

CLOSED, CONSENT

U.S. District Court
Northern District of New York – Main Office (Syracuse) [LIVE – Version 5.1.1]
(Plattsburgh)
CIVIL DOCKET FOR CASE #: 8:06-cv-00254-DRH

Mitchell v. The County of Clinton et al
Assigned to: Magistrate Judge David R. Homer
Cause: 42:1983 Civil Rights Act

Date Filed: 02/28/2006
Date Terminated: 12/04/2009
Jury Demand: Plaintiff
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Phyllis A. Mitchell

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

represented by **Alexandra C. Warren**
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V.

Intervenor Plaintiff

Paul Bachmann

represented by **Jason J. Rozger**
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Bethany Schumann–McGhee
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ATTORNEY TO BE NOTICED

Elmer R. Keach , III
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V.

Defendant

The County of Clinton

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Defendant

David Favro
both individually and in his official capacity as Sheriff of the County of Clinton
 TERMINATED: 06/12/2009

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

Defendant

Jerry Maggy
both individually and as Undersheriff of the County of Clinton
 TERMINATED: 06/12/2009

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

Defendant

Michael Smith
both individually and as Major in the Clinton County Sheriff's Department
 TERMINATED: 06/12/2009

represented by **Gregg T. Johnson**
 (See above for address)
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Date Filed	#	Docket Text
02/28/2006	<u>1</u>	COMPLAINT against Jerry Maggy, Michael Smith, The County of Clinton, David Favro (Filing fee \$ 250 receipt number ALB002044) filed by Phyllis A. Mitchell.(ban) (Entered: 02/28/2006)
02/28/2006		Summons Issued as to Jerry Maggy, Michael Smith, The County of Clinton, David Favro. (ban) (Entered: 02/28/2006)
02/28/2006	<u>2</u>	G.O. 25 FILING ORDER ISSUED Initial Conference set for 6/21/2006 11:00 AM in Albany before Magistrate Judge David R. Homer. Civil Case Management Plan due by 6/12/2006. (ban) (Entered: 02/28/2006)
03/14/2006	<u>3</u>	SUMMONS Returned Executed by Phyllis A. Mitchell. Jerry Maggy served on 3/7/2006, answer due 3/27/2006; Michael Smith served on 3/7/2006, answer due 3/27/2006; The County of Clinton served on 3/7/2006, answer due 3/27/2006; David Favro served on 3/7/2006, answer due 3/27/2006. (Keach, Elmer) (Entered: 03/14/2006)
03/23/2006	<u>4</u>	STIPULATION <i>Extending Defendants' Time to Respond to Complaint</i> by Jerry Maggy, Michael Smith, The County of Clinton, David Favro submitted to Judge Homer. (Johnson, Gregg) (Entered: 03/23/2006)

03/24/2006	<u>5</u>	STIPULATION AND ORDER to extend Defts answer deadline; Answer due date updated for Jerry Maggy answer due 4/14/2006; Michael Smith answer due 4/14/2006; The County of Clinton answer due 4/14/2006; David Favro answer due 4/14/2006. Signed by Judge David R. Homer on 3/24/06. (sfp,) (Entered: 03/27/2006)
03/27/2006		Clerk traditionally served <u>5</u> Stip/Order upon non-ecf parties. (sfp,) (Entered: 03/27/2006)
04/14/2006	<u>6</u>	ANSWER to Complaint by Jerry Maggy, Michael Smith, The County of Clinton, David Favro.(Johnson, Gregg) (Entered: 04/14/2006)
04/14/2006	<u>7</u>	CERTIFICATE OF SERVICE by Jerry Maggy, Michael Smith, The County of Clinton, David Favro re <u>6</u> Answer to Complaint (Johnson, Gregg) (Entered: 04/14/2006)
04/17/2006	<u>8</u>	NOTICE of Appearance by Gregg T. Johnson on behalf of all defendants (Johnson, Gregg) (Entered: 04/17/2006)
04/17/2006	<u>9</u>	CERTIFICATE OF SERVICE by Jerry Maggy, Michael Smith, The County of Clinton, David Favro of <i>Notice of Appearance</i> (Johnson, Gregg) (Entered: 04/17/2006)
04/17/2006	<u>10</u>	NOTICE of Appearance by Jacinda Hall Conboy on behalf of all defendants (Conboy, Jacinda) (Entered: 04/17/2006)
04/17/2006	<u>11</u>	CERTIFICATE OF SERVICE by Jerry Maggy, Michael Smith, The County of Clinton, David Favro of <i>Notice of Appearance</i> (Conboy, Jacinda) (Entered: 04/17/2006)
05/10/2006	<u>12</u>	CIVIL CASE MANAGEMENT PLAN by Phyllis A. Mitchell. (Keach, Elmer) (Entered: 05/10/2006)
06/22/2006		Minute Entry for proceedings held before Judge David R. Homer. A Rule 16 Scheduling Conference was held on 6/21/2006. Appearances: Bob Keach for plaintiff; Gregg Johnson for defendants. The deadline for filing a motion for class certification was set for 1/15/07 and the pretrial deadlines were set. A status conference will be held on 11/29/06 to resolve any discovery issues and discuss the possibility of settlement. (lah,) (Entered: 06/22/2006)
06/22/2006	<u>13</u>	ORDER that any motion for class certification by pltf shall be filed and served on or before 1/15/07. Signed by Judge David R. Homer on 6/22/06. (wjg,) (Entered: 06/22/2006)
06/22/2006	<u>14</u>	ORDER TO SHOW CAUSE why defts should not be compelled to obtain separate counsel .(wjg,) (Entered: 06/22/2006)
06/22/2006	<u>15</u>	UNIFORM PRETRIAL SCHEDULING ORDER: Anticipated length of trial: 15 days (jury trial; no date specified). Preferred Trial Location: Syracuse. Joinder of Parties due by 8/1/2006. Amended Pleadings due by 8/1/2006. Discovery due by 4/1/2007. Motions to be filed by 6/1/2007. The parties have opted out of the ADR program. Signed by Judge David R. Homer on 6/22/06. (wjg,) (Entered: 06/22/2006)
08/08/2006		Filing fee for Pro Hac Vice Admission of Alexandra Coler, Esq.: \$ 30.00, receipt number ALB002663 (wbl,) (Entered: 08/10/2006)
08/09/2006	<u>16</u>	ORDER approving defts' waiver of potential conflict. Signed by Judge David R. Homer on 8/9/06. (wjg,) (Entered: 08/10/2006)
08/09/2006	<u>20</u>	MOTION for Limited Admission Pro Hac Vice of Alexandra Coler, Esq. by Phyllis A. Mitchell.(wbl,) (Entered: 08/10/2006)
08/10/2006	<u>21</u>	ORDER granting <u>20</u> Motion for Limited Admission Pro Hac Vice of Alexandra Coler, Esq.. Signed by Judge David R. Homer on 8/10/06. (wbl,) (Entered: 08/11/2006)
08/11/2006		CLERK'S CORRECTION OF DOCKET ENTRY. Docket entry no. 21 has been deleted. Notice was entered in wrong case. (lah,) (Entered: 08/11/2006)

