

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:20-cv-02817-CM**

Bergamaschi et al v. Cuomo et al
Assigned to: Judge Colleen McMahon
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 04/03/2020
Date Terminated: 03/10/2021
Jury Demand: None
Nature of Suit: 550 Prisoner: Civil Rights
Jurisdiction: Federal Question

Plaintiff

Michael Bergamaschi
*on behalf of themselves and all
others similarly situated*

represented by **Corey Stoughton**
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Plaintiff

Frederick Roberson
*on behalf of themselves and all
others similarly situated*

represented by **Corey Stoughton**
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Philip Louis Desgranges
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V.

Defendant

Andrew M. Cuomo
*Governor of New York, in his
official capacity*

represented by **Andrew Stuart Amer**
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Defendant

Tina M. Stanford
*Chairperson of the New York State
Board of Parole, in her official
capacity*

represented by **Andrew Stuart Amer**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Amanda Yoon
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/03/2020	<u>1</u>	COMPLAINT against Andrew M. Cuomo, Tina M. Stanford. (Filing Fee \$ 400.00, Receipt Number ANYSDC-19332757) Document filed by Michael Bergamaschi, Frederick Roberson..(Desgranges, Philip) (Entered: 04/03/2020)
04/04/2020	<u>2</u>	CIVIL COVER SHEET filed..(Desgranges, Philip) (Entered: 04/04/2020)
04/04/2020	<u>3</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Andrew M. Cuomo, re: <u>1</u> Complaint. Document filed by Michael Bergamaschi, Frederick Roberson..(Desgranges, Philip) (Entered: 04/04/2020)
04/04/2020	<u>4</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Tina M. Stanford, re: <u>1</u> Complaint. Document filed by Michael Bergamaschi, Frederick Roberson..(Desgranges, Philip) (Entered: 04/04/2020)
04/04/2020	<u>5</u>	MOTION to Certify Class . Document filed by Michael Bergamaschi, Frederick Roberson..(Desgranges, Philip) (Entered: 04/04/2020)

04/04/2020	6	MEMORANDUM OF LAW in Support re: 5 MOTION to Certify Class . . Document filed by Michael Bergamaschi, Frederick Roberson..(Desgranges, Philip) (Entered: 04/04/2020)
04/04/2020	7	AFFIDAVIT of Philip Desgranges in Support re: 5 MOTION to Certify Class .. Document filed by Michael Bergamaschi, Frederick Roberson. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D).(Desgranges, Philip) (Entered: 04/04/2020)
04/04/2020	8	DECLARATION of Michelle Shames in Support re: 5 MOTION to Certify Class .. Document filed by Michael Bergamaschi, Frederick Roberson. (Attachments: # 1 Exhibit B, # 2 Exhibit C, # 3 Exhibit D, # 4 Exhibit E).(Desgranges, Philip) (Entered: 04/04/2020)
04/06/2020		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above-entitled action is assigned to Judge Colleen McMahon. Please download and review the Individual Practices of the assigned District Judge, located at https://nysd.uscourts.gov/judges/district-judges . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at https://nysd.uscourts.gov/rules/ecf-related-instructions.. (pne) (Entered: 04/06/2020)
04/06/2020		Magistrate Judge Debra C. Freeman is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: https://nysd.uscourts.gov/sites/default/files/2018-06/AO-3.pdf . (pne) (Entered: 04/06/2020)
04/06/2020		Case Designated ECF. (pne) (Entered: 04/06/2020)
04/06/2020	9	ELECTRONIC SUMMONS ISSUED as to Tina M. Stanford..(pne) (Entered: 04/06/2020)
04/06/2020	10	ELECTRONIC SUMMONS ISSUED as to Andrew M. Cuomo..(pne) (Entered: 04/06/2020)
04/06/2020	11	NOTICE OF APPEARANCE by Christopher T Dunn on behalf of Michael Bergamaschi, Frederick Roberson..(Dunn, Christopher) (Entered: 04/06/2020)
04/06/2020	12	NOTICE OF APPEARANCE by Molly Knopp Biklen on behalf of Michael Bergamaschi, Frederick Roberson..(Biklen, Molly) (Entered: 04/06/2020)

