

CLOSED

**U.S. District Court**  
**United States District Court for the Southern District of New York (Foley Square)**  
**CIVIL DOCKET FOR CASE #: 1:98-cv-02270-THK**

E.E.O.C. v. Yellow Freight  
Assigned to: Magistrate Judge Theodore H. Katz  
Demand: \$0  
Cause: 42:12112 Americans with Disabilities Act of 1990

Date Filed: 03/30/1998  
Date Terminated: 09/13/2002  
Jury Demand: Plaintiff  
Nature of Suit: 442 Civil Rights: Jobs  
Jurisdiction: U.S. Government Plaintiff

**Plaintiff**

**Equal Employment Opportunity  
Commission**

represented by **Nora Ellen Curtin**  
U.S. Equal Employment Opportunity  
Commission  
33 Whitehall St., 5th Floor  
New York, NY 10004  
(212) 336-3693  
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*LEAD ATTORNEY*

V.

**Defendant**

**Yellow Freight System Inc.**

represented by **Jeffrey Ivan Pasek**  
Cozen O'Connor, LLP (NYC)  
45 Broadway, 16th Floor  
New York, NY 10006  
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*LEAD ATTORNEY*

**Intervenor Defendant**

**Yellow Freight System Inc.**

represented by **John F. Parker**  
(See above for address)  
*LEAD ATTORNEY*

**Intervenor Plaintiff****Ronald S. Walden****Movant****Ronald S. Walden**represented by **Anne Golden**

Lankenau, Kovner & Kurtz  
 1740 Broadway, 25th floor  
 NY, NY 10019  
 212 489-8230  
**LEAD ATTORNEY**

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
03/30/1998	1	COMPLAINT filed; Summons issued and Notice pursuant to 28 U.S.C. 636(c); (No Fees Due - U.S.A.). (em) (Entered: 03/31/1998)
03/30/1998		Magistrate Judge Katz is so Designated. (em) (Entered: 03/31/1998)
06/02/1998	2	ANSWER to Complaint by Yellow Freight (Attorney John F. Parker). (jp) (Entered: 06/03/1998)
06/02/1998	3	Rule 1.9 certificate filed by Yellow Freight (jp) (Entered: 06/03/1998)
06/05/1998	4	NOTICE OF MOTION by proposed intervenor Ronald S. Walden, for an order granting leave to intervene by Ronald S. Walden ; declaration in support attached; return date not indicated (ls) Modified on 06/08/1998 (Entered: 06/08/1998)
06/05/1998	5	MEMORANDUM by proposed intervenor Ronald S. Walden in support of [4-1] motion for an order granting leave to intervene by Ronald S. (ls) (Entered: 06/08/1998)
06/30/1998	7	Memo endorsed on copy of motion; granting [4-1] motion for an order granting leave to intervene by Ronald S. Walden. ( signed Judge John S. Martin ); Copies mailed. (kw) (Entered: 07/02/1998)
07/01/1998	6	ORDER; at a conference with the Court on 6/29/98, the parties are directed to complete discovery no later than 8/31/98 ; the Court also directed the parties to submit a letter at that time indicating that discovery is complete and that the parties request a conference to set a trial date ( signed by Judge John S. Martin ); Copies mailed (sac) (Entered: 07/02/1998)
07/02/1998	8	AMENDED ORDER, the 6/30/98 order is hereby corrected as follows: the parties are to complete discovery by 11/2/98 (signed by Judge John S. Martin); Copies mailed. (kg) (Entered: 07/02/1998)
09/24/1998	9	Intervenor's COMPLAINT by Ronald S. Walden against Yellow Freight (sac) (Entered: 09/25/1998)
10/20/1998	10	Filed Memo-Endorsement on letter to Judge Martin from Nora E. Curtin dated 10/19/98, reset discovery due for 1/31/99 (signed by Judge John S. Martin) (djc)

