

**General Docket  
Tenth Circuit Court of Appeals**

**Court of Appeals Docket #:** 14-1012

**Docketed:** 01/09/2014

**Nature of Suit:** 1445 American w/Disab.Act-Empl

**Termed:** 03/16/2015

EEOC v. Beverage Distributors Company

**Appeal From:** United States District Court for the District of Colorado

- Denver

**Fee Status:** Fee Paid

**Case Type Information:**

- 1) civil
- 2) USA as party
- 3) -

**Originating Court Information:**

**District:** 1082-1 : [1:11-CV-02557-CMA-CBS](#)

**Court Reporter:** Darlene Martinez, -

**Trial Judge:** Christine M. Arguello, -, U.S. District Judge

**Date Filed:** 09/29/2011

**Date NOA Filed:**

01/08/2014

**Date Rec'd COA:**

01/09/2014

**Prior Cases:**

None

**Current Cases:**

None

**Panel Assignment:** Not available

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

Plaintiff - Appellee

James M. Tucker

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[NTC Government]

Equal Employment Opportunity Commission

Office of General Counsel / Appellate

Services

5NW10P

Firm: 202/663-4733

131 M Street, NE

Washington, DC 20507

v.

BEVERAGE DISTRIBUTORS COMPANY,  
LLC

Defendant - Appellant

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff - Appellee,

v.

BEVERAGE DISTRIBUTORS COMPANY, LLC,

Defendant - Appellant.

01/09/2014




73 pg, 3.59 MB


[10139619] Civil case docketed. Preliminary record filed. DATE RECEIVED: 01/09/2014. Docketing statement, transcript order form and notice of appearance due 01/23/2014 for Beverage Distributors Company, LLC. Notice of appearance due on


01/23/2014 for Equal Employment Opportunity Commission. [14-1012] [Entered: 01/09/2014 12:11 PM]

01/13/2014 [10140113] Notice of appearance submitted by James M. Tucker for Appellee EEOC for court review. Certificate of Interested Parties: Yes. Served on 01/13/2014. Manner of Service: email. -- [Edited 01/13/2014 by SDS to remove pdf from entry as the pleading has been filed] [14-1012] JMT [Entered: 01/13/2014 08:11 AM]


01/13/2014  2 pg, 34.07 KB [10140118] Notice of appearance filed by Mr. James M. Tucker for EEOC. CERT. OF INTERESTED PARTIES: y (parties previously disclosed). Served on 01/13/2014. Manner of Service: email. [14-1012] [Entered: 01/13/2014 08:26 AM]

01/23/2014 [10143582] Notice of appearance submitted by Joshua B. Kirkpatrick, Scott A. Forman, William E. Trachman, & Jennifer S. Harpole for Appellant Beverage Distributors Company, LLC for court review. Certificate of Interested Parties: Yes. Served on 01/23/2014. Manner of Service: US mail. [14-1012]--[Edited 01/23/2014 by JM PDF removed filed by the court on 1/23/14.] JBK [Entered: 01/23/2014 04:30 PM]

01/23/2014  63 pg, 1.01 MB [10143584] Docketing statement filed by Beverage Distributors Company, LLC. Served on 01/23/2014. Manner of Service: US mail. [14-1012] JBK [Entered: 01/23/2014 04:33 PM]









01/23/2014  2 pg, 107.71 KB [10143590] Acknowledgment of transcript order filed by Mr. Joshua Becker Kirkpatrick for Beverage Distributors Company, LLC. Transcript ordered: Voir Dire: 4/1/13; Trial Proceedings: 4/8/13-4/12/13; Jury Instructions: 4/11/13; Opening Statements: 4/8/13; Instruction Cnf: 4/11/13; Closing Arguments: 4/11/13. Served on: 01/23/2014. Manner of Service: US mail. [14-1012] JBK [Entered: 01/23/2014 04:39 PM]







