

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:12-cv-01347-ESH**

BERKE v. FEDERAL BUREAU OF PRISONS et al
Assigned to: Judge Ellen S. Huvelle
Cause: 42:1983 Civil Rights Act

Date Filed: 08/14/2012
Date Terminated: 09/27/2012
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: U.S. Government Defendant

Plaintiff

LARRY BERKE

represented by **Constantinos G. Panagopoulos**
BALLARD SPAHR LLP
1909 K Street, NW
12th Floor
Washington, DC 20006
(202) 661-2202
Fax: (202) 661-2299
Email: cgp@ballardspahr.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Deborah Maxine Golden
HUMAN RIGHTS DEFENSE CENTER
316 F St. NE, #107
Washington
Washington, DC 20002
United Sta
(202) 630-0332
Email: deb.golden@gmail.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Elizabeth Elaine Gardner
WASHINGTON LAWYERS'
COMMITTEE FOR CIVIL RIGHTS
& URBAN AFFAIRS
11 Dupont Circle, NW
Suite 400
Washington, DC 20036
(202) 319-1000 ext. 131
Fax: (202) 319-1010
Email: elaine_gardner@washlaw.org
TERMINATED: 01/18/2013

Ivy Ann Finkenstadt
LEGAL AID JUSTICE CENTER
6066 Leesburg Pike
Suite 520
Falls Church, VA 22041
(703) 778-3450
Fax: (703) 778-3454
Email: ivy@justice4all.org
TERMINATED: 01/25/2013

Philip J. Fornaci
WASHINGTON LAWYERS'
COMMITTEE FOR CIVIL RIGHTS
& URBAN AFFAIRS
11 Dupont Circle, NW
Suite 400
Washington, DC 20036

(202) 319-1000 x133
 Fax: (202) 319-1010
 Email: phil_fornaci@washlaw.org
 TERMINATED: 03/05/2013

V.

Defendant

FEDERAL BUREAU OF PRISONS

represented by **Javier M. Guzman**
 DEMOCRACY FORWARD
 FOUNDATION
 P.O. Box 34553
 Washington, DC 20043
 (202) 448-9090
 Email: jguzman@democracyforward.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Tricia Dianne Francis
 U.S. ATTORNEY'S OFFICE
 Civil Division
 555 Fourth Street, NW
 Washington, DC 20530
 (202) 616-2257
 Fax: (202) 514-8780
 Email: tricia.Francis@usdoj.gov
 TERMINATED: 03/13/2013

Defendant

CHARLES E. SAMUELS, JR.
*in his official capacity as Director of the
 United States Bureau of Prisons*

represented by **Javier M. Guzman**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Tricia Dianne Francis
 (See above for address)
 TERMINATED: 03/13/2013

Date Filed	#	Docket Text
08/14/2012	<u>1</u>	COMPLAINT against FEDERAL BUREAU OF PRISONS, CHARLES E. SAMUELS, JR (Filing fee \$ 350, receipt number 4616050662) filed by LARRY BERKE. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Civil Cover Sheet)(jf,) (Entered: 08/15/2012)
08/14/2012		SUMMONS (4) Issued as to FEDERAL BUREAU OF PRISONS, CHARLES E. SAMUELS, JR, U.S. Attorney and U.S. Attorney General (jf,) (Entered: 08/15/2012)
08/14/2012	<u>2</u>	MOTION for Temporary Restraining Order by LARRY BERKE (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Text of Proposed Order)(jf,) (Entered: 08/15/2012)
08/16/2012	<u>3</u>	NOTICE of Appearance by Ivy Ann Finkenstadt on behalf of LARRY BERKE (Finkenstadt, Ivy) (Entered: 08/16/2012)
08/16/2012	<u>4</u>	NOTICE of Appearance by Elizabeth Elaine Gardner on behalf of LARRY BERKE (Gardner, Elizabeth) (Entered: 08/16/2012)
08/16/2012		Minute Entry for proceedings held before Judge Ellen S. Huvelle: Telephone Conference held in Chambers on 8/16/2012. (gdf) (Entered: 08/16/2012)
08/17/2012	<u>5</u>	ORDER denying <u>2</u> plaintiff's Motion for a Temporary Restraining Order as moot, scheduling a conference call for August 23, 2012, at 10:00 a.m., and scheduling a hearing for September 25, 2012, at 9:30 a.m. in Courtroom 23A. See Order for details. Signed by Judge Ellen S. Huvelle on August 17, 2012. (lcesh1) (Entered: 08/17/2012)

