

**U.S. District Court
Northern District of New York - Main Office (Syracuse) [NextGen CM/ECF
Release 1.5 (Revision 1.5.3)] (Syracuse)
CIVIL DOCKET FOR CASE #: 5:93-cv-01506-FJS-GJD**

Cooper v. NYS Mental Health, et al
Assigned to: Senior Judge Frederick J. Scullin, Jr
Referred to: Magistrate Judge Gustave J. DiBianco
Demand: \$0
Case in other court: 97-09433
Cause: 29:621 Job Discrimination (Age)

Date Filed: 11/30/1993
Date Terminated: 07/07/2000
Jury Demand: Plaintiff
Nature of Suit: 442 Civil Rights:
Jobs
Jurisdiction: Federal Question

Plaintiff

Ralph A. Cooper

represented by **John R. Saccocio**
Hinman, Straub Law Firm
121 State Street
Albany, NY 12207-1693
518-436-0751
Fax: Fax: 518-436-4751
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

William F. Sheehan
Sheehan, Greene Law Firm
54 State Street, Suite 1001
Albany, NY 12207
518-462-0110
Fax: 518-462-5260
Email: wsheehan@sgcgjlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

NYS Office of Mental Health

represented by **Robert A. Siegfried**
Office of Attorney General - Albany
State of New York
The Capitol
Albany, NY 12224
518-474-8370 (Main)

Fax: 518-473-1572
 Email:
 Robert.Siegfried@OAG.state.ny.us
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Bryan F. Rudes

represented by **Robert A. Siegfried**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Richard A. Lallier

represented by **Robert A. Siegfried**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/30/1993	1	COMPLAINT filed; FILING FEE \$120 RECEIPT #15956; Service deadline 1/29/94 for Richard A. Lallier, for Bryan F. Rudes, for NYS Mental Health (fce) (Entered: 11/30/1993)
11/30/1993		SUMMONS(ES) issued for NYS Mental Health, Bryan F. Rudes, Richard A. Lallier (fce) (Entered: 11/30/1993)
11/30/1993		CASE REFERRED to Magistrate Judge Gustave J. DiBianco (fce) (Entered: 11/30/1993)
11/30/1993		Filing Order Issued; Conference set before Magistrate Judge Gustave J. DiBianco in Syracuse, Status Conference at 12:00 3/9/94, Deadline for filing Case Management Plan, 2/23/94 (fce) (Entered: 11/30/1993)
03/02/1994	2	Proposed Joint Civil Case Management Plan Submitted. (dmf) (Entered: 03/04/1994)
03/09/1994	3	ANSWER to Complaint by NYS Mental Health, Bryan F. Rudes, Richard A. Lallier (Attorney Robert A. Siegfried), (fce) (Entered: 03/09/1994)
03/09/1994	4	Minute entry: TELEPHONE CONFERENCE WITH MAG. JUDGE DI BIANCO. Initial status conference held; Uniform Pretrial Scheduling Order issued. Appearances: Beverly Cohen, Esq. for Plaintiff; Robert Siegfried, AAG for Defts. (kmg) (Entered: 03/16/1994)

