

CLOSED

**U.S. District Court
District of Nebraska (8 Omaha)
CIVIL DOCKET FOR CASE #: 8:98-cv-00476-LES**

EEOC v. Excel Corporation
Assigned to: Judge Lyle E. Strom
Demand: \$0
Cause: 42:12101 Americans with Disabilities Act

Date Filed: 10/01/1998
Date Terminated: 05/08/2000
Jury Demand: Both
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: U.S. Government Plaintiff

Plaintiff

**Equal Employment Opportunity
Commission**

represented by **C. Emanuel Smith**

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Intervenor Plaintiff

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V.

Defendant

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a Delaware Corporation

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Date Filed	#	Docket Text
10/01/1998	1	COMPLAINT: no Summons issued with jury demand with request for trial at Omaha (ADB) (Entered: 10/01/1998)
10/01/1998	2	ATTORNEY ADMISSION LETTER (COPY) re: plaintiff EEOC - letter sent to Joseph H. Mitchell with forms. (ADB) (Entered: 10/01/1998)
10/01/1998	3	ATTORNEY ADMISSION LETTER (COPY) re: plaintiff EEOC - letter sent to Merrily S. Archer with forms. (ADB) (Entered: 10/01/1998)
10/05/1998	4	REQUEST FOR ASSIGNMENT by plaintiff EEOC requests that the above-captioned matter be assigned to Division 8, District of NE. (ETC) Modified on 10/06/1998 (Entered: 10/05/1998)
10/05/1998	5	AMENDED COMPLAINT: [1-1] by plaintiff EEOC No Summons issued; jury demand (ETC) (Entered: 10/05/1998)
10/13/1998	6	MOTION by intervenor-plaintiff John Brewer to intervene (ADB) (Entered: 10/13/1998)
10/13/1998	7	ORDER by Judge Lyle E. Strom granting motion to intervene [6-1], the complaint in intervention is deemed filed instanter - COPIES MAILED (ADB) (Entered: 10/13/1998)
10/13/1998	8	INTERVENOR'S COMPLAINT AND JURY DEMAND by intervenor-plaintiff John Brewer (ADB) Modified on 10/20/1998 (Entered: 10/13/1998)
10/15/1998	9	APPLICATION/ORDER by clerk re: plaintiff EEOC - atty Merrily S. Archer is admitted to practice - COPIES MAILED (ETC) (Entered: 10/16/1998)
10/29/1998	10	NOTICE of Lawsuit and req for waiver of service of summons by plaintiff EEOC (TLS) (Entered: 10/30/1998)
10/29/1998	11	WAIVER OF SERVICE (Rule 4 - Summons) upon defendant Excel Corporation on 10/8/98 (TLS) (Entered: 10/30/1998)
12/08/1998	12	ANSWER by defendant Excel Corporation to amended complaint [5-1] (ICMSUSER) (Entered: 12/10/1998)
01/07/1999	13	CERTIFICATE of SERVICE of mailing the mtn to intervene and complaint in intervention to dft by intervenor-plaintiff John Brewer (ADB) (Entered: 01/07/1999)
01/14/1999	14	MOTION by defendant Excel Corporation to extend time to answer to

