

CASREF, CLOSED

U.S. District Court
United States District Court for the Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:01-cv-06571-KMK

McKenna v. Wright, et al
Assigned to: Judge Kenneth M. Karas
Referred to: Magistrate Judge Theodore H. Katz (Settlement)
Demand: \$3,000,000
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 07/19/2001
Date Terminated: 10/18/2005
Jury Demand: Plaintiff
Nature of Suit: 550 Prisoner: Civil Rights
Jurisdiction: Federal Question

Plaintiff

Edward McKenna

represented by **Dacia Christina Cocariu**
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TERMINATED: 08/30/2005
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V.

Defendant

Lester N. Wright
*Associate Commissioner/ Chief Medical
Officer Docs*

represented by **John Eric Knudsen**
New York State Department of Law (EPB)
The Capitol
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212 416-8625
Fax: 212 416-6075
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Defendant

Superintendent John P. Keane
Woodbourne Correctional Fac.

represented by **John Eric Knudsen**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

T. J. Miller
*Deputy Supt. for Admin., Woodbourne
Corr., Facility*

represented by **John Eric Knudsen**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Physician Frank Lancellotti

represented by **John Eric Knudsen**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Physician Mervat Makram
*Health Care Unit, Woodbourne
 Correctional Facility*

represented by **John Eric Knudsen**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

**All Unnamed Persons, Individuals,
 Officers, Civilians, Individually and in
 their Official Capacities**

Defendant

Commissioner Gleen S. Goord
*Commissioner New York State Dept. of
 Corr. Services*

| Date Filed | # | Docket Text |
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| 07/19/2001 | 1 | Order endorsed on declaration in support of request to proceed in forma pauperis; I.F.P. request is granted. (signed by Chief Judge Michael B. Mukasey) (db) (Entered: 08/02/2001) |
| 07/19/2001 | 2 | COMPLAINT filed. Summons issued and Notice pursuant to 28 U.S.C. 636(c). (db) (Entered: 08/02/2001) |
| 07/19/2001 | | Magistrate Judge Theodore H. Katz is so designated. (db) (Entered: 08/02/2001) |
| 07/19/2001 | 3 | APPLICATION by Edward McKenna for the Court to request counsel . (db) (Entered: 08/02/2001) |
| 09/27/2001 | 4 | U.S. MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE of summons and complaint executed as to John P. Keane by personal service on 8/31/01 . Answer due on 9/20/01 for John P. Keane . (bai) (Entered: 09/28/2001) |
| 09/27/2001 | 5 | U.S. MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE of summons and complaint executed as to Lester N. Wright by personal service on 9/6/01 . Answer due on 9/26/01 for Lester N. Wright . (bai) (Entered: 09/28/2001) |
| 10/26/2001 | 6 | U.S. MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE of Summons and Complaint executed as to T. J. Miller by personal service on 8/31/01. Answer due on 9/20/01 for T. J. Miller. (tp) (Entered: 10/30/2001) |
| 10/26/2001 | 6 | U.S. MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE of Summons and Complaint executed as to Mervat Makram by personal service on 8/31/01. Answer due on 9/20/01 for Mervat Makram. (tp) (Entered: 10/30/2001) |
| 10/26/2001 | 6 | U.S. MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE of Summons and Complaint executed as to Frank Lancellotti by personal service on 8/31/01. Answer due on 9/20/01 for Frank Lancellotti. (tp) (Entered: 10/30/2001) |