03/09/1994	5	Uniform Pretrial Order; Trial Ready by: 6/1/95; Length of Trial 5 days; Trial Location: Albany, NY; Joining of Parties Deadline 7/1/94 ; Amending of Pleadings Deadline 7/1/94 ; Discovery Deadline 2/15/95 ; Motion Filing Deadline 4/1/95 ; Jury Trial Deadline 9:30 6/19/95 ; (Signed by: Magistrate Judge Gustave J. DiBianco) (kmg) (Entered: 03/16/1994)
02/03/1995	6	Amended Uniform Pretrial Order; Discovery Deadline 4/15/95 Motion Filing Deadline 8/30/95; Jury Trial date of 6/1/95 is cancelled, to be rescheduled by District Judge. (Signed by: Magistrate Judge Gustave J. DiBianco) (jmb) (Entered: 02/07/1995)
02/03/1995	7	MINUTE ENTRY of Telephone Conference with Magistrate Judge DiBianco - APP: William F. Sheehan, Esq. on behalf of the Pltf. and Robert A. Siegfried, AAG on behalf of the Deft. -RULINGS: Order signed extending deadlines. Trial date cancelled. Trial to be rescheduled after ruling on motions. (dmf) (Entered: 02/17/1995)
07/17/1995	8	LETTER REQUEST, dated 7/10/95, and ORDER, reset Filing Order Deadlines: Pursuant to geno41ddl. - motion papers are to be served by 8/15/95 , reset Motion Filing deadline to 9/30/95 (signed on 7/17/95 by Magistrate Judge Gustave J. DiBianco) (fce) (Entered: 07/19/1995)
08/18/1995	9	LETTER of behalf of NYS Mental Health, Bryan F. Rudes, Richard A. Lallier pursuant to General Order #41 regarding Motion: Summary Judgment served. (tab) (Entered: 08/21/1995)
09/20/1995	10	LETTER of William Sheehan on behalf of Ralph A. Cooper pursuant to General Order #41 regarding Opposition to Motion: for summary judgment served. (wjg) (Entered: 09/21/1995)
11/29/1995	11	MOTION by Richard A. Lallier, Bryan F. Rudes, NYS Mental Health for Summary Judgment , w/attached Rule 7.1(f) statement; Hearing set for 10:00 2/1/96, Motion returnable before Judge: Scullin (jmb) (Entered: 11/30/1995)
11/29/1995	12	AFFIRMATION by Richard A. Lallier, Bryan F. Rudes, NYS Mental Health through Robert A. Siegfried, Esq., in support of [11-1] motion for Summary Judgment; w/attached exhibits marked A through C. (jmb) (Entered: 11/30/1995)
11/29/1995	13	AFFIDAVIT by Bryan F. Rudes in support of [11-1] motion for Summary Judgment; w/attached exhibits. (jmb) (Entered: 11/30/1995)
11/29/1995	14	AFFIDAVIT by Richard A. Lallier in support of [11-1] motion for Summary Judgment (jmb) (Entered: 11/30/1995)

11/29/1995	15	MEMORANDUM OF LAW by Richard A. Lallier, Bryan F. Rudes, NYS Mental Health in support of [11-1] motion for Summary Judgment (jmb) (Entered: 11/30/1995)
11/29/1995	16	Rule 7.1(f) Statement in Support of [11-1] motion for Summary Judgment filed by Ralph A. Cooper (jmb) (Entered: 11/30/1995)
11/29/1995	17	AFFIDAVIT by Ralph A. Cooper through William F. Sheehan, Esq., in opposition to [11-1] motion for Summary Judgment; w/attached exhibits marked A through D. (jmb) (Entered: 11/30/1995)
11/29/1995	18	AFFIDAVIT by Ralph A. Cooper in opposition to [11-1] motion for Summary Judgment; w/attached exhibits marked A - O. (jmb) (Entered: 11/30/1995)
11/29/1995	19	MEMORANDUM OF LAW by Ralph A. Cooper in opposition to [11-1] motion for Summary Judgment (jmb) (Entered: 11/30/1995)
11/29/1995	20	REPLY AFFIDAVIT by Bryan F. Rudes to response to [11-1] motion for Summary Judgment; w/attached exhibits marked A through L. (jmb) (Entered: 11/30/1995)
11/29/1995	21	REPLY AFFIDAVIT by Richard A. Lallier to response to [11-1] motion for Summary Judgment; w/attached exhibits marked A through E. (jmb) (Entered: 11/30/1995)
12/04/1995	22	LETTER/Scheduling Notice from Robert A. Siegfried, AAG, dated 11/29/95: confirming Motion Hearing set for 2/1/96 re: [11-1] motion for Summary Judgment . Motion is to be heard before Judge Scullin in Albany, New York. (cdl) (Entered: 12/14/1995)
02/01/1996	23	Minute entry: Parties argue employment discrimination based upon age. [11-1] motion for Summary Judgment reserved. APP: Wm. Sheehan; Robert Seigfried, AAG; LC: JCJ; Court Reporter/ECRO: Mary Louise Stasolla (bjw) (Entered: 02/07/1996)
03/31/1997	24	MEMORANDUM - DECISION & ORDER: granting in part with respect to plaintiff's disparate impact claim and that claim is dismissed, denying in part with respect to plaintiff's disparate treatment claim under the ADEA, Re: [11-1] motion for Summary Judgment; a telephone status conference is set for April 8, 1997 at 9:00 AM. (Signed by Judge Frederick J. Scullin Jr.) (jmb) (Entered: 04/01/1997)
04/08/1997	25	Minute entry: Telephone Conference held. AAG requests leave to file an additional motion re: new case law on subject matter jurisdiction. Leave is granted. Motion to be filed in accordance w/Rule 7.1(b). Upon motion decision trial date to be set. APP: William Sheehan, Esq. for Pltf.; Robert