		(Entered: 10/21/1998)
10/20/1998	11	ANSWER to Complaint by Yellow Freight; by attorney Jeffrey I. Pasek for defendant Yellow Freight (ls) (Entered: 10/21/1998)
01/22/1999	12	Filed Memo-Endorsement on letter to Judge Martin from Anne Golden dated 1/19/99; reset discovery due for 3/31/99 ; ( signed by Judge John S. Martin ) (ls) (Entered: 01/22/1999)
07/15/1999	13	NOTICE OF MOTION by E.E.O.C., Ronald S. Walden, for summary judgment purs to FRCP 56 , Return date 7/15/99 w. Plaintiffs' Statement of Material Uncontested Facts; (djc) (Entered: 07/16/1999)
07/15/1999	14	AFFIDAVIT of Nicholas Picarello by E.E.O.C., Ronald S. Walden in support Re: [13-1] motion for summary judgment purs to FRCP 56. (djc) (Entered: 07/16/1999)
07/15/1999	15	AFFIDAVIT of Nora E. Curtin by E.E.O.C., Ronald S. Walden in support Re: [13-1] motion for summary judgment purs to FRCP 56 (djc) (Entered: 07/16/1999)
07/15/1999	16	DECLARATION of Anne Golden by E.E.O.C., Ronald S. Walden in support Re: [13-1] motion for summary judgment purs to FRCP 56 (djc) (Entered: 07/16/1999)
07/15/1999	17	AFFIDAVIT of Ronald S. Walden by E.E.O.C., Ronald S. Walden in support Re: [13-1] motion for summary judgment purs to FRCP 56 . (djc) (Entered: 07/16/1999)
07/15/1999	18	MEMORANDUM of LAW by E.E.O.C., Ronald S. Walden in support of [13-1] motion for summary judgment purs to FRCP 56 (djc) (Entered: 07/16/1999)
07/15/1999	19	NOTICE OF CROSS MOTION by Yellow Freight for summary judgment purs to FRCP 56(b) ; Return date not indicated; attached is evidence in support (cd) (Entered: 07/19/1999)
07/15/1999	20	RULE 56.1 STATEMENT filed by Yellow Freight (cd) (Entered: 07/19/1999)
07/15/1999	21	MEMORANDUM by Yellow Freight in support of [13-1] motion for summary judgment purs to FRCP 56 (cd) (Entered: 07/19/1999)
08/13/1999	22	MEMORANDUM by E.E.O.C. in opposition to [19-1] cross motion for summary judgment purs to FRCP 56(b) (ls) (Entered: 08/16/1999)
08/13/1999	23	AFFIDAVIT of Nora E. Curtin by E.E.O.C. in support Re: [22-1] opposition memorandum (ls) (Entered: 08/16/1999)
08/13/1999	24	SUPPLEMENTAL AFFIDAVIT of Ronald S. Walden by E.E.O.C. in opposition Re: [19-1] cross motion for summary judgment purs to FRCP 56(b) (ls) (Entered: 08/16/1999)
08/13/1999	25	RESPONSE by E.E.O.C. Re: [20-1] settlement notice (ls) (Entered: 08/16/1999)
08/16/1999	26	Defendant's Opposition to Plaintiffs' Statement of Material Uncontested Facts (djc) (Entered: 08/17/1999)