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| 11/06/2001 | 7 | Memo-Endorsement on letter addressed to Judge Knapp from John E. Knudsen, dated 10/19/01: Granting defendants counsel's request that the time for all defendants to answer or otherwise respond to the complaint be extended, nunc pro tunc as necessary, to 12/11/01 . (signed by Judge Whitman Knapp); Copies mailed. (tp) (Entered: 11/07/2001) |
| 11/16/2001 | 8 | NOTICE OF MOTION by Edward McKenna; for an Order pursuant to Rule 65 of the FRCP to enjoin defendants Dr. Lester N. Wright, Dr. Mervat Makram, and Dr. Frank Lancellotti from delaying plaintiff immediate medical treatment that is consistent with the specialist's order without further delay . Return date 11/19/01. Affirmation of Edward McKenna in support attached. (kkc) (Entered: 11/20/2001) |
| 11/27/2001 | 9 | Memo-Endorsement on letter addressed to Judge Knapp from John E. Knudsen, dated 11/19/01; defts' time to respond reset to 11/27/01 for [8-1] motion for an Order pursuant to Rule 65 of the FRCP to enjoin defendants Dr. Lester N. Wright, Dr. Mervat Makram, and Dr. Frank Lancellotti from delaying plaintiff immediate medical treatment that is consistent with the specialist's order without further delay . (signed by Judge Whitman Knapp); Copies mailed. (sn) (Entered: 11/28/2001) |
| 11/30/2001 | 10 | MEMORANDUM OF LAW by Lester N. Wright, John P. Keane, T. J. Miller, Frank Lancellotti, Mervat Makram, All Unnamed Persons in opposition to [8-1] motion for an Order pursuant to Rule 65 of the FRCP to enjoin defendants Dr. Lester N. Wright, Dr. Mervat Makram, and Dr. Frank Lancellotti from delaying plaintiff immediate medical treatment that is consistent with the specialist's order without further delay . (db) (Entered: 12/04/2001) |
| 11/30/2001 | 11 | AFFIDAVIT of Lester N. Wright by Lester N. Wright, John P. Keane, T. J. Miller, Frank Lancellotti, Mervat Makram, All Unnamed Persons in opposition to [8-1] motion for an Order pursuant to Rule 65 of the FRCP to enjoin defendants Dr. Lester N. Wright, Dr. Mervat Makram, and Dr. Frank Lancellotti from delaying plaintiff immediate medical treatment that is consistent with the specialist's order without further delay . (db) (Entered: 12/04/2001) |
| 12/12/2001 | 12 | NOTICE OF MOTION by Lester N. Wright, John P. Keane, T. J. Miller, Frank Lancellotti, Mervat Makram; for an order pursuant to the Rule 12(b)(6) of the F.R.C.P. granting defendants motion to dismiss ; Return date 2/13/02. (pl) (Entered: 12/13/2001) |
| 12/12/2001 | 13 | MEMORANDUM OF LAW by Lester N. Wright, John P. Keane, T. J. Miller, Frank Lancellotti, Mervat Makram, All Unnamed Persons in support of [12-1] motion for an order pursuant to the Rule 12(b)(6) of the F.R.C.P. granting defendants motion to dismiss . (pl) (Entered: 12/13/2001) |
| 12/14/2001 | 14 | ORDER; plttf's request for an extension of time to file his reply brief is granted; plttf may file his reply brief by 12/21/01 for [8-1] motion for an Order pursuant to Rule 65 of the FRCP to enjoin defendants Dr. Lester N. Wright, Dr. Mervat Makram, and Dr. Frank Lancellotti from delaying plaintiff immediate medical treatment that is consistent with the specialist's order without further delay . (signed by Judge Whitman Knapp); Copies mailed. (sn) (Entered: 12/18/2001) |

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| 12/18/2001 | 20 | REPLY MEMORANDUM by Edward McKenna re: [8-1] motion for an Order pursuant to Rule 65 of the FRCP to enjoin defendants Dr. Lester N. Wright, Dr. Mervat Makram, and Dr. Frank Lancellotti from delaying plaintiff immediate medical treatment that is consistent with the specialist's order without further delay (cd) (Entered: 04/26/2002) |
| 03/05/2002 | 15 | MEMORANDUM & ORDER; denying [8-1] motion for an Order pursuant to Rule 65 of the FRCP to enjoin defendants Dr. Lester N. Wright, Dr. Mervat Makram, and Dr. Frank Lancellotti from delaying plaintiff immediate medical treatment that is consistent with the specialist's order without further delay . (by Judge Whitman Knapp); Copies mailed. (djc) (Entered: 03/06/2002) |
| 03/20/2002 | 16 | NOTICE OF MOTION by Edward McKenna, for reconsideration of [15-1] order . Return date 4/8/02. (kw) (Entered: 03/27/2002) |
| 03/20/2002 | 17 | MEMORANDUM OF LAW by Edward McKenna in support of [16-1] motion for reconsideration of [15-1] order. (kw) (Entered: 03/27/2002) |
| 03/20/2002 | 19 | Letter filed by Edward McKenna addressed to Judge Knapp from Edward McKenna, dated 03/17/02. (djc) (Entered: 04/23/2002) |
| 03/26/2002 | 18 | ORDER,; Defendants are directed to respond to Plaintiff Edward McKenna's motion for Reconsideration. In their response, Defendants should, at a minimum, provide the Court twith the information as set forth in this Order ; (signed by Judge Whitman Knapp); Copies mailed. (djc) (Entered: 03/27/2002) |
| 06/12/2002 | 21 | ORDER; defendants response to motion reset to 7/10/02 for [16-1] motion for reconsideration of [15-1] order ; as we indicated in our 3/21/02 order, the defendants should at a minimum, provide us with the following information as listed in this Order . (signed by Judge Whitman Knapp); Copies mailed. (pl) (Entered: 06/14/2002) |
| 07/11/2002 | 22 | AFFIDAVIT of Mervat R. Markram Re: [16-1] motion for reconsideration of [15-1] order . (pl) (Entered: 07/17/2002) |
| 12/03/2002 | 23 | Letter filed by Edward McKenna addressed to Ms. Valenti, dated 8/21/00, re: given a new inhaler. (kw) (Entered: 12/04/2002) |
| 12/03/2002 | 24 | Letter filed by Edward McKenna addressed to Mr. Zwibel, dated 10/31/02, re: needing representation on his case. (kw) (Entered: 12/04/2002) |
| 12/03/2002 | 25 | Letter filed by Edward McKenna addressed to Judge Knapp, dated 11/11/02, re: changing medical status. (kw) (Entered: 12/04/2002) |
| 12/03/2002 | 26 | Letter filed by Edward McKenna addressed to Judge Knapp, dated 11/14/02, re: application for counsel. (kw) (Entered: 12/04/2002) |
| 01/22/2003 | 27 | NOTICE OF MOTION by Edward McKenna for reconsideration of McKenna's original request to be seen by Benedict J. Maliakkal, M.D. Gastroenterologist ; Return Date not indicated; (djc) (Entered: 01/27/2003) |
| 02/07/2003 | 28 | Letter filed addressed to Judge Knapp from Edward McKenna, dated 10/7/02, re: requesting assistance with the decision on motion for reconsideration. (jco) Modified on 02/13/2003 (Entered: 02/13/2003) |