08/30/2006	<u>22</u>	NOTICE of Appearance by Alexandra Coler on behalf of Phyllis A. Mitchell (Coler, Alexandra) (Entered: 08/30/2006)
10/02/2006	<u>23</u>	Letter Motion from Elmer Keach for Phyllis A. Mitchell requesting Non-Dispositive Motion Conference submitted to Judge David R. Homer. (Keach, Elmer) (Entered: 10/02/2006)
10/04/2006	24	TEXT NOTICE. A pre-motion conference will be held on Thursday, October 12, 2006 at 10:30 a.m. before Hon. David R. Homer, USMJ, pursuant to the letter/request of plaintiff's counsel dated 10/2/06. The conference will be in-person in Judge Homer's chambers. (lah,) (Entered: 10/04/2006)
10/06/2006	25	TEXT NOTICE: Please note the conference on 10/12/06 before Hon. David R. Homer, USMJ, will take place at 11:00 a.m. rather than the previously time set for 10:30 a.m. Please mark your calendars accordingly. Out-of-town counsel may participate by telephone. (lah,) (Entered: 10/06/2006)
10/11/2006	<u>26</u>	LETTER BRIEF <i>in Response to Plaintiff's Request for non-dispositive motion conference</i> by Jerry Maggy, Michael Smith, The County of Clinton, David Favro. (Johnson, Gregg) (Entered: 10/11/2006)
10/16/2006		Minute Entry for proceedings held before Judge David R. Homer. A Pre-Motion Conference was held on 10/12/2006 with counsel for all parties. Plaintiff requested leave to file motion seeking to strike or preclude enforcement of offers made by defendants. Plaintiff's request was granted. A written order will be entered. (lah,) (Entered: 10/16/2006)
10/16/2006	<u>27</u>	ORDER granting <u>23</u> Letter Request, giving pltf leave to file non-dispositive motion . Signed by Judge David R. Homer on 10/16/06. (wjg,) (Entered: 10/17/2006)
11/28/2006	<u>28</u>	Letter Motion from Elmer Keach for Phyllis A. Mitchell requesting Discovery conference submitted to Judge David R. Homer. (Keach, Elmer) (Entered: 11/28/2006)
11/30/2006		Minute Entry for proceedings held before Judge David R. Homer. A Status/Discovery Conference was held on 11/29/2006 with Bob Keach for plaintiff and Gregg Johnson for defendants. A written order will be entered directing the parties to respond to outstanding discovery demands. (lah,) (Entered: 11/30/2006)
11/30/2006	<u>29</u>	ORDER that responses of all parties to outstanding discovery demands as well as all FRCP 26(a)(1) disclosures shall be made on or before 12/8/06. Signed by Judge David R. Homer on 11/29/06. (wjg,) (Entered: 12/01/2006)
12/07/2006	<u>30</u>	STATUS REPORT ORDER/NOTICE. Status Report due by 12/21/2006. Signed by Judge David R. Homer on 12/7/06. (ban) (Entered: 12/07/2006)
01/11/2007	<u>31</u>	Letter Motion from Elmer Robert Keach for Phyllis A. Mitchell requesting enlargement of time to file motion for class certification submitted to Judge David R. Homer. (Keach, Elmer) (Entered: 01/11/2007)
01/12/2007	<u>32</u>	ORDER granting <u>31</u> Letter Request, pltf's motion for class certification to be filed on or before 1/29/07. Signed by Judge David R. Homer on 1/12/07. (wjg,) (Entered: 01/12/2007)
01/26/2007	<u>33</u>	Letter Motion from Gregg T. Johnson for Jerry Maggy, Michael Smith, The County of Clinton, David Favro requesting Execute a Protective Order submitted to Judge Homer. (Johnson, Gregg) (Entered: 01/26/2007)
01/29/2007	<u>34</u>	PROTECTIVE ORDER on Stipulation. Signed by Judge David R. Homer on 1/29/07. (wjg,) (Entered: 01/29/2007)
01/29/2007	<u>35</u>	MOTION to Certify Class Motion Hearing set for 3/7/2007 10:00 AM in Syracuse before Chief Judge Norman A. Mordue., Response to Motion due by 2/20/2007, Reply to Response to Motion due by 2/26/2007. by Phyllis A. Mitchell. (Attachments: # <u>1</u> Memorandum of Law # <u>2</u> Affirmation of Jason Rozger # <u>3</u> Exhibit(s) A, Complaint # <u>4</u> Exhibit(s) B, Plaintiff deposition transcript # <u>5</u> Exhibit(s) C, Plaintiff charging documents # <u>6</u> Exhibit(s) D, Latulipe deposition transcript # <u>7</u> Exhibit(s) E, Glarneau deposition transcript # <u>8</u> Exhibit(s) F, Clukey

		deposition transcript# <u>9</u> Exhibit(s) G, admissions policy# <u>10</u> Exhibit(s) H, Strip Search policy# <u>11</u> Exhibit(s) I, 30(b)(6) deposition transcript# <u>12</u> Exhibit(s) J, October 2003 memo# <u>13</u> Exhibit(s) K, revised admissions policy# <u>14</u> Exhibit(s) L, revised search policy# <u>15</u> Exhibit(s) M, Spinner v. City of New York# <u>16</u> Exhibit(s) N, Eddleman v. Jefferson County# <u>17</u> Exhibit(s) O, Haney v. Miami Date County# <u>18</u> Exhibit(s) P, Mclean v. Merrifield# <u>19</u> Exhibit(s) Q, In re Cigna# <u>20</u> Exhibit(s) R, In re Plastics Additives) (Rozger, Jason) (Entered: 01/29/2007)
01/31/2007		TEXT NOTICE as to the <u>35</u> MOTION to Certify Class. The motion is returnable on 3/7/07 before Chief Judge Mordue on submit with NO appearances necessary. Response to Motion due by 2/20/2007. Reply to Response to Motion due by 2/26/2007. Counsel is directed to send a courtesy copy of the motion to Judge Mordue's chambers. (jlr) (Entered: 01/31/2007)
02/08/2007	<u>36</u>	Letter Motion from Elmer Robert Keach III for Phyllis A. Mitchell requesting discovery conference with the Court submitted to Judge Homer. (Keach, Elmer) (Entered: 02/08/2007)
02/09/2007	<u>37</u>	LETTER BRIEF <i>in response to Plaintiff's request for discovery conference</i> by Jerry Maggy, Michael Smith, The County of Clinton, David Favro. (Johnson, Gregg) (Entered: 02/09/2007)
02/09/2007	<u>38</u>	Letter Motion from Gregg T. Johnson for Jerry Maggy, Michael Smith, The County of Clinton, David Favro requesting Extension of time to respond to Class Certification Motion submitted to Judge Mordue. (Johnson, Gregg) (Entered: 02/09/2007)
02/12/2007	<u>39</u>	ORDER denying w/out prejudice <u>36</u> Letter Request. Signed by Judge David R. Homer on 2/12/07. (wjg,) (Entered: 02/12/2007)
02/14/2007		TEXT ORDER granting the <u>38</u> Letter Motion from Gregg T. Johnson for Jerry Maggy, Michael Smith, The County of Clinton, and David Favro requesting Extension of time to respond to <u>35</u> Class Certification Motion submitted to Judge Mordue. Motion Hearing is reset for 3/21/2007 before Chief Judge Norman A. Mordue. The motion will be on submit with no appearances necessary. Response to Motion due by 3/6/2007. Reply to Response to Motion due by 3/13/2007. Endorsed by Judge Norman A. Mordue on 2/14/07. Counsel is directed to submit a courtesy copy of the motion papers to Judge Mordue's chambers. (jlr) (Entered: 02/14/2007)
02/28/2007	<u>40</u>	Letter Motion from Jason Rozger for Phyllis A. Mitchell requesting extension of discovery deadline from April 1, 2007 to June 1, 2007 submitted to Judge Homer. (Rozger, Jason) (Entered: 02/28/2007)
03/01/2007	<u>41</u>	ORDER granting <u>40</u> Letter Request, Discovery ddl reset to 6/1/2007. Signed by Judge David R. Homer on 3/1/07. (wjg,) (Entered: 03/01/2007)
03/05/2007	<u>42</u>	Letter Motion from Gregg T. Johnson, Esq. for Jerry Maggy, Michael Smith, The County of Clinton, David Favro requesting permission to file a 35–page brief submitted to Judge Norman A. Mordue. (Attachments: # <u>1</u> Appendix Certificate of Service)(Johnson, Gregg) (Entered: 03/05/2007)
03/06/2007		TEXT ORDER granting the <u>42</u> Letter Request to file an oversized memoranda of law (35) pages in reponse to the motion to certify. Endorsed by Judge Norman A. Mordue on 3/6/07. (jlr/am) (Entered: 03/06/2007)
03/06/2007	<u>43</u>	AFFIDAVIT in Opposition re <u>35</u> MOTION to Certify Class <i>Affidavit of Gregg T. Johnson, Esq.</i> filed by Jerry Maggy, Michael Smith, The County of Clinton, David Favro. (Attachments: # <u>1</u> Exhibit(s) A – Affidavits of 46 Correction Officers# <u>2</u> Exhibit(s) B – Relevant pages of Plaintiff's EBT transcript# <u>3</u> Exhibit(s) C – Pages 76–77 of Plaintiff's EBT transcript# <u>4</u> Exhibit(s) D – Relevant pages from Plaintiff's Response to Defendants' 1st Set of Interrogatories)(Quesnel, Scott) (Entered: 03/06/2007)
03/06/2007	<u>44</u>	AFFIDAVIT in Opposition re <u>35</u> MOTION to Certify Class <i>Affidavit of Def. David Favro</i> filed by Jerry Maggy, Michael Smith, The County of Clinton, David Favro. (Attachments: # <u>1</u> Exhibit(s) A – CCJ Policy/Procedure No. C–102# <u>2</u> Exhibit(s) B – CCC Policy/Procedure D–221# <u>3</u> Exhibit(s) C – 10/24/03 Policy Revision# <u>4</u> Exhibit(s) D – CCJ Policy/Procedure B–01# <u>5</u> Exhibit(s) E – CCJ

