

**U.S. District Court**  
**Northern District of New York – Main Office (Syracuse) [LIVE – Version 5.1.1]**  
**(Albany)**  
**CIVIL DOCKET FOR CASE #: 1:04-cv-00299-LEK-DRH**

Kelsey et al v. County of Schoharie et al  
Assigned to: Senior Judge Lawrence E. Kahn  
Referred to: Magistrate Judge David R. Homer  
Case in other court: Second Circuit USCA, 07-00893-cv  
Cause: 42:1983 Civil Rights Act

Date Filed: 03/19/2004  
Date Terminated: 10/16/2009  
Jury Demand: Plaintiff  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff**

**John Kelsey**  
*both individually and on behalf of a class  
of others similarly situated*

represented by **Bethany Schumann-McGhee**  
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**Plaintiff**

**Timothy Wright**  
*both individually and on behalf of a class  
of others similarly situated*

represented by **Bethany Schumann-McGhee**  
(See above for address)  
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**Jason J. Rozger**  
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V.

**Defendant**

**County of Schoharie**

represented by **Gregg T. Johnson**  
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**Defendant**

**John S. Bates, Jr.**  
*both individually and in his official  
capacity as Sheriff of the County of  
Schoharie*

represented by **Gregg T. Johnson**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Jim Hazzard**  
*both individually and in his capacity as  
Administrator of the Schoharie County  
Jail*

represented by **Gregg T. Johnson**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
03/19/2004	<u>1</u>	COMPLAINT against John S. Bates Jr., County of Schoharie, Jim Hazzard ( Filing fee \$ 150 receipt number 72705.), filed by John Kelsey, Timothy Wright.(wbl, ) (Entered: 03/22/2004)
03/19/2004		Summons Issued as to John S. Bates Jr., County of Schoharie, Jim Hazzard. (wbl, ) (Entered: 03/22/2004)
03/19/2004	<u>2</u>	G.O. 25 FILING ORDER ISSUED Initial Conference set for 7/27/2004 10:30 AM in Albany before Magistrate Judge David R. Homer. Civil Case Management Plan due by 7/19/2004. (wbl, ) (Entered: 03/22/2004)
04/19/2004	<u>3</u>	SUMMONS Returned Executed by John Kelsey, Timothy Wright. John S. Bates Jr. served on 4/5/2004, answer due 4/26/2004. (tab, ) (Entered: 04/19/2004)
04/26/2004	<u>4</u>	ANSWER to Complaint by John S. Bates Jr., County of Schoharie, Jim Hazzard.(Yatsco, Tanya) (Entered: 04/26/2004)
04/26/2004	<u>5</u>	CERTIFICATE OF SERVICE by John S. Bates Jr., County of Schoharie, Jim Hazzard of Answer to Complaint (Yatsco, Tanya) (Entered: 04/26/2004)
05/12/2004	<u>6</u>	CIVIL CASE MANAGEMENT PLAN by John Kelsey, Timothy Wright. (Attachments: # <u>1</u> Letter to Court Regarding Filing of Case Management Plan)(Keach, Elmer) (Entered: 05/12/2004)

