

**U.S. DISTRICT COURT**  
**U.S. District Court, Western District of New York (Buffalo)**  
**CIVIL DOCKET FOR CASE #: 1:98-cv-00099-JTC**

M.O.C.H.A. Society, et al v. City of Buffalo, et al  
Assigned to: Hon. John T. Curtin  
Demand: \$0  
Cause: 42:1981 Job Discrimination (Race)

Date Filed: 02/10/1998  
Date Terminated: 05/31/2012  
Jury Demand: Plaintiff  
Nature of Suit: 442 Civil Rights: Jobs  
Jurisdiction: Federal Question

**Plaintiff**

**Men of Color Helping all Society, Inc.**  
*individually and as representative of  
African American Firefighters employed  
by the City of Buffalo and the Buffalo  
Fire Department*

represented by **David G. Jay**  
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**TERMINATED: 03/10/2000**  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

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**LEAD ATTORNEY**  
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**Jennifer A. Coleman**  
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Email: [jennifcol@hotmail.com](mailto:jennifcol@hotmail.com)  
**TERMINATED: 11/02/1999**

**Plaintiff**

**Michael . Brown**

*President, M.O.C.H.A. Society Inc.,  
individually and as representative of  
African American Firefighters employed  
by the City of Buffalo and the Buffalo  
Fire Department*

represented by **David G. Jay**  
(See above for address)  
*TERMINATED: 03/10/2000  
LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

**Harvey P. Sanders**  
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*LEAD ATTORNEY  
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**Jennifer A. Coleman**  
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LEAD ATTORNEY  
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**Michael C. Driscoll**  
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*TERMINATED: 07/05/2005  
ATTORNEY TO BE NOTICED*

**Thomas S. Gill**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Otto Brewer, Jr.**

*Individually and as representative of  
African American Firefighters previously  
employed by the City of Buffalo and the  
Buffalo Fire Department, who were  
terminated pursuant to the Drug Testing  
Policy of the City of Buffalo Fire*

represented by **David G. Jay**  
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*TERMINATED: 03/10/2000  
LEAD ATTORNEY  
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**Jennifer A. Coleman**  
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*TERMINATED: 11/02/1999*

**Michael C. Driscoll**  
(See above for address)  
*TERMINATED: 07/05/2005  
ATTORNEY TO BE NOTICED*

**Thomas S. Gill**  
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V.

**Defendant**

**City of Buffalo**

represented by **Adam W. Perry**  
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*TERMINATED: 04/24/2006*

**Defendant**

**City of Buffalo, Department of Fire**

represented by **James Lawrence Jarvis , Jr.**  
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**Christopher M. Putrino**  
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**TERMINATED: 04/23/2007**

**Defendant**

**Cornelius J. Keane**  
*individually and as Commissioner,  
Department of Fire*

represented by **James Lawrence Jarvis , Jr.**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Joseph S. Brown**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**John D. Sixt**  
*individually and as Deputy  
Commissioner, Department of Fire*

represented by **James Lawrence Jarvis , Jr.**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Joseph S. Brown**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**City of Buffalo, Department of Fire**  
**TERMINATED: 05/27/1998**

**Intervenor**

**Eugene Margerum**

represented by **Andrew P. Fleming**  
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**ATTORNEY TO BE NOTICED**

**Intervenor**

**Anthony Hynes**

represented by **Andrew P. Fleming**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Intervenor**

**Joseph Fahey**

represented by **Andrew P. Fleming**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Intervenor**

**Timothy Hazelet**

represented by **Andrew P. Fleming**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Intervenor**

**Peter Kertzie**

represented by **Andrew P. Fleming**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Intervenor**

**Peter Lotocki**

represented by **Andrew P. Fleming**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Intervenor**

**Scott Skinner**

represented by **Andrew P. Fleming**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Intervenor**

**Thomas Reddington**

represented by **Andrew P. Fleming**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Intervenor**

**Timothy Cassel**

represented by **Andrew P. Fleming**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Intervenor**

**Matthew S. Osinski**

represented by **Andrew P. Fleming**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Intervenor**

**Mark Abad**

represented by **Andrew P. Fleming**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Intervenor**

**Brad Arnone**

represented by **Andrew P. Fleming**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Intervenor**

**David Denz**

represented by **Andrew P. Fleming**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

V.

**Movant**

**Eugene Margerum**

represented by **Christen Archer Pierrot**  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Movant**

**Anthony Hynes**

represented by **Christen Archer Pierrot**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Movant**

**Joseph Fahey**

represented by **Christen Archer Pierrot**  
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*LEAD ATTORNEY*  
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**Movant**

**Timothy Hazelet**

represented by **Christen Archer Pierrot**  
(See above for address)  
*LEAD ATTORNEY*  
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**Movant**

**Peter Kertzie**

represented by **Christen Archer Pierrot**  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Movant**

**Peter Lotocki**

represented by **Christen Archer Pierrot**  
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**Movant**

**Scott Skinner**

represented by **Christen Archer Pierrot**  
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*LEAD ATTORNEY*  
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**Movant**

**Thomas Reddington**

represented by **Christen Archer Pierrot**  
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**Movant**

**Timothy Cassel**

represented by **Christen Archer Pierrot**  
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**Movant**

**Matthew S. Osinski**

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**Movant**

**Mark Abad**

represented by **Christen Archer Pierrot**  
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**Movant**

**Brad Arnone**

represented by **Christen Archer Pierrot**  
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**ATTORNEY TO BE NOTICED**

**Movant**

**David Denz**

represented by **Christen Archer Pierrot**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Movant**

**Jonathan Lee Riches**

represented by **Jonathan Lee Riches**  
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WILLIAMSBURG  
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PRO SE

**Movant**

**Dareh Gregorian**

represented by **Dareh Gregorian**  
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PRO SE

**Movant**

**Gino Romano Shirley**

represented by **Gino Romano Shirley**  
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PRO SE

**Defendant**

**Buffalo Professional Firefighters  
Association, Local 282**  
*TERMINATED: 10/30/1998*

represented by **Jonathan G. Johnsen**  
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*TERMINATED: 10/30/1998*

**Defendant**

**Ronald Cassel**  
*individually and as President of Local*

represented by **Andrea L. Sammarco**  
The Sammarco Law Firm, LLP

282

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*TERMINATED: 11/13/2002*  
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**Defendant**

**Buffalo Professional Firefighters  
Association, Inc., Local 282  
AFL-CIO-CLC**

represented by **Andrea L. Sammarco**  
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*TERMINATED: 11/13/2002*  
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**E. Joseph Giroux**  
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**Jonathan G. Johnsen**  
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*LEAD ATTORNEY*  
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**Tracy D. Sammarco**  
(See above for address)  
*TERMINATED: 04/10/2009*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**W. James Schwan**  
(See above for address)  
*TERMINATED: 04/19/2001*

**Plaintiff**

**Willie Broadus**

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represented by **Harvey P. Sanders**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Thomas S. Gill**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Robert Grice**

*104 Dorchester Road, Buffalo, New York, Individually and as representative of African American firefighters employed by the City of Buffalo and the Buffalo Fire Department, who have been discriminated against by the promotional policies*

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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Thomas S. Gill**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Michael C. Driscoll**  
(See above for address)  
**TERMINATED: 07/06/2005**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Robert Jones**

*582 Sycamore Street, Buffalo, New York, Individually and as representative of African American firefighters employed by the City of Buffalo and the Buffalo Fire Department, who have been discriminated against by the promotional policies*

represented by **Harvey P. Sanders**  
(See above for address)  
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**ATTORNEY TO BE NOTICED**

**Thomas S. Gill**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Michael C. Driscoll**  
(See above for address)  
**TERMINATED: 07/06/2005**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Walter . Jones**

*75 Wade Street, Buffalo, New York, Individually and as representative of African American fire fighters employed by the City of Buffalo and the Buffalo Fire Department who have been discriminated against by the promotional policies and/or*

represented by **Harvey P. Sanders**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

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**Michael C. Driscoll**  
(See above for address)  
**TERMINATED: 07/06/2005**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Victor Muhammad**

*79 Kilhoffer Street, Buffalo, New York,*

represented by **Harvey P. Sanders**  
(See above for address)

*Individually and as representative of African American firefighters employed by the City of Buffalo and the Buffalo Fire Department, who have been discriminated against by the promotional policies*

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**Thomas S. Gill**  
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**Michael C. Driscoll**  
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TERMINATED: 07/06/2005  
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**Plaintiff**

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**Michael C. Driscoll**  
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**Plaintiff**

**John . Tucker**  
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**Thomas S. Gill**  
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**Michael C. Driscoll**  
(See above for address)  
TERMINATED: 07/06/2005  
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V.

**Defendant**

**John Doe**  
*an individual or individuals whose identity is presently unknown to Plaintiffs,*

represented by **Thomas S. Gill**  
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**Plaintiff**

**Maurice Birdsong**  
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represented by **Harvey P. Sanders**  
(See above for address)  
LEAD ATTORNEY  
ATTORNEY TO BE NOTICED

**Thomas S. Gill**  
(See above for address)  
LEAD ATTORNEY

ATTORNEY TO BE NOTICED

**Michael C. Driscoll**  
(See above for address)  
TERMINATED: 07/06/2005  
ATTORNEY TO BE NOTICED

**Plaintiff**

**Walter . Davis**  
*130 Stevens Street, Buffalo, New York,  
Individually and as representative of  
African American firefighters previously  
employed by the City of Buffalo and the  
Buffalo Fire Department, who were  
terminated pursuant to the Drug Testing*

represented by **Harvey P. Sanders**  
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LEAD ATTORNEY  
ATTORNEY TO BE NOTICED

**Thomas S. Gill**  
(See above for address)  
LEAD ATTORNEY  
ATTORNEY TO BE NOTICED

**Michael C. Driscoll**  
(See above for address)  
TERMINATED: 07/06/2005  
ATTORNEY TO BE NOTICED

**Plaintiff**

**David Gray**  
*85 Lombard Street, Buffalo, New York,  
Individually and as representative of  
African American firefighters previously  
employed by the City of Buffalo and the  
Buffalo Fire Department, who were  
terminated pursuant to the Drug Testing*

represented by **Harvey P. Sanders**  
(See above for address)  
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ATTORNEY TO BE NOTICED

**Thomas S. Gill**  
(See above for address)  
LEAD ATTORNEY  
ATTORNEY TO BE NOTICED

**Michael C. Driscoll**  
(See above for address)  
TERMINATED: 07/06/2005  
ATTORNEY TO BE NOTICED

**Plaintiff**

**Arthur Harris**  
*14 Gitterie Street, Buffalo, New York,  
Individually and as representative of  
African American firefighters previously  
employed by the City of Buffalo and the  
Buffalo Fire Department, who were  
terminated pursuant to the Drug Testing*

represented by **Harvey P. Sanders**  
(See above for address)  
LEAD ATTORNEY  
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**Thomas S. Gill**  
(See above for address)  
LEAD ATTORNEY  
ATTORNEY TO BE NOTICED

**Michael C. Driscoll**  
(See above for address)  
TERMINATED: 07/06/2005  
ATTORNEY TO BE NOTICED

**Plaintiff**

**Edward Josey**  
*316 Riley Street, Buffalo, New York,  
Individually and as representative of  
African American firefighters previously  
employed by the City of Buffalo and the  
Buffalo Fire Department, who were*

represented by **Harvey P. Sanders**  
(See above for address)  
LEAD ATTORNEY  
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**Thomas S. Gill**

*terminated pursuant to the Drug Testing*

(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Michael C. Driscoll**  
(See above for address)  
**TERMINATED: 07/06/2005**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Harwyn Louie**  
*277 Brunswick Boulevard, Buffalo, New York, Individually and as representative of African American firefighters previously employed by the City of Buffalo and the Buffalo Fire Department, who were terminated pursuant to the Drug*

represented by **Harvey P. Sanders**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Thomas S. Gill**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Michael C. Driscoll**  
(See above for address)  
**TERMINATED: 07/06/2005**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Lawrence Pierce**  
*524 Riley Street, Buffalo, New York, Individually and as representative of African American firefighters previously employed by the City of Buffalo and the Buffalo Fire Department, who were terminated pursuant to the Drug Testing*

represented by **Harvey P. Sanders**  
(See above for address)  
**LEAD ATTORNEY**  
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**Thomas S. Gill**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Michael C. Driscoll**  
(See above for address)  
**TERMINATED: 07/06/2005**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Terry Scott**  
*1615 Kensington, Cheektowaga, New York, Individually and as representative of African American firefighters previously employed by the City of Buffalo and the Buffalo Fire Department, who were terminated pursuant to the Drug Testing*

represented by **Harvey P. Sanders**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Thomas S. Gill**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Michael C. Driscoll**  
(See above for address)  
**TERMINATED: 07/06/2005**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Michael Southern**  
*217 Madison Street, Buffalo, New York, Individually and as representative of African American firefighters previously*

represented by **Harvey P. Sanders**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

*employed by the City of Buffalo and the Buffalo Fire Department, who were terminated pursuant to the Drug Testing*

**Thomas S. Gill**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Michael C. Driscoll**  
(See above for address)  
**TERMINATED: 07/06/2005**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**John . Tucker**  
*118 Urban St., Buffalo, New York, Individually and as representative of African American firefighters previously employed by the City of Buffalo and the Buffalo Fire Department, who were terminated pursuant to the Drug Testing*

represented by **Harvey P. Sanders**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Thomas S. Gill**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Michael C. Driscoll**  
(See above for address)  
**TERMINATED: 07/06/2005**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Michael Varner**  
*751 Kensington Avenue, Buffalo, New York, Individually and as representative of African American firefighters previously employed by the City of Buffalo and the Buffalo Fire Department, who were terminated pursuant to the Drug*

represented by **Harvey P. Sanders**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Thomas S. Gill**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Michael C. Driscoll**  
(See above for address)  
**TERMINATED: 07/06/2005**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Cranston . Wilson**  
*556 Lisbon, Buffalo, New York, Individually and as representative of African American firefighters previously employed by the City of Buffalo and the Buffalo Fire Department, who were terminated pursuant to the Drug Testing*

represented by **Harvey P. Sanders**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Thomas S. Gill**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Michael C. Driscoll**  
(See above for address)  
**TERMINATED: 07/06/2005**  
**ATTORNEY TO BE NOTICED**

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| 02/10/1998 | 1  | COMPLAINT filed; FILING FEE \$ 150.00 RECEIPT # 61912 TRIAL BY JURY DEMANDED (DLC) (Entered: 02/10/1998)                                                                                                                                                                                                                                                                                                                            |
| 02/10/1998 |    | SUMMONS(ES) issued for City of Buffalo, Dept of Fire, 195, Cornelius J. Keane, John D. Sixt (DLC) (Entered: 02/10/1998)                                                                                                                                                                                                                                                                                                             |
| 02/13/1998 | 2  | ORIGINAL SUMMONS attached to RETURN OF SERVICE executed as to City of Buffalo, Dept of Fire, 195, Cornelius J. Keane, John D. Sixt 2/11/98 Answer due on 3/3/98 for John D. Sixt, for Cornelius J. Keane, for Dept of Fire, 195, for City of Buffalo (DLC) Modified on 02/17/1998 (Entered: 02/17/1998)                                                                                                                             |
| 03/13/1998 | 3  | NOTICE OF MOTION to Intervene by Buffalo Professional Firefighters Association, Local 282 (DLC) (Entered: 03/16/1998)                                                                                                                                                                                                                                                                                                               |
| 03/18/1998 | 4  | CONSENT MOTION/ORDER granting the parties request to Extend Time to 3/31/98 in which to answer or otherwise move against the complaint. ( signed by Senior USDJ John T. Curtin ) Notice and copy of order sent to W. James Schwan, James Lawrence Jarvis Jr., Jennifer Coleman (JMD) (Entered: 03/19/1998)                                                                                                                          |
| 04/01/1998 | 5  | NOTICE OF MOTION by City of Buffalo, Dept of Fire, 195, Cornelius J. Keane, John D. Sixt, Firefighter Local282 to Dismiss the Complaint with affidavit in support included. (DLC) (Entered: 04/03/1998)                                                                                                                                                                                                                             |
| 04/01/1998 | 6  | MEMORANDUM by City of Buffalo, Dept of Fire, 195, Cornelius J. Keane, John D. Sixt in support of [5-1] motion to Dismiss the Complaint by Firefighter Local282, John D. Sixt, Cornelius J. Keane, Dept of Fire, 195, City of Buffalo (DLC) (Entered: 04/03/1998)                                                                                                                                                                    |
| 04/13/1998 | 7  | ORDER, Response to Motion set to 5/8/98 for [3-1] motion to Intervene by Buffalo Professional Firefighters Association, Local 282 , Response to Motion set to 5/8/98 for [3-1] motion to Intervene by Buffalo Professional Firefighters Association, Local 282 . (Signed by Senior USDJ John T. Curtin). Notice and copy of order sent to W. James Schwan, James Lawrence Jarvis Jr., Jennifer Coleman. (DLC) (Entered: 04/14/1998) |
| 05/12/1998 | 8  | ORDER, Extending Time by one (1) week for plaintiff's to respond to defendant's motion to dismiss (Signed by Senior USDJ John T. Curtin). Notice and copy of order sent to W. James Schwan, James Lawrence Jarvis Jr., Jennifer Coleman (DLC) (Entered: 05/13/1998)                                                                                                                                                                 |
| 05/20/1998 | 9  | ORDER [5-1] motion to Dismiss the Complaint, [3-1] motion to Intervene by Buffalo Professional Firefighters Association, Local 282, terminated pursuant to this Letter/Order, dated 5/14/98. (Signed by Senior USDJ John T. Curtin). Notice and copy of order sent to W. James Schwan, James Lawrence Jarvis Jr., Jennifer Coleman. (DLC) (Entered: 05/20/1998)                                                                     |
| 05/22/1998 | 10 | AMENDED/CLASS ACTION COMPLAINT by M.O.C.H.A. Society, Michael Brown, Otto Brewer Jr., amending [1-1] complaint against Ronald Cassel, Buffalo Professional Firefighters Association, Inc., Local 282 AFL-CIO-CLC. TRIAL BY JURY DEMANDED..... (document was sent to chambers for approval received back 5/27/98) (DLC) Modified on 05/27/1998 (Entered: 05/27/1998)                                                                 |
| 05/28/1998 | 11 | ORIGINAL SUMMONS attached to RETURN OF SERVICE executed as to Firefighter Local282, Ronald Cassel 5/28/98 of the [10-1] amended complaint by Otto Brewer Jr., Michael Brown, M.O.C.H.A. Society. (DLC) Modified on 05/29/1998 (Entered: 05/29/1998)                                                                                                                                                                                 |
| 06/10/1998 | 12 | MOTION by defendants Firefighter Local282, Ronald Cassel to Dismiss the amended complaint with affidavit in support. (JMD) (Entered: 06/10/1998)                                                                                                                                                                                                                                                                                    |
| 06/10/1998 | 13 | MEMORANDUM OF LAW by defendants Firefighter Local282, Ronald Cassel in support of [12-1] motion to Dismiss the amended complaint (JMD) (Entered: 06/10/1998)                                                                                                                                                                                                                                                                        |
| 06/19/1998 | 14 | ORDER, Plaintiff's Response to Motion set to 7/30/98 for [12-1] motion to Dismiss the amended complaint , Reply to Response to Motion set to 8/20/98 . Upon receipt of the papers, the court will set a date for oral argument. (Signed by Senior USDJ John T. Curtin). Notice and copy of order sent to W. James Schwan, James Lawrence Jarvis Jr., Jennifer Coleman. (DLC) (Entered: 06/19/1998)                                  |

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| 06/23/1998 | 15 | LETTER to USDJ Curtin from attorney Jennifer Coleman, dated 6/22/98. (DLC) (Entered: 06/26/1998)                                                                                                                                                                                                                                                                                                                                                                           |
| 06/29/1998 | 16 | NOTICE OF MOTION by City of Buffalo, Department of Fire, Cornelius J. Keane, John D. Sixt to Dismiss , affidavit in support included. (DLC) (Entered: 06/30/1998)                                                                                                                                                                                                                                                                                                          |
| 06/29/1998 | 17 | MEMORANDUM OF LAW by City of Buffalo, Department of Fire, Cornelius J. Keane, John D. Sixt in support of [16-1] motion to Dismiss by John D. Sixt, Cornelius J. Keane, Department of Fire, City of Buffalo. (DLC) (Entered: 06/30/1998)                                                                                                                                                                                                                                    |
| 06/30/1998 | 18 | CONSENT MOTION/ORDER, reset Answer deadline to 6/29/98 for Ronald Cassel, for Firefighter Local282, for John D. Sixt, for Cornelius J. Keane, for Department of Fire, for City of Buffalo (Signed by Senior USDJ John T. Curtin). Notice and copy of order sent to W. James Schwan, James Lawrence Jarvis Jr., Jennifer Coleman. (DLC) (Entered: 07/01/1998)                                                                                                               |
| 07/09/1998 | 19 | ORDER, plaintiff's Response to Motion set to 8/7/98 for [16-1] motion to Dismiss and [12-1] motion to Dismiss the amended complaint , Motion Hearing set for 11:00 on 9/11/98 . (Signed by Senior USDJ John T. Curtin). Notice and copy of order sent to W. James Schwan, James Lawrence Jarvis Jr., Jennifer Coleman. (DLC) (Entered: 07/09/1998)                                                                                                                         |
| 08/07/1998 | 20 | MEMORANDUM OF LAW by plaintiffs in opposition to [16-1] motion to Dismiss (JMD) (Entered: 08/07/1998)                                                                                                                                                                                                                                                                                                                                                                      |
| 08/19/1998 | 21 | ORDER, argument of defendants [16-1] and [12-1] motions to Dismiss shall be adjourned to 10/16/98 at 11:00 a.m. , if any reply to the memorandum of law filed by plaintiff is to be made, that reply shall be filed by 9/11/98. ( signed by Senior USDJ John T. Curtin ) Notice and copy of order sent to W. James Schwan, James Lawrence Jarvis Jr., Jennifer Coleman (JMD) (Entered: 08/19/1998)                                                                         |
| 08/20/1998 | 22 | LETTER to Judge Curtin from Jennifer Coleman counsel for plaintiffs dated 8/1 8/98 (JMD) (Entered: 08/20/1998)                                                                                                                                                                                                                                                                                                                                                             |
| 10/02/1998 |    | Deadline updated/NOTICE(JTC) oral argument re: defendants' [16-1] motion to Dismiss and [12-1] motion to Dismiss set for 10/16/98 at 2:00p.m. adjourned from 11:00a.m. (JMD) (Entered: 10/06/1998)                                                                                                                                                                                                                                                                         |
| 10/16/1998 |    | Minute entry:, defendant Union asks for brief adjournment, motion granted, Court to Meet with counsel at 10:00 a.m. on 11/20/98 , plaintiff has agreed to file two amended complaints, each dealing with the seperate issues, Amended complaints to be filed by 10/30/98. JTC (JMD) (Entered: 10/21/1998)                                                                                                                                                                  |
| 10/22/1998 | 23 | ORDER, the Court will meet with counsel at 10:00 am on 11/20/98 , plaintiff is directed to file 2 Amended complaints directed to each issue separately by 10/30/98 and defendants [12-1] motion to Dismiss and [16-1] motion to Dismiss are denied with leave to renew after the amended complaints are filed. ( signed by Senior USDJ John T. Curtin ) Notice and copy of order sent to W. James Schwan, James Lawrence Jr., Jennifer Coleman (JMD) (Entered: 10/22/1998) |
| 10/30/1998 | 24 | AMENDED COMPLAINT by M.O.C.H.A. Society, Michael . Brown, Otto Brewer Jr. , amending [10-1] amended complaint against Firefighters 282 (JMD) (Entered: 10/30/1998)                                                                                                                                                                                                                                                                                                         |
| 10/30/1998 | 25 | AMENDED COMPLAINT by M.O.C.H.A. Society, Michael . Brown , amending [10-1] amended complaint (JMD) (Entered: 10/30/1998)                                                                                                                                                                                                                                                                                                                                                   |
| 11/20/1998 |    | Minute entry:, oral argument to be held on defendants motion to dismiss, Court to set a date. JTC (JMD) (Entered: 12/01/1998)                                                                                                                                                                                                                                                                                                                                              |
| 12/08/1998 | 26 | ORDER setting two Motion Filing deadlines to 1/8/99 -one summary judgment motion on the drug policy and one related to the hiring policy; plaintiff's responses due by 2/19/99, etc. ( signed by Senior USDJ John T. Curtin ) Notice and copy of order sent to James Lawrence Jarvis Jr., Jennifer Coleman (mj) (Entered: 12/08/1998)                                                                                                                                      |
| 01/12/1999 | 27 | MOTION by defendants to Dismiss the complaint A with affidavit in support. (JMD) Modified on 01/13/1999 (Entered: 01/12/1999)                                                                                                                                                                                                                                                                                                                                              |

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| 01/12/1999 | 28 | MEMORANDUM OF LAW by defendants in support of [27-1] motion to Dismiss complaint A (JMD) Modified on 01/13/1999 (Entered: 01/12/1999)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 01/12/1999 | 29 | MOTION by defendants to Dismiss Complaint B with affidavit in support. (JMD) (Entered: 01/12/1999)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 01/12/1999 | 30 | MEMORANDUM OF LAW by defendants in support of [29-1] motion to Dismiss Complaint B (JMD) (Entered: 01/12/1999)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 01/19/1999 | 31 | ORDER, directing the Firefighters Association to file two motions by 2/4/99 , the Time for plaintiffs to Respond to the City's motions and the Firefighters Associations motions is extended to 3/4/99 ( signed by Senior USDJ John T. Curtin ) Notice and copy of order sent to Tracy D. Sammarco ,W. James Schwan, James Lawrence Jarvis Jr., Jennifer Coleman (JMD) (Entered: 01/20/1999)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 01/29/1999 | 32 | ORDER, reset Order of 1/19/99 (item #31 Deadlines for filing of all motions by 2/18/99 Responses to Motions to 3/18/99 ; Replies to Responses to Motions 4/12/99; Oral argument will then be set by the Court. ( signed by Senior USDJ John T. Curtin ) Notice and copy of order sent to Tracy D. Sammarco, W. James Schwan, James Lawrence Jarvis Jr., Jennifer Coleman (DLC) (Entered: 02/01/1999)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 01/29/1999 | 34 | LETTER to USDJ Curtin from attorney Tracy Sammarco, dated 1/25/99. (DLC) (Entered: 02/02/1999)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 01/29/1999 |    | Meeting held in chambers with plaintiff attorney on telephone; plaintiff challenges the drug testing policy of the City of Buffalo Fire Dept.; Plaintiff moves to take certain depositions; Depositions to take place before the end of February 1999; a hearing will be held on 4/15/99 at 10:00 am; at that time the court will take upon the motion to dismiss, the motion for preliminary injunction and the motion for class certification (JTC) (SG) (Entered: 02/04/1999)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 02/01/1999 | 33 | ORDER, it was decided that before the motion should be filed, plaintiff will go ahead with the depositions of two or three witnesses. Following that, at least the first week in March 1999, the plaintiff will file a motion for a preliminary injunction and also a motion to certify a class. The City defendants and if appropriate, the Union defendants shall file a response by 3/26/99. In the meantime, the Union defendant will determine what its stand will be on the prospect of plaintiffs filing a motion for preliminary injunction. That decision shall be made by 2/16/99. Motion Hearing set for the 29-1 motion to Dismiss Complaint B, [27-1] motion to Dismiss the complaint A and the motion for a preliminary injunction, the motion to certify the class, all on 4/15/99 at 10:00. ( signed by USDJ John T. Curtin ) Notice and copy of order sent to Tracy D. Sammarco, W. James Schwan, James Lawrence Jarvis Jr., Jennifer Coleman (DLC) (Entered: 02/01/1999) |
| 02/04/1999 |    | Meeting set for 10:00 4/15/99 (SG) (Entered: 02/04/1999)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 02/16/1999 | 35 | LETTER to USDJ Curtin from attorney Jennifer Coleman, dated 2/16/99. (DLC) (Entered: 02/18/1999)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 03/30/1999 | 36 | LETTER to Judge Curtin from Tracy Sammarco, Esq. dated 03/29/99 (DMS) (Entered: 03/31/1999)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 04/07/1999 | 37 | ORDER, plaintiff shall file a motion for class certification by 4/30/99; a Responses shall be made by the City on or before 6/18/99 ; Reply papers may be filed on or before 5/28/99 ; ( signed by Senior USDJ John T. Curtin ) Notice and copy of order sent to Tracy D. Sammarco, W. James Schwan, James Lawrence Jarvis Jr., Jennifer Coleman (JMD) (Entered: 04/07/1999)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 04/27/1999 | 38 | LETTER to USDJ Curtin from attorney Tracy Sammarco, dated 4/25/99. (DLC) (Entered: 04/28/1999)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 04/30/1999 | 39 | ORDER, the date for the filing of various papers is extended to 6/30/99 ( signed by Senior USDJ John T. Curtin ) Notice copy of order sent to Tracy D. Sammarco, W. James Schwan, James Lawrence Jarvis Jr., Jennifer Coleman (JMD) (Entered: 04/30/1999)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 06/25/1999 | 40 | LETTER to Judge Curtin from attorney Tracy Sammarco, dated 6/22/99. (DLC) (Entered: 06/28/1999)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

