

APPEAL, CLOSED

**U.S. District Court**  
**United States District Court for the Southern District of New York (Foley Square)**  
**CIVIL DOCKET FOR CASE #: 1:97-cv-09571-LAK-MHD**

E.E.O.C. v. Museum of Modern Art  
Assigned to: Judge Lewis A. Kaplan  
Referred to: Magistrate Judge Michael H. Dolinger  
Demand: \$0  
Cause: 42:12112 Americans with Disabilities Act of 1990

Date Filed: 12/31/1997  
Date Terminated: 03/30/1999  
Jury Demand: Plaintiff  
Nature of Suit: 442 Civil Rights: Jobs  
Jurisdiction: U.S. Government Plaintiff

**Plaintiff**

**Equal Employment Opportunity  
Commission**

represented by **Andree Peart**  
33 Whitehall Street,  
New York, NY 10004  
(212) 336-3746  
**LEAD ATTORNEY**

V.

**Defendant**

**Museum of Modern Art**

represented by **Christopher John Collins**  
Kelley Drye & Warren, LLP (NY)  
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**LEAD ATTORNEY**

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
12/31/1997	1	COMPLAINT filed; Summons issued and Notice pursuant to 28 U.S.C. 636(c); (No Fees Due - U.S.A.). (em) (Entered: 01/06/1998)
12/31/1997		Magistrate Judge Dolinger is so Designated. (em) (Entered: 01/06/1998)
01/15/1998	2	ORDER, regarding scheduling and initial pretrial conference ( signed by Judge Lewis A. Kaplan ); Copies mailed (cd) (Entered: 01/16/1998)
03/10/1998	3	SCHEDULING ORDER: joinder of additional parties - 4/9/98; amendment of pleadings - 4/9/98; completion of all discovery - 6/9/98; service of summary judgment motions - 7/9/98; filing of pretrial order, proposed jury instructions and requested voir dire questions -- case ready for trial - 7/9/98 ( signed by Judge Lewis A. Kaplan ); Copies mailed (sac) (Entered: 03/11/1998)

03/11/1998	4	Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for settlement. ( signed by Judge Lewis A. Kaplan ) Referred to Magistrate Judge Michael H. Dolinger. (kw) (Entered: 03/12/1998)
03/17/1998	5	Rule 1.9 certificate filed by Museum of Modern Art (dj) (Entered: 03/20/1998)
03/17/1998	6	ANSWER to Complaint by Museum of Modern Art (Attorney Christopher J. Collins); by attorney Christopher J. Collins for defendant Museum of Modern Art (dj) (Entered: 03/20/1998)
05/01/1998		Before Mag Judge Dolinger; Pre-trial conference held (cd) (Entered: 05/04/1998)
05/08/1998	7	Filed Memo-Endorsement on letter to Judge Kaplan from Andree M. Peart dated 05/07/98, reset discovery due for 6/30/98 ; reset pretrial order due for 8/30/98 ; reset summary judgment motion filing deadline for 8/30/98 ; the Court did not authorize suspension of discovery ( signed by Judge Lewis A. Kaplan) (dj) (Entered: 05/08/1998)
08/31/1998	8	NOTICE OF MOTION by Museum of Modern Art; pursuant to Rule 56(e) of the FRCP, for summary judgment ; with Deposition(s) in support attached (filed in the night deposit on 8/31/98 at 11:59 p.m.) (ae) Modified on 09/02/1998 (Entered: 09/02/1998)
08/31/1998	9	MEMORANDUM OF LAW by Museum of Modern Art in support of [8-1] motion pursuant to Rule 56(e) of the FRCP, for summary judgment (filed in the night deposit on 8/31/98 at 11:59 p.m.) (ae) (Entered: 09/02/1998)
08/31/1998	10	Rule 56.1 statement filed by Museum of Modern Art (filed in the night deposit on 8/31/98 at 11:59 p.m.) (ae) (Entered: 09/02/1998)
09/03/1998	11	JOINT PRETRIAL ORDER filed. ( signed by Judge Lewis A. Kaplan ) (kw) (Entered: 09/04/1998)
09/15/1998	12	Filed Memo-Endorsement on letter to Judge Kaplan from Andree M. Peart dated 9/14/98, plaintiff's response to motion reset to 9/16/98 for [8-1] motion pursuant to 56(e) of the FRCP, for summary judgment ( signed by Judge Lewis A. Kaplan ) (kw) (Entered: 09/16/1998)
09/17/1998	13	MEMORANDUM by E.E.O.C. in opposition to [8-1] motion pursuant to Rule 56(e) of the FRCP, for summary judgment (ls) (Entered: 09/17/1998)
09/23/1998	14	REPLY MEMORANDUM by Museum of Modern Art re: [8-1] motion pursuant to Rule 56(e) of the FRCP, for summary judgment (cd) (Entered: 09/24/1998)
09/23/1998	15	SUPPLEMENTAL AFFIDAVIT in support of C. Collins by Museum of Modern Art Re: [8-1] motion pursuant to Rule 56(e) of the FRCP, for summary judgment (cd) (Entered: 09/24/1998)
02/09/1999	16	ORDER, set oral argument for 11:30 2/22/99 (signed by Judge Lewis A. Kaplan); Copies mailed. (ri) (Entered: 02/09/1999)
02/25/1999	17	ORDER; denying [8-1] motion pursuant to Rule 56(e) of the FRCP, for summary judgment. ( signed by Judge Lewis A. Kaplan ); Copies mailed (jp) (Entered: 02/26/1999)
03/04/1999		Settlement conference held (sl) (Entered: 03/08/1999)

