

CLOSED

U.S. District Court
United States District Court for the Southern District of New York (Foley
Square)
CIVIL DOCKET FOR CASE #: 1:93-cv-02580-AGS

District Council 37, et al v. NYC Dept. of Parks, et al
Assigned to: Judge Allen G. Schwartz
Demand: \$0
Cause: 29:626 Job Discrimination (Age)

Date Filed: 04/20/1993
Date Terminated: 10/03/1995
Jury Demand: Plaintiff
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: Federal Question

Plaintiff

**District Council 37, American
Federation of State, County
& Municipal Employees, AFL-CIO**

represented by **Judith P. Vladeck**
Vladeck, Waldman, Elias & Engelhard,
P.C.
1501 Broadway, Suite 800
New York, NY 10036
(212) 354-8330
LEAD ATTORNEY

Plaintiff

Joseph R. Zurlo

represented by **Judith P. Vladeck**
(See above for address)
LEAD ATTORNEY

Plaintiff

James Welsh

represented by **Judith P. Vladeck**
(See above for address)
LEAD ATTORNEY

Plaintiff

Charles J. Santarpia

represented by **Judith P. Vladeck**
(See above for address)
LEAD ATTORNEY

Plaintiff

Frank Desena
*on behalf of themselves and all individuals
similarly situated*

represented by **Judith P. Vladeck**
(See above for address)
LEAD ATTORNEY

V.

Defendant

**The New York City Department of
Parks and Recreation**

represented by **Naomi F. Sheiner**
O. Peter Sherwood, Corp. Counsel-NYC
100 Church St. Room 6F43
New York, NY 10007
212/788-0895
LEAD ATTORNEY

Defendant

The City of New York

represented by **Naomi F. Sheiner**
(See above for address)
LEAD ATTORNEY

Defendant

represented by

**New York City Department of
Personnel****Naomi F. Sheiner**
(See above for address)
LEAD ATTORNEY

Date Filed	#	Docket Text
04/20/1993	1	COMPLAINT filed; Summons issued and Notice pursuant to 28 U.S.C. 636(c); FILING FEE \$ 120.00 RECEIPT # 190156 (jl) (Entered: 04/20/1993)
04/20/1993	2	Rule 9 certificate filed by District Council 37, Joseph R. Zurlo, James Welsh, Charles J. Santarpia, Frank Desena (jl) (Entered: 04/20/1993)
04/20/1993	3	Case Information Statement Addendum and Case Designation to a Magistrate Judge filed. Purs. to statement, it is suggested that the case be classified as complex. Case is designated to Magistrate Judge Gershon. (sd) (Entered: 04/21/1993)
04/29/1993	4	INITIAL PRE-TRIAL CONFERENCE NOTICE & ORDER, set pretrial conference for 6/14/93 for the purpose of discussing settlement, exploring contemplated motions etc. (signed by Judge Kenneth Conboy); Copies mailed (sc) Modified on 04/30/1993 (Entered: 04/30/1993)
05/19/1993	5	STIPULATION and ORDER, reset answer due for 6/10/93 for NYC Personnel, for The City of New York, for NYC Dept. of Parks (signed by Judge Kenneth Conboy). (mk) (Entered: 05/20/1993)
06/11/1993	6	ANSWER to Complaint by NYC Dept. of Parks, The City of New York, NYC Personnel (Attorney Naomi F. Sheiner), ; Firm of: OPS by attorney Naomi F. Sheiner for defendant NYC Personnel (mk) (Entered: 06/14/1993)
07/23/1993	7	PRETRIAL SCHEDULING ORDER setting Discovery cutoff 9/20/93 ; Pretrial order to be submitted on or before 10/20/93 ; Trial ready deadline 9:30 11/23/93 ; (signed by Judge Kenneth Conboy) ; Copies mailed (mk) (Entered: 07/23/1993)
09/20/1993	8	Filed Memo_Endorsement on letter from Ivan D. Smith dated 9/17/93, extending time of discovery an additional 60 days... SO ORDERED, CONBOY, J. (signed by Judge Kenneth Conboy) CMC (mk) (Entered: 09/21/1993)
10/15/1993	9	STIPULATION and PROTECTIVE ORDER, for confidentiality of "Confidential MAterials": personal information, including but not limited to social security number, salary, pension, etc... (signed by Judge Kenneth Conboy). (mk) (Entered: 10/19/1993)
11/12/1993	10	Filed Memo_Endorsement on letter from Denny Chin dated 11/9/93, reset discovery due for 1/14/94... SO ORDERED, CONBOY, J. (signed by Judge Kenneth Conboy) (mk) (Entered: 11/15/1993)
12/13/1993	11	NOTICE OF REDESIGNATION OF A CIVIL CASE TO ANOTHER MAGISTRATE JUDGE. The above entitled action has been redesignated to Magistrate Judge ELLIS. Please note that this is the reassignment of the designation only. Copy of notice mailed to Attorney(s) of record: Naomi F. Sheiner, Judith P. Vladeck . (kk) (Entered: 12/13/1993)
01/25/1994	12	Notice of reasgmt _ to Judge Allen G. Schwartz Copy of notice and judge's rules mailed to Attorney(s) of record: Naomi F. Sheiner, Judith P. Vladeck . (dg) (Entered: 01/25/1994)
02/14/1994	13	STIPULATION and ORDER, reset discovery due for 2/14/94 (signed by Judge Allen G. Schwartz). (mk) (Entered: 02/15/1994)
12/13/1994	14	PRETRIAL SCHEDULING ORDER setting Discovery cutoff 5/13/95 ; Pretrial order to be submitted on or before 6/15/95; Trial to be scheduled...So Ordered...(signed by Judge Allen G. Schwartz) ; Copies mailed (pl) (Entered: 12/19/1994)
06/15/1995	15	STIPULATION and ORDER, that purs. to Rule 42(b) of the FRCP, the issue of damages with respect to all plttfs' claims will be tried separately, if necessary, following resolution of the issue of the liabilit of defts with respect to all of plttf's claims. (signed by Judge Allen G. Schwartz). (kg) (Entered: 06/19/1995)

