

CLOSED

**U.S. District Court
Eastern District of New York (Central Islip)
CIVIL DOCKET FOR CASE #: 2:12-cv-01770-LDW-WDW**

Datz v. Milton et al
Assigned to: Judge Leonard D. Wexler
Referred to: Magistrate Judge William D. Wall
Cause: 42:1983 Civil Rights Act

Date Filed: 04/11/2012
Date Terminated: 05/20/2014
Jury Demand: Plaintiff
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Philip Datz

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V.

Defendant

Michael Milton
in his individual and Official capacities

represented by **Arlene S. Zwilling**
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Defendant

County of Suffolk

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Date Filed	#	Docket Text
04/11/2012	<u>1</u>	COMPLAINT against County of Suffolk, Michael Milton Disclosure Statement on Civil Cover Sheet completed –Yes,, filed by Philip Datz. (Attachments: # <u>1</u> Civil Cover Sheet) (Padilla, Kristin) (Entered: 04/13/2012)
04/11/2012		Summons Issued as to County of Suffolk, Michael Milton. (Padilla, Kristin) (Entered: 04/13/2012)
04/11/2012		FILING FEE: \$ 350.00, receipt number 4653042365 (Padilla, Kristin) (Entered: 04/13/2012)
04/16/2012		Case Ineligible for Arbitration (Bollbach, Jean) (Entered: 04/16/2012)
04/19/2012	<u>2</u>	SUMMONS Returned Executed by Philip Datz. Michael Milton served on 4/13/2012, answer due 5/4/2012. (Balin, Robert) (Entered: 04/19/2012)

04/19/2012	<u>3</u>	SUMMONS Returned Executed by Philip Datz. County of Suffolk served on 4/13/2012, answer due 5/4/2012. (Balin, Robert) (Entered: 04/19/2012)
05/02/2012	<u>4</u>	ANSWER to <u>1</u> Complaint by County of Suffolk, Michael Milton. (Dunne, Richard) (Entered: 05/02/2012)
05/29/2012	<u>5</u>	PRETRIAL ORDER An initial conference has been tentatively scheduled in this matter. The requirements set forth in the Initial Conference Order have recently changed, and Counsel are directed to carefully read all three documents associated with this entry – the Initial Conference Order, the Proposed Scheduling Order, and the Individual Rules – and to inform the court of their decision pursuant to the new directions in the Initial Conference Order. Ordered by Magistrate Judge William D. Wall on 5/29/2012. (Attachments: # <u>1</u> proposed scheduling order, # <u>2</u> wdw individual rules) (Hepworth, F.) (Entered: 05/29/2012)
06/21/2012	<u>6</u>	MOTION to Adjourn Conference of 6/26/2012 by Philip Datz. (Balin, Robert) (Entered: 06/21/2012)
06/21/2012		ORDER granting <u>6</u> Motion to Cancel Conference. The scheduling order will be entered. Ordered by Magistrate Judge William D. Wall on 6/21/2012. (Hepworth, F.) (Entered: 06/21/2012)
