

U.S. DISTRICT COURT
U.S. District Court, Western District of New York (Buffalo)
CIVIL DOCKET FOR CASE #: 1:04-cv-00534-RJA-HBS

Pritchard et al v. The County of Erie et al
Assigned to: Hon. Richard J. Arcara
Referred to: Hon. Hugh B. Scott
Cause: 42:1983 Civil Rights Act

Date Filed: 07/21/2004
Jury Demand: Both
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Adam Pritchard

represented by **Alexandra C. Warren**
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Plaintiff

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Plaintiff

Julenne Tucker
both individually and on behalf of a class
of others similarly situated

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

Defendant

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Defendant

Patrick M. Gallivan
*both individually and in his official
capacity as Sheriff of the County of Erie*

represented by **Frank T. Gaglione**
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LEAD ATTORNEY
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Michelle M. Parker

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LEAD ATTORNEY
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James Paul Domagalski
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Kristin Klein Wheaton
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TERMINATED: 11/15/2010

Michael C. Driscoll
(See above for address)
TERMINATED: 07/25/2005

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Defendant

Timothy . Howard
*both individually and as Undersheriff of
the County of Erie*

represented by **Frank T. Gaglione**
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TERMINATED: 11/15/2010

Michael C. Driscoll
(See above for address)
TERMINATED: 07/25/2005

Thomas F. Kirkpatrick , Jr.
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Donald J. Livingston
*both individually and as Acting
Supintendent of the Erie County
Correctional Facility*

represented by **Frank T. Gaglione**
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Michelle M. Parker
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LEAD ATTORNEY
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James Paul Domagalski
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ATTORNEY TO BE NOTICED

Kristin Klein Wheaton
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TERMINATED: 11/15/2010

Michael C. Driscoll
(See above for address)
TERMINATED: 07/25/2005

Thomas F. Kirkpatrick , Jr.
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ATTORNEY TO BE NOTICED

Defendant

Robert Huggins
*both individually and as Deputy
Superintendent of the Erie County
Correctional Facility*

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Michelle M. Parker
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ATTORNEY TO BE NOTICED*

Kristin Klein Wheaton
(See above for address)
TERMINATED: 11/15/2010

Michael C. Driscoll
(See above for address)
TERMINATED: 07/25/2005

Thomas F. Kirkpatrick , Jr.
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ATTORNEY TO BE NOTICED

Defendant

H. McCarthy Gibson
*both individually and as Superintendent
of the Erie County Holding Center*

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Kristin Klein Wheaton
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TERMINATED: 03/09/2010

Counter Claimant

Timothy . Howard
TERMINATED: 06/23/2005

represented by **Thomas F. Kirkpatrick , Jr.**
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ATTORNEY TO BE NOTICED

Cross Claimant

Robert Huggins
TERMINATED: 06/23/2005

represented by **Thomas F. Kirkpatrick , Jr.**
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ATTORNEY TO BE NOTICED

Cross Claimant

H. McCarthy Gibson
TERMINATED: 06/23/2005

Cross Claimant

County of Erie
TERMINATED: 06/23/2005

represented by **Thomas F. Kirkpatrick , Jr.**
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Cross Claimant

Donald J. Livingston
TERMINATED: 06/23/2005

represented by **Thomas F. Kirkpatrick , Jr.**
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Cross Claimant

Patrick M. Gallivan
TERMINATED: 06/23/2005

represented by **Thomas F. Kirkpatrick , Jr.**
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V.

Cross Defendant

H. McCarthy Gibson
TERMINATED: 06/23/2005

Cross Defendant

County of Erie
TERMINATED: 06/23/2005

represented by **Thomas F. Kirkpatrick , Jr.**
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ATTORNEY TO BE NOTICED

Cross Defendant

Patrick M. Gallivan
TERMINATED: 06/23/2005

represented by **Thomas F. Kirkpatrick , Jr.**
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Cross Defendant

Timothy . Howard
TERMINATED: 06/23/2005

represented by **Thomas F. Kirkpatrick , Jr.**
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Cross Defendant

Donald Livingston
TERMINATED: 06/23/2005

represented by **Thomas F. Kirkpatrick , Jr.**
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Cross Defendant

represented by

Robert Huggins
TERMINATED: 06/23/2005

Thomas F. Kirkpatrick , Jr.
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ATTORNEY TO BE NOTICED

Cross Claimant

Patrick M. Gallivan
*both individually and in his official
capacity as Sheriff of the County of Erie
TERMINATED: 06/23/2005*

represented by **Frank T. Gaglione**
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*LEAD ATTORNEY
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Michael C. Driscoll
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TERMINATED: 07/25/2005

Cross Claimant

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TERMINATED: 06/23/2005*

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(See above for address)
TERMINATED: 07/25/2005

Cross Claimant

Robert Huggins
*both individually and as Deputy
Superintendent of the Erie County
Correctional Facility
TERMINATED: 06/23/2005*

represented by **Frank T. Gaglione**
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Michael C. Driscoll
(See above for address)
TERMINATED: 07/25/2005

Cross Claimant

Donald J. Livingston
*both individually and as Acting
Suprintendent of the Erie County
Correctional Facility
TERMINATED: 06/23/2005*

represented by **Frank T. Gaglione**
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Michael C. Driscoll
(See above for address)
TERMINATED: 07/25/2005

Cross Claimant

The County of Erie
TERMINATED: 06/23/2005

represented by **Frank T. Gaglione**
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Michael C. Driscoll
(See above for address)
TERMINATED: 07/25/2005

Thomas F. Kirkpatrick , Jr.
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V.

Cross Defendant

H. McCarthy Gibson

*both individually and as Superintendent
of the Erie County Holding Center
TERMINATED: 06/23/2005*

Cross Claimant

H. McCarthy Gibson

*both individually and as Superintendent
of the Erie County Holding Center
TERMINATED: 06/23/2005*

represented by **Thomas C. D'Agostino**
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ATTORNEY TO BE NOTICED

V.

Cross Defendant

Patrick M. Gallivan

*both individually and in his official
capacity as Sheriff of the County of Erie
TERMINATED: 06/23/2005*

represented by **Frank T. Gaglione**
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LEAD ATTORNEY
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Michael C. Driscoll
(See above for address)
TERMINATED: 07/25/2005

Cross Defendant

Timothy . Howard

*both individually and as Undersheriff of
the County of Erie
TERMINATED: 06/23/2005*

represented by **Frank T. Gaglione**
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Michael C. Driscoll
(See above for address)
TERMINATED: 07/25/2005

Cross Defendant

Robert Huggins

*both individually and as Deputy
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Correctional Facility
TERMINATED: 06/23/2005*

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Michael C. Driscoll
(See above for address)
TERMINATED: 07/25/2005

Cross Defendant

Donald J. Livingston

*both individually and as Acting
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Correctional Facility
TERMINATED: 06/23/2005*

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Michael C. Driscoll
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Cross Defendant

The County of Erie

TERMINATED: 06/23/2005

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Cross Defendant**Julenne Tucker**

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

Date Filed	#	Docket Text
07/21/2004	<u>1</u>	COMPLAINT against Patrick M. Gallivan, H. McCarthy Gibson, Timothy. Howard, Robert Huggins, Donald J. Livingston, The County of Erie (Filing fee \$ 150 receipt number 12373.), filed by Adam Pritchard, Edward Robinson, Julenne Tucker ; Jury trial demanded(DZ,) (Entered: 07/23/2004)
07/21/2004		Summons Issued as to Patrick M. Gallivan, H. McCarthy Gibson, Timothy. Howard, Robert Huggins, Donald J. Livingston, The County of Erie. (DZ,) (Entered: 07/23/2004)
08/20/2004	<u>2</u>	STIPULATION AND ORDER granting all defendants an extension of time to answer until 9/16/04; plaintiffs' time to move for class certification will be extended by 30 days. Signed by Hon. John T. Curtin on 8/20/04. (DZ,) (Entered: 08/24/2004)
08/20/2004		Answer due date updated as to all defendants to 9/16/04 (DZ,) (Entered: 08/24/2004)
09/16/2004	<u>3</u>	ANSWER to Complaint with Jury Demand, CROSSCLAIM against H. McCarthy Gibson by Patrick M. Gallivan, Timothy. Howard, Robert Huggins, Donald J. Livingston, The County of Erie.(Wheaton, Kristin) (Entered: 09/16/2004)
09/16/2004	<u>4</u>	ANSWER to Complaint with Jury Demand, CROSSCLAIM against Patrick M. Gallivan, Timothy. Howard, Robert Huggins, Donald J. Livingston, The County of Erie, Julenne Tucker by H. McCarthy Gibson. (Attachments: # <u>1</u> Certificate of Service)(D'Agostino, Thomas) (Entered: 09/16/2004)
10/07/2004		NOTICE of Hearing: Status Telephone Conference set for 10/25/2004 11:00 AM before Hon. John T. Curtin. (JEC) (Entered: 10/07/2004)
10/21/2004		TAKE NOTICE that the Meeting scheduled in this matter for 10/25/2004 is adjourned generally. A new meeting date will be set shortly. (JEC) (Entered: 10/21/2004)
12/13/2004	<u>5</u>	**RESCINDED per Order item # 162** ORDER REFERRING CASE to Magistrate Judge Hugh B. Scott. Signed by Hon. Richard J. Arcara on 12/09/2004. (JEC) Modified on 1/9/2007 (DZ,). (Entered: 12/13/2004)
12/21/2004	<u>6</u>	STIPULATION AND ORDER Plaintiffs' Motion for class certification due by 2/18/2005. Signed by Hon. Hugh B. Scott on 12/20/2004. (DRH) (Entered: 12/21/2004)
01/03/2005	<u>7</u>	NOTICE of Appearance by David Gerald Jay on behalf of Adam Pritchard, Edward Robinson, Julenne Tucker (DZ,) (Entered: 01/03/2005)
01/31/2005	<u>8</u>	STATUS REPORT <i>and Request for Case Management Conference with the Court</i> by Adam Pritchard, Edward Robinson, Julenne Tucker. (Keach, Elmer) (Entered: 01/31/2005)
01/31/2005		E-Filing Notification: <u>8</u> STATUS REPORT (Keach, Elmer) **Reminder that letters are not to be e-filed unless directed to do so by the Court** (DZ,) (Entered: 02/01/2005)

02/03/2005	<u>9</u>	<p align="center">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p>Scheduling Conference set for 2/23/2005, 11:00 AM, before Hon. Hugh B. Scott. The date for class certification motion (<i>see</i> Docket No. <u>6</u>), is held in abeyance pending this scheduling conference. Signed by Hon. Hugh B. Scott on 2/3/2005. (DRH) (Entered: 02/03/2005)</p>
02/11/2005	<u>10</u>	<p>NOTICE of Appearance by Frank T. Gaglione on behalf of Timothy. Howard, Donald J. Livingston, Robert Huggins, Patrick M. Gallivan, Timothy. Howard, Robert Huggins, Donald J. Livingston, The County of Erie, Patrick M. Gallivan, Timothy. Howard, Robert Huggins, Donald J. Livingston, The County of Erie, The County of Erie, Patrick M. Gallivan (Gaglione, Frank) (Entered: 02/11/2005)</p>
02/11/2005	<u>11</u>	<p>NOTICE of Appearance by Michael C. Driscoll on behalf of Timothy. Howard, Donald J. Livingston, Robert Huggins, Patrick M. Gallivan, Timothy. Howard, Robert Huggins, Donald J. Livingston, The County of Erie, Patrick M. Gallivan, Timothy. Howard, Robert Huggins, Donald J. Livingston, The County of Erie, The County of Erie, Patrick M. Gallivan (Driscoll, Michael) (Entered: 02/11/2005)</p>
02/23/2005	12	<p align="center">HONORABLE HUGH B. SCOTT</p> <p align="center">TEXT OF MINUTE ENTRY</p> <p align="center">For proceedings held before Magistrate Judge Hugh B. Scott:</p> <p>David G. Jay, Esq., Elmer R. Keach, III, Esq., Jonathan Cuneo, Esq., for plaintiffs; Assistant County Attorney Kristin Klein Wheaton, Frank Gaglione, Esq., Michael Driscoll, Esq., for defendants (except Gibson); Thomas D'Agostino, Esq., for defendant Gibson.</p> <p>Scheduling Conference held on 2/23/2005. Cause shown for extended schedule. Scheduling Order to be entered. (DRH) (Entered: 02/23/2005)</p>
02/23/2005	<u>13</u>	<p align="center">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p align="center">SCHEDULING ORDER:</p> <p>Join Parties/Amend Pleadings due by 6/1/2005. Discovery related to class certification due by 8/23/2005. Motion for class certification due by 8/23/2005. Responses to this motion due by 9/23/2005. Reply to this motion, if any, due by 9/30/2005. Court then determine if oral argument is necessary.</p> <p>Initial Settlement Conference set for 9/8/2005, 11:00 AM, before Hon. Hugh B. Scott. Motions to Compel Fact Discovery due by 3/3/2006. Fact Discovery due by 4/6/2006. Plaintiff Expert Witness ID due by 5/1/2006. Defendant Expert Witness ID due by 6/15/2006. All discovery, including expert, due by 7/3/2006. Further Pretrial Conference set for 7/11/2006, 10:00 AM, before Hon. Hugh B. Scott. Motions due by 8/15/2006. Signed by Hon. Hugh B. Scott on 2/23/2005. (DRH) (Entered: 02/23/2005)</p>
04/14/2005	14	<p align="center">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p align="center">TEXT OF ORDER re <u>13</u> Scheduling Order, Set Deadlines/Hearings, Set Scheduling Order Deadlines</p> <p>Initial Settlement Conference reset for 9/7/2005, 11:00 AM, before Hon. Hugh B. Scott. All other dates remain in place. Signed by Hon. Hugh B. Scott on 4/14/2005. (DRH) (Entered: 04/14/2005)</p>
06/23/2005	<u>15</u>	<p align="center">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p align="center">STIPULATION AND ORDER</p> <p>Defendants stipulated to dismissing cross-claims filed against each other. Cross-Claimants H. McCarthy Gibson, County of Erie, Patrick M. Gallivan, Timothy. Howard, Donald Livingston, and Robert Huggins terminated;</p>

		Cross-Defendants H. McCarthy Gibson, Timothy. Howard, Robert Huggins, Donald J. Livingston, The County of Erie, and Patrick M. Gallivan terminated. So Ordered. Signed by Hon. Hugh B. Scott on 6/23/2005. (DRH) (Entered: 06/23/2005)
07/22/2005	<u>16</u>	MOTION to Compel by <i>The County of Erie, Patrick M. Gallivan, Timothy Howard, Donald Livingston</i> and by Robert Huggins. (Domagalski, James) (Entered: 07/22/2005)
07/22/2005	<u>17</u>	AFFIDAVIT re <u>16</u> MOTION to Compel by <i>The County of Erie, Patrick M. Gallivan, Timothy Howard, Donald Livingston</i> and by Robert Huggins. (Attachments: # <u>1</u> # <u>2</u> # <u>3</u> # <u>4</u> # <u>5</u> # <u>6</u> # <u>7</u>) (Domagalski, James) (Entered: 07/22/2005)
07/25/2005	18	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF ORDER re <u>16</u> MOTION to Compel by <i>The County of Erie, Patrick M. Gallivan, Timothy Howard, Donald Livingston</i> and filed by Robert Huggins</p> <p>Plaintiffs' counsel requested a status conference to discuss discovery and the timing of the class certification motion; also, defendants have moved to compel discovery from plaintiffs (Docket No. <u>16</u>). To discuss these issues, Status Conference set for 8/17/2005, 11:30 AM, before Hon. Hugh B. Scott; plaintiff's non-local counsel may appear by telephone. All other counsel (including plaintiffs' local counsel) are expected to appear in person.</p> <p>Parties are reminded that chamber guidelines requires submission of paper courtesy copies of all motion papers to the chambers of the undersigned.</p> <p>So Ordered. Signed by Hon. Hugh B. Scott on 7/25/2005. (DRH) (Entered: 07/25/2005)</p>
07/27/2005	19	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF ORDER re 18 Order, Set Hearings</p> <p>At the request of plaintiffs' counsel, Status Conference reset for Wed., 8/3/2005, 2:00 PM, before Hon. Hugh B. Scott. Parties should be prepared to discuss (a) schedule for completing class certification discovery and class certification motion, (b) scheduling of defendants' motion to compel (Docket No. <u>16</u>) or any other motions filed or anticipated to be filed, (c) status of claims against former Sheriff Gallivan. Since plaintiffs counsel indicated that they would be in Buffalo on Aug. 3, all counsel are expected to appear in person. So Ordered. Signed by Hon. Hugh B. Scott on 7/27/2005. (DRH) (Entered: 07/27/2005)</p>
07/28/2005		Test entry for technical reasons (DZ,) (Entered: 07/28/2005)
07/28/2005	<u>20</u>	NOTICE of Change of Address by James Paul Domagalski (Domagalski, James) (Entered: 07/28/2005)
08/03/2005	21	<p style="text-align: center;">HONORABLE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF MINUTE ENTRY</p> <p style="text-align: center;">For proceedings held before Magistrate Judge Hugh B. Scott:</p> <p>Elmer R. Keach, Esq., for plaintiffs; Frank Gaglione, Esq., James Domagalski, Esq., Thomas D'Agostino, Esq., Assistant County Attorney Kristin Klein Wheaton, for defendants.</p> <p>Status Conference held on 8/3/2005. Parties discussed status of discovery relative to class certification motion and plaintiffs' desire to extend deadline for class certification as well as their intention to move to compel disclosure. Schedule for defendants' pending motion to compel <u>16</u> was also discussed. Plaintiffs stated that claims remain against defendant Gallivan in his individual capacity. Plaintiffs complained about the conduct of depositions, and defendants complained about <u>ex</u></p>

