

US District Court for the
Eastern District of New York

9:96cv889

In Re: Health Management, et al v. , et al

Date Filed: 02/29/1996
Assigned To: Judge Arthur D Spatt
Referred To: Magistrate William D Wall
Nature of suit: Securities (850)
Cause: Securities Exchange Act
Lead Docket: 9:96-cv-05911-ADS
Other Docket:
Jurisdiction: Federal Question

Class Code: CLOSED,
CONSOLIDATED

Closed: Yes
Statute: 15:78m(a)
Jury
Demand: Plaintiff
Demand
Amount: \$0

Litigants

Andrew Merson, on Behalf of Himself and All
Others Similarly Situated
PLAINTIFF

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Date	#	Proceeding Text
02/29/1996	1	COMPLAINT filed and summons(es) issued for Health Management Inc. Clifford E. Hotte, Drew W. Bergman FILING FEE \$ 120.00 RECEIPT # 180715 (fe) (Entered: 03/04/1996)
03/14/1996	2	RETURN OF SERVICE executed as to Health Management In, Clifford E. Hotte, Drew W. Bergman 3/1/96 Answer due on 3/21/96 for Drew W. Bergman, for Clifford E. Hotte, for Health Management In (Rooney, Tim) (Entered: 03/18/1996)
04/04/1996	3	ORDER dated 4/4/96, extending time for defendant Drew Bergman to answer to the complaint to 5/3/96 (signed by Judge Arthur D. Spatt) (Rooney, Tim) (Entered: 04/04/1996)
04/15/1996	4	ORDER dated 4/13/96, extending time which Health Management, Inc. must answer or move against the complaint , set answer due for 5/3/96 for Health Management In (signed by Judge Arthur D. Spatt) c/m (Mahon, Cinthia) (Entered: 04/15/1996)
04/23/1996	5	STIPULATION dated 4/23/96, extending time for defendant Clifford E. Hotte to answer to the complaint to and including 5/3/96 (signed by Judge Arthur D. Spatt) (Rooney, Tim) (Entered: 04/24/1996)
05/07/1996	6	LETTER dated 5/7/96 from Nora von Stange to Counsel re: noting that Judge Spatt declines to approve an open ended extention of defendant's time to respond to the complaint. (Rooney, Tim) (Entered: 05/08/1996)
05/07/1996	7	LETTER dated 5/7/96 from Mark Gardy to Max Berger re: noting the transmittal of opposition papers in connection with the motion for appointment of lead counsel. (Rooney, Tim) (Entered: 05/10/1996)
05/10/1996	8	LETTER dated 5/10/96 from Nora von Stange to Arthur Abbey re: requesting that counsel follow Judge Spatt's individual Rules with regard to filing motions, and submit the motion to the Court at the appropriate time. (Rooney, Tim) (Entered: 05/14/1996)
05/10/1996	9	LETTER dated 5/10/96 from Nora von Stange to Counsel re: noting that Judge Spatt declines to approve an open ended extension of time for defendants' to respond to the complaint. (Rooney, Tim) Modified on 05/14/1996 (Entered: 05/14/1996)
05/10/1996	10	LETTER dated 5/10/96 from Nora von Stange to Arthur Abbey re: requesting counsel to re-submit motion papers in accordance with Judge Spatt's Individual Rules. (Rooney, Tim) (Entered: 05/14/1996)

05/10/1996 13 LETTER dated 4/30/96 from Robert Gans to Counsel re: transmittal letter of Affidavit of Max Berger and Memorandum of Law in Support of Motion to appoint certain lead counsel. (Rooney, Tim) (Entered: 05/15/1996)

05/14/1996 11 STIPULATION dated 5/14/96, extending time for defendant HMI to respond to the complaint until June 3, 1996 (signed by Judge Arthur D. Spatt) (Rooney, Tim) (Entered: 05/15/1996)

05/14/1996 12 STIPULATION dated 5/14/96, extending time for defendant Drew Bergman to respond to the complaint until 6/3/96 (signed by Judge Arthur D. Spatt) (Rooney, Tim) (Entered: 05/15/1996)

05/17/1996 14 LETTER dated 5/15/96 from Mark Gardy to Counsel re: transmittal of Reply Mem. of Law in support of their motion to appoint lead counsel. (Rooney, Tim) (Entered: 05/17/1996)

05/17/1996 15 LETTER dated 5/15/96 from Robert Gans to Counsel re: noting the transmittal of HMI's reply mem. in further support of motion to appoint lead counsel. (Rooney, Tim) (Entered: 05/17/1996)

05/21/1996 16 ORDER dated 5/21/96, extending time for defendant Clifford Hotte to respond to the complaint up to and including June 17, 1996 (signed by Judge Arthur D. Spatt) (Rooney, Tim) (Entered: 05/23/1996)

06/05/1996 17 STIPULATION AND ORDER, extending time in which defendant Drew Bergman may respond to the complaint to July 3, 1996 (signed by Judge Arthur D. Spatt) (Rooney, Tim) (Entered: 06/05/1996)

06/05/1996 18 STIPULATION AND ORDER, extending time for defendant HMI to respond to the complaint to July 1, 1996 (signed by Judge Arthur D. Spatt) (Rooney, Tim) (Entered: 06/05/1996)

06/21/1996 19 ORDER extending time for Hotte to answer or move to complaint , set answer due for 7/15/96 for Clifford E. Hotte (signed by Judge Arthur D. Spatt) (Costa, Bill) (Entered: 06/21/1996)

06/28/1996 -- Motion hearing held as to Health Management In (Rooney, Tim) (Entered: 07/02/1996)

06/28/1996 20 Calendar entry before Judge Spatt on 6/28/96 at 9:30: Motion hearing held; case called; all counsel present; c/r Ron Tolkin. The following cases are to be reassigned to Judge Spatt for all purposes: 96cv909(ADS); 96cv931(TCP); 96cv980(TCP); 96cv988(ADS); 96cv1005(TCP); 96cv1189(ADS); 96cv1187(JG); 96cv1955(ADS); 96cv1953(ADS); 96cv1756(ADS). The above cases are to be consolidated under 96cv889(ADS) for all purposes and the underlying cases are to be administratively closed. New Pre-trial order to be filed. (Rooney, Tim) (Entered: 07/02/1996)

07/08/1996 21 NOTICE of change of address by counsel for plaintiffs Andrew Merson, Wayne Alexander (Rooney, Tim) (Entered: 07/09/1996)

08/07/1996 22 ORDER dated 8/7/96, consolidating cases 96cv909; 96cv931; 96cv980; 96cv988; 96cv1005; 96cv1189; 96cv1756; 96cv1887; 96cv1955; 96cv1952 under the lead case 96cv889 (signed by Judge Arthur D. Spatt) (Rooney, Tim) (Entered: 08/09/1996)

08/07/1996 -- Consolidated Lead Case (Rooney, Tim) (Entered: 08/09/1996)

08/09/1996 23 TRANSCRIPT filed for motion hearing for dates of 6/28/96 (Rooney, Tim) (Entered: 08/09/1996)

08/13/1996 24 STIPULATION AND ORDER dated 8/13/96, that HMI shall remove any and all claims of privilege attached to production of the Special Report, and that HMI's

disclosure of the Special Report to counsel for the plaintiffs is not, and shall not be construed as, a waiver of the attorney-client privilege or immunity that HMI or its counsel may possess with respect to any other document or communication, even if the subject matter of such document or communication is related to the subject matter of the Special Report (signed by Judge Arthur D. Spatt) (Rooney, Tim) (Entered: 08/19/1996)

- 08/20/1996 25 TRANSCRIPT of motion hearing before Judge Spatt filed for [20-1] miscellaneous for dates of 06/28/96 at 9:30 am (Donovan, Donna) (Entered: 08/23/1996)
- 09/06/1996 26 ORDER, extending time to 11/8/96 for the plaintiff's to file and serve a Complaint on Counsel for defts. Defts shall answer or move with respect to the Complaint w/i 60 days after service of the Complaint , parties shall submit to the Court a stipulated form of order for the confidential treatment of documents (signed by Judge Arthur D. Spatt) (Rooney, Tim) (Entered: 09/09/1996)
- 09/09/1996 27 LETTER dated 9/5/96 from Jeffrey Zwerling to Judge Spatt re: requesting an extension of time to and through 11/9/96 to file an serve an Amended Complaint. (Rooney, Tim) (Entered: 09/10/1996)
- 09/10/1996 28 Letter MOTION by Andrew Merson, Health Management In to adjourn the conference set for 9/11/96 to 9/17/96 at 9:00 , Motion hearing (Rooney, Tim) (Entered: 09/10/1996)
- 09/10/1996 -- ORDER granting [28-1] motion to adjourn the conference set for 9/11/96 to 9/17/96 at 9:00 (signed by Judge Arthur D. Spatt) (Rooney, Tim) (Entered: 09/10/1996)
- 09/11/1996 29 CERTIFICATE OF SERVICE of Pre-Trial Order No. 1 upon counsel by Andrew Merson, Wayne Alexander (Rooney, Tim) (Entered: 09/11/1996)
- 09/17/1996 -- Status conference held (Rooney, Tim) (Entered: 09/17/1996)
- 09/17/1996 30 Calendar entry before Judge Spatt on 9/17/96 at 9:30: Case called; all counsel present; conference held; Notice order signed --def. has two weeks to file objections. (Rooney, Tim) (Entered: 09/17/1996)
- 09/17/1996 31 NOTICE ORDER dated 9/17/96, set settlement conference for 9:00 11/8/96 before Judge Arthur D. Spatt to determine whether, for purposes of this Settlement only, the Court should certify the Action as a Class Action purs. to FRCP 23, and approve the Lead Plaintiffs as representatives of a class of all persons that purchased Health Management common stock between 8/25/94 and 2/26/96, inclusive. (see order for further details) (signed by Judge Arthur D. Spatt) (Rooney, Tim) (Entered: 09/17/1996)
- 09/20/1996 32 Proposed Stipulation of Partial Settlement re: to resolve, discharge and settle the Released Claims against the settling defendant Health Management (see stipulation for details) (unsigned) (Rooney, Tim) (Entered: 09/25/1996)
- 09/30/1996 33 LETTER dated 9/30/96 from Nora von Stange to To Whom It May Concern RE: the papers that were sent to chambers in connection with the above referenced action. Please be advised that the stipulation of confidentiality is a matter that should be submitted by an attorney directly to Judge Spatt for his consideration, not to the clerk of the court. Judge Spatt will consider the stipulation for signing upon an appropriate presentation. (fe) (Entered: 10/02/1996)
- 10/04/1996 34 LETTER dated 10/3/96 from Joel B. Strauss to Judge Spatt re: confusion with regard to the letter of Nora von Stange dated 9/30/96. (Rooney, Tim) (Entered: 10/09/1996)

10/07/1996 35 LETTER dated 10/7/96 from Michael Cardello to Joel Strauss re: advising counsel that the court is in receipt of counsel's latest submission dated 10/3/96, and will process it accordingly. (Rooney, Tim) (Entered: 10/09/1996)

10/07/1996 42 Stipulation and Order of Confidentiality with respect to the discovery and use of documents, articles, or other things produced by BDO Seidman, LLP purs to the subpoena duces tecum (Signed by Judge Arthur D. Spatt) (Rooney, Tim) (Entered: 11/01/1996)

10/09/1996 36 STIPULATION & PROTECTIVE ORDER (see order for details) (signed by Judge Arthur D. Spatt) (Rooney, Tim) (Entered: 10/10/1996)

10/18/1996 37 NOTICE of change of address by the firm of McDermott, Will & Emery, Attorneys for Health Management Inc. (Rooney, Tim) (Entered: 10/21/1996)

10/24/1996 38 AFFIDAVIT of Jan Lipert on behalf of The Garden City Group Re: print and mailing the Notice of Pendency of Class Action (Rooney, Tim) (Entered: 10/25/1996)

10/25/1996 39 AFFIDAVIT of Beverly Phyll Settle Re: service of [38-1] affidavit (Rooney, Tim) (Entered: 10/25/1996)

10/25/1996 40 AFFIDAVIT of G. Peter Buchband on behalf of Garden City Group, Inc. Re: service of Notice of Pendency of Class Action. (Rooney, Tim) (Entered: 10/25/1996)

10/25/1996 41 AFFIDAVIT of Beverly Phyll Settle Re: service of [40-1] affidavit (Rooney, Tim) (Entered: 10/25/1996)

10/31/1996 43 ORDER dated 10/31/96, extending plaintiffs time to file and serve a complaint , reset answer due for 2/6/97 for Drew W. Bergman, for Clifford E. Hotte, for Health Management In (signed by Judge Arthur D. Spatt) (Rooney, Tim) (Entered: 11/01/1996)

11/01/1996 44 MEMORANDUM OF LAW by Andrew Merson, Wayne Alexander in support of final approval of the proposed partial class action settlement. (Rooney, Tim) (Entered: 11/05/1996)

11/01/1996 45 MEMORANDUM OF LAW by Andrew Merson, Wayne Alexander in support of application for an award of Attorney's fees and reimbursement of expenses. (Rooney, Tim) (Entered: 11/05/1996)

11/01/1996 46 AFFIDAVIT of Frederic S. Fox and Jeffrey C. Zwerling in support of partial settlement with Health Management, Inc. and application for attorney's fees and reimbursement of expenses. (Rooney, Tim) (Entered: 11/05/1996)

11/01/1996 47 Plaintiffs' counsel's affidavits in support of application for reimbursement of expenses. (Rooney, Tim) (Entered: 11/05/1996)

11/01/1996 48 AFFIDAVIT of Hugh R. Lamle in support of the proposed settlement with Health Management, Inc. (Rooney, Tim) (Entered: 11/05/1996)

