

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

ROY DEN HOLLANDER,
Plaintiff,

v.

DEBORAH SWINDELLS DONOVAN,
PAUL W. STEINBERG, and
JANE DOE,
Defendants.

Civil Action No. 08-cv-4045 (FB)(ECF)

Notice of Appeal

10-1140

FILED
CLERK
2010 MAR 31 AM 9:55
U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

Notice is given that Roy Den Hollander, an attorney appearing *pro se*, in the above named case, appeals to the United States Court of Appeals for the Second Circuit from a Memorandum and Order—as it pertains to only defendant Steinberg—dismissing with prejudice the plaintiff's copyright infringement Complaint entered in this action on the 11th day of March 2010.

** The Memorandum and Order was*

** Roy Den Hollander*

Dated: New York, N.Y.
March 30, 2010

Roy Den Hollander

Roy Den Hollander (RDH 1957)
Attorney and *pro se* plaintiff
545 East 14 Street
New York, NY 10009
(917) 687 0652
rdhhh@yahoo.com

2010 MAR 31 PM 4:30
U.S. COURT OF APPEALS

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Court Name: Eastern District of New York
Division: 1
Receipt Number: 4653013126
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Transaction Date: 03/31/2010
Payer Name: ROY DEN HOLLANDER

NOTICE OF APPEAL/DOCKETING FEE
For: ROY DEN HOLLANDER
Case/Party: D-NYE-1-08-CV-004045-000
Amount: \$455.00

MONEY ORDER
Check/Money Order Num: 17496403176
Amt Tendered: \$455.00

Total Due: \$455.00
Total Tendered: \$455.00
Change Amt: \$0.00

APPEAL, NPROSE

**U.S. District Court
Eastern District of New York (Brooklyn)
CIVIL DOCKET FOR CASE #: 1:08-cv-04045-FB-LB
Internal Use Only**

Hollander v. Donovan et al
Assigned to: Senior Judge Frederic Block
Referred to: Magistrate Judge Lois Bloom
Cause: 17:101 Copyright Infringement

Date Filed: 10/03/2008
Date Terminated: 03/11/2010
Jury Demand: None
Nature of Suit: 820 Copyright
Jurisdiction: Federal Question

Plaintiff

Roy Den Hollander

represented by **Roy Den Hollander**
545 East 14th Street
10D
New York, NY 10009
917-687-0652
Email: rdhhh@yahoo.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Roy Den Hollander
Roy Den Hollander Esq.
545 East 14th St, 10d
New York, NY 10009
917-687-0652
Fax: 212-995-5201
Email: rdhhh@yahoo.com
ATTORNEY TO BE NOTICED

V.

Defendant

Deborah Swindells Donovan

represented by **Diane Krebs**
Gordon & Rees LLP
One Liberty Plaza
23rd Floor
New York, NY 10006
212-201-6777
Fax: 212-201-6778
Email: dkrebs@gordonrees.com
ATTORNEY TO BE NOTICED

Joshua S. Hurwit
GORDON & REES LLP
90 Broad Street

23rd Floor
 New York, NY 10004
 212-269-5500
 Fax: 212-269-5505
 Email: jhurwit@gordonrees.com
ATTORNEY TO BE NOTICED

Defendant**Paul W. Steinberg**represented by **Paul W. Steinberg**

Attorney At Law
 14 East Fourth Street
 New York, NY 10012-1141
 212-529-5400/917-710-4328
 Email: PaulSteinberg@nysbar.com
 PRO SE