		<p><u>parte</u> communication by plaintiffs' investigator with Erie County Sheriff's deputies (an investigator who was serving subpoenas upon the deputies). Plaintiffs finally complained that they have not received correspondence sent by defense counsel to the Court. Defendants finally mentioned scheduling issues in the ongoing depositions of defendants' staff.</p> <p>The Court admonished counsel to make motions to seek redress raised in this conference and in correspondence leading to this conference. Any such motions are due by 8/10/2005. The Court then will issue a scheduling Order for briefing of those motions, including a schedule for defendants' motion to compel <u>16</u>. The class certification motion deadline remains as schedule absent an motion or stipulation requesting a change.</p> <p>All counsel for the parties who have not filed formal notices of appearance (including registration with ECF) must do so in order to receive notices from the Court. (DRH) (Entered: 08/03/2005)</p>
08/09/2005	<u>22</u>	MOTION to Compel <i>or Preclude Discovery</i> by H. McCarthy Gibson.(D'Agostino, Thomas) (Entered: 08/09/2005)
08/09/2005	<u>23</u>	AFFIDAVIT re <u>22</u> MOTION to Compel <i>or Preclude Discovery</i> Affidavit of <i>Thomas C. D'Agostino</i> by H. McCarthy Gibson. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B)(D'Agostino, Thomas) (Entered: 08/09/2005)
08/10/2005	<u>24</u>	AFFIDAVIT of Service for Affidavit in Support of Motion to Compel or Preclude Discovery served on All parties on August 9, 2005, filed by H. McCarthy Gibson. (D'Agostino, Thomas) (Entered: 08/10/2005)
08/10/2005		E-Filing Error Notification: <u>24</u> AFFIDAVIT of Service (D'Agostino, Thomas) **Document to be refiled in proper format with case caption and number** (DZ,) (Entered: 08/11/2005)
08/11/2005	<u>25</u>	MOTION to Compel <i>and for Protective Order, Leave to Intervene and Enlargement of Time</i> by Adam Pritchard, Edward Robinson, Julenne Tucker. (Attachments: # <u>1</u> Affidavit Affirmation of Elmer Keach# <u>2</u> Exhibit Exhibit A to Keach Affirmation -- Plaintiffs' Document Request# <u>3</u> Exhibit Exhibit C to Keach Affirmation -- Defendants' Response to Document Request# <u>4</u> Exhibit Exhibit C to Keach Affirmation -- Defendant County of Erie's Answer# <u>5</u> Exhibit Exhibit D to Keach Affirmation -- Gibson Memo on Strip Searches, August 2003# <u>6</u> Exhibit Exhibit E to Keach Affirmation -- Marriott Protective Order# <u>7</u> Exhibit Exhibit F to Keach Affirmation -- Defendants' Letter regarding booking sheets# <u>8</u> Exhibit Exhibit G to Keach Affirmation -- Order in Bruce v. County of Rensselaer# <u>9</u> Exhibit Exhibit H to the Keach Affirmation -- transcript from Marriott v. County of Montgomery# <u>10</u> Exhibit Exhibit I to Keach Affirmation -- Transcript in McDaniel v. County of Schenectady# <u>11</u> Exhibit Exhibit J to Keach Affirmation -- Order in McDaniel v. County of Schenectady on booking sheets# <u>12</u> Exhibit Exhibit K to Keach Affirmation -- Protective Order in McDaniel v. County of Schenectady# <u>13</u> Exhibit Exhibit L to Keach Affirmation -- Booking Records for Edward Robinson# <u>14</u> Exhibit Exhibit M to Keach Affirmation -- County of Erie Original Privilege Log# <u>15</u> Exhibit Exhibit N to Keach Affirmation -- County of Erie Amended Privilege Log# <u>16</u> Exhibit Exhibit O to Keach Affirmation -- Deposition to Daniel Harig# <u>17</u> Exhibit Exhibit P to Keach Affirmation -- Email between counsel regarding Stanley and McNamara# <u>18</u> Exhibit Exhibit R to Keach Affirmation -- Redlined Amended Complaint# <u>19</u> Exhibit Exhibit Q to Keach Affirmation -- Intervention Complaint# <u>20</u> Exhibit Exhibit S to Keach Affirmation -- Order in McDaniel v. County of Schenectady regarding extension of class certification deadline# <u>21</u> Memorandum in Support Memorandum of Law In support of motion to compel, for protective order, for permissive intervention and enlargement of time)(Keach, Elmer) (Entered: 08/11/2005)
08/12/2005		Document No. 25 Motion to Compel, Affirmation with Exhibits and Memorandum filed without proof of service. (SG,) (Entered: 08/12/2005)
08/12/2005	<u>26</u>	CERTIFICATE OF SERVICE by H. McCarthy Gibson re <u>23</u> Affidavit (D'Agostino, Thomas) (Entered: 08/12/2005)

08/12/2005	<u>27</u>	STIPULATION re <u>13</u> Scheduling Order,,, Set Deadlines/Hearings,,, Set Scheduling Order Deadlines,,, <i>extending time for Plaintiffs to move for class certification</i> by Adam Pritchard, Edward Robinson, Julenne Tucker. (Keach, Elmer) (Entered: 08/12/2005)
08/12/2005		E-Filing Error Notation: <u>27</u> STIPULATION (Keach, Elmer) **document to be re-filed to comply with signature block requirements* (DZ,) (Entered: 08/15/2005)
08/15/2005	<u>28</u>	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">ORDER</p> <p>Regarding defendants' motions (Docket Nos. <u>16</u> ,<u>22</u>) and plaintiffs' motion (Docket No. <u>25</u>), Responses due by 8/17/2005; Replies due by 9/1/2005. Oral Argument set for Fri., 9/16/2005, 11:00 AM, before Hon. Hugh B. Scott. Plaintiffs are to file proof of service for their motion.</p> <p>Pretrial Conference also set for Fri., 9/16/2005, 11:00 AM, before Hon. Hugh B. Scott.</p> <p>Parties stipulation extending time to file motion to certify class (Docket No. <u>27</u>) is granted; that motion is due by 10/21/2005.</p> <p>So Ordered. Signed by Hon. Hugh B. Scott on 8/15/2005. (DRH) (Entered: 08/15/2005)</p>
08/17/2005	<u>29</u>	MEMORANDUM in Opposition re <u>25</u> MOTION to Compel <i>and for Protective Order, Leave to Intervene and Enlargement of Time In Opposition To Plaintiffs' Motion To Compel Production Of Documents And Response To Interrogatories, For In Camera Review Of Documents Designated By Defendants To Be Privileged, For A Protective Order To Preclude The Use of Speaking Objections During Depositions, For Leave To Intervene Additional Class Representatives And For Enlargement Of Time To File Motion For Class Certification</i> filed by The County of Erie. (Domagalski, James) (Entered: 08/17/2005)
08/17/2005	<u>30</u>	AFFIRMATION signed by James P. Domagalski, Esq. re <u>29</u> Memorandum in Opposition to Motion,, filed by The County of Erie, The County of Erie filed by The County of Erie, The County of Erie. (Attachments: # <u>1</u> Ex. A;# <u>2</u> Ex. B;# <u>3</u> Ex. C;# <u>4</u> Ex. D;# <u>5</u> Ex. E;# <u>6</u> Ex. F;# <u>7</u> Ex. G.)(Domagalski, James) (Entered: 08/17/2005)
08/17/2005	<u>31</u>	AFFIRMATION signed by Thomas C. D'Agostino, Esq. re <u>25</u> MOTION to Compel <i>and for Protective Order, Leave to Intervene and Enlargement of Time</i> filed by H. McCarthy Gibson, Timothy. Howard <i>Affirmation in opposition to the portion of Plaintiff's motion which seeks an enlargement of time for Plaintiffs to file their motion for class certification</i> filed by H. McCarthy Gibson, Timothy. Howard. (D'Agostino, Thomas) (Entered: 08/17/2005)
08/17/2005	<u>32</u>	CERTIFICATE OF SERVICE by The County of Erie re <u>29</u> Memorandum in Opposition to Motion,,, <u>30</u> Affirmation, (Domagalski, James) (Entered: 08/17/2005)
08/17/2005	<u>33</u>	MEMORANDUM in Opposition re <u>22</u> MOTION to Compel <i>or Preclude Discovery, 16</i> MOTION to Compel <i>by The County of Erie, Patrick M. Gallivan, Timothy Howard, Donald Livingston and</i> filed by Adam Pritchard, Edward Robinson, Julenne Tucker. (Attachments: # <u>1</u> Affidavit Affidavit of Elmer Keach in Opposition, with one exhibit -- declaration of amina robinson)(Keach, Elmer) (Entered: 08/17/2005)
08/17/2005		E-Filing Error : <u>32</u> CERTIFICATE OF SERVICE by The County of Erie ** incorrect pdf file attached, attorney to re-file** (DZ,) (Entered: 08/18/2005)
08/18/2005		Document #33 (Memorandum by Elmer Keach) filed without proof of service (DZ,) (Entered: 08/18/2005)

08/18/2005	34	<p align="center">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p align="center">TEXT OF ORDER re <u>28</u> Order, Set Deadlines/Hearings</p> <p>Defense counsel requests rescheduling the oral argument and settlement conference set for 9/16/2005. Given the number and location of counsel in this action and the reasons stated by defense counsel, the Court reluctantly agrees.</p> <p>Oral Argument reset for Tues., 9/20/2005, 11:00 AM, before Hon. Hugh B. Scott. Settlement Conference also reset for Tues., 9/20/2005, 11:00 AM, before Hon. Hugh B. Scott following the oral argument. With the scheduling logistics involved with all parties in this case, future adjournments or rescheduling may not be possible. So Ordered. Signed by Hon. Hugh B. Scott on 8/18/2005. (DRH) (Entered: 08/18/2005)</p>
08/18/2005	<u>35</u>	CERTIFICATE OF SERVICE by The County of Erie re <u>32</u> Certificate of Service, <u>29</u> Memorandum in Opposition to Motion,, <u>30</u> Affirmation, <i>which corrects and replaces entry 32</i> (Domagalski, James) (Entered: 08/18/2005)
08/19/2005	<u>36</u>	CERTIFICATE OF SERVICE by Adam Pritchard, Edward Robinson, Julenne Tucker re <u>25</u> MOTION to Compel <i>and for Protective Order, Leave to Intervene and Enlargement of Time</i> (Keach, Elmer) (Entered: 08/19/2005)
08/19/2005	<u>37</u>	CERTIFICATE OF SERVICE by Adam Pritchard, Edward Robinson, Julenne Tucker re <u>33</u> Memorandum in Opposition to Motion, (Keach, Elmer) (Entered: 08/19/2005)
08/22/2005	<u>38</u>	MOTION for Protective Order by The County of Erie.(Domagalski, James) (Entered: 08/22/2005)
08/22/2005	<u>39</u>	AFFIRMATION signed by James P. Domagalski, Esq. re <u>38</u> MOTION for Protective Order filed by The County of Erie <i>further in support of County Defendants' motion to preclude.</i> (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D# <u>5</u> Exhibit E)(Domagalski, James) (Entered: 08/22/2005)
08/22/2005		E-Filing Notification: <u>38</u> MOTION for Protective Order, <u>39</u> AFFIRMATION **documents refiled** (DZ,) (Entered: 08/23/2005)
08/23/2005	<u>40</u>	MOTION for Protective Order <i>correcting and replacing docket entry 38</i> by The County of Erie.(Domagalski, James) (Entered: 08/23/2005)
08/23/2005	<u>41</u>	AFFIRMATION signed by James P. Domagalski, Esq. re <u>40</u> MOTION for Protective Order <i>correcting and replacing docket entry 38</i> filed by The County of Erie , <i>which Affirmation corrects and replaces docket entry 39.</i> (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D# <u>5</u> Exhibit E)(Domagalski, James) (Entered: 08/23/2005)
08/23/2005	<u>42</u>	MEMORANDUM IN SUPPORT re <u>40</u> MOTION for Protective Order <i>correcting and replacing docket entry 38</i> , <u>41</u> Affirmation, byThe County of Erie. (Domagalski, James) (Entered: 08/23/2005)
08/23/2005	<u>43</u>	CERTIFICATE OF SERVICE by The County of Erie re <u>40</u> MOTION for Protective Order <i>correcting and replacing docket entry 38</i> , <u>41</u> Affirmation,, <u>42</u> Memorandum in Support (Domagalski, James) (Entered: 08/23/2005)
08/23/2005	44	<p align="center">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p align="center">TEXT OF NOTICE of Hearing on Motion <u>40</u> MOTION for Protective Order <i>correcting and replacing docket entry 38</i>:</p> <p>Despite this Court's Order (Docket No. 28, <i>see</i> Docket No. 21 minute entry) that motions related to issues raised on 8/3/2005 be filed by 8/10/2005, the Court will consider this latest (otherwise out of time) motion because of the allegation of actions that occurred after that motion deadline.</p> <p>Responses due by 9/1/2005; Replies due by 9/16/2005. Motion Hearing set for Tues., 9/20/2005, 11:00 AM, before Hon. Hugh B. Scott, the same date and time as argument of the other pending motions in this action (Docket Nos. 16, 22, 25).</p>

		(DRH) Modified on 8/23/2005—correct day of argument (DRH). (Entered: 08/23/2005)
08/23/2005		E–Filing Error Corrected: 44 ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT TEXT OF NOTICE of Hearing on Motion <u>40</u> MOTION for Protective Order <i>correcting and replacing docket entry 38</i>: Despite this Court's Order (Docket No. 28, <i>see</i> Docket No. 21 minute entry) that motions related to issues raised on 8/3/2005 be filed by 8/10/2005, the Court will consider this latest (otherwise out of time) motion because of the allegation of actions that occurred after that motion deadline. Responses due by 9/1/2005; Replies due by 9/16/2005. Motion Hearing set for Tues., 9/20/2005, 11:00 AM , before Hon. Hugh B. Scott, the same date and time as argument of the other pending motions in this action (Docket Nos. 16, 22, 25). (DRH) Modified on 8/23/2005—correct day of argument (DRH). (Entered: 08/23/2005)
09/01/2005	<u>45</u>	REPLY/RESPONSE to re <u>33</u> Memorandum in Opposition to Motion,, <u>16</u> MOTION to Compel by <i>The County of Erie, Patrick M. Gallivan, Timothy Howard, Donald Livingston and,</i> <u>17</u> Affidavit filed by The County of Erie. (Attachments: # <u>1</u> Exhibit A)(Domagalski, James) (Entered: 09/01/2005)
09/01/2005	<u>46</u>	CERTIFICATE OF SERVICE by The County of Erie re <u>45</u> Reply/Response, (Domagalski, James) (Entered: 09/01/2005)
09/01/2005	<u>47</u>	REPLY to Response to Motion re <u>25</u> MOTION to Compel <i>and for Protective Order, Leave to Intervene and Enlargement of Time</i> filed by Adam Pritchard, Edward Robinson, Julenne Tucker. (Attachments: # <u>1</u> Exhibit Exhibit A to Keach Affirmation — Briefing in Marriott v. County of Montgomery# <u>2</u> Certificate of Service)(Keach, Elmer) (Entered: 09/01/2005)
09/01/2005	<u>48</u>	AFFIRMATION in Opposition re <u>40</u> MOTION for Protective Order <i>correcting and replacing docket entry 38</i> filed by Adam Pritchard, Edward Robinson, Julenne Tucker. (Attachments: # <u>1</u> Exhibit A to Keach Affirmation — Transcript of Proceedings in Marriott v. County of Montgomery# <u>2</u> Exhibit B to Keach Affirmation — Electronic Mail from Keach to Domalgowski, 8.12.05# <u>3</u> Exhibit C to Keach Affirmation — Deposition Transcript of Diane Hayes# <u>4</u> Exhibit D to Keach Affirmation — Memorandum from Gallivan to Gibson, dated 8.13.04# <u>5</u> Memorandum of Law# <u>6</u> Certificate of Service)(Keach, Elmer) Modified text on 9/2/2005 to indicate document is an Affirmation(DZ,). (Entered: 09/01/2005)
09/01/2005		E–Filing Error Corrected: <u>48</u> *text modified to indicate document is an AFFIRMATION (not an affidavit)* (DZ,) (Entered: 09/02/2005)
09/16/2005	<u>49</u>	REPLY/RESPONSE to re <u>40</u> MOTION for Protective Order <i>correcting and replacing docket entry 38,</i> <u>47</u> Reply to Response to Motion,, <u>48</u> Affidavit in Opposition to Motion,, <u>41</u> Affirmation,, <u>42</u> Memorandum in Support filed by The County of Erie. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B)(Domagalski, James) (Entered: 09/16/2005)
09/16/2005	<u>50</u>	CERTIFICATE OF SERVICE by The County of Erie re <u>49</u> Reply/Response, (Domagalski, James) (Entered: 09/16/2005)
09/20/2005	51	HONORABLE HUGH B. SCOTT TEXT OF MINUTE ENTRY For proceedings held before Magistrate Judge Hugh B. Scott: Elmer Robert Keach, III, Esq., and Charles LaDuca, Esq., for plaintiffs; James Domalgalski, Esq., and Assistant County Attorney Kristin Klein Wheaton for County Defendants, Louis Dingeldej, Esq., for defendant Gipson.

		Motion Hearing held on 9/20/2005 re <u>22</u> MOTION to Compel <i>or Preclude Discovery</i> filed by H. McCarthy Gipson, <u>40</u> MOTION for Protective Order <i>correcting and replacing docket entry 38</i> filed by The County of Erie, <u>16</u> MOTION to Compel by The County of Erie, Patrick M. Gallivan, Timothy Howard, Donald Livingston and filed by Robert Huggins, <u>25</u> MOTION to Compel <i>and for Protective Order, Leave to Intervene and Enlargement of Time</i> filed by Adam Pritchard, Edward Robinson, Julenne Tucker, Court reserved decision on all motions. Settlement Conference held on 9/20/2005. Settlement not possible at this time and conference adjourned. (DRH) (Entered: 09/20/2005)
09/26/2005	<u>52</u>	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">ORDER</p> <p>Granting in part and denying in part <u>16</u> County Defendants' Motion to Compel (as detailed in the Order), granting <u>22</u> Gipson's Motion to Compel, granting in part and denying in part <u>25</u> plaintiffs' Motion to Compel (as described in detail in the Order), granting in part and denying in part <u>40</u> County Defendants' Motion for Protective Order (also as described in the Order).</p> <p>Plaintiffs are either to produce requested disclosure and discovery on plaintiff Julenne Tucker or formally withdraw his claims within 30 days of entry of this Order.</p> <p>The Court will enter a protective Order regarding defendants' production of booking sheet information.</p> <p>Plaintiffs have until 12/20/2005 in which to file a class certification motion; this is the final extension of the class certification deadline.</p> <p>County Defendants to receive reasonable motion costs for Docket No. 16; Gipson is to receive some reasonable motion costs for Docket No. 22 (as described more fully in the Order); plaintiffs to receive some reasonable motion costs for Docket No. 25 (again, as described more fully in the Order). Parties are to file and exchange their respective motion cost application affidavits five (5) business days from entry of this Order; the opposing parties may file a response within five (5) business days of service of that affidavit. No reply papers will be accepted for the fee applications. The Court will deem the fee applications submitted as of the date for responding papers and issue an Order awarding costs. These sanctions shall be paid by respective counsel responsible for the expense.</p> <p>So Ordered. Signed by Magistrate Judge Hugh B. Scott on 9/26/2005. (DRH) (Entered: 09/26/2005)</p>
09/26/2005	<u>53</u>	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">PROTECTIVE ORDER</p> <p>Regarding Docket No. 25, plaintiffs' motion to produce booking sheets. <i>See</i> Docket No. 52. Signed by Hon. Hugh B. Scott on 9/26/2005. (Attachments: # <u>1</u> Exhibit A, Sworn Statement)(DRH) (Entered: 09/26/2005)</p>
09/26/2005	54	TEXT OF Calendar Entry, deadline for motion for class certification, 12/20/2005. (DRH) (Entered: 09/26/2005)
09/30/2005	<u>55</u>	STIPULATION re <u>52</u> Order on Motion to Compel,,,,,,,,,,,,,,,,,,,,, Order on Motion for Protective Order,,,,,, <i>Waiving Right of all Counsel to Seek Costs</i> by Adam Pritchard, Edward Robinson, Julenne Tucker. (Keach, Elmer) (Entered: 09/30/2005)
10/11/2005	<u>56</u>	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">ORDER re <u>55</u> Stipulation filed by Adam Pritchard, Edward Robinson, Julenne Tucker</p>

