

CLOSED, CASREF, LEAD, PLRA

**U.S. District Court  
Southern District of New York (Foley Square)  
CIVIL DOCKET FOR CASE #: 1:05-cv-08120-RMB-DCF**

Perez v. Westchester County Department of Corrections et al

Assigned to: Judge Richard M. Berman  
Referred to: Magistrate Judge Debra C. Freeman

Member case: [\(View Member Case\)](#)

Related Cases: [1:05-cv-10704-RMB](#)  
[1:05-cv-10705-RMB](#)  
[1:06-cv-00943-RMB](#)  
[1:06-cv-01717-RMB](#)  
[1:06-cv-08253-RMB-DCF](#)  
[1:06-cv-00944-RMB](#)  
[1:06-cv-03069-RMB](#)  
[1:05-cv-10464-RMB](#)  
[1:05-cv-10462-RMB](#)  
[1:05-cv-08255-RMB-DCF](#)  
[1:05-cv-09226-RMB](#)  
[1:05-cv-10463-RMB](#)  
[1:05-cv-08256-RMB-DCF](#)

Date Filed: 09/20/2005  
Date Terminated: 03/12/2008  
Jury Demand: Plaintiff  
Nature of Suit: 555 Prisoner: Prison  
Condition  
Jurisdiction: Federal Question

Cause: 42:1983 Prisoner Civil Rights

**Plaintiff**

**Henry Perez**

represented by **Richard B. Cohen**  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

V.

**Consolidated Plaintiff**

**Shedret Whitehead**

represented by **Richard B. Cohen**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Consolidated Plaintiff**

**Julio Rosa**

represented by **Richard B. Cohen**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Consolidated Plaintiff**

**Carmelo Gonzalez**

represented by **Richard B. Cohen**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Consolidated Plaintiff**

**Angel L. Torres**

represented by **Angel L. Torres**  
(185711)

Westchester County Jail  
P.O. Box 10  
Valhalla, NY 10595  
PRO SE

**Consolidated Plaintiff**

**Richard Simpson**

represented by **Richard Simpson**  
181118  
Westchester County Jail  
P.O. Box 10  
Valhalla, NY 10595-0010  
PRO SE

**Consolidated Plaintiff**

**Khalid Barnes**

represented by **Khalid Barnes**  
00024134  
Westchester County Jail  
P.O. Box 10  
Valhalla, NY 10595  
PRO SE

V.

**Defendant**

**Westchester County Department of  
Corrections**  
*as County Agency*

represented by **Christie Lynne Magno**  
Westchester County Attorney's Office  
148 Martine Avenue, Room 600  
White Plains, NY 10601  
(914)-995-5103  
Fax: (914)-995-3132  
Email: [clm1@westchestergov.com](mailto:clm1@westchestergov.com)  
**LEAD ATTORNEY**

**Jane Hogan Felix**  
Westchester County Attorney's Office  
600 Michaelian Office Building  
148 Martine Avenue  
Room 600  
White Plains, NY 10601  
(914) 995-2708  
Fax: (914) 995-3132  
Email: [jhh3@westchestergov.com](mailto:jhh3@westchestergov.com)  
**LEAD ATTORNEY**

**Defendant**

**Commissioner Rocco Pozzi**  
*individually and as the Commissioner of  
the Westchester County Department of  
Corrections*

represented by **Christie Lynne Magno**  
(See above for address)  
**LEAD ATTORNEY**

**Jane Hogan Felix**  
(See above for address)  
**LEAD ATTORNEY**

**Defendant**

**Warden Anthony Amicucci**  
*individually and as the Senior  
Administrator of the Westchester County  
Jail*

represented by **Christie Lynne Magno**  
(See above for address)  
**LEAD ATTORNEY**

**Jane Hogan Felix**  
(See above for address)  
**LEAD ATTORNEY**

**Defendant**

**Captain Orlando**  
*individually and as facility grievance*

represented by **Christie Lynne Magno**  
(See above for address)

coordinator of the Westchester County  
Jail

LEAD ATTORNEY

**Jane Hogan Felix**  
(See above for address)  
LEAD ATTORNEY

V.