Defendant**Jane Doe**

Date Filed	#	Docket Text
10/03/2008	1	COMPLAINT against Deborah Swindells Donovan, Paul W. Steinberg, Jane Doe \$ 350, filed by Roy Den Hollander. (Attachments: # 1 Civil Cover Sheet) (Bowens, Priscilla) (Entered: 10/03/2008)
10/03/2008		Summons Issued as to Deborah Swindells Donovan, Paul W. Steinberg, Jane Doe. (Bowens, Priscilla) (Entered: 10/03/2008)
10/23/2008	2	SUMMONS Returned Executed by Roy Den Hollander. Deborah Swindells Donovan served on 10/17/2008, answer due 11/6/2008; Paul W. Steinberg served on 10/21/2008, answer due 11/10/2008. (Den Hollander, Roy) (Entered: 10/23/2008)
11/06/2008	3	NOTICE of Appearance by Diane Krebs on behalf of Deborah Swindells Donovan (aty to be noticed) (Krebs, Diane) (Entered: 11/06/2008)
11/06/2008	4	Letter <i>requesting pre-motion conference</i> by Deborah Swindells Donovan (Krebs, Diane) (Entered: 11/06/2008)
11/13/2008	6	Letter dated 11/11/2008 from Paul W. Steinberg, Esq., requesting the Court's information re: electronic filing in the Eastern District, etc. W/Attachment. (<i>Forwarded to Chambers</i>) (Latka-Mucha, Wieslawa) (Entered: 11/21/2008)
11/13/2008	7	Letter MOTION for a pre-motion conference <i>in order to permit the undersigned to file a motion to dismiss; filed</i> by Paul W. Steinberg, Esq., dated 11/11/2008. (Latka-Mucha, Wieslawa) (Entered: 11/21/2008)
11/18/2008	5	Letter dated 11/07/2008 from Roy Den Hollander to Judge Block informing that he is representing himself and will oppose motion to dismiss. (Lagana, Michael) (Entered: 11/18/2008)

11/20/2008	●	Magistrate Judge Lois Bloom added. Magistrate Judge Cheryl L. Pollak no longer assigned to case. Case in Pro Se. (Marziliano, August) (Entered: 11/20/2008)
11/20/2008	●	(Court only) ** Non Prisoner ProSe Flag Set (Marziliano, August) (Entered: 11/20/2008)
11/26/2008	●	Motions terminated, docketed incorrectly: THIS IS NO A FORMAL MOTION, BUT RATHER A LETTER APPLICATION FOR A PRE-MOTION CONFERENCE. 7 Letter MOTION for pre motion conference filed by Paul W. Steinberg. (Innelli, Michael) (Entered: 11/26/2008)
11/26/2008	● 8	SCHEDULING ORDER: A pre motion conference is schedule for February 6, 2009 @ 11AM. There will be no formal order mailed to counsel. Upon receipt of this email counsel shall confirm with each other the date and time of this conference. If this date presents a conflict counsel shall first obtain the consent from all the parties to adjourn this conference, and then notify the Court which conducts these conference on Fridays at 11AM. Ordered by Senior Judge Frederic Block on 11/26/08. (Innelli, Michael) (Entered: 11/26/2008)
02/06/2009	●	Minute Entry for proceedings held before Senior Judge Frederic Block: Roy Hollander, Esq. pro se; Diane Krebs, Esq. for defendant Donovan and Paul Steinberg, Esq. pro se, all present. Pre Motion Conference held on 2/6/2009. Defendants anticiapted motions to dismiss discussed. The defendants will serve and ECF file their motions to dismiss according to J. Block's motion rules. (Court Reporter: Not Reported) (Innelli, Michael) (Entered: 02/06/2009)
02/17/2009	● 9	Letter dated 2/6/2009 from Roy Den Hollander to Judge Block regarding an answer to a deposition question (Lagana, Michael) (Entered: 02/17/2009)
02/19/2009	● 10	Letter to Judge Block advising the court of the briefing schedule by Deborah Swindells Donovan (Krebs, Diane) (Entered: 02/19/2009)
02/20/2009	● 11	Letter dated 2/10/2009 from Roy Den Hollander to Judge Block regarding the withdrawal of paragraphs from the complaint. (Lagana, Michael) (Entered: 02/20/2009)
03/02/2009	● 12	Supplemental COMPLAINT, filed by Roy Den Hollander. (Den Hollander, Roy) (Entered: 03/02/2009)
03/06/2009	● 13	AFFIDAVIT of Service for Supplemental Complaint served on Donovan and Steinberg on March 3, 2009, filed by Roy Den Hollander. (Den Hollander, Roy) (Entered: 03/06/2009)
03/11/2009	● 14	Letter to counsel of record enclosing Motion to Dismiss by Deborah Swindells Donovan (Krebs, Diane) (Entered: 03/11/2009)
03/28/2009	● 15	Letter to counsel of record enclosing Motion to Dismiss Opposition by Roy Den Hollander (Den Hollander, Roy) (Entered: 03/28/2009)
04/17/2009	● 16	Notice of MOTION to Dismiss by Deborah Swindells Donovan. (Krebs, Diane) (Entered: 04/17/2009)

