

CLOSED

**U.S. District Court
Eastern District of New York (Brooklyn)
CIVIL DOCKET FOR CASE #: 1:79-cv-01740-CPS**

Lewis v. Brezenhoff, et al
Assigned to: Senior-Judge Charles P. Sifton
Demand: \$0
Case in other court: 00-06104
Cause: 42:1983 Civil Rights Act

Date Filed: 07/06/1979
Date Terminated: 11/12/1996
Nature of Suit: 444 Civil Rights:
Welfare
Jurisdiction: U.S. Government
Defendant

Plaintiff**Lydia Lewis**

represented by **Richard Elliot Blum**
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Intervenor Plaintiff**City of New York**

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Intervenor Plaintiff**New York Health and Hospitals**

Corporation

V.

Defendant**Stanley Brezenhoff****Defendant****Donna Shalala**

represented by **Charles Peter Kelly**
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Defendant

Commissioner Cesar Perales
*of the New York State Department of
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represented by **Mary Fisher Bernet**
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Date Filed	#	Docket Text
03/23/1995	1	TRANSCRIPT filed for Motion before Judge Sifton for dates of 01/11/95. (Ferguson, Frances) (Entered: 03/27/1995)
05/15/1995	2	STIPULATION So Ordered by Judge Sifton for parties to serve post trial briefs, by hand, no later than 5:00 p.m. on 5/19/95; and oral argument to be held at 4:30 p.m. on 5/24/95. (signed by Chief Judge Charles P. Sifton, dated: 5/10/95) (Ferguson, Frances) (Entered: 05/15/1995)
05/19/1995	3	FEDERAL DEFENDANT'S (Dept of HHS) POST-TRIAL MEMORANDUM OF LAW on the issue of whether the class of undocumented minors in NYS qualifies as "permanently residing under color of law." (Ferguson, Frances) (Entered: 05/25/1995)
05/19/1995	4	PLTFFS and PLTFFS-INTERVENORS POST-TRIAL MEMORANDUM (the City of New York and the New York City Health and Hospitals Corp) challenging the denial by the Health Care Financing Admin (HCFA) of Medicaid benefits to otherwise eligible undocumented immigrant children residing in NY which has resulted from HCFA's failure to recognize the children as permanently residing under color of the law. (Ferguson, Frances) (Entered: 05/25/1995)

06/02/1995	5	RESPONSIVE MEMORANDUM by Pltffs and pltffs-Intervenors in further response to HCFA's post-trial memorandum. (Ferguson, Frances) (Entered: 06/13/1995)
06/02/1995	6	Federal Dft's (Dept of HHS) Post-trial REPLY MEMORANDUM OF LAW re: the issue of whether the class of undocumented minors in NYS qualifies as "permanently residing under color of law." (Ferguson, Frances) (Entered: 06/13/1995)
06/20/1995	7	LETTER dated 6/5/95 from Charles Kelly, AUSA, w/consent of pltff's counsel, to Judge Sifton requesting that the oral argument set for 8/9/95 be adjourned until August 15, 16 or 17, 1995. (see endorsed order) (Ferguson, Frances) (Entered: 06/20/1995)
06/20/1995		Endorsed order granting [7-1] letter, oral argument is adjourned to 8/15/95 at 4:30 p.m. (Signed by Chief Judge Charles P. Sifton, dated: 6/12/95) (Ferguson, Frances) Modified on 08/07/2000 (Entered: 06/20/1995)
08/11/1995	8	LETTER dated 8/10/95 from Charles Kleinberg to Judge Sifton in respond to plaintiffs' 7/11/95 letter regarding certain INS computer records. (Yuen, Sui May) (Entered: 08/14/1995)
08/16/1995	24	Calendar entry: Before Judge Sifton - Trial resumed. All parties present. Closing statements heard. The Court reserves decision on the case. (Ferguson, Frances) (Entered: 08/23/1995)
08/23/1995	9	Federal Defendant's MEMORANDUM OF LAW in response to the evidentiary issues raised in plaintiffs' trial memorandum. (Ferguson, Frances) (Entered: 08/23/1995)
08/23/1995	10	Plaintiffs' and Plaintiffs-Intervenors' PRETRIAL MEMORANDUM. (Ferguson, Frances) (Entered: 08/23/1995)
08/23/1995	11	Government's Witness list, Exhibit List, and Deposition Testimony. (Ferguson, Frances) (Entered: 08/23/1995)
08/23/1995	12	LETTER dated 2/24/95 from AUSA Charles Kelly to Hilary Klein, Asst Corporation Counsel, requesting that plaintiffs proceed in accordance with their pretrial witnes list signed two weeks ago, in order to expedite the trial. (Ferguson, Frances) (Entered: 08/23/1995)
08/23/1995	13	Federal Defendant's Cross-Designations of Portions of Depositions. (Ferguson, Frances) (Entered: 08/23/1995)
08/23/1995	14	Stipulation (not signed by judge): Parties agree that certain documents are admissible at trial. (Ferguson, Frances) (Entered: 08/23/1995)
08/23/1995	15	Stipulation (not signed by judge): Parties agree that all documents listed on the parties' respective exhibit lists are admissible except that the parties reserve all relevance objections except as noted. (Ferguson, Frances) (Entered: 08/23/1995)
08/23/1995	16	LETTER dated 4/6/95 from Hilary Klein, Asst Corporation Counsel, to