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| 02/13/2003 | 29 | ORDER, Defendants are directed to submit a supplemental response to the plaintiff's motion for reconsideration, as further set forth on this order. Along with the affidavit (or affidavits), the defendants should submit a supplemental opposition brief, on or before 3/12/03. (signed by Judge Whitman Knapp) (sb) (Entered: 02/19/2003) |
| 02/14/2003 | 30 | MEMORANDUM & ORDER; granting [3-1] motion for the Court to request counsel; the Pro Se Office for this judicial district is directed to request pro bono counsel for the plaintiff in accordance with the pro bono panel's procedures ; in the interim, the defendants' motion to dismiss the plaintiff's action (Docket Nos. 12 and 13) is held in abeyance until 8/31/03. However, the supplemental briefs and affidavits or, in the alternative, the supplemental statement of non-opposition which the defendants must shortly submit in response to the plaintiff's motion for reconsideration in accordance with our 2/10/03 Order shall not be affected by our decision to grant the instant applications. The defendants shall submit the necessary documents as directed by 3/12/03 . (signed by Judge Whitman Knapp); copy forwarded to Pro Se Office. (kkc) (Entered: 02/19/2003) |
| 04/03/2003 | 31 | NOTICE of attorney appearance for Edward McKenna by Sung Hee Suh. (kw) (Entered: 04/07/2003) |
| 07/18/2003 | 32 | NOTICE OF MOTION by Edward McKenna; for an Order pursuant to Rules 15(a) and 15(d) of the F.R.C.P. for leave to file amended complaint . Return Date not indicated. (jco) (Entered: 07/21/2003) |
| 07/18/2003 | 33 | MEMORANDUM OF LAW by Edward McKenna in support of [32-1] motion for an Order pursuant to Rules 15(a) and 15(d) of the F.R.C.P. for leave to file amended complaint. (jco) (Entered: 07/21/2003) |
| 07/29/2003 | 34 | Notice of Case reassignment to Judge Harold Baer Jr. . Copy of notice and judge's rules mailed to Attorney(s) of record: Sung Hee Suh, Edward McKenna . (gf) (Entered: 07/30/2003) |
| 08/08/2003 | | PRETRIAL CONFERENCE set at 2:00 9/16/03 before Judge Harold Baer Jr. in Room 2230 (cd) (Entered: 08/12/2003) |
| 08/13/2003 | 35 | AFFIDAVIT OF SERVICE of notice of reassignment as to John Knudsen, Assistant Attorney General by U.S. Postal Service on 8/12/03 . . (dle) (Entered: 08/18/2003) |
| 08/18/2003 | 36 | ORDER, granting [32-1] motion for an Order pursuant to Rules 15(a) and 15(d) of the F.R.C.P. for leave to file amended complaint. (signed by Judge Harold Baer Jr.); (kw) (Entered: 08/19/2003) |
| 08/21/2003 | 37 | DEMAND for jury trial by Edward McKenna . (cd) (Entered: 08/22/2003) |
| 08/21/2003 | 37 | AMENDED COMPLAINT amending [2] Complaint against Gleen S. Goord, All Unnamed Persons, Individuals, Officers, Civilians, Individually and in their Official Capacities, John P. Keane, Frank Lancellotti, Mervat Makram, T. J. Miller, Lester N. Wright. Summons issued.Document filed by Edward McKenna. Related document: [2] Complaint.(rag,) (Entered: 11/16/2004) |
| 09/05/2003 | 38 | AFFIDAVIT OF SERVICE of summons and complaint as to John E. Cunningham Jr. by Teresa Wuerdeman on 8/26/03. Answer due on 9/15/03 for John E. Cunningham Jr. (jco) (Entered: 09/10/2003) |

