

**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:19-cv-12550-LTS**

Sclafani et al v. Mici et al
Assigned to: District Judge Leo T. Sorokin
Cause: 42:1218(2) Americans with Disabilities Act

Date Filed: 12/19/2019
Date Terminated: 03/04/2020
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Joseph Sclafani

represented by **Alexandra D. Valenti**
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Plaintiff

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Plaintiff

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V.

Defendant

Carol A. Mici
*in her official capacity as Commissioner
of the Massachusetts Department of
Correction*

represented by **Philip W. Silva , IV**
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Defendant

Douglas DeMoura
*in his official capacity as Superintendent
of MCI-Cedar Junction
TERMINATED: 02/28/2020*

represented by **Philip W. Silva , IV**
(See above for address)
LEAD ATTORNEY
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Defendant

Steve Silva
*in his official capacity as Superintendent
of MCI-Norfolk
TERMINATED: 02/28/2020*

represented by **Philip W. Silva , IV**
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Date Filed	#	Docket Text
12/19/2019	<u>1</u>	COMPLAINT <i>and Request for Emergency Injunctive Relief</i> against Steve Silva, Carol A. Mici, Douglas DeMoura Filing fee: \$ 400, receipt number 0101-8023213 (Fee Status: Filing Fee paid), filed by Bret Cappola, Michael Feinstein, Joseph Scalfani. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Category Sheet)(Frederickson, Robert) (Entered: 12/19/2019)
12/19/2019	<u>2</u>	NOTICE of Appearance by Robert Frederickson, III on behalf of Bret Cappola, Michael Feinstein, Joseph Scalfani (Frederickson, Robert) (Entered: 12/19/2019)
12/19/2019	<u>3</u>	NOTICE of Appearance by Marielle E. Sanchez on behalf of Bret Cappola, Michael Feinstein, Joseph Scalfani (Sanchez, Marielle) (Entered: 12/19/2019)
12/19/2019	<u>4</u>	MOTION for Leave to Appear Pro Hac Vice for admission of Ira J. Levy Filing fee: \$ 100, receipt number 0101-8023220 by Bret Cappola, Michael Feinstein, Joseph Scalfani. (Attachments: # <u>1</u> Exhibit A- Certificate of Ira J. Levy)(Frederickson, Robert) (Entered: 12/19/2019)
12/19/2019	<u>5</u>	MOTION for Leave to Appear Pro Hac Vice for admission of Alexandra D. Valenti Filing fee: \$ 100, receipt number 0101-8023221 by Bret Cappola, Michael Feinstein, Joseph Scalfani. (Attachments: # <u>1</u> Exhibit A - Certificate of Alexandra D. Valenti)(Frederickson, Robert) (Entered: 12/19/2019)
12/19/2019	<u>6</u>	MOTION for Leave to Appear Pro Hac Vice for admission of Aviv A. Zalcenstein Filing fee: \$ 100, receipt number 0101-8023224 by Bret Cappola, Michael Feinstein, Joseph Scalfani. (Attachments: # <u>1</u> Exhibit A - Certificate of Aviv A. Zalcenstein)(Frederickson, Robert) (Entered: 12/19/2019)

