

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:07-cv-07097-DLC**

Mally v. Qiao Xing Universal Telephone, Inc. et al

Date Filed: Aug. 09, 2007
Status: Closed
Nature of suit: 850 Securities/Commodities
Assigned to: [Judge Denise L. Cote](#)
Cause: 28:1331 Fed. Question: Securities Violation
Date terminated: Jul. 11, 2008
Jurisdiction: Federal Question
Jury demand: Plaintiff
Member cases: [1:07-cv-07252-DLC](#) *Pfeiffer v. Qiao Zing Universal Telephone, Inc. et al*
[1:07-cv-07312-DLC](#) *Fishman v. Qiao Xing Universal Telephone, Inc. et al*
[1:07-cv-07829-DLC](#) *Lapin v. Qiao Xing Universal Telephone, Inc. et al*
Referred to: Magistrate Judge Henry B. Pitman (Settlement)
Related cases: 1:07-cv-07252-DLC
1:07-cv-07312-DLC
1:07-cv-07393-AKH
1:07-cv-07829-DLC
1:07-cv-07693-DLC
1:07-cv-07312-DLC
1:07-cv-07252-DLC

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on behalf of himself and all others similarly situated

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Docket Proceedings [Reverse Proceedings](#)

Req #	Filed	#	Docket Text
1	Aug. 09, 2007	1	COMPLAINT against Qiao Xing Universal Telephone, Inc., Rui Lin Wu, Albert Leung. (Filing Fee \$ 350.00, Receipt Number 623354) Document filed by Lawrence Mally.(tro) Additional attachment(s) added on 8/10/2007 (Becerra, Maribel). (Entered: 08/10/2007)
2	Aug. 09, 2007		SUMMONS ISSUED as to Qiao Xing Universal Telephone, Inc., Rui Lin Wu, Albert Leung. (tro) (Entered: 08/10/2007)
3	Aug. 09, 2007		Magistrate Judge Henry B. Pitman is so designated. (tro) (Entered: 08/10/2007)
4	Aug. 09, 2007		Case Designated ECF. (tro) (Entered: 08/10/2007)
5	Aug. 20, 2007	2	ORDER: that a conference shall be held at 4:00 p.m. on 10/26/07 in Courtroom 11B, 500 Pearl Street before Judge Denise L. Cote to consider any motions for appointment of lead plaintiff and lead counsel and for consolidation. The named plaintiffs shall promptly serve a copy of this Order on each of the defendants. (Signed by Judge Denise L. Cote on 8/20/07) (db) (Entered: 08/21/2007)
6	Aug. 29, 2007		Case Designated ECF. (kco) (Entered: 08/30/2007)
7	Aug. 30, 2007	3	AFFIDAVIT OF SERVICE. Qiao Xing Universal Telephone, Inc. served on 8/16/2007, answer due 9/5/2007. Service was accepted by Andrew N. Bernstein, RA. Document filed by Lawrence Mally. (Fox, Frederic) (Entered: 08/30/2007)
8	Aug. 30, 2007	4	AFFIDAVIT OF SERVICE. Albert Leung served on 8/16/2007, answer due 9/5/2007. Service was accepted by Andrew N. Bernstein, RA. Document filed by Lawrence Mally. (Fox, Frederic) (Entered: 08/30/2007)

