

CLOSED, CONSENT

**United States District Court  
Eastern District of Wisconsin (Milwaukee)  
CIVIL DOCKET FOR CASE #: 2:97-cv-00119-PJG**

EEOC v. Shopko Stores, Inc.  
Assigned to: Magistrate Judge Patricia J Gorence  
Demand: \$0  
Case in other court:  
Cause: 42:2000 Job Discrimination (Age)

Date Filed: 02/07/1997  
Date Terminated: 03/31/1999  
Jury Demand: Both  
Nature of Suit: 442 Civil Rights: Jobs  
Jurisdiction: Federal Question

**Plaintiff**

**Equal Employment Opportunity  
Commission**

represented by **Barbara L Henderson**  
United States Equal Employment  
Opportunity Commission  
Milwaukee District Office  
310 W Wisconsin Ave - Ste 800  
Milwaukee, WI 53203-2292  
414-297-1112  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Dennis R McBride**  
United States Equal Employment  
Opportunity Commission  
Milwaukee District Office  
310 W Wisconsin Ave - Ste 800  
Milwaukee, WI 53203-2292  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Jeanette Goss**  
Arthur Heitzer Law Office  
606 W Wisconsin Ave - Ste 1706  
Milwaukee, WI 53203  
414-273-1040  
*TERMINATED: 06/15/1998*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Reuben Daniels, Jr**  
United States Equal Employment  
Opportunity Commission  
Milwaukee District Office

310 W Wisconsin Ave - Ste 800  
 Milwaukee, WI 53203-2292  
 414-297-1112  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**ShopKo Stores Inc**

represented by **Larry M Gille**  
 ShopKo Stores Inc  
 700 Pilgram Way  
 PO Box 19060  
 Green Bay, WI 54307  
 920-429-7494  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Steven J Thomas**  
 Kohls Department Stores Inc  
 N56 W17000 Ridgewood Dr  
 Menomonee Falls, WI 53051-5660  
 262-703-1698  
**TERMINATED: 10/28/1998**  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

| <b>Date Filed</b> | <b>#</b> | <b>Docket Text</b>   |
|-------------------|----------|--|
| 02/07/1997        | 1        | COMPLAINT (Summons(es) issued); jury demand Consent Forms Distributed for Magistrate Judge Gorence (tlf, ) (Entered: 02/10/1997)                               |
| 02/14/1997        | 2        | CONSENT to Proceed before Magistrate Judge by plaintiff EEOC (tlf, )   |
| 03/10/1997        | 3        | WAIVER OF SERVICE by defendant Shopko Stores,Inc. ; Request sent on 2/7/97 (tlf, ) (Entered: 03/11/1997)   |
| 03/10/1997        | 4        | ANSWER by defendant Shopko Stores,Inc. to [1-1] (tlf, ) (Entered: 03/11/1997)  |
| 03/10/1997        | 5        | CERTIFICATE OF INTEREST by defendant Shopko Stores,Inc. (tlf, ) (Entered: 03/11/1997)  |
| 03/13/1997        | 6        | NOTICE of hearing ; telephone scheduling conference set for 8:30 6/11/97 (cc: all counsel) (tlf, ) (Entered: 03/14/1997)                                       |
| 04/07/1997        | 7        | CONSENT to Proceed before Magistrate Judge by defendant Shopko Stores,Inc. (tlf, )   |
| 04/14/1997        | 8        | ORDER by Senior Judge Thomas J. Curran upon consent of parties, this case transferred to Mag Judge Patricia J. Gorence for final disposition (cc: all counsel) |

