

CLOSED

**U.S. District Court**  
**Northern District of New York – Main Office (Syracuse) [LIVE – Version 6.1]**  
**(Prisoner)**  
**CIVIL DOCKET FOR CASE #: 9:05–cv–01038–DNH–DEP**

Hilton v. Wright et al  
Assigned to: Judge David N. Hurd  
Referred to: Magistrate Judge David E. Peebles  
Case in other court: 2nd Circuit, 10–00135–pr  
2nd Circuit, 10–02245  
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 08/17/2005  
Date Terminated: 08/28/2013  
Jury Demand: Both  
Nature of Suit: 550 Prisoner: Civil Rights  
Jurisdiction: Federal Question

**Plaintiff**

**Robert Hilton**  
*on behalf of himself and all others  
similarly situated*

represented by **Elizabeth L. Koob**  
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**TERMINATED: 08/31/2007**

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**TERMINATED: 06/22/2006**

**Plaintiff**

**Louis Vasquez**

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**Alexander A. Reinert**  
(See above for address)  
*TERMINATED: 08/31/2007*

V.

**Defendant**

**Lester N. Wright**  
*M.D., M.P.H., Associate  
Commissioner/Chief Medical Officer, for  
the New York State Department of  
Correctional Services*

represented by **Belinda A. Wagner**  
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*TERMINATED: 12/03/2008*

**Defendant**

**New York State Department of  
Correctional Services**

represented by **Belinda A. Wagner**  
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*ATTORNEY TO BE NOTICED*

**James Seaman**  
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**Karen Marcoux Mankes**  
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**Nelson Sheingold**  
(See above for address)  
*TERMINATED: 06/21/2007*

**Risa L. Viglucci**  
(See above for address)  
*TERMINATED: 12/03/2008*

Date Filed	#	Docket Text
08/17/2005	<u>1</u>	COMPLAINT against Lester N. Wright, New York State Department of Correctional Services ( Filing fee \$ 250 receipt number ALB001185) filed by Robert Hilton.(wbl, ) (Entered: 08/17/2005)
08/17/2005		Summons Issued as to Lester N. Wright, New York State Department of Correctional Services. (wbl, ) (Entered: 08/17/2005)
08/17/2005	<u>2</u>	G.O. 25 FILING ORDER ISSUED Initial Conference set for 1/4/2006 10:00 AM in Syracuse before Magistrate Judge Gustave J. DiBianco. Civil Case Management Plan due by 12/27/2005. (wbl, ) (Entered: 08/17/2005)
08/17/2005	<u>3</u>	Emergency MOTION for Preliminary Injunction <i>by Order to Show Cause</i> , Emergency MOTION for Temporary Restraining Order <i>by Order to Show Cause</i> by Robert Hilton. (Attachments: # <u>1</u> Affirmation of Alexander A. Reinert, Esq.# <u>2</u> Exhibit(s) A to U to Affirmation of Alexander A. Reinert, Esq.# <u>3</u> Declaration Certificate of Service)(Donoghue, Keith) (Entered: 08/17/2005)
08/17/2005	<u>4</u>	MEMORANDUM OF LAW in Support of <u>3</u> Emergency MOTION for Temporary Restraining Order by Robert Hilton. (Attachments: # <u>1</u> Declaration Certificate of Service)(Donoghue, Keith) Modified on 8/18/2005 (rjb, ). (Entered: 08/17/2005)
08/18/2005		CLERK'S CORRECTION OF DOCKET ENTRY. Edited docket text for entry number 4 to reflect that it is a memorandum of law in support of the <u>3</u> motion for TRO, not another motion as filed. Also, terminated the motion associated with docket number 4. (rjb, ) (Entered: 08/18/2005)
08/18/2005	<u>5</u>	Amended G.O. 25 FILING ORDER ISSUED Initial Conference set for 12/15/2005 10:00 AM in Syracuse before Magistrate Judge David E. Peebles. Civil Case Management Plan due by 12/5/2005. (wbl, ) (Entered: 08/18/2005)
08/18/2005	<u>6</u>	ORDER TO SHOW CAUSE: that this Order to Show Cause &the supporting papers shall be served upon the defts or on their attys on or before 5:00 p.m. on 8/19/2005; defts shall file &serve answering papers, if any, on or before 5:00 p.m. on 8/23/2005; the pltf shall file &serve reply papers, if any, on or before 11:00 a.m. on 8/25/2005; ORAL Argument shall be heard at 1:00 p.m. on 8/26/2005 in Utica.Signed by Judge David N. Hurd on 8/18/2005. (see) (Entered: 08/18/2005)
08/22/2005	<u>7</u>	AFFIDAVIT of Service for Summons and Complaint served on Defendants DOCS and Wright on August 22, 2005, filed by Robert Hilton. (Attachments: # <u>1</u> Affidavit Affidavit of Service)(Reinert, Alexander) (Entered: 08/22/2005)
08/23/2005	<u>8</u>	STIPULATION re <u>6</u> Order Setting Hearing on Motion,, <u>3</u> Emergency MOTION for Preliminary Injunction <i>by Order to Show Cause</i> Emergency MOTION for

		Temporary Restraining Order by <i>Order to Show Cause</i> Emergency MOTION for Temporary Restraining Order by <i>Order to Show Cause</i> by Robert Hilton submitted to Judge David N. Hurd. (Attachments: # <u>1</u> Exhibit(s) Letter to Judge Hurd)(Reinert, Alexander) (Entered: 08/23/2005)
08/23/2005	<u>9</u>	STIPULATION & ORDER: that deft Lester N. Wright, M.D., M.P.H., shall transmit to Robert Hilton's primary care provider at Washington Correctional Facility written authorization to initiate a course of combination antiviral therapy featuring pegylated interferon & ribavirin; that written confirmation of the status of pltf's treatment w/combination antiviral therapy shall be served upon pltf's counsel by 9/9/2005. Signed by Judge David N. Hurd on 8/23/2005. (see) (Entered: 08/23/2005)
08/25/2005	<u>10</u>	Endorsement ORDER granting pltf's <u>8</u> letter requesting permission to be excused from the Local Rules for filing non-dispositive motions (for class certification) filed by Robert Hilton. Signed by Judge David N. Hurd on 8/25/2005. (see) (Entered: 08/25/2005)
09/02/2005	<u>11</u>	AMENDED COMPLAINT <i>filed as of right</i> against Lester N. Wright, New York State Department of Correctional Services filed by Louis Vasquez, Robert Hilton.(Reinert, Alexander) (Entered: 09/02/2005)
09/02/2005	<u>12</u>	CERTIFICATE OF SERVICE by Robert Hilton, Louis Vasquez re <u>11</u> Amended Complaint (Reinert, Alexander) (Entered: 09/02/2005)
09/02/2005	<u>13</u>	MOTION to Certify Class <i>with supporting Affirmation and exhibits</i> Motion Hearing set for 10/14/2005 02:00 PM in Utica before Judge David N. Hurd. Response to Motion due by 9/27/2005 Reply to Response to Motion due by 10/3/2005. by Robert Hilton, Louis Vasquez. (Attachments: # <u>1</u> Certificate of Service# <u>2</u> Memorandum of Law # <u>3</u> Certificate of Service)(Reinert, Alexander) (Entered: 09/02/2005)
09/16/2005	<u>14</u>	Letter from Nelson R. Sheingold for Lester N. Wright, New York State Department of Correctional Services requesting an extension of defendants' time to respond to the Amended Complaint until October 21, 2005 submitted to Judge Peebles. (Sheingold, Nelson) (Entered: 09/16/2005)
09/16/2005	<u>15</u>	ORDER extending time to respond to the amended complaint. Answer due date updated for Lester N. Wright answer due 10/21/2005; New York State Department of Correctional Services answer due 10/21/2005. Signed by RB per direction of Judge David E. Peebles on 9/16/05. (rjb, ) (Entered: 09/16/2005)
09/20/2005	<u>16</u>	Letter from Nelson R. Sheingold for Lester N. Wright, New York State Department of Correctional Services requesting an adjournment of the return date of plaintiffs' motion for class certification until November 10, 2005 submitted to Judge Hurd. (Sheingold, Nelson) (Entered: 09/20/2005)
09/22/2005		Set/Reset Deadlines as to <u>13</u> MOTION to Certify Class <i>with supporting Affirmation and exhibits</i> . Response to Motion due by 10/21/2005 Reply to Response to Motion due by 10/28/2005. Motion Hearing reset for 11/10/2005 10:00 AM in Utica before Judge David N. Hurd. Per request of counsel and verbal order of Judge David N. Hurd. Please adjust your calendars accordingly. (cmr, ) (Entered: 09/22/2005)
10/21/2005	<u>17</u>	Cross MOTION to Dismiss for Lack of Subject Matter Jurisdiction <i>and opposition to plaintiffs' motion for class certification</i> Motion Hearing set for 11/10/2005 10:00 AM in Utica before Judge David N. Hurd. Response to Motion due by 10/24/2005 Reply to Response to Motion due by 10/31/2005. by Lester N. Wright, New York State Department of Correctional Services. (Attachments: # <u>1</u> Memorandum of Law in support of cross motion to dismiss and in opposition to plaintiffs' motion for class certification# <u>2</u> Declaration of Lester Wright# <u>3</u> Exhibit(s) A to Wright Dec-2004 Repealed Guideline# <u>4</u> Exhibit(s) B to Wright Dec-Revised Guideline# <u>5</u> Exhibit(s) C to Wright Dec-E Mail to Providers# <u>6</u> Exhibit(s) Allstate Unpublished Decision)(Sheingold, Nelson) (Entered: 10/21/2005)
10/21/2005	<u>18</u>	CERTIFICATE OF SERVICE by Lester N. Wright, New York State Department of Correctional Services re <u>17</u> Cross MOTION to Dismiss for Lack of Subject

