

CLOSED, PMA

**U.S. District Court [LIVE]  
Western District of Texas (San Antonio)  
CIVIL DOCKET FOR CASE #: 5:04-cv-00873-XR**

Equal Employment v. Mothers Work, Inc.  
Assigned to: Honorable Xavier Rodriguez  
Demand: \$0

Case in other court: USCA, 06-50840  
Fifth Circuit Court of Appeals, 06-50840  
Fifth Circuit Court of Appeals, 06-51149  
USCA, 06-51149

Cause: 42:1983 Civil Rights Act

Date Filed: 09/28/2004  
Date Terminated: 05/08/2006  
Jury Demand: Plaintiff  
Nature of Suit: 442 Civil Rights: Jobs  
Jurisdiction: U.S. Government Plaintiff

**Plaintiff**

**Equal Employment Opportunity  
Commission**

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V.

**Defendant**

**Mothers Work, Inc.**

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<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
09/28/2004		Case assigned to Judge Xavier Rodriguez (ep) (Entered: 09/28/2004)
09/28/2004		If ordered by the court, all referrals will be assigned to Magistrate Judge Mathy (ep) (Entered: 09/28/2004)
09/28/2004	<a href="#"><u>1</u></a>	Complaint filed. (Pages: 5) (ep) (Entered: 09/29/2004)
09/28/2004	<a href="#"><u>2</u></a>	Demand for jury trial by Equal Employment (ep) (Entered: 09/29/2004)
09/28/2004		summons not issued (ep) (Entered: 09/29/2004)
11/18/2004		Summons issued for Mothers Work, Inc. (ep) (Entered: 11/22/2004)

12/13/2004	<a href="#">3</a>	Return of service executed as to Mothers Work, Inc. on 11/30/04 (tm) (Entered: 12/14/2004)
01/03/2005	<a href="#">4</a>	Motion by Equal Employment for clerk to enter default as to Mothers Work, Inc. (tm) (Entered: 01/04/2005)
01/03/2005	<a href="#">5</a>	Clerk's entry of default as to Mothers Work, Inc. granting motion for clerk to enter default as to Mothers Work, Inc. [4-1] (tm) (Entered: 01/04/2005)
01/24/2005	<a href="#">6</a>	Answer by Mothers Work, Inc. (tm) (Entered: 01/24/2005)
01/24/2005	<a href="#">7</a>	Motion by Equal Employment for default judgment against Mothers Work, Inc. (tm) (Entered: 01/25/2005)
01/24/2005	<a href="#">8</a>	Appendix for motion for default judgment against Mothers Work, Inc. [7-1] by Equal Employment (sj) (Entered: 01/25/2005)
01/25/2005	<a href="#">9</a>	Appendix for motion for default judgment against Mothers Work, Inc. [7-1] by Equal Employment (tm) (Entered: 01/26/2005)
01/26/2005	<a href="#">10</a>	Order directing defendant to show cause within 10 days why the Clerk's entry of default should be set aside signed by Judge Xavier Rodriguez (tm) (Entered: 01/27/2005)
02/07/2005	<a href="#">11</a>	Memorandum of law by Mothers Work, Inc. in opposition to motion for default judgment against Mothers Work, Inc. [7-1] and showing cause why default should be set aside (tm) (Entered: 02/08/2005)
02/08/2005	<a href="#">12</a>	Reply by Equal Employment to response in opposition to motion for default judgment against Mothers Work, Inc. [7-1] (tm) (Entered: 02/09/2005)
02/28/2005	<a href="#">13</a>	Order GRANTING defendant's motion to set aside the default, which the Court implied in the filing of defendant's answer. Court denies motion for default judgment against Mothers Work, Inc. [7-1] signed by Judge Xavier Rodriguez (tm) (Entered: 03/01/2005)
03/09/2005	<a href="#">14</a>	Order and Advisory: parties are to submit a proposed scheduling order by 4/15/05 and whether or not they consent to a Magistrate Judge jurisdiction within 30 days signed by Judge Xavier Rodriguez (tm) (Entered: 03/10/2005)
03/18/2005	<a href="#">15</a>	Non-consent to proceed before a U.S. Magistrate by Equal Employment (tm) (Entered: 03/21/2005)
03/24/2005	<a href="#">16</a>	Joint recommendations for scheduling order by Equal Employment, Mothers Work, Inc. (tm) (Entered: 03/25/2005)
03/24/2005	<a href="#">17</a>	Report of parties' rule 26(f) joint discovery/case management plan by Equal Employment, Mothers Work, Inc. (tm) (Entered: 03/25/2005)
04/05/2005	<a href="#">18</a>	Scheduling order setting: Alternate Dispute Resolution Report due by 5/2/05; Joining of parties, amending of pleadings on 6/8/05; Discovery cutoff 12/16/05; Deadline for filing of all dispositive motions 1/17/06; Pretrial conference of attorneys by 9:30 3/9/06; Jury Selection set for 9:30 3/20/06; Jury trial set for 9:30 3/20/06; Pretrial order to be submitted on or before 2/27/06 signed by Judge Xavier Rodriguez (tm) (Entered: 04/06/2005)