		Judge Sifton advising that plaintiffs are exercising their option under paragraph seven of the annexed stipulation to have marked into evidence as exhibits the computer records received from INS' DACS computer system on 3/22/95 , and the accompanying declaration of Anne Fenton. (Ferguson, Frances) (Entered: 08/23/1995)
08/23/1995		Endorsed order granting Corporation Counsel's [16-1] letter to mark into evidence as exhibits the computer records received from INS' DACS computer system on 3/22/95 and the accompanying declaration of Anne Fenton. (Signed by Chief Judge Charles P. Sifton, dated: 4/13/95) (Ferguson, Frances) (Entered: 08/23/1995)
08/23/1995	17	ORDER/Stipulation: Parties agree that certain exhibits shall be received in evidence and marked by the Court; and that post trial briefs shall be submitted on 5/12/95 with oral argument set for 5/19/95 at 4:30. This stipulation is marked in evidence as Joint Exhibit 39. (signed by Chief Judge Charles P. Sifton, dated: 3/28/95) (Ferguson, Frances) (Entered: 08/23/1995)
08/23/1995	18	LETTER dated 7/11/95 from Paul Kazanoff, Asst Corporation Counsel, to Judge Sifton responding to federal dft's post-trial reply memorandum of law, stating that the DACS printouts are replete with errors and are therefore an unreliable source of numbers of minors issued orders to show cause. (Ferguson, Frances) (Entered: 08/23/1995)
08/23/1995	19	Plaintiffs' and Plaintiffs-Intervenors' Reply Memorandum Concerning Evidentiary Issues. (Ferguson, Frances) (Entered: 08/23/1995)
08/23/1995	20	Plaintiffs' and Plaintiffs-Intervenors' witness list. (Ferguson, Frances) (Entered: 08/23/1995)
08/23/1995	21	Federal Defendant's Trial Memorandum of Law. (Ferguson, Frances) (Entered: 08/23/1995)
08/23/1995	22	Proposed Findings of Fact and Conclusions of Law submitted by Corporation Counsel. (Ferguson, Frances) (Entered: 08/23/1995)
08/23/1995	23	Federal Defendant's Proposed Findings of Facts and Conclusions of Law. (Ferguson, Frances) (Entered: 08/23/1995)
11/07/1996	25	Calendar entry:Before Judge Sifton on 11/7/96 at 4:30p.m. Case called. All parties present. Status confernce held. (Dobkin, David) (Entered: 11/12/1996)
11/12/1996	26	ORDER dated 11/8/96 that the parties in the above case has resolved their remaining claims, the case is orderd closed. (signed by Chief Judge Charles P. Sifton) (Dobkin, David) (Entered: 11/12/1996)
11/12/1996		Case closed (Dobkin, David) (Entered: 11/12/1996)
12/02/1996	27	STIP/ORDER dated 11/26/96 all of the claims in this action related to the application and implemetation of "permanently residing under color of law" under federal law are hereby dismissed with prejudice, and without costs or fees to either side. However, in the event of a future change in