01/23/2014 [10143600] Minute order filed - Transcript order form due 02/06/2014 for Darlene Martinez. (Text Only - No Attachment) [14-1012] [Entered: 01/23/2014 04:57 PM]







01/23/2014  3 pg, 147.79 KB [10143603] Notice of appearance filed by Mr. William E. Trachman, Mr. Scott A. Forman, Ms. Jennifer Harpole and Mr. Joshua Becker Kirkpatrick for Beverage Distributors Company, LLC. CERT. OF INTERESTED PARTIES: y. Served on 01/23/2014. Manner of Service: US mail. [14-1012] [Entered: 01/23/2014 05:03 PM]

01/24/2014 [10143627] Filed notice record is complete. Served on 01/24/2014. Appellant's brief and appendix due on 03/05/2014 for Beverage








Distributors Company, LLC. [14-1012] [Entered: 01/24/2014 08:19 AM]









- 01/24/2014  2 pg, 21.9 KB [10143644] Admissions letter sent. Response date set to 02/24/2014 for Scott A. Forman. [14-1012] [Entered: 01/24/2014 08:48 AM]
- 01/24/2014  1 pg, 19.01 KB [10143749] Notice of Mediation Conference filed by the Tenth Circuit Mediation Office. Case is referred for mediation conferencing; conference scheduled for 01/31/2014 at 10:00 am (MST). Please review the attached Notice for additional information. [14-1012] [Entered: 01/24/2014 12:03 PM]
- 01/24/2014  2 pg, 28.3 KB [10143867] Order filed by Clerk of the Court abating case. Status report(s) due 03/25/2014 by Beverage Distributors Company, LLC and Equal Employment Opportunity Commission. See order for additional information. Served on 01/24/2014. [14-1012] [Entered: 01/24/2014 03:00 PM]
- 02/25/2014  2 pg, 22.07 KB [10152130] Attorney admission letter, second notice sent. Attorney admission response date set to 03/07/2014 for Scott A. Forman. [14-1012] [Entered: 02/25/2014 11:20 AM]
- 02/26/2014 [10152922] Attorney Mr. Scott A. Forman for Beverage Distributors Company, LLC admitted to the bar of this court. [14-1012] [Entered: 02/27/2014 07:39 AM]
- 03/25/2014  5 pg, 55.01 KB [10160116] Status report filed by EEOC. Served on 03/25/2014. Manner of Service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [14-1012] JMT [Entered: 03/25/2014 07:12 AM]
- 03/25/2014  4 pg, 62.12 KB [10160474] Status report filed by Beverage Distributors Company, LLC. Served on 03/25/2014. Manner of Service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [14-1012] JBK [Entered: 03/25/2014 03:35 PM]
- 03/26/2014  2 pg, 24.47 KB [10160918] Order filed by Clerk of the Court (CVC) this appeal remains abated. Parties' status reports due 04/25/2014 by Beverage Distributors Company, LLC and Equal Employment Opportunity Commission. See order for additional information. Served on 03/26/2014. [14-1012] [Entered: 03/26/2014 03:48 PM]
- 03/28/2014  23 pg, 328.28 KB [10161388] Supplemental preliminary record on appeal filed. [14-1012] [Entered: 03/28/2014 08:38 AM]