08/20/2012		Set/Reset Hearings: Status Conference set for 9/25/2012 at 9:30 AM in Courtroom 23A before Judge Ellen S. Huvelle. Telephone Conference set for 8/23/2012 at 10:00 AM in Chambers before Judge Ellen S. Huvelle. (gdf) (Entered: 08/20/2012)
08/24/2012	<u>6</u>	SCHEDULING ORDER: See Order for details. Signed by Judge Ellen S. Huvelle on August 24, 2012. (lcesh1) (Entered: 08/24/2012)
08/24/2012		Minute Entry for proceedings held before Judge Ellen S. Huvelle: Telephone Conference held Chambers on 8/24/2012. (gdf) (Entered: 08/25/2012)
08/25/2012		Set/Reset Deadlines: Joint Status Report due by 9/21/2012. (gdf) (Entered: 08/25/2012)
09/04/2012	<u>7</u>	Memorandum in opposition to re <u>2</u> MOTION for Temporary Restraining Order filed by FEDERAL BUREAU OF PRISONS, CHARLES E. SAMUELS, JR. (Attachments: # <u>1</u> Exhibit)(Francis, Tricia) (Entered: 09/04/2012)
09/13/2012		MINUTE ORDER: Pursuant to the conference call held this date, a hearing on the parties' discovery dispute is set for September 17, 2012, at 2:00 p.m., in Courtroom 23A. Signed by Judge Ellen S. Huvelle on September 13, 2012. (lcesh1) (Entered: 09/13/2012)
09/17/2012	<u>8</u>	MOTION to Compel <i>Discovery Responses</i> by LARRY BERKE (Panagopoulos, Constantinos) (Entered: 09/17/2012)
09/17/2012		VACATED PURSUANT MINUTE ORDER FILED ON 09/17/2012.....MINUTE ORDER: By consent of the parties, it is hereby ORDERED that the hearing on the parties' discovery dispute currently set for 2:00 p.m. on September 17, 2012, is continued until 10:00 a.m. on September 18, 2012, in Courtroom 23A. SO ORDERED. Signed by Judge Ellen S. Huvelle on September 17, 2012. (lcesh1) Modified on 9/18/2012 (zjf,). (Entered: 09/17/2012)
09/17/2012		VACATED PURSUANT TO MINUTE ORDER FILED ON 09/17/2012.....Set/Reset Hearings: Status Conference set for 9/18/2012 at 10:00 AM in Courtroom 23A before Judge Ellen S. Huvelle. (gdf) Modified on 9/18/2012 (zjf,). (Entered: 09/17/2012)
09/17/2012	<u>9</u>	MINUTE ORDER: Pursuant to the representations of the parties on the conference call held this date, it is hereby ORDERED that the hearing scheduled for 10:00 a.m. on September 18, 2012, is VACATED. Signed by Judge Ellen S. Huvelle on September 17, 2012. (lcesh1) (Entered: 09/17/2012)
09/17/2012	<u>10</u>	RESPONSE re <u>2</u> MOTION for Temporary Restraining Order <i>Reply Memorandum</i> filed by LARRY BERKE. (Attachments: # <u>1</u> Exhibit A – September 12, 2012 E–mail, # <u>2</u> Exhibit B – Dennis Cokely Expert Report, # <u>3</u> Exhibit C – Richard Lorenzo Ray Expert Report)(Panagopoulos, Constantinos) (Entered: 09/17/2012)
09/17/2012		Minute Entry for proceedings held before Judge Ellen S. Huvelle: Telephone Conference held in Chambers on 9/17/2012. (gdf) (Entered: 09/18/2012)
09/18/2012		MINUTE ORDER: Pursuant to the representations of the parties on a conference call held this date, it is hereby ORDERED that counsel for defendants shall produce the material that she has agreed to produce to plaintiff by 12:00 p.m. on September 20, 2012. Signed by Judge Ellen S. Huvelle on September 18, 2012. (lcesh1) (Entered: 09/18/2012)
09/18/2012		Minute Entry for proceedings held before Judge Ellen S. Huvelle: Telephone Conference held in Chambers on 9/18/2012. (gdf) (Entered: 09/19/2012)
09/20/2012		Minute Entry for proceedings held before Judge Ellen S. Huvelle: Telephone Conference held in Chambers on 9/20/2012. (gdf) (Entered: 09/20/2012)
09/21/2012	<u>11</u>	STATUS REPORT by LARRY BERKE. (Attachments: # <u>1</u> Exhibit Proposed Stipulation and Order)(Panagopoulos, Constantinos) (Entered: 09/21/2012)
09/21/2012	<u>12</u>	STATUS REPORT by FEDERAL BUREAU OF PRISONS, CHARLES E. SAMUELS, JR. (Francis, Tricia) (Entered: 09/21/2012)
09/24/2012	<u>13</u>	STATUS REPORT <i>Defendants' Amended Status Report</i> by FEDERAL BUREAU OF PRISONS, CHARLES E. SAMUELS, JR. (Francis, Tricia) (Entered: 09/24/2012)