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| 09/14/1999 | 41 | ORDER, set Meeting for 10:00 10/29/99 ( signed by Senior USDJ John T. Curtin ) Notice and copy of order sent to Tracy D. Sammarco, W. James Schwan, James Lawrence Jarvis Jr., David Gerald Jay, Jennifer Coleman (JMD) (Entered: 09/14/1999)                                                                                                                                                                                                             |
| 10/05/1999 |    | NOTICE from chambers (JTC) Meeting set for 3:00 on 10/29/99, adjourned from 10:00 a.m. (DLC) (Entered: 10/08/1999)                                                                                                                                                                                                                                                                                                                                        |
| 11/02/1999 | 42 | ORDER, David G. Jay, Esq., assigned to represent plaintiffs' pro bono , Response to Motion set to 1/24/00 for [29-1] motion to Dismiss Complaint B, set to 1/24/00 for [27-1] motion to Dismiss the complaint , set Meeting for 3:00 on 1/24/00. (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to Tracy D. Sammarco, W. James Schwan, James Lawrence Jarvis Jr., David Gerald Jay, Jennifer Coleman. (DLC) (Entered: 11/02/1999)   |
| 03/10/2000 | 43 | LETTER to Judge Curtin from John Tucker, President of M.O.C.H.A. Society. Informing the Court that David Jay, Esq., will no longer be representing them. Seeking new counsel. (DLC) (Entered: 03/10/2000)                                                                                                                                                                                                                                                 |
| 04/24/2000 |    | NOTICE from chambers (JTC) Meeting set for 10:30 on 5/5/00. (DLC) (Entered: 04/25/2000)                                                                                                                                                                                                                                                                                                                                                                   |
| 04/27/2000 |    | NOTICE from chambers (JTC) Meeting adjourned from 5/5/00 and reset for 3:00 on 6/5/00. (DLC) (Entered: 04/28/2000)                                                                                                                                                                                                                                                                                                                                        |
| 06/13/2000 | 44 | ORDER, set Deadline for filing a motion to amend the complaint by 8/4/00; Responses to Motion by 8/28/00; set Meeting for 9:00 on 9/8/00. (Signed by Senior USDJ John T. Curtin ) Notice and copy of order sent to John D. Tracy D. Sammarco, W. James Schwan, James Lawrence Jarvis Jr. (DLC) (Entered: 06/13/2000)                                                                                                                                      |
| 07/18/2000 | 89 | AFFIDAVIT by City of Buffalo defendant's to further amplify the evidence and argument submitted on behalf of the City. (DLC) (Entered: 07/19/2001)                                                                                                                                                                                                                                                                                                        |
| 08/01/2000 | 45 | ORDER, defendant's shall respond to plaintiff's first set of interrogatories and request for production of documents by 8/11/00; reset Amended Pleadings deadline to 8/25/00, responding papers by 9/15/00 ; set Meeting for 9:00 on 9/8/00. (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to John D. Tucker, Tracy D. Sammarco, W. James Schwan, James Lawrence Jarvis Jr. (DLC) (Entered: 08/02/2000)                            |
| 08/25/2000 | 46 | MOTION by M.O.C.H.A. Society, Michael . Brown, Otto Brewer Jr. for Leave to File Amend Amended Complaint A&B (DLC) (Entered: 08/28/2000)                                                                                                                                                                                                                                                                                                                  |
| 08/25/2000 | 47 | AFFIDAVIT of present and former City of Buffalo Firefighters terminated or otherwise agreived by the Drug Testing Policy of the City of Buffalo Fire Department. (DLC) (Entered: 08/28/2000)                                                                                                                                                                                                                                                              |
| 08/25/2000 | 48 | AFFIDAVIT of present and former City of Buffalo Firefighters terminated or otherwise agreived by the promotional policies and practices of the City of Buffalo Fire Department. (DLC) (Entered: 08/28/2000)                                                                                                                                                                                                                                               |
| 08/25/2000 | 49 | MEMORANDUM by M.O.C.H.A. Society, Michael . Brown, Otto Brewer Jr. in support of [46-1] motion for Leave to File Amend Amended Complaint A&B by Otto Brewer Jr., Michael . Brown, M.O.C.H.A. Society (DLC) (Entered: 08/28/2000)                                                                                                                                                                                                                          |
| 09/01/2000 | 50 | ORDER, Response to Motion set to 10/6/00 for [46-1] motion for Leave to File Amend Amended Complaint A&B , Motion Hearing set for 10:00 on 10/27/00. (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to John D. Tucker, Tracy D. Sammarco, W. James Schwan, James Lawrence Jarvis Jr., Thomas S. Gill, Michael C. Driscoll Esq. (DLC) (Entered: 09/01/2000)                                                                          |
| 09/19/2000 | 51 | ORDER dismissing [27-1] motion to Dismiss the complaint A, dismissing [29-1] motion to Dismiss Complaint B. These motions may be renewed after the court issues it decision on the plaintiff's motion to amend the complaint. (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to John D. Tucker, Tracy D. Sammarco, W. James Schwan, James Lawrence Jarvis Jr., Thomas S. Gill, Michael C. Driscoll Esq. (DLC) (Entered: 09/19/2000) |
| 10/16/2000 | 52 | LETTER to Judge Curtin from attorney Michael Risman, dated 10/4/00. (DLC) (Entered: 10/17/2000)                                                                                                                                                                                                                                                                                                                                                           |

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| 10/16/2000 | 53 | ORDER granting [46-1] motion for Leave to File Amend Amended Complaint A&B, set Motion Filing deadline to 11/22/00 and plaintiff's response by 12/29/00. (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to John D. Tucker, Tracy D. Sammarco, W. James Schwan, James Lawrence Jarvis Jr., Thomas S. Gill, Michael C. Driscoll Esq. (DLC) (Entered: 10/17/2000)                                                                                                                                                                                                                                                                                    |
| 10/19/2000 | 54 | SECOND AMENDED COMPLAINT (B) Class Action Complaint regarding defendants' Promotion Policies and practices by Plaintiff's amending M.O.C.H.A. Society Inc, Michael Brown, Willie Broadus, Robert Grice, Robert Jones, Walter Jones, Victor Muhammad, William Raspberry, John Tucker at 215 Broadway St., -AGAINST- City of Buffalo, City of Buffalo, Department of Fire, Cornelius J. Keane, John D. Sixt, Buffalo Professional Firefighters Assoc Inc Local 282 AFL-CIO-CLC, Ronald Cassel, John Doe. John Doe. JURY TRIAL DEMANDED. (DLC) Modified on 10/20/2000 (Entered: 10/20/2000)                                                                                |
| 10/19/2000 | 55 | SECOND AMENDED COMPLAINT (A) Class Action Complaint regarding defendants' Drug Testing Policy by Plaintiff's, amending M.O.C.H.A. Society, Inc., Michael Brown, Otto Brewer, Jr., Maurice Birdsong, Walter Davis, David Gray, Arthur Harris, Walter Jones, Edward Josey, Harwyn Louie, Lawrence Pierce, William Raspberry, Terry Scott, Michael Southern, John Tucker of 118 Urban St., Michael Varner, Cranston Wilson -AGAINST- City of Buffalo, City of Buffalo Department of Fire, Cornelius J. Keane, John D. Sixt, Buffalo Professional Firefighters Assoc Inc Local 282 AFL-CIO-CLC, Ronald Cassel, John Doe. (DLC) Modified on 10/20/2000 (Entered: 10/20/2000) |
| 12/07/2000 | 56 | ORDER, reset Scheduling Order Deadlines: Deadline for filing dispositive motions by 12/20/00; Responses to Motions to 1/26/01 (Signed by Senior USDJ John T. Curtin ) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Tracy D. Sammarco, W. James Schwan, James Lawrence Jarvis Jr., Michael C. Driscoll (DLC) (Entered: 12/07/2000)                                                                                                                                                                                                                                                                                                                   |
| 12/19/2000 | 57 | ORDER, reset Answer deadline to 1/15/01 for Firefighters 282 (Signed by Senior USDJ John T. Curtin ) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Tracy D. Sammarco, W. James Schwan, James Lawrence Jarvis Jr., Michael C. Driscoll (DLC) (Entered: 12/19/2000)                                                                                                                                                                                                                                                                                                                                                                                    |
| 12/20/2000 | 58 | MOTION by City of Buffalo, Department of Fire, Cornelius J. Keane, John D. Sixt to Dismiss plaintiffs Second Amended Complaint A (DLC) (Entered: 12/21/2000)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 12/20/2000 | 59 | MEMORANDUM by City of Buffalo, Department of Fire, Cornelius J. Keane, John D. Sixt in support of [58-1] motion to Dismiss plaintiffs Second Amended Complaint A by John D. Sixt, Cornelius J. Keane, Department of Fire, City of Buffalo (DLC) (Entered: 12/21/2000)                                                                                                                                                                                                                                                                                                                                                                                                   |
| 12/20/2000 | 60 | MOTION by City of Buffalo, Department of Fire, Cornelius J. Keane, John D. Sixt to Dismiss plaintiff's Second Amended Complaint B (DLC) (Entered: 12/21/2000)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 12/20/2000 | 61 | MEMORANDUM by City of Buffalo, Department of Fire, Cornelius J. Keane, John D. Sixt in support of [60-1] motion to Dismiss plaintiff's Second Amended Complaint B by John D. Sixt, Cornelius J. Keane, Department of Fire, City of Buffalo (DLC) (Entered: 12/21/2000)                                                                                                                                                                                                                                                                                                                                                                                                  |
| 01/02/2001 | 62 | ORDER, plaintiff shall respond to defendants [60-1] motion to Dismiss by 2/16/01 , defendant shall file a Reply by 3/15/01 ( signed by Senior USDJ John T. Curtin ) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Tracy D. Sammarco, W. James Schwan, James Lawrence Jarvis Jr., Michael C. (JMD) (Entered: 01/03/2001)                                                                                                                                                                                                                                                                                                                              |
| 02/16/2001 | 63 | AFFIDAVIT by Thomas S. Gill counsel for plaintiffs in opposition to [60-1] motion to Dismiss plaintiff's Second Amended Complaint B (JMD) (Entered: 02/20/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 02/16/2001 | 64 | AFFIDAVIT by Frank Gist President of M.O.C.H.A. Society, and on behalf of plaintiffs in opposition to [60-1] motion to Dismiss plaintiff's Amended Complaint B (JMD) (Entered: 02/20/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 02/16/2001 | 65 | AFFIDAVIT by Frank Gist President of M.O.C.H.A. Society, and on behalf of plaintiffs in opposition to [58-1] motion to Dismiss plaintiffs Second Amended Complaint A (JMD) (Entered: 02/20/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

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| 02/16/2001 | 66 | MEMORANDUM of LAW by plaintiffs in opposition to [60-1] motion to Dismiss plaintiff's Amended Complaint B and [58-1] motion to Dismiss plaintiffs Second Amended Complaint A (JMD) (Entered: 02/20/2001)                                                                                                                                                                                                                             |
| 02/16/2001 | 67 | CERTIFICATE OF SERVICE by plaintiffs re: [66-1] opposition memorandum , [65-1] opposition affidavit , [64-1] opposition affidavit and [63-1] opposition affidavit (JMD) (Entered: 02/20/2001)                                                                                                                                                                                                                                        |
| 03/16/2001 | 68 | LETTER to Judge Curtin from attorney for City of Buffalo, dated 3/16/01, confirming time to answer the plaintiff's motion to dismiss from 3/15 to 3/23/01. (DLC) (Entered: 03/20/2001)                                                                                                                                                                                                                                               |
| 03/16/2001 |    | Deadline updated; Reply to Response to Motion set to 3/23/01 for [60-1] motion to Dismiss plaintiff's Second Amended Complaint B (DLC) (Entered: 03/20/2001)                                                                                                                                                                                                                                                                         |
| 03/22/2001 | 69 | LETTER to Judge Curtin from attorney Jeffrey Reed for the City of Buffalo, dated 3/16/01. (DLC) (Entered: 03/23/2001)                                                                                                                                                                                                                                                                                                                |
| 04/12/2001 | 70 | ORDER, Motion Hearing set for 10:00 on 6/22/01 for [60-1] motion to Dismiss plaintiff's Second Amended Complaint B, set for 10:00 6/22/01 for [58-1] motion to Dismiss plaintiffs Second Amended Complaint A. (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Tracy D. Sammarco, W. James Schwan, James Lawrence Jarvis Jr., Michael C. Driscoll (DLC) (Entered: 04/16/2001) |
| 04/13/2001 | 71 | LETTER to Judge Curtin from attorney Michael Risan (Jeffrey Reed), dated 4/12/01. (DLC) (Entered: 04/17/2001)                                                                                                                                                                                                                                                                                                                        |
| 05/03/2001 | 72 | ORDER, reset Oral Argument for 10:00 on 8/17/01. (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Andrea L. Sammarco, James Lawrence Jarvis Jr., Michael C. Driscoll (DLC) (Entered: 05/04/2001)                                                                                                                                                                              |
| 07/03/2001 | 73 | EX PARTE MOTION by M.O.C.H.A. Society, Michael Brown, Otto Brewer Jr. for Temporary Restraining Order (DLC) (Entered: 07/05/2001)                                                                                                                                                                                                                                                                                                    |
| 07/03/2001 | 74 | MEMORANDUM OF LAW by M.O.C.H.A. Society, Michael Brown, Otto Brewer Jr. in support of [73-1] motion for Temporary Restraining Order by Otto Brewer Jr., Michael . Brown, M.O.C.H.A. Society (DLC) (Entered: 07/05/2001)                                                                                                                                                                                                              |
| 07/03/2001 | 75 | CERTIFICATE OF SERVICE by M.O.C.H.A. Society, Michael . Brown, Otto Brewer Jr. [73-1] motion for Temporary Restraining Order by Otto Brewer Jr., Michael . Brown, M.O.C.H.A. Society, [74-1] support memorandum by Otto Brewer Jr., Michael . Brown, M.O.C.H.A. Society (DLC) (Entered: 07/05/2001)                                                                                                                                  |
| 07/03/2001 | 76 | ORDER granting [73-1] motion for Temporary Restraining Order. (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Andrea L. Sammarco, James Lawrence Jarvis Jr., Michael C. Driscoll (DLC) (Entered: 07/05/2001)                                                                                                                                                                 |
| 07/03/2001 | 77 | AFFIDAVIT by frank Gist president of M.O.C.H.A. Society Re: motion for a preliminary injunction. (DLC) (Entered: 07/05/2001)                                                                                                                                                                                                                                                                                                         |
| 07/09/2001 | 78 | AFFIDAVIT by Andrea Sammarco, attorney for Ronald Cassel, Firefighters 282 Re to: the request for a plrliminaary injunction. (DLC) (Entered: 07/09/2001)                                                                                                                                                                                                                                                                             |
| 07/09/2001 | 79 | ORDER, lifting the TRO (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Andrea L. Sammarco, James Lawrence Jarvis Jr., Michael C. Driscoll (DLC) (Entered: 07/10/2001)                                                                                                                                                                                                        |
| 07/09/2001 | 80 | MEMORANDUM by City of Buffalo in opposition to [73-1] motion for Temporary Restraining Order by Otto Brewer Jr., Michael . Brown, M.O.C.H.A. Society (DLC) (Entered: 07/10/2001)                                                                                                                                                                                                                                                     |
| 07/09/2001 | 81 | AFFIDAVIT by Calvin G. Worthy employed by City of Buffalo (DLC) (Entered: 07/10/2001)                                                                                                                                                                                                                                                                                                                                                |
| 07/09/2001 | 82 | AFFIDAVIT by David State, Senior Deputy Corp., Counsel for the City of Buffalo in opposition to motion for Injunctive relief. (DLC) (Entered: 07/10/2001)                                                                                                                                                                                                                                                                            |

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| 07/09/2001 | 83  | CERTIFICATE OF SERVICE for the [73-1] motion for Temporary Restraining Order by Otto Brewer Jr., Michael . Brown, M.O.C.H.A. Society (DLC) (Entered: 07/12/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 07/09/2001 | 94  | Meeting held, Court lifted temporary restraining order recently imposed and directed counsel to meet with Court again on 7/20/01 at 10:30 to discuss City's current proposal to hire 24 lieutenants sometime after 7/23/01. JTC (JMD) (Entered: 07/25/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 07/18/2001 | 84  | AFFIDAVIT by attorney for Ronald Cassel, Firefighters 282 of her personal knowledge of the progress of the litigation in this case. (DLC) (Entered: 07/19/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 07/18/2001 | 85  | REPLY BEIEF by M.O.C.H.A. Society . (DLC) (Entered: 07/19/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 07/18/2001 | 86  | AFFIRMATION by Michael Brown (DLC) (Entered: 07/19/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 07/18/2001 | 87  | AFFIRMATION by Thomas Gill attorney for M.O.C.H.A. Society (DLC) (Entered: 07/19/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 07/18/2001 | 88  | MEMORANDUM OF LAW by City of Buffalo defendant's in opposition to any future request for injunctive relief by the plaintiff's. (DLC) (Entered: 07/19/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 07/18/2001 | 90  | SECOND AFFIDAVIT of Calvin G. Worthy (DLC) (Entered: 07/19/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 07/19/2001 | 91  | AFFIDAVIT by attorney for City of Buffalo, Department of Fire, Cornelius J. Keane, John D. Sixt (DLC) (Entered: 07/20/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 07/19/2001 | 92  | AFFIRMATION by Thomas Gill, attorney for M.O.C.H.A. Society (DLC) (Entered: 07/20/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 07/20/2001 | 95  | Minute entry:, oral argument held on plaintiffs motion for Preliminary Injunction after oral argument Court orally denied plaintiffs motion order to follow JTC (JMD) (Entered: 07/25/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 07/23/2001 | 93  | ORDER denying [73-1] motion for Temporary Restraining Order/Preliminary Injunction. The court denies the application and permits the City to go forward with its plans to promote approximately 24 firefighters to the rank of liertenant. Motion Hearing set for 8/17/01 for [60-1] motion to Dismiss plaintiff's Second Amended Complaint B, set for 8/17/01 for [58-1] motion to Dismiss plaintiffs Second Amended Complaint A. (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Andrea L. Sammarco, James Lawrence Jarvis Jr., Michael C. Driscoll (DLC) (Entered: 07/23/2001)                                                                                                                                                                                                                      |
| 08/02/2001 | 96  | TRANSCRIPT of decision before Judge Curtin dated 7/20/01, pages 1-10. (JMD) (Entered: 08/02/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 08/22/2001 | 100 | Minute entry:, oral argument on defendants motions to dismiss, decision reserved. JTC (JMD) (Entered: 08/31/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 08/24/2001 | 97  | ORDER, granting plaintiffs request for Leave to File supplemental memorandum of law ( signed by Senior USDJ John T. Curtin ) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Andrea L. Sammarco, James Lawrence Jarvis Jr., Michael C. Driscoll (JMD) (Entered: 08/24/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 08/27/2001 | 98  | LETTER to Mr. Gill from Ann Williams, Assustabt Attorney General, dated 8/24/01. (DLC) (Entered: 08/28/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 08/28/2001 | 99  | LETTER to Ms. Williams from attorney Thomas Gill, dated 8/27/01. (DLC) (Entered: 08/29/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 08/30/2001 | 104 | Tele-conference held with plaintiffs counsel and Assistant Attorney General for New York State who is a non-party to this action re: subpoena which plaintiffs counsel issued on the State for informaton re: preparation of firefighters exam. Court limited the information to deposing the expert in this area that the State has relied upon and asking expert information re: questions on exam, review of questions, amendment of questions etc. Otherwise the State will provide copies of correspondence from Civil Service Department redacting names of people who wrote the questions that comprise the exam. State will also provide copy of test and answer key, with understanding that confidentiality agreement will be drafted limiting access to that test to plaintiffs counsel and his designated experts. JTC (JMD) (Entered: 09/14/2001) |

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| 08/31/2001 | 101 | LETTER to Judge Curtin from Assistant Attorney General Ann Williams, dated 8/28/01. (DLC) (Entered: 09/04/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 09/06/2001 | 102 | SUPPLEMENTAL MEMORANDUM OF LAW by M.O.C.H.A. Society, Michael . Brown, Otto Brewer Jr. in opposition to [58-1] motion to Dismiss plaintiffs Second Amended Complaint A by John D. Sixt, Cornelius J. Keane, Department of Fire, City of Buffalo (DMS) (Entered: 09/06/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 09/06/2001 | 103 | SUPPLEMENTAL AFFIRMATION/AFFIDAVIT of Michael C. Driscoll, counsel for M.O.C.H.A. Society, Re: [58-1] motion to Dismiss plaintiffs Second Amended Complaint A by John D. Sixt, Cornelius J. Keane, Department of Fire, City of Buffalo (DMS) (Entered: 09/06/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 09/17/2001 | 105 | ORDER, Extending Time until 9/21/01 for the City defendant to file Supplemental Memorandum of Law (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Andrea L. Sammarco, James Lawrence Jarvis Jr., Michael C. Driscoll (DLC) (Entered: 09/20/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 09/21/2001 | 106 | SUPPLEMENTAL MEMORANDUM by City of Buffalo in support of [60-1] motion to Dismiss plaintiff's Second Amended Complaint B by John D. Sixt, Cornelius J. Keane, Department of Fire, City of Buffalo (DLC) (Entered: 09/24/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 10/19/2001 | 107 | STIPULATION and ORDER of CONFIDENTIALITY (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Andrea L. Sammarco, Tracy D. Sammarco, W. James Schwan, James Lawrence Jarvis Jr., David Gerald Jay, Jennifer Coleman, Michael C. Driscoll. (DLC) (Entered: 10/19/2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 01/08/2002 | 108 | Tele-conference held. Counsel reported defendants motion to dismiss is fully briefed and ready for decision. Court will consider the motion submitted. JTC (JMD) (Entered: 01/18/2002)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 03/27/2002 | 109 | ORDER granting in part, denying in part [60-1] motion to Dismiss plaintiff's Second Amended Complaint B, granting in part, denying in part [58-1] motion to Dismiss plaintiffs Second Amended Complaint A. Granted to the extent that they seek dismissal of plaintiffs claims under 1985, plaintiffs claims for punitive damages against the City and the individual City defendants sued in their official capacities, plaintiffs Title VII claims against individual City defendants Cornelius Keane and John Sixt, and plaintiffs claims against the Fire department as a separate entity. Denied to the extent that they seek dismissal of the action for lack of standing, and to the extent that they seek dismissal of plaintiffs claims under 1981, 1983, and Title VII for failure to state a claim upon which relief can be granted. Except as otherwise set forth in this Order, plaintiffs claims against the City defendants will survive the City's motions to dismiss. Set Meeting for 11:30 on 4/22/02 to discuss further proceedings. (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Andrea L. Sammarco, W. James Schwan, Michael C. Driscoll (DLC) (Entered: 03/28/2002) |
| 04/22/2002 | 111 | Meeting held, counsel informed the Court that substantial discovery needs to be completed in both portions of this case. Court directed parties to complete discovery by 9/23/2 and meet with the Court at 3:30 on that date. Order to follow. JTC (JMD) (Entered: 05/02/2002)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 04/22/2002 |     | Deadline updated; set Discovery deadline to 9/23/02 , set Meeting for 3:30 9/23/02 (JMD) (Entered: 05/02/2002)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 04/26/2002 | 110 | ORDER, set Discovery deadline to 9/23/02 , set Meeting with counsel for 3:30 on 9/23/02. (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Andrea L. Sammarco, Tracy D. Sammarco, W. James Schwan, James Lawrence Jarvis Jr., David Gerald Jay, Jennifer Coleman, Michael C. Driscoll (DLC) (Entered: 04/26/2002)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 09/10/2002 | 112 | MOTION by M.O.C.H.A. Society, Michael . Brown, Otto Brewer Jr. to Extend Time of Discovery Cut-Off Date (DLC) (Entered: 09/12/2002)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 09/23/2002 | 114 | Meeting held. Discovery matters were discussed. AAG Ann Williams was contacted by phone to make arrangements for deposition of State employees with information pertaining to development of the promotion test. Plaintiffs counsel stated he will move to compel the drug test results. City stated it may file a third party action against the                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

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|            |     | State. Court will mark file ahead for court review for 10 days. Scheduling order to follow. JTC (JMD) (Entered: 09/30/2002)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 09/27/2002 | 113 | ORDER granting [112-1] motion to Extend Time of Discovery Cut-Off Date until 2/28/03. the court will then meet with counsel on 4/28/03 at 11:00 A.M.. In the promotion case, there is a problem about the State records and a witness who is familiar with records. This witness is no longer an employee of the State. During the meeting, a telephone conference was held with Ann Williams, Esq., Assistant Attorney General, who is familiar with the problem. Ms. Williams is making arrangements to have the witness available. If possible, that appearance should be voluntary. Ms. Williams and Mr. Gill will confer to determine what progress has been made in scheduling this witness for deposition. Mr. Gill will report to the court on the status of discovery on or before 10/3/02. (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Andrea L. Sammarco, James Lawrence Jarvis Jr., Michael C. Driscoll (DLC) Modified on 02/24/2003 (Entered: 09/27/2002) |
| 10/02/2002 | 115 | MOTION by plaintiffs M.O.C.H.A. Society, Michael . Brown, Otto Brewer Jr. to Compel the City of Buffalo to provide response to interrogatories with affirmation and exhibits in support (JMD) (Entered: 10/02/2002)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 10/08/2002 | 116 | ORDER, Response to Motion set to 11/12/02 for [115-1] motion to Compel the City of Buffalo to provide response to interrogatories , Motion Hearing set for 2:00 on 11/20/02 (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Andrea L. Sammarco, James Lawrence Jarvis Jr., Michael C. Driscoll (DLC) (Entered: 10/08/2002)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 10/29/2002 | 117 | MOTION by M.O.C.H.A. Society to Compel non-party Beacon Center to provide responses to M.O.C.H.A.'s Subpoena Duces Tecum dated 10/8/02. (DLC) (Entered: 10/30/2002)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 11/12/2002 | 121 | AFFIDAVIT by attorney for City of Buffalo, Department of Fire, Cornelius J. Keane, John D. Sixt in opposition to [115-1] motion to Compel the City of Buffalo to provide response to interrogatories by Otto Brewer Jr., Michael . Brown, M.O.C.H.A. Society (DLC) (Entered: 11/15/2002)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 11/13/2002 | 118 | NOTICE of attorney appearance for Firefighters 282 by Tracy Sammarco. (DLC) (Entered: 11/15/2002)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 11/13/2002 | 119 | AFFIDAVIT by attorney for a non-party witness the Buffalo Beacon Corporation d/b/a the Beacon Center in opposition to [117-1] motion to Compel non-party Beacon Center to provide responses to M.O.C.H.A.'s Subpoena Duces Tecum dated 10/8/02. by M.O.C.H.A. Society (DLC) (Entered: 11/15/2002)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 11/13/2002 | 120 | AFFIDAVIT by Faith Peterson, Director and sole shareholder of Buffalo Beacon Corporation in opposition to [117-1] motion to Compel non-party Beacon Center to provide responses to M.O.C.H.A.'s Subpoena Duces Tecum dated 10/8/02. by M.O.C.H.A. Society (DLC) (Entered: 11/15/2002)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 11/14/2002 | 122 | LETTER from attorney Thomas Gill, dated 11/12/02. (DLC) (Entered: 11/15/2002)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 11/18/2002 | 123 | LETTER to USDJ Curtin from attorney Michael Driscoll, dated 11/14/02. (DLC) (Entered: 11/19/2002)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 11/18/2002 | 124 | LETTER to USDJ Curtin from attorney Tracy Sammarco, dated 11/13/02. (DLC) (Entered: 11/19/2002)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 11/18/2002 | 125 | ORDER, Response to Motion set to 11/29/02 for [115-1] motion to Compel the City of Buffalo to provide response to interrogatories , Motion Hearing set for 2:00 on 12/16/02 for [115-1] motion to Compel the City of Buffalo to provide response to interrogatories , Reply to Response to Motion set to 12/9/02 for [115-1] motion to Compel the City of Buffalo to provide response to interrogatories , Response to Motion [117-1] motion to Compel non-party Beacon Center to provide responses to M.O.C.H.A.'s Subpoena Duces Tecum dated 10/8/02 , Reply to Response to Motion set to 11/29/02 for [117-1] motion to Compel non-party Beacon Center to provide responses to M.O.C.H.A.'s Subpoena Duces Tecum dated 10/8/02 , Motion Hearing set for 2:00 on 12/16/02 for [117-1] motion to Compel non-party Beacon Center to provide responses to M.O.C.H.A.'s Subpoena Duces Tecum dated 10/8/02. (Signed by                                                                                                               |