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| 09/05/2003 | 39 | AFFIDAVIT OF SERVICE of summons and amended complaint as to Glenn S. Goord by Lucia A. Ferrara on 8/26/03. Answer due on 9/15/03 for Glenn S. Goord. (jco) (Entered: 09/10/2003) |
| 09/12/2003 | 40 | AFFIDAVIT OF SERVICE of summons and complaint as to Raymond Cunningham by Rhonda Fox, Inmate Rcds. Coord on 9/4/03 . . (dle) (Entered: 09/17/2003) |
| 09/22/2003 | 41 | ORDER, The deadline for defendants to answer the complaint is 9/26/03. The deadline for plaintiff to reply to defendants' answer is 10/3/03. Discovery may commence from 10/3/03 and must be completed by 1/19/04. The fully-briefed dispositive motion deadline is 2/20/04. The joint pretrial order is due 4/25/04. This case is added to the May 2004 trailing trial calendar. (signed by Judge Harold Baer Jr.) (sb) (Entered: 09/23/2003) |
| 09/29/2003 | 42 | ORDER, that the deadline for defendants to move to dismiss the amended complaint is 10/3/03, and the deadline for plaintiff to respond to defendants motion is 10/24/03 . (signed by Judge Harold Baer Jr.). (tp) (Entered: 09/30/2003) |
| 09/30/2003 | | Terminated documents 12-1, 17-1, 27-1 pursuant to instructions of Judge Baer as indicated on the CJRA report. (rag) (Entered: 10/01/2003) |
| 10/03/2003 | 43 | NOTICE OF MOTION (FILED ON SERVICE DATE) by Lester N. Wright, John P. Keane, T. J. Miller, Frank Lancellotti, Mervat Makram for an order pursuant to Rule 12(b)(6) of the FRCP granting defendants' motion to dismiss . Return Date 11/24/03. (moc) (Entered: 10/07/2003) |
| 10/06/2003 | 44 | MEMORANDUM OF LAW by Lester N. Wright, John P. Keane, T. J. Miller, Frank Lancellotti, Mervat Makram in support of [43-1] motion for an order pursuant to Rule 12(b)(6) of the FRCP granting defendants' motion to dismiss . (moc) (Entered: 10/07/2003) |
| 10/06/2003 | 45 | DECLARATION of John Knudsen by Lester N. Wright, John P. Keane, T. J. Miller, Frank Lancellotti, Mervat Makram in support Re: [43-1] motion for an order pursuant to Rule 12(b)(6) of the FRCP granting defendants' motion to dismiss . (moc) (Entered: 10/07/2003) |
| 10/24/2003 | 46 | MEMORANDUM OF LAW by Edward McKenna in opposition to [43-1] motion for an order pursuant to Rule 12(b)(6) of the FRCP granting defendants' motion to dismiss. Received in the night deposit box on 10/24/03 at 6:19 p.m. (sb) (Entered: 10/28/2003) |
| 11/03/2003 | 47 | REPLY MEMORANDUM by Lester N. Wright, John P. Keane, T. J. Miller, Frank Lancellotti, Mervat Makram in support re: [43-1] motion for an order pursuant to Rule 12(b)(6) of the FRCP granting defendants' motion to dismiss . (moc) (Entered: 11/05/2003) |
| 11/26/2003 | 48 | AFFIRMATION of John Knudsen re defts' appliation to take the deposition of plntf McKenna. Document filed by John P. Keane, Frank Lancellotti, Mervat Makram, T. J. Miller, Lester N. Wright. (cd,) (Entered: 12/05/2003) |
| 12/02/2003 | 49 | ORDER; that, pursuant to F.R.C.P. 30(a), and upon the notice given by defendnats to plaintiff, defendants may take the deposition of plaintiff/inmate Edward McKenna at the prison where he is confined. (Signed by Judge Harold |

