

**U.S. District Court [LIVE]
Eastern District of TEXAS (Beaumont)
CIVIL DOCKET FOR CASE #: 1:08-cv-00593-MAC-KFG**

Trojcak et al v. United States of America
Assigned to: Judge Marcia A. Crone
Referred to: Magistrate Judge Keith F. Giblin
Demand: \$250,000
Cause: 28:1346 Tort Claim

Date Filed: 10/08/2008
Date Terminated: 01/09/2014
Jury Demand: None
Nature of Suit: 550 Prisoner: Civil Rights
Jurisdiction: U.S. Government Defendant

Plaintiff

Alan Trojcak

represented by **Norman L Sirak**
Norman L Sirak
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Plaintiff

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Plaintiff

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all plaintiffs

represented by

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Plaintiff**Louis Charles Mayes**

represented by **Louis Charles Mayes**
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V.

Defendant**United States of America**

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Date Filed	#	Docket Text
10/08/2008	<u>1</u>	COMPLAINT <i>under the Federal Tort Claim Act</i> against United States (Filing fee \$ 350 receipt number 0540000000001722877.), filed by Eric Hampton, et al., (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Exhibit Uniform Basic Safety Regulations, # <u>3</u> Exhibit Unicor Contracts)(Sirak, Norman) Modified on 10/15/2008 (mrp,). (Entered: 10/08/2008)
10/08/2008		Case Assigned to Judge Marcia A. Crone. (aam,) (Entered: 10/09/2008)
10/09/2008	<u>2</u>	Magistrate Consent Form sent electronically to plas' atty Norman Sirak (aam,) (Entered: 10/09/2008)
10/10/2008	<u>3</u>	Summons Issued as to United States of America by serving The U.S. Attorney and The U.S. Attorney General & e-mailed to plas' atty for service. (aam,) (Entered: 10/10/2008)
10/14/2008	<u>4</u>	ORDER REFERRING CASE to Magistrate Judge Magistrate Judge Keith F. Giblin to conduct all pretrial proceedings. Signed by Judge Marcia A. Crone on 10/14/08. (mrp,) (Entered: 10/15/2008)
11/12/2008	<u>5</u>	SUMMONS Returned Executed by certified mail as to United States of America by serving United States Attorney on 10/20/2008, answer due 12/19/2008. (bjc,) (Entered: 11/18/2008)
11/12/2008	<u>6</u>	E-GOV SEALED SUMMONS Returned Executed by certified mail as to Joyce Zoldak Federal Bureau of Prisons on 10/20/08 (bjc,) (Entered: 11/18/2008)
11/12/2008	<u>7</u>	E-GOV SEALED SUMMONS Returned Executed by certified mail as to United States of America by serving United States Attorney General on 10/24/08 (bjc,) (Entered: 11/18/2008)
12/11/2008	<u>8</u>	MOTION for Extension of Time to File <i>First Responsive Pleading</i> by United States of America. (Attachments: # <u>1</u> Proposed Order)(Parker, Andrea) (Entered: 12/11/2008)