06/01/2004	<u>7</u>	AFFIDAVIT of Service for Affidavit of Service served on County of Schoharie on April 5, 2004, filed by John Kelsey. (Rozger, Jason) (Entered: 06/01/2004)
06/01/2004	<u>8</u>	AFFIDAVIT of Service for Affidavit of Service served on Jim Hazzard on April 5, 2004, filed by John Kelsey. (Rozger, Jason) (Entered: 06/01/2004)
06/01/2004	<u>9</u>	AFFIDAVIT of Service for Affidavit of Service served on John S. Bates, Jr. on April 5, 2004, filed by John Kelsey. (Rozger, Jason) (Entered: 06/01/2004)
07/25/2004	<u>10</u>	Letter from Tanya A. Yatsco for John S. Bates Jr., County of Schoharie, Jim Hazzard requesting Consideration of Defendants' CCMP. (Yatsco, Tanya) (Entered: 07/25/2004)
07/27/2004	<u>11</u>	ORDER TO SHOW CAUSE/MOTION to show why defendants should not be Compelled to obtain separate counsel .(tab) (Entered: 07/27/2004)
07/27/2004	<u>12</u>	UNIFORM PRETRIAL SCHEDULING ORDER: Anticipated length of trial: 10 days. Preferred Trial Location: Albany, NY. Joinder of Parties due by 11/1/2004. Amended Pleadings due by 11/1/2004. Discovery due by 4/1/2005. Motions to be filed by 6/1/2005. Trial Ready Deadline is 6/1/2005. Jury Trial set for 9/27/2005 09:30 AM in Albany before Judge Lawrence E. Kahn. Parties opt out of ADR. Signed by Judge David R. Homer on 7/27/04. (tab) (Entered: 07/27/2004)
07/28/2004	<u>13</u>	Minute Entry for proceedings held before Judge David R. Homer : Initial Pretrial Conference held on 7/27/2004. (tab) (Entered: 07/28/2004)
07/28/2004	<u>14</u>	NOTICE of Hearing: Status Conference set for 11/10/2004 10:00 AM in Albany before Magistrate Judge David R. Homer. (tab) (Entered: 07/28/2004)
08/27/2004	<u>15</u>	NOTICE by John S. Bates Jr., County of Schoharie, Jim Hazzard of <i>In Camera Submission Regarding Joint Representation</i> (Attachments: # <u>1</u> Certificate of Service)(Johnson, Gregg) (Entered: 08/27/2004)
09/07/2004	<u>16</u>	ORDER re <u>11</u> MOTION to Compel. Signed by Judge David R. Homer on 9/7/04. (tab) (Entered: 09/13/2004)
09/07/2004	<u>17</u>	ORDER APPROVING DEFENDANT'S WAIVER OF POTENTIAL CONFLICT . Signed by Judge David R. Homer on 9/7/04. (ban) (Entered: 09/14/2004)
09/07/2004	<u>18</u>	SEALED DOCUMENT (Attorney Affidavits)– maintained in Clerk's Office and not available for electronic viewing (tab) (Entered: 09/16/2004)
09/30/2004	<u>19</u>	Letter for John Kelsey requesting discovery conference. (Attachments: # <u>1</u> Exhibit A)(Rozger, Jason) (Entered: 09/30/2004)
09/30/2004	<u>20</u>	LETTER BRIEF <i>REGARDING DISCOVERY DISPUTE</i> by John S. Bates Jr., County of Schoharie, Jim Hazzard. (Yatsco, Tanya) (Entered: 09/30/2004)
10/07/2004	<u>21</u>	Minute Entry for proceedings held before Judge David R. Homer : Status Conference held on 10/4/2004. (tab) (Entered: 10/07/2004)
10/15/2004	<u>22</u>	STIPULATION <i>Protective Order</i> by John S. Bates Jr., County of Schoharie, Jim Hazzard. (Johnson, Gregg) (Entered: 10/15/2004)
10/16/2004	<u>23</u>	NOTICE of Appearance by Gregg T. Johnson on behalf of John S. Bates Jr., County of Schoharie, Jim Hazzard (Attachments: # <u>1</u> Certificate of Service)(Johnson, Gregg) (Entered: 10/16/2004)
11/12/2004	<u>24</u>	Minute Entry for proceedings held before Judge David R. Homer : Status Conference held on 11/10/2004. (tab) (Entered: 11/15/2004)
11/23/2004	<u>25</u>	NOTICE of Appearance by Jacinda N. Hall on behalf of all defendants (Attachments: # <u>1</u> Certificate of Service)(Hall, Jacinda) (Entered: 11/23/2004)
12/06/2004	<u>26</u>	STATUS REPORT LETTER/ORDER Status Report due by 12/20/2004. Signed by Judge David R. Homer on 12/6/04. (tab) (Entered: 12/06/2004)
02/14/2005	<u>27</u>	Letter from Plaintiffs for John Kelsey, Timothy Wright requesting 60 day extension of discovery and other deadlines. (Rozger, Jason) (Entered: 02/14/2005)

02/15/2005	<u>28</u>	REQUEST & ORDER denying request for extension of discovery and other ddls. Signed by Judge David R. Homer on 2/15/05. (wjg, ) (Entered: 02/16/2005)
02/25/2005	<u>29</u>	<i>Second</i> Letter from Elmer Keach for John Kelsey, Timothy Wright requesting Sixty Day Enlargement of Discovery Deadline <i>On Consent</i> . (Keach, Elmer) (Entered: 02/25/2005)
02/28/2005	<u>30</u>	Letter from Gregg T. Johnson, Esq. for County of Schoharie, John S. Bates, Jr, Jim Hazzard requesting Court conference regarding discovery disputes. (Attachments: # <u>1</u> Certificate of Service)(Johnson, Gregg) (Entered: 02/28/2005)
02/28/2005	<u>31</u>	NOTICE of Hearing: Discovery Conference set for 3/2/2005 03:45 PM in Albany before Magistrate Judge David R. Homer. (tab) (Entered: 02/28/2005)
03/04/2005	<u>32</u>	Minute Entry for proceedings held before Judge David R. Homer : Discovery Conference held on 3/2/2005 (tab) (Entered: 03/07/2005)
03/04/2005	<u>33</u>	SCHEDULING ORDER: Discovery due by 7/1/2005. Motions to be filed by 9/1/2005. Trial Ready Deadline is 9/1/2005. Jury Trial set for 11/14/2005 09:30 AM in Albany before Judge Lawrence E. Kahn. Signed by Judge David R. Homer on 3/4/05. (tab) (Entered: 03/07/2005)
05/19/2005	<u>34</u>	Letter from Gregg T. Johnson, Esq. for County of Schoharie, John S. Bates, Jr, Jim Hazzard requesting a conference to request leave to amend Defendants' Answer. (Johnson, Gregg) (Entered: 05/19/2005)
05/24/2005	<u>35</u>	Minute Entry for proceedings held before Judge David R. Homer : Status Conference held on 5/24/2005 (tab) (Entered: 05/24/2005)
05/24/2005	<u>36</u>	ORDER granting leave to file amended answer (to be filed by 6/1/05). Signed by Judge David R. Homer on 5/24/05. (tab) (Entered: 05/24/2005)
06/01/2005	<u>37</u>	MOTION for Leave to File <i>Amended Answer</i> Motion Hearing set for 7/21/2005 09:30 AM in Albany before Magistrate Judge David R. Homer. Response to Motion due by 7/5/2005 Reply to Response to Motion due by 7/11/2005. by County of Schoharie, John S. Bates, Jr, Jim Hazzard. (Attachments: # <u>1</u> Affidavit in Support of Motion for Leave to Amend# <u>2</u> Exhibit(s) Exhibit A# <u>3</u> Proposed Amended Pleading Exhibit B# <u>4</u> Memorandum of Law in Support of Defendants' Motion for Leave to Amend their Answer# <u>5</u> Supplement West Law Case – Cox# <u>6</u> Supplement West Law Case – Royal Insurance# <u>7</u> Supplement Certificate of Service)(Conboy, Jacinda) (Entered: 06/01/2005)
07/05/2005	<u>38</u>	RESPONSE in Opposition re <u>37</u> MOTION for Leave to File <i>Amended Answer</i> filed by John Kelsey, Timothy Wright. (Attachments: # <u>1</u> Memorandum of Law)(Keach, Elmer) (Entered: 07/05/2005)
08/03/2005	<u>39</u>	Letter from Gregg T. Johnson, Esq. advising the court of case status. (tab) (Entered: 08/04/2005)
08/05/2005	<u>40</u>	MEMORANDUM–DECISION AND ORDER denying <u>37</u> Motion for Leave to File . Signed by Judge David R. Homer on 8/5/05. (tab) (Entered: 08/08/2005)
08/17/2005	<u>41</u>	First APPEAL OF MAGISTRATE JUDGE DECISION to District Court by County of Schoharie, John S. Bates, Jr, Jim Hazzard re <u>38</u> Response in Opposition to Motion, <u>40</u> Order on Motion for Leave to File Motion Hearing set for 10/7/2005 09:30 AM in Albany before Judge Lawrence E. Kahn. Response to Motion due by 9/20/2005 Reply to Response to Motion due by 9/26/2005. (Attachments: # <u>1</u> Memorandum of Law in Support of Notice of Objections# <u>2</u> Supplement West Law Case – Cox# <u>3</u> Supplement Certificate of Service)(Conboy, Jacinda) (Entered: 08/17/2005)
09/01/2005	<u>42</u>	PROTECTIVE STIPULATION/ORDER. Signed by Judge David R. Homer on 9/1/05. (tab) (Entered: 09/01/2005)
09/01/2005	<u>43</u>	LETTER REQUEST AND ORDER allowing 30 page Memorandum of Law. Signed by Judge Lawrence E. Kahn on 9/1/05. (tab) (Entered: 09/01/2005)
09/01/2005	<u>44</u>	STATUS REPORT re <i>Defendants' Motion for Summary Judgment</i> by County of Schoharie, John S. Bates, Jr, Jim Hazzard. (Attachments: # <u>1</u> Memorandum of Law

