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COUNTY OF ERIE

MICHAEL A. SIRAGUSA
COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE

DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH.
SECOND ASSISTANT COUNTY ATTORNEY

MEMORANDUM

TO: Robert M. Graber, Clerk, Erie County Legislature

FROM: Michelle M. Parker, First Assistant County Attorney

DATE: April 2, 2012

RE: Transmitted of New Claims Against Erie County

Mr. Graber:

In accordance with the Resolution passed by the Erie County Legislature on June 25, 1987 (Int. 13-14), attached please find fourteen (14) new claims brought against the County of Erie. The claims are as follows:

Claim Name

Kathleen Gellart v. County of Erie
Lincoln Ablack v. County of Erie
American Site Developers LLC v. NYS Dept. of Labor & Erie County Comptroller
Emeka Dominic Okongwu v. County of Erie & Erie County Sheriff's Office (#1)
Emeka Dominic Okongwu v. County of Erie & Erie County Sheriff's Office (#2)
Emeka Dominic Okongwu v. Erie County Department of Social Services
Wayne White v. Erie County Attorney, et al.
Todd Duffy v. Erie County Sheriff's Department, et al.
Jason R. Nauseef v. County of Erie
Patricia & Glen Richardson v. County of Erie
Donta Elmore v. Erie County Sheriff's Department, et al.
Deborah Mazurkiewicz v. County of Erie
Geraldine Coles v. Erie County Sheriff's Office
In the Matter of 1122 Walden Avenue, Cheektowaga, New York (Demolition)

MMP/dld
Attachments
cc: Michael A. Siragusa, County Attorney

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

March 29, 2012

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:	*In the Matter of 1122 Walden Avenue, Cheektowaga, NY (Demolition)*
Document Received:	Cheektowaga Town Board Resolution

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
Enc.
cc: Michael A. Siragusa, Erie County Attorney

This paper received at the
Erie County Attorney's Office
from Allison Cullen on
the 23rd day of March, 2012
at 1:50 a.m./p.m.
Assistant County Attorney
Michael J. Lisiewski

STATE OF NEW YORK
TOWN OF CHEEKTOWAGA : COUNTY OF ERIE

In the Matter of the Proceedings Pursuant to the Unsafe Buildings Law of the Town of Cheektowaga To Have the Property Commonly Known as

1122 WALDEN AVENUE, CHEEKTOWAGA, N.Y.
(S.B.L. # 101.60-5-23)

Demolished and Removed as an Unsafe Building

NOTICE OF HEARING

TO: CHRISTOPHER ADAMS
362 French Street, Buffalo, New York 14211

NEW YORK STATE DEPT. OF TAXATION & FINANCE
(State Tax Warrant - Erie County Clerk File No. Q121-1934)
TCD Child Support Enf., P.O. Box 5350, Albany, New York 12205

NEW YORK STATE DEPT. OF TAXATION & FINANCE
(State Tax Warrant - Erie County Clerk File No. Q156-9339)
TCD Child Support Enf., P.O. Box 5350, Albany, New York 12205

NEW YORK STATE DEPT. OF TAXATION & FINANCE
(State Tax Warrant - Erie County Clerk File No. Q189-3412)
TCD Child Support Enf., P.O. Box 5350, Albany, New York 12205

NEW YORK STATE DEPT. OF TAXATION & FINANCE
(State Tax Warrant - Erie County Clerk File No. Q205-212)
TCD Child Support Enf., P.O. Box 5350, Albany, New York 12205

NEW YORK STATE DEPT. OF TAXATION & FINANCE
(State Tax Warrant - Erie County Clerk File No. Q210-7580)
CCED Child Support Enf., P.O. Box 5350, Albany, New York 12205

NEW YORK STATE DEPT. OF TAXATION & FINANCE
(State Tax Warrant - Erie County Clerk File No. Q220-4252)
CCED Child Support Enf., P.O. Box 5350, Albany, New York 12205

NEW YORK STATE DEPT. OF TAXATI ON & FINANCE
(State Tax Warrant - Erie County Clerk File No. Q231-499)
CCED Child Support Enf., P.O. Box 5350, Albany, New York 12205

NEW YORK STATE DEPT. OF TAXATION & FINANCE
(State Tax Warrant - Erie County Clerk File No. Q237-9865)
CCED Child Support Enf., P.O. Box 5350, Albany, New York 12205

NEW YORK STATE DEPT. OF TAXATION & FINANCE
(State Tax Warrant - Erie County Clerk File No. Q239-4353)
CCED Child Support Enf., P.O. Box 5350, Albany, New York 12205

PEOPLE OF THE STATE OF NEW YORK
c/o TONAWANDA CITY COURT
(Erie County Clerk File No. Q141-7267)
City Clerk, 200 Niagara St., Tonawanda, NY. 14150 -and-
ERIE COUNTY DISTRICT ATTORNEY
(Erie County Clerk File No. Q141-7267)
25 Delaware Ave., Buffalo, N.Y. 14202

CHIEF CLERK OF THE CITY COURT OF BUFFALO
(Erie County Clerk File No. Q151-3483)
50 Delaware Avenue, Buffalo, N.Y. 14202 -and-
ERIE COUNTY DISTRICT ATTORNEY
(Erie County Clerk File No. Q151-3483)
25 Delaware Avenue, Buffalo, N.Y. 14202

CHIEF CLERK OF THE CITY COURT OF BUFFALO
(Erie County Clerk File No. Q166-1352)
50 Delaware Avenue, Buffalo, N.Y. 14202 -and-
ERIE COUNTY DISTRICT ATTORNEY
(Erie County Clerk File No. Q166-1352)
25 Delaware Avenue, Buffalo, N.Y. 14202

PEOPLE OF THE STATE OF NEW YORK
c/o BUFFALO CITY COURT
(Erie County Clerk File No. Q153-8748)
50 Delaware Ave., Buffalo, N.Y. 14202 -and-
ERIE COUNTY DISTRICT ATTORNEY
(Erie County Clerk File No. Q153-8748)
25 Delaware Avenue, Buffalo, N.Y. 14202

NEW YORK STATE DEPT. OF TAXATION & FINANCE
Civil Enforcement (State Tax Warrant)
(Erie County Clerk File No. Q192-4322)
P.O. Box 5149, Albany, N.Y. 12205

Devon Harris, c/o ERIE COUNTY CHILD SUPPORT ENFORCEMENT
(Erie County Clerk File No. Q200-9965)
95 Franklin St., 7th Floor, Buffalo, N.Y. 14202 -and-

Devon Harris, c/o NICHOLAS LOCICERO, ESQ.
(Erie County Clerk File No. Q200-9965)
1300 Main Place Tower, Buffalo, N.Y. 14202

COMMISSIONER OF SOCIAL SERVICES
(Erie County Clerk File No. Q-201-1595)
95 Franklin Street, Buffalo, N.Y. 14202 -and-
ERIE COUNTY DISTRICT ATTORNEY
(Erie County Clerk File No. Q-201-1595)
95 Franklin St., Room 1634, Buffalo, N.Y. 14202

COMMISSIONER OF SOCIAL SERVICES
(Erie County Clerk File No. Q-201-1600)
95 Franklin Street, Buffalo, N.Y. 14202 -and-
ERIE COUNTY DISTRICT ATTORNEY
(Erie County Clerk File No. Q-201-1600)
25 Delaware Avenue, Buffalo, N.Y. 14202

UNITED STATES OF AMERICA
c/o U.S. ATTORNEY'S OFFICE
(FTL No. 536842609)
(Erie County Clerk File No. Q208-3794)
Federal Center, 138 Delaware Ave., Bflo. N.Y. 14202

JOSEPH L. MACIEJEWSKI, DIRECTOR
ERIE COUNTY DEPARTMENT OF REAL PROPERTY TAX SERVICES
95 Franklin Street, Room 100, Buffalo, New York 14202

ERIE TAX CERTIFICATE CORP.
95 Franklin Street, Room 100, Buffalo, New York 14202

Michael A. Siracusa
JEREMY A. COLBY, ESQ., ERIE COUNTY ATTORNEY
95 Franklin Street, Room 1634, Buffalo, New York 14202

PLEASE TAKE NOTICE, that the Town of Cheektowaga, by resolution dated **March 19, 2012,** has determined that the residential structure located on the property commonly known as

1122 Walden Avenue, Cheektowaga, New York, 14211 (Erie County)
(S.B.L. # 110.60-5-23) (hereinafter referred to as the "subject premises"),

and more specifically described herein, is an unsafe and dangerous building and has ordered its demolition and removal pursuant to Chapter 75 of Code of the Town of Cheektowaga; and

YOU ARE FURTHER NOTIFIED that a hearing before the Town Board of the Town of Cheektowaga in relation to this dangerous and unsafe building will be held in the Council Chambers of the Town of Cheektowaga, Cheektowaga Town Hall, 3301 Broadway, Cheektowaga, New York on **April 2, 2012 at 6:45 PM;** and

YOU ARE FURTHER NOTIFIED that attached hereto is a copy of the report dated **July 26, 2011**, prepared by Nussbaumer & Clarke, Inc., duly authorized agent of the Town of Cheektowaga, setting forth the particulars in which the structure and subject premises are unsafe and dangerous; and

YOU ARE FURTHER NOTIFIED that pursuant to the resolution of the Town of Cheektowaga stated above, the owner of record, **CHRISTOPHER ADAMS,** is ordered to demolish and remove the unsafe and dangerous structure(s) on the subject premises; and

YOU ARE FURTHER NOTIFIED that the demolition and removal of the unsafe and dangerous structures on the subject premises shall commence within thirty (30) days of service of this notice on said owners of the subject premises, and shall be completed within sixty (60) days thereafter, unless for good cause shown such time shall be extended; and

YOU ARE FURTHER NOTIFIED that in the event of failure, neglect, or refusal to comply with the order to demolish and remove the structure from the subject premises, the Town Board of the Town of Cheektowaga is authorized to provide for the demolition and removal, to assess all expenses thereof against the land on which it is located and to institute a special proceeding to collect the costs of demolition and removal, including legal expenses; and

THE LEGAL DESCRIPTION OF THE SUBJECT PREMISES is as follows:

> **ALL THAT TRACT OR PARCEL OF LAND,** situate in the Town of Cheektowaga, County of Erie and State of New York, being part of Lot. No. 33, Township 11, Range 7 of the Holland Land Company's Survey and further distinguished as Subdivision Lot No. 11, as shown on map filed in the Erie County Clerk's Office under Cover No. 727.

DATED: March 19, 2012

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CHEEKTOWAGA, ERIE COUNTY, NEW YORK.

Alice Magierski

ALICE MAGIERSKI
Town Clerk of the Town of Cheektowaga
Town Hall, 3301 Broadway
Cheektowaga, New York 14227-3801
(716) 686-3400

Nussbaumer & Clarke, Inc.
Engineers and Surveyors

3556 Lake Shore Road, Suite 500, Buffalo, New York 14219-1495
Phone: (716) 827-8000 / Fax: (716) 826-7958

www.nussclarke.com

July 26, 2011

Hon. Mary Holtz, Supervisor
Town of Cheektowaga
3301 Broadway
Cheektowaga, NY 14227

Re: Structural Evaluation of
1122 Walden Avenue
File No. 10J1-0065-18

Dear Supervisor Holtz,

At the request of the Town of Cheektowaga, Nussbaumer & Clarke, Inc. (Nussbaumer) evaluated the residential building located at 1122 Walden Avenue for structural integrity and conformance with the Town's Unsafe Building Law. The structure in question is a two story commercial store front and residential structure facing south, constructed of lumber bearing walls along the east and west walls, with a flat roof. The building is uninhabited, and is in very poor condition. Our observations follow:

Observations

1. The building is no longer secure against trespassers. A ground floor window on the South West corner has a broken glass pane allowing the latch to be undone and the window opened. Several windows on the second floor appear to be open, with black plastic covering the opening from the inside. Ground level entrance doors are securely locked.

2. The second floor door at the rear of the building opens onto nothing, posing a severe safety hazard for anyone in the building.

3. An attempt at remodeling was done some time in the past, plaster has been stripped from interior partitions, and much construction debris remains.

4. The building floors are firm when walked on; however, the subfloor and stair treads are spongy due to water infiltration.

5. The basement has water marks on the posts and walls indicating it has recently been flooded with water.

6. The interior is severely contaminated with mold, which appears on almost every wall, ceiling and floor, as well as debris.

7. Severe moisture damage to interior of the building - walls, ceiling and cabinets. Plaster ceilings have fallen and majority of paint is peeling from the walls. Plaster walls are severely deteriorated. Painted trim is rotting, and cabinets are rusted.

