

U.S. District Court
United States District Court for the Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:02-cv-02498-RMB-KNF

Harris, et al v. Eggleston, et al
Assigned to: Judge Richard M. Berman
Referred to: Magistrate Judge Kevin Nathaniel Fox
Demand: \$0
Cause: 07:2011 Food Stamp Act of 1964

Date Filed: 04/01/2002
Date Terminated: 02/07/2007
Jury Demand: None
Nature of Suit: 444 Civil Rights: Welfare
Jurisdiction: Federal Question

Plaintiff

Barbara Harris
*on behalf of herself and all others
similarly situated*

represented by **David F. Dobbins , Sr**
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Plaintiff

William Brown
on behalf of himself and all others
similarly situated

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Plaintiff

Barbara Marroquin

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Plaintiff

Maria Ojeda
on behalf of themselves and all others
similarly situated

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V.

Defendant

Verna Eggleston

*in her official capacity as the
Commissioner of The City of New York
Human Resources Administration*

represented by **Robert Lewis Kraft**

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ATTORNEY TO BE NOTICED

Defendant

Brian J. Wing

*in his official capacity as the
Commissioner of the State of New York
Office of Temporary and Disability
Assistance*

represented by **Robert Lewis Kraft**

(See above for address)
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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/01/2002	1	CLASS ACTION COMPLAINT filed. Summons issued and Notice pursuant to 28 U.S.C. 636(c). FILING FEE \$ 150.00 RECEIPT # 434725. (dle) (Entered: 04/04/2002)
04/01/2002		CASE REFERRED TO Judge William H. Pauley as possibly related to 1:98cv887. (dle) (Entered: 04/04/2002)
04/03/2002	2	Notice of Case Assignment to Judge Richard M. Berman . Copy of notice and judge's rules mailed to Attorney(s) of record: David F. Dobbins . (dle) (Entered: 04/04/2002)
04/03/2002		Magistrate Judge Kevin N. Fox is so designated. (dle) (Entered: 04/04/2002)
04/03/2002		Case referred as related to 98cv887 and declined by Judge William H. Pauley and returned to wheel for assignment. (dle) (Entered: 04/04/2002)
04/05/2002	3	ORDER TO SHOW CAUSE by Barbara Harris, William Brown, Barbara Marroquin, and Maria Ojeda; Show Cause Hearing set for 3:00 p.m. on 4/11/02; for preliminary injunction against defendants pursuant to Rule 65 of the FRCP . (signed by Judge Richard M. Berman); Copies mailed. (kw) (Entered: 04/08/2002)
04/05/2002		MEMO-ENDORSEMENT on doc. #3; parties to "meet & confer" forthwith to pursue non-litigation resolution of all Copies mailed. (kw) (Entered: 04/08/2002)
04/05/2002	4	ORDER TO SHOW CAUSE; Show Cause Hearing set for 3:00 p.m. on 4/11/02. For an order pursuant to Rule 34(b) of the FRCP should not be issued directing the parties to engage in expedited discovery . (signed by Judge Richard M. Berman); Copies mailed. (kw) (Entered: 04/08/2002)
04/05/2002		MEMO-ENDORSEMENT on doc. #4; parties to meet & confer forthwith i.e. before 5 p.m. on 4/8/02 . (signed by Judge Richard M. Berman); Copies mailed. (kw) (Entered: 04/08/2002)
04/11/2002	5	AFFIDAVIT OF SERVICE of summons, class action complaint, orders to show cause, memorandums of law as to Verna Eggleston by Shaniqua Carr, process clerk on 4/3/02 . Answer due on 4/23/02 for Verna Eggleston . (yv) (Entered: 04/16/2002)
04/11/2002	5	AFFIDAVIT OF SERVICE of Orders to Show Cause as to Verna Eggleston by Shaniqua Carr, process clerk on 4/3/02 . . (yv) (Entered: 04/16/2002)
04/11/2002	5	AFFIDAVIT OF SERVICE of summons, class action complaint, orders to show cause and memorandums in support of motions as to Brian J. Wing by Stephanie M. Rosenberg, managing attorney and Ronald Speier, assitant counsel on 4/4/02 Answer due on 4/24/02 for Brian J. Wing (yv) Modified on 04/16/2002 (Entered: 04/16/2002)