		in Support of Defendants' Motion for Summary Judgment# <u>2</u> Supplement West Law Case – Cox# <u>3</u> Supplement West Law Case – Royal Ins.# <u>4</u> Supplement Letter to USDC Clerk re Motion Submissions# <u>5</u> Affidavit Affidavit of Service for SJ Motion)(Johnson, Gregg) (Entered: 09/01/2005)
09/01/2005	<u>45</u>	CERTIFICATE OF SERVICE by County of Schoharie, John S. Bates, Jr, Jim Hazzard re <u>44</u> Status Report, (Johnson, Gregg) (Entered: 09/01/2005)
09/01/2005	<u>46</u>	MOTION to Certify Class Motion Hearing set for 10/7/2005 09:30 AM in Albany before Judge Lawrence E. Kahn. Response to Motion due by 9/20/2005 Reply to Response to Motion due by 9/26/2005. by John Kelsey, Timothy Wright. (Attachments: # <u>1</u> Memorandum of Law In Support of Motion for Class Certification# <u>2</u> Affirmation of Jason J. Rozger# <u>3</u> Exhibit(s) A, Kelsey transcript# <u>4</u> Exhibit(s) B, Wright transcript# <u>5</u> Exhibit(s) C, Wright securing order# <u>6</u> Exhibit(s) D, Wright admission report# <u>7</u> Exhibit(s) E, Admissions policy# <u>8</u> Exhibit(s) F, 30(b)(6) notice# <u>9</u> Exhibit(s) G, 30(b)(6) transcript# <u>10</u> Exhibit(s) H, Kenyon transcript# <u>11</u> Exhibit(s) I, Bynum v. D.C.# <u>12</u> Exhibit(s) J, Gary v. Sheahan# <u>13</u> Exhibit(s) K, Tyson v. City of New York# <u>14</u> Exhibit(s) L, Eddelman v. Jefferson County# <u>15</u> Exhibit(s) M, Kahler v. County of Rennselaer)(Rozger, Jason) (Entered: 09/01/2005)
09/01/2005	47	SEALED NOTICE OF MOTION for Summary Judgment Motion Hearing set for 10/7/2005 09:30 AM in Albany before Judge Lawrence E. Kahn. Response to Motion due by 9/20/2005 Reply to Response to Motion due by 9/26/2005. by County of Schoharie, John S. Bates, Jr, Jim Hazzard.(tab) (Entered: 09/06/2005)
09/01/2005	48	SEALED STATEMENT OF MATERIAL FACTS re 47 MOTION for Summary Judgment filed by County of Schoharie, John S. Bates, Jr, Jim Hazzard. (tab) (Entered: 09/06/2005)
09/01/2005	49	SEALED MEMORANDUM OF LAW re 47 Motion for Summary Judgment, filed by County of Schoharie, John S. Bates, Jr, Jim Hazzard. (tab, ) (Entered: 09/06/2005)
09/01/2005	50	SEALED AFFIDAVIT in Support re 47 MOTION for Summary Judgment filed by County of Schoharie, John S. Bates, Jr, Jim Hazzard. (tab) (Entered: 09/06/2005)
09/02/2005	<u>51</u>	SEALING ORDER re 50 Affidavit in Support of Motion filed by County of Schoharie., John S. Bates, Jr., Jim Hazzard, 47 MOTION for Summary Judgment filed by County of Schoharie, John S. Bates, Jr., Jim Hazzard, 48 Statement of Material Facts filed by County of Schoharie, John S. Bates, Jr., Jim Hazzard, 49 Memorandum of Law filed by County of Schoharie, John S. Bates, Jr., Jim Hazzard . Signed by Judge Lawrence E. Kahn on 9/2/05. (tab) (Entered: 09/06/2005)
09/09/2005	<u>52</u>	Letter from Elmer R. Keach, III for John Kelsey, Timothy Wright requesting Discovery Conference submitted to Judge David R. Homer. (Keach, Elmer) (Entered: 09/09/2005)
09/13/2005	<u>53</u>	RESPONSE TO LETTER BRIEF filed by County of Schoharie, John S. Bates, Jr, Jim Hazzard as to <u>52</u> Letter Request filed by John Kelsey., Timothy Wright., (Conboy, Jacinda) (Entered: 09/13/2005)
09/13/2005	<u>54</u>	CERTIFICATE OF SERVICE by County of Schoharie, John S. Bates, Jr, Jim Hazzard re <u>53</u> RESPONSE TO LETTER BRIEF (Conboy, Jacinda) (Entered: 09/13/2005)
09/13/2005	<u>55</u>	NOTICE of Hearing: Discovery Hearing set for 9/15/2005 10:00 AM in Albany before Magistrate Judge David R. Homer. (tab) (Entered: 09/13/2005)
09/15/2005	<u>56</u>	ORDER on 9/15/05 telephone conference re: deposition issue. (wjg, ) (Entered: 09/15/2005)
09/15/2005	<u>57</u>	Letter from Elmer Keach for John Kelsey, Timothy Wright requesting Adjournment of Return Date on Pending Motions until November 18, 2005 submitted to Judge Lawrence E. Kahn <i>Filed on Consent.</i> (Keach, Elmer) (Entered: 09/15/2005)