		the complaint in intervention filed by John Brewer (ICMSUSER) (Entered: 01/14/1999)
01/20/1999	15	SCHEDULING PACKET by Judge Lyle E. Strom - COPIES MAILED (CJS) (Entered: 01/20/1999)
02/12/1999	16	ANSWER by defendant Excel Corporation to plf Brewer's complaint in intervention [8-1] (ICMSUSER) (Entered: 02/16/1999)
03/01/1999	17	PROOF OF SERVICE by defendant Excel Corporation of Rule 26 disclosures and log of docs withheld under claim of privilege (RDB) (Entered: 03/02/1999)
03/03/1999	18	APPLICATION/ORDER by clerk re: plaintiff EEOC - atty Joseph H. Mitchell is admitted to practice - COPIES MAILED (ADB) (Entered: 03/03/1999)
03/10/1999	19	ORDER by Judge Lyle E. Strom granting motion to extend time to answer to the complaint in intervention filed by John Brewer [14-1]; said answer [16-1] to the complaint of intervention will be deemed timely filed - COPIES MAILED (ADB) (Entered: 03/10/1999)
03/15/1999	20	CERTIFICATE OF SERVICE by intervenor-plaintiff John Brewer of serving intervenor-plf's initial disclosure statement (JLS) (Entered: 03/16/1999)
03/31/1999	21	ORDER SETTING SCHEDULE FOR PROGRESSION OF CASE by Judge Lyle E. Strom - jury trial set for 4/00 - pretrial conference set for 9:00 a.m. on 3/21/00 before Magistrate Judge Kathleen A. Jaudzemis - deposition ddl set for 8/31/99 - COPIES MAILED (CJS) (Entered: 03/31/1999)
03/31/1999	22	AMENDED RULE 26(f) PLANNING REPORT (CJS) Modified on 03/31/1999 (Entered: 03/31/1999)
05/19/1999	23	PROOF OF SERVICE by dft Excel Corporation of responses to plf EEOC's first set of interrogs, requests for admission, and requests production of documents (RDB) (Entered: 05/19/1999)
05/28/1999	24	PROOF OF SERVICE by defendant Excel Corporation of supplemental resp to EEOC's interrog no. 4 on 5/28/99 (BMH) (Entered: 05/28/1999)
06/01/1999	25	JOINT MOTION by plaintiff EEOC to modify scheduling order ; with attachments (ETC) (Entered: 06/01/1999)
06/09/1999	26	AMENDED ORDER SETTING SCHEDULE FOR PROGRESSION OF CASE by Judge Lyle E. Strom - jury trial set for 4/00 - pretrial conference set for 9:00 a.m. on 3/21/00 before Magistrate Judge Kathleen A. Jaudzemis - deposition ddl set for 10/29/99 - COPIES MAILED (CJS) (Entered: 06/09/1999)
07/08/1999	27	PROOF OF SERVICE by defendant Excel Corporation of interrogs, requests for admissions and requests for production (ICMSUSER) (Entered: 07/08/1999)

08/09/1999	28	CERTIFICATE by intervenor-plaintiff John Brewer of serving discovery docs (ETC) (Entered: 08/10/1999)
08/16/1999	29	CERTIFICATE by intervenor-plaintiff John Brewer of serving discovery docs. (ETC) (Entered: 08/17/1999)
08/20/1999	30	CERTIFICATE by defendant Excel Corporation of service of responses to 2nd set of interros, requests for admission, and requests for production (ICMSUSER) (Entered: 08/23/1999)
09/09/1999	31	MOTION by defendant Excel Corporation, plaintiff EEOC to extend progression (ICMSUSER) (Entered: 09/09/1999)
09/13/1999	32	SECIND AMENDED ORDER SETTING SCHEDULE FOR PROGRESSION OF CASE by Judge Lyle E. Strom - jury trial set for 4/00 - pretrial conference set for 9:00 a.m. on 3/21/00 before Magistrate Judge Kathleen A. Jaudzemis - deposition ddl set for 10/29/99 - COPIES MAILED (CJS) Modified on 10/07/1999 (Entered: 09/13/1999)
09/21/1999	33	CERTIFICATE by defendant Excel Corporation of service of report of expert witness (ICMSUSER) (Entered: 09/21/1999)
10/07/1999	34	NOTICE by defendant Excel Corporation of taking deposition of John Brewer on 10/20/99 (ICMSUSER) (Entered: 10/08/1999)
10/07/1999	35	NOTICE by defendant Excel Corporation of taking deposition of Al Marchisio on 10/21/99 (ICMSUSER) (Entered: 10/08/1999)
10/18/1999	36	AMENDED NOTICE by defendant Excel Corporation of taking deposition of AL MARCHISIO on 10/21/99 at 12:30 p.m. (RDB) (Entered: 10/18/1999)
10/20/1999	37	CERTIFICATE by intervenor-plaintiff John Brewer of serving his amended answers to dft's interrogatories (ICMSUSER) (Entered: 10/21/1999)
10/25/1999	38	2nd AMENDED COMPLAINT by plaintiff EEOC; with jury demand (ICMSUSER) (Entered: 10/26/1999)
10/25/1999	39	MOTION by plaintiff EEOC for order to amend 1st amended complaint (ICMSUSER) (Entered: 10/26/1999)
11/01/1999	41	MOTION by plaintiff EEOC to compel dft to produce handwritten notes of dft's testifying expert Mr. Michael Newman w/ attachments in sealed vault per request of KAJ on order filed 1/5/00, filing no 70 (DKM) Modified on 01/06/2000 (Entered: 11/03/1999)
11/02/1999	40	CERTIFICATE by defendant of service of amended responses to plf EEOC's interros (ICMSUSER) (Entered: 11/02/1999)
11/03/1999	42	ATTORNEY ADMISSION LETTER (COPY) re: plaintiff EEOC - letter sent to C. Emnauel Smith with forms. (DKM) (Entered: 11/03/1999)
11/03/1999	43	INDEX by defendant Excel Corporation in support of its opposition to plaintiff EEOC's motion to amend 1st amended complaint [39-1], with