		Policy/Procedure G-50)(Quesnel, Scott) (Entered: 03/06/2007)
03/06/2007	<u>45</u>	AFFIDAVIT in Opposition re <u>35</u> MOTION to Certify Class <i>Affidavit of Def. Jerry Maggy</i> filed by Jerry Maggy, Michael Smith, The County of Clinton, David Favro. (Attachments: # <u>1</u> Exhibit(s) A – CCJ Policies/Procedures C-102# <u>2</u> Exhibit(s) B – CCJ Policies/Procedures D-221# <u>3</u> Exhibit(s) C – 10/24/03 Policy Revision Memo# <u>4</u> Exhibit(s) D – CCJ Policies/Procedures B-01# <u>5</u> Exhibit(s) E – CCJ Policies/Procedures G-50)(Quesnel, Scott) (Entered: 03/06/2007)
03/06/2007	<u>46</u>	AFFIDAVIT in Opposition re <u>35</u> MOTION to Certify Class <i>Affidavit of Def. Michael Smith</i> filed by Jerry Maggy, Michael Smith, The County of Clinton, David Favro. (Attachments: # <u>1</u> Exhibit(s) A – Photographs# <u>2</u> Exhibit(s) B – CCJ Policies/Procedures C102# <u>3</u> Exhibit(s) C – CCJ Policies/Procedures D-221# <u>4</u> Exhibit(s) D – 10/24/03 Policy Revision Memo# <u>5</u> Exhibit(s) E – CCJ Policies/Procedures B-01# <u>6</u> Exhibit(s) F – CCJ Policies/Procedures G-50)(Quesnel, Scott) (Entered: 03/06/2007)
03/06/2007	<u>47</u>	MEMORANDUM OF LAW re <u>35</u> Motion to Certify Class,,, <i>in Opposition to Motion</i> filed by Jerry Maggy, Michael Smith, The County of Clinton, David Favro. (Attachments: # <u>1</u> Appendix Unreported Case – Augustin v. Jablonsky# <u>2</u> Appendix Unreported Case – Kelsey v. Schoharie# <u>3</u> Appendix Unreported Case – Spinner v. New York City# <u>4</u> Appendix Unreported Case – Bryant v. Bonded Accounts Services)(Quesnel, Scott) (Entered: 03/06/2007)
03/06/2007	<u>48</u>	CERTIFICATE OF SERVICE by Jerry Maggy, Michael Smith, The County of Clinton, David Favro re <u>43</u> Affidavit in Opposition to Motion,, <u>44</u> Affidavit in Opposition to Motion, <u>45</u> Affidavit in Opposition to Motion, <u>47</u> Memorandum of Law, <u>46</u> Affidavit in Opposition to Motion, <i>with exhibits attached thereto</i> (Quesnel, Scott) (Entered: 03/06/2007)
03/12/2007	<u>49</u>	Letter Motion from Elmer Keach for Phyllis A. Mitchell requesting Enlargement of Time to File Reply Brief and Leave to File Overlength Brief submitted to Judge Norman A. Mordue. (Keach, Elmer) (Entered: 03/12/2007)
03/13/2007		TEXT ORDER granting in part and denying in part the <u>49</u> Letter Motion from Elmer Keach for Phyllis A. Mitchell requesting Enlargement of Time to File Reply Brief and Leave to File Overlength Brief. Reply to Response to Motion is extended 1 week and is due by 3/20/2007. The reply shall be no more than 20 pages in length. Endorsed by Judge Norman A. Mordue on 3/13/07. (jlr/am) (Entered: 03/13/2007)
03/20/2007	<u>50</u>	REPLY to Response to Motion re <u>35</u> MOTION to Certify Class filed by Phyllis A. Mitchell. (Attachments: # <u>1</u> Exhibit(s) A to Keach Affirmation – Defendants' Rule 68 Offer# <u>2</u> Exhibit(s) B to Keach Affirmation – 10.2.06 letter from Elmer Keach to Hon. David R. Homer# <u>3</u> Exhibit(s) C to Keach Affirmation – Sheriff's Department Memorandum# <u>4</u> Exhibit(s) D to Keach Affirmation – Tyson Bench Decision# <u>5</u> Affirmation Bruce Menken Affirmation# <u>6</u> Exhibit(s) A to Menken Affirmation – Paul Bachman Affidavit)(Keach, Elmer) (Entered: 03/20/2007)
03/20/2007	<u>51</u>	REPLY to Response to Motion re <u>35</u> MOTION to Certify Class <i>Memo of Law</i> filed by Phyllis A. Mitchell. (Keach, Elmer) (Entered: 03/21/2007)
03/21/2007	<u>52</u>	AMENDED REPLY to Response to <u>35</u> MOTION to Certify Class <i>Memorandum of Law Corrected to Include Cover Pages</i> filed by Phyllis A. Mitchell. (Keach, Elmer). (Entered: 03/21/2007)
03/23/2007	<u>53</u>	NOTICE by Phyllis A. Mitchell <i>of Change of Firm Name and Address for Alexander E. Barnett and Change of Firm Name for Gary E. Mason</i> (Barnett, Alexander) (Entered: 03/23/2007)
05/08/2007	<u>54</u>	Letter Motion from Gregg T. Johnson, Esq. for Jerry Maggy, Michael Smith, The County of Clinton, David Favro requesting Extension of discovery deadline for deposition purposes submitted to Judge Homer. (Johnson, Gregg) (Entered: 05/08/2007)
05/10/2007		Minute Entry for proceedings held before Judge David R. Homer. A Telephone Conference was held on 5/9/2007 pursuant to the letter request of defendants [#54] seeking an extension of the discovery deadline. The court granted the request and

