

MOTION INFORMATION STATEMENT

Caption [use short title]

Docket Number(s): 05-CV-5106 (DRH) (ETB) 09-1824 CV (2ND CIR.) CHESNEY VS. VALLEY STREAM U.F.S.D.  
NO. 24, ET AL.

Motion for: DEATH KNEEL SANCTIONS AND  
RELATED RELIEF

Set forth below precise, complete statement of relief sought:

1) ORDER GRANTING DEATH KNEEL JUDGMENT  
and DEFAULT JUDGMENT. 2) ORDER GRANTING  
SUBJECTING OF COURT FILE; 3) ORATE  
FOR CRIMINAL INVESTIGATION INTO DESTRUCTION  
AND TAMPERING. 4) TURNOVER OF PLT-APPELLANTS  
WORK RECORDS FOR FORENSIC ANALYSIS; 5) SUCH OTHER  
AVAIL AND RELIEF AS IS PROPR.

MOVING PARTY: CHESNEY/POLLACK  
 Plaintiff  Defendant  
 Appellant/Petitioner  Appellee/Respondent

OPPOSING PARTY: VALLEY STREAM U.F.S.D. NO. 24  
EDNY

MOVING ATTORNEY: RUTH M. POLLACK, ATTY  
[name of attorney, with firm, address, phone number and e-mail]  
21 WEST SECOND STREET - STE. 13  
POST OFFICE BOX 120  
RIVERHEAD, N.Y. 11901  
T-631-591-13160  
F-631-591-3162  
ruth@ruthmpollackesq.com

OPPOSING ATTORNEY [Name]: STEVEN STERN, ESQ.  
[name of attorney, with firm, address, phone number and e-mail]  
STERN SOKOLOFF LLP  
355 POST AVENUE - STE. 201  
WEST BURY, NY 11590  
516-334-4500  
ssstern@sokoloffstern.com

Court-Judge/Agency appealed from: EDNY (Hurley, Boyle)

Please check appropriate boxes:

Has consent of opposing counsel:  
A. been sought?  Yes  No  
B. been obtained?  Yes  No

Is oral argument requested?  Yes  No  
(requests for oral argument will not necessarily be granted)

Has argument date of appeal been set?  Yes  No  
If yes, enter date \_\_\_\_\_

Signature of Moving Attorney: [Signature]

Date: 9/23/09

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:

Has request for relief been made below?  Yes  No

Has this relief been previously sought in this Court?  Yes  No

Requested return date and explanation of emergency: SOME HAS.

Emergency is continued spoliation  
of case and dated - STATUTORY  
return date is acceptable.

Has service been effected?  Yes  No  
[Attach proof of service]

ORDER

IT IS HEREBY ORDERED THAT the motion is **GRANTED** ~~DENIED~~.

FOR THE COURT:  
CATHERINE O'HAGAN WOLFE, Clerk of Court

Date: \_\_\_\_\_

By: \_\_\_\_\_

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

\_\_\_\_\_  
KEVIN G. CHESNEY and LORRAINE CHESNEY, <sup>x</sup>

Plaintiff-Appellant,

-against-

**PLAINTIFF-  
APPELLANTS'  
AFFIDAVIT  
IN SUPPORT OF  
EMERGENCY  
APPLICATION  
FOR  
DEATH KNELL  
SANCTIONS AND  
DEFAULT  
JUDGMENT**

Case No.: 05CV5106

(DRH)(ETB)

2d Cir. No. 09-1824-cv

VALLEY STREAM UNION FREE SCHOOL DISTRICT  
NO. 24; VALLEY STREAM UNION FREE SCHOOL  
DISTRICT NO. 24 BOARD OF EDUCATION; EDWARD M.  
FALE, Ph.D., SUPERINTENDENT OF SCHOOLS; LISA K.  
CONTE, PRINCIPAL; CHARLES BROCEAUR,  
MAINTENANCE SUPERVISOR, STEPHEN HARAMIS,  
CUSTODIAN AND UNION REPRESENTATIVE;  
LOCAL 74 SEIU, EACH IN THEIR INDIVIDUAL AND  
OFFICIAL CAPACITIES, "JOHN DOES and JANE DOES",  
the latter being persons and/or entities unknown to complainant,  
NASSAU COUNTY DIVISION CIVIL SERVICE  
COMMISSION OF NEW YORK STATE,

Defendant-Appellee.

\_\_\_\_\_  
State of New York )  
County of Nassau ) ss.:

Kevin G. Chesney, being duly sworn, deposes and says:

1. I am the plaintiff-appellant in the above captioned case.

I make this affidavit in support of my application for a) an order of

default judgment against defendants and all of their legal counsels on my prior unanswered application; b) for an order granting me and my counsel death knell sanctions and damages as permitted by current law for the destruction of our case file, tampering with our official docket in EDNY and ex parte communications in the absence of my attorney; c) an order immediately sequestering my court file from the Eastern District of New York so that I may examine it with my attorney and forensic analyst immediately and make copies<sup>1</sup>; d) for an order for the immediate institution of a criminal probe by an independent federal prosecutor, the Department of Justice and the Federal Bureau of Investigation and Inspector General of this case due to the complete destruction and spoliation of my original case files and tampering of my official electronic docket on EDNY ECF which has prevented my appeal from proceeding, e) an order requiring the turnover to the Court of my **original** time records for June 2004 submitted as evidence EDNY Court by the District by its attorney Steven Stern of Stern Sokoloff, LLP and my original COBRA forms submitted as evidence to the EDNY Court by Michelle Feldman, Esq. of Lamb Barnosky, LLP, purportedly mailed to me in June 2004 by the District from the Valley Stream Union Free School District No. 24 for immediate forensic evaluation by our bonified, licensed and

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<sup>1</sup> I made a previous application for sequestering of my file on July 27, 2009 to this court in a T-1080 motion and that application was never responded to by the defendants or ruled on by this Court.

forensic analyst well-regarded in the State of New York; and f) for such other and further relief as to this Court seems just and proper. This remains urgent because I fear that further destruction and tampering will occur and continue to prevent me and my attorney from litigating orders of this Court and prosecuting this appeal and prevent official investigations from occurring. I also ask for an order requiring the immediate turnover of the original cancelled check for June 2004 for my payroll at the District. It is directly related to the tampered, forged time records sent by defendants and its counsels to the EDNY as evidence under oath.<sup>2</sup>

2. This application is based upon new information that my attorney and I have obtained. As is seen by Exhibit "A", a copy of the T-1080 for which is annexed, my entire EMERGENCY application dated July 27, 2009 in which we demanded oral argument has been ignored, even after defendants defaulted in answering it. We have not been informed of what authorized defendants to disregard and default on this serious and landmark application. The EMERGENCY at hand includes the undisputed wholesale destruction of our entire court case file and the continuing sabotaging of our electronic docket since 2004. According to FRCP §79 (a)-(c) and FRAP §45: "Clerk's Duties" and Second Circuit website, the "ACCO" files must be maintained

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<sup>2</sup> This relief was also sought in our July 27, 2009 application to this Court, also defaulted on by defendants and not ruled on by any Court.

until the closing of the case after which the files are **preserved** in the Federal Records Center. F. Rule App. P. § 11 (b)(2) mandates that the EDNY Court Clerk “must number the documents constituting the record and send them promptly to the circuit clerk together with a list of the documents correspondingly numbered and reasonably identified.” Subdivision (c) mandates that the record be “retained”... [T]emporarily in the District Court for Use in Preparing the Appeal.” At this point it is clear that there is no record of my case in the EDNY courthouse and so none of the required steps have or may be followed. FRAP 10. “The Record on Appeal” provides explicitly that to do an appeal the following records must exist:

**(a) Composition of the Record on Appeal. The following items constitute the record on appeal:**

- (1) the original papers and exhibits filed in the district court;**
- (2) the transcripts of proceedings, if any; and**
- (3) a certified copy of the docket entries prepared by the district clerk.**

In this case, it is clear that the materials enumerated in number (1) above have been destroyed, the transcripts of proceedings in number (2) above prove ex parte communications between the Magistrate and defense counsel with no objection full participation by defense counsel Michelle Feldman, Esq. and a third transcript was secretly recorded as an “FTR”

on an FTR drive, unbeknownst to my attorney Ms. Pollack or me until I ordered the transcript on July 13, 2009. The secret recording was fraudulently added to the official docket as a notation after I ordered the transcripts and long after the actual date of the recording itself on November 2, 2007, one and a half years later. (See copy of Exhibit "B" annexed to our T-1080 motion of July 27, 2009 at ECF No 86 wherein "FTR" is inserted.)

3. Since my last application, I have received an order only by seeing it on the Court's Official docket (Exhibit "B"), despite my written request that both our attorney and I be copied with all documents in our appeal submitted in our T-1080 motion of July 27, 2009 (Exhibit "A"). The order with a purported "stay" under FRCP 4(a) 4(B) (i) dated August 20, 2009 is on the official U.S Court of Appeals Docket dated September 4, 2009. The same order is not signed by any judge. True and correct copies of our **certified** docket sheets from **April 30, 2009** and **July 31, 2009** each markedly tampered and differing one from the other are annexed hereto as Exhibit "C". Another order dated August 25, 2009 also not signed by any judge but signed by a Second Circuit Staff Attorney, Michael Zachary, seeking "clarification", and misrepresents my wife as "pro se Appellant" (Exhibit "D"). It fails to request an affidavit from my wife who is united in interest with me as a co-plaintiff in all papers and whose name appears on all of my filed notices of appeal as a "plaintiff-appellant". The June 19, 2009 never requested any

separate affidavit from my wife. No legal authority is cited for such a frivolous demand from Mr. Zachary at this late date. The **“Subsequent Corrected/Amended Notice of Appeal”** we both signed and filed on May 27, 2009 is still omitted from the official Second Circuit docket and should be filed there in consecutive order under the FRCP and FRAP. A copy of our “Acknowledgement and Notice of Appearance” and our **“Subsequent Corrected/Amended Notice of Appeal”** filed in the EDNY on May 27, 2009 and the EDNY **bounce** which states that it was sent to the Second Circuit are annexed as Exhibit “E”. It was signed by both of us. Notwithstanding all of this, Mr. Zachary sent an “ORDER OF GRIEVANCE PANEL” dated August 25, 2009 demanding, with no legal citations or support, an affidavit from my wife and again calls her “pro se”. It is fraudulent for the official Second Circuit Court of Appeals docket to not contain any of these orders when the same docket a) heading, b) acknowledgement of appearance entered on May 18, 2009 and c) case information all state in black and white that as of at least today, both of us are represented by Ms. Pollack. (Order of Grievance Panel is annexed as Exhibit “F”) No further clarification is required. Again, Mr. Zachary, and not any judge, is now requiring an affidavit never before required. Mr. Zachary now calls himself “Supervisory Staff Attorney - Counsel to the Grievance Panel” in that order. This is an obvious conflict of interest and an unlawful order. It is prejudicial and proves bias to force my wife to submit yet another document. Why

doesn't Mr. Zachary demand the production of the original case file in EDNY, my original documents, orders and exhibits and my work related materials from the defendant School District and its attorneys? Why does he fail to set this down for oral argument? Why has he failed in all of these months, to order a criminal probe of our complaints set forth in our pending T-1080 motion, never addressed at all, but ignored? Why has he failed to demand an affidavit from EDNY as to the missing files? Why has he failed to report this matter to officials and initiate an immediate criminal probe? Instead, he focuses on trivia, such as my wife's name which is everywhere on the official Second Circuit Docket.

4. The Court's latest citation of FRAP 4(a) (4) in the August 20, 2009 "order" by Mr. Zachary does not apply to this case and does not support a stay of our appeal. As the record reflects in the EDNY docket, a final judgment as a separate document was entered on May 15, 2009 by Chief Clerk Heinemann. (Judgment annexed as Exhibit "G") The FRAP, as amended in 2002, is clear that our appeal cannot be stayed because of the rule itself and **most important, the destruction of our case file and tampered ECF docket.** FRAP 4(a)(B)(i), which refers to FRAP 4(a)(4)(A), cited in the August 25, 2009 Grievance "order" does not operate to stay our appeal because our ability to appeal has been destroyed by the destruction of our official court files and docket tampering, all required to perfect an appeal. More disturbing is the fact that under these most outrageous of circumstances, the Court of Appeals Clerk's Office, which



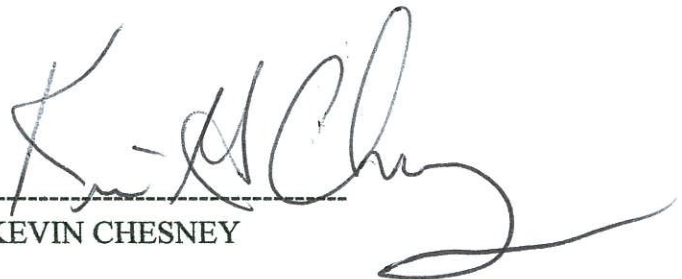
appears to be litigating our appeal and covering up the crimes of EDNY and defendants and their legal counsels, has declared our appeal “stayed” when neither defendants, its counsel nor we have requested any stay. Why is this Court delaying this case? It is unconstitutional as a denial of due process, obstruction of justice and equal protection at the very least. We are being prejudiced by this willful or grossly negligent miss-application of the law. It would appear that a conspiracy to obstruct justice and a criminal investigation exists, and has been aided by the stay.