01/07/2009	<u>9</u>	ORDER granting <u>8</u> Motion for Extension of Time to File First Responsive Pleading. The Court orders that the Defendant is directed to answer or otherwise plead in response to Plaintiffs' complaint on or before 2/17/09. Signed by Magistrate Judge Keith F. Giblin on 1/7/09. (mrp,) (Entered: 01/07/2009)
02/17/2009	<u>10</u>	MOTION to Dismiss <i>under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) or, in the Alternative</i> , MOTION for Summary Judgment by United States of America. (Attachments: # <u>1</u> Exhibits 1 &2, # <u>2</u> Exhibit 3 (Part 1), # <u>3</u> Exhibit 3 (Part 2), # <u>4</u> Exhibit 4, # <u>5</u> Proposed Order)(Parker, Andrea) (Entered: 02/17/2009)
02/25/2009	<u>11</u>	MOTION for Extension of Time to File Response/Reply as to <u>10</u> MOTION to Dismiss <i>under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) or, in the Alternative</i> MOTION to Dismiss <i>under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) or, in the Alternative</i> MOTION for Summary Judgment by all plaintiffs. (Attachments: # <u>1</u> Text of Proposed Order)(Sirak, Norman) (Entered: 02/25/2009)
03/04/2009	<u>12</u>	MOTION to Seal Document <i>as part of Plaintiffs Response to Defendants' Motion to Dismiss and Alternatively Motion for Summary Judgment, Docket No. 10</i> by all plaintiffs. (Attachments: # <u>1</u> Text of Proposed Order)(Sirak, Norman) (Entered: 03/04/2009)
03/05/2009	<u>13</u>	MOTION To Strike Three Declarations in Support of Defendant's Motion to Dismiss or Alternatively for Summary Judgment re <u>10</u> MOTION to Dismiss <i>under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) or, in the Alternative</i> MOTION to Dismiss <i>under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) or, in the Alternative</i> MOTION for Summary Judgment by all plaintiffs. (Attachments: # <u>1</u> Text of Proposed Order)(Sirak, Norman) (Entered: 03/05/2009)
03/11/2009	<u>14</u>	ORDER granting <u>11</u> Motion for Extension of Time to File Response. The deadline to file a response is extended from 3/1/09, up until 3/15/09. The Motion to Seal <u>12</u> is granted and the Plaintiffs are granted leave to file their response in opposition under seal as it will include a classified attachment. Signed by Magistrate Judge Keith F. Giblin on 3/11/09. (mrp,) (Entered: 03/11/2009)
03/12/2009	<u>15</u>	SEALED RESPONSE to Motion filed by all plaintiffs. (Attachments: # <u>1</u> Exhibit 1 Roof Repairs after Hurricane Rita, # <u>2</u> Exhibit 2 Sample Questionnaire for Diseases Rampant after Hurricane Rita, # <u>3</u> Exhibit 3 Survey of Toxic Mold among Plaintiffs, # <u>4</u> Exhibit 4 Toxic Mold Prevalence among Unicolor and Penitentiary Claimants, # <u>5</u> Exhibit 5 Classified Expert Report Submitted for Spotts v. U.S.A., case # 08-376, # <u>6</u> Exhibit 6 Warden's Letter Health Warning, # <u>7</u> Exhibit 7 Weather Temperatures from Sept. 22 to Oct. 28, 2005)(Sirak, Norman) (Entered: 03/12/2009)
03/12/2009	<u>16</u>	ADDITIONAL ATTACHMENTS TO SEALED RESPONSE # <u>15</u> . (Attachments: # <u>1</u> Unclassified Expert Report with attachments, # <u>2</u> Exhibit 9 Article on Algae, # <u>3</u> Exhibit 10 Table of Contents for Exhibits 10A, 10B, 10C and 10D, # <u>4</u> Exhibit 10A H. Pylori among Unicolor Claimants, # <u>5</u> Exhibit 10B Prevalence of H Pylori among Unicolor and Penitentiary Claimants, # <u>6</u> Exhibit 10C Morgellons Disease among Plaintiffs, # <u>7</u> Exhibit 10D Morgellons Disease among Plaintiffs and Penitentiary Claimants, # <u>8</u> Exhibit 11 Unicolor Contracts to Manufacture army helmets, # <u>9</u> Exhibit 12 Sample Administrative Claim, # <u>10</u> Text of Proposed Order)(Sirak, Norman) Modified on 3/13/2009 (mrp,). (Entered: 03/12/2009)
03/16/2009	<u>17</u>	RESPONSE to Motion re <u>13</u> MOTION To Strike Three Declarations in Support of Defendant's Motion to Dismiss or Alternatively for Summary Judgment re <u>10</u> MOTION to Dismiss <i>under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) or, in the Alternative</i> MOTION to D MOTION To Strike Three Declarations in Support of Defendant's Motion to Dismiss or Alternatively for Summary Judgment re <u>10</u> MOTION to Dismiss <i>under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) or, in the Alternative</i> MOTION to D filed by United States of America. (Parker, Andrea) (Entered: 03/16/2009)
03/19/2009	<u>18</u>	MOTION for Extension of Time to File Response/Reply as to <u>15</u> Sealed Response to Motion., by United States of America. (Attachments: # <u>1</u> Proposed Order)(Parker, Andrea) (Entered: 03/19/2009)