		the pretrial deadlines were extended. A written order will be entered. (lah,) (Entered: 05/10/2007)
05/11/2007	<u>55</u>	ORDER granting <u>54</u> Letter Request and amending UPSO: Discovery due by 8/1/2007., Dispositive Motions to be filed by 10/1/2007., Trial Ready Deadline is 11/1/2007. Signed by Judge David R. Homer on 5/10/07. (wjg,) (Entered: 05/14/2007)
06/20/2007	<u>56</u>	Letter Motion from Jason Rozger for Phyllis A. Mitchell requesting Discovery conference submitted to Judge David R. Homer. (Attachments: # <u>1</u> Exhibit(s) A, correspondence between counsel# <u>2</u> Exhibit(s) B, correspondence between counsel# <u>3</u> Exhibit(s) C, affidavit of Paul Bachmann# <u>4</u> Exhibit(s) D, affidavit of Brian Bombard# <u>5</u> Exhibit(s) E, correspondence between counsel# <u>6</u> Exhibit(s) F, correspondence between counsel# <u>7</u> Exhibit(s) G, correspondence between counsel# <u>8</u> Exhibit(s) H, correspondence between counsel# <u>9</u> Exhibit(s) I, deposition notices# <u>10</u> Exhibit(s) J, correspondence between counsel# <u>11</u> Exhibit(s) K, correspondence between counsel)(Rozger, Jason) (Entered: 06/21/2007)
06/25/2007	<u>57</u>	RESPONSE TO LETTER BRIEF filed by Jerry Maggy, Michael Smith, The County of Clinton, David Favro as to <u>56</u> Letter Request/Motion., filed by Phyllis A. Mitchell. (Johnson, Gregg) (Entered: 06/25/2007)
06/26/2007		TEXT NOTICE. A telephone discovery conference will be held on 7/3/2007 at 9:30 a.m. with Hon. David R. Homer, USMJ, pursuant to the letter request of plaintiff's counsel dated 6/20/2007 [#56]. Chambers will initiate the telephone conference call. (lah,) (Entered: 06/26/2007)
07/05/2007	<u>58</u>	MEMORANDUM–DECISION AND ORDER granting <u>35</u> Motion to Certify Class; appointing Phyllis Mitchell representative plaintiff for the entire class pending intervention by a representative for Class B; appointing Pltf's attorneys of record as class counsel; Pltf shall move w/in 15 days for intervention by Paul Bachman or other representative for Class B, Deft shall respond w/in 15 days thereafter, Pltf's reply, if any, shall be filed w/in 7 days thereafter. Signed by Judge Norman A. Mordue on 7/5/07. (amt,) (Entered: 07/05/2007)
07/09/2007	<u>59</u>	Letter Motion from Elmer Keach for Phyllis A. Mitchell requesting Discovery Conference submitted to Judge David R. Homer. (Keach, Elmer) (Entered: 07/09/2007)
07/10/2007		Minute Entry for proceedings held before Judge David R. Homer. A Telephone Conference was held on 7/3/2007 pursuant to plaintiff's letter/request [#56]. The parties reported all issues resolved except for the production of inmate files at defendants' expense. It was agreed that the documents would be made available for inspection at Clinton C.F. and any copying expenses to be paid by defendants. A written order will be entered. (lah,) (Entered: 07/10/2007)
07/10/2007		TEXT NOTICE. A telephone discovery conference will be held on July 11, 2007 at 11:00 a.m. re <u>59</u> Letter Motion from plaintiff requesting discovery conference submitted to Judge David R. Homer. Chambers will initiate the telephone conference. (lah,) (Entered: 07/10/2007)
07/10/2007	<u>60</u>	Letter Motion from Gregg Johnson, Esq. for Jerry Maggy, Michael Smith, The County of Clinton, David Favro requesting Response to Plaintiff's Request for Sanctions submitted to Judge Homer. (Johnson, Gregg) (Entered: 07/10/2007)
07/11/2007	<u>61</u>	ORDER on <u>56</u> Letter Request re: discovery conference & issue of request for copies. Signed by Judge David R. Homer on 7/10/07. (wjg,) (Entered: 07/11/2007)
07/11/2007	<u>62</u>	NOTICE of Appearance by Alexander E. Barnett on behalf of Phyllis A. Mitchell (Barnett, Alexander) (Entered: 07/11/2007)
07/12/2007	<u>63</u>	ORDER on <u>59</u> Letter Request, that the subpoena for records issued by defts to pltf's employer is modified to require the production of time–and–attendance records of the pltf for the period from 1/1/03 through 12/31/04 and, as so modified and limited, pltf's request for an order quashing the subpoena is denied. Signed by Judge David R. Homer on 7/11/07. (wjg,) (Entered: 07/12/2007)

07/12/2007		TEXT NOTICE. A SETTLEMENT CONFERENCE will be held with Hon. David R. Homer, USMJ, on September 10, 2007 at 10:30 a.m. with attorneys only. Clients may attend but personal appearance is not required for this conference. (lah,) (Entered: 07/12/2007)
07/12/2007		Minute Entry for proceedings held before Judge David R. Homer. A Discovery Hearing was held on 7/11/2007 with counsel for all parties pursuant to the letter request from plaintiff seeking order to quash a certain subpoena. Arguments were heard. The court directed the subpoena to be modified and the request to quash the subpoena was denied. A written order issued. (lah,) (Entered: 07/12/2007)
07/20/2007	<u>64</u>	MOTION to Intervene Motion Hearing set for 9/5/2007 10:00 AM in Syracuse before Chief Judge Norman A. Mordue.,Response to Motion due by 8/20/2007 by Phyllis A. Mitchell. (Attachments: # <u>1</u> Memorandum of Law # <u>2</u> Affirmation of Bruce Menken# <u>3</u> Proposed Amended Pleading) Motions referred to David R. Homer. (Rozger, Jason) (Entered: 07/20/2007)
07/23/2007		TEXT NOTICE of the <u>64</u> MOTION to Intervene. The Response to Motion due by 8/6/2007 (15 days); and any Reply to Response to Motion is due by 8/14/2007. Motion Hearing set for 8/15/2007 on submit with no appearances necessary before Chief Judge Norman A. Mordue. (jlr) (Entered: 07/23/2007)
07/24/2007	<u>65</u>	Letter Motion from Jason Rozger for Phyllis A. Mitchell requesting Extension of Discovery Deadline submitted to Judge Homer. (Attachments: # <u>1</u> Exhibit(s) A, Plaintiffs' Second Request for the Production of Documents# <u>2</u> Exhibit(s) B, Letter from Defendants' Counsel)(Rozger, Jason) (Entered: 07/24/2007)
07/26/2007	<u>66</u>	STATUS REPORT by Phyllis A. Mitchell. (Keach, Elmer) (Entered: 07/26/2007)
07/26/2007	<u>67</u>	Letter Motion from Gregg Johnson, Esq. for Jerry Maggy, Michael Smith, The County of Clinton, David Favro requesting Consideration of Defendants' Response to Plaintiff's Letter Request submitted to Judge Homer. (Johnson, Gregg) (Entered: 07/26/2007)
07/30/2007		NOTICE re <u>65</u> Letter Motion from plaintiff requesting Extension of Discovery Deadline. A telephone conference will be held on--the--record on 8/2/2007 at 10:30 a.m. with Hon. David R. Homer, USMJ. Chambers will initiate the conference call. (lah,) (Entered: 07/30/2007)
08/01/2007		Paid 2007 Biennial Fee \$30, receipt number 821291. (Barnett, Alexander) (Entered: 08/01/2007)
08/02/2007		Minute Entry for proceedings held before Judge David R. Homer. A Telephone Status Conference was held on--the--record on 8/2/2007 with Bruce Menken and Jason Rozger for plaintiffs and Gregg Johnson for defendants. Discovery was extended to September 10. A written order will be entered. A settlement conference with attorneys only remains in place for 9/10/2007. The court directed that the class representatives for the two classes be available by telephone. (lah,) (Entered: 08/02/2007)
08/03/2007	<u>68</u>	ORDER granting <u>65</u> Letter Request for deadline extension, ; granting <u>67</u> Letter Request for conference, Discovery due by 9/10/2007. Signed by Judge David R. Homer on 8/2/07. (tab) (Entered: 08/03/2007)
08/06/2007	<u>69</u>	RESPONSE in Opposition re <u>64</u> MOTION to Intervene filed by Jerry Maggy, Michael Smith, The County of Clinton, David Favro. (Attachments: # <u>1</u> Exhibit(s) Exhibit A to Quesnel Affidavit# <u>2</u> Exhibit(s) Exhibit B to Quesnel Aff# <u>3</u> Exhibit(s) Exhibit C to Quesnel Aff# <u>4</u> Exhibit(s) Exhibit D to Quesnel Aff# <u>5</u> Memorandum of Law # <u>6</u> Supplement Certificate of Service)(Quesnel, Scott) (Entered: 08/06/2007)
08/14/2007	<u>70</u>	RESPONSE in Support re <u>64</u> MOTION to Intervene <i>Paul Bachmann as class representative</i> filed by Phyllis A. Mitchell. (Attachments: # <u>1</u> Affirmation of Jason J. Rozger# <u>2</u> Exhibit(s) A, Paul Bachmann deposition transcript excerpts# <u>3</u> Exhibit(s) B, Paul Bachmann booking documents)(Rozger, Jason) (Entered: 08/14/2007)

