

CLOSED, MEDIATION

U.S. District Court
Eastern District of New York (Central Islip)
CIVIL DOCKET FOR CASE #: 2:05-cv-04482-LDW-AKT

Equal Employment Opportunity Commission v. Japanese
Food Solutions, Inc.
Assigned to: Senior-Judge Leonard D. Wexler
Referred to: Magistrate-Judge A. Kathleen Tomlinson
Cause: 28:451 Employment Discrimination

Date Filed: 09/22/2005
Date Terminated: 02/21/2007
Jury Demand: Both
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: U.S. Government Plaintiff

Mediator

Eugene S. Ginsberg

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Plaintiff

**U.S. Equal Employment Opportunity
Commission (E.E.O.C.)**

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V.

Defendant

Japanese Food Solutions, Inc.
doing business as
 Minado Restaurant

represented by **Daniel Paul Simpson**
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Date Filed	#	Docket Text
09/22/2005	1	COMPLAINT (<i>No Fee</i>) against Japanese Food Solutions, Inc., filed by U.S. Equal Employment Opportunity Commission (E.E.O.C.). (Attachments: # 1 Civil Cover Sheet)(Serret, Liliana) Modified on 9/23/2005 (Fagan, Linda). (Entered: 09/23/2005)
09/22/2005		Summons Issued as to Japanese Food Solutions, Inc.. (Serret, Liliana) (Entered: 09/23/2005)
09/26/2005		Case Ineligible for Arbitration(Bollbach, Jean) (Entered: 09/26/2005)
11/22/2005	2	ANSWER to Complaint <i>Jury Trial and Corporate Disclosure</i> by Japanese Food Solutions, Inc..(Simpson, Daniel) (Entered: 11/22/2005)
11/22/2005	3	CERTIFICATE OF SERVICE by Japanese Food Solutions, Inc. (Simpson, Daniel) (Entered: 11/22/2005)
11/23/2005		ORDER -- An initial conference is scheduled for January 4, 2006 at 11:00 a.m. SEE ATTACHED ORDER. Signed by Judge James

		Orenstein on 11/23/05. (Adams-Ciardullo, Diana) (Entered: 11/23/2005)
11/23/2005	4	ORDER -- An initial conference is scheduled for January 4, 2006 at 11:00 a.m. SEE ATTACHED ORDER. Signed by Judge James Orenstein on 11/23/05. (Adams-Ciardullo, Diana) (Entered: 11/23/2005)
12/01/2005		Email Notification Test - DO NOT REPLY (Mahon, Cinthia) (Entered: 12/01/2005)
12/06/2005	5	NOTICE of Appearance by Kam Sau Wong on behalf of U.S. Equal Employment Opportunity Commission (E.E.O.C.) (Wong, Kam) (Entered: 12/06/2005)
12/30/2005	6	NOTICE of Appearance by Elliott S. Joffe on behalf of Japanese Food Solutions, Inc. (Joffe, Elliott) (Entered: 12/30/2005)
12/30/2005		ORDER -- On consent of counsel, the conference scheduled for January 4, 2006, at 11:00 a.m. is rescheduled for January 17, 2006, at 1:30 p.m.Approved by Judge James Orenstein on 12/30/05. (Sunshine, Jason) Modified on 12/30/2005 (Dasaro, Michele). (Entered: 12/30/2005)
01/12/2006	7	Proposed Scheduling Order <i>and Case Managment Order</i> by Japanese Food Solutions, Inc.. (Joffe, Elliott) (Entered: 01/12/2006)
01/12/2006	8	CERTIFICATE OF SERVICE by Japanese Food Solutions, Inc. (Joffe, Elliott) (Entered: 01/12/2006)
01/17/2006	11	Minute Entry for proceedings held before James Orenstein : Initial Conference Hearing held on 1/17/2006. SCHEDULING: (1) The next status conference will be held on June 6, 2006, at 11:30 a.m. (2) A pretrial conference will be held on October 17, 2006 at 9:30 a.m. THE FOLLOWING RULINGS WERE MADE: (1) I will enter a separate case management and scheduling order that reflects the deadlines set forth in the parties' joint discovery plan. (2) The parties will submit a jointly proposed protective order (or competing proposals that set forth areas of disagreement) no later than Friday, January 20, 2006. (3) The defendant will provide employee data (including lists of employees, their contact information, dates of birth, and social security numbers), subject to the terms of the protective order, no later than February 3, 2006. (4) I will defer decision on whether the limits on the numbers of interrogatories and depositions should be increased until the parties have more information about the likely number of claimants in the case and the parties' respective discovery needs. (Orenstein, James) Additional attachment(s) added on 1/17/2006 (Dasaro, Michele). (Entered: 01/17/2006)
01/17/2006	10	SCHEDULING ORDER: Deadline for completion of initial disclosures required by Rule 26(a): January 17, 2006. First request for production of documents and first request for interrogatories due by: February 21, 2006. Deadline for joinder of additional parties and amendment of pleadings: April 18, 2006. Status Conference: June 6, 2006, at 11:30 a.m. All discovery, including production of all expert reports, if any, to be completed by: September 12, 2006. Dispositive motion process started