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9	Aug. 30, 2007	5	AFFIDAVIT OF SERVICE. Rui Lin Wu served on 8/16/2007, answer due 9/5/2007. Service was accepted by Andrew N. Bernstein, RA. Document filed by Lawrence Mally. (Fox, Frederic) (Entered: 08/30/2007)
10	Sep. 19, 2007	6	NOTICE OF APPEARANCE by Lily M. Fan on behalf of Qiao Xing Universal Telephone, Inc., Rui Lin Wu, Albert Leung (Fan, Lily) (Entered: 09/19/2007)
11	Sep. 20, 2007	7	NOTICE OF APPEARANCE by Jack C. Auspitz on behalf of Qiao Xing Universal Telephone, Inc., Rui Lin Wu, Albert Leung (Auspitz, Jack) (Entered: 09/20/2007)
12	Sep. 20, 2007	8	NOTICE OF APPEARANCE by Joel Charles Haims on behalf of Qiao Xing Universal Telephone, Inc., Rui Lin Wu, Albert Leung (Haims, Joel) (Entered: 09/20/2007)
13	Oct. 03, 2007	9	STIPULATION AND ORDER: It is hereby stipulated, by and between the undersigned counsel for the parties herein, that after the Court enters an order consolidating this action with any related securities class actions, appointing lead plaintiff and lead plaintiff's counsel, defendants counsel will confer with the Court-Appointed lead counsel regarding the schedule for the filing of a consolidated amended complaint, and for the filing of defendants' response to the complaint. Defendants will not be required to answer or otherwise respond to the complaint filed on August 9, 2007 in this matter. By entering into this stipulation, Albert Leung does not waive defenses to service of process or jurisdiction and Plaintiff maintains that service of process was duly and properly made upon all defendants in this action and does not concede any defenses to service of process or jurisdiction. So Ordered. (Signed by Judge Denise L. Cote on 10/3/07) (js) (Entered: 10/03/2007)
14	Oct. 09, 2007	10	NOTICE of Motion. Document filed by Joseph Mustachia. (Attachments: # 1 Memorandum of Law in Support of Mr. Joseph Mustachia's Motion for Consolidation, Appointment as Lead Plaintiff, and Approval of Lead Plaintiff's Selection of Lead Counsel# 2 Declaration of Gustavo Bruckner in Support of Mr. Joseph Mustachia's Motion for Consolidation, Appointment as Lead Plaintiff, and Approval of Lead Plaintiff's Selection of Lead Counsel# 3 Declaration of Service)(Bruckner, Gustavo) (Entered: 10/09/2007)
15	Oct. 09, 2007	11	MOTION to Consolidate Cases 1:07-cv-7097, 1:07-cv-7252, 1:07-cv-7312, 1:07-cv-7693, and 1:07-cv-7829 , to be Appointed Lead Plaintiff, and for Approval of Its Selection of Lead Counsel and Liaison Counsel. Document filed by PELO a.s.. (Attachments: # 1 Text of Proposed Order)(Kennedy, Thomas) (Entered: 10/09/2007)
16	Oct. 09, 2007	12	MEMORANDUM OF LAW in Support re: 11 MOTION to Consolidate Cases 1:07-cv-7097, 1:07-cv-7252, 1:07-cv-7312, 1:07-cv-7693, and 1:07-cv-7829 , to be Appointed Lead Plaintiff, and for Approval of Its Selection of Lead Counsel and Liaison Counsel.. Document filed by PELO a.s.. (Kennedy, Thomas) (Entered: 10/09/2007)
17	Oct. 09, 2007	13	DECLARATION of Brian P. Murray in Support re: 11 MOTION to Consolidate Cases 1:07-cv-7097, 1:07-cv-7252, 1:07-cv-7312, 1:07-cv-7693, and 1:07-cv-7829 , to be Appointed Lead Plaintiff, and for Approval of Its Selection of Lead Counsel and Liaison Counsel.. Document filed by PELO a.s.. (Attachments: # 1 Exhibit A# 2 Exhibit B# 3 Exhibit C# 4