05/14/2002	6	Memo–Endorsement on letter addressed to Judge Berman from Bill Lienhard, dated 5/12/02. Re: plaintiffs write regarding the areas of agreement and disagreement and communicating with the US Department of Agriculture. Thanks. I was thinking of identifying & solving. Good start. Keep going . (signed by Judge Richard M. Berman); Copies mailed. (kw) (Entered: 05/20/2002)
05/21/2002	7	Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for General Pretrial/After Initial Case Management Conference held by District Judge. Referred to Magistrate Judge Kevin Nathaniel Fox (signed by Judge Richard M. Berman) (cd) (Entered: 05/23/2002)
05/23/2002	8	Order referring action to the Clerk to assign the above–entitled action to mediation. All issues are eligible (signed by Judge Richard M. Berman) (cd) (Entered: 05/24/2002)
05/31/2002	9	Notice of selection of mediator. (sc) (Entered: 05/31/2002)
06/04/2002	10	ORDER, regarding the Court's decision on the controversy concerning the text of a proposed confidentiality stipulation . (signed by Magistrate Judge Kevin Nathaniel Fox); Copies mailed. (kw) (Entered: 06/05/2002)
06/10/2002	11	Transcript of record of proceedings before Judge Richard M. Berman for the date(s) of April 11, 2002. (jb) (Entered: 06/12/2002)
07/03/2002	12	Memo–Endorsement on letter addressed to Magistrate Judge Fox from Megan Lewis, dated 7/1/02: The definition of "confidential information" set forth on pages one through two of this writing shall govern the disclosure of documents made by the parties to the proposed stipulation. However, the underscored word "explicitly" that appears in the last line of the first page of this writing shall be deleted from definition. The Court finds that it would be economical and efficient to have one protective order concerning confidential material govern a particular litigation. Therefore, the terms of the proposed stipulation will extend to all relevant material exchanged by the stipulation signatories. The Court commends to the parties' attention Standing Order M–10–468 of this Court, dated 10/5/01, which pertains to sealed records filed with the Clerk of Court . (signed by Magistrate Judge Kevin Nathaniel Fox); Copies mailed. (tp) (Entered: 07/09/2002)
10/31/2002	13	ORDER, A telephone conference shall be held on 11/12/02 at 12:30 p.m. The telephone conference shall be initiated by plaintiffs' counsel to (212) 805–6705. Any request for adjournment of the conference must be made in writing, at least 48 hours before the scheduled conference and must indicate alternative dates. (signed by Magistrate Judge Kevin Nathaniel Fox); Copies mailed by Chambers. (sb) (Entered: 11/04/2002)
11/14/2002		Status Conference held before Magistrate Judge Kevin Nathaniel Fox. (kw) (Entered: 12/09/2002)
11/18/2002	14	ORDER, On or before 11/21/02, plaintiffs shall serve and file any motion to compel disclosure; on or before 12/3/02, the State defendant shall serve and file a response to the motion; and on or before 12/11/02, plaintiffs shall serve and file any reply. (signed by Magistrate Judge Kevin Nathaniel Fox); Copies faxed by Chambers. (sb) (Entered: 11/19/2002)
11/22/2002	15	Memo–Endorsement on letter addressed to Magistrate Judge Fox from Megan Lewis, dated 11/21/02. Re:, granting counsel for plaintiffs request to withdraw their request to file a motion to compel, without prejudice to our ability to renew our request should plaintiffs decide that is necessary . (signed by Magistrate Judge Kevin Nathaniel Fox); (dle) (Entered: 11/26/2002)
12/30/2002	16	Memorandum to Docket Clerk:, that a telephone conference was held before Judge Berman on 12/30/02 . (pl) (Entered: 12/31/2002)
12/30/2002		Telephone Conference held before Judge Richard M. Berman . (pl) (Entered: 12/31/2002)
12/30/2002		Telephone Conference set at 9:30 1/30/03 before Judge Richard M. Berman . (pl) (Entered: 12/31/2002)