04/06/2020	13	MOTION for Preliminary Injunction . Document filed by Michael Bergamaschi, Frederick Roberson..(Desgranges, Philip) (Entered: 04/06/2020)
04/07/2020	14	DECLARATION of Michael Bergamaschi in Support re: 13 MOTION for Preliminary Injunction .. Document filed by Michael Bergamaschi, Frederick Roberson. (Attachments: # 1 Exhibit 1).(Desgranges, Philip) (Entered: 04/07/2020)
04/07/2020	15	DECLARATION of Frederick Roberson in Support re: 13 MOTION for Preliminary Injunction .. Document filed by Michael Bergamaschi, Frederick Roberson. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2).(Desgranges, Philip) (Entered: 04/07/2020)
04/07/2020	16	DECLARATION of Lorraine McEvelley in Support re: 13 MOTION for Preliminary Injunction .. Document filed by Michael Bergamaschi, Frederick Roberson. (Attachments: # 1 Exhibit A, # 2 Exhibit B).(Desgranges, Philip) (Entered: 04/07/2020)
04/07/2020	17	DECLARATION of Michelle Shames in Support re: 13 MOTION for Preliminary Injunction .. Document filed by Michael Bergamaschi, Frederick Roberson. (Attachments: # 1 Exhibit B, # 2 Exhibit C, # 3 Exhibit D, # 4 Exhibit E).(Desgranges, Philip) (Entered: 04/07/2020)
04/07/2020	18	DECLARATION of Philip Desgranges in Support re: 13 MOTION for Preliminary Injunction .. Document filed by Michael Bergamaschi, Frederick Roberson. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J, # 11 Exhibit K, # 12 Exhibit L, # 13 Exhibit M).(Desgranges, Philip) (Entered: 04/07/2020)
04/07/2020	19	MEMORANDUM OF LAW in Support re: 13 MOTION for Preliminary Injunction . . Document filed by Michael Bergamaschi, Frederick Roberson..(Desgranges, Philip) (Entered: 04/07/2020)
04/07/2020	20	NOTICE OF APPEARANCE by Andrew Stuart Amer on behalf of Andrew M. Cuomo, Tina M. Stanford..(Amer, Andrew) (Entered: 04/07/2020)
04/07/2020	21	LETTER MOTION to Expedite <i>Proposed Expedited Schedule for Hearing Plaintiffs' Motion for a Preliminary Injunction</i> addressed to Judge Colleen McMahon from Philip Desgranges dated April 7, 2020. Document filed by Michael Bergamaschi, Frederick Roberson..(Desgranges, Philip) (Entered: 04/07/2020)
04/07/2020	22	NOTICE OF APPEARANCE by Amanda Yoon on behalf of Andrew M. Cuomo, Tina M. Stanford..(Yoon, Amanda) (Entered: 04/07/2020)

04/07/2020	23	ORDER:The Court will hold a telephone conference in this matter tomorrow, Wednesday, April 8, 2020, at 11:30 a.m. To join the conference, the parties are to dial in at: 888-363-4749; the Access Code is: 9054506. This is an open proceedingthe public and press are welcomed to dial in, but are asked to remain silent during the conference. (Telephone Conference set for 4/8/2020 at 11:30 AM before Judge Colleen McMahon.) (Signed by Judge Colleen McMahon on 4/7/2020) (tro) (Entered: 04/08/2020)
04/09/2020	24	NOTICE OF APPEARANCE by Corey Stoughton on behalf of Michael Bergamaschi, Frederick Roberson..(Stoughton, Corey) (Entered: 04/09/2020)
04/10/2020	25	DECLARATION of Rhonda Tomlinson in Opposition re: 13 MOTION for Preliminary Injunction .. Document filed by Andrew M. Cuomo, Tina M. Stanford..(Amer, Andrew) (Entered: 04/10/2020)
04/10/2020	26	DECLARATION of Anthony J. Annucci in Opposition re: 13 MOTION for Preliminary Injunction .. Document filed by Andrew M. Cuomo, Tina M. Stanford. (Attachments: # 1 Exhibit 1 - Directive, # 2 Exhibit 2 - Memorandum).(Amer, Andrew) (Entered: 04/10/2020)
04/10/2020	27	DECLARATION of Andrew Amer in Opposition re: 13 MOTION for Preliminary Injunction .. Document filed by Andrew M. Cuomo, Tina M. Stanford. (Attachments: # 1 Exhibit A - Release Orders, # 2 Exhibit B - Writ Decision, # 3 Exhibit C - Bill, # 4 Exhibit D - Bill Summary).(Amer, Andrew) (Entered: 04/10/2020)
04/10/2020	28	MEMORANDUM OF LAW in Opposition re: 13 MOTION for Preliminary Injunction . . Document filed by Andrew M. Cuomo, Tina M. Stanford..(Amer, Andrew) (Entered: 04/10/2020)
04/13/2020	29	DECLARATION of Lorraine McEvilley in Support re: 13 MOTION for Preliminary Injunction .. Document filed by Michael Bergamaschi, Frederick Roberson..(Desgranges, Philip) (Entered: 04/13/2020)
04/13/2020	30	DECLARATION of Michelle Shames in Support re: 13 MOTION for Preliminary Injunction .. Document filed by Michael Bergamaschi, Frederick Roberson..(Desgranges, Philip) (Entered: 04/13/2020)
04/13/2020	31	DECLARATION of Philip Desgranges in Support re: 13 MOTION for Preliminary Injunction .. Document filed by Michael Bergamaschi, Frederick Roberson..(Desgranges, Philip) (Entered: 04/13/2020)