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			Exhibit D)(Kennedy, Thomas) (Entered: 10/09/2007)
<u>18</u>	Oct. 09, 2007	14	MOTION to Appoint Macomb County Employees Retirement System to serve as lead plaintiff(s). Document filed by Macomb County Employees Retirement System. (Attachments: # 1 Text of Proposed Order)(Alba, Mario) (Entered: 10/09/2007)
<u>19</u>	Oct. 09, 2007	15	MEMORANDUM OF LAW in Support re: 14 MOTION to Appoint Macomb County Employees Retirement System to serve as lead plaintiff(s).. Document filed by Macomb County Employees Retirement System. (Alba, Mario) (Entered: 10/09/2007)
<u>20</u>	Oct. 09, 2007	16	DECLARATION of Mario Alba Jr. in Support re: 14 MOTION to Appoint Macomb County Employees Retirement System to serve as lead plaintiff(s).. Document filed by Macomb County Employees Retirement System. (Attachments: # 1 Exhibit A - notice# 2 Exhibit B - loss chart# 3 Exhibit C - certification# 4 Exhibit D - firm resume)(Alba, Mario) (Entered: 10/09/2007)
<u>21</u>	Oct. 09, 2007	17	MOTION to Consolidate Cases. Document filed by James B Balaban.(Lieberman, Jeremy) (Entered: 10/09/2007)
<u>22</u>	Oct. 09, 2007	18	RESPONSE in Support re: 17 MOTION to Consolidate Cases.. Document filed by James B Balaban. (Lieberman, Jeremy) (Entered: 10/09/2007)
<u>23</u>	Oct. 09, 2007	19	MOTION to Appoint Lawrence Mally and Larry Tracy to serve as lead plaintiff(s) and Approval of Lead Plaintiffs' Choice of Lead Counsel. Document filed by Larry Tracy, Lawrence Mally.(Campisi, Jeffrey) (Entered: 10/09/2007)
<u>24</u>	Oct. 09, 2007	20	MEMORANDUM OF LAW in Support re: 19 MOTION to Appoint Lawrence Mally and Larry Tracy to serve as lead plaintiff(s) and Approval of Lead Plaintiffs' Choice of Lead Counsel.. Document filed by Lawrence Mally, Larry Tracy. (Campisi, Jeffrey) (Entered: 10/09/2007)
<u>25</u>	Oct. 09, 2007	21	DECLARATION of Jeffrey P. Campisi in Support re: 19 MOTION to Appoint Lawrence Mally and Larry Tracy to serve as lead plaintiff(s) and Approval of Lead Plaintiffs' Choice of Lead Counsel.. Document filed by Lawrence Mally, Larry Tracy. (Attachments: # 1 Exhibit A thru D# 2 Exhibit E)(Campisi, Jeffrey) (Entered: 10/09/2007)
<u>26</u>	Oct. 10, 2007	22	AFFIDAVIT OF SERVICE of Notice of Motion, Memorandum of Law and Proposed Order served on all counsel on October 10, 2007. Service was made by Mail. Document filed by James B Balaban. (Lieberman, Jeremy) (Entered: 10/10/2007)
<u>27</u>	Oct. 15, 2007	23	RESPONSE to Motion re: 11 MOTION to Consolidate Cases 1:07-cv-7097, 1:07-cv-7252, 1:07-cv-7312, 1:07-cv-7693, and 1:07-cv-7829 , to be Appointed Lead Plaintiff, and for Approval of Its Selection of Lead Counsel and Liaison Counsel. Defendants Responses to Motions for Appointment of Lead Plaintiff and Consolidation. Document filed by Qiao Xing Universal Telephone, Inc., Rui Lin Wu, Albert Leung. (Fan, Lily) (Entered: 10/15/2007)
<u>28</u>	Oct. 22, 2007	24	RESPONSE to Motion re: 14 MOTION to Appoint Macomb County Employees Retirement System to serve as lead plaintiff(s)., 17 MOTION to Consolidate Cases., 11 MOTION to Consolidate Cases 1:07-cv-7097, 1:07-cv-7252, 1:07-cv-7312, 1:07-cv-7693, and 1:07-cv-7829 , to be Appointed Lead Plaintiff, and for Approval of Its Selection of Lead Counsel and Liaison Counsel., 19 MOTION to Appoint Lawrence Mally and Larry