09/16/2005	<u>58</u>	LETTER REQUEST AND ORDER Setting Hearing on Motion <u>46</u> MOTION to Certify Class: Response to Motion due by 11/1/2005 Reply to Response to Motion due by 11/8/2005. Motion Hearing set for 11/18/2005 09:30 AM in Albany before Judge Lawrence E. Kahn. Signed by Judge Lawrence E. Kahn on 9/16/05. (tab) (Entered: 09/20/2005)
09/20/2005	<u>59</u>	MEMORANDUM OF LAW re <u>41</u> Appeal of Magistrate Judge Decision to District Court., <i>In Opposition to Defendants' Objections</i> , filed by John Kelsey. (Attachments: # <u>1</u> Exhibit(s) A, J.G. Peta v. Club Protection# <u>2</u> Exhibit(s) B, Gibson v. Kendrick# <u>3</u> Exhibit(s) C, Gary v. Sheahan# <u>4</u> Exhibit(s) D, Thomas v. Baca# <u>5</u> Exhibit(s) E, Rivera v. Periera# <u>6</u> Exhibit(s) F, Canady v. Werholtz)(Rozger, Jason) (Entered: 09/20/2005)
10/05/2005		This is a reminder to the attorneys of record that Judge Kahn considers motions on the submission of the motion papers, only. No oral arguments will be entertained. (sas) (Entered: 10/05/2005)
10/24/2005	<u>60</u>	Letter Motion from Elmer Keach for John Kelsey, Timothy Wright requesting Discovery Conference submitted to Judge David R. Homer <i>Regarding Conference on October 25, 2005 at 2:30 PM</i> . (Attachments: # <u>1</u> Exhibit(s) Defendants' Initial Disclosures)(Keach, Elmer) (Entered: 10/24/2005)
10/26/2005	<u>61</u>	Letter Motion from Jason Rozger, Esq. for John Kelsey, Timothy Wright requesting On consent, extension of time to file responses to pending motions submitted to Judge Lawrence E. Kahn. (Rozger, Jason) (Entered: 10/26/2005)
10/27/2005	<u>62</u>	Minute Entry for a Discovery Conference held before Judge David R. Homer on 10/27/2005. (see) (Entered: 10/28/2005)
10/27/2005	<u>63</u>	ORDER, that pltfs are granted leave to depose Glenn Packard at a date &time to be arranged among the parties; that pltfs are granted leave to take the depositions of any other individuals included in defts' disclosure of witnesses following the district court's decision on defts' pending motion for summary judgment; that pltfs shall notify the chambers of the undersigned when a decision is received on defts' pending motion for summary judgment &a conference will be scheduled to establish ddls for completion of remaining discovery. Signed by Judge David R. Homer on 10/27/2005. (see) (Entered: 10/28/2005)
10/27/2005	<u>64</u>	REQUEST &ORDER resetting Hearing on Motions re: <u>46</u> MOTION to Certify Class, <u>47</u> MOTION for Summary Judgment: Motion Hearings reset to 1/20/2006 09:30 AM in Albany before Judge Lawrence E. Kahn (on submit). Signed by Judge Lawrence E. Kahn on 10/27/05. (wjg, ) (Entered: 10/31/2005)
11/16/2005	<u>65</u>	MEMORANDUM-DECISION AND ORDER affirming <u>41</u> Magistrate Judge Decision appealed to District Court, and denying permission to amend answer. Signed by Judge Lawrence E. Kahn on 11/16/05. (tab) Modified on 1/10/2006 (tab). (Entered: 11/16/2005)
12/06/2005	<u>66</u>	REQUEST &ORDER granting leave for defts to file 15 page brief in opposition to pltfs' motion. Signed by Judge Lawrence E. Kahn on 12/6/05. (wjg, ) (Entered: 12/07/2005)
12/07/2005	<u>67</u>	Letter Motion from Elmer Keach for John Kelsey, Timothy Wright requesting Enlargement of Time to File Responding Motion Papers submitted to Judge Lawrence E. Kahn <i>On Consent</i> . (Keach, Elmer) (Entered: 12/07/2005)
12/08/2005	<u>68</u>	ORDER granting <u>67</u> Letter Request, <u>46</u> MOTION to Certify Class, <u>47</u> MOTION for Summary Judgment: Motion Hearing set for 1/20/2006 09:30 AM in Albany before Judge Lawrence E. Kahn. Response to Motion due by 1/6/2006 Reply to Response to Motion due by 1/13/2006. Signed by Judge Lawrence E. Kahn on 12/8/05. (tab) (Entered: 12/08/2005)
12/08/2005	<u>69</u>	LETTER REQUEST AND ORDER granting defendants permission to file a 30 page brief. Signed by Judge Lawrence E. Kahn on 12/8/05. (tab) (Entered: 12/08/2005)
01/06/2006	<u>70</u>	AFFIDAVIT in Opposition re <u>46</u> MOTION to Certify Class filed by County of Schoharie, John S. Bates, Jr, Jim Hazzard. (Attachments: # <u>1</u> Exhibit(s) A# <u>2</u>