08/16/1999	27	REPLY MEMORANDUM by Yellow Freight re: [18-1] support memorandum (djc) (Entered: 08/17/1999)
10/13/1999	28	Notice of reassignment to Judge William H. Pauley III Copy of notice and judge's rules mailed to Attorney(s) of record: Nora E. Curtin . (bm) (Entered: 10/22/1999)
12/20/1999	29	ORDER, set oral argument on plttf's motion and deft's cross-motion for summary judgment for 2:30 1/28/00 (signed by Judge William H. Pauley III ); Copies mailed. (lam) (Entered: 12/27/1999)
01/28/2000		Oral argument held before Judge William H. Pauley III; Judge's decision reserved. (lam) (Entered: 02/01/2000)
03/21/2000	30	ORDER, denying [13-1] motion for summary judgment purs to FRCP 56, and denying [19-1] cross motion for summary judgment purs to FRCP 56(b); set pre-trial conference for 10:00 a.m. on 5/12/00 ( signed by Judge William H. Pauley III ); mailed. (kw) (Entered: 03/23/2000)
04/03/2000	31	NOTICE OF MOTION by Yellow Freight; for an order granting reconsideration of the order that it issued on 3/21/00 (docketed 3/23/00) and to grant defendant's cross-motion for summary judgment ; no return date indicated. (Received in the night deposit box on 4/3/00 at 6:10 p.m.) (kw) (Entered: 04/05/2000)
04/03/2000	32	MEMORANDUM OF LAW by Yellow Freight in support of [31-1] motion for an order granting reconsideration of the order that it issued on 3/21/00 (docketed 3/23/00) and to grant defendant's cross-motion for summary judgment. (Received in the night deposit box on 4/3/00 at 6:10 p.m.) (kw) (Entered: 04/05/2000)
04/17/2000	33	MEMORANDUM OF LAW by E.E.O.C. in opposition to [31-1] motion for an order granting reconsideration of the order that it issued on 3/21/00 (docketed 3/23/00) and to grant defendant's cross-motion for summary judgment (sac) (Entered: 04/19/2000)
04/28/2000	34	REPLY by Yellow Freight to Re: [33-1] opposition memorandum. (kw) (Entered: 05/02/2000)
05/12/2000		Pretrial Conference held and conclude before Judge William H. Pauley III. Contested issue - yes. (kw) (Entered: 05/25/2000)
05/16/2000	35	SCHEDULING ORDER: the parties shall submit a joint pretrial order by 7/7/00; a final pretrial conference is set for 7/21/00 at 11:15 a.m. ( Signed by Judge William H. Pauley III ); copies mailed. (kw) (Entered: 05/16/2000)
05/24/2000	36	ORDER, denying [31-1] motion for an order granting reconsideration of the order that it issued on 3/21/00 (docketed 3/23/00) and to grant defendant's cross-motion for summary judgment. (signed by Judge William H. Pauley III); Copies mailed. (ri) (Entered: 05/30/2000)
07/21/2000		Pretrial Conference held and concluded before Judge William H. Pauley III. Contested issue - yes. (kw) (Entered: 07/31/2000)
07/24/2000	37	Joint PRE-TRIAL ORDER filed; (signed by Judge William H. Pauley III ) (djc) (Entered: 07/24/2000)

07/27/2000	38	SCHEDULING ORDER: the parties shall notify the Court if they wish to proceed before a magistrate judge by 7/31/00; if the parties proceed before this Court, the parties shall submit proposed voir dire, jury instructions, and a verdict sheet by 12/4/00; if the parties proceed before this Court, this action shall be trial ready on 48 hrs notice on 12/11/00 ( signed by Judge William H. Pauley III ); Copies mailed by Chambers. (lam) Modified on 07/31/2000 (Entered: 07/28/2000)
12/04/2000	39	Proposed Voir Dire Questions by E.E.O.C., Ronald S. Walden (lam) (Entered: 12/06/2000)
12/04/2000	40	Jury instructions filed by plttfs (filed in night deposti with voir dire questions on 12/4/00 @9:30pm) (lam) (Entered: 12/06/2000)
12/18/2000	41	MEMORANDUM OF LAW by E.E.O.C. in opposition to defendant's motion in limine to offset workers' compensation benefits from potential back pay. (Received in the night deposit box on 12/18/00 at 6:32 p.m.) (kw) (Entered: 12/21/2000)
12/18/2000	42	MEMORANDUM OF LAW by E.E.O.C. in opposition to defendant's motion in limine to exclude from evidence the determinations of the NYSDHR and EEOC. (Received in the night deposit box on 12/18/00 at 6:32 p.m.) (kw) (Entered: 12/21/2000)
12/18/2000	43	DECLARATION of Nora E. Curtin by E.E.O.C. in support Re: [42-1] opposition memorandum. (Received in the night deposit box on 12/18/00 at 6:32 p.m.) (kw) (Entered: 12/21/2000)
01/03/2001	44	REPLY MEMORANDUM by Yellow Freight to re: [42-1] opposition memorandum. (kw) (Entered: 01/04/2001)
01/03/2001	45	REPLY MEMORANDUM by Yellow Freight to re: [41-1] opposition memorandum. (kw) (Entered: 01/04/2001)
04/09/2001		Telephone Conference held before Judge William H. Pauley III. (lam) (Entered: 04/27/2001)
04/17/2001	46	ORDER, the trial in this action is adjourned and shall be set on this Court's trial-ready calendar, subject to forty-eight hours' notice on 5/14/01 . ( signed by Judge William H. Pauley III ); Copies mailed. (kw) (Entered: 04/18/2001)
05/04/2001		Telephone Conference held before Judge William H. Pauley III. (kw) (Entered: 05/24/2001)
05/21/2001	47	CONSENT TO TRIAL/PROCEED BEFORE UNITED STATES MAGISTRATE JUDGE. CASE ASSIGNED to Magistrate Judge Theodore H. Katz. ( signed by Judge William H. Pauley III ) (kw) (Entered: 05/22/2001)
06/20/2001		Final Pretrial Conference held before Magistrate Judge Theodore H. Katz; Trial scheduled for October 15-19, 2001. (pl) (Entered: 06/25/2001)
07/03/2001	48	ORDER, set settlement conference for 2:00 7/18/01 in Courtroom 20D, 500 Pearl Street . ( signed by Magistrate Judge Andrew J. Peck ); Copies mailed. (ae) Modified on 07/05/2001 (Entered: 07/05/2001)