		the law regarding the criteria of eligibility for medicaid, nothing in this Stip. shall prevent plaintiffs from instituting a new action based upon such change. (signed by Chief Judge Charles P. Sifton) (Dobkin, David) (Entered: 12/02/1996)
12/03/1996	28	STIP/ORDER dated 12/2/96 stating that all the claims in this action related to the application and implementation of "permanently residing under color of law" under federal law are hereby dismissed with prejudice, and without costs or fees to either side. However, in the event of a future change in the law regarding the criteria of eligibility for medicaid, nothing in this Stip shall prevent plaintiffs from instituting a new action based upon such change. (signed by Chief Judge Charles P. Sifton) (Dobkin, David) (Entered: 12/03/1996)
12/19/1996	29	TRANSCRIPT of civil cause for status conference before Judge Sifton filed for dates of 11/7/96. ESR Robert Eppenstein. (Dobkin, David) (Entered: 12/19/1996)
02/27/1997	30	MOTION by Donna Shalala for judgment on the pleadings , Motion hearing set for 4:30 5/30/97 [30-1] motion (Dobkin, David) (Entered: 02/27/1997)
02/27/1997	31	MEMORANDUM of law by Donna Shalala in support of her [30-1] motion for judgment on the pleadings (Dobkin, David) (Entered: 02/27/1997)
04/28/1997	32	STIP/ORDER dated 4/18/97 the motion on file is ordered stricken without prejudice to its entirety on or after 7/1/97. (signed by Chief Judge Charles P. Sifton) (Dobkin, David) (Entered: 04/28/1997)
04/21/1998	33	LETTER dated 4/15/98 from Charles P. Kelly, Esq., to Jody King, Law Clerk to Judge Charles P. Sifton, confirming that the Court has adjourned oral argument on the government's motion from 4/17/98 to 6/4/98. (Johnson, Tanya) (Entered: 04/21/1998)
08/04/1998	34	ORDER dated 8/3/98 granting request for adjournment to 9/10/98 of the conference in the above case. (signed by Chief Judge Charles P. Sifton) (endorsed on letter dated 7/30/98 from Richard Blum to Judge Sifton). (Dobkin, David) (Entered: 08/04/1998)
10/09/1998	35	LETTER dated 9/29/98 from Richard Blum to Judge Sifton, written to confirm that the argument in the above case is currently scheduled for 10/19/98 at 4:30p.m. (Dobkin, David) (Entered: 10/09/1998)
11/18/1998	36	Calendar entry: Motion conference held with Judge Sifton on 11/18/98. Court reporter: Gene Rudolph. Counsel for plaintiff: Scott Rosenberg. For City Deft. : Joan Weiner Margiotta, Asst. Corp. Counsel. For Federal Deft.: AUSA, Charles Kelly. Federal Defendants' motion for judgment on the pleadings and for an order vacating the permanent injunction previously ordered by this court argued; decision reserved. (Asreen, Wendy) Modified on 11/23/1998 (Entered: 11/23/1998)
01/19/2000	37	MEMORANDUM and ORDER stating that the federal deft's motion to