		Exhibit(s) B# <u>3</u> Exhibit(s) C)(Johnson, Gregg) (Entered: 01/06/2006)
01/06/2006	<u>71</u>	RESPONSE in Opposition re <u>46</u> MOTION to Certify Class filed by County of Schoharie, John S. Bates, Jr, Jim Hazzard. (Attachments: # <u>1</u> Affidavit of Gregg T. Johnson# <u>2</u> Exhibit(s) A# <u>3</u> Exhibit(s) B# <u>4</u> Exhibit(s) C# <u>5</u> Affidavit of James Hazzard# <u>6</u> Memorandum of Law # <u>7</u> Supplement Augustin v. Jablonsky# <u>8</u> Supplement Kelsey v. Schoharie# <u>9</u> Supplement LeGrand v. NYC Transit# <u>10</u> Supplement Spinner v. City of NY# <u>11</u> Supplement Correspondence to Court# <u>12</u> Supplement Certificate of Service)(Johnson, Gregg) (Entered: 01/06/2006)
01/06/2006	<u>72</u>	AFFIDAVIT in Opposition re 47 MOTION for Summary Judgment filed by John Kelsey, Timothy Wright. (Attachments: # <u>1</u> Exhibit(s) A, Kelsey transcript# <u>2</u> Exhibit(s) B, Wright transcript# <u>3</u> Exhibit(s) C, Inmate Processing Policy# <u>4</u> Exhibit(s) D, 30(b)(6) deposition# <u>5</u> Exhibit(s) E, Kenyon Deposition# <u>6</u> Exhibit(s) F, Packard transcript# <u>7</u> Exhibit(s) G, Schaffer deposition# <u>8</u> Exhibit(s) Huber transcript# <u>9</u> Exhibit(s) I, Hatala transcript# <u>10</u> Exhibit(s) K, Van Wormer Affidavit# <u>11</u> Exhibit(s) L, Marsh deposition# <u>12</u> Memorandum of Law # <u>13</u> Statement of Material Facts)(Rozger, Jason) (Entered: 01/06/2006)
01/10/2006	73	SEALED EXHIBIT J to Rozger Affirmation – maintained in Clerk's Office and not available for electronic viewing (ban) (Entered: 01/10/2006)
01/13/2006	<u>74</u>	REPLY to Response to Motion re 47 MOTION for Summary Judgment <i>Filed under seal</i> filed by County of Schoharie, John S. Bates, Jr, Jim Hazzard. (Conboy, Jacinda) (Entered: 01/13/2006)
01/13/2006	<u>75</u>	REPLY to Response to Motion re <u>46</u> MOTION to Certify Class filed by John Kelsey, Timothy Wright. (Attachments: # <u>1</u> Exhibit(s) Exhibit M to Keach Affirmation -- Deposition transcript, Donald Mace# <u>2</u> Exhibit(s) Exhibit N -- Discovery Responses of John Kelsey# <u>3</u> Exhibit(s) Exhibit o -- Discovery Response of Timothy Wright# <u>4</u> Exhibit(s) Exhibit Q to Keach Affirmation -- Letter from Johnson to Keach, 10.13.04# <u>5</u> Memorandum of Law)(Keach, Elmer) (Entered: 01/13/2006)
01/20/2006	76	SEALED DOCUMENT (Attachments to Document #74)– maintained in Clerk's Office and not available for electronic viewing. (ban) (Entered: 01/25/2006)
01/25/2006	<u>77</u>	RESPONSE to Motion re <u>46</u> MOTION to Certify Class, 47 MOTION for Summary Judgment filed by John Kelsey, Timothy Wright. (Rozger, Jason) (Entered: 01/25/2006)
01/27/2006	<u>78</u>	LETTER BRIEF by County of Schoharie, John S. Bates, Jr, Jim Hazzard. (Conboy, Jacinda) (Entered: 01/27/2006)
04/13/2006	<u>79</u>	LETTER BRIEF <i>Providing Supplemental Authority to the Court</i> by John Kelsey, Timothy Wright. (Attachments: # <u>1</u> Exhibit(s) Marriott Summary Judgment Decision)(Keach, Elmer) (Entered: 04/13/2006)
04/17/2006	<u>80</u>	RESPONSE TO LETTER BRIEF filed by County of Schoharie, John S. Bates, Jr, Jim Hazzard as to <u>79</u> LETTER BRIEF filed by John Kelsey,, Timothy Wright,. (Johnson, Gregg) (Entered: 04/17/2006)
09/25/2006	<u>81</u>	LETTER BRIEF <i>Providing the Court with Supplemental Case Authority</i> by John Kelsey, Timothy Wright. (Attachments: # <u>1</u> Exhibit(s) In Re Nassau County Strip Search Cases Decision)(Keach, Elmer) (Entered: 09/25/2006)
02/21/2007	<u>82</u>	MEMORANDUM–DECISION AND ORDER granting <u>46</u> Motion to Certify Class; denying 47 Motion for Summary Judgment. Signed by Judge Lawrence E. Kahn on 2/21/07. (tab) (Entered: 02/22/2007)
03/05/2007	<u>83</u>	NOTICE OF APPEAL as to <u>82</u> Order on Motion to Certify Class, Order on Motion for Summary Judgment by County of Schoharie, John S. Bates, Jr, Jim Hazzard. No fee paid. (Attachments: # <u>1</u> Appendix Certificate of Service)(Johnson, Gregg) (Entered: 03/05/2007)
03/05/2007	<u>84</u>	MOTION for Certificate of Appealability Motion Hearing set for 4/6/2007 09:30 AM in Albany before Judge Lawrence E. Kahn. by County of Schoharie, John S. Bates, Jr, Jim Hazzard. (Attachments: # <u>1</u> Affidavit supporting Affidavit of Gregg