05/02/2005	<a href="#">19</a>	Alternate Dispute Resolution Report filed by Mothers Work, Inc., Party(s) do not agree to Alternate Dispute Resolution (tm) (Entered: 05/03/2005)
05/02/2005	<a href="#">20</a>	Alternate Dispute Resolution Report filed by Equal Employment, Party(s) agree to Alternate Dispute Resolution (tm) (Entered: 05/03/2005)
08/16/2005	<a href="#">21</a>	Agreed Protective Order signed by Judge Xavier Rodriguez (tm) (Entered: 08/17/2005)
08/26/2005	<a href="#">22</a>	Motion by Equal Employment for leave to file motion to compel discovery out of page limits (motion to compel and memorandum in support receive stamped) (ct) (Entered: 08/29/2005)
09/07/2005	<a href="#">23</a>	Order granting motion for leave to file motion to compel discovery out of page limits [22-1] signed by Judge Xavier Rodriguez (tm) (Entered: 09/08/2005)
09/07/2005	<a href="#">24</a>	Motion by Equal Employment with memorandum in support to compel discovery (tm) (Entered: 09/08/2005)
09/08/2005	<a href="#">25</a>	Combined Witness, Exhibit and Expert List by Equal Employment (tm) (Entered: 09/09/2005)
09/09/2005	<a href="#">26</a>	Order referring motion : referred motion to compel discovery [24-1] to Judge Pamela A. Mathy signed by Judge Xavier Rodriguez (tm) (Entered: 09/12/2005)
09/09/2005	<a href="#">27</a>	Motion by Mothers Work, Inc. for (Edward S. Mazurek) to appear pro hac vice (tm) (Entered: 09/12/2005)
09/09/2005		(Court only) Added for Mothers Work, Inc. attorney Edward S. Mazurek (tm) (Entered: 09/12/2005)
09/12/2005	<a href="#">28</a>	Order granting motion for (Edward S. Mazurek) to appear pro hac vice [27-1] signed by Judge Xavier Rodriguez (tm) (Entered: 09/13/2005)
09/20/2005	<a href="#">29</a>	Response (Memorandum of Law) by Mothers Work, Inc. in opposition to motion to compel discovery [24-1] (ga) (Entered: 09/21/2005)
09/21/2005	<a href="#">30</a>	Response by Equal Employment to Defendant's response in opposition to motin to compel discovery [29-1] (ga) (Entered: 09/22/2005)
10/04/2005	<a href="#">31</a>	Advisory to the court filed by Mothers Work, Inc. (tm) (Entered: 10/05/2005)
10/14/2005	<a href="#">32</a>	Order granting in part, denying in part motion to compel discovery [24-1] It is also ORDERED that this case is RETURNED to the District Court. signed by Judge Pamela A. Mathy (rg) (Entered: 10/17/2005)
10/14/2005		(Court only) Motion no longer referred: : motion to compel discovery [24-1] (rg) (Entered: 10/17/2005)
10/26/2005		Telephonic status conference held. (tm) Modified on 10/28/2005 (Entered: 10/28/2005)
10/27/2005	<a href="#">33</a>	Advisory to the Court and motion by Equal Employment to continue deposition of Mr. Phillip Williams (tm) (Entered: 10/28/2005)
10/27/2005	<a href="#">34</a>	Minutes of proceedings for Status Conference conducted on 10/26/05 by Judge Rodriguez. Court Reporter: Roden (tm) (Entered: 10/28/2005)