06/21/2012	<u>7</u>	SCHEDULING ORDER: Discovery deadlines have been set. See attached. A pretrial conference will be held on 4/2/13. Ordered by Magistrate Judge William D. Wall on 6/21/2012. (Hepworth, F.) (Entered: 06/21/2012)
10/01/2012	<u>8</u>	MOTION to Compel by Philip Datz. (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) (Balin, Robert) (Entered: 10/01/2012)
10/04/2012	<u>9</u>	RESPONSE to Motion re <u>8</u> MOTION to Compel filed by County of Suffolk, Michael Milton. (Dunne, Richard) (Entered: 10/04/2012)
10/04/2012	<u>10</u>	ORDER granting <u>8</u> Motion to Compel. Defendants shall comply with discovery consistent with this Order by 10/12/12. See attached order. Ordered by Magistrate Judge William D. Wall on 10/4/2012. (Disbrow, Sandra) (Main Document 10 replaced on 10/4/2012) (Disbrow, Sandra). (Entered: 10/04/2012)
10/09/2012	<u>11</u>	MOTION to Amend/Correct/Supplement <u>10</u> Order on Motion to Compel, by Philip Datz. (Balin, Robert) (Entered: 10/09/2012)
10/11/2012	<u>12</u>	REPLY in Opposition re <u>11</u> MOTION to Amend/Correct/Supplement <u>10</u> Order on Motion to Compel, filed by County of Suffolk, Michael Milton. (Dunne, Richard) (Entered: 10/11/2012)
10/11/2012		Electronic ORDER granting <u>11</u> Motion to Amend the Order <u>10</u> of 10/4/12 to the extent that objections to the document demands, except those based on privilege, have been waived. Ordered by Magistrate Judge William D. Wall on 10/11/2012. (Disbrow, Sandra) (Entered: 10/11/2012)
12/21/2012	<u>13</u>	MOTION to Compel <i>Defendant Michael Milton to comply with the Court's October 4, 2012 Order (as amended October 11, 2012) by responding fully to all outstanding discovery requests and producing documents, without objections within 7 days.</i> by Philip Datz. (Balin, Robert) (Entered: 12/21/2012)
12/24/2012	<u>14</u>	RESPONSE to Motion re <u>13</u> MOTION to Compel <i>Defendant Michael Milton to comply with the Court's October 4, 2012 Order (as amended October 11, 2012) by responding fully to all outstanding discovery requests and producing documents, without objections within 7 days. Letter in opposition to motion</i> filed by County of Suffolk. (Flynn, Susan) (Entered: 12/24/2012)
12/27/2012	<u>15</u>	REPLY to Response to Motion re <u>13</u> MOTION to Compel <i>Defendant Michael Milton to comply with the Court's October 4, 2012 Order (as amended October 11, 2012) by responding fully to all outstanding discovery requests and producing documents, without objections within 7 days.</i> filed by Philip Datz. (Balin, Robert) (Entered: 12/27/2012)
12/27/2012	<u>16</u>	MOTION to Compel for an order (a) directing Suffolk County to produce all documents responsive to Requests 1,2,3,5,15–17, 18–22,23–34 and 27 and to fully answer Interrogatories 1,2,3,4,5,6,7,9,10,11,13 and 14 within 7 days: and (b)