		The Court declines to enter an Order adopting counsels' stipulation (Docket No. 55). Parties shall submit to the Court their respective motion costs. These Motions due by 10/21/2005. Responses to those submissions due by 10/28/2005. So Ordered. Signed by Hon. Hugh B. Scott on 10/11/2005. (DRH) (Entered: 10/11/2005)
10/17/2005	57	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF ORDER</p> <p>At the request of all parties, Status Conference set for Wed., 10/19/2005, 2:30 PM, before Hon. Hugh B. Scott. So Ordered. Signed by Hon. Hugh B. Scott on 10/17/2005. (DRH) (Entered: 10/17/2005)</p>
10/19/2005	58	<p style="text-align: center;">HONORABLE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF MINUTE ENTRY</p> <p style="text-align: center;">For proceedings held before Magistrate Judge Hugh B. Scott:</p> <p>David Jay, Esq., for plaintiffs; James Domagalski, Esq., for County defendants, Assistant County Attorney Kristin Klein Wheaton, Louis Dingeldey, Esq., for defendant Gipson.</p> <p>Status Conference held on 10/19/2005. Parties reported on progress regarding discovery, with the parties completing depositions, the County Defendants producing summaries from 30,000 booking sheets. The County Defendants indicated that they intend to furnish an <i>in camera</i> affidavit of their claimed privileged documents by the end of next week. Parties indicated that discovery sanction applications would reveal essentially offsetting expenses, with some suggesting that the former stipulation regarding motion costs (Docket No. 55) be so ordered.</p> <p>Nevertheless, the Court expects motion applications on or before 10/21/2005, and any responses by 10/28/2005. (DRH) (Entered: 10/19/2005)</p>
10/21/2005	<u>59</u>	AFFIRMATION signed by Louis B. Dingeldey Jr., Esq. filed by H. McCarthy Gibson <i>Affirmation in support of fee appication</i> . (Attachments: # <u>1</u> Certificate of Service)(Dingeldey, Louis) (Entered: 10/21/2005)
10/21/2005	<u>60</u>	AFFIDAVIT re 58 Terminate Hearings,,,,, Status Conference,,,, <i>Affidavit in Support of Application for Motion Costs and Attorneys' Fees</i> by The County of Erie. (Attachments: # <u>1</u> Exhibit A)(Domagalski, James) (Entered: 10/21/2005)
10/21/2005	<u>61</u>	CERTIFICATE OF SERVICE by The County of Erie re <u>60</u> Affidavit (Domagalski, James) (Entered: 10/21/2005)
10/21/2005	<u>62</u>	AFFIRMATION signed by Elmer Robert Keach, III re <u>56</u> Order., Set Deadlines,, 58 Terminate Hearings,,,,, Status Conference,,,,, <u>52</u> Order on Motion to Compel,,,,,,,,,,,,,,,,,,,,, Order on Motion for Protective Order,,,,,, filed by Adam Pritchard, Edward Robinson, Julenne Tucker <i>Regarding Assessment of Attorneys' Fees</i> . (Attachments: # <u>1</u> Exhibit Exhibit A -- Memorandum Decision and Order, 09.26.05# <u>2</u> Exhibit Exhibit B -- Memorandum Decision and Order, 10.11.05# <u>3</u> Exhibit Exhibit C -- Keach Fees Affidavit# <u>4</u> Exhibit Exhibit d -- LaDuca Fees Affirmation# <u>5</u> Exhibit Exhibit E -- Mason Fees Affidavit# <u>6</u> Exhibit Exhibit F -- Rozger Fees Affidavit# <u>7</u> Certificate of Service)(Keach, Elmer) (Entered: 10/21/2005)
10/26/2005	<u>63</u>	MOTION for Extension of Time to File <i>Discontinuance for Julenne Tucker, On Consent</i> by Adam Pritchard, Edward Robinson, Julenne Tucker. (Attachments: # <u>1</u> Affidavit Affirmation of Elmer Keach# <u>2</u> Certificate of Service)(Keach, Elmer) (Entered: 10/26/2005)
10/26/2005		E-Filing Error : <u>63</u> MOTION for Extension of Time to File <i>Discontinuance for Julenne Tucker, (Keach, Elmer)</i> **document to be refiled as the Affirmation is not sgined** (DZ,) (Entered: 10/27/2005)

10/27/2005	64	<p align="center">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p align="center">TEXT OF ORDER granting <u>63</u> Motion for Extension of Time to File</p> <p>Plaintiffs' counsel request an enlargement of time, from 10/30/2005 to 11/4/2005, in order to either provide discovery regarding plaintiff Tucker or discontinue his claim, stating that they are attempting to contact Mr. Tucker (currently incarcerated in Illinois) but require additional time to contact him. Defendants do not object to this enlargement. This motion is granted; plaintiffs have until 11/4/2005 in order to comply with the previous Order (Docket No. 52) regarding Mr. Tucker.</p> <p>So Ordered. Signed by Magistrate Judge Hugh B. Scott on 10/27/2005. (DRH) (Entered: 10/27/2005)</p>
10/27/2005		Set Deadlines/Hearings: Motions (discontinuing claims by plaintiff Julenne Tucker or producing discovery for him) due by 11/4/2005 . (DRH) (Entered: 10/27/2005)
10/28/2005	<u>65</u>	AFFIDAVIT re <u>62</u> Affirmation,, <i>Reply affidavit of James Domagalski regarding Cost Motions</i> by The County of Erie, The County of Erie filed by The County of Erie, The County of Erie. (Domagalski, James) (Entered: 10/28/2005)
10/28/2005	<u>66</u>	CERTIFICATE OF SERVICE by The County of Erie re <u>65</u> Affidavit (Domagalski, James) (Entered: 10/28/2005)
10/28/2005	<u>67</u>	AFFIRMATION signed by Elmer Robert Keach, III re <u>56</u> Order,, Set Deadlines,, 58 Terminate Hearings,,,,, Status Conference,,,,, <u>52</u> Order on Motion to Compel,,,,, Order on Motion for Protective Order,,,,, filed by Adam Pritchard, Edward Robinson, Julenne Tucker <i>Regarding Defendants' Request for Attorneys' Fees</i> . (Attachments: # <u>1</u> Certificate of Service)(Keach, Elmer) (Entered: 10/28/2005)
11/04/2005	<u>68</u>	MOTION to Withdraw as Attorney <i>relative to Plaintiff Julenne Tucker</i> by Adam Pritchard, Edward Robinson, Julenne Tucker. (Attachments: # <u>1</u> Affidavit Affirmation of Elmer Robert Keach, III# <u>2</u> Certificate of Service)(Keach, Elmer) (Entered: 11/04/2005)
11/04/2005		E-Filing Error: <u>68</u> MOTION to Withdraw as Attorney (Keach, Elmer) **document to be refiled in its entirety as the Affirmation is not signed** (DZ,) (Entered: 11/07/2005)
11/07/2005	<u>69</u>	<p align="center">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p align="center">NOTICE on Motion <u>68</u> MOTION to Withdraw as Attorney relative to Plaintiff Julenne Tucker:</p> <p>Responses due by 11/28/2005; Replies due by 12/12/2005. Motion then deemed submitted without oral argument unless otherwise determined by the Court upon review of the papers.</p> <p>Plaintiffs' counsel to forward a copy of this Order to plaintiff Tucker and to verify to the Court the address used to serve Tucker.(DRH) (Entered: 11/07/2005)</p>
11/10/2005	<u>70</u>	Amended MOTION to Withdraw as Attorney <i>and for Discontinuance of Individual Claims of Julenne Tucker, Corrected Pursuant to Instructions of Clerk's Office</i> by Adam Pritchard, Edward Robinson, Julenne Tucker. (Attachments: # <u>1</u> Affidavit Affidavit of Elmer Keach# <u>2</u> Certificate of Service Certificate of Service, amended to reflect address and documents served on Plaintiff Tucker)(Keach, Elmer) (Entered: 11/10/2005)
11/14/2005	<u>71</u>	<p align="center">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p align="center">ORDER re <u>52</u> Order on Motion to Compel, Order on Motion for Protective Order, <u>56</u> Order, Set Deadlines, 58 Terminate Hearings, Status Conference, <u>59</u> Affirmation filed by H. McCarthy Gipson, <u>60</u> Affidavit filed by The County of Erie, <u>62</u> Affirmation, filed by Adam Pritchard, Edward Robinson, Julenne Tucker</p>

		The Court finds that each movant or opponent to the discovery motions was substantially justified in their respective position. Alternatively, under Fed. R. Civ. P. 37(a)(4)(C), the Court determines that each party should bear its own motion costs relative to their respective discovery motions. So Ordered. Signed by Hon. Hugh B. Scott on 11/14/2005. (DRH) (Entered: 11/14/2005)
11/28/2005	<u>72</u>	AFFIRMATION signed by James P. Domagalski re <u>70</u> Amended MOTION to Withdraw as Attorney <i>and for Discontinuance of Individual Claims of Julenne Tucker, Corrected Pursuant to Instructions of Clerk's Office</i> , <u>68</u> MOTION to Withdraw as Attorney <i>relative to Plaintiff Julenne Tucker</i> filed by The County of Erie, The County of Erie <i>in response to Julenne Tucker's motion</i> filed by The County of Erie, The County of Erie. (Domagalski, James) (Entered: 11/28/2005)
11/28/2005	<u>73</u>	CERTIFICATE OF SERVICE by The County of Erie re <u>72</u> Affirmation, (Domagalski, James) (Entered: 11/28/2005)
12/06/2005	<u>74</u>	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">ORDER</p> <p>Plaintiffs' counsel's letter application of 11/30/2005 to file an attorney's affirmation under seal relative to their pending motion (<i>see</i> Docket Nos 68, 70) is denied. Plaintiffs' counsel may appeal this decision or withdraw the affirmation within five (5) business days of this Order. Absent any action by plaintiffs' counsel, the Court Clerk is instructed to file the affirmation. So Ordered. Signed by Hon. Hugh B. Scott on 12/6/2005. (DRH) (Entered: 12/06/2005)</p>
12/12/2005	75	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF ORDER</p> <p>Parties have jointly requested an extension of the final deadline for class certification motion (<i>see</i> Docket No. 52), from 12/20/2005 to 2/3/2006, and an extension of class certification–related discovery (<i>see</i> Docket No. 13) from 8/23/2005 to some unspecified time (note, regular fact discovery deadline is 4/6/2006). The parties note that additional documents were found and produced to plaintiffs that may require further discovery including reopening depositions. This joint request is granted; motion for class certification is due Fri., 2/3/2006, class certification–related discovery shall conclude by Mon., 1/30/2006. So Ordered. Signed by Hon. Hugh B. Scott on 12/12/2005. (DRH) Modified on 12/14/2005—no status conference was held prior to entry of this Order (DRH). (Entered: 12/12/2005)</p>
12/14/2005		<p>E–Filing Notification: 75</p> <p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF ORDER</p> <p>Parties have jointly requested an extension of the final deadline for class certification motion (<i>see</i> Docket No. 52), from 12/20/2005 to 2/3/2006, and an extension of class certification–related discovery (<i>see</i> Docket No. 13) from 8/23/2005 to some unspecified time (note, regular fact discovery deadline is 4/6/2006). The parties note that additional documents were found and produced to plaintiffs that may require further discovery including reopening depositions. This joint request is granted; motion for class certification is due Fri., 2/3/2006, class certification–related discovery shall conclude by Mon., 1/30/2006. So Ordered. Signed by Hon. Hugh B. Scott on 12/12/2005. (DRH) Modified on 12/14/2005—no status conference was held prior to entry of this Order (DRH). (Entered: 12/14/2005)</p>
12/16/2005	<u>76</u>	AFFIRMATION signed by Elmer Robert Keach, III in support of motion for leave to discontinue the claims of Julenne Tucker as class representative and to withdraw as counsel for Mr. Tucker. (document filed pursuant to instructions from chambers) (DZ,) (Entered: 12/19/2005)

12/27/2005	<u>77</u>	<p align="center">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p align="center">ORDER granting in part and denying in part <u>68</u> Motion to Withdraw as Attorney, granting in part and denying in part <u>70</u> Motion to Withdraw as Attorney.</p> <p>Plaintiffs' motion to discontinue plaintiff Tucker's class claims is deferred until after class certification motion is made and argued. Plaintiffs' counsel's motion for leave to withdraw as counsel to Tucker is denied. Plaintiffs' counsel's motion to allow Tucker to proceed separately, that motion is also denied. So Ordered. Signed by Magistrate Judge Hugh B. Scott on 12/27/2005. (DRH) (Entered: 12/27/2005)</p>
01/04/2006	<u>78</u>	<p align="center">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p align="center">ORDER re, <u>52</u> Order on Motion to Compel, Order on Motion for Protective Order, re <u>25</u> MOTION to Compel and for Protective Order, Leave to Intervene and Enlargement of Time filed by Adam Pritchard, Edward Robinson, Julenne Tucker</p> <p>Regarding the <i>in camera</i> inspection of defendants' documents identified in the County Defendants' privilege log, as specified in the Order, some documents are deemed to be privileged, other documents are not and should be produced. Defendants shall make arrangements with Chambers to retrieve the <i>in camera</i> documents. So Ordered. Signed by Hon. Hugh B. Scott on 1/4/2006. (DRH) (Entered: 01/04/2006)</p>
01/19/2006	<u>79</u>	REPLY/RESPONSE to re <u>78</u> Order,, <i>Objections To Magistrate's Pre-Trial Order Regarding Privileged Documents</i> filed by The County of Erie. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C Documents Under Proposed Seal# <u>4</u> Exhibit D, Documents Under Proposed Seal# <u>5</u> Exhibit E, Documents Under Proposed Seal)(Domagalski, James) (Entered: 01/19/2006)
01/19/2006	<u>80</u>	MOTION to Stay <i>discovery Order and for an expedited hearing</i> by The County of Erie. (Attachments: # <u>1</u> Affidavit in support# <u>2</u> Exhibit A# <u>3</u> Exhibit B, Proposed Order)(Domagalski, James) (Entered: 01/19/2006)
01/19/2006	<u>81</u>	MEMORANDUM in Support re <u>80</u> MOTION to Stay <i>discovery Order and for an expedited hearing</i> filed by The County of Erie. (Domagalski, James) (Entered: 01/19/2006)
02/02/2006	82	<p align="center">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p align="center">Order re: Request for Extension of Time to File Class Certification Motion</p> <p>The plaintiffs have requested an extension of time to file a motion for class certification. The request is granted to the extent that the plaintiffs shall have 45 days, from the date of this Order, to file the motion for class certification.</p> <p>So Ordered. Signed by Hon. Hugh B. Scott on 2/2/06. (JRA) (Entered: 02/02/2006)</p>
02/03/2006	83	<p align="center">TEXT Calendar Entry, Set Deadlines/Hearings:</p> <p>Class certification motion due 3/20/2006 (45 days from Order, Docket No. 82). (DRH) (Entered: 02/03/2006)</p>
02/06/2006	<u>84</u>	ORDER granting <u>80</u> Defendants' Motion to Stay. Plaintiffs shall file papers in response to defendants' objections on or before 2/13/2006. Defendants shall file any reply papers on or before 2/20/2006, at which time the objections will be taken under advisement without argument. Any adjustment to this current schedule shall be directed to Judge Scott. Signed by Judge John T. Curtin on 02/06/2006. (JEC) (Entered: 02/06/2006)
02/06/2006		Set Deadlines/Hearings: Plaintiff's Response to Defendant's Objections due by 2/13/2006; Defendants' Replies due by 2/20/2006. (JEC) (Entered: 02/06/2006)
02/13/2006	<u>85</u>	REPLY/RESPONSE to re <u>78</u> Order,,, <u>84</u> Order on Motion to Stay,, Set Deadlines/Hearings, <u>80</u> MOTION to Stay <i>discovery Order and for an expedited</i>

		<i>hearing</i> , <u>81</u> Memorandum in Support of Motion, <u>79</u> Reply/Response, filed by Adam Pritchard, Julenne Tucker. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Memorandum in Support of Plaintiffs' opposition to Defendants' objections)(Rozger, Jason) (Entered: 02/13/2006)
02/13/2006		E-Filing Notification: Document # <u>85</u> REPLY/RESPONSE (Rozger, Jason) filed without proof of service. (DZ,) (Entered: 02/14/2006)
02/16/2006	<u>86</u>	MOTION to Compel <i>Deposition Testimony</i> by Adam Pritchard, Edward Robinson. (Attachments: # <u>1</u> Affirmation of Elmer Keach In Support of Motion to Compel Deposition Testimony# <u>2</u> Exhibit Exhibit 1 to Keach Affirmation -- Plaintiffs' 12/04 Document Demands# <u>3</u> Exhibit Exhibit 2 to Keach Affirmation -- Erie County Discovery Response# <u>4</u> Exhibit Exhibit 3 to Keach Affirmation -- Undisclosed Email# <u>5</u> Exhibit Exhibit 4 to Keach Affirmation -- Erie County Privilege Logs# <u>6</u> Exhibit Exhibit 5 to Keach Affirmation -- Letter from Keach to Domagalski, 11.07.05# <u>7</u> Exhibit Exhibit 6 to Keach Affirmation -- Letter from Domagalski to Keach and LaDuca, 11.14.05# <u>8</u> Exhibit Exhibit 7 to Keach Affirmation -- Scheduling Email from Keach to all Counsel, 02.02.06# <u>9</u> Exhibit Exhibit 8 to Keach Affirmation -- Letter from Menken to Domagalski, 02.08.06# <u>10</u> Exhibit Exhibit 9 to Keach Affirmation -- Letter from Domagalski to LaDuca, 02.06.06# <u>11</u> Exhibit Exhibit 10 to Keach Affirmation -- Letter from Domagalski to Keach, 02.14.06# <u>12</u> Certificate of Service)(Keach, Elmer) (Entered: 02/16/2006)
02/17/2006	<u>87</u>	AFFIRMATION signed by Jason Rozger re <u>85</u> Reply/Response,, E-Filing Notification filed by Adam Pritchard, Julenne Tucker, Adam Pritchard <i>Certificate of Service</i> filed by Adam Pritchard, Julenne Tucker, Adam Pritchard. (Rozger, Jason) (Entered: 02/17/2006)
02/21/2006	88	ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT TEXT OF ORDER re <u>86</u> MOTION to Compel <i>Deposition Testimony</i> filed by Adam Pritchard, Edward Robinson Counsel is reminded of this Chambers' guidelines requiring submission of paper courtesy copy of all moving papers to the Chambers of the undersigned. Signed by Hon. Hugh B. Scott on 2/21/2006. (DRH) (Entered: 02/21/2006)
02/21/2006	89	ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT TEXT OF THE ORDER The plaintiffs have filed a motion to compel <u>86</u> . The defendants shall respond to the motion by February 28, 2006. The plaintiffs may reply, if necessary, by March 7, 2006. The motion will be determined without oral argument unless otherwise scheduled upon review of the papers. So Ordered. Signed by Hon. Hugh B. Scott on 2/21/06. (JRA) (Entered: 02/21/2006)
02/21/2006	<u>90</u>	AFFIRMATION signed by James P. Domagalski, Esq. re <u>85</u> Reply/Response, filed by The County of Erie, The County of Erie <i>Reply Affirmation of James P. Domalgaski, Esq. In Support of Objections To Magistrate's Order</i> filed by The County of Erie, The County of Erie. (Domagalski, James) (Entered: 02/21/2006)
02/28/2006	<u>91</u>	AFFIRMATION re <u>86</u> MOTION to Compel <i>Deposition Testimony</i> filed by The County of Erie, The County of Erie <i>Affirmation of James P. Domasgalski in Opposition to Plaintiffs' Motion to Compel</i> filed by The County of Erie, The County of Erie. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D# <u>5</u> Exhibit E# <u>6</u> Exhibit F# <u>7</u> Exhibit G)(Domagalski, James) (Entered: 02/28/2006)
02/28/2006	<u>92</u>	AFFIRMATION signed by Thomas C. D'Agostino, Esq, re <u>86</u> MOTION to Compel <i>Deposition Testimony</i> filed by H. McCarthy Gibson, H. McCarthy Gibson <i>Affirmation in opposition to motion</i> filed by H. McCarthy Gibson, H. McCarthy Gibson. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C)(D'Agostino, Thomas) (Entered: 02/28/2006)

