

CLOSED

**U.S. District Court
SOUTHERN DISTRICT OF TEXAS (Houston)
CIVIL DOCKET FOR CASE #: 4:04-cv-03372**

EEOC v. WC&M Enterprises Inc
Assigned to: Judge Lynn N. Hughes
Demand: \$0
Cause: 42:2000 Job Discrimination (Race)

Date Filed: 08/25/2004
Date Terminated: 10/12/2007
Jury Demand: Defendant
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: U.S. Government Plaintiff

Plaintiff

**Equal Employment Opportunity
Commission**

represented by **Timothy M Bowne**
EEOC
1919 Smith
6th Fl
Houston, TX 77002
713-209-3395
Fax: 713-209-3402
Email: timothy.bowne@eoc.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

WC&M Enterprises Inc
doing business as
Streater-Smith Honda

represented by **Mark R Lapidus**
Burck Lapidus et al
5177 Richmond Ave
Ste 850
Houston, TX 77056
713-400-6000
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
|-------------------|--------------------------|--|
| 08/25/2004 | <u>1</u> | COMPLAINT by Equal Employment Opp filed; (bchurchill) Additional attachment(s) added on 4/11/2006 (jdavenport,). (Entered: 08/26/2004) |
| 08/25/2004 | <u>2</u> | ORDER for conference set initial pretrial conference for 10:30 11/8/04 before Judge Lynn N. Hughes , entered; Parties notified. (bchurchill) Additional attachment(s) added on 4/11/2006 (jdavenport,). (Entered: 08/26/2004) |

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| 08/25/2004 | | 1 SUMMONS issued for WC&M Enterprises Inc (bchurchill) (Entered: 08/26/2004) |
| 09/13/2004 | 3 | ORDER for Disclosure.(Signed by Judge Lynn N. Hughes) Parties notified.(sjones,) (Entered: 09/14/2004) |
| 09/13/2004 | 4 | SUMMONS Returned Executed as to WC&M Enterprises Inc served on 8/26/2004, answer due 9/15/2004, filed.(sjones,) (Entered: 09/16/2004) |
| 09/16/2004 | 5 | ORIGINAL ANSWER to Complaint with Jury demand by WC&M Enterprises Inc, filed.(sjones,) (Entered: 09/17/2004) |
| 09/20/2004 | 6 | ORDER Resetting Conference, The pretrial conference has been reset to 10/12/2004 @3:00pm. (Signed by Judge Lynn N. Hughes) Parties notified.(sjones,) Modified on 9/23/2004 (sjones,). Modified on 9/23/2004 (Itien,). (Entered: 09/20/2004) |
| 09/20/2004 | | ***Set/Reset Hearings: Pretrial Conference set for 10/12/04 03:00 PM in Courtroom 11C before Judge Lynn N. Hughes. (sjones,) Modified on 9/23/2004 (sjones,). Modified on 9/23/2004 (Itien,). (Entered: 09/20/2004) |
| 10/04/2004 | 8 | INITIAL DISCLOSURES by WC&M Enterprises Inc, filed.(sjones,) (Entered: 10/10/2004) |
| 10/08/2004 | 7 | <i>Joint Chronology</i> by Equal Employment Opportunity Commission, filed.(Bowne, Timothy) (Entered: 10/08/2004) |
| 10/12/2004 | 9 | CONFERENCE MEMORANDUM: Appearances: Timothy M Bowne, Mark R Lapidus. By November 19, 2004, WC&M must depose Rofig. By November 19, 2004, the commission must depose Burgoon and Swigart. Pretrial Conference set for 11/29/2004 at 03:30 PM before Judge Lynn N. Hughes.(Signed by Judge Lynn N. Hughes) Parties notified.(jhancock) (Entered: 10/14/2004) |
| 11/22/2004 | 10 | UNOPPOSED MOTION To Extend Deadlines, by WC&M Enterprises Inc, filed. Motion Docket Date 12/12/2004. (Attachments: # 1)(psmith,) (Entered: 11/23/2004) |
| 12/03/2004 | 11 | RETURN of Service of Subpoena for Richard Burgeon, Executed on 11/2/04 , filed.(mbergara,) (Entered: 12/09/2004) |
| 12/03/2004 | 12 | RETURN of Service of Subpoena on Jerry Swiggart, Executed on 11/2/04 , filed.(mbergara,) (Entered: 12/09/2004) |
| 12/08/2004 | 13 | ORDER granting 10 Motion for Extension of Time, pretrial conference is reset to 1/18/2005 at 10:30 a.m. .(Signed by Judge Lynn N. Hughes) Parties notified.(fwilliams) (Entered: 12/09/2004) |
| 12/28/2004 | 14 | Subpoena as to Jerry Swiggart , filed.(sjones,) (Entered: 12/29/2004) |
| 01/03/2005 | 15 | SUBPOENA as to Richard Burgoon, filed.(sjones,) (Entered: 01/04/2005) |
| 01/18/2005 | 16 | ORDER parties to produce documents by 2/17/2005 .(Signed by Judge Lynn N. Hughes) Parties notified.(fwilliams) (Entered: 01/19/2005) |
| 01/18/2005 | 17 | CONFERENCE MEMORANDUM held in chambers before Judge Lynn Hughes on 1/18/05: Apps: Timothy M Bowne f/pltf, Mark R Lapidus f/deft. Order to be |