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			Tracy to serve as lead plaintiff(s) and Approval of Lead Plaintiffs' Choice of Lead Counsel. Notice of Withdrawal of Mr. Joseph Mustachia's Motion for Consolidation, Appointment as Lead Plaintiff, and Approval of Lead Plaintiff's Selection of Lead Counsel. Document filed by Joseph Mustachia. (Attachments: # 1 Declaration of Service)(Bruckner, Gustavo) (Entered: 10/22/2007)
29	Oct. 23, 2007	25	ENDORSED LETTER addressed to Judge Denise L. Cote from David A. Rosenfeld dated 10/22/2007 re: Macomb County Employees Retirement System in light of the fact that the motions will not be fully briefed by Friday, we respectfully request that the Court adjourn the conference until after November 5, 2007, by which time the motion will have been fully briefed. ENDORSEMENT: Denied. The Conference will proceed as scheduled. Counsel will have an opportunity to be heard on pending motions. (Signed by Judge Denise L. Cote on 10/23/2007) (jmi) (Entered: 10/24/2007)
30	Oct. 24, 2007		CASE ACCEPTED AS RELATED. Create association to 1:07-cv-07252-DLC. (laq) (Entered: 10/24/2007)
31	Oct. 24, 2007		CASE ACCEPTED AS RELATED. Create association to 1:07-cv-07312-DLC. (laq) (Entered: 10/24/2007)
32	Oct. 24, 2007		CASE ACCEPTED AS RELATED. Create association to 1:07-cv-07393-AKH. (laq) (Entered: 10/24/2007)
33	Oct. 24, 2007		CASE ACCEPTED AS RELATED. Create association to 1:07-cv-07829-DLC. (laq) (Entered: 10/24/2007)
34	Nov. 01, 2007	26	ORDER: 1. The actions listed on the annexed schedule are consolidated for all purposes pursuant to Rule 42(a), fed. R. Civ. P. They shall be referred to collectively as In re Qiao Xing Securities Litigation, Master File No. 07-Civ- 7097. All other provisions as set forth in this order. (Signed by Judge Denise L. Cote on 11/1/07) Filed In Associated Cases: 1:07-cv-07097-DLC, 1:07-cv-07252-DLC, 1:07-cv-07312-DLC, 1:07-cv-07829-DLC(js) (Entered: 11/01/2007)
35	Nov. 01, 2007	27	ORDER: For the reasons stated on the record at a hearing on October 26, 2007, it is hereby ordered that PELO a.s. is appointed Lead Plaintiff for the putative Class in this consolidated action. It is further ordered that PELO's selection of Murray, Frank & Sailer LLP. as Lead Counsel for the class is approved. It is further ordered that Lead Plaintiff shall file a consolidated complaint on or before January 11, 2008. It is further ordered that any motion to dismiss the consolidated complaint must be filed on or before February 8, 2008; any opposition to the motion is due February 22, 2008; any reply is due February 29, 2008. It is further ordered that plaintiff Lawrence Mally may submit briefing as to whether an additional named plaintiff is necessary in order to ensure that the interests of those who traded in Qiao Xing universal Telephone, Inc. options, rather than common stock, are adequately represented. Such briefing may be filed on or before November 16, 2007; any opposition is due November 30, 2007; any reply is due December 7, 2007. it is further ordered that, at the time reply briefs are served in connection with either of the motions discussed above, the moving party shall provide Chambers with two courtesy copies of all motion papers. So Ordered. (Signed by Judge Denise L. Cote on 11/1/07) (js) (Entered: 11/01/2007)