11/15/1996 49 LETTER dated 11/05/96 from Jeffrey C. Zwerling to Judge Spatt re: requesting that the hearing scheduled for 11/08/96 be adjourned to 12/06/96. (Rooney, Tim) (Entered: 11/18/1996)

12/06/1996 -- SEALED DOCUMENT placed in vault (consolidated amended class action complaint - summons issued) (Mahon, Cinthia) (Entered: 12/09/1996)

12/16/1996 -- SEALED DOCUMENT placed in vault (Consolidated Amended Class Action Complaint) (Rooney, Tim) (Entered: 12/17/1996)

12/18/1996 50 RETURN OF SERVICE executed as to Health Management In, Clifford E. Hotte,

Drew W. Bergman 12/9/96 Answer due on 12/29/96 for Drew W. Bergman, for Clifford E. Hotte, for Health Management In. Served Summons & Consolidated Amended Class Action Complaint, Stipulation & Protective Order, & Rules Of Judge Spatt. (fe) (Entered: 12/20/1996)

- 12/19/1996 52 LETTER dated 12/19/96 from Frederick Fox, Jeffrey Zwerling to Judge Spatt re: to request that the Court enter the enclosed Notice Order (fe) (Entered: 01/03/1997)
- 12/19/1996 53 NOTICE ORDER dated 12/20/96, scheduling a settlement hearing for 3/14/97, at 9am (signed by Judge Arthur D. Spatt) (fe) (Entered: 01/03/1997)
- 12/20/1996 51 Calendar entry: Before Judge Spatt on 12/20/96 at 9:00 am. Civil cause for conference held. Case called. All counsel present. C/R: Owen Wicker. Court is preliminarily approving the settlement. Notice within 21 days. Oral motion to extend to 30 days is granted. Amended stipulation of settlement; 1/10/97 to file objections. Hearing set for 3.14.97 at 9:00 am. (Donovan, Donna) (Entered: 12/26/1996)
- 12/20/1996 54 Proposed Amended Stipulation of Partial Settlement submitted to file (fe) (Entered: 01/03/1997)
- 01/09/1997 55 AFFIDAVIT OF SERVICE Re: service of summons and amended complaint upon Irwin Hirsch (Rooney, Tim) (Entered: 01/10/1997)
- 01/09/1997 58 AFFIDAVIT OF SERVICE Re: service of summons and amended complaint (under seal) upon Lloyd Myers (Rooney, Tim) (Entered: 01/13/1997)
- 01/10/1997 56 Copy of claim form submitted by Deborah K. Poole (Rooney, Tim) (Entered: 01/10/1997)
- 01/13/1997 57 ORDER dated 1/11/97, time for deft BDO Seidman to answer is extended to 1/14/97, in the event a motion to dismiss is filed , pltfs' paper in opposition shall be served so that they are rec'd on or before 2/18/97 reply papers on the motion are due to pltffs' counsel on or before 3/7/97 (signed by Judge Arthur D. Spatt) (fe) (Entered: 01/13/1997)
- 01/13/1997 59 LETTER dated 1/09/97 from Mark Goldberg to Counsel re: noting the transmittal of notice of motion and memoranduw of law in support of motion to dismiss. (Rooney, Tim) (Entered: 01/14/1997)
- 01/21/1997 60 LETTER dated 1/17/97 from W. Thomas McGough to Counsel re: noting the service of Defendnats Hirsch & Myers motion for a more definite statement. (Rooney, Tim) (Entered: 01/27/1997)
- 02/04/1997 61 LETTER dated 2/04/97 from Michael Cardello to Judith Cohen re: advising that motions for the substitution of counsel require the signatures of the in-coming and out-going attorneys, as well as the client's signature. (Rooney, Tim) (Entered: 02/05/1997)
- 02/05/1997 62 ORDER dated 2/05/97, extending defendant Clifford Hotte's time to respond to the complaint , reset answer due for 2/17/97 for Clifford E. Hotte (signed by Judge Arthur D. Spatt) (Rooney, Tim) (Entered: 02/06/1997)
- 02/12/1997 63 ORDER, substituting attorney for Clifford Hotte Added Matthew S. Dontzin (signed by Judge Arthur D. Spatt) (Rooney, Tim) (Entered: 02/13/1997)
- 02/13/1997 66 LETTER dated 2/12/97 from Matthew Dontzin to Judge Spatt re: Mr. Hotte's withdrawal of his objection to production of the complaint. (Rooney, Tim) (Entered: 02/20/1997)
- 02/18/1997 65 LETTER dated 2/12/97 from Frederic Fox to Judge Spatt re: requesting a conference regarding production of the Complaint. (Rooney, Tim) (Entered: 02/20/1997)

02/20/1997 64 STIPULATION & ORDER dated 2/20/97, Opposition to motion to dismiss due on or before 2/28/97 , Reply to motion to dismiss due on or before 3/21/97 (signed by Judge Arthur D. Spatt) (Rooney, Tim) (Entered: 02/20/1997)

02/26/1997 69 NOTICE of CHANGE OF FIRM NAME by Abbey Ellis on behalf of Andrew Merson, Wayne Alexander. Name changed to Abbey, Gardy & Squitieri, LLP (fe) (Entered: 03/03/1997)

02/27/1997 68 Letter MOTION by Andrew Merson, Wayne Alexander to extend time of no more than 5 pages beyond the 20 page limit for the memoranda of law , Motion hearing (fe) (Entered: 03/03/1997)

02/27/1997 -- ORDER dated 2/27/97 denying [68-1] motion to extend time of no more than 5 pages beyond the 20 page limit for the memoranda of law (signed by Judge Arthur D. Spatt) C/M {Order entered on document #68} (fe) (Entered: 03/03/1997)

02/28/1997 67 NOTICE of CHANGE OF Attorney Firm NAME by Robert M. Kornreich attorney for plttfs Andrew Merson, Wayne Alexander. Firm name is now Wolf Popper LLP. (fe) (Entered: 03/03/1997)

02/28/1997 77 ORDER dated 2/28/97, extending time to respond to the complaint , reset answer due for 4/3/97 for Clifford E. Hotte (signed by Judge Arthur D. Spatt) (Rooney, Tim) (Entered: 03/04/1997)

02/28/1997 78 ORDER dated 2/28/97, extending time to respond to the complaint , reset answer due for 3/21/96 for Defendant Virginia Hotte (signed by Judge Arthur D. Spatt) (Rooney, Tim) (Entered: 03/04/1997)

03/03/1997 70 LETTER dated 3/3/97 from Barry J. Casper to Counsel re: noting the transmittal of Notice of Motion to Dismiss. (Rooney, Tim) (Entered: 03/04/1997)

03/03/1997 71 LETTER dated 2/28/97 from W. Thomas McGough, Jr. to Clerk re: noting the transmittal of defendants Notice of Motion for a More definite statement. (Rooney, Tim) (Entered: 03/04/1997)

03/03/1997 72 MOTION by Irwin Hirsh and Lloyd N. Myers for more definite statement purs. to Rules 12(e) and 9(b) of the FRCP , Motion hearing (Rooney, Tim) (Entered: 03/04/1997)

03/03/1997 73 MEMORANDUM OF LAW of defendants Irwin Hirsh and Lloyd N. Meyers in support of [72-1] motion for more definite statement purs. to Rules 12(e) and 9(b) of the FRCP (Rooney, Tim) (Entered: 03/04/1997)

03/03/1997 74 MEMORANDUM OF LAW by Andrew Merson in opposition to [72-1] motion for more definite statement purs. to Rules 12(e) and 9(b) the FRCP (Rooney, Tim) (Entered: 03/04/1997)

03/03/1997 75 REPLY MEMORANDUM OF LAW in further support of [72-1] motion for more definite statement purs. to Rules 12(e) and 9(b) of the (Rooney, Tim) (Entered: 03/04/1997)

03/03/1997 76 Compendium of unpublished decisions cited by defendants Hirsh and Myers. (Rooney, Tim) (Entered: 03/04/1997)

03/06/1997 79 AFFIDAVIT OF G. Peter Buchband (Rooney, Tim) (Entered: 03/06/1997)

03/10/1997 80 AFFIDAVIT by Andrew Merson, Wayne Alexander Re: in support of application for reimbursement of expenses. (Rooney, Tim) (Entered: 03/11/1997)

03/10/1997 81 AFFIDAVIT by Andrew Merson, Wayne Alexander Re: in support of application for

attorney's fees. (Rooney, Tim) (Entered: 03/11/1997)

03/10/1997 82 SUPPLEMENTAL AFFIDAVIT of Frederic S. Fox and Jeffrey C. Zwerling in support of amended partial settlement with Health Management, Inc. and application for attorneys' fees and reimbursement of expenses. (Rooney, Tim) (Entered: 03/11/1997)

03/10/1997 -- MOTION by Frederic S. Fox and Jeffrey C. Zwirling on behalf of Andrew Merson, Wayne Alexander for attorney fees and reimbursement of expenses , Motion hearing (motion is made in the Affidavit of Counsel --see doc # 82) (Rooney, Tim) (Entered: 03/11/1997)

03/10/1997 83 MEMORANDUM OF LAW by Andrew Merson, Wayne Alexander in support of [0-1] motion for attorney fees and reimbursement of (Rooney, Tim) (Entered: 03/11/1997)

03/10/1997 84 MEMORANDUM OF LAW by Andrew Merson, Wayne Alexander in support of final approval of the amended proposed partial class action settlement. (Rooney, Tim) (Entered: 03/11/1997)

03/17/1997 86 LETTER dated 3/13/97 from Matthew Dontzin to Judge Spatt re: Should the Court enter a judgment giving final approval of the settlement, it is requested that the Court also issue an order barring all future claims for contribution by the settling deft HMI (proposed order annexed) (fe) (Entered: 03/19/1997)

03/17/1997 87 LETTER dated 3/12/97 from Jeffrey C. Zwerling, F. Fox to Judge Spatt re: joint submission that hearing should proceed as scheduled (fe) (Entered: 03/19/1997)

03/18/1997 85 LETTER dated 3/13/97 from Matthew S. Dontzin to Judge Spatt re: submitting a proposed order pursuant to 15 U.S.C. 78u-4(g)(7)(A) (fe) (Entered: 03/18/1997)

03/19/1997 88 Calendar entry: Before Judge Spatt on 3/14/97 at 9:20 am, civil cause for hearing All counsel present C/R Harry Rapaport case called conf held Final approval for settlement Court dismisses negligence cause all other cause court reserves decision next conf scheduled for 4/11/97 at 9:00 (fe) (Entered: 03/20/1997)

03/21/1997 -- SEALED DOCUMENT placed in vault: Affidavit of Joel B. Strauss in support of Platff's Memorandum of Law in Opposition to the motion to dismiss of deft BDO Seidman, LLP (fe) (Entered: 03/25/1997)

03/21/1997 89 LETTER dated 3/20/97 from Mark J. Goldberg to Clerk re: transmittal for papers in connection with Deft BDO Seidman's motion to dismiss (fe) (Entered: 03/25/1997)

03/21/1997 90 MOTION by deft BDO Seidman, LLP to dismiss , Motion hearing [90-1] motion (fe) (Entered: 03/25/1997)

03/21/1997 91 MEMORANDUM by BDO Seidman, LLP in support of [90-1] motion to dismiss (fe) (Entered: 03/25/1997)

03/21/1997 93 MEMORANDUM by Andrew Merson, Wayne Alexander in opposition to [90-1] motion to dismiss (fe) (Entered: 04/03/1997)

03/21/1997 94 REPLY MEMORANDUM OF LAW in further support [90-1] motion to dismiss (fe) (Entered: 04/03/1997)

03/21/1997 95 NOTICE of briefing schedule by and between plttfs and deft Belloise: plttfs to serve memopp 4/23/97; deft to serve and file rplymemsupp on 5/7/97; deft to submit motion to dismiss on 5/9/97 (fe) (Entered: 04/03/1997)

03/24/1997 92 NOTICE of Change of Name by Zwerling, Schacter, Zwerling & Koppell LLP; new name is Zwerling, Schacter & Zwerling, LLP. (fe) (Entered: 04/03/1997)

03/24/1997 96 LETTER dated 3/19/97 from Theresa C. Williams-Harris to Joel B. Strauss re: to