12/19/2019	<u>7</u>	MOTION for Leave to Appear Pro Hac Vice for admission of Christine Armellino Filing fee: \$ 100, receipt number 0101-8023227 by Bret Cappola, Michael Feinstein, Joseph Scalfani. (Attachments: # <u>1</u> Exhibit A – Certificate of Christine Armellino)(Frederickson, Robert) (Entered: 12/19/2019)
12/19/2019	<u>8</u>	MOTION for Leave to Appear Pro Hac Vice for admission of Laura A. McCready Filing fee: \$ 100, receipt number 0101-8023231 by Bret Cappola, Michael Feinstein, Joseph Scalfani. (Attachments: # <u>1</u> Exhibit A– Certificate of Laura K. McCready)(Frederickson, Robert) (Entered: 12/19/2019)
12/19/2019	<u>9</u>	MOTION for Preliminary Injunction , MOTION for Temporary Restraining Order (Responses due by 1/2/2020) by Bret Cappola, Michael Feinstein, Joseph Scalfani. (Attachments: # <u>1</u> Text of Proposed Order)(Frederickson, Robert) (Entered: 12/19/2019)
12/19/2019	<u>10</u>	MEMORANDUM in Support re <u>9</u> MOTION for Preliminary Injunction MOTION for Temporary Restraining Order filed by Bret Cappola, Michael Feinstein, Joseph Scalfani. (Frederickson, Robert) (Entered: 12/19/2019)
12/19/2019	<u>11</u>	MOTION to Seal <i>Exhibits 7-9 to the Declaration of Robert Frederickson III</i> by Bret Cappola, Michael Feinstein, Joseph Scalfani.(Frederickson, Robert) (Entered: 12/19/2019)
12/19/2019	<u>12</u>	DECLARATION of Robert Frederickson, III in Support of <u>9</u> MOTION for Preliminary Injunction MOTION for Temporary Restraining Order by Bret Cappola, Michael Feinstein, Joseph Scalfani. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7 – Filed Under Seal, # <u>8</u> Exhibit 8 – Filed Under Seal, # <u>9</u> Exhibit 9 – Filed Under Seal, # <u>10</u> Exhibit 10, # <u>11</u> Exhibit 11, # <u>12</u> Exhibit 12)(Frederickson, Robert) Modified on 12/20/2019 (Montes, Mariliz). (Additional attach attachment(s) added on 12/20/2019: # <u>13</u> Exhibit 7 filed under seal , # <u>14</u> Exhibit 8 filed under seal , # <u>15</u> Exhibit 9 filed under seal) (Montes, Mariliz). (Entered: 12/19/2019)
12/19/2019	<u>13</u>	DECLARATION re <u>9</u> MOTION for Preliminary Injunction MOTION for Temporary Restraining Order of <i>Joseph Scalfani</i> by Bret Cappola, Michael Feinstein, Joseph Scalfani. (Frederickson, Robert) (Entered: 12/19/2019)
12/19/2019	<u>14</u>	DECLARATION re <u>9</u> MOTION for Preliminary Injunction MOTION for Temporary Restraining Order of <i>Melissa Scalfani</i> by Bret Cappola, Michael Feinstein, Joseph Scalfani. (Frederickson, Robert) (Entered: 12/19/2019)
12/19/2019	<u>15</u>	DECLARATION re <u>9</u> MOTION for Preliminary Injunction MOTION for Temporary Restraining Order of <i>Yvonne Smikle</i> by Bret Cappola, Michael Feinstein, Joseph Scalfani. (Attachments: # <u>1</u> Exhibit 1)(Frederickson, Robert) (Entered: 12/19/2019)
12/19/2019	<u>16</u>	DECLARATION re <u>9</u> MOTION for Preliminary Injunction MOTION for Temporary Restraining Order of <i>Michael Feinstein</i> by Bret Cappola, Michael Feinstein, Joseph Scalfani. (Frederickson, Robert) (Entered: 12/19/2019)
12/19/2019	<u>17</u>	DECLARATION re <u>9</u> MOTION for Preliminary Injunction MOTION for Temporary Restraining Order of <i>Peter Feinstein</i> by Bret Cappola, Michael Feinstein, Joseph Scalfani. (Frederickson, Robert) (Entered: 12/19/2019)
12/19/2019	<u>18</u>	DECLARATION re <u>9</u> MOTION for Preliminary Injunction MOTION for Temporary Restraining Order of <i>Theresa Maria Damien</i> by Bret Cappola, Michael Feinstein, Joseph Scalfani. (Frederickson, Robert) (Entered: 12/19/2019)
12/19/2019	<u>19</u>	DECLARATION re <u>9</u> MOTION for Preliminary Injunction MOTION for Temporary Restraining Order of <i>Bret A. Cappola</i> by Bret Cappola, Michael Feinstein, Joseph Scalfani. (Frederickson, Robert) (Entered: 12/19/2019)
12/19/2019	<u>20</u>	DECLARATION re <u>9</u> MOTION for Preliminary Injunction MOTION for Temporary Restraining Order of <i>Deborah Cappola</i> by Bret Cappola, Michael Feinstein, Joseph Scalfani. (Frederickson, Robert) (Entered: 12/19/2019)
12/19/2019	<u>21</u>	DECLARATION re <u>9</u> MOTION for Preliminary Injunction MOTION for Temporary Restraining Order of <i>Ruth A. Potee</i> by Bret Cappola, Michael Feinstein, Joseph Scalfani. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6-1, # <u>7</u> Exhibit 6-2, # <u>8</u> Exhibit 7, # <u>9</u> Exhibit 8, # <u>10</u> Exhibit