		Matter Jurisdiction <i>and opposition to plaintiffs' motion for class certification</i> (Sheingold, Nelson) (Entered: 10/21/2005)
10/28/2005	<u>19</u>	Supplemental AFFIRMATION in further Support of pltfs' <u>13</u> MOTION to Certify Class and in opposition to defts' <u>17</u> Cross MOTION to Dismiss for Lack of Subject Matter Jurisdiction. (Attachments: # <u>1</u> Certificate of Service)(Reinert, Alexander) (Entered: 10/28/2005)
10/28/2005	<u>20</u>	MEMO OF LAW in Opposition to defts' <u>17</u> Cross MOTION to Dismiss and in further support of <u>13</u> MOTION to Certify Class (Attachments: # <u>1</u> Certificate of Service)(Reinert, Alexander) (Entered: 10/28/2005)
11/01/2005	<u>21</u>	Letter Motion from Nelson R. Sheingold for Lester N. Wright, New York State Department of Correctional Services requesting permission to file a brief reply memorandum of law submitted to Judge Hurd. (Sheingold, Nelson) (Entered: 11/01/2005)
11/02/2005		NOTICE of Hearing on Motion <u>17</u> Cross MOTION to Dismiss for Lack of Subject Matter Jurisdiction <i>and opposition to plaintiffs' motion for class certification</i> , <u>13</u> MOTION to Certify Class <i>with supporting Affirmation and exhibits</i> : Motion Hearing set for 11/10/2005 10:00 AM in Utica before Judge David N. Hurd. Appearance required. The letter request of 11/1/05 from Atty. Nelson Sheingold to Judge Hurd is hereby granted. The brief must be filed by 12:00 noon on 11/4/05 per oral order of Judge Hurd.(cmr, ) (Entered: 11/02/2005)
11/04/2005	<u>22</u>	REPLY to Response to Motion re <u>21</u> Letter Motion from Nelson R. Sheingold for Lester N. Wright, New York State Department of Correctional Services requesting permission to file a brief reply memorandum of law submitted to Judge Hurd, <u>17</u> Cross MOTION to Dismiss for Lack of Subject Matter Jurisdiction <i>and opposition to plaintiffs' motion for class certification</i> , <u>13</u> MOTION to Certify Class <i>with supporting Affirmation and exhibits pursuant to permission of the Court</i> filed by Lester N. Wright, New York State Department of Correctional Services. (Sheingold, Nelson) (Entered: 11/04/2005)
11/04/2005	<u>23</u>	CERTIFICATE OF SERVICE by Lester N. Wright, New York State Department of Correctional Services re <u>22</u> Reply to Response to Motion,, <i>via CM/ECF</i> (Sheingold, Nelson) (Entered: 11/04/2005)
11/12/2005	<u>24</u>	Minute Entry for proceedings held before Judge David N. Hurd : Motion Hearing held on 11/10/2005 in Utica, NY re <u>17</u> Cross MOTION to Dismiss for Lack of Subject Matter Jurisdiction <i>and opposition to plaintiffs' motion for class certification</i> filed by New York State Department of Correctional Services,, Lester N. Wright,, <u>13</u> MOTION to Certify Class <i>with supporting Affirmation and exhibits</i> filed by Robert Hilton,, Louis Vasquez,, Motions Taken Under Advisement: <u>17</u> Cross MOTION to Dismiss for Lack of Subject Matter Jurisdiction <i>and opposition to plaintiffs' motion for class certification</i> , <u>13</u> MOTION to Certify Class <i>with supporting Affirmation and exhibits</i> (Court Reporter Nancy Freddoso) (cmr, ) (Entered: 11/12/2005)
11/23/2005	<u>25</u>	***STRICKEN FROM THE RECORD BY ORDER OF JUDGE HURD FILED 11/29/05*** LETTER BRIEF <i>Regarding Plaintiffs' Motion for Class Certification</i> by Robert Hilton, Louis Vasquez. (Reinert, Alexander) Modified on 12/1/2005 (rjb, ). (Entered: 11/23/2005)
11/28/2005	<u>26</u>	Letter Motion from Nelson R. Sheingold for Lester N. Wright, New York State Department of Correctional Services requesting that the Court either reject plaintiffs' 11/23/05 letter brief or provide defendants with the same opportunity to supplement their motion to dismiss plaintiffs' equitable claims submitted to Judge Hurd. (Sheingold, Nelson) (Entered: 11/28/2005)
11/28/2005	<u>27</u>	CIVIL CASE MANAGEMENT PLAN [ <i>Proposed</i> ] by Robert Hilton, Louis Vasquez. (Reinert, Alexander) (Entered: 11/28/2005)
11/29/2005	<u>28</u>	ORDER STRIKING <u>25</u> LETTER BRIEF filed by Atty. Reinert for not having Court permission to file. Signed by Judge David N. Hurd on 11/29/05. (rjb, ) (Entered: 12/01/2005)

12/07/2005		TEXT NOTICE of Hearing: Due to the pending motion in this case, the Initial Conference set for 12/15/05 at 10:00 AM has been adjourned to 2/16/2006 at 10:00 AM before Magistrate Judge David E. Peebles. (sal, ) (Entered: 12/07/2005)
02/02/2006	<u>29</u>	Letter Motion from Nelson R. Sheingold for Lester N. Wright, New York State Department of Correctional Services requesting an adjournment of the scheduled Rule 16 conference without date submitted to Judge Peebles <i>on behalf of all parties</i> . (Sheingold, Nelson) (Entered: 02/02/2006)
02/02/2006	<u>30</u>	ORDER re <u>29</u> Letter Motion from Nelson R. Sheingold for Lester N. Wright, New York State Department of Correctional Services requesting an adjournment of the scheduled Rule 16 conference. ORDERED In-Person Conference is set for 4/20/2006 10:00 AM in Syracuse before Magistrate Judge David E. Peebles. Civil Case Management Plan due by 4/10/2006. Signed by Judge David E. Peebles on 2/2/06. (alh) (Entered: 02/02/2006)
02/27/2006	<u>31</u>	MEMORANDUM-DECISION & ORDER granting pltfs' <u>13</u> Motion to Certify Class; denying defts' <u>17</u> Cross-Motion to Dismiss for Lack of Subject Matter Jurisdiction; & pltfs' counsel is appointed as class counsel. Signed by Judge David N. Hurd on 2/27/2006. (see) (Entered: 02/27/2006)
02/27/2006	<u>32</u>	ORDER: that defts elect, on or before 3/7/2006, whether to provide to the prospective class or provide the information necessary to pltfs so they can provide such notice; the parties confer on or before 3/17/2006. At such conference, the party providing notice to the prospective class inform the other party of whether the notice to the prospective class will be individual or general. The parties attempt to agree upon a definition of the class, including specific time parameters, & the contents of a proposed notice; On or before 3/27/2006, the parties submit for approval a proposed definition of the class, including time parameters, or, if an agreement as to the definition of the class cannot be reached, the parties submit separate proposed class definitions; & On or before 3/27/2006, the parties submit for approval a proposed joint order setting forth the contents of the proposed notice, or, if an agreement as to content cannot be reached, the parties submit separate proposed notices. Signed by Judge David N. Hurd on 2/27/2006. (see) (Entered: 02/27/2006)
03/06/2006	<u>33</u>	Letter Motion from Nelson R. Sheingold for Lester N. Wright, New York State Department of Correctional Services requesting advising the Court pursuant to its February 27, 2006 Order that defendants have elected to notify the prospective class submitted to Judge Hurd. (Sheingold, Nelson) (Entered: 03/06/2006)
03/10/2006	<u>34</u>	Letter Motion from Nelson R. Sheingold for Lester N. Wright, New York State Department of Correctional Services requesting on behalf of all parties an extension of the deadlines set forth in the Court's February 27, 2006 Order to allow the parties time to continue to attempt to settle the equitable claims which are the subject of class certification submitted to Judge Hurd. (Sheingold, Nelson) (Entered: 03/10/2006)
03/13/2006	<u>35</u>	ANSWER to Amended Complaint by Lester N. Wright, New York State Department of Correctional Services. (Sheingold, Nelson) (Entered: 03/13/2006)
03/13/2006	<u>36</u>	CERTIFICATE OF SERVICE by Lester N. Wright, New York State Department of Correctional Services re <u>35</u> Answer to Amended Complaint <i>via ECM/CF</i> (Sheingold, Nelson) (Entered: 03/13/2006)
03/13/2006	<u>37</u>	Endorsement ORDER granting <u>34</u> Letter Request to extend the ddl for submission of a proposed class definition & notice to the class to 4/28/2006. Signed by Judge David N. Hurd on 3/13/2006. (see) (Entered: 03/13/2006)
04/13/2006		Parties are directed to submit a new civil case management plan in preparation of the in-person conference scheduled for 4/20/06 before Judge Peebles. The deadline for this submission passed on 4/10/06. (sal, ) (Entered: 04/13/2006)
04/18/2006		TEXT NOTICE of Hearing: A Settlement Conference will be conducted in this matter on 5/17/2006 at 10:00 AM in chambers the U.S. Courthouse, 445 Broadway, in Albany, New York before Magistrate Judge David E. Peebles. At that conference the parties are directed to appear in person, through counsel and, unless specifically excused by the court prior to the time of the conference, by a

