

CLOSED

U.S. District Court
Northern District of New York – Main Office (Syracuse) [LIVE – Version 4.0.3]
(Syracuse)
CIVIL DOCKET FOR CASE #: 5:93-cv-01600-FJS-GJD

Brewer, et al v. Miller Brewing Co.
Assigned to: Senior Judge Frederick J. Scullin, Jr
Referred to: Magistrate Judge Gustave J. DiBianco
Demand: \$0
Cause: 42:1981 Job Discrimination (Race)

Date Filed: 12/23/1993
Date Terminated: 02/27/1995
Jury Demand: Plaintiff
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: Federal Question

Plaintiff

Cynthia R. Brewer
individually and on behalf of all others
similarly situated

represented by **Anita U. Roberts**
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Plaintiff

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Bernard Persky
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Richard T. Seymour
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Plaintiff

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similarly situated

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V.

Defendant

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Date Filed	#	Docket Text
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12/23/1993	1	COMPLAINT filed; FILING FEE \$ 120.00 RECEIPT # 16881 ; Service deadline 2/21/94 for Miller Brewing Co. (fce) (Entered: 12/27/1993)
12/23/1993		SUMMONS(ES) issued for Miller Brewing Co. (fce) (Entered: 12/27/1993)
12/23/1993		CASE REFERRED to Magistrate Judge Gustave J. DiBianco (fce) (Entered: 12/27/1993)
12/23/1993		Filing Order Issued; Conference set before Magistrate Judge Gustave J. DiBianco in Syracuse, Status Conference at 9:30 5/4/94 , Deadline for filing Case Management Plan, 4/25/94 (fce) (Entered: 12/27/1993)
01/03/1994	2	SUMMONS Returned Executed as to Miller Brewing Co. through Secretary of State, Tammy Alexander, authorized agent on 12/28/93 : Answer due on 1/17/94 for Miller Brewing Co. (bjw) (Entered: 01/04/1994)
01/18/1994	3	ANSWER to Complaint by Miller Brewing Co. (Attorney Thomas J. Grooms), (bjw) (Entered: 01/19/1994)
01/26/1994	4	MEMORANDUM OF LAW by Cynthia R. Brewer, Giles E. Gibson, J. D. Smith Jr. in support of their motion for Preliminary Injunction Restricting Defts' contacts with absent class members; with certificate of service attached (dmf) Modified on 02/02/1994 (Entered: 01/26/1994)
01/26/1994	5	AFFIDAVIT of Bernard Persky, Esq. by Cynthia R. Brewer, Giles E. Gibson, J. D. Smith Jr. in support of pltf's application for temporary restraining order and motion for preliminary injunction; with exhibits attached (dmf) Modified on 02/02/1994 (Entered: 01/26/1994)
01/26/1994	6	MEMORANDUM OF LAW by Miller Brewing Co. in opposition to Pltf's Motion to Show Cause (dmf) Modified on 02/02/1994 (Entered: 01/26/1994)
01/26/1994	7	DECLARATION of Albert R. Butler by Miller Brewing Co. in Support of Miller Brewing Company's Memo of Law in Opposition to pltf's motion to Show Cause (dmf) Modified on 02/02/1994 (Entered: 01/26/1994)
01/26/1994	8	STIPULATION & ORDER: Parties agree that: 1) Defendant may transmit proposed severance package to any employees who are not members of the putative class; 2) Defendant will not transmit package to employees who are members of the putative class until hearing and determination of plaintiff's motion for preliminary injunction; 3) Parties will co-operate to come to an agreement on modified language or a proposed notice to be included as a part of a severance package to be sent to African-American employees, as allowed by the Court, 4) If parties are unable to agree on language or notice, plaintiffs reserve right to request appropriate relief of Court; 5) Defendant will use best efforts to ensure that inquiries about severance package not being transmitted to putative class members are referred to appropriate official of defendant and that defendant respond by stating matter is pending in USDC. dated January 26, 1994. Signed by Bernard Persky for pltf's, Thomas Grooms for Deft. (signed by Senior Judge Howard G. Munson) (jmb) Modified on 02/02/1994 (Entered: 01/27/1994)
01/26/1994	9	Minute entry:, Hon. Howard G. Munson, Senior USDJ, Presiding. Court reviews application for possible temporary restraining order / preliminary injunction by pltf's. Parties agree to consider proposed stipulation to terms which would obviate need for TRO. Parties to proceed to hearing on preliminary injunction before Hon. Frederick J. Scullin, USDJ. Appearances: Anita U. Roberts, Bernard Persky and Richard T. Seymour for pltf's; Thomas J. Grooms, Donald R. Livingston and Richard L. Wyatt for deft. Attorneys Livingston and Wyatt admitted to NDNY by Senior Judge Munson. Court Reporter/ECRO: Kenneth Crewell. (ptm) Modified on 02/03/1994 (Entered: 01/27/1994)
02/03/1994	10	ORDER TO SHOW CAUSE: by Cynthia R. Brewer, Giles E. Gibson, J. D. Smith Jr. to Certify Class with respect to punitive damage claims and compensatory damage claims Motion to be taken ON SUBMIT. Show Cause Response Deadline 2/21/94 ; (Signed by Judge Frederick J. Scullin Jr.) (bjw) (Entered: 02/08/1994)
02/03/1994	11	MEMORANDUM by Cynthia R. Brewer, Giles E. Gibson, J. D. Smith Jr. in support of [10-1] motion to Certify Class with respect to punitive damage claims