08/21/2007		Administrative note: Motions No Longer Referred to magistrate (motion still pending before district judge) re: <u>64</u> MOTION to Intervene (wjg,) (Entered: 08/21/2007)
08/30/2007	<u>71</u>	Letter Motion from Jason Rozger for Phyllis A. Mitchell requesting Discovery conference submitted to Judge Homer. (Attachments: # <u>1</u> Exhibit(s) A, 8/21/07 letter from Defendants' counsel# <u>2</u> Exhibit(s) B, 8/29/ 07 email from Defendants' counsel# <u>3</u> Exhibit(s) C, 7/5/07 letter from Defendants' counsel)(Rozger, Jason) (Entered: 08/30/2007)
08/31/2007		NOTICE re <u>71</u> Letter Motion from Jason Rozger requesting conference submitted to Judge Homer. A telephone discovery conference will be held with Judge Homer on September 4, 2007 at 2:30 p.m. Chambers will initiate the conference call. (lah,) (Entered: 08/31/2007)
09/04/2007		Minute Entry for proceedings held before Judge David R. Homer. A Discovery Conference was held on 9/4/2007 with Jason Rozger for plaintiff and Gregg Johnson for defendants pursuant to the letter request of plaintiff's counsel <u>71</u> . Rulings were made and a written order will be entered. (lah,) (Entered: 09/04/2007)
09/04/2007		TEXT NOTICE as to the <u>64</u> MOTION to Intervene. The motion is returnable on 9/5/07 before Chief Judge Mordue. The motion is on submit with no appearances necessary. (jlr) (Entered: 09/04/2007)
09/04/2007	<u>72</u>	ORDER granting <u>71</u> Letter Request and setting terms of disclosure regarding discovery issues. Signed by Judge David R. Homer on 9/4/07. (tab) (Entered: 09/05/2007)
09/12/2007		Minute Entry for proceedings held before Judge David R. Homer. A Settlement Conference was held on 9/10/2007 with Bruce Menken, Jason Rozger and Bob Keach for plaintiffs. The individual defendants were present along with their counsel, Gregg Johnson and Scott Quesnel. No settlement was reached. There was further discussion regarding potential conflicts of interest brought upon by the creation of two separate classes. It may become necessary in the near future to address these potential conflicts of interest. (lah,) (Entered: 09/12/2007)
09/12/2007	<u>73</u>	NOTICE of Appearance by Scott P. Quesnel on behalf of all defendants (Attachments: # <u>1</u> Supplement Certificate of Service)(Quesnel, Scott) (Entered: 09/12/2007)
09/24/2007	<u>74</u>	Letter Motion from Gregg T. Johnson for Jerry Maggy, Michael Smith, The County of Clinton, David Favro requesting Extension of Deadline for Dispositive Motion submitted to Judge Homer. (Johnson, Gregg) (Entered: 09/24/2007)
09/25/2007	<u>75</u>	ORDER granting <u>74</u> Letter Request, Dispositive Motions to be filed by 12/1/2007. Signed by Judge David R. Homer on 9/25/07. (wjg,) (Entered: 09/27/2007)
10/10/2007	<u>76</u>	MANDATE of USCA: The petition is DENIED because an immediate appeal is unwarranted. (dmf) (Entered: 10/10/2007)
11/13/2007	<u>77</u>	Letter Motion from Scott P. Quesnel for Jerry Maggy, Michael Smith, The County of Clinton, David Favro requesting Court intervention on a discovery dispute submitted to Judge Homer. (Attachments: # <u>1</u> Exhibit(s) Ex A – Bachmann Affid# <u>2</u> Exhibit(s) Ex B – Relevant portions of Bachmann transcript# <u>3</u> Exhibit(s) Ex C – Relevant portions of amended complaint# <u>4</u> Exhibit(s) Ex D Relevant portion of Pls response# <u>5</u> Exhibit(s) Ex E – Defs Exceptions Letter# <u>6</u> Exhibit(s) Ex F Pls response# <u>7</u> Exhibit(s) Ex G – Relevant portion of Defs Doc Demand)(Quesnel, Scott) (Entered: 11/13/2007)
11/15/2007		TEXT NOTICE re <u>77</u> Letter Motion from Scott P. Quesnel requesting Court intervention on a discovery dispute submitted to Judge Homer. A Telephone Discovery Conference will be held on NOVEMBER 19, 2007 at 2:30 PM with Magistrate Judge Homer. The court will initiate the conference call. (lah,) (Entered: 11/15/2007)
11/15/2007	<u>78</u>	LETTER BRIEF <i>in Opposition to Defendants' Request for Production</i> by Phyllis A. Mitchell. (Rozger, Jason) (Entered: 11/15/2007)

11/19/2007	<u>79</u>	Letter Motion from Gregg T. Johnson, Esq. for Jerry Maggy, Michael Smith, The County of Clinton, David Favro requesting Permission to file oversize brief submitted to Judge Mordue. (Johnson, Gregg) (Entered: 11/19/2007)
11/19/2007		ORDER granting the <u>79</u> Letter Motion from Gregg T. Johnson, Esq. for Jerry Maggy, Michael Smith, The County of Clinton, David Favro requesting Permission to file oversize memorandum of law (no more than 40 pages) in support of the motion for summary judgment to be filed on or before December 1, 2007. Endorsed by Judge Norman A. Mordue on 11/19/07. (jlr/am) (Entered: 11/19/2007)
11/21/2007	<u>80</u>	ORDER GRANTING <u>77</u> Letter Request; PLAINTIFFS SHALL SERVE DEFENDANTS WITH THEIR PORTION OF RECORDS OF TREATMENT ON OR BEFORE DECEMBER 14, 2007. Signed by Judge David R. Homer on 11/21/2007. (tm) (Entered: 11/21/2007)
11/26/2007		Minute Entry for proceedings held before Judge David R. Homer. A Discovery Conference was held on-the-record on 11/19/2007 with counsel for all parties. The plaintiffs were seeking certain medical records. The court directed production of certain records. A written order was entered. (lah,) (Entered: 11/26/2007)
11/27/2007	<u>81</u>	Letter Motion from Elmer Keach for Phyllis A. Mitchell requesting Discovery Conference submitted to Judge David R. Homer. (Keach, Elmer) (Entered: 11/27/2007)
11/28/2007	<u>82</u>	RESPONSE TO LETTER BRIEF filed by Jerry Maggy, Michael Smith, The County of Clinton, David Favro as to <u>81</u> Letter Request/Motion filed by Phyllis A. Mitchell. (Quesnel, Scott) (Entered: 11/28/2007)
11/29/2007		Minute Entry for proceedings held before Judge David R. Homer. A Discovery Conference was held on-the-record on 11/29/2007 with Bob Keach for plaintiffs and Scott Quesnel for defendants. Plaintiff requested production of certain records from Clinton County C.F. in electronic form <u>81</u> . From the conference, the court directed defendants to contact Renss. Co. C.F. regarding its computer process for extracting booking records in electronic form and to permit plaintiffs' counsel to work together with Clinton Co. C.F. to explore possible methods of extracting booking records in electronic format. A written order with deadlines will be entered. (lah,) (Entered: 11/29/2007)
11/29/2007	<u>84</u>	ORDER re Discovery Hearing. Signed by Judge David R. Homer on 11/29/07. (tab) (Entered: 11/30/2007)
11/30/2007	<u>83</u>	Letter Motion from Gregg T. Johnson for Jerry Maggy, Michael Smith, The County of Clinton, David Favro requesting An extension of the impending motion deadline submitted to Judge Homer. (Johnson, Gregg) (Entered: 11/30/2007)
12/03/2007	<u>85</u>	ORDER GRANTING <u>83</u> Letter Request, Motion Filing Deadline Reset for 2/1/2008. Signed by Judge David R. Homer on 12/3/2007. (tm) (Entered: 12/03/2007)
12/20/2007	<u>86</u>	STATUS REPORT <i>as to electronic data/information/records</i> by Jerry Maggy, Michael Smith, The County of Clinton, David Favro. (Attachments: # <u>1</u> Appendix Certificate of Service)(Johnson, Gregg) (Entered: 12/20/2007)
12/20/2007	<u>87</u>	Letter Motion from Scott P. Quesnel, Esq. for Jerry Maggy, Michael Smith, The County of Clinton, David Favro requesting Court's consideration of proposed Protective Order on Stipulation submitted to Judge David R. Homer. (Attachments: # <u>1</u> Proposed Order/Judgment Proposed Protective Order on Stipulation# <u>2</u> Appendix Certificate of Service)(Quesnel, Scott) (Entered: 12/20/2007)
12/21/2007	<u>88</u>	ORDER granting <u>87</u> STIPULATION for Protective Order. Signed by Judge David R. Homer on 12/21/07. (tab) (Entered: 12/26/2007)
01/03/2008	<u>89</u>	STATUS REPORT <i>regarding electronic inmate data</i> by Jerry Maggy, Michael Smith, The County of Clinton, David Favro. (Johnson, Gregg) (Entered: 01/03/2008)
01/04/2008	<u>90</u>	Letter Motion from Elmer Robert Keach, III for Phyllis A. Mitchell requesting regarding Electronic Booking Records submitted to Judge David R. Homer. (Keach, Elmer) (Entered: 01/04/2008)