05/16/2003	17	ORDER: that a telephonic conference shall be held in this action on 6/12/03 at 12:00 p.m. Any request for an adjournment of the conference must be in writing, at least 48 hrs before the scheduled conference, and must indicate at least two alternate dates when the parties will be available. (signed by Magistrate Judge Kevin Nathaniel Fox); Copies mailed by Chamber (sac) (Entered: 05/19/2003)
06/13/2003	18	ORDER, reset telephone conference for 11:00 a.m. on 6/24/03 . (signed by Magistrate Judge Kevin Nathaniel Fox); Copies mailed by chambers. (kw) (Entered: 06/16/2003)
06/24/2003		Status Conference held before Magistrate Judge Kevin Nathaniel Fox. (kw) (Entered: 07/03/2003)
06/26/2003	19	ORDER; that counsel to the plaintiff shall advise the undersigned, in writing when the U.S. Dept. of Agriculture has completed its review . (signed by Magistrate Judge Kevin Nathaniel Fox); (pl) (Entered: 06/30/2003)
05/13/2004		Minute Entry for proceedings held before Judge Kevin Nathaniel Fox : Status Conference held on 5/13/2004. (kw,) (Entered: 05/21/2004)
05/17/2004	20	NOTICE of Appearance by Robert Lewis Kraft on behalf of Brian J. Wing (nite dep. box)(pa,) (Entered: 05/18/2004)
05/21/2004	21	ORDER; that the parties shall advise the undersigned in a joint writing, of the status of this action on or before 7/13/04. (Signed by Judge Kevin Nathaniel Fox on 5/20/04) Copies faxed by chambers.(pl,) (Entered: 05/25/2004)
06/01/2004	22	ORDER: the parties shall advise the Court in a joint writing of the status of this action by 7/13/04. (Signed by Judge Kevin Nathaniel Fox on 5/20/04) (kw,) (Entered: 06/02/2004)
07/08/2005	23	ENDORSED LETTER addressed to Magistrate Judge Fox from Robert L. Kraft dated 6/29/05 re: response to the Court's request for a status report. The parties shall, on or before, 9/30/2005, provide the Court a written status report concerning this action (Signed by Judge Kevin Nathaniel Fox on 7/1/05) (yv,) (Entered: 07/11/2005)
10/07/2005	24	ENDORSED LETTER: addressed to Magistrate Judge Kevin N. Fox from Robert L. Kraft. ENDORSEMENT: On or before November 30, 2005 the parties shall provide the Court with a written status report concerning this action. (Signed by Magistrate Judge Kevin Nathaniel Fox on 10/6/2005) (lb,) (Entered: 10/11/2005)
12/14/2005	25	ORDER: Telephone Conference set for 1/11/2006 at 02:00 PM before Magistrate Judge Kevin Nathaniel Fox. The telephonic conference shall be initiated by counsel to the plaintiffs to (212)805-6705. (Signed by Magistrate Judge Kevin Nathaniel Fox on 12/13/2005) Copies Faxed By Chambers.(lb,) (Entered: 12/14/2005)
01/12/2006	26	ORDER: It is hereby ordered that, on or before 2/17/2006, the parties shall advise the Court, in writing, whether the litigation has been resolved. If not, on or before 2/24/2006, the defendants shall serve and file their answer. Thereafter, a schedule will be fixed for the parties to complete all activities necessary for them to proceed to trial. (Signed by Magistrate Judge Kevin Nathaniel Fox on 1/12/2006) (lb,) (Entered: 01/17/2006)
02/23/2006	27	ORDER the application for an enlargement of time made by the defendants, in a writing dated February 21,2006, is denied. (Signed by Judge Kevin Nathaniel Fox on 2/21/2006) (jmi,) (Entered: 02/24/2006)
02/24/2006	28	ANSWER to Complaint. Document filed by Verna Eggleston.(dle,) (Entered: 02/28/2006)
02/24/2006	29	ANSWER to Complaint. Document filed by Verna Eggleston, Brian J. Wing.(dle,) (Entered: 02/28/2006)
03/21/2006	30	ORDER; a telephonic conference will be held in the above-captioned action on March 21, 2006 at 4:00 p.m. The telephonic conference shall be initiated by counsel to the plaintiffs to (212) 805-6705. (Signed by Judge Kevin Nathaniel Fox on 3/17/06) (djc,) (Entered: 03/22/2006)
03/22/2006	31	ORDER that all discovery of whatever nature shall be initiated so as to be completed on or before 9/21/06; a telephonic status conference will be held with the parties on