		attached affidavit of Shawn D. Renner w/ attachment (RDB) (Entered: 11/03/1999)
11/03/1999	44	CERTIFICATE OF COURT REPORTER re: deposition of John Edward Brewer : (JAE) (Entered: 11/05/1999)
11/12/1999	45	INDEX by defendant Excel Corporation in opposition to plf's motion to compel dft to produce handwritten notes of dft's testifying expert Mr. Michael Newman [41-1], with affidavits of Shawn D. Renner and Michael L. Newman attached (ICMSUSER) Modified on 11/15/1999 (Entered: 11/15/1999)
11/24/1999	46	INDEX OF EVIDENCE by plaintiff EEOC re: dft's opposition to Commission's motion to compel [41-1] w/ attachments (DML) (Entered: 11/26/1999)
11/29/1999	47	MOTION by defendant Excel Corporation for summary judgment (RDB) (Entered: 11/29/1999)
11/29/1999	48	INDEX by dft Excel Corporation in support of its motion for sum jgm [47-1] - ATTACHMENTS IN SEPARATE FOLDER (RDB) (Entered: 11/29/1999)
11/30/1999	49	ORDER by Judge Lyle E. Strom referring to Magistrate Judge Kathleen A. Jaudzemis plf's motion to compel dft to produce handwritten notes [41-1], referring to Magistrate Judge Kathleen A. Jaudzemis plf's motion to amend 1st amended complaint [39-1] - COPIES MAILED [EOD Date 12/1/99] (JAE) (Entered: 12/01/1999)
12/01/1999	50	MOTION by plaintiff EEOC for summary judgment ; with attachment (ICMSUSER) (Entered: 12/02/1999)
12/01/1999	51	AFFIDAVIT of Merrily S. Archer, EEOC trial atty, identifying and authenticating exhibits cited in the plf's memorandum in support of its motion for summary judgment [50-1] (ICMSUSER) (Entered: 12/02/1999)
12/01/1999	52	INDEX by plaintiff EEOC in support of its motion for summary judgment [50-1]; attachments are in a separate folder (A-F) (ICMSUSER) (Entered: 12/02/1999)
12/06/1999	53	MOTION by defendant Excel Corporation to strike plf EEOC's response to dft's opposition to plf's motion to compel or, in the alternative, for order allowing dft Excel to file additional evidence relating to motion to compel (ICMSUSER) Modified on 01/03/2000 (Entered: 12/07/1999)
12/06/1999	54	INDEX by defendant Excel Corporation in support of its motion to strike plf EEOC's response to dft's opposition to plf's motion to compel [53-1], motion for order allowing dft Excel to file additional evidence relating to motion to compel [53-2] including affidavit of Shawn D. Renner and attachments (ICMSUSER) Modified on 01/03/2000 (Entered: 12/07/1999)
12/06/1999	55	CERTIFICATE OF COURT REPORTER re: deposition of Patrick W.