		<i>awarding plaintiff, pursuant to FRCP 37(d), reasonable attorneys' fees and costs for all time spent since September 2012 in seeking to secure the County's compliance with the discovery requests.</i> by Philip Datz. (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) (Balin, Robert) (Entered: 12/27/2012)
12/28/2012		PRETRIAL ORDER re <u>13</u> MOTION to Compel, <u>14</u> Response to Motion, filed by County of Suffolk, <u>16</u> MOTION to Compel. A motion hearing will be held on 1/4/13 at 11:30 a.m. Defense counsel must inform defendant Michael Milton of the conference, and Mr. Milton must attend. The parties are advised that Mr. Dunne is still the attorney of record for Mr. Milton. If the defendants intend to replace Mr. Dunne with new counsel from the Suffolk County Department of Law, they must do so prior to the conference, or Mr. Dunne must attend. Any request to adjourn this conference must be filed as a motion and must contain alternative dates acceptable to all attendees during the weeks of January 2 or January 7. Ordered by Magistrate Judge William D. Wall on 12/28/2012. (Hepworth, F.) (Entered: 12/28/2012)
01/02/2013	<u>17</u>	Letter MOTION to Adjourn Conference <i>scheduled for January 4 2013</i> by County of Suffolk. (Flynn, Susan) (Entered: 01/02/2013)
01/02/2013	<u>18</u>	RESPONSE to Motion re <u>16</u> MOTION to Compel <i>for an order (a) directing Suffolk County to produce all documents responsive to Requests 1,2,3,5,15-17, 18-22,23-34 and 27 and to fully answer Interrogatories 1,2,3,4,5,6,7,9,10,11,13 and 14 within 7 days; and (b) awarding plaintit filed by County of Suffolk.</i> (Flynn, Susan) (Entered: 01/02/2013)
01/03/2013		ORDER granting <u>17</u> Motion to Adjourn Conference to Thursday, 1/10/13 at noon. The court agrees that there has been more than sufficient time to work out the details of Mr. Milton's representation and there will be no further adjournments. Whoever is the attorney of record for Milton on 1/10 must appear on his behalf. If counsel withdraws, Milton must appear pro se. Ordered by Magistrate Judge William D. Wall on 1/3/2013. (Hepworth, F.) (Entered: 01/03/2013)
01/03/2013	<u>19</u>	NOTICE of Appearance by Arlene S. Zwilling on behalf of County of Suffolk, Michael Milton (aty to be noticed) (Zwilling, Arlene) (Entered: 01/03/2013)
01/10/2013	<u>20</u>	NOTICE of Appearance by Brian J. Davis on behalf of Michael Milton (aty to be noticed) (Disbrow, Sandra) (Entered: 01/10/2013)
01/10/2013		Electronic ORDER: In light of the County's representations regarding a conflict in its continued representation of defendant Milton, and the filing of a notice appearance for separate counsel for that defendant, it is directed that the County attorneys shall be terminated from representing Mr. Milton. Attorney Richard T. Dunne and Arlene S. Zwilling terminated. Ordered by Magistrate Judge William D. Wall on 1/10/2013. (Disbrow, Sandra) (Entered: 01/10/2013)
01/10/2013	<u>21</u>	ORDER granting <u>13</u> Motion to Compel; granting <u>16</u> Motion to Compel, both to the extent that all defendants shall comply with all outstanding discovery demands no later than February 28, 2013. The court reserves decision on the imposition of sanctions at this time. Remaining deadlines and the pretrial conference date will be adjusted at the next conference on 3/5/13 at 11:00 a.m. Ordered by Magistrate Judge William D. Wall on 1/10/2013. (Hepworth, F.) (Entered: 01/10/2013)
01/11/2013	<u>22</u>	Letter <i>to Judge Wexler re Answer</i> by Michael Milton (Davis, Brian) (Entered: 01/11/2013)
02/01/2013	<u>23</u>	MOTION for Discovery <i>Confidentiality Stipulation</i> by Philip Datz. (Attachments: # <u>1</u> Confidentiality Stipulation and Proposed Order) (Balin, Robert) (Entered: 02/01/2013)
02/05/2013		ORDER granting <u>23</u> Motion for Discovery. The Confidentiality Stipulation and Protective Order is adopted and so ordered (Hepworth, F.) (Entered: 02/05/2013)
03/04/2013	<u>24</u>	Letter by Philip Datz (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D) (Balin, Robert) (Entered: 03/04/2013)
03/05/2013	<u>25</u>	Minute Entry for proceedings held before Magistrate Judge William D. Wall:Status Conference held on 3/5/2013. Amended Scheduling Order will be entered (Hepworth, F.) (Entered: 03/05/2013)