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| 04/03/2014 | <br>5 pg, 53.89 KB   | [10163218] Status report filed by EEOC. Served on 04/03/2014. Manner of Service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [14-1012] JMT [Entered: 04/03/2014 12:34 PM]   |
| 04/03/2014 | <br>3 pg, 44.43 KB   | [10163406] Status report filed by Beverage Distributors Company, LLC. Served on 04/03/2014. Manner of Service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [14-1012] JBK [Entered: 04/03/2014 03:36 PM]   |
| 05/02/2014 | <br>1 pg, 22.79 KB   | [10172589] Order filed by Clerk of the Court (CVC) lifting the abatement of this appeal. Appellant's brief and appendix due on 06/11/2014 for Beverage Distributors Company, LLC. Served on 05/02/2014. [14-1012] [Entered: 05/02/2014 02:33 PM]   |
| 06/11/2014 | <br>79 pg, 3.52 MB   | [10183060] Appellant/Petitioner's brief filed by Beverage Distributors Company, LLC. 7 paper copies to be provided to the court. Served on 06/11/2014 by email. Oral argument requested? Yes. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [14-1012] JBK [Entered: 06/11/2014 05:04 PM] |
| 06/11/2014 |   | [10183382] Appendix filed by Appellant Beverage Distributors Company, LLC. Original and 1 copy. Appendix pages: 1076. Number of volumes: 3. Hardcopy only. Served on 06/11/2014. Manner of Service: US mail. [14-1012] [Entered: 06/12/2014 03:58 PM]  |
| 06/12/2014 |   | [10183383] Minute order filed - Appellee's brief now due 07/14/2014 for Equal Employment Opportunity Commission. (Text Only - No Attachment) [14-1012] [Entered: 06/12/2014 03:58 PM]  |
| 06/17/2014 | <br>8 pg, 70.22 KB | [10184378] Motion filed by Appellee EEOC to extend time to file appellee/respondent's brief until 08/14/2014 at 11:59 pm. Served on: 06/17/2014. Manner of service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [14-1012] JMT [Entered: 06/17/2014 11:54 AM]                    |
| 06/17/2014 | <br>1 pg, 23.25 KB | [10184422] Order filed by Clerk of the Court granting appellee's motion to extend time to file response brief. Appellee's brief now due 08/13/2014 for Equal Employment Opportunity Commission. Served on 06/17/2014. [14-1012] No further extensions will be granted under the clerk's authority. [Entered: 06/17/2014 12:56 PM]        |

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| 08/13/2014 | <br>76 pg, 292.13 KB   | [10198170] Appellee/Respondent's brief filed by EEOC. 7 paper copies to be provided to the court. Served on: 08/13/2014. Manner of service: email. Oral argument requested? No. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [14-1012] JMT [Entered: 08/13/2014 08:49 AM]                          |
| 08/13/2014 |   | [10198639] Supplemental appendix filed by Appellee EEOC. Original and 1 copy. Appendix pages: 36. Hardcopy only. Served on 08/13/2014. Manner of Service: US mail. [14-1012] [Entered: 08/14/2014 11:53 AM]   |
| 08/14/2014 |   | [10198640] Minute order filed - Appellant's optional reply brief now due 09/02/2014 for Beverage Distributors Company, LLC. (Text Only - No Attachment) [14-1012] [Entered: 08/14/2014 11:54 AM]  |
| 08/27/2014 | <br>5 pg, 98.52 KB     | [10201795] Motion filed by Appellant Beverage Distributors Company, LLC to extend time to file a reply brief until 09/16/2014. Served on: 08/27/2014. Manner of service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [14-1012] JBK [Entered: 08/27/2014 02:11 PM]                          |
| 08/27/2014 | <br>1 pg, 23.32 KB   | [10201871] Order filed by Clerk of the Court granting appellant's motion to extend time to file appellant's reply brief. Appellant's optional reply brief now due 09/16/2014 for Beverage Distributors Company, LLC. No further extensions will be granted on the clerk's authority. Served on 08/27/2014. [14-1012] [Entered: 08/27/2014 03:30 PM] |
| 09/15/2014 | <br>5 pg, 101.8 KB   | [10206433] Motion filed by Appellant Beverage Distributors Company, LLC to extend time to file a reply brief until 09/23/2014. Served on: 09/15/2014. Manner of service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [14-1012] JBK [Entered: 09/15/2014 04:29 PM]                          |
| 09/15/2014 | <br>1 pg, 23.28 KB   | [10206463] Order filed at the direction of the Court granting appellant's second motion to extend time to file appellant's reply brief. Appellant's optional reply brief now due 09/23/2014 for Beverage Distributors Company, LLC. Served on 09/15/2014. [14-1012] No further extensions will be granted. [Entered: 09/15/2014 04:46 PM]           |
| 09/23/2014 | <br>34 pg, 306.88 KB | [10208929] Appellant/Petitioner's reply brief filed by Beverage Distributors Company, LLC. 7 paper copies to be provided to the court. Served on 09/23/2014. Manner of Service: email. This   |








pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [14-1012] JBK [Entered: 09/23/2014 04:36 PM]