		and compensatory damage claims (bjw) (Entered: 02/08/1994)
02/03/1994	12	AFFIDAVIT by Cynthia R. Brewer, Giles E. Gibson, J. D. Smith Jr. through Bernard Persky, Esq. Re: [10-1] motion to Certify Class with respect to punitive damage claims and compensatory damage claims (bjw) (Entered: 02/08/1994)
02/03/1994	13	SUPPLEMENTAL MEMORANDUM by Cynthia R. Brewer, Giles E. Gibson, J. D. Smith Jr. in further support of [10-1] motion to Certify Class with respect to punitive damage claims and compensatory damage claims (bjw) (Entered: 02/08/1994)
02/03/1994	14	AMICUS CURAIE BRIEF filed by NYS Attorney General's Office, with permission granted by Judge Frederick Scullin, Jr. (bjw) (Entered: 02/08/1994)
02/03/1994	16	Minute entry: Hearing on preliminary injunction – APP: Anita Roberts, Bernard Persky, Richard Seymour for pltfs; Thomas Grooms, Donald Livingston, Richard Wyatt for deft. Atty Seymour is admitted pro hac vice. Oral argument is heard and judge reserves decision; decision will be rendered Monday 2/7/94. Pltfs to file motion for class certification. Court Reporter/ECRO: Eileen McDonough (jat) (Entered: 02/14/1994)
02/07/1994	17	Minute entry: Ruling on preliminary injunction – denied, no irreparable harm found. Deft has two weeks to respond to class certification motion. APP: Anita Roberts for pltfs; Thomas Grooms for deft. Court Reporter/ECRO: E. McDonough (jat) (Entered: 02/14/1994)
02/08/1994	15	CERTIFICATE OF SERVICE BY FAX AND BY HAND by Cynthia R. Brewer, Giles E. Gibson, J. D. Smith Jr. re: Order to Show Cause Why Class Should Not be Certified on 2/3/94. (bjw) (Entered: 02/09/1994)
02/16/1994	18	TRANSCRIPT filed for dates of 2/7/94– Decision, Syracuse, NY (bjw) (Entered: 02/17/1994)
02/17/1994	19	REQUEST and ORDER, Response to Motion reset to 3/1/94 for [10-1] motion to Certify Class with respect to punitive damage claims and compensatory damage claims and that defts. shall not contact punitive class members from 5:00 pm 2/21/94 until 3/1/94 except contact w/ deft. management personnel. (signed by Magistrate Judge Gustave J. DiBianco) (bjw) (Entered: 02/18/1994)
02/22/1994	20	TRANSCRIPT filed for dates of 2/3/94 re: hearing on preliminary injunction in Syracuse, NY. (bjw) (Entered: 02/23/1994)
03/01/1994	21	LETTER REQUEST by Thomas Grooms Esq. to file brief beyond 25 page limit GRANTED per direction of Judge Scullin. (bjw) (Entered: 03/01/1994)
03/08/1994	22	MEMORANDUM and Proposed Order by Miller Brewing Co. in opposition to [10-1] motion to Certify Class with respect to punitive damage claims and compensatory damage claims (bjw) (Entered: 03/08/1994)
03/08/1994	23	DECLARATION by Miller Brewing Co. through J. Kenneth Michaelchuck Re: [22-1] opposition memorandum (bjw) (Entered: 03/08/1994)
03/08/1994	24	AFFIDAVIT and DECLARATIONS (various) by Miller Brewing Co. Re: [22-1] opposition memorandum (bjw) (Entered: 03/08/1994)
03/30/1994	25	MOTION by Cynthia R. Brewer, Giles E. Gibson, J. D. Smith Jr. to Amend [1-1] complaint , Hearing set for 10:00 AM on 4/28/94 in Syracuse, Response Deadline 4/14/94 , Reply to Response Deadline 4/21/94; with Affidavit of Bernard Persky and exhibits attached; Motion returnable before Magistrate Judge DiBianco (dmf) (Entered: 03/30/1994)
03/30/1994	26	MEMORANDUM OF LAW by Cynthia R. Brewer, Giles E. Gibson, J. D. Smith Jr. in support of [25-1] motion to Amend [1-1] complaint (dmf) (Entered: 03/30/1994)
03/30/1994	27	ORDER granting [25-1] motion to Amend [1-1] complaint; pltfs. are permitted to serve and file the amended complaint in this action; pltfs. shall serve upon counsel for the deft. Miller Brewing Comp., a copy of the amended complaint within ten days of this Order (signed by Magistrate Judge Gustave J. DiBianco) (dmf)