**Consolidated Defendant**

**Seargent Hubbard**

Date Filed	#	Docket Text
09/20/2005	1	ENDORSEMENT on Declaration in Support of Request to Proceed In Forma Pauperis, I.F.P. REQUEST IS GRANTED. (Signed by Judge Michael B. Mukasey on 9/20/5) (laq, ) (Entered: 09/26/2005)
09/20/2005	2	COMPLAINT against Westchester County Department of Corrections, Rocco Pozzi, Anthony Amicucci, Orlando. Document filed by Henry Perez.(laq, ) (Entered: 09/26/2005)
09/20/2005		SUMMONS ISSUED as to Westchester County Department of Corrections, Rocco Pozzi, Anthony Amicucci, Orlando. (laq, ) (Entered: 09/26/2005)
09/20/2005		Magistrate Judge Debra Freeman is so designated. (laq, ) (Entered: 09/26/2005)
10/11/2005		MEMORANDUM TO THE DOCKET CLERK: this case has been designated as one in which 7(2)(g)(2) of the Prisoner Litigation Reform Act (PLRA) applies. (kco, ) (Entered: 02/07/2006)
10/11/2005		Case Designated PLRA purs. to Prison Litigation Reform Act Section 7(2)(g)(2). (kco, ) (Entered: 02/07/2006)
11/29/2005	3	ORDER; that cases 05cv8120(RMB), 05cv8255 (RMB), 05cv8256(RMB), 05cv9226(RMB) are hereby consolidated. (Signed by Judge Richard M. Berman on 11/29/05) (pl, ) Additional attachment(s) added on 11/30/2005 (pl, ). (Entered: 11/30/2005)
12/23/2005	4	ENDORSED LETTER addressed to Magistrate Judge Henry B. Pitman from Charlene M. Indelicato dated 11/17/2005 re: to request an extension of time on the Rosa and Gonzalez motion to dismiss(The County of Westchester's timeto move is Monday November 21,2005) in the event the cases are not consolidated by Monday.ENDORSEMENT: Application Granted in 05civ8255 and 05civ8256. SO ORDERED (Signed by Judge Henry B. Pitman on 11/18/05) Filed In Associated Cases: 1:05-cv-08120-RMB,1:05-cv-08255-RMB-DCF,1:05-cv-08256-RMB-DCF,1:05-cv-09226-RMB(jmi, ) (Entered: 12/28/2005)
01/04/2006	5	ENDORSED LETTER addressed to Judge Richard M. Berman from Christie L. Magno dated 12/28/2005 re: to County Defendants renew their request for a pre-motion conference on the consolidated actions pursuant to Rule 2.A. of your Individual Rules.ENDORSEMENT: Conference on 1/11/2006 at 11:00 AM. (Signed by Judge Richard M. Berman on 1/3/2006) (jmi, ) (Entered: 01/05/2006)
01/10/2006	6	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED. Rocco Pozzi served on 11/16/2005, answer due 12/6/2005. Service was accepted by Rocco A. Pozzi. Document filed by Henry Perez. (kco, ) Modified on 1/11/2006 (kco, ). (Entered: 01/11/2006)
01/10/2006	7	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED. Anthony Amicucci served on 11/16/2005, answer due 12/6/2005. Service was accepted by Anthony P. Amicucci. Document filed by Henry Perez. (kco, ) Modified on 1/11/2006 (kco, ). (Entered: 01/11/2006)
01/10/2006	8	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED. Orlando served on 11/16/2005, answer due 12/6/2005. Service was accepted by Robert M. Orlando. Document filed by Henry Perez. (kco, ) Modified on 1/11/2006 (kco, ). (Entered: 01/11/2006)
02/15/2006	9	ENDORSED LETTER addressed to Judge Berman from Richard B. Cohen dated 2/14/06 re: Counsel requests a adjournment of status conference. Adjourned to 4/3/06 at 9:15 a.m.. (Signed by Judge Richard M. Berman on 2/14/06) (dj, ) (Entered: 02/15/2006)
02/15/2006		Set Deadlines/Hearings: Status Conference set for 4/3/2006 09:15 AM before Judge Richard M. Berman. (dj, ) (Entered: 02/15/2006)
03/10/2006	10	ENDORSED LETTER addressed to Judge Richard M. Berman from Charlene M. Indelicato dated 3/7/06 re: Request that the conference scheduled for April 3, 2006 at 9:15 a.m. be rescheduled to 11:00 a.m.

		ENDORSEMENT: Conference changed to 11:00 a.m. (Signed by Judge Richard M. Berman on 3/9/06) (js, ) (Entered: 03/13/2006)
04/28/2006	<u>11</u>	ENDORSED LETTER addressed to Judge Richard M. Berman from Christie L. Magno dated 4/26/06 re: granting requests that this matter be adjourned to 6/6/06 @9:30 a.m. (rm 14A, 500 Pearl St.). (Signed by Judge Richard M. Berman on 4/28/06) (pl, ) (Entered: 04/28/2006)
09/15/2006	<u>12</u>	FILING ERROR – ELECTRONIC FILING IN NON–ECF CASE – MOTION to Dismiss. Document filed by Westchester County Department of Corrections, Rocco Pozzi, Anthony Amicucci, Orlando. Responses due by 10/31/2006 Return Date set for 11/14/2006 11:59 PM. (Attachments: # <u>1</u> Declaration of Christie L. Magno# <u>2</u> Notice of Exhibits# <u>3</u> Memorandum of Law In Support of Motion To Dismiss)Filed In Associated Cases: 1:05–cv–08120–RMB,1:05–cv–08255–RMB–DCF,1:05–cv–08256–RMB–DCF,1:05–cv–09226–RMB(Magno Christie) Modified on 9/15/2006 (kg, ). (Entered: 09/15/2006)
09/15/2006		***NOTE TO ATTORNEY TO RE–FILE DOCUMENT – NON–ECF CASE ERROR. Note to Attorney Christine Lynne Magno to MANUALLY RE–FILE Document Motion to Dismiss, Document No. 12. This case is not ECF. (kg) (Entered: 09/15/2006)
09/19/2006	<u>13</u>	ENDORSED LETTER addressed to Judge Richard M. Berman from Richard B. Cohen dated 8/23/2006 re: defendants to serve their motion on or before 9/29/2006; plaintiffs' opposition to be served before 10/31/2006; a defendants' reply to be served on or before 11/14/2006. ENDORSEMENT: Application Granted as revised on p (Signed by Judge Richard M. Berman on 8/28/2006) (lb, ) (Entered: 09/19/2006)
09/22/2006	<u>14</u>	MOTION to Dismiss the complaint with prejudice for (1) failure to state a claim upon which relief can be granted (2) failure to exhaust administrative remedies; and (3) to transfer or reassign the case to White Plaints pursuant to Rule 21 and 22 of the Rules of this Court the Division of Business Among Judges if this case is not dismissed; and for such other and further relief as this Honorable Court deems just and proper. Document filed by Westchester County Department of Corrections. (jmi, ) (Entered: 09/26/2006)
09/22/2006	<u>15</u>	MEMORANDUM OF LAW in Support re: 14 MOTION to Dismiss.. Document filed by Westchester County Department of Corrections. (jmi, ) (Entered: 09/26/2006)
10/24/2006	<u>16</u>	ENDORSED LETTER addressed to Judge Richard M. Berman from Richard B. Cohen dated 10/18/06 re: court requests the following schedule: plaintiffs' opposition to motion to dismiss to be served on or before 11/30/06 and reply 12/28/06. Plaintiff may have to 11/17/06 to respond with reply due by 12/8/06 from dfts. (Signed by Judge Richard M. Berman on 10/23/06) (dle, ) Modified on 10/24/2006 (dle, ). (Entered: 10/24/2006)
10/24/2006		Set/Reset Deadlines as to 14 MOTION to Dismiss.. Responses due by 11/17/2006 Replies due by 12/8/2006. (dle, ) (Entered: 10/24/2006)
11/09/2006	<u>17</u>	ENDORSED LETTER addressed to Judge Richard M. Berman from Richard B. Cohen dated 11/8/06 re: dft's motion to dismiss, plaintiffs request time to serve reply papers on the cross–motion; plaintiff should include whatever arguments, applications, etc it has in its response (within 25 pp limit, double space, normal margins). No conference needed. (Signed by Judge Richard M. Berman on 11/9/06) (pl, ) (Entered: 11/13/2006)
11/17/2006	<u>19</u>	CROSS–MOTION for Preliminary Injunction; w/ atch. Affidavit in support by Richard B. Cohen, Julio Rosa and Richard Simpson. Document filed by Shedret Whitehead, Julio Rosa, Carmelo Gonzalez, Henry Perez. (pl, ) (Entered: 11/22/2006)
11/17/2006	<u>20</u>	MEMORANDUM OF LAW in Opposition re: 19 MOTION for Preliminary Injunction. Document filed by Shedret Whitehead, Julio Rosa, Carmelo Gonzalez, Henry Perez. (pl, ) (Entered: 11/22/2006)
11/17/2006	<u>21</u>	Plaintiffs' Statement of Undisputed Facts. Document filed by Shedret Whitehead, Julio Rosa, Carmelo Gonzalez, Henry Perez. (pl, ) (Entered: 11/22/2006)
11/21/2006	<u>18</u>	ENDORSED LETTER addressed to Judge Richard M. Berman from Richard B. Cohen dated 11/20/06 re: court for plaintiffs requests two weeks (to 12/23/06) to submit a reply to dfts' opposition to the cross motion. 12/18/06 more than enough time. See rule re: page limits also. (Signed by Judge Richard M. Berman on 11/21/06) (dle, ) Modified on 11/21/2006 (dle, ). (Entered: 11/21/2006)
11/21/2006		Set/Reset Deadlines as to 14 MOTION to Dismiss.. Responses due by 12/18/2006 (dle, ) (Entered: 11/21/2006)
12/05/2006	<u>22</u>	ENDORSED LETTER addressed to Judge Richard M. Berman from Christie D'Alessio dated 12/4/06 re: court for dft requests a two week extension of time to reply until 12/22/06. Sorry. (Signed by Judge Richard M. Berman on 12/5/06) (dle, ) (Entered: 12/05/2006)
12/07/2006	<u>23</u>	REPLY AFFIRMATION of Christie Magno in Support re: 14 MOTION to Dismiss., 19 MOTION for Preliminary Injunction.. Document filed by Westchester County Department of Corrections, Rocco Pozzi, Anthony Amicucci, Orlando. (Attachments: # <u>1</u> Reply Memorandum of Law)Filed In Associated Cases:

