

CLOSED, USMJ\_Flanagan

**U.S. District Court**  
**EASTERN DISTRICT OF NORTH CAROLINA (Eastern Division)**  
**CIVIL DOCKET FOR CASE #: 4:98-cv-00136-H**

Santana, et al v. Sears, Roebuck & Co.  
Assigned to: Judge Malcolm J. Howard  
Demand: \$0  
Cause: 42:2000 Job Discrimination (Race)

Date Filed: 09/16/1998  
Jury Demand: Plaintiff  
Nature of Suit: 442 Civil Rights: Jobs  
Jurisdiction: U.S. Government Plaintiff

**Plaintiff**

**Equal Employment Opportunity  
Commission**

*TERMINATED: 12/16/1998*

represented by **Erania Ebron-Fubara**  
E.E.O.C.  
129 W. Trade St.  
Suite 400  
Charlotte, NC 28202  
704-344-6682  
*TERMINATED: 12/16/1998*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Mindy E. Weinstein**  
E. E. O. C.  
Charlotte District Office  
129 W. Trade Street, Suite 400  
Charlotte, NC 28202-2799  
704-344-6886  
*TERMINATED: 12/16/1998*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Rosemary J. Fox**  
E.E.O.C.  
129 W. Trade St.  
Suite 400  
Charlotte, NC 28202  
704-344-6878  
*TERMINATED: 12/16/1998*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Francisco G. Santana**

*TERMINATED: 09/05/2001*

represented by **David P. Voerman**  
P.O. Box 12485  
New Bern, NC 28561-2485  
252-638-5611  
*TERMINATED: 09/05/2001*

*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

**Plaintiff**

**Equal Employment Opportunity  
Commission**

represented by **Erانيا Ebron-Fubara**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

**Mindy E. Weinstein**  
E. E. O. C.  
129 W. Trade St.  
Suite 400  
Charlotte, NC 29202-2799  
704-344-6886  
*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

**Mindy E. Weinstein**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

**Rosemary J. Fox**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

V.

**Defendant**

**Sears, Roebuck & Co.**

represented by **Amy K. Reynolds**  
Kilpatrick, Stockton LLP  
3500 One First Union Center  
Charlotte, NC 28202-6001  
704-338-5000  
*TERMINATED: 08/17/2001  
LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

**James B. Spears, Jr.**  
Ogletree, Deakins, Nash, Smoak &  
Stewart, P.C.  
201 South College St., Suite 2300  
Charlotte, NC 27244  
US  
704-342-2588  
Fax: 342-4379  
Email: jim.spears@ogletreedeakins.com

*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

**Stephen D. Dellinger**

Ogletree, Deakins, Nash, Smoak &  
Stewart, P.C.

201 South College St., Suite 2300  
Charlotte, NC 27244

US

704-342-2588

Email:

steve.dellinger@ogletreedeakins.com

*LEAD ATTORNEY*

*ATTORNEY TO BE NOTICED*

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
09/16/1998	<a href="#">1</a>	Complaint filed alleging failure or refusal to hire based on national origin, Mexican, in violation of Title VII of the Civil Rights Act of 1964. JURY DEMAND. (ll) (Entered: 09/18/1998)
09/16/1998		(ll) (Entered: 09/18/1998)
09/16/1998	<a href="#">2</a>	Request for Waiver of Service as to Sears, Roebuck & Co. (**Not signed or dated by counsel and therefore not FILED) (ll) (Entered: 09/18/1998)
10/26/1998	<a href="#">3</a>	Motion to intervene by Francisco G. Santana , cs. (response due 11/18/98) (dh) (Entered: 10/27/1998)
11/23/1998	<a href="#">4</a>	Answer to Complaint by Sears, Roebuck & Co. (dh) (Entered: 11/23/1998)
11/23/1998		Motion(s) submitted: [3-1] motion to intervene by Francisco G. Santana submitted. CASE FILE TO JUDGE HOWARD FOR CONSIDERATION. (dh) (Entered: 11/23/1998)
12/16/1998	<a href="#">5</a>	Order granting [3-1] motion to intervene by Francisco G. Santana signed by Malcolm J. Howard. cys served. (dh) (Entered: 12/16/1998)
12/16/1998	<a href="#">6</a>	Request for Discovery Plan: Discovery Plan due by 1/5/99 (dh) (Entered: 12/16/1998)
12/31/1998		Letter on left side of case file - Parties have been given permission from USMJ Dixon to file discovery plan by 1/11/99. (ll) (Entered: 12/31/1998)
01/11/1999	<a href="#">7</a>	Discovery Plan filed by Sears, Roebuck & Co., Francisco G. Santana (dh) (Entered: 01/13/1999)
01/13/1999		Case submitted to: USMJ Dixon [7-1] discovery submitted. CASE FILE TO USMJ DIXON FOR ENTRY OF SCHEDULING ORDER. (dh) (Entered: 01/13/1999)