01/07/2008	<u>91</u>	ORDER granting the <u>64</u> Motion to Intervene and leave to serve an amended complaint is granted. Signed by Judge Norman A. Mordue on 1/7/08. (jlr) (Entered: 01/07/2008)
01/09/2008	<u>92</u>	Letter Motion from Elmer Keach for Phyllis A. Mitchell, Paul Bachmann requesting Discovery Conference with the Court Regarding Defendants' Failure to Comply with Court Order submitted to Judge David R. Homer. (Keach, Elmer) (Entered: 01/09/2008)
01/09/2008		TEXT NOTICE re <u>92</u> Letter Motion from Elmer Keach for Phyllis A. Mitchell, Paul Bachmann requesting Discovery Conference with the Court Regarding Defendants' Failure to Comply with Court Order submitted to Judge David R. Homer. A discovery conference will be held on-the-record with Judge Homer on JANUARY 14, 2008 at 9:30 AM. (lah,) (Entered: 01/09/2008)
01/11/2008	<u>93</u>	LETTER BRIEF <i>in response to Plaintiffs' request for discovery conference</i> by Jerry Maggy, Michael Smith, The County of Clinton, David Favro. (Attachments: # <u>1</u> Appendix 1/8/08 letter to Plaintiffs' counsel# <u>2</u> Appendix Attachment to 1/8/08 letter to Plaintiffs' counsel# <u>3</u> Appendix Plaintiff's 1/8/08 email response)(Johnson, Gregg) (Entered: 01/11/2008)
01/11/2008	<u>94</u>	CERTIFICATE OF SERVICE by Jerry Maggy, Michael Smith, The County of Clinton, David Favro re <u>93</u> LETTER BRIEF, (Johnson, Gregg) (Entered: 01/11/2008)
01/14/2008		Minute Entry for proceedings held before Judge David R. Homer. A Discovery Conference was held on-the-record on 1/14/2008 with Bob Keach for plaintiffs and Gregg Johnson for defendants. The court set certain directives regarding determining if certain records can be retrieved electronically from Clinton Correctional Facility. A written order will be entered. (lah,) (Entered: 01/14/2008)
01/14/2008	<u>95</u>	ORDER referencing document # <u>84</u> Order regarding discovery issues. Signed by Judge David R. Homer on 1/14/08. (tab) (Entered: 01/14/2008)
01/22/2008	<u>96</u>	Letter Motion from Elmer Robert Keach, III for Phyllis A. Mitchell requesting Evidentiary Hearing regarding computerized booking records or, in the alternative, Discovery Conference with the Court submitted to Judge David R. Homer. (Keach, Elmer) (Entered: 01/22/2008)
01/22/2008	<u>97</u>	TRANSCRIPT REQUEST <i>for several discovery conferences</i> by Phyllis A. Mitchell, Paul Bachmann for proceedings held on July 3, 2007; July 11, 2007; August 2, 2007; September 4, 2007; November 19, 2007; November 29, 2007; January 14, 2008 before Judge David R. Homer.. (Keach, Elmer) (Entered: 01/22/2008)
01/23/2008	<u>98</u>	LETTER BRIEF <i>in Response to Plaintiffs' Request for Hearing/Conference</i> by Jerry Maggy, Michael Smith, The County of Clinton, David Favro. (Attachments: # <u>1</u> Exhibit(s) Attachment A Jan 18 2008 ltr# <u>2</u> Exhibit(s) Att B Email Jan 18, 2008# <u>3</u> Exhibit(s) Att C Jan 21, 2008 ltr# <u>4</u> Exhibit(s) Att D Jan 21, 2008 ltr to Black Creek# <u>5</u> Exhibit(s) Email Jan 22, 2008)(Johnson, Gregg) (Entered: 01/23/2008)
01/23/2008		TEXT NOTICE re <u>96</u> Letter Motion from Elmer Robert Keach, III for Phyllis A. Mitchell. A Discovery Conference will be held on-the-record on JANUARY 30, 2008 at 10:00 AM with Magistrate Judge Homer. Please mark your calendars accordingly. (lah,) (Entered: 01/23/2008)
01/23/2008	<u>99</u>	AMENDED TEXT NOTICE re <u>96</u> Letter Motion from Elmer Robert Keach, III for Phyllis A. Mitchell. The discovery conference previously set for 1/30/2008 at 10:00 AM is RESCHEDULED to JANUARY 31, 2008 at 2:00 PM with Magistrate Judge Homer. Please adjust your calendars. (lah,) (Entered: 01/23/2008)
01/31/2008	<u>100</u>	STATUS REPORT <i>Regarding on-going discovery issues</i> by Jerry Maggy, Michael Smith, The County of Clinton, David Favro. (Quesnel, Scott) (Entered: 01/31/2008)
01/31/2008	<u>101</u>	SCHEDULING ORDER resetting deadlines;Motions to be filed by 3/15/2008, Trial Ready Deadline is 4/15/2008. Signed by Judge David R. Homer on 1/31/08.

