

**U.S. District Court
District of Colorado (Denver)
CIVIL DOCKET FOR CASE #: 1:10-cv-02242-WYD-KLM**

Martinez et al v. Maketa
Assigned to: Judge Wiley Y. Daniel
Referred to: Magistrate Judge Kristen L. Mix
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 09/14/2010
Date Terminated: 06/08/2011
Jury Demand: None
Nature of Suit: 555 Prison Condition
Jurisdiction: Federal Question

Plaintiff

Michael Jason Martinez

represented by **David Cyrus Fathi**
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ATTORNEY TO BE NOTICED

Plaintiff

Elizabeth Fritz

represented by **David Cyrus Fathi**
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Mark Silverstein
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Rebecca Teitelbaum Wallace
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ATTORNEY TO BE NOTICED

Plaintiff

Thomas Trujillo

represented by **David Cyrus Fathi**
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Mark Silverstein
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Rebecca Teitelbaum Wallace
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Plaintiff

Amber Hugenot

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Mark Silverstein
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Plaintiff

Gary Harrison

represented by **David Cyrus Fathi**
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Mark Silverstein
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Rebecca Teitelbaum Wallace
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Plaintiff

Robert Rumpf

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ATTORNEY TO BE NOTICED

Mark Silverstein
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Rebecca Teitelbaum Wallace
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Plaintiff

Damian Gradeless
on behalf of themselves and all others
similarly situated

represented by **David Cyrus Fathi**
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Mark Silverstein
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Rebecca Teitelbaum Wallace
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V.

Intervenor Plaintiff

Callie Gonzales

represented by

David Cyrus Fathi
(See above for address)
ATTORNEY TO BE NOTICED

Mark Silverstein
(See above for address)
ATTORNEY TO BE NOTICED

Rebecca Teitelbaum Wallace
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ATTORNEY TO BE NOTICED

V.

Defendant

Terry Maketa
*in his official capacity as El Paso County
Sheriff*

represented by **Amy R. Folsom**
El Paso County Attorney's Office–Main
Office
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Date Filed	#	Docket Text
09/14/2010	<u>1</u>	Class Action COMPLAINT for Injunctive and Declaratory Relief against Terry Maketa (Filing fee \$ 350, Receipt Number 31267) Summons Issued, filed by Damian Gradeless, Robert Rumpf, Thomas Trujillo, Gary Harrison, Michael Jason Martinez, Amber Hugenot, Elizabeth Fritz. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Civil Cover Sheet, # <u>3</u> Receipt)(lyg,) (Entered: 09/15/2010)
09/14/2010	<u>2</u>	MOTION to Certify Class and Appoint Class Counsel, by Plaintiffs Elizabeth Fritz, Damian Gradeless, Gary Harrison, Amber Hugenot, Michael Jason Martinez, Robert Rumpf, and Thomas Trujillo. (lyg,) (Entered: 09/15/2010)
09/17/2010	<u>3</u>	MEMORANDUM RETURNING CASE for reassignment by Senior District Judge Babcock. (sah,) (Entered: 09/17/2010)
09/17/2010	<u>4</u>	LETTER REASSIGNING CASE. Case reassigned to Chief Judge Wiley Y. Daniel for all further proceedings. Judge Lewis T. Babcock no longer assigned to the case. (sah,) (Entered: 09/17/2010)
09/21/2010	<u>5</u>	SUMMONS Returned Executed by All Plaintiffs. Terry Maketa served on 9/15/2010, answer due 10/6/2010. (Silverstein, Mark) (Entered: 09/21/2010)
09/23/2010	<u>6</u>	ORDER REFERRING CASE to Magistrate Judge Kristen L. Mix by Chief Judge Wiley Y. Daniel on 9/23/10. (wydcd, rrk) (Entered: 09/23/2010)
09/24/2010	<u>7</u>	ORDER Scheduling Conference set for 11/29/2010 10:30 AM in Courtroom C204 before Magistrate Judge Kristen L. Mix. by Magistrate Judge Kristen L. Mix on 9/24/2010. (Attachments: # <u>1</u> Attachment 1, # <u>2</u> Attachment 2, # <u>3</u> Attachment 3)(erv,) (Entered: 09/24/2010)

