response to <u>105</u> MOTION to Amend/Correct/Modify <u>98</u> Judgment, to <i>Include Injunctive Relief</i> filed by Plaintiff Equal Employment Opportunity Commission. (Attachments: # <u>1</u> Exhibit Order Granting Injunctive Relief)(Struble, Stephanie) (Entered: 06/21/2013)
06/24/2013	<u>114</u>	REPLY to Response to <u>104</u> MOTION for Judgment as a Matter of Law on <i>Defendant's Failure-to-Mitigate Defense</i> MOTION to Amend/Correct/Modify <u>98</u> Judgment, filed by Plaintiff Equal Employment Opportunity Commission. (Attachments: # <u>1</u> Exhibit Dr. LaJuenesse Testimony)(Struble, Stephanie) (Entered: 06/24/2013)
10/01/2013	<u>115</u>	NOTICE <i>Of Unavailability</i> by Plaintiff Equal Employment Opportunity Commission (Struble, Stephanie) (Entered: 10/01/2013)
12/09/2013	<u>116</u>	ORDER granting in part and denying in part <u>104</u> Motion Pursuant to Fed. R. Civ. P. 50(b) for Judgment as a Matter of Law on Defendant's Failure-to-Mitigate Defense, and granting in part and denying in part <u>105</u> Motion for Injunctive Relief, by Judge Christine M. Arguello on 12/9/13. The jury's damages award is vacated.(dkals,) (Entered: 12/09/2013)
01/08/2014	<u>117</u>	NOTICE OF APPEAL as to <u>94</u> Jury Instructions by Defendant Beverage Distributors Company, LLC (Filing fee \$ 505, Receipt Number 1082–3686587) (Kirkpatrick, Joshua) (Entered: 01/08/2014)
01/09/2014	<u>118</u>	LETTER Transmitting Notice of Appeal to all counsel advising of the transmittal of the <u>117</u> Notice of Appeal filed by Beverage Distributors Company, LLC to the U.S. Court of Appeals. (Retained Counsel, Fee paid) (Attachments: # <u>1</u> Docket Sheet, # <u>2</u> Preliminary Record)(mjfs). (Entered: 01/09/2014)
01/09/2014	<u>120</u>	USCA Case Number 14–1012 for <u>117</u> Notice of Appeal filed by Beverage Distributors Company, LLC. (dbrow,) (Entered: 01/13/2014)
01/10/2014	<u>119</u>	MINUTE ORDER: Pursuant to this Court's <u>116</u> Order granting Plaintiff's request for a tax penalty offset, lead counsel for the parties are DIRECTED to call Chambers (303–335–2174) via conference call no later than 01/17/2014 to schedule a hearing to determine the amount of the offset. SO ORDERED BY Judge Christine M. Arguello on 01/10/14. Text Only Entry (cmasec) (Entered: 01/10/2014)
01/13/2014	<u>121</u>	VOIR DIRE TRANSCRIPT of proceedings held on 4/1/13 before Judge Arguello. Pages: 1–136. (Martinez, Darlene) (Entered: 01/13/2014)
01/13/2014	<u>122</u>	TRANSCRIPT of Jury Trial Day 2 held on 4/8/13 before Judge Arguello. Pages: 137–428. NOTICE – REDACTION OF TRANSCRIPTS: Within seven calendar days of this filing, each party shall inform the Court, by filing a Notice

		of Intent to Redact, of the party's intent to redact personal identifiers from the electronic transcript of the court proceeding. If a Notice of Intent to Redact is not filed within the allotted time, this transcript will be made electronically available after 90 days. Please see the Notice of Electronic Availability of Transcripts document at www.cod.uscourts.gov. Transcript may only be viewed at the court public terminal or purchased through the Court Reporter/Transcriber prior to the 90 day deadline for electronic posting on PACER. Release of Transcript Restriction set for 4/17/2014. (Martinez, Darlene) (Entered: 01/13/2014)