		9, # <u>11</u> Exhibit 10, # <u>12</u> Exhibit 11, # <u>13</u> Exhibit 12, # <u>14</u> Exhibit 13, # <u>15</u> Exhibit 14, # <u>16</u> Exhibit 15)(Frederickson, Robert) (Entered: 12/19/2019)
12/19/2019	<u>22</u>	DECLARATION re <u>9</u> MOTION for Preliminary Injunction MOTION for Temporary Restraining Order of <i>Alexander Yale Walley</i> by Bret Cappola, Michael Feinstein, Joseph Scalfani. (Attachments: # <u>1</u> Exhibit 1)(Frederickson, Robert) (Entered: 12/19/2019)
12/19/2019	<u>23</u>	DECLARATION re <u>9</u> MOTION for Preliminary Injunction MOTION for Temporary Restraining Order of <i>Andrew J. Consoli</i> by Bret Cappola, Michael Feinstein, Joseph Scalfani. (Frederickson, Robert) (Entered: 12/19/2019)
12/19/2019	<u>24</u>	DECLARATION re <u>9</u> MOTION for Preliminary Injunction MOTION for Temporary Restraining Order of <i>Jonathan Howlett</i> by Bret Cappola, Michael Feinstein, Joseph Scalfani. (Attachments: # <u>1</u> Exhibit 1)(Frederickson, Robert) (Entered: 12/19/2019)
12/19/2019	<u>25</u>	DECLARATION re <u>9</u> MOTION for Preliminary Injunction MOTION for Temporary Restraining Order of <i>Peter Wallace</i> by Bret Cappola, Michael Feinstein, Joseph Scalfani. (Frederickson, Robert) (Entered: 12/19/2019)
12/19/2019	<u>26</u>	NOTICE of Appearance by Matthew Segal on behalf of Bret Cappola, Michael Feinstein, Joseph Scalfani (Segal, Matthew) (Entered: 12/19/2019)
12/19/2019	<u>27</u>	NOTICE of Appearance by Jessie J. Rossman on behalf of Bret Cappola, Michael Feinstein, Joseph Scalfani (Rossman, Jessie) (Entered: 12/19/2019)
12/20/2019	28	ELECTRONIC NOTICE of Case Assignment. District Judge Leo T. Sorokin assigned to case. If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Marianne B. Bowler. (Danieli, Chris) (Entered: 12/20/2019)
12/20/2019	<u>29</u>	Summons Issued as to All Defendants. Counsel receiving this notice electronically should download this summons, complete one for each defendant and serve it in accordance with Fed.R.Civ.P. 4 and LR 4.1. Summons will be mailed to plaintiff(s) not receiving notice electronically for completion of service. (Warnock, Douglas) (Main Document 29 replaced on 12/20/2019) (Montes, Mariliz). Modified on 12/20/2019 to correct spelling of plaintiff's last name(Montes, Mariliz). (Entered: 12/20/2019)
12/20/2019	30	District Judge Leo T. Sorokin: ELECTRONIC ORDER entered granting <u>4</u> Motion for Leave to Appear Pro Hac Vice Added Ira J. Levy. Attorneys admitted Pro Hac Vice must register for electronic filing if the attorney does not already have an ECF account in this district. To register go to the Court website at www.mad.uscourts.gov. Select Case Information, then Electronic Filing (CM/ECF) and go to the CM/ECF Registration Form. (Montes, Mariliz) (Entered: 12/20/2019)
12/20/2019	31	District Judge Leo T. Sorokin: ELECTRONIC ORDER entered granting <u>5</u> Motion for Leave to Appear Pro Hac Vice Added Alexandra D. Valenti. Attorneys admitted Pro Hac Vice must register for electronic filing if the attorney does not already have an ECF account in this district. To register go to the Court website at www.mad.uscourts.gov. Select Case Information, then Electronic Filing (CM/ECF) and go to the CM/ECF Registration Form. (Montes, Mariliz) (Entered: 12/20/2019)
12/20/2019	32	District Judge Leo T. Sorokin: ELECTRONIC ORDER entered granting <u>6</u> Motion for Leave to Appear Pro Hac Vice Added Aviv A. Zalcenstein. Attorneys admitted Pro Hac Vice must register for electronic filing if the attorney does not already have an ECF account in this district. To register go to the Court website at www.mad.uscourts.gov. Select Case Information, then Electronic Filing (CM/ECF) and go to the CM/ECF Registration Form. (Montes, Mariliz) (Entered: 12/20/2019)
12/20/2019	33	District Judge Leo T. Sorokin: ELECTRONIC ORDER entered granting <u>8</u> Motion for Leave to Appear Pro Hac Vice Added Laura K. McCready. Attorneys admitted Pro Hac Vice must register for electronic filing if the attorney does not already have an ECF account in this district. To register go to the Court website at www.mad.uscourts.gov. Select Case Information, then Electronic Filing