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36	Nov. 07, 2007	28	TRANSCRIPT of proceedings held on 10/26/07 before Judge Denise L. Cote. (db) (Entered: 11/07/2007)
37	Nov. 16, 2007	29	BRIEF of Plaintiff Lawrence Mally Concerning Representation of Qiao Xing Universal Telephone, Inc. Options Traders. Document filed by Lawrence Mally.(Campisi, Jeffrey) (Entered: 11/16/2007)
38	Nov. 19, 2007	30	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for Settlement. Referred to Magistrate Judge Henry B. Pitman. (Signed by Judge Denise L. Cote on 11/19/07) Filed In Associated Cases: 1:07-cv-07097-DLC, 1:07-cv-07252-DLC, 1:07-cv-07312-DLC, 1:07-cv-07829-DLC(tro) (Entered: 11/19/2007)
39	Nov. 19, 2007	31	ORDER that the parties contact the Magistrate Judge Pitman to arrange for settlement discussions are to take place prior to January 11, 2008. SO ORDERED. (Signed by Judge Denise L. Cote on 11/19/2007) (jmi) (Entered: 11/20/2007)
40	Dec. 17, 2007	32	ORDER: Plaintiff's Consolidated Amended Complaint shall now be filed by 2/1/08. Defendants' answer or motion to dismiss now due 2/29/08. Plaintiffs' response now due 3/14/08. Any reply due by 3/21/08. Qiao Xing Universal Telephone, Inc. answer due 2/29/2008; Rui Lin Wu answer due 2/29/2008; Albert Leung answer due 2/29/2008; Qiao Zing Universal Telephone, Inc. answer due 2/29/2008; Sonny Kwok Wing Hung answer due 2/29/2008; Ze Yun Mu answer due 2/29/2008; Yi Hong Zhang answer due 2/29/2008; Grobstein, Horwath & Company, LLP answer due 2/29/2008; Wu Rui Lin answer due 2/29/2008; Wu Zhi-Yang answer due 2/29/2008. (Admissions due by 2/1/2008. Motions due by 2/29/2008. Responses due by 3/14/2008. Replies due by 3/21/2008.) (Signed by Judge Denise L. Cote on 12/17/07) Filed In Associated Cases: 1:07-cv-07097-DLC, 1:07-cv-07252-DLC, 1:07-cv-07312-DLC, 1:07-cv-07829-DLC(db) (Entered: 12/17/2007)
41	Jan. 17, 2008	33	ORDER the submission in support of preliminary approval of the settlement is due 2/15/08. So Ordered. (Signed by Judge Denise L. Cote on 1/17/08) Filed In Associated Cases: 1:07-cv-07097-DLC, 1:07-cv-07252-DLC, 1:07-cv-07312-DLC, 1:07-cv-07829-DLC(jco) (Entered: 01/17/2008)
42	Feb. 14, 2008	34	ENDORSED LETTER addressed to Judge Denise L. Cote from Jack C. Auspitz dated 2/13/2008 re: Requesting a brief five business day adjournment of the February 15, 2008 deadline for plaintiffs to make a submission in support of preliminary approval of the proposed settlement. ENDORSEMENT: Granted. (Signed by Judge Denise L. Cote on 2/14/2008) (jpo) (Entered: 02/15/2008)
43	Feb. 25, 2008	35	FILING ERROR - ELECTRONIC FILING OF NON-ECF DOCUMENT - SETTLEMENT AGREEMENT (Stipulation of Settlement). Document filed by PELO a.s.. (Attachments: # 1 Exhibit Exhibit A - Preliminary Order, # 2 Exhibit Exhibit B - Notice, # 3 Exhibit Exhibit C - Proof of Claim, # 4 Exhibit Exhibit D - Summary Notice, # 5 Exhibit Exhibit E - Final Approval Order and Judgment)(Linkh, Gregory) Modified on 2/26/2008 (jar). (Entered: 02/25/2008)
44	Feb. 25, 2008	36	MOTION for Settlement Moton for Preliminary Approval of Settlement. Document filed by PELO a.s..(Linkh, Gregory) (Entered: 02/25/2008)