		7/6/06 at 2:00 p.m.;counsel to the plaintiffs shall initiate the telephonic conference on that date. (Signed by Judge Kevin Nathaniel Fox on 3/21/06) (dle,) (Entered: 03/23/2006)
03/22/2006		Set Deadlines/Hearings: Discovery due by 9/21/2006. Telephone Conference set for 7/6/2006 02:00 PM before Magistrate Judge Kevin Nathaniel Fox. (dle,) (Entered: 03/23/2006)
06/23/2006	32	ENDORSED LETTER addressed to Judge Kevin N. Fox from Kimberly Conway dated 6/16/06. ENDORSEMENT: The instant application will be addressed with the parties on July 6, 2006, during the telephonic status conference. (Signed by Judge Kevin Nathaniel Fox on 6/21/06) (js,) (Entered: 06/26/2006)
07/06/2006		Minute Entry for proceedings held before Judge Kevin Nathaniel Fox : Telephone Conference held on 7/6/2006. (jmi,) (Entered: 08/09/2006)
07/10/2006	33	ORDER: It is hereby ordered that on or before 7/20/2006, the parties shall advise the Court, in writing, of the status of the negotiations respecting a resolution of the controversy surrounding the payment of attorney's fees. The request made to the Court that discovery be stayed, is denied. (Signed by Magistrate Judge Kevin Nathaniel Fox on 7/10/2006) Copies Faxed By Chambers.(lb,) (Entered: 07/11/2006)
08/04/2006	34	ENDORSED LETTER addressed to Mag. Judge Kevin N. Fox from Elissa Rossi dated 8/2/06 re: The parties shall suspend their discovery activities until 10/2/06. The parties are to request that USDA complete its review reasonably so as to avoid any need by the parties to make an additional requests of this ilk.. (Signed by Judge Kevin Nathaniel Fox on 8/4/06) (pl,) (Entered: 08/07/2006)
11/03/2006	35	ORDER Telephone Conference set for 11/14/2006 at 02:00 PM before Magistrate Judge Kevin Nathaniel Fox. The telephonic conference shall be initiated by counsel to the plaintiffs to (212)805-6705. So Ordered (Signed by Judge Kevin Nathaniel Fox on 11/3/2006) (jmi,) (Entered: 11/06/2006)
11/14/2006		Minute Entry for proceedings held before Judge Kevin Nathaniel Fox : Telephone Status Conference held on 11/14/2006. (jar,) (Entered: 12/06/2006)
11/15/2006	36	ORDER: by 12/18/06, parties shall submit to the Court, for its review, their joint pre-trial order. That document must conform to the requirements for such an order that are set forth in the Individual Rules of Practice of the assigned district judge. (Signed by Judge Richard M. Berman on 11/14/06) Copies Faxed by Chambers.(db,) (Entered: 11/16/2006)
11/15/2006		Set/Reset Deadlines: Joint Pretrial Order due by 12/18/2006. (db,) (Entered: 11/16/2006)
12/19/2006	37	LETTER addressed to Magistrate Judge Kevin N. Fox from Robert Kraft dated 12/18/06 re: counsel for dfts request the court to schedule a status conference. Document filed by Verna Eggleston, Brian J. Wing.(dle,) (Entered: 12/22/2006)
02/07/2007	38	ORDER OF DISCONTINUANCE: It is hereby ordered that the above entitled action be, and the same hereby is, discontinued provided, however, that within 45 days of the date of this order, counsel for plaintiffs and/or Defendants may upon good cause shown apply by letter for restoration of the action. (Signed by Judge Richard M. Berman on 2/7/07) (js) (Entered: 02/08/2007)
02/15/2007	39	ENDORSED LETTER addressed to Judge Richard M. Berman from Jim Walden dated 2/14/07 re: counsel for plaintiffs request that the court enter a slightly modified order for the reasons set forth herein. Plaintiffs' objection to the Mag. Judge's discovery ruling is denied (as moot) but without prejudice during any subsequent proceeding in tis case.. (Signed by Judge Richard M. Berman on 2/15/07) (dle) (Entered: 02/20/2007)
03/20/2007	42	ENDORSED LETTER addressed to Judge Berman from Jim Walden dated 3/19/07 re request that the court extend its deadline for restoration of the action for an additional 60 days: application granted (but its still unclear to me why it's needed in this 2002 case.) (Signed by Judge Richard M. Berman on 3/19/07) (cd) (Entered: 03/21/2007)