		representative of the party with full authority to enter into binding agreements on behalf of that party in connection with this litigation. In preparation for the scheduled settlement conference, not later than one week prior to the conference date, the parties shall submit directly to chambers a short, concise statement setting forth the material facts of the case, together with an indication of which if any are disputed; providing a synopsis of the parties' respective legal positions concerning any issues presented in the case; and outlining any settlement discussions which have occurred. That confidential statement, which shall not be filed with the court clerk and need not be served upon opposing counsel, should also include an assessment of the strength and weaknesses of the party's position in the case together with a candid indication of the party's settlement position.(sal, ) (Entered: 04/18/2006)
04/19/2006		Since a settlement conference has been scheduled in this matter, the Rule 16 Conference scheduled for tomorrow has been canceled. (sal, ) (Entered: 04/19/2006)
04/24/2006	<u>38</u>	Letter Motion from Nelson R. Sheingold for Lester N. Wright, New York State Department of Correctional Services requesting that the date to submit a proposed class definition be held in abeyance pending the parties' efforts to settle the equitable claims and the scheduled settlement conference with Magistrate Judge Peebles submitted to Judge Hurd <i>on behalf of all parties</i> . (Sheingold, Nelson) (Entered: 04/24/2006)
04/25/2006	<u>39</u>	Endorsement ORDER granting the <u>38</u> Letter requesting that the date to submit a proposed class definition be held in abeyance pending the parties' efforts to settle the equitable claims and the scheduled settlement conference with Magistrate Judge Peebles Signed by Judge David N. Hurd on 4/25/2006. (see) (Entered: 04/25/2006)
05/17/2006		TEXT Minute Entry for proceedings held before Judge David E. Peebles : Settlement Conference held in Albany on 5/17/2006. Parties have settled several of the equitable claims, however, they will continue to work together on resolving the disputed claims that remain. A telephone conference will be scheduled within thirty days w/ Judge Peebles to discuss their progress. APP: Alexander Reinert, Esq., Keith Donoghue, Esq. for Pltfs.. Nelson Sheingold, Esq., Amy Mahar and Tony Annucci (DOCS counsel), and Belinda Wagner (NYS AG's office) for Defts.. (sal, ) (Entered: 05/17/2006)
05/19/2006		TEXT NOTICE of Hearing: Status Telephone Conference set for 6/19/2006 at 3:00 PM before Magistrate Judge David E. Peebles. Defendants' attorney is directed to make arrangements for initiating the call to counsel for all parties and the court which should be contacted at (315) 234-8620.(sal, ) (Entered: 05/19/2006)
06/29/2006		TEXT Minute Entry for proceedings held before Judge David E. Peebles : Status Conference held on 6/29/2006. Parties are making progress regarding settlement. Next telephone conference is scheduled for 8/10/06 at 3:30 PM. Defendant's counsel is to initiate the call. Parties will have more specifics regarding settlement at that time. APP: Nelson Sheingold, Esq., Alexander Reinert, Esq., Belinda Wagner, Esq., Amy Mahar, Esq.. (sal, ) (Entered: 06/29/2006)
08/11/2006		NOTICE TO COUNSEL: The telephone conference that was scheduled for yesterday has been rescheduled for 8/17/06 at 3:00 PM. Defendant's counsel will be providing a call-in number for this conference call. (sal, ) (Entered: 08/11/2006)
08/17/2006		TEXT Minute Entry for proceedings held before Judge David E. Peebles : Status Conference held on 8/17/2006. Proposed settlement documents have been provided to defendant's counsel. The parties are just working on some final issues and should be able to submit this settlement agreement to the court w/in 30 days. No new conference is scheduled. Case will be tracked for 45 days. APP: Nelson Sheingold, Esq. & Alexander Reinert, Esq.. (sal, ) (Entered: 08/17/2006)
09/26/2006	<u>40</u>	LETTER BRIEF dtd 9/14/2006 to Judge Hurd from a Class Member. (see) (Entered: 09/27/2006)
10/13/2006		NOTICE TO COUNSEL: CRD for Judge Peebles spoke w/ Nelson Sheingold, AAG today regarding the status of settlement. Atty. Sheingold states that

		settlement is progressing, however, the parties are still working on details of the settlement and will need more time for everyone to sign off on it. After that is done, the parties will be discussing settlement of attorneys fees. CRD advises counsel that if the parties are having difficulty with any part of the settlement of this case, particularly the attorney fee issue, then they may request a conference before Judge Peebles. CRD for Judge Peebles will track case for another 45 days and will contact the parties at that time regarding status of this case. (sal, ) (Entered: 10/13/2006)
11/30/2006	<u>41</u>	Letter w/attachments, from Frank DiChiara to Judge Hurd. (cbm, ) (Entered: 11/30/2006)
12/01/2006		TEXT NOTICE of Hearing: A Status Telephone Conference is set for 12/21/2006 at 2:00 PM before Magistrate Judge David E. Peebles to discuss what issues remain in this case. Defendant's counsel is directed to initiate this call. (sal, ) (Entered: 12/01/2006)
12/01/2006	<u>42</u>	Letter to Counsel from Judge Peebles regarding a letter from inmate DiChiara. (rjb, ) (Entered: 12/01/2006)
12/18/2006		NOTICE TO COUNSEL: Due to a conflict w/ Judge Peebles schedule, the telephone conference scheduled for 12/21/06 at 2:00 PM has been adjourned without date. After CRD for Judge Peebles spoke w/ defendant's counsel, it was decided that a status letter will be submitted by 1/8/07 to inform the court what issues remain. At that time, Judge Peebles will decide whether a telephone conference should be scheduled. (sal, ) (Entered: 12/18/2006)
12/20/2006	<u>43</u>	Letter from Frank Di Chiara, enclosing a copy of a letter for the Court's review. (see) (Entered: 12/20/2006)
01/09/2007		TEXT NOTICE of Hearing: A Settlement Conference, with counsel ONLY, is set for 2/22/2007 at 11:00 AM in Albany before Magistrate Judge David E. Peebles. In preparation for the scheduled settlement conference, not later than 2/15/07, the parties shall submit directly to my chambers in Syracuse, New York by facsimile (315-234-8621) or by mail, a short, concise statement setting forth the material facts of the case, together with an indication of which if any are disputed., including attorneys fees; providing a synopsis of the parties' respective legal positions concerning any issues presented in the case; and outlining any settlement discussions which have occurred. That confidential statement, which will not be filed with the court clerk and need not be served upon opposing counsel, should also include an assessment of the strength and weaknesses of the party's position in the case together with a candid indication of the party's settlement position.(sal, ) (Entered: 01/09/2007)
02/22/2007		TEXT Minute Entry for proceedings held before Judge David E. Peebles : Settlement Conference held on 2/22/2007. Parties advise that an interim settlement has been reached between the parties. They are currently discussing the specific wording of the settlement agreement. This settlement agreement will be submitted to Judge Hurd for approval since class certification is involved. Judge discusses w/ counsel the attorneys fees issue and ultimately resolves it. Parties settle as to the attorneys fees issue subject to the approval by the NYS Attorney General's Office. Judge directs parties to submit a status report by 3/22/07 regarding the progress of the interim settlement and, if the settlement agreement is not filed by that time, as to why the agreement has not been filed w/ the court. APP: Alexander Reinert, Esq., and Nelson Sheingold, AAG. (sal, ) (Entered: 02/23/2007)
03/22/2007	<u>44</u>	STATUS REPORT <i>on behalf of all parties</i> by Lester N. Wright, New York State Department of Correctional Services. (Sheingold, Nelson) (Entered: 03/22/2007)
05/23/2007		CRD for Judge Peebles spoke w/ Nelson Sheingold, Esq. today re: settlement of this case. Attorney Sheingold stated that he has approval from the State and they have now signed off on the settlement. DOCS will be taking one final look at the settlement agreement and will most likely confirm w/ Attorney Sheingold today. A settlement agreement is expected to be filed w/ the court for Judge Hurd's signature by the end of the week. After the attorneys' fee issue is resolved and the settlement agreement is entered, the parties will then turn to settling the individual plaintiff's claims. At that time, the parties are directed to file a joint status letter and then



		Judge Peebles will schedule a telephone conference. (NOTE: Nelson Sheingold, Esq. will be leaving the AG's office as of 6/1/07 and this case will be reassigned to someone else.) (sal, ) (Entered: 05/23/2007)
06/21/2007		CRD for Judge Peebles spoke w/ Belinda Wagner, AAG today who has been recently substituted as counsel in place of Nelson Sheingold, AAG in this case (the docket has now been adjusted to reflect this). She advised that plaintiff's counsel has been out of the country and has just recently returned to work, but he is also on part-time status now w/ his firm. The parties have been working together to clear up some typos within the settlement agreement before filing it w/ the court for Judge Hurd's review. Atty. Wagner indicates that she normally deals w/ state court proceedings and Risa Viglucci, AAG, who normally deals w/ federal proceedings, has been helping her w/ this case, however, she has been recently out of the office and is expected to return shortly. Since there seems to be a delay that is acceptable to the court at this time, Judge Peebles has directed the parties to file the settlement agreement w/ the court BY JULY 20, 2007. The parties are advised that no further extensions will be granted, unless unforeseen circumstances occur. (sal, ) (Entered: 06/21/2007)
07/20/2007	<u>45</u>	NOTICE of Appearance by Risa L. Viglucci on behalf of Lester N. Wright, New York State Department of Correctional Services (Viglucci, Risa) (Entered: 07/20/2007)
07/20/2007	<u>46</u>	Letter Motion from Belinda A. Wagner, Assistant Attorney General for Lester N. Wright, New York State Department of Correctional Services requesting a review of documents, so ordering the stipulation, scheduling a date for party submissions in support of the agreement, scheduling a date for a fairness hearing and scheduling a date for objections from the class, and sealing of the class objections submitted to Judge Hurd. (Attachments: # <u>1</u> Declaration of Service# <u>2</u> Proposed Order/Judgment Interim Settlement Agreement# <u>3</u> Exhibit(s) Notice to Class# <u>4</u> Exhibit(s) Stipulation)(Viglucci, Risa) (Entered: 07/20/2007)
07/25/2007	<u>47</u>	STIPULATION & ORDER Regarding Notice to the Plaintiff Class and Scheduling of Fairness Hearing: A "Fairness Hearing" is scheduled to be held pursuant to FRCivP 23(e), before the Court at the US Courthouse in Utica, NY on December 14, 2007 at 9:00 a.m., after which the Court shall determine whether the Agreement shall be approved as a settlement of this class action. Signed by Judge David N. Hurd on 7/25/2007. (see) (Entered: 07/25/2007)
07/25/2007	<u>48</u>	INTERIM SETTLEMENT AGREEMENT. (see) (Entered: 07/25/2007)
07/25/2007	<u>49</u>	NOTICE to the Class. (see) (Entered: 07/25/2007)
07/27/2007	<u>50</u>	Minute Entry for proceedings held before Judge David N. Hurd : Telephone Conference held on 7/25/2007. (Court Reporter None) (cmr, ) (Entered: 07/27/2007)
08/30/2007	<u>51</u>	NOTICE by Robert Hilton <i>Substitution of Lead Counsel &amp; Change of Address</i> (Magoolahgan, Joan) (Entered: 08/30/2007)
09/10/2007	52	SEALED inmate letters objecting to proposed interim settlement agreement – maintained in Clerk's Office and not available for electronic viewing (see) (Entered: 09/10/2007)
09/11/2007	53	SEALED DOCUMENT/Agreement – maintained in Clerk's Office and not available for electronic viewing. [Sealed per Oral Order of Judge Hurd on 9/11/2007] (see) (Entered: 09/12/2007)
09/13/2007	54	SEALED inmate letters objecting to interim settlement agreement – maintained in Clerk's Office and not available for electronic viewing. (see) (Entered: 09/13/2007)
09/18/2007	55	SEALED Inmate Objections to Interim Settlement – maintained in Clerk's Office and not available for electronic viewing. (see) (Entered: 09/18/2007)
09/18/2007		TEXT NOTICE of Hearing: An In-Person Settlement Conference is set for 11/29/2007 at 10:30 AM in Albany before Magistrate Judge David E. Peebles to discuss the individual plaintiffs' claims. In preparation for the scheduled settlement conference, not later than 11/20/07, the parties shall submit directly to Judge