		Bowman, M.D. : (ICMSUSER) (Entered: 12/08/1999)
12/06/1999	56	CERTIFICATE OF COURT REPORTER re: deposition of Alfred J. Marchisio, Jr. : (ICMSUSER) (Entered: 12/08/1999)
12/16/1999	57	AFFIDAVIT of Merrily S. Archer, EEOC Trial Attorney, in Support of Plaintiff EEOC's Reply Brief to Defenant's Memorandum in Opposition to EEOC's Motion to Amend Its Complaint. (NCD) (Entered: 12/17/1999)
12/16/1999	61	ORDER AND EVIDENCE INDEX by Magistrate Judge Kathleen A. Jaudzemis that the clerk shall file the following documents as an evidence index submitted by plf EEOC in support of its mtn to amend cmp and its reply to dft Excel Corp's memo in opposition to EEOC's mtn to amend; afdt of Merrily S. Archer and afdt Exhibit 1 (depo of Kenneth R. Fleming)- COPIES MAILED. Afdt of Merrily S Archer and afdt Exhibit 1 is filed in case under filing no 57 on 12/16/99. Cross reference approved by C.Stegman [EOD Date 12/20/99] (JAE) Modified on 12/21/1999 (Entered: 12/20/1999)
12/17/1999	58	MOTION by defendant Excel Corporation to extend time to respond to EEOC's motion for summary judgment until 12/30/99 (SED) Modified on 12/20/1999 (Entered: 12/20/1999)
12/17/1999	59	INDEX OF EVIDENCE by defendant Excel Corporation in support of their motion to extend time to respond to EEOC's motion for summary judgment until 12/30/99 [58-1] (SED) (Entered: 12/20/1999)
12/17/1999	60	ORDER by Magistrate Judge Kathleen A. Jaudzemis granting plf's motion for order to amend 1st amended complaint [39-1]; Amended complaint ddl is set for 12/30/99 - COPIES MAILED [EOD Date 12/20/99] (ICMSUSER) (Entered: 12/20/1999)
12/17/1999	62	ORDER by Magistrate Judge Kathleen A. Jaudzemis that the mtn to strike, or, in the alternative, for lv to file additional evidence [53-1] is den to the extent that it requests the EEOC evidence be stricken and granted to the extent that it requests the court to consider the additional index of evidence submitted by dft Excel Corporation [54-1] - COPIES MAILED [EOD Date 12/20/99] (JAE) Modified on 12/30/1999 (Entered: 12/20/1999)
12/20/1999	63	MOTION by intervenor-plaintiff John Brewer for leave to file amended cmp in intervention (JAE) (Entered: 12/21/1999)
12/20/1999	64	AMENDED INTERVENOR'S COMPLAINT by intervenor-plaintiff John Brewer w/ jury demand (JAE) (Entered: 12/21/1999)
12/20/1999	65	AFFIDAVIT of Merrily S. Archer by plaintiff EEOC in opposition to dft mtn for sum jgm [47-1] (TLS) (Entered: 12/22/1999)
12/20/1999	66	INDEX by plaintiff EEOC in opposition to dft's motion for summary judgment [47-1] - Attachments in separate folder (TLS) (Entered: 12/22/1999)

12/21/1999	67	ORDER by Magistrate Judge Kathleen A. Jaudzemis granting plf's motion to compel dft to produce handwritten notes of dft's testifying expert Mr. Michael Newman [41-1]; the dft shall submit in camera review a photocopy of the handwritten notes of Michael Newman at issue in this case on or before 12/30/99 - COPIES MAILED [EOD Date 12/22/99] (JAE) (Entered: 12/22/1999)
12/27/1999	68	SECOND AMENDED COMPLAINT: [38-1] by plaintiff EEOC No summons issued; with jury demand (ICMSUSER) (Entered: 12/28/1999)
12/30/1999	69	INDEX by defendant Excel Corporation in opposition to EEOC's motion for summary judgment [50-1], with attachments including affidavit of Shawn D. Renner (ICMSUSER) (Entered: 01/03/2000)
01/05/2000	70	ORDER by Magistrate Judge Kathleen A. Jaudzemis granting plf EEOC's motion to compel dft to produce handwritten notes hereinafter follows [41-1]; dft shall produce handwritten notes which are the subject of the mtn to EEOC on or before 1/21/00; should this order be appealed to the trial judge, the operation of paragraph 2 is held in abeyance pending the appeal; the notes provided to the court for in camera review shall be sealed and maintained by the clerk (attached to filing no 41 per KAJ request); any appeal of this order shall be filed w/ the clk w/in 10 days after being served w/ a copy of this order - COPIES MAILED [EOD Date 1/6/00] (JAE) (Entered: 01/06/2000)
01/07/2000	71	ANSWER by defendant Excel Corporation to plaintiff EEOC's second amended complaint [68-1] (RDB) (Entered: 01/07/2000)
01/10/2000	72	MOTION by plaintiff EEOC to stay consideration of the record-keeping issue in the EEOC's motion for sum jgm and to re-open disc for the limited purpose of taking testimony regarding the record-keeping issue (ICMSUSER) (Entered: 01/11/2000)
01/10/2000	73	AFFIDAVIT of Merrily S. Archer, EEOC Trial Atty, Identifying and Authenticating Exhibits cited in the plf's motion to stay consideration of the record-keeping issue in the EEOC's motion for sum jgm [72-1] and motion to re-open disc for the limited purpose of taking testimony regarding the record-keeping issue [72-2] (ICMSUSER) (Entered: 01/11/2000)
01/10/2000	74	INDEX by plaintiff EEOC in support of its motion to stay consideration of the record-keeping issue in the EEOC's motion for sum jgm [72-1] and motion to re-open disc for the limited purpose of taking testimony regarding the record-keeping issue [72-2]; with attachments (ICMSUSER) (Entered: 01/11/2000)
01/10/2000	75	MOTION by plaintiff EEOC for leave to file, instanter, a reply brief to dft's memorandum in opposition to plf EEOC's motion for sum jgm (ICMSUSER) (Entered: 01/11/2000)
01/31/2000	76	ORDER by Judge Lyle E. Strom granting the dft's motion to for extension of time in which to respond to EEOC's motion for summary judgment [58-1]; Plf-intervenor's motion for leave to file amended