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|            |     | Senior USDJ John T. Curtin) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Tracy D. Sammarco, James Lawrence Jarvis Jr., Michael C. Driscoll (DLC) (Entered: 11/19/2002)                                                                                                                                                                                |
| 12/02/2002 | 126 | REPLY AFFIRMATION by Michael Driscoll counsel for plaintiffs in support of [117-1] motion to Compel non-party Beacon Center to provide responses to M.O.C.H.A.'s Subpoena Duces Tecum dated 10/8/02. (JMD) (Entered: 12/02/2002)                                                                                                                                          |
| 12/05/2002 | 127 | AFFIRMATION by Tracy D. Sammarco counsel for defendants Firefighter Local282, Ronald Cassel in opposition to [115-1] motion to Compel (JMD) (Entered: 12/05/2002)                                                                                                                                                                                                         |
| 12/16/2002 | 128 | Motion hearing re: [117-1] motion to Compel non-party Beacon Center to provide responses to M.O.C.H.A.'s Subpoena Duces Tecum dated 10/8/02. by M.O.C.H.A. Society Motion hearing held. Decision reserved. (JTC) (DLC) (Entered: 12/30/2002)                                                                                                                              |
| 01/06/2003 | 129 | ORDER denying [117-1] motion to Compel non-party Beacon Center to provide responses to M.O.C.H.A.'s Subpoena Duces Tecum dated 10/8/02. ( signed by Senior USDJ John T. Curtin ) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Tracy D. Sammarco, James Lawrence Jarvis Jr., Michael C. Driscoll (DLC) (Entered: 01/06/2003)                           |
| 01/17/2003 | 130 | LETTER to Judge Curtin from attorney Thomas Gill, dated 1/14/03. (DLC) (Entered: 01/21/2003)                                                                                                                                                                                                                                                                              |
| 01/17/2003 | 131 | NOTICE of attorney appearance for City of Buffalo by Adam W. Perry, Kathleen M. Sellers (DLC) (Entered: 01/22/2003)                                                                                                                                                                                                                                                       |
| 01/22/2003 | 132 | LETTER to Judge Curtin from attorney Thomas Gill, dated 1/17/03. (DLC) (Entered: 01/23/2003)                                                                                                                                                                                                                                                                              |
| 01/24/2003 | 133 | LETTER to Judge Curtin from attorney Kathleen Sellers, dated 1/22/03. (DLC) (Entered: 01/24/2003)                                                                                                                                                                                                                                                                         |
| 01/24/2003 | 136 | Motion hearing re: defendant's motion to disqualify plaintiff's designated expert, Dr. Murphy. The Court Denies defendant's motion. Order to follow. (JTC) (DLC) (Entered: 02/03/2003)                                                                                                                                                                                    |
| 01/29/2003 | 134 | LETTER to the Clerk from attorney Matthew C. Van Vessel, dated 1/10/03. (DLC) (Entered: 01/29/2003)                                                                                                                                                                                                                                                                       |
| 01/29/2003 | 135 | ORDER the motion of the City of buffalo to disqualify Kevin R. Murphy as expert for plaintiffs is DENIED. (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Tracy D. Sammarco, James Lawrence Jarvis Jr., Kathleen M. Sellers, Adam W. Perry, Matthew C. VanVessel, Michael C. Driscoll (DLC) (Entered: 01/29/2003) |
| 02/06/2003 | 137 | MOTION by M.O.C.H.A. Society, Michael . Brown, Otto Brewer Jr. to Extend Time of Discovery (DLC) (Entered: 02/10/2003)                                                                                                                                                                                                                                                    |
| 02/18/2003 | 138 | MOTION by City of Buffalo for an Order permitting the City of Buffalo to implead the New York State Department of Civil Service and George C. Sinnott, Commissioner , to Extend Time of the Court's prior scheduling order (DLC) (Entered: 02/19/2003)                                                                                                                    |
| 02/18/2003 | 139 | CERTIFICATE OF SERVICE by City of Buffalo [138-1] motion for an Order permitting the City of Buffalo to implead the New York State Department of Civil Service and George C. Sinnott, Commissioner by City of Buffalo, [138-2] motion to Extend Time of the Court's prior scheduling order by City of Buffalo (DLC) (Entered: 02/19/2003)                                 |
| 02/20/2003 | 140 | RESPONSE by M.O.C.H.A. Society, Michael Brown, Otto Brewer Jr. to the [138-1] motion for an Order permitting the City of Buffalo to implead the New York State Department of Civil Service and George C. Sinnott, Commissioner by City of Buffalo (DLC) (Entered: 02/21/2003)                                                                                             |
| 02/28/2003 | 141 | ORDER granting [138-2] motion to Extend Time of the Court's prior scheduling order, granting [137-1] motion to Extend Time of Discovery, reset Discovery deadline to 4/30/03 (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to                                                                                                                      |

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|            |     | Thomas S. Gill, John D. Tucker, Tracy D. Sammarco, James Lawrence Jarvis Jr., Kathleen M. Sellers, Adam W. Perry, Matthew C. VanVessem, Michael C. Driscoll (DLC) (Entered: 03/03/2003)                                                                                                                                                                                                                                                                                                                                                                                                   |
| 03/11/2003 | 142 | ORDER, Response to Motion set to 4/5/03 for [138-1] motion for an Order permitting the City of Buffalo to implead the New York State Department of Civil Service and George C. Sinnott, Commissioner , Motion Hearing set for 11:00 on 4/28/03 . (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Tracy D. Sammarco, James Lawrence Jarvis Jr., Kathleen M. Sellers, Adam W. Perry, Matthew C. VanVessem, Michael C. Driscoll (DLC) (Entered: 03/12/2003)                                                                          |
| 03/18/2003 | 143 | LETTER to Judge Curtin from Kathleen Sellers counsel for defendant City of Buffalo dated 3/17/3. (JMD) (Entered: 03/19/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 03/20/2003 | 144 | LETTER to Judge Curtin from Assistant Attorney General Ann Williams, dated 3/19/03. (DLC) (Entered: 03/21/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 03/26/2003 | 145 | ANSWER by City of Buffalo (Attorney Michael B. Risman) to second amended complaint B (DLC) (Entered: 03/26/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 03/26/2003 | 146 | ANSWER by City of Buffalo (Attorney Michael Risman) to second amended complaint A (DLC) (Entered: 03/26/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 04/04/2003 | 147 | MEMORANDUM OF LAW by New York State Department of Civil Service and George Sinnott, Commissioner, in opposition to [138-1] motion for an Order permitting the City of Buffalo to implead the New York Department of Civil Service and George C. Sinnott, Commissioner (DMZ) (Entered: 04/07/2003)                                                                                                                                                                                                                                                                                         |
| 04/09/2003 | 148 | ORDER, reset Discovery deadline to 9/30/03 (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Tracy D. Sammarco, James Lawrence Jarvis Jr., Michael B. Risman, Kathleen M. Sellers, Adam W. Perry, Matthew C. VanVessem, Michael C. Driscoll (DLC) (Entered: 04/10/2003)                                                                                                                                                                                                                                                             |
| 04/17/2003 |     | NOTICE from chambers (JTC) Motion hearing re: [138-1] motion for an Order permitting the City of Buffalo to implead the New York State Department of Civil Service and George C. Sinnott, Commissioner by City of Buffalo reset at 10:30 on 4/29/03. (DLC) (Entered: 04/18/2003)                                                                                                                                                                                                                                                                                                          |
| 05/01/2003 |     | NOTICE from chambers (JTC) Motion hearing re: [138-1] motion for an Order permitting the City of Buffalo to implead the New York State Department of Civil Service and George C. Sinnott, Commissioner by City of Buffalo at 10:00 on 6/2/03. (DLC) (Entered: 05/05/2003)                                                                                                                                                                                                                                                                                                                 |
| 05/09/2003 | 149 | RESPONSE by City of Buffalo to amended request to admit. (DLC) (Entered: 05/09/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 05/19/2003 | 150 | MOTION by M.O.C.H.A. Society, Michael . Brown, Otto Brewer Jr. to Declare Information Admitted (DLC) (Entered: 05/20/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 05/19/2003 | 151 | AFFIRMATION by attorney for M.O.C.H.A. Society, Michael Brown, Otto Brewer Jr. in support of: [150-1] motion to Declare Information Admitted by Otto Brewer Jr., Michael Brown, M.O.C.H.A. Society (DLC) (Entered: 05/20/2003)                                                                                                                                                                                                                                                                                                                                                            |
| 05/27/2003 | 152 | ORDER, Response to Motion set to 6/25/03 for [150-1] motion to Declare Information Admitted , Motion Hearing reset for 11:15 on 6/13/03 for [138-1] motion for an Order permitting the City of Buffalo to implead the New York State Department of Civil Service and George C. Sinnott, Commissioner . (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Tracy D. Sammarco, James Lawrence Jarvis Jr., Michael B. Risman, Kathleen M. Sellers, Adam W. Perry, Matthew C. VanVessem, Michael C. Driscoll (DLC) (Entered: 05/28/2003) |
| 05/28/2003 | 153 | MOTION by City of Buffalo to Compel Plaintiff's to respond to defenfants' discovery requests , and to schedule deposition dates, together with costs of this motion (DLC) (Entered: 05/30/2003)                                                                                                                                                                                                                                                                                                                                                                                           |
| 06/04/2003 | 154 | AMENDED ANSWER to Complaint by City of Buffalo, Cornelius J. Keane, John D. Sixt : amends [146-1] second amended complaint A answer by City of Buffalo (DLC) (Entered: 06/06/2003)                                                                                                                                                                                                                                                                                                                                                                                                        |

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| 06/04/2003 | 155 | AMENDED ANSWER to Complaint by City of Buffalo, Cornelius J. Keane, John D. Sixt: amends [145-1] second amended complaint B answer by City of Buffalo (DLC) (Entered: 06/06/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 06/04/2003 | 156 | RESPONSE by City of Buffalo, Cornelius J. Keane, John D. Sixt to the amended [149-1] response reply by City of Buffalo to admit to John D. Sixt. (DLC) (Entered: 06/06/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 06/05/2003 | 157 | ORDER, Response to Motion set to 6/25/03 for [153-1] motion to Compel Plaintiff's to respond to defenfants' discovery requests . The Court will then set a date for oral argument. (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Tracy D. Sammarco, James Lawrence Jarvis Jr., Michael B. Risan, Kathleen M. Sellers, Adam W. Perry, Matthew C. VanVessem, Michael C. Driscoll (DLC) (Entered: 06/06/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 06/13/2003 | 158 | Minute entry: oral argument on City's motion to implead the State, plaintiffs counsel and defendant Union have no opposition, State argued its opposition. Court reserved decision. JTC (JMD) (Entered: 06/19/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 06/24/2003 | 159 | AFFIDAVIT by Defendant City of Buffalo in opposition to [150-1] Plaintiffs' Motion to Declare Information Admitted by Otto Brewer Jr., Michael Brown, M.O.C.H.A. Society (CMD) (Entered: 06/25/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 06/25/2003 | 160 | CROSS MOTION by M.O.C.H.A. Society, Michael . Brown, Otto Brewer Jr. to Strike defendant City of Buffalo First Set of Interrogatories dated 7/10/01 and their Fist Set of Interrogatories with respect to Complaint A dated 3/10/03 (DLC) (Entered: 06/25/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 06/25/2003 | 161 | AFFIRMATION by attorney Thomas Gill in opposition to: [153-1] motion to Compel Plaintiff's to respond to defenfants' discovery requests by City of Buffalo (DLC) (Entered: 06/25/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 07/03/2003 | 162 | ORDER, set Meeting for 10:30 on 7/18/03 . (Signed by Senior USDJ John T. Curtin) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Tracy D. Sammarco, James Lawrence Jarvis Jr., Michael B. Risan, Kathleen M. Sellers, Adam W. Perry, Matthew C. VanVessem, Michael C. Driscoll (DLC) (Entered: 07/03/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 07/08/2003 | 163 | ORDER denying [138-1] motion for an Order permitting the City of Buffalo to implead the New York State Department of Civil Service and George C. Sinnott, Commissioner. (Signed by Senior USDJ John T. Curtin). Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Tracy D. Sammarco, James Lawrence Jarvis Jr., Michael B. Risan, Kathleen M. Sellers, Adam W. Perry, Matthew C. VanVessem, Michael C. Driscoll (DLC) (Entered: 07/10/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 07/16/2003 | 164 | SEALED DOCUMENT (JMD) (Entered: 07/22/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 07/21/2003 | 165 | ORDER, Motion Hearing set for 8/8/03 for [160-1] cross motion to Strike defendant City of Buffalo First Set of Interrogatories dated 7/10/01 and their Fist Set of Interrogatories with respect to Complaint A dated 3/10/03, set for 10:15 8/8/03 for [153-1] motion to Compel Plaintiff's to respond to defenfants' discovery requests, set for 10:15 8/8/03 for [153-2] motion to schedule deposition dates, together with costs of this motion, set for 10:15 8/8/03 for [150-1] motion to Declare Information Admitted, set for 10:15 8/8/03 for [115-1] motion to Compel the City of Buffalo to provide response to interrogatories ( signed by Senior USDJ John T. Curtin ) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Tracy D. Sammarco, James Lawrence Jarvis Jr., Michael B. Risan, Kathleen M. Sellers, Adam W. Perry, Matthew C. VanVessem, Michael C. Driscoll (DLC) (Entered: 07/22/2003) |
| 08/04/2003 | 166 | ORDER, denying the City's objections to the submission of MOCHA society. ( signed by Senior USDJ John T. Curtin ) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Tracy D. Sammarco, James Lawrence Jarvis Jr., Michael B. Risan, Kathleen M. Sellers, Adam W. Perry, Matthew C. VanVessem, Michael C. Driscoll (JMD) (Entered: 08/04/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 08/07/2003 | 167 | SUPPLEMENTAL DECLARATION by Kathleen Sellers counsel for defendant City of Buffalo in support of [153-1] motion to Compel (JMD) (Entered: 08/07/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

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| 08/08/2003 | 169 | Motion hearing re: the Court GRANTED plaintiffs' motion pursuant to Rule 36 of the Federal Rules of Civil Procedure. Defenants' motion to compel plaintiffs to respond to interrogatories is GRANTED within the practical limits discussed at oral argument. Plaintiffs' [160-1] cross motion to Strike defendant City of Buffalo Interrogatories is DENIED. Order to follow. Afurther meeting will be held on 10/27/03 at 11:00 A.M. (JTC) (DLC) (Entered: 08/18/2003)                                                                                                                                            |
| 08/08/2003 |     | Meeting set for 11:00 on 10/27/03. (JTC) (DLC) (Entered: 08/18/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 08/11/2003 | 168 | ORDER granting plaintiffs [150-1] motion to Declare Information Admitted granting defendants [153-1] motion to Compel Plaintiff's to respond to defenfants' discovery requests denying plaintiffs [160-1] cross motion to Strike defendant City of Buffalo First Set of Interrogatories. Set Meeting for 11:00am on 10/27/03. ( signed by Senior USDJ John T. Curtin ) Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Tracy D. Sammarco, James Lawrence Jarvis Jr., Michael B. Risman, Kathleen M. Sellers, Adam W. Perry, Matthew C. VanVessem, Michael C. Driscoll (JMD) (Entered: 08/12/2003) |
| 08/20/2003 |     | Mail returned for John Tucker (DLC) (Entered: 08/20/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 08/26/2003 | 170 | MOTION by plaintiffs to Certify Class with affirmation and exhibits in support (JMD) (Entered: 08/26/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 08/26/2003 | 171 | MEMORANDUM of LAW by plaintiffs in support of [170-1] motion to Certify Class (JMD) (Entered: 08/26/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 09/03/2003 | 172 | ORDER, Response to Motion set to 9/24/03 for [170-1] motion to Certify Class , Reply to Response to Motion set to 10/10/03 . (Signed by Senior USDJ John T. Curtin). Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Tracy D. Sammarco, James Lawrence Jarvis Jr., Michael B. Risman, Kathleen M. Sellers, Adam W. Perry, Matthew C. VanVessem, Michael C. Driscoll. (DLC) (Entered: 09/03/2003)                                                                                                                                                                                                  |
| 09/22/2003 | 173 | ORDER, plaintiffs shall file an affidavit by 10/10/03 with the Court explaining why the failure to file their motion was not timely. Defendant City may reply by 10/31/03 and the Court will then consider the problem submitted for resolution. (Signed by Senior USDJ John T. Curtin). Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Tracy D. Sammarco, James Lawrence Jarvis Jr., Michael B. Risman, Kathleen M. Sellers, Adam W. Perry, Matthew C. VanVessem, Michael C. Driscoll (DLC) (Entered: 09/23/2003)                                                                               |
| 09/22/2003 | 174 | LETTER to Judge Curtin from attorney Matthew Van Vessem, dated 9/17/03. (DLC) (Entered: 09/23/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 09/25/2003 | 175 | REPLY/RESPONSE by M.O.C.H.A. Society, Michael Brown, Otto Brewer Jr., to [174-1] letter from the City of Buffalo. (DLC) (Entered: 09/25/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 09/25/2003 | 176 | LETTER to Judge Curtin from attorney Michael Risman, dated 9/17/03. (DLC) (Entered: 09/26/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 10/01/2003 | 177 | ORDER, Defendant's Reply to Response to the plaintiffs response by 10/15/03 (signed by Senior USDJ John T. Curtin). Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Tracy D. Sammarco, James Lawrence Jarvis Jr., Michael B. Risman, Kathleen M. Sellers, Adam W. Perry, Matthew C. VanVessem, Michael C. Driscoll (DLC) (Entered: 10/01/2003)                                                                                                                                                                                                                                                    |
| 10/02/2003 | 178 | ORDER, reset Discovery deadline to 11/30/03 . (Signed by Senior USDJ John T. Curtin). Notice and copy of order sent to Thomas S. Gill, John D. Tucker, Tracy D. Sammarco, James Lawrence Jarvis Jr., Michael B. Risman, Kathleen M. Sellers, Adam W. Perry, Matthew C. VanVessem, Michael C. Driscoll (DLC) (Entered: 10/02/2003)                                                                                                                                                                                                                                                                                  |
| 10/15/2003 | 179 | MOTION to have Plaintiffs' class action regarding Complaint "A" deemed abandoned and waived. by City of Buffalo, et al. (DLC) (Entered: 10/16/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 10/28/2003 | 180 | ORDER, Discovery reset for 12/19/2003. Signed by Judge John T. Curtin on 10/28/03. (DLC) (Entered: 10/30/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 10/28/2003 |     | Set Deadlines/Hearings: Status/Meeting Conference set for 11/18/2003 at 11:15 AM before Hon. John T. Curtin. Mr. Gill shall participate via telephone. (DLC) (Entered: 10/30/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                 |

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| 10/31/2003 | 181 | LETTER to Judge Curtin from attorney Thomas Gill, dated 9/24/03. (DLC) (Entered: 11/03/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 11/17/2003 | 182 | MOTION to Compel plaintiff Michael A. Brown to respond to certain depositions questions, together with the costs of this motion by City of Buffalo. (DLC) (Entered: 11/18/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 11/18/2003 | 183 | CERTIFICATE OF SERVICE by City of Buffalo re 182 MOTION to Compel (DLC) (Entered: 11/18/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 11/18/2003 | 184 | Minute Entry for proceedings held before Judge John T. Curtin : Status Conference held on 11/18/2003. Counsel reported in 98-CV-99 that depositions are continuing, and a request was made to extend discovery. There is a motion to compel pending regarding the deposition of Michael Brown. The court directed counsel to continue with this deposition, excluding the questions revolving around the motion until the motion has been decided. Plaintiffs' counsel will obtain waivers from each of the plaintiffs regarding their personnel records so that he can review them and decide which of the records are essential for his case. As to the personnel records of the members of the fire department who are not parties to this action, counsel will try to reach an agreement regarding confidentiality. They will return to the court on December 15, 2003 at 2:30 p.m. to finalize this arrangement. There is also pending a motion to bar the motion for class certification because it is time-barred. This motion shall be considered submitted at this time, and a decision will be issued shortly. The plaintiffs stated that they have no opposition to the cross-motion by the City to deny the motion for class certification in Complaint A, the drug portion of the case, and so this motion will be granted. There is also pending a motion in 03-CV-580, which will be taken up after further briefing and completion of the motions in 98-CV-99. Appearances: Thomas Gill (via telephone) and Michael Driscoll for Plaintiffs; Richard Putrino and Kathleen Sellers for City. Court time: 11:30 a.m. - 12:15 p.m. (Court Reporter Kimberly Picone.) (JEC, ) (Entered: 11/24/2003) |
| 11/24/2003 | 185 | Letter from attorney Matthew C. Van Vessem, dated 11/18/03, to Judge Curtin (DLC) (Entered: 11/25/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 11/25/2003 | 186 | ORDER, Request for extension of discovery cutoff date is granted. Counsel will confer on a joint proposed discovery cutoff for both Complaints "A" and "B". Motion to compel with regard to the deposition of Michael Brown, Plaintiff's response is due by 12/4/03. Granting the 179 Cross-Motion. The Court will meet with counsel on 12/15/03 at 2:30 P.M., Mr. Gill may participate by telephone . Signed by Judge John T. Curtin on 11/20/03. (DLC) (Entered: 11/25/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 12/04/2003 | 187 | CROSS- MOTION for Protective Order by plaintiffs(JMD, ) (Entered: 12/05/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 12/04/2003 | 188 | MEMORANDUM IN SUPPORT of 187 MOTION for Protective Order by plaintiffs(JMD, ) (Entered: 12/05/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 12/15/2003 | 0   | Duplicate Document No. 189A. Minute Entry for proceedings held before Judge John T. Curtin : Status Conference held on 12/15/2003. Counsel reported that the parties are continuing their efforts to reach a joint confidentiality agreement and shall submit this agreement to the court by January 12, 2004. If an agreement is not reached, each side will submit their proposal by January 12. The court stated that it will consider the following motions submitted for decision without oral argument: motion for a preliminary ruling on the timeliness of plaintiff's motion for certification, defendant's motion to compel plaintiffs to respond to deposition questions pertaining to drug use, and plaintiffs' cross-motion for a protective order. Appearances: Thomas Gill (by telephone) and Michael Driscoll for Plaintiffs; Kathleen Sellers and Christopher Putrino for City of Buffalo. Court time: 12:00 - 1:45 p.m.(Court Reporter Kimberly Picone.) (JEC, ) Modified on 12/16/2003 (JEC, ). Modified on 12/18/2003 (CMD, ). (Entered: 12/16/2003)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 12/17/2003 | 189 | Duplicate Document No. 189B. ORDER, Counsel reported to the Court that parties are continuing their efforts to reach a joint agreement addressing the City's concerns about producing confidential employee records in response to plaintiffs' interrogatories and document requests. The joint confidentiality agreement shall be submitted to the court for approval by 1/12/04. The Court will consider the motions for a preliminary ruling, motion to compel and cross-motion for a protective order as fully briefed and submitted without oral argument, and will issue its decisions shortly. The Court will                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

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|            |            | defer setting a schedule for oral argument on motions in 03-CV-580 until the resolution of the pending motions in this case . Signed by Judge John T. Curtin on 12/16/03. (DLC) Modified on 12/18/2003 (CMD, ). (Entered: 12/17/2003)                                                                                                                                                                                                                                     |
| 12/19/2003 | <u>190</u> | LETTER NOTICE of Appearance by Christopher M. Putrino on behalf of defendant City of Buffalo, Department of Fire (JMD, ) (Entered: 12/22/2003)                                                                                                                                                                                                                                                                                                                            |
| 12/28/2003 | <u>191</u> | ORDER, to take deposition of Paul Kaiser on 1/26/04 in the offices of Hiscock & Barclay, LLP in Albany, N.Y. at 9:00 A.M.. Signed by Judge John T. Curtin on 12/24/03. (DLC) (Entered: 12/29/2003)                                                                                                                                                                                                                                                                        |
| 01/03/2004 | <u>192</u> | ORDER denying without prejudice to renew at an appropriate time at or near the close of discovery the 170 Motion to Certify of the Class in Complaint "B" . Signed by Judge John T. Curtin on 12/30/03. (DLC) (Entered: 01/03/2004)                                                                                                                                                                                                                                       |
| 01/15/2004 | <u>193</u> | ORDER granting defendants request for extension to respond re: confidentiality agreement Signed by Hon. John T. Curtin on 1/13/4. (JMD, ) Modified on 1/16/2004 (JMD, ). (Entered: 01/16/2004)                                                                                                                                                                                                                                                                            |
| 01/26/2004 | <u>194</u> | ORDER, to take deposition of Paul Kaiser 1/26/04 at 9:00 a.m. . Signed by Hon. John T. Curtin on 1/20/04. (DLC) (Entered: 01/26/2004)                                                                                                                                                                                                                                                                                                                                     |
| 03/08/2004 | <u>195</u> | CONFIDENTIALITY STIPULATION AND ORDER. Signed by Hon. John T. Curtin on 3/8/04. (DLC) (Entered: 03/08/2004)                                                                                                                                                                                                                                                                                                                                                               |
| 03/31/2004 | <u>196</u> | ORDER denying 182 Motion to Compel, granting 187 Motion for Protective Order. Signed by Judge John T. Curtin on 03/29/04. (JEC) (Entered: 03/31/2004)                                                                                                                                                                                                                                                                                                                     |
| 04/21/2004 | <u>197</u> | ORDER re <u>196</u> Order on Motion to Compel, Order on Motion for Protective Order. The "Conclusion" paragraph of this order is hereby amended to read as follows: "For the foregoing reasons, defendant's motion to compel deposition testimony (Item 182) is denied, and plaintiffs' motion for a protective order (Item 187) is granted." Signed by Hon. John T. Curtin on 04/19/04. (JEC) Additional attachment(s) added on 4/22/2004 (JEC, ). (Entered: 04/21/2004) |
| 04/22/2004 |            | E-Filing Amendment: <u>197</u> ***** AMENDED TO ATTACH ORDER WITH JUDGE CURTIN'S SIGNATURE AND DATE AND DELETE ORDER WHICH OMITTED SUCH INFORMATION ***** (JEC) (Entered: 04/22/2004)                                                                                                                                                                                                                                                                                     |
| 05/11/2004 | <u>198</u> | MOTION for Partial Summary Judgment by Otto Brewer Jr., Michael. Brown, Men of Color Helping all Society, Inc.. (Attachments: # <u>1</u> # <u>2</u> # <u>3</u> # <u>4</u> # <u>5</u> ) (Gill, Thomas) (Entered: 05/11/2004)                                                                                                                                                                                                                                               |
| 05/11/2004 |            | E-Filing Error: re <u>198</u> MOTION for Partial Summary Judgment. (Attorney to refile Certificate of Service and Affirmation to include a full signature block) (DLC) (Entered: 05/12/2004)                                                                                                                                                                                                                                                                              |
| 05/12/2004 | <u>199</u> | Amended MOTION for Partial Summary Judgment <i>Certificate of Service</i> by Otto Brewer Jr., Michael. Brown, Men of Color Helping all Society, Inc.. (Gill, Thomas) (Entered: 05/12/2004)                                                                                                                                                                                                                                                                                |
| 05/12/2004 | <u>200</u> | Sealed Document (Confidential Documents in support of Partial Summary Judgment by Thomas Gill attorney for plaintiffs.) (DLC) (Entered: 05/12/2004)                                                                                                                                                                                                                                                                                                                       |
| 05/13/2004 | <u>201</u> | CERTIFICATE OF SERVICE by Otto Brewer Jr., Michael. Brown, Men of Color Helping all Society, Inc. re <u>198</u> MOTION for Partial Summary Judgment <i>Amended</i> (Gill, Thomas) (Entered: 05/13/2004)                                                                                                                                                                                                                                                                   |
| 05/13/2004 | <u>202</u> | AFFIRMATION re <u>198</u> MOTION for Partial Summary Judgment filed by Otto Brewer Jr., Michael. Brown, Men of Color Helping all Society, Inc.. (Gill, Thomas) (Entered: 05/13/2004)                                                                                                                                                                                                                                                                                      |
| 05/18/2004 | <u>203</u> | STATEMENT OF FACTS , <i>Undisputed, Amended</i> by Otto Brewer Jr., Michael. Brown, Men of Color Helping all Society, Inc. Related document: <u>198</u> Motion for Partial Summary Judgment. (Gill, Thomas) (Entered: 05/18/2004)                                                                                                                                                                                                                                         |
| 06/02/2004 | <u>204</u> | ORDER directing that defendants respond to plaintiffs' motion for summary judgment by 7/7/2004. Plaintiffs may file a reply by 7/28/2004. The court will then set a date for oral argument. Signed by Hon. John T. Curtin on 05/27/04. (JEC) (Entered: 06/02/2004)                                                                                                                                                                                                        |

