

**U.S. District Court  
Eastern District of New York (Brooklyn)  
CIVIL DOCKET FOR CASE #: 1:94-cv-04269-SJ**

Leykis, et al v. New York Post Holdin, et al  
Assigned to: Senior-Judge Sterling Johnson, Jr  
Demand: \$0  
Cause: 29:621 Job Discrimination (Age)

Date Filed: 09/09/1994  
Date Terminated: 01/31/1996  
Jury Demand: Plaintiff  
Nature of Suit: 442 Civil Rights: Jobs  
Jurisdiction: Federal Question

**Plaintiff**

**Harold Leykis**

represented by **Leonard Nathan Flamm**  
Law Offices of Leonard N. Flamm  
880 Third Avenue  
Suite 1300  
New York, NY 10022  
(212)752-3380  
Fax: (212)755-1670  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Hugh Delano**

represented by **Leonard Nathan Flamm**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Bernard Bard**

represented by **Leonard Nathan Flamm**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Carole Lee**

represented by **Leonard Nathan Flamm**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Arthur Pomerantz**  
*on behalf of themselves and on behalf of  
all persons similarly Situated*

represented by **Leonard Nathan Flamm**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**New York Post Holding, Inc.,**

represented by **Clifford Thau**  
Squadron, Ellenoff, Plesant, Sheinfeld  
&Sorkin  
551 Fifth Avenue  
New York, NY 10176  
(212) 661-6500  
**TERMINATED: 01/12/1995**  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Laura Davidson**  
 Squadron, Ellenoff, Plesent, Sheinfeld  
 &Sorkin  
 551 Fifth Avenue  
 New York, NY 10176  
 (212) 661-6500  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**New York Post Company**  
*TERMINATED: 01/12/1995*

**Defendant**

**Rupert Murdoch**  
*TERMINATED: 03/24/1997*

represented by **Laura Davidson**  
 (See above for address)  
*TERMINATED: 03/24/1997*  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
09/09/1994	1	COMPLAINT filed and summons(es) issued for New York Post Holdin, New York Post Co., Rupert Murdoch FILING FEE \$ 120.00 RECEIPT # 39366 (Greene, Donna) (Entered: 09/14/1994)
09/09/1994		CASE REFERRED to Magistrate Joan M. Azrack (Greene, Donna) (Entered: 09/14/1994)
09/09/1994	2	CONSENT TO JOINT to become a party plaintiff to this lawsuit by Paul Kaplan, Robert Breil, John Ascher, Alan Morton, Arnold Samuelsen, Maril McFaul, Edward Diolla, Jr., Gerald Engel, Fred Capitelli, James Sullivan, Neil Schneider, Stephen Linsey, Jerry Tallner, Thomas Bonfiglio, Charles Sussman, Samuel Taylor, Jr., Joseph Demaria, Thomas Rodger, William Noonan, Jr., and Marilyn Fox. (Yuen, Sui May) (Entered: 09/16/1994)
09/09/1994	3	CONSENT TO JOINT to become a party plaintiff in this lawsuit by Richard Benvenut, Ralph Ginzburg, Carmen Burdi, Virginia Kellner, Carl Pelleck, Daniel O'Donnen, Ken Wenthen, Jr., Peter Coutros, Bernuce Doyle Sampson, John Swenson, Herman Dorfman, Robert Kalfus, John Hawkins, Michael Gruber, Alvesta Young, and Marvin Smilon. (Yuen, Sui May) (Entered: 09/16/1994)
09/09/1994	4	CONSENT TO JOINT to become a party plaintiff in this lawsuit by Priscilla Goldbach, John Impomeni, John Duffy, James Sullivan, Donald Collins, Paul Pucciarelli, Allan Keren, Joseph Zanchelli, Richard Wettereau, Leo Standora, Gary William Harty, Merrill Sherr, Hope MacLeod, Annette Caldaio, Milton Horowitz, Leonard Lewim, Mel Juffe, Marie Cundari, Melbourne Weib, and Francisco Gonzalez. (Yuen, Sui May) (Entered: 09/16/1994)
10/18/1994	5	ORDER dated 10/14/94 setting initial conference for 10:30 2/28/95. ( signed by Magistrate Joan M. Azrack ). (Yuen, Sui May) (Entered: 10/18/1994)
11/09/1994	6	STIP/ORDER (not dated) that defts' time to ANSWER extended 30 days, thru &including 12/14/94. (signed by Judge Sterling Johnson Jr.) (Greves, Liz) (Entered: 11/09/1994)
12/14/1994	7	ANSWER to Complaint by NYP Holdings, Inc. (Yuen, Sui May) (Entered: 12/15/1994)
12/14/1994	8	MOTION by dft Rupert Murdoch to dismiss the complaint. Motion hearing set for 10:00 1/6/95 [8-1] motion (Yuen, Sui May) Modified on 12/15/1994 (Entered: 12/15/1994)
12/14/1994	9	MEMORANDUM by Rupert Murdoch in support of [8-1] motion to dismiss the complaint. (Yuen, Sui May) (Entered: 12/15/1994)