Nussbaumer & Clarke, Inc.

8. The finished flooring throughout the structure is buckled due to water damage.

9. Roof appears to be leaking. It has been covered with a poly tarp which has come loose along the west wall.

10. There are signs of insect and rodent infestation.

Conclusions

The site visit reveals a building that is so dilapidated and unsanitary that it is unfit for human habitation. The pervasive mold presence is likely to cause illness to those entering. The moisture damage results in loss of structural capacity of the sub-floor, and other structural elements hidden behind walls, floors or ceilings may also be compromised. Neighbors we spoke with indicate that no work has been performed in the building for a year or more.

Based on our visual inspection of the structure as noted above, it is our opinion that the building meets the criteria of the following paragraphs of Section 75-3 of the Town of Cheektowaga's Unsafe Building Law, and can be deemed as an "unsafe building."

A. Those which, exclusive of the foundation, show 33% or more of damage or deterioration of the supporting members or 50% of damage or deterioration of the nonsupporting enclosing or outside walls or covering. Water damaged subflooring and lack of permanent roofing has damaged structural members, and exposed building to water infiltration.

B. Those which have improperly distributed loads upon the floors or roofs or in which the same is overloaded or which have insufficient strength to be reasonably safe for the purpose used. This is indicated by the spongy feeling of the subflooring and stair treads.

C. Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the Town of Cheektowaga. Moisture throughout the building has resulted in mold and mildew creating an unhealthy environment. Water infiltration has resulted in decay and deterioration of the structure which could result in eventual collapse.

D. Those which have become or are so dilapidated, decayed, unsafe, or unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare to those living within. The presence of mold and mildew have made the structure unsanitary.

E. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of humans who live or may live therein. The mold and mildew have made the structure unsanitary and unhealthy to enter without proper safeguards.

F. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of escape. Building lacks a balcony and stairway off the second floor doorway at the rear, creating a hazardous situation.

Nussbaumer & Clarke, Inc.

G. Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

H. Those which because of their condition are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of the Town of Cheektowaga.

I. Those buildings existing in violation of any provision of the New York State Uniform Fire Prevention and Building Code.

J. Any building or structure which remains vacant and unattended continuously for a period of one year or longer without safeguards to prevent unauthorized entry. The building has been vacant and unattended for many years.

K. The building is infested by rodents.

L. The building in its present condition is unfit for the purposes for which it may be lawfully used.

M. The building is an object of attraction to minors as well as vagrants and other trespassers.

Nussbaumer recommends that Cheektowaga proceed under the Town's Unsafe Building Law and declare the residential building at 1122 Walden Avenue unsafe and proceed with its demolition and removal as soon as possible.

The opinions expressed above are based solely upon visual observations made on July 19, 2011. No access was made to areas hidden by the existing building construction other than as described above, nor was any material testing performed. Should you have any questions regarding this matter, please call Curt Krempa at 827-8000.

Sincerely,

NUSSBAUMER & CLARKE, INC.

Curt R. Krempa

Curt R. Krempa, P.E., F. ASCE
Associate
Structural / Transportation Manager

Town of Cheektowaga
3301 Broadway
Cheektowaga, NY 14227

Meeting: 03/19/12 06:45 PM

ADOPTED

Sponsors: Councilmember Markel, Councilmember Kaznowski

RESOLUTION 2012-151

Notice of Hearing for Demolition of 1122 Walden Avenue

WHEREAS, the Supervising Code Enforcement Officer has received information that the building located at 1122 Walden Avenue in the Town of Cheektowaga, has become dangerous and unsafe to the general public and unfit for the purposes for which it may lawfully be used; AND

WHEREAS, said building has been inspected and a written report of the condition has been completed by Nussbaumer & Clarke, Inc., duly authorized agent of the Town of Cheektowaga, setting forth its findings and recommendations in regard to the repair or demolition and removal of the building, and said written report describes extensive deterioration and damage to the building and premises and recommends that the building be demolished and removed; AND

WHEREAS, the Town Board has fully considered such written report and has determined that the building is dangerous and unsafe to the general public and unfit for the purposes for which it may lawfully be used; NOW THEREFORE BE IT

RESOLVED, that this Town Board accepts the findings and recommendations of Nussbaumer & Clarke, Inc., dated July 26, 2011; and BE IT FURTHER

RESOLVED, that a notice shall be served, pursuant to Section 75-7 of the Cheektowaga Town Code, upon the owner, executor, administrator, agent, lessee or any person having a vested or contingent interest in such unsafe building as shown by the records of the Receiver of Taxes or of the County Clerk, which notice shall have the contents prescribed by Section 75-6 of said Town Code, including, but not limited to, a date, time and place for a hearing before the Town Board in relation to such dangerous and unsafe building, which hearing shall be scheduled not less than five business days from the date of service of the notice, and BE IT FURTHER

RESOLVED, that a hearing before this Board in relation to the dangerous and unsafe building at 1122 Walden Avenue shall be held on the 2nd day of April, 2012, 6:45 P.M. at the Cheektowaga Town Hall, 3301 Broadway, Cheektowaga, New York, and BE IT FURTHER.

RESOLVED, that the Code Enforcement Office and/or the Town Attorney's Office be and hereby is directed to serve notice of said hearing on all interested parties.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Charles Markel, Councilmember
SECONDER:	Stanley Kaznowski, Councilmember
AYES:	Holtz, Jaworowicz, Rogowski, Markel, Kaznowski, Kaminski, Wozniak

State Of New York
Erie County **ss:**
Office Of The Clerk Of The
Town of Cheektowaga

(Seal)

This is to certify that I, *Alice Magierski*, Clerk of the *Town of Cheektowaga, in the said County of Erie*, have compared the foregoing copy of resolution with the original resolution now on file at this office, and which was passed by the Town Board of the *Town of Cheektowaga*

in said *County of Erie*, on Monday, March, 19, 2012,
and that the same is a correct and true transcript of such original resolution and the whole thereof.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said Town on Wednesday, March, 21, 2012.

Alice Magierski

CLERK OF THE TOWN BOARD, TOWN OF CHEEKTOWAGA, NY

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 29, 2012

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:	*Coles, Geraldine v. Erie County Sheriff's Office*
Document Received:	Division of Human Rights Charge of Discrimination
Name of Claimant:	Geraldine Coles 147 Clarence Avenue Buffalo, New York 14215
Claimant's attorney:	Claimant is *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
Parkerm3@erie.gov

MMP/dld
Enc.
cc: Michael A. Siragusa, Erie County Attorney

NEW YORK STATE
DIVISION OF HUMAN RIGHTS
WALTER J. MAHONEY STATE OFFICE BUILDING
65 COURT STREET, SUITE 506
BUFFALO, NEW YORK 14202

(716) 847-7632
Fax: (716) 847-7625
www.dhr.ny.gov

ANDREW M. CUOMO
GOVERNOR

GALEN D. KIRKLAND
COMMISSIONER

January 31, 2012

Erie County, Sheriff's Office
95 Franklin St., Rm. 1634
Buffalo, NY 14202

DEPARTMENT OF LAW

Re: Geraldine Coles v. Erie County, Sheriff's Office
Case No. 10152875

Enclosed is a copy of a verified complaint filed with the Division of Human Rights against you. This complaint, which alleges an unlawful discriminatory practice in violation of the New York State Human Rights Law, is being served upon you pursuant to Section 297.2 of the Human Rights Law (N.Y. Exec. Law, art. 15).

Please submit a response **in duplicate** to each and every allegation in the complaint, complete the enclosed Respondent Information Sheet, and return the response and Information Sheet to the Division, at the address above, **within fifteen (15) calendar days from the date of this letter.** The Division will not extend the time for this response, unless good cause is shown in a written application, submitted at least five (5) calendar days prior to the time the response is due. **Failure to respond could result in an adverse finding against you, which would be shared with, among others, the Secretary of State and the applicable State licensing agencies that govern your business.**

The Human Rights Law prohibits retaliation against any person because he or she has opposed discriminatory practices, filed a discrimination complaint, or participated in any proceeding before the Division. Human Rights Law § 296.7.

Anyone who willfully resists, prevents, impedes or interferes with the Division's investigation shall be guilty of a misdemeanor punishable by imprisonment, by fine, or by both. Human Rights Law § 299.

As the enclosed information sheet provides, the Division will conduct a prompt investigation, based on the complaint and your response, which may include interviews with your representatives and the collection of documents. The Division expects your full cooperation in this investigation. After the investigation is completed, the Division will make a determination as to whether there is probable cause to believe that unlawful discrimination has occurred. You will be notified of this determination.

Protection of personal privacy: In most cases, you will be expected to submit documents in support of your response to the complaint. The Division observes a personal privacy protection policy consistent with Human Rights Law § 297.8 which governs what information the Division may disclose, and the N.Y. Public Officer's Law § 89 and § 96-a, which prohibit disclosure of social security numbers and limit further disclosure of certain information subject to personal privacy protection. Please redact or remove personal information from any documentation submitted to the Division, unless and until the Division specifically requests any personal information needed for the investigation. The following information should be redacted: the first five digits of social security numbers; dates of birth; home addresses and home telephone numbers; any other information of a personal nature. The following documentation should not be submitted unless specifically requested by the Division: medical records; credit histories; resumes and employment histories. The Division may return your documents if they contain personal information that was not specifically requested by the Division. If you believe that inclusion of any such personal information is necessary to your response, please contact me to discuss before submitting such information.

If you have any questions about the process generally, or how to submit your response, please call me at (716) 847-7632.

Very truly yours,

Tasha E. Moore
Regional Director

Enclosures:
Verified Complaint
Respondent Contact Information Form
Information for Respondents

ANDREW M. CUOMO
GOVERNOR

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF HUMAN RIGHTS on the Complaint of

GERALDINE COLES,

Complainant,

v.

ERIE COUNTY, SHERIFF'S OFFICE,

Respondent.

VERIFIED COMPLAINT
Pursuant to Executive Law, Article 15

Case No.
10152875

Federal Charge No. 16GB201391

I, Geraldine Coles, residing at 147 Clarence Ave., Buffalo, NY, 14215, charge the above named respondent, whose address is 69 Delaware Avenue, Suite 300, Buffalo, NY, 14202 with an unlawful discriminatory practice relating to employment in violation of Article 15 of the Executive Law of the State of New York (Human Rights Law) because of disability.

Date most recent or continuing discrimination took place is 12/28/2011.

The allegations are:

1. I have a disability within the meaning of the New York State Human Rights Law, a seizure disorder. Because of this, I have been subject to unlawful discriminatory actions.

2. On May 30, 1984, I was hired by the above named respondent and currently hold the position of deputy sheriff officer in the booking area where I serve as a female escort.

3. In 2009, I was first diagnosed with a seizure disorder. On October 20, 2011, I suffered a 5-10 second seizure while performing my duties. On October 21, 2011, the respondent placed me on involuntary leave with pay due to my disability and advised me that I would be required to undergo a medical exam in order to return to work.

4. On or about October 30, 2011, I submitted medical documentation to the respondent from my physician releasing me to return to work with the recommendation that I be placed elsewhere as an accommodation of my disability. I didn't hear anything from the respondent.

5. On November 15, 2011, the respondent scheduled me to undergo an independent medical examination which I did. After this examination, I heard nothing from the respondent

6. On January 4, 2011, I reported to work. Captain Hartman told me he had to send me home because the respondent had not yet received a decision from the independent medical exam.

7. By letter dated December 28, 2011, the respondent advised me that my medical leave with pay would end on January 10, 2012 and directed me to sign a request for leave without pay or face cancellation of my health insurance.

Based on the foregoing, I charge respondent with an unlawful discriminatory practice relating to employment because of disability, in violation of the New York State Human Rights Law (Executive Law, Article 15), Section 296.

I also charge the above-named respondent with violating the Americans with Disabilities Act (ADA) (covers disability relating to employment). I hereby authorize SDHR to accept this verified complaint on behalf of the U.S. Equal Employment Opportunity Commission (EEOC) subject to the statutory limitations contained in the aforementioned law(s).

I have not commenced any other civil action, nor do I have an action pending before any administrative agency, under any state or local law, based upon this same unlawful discriminatory practice.

Geraldine Coles

STATE OF NEW YORK)
COUNTY OF) SS:

Geraldine Coles, being duly sworn, deposes and says: that he/she is the complainant herein; that he/she has read (or had read to him or her) the foregoing complaint and knows the content thereof; that the same is true of his/her own knowledge except as to the matters therein stated on information and belief; and that as to those matters, he/she believes the same to be true.