09/29/2010	<u>8</u>	NOTICE of Entry of Appearance by Amy R. Folsom on behalf of Terry Maketa (Folsom, Amy) (Entered: 09/29/2010)
09/29/2010	<u>9</u>	NOTICE of Entry of Appearance by Charles Clark Greenlee on behalf of Terry Maketa (Greenlee, Charles) (Entered: 09/29/2010)
10/06/2010	<u>10</u>	<i>Defendant's</i> ANSWER to <u>1</u> Complaint, by Terry Maketa. (Attachments: # <u>1</u> Exhibit A-1, Sheriff's Office Directive, # <u>2</u> Exhibit A-2, Detention Bureau Standard Operating Procedure excerpt, # <u>3</u> Exhibit A-3, Sheriff's Office Form DB219, # <u>4</u> Exhibit A-4, Inmate Handbook excerpt)(Folsom, Amy) (Entered: 10/06/2010)
10/06/2010	<u>11</u>	OBJECTIONS to <i>Plaintiffs' Motion to Certify Class and Appoint Class Counsel</i> by Defendant Terry Maketa. (Attachments: # <u>1</u> Exhibit A-1, Sheriff's Office Form DB219, # <u>2</u> Exhibit A-2, Affidavit of Bureau Chief Paula Presley)(Folsom, Amy) (Entered: 10/06/2010)
10/07/2010	<u>12</u>	Docket Annotation re: <u>11</u> Objections, To be Refiled as a Response to a Motion or a Brief in Opposition. TEXT ONLY ENTRY – NO DOCUMENT ATTACHED (erv2,) (Entered: 10/07/2010)
10/07/2010	<u>13</u>	RESPONSE to <u>2</u> MOTION to Certify Class filed by Defendant Terry Maketa. (Attachments: # <u>1</u> Exhibit A-1, Sheriff's Office Form DB219, # <u>2</u> Exhibit A-2, Affidavit of Bureau Chief Paula Presley)(Folsom, Amy) (Entered: 10/07/2010)
10/21/2010	<u>14</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>2</u> MOTION to Certify Class by Plaintiffs Elizabeth Fritz, Damian Gradeless, Gary Harrison, Amber Hugenot, Michael Jason Martinez, Robert Rumpf, Thomas Trujillo. (Attachments: # <u>1</u> Proposed Order (PDF Only))(Wallace, Rebecca) (Entered: 10/21/2010)
10/25/2010	<u>15</u>	MINUTE ORDER granting <u>14</u> Plaintiffs' Unopposed Motion for Extension of Time to File Reply in Support of <u>2</u> Motion for Class Certification on or by Thursday, October 28, 2010. by Chief Judge Wiley Y. Daniel on 10/25/2010.(erv,) (Modified on 10/27/2010 added link to Motion)(erv,). (Entered: 10/26/2010)