5. Finally, on this issue, a copy of a certified document I was forced to prepare for the EDNY Clerk’s Office acknowledging the destruction of my file is annexed as Exhibit “H”. A memorandum of law is annexed to support our application for a Death Knell Order. We are relying on my affidavit and exhibits submitted to this Court in our T-1080 motion dated July 27, 2009 in support of this motion for Death Knell sanctions. For all of the above reasons, I respectfully request an order granting the emergency relief requested in this application.

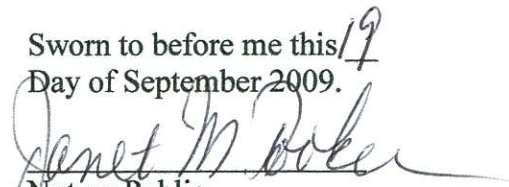
In connection with this application, I state that I am one of the plaintiff-appellants in the within appeal. I have read this notice of motion and affidavits of Lorraine Chesney and my attorney Ruth M. Pollack and Form T1080 with exhibits and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief; and as to those matters I believe them to be true.

**WHEREFORE**, plaintiff-appellants and its legal counsel Ruth M. Pollack, Esq. respectfully request a) an order immediately sequestering its entire original court file from the Eastern District of New York so that they may examine it with their attorney and forensic analyst immediately and make copies; b) an order requiring the turnover to this Court of plaintiff-appellants' **original** time records for June 2004 submitted as evidence EDNY Court by the District by its attorney Steven Stern of Stern Sokoloff, LLP and plaintiff-appellant's original COBRA forms submitted as evidence to the EDNY Court by Michelle Feldman, Esq. of Lamb Barnosky, LLP, purportedly mailed to him in June 2004 by the District from the Valley Stream Union Free School District No. 24 for immediate forensic evaluation by its own bonified, licensed and forensic analyst; c) the Death Knell default judgment and damages demanded herein and d) for such other and further relief as to this Court seems just and proper.

Dated: September 18, 2009  
Valley Stream, New York

  
-----  
KEVIN CHESNEY

Sworn to before me this 19  
Day of September 2009.

  
Notary Public  
JANET M. TOOKER  
Notary Public, State of New York  
No. 01T05051905  
Qualified in Suffolk County  
Commission Expires November 13, 2009

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

x

KEVIN G. CHESNEY and LORRAINE CHESNEY,

Plaintiff-Appellant,

-against-

**PLAINTIFF-  
APPELLANTS'  
AFFIDAVIT  
IN SUPPORT OF  
EMERGENCY  
APPLICATION  
FOR  
DEATH KNELL  
SANCTIONS AND  
DEFAULT  
JUDGMENT**

Case No.: 05CV5106

(DRH)(ETB)

2d Cir. No. 09-1824-cv

VALLEY STREAM UNION FREE SCHOOL DISTRICT  
NO. 24; VALLEY STREAM UNION FREE SCHOOL  
DISTRICT NO. 24 BOARD OF EDUCATION; EDWARD M.  
FALE, Ph.D., SUPERINTENDENT OF SCHOOLS; LISA K.  
CONTE, PRINCIPAL; CHARLES BROCEAUR,  
MAINTENANCE SUPERVISOR, STEPHEN HARAMIS,  
CUSTODIAN AND UNION REPRESENTATIVE;  
LOCAL 74 SEIU, EACH IN THEIR INDIVIDUAL AND  
OFFICIAL CAPACITIES, "JOHN DOES and JANE DOES",  
the latter being persons and/or entities unknown to complainant,  
NASSAU COUNTY DIVISION CIVIL SERVICE  
COMMISSION OF NEW YORK STATE,

Defendant-Appellee.

x

State of New York )  
County of Nassau ) ss.:

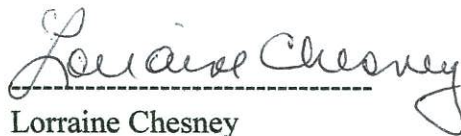
Lorraine Chesney, being duly sworn, deposes and says:

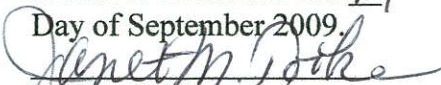
1. I am a plaintiff-appellant in the above case and I make this affidavit in support of the application for death knell sanctions discussed by my husband and my attorney, Ruth M. Pollack, Esq. in the annexed papers.
2. I am fully aware of the orders about my attorney and I want to continue to have her as my attorney here in this appeal. I have read my husband's affidavit and all exhibits and agree with it to the extent that I was present and as to all other matters in it I verify they are true upon information and belief. I was personally present when my husband waited for three (3) hours as a disabled person at the EDNY Clerk's Office only to learn that his entire case file **and the motion for reconsideration** was destroyed.
3. I seek the relief we have requested in the application.

In connection with this application, I state that I am one of the plaintiff-appellants in the within appeal. I have read this notice of motion and affidavits of <sup>Kevin G. [Signature]</sup> Lorraine Chesney and my attorney Ruth M. Pollack and Form T1080 with exhibits and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief; and as to those matters I believe them to be true.

**WHEREFORE**, plaintiff-appellants and its legal counsel Ruth M. Pollack, Esq. respectfully request a) an order immediately sequestering its entire original court file from the Eastern District of New York so that they may examine it with their attorney and forensic analyst immediately and make copies; b) an order requiring the turnover to this Court of plaintiff-appellants' **original** time records for June 2004 submitted as evidence EDNY Court by the District by its attorney Steven Stern of Stern Sokoloff, LLP and plaintiff-appellant's original COBRA forms submitted as evidence to the EDNY Court by Michelle Feldman, Esq. of Lamb Barnosky, LLP, purportedly mailed to him in June 2004 by the District from the Valley Stream Union Free School District No. 24 for immediate forensic evaluation by its own bonified, licensed and forensic analyst; c) the Death Knell default judgment and damages demanded herein and d) for such other and further relief as to this Court seems just and proper.

Dated: September 18, 2009  
Valley Stream, New York

  
Lorraine Chesney

Sworn to before me this 19  
Day of September 2009.  
  
Notary Public

JANET M. TOOKER  
Notary Public, State of New York  
No. 01T05051905  
Qualified in Suffolk County  
Commission Expires November 13, 2009

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

\_\_\_\_\_  
KEVIN G. CHESNEY and LORRAINE CHESNEY, <sup>x</sup>

Plaintiff-Appellant,

-against-

**PLAINTIFF-  
APPELLANTS'  
COUNSEL'S  
AFFIDAVIT  
IN SUPPORT OF  
EMERGENCY  
APPLICATION  
FOR  
DEATH KNELL  
SANCTIONS AND  
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Case No.: 05CV5106  
(DRH)(ETB)

2d Cir. No. 09-1824-cv

VALLEY STREAM UNION FREE SCHOOL DISTRICT  
NO. 24; VALLEY STREAM UNION FREE SCHOOL  
DISTRICT NO. 24 BOARD OF EDUCATION; EDWARD M.  
FALE, Ph.D., SUPERINTENDENT OF SCHOOLS; LISA K.  
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OFFICIAL CAPACITIES, "JOHN DOES and JANE DOES",  
the latter being persons and/or entities unknown to complainant,  
NASSAU COUNTY DIVISION CIVIL SERVICE  
COMMISSION OF NEW YORK STATE,

Defendant-Appellee.

\_\_\_\_\_  
State of New York )  
County of Suffolk ) ss.:

Ruth M. Pollack, being duly sworn, deposes and says:

1. I am the plaintiff-appellant's legal counsel in the above-captioned case. In addition, I was their attorney throughout the entire case in state and federal courts. I make this affidavit in support of our application for a) an order of default judgment against defendants and all of their legal counsels on our prior unanswered application; b) for an order granting them and me death knell sanctions and damages as permitted by current law for the destruction of our case file, tampering with our official docket in EDNY and ex parte communications in the absence of me as their legal counsel; c) an order immediately sequestering our court file from the Eastern District of New York so that I may examine it with my clients and forensic analyst immediately and make copies<sup>1</sup>; d) for an order for the immediate institution of a criminal probe by an independent federal prosecutor, the Department of Justice and the Federal Bureau of Investigation and Inspector General of this case due to the complete destruction and spoliation of our original case files and tampering of our official electronic docket on EDNY ECF which has prevented our appeal from proceeding, e) an order requiring the turnover to the Court of my client's **original** time records for June 2004 submitted as evidence EDNY Court by the District by its attorney Steven Stern of Stern Sokoloff, LLP and his original COBRA forms submitted as evidence to the EDNY Court

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<sup>1</sup> We made a previous application for sequestering of the file on July 27, 2009 to this court in a T-1080 motion and that application was never responded to by the defendants or ruled on by this Court.

by Michelle Feldman, Esq. of Lamb Barnosky, LLP, purportedly mailed to him in June 2004 by the District from the Valley Stream Union Free School District No. 24 for immediate forensic evaluation by our bonified, licensed and forensic analyst well-regarded in the State of New York; and f) for such other and further relief as to this Court seems just and proper.

2. I adopt as true the statements made by my client Kevin G. Chesney and his wife, my client Lorraine Chesney, and as to those matters that I was not personally present to witness as stated by Mr. and Mrs. Chesney and believe them to be true upon information and belief.
3. It is true that I did not learn of the docket tampering in this case until I reviewed the electronic case filing (ECF) docket and discovered in early January 2009 that my case file docket had been severely tampered with and I wrote a letter to report this misconduct to the EDNY Court per my ethical obligation to my client and the Court to do so. Upon further review, my client and I discovered the tampering and destruction was so pervasive and continuing that we had to make a T-1080 motion to this Court on July 27, 2009. I rely on that motion and its extensive exhibits in this application for Death Knell sanctions and default judgment for this truly **criminal** conduct.
4. This is the first time an application for this relief is being made.



5. I believe that, based upon our extensive, nationwide research, this criminal destruction of a file over a 5 ½ year period is unprecedented and a case of first impression. **I also believe that I have been targeted as a whistle blower about an unprecedented scandal that I have never seen in a quarter century of the practice of law.** As a result of this criminal conduct, we have suffered years of lost work, attorneys' fees, lost evidence, loss of our ability to perfect an appeal, defamation across the world wide Internet , the EDNY website, the WDNY website, the SDNY website, and countless other places still being disclosed to us. The modern law of the Death Knell Doctrine as it relates to e-evidence and case a file is on point and applicable here and now.
6. Such open-ended breaching of professional conduct by defense counsel in this case should be addressed at some point by the defendant parties, especially the Board of Education. In addition, the board members themselves have each breached, either benignly or intentionally, their fiduciary obligations to protect the District from further harm; by allowing the professional misconduct of the District, the Superintendent, its agents, servants and employees, as well as its four (4) firms of legal counsels paid for five years with public funds, to continue ongoing without being addressed, and not ordered halted or changed seems to me to render the Board members' fiduciary failure as incontrovertible proof of malicious

intent. As such, under the law of spoliation and the Death Knell Doctrine, the imposition of damage charges in this case may be raised to the treble degree.

7. We are entitled to the remedies in the annexed Memorandum of Law. No words can express the magnitude of the spoliation and destruction in our case as compared to all of the cases we have found reported across the country in this area of law. Our damages cannot begin to be calculated as of yet, but this application is one remedy we are entitled to under prevailing civil and criminal law and constitutional standards of due process.
8. I am personally appalled by the ex parte communications which the record that my client ordered prove beyond a doubt actually occurred. These communications were never denied by either the Court or legal counsels for the District defendants and must be deemed admitted by each of them. This wholesale tampering and destruction described in detail in our T-1080 motion of July 27, 2009 were never answered or denied by the Court or defense counsels either and must also be deemed admitted by each of them.
9. This conduct is criminal in nature as a felony on a state and federal level. It must be investigated at once in a federal independent probe. The electronic PACER and ECF system we all pay for and rely on for accurate information has not reduced paperwork, but has created a hothouse for widespread fraud within the justice


system. Here, it has provided a means of cover-up for the acts of a school system which functions on state and federal public funds.

10. As a result of the many uncontroverted acts set forth in our papers, we respectfully demand an order awarding us a Death Knell default judgment and sanctions as permitted by prevailing case law and federal civil and criminal statutes. Keeping in mind that the “rationales underlying the spoliation doctrine” are “prophylactic, punitive, and remedial,” West v. Goodyear Tire & Rubber Co., 167 F.3d 776, 779 (2d Cir. 1999), we are entitled to the harshest of remedies against those involved here.