09/24/2012	<u>14</u>	MOTION for Leave to File <i>Supplemental Declaration In Support of Defendants' Opposition to Plaintiff's Motion for a Temporary Restraining Order</i> by FEDERAL BUREAU OF PRISONS, CHARLES E. SAMUELS, JR (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Declaration)(Francis, Tricia) (Entered: 09/24/2012)
09/25/2012		MINUTE ORDER: It is hereby ORDERED that, for the reasons stated in open court, plaintiff's motion for a preliminary injunction <u>2</u> is granted in part and denied in part; plaintiff's motion to compel <u>8</u> is denied as moot; and defendants' motion for leave to file a supplemental declaration <u>14</u> is granted. The parties shall submit a stipulation of settlement for the Court's consideration by September 27, 2012, at 9 a.m. A written order shall issue thereafter. SO ORDERED. Signed by Judge Ellen S. Huvelle on September 25, 2012. (lcesh1) (Entered: 09/25/2012)
09/25/2012		Minute Entry for proceedings held before Judge Ellen S. Huvelle: Preliminary Injunction Hearing held on 9/25/2012. Order to be entered. Witnesses: Richard Ray, Todd R. Craig. Interpreter(ASL): Mindy Lanie. (Court Reporter Vicki Eastvold) (gdf) (Entered: 09/26/2012)
09/25/2012	<u>15</u>	SUPPLEMENTAL DECLARATION re <u>7</u> Memorandum in Opposition by FEDERAL BUREAU OF PRISONS, CHARLES E. SAMUELS, JR. (znmw,) (Entered: 09/26/2012)
09/26/2012	<u>16</u>	STIPULATION AND ORDER by LARRY BERKE. (Panagopoulos, Constantinos) (Entered: 09/26/2012)
09/27/2012	<u>17</u>	NOTICE of Attorney Withdrawal by LARRY BERKE (Finkenstadt, Ivy) (Entered: 09/27/2012)
09/27/2012	<u>18</u>	ORDER approving re <u>16</u> Stipulation filed by LARRY BERKE. Signed by Judge Ellen S. Huvelle on 9/27/12. (gdf) (Entered: 09/27/2012)
09/27/2012	<u>19</u>	ORDER administratively closing this matter. See Order for details. Signed by Judge Ellen S. Huvelle on September 27, 2012. (lcesh1) (Entered: 09/27/2012)
10/09/2012	<u>20</u>	MOTION for Attorney Fees by LARRY BERKE (Attachments: # <u>1</u> Text of Proposed Order Proposed Order, # <u>2</u> Memorandum in Support, # <u>3</u> Declaration, # <u>4</u> Declaration)(Panagopoulos, Constantinos) (Entered: 10/09/2012)
10/26/2012	<u>21</u>	MOTION for Extension of Time to <i>File a Response to Plaintiff's Motion for Attorney Fees</i> by FEDERAL BUREAU OF PRISONS, CHARLES E. SAMUELS, JR (Attachments: # <u>1</u> Text of Proposed Order)(Francis, Tricia) (Entered: 10/26/2012)
11/02/2012		MINUTE ORDER granting <u>21</u> Motion for Extension of Time to File a Response to <u>20</u> Plaintiff's Motion for Attorney's Fees. Plaintiff's motion will be held in abeyance to permit discussions to settle the motion. If settlement discussions fail, the defendant's response to <u>20</u> Plaintiff's Motion for Attorney's Fees will be due on January 2, 2012. Signed by Judge Ellen S. Huvelle on November 2, 2012. (lcesh2) (Entered: 11/02/2012)
11/02/2012	<u>22</u>	ORDER REFERRING MOTION: <u>20</u> Plaintiff's Motion for Attorney Fees. Signed by Judge Ellen S. Huvelle on November 2, 2012. (lcesh2) (Entered: 11/02/2012)
11/02/2012		Minute Entry for proceedings held before Judge Ellen S. Huvelle: Telephone Conference held in Chambers on 11/2/2012. (gdf) (Entered: 11/05/2012)
11/02/2012	<u>23</u>	CASE DIRECTLY REFERRED to Magistrate Judge John M. Facciola for <u>20</u> MOTION for Attorney Fees by LARRY BERKE. (kb) (Entered: 11/05/2012)
11/05/2012		Set/Reset Deadlines: Motion for Attorney's Fees due by 1/2/2013. (gdf) (Entered: 11/05/2012)
11/06/2012	<u>24</u>	ORDER re referral to Judge Facciola for plaintiff's motion for attorney's fees. Signed by Magistrate Judge John M. Facciola on 11/6/12. (SP,) (Entered: 11/06/2012)
11/06/2012	<u>25</u>	TRANSCRIPT OF EVIDENTIARY HEARING before Judge Ellen S. Huvelle held on 9/25/2012; Page Numbers: 1-173. Date of Issuance:11/6/2012. Court Reporter Vicki Eastvold, Telephone number 202-354-3242, Court Reporter Email Address : vicki_eastvold@dcd.uscourts.gov.<P></P>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from