10/28/2010	<u>16</u>	REPLY to Response to <u>2</u> MOTION to Certify Class filed by Plaintiffs Elizabeth Fritz, Damian Gradeless, Gary Harrison, Amber Hugenot, Michael Jason Martinez, Robert Rumpf, Thomas Trujillo. (Attachments: # <u>1</u> Affidavit Declaration)(Silverstein, Mark) (Entered: 10/28/2010)
11/05/2010	<u>17</u>	Proposed Scheduling Order by Plaintiffs Elizabeth Fritz, Damian Gradeless, Gary Harrison, Amber Hugenot, Michael Jason Martinez, Robert Rumpf, Thomas Trujillo. (Wallace, Rebecca) (Entered: 11/05/2010)
11/10/2010	<u>18</u>	Unopposed MOTION to Intervene by Plaintiffs Elizabeth Fritz, Damian Gradeless, Gary Harrison, Amber Hugenot, Michael Jason Martinez, Robert Rumpf, Thomas Trujillo. (Attachments: # <u>1</u> Proposed Document)(Silverstein, Mark) (Entered: 11/10/2010)
11/10/2010	<u>19</u>	MOTION for Preliminary Injunction by Plaintiffs Damian Gradeless, Amber Hugenot. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit, # <u>7</u> Exhibit, # <u>8</u> Exhibit, # <u>9</u> Exhibit, # <u>10</u> Exhibit)(Silverstein, Mark) (Entered: 11/10/2010)
11/10/2010	<u>20</u>	Unopposed MOTION to Intervene by Callie Gonzales. (Attachments: # <u>1</u> Proposed Document, # <u>2</u> Proposed Order (PDF Only))(Silverstein, Mark) (Modified on 11/12/2010 corrected filer) (erv,). (Entered: 11/10/2010)
11/12/2010	<u>21</u>	ORDER Setting Hearing on <u>19</u> MOTION for Preliminary Injunction : Defendant shall file a response to the Motion for Preliminary Injunction by Wednesday, November 24, 2010. Plaintiffs may, if they wish, file a reply by Friday, December 10, 2010. Motion Hearing set for 12/22/2010 10:00 AM in Courtroom A1002 before Chief Judge Wiley Y. Daniel. by Chief Judge Wiley Y. Daniel on 11/12/2010. (erv,) (Entered: 11/12/2010)
11/19/2010	<u>22</u>	Joint MOTION for Protective Order by Plaintiffs Elizabeth Fritz, Damian Gradeless, Gary Harrison, Amber Hugenot, Michael Jason Martinez, Robert Rumpf. (Attachments: # <u>1</u> Proposed Order (PDF Only))(Wallace, Rebecca)