In connection with this application, I state that I have read this notice of motion and affidavits of Lorraine and Kevin G. Chesney and Form T1080 with exhibits and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief; and as to those matters I believe them to be true.

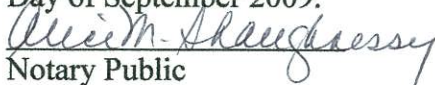
**WHEREFORE**, plaintiff-appellants and its legal counsel Ruth M. Pollack, Esq. respectfully request a) an order immediately sequestering its entire original court file from the Eastern District of New York so that they may examine it with their attorney and forensic analyst immediately and make copies; b) an order requiring the turnover to this Court of plaintiff-appellants' **original** time records for June 2004 submitted as evidence EDNY Court by the District by its attorney Steven Stern of Stern Sokoloff, LLP and plaintiff-appellant's original COBRA forms submitted as evidence to the EDNY Court by Michelle Feldman, Esq. of Lamb Barnosky, LLP, purportedly mailed to him in June 2004 by the District from the Valley Stream Union Free School District No. 24 for immediate forensic evaluation by its own bonified, licensed and forensic analyst; c) the Death Knell default judgment and damages demanded herein and d) for such other and further relief as to this Court seems just and proper.

Dated: September 18, 2009  
Valley Stream, New York



-----  
Ruth M. Pollack, Esq.

Sworn to before me this 22<sup>nd</sup>  
Day of September 2009.

  
Notary Public



ALICE M. SHAUGHNESSY  
Notary Public, State of New York  
No. 52-4528113  
Qualified in Suffolk County  
Commission Expires 4/19/2010

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

\_\_\_\_\_  
KEVIN G. CHESNEY and LORRAINE CHESNEY, <sup>x</sup>

Plaintiff-Appellant,

Case No.: 05CV5106  
(DRH)(ETB)  
2d Cir. No. 091824cv

-against-

VALLEY STREAM UNION FREE SCHOOL DISTRICT  
NO. 24; VALLEY STREAM UNION FREE SCHOOL  
DISTRICT NO. 24 BOARD OF EDUCATION; EDWARD M.  
FALE, Ph.D., SUPERINTENDENT OF SCHOOLS; LISA K.  
CONTE, PRINCIPAL; CHARLES BROCEAUR,  
MAINTENANCE SUPERVISOR, STEPHEN HARAMIS,  
CUSTODIAN AND UNION REPRESENTATIVE;  
LOCAL 74 SEIU, EACH IN THEIR INDIVIDUAL AND  
OFFICIAL CAPACITIES, "JOHN DOES and JANE DOES",  
the latter being persons and/or entities unknown to complainant,  
NASSAU COUNTY DIVISION CIVIL SERVICE  
COMMISSION OF NEW YORK STATE,

Defendant-Appellee.

\_\_\_\_\_  
<sup>x</sup>

**MEMORANDUM OF LAW: DEATH KNELL SANCTIONS  
AND DEFAULT JUDGMENT**

**RUTH M. POLLACK, ESQ. (RP1407)**  
**Counsel for Plaintiff-Appellants**  
**21 West Second Street · Suite 13**  
**Post Office Box 120**  
**Riverhead, New York 11901**  
**Tel. 631-591-3160**  
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UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

\_\_\_\_\_  
KEVIN G. CHESNEY and LORRAINE CHESNEY, <sup>x</sup>

Plaintiff-Appellant,

Case No.: 05CV5106  
(DRH)(ETB)  
**2d Cir. No. 091824cv**

-against-

VALLEY STREAM UNION FREE SCHOOL DISTRICT  
NO. 24; VALLEY STREAM UNION FREE SCHOOL  
DISTRICT NO. 24 BOARD OF EDUCATION; EDWARD M.  
FALE, Ph.D., SUPERINTENDENT OF SCHOOLS; LISA K.  
CONTE, PRINCIPAL; CHARLES BROCEAUR,  
MAINTENANCE SUPERVISOR, STEPHEN HARAMIS,  
CUSTODIAN AND UNION REPRESENTATIVE;  
LOCAL 74 SEIU, EACH IN THEIR INDIVIDUAL AND  
OFFICIAL CAPACITIES, "JOHN DOES and JANE DOES",  
the latter being persons and/or entities unknown to complainant,  
NASSAU COUNTY DIVISION CIVIL SERVICE  
COMMISSION OF NEW YORK STATE,

Defendant-Appellee.

\_\_\_\_\_  
<sup>x</sup>

**MEMORANDUM OF LAW: DEATH KNELL SANCTIONS  
AND DEFAULT JUDGMENT**

INTRODUCTION:

This case involves the unlawful termination of a full-time, male  
cleaner/custodian from the Valley Stream Union Free School District  
No. 24 following his injury at work on May 17, 2004. Plaintiff and his

wife filed a summons and complaint in the New York Supreme Court of Nassau County. Plaintiff alleged, *inter alia*, unlawful termination as a result of his injury and disability and the false accusation that he was committing insurance fraud by operating a cab in a second job. The District itself falsely claimed in official papers submitted to the health providers that plaintiff had been injured in an automobile accident. Plaintiff's discrimination complaint was immediately removed by District defendants to Eastern District of New York, Central Islip, New York. Plaintiff applied for worker's compensation and was eventually awarded a 70% marked disability by judge and board panel. The panel also cited the law permitting plaintiff to engage in concurrent employment while he received worker's compensation benefits. As a result of the lengthy appeals by the District of the Worker's Compensation orders, plaintiff's spinal surgery was delayed for two years, resulting in a permanent disability at age 34. He was married on November 7, 2003, just months before his injury. He was terminated on June 30, 2004, less than 24 hours before he was eligible to receive his vacation, sick and personal days earned the previous year as a full time worker.

Procedurally, all of plaintiff-appellant's causes of action were dismissed by the Court except for COBRA claim without any discovery. In fact, all discovery was stayed by the Magistrate while defendant School District and its counsels, two law firms – four (4)

defense firms were involved in all of the litigation -- moved for dismissal by submitting false and perjurious affidavits, tampered time sheets, and false and perjurious COBRA forms. Plaintiff also complained in his papers to the Court of the larceny of his paycheck and time due him as well as the perjurious materials, to no avail. Defense counsel never denied plaintiff's claims of fraud and tampering.

In January 2007, plaintiffs were force to proceed pro se due to the unlawful suspension of their counsel in EDNY. who represented them until her suspension. Plaintiffs continued pro se until they discovered the destruction and spoliation of their case file in the EDNY Clerk's Office after their case was unlawfully dismissed and a judgment entered by the Chief Clerk in the tampered electronic docket. This was immediately appealed by plaintiffs pro se. The four (4) notices of appeal included the dismissal by summary judgment of the COBRA claim, dismissal of plaintiffs' amended complaint which included three causes of action which amendment was granted. The basis for the dismissal was the alleged "absence" of plaintiffs' papers filed with the court.

Due to the destruction of the case file, this claim of "absent" papers can no longer be disputed by plaintiffs in an appeal.

The Death Knell Sanctions for Spoliation Are Appropriate Under Prevailing Law



“Spoliation is the destruction or significant alteration of evidence, or the failure to preserve property for another’s use as evidence in pending or reasonably foreseeable litigation.” West v. Goodyear Tire & Rubber Co., 167 F.3d 776, 779 (2d Cir. 1999) (citation omitted). A party bringing a spoliation claim must demonstrate

(1) that the party having control over the evidence had an obligation to preserve it at the time it was destroyed;

(2) that the [evidence was] destroyed with a culpable state of mind; and

(3) that the destroyed evidence was relevant to the party’s claim or defense such that a reasonable trier of fact could find that it would support that claim or defense.

Residential Funding Corp. v. DeGeorge Fin. Corp., 306 F.3d 99, 107 (2d Cir. 2002) (internal quotation marks and citation omitted).

In Gutman v. Klein, Magistrate Judge Robert M. Levy determined that defendant searched for and downloaded software to erase its hard drive of evidence relevant to the case. 03-Civ. 1570 (BMC), 2008 WL 5084182 (E.D.N.Y.) (Dec. 2, 2008) *approving* Report & Recommendation, 2008 WL 4682208 (Oct. 15, 2008) Instead of using the data “wiping” software, defendant manually deleted files and reinstalled Windows XP, ostensibly to cover-up the

erasing of evidence. The Court ordered a forensic examination of the laptop. Much of the spoliation evidence was located by virtue of a forensic analysis of file system meta data, file meta data, and system logs. Based on this spoliation, the magistrate judge recommended a sanction of default judgment against the defendant and a sanction of attorneys fees related to the discovery. The District Court (Cogan, J.) approved the Report and Recommendation of M.J. Levy.

The Gutman Court then applied spoliation law:

In the first prong, a party becomes obligated to preserve evidence when it “has notice that the evidence is relevant to litigation . . . [or] should have known that the evidence may be relevant to future litigation.” Kronisch v. United States, 150 F.3d 112, 126 (2d Cir. 1998) (citations omitted); accord Fujitsu Ltd. v. Fed. Express Corp., 247 F.3d 423, 436 (2d Cir. 2001). In the instant case, it is undeniable that the Court’s (and litigants’) **original case file** was destroyed in its entirety in an apparent attempt to obstruct and prevent pro se plaintiffs from perfecting its appeal and proving that its papers were, in fact timely submitted to the Court months earlier. The submission of these documents was evidenced by the certified tampered docket a copy of which was retained by plaintiffs as of July 31, 2009. Plaintiffs and its counsel reasonably relied on the Court to retain and preserve its case file and the integrity of the ECF docket at least until the end of any appeals. The same reliance by plaintiff and its counsel was proper

for defendant School District and its counsels to preserve all evidence at issue.

In the second prong, the Second Circuit has held that negligence is a sufficiently culpable state of mind for spoliation. *See Residential Funding Corp.*, 306 F.3d at 108; *see also NTL, Inc. Sec. Litig.*, 244 F.R.D. 179, 197-98 (S.D.N.Y. 2007); *Phoenix Four, Inc. v. Strategic Res. Corp.*, No. 05 Civ. 4837, 2006 WL 1409413, at \*4 (S.D.N.Y. May 23, 2006).

In the instant case, negligence is apparent from the wholesale destruction and spoliation of both the case file and the docket itself since 2004. Indeed, it may be inferred that gross negligence and **specific** intent exists here on the facts. 18 U.S.C. §1503 prohibits destruction of tangible evidence to impede a pending judicial action. 18 U.S.C. §1510 permits criminal prosecution of a person who impedes federal criminal investigations. 18 U.S.C. §1512(b)(2)(A) permits criminal prosecution of a person who corruptly persuades, or attempts to persuade, another person to withhold testimony or documents from an official proceeding. Sarbanes-Oxley Act of 2002, 18 U.S.C. §1519 imposes steep fines and up to a 20 year prison terms for anyone found guilty of altering, destroying or falsifying documents in order to impede a federal investigation or official proceeding. It is not necessary to cite here the numerous state statutes which imposing

criminal punishment for tampering with physical evidence, making it a felony to destroy, mutilate, conceal or alter physical evidence, including documents , with the intent to impair their availability in a pending or official proceeding. See, e.g. FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE in violation of N.Y. Penal Law 175.10, COMPUTER TAMPERING IN THE SECOND DEGREE in violation of N.Y. Penal Law 156.20.

The third prong has been established in the instant case, that is, the burden of proving that evidence would have been relevant to a party's claims or defense is proportional to the mens rea of the party who destroyed the evidence. For example, a court may infer relevance when "a party acted in bad faith because 'bad faith alone is sufficient circumstantial evidence from which a reasonable fact finder could conclude that the missing evidence was unfavorable to that party.'" Phoenix Four, Inc., 2006 WL 1409413, at \*4 (citing Residential Funding Corp., 306 F.3d at 109). In contrast, where the party destroyed evidence due to ordinary negligence, "[t]he burden falls on the 'prejudiced party' to produce 'some evidence suggesting that a document or documents relevant to substantiating his claim would have been included among the destroyed files.'" Byrnie v. Town of Cromwell, Bd. of Educ., 243 F.3d 93, 108 (2d Cir. 2001) (quoting Kronisch, 150 F.3d at 128). However, the court should avoid "holding the prejudiced party to too strict a standard of proof regarding the

likely contents of the destroyed evidence,” as doing so “would subvert the prophylactic and punitive purposes of the [spoliation sanctions].” Kronisch, 150 F.3d at 128.