01/13/2014	<u>123</u>	TRANSCRIPT of Jury Trial Dat 3 held on 4/9/13 before Judge Arguello. Pages: 429–598. NOTICE – REDACTION OF TRANSCRIPTS: Within seven calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal identifiers from the electronic transcript of the court proceeding. If a Notice of Intent to Redact is not filed within the allotted time, this transcript will be made electronically available after 90 days. Please see the Notice of Electronic Availability of Transcripts document at www.cod.uscourts.gov. Transcript may only be viewed at the court public terminal or purchased through the Court Reporter/Transcriber prior to the 90 day deadline for electronic posting on PACER. Release of Transcript Restriction set for 4/17/2014. (Martinez, Darlene) (Entered: 01/13/2014)
01/13/2014	<u>124</u>	TRANSCRIPT of Jury Trial Day 4 held on 4/10/13 before Judge Arguello. Pages: 599–734. NOTICE – REDACTION OF TRANSCRIPTS: Within seven calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal identifiers from the electronic transcript of the court proceeding. If a Notice of Intent to Redact is not filed within the allotted time, this transcript will be made electronically available after 90 days. Please see the Notice of Electronic Availability of Transcripts document at www.cod.uscourts.gov. Transcript may only be viewed at the court public terminal or purchased through the Court Reporter/Transcriber prior to the 90 day deadline for electronic posting on PACER. Release of Transcript Restriction set for 4/17/2014. (Martinez, Darlene) (Entered: 01/13/2014)
01/13/2014	<u>125</u>	TRANSCRIPT of Jury Trial Day 5 held on 4/11/13 before Judge Arguello. Pages: 735–816. NOTICE – REDACTION OF TRANSCRIPTS: Within seven calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal identifiers from the electronic transcript of the court proceeding. If a Notice of Intent to Redact is not filed within the allotted time, this transcript will be made electronically available after 90 days. Please see the Notice of Electronic Availability of Transcripts document at www.cod.uscourts.gov. Transcript may only be viewed at the court public terminal or purchased through the Court Reporter/Transcriber prior to the 90 day deadline for electronic posting on PACER. Release of Transcript Restriction set for 4/17/2014. (Martinez, Darlene) (Entered: 01/13/2014)
01/13/2014	<u>126</u>	TRANSCRIPT of Jury Trial Day 6 held on 4/12/13 before Judge Arguello. Pages: 817–823. NOTICE – REDACTION OF TRANSCRIPTS: Within seven calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal identifiers from the electronic transcript of the court proceeding. If a Notice of Intent to Redact is not filed within the allotted time, this transcript will be made electronically available after 90 days. Please see the Notice of Electronic Availability of Transcripts document at www.cod.uscourts.gov. Transcript may only be viewed at the court public terminal or purchased through the Court Reporter/Transcriber prior to the 90 day deadline for electronic posting on PACER. Release of Transcript Restriction set for 4/17/2014. (Martinez, Darlene) (Entered: 01/13/2014)
01/15/2014	127	MINUTE ORDER: Pursuant to this Court's <u>116</u> Order granting Plaintiff's request for a tax penalty offset, and a telephone conference between counsel and Chambers staff, a hearing to determine the amount of the offset is set on 03/14/2014 at 2:30 PM, in Courtroom A602, before Judge Christine M. Arguello. The Court has set aside two hours for said hearing. SO ORDERED BY Judge Christine M. Arguello on 01/15/14. Text Only Entry (cmasec) (Entered: 01/15/2014)
01/23/2014	<u>128</u>	TRANSCRIPT ORDER FORM re <u>117</u> Notice of Appeal by Defendant Beverage Distributors Company, LLC (Kirkpatrick, Joshua) (Entered: 01/23/2014)