- 11/17/2014  1 pg, 73.93 KB [10224748] Calendar notice sent to counsel. Arguments to be held on Thursday, January 22, 2015 at 8:30 A.M. in Courtroom II, Byron White United States Courthouse, Denver, CO. Counsel is required to go to <http://www.ca10.uscourts.gov> under the argument calendar tab to obtain an important notice regarding calendared cases and required forms. The calendar acknowledgment form (and the custody status form when applicable) must be completed and filed with the clerk via Electronic Case Filing within 10 days of today's date. [14-1012] [Entered: 11/17/2014 11:05 AM]
- 11/20/2014  1 pg, 38.12 KB [10226367] Oral Argument Acknowledgment Form filed by. Served on 11/20/2014. Manner of Service: email. [14-1012] JBK [Entered: 11/20/2014 03:13 PM]
- 11/21/2014  1 pg, 78.35 KB [10226698] Oral Argument Acknowledgment Form filed by EEOC. Served on 11/21/2014. Manner of Service: email. [14-1012] JMT [Entered: 11/21/2014 02:05 PM]
- 01/22/2015  1 pg, 23.16 KB [10242060] Case argued by Scott Forman for the Appellant and by James Tucker for the Appellee; Submitted to Judges Tymkovich, Holmes and Bacharach. [14-1012] [Entered: 01/22/2015 01:49 PM]
- 01/22/2015  2 pg, 32.34 KB [10242172] Order filed at the direction of the panel of judges assigned to this case. The parties are directed to file supplemental briefs. Appellant shall file its supplemental brief within 7 days from the date of this order. Supplemental brief due 01/29/2015 for Beverage Distributors Company, LLC. Appellee may file a responsive supplemental brief within 7 days of service of the Appellant's supplemental brief. Served on 01/22/2014. [14-1012] [Entered: 01/22/2015 04:40 PM]
- 01/29/2015  10 pg, 125.39 KB [10243924] Appellant's supplemental brief filed by Beverage Distributors Company, LLC. 7 paper copies to be provided to the court. Served on 01/29/2015. Manner of Service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [14-1012] JBK [Entered: 01/29/2015 02:36 PM]
- 02/05/2015  16 pg, 113.92 KB [10245773] Appellee/Respondent's supplemental brief filed by EEOC. 7 paper copies to be provided to the court. Served on 02/05/2014. Manner of Service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [14-1012] JMT [Entered: 02/05/2015 11:18 AM]