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|            |            | 06/02/2004)                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 07/07/2004 | <u>205</u> | ORDER extending the defendants response to plaintiffs' motion for summary judgment until 7/14/04 and plaintiffs' Replies due by 8/4/2004. Signed by Hon. John T. Curtin on 7/1/04. (DLC) (Entered: 07/07/2004)                                                                                                                                                                                                                              |
| 07/14/2004 | <u>206</u> | DECLARATION signed by Kathleen Sellers filed by City of Buffalo <i>In Opposition to Plaintiffs' Summary Judgment Motion</i> filed by City of Buffalo. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D# <u>5</u> Exhibit E# <u>6</u> Exhibit F# <u>7</u> Exhibit G# <u>8</u> Exhibit H# <u>9</u> Exhibit I)(Sellers, Kathleen) (Entered: 07/14/2004)                                          |
| 07/14/2004 | <u>207</u> | DECLARATION signed by Nancy E. Abrams, Ph.D. filed by City of Buffalo filed by City of Buffalo. (Attachments: # <u>1</u> Exhibit A)(Sellers, Kathleen) (Entered: 07/14/2004)                                                                                                                                                                                                                                                                |
| 07/14/2004 | <u>208</u> | STATEMENT OF FACTS <i>as to which a Genuine Issue Exists to be Tried</i> by City of Buffalo. (Sellers, Kathleen) (Entered: 07/14/2004)                                                                                                                                                                                                                                                                                                      |
| 07/14/2004 | <u>209</u> | MEMORANDUM IN OPPOSITION re <u>198</u> MOTION for Partial Summary Judgment by City of Buffalo filed by City of Buffalo. (Sellers, Kathleen) (Entered: 07/14/2004)                                                                                                                                                                                                                                                                           |
| 07/14/2004 | <u>210</u> | Cross MOTION pursuant to Rule 56(f) by City of Buffalo. (Sellers, Kathleen) (Entered: 07/14/2004)                                                                                                                                                                                                                                                                                                                                           |
| 07/14/2004 | <u>211</u> | CERTIFICATE OF SERVICE by City of Buffalo re <u>206</u> Declaration,, <u>207</u> Declaration, <u>208</u> Statement of Facts, <u>209</u> Memorandum in Opposition, <u>210</u> Cross MOTION pursuant to Rule 56(f) (Sellers, Kathleen) (Entered: 07/14/2004)                                                                                                                                                                                  |
| 07/26/2004 | <u>212</u> | REPLY/RESPONSE to re <u>198</u> MOTION for Partial Summary Judgment filed by Otto Brewer Jr., Michael. Brown, Men of Color Helping all Society, Inc., John. Tucker. (Attachments: # <u>1</u> Affidavit Gill Declaration in Support of Summary Judgment# <u>2</u> Certificate of Service)(Gill, Thomas) (Entered: 07/26/2004)                                                                                                                |
| 08/30/2004 |            | Oral Argument set for 10/13/2004 02:00 PM before Hon. John T. Curtin at the University of Buffalo Law School Courtroom. Status Telephone Conference set for 9/29/2004 11:15 AM before Hon. John T. Curtin. Signed by Hon. John T. Curtin on 08/23/2004. (JEC) (Entered: 08/30/2004)                                                                                                                                                         |
| 08/31/2004 | <u>213</u> | ORDER setting ORAL ARGUMENT for 10/13/2004 02:00 PM before Hon. John T. Curtin at UB Law School Courtroom (directions attached). Status telephone conference set for 9/29/2004 11:15 AM before Hon. John T. Curtin. Signed by Hon. John T. Curtin on 08/23/2004. (Attachments: # <u>1</u> )(JEC) (Entered: 08/31/2004)                                                                                                                      |
| 09/10/2004 | <u>214</u> | MOTION for Discovery by Willie Broadus, Michael. Brown, Robert Grice, Robert Jones, Men of Color Helping all Society, Inc., William Raspberry, Terry Scott, John. Tucker, John D. Tucker. (Gill, Thomas) (Entered: 09/10/2004)                                                                                                                                                                                                              |
| 09/21/2004 | <u>215</u> | ORDER directing the parties to attempt to resolve their differences relative to the plaintiffs' motion to compel in Complaint B (Item 214). If they are unable to resolve this matter, Responses to motion to compel due by 10/8/2004. Status Conference set for 10/13/2004 02:00 PM before Hon. John T. Curtin at the University of Buffalo Law School Courtroom. Signed by Hon. John T. Curtin on 09/21/2004. (JEC) (Entered: 09/21/2004) |
| 10/05/2004 | <u>216</u> | Minute Entry for proceedings held before Judge John T. Curtin: Status Conference held on 9/29/2004. Oral Argument set for 10/13/2004 2 p.m. at the University of Buffalo Law School before Hon. John T. Curtin. (JEC) (Entered: 10/05/2004)                                                                                                                                                                                                 |
| 12/06/2004 | <u>217</u> | MOTION to Compel <i>Payment to Deposed Expert</i> by John. Tucker, Men of Color Helping all Society, Inc., Michael. Brown. (Attachments: # <u>1</u> )(Gill, Thomas) (Entered: 12/06/2004)                                                                                                                                                                                                                                                   |
| 01/31/2005 | <u>218</u> | MOTION Decide summary judgment motion without further submissions from Defendants. by John D. Tucker, Men of Color Helping all Society, Inc., Michael. Brown. (Attachments: # <u>1</u> # <u>2</u> )(Gill, Thomas) (Entered: 01/31/2005)                                                                                                                                                                                                     |
| 03/14/2005 | <u>219</u> | ORDER denying plaintiffs' <u>198</u> Motion for Partial Summary Judgment, granting defendant's <u>210</u> Motion for relief pursuant to Rule 56(f), denying plaintiffs' <u>214</u> Motion to compel as moot . Signed by Judge John T. Curtin on 2/28/05. (DLC) (Entered: 03/14/2005)                                                                                                                                                        |

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| 06/07/2005 |            | NOTICE of Hearing: Status Conference set for 7/6/2005 02:15 PM before Hon. John T. Curtin. Buffalo counsel shall attend in chambers; out-of-town counsel shall participate telephonically.(JEC) (Entered: 06/07/2005)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 07/01/2005 | <u>220</u> | MOTION to Substitute Attorney <i>Harvey Sanders, Esq.</i> by John D. Tucker, Men of Color Helping all Society, Inc., Michael. Brown.(Gill, Thomas) (Entered: 07/01/2005)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 07/05/2005 | <u>221</u> | ORDER granting <u>220</u> Motion to Substitute Attorney. Added attorney Harvey P. Sanders for Otto Brewer, Jr; Men of Color Helping all Society, Inc. and Michael. Brown. Attorney Michael C. Driscoll terminated . Signed by Judge John T. Curtin on 7/5/05. (DLC) (Entered: 07/07/2005)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 07/07/2005 | <u>222</u> | Minute Entry for proceedings held before Judge John T. Curtin: Status Conference held on 7/6/2005. Counsel reported to the court that they have been circulating a proposed discovery order, and it shall be submitted to the court forthwith. The parties requested a settlement conference, and the court stated that it will contact Magistrate Judge Bianchini's chambers for the next available conference date. The parties will independently resolve the expert report travel fees. Appearances: Thomas Gill and Harvey Sanders for Plaintiffs; Christopher Putrino and Kelly Eisenried, Assistant Corporation Counsel, and Kathleen Sellers, Adam Perry, and Joseph Brown for the City of Buffalo; Andrea Sammarco for Local 282. Court time: 2:30 – 2:55 p.m. (JEC) Modified on 7/7/2005 (JEC, ). (Entered: 07/07/2005) |
| 07/12/2005 | <u>223</u> | Joint MOTION for Discovery <i>Order</i> by John D. Tucker, Men of Color Helping all Society, Inc., Michael. Brown. (Attachments: # <u>1</u> Text of Proposed Order Stipulated Discovery Order)(Gill, Thomas) (Entered: 07/12/2005)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 07/15/2005 | <u>224</u> | ORDER scheduling a settlement conference before United States Magistrate Judge Victor A. Bianchini on 9/26/2005 at 5:30 p.m. Counsel are directed to review the contents of this order for pre-conference requirements. Signed by Hon. John T. Curtin on 07/08/2005. (JEC) (Entered: 07/15/2005)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 07/20/2005 | <u>225</u> | Letter from Hon. John T. Curtin, dated 07/20/2005, to All Counsel of Record (JEC) (Entered: 07/20/2005)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 07/21/2005 | <u>226</u> | Minute Entry for proceedings held before Judge John T. Curtin: Telephone Conference held on 7/21/2005. Settlement preparation matters were discussed prior to the settlement conference before Magistrate Judge Bianchini. Harvey Sanders will prepare notice of substitution in 03-CV-580. Appearances: Thomas Gill and Harvey Sanders for Plaintiffs; Kathleen Sellers and Andrea Sammarco for Defendants. Court time: 11:00 – 11:10 a.m. (JEC) (Entered: 07/21/2005)                                                                                                                                                                                                                                                                                                                                                           |
| 07/21/2005 | <u>227</u> | Letter from attorney Thomas S. Gill, dated 7/15/05, to Judge Bianchini. (DLC) (Entered: 07/22/2005)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 07/21/2005 | <u>228</u> | ORDER granting <u>223</u> Motion for Stipulated Discovery Order . Signed by Judge John T. Curtin on 7/18/05. (DLC) (Entered: 07/22/2005)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 09/01/2005 | <u>229</u> | Letter from Hon. John T. Curtin, dated August 30, 2005, to Kathleen M. Sellers, Esq. (JEC) Additional attachment(s) added on 9/9/2005 (JEC, ). (Entered: 09/01/2005)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 09/28/2005 | <u>230</u> | MOTION Extension of Time to File Expert Report(s) by City of Buffalo. (Attachments: # <u>1</u> Affidavit Declaration of Kathleen Sellers# <u>2</u> Certificate of Service)(Sellers, Kathleen) (Entered: 09/28/2005)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 09/30/2005 |            | Minute Entry for proceedings held before Judge Victor E. Bianchini : Settlement Conference held on 9/30/2005. No settlement at this time. (SDW) (Entered: 10/07/2005)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 10/12/2005 | <u>231</u> | ORDER granting <u>230</u> Motion for an extension of time within which to produce expert reports . Signed by Judge John T. Curtin on 10/11/05. (DLC) (Entered: 10/12/2005)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 01/02/2006 | <u>232</u> | MOTION for Discovery by John D. Tucker, Men of Color Helping all Society, Inc., Michael. Brown. (Attachments: # <u>1</u> Affidavit Gill Affirmation)(Gill, Thomas) (Entered: 01/02/2006)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 01/03/2006 | <u>233</u> | MOTION for Discovery by John D. Tucker, Men of Color Helping all Society, Inc., Michael. Brown. (Attachments: # <u>1</u> Affidavit)(Gill, Thomas) (Entered: 01/03/2006)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

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| 01/03/2006 | <u>234</u> | Amended MOTION for Discovery by John D. Tucker, Men of Color Helping all Society, Inc., Michael. Brown, Otto Brewer, Jr. (Attachments: # <u>1</u> Affidavit)(Gill, Thomas) (Entered: 01/03/2006)                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 01/03/2006 |            | E-Filing Notification: <u>233</u> MOTION for Discovery. <i>Attachment is a Declaration not an Affidavit. Declaration is not signed. The complete document will need to be re-filed.</i> (DLC) (Entered: 01/04/2006)                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 01/04/2006 | <u>235</u> | DECLARATION in support for Discovery signed by Thomas Gill for John D. Tucker, Men of Color Helping all Society, Inc., Michael. Brown.(Gill, Thomas) Modified on 1/5/2006 (DLC). (Entered: 01/04/2006)                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 01/04/2006 | <u>236</u> | DECLARATION in support for Discovery signed by Thomas Gill for John D. Tucker, Men of Color Helping all Society, Inc., Michael. Brown, Cranston. Wilson.(Gill, Thomas) Modified on 1/5/2006 (DLC). (Entered: 01/04/2006)                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 01/04/2006 |            | E-Filing Notification:i. <u>235</u> Document filed as a Motion for Discovery is the Declaration that was to be re-filed by the E-Filing Notification as to document <u>233</u> . Attorney changed the title of the document and therefore it must be re-served to all parties. Attorney also filed the <u>235</u> new Declaration under the event title of a Motion. The document is not a motion but a Declaration. Attorney did the same thing with document <u>236</u> Attorney instructed to use correct event titles for documents in the future. Document's terminated as a Motion and re-titled as a Declaration's.(DLC) (Entered: 01/05/2006) (Entered: 01/05/2006) |
| 01/06/2006 | <u>237</u> | NOTICE: Defendants are directed to file a response to Plaintiff's Motion to Compel Discovery on or before February 1, 2006. The court will then conduct a telephone conference with counsel on 2/14/2006 10:00 AM before Hon. John T. Curtin. (JEC) (Entered: 01/06/2006)                                                                                                                                                                                                                                                                                                                                                                                                   |
| 01/06/2006 |            | Set Deadlines/Hearings: Responses to Plaintiff's Motion to Compel due by 2/1/2006 (JEC) (Entered: 01/06/2006)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 02/01/2006 | <u>238</u> | DECLARATION signed by Kathleen Sellers re <u>234</u> Amended MOTION for Discovery filed by City of Buffalo, City of Buffalo filed by City of Buffalo, City of Buffalo. (Sellers, Kathleen) (Entered: 02/01/2006)                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 02/01/2006 | <u>239</u> | CERTIFICATE OF SERVICE by City of Buffalo re <u>238</u> Declaration (Sellers, Kathleen) (Entered: 02/01/2006)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 02/13/2006 | <u>240</u> | Letter from Thomas S. Gill, dated 2/07/2006, to Hon. John T. Curtin stating that plaintiffs' motion to compel has been resolved, and requesting that the telephone conference set for 2/14/2006 be adjourned. (JEC) (Entered: 02/13/2006)                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 06/06/2006 | <u>241</u> | MOTION to Amend/Correct <i>Second Amended Complaint A</i> by Robert Jones, John. Tucker(215 Broadway, Buffalo, New York, Individually and as representative of African American firefighters employed by the City of Buffalo and the Buffalo Fire Department, who have been discriminated against by the promotional policies), Men of Color Helping all Society, Inc., Michael. Brown. (Attachments: # <u>1</u> Exhibit Exhibit A to Gill Affirmation# <u>2</u> Exhibit Exhibit B to Gill Declaration# <u>3</u> Exhibit Exhibit C to Gill Declaration# <u>4</u> Exhibit Exhibit D to Gill Declaration)(Gill, Thomas) (Entered: 06/06/2006)                                 |
| 06/09/2006 | <u>242</u> | ORDER directing Responses to Plaintiff's Motion for Leave to Amend Second Amended Complaint A to be filed by 7/10/2006. Status Telephone Conference set for 7/24/2006 10:00 AM before Hon. John T. Curtin. Signed by Hon. John T. Curtin on 06/09/2006. (JEC) (Entered: 06/09/2006)                                                                                                                                                                                                                                                                                                                                                                                         |
| 07/10/2006 | <u>243</u> | DECLARATION signed by Kathleen Sellers filed by City of Buffalo. (Sellers, Kathleen) (Entered: 07/10/2006)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 07/10/2006 | <u>244</u> | CERTIFICATE OF SERVICE by City of Buffalo re <u>243</u> Declaration (Sellers, Kathleen) (Entered: 07/10/2006)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 07/24/2006 | <u>246</u> | Minute Entry for proceedings held before Judge John T. Curtin: Telephone Conference held on 7/24/2006. Defense counsel stated that they have no objection to plaintiffs' motion to amend the complaint. The court granted the motion. The court directed the parties to meet before U.S. Magistrate Judge Victor E. Bianchini for a further settlement conference. Scheduling order to follow. Appearances: Thomas Gill and                                                                                                                                                                                                                                                 |

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|            |            | Harvey Sanders for Plaintiff; Kathleen Sellers for Defendant. Court time: 10:00 – 10:25 a.m. (JEC) (Entered: 07/26/2006)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 07/26/2006 | <u>245</u> | ORDER granting plaintiffs' motion for leave to file amended complaint. Plaintiffs are directed to file the amended complaint forthwith, and defendant shall file responsive pleadings in accordance with the Federal Rules. A settlement conference shall be held on 9/21/2006 05:30 PM before Hon. Victor E. Bianchini. Signed by Hon. John T. Curtin on 07/24/2006. (JEC) (Entered: 07/26/2006)                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 07/26/2006 | <u>247</u> | AMENDED COMPLAINT , <i>3rd. Complaint A</i> against Buffalo Professional Firefighters Association, Inc., Local 282 AFL–CIO–CLC, City of Buffalo, Cornelius J. Keane, John D. Sixt, Ronald Cassel, filed by John D. Tucker, Robert Grice, Robert Jones, Walter. Jones, Victor Muhammad, William Raspberry, John. Tucker(215 Broadway, Buffalo, New York, Individually and as representative of African American firefighters employed by the City of Buffalo and the Buffalo Fire Department, who have been discriminated against by the promotional policies), Men of Color Helping all Society, Inc., Maurice Birdsong, Walter. Davis, David Gray, Arthur Harris, Edward Josey, Harwyn Louie, Lawrence Pierce, Terry Scott, Michael Southern, Michael. Brown, Michael Varner, Cranston. Wilson, Otto Brewer, Jr.(Gill, Thomas) (Entered: 07/26/2006) |
| 08/14/2006 | <u>248</u> | ANSWER to Amended Complaint by City of Buffalo, Cornelius J. Keane, John D. Sixt.(Sellers, Kathleen) (Entered: 08/14/2006)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 09/21/2006 |            | Minute Entry for proceedings held before Judge Victor E. Bianchini : Settlement Conference held on 9/21/2006. (SDW) (Entered: 10/05/2006)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 11/01/2006 | <u>249</u> | ORDER setting Status Conference for 11/14/2006 02:00 PM before Hon. John T. Curtin. Buffalo counsel shall attend in person; Mr. Gill may participate by telephone. Signed by Hon. John T. Curtin on 10/30/2006. (JEC) (Entered: 11/01/2006)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 11/13/2006 |            | NOTICE of Hearing: Status Conference set for 11/14/2006 03:30 p.m. before Hon. John T. Curtin, rescheduled from 2:00 p.m. (JEC) (Entered: 11/13/2006)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 11/14/2006 | 250        | Minute Entry for proceedings held before Judge John T. Curtin: Status Conference held on 11/14/2006. Discovery matters were discussed. Counsel stated that there are 20 remaining depositions to be taken. The court directed that these depositions be completed by the end of February 2007, with the City's expert report due shortly thereafter. Order to follow. Appearances: Thomas Gill and Harvey Sanders for Plaintiffs; Adam Perry for Defendant. Court time: 3:45 – 4:25 p.m. (Court Reporter Janet Curry—only a portion of this proceeding was recorded) (JEC) (Entered: 11/16/2006)                                                                                                                                                                                                                                                      |
| 11/16/2006 | <u>251</u> | ORDER directing that depositions be completed by 2/28/2007. Any application for a revised schedule or other appropriate relief shall be filed by 3/7/2007. The City's expert report is due by 3/15/2007. The court declines to revisit the issue of 1) the entry of a protective order barring further discovery regarding the use of illegal substances by any of the individual plaintiffs and 2) the issue of the denial of defendants' motion dealing with the alleged party status of the NYS Dept. of Civil Service as the entity that prepared and scored the Lieutenants' Examinations. Signed by Hon. John T. Curtin on 11/15/2006. (JEC) (Entered: 11/16/2006)                                                                                                                                                                              |
| 12/14/2006 | 252        | TRANSCRIPT of Proceedings held on November 14, 2006 before Judge John T. Curtin. Court Reporter: Pages 1–22. Exceptional Reporting Services, Inc.. (DLC) (Entered: 12/14/2006)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 03/29/2007 |            | NOTICE of Hearing: Status Conference set for 5/1/2007 11:00 AM before Hon. John T. Curtin. Mr. Gill may participate by telephone.(JEC) (Entered: 03/29/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 03/29/2007 |            | NOTICE of Hearing: Status Conference set for 5/17/2007 11:00 AM before Hon. John T. Curtin, adjourned from 5/1/2007. Mr. Gill may participate by telephone. (JEC) (Entered: 03/29/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 04/12/2007 | <u>253</u> | MOTION for Discovery <i>to close discovery and preclude expert</i> by Men of Color Helping all Society, Inc., Michael. Brown, John. Tucker(118 Urban St., Buffalo, New York, Individually and as representative of African American firefighters previously employed by the City of Buffalo and the Buffalo Fire Department, who were terminated pursuant to the Drug Testing).(Gill, Thomas) (Entered: 04/12/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                   |

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| 04/20/2007 | <u>254</u> | ORDER re <u>253</u> MOTION to Close Discovery and Preclude Expert filed by Plaintiffs. Any Responses to this Motion shall be filed by 5/4/2007. The court will then take up the matters raised by this Motion and the Motion to Compel filed in 03-CV-580 at the Status Telephone Conference on 5/17/2007. Signed by Hon. John T. Curtin on 04/19/2007. (JEC) (Entered: 04/20/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 05/03/2007 | <u>255</u> | DECLARATION signed by Kathleen Sellers filed by City of Buffalo <i>in Opposition to Plaintiffs' Motion to End Discovery, Schedule Trial, and Preclude Expert</i> . (Attachments: # <u>1</u> Certificate of Service)(Sellers, Kathleen) (Entered: 05/03/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 05/17/2007 | 256        | Minute Entry for proceedings held before Judge John T. Curtin: Status Conference held on 5/17/2007. Meeting/Telephone Conference held on the record. On the lieutenants' exam portion of 98-CV-99, the Court directed Defendants to file their motion for summary judgment by 6/7/2007, and Response to be filed by 6/28/2007. The court also directed Plaintiffs' counsel to file their motion for class certification by 6/7/2007, and Response to be filed by 6/28/2007. In 03-CV-580, Plaintiffs' counsel has asked the Court to hold this motion in abeyance while counsel try to resolve this issue, and the Court approved this request. On the drug-testing portion of 98-CV-99 and 03-CV-580, Counsel informed the Court that they are attempting to resolve certain document demands. The court scheduled a further telephone conference with counsel for 5/31/2007 at 10:00 a.m. to determine whether these issues have been resolved. Appearances: Thomas Gill and Harvey Sanders for Plaintiffs; Kathleen Sellers and Aaron Kaplan for Defendants. Court time: 11:00 – 11:40 a.m.(Janet Curry, Electronic Court Recorder Operator) (JEC) (Entered: 05/21/2007) |
| 05/21/2007 |            | Set Deadlines/Hearings: Motions due by 6/7/2007. Responses due by 6/28/2007 Status Conference set for 5/31/2007 10:00 AM before Hon. John T. Curtin. (JEC) (Entered: 05/21/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 06/06/2007 | <u>257</u> | MOTION to Certify Class by Men of Color Helping all Society, Inc.. (Attachments: # <u>1</u> # <u>2</u> )(Gill, Thomas) (Entered: 06/06/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 06/07/2007 |            | E-Filing Notification: <u>257</u> MOTION to Certify Class filed by Thomas Gill, <i>Is not signed and must be re-filed</i> . (DLC) (Entered: 06/07/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 06/07/2007 | <u>258</u> | Amended MOTION to Certify Class by Men of Color Helping all Society, Inc.. (Attachments: # <u>1</u> Exhibit # <u>2</u> Exhibit Ex C & D to Gill Declaration)(Gill, Thomas) (Entered: 06/07/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 06/07/2007 | <u>259</u> | MOTION for Partial Summary Judgment by City of Buffalo.(Sellers, Kathleen) (Entered: 06/07/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 06/07/2007 | <u>260</u> | DECLARATION signed by Kathleen Sellers re <u>259</u> MOTION for Partial Summary Judgment filed by City of Buffalo. (Attachments: # <u>1</u> Exhibit A-G)(Sellers, Kathleen) (Entered: 06/07/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 06/07/2007 | <u>261</u> | MEMORANDUM IN SUPPORT re <u>259</u> MOTION for Partial Summary Judgment by City of Buffalo. (Sellers, Kathleen) (Entered: 06/07/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 06/07/2007 | <u>262</u> | CERTIFICATE OF SERVICE by City of Buffalo re <u>259</u> MOTION for Partial Summary Judgment, <u>260</u> Declaration, <u>261</u> Memorandum in Support of the City's Motion for Partial Summary Judgment (Sellers, Kathleen) (Entered: 06/07/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 06/19/2007 | 263        | Minute Entry for proceedings held before Judge John T. Curtin : Telephone Conference held on 6/19/2007. The Court ruled on Plaintiffs' Motion to Compel in 03-CV-580. The Court directed Counsel to complete the remaining depositions in 98-CV-99 forthwith, or Plaintiffs' Counsel shall file a motion for appropriate relief within two weeks. Order to follow. Appearances: Harvey Sanders for Plaintiffs; Adam Perry for City of Buffalo; Andrea Sammarco for Defendant Union. Court time: 10:00 – 10:50 a.m. (Janet Curry, Electronic Court Recorder Operator.) (JEC) (Entered: 06/20/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 06/20/2007 | <u>264</u> | ORDER directing Defense Counsel in 03-CV-580 to produce a list containing the names and last known addresses of all persons employed by the Buffalo Fire Dept. who were eligible to take the 2002 Fire Lieutenant Examination. The City is directed to provide more complete answers to Interrogatories 4 and 5 as stated herein, constituting the Court's ruling on Plaintiffs' Motion to Compel (Items 41 and 47 of 98-CV-99). In 98-CV-99, Counsel are directed to complete the remaining                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