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|            |    | (tlf, ) (Entered: 04/15/1997)   |
| 04/24/1997 | 9  | NOTICE of hearing: Scheduling conference call set for 3:00 5/28/97 . Pltf's counsel to file letter status report 5/21/97. (cc: all counsel) (bet, ) (Entered: 04/25/1997)   |
| 05/08/1997 | 10 | NOTICE of hearing: Scheduling conference call reset for 3:00 6/11/97 (cc: all counsel) (bet, )  |
| 05/16/1997 | 11 | STATUS REPORT by defendant Shopko Stores,Inc. with Certificate of Service attached (wied, ) (Entered: 05/19/1997)   |
| 05/23/1997 | 12 | STATUS REPORT by plaintiff EEOC (bdr, )   |
| 06/11/1997 | 13 | HEARING MINUTES: ; amended complaint ddl set for 7/10/97 ; discovery ddl set for 3/15/98 ; motion filing ddl set for 2/2/98 Plaintiff to name its expert witnesses with reports by 12/1/97; defendant is to depose plaintiff's experts by 1/15/98; defendant is to name its experts by 2/16/98; plaintiff is to depose defendant's experts by 3/15/98; Gordon Schultze will be made available for an independent medical examination by 3/15/98; court will schedule status conference after a decision on dispositive motions; and parties are to submit a status letter by 9/15/97 re: the scheduling of a settlement conference. (wied, ) Modified on 06/17/1997 (Entered: 06/16/1997) |
| 06/13/1997 | 14 | SCHEDULING ORDER Mag Judge Patricia J. Gorence (cc: all counsel) See hearing minutes of 6/11/97 for details. (wied, ) (Entered: 06/17/1997)   |
| 07/08/1997 | 15 | Undisputed MOTION by plaintiff EEOC for leave to file amended complaint with attached amended complaint and order. (wied, )   |
| 07/21/1997 | 16 | ORDER by Mag Judge Patricia J. Gorence granting motion to file amended complaint [15-1] (cc: all counsel) (wied, ) (Entered: 07/22/1997)  |
| 07/21/1997 | 17 | AMENDED COMPLAINT Re: [1-1] by plaintiff EEOC; jury demand (wied, ) (Entered: 07/22/1997)   |
| 07/31/1997 | 18 | ANSWER by defendant Shopko Stores,Inc. to [17-1] with attached certificate of service. (wied, )   |
| 09/15/1997 | 19 | STATUS REPORT by plaintiff EEOC (wied, )  |
| 09/24/1997 | 20 | LETTER from Magistrate Judge Gorence to Magistrate Judge Goodstein that parties have requested a settlement conference. Case file forwarded to Judge Goodstien for the settlement conference. (wied, ) (Entered: 09/25/1997)  |
| 09/25/1997 | 21 | ORDER by Mag Judge Aaron E. Goodstein ; settlement conference set for 9:30 11/18/97 (cc: all counsel) (wied, ) (Entered: 09/29/1997)  |
| 11/05/1997 | 22 | LETTER from plaintiff to court confirming that the settlement conference previously scheduled for 11/20/97 has been rescheduled for Thursday, 1/15/97 at 9:30am. Pltf atty has spoken with dft atty and he is available on that date. (wied, ) (Entered: 11/06/1997)  |
| 01/15/1998 | 23 | HEARING MINUTES: ; settlement conference held 1/15/98; parties unable to resolve differences; case reassigned to Judge Gorence per Judge Goodstein (wied, )   |

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| 01/15/1998 | 24 | MEMORANDUM from Magistrate Goodstein transferring file back to Magistrate Gorence. (wied, ) (Entered: 01/16/1998)   |
| 02/02/1998 | 25 | MOTION by defendant for partial summary judgment to dismiss pltf's first cause of action in its complaint (bet, )   |
| 02/02/1998 | 26 | BRIEF by defendant in support of motion for partial summary judgment to dismiss pltf's first cause of action in its complaint [25-1] with certificate of service (bet, )  |
| 02/02/1998 | 27 | PROPOSED Findings of Fact submitted by defendant (bet, )  |
| 02/02/1998 | 28 | AFFIDAVIT of C. Scott Copeland (bet, )  |
| 02/02/1998 | 29 | AFFIDAVIT of Richard Laucks (bet, )   |
| 02/02/1998 | 30 | AFFIDAVIT of Steven J. Thomas with attachment (bet, )   |
| 02/02/1998 | 31 | MOTION by plaintiff EEOC for partial summary judgment (wied, ) (Entered: 02/03/1998)  |
| 02/02/1998 | 32 | MEMORANDUM OF LAW by plaintiff EEOC in support of motion for partial summary judgment [31-1] (wied, ) (Entered: 02/03/1998)   |
| 02/02/1998 | 33 | STATEMENT of undisputed facts by plaintiff EEOC (wied, ) (Entered: 02/03/1998)  |
| 02/02/1998 | 34 | AFFIDAVIT of Jeanette Goss (wied, ) (Entered: 02/03/1998)   |
| 02/13/1998 | 35 | NOTICE OF EXPERT WITNESSES submitted by defendant Shopko Stores,Inc. (wied, )   |
| 02/23/1998 | 36 | JOINT MOTION by plaintiff EEOC, defendant Shopko Stores,Inc. to extend time to file responses to motions for summary judgment with attached certificate of service and certificate of counsel. (wied, ) Modified on 02/23/1998  |
| 02/24/1998 | 37 | ORDER by Mag Judge Patricia J. Gorence granting joint motion to extend time to file responses to motions for summary judgment [36-1]; It is further ordered that the EEOC's response to Shopko Stores Inc.'s motion shall be filed by 3/18/98; It is also ordered that Shopko's response to the EEOC's motion shall be filed by 3/23/98. (cc: all counsel) (wied, ) (Entered: 02/25/1998) |
| 03/05/1998 | 38 | RULE 6.07 MOTION by plaintiff EEOC to compel discovery (wied, ) (Entered: 03/06/1998)   |
| 03/05/1998 | 39 | LETTER BRIEF by plaintiff EEOC in support of motion to compel discovery [38-1] (wied, ) (Entered: 03/06/1998)   |
| 03/05/1998 | 40 | STATEMENT of counsel regarding EEOC's motion to compel discovery. (wied, ) (Entered: 03/06/1998)  |
| 03/06/1998 | 41 | JOINT MOTION by plaintiff EEOC, defendant Shopko Stores,Inc. to extend discovery deadline (wied, )  |
| 03/09/1998 | 42 | ORDER by Mag Judge Patricia J. Gorence granting joint motion to extend discovery deadline [41-1] ; discovery ddl set for 4/15/98 (cc: all counsel) (wied, ) (Entered: 03/10/1998)   |