08/22/1995	16	AFFIDAVIT of Ivan D. Smith by District Council 37, Joseph R. Zurlo, James Welsh, Charles J. Santarpia, Frank Desena Re: personal knowledge (ls) (Entered: 08/29/1995)
09/12/1995		Pre-trial conference held (cd) (Entered: 09/28/1995)
09/12/1995		Jury trial held (cd) (Entered: 09/28/1995)
09/13/1995		Jury trial held (cd) (Entered: 09/28/1995)
09/14/1995		Jury trial held (cd) (Entered: 09/28/1995)
09/15/1995		Jury trial held (cd) (Entered: 09/28/1995)
09/19/1995		Jury trial held (cd) (Entered: 09/28/1995)
09/20/1995		Jury trial held (cd) (Entered: 09/28/1995)
09/21/1995		Jury trial held (cd) (Entered: 09/28/1995)
09/22/1995		Jury trial held (cd) (Entered: 09/28/1995)
09/27/1995		Jury trial held (cd) (Entered: 09/28/1995)
09/27/1995		Jury trial held (cd) (Entered: 09/28/1995)
09/28/1995		Jury trial held and concluded; verdict in favor of deft (cd) (Entered: 09/28/1995)
09/28/1995	17	JOINT PRETRIAL ORDER filed (signed by Judge Allen G. Schwartz) (kg) (Entered: 10/02/1995)
10/03/1995	18	JUDGMENT, A Jury Trial before Judge Schwartz, having begun on 9/12/95, and the the conclusion of the trial the jury having answered the attached "Jury Verdict Form," and the jury in so doing having returned a verdict in favor of defendants, it is, ORDERED, ADJUDGED AND DECREED: That the complaint be and it is hereby dismissed. JAMES M. PARKISON ; Mailed copies and notice of right to appeal. (EOD 10/4/95) (ae) (Entered: 10/04/1995)
10/03/1995		Case closed (ae) (Entered: 10/04/1995)
10/13/1995	19	NOTICE OF MOTION by District Council 37, Joseph R. Zurlo, James Welsh, Charles J. Santarpia, Frank Desena for a new trial , Return date 11/8/95. Affidavits in support attached. (emil) (Entered: 10/18/1995)
10/13/1995	20	MEMORANDUM by District Council 37, Joseph R. Zurlo, James Welsh, Charles J. Santarpia, Frank Desena in support of [19-1] motion for a new trial (emil) (Entered: 10/18/1995)
10/24/1995	21	Transcript of record of proceedings filed for dates of September 19,20,21,22,27,28 (rag) (Entered: 10/24/1995)
10/24/1995	22	Transcript of record of proceedings filed for dates of September 13,14,15,1995 (rag) (Entered: 10/24/1995)
11/02/1995	23	DECLARATION of Naomi Sheiner by NYC Dept. of Parks, The City of New York, NYC Personnel in opposition to [19-1] motion for a new trial (ae) (Entered: 11/16/1995)
11/02/1995	24	MEMORANDUM OF LAW by NYC Dept. of Parks, The City of New York, NYC Personnel in opposition to [19-1] motion for a new trial (ae) (Entered: 11/16/1995)
11/02/1995	25	NOTICE of HEARING by NYC Dept. of Parks, The City of New York, NYC Personnel – that upon the annexed Bill of Costs submitted Paul A. Crotty,and exhibits annexed thereto and on all the papers and proceedings had heretofore herein, the under signed will appear before the Judgment Clerk at the Courthouse... on the 4th day of December, 1995 at 10:00 am ... for a hearing as to taxable costs in this action, pursuant to 28 U.S.C. section 1920, Rule 54 of the Federal Rules of Civil Procedure, Rules 11 and 12 of the Local of the Southern District, Standing Order No. 3 of the Southern District and Rule X of the Individual Rules of Practice of Judge Allen G. Schwartz requiring counsel to order daily copy of the trial transcript. (djc) Modified on 11/17/1995 (Entered: 11/17/1995)