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|            |            | depositions forthwith and resolve other discovery matters. Plaintiffs' Counsel shall report back to the Court or make application for appropriate relief not later than 7/6/2007. Signed by Hon. John T. Curtin on 06/20/2007. (JEC) (Entered: 06/20/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 06/27/2007 | <u>265</u> | Letter from Kathleen Sellers, Esq., dated 6/25/2007, to Hon. John T. Curtin, re the Defendant City's Motion for Partial Summary Judgment. (JEC) (Entered: 06/27/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 06/27/2007 | <u>266</u> | Second MOTION for Summary Judgment <i>and Opposition to Defendants' Motion for Summary Judgment</i> by Men of Color Helping all Society, Inc.. (Attachments: # <u>1</u> Appendix Exhibits F,G, and H# <u>2</u> Appendix Exhibits I to N)(Gill, Thomas) (Entered: 06/27/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 06/27/2007 | <u>267</u> | AMENDED DOCUMENT by Men of Color Helping all Society, Inc.. Amendment to <u>266</u> Second MOTION for Summary Judgment <i>and Opposition to Defendants' Motion for Summary Judgment adding Brief, Rule 56.1 Statement, Appendix to Rule 56.1 Statement, and Exhibits B to E, Exhibit A sealed.</i> (Gill, Thomas) Additional attachment(s) added on 8/14/2007 (DLC). (Entered: 06/27/2007)                                                                                                                                                                                                                                                                                                                                                                                                |
| 06/28/2007 | <u>268</u> | AMENDED DOCUMENT by Men of Color Helping all Society, Inc.. Amendment to <u>267</u> Amended Document, <i>Correction to Brief.</i> (Gill, Thomas) (Entered: 06/28/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 06/29/2007 |            | E-Filing Notification: <u>268</u> AMENDED DOCUMENT by Men of Color Helping all Society, Inc.. Amendment to <u>267</u> Amended Document, Correction to Brief, (filed by Thomas Gill). <i>The whole document must be refiled not just a page of correction.</i> (DLC) (Entered: 06/29/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 06/29/2007 | <u>269</u> | NOTICE of Appearance by Joseph S. Brown on behalf of City of Buffalo (Attachments: # <u>1</u> Certificate of Service)(Brown, Joseph) (Entered: 06/29/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 06/29/2007 | <u>270</u> | AMENDED DOCUMENT by Men of Color Helping all Society, Inc.. <i>Corrected Brief.</i> (Gill, Thomas) (Entered: 06/29/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 06/29/2007 | <u>271</u> | NOTICE of Appearance by Joshua Isaac Feinstein on behalf of City of Buffalo (Attachments: # <u>1</u> Certificate of Service)(Feinstein, Joshua) (Entered: 06/29/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 07/03/2007 | <u>272</u> | Letter from Adam W. Perry, Esq., dated 7/3/2007, to Hon. John T. Curtin. (JEC) (Entered: 07/03/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 07/06/2007 |            | NOTICE of Hearing: Status Telephone Conference set for 7/12/2007 10:15 AM before Hon. John T. Curtin. (JEC) (Entered: 07/06/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 07/06/2007 | <u>273</u> | ORDER extending the time for the City to file its Opposition Memorandum on Plaintiffs' Renewed Motion for Class Certification until 7/9/2007. Signed by Hon. John T. Curtin on 07/5/2007. (JEC) (Entered: 07/06/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 07/09/2007 | <u>274</u> | MEMORANDUM in Opposition re <u>257</u> MOTION to Certify Class, <u>258</u> Amended MOTION to Certify Class filed by City of Buffalo. (Brown, Joseph) (Entered: 07/09/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 07/09/2007 | <u>275</u> | DECLARATION signed by Joseph S. Brown re <u>274</u> Memorandum in Opposition to Motion filed by City of Buffalo filed by City of Buffalo. (Brown, Joseph) (Entered: 07/09/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 07/09/2007 | <u>276</u> | CERTIFICATE OF SERVICE by City of Buffalo re <u>275</u> Declaration, <u>274</u> Memorandum in Opposition to Motion (Brown, Joseph) (Entered: 07/09/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 07/12/2007 | <u>277</u> | Minute Entry for proceedings held before Judge John T. Curtin: Discussion of matters raised in Mr. Perry's 7/3/07 letter (Item 272) re: City's concerns about risk of inconsistent determinations in cases pending in both state and federal courts based on results of same promotional examination. The court found no reason to take any action at this time. Schedule for further briefing and argument of pending summary judgment motions will be subject to separate order. The court will take up renewed motion for class certification at a later time. Appearances: Thomas Gill and Harvey Sanders for Plaintiffs; Christen Pierrot for State Court Plaintiffs; Eileen Fleming and Joshua Feinstein for Defendants. Court time: 10:30 – 11:00 a.m. (JEC) (Entered: 07/12/2007) |
| 07/13/2007 | <u>278</u> | MEMORANDUM in Support re <u>258</u> Amended MOTION to Certify Class <i>Reply Memorandum</i> filed by Men of Color Helping all Society, Inc.. (Gill, Thomas) (Entered: 07/13/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

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| 07/13/2007 | <u>279</u> | CERTIFICATE OF SERVICE re <u>258</u> Amended MOTION to Certify Class <i>Certificate of Service of Memorandum</i> filed by Men of Color Helping all Society, Inc.. (Gill, Thomas) Modified on 7/16/2007 (dlc). (Entered: 07/13/2007)                                                                                                                                                                                                                                                                                                                                            |
| 07/13/2007 | <u>280</u> | ORDER directing that the City's Response/Reply to Plaintiffs' Cross-Motion for Summary Judgment shall be filed by 7/27/2007. Oral Argument is set for 9/7/2007 10:00 AM before Hon. John T. Curtin. Signed by Hon. John T. Curtin on 7/13/2007. (JEC) (Entered: 07/13/2007)                                                                                                                                                                                                                                                                                                    |
| 07/16/2007 |            | E-Filing Notification: Document <u>279</u> was filed as a MEMORANDUM in Support, but is really a CERTIFICATE OF SERVICE re <u>258</u> Amended MOTION to Certify Class by Men of Color Helping all Society, Inc.. (filed by Gill, Thomas). For future reference the correct event title must be used. Document title changed. (DLC) (Entered: 07/16/2007)                                                                                                                                                                                                                       |
| 07/27/2007 | <u>281</u> | DECLARATION filed by City of Buffalo. (Attachments: # <u>1</u> Exhibit # <u>2</u> Exhibit # <u>3</u> Exhibit # <u>4</u> Exhibit # <u>5</u> Exhibit # <u>6</u> Exhibit # <u>7</u> Certificate of Service)(Brown, Joseph) (Entered: 07/27/2007)                                                                                                                                                                                                                                                                                                                                  |
| 07/27/2007 | <u>282</u> | REPLY/RESPONSE to re <u>259</u> MOTION for Partial Summary Judgment <i>and In Opposition to Plaintiffs' Second Motion for Summary Judgment</i> filed by City of Buffalo. (Brown, Joseph) (Entered: 07/27/2007)                                                                                                                                                                                                                                                                                                                                                                 |
| 07/27/2007 | <u>283</u> | STATEMENT OF FACTS <i>As To Which A Genuine Issue Exists To Be Tried</i> by City of Buffalo Related document: <u>266</u> Motion for Summary Judgment. (Brown, Joseph) (Entered: 07/27/2007)                                                                                                                                                                                                                                                                                                                                                                                    |
| 07/27/2007 |            | E-Filing Notification: <u>282</u> REPLY/RESPONSE, <u>283</u> STATEMENT OF FACTS (Brown, Joseph) **Documents filed without proof of service** (DZ) (Entered: 07/30/2007)                                                                                                                                                                                                                                                                                                                                                                                                        |
| 07/31/2007 | <u>284</u> | CERTIFICATE OF SERVICE by City of Buffalo re <u>283</u> Statement of Facts, <u>282</u> Reply/Response (Brown, Joseph) (Entered: 07/31/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 07/31/2007 | 285        | TRANSCRIPT of Proceedings held on June 19, 2007 before Judge John T. Curtin. Court Reporter: Karen J. Winter. Pages 1-21. (DLC) (Entered: 08/01/2007)                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 08/06/2007 | 286        | TRANSCRIPT of Proceedings held on may 17, 2007 before Judge John T. Curtin. Court Reporter: Karen J. Winter. Pages 1-17. (DLC) (Entered: 08/06/2007)                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 08/07/2007 | <u>287</u> | MOTION to Amend/Correct <i>Document</i> 267 by Men of Color Helping all Society, Inc..(Gill, Thomas) (Entered: 08/07/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 08/09/2007 | <u>288</u> | REPLY in support of Summary Judgment by Men of Color Helping all Society, Inc..(Gill, Thomas) Modified on 8/10/2007 (DLC). (Entered: 08/09/2007)                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 08/10/2007 |            | E-Filing Notification: Document <u>288</u> MOTION for Summary Judgment is a Reply Memorandum of Law in support of a motion. Document. For Furture Reference: Document title must match the event. Document retitled as a Reply and motion terminated. No further action required. (DLC) (Entered: 08/10/2007)                                                                                                                                                                                                                                                                  |
| 08/13/2007 | <u>289</u> | ORDER directing the Clerk to take the steps necessary to file under seal pages 51-58 of Item 267. Signed by Hon. John T. Curtin on 08/10/2007. (JEC) (Entered: 08/13/2007)                                                                                                                                                                                                                                                                                                                                                                                                     |
| 08/13/2007 |            | NOTICE of Hearing on <u>266</u> Second MOTION for Summary Judgment and Opposition to Defendants' Motion for Summary Judgment, and <u>259</u> MOTION for Partial Summary Judgment: Motion Hearing set for 10/22/2007 at 10:15 AM before Hon. John T. Curtin, adjourned from 9/7/2007.(JEC) (Entered: 08/13/2007)                                                                                                                                                                                                                                                                |
| 10/22/2007 | 290        | Minute Entry for proceedings held before Judge John T. Curtin : Motion Hearing held on 10/22/2007 re <u>259</u> City of Buffalo's Motion for Partial Summary Judgment and <u>266</u> Plaintiffs' Cross Motion. Motions submitted. Appearances: Thomas Gill and Harvey Sanders for Plaintiffs; Adam Perry, Joseph Brown, and Andrea Sammarco for Defendants. Court time: 11:00 a.m. - 12:00 p.m. (Court Reporter Janet Curry, Electronic Court Recorder Operator.) (JEC) Modified on 10/24/2007 to include Andrea Sammarco in appearances (Curry, Janet). (Entered: 10/23/2007) |

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| 11/09/2007 | <u>291</u> | ORDER denying <u>259</u> City's Motion for Partial Summary Judgment; denying Plaintiffs' <u>266</u> Cross-Motion for Summary Judgment. A telephone conference will be held with counsel on 11/30/2007 to discuss a schedule for oral argument of Plaintiff's renewed Motion for Class Certification. Signed by Judge John T. Curtin on 11/9/2007. (JEC) (Entered: 11/09/2007)                                                                                                                                                                                                                                                                                                                                                                               |
| 11/15/2007 | <u>292</u> | MOTION for Preliminary Injunction <i>and to Shorten Time</i> by City of Buffalo.(Perry, Adam) (Entered: 11/15/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 11/15/2007 | <u>293</u> | DECLARATION signed by Adam W. Perry re <u>292</u> MOTION for Preliminary Injunction <i>and to Shorten Time</i> filed by City of Buffalo filed by City of Buffalo. (Attachments: # <u>1</u> Exhibit A to D# <u>2</u> Exhibit E to H)(Perry, Adam) (Entered: 11/15/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 11/15/2007 | <u>294</u> | MEMORANDUM in Support re <u>292</u> MOTION for Preliminary Injunction <i>and to Shorten Time</i> filed by City of Buffalo. (Perry, Adam) (Entered: 11/15/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 11/15/2007 | <u>295</u> | Witness List by City of Buffalo. (Perry, Adam) (Entered: 11/15/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 11/15/2007 | <u>296</u> | CERTIFICATE OF SERVICE by City of Buffalo re <u>292</u> MOTION for Preliminary Injunction <i>and to Shorten Time</i> , <u>293</u> Declaration, <u>294</u> Memorandum in Support of Motion, <u>295</u> Witness List (Perry, Adam) (Entered: 11/15/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 11/16/2007 | <u>297</u> | CERTIFICATE OF SERVICE by City of Buffalo re <u>292</u> MOTION for Preliminary Injunction <i>and to Shorten Time</i> , <u>293</u> Declaration, <u>294</u> Memorandum in Support of Motion, <u>296</u> Certificate of Service, <u>295</u> Witness List (Perry, Adam) (Entered: 11/16/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 11/18/2007 | <u>298</u> | MEMORANDUM in Opposition re <u>292</u> MOTION for Preliminary Injunction <i>and to Shorten Time</i> filed by Men of Color Helping all Society, Inc.. (Gill, Thomas) (Entered: 11/18/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 11/21/2007 | <u>299</u> | ORDER setting Telephone Conference for 11/30/2007 at 10:15 AM before Hon. John T. Curtin to discuss a reasonable schedule for the City's Motion for Preliminary Injunction which was recently filed in 74-CV-195, 98-CV-99, and 03-CV-580.Signed by Hon. John T. Curtin on 11/21/2007. (JEC) (Entered: 11/21/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 11/26/2007 | <u>300</u> | MOTION to Take Deposition from Steinberg and Kaiser by Men of Color Helping all Society, Inc..(Gill, Thomas) (Entered: 11/26/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 11/30/2007 | 301        | Minute Entry for proceedings held before Judge John T. Curtin: Telephone Conference held on 11/30/2007 re City's motion to enjoin State Court from further proceedings in Margerum v. City of Buffalo, Index No. 2007/1462. The court directed the City to provide additional authority in support of the injunction request. The court will then issue further orders as necessary. The court will consider Plaintiffs' Motion for Class Certification in 98-CV-99 submitted on the papers. Appearances: Thomas Gill and Harvey Sanders for Plaintiffs; Adam Perry for Defendants. Court time: 10:15 - 10:45 a.m. (JEC) (Entered: 12/05/2007)                                                                                                              |
| 12/19/2007 | <u>302</u> | ORDER granting <u>292</u> the City of Buffalo's Motion for a Preliminary Injunction, enjoining certain Buffalo firefighters and their attorneys from further prosecuting or participating as Plaintiffs in a New York State Supreme Court action known as Margerum, et al. v. City of Buffalo, Index No. 1462/2007, pending the outcome of the trial in this action, which is now scheduled to commence on 6/30/2008. The Clerk is directed to enter a copy of this Order on the docket in 74-CV-1995 (relating to Items 544, 545, and 550), and 03-CV-580 (relating to Item 57), and to send a copy of this Order to Andrew Fleming, Esq., attorney for the Margerum Plaintiffs. Signed by Judge John T. Curtin on 12/13/2007. (JEC) (Entered: 12/19/2007) |
| 12/19/2007 |            | Set/Reset Hearings: Jury Selection set for 6/30/2008 09:30AM before Hon. John T. Curtin, with Trial commencing immediately thereafter. (JEC) (Entered: 12/19/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 12/19/2007 |            | Remark: Copy of Order sent to Andrew P. Fleming, Esq. (JEC) (Entered: 12/19/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 12/19/2007 |            | Remark - Copy of <u>302</u> Order mailed to the Clerk of the NYS Supreme Court. (DLC) (Entered: 12/19/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

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| 12/21/2007 | <u>303</u> | ORDER permitting Counsel for Plaintiffs in State Court action entitled Margerum v. City of Buffalo to file application for reconsideration of the Court's Order entered on 12/19/2007 (Item 302) by 1/11/2008. The other parties may file a Response by 1/25/2008. Signed by Hon. John T. Curtin on 12/21/2007. (JEC) (Entered: 12/21/2007)                                                                                                                                              |
| 12/21/2007 | <u>304</u> | Letter from Andrew P. Fleming, Esq., dated 12/20/2007, to Hon. John T. Curtin re court's 12/19/2007 decision (Item 302). (JEC) (Entered: 12/21/2007)                                                                                                                                                                                                                                                                                                                                     |
| 01/15/2008 | <u>305</u> | MEMORANDUM IN OPPOSITION by attorney Christen Archer Pierrot of Chiacchia & Fleming, LLP to Defendant's Motion for Preliminary Injunction against Non-Parties re <u>303</u> Order. (DLC) (Entered: 01/15/2008)                                                                                                                                                                                                                                                                           |
| 01/18/2008 | <u>306</u> | MOTION for Leave to Appear/ Intervene on a Limited Basis by Eugene Margerum, Anthony Hynes, Joseph Fahey, Timothy Hazelet, Peter Kertz, Peter Lotocki, Scott Skinner, Thomas Reddington, Timothy Cassel, Matthew S. Osinski, Mark Abad, Brad Arnone, David Denz.(JDK) (Entered: 01/22/2008)                                                                                                                                                                                              |
| 01/18/2008 | <u>307</u> | NOTICE OF APPEAL as to <u>302</u> Order on Motion for Preliminary Injunction, by Intervenor Eugene Margerum, Anthony Hynes, Joseph Fahey, Timothy Hazelet, Peter Kertz, Peter Lotocki, Scott Skinner, Thomas Reddington, Timothy Cassel, Matthew S. Osinski, Mark Abad, Brad Arnone, David Denz. Filing fee \$ 455, receipt number 6199. (Attachments: # <u>1</u> Exhibit A) (USCA Forms C and D to Christen Pierrot) (JDK) (Entered: 01/22/2008)                                        |
| 01/25/2008 | <u>308</u> | MOTION Holding Counsel for Margerum Plaintiffs in Contempt for Violating Court's 12-19-07 Injunction by City of Buffalo.(Brown, Joseph) (Entered: 01/25/2008)                                                                                                                                                                                                                                                                                                                            |
| 01/25/2008 | <u>309</u> | DECLARATION signed by Joseph S. Brown re <u>308</u> MOTION Holding Counsel for Margerum Plaintiffs in Contempt for Violating Court's 12-19-07 Injunction filed by City of Buffalo filed by City of Buffalo. (Attachments: # <u>1</u> Exhibit A - I)(Brown, Joseph) (Entered: 01/25/2008)                                                                                                                                                                                                 |
| 01/25/2008 | <u>310</u> | MEMORANDUM in Support re <u>308</u> MOTION Holding Counsel for Margerum Plaintiffs in Contempt for Violating Court's 12-19-07 Injunction filed by City of Buffalo. (Brown, Joseph) (Entered: 01/25/2008)                                                                                                                                                                                                                                                                                 |
| 01/25/2008 | <u>311</u> | CERTIFICATE OF SERVICE by City of Buffalo re <u>308</u> MOTION Holding Counsel for Margerum Plaintiffs in Contempt for Violating Court's 12-19-07 Injunction, <u>309</u> Declaration, <u>310</u> Memorandum in Support of Motion (Brown, Joseph) (Entered: 01/25/2008)                                                                                                                                                                                                                   |
| 01/25/2008 | <u>312</u> | MEMORANDUM IN OPPOSITION re <u>305</u> Memorandum in Opposition <i>Opposing the Margerum Plaintiff's Motion to Reconsider the Court's December 19, 2007 Order</i> by City of Buffalo. (Brown, Joseph) (Entered: 01/25/2008)                                                                                                                                                                                                                                                              |
| 01/25/2008 | <u>313</u> | CERTIFICATE OF SERVICE by City of Buffalo re <u>312</u> Memorandum in Opposition (Brown, Joseph) (Entered: 01/25/2008)                                                                                                                                                                                                                                                                                                                                                                   |
| 01/28/2008 |            | E-Filing Notification: <u>312</u> MEMORANDUM IN OPPOSITION is signed by attorney Adam Perry and e-filed by attorney Joseph Brown. Document must be signed and e-filed the same attorney. Document must be re-filed. (DLC) (Entered: 01/28/2008)                                                                                                                                                                                                                                          |
| 01/28/2008 | <u>314</u> | MEMORANDUM IN OPPOSITION re <u>305</u> Memorandum in Opposition <i>to the Margerum Plaintiffs' Motion to Reconsider The Court's 12-19-07 Order</i> by City of Buffalo. (Attachments: # <u>1</u> Certificate of Service)(Brown, Joseph) (Entered: 01/28/2008)                                                                                                                                                                                                                             |
| 02/06/2008 | <u>315</u> | MEMORANDUM AND OPINION deferring ruling on Plaintiffs' Motion for Class Certification pending the results of a Hearing and Oral Argument which will be held on 6/16/2008 at 11:00 AM before Hon. John T. Curtin. A Final Pretrial Conference will be conducted at the conclusion of the Hearing to discuss all matters pertaining to the Trial now scheduled for 6/30/2008. Pretrial Statements are due 6/9/2008. Signed by Hon. John T. Curtin on 2/6/2008. (JEC) (Entered: 02/06/2008) |
| 02/08/2008 | <u>316</u> | CERTIFICATE OF SERVICE re <u>307</u> Notice of Appeal by Christen Archer Pierrot. (DR) (Entered: 02/11/2008)                                                                                                                                                                                                                                                                                                                                                                             |
| 02/15/2008 | <u>317</u> | ORDER granting <u>300</u> Plaintiffs' Motion to Take Video Depositions of Wendy J. Steinberg and Paul Kaiser. Mr. Gill is directed to take all steps necessary and                                                                                                                                                                                                                                                                                                                       |

|            |            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|            |            | appropriate to comply with the Federal and Local Rules for notice and taking of depositions, in a manner reasonably calculated so as not to cause delay of the trial now set for 6/30/2008. Signed by Judge John T. Curtin on 2/9/2008. (JEC) (Entered: 02/15/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 02/21/2008 | <u>318</u> | Letter from Andrew P. Fleming, Esq., dated 2/19/2008, to Hon. John T. Curtin re Motion for Reconsideration. (JEC) (Entered: 02/21/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 02/21/2008 | <u>319</u> | ORDER granting <u>306</u> Intervenor's Motion for Leave to Intervene for the purpose of appealing this court's 12/19/07 Order. The Clerk is directed to amend the Civil Docket to indicate that these non-parties are permitted to intervene. The Intervenor's application for reconsideration of this court's 12/19/07 Order is denied. The parties are directed to meet and confer in an attempt to informally resolve the City's <u>308</u> Motion for contempt. In the event no informal resolution is reached, the court will take up this motion upon conclusion of the Class Certification Hearing and Final Pretrial Conference on 6/16/08 at 11 a.m. Signed by Judge John T. Curtin on 2/16/2008. (JEC) (Entered: 02/21/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 02/22/2008 | <u>320</u> | Letter from Andrew P. Fleming, Esq., dated 2/20/2008, to Hon. John T. Curtin (with attachment) re prior Letter of 2/19/2008 (Item 318). (JEC) (Entered: 02/22/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 02/22/2008 | <u>321</u> | Letter from Joshua Feinstein, Esq., dated 2/21/2008, to Hon. John T. Curtin in response to Letter from Andrew Fleming dated 2/19/2008 (Item 318). (JEC) (Entered: 02/22/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 03/18/2008 | <u>322</u> | MOTION for Preliminary Injunction by Eugene Margerum, Anthony Hynes, Joseph Fahey, Timothy Hazelet, Peter Kertzie, Peter Lotocki, Scott Skinner, Thomas Reddington, Timothy Cassel, Matthew S. Osinski, Mark Abad, Brad Arnone, David Denz.(Fleming, Andrew) (Entered: 03/18/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 03/18/2008 | <u>323</u> | CERTIFICATE OF SERVICE by Eugene Margerum, Anthony Hynes, Joseph Fahey, Timothy Hazelet, Peter Kertzie, Peter Lotocki, Scott Skinner, Thomas Reddington, Timothy Cassel, Matthew S. Osinski, Mark Abad, Brad Arnone, David Denz (Fleming, Andrew) (Entered: 03/18/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 03/24/2008 | 334        | Minute Entry for proceedings held before Hon. John T. Curtin: Telephone Conference held on 3/24/2008. Scheduling Order to follow. Appearances: Andrew Fleming for Intervenor; Adam Perry for Defendants. Court time: 10:00 – 10:30 a.m. (JEC) (Entered: 04/15/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 03/25/2008 | 324        | TEXT ORDER: On February 21, 2008 (Item 319), this court issued an order granting the motion of thirteen plaintiffs in the state court action entitled Margerum, et al. v. City of Buffalo, et al., Index No. 1462/2007 (N.Y.Sup.Ct., Erie Co.), to intervene in this action for the purpose of appealing this court's December 19, 2007 order (Item 302), and to otherwise protect their interests in the subject matter and outcome of this litigation. These intervenors have now moved for a preliminary injunction seeking to enjoin the City from making any further appointments to the promotional positions of Fire Lieutenant or Fire Captain until after this court's December 19, 2007 order expires or, alternatively, until that order is vacated by the Second Circuit Court of Appeals (see Item 322). The City shall file its response to the intervenors' motion on or before April 4, 2008. If desired, plaintiffs shall also file any written submissions related to this motion on or before April 4, 2008. Intervenor may reply in writing by April 11, 2008. Upon receipt and review of these submissions, the court will contact counsel to discuss further proceedings, or will take the matter under advisement. SO ORDERED. Signed by Hon. John T. Curtin on 3/25/2008. (JEC) (Entered: 03/25/2008) |
| 03/25/2008 | <u>325</u> | CLERKS CERTIFICATE filed and electronically sent to Court of Appeals. (DR) (Entered: 03/25/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 04/01/2008 | <u>326</u> | MEMORANDUM in Opposition re <u>322</u> MOTION for Preliminary Injunction filed by Men of Color Helping all Society, Inc.. (Attachments: # <u>1</u> Affidavit Gill Declaration Opposing Intervention, # <u>2</u> Exhibit Exhibits to Gill Declaration, # <u>3</u> Certificate of Service)(Gill, Thomas) (Entered: 04/01/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 04/04/2008 | <u>327</u> | MEMORANDUM in Opposition re <u>322</u> MOTION for Preliminary Injunction filed by City of Buffalo. (Feinstein, Joshua) (Entered: 04/04/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