Geraldine Coles
Geraldine Coles

Subscribed and sworn to
before me this 24 day
of January , 20 12

Beverly A Frescholtz
Signature of Notary Public

BEVERLY A FRESCHOLTZ
Notary Public, State of New York
Qualified in Erie County
No. 01FR6187237
Commission Expires on May 19, 2012

Respondent Contact Information

Return to:
NYS Division of Human Rights
Buffalo Regional Office
65 Court Street, Suite 506
Buffalo, New York 14202

Re: Geraldine Coles v. Erie County, Sheriff's Office
SDHR NO: 10152875

Correct legal name of Respondent: _____

_____

Federal Employer Identification Number (FEIN): _____

Contact person for this complaint:

Name: _____ Title: _____

Street Address: _____

City/State/Zip: _____ Telephone No: (____)_____

E-mail address: _____

Do you have an attorney for this matter: Yes____ No____ If yes:

Attorney Name: _____

Firm: _____

Street Address: _____

City/State/Zip: _____ Telephone No: (____)_____

Will you participate in settlement/conciliation? Yes_____ No_____
If yes, for this purpose please contact:

Name: _____ Telephone No: (____)_____
(Settlement discussions will not delay the investigation and participation in settlement does not provide good cause for an extension of time to respond to the complaint.)

_____ _____
Signature Date

NEW YORK STATE
DIVISION OF HUMAN RIGHTS
WALTER J. MAHONEY STATE OFFICE BUILDING
65 COURT STREET, SUITE 506
BUFFALO, NEW YORK 14202

(716) 847-7632
Fax: (716) 847-7625
www.dhr.ny.gov

ANDREW M. CUOMO
GOVERNOR

GALEN D. KIRKLAND
COMMISSIONER

INFORMATION FOR RESPONDENTS

CONCERNING COMPLAINT PROCEDURES OF NEW YORK STATE DIVISION OF HUMAN RIGHTS

The New York State Division of Human Rights is a State agency mandated to receive, investigate and resolve complaints of discrimination under N.Y. Executive Law, Article 15 ("Human Rights Law"). The Division's role is to fairly and thoroughly investigate the allegations in light of all evidence gathered.

WHAT TYPES OF COMPLAINTS ARE HANDLED BY THE DIVISION OF HUMAN RIGHTS?

The Human Rights Law forbids discrimination in employment, apprenticeship and training, purchase and rental of housing and commercial space, places of public accommodation, certain educational institutions, and credit transactions. If a person feels that he or she has been discriminated against by of reason of race, color, creed, sex, age (not public accommodation), disability, national origin, marital status, familial status (housing only), conviction or arrest record (employment only), genetic predisposition (employment only), military status, or sexual orientation, or because he or she has opposed any practices forbidden under the Human Rights Law, that person may file a complaint with the State Division of Human Rights.

HOW DOES A PERSON FILE A COMPLAINT?

Persons wishing to file a complaint of discrimination may contact the nearest regional office of the Division of Human Rights. The Human Rights Law requires that they must file such a complaint within one year of the alleged unlawful discriminatory act.

WHAT IS THE INVESTIGATIVE PROCEDURE?

The Division represents neither the Complainant nor the Respondent. The Division pursues the State's interest in the proper resolution of the matter in accordance with the Human Rights Law. Complainant and Respondent can retain private counsel to represent them during the investigation, but such representation is not required.

Upon receipt of a complaint, the regional office will:

- Notify the Respondent(s). (A Respondent is a person or entity about whose action the Complainant complains. An employer must have four or more employees for the Human Rights Law to apply.)
- Resolve issues of questionable jurisdiction.

- Forward a copy of the complaint to the U.S. Equal Employment Opportunity Commission (EEOC) or the U.S. Department of Housing and Urban Development (HUD), where applicable. Such federal filing creates a complaint separate and apart from the complaint filed with the Division, although in most cases only one investigation is conducted pursuant to work-sharing agreements with these federal agencies.
- Investigate the complaint through appropriate methods (written inquiry, field investigation, witness interviews, requests for documents, investigatory conference, etc.), in the discretion of the Regional Director. The investigation of the complaint is to be objective.
- Allow the parties to settle the matter by reaching agreement on terms acceptable to the Complainant, Respondent and the Division. The Division will allow settlement from the time of filing until the matter reaches a final resolution.
- Determine whether or not there is probable cause to believe that an act of discrimination has occurred, if the matter cannot be settled prior to that Determination. The Division will notify the Complainant and Respondent in writing of the Determination.

You, or your attorney, may review the Division's file in this matter, and may copy by hand any material in the file, or obtain photocopies at a nominal charge. The Complainant in this matter has the same right to review the file.

WHAT IS THE DIVISION'S POLICY ON ADJOURNMENTS AND EXTENSIONS?

It is the Division's policy to investigate all cases promptly and expeditiously. Therefore, you are expected to cooperate with the investigation fully and promptly. No deadlines will be extended at any time during the investigation, unless good cause is shown in a written application submitted at least five (5) calendar days prior to the original deadline. Failure to comply could result in an adverse finding against you, which would be shared with, among others, the Secretary of State and the applicable State licensing agencies that govern your business.

WHAT IS THE PROCEDURE FOLLOWING THE INVESTIGATION?

If there is a Determination of no probable cause, lack of jurisdiction, or any other type of dismissal of the case, the Complainant may appeal to the State Supreme Court within 60 days.

If the Determination is one of probable cause, there is no appeal to court. The case then proceeds to public hearing before an Administrative Law Judge. Under Rule 465.20 (9 N.Y.C.R.R. § 465.20), the Respondent may ask the Commissioner of Human Rights within 60 days of the finding of probable cause to review the finding of probable cause. Such application should be sent to the General Counsel of the Division and to the Complainant, and Complainant's attorney, if any.

WHAT IS A PUBLIC HEARING?

A public hearing, pursuant to the Human Rights Law, is a trial-like proceeding at which relevant evidence is placed in the hearing record. It is a hearing de novo, which means that the Commissioner's final decision on the case is based solely on the content of the hearing record. The public hearing is presided over by an Administrative Law Judge, and a verbatim transcript is made of the proceedings.

The hearing may last one or more days, not always consecutive. Parties are notified of all hearing sessions in advance, and the case may be adjourned to a later date only for good cause.

Respondent can retain private counsel for the hearing, and, if Respondent is a corporation, is required to be represented by legal counsel. The Complainant can retain private counsel for the hearing, but is not required to do so. If Complainant is not represented by private counsel, the Division's counsel prosecutes the case in support of the complaint. Attorneys for the parties or for the Division may issue subpoenas for documents and to compel the presence of witnesses.

At the conclusion of the hearing sessions, a proposed Order is prepared by the Administrative Law Judge and is sent to the parties for comment.

A final Order is issued by the Commissioner. The Commissioner either dismisses the complaint or finds discrimination. If discrimination is found, Respondent will be ordered to cease and desist and take appropriate action, such as reinstatement, training of staff, or provision of reasonable accommodation of disability. The Division may award money damages to Complainant, including back pay and compensatory damages for mental pain and suffering, and in the case of housing discrimination, punitive damages, attorney's fees and civil fines and penalties. A Commissioner's Order may be appealed by either party to the State Supreme Court within 60 days. Orders after hearing are transferred by the lower court to the Appellate Division for review.

WHAT IS A COMPLIANCE INVESTIGATION?

The compliance investigation unit verifies whether the Respondent has complied with the provisions of the Commissioner's Order. If the Respondent has not complied, enforcement proceedings in court may be brought by the Division.

NOTICE PURSUANT TO PERSONAL PRIVACY PROTECTION LAW

Pursuant to the Human Rights Law, the Division collects certain personal information from individuals filing complaints and from those against whom a complaint has been filed. The information is necessary to conduct a proper investigation; failure to provide such information could impair the Division's ability to properly investigate the matter. This information is maintained in a computerized Case Management System maintained by the Division's Director of Information Technology, who is located at One Fordham Plaza, Bronx, New York, (718) 741-8365.

PENAL PROVISION OF THE HUMAN RIGHTS LAW

The Human Rights Law contains the following penal provision:

"Any person, employer, labor organization or employment agency, who or which shall willfully resist, prevent, impede or interfere with the division or any of its employees or representatives in the performance of duty under this article, or shall willfully violate an order of the division or commissioner, shall be guilty of a misdemeanor and be punishable by imprisonment in a penitentiary, or county jail, for not more than one year, or by a fine of not more than five hundred dollars, or by both; but procedure for the review of the order shall not be deemed to be such willful conduct." Human Rights Law § 299.

GENERAL INFORMATION

For a more detailed explanation of the process, see the Division's Rules of Practice (9 N.Y.C.R.R. § 465) available on our website www.dhr.ny.gov. If you have any additional questions about the process, the investigator assigned to the case will be available to answer most questions.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
New York District Office
33 Whitehall Street, 5th Floor
New York, New York 10004-2112

TO:
Erie County, Sheriff's Office
95 Franklin St., Rm. 1634
Buffalo, NY 14202

PERSON FILING CHARGE:
Geraldine Coles
THIS PERSON (Check one):
Claims to be aggrieved [x]
Files on behalf of other(s)[ ]
DATE OF ALLEGED VIOLATION:
12/28/2011
PLACE OF ALLEGED VIOLATION:
Erie County
EEOC CHARGE NUMBER:
16GB201391
FEPA CHARGE NUMBER:
10152875

NOTICE OF CHARGE OF DISCRIMINATION WHERE AN FEP AGENCY WILL INITIALLY PROCESS

YOU ARE HEREBY NOTIFIED THAT A CHARGE OF EMPLOYMENT DISCRIMINATION UNDER

[ ] Title VII of the Civil Rights Act of 1964
[ ] The Age Discrimination in Employment Act of 1967 (ADEA)
[X] The Americans with Disabilities Act (ADA)

HAS BEEN RECEIVED BY: The New York State Division of Human Rights (FEP Agency) and sent to the EEOC for dual filing purposes.

While the EEOC has jurisdiction (upon expiration of any deferral requirements if this I a Title VII or ADA charge) to investigate this charge, EEOC may refrain from beginning an investigation and await the issuance of the FEP Agency's final findings and orders. These final findings and orders will be given weight by EEOC in making its own determination as to whether or not reasonable cause exists to believe that the allegations made in the charge are true.

You are therefore encouraged to cooperate fully with the FEP Agency. All facts and evidence provided by you to the Agency in the course of its proceedings will be considered by the Commission when it reviews the Agency's final findings and orders. In many instances the Commission will take no further action, thereby avoiding the necessity of an investigation by both the FEP Agency and the Commission. This likelihood is increased by your active cooperation with the Agency.

As a party to the charge, you may request that EEOC review the final decision and order of the above named FEP Agency. For such a request to be honored, you must notify the Commission in writing within 15 days of your receipt of the Agency's issuing a final finding and order. If the Agency terminates its proceedings without issuing a final finding and order, you will be contacted further by the Commission.

For further correspondence on this matter, please use the charge number(s) shown.

[ ] An Equal Pay Act investigation (29 U.S.C. §206(d)) will be conducted by the Commission concurrently with the FEP Agency's investigation of the charge.

[X] Enclosure: Copy of the Charge

BASIS FOR DISCRIMINATION: Disability

CIRCUMSTANCES OF ALLEGED VIOLATION:
SEE ATTACHED N.Y.S. DIVISION OF HUMAN RIGHTS COMPLAINT

DATE: January 31, 2012

TYPED NAME OF AUTHORIZED EEOC OFFICIAL:
Kevin J. Berry

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 28, 2012

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:	*Mazurkiewicz, Deborah v. County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	Deborah Mazurkiewicz 1523 Seneca Street Buffalo, New York 14210
Claimant's attorney:	Michael C. Scinta Brown Chiari, LLP 5775 Broadway Lancaster, New York 14086

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
Michelle M. Parker
First Assistant County Attorney
Parkerm3@erie.gov

MMP/dld
Enc.
cc: Michael A. Siragusa, Erie County Attorney

STATE OF NEW YORK :
SUPREME COURT : COUNTY OF ERIE

DEBORAH MAZURKIEWICZ

Claimant

vs.

COUNTY OF ERIE

NOTICE OF CLAIM

Respondent

TO: Michael A. Siragusa, Esq.
ERIE COUNTY ATTORNEY
DEPARTMENT OF LAW
95 Franklin Street, Suite 1634
Buffalo, New York 14202

To whom it may concern:

PLEASE TAKE NOTICE, that the undersigned hereby makes claim against and submits the following in compliance with the applicable statutes of the State of New York.

