

CLOSED, LEAD

**U.S. DISTRICT COURT
WESTERN DISTRICT OF NEW YORK [LIVE] (Buffalo)
CIVIL DOCKET FOR CASE #: 1:95-cv-00774-RJA-LGF**

Zolnowski, et al v. County of Erie, et al
Assigned to: Hon. Richard J. Arcara
Referred to: Hon. Leslie G. Foschio
Demand: \$0
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 09/08/1995
Jury Demand: None
Nature of Suit: 530 Habeas Corpus
(General)
Jurisdiction: Federal Question

Plaintiff

Bernard J. Zolnowski, Jr.
*individually, and on behalf of all others
similarly situated at the Erie County
Holding Center*
TERMINATED: 12/04/1997

represented by **Bernard J. Zolnowski, Jr.**
Bernard J. Zolnowski, Jr.
861 Seneca Creek Road
West Seneca, NY 14224
PRO SE

Glenn Edward Murray
484 Delaware Avenue
Cornell Mansion
Buffalo, NY 14202
716-884-0139
Fax: 716-884-0927
Email: gem@buffnet.net
TERMINATED: 12/04/1997
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

John A. Ziegler
Sliwa & Lane
700 Cathedral Park Tower
37 Franklin Street
Buffalo, NY 14202
716-853-2050
TERMINATED: 12/04/1997
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Nan Lipsitz Haynes
Lipsitz & Ponterio, LLC
135 Delaware
Suite 210
Buffalo, NY 14202-2410
716-849-0701
TERMINATED: 12/04/1997
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff**Kristen M. Leiby**

represented by **Glenn Edward Murray**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

John A. Ziegler
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Nan Lipsitz Haynes
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Consol Plaintiff**Thomas Campbell**

represented by **Thomas Campbell**
Erie County Correctional Facility
11581 Walden Avenue
Alden, NY 14004
PRO SE

V.

Defendant**County of Erie**

represented by **James A.W. McLeod**
Erie County Attorney's Office
69 Delaware Avenue
Suite 300
Buffalo, NY 14202
716-858-2200
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Kristin Klein Wheaton
Assistant County Attorney
69 Delaware Avenue
Suite 300
Buffalo, NY 14202
(716) 858-2207
Email: kristin@erie.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

John J. Dray
*Superintendent-Erie County Holding
 Center*

represented by **James A.W. McLeod**
 (See above for address)
*LEAD ATTORNEY
 ATTORNEY TO BE NOTICED*

Defendant

NYS Commission of Corrections
TERMINATED: 07/29/1996

represented by **Ralph Visano**
 NYS Attorney General's Office
 107 Statler Towers
 Buffalo, NY 14202
 716-847-7617
*TERMINATED: 07/29/1996
 LEAD ATTORNEY
 ATTORNEY TO BE NOTICED*

Defendant

Erie County Holding Center

represented by **James A.W. McLeod**
 (See above for address)
*LEAD ATTORNEY
 ATTORNEY TO BE NOTICED*

V.

Consol Defendant

Thomas Higgins
Erie County Sheriffs Department

represented by **James A.W. McLeod**
 (See above for address)
*LEAD ATTORNEY
 ATTORNEY TO BE NOTICED*

Consol Defendant

Erie County Holding Center

represented by **James A.W. McLeod**
 (See above for address)
*LEAD ATTORNEY
 ATTORNEY TO BE NOTICED*

Defendant

Thomas Higgins
Sheriff of Erie County

represented by **James A.W. McLeod**
 (See above for address)
*LEAD ATTORNEY
 ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
09/08/1995	1	COMPLAINT filed (DMS) (Entered: 09/08/1995)
09/08/1995	2	MOTION by Bernard J. Zolnowski Jr. to Proceed in Forma Pauperis (DMS) (Entered: 09/08/1995)
09/29/1995	3	ORDER granting [2-1] plaintiff's motion to Proceed in Forma Pauperis;

		Clerk of the Court is directed to file the plaintiff's papers, and to cause the U.S. Marshal to serve copies of the summons, complaint, and this order upon the named defendants (signed by USDJ David G. Larimer) Notice and copy of order sent to Bernard J. Zolnowski Jr. (DMS) (Entered: 10/03/1995)
09/29/1995		File forwarded to the Pro Se Department for issuance of summons (DMS) (Entered: 10/03/1995)
10/04/1995	4	AMENDED COMPLAINT by Bernard J. Zolnowski Jr. as to Bernard J. Zolnowski Jr. only (plaintiff filed amended complaint which included the names of four additional plaintiffs who were NOT granted in forma pauperis status - case was not filed as a class action), amending [1-1] complaint against Thomas Higgins, and terminating defendant Willie Brown (DMS) (Entered: 10/05/1995)
11/27/1995	5	MOTION by Bernard J. Zolnowski Jr. for Appointment of Counsel , together with attached affidavit (DMS) (Entered: 11/27/1995)
11/27/1995	6	CERTIFICATE OF SERVICE by Bernard J. Zolnowski Jr. (DMS) (Entered: 11/27/1995)
12/22/1995	7	ORDER denying [5-1] plaintiff's motion for Appointment of Counsel (signed by USDJ Richard J. Arcara) Notice and copy of order sent to Bernard J. Zolnowski Jr. (DMS) (Entered: 12/27/1995)
12/28/1995		SUMMONS(ES) issued for County of Erie, John J. Dray, Willie . Brown, NYS Comm of Correc., Thomas Higgins, pursuant to Pro Se Department (DMS) (Entered: 01/02/1996)
01/04/1996	8	NOTICE of attorney appearance for Bernard J. Zolnowski Jr. by Glenn E. Murray, Nan Lipsitz Haynes, and John A. Ziegler (DMS) Modified on 01/17/1996 (Entered: 01/05/1996)
01/08/1996	9	MOTION by Bernard J. Zolnowski Jr. to Certify Class Action (DMS) (Entered: 01/08/1996)
01/08/1996	10	MOTION by Bernard J. Zolnowski Jr. to Disqualify Opposing Counsel (DMS) (Entered: 01/08/1996)
02/02/1996	11	ACKNOWLEDGMENT OF SERVICE regarding service of amended complaint as to Willie Brown 1/29/96 Answer due on 2/19/96 (DMS) (Entered: 02/07/1996)
02/02/1996	12	ACKNOWLEDGMENT OF SERVICE as to County of Erie 1/29/96 Answer due on 2/19/96 (DMS) (Entered: 02/07/1996)
02/02/1996	13	ACKNOWLEDGMENT OF SERVICE served on Willie Brown, Deputy Superintendent of the Erie County Holding Center, as to John J. Dray 1/29/96 Answer due on 2/19/96 for John J. Dray (DMS) (Entered: 02/07/1996)
02/02/1996	14	ACKNOWLEDGMENT OF SERVICE regarding amended complaint, served on Carol Roth, Executive Assistant for Thomas Higgins 1/29/96,