		(CM/ECF) and go to the CM/ECF Registration Form. (Montes, Mariliz) (Entered: 12/20/2019)
12/20/2019	34	District Judge Leo T. Sorokin: ELECTRONIC ORDER entered granting <u>7</u> Motion for Leave to Appear Pro Hac Vice Added Christine Armellino. Attorneys admitted Pro Hac Vice must register for electronic filing if the attorney does not already have an ECF account in this district. To register go to the Court website at www.mad.uscourts.gov. Select Case Information, then Electronic Filing (CM/ECF) and go to the CM/ECF Registration Form. (Montes, Mariliz) (Entered: 12/20/2019)
12/20/2019	35	Judge Indira Talwani: ELECTRONIC ORDER: ALLOWING <u>11</u> Motion to Seal Exhibits 7–9 to the Declaration of Robert Frederickson III. (Kelly, Danielle) (Entered: 12/20/2019)
12/20/2019	36	ELECTRONIC ORDER: Setting hearing on <u>Motion for a Temporary Restraining Order <u>9</u></u> on December 23, 2019, at 2:00 p.m., in courtroom 9 before Judge Indira Talwani. Plaintiffs' counsel shall promptly serve by e-mail a copy of this electronic order, the <u>Complaint</u> , the <u>Motion</u> , and all filings made in support of the <u>Motion</u> on counsel for the Defendants, and shall file a certificate of such service. (Kelly, Danielle) (Entered: 12/20/2019)
12/20/2019	37	ELECTRONIC NOTICE issued requesting courtesy copy for <u>18</u> Declaration, <u>17</u> Declaration, <u>12</u> Declaration, <u>19</u> Declaration, <u>21</u> Declaration,, <u>10</u> Memorandum in Support of Motion, <u>14</u> Declaration, <u>20</u> Declaration, <u>23</u> Declaration, <u>16</u> Declaration, <u>25</u> Declaration, <u>13</u> Declaration, <u>22</u> Declaration, <u>24</u> Declaration, <u>9</u> MOTION for Preliminary Injunction MOTION for Temporary Restraining Order , <u>15</u> Declaration., Counsel who filed these documents are requested to submit a courtesy copy of this document (or documents) to the Clerk's Office by Today December 20, 2019 by end of business day. These documents must be clearly marked as a Courtesy Copy, contain appropriate (number/letter) tabs, reflect the document number assigned by CM/ECF, and be placed in a 3–ring binder. (Kelly, Danielle) (Entered: 12/20/2019)
12/20/2019	<u>38</u>	NOTICE by Bret Cappola, Michael Feinstein, Joseph Sclafani re <u>18</u> Declaration, <u>17</u> Declaration, <u>1</u> Complaint, <u>21</u> Declaration,, <u>14</u> Declaration, <u>16</u> Declaration, <u>13</u> Declaration, <u>22</u> Declaration, <u>24</u> Declaration, <u>12</u> Declaration,, <u>19</u> Declaration, <u>10</u> Memorandum in Support of Motion, <u>20</u> Declaration, <u>23</u> Declaration, <u>25</u> Declaration, <u>9</u> MOTION for Preliminary Injunction MOTION for Temporary Restraining Order , <u>15</u> Declaration, <u>37</u> Notice requesting courtesy copy,, (<i>Proof of Service</i>) (Valenti, Alexandra) (Entered: 12/20/2019)
12/23/2019	<u>39</u>	DECLARATION re <u>9</u> MOTION for Preliminary Injunction MOTION for Temporary Restraining Order (<i>Supplemental Declaration of Joseph Sclafani</i>) by Bret Cappola, Michael Feinstein, Joseph Sclafani. (Valenti, Alexandra) (Entered: 12/23/2019)
12/23/2019	<u>40</u>	MEMORANDUM in Opposition re <u>9</u> MOTION for Preliminary Injunction MOTION for Temporary Restraining Order filed by Douglas DeMoura, Carol A. Mici, Steve Silva. (Attachments: # <u>1</u> Exhibit Exhibit A in Support, # <u>2</u> Affidavit Affidavit of Hockert–Lotz, # <u>3</u> Affidavit Affidavit of Descoteaux)(Silva, Philip) (Entered: 12/23/2019)
12/23/2019	41	Electronic Clerk's Notes for proceedings held before Judge Indira Talwani: Motion Hearing held on 12/23/2019 re <u>9</u> MOTION for Temporary Restraining Order filed by Michael Feinstein, Bret Cappola, Joseph Sclafani. Case called. Court heard argument on the TRO from counsel. Def. allowed to file further opposition; due 1/9/20. Hearing on the PI to be set for 1/16/20 at 2:30PM before Judge Sorokin. Order to follow. (Court Reporter: Cheryl Dahlstrom at cheryldahlstrom@yahoo.com.)(Attorneys present: Valenti Levy, Rossman, Segal, Silver (to enter an appearance)) (MacDonald, Gail) (Entered: 12/23/2019)
12/23/2019	42	ELECTRONIC NOTICE Setting Hearing on Motion <u>9</u> MOTION for Preliminary Injunction : Motion Hearing set for 1/16/2020 02:30 PM in Courtroom 13 before District Judge Leo T. Sorokin. (MacDonald, Gail) (Entered: 12/23/2019)