04/13/2020	32	REPLY MEMORANDUM OF LAW in Support re: 13 MOTION for Preliminary Injunction . . Document filed by Michael Bergamaschi, Frederick Roberson..(Desgranges, Philip) (Entered: 04/13/2020)
04/20/2020	33	ORDER DENYING MOTION FOR A PRELIMINARY INJUNCTION denying 13 Motion for Preliminary Injunction. The motion for a preliminary injunction is DENIED. This constitutes a written opinion and order of the court. The Clerk of Court is directed to mark the motion at Docket # 12 off the court's list of open motions. (Signed by Judge Colleen McMahan on 4/20/2020) (mml) (Entered: 04/20/2020)
05/06/2020	34	CERTIFICATE OF SERVICE. All Defendants. Service was made by EMAIL. Document filed by Michael Bergamaschi, Frederick Roberson..(Desgranges, Philip) (Entered: 05/06/2020)
05/11/2020	35	FILING ERROR - DEFICIENT DOCKET ENTRY (SEE DOCUMENT #36) - LETTER addressed to Judge Colleen McMahan from Andrew Amer dated May 11, 2020 re: Court's Request For Submissions. Document filed by Andrew M. Cuomo, Tina M. Stanford. (Attachments: # 1 Exhibit A - Plaintiffs' Initial Requests).(Amer, Andrew) Modified on 5/12/2020 (ldi). (Entered: 05/11/2020)
05/11/2020	36	LETTER addressed to Judge Colleen McMahan from Andrew Amer dated May 11, 2020 re: Court's Request For Submissions. Document filed by Andrew M. Cuomo, Tina M. Stanford. (Attachments: # 1 Exhibit A - Plaintiffs' Initial Requests (corrected)).(Amer, Andrew) (Entered: 05/11/2020)
05/11/2020	37	LETTER addressed to Judge Colleen McMahan from Philip Desgranges dated May 11, 2020 re: the Court's Order Requiring the Parties' Position on the Record Necessary for Further Proceedings. Document filed by Michael Bergamaschi, Frederick Roberson..(Desgranges, Philip) (Entered: 05/11/2020)
05/12/2020	38	AMENDED COMPLAINT amending 1 Complaint against Andrew M. Cuomo, Tina M. Stanford.Document filed by Michael Bergamaschi, Frederick Roberson. Related document: 1 Complaint..(Desgranges, Philip) (Entered: 05/12/2020)
05/18/2020	39	ORDER IN RESPONSE TO LETTERS RECEIVED FROM THE PARTIES: I have received letters from the parties indicating that they differ on what discovery is required in order to tee up this case for the inevitable motion for summary judgment. Both parties have indicated that an amended complaint will be filed, which will (1) drop the state law claims; (2) not drop the Governor as a defendant; and (3) not add