		(Entered: 11/19/2010)
11/19/2010	<u>23</u>	MEMORANDUM regarding <u>22</u> Joint MOTION for Protective Order filed by Robert Rumpf, Amber Hugenot, Elizabeth Fritz, Gary Harrison, Michael Jason Martinez, Damian Gradeless. Motion referred to Magistrate Judge Kristen L. Mix by Chief Judge Wiley Y. Daniel on 11/19/10. TEXT ONLY ENTRY – NO DOCUMENT ATTACHED (wydcd, rrk) (Entered: 11/19/2010)
11/22/2010	<u>24</u>	MINUTE ORDER: <u>22</u> Plaintiff's Unopposed Motion for Entry of Protective Order is GRANTED. It is further ORDERED that the Protective Order [22–1] supplied by the parties is accepted for filing and entered as an Order of the Court, with interlineations, as of today's date, by Magistrate Judge Kristen L. Mix on 11/22/2010.(klmcd) (Modified on 11/23/2010 corrected typing error)(erv,). (Entered: 11/22/2010)
11/22/2010	<u>25</u>	PROTECTIVE ORDER, by Magistrate Judge Kristen L. Mix on 11/22/2010. (klmcd) (Entered: 11/22/2010)
11/23/2010	<u>26</u>	Unopposed MOTION for Leave to <i>Present Remote Expert Testimony</i> by Intervenor Callie Gonzales, Plaintiffs Damian Gradeless, Amber Hugenot. (Attachments: # <u>1</u> Proposed Order (PDF Only))(Wallace, Rebecca) (Entered: 11/23/2010)
11/23/2010	<u>27</u>	MINUTE ORDER granting <u>26</u> Motion for Leave entered by Chief Judge Wiley Y. Daniel on 11/23/10. (wydcd, rrk) (Entered: 11/23/2010)
11/24/2010	<u>28</u>	RESPONSE to <u>19</u> MOTION for Preliminary Injunction filed by Defendant Terry Maketa. (Attachments: # <u>1</u> Exhibit El Paso County Jail Form DB 219, # <u>2</u> Exhibit Affidavit of Postal Technician Salary and Benefits, # <u>3</u> Exhibit Affidavit of Jail Programs Manager and Mail Supervisor, # <u>4</u> Exhibit Unpublished case law—Murphy v. Mo. Dep't of Corrections)(Greenlee, Charles) (Entered: 11/24/2010)
11/29/2010	<u>29</u>	Minute Entry for Scheduling Conference held before Magistrate Judge Kristen L. Mix on 11/29/2010; Upon agreement of counsel, the Court enters the Preliminary Scheduling Order set out in these minutes, for purposes of the Preliminary Injunction hearing set before Judge Wiley Y. Daniel, Chief District Judge, on December 22, 2010. The Scheduling Conference will be reset upon notice, after ruling on Plaintiff's Motion for Preliminary Injunction. (Court Reporter: FTR – Monique Wiles) (klmcd) (Entered: 11/29/2010)
12/10/2010	<u>30</u>	REPLY to Response to <u>19</u> MOTION for Preliminary Injunction filed by Plaintiffs Elizabeth Fritz, Damian Gradeless, Gary Harrison, Amber Hugenot, Michael Jason Martinez, Robert Rumpf, Thomas Trujillo. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4)(Silverstein, Mark) (Entered: 12/10/2010)
12/15/2010	<u>31</u>	Witness List by Defendant Terry Maketa. (Greenlee, Charles) (Entered: 12/15/2010)
12/15/2010	<u>32</u>	MINUTE ORDER re: <u>19</u> MOTION for Preliminary Injunction filed by Amber Hugenot, Damian Gradeless. Due to the need for additional time in the hearing as estimated by counsel, Motion Hearing set for 12/22/2010 09:00 AM in Courtroom A1002 before Chief Judge Wiley Y. Daniel. Entered by Chief Judge Wiley Y. Daniel on 12/15/10. (wydcd, rrk) (Entered: 12/15/2010)
12/15/2010	<u>33</u>	DECLARATION of <i>Steve Martin</i> by Intervenor Callie Gonzales, Plaintiffs Damian Gradeless, Amber Hugenot. (Attachments: # <u>1</u> Exhibit)(Silverstein, Mark) (Entered: 12/15/2010)
12/15/2010	<u>34</u>	Witness List by Intervenor Callie Gonzales, Plaintiffs Damian Gradeless, Amber Hugenot. (Silverstein, Mark) (Entered: 12/15/2010)
12/15/2010	<u>35</u>	Exhibit List by Intervenor Callie Gonzales, Plaintiffs Damian Gradeless, Amber Hugenot. (Silverstein, Mark) (Entered: 12/15/2010)
12/17/2010	<u>36</u>	Joint MOTION for Preliminary Injunction , <i>STIPULATED, AND FOR FURTHER RELIEF</i> by Defendant Terry Maketa. (Attachments: # <u>1</u> Proposed Order (PDF Only) STIPULATED ORDER GRANTING PRELIMINARY INJUNCTION)(Greenlee, Charles) (Entered: 12/17/2010)

