

General Docket
United States Court of Appeals for the Ninth Circuit

Court of Appeals Docket #: 05-16945 Nature of Suit: 2442 Jobs EEOC, et al v. Harris Farms Inc. Appeal From: U.S. District Court for Eastern California, Fresno Fee Status: Paid	Docketed: 10/11/2005 Termed: 04/17/2008
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Case Type Information:

- 1) civil
- 2) united states
- 3) null

Originating Court Information:**District:** 0972-1 : [CV-02-06199-AWI/LJO](#)**Court Reporter:** Karen L. Hooven, Court Reporter**Trial Judge:** Anthony W. Ishii, Senior District Judge**Date Filed:** 09/30/2002**Date Order/Judgment:**

08/26/2005

Date NOA Filed:

09/23/2005

Prior Cases:

None

Current Cases:

	Lead	Member	Start	End
Companion	06-16317	06-16437	08/09/2006	
Consolidated	05-16945	06-16317	08/02/2006	

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
 Plaintiff - Appellee,

Barbara L. Sloan
 Direct: 202-663-4721
 [COR LD NTC Government]
 EEOC - U.S. Equal Employment Opportunity Commission
 5th Floor
 Firm: 202-663-4900
 131 M Street, NE
 Washington, DC 20507

OLIVIA TAMAYO
 Plaintiff-intervenor - Appellee,

Shelley G. Bryant, Esquire, Attorney
 Direct: 559-432-0986
 [COR LD Retained]
 W.J. SMITH & ASSOCIATES
 Suite 132
 2350 W. Shaw Ave.
 Fresno, CA 93711

Richard M. Pearl, Attorney
 Direct: 510-649-0810
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 LAW OFFICES OF RICHARD M. PEARL
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William J. Smith, Esquire, Attorney
 Direct: 559-432-0986
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 W.J. SMITH & ASSOCIATES
 Suite 132
 2350 W. Shaw Ave.
 Fresno, CA 93711

v.

HARRIS FARMS INC.
 Defendant - Appellant,

Todd William Baxter, Esquire, Attorney
 Direct: 559-433-1300

[COR LD NTC Retained]
McCormick, Barstow, Sheppard, Wayte & Carruth LLP
7647 N. Fresno Street
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U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff - Appellee,

OLIVIA TAMAYO,

Plaintiff-intervenor - Appellee,

v.

HARRIS FARMS INC.,

Defendant - Appellant.