		<p>any new claims. The Governor is free to file a motion to dismiss the amended complaint, but that motion will not be decided until the summary judgment motion is filed, because dropping the Governor as a defendant will have no impact whatever on the scope of discovery - which means that, at a very busy time, that technical motion will not rise to the top of the court's do to list. I see no need to decide the class certification motion any time soon. I certainly don't intend to hold up action toward the ultimate goal, which is to decide the issue on the merits. Defendants can respond to it on the schedule they propose - response by June 8, reply by June 22. A short briefing schedule is not necessary. As for the discovery disputes: since there will be no new claims, I truly can't see that there should be much by way of discovery. Defendants quite properly refer to my discussion of "what this case..... is not about." While plaintiffs are correct that the appropriate mechanism for teeing up discovery disputes is for them to serve demands and Defendants to object to any that are irrelevant, I can already tell you that I will not permit any discovery relating to the risks of the pandemic on the mandatory incarceration of parolees pendente lite. As I have already ruled, the pandemic is irrelevant to the resolution of this lawsuit. Either the mandatory detention prescribed by the State is constitutional or it is not. We will not be engaging in any frolics and detours. The ONLY discovery that will be permitted is discovery relating to the Matthews v. Eldridge factors, because that is the only discovery that is proper under Fed. R. Civ. P. 26(b)(1). And there really should not be much of that. Finally, as to the schedule for the extremely limited discovery that will be available to the parties: Plaintiff's discovery requests should be served, along with their amended complaint, by June 4. Objections from the defendants are due on June 25. Any discovery disputes will be resolved promptly, on short letter briefs, with rulings delivered by teleconference. Discovery should be completed by August 28. Defendant's summary judgment motion filed by September 25. Response and any cross motion due October 23. Reply November 6. Reply on any plaintiff's motion by November 13. All outstanding motions will be decided together - motion to dismiss the Governor, motion for class certification (which may be rendered moot if the case is dismissed), motion(s) for summary judgment. I see no need for greater haste: the issue has lain dormant for 40 years; it should be litigated properly. (Signed by Judge Colleen McMahon on 5/18/2020) (mml) (Entered: 05/18/2020)</p>
05/18/2020		<p>Set/Reset Deadlines: Cross Motions due by 10/23/2020. Discovery due by 8/28/2020. Motions due by 9/25/2020. Responses due by 10/23/2020 Replies due by 11/13/2020. (mml) (Entered: 05/18/2020)</p>
05/20/2020	40	<p>LETTER MOTION for Extension of Time <i>to Respond to Plaintiffs' Amended Complaint</i> addressed to Judge Colleen McMahon from</p>

		Andrew Amer dated May 20, 2020. Document filed by Andrew M. Cuomo, Tina M. Stanford..(Amer, Andrew) (Entered: 05/20/2020)
05/26/2020	41	ORDER granting 40 Letter Motion for Extension of Time. Extension granted. (Signed by Judge Colleen McMahon on 5/26/2020) (mml) (Entered: 05/27/2020)
05/26/2020		Set/Reset Deadlines: Andrew M. Cuomo answer due 6/9/2020; Tina M. Stanford answer due 6/9/2020. (mml) (Entered: 05/27/2020)
06/08/2020	42	DECLARATION of Andrew Amer in Opposition re: 5 MOTION to Certify Class .. Document filed by Andrew M. Cuomo, Tina M. Stanford. (Attachments: # 1 Exhibit A - Roberson Writ Order).(Amer, Andrew) (Entered: 06/08/2020)
06/08/2020	43	DECLARATION of Tina M. Stanford in Opposition re: 5 MOTION to Certify Class .. Document filed by Andrew M. Cuomo, Tina M. Stanford..(Amer, Andrew) (Entered: 06/08/2020)
06/08/2020	44	MEMORANDUM OF LAW in Opposition re: 5 MOTION to Certify Class . . Document filed by Andrew M. Cuomo, Tina M. Stanford..(Amer, Andrew) (Entered: 06/08/2020)
06/09/2020	45	ANSWER to 38 Amended Complaint. Document filed by Andrew M. Cuomo..(Amer, Andrew) (Entered: 06/09/2020)
06/09/2020	46	ANSWER to 38 Amended Complaint. Document filed by Tina M. Stanford..(Amer, Andrew) (Entered: 06/09/2020)
06/22/2020	47	MEMORANDUM OF LAW in Support re: 5 MOTION to Certify Class . <i>Replying to Defendants Opposition</i> . Document filed by Michael Bergamaschi, Frederick Roberson..(Desgranges, Philip) (Entered: 06/22/2020)
07/22/2020	48	LETTER MOTION for Discovery <i>to approve Protective Order</i> addressed to Judge Colleen McMahon from Andrew Amer dated July 22, 2020. Document filed by Andrew M. Cuomo, Tina M. Stanford. (Attachments: # 1 Exhibit A - Proposed Confidentiality Stipulation and Protective Order).(Amer, Andrew) (Entered: 07/22/2020)
07/22/2020	49	STIPULATION OF CONFIDENTIALITY AND PROTECTIVE ORDER...regarding procedures to be followed that shall govern the handling of confidential material... Motions terminated: 48 LETTER MOTION for Discovery <i>to approve Protective Order</i> addressed to Judge Colleen McMahon from Andrew Amer dated July 22, 2020 filed by Andrew M. Cuomo, Tina M. Stanford. (Signed by Judge Colleen McMahon on 7/22/2020) (mml) (Entered: 07/22/2020)