		(Entered: 03/31/1994)
04/07/1994	28	AMENDED COMPLAINT with Jury Demand by Cynthia R. Brewer, Giles E. Gibson, J. D. Smith Jr. , Answer due 4/17/94 for Miller Brewing Co. , amends [1-1] complaint (jmb) (Entered: 04/08/1994)
04/11/1994		WITHDRAWAL of [10-1] motion to Certify Class with respect to punitive damage claims and compensatory damage claims (jmb) (Entered: 04/13/1994)
04/11/1994	29	Letter by Atty Bernard Persky Re: withdrawal of Motion for Class Certification (jmb) (Entered: 04/13/1994)
04/18/1994	30	ANSWER by Miller Brewing Co. (Attorney Thomas J. Grooms) to amended complaint; w/attached affidavit of service by mail. (jmb) (Entered: 04/18/1994)
05/04/1994	31	Proposed Joint Civil Case Management Plan Submitted. (bjw) (Entered: 05/13/1994)
05/04/1994	32	Minute entry: Initial Status Conference before Mag. Judge DiBianco held. Uniform Pretrial Order issued. APP: Anita Roberts, Bernard Persky, Richard Seymour for Pltf; Thomas Grooms, Donald Livingston for Deft. Court Reporter/ECRO: None (bjw) (Entered: 05/13/1994)
05/04/1994	33	Uniform Pretrial Order; Trial Ready by: 6/23/95; Length of Trial 21 days; Trial Location: Syracuse; Joinder of Parties/Amendment of Pleadings w/i 6 weeks Class Certification motion decision; Discovery Deadline 1/23/95 ; Motion Filing Deadline 3/23/95 ; Jury Trial Deadline 6/26/95 ; (Signed by: Magistrate Judge Gustave J. DiBianco) (bjw) (Entered: 05/13/1994)
05/23/1994	34	LETTER of behalf of Miller Brewing Co. pursuant to General Order #41 regarding Motion: to Dismiss-Amended Complaint served. (jmb) (Entered: 05/25/1994)
06/07/1994	35	ORDER denying [10-1] motion to Certify Class/Preliminary Injunction restricting defendant's communications with putative class members regarding Millers severance program; denying plaintiff's request for an Order mandating the inclusion of a notice of a class meeting in Miller's severance package; Decision from the Bench 2/7/94. (signed by Judge Frederick J. Scullin Jr.) (jmb) (Entered: 06/10/1994)
06/22/1994	36	ORDER that Amended Complaint is dismissed as to relief sought for conduct occurring before 11/21/91 and as to the extent thjat it seeks compensatory and punitive damages for conduct occurring before 11/221/91 pending a change in the law. (signed by Judge Frederick J. Scullin Jr.) (bjw) (Entered: 06/22/1994)
11/18/1994	37	Minute entry: Telephone Conference held. Attys. advise they have reached a preliminary settlement for the class. Settlement to be forwarded to the Court week of 11/21/94 for consideration. If settlement approved, atty. fees will remain the only outstanding issue which may be consented to w/o Court intervention. Rule 16 Scheduling Order held in abeyance pending settlement. APP: Bernard persky and Richard Seymour for Pltfs.; Donald Livingston for Deft.; Clerk: B. Woodford; Court Reporter/ECRO: None (bjw) (Entered: 11/27/1994)
12/02/1994	38	JOINT MOTION/MEMORANDUM OF LAW by Cynthia R. Brewer, Giles E. Gibson, J. D. Smith Jr., Miller Brewing Co. for Settlement resolving all claims asserted in this employment discrimination class aciton (jmb) (Entered: 12/05/1994)
12/02/1994	39	AFFIDAVIT by Cynthia R. Brewer, Giles E. Gibson, J. D. Smith Jr. in support of [38-1] joint motion for Settlement resolving all claims asserted in this employment discrimination class aciton (jmb) (Entered: 12/05/1994)
12/29/1994	40	ORDER granting [38-1] joint motion for Settlement resolving all claims asserted in this employment discrimination class action; the notice shall be mailed to class members by 1/9/95; the summary of the notice shall be published at the deft's expense, in the Syracuse Herald Journal &the Fulton Post Standard once a week for three consecutive weeks beginning no later than 1/9/95; a Fairness Hearing will be held on 2/27/95 at 1:00PM in Syracuse, NY; parties may file pleadings &papers in connection with the final approval of the proposed settlement agreement by