- 10/11/2005 1 DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. CADS SENT (Y/N): YES. setting schedule as follows: CADS is past due; CADS must be filed no later than 10/18/05; appellant's designation of RT is due 10/3/05; appellee's designation of RT is due 10/13/05, ; appellant shall order transcript by 10/24/05; court reporter shall file transcript in DC by 11/23/05, ; certificate of record shall be filed by 11/30/05 ; appellant's opening brief is due 1/9/06; appellees' brief is due 2/8/06, ; appellants' reply brief is due 2/22/06; [05-16945] (JI) [Entered: 10/11/2005 03:44 PM]
- 10/11/2005 2 Received copy of amended notice of appeal from district court MOATT (GR) [Entered: 10/13/2005 09:19 AM]
- 10/20/2005 3 rec'd notice of appearance of William J. Smith and Shelly G. Bryant (Withdrew as counsel: attorney William J. Smith for Olivia Tamayo: changed law firm name) [05-16945] (GR) [Entered: 10/25/2005 10:53 AM]
- 10/31/2005 7 rec'd notice of appearance of Julie L. Gantz (Withdrew as counsel: attorney Evangelina Patricia Hernandez for EEOC, attorney William R. Tamayo for EEOC, attorney Linda Ordonio-Dixon for EEOC, attorney David F. Offen-Brown for EEOC) CASEFILE [05-16945] (GR) [Entered: 11/02/2005 09:02 AM]
- 11/02/2005 6 Filed order CONFATT (epm) Records indicate aplt has failed to file CADS required by C. Rule 3-4. Aplt shall file CADS within 14 days or contact the Clerk if CADS already filed, or dismiss the appeal voluntarily. CADS should be sent to the circuit mediation office. [05-16945] (GR) [Entered: 11/02/2005 08:40 AM]
- 11/14/2005 8 rec'd notice of appearance of Lowell T. Carruth, Todd W. Baxter, Scott M. Reddie, Richard D. Alaniz, Cary A. Farris as counsel for aplt. CASEFILE [05-16945] (GR) [Entered: 11/15/2005 10:34 AM]
- 11/14/2005 9 Received copy of amended notice of appeal from district court CASEFILE (GR) [Entered: 11/15/2005 10:35 AM]
- 11/14/2005 10 Filed Todd Baxter Civil Appeals Docketing Statement served on 10/6/05 (to CONFATT) [05-16945] [05-16945] (GR) [Entered: 11/15/2005 01:52 PM]
- 11/22/2005 12 Filed order CONFATT (vis) This case is under consideration for incl in the mediation program. A settlement assessment conf will be held by phone on 12/13/05 at 11:00am pacific time...The br sched prev set by the ct remains in effect. [05-16945] (GR) [Entered: 11/22/2005 09:06 AM]
- 12/15/2005 14 Filed order CONFATT (SL) The br sched prev set by the ct is vacated. Counsel are requested to contact the undersigned within 10 days after the dc decides the png mtn for atty's fees. [05-16945] (GR) [Entered: 12/15/2005 08:46 AM]
- 03/16/2006 15 Filed order CONFATT (SL) A further assessment conference will be held by phone on 4/3/06 at 11:00am pacific time. [05-16945] (GR) [Entered: 03/16/2006 10:32 AM]
- 03/21/2006 17 Filed order CONFATT (SL) The ct is informed that pltf intvr has filed a mtn to alter/amend the DC's 3/2/06 attys fees order. The further assessment conf sch for 4/3/06 is canceled. Csl are requested to contact the undersigned at 415/56/9959 within 10 days after the DC decides the pending mtn to alter/amend. After the mtn is decided, the further assessment conf will be reset. [05-16945] (CW) [Entered: 03/21/2006 07:20 AM]
- 07/07/2006 18 Filed notice of appearance of Barbara L. Sloan (Withdrew as counsel: attorney Julie Gantz for EEOC [05-16945] (CW) [Entered: 07/10/2006 09:51 AM]
- 08/02/2006 20 Filed order CONFATT (SL) These appls are consolidated. The br sched est in 06-16317 shall govern. The ct will initiate a further assessment conf by phone on 8/29/06 at 2pm pacific time. [05-16945, 06-16317] (GR) [Entered: 08/02/2006 08:19 AM]
- 09/01/2006 21 Filed order (Circuit Mediator: sl/CONFATT) The court will initiate a further assessment conference by telephone on September 19, 2006, at 10:00am Pacific Time. [05-16945, 06-16317] (JD) [Entered: 09/01/2006 09:28 AM]
- 09/21/2006 23 Filed order CONFATT (SL) A further assessment conference will be held on by telephone on 10/6/06 at 10am pacific time. Amending br schedule as follows: appellants' brief, excerpts of record are due 11/20/06; appellees' brief due 1/10/07; opt reply br is due 14 days from service.... [05-16945, 06-16317, 06-16437] (GR) [Entered: 09/21/2006 07:54 AM]
- 10/11/2006 26 Filed order CONFATT (SL) The ct will initiate a telephonic further conf with plaintiff's counsel on 10/12/06 at 10am pacific time, with defendants' counsel on 10/13/06 at am pacific time, and with all counsel on 10/18/06 at 10am pacific time. [05-16945, 06-16317, 06-16437] (GR) [Entered: 10/11/2006 08:30 AM]
- 11/01/2006 28 Filed order CONFATT (SL) These appls are sel for incl in the mediation program... An in-person mediation will be held on 12/19/06 at 10am in the US Dist Courthouse... Fresno, Calif... Mediation statements of no more than 10 pages shall be submitted to the circuit mediator on or before 12/12/06 at 5pm...The br scheds prev set by the ct are vacated. [05-16945, 06-16317, 06-16437] (GR) [Entered: 11/01/2006 07:40 AM]
- 02/27/2007 30 Filed order CONFATT (SL) Cases released from mediation program. The br sched in appls 05-16945 and 06-16317 is reset as follows: appellants' brief, excerpts of record are due 4/9/07; appellees' brief due 5/9/07; opt reply br is due 14 days from service. The br sched in appl 06-16437 is reset as follows: aplt