		complaint in intervention [63-1] is granted ; Plf EEOC's motion to stay consideration of the record-keeping issue in the EEOC's motion for sum jgm [72-1] and to re-open disc for the limited purpose of taking testimony regarding the record-keeping issue [72-2] is granted; The parties are permitted to re-open disc for such purpose; Plf EEOC's motion for leave to file, instanter, a reply brief to dft's memorandum in opposition to plf EEOC's motion for sum jgm [75-1] is granted - COPIES MAILED [EOD Date 2/1/00] (ICMSUSER) Modified on 02/02/2000 (Entered: 02/01/2000)
02/10/2000	77	MOTION by plaintiff EEOC to lift stay granted in order filed 1/31/00, filing no 76 ; for order ruling on EEOC's mtn for sum jgm (JAE) (Entered: 02/11/2000)
02/10/2000	78	AFFIDAVIT of Merrily S. Archer, EEOC Trial Atty, regarding plf's motion to lift stay granted in order filed 1/31/00, filing no 76 [77-1], regarding motion for order ruling on EEOC's mtn for sum jgm [77-2] (JAE) (Entered: 02/11/2000)
02/10/2000	79	INDEX by plaintiff EEOC in support of their motion to lift stay granted in order filed 1/31/00, filing no 76 [77-1] and their motion for order ruling on EEOC's mtn for sum jgm [77-2] w/attachments (JAE) (Entered: 02/11/2000)
02/22/2000	80	MOTION by defendant Excel Corporation for leave to file supplemental evidence and brief re plf's motion for sum jgm (ICMSUSER) (Entered: 02/23/2000)
02/23/2000	81	ORDER by Judge Lyle E. Strom granting the dft's motion for leave to file supplemental evidence and brief re EEOC's motion for sum jgm [80-1]; the material submitted shall become part of the record - COPIES MAILED [EOD Date 2/23/00] (ICMSUSER) (Entered: 02/23/2000)
02/23/2000	82	SUPPLEMENTAL INDEX by defendant Excel Corporation in response to motion for summary judgment [50-1] with attachments (ADB) (Entered: 02/24/2000)
03/07/2000	83	ATTORNEY APPEARANCE for plaintiff EEOC by atty Rita Byrnes Kittle (ICMSUSER) (Entered: 03/08/2000)
03/08/2000	84	CERTIFICATE OF SERVICE by intervenor-plaintiff John Brewer of serving pre-trial disclosures (JSF) (Entered: 03/08/2000)
03/15/2000	85	ORDER by Magistrate Judge Kathleen A. Jaudzemis upon notice of settlement, the parties shall file a joint stipulation for dismissal on or before 4/14/00, Absent compliance with this order, this case may be dismissed without further notice; The pretrial conf previously scheduled is canceled upon the representation that this case is settled - COPIES MAILED [EOD Date 3/15/00] (ICMSUSER) Modified on 03/21/2000 (Entered: 03/15/2000)
04/19/2000	86	MOTION by intervenor-plaintiff John Brewer, defendant Excel Corporation, plaintiff EEOC for order approving the agreement in the

		consent decree (no consent decree attached as stated) (SED) (Entered: 04/20/2000)
04/27/2000	87	CONSENT DECREE signed by all parties and by Judge Lyle E. Strom - COPIES MAILED [EOD Date 4/27/00] (JSF) (Entered: 04/27/2000)
05/08/2000	88	ORDER by Judge Lyle E. Strom that inasmuch as the parties have entered into a consent judgment [87-1], said mtns [47-1] [50-1] [77-1] [77-2] are denied as moot; this action shall be closed for statistical purposes with the court retaining jurisdiction until 4/27/03 - COPIES MAILED [EOD Date 5/8/00] (JSF) (Entered: 05/08/2000)

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05/09/2007 10:09:44			
PACER Login:	hs0328	Client Code:	EEOC
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