		vacate the permanent injunction is denied. (signed by Chief Judge Charles P. Sifton , on 1/19/00)C/M. (Dobkin, David) (Entered: 01/19/2000)
01/27/2000	38	AMENDMENT MEMORANDUM and ORDER to correct typographical errors appearing on pages 54-55, 69 and 80. (signed by Chief Judge Charles P. Sifton , on 1/21/00) C/M. (Dobkin, David) Modified on 02/23/2000 (Entered: 01/27/2000)
02/09/2000	39	MAIL RETURNED Copy of document #37: Addressed to Scott A. Rosenberg, Esq. The The Legal Aid Society Civil Appeals & Law Reform Unit 841 Broadway 3rd Floor New York, NY 10003" Retailed on 2/9/2000 to "Scott Rosenberg, Esq. Director of Litigation, The Legal Aid Society Civil Appeals & Law Reform Unit 90 Church Street New York, NY 10007" [Address verified by The Legal Aid Society by telephone. Address information for Mr. Rosenberg was updated on the docket sheet.] (Mackey, Donna) (Entered: 02/09/2000)
03/17/2000	40	NOTICE OF APPEAL by Donna Shalala, Stanley Brezenhoff [37-1] order. No fee. Affidavit of service attached. (McGee, Maryann) (Entered: 03/28/2000)
03/28/2000		Certified copy of docket sheet sent to USCA. [40-1] appeal (McGee, Maryann) (Entered: 03/28/2000)
04/11/2000	41	Endorsed ORDER stating the Pltffs. are directed to settle a judgment on notice. c/m. (signed by Senior Judge Charles P. Sifton , on 4.6.2000) See ltr. dtd. 4.5.2000 from AUSA Kelly to Judge Sifton for the order. (Mackey, Donna) (Entered: 04/11/2000)
04/24/2000	42	USCA Scheduling Order: [40-1] appeal Appeal record due by 5/19/00 . USCA Number: 00-6104 Appellant's brief due 5/26/00. Appellee's brief due 6/26/00. Argument set for 8/7/00. (Vasquez, Liz) (Entered: 04/25/2000)
07/26/2000		Certified and transmitted INDEX on appeal to U.S. Court of Appeals: [40-1] appeal. Acknowledgment requested. USCA #00-6104. (McGee, Maryann) (Entered: 08/03/2000)
08/07/2000		Certified and transmitted FIRST SUPPLEMENTAL INDEX on appeal to U.S. Court of Appeals: [40-1] appeal. Acknowledgment requested. Sent to the attention of Sam McLamore - USCA Intake. USCA#00-6104. (McGee, Maryann) (Entered: 08/08/2000)
08/08/2000		Helena Haris - USCA claims she did not receive the First Supplemental INDEX sent to her by messenger. Therefore, the First Supplemental Index is being sent to her via Federal Express. Federal Express tracking number #809824547695. (McGee, Maryann) Modified on 08/15/2000 (Entered: 08/08/2000)
08/10/2000		DUPLICATE INDEX SENT TO HELENA HARRIS via messenger. (McGee, Maryann) Modified on 08/15/2000 (Entered: 08/10/2000)
08/21/2000	43	Acknowledgment from USCA received for the First Supplemental

		Record re: [40-1] appeal signed by HH. (Gonzalez, Mary) (Entered: 08/21/2000)
09/05/2000	44	NOTICE of renewed motion for judgment on the pleadings by Donna Shalala. (received for docketing on 9/5/00). (Dobkin, David) (Entered: 09/05/2000)
09/05/2000	45	MEMORANDUM by Donna Shalala in support of [44-1] notice of motion for judgment on the pleadings dismissing the complaint against her in its entirety, including an order dissolving the injunction previously entered against her. (received for docketing on 9/4/00). (Dobkin, David) (Entered: 09/05/2000)
09/05/2000	46	MEMORANDUM of law by Lydia Lewis in opposition to [44-1] notice of defts motion for judgment on the pleadings. (Dobkin, David) (Entered: 09/05/2000)
09/05/2000	47	REPLY MEMORANDUM OF LAW by Donna Shalala in further support of motion for judgment on the pleadings dismissing the complaint against her in its entirety.(received for docketing on 9/5/00). (Dobkin, David) (Entered: 09/05/2000)
09/05/2000	48	CORRECTED COPY OF REPLY MEMORANDUM OF LAW by Donna Shalala in further support of motion for judgment on the pleadings dismissing the complaint against her in its entirety.(received for docketing on 9/5/00). (Dobkin, David) (Entered: 09/05/2000)
09/05/2000	49	Affidavit of Dr. Howard L. Minkoff in opposition to defts' motion for judgment dismissing the complaint and injunction. (received for docketing on 9/5/00). (Dobkin, David) (Entered: 09/05/2000)
09/05/2000	50	LETTER dated 4/15/98 from Hiliary Klein to Judge Sifton, on behalf of plaintiff's request that this court deny the Secretary's motion to vacate the injunction providing federrally reimbursed Medicaid for the prenatal care to pregnant women irrespective of their alien status. (received for docketing on 9/5/00). (Dobkin, David) (Entered: 09/05/2000)
09/05/2000	51	LETTER dated 5/29/98 from AUSA Charles Kelly to Judge Sifton, written in response to plaintiffs 4/15/98 letter in further support of the Secretary's motion for judgment on the pleadings.(received for docketing on 9/5/00). (Dobkin, David) (Entered: 09/05/2000)
09/05/2000	52	LETTER dated 12/9/98 from AUSA Charles Kelly to Judge Sifton, writren in reply to plaintiffs' letter dated 11/24/95 and to respond to a question raised by the Court at oral argument on 11/18/98.(received for docketing on 9/5/00). (Dobkin, David) Modified on 09/05/2000 (Entered: 09/05/2000)
04/03/2001		Certified and transmitted record on appeal to U.S. Court of Appeals: [40-1] appeal. The following documents were sent to the USCA: 1-3,7,32,35,37 and 38. The remainder of the file is missing. Please note: this record was requested by Vinchenza Singelton. It is being sent to her attention. Acknowledgment requested. (McGee, Maryann) Modified on