Req #	Filed	#	Docket Text
45	Feb. 25, 2008	37	FILING ERROR - DEFICIENT DOCKET ENTRY - MEMORANDUM OF LAW in Support re: 36 MOTION for Settlement Moton for Preliminary Approval of Settlement.. Document filed by PELO a.s. (Attachments: # 1 Affidavit Declaration of Gregory B. Linkh)(Linkh, Gregory) Modified on 2/26/2008 (jar). (Entered: 02/25/2008)
46	Feb. 26, 2008		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - NON-ECF DOCUMENT ERROR. Note to Attorney Gregory Linkh to E-MAIL Document No. 35 Stipulation of Settlement to orders_and_judgments@nysd.uscourts.gov. This document is not filed via ECF. (jar) (Entered: 02/26/2008)
47	Feb. 26, 2008		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - DEFICIENT DOCKET ENTRY ERROR. Note to Attorney Gregory Linkh to RE-FILE Document 37 Memorandum of Law in Support of Motion. ERROR(S): Each Supporting document must be filed individually. Event code for Declaration in Support found under Replies, Oppositions, Supporting Documents. (jar) (Entered: 02/26/2008)
48	Feb. 26, 2008	38	DECLARATION of Gregory B. Linkh in Support re: 36 MOTION for Settlement Moton for Preliminary Approval of Settlement.. Document filed by PELO a.s.. (Linkh, Gregory) (Entered: 02/26/2008)
49	Mar. 17, 2008	40	TRANSCRIPT of proceedings held on 3/5/2008 before Judge Denise L. Cote. (jp) (Entered: 03/17/2008)
50	Mar. 18, 2008	41	TRANSCRIPT of proceedings held on 3/5/2008 before Judge Denise L. Cote. (jp) (Entered: 03/18/2008)
51	Apr. 02, 2008	42	PRELIMINARY ORDER FOR NOTICE AND HEARING IN CONNECTION WITH SETTLEMENT PROCEEDINGS granting (36) Motion for Settlement in case 1:07-cv-07097-DLC. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court hereby preliminarily certifies, for purposes of effectuating this Settlement, a class of all person as further set forth in this Order. Lead Plaintiff is certified as the class representative on behalf of the Settlement Class and Lead Counsel, Murray, Frank & Sailer LLP, is hereby appointed Lead Counsel for the Settlement Class. A hearing in the Action will be hold before this Court on July 11, 2008, at 3:00 pm, at the Daniel Patrick Moynihan Courthouse, 500 Pearl Street, Courtroom 11B, New York, NY ("The Fairness Hearing"). On or before April 11, 2008, Lead Counsel will cause the Notice and Proof of Claim to be mailed by first class mail, postage prepaid, to each Settlement Class Member whose identity and address can be determined with reasonable efforts by Lead Counsel. Lead Counsel is authorized to establish a Notice and Administration Fund of up to \$100,000 out of the Settlement Fund to cover the costs of notice and related settlement administrative expenses. Plaintiff shall submit in the memoranda in support of 1) final approval of the proposed settlement and plan of allocation, and 2) an award of attorneys' fees and reimbursement of expenses, along with any accompanying documentation, on or before June 30, 2008. (Signed by Judge Denise L. Cote on 4/2/08) Filed In Associated Cases: 1:07-cv-07097-DLC, 1:07-cv-07252-DLC, 1:07-cv-07312-DLC, 1:07-cv-07829-DLC(tro) (Entered: 04/03/2008)
52	Apr. 08, 2008	43	UNSIGNED STIPULATION AND ORDER OF SETTLEMENT, submitted pursuant to Rule 23(e) of the Federal Rules of Civil Procedure

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			and Rule 408 of the Federal Rules of Evidence, is made and entered into by and among the Lead Plaintiff, and Defendants. The Settling Parties intend this Stipulation to fully, finally and forever resolve, discharge, dismiss and settle the Released Claims upon and subject to the terms and conditions set forth herein, subject to approval of the Court. (Judge Denise L. Cote) (jmi) (Entered: 04/09/2008)
53	Apr. 09, 2008	44	SETTLEMENT AGREEMENT Statement Pursuant to Fed. R. Civ. P. 23(e)(3). Document filed by Qiao Xing Universal Telephone, Inc., Rui Lin Wu.(Fan, Lily) (Entered: 04/09/2008)
54	Jun. 30, 2008	45	BRIEF in Support of Class Certification and Final Approval of the Settlement and Plan of Allocation. Document filed by PELO a.s..(Linkh, Gregory) (Entered: 06/30/2008)
55	Jun. 30, 2008	46	BRIEF re: 45 Brief in Support of Application for an Award of Attorneys' Fees and Reimbursement of Costs and Expenses. Document filed by PELO a.s.. (Attachments: # 1 Affidavit Affidavit of Charlene Young, # 2 Supplement Declaration of Brian P. Murray)(Linkh, Gregory) (Entered: 06/30/2008)
56	Jul. 09, 2008	47	MEMORANDUM OF LAW in Support / Defendants' Memorandum of Law in Support of Final Approval of the Settlement. Document filed by Qiao Xing Universal Telephone, Inc., Rui Lin Wu, Albert Leung. (Haims, Joel) (Entered: 07/09/2008)
57	Jul. 11, 2008	48	FINAL APPROVAL ORDER AND JUDGMENT settling action. (Signed by Judge Denise L. Cote on 7/11/08) (Attachments: # 1 notice of right to appeal)Filed In Associated Cases: 1:07-cv-07097-DLC, 1:07-cv-07252-DLC, 1:07-cv-07312-DLC, 1:07-cv-07829-DLC(ml) (Entered: 07/14/2008)
58	Aug. 05, 2008	49	TRANSCRIPT of proceedings held on 7/11/08 before Judge Denise L. Cote. (ama) (Entered: 08/05/2008)