		Answer due on 2/19/96 for Thomas Higgins (DMS) (Entered: 02/07/1996)
02/15/1996	15	ANSWER by County of Erie, John J. Dray, Willie Brown, and Thomas Higgins (Attorneys Kenneth A. Schoetz and James A. McLeod) to amended complaint (DMS) (Entered: 02/16/1996)
02/16/1996	16	ACKNOWLEDGMENT OF SERVICE as to NYS Comm of Correc. 2/7/96 as to Amended Complaint; Answer due on 2/27/96 (DMS) (Entered: 02/20/1996)
02/29/1996	17	ORIGINAL SUMMONS filed. (DMS) (Entered: 03/04/1996)
03/04/1996	18	Return of service unexecuted as to NYS Comm of Correc. (DMS) (Entered: 03/04/1996)
03/04/1996	19	Return of service unexecuted as to the Erie County Holding Center (DMS) (Entered: 03/04/1996)
03/04/1996	20	Return of service unexecuted as to County of Erie (DMS) (Entered: 03/04/1996)
03/04/1996	21	Return of service unexecuted as to John J. Dray (DMS) (Entered: 03/04/1996)
03/04/1996	22	Return of service unexecuted as to Thomas Higgins (DMS) (Entered: 03/04/1996)
03/22/1996	23	ANSWER by NYS Comm of Corrections (Attorney Ralph Visano) to amended complaint (DMS) (Entered: 03/25/1996)
05/15/1996	24	ORDER REFERRING CASE to USMJ Leslie G. Foschio for all pretrial matters including: 1) conduct of a scheduling conference and entry of a scheduling order; 2) hearing/disposition of all non-dispositive motions/applications and supervision of discovery 3) supervision of all procedural matters involving the aforementioned or involving the preparation of the case (signed by USDJ Richard J. Arcara) Notice and copy sent to James A.W. McLeod, Ralph Visano, John A. Ziegler, Nan Lipsitz Haynes, Glenn E. Murray, Bernard J. Zolnowski Jr.. (DMS) (Entered: 05/17/1996)
05/22/1996		NOTICE: Preliminary Pre-trial conference set at 2:00 on 6/24/96 before Magistrate Judge Foschio (DMS) (Entered: 05/22/1996)
06/06/1996	25	MEMORANDUM by Bernard J. Zolnowski Jr. in support of [9-1] motion to Certify Class Action (DMS) (Entered: 06/06/1996)
06/06/1996	27	CERTIFICATE OF SERVICE by Bernard J. Zolnowski Jr. as to 'Memorandum of Law in Support of Motion for Class action Certification'. (DMS) (Entered: 06/21/1996)
06/17/1996	26	MEMORANDUM OF LAW by Dennis Gorski, County of Erie, John J. Dray, NYS Comm of Correc., and Thomas Higgins in opposition to [9-1] motion to Certify Class Action by Bernard J. Zolnowski Jr. (DMS) (Entered: 06/17/1996)

07/12/1996	28	CONSENT TO PROCEED before Magistrate, with appeal to Second Circuit and Order Referring Case to USMJ Leslie G. Foschio (signed by USDJ Richard J. Arcara) Notice and copy to James A.W. McLeod, Ralph Visano, John A. Ziegler, Nan Lipsitz Haynes, Glenn E. Murray, Bernard J. Zolnowski Jr. (DMS) (Entered: 07/15/1996)
07/12/1996		Scheduling conference held. Consent to proceed before a magistrate judge signed/forwarded to Judge Arcara for approval. Plaintiff to withdraw disqualification motion as to Attorneys J. McLeod and K. Schoetz. State defendant to respond to plaintiff's motion for class certification by 08/30/96. Defendant's motion to disqualify S. Abbatte as of counsel to plaintiff to be filed by 07/16/96 at 10:00 a.m.; plaintiff's response shall be filed by 07/18/96 at 03:00 p.m.; oral argument scheduled for 07/19/96 at 10:00 a.m.; preliminary injunction hearing scheduled 07/22/96 to 07/23/96 - LGF (DMS) (Entered: 07/18/1996)
07/12/1996		Deadline updated; Response to Motion reset to 8/30/96 for [9-1] motion to Certify Class Action , set Motion Filing deadline to 10:00 7/16/96 , Motion Hearing set for 10:00 7/19/96 for [9-1] motion to Certify Class Action , and Motion Hearing set for 7/22/96 for [32-2] motion Preliminary Injunction (DMS) (Entered: 07/18/1996)
07/15/1996	29	ORDER: Defendants shall file their Response to Motion by plaintiff by 7/18/96 re: [9-1] motion for leave for late service of complaint and amended complaint ; Motion Hearing set for 10:00 on 7/19/96 for [9-1] plaintiff's motion (signed by USMJ Leslie G. Foschio) Notice and copy of order sent James A.W. McLeod, Ralph Visano, John A. Ziegler, Nan Lipsitz Haynes, Glenn E. Murray, Bernard J. Zolnowski Jr. *Per chambers, parties received copies (DMS) (Entered: 07/15/1996)
07/15/1996	30	MOTION by Bernard J. Zolnowski Jr. for and order granting leave to authorize late service of the amended complaint and the complaint beyond the 120 day limitation , together with attached affidavit (DMS) (Entered: 07/16/1996)
07/16/1996	31	MOTION by Dennis Gorski, County of Erie, Thomas Higgins, John Dray and Freerick Netzel to disqualify plaintiff's attorney (DMS) (Entered: 07/16/1996)
07/16/1996	32	MOTION by Bernard J. Zolnowski Jr. for expedited hearing and Preliminary Injunction , together with attached affidavit and exhibits (DMS) (Entered: 07/16/1996)
07/16/1996	33	MEMORANDUM by Bernard J. Zolnowski Jr. in support of [32-2] motion for Preliminary Injunction (DMS) (Entered: 07/17/1996)
07/17/1996	35	RESPONSE/AFFIDAVIT of James A.W. McLeod, counsel for County of Erie, John J. Dray, and Thomas Higgins in opposition to [30-1] motion for and order granting leave to authorize late service of the amended complaint and the complaint beyond the 120 day limitation by Bernard J. Zolnowski Jr. (DMS) (Entered: 07/18/1996)
07/18/1996	34	MEMORANDUM by Bernard J. Zolnowski Jr. in support of [30-1]