In Gutman, the Court found that “. . . the record demonstrates that Klein acted in bad faith when he destroyed evidence on the Klein laptop. See Phoenix Four, Inc., 2006 WL 1409413, at \*4 (citing Residential Funding Corp., 306 F.3d at 109); see also Handwerker v. AT&T Corp., 211 F.R.D. 203, 209 (S.D.N.Y. 2002) (“Noncompliance may be deemed willful ‘when the court’s orders have been clear, when the party has understood them, and when the party’s non-compliance is not due to factors beyond the party’s control.’”) (quoting Bambu Sales, Inc. v. Ozak Trading Inc., 58 F.3d 849, 852-53 (2d Cir. 1995))). In the instant case, the complete destruction of a case file in the Court and the extensive docket tampering and court involved ex parte communications against plaintiff’s interests, coupled with the participation in the ex parte acts and failure to deny participation in the spoliation more than meet the *mens rea* threshold because it could be construed as an admission of guilt and bad faith referred to by Magistrate Judge Levy.

As in Gutman, in the more recent EDNY case of ACORN, et al. v. County of Nassau, et al. the EDNY Court (Bianco, J. and Wall, M.J.), citing most of the applicable cases, the Court only partially

granted plaintiffs' letter application seeking extensive sanctions for the County's finding of **gross negligence** in its failure to implement a litigation hold, among other discovery abuses. CV 05-2301(JB)(WDW), 2009 U.S. Dist. LEXIS 19459. In stark contrast to the Chesney case, the ACORN and Gutman discovery abuses pale. Accordingly, plaintiffs and its counsel are entitled to a substantial award of damages for this reprehensible act of sabotage and destruction.

Such open-ended breaching of professional conduct by defense counsel in this case should be addressed at some point by the defendant parties, especially the Board of Education. In addition, the board members themselves have each breached, either benignly or intentionally, their fiduciary obligations to protect the District from further harm; by allowing the professional misconduct of the District, the Superintendent, its agents, servants and employees, as well as its four (4) firms of legal counsels paid for five years with public funds, to continue ongoing without being addressed, and not ordered halted or changed seems to me to render the Board members' fiduciary failure as incontrovertible proof of malicious intent.

The central role of federal Court personnel and the Chief Clerk in the spoliation in this case, may rise to the level of RICO violations. 28 U.S.C. §1735. As such, under the law of spoliation and the Death

Knell Doctrine, the imposition of damage charges in this case may be raised to the treble degree.

Conclusion:

The magnitude of destruction and length of time of the destruction as well as its apparent timing in this case require the most severe of sanctions and damages to plaintiff and its counsel. Using prevailing case law as a guide, a default judgment in favor of plaintiffs, sanctions in the amount of an award to plaintiff of the damages sought in plaintiffs' the *ad damnum* clause of \$26,000,000.00, plus attorneys' fees, costs of over five years of litigation, Fed. R. Civ. P. §37 sanctions, with the exception of striking pleadings as defendants never filed an answer in this case, would all be appropriate as would consequential damages such as future lost wages, physical and psychological damages. Damages for defamation, infliction of emotional distress, punitive damages for deterrence, interest, back pay, out of pocket costs to plaintiffs, permanent pain and suffering, loss of business of attorney and defamation of plaintiff and their counsel as a result of false and misleading publication of this case as a victory on Internet, publications, PACER, and on web sites of defense counsels. Indeed, an inquest would be in order to ascertain some of the damages. In the event a criminal investigation is launched as it has been requested, any damages which may be specifically attributed to

particular Court personnel or a defendant or its attorney, may be levied accordingly. In the interim, plaintiffs are entitled to an immediate award of death knell damages in at least the amounts described.

Questions remain unanswered. The silence is deafening. Defense counsels were caught willingly having ex parte conversations with the Magistrate Judge as to the merits of the case in the absence of plaintiff's counsel even as an adjournment was placed on the docket on two occasions. Defense counsel Steven Stern failed to respond to plaintiff's T-1080 motion dated July 27, 2009 in which application was made for a) a criminal investigation of the file and ECF spoliation and destruction, b) production of original COBRA, payroll records and cancelled paychecks pertaining to the tampered timesheets, for forensic review; and c) an order sequestering the original court file which was apparently destroyed and spoliated. No permission was provided for this default by defendants. Their utter silence is proof of culpable conduct on their part, there is no other explanation.

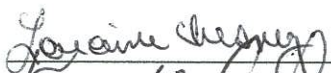
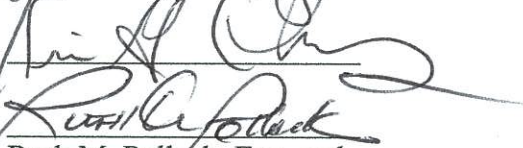
This Court's "order" of August 20, 2009, unsigned by a judge, stating "**We are informed...that the Appellants' district court motion for reconsideration of the judgment dismissing their action remains pending**" is equally troubling. First, what is meant by "We"? Who are "we"? Plaintiff-appellant Kevin Chesney's affidavit of June 27, 2009 to Ms. O'Hagan-Wolfe and the Grievance Committee addressed this and informed the Court. (Affidavit annexed as Exhibit "I")



The record also proves (Exhibit "H") that as of at least July 10, 2009 there was no file or motion in any file in the Courthouse for the Court to consider. Accordingly, it is logical to conclude that any attempt to stay this destroyed appeal is frivolous, negligent, and an apparent attempt to delay justice to plaintiff-appellants, who alone have suffered prejudice in not only EDNY but also the U.S. C.A. Second Circuit. It seems incumbent on this Honorable Court to hold those persons, clerks and entities responsible for this unprecedented damage to the appeal process and this Court's history of fairness and judicial excellence.

Dated: Riverhead, New York  
September 23, 2009

Respectfully submitted,

  
  
Ruth M. Pollack, Esq. and  
Plaintiff-appellants Chesneys

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## General Docket

### US Court of Appeals for the Second Circuit

Second Circuit Court of  
Appeals

INDIV

OPEN

Court of Appeals Docket #: 09-1824-cv  
Nsuit : 3442 CIVIL RIGHTS-Jobs

Chesney v. Valley Stream Union Free School Filed 4/29/09  
District No. 24

Appeal EDNY (CENTRAL ISLIP)  
from:

Case type information:

Civil

Private

None

Lower court information:

District: 05-cv-5106

Trial Judge: Denis R. Hurley

MagJudge: E. Thomas Boyle

Date Filed: 11/01/05

Date order/judgement: 3/31/2009

Date NOA filed: 4/28/2009

Fee status: Paid

Panel Assignment:

Panel:

Date of decision:

Prior cases: NONE

*EXHIBIT*

Current cases NONE

Official Caption 1/

INDIV

OPEN

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Docket No. [s] : 09-1824 -cv

Kevin G. Chesney, Lorraine Chesney,

Plaintiffs-Appellants,

V.

Valley Stream Union Free School District No. 24, Valley Stream Union Free School District No. 24, Edward M. Fale, Ph.D., Superintendent of Schools, in his individual and official capacity, Lisa K. Conte, Principal, Charles Broceaur, Maintenance Supervisor, in his individual and official capacity, Stephen Haramif, Custodian and Union Representative, John Does, Jane Does, the latter being personal and/or entities unknown to complainant, Joseph Conrad, President, Carole Meaney, Vice President, Henrietta Carbonaro, Paul DePace, Anthony Ladevaio, Frank Nuara, Lawrence Trogel, each in its individual and official capacity,

Defendants-Appellees.

Local 74 SEIU, Nassau County Division Civil Service Commission,

Defendants,

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Authorized Abbreviated Caption 2/  
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Docket No. [s] : 09-1824 -cv

Chesney v. Valley Stream Union Free School District No.  
24  
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 -----  
 1/ Fed. R. App. P. Rule 12 [a] and 32 [a].  
 2/ For use on correspondence and motions only.

Docket as of August 21, 2009 2:17 am Page 2

INDIV  
 OPEN

Local 74 SEIU

Defendant

Nassau County Division Civil  
 Service Commission of New York  
 Defendant

Kevin G. Chesney

Ruth M. Pollack Esq.

Plaintiff-Appellant

[ LD ret ]  
 Law Offices of Ruth M. Pollack

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631-591-3160

Lorraine Chesney

Ruth M. Pollack Esq. (See above)

Plaintiff-Appellant

[ LD ret ]

Docket as of August 21, 2009 2:17 am Page 3

INDIV  
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Defendant-Appellee

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516-334-4500

Carole Meaney

Steven C. Stern Esq. (See above)

Defendant-Appellee

[ LD ret ]

Valley Stream Union Free Steven C. Stern Esq. (See above)  
School District No. 24  
Defendant-Appellee [ LD ret ]

Valley Stream Union Free Steven C. Stern Esq. (See above)  
School District No. 24 Board  
Defendant-Appellee [ LD ret ]

Docket as of August 21, 2009 2:17 am Page 6

□ INDIV

OPEN

4/29/09 Copy of notice of appeal and district court  
docket entries on behalf of APPELLANTS  
Kevin Chesney, Lorraine Chesney, filed.  
[Entry date May 5 2009 ] [GW]

4/29/09 Copy of district court memorandum & order  
dated 3/31/09 RECEIVED. [Entry date May 5  
2009 ] [GW]

4/29/09 Index in lieu of Record on Appeals  
Electronically Filed (Original documents  
remain in the originating court).  
[Entry date May 5 2009 ] [GW]

4/30/09 Copy of receipt re: payment of docketing fee  
filed on behalf of APPELLANTS Kevin  
Chesney, Lorraine Chesney, <Receipt  
#029702  
[Entry date May 6 2009 ] [GW]

4/30/09 1st Supplemental Index in lieu of Record on  
Appeals Electronically Filed (Original  
documents remain in the originating court).  
[Entry date May 6 2009 ] [GW]

5/18/09 1st Supplemental Index in lieu of Record on  
Appeals Electronically Filed (Original  
documents remain in the originating court).  
[Entry date May 19 2009 ] [GW]

5/18/09 ACKNOWLEDGMENT and NOTICE OF APPEARANCE  
FORM from Atty Ruth Pollack, on behalf of  
Kevin and Lorraine Chesney, FILED. (Orig in  
acco, copy to Admissions Dept.). [Entry  
date May 19 2009 ] [GW]

5/27/09 2nd Supplemental Index in lieu of Record on  
Appeals Electronically Filed (Original  
documents remain in the originating court).  
[Entry date May 29 2009 ] [GW]

- 7/6/09 APPELLANTS Kevin Chesney, Lorraine Chesney, Form C filed, with proof of service. [Entry date Jul 9 2009 ] [GW]
- 7/6/09 APPELLANTS Kevin Chesney, Lorraine Chesney, Form D filed, with proof of service. [Entry date Jul 9 2009 ] [GW]
- 8/3/09 Appellant Kevin Chesney, Appellant Lorraine Chesney motion for order to sequester court file of EDNY filed with proof of service. [Entry date Aug 4 2009 ] [GW]
- 8/20/09 ORDER FILED: We are informed that the Appellants` district court motion for

Docket as of August 21, 2009 2:17 am Page 7

□

INDIV

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reconsideration of the judgment dismissing their action remains pending. Since that motion is governed by Federal Rule of Appellate Procedure 4(a)(4), the notices of appeal which led to the docketing of the present appeal are not yet effective, and will become effective only upon entry of the district court's order disposing of the pending motion. See Fed. R. App. P. 4(a)(4)(B)(i) (stating that a notice of appeal "becomes effective to appeal a judgment or order ... when the order disposing of [a motion listed in Rule 4(a)(4)(A)] is entered"). Thus, proceedings in this appeal are stayed, by operation of Rule 4(a)(4), pending resolution of the Appellants` motion for reconsideration by the district court. The Appellants must notify this Court of the district court's decision on that motion within thirty days of the entry of that decision on the district court's docket.

Furthermore, the representation of the Appellants requires clarification: Appellant Kevin G. Chesney is represented by Ruth M. Pollack, while Appellant Lorraine Chesney is proceeding pro se.

Present:

José A. Cabranes,

Robert D. Sack,  
Richard C. Wesley,

Circuit Judges. [Entry date Aug 20

2009 ] [GW]

8/20/09 Notice to counsel: Order dated 8/20/09  
[Entry date Aug 20 2009 ] [GW]

Docket as of August 21, 2009 2:17 am

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<b>PACER Service Center</b>			
<b>Transaction Receipt</b>			
09/18/2009 17:49:58			
<b>PACER Login:</b>	kc2524	<b>Client Code:</b>	
<b>Description:</b>	dkt report	<b>Case Number:</b>	09-1824
<b>Billable Pages:</b>	7	<b>Cost:</b>	0.56

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ORIGINAL

A082 SWEDA  
(Rev. 3/02)

RECEIPT FOR PAYMENT  
UNITED STATES DISTRICT COURT 029703

for the  
EASTERN DISTRICT OF NEW YORK  
at CENTRAL ISLIP

04-30-2009 (THU) 01:48 Pm

DRAW 1 007421

Receipt# 29703

Fund	
6855XX	Deposit Funds
604700	Registry Funds
	General and Special Funds
508800	Immigration Fees
085000	Attorney Admission Fees
086900	Filing Fees
322340	Sale of Publications
322350	Copy Fees
322360	Miscellaneous Fees
143500	Interest
322380	Recoveries of Court Costs
322386	Restitution to U.S. Government
121000	Conscience Fund
129900	Gifts
504100	Crime Victims Fund
613300	Unclaimed Monies
510000	Civil Filing Fee (1/2)
510100	Registry Fee

MISC. FEES	9.00
.. # 322360	
COPY FEES	17.00
.. # 322350	
TOTAL-->	26.00
CASH	26.00

*Docket certification  
E. D. N. Y*

CASE REFERENCE:

05CV-5106

RECEIVED FROM

KEVIN G. CHESNEY

DEPUTY CLERK

*[Signature]*

Checks and drafts are accepted subject to collection and full credit will only be given when the check or draft has been accepted by the financial institution on which it was drawn.