01/24/2014	<u>129</u>	LETTER TO USCA and all counsel certifying the record is complete as to <u>117</u> Notice of Appeal filed by Beverage Distributors Company, LLC. All transcripts ordered are now on file as of 1/13/2014. (Appeal No. 14-1012) Text Only Entry (dbrow,) (Entered: 01/24/2014)
01/24/2014	<u>130</u>	ORDER of USCA as to <u>117</u> Notice of Appeal filed by Beverage Distributors Company, LLC. Briefing on the merits is TOLLED, pending further order of this court. (USCA Case No. 14-1012) (dbrow,) (Entered: 01/27/2014)
03/11/2014	<u>131</u>	STIPULATION <i>Re: Pre-Judgment Interest and Tax Penalty Offset</i> by Plaintiff Equal Employment Opportunity Commission. (Winston, David) (Entered: 03/11/2014)
03/12/2014	<u>132</u>	ORDER : In light of the <u>131</u> Joint Stipulation filed by the parties, the court hearing set for 03/14/2014 at 2:30 PM in Courtroom A602 before Judge Christine M. Arguello is VACATED. FURTHER, judgment will be entered in this matter in accordance with the parties' Joint Stipulation. SO ORDERED BY Judge Christine M. Arguello on 03/12/14. Text Only Entry (cmasec) (Entered: 03/12/2014)
03/26/2014	<u>133</u>	ORDER of USCA as to <u>117</u> Notice of Appeal filed by Beverage Distributors Company, LLC. Proceedings in this appeal will remain abated, pending entry of judgment in this matter in accordance with the district courts March 12, 2014 order. (USCA Case No. 14-1012) (dbrow,) (Entered: 03/27/2014)
03/27/2014	<u>134</u>	SECOND AMENDED JUDGMENT. Signed by Deputy Clerk on 3/27/2014. (shart) (Entered: 03/27/2014)
03/28/2014	<u>135</u>	LETTER Transmitting to US Court of Appeals Supplemental Record as to <u>117</u> Notice of Appeal filed by Beverage Distributors Company, LLC. (USCA Case No. 14-1012) (Attachments: # <u>1</u> Supplemental Docket Sheet, # <u>2</u> Supplemental Record containing Second Amended Final Judgment)(dbrow,) (Entered: 03/28/2014)
05/02/2014	<u>136</u>	ORDER of USCA as to <u>117</u> Notice of Appeal filed by Beverage Distributors Company, LLC. The abatement of proceedings in this appeal is lifted. Briefing will proceed. (USCA Case No. 14-1012) (dbrow,) (Entered: 05/02/2014)
05/13/2014	<u>137</u>	MOTION to Stay re <u>134</u> Clerk's Judgment <i>Pending Appeal</i> by Defendant Beverage Distributors Company, LLC. (Kirkpatrick, Joshua) (Entered: 05/13/2014)
06/05/2014	<u>138</u>	RESPONSE to <u>137</u> MOTION to Stay re <u>134</u> Clerk's Judgment <i>Pending Appeal Plaintiff EEOC's Response in Partial Opposition to Defendant's Motion for Stay Pending Appeal [ECF 137]</i> filed by Plaintiff Equal Employment Opportunity Commission. (Winston, David) (Entered: 06/05/2014)
06/23/2014	<u>139</u>	REPLY to Response to <u>137</u> MOTION to Stay re <u>134</u> Clerk's Judgment <i>Pending Appeal</i> filed by Defendant Beverage Distributors Company, LLC. (Kirkpatrick, Joshua) (Entered: 06/23/2014)
07/23/2014	<u>140</u>	Partial TRANSCRIPT of Jury Trial Day 5 – Testimony of Dr. Lervick held on 4/11/13 before Judge Arguello. Pages: 1-14. NOTICE – REDACTION OF TRANSCRIPTS: Within seven calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal identifiers from the electronic transcript of the court proceeding. If a Notice of Intent to Redact is not filed within the allotted time, this transcript will be made electronically available after 90 days. Please see the Notice of Electronic Availability of Transcripts document at www.cod.uscourts.gov. Transcript may only be viewed at the court public terminal or purchased through the Court Reporter/Transcriber prior to the 90 day deadline for electronic posting on PACER. Release of Transcript Restriction set for 10/24/2014. (dsmart,) (Entered: 07/23/2014)