		1:05-cv-08120-RMB,1:05-cv-08255-RMB-DCF,1:05-cv-08256-RMB-DCF,1:05-cv-09226-RMB(Magno Christie) (Entered: 12/07/2006)
12/12/2006	24	REPLY DECLARATION IN SUPPORT OF MOTION TO DISMISS; Document filed by Westchester County Department of Corrections, Rocco Pozzi, Anthony Amicucci. Attached is BIBI Mohammed Affidavit. (djc, ) (Entered: 12/18/2006)
12/18/2006	25	REPLY AFFIDAVIT of Kenneth Wilson in Support re: 19 MOTION for Preliminary Injunction. (cd, ) (Entered: 12/21/2006)
12/18/2006	26	REPLY MEMORANDUM OF LAW in Support re: 19 MOTION for Preliminary Injunction, filed by plaintiffs. (cd, ) (Entered: 12/21/2006)
03/07/2007	27	ORDER that the Court will deem the motion to dismiss fld by defts on or about 9/14/06 also to apply to claims made by plntfs Morgan, Massa, and Pack...Defts are also directed to sere this order and a complete set of the pending motion papers on plntfs Morgan, Massa, and Pack on or before 3/20/07; plntfs Morgan, Massa, and Pack are directed to advise the Court in writing no later than 4/9/07 whether they wish to join in the response and cross motion submitted on behalf of the plntfs represented by Mr. Cohen, or whether they wish to file their own response(s) to the motion. (Signed by Judge Richard M. Berman on 3/6/07) (cd) (Entered: 03/09/2007)
04/30/2007	<u>28</u>	ORDER granting in part and denying in part 14 Motion to Dismiss; denying 19 Motion for Preliminary Injunction. The parties are directed to appear at a scheduling/settlement conference with principals (or authority) before the Court on May 9, 2007 at 9:30 a.m. in Courtroom 14A at the Daniel Patrick Moynihan U.S. Courthouse, 500 Pearl Street, New York, New York. The Court directs the parties to engage in good faith settlement negotiations prior to the conference with the Court.(Signed by Judge Richard M. Berman on 4/30/2007) (jmi) (Entered: 05/01/2007)
05/04/2007	29	ENDORSED LETTER addressed to Judge Richard M. Berman from Richard B. Cohen dated 5/2/07 re: Application GRANTED. The settlement conference is adjourned to 5/15/07 at 11:15 a.m. (Signed by Judge Richard M. Berman on 5/3/07) (db) (Entered: 05/07/2007)
05/15/2007		Minute Entry for proceedings held before Judge Richard M. Berman : Settlement Conference held on 5/15/2007 Settlement Conference set for 6/19/2007 10:00 AM before Judge Richard M. Berman. (jar) (Entered: 05/16/2007)
06/05/2007	30	ANSWER to Complaint. Document filed by Westchester County Department of Corrections, Rocco Pozzi, Anthony Amicucci, Orlando.(jar) (Entered: 06/07/2007)
06/18/2007	31	ENDORSED LETTER addressed to Judge Richard M. Berman from Richard B. Cohen dated 6/15/07 re: Couns for both sides have conferred and are available for a rescheduled conference with the Court on June 20, 2007 at 3:00pm. Plaintiffs' counsel will be present in Court, and defendants' counsel will be available by telephone. SO ORDERED. (Signed by Judge Richard M. Berman on 6/18/07) (tro) (Entered: 06/18/2007)
06/20/2007		Minute Entry for proceedings held before Judge Richard M. Berman : Settlement Conference held on 6/20/2007 Discovery by: 9/28/07(fact &expert); Jury Trial on 10/29/07 (9am). (pl) (Entered: 06/28/2007)
07/12/2007	32	TRANSCRIPT of proceedings held on 6/20/07 before Judge Richard M. Berman. (jbe) (Entered: 07/12/2007)
07/30/2007		Minute Entry for proceedings held before Judge Richard M. Berman : Settlement Conference held on 7/30/2007 Settlement conversations ongoing. (tro) (Entered: 08/07/2007)
08/09/2007	33	TRANSCRIPT of proceedings held on 7/30/07 before Judge Richard M. Berman. (jbe) (Entered: 08/09/2007)
10/01/2007	<u>34</u>	ENDORSED LETTER addressed to Judge Richard M. Berman from Richard B. Cohen dated 9/28/07 re: parties jointly request an extension of summary judgment and other trial ready motions deadlines, without date, to pursue what we hope is a resolution to these actions without the necessity of further litigation. ENDORSEMENT: Lets hold a settlement conference on 11/6/07; and counsel should send notice to Pls of the time &place of the conference &the terms of the proposed settlement &advising that they will be bound unless they submit written objections to counsel &the Court by 10/22/07. Counsel to send notice by 10/2/07. * 2:00 p.m. in courtroom 21D 500 Pearl St. (Signed by Judge Richard M. Berman on 10/1/07) (pl) Modified on 10/1/2007 (Lancaster, Patricia) Modified on 10/10/2007 (Lancaster, Patricia). (Entered: 10/01/2007)
10/01/2007	<u>35</u>	ENDORSED LETTER addressed to Judge Richard M. Berman from Christie L. Magno dated 10/1/07 re: Couns writes to request adjournment of settlement conference. ENDORSEMENT: Adjourned to 11/5/07 @ 2:00 p.m. S Ordered. Settlement Conference set for 11/5/2007 at 02:00 PM before Judge Richard M. Berman. (Signed by Judge Richard M. Berman on 10/1/07) (jco) (Entered: 10/01/2007)
10/04/2007	36	NOTICE. counsel notifies parties in this action of Settlement conference to be held on Monday, November 5, 2007 at 2:00 p.m. (djc) (Entered: 10/05/2007)