		Peebles' chambers a short, concise statement setting forth the material facts of the case, together with an indication of which if any are disputed; providing a synopsis of the parties' respective legal positions concerning any issues presented in the case; and outlining any settlement discussions which have occurred. That confidential statement, which shall not be filed with the court clerk and need not be served upon opposing counsel, should also include an assessment of the strength and weaknesses of the party's position in the case together with a candid indication of the party's settlement position.(sal, ) (Entered: 09/18/2007)
09/19/2007	56	SEALED inmate letters, re: proposed class action settlement – maintained in Clerk's Office and not available for electronic viewing. (see) (Entered: 09/19/2007)
09/20/2007	57	SEALED letter from inmate, re: proposed class action settlement – maintained in Clerk's Office and not available for electronic viewing. (see) (Entered: 09/20/2007)
09/24/2007	58	SEALED inmate letters, re: proposed class action settlement – maintained in Clerk's Office and not available for electronic viewing. (see) (Entered: 09/24/2007)
09/26/2007	<u>59</u>	Letter Motion from Belinda A. Wagner, AAG for Lester N. Wright, New York State Department of Correctional Services requesting copies of objections submitted to Judge Hurd. (Wagner, Belinda) (Entered: 09/26/2007)
09/27/2007	60	SEALED Inmate letter, re: proposed class settlement – maintained in Clerk's Office and not available for electronic viewing. (see) (Entered: 09/27/2007)
10/03/2007	<u>61</u>	Minute Entry for proceedings held before Judge David N. Hurd : Telephone Conference held on 10/2/2007 (Court Reporter None) (cmr, ) (Entered: 10/03/2007)
10/04/2007	62	SEALED Inmate letter, re: proposed class action settlement – maintained in Clerk's Office and not available for electronic viewing. (see) (Entered: 10/04/2007)
10/11/2007	63	SEALED Inmate letters, re: proposed class action settlement – maintained in Clerk's Office and not available for electronic viewing. (see) (Entered: 10/11/2007)
10/12/2007	64	SEALED Inmate letter, re: proposed class action settlement – maintained in Clerk's Office and not available for electronic viewing. (see) (Entered: 10/12/2007)
10/15/2007	65	SEALED Inmate letters, re: proposed class action settlement – maintained in Clerk's Office and not available for electronic viewing. (see) (Entered: 10/15/2007)
10/17/2007	66	SEALED Inmate letters, re: proposed class action settlement – maintained in Clerk's Office and not available for electronic viewing. (see) (Entered: 10/18/2007)
10/18/2007	67	SEALED Inmate letter, re: proposed class action settlement – maintained in Clerk's Office and not available for electronic viewing. (see) (Entered: 10/19/2007)
10/22/2007	68	SEALED Inmate letters, re: proposed class action settlement – maintained in Clerk's Office and not available for electronic viewing. (see) (Entered: 10/23/2007)
10/24/2007	69	SEALED Inmate letters, re: proposed class action settlement – maintained in Clerk's Office and not available for electronic viewing. (see) (Entered: 10/24/2007)
10/25/2007	70	SEALED Supplement to previous submission included in document #68 – maintained in Clerk's Office and not available for electronic viewing. (see) (Entered: 10/25/2007)
11/08/2007	<u>71</u>	Minute Entry for proceedings held before Judge David N. Hurd : Telephone Conference held on 11/7/2007 (Court Reporter None) (cmr, ) (Entered: 11/08/2007)
11/08/2007	72	SEALED Inmate letter, re: proposed class action settlement – maintained in Clerk's Office and not available for electronic viewing. (see) (Entered: 11/08/2007)
11/15/2007	73	SEALED Inmate letter, re: proposed class action settlement – maintained in Clerk's Office and not available for electronic viewing. (see) (Entered: 11/15/2007)
11/20/2007		TEXT SCHEDULING NOTICE. Due to a conversation chambers had with counsel in this matter the settlement conference scheduled to be held in Albany, NY on 11/29/07 at 10:30 am has been adjourned without date. A status telephone

		conference has been scheduled for 12/19/07 at 3:00 pm. Attorney Magoolaghan will initiate the call. Authorized by the Hon. David E. Peebles. (cam, ) (Entered: 11/20/2007)
11/27/2007	74	SEALED Inmate letter, re: proposed class action settlement – maintained in Clerk's Office and not available for electronic viewing. (see) (Entered: 11/27/2007)
11/30/2007	<u>75</u>	MOTION to Approve Consent Judgment [ <i>Interim Settlement Agreement</i> ] Motion Hearing set for 12/14/2007 09:30 AM in Utica before Judge David N. Hurd. by Lester N. Wright, New York State Department of Correctional Services. (Attachments: # <u>1</u> Declaration Wagner decl. in support# <u>2</u> Exhibit(s) Exhibit A (Interim Settlement Agt.)# <u>3</u> Exhibit(s) Stipulation# <u>4</u> Exhibit(s) Exhibit C – Notice# <u>5</u> Exhibit(s) Exhibit D – Notice (Spanish)# <u>6</u> Declaration Heywood Declartion# <u>7</u> Exhibit(s) Exhibit A (Notice–English)# <u>8</u> Exhibit(s) Exhibit B (Notice–Spanish)# <u>9</u> Exhibit(s) Settlement Agreement# <u>10</u> Exhibit(s) Exhibit D ( Agreement–Spanish)# <u>11</u> Memorandum of Law In Support of Motion to Approve Settlement) (Viglucchi, Risa) (Entered: 11/30/2007)
11/30/2007	<u>76</u>	SETTLEMENT AGREEMENT <i>Plaintiffs Submission in Support of Interim Settlement Agreement</i> by Robert Hilton. (Attachments: # <u>1</u> Exhibit(s) Exhibit A# <u>2</u> Exhibit(s) Exhibit B# <u>3</u> Exhibit C# <u>4</u> # <u>5</u> Exhibit E# <u>6</u> Memorandum of Law # <u>7</u> Affidavit Affidavit of Service)(Magoolaghan, Joan) (Entered: 11/30/2007)
12/03/2007	<u>77</u>	CERTIFICATE OF SERVICE by Lester N. Wright, New York State Department of Correctional Services re <u>75</u> MOTION to Approve Consent Judgment [ <i>Interim Settlement Agreement</i> ] MOTION to Approve Consent Judgment [ <i>Interim Settlement Agreement</i> ] MOTION to Approve Consent Judgment [ <i>Interim Settlement Agreement</i> ] (Viglucchi, Risa) (Entered: 12/03/2007)
12/04/2007		Set/Reset Deadlines as to <u>75</u> MOTION to Approve Consent Judgment [ <i>Interim Settlement Agreement</i> ] MOTION to Approve Consent Judgment [ <i>Interim Settlement Agreement</i> ] MOTION to Approve Consent Judgment [ <i>Interim Settlement Agreement</i> ]. Motion Hearing set for 12/14/2007 ON SUBMIT. No need to appear. Ct. to issue written order. (cmr, ) (Entered: 12/04/2007)
12/06/2007	78	SEALED Inmate letter – maintained in Clerk's Office and not available for electronic viewing. (see) (Entered: 12/06/2007)
12/14/2007	<u>79</u>	Letter Motion from Joan Magoolaghan, Esq. for Robert Hilton requesting Consideration of Plaintiffs' Proposed Order submitted to Judge Hurd. (Attachments: # <u>1</u> Plaintiffs' Proposed Order)(Magoolaghan, Joan) (Entered: 12/14/2007)
12/14/2007	<u>80</u>	AFFIDAVIT re <u>79</u> Letter Motion from Joan Magoolaghan, Esq. for Robert Hilton requesting Consideration of Plaintiffs' Proposed Order submitted to Judge Hurd <i>Affidavit of Service</i> by Robert Hilton. (Magoolaghan, Joan) (Entered: 12/14/2007)
12/14/2007	<u>81</u>	AFFIDAVIT in Support re <u>75</u> MOTION to Approve Consent Judgment [ <i>Interim Settlement Agreement</i> ] MOTION to Approve Consent Judgment [ <i>Interim Settlement Agreement</i> ] MOTION to Approve Consent Judgment [ <i>Interim Settlement Agreement</i> ] filed by Lester N. Wright, New York State Department of Correctional Services. (Attachments: # <u>1</u> Proposed Order/Judgment to approve Interim Settlement Agreement# <u>2</u> Exhibit(s) # <u>3</u> # <u>4</u> # <u>5</u> Affirmation Certificate of service)(Wagner, Belinda) (Entered: 12/14/2007)
12/21/2007		TEXT SCHEDULING ORDER. Due to the non–appearance of both counsel, the telephone conference that was scheduled for 12/19/07 at 3:00 pm has been rescheduled to 1/3/2008 03:30 PM before Magistrate Judge David E. Peebles. Attorney Wagner is asked to initiate the call. Authorized by Judge David E. Peebles on 12/21/07. (cam, ) (Entered: 12/21/2007)
01/02/2008	<u>82</u>	ORDER granting <u>75</u> Motion to Approve Consent Judgment; granting <u>79</u> Letter Request; denying the plaintiff class' application for permission to amend their complaint to assert a claim for damages. Signed by Judge David N. Hurd on 1/2/08. (rjb, ) (Entered: 01/03/2008)
01/04/2008		TEXT Minute Entry for proceedings held before Judge David E. Peebles : Status Conference held on 1/3/2008. Judge Hurd has issued an Order denying the plaintiff

