

PS

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MICHAEL ALLEN,

Plaintiff,

-v-

13-CV-718-LJV(HKS)

KEANEN, Lieutenant, et al.,

Defendants

DECISION AND ORDER

Plaintiff has filed a *pro se* complaint under 42 U.S.C. § 1983 and has requested appointment of counsel pursuant to 28 U.S.C. § 1915(e)(1). Dkt. No. 50. Defendant Johnson has filed an Affidavit in Opposition in which the remaining Defendants join. Dkt. Nos. 57, 63, 68. This Court is required to see that all litigants receive proper representation of counsel under the criteria set forth in *Cooper v. A. Sargenti Co.*, 877 F.2d 170 (2d Cir. 1989), and *Hodge v. Police Officers*, 802 F.2d 58 (2d Cir. 1986). In addition, courts have the inherent authority to assign counsel to represent private indigent litigants. See *In re Smiley*, 36 N.Y.2d 433, 438 (1975).

Additionally, each lawyer — especially those who are admitted to practice in federal court and who are therefore in a position to reap the benefits of such practice — has a professional obligation to provide *pro bono* services for the poor. See New York Rules of Professional Conduct, Rule 6.1. In addition, Rule 83.1(f) of the Local Rules of Civil Procedure provides as follows:

Every member of the bar of this Court who maintains, or whose firm maintains, an office in this District, shall be available upon the Court's request for appointment to represent or assist in the representation of indigent parties. Appointments under this Rule shall be made in a manner such that no Member shall be requested to accept more than one appointment during any twelve-month period.

It is in this spirit that the Court assigns Parker R. MacKay, Esq., The Law Office of Parker R. MacKay, 3110 Delaware Avenue, Kenmore, New York 14217, *pro bono*, to faithfully and diligently represent plaintiff in this case. Mr. MacKay has been advised of and has accepted the appointment as *pro bono* counsel in this matter

The Clerk of the Court is directed to copy that portion of the file in this matter that is not currently available through PACER on the Court's Case Management/Electronic Case Filing System and send it to Parker R. MacKay, together with a copy of this order and the Guidelines Governing Reimbursement from the District Court Fund of Expenses Incurred by Court Appointed Counsel.¹ The Chief Judge of the Court will also issue an Order directing PACER to waive its fees so *pro bono* counsel can access and print at no cost to him or his firm any other documents filed herein that he may need.

Judge Vilardo has rendered a decision on Defendants' Motion for Summary Judgment (Dkt. No. 51), and all of the Defendants have retained counsel (Dkt. Nos. 58-62, 64-67). Therefore, this case appears ready for trial. Such trial may be conducted before Judge Vilardo or, if all of the parties consent, before the undersigned.

¹This information and the forms are also available on the Court's web site at the Attorney Information link from the home page located at: <http://www.nywd.uscourts.gov/pro-bono-program-district-court-fund>.

The attorneys for the parties are directed to contact the Court by **December 17, 2019** to request a date for a status conference to discuss further proceedings in the case.

SO ORDERED.

DATED: Buffalo, New York
November 13, 2019

s/ H. Kenneth Schroeder, Jr.
H. KENNETH SCHROEDER, JR.
United States Magistrate Judge