		by: September 26, 2006. Joint pretrial order due by: October 10, 2006. Pretrial Conference: October 17, 2006, at 9:30 a.m. SEE ATTACHED ORDER. Ordered by Judge James Orenstein on January 17, 2006. (Orenstein, James) (Entered: 01/17/2006)
01/20/2006	12	MOTION for Protective Order by Japanese Food Solutions, Inc.. (Attachments: # 1 Text of Proposed Order Proposed Protective Order) (Joffe, Elliott) (Entered: 01/20/2006)
01/20/2006	13	CERTIFICATE OF SERVICE by Japanese Food Solutions, Inc. (Joffe, Elliott) (Entered: 01/20/2006)
01/21/2006	14	RESPONSE in Opposition re 12 MOTION for Protective Order filed by U.S. Equal Employment Opportunity Commission (E.E.O.C.). (Attachments: # 1 Exhibit Proposed Confidentiality and Protective Order) (Wong, Kam) (Entered: 01/21/2006)
01/23/2006	15	RESPONSE in Opposition re 12 MOTION for Protective Order filed by Japanese Food Solutions, Inc.. (Joffe, Elliott) (Entered: 01/23/2006)
01/24/2006		ORDER re 15 Response -- The reply letter by the defendant fails to comply with Rules III.A.1 and III.A.3 of my individual practice rules and will be disregarded. Approved by Judge James Orenstein on 01/24/06. (Adams-Ciardullo, Diana) (Entered: 01/24/2006)
02/15/2006		ORDER denying 12 Motion for Protective Order -- The defendant's application, docket entry ("DE") 12, is denied. The plaintiff's proposed confidentiality and protective order, DE 14-2, is approved. Approved by Judge James Orenstein on 02/15/06. (Adams-Ciardullo, Diana) (Entered: 02/15/2006)
04/04/2006		Mag. Judge A. Kathleen Tomlinson added. Mag. Judge James Orenstein no longer assigned to case. (Tzou, Ilene) (Entered: 04/04/2006)
04/18/2006	16	AMENDED ANSWER to <i>Plaintiff, EEOC Complaint Defendant, Japanese Food Solutions, Inc.</i> by Japanese Food Solutions, Inc.. (Simpson, Daniel) (Entered: 04/18/2006)
06/02/2006	17	Letter to Magistrate Judge A. Kathleen Tomlinson by Japanese Food Solutions, Inc.. (Joffe, Elliott) (Entered: 06/02/2006)
06/02/2006	18	STATUS REPORT by U.S. Equal Employment Opportunity Commission (E.E.O.C.). (Wong, Kam) (Entered: 06/02/2006)
06/06/2006	19	Minute Entry for proceedings held before A. Kathleen Tomlinson : Status Conference held on 6/06/2006. A telephonic status conference will be held on June 16, 2006 at 11:30 a.m. Plaintiffs' counsel is to initiate the call. Within ten days Defendant shall provide an affidavit outlining (a) the documents responsive to Plaintiff's requests that have been located; (b) how the search for responsive documents was conducted; and (c) the documents Defendant was asked for which he was unable to locate. If Plaintiff intends to pursue its claim for damages arising out of one claimants medical condition, Plaintiff shall provide claimant's medical records to me for an in camera review within 30 days. Within ten days,