11/01/2005	<a href="#">35</a>	Memorandum by Equal Employment in support of motion to continue deposition of Mr. Phillip Williams [33-1] (ga) (Entered: 11/02/2005)
11/07/2005	<a href="#">36</a>	Motion by Mothers Work, Inc. for (Sarah E. Pontoski) to appear pro hac vice (ga) (Entered: 11/08/2005)
11/10/2005		(Court only) Added for Mothers Work, Inc. attorney Sarah E. Pontoski (tm) (Entered: 11/14/2005)
11/10/2005	<a href="#">37</a>	Order granting motion for (Sarah E. Pontoski) to appear pro hac vice [36-1] signed by Judge Xavier Rodriguez (tm) (Entered: 11/14/2005)
11/14/2005	<a href="#">38</a>	Brief by Mothers Work, Inc. in opposition to the EEOC's advisory to the court and motion to take second day of deposition of Mr. Phillip Williams [33-1] (tm) (Entered: 11/15/2005)
11/16/2005	<a href="#">39</a>	Transcript filed for dates of 10/26/05 (Proceedings Transcribed: Telephonic Hearing) (Court Reporter: Myers) (tm) (Entered: 11/17/2005)
11/22/2005		Pro hac vice fee paid by Sarah E. Pontoski with Amount: \$ 25.00 Receipt # 198335 (pjr) (Entered: 11/22/2005)
11/23/2005	<a href="#">40</a>	Reply by Equal Employment to defendant Mothers Work, Inc.'s brief in opposition to the EEOC's advisory to the court and motion to take second day of deposition of Phillip Williams [38-1] (ga) (Entered: 11/28/2005)
12/15/2005	<a href="#">41</a>	Order setting hearing motion to continue deposition of Mr. Phillip Williams [33-1] for 1:30 1/6/06 signed by Judge Xavier Rodriguez (tm) (Entered: 12/16/2005)
12/21/2005	<a href="#">42</a>	Order resetting hearing on motion to continue deposition of Mr. Phillip Williams [33-1] for 2:30 1/12/06 signed by Judge Xavier Rodriguez (tm) (Entered: 12/22/2005)
01/12/2006		Motion hearing held for Plaintiff's motion to take second deposition of Phillip Williams [33-1]. Counsel may file any case law/exhibits/memorandums regarding this issue no later than 1/20/06 (tm) (Entered: 01/17/2006)
01/13/2006	<a href="#">43</a>	Minutes of proceedings for Motion hearing conducted on 1/12/06 by Judge Rodriguez. Court Reporter: Myers (tm) (Entered: 01/17/2006)
01/17/2006	<a href="#">44</a>	Transcript filed for dates of 1/12/06 (Proceedings Transcribed: Pretrial Hearing) (Court Reporter: Karl Myers (rg) (Entered: 01/18/2006)
01/17/2006	<a href="#">45</a>	Motion by Mothers Work, Inc. for summary judgment (rg) (Entered: 01/18/2006)
01/17/2006	<a href="#">46</a>	Appendix for motion for summary judgment [45-1] by Mothers Work, Inc. (rg) (Entered: 01/18/2006)
01/19/2006	<a href="#">47</a>	Unopposed Motion by Equal Employment for continuance in response to defendant Mothers Work, Inc.'s motion for summary judgment (rg) (Entered: 01/20/2006)
01/19/2006	<a href="#">48</a>	Unopposed Motion by Equal Employment for leave to file supplemental brief in support of the EEOC's motion to take second day of deposition of Phillip Williams in excess of the page limit (rg) (Entered: 01/20/2006)