07/20/2001		Settlement Conference held before Magistrate Judge Andrew J. Peck . (pl) (Entered: 07/24/2001)
09/25/2001	49	Memo-Endorsement on letter addressed to Magistrate Judge Katz from Anne Golden, dated 9/18/01: The trial in this action is adjourned sine die. By 10/1/01, the parties shall either propose attractive trial dates or seek a conference with the Court . ( signed by Magistrate Judge Theodore H. Katz ); Copies mailed. (tp) (Entered: 09/26/2001)
09/27/2001	51	Letter filed by Ronald S. Walden addressed to Hon. Theodore H. Katz from Anne Golden, dated 9/18/01, re: adjournment of bench trial. (yv) (Entered: 10/15/2001)
10/10/2001	50	Letter filed by Ronald S. Walden addressed to Magistrate Judge Katz from Anne Golden, dated 10/1/01, re: request for a conference. (bai) (Entered: 10/12/2001)
10/23/2001		Pretrial Conference held before Magistrate Judge Theodore H. Katz; pre-trial briefs due 12/21/01; trial date set for 1/28/02-1/31/02 . (bai) Modified on 10/24/2001 (Entered: 10/24/2001)
11/02/2001	52	NOTICE of address change filed by E.E.O.C. . (yv) (Entered: 11/07/2001)
12/04/2001	54	NOTICE OF MOTION by Yellow Freight; for an Order providing that any damages awarded to Plaintiff Ronald S. Walden ("Walden") for back pay should be offset by the amount of compensation received by Walden from Yellow Freight's workers' compensation program . Return date not indicated. (jco) (Entered: 12/07/2001)
12/06/2001	53	MEMORANDUM OPINION AND ORDER #86325; deft's motion to offset a potential back pay award is granted to the extent that it will permitted to offer evidence at trial demonstrating its entitlement to reduce any back pay award by the amount of workers' compensation benefits it directly provided Pltff, and denied to the extent that deft has moved this Court to make a final determination on this issue in limine. Def't's motion to exclude evidence of the NYDHR and EEOC determinations is denied. ( signed by Magistrate Judge Theodore H. Katz ); Copies mailed. (sac) (Entered: 12/06/2001)
12/21/2001	55	PRE-TRIAL BRIEF by E.E.O.C. (yv) (Entered: 12/26/2001)
12/21/2001	56	PRETRIAL BRIEF REGARDING LEGAL ISSUES (djc) (Entered: 12/27/2001)
02/06/2002	57	NOTICE OF MOTION by Yellow Freight for Jeffrey L. Braff to appear pro hac vice for deft Yellow Freight ; Return date not indicated (cd) (Entered: 02/08/2002)
02/06/2002	58	NOTICE OF MOTION by Yellow Freight for Anita B. Weinstein to appear pro hac vice for deft Yellow Freight ; Return date not indicated (cd) (Entered: 02/08/2002)
03/11/2002	59	Transcript of record of proceedings before Magistrate Judge Theodore H. Katz for the date(s) of 1/28/02, 1/29/02, 1/30/02, 1/31/02, 2/1/02, 2/4/02, 2/5/02, 2/6/02, 2/7/02, 2/8/02. (yv) (Entered: 03/11/2002)
03/22/2002	60	PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW by E.E.O.C. . (pl) (Entered: 03/25/2002)