		(tab) (Entered: 02/01/2008)
02/04/2008	<u>102</u>	AMENDED COMPLAINT against all defendants filed by Phyllis A. Mitchell, Paul Bachmann.(Rozger, Jason) (Entered: 02/04/2008)
02/06/2008		Minute Entry for proceedings held before Magistrate Judge David R. Homer. A Discovery Conference was held on 1/28/2008. The motion filing deadline was extended by written order. It was agreed that a settlement conference would be held. The parties are to arrange a date among themselves and contact Judge Homer's chambers with the agreed-upon date. (lah,) (Entered: 02/06/2008)
02/06/2008	<u>103</u>	CERTIFICATE OF SERVICE by Phyllis A. Mitchell, Paul Bachmann re <u>102</u> Amended Complaint (Rozger, Jason) (Entered: 02/06/2008)
02/07/2008	<u>104</u>	ANSWER to <u>102</u> Amended Complaint by Jerry Maggy, Michael Smith, The County of Clinton, David Favro.(Johnson, Gregg) (Entered: 02/07/2008)
02/07/2008	<u>105</u>	CERTIFICATE OF SERVICE by Jerry Maggy, Michael Smith, The County of Clinton, David Favro re <u>104</u> Answer to Amended Complaint (Johnson, Gregg) (Entered: 02/07/2008)
02/07/2008	<u>106</u>	ORDER SETTING SETTLEMENT CONFERENCE: Settlement Conference set for 2/22/2008 02:00 PM in Albany before Magistrate Judge David R. Homer. Signed by Judge David R. Homer on 2/7/2008. (dpk) (Entered: 02/08/2008)
03/03/2008		TEXT NOTICE. A Telephone Status Conference will be held on MARCH 7, 2008 at 1:00 PM with Magistrate Judge Homer. Chambers will initiate the conference call. (lah,) (Entered: 03/03/2008)
03/04/2008	<u>107</u>	Letter Motion from Scott P. Quesnel, Esq. for Jerry Maggy, Michael Smith, The County of Clinton, David Favro requesting Extension of dispositive motion deadline submitted to Judge David R. Homer. (Attachments: # <u>1</u> Appendix Certificate of Service)(Quesnel, Scott) (Entered: 03/04/2008)
03/05/2008	<u>108</u>	ORDER granting <u>107</u> Letter Request, Motions to be filed by 6/1/2008.. Signed by Magistrate Judge David R. Homer on 3/5/08. (tab) (Entered: 03/05/2008)
03/07/2008		Minute Entry for proceedings held before Magistrate Judge David R. Homer. A Telephone Status Conference was held on 3/7/2008 with Bob Keach for plaintiffs and Gregg Johnson for defendants. (lah,) (Entered: 03/07/2008)
03/07/2008		TEXT NOTICE. A telephone status conference will be held on MARCH 19, 2008 at 4:30 PM with Magistrate Judge David R. Homer. Chambers will initiate the conference call. Please mark your calendars. (lah,) (Entered: 03/07/2008)
03/21/2008		Minute Entry for proceedings held before Magistrate Judge David R. Homer. A telephone Status Conference was held on 3/19/2008 with Bob Keach for plaintiffs and Scott Quesnel for defendants. The parties advised that they have reached a tentative agreement on the allocation of settlement proceeds. The attorneys advised that they will begin to prepare the settlement documents in anticipation of an application to the district court to approve the class settlement. The attorneys were cautioned to keep eye on the dispositive motion filing deadline of 6/1/2008. (lah,) (Entered: 03/21/2008)
04/03/2008	<u>109</u>	RECORD of Proceedings: Conference held on January 14, 2008 before Judge David R. Homer, Court Reporter: Theresa J. Casal. IMPORTANT NOTICE – REDACTION OF TRANSCRIPTS: In order to remove personal identifier data from the transcript, a party must electronically file a Notice of Intent to Redact with the Clerk's Office within 5 business days of this date. The policy governing the redaction of personal information is located on the court website at www.nynd.uscourts.gov . <u>Read this policy carefully</u> . If no Notice of Intent to Redact is filed within 5 business days of this date, the court will assume redaction of personal identifiers is not necessary and the transcript will be made available on the web 90 days from today's date. Notice of Intent to Redact due by 4/10/2008 Transcript due by 7/2/2008. (tjc,) (Entered: 04/03/2008)
04/03/2008	<u>110</u>	RECORD of Proceedings: Telephone Conference held on August 2, 2007 before Judge David R. Homer, Court Reporter: Theresa J. Casal. IMPORTANT NOTICE

		– REDACTION OF TRANSCRIPTS: In order to remove personal identifier data from the transcript, a party must electronically file a Notice of Intent to Redact with the Clerk's Office within 5 business days of this date. The policy governing the redaction of personal information is located on the court website at www.nynd.uscourts.gov . <u>Read this policy carefully</u> . If no Notice of Intent to Redact is filed within 5 business days of this date, the court will assume redaction of personal identifiers is not necessary and the transcript will be made available on the web 90 days from today's date. Notice of Intent to Redact due by 4/10/2008 Transcript due by 7/2/2008. (tjc,) (Entered: 04/03/2008)
04/03/2008	<u>111</u>	.RECORD of Proceedings: Telephone Conference held on July 11, 2007 before Judge David R. Homer, Court Reporter: Theresa J. Casal. IMPORTANT NOTICE – REDACTION OF TRANSCRIPTS: In order to remove personal identifier data from the transcript, a party must electronically file a Notice of Intent to Redact with the Clerk's Office within 5 business days of this date. The policy governing the redaction of personal information is located on the court website at www.nynd.uscourts.gov . <u>Read this policy carefully</u> . If no Notice of Intent to Redact is filed within 5 business days of this date, the court will assume redaction of personal identifiers is not necessary and the transcript will be made available on the web 90 days from today's date. Notice of Intent to Redact due by 4/10/2008 Transcript due by 7/2/2008. (tjc,) (Entered: 04/03/2008)
05/28/2008	<u>112</u>	Letter Motion from Scott P. Quesnel, Esq. for Jerry Maggy, Michael Smith, The County of Clinton, David Favro requesting Extension of Dispositive Motion Deadline submitted to Judge David R. Homer <i>with Certificate of Service</i> . (Quesnel, Scott) (Entered: 05/28/2008)
05/29/2008	<u>113</u>	ORDER granting <u>112</u> Letter Request. Dispositive Motions to be filed by 8/29/2008. Signed by Magistrate Judge David R. Homer on 5/29/08. (ban) (Entered: 05/29/2008)
08/07/2008		TEXT NOTICE – Counsel is reminded Discovery is Closed. All Dispositive Motions shall be filed on or before 8/29/2008. (jlr) (Entered: 08/07/2008)
08/28/2008	<u>114</u>	Letter Motion from Gregg Johnson for Jerry Maggy, Michael Smith, The County of Clinton, David Favro requesting adjournment of dispositive motion date submitted to Judge Homer. (Johnson, Gregg) (Entered: 08/28/2008)
08/29/2008	<u>115</u>	ORDER granting <u>114</u> Letter Request adjourning deadline for filing dispositive motions. Signed by Magistrate Judge David R. Homer on 8/29/08. (tab) (Entered: 08/29/2008)
10/01/2008	<u>116</u>	Letter Motion from Gregg Johnson, Esq. for Jerry Maggy, Michael Smith, The County of Clinton, David Favro requesting One week extension to file dispositive motions submitted to Judge Homer. (Johnson, Gregg) (Entered: 10/01/2008)
10/01/2008	<u>117</u>	ORDER granting <u>116</u> Letter Request, Motions to be filed by 10/8/2008. Signed by Magistrate Judge David R. Homer on 10/1/08. (tab) (Entered: 10/01/2008)
10/08/2008	<u>118</u>	STATUS REPORT <i>regarding settlement</i> by Jerry Maggy, Michael Smith, The County of Clinton, David Favro. (Johnson, Gregg) (Entered: 10/08/2008)
10/08/2008	<u>119</u>	SETTLEMENT AGREEMENT by Phyllis A. Mitchell, Paul Bachmann. (Attachments: # <u>1</u> Letter to Court Re: Settlement Agreement)(Keach, Elmer) (Entered: 10/08/2008)
10/15/2008	<u>120</u>	NOTICE of Appearance by Bethany Schumann–McGhee on behalf of all plaintiffs (Schumann–McGhee, Bethany) (Entered: 10/15/2008)
01/09/2009		TEXT NOTICE – Counsel is directed to file a status report on the progress of the completion of the Settlement Agreement to Chief Judge Mordue on or before 1/16/09. (jlr/am) (Entered: 01/09/2009)
01/12/2009	<u>121</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>122</u>	CERTIFICATE OF SERVICE by Jerry Maggy, Michael Smith, The County of Clinton, David Favro re <u>121</u> Notice of Change of Address (Johnson, Gregg) (Entered: 01/12/2009)
01/16/2009	<u>123</u>	STATUS REPORT by Phyllis A. Mitchell, Paul Bachmann. (Rozger, Jason) (Entered: 01/16/2009)
02/06/2009		TEXT NOTICE – Counsel is directed to file an updated status report on the progress of the completion of the Settlement Agreement to Chief Judge Mordue on or before 2/10/09. (jlr/am) (Entered: 02/06/2009)
02/10/2009	<u>124</u>	MOTION Preliminary approval of class action settlement Motion Hearing set for 2/19/2009 09:30 AM in Albany before Magistrate Judge David R. Homer Response to Motion due by 2/2/2009 filed by Phyllis A. Mitchell, Paul Bachmann. (Attachments: # <u>1</u> Memorandum of Law, # <u>2</u> Affirmation of Jason Rozger, # <u>3</u> Exhibit(s) 1, settlement agreement, # <u>4</u> Exhibit(s) 2, claim form, # <u>5</u> Exhibit(s) 3, Long Form Notice, # <u>6</u> Exhibit(s) 4, short form notice, # <u>7</u> Exhibit(s) 5, plan of distribution, # <u>8</u> Exhibit(s) 6, preliminary approval order, # <u>9</u> Exhibit(s) 7, final approval order) Motions referred to David R. Homer. (Rozger, Jason) (Entered: 02/10/2009)
02/11/2009	<u>125</u>	CONSENT to Jurisdiction by US Magistrate Judge. Case reassigned to Magistrate Judge David R. Homer. (Signed by Chief Judge Norman A. Mordue on 2/11/08) (amt) (Entered: 02/11/2009)
02/12/2009	<u>126</u>	AFFIDAVIT re <u>124</u> MOTION Preliminary approval of class action settlement <i>certificate of service</i> by Phyllis A. Mitchell, Paul Bachmann. (Rozger, Jason) (Entered: 02/12/2009)
03/10/2009	<u>127</u>	ORDER granting <u>124</u> Motion for approval of preliminary settlement. Signed by Magistrate Judge David R. Homer on 3/10/09. (tab) (Entered: 03/11/2009)
04/24/2009	<u>128</u>	Letter Motion from class counsel requesting setting of deadlines, by consent for Phyllis A. Mitchell, Paul Bachmann submitted to Judge Homer. (Rozger, Jason) (Entered: 04/24/2009)
04/28/2009		TEXT NOTICE. The Class Action Final Approval Hearing will be held on SEPTEMBER 30,2009 at 10:00 AM before Hon. David R. Homer, U.S. Magistrate Judge, at the James Foley U.S. Courthouse, 445 Broadway, Room 443, Albany, New York. (lah,) (Entered: 04/28/2009)
04/28/2009	<u>129</u>	ORDER granting <u>128</u> Letter Request to change Class Action Notice Date to May 11, 2009. Signed by Magistrate Judge David R. Homer on 4/28/09. (tab) (Entered: 04/29/2009)
06/11/2009	<u>130</u>	STIPULATION of Dismissal <i>as to the Individual Defendants</i> by Jerry Maggy, Michael Smith, David Favro submitted to Judge David R. Homer. (Johnson, Gregg) (Entered: 06/11/2009)
06/12/2009	<u>131</u>	STIPULATION AND ORDER, to dismiss individual defendants. Michael Smith; David Favro and Jerry Maggy terminated. Signed by Magistrate Judge David R. Homer on 6/12/09. (tab) (Entered: 06/12/2009)
07/22/2009		TEXT NOTICE The Class Action Final Approval Hearing previously set for 9/30/2009 at 10:00 AM with Magistrate Judge David R. Homer is RESCHEDULED to 10/8/2009 at 10:00 AM, Room 443, James Foley U.S. Courthouse, 445 Broadway, Albany, NY. (lah,) (Entered: 07/22/2009)
09/23/2009	<u>132</u>	Letter Motion from Jason Rozger, on consent of all parties for Phyllis A. Mitchell, Paul Bachmann requesting Limited re–opening of claims period submitted to Judge Homer. (Attachments: # <u>1</u> Proposed Order/Judgment)(Rozger, Jason) (Entered: 09/23/2009)
09/25/2009		TEXT ORDER re <u>132</u> Letter Motion from plaintiff's counsel requesting limited re–opening of claims period. The Request is GRANTED and the additional claims period is extended to NOVEMBER 9, 2009. The Final Approval Hearing is reset to NOVEMBER 13, 2009 at 10:00 AM. A STATUS TELEPHONE CONFERENCE will be held on the previously scheduled hearing date of 10/8/2009 at 10:00 AM. Chambers will initiate the conference call. Signed by Magistrate Judge David R.