		2/24/95; all other proceedings, other than those relating to the proposed settlement, are STAYED, and the scheduling order is vacated (Signed by Judge Frederick J. Scullin Jr.) (jmb) (Entered: 01/03/1995)
02/24/1995	41	JOINT MOTION by NYS Attorney General, Giles E. Gibson, Cynthia R. Brewer, J. D. Smith Jr., Miller Brewing Co. for Settlement w/attached affidavit of Bernard Persky; Motion before Judge Scullin on Submit. (jmb) (Entered: 02/24/1995)
02/24/1995	42	AFFIRMATIONS/DECLARATIONS by Miller Brewing Co. through Thomas J. Grooms, Esq., & Albert R. Butler, in support of [41-1] Joint Motion for Settlement (jmb) (Entered: 02/24/1995)
02/24/1995	43	MEMORANDUM OF LAW by NYS Attorney General, Giles E. Gibson, Cynthia R. Brewer, J. D. Smith Jr., Miller Brewing Co. in support of [41-1] joint motion for Settlement (jmb) (Entered: 02/24/1995)
02/27/1995	44	Minute entry: Fairness Hearing held. Decision re: class action settlement read into the record. Court finds the settlement to be fair and reasonable and that no objections to same have been filed. Court approves settlement agreement and certification of settlement class and signs order from bench granting [41-1] joint motion for Settlement. Court notes that settlement DOES NOT include atty. fees. APP: Brenard Persky, Esq.; Richard Seymour, Esq.; Anita Roberts, Esq. for Class Pltfs.; Donlad Livingston, Esq.; Thomas Grooms, Esq.; Albert Butler of Miller Brewing for Def.; Court Reporter/ECRO: E. McDonough (bjw) (Entered: 02/27/1995)
02/27/1995	45	ORDER granting [41-1] Joint Motion for final approval of Settlement Agreement and Certification of Settlement Class. (Signed by Judge Frederick J. Scullin Jr.) (jmb) (Entered: 02/27/1995)
02/27/1995		Case closed; pursuant to [45-1] Order of Settlement. (jmb) (Entered: 02/27/1995)
03/07/1995	46	TRANSCRIPT of Motion Hearing filed for dates of 2/27/95 (Court Reporter: Eileen McDonough) (jmb) (Entered: 03/08/1995)
03/21/1995	47	CONSENT ORDER: allowing payments to be made to the named Plaintiffs and Class Members from the escrow account of the Lawyers Committee for Civil Rights under Law; such payments to be made as soon as possible. (Signed by Judge Frederick J. Scullin Jr.) (jmb) (Entered: 03/22/1995)
06/20/1995	48	DECLARATION by Giles E. Gibson, Cynthia R. Brewer, J. D. Smith Jr., through Richard T. Seymour, Esq., Re: the court entering an order granting certification to the plaintiff settlement class under FRCP 23(b)(3). (jmb) (Entered: 06/20/1995)
06/22/1995	49	STIPULATION/ORDER of dismissal with prejudice by Giles E. Gibson, Cynthia R. Brewer, J. D. Smith Jr., Miller Brewing Co.; that costs and attorneys' fees are to be paid as set forth in the attorneys' fees settlement agreement; that the entry of this order shall not be deemed or construed to be an admission, in any manner, of any liability by Miller Brewing Company. (Signed by Judge Frederick J. Scullin, Jr.) (jmb) (Entered: 06/23/1995)
09/05/2001		Changed address for Atty. Seymour in ICMS. (lmp) (Entered: 09/05/2001)
09/28/2007		This file has been retired to the Federal Records Center. For informational purposes, the FRC location numbers are as follows: Accession No. 021-96-0253; Box No. 51 of 70; Location No. C92-04-05-5. (see) (Entered: 09/28/2007)