01/19/2006		Received EEOC's supplemental brief (rg) (Entered: 01/20/2006)
01/23/2006	<a href="#">49</a>	Order granting motion for leave to file supplemental brief in support of the EEOC's motion to take second day of deposition of Phillip Williams in excess of the page limit [48-1] signed by Judge Xavier Rodriguez (rg) (Entered: 01/24/2006)
01/23/2006	<a href="#">50</a>	Advisory to the court regarding EEOC motion to take second day of deposition of Phillip Williams and motion for continuance in response to defendant Mothers Work, Inc.'s motion for summary judgment filed by Mothers Work, Inc. (rg) Modified on 01/24/2006 (Entered: 01/24/2006)
01/23/2006	<a href="#">51</a>	Supplemental Memorandum by Equal Employment in support of motion to continue deposition of Mr. Phillip Williams [33-1] (rg) (Entered: 01/25/2006)
01/26/2006		Tele-conference (in chambers) regarding defendant's advisory to the Court regarding EEOC's motion to take second day of desposition of Phillip Williams and motion for continuance held. Plaintiff's motion to continue deposition is granted. Plaintiff's motion for continuance in response to defendant's motion for summary judgment is granted. Plaintiff's response is due two weeks from receipt of transcript of desposition of Mr. Williams. The Court continues the pretrial conference and jury selection/trial for 4-6 months. No further discovery will be granted. The 3/9/06 pretrial cnf. and 3/20/06 jury selection/trial settings are vacated. (rg) (Entered: 01/31/2006)
01/26/2006		Oral order by Judge Xavier Rodriguez granting motion for continuance in response to defendant Mothers Work, Inc.'s motion for summary judgment [47-1], granting motion to continue deposition of Mr. Phillip Williams [33-1] (rg) (Entered: 01/31/2006)
01/26/2006		(Court only) Terminated pretrial conferencd; jury selection and trial deadlines per telephonic conference. (rg) (Entered: 01/31/2006)
01/26/2006	<a href="#">52</a>	Minutes of proceedings for Telephone Cnf. conducted on 1/26/06 by Judge Rodriguez. Court Reporter: Karl Myers (rg) (Entered: 01/31/2006)
01/30/2006	<a href="#">53</a>	ORDER set pretrial conference for 9:30 8/17/06 , set Jury trial for 9:30 8/28/06 , set Jury selection for 9:30 8/28/06 signed by Judge Xavier Rodriguez (rg) (Entered: 01/31/2006)
02/09/2006	54	Transcript filed for dates of 1/25/06 (Proceedings Transcribed: Telephonic hearing) (Court Reporter: Myers) (tm) (Entered: 02/10/2006)
02/22/2006	<a href="#">55</a>	Notice to the court filed by Equal Employment (tm) (Entered: 02/23/2006)
03/01/2006	<a href="#">56</a>	Unopposed Motion by Equal Employment for leave to file response in excess of the page limit (rg) (Entered: 03/02/2006)
03/01/2006		Received plaintiff's response (rg) (Entered: 03/02/2006)
03/02/2006	<a href="#">57</a>	Advisory to the court filed by Equal Employment (rg) (Entered: 03/03/2006)
03/03/2006	<a href="#">58</a>	Order granting motion for leave to file response in excess of the page limit [56-1] signed by Judge Xavier Rodriguez (rg) (Entered: 03/06/2006)