03/07/2006	<u>93</u>	REPLY to Response to Motion re <u>86</u> MOTION to Compel <i>Deposition Testimony</i> filed by Adam Pritchard, Edward Robinson. (Attachments: # <u>1</u> Exhibit Exhibit 11 -- Email# <u>2</u> Exhibit Exhibit 12# <u>3</u> Exhibit Exhibit 13)(Keach, Elmer) (Entered: 03/07/2006)
03/07/2006	<u>94</u>	CERTIFICATE OF SERVICE by Adam Pritchard, Edward Robinson re <u>93</u> Reply to Response to Motion (Keach, Elmer) (Entered: 03/07/2006)
03/08/2006	<u>95</u>	NOTICE of Appearance by Bruce E. Menken on behalf of Adam Pritchard, Edward Robinson, Julenne Tucker (Menken, Bruce) (Entered: 03/08/2006)
03/08/2006		E-Filing Notification: <u>95</u> NOTICE of Appearance (Menken, Bruce), **Document to be re-filed for signature requirements** (DZ,) (Entered: 03/09/2006)
03/09/2006	<u>96</u>	NOTICE of Appearance by Bruce E. Menken on behalf of Adam Pritchard, Edward Robinson, Julenne Tucker (Menken, Bruce) (Entered: 03/09/2006)
03/10/2006	<u>97</u>	MOTION for Extension of Time to Complete Discovery, MOTION for Extension of Time to File <i>Class Certification Motion</i> by Adam Pritchard, Julenne Tucker. (Attachments: # <u>1</u> Affidavit of Bruce Menken# <u>2</u> Certificate of Service)(Rozger, Jason) (Entered: 03/10/2006)
03/10/2006		E-Filing Notification: <u>97</u> MOTION for Extension of Time to Complete Discovery MOTION for Extension of Time to File Class Certification Motion [Rozger, Jason] **Document to be re-filed for signature requirements - e-filer must be signer of the document and the Affirmation (labeled on the docket as an affidavit) is not signed** (DZ,) (Entered: 03/13/2006)
03/13/2006	<u>98</u>	MOTION for Extension of Time to Complete Discovery, MOTION for Extension of Time to File by Adam Pritchard, Edward Robinson, Julenne Tucker. (Attachments: # <u>1</u> Affidavit Affirmation of Bruce Menken, Esq.# <u>2</u> Certificate of Service)(Rozger, Jason) (Entered: 03/13/2006)
03/14/2006	99	<p style="text-align: center;">MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF NOTICE of Hearing on Motion <u>97</u> MOTION for Extension of Time to Complete Discovery MOTION for Extension of Time to File <i>Class Certification Motion</i>, <u>98</u> MOTION for Extension of Time to Complete Discovery MOTION for Extension of Time to File:</p> <p>Responses due by 3/16/2006, and, given the present deadlines plaintiffs seek extended in these motions, motions will be deemed submitted without oral argument on 3/16/2006.(DRH) (Entered: 03/14/2006)</p>
03/16/2006	<u>100</u>	REPLY/RESPONSE to re <u>98</u> MOTION for Extension of Time to Complete Discovery MOTION for Extension of Time to File <i>Reply Affirmation of James P. Domagalski in Opposition to Plaintiffs' Motion For Enlargement of Time</i> filed by The County of Erie. (Attachments: # <u>1</u> Exhibit A through D)(Domagalski, James) (Entered: 03/16/2006)
03/16/2006	<u>101</u>	AFFIRMATION signed by Louis B. Dingeldey Jr. re <u>98</u> MOTION for Extension of Time to Complete Discovery MOTION for Extension of Time to File filed by H. McCarthy Gibson, H. McCarthy Gibson <i>Affirmation in Opposition</i> filed by H. McCarthy Gibson, H. McCarthy Gibson. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C)(Dingeldey, Louis) (Entered: 03/16/2006)
03/17/2006	102	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF ORDER re 83 Calendar Entry, Set Deadlines/Hearings, <u>97</u> MOTION for Extension of Time to Complete Discovery MOTION for Extension of Time to File <i>Class Certification Motion</i> filed by Adam Pritchard, Julenne Tucker, <u>98</u> MOTION for Extension of Time to Complete Discovery MOTION for Extension of Time to File filed by Adam Pritchard, Edward Robinson, Julenne Tucker</p> <p>In light of the pending motions and the deadline for class certification, class certification Motions now due by Tues., 3/21/2006. So Ordered. Signed by Hon. Hugh B. Scott on 3/17/2006. (DRH) (Entered: 03/17/2006)</p>

03/20/2006	<u>103</u>	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p>ORDER granting <u>86</u> Motion to Compel, granting in part and denying in part <u>97</u> Motion for Extension of Time to Complete Discovery, granting in part and denying in part <u>97</u> Motion for Extension of Time to File, granting in part and denying in part <u>98</u> Motion for Extension of Time to Complete Discovery, granting in part and denying in part <u>98</u> Motion for Extension of Time to File</p> <p>Plaintiffs' motion (Docket No. 86) for recovery of costs for continued examinations of certain witnesses is denied.</p> <p>Plaintiffs' motion (Docket Nos. 97, 98) for extension of time to complete discovery and to file granted, but denied as to dates sought by plaintiffs.</p> <p>Class certification discovery to be completed by 5/1/2006; class certification motion due by 7/10/2006; all discovery in case-in-chief shall be completed by 9/12/2006; plaintiffs to identify experts by 7/17/2006; defendants to identify experts by 8/15/2006; all expert discovery concludes by 9/1/2006; dispositive motions due by 12/27/2006. All previous Scheduling Order deadlines not amended by this Order remain in full effect.</p> <p style="text-align: center;">NO FURTHER EXTENSIONS OF THESE DEADLINES SHALL BE GRANTED.</p> <p>So Ordered. Signed by Magistrate Judge Hugh B. Scott on 3/20/2006. (DRH) (Entered: 03/20/2006)</p>
03/20/2006	104	<p style="text-align: center;">MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">Set/Reset Scheduling Order Deadlines; Calendar Entry</p> <p>Class certification discovery due by 5/1/2006. Class certification motion due by 7/10/2006.</p> <p>Plaintiff Expert Witness ID due by 7/17/2006. Defendant Expert Witness ID due by 8/15/2006. Motions to Compel Discovery due by 8/14/2006. Discovery due by 9/12/2006. Motions due by 12/27/2006. All previous Scheduling Order deadlines not amended by this Order (or Docket No. 103) remain in full effect.</p> <p style="text-align: center;">NO FURTHER EXTENSIONS OF THESE DEADLINES SHALL BE GRANTED.</p> <p>(DRH) (Entered: 03/20/2006)</p>
03/23/2006	<u>105</u>	NOTICE of Appearance by Alexander E. Barnett on behalf of all plaintiffs (Barnett, Alexander) (Entered: 03/23/2006)
04/17/2006	<u>106</u>	**VACATED pursuant to Order item #162** ORDER that the County Defendants' objections to Magistrate Judge Scott's Order of 1/4/06 are overruled, and counsel shall make arrangements for production of the in camera documents as directed by Judge Scott. Signed by Hon. John T. Curtin on 4/7/06. (DZ,) Modified on 1/9/2007 (DZ,). (Entered: 04/18/2006)
05/10/2006	<u>107</u>	MOTION to Stay re <u>106</u> Order, by The County of Erie. (Attachments: # <u>1</u> Affidavit in Support of Motion To Stay Order# <u>2</u> Exhibit A# <u>3</u> Memorandum in Support of Motion to Stay Order)(Domagalski, James) (Entered: 05/10/2006)
05/11/2006	<u>108</u>	AFFIDAVIT in Opposition re <u>107</u> MOTION to Stay re <u>106</u> Order, filed by Adam Pritchard, Edward Robinson, Julenne Tucker. (Keach, Elmer) (Entered: 05/11/2006)
05/11/2006		E-Filing Notification: <u>108</u> AFFIDAVIT in Opposition (Keach, Elmer) **Document filed without proof of service** (DZ,) (Entered: 05/12/2006)
05/12/2006	<u>109</u>	AFFIDAVIT in Opposition re <u>107</u> MOTION to Stay re <u>106</u> Order, <i>Amended to Include Certificate of Service</i> filed by Adam Pritchard, Edward Robinson, Julenne Tucker. (Attachments: # <u>1</u> Certificate of Service)(Keach, Elmer) (Entered: 05/12/2006)

		05/12/2006)
05/18/2006	<u>110</u>	MOTION to Compel by Adam Pritchard, Edward Robinson. (Attachments: # <u>1</u> Affidavit Affirmation of Elmer R. Keach in Support of Motion# <u>2</u> Certificate of Service)(Keach, Elmer) (Entered: 05/18/2006)
05/22/2006	<u>113</u>	ORDER denying <u>107</u> the County Defendants' Motion to Stay this court's April 17, 2006 order. The plaintiffs' motion to compel is within the referral authority granted to Magistrate Judge Scott, and all scheduling matters pertaining to this motion shall be directed to Judge Scott. Signed by Judge John T. Curtin on 05/19/2006. (JEC) Additional attachment(s) added on 5/22/2006 (JEC,). (Entered: 05/22/2006)
05/22/2006	<u>112</u>	Letter from James P. Domagalski, dated 05/19/2006, to Hon. John T. Curtin requesting an opportunity to respond to Plaintiffs' Motion to Compel. (JEC) (Entered: 05/22/2006)
05/22/2006		E-Filing Notification: <u>113</u> ORDER denying <u>107</u> the County Defendants' Motion to Stay this court's April 17, 2006 order. The plaintiffs' motion to compel is within the referral authority granted to Magistrate Judge Scott, and all scheduling matters pertaining to this motion shall be directed to Judge Scott. Signed by Judge John T. Curtin on 05/19/2006. (JEC) (Wrong order attached initially. This order was deleted, and correct order attached.) (JEC) (Entered: 05/22/2006)
05/22/2006	<u>114</u>	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">ORDER granting <u>110</u> Motion to Compel</p> <p>Defendants are to produce the documents sought forthwith, barring relief from another court. The County Defendants' application for time to brief this motion (Docket No. 112) is denied. So Ordered. Signed by Magistrate Judge Hugh B. Scott on 5/22/2006. (DRH) (Entered: 05/22/2006)</p>
06/06/2006	115	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF ORDER re <u>13</u> Scheduling Order, Set Deadlines/Hearings, Set Scheduling Order Deadlines</p> <p>Further Pretrial Conference (formerly set for 7/11/2006) reset for Mon., 7/31/2006, 2:00 PM, before Hon. Hugh B. Scott. So Ordered. Signed by Hon. Hugh B. Scott on 6/6/2006. (DRH) (Entered: 06/06/2006)</p>
06/13/2006	<u>116</u>	MOTION for Protective Order by The County of Erie. (Attachments: # <u>1</u> Affidavit # <u>2</u> Exhibit A# <u>3</u> Exhibit B# <u>4</u> Exhibit C# <u>5</u> Memorandum in Support)(Domagalski, James) (Entered: 06/13/2006)
06/14/2006		**Disregard this entry, docketed in error** NOTICE OF REMOVAL EXHIBITS INDEX (DZ,) Modified on 6/14/2006 (DZ,). (Entered: 06/14/2006)
06/14/2006		E-Filing Notification: **Please disregard, docketed in error to wrong case** NOTICE OF REMOVAL EXHIBITS INDEX (DZ,) (DZ,) (Entered: 06/14/2006)
06/14/2006	117	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF ORDER re <u>116</u> MOTION for Protective Order filed by The County of Erie</p> <p>Responses due by 6/21/2006 and motion will be deemed submitted, without oral argument or reply, on 6/21/2006. So Ordered. Signed by Hon. Hugh B. Scott on 6/14/2006. (DRH) (Entered: 06/14/2006)</p>
06/14/2006	<u>118</u>	MOTION to Amend/Correct <u>116</u> MOTION for Protective Order <i>This attached amended affidavit of James P. Domagalski, sworn to the 14th day of June, 2006 only amends paragraph 9 of his affidavit sworn to and filed the 13th day of June, 2006 to now include an additional sentence referencing Exhibit C by The County of Erie.</i> (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C)(Domagalski, James) (Entered: 06/14/2006)

06/14/2006	<u>119</u>	MOTION to Compel by Adam Pritchard, Edward Robinson. (Attachments: # <u>1</u> Affidavit Affirmation of Elmer Keach# <u>2</u> Exhibit Exhibit A to Keach Affirmation -- Plaintiffs' Discovery Requests# <u>3</u> Exhibit Exhibit B to Keach Affirmation -- Erie County Discovery Response# <u>4</u> Exhibit Exhibit C to Keach Affirmation -- Email not disclosed by Erie County# <u>5</u> Exhibit Exhibit D to Keach Affirmation -- Keach Affirmation, 02.16.06# <u>6</u> Exhibit Exhibit E to Keach Affirmation -- Domagalski Affidavit, 02.28.06# <u>7</u> Exhibit Exhibit F to Keach Affirmation -- Keach Affirmation, 03.07.06# <u>8</u> Exhibit Exhibit G to Keach Affirmation -- County Defendants' Proposed Confidentiality Order# <u>9</u> Exhibit Exhibit H to Keach Affirmation -- Email between LaDuca and Domagalski regarding confidentiality order# <u>10</u> Exhibit Exhibit I -- Inspection Memorandum# <u>11</u> Exhibit Exhibit J to Keach Affirmation -- Email correspondence between Erie County and NYS Sheriffs Association# <u>12</u> Exhibit Exhibit K to Keach Affirmation -- Email from Keach to Domagalski and Gaglione regarding discovery issues# <u>13</u> Certificate of Service)(Keach, Elmer) (Entered: 06/14/2006)
06/14/2006	<u>120</u>	Amended MOTION to Compel <i>Corrected to Include a Complete Exhibit I</i> by Adam Pritchard, Edward Robinson. (Attachments: # <u>1</u> Affidavit Affirmation of Elmer Keach# <u>2</u> Exhibit Exhibit A to Keach Affirmation -- Plaintiffs' Discovery Requests# <u>3</u> Exhibit Exhibit B to Keach Affirmation -- Erie County Discovery Responses# <u>4</u> Exhibit Exhibit C to Keach Affirmation -- Email not disclosed by Erie County# <u>5</u> Exhibit Exhibit D to Keach Affirmation -- Keach Affirmation, 02.16.06# <u>6</u> Exhibit Exhibit E to Keach Affirmation -- Domagalski Affidavit, 02.28.06# <u>7</u> Exhibit Exhibit F to Keach Affirmation -- Keach Affirmation, 03.07.06# <u>8</u> Exhibit Exhibit G to Keach Affirmation -- County Defendants' Proposed Confidentiality Order# <u>9</u> Exhibit Exhibit H to Keach Affirmation -- Email between LaDuca and Domalgalski regarding confidentiality order# <u>10</u> Exhibit Exhibit I to Keach Affirmation -- Inspection Memorandum# <u>11</u> Exhibit Exhibit J to Keach Affirmation -- Email correspondence between Erie County and NYS Sheriffs Association# <u>12</u> Exhibit Exhibit K to Keach Affirmation -- Email from Keach to Domagalski and Gaglione regarding discovery issues# <u>13</u> Certificate of Service)(Keach, Elmer) (Entered: 06/14/2006)
06/15/2006	121	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF ORDER re <u>120</u> Amended MOTION to Compel <i>Corrected to Include a Complete Exhibit I</i> filed by Adam Pritchard, Edward Robinson</p> <p>Responses due by 6/21/2006, and motion deemed submitted, without further reply or oral argument, on 6/21/2006, to be considered together with County Defendants' pending motion (Docket Nos. 116, 118).</p> <p>Parties are reminded of this Chambers' requirement that a courtesy copy of moving papers must be submitted to the Chambers of the undersigned and, given the short briefing schedule, such submissions should be made as soon as possible.</p> <p>So Ordered. Signed by Hon. Hugh B. Scott on 6/15/2006. (DRH) (Entered: 06/15/2006)</p>
06/15/2006	122	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF ORDER granting <u>118</u> Motion to Amend or Correct</p> <p>The County Defendants are granted leave to amend their previous motion as indicated in this motion. So Ordered. Signed by Magistrate Judge Hugh B. Scott on 6/15/2006. (DRH) (Entered: 06/15/2006)</p>
06/21/2006	<u>123</u>	AFFIRMATION signed by Louis B. Dingeldey Jr., Esq. re <u>120</u> Amended MOTION to Compel <i>Corrected to Include a Complete Exhibit I</i> filed by H. McCarthy Gibson, H. McCarthy Gibson <i>Affirmation in response to Plaintiffs' motion to compel</i> filed by H. McCarthy Gibson, H. McCarthy Gibson. (Dingeldey, Louis) (Entered: 06/21/2006)
06/21/2006	<u>124</u>	AFFIRMATION signed by James P. Domagalski, Esq. re <u>120</u> Amended MOTION to Compel <i>Corrected to Include a Complete Exhibit I</i> filed by The County of Erie, The County of Erie <i>Reply Affirmation in Opposition to Plaintiffs' Motion to</i>

		<i>Compel Production of Documents</i> filed by The County of Erie, The County of Erie. (Domagalski, James) (Entered: 06/21/2006)
06/21/2006	<u>125</u>	AFFIDAVIT in Opposition re <u>116</u> MOTION for Protective Order, <u>118</u> MOTION to Amend/Correct <u>116</u> MOTION for Protective Order <i>This attached amended affidavit of James P. Domagalski, sworn to the 14th day of June, 2006 only amends paragraph 9 of his affidavit sworn to and filed the 13th day of June, 2006 to now incl filed by Adam Pritchard, Edward Robinson. (Attachments: # <u>1</u> Memorandum in Support)(Keach, Elmer) (Entered: 06/21/2006)</i>
06/21/2006	<u>126</u>	AFFIDAVIT <i>Refiled with Signed Affidavit</i> in Opposition re <u>116</u> MOTION for Protective Order, <u>118</u> MOTION to Amend/Correct <u>116</u> MOTION for Protective Order <i>This attached amended affidavit of James P. Domagalski, sworn to the 14th day of June, 2006 only amends paragraph 9 of his affidavit sworn to and filed the 13th day of June, 2006 to now incl filed by Adam Pritchard, Edward Robinson. (Attachments: # <u>1</u> Memorandum in Support)(Keach, Elmer) (Entered: 06/22/2006)</i>
06/21/2006		E-Filing Notification: <u>124</u> AFFIRMATION signed by James P. Domagalski, Esq. **Document filed without proof of service** (DZ,) (Entered: 06/22/2006)
06/22/2006	<u>127</u>	CERTIFICATE OF SERVICE by Adam Pritchard, Edward Robinson re <u>126</u> Affidavit in Opposition to Motion, (Keach, Elmer) (Entered: 06/22/2006)
06/22/2006	<u>128</u>	CERTIFICATE OF SERVICE by The County of Erie re <u>124</u> Affirmation, (Domagalski, James) (Entered: 06/22/2006)
06/26/2006	<u>129</u>	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">ORDER re <u>116</u> MOTION for Protective Order filed by The County of Erie; <u>120</u> Amended MOTION to Compel Corrected to Include a Complete Exhibit I filed by Adam Pritchard, Edward Robinson</p> <p>Status Report due by 7/17/2006, defendants to produce "objections" log; plaintiffs may respond to this log within 10 business days. So Ordered. Signed by Hon. Hugh B. Scott on 6/26/2006. (DRH) (Entered: 06/26/2006)</p>
07/06/2006	130	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF ORDER</p> <p>Plaintiffs have requested (by letter to Chambers, July 5, 2006) for leave to file an oversize memorandum of law, up to 40 pages, for their motion to certify the class. They have obtained the stipulation of defendants. That request is granted.</p> <p>Plaintiffs are given leave to file a memorandum of law in excess of the page limit under this Court's Local Rules, to not exceed 40 pages. Further, anticipating that defendants may need more than the page limit to respond to plaintiffs' motion, defendants are also given leave to exceed the page limit of the Local Rules; they each also may file memoranda of up to 40 pages. If defendants need additional pages, they may make a timely application to the Court.</p> <p>So Ordered. Signed by Hon. Hugh B. Scott on 7/6/2006. (DRH) (Entered: 07/06/2006)</p>
07/10/2006	<u>131</u>	SEALED DOCUMENT pursuant to Order item #162. (Entered: 07/10/2006)
07/10/2006	<u>132</u>	SEALED DOCUMENT pursuant to Order item #162. (Entered: 07/10/2006)
07/11/2006	<u>133</u>	<p style="text-align: center;">MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">NOTICE of Hearing on Motion <u>131</u> MOTION to Certify Class:</p> <p>Responses due by 8/31/2006; Replies due by 9/29/2006. Motion Hearing set for Wed., 10/11/2006, 10:30 AM, before Hon. Hugh B. Scott.</p> <p>Parties are to address status of plaintiff Julenne Tucker as a representative plaintiff (<i>see</i> Docket No. 77). Parties are reminded of Chambers guidelines to submit</p>