11/08/1995	26	REPLY MEMORANDUM by District Council 37, Joseph R. Zurlo, James Welsh, Charles J. Santarpia, Frank Desena re: [19-1] motion for a new trial (pl) (Entered: 11/20/1995)
11/08/1995	27	SECOND AFFIDAVIT of James D. Esseks by District Council 37, Joseph R. Zurlo, James Welsh, Charles J. Santarpia, Frank Desena in support of Re: [19-1] motion for a new trial (ae) (Entered: 11/21/1995)
11/13/1995	28	SUR-REPLY MEMORANDUM by NYC Dept. of Parks, The City of New York, NYC Personnel re: [19-1] motion for a new trial (pl) (Entered: 11/21/1995)
11/13/1995	29	SECOND DECLARATION of Naomi Sheiner (pl) (Entered: 11/21/1995)
11/22/1995	30	Transcript of record of proceedings filed for dates of 9/13/95 (rag) (Entered: 11/24/1995)
12/06/1995	31	DECLARATION of Naomi Sheiner, Asst. Corp. Counsel for NYC Dept. of Parks, The City of New York, NYC Personnel in OPPOSITION to plttf' request that the Court examine additional Jurors. (lam) (Entered: 12/11/1995)
12/11/1995	32	Transcript of record of proceedings filed for dates of 10/6/95 (rag) (Entered: 12/11/1995)
12/14/1995	33	OPINION AND ORDER # 75849 denying [19-1] motion for a new trial. SO ORDERED: (Signed by Judge Allen G. Schwartz); (ae) (Entered: 12/15/1995)
01/02/1996	34	PLAINTIFFS' EXHIBITS CONSISTING OF STATMENETS BY DEFENDANTS' EMPLOYEES ARE ADMISSIBLE UNDER RULE 801(d)(2)(D) (dkt. &fld. as per instr. of chambers on 1/2/96) (pl) Modified on 01/11/1996 (Entered: 01/05/1996)
01/02/1996	35	THE AWARD IN THE OUT-OF-TITLE WORK ARBITRATION BETWEEN THE CITY AND CITY PARK WORKERS AND THE AGREEMENT SETTLING THOSE CLAIMS ARE BOTH ADMISSIBLE (pl) (Entered: 01/05/1996)
01/02/1996	36	THE AWARD IN THE OUT-OF-TITLE WORK ARBITRATION BETWEEN THE CITY AND CITY PARK WORKERS AND THE AGREEMENT SETTLING THOSE CLAIMS ARE BOTH ADMISSIBLE FOR IMPEACHMENT PURPOSES (pl) (Entered: 01/05/1996)
01/02/1996	37	Request to charge by District Council 37, Joseph R. Zurlo, James Welsh, Charles J. Santarpia, Frank Desena (dktd. &fld. as per instr. of chambers on 1/2/96) (pl) Modified on 01/11/1996 (Entered: 01/05/1996)
01/02/1996	38	Exhibit Consisting of Statements by Defendants' Employees Are Admissible Under Rle 801(d)(2)(D) by District Council 37, Joseph R. Zurlo, James Welsh, Charles J. Santarpia, Frank Desena (pl) (Entered: 01/05/1996)
01/02/1996	39	SUPPLEMENTAL BRIEF ON THE ADMISSIBLILITY OF THE ARBITRATION AWARD AND SETTLEMENT AGREEMENT by District Council 37, Joseph R. Zurlo, James Welsh, Charles J. Santarpia, Frank Desena (dktd. &fld. as per instr. of chambers on 1/2/96) (pl) Modified on 01/05/1996 (Entered: 01/05/1996)
01/02/1996	40	THE EEOC NO PROBABLE CAUSE FINDING SHOULD BE EXCLUDED (DKT. &FLD. AS PER INSTR. OF CHAMBERS ON 1/2/96) (pl) (Entered: 01/05/1996)
01/02/1996	41	MEMORANDUM by NYC Dept. of Parks, The City of New York, NYC Personnel in support of EVIDETIARY RULINGS (pl) (Entered: 01/05/1996)
01/02/1996	42	TRIAL MEMORANDUM OF LAW by NYC Dept. of Parks, The City of New York, NYC Personnel (pl) (Entered: 01/05/1996)
01/10/1996	43	Transcript of record of proceedings filed for dates of 11/28/95 (rag) (Entered: 01/10/1996)
01/10/1996	44	Transcript of record of proceedings filed for dates of 11/17/95 (rag) (Entered: 01/10/1996)
01/10/1996	45	NOTICE OF APPEAL by District Council 37, Joseph R. Zurlo, James Welsh, Charles J. Santarpia, Frank Desena ; from [18-1] judgment order . Copies of notice of appeal mailed to Attorney(s) of Record: Naomi F. Sheiner . (em) (Entered: 01/18/1996)