		Defendant shall produce payroll records setting forth pay in hours or rate and annually for the period in question as well as weekly payroll records for all 6 claimants. Defendant shall also produce financial records responsive to Plaintiff's request for such records, within ten days from any such request. SEE ATTACHED ORDER. Ordered by Magistrate judge A. Kathleen Tomlinson. (Jacobwitz, Beth) Modified on 6/23/2006 (Montero, Edher). (Entered: 06/19/2006)
06/16/2006	20	Minute Entry for proceedings held before A. Kathleen Tomlinson : Telephone Status Conference held on 6/16/2006. SCHEDULING: The next Pretrial Conference will be held on October 17, 2006, at 9:30 a.m. THE FOLLOWING RULINGS WERE MADE: 1. Plaintiff's counsel advises that the one claimant who was considering a claim for damages based upon a medical condition has determined not to pursue such claim. Therefore, claimants are not required to produce HIPAA-compliant medical releases. Any claims for damages based upon alleged emotional distress or medical conditions are hereby waived. 2. Defendant's counsel is reviewing electronic data he has just received and intends to produce that information on a disk to the EEOC. 3. I have given Defendant's counsel until June 23, 2006 to advise the EEOC of his client's position whether he will pay the costs associated with an ad (and possible radio spot) to potential claimants to be published in the surrounding geographic area. 3. A part-time employee of Defendant is scheduled to be deposed on June 23, 2006. Defendant must produce to the EEOC not later than the close of business on June 21, 2006 any documents responsive to the agency's outstanding document request as set forth in the Notice of Deposition served for this individual. SO ORDERED by A. Kathleen Tomlinson, USMJ. (Tomlinson, A.) Modified on 6/19/2006 (Montero, Edher). Modified on 6/19/2006 (Montero, Edher). Additional attachment (s) added on 6/19/2006 (Montero, Edher). Additional attachment(s) added on 6/19/2006 (Montero, Edher). Modified on 6/23/2006 (Montero, Edher). (Entered: 06/19/2006)
06/20/2006	21	Letter MOTION for Reconsideration by U.S. Equal Employment Opportunity Commission (E.E.O.C.). (Attachments: # 1 Exhibit 1, Court Transcript of June 6, 2006, pp. 3-4# 2 Exhibit 2, Court Transcript of June 6, 2006 pp. 21-22# 3 Exhibit 3, Minute Entry of June 6, 2006)(Wong, Kam) (Entered: 06/20/2006)
06/22/2006	22	RESPONSE in Opposition re 21 Letter MOTION for Reconsideration filed by Japanese Food Solutions, Inc.. (Joffe, Elliott) (Entered: 06/22/2006)
07/26/2006	23	Minute Entry for proceedings held before A. Kathleen Tomlinson : Telephone Conference held on 7/26/2006. This conference was scheduled to discuss with the parties the letter motion for reconsideration filed by Plaintiff on June 20, 2006 [DE 21]. For the reasons discussed in the record during today's telephone conference and set forth in a separate Order, Plaintiff's letter motion for reconsideration is DENIED as unnecessary and moot. So Ordered by Judge A. Kathleen Tomlinson. (Tomlinson, A.) (Entered: 07/26/2006)

07/26/2006	24	ORDER finding as moot 21 Motion for Reconsideration filed by U.S. Equal Employment Opportunity Commission (E.E.O.C.). SEE ATTACHED ORDER. Ordered by Judge A. Kathleen Tomlinson on 7/26/06. (Tomlinson, A.) (Entered: 07/26/2006)
07/28/2006	26	TRANSCRIPT of Proceedings/Conference held on June 6, 2006 before Judge A. Kathleen Tomlinson. Court Reporter: Aria Transcriptions. (Mierzejewski, Elizabeth) (Entered: 08/02/2006)
08/01/2006	25	Letter <i>Requesting Inclusion in Mediation Program</i> by U.S. Equal Employment Opportunity Commission (E.E.O.C.). (Attachments: # 1 Text of Proposed Order Stipulation and Proposed Order)(Wong, Kam) (Entered: 08/01/2006)
08/11/2006	27	Letter MOTION for Protective Order <i>Barring Discovery of Claimants' Immigration Status</i> by U.S. Equal Employment Opportunity Commission (E.E.O.C.). (Wong, Kam) (Entered: 08/11/2006)
08/16/2006	28	ORDER REFERRING CASE to Mediation.Selection of Mediator due by 8/30/2006. The parties are offered the option of (a) using a mediator from the Court's panel, (b) selecting a mediator on their own, or (c) seeking the assistance of a reputable neutral ADR organization in the selection of a mediator. Counsel shall consult with the ADR Administrator, Gerald P. Lepp, 718-260-2577, respecting their alternatives and selecting a mediator. Discovery is stayed for 60 days to allow for mediation of this matter. SEE ATTACHED ORDER. Ordered by Judge A. Kathleen Tomlinson on 08/16/06. (Jacobwitz, Beth) (Entered: 08/16/2006)
08/16/2006	29	MEDIATION INSTRUCTIONS sent to Counsel. Attached are Letters of Instruction. By 8/30/06, Counsel are to select a Mediator, schedule the first mediation session, and electronically file and confirm in writing to the ADR Administrator, Gerald P. Lepp, (fax 718-613-2399) the name of the Mediator and the date, time, and place of the first mediation session. Counsel are to confer with each other and to speak directly to the potential mediator in scheduling the first mediation session. For a list of EDNY Mediators and their qualifications, see the Court's website at "www.nyed.uscourts.gov/adr". The Confidentiality Stipulation attached to this notice is to be signed at the mediation session by all participants and the mediator and then faxed (718-613- 2399)to the ADR Administrator. In accordance with Administrative Order 2004-08 (as of August 2, 2004) electronic filing became mandatory in the Eastern District of New York for all cases,(pro se cases are excluded).(Lepp, Gerald) (Entered: 08/16/2006)
08/18/2006	30	Letter MOTION to Take Deposition from Jon Fedenczak <i>as an exception to Stay Order</i> by U.S. Equal Employment Opportunity Commission (E.E.O.C.). (Wong, Kam) (Entered: 08/18/2006)
08/21/2006	31	RESPONSE in Opposition re 30 Letter MOTION to Take Deposition from Jon Fedenczak <i>as an exception to Stay Order</i> filed by Japanese Food Solutions, Inc.. (Joffe, Elliott) (Entered: 08/21/2006)
08/22/2006	32	ORDER denying 30 Motion to Take Deposition from Jon Fedenczak. For