		courtesy copies of all moving papers to Chambers.(DRH) (Entered: 07/11/2006)
07/17/2006	<u>134</u>	OBJECTIONS to Order,, Set Deadlines, <u>129</u> <i>Objections Log as required by Order</i> filed by Defendants Timothy. Howard, Donald J. Livingston, Robert Huggins, The County of Erie, Patrick M. Gallivan.. (Domagalski, James) (Entered: 07/17/2006)
07/27/2006	135	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF THE ORDER</p> <p>Due to a conflict in the Court's calendar, the settlement conference scheduled for July 31, 2006 is adjourned to August 18, 2006 at 2:00 p.m. before the undersigned.</p> <p>So Ordered.</p> <p>Signed by Hon. Hugh B. Scott on 7/27/06. (JRA) (Entered: 07/27/2006)</p>
07/31/2006	<u>136</u>	AFFIRMATION signed by Elmer Robert Keach, III re <u>134</u> Objections -- non-motion filed by Adam Pritchard, Edward Robinson. (Attachments: # <u>1</u> Certificate of Service)(Keach, Elmer) (Entered: 07/31/2006)
08/09/2006	<u>137</u>	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">ORDER</p> <p>Granting in part and denying in part <u>116</u> Motion for Protective Order; denying in part and granting in part <u>120</u> Motion to Compel. Defendants are to produce EC-C 1189, 1220, defendants need not produce EC-C 1188, 1211-1215, as identified in defendants' objection log (Docket No. 134). So Ordered. Signed by Magistrate Judge Hugh B. Scott on 8/9/2006. (DRH) (Entered: 08/09/2006)</p>
08/11/2006	138	<p style="text-align: center;">HONORABLE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT ORDER re 115 Terminate Hearings, Order, Set Scheduling Order Deadlines</p> <p>Parties have requested adjournment of the Further Pretrial Conference, scheduled for 8/18/2006, to 8/23/2006 (letter of County Defendants' counsel to chambers, dated 8/10/2006). The latter date is not available for the Court.</p> <p>Further Pretrial Conference, however, reset for Wed., 10/11/2006, 10:15 AM, before Hon. Hugh B. Scott, prior to argument of plaintiffs' motion for class certification (Docket Nos. 131, 133). Moreover, if counsel are of the belief that an intermediate conference with Magistrate Judge Scott would be of assistance in the prompt disposition of the case, such a conference will be scheduled upon application of any party.</p> <p>So Ordered. Signed by Hon. Hugh B. Scott on 8/11/2006. (DRH) (Entered: 08/11/2006)</p>
08/22/2006	139	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT ORDER re <u>133</u> Notice of Hearing on Motion</p> <p>At the request of defense counsel (and stipulated by plaintiffs' counsel), Responses due by 9/14/2006; Replies due by 10/13/2006. Oral Argument reset for Fri., 11/3/2006, 10:00 AM, before Hon. Hugh B. Scott. The Further Pretrial Conference remains as previously scheduled for Wed., 10/11/2006, at 10:15 am. So Ordered. Signed by Hon. Hugh B. Scott on 8/22/2006. (DRH) (Entered: 08/22/2006)</p>
08/29/2006	<u>140</u>	MOTION Court Supervision of Deposition of Kristin Machelor by Adam Pritchard, Edward Robinson. (Attachments: # <u>1</u> Affidavit Affirmation of Elmer Keach# <u>2</u> Exhibit Exhibit A to Keach Affirmation -- 01.04.06 Order of Court regarding Machelor Emails# <u>3</u> Exhibit Exhibit B to Keach Affirmation -- Portion of Machelor Emails# <u>4</u> Exhibit Exhibit C to Keach Affirmation -- Machelor Subpoena and Proof of Service# <u>5</u> Memorandum in Support # <u>6</u> Certificate of

		Service)(Keach, Elmer) (Entered: 08/29/2006)
08/30/2006	<u>141</u>	<p align="center">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p align="center">ORDER re <u>103</u> Order on Motion to Compel, Order on Motion for Extension of Time to Complete Discovery, Order on Motion for Extension of Time to File, <u>104</u> Set/Reset Scheduling Order Deadlines, Calendar Entry</p> <p>Deadlines for discovery and dispositive motions held in abeyance pending resolution of class certification motion.</p> <p>Settlement conference of 10/11/2006 remains as previously scheduled.</p> <p>So Ordered. Signed by Hon. Hugh B. Scott on 8/30/2006. (DRH) (Entered: 08/30/2006)</p>
08/30/2006	<u>142</u>	<p align="center">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p align="center">NOTICE of Hearing on Motion <u>140</u> MOTION Court Supervision of Deposition of Kristin Machelor:</p> <p>Responses due by 9/18/2006; Replies due by 9/25/2006. Motion Hearing set for Wed., 10/11/2006, 10:30 AM, before Hon. Hugh B. Scott, following a previously scheduled Settlement Conference for that day. (DRH) (Entered: 08/30/2006)</p>
09/14/2006	<u>143</u>	MEMORANDUM in Opposition re <u>131</u> MOTION to Certify Class <i>County Defendants' Memorandum of Law in Opposition to Plaintiffs' Motion for Class Certification</i> filed by The County of Erie. (Attachments: # <u>1</u> Certificate of Service # <u>2</u> Affirmation of James P. Domagalski# <u>3</u> Exhibit 1 through 10# <u>4</u> Exhibit 11 through 20# <u>5</u> Exhibit 21 through 30# <u>6</u> Exhibit 31 through 40# <u>7</u> Exhibit 41 through 50# <u>8</u> Exhibit 51 through 60# <u>9</u> Exhibit 61 through 66# <u>10</u> Affirmation of Frank T. Gaglione# <u>11</u> Exhibit A through H)(Domagalski, James) (Entered: 09/14/2006)
09/14/2006	<u>144</u>	AFFIRMATION signed by Louis B. Dingeldey Jr., Esq. re <u>132</u> Affirmation,,,,,,,,,,,,,,,,,,,,, filed by H. McCarthy Gibson, H. McCarthy Gibson filed by H. McCarthy Gibson, H. McCarthy Gibson. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D# <u>5</u> Exhibit E# <u>6</u> Exhibit F# <u>7</u> Exhibit G# <u>8</u> Exhibit H# <u>9</u> Exhibit I# <u>10</u> Exhibit J# <u>11</u> Exhibit K# <u>12</u> Exhibit L# <u>13</u> Exhibit M# <u>14</u> Exhibit N# <u>15</u> Exhibit O# <u>16</u> Exhibit P# <u>17</u> Exhibit Q# <u>18</u> Exhibit R# <u>19</u> Exhibit S# <u>20</u> Exhibit T# <u>21</u> Exhibit U# <u>22</u> Exhibit V# <u>23</u> Exhibit W# <u>24</u> Exhibit X# <u>25</u> Exhibit Y# <u>26</u> Exhibit Z)(Dingeldey, Louis) (Entered: 09/14/2006)
09/14/2006	<u>145</u>	MEMORANDUM in Opposition re <u>131</u> MOTION to Certify Class filed by H. McCarthy Gibson. (Dingeldey, Louis) (Entered: 09/14/2006)
09/18/2006	146	<p align="center">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p align="center">TEXT ORDER re <u>143</u> Memorandum in Opposition to Motion,, filed by The County of Erie</p> <p>County Defendants referred to the United States District Court for the Southern District of New York's decision in <i>Steinberg v. Rockland County</i>, No. 04 Civ. 4889, cited in Docket No. 143, at 17. The County Defendants are to serve and file a copy of the referenced decision at their earliest convenience. So Ordered. Signed by Hon. Hugh B. Scott on 9/18/2006. (DRH) (Entered: 09/18/2006)</p>
09/18/2006	<u>147</u>	AFFIRMATION signed by Richard T. Sullivan <i>in Opposition to Plaintiff's Motion for a Court Supervised Deposition on behalf of Non-Party Witness Kristen Machelor</i> (Attachments: # <u>1</u> Memorandum in Support # <u>2</u> Certificate of Service)(Sullivan, Richard) Modified on 9/19/2006 (JMM,). (Entered: 09/18/2006)
09/18/2006	<u>148</u>	AFFIRMATION signed by Louis B. Dingeldey Jr. re <u>140</u> MOTION Court Supervision of Deposition of Kristin Machelor filed by H. McCarthy Gibson, H. McCarthy Gibson <i>Affirmation in opposition</i> filed by H. McCarthy Gibson, H. McCarthy Gibson. (Dingeldey, Louis) (Entered: 09/18/2006)

09/18/2006	<u>149</u>	AFFIRMATION of James P. Domagalski in Opposition re <u>140</u> MOTION Court Supervision of Deposition of Kristin Machelor (<i>certificate of service attached</i>) filed by Timothy. Howard, Donald J. Livingston, Robert Huggins, The County of Erie, Patrick M. Gallivan. (Attachments: # <u>1</u> Exhibit 2nd Cir Notice# <u>2</u> Exhibit Jan. 4, 2006 Order# <u>3</u> Memorandum in Support)(Domagalski, James) Modified on 9/19/2006 (DZ,). (Entered: 09/18/2006)
09/18/2006		E-Filing Notification: <u>149</u> AFFIRMATION of James P. Domagalski **Text modified on 9/19/2006 to indicate document is an Affirmation, not an affidavit** (DZ,). (DZ,) (Entered: 09/19/2006)
09/19/2006		E-Filing Notification: <u>147</u> AFFIRMATION – docket text amended to properly reflect that this filing was made by non-party witness and not defendants. (JMM) (Entered: 09/19/2006)
10/11/2006	150	<p style="text-align: center;">HONORABLE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF MINUTE ENTRY</p> <p style="text-align: center;">For proceedings held before Magistrate Judge Hugh B. Scott:</p> <p>Elmer Robert Keach, Esq., for plaintiffs; Frank Gaglione, Esq., for defendant Gipson; James Domalgalski, Esq., and Assistant County Attorney Kristin Klein Wheaton for County Defendants (present)</p> <p>Interim Pretrial Conference held on 10/11/2006. Plaintiffs made demand, which was rejected by defendants. Plaintiffs indicate demand will increase in light of events in the case. Settlement not possible at this time. (DRH) (Entered: 10/11/2006)</p>
10/11/2006	151	<p style="text-align: center;">HONORABLE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF MINUTE ENTRY</p> <p style="text-align: center;">For proceedings held before Magistrate Judge Hugh B. Scott:</p> <p>Elmer Robert Keach, Esq., for plaintiffs; Richard Sullivan, Esq., for witness Machelor; Frank Gaglione, Esq., for defendant Gipson; present James Domalgalski, Esq., and Assistant County Attorney Kristin Klein Wheaton for County defendants.</p> <p>Motion Hearing held on 10/11/2006 re <u>140</u> MOTION Court Supervision of Deposition of Kristin Machelor filed by Adam Pritchard, Edward Robinson, et al., Court reserved decision. (DRH) (Entered: 10/11/2006)</p>
10/11/2006	152	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT ORDER re 139 Terminate Deadlines and Hearings, Text Order, Set Deadlines/Hearings</p> <p>At plaintiffs' request (and as stipulated by defendants), Replies now due by 10/20/2006. Motion Hearing remains set for Fri., 11/3/2006, 10:00 AM, before Hon. Hugh B. Scott. So Ordered. Signed by Hon. Hugh B. Scott on 10/11/2006. (DRH) (Entered: 10/11/2006)</p>
10/12/2006	<u>153</u>	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">ORDER denying <u>140</u> Motion</p> <p>Plaintiffs' motion is denied; defendants' request either to preclude this deposition, restrict its content, or to conduct it with Court supervision is also denied. The deposition will be held on Fri., 11/24/2006, at 9:30 am, at a site to be determined by the parties within five (5) business days of entry of this Order. This deposition shall be conducted without Court supervision. Plaintiffs have a total of seven hours to conduct this deposition, inclusive of whatever continued examination may be subsequently authorized. So Ordered. Signed by Magistrate Judge Hugh B. Scott</p>

		<p>on 10/12/2006.</p> <p>(Attachments: # <u>1</u> Appendix DirecTV v. Rowland, Order, Docket No. 45)</p> <p>(DRH) (Entered: 10/12/2006)</p>
10/19/2006	154	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT ORDER re 130 Order, 139 Terminate Deadlines and Hearings, Text Order, Set Deadlines/Hearings, 152 Text Order, Set/Reset Motion and RRDeadlines/Hearings</p> <p>Counsel for plaintiffs wrote to the Court on 10/18/2006 requesting leave (pursuant to this Court's Local Civil Rule 7.1(f)) to file a reply brief of up to 20 pages due to the volume of the response and prior agreement to oversize papers for this motion. This request is denied due to the volume of material received to date on this motion. So Ordered. Signed by Hon. Hugh B. Scott on 10/19/2006. (DRH) (Entered: 10/19/2006)</p>
10/20/2006	<u>155</u>	SEALED DOCUMENT pursuant to Order item #162 (Entered: 10/20/2006)
10/31/2006	<u>156</u>	MOTION for Leave to File Excess Pages (<i>For Permission to File and Serve A Supplemental Sur-Reply Affirmation</i>) by Timothy. Howard, Donald J. Livingston, Robert Huggins, The County of Erie, Patrick M. Gallivan. (Attachments: # <u>1</u> Affidavit # <u>2</u> Exhibit to Affidavit)(Domagalski, James) (Entered: 10/31/2006)
11/01/2006	157	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT ORDER denying <u>156</u> Motion for Leave to File Excess Pages</p> <p>County Defendants' motion for permission to file and serve sur-reply papers is denied. So Ordered. Signed by Magistrate Judge Hugh B. Scott on 11/1/2006. (DRH) (Entered: 11/01/2006)</p>
11/02/2006	<u>158</u>	Sealed Document. (DZ,) (Entered: 11/02/2006)
11/02/2006	<u>159</u>	CONTINUATION OF EXHIBITS to 146 Text Order., <i>Copy of Decision In Re: Steinberg v. Rockland County, Case No.: 04-CV-4889, United States District Court for the Southern District of New York, as referenced in the Order of Magistrate Judge Hugh B. Scott on September 18, 2006 at docket entry 146.</i> (Attachments: # <u>1</u> Certificate of Service)(Domagalski, James) (Entered: 11/02/2006)
11/03/2006	160	<p style="text-align: center;">HONORABLE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF MINUTE ENTRY</p> <p style="text-align: center;">For proceedings held before Magistrate Judge Hugh B. Scott:</p> <p>Elmer Robert Keach, III, Esq. (argued), Charles LaDuca, Esq., Alexandra Kohler, Esq., for plaintiffs; Frank Gaglione, Esq. (argued), James Domalgalski, Esq., Assistant County Attorney Kristin Klein Wheaton, Esq., for County defendants; Thomas D'Agostino, Esq., and Louis Dingledey, Esq., for defendant Gipson.</p> <p>Motion Hearing held on 11/3/2006 re <u>131</u> MOTION to Certify Class filed by Adam Pritchard, Edward Robinson. Court reserved decision. (DRH) (Entered: 11/03/2006)</p>
12/07/2006	<u>161</u>	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">ORDER re <u>131</u> MOTION to Certify Class filed by Adam Pritchard, Edward Robinson</p> <p>The Court requires supplemental briefing on <i>In re Initial Public Offering Securities Litigation, Miles v. Merrill Lynch</i>, No. 05-3349, and its impact on this pending motion to certify the class. Responses due by 1/19/2007. Court to determine if oral argument on this point will be necessary. Supplemental briefing is to be no longer</p>

		than 25 pages . So Ordered. Signed by Hon. Hugh B. Scott on 12/7/2006. (Attachments: # <u>1</u> In re IPO Securities Litig., Miles v. Merrill Lynch, 2d Cir. opinion)(DRH) (Entered: 12/07/2006)
01/08/2007	<u>162</u>	ORDER vacating the court's 4/17/2006 order pursuant to the motion for writ of mandamus which was granted by the United States Court of Appeals. The County defendants' objections to Magistrate Judge Scott's 1/4/2006 order are sustained. The documents containing the disputed communications shall be returned by plaintiffs forthwith to counsel for the County defendants and kept under seal. The Clerk is directed to seal Items 131, 132, and 155 (see contents of order for further instructions re documents). The court's order of 12/13/2004 (Item 5) referring this case to Magistrate Judge Scott is rescinded. Signed by Hon. John T. Curtin on 1/8/2007. (JEC). (Entered: 01/08/2007)
01/08/2007		E-Filing Notification: Date of <u>162</u> ORDER was amended to indicate that order was signed by Hon. John T. Curtin on 1/8/2007. (JEC). (Entered: 01/08/2007)
01/08/2007	163	Minute Entry for proceedings held before Judge John T. Curtin: Telephone conferences held with counsel on 1/8/2007 pursuant to the writ of mandamus issued by the Court of Appeals. Counsel were directed to submit simultaneous briefing on the waiver issue not later than 1/19/2007. The court will then review the submissions and set a date for a further conference. Appearances: Charles LaDuca, David Jay, Elmer Keach, and Jason Rozger for Plaintiffs; Frank Gaglione and Kristin Klein Wheaton for Defendants. Court time: 10:30 – 11:00 a.m.; 3:00 – 3:30 p.m. (JEC). (Entered: 01/11/2007)
01/19/2007	<u>164</u>	Letter from Elmer Robert Keach III, Esq., dated 1/17/2007, to Hon. John T. Curtin requesting leave to file Machelor transcript under seal and an enlargement of time to file joint briefing. (JEC) (Entered: 01/19/2007)
01/19/2007	<u>165</u>	Letter from James P. Domagalski, Esq., dated 1/18/2007, to Hon. John T. Curtin, in response to letter of Elmer Keach, Esq. (JEC) (Entered: 01/19/2007)
01/19/2007	<u>166</u>	Letter from Thomas C. D'Agostino, dated 1/18/2007, to Hon. John T. Curtin, in response to letter of Elmer Keach, Esq. (JEC) (Entered: 01/19/2007)
01/19/2007	167	TAKE NOTICE THAT, upon consideration of the matters set forth in recent correspondence from counsel (see Items 164–66), the court has found the proposal of plaintiff's counsel to be a reasonable accommodation under the circumstances. Accordingly, as soon as is practicable, after receipt of the Machelor deposition transcript, plaintiffs' counsel shall transmit a copy of the transcript to the court's chambers, along with a proposed sealing order. At the same time, a copy of the transcript shall be delivered to counsel for the County defendants. Plaintiffs are reminded of the court's prior direction to return any privileged documents to the County defendants "forthwith." The due date for simultaneous submission of the parties' current positions on the waiver issue is enlarged to Monday, January 29, 2007. (JEC) (Entered: 01/19/2007)
01/24/2007		Motions No Longer Referred Magistrate Hugh Scott pursuant to instructions from chambers (JMM) (Entered: 01/24/2007)
01/29/2007	<u>168</u>	Letter from Elmer Robert Keach III, Esq., dated January 29, 2007, to Hon. John T. Curtin, requesting an extension of time to file cross-submissions. (JEC) (Entered: 01/29/2007)
01/29/2007	169	TAKE NOTICE THAT in response to the <u>168</u> Letter of Elmer Robert Keach, III, Esq., the time for the parties to file their cross-submissions on privilege and waiver issues is extended until THURSDAY, FEBRUARY 1, 2007. (JEC) (Entered: 01/29/2007)
01/31/2007	<u>170</u>	Letter from James P. Domagalski, Esq., dated 1/31/2007, to Hon. John T. Curtin, regarding a further extension of time to file cross-submissions. (JEC) (Entered: 01/31/2007)
01/31/2007	<u>171</u>	Letter from Elmer Robert Keach III, Esq., dated 1/31/2007, to Hon. John T. Curtin, regarding a further extension of time to file cross-submissions. (JEC) (Entered: 01/31/2007)