12/23/2019	43	Judge Indira Talwani: ELECTRONIC ORDER entered on Plaintiffs motion for a Preliminary Injunction and Temporary Restraining Order <u>12</u> . At the TRO hearing, Defendants counsel represented that until this matter may be heard before Judge Sorokin on the preliminary injunction motion, 1) Defendants will not transfer Plaintiffs Feinstein or Cappola to a facility without medication–assisted treatment; 2) Plaintiffs Feinstein and Cappola will have the option to remain on their current medication–assisted treatment unless medically contraindicated; 3) Plaintiff Sclafani will have the option to restart medication–assisted treatment either at MCI–Norfolk or another correctional facility with the ability to provide this treatment (with induction protocol beginning no later than 12/24) unless treatment is medically contraindicated; and 4) in the case of a medical contraindication or other change in circumstance, Defendants counsel will provide immediate notice and an explanation to Plaintiffs counsel. In light of these representations, Plaintiffs request for Temporary Restraining Order is DENIED WITHOUT PREJUDICE TO RENEW.(Talwani, Indira) (Entered: 12/23/2019)
12/30/2019	<u>44</u>	Transcript of Hearing on Motion for Temporary Restraining Order held on December 23, 2019, before Judge Indira Talwani. The Transcript may be purchased through the Court Reporter, viewed at the public terminal, or viewed through PACER after it is released. Court Reporter Name and Contact Information: Cheryl Dahlstrom at cheryldahlstrom@yahoo.com Redaction Request due 1/21/2020. Redacted Transcript Deadline set for 1/30/2020. Release of Transcript Restriction set for 3/30/2020. (Sclafani, Deborah) (Entered: 12/30/2019)
12/30/2019	45	NOTICE is hereby given that an official transcript of a proceeding has been filed by the court reporter in the above–captioned matter. Counsel are referred to the Court's Transcript Redaction Policy, available on the court website at http://www.mad.uscourts.gov/attorneys/general-info.htm (Sclafani, Deborah) (Entered: 12/30/2019)
01/06/2020	46	District Judge Leo T. Sorokin: ELECTRONIC ORDER entered. Unless the parties propose otherwise, any supplemental filing from the Plaintiffs shall be filed by Thursday, January 9, 2020 and any further responsive supplemental filing from the defendants shall be filed by Monday, January 13, 2020 . If either party seeks an evidentiary hearing on January 16th, the party shall notify the Court, after conferral, by Tuesday, January 14th of the nature of the evidence it seeks to adduce (including the identities of any witnesses). Set Deadlines as to plaintiffs' supplemental due by 1/9/2020, defendants' supplemental due by 1/13/2020.(Montes, Mariliz) (Entered: 01/06/2020)
01/10/2020	<u>47</u>	STIPULATION <i>and Joint Request to Stay Preliminary Injunction Proceedings</i> by Bret Cappola, Michael Feinstein, Joseph Sclafani. (Valenti, Alexandra) (Entered: 01/10/2020)
01/10/2020	48	District Judge Leo T. Sorokin: ELECTRONIC ORDER entered. In light of the stipulation and joint request to stay (#47), the Court hereby VACATES the schedule for briefing on the motion for injunctive relief, CANCELS the hearing on the motion for injunctive relief and directs the parties to file, as proposed, a joint status report by February 14, 2020 . (Montes, Mariliz) (Entered: 01/10/2020)
01/10/2020	49	ELECTRONIC NOTICE Canceling Hearing. The Motion Hearing on Motion for Preliminary Injunction currently scheduled for 1/16/2020 is CANCELLED. (Montes, Mariliz) (Entered: 01/10/2020)
01/10/2020	50	Set Deadlines: Joint Status Report due by 2/14/2020. (Montes, Mariliz) (Entered: 01/10/2020)
02/14/2020	<u>51</u>	STATUS REPORT <i>filed jointly by all parties</i> by Bret Cappola, Michael Feinstein, Joseph Sclafani. (Valenti, Alexandra) (Entered: 02/14/2020)
02/18/2020	52	District Judge Leo T. Sorokin: ELECTRONIC ORDER entered. Allowed. Status Report due by 2/21/2020.