11/01/2007	<u>37</u>	ENDORSED LETTER addressed to Judge Richard M. Berman from Richard B. Cohen dated 11/1/07 re: counsel for all parties request an adjournment of the conference scheduled for 11/5/07. ENDORSEMENT: Adjourned to 12/10/07 @ 9:30 a.m. (Signed by Judge Richard M. Berman on 11/1/07) (dle) (Entered: 11/02/2007)
11/08/2007	<u>38</u>	ENDORSED LETTER addressed to Judge Richard Berman from Christie L. Magno dated 11/8/07 re: Request t the scheduled conference on 12/10/07 at 9:30 a.m. be adjourned to 11:00 a.m. ENDORSEMENT: Adjourned to 11:00 a.m. on 12/10/07. Let's have everyone in person. Settlement Conference set for 12/10/2007 at 11:00 AM i Courtroom 14A, 500 Pearl Street, New York, NY 10007 before Judge Richard M. Berman. (Signed by Judge Richard M. Berman on 11/8/07) Filed In Associated Cases: 1:05-cv-08120-RMB, 1:05-cv-08255-RMB-DCF, 1:05-cv-08256-RMB-DCF, 1:05-cv-09226-RMB(db) (Entered: 11/08/2007)
11/30/2007	<u>39</u>	ENDORSED LETTER addressed to Judge Richard M. Berman from Jane Hogan Felix dated 11/30/2007 re: Counsel, Richard Cohen, respectfully request that the County Defendants be allowed to appear via telephone for the Court conference scheduled for December 10, 2007 at 9:30 a.m. If a phone conference is not acceptable to th Court, it is respectfully requested that the matter be adjourned to 11:00 a.m. to allow for travel time. ENDORSEMENT: 11:00 AM is fine (in person) on 12/10/07. SO ORDERED. ( Settlement Conference set for 12/10/2007 at 11:00 AM before Judge Richard M. Berman.) (Signed by Judge Richard M. Berman on 11/30/2007) (jmi) (Entered: 12/03/2007)
01/31/2008		MEMORANDUM TO THE DOCKET CLERK: Proposed order or settlement papers by 3/3/08. Attorney fee motions by plaintiff, if any 3/17/08. Response by 3/31/08. Reply by 4/7/08. (dle) (Entered: 02/11/2008)
02/29/2008	<u>40</u>	ENDORSED LETTER addressed to Judge Richard M. Berman from Richard B. Cohen dated 2/28/08 re: counsel for parties requests the following schedule: date to submit a settlement agreement 4/7/08; date for submission of plaintiffs' counsel's petition for attorneys fees 4/21/08; date for submission of defendants' opposition papers 5/5/08; date for submission of plaintiffs' reply 5/12/08. ENDORSEMENT: I'm not inclined to extend further at t time. We can discuss at a conference in person on 3/3/08 @ 2:30 p.m. the need for any such extension. Be prepared to work on the settlement in the jury room until completed. (Signed by Judge Richard M. Berman on 2/29/08) (dle) (Entered: 02/29/2008)
03/10/2008	<u>41</u>	ENDORSED LETTER addressed to Judge Richard M. Berman from Christie L. Magno dated 3/10/08 re: The parties request an adjournment of the conference scheduled for 3/11/08. ENDORSEMENT: ADJOURNED TO 3/12/08 @ 11:00 am. ( Status Conference set for 3/12/2008 at 11:00 AM before Judge Richard M. Berman.) (Signed by Judge Richard M. Berman on 3/10/08) (tro) (Entered: 03/10/2008)
03/12/2008	<u>42</u>	ORDER OF SETTLEMENT, RELEASE AND STIPULATION OF DISCONTINUANCE: For reasons further s forth in said Order, this action is settled and discontinued with prejudice as against the County Defendants. See sections 1-2 for stipulations regarding the term "halal" as defined as any food in compliance with the Holy Qur'a The Court retains discretion to accept any such case(s) as related. The Clerk is requested to close this case (LEA CASE 05cv8120(RMB)) and ALL RELATED CASES. (Signed by Judge Richard M. Berman on 3/12/08) Filed In Associated Cases: 1:05-cv-08120-RMB et al.(db) (Entered: 03/12/2008)
03/12/2008	<u>43</u>	ENDORSED LETTER addressed to Judge Richard M. Berman from Richard B. Cohen dated 3/12/08 re: Reque for the following briefing schedule - Plaintiff's petition for attorneys fees due 4/18/08; defendant's opposition du 5/9/08; reply due 5/23/08. ENDORSEMENT: Good job! Settlement has been so ordered. The Court also encourages settlement of the legal fees issue - - If that cannot occur, the enclosed briefing schedule is acceptabl SO ORDERED. (Signed by Judge Richard M. Berman on 3/12/08) Filed In Associated Cases: 1:05-cv-08120-RMB et al.(db) (Entered: 03/12/2008)
04/21/2008	44	MOTION for Attorney Fees in the amount of \$210,502, to Fox Rothschild LLP, as counsel for prevailing parties herein. (pl) Modified on 4/22/2008 (pl). (Entered: 04/22/2008)
04/21/2008	45	MEMORANDUM OF LAW in Support re: 44 MOTION for Attorney Fees. Document Fox Rothschild LLP. (pl) Modified on 4/22/2008 (pl). (Entered: 04/22/2008)
04/21/2008	46	AFFIDAVIT of Richard B. Cohen, Esq. in Support re: 44 MOTION for Attorney Fees. (pl) Modified on 4/22/2008 (pl). (Entered: 04/22/2008)
05/06/2008	<u>47</u>	ENDORSED LETTER addressed to Judge Richard M. Berman from Christie L. Magno dated 5/2/08 re: Counse for defendants request a two week extension of time to May 23, 2008 to answer the attorney fee petition current due on May 9, 2008. ENDORSEMENT: Extension GRANTED. But work on settlement. So Ordered. (Signed b Judge Richard M. Berman on 5/6/08) (js) (Entered: 05/06/2008)
05/23/2008	48	MEMORANDUM OF LAW in Opposition re: (44 in 1:05-cv-08120-RMB) MOTION for Attorney Fees. Document filed by Westchester County Department of Corrections, Westchester County Department of Corrections, Westchester County Department of Corrections. Filed In Associated Cases: 1:05-cv-08120-RMB 1:05-cv-08255-RMB-DCF, 1:05-cv-08256-RMB-DCF, 1:05-cv-09226-RMB, 1:05-cv-10462-RMB(pl) (Entered: 05/28/2008)