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| | | entered. A pretrial conference is set for 3/2/05 @4:30pm .(Signed by Judge Lynn N. Hughes) Parties notified.(sjones,) (Entered: 01/19/2005) |
| 03/02/2005 | 18 | CONFERENCE MEMORANDUM: Appearances: Meagan Krudsen, Timothy M Bowne. Order to be entered. Pretrial Conference set for 4/6/2005 at 04:30 PM before Judge Lynn N. Hughes.(Signed by Judge Lynn N. Hughes) Parties notified.(jhancock) (Entered: 03/04/2005) |
| 03/03/2005 | 19 | ORDER: By March 4, 2005, the dealership must graph the sales data- including gross commissions- for all salesmen in Rafiq's group from May 2001 through October 2002. It must submit a copy to the court .(Signed by Judge Lynn N. Hughes) Parties notified.(jhancock) (Entered: 03/04/2005) |
| 03/04/2005 | 21 | Letter from Megan L. Knudsent re: 7 color charts that compare Mohommed Rafiq's gross earnings with the average gross earnings of all other Honda new car salesperson's at WC&M Enterprises Inc during the relevant time period, filed. (dkelly,) Additional attachment(s) added on 5/23/2005 (dhansen,). (Entered: 03/14/2005) |
| 03/08/2005 | 20 | ORDER, The dealership must move for summary judgment by 3/25/2005.The commission must respond by 4/8/2005. (Signed by Judge Lynn N. Hughes) Parties notified.(bthomas,) (Entered: 03/09/2005) |
| 03/28/2005 | 22 | MOTION for Summary Judgment by WC&M Enterprises Inc, filed. Motion Docket Date 4/18/2005. (Attachments: # 1 Proposed Order)(dkelly,) (Entered: 03/30/2005) |
| 04/06/2005 | | *** The April 5, 2005, conference is cancelled. Parties notified by phone. (jhancock) (Entered: 04/06/2005) |
| 04/08/2005 | 23 | Opposed MOTION to Strike by Equal Employment Opportunity Commission, filed. Motion Docket Date 4/28/2005. (Attachments: # 1 Proposed Order)(Bowne, Timothy) (Entered: 04/08/2005) |
| 04/08/2005 | 24 | RESPONSE to 22 WC&M's MOTION for Summary Judgment filed by Equal Employment Opportunity Commission. (Attachments: # 1 Pt 2 # 2 Proposed Order)(dkelly,) (Entered: 04/12/2005) |
| 04/18/2005 | 25 | Order: Motion Hearing set for 4/29/2005 at 10:00 AM in Courtroom 11C before Judge Lynn N. Hughes as to 22 MOTION for Summary Judgment, 23 Opposed MOTION to Strike, 24 Response to Motion. Parties notified. (jhancock) (Entered: 04/18/2005) |
| 04/29/2005 | 26 | Minute Entry for motion hearing for proceedings held before Judge Lynn N. Hughes. Appearances:Megan Krudsen, Timothy M Bowne, Mark R Lapidus.(Court Reporter: Fred Warner)Order to be entered.(jhancock) (Entered: 05/03/2005) |
| 05/04/2005 | 27 | ORDER: The Commission's 23 Opposed MOTION to Strike is DENIED. By May 13, 2005, the dealership must produce a chart comparing Rafiq's actual earnings and the average tenure for a new-car salesman. The dealership may amend its motion for summary judgment by May 6, 2005. The commission may respond by May 13, 2005.(Signed by Judge Lynn N. Hughes) Parties notified.(psmith,) (Entered: 05/05/2005) |