		the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi–page, condensed, CD or ASCII) may be purchased from the court reporter.<P> NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty–one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at ww.dcd.uscourts.gov .<P></P> Redaction Request due 11/27/2012. Redacted Transcript Deadline set for 12/7/2012. Release of Transcript Restriction set for 2/4/2013.(Eastvold, Vicki) (Entered: 11/06/2012)
12/20/2012	<u>26</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>20</u> MOTION for Attorney Fees by FEDERAL BUREAU OF PRISONS, CHARLES E. SAMUELS, JR (Attachments: # <u>1</u> Text of Proposed Order)(Francis, Tricia) (Entered: 12/20/2012)
12/21/2012		MINUTE ORDER granting <u>26</u> Consent Motion for Extension of Time to File Response re <u>20</u> MOTION for Attorney Fees: Upon consideration of the Defendants' Motion for An Enlargement of Time for Filing Their Response to Plaintiff's Motion for Attorney Fees, the merits thereof, and for good cause shown, it is HEREBY ORDERED that the motion is granted, and it is FURTHER ORDERED that the Defendants shall have until and up to Friday, January 11, 2013, to file their response to Plaintiff's Motion for Attorney Fees. Signed by Judge Ellen S. Huvelle on December 21, 2012. (AG) (Entered: 12/21/2012)
01/10/2013	<u>27</u>	Unopposed MOTION for Extension of Time to File Response/Reply to <i>Plaintiff's Motion for Attorney Fees</i> by FEDERAL BUREAU OF PRISONS, CHARLES E. SAMUELS, JR (Attachments: # <u>1</u> Text of Proposed Order)(Francis, Tricia) (Entered: 01/10/2013)
01/11/2013		MINUTE ORDER granting <u>27</u> Consent Motion for Extension of Time to File Response re <u>20</u> plaintiff's MOTION for Attorney Fees: Upon consideration of the Defendants' Motion for An Enlargement of Time for Filing Defendants' Response to Plaintiff's Motion for Attorney Fees, the merits thereof, and for good cause shown, it is hereby ORDERED that the motion is granted; and it is FURTHER ORDERED that the Defendants shall have until and up to Friday, January 25, 2013, to file their response to Plaintiff's Motion for Attorney Fees. Signed by Judge Ellen S. Huvelle on January 11, 2013. (AG) (Entered: 01/11/2013)
01/18/2013	<u>28</u>	NOTICE OF WITHDRAWAL OF APPEARANCE as to LARRY BERKE. Attorney Elizabeth Elaine Gardner terminated. (Gardner, Elizabeth) (Entered: 01/18/2013)
01/24/2013	<u>29</u>	MOTION for Extension of Time to File Response/Reply to <i>Plaintiff's Motion for Attorney Fees</i> by FEDERAL BUREAU OF PRISONS, CHARLES E. SAMUELS, JR (Attachments: # <u>1</u> Text of Proposed Order)(Francis, Tricia) (Entered: 01/24/2013)
01/25/2013	<u>30</u>	RESPONSE re <u>29</u> MOTION for Extension of Time to File Response/Reply to <i>Plaintiff's Motion for Attorney Fees</i> filed by LARRY BERKE. (Panagopoulos, Constantinos) (Entered: 01/25/2013)
01/26/2013		VACATED PURSUANT TO MINUTE ORDER FILED ON 01/26/2013.....MINUTE ORDER granting <u>29</u> Motion for Extension of Time to File Response/Reply. Signed by Magistrate Judge John M. Facciola on 1/26/13. (SP,) Modified on 1/28/2013 (jf,). (Entered: 01/26/2013)
01/26/2013		MINUTE ORDER re Magistrate Judge Facciola's Minute Order on Defendants' Motion for Extension of Time to File Response to Plaintiff's Motion for Attorneys' Fees: it is hereby ORDERED that the Minute Order issued by Magistrate Judge Facciola granting defendants' motion for extension of time is VACATED; it is further ORDERED that defendant's motion for extension of time (ECF No. <u>29</u>)is GRANTED IN PART AND DENIED IN PART; and it is further ORDERED that defendants shall have until January 31, 2013, to respond to plaintiff's motion for attorneys' fees. Signed by Judge Ellen S. Huvelle on January 26, 2013. (AG) (Entered: 01/26/2013)
01/29/2013		Set/Reset Deadlines: Response to Motion for Attorneys' Fees due by 1/31/2013 (gdf) (Entered: 01/29/2013)