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| | | Baer on 12/2/03) (pl,) (Entered: 12/11/2003) |
| 12/16/2003 | 50 | ENDORSED LETTER addressed to Judge Harold Baer from Stacy P. Aronowitz dated 12/4/2003 re: request for an order compelling a medical examination of Edward McKenna by an outside specialist. So far as I can see there has been adequate medical attention - but I am not a physician nor am I contemplating being one. If you believe a hearing will dispel the AG's contentions and provide me with the requisite proof for a mandatory injunction, I will be glad to hold such a hearing, just call with a date convenient to all concerned and your witnesses. The last week of the month is more or less available. For now your application is denied. (Signed by Judge Harold Baer on 12/12/2003) (kkc,) (Entered: 01/02/2004) |
| 12/16/2003 | 51 | ENDORSED LETTER addressed to Judge Harold Baer Jr. from Stacy P. Aronowitz dated 12/12/2003 re: Extension of discovery cutoff dates. The application is granted. Extension of discovery is granted both general and expert. Sadly I will extend the FBM date as well but the trial will go forward in May and without 60 days to decide motions,I may have not reached yours. I'll do my part and adjourn FBM to March 1, 2004 after that you will be on your own.. (Signed by Judge Harold Baer on 12/16/2003) (jsa,) (Entered: 01/08/2004) |
| 12/16/2003 | | Set Deadlines/Hearings: Discovery due by 3/1/2004. (jsa,) (Entered: 01/08/2004) |
| 12/30/2003 | 52 | ENDORSED LETTER addressed to Judge Harold Baer Jr. from John E. Knudsen dated 12/22/2003 re: adjournment of oral argument. The Court directs that unless a decision id forthcoming, you will comply with the oral argument timetable and we can hear you out on qualified immunity issues and any others. Discovery is stayed only until that date and time i.e. 1/5/2004.. (Signed by Judge Harold Baer on 12/29/2003) (jsa,) (Entered: 01/14/2004) |
| 01/07/2004 | 53 | ENDORSED LETTER addressed to Judge Harold Baer, Jr. from John E. Knudsen dated 1/5/04 re: Discovery will be stayed through 1/19 and if no decision you may seek a further stay. (Signed by Judge Harold Baer on 1/6/04) (sac,) (Entered: 01/20/2004) |
| 01/21/2004 | 54 | OPINION AND ORDER # 89587 re: [43] Motion to Dismiss filed by John P. Keane, T. J. Miller, Lester N. Wright, Frank Lancellotti, Mervat Makram; defendants' motion to dismiss is granted-in-part and denied-in-part. All of plaintiffs' claims against defendant Goord as well as plaintiff's substantive due process claim under the Fourteenth Amendment against all defendants are dismissed. The Clerk of the Court is requested to close this motion and any outstanding motions. (Signed by Judge Harold Baer on 1/21/04) (ae,) (Entered: 01/26/2004) |
| 01/21/2004 | 56 | ORDER; Discovery must be completed by 3/1/04. The fully-briefed dispositive motion deadline is 4/15/04. The joint pretrial order is 7/10/04. This case is added to the July 2004 trailing trial calendar. (Signed by Judge Harold Baer on 1/20/04) (sb,) (Entered: 01/29/2004) |
| 01/22/2004 | 55 | NOTICE OF INTERLOCUTORY APPEAL from [54] Memorandum & Opinion,, Document filed by All Unnamed Persons, Individuals, Officers, Civilians, Individually and in their Official Capacities, John P. Keane, Frank Lancellotti, Mervat Makram, T. J. Miller, Lester N. Wright. Filing fee \$ 255.00, |

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| | | receipt number E497099. Copies of Notice of Interlocutory Appeal mailed to Attorney(s) of Record: Stacy P. Aronowitz, Esq.. (dt,) (Entered: 01/26/2004) |
| 01/23/2004 | 57 | ENDORSED LETTER addressed to Judge Baer from John E. Knudsen dated 1/22/04 re: Counsel for defendants are filing the enclosed Notice of Appeal. Whether you can find the 17th floor without seeking permission here first is unclear to me but my concern is not wasting more time especially with a very sick older man and where summary judgment may have avoided some of the time lag but assuming you are procedurally correct, I will certainly stay the matter in its entirety at least for now. (Signed by Judge Harold Baer on 1/23/04) (sb,) (Entered: 02/02/2004) |
| 01/26/2004 | | Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: [55] Notice of Interlocutory Appeal,. (dt,) (Entered: 01/26/2004) |
| 01/26/2004 | | Transmission of Notice of Appeal to the District Judge re: [55] Notice of Interlocutory Appeal,. (dt,) (Entered: 01/26/2004) |
| 03/02/2004 | 58 | Appeal Record Sent to USCA (Index). Notice that the Original index to the record on Appeal for [55] Notice of Interlocutory Appeal, filed by John P. Keane, T. J. Miller, Lester N. Wright, Frank Lancellotti, Mervat Makram, All Unnamed Persons, Individuals, Officers, Civilians, Individually and in their Official Capacities USCA Case Number 04-0492, 3 Copies of the index, Certified Clerk Certificate and Certified Docket Sheet were transmitted to the U.S. Court of Appeals. (dt,) (Entered: 03/02/2004) |
| 03/08/2004 | 59 | TRANSCRIPT of proceedings held on 1/12/04 before Judge Harold Baer.(ja,) (Entered: 03/09/2004) |
| 03/08/2004 | 60 | NOTICE of regarding addition of attorneys of record. That Stacy P. Aronwitz and Kristina M. Zarlengo, in addition to Sung-Hee Suh have been retained as counsel for Plaintiff. Document filed by Edward McKenna. (sac,) (Entered: 03/26/2004) |
| 03/17/2004 | | Appeal Record Sent to USCA (File). Indexed record on Appeal Files for [55] Notice of Interlocutory Appeal, filed by John P. Keane, T. J. Miller, Lester N. Wright, Frank Lancellotti, Mervat Makram, All Unnamed Persons, Individuals, Officers, Civilians, Individually and in their Official Capacities USCA Case Number 04-0492, were transmitted to the U.S. Court of Appeals. (dt,) (Entered: 03/17/2004) |
| 09/03/2004 | 61 | NOTICE OF CASE REASSIGNMENT to Judge Kenneth M. Karas. Judge Harold Baer no longer assigned to the case. (jjm,) (Entered: 09/15/2004) |
| 09/15/2004 | | Mailed notice with Rules 2 & 3 to the attorney(s) of record. (jjm,) (Entered: 09/15/2004) |
| 10/20/2004 | 62 | NOTICE of Appearance by Kristina Michele Jones on behalf of Edward McKenna (ps,) (Entered: 10/22/2004) |
| 10/21/2004 | 63 | LETTER addressed to counsel of record from chambers of Judge Baer dated 10/21/04 re: notifying counsel that there will be a pre-trial conference in the case at 5:00 p.m on December 2, 2004 in room 2230; (djc,) (Entered: 10/25/2004) |