03/20/2009	<u>19</u>	ORDER granting <u>18</u> Motion for Extension of Time to File Response. Defendant's deadline to file a reply to the Plaintiff's response is extended up to and including 3/25/09. Signed by Magistrate Judge Keith F. Giblin on 3/19/09. (mrp,) (Entered: 03/20/2009)
03/24/2009	<u>20</u>	MOTION to Seal <i>Reply to Plaintiffs Response to Defendants Motion to Dismiss</i> by United States of America. (Attachments: # <u>1</u> Proposed Order)(Parker, Andrea) (Entered: 03/24/2009)
03/24/2009	<u>21</u>	MOTION for Leave to File Excess Pages for <i>Reply to Plaintiffs Response to Defendants Motion to Dismiss</i> by United States of America. (Attachments: # <u>1</u> Proposed Order)(Parker, Andrea) (Entered: 03/24/2009)
03/24/2009	<u>22</u>	ORDER granting <u>20</u> Motion to Seal signed by Magistrate Judge Keith F. Giblin on 03/24/2009. (ksd) (Entered: 03/24/2009)
03/24/2009	<u>23</u>	ORDER granting <u>21</u> Motion for Leave to File Excess Pages signed by Magistrate Judge Keith F. Giblin on 03/24/2009. (ksd,) (Entered: 03/24/2009)
03/25/2009	<u>24</u>	SEALED REPLY to Response to Motion re <u>10</u> MOTION to Dismiss filed by USA. (Attachments: # <u>1</u> Exh 1 – Dec of Gerhart Bradley, # <u>2</u> Exh 2 – Dec of David Miller, # <u>3</u> Exh 2 – Att A, # <u>4</u> Exh 2 – Att B1 thru B5, # <u>5</u> Exh 2 – Att B6 thru B8, # <u>6</u> Exh 2 – Att B9 thru B13, # <u>7</u> Exh 2 – Att B14 thru B15, # <u>8</u> Exh 2 – Att B16 thru B18, # <u>9</u> Exh 2 – Att B19 thru B22, # <u>10</u> Exh 2 – Att B23 thru B25)(Parker, Andrea) Modified on 3/25/2009 (mrp,). (Entered: 03/25/2009)
03/25/2009	<u>25</u>	SEALED ADDITIONAL ATTACHMENTS to Main Document: <u>24</u> Sealed Reply to Response to Motion. (Attachments: # <u>1</u> Exh 2 – Att B26 – B28, # <u>2</u> Exh 2 – Att B29 – B30, # <u>3</u> Exh 2 – Att B31 – B33, # <u>4</u> Exh 2 – Att B34 – B38, # <u>5</u> Exh 2 – Att B39 – B41, # <u>6</u> Exh 2 – Att B42 – B46, # <u>7</u> Exh 2 – Att B47, # <u>8</u> Exh 3)(Parker, Andrea) Modified on 3/25/2009 (mrp,). (Entered: 03/25/2009)
03/30/2009	<u>26</u>	MOTION to Strike the Declaration of Gerhart Bradley and David Miller re <u>24</u> Sealed Reply to Response to Motion, <u>25</u> Sealed Additional Attachments to Main Document, by all plaintiffs. (Attachments: # <u>1</u> Exh 1 Decl of David Miller, # <u>2</u> Exh 2 Duties of Pharm, # <u>3</u> Exh 3 Decl of Mary Hupp, # <u>4</u> Exh 4 Decl of Rhonda Gray, # <u>5</u> Proposed Order)(Sirak, Norman) Modified on 3/31/2009 (mrp,). (Entered: 03/30/2009)
03/30/2009	<u>27</u>	SUR–REPLY to Reply to Response to Motion re <u>10</u> MOTION to Dismiss. (Attachments: # <u>1</u> Exh 1 Warden's Letter, # <u>2</u> Exh 2 Exp Rpt of George Jackson, # <u>3</u> Proposed Order)(Sirak, Norman) Modified on 3/31/2009 (mrp,). (Entered: 03/30/2009)
04/09/2009	<u>28</u>	RESPONSE to Motion re <u>26</u> MOTION Strike the Declaration of Gerhart Bradley and David Miller's second declaration along with all documents filed with David Miller's Declaration re <u>24</u> Sealed Reply to Response to Motion, <u>25</u> Sealed Additional Attachments to Main Docu MOTION Strike the Declaration of Gerhart Bradley and David Miller's second declaration along with all documents filed with David Miller's Declaration re <u>24</u> Sealed Reply to Response to Motion, <u>25</u> Sealed Additional Attachments to Main Docu <i>filed by United States of America</i> . (Attachments: # <u>1</u> Exhibit A)(Parker, Andrea) (Entered: 04/09/2009)
08/10/2009	<u>29</u>	MOTION for reconsideration; to intervene as a plaintiff by Jonathan lee Riches. (mrp,) (Entered: 08/11/2009)
08/24/2009	<u>30</u>	ORDER denying Motion to Strike and denying Motion to Dismiss, or in the alternative for summary judgment.Signed by Magistrate Judge Keith F. Giblin on 8/24/09. (mrp,) (Entered: 08/24/2009)
09/19/2009	<u>31</u>	***DOCUMENT TERMINATED; ATTY WILL REFILE*** RESPONSE in Opposition to <u>10</u> MOTION to Dismiss <i>under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) or, in the Alternative</i> MOTION for Summary Judgment MOTION filed by all plaintiffs. (Attachments: # <u>1</u> Exh 1 Excerpts Unicor Contracts, # <u>2</u> Exh 2 Sample Admin Claim, # <u>3</u> Exh 3 Skinner Decl, # <u>4</u> Exh 4 Cullum Decl, # <u>5</u> Exh 5 Calderon Decl, # <u>6</u> Exh 6 Cisineros Decl, # <u>7</u> Exh 7 Samaniego Decl)(Sirak, Norman) Modified on 9/21/2009 (mrp,). Modified on