03/05/2013	<u>26</u>	SCHEDULING ORDER: New discovery deadlines have been established. See attached. The pretrial conference scheduled for 4/2/13 is canceled. The pretrial conference will be held on 12/4/13. Ordered by Magistrate Judge William D. Wall on 3/5/2013. (Hepworth, F.) (Entered: 03/05/2013)
03/08/2013	<u>27</u>	NOTICE of Change of Address by Alison Brooke Schary (Schary, Alison) (Entered: 03/08/2013)
08/14/2013		NOTICE of Hearing: Jury Selection set for 6/9/2014 09:30 AM in Courtroom 940 before Judge Leonard D. Wexler. Trial date to be determined. NO ADJOURNMENTS. (Russo, Eric) (Entered: 08/14/2013)
10/30/2013	<u>28</u>	Joint MOTION for Extension of Time to File <i>Dispositive Motions</i> by Philip Datz. (Balin, Robert) (Entered: 10/30/2013)
10/31/2013		ORDER granting <u>28</u> Motion for Extension of Time to File dispositive motions, from 11/8/13 to 2/6/14. The pretrial conference scheduled for 12/4/13 is adjourned to April 17, 2014 at 11:30 a.m. Ordered by Magistrate Judge William D. Wall on 10/31/2013. (Hepworth, F.) (Entered: 10/31/2013)
01/27/2014	<u>29</u>	Joint MOTION for Extension of Time to File <i>Dispositive Motions</i> by Philip Datz. (Balin, Robert) (Entered: 01/27/2014)
01/28/2014		ORDER granting <u>29</u> Motion for Extension of Time. There will be no further extensions of this deadline. If the parties wish to schedule a settlement conference, they should contact the undersigned's chambers at 631-712-5720 to discuss possible dates. The pretrial conference will go forward on April 17, 2014 as previously scheduled. Ordered by Magistrate Judge William D. Wall on 1/28/2014. (Hepworth, F.) (Entered: 01/28/2014)
01/28/2014		NOTICE of Hearing: Parties are hereby reminded that Jury Selection is set for 6/9/2014 at 09:30 AM in Courtroom 940 before Judge Leonard D. Wexler. Trial date to be determined. NO ADJOURNMENTS. (Russo, Eric) (Entered: 01/28/2014)
03/19/2014		Electronic ORDER: Due to a change in the court's calendar, the pretrial conference scheduled for 4/17/14 is adjourned to 4/24/14 at 10:30 a.m. Any request for a further, brief adjournment of this proceeding must be electronically filed as a "Motion" and must include proposed alternative dates acceptable to all parties. Ordered by Magistrate Judge William D. Wall on 3/19/2014. (Disbrow, Sandra) (Entered: 03/19/2014)
03/20/2014	<u>30</u>	Letter Pursuant to Rule 2.B of Judge Wexler's Individual Rules requesting a pre-motion conference by Philip Datz (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C) (Balin, Robert) (Entered: 03/20/2014)
04/02/2014	<u>31</u>	MOTION to Adjourn Conference and Pretrial Order by Philip Datz. (Balin, Robert) (Entered: 04/02/2014)
04/03/2014		SCHEDULING ORDER re <u>30</u> Letter filed by Philip Datz: A pre-motion conference with respect to Plaintiff's anticipated motion for summary judgment will be held on April 7, 2014 at 11:00 a.m. in Courtroom 940, Alfonse M. D'Amato U.S. Courthouse, Central Islip, New York. All counsel shall appear. So Ordered by Judge Leonard D. Wexler on 4/3/2014. (Minerva, Deanna) (Entered: 04/03/2014)
04/03/2014		ORDER granting <u>31</u> Motion to Adjourn Conference from April 24, 2014 to April 28, 2014 at 11:30 a.m. To the extent that the motion sought an adjournment of submission of the joint proposed pretrial order until after the motion for summary judgment is decided, the motion is denied. Judge Wexler requires submission of the JPPO even when a motion for summary judgment is anticipated or pending. Ordered by Magistrate Judge William D. Wall on 4/3/2014. (Hepworth, F.) (Entered: 04/03/2014)
04/07/2014		SCHEDULING ORDER re <u>30</u> Letter filed by Philip Datz: Pursuant to the pre-motion conference held today in chambers, Plaintiff shall serve, but not file, his motion for summary judgment by May 7, 2014. Defendants shall serve, but not file, their opposition by May 28, 2014. Plaintiff shall serve his reply, and all parties shall electronically file their own motion papers, on June 4, 2014. No motion papers shall be filed on ECF prior to the reply date. The moving party shall provide chambers with a courtesy copy of the entire fully-briefed motion once it is electronically filed. So