1. The Claimant herein is DEBORAH MAZURKIEWICZ, who resides at 1523 Seneca Street, Buffalo, NY 14210.

2. The Claimant herein is represented by the law firm of BROWN CHIARI LLP, 5775 Broadway, Lancaster, New York 14086-2360.The subject claim is for personal injuries and medical expenses sustained by reason of injury to Claimant DEBORAH MAZURKIEWICZ.

3. The incident giving rise to these damages occurred on or about December 22, 2011 while Claimant DEBORAH MAZURKIEWICZ was crossing Seneca Street in the City of Buffalo, County of Erie, and State of NY.

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

On the 16th day of March, 2012, Deborah Mazurkiewicz, being duly sworn, deposes and says that she is the claimant in this matter; that she has read the foregoing Notice of Claim and knows the contents thereof; that it is true to her personal knowledge, except as to matters stated to be upon information and belief, and as those matters she believes to be true.

Deborah Mazurkiewicz

Deborah Mazurkiewicz

Sworn to before me on this
16th day of March, 2012.

Notary Public

HEATHER ANN LARIVEY
Notary Public, State Of New York
Qualified In Erie County
My Commission Expires November 5, 2013

CERTIFICATION

Pursuant to Part 130-1 of the Rules of the Chief Administrator, the undersigned attorney certifies that, to the best of my knowledge, information and belief, formed after inquiry reasonable under the circumstances, the presentation of this paper or the contentions therein are not frivolous as defined in subsection (c) of §130-1.1.

Michael C. Scinta, Esq.
BROWN CHIARI LLP
Attorneys for Claimant
5775 Broadway
Lancaster, New York 14086-2360
(716) 681-7190

STATE OF NEW YORK :
COURT OF CLAIMS :

DEBORAH MAZURKIEWICZ

Claimant

vs.

Affidavit of Service by Mail

COUNTY OF ERIE
CITY OF BUFFALO

Respondent

STATE OF NEW YORK)
COUNTY OF ERIE) ss.:

BETH M. MOORE, being duly sworn, deposes and says:

1. I am over eighteen (18) years of age and employed by the law firm of BROWN CHIARI LLP, 5775 Broadway, Lancaster, New York 14086-2360.

2. On the 19th day of March, 2012, I served a Notice of Claim with regard to the above-entitled matter upon the Timothy A. Ball, Esq., City of Buffalo, Department of Law, 1100 City Hall, 65 Niagara Street, Buffalo, New York and Michael A. Siragusa, Esq., Erie County Attorney, Department of Law, 95 Franklin Street, Suite 1634, Buffalo, New York , via certified mail, return receipt requested, by depositing same in a post office official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Beth M. Moore

Sworn to before me this
19th day of March, 2012.

KIMILLE C. DIRIENZO
Notary Public, State of New York
Qualified in Erie County
Commission Expires 8/16/13

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 28, 2012

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:	*Elmore, Donta v. Erie County Sheriff's Department & County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	Donta Elmore 112 Block Street Buffalo, New York 14211
Claimant's attorney:	Peter P. Vasilion 8845 Sheridan Drive Williamsville, New York 14221

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
Parkerm3@erie.gov

MMP/dld
Enc.
cc: Michael A. Siragusa, Erie County Attorney

STATE OF NEW YORK : COUNTY OF ERIE

DONTA ELMORE

Claimant

-against-

THE ERIE COUNTY SHERIFF'S DEPARTMENT
and THE COUNTY OF ERIE

Respondents

RECEIVED
ERIE COUNTY SHERIFF
ADMINISTRATIVE OFFICE
2012 MAR 23 AM 10: 17

STATE OF NEW YORK)
COUNTY OF ERIE) SS.:

DONTA ELMORE , being duly sworn, deposes and states:

1. I am the claimant herein and I reside at 112 Block Street, Buffalo, New York 14211.

2. My attorneys are Peter P. Vasilion, 8845 Sheridan Drive, Williamsville, New York 14221 and David S. Kelly. 8845 Sheridan Drive, Williamsville, New York 14221.

3. This affidavit is based on my own knowledge.

4. This is a claim for personal injury resulting from a motor vehicle accident on December 5, 2011.

5. On or about December 5, 2011, I, the claimant, was a passenger in a vehicle operated by the Erie County Sheriff's Department. That on the above said date, time and location, the vehicle in which I was a passenger was involved in a motor vehicle accident resulting in injuries to the two (2) Sheriff 's Deputies in the front of the van as well as myself and other passengers in the rear of the van.

6. I have been injured as a consequence of this accident and I have been rendered sick, sore, lame and disabled; said injuries being in excess of the threshold set forth in the Insurance Law of the State of New York §5101(d).

7. The cause of the injuries was the negligence of the Erie County Sheriff's Department, the County of Erie, their agents and employees and contractors, in the operation of said motor vehicle upon a public highway situated in the County of Erie.

8. The further cause of the injuries was the negligence and/or failure of the County of Erie and the Erie County Sheriff's Office, their agents and employees and/or contractors, to properly train the members of the Erie County Sheriff's Office and in the proper operation of said motor vehicle; a failure to establish proper training procedures, and failure to establish and enforce policies for the supervision of the Department of Erie in their conduct of their duties.

9. A complaint to the Erie County Sheriff's Department is made contemporaneously. I have no knowledge that any action has been taken as a result of this complaint.

10. The amount of damages sought will be supplied upon request.

Dated: Buffalo, New York
February 14, 2012

Donta Elmore
DONTA ELMORE

Sworn to before me this 6th
day of ~~February~~ March, 2012

Jolene A Radley
Notary Public

JOLENE A. RADLEY
Notary Public, State of New York
Qualified in Jefferson County
No. 01RA6048982
Commission Expires Oct. 2, 2014

Yours, etc.

Peter P. Vasilion, Esq.
Attorney for Claimant
8845 Sheridan Drive
Williamsville, New York 14221
(716) 989-5279

TO: Erie County Sheriff's Department
Administrative Services
10 Delaware Avenue
Buffalo, New York 14202

Erie County Attorney
95 Franklin Street, 16th Floor
Buffalo, New York 14202

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 28, 2012

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: *Richardson, Patricia and Richardson, Glen v. County of Erie*

Document Received: Notice of Claim

Name of Claimants: Patricia and Glen Richardson
5228 Bayview Road
Hamburg, New York 14075

Claimant's attorney: Sean Cooney, Esq.
Cantor, Dolce & Panepinto
1600 Main Place Tower
350 Main Street
Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
Michelle M. Parker
First Assistant County Attorney
Parkerm3@erie.gov

MMP/dld
Enc.
cc: Michael A. Siragusa, Erie County Attorney

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

IN THE MATTER OF THE CLAIM OF
PATRICIA RICHARDSON and
GLEN RICHARDSON

Claimants,

v.

COUNTY OF ERIE

Defendant.

NOTICE OF CLAIM

This paper received at the Erie County Attorney's Office from [illegible] day of [illegible] 2019 at [illegible] a.m./p.m. the [illegible] Assistant County Attorney

TO: COUNTY OF ERIE
c/o Erie County Attorney
95 Franklin Street
Buffalo, New York 14202

PLEASE TAKE NOTICE, that the Claimants hereby makes a claim and demand against the County of Erie as follows:

1. The Claimants reside at 5228 Bayview Road, Hamburg, New York.

2. The attorney for the Claimant herein is Sean E. Cooney, Esq., and his post office address and telephone number are 1600 Main Place Tower, 350 Main Street, Buffalo, New York 14202, (716) 852-1888.

3. The time when, and the place where, and the nature of the claim are as follows: Upon information and belief, the accident took place on or about December 11, 2011 at approximately 8:00 p.m. The Claimant, Patricia Richardson, was lawfully crossing the defendant's property, the Delaware Avenue roadway in Buffalo, New York. The accident took place in the roadway adjacent to the United States Courthouse at 2 Niagara Square, Buffalo, New York. The claimant was crossing Delaware Avenue toward the Statler Tower Building when she was caused to trip and fall.

4. Claimant Patricia Richardson was caused to trip and fall in the Delaware Avenue

roadway as a result of a defective, dangerous and hazardous condition of the asphalt.

Specifically, the asphalt was raised several inches alongside the West side of Delaware Avenue, in front of the Courthouse parallel with the curb. The photographs annexed hereto as **Exhibit A** depict the actual defect(s) on Delaware Avenue from which this claim arises.

5. The Claimant alleges that the defendant was careless, reckless and grossly negligent in creating the condition and allowing the presence of the condition by failing to properly maintain the roadway.

6. Therefore, the Claimant serves a damages claim for serious and permanent personal injuries, economic loss, conscious pain and suffering, and changes in his lifestyle, all of which stem from the alleged carelessness, recklessness, and negligence of the County of Erie and/or both their agents, contractors, servants, and employees.

7. The damages or injuries sustained by Claimant, Patricia Richardson, are as follows:

a. fractured right wrist;
b. fractured right shoulder;
c. facial lacerations;
d. contusions;
e. ulnar nerve root injury
f. pain and suffering.
g. such other and further injuries as may be determined by the treating physicians, rehabilitation therapists and other qualified medical personnel.

8. The Claimants were married at the time of the accident and remain married. Claimant Glen Richardson maintains a derivative claim and/or loss of consortium.

Dated: Buffalo, New York
March 8, 2012

Sean E. Cooney, Esq.
CANTOR, DOLCE & PANEPINTO
Attorneys for Claimants
1600 Main Place Tower
350 Main Street
Buffalo, New York 14202
(716) 852-1888

TO: COUNTY OF ERIE
c/o Erie County Attorney
95 Franklin Street
Buffalo, New York 14202

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ERIE) ss:
TOWN OF HAMBURG)

PATRICIA RICHARDSON and GLEN RICHARDSON, being duly sworn, depose and say that they are the Claimants in this action; that they have read the foregoing NOTICE OF CLAIM and know the contents thereof; that the same is true to the knowledge of deponents, except as to the matters therein stated to be alleged on information and belief, and that as to those matters they believe them to be true.

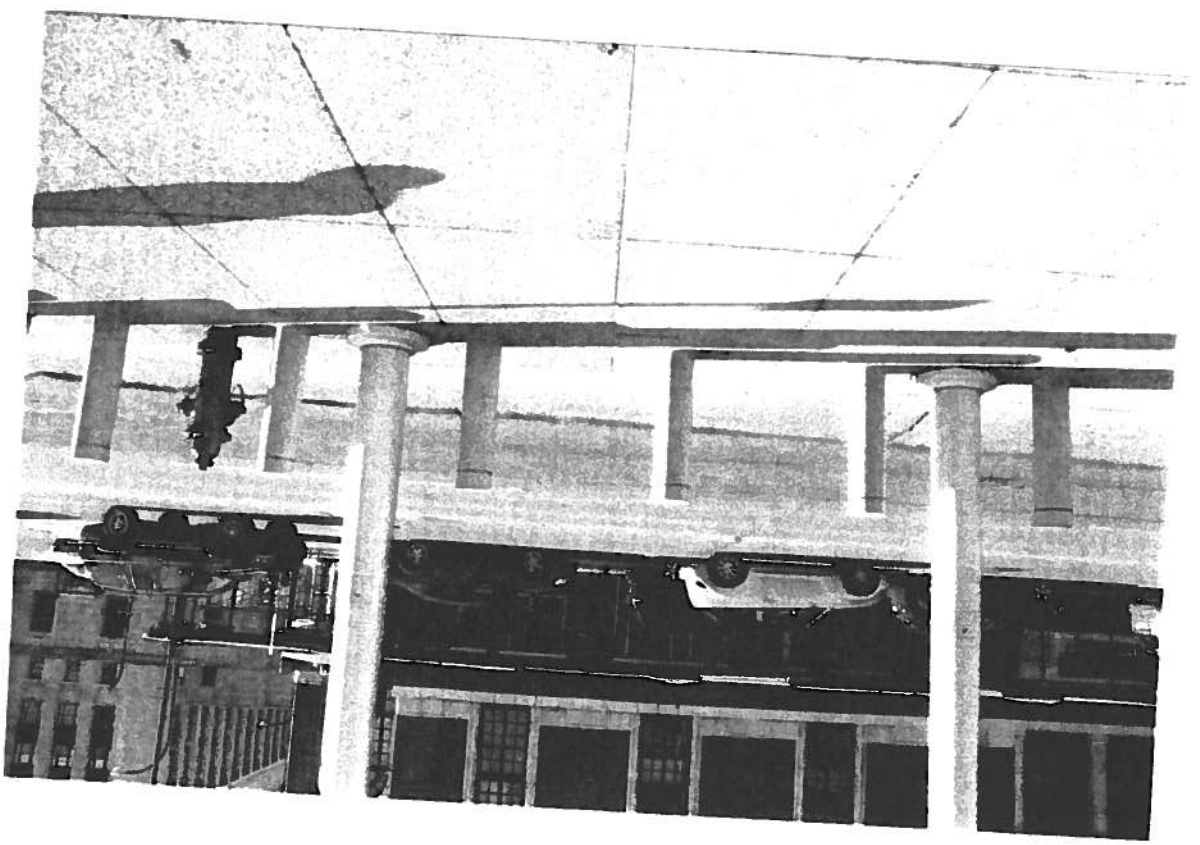
Patricia A Richardson
PATRICIA RICHARDSON