APPEAL

**U.S. District Court  
Eastern District of New York (Central Islip)  
CIVIL DOCKET FOR CASE #: 2:05-cv-05106-DRH-ETB  
Internal Use Only**

Chesney et al v. Valley Stream Union Free School District No. 24 et al  
Assigned to: Senior-Judge Denis R. Hurley  
Referred to: Magistrate-Judge E. Thomas Boyle  
Demand: \$26,000,000  
Case in other court: Supreme Court-County of Nassau, 05-09454  
Cause: 28:1441 Petition for Removal - Employment Discrim

Date Filed: 11/01/2005  
Jury Demand: Both  
Nature of Suit: 442 Civil Rights: Jobs  
Jurisdiction: Federal Question

**Plaintiff**

**Kevin G. Chesney**

represented by **Kevin G. Chesney**  
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*TERMINATED: 01/16/2009*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Lorraine Chesney**

represented by **Lorraine Chesney**  
PRO SE

**Ruth M. Pollack**  
(See above for address)  
*TERMINATED: 01/16/2009*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

V.

**Defendant**

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District No. 24**

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**Defendant**

**Valley Stream Union Free School  
District No. 24 Board of Education**

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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Melissa Lauren Holtzer**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Michelle S. Feldman**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Edward M. Fale**  
*Ph.D., Superintendent of Schools, in his  
individual and official capacity*

represented by **Steven C. Stern**  
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*ATTORNEY TO BE NOTICED*

**Melissa Lauren Holtzer**  
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*ATTORNEY TO BE NOTICED*

**Michelle S. Feldman**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Lisa K. Conte**  
*Principal*

represented by **Steven C. Stern**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Melissa Lauren Holtzer**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Michelle S. Feldman**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Charles Broceaur**  
*Maintenance Supervisor, in his  
individual and official capacity*

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*ATTORNEY TO BE NOTICED*

**Melissa Lauren Holtzer**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Michelle S. Feldman**  
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*ATTORNEY TO BE NOTICED*

**Defendant**

**Stephen Haramif**  
*Custodian and Union Representative*

represented by **Steven C. Stern**  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Melissa Lauren Holtzer**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Michelle S. Feldman**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Local 74 SEIU**  
*in his individual and official capacity*  
**TERMINATED: 09/22/2006**

represented by **Raul Garcia**  
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Email: gsilverman@odblaw.com  
**ATTORNEY TO BE NOTICED**

**Defendant**

**John Does**

represented by **Melissa Lauren Holtzer**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Jane Does**  
*the latter being personal and/or entities*  
*unknown to complainant*

represented by **Melissa Lauren Holtzer**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Nassau County Division Civil Service**  
**Commission of New York State**  
**TERMINATED: 04/30/2007**

represented by **Veronica Boland**  
Nassau County Attorney  
One West Street  
Mineola , NY 11501  
(516)571-4114  
Fax: (516)571-6684  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Barbara E. Van Riper**  
Office of the Nassau County Attorney  
One West Street  
Mineola , NY 11501  
516-571-3032  
Fax: 516-571-6604  
Email: bvanriper@nassaucountyny.gov

*ATTORNEY TO BE NOTICED*

**Mary E. Neggie**  
Nassau County Attorney's Office  
1 West St  
Mineola , NY 11501  
516-571-4114  
Fax: 516-571-6684  
Email: mneggie@nassaucountyny.gov  
*ATTORNEY TO BE NOTICED*

**Defendant**

**President Joseph Conrad**

represented by **Steven C. Stern**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Melissa Lauren Holtzer**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Michelle S. Feldman**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Vice President Carole Meaney**

represented by **Steven C. Stern**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Melissa Lauren Holtzer**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Michelle S. Feldman**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Henrietta Carbonaro**

represented by **Steven C. Stern**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Melissa Lauren Holtzer**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Michelle S. Feldman**

(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Paul DePace**

represented by **Steven C. Stern**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Melissa Lauren Holtzer**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Michelle S. Feldman**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Anthony Ladevaio**

represented by **Steven C. Stern**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Melissa Lauren Holtzer**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Michelle S. Feldman**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Frank Nuara**

represented by **Steven C. Stern**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Melissa Lauren Holtzer**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Michelle S. Feldman**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Lawrence Trogel**  
*each in its individual and official*  
*capacity*

represented by **Steven C. Stern**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Melissa Lauren Holtzer**  
 (See above for address)  
 ATTORNEY TO BE NOTICED

**Michelle S. Feldman**  
 (See above for address)  
 ATTORNEY TO BE NOTICED

**Defendant**

**Local 74 SEIU**  
 TERMINATED: 09/22/2006

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

Date Filed	#	Docket Text
11/01/2005	<u>1</u>	NOTICE OF REMOVAL by Edward M. Fale, Lisa K. Conte, Charles Broceaur, Stephen Haramif, Valley Stream Union Free School District No. 24, Valley Stream Union Free School District No. 24 Board of Education from Supreme Court-County of Nassau, case number 05-9454. ( Filing fee \$ 250 Receipt# 17994) (Attachments: # <u>1</u> Civil Cover Sheet # <u>2</u> Exhibit A-Summons and Complaint)(Duong, Susan) (Entered: 11/03/2005)
11/03/2005		Case Ineligible for Arbitration(Bollbach, Jean) (Entered: 11/03/2005)
11/04/2005	<u>2</u>	ANSWER to Complaint by Local 74 SEIU.(Garcia, Raul) (Entered: 11/04/2005)
11/07/2005	<u>3</u>	Letter from Steven C. Stern to District Judge Denis R. Hurley Regarding requesting pre-motion conference. (Stern, Steven) (Entered: 11/07/2005)
11/15/2005	<u>4</u>	NOTICE of Appearance by Mary E. Neggie on behalf of Nassau County Division Civil Service Commission of New York State (Neggie, Mary) (Entered: 11/15/2005)
11/18/2005	<u>5</u>	First MOTION for Extension of Time to File Answer <i>and file motion to dismiss</i> by Nassau County Division Civil Service Commission of New York State. (Neggie, Mary) (Entered: 11/18/2005)
11/21/2005		ORDER: The Court is in receipt of <u>5</u> Defendant's First MOTION for Extension of Time to File Answer and Request for Permission to File a Motion to Dismiss. Defendant's request for extension is GRANTED. The Answer will be filed with the Court by December 21, 2005. As for Defendant's request for permission to file a motion to dismiss, pursuant to this Court's Individual Practice Rule 2(B), the party requesting permission to file such a motion must submit a pre-motion conference letter. The November 18, 2005 Letter does not satisfy Rule 2(B)'s requirements. Ordered by Judge Denis R. Hurley on 11/21/05. (Hurley, Denis) (Entered: 11/21/2005)
11/21/2005		ORDER: The Court is in receipt of <u>3</u> November 7, 2005, Letter from Defendants Valley Stream Union Free School District and Board of

		Education, Superintendent Edward M. Fale, Principal Lisa K. Conte, Maintenance Supervisor Charles Brocher, and Custodian Stephen Haramis requesting leave to file a 12(b)(6) motion. Plaintiff did not submit a letter in reply. The pre-motion conference is hereby waived and the Court sets the following briefing schedule: Defendants will submit their 12(b)(6) Motion by December 23, 2005; Plaintiff will submit his opposition by January 27, 2005; and Defendants will submit their reply by February 10, 2005. Ordered by Judge Denis R. Hurley on 11/21/05. (Hurley, Denis) (Entered: 11/21/2005)
11/21/2005		(Court only) ***Motions terminated: <u>5</u> First MOTION for Extension of Time to File Answer <i>and file motion to dismiss</i> filed by Nassau County Division Civil Service Commission of New York State. (Fagan, Linda) (Entered: 11/22/2005)
11/22/2005	<u>6</u>	ORDER Initial Conference set for 3/17/2006 09:30 AM before Magistrate-Judge E. Thomas Boyle. See order for further instructions. Counsel for Plaintiff(s) or Plaintiff pro se is obligated to serve a copy of this order on each defendant. Ordered by Judge E. Thomas Boyle on 11/22/05. (Lundy, Lisa) (Entered: 12/05/2005)
12/06/2005	<u>7</u>	Letter from Raul Garcia to Honorable Denis R. Hurley Regarding motion pursuant to Rule 12(c) for judgment on the pleadings. (Garcia, Raul) (Entered: 12/06/2005)
12/08/2005	<u>8</u>	AMENDED COMPLAINT <i>AND FIRST AMENDED SUMMONS</i> against all defendants, filed by all plaintiffs.(Pollack, Ruth) (Entered: 12/08/2005)
12/08/2005		(Court only) ***Party Joseph Conrad, and Carole Meaney, and Henrietta Carbonaro, and Paul DePace, and Anthony Ladevaio, and Frank Nuara, and Lawrence Trogel, Local 74 SEIU added. (Fagan, Linda) Modified on 12/12/2005 (Fagan, Linda). (Entered: 12/12/2005)
12/20/2005	<u>9</u>	Letter request for Leave to File Excess Pages <i>in memorandum of law in support of motion to dismiss</i> by Edward M. Fale, Lisa K. Conte, Charles Broceaur, Stephen Haramif, Joseph Conrad, Carole Meaney, Henrietta Carbonaro, Paul DePace, Anthony Ladevaio, Frank Nuara, Lawrence Trogel, Valley Stream Union Free School District No. 24, Valley Stream Union Free School District No. 24 Board of Education. (Stern, Steven) Modified on 1/3/2006 (Fagan, Linda). (Entered: 12/20/2005)
12/20/2005	<u>10</u>	Letter MOTION for Extension of Time to File Response/Reply as to <u>3</u> Letter, <u>6</u> Order,, Set Hearings,, <u>4</u> Notice of Appearance, <u>7</u> Letter by Kevin G. Chesney. (Attachments: # <u>1</u> Appendix affidavits of service of summons and complaint on parties and of letter on counsel# <u>2</u> Affidavit certificate of service of letter motion on counsel# <u>3</u> Affidavit supplemental certificate of service of application for enlargement and certificate of service of first amended summons and amended complaint on defense counsel with letter of enclosure)(Pollack, Ruth) (Entered: 12/20/2005)
12/20/2005		Motions terminated, docketed incorrectly <u>9</u> Letter MOTION for Leave to File Excess Pages <i>in memorandum of law in support of motion to dismiss</i> filed by Valley Stream Union Free School District No. 24, Valley Stream