		motion for and order granting leave to authorize late service of the amended complaint and the complaint beyond the 120 day limitation (DMS) (Entered: 07/18/1996)
07/18/1996	36	AFFIDAVIT of Salvatore P. Abbate, Esq. in opposition to [31-1] motion to disqualify plaintiff's attorney by John J. Dray, County of Erie (DMS) (Entered: 07/18/1996)
07/18/1996	37	Subpoena issued as to: News Director, WKBW Newschannel 7 by counsel for plaintiffs (DMS) (Entered: 07/18/1996)
07/18/1996	38	Subpoena issued as to: John Dray, Deputy Sheriff, issued by plaintiff (DMS) (Entered: 07/18/1996)
07/18/1996	39	Subpoena issued as to Thomas Higgins, Sheriff, by plaintiff's counsel (DMS) (Entered: 07/18/1996)
07/18/1996	40	Subpoena as to Frederick Netzel, Superintendent, Erie County Holding Center by counsel for plaintiff (DMS) (Entered: 07/18/1996)
07/18/1996	41	Subpoena as to: Robert Koch, Deputy Sheriff, Erie County Sheriff's Department, by counsel for plaintiff (DMS) (Entered: 07/18/1996)
07/18/1996	42	Subpoena issued as to Ronald Gospodarski, Deputy Sheriff, by counsel for plaintiff (DMS) (Entered: 07/18/1996)
07/18/1996	43	Subpoena as to Judith Watson Kiebler, R.N., issued by counsel for plaintiff (DMS) (Entered: 07/18/1996)
07/18/1996	44	MOTION by County of Erie, John J. Dray, NYS Comm of Correc., and Thomas Higgins to Dismiss , together with attached affidavit (DMS) Modified on 07/22/1996 (Entered: 07/19/1996)
07/18/1996	45	MEMORANDUM by County of Erie, John J. Dray, NYS Comm of Correc., Thomas Higgins in support of [44-1] motion to Dismiss (DMS) (Entered: 07/19/1996)
07/19/1996	46	ORDER granting [30-1] plaintiff's motion for and order granting leave to authorize late service of the amended complaint and the complaint beyond the 120 day limitation; the 120 period is extended up to and including July 22, 1996 at 12:00 noon; as to the amended complaint, plaintiffs' motion is granted; the one hundred twenty (120) period provided by Federal Rules of Civil Procedure 4(m) is extended nunc pro tunc to February 7, 1996 (signed by USMJ Leslie G. Foschio) Notice and copy of order sent to James A.W. McLeod, Ralph Visano, John A. Ziegler, Nan Lipsitz Haynes, Glenn E. Murray, Bernard J. Zolnowski Jr. (DMS) (Entered: 07/19/1996)
07/19/1996	47	AFFIDAVIT of Alan S. Hoffman in support of allegations contained in the affidavit of Bernard J Zolnowski, Jr. (DMS) (Entered: 07/22/1996)
07/19/1996	48	AFFIDAVIT of Anna Marie Richmond, former Pro Se Law Clerk for the U.S. District Court, Western District (DMS) (Entered: 07/22/1996)
07/19/1996	52	MOTION by County of Erie, John J. Dray, Thomas Higgins, and the Erie

		County Holding Center for an order to join as necessary defendants to this action, the New York State Division of Parole and the New York State Division of Correctional Services , together with attached affidavit (DMS) (Entered: 07/22/1996)
07/19/1996		Oral argument/motion hearing re: [31-1] motion to disqualify plaintiff's attorney by John J. Dray, County of Erie (decision reserved); [30-1] motion for an order granting leave to authorize late service of the amended complaint and the complaint beyond the 120 day limitation by Bernard J. Zolnowski Jr. (granted - order to be filed) (DMS) (Entered: 07/23/1996)
07/22/1996	49	MOTION by County of Erie, John J. Dray, Thomas Higgins, and the Erie County Holding Center to Dismiss , together with attached affidavit; Motion Hearing set for 9:00 on 7/22/96 (DMS) (Entered: 07/22/1996)
07/22/1996	50	MEMORANDUM by Bernard J. Zolnowski Jr. in support of [49-1] motion to Dismiss by Thomas Higgins, John J. Dray, County of Erie, Erie County Holding Center (DMS) (Entered: 07/22/1996)
07/22/1996	51	AFFIDAVIT by County of Erie, John J. Dray, Thomas Higgins, and the Erie County Holding Center; in opposition to [32-1] motion for expedited hearing by Bernard J. Zolnowski Jr., and [32-2] motion Preliminary Injunction by Bernard J. Zolnowski Jr. (DMS) (Entered: 07/22/1996)
07/22/1996		Exhibit "F" received. (Part of Motion filed 7/22/96 - Document #49) (DMS) (Entered: 07/22/1996)
07/22/1996		Exhibit "F" received. Part of motion filed by defendants on 07/22/96 - Document #49) (DMS) (Entered: 07/22/1996)
07/22/1996	53	ACKNOWLEDGMENT OF SERVICE as to County of Erie, John J. Dray, and Willie Brown 7/22/96 Answer due on 8/12/96 (DMS) (Entered: 07/22/1996)
07/22/1996	54	Subpoena as to R. Gil Kerlikowske, Commissioner of the Buffalo Police Department for 07/22/96 at 09:00 a.m. (DMS) (Entered: 07/22/1996)
07/22/1996	56	ORDER granting [31-1] defendant's motion to disqualify plaintiff's attorney, Salvatore P. Abbate (signed by USMJ Leslie G. Foschio) Notice and copy of order sent to James A.W. McLeod, Ralph Visano, John A. Ziegler, Nan Lipsitz Haynes, Glenn E. Murray, Bernard J. Zolnowski Jr. (DMS) (Entered: 07/23/1996)
07/22/1996		Oral argument on Motions: Motion [44-1] to Dismiss by Thomas Higgins, NYS Comm of Correc., John J. Dray, County of Erie granted; decision reserved on [32-1] motion for expedited hearing by Bernard J. Zolnowski Jr. and [32-2] motion for Preliminary Injunction; Defendant, New York State Commission of Corrections, to dismiss - no opposition from plaintiff - granted; Defendant, County of Erie, for order joining as necessary, defendants NY State Division of Parole and NYS Div. of Correctional Services per Rule 19 - denied; Defendant, County of Erie, to dismiss under Rule 12(b)(6) and Rule 11, decision reserved; Plaintiff's