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| 11/22/2004 | 64 | MANDATE of USCA (Certified Copy) as to [55] Notice of Interlocutory Appeal, filed by John P. Keane, T. J. Miller, Lester N. Wright, Frank Lancellotti, Mervat Makram, All Unnamed Persons, Individuals, Officers, Civilians, Individually and in their Official Capacities. it is hereby ORDERED, ADJUDGED AND DECREED that the order of said District Court be and it hereby is AFFIRMED in accordance with the opinion of this Court. USCA Case Number 04-0492-pr. Roseann B. MacKechnie, Clerk USCA. Issued As Mandate: November 9, 2004. (dt,) (Entered: 11/22/2004) |
| 11/22/2004 | | Transmission of USCA Mandate/Order to the District Judge re: [64] USCA Mandate Non-Dismissal,, (dt,) (Entered: 11/22/2004) |
| 11/22/2004 | | Costs Taxed USCA Case Number 04-0492-pr. in the amount of \$310.00. Docketed as Judgment #04,2108 on 11/22/04 in favor of Plaintiff, Edward McKenna against Defendants-Appellants, Lester N. Wright, et al. (Original Document attached to U.S.C.A. Mandate Doc. #64. (dt,) (Entered: 11/22/2004) |
| 11/22/2004 | 65 | NOTICE of Appearance by Mary Alestra on behalf of Edward McKenna (jp,) (Entered: 11/24/2004) |
| 11/30/2004 | 66 | ENDORSED LETTER addressed to Judge Karas from John E. Knudsen dated 11/23/2004 re: The application is granted. Defendants' answer is now due on 12/20/2004. No further extensions will be granted. The parties are directed to appear for a conference on 1/5/05 at 11:00am. (Signed by Judge Kenneth M. Karas on 11/29/2004) (jsa,) (Entered: 12/01/2004) |
| 11/30/2004 | | Set Answer Due Date re: [37] Amended Complaint, as to All Unnamed Persons, Individuals, Officers, Civilians, Individually and in their Official Capacities answer due on 12/29/2004; Gleen S. Goord answer due on 12/29/2004; John P. Keane answer due on 12/29/2004; Frank Lancellotti answer due on 12/29/2004; Mervat Makram answer due on 12/29/2004; T. J. Miller answer due on 12/29/2004; Lester N. Wright answer due on 12/29/2004. (jsa,) (Entered: 12/01/2004) |
| 11/30/2004 | | Set/Reset Hearings: Pretrial Conference set for 1/5/2005 11:00 AM before Judge Kenneth M. Karas. (jsa,) (Entered: 12/01/2004) |
| 12/30/2004 | 67 | ANSWER to Complaint. Document filed by Lester N. Wright, John P. Keane, T. J. Miller, Frank Lancellotti, Mervat Makram.(jmi,) (Entered: 01/04/2005) |
| 01/06/2005 | 68 | AMENDED CASE MANAGEMENT PLAN:All Fact Discovery due by 4/5/2005. Next Case Management Conference set for 5/20/2005 10:30 AM before Judge Kenneth M. Karas. Additional discovery deadlines are as set forth in this Order. (Signed by Judge Kenneth M. Karas on 1/5/05) (pl,) Modified on 1/13/2005 (pl,). (Entered: 01/13/2005) |
| 01/28/2005 | | Appeal Record Returned. Indexed record on Appeal Files for [55] Notice of Interlocutory Appeal, filed by John P. Keane,, T. J. Miller,, Lester N. Wright,, Frank Lancellotti,, Mervat Makram,, All Unnamed Persons, Individuals, Officers, Civilians, Individually and in their Official Capacities, USCA Case Number 04-0492-pr, returned from the U.S. Court of Appeals. (pr,) (Entered: 01/31/2005) |
| 03/08/2005 | 69 | ENDORSED LETTER addressed to Judge Kenneth M. Karas from John E. Knudsen dated 3/3/05 re: Application GRANTED. The parties are given until |