		04/03/2001 (Entered: 04/03/2001)
04/03/2001		Transmitted first supplemental record on appeal: [40-1] appeal. The following documents comprise the first supplemental record: 4-24, 41 and 42. This supplemental record and the record were requested by Venchenza Singelton. It is being sent to her attention. USCA# 00-6104 (McGee, Maryann) (Entered: 04/03/2001)
02/22/2002	53	MANDATE OF USCA (certified copy) Re: [40-1] appeal: Reversed in part, affirmed in part and remanded in accordance with the opinion of the court. Issued: 2/13/02. C/A #00-6104. Opinion attached. Copy forwarded to CPS chambers. Ackn. mailed. (Glenn, Marilyn) (Entered: 02/22/2002)
03/12/2002	54	ORDER dated 3/8/02 setting status conference on 4/4/02 at 4:30. (Signed by Senior Judge Charles P. Sifton, on 3/8/02) c/m (Guzzi, Roseann) (Entered: 03/12/2002)
03/27/2002	55	Appeal record returned from U.S. Court of Appeals containing documents numbered 1-3,32,35,37,38. (Copy of this form returned to Fred Nunnery c/o Court of Appeals.) USCA#00/6104. (Drayton, Lorraine) (Entered: 03/27/2002)
03/28/2002	56	Appeal record returned from U.S. Court of Appeals containing documents numbered 4,7-23,41,42. (Copy of this form returned to Fred Nunnery c/o Court of Appeals.) USCA#01/6140. (Drayton, Lorraine) (Entered: 03/28/2002)
04/16/2002	57	Calendar entry:Before Judge Sifton Civil Cause for status conf. Court Reporter/ESR Ogoro Frances Case called. Status conf. held. Parties to submit a mutually agreed upon modified judgment, or, if necessary,separate proposed modified judgments, by 5/14/02. (Jackson, Ramona) (Entered: 05/02/2002)
05/16/2002	58	ORDER Extension of time to submit final judgment to June 4,2002. On ltr. dtd. 5/9/02 from Richard Blum (signed by Senior Judge Charles P. Sifton , on 5/10/02) Copies mailed (Jackson, Ramona) (Entered: 05/16/2002)
06/06/2002	59	LETTER dated 6/4/02 from Richard Blum to Judge Sifton the parties see no need at this time to set up a new application mechanishm to implement the automatic newborn provision of the Final Judgment. (Jackson, Ramona) (Entered: 06/06/2002)
06/12/2002	60	FINAL JUDGMENTtizen children of alien mothers are entitled to automatic eligibility for Medicaid benefits after birth equivalent to the automatic eligibility extended to the citizen children of citizens mothers. Claims brought on behalf of the plaintiff class in this action shall be, dismissed with prejudice. (signed by Senior Judge Charles P. Sifton , on 6/10/02) Copies mailed , (Jackson, Ramona) (Entered: 06/12/2002)
11/16/2006		NOTICE case ordered from archives on November 16, 2006.(Harris, Bernard) (Entered: 11/16/2006)
11/28/2006		NOTICE case received from archives on November 28, 2006. (Harris,

		Bernard) (Entered: 11/28/2006)
12/15/2006		NOTICE case returned to archives on December 15, 2006. (Harris, Bernard) (Entered: 12/15/2006)

PACER Service Center			
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