		Union Free School District No. 24 Board of Education, Edward M. Fale, Lisa K. Conte, Charles Broceaur, Stephen Haramif, Joseph Conrad, Carole Meaney, Henrietta Carbonaro, Paul DePace, Anthony Ladevaio, Frank Nuara, Lawrence Trogel. (Fagan, Linda) (Entered: 01/03/2006)
12/20/2005		Incorrect Case/Document/Entry Information. Document <u>10</u> Motion, filed on 12/20/05 has been deleted. (The document was filed as a Motion, and should have been filed as a letter. All corrections have been made.) (Fagan, Linda) (Entered: 01/03/2006)
12/20/2005		Motions terminated, docketed incorrectly <u>10</u> Letter MOTION for Extension of Time to File Response/Reply as to <u>3</u> Letter, <u>6</u> Order, Set Hearings, <u>4</u> Notice of Appearance, <u>7</u> Letter filed by Kevin G. Chesney. (Fagan, Linda) (Entered: 01/03/2006)
12/21/2005	<u>11</u>	Letter request for a pre-motion conference MOTION to Dismiss, by Nassau County Division Civil Service Commission of New York State. Responses due by 1/3/2006 (Neggie, Mary) Modified on 1/3/2006 (Fagan, Linda). (Entered: 12/21/2005)
12/21/2005	<u>12</u>	RESPONSE in Opposition re <u>10</u> Letter MOTION for Extension of Time to File Response/Reply as to <u>3</u> Letter, <u>6</u> Order,, Set Hearings,, <u>4</u> Notice of Appearance, <u>7</u> Letter <i>opposing plaintiffs' request to file belated response to pre-motion conference letter</i> filed by Edward M. Fale, Lisa K. Conte, Charles Broceaur, Stephen Haramif, Joseph Conrad, Carole Meaney, Henrietta Carbonaro, Paul DePace, Anthony Ladevaio, Frank Nuara, Lawrence Trogel, Valley Stream Union Free School District No. 24, Valley Stream Union Free School District No. 24 Board of Education. (Stern, Steven) (Entered: 12/21/2005)
12/21/2005		Motions terminated, docketed incorrectly <u>11</u> Letter MOTION to Dismiss ( <i>Request to file</i> ) filed by Nassau County Division Civil Service Commission of New York State. (Fagan, Linda) Modified on 1/3/2006 (Fagan, Linda). (Entered: 01/03/2006)
12/21/2005		Incorrect Case/Document/Entry Information. Document <u>11</u> Motion, filed on 12/21/05has been deleted. (The document was filed as a motion, and should have been filed as a Letter request. All corrections have been made). (Fagan, Linda) (Entered: 01/03/2006)
12/22/2005	<u>13</u>	Letter from Raul Garcia to Judge Denis Hurley. (Garcia, Raul) (Entered: 12/22/2005)
12/28/2005		ORDER: The Court is in receipt of <u>9</u> Letter from Defendants Valley Stream Union Free School District and Board of Education, Superintendent Edward M. Fale, Principal Lisa K. Conte, Mintenance Supervisor Charles Brocher, and Custodian Stephen Haramis requesting leave to file a motion to dismiss in excess of the Court's 20-page limit. Defendants' request is DENIED. Because of the lateness of Defendants' request, the Court sets the following revised briefing schedule: Defendants will submit their 12(b)(6) Motion by January 4, 2006; Plaintiff will submit his opposition by February 3, 2006; and Defendants will submit their reply by February 17, 2006. Ordered by Judge Denis R. Hurley on 12/28/2005. (Hurley, Denis) (Entered: 12/28/2005)

		12/28/2005)
12/28/2005		ORDER: The Court is in receipt of <u>7</u> Defendant Local 74's December 5, 2005 Letter requesting permission to move pursuant to 12(c) and <u>13</u> Defendant Local 74's December 22, 2005 Letter requesting the same. In <u>10</u> Plaintiff's December 20, 2005 letter, Plaintiff requested leave to extend the time to reply. Plaintiff's request was clearly after the Court's 10-day deadline as indicated in Individual Practice Rule 2(B). As such, Plaintiff's request is denied and the Court establishes the following briefing schedule: Defendant Local 74 will submit its 12(c) Motion by January 28, 2006; Plaintiff will submit his opposition by February 28, 2006; and Defendant Local 74 will submit its reply by March 14, 2006. Ordered by Judge Denis R. Hurley on 12/28/2005. (Hurley, Denis) Modified on 1/3/2006 (Fagan, Linda). (Entered: 12/28/2005)
01/13/2006	<u>14</u>	Letter requesting to Disqualify Counsel <i>for defendant Local #74 and for conference re: other relief</i> by Kevin G. Chesney. (Pollack, Ruth) Modified on 1/17/2006 (Fagan, Linda). (Entered: 01/13/2006)
01/13/2006		Motions terminated, docketed incorrectly <u>14</u> Letter MOTION to Disqualify Counsel <i>for defendant Local #74 and for conference re: other relief</i> filed by Kevin G. Chesney. (Fagan, Linda) (Entered: 01/17/2006)
01/13/2006		Incorrect Case/Document/Entry Information. Document <u>14</u> Letter Motion has been deleted. (The document was filed as a Motion, and should have been filed as a Letter request. All corrections have been made.) (Fagan, Linda) (Entered: 01/17/2006)
01/20/2006	<u>15</u>	Letter <i>response to 1/13/06 letter from Ruth Pollack, Esq.</i> by Edward M. Fale, Lisa K. Conte, Charles Broceaur, Stephen Haramif, Joseph Conrad, Carole Meaney, Henrietta Carbonaro, Paul DePace, Anthony Ladevaio, Frank Nuara, Lawrence Trogel, Valley Stream Union Free School District No. 24, Valley Stream Union Free School District No. 24 Board of Education. (Stern, Steven) (Entered: 01/20/2006)
01/24/2006	<u>16</u>	Letter <i>to Honorable Denis R. Hurley</i> by Local 74 SEIU(in his individual and official capacity), Local 74 SEIU. (Garcia, Raul) (Entered: 01/24/2006)
01/25/2006	<u>17</u>	AFFIDAVIT of Service for Clarification Letter served on Ruth M. Pollack, Esq., Steven C. Stern, Esq., Nassau County Attorney's Office, Magistrate Judge Thomas E. Boyle on 1/24/06, filed by Local 74 SEIU(in his individual and official capacity), Local 74 SEIU. (Garcia, Raul) (Entered: 01/25/2006)
01/30/2006	<u>18</u>	MOTION for Judgment on the Pleadings by Local 74 SEIU(in his individual and official capacity), Local 74 SEIU. (Silverman, Gary) (Entered: 01/30/2006)
01/30/2006	<u>19</u>	MEMORANDUM in Support re <u>18</u> MOTION for Judgment on the Pleadings by Local 74 SEIU(in his individual and official capacity), Local 74 SEIU. (Silverman, Gary) (Entered: 01/30/2006)
01/30/2006	<u>20</u>	AFFIDAVIT in Support re <u>18</u> MOTION for Judgment on the Pleadings

		filed by Local 74 SEIU(in his individual and official capacity), Local 74 SEIU. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Affidavit of Service) (Silverman, Gary) (Entered: 01/30/2006)
01/31/2006	<u>21</u>	Letter <i>Honorable Denis R. Hurley</i> by Local 74 SEIU(in his individual and official capacity), Local 74 SEIU. (Garcia, Raul) (Entered: 01/31/2006)
02/03/2006	<u>22</u>	Letter from Ruth M. Pollack to Hon. Judge Denis R. Hurley, dated 2/2/06 re: To apply to the Court for an enlargement of time within which to serve plttfs answering papers upon deft District relative to its Fed. R.Civ. P. 12 motion. (Fagan, Linda) (Entered: 02/03/2006)
02/03/2006		Endorsed ORDER on <u>22</u> Letter filed by Kevin G. Chesney, Lorraine Chesney. Application granted. ( Ordered by Judge Denis R. Hurley on 2/3/06.) (Fagan, Linda) (Entered: 02/03/2006)
02/27/2006	<u>23</u>	Letter to <i>Honorable E. Thomas Boyle</i> by Local 74 SEIU(in his individual and official capacity), Local 74 SEIU. (Garcia, Raul) (Entered: 02/27/2006)
02/28/2006	<u>24</u>	Letter request for Extension of Time to File Response/Reply re: <i>Local 74 motion for judgment on the pleadings</i> by Kevin G. Chesney. (Pollack, Ruth) Modified on 3/1/2006 (Fagan, Linda). (Entered: 02/28/2006)
02/28/2006		Motions terminated, docketed incorrectly <u>24</u> Second MOTION for Extension of Time to File Response/Reply re: <i>Local 74 motion for judgment on the pleadings</i> filed by Kevin G. Chesney. (Fagan, Linda) (Entered: 03/01/2006)
02/28/2006		Incorrect Case/Document/Entry Information. Document <u>24</u> MOTION, filed on 2/28/06has been deleted. (The document was filed as a Motion, and should have been filed as a Letter request. The document will be addressed by the Court as a Letter request. All corrections have been made.) (Fagan, Linda) (Entered: 03/01/2006)
03/01/2006		ORDER re <u>23</u> Letter filed by Local 74 SEIU. The application to adjourn the initial conference based on the filing of motions to dismiss is denied. Any party seeking a stay of discovery shall file a motion, pursuant to Rule 26(c), Fed. R. Civ. P. Ordered by Judge E. Thomas Boyle on 3/1/06. Local 74's counsel is directed to notify all parties of this order upon receipt.(Joy, Dolores) (Entered: 03/01/2006)
03/06/2006	<u>25</u>	Letter <i>motion</i> by Local 74 SEIU. (Garcia, Raul) (Entered: 03/06/2006)
03/07/2006	<u>26</u>	Letter <i>seeking permission to file motion</i> by Nassau County Division Civil Service Commission of New York State. (Neggie, Mary) (Entered: 03/07/2006)
03/08/2006	<u>27</u>	Letter <i>joining Local 74's motion to stay discovery</i> by Edward M. Fale, Lisa K. Conte, Charles Broceaur, Stephen Haramif, Joseph Conrad, Carole Meaney, Henrietta Carbonaro, Paul DePace, Anthony Ladevaio, Frank Nuara, Lawrence Trogel, Valley Stream Union Free School District No. 24, Valley Stream Union Free School District No. 24 Board of Education. (Stern, Steven) (Entered: 03/08/2006)

03/15/2006	<u>28</u>	Letter to <i>Honorable E. Thomas Boyle</i> by Local 74 SEIU(in his individual and official capacity), Local 74 SEIU. (Silverman, Gary) (Entered: 03/15/2006)
03/16/2006		ORDER re <u>28</u> Letter filed by Local 74 SEIU. The initial conference scheduled for March 17, 2006 at 9:30 a.m. is adjourned to March 28, 2006 at 11:30 a.m. Counsel for SEIU Local 74 is directed to notify all parties of this Order upon receipt. So Ordered . Ordered by Judge E. Thomas Boyle on 3/16/06. (Hancock, Lauren) (Entered: 03/16/2006)
03/17/2006	<u>29</u>	Notice of MOTION to Dismiss by Edward M. Fale, Lisa K. Conte, Charles Broceaur, Stephen Haramif, Joseph Conrad, Carole Meaney, Henrietta Carbonaro, Paul DePace, Anthony Ladevaio, Frank Nuara, Lawrence Trogel, Valley Stream Union Free School District No. 24, Valley Stream Union Free School District No. 24 Board of Education. (Stern, Steven) (Entered: 03/17/2006)
03/17/2006	<u>30</u>	AFFIDAVIT in Support re <u>29</u> Notice of MOTION to Dismiss <i>Declartion of Steven Stern</i> by Edward M. Fale, Lisa K. Conte, Charles Broceaur, Stephen Haramif, Joseph Conrad, Carole Meaney, Henrietta Carbonaro, Paul DePace, Anthony Ladevaio, Frank Nuara, Lawrence Trogel, Valley Stream Union Free School District No. 24, Valley Stream Union Free School District No. 24 Board of Education. (Attachments: # <u>1</u> Affidavit Edward M. Fale# <u>2</u> Exhibit "A" to Stern Declaration# <u>3</u> Exhibit "B" to Declaration# <u>4</u> Exhibit "C" to Declaration# <u>5</u> Exhibit "D" to Declaration# <u>6</u> Exhibit "E" to Declaration# <u>7</u> Exhibit "F" to Declaration# <u>8</u> Exhibit "G" to Declaration# <u>9</u> Exhibit "H" to Declaration# <u>10</u> Exhibit "I" to Declaration# <u>11</u> Exhibit "J" to Declaration# <u>12</u> Exhibit "K" to Declaration)(Stern, Steven) (Entered: 03/17/2006)
03/17/2006	<u>31</u>	MEMORANDUM in Support re <u>29</u> Notice of MOTION to Dismiss by Edward M. Fale, Lisa K. Conte, Charles Broceaur, Stephen Haramif, Joseph Conrad, Carole Meaney, Henrietta Carbonaro, Paul DePace, Anthony Ladevaio, Frank Nuara, Lawrence Trogel, Valley Stream Union Free School District No. 24, Valley Stream Union Free School District No. 24 Board of Education. (Stern, Steven) (Entered: 03/17/2006)
03/17/2006	<u>32</u>	MEMORANDUM in Opposition re <u>29</u> Notice of MOTION to Dismiss by Kevin G. Chesney, Lorraine Chesney. (Stern, Steven) (Entered: 03/17/2006)
03/17/2006	<u>33</u>	AFFIDAVIT in Opposition re <u>32</u> Memorandum in Opposition to <i>defendants' motion to dismiss</i> by all plaintiffs. (Stern, Steven) (Entered: 03/17/2006)
03/17/2006	<u>34</u>	REPLY to Response to Motion re <u>29</u> Notice of MOTION to Dismiss <i>Defendants' Memorandum of Law In Reply</i> filed by Edward M. Fale, Lisa K. Conte, Charles Broceaur, Stephen Haramif, Joseph Conrad, Carole Meaney, Henrietta Carbonaro, Paul DePace, Anthony Ladevaio, Frank Nuara, Lawrence Trogel, Valley Stream Union Free School District No. 24, Valley Stream Union Free School District No. 24 Board of Education. (Stern, Steven) (Entered: 03/17/2006)