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| | | 4/19/05 to complete fact discovery. (Signed by Judge Kenneth M. Karas on 3/4/05) (db,) (Entered: 03/10/2005) |
| 03/08/2005 | | Set/Reset Deadlines: Discovery due by 4/19/2005. (db,) (Entered: 03/10/2005) |
| 04/27/2005 | 70 | SECOND AMENDED SCHEDULING ORDER: Motions due by 5/9/2005. Discovery due by 6/10/2005. See Document for further Scheduling Deadlines. (Signed by Judge Kenneth M. Karas on 4/25/05) (sac,) (Entered: 05/02/2005) |
| 05/03/2005 | 71 | NOTICE of Appearance by Jeffrey P. Wade on behalf of Edward McKenna (pf,) (Entered: 05/05/2005) |
| 05/09/2005 | 72 | MOTION for an order, compelling defendants to respond to plaintiff's discovery requests; and for an order, awarding to plaintiff the reasonable expenses of this motion, including attorney's fees. Affirmation of Mary F. Alestra in support attached. Document filed by Edward McKenna. Received in the night deposit box on 5/9/05 at 10:57 p.m.. (sac,) (Entered: 05/10/2005) |
| 05/09/2005 | 73 | MEMORANDUM OF LAW in Support re: [72] MOTION to Compel. Document filed by Edward McKenna. Received in the night deposit box on 5/9/05 at 10:57 p.m.. (sac,) (Entered: 05/10/2005) |
| 05/23/2005 | 74 | STIPULATION AND ORDER this action that the following terms and conditions shall govern the physical examination of plaintiff Edward McKenna to be conducted by the parties' respective physician experts as further set forth in this Stipulation. (Signed by Judge Kenneth M. Karas on 5/16/05) (jco,) (Entered: 05/25/2005) |
| 05/23/2005 | 75 | ENDORSED LETTER addressed to Judge Kenneth M. Karas from Mary F. Alestra dated 5/20/05 re: Counsel writes to request a brief extension to the expert discovery schedule as follows: plaintiff expert report served on defendants on or before 5/31/05; deposition of plaintiff's expert shall be completed by 6/9/05; defendants' expert report shall be served on plaintiff on or before 6/10/05; and any depositions of defendants' expert by plaintiff shall be completed by 6/21/05. So Ordered. (Signed by Judge Kenneth M. Karas on 5/20/05) (jco,) (Entered: 05/25/2005) |
| 05/27/2005 | 76 | ORDER that counsel who will try the case appear for a status conference on 6/28/05 at 11:00 a.m. in 500 Pearl Street courtroom 21D. (Signed by Judge Kenneth M. Karas on 5/25/05) (dle,) (Entered: 05/27/2005) |
| 05/27/2005 | | Set/Reset Hearings: Status Conference set for 6/28/2005 11:00 AM before Judge Kenneth M. Karas. (dle,) (Entered: 05/27/2005) |
| 06/01/2005 | 77 | ENDORSED LETTER addressed to Judge Kenneth M. Karas from John E. Knudsen dated 5/26/05 re: The revised schedule for the motion to compel discovery is approved - defendants response due 6/1/05, reply due 6/8/05. (Signed by Judge Kenneth M. Karas on 5/27/05) (db,) (Entered: 06/02/2005) |
| 06/01/2005 | | Set/Reset Deadlines as to [72] MOTION to Compel. Responses due by 6/1/2005 Replies due by 6/8/2005. (db,) (Entered: 06/02/2005) |
| 06/03/2005 | 78 | MEMORANDUM OF LAW in Opposition re: [72] MOTION to Compel. Document filed by Lester N. Wright, John P. Keane, T. J. Miller, Frank Lancellotti, Gleen S. Goord, Mervat Makram, All Unnamed Persons, Individuals, |