- confirm that the argument scheduled for 3/21/97 has been rescheduled for 5/23/97 (fe) (Entered: 04/03/1997)
- 03/24/1997 97 NOTICE of change of address by SULLIVAN & GALLION to: 444 Madison Avenue, New York, NY 10022; phone and fax are unchanged (fe) (Entered: 04/03/1997)
- 03/31/1997 98 LETTER dated 3/20/97 from Theresa C. Williams-Harris to Mike Cardello re: forwarding copy of letter to counsel advising of argument rescheduling to 5/23/97 (fe) (Entered: 04/03/1997)
- 03/31/1997 99 LETTER (with enclosure) dated 3/27/97 from Mark J. Goldberg to Judge Platt re: to bring to the Court's attn the recent decision in Friedberg v. Discreet Logic Inc., No. cv 96-11232 (D. Mass 3/7/97) (fe) (Entered: 04/03/1997)
- 04/03/1997 -- SEALED DOCUMENT placed in vault re: Transmittal dated 4/3/97 from Matthew Dontzin, Esq. of motion to dismiss to counsel. (fe) (Entered: 04/08/1997)
- 04/03/1997 100 LETTER dated 4/2/97 from Frederic S. Fox to Judge Spatt re: enclosure of two recently decided opinions to support plttfs' memopp to BDO Seidman's motion to dismiss. (fe) (Entered: 04/09/1997)
- 04/11/1997 101 Letter MOTION by Frederic Fox to adjourn conf scheduled for 4/11/97 , Motion hearing [101-1] motion (fe) (Entered: 04/14/1997)
- 04/11/1997 -- Endorsed order dated 4/10/97 granting [101-1] motion to adjourn conf scheduled for 4/11/97, set status conference for 9:00 4/25/97 before Judge Arthur D. Spatt (Signed by Judge Arthur D. Spatt) (fe) (Entered: 04/14/1997)
- 04/24/1997 104 letter to Judge Spatt from Frederic S. Fox dated 11/1/96 re: courtesy documents submitted in relation to Final Approval of Proposed Partial Class Action Settlement. (fe) (Entered: 05/09/1997)
- 04/24/1997 106 LETTER dated 4/23/97 from Frederic Fox to Judge Spatt re: requesting approval of the settlement reflected in the Restated Stipulation (fe) (Entered: 05/09/1997)
- 04/24/1997 107 LETTER dated 4/24/97 (by Fax) from Matthew S. Dontzin to Judge Spatt re: in response to the Proposed Final Judgment and Order of partial dismissal (fe) (Entered: 05/09/1997)
- 04/25/1997 -- Status conference held re: settlement hearing (fe) (Entered: 04/29/1997)
- 04/25/1997 102 Calendar entry: before Judge Spatt on 4/25/97 at 9am, civil cause for settlement hearing; all counsel present. miscellaneous hearing next settlement hearing scheduled for 6/6/97 at 12noon Court signs revised notice order (fe) (Entered: 04/29/1997)
- 04/25/1997 105 Restated Stipulation of Partial Settlement, unendorsed, placed in file. (fe) (Entered: 05/09/1997)
- 04/28/1997 103 NOTICE ORDER dated 4/25/97), settlement hearing set for June 6, 1997,, at 12noon before Judge Spatt to determine whether, for purposes of the Settlement only, the Court should certify the Action as a class action, and approve the Lead Plaintiffs as representatives of a class of all persons that purchased Health Mgmt common stock between 8/25/94, and 2/26/96, inclusive; to determine whether the proposed Amended Settlement is fair, reasonable and adequate and should be approved, and whether final judgment pursuant to FRCP 54(b) should be entered dismissing the Acction as to, and claims asserted therein against Health Management on the merits, with prejudice, and w/o costs, which order shall include a bar order barring claims against Health Management for contribution or indemnity; to determine whether the proposed Plan of Distribution of the Settlement Fund is fair, reasonable and adequate; to consider the application of plttfs' counsel for an award of attorneys' fees, reimbursement of costs and

disbursements; and to reserve jurisdiction to effect and enforce the Restated Partial Settlement. (see document for balance of text) (signed by Judge Arthur D. Spatt) (fe) (Entered: 05/01/1997)

- 05/21/1997 108 LETTER dated 5/9/97 from John G. Poli to Clerk of Court re: cover letter of motion papers which will be filed under seal. (fe) (Entered: 05/21/1997)
- 05/21/1997 109 SEALED DOCUMENT placed in vault (fe) (Entered: 05/21/1997)
- 05/21/1997 -- SEALED DOCUMENT placed in vault (fe) (Entered: 05/21/1997)
- 05/21/1997 -- SEALED DOCUMENT placed in vault (fe) (Entered: 05/21/1997)
- 05/21/1997 -- SEALED DOCUMENT placed in vault (fe) (Entered: 05/21/1997)
- 05/22/1997 110 AFFIDAVIT of Karen Barnes Re: administration of the settlement in this litigation (fe) (Entered: 06/11/1997)
- 05/29/1997 -- SEALED DOCUMENT: Memorandum of Law of Deft Hotte in Support of Motion to Dismiss placed in vault (fe) (Entered: 05/29/1997)
- 05/29/1997 -- SEALED DOCUMENT: Pltffs' Memorandum in Opposition to the Motion to Dismiss placed in vault (fe) (Entered: 05/29/1997)
- 05/29/1997 -- SEALED DOCUMENT: Reply Memorandum of Law of Deft Hotte in support of Motion to Dismiss placed in vault (fe) (Entered: 05/29/1997)
- 06/06/1997 123 Calendar entry: Before Judge Spatt on 6/6/97 at 12 noon, civil cause for hearing. All counsel present; c/r Harry Rapaport. Case called, hearing adjourned to 6/9/97 at 9:30 am (fe) (Entered: 08/13/1997)
- 06/09/1997 124 Calendar entry: Before Judge Spatt on 6/9/97 at 9:50 am, civil cause for hearing. All counsel present; c/r Harry Rapaport. Case called, hearing held. Partial dismissal as to H.M.I (fe) (Entered: 08/13/1997)
- 06/10/1997 111 FINAL JUDGMENT AND ORDER OF PARTIAL DISMISSAL OF ACTION dated 6/9/97, adopting all terms set forth in the Restated Stipulation (signed by Judge Arthur D. Spatt) cm (fe) (Entered: 06/11/1997)
- 06/10/1997 112 ORDER dated 6/9/97 granting [0-1] motion for attorney fees and reimbursement of expenses in the sum of 25% of \$4.30 million (\$4.55 million less expenses of \$250,000.00) (signed by Judge Arthur D. Spatt) cm (fe) (Entered: 06/11/1997)
- 06/10/1997 113 LETTER dated 5/21/97 from W. Thomas McGough to Judge Spatt re: scheduling a return date for the motion for More Definite Statement (fe) (Entered: 06/11/1997)
- 06/12/1997 114 LETTER dated 6/9/97 from Mark J. Goldberg to Judge Spatt re: to bring attention to the recently published decision in Norwood Venture Corp. v. Converse Inc., 959F. Supp. 205, 208 (S.D.N.Y 1997) (fe) (Entered: 06/12/1997)
- 06/24/1997 115 AFFIDAVIT Re: Service via Fedex of papers in connection with the restated partial settlement (fe) (Entered: 06/25/1997)
- 06/24/1997 116 AFFIDAVIT of service filed (fe) (Entered: 06/25/1997)
- 07/11/1997 117 Letter MOTION by BDO Seidman for an adjournment of the 7/17/97 conf. , Motion hearing [117-1] motion (fe) (Entered: 07/14/1997)
- 07/11/1997 -- Endorsed order dated 7/11/97 denying [117-1] motion for an adjournment of the 7/17/97 conf. (Signed by Judge Arthur D. Spatt) (fe) (Entered: 07/14/1997)
- 07/17/1997 119 CERTIFICATE OF SERVICE as to Final judgment and Order of Partial Dismissal of Action and Order Awarding Fees and Reimbursement of Expenses by Andrew Merson,

Wayne Alexander (fe) (Entered: 07/23/1997)

- 07/21/1997 118 MEMORANDUM OF DECISION AND ORDER dated 7/21/97 denying [90-1] motion to dismiss, denying [72-1] motion for more definite statement purs. to Rules 12(e) and 9(b) of the FRCP (signed by Judge Arthur D. Spatt) (fe) (Entered: 07/23/1997)
- 08/08/1997 120 LETTER dated 8/1/97 from Joel Strauss to Mag. Lindsay re: request for conference to set a discovery schedule (fe) (Entered: 08/12/1997)
- 08/08/1997 -- ORDER dated 8/4/97 (ent'd on doc 120) Document production need not await the filing of an answer. To the extent deft is in possession of records relevnt to this action production may be commenced (signed by Magistrate Arlene R. Lindsay) cm (fe) (Entered: 08/12/1997)
- 08/11/1997 121 STIPULATION and ORDER dated 8/7/97, set answer to amended complaint due for 3/21/96 (signed by Judge Arthur D. Spatt) (fe) (Entered: 08/12/1997)
- 08/11/1997 122 STIPULATION and ORDER dated 8/11/97, set answer due for 8/18/97 for defts Lloyd Myers and Irwin Hirsh to answer amended complaint (signed by Judge Arthur D. Spatt) (fe) (Entered: 08/12/1997)
- 08/18/1997 125 ANSWER to complaint by Defts Hirsh and Myers and CROSSCLAIM against Health Management In, Clifford E. Hotte, Drew W. Bergman (fe) (Entered: 08/18/1997)
- 08/18/1997 126 Disclosure of interested parties by Defts Hirsh and Myers (fe) (Entered: 08/18/1997)
- 08/18/1997 127 ORDER dated 8/16/97, substituting attorney terminated attorney Matthew S. Dontzin for Clifford E. Hotte, attorney Matthew S. Dontzin for Clifford E. Hotte Added Edward L. Wolf (signed by Judge Arthur D. Spatt) (fe) (Entered: 08/21/1997)
- 08/18/1997 128 ORDER by Stipulation dated 8/16/97 reset answer due for 8/20/97 for deft Virginia Belloise (signed by Judge Arthur D. Spatt) (fe) (Entered: 08/21/1997)
- 08/20/1997 129 ANSWER and Third Party Crossclaim by Clifford E. Hotte to amended complaint (fe) (Entered: 08/21/1997)
- 08/20/1997 -- CROSSCLAIM by Clifford E. Hotte against Drew W. Bergman, Lloyd N. Myers, and Irwin Hirsh (fe) (Entered: 08/21/1997)
- 08/20/1997 130 ANSWER by BDO Seidman to amended complaint (with crossclaims) (fe) (Entered: 08/28/1997)
- 08/20/1997 130 CROSSCLAIM by BDO Seidman, LLP against Health Management In, Clifford E. Hotte, Drew W. Bergman (fe) (Entered: 08/28/1997)
- 08/20/1997 131 ANSWER by Virginia Belloise to amended complaint, w/crossclaims (fe) (Entered: 08/28/1997)
- 08/20/1997 131 CROSSCLAIM by Virginia Belloise against Health Management In, Drew W. Bergman, Irwin Myers and Lloyd Hirsh (fe) (Entered: 08/28/1997)
- 09/09/1997 133 ANSWER by Health Management In to [125-2] cross claim (fe) (Entered: 09/19/1997)
- 09/10/1997 134 ANSWER by Lloyd Myers, Irwin Hirsh to [130-1] cross claim (fe) (Entered: 09/19/1997)
- 09/10/1997 -- CROSSCLAIM by Lloyd Myers, Irwin Hirsh against BDO Seidman, LLP (within doc 134) (fe) (Entered: 09/19/1997)
- 09/10/1997 135 ANSWER by Lloyd Myers, Irwin Hirsh to [0-1] cross claim (fe) (Entered: 09/19/1997)
- 09/10/1997 136 ANSWER by Irwin Hirsh, Lloyd Myers to [131-1] cross claim (fe) (Entered: 09/19/1997)

09/10/1997 -- CROSSCLAIM by Lloyd Myers, Irwin Hirsh against Virginia Belloise (contained within doc 136) (fe) Modified on 09/19/1997 (Entered: 09/19/1997)

09/11/1997 132 LETTER dated 7/31/97 from Ira G. Greenberg to Judge Lindsay re: requesting additional time to file a responsive pleading (resolved by doc. 130) (fe) (Entered: 09/12/1997)

09/11/1997 137 ANSWER by Drew W. Bergman to [0-1] cross claim (fe) (Entered: 09/19/1997)

09/11/1997 140 ANSWER by Drew W. Bergman to [125-2] cross claim (fe) (Entered: 09/23/1997)

09/12/1997 138 ANSWER by Health Management In to [0-1] cross claim (fe) (Entered: 09/19/1997)

09/19/1997 139 ANSWER by Drew W. Bergman to [130-1] cross claim (fe) (Entered: 09/19/1997)

09/29/1997 141 ANSWER by Virginia Belloise to [0-1] cross claim (fe) (Entered: 09/29/1997)

09/30/1997 142 ANSWER by Health Management In to [130-1] cross claim (fe) (Entered: 10/07/1997)

09/30/1997 143 ANSWER by Health Management In to [131-1] cross claim (fe) (Entered: 10/07/1997)

10/02/1997 144 ANSWER by BDO Seidman, LLP to cross-claim of deft Drew W. Bergman (fe) (Entered: 10/07/1997)

10/07/1997 145 ANSWER by Irwin Hirsh, Lloyd Myers to Crossclaim of Drew Bergman (fe) (Entered: 10/08/1997)

11/19/1997 146 ORDER dated 11/19/97, set status conference for 2:30 12/16/97 before Magistrate Arlene R. Lindsay (signed by Magistrate Arlene R. Lindsay) cm (fe) (Entered: 11/21/1997)

11/25/1997 147 MAIL RETURNED orders dated 11/19/97 returned on 11/25/97 attempted to Jeffrey Zwerling, Esq-"no such number". (fe) (Entered: 12/01/1997)

11/26/1997 148 MAIL RETURNED order dated 11/19/97 returned on 11/26/97 attempted to Syma B. Funt--unable to forward (fe) (Entered: 12/01/1997)

12/16/1997 -- Status conference held (fe) (Entered: 12/19/1997)

12/16/1997 149 Calendar entry: Before Mag. Lindsay on 12/16/97 at 2:30 pm, civil cause for initial conf all counsel present; pretrial scheduling order adopted. (fe) (Entered: 12/19/1997)

12/16/1997 150 SCHEDULING ORDER dated 12/16/97 setting Discovery cutoff 9/30/98 ; Pretrial conference for 11:00 9/10/98 ; (signed by Magistrate Arlene R. Lindsay) cg (fe) (Entered: 12/19/1997)

12/18/1997 151 LETTER dated 11/13/97 from Joel B. Strauss to Mag. Lindsay to provide a a current status of this action. (fe) (Entered: 12/19/1997)