03/22/2002	61	PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW by Yellow Freight . (pl) (Entered: 03/25/2002)
03/22/2002	62	UNREPORTED CASES CITED IN DEFENDANT'S PRETRIAL BRIEF AND/OR POST-TRIAL BRIEF. (pl) (Entered: 03/25/2002)
03/22/2002	63	POST-TRIAL BRIEF by Yellow Freight (pl) Modified on 03/25/2002 (Entered: 03/25/2002)
05/29/2002		Terminated documents 54-1,57-1,58-1 pursuant to instructions of Magistrate Judge Katz as indicated on the CJRA report. (motions decided) (rag) (Entered: 05/29/2002)
09/09/2002	64	MEMORANDUM OPINION # 87405, for reasons set forth, the Court finds that Defendant unlawfully discriminated against Plaintiff Ronald S. Walden on account of his disability, in violation of both the Americans with Disabilities Act, 42 U.S.C. 12112, and New York Human Rights Law, N.Y. Exec. Law 296. Accordingly, it is hereby ORDERED: (1) The Clerk of the Court shall enter judgment in favor of Plaintiffs, the Equal Employment Opportunity Commission and Ronald Walden, and against Defendant, Yellow Freight Systems, Inc.; (2) The Judgment shall include an award to Walden of \$156,867 in backpay, along with prejudgment interest, to be calculated by the Clerk of the Court according to the formula set forth above, at 84-86; and an award to Walden of \$50,000 in punitive damages; (3) Within forty-five days of the entry of judgment, Defendant shall make the contributions to Plaintiff's pension fund that it would have made had Plaintiff worked as a Yard Jockey from September 23, 1994, through March 30, 2001 . ( signed by Magistrate Judge Theodore H. Katz ); Copies mailed. Document forwarded to judgment clerk. (yv) (Entered: 09/10/2002)
09/13/2002	65	JUDGMENT #02,1764. For the reasns stated in the Court's Opinion (87405) and Order dated Sepember 4, 2002, judgment is entered in favor of plaintiffs, the EEOC and Ronald Walden, and against defendant Yellow Freight System, Inc.; Walden is awarded \$156,867 in backpay, along iwth prejudgment interest of \$43,875.66 and \$50,000 in punitive damages for a total sum of \$250,742.66, and within forty-five days of the entry of judgment, defendant is ordered to make contributions to plaintiff's pension fund that it wouldl have made had plaintiff worked as a yard Jockey from September 23, 1994, through March 30, 2001; (signed by James M. Parkison, Clerk of the Court); Mailed copies and notice of right to appeal. Entered On Docket: 09/17/02. (djc) (Entered: 09/17/2002)
09/13/2002		Case closed. (djc) (Entered: 09/17/2002)
10/01/2002	66	STIPULATION and ORDER, counsel for the parties hereby stipulate and agree as follows: intervenor plaintiff's motion for attorney's fees shall be served so as to be received by dft's counsel on or before 10/29/02; dft's response shall be served so as to be received by intervenor plaintiff's counsel on or before 11/27/02; interveor plaintiff's reply papers, if any , shall be served so as to be received by dft's counsel on or before 12/13/02 , Upon receipt of plaintiff's motion, the parties are expected to make good faith effort to resolve the issue of attorneys' fees . ( signed by Magistrate Judge Theodore H. Katz ) copies mailed by chambers 9/30/02. (dle) (Entered: 10/18/2002)

10/04/2002	67	Transcript of record of proceedings before Magistrate Judge Theodore H. Katz for the date(s) of 1/28/02. (moc) (Entered: 10/08/2002)
10/04/2002	68	Transcript of record of proceedings before Magistrate Judge Theodore H. Katz for the date(s) of 1/29/02. (moc) (Entered: 10/08/2002)
10/04/2002	69	Transcript of record of proceedings before Magistrate Judge Theodore H. Katz for the date(s) of 1/30/02. (moc) (Entered: 10/08/2002)
10/04/2002	70	Transcript of record of proceedings before Magistrate Judge Theodore H. Katz for the date(s) of 1/31/02. (moc) (Entered: 10/08/2002)
11/27/2002	71	Memo-Endorsement on letter addressed to Mag. Judge Katz from Jeffrey L. Braff, dated 11/27/02; in view of the resolution of the attorneys' fees issue, the Court's September 30, 2002 scheduling order is vacated ; (signed by Magistrate Judge Theodore H. Katz ); Copies mailed by Chambers; (dj) (Entered: 12/02/2002)

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