09/29/2014	<u>141</u>	STATUS REPORT <i>Regarding Compliance with Second Amended Final Judgment</i> by Defendant Beverage Distributors Company, LLC. (Kirkpatrick, Joshua) (Entered: 09/29/2014)
11/01/2014	<u>142</u>	ORDER granting in part and denying in part <u>137</u> Motion to Stay. The Second Amended Judgment is STAYED to the extent it orders Beverage Distributors to reinstate Mr. Sungaila to the position of Night Warehouse Loader with the same seniority he would have had if he had not been terminated. Upon the posting of a

		supersedeas bond in the amount of \$132,347.00, the Second Amended Judgment is STAYED to the extent it orders Beverage Distributors to pay a monetary award. Beverage Distributors shall have 20 days from the date of this Order to obtain and post the bond, otherwise this portion of this Order shall become null and void and the EEOC can begin collection. Beverage Distributors shall report, within six months of this Order, its compliance with this Court's 12/9/2013 Order (Doc. # <u>116</u>) to engage an outside consultant to provide employee training and assistance in revisions to its policies, updates to its job postings, notice posting, and reporting and compliance review. By Judge Christine M. Arguello on 11/01/2014. (athom,) (Entered: 11/04/2014)
11/19/2014	<u>143</u>	BOND [<i>APPEAL</i>] posted by Defendant Beverage Distributors Company, LLC. (Kirkpatrick, Joshua) (Entered: 11/19/2014)
03/16/2015	<u>144</u>	USCA Order as to <u>117</u> Notice of Appeal filed by Beverage Distributors Company, LLC: the direct-threat jury instruction constituted reversible error, and the district court did not err in awarding a tax offset. (USCA Case No. 14-1012) (This document is not the Mandate) (dkals,) (Entered: 03/16/2015)
03/16/2015	<u>145</u>	USCA Judgment as to <u>117</u> Notice of Appeal filed by Beverage Distributors Company, LLC: The judgment of the District Court is reversed. (USCA Case No. 14-1012) (This document is not the Mandate) (dkals,) (Entered: 03/16/2015)
04/24/2015	<u>146</u>	Unopposed MOTION for Order to <i>Regarding Compliance With Equitable Relief</i> by Defendant Beverage Distributors Company, LLC. (Attachments: # <u>1</u> Exhibit 1)(Kirkpatrick, Joshua) (Entered: 04/24/2015)
04/27/2015	<u>147</u>	ORDER of USCA as to <u>117</u> Notice of Appeal filed by Beverage Distributors Company, LLC. Costs are taxed in favor of the Appellant and against the Appellee in the amount of \$810.20, which equals the \$627.60 in copying costs conceded by the Appellee plus \$182.60 for the Appellant's copy of each of the four documents. (USCA Case No. 14-1012) (athom,) (Entered: 04/27/2015)
04/29/2015	148	ORDER granting <u>146</u> Defendant's Unopposed Motion. The deadline for reporting compliance with this Court's 11/1/2014 Order (Doc. <u>142</u>) is continued until one month after the issuance of the Tenth Circuit's mandate in the case, should this Courts directives still stand after issuance of the mandate. SO ORDERED by Judge Christine M. Arguello on 4/29/2015. Text Only Entry(vbarn,) (Entered: 04/29/2015)
06/04/2015	<u>149</u>	MANDATE of USCA as to <u>144</u> USCA Order, <u>117</u> Notice of Appeal filed by Beverage Distributors Company, LLC, <u>145</u> USCA Judgment : (USCA Case No. 14-1012) (athom,) (Entered: 06/04/2015)