		9/21/2009 (mrp,). (Entered: 09/19/2009)
09/19/2009	<u>32</u>	<p>***DOCUMENT TERMINATED; ATTY WILL REFILE***</p> <p>RESPONSE in Opposition re <u>10</u> MOTION to Dismiss <i>under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) or, in the Alternative</i> MOTION for Summary Judgment MOTION to Dismiss <i>under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) or, in the Alternative Supplemental Response Authorized by Court Order August 24, 2009 Doc. No. 30 filed by all plaintiffs.</i> (Attachments: # <u>1</u> Exhibit 8 Inmate Issue Committee Memos, # <u>2</u> Exhibit 9 Sample Questionnaire for Survey of Disease Symptoms, # <u>3</u> Exhibit 10 Unicorn Survey of Toxic Mold Syndrome Symptoms, # <u>4</u> Exhibit 11 Comparison of Toxic Mold Symptoms Unicorn and Penitentiary Claimants, # <u>5</u> Exhibit 12 September and October 2005 Water Lab Reports, # <u>6</u> Exhibit 13 Charles Pierce Expert Report for Unicorn)(Sirak, Norman) Modified on 9/21/2009 (mrp,). (Entered: 09/19/2009)</p>
09/19/2009	<u>33</u>	<p>***DOCUMENT TERMINATED; ATTY WILL REFILE***</p> <p>RESPONSE in Opposition re <u>10</u> MOTION to Dismiss <i>under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) or, in the Alternative</i> MOTION for Summary Judgment MOTION to Dismiss <i>under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) or, in the Alternative Supplemental Response Authorized by Court Order August 24, 2009 Docket No. 30 filed by all plaintiffs.</i> (Attachments: # <u>1</u> Exhibit 14 Dr. Jackson Curriculum Vitae and Compensation, # <u>2</u> Exhibit 15 Dr. Jackson Expert Report, # <u>3</u> Exhibit 16 H Pylori Sytoms for Unicorn Claimants, # <u>4</u> Exhibit 17 Mary Hupp Expert Declaration, # <u>5</u> Exhibit 18 Brandon Henderson Declaration, # <u>6</u> Exhibit 19 Dr. Kris Sperry Curriculum Vitae, # <u>7</u> Exhibit 20 Dr. Kris Sperry Expert Report, # <u>8</u> Text of Proposed Order)(Sirak, Norman) Modified on 9/21/2009 (mrp,). (Entered: 09/19/2009)</p>
09/21/2009		Documents 31–33 were filed in error as separate responses. Atty will refile as one response plus additional attachments if needed. (mrp,) (Entered: 09/21/2009)
09/21/2009	<u>34</u>	RESPONSE in Opposition to <u>10</u> MOTION to Dismiss <i>under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) or, in the Alternative</i> MOTION for Summary Judgment filed by all plaintiffs. (Attachments: # <u>1</u> Exh 1 Unicorn Contracts, # <u>2</u> Exh 2 Admin Claim, # <u>3</u> Exh 3 Skinner Decl, # <u>4</u> Exh 4 Cullum Decl, # <u>5</u> Exh 5 Calderon Decl, # <u>6</u> Exh 6 Cisineros Decl, # <u>7</u> Exh 7 Samaniego Decl, # <u>8</u> Exh 8 Inmate Comm, # <u>9</u> Exh 9 Questionnaire, # <u>10</u> Exh 10 Toxic Mold Survey, # <u>11</u> Exh 11 2nd Mold Survey, # <u>12</u> Exh 12 Water lab reports, # <u>13</u> Exh 13 Pierce Report, # <u>14</u> Exh 14 Dr. Jackson Expertise, # <u>15</u> Exh 15 Jackson Report, # <u>16</u> Exh 16 Pylori Survey, # <u>17</u> Exh 17 Hupp Decl, # <u>18</u> Exh 18 Henderson Decl, # <u>19</u> Exh 19 Sperry Expertise, # <u>20</u> Exh 20 Sperry Report, # <u>21</u> Proposed Order)(Sirak, Norman) Modified on 9/21/2009 (mrp,). (Entered: 09/21/2009)
09/29/2009	<u>35</u>	MOTION for Extension of Time to File Response/Reply as to <u>34</u> Response in Opposition to Motion,, by United States of America. (Attachments: # <u>1</u> Proposed Order)(Parker, Andrea) (Entered: 09/29/2009)
10/09/2009	<u>36</u>	MOTION for Leave to File Excess Pages by United States of America. (Attachments: # <u>1</u> Proposed Order)(Parker, Andrea) (Entered: 10/09/2009)
10/13/2009	<u>37</u>	REPLY to Response to Motion re <u>10</u> MOTION to Dismiss <i>under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) or, in the Alternative</i> MOTION for Summary Judgment MOTION to Dismiss <i>under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) or, in the Alternative</i> filed by United States of America. (Attachments: # <u>1</u> Exhibit Exhibit A, # <u>2</u> Exhibit Exhibits B–G)(Parker, Andrea) (Entered: 10/13/2009)
03/23/2010	<u>38</u>	ORDER denying <u>26</u> Motion to strike a declaration by Gerhart Bradley and David Miller; and denying <u>29</u> Motion to Intervene. Signed by Magistrate Judge Keith F. Giblin on 3/23/10. (pkb,) (Entered: 03/23/2010)
08/09/2010	<u>39</u>	ORDER denying as moot <u>35</u> Motion for Extension of Time to File Response/Reply ; granting <u>36</u> Motion for Leave to File Excess Pages. Signed by Magistrate Judge Keith F. Giblin on 8/8/10. (pkb,) (Entered: 08/09/2010)