03/03/2006	<a href="#">59</a>	Response by Equal Employment to defendant's motion for summary judgment [45-1] (rg) (Entered: 03/06/2006)
03/15/2006	<a href="#">60</a>	Unopposed Motion by Mothers Work, Inc. to enlarge page limitation for its reply brief (Reply Brief and Exhibits in further support of defendant's motion for summary judgment marked RECEIVED) (rg1) (Entered: 03/16/2006)
03/17/2006	<a href="#">61</a>	Motion by Equal Employment to take leave to substitute exhibits C,D,G,I,J,M and N to plaintiff's response to defendants motion for summary judgment (rg) (Entered: 03/20/2006)
03/20/2006	<a href="#">62</a>	Order granting motion to enlarge page limitation for its reply brief (Reply Brief and Exhibits in further support of defendant's motion for summary judgment marked RECEIVED) [60-1] signed by Judge Xavier Rodriguez (rg) (Entered: 03/21/2006)
03/20/2006	<a href="#">63</a>	Reply Brief by Mothers Work, Inc. in support of motion for summary judgment [45-1] (rg) (Entered: 03/21/2006)
04/03/2006	<a href="#">64</a>	Order granting motion to take leave to substitute exhibits C,D,G,I,J,M and N to plaintiff's response to defendants motion for summary judgment [61-1] signed by Judge Xavier Rodriguez (rf) (Entered: 04/04/2006)
05/08/2006	<a href="#">65</a>	ORDER granting <a href="#">45</a> Defendant's Motion for Summary Judgment Signed by Judge Xavier Rodriguez. (rg, ) (Entered: 05/09/2006)
05/08/2006	<a href="#">66</a>	CLERK'S JUDGMENT in favor of Mothers Work, Inc. against EEOC (rg, ) (Entered: 05/09/2006)
05/22/2006	<a href="#">67</a>	Certificate of Non-Concurrence by Mothers Work, Inc. (rg1, ) (Entered: 05/24/2006)
05/22/2006	<a href="#">68</a>	MOTION for Attorney Fees by Mothers Work, Inc.. (tm, ) (Entered: 05/24/2006)
05/22/2006	<a href="#">69</a>	Memorandum in Support of <a href="#">68</a> MOTION for Attorney Fees by Mothers Work, Inc.. (tm, ) (Entered: 05/24/2006)
06/02/2006	<a href="#">70</a>	MOTION for Leave to Enlarge Page Limitation for its Response to Defendant's Motion for Attorneys' Fees and Costs. by Equal Employment Opportunity Commission. (Attachments: # <a href="#">1</a> Response# <a href="#">2</a> exhibits# <a href="#">3</a> exhibits)(rf) (Entered: 06/05/2006)
06/05/2006	<a href="#">71</a>	ORDER granting <a href="#">70</a> Plaintiff's Motion for Leave to File Excess Pages Signed by Judge Xavier Rodriguez. (rg, ) (Entered: 06/06/2006)
06/05/2006	<a href="#">72</a>	RESPONSE to Motion re <a href="#">68</a> MOTION for Attorney Fees , filed by Equal Employment Opportunity Commission. (Attachments: # <a href="#">1</a> Exhibit # <a href="#">2</a> Exhibit)(rg, ) (Entered: 06/06/2006)
06/16/2006	<a href="#">73</a>	Unopposed MOTION for Extension of Time to File Response to defendant's motion for attorney's fees and costs by Mothers Work, Inc. (Attachments: # <a href="#">1</a> Reply to plaintiff's response)(rg, ) (Entered: 06/19/2006)
06/19/2006	<a href="#">74</a>	ORDER granting <a href="#">73</a> Unopposed Motion for Extension of Time to File Reply brief Signed by Judge Xavier Rodriguez. (rg, ) (Entered: 06/20/2006)