Glenn W Richardson
GLEN RICHARDSON

Sworn to before me this
8 day of March, 2012

Daniel Rivera
Notary Public

DANIEL RIVERA
Notary Public, State of New York
No. 01RI6243205
Qualified in Niagara County
Commission Expires June 20, 2015



JEREMY A. COLBY
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

DEPARTMENT OF LAW

March 15, 2012

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:	*Nauseef, Jason R. v. County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	Jason R. Nauseef P.O. Box 523 McGraw, New York 13101
Claimant's attorney:	David W. Herkala Cerio Law Offices 407 South Warren Street, 5th Floor Syracuse, New York 13202

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

cc: Michael A. Siragusa, Erie County Attorney

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

IN THE MATTER OF THE CLAIM

OF
JASON R. NAUSEEF

NOTICE OF CLAIM

Claimant

-VS-

COUNTY OF ERIE

Respondent

PLEASE TAKE NOTICE that, Claimant, JASON R. NAUSEEF, being duly sworn, deposes and states:

1. The name of the Claimant is Jason R. Nauseef, whose address is P.O. Box 523, McGraw, New York 13101.

2. The name and address of the Claimant's attorney is Cerio Law Offices, 407 South Warren Street, Syracuse, New York, 13202.

3. The date and time when and the place where the incident given rise to the Claimants claim occurred are as follows: December 24, 2011, Ralph Wilson Stadium, Orchard Park, New York, 14127.

4. The nature of the claim of the Claimant herein is for negligence on the part of the Respondent in negligently, recklessly and carelessly failing to maintain, monitor and control the premises owned by the Respondent to wit: Ralph Wilson Stadium; by failing to provide a safe area for the claimant and others situated to congregate for purposes of watching a sporting event; by allowing the excess consumption of intoxicants, failing to provide appropriate security to ensure the reasonable safety of the Claimant and others similarly situated within Ralph Wilson

Stadium. The negligence, recklessness and carelessness aforesaid were due to the acts and/or omissions of the Respondent County of Erie, its agents, servants and/or employees.

5. As the result of the negligence, carelessness and recklessness of the Respondent, its agents, servants and/or employees as aforesaid the Claimant was rendered sick, sore, lame and disabled, suffered bruises and abrasions about his head, body and torso, was subjected to unwarranted, unwanted and unprovoked physical contact; suffered severe physical and emotional trauma to his body and mind, all of which injuries are permanent in nature.

6. Claimant demands payment of his claim.

WHEREFORE, Claimant makes said claim against the County of Erie, State of New York to recover damages as set forth above.

Dated: 3/4, 2012.

DAVID W. HERKALA, ESQ.
Attorney for Claimant
Cerio Law Offices
407 South Warren Street
5th Floor
Syracuse, N.Y. 13202

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ERIE) ss.:

I, Jason Nauseff, being duly sworn, depose and say: I am a party within the action; I have read the foregoing Notice of ClaimComplaint and know the contents thereof; and the same is true to my own knowledge, except to the matters therein stated to be alleged upon information and belief, as to those matters I believe it to be true.

JASON NAUSEEF

Sworn to before me this
27th day of February 2012.

Notary Public

ADRIA N. WEISS
Notary Public, State of New York
No. 01WE6136457
Qualified in Cortland County
My Commission Expires Nov 7, 2013

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 13, 2012

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:	*Duffy, Todd v. Erie County Sheriff's Department and County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	Todd Duffy 45 Cantwell Drive Buffalo, NY 14220
Claimant's attorney:	David S. Kelly Law Office of David S. Kelly 8845 Sheridan Drive Williamsville, NY 14221

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
cc: Michael A. Siragusa, Erie County Attorney

STATE OF NEW YORK : COUNTY OF ERIE

TODD DUFFY

Claimant

-against-

THE ERIE COUNTY SHERIFF'S DEPARTMENT
and THE COUNTY OF ERIE

Respondents

STATE OF NEW YORK)
COUNTY OF ERIE) SS.:

TODD DUFFY , being duly sworn, deposes and states:

1. I am the claimant herein and I reside at 45 Cantwell Drive, Buffalo, New York 14220.

2. My attorneys are Peter P. Vasilion, 8845 Sheridan Drive, Williamsville, New York 14221 and David S. Kelly. 8845 Sheridan Drive, Williamsville, New York 14221.

3. This affidavit is based on my own knowledge.

4. This is a claim for personal injury resulting from a motor vehicle accident on December 5, 2011.

5. On or about December 5, 2011, I, the claimant, was a passenger in a vehicle operated by the Erie County Sheriff's Department. That on the above said date, time and location, the vehicle in which I was a passenger was involved in a motor vehicle accident resulting in injuries to the two (2) Sheriff 's Deputies in the front of the van as well as myself and other passengers in the rear of the van.

6. I have been injured as a consequence of this accident and I have been rendered sick, sore, lame and disabled; said injuries being in excess of the threshold set forth in the Insurance Law of the State of New York §5101(d).

7. The cause of the injuries was the negligence of the Erie County Sheriff's Department, the County of Erie, their agents and employees and contractors, in the operation of said motor vehicle upon a public highway situated in the County of Erie.

8. The further cause of the injuries was the negligence and/or failure of the County of Erie and the Erie County Sheriff's Office, their agents and employees and/or contractors, to properly train the members of the Erie County Sheriff's Office and in the proper operation of said motor vehicle; a failure to establish proper training procedures, and failure to establish and enforce policies for the supervision of the Department of Erie in their conduct of their duties.

9. A complaint to the Erie County Sheriff's Department is made contemporaneously. I have no knowledge that any action has been taken as a result of this complaint.

10. The amount of damages sought will be supplied upon request.

Dated: Buffalo, New York
February 14, 2012

Todd A Duffy
TODD DUFFY

Sworn to before me this 15th
day of February, 2012

Notary Public

PETER P. VASILION
Notary Public, State of New York
Qualified in Erie
My Commission Expires 7/13/2013

Yours, etc.

Peter P. Vasilion, Esq.
Attorney for Claimant
8845 Sheridan Drive
Williamsville, New York 14221
(716) 989-5279

TO: Erie County Sheriff's Department
Administrative Services
10 Delaware Avenue
Buffalo, New York 14202

Erie County Attorney
95 Franklin Street, 16th Floor
Buffalo, New York 14202

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

DEPARTMENT OF LAW

March 13, 2012

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:	*White, Wayne v. Erie County Attorney, Jeremy Colby, Craig Cwick and Erie County Clerk*
Document Received:	Summons and Complaint
Name of Claimant:	Wayne White 04B0889 Coxsackie Correctional Facility P.O. Box 999 Coxsackie, NY 12051
Claimant's attorney:	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
cc: Michael A. Siragusa, Erie County Attorney

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss.:
COUNTY OF GREENE)

RECEIVED
MAR 07 2012
ERIE COUNTY
DEPARTMENT OF LAW

I, Mr.Wayne.A.White being duly sworn, deposes and says:

1. I am over eighteen (18) years of age and resides at the Coxsackie Correctional Facility, P.O.Box: 0999. Coxsackie, New York 12051-0999.

2. On FEBUARY, 2012, I placed and submitted a true and exact copy of the within document(s) which consist of the following: 1. VERIFICATION 2.AFFIDAVIT OF SERVICE 3.SUMMONS AND COMPLAINT 4. NOTICE OF INTENT TO FILE A COMPLAINT 5. PERMISSION TO SERVE A LATE NOTICE OF CLAIM 6. NOTICE OF CLAIM 7. AFFIDAVIT IN SUPPORT OF THE NOTICE OF CLAIM,
in a properly sealed, post paid wrapper and deposited same in an official depository of the United States Postal Service, said box being under exclusive care of the New York State Department of Correctional Services and is one established for the purpose of mailing correspondence, addressed for delivery to the following parties.

1. MR.CRAIG.M.CWICK 180 MAIN STEET NEW YORK 14075

2. COUNTY ATTORNEY JEREMY COLBY 95 FRANKLIN STREET
BUFFALO NEW YORK 14202

3. ~~COMPTROLLER MR MARK C COLOMBARZ~~ BECAUSE THERE IS NO COUNTY ATTORNEY AT PRESS TIME MRS. KATHY HOCHUL WAS SELECTED TO THE CONGRESS , SHE WAS THE PREVIQUS COUNTY CLERK
COUNTY CLERK'S OFFICE
95 FRANKLIN STREET
BUFFALO NEW YORK 14202

SWORN TO BEFORE ME THIS
23RD DAY OF FEBRUARY 2012
MUSCHETT, CECIL G.
Notary Public - State of New
NOTARY PUBLIC 14

Respectfully Submitted,
Mr Wayne White
MR.WAYNE.A.WHITE 04B0889
Din #
Coxsackie Correctional Facility
P.O.Box: 0999
Coxsackie, New York 12051-0999

VERIFICATION

STATE OF NEW YORK)
)ss.:
COUNTY OF GREENE)

Mr.Wayne.A.White 04B0889, being duly sworn, deposes and says that deponent is the Petitioner in the above-captioned proceeding, that he has read the foregoing, and knows the contents thereof, that the same is true to deponent's own knowledge, except as to matters therein stated upon information and belief, which matters deponent dbelieves to be true.

Mr. Wayne White
Mr.Wayne.A.White

04B0889
Petitioner

SWORN TO BEFORE ME THIS
23rd DAY OF February, 2012.

MUSCHETT, CECIL G.
Notary Public - State of New York
Qualified in Schenectady County
Commission Expires [illegible]

NOTARY PUBLIC

Comm. BD-2
Page 49 of 91

Application For Index Number

.....COUNTY CLERK

Application for INDEX NUMBER
pursuant to CPLR §8018(a).
FEE $170.00

INDEX NUMBER

DO NOT WRITE IN THIS SPACE

Spaces below to be TYPED OR PRINTED by applicant.

Title of Action or Proceeding

VS.

TYPE BELOW NAME AND ADDRESS OF ATTORNEY(S) FOR PLAINTIFF(S)

TYPE BELOW NAME AND ADDRESS OF ATTORNEY(S) FOR DEFENDANT(S)

INDEXED AND ENTERED
(CLOCK DATE)

Indexed and Entered _____
DO NOT WRITE ON LINE ABOVE

DO NOT DETACH

Title of Action or Proceeding to be TYPED or PRINTED by applicant.

INDEX NUMB
FEE $170.

.....COURT, ...COUNTY

Endorse THE INDEX
NUMBER On All Paper
and advise your adversar
of the number assigned

VS.

INDEXED AND ENTERED
(CLOCK DATE)

LL

UCS-840(REV 1. 11

REQUEST FOR JUDICIAL INTERVENTION

SUPREME COURT, ERIE COUNTY

INDEX NO. _____ DATE PURCHASED: _____

For Clerk Only
IAS entry date
Judge Assigned
RJI Date

PLAINTIFF(S):

Mr. Wayne White # 04B0889

DEFENDANT(S):

Mr. Craig Cwick Esq.

Date issue joined: N/A Bill of particulars served (Y/N): [ ]Yes [ ]No

NATURE OF JUDICIAL INTERVENTION (check ONE box only AND enter information)

[ ] Request for preliminary conference

[ ] Note of issue and/or certificate of readiness

[X] Notice of motion (return date:_____)
Relief sought Poor Person Status 1101 (f)

[ ] Order to show cause (clerk enter return date:_____)
Relief sought_____

[ ] Other ex parte application (specify:_____)

[ ] Notice of petition (return date:_____)
Relief sought _____

[ ] Notice of medical or dental malpractice action (specify:_____

[ ] Statement of net worth

[ ] Writ of habeas corpus

[ ] Other (specify: _____

NATURE OF ACTION OR PROCEEDING (Check ONE box only)

MATRIMONIAL
[ ] Contested -CM
[ ] Uncontested -UM

COMMERCIAL
[ ] Contract -CONT
[ ] Corporate -CORP
[ ] Insurance (where insurer is a party, except arbitration) -INS
[ ] UCC (including sales, negotiable instruments) -UCC
[ ] *Other Commercial -OC

REAL PROPERTY
[ ] Tax Certiorari -TAX
[ ] Foreclosure -FOR
[ ] Condemnation -COND
[ ] Landlord/Tenant -LT
[ ] *Other Real Property -ORP

OTHER MATTERS
[ ] *_____ -OTH

* If asterisk used, please specify.