01/31/2007	<u>172</u>	TAKE NOTICE THAT pursuant to the Letters of Counsel (Items 171 &170), the Court grants a further extension of time in which to file cross-submissions until Friday, February 2, 2007. (JEC) (Entered: 01/31/2007)
02/02/2007	<u>173</u>	DECLARATION filed by H. McCarthy Gibson <i>re: submission on issue of waiver of attorney-client privilege</i> . (Attachments: # <u>1</u>)(Dingeldey, Louis) (Entered: 02/02/2007)
02/02/2007	<u>174</u>	MEMORANDUM/BRIEF <i>re: submission on issue of waiver of attorney-client privilege</i> by H. McCarthy Gibson. (Dingeldey, Louis) (Entered: 02/02/2007)
02/02/2007	<u>175</u>	MEMORANDUM IN SUPPORT re <u>162</u> Terminate Case Associations,,, Set/Clear Flags,,, Order,,, 172 Notice (Other), 163 Status Conference,,, Set Deadlines/Hearings,,, <i>County Defendants' Memorandum of Law on Attorney-Client Privilege and Lack of Waiver</i> by The County of Erie. (Attachments: # <u>1</u> Affirmation of James P. Domagalski Regarding Privileged Communications and Lack of Waiver with attached Exhibit A# <u>2</u> Declaration of Timothy Howard with attached Exhibit A# <u>3</u> Declaration of Patrick Galivan with attached Exhibit A# <u>4</u> Declaration of Brian Doyle with attached Exhibit A# <u>5</u> Declaration of Donald Livingston with attached Exhibit A# <u>6</u> Declaration of Jeffrey Hartman with attached Exhibit A# <u>7</u> Declaration of Glen Isch with attached Exhibit A# <u>8</u> Declaration of Paul Glinski with attached Exhibit A# <u>9</u> Declaration of Keith Kibler with attached Exhibit A# <u>10</u> Declaration of Kevin Lynch with attached Exhibit A# <u>11</u> Declaration of Frank Odee with attached Exhibit A# <u>12</u> Declaration of John Roseti with attached Exhibit A# <u>13</u> Declaration of Thomas Vaughan with attached Exhibit A# <u>14</u> Declaration of David Webster with attached Exhibit A# <u>15</u> Declaration of Howard Webster with attached Exhibit A# <u>16</u> Certificate of Service)(Domagalski, James) (Entered: 02/02/2007)
02/02/2007	<u>176</u>	MOTION to Compel <i>Production of the Machelor Email on the Basis of Waiver</i> by Adam Pritchard, Edward Robinson.(Keach, Elmer) (Entered: 02/02/2007)
02/03/2007	<u>177</u>	Amended MOTION to Compel <i>Regarding Machelor Emails</i> by Adam Pritchard, Edward Robinson. (Attachments: # <u>1</u> Affirmation in Support of Motion# <u>2</u> Exhibit A --- Defendants' Memorandum in Opposition to Class Cert# <u>3</u> Exhibit B, Part 1 --- Deposition of T. Howard, pp. 1-34# <u>4</u> Exhibit B, Part Two, Howard Deposition, pp. 35-73# <u>5</u> Exhibit B, Part 3, Howard Deposition, pp. 74-95# <u>6</u> Exhibit C, Partial Gallivan Deposition# <u>7</u> Exhibit D, Buffalo News Article# <u>8</u> Exhibit E, Gipson Email, 3.20.03# <u>9</u> Exhibit F, Email from Gipson to Gallivan and Howard, 12.31.03# <u>10</u> Exhibit G, Gipson Memo on Strip Seaches on Admission, 8.27.03# <u>11</u> Exhibit H, Livingston Deposition Transcript# <u>12</u> Exhibit I, redacted inmate records# <u>13</u> Exhibit J, Gipson 4.6.06 Deposition Transcript# <u>14</u> Exhibit K, Plaintiffs First Demand for Documents# <u>15</u> Exhibit L, Email initially produced by Erie County# <u>16</u> Exhibit M, Isch Strip Search Memorandum# <u>17</u> Exhibit N, Portion of Isch Deposition Transcript# <u>18</u> Exhibit O, Part I, Usinski Dep., pp. 1-50# <u>19</u> Exhibit O, part 2, usinski deposition, pp. 51-100# <u>20</u> Exhibit P, email from Keach to Dingeldey, 1.16.07# <u>21</u> Exhibit Q, email from dingeldey to keach, 1.18.07# <u>22</u> Exhibit R, email from Keach to Domagalski, 1.16.07# <u>23</u> Exhibit S, Email from Keach to Domagalski, 01.18.07# <u>24</u> Exhibit T, Yahoo Account Verification# <u>25</u> Exhibit U, Plaintiffs Second Demand for Documents# <u>26</u> Exhibit V, Plaintiffs Third Demand for Documents# <u>27</u> Exhibit W, Gipson Response to Demand for Documents# <u>28</u> Exhibit X, email from livingston to Gipson, 5.1.2003# <u>29</u> Exhibit Y, email from Gipson to Livingston, 3.20.2003# <u>30</u> Exhibit Z, letter from Keach to Domagalski, 11.7.05# <u>31</u> Exhibit AA, letter from Domagalski to Keach, 11.14.05# <u>32</u> Exhibit BB, Court Order, 6.26.06# <u>33</u> Exhibit CC, Defendants' Amended Privilege Log# <u>34</u> Exhibit DD, Unreported Decisions# <u>35</u> Memorandum in Support # <u>36</u> Certificate of Service)(Keach, Elmer) (Entered: 02/03/2007)
02/05/2007	<u>178</u>	Letter from Elmer Robert Keach III, Esq., dated 2/5/2007, to Hon. John T. Curtin re further extension of time. (JEC) (Entered: 02/05/2007)
02/06/2007	<u>179</u>	Letter from James P. Domagalski, Esq., dated 02/05/2007, to Hon. John T. Curtin regarding further extension of time. (JEC) (Entered: 02/06/2007)
02/07/2007	<u>180</u>	Letter from Thomas C. D'Agostino, Esq., dated 02/07/2007, to Hon. John T. Curtin re further extension of time. (JEC) (Entered: 02/07/2007)

02/16/2007	<u>181</u>	Letter from Elmer Robert Keach III, Esq., dated 02/13/2007, to Hon. John T. Curtin (Attachments: # <u>1</u>) re Discovery Dispute.(JEC) (Entered: 02/16/2007)
02/16/2007	<u>182</u>	Letter from James P. Domagalski, Esq., dated 2/16/2007, to Hon. John T. Curtin re Discovery Dispute. (JEC) (Entered: 02/16/2007)
03/02/2007	<u>183</u>	ORDER denying Plaintiff's request for leave to file a motion to compel the production of additional e-mail correspondence, without prejudice to renew pending the resolution of the waiver issue. Accordingly, Defendants shall file supplemental memoranda of law by 3/19/2007; Plaintiffs shall file a responding memo of law by 4/9/2007; and Defendants' replies, if any, shall be filed by 4/23/2007. Oral Argument shall be held on 4/30/2007 at 11:00 AM before Hon. John T. Curtin. Signed by Hon. John T. Curtin on 02/22/2007. (JEC) (Entered: 03/02/2007)
03/06/2007	<u>184</u>	MANDATE of the USCA granting the Motion for a writ of mandamus ordering the U.S. District Court for the WDNY to vacate an order compelling production of communications asserted to be protected by the attorney-client privilege; the district court's April 17, 2006 is vacated; the district court is instructed to determine whether the attorney-client privilege was nonetheless waived; pending adjudication, the district is directed to enter an order protecting the confidentiality of the disputed e-mails in accordance with the opinion of the court. (DR,) (Entered: 03/06/2007)
03/19/2007	<u>185</u>	MEMORANDUM IN OPPOSITION re <u>183</u> Order,,, Set Deadlines/Hearings,,, <u>184</u> Order,, <i>Defendant H. McCarthy Gibson's Supplemental Memorandum of Law</i> by H. McCarthy Gibson. (Boron, Eric) (Entered: 03/19/2007)
03/19/2007	<u>186</u>	MEMORANDUM/BRIEF re <u>183</u> Order,,, Set Deadlines/Hearings,,, <u>184</u> Order,, by Timothy. Howard, Donald J. Livingston, Robert Huggins, The County of Erie, Patrick M. Gallivan. (Domagalski, James) (Entered: 03/19/2007)
03/20/2007	<u>187</u>	STIPULATION <i>to file a copy of the deposition transcript of Kristin Machelor under seal.</i> by Adam Pritchard, Edward Robinson, Julenne Tucker. (Menken, Bruce) (Entered: 03/20/2007)
03/26/2007	<u>188</u>	NOTICE by Adam Pritchard, Edward Robinson <i>of Change of Address and Firm Name for Alexander E. Barnett and Change of Firm Name for Gary E. Mason</i> (Barnett, Alexander) (Entered: 03/26/2007)
04/02/2007	<u>189</u>	STIPULATION AND ORDER directing Plaintiffs to file a copy of the Kristin Machelor deposition transcript under seal, with a designation of "CONFIDENTIAL" prominently affixed to the cover of the transcript with the Clerk of the Court. Signed by Hon. John T. Curtin on 03/26/2007. (JEC) (Entered: 04/02/2007)
04/09/2007	<u>190</u>	First MOTION for Leave to Appear Pro Hac Vice <i>of Alexandra C. Warren</i> by Adam Pritchard, Edward Robinson, Julenne Tucker.(LaDuca, Charles) (Entered: 04/09/2007)
04/09/2007	<u>191</u>	MEMORANDUM in Support re <u>177</u> Amended MOTION to Compel <i>Regarding Machelor Emails Filed Pursuant to Court Order</i> filed by Adam Pritchard, Edward Robinson. (Attachments: # <u>1</u> Certificate of Service)(Keach, Elmer) (Entered: 04/09/2007)
04/19/2007		NOTICE OF HEARING ON PENDING MOTIONS: Motion Hearing set for 4/30/2007 09:30 A.M. before Hon. John T. Curtin, rescheduled from 11:00 A.M. (JEC) (Entered: 04/19/2007)
04/23/2007		NOTICE of Hearing on Motion: TAKE NOTICE THAT the Oral Argument on the Pending Motions has been adjourned from April 30, 2007 until MONDAY, MAY 14, 2007, AT 10 A.M.(JEC) (Entered: 04/23/2007)
04/23/2007	<u>192</u>	MEMORANDUM/BRIEF re <u>183</u> Order,,, Set Deadlines/Hearings,, <i>Reply Memorandum of Law on Issue of Waiver of Privilege</i> by Timothy. Howard, Donald J. Livingston, Robert Huggins, The County of Erie, Patrick M. Gallivan. (Domagalski, James) (Entered: 04/23/2007)

04/23/2007	<u>193</u>	ORDER granting <u>190</u> Motion of Alexandra C. Warren, Esq., for Leave to Appear Pro Hac Vice, provided that prompt payment of the fee in the amount of \$75.00 is made to the Clerk of the Court. Signed by Judge John T. Curtin on 04/19/2007. (JEC) (Entered: 04/23/2007)
04/23/2007	<u>194</u>	MEMORANDUM/BRIEF re <u>183</u> Order,,, Set Deadlines/Hearings,, Reply Memorandum of Law Relating to the Court's February 22, 2007 Order by H. McCarthy Gibson. (Boron, Eric) (Entered: 04/23/2007)
04/23/2007		Set Deadlines/Hearings: Oral argument rescheduled for 5/14/2007 10:00 AM before Hon. John T. Curtin. (DZ,) (Entered: 04/24/2007)
04/23/2007	<u>195</u>	ORDER directing that the deposition transcript of Kristen Machelor be filed under seal. Signed by Hon. John T. Curtin on 4/19/07. (DZ,) (Entered: 04/25/2007)
04/23/2007	<u>196</u>	Sealed Document. (DZ,) (Entered: 04/25/2007)
05/01/2007		{Pro Hac Vice Filing fee paid for Alexandra C. Warren: \$ 75.00, receipt number 2770 (DZ,) (Entered: 05/02/2007)
05/04/2007	<u>197</u>	STATEMENT OF COSTS of the USCA taxed in the amount of \$1590.00 in favor of Petitioner, The County of Erie. This Statement of Costs is made part of the Mandate of the USCA issued on 2/27/07 and filed in the U.S. District Court on 3/6/07 Document #184. (DR,) (Entered: 05/04/2007)
05/14/2007	<u>198</u>	Minute Entry for proceedings held before Judge John T. Curtin: Motion Hearing held on 5/14/2007 re Issue of Waiver of Privileged Documents. Motion submitted. Appearances: Elmer (Robert) Keach, Charles LaDuca, Frank Gaglione, James Domagalski, Eric Boron, and Kristin Klein Wheaton. Court time: 10:00 – 10:45 a.m. (Electronic Court Recorder Operator Janet Curry) (JEC) (Entered: 05/15/2007)
06/12/2007	<u>199</u>	DECISION AND ORDER denying Plaintiffs' Motion to Compel Production of documents (see Item 25). A Status Conference is set for 6/27/2007 10:00 a.m. before Hon. John T. Curtin. Signed by Hon. John T. Curtin on 06/11/2007. (JEC) (Entered: 06/12/2007)
06/21/2007		TAKE NOTICE THAT the Telephone Conferenced scheduled for 6/27/2007 is hereby canceled. (JEC) (Entered: 06/21/2007)
06/26/2007	<u>200</u>	MOTION for Reconsideration re <u>199</u> Order, Set Deadlines/Hearings by Adam Pritchard, Edward Robinson. (Attachments: # <u>1</u> Affirmation# <u>2</u> Exhibit A, part 1—Defendants' Mandamus Petition# <u>3</u> Exhibit A, Part 2# <u>4</u> Exhibit A, Part 3# <u>5</u> Exhibit A, Part 4# <u>6</u> Exhibit B, Plaintiffs' Response to Mandamus Petition# <u>7</u> Memorandum in Support # <u>8</u> Certificate of Service)(Keach, Elmer) (Entered: 06/26/2007)
06/29/2007	<u>201</u>	ORDER directing counsel to file a Response to Plaintiffs' Motion for Reconsideration by 7/16/2007. Plaintiffs' Reply, if desired, shall be filed by 7/30/2007. The court will then consider the motion submitted or set a date for oral argument. Signed by Hon. John T. Curtin on 06/28/2007. (JEC) Modified on 7/25/2007—response due 7/16; reply due 7/30 (Curry, Janet). (Entered: 06/29/2007)
07/16/2007	<u>202</u>	AFFIDAVIT of James P. Domagalski in Opposition re <u>200</u> MOTION for Reconsideration re <u>199</u> Order, Set Deadlines/Hearings MOTION for Reconsideration re <u>199</u> Order, Set Deadlines/Hearings with Certificate of Service filed by Timothy. Howard, Donald J. Livingston, Robert Huggins, The County of Erie, Patrick M. Gallivan. (Domagalski, James) (Entered: 07/16/2007)
07/16/2007	<u>203</u>	MEMORANDUM in Opposition re <u>200</u> MOTION for Reconsideration re <u>199</u> Order, Set Deadlines/Hearings MOTION for Reconsideration re <u>199</u> Order, Set Deadlines/Hearings with Certificate of Service filed by Timothy. Howard, Donald J. Livingston, Robert Huggins, The County of Erie, Patrick M. Gallivan. (Domagalski, James) (Entered: 07/16/2007)
07/16/2007	<u>204</u>	AFFIDAVIT Affirmation of Eric T. Boron in Opposition re <u>200</u> MOTION for Reconsideration re <u>199</u> Order, Set Deadlines/Hearings MOTION for Reconsideration re <u>199</u> Order, Set Deadlines/Hearings with Certificate of Service

		filed by H. McCarthy Gibson. (Boron, Eric) (Entered: 07/16/2007)
07/16/2007	<u>205</u>	MEMORANDUM in Opposition re <u>200</u> MOTION for Reconsideration re <u>199</u> Order, Set Deadlines/Hearings MOTION for Reconsideration re <u>199</u> Order, Set Deadlines/Hearings <i>with Certificate of Service</i> filed by H. McCarthy Gibson. (Boron, Eric) (Entered: 07/16/2007)
07/24/2007	<u>206</u>	MOTION for Leave to Appear Pro Hac Vice of <i>Nicholas A. Migliaccio</i> by Adam Pritchard, Edward Robinson, Julenne Tucker. (Attachments: # <u>1</u> Affidavit of Nicholas A. Migliaccio# <u>2</u> Text of Proposed Order)(Barnett, Alexander) (Entered: 07/24/2007)
07/30/2007	<u>207</u>	REPLY to Response to Motion re <u>200</u> MOTION for Reconsideration re <u>199</u> Order, Set Deadlines/Hearings MOTION for Reconsideration re <u>199</u> Order, Set Deadlines/Hearings filed by Adam Pritchard, Edward Robinson. (Attachments: # <u>1</u> Certificate of Service)(Keach, Elmer) (Entered: 07/30/2007)
08/01/2007	<u>208</u>	ORDER granting <u>206</u> Motion of Nicholas A. Migliaccio, Esq., for Leave to Appear Pro Hac Vice in this case. Signed by Judge John T. Curtin on 08/01/2007. (JEC) (Entered: 08/01/2007)
08/07/2007		Filing fee: \$ 75, receipt number 4032, pro hac vice filing fee from Nicholas Migliaccio counsel for plaintiffs (JDK) (Entered: 08/07/2007)
08/16/2007		NOTICE of Hearing on Motion <u>200</u> MOTION for Reconsideration: ORAL ARGUMENT set for 10/29/2007 10:00 AM before Hon. John T. Curtin. (JEC) (Entered: 08/16/2007)
10/23/2007		NOTICE OF HEARING ON MOTION: ORAL ARGUMENT ON MOTION FOR RECONSIDERATION, originally scheduled for 10/29/2007, is adjourned until 10/30/2007 at 10 a.m. before Hon. John T. Curtin. (JEC) (Entered: 10/23/2007)
10/30/2007	209	Minute Entry for proceedings held before Judge John T. Curtin: Oral Argument held on 10/30/2007 on <u>200</u> MOTION for Reconsideration. Motion submitted. Appearances: Elmer Robert Keach for Plaintiff; James Domagalski and Eric Boron for Defendants. Court time: 10:20 – 11:20 a.m. (Janet Curry, Electronic Court Recorder Operator.) (JEC) (Entered: 10/31/2007)
10/31/2007	<u>210</u>	DECISION AND ORDER granting <u>200</u> Plaintiffs' Motion for Reconsideration. Defense counsel shall provide the court and Plaintiffs' Counsel a list of documents produced or withheld, along with appropriate privilege log. Plaintiffs' responding affidavit shall be filed by 12/7/2007. The court will then issue an order addressing Plaintiffs' deposition request and setting a further schedule. Signed by Judge John T. Curtin on 10/31/2007. (JEC) (Entered: 10/31/2007)
10/31/2007		Set/Reset Deadlines: Defense Counsel document list due by 11/30/2007; Plaintiffs' Responding Affidavit due by 12/7/2007. (JEC) (Entered: 10/31/2007)
11/30/2007	<u>211</u>	AFFIRMATION signed by James P. Domagalski re Set/Reset Deadlines, <u>210</u> Order on Motion for Reconsideration, filed by Timothy. Howard, Donald J. Livingston, Robert Huggins, The County of Erie, Patrick M. Gallivan. (Attachments: # <u>1</u> Exhibit Exhibit A to D (part 1)# <u>2</u> Exhibit D (part 2)# <u>3</u> Exhibit E through H (part 1)# <u>4</u> Exhibit H (part 2))(Domagalski, James) (Entered: 11/30/2007)
11/30/2007	<u>212</u>	AFFIRMATION signed by. filed by H. McCarthy Gibson filed by H. McCarthy Gibson. (Attachments: # <u>1</u> Exhibit Privilege Log# <u>2</u> Certificate of Service)(Boron, Eric) (Entered: 11/30/2007)
12/06/2007	<u>213</u>	MOTION to Stay re <u>210</u> Order on Motion for Reconsideration, <i>with Certificate of Service</i> by Timothy. Howard, Donald J. Livingston, Robert Huggins, The County of Erie, Patrick M. Gallivan. (Attachments: # <u>1</u> Affidavit of James P. Domagalski in Support of Motion to Stay# <u>2</u> Exhibit A to Affidavit of James P. Domagalski# <u>3</u> Memorandum in Support)(Domagalski, James) (Entered: 12/06/2007)
12/07/2007	<u>214</u>	ORDER granting Plaintiffs' Counsel an enlargement of time until 12/21/2007 to file Affidavit responding to County's submission regarding documents produced or withheld. Signed by Hon. John T. Curtin on 12/7/2007. (JEC) (Entered: 12/07/2007)