12/20/2010	<u>37</u>	ORDER Granting <u>36</u> Plaintiffs and Defendants Joint Motion to Enter Stipulated Preliminary Injunction and for Further Relief ; Denying as moot <u>19</u> Plaintiff's Motion for Preliminary Injunction. The hearing on the Motion for Preliminary Injunction set for Wednesday, December 22, 2010, at 9:00 a.m. is VACATED. by Chief Judge Wiley Y. Daniel on 12/20/2010.(ervsl,) (Entered: 12/20/2010)
12/20/2010	<u>38</u>	ORDER granting <u>20</u> Unopposed Motion for Leave to Intervene and to Join in Motion for Preliminary Injunction. The Court accepts Plaintiff-Intervenor's Intervention Complaint for filing as of the date of this Order. The case caption shall hereafter be amended to add Plaintiff-Intervenor Callie Gonzales as a party, by Chief Judge Wiley Y. Daniel on 12/20/10.(mnf,) (Entered: 12/20/2010)
12/20/2010	<u>39</u>	COMPLAINT in Intervention on Behalf of Callie Gonzales, filed by Callie Gonzales.(mnf,) (Entered: 12/20/2010)
12/20/2010	<u>40</u>	INTERVENOR COMPLAINT filed by Callie Gonzales.(erv,) (Entered: 12/21/2010)
12/21/2010	41	Docket Annotation re: <u>40</u> Intervenor Complaint, Duplicate entry, Docketing error. TEXT ONLY ENTRY – NO DOCUMENT ATTACHED (erv,) (Entered: 12/21/2010)
12/28/2010	<u>42</u>	DEFENDANT'S ANSWER to <u>39</u> Intervenor Complaint on Behalf of Callie Gonzales by Terry Maketa.(Greenlee, Charles) (Entered: 12/28/2010)
02/01/2011	<u>43</u>	Joint MOTION to Stay <i>Hold Case in Abeyance Pending Finalization of Settlement</i> by Defendant Terry Maketa. (Greenlee, Charles) (Entered: 02/01/2011)
02/04/2011	44	MEMORANDUM regarding <u>43</u> Joint MOTION to Stay Hold Case in Abeyance Pending Finalization of Settlement filed by Terry Maketa. Motions referred to Magistrate Judge Kristen L. Mix by Chief Judge Wiley Y. Daniel on 2/4/2011. TEXT ONLY ENTRY – NO DOCUMENT ATTACHED(erv2,) (Entered: 02/04/2011)
02/07/2011	<u>45</u>	MINUTE ORDER granting <u>43</u> Joint Motion to Hold Case in Abeyance Pending Finalization of Settlement. Dismissal Paper due by 2/28/2011. by Magistrate Judge Kristen L. Mix on 2/7/2011.(erv,) (Entered: 02/07/2011)
02/28/2011	<u>46</u>	Joint STATUS REPORT AND MOTION FOR EXTENSION OF TIME by Defendant Terry Maketa. (Greenlee, Charles) (Entered: 02/28/2011)
03/01/2011	47	Docket Annotation re: <u>46</u> Status Report. Attorney notified to refile as a motion for an extension. TEXT ONLY ENTRY – NO DOCUMENT ATTACHED (jjh,) (Entered: 03/01/2011)
03/01/2011	<u>48</u>	Joint MOTION for Extension of Time to <i>File Joint Stipulations Regarding Settlement</i> by Defendant Terry Maketa. (Greenlee, Charles) (Entered: 03/01/2011)
03/02/2011	49	MEMORANDUM regarding <u>48</u> Joint MOTION for Extension of Time to <i>File Joint Stipulations Regarding Settlement</i> filed by Terry Maketa. Motion referred to Magistrate Judge Kristen L. Mix by Chief Judge Wiley Y. Daniel on 3/2/11. TEXT ONLY ENTRY – NO DOCUMENT ATTACHED (wydcd, rrk) (Entered: 03/02/2011)
03/02/2011	<u>50</u>	Minute ORDER granting <u>48</u> Motion for Extension of Time to File Joint Stipulations Regarding Settlement. ORDERED that all deadlines and proceedings in this case are stayed until 03/18/11. ORDERED that the deadline for the parties to file joint stipulations regarding settlement is extended to 03/18/11 by Magistrate Judge Kristen L. Mix on 03/02/11.(jjh,) (Entered: 03/03/2011)
03/18/2011	<u>51</u>	Joint MOTION for Extension of Time to <i>File Joint Stipulations</i> by Defendant Terry Maketa. (Greenlee, Charles) (Entered: 03/18/2011)
03/18/2011	52	MEMORANDUM regarding <u>51</u> Joint MOTION for Extension of Time to <i>File Joint Stipulations</i> filed by Terry Maketa. Motion referred to Magistrate Judge Kristen L. Mix by Chief Judge Wiley Y. Daniel on 3/18/11. TEXT ONLY ENTRY – NO DOCUMENT ATTACHED (wydcd, rrk) (Entered: 03/18/2011)