		Seigfried, AAG for Defts.; Court Reporter/ECRO: none. LC: KAD (bjw) Modified on 04/08/1997 (Entered: 04/08/1997)
05/09/1997	26	LETTER dated 5/6/97 of Robert A. Siegfried, AAG on behalf of NYS Mental Health, Richard A. Lallier, and Bryan F. Rudes pursuant to Local Rule 7.1(b) regarding Motion: to Dismiss the Complaint served. (jmb) (Entered: 05/15/1997)
06/05/1997	27	LETTER dated 6/3/97 of William F. Sheehan, Esq., on behalf of Ralph A. Cooper pursuant to Local Rule 7.1(b) regarding opposition papers to Motion to Dismiss the Complaint served. (jmb) (Entered: 06/10/1997)
07/28/1997	28	MOTION by NYS Mental Health, Richard A. Lallier, Bryan F. Rudes to Dismiss the complaint for lack of subject matter jurisdiction , Hearing set for 10:00 AM on 9/24/97; Motion returnable before Judge: Scullin (jmb) (Entered: 08/06/1997)
07/28/1997	29	MEMORANDUM OF LAW: by NYS Mental Health, Richard A. Lallier, Bryan F. Rudes in support of [28-1] motion to Dismiss the complaint for lack of subject matter jurisdiction (jmb) (Entered: 08/06/1997)
07/28/1997	30	MEMORANDUM OF LAW by Ralph A. Cooper in opposition to [28-1] motion to Dismiss the complaint for lack of subject matter jurisdiction (jmb) (Entered: 08/06/1997)
09/24/1997	34	Minute entry: Motion argument held. Decision read into the record: Court finds that commerce clause is not controlling and that the ADA applies as it invokes the 14th amendment. Further that the 14th amendment, section V, is upheld and controls which is consistant w/ rulings in this district (NDNY) finding that the 14th amendment has authority. Therefore, denying [28-1] motion to Dismiss the complaint for lack of subject matter jurisdiction. Atty to submit order. APP: Cheryl Hogan, Esq.; Robert Siegfried, AAG; LC: RJD; Court Reporter/ECRO: Bonnie Buckley (bjw) (Entered: 11/04/1997)
10/16/1997	32	TRANSCRIPT filed for the date of 9/24/97 of a Motion hearing before USDJ Scullin, in Albany. (sas) (Entered: 10/24/1997)
10/20/1997	31	ORDER: denying [28-1] motion to Dismiss the complaint for lack of subject matter jurisdiction (Signed by Judge Frederick J. Scullin Jr.) (jmb) (Entered: 10/21/1997)
10/28/1997	33	NOTICE OF APPEAL by Robert A. Siegfried, Esq., for Richard A. Lallier, Bryan F. Rudes & NYS Mental Health. They are appealing from the final Order entered in this action on 10/20/97. FILING FEE \$ 105.00

		RECEIPT # 34662 Appeal record due on 11/27/97 (sas) (Entered: 11/03/1997)
11/07/1997		Notice of appeal and certified copy of docket to USCA re: [33-1] appeal by NYS Mental Health, Bryan F. Rudes, Richard A. Lallier (parties noticed). (dmf) (Entered: 11/07/1997)
12/26/1997	35	Court of Appeals Scheduling Order, re: [33-1] appeal by NYS Mental Health, Bryan F. Rudes, Richard A. Lallier ; Appeal record due on 12/29/97 (dmf) (Entered: 01/06/1998)
12/26/1997		USCA Case Number Re: [33-1] appeal by NYS Mental Health, Bryan F. Rudes, Richard A. Lallier USCA NUMBER: 97-9433 (dmf) (Entered: 01/06/1998)
01/06/1998		Certified and transmitted index to the record on appeal to U.S. Court of Appeals: [33-1] appeal by NYS Mental Health, Bryan F. Rudes, Richard A. Lallier (dmf) (Entered: 01/06/1998)
01/14/1998	36	Notice of Index to the Record on appeal by the Second Circuit Court of Appeals dated 1/12/98. (dmf) (Entered: 01/23/1998)
03/22/1999	38	MANDATE OF USCA (certified copy dated 3/17/99) Re: [33-1] appeal by NYS Mental Health, Bryan F. Rudes, Richard A. Lallier - the orders of said District Court be and they hereby are affirmed in accordance with the opinion of this court; with attached slip opinion. (dmf) (Entered: 03/30/1999)
03/25/1999	37	REQUEST & ORDER: requesting a stay of this action pending a determination of the Eleventh Amendment issue presented in this case; Request granted, the action is hereby stayed until the Supreme Court has ruled on the Eleventh Amendment issue. (Signed by Judge Frederick J. Scullin Jr.) (jmb) (Entered: 03/29/1999)
01/14/2000	39	LETTER NOTICE dated 1/11/00 by Robert A. Siegfried, AAG on behalf of NYS Mental Health advising the Supreme Court made a decision in the Kimel v. Florida Board of Regents case, re: age discrimination; annexed copy of decision provided (smo) (Entered: 01/20/2000)
02/10/2000	40	Scheduling Notice: by the Court, in response to # 39 Letter Brief, and advising counsel that the Court is aware of the recent US Supreme Court ruling in Kimel v. Florida Board of Regents, however the Court is awaiting jurisdiction to be returned before it can take any action. (Sent by Courtroom Clerk: Barbara J. Woodford) (jmb) (Entered: 02/28/2000)