01/22/1999	<a href="#">8</a>	Order on Scheduling by Magistrate Wallace W. Dixon setting Discovery cutoff 6/1/99 Deadline for filing of all motions 7/1/99 Jury Trial scheduled for 10/18/99 before Judge Malcolm J. Howard Place: Greenville, NC No. of Interrogs. 25 No. of Depositions 10. Cys. served. Cal. cy. (ll) (Entered: 01/22/1999)
02/11/1999	<a href="#">9</a>	Waiver of Service of Summons Returned Executed as to Sears, Roebuck & Co. 9/23/98 Answer due on 11/23/98 for Sears, Roebuck & Co. (ll) (Entered: 02/18/1999)
06/01/1999	<a href="#">10</a>	Unopposed Motion by Sears, Roebuck & Co. to extend time for discovery period to July 16, 1999 . w/cs. (ll) (Entered: 06/01/1999)
06/01/1999		Motion(s) referred: referred [10-1] motion to extend time for discovery period to July 16, 1999 to USMJ Wallace W. Dixon. Case file to USMJ Dixon for consideration. (ll) (Entered: 06/01/1999)
06/08/1999	<a href="#">11</a>	Order granting [10-1] motion to extend time for discovery period to July 16, 1999, reset discovery due for 7/16/99 reset motion filing deadline for 8/3/99 reset Jury trial before Judge Malcolm J. Howard for 11/1/99 Greenville, NC signed by Wallace W. Dixon, USMJ. Cys. served. Cal. cy. (ll) (Entered: 06/11/1999)
07/23/1999	<a href="#">12</a>	Unopposed Motion by Equal Employment Opp to extend time for discovery . w/cs. (ll) (Entered: 07/23/1999)
07/23/1999		Motion(s) referred: referred [12-1] motion to extend time for discovery to USMJ Wallace W. Dixon. Case file to USMJ Dixon for consideration. (ll) (Entered: 07/23/1999)
07/26/1999		Letter dated July 22, 1999 From: David P. Voerman Re: Vacation Plans in Nov. Mr. Voerman advises the court of his vacation planned for November 12, 1999 through November 21, 1999 in Canada. Mr. Voerman seeks assistance in alerting the judges and calendaring clerks regarding his planned vacation. cy to Judge Howard. (dh) (Entered: 07/28/1999)
07/29/1999	<a href="#">13</a>	Order granting [12-1] motion to extend time for discovery, reset discovery due for 8/16/99 , reset motion filing deadline for 8/31/99 signed by Wallace W. Dixon, USMJ. Cys. served. (ll) (Entered: 07/29/1999)
08/17/1999		Case submitted to: Wallace W. Dixon, USMJ for consideration of proposed Consent Protective Order submitted by parties. (ll) (Entered: 08/17/1999)
08/23/1999	<a href="#">14</a>	Consent Protective Order re: confidentiality of discovery material. signed by Wallace W. Dixon, USMJ. Cys. served. (ll) (Entered: 08/23/1999)
08/31/1999	<a href="#">15</a>	Motion by Sears, Roebuck & Co. for summary judgment , cs. w/attachments. (response due 9/23/99) (dh) (Entered: 09/03/1999)
08/31/1999	<a href="#">16</a>	Memorandum by Sears, Roebuck & Co. in support of [15-1] motion for summary judgment, cs. (dh) (Entered: 09/03/1999)
09/01/1999		Pre-trial conference set at 10:00 10/21/99 before USMJ Louise W. Flanagan in G'ville at courthouse annex. (dh) (Entered: 09/01/1999)
09/01/1999		Jury trial set at 10:00 11/1/99 before Judge Malcolm J. Howard in G'ville. (dh) Modified on 09/01/1999 (Entered: 09/01/1999)