		class permission to move to amend the complaint as to damages and approved the interim settlement agreement executed by the parties in July of 2007 as a final settlement for all claims for equitable and injunctive relief. All that remains in this case is the individual claims for damages. Counsel notes that Mr. Hilton is now out of custody and defendants' counsel may have him complete a Rule 35 exam. Medical authorizations will be provided by defendants' counsel to the plaintiff for signature shortly. Next telephone conference is set for 3/6/08 at 4:30 PM. Plaintiff's counsel is directed to initiate the call. APP: Elizabeth Koob, Esq., Belinda Wagner, Esq., and Risa Viglucci, Esq.. (sal, ) (Entered: 01/04/2008)
01/04/2008		Set Hearings: Status Telephone Conference set for 3/6/2008 at 4:30 PM before Magistrate Judge David E. Peebles. Plaintiff's counsel is directed to initiate the call. (sal, ) (Entered: 01/04/2008)
01/11/2008	83	SEALED Inmate letter, re: class action settlement – maintained in Clerk's Office and not available for electronic viewing. (see) (Entered: 01/11/2008)
01/18/2008	84	SEALED Inmate Letter, re: class action settlement – maintained in Clerk's Office and not available for electronic viewing. (see) (Entered: 01/22/2008)
03/06/2008		TEXT Minute Entry for proceedings held before Magistrate Judge David E. Peebles: Status Conference held on 3/6/2008. Settlement demand and authorizations were served in January. Defendants' expert will review the records and advise whether or not an exam of the plaintiff will be required. Judge urges parties to get the depositions completed. Next telephone conference is set for 4/17/08 at 4:00 PM. Defendants' counsel is directed to initiate the call to Chambers who can be reached at (315) 234–8620. APP: Elizabeth Koob, Esq., and Belinda Wagner, Esq.. (sal, ) (Entered: 03/07/2008)
03/07/2008		Set Hearings: Status Telephone Conference set for 4/17/2008 at 4:00 PM before Magistrate Judge David E. Peebles. Defendants' counsel is directed to initiate the call to Chambers. (sal, ) (Entered: 03/07/2008)
03/18/2008	85	***SEALED Inmate letter, re: class action settlement not available for public view. (see) (Entered: 03/18/2008)
03/25/2008	86	***SEALED Inmate Letter. (see) (Entered: 03/25/2008)
04/01/2008	87	***SEALED Inmate Letter, re: Class Participation (see) (Entered: 04/01/2008)
04/30/2008		TEXT SCHEDULING ORDER. Due to a conflict in Judge Peebles' calendar the telephone conference that was scheduled for 4/17/08 has been rescheduled to 5/28/08 at 3:00 pm. Defendant's counsel is asked to initiate the call. Authorized by Magistrate Judge David E. Peebles on 4/30/08. (cam, ) (Entered: 04/30/2008)
05/28/2008		TEXT Minute Entry for proceedings held before Magistrate Judge David E. Peebles: Status Conference held on 5/28/2008. On 4/14/08, plaintiff Robert Hilton's deposition was completed. Defendants' counsel states that during the deposition the plaintiff advised he has been examined by other medical providers. Medical authorizations have been provided to the plaintiff and signed. Some of the medical records from these providers have already been sent to defendants' counsel. The deposition for plaintiff Louis Vasquez has been rescheduled, since he was recently released from DOCS the beginning of May. Defendants' counsel does not intend to take Rule 35 exams of the plaintiffs. Plaintiffs' counsel may be retaining an expert. Once all the medical records are received by defendants' counsel and the deposition of plaintiff Vasquez is completed, the parties will be able to discuss settlement. Judge sets a telephone conference for 7/17/08 at 3:00 PM. Plaintiffs' counsel is directed to initiate the call. Unless the parties are optimistic about settlement at that time, deadlines for discovery, expert disclosures, and motion filing will be set. APP: Elizabeth Koob, Esq., Belinda Wagner, AAG, and Nancy Haywood, AAG. (sal, ) (Entered: 05/28/2008)
05/28/2008		Set Hearings: Status Telephone Conference set for 7/17/2008 at 3:00 PM before Magistrate Judge David E. Peebles. Plaintiffs' counsel is directed to initiate the call. (sal, ) (Entered: 05/28/2008)
06/16/2008	88	***SEALED DOCUMENT/Inmate letter, re: settlement. (see) (Entered: 06/16/2008)

07/17/2008		TEXT Minute Entry for proceedings held before Magistrate Judge David E. Peebles: Status Conference held on 7/17/2008. Depositions have been taken of the plaintiffs. Plaintiffs' counsel has had some problems getting the medical records from various hospitals regarding Vasquez. Plaintiffs' counsel also states that some information was disclosed during Hilton's deposition that may have an impact on this case. Parties will be retaining experts, however, expert reports have not yet been exchanged. Plaintiffs' expert report is due by 8/15/08. Defendants' expert report is due by 9/12/08. Rebuttal expert reports are due by 9/26/08. Completion of expert depositions is due by 10/31/08. Motion filing deadline is set for 12/31/08. THIS IS A FINAL SCHEDULE. Next telephone conference is set for 11/13/08 at 3:00 PM. Defendants' counsel is directed to initiate the call. APP: Elizabeth Koob, Esq., and Belinda Wagner, Esq.. (sal, ) (Entered: 07/18/2008)
07/18/2008		Set/Reset Hearings: Status Telephone Conference set for 11/13/2008 03:00 PM before Magistrate Judge David E. Peebles. Defendants' counsel is directed to initiate the call. (sal, ) (Entered: 07/18/2008)
07/18/2008		TEXT SCHEDULING ORDER: Plaintiffs' expert report is due by 8/15/08. Defendants' expert report is due by 9/12/08. Rebuttal expert reports are due by 9/26/08. Completion of expert depositions is due by 10/31/08. Motions to be filed by 12/31/2008. THIS IS A FINAL SCHEDULE. Authorized by Magistrate Judge David E. Peebles on 7/18/08. (sal, ) (Entered: 07/18/2008)
08/18/2008	<u>89</u>	Letter Motion from plaintiffs for Robert Hilton requesting Extension of time for expert reports submitted to Judge Peebles. (Magoolahan, Joan) (Entered: 08/18/2008)
08/18/2008		TEXT ORDER granting <u>89</u> Letter Request. Plaintiffs' expert report is due by 9/5/08. Defendants' expert report is due by 10/3/08. Rebuttal expert reports are due by 10/13/08. Completion of expert depositions is due by 11/14/08. Motion filing deadline remains at 12/31/08. Authorized by Magistrate Judge David E. Peebles on 8/15/08. (cam, ) (Entered: 08/18/2008)
11/12/2008	<u>90</u>	Letter Motion from Karen Marcoux Mankes for Lester N. Wright, New York State Department of Correctional Services requesting an adjournment of the November 13, 2008 telephone conference submitted to Judge Peebles. (Mankes, Karen) (Entered: 11/12/2008)
11/14/2008		TEXT ORDER granting <u>90</u> Letter Request. The telephone conference scheduled in this matter for 11/13/08 has been rescheduled to 12/3/2008 at 3:30 PM before Magistrate Judge David E. Peebles. Defendants counsel is directed to initiate the call. Authorized by Magistrate Judge David E. Peebles on 11/14/08. (cam, ) (Entered: 11/14/2008)
12/03/2008		TEXT Minute Entry for proceedings held before Magistrate Judge David E. Peebles: Status Conference held on 12/3/2008. Consent Judgment has been fully complied with. Plaintiff's counsel will file a final report regarding this at the end of January. Due to unforeseen circumstances, parties have not completed expert depositions, however, they have exchanged expert reports. Parties have given possible dates in January to complete expert depositions. Judge extends discovery deadline to 1/31/09. Motion deadline is extended until 3/16/09. Case cannot be settled. APP: Elizabeth Koob, Esq., Belinda Wagner, Esq., and Karen Marcoux Mankes, Esq.. (sal, ) (Entered: 12/03/2008)
12/03/2008		TEXT SCHEDULING ORDER: Discovery deadline extended until 1/31/2009. Motions to be filed deadline extended until 3/16/2009. Authorized by Magistrate Judge David E. Peebles on 12/3/08. (sal, ) (Entered: 12/03/2008)
01/30/2009	<u>91</u>	Letter Motion from Plaintiffs' Counsel for Robert Hilton requesting Extension of Time to File Final Report submitted to Judge Peebles. (Magoolahan, Joan) (Entered: 01/30/2009)
01/30/2009		TEXT ORDER GRANTING <u>91</u> Letter Request. Extension granted to 2/13/09 for the filing of a final report. Authorized by Magistrate Judge David E. Peebles on 1/30/09. (cam, ) (Entered: 01/30/2009)
02/09/2009	<u>92</u>	STATUS REPORT by Lester N. Wright, New York State Department of Correctional Services. (Attachments: # <u>1</u> Exhibit(s) A)(Wagner, Belinda) (Entered: 02/09/2009)