12/14/1994	10	Clifford Thau's AFFIDAVIT in support of Rupert Murdoch's [8-1] motion to dismiss the complaint. (Yuen, Sui May) (Entered: 12/15/1994)
01/03/1995	11	MEMORANDUM by Harold Leykis, Hugh Delano, Bernard Bard, Carole Lee, Arthur Pomerantz in opposition to Rupert Murdoch's [8-1] motion to dismiss the complaint. (Yuen, Sui May) (Entered: 01/05/1995)
01/06/1995	13	REPLY MEMORANDUM OF LAW by Rupert Murdoch in further [8-1] support of his motion to dismiss the complaint. (Yuen, Sui May) (Entered: 01/12/1995)
01/12/1995	12	ORDER dtd 1/6/95 referring case to Mag. Azrack to hear motion to dismiss. ( signed by Judge Sterling Johnson Jr. ) (Yuen, Sui May) (Entered: 01/12/1995)
01/12/1995	14	STIPULATION and Order of dismissal with prejudice as against dft The New York Post Company. ( Signed by Judge Sterling Johnson Jr., dtd 12/27/94). (Yuen, Sui May) Modified on 03/01/1995 (Entered: 01/12/1995)
02/28/1995	15	Calendar entry: before Mag. Azrack on 2/28/95. Status re discovery held. Next status conference for 12:30 6/15/95 . (Yuen, Sui May) (Entered: 03/03/1995)
03/06/1995	16	Deft NY Post Holding's Automatic Disclosure Responses. (Greves, Liz) (Entered: 03/06/1995)
03/21/1995	17	LETTER dated 3/17/95 from Leonard Flamm to Magistrate Azrack, Re: distinguishing a case cited by defendant and citing a case that support planitiff's position on employer liability. (Conte, Daniela) (Entered: 03/21/1995)
06/05/1995	18	STIP/ORDER (not dated) that time for defts NYC Holdings & Rupert Murdoch to respond to plttfs' 1st set of interrogatories & 1st request for production of documents extended thru & including 6/5/95. (signed by Judge Sterling Johnson Jr.) (Greves, Liz) (Entered: 06/05/1995)
06/13/1995	19	INTER-OFFICE MEMO from Judge Johnson to Mag. Azrack dated 6/2/95 requesting status of the referred motion to dismiss. (Yuen, Sui May) (Entered: 06/13/1995)
06/15/1995	21	Calendar entry: Conference of 6/15/95 before Mag Azrack adjourned to 9/28/95. (Greves, Liz) (Entered: 06/27/1995)
06/21/1995	20	LETTER dated 6/13/95 from Clifford Thau to Mag. Azrack confirming that the conference for 6/15 has bee adjourned to 9/28/95 at 3:30. (Yuen, Sui May) (Entered: 06/21/1995)
06/30/1995	22	REPORT AND RECOMMENDATIONS of Magistrate Joan M. Azrack that it is recommended that defendant's [8-1] motion to dismiss the complaint against him in his individual capacity under the ADEA be granted; that plaintiffs be granted 30 days in which to file an amended complaint alleging representative liability under the ADEA, and that nothing in this Report and Recommendation foreclose plaintiffs from later seeking to amend the complaint to properly allege alter ego liability against Murdoch. It is further recommended that defendant's motion to dismiss the HRL claims be granted, but that plaintiffs be permitted to amend their complaint to properly plead HRL liability. Objections to R and R due by 7/10/95 and must be filed with the Clerk of the Court, with a copy to Magistrate Azrack. Failure to file objections within the specified time waives the right to appeal the District Court's Order. (Murphy, Margaret) (Entered: 06/30/1995)
07/20/1995	23	First AMENDED and Reinstated COMPLAINT by Harold Leykis, Hugh Delano, Bernard Bard, Carole Lee, Arthur Pomerantz. (Answer due 7/30/95 on for Rupert Murdoch, New York Post Co., and New York Post Holding. ) amending [1-1] complaint. (Yuen, Sui May) (Entered: 07/26/1995)
08/07/1995	24	ORDER dtd 8/2/95 adopting the R & R issued by Mag. J. Azrack on 6/29/95 and granting deft Murdoch's motion to dismiss in his individual capacity under the Age Discrimination Employment Act; dismissing the complaint as to defft Murdoch in his individual capacity under the New York State Human Rights Law ; plttf's request for leave to file an amended complaint is granted and plttf's shall have 30 days in which to file such amended complaint. ( signed by Judge Sterling Johnson Jr. ) Copy of this order sent to Mag. J. Azrack. (Glenn, Marilyn) (Entered: 08/07/1995)