08/17/2020	50	LETTER MOTION for Discovery <i>Order Striking Plaintiffs' Expert Designation</i> addressed to Judge Colleen McMahon from Andrew Amer dated August 17, 2020. Document filed by Andrew M. Cuomo, Tina M. Stanford. (Attachments: # 1 Exhibit A - Interrogatory Responses, # 2 Exhibit B- Expert CV).(Amer, Andrew) (Entered: 08/17/2020)
08/19/2020	51	LETTER addressed to Judge Colleen McMahon from Plaintiffs dated August 19, 2020 re: Responding to the Defendants Letter Motion Seeking to Strike the Plaintiffs' Expert Designation. Document filed by Michael Bergamaschi, Frederick Roberson. (Attachments: # 1 Exhibit David Muhammad's Expert Witness Qualifications).(Desgranges, Philip) (Entered: 08/19/2020)
08/20/2020	52	LETTER RESPONSE in Support of Motion addressed to Judge Colleen McMahon from Andrew Amer dated August 20, 2020 re: 50 LETTER MOTION for Discovery <i>Order Striking Plaintiffs' Expert Designation</i> addressed to Judge Colleen McMahon from Andrew Amer dated August 17, 2020. . Document filed by Andrew M. Cuomo, Tina M. Stanford..(Amer, Andrew) (Entered: 08/20/2020)
09/14/2020	53	ORDER terminating 50 Letter Motion for Discovery. Depose the plaintiff's expert within 30 days and have done with it. I am not going to waste time reading your "it's his fault/it's her fault" issues. (Signed by Judge Colleen McMahon on 9/14/2020) (mml) (Entered: 09/14/2020)
09/15/2020	54	LETTER MOTION for Extension of Time <i>for summary judgment briefing</i> addressed to Judge Colleen McMahon from Andrew Amer dated September 15, 2020. Document filed by Andrew M. Cuomo, Tina M. Stanford..(Amer, Andrew) (Entered: 09/15/2020)
09/16/2020	55	ORDER granting 54 Letter Motion for Extension of Time. OK. Cross Motions due by 11/20/2020. Motions due by 10/23/2020. (Signed by Judge Colleen McMahon on 9/16/2020) (mml) (Entered: 09/16/2020)
09/16/2020		Set/Reset Deadlines: Responses due by 12/9/2020. Replies due by 12/18/2020. (mml) (Entered: 09/16/2020)
09/17/2020	56	SUGGESTION OF DEATH upon the record as to Plaintiff Michael Bergamaschi on August 5, 2020 . Document filed by Frederick Roberson.(Desgranges, Philip) (Entered: 09/17/2020)
10/23/2020	57	MOTION for Summary Judgment . Document filed by Andrew M. Cuomo, Tina M. Stanford..(Amer, Andrew) (Entered: 10/23/2020)
10/23/2020	58	DECLARATION of Rhonda Tomlinson in Support re: 57 MOTION for Summary Judgment .. Document filed by Andrew M. Cuomo, Tina M.