		Homer on 09/25/2009. (lah,) (Entered: 09/25/2009)
10/08/2009		Minute Entry for proceedings held before Magistrate Judge David R. Homer. A Telephone Conference was held on 10/8/2009 with Jason Rozger for plaintiffs and Gregg Johnson for the defendants. The time period for certain class members to file claims was extended to 11/9/09. The final approval hearing is adjourned to 12/4/09. A written order will be entered. (lah,) (Entered: 10/08/2009)
10/08/2009	<u>133</u>	ORDER For Limited Re–Opening of the Time to File a Claim on the Class Action Settlement. The time for class members who where booked into Clinton County Jail from 6/2/06 through 7/1/07 to file claims on the settlement is extended until 11/9/09 and claims filed by such class members and postmarked by that date shall be considered timely filed. Final Approval Hearing set for 12/4/2009 10:00 AM in Albany before Magistrate Judge David R. Homer. Plaintiff's shall file all pleadings related to the final approval hearing on or before 11/20/09. Signed by Magistrate Judge David R. Homer on 10/8/09. (ban) (Entered: 10/08/2009)
11/21/2009	<u>134</u>	MOTION Final Approval of Class Action Settlement Motion Hearing set for 12/4/2009 10:00 AM in Albany before Magistrate Judge David R. Homer Response to Motion due by 11/17/2009 filed by Phyllis A. Mitchell, Paul Bachmann. (Attachments: # <u>1</u> Memorandum of Law, # <u>2</u> Affidavit of Jose C. Fraga with exhibits, # <u>3</u> Affirmation of Jason Rozger, Esq., # <u>4</u> Exhibit(s) A, Settlement Agreement, # <u>5</u> Exhibit(s) 2, In Re Independent Energy Holdings, # <u>6</u> Exhibit(s) 3, Eddleman final approval, # <u>7</u> Exhibit(s) Eddleman decision, # <u>8</u> Exhibit(s) 6, Belzley affirmation, # <u>9</u> Exhibit(s) 7, Sorenson article, # <u>10</u> Exhibit(s) 8, Jason Rozger time records, # <u>11</u> Exhibit(s) 9, Duncan v. Unity Life, # <u>12</u> Exhibit(s) In re Arakis, # <u>13</u> Exhibit(s) 11, In re Dreyfus, # <u>14</u> Exhibit(s) Baffa v. Donaldson, # <u>15</u> Exhibit(s) Bruce Menken time records, # <u>16</u> Exhibit(s) 14, Paralegal time records, # <u>17</u> Exhibit(s) Martindale Hubbel bios) (Rozger, Jason) (Entered: 11/21/2009)
12/03/2009	<u>135</u>	AFFIDAVIT in Support re <u>134</u> MOTION Final Approval of Class Action Settlement filed by Paul Bachmann, Phyllis A. Mitchell. (Attachments: # <u>1</u> Exhibit(s) E. Robert Keach fee affirmation, # <u>2</u> Exhibit(s) Cuneo, Gilbert & LaDuca fee affirmation, # <u>3</u> Exhibit(s) Mason fee affirmation, # <u>4</u> Proposed Order/Judgment)(Rozger, Jason) (Entered: 12/03/2009)
12/04/2009		Minute Entry for proceedings held before Magistrate Judge David R. Homer re <u>134</u> MOTION Final Approval of Class Action Settlement. Appearances: Jason Rozger and Bruce Menken for plaintiffs; Gregg Johnson for defendants. The Court approves the proposed settlement. A written order will enter. (lah,) (Entered: 12/04/2009)
12/04/2009	<u>136</u>	ORDER granting <u>134</u> Motion for final approval of class action settlement and judgment. Signed by Magistrate Judge David R. Homer on 12/4/09. (tab) (Entered: 12/04/2009)
01/12/2010	<u>137</u>	NOTICE by Phyllis A. Mitchell of <i>Withdrawal of Appearance and Removal from ECF Notification for Attorney Bethany Schumann–McGhee</i> (Keach, Elmer) (Entered: 01/12/2010)