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| 05/09/2005 | 28 | First Amended MOTION for Summary Judgment by WC&M Enterprises Inc, filed. Motion Docket Date 5/31/2005. (Attachments: # 1 Proposed Order)(rroberts,) (Entered: 05/10/2005) |
| 05/13/2005 | 29 | RESPONSE to 28 First Amended MOTION for Summary Judgment filed by Equal Employment Opportunity Commission. (Attachments: # 1 Proposed Order)(sfedele,) (Entered: 05/13/2005) |
| 05/16/2005 | 30 | Response from atty Meagan L. Knudsen to Court's 27 Order dated 5/4/05 (sjones,) Additional attachment(s) added on 5/24/2005 (dhansen,). (Entered: 05/20/2005) |
| 05/25/2005 | 31 | ORDER: The commission has until 06/03/2005, to submit whatever analysis of the sales data it wants the court to review, including a comparison of the earnings of Mohommed Rafiq, Phil Gemmer, and Matthew Kiene.(Signed by Judge Lynn N. Hughes) Parties notified.(dhansen) (Entered: 05/26/2005) |
| 06/03/2005 | 32 | SUPPLEMENT to 29 Response to 28 First Amended MOTION for Summary Judgment by Equal Employment Opportunity Commission, filed.(rwestmoreland,) Modified on 6/6/2005 - linked to #29 (ltien,). Additional attachment(s) added on 6/6/2005 (ltien,). (Entered: 06/06/2005) |
| 06/03/2005 | 33 | SUPPLEMENT to its 29 Response to WC&M's First Amended Motion for Summary Judgment, by Equal Employment Opportunity Commission, filed.(psmith,) (Entered: 06/06/2005) |
| 06/09/2005 | 34 | Letter Request from Mark R. Lapidus to file a brief reply on behalf of WC&M Enterprises to the EEOC's supplement to its response to WC&M's first amended motion for summary judgment. (dkelly) (Entered: 06/10/2005) |
| 06/16/2005 | 35 | ORDER: By June 24, 2005, the dealership may reply.(Signed by Judge Lynn N. Hughes) Parties notified.(dkelly) (Entered: 06/17/2005) |
| 06/24/2005 | 36 | Defendant's Reply to EEOC's Response to its 28 MOTION for Summary Judgment, filed by WC&M Enterprises Inc. (Attachments: # 1 Continuation)(rroberts,) (Entered: 06/27/2005) |
| 08/30/2005 | 37 | OPINION on Summary Judgment. On it's 28 MOTION for Summary Judgment, Streater-Smith will prevail, and the commission will take nothing.(Signed by Judge Lynn N. Hughes) Parties notified.(dkelly) (Entered: 08/31/2005) |
| 10/19/2005 | 38 | FINAL JUDGMENT: the EEOC takes nothing from WC&M Enterprises, Inc. (Signed by Judge Lynn N. Hughes) Parties notified.(dkelly,) (Entered: 10/20/2005) |
| 10/19/2005 | | *** Costs are taxed against the commission. (dkelly,) (Entered: 10/20/2005) |
| 12/15/2005 | 39 | NOTICE OF APPEAL to US Court of Appeals for the Fifth Circuit by Equal Employment Opportunity Commission (Filing fee \$ 255), filed.(Bowne, Timothy) (Entered: 12/15/2005) |
| 12/19/2005 | 40 | Transmittal Letter to US Court of Appeals for the Fifth Circuit re: 39 Notice of Appeal. Fee status: gov, filed.(jdavenport,) (Entered: 12/20/2005) |
| 12/29/2005 | 41 | TRANSCRIPT ORDER FORM re: 39 Notice of Appeal by Equal Employment Opportunity Commission. This is to order a transcript of the following |