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| 03/09/1998 | 43 | NOTICE of hearing by the Court setting hearing on motion to compel discovery [38-1] 11:00 3/19/98 (cc: all counsel) (wied, ) (Entered: 03/10/1998)  |
| 03/16/1998 | 45 | LETTER BRIEF by defendant Shopko Stores,Inc. in opposition to motion to compel discovery [38-1] (wied, ) (Entered: 03/17/1998)  |
| 03/16/1998 | 46 | AFFIDAVIT of Richard D. Schepp (wied, ) (Entered: 03/17/1998)   |
| 03/16/1998 | 47 | AFFIDAVIT (copy) of Richard Laucks (wied, ) (Entered: 03/17/1998)   |
| 03/17/1998 | 44 | LETTER from plaintiff EEOC with attached Exhibit B which was inadvertently omitted from docket #39. (wied, )  |
| 03/18/1998 | 48 | MOTION by plaintiff EEOC to extend time to respond to Shopko's motion for partial summary judgment (wied, ) (Entered: 03/19/1998)   |
| 03/19/1998 | 49 | HEARING MINUTES: motion to compel discovery [38-1] hearing held 3/19/98 denying motion to compel discovery [38-1]; defendant's request for an additional two days to file its response to the plaintiff's motion for partial summary judgment is granted. Defendant's response is due 3/25/98. Court will also grant the plaintiff's motion for a two day extension of time to respond to the defendant's partial summary judgment motion. (wied, ) (Entered: 03/20/1998) |
| 03/19/1998 | 50 | ORDER by Mag Judge Patricia J. Gorence; See hearing minutes. (cc: all counsel) (wied, ) (Entered: 03/20/1998)   |
| 03/19/1998 |    | MARGINAL ORDER by Mag Judge Patricia J. Gorence granting motion to extend time to respond to Shopko's motion for partial summary judgment [48-1]; plaintiff's response is due 3/20/98. (cc: all counsel) (wied, ) (Entered: 03/20/1998)   |
| 03/20/1998 | 51 | BRIEF by plaintiff EEOC in opposition to motion for partial summary judgment to dismiss pltf's first cause of action in its complaint [25-1] (wied, ) (Entered: 03/23/1998)   |
| 03/20/1998 | 52 | RESPONSE by plaintiff EEOC to Shopko's proposed findings of fact (wied, ) (Entered: 03/23/1998)   |
| 03/20/1998 | 53 | STATEMENT of additional facts precluding summary judgment by plaintiff EEOC (wied, ) (Entered: 03/23/1998)  |
| 03/20/1998 | 54 | AFFIDAVIT of Gordon E. Schulze (wied, ) (Entered: 03/23/1998)   |
| 03/20/1998 | 55 | AFFIDAVIT of Jeanette Goss (wied, ) (Entered: 03/23/1998)   |
| 03/20/1998 | 56 | DEPOSITION of Douglas K. Bergan taken on the following date(s): 2/26/98 (wied, ) (Entered: 03/23/1998)  |
| 03/20/1998 | 57 | DEPOSITION of Richard Laucks taken on the following date(s): 11/6/97 (wied, ) (Entered: 03/23/1998)   |
| 03/20/1998 | 58 | DEPOSITION of Gordon Schulze taken on the following date(s): 8/28/97 (wied, ) (Entered: 03/23/1998)   |
| 03/20/1998 | 59 | DEPOSITION of Bea Ziehlke taken on the following date(s): 2/27/98 (wied, ) (Entered: 03/23/1998)  |