		T. Johnson# <u>2</u> Exhibit(s) A – Steinberg v. Rockland County transcript# <u>3</u> Memorandum of Law supporting Memorandum of Law# <u>4</u> Appendix Certificate of Service) (Johnson, Gregg) (Entered: 03/05/2007)
03/06/2007		USCA Appeal Fees received \$ 455 receipt number ALB003329 re <u>83</u> Notice of Appeal filed by Jim Hazzard, John S. Bates, Jr., County of Schoharie (Appeals packet sent to Attorney).(ban) (Entered: 03/06/2007)
03/07/2007		Set Deadlines as to <u>84</u> MOTION for Certificate of Appealability. Response to Motion due by 3/20/2007. Reply to Response to Motion due by 3/26/2007. (sas) (Entered: 03/07/2007)
03/07/2007	<u>85</u>	ELECTRONIC NOTICE sent to US Court of Appeals re <u>83</u> Notice of Appeal (Appeals packet sent to Attorney).(ban) (Entered: 03/07/2007)
03/20/2007	<u>86</u>	RESPONSE to Motion re <u>84</u> MOTION for Certificate of Appealability filed by John Kelsey, Timothy Wright. (Attachments: # <u>1</u> Exhibit(s) A, Moll v. U.S. Life# <u>2</u> Exhibit(s) B, Ralph v. GMC# <u>3</u> Memorandum of Law)(Rozger, Jason) (Entered: 03/20/2007)
03/26/2007	<u>87</u>	REPLY to Response to Motion re <u>84</u> MOTION for Certificate of Appealability filed by County of Schoharie, John S. Bates, Jr, Jim Hazzard. (Attachments: # <u>1</u> Supplement Certificate of Service)(Johnson, Gregg) (Entered: 03/26/2007)
04/24/2007	<u>88</u>	USCA Scheduling Order #1 as to <u>83</u> Notice of Appeal filed by Jim Hazzard, John S. Bates, Jr., County of Schoharie. USCA Case No. 07–0893–cv. Appealed to: Second Circuit USCA. Appeal Record due by 4/25/2007. (ban) (Entered: 04/24/2007)
04/24/2007	<u>89</u>	USCA Scheduling Order #2 as to <u>83</u> Notice of Appeal filed by Jim Hazzard, John S. Bates, Jr., County of Schoharie. USCA Case No. 07–0893–cv. Appealed to: Second Circuit USCA. (ban) (Entered: 04/24/2007)
04/24/2007	<u>90</u>	ELECTRONIC CERTIFICATION to US Court of Appeals of Record on Appeal re <u>83</u> Notice of Appeal (ban) (Entered: 04/24/2007)
05/24/2007	<u>91</u>	MEMORANDUM DECISION AND ORDER denying <u>84</u> Motion for Certificate of Appealability. Signed by Judge Lawrence E. Kahn on 5/24/07. (ban) (Entered: 05/24/2007)
05/25/2007	<u>92</u>	AMENDED ELECTRONIC NOTICE sent to US Court of Appeals re <u>83</u> Notice of Appeal. Certificate of Appealability DENIED (pursuant to Dkt #91). (ban) (Entered: 05/25/2007)
05/25/2007	<u>93</u>	AMENDED ELECTRONIC CERTIFICATION to US Court of Appeals of Record on Appeal re <u>83</u> Notice of Appeal. (ban) (Entered: 05/25/2007)
06/29/2007	<u>94</u>	MANDATE of USCA as to <u>83</u> Notice of Appeal filed by Jim Hazzard, John S. Bates, Jr., County of Schoharie: DENYING Rule 23(f) petition as to class certification because an immediate appeal is not warranted. Appeal #07–0826–mv, issued as mandate 6/25/07. (lmp) (Entered: 06/29/2007)
08/16/2007		Appeal Record Returned: Sealed Documents 47 – 50. (lmp) (Entered: 08/16/2007)
11/13/2007		Set Deadlines/Hearings: Pretrial Conference is set for 11/28/2007 at 10:30 AM in Albany before Senior Judge Lawrence E. Kahn. At the time of the conference, counsel will report on the status of the above–entitled action. Parties with full settlement authority are to be readily available during the conference. If settlement cannot be reached, counsel are to be prepared to discuss issues which may be raised at the time of trial. The attorneys of record are directed to discuss trial deadlines with each other (preconference) & will be prepared to stipulate to a trial date at the time of the conference. Several agreed upon proposed trial deadlines shall be made available to the Court for Judge Kahns consideration. (sas) (Entered: 11/13/2007)
11/26/2007	<u>95</u>	Letter Motion from Elmer Robert Keach III for John Kelsey, Timothy Wright requesting adjournment of pretrial conference submitted to Judge Lawrence E. Kahn. (Keach, Elmer) (Entered: 11/26/2007)