03/19/1999	18	NOTICE OF MOTION by Museum of Modern Art in limine, for an order preventing plttf from introducing, at trial, any purported evidence concerning the possible adverse effect of MoMA's alleged discrimination on Jeffrey Allen's HIV condition or T Cell count, any evidence concerning Allen's belief, opinion or concern about such an effect, and a handwritten chart prepared by Allen which, along with other notations by Allen, purports to track his T Cell Count . Return date 3/23/99. Deft's Memorandum in support attached. (emil) (Entered: 03/25/1999)
03/19/1999	19	Proposed Jury Instructions by Museum of Modern Art (emil) (Entered: 03/25/1999)
03/19/1999	20	Proposed Voir Dire Questions by Museum of Modern Art (emil) (Entered: 03/25/1999)
03/22/1999	21	OPPOSITION BRIEF by Museum of Modern Art re: [18-1] motion in limine, for an order preventing plttf from introducing, at trial, any purported evidence concerning the possible adverse effect of MoMA's alleged discrimination on Jeffrey Allen's HIV condition or T Cell count, any evidence concerning Allen's belief, opinion or concern about such an effect, and a handwritten chart prepared by Allen which, along with other notations by Allen, purports to track his T Cell Count (emil) (Entered: 03/26/1999)
03/23/1999		Jury trial held before Judge Kaplan on 3/23/99. (sac) (Entered: 03/30/1999)
03/24/1999		Jury trial continues. (sac) (Entered: 03/30/1999)
03/25/1999		Jury trial continues. (sac) (Entered: 03/30/1999)
03/26/1999		Jury trial held & concluded before Judge Kaplan on 3/26/99. Jury Verdict for the deft. (sac) (Entered: 03/30/1999)
03/30/1999	22	JUDGMENT. The complaint is dismissed. (signed by Judge Lewis A. Kaplan); Mailed copies and notice of right to appeal. Entered on 04/01/99 (djc) (Entered: 04/01/1999)
03/30/1999		Case closed (djc) (Entered: 04/01/1999)
04/12/1999	23	Transcript of record of proceedings filed before Judge Lewis A. Kaplan for dates of February 24, 1999 at 4:45 P.M. (sn) (Entered: 04/13/1999)
05/28/1999	24	NOTICE OF APPEAL by E.E.O.C. ; from [22-1] judgment order . Copies of notice of appeal mailed to Attorney(s) of Record: Christopher J. Collins . (dt) (Entered: 05/28/1999)
05/28/1999		Notice of appeal and certified copy of docket to USCA: [24-1] appeal by E.E.O.C. ; Copy of notice of appeal sent to District Judge. (dt) (Entered: 05/28/1999)
06/01/1999	25	Transcript of record of proceedings before Judge Kaplan filed for dates of 3/23-26/99 (jp) (Entered: 06/02/1999)
07/28/1999	26	True Copy of Order from the USCA as to E.E.O.C. RE: [24-1] appeal by E.E.O.C. . Notice of motion for voluntary dismissal of appeal. It is hereby ordered that the motion be and it hereby is granted. (99-6137) Karen Greve Milton, USCA. (as) (Entered: 07/28/1999)

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