06/11/2015	150	MINUTE ORDER: Status Conference re: <u>149</u> Mandate of USCA set for 7/9/2015 at 10:00 AM in Courtroom A 602 before Judge Christine M. Arguello. SO ORDERED by Judge Christine M. Arguello on 6/11/2015. Text Only Entry (vbarn) (Entered: 06/11/2015)
06/25/2015	<u>151</u>	Unopposed MOTION to Withdraw as Attorney by Plaintiff Equal Employment Opportunity Commission. (Struble, Stephanie) (Entered: 06/25/2015)
06/26/2015	152	ORDER GRANTING MOTION to Withdraw as Attorney <u>151</u> . Attorney Stephanie Struble terminated. SO ORDERED BY Judge Christine M. Arguello on 6/26/15. Text Only Entry. (cmalc1) (Entered: 06/26/2015)
07/07/2015	<u>153</u>	STIPULATION <i>relating to BILL OF COSTS</i> by Defendant Beverage Distributors Company, LLC. (Attachments: # <u>1</u> Exhibit 1)(Kirkpatrick, Joshua) (Entered: 07/07/2015)
07/09/2015	154	MINUTE ENTRY for proceedings held before Judge Christine M. Arguello: Status Conference held on 7/9/2015. ORDERED setting a trailing five-day Jury Trial for 2/8/2016 at 8:00 AM, with a Final Pretrial Conference set for 2/2/2016, at 3:30 PM. The Court also sets a FIRM five-day Jury Trial for 3/21/2015 at 8:00 AM, with a Final Pretrial Conference set for 3/15/2016, at 3:30 PM. All hearing to be held in Courtroom A 602 before Judge Christine M. Arguello. (Total time: 14, Hearing time: 9:58 AM – 10:12 AM) APPEARANCES: Andy Winston on behalf of the plaintiff, Jennifer Harpole and

		Joshua Kirkpatrick on behalf of the defendant. ALSO PRESENT: EEOC Client Representative Sean Ratliff Court Reporter: Darlene Martinez. (vbarn) Text Only Entry (Entered: 07/09/2015)
07/21/2015	<u>155</u>	NOTICE of Entry of Appearance by Lauren Golden Jaeckel on behalf of Equal Employment Opportunity CommissionAttorney Lauren Golden Jaeckel added to party Equal Employment Opportunity Commission(pty:pla) (Jaeckel, Lauren) (Entered: 07/21/2015)
07/22/2015	<u>156</u>	Unopposed MOTION to Withdraw as Attorney <i>for the EEOC</i> by Plaintiff Equal Employment Opportunity Commission. (Winston, David) (Entered: 07/22/2015)
07/24/2015	157	ORDER granting <u>156</u> Motion to Withdraw as Attorney. ORDERED that Attorney D. Andrew Winston is permitted to withdraw as counsel for Plaintiff. The Court notes that Plaintiff continues to be represented by Lauren Jaeckel. FURTHER ORDERED that the Clerk of the Court is DIRECTED to delete Mr. Winstons email address from future ECF filings and electronic notifications in this case. SO ORDERED BY Judge Christine M. Arguello on 7/24/2015. Text Only Entry(vbarn) (Entered: 07/24/2015)
11/06/2015	158	ORDER AFFIRMING the Trial Preparation Conference set for 2/2/2016 at 3:30 PM, and five-day Jury Trial set to begin 2/8/2016 at 8:00. VACATING the Trial Preparation Conference set for 3/15/2016 and Jury Trial set for 3/21/2016. SO ORDERED by Judge Christine M. Arguello on 11/6/2015. Text Only Entry (vbarn) (Entered: 11/06/2015)
12/03/2015	<u>159</u>	MOTION for Order to <i>Enter Consent Decree and for Administrative Closure</i> by Plaintiff Equal Employment Opportunity Commission. (Attachments: # <u>1</u> Exhibit Consent Decree)(Jaeckel, Lauren) (Entered: 12/03/2015)
12/04/2015	<u>160</u>	CONSENT DECREE by Judge Christine M. Arguello on 12/04/2015. This case is Administratively Closed. (athom,) (Entered: 12/04/2015)
12/04/2015	161	MINUTE ORDER VACATING the Final Trial Preparation Conference set for 2/2/2016 at 3:30 PM and five-day Jury Trial set to begin 2/8/2016 at 8:00 AM. SO ORDERED BY Judge Christine M. Arguello on 12/04/15. Text Only Entry. (cmalc1) (Entered: 12/04/2015)