		Stanford. (Attachments: # 1 Exhibit A - Research Div Chart, # 2 Exhibit B - Upstate Staffing Chart, # 3 Exhibit C - Downstate Staffing Chart, # 4 Exhibit D - Judicial Center Room Chart).(Amer, Andrew) (Entered: 10/23/2020)
10/23/2020	59	DECLARATION of Timothy O'Brien in Support re: 57 MOTION for Summary Judgment .. Document filed by Andrew M. Cuomo, Tina M. Stanford. (Attachments: # 1 Exhibit A - Research Div (Released) Chart, # 2 Exhibit B - Research Div (Lodged) Chart, # 3 Exhibit C - DOCCS Staffing Chart).(Amer, Andrew) (Entered: 10/23/2020)
10/23/2020	60	DECLARATION of Melissa McLaughlin in Support re: 57 MOTION for Summary Judgment .. Document filed by Andrew M. Cuomo, Tina M. Stanford. (Attachments: # 1 Exhibit A - Pay Chart, # 2 Exhibit B - Benefits Chart, # 3 Exhibit C - Combined Cost Chart, # 4 Exhibit D - IT Rate/Cost Chart, # 5 Exhibit E - Supplies Cost Chart, # 6 Exhibit F - Interpreter Voucher, # 7 Exhibit G - Training Cost Chart, # 8 Exhibit H - Vehicle Purchase Order, # 9 Exhibit I - ALJ Staffing Chart, # 10 Exhibit J - Vehicle Purchase Order, # 11 Exhibit K - Additional Pay Chart, # 12 Exhibit L - Judicial Center Area Chart, # 13 Exhibit M - Holding Cell Renovation Invoice, # 14 Exhibit N - Equipment/Supplies Cost Chart, # 15 Exhibit O - ALJ Travel Cost Chart, # 16 Exhibit P - Mileage Rate Chart, # 17 Exhibit Q - Transportation Cost Chart, # 18 Exhibit R - Reporter Cost Estimate, # 19 Exhibit S - Rapiscan System Quote, # 20 Exhibit T - Staffing Ratio Chart, # 21 Exhibit U - GPS Monitoring Purchase Order, # 22 Exhibit V - 2009-10 Budget Bill Summary & Plan, # 23 Exhibit W (part 1 of 2) - PO Pay Chart, # 24 Exhibit W (part 2 of 2) - PO Pay Chart).(Amer, Andrew) (Entered: 10/23/2020)
10/23/2020	61	RULE 56.1 STATEMENT. Document filed by Andrew M. Cuomo, Tina M. Stanford..(Amer, Andrew) (Entered: 10/23/2020)
10/23/2020	62	MEMORANDUM OF LAW in Support re: 57 MOTION for Summary Judgment . . Document filed by Andrew M. Cuomo, Tina M. Stanford. (Attachments: # 1 Exhibit 1 - Regulatory History).(Amer, Andrew) (Entered: 10/23/2020)
11/18/2020	63	NOTICE OF APPEARANCE by Daniel Ross Lambright on behalf of Michael Bergamaschi, Frederick Roberson..(Lambright, Daniel) (Entered: 11/18/2020)
11/20/2020	64	LETTER MOTION to Seal <i>Confidential Exhibit</i> addressed to Judge Colleen McMahan from Daniel Lambright dated November 20, 2020. Document filed by Michael Bergamaschi, Frederick Roberson..(Lambright, Daniel) (Entered: 11/20/2020)

11/20/2020	65	CROSS MOTION for Summary Judgment . Document filed by Michael Bergamaschi, Frederick Roberson..(Lambright, Daniel) (Entered: 11/20/2020)
11/20/2020	66	DECLARATION of Fredrick Roberson in Support re: 65 CROSS MOTION for Summary Judgment .. Document filed by Michael Bergamaschi, Frederick Roberson..(Desgranges, Philip) (Entered: 11/20/2020)
11/20/2020	67	DECLARATION of Samuel Murphy in Support re: 65 CROSS MOTION for Summary Judgment .. Document filed by Michael Bergamaschi, Frederick Roberson..(Desgranges, Philip) (Entered: 11/20/2020)
11/20/2020	68	DECLARATION of Jesse Barber in Support re: 65 CROSS MOTION for Summary Judgment .. Document filed by Michael Bergamaschi, Frederick Roberson. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E).(Desgranges, Philip) (Entered: 11/20/2020)
11/20/2020	69	DECLARATION of David Muhammad in Support re: 65 CROSS MOTION for Summary Judgment .. Document filed by Michael Bergamaschi, Frederick Roberson..(Desgranges, Philip) (Entered: 11/20/2020)
11/20/2020	70	MEMORANDUM OF LAW in Support re: 65 CROSS MOTION for Summary Judgment . <i>And in Opposition to Defendants' Motion for Summary Judgement.</i> Document filed by Michael Bergamaschi, Frederick Roberson..(Desgranges, Philip) (Entered: 11/20/2020)
11/20/2020	71	RULE 56.1 STATEMENT. Document filed by Michael Bergamaschi, Frederick Roberson..(Desgranges, Philip) (Entered: 11/20/2020)
11/20/2020	72	FILING ERROR - DEFICIENT DOCKET ENTRY - FILER ERROR (SEE #75) DECLARATION of Philip Desgranges in Support re: 65 CROSS MOTION for Summary Judgment .. Document filed by Michael Bergamaschi, Frederick Roberson. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit E, # 5 Exhibit F, # 6 Exhibit G, # 7 Exhibit H, # 8 Exhibit I, # 9 Exhibit J, # 10 Exhibit K, # 11 Exhibit L).(Desgranges, Philip) Modified on 11/23/2020 (kj). (Entered: 11/20/2020)
11/21/2020	73	***SELECTED PARTIES***DECLARATION of Jesse Barber in Support re: 65 CROSS MOTION for Summary Judgment .. Document filed by Michael Bergamaschi, Frederick Roberson, Andrew M. Cuomo, Tina M. Stanford. (Attachments: # 1 Exhibit D)Motion or Order to File Under Seal: 64 .(Desgranges, Philip) (Entered: 11/21/2020)