09/07/1999	<a href="#">17</a>	Motion by EEOC to extend time to respond to defendant's motion for summary judgment . w/cs. Cy. to USMJ Dixon w/po. (ll) (Entered: 09/10/1999)
09/10/1999	<a href="#">18</a>	Order granting [17-1] motion to extend time to respond to defendant's motion for summary judgment, Response to reset to 10/6/99 for [15-1] motion for summary judgment , reset Jury trial before Judge Malcolm J. Howard for 2/7/00 signed by Wallace W. Dixon, USMJ. Cys. served. Cal. cy. (ll) (Entered: 09/10/1999)
10/04/1999	<a href="#">19</a>	Motion by EEOC to extend time for two-days to and including Oct. 8, 1999 to respond to deft's motion for summary judgment , cs. cy to Clerk w/p.o. (dh) (Entered: 10/12/1999)
10/08/1999	<a href="#">20</a>	Order granting [19-1] motion by pla. to extend time for two-days to and including Oct. 8, 1999 to respond to deft's motion for summary judgment, Response to motion reset to 10/8/99 for [15-1] motion for summary judgment signed by David W. Daniel, Clerk. cys served 10/8/99. (dh) (Entered: 10/12/1999)
10/08/1999	<a href="#">22</a>	Affidavit of Erania Ebron-Fubara by EEOC Re: [21-1] motion response. w/ attachments. (ll) (Entered: 10/19/1999)
10/12/1999	<a href="#">23</a>	Memorandum by Francisco G. Santana in opposition to [15-1] motion for summary judgment. w/cs. Reply due on 10/29/99. (ll) (Entered: 10/19/1999)
10/12/1999	<a href="#">24</a>	Affidavit of Francisco G. Santana by Francisco G. Santana Re: [21-1] motion response. w/attachments. (ll) (Entered: 10/19/1999)
10/18/1999	<a href="#">21</a>	Response by EEOC to [15-1] motion for summary judgment. w/cs and attachments. Reply due on 10/27/99. (ll) (Entered: 10/19/1999)
10/19/1999	<a href="#">25</a>	Document filed by defendant Sears, Roebuck & Co. titled: Defendant's Notice of Intent To File Its Reply To Plaintiffs' Responses To Defendant's Motion For Summary Judgment, cs. (dh) (Entered: 10/28/1999)
10/21/1999	26	Motion by Sears, Roebuck & Co. to exceed the ten page limit imposed on replies , cs. cy faxed to Clerk 10/28/99. (dh) (Entered: 10/28/1999)
10/25/1999	<a href="#">27</a>	Reply by Sears, Roebuck & Co. to response to [15-1] motion for summary judgment, cs. (dh) Modified on 10/28/1999 (Entered: 10/28/1999)
10/25/1999	<a href="#">28</a>	Document filed by defendant Sears, Roebuck & Co. titled: Defendant's Supplement To Its Motion For Summary Judgment, cs. w/attachments. (dh) Modified on 10/28/1999 (Entered: 10/28/1999)
10/28/1999		Motion(s) submitted: [15-1] motion for summary judgment submitted. CASE FILE TO JUDGE HOWARD FOR CONSIDERATION. (dh) (Entered: 10/28/1999)
10/29/1999	<a href="#">29</a>	Order granting [26-1] motion to exceed the ten page limit imposed on replies signed by David W. Daniel, Clerk. cys served by mail. Telephoned counsel. (dh) Modified on 10/29/1999 (Entered: 10/29/1999)
12/08/1999		Pre-trial conference set at 1/20/00 before USMJ Louise W. Flanagan at courthouse annex. (dh) (Entered: 12/09/1999)
12/08/1999		Jury trial set at 2/7/00 before Judge Malcolm J. Howard in G'ville. (dh) (Entered: 12/09/1999)