12/22/1997 152 NOTICE of Change of Address by Savett Frutkin Podell & Ryan ICMS Updated (fe) (Entered: 12/23/1997)

03/06/1998 -- Endorsed order granting [153-1] motion requesting that the limitation of 10 depositions per side imposed by FRCP 30(a)(2)(A) be increased to 25 (Signed by Magistrate Arlene R. Lindsay, dated 3/6/98)c/m (fe) (Entered: 03/18/1998)

03/09/1998 153 Letter MOTION by BDO Seidman, LLP requesting that the limitation of 10 depositions per side imposed by FRCP 30(a)(2)(A) be increased to 25 Motion hearing (fe) (Entered: 03/18/1998)

03/16/1998 154 MAIL RETURNED. Endorsed order dated 3/6/98 returned on 3/16/98 (fe) (Entered: 03/23/1998)

05/28/1998 155 NOTICE of Change of Address by BDO Seidman, LLP (fe) (Entered: 06/01/1998)

06/04/1998 156 PRE-TRIAL SCHEDULING ORDER setting Discovery cutoff 11/30/98, Phase I Fact

Discovery to be completed by 8/30/98, Phase II Exchanges of Reports 9/30/98; Request for a pre-motion summary judgment conference to be made to the district court no later than 12/7/98; Settlement conference before the undersigned on 12/16/98 @ 10:00am (signed by Magistrate Arlene R. Lindsay) c/m (fe) (Entered: 06/09/1998)

- 06/04/1998 159 LETTER dated 6/3/98 from Janine R. Azriliant to All defense counsel re: enclosed please find plttfs' Notice of Motion and Memorandum of Law in Support of their Motion for Class Certification. (fe) (Entered: 06/11/1998)
- 06/08/1998 157 LETTER dated 5/28/98 from Joel B. Strauss to Magistrate Judge Linday re: respectfully requesting that the Court grant plttfs' application for a 90-day extension of the currently scheduled fact discovery cut-off date as well as the other dates set forth in the Court's Scheduling Order, and grant relief the Court deems appropriate. (fe) (Entered: 06/09/1998)
- 06/08/1998 158 LETTER dated 6/2/98 from Michael R. Young to Magistrate Judge Lindsay re: we respectfully submit this letter in response to Joel Strauss' letter of 5/28/98 seeking a 90-day extension of the period for fact discovery which, pursuant to the Court's order of 12/16/97, is presently scheduled to be completed by 6/30/98. (fe) (Entered: 06/09/1998)
- 06/12/1998 160 LETTER dated 6/9/98 from Efreem M. Grail to Magistrate Judge Lindsay re: respectfully submitting this letter in opposition to atty Joel Strauss' 5/28/98 request by letter seeking a 90 day extension of time in which to conduct fact discovery. (fe) (Entered: 06/17/1998)
- 06/16/1998 161 MAIL RETURNED Pre-Trial Scheduling Order dtd 6/4/98 returned on 6/16/98 (fe) (Entered: 06/17/1998)
- 06/23/1998 162 MOTION by Wayne Alexander, Andrew Merson for an order authorizing disbursement of the Settlement Fund , No Motion hearing set (fe) (Entered: 07/02/1998)
- 06/23/1998 163 MEMORANDUM OF LAW by Wayne Alexander, Andrew Merson in support of the [162-1] motion for an order authorizing disbursement of the Settlement Fund (fe) (Entered: 07/02/1998)
- 06/23/1998 164 AFFIDAVIT of Jeffrey C. Zwerling on behalf of by Wayne Alexander, Andrew Merson Re: in support of the [162-1] motion for an order authorizing disbursement of the Settlement Fund (fe) (Entered: 07/02/1998)
- 06/23/1998 165 AFFIDAVIT of G. Peter Buchband (Exhibits A-E annexed) (fe) Modified on 07/02/1998 (Entered: 07/02/1998)
- 07/02/1998 166 ORDER dated 7/2/98 granting [162-1] motion for an order authorizing disbursement of the Settlement Fund (See order for further details) (signed by Judge D. Spatt) c/m (fe) (Entered: 07/02/1998)
- 07/09/1998 167 MAIL RETURNED Order approving distribution of settlement fund returned on 7/9/98 (fe) (Entered: 07/09/1998)
- 07/10/1998 168 LETTER dated 7/9/98 from Michael R. Young to Magistrate Lindsay RE: We write in response to Joel Strauss's letter of 7/1/98 regarding discovery issues. We will address the two new issues that Mr. Strauss has raised: the computer files and the 1994 workpapers. (Toritto, James) (Entered: 07/17/1998)
- 07/14/1998 -- Endorsed order dated 7/14/98. Pltf's position that they be allowed to idnetify potential pltf witnesses "several weeks" before trial is not a reasonable compromise. Since pltf is prepared to stipulate that no more than ten pltfs might be called that stipulation should be entered now and the potential witnesses identified in order to permit the dfts a reasonable discovery. 2. This court fails to understand the difficulty in retrieving the HMI

information. Dft represents that it has produced in the precise manner it was received. The dft's are not required to decipher the same since the information appears not to have been generated by them and because they are in no better position than the pltf's to undertake this task. Granting [171-1] motion to produce hard copy printouts of the computerized files at issue. The expense of such a production, however, should be borne by pltf's. 3. Pltf is to articulate in a letter to the Court what relevance the '94 documents have to this action. (Signed by Magistrate Arlene R. Lindsay) entered on document # 171 c/m (Toritto, James) (Entered: 07/23/1998)

- 07/15/1998 169 LETTER dated 7/15/98 from Anna Hong to Efrem Grail RE: I am writing at the request of Judge Spatt with regard to the enclosed opposition papers to the pltf's motion for class certification. Please resubmit the enclosed motion papers at the appropriate time. (Toritto, James) (Entered: 07/17/1998)
- 07/20/1998 170 LETTER dated 6/29/98 from Ira Greenberg to Magistrate Lindsay RE: Dft asked to depose pltf's but have been rebuffed. We would not seek to take the deposition of any pltf who is not going to be a witness. If pltf's decide to call none of their number at trial, we would not press for these depositions. (Toritto, James) (Entered: 07/23/1998)
- 07/20/1998 171 Letter MOTION dated 7/1/98 by Wayne Alexander, Andrew Merson RE: Pltf's submit this letter in response to Ira Greenberg's letter of 6/29/98. In the unlikely event any pltf's name was placed on a potential witness list, pltf would allow BDO to depose such person well before trial. Also, in light of the fact discovery cut-off pltf's request that this Court Order BDO to produce hard copy printouts of the computerized files at issue , Motion hearing (Toritto, James) (Entered: 07/23/1998)
- 07/20/1998 172 LETTER dated 7/9/98 from Michael R. Young to Magistrate Lindsay RE: We write in response to Mr. Strauss' letter of 7/1/98 regarding discovery. We have now located and produced the computer files. Pltf should continue to use their own outside consultants to analyze. The fraud is reflected in the 1995 financial statements. The 1994 workpapers have nothing to do with it. (Toritto, James) (Entered: 07/23/1998)
- 07/27/1998 173 MAIL RETURNED #169, letter from Anna Hong to Efrem Grail, returned on 7/27/98 (Toritto, James) (Entered: 07/29/1998)
- 07/30/1998 174 MAIL RETURNED endorsed order dtd 7/14/98 returned on 7/30/98 (fe) (Entered: 08/06/1998)
- 08/06/1998 175 Letter MOTION by Wayne Alexander requesting 1994 audit work papers , Motion hearing (Toritto, James) (Entered: 08/12/1998)
- 08/06/1998 -- Endorsed order dated 8/6/98 granting [175-1] motion requesting 1994 audit work papers (Signed by Magistrate Arlene R. Lindsay) entered on doc. #175 c/m (Toritto, James) (Entered: 08/12/1998)
- 08/10/1998 176 LETTER dated 8/10/98 from Janine R. Azriliant to Judge Spatt re: Enclosed for filing please find enclosed Notice of Motion for Class Certification; Pltf's Memorandum in support; Memorandum of BDO Seidman in opposition; Memorandum of Irwin Hirsch & Lloyd Myers in opposition and; Reply memorandum in further support of pltf's motion for class certification. (Toritto, James) (Entered: 08/17/1998)
- 08/10/1998 177 MOTION by Charles T. Labozzetta, Kurt W. Grimm, Michael Zurkan, Bharat Dave, John Capazzi, Albert Buthman, Thomas Druetzler, Lillian Pfaender, Lewis Steven Cohen and Kenneth Holmes to certify this action as a class action , Motion hearing set for 9:30 9/11/98 [177-1] motion (Toritto, James) (Entered: 08/17/1998)
- 08/10/1998 178 PLAINTIFF'S MEMORANDUM in support of [177-1] motion to certify this action as a

class action (Toritto, James) (Entered: 08/17/1998)

- 08/10/1998 179 MEMORANDUM by Irwin Hirsh, Lloyd Myers in opposition to [177-1] motion to certify this action as a class action (Toritto, James) (Entered: 08/17/1998)
- 08/10/1998 180 MEMORANDUM by BDO Seidman, LLP in opposition to [177-1] motion to certify this action as a class action (Toritto, James) (Entered: 08/17/1998)
- 08/10/1998 181 PLAINTIFF'S REPLY MEMORANDUM OF LAW in further [177-1] motion to certify this action as a class action (Toritto, James) (Entered: 08/17/1998)
- 08/24/1998 182 LETTER dated 8/21/98 from Efreem Grail to Magistrate Lindsay re: requesting that the Court order plas to comply with our document request and produce them. (Talbot, Thomas) (Entered: 08/27/1998)
- 08/24/1998 183 LETTER dated 8/21/98 from Efreem Grail to Magistrate Lindsay re: Objection to any further discovery of Lloyd Myers and Irwin Hirsh beyond 8/30/98, the cut-off date. (Talbot, Thomas) (Entered: 08/27/1998)
- 08/31/1998 184 LETTER dated 8/31/98 from Efreem M. Grail to Magistrate Lindsay RE: I am writing to confirm a telephone conference with your secretary this afternoon. (Toritto, James) (Entered: 09/04/1998)
- 09/08/1998 185 Letter MOTION by Andrew Merson requesting a 30 day extension of the fact discovery cut-off of 8/30/98 , Motion hearing (Toritto, James) (Entered: 09/14/1998)
- 09/08/1998 -- Endorsed order dated 9/8/98 granting [185-1] motion requesting a 30 day extension of the fact discovery cut-off of 8/30/98, Fact discovery is to be completed by 9/30/98. Exchange of expert reports by 10/30/98. Set discovery due for 12/31/98 , Request for pre-motion summary judgment conference to be made to the district court by 1/7/98. Reset settlement conference for 10:00 1/14/99 before Magistrate Arlene R. Lindsay (Signed by Magistrate Arlene R. Lindsay) c/m endorsed on doc. #185 (Toritto, James) (Entered: 09/14/1998)
- 09/09/1998 189 Letter MOTION by Wayne Alexander, Andrew Merson requesting that dfts' motion to compel be denied , Motion hearing (Toritto, James) (Entered: 09/14/1998)
- 09/09/1998 -- Endorsed order dated 9/9/98 granting [189-1] motion requesting that dfts' motion to compel be denied. Pltf may not produce a mass of documents for inspection regardless of their relevance to the claims. Pltf is presumed to have knowledge of the documents w/in their possession and should produce for inspection only that body of documents relating to the claims in question. Pltf is not, however, required to organize said documents as requested and pltf's obligation in this regard is to produce them in the manner they were received or retained. (Signed by Magistrate Arlene R. Lindsay) c/m endorsed on doc. #189 (Toritto, James) (Entered: 09/14/1998)
- 09/10/1998 186 LETTER dated 8/21/98 from Efreem M. Grail to Magistrate Lindsay RE: Requesting that this court order pltfs to comply with our document request and produce and top label all repsonive documents to correspond with the categories contained in the request. (Toritto, James) (Entered: 09/14/1998)
- 09/10/1998 187 LETTER dated 8/21/98 from Efreem M. Grail to Magistrate Lindsay RE: There is no opposition to pltf's request for an extension of fact discovery. (Toritto, James) (Entered: 09/14/1998)
- 09/10/1998 188 LETTER dated 8/31/98 from Efreem M. Grail to Magistrate Lindsay RE: We have agreed that pltfs shall have until 9/8/98 to submit any responses to the 2 documents that we filed on behalf of dfts Irwin Hirsh and Lloyd N. Myers. (Toritto, James) (Entered: 09/14/1998)

09/14/1998 190 Letter MOTION by Irwin Hirsh, Lloyd Myers to file the enclosed reply to pltf's letter in response to our 8/21/98 letter-motion to compel , Motion hearing (Toritto, James) (Entered: 09/23/1998)

09/14/1998 -- Endorsed order dated 9/15/98 denying [190-1] motion to file the enclosed reply to pltf's letter in response to our 8/21/98 letter-motion to compel. (Signed by Magistrate Arlene R. Lindsay) c/m endorsed on doc. #190 (Toritto, James) (Entered: 09/23/1998)

09/15/1998 192 LETTER dated 9/14/98 from Joel B. Strauss to Magistrate Lindsay Re: Pltfs request that the court order dft Myers to produce all documents concernring trades he made of directed and all documents concerning the ownership of the account in which such trades were made. (Toritto, James) (Entered: 09/30/1998)

09/24/1998 193 Letter MOTION by Irwin Hirsh, Lloyd Myers rqeusting that the court deny pltfs' letter motion to compel , Motion hearing (Toritto, James) (Entered: 09/30/1998)