11/21/2020	74	LETTER addressed to Judge Colleen McMahon from Daniel Lambright dated November 20, 2020 re: Request for Oral Argument on Summary Judgment Cross-Motion. Document filed by Michael Bergamaschi, Frederick Roberson..(Lambright, Daniel) (Entered: 11/21/2020)
11/23/2020	75	DECLARATION of Philip Desgranges in Support re: 65 CROSS MOTION for Summary Judgment .. Document filed by Michael Bergamaschi, Frederick Roberson. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J, # 11 Exhibit K, # 12 Exhibit L).(Desgranges, Philip) (Entered: 11/23/2020)
11/23/2020	76	MEMO ENDORSEMENT on re: 74 Letter filed by Michael Bergamaschi, Frederick Roberson. ENDORSEMENT: Request noted; will schedule if I find it necessary. (Signed by Judge Colleen McMahon on 11/23/2020) (mml) Modified on 12/14/2020 (mml). (Entered: 11/24/2020)
12/09/2020	77	DECLARATION of Andrew Amer in Opposition re: 65 CROSS MOTION for Summary Judgment ., 57 MOTION for Summary Judgment .. Document filed by Andrew M. Cuomo, Tina M. Stanford. (Attachments: # 1 Exhibit A - Tomlinson Dep. Excerpt, # 2 Exhibit B - Tomlinson Dep. Excerpt, # 3 Exhibit C - O'Brien Dep. Excerpt, # 4 Exhibit D - Murphy Violation of Release Report, # 5 Exhibit E - O'Brien Dep. Excerpt, # 6 Exhibit F - Muhammad Dep. Excerpt, # 7 Exhibit G - Bergamaschi Certificate of Release, # 8 Exhibit H - Muhammad Dep. Excerpt, # 9 Exhibit I - Muhammad Dep. Excerpt, # 10 Exhibit J - O'Brien Dep. Excerpt, # 11 Exhibit K - O'Brien Dep. Excerpt, # 12 Exhibit L - Chart, # 13 Exhibit M - O'Brien Dep. Excerpt, # 14 Exhibit N - O'Brien Dep. Excerpt, # 15 Exhibit O - O'Brien Dep. Excerpt, # 16 Exhibit P - O'Brien Dep. Excerpt, # 17 Exhibit Q - O'Brien Dep. Excerpt, # 18 Exhibit R - O'Brien Dep. Excerpt, # 19 Exhibit S - Muhammad Dep. Excerpt).(Amer, Andrew) (Entered: 12/09/2020)
12/09/2020	78	RULE 56.1 STATEMENT. Document filed by Andrew M. Cuomo, Tina M. Stanford..(Amer, Andrew) (Entered: 12/09/2020)
12/09/2020	79	MEMORANDUM OF LAW in Opposition re: 65 CROSS MOTION for Summary Judgment . <i>and in further support of Defendants' summary judgment motion.</i> Document filed by Andrew M. Cuomo, Tina M. Stanford..(Amer, Andrew) (Entered: 12/09/2020)
12/09/2020	80	MOTION to Strike Document No. 69 - <i>portions of Plaintiffs' expert's declaration and report.</i> Document filed by Andrew M. Cuomo, Tina M. Stanford. Responses due by 12/18/2020.(Amer, Andrew) (Entered: 12/09/2020)