TORTS
Malpractice
[ ] Medical/Podiatric -MM
[ ] Dental -DM
[ ] *Other Professional -OPM

[ ] Motor Vehicle -MV
[ ] *Products Liability -PL

[ ] Environmental -EN
[ ] Asbestos -ASB
[ ] Breast Implant -BI
[ ] *Other Negligence -OTN

[X] *Other Tort (including intentional) -OT
Notice of Claim seeking money damages

SPECIAL PROCEEDINGS
[ ] Art. 75 (Arbitration) -ART75
[ ] Art. 77 (Trusts) -ART77
[ ] Art. 78 -ART78
[ ] Election Law -ELEC
[ ] Guardianship (MHL Art. 81) -GUARDS
[ ] *Other Mental Hygiene -MHYG

[ ] *Other Special Proceeding -OSP

Supreme Court Of The State Of New York
County Of Erie

Mr.Wayne.A.White Claimant.

vs

Mr Craig Cwick E.S.Q. Defendants.

NOTICE OF INTENT
TO FILE COMPLAINT

INDEX NO._____

R.J.I. NO._____

S.I.R.S: PLEASE TAKE NOTICE , That upon the Affidavit of Mr.Wayne White, sworn to the _____Day of of _____ and thereto annexed , The Plaintiff will move this court at a term thereto to be held in the courthouse located in Erie County 92 Franklin Street Buffalo New York 14202 on the _____ Day _____ of _____2012

the undersigned Mr.Wayne White intends to file a claim against county of erie and defendants Pursuant to (C.P.L.R.) Civil Practice Laws' and Rules 2214 (B) answering affidavits if any are required , to be served upon the undersigned at least 7 days before the the return date of this motion .

the defendant is Mr.Craig Cwick attorney at law 180 Hamburg New York 180 Main Street

MR.WAYNEWHITE 04B0889

DATED: MARCH 2 , 2012

Supreme Court Of The State Of New York
County Of Erie

Mr Wayne.A.White Claimant.

vs

Mr.Craig Cwick E.S.Q. Defendant.

NOTICE OF MOTION FOR PERMISSION TO SERVE A LATE NOTICE OF CLAIM
INDEX NO._____
R.J.I._____

S.I.R.S: PLEASE TAKE NOTICE, that upon the affidavit of Mr.Wayne.A.White, Sworn to the 23rd day of Febuary 2012 and thereto annexed , the plaintiff will move this court at a term thereto to be held in the courthouse located at Erie County 92 franklin street Buffalo New York 14202 on the 30 day of March 2012 at 9:00am in the forenoon , or as soon thereafter as can be heard for an order Pursuant to Section 50-E Subdivision ,5 of the general Municipal Law for leave to file a notice of claim.
the above entitled action was brougtht for a notice of claim.
pursuant to (CPLR) Civil Practice Laws and Rules 2214(B) answering affidavits if any; are required to be served upon the undersigned at least 7days before the return date of this motion.

DATED: 2/23/12

SWORN TO BEFORE ME THIS
23rd DAY OF February ,2012.

MUSCHETT, CECIL G.
Notary Public - State of New York
Qualified in Schenectady County

NOTARY PUBLIC

Mr. Wayne White
MR.WAYNE.A.WHITE 04B0889
DIN

Supreme court Of The State Of New York

County Of Erie

MR.WAYNE.A.WHITE

Plaintiff,

-against-

Defendant,

MR.CRAIG.M.CWICK

SUMMONS AND COMPLAINT
IN A CIVIL CASE

INDEX #_____

JUSTICE_____

To the above named defendant;

YOU ARE HEREBY SUMMONED AND required to appear in this action by serving an answer to the annexed complaint upon the plaintiff at the address stated below , within (30) days , as provided by law ; upon your failure to answer , judgement will be taken against you by default for the relief demanded in the complaint , together with the cost and the disbursements of this action .

TO: Mr. Craig .M. Ccwick
180 Main Street
Hamburg New York 14075

From: WAYNE.A.WHITE
04B0889
COXSACKIE CORR. FACILITY
COXSACKIE NEW YORK 12051
-0999

DATED: _____2012

CLERK OF THE SUPREME COURT
COUNTY OF ERIE_____

NOTICE OF CLAIM

Supreme Court Of The State Of New York
County Of Erie

Mr.Wayne.A.White Claimant.

vs

Mr. Craig Cwick Respondant.

NOTICE OF CLAIM

INDEX NO._____

R.J.I. NO._____

PLEASE TAKE NOTICE that pursuant to the General Municipal Law 50- , the undersigned Mr.wayne.a.white intends to file a claim against the County Of Erie and the Attorney Craig Cwick. the post office address of the claimant is COXSACKIE CORRECTIONAL FACILITY P.O.BOX 999 COXSACKIE NEW YORK 12051-0999

The nature of the claim is as follows: it is a claim for personal injury due Deliberate Indifferance of my attorney who played ignorant despite awareness and Malpractice and ineffective assistance of counsel by the court appionted attorney mr.craig cwick.

on March 30, 2012 at the Erie County Courthouse, located at ERIE COUNTY COURT BUILDING 25 , DELAWARE AVENUE BUFFALO NY 14202

I was sentenced to three consecutive terms of 3-6 years by the Honurable Judge Tills of Erie County pusuant to a associated plea negotiation by the assistance district attorney Mr.Frank Housh an my attorney Mr.Craig Cwick both of whom had a copie of my record and arrest and prosecution sheet and the means to verify my contentions that i was incarcerated on the alledged date of count one of the superior court information they were insisting that i plead guilty in order to avoid trail and even though i initially

protested this agreement to my lawyer Mr.Cwick his only reply was QUOTE (BEAT IT ON APPEAL) thus i was committed to the state 's prison system Classified as Maximum Security due to the extended length of my time.

AFFIDAVIT IN SUPPORT OF THE NOTICE OF CLAIM

Supreme court Of The Stae Of New York
County Of Erie

Mr.Wayne.A.White	Claimant	AFFIDAVIT IN SUPPORT OF NOTICE OF CLAIM
vs		INDEX NO._____
		R.J.I._____
Mr.Craig Cwick	Respondant	

STATE OF NEW YORK)
)
COUNTY OF ERIE) ss:

Mr. Wayne.A.White , being duly sworn , deposes and says:
I am the Plaintiffand make this Affidavit in support of the motion for leave to serve a notice of claim pusuant to section 50=E , Subdivision 5 , of the General Municipal Law.

1. The notice of claim was not served as plaintiff who is a lay person was not aware of the short filing process set forth in the General Municipal Law 50-E , I respectfully request that the court's consider the handicaps and conditions under which i must make my claim.

2. The county of erie had notice of the essential fact's of my claim.

(A.) The district attorney's department has filed numerous legal document's pertaining to the prosecution of the superior court information that i was prosecuted by.

(B.) At the time of the incident the district attorney's office along with the court appionted counsel, did in-depth investigations generating report's with respect to the incidents' .

3. My claim ibelieve has merit, as indicated by my claim there is documentation that verifys

Continued answer from 3.

That the said plaintiff was incarcerated at the time of the alledged charges in the superior court information.

4. My failure to file a notice in a timely fashion could not have possibly caused prejudice to the county whom investigated the incident , though it's employee many ofwhom are still available in the district attorneys office and the legal aid bureau of erie county and can still be contacted with respect to the incident , except the presiding judge in the case your honourable judge Ronald Tills who has since retired from the bench .

5. The claimant by operationof section 24 of the Corrections Law is with out any other state remedy.

6. No previous application for the relief sought therein has been made to any other judge of the court.

As a result of the incident , the damages or injuries sustained are as follows:

A.) Deliberate Indifferance to prserve ones ignorance despite the factthat my lawyer was aware of the circumstances and i would say that he is a resonable person , it was express to him by the plaintiff of the facts essential to the crime of burglary in the third degree of the superior court information that he was charged with he was aware and disregarded the risk of harm to my life , body , property , by informing me toplea to a crime that he knew that i did not do because i was incarcerated at the time of the crime, which took place on july 30,2000.

B.) Duress the defendants court appionted attorney Mr. Cwick

Broadly use a verbal form of harm that could come to me if i decided to risk ging to a trail and he stated that (so what i know that you did not do the crime but you beat it on appeal). and this compel my to do something against his will or judgement; .

C.) Pain and Suffering is a emotional distress compensable as an element of non-economic damages in my tort all during this time i suffered numerous deaths by my relatives my oldest brother Mr, David.L.Wilson 114 Main Street buffalo new york in erie county was a substitute 8 and 9 grade Teacher in the buffalo school system.

My oldest sister Mrs,Lonna hester who live at 59 Warwick steet Buffalo new york in erie county was a Married homemaker in the city of buffalo new york who was actually oon her way to visit the defendant in Clinton Correctional Facility in Dannemora new york , had a car accident and went into resporatory attack and became deceased.

D.) Trauma is another affliction that i have suffered and the after effects are still hurting me.

The delay in filing this claim is excusable because : I am not a lawyer i am indigent and i know nothing about the law and also i really had no access to a professsional legal counsel or to the prison law library during this statutory period for filing i was in a keeplock status and i was constantly being moved in transcient at the time to diferent facility's.

there will be a copy of an affidavit of service to each the clerks office and to the respondant and also a copy of the summons and complaint in a civil case, to both parties.

E.) Another claim that the complainant has is that the court appointed attorney Mr.Craig Cwick committed a concurrent negligence meaning the negligence of two or more parties acting independently but causing the same damage in that the prosecutor of the case Mr. Frank Housh even though he is not labeled as a particibater in this case , they both knew that i was already incarcerated at the time of the crime ,that happen on july 30,2000 my lawyer failed to to exercise the standard of care that a reasonably prudent person would have exercise in a similar situation; this is the conduct that he displayed that fell below the legal standard established to protect others against unreasonable risk of harm. the malfeasance comes into play in the fact that a wrongfull or unlawfull act or a wrongdoing or misconduct by a public official which was my lawyer Mr.Craig Cwick.

Prayer For Relief

This claim is hereby presented for compensation in the total amount of $ 1,300,000. it is as follows $ 500,000 for Deliberate Indifferance , who played ignorant despite his awareness of everything , and also his Negligence and Malfeasance of his duties , and $ 800,000 for Malpractice and Ineffectiveness of counsel as far as my atorney Mr,Craig Cwick performing his duties as a lawyer for the county of Erie the city of Buffalo New York

WHEREFORE UPON THESE PLEADINGS THE PETITIONER MR. WAYNE.A.WHITE PRAYS FOR AN ORDER DECLARING THAT THE RESPONDANT IS GUILTY OF DELIBERATE INDIFFERANCE AND NEGLIGENCE AND MALFEASANCE OF HIS DUTIES AND MALPRACTICE AND HIS INEFFECTIVENESS AS MY COUNSEL OF HIS DUTIES TO CLIENTS , AND PERMIT THE FILING OF THE LATE

NOTICE

OF CLAIM ATTACHED HERETO IN THE ABOVE ENTITLED PROCEEDINGS

AND JUDGE OF THE SAME.

Mr. Wayne White

RESPECTFULLY MR.WAYNE WHITE

04B0889

SWORN TO BEFORE ME THIS 23rd

DAY OF February, 2012.

NOTARY PUBLIC

MESCHETT, CECIL G.
Notary Public - State of New York
Qualified in Schenectady County
My Commission Expires 06-

EXHIBIT # (A)

CERTIFICATE OF CONVICTION — IMPRISONMENT — Sec. 380.60 C.P.L.

AT A TERM OF THE TOWN COURT, Town of Amherst, held in and for the Town of Amherst, County of Erie and State of New York, at the Court House, at 400 John James Audubon Pkwy., W. Amherst, N.Y. Court Code #1451

on the 20th day of June, 19 00

Present - Hon. MARK G. FARRELL, Amherst Town Justice

THE PEOPLE OF THE STATE OF NEW YORK Plaintiff.