01/12/2000		Updated docket sheet to Magistrate Judge Flanagan for pretrial conference scheduled for 1/20/00. (ll) (Entered: 01/12/2000)
01/18/2000	<a href="#">28</a>	Faxed Motion by Francisco G. Santana to continue pretrial and trial , cs. cy to Judge Howard. Original to follow in the mail. (dh) (Entered: 01/19/2000)
01/18/2000	<a href="#">29</a>	Order granting [28-1] motion to continue pretrial and trial, reset Jury trial before Judge Malcolm J. Howard for 3/6/00 in G'ville The clerk is directed to reset the pretrial accordingly. cys served by mail. Telephoned counsel. signed by Malcolm J. Howard, US Judge. (dh) (Entered: 01/19/2000)
01/31/2000	<a href="#">30</a>	Unopposed Motion by Sears, Roebuck & Co. for a date certain for trial . w/cs. Cy. to Judge Howard w/po. (ll) (Entered: 01/31/2000)
02/03/2000	<a href="#">31</a>	(**VACATED - SEE #43 ORDER OF 5/31/01**) Order mooting [30-1] motion for a date certain for trial, granting [15-1] motion for summary judgment. The court grants defendant's motion for summary judgment. The clerk is directed to close this case. cys served. signed by Maclcolm J. Howard, US Judge. OB Ref: CIV OB# 62, P-104. (dh) Modified on 05/31/2001 (Entered: 02/03/2000)
02/03/2000	<a href="#">32</a>	(**VACATED ON 5/31/01 - SEE #43 ORDER) Judgment for Sears, Roebuck & Co. against Francisco G. Santana, EEOC. IT IS ORDERED AND ADJUDGED defendant's motion for summary judgment is granted and this case is closed. cys served. signed by David W. Daniel, Clerk. OB Ref: CIV OB# 62, P-105 (dh) Modified on 05/31/2001 (Entered: 02/03/2000)
02/03/2000		Case closed. Non-Permanent. (dh) (Entered: 02/03/2000)
02/14/2000	<a href="#">33</a>	Bill of costs from defendants in the amount of \$4,075.89, w/attachments. (dh) (Entered: 03/03/2000)
03/03/2000		Bill of Costs submitted to Clerk for consideration. (dh) (Entered: 03/03/2000)
03/31/2000		Case file to appeal clerk. (ja) (Entered: 03/31/2000)
03/31/2000	<a href="#">35</a>	Notice of appeal by EEOC (rp) (Entered: 04/24/2000)
04/04/2000	<a href="#">36</a>	Notice of appeal by Francisco G. Santana (rp) (Entered: 04/24/2000)
04/07/2000		USCA appeal fees received: APPEAL FEE \$ 105.00 RECEIPT # 37186 (rp) (Entered: 04/24/2000)
04/12/2000	<a href="#">34</a>	Order granting in part, denying in part [33-1] Bill of Costs. The defendant is ALLOWED \$2,931.55 in court reporting fees, \$80.00 in witness fees, and \$394.50 copy fees for a total award of \$3,406.05. signed by David W. Daniel, Clerk. OB Ref: CIV OB #63, p. 80. Cys. served. (ll) (Entered: 04/12/2000)
04/24/2000		Notice of Appellate Action to USCA and counsel re: [36-1] appeal by Francisco G. Santana, [35-1] appeal by EEOC Appeal Pkg. mailed consisting of Dkting Statement, Transm. Sheet and Index (rp) (Entered: 04/24/2000)
05/01/2000	<a href="#">37</a>	Order THE COURT CONSOLIDATES THESE CASES FOR PURPOSES OF BRIEFING AND ORAL ARGUMENT signed by Patricia S. Connor. (rp) (Entered: 05/01/2000)