03/18/2011	<u>53</u>	Minute ORDER granting <u>51</u> Motion for Extension of Time to File Joint Stipulations Regarding Settlement. ORDERED that all deadlines and proceedings in this case are stayed until 03/18/11. ORDERED that the deadline for the parties to file joint stipulations regarding settlement is extended to 03/28/11 by Magistrate Judge Kristen L. Mix on 03/18/11.(jjh,) (Entered: 03/18/2011)
03/28/2011	<u>54</u>	Unopposed MOTION for Attorney Fees by Plaintiffs Elizabeth Fritz, Damian Gradeless, Gary Harrison, Amber Hugenot, Michael Jason Martinez, Robert Rumpf, Intervenor Plaintiff Callie Gonzales. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit)(Silverstein, Mark) (Entered: 03/28/2011)
03/28/2011	<u>55</u>	Joint MOTION for Order to <i>Approve Resolution of Class Action</i> by Plaintiffs Elizabeth Fritz, Damian Gradeless, Gary Harrison, Amber Hugenot, Michael Jason Martinez, Robert Rumpf, Thomas Trujillo, Intervenor Plaintiff Callie Gonzales. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Joint Stipulations Supporting Resolution of Class Action)(Wallace, Rebecca) (Entered: 03/28/2011)
03/31/2011	<u>56</u>	ORDER. Ordered that the Joint Motion to Approve Resolution of Class Action <u>55</u> is GRANTED IN PART AND DEFERRED IN PART as set forth in this Order. Order granting <u>2</u> Motion to Certify Class. ORDERED that the proposed notice pursuant to Rule 23(e) to class members of the proposed resolution of the case attached to the Joint Motion to is APPROVED and is attached hereto. ORDERED that a hearing is set for Wednesday, 05/25/11, at 3:00 p.m., to determine whether the resolution is fair, adequate and reasonable pursuant to Fed. R. Civ. P. 23(e). ORDERED that Plaintiffs Unopposed Motion for Attorneys Fees <u>54</u> is DEFERRED until the hearing by Chief Judge Wiley Y. Daniel on 03/31/11.(jjhsl,) (Entered: 03/31/2011)
05/25/2011	<u>57</u>	Minute Entry for Motion Hearing proceedings held on 5/25/2011 before Chief Judge Wiley Y. Daniel. Granting <u>54</u> Motion for Attorney Fees. Granting <u>55</u> Motion for Order. Mr. Silverstein shall submit a proposed form of order not later than Friday, May 27, 2011. (Court Reporter: Therese Lindblom) (wydcd, rrk) (Entered: 06/01/2011)
06/07/2011	<u>58</u>	ORDER. ORDERED that the parties' Joint Motion to Approve Resolution of Class Action <u>55</u> is GRANTED. In accordance therewith, Defendant Terry Maketa, his successors, officers, agents, servants, employees, and attorneys, and all others in active concern or participation with them, are PERMANENTLY ENJOINED from enforcing the postcard-only policy, or any other policy that limits prisoners' outgoing mail to postcards. ORDERED that Plaintiffs' Unopposed Motion for Attorneys' Fee <u>54</u> is GRANTED. In accordance therewith, Defendant is to forthwith pay Plaintiffs an attorneys' fee and costs award of \$60,000. ORDERED that as all claims have been resolved, this case is DISMISSED by Chief Judge Wiley Y. Daniel on 06/07/11. (jjh,) (Entered: 06/07/2011)
06/08/2011	<u>59</u>	Final JUDGMENT. ORDERED that Defendant shall forthwith pay Plaintiffs an attorneys fee and costs award of \$60,000.00. ORDERED that post-judgment interest shall accrue on the total amount of \$60,000.00 at the legal rate of .18% per annum from the date of entry of judgment by Clerk on 06/08/11. (jjh,) (Entered: 06/08/2011)