11/26/2007		Set/Reset Hearings: Pretrial Conference reset for 12/13/2007 10:30 AM in Albany before Senior Judge Lawrence E. Kahn. (ban) (Entered: 11/27/2007)
11/27/2007	<u>96</u>	ORDER granting <u>95</u> Letter Request. It is hereby Ordered that the Pre-trial Conference scheduled for 11/30/07 is adjourned until 12/13/07 at 10:30AM. The conditions relative to the conduct of this conference, as detailed in the Courts' prior order, remain in effect. Signed by Judge Lawrence E. Kahn on 11/26/07. (ban) (Entered: 11/27/2007)
11/29/2007		Reset Deadlines/Hearings: Final Pretrial Conference is reset for 12/19/2007 at 01:30 PM in Albany before Senior Judge Lawrence E. Kahn. Proceeding is adjourned at the request of the Court. (sas) (Entered: 11/29/2007)
12/19/2007	<u>97</u>	Minute Entry for proceedings held before Judge Lawrence E. Kahn: Settlement is discussed. The matter does not settle. Jury Trial set for 6/16/2008 09:30 AM in Albany before Senior Judge Lawrence E. Kahn. Pretrial submission (Stipulation of facts, Witness list, Exhibit list, Proposed voir dir, jury charge & verdict sheet) are due by 6/2/2008. Decision on whether this will be a bench trial due by 4/1/08. (Court Reporter None. CRD S. Snyder) (sas) Additional attachment(s) added on 12/19/2007 (sas, ). (Entered: 12/19/2007)
03/27/2008	<u>98</u>	Letter Motion from Bruce Menken, Esq. for John Kelsey, Timothy Wright requesting waiver of jury trial submitted to Judge Khan. (Rozger, Jason) (Entered: 03/27/2008)
04/02/2008	<u>99</u>	ORDER granting <u>98</u> Letter Request by attorneys for Plaintiffs, that plaintiffs waive their previously-demanded trial by jury. Signed by Senior Judge Lawrence E. Kahn on 3/31/08. (sg) (Entered: 04/02/2008)
04/03/2008	<u>100</u>	Letter Motion from Gregg Johnson, Esq. for County of Schoharie, John S. Bates, Jr, Jim Hazzard requesting trial by Jury submitted to Judge Kahn. (Johnson, Gregg) (Entered: 04/03/2008)
04/07/2008	<u>101</u>	LETTER BRIEF <i>responding to Defendants' letter regarding bench trial</i> by John Kelsey, Timothy Wright. (Rozger, Jason) (Entered: 04/07/2008)
04/10/2008	<u>102</u>	LETTER BRIEF <i>regarding the issue of a jury trial</i> by County of Schoharie, John S. Bates, Jr, Jim Hazzard. (Attachments: # <u>1</u> Affirmation Affirmation of Gregg Johnson)(Johnson, Gregg) (Entered: 04/10/2008)
04/14/2008	<u>103</u>	ORDER re: <u>100</u> Letter Motion from Gregg Johnson, Esq. for County of Schoharie, John S. Bates, Jr, Jim Hazzard requesting trial by Jury. IT IS ORDERED that this case will go forward as a jury trial; that the letter request and Order filed on 4/2/08 (Dkt. 99) are hereby SUPERSEDED; and the June 16, 2008 trial date is ADJOURNED until September 16, 2008, and pretrial submissions will be due September 8, 2008. Signed by Senior Judge Lawrence E. Kahn on 4/14/08. (sg) (Entered: 04/14/2008)
07/18/2008	<u>104</u>	Letter Motion from Plaintiffs for John Kelsey, Timothy Wright requesting authorization to send class notice submitted to Judge Lawrence E. Khan. (Attachments: # <u>1</u> Proposed class notice)(Rozger, Jason) (Entered: 07/18/2008)
07/22/2008	<u>105</u>	ORDER granting <u>104</u> Letter Request/Motion permitting plaintiffs' attorneys/class counsel to disseminate a class notice. Signed by Senior Judge Lawrence E. Kahn on 7/22/08. (sg) (Entered: 07/22/2008)
07/25/2008	<u>106</u>	Letter Motion from Gregg T. Johnson, Esq. for County of Schoharie, John S. Bates, Jr, Jim Hazzard requesting postponement of commencement of trial submitted to Judge Kahn. (Johnson, Gregg) (Entered: 07/25/2008)
07/25/2008	<u>107</u>	Letter Motion from class counsel for John Kelsey, Timothy Wright requesting November 2008 trial date submitted to Judge Lawrence E. Kahn. (Rozger, Jason) (Entered: 07/25/2008)
07/28/2008	<u>108</u>	ORDER granting <u>107</u> Letter Request/Motion: IT IS SO ORDERED, that the new jury trial deadline is 11/12/08 at 10:00 a.m. in Albany; Pretrial submissions shall be due on 11/3/08; A final Pretrial Settlement Conference shall be held on 10/29/08 at 10:00 a.m. before Senior Judge Lawrence E. Kahn. Signed by Senior Judge Lawrence E. Kahn on 7/28/08. (sg) (Entered: 07/28/2008)