		re <u>51</u> Status Report filed by Michael Feinstein, Bret Cappola, Joseph Sclafani (Simeone, Maria) (Entered: 02/18/2020)
02/21/2020	<u>53</u>	STATUS REPORT <i>filed jointly by all parties</i> by Bret Cappola, Michael Feinstein, Joseph Sclafani. (Valenti, Alexandra) (Entered: 02/21/2020)
02/24/2020	54	District Judge Leo T. Sorokin: ELECTRONIC ORDER entered. Allowed. (Status Report due by 2/28/2020) re <u>53</u> Status Report filed by Michael Feinstein, Bret Cappola, Joseph Sclafani,(Simeone, Maria) (Entered: 02/24/2020)
02/28/2020	<u>55</u>	Joint MOTION to Dismiss <i>and Notice of Settlement</i> by Bret Cappola, Michael Feinstein, Joseph Sclafani.(Valenti, Alexandra) (Entered: 02/28/2020)
02/28/2020	56	District Judge Leo T. Sorokin: ELECTRONIC ORDER entered granting <u>55</u> Motion to Dismiss Douglas DeMoura, in his official capacity as Superintendent of MCI–Cedar Junction; and Steve Silva, in his official capacity as Superintendent of MCI–Norfolk (Simeone, Maria) (Entered: 02/28/2020)
03/04/2020	<u>57</u>	District Judge Leo T. Sorokin: 90 DAY SETTLEMENT ORDER OF DISMISSAL and closing order entered. (Simeone, Maria) (Entered: 03/04/2020)