06/19/2006	<a href="#">75</a>	REPLY to Response to Motion re <a href="#">68</a> MOTION for Attorney Fees , filed by Mothers Work, Inc. (Attachments: # <a href="#">1</a> Exhibit)(rg, ) (Entered: 06/21/2006)
06/20/2006	<a href="#">76</a>	OPPOSED MOTION for Leave to File surreply to defendant's motion for attorney's fees and costs by Equal Employment Opportunity Commission. (rg, ) (Entered: 06/21/2006)
06/21/2006	<a href="#">77</a>	ORDER denying <a href="#">76</a> Plaintiff's Motion for Leave to File a surreply to defendant's motion for attorney's fees and costs. Signed by Judge Xavier Rodriguez. (rg, ) (Entered: 06/22/2006)
07/06/2006	<a href="#">78</a>	NOTICE OF APPEAL by Equal Employment Opportunity Commission. (bn, ) (Entered: 07/12/2006)
07/06/2006		Transmission of Notice of Appeal and Docket Sheet to US Court of Appeals re <a href="#">78</a> Notice of Appeal (bn, ) (Entered: 07/12/2006)
07/25/2006	<a href="#">79</a>	USCA Appeal Info Sheet received. USCA Case Number USCA case number 06-50840 for <a href="#">78</a> Notice of Appeal filed by Equal Employment Opportunity Commission,. (bn, ) (Entered: 07/25/2006)
08/21/2006	<a href="#">80</a>	ORDER granting in part and denying in part <a href="#">68</a> Motion for Attorney Fees Mothers Work is entitled to receive court costs totaling \$4,960.99, including \$60.00 for fees associated with the service of a subpoena, \$3,947.35 for court reporter fees, and \$953.64 for copying expenses. Signed by Judge Xavier Rodriguez. (rg, ) (Entered: 08/22/2006)
08/30/2006	<a href="#">81</a>	NOTICE OF APPEAL by Mothers Work, Inc.. (bn, ) (Entered: 08/31/2006)
08/31/2006	<a href="#">82</a>	Transmission of Notice of Appeal and Docket Sheet to US Court of Appeals re <a href="#">81</a> Notice of Appeal (bn, ) (Entered: 08/31/2006)
08/31/2006	<a href="#">83</a>	UNOPPOSED MOTION to Stay the Court's Order awarding costs by Equal Employment Opportunity Commission. (rg, ) (Entered: 08/31/2006)
09/06/2006	<a href="#">84</a>	ORDER granting <a href="#">83</a> Plaintiff's Unopposed Motion to Stay the Court's order awarding costs to defendant. Signed by Judge Xavier Rodriguez. (rg, ) (Entered: 09/06/2006)
09/07/2006	<a href="#">85</a>	USCA Appeal Fees received \$ 455 receipt number 202848 re <a href="#">81</a> Notice of Appeal filed by Mothers Work, Inc., (bn, ) (Entered: 09/07/2006)
09/08/2006	<a href="#">86</a>	Remark : No hearings- no transcript required (bn, ) (Entered: 09/11/2006)
09/18/2006	<a href="#">87</a>	Certified Original Record-E-Mailed on 9/18/06 to US Court of Appeals re <a href="#">81</a> Notice of Appeal (Appeal record held for pickup per 5th circuit instructions) (bn, ) (Entered: 09/18/2006)
09/19/2006		Notification from USCA. USCA case number 06-51149 for <a href="#">81</a> Notice of Appeal filed by Mothers Work, Inc.,. (bn, ) (Entered: 09/19/2006)
09/20/2006	<a href="#">88</a>	USCA Appeal Info Sheet received. USCA Case Number USCA case number 06-51149 for <a href="#">81</a> Notice of Appeal filed by Mothers Work, Inc.,. (lp, ) (Entered: 09/20/2006)



10/04/2006	<a href="#">89</a>	Certified and Transmitted Record on Appeal to G. Coleman, U.S. EEOC - Office of General Counsel, Washington D.C., Via FEDEX on 10/5/06 re <a href="#">78</a> Notice of Appeal (bn, ) (Entered: 10/05/2006)
10/13/2006	<a href="#">90</a>	Acknowledgement Receipt for Record on Appeal by G. Colman, U.S. EEOC - Office of General Counsel. re <a href="#">89</a> Appeal Record Transmitted (bn, ) (Entered: 10/17/2006)
08/16/2007	<a href="#">91</a>	Certified copy of USCA JUDGMENT/MANDATE Affirming <a href="#">81</a> Notice of Appeal filed by Mothers Work, Inc., <a href="#">78</a> Notice of Appeal filed by Equal Employment Opportunity Commission. (rg) (Entered: 08/16/2007)
08/16/2007	<a href="#">92</a>	Appeal Record Returned/Disposed by USCA: Terminated appeal: Transmission of Notice of Appeal and Docket Sheet to USCA, <a href="#">82</a> Transmission of Notice of Appeal and Docket Sheet to USCA, <a href="#">91</a> USCA Judgment/Mandate, <a href="#">90</a> Receipt for Transmitted Appeal Record, <a href="#">88</a> USCA Info Sheet, <a href="#">89</a> Appeal Record Transmitted, <a href="#">85</a> USCA Appeal Fees, <a href="#">79</a> USCA Info Sheet, USCA Info Sheet, <a href="#">87</a> Appeal Record Sent to USCA. 13 Volumes returned. (rg) (Entered: 08/16/2007)

## PACER Service Center

### Transaction Receipt

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<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	5:04-cv-00873-XR
<b>Billable Pages:</b>	5	<b>Cost:</b>	0.40