		12/07/2007)
12/17/2007	<u>215</u>	ORDER granting <u>213</u> Defendants' Motion to Stay the court's order of 10/31/2007 (Item 210) directing Defendants to produce documents, pending notification by the parties as to the outcome of Defendants' petition for mandamus review. Signed by Judge John T. Curtin on 12/13/2007. (JEC) (Entered: 12/17/2007)
12/21/2007	<u>216</u>	AFFIRMATION signed by Elmer Robert Keach, III re <u>212</u> Affirmation, <u>210</u> Order on Motion for Reconsideration, <u>211</u> Affirmation, filed by Adam Pritchard, Edward Robinson. (Attachments: # <u>1</u> Exhibit A -- Plaintiffs' First Demand for Production of Documents# <u>2</u> Exhibit B -- Plaintiffs' Second Demand for Production of Documents# <u>3</u> Exhibit C -- Email Originally Produced by Erie County# <u>4</u> Exhibit D -- Def. Gipson response to Demand for Documents# <u>5</u> Exhibit E -- Gipson Email, 12.31.03# <u>6</u> Exhibit F -- Livingston Email, May 1, 2003# <u>7</u> Exhibit G -- Gipson Email, 3.20.2003# <u>8</u> Exhibit H -- Letter from Keach to Domagalski, 11.7.2005# <u>9</u> Exhibit I --- Letter from Domagalski to Keach, 11.14.2005# <u>10</u> Exhibit J -- Order of Honorable Hugh Scott, 6.26.2006# <u>11</u> Exhibit K, part 1 -- Howard Deposition, pp. 1-34# <u>12</u> Exhibit K, part 2 -- Howard Dep., pp. 35-73# <u>13</u> Exhibit K, Part 3 -- Howard Dep., pp. 74-95# <u>14</u> Exhibit L -- Gipson 4.6.06 Deposition# <u>15</u> Exhibit M, Part 1 -- Usinski Dep., pp. 1-50# <u>16</u> Exhibit M, part 2 -- Usinski Dep. pp. 51-100)(Keach, Elmer) (Entered: 12/21/2007)
12/21/2007	<u>217</u>	CERTIFICATE OF SERVICE by Adam Pritchard, Edward Robinson re <u>216</u> Affirmation,,,, (Keach, Elmer) (Entered: 12/21/2007)
01/11/2008	<u>218</u>	CONTINUATION OF EXHIBITS to <u>211</u> Affirmation, <i>Complete and Corrected Copy of Exhibits A to D</i> . (Domagalski, James) (Entered: 01/11/2008)
01/15/2008		E-Filing Notification: Entire e-filing must be refiled including the Affirmation and corrected exhibits. <u>218</u> CONTINUATION OF EXHIBITS to <u>211</u> Affirmation, <i>Complete and Corrected Copy of Exhibits A to D</i> . (Domagalski, James) (SG) (Entered: 01/15/2008)
01/15/2008	<u>219</u>	AFFIDAVIT of James P. Domagalski re: Court's 10/31/07 Order with Corrected Exhibits and Updated Certificate of Service by Timothy. Howard, Donald J. Livingston, Robert Huggins, The County of Erie, Patrick M. Gallivan. (Attachments: # <u>1</u> Exhibit A to D# <u>2</u> Exhibit E to Part 1 of H# <u>3</u> Exhibit Part 2 of H)(Domagalski, James) (Entered: 01/15/2008)
06/02/2009	<u>220</u>	NOTICE of Appearance by Bethany B. Schumann-McGhee on behalf of all plaintiffs (Schumann-McGhee, Bethany) (Entered: 06/02/2009)
06/05/2009	<u>221</u>	Letter from Elmer Robert Keach III, Esq., dated 6/1/2009, to Hon. John T. Curtin. (JEC) (Entered: 06/05/2009)
06/05/2009		NOTICE of Hearing: Status Conference set for 6/29/2009 at 10:30 a.m. before Hon. John T. Curtin. The court will initiate the call.(JEC) (Entered: 06/05/2009)
06/05/2009	<u>222</u>	MOTION for Leave to Appear Pro Hac Vice <i>Brendan S. Thompson</i> by Adam Pritchard, Edward Robinson, Julenne Tucker.(LaDuca, Charles) (Entered: 06/05/2009)
06/08/2009		Confirmed Admission to the Maryland State Bar for Brendan S. Thompson (SG) (Entered: 06/08/2009)
06/16/2009	<u>223</u>	ORDER granting <u>222</u> Motion to admit Brendan S. Thompson pro hac vice provided that prompt payment of \$75.00 is made to the Clerk of the Court. Signed by Hon. John T. Curtin on 6/15/2009. (JEC) (Entered: 06/16/2009)
06/18/2009		Pro Hac Vice Filing fee paid for Brendan Thompson: \$ 75.00, receipt number 13286 (DZ) (Entered: 06/22/2009)
06/29/2009	<u>224</u>	Letter from James P. Domagalski, Esq., dated 6/26/2009, to Hon. John T. Curtin in response to <u>221</u> Letter of Elmer Robert Keach III, Esq., dated 6/1/2009. (JEC) (Entered: 06/29/2009)
06/29/2009	226	Minute Entry for proceedings held before Hon. John T. Curtin: Status Telephone Conference held on 6/29/2009 re the status of this litigation. Plaintiffs' counsel requested a Rule 30(b)(6) deposition of the appropriate County records officer to

		determine the discoverability of additional e-mail communications, and defense counsel objected and seeks a schedule for renewal of the class certification motion. The court directed further clarification of these requests in writing, to be submitted promptly. Appearances: Elmer Robert Keach III, Charles LaDuca, Bruce Menken, Gary Mason, Nicholas Migliaccio, David Jay for Plaintiffs; James Domagalski and Thomas DAgostino for Defendants. Court time: 10:30 – 11:15 a.m. (JEC) (Entered: 07/02/2009)
07/01/2009	<u>225</u>	Letter from Elmer Robert Keach III, Esq., dated 6/30/2009, to Hon. John T. Curtin detailing status of request to take additional deposition of Erie County. (Attachments: # <u>1</u> Copy of Notice of Deposition) (JEC) (Entered: 07/01/2009)
07/07/2009	<u>227</u>	Letter from James P. Domagalski, Esq., dated 7/7/2009, to Hon. John T. Curtin in response to <u>225</u> Letter of Elmer Robert Keach III, Esq. dated 6/30/2009. (JEC) (Entered: 07/07/2009)
07/10/2009	<u>228</u>	ORDER denying Plaintiffs' request for an additional Rule 30(b)(6) deposition and directing Plaintiffs to file their renewed Motion for Class Certification by 8/14/2009. Defense counsel shall file a Response by 9/14/2009. The court will consider a schedule for hearing and argument. This order shall be deemed sufficient to protect the confidentiality of the aforementioned ten privileged e-mail communications, in compliance with the circuit court's directions in In re County of Erie, 546 F.3d at 30. Signed by Hon. John T. Curtin on 7/10/2009. (JEC) (Entered: 07/10/2009)
08/13/2009	<u>229</u>	Letter from Elmer Robert Keach, III, Esq., dated 8/12/2009, to Hon. John T. Curtin requesting extension of time to file Motion for Class Certification. (JEC) (Entered: 08/13/2009)
08/13/2009	<u>230</u>	REPLY/RESPONSE to re <u>229</u> Letter filed by Timothy. Howard, Donald J. Livingston, Robert Huggins, The County of Erie, Patrick M. Gallivan. (Domagalski, James) (Entered: 08/13/2009)
08/13/2009	<u>231</u>	Letter from James P. Domagalski, Esq., dated 8/13/2009, to Hon. John T. Curtin re <u>229</u> Letter request of Elmer Robert Keach, III, Esq. for extension of time. (JEC) (Entered: 08/13/2009)
08/13/2009	<u>232</u>	TEXT ORDER: The court grants the Plaintiffs' request for an extension of time as follows: Plaintiffs' Motion for Class Certification shall be filed by 8/28/2009; Defendants' Response shall be filed by 10/12/2009; and Plaintiffs' Reply shall be filed by 10/26/2009. The court notes without comment Defendants' <u>230</u> Letter dated 8/13/2009. SO ORDERED. Signed by Hon. John T. Curtin on 8/13/2009. (JEC) (Entered: 08/13/2009)
08/27/2009	<u>233</u>	Letter from Elmer Robert Keach, III, Esq., dated 8/26/2009, to Hon. John T. Curtin re four-day extension of time to file Motion for Class Certification. (JEC) (Entered: 08/27/2009)
08/27/2009	<u>234</u>	TEXT ORDER: The Plaintiffs' <u>233</u> Letter Request for a four-day extension of time in which to file their Motion for Class Certification is granted. Therefore, the time for Plaintiffs to file such Motion is extended until 9/1/2009. Likewise, the time for Defendants to file a Response to the Motion is extended until 10/16/2009, and the time for Plaintiffs to file a Reply is extended until 10/30/2009. Signed by Hon. John T. Curtin on 8/27/2009. (JEC) (Entered: 08/27/2009)
08/27/2009		Set/Reset Deadlines: Motion due by 9/1/2009; Response due by 10/16/2009; Reply due by 10/30/2009. (JEC) (Entered: 08/27/2009)
09/01/2009	<u>235</u>	MOTION to Certify Class by Adam Pritchard, Edward Robinson. (Attachments: # <u>1</u> Affirmation of Elmer Keach in Support of Motion for Class Certification, # <u>2</u> Exhibit A--- Plaintiffs' Class Action Complaint, # <u>3</u> Exhibit B --- 2004 Sheriff's Annual Report, # <u>4</u> Exhibit C, Part 1 --- Gipson Deposition, Day One, pp. 1-90, # <u>5</u> Exhibit C, Part Two --- Gipson Deposition, Day One, pp. 91-end, # <u>6</u> Exhibit D --- Department of Justice Report, # <u>7</u> Exhibit E --- ECCF Strip Search Policy, # <u>8</u> Exhibit F, Part One, Gallivan Deposition, pp. 1-50, # <u>9</u> Exhibit F, Part Two - Gallivan Deposition, pp. 51-100, # <u>10</u> Exhibit F, Part Three --- Gallivan Deposition, pp. 101-end, # <u>11</u> Exhibit G --- ECHC Strip Search Policy, # <u>12</u>

		Exhibit H -- Contraband Control Policy, # <u>13</u> Exhibit I -- Daniel Harig Deposition, # <u>14</u> Exhibit J -- Amina Robinson Declaration, # <u>15</u> Exhibit K -- Amina Robinson Deposition, # <u>16</u> Exhibit L, Part One -- Wegryn Deposition, pp. 1-46, # <u>17</u> Exhibit L, Part Two -- Wegryn Deposition, pp. 47-end, # <u>18</u> Exhibit M -- Edward Robinson Deposition, # <u>19</u> Exhibit N -- Partial Deposition Transcript, Adam Pritchard, # <u>20</u> Exhibit O -- Declarations of Class Members, # <u>21</u> Exhibit P -- Stephen Poodry Deposition)(Keach, Elmer) (Entered: 09/01/2009)
09/01/2009	<u>236</u>	**Please note that pursuant to order filed on 6/11/2010, Exhibit Y has been removed from this entry. CONTINUATION OF EXHIBITS to <u>235</u> MOTION to Certify Class. (Attachments: # <u>1</u> Exhibit Q, Part One -- Mosco Hough, pp. 1-50, # <u>2</u> Exhibit Q, Part Two -- Mosco Hough, pp. 51-80, # <u>3</u> Exhibit Q, Part Three -- Mosco Hough, pp. 81-119, # <u>4</u> Exhibit Q, Part Four -- Mosco Hough, pp. 120 - end, # <u>5</u> Exhibit R, Part One -- Tiffany Barlow Deposition, pp. 1-50, # <u>6</u> Exhibit R, Part Two -- Tiffany Barlow, pp. 51-80, # <u>7</u> Exhibit S -- Livingston May 1, 2003 email, # <u>8</u> Exhibit T, Part One -- Livingston Deposition, pp. 1-50, # <u>9</u> Exhibit T, Part Two -- Donald Livingston Deposition, pp. 51-90, # <u>10</u> Exhibit T, Part Three -- Donald Livingston, pp. 92-150, # <u>11</u> Exhibit T, Part Four -- Donald Livingston, pp. 151-end, # <u>12</u> Exhibit U -- Gipson August 2003 Memorandum, # <u>13</u> Exhibit V -- Email between Gipson and Kowalczyk, # <u>14</u> Exhibit w -- email exchange, Gipson, Gallivan and Howard, # <u>15</u> Exhibit X -- Erie County Original Answer, # # <u>17</u> Exhibit Z -- Class Certification Decision, Delandro v. County of Allegheny, # <u>18</u> Exhibit AA -- Firm Resumes, Class Counsel, # <u>19</u> Exhibit BB -- Bench Decision, Tyson v. City of New York)(Keach, Elmer) Modified on 6/18/2010 (JMM). (Entered: 09/01/2009)
09/01/2009	<u>237</u>	MEMORANDUM IN SUPPORT re <u>235</u> MOTION to Certify Class <i>To Be Corrected to Provide Tables on September 2, 2009</i> by Adam Pritchard, Edward Robinson. (Keach, Elmer) (Entered: 09/01/2009)
09/01/2009	<u>238</u>	CERTIFICATE OF SERVICE by Adam Pritchard, Edward Robinson re <u>236</u> Continuation of Exhibits,,,, <u>237</u> Memorandum in Support, <u>235</u> MOTION to Certify Class (Keach, Elmer) (Entered: 09/02/2009)
09/03/2009	<u>239</u>	MEMORANDUM IN SUPPORT re <u>235</u> MOTION to Certify Class <i>Corrected to Include Tables</i> by Adam Pritchard, Edward Robinson. (Keach, Elmer) (Entered: 09/03/2009)
09/03/2009	<u>240</u>	CERTIFICATE OF SERVICE by Adam Pritchard, Edward Robinson re <u>239</u> Memorandum in Support (Keach, Elmer) (Entered: 09/03/2009)
09/03/2009	<u>241</u>	NOTICE by Adam Pritchard, Edward Robinson <i>of Change of Firm Name and Address</i> (Migliaccio, Nicholas) (Entered: 09/03/2009)
09/03/2009	<u>242</u>	NOTICE by Adam Pritchard, Edward Robinson re <u>241</u> Notice (Other) <i>certificate of service for Notice of Change of Firm Name and Address</i> (Migliaccio, Nicholas) (Entered: 09/03/2009)
10/16/2009	<u>243</u>	DECLARATION signed by James P. Domagalski re <u>237</u> Memorandum in Support, <u>235</u> MOTION to Certify Class filed by Timothy. Howard, Donald J. Livingston, Robert Huggins, The County of Erie, Patrick M. Gallivan <i>in opposition to motion for class certification</i> filed by Timothy. Howard, Donald J. Livingston, Robert Huggins, The County of Erie, Patrick M. Gallivan. (Attachments: # <u>1</u> Exhibit 1 to 7, # <u>2</u> Exhibit 8 to 26, # <u>3</u> Exhibit 27 to 49, # <u>4</u> Exhibit 50 to 61, # <u>5</u> Exhibit 62 to 66)(Domagalski, James) (Entered: 10/16/2009)
10/16/2009	<u>244</u>	AFFIRMATION signed by Frank T. Gaglione re <u>237</u> Memorandum in Support, <u>235</u> MOTION to Certify Class filed by Timothy. Howard, Donald J. Livingston, Robert Huggins, The County of Erie, Patrick M. Gallivan <i>in opposition to motion for class certification</i> filed by Timothy. Howard, Donald J. Livingston, Robert Huggins, The County of Erie, Patrick M. Gallivan. (Domagalski, James) (Entered: 10/16/2009)
10/16/2009	<u>245</u>	MEMORANDUM in Opposition re <u>235</u> MOTION to Certify Class filed by Timothy. Howard, Donald J. Livingston, Robert Huggins, H. McCarthy Gibson, The County of Erie, Patrick M. Gallivan. (Domagalski, James) (Entered: 10/16/2009)

10/16/2009	<u>246</u>	CERTIFICATE OF SERVICE by Timothy. Howard, Donald J. Livingston, Robert Huggins, The County of Erie, Patrick M. Gallivan re <u>245</u> Memorandum in Opposition to Motion, <u>244</u> Affirmation, <u>243</u> Declaration,, (Domagalski, James) (Entered: 10/16/2009)
10/16/2009	<u>247</u>	MOTION to Strike <u>236</u> Continuation of Exhibits,,,,, <u>237</u> Memorandum in Support, <u>235</u> MOTION to Certify Class <i>with Certificate of Service</i> by Timothy. Howard, Donald J. Livingston, Robert Huggins, The County of Erie, Patrick M. Gallivan.(Domagalski, James) (Entered: 10/16/2009)
10/16/2009	<u>248</u>	AFFIRMATION re <u>247</u> MOTION to Strike <u>236</u> Continuation of Exhibits,,,,, <u>237</u> Memorandum in Support, <u>235</u> MOTION to Certify Class <i>with Certificate of Service</i> MOTION to Strike <u>236</u> Continuation of Exhibits,,,,, <u>237</u> Memorandum in Support, <u>235</u> MOTION to Certify Class <i>with Certificate of Service</i> filed by Timothy. Howard, Donald J. Livingston, Robert Huggins, The County of Erie, Patrick M. Gallivan <i>in Support of Motion with Exhibits</i> . (Domagalski, James) (Entered: 10/16/2009)
10/16/2009	249	This item has been removed from the record pursuant to the order filed on 6/11/2010. There is no item #249 on this case. (Entered: 10/16/2009)
10/16/2009	<u>250</u>	AFFIRMATION signed by Thomas C. D'Agostino, Esq. filed by H. McCarthy Gibson <i>in opposition</i> filed by H. McCarthy Gibson. (D'Agostino, Thomas) (Entered: 10/16/2009)
10/16/2009		E-Filing Notification: Username and signature do not match (refer to Administrative Procedures Guide Section 1-3c). Action required: re-file document using same signature and password and file updated proof of service. <u>244</u> AFFIRMATION signed by Frank T. Gaglione re <u>237</u> Memorandum in Support, <u>235</u> MOTION to Certify Class filed by Timothy. Howard, Donald J. Livingston, Robert Huggins, The County of Erie, Patrick M. Gallivan <i>in opposition to motion for class certification</i> filed by Timothy. Howard, Donald J. Livingston, Robert Huggins, The County of Erie, Patrick M. Gallivan. (Domagalski, James) (DR) (Entered: 10/19/2009)
10/20/2009	<u>251</u>	NOTICE of Appearance by Jonathan Schapp on behalf of H. McCarthy Gibson (Schapp, Jonathan) (Entered: 10/20/2009)
11/03/2009	<u>252</u>	Letter from Elmer Robert Keach, III, Esq., dated 11/2/2009, to Hon. John T. Curtin requesting a five-day extension of time in which to file Reply. (JEC) (Entered: 11/03/2009)
11/03/2009	253	TAKE NOTICE THAT pursuant to <u>252</u> Letter of Elmer Robert Keach III, Esq., and there being no opposition from Defense Counsel, the time for Plaintiffs' Counsel to file a Reply is extended from 10/30/2009 until 11/6/2009. (JEC) (Entered: 11/03/2009)
11/03/2009		Set/Reset Deadlines: Replies due by 11/5/2009. (JEC) (Entered: 11/03/2009)
11/06/2009	<u>254</u>	Letter from Elmer Robert Keach, Esq., dated 11/6/2009, to Hon. John T. Curtin requesting one additional day, until 11/9/2009, in which to file reply papers on their Motion for Class Certification. (JEC) (Entered: 11/06/2009)
11/06/2009	255	TAKE NOTICE THAT pursuant to <u>254</u> Letter of Elmer Robert Keach III, Esq., the time for Plaintiffs' Counsel to file a Reply is extended from 11/06/2009 until 11/9/2009. (JEC) (Entered: 11/06/2009)
11/10/2009	<u>256</u>	MEMORANDUM in Support re <u>235</u> MOTION to Certify Class <i>Reply Memorandum in Support of Plaintiffs Motion for Class Certification</i> filed by Adam Pritchard, Edward Robinson. (Keach, Elmer) (Entered: 11/10/2009)
11/10/2009	<u>257</u>	REPLY to Response to Motion re <u>235</u> MOTION to Certify Class filed by Adam Pritchard, Edward Robinson. (Attachments: # <u>1</u> Exhibit CC, Part 1 -- 4.6.06 Gipson Transcript, pp. 1-45, # <u>2</u> Exhibit CC, part 2 -- 4.6.06 Gipson Transcript, pp. 46-81, # <u>3</u> Exhibit DD -- female detainee clothing forms, # <u>4</u> Exhibit EE, Part 1 -- Brian Patti Deposition, # <u>5</u> Exhibit EE, Part 2 -- Brian Patti Deposition, # <u>6</u> Exhibit FF -- Class Representative Booking Information)(Keach, Elmer) (Entered: 11/10/2009)