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| | | proceedings: Pre-Trial Hearing held on April 29, 2005 before Judge Hughes. Court Reporter: Fred Warner, filed.(psmith,) (Entered: 01/11/2006) |
| 01/11/2006 | 42 | Notice of Docketing Notice of Appeal from US Court of Appeals for the Fifth Circuit re: 39 Notice of Appeal. USCA No. 05-21090, filed.(jdavenport,) (Entered: 01/11/2006) |
| 03/30/2006 | 43 | APPEAL TRANSCRIPT of motion hearing held on 4/29/05 before Judge Lynn Hughes re: 39 Notice of Appeal. Court Reporter: Fred Warner, filed.(cpeebles) Additional attachment(s) added on 4/11/2006 (jdavenport,). (Entered: 03/30/2006) |
| 04/11/2006 | | Electronic record on appeal certified to the U.S. Court of Appeals for the Fifth Circuit. Fifth Circuit Court of Appeals Case Number: 05-21090, filed.(jdavenport,) (Entered: 04/11/2006) |
| 04/19/2006 | 44 | Record on Appeal with certified docket sheet transmitted to US Court of Appeals for the Fifth Circuit re: 39 Notice of Appeal ; consisting of 3 volumes of electronic record, 2 of record and 1 of transcript (USCA No. 05-21090), filed.(jdavenport,) (Entered: 04/19/2006) |
| 05/17/2006 | 45 | NOTICE of Receipt of Record on Appeal from US Court of Appeals for the Fifth Circuit re: 39 Notice of Appeal. USCA No. 05-21090. Record received by USCA on 4/24/2006, filed.(Itien,) (Entered: 05/18/2006) |
| 05/17/2006 | 46 | This entry is a duplicate of 45 . NOTICE of Receipt of Record on Appeal from US Court of Appeals for the Fifth Circuit re: 39 Notice of Appeal. USCA No. 05-21090. Record received by USCA on 4/24/2006, filed.(blacy,) Modified on 5/18/2006 (Itien,). (Entered: 05/18/2006) |
| 10/05/2007 | 47 | USCA Letter from the US Court of Appeals for the Fifth Circuit re: 39 Notice of Appeal (USCA No. 05-21090). The electronic copy of the record has been recycled.(dhays,) Modified on 10/15/2007 (dhays,). (Entered: 10/05/2007) |
| 10/05/2007 | 48 | Per Curiam of USCA for the Fifth Circuit (copy) dated 8/10/07 re: 39 Notice of Appeal ; USCA No. 05-21090. Reversed and Remanded. Case reopened on 10/5/07, filed.(rvazquez,) (Entered: 10/05/2007) |
| 10/05/2007 | 49 | Judgment of USCA for the Fifth Circuit (certified copy) dated 8/10/07 issued as mandate 10/02/07; re: 39 Notice of Appeal ; USCA No. 05-21090. Judgment is reversed, and the cause is remanded to the District Court for further proceedings, filed.(dhays,) (Entered: 10/05/2007) |
| 10/09/2007 | 50 | Joint MOTION for Entry of Order re: Entry of Consent Decree by Equal Employment Opportunity Commission, filed. Motion Docket Date 10/29/2007. (Attachments: # 1 Proposed Order Consent Decree)(Bowne, Timothy) (Entered: 10/09/2007) |
| 10/12/2007 | 51 | CONSENT DECREE re: 50 Joint MOTION for Entry of Order re: Entry of Consent Decree. Case terminated on 10/12/2007.(Signed by Judge Lynn N. Hughes) Parties notified.(dkelly,) (Entered: 10/12/2007) |
| 10/17/2007 | 52 | CONSENT DECREE.(Signed by Judge Lynn N. Hughes) Parties notified.(dkelly,) (Entered: 10/17/2007) |

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