

CLOSED, ECF, SIMILAR

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:07-cv-07434-LTS**

Milstein et al v. Federal Bureau of Prisons et al
Assigned to: Judge Laura Taylor Swain
Similar Case: [1:07-cv-04149-LTS](#)
Cause: 28:1391 Personal Injury

Date Filed: 08/21/2007
Date Terminated: 11/27/2007
Jury Demand: None
Nature of Suit: 555 Prisoner: Prison
Condition
Jurisdiction: U.S. Government Defendant

Plaintiff

Moshe Milstein

represented by **Moses Silverman**
Paul, Weiss, Rifkind, Wharton & Garrison
LLP (NY)
1285 Avenue of the Americas
New York, NY 10019
212.373.3000
Fax: 212.492.0355
Email: msilverman@paulweiss.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Solomon N. Klein
Law Office of Solomon N. Klein
1410 Broadway
Suite 1802
New York, NY 10018
(212)-575-0202
Fax: (212)-575-0233
Email: sklein@solomonklein.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

John J. Okon

represented by **Moses Silverman**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Solomon N. Klein
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Federal Bureau of Prisons

Defendant

Commissioner Harley Lappin
*as Director of the Federal Bureau of
Prisons*

Defendant

J.M. Killian
*as Warden, Federal Prison Camp at
Otisville, New York*

Defendant**Glenn A. Fine***as Inspector General for the Department of Justice*

Date Filed	#	Docket Text
08/21/2007	<u>1</u>	COMPLAINT against J.M. Killian, Glenn A. Fine, Federal Bureau of Prisons, Harley Lappin. (Filing Fee \$ 350.00, Receipt Number 625118) Document filed by Moshe Milstein, John J. Okon.(tro) (Entered: 08/23/2007)
08/21/2007		SUMMONS ISSUED as to J.M. Killian, Glenn A. Fine, Federal Bureau of Prisons, Harley Lappin, U.S. Attorney and U.S. Attorney General. (tro) (Entered: 08/23/2007)
08/21/2007		CASE REFERRED TO Judge Judge Laura Taylor Swain as possibly similar to 07-cv-4149. (tro) (Entered: 08/23/2007)
08/21/2007		Case Designated ECF. (tro) (Entered: 08/23/2007)
08/23/2007	<u>2</u>	SUMMONS RETURNED EXECUTED. J.M. Killian served on 8/21/2007, answer due 10/22/2007; Glenn A. Fine served on 8/21/2007, answer due 10/22/2007; Federal Bureau of Prisons served on 8/21/2007, answer due 10/22/2007; Harley Lappin served on 8/21/2007, answer due 10/22/2007. Document filed by Moshe Milstein; John J. Okon. (Klein, Solomon) (Entered: 08/23/2007)
08/24/2007	<u>3</u>	MOTION to Certify Class. Document filed by Moshe Milstein, John J. Okon. (Attachments: # <u>1</u> Affidavit of Service)(Klein, Solomon) (Entered: 08/24/2007)
08/28/2007	<u>4</u>	ENDORSED LETTER addressed to Judge Laura T. Swain from Solomon N. Klein dated 8/24/07 re: a request that the Court allow the briefs and other documents in support of our motion for class certification to be submitted at a later point. ENDORSEMENT: The named plaintiffs in this action were also named plaintiffs in Kelly v. Lapin, 07cv4149(LTS)(FM), which was voluntarily dismissed in light of the incomplete status of the prison grievance process with respect to the matters at issue. The instant application to accept an incomplete and admittedly premature class certification motion appears to be an effort to bypass altogether the PLRA's exhaustion requirements. The application is denied without prejudice to later, timely and complete motion practice on the issue. Docket entry #3 is hereby terminated. SO ORDERED. (Signed by Judge Laura Taylor Swain on 8/27/07 (PART I)) (kco) (Entered: 08/28/2007)
08/28/2007	<u>5</u>	AFFIDAVIT OF SERVICE. Document filed by Moshe Milstein, John J. Okon. (Klein, Solomon) (Entered: 08/28/2007)
08/28/2007	<u>6</u>	AFFIDAVIT OF SERVICE of CLASS ACTION COMPLAINT, NOTICE OF MOTION FOR CLASS CERTIFICATION, and LETTER TO JUDGE SWAIN FROM SOLOMON KLEIN served on Attorney General on 08/28/2007. Document filed by Moshe Milstein, John J. Okon. (Klein, Solomon) (Entered: 08/28/2007)
08/28/2007		CASE ACCEPTED AS SIMILAR. Create association to 1:07-cv-04149-LTS-FM. Notice of Assignment to follow. (laq) (Entered: 08/30/2007)
08/28/2007	<u>7</u>	NOTICE OF CASE ASSIGNMENT to Judge Laura Taylor Swain. Judge Unassigned is no longer assigned to the case. (laq) (Entered: 08/30/2007)
08/28/2007		Magistrate Judge Frank Maas is so designated. (laq) (Entered: 08/30/2007)
08/30/2007		Mailed notice to the attorney(s) of record. (laq) (Entered: 08/30/2007)
09/18/2007	<u>8</u>	AFFIDAVIT OF SERVICE of Summons, Civil Cover Sheet, Class Action Complaint on 9/18/07. Service was made by Certified Mail. Document filed by Moshe Milstein, John J. Okon. (Klein, Solomon) (Entered: 09/18/2007)
10/23/2007	<u>9</u>	STIPULATION AND ORDER: the time in which the defendants may serve a response to the complaint is extended to 11/5/07. (Signed by Judge Laura Taylor

		Swain on 10/22/07) (db) (Entered: 10/23/2007)
11/06/2007	<u>10</u>	STIPULATION AND ORDER: The time in which defendants may serve a response to the Complaint is extended until 11/19/07. (Signed by Judge Robert W. Sweet on 11/5/07) (db) (Entered: 11/06/2007)
11/20/2007	<u>11</u>	STIPULATION AND ORDER, the time in which defendants may serve a response to the Complaint is extended until 11/26/07. J.M. Killian answer due 11/26/2007; Glenn A. Fine answer due 11/26/2007; John J. Okon answer due 11/26/2007; Federal Bureau of Prisons answer due 11/26/2007; Harley Lappin answer due 11/26/2007. (Signed by Judge Laura Taylor Swain on 11/20/07) (jco) (Entered: 11/20/2007)
11/27/2007	<u>12</u>	STIPULATION AND ORDER OF DISMISSAL WITHOUT PREJUDICE: This action shall be and hereby is dismissed without prejudice, all parties to bear their own costs. (Signed by Judge Laura Taylor Swain on 11/26/07) (tro) (Entered: 11/27/2007)
11/28/2007	<u>13</u>	LETTER addressed to Judge Laura T. Swain from Solomon N. Klein dated 11/21/07 re: Counsel writes to request that the Court endorse the Stipulation and dismiss this action without prejudice. Document filed by Moshe Milstein, John J. Okon.(jco) (tro). (Entered: 12/05/2007)
12/07/2007	<u>14</u>	ENDORSED LETTER addressed to Judge Laura Taylor Swain from Solomon N. Klein dated 12/3/07 re: On 11/21/07, Counsel for Plaintiffs filed a cover letter enclosing the Stipulation and [Proposed] Order of Dismissal Without prejudice, which was subsequently endorsed by the Court. The cover letter was hand delivered to the Court, but was not electronically filed. Counsel request that the letter be part of the record and included in the electronic docket. ENDORSEMENT: The request is granted. The Clerk is requested to scan and post the letter on the electronic docket. (Signed by Judge Laura Taylor Swain on 12/5/07) (tro) (Entered: 12/07/2007)