10/06/2008	<u>109</u>	Letter Motion from Gregg T. Johnson, Esq. for County of Schoharie, John S. Bates, Jr, Jim Hazzard requesting Postponement of trial until after qualified immunity appeal has been decided submitted to Judge Kahn. (Johnson, Gregg) (Entered: 10/06/2008)
10/07/2008	<u>110</u>	ORDER on <u>109</u> Letter Motion : Trial reset for 2/3/2009 at 10:00 AM in Albany. Pretrial submissions will be due on 1/26/09. Signed by Senior Judge Lawrence E. Kahn on 10/7/08. (sg) (Entered: 10/07/2008)
10/15/2008	<u>111</u>	NOTICE of Appearance by Bethany Schumann–McGhee on behalf of all plaintiffs (Schumann–McGhee, Bethany) (Entered: 10/15/2008)
12/31/2008	<u>112</u>	Letter Motion from Gregg T. Johnson, Esq. for County of Schoharie, John S. Bates, Jr, Jim Hazzard requesting adjournment of the trial date submitted to Judge Kahn. (Johnson, Gregg) (Entered: 12/31/2008)
01/05/2009	<u>113</u>	ORDER granting <u>112</u> Letter Request: Jury Trial adjourned to 6/9/2009 at 9:30 AM in Albany before Senior Judge Lawrence E. Kahn. Pretrial submissions will be due 6/2/09. Signed by Senior Judge Lawrence E. Kahn on 1/5/09. (sg) (Entered: 01/05/2009)
01/12/2009	<u>114</u>	NOTICE of Change of Address by Gregg T. Johnson Effective Date January 9, 2009 Old Address: Girvin & Ferlazzo, PC, 20 Corporate Woods Blvd, Albany, NY 12211 New Address: Lemire Johnson, LLC, 2534 Rte 9, PO Box 2485, Malta, NY 12020 (Johnson, Gregg) (Entered: 01/12/2009)
01/12/2009	<u>115</u>	CERTIFICATE OF SERVICE by County of Schoharie, John S. Bates, Jr, Jim Hazzard re <u>114</u> Notice of Change of Address (Johnson, Gregg) (Entered: 01/12/2009)
04/10/2009	<u>116</u>	Letter Motion from Gregg T. Johnson for County of Schoharie, John S. Bates, Jr, Jim Hazzard requesting Adjournment of trial until a decision is received from the Court of Appeals submitted to Judge Kahn. (Johnson, Gregg) (Entered: 04/10/2009)
04/13/2009	<u>117</u>	ORDER granting <u>116</u> Letter Request. IT IS SO ORDERED, that the Jury Trial has been adjourned until 10/20/2009 at 9:30 AM in Albany before Senior Judge Lawrence E. Kahn. Signed by Senior Judge Lawrence E. Kahn on 4/13/09. (sg) (Entered: 04/13/2009)
10/15/2009	<u>118</u>	MANDATE of USCA, issued 10/14/09, as to defts' <u>83</u> Appeal : reversing and remanding w/instructions to dismiss the action in accordance w/the attached slip opinion; w/attached order awarding costs to deft–appellants in amt of \$1662.60. (Attachments: # <u>1</u> slip opinion, # <u>2</u> USCA Order awarding costs)(cbm) (Entered: 10/15/2009)
10/16/2009	<u>119</u>	ORDERED, that Defendants Motion for summary judgment (Dkt. No. 47) is GRANTED; and it is further ORDERED, that the above–captioned case is DISMISSED in its entirety; and it is further ORDERED, that Defendants Application for attorneys fees is GRANTED, and Defendants are awarded \$1,662.60. Signed by Senior Judge Lawrence E. Kahn on October 16, 2009. (sas) (Entered: 10/16/2009)
10/16/2009	<u>120</u>	JUDGMENT IN A CIVIL CASE: IT IS ORDERED AND ADJUDGED that the case is dismissed and judgment is entered in favor of the defendants and against the plaintiffs; and it is further ORDERED, that the plaintiffs shall pay defendants' attorneys fees in the amount of \$1,662.60 in accordance with the Order of the Honorable Lawrence E. Kahn, U.S. District Judge, dated 10/16/09. (sg) (Entered: 10/16/2009)
11/05/2009	<u>121</u>	BILL OF COSTS by County of Schoharie, John S. Bates, Jr, Jim Hazzard. (Johnson, Gregg) (Entered: 11/05/2009)
01/05/2010	<u>122</u>	BILL OF COSTS. Costs are taxed in the amount of \$3,487.20 and included in the judgment. Signed by Scott A. Snyder, CRD to the Honorable Lawrence E. Kahn. (sg) (Entered: 01/06/2010)

02/23/2010	<u>123</u>	JUDGMENT: IT IS ORDERED AND ADJUDGED that the costs in the amount of Three Thousand, Four Hundred and Eighty Seven US Dollars and 20 cents (\$3,487.20) be entered against the above listed plaintiffs, in accordance with the Bill of Cost Order, dated January 05, 2010. (mgh) (Entered: 02/26/2010)
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