05/16/2000	<a href="#">38</a>	Judgment for Sears, Roebuck & Co. against Francisco G. Santana, EEOC. IT IS ORDERED AND ADJUDGED defendant shall have and recover of the plaintiffs the sum of \$3,406.05 in costs. signed by David W. Daniel, Clerk. OB Ref: CIV OB #63, p. 108. Cys. served. (ll) (Entered: 05/16/2000)
06/14/2000		Certificate to USCA and counsel re: [36-1] appeal, [35-1] appeal certifying that the record in this case is complete for purposes of the appeal. Cy. to Judge (rp) (Entered: 06/14/2000)
12/12/2000		24 HOUR RECORD Transmitted record on appeal to U.S. Court of Appeals: [36-1] appeal by Francisco G. Santana, [35-1] appeal by EEOC (rp) (Entered: 12/12/2000)
03/20/2001	<a href="#">39</a>	Opinion from USCA Re: [36-1] appeal, [35-1] appeal - REVERSED AND REMANDED (rp) (Entered: 03/20/2001)
05/02/2001		THE MANDATE IN THIS CASE WILL NOT ISSUE AT THE SCHEDULED TIME BECAUSE A TIMELY PETITION FOR REHEARING HAS BEEN FILED AND A TIMELY PETITION FOR REHEARING EN BANC HAS BEEN FILED (rp) (Entered: 05/02/2001)
05/14/2001		Record on appeal returned from U.S. Court of Appeals: [36-1] appeal by Francisco G. Santana, [35-1] appeal by EEOC (rp) (Entered: 05/14/2001)
05/15/2001	<a href="#">40</a>	Order IT IS ORDERED THAT THE PETITION FOR REHEARING AND REHEARING EN BANC IS DENIED signed by Patricia S. Connor. (rp) (Entered: 05/15/2001)
05/24/2001	<a href="#">41</a>	Certified copy of judgment of USCA Re: [36-1] appeal, [35-1] appeal - THE COURT REVERSED AND REMANDED THE JUDGMENT OF THE DISTRICT COURT (rp) (Entered: 05/24/2001)
05/24/2001		**Remove appeal flag - no further appeals pending (rp) (Entered: 05/24/2001)
05/24/2001	<a href="#">42</a>	Order THE COURT AWARDS EEOC \$578 IN COSTS signed by Patricia S. Connor. (rp) (Entered: 05/24/2001)
05/29/2001		Case submitted to: Judge Howard [41-1] submitted. CASE FILE TO JUDGE HOWARD FOR CONSIDERATION. (dh) (Entered: 05/29/2001)
05/31/2001	<a href="#">43</a>	Order - In accordance with the order of the Fourth Circuit, this court's February 3, 2000 is hereby vacated; vacating [31-1] order , set Jury trial before Judge Malcolm J. Howard for 10:00 a.m. on 8/20/01 in Greenville. signed by Malcolm J. Howard, USDJ. OB Ref: CIV OB #66, p. 96. Cys. served. Cal. cy. (ll) Modified on 05/31/2001 (Entered: 05/31/2001)
05/31/2001		Case reopened. (ll) (Entered: 05/31/2001)
06/21/2001		Pre-trial conference set at 9:30 8/7/01 before USMJ Louise W. Flanagan at courthouse annex. (dh) (Entered: 06/21/2001)
06/21/2001		Jury trial set at 10:00 8/20/01 before Judge Malcolm J. Howard in G'ville. (dh) (Entered: 06/21/2001)
07/09/2001	<a href="#">44</a>	Motion by Amy K. Reynolds co-counsel for deft. Sears, Roebuck & Co. to withdraw as counsel of record , cs. (response due 8/1/01) (dh) (Entered: 07/09/2001)