		motion to certify class action [9-1], motion still pending; motion hearing continued to 07/23/96 at 09:00 a.m. Preliminary Injunction hearing date to be determined - LGF (DMS) (Entered: 07/24/1996)
07/23/1996	55	MOTION by Bernard J. Zolnowski Jr. for an order to Amend complaint (DMS) (Entered: 07/23/1996)
07/23/1996		Status conference held. Defendants were directed to respond to plaintiff's authorities re: standing and Rule 11 by 07/24/96 at 05:00 p.m. Response to plaintiff's motion for leave to file a 2nd amended complaint due 07/25/96 at 12:00 p.m. Oral argument re: plaintiff's standing, Rule 11 issues and motion for leave to file 2nd amended complaint and motion for class certification continued to 07/25/96 at 02:00 p.m. - LGF (DMS) (Entered: 07/31/1996)
07/23/1996		Motion hearing re: [9-1] motion to Certify Class Action by Bernard J. Zolnowski Jr. at 2:00 7/25/96 (DMS) (Entered: 07/31/1996)
07/23/1996		Motion hearing re: [55-1] motion for an order to Amend complaint by Bernard J. Zolnowski Jr. held. Discussion regarding same as well as existing motions and scheduling order possibility. Parties to report back at 07/23/96 at 04:15 p.m. - LGF (DMS) (Entered: 07/31/1996)
07/25/1996	57	ATTORNEY SUPPLEMENTAL AFFIDAVIT of Nan Lipsitz Haynes, counsel for plaintiff, in support of [32-1] motion for expedited hearing [32-2] and motion Preliminary Injunction by Bernard J. Zolnowski Jr. (DMS) (Entered: 07/25/1996)
07/25/1996	58	AFFIDAVIT by County of Erie, John J. Dray, Thomas Higgins and the Erie County Holding Center, in opposition to [55-1] motion for an order to Amend complaint by Bernard J. Zolnowski Jr. (DMS) (Entered: 07/25/1996)
07/25/1996		Motion hearing re: [55-1] motion for an order to Amend complaint by Bernard J. Zolnowski Jr.. Decision reserved - LGF (DMS) (Entered: 07/31/1996)
07/26/1996	59	ORDER: The motion [44-1] to dismiss as it pertains to the NY State Commission of Corrections is granted and action is dismissed against the New York State Commission of Corrections (signed by USMJ Leslie G. Foschio) Notice and copy of order sent to James A.W. McLeod, Ralph Visano, John A. Ziegler, Nan Lipsitz Haynes, Glenn E. Murray, Bernard J. Zolnowski Jr. (DMS) (Entered: 07/29/1996)
07/26/1996		Minute entry: Court rulings on pending motions: Court reads into the record its drafted Decision and Order. Finalized Decision and Order to be filed. Plaintiff requests court to visit the Erie County Holding Center to view the facility and conditions. Defendant opposes and requests plaintiff be restricted to presenting evidence via testimony and proof. Court will take testimony and reserve visiting holding center at this time. Plaintiff reserves right to renew its motion. Preliminary injunction hearing dates will be as follows: 07/29/96 at 01:30; 07/30/96 at 11:00-01:00pm., 02:30 p.m. to close of business; 07/31/96 at 09:00 a.m and possibly the

		afternoon. 08/01/96 at 09-10:00 a.m., 11:00 a.m.-12:00; 01:15 p.m. to close of business, 08/02/96 at 09:00 a.m.; week of 08/05/96 to be determined if necessary - LGF (DMS) (Entered: 07/31/1996)
07/29/1996	60	MOTION by County of Erie, John J. Dray, NYS Comm of Correc., and Thomas Higgins in opposition to plaintiffs' position on the issues of Rule 11, standing and class certification (DMS) (Entered: 07/29/1996)
07/29/1996		Preliminary Injunction Hearing held. Proceedings adjourned to 11:00 on 7/30/96 - LGF (DMS) (Entered: 07/31/1996)
07/29/1996	61	Subpoena in a Civil Case returned executed as to Ronald Gospodarski, Deputy Sheriff (DMS) (Entered: 08/07/1996)
07/29/1996	62	Subpoena returned executed as to Thomas Higgins, Sheriffs - Erie County Sheriff's Department (DMS) (Entered: 08/07/1996)
07/29/1996	63	Subpoena returned executed as to Joseph Liebergall, Chief, Erie County Forensic Mental Health Service Div. (DMS) (Entered: 08/07/1996)
07/29/1996	64	DECISION AND ORDER: Defendants' motion [49-1] to dismiss amended complaint is denied as to plaintiff Zolnowski. As to the other named plaintiffs, Craig James, Anthony Hayes, Dennis Hopkins, Jr., and Dennis Hopkins, Jr., the motion is granted, unless such plaintiffs shall execute the amended complaint within ten days of service of this order, in which even it will be denied as moot; plaintiff's motion [55-1] for leave to file a second amended complaint is granted on condition that it is served/filed no later than 10 a.m. July 29, 1996. It also appears that plaintiffs James, Hayes, and the Hopkins' had earlier moved for permission to proceed in forma pauperis but that these requests had not been acted upon. Upon execution of the amended complaint for each plaintiff, the request will be granted, nunc pro tunc. Additionally, as at least one or more new parties will thereby enter the action it will be necessary for their attorney to execute on their behalf a supplemental consent to proceed before the magistrate judge at the same time as the amended complaint is filed; upon considering the plaintiffs' motion [9-1] for class certification, the court finds that the amended complaint and the proposed second amended complaint adequately plead a class action and motion for class certification is granted. The Plaintiff class shall include any persons detained for pretrial purposes or otherwise incarcerated at the Erie County Holding Center during the period 09/08/95 to the present date and any persons who may be so detained or incarcerated in the future (signed by USMJ Leslie G. Foschio) Notice and copy of order sent to James A.W. McLeod, John A. Ziegler, Nan Lipsitz Haynes, Glenn E. Murray, Bernard J. Zolnowski Jr. (DMS) (Entered: 08/07/1996)
07/30/1996		WRIT of Habeas Corpus ad Testificandum issued for Anthony Lee on 07/31/96 at 10:30 a.m. (DMS) (Entered: 07/31/1996)
07/30/1996		WRIT of Habeas Corpus Ad Testificandum issued as to Richard Watroba for 07/31/96 at 10:30 am. before Magistrate Judge Foschio. (DMS) (Entered: 07/31/1996)