Against

Wayne White DOB: 1/29/60 Defendant.

DOO: 3/1/00
DOA: 3/13/00
SEC(S): 140-25-2

The defendant above having been (found) (pled) guilty and having been convicted, on the 20th day of June 19 2000 of the offense(s) of 140.15 PC (Crim Mis. 2)

personally appears this day for judgment. The Court informed the defendant, the defendant's counsel and the District Attorney of their rights to make statements and rebuttal to the Court's remarks under section 380.60 of the C.P.L. Judgment is thereupon pronounced that the said defendant be imprisoned in the

Erie County Correctional Facility

at Alden, N. Y., for the term of 1 yr to run consecutive to current charge

DEFENDANT IS INDIGENT. REQUEST SUPERINTENDENT OF CORRECTIONAL FACILITY COLLECT SURCHARGE OF $ 125.00 PER SECTION 60.35(5) PL OF NEW YORK STATE

I HEREBY CERTIFY the foregoing to be a true copy of the entry of Judgment upon the minutes in the above-entitled action.

WITNESS my hand and the seal of said court this 20 day of June, 19 2000

TOWN JUSTICE PRESIDING

EXHIBIT # (B)

TATE OF NEW YORK
UPREME COURT : COUNTY OF ERIE

HE PEOPLE OF THE STATE OF NEW YORK
vs.
AYNE WHITE

WAIVER OF INDICTMENT
S.C.I. NO. 21712
File No. 02-0384

, the defendant named above, having been held for action of a Grand Jury on the
harge(s) of:
. BURGLARY IN THE THIRD DEGREE, P.L. §140.20
. BURGLARY IN THE THIRD DEGREE, P.L. §140.20
. BURGLARY IN THE THIRD DEGREE, P.L. §140.20

hereby waive indictment and consent to be prosecuted by a Superior Court
information charging the following offense(s):
. BURGLARY IN THE THIRD DEGREE, P.L. §140.20
. BURGLARY IN THE THIRD DEGREE, P.L. §140.20
. BURGLARY IN THE THIRD DEGREE, P.L. §140.20

1. July 30, 2000 at approximately 9:30 a.m.
2. Between March 31, 2001 and April 30, 2001 at approximately 12:01 a.m. and 12:00 a.m.
3. December 26, 2001 at approximately 12:00 p.m.

Approximate Date and Time of the commission of above offense
1. 1035 Delaware Ave., City of Buffalo, County of Erie, State of New York
2. 1035 Delaware Ave., City of Buffalo, County of Erie, State of New York
3. 164 Greenfield St., City of Buffalo, County of Erie, State of New York

Approximate Place of the commission of the above offense
I am aware that:
(a) under the Constitution of the State of New York I have the right to be prosecuted by indictment filed by a Grand Jury;
(b) I waive such right and consent to be prosecuted by Superior Court Information to be filed by the District Attorney;
(c) the Superior Court Information to be filed by the District Attorney will charge the offenses in this waiver; and
(d) the Superior Court Information to be filed by the District Attorney will have the same force and effect as an indictment filed by a Grand Jury.
This Waiver was signed by the defendant in open Court and in my presence.

Signature
WAYNE WHITE
Defendant

Signature
CRAIG CWICK ESQ
Defense Attorney

I, the District Attorney of the County specified above, hereby consent to this waiver

FRANK J. CLARK
DISTRICT ATTORNEY OF ERIE COUNTY

Signature
FRANK T. HOUSH
Assistant District Attorney

This Court being satisfied that this waiver complies with the provisions of Sections 195.10 and 195.20 of the Criminal Procedure Law, it is
ORDERED, that this waiver is approved: Enter.

October 9, 2003

CHRISTINE E. RYDER

HON. RONALD H. TILLS, J.S.C.

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 13, 2012

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:	*Okongwu, Emeka Dominic v. Erie County Department of Social Services*
Document Received:	Notice of Claim
Name of Claimant:	Emeka Dominic Okongwu 117 Ledger Street Buffalo, NY 14216
Claimant's attorney:	Pro Se

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
Michelle M. Parker
First Assistant County Attorney

MMP/dld

Enclosure

cc: Michael A. Siragusa, Erie County Attorney

STATE OF NEW YORK: COUNTY OF ERIE

In the Matter of the Claim of

NOTICE OF CLAIM

EMEKA DOMINIC OKONGWU,

Claimant

TO: ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES

PLEASE TAKE NOTICE, the Claimant herein hereby makes a claim and demand against the ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES.

1. **Name and post-office addresses of the Claimant:**

CLAIMANT

Emeka Dominic Okongwu
117 Ledger Street
Buffalo, NY 14216

MAR 12 2012
ERIE COUNTY
DEPARTMENT OF LAW

2. **The Nature of the Claim:** This is an action for recovery of damages arising out of injury to person sustained by Claimant, caused solely by the intentional and/or negligent conduct of the ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES, including, but not limited to, defamation, perjury, offering false testimony, fraud, deceit, negligence, negligent infliction of emotional distress, intentional infliction of emotional stress, negligent hiring, training and supervision of individuals employed by respondents, and otherwise tortious acts of and violations of civil rights by the ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES, their agents, servants and/or employees, resulting in Claimant sustaining severe personal, mental and emotional injuries.

3. **The Time When, the Place Where, and the Manner in which the Claim arose:** The incident giving rise to this claim occurred in 1992 and continued through December 15, 2011, at various Correctional Institutions throughout New York State, at which time and place Claimant was wrongfully imprisoned. Claimant was wrongfully accused and convicted of sexual crimes against his twin daughters by virtue of false testimony which was procured by the ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES and subsequently wrongfully imprisoned for the same from 1992 until December 15, 2011.

4. **The Items of Damage or Injuries Sustained by Claimant:** The injuries and damages sustained by Claimant, include, but are not limited to, severe mental anguish, anxiety, post

traumatic stress, and injuries to his head, face, hands, mouth and right testicle, rendering Claimant sick, sore and lame and causing him to incur past and continuing medical expenses, present and future lost wages, loss of career, and other related damages in an amount to be determined. That said claim and demand is hereby presented for adjustment and payment.
as well as other damages in an amount as yet to be determined. That said claim and demand is hereby presented for adjustment and payment.

PLEASE TAKE FURTHER NOTICE that by reason of the premises, in default of the ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES, to pay Claimant said sum to be determined within the time limited for compliance with this demand pursuant to the statutes in such cases made and provided, the Claimant intends to commence action against the ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES to recover said damages with interest and the costs of this action.

Dated: Amherst, New York
March 9, 2012

Respectfully submitted,

EMEKA DOMINIC OKONGWU

STATE OF NEW YORK }
TOWN OF AMHERST } ss:
COUNTY OF ERIE }

EMEKA DOMINIC OKONGWU, being duly sworn states that I am the Claimant in the within action. I have read the foregoing Notice of Claim and know the contents thereof. The contents are true to my knowledge, except as to matters therein stated to be alleged upon information and belief and to those matters, I believe them to be true.

EMEKA DOMINIC OKONGWU

Sworn to and subscribed before me
this 9th day of March, 2012.

Notary Public

OFFICIAL SEAL
Joan Ruchalski
Notary Public - State of New York
Qualified in Erie County
My Commission Expires June 30, 2014

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 13, 2012

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File Name:	*Okongwu, Emeka Dominic v. Erie County Sheriff's Office and County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	Emeka Dominic Okongwu 117 Ledger Street Buffalo, NY 14216
Claimant's attorney:	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
cc: Michael A. Siragusa, Erie County Attorney

STATE OF NEW YORK: COUNTY OF ERIE

In the Matter of the Claim of

EMEKA DOMINIC OKONGWU,

Claimant

NOTICE OF CLAIM

TO: COUNTY OF ERIE

PLEASE TAKE NOTICE, the Claimant herein hereby makes a claim and demand against the COUNTY OF ERIE and the ERIE COUNTY SHERIFF'S DEPARTMENT.

1. **Name and post-office addresses of the Claimant:**

CLAIMANT

Emeka Dominic Okongwu
117 Ledger Street
Buffalo, NY 14216

2. **The Nature of the Claim:** This is an action for recovery of damages arising out of injury to person and property sustained by Claimant, caused solely by the intentional and/or negligent conduct of the COUNTY OF ERIE and the ERIE COUNTY SHERIFF'S DEPARTMENT, including, but not limited to, negligence, negligent infliction of emotional distress, conversion of personal property, negligent hiring, training and supervision of police officers employed by respondents, and otherwise tortious acts of and violations of civil rights by the COUNTY OF ERIE and the ERIE COUNTY SHERIFF'S DEPARTMENT, their agents, servants and/or employees, resulting in Claimant sustaining severe personal, mental and emotional injuries.

3. **The Time When, the Place Where, and the Manner in which the Claim arose:** The incident giving rise to this claim, occurred on December 15, 2011, at the Erie County Holding Center located at 40 Delaware Avenue, City of Buffalo, County of Erie, and State of New York, at which time and place Claimant was released from the Erie County Holding Center without access to, or possession or, his personal property. This personal property consists of approximately 3 large bags of all of the Claimant's property that he had collected throughout his entire incarceration, including, but not limited to, his personal papers.

4. **The Items of Damage or Injuries Sustained by Claimant:** The injuries and damages sustained by Claimant, include, but are not limited to, loss of the use and enjoyment of his

personal property, severe mental anguish, as well as other damages in an amount as yet to be determined. That said claim and demand is hereby presented for adjustment and payment.

PLEASE TAKE FURTHER NOTICE that by reason of the premises, in default of the COUNTY OF ERIE and ERIE COUNTY SHERIFF'S DEPARTMENT, to pay Claimant said sum to be determined within the time limited for compliance with this demand pursuant to the statutes in such cases made and provided, the Claimant intends to commence action against the COUNTY OF ERIE and ERIE COUNTY SHERIFF'S DEPARTMENT to recover said damages with interest and the costs of this action.

Dated: Amherst, New York
March 9, 2012

Respectfully submitted,

EMEKA DOMINIC OKONGWU

STATE OF NEW YORK }
TOWN OF AMHERST } ss:
COUNTY OF ERIE }

EMEKA DOMINIC OKONGWU, being duly sworn states that I am the Claimant in the within action. I have read the foregoing Notice of Claim and know the contents thereof. The contents are true to my knowledge, except as to matters therein stated to be alleged upon information and belief and to those matters, I believe them to be true.

EMEKA DOMINIC OKONGWU

Sworn to and subscribed before me
this 9th day of March, 2012.

Notary Public

OFFICIAL SEAL
Joan Kuchelski
Notary Public - State of New York
Qualified in Erie County
My Commission Expires June 30, 2014

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 13, 2012

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:	*Okongwu, Emeka Dominic v. County of Erie and Erie County Sheriff's Office*
Document Received:	Notice of Claim
Name of Claimant:	Emeka Dominic Okongwu 117 Ledger Street Buffalo, NY 14216
Claimant's attorney:	*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

cc: Michael A. Siragusa, Erie County Attorney

STATE OF NEW YORK: COUNTY OF ERIE

In the Matter of the Claim of

EMEKA DOMINIC OKONGWU,

Claimant

NOTICE OF CLAIM

TO: COUNTY OF ERIE
ERIE COUNTY SHERIFF'S OFFICE

PLEASE TAKE NOTICE, the Claimant herein hereby makes a claim and demand against the COUNTY OF ERIE and the ERIE COUNTY SHERIFF'S OFFICE.

1. **Name and post-office addresses of the Claimant:**

CLAIMANT

Emeka Dominic Okongwu
117 Ledger Street
Buffalo, NY 14216

2. **The Nature of the Claim:** This is an action for recovery of damages arising out of injury to person and property sustained by Claimant, caused solely by the intentional and/or negligent conduct of the COUNTY OF ERIE and the ERIE COUNTY SHERIFF'S OFFICE, including, but not limited to, false arrest, false imprisonment, malicious prosecution, negligence, negligent infliction of emotional distress, intentional infliction of emotional stress, negligent hiring, training and supervision of police officers employed by respondents, and otherwise tortious acts of and violations of civil rights by the COUNTY OF ERIE and the ERIE COUNTY SHERIFF'S OFFICE, their agents, servants and/or employees, resulting in Claimant sustaining severe personal, mental and emotional injuries.

3. **The Time When, the Place Where, and the Manner in which the Claim arose:** The incident giving rise to this claim occurred on March 19, 2010 and continued through December 15, 2011, at the Erie County Holding Center located at 40 Delaware Avenue, City of Buffalo, County of Erie, and State of New York, at which time and place Claimant was improperly imprisoned at the Erie County Holding Center.