- shall file an op br on or before 4/9/07; aple shall file the ans br on or before 5/9/07; opt reply br is due 14 days from service... [05-16945, 06-16317, 06-16437] (GR) [Entered: 02/27/2007 08:09 AM]
- 03/30/2007 33 Filed Appellant Harris Farms Inc. motion to extend time to file appellant's opening brief until 5/9/07 [05-16945, 06-16317] served on 3/29/07 [6135291] PROMO [05-16945, 06-16317] (GR) [Entered: 04/03/2007 08:19 AM]
- 04/03/2007 32 Filed order CONFATT (SL) In 05-16945 and 06-16317, resetting br schedule as follows: appellants' brief, excerpts of record are due 5/9/07; appellees' brief due 6/8/07; opt reply br is due 14 days from service. The br sched in 06-16437 is reset as follows: aplt shall file an op br on or before 5/9/07; aple shall file an ans br on or before 6/8/07; opt reply br is due 14 days from service.. [05-16945, 06-16317, 06-16437] (GR) [Entered: 04/03/2007 07:37 AM]
- 04/04/2007 35 Filed order (Deputy Clerk: tah PROMO) granting appellant's motion to extend time to file appellant's opening brief [33] appellants' opening brief due 5/9/07; appellees' brief due 6/8/07; opt reply br is due 14 days from service...Aplt shall monitor the issuance of the certificates of record. [05-16945, 06-16317] (GR) [Entered: 04/04/2007 07:49 AM]
- 05/08/2007 37 Received Appellant Harris Farms Inc. brief in 15 copies 94 pages (Informal: n) deficient : oversized (mtn pndg): notified counsel. Excerpts of record in 19 volumes. Served on 5/8/07 [05-16945, 06-16317] (GR) [Entered: 05/09/2007 08:52 AM]
- 05/08/2007 38 Filed Appellant Harris Farms Inc. motion to file oversized brief [05-16945, 06-16317] served on 5/8/07 [6169238] PROMO [05-16945, 06-16317] (GR) [Entered: 05/09/2007 08:54 AM]
- 05/11/2007 39 Filed Appellee EEOC response opposing appellant's motion to file oversized brief [38] served on 5/10/07 PROMO [05-16945, 06-16317] (GR) [Entered: 05/14/2007 04:18 PM]
- 05/15/2007 40 Filed Appellant Harris Farms Inc. reply to response to supporting appellant's motion to file oversized brief [38] ;served on 5/14/07 PROMO [05-16945, 06-16317] (GR) [Entered: 05/16/2007 03:54 PM]
- 06/06/2007 42 Filed order (Appellate Commissioner) The ct has recd aplt's mtn to file an oversized opening br of 20,176 words, aple's opposition and aplt's reply. A review of the proposed br reveals that the br can reasonably be shortened, especially the statement of the case. The mtn is there fore granted in part. [38] On or before 6/25/07, aplt shall file a substitute opening br not to exceed 16,000 words. The ans br are due 7/25/07, and the opt reply br is due 14 days from service... (PROMO) [05-16945, 06-16317] (GR) [Entered: 06/06/2007 08:18 AM]
- 06/26/2007 43 Filed original and 15 copies Appellant Harris Farms Inc. opening brief (Informal: n) 77 pages and five excerpts of record in 19volumes; served on 6/25/07 [05-16945, 06-16317] (GR) [Entered: 06/26/2007 10:39 AM]
- 07/11/2007 44 Filed Olivia Tamayo motion to extend time to file appellee's brief until 8/6/07 [05-16945, 06-16317, 06-16437] served on 7/11/07 [6229123] PROMO (GR) [Entered: 07/12/2007 10:34 AM]
- 07/16/2007 48 Filed aple Olivia Tamayo's joinder in unopposed mtn of The EEOC's mtn for an ext of tm to file its br; served on 7/13/07 (PROMO) (MF) [Entered: 07/18/2007 12:13 PM]
- 07/16/2007 49 Filed EEOC's mtn for an ext of tm until 8/24/07 to file the ans br; served on 7/13/07 (PROMO) [05-16945, 06-16317] (MF) [Entered: 07/18/2007 12:36 PM]
- 07/18/2007 47 Filed order (Deputy Clerk: tah) The mtn of aple the EEOC for an ext of time to file the ans br is granted. The ans br for the moving pty is due 8/24/07. The rpy br is due 14 days from svc of the last served ans br. Aple Olivia Tamayo is informed that in the event she wishes to obtain an ext of time to file her ans br, she may file a mtn pursuant to CR 31-2.2(b) in 05-16945, 06-16317 [05-16945, 06-16317] (CW) [Entered: 07/18/2007 07:26 AM]
- 07/19/2007 50 Filed order (Deputy Clerk: tah) The motion of appellee Olivia Tamayo for an extension of time to file the answering brief is granted. The answering brief for the moving party is due 8/24/07. The optional reply brief is due 14 days after service of the last-served answering brief. (PROMO) [05-16945, 06-16317] (LC) [Entered: 07/19/2007 09:06 AM]
- 07/24/2007 52 Received Appellee Olivia Tamayo motion to extend time to file appellee's brief until 8/24/07 [05-16945, 06-16317] ; served on 7/20/07 [6239952] NAN(Calendar Unit) (GR) [Entered: 07/25/2007 08:30 AM]
- 07/24/2007 53 Received notice of unavailability from Appellee Olivia Tamayo CALENDAR (GR) [Entered: 07/25/2007 08:31 AM]
- 08/16/2007 54 Filed Olivia Tamayo motion to extend time to file appellee's brief until 9/24/07 [05-16945, 06-16317] served on 8/14/07 [6262692] PROMO (GR) [Entered: 08/17/2007 08:14 AM]
- 08/31/2007 56 Filed order (Deputy Clerk: tah PROMO) granting appellee's 2nd motion to extend time to file appellee's brief [54] appellees' brief due 9/24/07; opt reply br is due 14 days from service... [05-16945, 06-16317] (GR) [Entered: 08/31/2007 08:21 AM]
- 09/24/2007 57 Filed original and 15 copies appellee Olivia Tamayo 37 pages brief, 5 suppl Exc. in 1 vol: ; served on