04/17/2009	● <u>17</u>	MEMORANDUM in Support re <u>16</u> Notice of MOTION to Dismiss filed by Deborah Swindells Donovan. (Krebs, Diane) (Entered: 04/17/2009)
04/17/2009	● <u>18</u>	AFFIDAVIT/DECLARATION in Support re <u>16</u> Notice of MOTION to Dismiss filed by Deborah Swindells Donovan. (Attachments: # <u>1</u> Exhibit 1 - 6, # <u>2</u> Exhibit 7 - 18) (Krebs, Diane) (Entered: 04/17/2009)
04/17/2009	● <u>19</u>	Cross MOTION to Amend/Correct/Supplement <u>1</u> Complaint by Deborah Swindells Donovan. (Krebs, Diane) (Entered: 04/17/2009)
04/17/2009	● <u>20</u>	AFFIDAVIT/DECLARATION in Support re <u>19</u> Cross MOTION to Amend/Correct/Supplement <u>1</u> Complaint filed by Deborah Swindells Donovan. (Attachments: # <u>1</u> Exhibit) (Krebs, Diane) (Entered: 04/17/2009)
04/17/2009	● <u>21</u>	MEMORANDUM in Opposition re <u>16</u> Notice of MOTION to Dismiss filed by Deborah Swindells Donovan. (Attachments: # <u>1</u> Exhibit A - F) (Krebs, Diane) (Entered: 04/17/2009)
04/17/2009	● <u>22</u>	MEMORANDUM in Support of <i>Defendant's Motion to Dismiss and in Opposition to Plaintiff's Cross-Motion to File a Supplemental Complaint</i> filed by Deborah Swindells Donovan. (Krebs, Diane) (Entered: 04/17/2009)
04/17/2009	● <u>23</u>	AFFIDAVIT/AFFIRMATION re <u>22</u> Memorandum in Support by Deborah Swindells Donovan (Attachments: # <u>1</u> Exhibit 1-7) (Krebs, Diane) (Entered: 04/17/2009)
04/17/2009	● <u>24</u>	Letter to Judge Block enclosing courtesy copies of motion papers by Deborah Swindells Donovan (Krebs, Diane) (Entered: 04/17/2009)
05/13/2009	● <u>25</u>	NOTICE of Appearance by Joshua S. Hurwit on behalf of Deborah Swindells Donovan (aty to be noticed) (Hurwit, Joshua) (Entered: 05/13/2009)
11/19/2009	● <u>26</u>	MEMORANDUM AND ORDER: The Court hereby informs the parties that it intends to treat defendants motion to dismiss as a motion for summary judgment under Fed. R. Civ. P. 56. The parties shall submit to the Court all pertinent materials by December 18, 2009, including materials addressing whether the defendants use of plaintiffs works is protected under the fair use doctrine. There will be no formal order mailed to counsel. Ordered by Senior Judge Frederic Block on 11/19/2009. (Innelli, Michael) (Entered: 11/19/2009)
11/23/2009	● <u>27</u>	NOTICE by Deborah Swindells Donovan to <i>Pro Se Litigant Who Opposes a Rule 12 Motion Supported by Matters Outside the Pleadings</i> (Krebs, Diane) (Entered: 11/23/2009)
12/17/2009	● <u>28</u>	Notice of MOTION for Summary Judgment by Roy Den Hollander. Responses due by 12/18/2009 (Den Hollander, Roy) (Entered: 12/17/2009)
12/17/2009	● <u>29</u>	Cross MOTION for Summary Judgment by Roy Den Hollander. Responses due by 12/18/2009 (Den Hollander, Roy) (Entered: 12/17/2009)
12/17/2009	● <u>30</u>	Cross MOTION for Summary Judgment by Roy Den Hollander. Responses due by 12/18/2009 (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u>

		Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit, # <u>7</u> Exhibit, # <u>8</u> Exhibit, # <u>9</u> Exhibit, # <u>10</u> Exhibit, # <u>11</u> Exhibit) (Den Hollander, Roy) (Entered: 12/17/2009)
12/17/2009	● <u>31</u>	Cross MOTION for Summary Judgment by Roy Den Hollander. Responses due by 12/18/2009 (Den Hollander, Roy) (Entered: 12/17/2009)
12/17/2009	● <u>32</u>	Cross MOTION for Summary Judgment by Roy Den Hollander. Responses due by 12/18/2009 (Attachments: # <u>1</u> Certificate of Service) (Den Hollander, Roy) (Entered: 12/17/2009)
12/17/2009	● <u>33</u>	Cross MOTION for Summary Judgment by Roy Den Hollander. Responses due by 12/18/2009 (Attachments: # <u>1</u> Supplement) (Den Hollander, Roy) (Entered: 12/17/2009)
12/17/2009	● <u>34</u>	Cross MOTION for Summary Judgment by Roy Den Hollander. Responses due by 12/18/2009 (Den Hollander, Roy) (Entered: 12/17/2009)
12/18/2009	●	Motions terminated. MOTION ENTRY <u>28</u> IS STILL PENDING. THESE DOCUMENTS ARE NOT FORMAL MOTIONS, BUT RATHER DOCUMENTS IN SUPPORT OF THEIR MOTION, ENTRY <u>28</u> , docketed incorrectly: <u>32</u> Cross MOTION for Summary Judgment filed by Roy Den Hollander, <u>34</u> Cross MOTION for Summary Judgment filed by Roy Den Hollander, <u>31</u> Cross MOTION for Summary Judgment filed by Roy Den Hollander, <u>30</u> Cross MOTION for Summary Judgment filed by Roy Den Hollander, <u>33</u> Cross MOTION for Summary Judgment filed by Roy Den Hollander, <u>29</u> Cross MOTION for Summary Judgment filed by Roy Den Hollander. (Innelli, Michael) (Entered: 12/18/2009)
12/19/2009	● <u>35</u>	Cross MOTION for Summary Judgment by Roy Den Hollander. (Attachments: # <u>1</u> Rule 56.1 Statement Statement Material Facts, # <u>2</u> Memorandum in Support Memo of Law, # <u>3</u> Certificate of Service Affirmation of Service, # <u>4</u> Cover letter to defendants) (Den Hollander, Roy) (Entered: 12/19/2009)
12/19/2009	● <u>36</u>	Cross MOTION for Summary Judgment by Roy Den Hollander. (Attachments: # <u>1</u> Exhibit Essays, # <u>2</u> Exhibit Copyright catalogue, # <u>3</u> Exhibit Copyright catalogue, mail docts, # <u>4</u> Exhibit Copyright certificates, # <u>5</u> Exhibit Donovan declaration, # <u>6</u> Exhibit SDNY Opinion, # <u>7</u> Exhibit Donovan letter, # <u>8</u> Exhibit Den Hollander letter, # <u>9</u> Exhibit Steinberg letter, Civil Ct docts, # <u>10</u> Exhibit Steinberg Sup Ct docts, # <u>11</u> Exhibit Copacabana Amended Complaint) (Den Hollander, Roy) (Entered: 12/19/2009)
12/19/2009	● <u>37</u>	MEMORANDUM in Support of Motion for Summary Judgment filed by Deborah Swindells Donovan. (Krebs, Diane) (Entered: 12/19/2009)
12/19/2009	● <u>38</u>	RULE 56.1 STATEMENT in Support of Motion for Summary Judgment filed by Deborah Swindells Donovan. (Krebs, Diane) (Entered: 12/19/2009)
12/19/2009	● <u>39</u>	DECLARATION of Diane Krebs in Support of Motion for Summary Judgment by Deborah Swindells Donovan (Attachments: # <u>1</u> Exhibit 1-14) (Krebs, Diane) (Entered: 12/19/2009)
12/19/2009	● <u>40</u>	DECLARATION of Deborah Swindells Donovan in Support of Motion for