09/24/1998 -- Endorsed order dated 9/24/98 granting in part, and denying in part [193-1] motion rqeusting that the court deny pltfs' letter motion compel. To the extent dft argues laches or untimeliness their motion is denied. To the extent the dft Myers has control or access to the documents sought w/ respect to his trading in HMI securities, they are to be produced. A subpoena would not be necessary to secure production of such documents from a party. Pltf is directed to determine what if any documents are on file w/ the court before court will address the issue of what burdens sould be imposed on AG Edwards. (Signed by Magistrate Arlene R. Lindsay) c/m endorsed on doc. #193 (Toritto, James) (Entered: 09/30/1998)

09/25/1998 191 MAIL RETURNED endorsed order dated 9/9/98 returned on 9/25/98 (Toritto, James) (Entered: 09/29/1998)

09/30/1998 194 LETTER dated 9/29/98 from Joel B. Strauss to Magistrate Lindsay Re: Writing in opposition to motion of Lloyd N. Myers to quash pltfs' subpoenas directed to A.G. Edwards, Inc. (Toritto, James) (Entered: 10/05/1998)

10/01/1998 195 Letter MOTION by Wayne Alexander, Andrew Merson requesting that the motion to quash the subpoeans to Mrs. Myers be denied , Motion hearing (Toritto, James) (Entered: 10/13/1998)

10/01/1998 -- Endorsed order dated 10/1/98 mootng [195-1] motion requesting that the motion to quash the subpoeans to Mrs. Myers be denied. (See order dated 9/24/98.) Counsel is redirected to determine what, if any, documents are on file with the court with respect to the burden imposed on A.G. Edwards. (Signed by Magistrate Arlene R. Lindsay) c/m endorsed on doc. #195 (Toritto, James) (Entered: 10/13/1998)

10/08/1998 196 MAIL RETURNED Order dated 9/24/98 returned on 10/8/98 (Toritto, James) (Entered: 10/13/1998)

10/09/1998 197 MAIL RETURNED endorsed order dated 10/1/98 forwarded to Syma Funt returned on 10/9/98 (Toritto, James) (Entered: 10/20/1998)

10/13/1998 198 LETTER dated 10/9/98 from Joel B. Strauss to Magistrate Lindsay RE: Pltfs request that the Court deny dft Myers' motion to quash pltfs' subpoenas. (Toritto, James) (Entered: 10/20/1998)

10/23/1998 199 ORDER dated 10/23/98 Set status conference for 2:00 11/16/98 before Magistrate Arlene R. Lindsay (signed by Magistrate Arlene R. Lindsay) c/m (Toritto, James) (Entered: 10/29/1998)

10/28/1998 200 LETTER dated 10/26/98 from Efrem Grail to Magistrate Lindsay RE: Requesting that

this court further order pltf's to comply with your earlier ruling to produce only those documents which support pltf's claims against dfts. (Toritto, James) (Entered: 11/02/1998)

- 10/28/1998 -- Endorsed order dated 10/28/98- It is not clear to this court what relief is being sought. Pltf's represent that the documents to be produced are relevant to their claims in this case. It falls to counsel not the court to review the same to ascertain whether this is so. (Signed by Magistrate Arlene R. Lindsay) c/m endorsed on doc. #200 (Toritto, James) (Entered: 11/02/1998)
- 10/28/1998 201 LETTER dated 10/27/98 from Joel Strauss to Magistrate Lindsay RE: Pltf's submit that they have taken all steps to comply with the Court's 9/9/98 Order. (Toritto, James) (Entered: 11/02/1998)
- 11/02/1998 203 LETTER dated 10/30/98 from Efreem Grail to Magistrate Lindsay RE: Request that this Court extend time in which dft Hirsh and Myers may disclose their expert's report. (Toritto, James) (Entered: 11/12/1998)
- 11/03/1998 202 MAIL RETURNED Order dated 10/23/98 forwarded to Syma Flunt returned on 11/3/98 (Toritto, James) (Entered: 11/06/1998)
- 11/05/1998 204 LETTER dated 11/2/98 from Joel Strauss to Magistrate Lindsay RE: Pltf's request that Hirsch and Myers' application for an extension of time to submit their expert reports be denied. (Toritto, James) (Entered: 11/12/1998)
- 11/16/1998 -- Status conference held (Toritto, James) (Entered: 11/23/1998)
- 11/16/1998 205 Calendar entry: Before Magistrate Lindsay on 11/16/98 at 2:00 p.m. Civil cause for status conference. Case called. Counsel for all sides present. Pre-trial scheduling order adopted. (Toritto, James) (Entered: 11/23/1998)
- 11/16/1998 206 PRE-TRIAL SCHEDULING ORDER setting Discovery cutoff 2/26/99 ; Pretrial conference for 11:00 3/18/99 ; Request for pre-motion conference prior to filing summary judgment motion to be made to the district court no later than 3/12/99. Proposed order resolving Edward subpoena to be submitted by 11/23/98. 2. Parties to submit letter outlining proposed dates for completion of discovery including expert depositions and reports. (signed by Magistrate Arlene R. Lindsay, dated 11/16/98) c/m (Toritto, James) (Entered: 11/23/1998)
- 11/19/1998 207 ORDER A.G. Edwards to produce for inspection and copying all documents reflecting or concerning 1. trades in HMI securities and/or options relating to HMI securities in any accounts held by Lloyd & Debra Myers; 2. trading authority in any accounts held by Lloyd and/or Debra Myers; and 3. communications and/or meetings with any third parties relating in any way to the subject matter described in paragraphs 1 & 2 (signed by Magistrate Arlene R. Lindsay, dated 11/19/98) c/m (Toritto, James) (Entered: 11/25/1998)
- 11/23/1998 208 LETTER dated 11/18/98 from Michael Young to Magistrate Lindsay RE: Submitting schedule of expert depositions, conferences and deadlines. (Toritto, James) (Entered: 11/30/1998)
- 11/23/1998 -- Endorsed order dated 11/23/98 Set settlement conference for 2:00 3/18/99 before Magistrate Arlene R. Lindsay (Signed by Magistrate Arlene R. Lindsay) endorsed on doc. #208 c/m (Toritto, James) (Entered: 11/30/1998)
- 11/30/1998 214 LETTER dated 11/24/98 from Michael Young to Judge Spatt RE: Requesting a pre-motion conference in anticipation of making a motion for partial summary judgment. (Toritto, James) (Entered: 01/29/1999)

12/02/1998 209 LETTER dated 12/1/98 from Efram Grail to Clerk of Court RE: In the recent pastm we have encountered difficulty receiving Orders of this Court; they are apparently being sent directly to our New York office, rather than to the Pittsburgh office, which is taking the lead role in this litigation. (Toritto, James) (Entered: 12/08/1998)

12/04/1998 215 LETTER dated 12/3/98 from Joel Strauss to Judge Spatt RE: Writing in response to Michael Young's letter dated 11/24/98. Pltf submits that BDO's intended motion for partial summary judgment is without merit. (Toritto, James) (Entered: 01/29/1999)

01/04/1999 212 LETTER dated 12/31/98 from Efram Grail to Magistrate Lindsay re: deposition of Mr. Moore (Talbot, Thomas) (Entered: 01/15/1999)

01/06/1999 210 Letter MOTION by BDO Seidman, LLP for extension of time to depose expert, Mr.Moore (Talbot, Thomas) (Entered: 01/15/1999)

01/06/1999 -- Endorsed order granting [210-1] motion for extension of time to depose expert, Mr.Moore. Court is satisfied deposition can be completed in its entirety within additional 3 days. Defense counsel may agree how to divide their time. In absence of agreement, this court will allocate time based upon additional submissions by defense counsel. (see order for further details) c/m (Signed by Magistrate Arlene R. Lindsay) (Talbot, Thomas) (Entered: 01/15/1999)

01/07/1999 211 LETTER dated 1/6/99 from Michael Young to Magistrate Lindsay re: Deposition of Mr. Moore (Talbot, Thomas) (Entered: 01/15/1999)

01/07/1999 -- Endorsed order(doc #211) Counsel is advised that this court will not accept a reply unless leave of Court is first granted to so submit one. Accordingly, this correspondence will not be considered. (Signed by Magistrate Arlene R. Lindsay) c/m (Talbot, Thomas) (Entered: 01/15/1999)

01/12/1999 213 LETTER dated 1/5/99 from Hillary Sobel to Magistrate Lindsay RE: On behalf of pltfs, I oppose the relief sought by BDO Seidman in the letter dated 12/29/98, and by dfts in their joinder dated 12/31/98. (Toritto, James) (Entered: 01/26/1999)

01/16/1999 216 LETTER dated 1/5/99 from Hillary Sobel to Magistrate Lindsay RE: Opposing the relief sought by BDO Seidman in the letter dated 12/29/98, and by dfts Hirsh and Myers in their joinder dated 12/31/98. (Toritto, James) (Entered: 01/29/1999)

01/19/1999 217 Letter MOTION by Health Management In, Andrew Merson to extend time for discovery , Motion hearing (Toritto, James) (Entered: 01/29/1999)

01/19/1999 -- Endorsed order dated 1/19/99 - The parties are advised the undersigned ruled on the above dispute with respect to the deposition of Mr. Moore by Order dated 1/6/99. In light of this fact, it appears that the delineated modifications are not necessary. Moreover this case has neared the three year mark. Granting [217-1] motion to extend time for discovery, Reset discovery due for 3/8/99 All other dates shall remain unchanged. (Signed by Magistrate Arlene R. Lindsay) c/f endorsed on doc. #217 (Toritto, James) (Entered: 01/29/1999)

01/22/1999 218 Calendar entry: Before Judge Spatt on 1/22/99 at 10:20 a.m. Civil cause for class certification motion. Case called. Counsel for all sides present. C/R: Owen Wicker Motion argued. Motion granted in its entirety. (Toritto, James) (Entered: 01/29/1999)

01/23/1999 219 MEMORANDUM OF DECISION AND ORDER dated 1/23/99 granting [177-1] motion for class certification. (signed by Judge Arthur D. Spatt) c/m (Toritto, James) (Entered: 01/29/1999)

01/25/1999 220 LETTER dated 1/19/99 from Michael Young to Lisa Solbakken RE: Pursuant to Judge

Lindsay's Order dated 1/19/99, we have put in a schedule with regard to expert depositions. (Toritto, James) (Entered: 01/29/1999)

- 01/25/1999 -- Endorsed order dated 1/21/99 - The parties are advised that 3/18/99 also represents the date by which a request for a pre-motion summary judgment conference must be made to the district court. The dates as delineated herein are adopted. (Signed by Magistrate Arlene R. Lindsay) c/m endorsed on doc. #220 (Toritto, James) (Entered: 01/29/1999)
- 02/03/1999 221 MAIL RETURNED Order dated 1/21/99 forwarded to Syma Funt returned on 2/3/99 (Toritto, James) (Entered: 02/08/1999)
- 02/24/1999 222 LETTER dated 2/23/99 from Joel Strauss to Magistrate Lindsay RE: Writing to request assistance in resolving a discovery dispute concerning the refusal of BDO Seidman LLP to produce certain documents. (Toritto, James) (Entered: 03/04/1999)
- 02/25/1999 223 Letter MOTION by Wayne Alexander, Andrew Merson requesting an adjournment of the deposition of pltfs' damage expert , Motion hearing (Toritto, James) (Entered: 03/04/1999)
- 02/25/1999 -- Endorsed order dated 2/25/99 granting [223-1] motion requesting an adjournment of the deposition of pltfs' damage expert. The deposition should be scheduled no later than 3/18. This will accomodate the holidays and insure this matter meets the imposed deadline. (Signed by Magistrate Arlene R. Lindsay) c/m endorsed on doc. #223 (Toritto, James) (Entered: 03/04/1999)
- 03/02/1999 224 Letter MOTION by Health Management In, Andrew Merson for leave to file a reply letter not to exceed one page , Motion hearing (Toritto, James) (Entered: 03/09/1999)
- 03/02/1999 -- Endorsed order dated 3/2/99 denying [224-1] motion for leave to file a reply letter not to exceed one page, as counsel has provided no basis for granting the application. (Signed by Magistrate Arlene R. Lindsay) c/m endorsed on doc. #224 (Toritto, James) (Entered: 03/09/1999)
- 03/04/1999 225 LETTER dated 3/3/99 from Joel Strauss & Hillary Sobel to Magistrate Lindsay RE: Requesting that the Court order the AICPA to produce all documents concerning its investigation of BDO's audit of HMI's 1995 financial statements and report thereon, including but not limited to the documents identified on the AICPA's privilege log. (Toritto, James) (Entered: 03/09/1999)
- 03/04/1999 226 LETTER dated 3/3/99 from Hillary Sobel to Clerk of Court RE: Enclosed for filing is the original letter motion submitted to Magistrate Lindsay. (Toritto, James) (Entered: 03/09/1999)
- 03/09/1999 227 MAIL RETURNED Order dated 3/2/99 forwarded to Syma Funt returned on 3/9/99 (Toritto, James) (Entered: 03/12/1999)
- 03/09/1999 228 MAIL RETURNED Order dated 2/25/99 forwarded to Syma Funt returned on 3/9/99 (Toritto, James) (Entered: 03/12/1999)
- 03/09/1999 229 Calendar entry: Before Magistrate Lindsay on 3/9/99. Civil cause for status conference. Case called. Counsel for all sides present. The following rulings were made: Requests for pre-motion summary judgment conference must be made to the district court by the prviously scheduled date of 3/18/99. Set discovery due for 3/31/99 , Reset settlement conference for 11:00 4/6/99 before Magistrate Arlene R. Lindsay SO ORDERED c/m (Toritto, James) (Entered: 03/18/1999)
- 03/11/1999 230 LETTER dated 3/1/99 from Michael Young to Magistrate Lindsay RE: Responding to letter of Joel Strauss dated 2/23/99 in connection with the adjournmetn of the