		Ordered by Judge Leonard D. Wexler on 4/7/2014. (Minerva, Deanna) (Entered: 04/07/2014)
04/07/2014	<u>32</u>	Minute Entry for proceedings held before Judge Leonard D. Wexler: In camera Pre Motion Conference held on 4/7/2014. Plaintiff(s) represented by Robert D. Balin, Esq. Defendant(s) represented by Brian J. Davis, Esq. and Susan A. Flynn, Esq. Parties agree to a briefing schedule as to Plaintiffs Motion for Summary Judgment. See additional SCHEDULING ORDER dated 4/7/2014 for filing deadlines. Proceedings concluded. (Russo, Eric) (Entered: 04/07/2014)
04/24/2014	<u>33</u>	Proposed Pretrial Order by Philip Datz (Attachments: # <u>1</u> Exhibit A) (Balin, Robert) (Entered: 04/24/2014)
04/28/2014		Minute Entry for proceedings held before Magistrate Judge William D. Wall:Interim Pretrial Conference held on 4/28/2014 (Hepworth, F.) (Entered: 04/28/2014)
04/28/2014	<u>34</u>	PRETRIAL ORDER A telephone conference will be held on May 9, 2014 at 10:30 a.m. Ordered by Magistrate Judge William D. Wall on 4/28/2014. (Hepworth, F.) (Entered: 04/28/2014)
05/12/2014	<u>35</u>	Minute Entry for proceedings held before Magistrate Judge William D. Wall:Telephone Conference held on 5/09/2014. The case has settled and the parties will file a stipulation of discontinuance with the district judge. (Hepworth, F.) (Entered: 05/12/2014)
05/15/2014	<u>36</u>	STIPULATION of Dismissal by Philip Datz (Balin, Robert) (Entered: 05/15/2014)
05/20/2014	<u>37</u>	STIPULATION AND ORDER OF DISMISSAL WITHOUT PREJUDICE re: <u>36</u> STIPULATION of Dismissal; That pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, the Parties stipulate and agree that the above-captioned action shall be and is dismissed without prejudice, and with each Party to bear its own costs and attorneys' fees. (Ordered by Judge Leonard D. Wexler on 5/20/2014.) (Fagan, Linda) (Entered: 05/21/2014)
06/24/2014	<u>38</u>	SETTLEMENT AGREEMENT <i>with Letter to Hon. Judge Wexler</i> by County of Suffolk (Attachments: # <u>1</u> Fully Executed Settlement Agreement, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E, # <u>7</u> Exhibit F) (Flynn, Susan) (Entered: 06/24/2014)
07/01/2014		SCHEDULING ORDER re <u>38</u> Settlement Agreement, filed by County of Suffolk: All counsel, including County Attorney Dennis Brown, are directed to appear on July 9, 2014 at 10:30 a.m. in Courtroom 940, Alfonse M. D'Amato U.S. Courthouse, Central Islip, New York. So Ordered by Judge Leonard D. Wexler on 7/1/2014. (Minerva, Deanna) (Entered: 07/01/2014)
07/02/2014	<u>39</u>	MOTION to Adjourn Conference <i>scheduled for July 9, 2014</i> by County of Suffolk. (Flynn, Susan) (Entered: 07/02/2014)
07/02/2014		ORDER granting <u>39</u> Motion to Adjourn Conference: The status conference scheduled for July 9, 2014 is adjourned to July 16, 2014 at 11:00 a.m. So Ordered by Judge Leonard D. Wexler on 7/2/2014. (Minerva, Deanna) (Entered: 07/02/2014)
07/16/2014		PRETRIAL ORDER The parties will present their settlement papers for signing on Tuesday, July 22 at 11:30 a.m. in Courtroom 820. Ordered by Magistrate Judge William D. Wall on 7/16/2014. (Hepworth, F.) (Entered: 07/16/2014)
07/16/2014	<u>40</u>	Minute Entry for proceedings held before Judge Leonard D. Wexler: In camera Status Conference held on 7/16/2014. Plaintiff(s) represented by Robert D. Balin, Esq. Defendant(s) represented by Brian J. Davis, Esq. and Susan A. Flynn, Esq. Parties are hereby directed to appear before Magistrate Judge William D. Wall to finalize settlement agreement. Proceedings concluded. (Russo, Eric) (Entered: 07/17/2014)
07/22/2014	<u>41</u>	Minute Entry for proceedings held before Magistrate Judge William D. Wall:Settlement Conference held on 7/22/2014 and proposed settlement approved (Hepworth, F.) (Entered: 07/22/2014)
07/22/2014	<u>42</u>	STIPULATION AND ORDER OF SETTLEMENT; In consideration for plaintiff's Release of Claims against all Defendants and other provisions set forth herein, the Parties agree as follows: (a) The undersigned Counsel for the Parties have executed

	<p>this Stipulation of Settlement and Order on May 6, 2014. Defendant Suffolk County shall pay Plaintiff the sum of \$200,000 (the "Settlement Payment"), inclusive of attorney's fees and costs, subject to approval of the terms of the within Settlement (i) by the Ways and Means Committee of the Suffolk County Legislature, and approval of any necessary bonding for the settlement payment by the full Suffolk County Legislature (collectively, the "Legislative Approval Process"), and thereafter (ii) by the Court pursuant to General Municipal Law 6–n(9)(b); and as further set forth herein. (Ordered by Judge Leonard D. Wexler on 7/22/2014.) (Fagan, Linda) (Entered: 07/22/2014)</p>
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