04/05/2000	41	Scheduling Notice by the Court: set Telephone Conference for 3:00 PM on 4/24/00 before Judge Scullin , to discuss the status of this case in light of the United States Supreme Court's recent decision in Kimel v. Florida Board of Regents, plaintiff's counsel will initiate the call. (Sent by Courtroom Clerk: Barbara J. Woodford) (jmb) (Entered: 04/24/2000)
04/24/2000	42	Minute entry of Telephone Conference held before Judge Scullin: US Supreme Court ruling has remanded this action to the Second Circuit where the matter is currently under a briefing order, although it is agreed that this Court does not have subject matter jurisdiction, the parties do not wish to dismiss the action at the district court level until CCA ruling, in order to preserve NYS provisions, matter remains on docket pending ruling from the Second Circuit, App: Dedria Rooney, Esq., Robert Siegfried, AAG; Law Clerk: JGD; Courtroom Clerk: Barbara J. Woodford (jmb) (Entered: 05/08/2000)
06/12/2000	43	MANDATE OF USCA (certified copy dated 6/6/00): USCA VACATES the judgment and REMANDS it to the district court for reconsideration in light of "Kimel" and the claims of the parties (and the Intervenor) in these cases as to the effect of "Kimel". (dmf) Modified on 06/14/2000 (Entered: 06/14/2000)
06/22/2000	44	ORDER: that defendants are to file a brief addressing the effect of the United States Supreme Court's decision in Kimel on the case at hand no later than 7/7/00 in Syracuse, the plaintiff may file a response brief no later than 7/21/00 in Syracuse, ordered that if the Department of Justice wishes to appear as amicus party before this Court, it may file the appropriate paperwork and submit a brief no later than 7/21/00 in Syracuse, no brief should exceed 10 double spaced pages and should be in conformance with the local rules, no oral argument is scheduled at this time, and further ordered that the Clerk shall serve a copy of this order upon the Department of Justice, Civil Rights Division, Att: Seth Galanter, Esq. (Signed by Chief Judge F. J. Scullin Jr.) (jmb) (Entered: 07/05/2000)
07/07/2000	45	STIPULATION/ORDER OF DISMISSAL: by Ralph A. Cooper, Richard A. Lallier, Bryan F. Rudes, and NYS Mental Health, the parties stipulate and it is hereby ordered that this action is dismissed without prejudice for lack of subject matter jurisdiction based upon the Supreme Court ruling in Kimel v. Florida Board of Regents 120 S.Ct. 631 (2000). (Signed by Chief Judge Frederick J. Scullin, Jr.) (jmb) (Entered: 07/13/2000)
07/07/2000		Case closed (jmb) (Entered: 07/13/2000)
07/10/2000	46	LETTER NOTICE: dated 7/5/00 by Seth Galanter, Esq., on behalf of the Department of Justice, to the Clerk of the Court advising that he received

	<p>the Court's 6/22/00 Order authorizing the United States to file a brief as amicus curiae in this action, however after consideration, the Department of Justice is electing not to participate further in this matter. (jmb) (Entered: 07/13/2000)</p>
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