- deposition of pltf's damage expert. (Toritto, James) (Entered: 03/18/1999)
- 03/11/1999 231 LETTER dated 3/5/99 from Michael Young to Magistrate Lindsay RE: The deposition date of Ed Martin would conflict with the newly-ordered deadline for the deposition of John Torkelson. (Toritto, James) (Entered: 03/18/1999)
- 03/11/1999 232 LETTER dated 3/8/99 from Michael Young to Magistrate Lindsay RE: Writing in connection with the scheduling issues arising out of pltf's earlier cancellation of the deposition of their damages expert, John Torkelsen. (Toritto, James) (Entered: 03/18/1999)
- 03/11/1999 233 LETTER dated 3/8/99 from Efrem Grail to Magistrate Lindsay RE: Pltfs have unilaterally cancelled the deposition of one of their expert witnesses in this case for the second time. (Toritto, James) (Entered: 03/18/1999)
- 04/01/1999 234 LETTER dated 3/31/99 from Efrem Grail to Magistrate Lindsay RE: Enclosing copies of letter requests for pre-summary judgment motion. (Toritto, James) (Entered: 04/08/1999)
- 04/01/1999 235 LETTER dated 3/17/99 from W. Thomas McGough to Magistrate Lindsay RE: Requesting that the Court hold a pre-motion conference in preparation for our motion for summary judgment. (Toritto, James) (Entered: 04/08/1999)
- 04/01/1999 236 LETTER dated 3/31/99 from Efrem Grail to Magistrate Lindsay RE: Responding to pltf's 3/17/99 request for pre-summary judgment motion conference.1 (Toritto, James) (Entered: 04/08/1999)
- 04/01/1999 237 Letter MOTION by Wayne Alexander, Andrew Merson to postpone the deposition of John Torkelsen , Motion hearing (Toritto, James) (Entered: 04/13/1999)
- 04/01/1999 -- Endorsed order dated 4/1/99 granting [237-1] motion to postpone the deposition of John Torkelsen. Reset discovery due for 4/23/99 , Reset settlement conference for 3:00 4/30/99 before Magistrate-Judge Arlene R. Lindsay (Signed by Magistrate-Judge Arlene R. Lindsay) c/f endorsed on doc. #237 (Toritto, James) (Entered: 04/13/1999)
- 04/09/1999 238 LETTER dated 4/8/99 from Michael Young to Magistrate Lindsay re: proposing conference date of 4/26/99. (Toritto, James) (Entered: 04/22/1999)
- 04/12/1999 239 Letter MOTION to adjourn conference scheduled for 4/30/99 , Motion hearing (Toritto, James) (Entered: 04/22/1999)
- 04/12/1999 -- Endorsed order dated 4/12/99 granting [239-1] motion to adjourn conference scheduled for 4/30/99. Reset settlement conference for 3:00 4/28/99 before Magistrate-Judge Arlene R. Lindsay (Signed by Magistrate-Judge Arlene R. Lindsay) c/m endorsed on doc. #239 (Toritto, James) (Entered: 04/22/1999)
- 04/15/1999 240 LETTER dated 3/12/99 from Kelly Hnatt to Magistrate Lindsay RE: AICPA requests that pltf's motion to compel be denied. (Toritto, James) (Entered: 04/22/1999)
- 04/15/1999 241 ORDER dated 4/15/99 denying pltf's motion to compel the production of certain documents relating to communications by and between dft BDO Seidman and the nonparty AICPA and/or the AICPA's Quality Control Inquiry Committee (signed by Magistrate-Judge Arlene R. Lindsay) c/m (Toritto, James) (Entered: 04/22/1999)
- 04/23/1999 242 MAIL RETURNED Order dated 4/15/99 forward to Syma Flunt returned on 4/23/99 (Toritto, James) (Entered: 04/28/1999)
- 04/28/1999 -- Settlement conference held (O'Hara, Karen) (Entered: 05/04/1999)
- 04/28/1999 243 Calendar entry: Before Mag. Judge Lindsay of 4/28/99 at 3:00p.m. Civil cause for settlement conference. Case called. Counsel for both sides present. set jury selection for

9/27/99 before Judge Arthur D. Spatt Settlement conference held- no possibility of settling as against BDO. Discussion with respect to individual defendants to continue. So ordered. cm (O'Hara, Karen) (Entered: 05/04/1999)

- 04/28/1999 244 Calendar entry: Before Judge Spatt on 4/28/99 at 9:00 a.m. Civil cause for pre-motion conference. Case called. Counsel for all sides present. Pre-Motion conference held. Case marked ready for trial set jury selection for 9:00 9/27/99 before Judge Arthur D. Spatt Briefing schedule for summary judgment: 5/28/99 all motions; 6/25/99 -opposition; 7/16/99 -reply (O'Hara, Karen) (Entered: 05/11/1999)
- 05/05/1999 245 LETTER dated 5/3/99 from Nicloe Anderson to Joel Strauss Re: Confirming our conversation on 4/30/99 in which we agreed that BDO Seidmen, LLP will serve its response to "Plaintiffs' objections to the order of Mag. Judge Lindsay dated 4/15/99 to you on 5/12/99 by hand delivery. (O'Hara, Karen) (Entered: 05/12/1999)
- 05/06/1999 246 LETTER dated 5/5/99 from Allison Ross to Joel Strauss Re: Confirming our conversation on Friday in which we agreed that the AICPA's response to plaintiffs' objections to Maj. Judge Lindsay's order dated 4/15/99 in the above referenced matter will be served on your office on 5/12/99. (O'Hara, Karen) (Entered: 05/12/1999)
- 05/14/1999 247 TRANSCRIPT filed for [218-1] motion conference for dates of 1/22/99 at 10:15 a.m. before Judge Arthur D. Spatt C/R: Owen Wicker (Toritto, James) (Entered: 05/14/1999)
- 05/14/1999 248 LETTER dated 5/10/99 from Joel Strauss to Magistrate Lindsay RE: Pltf request that Mr. Martin be ordered to immediately produce all documents that were requested of him during his deposition. (Toritto, James) (Entered: 05/14/1999)
- 05/14/1999 249 LETTER dated 5/14/99 from Nicole Anderson to Magistrate Lindsay RE: BDO reached an agreement with Mr. Strauss that BDO will produce the documents specified in Mr. Strauss' letter to the extent Mr. Martin has copies of them. (Toritto, James) (Entered: 05/20/1999)
- 05/25/1999 250 Letter MOTION by Irwin Hirsh, Lloyd Myers requesting that the Court entertain a further settlement conference , Motion hearing (Toritto, James) (Entered: 06/01/1999)
- 05/25/1999 -- Endorsed order granting [250-1] motion requesting that the Court entertain a further settlement conference. Set settlement conference for 2:00 6/9/99 before Magistrate-Judge Arlene R. Lindsay (Signed by Magistrate-Judge Arlene R. Lindsay, Dated 5/25/99) c/f (Toritto, James) (Entered: 06/01/1999)
- 05/25/1999 251 LETTER dated 5/24/99 from Joel Strauss to Clerk of Court RE: Enclosing pltf's objections to the Order of Magistrate Judge Lindsay, memorandums in response to objections and pltf's reply memorandum. (Toritto, James) (Entered: 06/02/1999)
- 05/25/1999 252 PLAINTIFFS' OBJECTION to the Order of Magistrate Judge Lindsay dated 4/15/99 (Toritto, James) (Entered: 06/02/1999)
- 05/25/1999 253 MEMORANDUM by BDO Seidman, LLP in opposition to pltf's [252-1] objection (Toritto, James) (Entered: 06/02/1999)
- 05/25/1999 254 Response of the American Institute of Certified Public Accountants to pltf's [252-1] objections to the Order of Magistrate Judge Lindsay dated 4/15/99 (Toritto, James) (Entered: 06/02/1999)
- 05/25/1999 255 Pltf's REPLY to the MEMORANDUM OF LAW of BDO Seidman, LLP responding to pltf's objection to the Order of Magistrate Judge Lindsay dated 4/15/99 (Toritto, James) (Entered: 06/02/1999)
- 05/25/1999 256 Pltf's REPLY to the response of the American Institute of Certified Public Accountants

to pltfs' objections to the Order of Magistrate Judge Lindsay dated 4/15/99 (Toritto, James) (Entered: 06/02/1999)

- 06/01/1999 257 LETTER dated 5/28/99 from Nicole Anderson to Joel Strauss RE: Enclosing BDO's motion for summary judgment. (Toritto, James) (Entered: 06/03/1999)
- 06/09/1999 290 Calendar entry: Before Magistrate Lindsay on 6/9/99 at 2:00 p.m. Civil cause for settlement conference. Case called. Counsel for all sides present. Case settled on record as to dfts Hirsch & Myers. SO ORDERED (Toritto, James) (Entered: 08/11/1999)
- 06/14/1999 -- CASE NO LONGER REFERRED TO Magistrate-Judge Arlene R. Lindsay as per calendaar dtd June 9, 1999 (Garcia, Maria) (Entered: 08/05/1999)
- 06/23/1999 258 TRANSCRIPT filed for settlement conference before Magistrate Lindsay for dates of 6/10/99 - Diana Doman Transcribing (Toritto, James) (Entered: 06/24/1999)
- 06/25/1999 259 LETTER dated 6/23/99 from Hillary Sobel & Efrem Grail to Judge Spatt RE: Dfts Irwin Hirsh & Lloyd Myers and the pltf class inform the Court they have reached a resolution of all claims asserted in this case. (Toritto, James) (Entered: 06/29/1999)
- 06/30/1999 260 LETTER dated 6/25/99 from Joel Strauss to Michael Young RE: Enclosing pltfs' response to 56.1 statement, memorandum in opposition to summary judgment motion, and affidavit of Joel Strauss. (Toritto, James) (Entered: 07/13/1999)
- 06/30/1999 261 LETTER dated 6/25/99 from Joel Strauss to John Poli RE: Enclosing pltfs memorandum in opposition to motion for summary judgment of dft Virginia Belloise & copy of affidavit of Joel Strauss in support of pltfs' opposition. (Toritto, James) (Entered: 07/20/1999)
- 07/16/1999 262 MOTION by BDO Seidman, LLP for summary judgment , No Motion hearing (Toritto, James) (Entered: 07/20/1999)
- 07/16/1999 263 AFFIDAVIT by Michael Young on behalf of BDO Seidman, LLP Re: in support of [262-1] motion for summary judgment (Toritto, James) (Entered: 07/20/1999)
- 07/16/1999 264 MEMORANDUM by BDO Seidman, LLP in support of [262-1] motion for summary judgment (Toritto, James) (Entered: 07/20/1999)
- 07/16/1999 265 MEMORANDUM by Wayne Alexander, Andrew Merson in opposition to [262-1] motion for summary judgment (Toritto, James) (Entered: 07/20/1999)
- 07/16/1999 266 Rule 56.1 Statement(formerly Rule 3(g) by Wayne Alexander, Andrew Merson re: [262-1] motion for summary judgment (Toritto, James) (Entered: 07/20/1999)
- 07/16/1999 267 SUPPLEMENTAL AFFIDAVIT by Michael Young on behalf of BDO Seidman, LLP Re: in further support of [262-1] motion for summary judgment (Toritto, James) (Entered: 07/20/1999)
- 07/16/1999 268 REPLY MEMORANDUM OF LAW by BDO Seidman, LLP in further support of [262-1] motion for summary judgment (Toritto, James) (Entered: 07/20/1999)
- 07/16/1999 269 LETTER dated 7/16/99 from John Poli to Judge Spatt RE: Enclosing all motion papers with respect to motion for summary judgment by the dft Virginia Belloise. (Toritto, James) (Entered: 07/20/1999)
- 07/16/1999 280 MOTION by Virginia Belloise for summary judgment , Motion hearing (Toritto, James) (Entered: 07/21/1999)
- 07/16/1999 281 AFFIDAVIT by Virginia Belloise Re: in support of [280-1] motion for summary judgment (Toritto, James) (Entered: 07/21/1999)

07/16/1999 282 MEMORANDUM by Virginia Belloise in support of [280-1] motion for summary judgment (Toritto, James) (Entered: 07/21/1999)

07/16/1999 283 MEMORANDUM by Wayne Alexander, Andrew Merson in opposition to [280-1] motion for summary judgment (Toritto, James) (Entered: 07/21/1999)

07/16/1999 284 AFFIDAVIT by Joel Strauss on behalf of Wayne Alexander, Andrew Merson Re: in opposition to [280-1] motion for summary judgment, & [262-1] motion for summary judgment (Toritto, James) (Entered: 07/21/1999)

07/16/1999 285 VOLUME II OF EXHIBITS ANNEXED TO AFFIDAVIT by Joel Strauss on behalf of Wayne Alexander, Andrew Merson Re: in opposition to [280-1] motion for summary judgment, & [262-1] motion for summary judgment (Toritto, James) (Entered: 07/21/1999)

07/16/1999 286 REPLY AFFIDAVIT by John G. Poli on behalf of Virginia Belloise Re: in further support of [280-1] motion for summary judgment (Toritto, James) (Entered: 07/21/1999)

07/16/1999 287 REPLY MEMORANDUM OF LAW by Virginia Belloise in further support of [280-1] motion for summary judgment (Toritto, James) (Entered: 07/21/1999)

07/19/1999 270 LETTER dated 7/16/99 from Hillary Sobel to Judge Spatt RE: Enclosing for filing original documents regarding motion for summary judgment against dft Clifford Hotte. (Toritto, James) (Entered: 07/20/1999)