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| 04/04/2008 | <u>328</u> | DECLARATION signed by Joshua Feinstein re <u>327</u> Memorandum in Opposition to Motion filed by City of Buffalo filed by City of Buffalo. (Attachments: # <u>1</u> Exhibit A – B, # <u>2</u> Exhibit C – E)(Feinstein, Joshua) (Entered: 04/04/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 04/04/2008 | <u>329</u> | CERTIFICATE OF SERVICE by City of Buffalo re <u>327</u> Memorandum in Opposition to Motion, <u>328</u> Declaration (Feinstein, Joshua) (Entered: 04/04/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 04/11/2008 | <u>330</u> | AFFIRMATION filed by Eugene Margerum, Anthony Hynes, Joseph Fahey, Timothy Hazelet, Peter Kertzie, Peter Lotocki, Scott Skinner, Thomas Reddington, Timothy Cassel, Matthew S. Osinski, Mark Abad, Brad Arnone, David Denz. (Archer Pierrot, Christen) (Entered: 04/11/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 04/11/2008 | <u>331</u> | CERTIFICATE OF SERVICE by Eugene Margerum, Anthony Hynes, Joseph Fahey, Timothy Hazelet, Peter Kertzie, Peter Lotocki, Scott Skinner, Thomas Reddington, Timothy Cassel, Matthew S. Osinski, Mark Abad, Brad Arnone, David Denz re <u>330</u> Affirmation (Archer Pierrot, Christen) (Entered: 04/11/2008)                                                                                                                                                                                                                                                                                                                                                                                                             |
| 04/14/2008 |            | NOTICE of Hearing: Scheduling Telephone Conference set for 4/24/2008 10:45 AM before Hon. John T. Curtin. The court will initiate the call.(JEC) (Entered: 04/14/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 04/14/2008 | <u>332</u> | Letter from Kathleen Sellers, Esq., dated 3/25/2008, to Hon. John T. Curtin re status of Motion to Expedite before U.S. Court of Appeals (Attachments: # <u>1</u> Copy of Order of U.S. Court of Appeals). (JEC) (Entered: 04/14/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 04/14/2008 | <u>333</u> | Letter from Joshua Feinstein, Esq., dated 4/3/2008, to Hon. John T. Curtin re "Plaintiffs' 'Memorandum in opposition to Margerum participation in this case.'" (JEC) (Entered: 04/14/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 04/14/2008 |            | NOTICE of Hearing: Scheduling Telephone Conference set for 4/22/2008 10:45 a.m. before Hon. John T. Curtin, rescheduled from 4/24/2008. The court will initiate the call.(JEC) (Entered: 04/14/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 04/18/2008 | <u>335</u> | Letter from Joshua Feinstein, Esq., dated 4/15/2008, to Hon. John T. Curtin re Reply Affirmation of Andrew Fleming, Esq. (JEC) (Entered: 04/18/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 04/18/2008 | <u>336</u> | Letter from Andrew P. Fleming, Esq., dated 4/16/2008, to Hon. John T. Curtin in response to Letter of Joshua Feinstein (Item 335). (JEC) (Entered: 04/18/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 04/22/2008 | <u>337</u> | Minute Entry for proceedings held before Hon. John T. Curtin: Status Telephone Conference held on 4/22/2008 with counsel, at which time a detailed discussion was held regarding the sequence of the upcoming proceedings in this file. Counsel will discuss this forthwith in an attempt to reach a compromise of this matter, and will then report back to the court. At the present time, the court will keep the proceedings on for June 30, 2008, and there is a possibility that this matter may be moved up to the week of June 23, 2008. Appearances: Thomas Gill and Harvey Sanders for Plaintiffs; Adam Perry and Kathleen Sellers for Defendant. Court time: 10:50 – 11:30 a.m. (JEC) (Entered: 04/22/2008) |
| 05/02/2008 | <u>338</u> | STATUS REPORT <i>on Attorney Conference</i> by Men of Color Helping all Society, Inc.. (Gill, Thomas) (Entered: 05/02/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 05/05/2008 |            | NOTICE of Hearing: Pretrial Telephone Conference set for 5/7/2008 10:15 AM before Hon. John T. Curtin. The court will initiate the call.(JEC) (Entered: 05/05/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 05/07/2008 | <u>339</u> | DECISION AND ORDER denying <u>322</u> Intervenor's Motion for a Preliminary Injunction. Signed by Hon. John T. Curtin on 5/2/2008. (JEC) (Entered: 05/07/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 05/07/2008 | <u>340</u> | Minute Entry for proceedings held before Hon. John T. Curtin: Scheduling Conference held on 5/7/2008 with counsel. The court confirmed the following schedule: The Hearing on Plaintiffs' Motion for Class Certification will be held on 6/16/2008 at 11 a.m. The Non-Jury Trial of this matter will be held on 6/23/2008 at 10 a.m. Appearances: Thomas Gill and Harvey Sanders for Plaintiffs; Andrew Fleming for Intervenor; Adam Perry, Joseph Brown, and Andrea Sammarco for Defendants. Court time: 10:15 – 10:40 a.m. (JEC) (Entered: 05/07/2008)                                                                                                                                                               |
| 05/09/2008 | <u>341</u> | NOTICE of Hearing on <u>257</u> MOTION to Certify Class: Motion Hearing set for 6/16/2008 at 11:00 a.m. before Hon. John T. Curtin, continuing on 6/17/2008. Additionally, the Bench Trial/Hearing is scheduled for 6/23/2008, 6/24/2008, and 6/26/2008, beginning at 10 a.m. (The court is unavailable on 6/25/2008.)(JEC)                                                                                                                                                                                                                                                                                                                                                                                            |

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|            |            | (Entered: 05/09/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 05/20/2008 | <u>342</u> | Letter from Thomas S. Gill, Esq., dated May 20, 2008, to Hon. John T. Curtin re confirmation of trial date changing from 6/26/2008 to 6/27/2008 to accommodate the taking of the testimony of Dr. Murphy. (JEC) (Entered: 05/20/2008)                                                                                                                                                                                                                                        |
| 05/30/2008 | <u>343</u> | RESPONSE in Support re <u>258</u> Amended MOTION to Certify Class <i>Supplimental Response Addressing Robinson</i> filed by Men of Color Helping all Society, Inc.. (Attachments: # <u>1</u> Affidavit Gill declaration with exhibits, # <u>2</u> Affidavit Brown declaration)(Gill, Thomas) (Entered: 05/30/2008)                                                                                                                                                           |
| 06/02/2008 | <u>344</u> | Letter from Joseph S. Brown, Esq., dated 6/2/2008, to Hon. John T. Curtin re unopposed extension from 6/2/2008 until 6/5/2008 to file response. (JEC) (Entered: 06/02/2008)                                                                                                                                                                                                                                                                                                  |
| 06/02/2008 | <u>345</u> | TAKE NOTICE THAT pursuant to <u>344</u> Letter of Joseph S. Brown, and there being no objection by opposing counsel, the time for Defendant to file Supplemental Papers addressing the Robinson balancing approach for (b)(2) class certification is extended from 6/2/2008 until 6/5/2008. (JEC) (Entered: 06/02/2008)                                                                                                                                                      |
| 06/04/2008 | <u>346</u> | STIPULATION by City of Buffalo. (Attachments: # <u>1</u> Certificate of Service)(Feinstein, Joshua) (Entered: 06/04/2008)                                                                                                                                                                                                                                                                                                                                                    |
| 06/05/2008 | <u>347</u> | TRIAL BRIEF <i>Local Rule 16.1 Statement</i> by Men of Color Helping all Society, Inc.. (Gill, Thomas) (Entered: 06/05/2008)                                                                                                                                                                                                                                                                                                                                                 |
| 06/05/2008 | <u>348</u> | MOTION to Dismiss <i>Margerum Plaintiffs, Local 282, and Ronald Castle</i> by Men of Color Helping all Society, Inc.. (Attachments: # <u>1</u> Affidavit Supporting Motion)(Gill, Thomas) (Entered: 06/05/2008)                                                                                                                                                                                                                                                              |
| 06/05/2008 | <u>349</u> | DECLARATION in Support re <u>348</u> MOTION to Dismiss <i>Margerum Plaintiffs, Local 282, and Ronald Castle Amended Declaration of Thomas Gill</i> filed by Men of Color Helping all Society, Inc.. (Gill, Thomas) Modified on 6/6/2008 (DLC). (Entered: 06/05/2008)                                                                                                                                                                                                         |
| 06/05/2008 | <u>350</u> | RESPONSE in Opposition re <u>257</u> MOTION to Certify Class <i>Supplemental Memorandum of Law Regarding Class Certification</i> filed by City of Buffalo. (Attachments: # <u>1</u> Certificate of Service)(Brown, Joseph) (Entered: 06/05/2008)                                                                                                                                                                                                                             |
| 06/06/2008 |            | E-Filing Notification: Document <u>349</u> was docketed as an Affidavit but document is a Declaration of Thomas Gill. Text re-titled to reflect a Declaration. (DLC) (Entered: 06/06/2008)                                                                                                                                                                                                                                                                                   |
| 06/09/2008 | <u>351</u> | TRIAL BRIEF by City of Buffalo. (Sellers, Kathleen) (Entered: 06/09/2008)                                                                                                                                                                                                                                                                                                                                                                                                    |
| 06/10/2008 | <u>352</u> | STIPULATION AND ORDER. Intervenor, the Plaintiffs in the state court action of Margerum v. City of Buffalo, shall advise the Second Circuit within 7 calendar days of this Order that they are withdrawing their appeal of this court's Order entered 12/19/2007 granting the City's Motion for a Preliminary Injunction. The City of Buffalo will then withdraw its Contempt Motion filed 1/25/2008. Signed by Hon. John T. Curtin on 6/5/2008. (JEC) (Entered: 06/10/2008) |
| 06/10/2008 | <u>353</u> | TRANSCRIPT REQUEST <i>Daily Transcripts</i> by Men of Color Helping all Society, Inc. for proceedings held on 6/23/2008;6/24/2008 before Judge John T. Curtin.. (Gill, Thomas) (Entered: 06/10/2008)                                                                                                                                                                                                                                                                         |
| 06/11/2008 | <u>354</u> | MOTION in Limine by Men of Color Helping all Society, Inc..(Gill, Thomas) (Entered: 06/11/2008)                                                                                                                                                                                                                                                                                                                                                                              |
| 06/11/2008 | <u>355</u> | AFFIDAVIT in Opposition re <u>348</u> MOTION to Dismiss <i>Margerum Plaintiffs, Local 282, and Ronald Castle</i> filed by Buffalo Professional Firefighters Association, Inc., Local 282 AFL-CIO-CLC. (Sammarmo, Andrea) (Entered: 06/11/2008)                                                                                                                                                                                                                               |
| 06/13/2008 |            | NOTICE of Hearing on [257 & 258] MOTION to Certify Class: Motion Hearing set for 6/16/2008 10 a.m. before Hon. John T. Curtin, rescheduled from 11 a.m. (JEC) (Entered: 06/13/2008)                                                                                                                                                                                                                                                                                          |
| 06/16/2008 | <u>356</u> | Minute Entry for proceedings held before Hon. John T. Curtin: Oral Argument on Plaintiffs' Motion for Class Certification and Final Pretrial Conference held on                                                                                                                                                                                                                                                                                                              |

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|            |            | 6/16/2008. Motion submitted. The court then discussed schedule of witnesses and other matters for non-jury trial, to commence 6/23/2008 and resume on 6/24/2008 and 6/27/2008. Appearances: Thomas Gill for Plaintiffs; Joseph Brown and Andrea Sammarco for Defendants. Court time: 10:00 – 11:00 a.m. (JEC) (Entered: 06/18/2008)                                                                                                                                                                                                                                                                                                                         |
| 06/20/2008 | <u>357</u> | Sealed Document/Defendants Exhibit 100, filed pursuant to Confidentiality Stipulation Ordered 10/19/01. (JDK) (Entered: 06/20/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 06/20/2008 | <u>358</u> | Sealed Document/Defendants Exhibit 113, filed pursuant to Confidentiality Stipulation Ordered 10/19/01.(JDK) (Entered: 06/20/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 06/20/2008 | <u>359</u> | Sealed Document/Defendants Exhibit 114, filed pursuant to Confidentiality Stipulation Ordered 10/19/01. (JDK) (Entered: 06/20/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 06/20/2008 | <u>360</u> | Sealed Document/Defendants Exhibit 115 filed pursuant Confidentiality Stipulation Ordered 10/19/01. (Attachments: # <u>1</u> Part 2)(JDK) (Entered: 06/20/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 06/23/2008 | 365        | Minute Entry for proceedings held before Hon. John T. Curtin: Bench Trial commenced on 6/23/2008. Opening Statements were held. Plaintiff then called the following witness: Dr. Wendy Steinberg, at which time direct and cross-examination were conducted. The trial was adjourned until 6/25/2008. Appearances: Thomas Gill for Plaintiff; Adam Perry, Joseph Brown, and Joshua Feinstein for Defendants. Court time: 10:00 a.m. – 12:00 p.m.; 1:10 – 3:30 p.m. (Court Reporter Lori K. Beck.) (JEC) (Entered: 07/03/2008)                                                                                                                               |
| 06/25/2008 | 366        | Minute Entry for proceedings held before Hon. John T. Curtin: Bench Trial resumed on 6/25/2008. Cross-examination and re-direct testimony of witness Dr. Wendy Steinberg were conducted. The court adjourned the trial until 6/26/2008 at 10 a.m. Appearances: Thomas Gill for Plaintiff; Adam Perry, Joseph Brown, and Joshua Feinstein for Defendants. Court time: 10:00 a.m. – 12:00 p.m. (Court Reporter Wendy J. Benzee.) (JEC) (Entered: 07/03/2008)                                                                                                                                                                                                  |
| 06/26/2008 | 367        | Minute Entry for proceedings held before Hon. John T. Curtin: Bench Trial resumed on 6/26/2008. Plaintiff called the following witness: Paul Kaiser, at which time direct, cross-examination, and re-direct testimony were conducted. The parties will notify the court forthwith of the available dates of the next witness. Appearances: Thomas Gill for Plaintiff; Adam Perry, Joseph Brown, and Joshua Feinstein for Defendants. Court time: 10:30 a.m. – 12:00 p.m.; 1:00 – 1:45 p.m. (Court Reporter Richard B. Whalen.) (JEC) (Entered: 07/03/2008)                                                                                                  |
| 07/02/2008 | <u>361</u> | Transcript of Bench Trial Proceedings held on June 23, 2008, before Judge John T. Curtin. Court Reporter/Transcriber Lori K. Beck, CSR, RDR, CRR. Telephone number (716) 853-5600. Access granted to Thomas Gill and Joshua Feinstein. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.. Redaction Request due 7/23/2008. Redacted Transcript Deadline set for 8/4/2008. Release of Transcript Restriction set for 9/30/2008. (DLC) Modified on 7/2/2008 (DLC). (Entered: 07/02/2008) |
| 07/03/2008 | <u>362</u> | Transcript of Bench Trial Proceedings held on June 25, 2008, before Judge John T. Curtin. Court Reporter/Transcriber Wendy J. Benzee, Telephone number (716) 853-5600. Access granted to Thomas Gill and Joshua Feinstein. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.. Redaction Request due 7/24/2008. Redacted Transcript Deadline set for 8/4/2008. Release of Transcript Restriction set for 10/1/2008. (DLC) (Entered: 07/03/2008)                                         |
| 07/03/2008 | <u>363</u> | Transcript of Proceedings held on June 26, 2008, before Judge John T. Curtin. Court Reporter/Transcriber Richard B. Whalen, CM, Telephone number (716) 853-5600. Access granted to Thomas Gill and Joshua Feinstein. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.. Redaction Request due 7/24/2008. Redacted Transcript Deadline set for 8/4/2008. Release of Transcript Restriction set for 10/1/2008. (DLC) (Entered: 07/03/2008)                                               |

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| 07/03/2008 | <u>364</u> | Letter from Thomas S. Gill, Esq., dated 6/27/2008, to Hon. John T. Curtin re July 16, 2008 trial date. (JEC) (Entered: 07/03/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 07/03/2008 |            | NOTICE of Hearing: The Bench Trial of this case will resume on 7/16/2008 at 10 a.m. before Hon. John T. Curtin. (JEC) (Entered: 07/03/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 07/03/2008 | <u>368</u> | Letter from Adam W. Perry, Esq., dated 7/1/2008, to Hon. John T. Curtin re anticipated schedule for remainder of bench trial. (JEC) (Entered: 07/03/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 07/16/2008 | 369        | Minute Entry for proceedings held before Hon. John T. Curtin: Bench Trial resumed on 7/16/2008. Plaintiff called the following witness: Dr. Kevin Murphy, at which time direct, cross, re-direct, and re-cross testimony were conducted. The trial will resume on 8/8/2008 at 10 a.m., at which time it is anticipated that testimony will conclude and court will address any post-trial motions. The parties shall simultaneously submit proposed findings of fact and conclusions of law no later than September 8, 2008. Responses due by September 15, 2008. Appearances: Thomas Gill for Plaintiff; Adam Perry and Joshua Feinstein for Defendants. Court time: 10:00 – 11:15 a.m.; 11:20 – 11:50 a.m.; 1:00 – 1:15 p.m. (Court Reporter Michele H. Pomietlasz.) (JEC) (Entered: 07/17/2008) |
| 07/24/2008 | <u>370</u> | Transcript of Proceedings held on July 16, 2008, before Judge John T. Curtin. Court Reporter/Transcriber Michele H. Pomietlasz, RPR, Telephone number (716) 853-5600. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.. Redaction Request due 8/14/2008. Redacted Transcript Deadline set for 8/25/2008. Release of Transcript Restriction set for 10/22/2008. (DLC) (Entered: 07/24/2008)                                                                                                                                                                                                                                   |
| 07/31/2008 | <u>371</u> | MOTION Lift Stay Against Intervenor by Eugene Margerum, Anthony Hynes, Joseph Fahey, Timothy Hazelet, Peter Kertzie, Peter Lotocki, Scott Skinner, Thomas Reddington, Timothy Cassel, Matthew S. Osinski, Mark Abad, Brad Arnone, David Denz.(Fleming, Andrew) (Entered: 07/31/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 07/31/2008 | <u>372</u> | CERTIFICATE OF SERVICE by Eugene Margerum, Anthony Hynes, Joseph Fahey, Timothy Hazelet, Peter Kertzie, Peter Lotocki, Scott Skinner, Thomas Reddington, Timothy Cassel, Matthew S. Osinski, Mark Abad, Brad Arnone, David Denz (Fleming, Andrew) (Entered: 07/31/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 08/06/2008 | <u>373</u> | MOTION in Limine to <i>Exclude Steinberg Opinions</i> by Men of Color Helping all Society, Inc..(Gill, Thomas) (Entered: 08/06/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 08/08/2008 | 374        | Minute Entry for proceedings held before Hon. John T. Curtin: Bench Trial resumed on 8/8/2008. Defendant called the following rebuttal witness: Dr. Wendy Steinberg; and witness Olivia Licata. Testimony was then concluded. Plaintiffs anticipate a motion to reopen to recall witness, which the court directed to be filed by 8/25/2008. Appearances: Thomas Gill and Harvey Sanders for Plaintiffs; Adam Perry and Joseph Brown for Defendants. Court time: 10:00 – 10:55 a.m.; 11:10 – 11:50 a.m.; 1:00 – 1:45 p.m. (Court Reporter Lynn M. Myers.) (JEC) (Entered: 08/08/2008)                                                                                                                                                                                                              |
| 08/11/2008 | <u>375</u> | Letter from Joshua Feinstein, Esq., dated 8/7/2008, to Hon. John T. Curtin re Plaintiffs' Motion in limine to exclude opinion testimony by Dr. Wendy Steinberg. (JEC) (Entered: 08/11/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 08/11/2008 | <u>376</u> | MOTION to Intervene, and MOTION for Reconsideration by Jonathan Lee Riches, Dareh Gregorian, Gino Romano Shirley. (DLC) (Entered: 08/13/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 08/18/2008 | <u>377</u> | Transcript of Proceedings held on August 8, 2008, before Judge Curtin. Court Reporter/Transcriber Lynn M. Myers, Jack W. Hunt & Associates, Inc., Telephone number (716) 853-5600. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.. Redaction Request due 9/8/2008. Redacted Transcript Deadline set for 9/18/2008. Release of Transcript Restriction set for 11/17/2008. (JMS) (Entered: 08/18/2008)                                                                                                                                                                                                                       |
| 08/18/2008 | <u>378</u> | Letter from Joseph S. Brown, Esq., dated 8/15/2008, to Hon. John T. Curtin requesting that the court deny Motion of Mr. Riches to intervene and for reconsideration, or accept this letter as defendants' opposition. (Attachments: # <u>1</u> Attachment) (JEC) (Entered: 08/18/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

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| 08/18/2008 | <u>379</u> | RESPONSE in Opposition re <u>376</u> MOTION Intervene MOTION for Reconsideration filed by Men of Color Helping all Society, Inc.. (Gill, Thomas) (Entered: 08/18/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 08/20/2008 | <u>380</u> | MOTION in Limine to <i>Take Further Testimony from Dr. Murphy</i> , MOTION for Extension of Time to File <i>Post Trial Brief</i> , MOTION for Attorney Fees by Men of Color Helping all Society, Inc.. (Attachments: # <u>1</u> Affidavit Declaration of Thomas Gill, # <u>2</u> Memorandum in Support Brief in Support of Motion)(Gill, Thomas) (Entered: 08/20/2008)                                                                                                                                                                                                                                          |
| 08/20/2008 | <u>381</u> | ORDER finding as moot <u>253</u> Motion for Discovery; finding as moot <u>257</u> Motion to Certify Class; deferring ruling on <u>258</u> Motion to Certify Class; granting unopposed <u>287</u> Motion to Amend or Correct by Order of 8/13/2007; withdrawing <u>308</u> Motion to hold Margerum Intervenors in Contempt; denying <u>348</u> Motion to Dismiss Margerum Intervenors, etc.; denying as moot <u>354</u> Plaintiffs' Motion in Limine; and denying <u>373</u> Plaintiffs' Motion in Limine to Exclude Steinberg Opinions. Signed by Hon. John T. Curtin on 8/18/2008. (JEC) (Entered: 08/20/2008) |
| 08/20/2008 | <u>382</u> | ORDER directing any party desiring to respond to <u>371</u> Motion of Margerum Intervenors shall do so by 9/8/2008; and denying <u>376</u> MOTION to Intervene and for Reconsideration filed by Dareh Gregorian, Jonathan Lee Riches, Gino Romano Shirley. Signed by Hon. John T. Curtin on 8/18/2008. (JEC) (Entered: 08/20/2008)                                                                                                                                                                                                                                                                              |
| 08/29/2008 | <u>383</u> | ORDER directing that Defendants' Response to Plaintiffs' Motion to Take Further Testimony is due by 9/8/2008; Plaintiffs' Reply, if desired, shall be filed on or before 9/15/2008. Responses to the Margerum Intervenors' Motion for relief remain due on 9/8/2008. The schedule for post-trial submissions is suspended pending the court's ruling on Plaintiffs' Motion to Take Further Testimony. Signed by Hon. John T. Curtin on 8/28/2008. (Entered: 08/29/2008)                                                                                                                                         |
| 08/29/2008 | <u>384</u> | Letter from Thomas S. Gill, Esq., dated 8/29/2008, to Hon. John T. Curtin re availability of Dr. Murphy. (JEC) (Entered: 08/29/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 09/04/2008 | <u>385</u> | Letter from Joshua Feinstein, Esq., dated 9/3/2008, to Hon. John T. Curtin re issue of possible dates for additional testimony. (JEC) (Additional attachment(s) added on 9/9/2008: # <u>1</u> Letter from Joshua Feinstein) (JEC). (Entered: 09/04/2008)                                                                                                                                                                                                                                                                                                                                                        |
| 09/08/2008 | <u>386</u> | Cross MOTION Enforce Order by City of Buffalo.(Feinstein, Joshua) (Entered: 09/08/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 09/08/2008 | <u>387</u> | DECLARATION re <u>371</u> MOTION Lift Stay Against Intervenors, <u>386</u> Cross MOTION Enforce Order filed by City of Buffalo. (Attachments: # <u>1</u> Exhibit A)(Feinstein, Joshua) (Entered: 09/08/2008)                                                                                                                                                                                                                                                                                                                                                                                                    |
| 09/08/2008 | <u>388</u> | MEMORANDUM in Opposition re <u>380</u> MOTION in Limine to <i>Take Further Testimony from Dr. Murphy</i> MOTION for Extension of Time to File <i>Post Trial Brief</i> MOTION for Attorney Fees filed by City of Buffalo. (Feinstein, Joshua) (Entered: 09/08/2008)                                                                                                                                                                                                                                                                                                                                              |
| 09/08/2008 | <u>389</u> | CERTIFICATE OF SERVICE by City of Buffalo re <u>386</u> Cross MOTION Enforce Order, <u>387</u> Declaration, <u>388</u> Memorandum in Opposition to Motion (Feinstein, Joshua) (Entered: 09/08/2008)                                                                                                                                                                                                                                                                                                                                                                                                             |
| 09/09/2008 |            | E-Filing Notification: <u>385</u> Letter from Joshua Feinstein, Esq., dated 9/3/2008, to Hon. John T. Curtin re issue of possible dates for additional testimony: attached correct letter to docket entry and deleted other letter.(JEC) (Entered: 09/09/2008)                                                                                                                                                                                                                                                                                                                                                  |
| 09/11/2008 | <u>390</u> | NOTICE OF INTERLOCUTORY APPEAL as to <u>382</u> Order,Set Deadlines/Hearings, Terminate Motions, by Jonathan Lee Riches. Fee Status: Fee Due. (DR) (Entered: 09/12/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 09/15/2008 | <u>391</u> | RESPONSE in Support re <u>380</u> MOTION in Limine to <i>Take Further Testimony from Dr. Murphy</i> MOTION for Extension of Time to File <i>Post Trial Brief</i> MOTION for Attorney Fees filed by Men of Color Helping all Society, Inc.. (Gill, Thomas) (Entered: 09/15/2008)                                                                                                                                                                                                                                                                                                                                 |
| 09/19/2008 | <u>392</u> | ORDER denying <u>371</u> the Margerum Plaintiffs' Motion to Lift Injunction and <u>386</u> the City's Cross-Motion. Signed by Hon. John T. Curtin on 9/18/2008. (JEC) (Entered: 09/19/2008)                                                                                                                                                                                                                                                                                                                                                                                                                     |