11/10/2009	<u>258</u>	CERTIFICATE OF SERVICE by Adam Pritchard, Edward Robinson re <u>256</u> Memorandum in Support of Motion, <u>257</u> Reply to Response to Motion, (Keach, Elmer) (Entered: 11/10/2009)
11/19/2009		NOTICE OF HEARING ON MOTION: ORAL ARGUMENT on the pending motions shall be heard on 12/17/2009 at 10:45 a.m.(JEC) (Entered: 11/19/2009)
11/30/2009		NOTICE of Hearing on Motion-- <u>235</u> MOTION to Certify Class: At the request of Plaintiffs' Counsel, and there being no objection from Defense Counsel, ORAL ARGUMENT scheduled in this case for 12/17/2009 is hereby rescheduled to 12/15/2009 at 10:30 a.m. (JEC) (Entered: 11/30/2009)
12/07/2009		TAKE NOTICE THAT the ORAL ARGUMENT currently scheduled for 12/15/2009 is adjourned generally. The court will notify counsel of a new schedule in the near future. (JEC) (Entered: 12/07/2009)
01/28/2010	259	TEXT ORDER transferring case to Hon. Richard J. Arcara. Signed by Hon. Richard J. Arcara on 1/28/2010. (JMB) (Entered: 01/28/2010)
01/28/2010		Hon. Richard J. Arcara added. Hon. John T. Curtin no longer assigned to case. (JMB) (Entered: 01/28/2010)
01/28/2010		Correction: Status Conference set for 2/5/2010 09:00 AM before Hon. Richard J. Arcara.. Signed by Hon. Richard J. Arcara on 1/28/2010. (JMB) Modified on 1/28/2010 (JMB). (Entered: 01/28/2010)
01/28/2010		E-Filing Notification: Correction: Status Conference set for 2/5/2010 09:00 AM before Hon. Richard J. Arcara.. Signed by Hon. Richard J. Arcara on 1/28/2010. (JMB) Modified on 1/28/2010 (JMB). (JMB) (Entered: 01/28/2010)
02/05/2010		Set/Reset Hearings: Motion Hearing set for 3/24/2010 11:00 AM before Hon. Richard J. Arcara. (DJD) (Entered: 02/05/2010)
02/05/2010		Minute Entry for proceedings held 2/5/2010 before Hon. Richard J. Arcara. The Court addresses <u>235</u> Motion to Certify the Class filed by plaintiffs. Oral Argument on the Motion is scheduled for 3/24/2010 at 11:00 AM before Hon. Richard J. Arcara. Appearances: Pltfs – Elmer Keach (by telephone), Alexandra Warren (by telephone); Defts (County Defts) – Frank Gaglione and Kristin Klein Wheaton; Deft (H. McCarthy Gibson) – Jonathan Schapp (Court Reporter Yvonne Garrison.) (DJD) (Entered: 03/09/2010)
02/19/2010	<u>260</u>	NOTICE by Adam Pritchard, Edward Robinson, Julenne Tucker of <i>Withdrawal of Appearance and Removal from ECF Notification for Attorney Bethany Schumann-McGhee</i> (Keach, Elmer) (Entered: 02/19/2010)
03/24/2010		Minute Entry for proceedings held 3/24/2010 before Hon. Richard J. Arcara. Oral Argument is held as to <u>235</u> Motion to Certify the Class filed by plaintiffs. The Court requests Pltfs to file proposal to define the class to account for detainees admitted to the Erie County Holding Center and the Erie County Correctional Facility. The proposal is due by 3/31/2010. Decision is reserved as to the Motion to Certify the Class. Appearances: Pltfs – Elmer Keach; Defts (County of Erie, Gallivan, Howard, Livingston and Higgins defendants) – Frank Gaglione, Kristin Klein Wheaton and James Domagalski; Deft (H. McCarthy Gibson) – Jonathan Schapp (Court Reporter Yvonne Garrison.) (DJD) (Entered: 04/13/2010)
04/06/2010	<u>261</u>	STATUS REPORT <i>Providing Supplement Submission on Proposed Class Definition</i> by Adam Pritchard, Edward Robinson. (Keach, Elmer) (Entered: 04/06/2010)
04/06/2010		E-Filing Notification: No proof of service. Action required: File proof of service <u>261</u> STATUS REPORT <i>Providing Supplement Submission on Proposed Class Definition</i> by Adam Pritchard, Edward Robinson. (Keach, Elmer) (DR) (Entered: 04/07/2010)
04/09/2010	<u>262</u>	CERTIFICATE OF SERVICE by Adam Pritchard, Edward Robinson re <u>261</u> Status Report (Keach, Elmer) (Entered: 04/09/2010)
04/23/2010	<u>263</u>	REPLY/RESPONSE to re <u>261</u> Status Report filed by Timothy. Howard, Donald J. Livingston, Robert Huggins, The County of Erie, Patrick M. Gallivan.

		(Attachments: # <u>1</u> Certificate of Service)(Domagalski, James) (Entered: 04/23/2010)
06/11/2010	<u>264</u>	DECISION AND ORDER granting <u>235</u> Motion to Certify Class; granting <u>247</u> Motion to Strike. Case is referred back to Magistrate Judge Hugh Scott for further proceedings. Signed by Hon. Richard J. Arcara on 6/11/2010. (JMB) (Entered: 06/11/2010)
06/24/2010	265	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT ORDER re <u>264</u> Order on Motion to Certify Class, Order on Motion to Strike</p> <p>Given the referral of this case back to the undersigned, Status Conference set for Mon., 7/19/2010, 11:00 AM, before Hon. Hugh B. Scott to discuss scheduling. So Ordered. Signed by Hon. Hugh B. Scott on 6/24/2010. (DRH) (Entered: 06/24/2010)</p>
06/28/2010		CASE REFERRED back to Magistrate Judge Hon. Hugh B. Scott pursuant to order #264. (JMM) (Entered: 06/28/2010)
07/15/2010	<u>266</u>	CLERKS CERTIFICATE filed and electronically sent to Court of Appeals. (DR) (Entered: 07/15/2010)
07/19/2010	267	<p style="text-align: center;">HONORABLE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF MINUTE ENTRY</p> <p style="text-align: center;">For proceedings held before Magistrate Judge Hugh B. Scott:</p> <p>Charles LaDuca, Esq., for plaintiffs; First Assistant County Attorney Kristin Klein Wheaton, James Domagalski, Esq., and Nicholas DiCesare, Esq., for defendants Erie County, Gallivan, Howard, Livingston, and Huggins; and Jonathan Schapp, Esq., for defendant Gipson.</p> <p>Status Conference held on 7/19/2010. Parties each identified discovery issues following class certification. Defendants noted pending motion before 2d Circuit to review class certification decision. For good cause shown (pending appellate motion, complexity of case, beginning of merits discovery), Court will issue amended Scheduling Order for 14 months of discovery. (DRH) Modified on 7/19/2010 (DRH). (Entered: 07/19/2010)</p>
07/19/2010		<p>E-Filing Notification: 267</p> <p style="text-align: center;">HONORABLE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF MINUTE ENTRY</p> <p style="text-align: center;">For proceedings held before Magistrate Judge Hugh B. Scott:</p> <p>Charles LaDuca, Esq., for plaintiffs; First Assistant County Attorney Kristin Klein Wheaton, James Domagalski, Esq., and Nicholas DiCesare, Esq., for defendants Erie County, Gallivan, Howard, Livingston, and Huggins; and Jonathan Schapp, Esq., for defendant Gipson.</p> <p>Status Conference held on 7/19/2010. Parties each identified discovery issues following class certification. Defendants noted pending motion before 2d Circuit to review class certification decision. For good cause shown (pending appellate motion, complexity of case, beginning of merits discovery), Court will issue amended Scheduling Order for 14 months of discovery. (DRH) Modified on 7/19/2010 (DRH--add appearance of Schapp). (DRH) (Entered: 07/19/2010)</p>
07/19/2010	<u>268</u>	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">AMENDED SCHEDULING/CASE MANAGEMENT ORDER</p>

		<p>(Please Note: This docket text may <u>not</u> contain the entire contents of the attached Order. It is your responsibility to read the attached Order and download it for future reference. Direct any questions to the Chambers of the Judge who entered this Order.)</p> <p>Further Pretrial Conference set for Wed., 10/13/2010, 10:00 AM, before Hon. Hugh B. Scott.</p> <p>Plaintiff Expert Witness ID due by 5/2/2011, Defendant Expert Witness ID due by 6/16/2011, Motions to Compel Discovery due by 8/19/2011, Discovery completed by 9/19/2011. Dispositive Motions due by 1/5/2012.</p> <p>Final Pretrial Conference date and trial date to be set by Judge Arcara.</p> <p>So Ordered. Signed by Hon. Hugh B. Scott on 7/19/2010. (DRH) (Entered: 07/19/2010)</p>
10/07/2010	<u>269</u>	<p>MANDATE of the USCA denying Petitioners motion to appeal the district court's order granting Respondents' motion for class certification because an immediate appeal is unwarranted. (DR) (Entered: 10/07/2010)</p>
10/12/2010	270	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT ORDER re <u>268</u> Terminate Scheduling Order Deadlines</p> <p>At the request of the parties, Pretrial Conference reset for Tues., 10/19/2010, 2:30 PM, before Hon. Hugh B. Scott.</p> <p>So Ordered. Signed by Hon. Hugh B. Scott on 10/12/2010. (DRH) (Entered: 10/12/2010)</p>
10/19/2010	271	<p style="text-align: center;">HONORABLE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF MINUTE ENTRY</p> <p style="text-align: center;">For proceedings held before Magistrate Judge Hugh B. Scott:</p> <p>Elmer Keach, III, Esq., and Nicholas Migliaccio, Esq., for plaintiffs; First Assistant County Attorney Kristin Klein Wheaton, James Domagalski, Esq., for Erie County, County defendants; Frank Gaglione, Esq., for defendant Gipson</p> <p>Status Conference held on 10/19/2010. Plaintiffs present settlement proposal, a model from another action for structure of a possible settlement. Defendants to review proposal. Discovery on going with remaining issues surrounding electronic discovery.</p> <p>Status Report (sent to Chambers only) due by Mon., 12/13/2010. The report is to indicate parties' interest in Court-sponsored mediation and relative settlement positions. (DRH) (Entered: 10/19/2010)</p>
10/29/2010	<u>272</u>	<p>NOTICE of Appearance by Thomas F. Kirkpatrick, Jr on behalf of County of Erie, Patrick M. Gallivan, Patrick M. Gallivan(both individually and in his official capacity as Sheriff of the County of Erie), Timothy. Howard(both individually and as Undersheriff of the County of Erie), Timothy. Howard, Robert Huggins, Robert Huggins(both individually and as Deputy Superintendent of the Erie County Correctional Facility), Donald J. Livingston, Donald Livingston, Donald J. Livingston(both individually and as Acting Superintendent of the Erie County Correctional Facility), The County of Erie (Kirkpatrick, Thomas) (Entered: 10/29/2010)</p>
02/11/2011	273	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT ORDER</p> <p>Status Conference set for Tues., 4/19/2011, 2:00 PM, before Hon. Hugh B. Scott.</p>

		So Ordered. Signed by Hon. Hugh B. Scott on 2/11/2011. (DRH) (Entered: 02/11/2011)
03/31/2011	274	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT ORDER re 273 Text Order, Set Hearings</p> <p>Due to the Court's calendar, Status Conference reset for Tues., 4/19/2011, 11:00 AM, before Hon. Hugh B. Scott, rather than 2:00 PM as previously ordered.</p> <p>So Ordered. Signed by Hon. Hugh B. Scott on 3/31/2011. (DRH) (Entered: 03/31/2011)</p>
04/15/2011		NOTICE OF STATUS CONFERENCE. A Status Conference is scheduled for 4/19/2011 at 09:00 AM before Hon. Richard J. Arcara. Counsel for plaintiffs may participate by telephone by calling 716-332-7810 on 4/19/2011 at 8:55 AM. (DJD) (Entered: 04/15/2011)
04/19/2011		Minute Entry for proceedings held 4/19/2011 before Hon. Richard J. Arcara. Status Conference is held. The Court stays the proceedings for one year pending the outcome of a U.S. Supreme Court case which is of a similar issue to the instant case. Further Status Conference is scheduled for 4/20/2012 at 09:00 AM. Appearances: Pltf – Elmer Keach (via telephone conference call); Deft – Frank Gaglione and James Domagalski (Court Reporter Yvonne Garrison.) (DJD) (Entered: 07/01/2011)
04/19/2011		Set/Reset Hearings: Status Conference set for 4/20/2012 09:00 AM before Hon. Richard J. Arcara. (DJD) (Entered: 07/01/2011)
02/05/2012	<u>275</u>	NOTICE of Appearance by Michelle M. Parker on behalf of The County of Erie (Parker, Michelle) (Entered: 02/05/2012)
02/05/2012	<u>276</u>	NOTICE of Appearance by Michelle M. Parker on behalf of All Defendants (Parker, Michelle) (Entered: 02/05/2012)
02/06/2012	<u>277</u>	CERTIFICATE OF SERVICE by The County of Erie re <u>276</u> Notice of Appearance for all defendants (except Gibson) (Parker, Michelle) (Entered: 02/06/2012)
02/23/2012	<u>278</u>	NOTICE by Adam Pritchard of Change of Firm Name (Migliaccio, Nicholas) (Entered: 02/23/2012)
04/12/2012	279	TEXT ORDER: the status conference scheduled for April 20, 2012 is adjourned. The parties are directed to file short memoranda advising the Court of their positions regarding the effect of Florence v. Board of Chosen Freeholders of County of Burlington, ---- S.Ct. ----, 2012 WL 1069092 (April 2, 2012)(No. 10-945), on the legal theories at issue and on the pending proceedings. The parties should confer among themselves in order to reach agreements regarding these matters to the extent possible and should submit joint or partially joint memoranda to the extent possible. The parties memoranda shall be due April 26, 2012. Further proceedings will be scheduled by the Court. Issued by Hon. Richard J. Arcara on April 21, 2012. (WJG) (Entered: 04/12/2012)
04/20/2012		Appeal Record Returned: <u>266</u> Clerks Certificate (DR) (Entered: 04/20/2012)
04/26/2012	280	TEXT ORDER: the due date for memoranda of the parties scheduled in Text Order 279 to advise the Court of the views of the parties regarding the effects of the Supreme Court's decision in Florence v. Board of Chosen Freeholders of County of Burlington, 132 S.Ct. 1510 (2012), is adjourned to May 10, 2012. Issued by Hon. Richard J. Arcara on April 26, 2012. (WJG) (Entered: 04/26/2012)
05/10/2012	<u>281</u>	Consent MOTION for Extension of Time to File <i>To File Status Report Regarding Florence Decision Until May 14, 2012</i> by Adam Pritchard, Edward Robinson.(Keach, Elmer) (Entered: 05/10/2012)
05/10/2012	<u>282</u>	CERTIFICATE OF SERVICE by Adam Pritchard, Edward Robinson re <u>281</u> Consent MOTION for Extension of Time to File <i>To File Status Report Regarding Florence Decision Until May 14, 2012</i> (Keach, Elmer) (Entered: 05/10/2012)

05/10/2012	<u>283</u>	CONTINUATION OF EXHIBITS to <u>281</u> Consent MOTION for Extension of Time to File <i>To File Status Report Regarding Florence Decision Until May 14, 2012 Reflecting that the Requested Extension Apply to the Submissions of Both Parties.</i> (Keach, Elmer) (Entered: 05/10/2012)
05/10/2012	284	TEXT ORDER: Motion for Extension of Time to File Status Report <u>281</u> to May 14, 2012 is granted. Issued by Hon. Richard J. Arcara on May 10, 2012. (WJG) (Entered: 05/10/2012)
05/14/2012	<u>285</u>	MEMORANDUM/BRIEF <i>regarding effect of Florence</i> by H. McCarthy Gibson. (D'Agostino, Thomas) (Entered: 05/14/2012)
05/14/2012	<u>286</u>	CERTIFICATE OF SERVICE by H. McCarthy Gibson re <u>285</u> Memorandum/Brief (D'Agostino, Thomas) (Entered: 05/14/2012)
05/14/2012	<u>287</u>	MEMORANDUM/BRIEF re 279 Terminate Hearings, Text Order,,,, <i>Regarding Effect of Florence Decision</i> by Patrick M. Gallivan, Timothy. Howard, Robert Huggins, Donald J. Livingston, The County of Erie. (Attachments: # <u>1</u> Certificate of Service)(Domagalski, James) (Entered: 05/14/2012)
05/14/2012	<u>288</u>	CONTINUATION OF EXHIBITS to <u>287</u> Memorandum/Brief, <i>Exhibit A to Memorandum.</i> (Domagalski, James) (Entered: 05/14/2012)
05/14/2012	<u>289</u>	NOTICE by Adam Pritchard, Edward Robinson re 279 Terminate Hearings, Text Order,,,, <i>Submission Regarding the Impact of Florence on Pending Class Action</i> (Keach, Elmer) (Entered: 05/14/2012)
05/14/2012	<u>290</u>	CERTIFICATE OF SERVICE by Adam Pritchard, Edward Robinson re <u>289</u> Notice (Other) (Keach, Elmer) (Entered: 05/14/2012)
05/14/2012		E-Filing Notification: Username and signature do not match (refer to Administrative Procedures Guide Section 1-3c). Action required: re-file document using same signature and password and file updated proof of service. <u>285</u> MEMORANDUM/BRIEF <i>regarding effect of Florence</i> by H. McCarthy Gibson. (D'Agostino, Thomas) (DZ) (Entered: 05/15/2012)
05/14/2012		E-Filing Notification: <u>288</u> CONTINUATION OF EXHIBITS to <u>287</u> Memorandum/Brief, (Domagalski, James) **proof of service required** (DZ) (Entered: 05/15/2012)
05/15/2012	<u>291</u>	MEMORANDUM/BRIEF re <u>285</u> Memorandum/Brief <i>correcting</i> by H. McCarthy Gibson. (Attachments: # <u>1</u> Certificate of Service Certificate of Service)(Schapp, Jonathan) (Entered: 05/15/2012)
05/15/2012	292	TEXT ORDER: In light of the parties' helpful May 14, 2012 filings regarding the effect of Florence v. Board of Chosen Freeholders of County of Burlington, the parties are directed to confer and each submit a brief statement of the motions they conclude should be filed by May 23, 2012. Issued by Hon. Richard J. Arcara on May 15, 2012. (MLM) (Entered: 05/15/2012)
05/23/2012	<u>293</u>	MEMORANDUM/BRIEF re 292 Text Order, <i>with Certificate of Service</i> by Patrick M. Gallivan, H. McCarthy Gibson, Timothy. Howard, Robert Huggins, Donald J. Livingston, The County of Erie. (Domagalski, James) (Entered: 05/23/2012)
05/23/2012	<u>294</u>	NOTICE by Adam Pritchard, Edward Robinson re 292 Text Order, <i>Submission on Proposed Motions</i> (Attachments: # <u>1</u> Exhibit A -- Letter from Defendants, # <u>2</u> Exhibit B -- Email Exchange Between Counsel)(Keach, Elmer) (Entered: 05/23/2012)
05/23/2012	<u>295</u>	CERTIFICATE OF SERVICE by Adam Pritchard, Edward Robinson re <u>294</u> Notice (Other) (Keach, Elmer) (Entered: 05/23/2012)