		the reasons set forth in the attached order, Plaintiff's motion to reopen discovery is DENIED and in the event the mediation is unsuccessful, Defendant shall provide dates for the deposition of Mr. Fedenczak forthwith. SEE ATTACHED ORDER. Ordered by JudgeA. Kathleen Tomlinson on 08/22/06. (Jacobwitz, Beth) (Entered: 08/22/2006)
08/25/2006	33	MOTION to Compel <i>appointment of mediator & EEOC to participate in mediation</i> by Japanese Food Solutions, Inc.. (Attachments: # 1 Exhibit A to Tomlinson letter (emails)# 2 Exhibit B to Tomlinson letter (list))(Joffe, Elliott) (Entered: 08/25/2006)
08/25/2006	34	RESPONSE in Opposition re 33 MOTION to Compel <i>appointment of mediator & EEOC to participate in mediation</i> filed by U.S. Equal Employment Opportunity Commission (E.E.O.C.). (Attachments: # 1 Exhibit Emails between EEOC and Defendant)(Wong, Kam) (Entered: 08/25/2006)
08/28/2006	35	Letter dtd. 8/28/06 from Elliott Joffe on behalf of Japanese Food Solutions, Inc. withdrawing the letter motion seeking to compel selection of a mediator. (Montero, Edher) (Entered: 08/30/2006)
08/30/2006		Motions terminated: 33 MOTION to Compel appointment of mediator & EEOC to participate in mediation. (withdrawn as per doc #35). (Ordered by Judge A. Kathleen Tomlinson on 8/30/06)(Montero, Edher) (Entered: 08/30/2006)
09/07/2006	36	SELECTION OF MEDIATOR Eugene S. Ginsberg rep by Eugene S. Ginsberg selected as Mediator. The first mediation session will begin at 10:00AM on 10/11/06 in the offices of the Mediator at Eugene S. Ginsberg, Esq., 300 Garden City Plaza, Garden City, NY 11530. On or before 10/4/06, Counsel shall file with the Mediator their client's mediation statement summarizing the facts, legal issues, particulars of any prior settlement negotiations, and the name and title of the client representative with full settlement authority who will attend the mediation session in person. Attendance in person is required of the trial counsel, insurance adjustor, and client representative with full settlement authority. The Confidentiality Stipulation forwarded with the Mediation Letters of Instruction will be signed at the mediation session by all participants and the mediator and returned to the ADR Administrator, Gerald P. Lepp, fax (718) 613-2399. Contact information for the Mediator is: telephone (516) 746-9307; fax (516) 393-8282; email address "Esginsberg@aol.com".Report of Mediation due by 10/25/2006. (Lepp, Gerald) (Entered: 09/07/2006)
10/12/2006	37	MOTION for Extension of Time to Complete Discovery by Japanese Food Solutions, Inc.. (Joffe, Elliott) (Entered: 10/12/2006)
10/16/2006		ORDER granting 37 Motion for Extension of Time to Complete Discovery. Discovery is stayed in the matter until Novemebr 16, 2006 to allow the parties an opportunity to continue in mediation. Ordered by JudgeA. Kathleen Tomlinson on 10/16/06. (Jacobwitz, Beth) (Entered: 10/16/2006)

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CONSENT JUDGMENT in favor of U.S. Equal Employment Opportunity Commission (E.E.O.C.) against Japanese Food Solutions, Inc.. Ordered by Judge Leonard D. Wexler on 2/21/07. m (Mierzejewski, Elizabeth) (Entered: 02/23/2007)

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