01/18/1996		Notice of appeal and certified copy of docket to USCA: [45-1] appeal by Frank Desena, Charles J. Santarpia, James Welsh, Joseph R. Zurlo, District Council 37 ; Copy of notice of appeal sent to District Judge. (em) (Entered: 01/18/1996)
02/23/1996	46	ORDER AND STIPULATION SUPPLEMENTING THE RECORD ON APPEAL, that the following documents, copies of which are attached hereto, were submitted to the Court during the trial of this action but do not appear on the Civil Docket for this action and are not included in the case files in the Office of the Clerk of the SDNY. The parties hereby agree that these documents should be included in the record on appeal. (signed by Judge Allen G. Schwartz). (kg) (Entered: 02/26/1996)
02/23/1996	46	TRIAL MEMORANDUM OF LAW by District Council 37, Joseph R. Zurlo, James Welsh, Charles J. Santarpia, Frank Desena. (kg) (Entered: 02/26/1996)
02/23/1996	46	MEMORANDUM requesting an instruction regarding the civil service law by District Council 37, Joseph R. Zurlo, James Welsh, Charles J. Santarpia, Frank Desena. (kg) (Entered: 02/26/1996)
02/23/1996	46	Supplemental Request to charge No. 1A by District Council 37, Joseph R. Zurlo, James Welsh, Charles J. Santarpia, Frank Desena. (kg) (Entered: 02/26/1996)
02/23/1996	46	Objection(s) to plttfs' Jurt Instructions 7A by NYC Dept. of Parks, The City of New York. (kg) (Entered: 02/26/1996)
02/23/1996	46	All of plttfs' Exhibits admitted at trial, consisting of the following numbered exhibits: 1,2,3,4,11,12,14,29,30,31,34,36,37,40,41, 44, 56A, 56B, 58,60,64,67,72,76,77,78,80 and 82. (kg) (Entered: 02/26/1996)
02/23/1996	46	All of defts' Exhibits admitted at trial, consisting of the following exhibits" F,J,L,T,W,X,Y,EE,HH,LL,MM,NN,RR,UU,XX and ZZ. (kg) (Entered: 02/26/1996)
02/28/1996	47	ORDER, ...ACCORDINGLY, PLTFFS' REQUEST TO HAVE THE DOCUMENT INCLUDED IN THE DISTRICT COURT CASE FILES, SO THAT IT MAY BE INCLUDED IN THE RECORD ON APPEAL OF THIS ACTION, IS DENIED...SO ORDERED... (signed by Judge Allen G. Schwartz); Copies mailed (ls) (Entered: 02/29/1996)
03/06/1996	48	AMENDED ORDER, ...Accordingly, plttfs' request to have the doc. incl. in the District Court case files, so that may be in the record on appeal of this action, is DENIED...SO ORDERED... (signed by Judge Allen G. Schwartz); Copies mailed (ls) Modified on 03/07/1996 (Entered: 03/07/1996)
03/08/1996	49	Notice that the original record on appeal has been certified and transmitted to the U.S. Court of Appeals on 3/8/96: [45-1] appeal by Frank Desena, Charles J. Santarpia, James Welsh, Joseph R. Zurlo, District Council 37 (ae) (Entered: 03/11/1996)
03/19/1996	50	True Copy of Order from the USCA RE: [45-1] appeal by Frank Desena, Charles J. Santarpia, James Welsh, Joseph R. Zurlo, District Council 37: The court noting that an order dismissing the appeal having been entered in error on 3/12/96, it is hereby ordered that the order be and it hereby is vacated and it is further noted that the appeal be and it hereby is reinstated, and scheduling order No. 2 dated 3/12/96 is in effect. (96-7050). GEORGE LANGE III, Clerk, U.S.C.A. (em) (Entered: 03/19/1996)
06/10/1997	51	MANDATE OF USCA (certified copy) Re: [45-1] appeal by Frank Desena, Charles J. Santarpia, James Welsh, Joseph R. Zurlo, District Council 37. It is now hereby ordered, adjudged and decreed that the judgment be and it hereby is affirmed. (96-7050) George Lange, III, Clerk, USCA. (as) (Entered: 06/11/1997)
11/21/1997		Indexed record on appeal files (96-7050) returned from the U.S.C.A. on November 10, 1997. (dt) (Entered: 11/21/1997)