05/23/2008	49	DECLARATION of Christie L. Magno in Opposition to Application for payment of Attorney Fees to Fox Rothschild LLP. Document filed by Westchester County Department of Corrections, Westchester County Department of Corrections, Westchester County Department of Corrections, Westchester County Department of Corrections. Filed In Associated Cases: 1:05-cv-08120-RMB al.(pl) (Entered: 05/28/2008)
06/06/2008	50	REPLY MEMORANDUM OF LAW in Support re: 44 MOTION for Attorney Fees. Document filed by Henry Perez. (cd) (Entered: 06/09/2008)
06/06/2008	51	REPLY AFFIDAVIT of Richard B. Cohen in Support re: 44 MOTION for Attorney Fees. Document filed by Henry Perez. (cd) (Entered: 06/09/2008)
07/22/2008	<u>52</u>	ORDER For the reasons set forth in this order, Fox Rothchilds application for attorneys fees [#44] is granted in amount of \$99,658.48. The clerk is respectfully requested to enter judgment (in favor of Fox Rothchild) in that amount.. (Signed by Judge Richard M. Berman on 7/22/08) (mme) (Entered: 07/22/2008)
07/22/2008		Transmission to Judgments and Orders Clerk. Transmitted re: <u>52</u> Order on Motion for Attorney Fees,, to the Judgments and Orders Clerk. (mme) (Entered: 07/22/2008)
07/23/2008	<u>53</u>	CLERK'S JUDGMENT # 08,1249 That for the reasons stated in the Court's Order dated July 22, 2008, Fox Rothchilds application for attorneys fees is granted in the amount of \$99,658.48.. (Signed by Judge Richard M. Berman on 7/23/08) (Attachments: # <u>1</u> notice of right to appeal)Filed In Associated Cases: 1:05-cv-08120-RMB et al.(ml) (Entered: 07/23/2008)
07/23/2008		Mailed notice of Right to Appeal re: <u>53</u> Clerk's Judgment, to Pro Se Litigant(s): Henry Perez and to Attorney(s) Record: Jane Hogan Felix, Christie Lynne Magno. (ama) (Entered: 07/24/2008)
07/23/2008		Received returned mail Mail was addressed to Henry Perez at P.O. Box 10, Valhalla, NY 10595 and was returned for the following reason(s): Returned to Sender. (ama) (Entered: 08/04/2008)
08/18/2008	<u>54</u>	Supersedeas BOND # 2077098 in the amount of \$ 110,620.91 posted by Westchester County. Filed In Associated Cases: 1:05-cv-08120-RMB et al.(ml) (Entered: 08/19/2008)
08/18/2008	<u>56</u>	NOTICE OF APPEAL from (19 in 1:05-cv-08256-RMB-DCF, 13 in 1:05-cv-09226-RMB, 7 in 1:05-cv-10463-RMB, 53 in 1:05-cv-08120-RMB, 11 in 1:05-cv-10462-RMB, 19 in 1:05-cv-08255-RMB-DCF) Clerk's Judgment, (52 in 1:05-cv-08120-RMB) Order on Motion for Attorney Fees,. Document filed by Westchester County Department of Corrections, Rocco Pozzi, Anthony Amicucci, Orlando, Westchester County Department of Corrections. Filing fee \$ 455.00, receipt number E 651660. Copies Notice of Appeal mailed to attorney(s) of record: Fox Rothschild LLP. Filed In Associated Cases: 05cv8255, 05cv8256, 05cv9226, 05cv10462, and 05cv10463.(nd) (Entered: 08/26/2008)
08/22/2008	<u>55</u>	ENDORSED LETTER addressed to Judge Richard M. Berman from Christie D'Alessio dated 8/18/08 re: Courts requests that the court approve bond and enter an order staying execution of the judgment in this matter during the pendency of the appeal pursuant to Federal Rules of Civil Procedure 62. ENDORSEMENT: Plaintiffs to respond to this letter by 8/27/08 (noon)., ( Responses due by 8/27/2008) (Signed by Judge Richard M. Berman on 8/22/08) Filed In Associated Cases: 1:05-cv-08120-RMB et al.(mme) (Entered: 08/22/2008)
08/26/2008		Transmission of Notice of Appeal to the District Judge re: (14 in 1:05-cv-10462-RMB, 56 in 1:05-cv-08120-RMB, 22 in 1:05-cv-08256-RMB-DCF, 10 in 1:05-cv-10463-RMB, 16 in 1:05-cv-09226-RMB, 22 in 1:05-cv-08255-RMB-DCF) Notice of Appeal,, Filed In Associated Cases: 1:05-cv-08120-RMB, 05cv8255, 05cv8256, 05cv9226, 05cv10462, and 05cv10463.(nd) (Entered: 08/26/2008)
08/26/2008		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: (14 in 1:05-cv-10462-RMB, 56 in 1:05-cv-08120-RMB, 22 in 1:05-cv-08256-RMB-DCF, 10 in 1:05-cv-10463-RMB, 16 in 1:05-cv-09226-RMB, 22 in 1:05-cv-08255-RMB-DCF) Notice of Appeal. Filed In Associated Cases: 1:05-cv-08120-RMB, 05cv8255, 05cv8256, 05cv9226, 05cv10462, and 05cv10463.(nd) (Entered: 08/26/2008)
08/29/2008	<u>57</u>	ADMINISTRATIVE ORDER: that the above-entitled actions be consolidated for administrative reasons in accordance with Rule 42(a) of the F.R.C.P. (Signed by Judge Richard M. Berman on 8/29/08) Filed In Associated Cases: 1:05-cv-08120-RMB, 1:06-cv-00944-RMB, 1:06-cv-01717-RMB, 1:06-cv-03069-RMB(tro) (Entered: 08/29/2008)
08/29/2008	58	NOTICE OF CROSS APPEAL from (12 in 1:06-cv-00944-RMB, 8 in 1:06-cv-01717-RMB, 12 in 1:06-cv-03069-RMB) Clerk's Judgment, (19 in 1:05-cv-08256-RMB-DCF, 13 in 1:05-cv-09226-RMB, 53 in 1:05-cv-08120-RMB, 11 in 1:05-cv-10462-RMB, 19 in 1:05-cv-08255-RMB-DCF) Clerk's Judgment, (52 in 1:05-cv-08120-RMB) Order on Motion for Attorney Fees,. Document filed by Angel L. Torres, Richard Simpson, Khalid Barnes, Shedret Whitehead, Julio Rosa, Carmelo Gonzalez, Tuere Barnes. Filing fee \$ 455.00, receipt number E 661833. Copies of Notice of Appeal mailed to attorney(s) of record: Westchester County