03/12/2012	<u>40</u>	ORDER. It is ordered that this case is administratively closed. The dispositive motion is under active consideration by the court, and the court anticipates that a ruling will be issued shortly. Signed by Magistrate Judge Keith F. Giblin on 3/12/12. (mrp,) (Entered: 03/12/2012)
10/09/2013		Per General Order 13-19 all civil actions pending in the Eastern District of Texas wherein the United States or an agency, corporation, officer or employee of the United States is a party are STAYED. All such cases are stayed until such time as an appropriations bill or a continuing resolution is enacted restoring funding to the Department of Justice.(mjc,) (Entered: 10/09/2013)
12/20/2013	<u>41</u>	REPORT AND RECOMMENDATION OF U. S. Magistrate Judge that the Complaint filed by Austin Demetrius et al., that this lawsuit should be dismissed without prejudice pursuant to FRCP 41(b). Signed by Magistrate Judge Keith F. Giblin on 12/20/13. (mrp,) (Entered: 12/20/2013)
01/09/2014	<u>42</u>	MEMORANDUM ORDER ADOPTING <u>41</u> Report and Recommendations. A final judgment shall be entered dismissing this lawsuit. Signed by Judge Marcia A. Crone on 1/8/14. (pkb,) (Entered: 01/09/2014)
01/09/2014	<u>43</u>	FINAL JUDGMENT that the plaintiffs take nothing and that this lawsuit is DISMISSED without prejudice pursuant to Federal Rule of Civil Procedure 41(b). All motions not previously ruled on are denied. Signed by Judge Marcia A. Crone on 1/8/14. (pkb,) (Entered: 01/09/2014)
01/14/2014	<u>44</u>	MOTION for Extension of Time to File Response to <u>41</u> Report and Recommendations by Louis Charles Mayes. (mrp,) (Entered: 01/15/2014)
03/19/2014	<u>45</u>	NOTICE of Change of Address to 4458 Tampico Street; Houston, Tx 77016. by Louis Charles Mayes. Docket sheet mailed on 3/19/14. (mrp,) (Entered: 03/19/2014)
06/26/2014	<u>46</u>	ORDER granting <u>44</u> Motion for Extension of Time to File Response. Mr. Mayes is allowed an extension of time through 7/15/14 to file the response. Signed by Magistrate Judge Keith F. Giblin on 6/26/14. (mrp,) (Entered: 06/26/2014)