08/07/1995		Copies of documet #24 sent to all parties by chambers. (Glenn, Marilyn) (Entered: 08/07/1995)
08/08/1995	25	STIP/ORDER dated 8/1/95 that defts' time to move or answer extended to &including 9/29/95. (signed by Judge Sterling Johnson Jr.) (Greves, Liz) (Entered: 08/08/1995)
08/29/1995	26	ORDER dtd 8/23/95 that the time for the dft to respond to plaintiffs' 2nd Request for Production of Documents is extended to 9/26/95. ( signed by Judge Sterling Johnson Jr. ). (Yuen, Sui May) (Entered: 08/29/1995)
09/28/1995	27	Calendar entry: Before Mag. Judge Azrack on 9.28.95 at 3:30 p.m. case called for discovery conference; Norman Mednick for pltf. and Clifford Thau for deft; Discovery schedule set; set status conference for 11:00 a.m. on 2/1/96 before Magistrate Joan M. Azrack (Greene, Donna) (Entered: 10/04/1995)
10/13/1995	28	ORDER STIP. dtd. 10/10/95 concerning confidentiality of discovery materials, for protective order ( signed by Judge Sterling Johnson Jr. ) (Jackson, Ramona) (Entered: 10/13/1995)
10/13/1995	29	ORDER STIP. dtd. 10/10/95, reset answer due for 10/30/95 for Rupert Murdoch, for New York Post Holdin with respect to amended complaint ( signed by Judge Sterling Johnson Jr. ) (Jackson, Ramona) (Entered: 10/13/1995)
11/06/1995	30	STIPULATION AND ORDER, extending time . Deft.'s time to answer or move with respect to pltf.'s first amended and restated complaint is exteded through and including 11.29.95. ( signed by Judge Sterling Johnson Jr. on 11.1.95 ) (Greene, Donna) (Entered: 11/06/1995)
01/18/1996	31	STIPULATION AND ORDER, (a) Return date of dft's motion to dismiss pltf's First Amended and Restated Complaint as to Rupert Murdoch is adjourned to 12/22/95 to 1/26/96. (b) Pltf's shall serve opposition papers on or before 1/12/96, and (c) Dfts shall serve reply papers in support of its motion on or before 1/26/96. ( signed by Judge Sterling Johnson Jr. 1/5/96 ) (Piper, Francine) (Entered: 01/18/1996)
01/31/1996	32	STIPULATION AND ORDER, dismissed with prejudice and without costs or attorneys' fees as to deft. Rupert Murdoch . ( signed by Judge Sterling Johnson Jr. 1.30.96) (Greene, Donna) (Entered: 02/02/1996)
01/31/1996		Case closed (Greene, Donna) (Entered: 02/02/1996)
02/01/1996	33	Calendar entry: Before Mag. Judge Azrack on 2.1.96 at 11:00 a.m. for conference. Set status conference for 10:30 6/13/96 before Magistrate Joan M. Azrack (Greene, Donna) (Entered: 02/08/1996)
04/30/1996	34	LETTER dated 4/16/96 from Norman Mednick to Magistrate Azrack, Re: Requesting that the court schedule a settlement conference, or assigned this matter for court annexed-mediation. (Piper, Francine) (Entered: 04/30/1996)
04/30/1996		Endorsed order granting [34-1] letter, settlement set conference for 3:00 5/23/96 before Magistrate Joan M. Azrack All counsel must be present. ( Signed by Magistrate Joan M. Azrack 4/22/96 ) (see document #34) (Piper, Francine) (Entered: 04/30/1996)
05/23/1996	35	Calendar entry:, setting settlement conference for 11:00 6/27/96 before Magistrate Joan M. Azrack (DiTomasso, Mike) (Entered: 05/28/1996)
06/27/1996	36	Calendar entry: Before Mag. Judge Azrack on 6/27/96 at 11:00 a.m. Case adj. to Sept. 4, 1996. (Greene, Donna) (Entered: 07/02/1996)
09/04/1996	37	Calendar entry:Before Mag Azrack Civil Conf, set scheduling conference for 11:00 10/25/96 before Magistrate Joan M. Azrack (Jackson, Ramona) (Entered: 09/24/1996)
11/26/1996	38	Letter from Mag. Azrack to pltf's counsel dated Nov. 26, 1996. Advising counsel that their presence are required at the settlement conf scheduled for Dec. 6, 1996. (Joseph, Derek) (Entered: 12/06/1996)