		<i>Summary Judgment</i> by Deborah Swindells Donovan (Attachments: # 1 Exhibit 1-7) (Krebs, Diane) (Entered: 12/19/2009)
12/19/2009	41	DECLARATION of <i>Joshua Hurwit</i> in Support of Motion for <i>Summary Judgment</i> by Deborah Swindells Donovan (Attachments: # 1 Exhibit 1-4) (Krebs, Diane) (Entered: 12/19/2009)
12/21/2009		Motions terminated, docketed incorrectly: MOTION ENTRY 35 IS STILL PENDING AND DOCUMENT 36 IS NOT A FORMAL MOTION, BUT RATHER A DOCUMENT IN SUPPORT OF THEIR MOTION. (Innelli, Michael) (Entered: 12/21/2009)
12/21/2009	42	Cross MOTION for Summary Judgment <i>Memorandum of Law</i> in Support by Roy Den Hollander. (Den Hollander, Roy) (Entered: 12/21/2009)
12/21/2009	43	RULE 56.1 STATEMENT in support of cross motion for summary judgment filed by Roy Den Hollander. (Den Hollander, Roy) (Entered: 12/21/2009)
12/21/2009	44	MEMORANDUM in Support of cross motion for summary judgment filed by Roy Den Hollander. (Den Hollander, Roy) (Entered: 12/21/2009)
12/21/2009	45	CERTIFICATE OF SERVICE by Roy Den Hollander of cross motion for summary judgment (Den Hollander, Roy) (Entered: 12/21/2009)
12/21/2009	46	Letter to defense counsel listing documents served in cross motion for summary judgment by Roy Den Hollander (Den Hollander, Roy) (Entered: 12/21/2009)
12/21/2009	47	Cross MOTION for Summary Judgment notice of cross motion by Roy Den Hollander. (Den Hollander, Roy) (Entered: 12/21/2009)
12/21/2009	48	AFFIDAVIT/DECLARATION in Support re 47 Cross MOTION for Summary Judgment notice of cross motion filed by Roy Den Hollander. (Attachments: # 1 Exhibit Essays, # 2 Exhibit Copyright catalogue, # 3 Exhibit Copyright catalogue, mail, # 4 Exhibit Copyright certificates, # 5 Exhibit Donovan's Declaration, # 6 Exhibit SDNY Opinion, # 7 Exhibit Donovan's letter, # 8 Exhibit Den Hollander's letter, # 9 Exhibit Steinberg's letter, Civil Ct docs, # 10 Exhibit Sup Ct Docs, # 11 Exhibit SDNY Amended Complaint) (Den Hollander, Roy) (Entered: 12/21/2009)
12/22/2009	49	Letter by Deborah Swindells Donovan (Krebs, Diane) (Entered: 12/22/2009)
12/28/2009		SCHEDULING ORDER: The Court is scheduling oral argument for February 12, 2010 at 11:00 A.M. as to the converted motion for summary judgment and cross motion for summary judgment. In regards to defendant's letter application dated 12/22/09 seeking clarification the defendants shall serve and ECF file their combined reply in support of their motion for summary judgment and opposition to plaintiff's cross-motion for summary judgment by January 18, 2010. The plaintiff shall serve and ECF file his reply in support of his cross-motion for summary judgment by February 1, 2010. There will be no formal order mailed to counsel. Upon receipt of this email counsel shall confirm with each other the date and time of this oral