		Attorney. Filed In Associated Cases: 1:05-cv-08120-RMB, 05cv8255, 05cv8256, 05cv9226, 05cv10462, 06cv0944, 06cv1717, 06cv3069.(nd) (Entered: 08/29/2008)
08/29/2008		Transmission of Notice of Cross-Appeal to the District Judge re: (14 in 1:06-cv-03069-RMB, 14 in 1:06-cv-00944-RMB, 17 in 1:05-cv-09226-RMB, 15 in 1:05-cv-10462-RMB, 58 in 1:05-cv-08120-RMB 23 in 1:05-cv-08255-RMB-DCF, 10 in 1:06-cv-01717-RMB, 23 in 1:05-cv-08256-RMB-DCF) Notice of Cross Appeal,,. Filed In Associated Cases: 1:05-cv-08120-RMB et al.(nd) (Entered: 08/29/2008)
08/29/2008		Transmission of Notice of Cross-Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: (14 in 1:06-cv-03069-RMB, 14 in 1:06-cv-00944-RMB, 17 in 1:05-cv-09226-RMB, 15 in 1:05-cv-10462-RMB 58 in 1:05-cv-08120-RMB, 23 in 1:05-cv-08255-RMB-DCF, 10 in 1:06-cv-01717-RMB, 23 in 1:05-cv-08256-RMB-DCF) Notice of Cross Appeal,,. Filed In Associated Cases: 1:05-cv-08120-RMB et al.(nd) (Entered: 08/29/2008)
09/04/2008	<u>59</u>	ORDER FOR STAY PENDING APPEAL: Upon consideration of the motion of County Defendants filed 8/14/08 for a stay of execution of the Court's Judgment dated 7/23/08 together with the supersedeas bond posted by defendants and plaintiff's counsel having filed no opposition, the Court is of the opinion that the motion should be granted. It is therefore ORDERED AND ADJUDGED that the execution of the Court's Judgment directing defendants to pay counsel fees to Fox Rothschild in the total amount of \$99,658.48, is stayed until the final determination of the defendants' appeal. (Signed by Judge Richard M. Berman on 9/4/08) Filed In Associated Cases: 1:05-cv-08120-RMB et al.(tro) (Entered: 09/04/2008)
09/09/2008	60	AMENDED NOTICE OF APPEAL re: (9 in 1:06-cv-01717-RMB) Notice of Appeal, (16 in 1:05-cv-09226-RMB, 14 in 1:05-cv-10462-RMB, 56 in 1:05-cv-08120-RMB, 22 in 1:05-cv-08256-RMB-DCF, 10 in 1:05-cv-10463-RMB, 22 in 1:05-cv-08255-RMB-DCF) Notice of Appeal (13 in 1:06-cv-00944-RMB) Notice of Appeal,, (13 in 1:06-cv-03069-RMB) Notice of Appeal, (12 in 1:06-cv-00944-RMB, 8 in 1:06-cv-01717-RMB, 12 in 1:06-cv-03069-RMB) Clerk's Judgment, (18 in 1:05-cv-09226-RMB, 24 in 1:05-cv-08255-RMB-DCF, 15 in 1:06-cv-00944-RMB, 59 in 1:05-cv-08120-RMB, 24 in 1:05-cv-08256-RMB-DCF, 11 in 1:06-cv-01717-RMB, 15 in 1:06-cv-03069-RMB, 16 in 1:05-cv-10462-RMB, 11 in 1:05-cv-10463-RMB) Order,, (19 in 1:05-cv-08256-RMB-DCF, 13 in 1:05-cv-09226-RMB, 7 in 1:05-cv-10463-RMB, 53 in 1:05-cv-08120-RMB, 11 in 1:05-cv-10462-RMB, 19 in 1:05-cv-08255-RMB-DCF) Clerk's Judgment. Document filed by Westchester County Department of Corrections, Rocco Pozzi, Anthony Amicucci, Orlando. Copies of Notice of Appeal mailed to attorney(s) of record: Fox Rothschild LLP. Filed In Associated Cases: 1:05-cv-08120-RMB, 05cv8255, 05cv8256, 05cv9226, 05cv10462, 06cv0944, 06cv1717, 06cv3069 and 05cv10463.(nd) (Entered: 09/11/2008)
09/11/2008		Transmission of Notice of Appeal to the District Judge re: (19 in 1:05-cv-09226-RMB, 25 in 1:05-cv-08256-RMB-DCF, 60 in 1:05-cv-08120-RMB, 12 in 1:05-cv-10463-RMB, 17 in 1:05-cv-10462-RMB, 16 in 1:06-cv-00944-RMB, 12 in 1:06-cv-01717-RMB, 16 in 1:06-cv-03069-RMB 25 in 1:05-cv-08255-RMB-DCF) Amended Notice of Appeal. Filed In Associated Cases: 1:05-cv-08120-RMB et al.(nd) (Entered: 09/11/2008)
09/11/2008		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: (19 in 1:05-cv-09226-RMB, 25 in 1:05-cv-08256-RMB-DCF, 60 in 1:05-cv-08120-RMB, 12 in 1:05-cv-10463-RMB, 17 in 1:05-cv-10462-RMB, 16 in 1:06-cv-00944-RMB, 12 in 1:06-cv-01717-RMB 16 in 1:06-cv-03069-RMB, 25 in 1:05-cv-08255-RMB-DCF) Amended Notice of Appeal. Filed In Associated Cases: 1:05-cv-08120-RMB et al.(nd) (Entered: 09/11/2008)
09/15/2008	<u>61</u>	Appeal Record Sent to USCA (Index). Notice that the Original index to the record on Appeal for 60 Amended Notice of Appeal,,,, filed by Rocco Pozzi, Orlando, Anthony Amicucci, Westchester County Department of Corrections, <u>56</u> Notice of Appeal,, filed by Rocco Pozzi, Orlando, Anthony Amicucci, Westchester County Department of Corrections USCA Case Number 08-4245-pr, 3 Copies of the index, Certified Clerk Certificate and Certified Docket Sheet were transmitted to the U.S. Court of Appeals. (nd) (nd). (Entered: 09/15/2008)
09/15/2008		Appeal Record Sent to USCA (File). Indexed record on Appeal Files for <u>56</u> Notice of Appeal,, filed by Rocco Pozzi, Orlando, Anthony Amicucci, Westchester County Department of Corrections, 60 Amended Notice of Appeal filed by Rocco Pozzi, Orlando, Anthony Amicucci, Westchester County Department of Corrections USCA Case Number 08-4245-pr, were transmitted to the U.S. Court of Appeals. (2 volumes of records delivered to USCA on 9/16/2008). (nd) (Entered: 09/15/2008)
10/16/2008	62	LETTER addressed to Judge Richard M. Berman from Richard B. Cohen dated 7/21/08 re: letter supplements the firm's fee application, and in particular, replies to the letter from defendants' counsel dated July 16, 2008. (djc) (Entered: 10/17/2008)
10/16/2008	63	LETTER addressed to Judge Richard M. Berman from Richard B. Cohen dated 7/15/08 re: letter setting forth additional information related to this firm's fee application.. (djc) (Entered: 10/17/2008)