- 9/21/07 [05-16945, 06-16317] (GR) [Entered: 09/24/2007 02:52 PM]
- 09/26/2007 59 Filed original and 15 copies appellee EEOC 65 pages brief, ; served on 9/24/07 [05-16945, 06-16317] (GR) [Entered: 09/26/2007 02:15 PM]
- 09/26/2007 60 Filed EEOC motion for leave to file brief as aple instanter [05-16945, 06-16317] served on 9/25/07 [6301038] PROMO (GR) [Entered: 09/27/2007 10:05 AM]
- 10/01/2007 63 Recd from aples amended cert of service for brief CASEFILE [05-16945, 06-16317] (GR) [Entered: 10/04/2007 08:43 AM]
- 10/02/2007 62 Filed order (Deputy Clerk: gss) The EEOC's motion to file the answering brief late is granted. The answering brief for the EEOC rcvd on September 26, 2007 is filed. The optional reply brief is due 14 days after the date of this order. in 05-16945, 06-16317 [05-16945, 06-16317] (HC) [Entered: 10/02/2007 09:19 AM]
- 10/02/2007 64 Filed Appellant Harris Farms Inc. motion to extend time to file reply brief until 11/8/07 [05-16945, 06-16317] served on 10/1/07 [6308892] PROMO [05-16945, 06-16317] (GR) [Entered: 10/05/2007 09:37 AM]
- 10/09/2007 66 Filed order (Deputy Clerk: gss PROMO) granting appellant's motion to extend time to file reply brief [64] Reply br is due 11/8/07 [05-16945, 06-16317] (GR) [Entered: 10/09/2007 08:10 AM]
- 11/07/2007 68 Received Appellee Olivia Tamayo, Appellee Olivia Tamayo letter dated 11/5/07 re: Notice of unavailability 12/24/-1/2/98. (CASEFILE) [05-16945, 06-16317] (Walker, Synitha) [Entered: 11/29/2007 04:06 PM]
- 11/09/2007 67 Filed original and 15 copies Harris Farms Inc. reply brief, (Informal: No) 30 pages; served on 11/8/07 [05-16945, 06-16317] (LA) [Entered: 11/15/2007 05:04 PM]
- 01/05/2008 70 Calendar check performed [05-16945, 06-16317, 06-16437] (MW) [Entered: 01/05/2008 12:00 PM]
- 01/14/2008 71 Calendar materials being prepared. [05-16945, 06-16317, 06-16437] [05-16945, 06-16317, 06-16437] [Entered: 01/14/2008 02:27 PM]
- 01/15/2008 72 CALENDARED: SF Tue March 11, 2008 9:00 AM Courtroom 2 --note Courtroom change [Edited 03/10/2008 by AW] [05-16945, 06-16317, 06-16437] [Entered: 01/15/2008 02:26 PM]
- 03/04/2008 74 Filed Appellant Harris Farms Inc. in 05-16945 additional citations. Served on 03/04/2008. (panel) [05-16945, 06-16317, 06-16437] (CW) [Entered: 03/05/2008 07:07 AM]
- 03/11/2008 75 ARGUED AND SUBMITTED TO PROCTER R. HUG, PAMELA ANN RYMER and JOHNNIE B. RAWLINSON. [05-16945, 06-16317, 06-16437] (YA) [Entered: 03/11/2008 11:17 AM]
- 04/17/2008 [76](#)
11 pg, 116.26 KB FILED MEMORANDUM DISPOSITION (PROCTER R. HUG, PAMELA ANN RYMER and JOHNNIE B. RAWLINSON) AFFIRMED. [Affirmed;Terminated on the merits after oral hearing;Written, reasoned, unsigned, unpublished;]. FILED AND ENTERED JUDGMENT. [05-16945, 06-16317, 06-16437] (DD) [Entered: 04/17/2008 09:51 AM]
- 05/02/2008 77 Filed Appellee Olivia Tamayo in 05-16945 bill of costs in the amount of \$ 249.90. Served on 04/29/2008 [05-16945, 06-16317] (Walker, Synitha) [Entered: 05/02/2008 10:35 AM]