07/30/1996		Preliminary Injunction Hearing/Status conference held. Exhibits admitted. Court executes order for Writ of Habeas Corpus Ad Testificandum for Anthony Lee and Richard Watroba to appear on 07/31/96; proceedings adjourned to 07/31/96 at 09:00 a.m. - LGF (DMS) (Entered: 08/09/1996)
07/31/1996		Preliminary Injunction Hearing held. Proceedings adjourned to 08/01/96 at 10:30 a.m. - LGF (DMS) (Entered: 08/07/1996)
08/01/1996		Preliminary Injunction Hearing held. Exhibits entered into evidence. Proceeding adjourned to 08/02/96 at 08:30 a.m. Parties to meet in the lobby of the U.S. Courthouse. Two attorneys for plaintiff and defense counsel along with the court to tour the Erie County Holding Center - no court reporter or courtroom deputy needed. Plaintiff requests to attend. Defendants oppose unless plaintiff remains mute. Court authorized plaintiff's attendance as long as plaintiff submits to possible search by the Erie County Sheriffs Department and remains mute - LGF (DMS) (Entered: 08/07/1996)
08/02/1996		Preliminary Injunction Hearing held. Continued from 08/01/96. N. Haynes and J. Zieler with plaintiff; J. McLeod and US Magistrate Judge Foschio. Court tours Erie County Holding Center with parties - LGF (DMS) (Entered: 08/07/1996)
08/09/1996	65	MEMORANDUM OF LAW by defendants in response to [32-2] motion Preliminary Injunction. (JMD) (Entered: 08/12/1996)
08/09/1996	66	PROPOSED FINDINGS OF FACT by plaintiff in support of [32-2] motion Preliminary Injunction. (JMD) (Entered: 08/12/1996)
09/26/1996		Oral argument/Status conference held. Discussed various issues regarding preliminary injunction motion- LGF (DMS) (Entered: 10/04/1996)
10/03/1996	67	ORDER granting in part, denying in part [32-2] plaintiff's motion for a preliminary Injunction; parties shall meet with the court on October 28, 1996 at 02:00 p.m. to schedule further proceedings in this matter *Per chambers, parties received copies of order in person on 10/4/96 (signed by USMJ Leslie G. Foschio) Notice and copy of order sent to James A.W. McLeod, John A. Ziegler, Nan Lipsitz Haynes, Glenn E. Murray, Bernard J. Zolnowski Jr. (DMS) Modified on 10/04/1996 (Entered: 10/04/1996)
10/03/1996		Status conference set at 2:00 10/28/96 (DMS) (Entered: 10/04/1996)
10/10/1996		Notice: Pre-trial conference scheduled for 10/28/96 has been adjourned to 9:00 on 11/1/96 - LGF (DMS) (Entered: 10/11/1996)
11/01/1996		Scheduling conference held. Further conference scheduled for 12/02/96 at 02:30 p.m. - LGF (DMS) (Entered: 11/05/1996)
11/01/1996		Scheduling conference set on 2:30 12/2/96 (DMS) (Entered: 11/05/1996)
11/21/1996	68	AFFIDAVIT of Nan L. Haynes, counsel for Bernard J. Zolnowski Jr., in

		support of plaintiffs' request for fees and costs pendente lite (DMS) (Entered: 11/22/1996)
11/21/1996	69	AFFIDAVIT of Glenn Edward Murray, counsel for Bernard J. Zolnowski Jr., in support of plaintiff's request for fees and costs pendente lite (DMS) (Entered: 11/22/1996)
11/22/1996	73	AFFIDAVIT by Bernard J. Zolnowski Jr. in support of [68-1], [69-1] affidavits by plaintiff's counsel for attorneys' fees (DMS) (Entered: 12/05/1996)
11/27/1996	70	MOTION by County of Erie, John J. Dray, Thomas Higgins, and the Erie County Holding Center to join additional party defendants , together with affidavit and exhibits (DMS) (Entered: 12/02/1996)
11/27/1996	71	BRIEF/MEMORANDUM by County of Erie, John J. Dray, Thomas Higgins, and the Erie County Holding Center in support of [70-1] motion to join additional party defendants (DMS) (Entered: 12/02/1996)
12/02/1996		Pre-trial conference held. Further pretrial conference scheduled for 12/06/96 at 02:30 p.m. - LGF (DMS) (Entered: 12/06/1996)
12/02/1996		Pre-trial conference set at 2:30 12/6/96 (DMS) (Entered: 12/06/1996)
12/03/1996	72	AFFIDAVIT of James A.W. McLeod, counsel for defendants (DMS) (Entered: 12/04/1996)
12/06/1996	74	AFFIDAVIT of David Gerald Jay, Esq. to set forth opinion concerning attorney's fees rates (DMS) (Entered: 12/09/1996)
12/06/1996	75	NOTICE of 'Plaintiffs' Proposed Preliminary Injunction' (DMS) (Entered: 12/09/1996)
12/06/1996	76	SUPPLEMENTAL AFFIDAVIT of James A.W. McLeod, Assistant Attorney General, on behalf of County of Erie, John J. Dray, Thomas Higgins, and Erie County Holding (DMS) (Entered: 12/09/1996)
12/06/1996		Pre-trial conference held. Parties report that a stipulated preliminary injunction has been agreed upon. Further status and scheduling conference calendared for 12/13/96 at 09:30 a.m.; report back for a conference on 03/10/97 at 04:00 p.m. - LGF (DMS) (Entered: 12/09/1996)
12/06/1996		Scheduling conference set on 9:30 12/13/96 (DMS) (Entered: 12/09/1996)
12/06/1996		Status conference set at 4:00 3/10/97 (DMS) (Entered: 12/09/1996)
12/13/1996		Scheduling conference held. Scheduling order to be prepared and filed - LGF (DMS) (Entered: 12/18/1996)
01/06/1997		Pre-trial conference held regarding proposed scheduling order and preliminary injunction - continued to 01/08/97 and 09:00 a.m. - LGF (DMS) (Entered: 01/08/1997)