10/16/2008	64	LETTER addressed to Judge Richard M. Berman from Christie L. D'Alessio dated 7/16/08 re: response to the Fox Rothschild's letter dated July 15, 2008. (djc) (Entered: 10/17/2008)
03/09/2010	<u>65</u>	MANDATE of USCA (Certified Copy) as to (19 in 1:05-cv-09226-RMB, 25 in 1:05-cv-08256-RMB-DCF, in 1:05-cv-08120-RMB, 12 in 1:05-cv-10463-RMB, 17 in 1:05-cv-10462-RMB, 12 in 1:06-cv-01717-RMB, 16 in 1:06-cv-03069-RMB, 25 in 1:05-cv-08255-RMB-DCF) Amended Notice of Appeal,,, filed by Rocco Pozzi, Orlando, Anthony Amicucci, Westchester County Department of Corrections, (1 in 1:06-cv-01717-RMB) Notice of Appeal, filed by Rocco Pozzi, Orlando, Anthony Amicucci, Westchester County Department of Corrections, (15 in 1:05-cv-10462-RMB, 58 in 1:05-cv-08120-RMB, 23 in 1:05-cv-08255-RMB-DCF, 14 in 1:06-cv-03069-RMB, 17 in 1:05-cv-09226-RMB, 10 in 1:06-cv-01717-RMB, 23 in 1:05-cv-08256-RMB-DCF) Notice of Cross Appeal,, filed by Carmelo Gonzalez, Richard Simpson, Angel L. Torres, Khalid Barnes, Shedret Whitehead, Julio Rosa, Tuere Barnes, (16 in 1:05-cv-09226-RMB, 14 in 1:05-cv-10462-RMB, 56 in 1:05-cv-08120-RMB, 22 in 1:05-cv-08256-RMB-DCF, 10 in 1:05-cv-10463-RMB, 22 in 1:05-cv-08255-RMB-DCF) Notice of Appeal filed by Rocco Pozzi, Orlando, Anthony Amicucci, Westchester County Department of Corrections, (13 in 1:06-cv-03069-RMB) Notice of Appeal, filed by Rocco Pozzi, Orlando, Amicucci, Westchester County Department of Corrections USCA Case Number 08-4245-pr(L), 08-4300-pr(con). Ordered, Adjudged and Decreed that the judgment of the District Court is AFFIRMED and the case is REMANDED for an award of fees in accordance with the opinion of this court. Catherine O'Hagan Wolfe, Clerk USCA. Issued As Mandate: 1/8/2010. Filed In Associated Cases: 05cv08120, 05cv8255, 05cv8256, 05cv9226, 05cv10462, 05cv10463, 06cv1717, 06cv3069.(nd) (nd). (Entered: 03/09/2010)
03/09/2010		Transmission of USCA Mandate/Order to the District Judge re: (20 in 1:05-cv-09226-RMB, 26 in 1:05-cv-08256-RMB-DCF, 13 in 1:06-cv-01717-RMB, 65 in 1:05-cv-08120-RMB, 26 in 1:05-cv-08255-RMB-DCF, 17 in 1:06-cv-03069-RMB, 18 in 1:05-cv-10462-RMB, 13 in 1:05-cv-10463-RMB) USCA Mandate,,,,,,. Filed In Associated Cases: 1:05-cv-08120-RMB et al.(nd) (Entered: 03/09/2010)
03/11/2010	<u>66</u>	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for Determination of attorney's fees pursuant to Second Circuit Mandate, dated 3/10/10. Referred to Magistrate Judge Debra C. Freeman. (Signed by Judge Richard M. Berman on 3/10/10) (cd) (Entered: 03/11/2010)
03/26/2010		Minute Entry for proceedings held before Magistrate Judge Debra C. Freeman: Telephone Conference held on 3/26/2010. (mro) (Entered: 04/02/2010)
06/21/2010	<u>67</u>	REPORT AND RECOMMENDATION: For all of the reasons stated above, I recommend that the Court award Plaintiffs \$42,000 in attorneys fees in connection with their appeal to the Second Circuit. Objections to RRdue b 7/8/2010 (Signed by Magistrate Judge Debra C. Freeman on 6/21/2010) Filed In Associated Cases: 1:05-cv-08120-RMB-DCF et al. Copies Mailed By Chambers.(jfe) (Entered: 06/21/2010)
07/29/2010	<u>68</u>	ORDER; that for the reasons set forth therein and herein, the Court adopts the Report [#67] in its entirety. The Clerk of Court is respectfully requested to enter judgment in favor of Fox Rothschild in the amount of \$42,000.00 plus post-judgment interest pursuant to 28 U.S.C. § 1961. (Signed by Judge Richard M. Berman on 7/29/10) (pl) (Entered: 07/30/2010)
07/29/2010		Transmission to Judgments and Orders Clerk. Transmitted re: <u>68</u> Order, to the Judgments and Orders Clerk. (pl) (Entered: 07/30/2010)
07/30/2010	<u>69</u>	CLERK'S JUDGMENT # 10,1324 That for the reasons stated in the Courts Order dated July 29, 2010, the report adopted in its entirety, and judgment is entered in favor of Fox Rothschild in the amount of \$42,000.00, plus post-judgment interest pursuant to 28 U.S.C. § 1961. (Signed by Clerk of Court Ruby Krajick on 7/30/10) (Attachments: # <u>1</u> notice of right to appeal)Filed In Associated Cases: 1:05-cv-08120-RMB-DCF et al.(ml) (Entered: 08/02/2010)
07/30/2010		Transmission to Docket Assistant Clerk. Transmitted re: <u>69</u> Clerk's Judgment,, to the Docket Assistant Clerk for case processing. (ml) (Entered: 08/02/2010)
07/30/2010		Mailed notice of Right to Appeal re: <u>69</u> Clerk's Judgment, to Pro Se Litigant(s): Khalid Barnes, Henry Perez, Richard Simpson, Angel L. Torres and to Attorney(s) of Record: Jane Hogan Felix, Christie Lynne Magno. (eef) (Entered: 08/03/2010)
08/06/2010	<u>70</u>	SATISFACTION OF JUDGMENT re: <u>53</u> Clerk's Judgment, #08,1249 entered In favor of Henry Perez Against Westchester County Department of Corrections in the amount of \$99,658.48. Judgment satisfied on 8/5/2010. Document filed by Henry Perez.(mbe) (Entered: 08/10/2010)
08/18/2010		Received returned mail Mail was addressed to Angel L. Torres Westchester County Jail P.o. Box 10 Valhalla, NY 10595 and was returned for the following reason(s): Henry Perez P.O. Box 10 Valhalla, NY 10595. (jab) (Entered: 08/18/2010)