		07/11/2001)
07/16/2001	<a href="#">45</a>	Joint motion by EEOC, Francisco G. Santana, Sears, Roebuck & Co. to continue pretrial and trial , cs. cy to Judge Howard. (dh) (Entered: 07/17/2001)
07/17/2001	<a href="#">46</a>	Order granting [45-1] joint motion to continue pretrial and trial, reset Jury trial before Judge Malcolm J. Howard for 10/15/01 The clerk shall reschedule pretrial accordingly. ccys served. calendar copy. signed by Malcolm J. Howard, US Judge. (dh) (Entered: 07/17/2001)
07/23/2001	<a href="#">47</a>	Notice of attorney appearance for Sears, Roebuck & Co. by Stephen D. Dellinger. w/cs. (ll) (Entered: 07/24/2001)
08/08/2001		Motion(s) referred: referred [44-1] motion to withdraw as counsel of record to USMJ William A. Webb. CASE FILE TO USMJ WEBB FOR CONSIDERATION. (dh) (Entered: 08/08/2001)
08/08/2001		(dh) (Entered: 08/08/2001)
08/08/2001	<a href="#">48</a>	Document filed by plaintiff Francisco G. Santana titled: Objections To Defendant's Request For Admission, cs. (dh) (Entered: 08/09/2001)
08/13/2001		Pre-trial conference set at 10:00 10/3/01 before USMJ Louise W. Flanagan at courthouse annex. (dh) (Entered: 08/13/2001)
08/13/2001		Jury trial set at 10:00 a.m. on 10/16/01 before Judge Malcolm J. Howard in G'ville. (dh) (Entered: 08/13/2001)
08/13/2001	<a href="#">49</a>	Order Reassigning Magistrate Judge - The magistrate judge designation shall be changed to the Honorable Louise W. Flanagan. The Honorable Malcolm J. Howard shall remain as the presiding district judge. All future pleadings should reflect the revised case number of: 4:98-CV-136-H4. signed by David W. Daniel, Clerk. Cys. served. (ll) (Entered: 08/13/2001)
08/13/2001		(ll) (Entered: 08/13/2001)
08/13/2001		Motion(s) referred: referred [44-1] motion to withdraw as counsel of record to USMJ Louise W. Flanagan. Case file to USMJ Flanagan for consideration. (ll) (Entered: 08/13/2001)
08/17/2001	<a href="#">50</a>	Order granting [44-1] motion to withdraw as counsel of record, for Amy K. Reynolds to withdraw as attorney (Terminated attorney Amy K. Reynolds for Sears, Roebuck & Co. signed by Louise W. Flanagan, USMJ. Cys. served. (ll) (Entered: 08/17/2001)
09/04/2001	<a href="#">51</a>	Stipulation of dismissal by plaintiff/intervenor Santana and Sears, Roebuck and Co. - stipulate that Plaintiff Santana dismisses with prejudice his individual claims against Sears, Roebuck and Co. Further, Santana dismisses with prejudice all claims for damages against Sear, Roebuck and Co., including but not limited to all claims for backpay, past and/or future pecuniary losses, past and/or future nonpecuniary losses, compensatory damages, emotional pain and suffering damages and/or punitive damages. (dh) (Entered: 09/05/2001)
09/28/2001		Case submitted to: Louise W. Flanagan, USMJ [0-0] pre-trial conference scheduled for 10/3/01. (ll) (Entered: 09/28/2001)



10/01/2001		CASE FILE RETURNED from: Judge Flanagan's chambers. (ll) (Entered: 10/01/2001)
10/01/2001		Telephoned counsel and advised there was no need for counsel to come to the Pretrial Conf. on 10/3/01 since the parties have submitted a proposed Consent Decree. (ll) (Entered: 10/01/2001)
10/01/2001		Case submitted to: Judge Howard for consideration of proposed Consent Decree submitted by parties. (ll) (Entered: 10/01/2001)
10/10/2001	<a href="#">52</a>	Consent (Decree) judgment for EEOC against Sears, Roebuck & Co. (See document for terms of decree.) signed by Malcolm J. Howard, USDJ. OB Ref: CIV OB #67, p. 58. Cys. served. (ll) (Entered: 10/10/2001)
10/10/2001		Case closed. Permanent. (ll) (Entered: 10/10/2001)

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<b>Billable Pages:</b>	5	<b>Cost:</b>	0.40