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| 09/23/2008 | <u>393</u> | MEMORANDUM AND OPINION denying Plaintiff's Motion for Permission to Take Further Testimony <u>380</u> . The parties shall simultaneously submit their Proposed Findings of Fact and Conclusions of Law by 10/17/2008. Responses are due no later than 11/3/2008, at which time the matter will be taken under advisement by the court. Signed by Hon. John T. Curtin on 9/22/2008. (JEC) (Entered: 09/23/2008)                                                                                                        |
| 09/24/2008 | <u>394</u> | CLERKS CERTIFICATE filed and electronically sent to Court of Appeals. (DR) (Entered: 09/24/2008)                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 09/29/2008 | <u>395</u> | Letter from Harvey P. Sanders, Esq., dated 9/25/2008, to Hon. John T. Curtin requesting modification of briefing schedule. (JEC) (Entered: 09/29/2008)                                                                                                                                                                                                                                                                                                                                                                |
| 10/01/2008 | <u>396</u> | ORDER extending the time for the filing of the Proposed Findings of Fact and Conclusions of Law from 10/17/2008 until 10/24/2008. The remainder of the schedule set forth in the court's Memorandum and Opinion, including the Response date of 11/3/2008, will remain the same. Signed by Hon. John T. Curtin on 9/30/2008. (JEC) (Entered: 10/01/2008)                                                                                                                                                              |
| 10/07/2008 | <u>397</u> | OBJECTIONS <i>Offer of Proof</i> filed by Plaintiffs Robert Grice, Robert Jones, Walter. Jones, Victor Muhammad, William Raspberry, John. Tucker, Men of Color Helping all Society, Inc., Maurice Birdsong, Walter. Davis, David Gray, Arthur Harris, Edward Josey, Harwyn Louie, Lawrence Pierce, Terry Scott, Michael Southern, Michael. Brown, John. Tucker, Michael Varner, Cranston. Wilson, Otto Brewer, Jr.. (Gill, Thomas) (Entered: 10/07/2008)                                                              |
| 10/09/2008 | <u>398</u> | MEMORANDUM in Opposition re <u>380</u> MOTION in Limine <i>to Take Further Testimony from Dr. Murphy</i> MOTION for Extension of Time to File <i>Post Trial Brief</i> MOTION for Attorney Fees <i>Reply to Letter Motion Objecting to Offer of Proof</i> filed by Men of Color Helping all Society, Inc.. (Gill, Thomas) (Entered: 10/09/2008)                                                                                                                                                                        |
| 10/15/2008 | <u>399</u> | Letter from Adam W. Perry, Esq., dated 10/9/2008, to Hon. John T. Curtin in Response to Plaintiffs' <u>397</u> "Offer of Proof." (JEC) (Entered: 10/15/2008)                                                                                                                                                                                                                                                                                                                                                          |
| 10/15/2008 | <u>400</u> | Letter from Adam W. Perry, Esq., dated 10/10/2008, to Hon. John T. Curtin re Plaintiffs' <u>398</u> "Reply to Nonfiled Letter Motion to Strike Offer of Proof." (JEC) (Entered: 10/15/2008)                                                                                                                                                                                                                                                                                                                           |
| 10/24/2008 | <u>401</u> | TRIAL BRIEF <i>Post Hearing Brief</i> by Men of Color Helping all Society, Inc.. (Gill, Thomas) (Entered: 10/24/2008)                                                                                                                                                                                                                                                                                                                                                                                                 |
| 10/26/2008 | <u>402</u> | TRIAL BRIEF <i>Proposed Findings of Fact and Conclusions of Law</i> by City of Buffalo. (Brown, Joseph) (Entered: 10/26/2008)                                                                                                                                                                                                                                                                                                                                                                                         |
| 10/26/2008 | <u>403</u> | CERTIFICATE OF SERVICE by City of Buffalo re <u>402</u> Trial Brief <i>Proposed Findings of Fact and Conclusions of Law</i> (Brown, Joseph) (Entered: 10/26/2008)                                                                                                                                                                                                                                                                                                                                                     |
| 10/27/2008 |            | Remark: Because of the downtime of the CM/ECF system from 7 p.m. 10/24/2008 until 10 a.m. 10/26/2008, Defense Counsel was unable to file their Findings of Fact and Conclusions of Law until 10/26/2008. Defense Counsel has informed the court that such documents were e-mailed to opposing counsel on 10/24/2008. (JEC) (Entered: 10/27/2008)                                                                                                                                                                      |
| 10/29/2008 |            | Appeal Record Returned: Document Nos. 54 and 109. (DR) (Entered: 10/29/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 10/29/2008 | <u>404</u> | MANDATE of USCA as to <u>307</u> Notice of Appeal, filed by Timothy Cassel, Timothy Hazelet, Scott Skinner, Peter Kertzie, Anthony Hynes, Mark Abad, Matthew S. Osinski, Eugene Margerum, Peter Lotocki, Joseph Fahey, David Denz, Brad Arnone, Thomas Reddington discontinuing and withdrawing the appeal, without costs to any of said parties as against the other. This Stipulation may be filed without further notice with the offices of the U.S. Court of Appeals, Second Circuit. (DR) (Entered: 10/29/2008) |
| 10/31/2008 | <u>405</u> | TRIAL BRIEF <i>Reply to Buffalo Post Hearing Brief</i> by Men of Color Helping all Society, Inc.. (Gill, Thomas) (Entered: 10/31/2008)                                                                                                                                                                                                                                                                                                                                                                                |
| 11/03/2008 | <u>406</u> | REPLY/RESPONSE to re <u>402</u> Trial Brief filed by City of Buffalo. (Attachments: # <u>1</u> Certificate of Service)(Feinstein, Joshua) Modified on 11/4/2008 (KCK). (Entered: 11/03/2008)                                                                                                                                                                                                                                                                                                                          |

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| 12/10/2008 | <u>407</u> | MANDATE of USCA as to <u>390</u> Notice of Interlocutory Appeal filed by Jonathan Lee Riches dismissing the appeal for appellant's failure to either pay the docketing fee or move for leave to proceed in forma pauperis. Any motions pending prior to the entry of this order of dismissal are deemed moot. (DR) (Entered: 12/11/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 03/09/2009 | <u>408</u> | MEMORANDUM AND OPINION dismissing Plaintiffs' Second Amended Complaint "B" to the extent it seeks relief under Title VII based on the City's use of the results of the 1998 Lieutenant's Exam to promote Buffalo firefighters to the rank of lieutenant. This court's 12/19/2009 order enjoining the plaintiffs in the State court action entitled Margerum, et al. v. City of Buffalo, et al., Index No. 1462/2007 and their attorneys from seeking further relief in the State courts is hereby rescinded. A telephone conference shall be held on 3/31/2009 at 10:30 a.m. to discuss a schedule for further proceedings in this action and in 03-CV-580. The court will initiate the call. Signed by Hon. John T. Curtin on 3/4/2009. (JEC) (Entered: 03/09/2009)                 |
| 03/16/2009 | <u>409</u> | MOTION Entry of Judgment re <u>408</u> Memorandum & Opinion,,,, Set Deadlines/Hearings,,,, Terminate Motions,,, by Men of Color Helping all Society, Inc., Michael. Brown.(Gill, Thomas) (Entered: 03/16/2009)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 03/20/2009 | <u>410</u> | <b>THIS JUDGMENT HAS BEEN VACATED (see item #416)...</b> PARTIAL JUDGMENT. Signed by the Clerk of the Court on 3/20/2009. Modified on 4/10/2009 (DLC). (Entered: 03/20/2009)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 03/24/2009 | <u>411</u> | Letter from Joseph S. Brown, Esq., dated 3/23/2009, to Hon. John T. Curtin in opposition to the Clerk's entering of partial judgment. (JEC) (Entered: 03/24/2009)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 03/25/2009 | <u>412</u> | MEMORANDUM IN OPPOSITION re <u>411</u> Letter by Men of Color Helping all Society, Inc.. (Gill, Thomas) (Entered: 03/25/2009)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 03/26/2009 |            | NOTICE of Hearing: Status Telephone Conference shall be held on 3/31/2009 at 10:30 a.m. before Hon. John T. Curtin, as previously scheduled. At that time, the court will also discuss counsel's positions in support of and in opposition to the Partial Judgment entered by the Clerk on 3/20/2009. (JEC) (Entered: 03/26/2009)                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 03/30/2009 | <u>413</u> | STIPULATION OF NOTICE of Appearance by E. Joseph Giroux on behalf of Buffalo Professional Firefighters Association, Inc., Local 282 AFL-CIO-CLC (Giroux, E.) Modified on 3/31/2009 (DLC). (Entered: 03/30/2009)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 03/30/2009 | <u>414</u> | STIPULATION OF NOTICE of Appearance by E. Joseph Giroux on behalf of Ronald Cassel (Giroux, E.) Modified on 3/31/2009 (DLC). (Entered: 03/30/2009)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 03/31/2009 |            | E-Filing Notification: <u>413</u> NOTICE of Appearance by E. Joseph Giroux on behalf of Buffalo Professional Firefighters Association, Inc., Local 282 AFL-CIO-CLC (Giroux, E.) and <u>414</u> NOTICE of Appearance by E. Joseph Giroux on behalf of Ronald Cassel (Giroux, E.), <i>Documents filed under Notice instead of Stipulation. For future reference Text modified. No further action required.</i> (DLC) (Entered: 03/31/2009)                                                                                                                                                                                                                                                                                                                                             |
| 03/31/2009 | <u>415</u> | Minute Entry for proceedings held before Hon. John T. Curtin: Telephone Conference held on 3/31/2009 with Counsel. A discussion was held relative to Defense Counsel's objection to the partial judgment recently entered. Defense Counsel requested, and was granted, the opportunity to file a dispositive motion with respect to the remaining claims. The court directed that such motion and supporting documents shall be filed by 5/18/2009. The court stated that it will issue an order setting this schedule and also ruling upon the application of Defense Counsel to vacate the partial judgment. Appearances: Thomas Gill and Harvey Sanders for Plaintiff; Adam Perry and Jonathan Johnsen for Defendants. Court time: 10:30 – 11:00 a.m. (JEC) (Entered: 03/31/2009) |
| 04/08/2009 |            | Mail Returned as (CLOSED no longer at this location), re <u>410</u> Judgment sent to John D.Tucker. (DLC) (Entered: 04/08/2009)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 04/09/2009 | <u>416</u> | ORDER denying <u>409</u> Plaintiffs' Motion for Entry of Judgment, and the partial judgment entered by the Clerk on 3/19/2009 is vacated. The City is directed to file its renewed Motion for Summary Judgment by 5/18/2009, and a Response shall be filed by 6/22/2009. Signed by Hon. John T. Curtin on 4/3/2009. (JEC) (Entered: 04/09/2009)                                                                                                                                                                                                                                                                                                                                                                                                                                      |

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| 04/10/2009 | <u>417</u> | ORDER substituting Attorney E. Joseph Giroux for Buffalo Professional Firefighters Association, Inc., Local 282 AFL-CIO-CLC; and Ronald Cassel, for Attorney Tracy D. Sammarco. Signed by Hon. John T. Curtin on 4/3/2009. (JEC) (Entered: 04/10/2009)                                                                                                                                                                                                                                                                                                            |
| 04/14/2009 |            | Mail Returned as Unable to Forward re <u>410</u> Partial Judgment sent to jonathan Lee Riches @ Williamsburg Federal Correctional Institution. (DLC) (Entered: 04/14/2009)                                                                                                                                                                                                                                                                                                                                                                                        |
| 05/18/2009 | <u>418</u> | Second MOTION for Summary Judgment by City of Buffalo.(Brown, Joseph) (Entered: 05/18/2009)                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 05/18/2009 | <u>419</u> | DECLARATION signed by Joseph S. Brown re <u>418</u> Second MOTION for Summary Judgment filed by City of Buffalo. (Attachments: # <u>1</u> Exhibit A to G)(Brown, Joseph) (Entered: 05/18/2009)                                                                                                                                                                                                                                                                                                                                                                    |
| 05/18/2009 | <u>420</u> | STATEMENT OF FACTS <i>Pursuant to Rule 56.1</i> by City of Buffalo Related document: <u>418</u> Motion for Summary Judgment. (Brown, Joseph) (Entered: 05/18/2009)                                                                                                                                                                                                                                                                                                                                                                                                |
| 05/18/2009 | <u>421</u> | MEMORANDUM IN SUPPORT re <u>418</u> Second MOTION for Summary Judgment by City of Buffalo, Department of Fire. (Brown, Joseph) (Entered: 05/18/2009)                                                                                                                                                                                                                                                                                                                                                                                                              |
| 05/18/2009 | <u>422</u> | CERTIFICATE OF SERVICE by City of Buffalo re <u>418</u> Second MOTION for Summary Judgment, <u>419</u> Declaration, <u>421</u> Memorandum in Support, <u>420</u> Statement of Facts (Brown, Joseph) (Entered: 05/18/2009)                                                                                                                                                                                                                                                                                                                                         |
| 06/22/2009 | <u>423</u> | MEMORANDUM in Opposition re <u>418</u> Second MOTION for Summary Judgment filed by Men of Color Helping all Society, Inc.. (Attachments: # <u>1</u> Supplement Statement of Material Facts in Dispute, # <u>2</u> Appendix Appendix to Material Facts in Dispute, # <u>3</u> Exhibit Exhibit A-E to Appendix, # <u>4</u> Exhibit Exhibit F to Appendix, # <u>5</u> Exhibit Exhibit G-H to Appendix, # <u>6</u> Exhibit Exhibits I-N to Appendix, # <u>7</u> Exhibit Exhibit O to Appendix, # <u>8</u> Certificate of Service)(Gill, Thomas) (Entered: 06/22/2009) |
| 07/02/2009 | <u>424</u> | ORDER granting two-week extension until 7/20/2009 to submit reply briefs with respect to the summary judgment motions. Signed by Hon. John T. Curtin on 6/30/2009. (JEC) (Entered: 07/02/2009)                                                                                                                                                                                                                                                                                                                                                                    |
| 07/08/2009 | <u>425</u> | MEMORANDUM in Opposition re <u>418</u> Second MOTION for Summary Judgment <i>Discussing Ricci v Destefano</i> filed by Men of Color Helping all Society, Inc.. (Gill, Thomas) (Entered: 07/08/2009)                                                                                                                                                                                                                                                                                                                                                               |
| 07/08/2009 | <u>426</u> | CONTINUATION OF EXHIBITS by Men of Color Helping all Society, Inc.. to <u>425</u> Memorandum in Opposition to Motion <i>Slip Opinion</i> filed by Men of Color Helping all Society, Inc.. (Gill, Thomas) (Entered: 07/08/2009)                                                                                                                                                                                                                                                                                                                                    |
| 07/10/2009 | <u>427</u> | Letter from Joshua Feinstein, Esq., dated 7/8/2009, to Hon. John T. Curtin re Plaintiffs' Supplemental Memorandum Opposing Summary Judgment. (JEC) (Entered: 07/10/2009)                                                                                                                                                                                                                                                                                                                                                                                          |
| 07/20/2009 | <u>428</u> | RESPONSE in Support re <u>418</u> Second MOTION for Summary Judgment filed by City of Buffalo. (Brown, Joseph) (Entered: 07/20/2009)                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 07/20/2009 | <u>429</u> | CERTIFICATE OF SERVICE by City of Buffalo re <u>428</u> Response in Support of Motion (Brown, Joseph) (Entered: 07/20/2009)                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 09/15/2009 | <u>430</u> | MOTION for Leave to File <i>Redacted Exhibit</i> by Men of Color Helping all Society, Inc.. (Attachments: # <u>1</u> Exhibit Proposed Redacted exhibits)(Gill, Thomas) (Entered: 09/15/2009)                                                                                                                                                                                                                                                                                                                                                                      |
| 10/30/2009 | <u>431</u> | TEXT ORDER re <u>430</u> MOTION of Plaintiffs for Leave to File Redacted Exhibit: MOTION GRANTED. SO ORDERED. Signed by Hon. John T. Curtin on 10/30/2009. (JEC) (Entered: 10/30/2009)                                                                                                                                                                                                                                                                                                                                                                            |
| 05/10/2010 | <u>432</u> | DECISION AND ORDER dismissing Defendants' <u>418</u> Second MOTION for Summary Judgment, and Second Amended Complaint "B" is dismissed in its entirety. Signed by Hon. John T. Curtin on 5/7/2010. (JEC) (Entered: 05/10/2010)                                                                                                                                                                                                                                                                                                                                    |

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| 05/12/2010 | <u>433</u> | MOTION for Certificate of Appealability <i>and for Judgment Under Rule 58</i> by Men of Color Helping all Society, Inc.. (Attachments: # <u>1</u> Affidavit Declaration of Thomas Gill, # <u>2</u> Memorandum in Support Memorandum in Support)(Gill, Thomas) (Entered: 05/12/2010)                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 05/17/2010 | 434        | NOTICE re <u>433</u> Plaintiffs' MOTION for Certificate of Appealability and for Judgment Under Rule 58: Defense Counsel is directed to file a Response to this Motion on or before 5/24/2010. (JEC) (Entered: 05/17/2010)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 05/17/2010 |            | Set/Reset Deadlines: Responses due by 5/24/2010. (JEC) (Entered: 05/17/2010)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 05/21/2010 | <u>435</u> | NOTICE OF APPEAL as to <u>432</u> Decision and Order by M.O.C.H.A., Society, Inc., Willie Broadus, Robert Grice, Robert Jones, Victor Muhammad, William Raspberry, John Tucker(215 Broadway, Buffalo, New York, Individually and as representative of African American firefighters employed by the City of Buffalo and the Buffalo Fire Department, who have been discriminated against by the promotional policies), Michael Brown. Filing fee paid \$455.00. (DLC) (Entered: 05/24/2010)                                                                                                                                                                                                                      |
| 05/24/2010 | <u>436</u> | Letter from Joseph S. Brown, Esq., dated 5/24/2010, to Hon. John T. Curtin requesting a one-week extension from 5/24/2010 until 6/1/2010 to respond to Plaintiff's Motion to enter Judgment. (JEC) (Entered: 05/24/2010)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 05/24/2010 | 437        | TEXT ORDER: The <u>436</u> Letter Request of Joseph S. Brown, Esq. for a one-week extension until 6/1/2010 in which to file a Response to Plaintiff's Motion to Enter Judgment is hereby approved. SO ORDERED. Signed by Hon. John T. Curtin on 5/24/2010. (JEC) (Entered: 05/24/2010)                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 05/25/2010 | <u>438</u> | Letter from Thomas S. Gill, Esq., dated 5/25/2010, to Hon. John T. Curtin requesting the entering of judgment in this case. (JEC) (Entered: 05/25/2010)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 06/01/2010 | <u>439</u> | MOTION to Withdraw <u>433</u> MOTION for Certificate of Appealability <i>and for Judgment Under Rule 58 By Plaintiffs including</i> by Men of Color Helping all Society, Inc..(Gill, Thomas) (Entered: 06/01/2010)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 06/03/2010 | 440        | TEXT ORDER: Pursuant to <u>439</u> Plaintiffs' Request to Withdraw Motion for Certificate of Appealability, such <u>433</u> Motion is hereby withdrawn. SO ORDERED.Signed by Hon. John T. Curtin on 6/3/2010. (JEC) (Entered: 06/03/2010)                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 06/22/2010 | <u>441</u> | CLERKS CERTIFICATE filed and electronically sent to Court of Appeals. (DR) (Entered: 06/22/2010)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 11/12/2010 |            | NOTICE of Hearing: Status Conference set for 12/8/2010 2:00 PM in the Chambers of Hon. John T. Curtin. Mr. Gill may participate by telephone.(JEC) (Entered: 11/12/2010)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 12/02/2010 |            | NOTICE of Hearing: Status Conference set for 12/13/2010 at 2:00 PM in the Chambers of Hon. John T. Curtin, adjourned from 12/8/2010. Mr. Gill may participate by telephone. (JEC) (Entered: 12/02/2010)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 12/06/2010 |            | NOTICE of Hearing: Status Conference set for 12/20/2010 at 2 p.m. before Hon. John T. Curtin, adjourned from 12/13/2010. The court apologizes for the several adjournments of this conference. This conference shall take place in chambers; however, Mr. Gill may participate by telephone.(JEC) (Entered: 12/06/2010)                                                                                                                                                                                                                                                                                                                                                                                          |
| 12/20/2010 | 442        | Minute Entry for proceedings held before Hon. John T. Curtin: Status Conference held on 12/20/2010 with counsel. A discussion was held relative to the scheduling of final discovery and dispositive motion practice in Complaint A (drug-testing policy). Counsel for the City will make arrangements for the deposition of former Deputy Commissioner Sixt on or before 1/31/2011. The City will file a motion for summary judgment on or before 3/15/2011, and upon the filing of such motion the court will then set response and reply dates. Appearances: Thomas Gill and Harvey Sanders for Plaintiffs; Adam Perry and Marc Brown for Defendant. Court time: 2:00 – 2:30 p.m. (JEC) (Entered: 12/21/2010) |
| 03/17/2011 | <u>443</u> | ORDER granting an extension of time for Plaintiffs' Counsel to complete depositions until 4/15/2011. The time for Defense Counsel to file a Motion for Summary Judgment is extended until 5/31/2011. Signed by Hon. John T. Curtin on 3/15/2011. (JEC) (Entered: 03/17/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                     |

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| 04/11/2011 | <u>444</u> | MOTION for Entry of Judgment under Rule 54(b) by Maurice Birdsong, Otto Brewer, Jr, Willie Broadus, Michael. Brown, Robert Grice, Men of Color Helping all Society, Inc., William Raspberry, John. Tucker(118 Urban St., Buffalo, New York, Individually and as representative of African American firefighters previously employed by the City of Buffalo and the Buffalo Fire Department, who were terminated pursuant to the Drug Testing). (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Text of Proposed Order)(Gill, Thomas) (Entered: 04/11/2011)                                                            |
| 04/11/2011 | <u>445</u> | AMENDED DOCUMENT by Maurice Birdsong, Otto Brewer, Jr, Willie Broadus, Michael. Brown, Robert Jones, Men of Color Helping all Society, Inc., William Raspberry, John. Tucker(118 Urban St., Buffalo, New York, Individually and as representative of African American firefighters previously employed by the City of Buffalo and the Buffalo Fire Department, who were terminated pursuant to the Drug Testing). Amendment to <u>444</u> MOTION for Entry of Judgment under Rule 54(b) MOTION for Entry of Judgment under Rule 54(b) <i>Amended Memorandum of Law Including Exhibits</i> . (Gill, Thomas) (Entered: 04/11/2011) |
| 04/12/2011 | <u>446</u> | Letter from Thomas S. Gill, Esq., dated 4/11/2011, to Hon. John T. Curtin re E-Mail correspondence from Second Circuit. (JEC) (Entered: 04/12/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 04/12/2011 | <u>447</u> | TAKE NOTICE THAT opposing counsel are directed to file a Response to Plaintiffs' <u>444</u> Motion for Judgment on or before 5/11/2011. If Plaintiffs' Counsel desires, a Reply may be filed on or before 5/27/2011. The court will then consider the Motion submitted. (JEC) (Entered: 04/12/2011)                                                                                                                                                                                                                                                                                                                              |
| 04/12/2011 |            | Set/Reset Deadlines: Responses due by 5/11/2011. Reply due by 5/27/2011. (JEC) (Entered: 04/12/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 04/12/2011 | <u>448</u> | Letter from Joseph S. Brown, Esq., dated 4/12/2011, to Hon. John T. Curtin in response to <u>446</u> Letter from Thomas S. Gill, Esq. (JEC) (Entered: 04/12/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 05/06/2011 | <u>449</u> | Letter from Harvey P. Sanders, Esq., dated 5/5/2011, to Hon. John T. Curtin requesting an extension of time for the completion of depositions and the filing of dispositive motions. (JEC) (Entered: 05/06/2011)                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 05/06/2011 | <u>450</u> | TAKE NOTICE THAT pursuant to the <u>449</u> Letter of Harvey P. Sanders, Esq., counsel for Plaintiffs, and there being no opposition from defense counsel, the time for Plaintiffs' Counsel to complete depositions is extended until 6/15/2011. The time for Defense Counsel to file a Motion for Summary Judgment is therefore extended until 8/8/2011. (JEC) (Entered: 05/06/2011)                                                                                                                                                                                                                                            |
| 05/06/2011 |            | Set/Reset Deadlines: Depositions completed by 6/15/2011; Motion due by 8/8/2011. (JEC) (Entered: 05/06/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 05/16/2011 | <u>451</u> | Letter from Joseph S. Brown, Esq., dated 5/12/2011, to Hon. John T. Curtin stating that Defendants–Appellees have elected not to submit any opposition to Plaintiffs' Motion for Judgment. (JEC) (Entered: 05/16/2011)                                                                                                                                                                                                                                                                                                                                                                                                           |
| 05/16/2011 | <u>452</u> | Letter from Thomas S. Gill, Esq., dated 5/13/2011, to Hon. John T. Curtin re <u>451</u> Letter from Joseph S. Brown, Esq. (JEC) (Entered: 05/16/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 05/23/2011 | <u>455</u> | ORDER of USCA as to the motion by Appellant Men of Color Helping All Society, Inc., et al for reconsideration of the order of April 6, 2011 is denied. If the district court issues a Rule 54(b) ruling, the plaintiff must pay a new filing fee for a new Notice of Appeal, and that appeal will go to a new panel. (DLC) (Entered: 05/26/2011)                                                                                                                                                                                                                                                                                 |
| 05/24/2011 | <u>453</u> | DECISION AND ORDER granting <u>444</u> Plaintiffs' MOTION for Entry of Judgment under Rule 54(b). The Clerk is directed to enter final judgment in favor of defendants on the claims raised in Complaint B pursuant to Fed. R. Civ. P. 54(b). Signed by Hon. John T. Curtin on 5/23/2011. (JEC) (Entered: 05/24/2011)                                                                                                                                                                                                                                                                                                            |
| 05/25/2011 | <u>454</u> | INTERIM JUDGMENT in favor of defendants on the claims raised in Complaint B pursuant to Fed. R. Civ. P. 54(b). Signed by the Clerk of the Court on 5/25/2011. (DLC) Modified on 5/25/2011 (DLC). (Entered: 05/25/2011)                                                                                                                                                                                                                                                                                                                                                                                                           |
| 05/29/2011 | <u>456</u> | NOTICE OF APPEAL as to <u>454</u> Judgment by Otto Brewer, Jr, Willie Broadus, Michael. Brown, Robert Grice, Robert Jones, Men of Color Helping all Society, Inc., Victor Muhammad, William Raspberry, John. Tucker(118 Urban St., Buffalo, New                                                                                                                                                                                                                                                                                                                                                                                  |

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|            |            | York, Individually and as representative of African American firefighters previously employed by the City of Buffalo and the Buffalo Fire Department, who were terminated pursuant to the Drug Testing). Filing fee \$ 455, receipt number 0209-1388678. Appeal Record due by 6/13/2011. (Gill, Thomas) (Entered: 05/29/2011)                                                                                                                                                                                                                      |
| 05/29/2011 | <u>457</u> | DESIGNATION of Record on Appeal by Willie Broadus, Michael. Brown, Robert Grice, Robert Jones, Edward Josey, Men of Color Helping all Society, Inc., William Raspberry, John. Tucker(118 Urban St., Buffalo, New York, Individually and as representative of African American firefighters previously employed by the City of Buffalo and the Buffalo Fire Department, who were terminated pursuant to the Drug Testing) re <u>456</u> Notice of Appeal,, (Gill, Thomas) (Entered: 05/29/2011)                                                     |
| 05/31/2011 |            | Remark – Pursuant to Local Rule 12.1 of the U.S. Court of Appeals for the Second Circuit, Forms C and D must be completed within 14 days after the of a Notice of Appeal. Forms C and D can be obtained on the Second Circuit website at: www.ca2.uscourts.gov (DLC) (Entered: 05/31/2011)                                                                                                                                                                                                                                                         |
| 06/07/2011 | <u>458</u> | MANDATE of USCA as to <u>456</u> Notice of Appeal. the appeal is dismissed sua sponte for lack of jurisdiction. (DLC) (Entered: 06/08/2011)                                                                                                                                                                                                                                                                                                                                                                                                        |
| 06/08/2011 |            | Mail Returned as closed. re <u>454</u> Judgment sent to John D. Tucker (DLC) (Entered: 06/08/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 06/08/2011 |            | Mail Returned as Undeliverable. Re <u>454</u> Judgment sent to Jonathan Lee Riches. (DLC) (Entered: 06/08/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 06/13/2011 |            | Mail Returned as attempted not known. Re <u>454</u> Judgment sent to Gino Romano Shirley. (DLC) (Entered: 06/13/2011)                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 06/22/2011 | <u>459</u> | BILL OF COSTS by Buffalo Professional Firefighters Association, Inc., Local 282 AFL-CIO-CLC, Ronald Cassel, City of Buffalo, City of Buffalo, Department of Fire, John Doe, Cornelius J. Keane, John D. Sixt. (Brown, Joseph) (Entered: 06/22/2011)                                                                                                                                                                                                                                                                                                |
| 06/24/2011 | <u>460</u> | CLERKS CERTIFICATE filed and electronically sent to Court of Appeals (Attachments: # <u>1</u> Index to Record on Appeal, # <u>2</u> Index Continued)(DR) (Entered: 06/24/2011)                                                                                                                                                                                                                                                                                                                                                                     |
| 06/27/2011 | <u>461</u> | MOTION for Bill of Costs <i>Opposing Bill of Costs</i> by Maurice Birdsong, Otto Brewer, Jr, Willie Broadus, Michael. Brown, Robert Grice, Men of Color Helping all Society, Inc., Victor Muhammad, William Raspberry, John. Tucker(118 Urban St., Buffalo, New York, Individually and as representative of African American firefighters previously employed by the City of Buffalo and the Buffalo Fire Department, who were terminated pursuant to the Drug Testing). (Attachments: # <u>1</u> Declaration)(Gill, Thomas) (Entered: 06/27/2011) |
| 06/28/2011 |            | E-Filing Notification: For future reference the s/ should be on the same line with the attorney signature. Re <u>461</u> MOTION for Bill of Costs opposing Bill of Costs. (DLC) (Entered: 06/28/2011)                                                                                                                                                                                                                                                                                                                                              |
| 06/29/2011 | <u>462</u> | TAKE NOTICE THAT Plaintiffs' Counsel has filed a <u>461</u> Motion in Opposition to Defendant's <u>459</u> Bill of Costs (Item 459). Defendant's Reply to this Motion, if any, shall be submitted by 7/15/2011, at which time the court will consider the matter submitted for determination of allowance as costs pursuant to 28 U.S.C. 1920 and Fed. R. Civ. P. 54(d)(1). (Entered: 06/29/2011)                                                                                                                                                  |
| 06/29/2011 |            | Set/Reset Deadlines: Reply due by 7/15/2011. (JEC) (Entered: 06/29/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 07/15/2011 | <u>463</u> | REPLY/RESPONSE to re <u>459</u> Bill of Costs filed by City of Buffalo. (Attachments: # <u>1</u> Certificate of Service)(Brown, Joseph) (Entered: 07/15/2011)                                                                                                                                                                                                                                                                                                                                                                                      |
| 07/28/2011 | <u>464</u> | Letter from Joseph S. Brown, Esq., dated 7/27/2011, to Hon. John T. Curtin requesting an extension of the dispositive motion deadline from 8/8/2011 to 8/19/2011. (JEC) (Entered: 07/28/2011)                                                                                                                                                                                                                                                                                                                                                      |
| 07/28/2011 | <u>465</u> | TAKE NOTICE THAT pursuant to the <u>464</u> Letter Request of Jopseh S. Brown, Esq., counsel for Defendants, and there being no objection from Plaintiffs' Counsel, the time for Defense Counsel to file a dispositive motion is extended from 8/8/2011 until 8/19/2011. Plaintiffs' counsel may then have until 9/15/2011 to file a Response. A                                                                                                                                                                                                   |