		argument. Counsel shall obtain the consent of all the parties and file a ECF letter at least 48 hours in advance of the oral argument if this date presents any conflicts. Ordered by Senior Judge Frederic Block on 12/28/2009. (Innelli, Michael) (Entered: 12/28/2009)
01/18/2010	● <u>50</u>	REPLY in Opposition re <u>35</u> Cross MOTION for Summary Judgment, <u>47</u> Cross MOTION for Summary Judgment <i>notice of cross motion</i> , <u>42</u> Cross MOTION for Summary Judgment <i>Memorandum of Law in Support and Reply in Further Support of Motion for Summary Judgment</i> filed by Deborah Swindells Donovan. (Krebs, Diane) (Entered: 01/18/2010)
01/18/2010	● <u>51</u>	AFFIDAVIT/DECLARATION in Opposition re <u>35</u> Cross MOTION for Summary Judgment, <u>47</u> Cross MOTION for Summary Judgment <i>notice of cross motion</i> , <u>42</u> Cross MOTION for Summary Judgment <i>Memorandum of Law in Support</i> , and in <i>Further Support of Defendant's Motion for Summary Judgment</i> filed by Deborah Swindells Donovan. (Attachments: # <u>1</u> Exhibit 1-4) (Krebs, Diane) (Entered: 01/18/2010)
02/01/2010	● <u>52</u>	REPLY in Opposition to <i>Donovan Motion Summary Judgment and in Further Support of Den Hollander Cross Motion for Summary Judgment</i> filed by Roy Den Hollander. (Attachments: # <u>1</u> Exhibit Denial Recusal-Order, # <u>2</u> Exhibit Feb 10, 2009 Letter, # <u>3</u> Exhibit Emails, # <u>4</u> Exhibit Feb 6, 2009 Letter) (Den Hollander, Roy) (Entered: 02/01/2010)
02/01/2010	● <u>53</u>	Letter to <i>Defense Counsel Krebs and Steinberg</i> by Roy Den Hollander (Den Hollander, Roy) (Entered: 02/01/2010)
02/01/2010	● <u>54</u>	CERTIFICATE OF SERVICE by Roy Den Hollander of <i>Summary Judgment Cross Motion Reply</i> (Den Hollander, Roy) (Entered: 02/01/2010)
02/05/2010	●	SCHEDULING ORDER: The oral argument scheduled for February 12, 2010 is being adjourned by the Court to February 19, 2010 @ 3:30PM, due to an ongoing criminal trial. There will not be a formal order mailed to counsel. Upon receipt of this email counsel shall confirm with each other the new date and time of this oral argument. Ordered by Senior Judge Frederic Block on 2/5/2010. (Innelli, Michael) (Entered: 02/05/2010)
02/09/2010	● <u>55</u>	Letter to <i>Judge Block re: oral argument on 2/19/10</i> by Deborah Swindells Donovan (Krebs, Diane) (Entered: 02/09/2010)
02/09/2010	●	SCHEDULING ORDER: Defendant Donovan's letter application dated 2/9/10 with the consent of all counsel is GRANTED. The oral argument scheduled for February 19, 2010 is advanced to February 18, 2010 at 11:00 A.M. There will be no formal order mailed to counsel. Upon receipt of this email counsel shall confirm with each other the new date and time of this oral argument. Ordered by Senior Judge Frederic Block on 2/9/2010. (Innelli, Michael) (Entered: 02/09/2010)
02/18/2010	●	Minute Entry for proceedings held before Senior Judge Frederic Block: Roy Hollander, Esq. pro se; Diane Krebs, Esq. for defendant Donovan and Paul Steinberg, Esq. pro se, all present. Oral argument held on 2/18/2010. Defendants motion for summary judgment and plaintiffs cross motion for summary judgment discussed. A written decision will be issued shortly.

		(Court Reporter: Alan Sherman (718) 613-2529) (Innelli, Michael) (Entered: 02/18/2010)
03/11/2010	● <u>56</u>	MEMORANDUM and ORDER: Donovans motion for summary judgment is granted, and Hollanders cross-motion is denied. Summary judgment in favor of Steinberg is granted sua sponte. The complaint is dismissed in its entirety. See attached memorandum and order for details. There will be no formal memorandum and order mailed to counsel. Ordered by Senior Judge Frederic Block on 3/11/2010. (Innelli, Michael) (Entered: 03/11/2010)
03/12/2010	● <u>57</u>	CLERK'S JUDGMENT: ORDERED and ADJUDGED that plaintiff take nothing of the defendants; that Donovan's motion for summary judgment is granted; that Hollander's cross-motion is denied; that summary judgment in favor of Steinberg is granted sua sponte; and that the complaint is dismissed in its entirety. Ordered by Clerk of Court, on 3/11/2010. Copies mailed with appeals packet on 3/12/2010. (Barrett, C) (Entered: 03/12/2010)
03/31/2010	● <u>58</u>	NOTICE OF APPEAL as to <u>56</u> Order on Motion for Summary Judgment,, Order on Motion to Dismiss, <u>57</u> Clerk's Judgment, by Roy Den Hollander. Appellant is an attorney and Pro Se litigant. Filing fee \$ 455.00 Receipt #4653013126. Service done via ECF. (McGee, Mary Ann) (Entered: 03/31/2010)
03/31/2010	●	Electronic Index to Record on Appeal sent to US Court of Appeals <u>58</u> Notice of Appeal. Please note: The documents in this case are online and may be downloaded. (McGee, Mary Ann) (Entered: 03/31/2010)