01/31/2013	<u>31</u>	RESPONSE re <u>20</u> MOTION for Attorney Fees <i>Defendants' Opposition to Plaintiff's Motion for Attorney Fees and Costs</i> filed by FEDERAL BUREAU OF PRISONS, CHARLES E. SAMUELS, JR. (Attachments: # <u>1</u> Exhibit)(Francis, Tricia) (Entered: 01/31/2013)
02/07/2013	<u>32</u>	REPLY to opposition to motion re <u>20</u> MOTION for Attorney Fees filed by LARRY BERKE. (Attachments: # <u>1</u> Exhibit A)(Panagopoulos, Constantinos) (Entered: 02/07/2013)
03/05/2013	<u>33</u>	NOTICE OF WithdrawAL as Attorney by LARRY BERKE (Fornaci, Philip) Modified on 3/5/2013 (jf,). (Entered: 03/05/2013)
03/12/2013	<u>34</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Javier M. Guzman on behalf of All Defendants Substituting for attorney Tricia D. Francis (Guzman, Javier) (Entered: 03/12/2013)
04/08/2013	<u>35</u>	NOTICE of Appearance by Deborah Maxine Golden on behalf of LARRY BERKE (Golden, Deborah) (Entered: 04/08/2013)
04/29/2013	<u>36</u>	MEMORANDUM OPINION granting in part and denying in part <u>20</u> plaintiff's Motion for an Award of Attorney's Fees and Costs. Signed by Judge Ellen S. Huvelle on April 29, 2013. (lcesh2) (Entered: 04/29/2013)
04/29/2013	<u>37</u>	ORDER granting in part and denying in part <u>20</u> Motion for Attorney's Fees and Costs for the reasons stated in <u>36</u> Memorandum Opinion. Signed by Judge Ellen S. Huvelle on April 29, 2013. (lcesh2) (Entered: 04/29/2013)
05/30/2013	<u>38</u>	NOTICE of Compliance by FEDERAL BUREAU OF PRISONS, CHARLES E. SAMUELS, JR (Guzman, Javier) (Entered: 05/30/2013)