		08/18/2010)
08/18/2010		Received returned mail Mail was addressed to Richard Simpson Westchester County Jail P.O. Box 10 Valhalla, NY 10595 and was returned for the following reason(s): Not Deliverable As Addressed. (jab) (Entered: 08/18/2010)
08/18/2010		Received returned mail Mail was addressed to Khaild Barnes Westchester County Jail P.O. Box Valhalla, NY 10595 and was returned for the following reason(s): Not Deliverable As Addressed. (jab) (Entered: 08/18/2010)
10/27/2010	<u>71</u>	SATISFACTION OF JUDGMENT re: <u>69</u> Clerk's Judgment, # 10, 1324 in the amount of \$42,000.00. Judgment satisfied on 10/27/2010. Document filed by Henry Perez.(mbe) (Entered: 11/29/2010)
02/17/2011		Appeal Record Returned. [ 2 vols.] Indexed record on Appeal Files for Appeal Record Sent to USCA – File, USCA Case Number 08–4245–pr, returned from the U.S. Court of Appeals. (nd) (Entered: 03/23/2011)
07/20/2011	72	Letter addressed to Judge Richard M Berman from Richard Cohen dated 1/24/07 re: 1/22/07 Supreme Court decision relevant to this case. Document filed by Henry Perez.(cd) (Entered: 07/21/2011)
06/01/2012	<u>73</u>	MOTION to Recover Attorney Fees and Cost of Disbursements. Document filed by Shedret Whitehead.(lmb) (Entered: 06/05/2012)
06/12/2012	<u>74</u>	MEMO ENDORSEMENT on MOTION TO RECOVER ATTORNEY FEES AND COST OF DISBURSEMENTS. ENDORSEMENT: Plaintiff's motion is respectfully denied because it is untimely, Plaintiff was represented by counsel, and pro se litigants are not entitled to attorneys' fees. See Carling v. Peters, 2012 W 1071232 (SDNY Mar. 30, 2012). Denying <u>73</u> Motion for Attorney Fees. (Signed by Judge Richard M. Berman on 6/11/2012) (rjm) (Entered: 06/12/2012)