05/25/2007	43	ENDORSED LETTER: addressed to Judge Richard M. Berman from Gibson, Dunn &Crutcher LLP. dated 5/23/07 re: addressed to Judge Richard M. Berman from Gibson, Dunn &Crutcher LLP. dated 5/23/07 re: Request the Court restore the case for the limited purpose of approving and implementing this class action settlement as provided by Federal Rule of Civil Procedure 23(e) furthermore, we ask that the Court schedule a conference at the Court's convenience to discuss steps necessary for the implementation of the notice and fairness hearing. ENDORSEMENT: Conference on 6/12/07 at 9:00 a.m. (Signed by Judge Richard M. Berman on 5/25/07) (js) (Entered: 05/29/2007)
06/12/2007		Minute Entry for proceedings held before Judge Richard M. Berman : Settlement Conference held on 6/12/2007. Motions due by 7/26/2007., Settlement Conference set for 7/12/2007 at 09:30 AM – 30 day conf. for prelim. approval of settlement., Fairness Hearing set for 9/27/07 at 9:30am before Judge Richard M. Berman. (tro) (Entered: 06/14/2007)
07/11/2007	44	PLAINTIFFS' NOTICE OF MOTION FOR CLASS CERTIFICATION AND PRELIMINARY Approve of Class Action Settlement.(Return Date set for 9/27/2007 at 09:30 AM.), MOTION to Certify Class. Document filed by Barbara Harris, William Brown, Barbara Marroquin, Maria Ojeda.(mbe) (Entered: 07/12/2007)
07/11/2007	45	MEMORANDUM OF LAW in Support of re: 44 PLAINTIFFS' NOTICE OF MOTION Approve of Class Action Settlement. MOTION to Certify Class. Document filed by Barbara Harris, William Brown, Barbara Marroquin, Maria Ojeda. (mbe) (Entered: 07/12/2007)
07/11/2007	46	DECLARATION of Oliver M. Olanoff in Support re: 44 PLAINTIFFS' NOTICE OF MOTION FOR CLASS CERTIFICATION AND PRELIMINARY Approve of Class Action Settlement. MOTION to Certify Class. Document filed by Barbara Harris, William Brown, Barbara Marroquin, Maria Ojeda. (mbe) (Entered: 07/12/2007)
07/11/2007	47	CERTIFICATE OF SERVICE of Plaintiff's Memorandum of Law in Support, Notice of Motion for Class Certification served on Robert L. Kraft, Kimberly Conway on 7/10/07. Service was made by Mail. Document filed by Barbara Harris, William Brown, Barbara Marroquin, Maria Ojeda. (tro) (Entered: 07/13/2007)
07/12/2007		Minute Entry for proceedings held before Judge Richard M. Berman : Pretrial Conference for preliminary approval of settlement held on 7/12/07. Order signed. (kco) (Entered: 07/31/2007)
07/13/2007	48	ORDER PRELIMINARILY CERTIFYING CLASS AND PRELIMINARILY APPROVING SETTLEMENT BETWEEN THE PLAINTIFFS AND DEFENDANTS; for the purpose of settlement, the action is preliminarily certified as a class action on behalf of the following persons as stated in this order. Barbara Harris and Barbara Marroquin are preliminarily certified as representatives of the class. The terms of the settlement are hereby preliminarily approved. A Fairness hearing shall be held on 9/27/2007at 9:30 AM before the Honorable Richard M. Berman.(Signed by Judge Richard M. Berman on 7/12/07) (kco) (Entered: 07/17/2007)
07/25/2007	49	TRANSCRIPT of proceedings held on 6/12/07 before Judge Richard M. Berman. (jbe) (Entered: 07/25/2007)
07/30/2007	50	ENDORSED LETTER addressed to Judge Richard M. Berman from Jim Walden dated 7/26/07 re: Request that the Court approve the proposed form of notice and the Proposed Notice enclosed herein as Exhibits A and C to the proposed order. ENDORSEMENT: The Court is directing counsel to meet and confer and submit a joint notice by noon on 7/31/07. Counsels' inability to resolve open issues jointly and professionally is becoming a little tedious and has hampered timely resolution on behalf of the class. (Signed by Judge Richard M. Berman on 7/30/07) (cd). (Entered: 07/31/2007)
08/10/2007	51	ENDORSED LETTER addressed to Judge Richard M. Berman from Robert L. Weigel dated 8/7/2007 re: request that the Court approve the Settlement as negotiated by the parties. ENDORSEMENT: The Court approves the proposed settlement preliminarily (with the notice language changes submitted) and is moving forward to the fairness hearing. (Signed by Judge Richard M. Berman on 8/9/2007) (jar) (Entered: 08/13/2007)