- 05/14/2008 78 Filed Appellee Olivia Tamayo motion for extension of time to file motion for attorneys fees and for referral to circuit mediator Served on 05/14/2008. [05-16945, 06-16317, 06-16437] (Walker, Synitha) [Entered: 05/15/2008 11:23 AM]
- 05/16/2008 79 Filed Appellee EEOC "faxed" bill of costs in the amount of \$ 154.00 with proof of delivery receipt. Served on 04/30/2008 [05-16945, 06-16317] (Walker, Synitha) [Entered: 05/19/2008 11:16 AM]
- 06/09/2008 [80](#)
2 pg, 28.17 KB MANDATE ISSUED.(PRH, PAR and JBR) Cost awarded to APPELLEE EEOC in the amount of \$154.00 and APPELLEE OLIVIA TAMAYO in the amount \$249.90. [05-16945, 06-16317, 06-16437] (Walker, Synitha) [Entered: 06/09/2008 01:10 PM]
- 06/16/2008 81 Filed Appellee Olivia Tamayo unopposed request for further extension of time to file motion for attorneys' fees and for referral to circuit court mediator in 05-16945, 06-16317, 06-16437. Served on 06/16/2008. [05-16945, 06-16317, 06-16437] (TB) [Entered: 06/17/2008 11:56 AM]
- 06/20/2008 [82](#)
1 pg, 23.89 KB Filed order (PROCTER R. HUG, PAMELA ANN RYMER and JOHNNIE B. RAWLINSON): Plaintiff's requests filed May 14, 2008 and June 16, 2008, for more time to file a Motion for Attorneys' Fees on Appeal in this matter and for Ninth Circuit Mediation referral are GRANTED. The motions shall be filed with the Clerk's Office no later than July 14, 2008. [05-16945, 06-16317, 06-16437] (WL) [Entered: 06/20/2008 02:23 PM]
- 06/26/2008 [83](#)
3 pg, 53.66 KB Filed order MEDIATION (SL): Pursuant to this court's order of June 20, 2008 (referring the fees matter to mediation), a telephonic settlement conference will be held on July 18, 2008, at 2:00 p.m. PACIFIC (San Francisco) Time. [05-16945, 06-16317, 06-16437] (WL) [Entered: 06/26/2008 02:39 PM]
- 07/17/2008 [84](#)
1 pg, 22.84 KB Filed order MEDIATION (SL): On or before August 18, 2008, counsel for EEOC shall contact the undersigned at (415) 355-7915 to provide a status report. [05-16945, 06-16317, 06-16437] (WL) [Entered:

07/17/2008 01:55 PM]

- 08/19/2008 [85](#)
1 pg, 23.48 KB Filed order MEDIATION (SL): On or before September 22, 2008, counsel for EEOC shall contact the undersigned at (415) 355-7915 to provide a status report. [05-16945, 06-16317, 06-16437] (WL) [Entered: 08/19/2008 09:24 AM]
- 09/24/2008 [86](#)
1 pg, 30.32 KB Filed order MEDIATION (S:L): The court will initiate a settlement conference by telephone on October 1, 2008, at 1:00 p.m. PACIFIC (San Francisco) Time. [05-16945, 06-16317, 06-16437] (WL) [Entered: 09/24/2008 01:17 PM]
- 10/29/2008 [87](#)
1 pg, 23.51 KB Filed order MEDIATION (SL): This fees matter was referred to the Mediation Unit in an order filed June 20, 2008. The court is informed that the parties have resolved the fees and related issues. Accordingly, no further action need be taken in these closed appeals. [05-16945, 06-16317, 06-16437] (WL) [Entered: 10/29/2008 01:17 PM]

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