01/06/1997		Pre-trial conference set at 9:00 1/8/97 (DMS) (Entered: 01/08/1997)
01/08/1997		Pre-trial conference held regarding 16b scheduling requirements - scheduling order to be prepared/filed. Further pretrial conference set for 01/09/97 at 08:30 a.m. - LGF (DMS) (Entered: 01/09/1997)
01/08/1997		Pre-trial conference set at 8:30 1/9/97 (DMS) (Entered: 01/09/1997)
01/08/1997	77	ORDER: Scheduling Order Deadlines: joining of parties, amended pleadings on 1/31/97 Discovery deadline on 7/31/97 Status conference by 3:00 8/20/97 Deadline for filing of motions by 9/8/97 Pretrial conference by 4:00 3/10/97 Trial Date 10/20/97 Dft's expert witness ID deadline 7/7/97 Pla's expert witness ID deadline 6/2/97 Pretrial Statements to be filed by 10/8/97 Motions to Compel Discovery due by 7/7/97 Settlement Conference for 9:00 10/15/97 , set Jury Selection for 10/20/97 (signed by USMJ Leslie G. Foschio Notice and copy of order sent to James A.W. McLeod, John A. Ziegler, Nan Lipsitz Haynes, Glenn E. Murray, Bernard J. Zolnowski Jr. (DMS) (Entered: 01/09/1997)
01/08/1997	78	ORDER: The court directs that the following sums be paid to the respective attorneys by defendants not later than thirty days following service of a copy of this order upon Defendants' attorney: 1) Glenn Edward Murray - \$14,825; 2) Nan Lipsitz Haynes - \$14,593; 3) John A. Ziegler - \$18,624 (signed by USMJ Leslie G. Foschio) Notice and copy of order sent to James A.W. McLeod, John A. Ziegler, Nan Lipsitz Haynes, Glenn E. Murray, Bernard J. Zolnowski Jr. (DMS) (Entered: 01/09/1997)
01/09/1997		Pre-trial conference held - LGF (DMS) (Entered: 01/10/1997)
01/17/1997	79	PROPOSED Preliminary Injunction with attached STIPULATION (DMS) (Entered: 01/17/1997)
01/28/1997	80	ORDER: Defendants having filed on 11/27/96 a motion to join additional party defendants, it is ordered that plaintiffs shall file a Response to Motion by 2/7/97 for [70-1] motion to join additional party defendants , and defendants to file a Reply to to Motion reset to 2/14/97 for [70-1] motion to join additional party defendants (signed by USMJ Leslie G. Foschio) Notice and copy of order sent to James A.W. McLeod, John A. Ziegler, Nan Lipsitz Haynes, Glenn E. Murray, Bernard J. Zolnowski Jr. (DMS) (Entered: 01/28/1997)
01/29/1997	81	ATTORNEY AFFIDAVIT of Nan L. Haynes, counsel for Bernard J. Zolnowski Jr., in opposition to [70-1] motion to join additional party defendants by Thomas Higgins, John J. Dray, and County of Erie (DMS) (Entered: 01/30/1997)
02/13/1997		Pre-trial conference held. Discussed curt's decision and order regarding attorneys fees - LGF (DMS) (Entered: 02/14/1997)
02/13/1997	82	REPLY/RESPONSE by Bernard J. Zolnowski Jr., County of Erie, John J. Dray, Thomas Higgins, Erie County Holding . [81-1] opposition affidavit by Bernard J. Zolnowski Jr. (MMG) (Entered: 02/14/1997)

03/03/1997	83	REPLY/RESPONSE by County of Erie, John J. Dray, Thomas Higgins, and the Erie County Holding Center to plaintiff's request for production of documents dated 01/31/97 *Plaintiff's request not filed in Clerk's Office. (DMS) (Entered: 03/04/1997)
03/10/1997		Report Back/Status conference held; further discovery status conference scheduled for 03/21/97 at 02:00 p.m. - LGF (DMS) (Entered: 03/12/1997)
03/10/1997		Status conference set at 2:00 3/21/97 (DMS) (Entered: 03/12/1997)
03/21/1997	84	FIRST REQUEST for Production of Documents by County of Erie, John J. Dray, Thomas Higgins, and the Erie County Holding (DMS) (Entered: 03/21/1997)
03/21/1997		Status conference held. Further status conference scheduled for 04/04/97 at 02:00 a.m. - LGF (DMS) (Entered: 03/24/1997)
03/21/1997		Status conference set at 2:00 on 4/4/97 - LGF (DMS) (Entered: 03/24/1997)
04/04/1997		Status conference held; G. Murray unable to participate due to calendar conflict but did check in before and after status conference. Parties to report on discovery status and settlement discussions on 04/16/97 at 11:00 a.m. - LGF (DMS) (Entered: 04/07/1997)
04/04/1997		Status conference set at 11:00 on 4/16/97 before Magistrate Judge Foschio (DMS) (Entered: 04/07/1997)
04/04/1997		Status conference held; G. Murray unable to participate due to calendar conflict but did check in before and after the status conference - parties to report on discovery status and settlement discussions on 04/16/97 at 11:00 a.m. - LGF (DMS) (Entered: 04/14/1997)
04/04/1997		Status conference set at 11:00 on 4/16/97 (DMS) (Entered: 04/14/1997)
04/16/1997	86	AFFIDAVIT by Bernard J. Zolnowski Jr. in support of [85-1] motion for an Order to Show and [85-2] motion for an order extending plaintiffs' time to respond to defendants' discovery demand by Bernard J. Zolnowski Jr. (DMS) (Entered: 04/22/1997)
04/16/1997		Status conference held; further status conference scheduled for 04/24/97 at 11:00 - LGF (DMS) (Entered: 04/24/1997)
04/16/1997		Status conference set at 11:00 on 4/24/97 (DMS) (Entered: 04/24/1997)
04/22/1997	85	MOTION by Bernard J. Zolnowski Jr. for an Order to Show Cause why an expert witness should not be appointed , and an order extending plaintiffs' time to respond to defendants' discovery demand (DMS) (Entered: 04/22/1997)
04/24/1997		Report back status conference held; parties to further advised the court on status of case on 04/30/97 - LGF (DMS) (Entered: 05/01/1997)
06/05/1997		Tele-conference held; parties discussed settlement; will be forwarding