		02/09/2009)
02/13/2009	<u>93</u>	STATUS REPORT <i>and Fee Application</i> by Robert Hilton. (Attachments: # <u>1</u> Exhibit(s), # <u>2</u> Exhibit(s), # <u>3</u> Exhibit(s), # <u>4</u> Exhibit(s), # <u>5</u> Exhibit(s), # <u>6</u> Exhibit(s), # <u>7</u> Exhibit(s))(Magoolaghan, Joan) (Entered: 02/13/2009)
02/19/2009	<u>94</u>	Letter Motion from Belinda Wagner for Lester N. Wright, New York State Department of Correctional Services requesting advice submitted to Judge Peebles. (Wagner, Belinda) (Entered: 02/19/2009)
02/20/2009	<u>95</u>	RESPONSE TO LETTER BRIEF filed by Robert Hilton as to <u>94</u> Letter Request/Motion filed by Lester N. Wright, New York State Department of Correctional Services. (Magoolaghan, Joan) (Entered: 02/20/2009)
02/20/2009		TEXT ORDER re: <u>94</u> Letter Request and <u>95</u> Response Letter Brief. A Telephone Conference is set for 2/24/2009 at 4:00 PM before Magistrate Judge David E. Peebles to discuss these letters, as well as the final reports <u>92</u> and <u>93</u> , recently submitted. Defendants' counsel is directed to initiate the call to Chambers. Parties are advised that no further briefing shall be submitted until this conference is conducted. Authorized by Magistrate Judge David E. Peebles on 2/20/09. (sal, ) (Entered: 02/20/2009)
02/24/2009		TEXT Minute Entry for proceedings held before Magistrate Judge David E. Peebles: Status Conference held on 2/24/2009. There are three issues that need to be discussed. First issue is whether or not all of the requirements of the consent judgment have been complied with. Plaintiffs' counsel has recently submitted a list to defendants' counsel with names of individuals that may be part of the class. Defendants' will respond to this list and then parties will have a dialogue to try and resolve some of these issues informally before presenting them to the court at the next conference. As to the second issue, plaintiff's counsel has requested to increase the fee application that was previously detailed in paragraph 6 of the Interim Agreement. Judge holds this in abeyance until the end of the period listed in the stipulation that is in place. Parties will discuss, at that time, possible options to try and resolve the matter before a motion for attorneys fees is filed. As to the third issue regarding where the parties stand w/ a trial date, defendants' counsel states that they will be filing a motion for summary judgment in this action. Judge extends the motion filing deadline to 4/3/09. Next telephone conference is set for 3/16/09 at 4:00 PM. Defendants' counsel is directed to initiate the call. APP: Elizabeth Koob, Esq., and Belinda Wagner, Esq.. (sal, ) (Entered: 02/25/2009)
02/25/2009		Set/Reset Hearings: Status Telephone Conference set for 3/16/2009 04:00 PM before Magistrate Judge David E. Peebles. Defendants' counsel is directed to initiate the call. (sal, ) (Entered: 02/25/2009)
02/25/2009		TEXT SCHEDULING ORDER: Motions to be filed deadline is extended until 4/3/2009. Authorized by Magistrate Judge David E. Peebles on 2/25/09. (sal, ) (Entered: 02/25/2009)
03/16/2009		TEXT Minute Entry for proceedings held before Magistrate Judge David E. Peebles: Status Conference held on 3/16/2009. Judge notes that the motion deadline remains set for 4/3/09 and defendants' counsel intends to file a dispositive motion to address the individual claims for damages. The Consent Judgment expires in July, unless an extension is given by Judge Hurd upon request. Plaintiffs' counsel will negotiate w/ defendants' counsel and DOCS to settle attorneys' fees issue. If they can resolve this issue, then they will file a stipulation w/ the court. If they cannot resolve this, then they are to apply to Judge Hurd for relief. No new conference is set before Judge Peebles. APP: Elizabeth Koob, Esq., and Belinda Wagner, Esq.. (sal, ) (Entered: 03/17/2009)
04/01/2009	<u>96</u>	Letter Motion from Belinda A. Wagner for Lester N. Wright, New York State Department of Correctional Services requesting extension from 4/3/09 to 4/17/09 for Defendants' Motion for Summary Judgment submitted to Judge David E. Peebles. (Wagner, Belinda) (Entered: 04/01/2009)
04/02/2009		TEXT ORDER granting <u>96</u> Letter Request. The filing of defendants' summary judgment motion has been extended to 4/17/09. Authorized by Magistrate Judge David E. Peebles on 4/2/09. (cam, ) (Entered: 04/02/2009)

04/17/2009	<u>97</u>	MOTION for Summary Judgment Motion Hearing set for 5/22/2009 10:00 AM in Albany before Judge David N. Hurd Response to Motion due by 5/5/2009 Reply to Response to Motion due by 5/11/2009. filed by Lester N. Wright, New York State Department of Correctional Services. (Attachments: # <u>1</u> Declaration of Belinda Wagner, # <u>2</u> Exhibit(s) A to Wagner Dcl, # <u>3</u> Exhibit(s) B to Wagner Dcl, # <u>4</u> Exhibit(s) C to Wagner Dcl, # <u>5</u> Exhibit(s) D to Wagner Dcl, # <u>6</u> Exhibit(s) E to Wagner Dcl, # <u>7</u> Exhibit(s) F to Wagner Dcl, # <u>8</u> Exhibit(s) G to Wagner Dcl, # <u>9</u> Declaration of Dr. Lester Wright, # <u>10</u> Exhibit(s) A to Wright Dcl, # <u>11</u> Exhibit(s) B to Wright Dcl, # <u>12</u> Exhibit(s) C to Wright Dcl, # <u>13</u> Exhibit(s) D to Wright Dcl, # <u>14</u> Exhibit(s) E to Wright Dcl, # <u>15</u> Exhibit(s) F to Wright Dcl, # <u>16</u> Exhibit(s) G to Wright Dcl, # <u>17</u> Exhibit(s) H to Wright Dcl, # <u>18</u> Exhibit(s) I to Wright Dcl, # <u>19</u> Exhibit(s) J to Wright Dcl, # <u>20</u> Exhibit(s) K to Wright Dcl, # <u>21</u> Declaration of Dr. John Rodgers, # <u>22</u> Exhibit(s) A to Rodgers Dcl, # <u>23</u> Exhibit(s) B to Rodgers Dcl, # <u>24</u> Statement of Material Facts, # <u>25</u> Memorandum of Law, # <u>26</u> Appendix 1 to memo of law, # <u>27</u> Appendix 2 to memo of law, # <u>28</u> Appendix 3 to memo of law, # <u>29</u> Appendix 4 to memo of law, # <u>30</u> Appendix 5 to memo of law, # <u>31</u> Appendix 6 to memo of law, # <u>32</u> Appendix 7 to memo of law, # <u>33</u> Appendix 8 to memo of law, # <u>34</u> Appendix 9 to memo of law, # <u>35</u> Appendix 10 to memo of law, # <u>36</u> Appendix 11 to memo of law, # <u>37</u> Appendix 12 to memo of law, # <u>38</u> Appendix 13 to memo of law, # <u>39</u> Appendix 14 to memo of law, # <u>40</u> Appendix 15 to memo of law, # <u>41</u> Appendix 16 to memo of law, # <u>42</u> Appendix 17 to memo of law, # <u>43</u> Appendix 18 to memo of law, # <u>44</u> Appendix 19 to memo of law, # <u>45</u> Declaration of Service of a copy of all of the above on counsel for plaintiffs) (Wagner, Belinda) (Entered: 04/17/2009)
04/22/2009	<u>98</u>	NOTICE of Appearance by James Seaman on behalf of all defendants (Seaman, James) (Entered: 04/22/2009)
04/23/2009	<u>99</u>	Letter Motion from Plaintiffs' Counsel for Robert Hilton requesting Modification of motion schedule submitted to Judge Peebles. (Magoolaghan, Joan) (Entered: 04/23/2009)
04/24/2009		TEXT ORDER granting <u>99</u> Letter Request, <u>97</u> MOTION for Summary Judgment : Motion Hearing set for 6/26/2009 at 10:00 AM in Albany before Judge David N. Hurd. Response to Motion due by 6/5/2009. Reply to Response to Motion due by 6/19/2009. Authorized by Magistrate Judge David E. Peebles on 4/24/09. (sal, ) (Entered: 04/24/2009)
06/05/2009	<u>100</u>	Letter Motion from Elizabeth Koob for Robert Hilton requesting rescheduling of motion submitted to Judge Peebles. (Koob, Elizabeth) (Entered: 06/05/2009)
06/08/2009	<u>101</u>	Endorsement ORDER granting <u>100</u> Letter Request to reschedule deft's motion for summary judgment. Signed by Judge David N. Hurd on 6/8/2009. (see) (Entered: 06/08/2009)
06/08/2009		Reset Deadlines as to <u>97</u> MOTION for Summary Judgment. Response to Motion due by 8/10/2009. Reply to Response to Motion due by 9/14/2009. Motion Hearing set for 9/25/2009 10:00 AM in Albany before Judge David N. Hurd. (see) (Entered: 06/08/2009)
07/14/2009	<u>102</u>	<i>Joint letter request.</i> Letter Motion from Elizabeth Koob for Robert Hilton requesting settlement conference and rescheduling of pending motion submitted to Judge Peebles. (Koob, Elizabeth) (Entered: 07/14/2009)
07/20/2009		TEXT ORDER granting <u>102</u> Letter Request. An in-person Settlement Conference is set for 8/27/2009 at 10:00 AM in Albany before Magistrate Judge David E. Peebles. In preparation for the scheduled settlement conference, not later than 8/17/09, the parties shall submit directly to Judge Peebles' chambers a short, concise statement setting forth the material facts of the case providing a synopsis of the parties' respective legal positions concerning any issues presented in the case and outlining any settlement discussions which have occurred. That confidential statement, which shall not be filed with the court clerk and need not be served upon opposing counsel, should also include an assessment of the strength and weaknesses of the party's position in the case together with a candid indication of the party's settlement position. Authorized by Magistrate Judge David E. Peebles on 7/20/09. (sal, ) (Entered: 07/20/2009)