07/19/1999 271 MOTION by Wayne Alexander, Andrew Merson for summary judgment against dft Clifford Hotte , Motion hearing (Toritto, James) (Entered: 07/20/1999)

07/19/1999 272 MEMORANDUM by Wayne Alexander, Andrew Merson in support of [271-1] motion for summary judgment against dft Clifford Hotte (Toritto, James) (Entered: 07/20/1999)

07/19/1999 273 Rule 56.1 Statement(formerly Rule 3(g) by Wayne Alexander, Andrew Merson re: [271-1] motion for summary judgment against dft Clifford Hotte (Toritto, James) (Entered: 07/20/1999)

07/19/1999 274 MEMORANDUM by Clifford E. Hotte in opposition to [271-1] motion for summary judgment against dft Clifford Hotte (Toritto, James) (Entered: 07/20/1999)

07/19/1999 275 AFFIDAVIT by Edward Wolf on behalf of Clifford E. Hotte Re: in opposition to [271-1] motion for summary judgment against dft Clifford Hotte (Toritto, James) (Entered: 07/20/1999)

07/19/1999 276 REPLY MEMORANDUM OF LAW by Wayne Alexander, Andrew Merson in further support of [271-1] motion for summary judgment against dft Clifford Hotte (Toritto, James) (Entered: 07/20/1999)

07/19/1999 277 AFFIDAVIT by Hillary Sobel on behalf of Wayne Alexander, Andrew Merson Re: in support of [271-1] motion for summary judgment against dft Clifford Hotte (Toritto, James) (Entered: 07/21/1999)

07/19/1999 278 VOLUME II OF EXHIBITS ANNEXED TO AFFIDAVIT by Hillary Sobel on behalf of Wayne Alexander, Andrew Merson Re: in support of [271-1] motion for summary judgment against dft Clifford Hotte (Toritto, James) (Entered: 07/21/1999)

07/19/1999 279 VOLUME III OF EXHIBITS ANNEXED TO AFFIDAVIT by Hillary Sobel on behalf of Wayne Alexander, Andrew Merson Re: in support of [271-1] motion for summary judgment against dft Clifford Hotte (Toritto, James) (Entered: 07/21/1999)

07/26/1999 288 Letter MOTION by Wayne Alexander, Andrew Merson for leave to file a Surreply memorandum in opposition to dfts' motion for summary judgment , Motion hearing

(Toritto, James) (Entered: 08/03/1999)

07/26/1999 -- Endorsed order denying [288-1] motion for leave to file a Surreply memorandum in opposition to dfts' motion for summary judgment. (Signed by Judge Arthur D. Spatt, on 7/26/99) c/m (Toritto, James) (Entered: 08/03/1999)

07/27/1999 289 LETTER dated 7/27/99 from Michael Young to Judge Spatt Re: Opposing pltfs' request to file a "sur-reply" in further opposition to our motion for summary judgment. (Toritto, James) (Entered: 08/03/1999)

09/01/1999 291 Proposed Voir dire questions by BDO Seidman, LLP (Toritto, James) (Entered: 09/03/1999)

09/01/1999 299 NOTICE of attorney change of address by Wayne Alexander, Andrew Merson (Toritto, James) (Entered: 10/04/1999)

09/07/1999 300 STIPULATION OF SETTLEMENT with Irwin Hirsh and Lloyd N. Myers. (Toritto, James) (Entered: 10/04/1999)

09/10/1999 292 Letter MOTION by Irwin Hirsh, Lloyd Myers requesting permission for Efrem Grail to appear at 9/15/99 conference by telephone , Motion hearing (Toritto, James) (Entered: 09/20/1999)

09/10/1999 -- Endorsed order granting [292-1] motion requesting permission for Efrem Grail to appear at 9/15/99 conference by telephone. (Signed by Judge Arthur D. Spatt, on 9/10/99) c/m endorsed on doc. #2929 (Toritto, James) (Entered: 09/20/1999)

09/13/1999 293 LETTER dated 9/13/99 from Efrem Grail to All Counsel re: conference will take place on 9/15/99 as planned. My request to participate by telephone was granted. (Toritto, James) (Entered: 09/20/1999)

09/15/1999 301 NOTICE ORDER Set settlement conference for 1:30 11/12/99 before Judge Arthur D. Spatt to determine whether the proposed settlement is fair and whether fianl judgment should be entered dismissing the action as to claims asserted therein against Hirsh and Myers on the merits with prejudice and without costs; to consider the application of pltfs' counsel for reimbursement of costs and disbursements; and to reserve jurisdiction to effect and enforce the Settlement. (signed by Judge Arthur D. Spatt, on 9/15/99) c/m (Toritto, James) (Entered: 10/04/1999)

09/15/1999 303 Calendar entry: Before Judge Spatt on 9/15/99 at 9:25 a.m. Civil cause for conference. Case called. Counsel for all sides present. Dfts Hirsh & Myers not taking part in jury selection- approved by the court. (Toritto, James) (Entered: 10/13/1999)

09/20/1999 294 LETTER dated 9/17/99 from Nicole Anderson to Joel Strauss re: enclosing motion in limine and memorandum in support of motion in support by BDO. (Toritto, James) (Entered: 09/27/1999)

09/24/1999 295 MOTION by BDO Seidman, LLP in limine , Motion hearing (Toritto, James) (Entered: 09/28/1999)

09/24/1999 296 MEMORANDUM by BDO Seidman, LLP in support of [295-1] motion in limine (Toritto, James) (Entered: 09/28/1999)

09/24/1999 297 MEMORANDUM by Wayne Alexander, Andrew Merson in opposition to [295-1] motion in limine (Toritto, James) (Entered: 09/28/1999)

09/24/1999 305 Proposed Voir dire questions by Wayne Alexander, Andrew Merson (Toritto, James) (Entered: 10/13/1999)

09/24/1999 306 AFFIDAVIT OF SERVICE by Mary Aranas on behalf of Wayne Alexander, Andrew

Merson Re: [305-1] voir dire jury (Toritto, James) (Entered: 10/14/1999)

- 09/25/1999 298 MEMORANDUM DECISION AND ORDER that the Order of the United States Magistrate Judge Arlene R. Lindsay, dated on 4/15/99, denying the pltf's motion to compel, is affirmed in all respects. (signed by Judge Arthur D. Spatt, on 9/25/99) c/m (Toritto, James) (Entered: 09/28/1999)
- 09/27/1999 304 Calendar entry: Before Judge Spatt on 9/27/99 at 9:00 a.m. Civil cause for jury selection. Case called. Counsel for all sides present. Edward Gallion not present. Court will hold an inquest. Mag. Pohorelsky's law clerk to select jury. (Toritto, James) (Entered: 10/13/1999)
- 09/27/1999 -- Jury trial set at 9:00 10/6/99 on before Judge Arthur D. Spatt (Toritto, James) (Entered: 10/13/1999)
- 09/30/1999 332 LETTER dated 9/29/99 from Jeffrey Zwerling to Judge Spatt re: entry of judgment (Talbot, Thomas) (Entered: 11/29/1999)
- 10/01/1999 302 TRIAL BRIEFS by BDO Seidman, LLP (Toritto, James) (Entered: 10/05/1999)
- 10/06/1999 -- Jury trial held (Branciforte, Ralph) (Entered: 10/14/1999)
- 10/06/1999 307 Calendar entry: Before USDJ Spatt on 10/6/99 @ 10:30 AM. Civil Cause For Trial. Case called. Counsel for parties present. C/R Harry Rapaport and Owen Wicker. Jury sworn. Court's Preliminary Instructions. Opening statements heard. setting Jury trial for 10:30 10/7/99 before Judge Arthur D. Spatt (Branciforte, Ralph) (Entered: 10/14/1999)
- 10/06/1999 -- Jury selection held (Branciforte, Ralph) (Entered: 10/14/1999)
- 10/06/1999 -- Jury impaneled (Branciforte, Ralph) (Entered: 10/14/1999)
- 10/07/1999 -- Jury trial held (Branciforte, Ralph) (Entered: 10/14/1999)
- 10/07/1999 308 Calendar entry: Before USDJ Spatt on 10/7/99 @ 10:30 AM. Civil Cause For Trial. Case called. Counsel for parties present. C/R Owen Wicker and Harry Rapaport. Trial resumed. setting Jury trial for 10:30 10/12/99 before Judge Arthur D. Spatt (Branciforte, Ralph) (Entered: 10/14/1999)
- 10/13/1999 -- Jury trial held (Branciforte, Ralph) (Entered: 10/14/1999)
- 10/13/1999 309 Calendar entry: Before USDJ Spatt on 10/13/99 @ 10:00 AM. Civil Cause For Trial. Case called. Counsel for parties present. Trial resumes. setting Jury trial for 10:00 10/14/99 before Judge Arthur D. Spatt (Branciforte, Ralph) (Entered: 10/14/1999)
- 10/13/1999 321 TRANSCRIPT filed for jury trial for dates of 10/13/99 (Talbot, Thomas) (Entered: 10/28/1999)
- 10/14/1999 -- Jury trial held (Talbot, Thomas) (Entered: 10/27/1999)
- 10/14/1999 310 Calendar entry: before Judge Spatt on 10/14/99 at 10:00 for civil jury trial. Victor Moore Continued testified. Mei Ya Tsai sworn, testified. Fred Burnstein sworn, testified. set Jury trial for 9:30 10/18/99 before Judge Arthur D. Spatt Court Reporter/ESR Harry Rapaport (Talbot, Thomas) (Entered: 10/27/1999)
- 10/18/1999 -- Jury trial set at 9:30 10/19/99 on before Judge Arthur D. Spatt (Talbot, Thomas) (Entered: 10/27/1999)
- 10/18/1999 311 Calendar entry: on 10/18/99 at 9:30 before Judge Spatt for civil jury trial. Court Reporter/ESR Harry Rapaport. Fred Burnstein continues to testify. Jill Kurnich sworn testifies. Thomas Boyle sworn testifies. Virginia Bellrose sworn, testifies. (Talbot, Thomas) (Entered: 10/27/1999)

10/19/1999 -- Jury trial set at 9:30 10/20/99 on before Judge Arthur D. Spatt (Talbot, Thomas) (Entered: 10/27/1999)

10/19/1999 312 Calendar entry: before Judge Spatt on 10/19/99 at 9:30 for civil jury trial. Court Reporter/ESR Harry Rapaport. Donald Edward Martin sworn, testifies. Yvonne Hickey sworn, testifies. Luis Gomez sworn, testifies. (Talbot, Thomas) (Entered: 10/27/1999)

10/20/1999 -- Jury trial set at 9:00 10/21/99 on before Judge Arthur D. Spatt (Talbot, Thomas) (Entered: 10/28/1999)

10/20/1999 313 Calendar entry: before Judge Spatt on 10/20/99 at 9:30 for civil jury trial. Court Reporter/ESR Harry Rapaport. John Torkeson, sworn, testifies. Andrew Abue, sworn, testifies. Both sides rest. Jury to return 10/25/99. (Talbot, Thomas) (Entered: 10/28/1999)

10/21/1999 -- Jury trial set at 10:00 10/25/99 on before Judge Arthur D. Spatt (Talbot, Thomas) (Entered: 10/28/1999)

10/21/1999 314 Calendar entry: before Judge Spatt on 10/21/99 at 9:00 for civil jury trial. Court Reporter/ESR Harry Rapaport. Jury not present. Court holds pre-summation charge conference. Conference to continue on 10/22/99 at 1:30. (Talbot, Thomas) (Entered: 10/28/1999)

10/22/1999 315 Calendar entry: before Judge Spatt on 10/22/99 at 1:30 for civil jury trial. Court Reporter/ESR Harry Rapaport. Jury not present. Pre-summation charge conf. continued. Conference to continue on 10/25/99 at 8:00 a.m. (Talbot, Thomas) (Entered: 10/28/1999)

10/25/1999 -- Jury trial set at 9:30 10/26/99 on before Judge Arthur D. Spatt (Talbot, Thomas) (Entered: 10/28/1999)

10/25/1999 316 Calendar entry: before Judge Spatt on 10/25/99 at 8:00 for civil jury trial. Court Reporter/ESR Harry Rapaport. Pre-summation charge conf. continued. Plas summations. Dfts sumations. Plas rebuttal summations. Court charges jury. Clerk sworn. Jury commences deliberations. (Talbot, Thomas) (Entered: 10/28/1999)

10/26/1999 317 Order of sustenance for 9 jurors, 1 Deputy Clerk (Signed by Judge Arthur D. Spatt, on 10/26/99) (Talbot, Thomas) (Entered: 10/28/1999)

10/26/1999 318 TRANSCRIPT filed for jury trial for dates of 10/6/99 (Talbot, Thomas) (Entered: 10/28/1999)

10/26/1999 319 TRANSCRIPT filed for jury trial for dates of 10/7/99 (Talbot, Thomas) (Entered: 10/28/1999)

10/26/1999 320 TRANSCRIPT filed for jury trial for dates of 10/12/99 (Talbot, Thomas) (Entered: 10/28/1999)

10/26/1999 322 TRANSCRIPT filed for EBT of Drew Bergman for dates of 10/6/99 (Talbot, Thomas) (Entered: 10/28/1999)

10/26/1999 323 TRANSCRIPT filed for jury trial for dates of 10/14/99 (Talbot, Thomas) (Entered: 10/28/1999)

10/26/1999 324 TRANSCRIPT filed for jury trial for dates of 10/18/99 (Talbot, Thomas) (Entered: 10/28/1999)

10/26/1999 325 TRANSCRIPT filed for jury trial for dates of 10/19/99 (Talbot, Thomas) (Entered: 10/28/1999)