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| | | Officers, Civilians, Individually and in their Official Capacities. (sac,) (Entered: 06/06/2005) |
| 06/08/2005 | 79 | REPLY MEMORANDUM OF LAW in Support re: [72] MOTION to Compel.. Document filed by Edward McKenna. (dle,) (Entered: 06/14/2005) |
| 06/08/2005 | 80 | AFFIRMATION of Mary F. Alestra in Support re: [72] MOTION to Compel.. Document filed by Edward McKenna. (dle,) (Entered: 06/14/2005) |
| 06/10/2005 | 81 | ORDER that upon the agreement of te parties, plaintiff will be transported to Westchester Medical Center for a medical exam by dfts' expert on or around 6/9/05. (Signed by Judge Kenneth M. Karas on 6/7/05) (dle,) (Entered: 06/15/2005) |
| 06/28/2005 | 82 | STIPULATION AND ORDER that the IGRC at Woodbourne Correctional Facility consists of two voting inmates, two voting Woodbourne staff members, and a nonvoting chairperson. The IGRC is responsible for resolving inmate grievances or making recommendations for the resolution of such grievances, purs. to New York State LaW. (Signed by Judge Kenneth M. Karas on 6/23/05) (dle,) (Entered: 06/28/2005) |
| 06/28/2005 | 83 | ENDORSED LETTER addressed to Judge Karas from John E. Knudsen dated 6/21/05 re: request for an extension of expert discovery. The deposition of defendant's expert shall be conducted by 7/15/2005. (Signed by Judge Kenneth M. Karas on 6/22/05) (yv,) (Entered: 06/28/2005) |
| 06/28/2005 | 84 | STIPULATION AND ORDER. Parties reserve the right to challenge the admission as evidence of Exhibit A on all other grounds, including relevance. The parties do not waive the right to call Dr. Rodgers as a witness at trial or to challenge his being called on relevance or other grounds (Signed by Judge Kenneth M. Karas on 6/23/05) (yv,) (Entered: 06/28/2005) |
| 06/28/2005 | 85 | STIPULATION AND ORDER. Both parties reserve the right to challenge the admission as evidence of any of the documents further set forth in this Order on all other grounds, including relevance (Signed by Judge Kenneth M. Karas on 6/23/05) (yv,) (Entered: 06/28/2005) |
| 06/28/2005 | 86 | STIPULATION; that during the period from 1999 through 2003, there were no protocols, policies, or guideliness in effect at Woodbourne Correctional Facility that specifically discussed Hepatitis C other than the Department of Corrections' Heppatitis C Primary Care Practice Guidelines, and the DOCS protocols relating to blood-borne pathogens, versions of which bear production numbers MCD 3138-3188, MCD 3458-3502, and MCD 3525-3527. (Signed by Judge Kenneth M. Karas on 6/23/05) (sac,) (Entered: 06/29/2005) |
| 07/22/2005 | 87 | ORDER granting in part and denying in part [72] Motion to Compel. As stated on the record at today's conference, plaintiff's motion to compel discovery is granted in part and denied in part. The docketing clerk is directed to terminate the motion. The parties shall file cross motion for summary judgment no later than 9/16/05. Responses are due no later than 9/30/05. Replies are due no later than 10/7/05 (Signed by Judge Kenneth M. Karas on 7/20/05) (yv,) (Entered: 07/27/2005) |

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| 07/22/2005 | | Set Deadlines/Hearings: Cross Motions due by 9/16/2005. Replies due by 10/7/2005. Responses due by 9/30/2005 (yv,) (Entered: 07/27/2005) |
| 08/23/2005 | 88 | TRANSCRIPT of proceedings held on 7/20/05 before Judge Kenneth M. Karas. (lma,) (Entered: 08/23/2005) |
| 09/08/2005 | | Minute Entry for proceedings held before Judge Theodore H. Katz : Settlement Conference held on 9/8/2005. (db,) (Entered: 09/13/2005) |
| 09/09/2005 | 89 | ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for settlement. Referred to Magistrate Judge Theodore H. Katz. (Signed by Judge Kenneth M. Karas on 8/24/05) (kw,) (Entered: 09/12/2005) |
| 09/22/2005 | 90 | ENDORSED LETTER addressed to Judge Kenneth M. Karas from John E. Knudsen dated 9/8/05 re: Counsel writes to request that the current September 16 summary judgment date be extended until 10/7/05. The current summary judgment motion schedule is extended until 10/7/05. So Ordered. (Signed by Judge Kenneth M. Karas on 9/13/05) (jco,) (Entered: 09/23/2005) |
| 10/11/2005 | 91 | LETTER addressed to Ms. Eillen Levine from Jeffrey P. Wade dated 9/29/05 re: Counsel writes to inform the court that he is no longer associated with the law firm Schulte Roth & Zabel and no longer represent plaintiff Edward McKenna. Document filed by Edward McKenna.(jco,) (Entered: 10/13/2005) |
| 10/13/2005 | 92 | NOTICE of Appearance by Dacia Christina Cocariu on behalf of Edward McKenna (cd,) (Entered: 10/17/2005) |
| 10/18/2005 | 93 | ORDER OF DISCONTINUANCE without costs and without prejudice to reopening if settlement is not consummated within 60 days.... (Signed by Judge Kenneth M. Karas on 10/12/05) (jf,) (Entered: 10/20/2005) |
| 11/03/2005 | 94 | PRO SE MEMORANDUM dated 10/28/2005 re: CHANGE OF ADDRESS for Edward McKenna. New Address: P.O. Box #300, East Northport, NY, 11731. (jar,) (Entered: 11/03/2005) |
| 11/28/2005 | 95 | STIPULATION AND ORDER; the sum of \$100,000.00 is to be paid to the law firm of Schulte Roth & Zabel LLP, as attorneys for pltf, pursuant to the stipulation and settlement between pltf and deft and shall be distributed to the pltf, Edward McKenna. In the event that payment is not made, this agreement shall be deemed null and void. (Signed by Judge Kenneth M. Karas on 11/17/05) (kco,) (Entered: 11/28/2005) |
| 11/28/2005 | 96 | STIPULATION AND ORDER OF SETTLEMENT AND DISMISSAL with prejudice; defendant will pay plaintiff \$100,000 in full satisfaction of all claims; in consideration of the payment the plaintiff releases all NYS defendants from all claims.... (Signed by Judge Kenneth M. Karas on 11/17/05) (jf,) (Entered: 11/29/2005) |

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