MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

April 24, 2013

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street. 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	*Wisniewski, Steven v. Justice John Michalski, Frank Sedita, III, Eric T. Schneiderman, Brian Fischer, Andrea W. Evans and Erie County Department of Probation*
Document Received:	Verified Petition
Name of Claimant:	Steven Wisniewski #09-B-1659 Livingston Correctional Facility P.O. Box 91 Sonyea, New York 14556
Claimant's attorney:	Claimant is proceeding *pro se*.

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: Michelle Parker
Michelle M. Parker
First Assistant County Attorney

MMP:dld
Enclosure

Docket # OP 13-00015

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION, FOURTH DEPARTMENT

----------x

In the Matter of the Application of,

STEVEN WISNIEWSKI, #09-B-1659,

Petitioner,

-against-

JUSTICE JOHN MICHALSKI, a Justice of the Erie County Supreme Court; **FRANK SEDITA, III,** Erie County District Attorney; **ERIC T. SCHNEIDERMAN,** New York State Attorney General; **BRIAN FISCHER,** Commissioner of New York State Department of Corrections and Community Supervision; **ANDREA W. EVANS,** CEO and Chairwoman, New York State Board of Parole; **ERIE COUNTY DEPARTMENT OF PROBATION,**

Respondents.

For a Judgment and Order pursuant to Articles 78, 70, and 30 of the Civil Practice Law & Rules

----------x

NOTICE OF PETITION

Index No._____

RECEIVED
APR 23 2013
ERIE COUNTY DEPARTMENT OF LAW

PLEASE TAKE NOTICE, that upon the annexed Summons, Verified Petition/Complaint, verified the 27th day of December 2012, and upon the attached exhibits, Petitioner will make application before the Appellate Division, Fourth Department at 50 East Avenue, Rochester, New York on Monday, May 20, 2013, at 10:00 in the forenoon, or as soon thereafter as the parties can be heard Why an order should not granted pursuant to Article 78, 70 and 30 of the CPLR directing Respondent, Justice John Michalski, to render a decision on a motion which was filed by Petitioner in February 2012, or in the alternative, granting Petitioner leave to appeal that portion of said motion seeking relief pursuant to CPL 440, and directing said Respondent to correct the Uniform Commitment Order to read Petitioner was Sentenced, not resentenced and to provide the Department or Correction and Community Supervision a copy

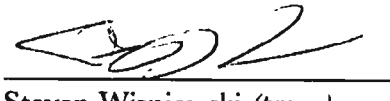
APR 22 2013

of Petitioner's 2011 PSI and sentencing minutes; to Prohibit respondents, Frank Sedita III, The Erie County District Attorney and Eric T. Shcneiderman, the New York State Attorney General, from interposing responding papers to Petitioners February 2012 motion before Respondent Justice John Michalski, and declaring they not provide false and erroneous information to the New York State Department of Corrections and Community Supervision and Parole; annuling the determinations of Respondent's, Brian Fischer, the Commissioner of the New York State Department of Corrections and Community Supervision, denying Petitioner Presumptive Release; and Andrea W. Evans. Chairwoman of the New York State Broad of Parole's denial of Parole; and directing those respondents remove the 2009 PSI and sentencing minutes from Petitioners institutional files and any reference thereto be expunged; relief pursuant to CPLR 70 is sought to release Petitioner in that Petitioners incarceration is illegal and relief is sought to credit Petitioner with jail time credit for the period for which Petitioners was detained out of state, and for such other and further relief as to the Court seems just and proper.

PLEASE TAKE FURTHER NOTICE, that responding papers, if any, shall be served at least five days before the aforesaid date appearing.

Petitioner designates the Appellate Division Fourth Department, Monroe County In that an action is brought against a State Supreme Court Justice Petitioner designates Erie County for venue

Dated: March 17, 2013
Sonyea, New York



Steven Wisniewski *(pro se)*
Petitioner
Livingston Correctional Facility
P.O. Box 91
Sonyea, New York 14556

Docket No.: **OP13-00015**

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION, FOURTH DEPARTMENT
----------x

In the Matter of the Application of,

STEVEN WISNIEWSKI, #09-B-1659,

Petitioner,

SUMMONS

-against-

Index No._____

JUSTICE JOHN MICHALSKI, a Justice of the Erie County Supreme Court; **FRANK SEDITA, III,** Erie County District Attorney; **ERIC T. SCHNEIDERMAN,** New York State Attorney General; **BRIAN FISCHER,** Commissioner of New York State Department of Corrections and Community Supervision; **ANDREA W. EVANS,** CEO and Chairwoman, New York State Board of Parole; **ERIE COUNTY DEPARTMENT OF PROBATION,**

Respondents.

For a Judgment and Order pursuant to Articles 78, 70, and 30 of the Civil Practice Law & Rules
----------x

TO THE ABOVE NAMED RESPONDENTS:

You are hereby summoned and required to serve upon petitioner at the address stated below, an answer to the attached Petition/Complaint.

If this summons was personally delivered upon you in the State of New York, the answer must be served within twenty days after such service of the summons, excluding the date of service. If the summons was not personally delivered to you within the State of New York, the

answer must be served within thirty days after service of the summons is complete as provided by law.

If you do not serve an answer to the attached Petition/Complaint within the applicable time limitation stated above, a judgment may be entered against you by default, for the relief demanded in the Petition/Complaint, without further notice to you.

This action will be heard in the Appellate Court, Fourth Department, Rochester, State of New York. This action is brought in the Appellate Division, Fourth Department in that, hybrid relief is sought for which the Appellate Division, Fourth Department is the proper venue. Petitioner designates Erie County for venue.

Dated: March 17, 2013
Sonyea, New York

Steven Wisniewski *(pro se)*
Petitioner
Livingston Correctional Facility
P.O. Box 91
Sonyea, New York 14556