10/26/1999 326 TRANSCRIPT filed for jury trial for dates of 10/20/99 (Talbot, Thomas) (Entered: 10/28/1999)

- 10/28/1999)
- 10/26/1999 327 TRANSCRIPT filed for EBT of John Torkelsen for dates of 10/20/99 (Talbot, Thomas) (Entered: 10/28/1999)
- 10/26/1999 328 TRANSCRIPT filed for jury trial for dates of 10/21/99 (Talbot, Thomas) (Entered: 10/28/1999)
- 10/26/1999 329 Calendar entry: before Judge Spatt on 10/26/99 at 9:30 for civil jury trial. C/R Harry Rapaport. Jury deliberates. Jury reached a unanimous verdict in favor of the dfts and against plas. Jury excused. Court exhibits 1-6 attached. terminated past due deadlines (Talbot, Thomas) (Entered: 10/29/1999)
- 11/12/1999 330 Calendar entry: before Judge Spatt on 10/12/99 at 10:30 for civil jury trial. Court Reporter/ESR Harry Rapaport. Victor Moore sworn, testifies. (Talbot, Thomas) (Entered: 11/23/1999)
- 11/12/1999 331 Calendar entry: before Judge Spatt on 11/12/99 at 1:30 for civil settlement conference. terminated past due deadlines Court Reporter/ESR Ronald tolkin (Talbot, Thomas) (Entered: 11/29/1999)
- 12/10/1999 333 TRANSCRIPT filed for conference on date 11/12/99. C/R Ronald Tolkin 11/12/99 (Talbot, Thomas) (Entered: 12/14/1999)
- 12/17/1999 334 Calendar entry: Before Judge Spatt on 12/17/99 @ 9:30 am. Civil Cause for Telephone Status Conference. Case called. Counsel for all sides present. C/R: Ronald Tolkin. Letter from Mr. Zwerling dated 11/19/99 RE: expenses. Court directs that copies if all bills, detailed to be submitted to the court before the court will entertain Mr. Zwerling's application for expenses & fees. (fe) (Entered: 12/17/1999)
- 12/23/1999 340 STIPULATION OF SETTLEMENT WITH DREW BERGMAN (unsigned by Judge Arthur D. Spatt) (Talbot, Thomas) (Entered: 02/07/2000)
- 12/23/1999 341 STIPULATION OF SETTLEMENT WITH VIRGINIA BELLOISE (unsigned by Judge Arthur D. Spatt) (Talbot, Thomas) (Entered: 02/07/2000)
- 12/23/1999 342 LETTER dated 12/22/99 from Frederic Fox to Judge Spatt re: Documents attached are Stipulation with Drew Bergman, Stipulation with Virginia Belloise, Final Judgment as to Drew Bergman, Final Judgment as to Virginia Belloise, Notice Order, Notice of Partial Settlements of Class Action, Summary Notice. (Talbot, Thomas) (Entered: 02/07/2000)
- 01/03/2000 335 FINAL JUDGMENT AND ORDER OF PARTIAL DISMISSAL OF ACTION Court adopts all defined terms as set forth in Stipulation. Pursuant to Rule 23 Court approves Partial Settlement of Class Action set forth in Stipulation.(see document for rulings) (signed by Judge Arthur D. Spatt, on 1/3/00) c/m (Movant to serve all parties) , (Talbot, Thomas) (Entered: 01/06/2000)
- 01/03/2000 336 ORDER AWARDING REIMBURSEMENT OF EXPENSES Plas' counsel are awarded reimbursement of costs and disbursements of \$561,930.06 to be paid from Settlement Fund. Co-lead Counsel to distribute expense award among plas' counsel to reimburse counsel for expenses incurred. Jurisdiction reserved by this Court over all matters relating to award of attorneys' fees and reimbursement of expenses in litigation.(signed by Judge Arthur D. Spatt, on 1/3/99) c/m (Talbot, Thomas) (Entered: 01/06/2000)
- 01/22/2000 337 NOTICE ORDER, set settlement conference for 9:00 3/24/00 before Judge Arthur D. Spatt (signed by Judge Arthur D. Spatt, on 1/22/00) c/m (Talbot, Thomas) (Entered: 01/27/2000)
- 01/25/2000 338 DEFENDANTS' PROPOSED SPECIAL VERDICT SHEET (Talbot, Thomas) (Entered: 01/25/2000)

01/27/2000)

- 01/25/2000 339 PLAINTIFF'S REQUESTS TO CHARGE (Talbot, Thomas) (Entered: 01/27/2000)
- 02/07/2000 343 AFFIDAVIT by Giovanna Silvera on behalf of Wayne Alexander, Andrew Merson Re: service of 1/3/00 Judgment (Talbot, Thomas) (Entered: 02/08/2000)
- 03/10/2000 344 MEMORANDUM OF DECISION and ORDER denying [271-1] motion for summary judgment against dft Clifford Hotte, denying [280-1] motion for summary judgment, denying [262-1] motion for summary judgment. Based on the jury's verdict, the Clerk of the Court is directed to enter judgment in favor of the dft BDO Seidman, LLP on all claims. (signed by Judge Arthur D. Spatt, on 3/10/00) c/m (Talbot, Thomas) (Entered: 03/13/2000)
- 03/15/2000 345 AFFIDAVIT by Ellen Riley on behalf of Wayne Alexander, Andrew Merson Re: mailing of the Notice of Partial Settlement of Class Action and publication of [337-1] order set settlement conference for 9:00 3/24/00 before Judge Arthur D. Spatt (Talbot, Thomas) (Entered: 03/17/2000)
- 03/16/2000 347 Letter MOTION by Wayne Alexander, Andrew Merson to extend time/ adjourn the 3/24/00 conference (Talbot, Thomas) (Entered: 03/27/2000)
- 03/20/2000 346 PARTIAL JUDGMENT for BDO Seidman, LLP against Wayne Alexander. Plaintiff Wayne Alexander, on behalf of himself and all others similarly situated, take nothing of the dft BDO Seidman, LLP; the complaint is hereby dismissed as to dft BDO Seidman, LLP. (signed by Joseph DiTalia, Deputy Clerk-in-Charge, on 3/20/00) c/m , (Talbot, Thomas) (Entered: 03/21/2000)
- 03/23/2000 354 AFFIDAVIT of Fred S. Fox Re: In support of [352-1] judgment order, and partial settlement with Drew Bergman and in support of [350-1] judgment order and partial settlement with Virginia Belloise and Application for Fees and Expenses (Barhome, Sydelle) (Entered: 04/27/2000)
- 03/23/2000 355 MEMORANDUM in support Final Approval of the Proposed Partial Class Action Settlements and Application for Fees and Expenses (Barhome, Sydelle) (Entered: 04/27/2000)
- 03/23/2000 356 CERTIFICATE OF SERVICE, 3/23/00 upon dfts' counsel (Barhome, Sydelle) (Entered: 04/27/2000)
- 03/24/2000 -- Endorsed order granting [347-1] motion to extend time/ adjourn the 3/24/00 conference, reset settlement conference for 11:30 4/7/00 before Judge Arthur D. Spatt (Signed by Judge Arthur D. Spatt, on 3/24/00) c/m (Talbot, Thomas) (Entered: 03/27/2000)
- 03/28/2000 348 Proposed Bill of costs filed by BDO Seidman, LLP (Talbot, Thomas) (Entered: 03/28/2000)
- 04/05/2000 349 PLAINTIFFS' OBJECTIONS, PURSUANT TO LOCAL RULE 54.1(B) TO DEFENDANT BDO SEIDMAN'S BILL OF COSTS by Wayne Alexander, Andrew Merson in opposition to [348-1] proposed bill of costs (Talbot, Thomas) (Entered: 04/05/2000)
- 04/18/2000 350 Final JUDGMENT and Order of Partial Dismissal of Action as against Drew W. Bergman (signed by Judge Arthur D. Spatt , on 4/19/00) , (Barhome, Sydelle) (Entered: 04/27/2000)
- 04/18/2000 359 NOTICE OF APPEAL by Wayne Alexander Fee Paid \$ 105.00 Receipt # 231092 Notice of Appeal, certified copy of docket sheet and notice of appeal cover memo sent to USCA appealing [346-1] partial judgement and [344-1] memorandum and order. (Harper,

Karene) (Entered: 04/28/2000)

- 04/18/2000 360 Calendar entry: Before Judge Spatt on 4/18/00 at 9:10 a.m., civil cause for settlement conference. Counsel for all sides present. Settlement conf held. settlement placed on the record as to V. Bellvise and Drew Bergman Court approves settlement. Court signs order. Class plaintiffs application for \$78,000 in expenses and \$60,000 for fees is approved by the court with no opposition from counsel for Bellvise and Bergman. As to deft Dr. Hotte: default judgment with attached summary as to damages and requests. Copies to Mr. Hotte and his counsel with return date. Court Reporter/ESR Owen Wicker (Mahon, Cinthia) (Entered: 05/05/2000)
- 04/20/2000 351 CERTIFICATE OF SERVICE by Wayne Alexander, Andrew Merson of Final Judgement, 4/20/00 on Drew Bergman (Barhome, Sydelle) (Entered: 04/27/2000)
- 04/20/2000 352 Final JUDGMENT and Order of Partial Dismissal of Action against Virginia Belloise (signed by Judge Arthur D. Spatt , on 4/19/00) , (Barhome, Sydelle) (Entered: 04/27/2000)
- 04/20/2000 353 CERTIFICATE OF SERVICE by Wayne Alexander, Andrew Merson on 4/20/00 on Virginia Belloise (Barhome, Sydelle) (Entered: 04/27/2000)
- 04/20/2000 357 ORDER, dtd. 4/18/00: Awarding Attorneys' Fees and Reimbursement of Expenses Plifs' counsel are awarded attorneys' fees in the amount of \$60,000 and reimbursement of costs and disbursements expended and/or incurred in the total amount of \$78,000 to be paid and deducted from the Settlement Fund etc. Jurisdiction is hereby reserved by the court over all matters relating to the award of attorneys' fees and reimbursement of expenses in this litigation. (signed by Judge Arthur D. Spatt , on 4/18/00) (Barhome, Sydelle) (Entered: 04/27/2000)
- 04/20/2000 358 CERTIFICATE OF SERVICE, of Order Awarding Attorneys' Fees and Reimbursement of Expenses, on 4/20/00 (Barhome, Sydelle) (Entered: 04/27/2000)
- 04/28/2000 -- Notice of Appeal and Certified copy of docket sheet as to Wayne Alexander sent to USCA: [359-1] appeal (Harper, Karene) (Entered: 04/28/2000)
- 05/19/2000 361 LETTER dated 5/17/00 from Ira Greenberg to Judge Spatt re: parties have settled differences, BDO withdraws request for costs (Talbot, Thomas) (Entered: 05/25/2000)
- 05/22/2000 363 LETTER dated 5/17/00 from Ira Greenberg to Judge Spatt re: the parties have settles (Talbot, Thomas) (Entered: 05/30/2000)
- 05/25/2000 -- Endorsment [363-1] letter, the case is closed. (Signed by Judge Arthur D. Spatt, on 5/25/00) c/m (Talbot, Thomas) (Entered: 05/30/2000)
- 05/25/2000 -- Case closed (Talbot, Thomas) (Entered: 05/30/2000)
- 05/30/2000 362 USCA Scheduling Order: [359-1] appeal Appeal record due by 7/5/00 . USCA Number: 00-7524 Appellant's brief due 7/10/00. Appellee's brief due 8/9/00. Argument set for 9/18/00. *Pre-argument conference notice annexed, pre-argument conference scheduled for 6/16/00 at 10:00 a.m. (Harper, Karene) (Entered: 05/30/2000)
- 06/16/2000 364 MANDATE OF USCA (certified copy) that the plaintiff-appellant Wayne alexander, on behalf of himself and all others similarly situated, hereby withdraws his appeal to the U.S. Court of Appeals for the Second Circuit. Each party shall bear his/its own costs. Acknowledgment mailed to the USCA. Copy of mandate forwarded to chambers. (Mahon, Cinthia) (Entered: 06/21/2000)
- 02/20/2001 365 MOTION by Wayne Alexander for an Order of stipulation of Settlement directing distribution from the Net Settlement Fund to class members whose proofs of claim have

been accepted , Motion hearing [365-1] motion Motion file stamped: 2/20/01 (Barhome, Sydelle) (Entered: 02/22/2001)

- 02/20/2001 366 AFFIDAVIT by Wayne Alexander, Andrew Merson Re: In support of plfs' motion for an order approving the administrative determinations of the Claims Administrator, The Garden City Group etc. and in support of [365-1] motion for an Order of stipulation of Settlement directing distribution from the Net Settlement Fund to class members whose proofs of claim have been accepted (Barhome, Sydelle) (Entered: 02/22/2001)
- 02/20/2001 367 AFFIDAVIT of Ellen Riley for Wayne Alexander, Andrew Merson Re: [365-1] motion for an Order of stipulation of Settlement directing distribution from the Net Settlement Fund to class members whose proofs of claim have been accepted She mailed to 5,731 shareholders of record of Health Management Inc. to advise them of the Final Partial Settlement of the Litigation between the plfs and dfts Bergman and Beloise in this action. (Barhome, Sydelle) (Entered: 02/22/2001)
- 04/12/2001 368 ORDER granting [365-1] motion for an Order of stipulation of Settlement directing distribution from the Net Settlement Fund to class members whose proofs of claim have been accepted Court retains jurisdiction over any further application or matter which may arise in connection with this action (signed by Judge Arthur D. Spatt , on 4/10/01) (Barhome, Sydelle) (Entered: 04/12/2001)