12/09/2020	81	DECLARATION of Amanda Yoon in Support re: 80 MOTION to Strike Document No. 69 - <i>portions of Plaintiffs' expert's declaration and report.</i> . Document filed by Andrew M. Cuomo, Tina M. Stanford. (Attachments: # 1 Exhibit A - Muhammad Declaration, # 2 Exhibit B - O'Brien Declaration, # 3 Exhibit C - Muhammad Dep. Excerpt, # 4 Exhibit D - Muhammad Dep. Excerpt, # 5 Exhibit E (part 1) - Gasca Expert Report, # 6 Exhibit E (part 2) - Gasca Expert Report, # 7 Exhibit F - O'Brien Dep. Excerpt, # 8 Exhibit G - O'Brien Dep. Excerpt).(Amer, Andrew) (Entered: 12/09/2020)
12/09/2020	82	MEMORANDUM OF LAW in Support re: 80 MOTION to Strike Document No. 69 - <i>portions of Plaintiffs' expert's declaration and report.</i> . Document filed by Andrew M. Cuomo, Tina M. Stanford..(Amer, Andrew) (Entered: 12/09/2020)
12/18/2020	83	MEMORANDUM OF LAW in Opposition re: 80 MOTION to Strike Document No. 69 - <i>portions of Plaintiffs' expert's declaration and report.</i> . Document filed by Michael Bergamaschi, Frederick Roberson..(Lambright, Daniel) (Entered: 12/18/2020)
12/18/2020	84	REPLY MEMORANDUM OF LAW in Support re: 65 CROSS MOTION for Summary Judgment . . Document filed by Michael Bergamaschi, Frederick Roberson..(Desgranges, Philip) (Entered: 12/18/2020)
12/28/2020	85	REPLY MEMORANDUM OF LAW in Support re: 80 MOTION to Strike Document No. 69 - <i>portions of Plaintiffs' expert's declaration and report.</i> . Document filed by Andrew M. Cuomo, Tina M. Stanford..(Amer, Andrew) (Entered: 12/28/2020)
03/10/2021	86	DECISION AND ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT, DENYING PLAINTIFFS' CROSS MOTION FOR SUMMARY JUDGMENT, AND AMENDING THE CAPTION IN THIS ACTION granting 57 Motion for Summary Judgment; terminating 5 Motion to Certify Class; terminating 64 Letter Motion to Seal; denying 65 Motion for Summary Judgment; terminating 80 Motion to Strike document 57 MOTION for Summary Judgment. For reasons stated above, Defendants' motion for summary judgment is GRANTED. Plaintiffs' cross motion for summary judgment is DENIED. This constitutes a written opinion and order of the Court. The Clerk of Court is directed to market the motions at Docket #s 5, 57, 64, 65, and 80 off the Court's list of open motions, to enter judgment for Defendants, and to close this case. (Signed by Judge Colleen McMahon on 3/10/2021) (mml) Transmission to Orders and Judgments Clerk for processing. (Entered: 03/10/2021)

03/10/2021	87	CLERK'S JUDGMENT re: 86 Order on Motion for Summary Judgment, Order on Motion to Certify Class, Order on Motion to Seal, Order on Motion to Strike. in favor of Andrew M. Cuomo, Tina M. Stanford against Frederick Roberson. It is hereby ORDERED, ADJUDGED AND DECREED: That for the reasons stated in the Court's Decision and Order dated March 10, 2021, Defendants' motion for summary judgment is GRANTED. Plaintiffs' cross motion for summary judgment is DENIED. Judgment is entered for Defendants' and this case is closed. (Signed by Clerk of Court Ruby Krajick on 3/10/2021) (Attachments: # 1 Notice of Right to Appeal) (dt) Modified on 3/10/2021 (dt). (Entered: 03/10/2021)
04/05/2021	88	NOTICE OF APPEAL from 86 Order on Motion for Summary Judgment, Order on Motion to Certify Class, Order on Motion to Seal,, Order on Motion to Strike,,,,,,,,,,,,, 87 Clerk's Judgment,, Document filed by Michael Bergamaschi, Frederick Roberson. Filing fee \$ 505.00, receipt number BNYSDC-24351800. Form C and Form D are due within 14 days to the Court of Appeals, Second Circuit..(Biklen, Molly) (Entered: 04/05/2021)
04/05/2021		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: 88 Notice of Appeal. (tp) (Entered: 04/05/2021)
04/05/2021		Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files for 88 Notice of Appeal, filed by Michael Bergamaschi, Frederick Roberson were transmitted to the U.S. Court of Appeals. (tp) (Entered: 04/05/2021)

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