03/17/2006	<u>35</u>	Amended MOTION to Dismiss by Edward M. Fale, Lisa K. Conte, Charles Broceaur, Stephen Haramif, Joseph Conrad, Carole Meaney, Henrietta Carbonaro, Paul DePace, Anthony Ladevaio, Frank Nuara, Lawrence Trogel, Valley Stream Union Free School District No. 24, Valley Stream Union Free School District No. 24 Board of Education. (Stern, Steven) (Entered: 03/17/2006)
03/17/2006	<u>36</u>	REPLY in Support re <u>35</u> Amended MOTION to Dismiss <i>Reply Declaration in Support of Motion to Dismiss</i> by Edward M. Fale, Lisa K. Conte, Charles Broceaur, Stephen Haramif, Joseph Conrad, Carole Meaney, Henrietta Carbonaro, Paul DePace, Anthony Ladevaio, Frank Nuara, Lawrence Trogel, Valley Stream Union Free School District No. 24, Valley Stream Union Free School District No. 24 Board of Education. (Attachments: # <u>1</u> Exhibit "A" to Reply Declaration# <u>2</u> Exhibit "L" to Reply Declaration# <u>3</u> Exhibit "M" to Reply Declaration)(Stern, Steven) (Entered: 03/17/2006)
03/17/2006		Motions terminated; <u>29</u> Notice of MOTION to Dismiss filed by Valley Stream Union Free School District No. 24, Valley Stream Union Free School District No. 24 Board of Education, Edward M. Fale, Lisa K. Conte, Charles Broceaur, Stephen Haramif, Joseph Conrad, Carole Meaney, Henrietta Carbonaro, Paul DePace, Anthony Ladevaio, Frank Nuara, Lawrence Trogel. (see <u>35</u> Amended Motion to Dismiss.) (Fagan, Linda) (Entered: 03/20/2006)
03/21/2006	<u>37</u>	Letter request for Extension of Time to File Response/Reply as to <u>18</u> MOTION for Judgment on the Pleadings, <u>22</u> Letter, <u>35</u> Amended MOTION to Dismiss, <u>33</u> Affidavit in Opposition, <u>32</u> Memorandum in Opposition, <u>34</u> Reply to Response to Motion,, <u>20</u> Affidavit in Support of Motion, <u>36</u> Reply in Support,, <u>31</u> Memorandum in Support,, <u>19</u> Memorandum in Support, <u>30</u> Affidavit in Support,, and objecting to exhibits annexed to District's Motion and Reply papers by Kevin G. Chesney. (Pollack, Ruth) Modified on 3/22/2006 (Fagan, Linda). (Entered: 03/21/2006)
03/21/2006		Motions terminated, docketed incorrectly <u>37</u> Letter MOTION for Extension of Time to File Response/Reply as to <u>18</u> MOTION for Judgment on the Pleadings, <u>22</u> Letter, <u>35</u> Amended MOTION to Dismiss, <u>33</u> Affidavit in Opposition, <u>32</u> Memorandum in Opposition, <u>34</u> Reply to Response to Motion,, <u>20</u> filed by Kevin G. Chesney. (Fagan, Linda) (Entered: 03/22/2006)
03/21/2006		Incorrect Case/Document/Entry Information. Document <u>37</u> MOTION, filed on 3/21/06 has been deleted. (The document was filed as a Motion, and should have been filed as a Letter request. The Court will address the document as a Letter request. All corrections have been made.) (Fagan, Linda) (Entered: 03/22/2006)
03/22/2006	<u>38</u>	Letter <i>Honorable Hurley</i> by Local 74 SEIU(in his individual and official capacity), Local 74 SEIU. (Garcia, Raul) (Entered: 03/22/2006)
03/27/2006	<u>39</u>	SCHEDULING ORDER: The initial conference previously set for March 28, 2006 at 11:30 a.m. before the undersigned has been rescheduled for September 15, 2006 at 9:30 a.m. at the Alfonse M. D'Amato U.S.

		Courthouse, Courtroom 830, Central Islip, New York. All counsel shall be present. SEE order for further details. Ordered by Judge E. Thomas Boyle on 3/27/06. Plaintiffs' counsel is directed to serve a copy of this order on all parties upon receipt.(Joy, Dolores) (Entered: 03/27/2006)
03/28/2006	<u>40</u>	ORDER re <u>27</u> Letter, filed by Valley Stream Union Free School District et al. <u>25</u> Letter filed by Local 74 SEIU requesting stay of discovery. For the reasons stated in the Memorandum Opinion and Order, pursuant to Rule 26 (c), all discovery is stayed pending the outcome of the pending motion to dismiss, pursuant to Rule 12(c), Fed. R. Civ. P. So Ordered . Ordered by Judge E. Thomas Boyle on 3/28/06. (Hancock, Lauren) (Entered: 03/28/2006)
03/30/2006	<u>41</u>	Letter to <i>Honorable Denis R. Hurley</i> by Local 74 SEIU(in his individual and official capacity), Local 74 SEIU. (Silverman, Gary) (Entered: 03/30/2006)
04/03/2006		ORDER: The Court is in receipt of <u>37</u> Plaintiff's Letter requesting an Extension of Time to File Response. This is Plaintiff's second request. The request is hereby granted. Plaintiff's response is due by April 21, 2006. Ordered by Judge Denis R. Hurley on 04/03/2006. (Hurley, Denis) (Entered: 04/03/2006)
04/03/2006		ORDER: The Court is in receipt of <u>26</u> Defendant Nassau County Civil Service Commission's Letter requesting permission to file a motion to dismiss. Defendant originally made this request on December 21, 2005. The Court establishes the following briefing schedule: Defendant's motion papers will be due on May 1, 2006; Plaintiff's opposition papers will be due on June 2, 2006; and Defendant's reply will be due on June 16, 2006. Ordered by Judge Denis R. Hurley on 04/03/2006. (Hurley, Denis) (Entered: 04/03/2006)
04/22/2006	<u>42</u>	AFFIDAVIT in Opposition re <u>18</u> MOTION for Judgment on the Pleadings <i>and in support of cross-motion to disqualify Local 74 counsel</i> filed by Kevin G. Chesney. (Pollack, Ruth) (Entered: 04/22/2006)
04/22/2006	<u>43</u>	Cross MOTION to Disqualify Counsel <i>for defendant Local 74 SEIU</i> by Kevin G. Chesney. (Pollack, Ruth) (Entered: 04/22/2006)
04/22/2006	<u>44</u>	RESPONSE to Motion re <u>18</u> MOTION for Judgment on the Pleadings, <u>43</u> Cross MOTION to Disqualify Counsel <i>for defendant Local 74 SEIU MEMORANDUM OF LAW ON MOTION AND CROSS-MOTION</i> filed by Kevin G. Chesney. (Attachments: # <u>1</u> BLUEBACK)(Pollack, Ruth) (Entered: 04/22/2006)
04/22/2006	<u>45</u>	RESPONSE to Motion re <u>43</u> Cross MOTION to Disqualify Counsel <i>for defendant Local 74 SEIU coverpage memorandum of law</i> filed by Kevin G. Chesney. (Pollack, Ruth) (Entered: 04/22/2006)
04/24/2006	<u>46</u>	Letter <i>notifying Court of error in premature filing of motion papers by ECF</i> by Kevin G. Chesney. (Pollack, Ruth) (Entered: 04/24/2006)
04/25/2006		ORDER: The Court is in receipt of <u>46</u> Plaintiffs' Letter regarding the

		premature filing of their response papers. Though the submissions will not be removed from the docket--as such a procedure is contrary to the ECF policy practiced in this district--Plaintiffs' submission is noted and copies of the response papers should be submitted with the bundle when such papers are due. Ordered by Judge Denis R. Hurley on 04/26/2006. (Hurley, Denis) (Entered: 04/25/2006)
04/26/2006	<u>47</u>	Letter <i>Hon Hurley</i> by Local 74 SEIU(in his individual and official capacity), Local 74 SEIU. (Garcia, Raul) (Entered: 04/26/2006)
04/27/2006	<u>48</u>	Letter request for Extension of Time to File <i>Motion to Dismiss</i> by Nassau County Division Civil Service Commission of New York State. (Neggie, Mary) Modified on 4/28/2006 (Fagan, Linda). (Entered: 04/27/2006)
04/27/2006		Motions terminated, docketed incorrectly <u>48</u> First MOTION for Extension of Time to File <i>Motion to Dismiss</i> filed by Nassau County Division Civil Service Commission of New York State. (Fagan, Linda) (Entered: 04/28/2006)
04/27/2006		Incorrect Case/Document/Entry Information. Document <u>48</u> , filed on 4/27/06 as a MOTION, has been modified. The document should have been filed as a Letter request, and the Court will address the document as such. All corrections have been made. (Fagan, Linda) (Entered: 04/28/2006)
05/02/2006		Motions terminated; <u>43</u> Cross MOTION to Disqualify Counsel for <i>defendant Local 74 SEIU</i> filed by Kevin G. Chesney. (See Order dated 5/2/06) (Fagan, Linda) (Entered: 05/04/2006)
05/03/2006		ORDER: Plaintiffs filed <u>43</u> a cross-motion to disqualify counsel in contravention of Judge Hurley's Individual Practice Rules. Therefore, the Cross-Motion is hereby terminated and Defendant Local 74 is not required to reply to the motion to disqualify at this point. Should Plaintiffs wish to move to disqualify counsel, they must submit the pre-motion conference letter before filing the motion. When that occurs, the Court will set a separate briefing schedule for the motion to disqualify. Ordered by Judge Denis R. Hurley on 05/03/2006. Modified on 5/4/2006 (Fagan, Linda). (Entered: 05/03/2006)
05/03/2006		ORDER: The Court is in receipt of <u>48</u> Defendant Nassau County Division Civil Service Commission of New York State's request for an extension to the briefing schedule regarding the motion to dismiss. SO ORDERED. Ordered by Judge Denis R. Hurley on 05/03/2006. (Entered: 05/03/2006)
05/05/2006	<u>49</u>	First MOTION for Judgment on the Pleadings <i>pursuant to Fed. R. Civ. P. 12(c)</i> by Local 74 SEIU(in his individual and official capacity), Local 74 SEIU. Responses due by 4/21/2006 (Attachments: # <u>1</u> Original Notice of Motion)(Silverman, Gary) (Entered: 05/05/2006)
05/05/2006	<u>50</u>	AFFIDAVIT in Support re <u>49</u> First MOTION for Judgment on the Pleadings <i>pursuant to Fed. R. Civ. P. 12(c)</i> filed by Local 74 SEIU(in his individual and official capacity), Local 74 SEIU. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Affidavit of Service)(Silverman, Gary) (Entered: 05/05/2006)

05/05/2006	<u>51</u>	MEMORANDUM in Support re <u>49</u> First MOTION for Judgment on the Pleadings <i>pursuant to Fed. R. Civ. P. 12(c)</i> by Local 74 SEIU(in his individual and official capacity), Local 74 SEIU. (Silverman, Gary) (Entered: 05/05/2006)
05/05/2006	<u>52</u>	AFFIDAVIT in Opposition re <u>49</u> First MOTION for Judgment on the Pleadings <i>pursuant to Fed. R. Civ. P. 12(c)</i> filed by Local 74 SEIU(in his individual and official capacity), Local 74 SEIU. (Silverman, Gary) (Entered: 05/05/2006)
05/05/2006	<u>53</u>	MEMORANDUM in Opposition re <u>49</u> First MOTION for Judgment on the Pleadings <i>pursuant to Fed. R. Civ. P. 12(c)</i> by Local 74 SEIU(in his individual and official capacity), Local 74 SEIU. (Silverman, Gary) (Entered: 05/05/2006)
05/05/2006	<u>54</u>	REPLY to Response to Motion re <u>49</u> First MOTION for Judgment on the Pleadings <i>pursuant to Fed. R. Civ. P. 12(c)</i> filed by Local 74 SEIU(in his individual and official capacity), Local 74 SEIU. (Silverman, Gary) (Entered: 05/05/2006)
06/29/2006	<u>55</u>	Letter re: request for Extension of Time to File Response/Reply <i>Re: Civil Service Rule 12 Application</i> by Kevin G. Chesney. (Pollack, Ruth) Modified on 6/30/2006 (Fagan, Linda). (Entered: 06/29/2006)
06/29/2006		Motions terminated, docketed incorrectly <u>55</u> Letter MOTION for Extension of Time to File Response/Reply <i>Re: Civil Service Rule 12 Application</i> filed by Kevin G. Chesney. (Fagan, Linda) (Entered: 06/30/2006)
06/29/2006		Incorrect Case/Document/Entry Information. Document <u>55</u> Letter MOTION, filed on 6/29/06 has been modified. (The document should have been filed as a Letter and not as a Letter MOTION. The Court will address the document as a Letter request. All corrections have been made.) (Fagan, Linda) (Entered: 06/30/2006)
07/14/2006	<u>56</u>	SCHEDULING ORDER: The initial conference previously set for September 15, 2006 at 9:30 a.m. with the undersigned has been rescheduled as a status conference for March 15, 2007 at 10:00 a.m. by telephone. Plaintiffs' counsel shall initiate the call and have all parties on the line before connecting chambers (631-712-5710). The conference call should be made through the teleconference operator provided by your long-distance service (e.g., AT&T, MCI, Sprint). All counsel must participate. SEE order for further details. Ordered by Judge E. Thomas Boyle on 7/14/06. Plaintiffs' counsel shall serve a copy of this order on all parties upon receipt.(Joy, Dolores) (Entered: 07/14/2006)
07/16/2006		ORDER: The Court is in receipt of <u>55</u> Plaintiff's Letter requesting an Extension of Time to File Response. Defendants have consented to this request. SO ORDERED. Ordered by Judge Denis R. Hurley on 07/16/2006. (Entered: 07/16/2006)
07/25/2006		Email Notification Test - DO NOT REPLY (Mahon, Cinthia) (Entered: 07/25/2006)