09/27/2007	<u>52</u>	JUDGMENT approving class action settlement and dismissing action. (Signed by Judge Richard M. Berman on 9/27/07) (ml) (Entered: 09/28/2007)
10/09/2007	<u>53</u>	STIPULATION OF SETTLEMENT AND ORDER Defendants will perform the acts described in this Stipulation if the Secretary of the Department of Agriculture ("Secretary") formally acquiesces to the terms of this Stipulation based on the Secretary's authority under 7 U.S.C. § 2022(a) "to determine the amount of and settle and adjust my claim... arising under the provisions of this act or the regulations issued pursuant to this act...." Within ten (10) business days of the execution of this Stipulation, but prior to the submission of this Stipulation to the Court, State defendant will provide all counsel with a draft letter to the Department of Agriculture requesting the Secretary to acquiesce to the terms of this Stipulation. Said letter will, in addition to seeking acquiescence, request that all communications from the Department of Agriculture concerning said request, including but not limited to communications raising my questions concerning the stipulation, be made in writing. In addition State defendant agrees that all communication from State defendant to the Secretary shall be in writing. Plaintiff counsel will have ten (10) business days to provide any comments to State defendant on the contents of the letter seeking acquiescence, and State defendant will consider all comments raised by Plaintiffs' counsel. State defendant will subsequently submit a copy of the Stipulation and a letter to the Department of Agriculture requesting the Secretary to acquiesce to the terms of this Stipulation. State defendant will provide all counsel with copies of all correspondence and documents sent between the Secretary and State defendant concerning this request. for acquiescence. State defendant will allow all parties five (5) business days to comment on any communications from the Secretary prior to submitting a written response to the written communication from the Secretary and will consider such comments in drafting any response. (Signed by Judge Richard M. Berman on 10/9/2007) (jmi) (Entered: 10/10/2007)