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| 03/23/1998 | 60 | LETTER from plaintiff EEOC with attached new page 14 for the EEOC's brief in opposition to defendant's motion for partial summary judgment. (wied, )  |
| 03/25/1998 | 61 | BRIEF by defendant Shopko Stores,Inc. in opposition to motion for partial summary judgment [31-1] with attached certificate of service. (wied, )  |
| 03/25/1998 | 62 | RESPONSE by defendant Shopko Stores,Inc. to EEOC's proposed statement of undisputed facts and Shopko's proposed findings of undisputed facts. (wied, )  |
| 03/25/1998 | 63 | AFFIDAVIT of Richard Plautz (wied, )  |
| 03/25/1998 | 64 | AFFIDAVIT of Steven J. Thomas (wied, )  |
| 04/06/1998 | 65 | REPLY BRIEF by defendant Shopko Stores,Inc. in support of motion for partial summary judgment to dismiss pltf's first cause of action in its complaint [25-1] (wied, )  |
| 04/06/1998 | 66 | REPLY by defendant Shopko Stores,Inc. to EEOC's response to Shopko Stores, Inc.'s proposed findings of fact and Shopko Stores, Inc.'s response to EEOC statement of additional facts precluding summary judgment and Shopko Store, Inc.'s additional facts supportive of Shopko Stores, Inc.'s partial summary judgment. (wied, ) |
| 04/06/1998 | 67 | AFFIDAVIT of Steven J. Thomas with attached copies of depositions. (wied, )   |
| 04/08/1998 | 68 | LETTER from defendant Shopko Stores,Inc. with attached replacement of Page 3 to Shopko Stores, Inc.'s reply brief. (wied, )   |
| 04/08/1998 | 69 | REPLY BRIEF by plaintiff EEOC in support of motion for partial summary judgment [31-1] (wied, )   |
| 04/08/1998 | 70 | AFFIDAVIT of Dennis R. McBride (wied, )   |
| 04/10/1998 | 71 | CERTIFICATE of service (letter) by plaintiff EEOC for affidavit (#70) with attached replacement page 6 for reply brief (#69) (wied, )   |
| 04/15/1998 | 72 | MOTION by plaintiff EEOC in limine to bar late-disclosed witnesses and testimony (wied, ) (Entered: 04/16/1998)   |
| 04/15/1998 | 73 | MEMORANDUM OF LAW by plaintiff EEOC in support of motion in limine to bar late-disclosed witnesses and testimony [72-1] (wied, ) (Entered: 04/16/1998)  |
| 04/15/1998 | 74 | DECLARATION of Jeanette Goss. (wied, ) (Entered: 04/16/1998)  |
| 04/15/1998 | 75 | DECLARATION of Dennis R. McBride. (wied, ) (Entered: 04/16/1998)  |
| 05/11/1998 | 76 | BRIEF (copy) by defendant in opposition to motion in limine to bar late-disclosed witnesses and testimony [72-1]; exhibits attached (vlh, )   |
| 05/22/1998 | 77 | REPLY BRIEF by plaintiff EEOC in support of motion in limine to bar late-disclosed witnesses and testimony [72-1] (wied, ) (Entered: 05/26/1998)  |
| 05/22/1998 | 78 | Second DECLARATION of Jeanette Goss for Plaintiff EEOC (wied, ) (Entered: 06/02/1998)   |
| 06/15/1998 | 79 | ATTORNEY APPEARANCE for plaintiff EEOC by Barbara L. Henderson (wied, )   |