07/20/2009		NOTICE TO COUNSEL re: <u>102</u> Joint Letter requesting that the motion <u>97</u> for summary judgment be held in abeyance pending the outcome of the settlement conference set before Judge Peebles on 8/27/09. The parties are directed to make this request to Judge Hurd, since he is handling this motion. (sal, ) (Entered: 07/20/2009)
07/20/2009	<u>103</u>	Letter Motion from Elizabeth L. Koob, Esq. for Robert Hilton requesting Summary Judgment Schedule be held in abeyance pending settlement conference submitted to Judge Hurd. (Magoolaghan, Joan) (Entered: 07/20/2009)
07/21/2009	<u>104</u>	ORDER granting <u>103</u> Letter Request for the motion to dismiss to be held in abeyance. Signed by Judge David N. Hurd on 7/21/09. (nas) (Entered: 07/21/2009)
08/27/2009		TEXT Minute Entry for proceedings held before Magistrate Judge David E. Peebles: Settlement Conference held on 8/27/2009 in Albany. Judge discusses settlement options w/ the parties. Case does not settle. Motion for summary judgment is pending before Judge Hurd and a decision will be forthcoming. Plaintiffs' counsel notes that costs and attorneys' fees remain as an open issue. APP: Joan Magoolaghan, Esq., Elizabeth Koob, Esq., James Seaman, Esq., Nancy Haywood, Esq., and Belinda Wagner. (sal, ) (Entered: 08/28/2009)
08/28/2009		CLERK'S CORRECTION OF DOCKET ENTRY of 8/27/09. Clerk modified text of minutes to include case did not settle. (sal, ) (Entered: 08/28/2009)
09/15/2009		NOTICE of Hearing on <u>97</u> MOTION for Summary Judgment : Motion Hearing set for 10/23/2009 at 10:00 AM in Albany before Judge David N. Hurd. Response to Motion due by 10/6/2009, Reply to Response to Motion due by 10/12/2009. (cbm ) (Entered: 09/15/2009)
10/06/2009	<u>105</u>	Letter Motion from James Seaman for Lester N. Wright, New York State Department of Correctional Services requesting short extension of summary judgment deadlines submitted to Judge Hurd. (Seaman, James) (Entered: 10/06/2009)
10/07/2009	<u>106</u>	ORDER granting <u>105</u> Letter Request. Response to <u>97</u> MOTION for Summary Judgment due by 10/8/2009; Reply due by 10/19/2009. Signed by Judge David N. Hurd on 10/7/2009. (mgh) (Entered: 10/07/2009)
10/08/2009	<u>107</u>	MEMORANDUM OF LAW filed by Robert Hilton. (Attachments: # <u>1</u> Decision Morgan v Koenigsmann)(Magoolaghan, Joan) (Entered: 10/08/2009)
10/08/2009	<u>108</u>	AFFIDAVIT in Opposition re <u>97</u> MOTION for Summary Judgment filed by Robert Hilton. (Attachments: # <u>1</u> Declaration of Dr. Leevy, # <u>2</u> Declaration of Robert Hilton, # <u>3</u> Exhibit 1, # <u>4</u> Exhibit 2, # <u>5</u> Exhibit 3, # <u>6</u> Exhibit 4, # <u>7</u> Exhibit 5, # <u>8</u> Exhibit 6, # <u>9</u> Exhibit 7, # <u>10</u> Exhibit 8, # <u>11</u> Exhibit 9, # <u>12</u> Exhibit 10, # <u>13</u> Exhibit 11, # <u>14</u> Plaintiffs' Rule 56 Statement)(Magoolaghan, Joan) (Entered: 10/08/2009)
10/08/2009	<u>109</u>	AFFIDAVIT re <u>108</u> Affidavit in Opposition to Motion, <i>Affidavit of Service</i> by Robert Hilton. (Magoolaghan, Joan) (Entered: 10/08/2009)
10/14/2009		Access to the medical records contained as exhibits to doc. 97 have been restricted to court users and case participants. (dictcbm ) (Entered: 10/14/2009)
10/14/2009		Access to medical records contained as exhibits to doc. 108 have been restricted to court users and case participants. (dictcbm ) (Entered: 10/14/2009)
10/14/2009		Set/Reset Deadlines as to <u>97</u> MOTION for Summary Judgment. Motion Hearing reset for 10/23/2009 ON SUBMIT. No need to appear. (cmr, ) (Entered: 10/14/2009)
10/19/2009	<u>110</u>	REPLY to Response to Motion re <u>97</u> MOTION for Summary Judgment filed by Lester N. Wright, New York State Department of Correctional Services. (Attachments: # <u>1</u> Exhibit(s) A to Wagner Aff, # <u>2</u> Exhibit(s) B to Wagner Aff, # <u>3</u> Exhibit(s) C to Wagner Aff, # <u>4</u> Statement of Material Facts, # <u>5</u> Memorandum of Law, # <u>6</u> Appendix 1 to Memo of Law, # <u>7</u> Appendix 2 to Memo of Law, # <u>8</u> Declaration of Service of a copy of all the above documents upon attorneys for plaintiffs)(Seaman, James) (Entered: 10/19/2009)



12/14/2009	<u>111</u>	ORDER: Ordered, that the First Amended Complaint is Dismissed in its entirety; Ordered, that the Clerk is directed to enter judgment accordingly and close the file. Signed by Judge David N. Hurd on 12/10/09. (mnc) (Entered: 12/14/2009)
12/14/2009	<u>112</u>	***VACATED*** JUDGMENT in favor of New York State Department of Correctional Services, Lester N. Wright against Louis Vasquez, Robert Hilton. (mnc) Modified on 3/11/2013 per order entered 3/11/13 (alh, ). (Entered: 12/14/2009)
12/17/2009	<u>113</u>	Letter Motion from Elizabeth L. Koob for Robert Hilton requesting Extension of time to file application for fees for monitoring class injunctive relief submitted to Judge Hurd. (Koob, Elizabeth) (Entered: 12/17/2009)
12/23/2009	<u>114</u>	ORDER granting <u>113</u> Letter Request. Pltfs' motion for attorney fees is to be filed by 1/15/2010, response by 2/19/10, and any reply by 2/26/10. Signed by Judge David N. Hurd on 12/23/09. (cbm ) (Entered: 12/23/2009)
01/12/2010	<u>115</u>	MOTION for Attorney Fees Motion Hearing set for 3/5/2010 10:00 AM in Utica before Judge David N. Hurd Response to Motion due by 2/16/2010 Reply to Response to Motion due by 2/22/2010. filed by Robert Hilton. (Attachments: # <u>1</u> Declaration, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E, # <u>7</u> Exhibit F, # <u>8</u> Exhibit G, # <u>9</u> Exhibit H, # <u>10</u> Exhibit I, # <u>11</u> Exhibit J, # <u>12</u> Memorandum of Law, # <u>13</u> Declaration of Service) (Magoolaghan, Joan) (Entered: 01/12/2010)
01/12/2010	<u>116</u>	NOTICE OF APPEAL as to <u>112</u> Judgment, <u>111</u> Order on Motion for Summary Judgment by Robert Hilton. Filing fee \$ 455, receipt number 0206-1474800. (Koob, Elizabeth) (Entered: 01/12/2010)
01/12/2010	<u>117</u>	ELECTRONIC NOTICE AND CERTIFICATION sent to US Court of Appeals re <u>116</u> Notice of Appeal (mnc) (Entered: 01/12/2010)
01/25/2010		USCA Case Number is 10-0135-pr for <u>116</u> Appeal filed by Robert Hilton. (cbm ) (Entered: 01/25/2010)
02/16/2010	<u>118</u>	RESPONSE in Opposition re <u>115</u> MOTION for Attorney Fees filed by New York State Department of Correctional Services, Lester N. Wright. (Attachments: # <u>1</u> Exhibit(s) A to Wagner Dcl, # <u>2</u> Exhibit(s) B to Wagner Dcl, # <u>3</u> Memorandum of Law, # <u>4</u> Declaration of service of a copy of the above on counsel for plaintiffs)(Seaman, James) (Entered: 02/16/2010)
02/26/2010	<u>119</u>	REPLY re <u>115</u> Motion for Attorney Fees, <i>Plaintiffs' Reply Memorandum</i> filed by Robert Hilton. (Attachments: # <u>1</u> Reply Declaration in Support of Attorneys Fees)(Magoolaghan, Joan) Modified on 3/1/2010 (mnc). (Entered: 02/26/2010)
03/01/2010		CLERK'S CORRECTION OF DOCKET ENTRY re <u>119</u> REPLY. Clerk modified the docket text to reflect that the entry is a Reply to Response to Motion and not a Memorandum of Law. (mnc) (Entered: 03/01/2010)
03/01/2010	<u>120</u>	Certificate of Service re <u>119</u> Memorandum of Law <i>Affidavit of Service of Memorandum and Declaration</i> by Robert Hilton. (Magoolaghan, Joan) Modified on 3/1/2010 (mnc). (Entered: 03/01/2010)
03/01/2010		CLERK'S CORRECTION OF DOCKET ENTRY re <u>120</u> Certificate of Service. The Clerk modified the docket entry to reflect that the submission is a Certificate of Service and not an Affidavit. (mnc) (Entered: 03/01/2010)
03/05/2010		Pltf's motion for attorneys fees' docket #115 returnable on 3/5/10 is on submit. Ct. to issue written decision. (cmr, ) (Entered: 03/05/2010)
05/25/2010	<u>121</u>	ORDER ***VACATED IN PART***: ORDERED, that Plaintiff-class is awarded attorney's fees in the sum of \$23,152.00; ORDERED, that Defendants are to make payment of that sum to "Koob & Magoolaghan" on or before June 25, 2010; ORDERED, that upon the defendant's failure to make the above payment, the Clerk is directed to enter judgment in favor of the Plaintiff-class and against the defendants in the sum of \$23,152.00. Signed by Judge David N. Hurd on 5/24/10. (mnc) Modified on 3/11/2013 to correct typographical error in docket entry, order signed 5/24/10 (alh, ). Modified PER ORDER DATED 3/11/2013, VACATED portion denying attorneys' fees beyond the sum of \$23,152.00 (alh, ). (Entered: 05/25/2010)