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|            |            | Reply, if desired, may be filed not later than 10/6/2011. The court will then consider the motion submitted. (JEC) Modified on 7/29/2011 (JEC). (Entered: 07/28/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 07/28/2011 |            | Set Deadlines/Hearings: Motion due by 8/19/2011; Response due by 9/15/2011; Reply due by 10/6/2011. (JEC) (Entered: 07/28/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 08/04/2011 | <u>466</u> | ORDER directing the Clerk of Court to take the steps necessary to allow the taxation of costs in the amount of \$3,004.37, as set forth in defendants' Bill of Costs (Item 459), and to include such costs in the judgment. Signed by Hon. John T. Curtin on 8/3/2011. (JEC) (Entered: 08/04/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 08/19/2011 | <u>467</u> | MOTION for Summary Judgment by City of Buffalo, Cornelius J. Keane, John D. Sixt. (Attachments: # <u>1</u> Feinstein Declaration, # <u>2</u> Exhibit A)(Brown, Joseph) (Entered: 08/19/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 08/19/2011 | <u>468</u> | MEMORANDUM IN SUPPORT re <u>467</u> MOTION for Summary Judgment by City of Buffalo, Cornelius J. Keane, John D. Sixt. (Brown, Joseph) (Entered: 08/19/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 08/19/2011 | <u>469</u> | DECLARATION re <u>467</u> MOTION for Summary Judgment filed by City of Buffalo, Cornelius J. Keane, John D. Sixt. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3-4, # <u>4</u> Exhibit 5, # <u>5</u> Exhibit 6, # <u>6</u> Exhibit 7-8, # <u>7</u> Exhibit 9-15, # <u>8</u> Exhibit 16-18, # <u>9</u> Exhibit 19-24, # <u>10</u> Exhibit 25, # <u>11</u> Exhibit 26-27, # <u>12</u> Exhibit 28, # <u>13</u> Exhibit 29, # <u>14</u> Exhibit 30-35, # <u>15</u> Exhibit 36, # <u>16</u> Exhibit 37, # <u>17</u> Exhibit 38-42, # <u>18</u> Exhibit 43, # <u>19</u> Exhibit 44-50, # <u>20</u> Exhibit 51-53, # <u>21</u> Exhibit 54-56, # <u>22</u> Exhibit 57-61, # <u>23</u> Exhibit 62, # <u>24</u> Exhibit 63-68, # <u>25</u> Exhibit 69, # <u>26</u> Exhibit 70-72, # <u>27</u> Exhibit 73, # <u>28</u> Exhibit 74, # <u>29</u> Exhibit 75-76, # <u>30</u> Exhibit 77, # <u>31</u> Exhibit 78-82)(Brown, Joseph) (Entered: 08/19/2011) |
| 08/19/2011 | <u>470</u> | MOTION for Summary Judgment by Buffalo Professional Firefighters Association, Inc., Local 282 AFL-CIO-CLC, Buffalo Professional Firefighters Association, Local 282, Ronald Cassel. (Attachments: # <u>1</u> Attorney Declaration in Support of Motion, # <u>2</u> Statement of Undisputed Facts, # <u>3</u> Exhibit 1-10, # <u>4</u> Exhibit 11-17, # <u>5</u> Exhibit 18-23, # <u>6</u> Exhibit 24-27, # <u>7</u> Exhibit 28-31, # <u>8</u> Exhibit 32, # <u>9</u> Memorandum in Support)(Johnsen, Jonathan) (Entered: 08/19/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 08/19/2011 | <u>471</u> | STATEMENT OF FACTS Pursuant to Local Rule 56.1 by City of Buffalo, Cornelius J. Keane, John D. Sixt Related document: <u>467</u> Motion for Summary Judgment. (Brown, Joseph) (Entered: 08/19/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 08/19/2011 | <u>472</u> | CERTIFICATE OF SERVICE by City of Buffalo, Cornelius J. Keane, John D. Sixt re <u>467</u> MOTION for Summary Judgment, <u>471</u> Statement of Facts, <u>469</u> Declaration,, <u>468</u> Memorandum in Support (Brown, Joseph) (Entered: 08/19/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 08/19/2011 | <u>474</u> | Sealed Document. (DLC) (Entered: 08/22/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 08/22/2011 |            | E-Filing Notification: Document missing attorneys electronic signature. Action required: re-file complete document with proper signature and new proof of service. Re <u>470</u> MOTION for Summary Judgment (DLC) (Entered: 08/22/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 08/22/2011 | <u>473</u> | MOTION for Summary Judgment by Buffalo Professional Firefighters Association, Inc., Local 282 AFL-CIO-CLC, Buffalo Professional Firefighters Association, Local 282, Ronald Cassel. (Attachments: # <u>1</u> Attorney Declaration, # <u>2</u> Statement of Undisputed Facts, # <u>3</u> Exhibit 1-10, # <u>4</u> Exhibit 11-17, # <u>5</u> Exhibit 18-23, # <u>6</u> Exhibit 24-27, # <u>7</u> Exhibit 28-31, # <u>8</u> Exhibit 32, # <u>9</u> Memorandum in Support)(Johnsen, Jonathan) (Entered: 08/22/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 09/15/2011 | <u>475</u> | Letter from Harvey P. Sanders, Esq., dated 9/15/2011, to Hon. John T. Curtin requesting an extension until 11/18/2011 for Plaintiff to file a Response to Defendant's Dispositive Motion. (JEC) (Entered: 09/15/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 09/15/2011 | <u>476</u> | TAKE NOTICE THAT pursuant to the <u>475</u> Letter of Harvey P. Sanders, Esq., and there being no objection from Defense Counsel, the time for Plaintiffs' Counsel to respond to Defendant's Dispositive Motion is extended from 9/15/2011 until 11/18/2011. Accordingly, the time for Defense Counsel to file a Reply, if desired, is extended from 10/6/2011 until 12/19/2011. (JEC) (Entered: 09/15/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 09/15/2011 |            | Set/Reset Deadlines: Responses due by 11/18/2011; Replies due by 12/19/2011. (JEC) (Entered: 09/15/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

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| 09/16/2011 | <u>477</u> | ORDER directing the amount of taxable costs set forth in the order entered 8/4/2011 be paid directly to the City forthwith. Signed by Hon. John T. Curtin on 9/15/2011. (JEC) (Entered: 09/16/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 11/16/2011 | <u>478</u> | Letter from Harvey P. Sanders, Esq., dated 11/15/2011, to Hon. John T. Curtin requesting an extension of time in which to file a response to defense counsel's dispositive motion. (JEC) (Entered: 11/16/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 11/16/2011 | 479        | TAKE NOTICE THAT the <u>478</u> Letter Request of Harvey P. Sanders, Plaintiffs' Counsel, is granted. Therefore, the time for Plaintiffs' Counsel to file a Response to the dispositive motion of Defense Counsel is extended from 11/18/2011 until 12/14/2011. Accordingly, the time for Defense Counsel to file a Reply, if desired, is extended from 12/19/2011 until 1/17/2012. (JEC) (Entered: 11/16/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 11/16/2011 |            | Set/Reset Deadlines: Responses due by 12/14/2011. Replies due by 1/17/2012. (JEC) (Entered: 11/16/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 12/15/2011 | <u>480</u> | Letter from Harvey P. Sanders, Esq., dated 12/13/2011, to Hon. John T. Curtin requesting an extension of time from 12/14/2011 to 12/30/2011 to file Response to Defendants' dispositive motion. (JEC) (Entered: 12/15/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 12/15/2011 | 481        | TAKE NOTICE THAT pursuant to <u>480</u> Letter of Haravey P. Sanders, counsel for Plaintiffs, and there being no objection from Defense Counsel, the time for Plaintiffs' Counsel to file a response to Defendants' dispositive motion is extended from 12/14/2011 until 12/30/2011. Accordingly, the time for Defense Counsel to file a Reply is extended from 1/17/2012 until 2/15/2012. (JEC) (Entered: 12/15/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 12/15/2011 |            | Set/Reset Deadlines: Responses due by 12/30/2011; Replies due by 2/15/2012. (JEC) (Entered: 12/15/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 12/29/2011 | <u>482</u> | Letter from Harvey P. Sanders, Esq., dated 12/29/2011, to Hon. John T. Curtin requesting an extension from 12/30/2011 until 2/3/2012 to file a Response to Defendants' dispositive motion. (JEC) (Entered: 12/29/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 12/29/2011 | 483        | TAKE NOTICE THAT pursuant to <u>482</u> Letter of Haravey P. Sanders, counsel for Plaintiffs, and there being no objection from Defense Counsel, the time for Plaintiffs' Counsel to file a Response to Defendants' dispositive motion is extended from 12/30/2011 until 2/3/2012. Accordingly, the time for Defense Counsel to file a Reply is extended from 2/15/2012 until 3/16/2012.(JEC) (Entered: 12/29/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 12/29/2011 |            | Set/Reset Deadlines: Responses due by 2/3/2012; Replies due by 3/16/2012. (JEC) (Entered: 12/29/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 02/03/2012 | <u>484</u> | AFFIDAVIT in Opposition re <u>467</u> MOTION for Summary Judgment, <u>473</u> MOTION for Summary Judgment, <u>470</u> MOTION for Summary Judgment filed by Maurice Birdsong, Otto Brewer, Jr, Michael. Brown, Walter. Davis, David Gray, Arthur Harris, Robert Jones, Walter. Jones, Edward Josey, Harwyn Louie, Men of Color Helping all Society, Inc., Lawrence Pierce, William Raspberry, Terry Scott, Michael Southern, John. Tucker(118 Urban St., Buffalo, New York, Individually and as representative of African American firefighters previously employed by the City of Buffalo and the Buffalo Fire Department, who were terminated pursuant to the Drug Testing), John. Tucker(215 Broadway, Buffalo, New York, Individually and as representative of African American firefighters employed by the City of Buffalo and the Buffalo Fire Department, who have been discriminated against by the promotional policies), Michael Varner, Cranston. Wilson. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Affidavit, # <u>3</u> Affidavit, # <u>4</u> Certificate of Service)(Sanders, Harvey) (Entered: 02/03/2012) |
| 02/03/2012 | <u>485</u> | RESPONSE in Opposition re <u>467</u> MOTION for Summary Judgment, <u>473</u> MOTION for Summary Judgment, <u>470</u> MOTION for Summary Judgment <i>Statement Pursuant to Rule 56.1</i> filed by Maurice Birdsong, Otto Brewer, Jr, Michael. Brown, Walter. Davis, David Gray, Arthur Harris, Robert Jones, Walter. Jones, Edward Josey, Harwyn Louie, Men of Color Helping all Society, Inc., Lawrence Pierce, William Raspberry, Terry Scott, Michael Southern, John. Tucker(118 Urban St., Buffalo, New York, Individually and as representative of African American firefighters previously employed by the City of Buffalo and the Buffalo Fire Department, who were terminated pursuant to the Drug Testing), John. Tucker(215 Broadway, Buffalo, New York, Individually and as representative of African American firefighters employed by the City of Buffalo and the Buffalo Fire Department, who have been discriminated                                                                                                                                                                                             |

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|            |            | against by the promotional policies), Michael Varner, Cranston. Wilson. (Attachments: # <u>1</u> Certificate of Service)(Sanders, Harvey) (Entered: 02/03/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 02/03/2012 | <u>486</u> | RESPONSE in Opposition re <u>467</u> MOTION for Summary Judgment, <u>473</u> MOTION for Summary Judgment, <u>470</u> MOTION for Summary Judgment <i>Statement Pursuant to Rule 56.1</i> filed by Maurice Birdsong, Otto Brewer, Jr, Michael. Brown, Walter. Davis, David Gray, Arthur Harris, Robert Jones, Walter. Jones, Edward Josey, Harwyn Louie, Men of Color Helping all Society, Inc., Lawrence Pierce, William Raspberry, Terry Scott, Michael Southern, John. Tucker(118 Urban St., Buffalo, New York, Individually and as representative of African American firefighters previously employed by the City of Buffalo and the Buffalo Fire Department, who were terminated pursuant to the Drug Testing), John. Tucker(215 Broadway, Buffalo, New York, Individually and as representative of African American firefighters employed by the City of Buffalo and the Buffalo Fire Department, who have been discriminated against by the promotional policies), Michael Varner, Cranston. Wilson. (Attachments: # <u>1</u> Certificate of Service)(Sanders, Harvey) (Entered: 02/03/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 02/03/2012 | <u>487</u> | DECLARATION re <u>484</u> Affidavit in Opposition to Motion,,,, <u>485</u> Response in Opposition to Motion,,,, <u>486</u> Response in Opposition to Motion,,,, filed by Cranston. Wilson, Maurice Birdsong, Harwyn Louie, Michael. Brown, Men of Color Helping all Society, Inc., William Raspberry, John. Tucker(118 Urban St., Buffalo, New York, Individually and as representative of African American firefighters previously employed by the City of Buffalo and the Buffalo Fire Department, who were terminated pursuant to the Drug Testing), Walter. Jones, Edward Josey, Lawrence Pierce, Terry Scott, Arthur Harris, Michael Varner, Walter. Davis, David Gray, Michael Southern, Otto Brewer, Jr, Robert Jones, John. Tucker(215 Broadway, Buffalo, New York, Individually and as representative of African American firefighters employed by the City of Buffalo and the Buffalo Fire Department, who have been discriminated against by the promotional policies) filed by Cranston. Wilson, Maurice Birdsong, Harwyn Louie, Michael. Brown, Men of Color Helping all Society, Inc., William Raspberry, John. Tucker(118 Urban St., Buffalo, New York, Individually and as representative of African American firefighters previously employed by the City of Buffalo and the Buffalo Fire Department, who were terminated pursuant to the Drug Testing), Walter. Jones, Edward Josey, Lawrence Pierce, Terry Scott, Arthur Harris, Michael Varner, Walter. Davis, David Gray, Michael Southern, Otto Brewer, Jr, Robert Jones, John. Tucker(215 Broadway, Buffalo, New York, Individually and as representative of African American firefighters employed by the City of Buffalo and the Buffalo Fire Department, who have been discriminated against by the promotional policies). (Attachments: # <u>1</u> Exhibit A-C, # <u>2</u> Exhibit D-J, # <u>3</u> Exhibit K-AA, # <u>4</u> Certificate of Service)(Sanders, Harvey) (Entered: 02/03/2012) |
| 02/03/2012 | <u>488</u> | MEMORANDUM in Opposition re <u>467</u> MOTION for Summary Judgment, <u>473</u> MOTION for Summary Judgment, <u>470</u> MOTION for Summary Judgment filed by Maurice Birdsong, Otto Brewer, Jr, Willie Broadus, Michael. Brown, Walter. Davis, David Gray, Robert Grice, Arthur Harris, Robert Jones, Walter. Jones, Edward Josey, Harwyn Louie, Men of Color Helping all Society, Inc., Victor Muhammad, Lawrence Pierce, William Raspberry, Terry Scott, Michael Southern, John. Tucker(118 Urban St., Buffalo, New York, Individually and as representative of African American firefighters previously employed by the City of Buffalo and the Buffalo Fire Department, who were terminated pursuant to the Drug Testing), John. Tucker(215 Broadway, Buffalo, New York, Individually and as representative of African American firefighters employed by the City of Buffalo and the Buffalo Fire Department, who have been discriminated against by the promotional policies), Michael Varner, Cranston. Wilson. (Attachments: # <u>1</u> Certificate of Service)(Sanders, Harvey) (Entered: 02/03/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 03/14/2012 | <u>489</u> | Letter from Joseph S. Brown, Esq., dated 3/14/2012, to Hon. John T. Curtin requesting an extension from 3/16/2012 until 4/16/2012 in which to file a Reply in Support of Motion for Summary Judgment. (JEC) (Entered: 03/14/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 03/14/2012 | <u>490</u> | TAKE NOTICE THAT pursuant to the <u>489</u> Letter of Defense Counsel Joseph S. Brown, and there being no objection from Plaintiffs' Counsel, the time for Defense Counsel to file a Reply in support of their Motion for Summary Judgment is extended from 3/16/2012 until 4/16/2012. (JEC) (Entered: 03/14/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

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| 03/14/2012 |            | Set/Reset Deadlines: Replies due by 4/16/2012. (JEC) (Entered: 03/14/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 04/13/2012 | <u>491</u> | Letter from Joseph S. Brown, Esq., dated 4/12/2012, to Hon. John T. Curtin requesting that defendants be granted permission to exceed the 10–page limit for their reply memoranda of law. (JEC) (Entered: 04/13/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 04/13/2012 | <u>492</u> | TEXT ORDER: The Defendants' <u>491</u> Letter Motion to exceed the 10–page limit for their Reply Memoranda of Law is hereby GRANTED. SO ORDERED. Signed by Hon. John T. Curtin on 4/13/2012. (JEC) (Entered: 04/13/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 04/16/2012 | <u>493</u> | REPLY to Response to Motion re <u>473</u> MOTION for Summary Judgment filed by Buffalo Professional Firefighters Association, Inc., Local 282 AFL–CIO–CLC, Buffalo Professional Firefighters Association, Local 282, Ronald Cassel. (Johnsen, Jonathan) (Entered: 04/16/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 04/16/2012 | <u>494</u> | RESPONSE in Support re <u>467</u> MOTION for Summary Judgment filed by City of Buffalo. (Brown, Joseph) (Entered: 04/16/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 04/16/2012 | <u>495</u> | DECLARATION signed by Joseph S. Brown re <u>494</u> Response in Support of Motion filed by City of Buffalo filed by City of Buffalo. (Attachments: # <u>1</u> Exhibit A–H)(Brown, Joseph) (Entered: 04/16/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 04/16/2012 | <u>496</u> | DECLARATION signed by Vincent R. Gugliuzza re <u>494</u> Response in Support of Motion filed by City of Buffalo filed by City of Buffalo. (Attachments: # <u>1</u> Exhibit A)(Brown, Joseph) (Entered: 04/16/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 04/16/2012 | <u>497</u> | CERTIFICATE OF SERVICE by City of Buffalo re <u>494</u> Response in Support of Motion, <u>495</u> Declaration, <u>496</u> Declaration (Brown, Joseph) (Entered: 04/16/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 05/30/2012 | <u>498</u> | DECISION AND ORDER granting the [467, 470] Summary Judgment Motions filed by the City Defendants and the Union, and the claims alleged in Third Amended Complaint "A" are dismissed. The Clerk is directed to enter final judgment pursuant to Fed. R. Civ. P. 54 in favor of all Defendants, dismissing this action in its entirety. Signed by Hon. John T. Curtin on 5/30/2012. (JEC) (Entered: 05/30/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 05/31/2012 | <u>499</u> | FINAL JUDGMENT granting the [Dkt Nos. 467, 470] Summary Judgment Motions filed by the City Defendants and the Union, and the claims alleged in Third Amended Complaint "A" are dismissed. The Clerk is directed to enter final judgment pursuant to Fed. R. Civ. P. 54 in favor of all Defendants, dismissing this action in its entirety. Signed by the Clerk of the Court on 5/31/2012. (DLC) Modified on 5/31/2012 (DLC). (Additional attachment(s) added on 5/31/2012: # <u>1</u> final Jgm) (DLC). (Entered: 05/31/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 06/28/2012 | <u>500</u> | MOTION for Extension of Time to File a <i>Notice of Appeal</i> by Maurice Birdsong, Otto Brewer, Jr, Willie Broadus, Michael. Brown, Walter. Davis, David Gray, Robert Grice, Arthur Harris, Robert Jones, Walter. Jones, Edward Josey, Harwyn Louie, Men of Color Helping all Society, Inc., Victor Muhammad, Lawrence Pierce, William Raspberry, Terry Scott, Michael Southern, John. Tucker(118 Urban St., Buffalo, New York, Individually and as representative of African American firefighters previously employed by the City of Buffalo and the Buffalo Fire Department, who were terminated pursuant to the Drug Testing), John. Tucker(215 Broadway, Buffalo, New York, Individually and as representative of African American firefighters employed by the City of Buffalo and the Buffalo Fire Department, who have been discriminated against by the promotional policies), Michael Varner, Cranston. Wilson. (Attachments: # <u>1</u> Affirmation, # <u>2</u> Certificate of Service)(Sanders, Harvey) (Entered: 06/28/2012) |
| 06/28/2012 | <u>501</u> | TEXT ORDER: The Plaintiffs' Unopposed <u>500</u> MOTION for an Extension of Time to File a Notice of Appeal from 6/29/2012 until 7/27/2012 is HEREBY GRANTED. SO ORDERED. Signed by Hon. John T. Curtin on 6/28/2012. (JEC) (Entered: 06/28/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 06/29/2012 | <u>502</u> | BILL OF COSTS by Buffalo Professional Firefighters Association, Inc., Local 282 AFL–CIO–CLC, Buffalo Professional Firefighters Association, Local 282, Ronald Cassel, City of Buffalo, City of Buffalo, Department of Fire, City of Buffalo, Department of Fire, John Doe, Cornelius J. Keane, John D. Sixt. (Attachments: # <u>1</u> Certificate of Service)(Brown, Joseph) (Entered: 06/29/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

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| 07/27/2012 | <u>503</u> | NOTICE OF APPEAL as to <u>498</u> Decision and Order, by Maurice Birdsong, Otto Brewer, Jr, Willie Broadus, Michael. Brown, Walter. Davis, David Gray, Robert Grice, Arthur Harris, Robert Jones, Walter. Jones, Edward Josey, Harwyn Louie, Men of Color Helping all Society, Inc., Victor Muhammad, Lawrence Pierce, William Raspberry, Terry Scott, Michael Southern, John. Tucker(118 Urban St., Buffalo, New York, Individually and as representative of African American firefighters previously employed by the City of Buffalo and the Buffalo Fire Department, who were terminated pursuant to the Drug Testing), John. Tucker(215 Broadway, Buffalo, New York, Individually and as representative of African American firefighters employed by the City of Buffalo and the Buffalo Fire Department, who have been discriminated against by the promotional policies), Michael Varner, Cranston. Wilson. Filing fee \$ 455, receipt number 0209-1634057. Appeal Record due by 8/10/2012. (Attachments: # <u>1</u> Certificate of Service)(Sanders, Harvey) (Entered: 07/27/2012) |
| 07/30/2012 |            | NOTICE Pursuant to Local Rule 12.1 of the US Court of Appeals for the Second Circuit, Forms C and D must be completed within 14 days after the filing of a Notice of Appeal. Forms C and D can be obtained on the Second Circuit website at www.ca2.uscourts.gov (DLC) (Entered: 07/30/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 08/14/2012 | <u>504</u> | CLERKS CERTIFICATE filed and electronically sent to Court of Appeals (DR) (Entered: 08/14/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 10/04/2012 | <u>505</u> | MANDATE of USCA as to <u>503</u> Notice of Appeal filed by Terry Scott, Cranston. Wilson, Michael Varner, Michael. Brown, Lawrence Pierce, Walter. Jones, Harwyn Louie, William Raspberry, Robert Grice, Robert Jones, Edward Josey, Walter. Davis, Willie Broadus, Michael Southern, Otto Brewer, Jr., Victor Muhammad, Maurice Birdsong, Men of Color Helping all Society, Inc., David Gray, John. Tucker, Arthur Harris. that the judgments of the District Court are AFFIRMED in accordance with opinion of the USCA. (DLC) (Entered: 10/04/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 10/18/2012 | <u>506</u> | ORDER that said Mandate be, and hereby is made the Judgment of this Court. Signed by Hon. John T. Curtin on 10/4/2012. (DLC) (Entered: 10/18/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 02/08/2013 |            | NOTICE OF INTENT TO TAX COSTS. Defendants filed a Bill of Costs <u>502</u> in this action on 6/29/12. Plaintiffs have until 3/1/2013 to file any opposition to the Bill of Costs. Defendants shall have until 3/22/2013 to file any response. (RAZ) (Entered: 02/08/2013)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 03/13/2013 |            | Mail Returned as Undeliverable.Not Deliverable as addressed. Unable to forward. Notice (Other) sent to Jonathan Lee Riches (MD) (Entered: 03/13/2013)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 03/13/2013 |            | Mail Returned as Undeliverable.Attempted – Not Known, unable to forward. Notice (Other) sent to Gino Romano Shirley (MD) (Entered: 03/13/2013)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 03/13/2013 |            | Mail Returned as Undeliverable.Attempted – Not Known, Unable to Forward. Notice (Other) sent to John D. Tucker (MD) (Entered: 03/13/2013)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 04/03/2013 | <u>507</u> | BILL OF COSTS as to defendants The City of Buffalo, et al, signed by the Clerk of the Court. (DLC) (Entered: 04/04/2013)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 08/09/2013 | <u>508</u> | MANDATE of USCA as to <u>435</u> Notice of Appeal, filed by Michael. Brown, Willie Broadus, Victor Muhammad, John. Tucker, William Raspberry, Robert Grice, Robert Jones. UPON DUE CONSIDERATION, it is hereby ORDERED, ADJUDGED, and DECREED that the order of the district court be AFFIRMED. The Clerk of the Court is directed to amend the caption as shown. (DLC) (Entered: 08/09/2013)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 08/16/2013 | <u>509</u> | ORDER that the <u>508</u> USCA Mandate, is made the Judgment of this Court. Signed by Hon. John T. Curtin on 8/14/2013. (DLC) (Entered: 08/16/2013)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 08/23/2013 |            | Mail Returned as Undeliverable as to <u>509</u> Order sent to John D. Tucker, 215 Broadway, Bflo., NY 14204. (DLC) (Entered: 08/23/2013)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 08/23/2013 |            | Mail Returned as Undeliverable as to <u>509</u> Order sent to Gino Romano Shirley, PO Box 133, Endicott, NY 13760. (DLC) (Entered: 08/23/2013)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 08/29/2013 |            | Mail Returned as Attempted Not Known re <u>509</u> Order sent to Dareh Gregorian. (DLC) (Entered: 08/29/2013)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

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| 12/11/2018 | <p data-bbox="448 100 1267 128">File is archived at the Federal Records Center. Location information:</p> <p data-bbox="448 159 991 186">Accession RG 21 FY 17 Number 0336 Box 8</p> <p data-bbox="448 218 1481 422">To obtain copies of documents for a fee, you may contact the Federal Records Center directly at their website: <a href="http://www.archives.gov/frc/">http://www.archives.gov/frc/</a>. They will require the location information contained in this entry. You may also contact the Clerks office to have the file shipped to the Court for your review or for copies of documents. Please refer to the current fee schedule to determine the cost to obtain documents or order the file for review. The fee schedule is located on our Public Web Site: <a href="http://www.nywd.uscourts.gov/fee-schedule">http://www.nywd.uscourts.gov/fee-schedule</a>. (MNE) (Entered: 12/11/2018)</p> |
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