09/13/2006	<u>57</u>	NOTICE of Appearance by Barbara E. Van Riper on behalf of Nassau County Division Civil Service Commission of New York State (Van Riper, Barbara) (Entered: 09/13/2006)
09/14/2006	<u>58</u>	NOTICE of Appearance by Veronica Boland on behalf of Nassau County Division Civil Service Commission of New York State (Boland, Veronica) (Entered: 09/14/2006)
09/19/2006	<u>59</u>	MOTION to Dismiss by Nassau County Division Civil Service Commission of New York State. (Boland, Veronica) (Entered: 09/19/2006)
09/19/2006	<u>60</u>	MEMORANDUM OF LAW in Support re: <u>59</u> Motion to Dismiss by Nassau County Division Civil Service Commission of New York State. (Boland, Veronica) Modified on 9/20/2006 (Fagan, Linda). (Entered: 09/19/2006)
09/19/2006	<u>61</u>	Letter <i>re motion to dismiss</i> by Nassau County Division Civil Service Commission of New York State. (Boland, Veronica) (Entered: 09/19/2006)
09/19/2006		Motions terminated, docketed incorrectly <u>60</u> MOTION to Dismiss filed by Nassau County Division Civil Service Commission of New York State. (The document should have been filed as a Memorandum in Support, and the Court will address the document as such. All corrections have been made.) (Fagan, Linda) (Entered: 09/20/2006)
09/22/2006	<u>62</u>	ORDER: The Court grants District Defendants' motion to dismiss the state law claims for failure to serve a notice of claim, and grants the motion to dismiss the federal claims on various grounds. The lone surviving claim against District Defendants is Plaintiff's COBRA claim. As for Defendant Local 74, all of the claims asserted against it are dismissed. Ordered by Judge Denis R. Hurley on 09/22/2006. (Hurley, Denis) (Entered: 09/22/2006)
09/22/2006		(Court only) *** Party Local 74 SEIU and Local 74 SEIU terminated. (Fagan, Linda) (Entered: 09/25/2006)
10/11/2006	<u>63</u>	LETTER re: Request for Extension of Time to File <i>Appeal of Memorandum and Order of Court</i> by Kevin G. Chesney, Lorraine Chesney. (Pollack, Ruth) Modified on 10/12/2006 (Fagan, Linda). (Entered: 10/11/2006)
10/11/2006		Motions terminated, docketed incorrectly <u>63</u> Emergency MOTION for Extension of Time to File <i>Appeal of Memorandum and Order of Court</i> filed by Kevin G. Chesney, Lorraine Chesney. (The document should have been filed as a Letter request, and the Court will address the document as such. All corrections have been made.) (Fagan, Linda) (Entered: 10/12/2006)
10/12/2006		ORDER re <u>63</u> : The Court is in receipt of Plaintiff's letter request for a nunc pro tunc enlargement of the time to appeal the decision of this Court dated September 22, 2006. An enlargement is sought to and including October 16, 2006. It would appear, subject to verification by plaintiff's counsel, that the time to appeal has not run and, in fact, extends past October 16, 2006. See Rule 4 of the Rules of Appellate Procedure. Accordingly, the application is denied. Ordered by Judge Denis R. Hurley on 10/12/06. (Hurley, Denis)

		(Entered: 10/12/2006)
10/13/2006	<u>64</u>	Letter <i>requesting extension of time to answer amended complaint</i> by Edward M. Fale, Lisa K. Conte, Charles Broceaur, Stephen Haramif, Joseph Conrad, Carole Meaney, Henrietta Carbonaro, Paul DePace, Anthony Ladevaio, Frank Nuara, Lawrence Trogel, Valley Stream Union Free School District No. 24, Valley Stream Union Free School District No. 24 Board of Education. (Stern, Steven) (Entered: 10/13/2006)
10/24/2006		ORDER re <u>64</u> : Defendants' request for an extension of time to answer the complaint is granted. Defendants shall serve and file their answer on or before October 27, 2006. Ordered by Judge Denis R. Hurley on 10/23/06. (Gapinski, Michele) (Entered: 10/24/2006)
10/24/2006	<u>65</u>	Letter <i>Request for Extension of Time to File Answer to Complaint</i> by Valley Stream Union Free School District No. 24. (Feldman, Michelle) (Entered: 10/24/2006)
10/26/2006		ORDER re <u>65</u> : Defendant's request for an additional extension of time to and including November 10, 2006 to respond to the complaint is granted. Ordered by Judge Denis R. Hurley on 10/25/06. (Gapinski, Michele) (Entered: 10/26/2006)
10/26/2006	<u>66</u>	CERTIFICATE of Counsel re <u>62</u> Order on Motion for Judgment on the Pleadings,, Order on Motion to Dismiss,,, <i>Fee Paid \$455.00 Check</i> by Ruth M. Pollack on behalf of Kevin G. Chesney (Attachments: # <u>1</u> Exhibit Notice of Interlocutory Appeal# <u>2</u> # <u>3</u> # <u>4</u> # <u>5</u> # <u>6</u> # <u>7</u> # <u>8</u> # <u>9</u> # <u>10</u> # <u>11</u> # <u>12</u> # <u>13</u> # <u>14</u> # <u>15</u> # <u>16</u> # <u>17</u> # <u>18</u> # <u>19</u> # <u>20</u> # <u>21</u> # <u>22</u> # <u>23</u> # <u>24</u> )(Pollack, Ruth) (Entered: 10/26/2006)
10/27/2006		NOTICE OF APPEAL as to <u>62</u> Order on Motion by Kevin G. Chesney. Filing fee \$ 455. (See document #62. The Clerk's Office in Brooklyn was notified by Ms. Ruth Pollack, Esq. that she filed her appeal under CERTIFICATE OF COUNSEL rather than the correct event of NOTICE OF APPEAL because she was unable to bypass the payment screen. According to Ms. Pollack, the fee of \$455 was previously sent by check to the Clerk of Court, Central Islip). (Chee, Alvin) (Entered: 10/27/2006)
10/29/2006	<u>67</u>	Letter <i>to Clarify Request for Reconsideration and Enlargement</i> by Kevin G. Chesney. (Pollack, Ruth) (Entered: 10/29/2006)
10/30/2006		Electronic Index to Record on Appeal sent to US Court of Appeals re <u>2</u> Answer to Complaint, <u>3</u> Letter, <u>44</u> Response to Motion,, <u>10</u> Letter MOTION for Extension of Time to File Response/Reply as to <u>3</u> Letter, <u>6</u> Order,, Set Hearings,, <u>4</u> Notice of Appearance, <u>7</u> Letter, <u>18</u> MOTION for Judgment on the Pleadings, <u>1</u> Notice of Removal,, <u>52</u> Affidavit in Opposition to Motion, <u>39</u> Scheduling Order,, <u>48</u> First MOTION for Extension of Time to File <i>Motion to Dismiss</i> , <u>6</u> Order,, Set Hearings,, <u>62</u> Order on Motion for Judgment on the Pleadings,, Order on Motion to Dismiss,,, <u>29</u> Notice of MOTION to Dismiss, <u>22</u> Letter, <u>67</u> Letter, <u>64</u> Letter,, <u>61</u> Letter, <u>37</u> Letter MOTION for Extension of Time to File Response/Reply as to <u>18</u> MOTION for Judgment on the Pleadings, <u>22</u> Letter, <u>35</u> Amended MOTION to Dismiss, <u>33</u> Affidavit in Opposition, <u>32</u>

		<p>Memorandum in Opposition, <u>34</u> Reply to Response to Motion,, <u>20</u> , <u>50</u> Affidavit in Support of Motion,, <u>27</u> Letter,, <u>59</u> MOTION to Dismiss, <u>17</u> Affidavit of Service,, <u>55</u> Letter MOTION for Extension of Time to File Response/Reply <i>Re: Civil Service Rule 12 Application</i>, <u>5</u> First MOTION for Extension of Time to File Answer <i>and file motion to dismiss</i>, <u>57</u> Notice of Appearance, <u>21</u> Letter, <u>47</u> Letter, <u>58</u> Notice of Appearance, <u>4</u> Notice of Appearance, <u>35</u> Amended MOTION to Dismiss, <u>53</u> Memorandum in Opposition, <u>14</u> Letter MOTION to Disqualify Counsel <i>for defendant Local #74 and for conference re: other relief</i>, <u>23</u> Letter, <u>8</u> Amended Complaint, <u>60</u> MOTION to Dismiss, <u>40</u> Order,, <u>26</u> Letter, <u>56</u> Scheduling Order,, <u>63</u> Emergency MOTION for Extension of Time to File <i>Appeal of Memorandum and Order of Court</i>, <u>33</u> Affidavit in Opposition, <u>54</u> Reply to Response to Motion, <u>32</u> Memorandum in Opposition, <u>51</u> Memorandum in Support, <u>12</u> Response in Opposition to Motion,, <u>49</u> First MOTION for Judgment on the Pleadings <i>pursuant to Fed. R. Civ. P. 12(c)</i>, <u>46</u> Letter, <u>15</u> Letter,, <u>66</u> Certificate of Counsel,, <u>16</u> Letter, <u>11</u> Letter MOTION to Dismiss (<i>Request to file</i>), <u>24</u> Second MOTION for Extension of Time to File Response/Reply <i>re: Local 74 motion for judgment on the pleadings</i>, <u>28</u> Letter, <u>34</u> Reply to Response to Motion,, <u>42</u> Affidavit in Opposition to Motion, <u>65</u> Letter, <u>41</u> Letter, <u>9</u> Letter MOTION for Leave to File Excess Pages <i>in memorandum of law in support of motion to dismiss</i>, <u>43</u> Cross MOTION to Disqualify Counsel <i>for defendant Local 74 SEIU</i>, <u>7</u> Letter, <u>20</u> Affidavit in Support of Motion, <u>45</u> Response to Motion, <u>38</u> Letter, <u>36</u> Reply in Support,, <u>13</u> Letter, <u>31</u> Memorandum in Support,, <u>25</u> Letter, <u>19</u> Memorandum in Support, <u>30</u> Affidavit in Support,, For docket entries without a hyperlink, contact the court and we'll arrange for the document(s) to be made available to you. (Romano, Daniel) (Entered: 10/30/2006)</p>
10/30/2006		<p>(Court only) ***Staff notes - Notice of Appeal was filed as exhibit no.1 under Certificate of Counsel. (Romano, Daniel) (Entered: 10/30/2006)</p>
10/30/2006		<p>ORDER re <u>67</u> : Plaintiff's "clarified" request for an extension of time to and including November 8, 2006 to move for reconsideration of this Court's Memorandum and Order dated September 22, 2006 is granted. Plaintiff is reminded that the standard for a motion for reconsideration "is strict, and reconsideration will generally be denied unless the moving party can point to controlling decisions or [factual] data that the court overlooked - matters, in other words, that might reasonably be expected to alter the conclusion reached by the court." <i>Shrader v. CSX Transp., Inc.</i>, 70 F.3d 255, 257 (2d Cir. 1995). Ordered by Judge Denis R. Hurley on 10/30/06. (Hurley, Denis) (Entered: 10/30/2006)</p>
11/10/2006	<u>68</u>	<p>NOTICE of Appearance by Michelle S. Feldman on behalf of Edward M. Fale, Lisa K. Conte, Charles Broceaur, Stephen Haramif, Joseph Conrad, Carole Meaney, Henrietta Carbonaro, Paul DePace, Anthony Ladevaio, Frank Nuara, Lawrence Trogel, Valley Stream Union Free School District No. 24, Valley Stream Union Free School District No. 24 Board of Education (Feldman, Michelle) (Entered: 11/10/2006)</p>
11/10/2006	<u>69</u>	<p>ANSWER to Amended Complaint by Edward M. Fale, Lisa K. Conte, Charles Broceaur, Stephen Haramif, Joseph Conrad, Carole Meaney,</p>