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| 09/30/1998 | 80 | ORDER by Mag Judge Patricia J. Gorence granting ShopLo Stores, Inc.'s motion for partial summary judgment to dismiss pltf's first cause of action in its complaint [25-1], denying EEOC's motion for partial summary judgment [31-1] ; status hearing set for 3:00 10/29/98 (cc: all counsel) (wied, ) (Entered: 10/02/1998)  |
| 10/22/1998 | 81 | NOTICE of hearing by the Court ; status hearing rescheduled for 2:30 11/2/98 (cc: all counsel) (wied, ) (Entered: 10/23/1998)   |
| 10/27/1998 | 82 | LETTER (Memorandum) from Magistrate Judge Gorence to Magistrate Judge Goodstein stating that the parties have requested another settlement conferece be held. Both parties have new counsel. The 11/2/98 status conference has been removed from Judge Gorence's caladar, and the parties are expecting Judge Goodstein to contact them. (wied, ) (Entered: 10/28/1998)   |
| 10/30/1998 | 83 | ATTORNEY APPEARANCE for defendant Shopko Stores,Inc. by Attorney Larry Gille. (wied, )  |
| 11/02/1998 | 84 | NOTICE of hearing by the Court (AEG); settlement conference set for 9:00 11/25/98 in Room 254. A settlement conference statement of each party must be submitted directly to Mag Judge Goodstein no later than ten days prior to the settlement conference. (cc: all counsel) (wied, ) (Entered: 11/03/1998)  |
| 11/12/1998 | 88 | LETTER from defendant Shopko Stores,Inc. rescheduling the settlement conference from 11/25/98 at 9:00 to 12/22/98 at 1:30 pm. (wied, ) (Entered: 01/06/1999)  |
| 11/16/1998 | 85 | LETTER from defendant Shopko Stores, Inc. confirming that the settlement conference has been rescheduled for 11/25/98 at 9:00 am to 12/22/98 at 1:30 pm. (wied, ) (Entered: 11/17/1998)   |
| 12/22/1998 | 87 | HEARING MINUTES: by Mag Judge Aaron E. Goodstein; Settlement conference held 12/22/98; terminating case referral to Mag Judge Aaron E. Goodstein ; A significant difference still exists between the parties and they are unable to settle the case. The parties are ready for trial; Court Reporter: None (wied, ) (Entered: 12/24/1998)   |
| 12/23/1998 | 86 | NOTICE of hearing by the Court ; telephonic status hearing set for 3:00 1/7/99 The court will initiate the call (cc: all counsel) (wied, ) (Entered: 12/24/1998)  |
| 01/07/1999 | 89 | HEARING MINUTES: by Mag Judge Patricia J. Gorence ; status hearing set for 3:30 2/9/99, status hearing held 1/7/98 at 3:15 The plaintiff is to advise the court by letter by 1/20/99 as to the continued viability of part or all of its pending motion in limine. The court will court will reschedule the telephone conference as the parties wish to pursue settlement of this case. Court Reporter: None (wied, ) (Entered: 01/11/1999) |
| 01/08/1999 | 90 | ORDER by Mag Judge Patricia J. Gorence SEE 1/7/99 Hearing Minutes for details. (cc: all counsel) (wied, ) (Entered: 01/11/1999)   |
| 02/01/1999 | 91 | STIPULATION regarding EEOC's motion in limine (vlh, )   |
| 02/09/1999 | 92 | HEARING MINUTES: by Mag Judge Patricia J. Gorence ; telephonic status hearing set for 1:30 2/25/99, status hearing held 2/9/99 Parties are finalizing the settlement of this action. Parties are to file the settlement documents with the  |

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|            |    | court by 2/22/99. If the papers are not filed, the court will conduct the telephone scheduling hearing. The court will initiate the call. Court Reporter: None (wied, ) (Entered: 02/10/1999)  |
| 03/01/1999 | 93 | LETTER from defendant Shopko Stores,Inc. cancelling the 2/25/99 scheduling conference and rescheduling the conference to 3/17/99 at 3:00. (wied, )   |
| 03/31/1999 | 94 | CONSENT JUDGMENT by Deputy Clerk for plaintiff EEOC against defendant Shopko Stores,Inc. terminating case with prejudice and without costs The court retains jurisdiction for purposes of enforcing this consent decree only. This decree shall remain in full force and effect for six months from the date of its approval by the court for enforcement purposes. (cc: all counsel) (wied, ) (Entered: 04/01/1999) |

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