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| 02/05/2015 | <br>13 pg, 203.89 KB   | [10245775] Supplemental authority filed by EEOC. Served on 02/05/2015. Manner of Service: email. [14-1012] JMT [Entered: 02/05/2015 11:20 AM]   |
| 03/16/2015 | <br>15 pg, 59.87 KB    | [10254993] Reversed.Terminated on the merits after oral hearing. Written, unsigned, published. Judges Tymkovich, Holmes and Bacharach (authoring judge). Mandate to issue. [14-1012] [Entered: 03/16/2015 09:19 AM]   |
| 03/16/2015 | <br>1 pg, 21.24 KB     | [10254997] Judgment for opinion filed. [14-1012] [Entered: 03/16/2015 09:22 AM]   |
| 03/30/2015 | <br>6 pg, 133.47 KB    | [10259360] Motion filed by Appellant Beverage Distributors Company, LLC to tax costs. Served on: 03/30/2015. Manner of service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [14-1012] JBK [Entered: 03/30/2015 03:35 PM]   |
| 03/30/2015 | <br>13 pg, 3.08 MB     | [10259365] Bill of costs filed by Beverage Distributors Company, LLC. Served on 03/30/2015. Manner of Service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [14-1012] JBK [Entered: 03/30/2015 03:39 PM]  |
| 03/30/2015 |   | [10259374] Minute order filed - Response due on 04/13/2015 for Equal Employment Opportunity Commission. (Text Only - No Attachment) [14-1012] [Entered: 03/30/2015 03:54 PM]  |
| 03/31/2015 |   | [10259653] Minute order filed - Bill of costs optional response due on 04/16/2015 for Equal Employment Opportunity Commission. (Text Only - No Attachment) [14-1012] [Entered: 03/31/2015 11:51 AM]   |
| 04/02/2015 | <br>10 pg, 91.86 KB  | [10260681] Response filed by EEOC to Appellant's Bill of Costs. Served on 04/02/2015. Manner of Service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [14-1012] JMT [Entered: 04/02/2015 02:12 PM]  |
| 04/08/2015 | <br>1 pg, 19.76 KB   | [10261979] Order filed by Clerk of the Court (ERR). Appellant shall file a written response setting forth the specific authority which would allow it to obtain its costs from the appellee Response due on 04/20/2015 for Beverage Distributors Company, LLC. Served on 04/08/2015. [14-1012] [Entered: 04/08/2015 07:33 AM] |
| 04/17/2015 | <br>12 pg, 163.37 KB | [10264840] Response filed by Beverage Distributors Company, LLC to Response to the Court's 4-8-15 Order. Served on 04/17/2015. Manner of Service: email. This pleading complies   |



with all required (privacy, paper copy and virus) certifications: Yes. [14-1012] JBK [Entered: 04/17/2015 01:37 PM]

- 04/22/2015  12 pg, 93.22 KB [10265875] Appellee's response filed by EEOC to Appellant's Brief in Response to the Court's 4/8/15 Order on Appellant's Bill of Costs. Served on 04/22/2015. Manner of Service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes.--[Edited 04/22/2015 by KF to modify the text] [14-1012] JMT [Entered: 04/22/2015 08:51 AM]
- 04/27/2015  2 pg, 23.31 KB [10266945] Order filed by Judges Tymkovich, Holmes and Bacharach (CW). Appellant's Motion to Tax Costs is granted in part and denied in part. Transcript and bond premium costs are taxable only in the district court. Costs are taxed in favor of the Appellant and against the Appellee in the amount of \$810.20. (Please refer to the order for additional information.) Served on 04/27/2015. [14-1012] [Entered: 04/27/2015 10:24 AM]
- 04/30/2015  41 pg, 371.82 KB [10268129] Petition for rehearing, for rehearing en banc filed by EEOC. Original and 12 copies. Served on 04/30/2015. Manner of Service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [14-1012] JMT [Entered: 04/30/2015 08:50 AM]
- 04/30/2015  1 pg, 23.28 KB [10268366] Order filed by Judges Tymkovich, Holmes and Bacharach directing appellant to file a response to appellee's petition for panel rehearing or rehearing en banc. Response due on 05/14/2015 for Beverage Distributors Company, LLC. Served on 04/30/2015. [14-1012] [Entered: 04/30/2015 02:22 PM]
- 05/14/2015  21 pg, 436.94 KB [10271849] Response filed by Beverage Distributors Company, LLC to Appellee's Petition for Panel Rehearing or Rehearing En Banc. Served on 05/14/2015. Manner of Service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [14-1012] JBK [Entered: 05/14/2015 03:00 PM]
- 05/27/2015  1 pg, 23.41 KB [10274624] Order filed by Judges Tymkovich, Holmes and Bacharach denying petition for rehearing and rehearing en banc filed by Appellee EEOC. [14-1012] [Entered: 05/27/2015 08:13 AM]
- 06/04/2015  1 pg, 20.13 KB [10276589] Mandate issued. [14-1012] [Entered: 06/04/2015 07:44 AM]