		agreement to the court for review. Further conference scheduled for 06/12/97 at 03:45 p.m. - LGF (DMS) (Entered: 06/11/1997)
06/05/1997		Tele-conference set at 3:45 6/12/97 (DMS) (Entered: 06/11/1997)
06/12/1997		Settlement conference held; further settlement conference scheduled for 06/19/97 at 03:30 p.m. - LGF (DMS) (Entered: 07/18/1997)
06/12/1997		Settlement conference set on 3:30 6/19/97 (DMS) (Entered: 07/18/1997)
06/19/1997		Minute entry: No appearances; parties to notify chambers accordingly - LGF (DMS) (Entered: 07/18/1997)
06/24/1997		Settlement conference held; parties working through settlement agreement; will advise court as to status - LGF (DMS) (Entered: 07/17/1997)
06/24/1997		Settlement conference held; parties working through settlement agreement; will advise court as to status - LGF (DMS) (Entered: 07/18/1997)
09/03/1997		Pre-trial conference held; parties to revise stipulation and report back to the court - LGF (DMS) (Entered: 09/05/1997)
09/08/1997	90	CERTIFIED COPY OF ORDER: Granting motion filed by defendants in Case #96-cv-587(H) to Consolidate , with Case #95-cv-774, , with #95-cv-774 being the lead case, without prejudice to renew the motion to dismiss before Judge Foschio upon consolidation (signed by USMJ Carol E. Heckman) Notice and copy of order sent to James A.W. McLeod, John A. Ziegler, Nan Lipsitz Haynes, Glenn E. Murray, Bernard J. Zolnowski Jr. *Order vacated pursuant to Order filed 03/03/98, Document #96, signed by Magistrate Judge Foschio (DMS) Modified on 03/03/1998 (Entered: 10/03/1997)
09/24/1997	87	STIPULATION and ORDER: The terms of settlement and restrictions are set forth in this order , and may be inspected at the lobby of the Erie County Holding Center (40 Delaware Avenue, Buffalo, NY) and at the lobby and the Clerk's Office at the United States Courthouse (68 Court Street, Buffalo, NY) signed by USMJ Leslie G. Foschio . Notice and copy of order sent to James A.W. McLeod, John A. Ziegler, Nan Lipsitz Haynes, Glenn E. Murray, Bernard J. Zolnowski Jr.. (DMS) (Entered: 09/24/1997)
09/25/1997		Per instructions from chambers, case shall remain open for a one year period from the date of order. (DMS) (Entered: 09/25/1997)
09/25/1997	88	AFFIRMATION of Glenn Edward Murray, counsel for plaintiff Bernard J. Zolnowski Jr., requesting fees and costs as summarized (DMS) (Entered: 09/26/1997)
09/26/1997	89	ORDER: Plaintiff's attorneys have filed on September 25, 1997, their affidavit [88-1] in support of an application for attorneys fees; defendants shall file their response not later than 10/17/97 ; any reply shall be filed not later than 10/24/97; oral argument will be at the court's discretion (signed by USMJ Leslie G. Foschio) Notice and copy of order sent to

		James A.W. McLeod, John A. Ziegler, Nan Lipsitz Haynes, Glenn E. Murray, Bernard J. Zolnowski Jr. (DMS) (Entered: 09/29/1997)
10/03/1997		Consolidated Lead Case (DMS) (Entered: 10/03/1997)
10/03/1997	91	STIPULATION and ORDER: The Court makes the determination of reasonableness and necessity regarding applications for Attorney Fees and Costs in the sum of \$46,015.85 , amount which is to be paid to plaintiffs' lead counsel, Glenn Edward Murray, at his office, not later than forty-five business days after entry of this order, and upon affirmation of default in such payment the Clerk of this Court shall enter judgment against defendants for any unpaid sum; signed by USMJ Leslie G. Foschio . Notice and copy of order sent to James A.W. McLeod, Thomas Campbell, John A. Ziegler, Nan Lipsitz Haynes, Glenn E. Murray, Bernard J. Zolnowski Jr.. (DMS) (Entered: 10/06/1997)
11/21/1997	92	MOTION by counsel for plaintiffs for substitution of Class Representative due to the death of plaintiff Bernard Zolnowski, Jr. , together with attached supporting affirmation (DMS) (Entered: 11/24/1997)
12/04/1997	93	ORDER granting plaintiffs counsel's [92-1] motion for substitution of Class Representative due to the death of plaintiff Bernard Zolnowski, Jr. Kristen M. Leiby is named as the new plaintiff's class representative. (signed by USMJ Leslie G. Foschio) Notice and copy of order sent to James A.W. McLeod, Thomas Campbell, John A. Ziegler, Nan Lipsitz Haynes, Glenn E. Murray, Bernard J. Zolnowski Jr. (JMD) (Entered: 12/08/1997)
01/06/1998	94	NOTICE of attorney appearance for County of Erie by Kristin Klein Wheaton (DMS) (Entered: 01/06/1998)
01/06/1998	95	AFFIDAVIT by County of Erie in response to the [87-1] order filed September 24, 1997 (DMS) (Entered: 01/06/1998)
01/12/1998		Copy of order mailed to Thomas Campbell at the Erie County Correctional Facility returned to the court - addressee not housed at the Correctional Facility (DMS) (Entered: 01/12/1998)
03/03/1998	96	ORDER: As the Zolnowski matter has been discontinued and the Campbell matter seeks monetary damages and equitable relief, there are no common issues of law and fact between the Campbell and the Zolnowski cases. Accordingly, the court vacates the [90-1] order to Consolidate Case No. 95-cv-774F and 96-cv-587H , and the Clerk is directed to reopen 96-cv-587H (signed by USMJ Leslie G. Foschio) Notice and copy of order sent to John A. Ziegler, Nan Lipsitz Haynes, Glenn E. Murray, James A.W. McLeod, Thomas Campbell, Kristin Klein Wheaton (DMS) (Entered: 03/03/1998)
03/23/1998	97	AFFIDAVIT of Kristin Klein Wheaton on behalf of defendants in response to the court's [87-1] order of 09/23/97 (DMS) (Entered: 03/25/1998)