02/21/1997	39	STIPULATION AND ORDER, that this action is dismissed with prejudice and without costs or attorneys' fees as to opt-in plaintiffs Joseph W. Zanchelli and Allan Kerew. (Signed by Judge Sterling Johnson Jr., undated) (Johnson, Tanya) (Entered: 02/21/1997)
03/24/1997	40	ORDER setting settlement conference for 10:00 on 4/3/97 before Magistrate Joan M. Azrack ( signed by Magistrate Joan M. Azrack on 3/21/97). c/m (Greene, Donna) (Entered: 03/24/1997)
03/24/1997	41	COPY OF LETTER dated 3/19/97 from Brenna B. Mahoney to Mrs. Laura Leykis, informing her that if she doesn't sign the stipulation and order and return them to Mr. Mednick by 4/9/97, her presence shall be required at a status confrence before the Mag. (Greene, Donna) (Entered: 03/24/1997)
04/03/1997	42	Calendar entry: Before Mag. Azrack on 4/3/97 at 10:00. Case called. Mrs. Leykis did not appear. Pltfs. counsel to make motion to be relieved. (Greene, Donna) (Entered: 04/07/1997)
04/14/1997	43	REPORT AND RECOMMENDATIONS of Magistrate Joan M. Azrack dated 4/11/97. It is recommended that the claims of the Estate of Harry Leykis should be dismissed for failure to prosecute. In addition, it is respectfully recommended that Mr. Mednick be permitted to withdraw as counsel of record for the Estate of Harry Leykis. Case no longer referred to Magistrate Joan M. Azrack Objections to R and R due by 4/24/97. (Greene, Donna) (Entered: 04/14/1997)
04/25/1997	44	STIPULATION AND ORDER, Fifty-Two Class Members have consented to the settlement; Two Class Members claims were dismissed with prejudice following their failure to appear before Magistrate Azrack on 12/6/96. ( signed by Judge Sterling Johnson Jr. ) (see order for more details) (Piper, Francine) (Entered: 04/25/1997)
05/22/1997	45	ORDER that the claims of the Estate of Harry Leykis be dismissed for failure to prosecute pursuant to Fed. R. Civ. P.41(b), and that Mr. Mednick be permitted to withdraw as counsel of record for the Estate of Harry Leykis. ( signed by Judge Sterling Johnson Jr. on 5/15/97). c/m (Greene, Donna) (Entered: 05/22/1997)
05/28/1997	46	ORDER permitting the Law office of Leonard N. Flamm to withdraw as counsel of record for the Estate of Harry Leykis and for Laura Leykis, on behalf of herself and on behalf of said estate . ( signed by Judge Sterling Johnson Jr. on 5/16/97 ). (Greene, Donna) (Entered: 05/29/1997)
05/29/1997	47	JUDGMENT that pltfs. take nothing of the defts.; that the 4/11/97 Report and Recommendation of Mag. Azrack is affirmed and adopted; that the claims of the Estate of Harry Leykis are dismissed; and, that Norman Mednick, Esq., is permitted to withdraw as counsel of Record for the estate of Harry Leykis. (signed by Robert C. Heinemann on 5/27/97). c/m (Greene, Donna) (Entered: 05/29/1997)
05/29/1997		Case closed (Greene, Donna) (Entered: 05/29/1997)
06/06/1997	48	LETTER dated 5/20/97 from Donald R. Lomax to Judge Johnson, advising that he received the enclosed orders, but did not appear in this case on behalf of the pltf. (Greene, Donna) (Entered: 06/06/1997)
07/01/1997	49	STIPULATION AND ORDER of dismissal with prejudice. ( Signed by Judge Sterling Johnson Jr. on 6/23/97). (Greene, Donna) (Entered: 07/01/1997)
07/15/1997	50	COPY OF LETTER dated 6/18/97 from Laura Davidson to Mag. Azrack, pursuant to paragraph 6 of the 4/3/97 order, counsel are forwarding the original Stipulation and Order of Dismissal in connection with the above-referenced case. (Greene, Donna) (Entered: 07/15/1997)
07/15/1997	51	LETTER dated 7/1/97 from Norman Mednick to Mag. Azrack, respectfully requesting that the undersigned be permitted to notify each of those 36 members that did not respond to the settlement agreement, that if the executed agreements are not returned within 14 days of receipt of notification, an order of dismissal will be prepared for Judge Johnson dismissing, with prejudice, their claims in the instant matter. (Greene, Donna) (Entered: 07/15/1997)

07/15/1997		Endorsed order on doc. #51. Application granted. ( Signed by Magistrate Joan M. Azrack on 7/7/97). (Greene, Donna) (Entered: 07/15/1997)
08/08/1997	52	LETTER dated 7/29/97 from Norman Mendnick to N.Y.Post plttff. regarding agreement (Jackson, Ramona) (Entered: 08/08/1997)
10/06/1997	53	STIPULATION and order of dismissal with prejudice. ( Signed by Judge Sterling Johnson Jr.). (Greene, Donna) (Entered: 10/06/1997)