		05/25/2010)
05/25/2010		Set Deadline: Notice of Compliance Deadline 6/25/2010 (mnc) (Entered: 05/25/2010)
06/07/2010	<u>122</u>	NOTICE OF APPEAL as to <u>121</u> Order on Motion for Attorney Fees, by Robert Hilton. Filing fee \$ 455, receipt number 0206-1587194. (Attachments: # <u>1</u> Exhibit(s) decision below, # <u>2</u> Declaration)(Koob, Elizabeth) (Entered: 06/07/2010)
06/07/2010	<u>123</u>	ELECTRONIC NOTICE AND CERTIFICATION sent to US Court of Appeals re <u>122</u> Notice of Appeal (mnc) (Entered: 06/07/2010)
10/07/2010		USCA Case Number 10-2245 for <u>122</u> Notice of Appeal filed by Robert Hilton. (mnc) (Entered: 10/07/2010)
04/20/2012	<u>124</u>	MANDATE of USCA, issued 4/20/12, as to <u>116</u> and <u>122</u> Appeals filed by Robert Hilton; VACATING IN PART the judgment of the district court and REMANDING, in accordance w/attached slip opinion. (Attachments: # <u>1</u> slip opinion)(cbm ) (Entered: 04/20/2012)
04/23/2012	<u>125</u>	ORDER: ORDERED, that Defendant may file a supplemental brief not to exceed fifteen (15) pages in length, limited to the issues discussed in the March 9, 2012, opinion of the Second Circuit, on or before May 7, 2012. ORDERED, that Plaintiff may file a responding brief not to exceed fifteen (15) pages in length, on or before May 21, 2012. ORDERED, that the matter will be taken on submission on May 25, 2012, without oral argument. Signed by Judge David N. Hurd on 4/23/12. (alh, ) (Entered: 04/23/2012)
04/26/2012	<u>126</u>	Letter Motion from James Seaman for New York State Department of Correctional Services, Lester N. Wright requesting requesting revised briefing schedule on consent submitted to Judge Hurd . (Seaman, James) (Entered: 04/26/2012)
04/27/2012	<u>127</u>	ORDER granting <u>126</u> Letter Request: defts' Brief due by 5/28/2012, pltf's Brief due by 6/18/2012. Signed by Judge David N. Hurd on 4/27/12. (cbm ) (Entered: 04/27/2012)
05/29/2012	<u>128</u>	MEMORANDUM OF LAW re <u>97</u> Motion for Summary Judgment,,,,,, filed by New York State Department of Correctional Services, Lester N. Wright. (Attachments: # <u>1</u> Appendix 1 to memo of law, # <u>2</u> Appendix 2 to memo of law, # <u>3</u> Appendix 3 to memo of law, # <u>4</u> Appendix 4 to memo of law, # <u>5</u> Appendix 5 to memo of law, # <u>6</u> Appendix 6 to memo of law, # <u>7</u> Appendix 7 to memo of law, # <u>8</u> Appendix 8 to memo of law, # <u>9</u> Appendix 9 to memo of law, # <u>10</u> Appendix 10 to memo of law, # <u>11</u> Appendix 11 to memo of law, # <u>12</u> Appendix 12 to memo of law, # <u>13</u> Appendix 13 to memo of law, # <u>14</u> Appendix 14 to memo of law, # <u>15</u> Appendix 15 to memo of law, # <u>16</u> Appendix 16 to memo of law, # <u>17</u> Affirmation of Belinda Wagner, # <u>18</u> Exhibit(s) 1 & 2 to Wagner Aff)(Seaman, James) (Entered: 05/29/2012)
06/18/2012	<u>129</u>	MEMORANDUM OF LAW filed by Robert Hilton. (Attachments: # <u>1</u> Cabassa v Smith, # <u>2</u> Chambers v Wright, # <u>3</u> DiChiara v Wright, # <u>4</u> Hallett v NYSDOC, # <u>5</u> Hatzfeld v Eagen RR, # <u>6</u> Hatzfeld v Eagen DC, # <u>7</u> Lighthall v Vadlamudi, # <u>8</u> Toney v Goord)(Magoolaghan, Joan) (Entered: 06/18/2012)
06/18/2012	<u>130</u>	AFFIDAVIT <i>Of ElizabethL. Koob in Opposition</i> by Robert Hilton. (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, # <u>8</u> Ex H, # <u>9</u> Ex I, # <u>10</u> Ex J, # <u>11</u> Ex K, # <u>12</u> Ex L, # <u>13</u> Ex M, # <u>14</u> Ex N, # <u>15</u> Thomsen v Stantec)(Magoolaghan, Joan) (Entered: 06/18/2012)
01/08/2013	<u>131</u>	MEMORANDUM OF LAW re <u>129</u> Memorandum of Law, <i>corrected filing</i> filed by Robert Hilton. (Koob, Elizabeth) (Entered: 01/08/2013)
01/11/2013	<u>132</u>	REPLY to Response to Motion re <u>97</u> MOTION for Summary Judgment <i>objecting to late filing of Dkt #131</i> filed by New York State Department of Correctional Services, Lester N. Wright. (Seaman, James) (Entered: 01/11/2013)
03/07/2013	<u>133</u>	STATUS REPORT <i>request to consider recent decision</i> by Robert Hilton. (Attachments: # <u>1</u> Exhibit(s))(Koob, Elizabeth) (Entered: 03/07/2013)

03/11/2013	<u>134</u>	MEMORANDUM–DECISION AND ORDER: ORDERED, that the December 14, 2009, Judgment (Dkt. No. <u>112</u> ) dismissing the First Amended Complaint is VACATED. ORDERED, that the portion of the May 25, 2010, Order denying attorneys' fees beyond the sum of \$23,152.00 (Dkt. No. <u>121</u> ) is VACATED. ORDERED, that Defendants' motion for summary judgment (Dkt. No. <u>97</u> ) is GRANTED in part and DENIED in part. ORDERED, that any claim relating to the 2003 denial of Hepatitis C treatment based on the Length of incarceration Requirement is WAIVED. ORDERED, that the following claims are DISMISSED: (a) Section 1983 claim against Dr. Wright in his official capacity; (b) ADA claim against Dr. Wright in his individual capacity; and (c) Rehabilitation Act claim against Dr. Wright in his individual capacity. ORDERED, that Plaintiff's motion for attorneys' fees (Dkt. No. <u>115</u> ) is granted and class counsel is awarded an additional \$17,385.45, for a total fee award of \$40,537.45. ORDERED, that Defendants are to make payment in the sum of \$17,385.45 to "Koob &Magoolahgan" on or before March 25, 2013. ORDERED, that upon the defendants' failure to make the above payment, the Clerk is directed to enter judgment in favor of the plaintiff class and against the defendants in the sum of \$17,385.45. ORDERED, that trial is scheduled for August 12, 2013. Pre–trial papers are due by noon on July 26, 2013. Signed by Judge David N. Hurd on 3/11/13. (alh, ) (Entered: 03/11/2013)
03/26/2013	<u>135</u>	STATUS REPORT on fee payment non–compliance and request that judgment also be entered in favor of the plaintiff class and against the defendants in the sum of \$23,152.00 with interest accruing from June 26, 2010 filed by Robert Hilton. (Koob, Elizabeth) Modified on 3/26/2013 (alh, ). (Entered: 03/26/2013)
03/26/2013		CLERK'S CORRECTION OF DOCKET ENTRY re <u>135</u> Status Report: Clerk modified docket entry to indicate the request contained within submission. (alh, ) (Entered: 03/26/2013)
03/26/2013		TEXT NOTICE ON <u>135</u> STATUS REPORT with request: Defendants are directed to file a response to the submission by 4/5/13. (alh, ) (Entered: 03/26/2013)
03/29/2013	<u>136</u>	RESPONSE in Opposition re <u>135</u> STATUS REPORT with request filed by New York State Department of Correctional Services, Lester N. Wright. (Seaman, James) (Entered: 03/29/2013)
04/12/2013	<u>137</u>	DECISION and ORDER: ORDERED that Class counsel Koob &Magoolahgan's request that interest run from June 26, 2010, on the sum of \$23,152.00 is REJECTED. Signed by Judge David N. Hurd on 4/12/13. (nas) (Entered: 04/12/2013)
05/24/2013	<u>138</u>	Letter Motion from plaintiff's counsel for Robert Hilton requesting new trial date submitted to Judge Hurd <i>written on behalf of both parties</i> . (Koob, Elizabeth) (Entered: 05/24/2013)
05/30/2013		NOTICE of Hearing: Status Telephone Conference set for 6/5/2013 10:30 AM with Judge David N. Hurd. Atty. Koob is hereby directed to make the necessary arrangements for completion of the conference call. Judge Hurd will be available 315–793–9571 to confer with counsel. Letter dated 5/24/13 from Atty. Koob requesting adjournment of trial scheduled for 8/12/13 to be addressed.(cmr, ) (Entered: 05/30/2013)
06/05/2013	<u>139</u>	Minute Entry for proceedings held before Judge David N. Hurd: Telephone Conference held on 6/5/2013. Trial rescheduled for 9/4/13 @ 9:30 a.m. in Utica, NY. (Court Reporter None) (cmr, ) (Entered: 06/05/2013)
06/05/2013		NOTICE of Hearing: Final pretrial conference, jury selection and Trial reset for 9/4/2013 09:30 AM in Utica before Judge David N. Hurd. Appearance required. Pretrial papers due by 12:00 Noon on 8/24/13.(cmr, ) (Entered: 06/05/2013)
07/30/2013		Reset Pre–Trial Papers Deadlines: Exhibit List due by 8/24/2013. Pretrial Submissions due by 8/24/2013 Expert Witness List due by 8/24/2013, per Minute Entry, dkt. no. 139. (alh, ) (Entered: 07/30/2013)
08/05/2013	<u>140</u>	STATUS REPORT <i>with request for Magistrate</i> by Robert Hilton. (Koob, Elizabeth) (Entered: 08/05/2013)

08/05/2013	<u>141</u>	STATUS REPORT <i>regarding settlement as per text order of 6/28/13 (Dkt #139)</i> by New York State Department of Correctional Services, Lester N. Wright. (Seaman, James) (Entered: 08/05/2013)
08/06/2013		Due to a network issue at the internet gateway, certain Notices of Electronic Filings (NEFs) dated August 5–6 were regenerated by the Court to ensure successful delivery. If you have any questions or concerns, please contact the Court at 315–234–8505. (dictplp) (Entered: 08/06/2013)
08/13/2013		Please note pretrial papers are due by 12:00 noon on 8/23/13 and the Court will not entertain any requests for adjournment of trial or pretrial submissions. (cmr, ) (Entered: 08/13/2013)
08/15/2013		NOTICE of Hearing: Status Telephone Conference set for 8/26/2013 11:30 AM before Judge David N. Hurd. The Court will contact the parties. Counsel for the parties are hereby directed to call Mr. Craig B. Minor at 315–793–8271 and provide a telephone number where they can be reached for the teleconf on 8/26/13.(cmr, ) (Entered: 08/15/2013)
08/16/2013		TEXT NOTICE: Rec'd TFC from counsel indicating that action is SETTLED. Stipulation of discontinuance to be filed in due course. Telephone conference scheduled for 8/26/13 marked off. (cmr, ) (Entered: 08/16/2013)
08/23/2013	<u>142</u>	STIPULATION of Dismissal <i>Proposed</i> by New York State Department of Correctional Services, Lester N. Wright submitted to Judge Hurd. (Munkwitz, Kelly) (Entered: 08/23/2013)
08/28/2013	<u>143</u>	STIPULATION AND ORDER OF DISMISSAL pursuant to FRCP 41(a). Signed by Judge David N. Hurd on 8/27/13. (alh, ) (Entered: 08/28/2013)