09/17/1998	98	MOTION by Thomas Campbell, and Kristen M. Leiby for Attorney Fees (DMS) (Entered: 09/22/1998)
09/18/1998	99	ORDER: Plaintiff's attorneys, by papers filed 09/17/98, moved for attorneys fees for monitoring the terms of this court's order entered 09/24/97; Response to Motion reset to 10/14/98 for [98-1] motion for Attorney Fees , Reply to Response to Motion reset to 10/23/98 ; oral argument shall be at the discretion of the court (signed by USMJ Leslie G. Foschio) Notice and copy of order sent to John A. Ziegler, Nan Lipsitz Haynes, Glenn E. Murray, James A.W. McLeod, Thomas Campbell, Kristin Klein Wheaton (DMS) (Entered: 09/22/1998)
09/29/1998	100	STIPULATION and ORDER granting [98-1] motion for Attorney Fees; defendant shall make payment to plaintiffs' lead counsel, Glenn Edward Murray, in the sum of \$6,660.00; signed by USMJ Leslie G. Foschio . Notice and copy of order sent to John A. Ziegler, Nan Lipsitz Haynes, Glenn E. Murray, James A.W. McLeod, Thomas Campbell, Kristin Klein Wheaton . (DMS) (Entered: 10/05/1998)
10/09/1998		Copy of order, Document #99, mailed to Thomas Campbell at the Erie County Correctional Facility, returned to the court as undeliverable (DMS) (Entered: 10/09/1998)
10/13/1998		Mail return as to Thomas Campbell, Erie County Correctional Facility - Attempted - Not known (former empl) (Entered: 10/23/1998)
10/23/1998		Case closed (DMS) (Entered: 10/23/1998)
11/02/1998		Copy of document #100 returned to the Clerk's Office as undeliverable by the U.S. Postal Service as to Thomas Campbell, located at the Erie County Correctional Facility (DMS) (Entered: 11/02/1998)
10/11/2005	102	MOTION for Expedited Hearing by Kristen M. Leiby, Thomas Campbell.(DZ,) Modified on 10/12/2005 to correct filing date to 10/11/05(DZ,). (Entered: 10/12/2005)
10/11/2005	103	MEMORANDUM by plaintiffs IN SUPPORT re 102 MOTION for Expedited Hearing (DZ,) Modified on 10/12/2005 to correct filing date to 10/11/05(DZ,). (document filed pursuant to chambers) (Entered: 10/12/2005)
10/11/2005	104	AFFIDAVIT re 103 Memorandum in Support by Kristen M. Leiby, Thomas Campbell. (Attachments: # 1 Exhibit A# 2 Exhibit B# 3 Exhibit C# 4 Exhibit D)(DZ,) (Entered: 10/12/2005)
10/11/2005	105	CERTIFICATE OF SERVICE by Kristen M. Leiby, Thomas Campbell re 104 Affidavit, 102 MOTION for Hearing, 103 Memorandum in Support (DZ,) (Entered: 10/12/2005)
10/11/2005		E-Filing Error Corrected: 102 MOTION for Hearing, 103 MEMORANDUM : Modified on 10/12/2005 to correct filing date to 10/11/05(DZ,). (DZ,) (Entered: 10/12/2005)
10/12/2005	101	DECLARATION signed by Kristin Klein Wheaton filed by County of

		Erie, John J. Dray, Thomas Higgins, Erie County Holding Center, County of Erie, John J. Dray, Thomas Higgins, Erie County Holding Center <i>in opposition to plaintiff's request for an order seeking an expedited hearing</i> filed by County of Erie, John J. Dray, Thomas Higgins, Erie County Holding Center, County of Erie, John J. Dray, Thomas Higgins, Erie County Holding Center. (Attachments: # 1 Exhibit A - 092497 stipulation and order# 2 Exhibit B - termination stipulation and order)(Wheaton, Kristin) (Entered: 10/12/2005)
10/12/2005	106	ORDER re 102 MOTION for Hearing filed by Thomas Campbell, Kristen M. Leiby. As Defendants have already filed their response, Plaintiffs' reply due by 10/17/2005. Oral Argument set for 10/24/2005 10:00 AM before Hon. Leslie G. Foschio. Signed by Hon. Leslie G. Foschio on 10/12/2005. (SDW) (Entered: 10/13/2005)
10/13/2005	107	MOTION to Withdraw by plaintiffs (Attachments: # 1 certificate of service)(DZ,) (Entered: 10/13/2005)
10/13/2005	108	ORDER, granting 107 Motion to Withdraw (withdrawing 102 Motion for Hearing). Signed by Judge Leslie G. Foschio on 10/13/05. (DZ,) (Entered: 10/13/2005)

PACER Service Center			
Transaction Receipt			
10/14/2005 14:16:09			
PACER Login:	hs0328	Client Code:	
Description:	Docket Report	Search Criteria:	1:95-cv-00774-RJA-LGF
Billable Pages:	11	Cost:	0.88