4. **The Items of Damage or Injuries Sustained by Claimant:** The injuries and damages sustained by Claimant, include, but are not limited, severe mental anguish, anxiety as well as other damages in an amount as yet to be determined. That said claim and demand is hereby presented for adjustment and payment.

PLEASE TAKE FURTHER NOTICE that by reason of the premises, in default of the COUNTY OF ERIE and ERIE COUNTY SHERIFF'S DEPARTMENT, to pay Claimant said sum to be determined within the time limited for compliance with this demand pursuant to the statutes in such cases made and provided, the Claimant intends to commence action against the COUNTY OF ERIE and ERIE COUNTY SHERIFF'S DEPARTMENT to recover said damages with interest and the costs of this action.

Dated: Amherst, New York
March 9, 2012

Respectfully submitted,

EMEKA DOMINIC OKONGWU

STATE OF NEW YORK }
TOWN OF AMHERST } ss:
COUNTY OF ERIE }

EMEKA DOMINIC OKONGWU, being duly sworn states that I am the Claimant in the within action. I have read the foregoing Notice of Claim and know the contents thereof. The contents are true to my knowledge, except as to matters therein stated to be alleged upon information and belief and to those matters, I believe them to be true.

EMEKA DOMINIC OKONGWU

Sworn to and subscribed before me
this 9th day of March, 2012.

Joan Ruchalski
Notary Public

OFFICIAL SEAL
Joan Ruchalski
Notary Public - State of New York
Qualified in Erie County
My Commission Expires June 30, 2014

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 20, 2012

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:	*American Site Developers LLC v. NYS Dept. of Labor and Erie County Comptroller*
Document Received:	Decision and Order
Name of Claimant:	American Site Developers, LLC
Claimant's attorney:	Michael J. Tallon 900 Times Square Building 45 Exchange Boulevard Rochester, New York 14614-2008

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
parkerm3@erie.gov

MMP/dld
Enclosures
cc: Michael A. Siragusa, Erie County Attorney

STATE OF NEW YORK COUNTY OF ERIE
SUPREME COURT

In the Matter of
AMERICAN SITE DEVELOPERS, LLC

Index No. 2011-004285

Petitioner,

NOTICE OF ENTRY

-vs.-

Justice Assigned:
Honorable Timothy J. Walker, J.C.C.
Acting Supreme Court Justice

NEW YORK STATE DEPARTMENT OF LABOR,
and ERIE COUNTY COMPTROLLER

Respondents.

PLEASE TAKE NOTICE, that the annexed Decision and Order is an attorney certified copy of a time stamped copy of the Decision and Order duly entered in the above-entitled action and filed in the Office of the Clerk of Erie County on the 2nd day of March, 2012.

Dated: March 3, 2012
At: Rochester, New York

Michael J. Tallon, Attorney
Attorney for Petitioner American Site Developers, LLC
900 Times Square Bldg.
45 Exchange Blvd.
Rochester, New York 14614-2008
Telephone: (585) 546 1734
Facsimile: (585) 546 7803 {not for service}
mtallon@tallonlaw.com

TO:

Seth Kupferberg, Assistant Attorney General
Office of the Attorney General
120 Broadway
New York, NY 10271
Telephone: (212) 416-8856
Facsimile: (212) 416-8694 {not for service}
E-mail: seth.kupferberg@ag.ny.gov

Michael A. Siragusa, County Attorney
Office of the Erie County Attorney
Edward A. Rath County Office Building
95 Franklin St. – Rm. 1634
Buffalo, New York 14202
Telephone: (716) 858-2200
Facsimile: (716) 858-2281 {not for service}
E-mail: michael.siragusa@erie.gov

David J. Shenk, Comptroller
Erie County Comptroller's Office
Edward A. Rath County Office Building
95 Franklin Street, Room 1100
Buffalo, New York 14202
Telephone: (716) 858-8400
Facsimile: (716) 858-8507 {not for service}

Courtesy Copy to:

Louise G. Roback
Senior Attorney, of Counsel
New York State Department of Labor
State Campus, Building 12, Room 509
Albany, NY 12240
Telephone: (518) 457-4380
E-mail: Louise.Roback@labor.ny.gov

At an IAS Regular Term of the Supreme Court of the State of New York held in and for the County of Erie at Part 20 at 25 Delaware Avenue, Buffalo, New York on the 1st day of February, 2012

STATE OF NEW YORK COUNTY OF ERIE
SUPREME COURT

In the Matter of
AMERICAN SITE DEVELOPERS, LLC

Petitioner,

-vs.-

NEW YORK STATE DEPARTMENT OF LABOR, and ERIE COUNTY COMPTROLLER

Respondents.

Index No. 2011-004285

DECISION AND ORDER

Justice Assigned:
Honorable Timothy J. Walker, J.C.C.
Acting Supreme Court Justice

Upon the Notice of Verified Petition and Verified Petition of Petitioners each dated November 3, 2011; upon the Supplemental Notice of Verified Petition dated November 4, 2011; the Answer and Objections in Point of Law and Affidavit of Matthew Stern and Respondent's Memorandum of Law in Support of Motion to Dismiss Petition each dated December 12, 2011; the Supplemental Affidavit of Seth Kupferberg dated January 4, 2012; and Petitioners' Reply to Respondent's Answer and Objections in Point of Law and to Respondent's Supplemental Affidavit dated January 28, 2012;

AND having provided an opportunity for the parties to be heard by and through their attorneys, Michael J. Tallon for Petitioners and Seth Kupferberg, Assistant Attorney General of the New York City Office of the Office of the Attorney General and Stephanie Joy Calhoun,

Assistant Attorney General of the Buffalo Regional Office of the Office of the Attorney General at a regular term of the Supreme Court of the State of New York on February 1, 2012 held in and for the County of Erie, Part 20 - Third Floor, 25 Delaware Avenue, Buffalo, New York 14202;

AND, after due deliberation having been had, this Court finds that Respondent has moved for the dismissal of the Petition pursuant to CPLR §3211(a)(1), (7) and (10);

AND this Court further finds that Respondent has moved for the dismissal of the Petition of Petitioner Patrick R. Dandrea pursuant to CPLR §3211(a)(7);

AND this Court further finds that Respondent has moved for an Order authorizing its release of the sum of $50,395.34 which sum was withheld from Petitioner American Site Developers, LLC (hereinafter "ASD") funds by the Office of the Comptroller of Erie County (hereinafter the "Comptroller") and is now in the Respondent's possession and which, by reference to the Commissioner of Labor's Order dated May 5, 2011 (hereinafter "Commissioner's Order") and by calculations by Respondent based upon the Commissioner's Order, represents what the parties agree is the uncontested liability of the Petitioner, in its capacity of prime contractor, created by the underpayment of wages and supplements by Covey Tree, Inc. occurring during calendar year 2007 and now calculated to include accrued interest and civil penalty;

AND this Court further finds that Petitioner, to satisfy this uncontested liability, consents both to this release of funds in the amount of $50,395.34 and to the disbursement of these funds by the Respondent to satisfy the underpayment of wages, supplements, accrued interest and civil penalty which the Commissioner's Order found due with respect to the employees of Covey Tree;

AND this Court further finds that Petitioner expressly and affirmatively assents to forgo its right to appeal this aforestated release and disbursement for the satisfaction recited;

AND this Court reserves its determination of Petitioner's claim for the return and release of funds in excess of $50,395.34 claimed to be its funds made in reliance on the Commissioner's Order and further reserves its determination of Respondent's opposition to this claim;

AND this Court further finds that the Comptroller is a necessary party within the meaning of CPLR §1001(a) because the Comptroller possesses accounting information and facts necessary for the Court to effect complete relief between and among the parties to the action; and,

THEREFORE, NOW, it is hereby

ORDERED, ADJUDGED AND DECREED that the Petition of Patrick R. Dandrea is hereby dismissed; and it is further

ORDERED, ADJUDGED AND DECREED that the title of the proceeding shall henceforth name only American Site Developers, LLC as Petitioner; and it is further

ORDERED, ADJUDGED AND DECREED that Respondent's motion to dismiss the Petition of American Site Developers, LLC is hereby denied, subject to further proceedings following joinder of the Erie County Comptroller as set forth below; and it is further

ORDERED, ADJUDGED AND DECREED that the sum of $50,395.34 obtained by the Respondent from the Erie County Comptroller's Office, held by the Respondent to fund the underpayment calculations determined by the Commissioner of Labor pursuant its Order to have existed during calendar year 2007 during which Petitioner was found to be the prime contractor,

is to be distributed forthwith by the Respondent in accordance with the Commissioner's Order; and it is further

ORDERED, ADJUDGED AND DECREED that the Office of the Comptroller of Erie County be joined as a Respondent pursuant to CPLR §1001(a); and it is further

ORDERED, ADJUDGED AND DECREED that the title of the proceedings shall henceforth include the name Erie County Comptroller as a Respondent; and it is further

ORDERED, ADJUDGED AND DECREED that Petitioner is hereby directed to serve the Comptroller with an Amended Notice of Verified Petition and an Amended Verified Petition on or before April 9, 2012; and it is further

ORDERED, ADJUDGED AND DECREED that Petitioner shall serve a Notice of Entry together with a copy of this Decision and Order duly filed with the Erie County Clerk's Office upon the Comptroller; and it is further

ORDERED, ADJUDGED AND DECREED that the Comptroller shall file and serve its Verified Answer and its Objections in Point of Law on or before April 16, 2012; and it is further

ORDERED, ADJUDGED AND DECREED that Petitioner may file and serve on or by Monday, April 16, 2012 and the Respondent may file and serve on or before April 23, 2012 further papers limited in scope to Petitioner's claim for the return and release of its funds in excess of $50,395.34 made in reliance on the Commissioner's Order and Respondent's opposition to the return and release of the funds in excess of $50,395.34 made in reliance on Petitioner's liability as assignor as an additional independent basis for Respondent to retain and to apply Petitioner's funds in excess of $50,395.34 to wholly or partially satisfy the liability of Great

Lakes Consulting Services, LLC, determined by the Commissioner's Order to be $73,803.64; and it is further

ORDERED, ADJUDGED AND DECREED that further proceedings including oral argument are hereby scheduled before this Court on Monday, April 30th at 11:00 a.m.

ENTER

Dated: March 1, 2012
At: Buffalo, New York

Hon. Timothy J. Walker, Acting S.C.J.
Justice of the Court of Claims

GRANTED

MAR 01 2012

BY JOHN H. GARBO, JR.
COURT CLERK

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 21, 2012

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:	*Ablack, Lincoln v. County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	Lincoln Ablack
Claimant's attorney:	*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

Enc.

cc: Michael A. Siragusa, Erie County Attorney

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

==========X

Claimant,

NOTICE OF CLAIM

- vs -

THE COUNTY OF ERIE,

Defendant.

==========X

TO: COUNTY OF ERIE
DEPARTMENT OF LAW
95 Franklin Street / Room 1634
BUFFALO, NEW YORK 14202

PLEASE TAKE NOTICE that Lincoln Ablack, hereby claims and demands, pursuant to §50-e of the General Municipal Law, damages against the COUNTY OF ERIE for damages sustained by Claimant by reason of the wrongful, unlawful, negligent and careless acts and omissions of the COUNTY OF ERIE, its agents, servants or employees; and in support thereof, the Claimant states:

1. The name and post office address of the claimant is:

2. This claim is for damages sustained by the Claimant while he was an inmate at the Erie County Holding Center, 40 Delaware Avenue, Buffalo, New York 14202-3999.

RECEIVED
MAR 16 2012
ERIE COUNTY
DEPARTMENT OF LAW

3. The wrongful, unlawful, negligent and careless acts and omissions of the COUNTY OF ERIE, its agents, servants or employees, occurred as follows: My mail is being tampered with at the Erie County holding center. I have a bill in my name for Ebony magazine for several issues I have not recieved and that the facilty do not have record's of. Also I was assaluted by Co. Andrew 3/5/12 this is the second time the first time was in June 2011 after getting my ID Braclet I was jumped in the Shower room by co. Andrew and co-worker's plus Sgt then sent to Ecmc Hospital. I had no bruise's or blood on my forhead upon Entering the jail. I filed a notice of claim in June and never got a response. I Feel like my mail was tampered with. Then I filed again and got denied. Something need's to be done about all these assault's that's going on in this facilty. Since I been here I have seen numerous assaults on inmates. Also I am missing law work out of my Folder. Co's have no right to be reading my legal paper's or mail that is a violation.

4. Take further notice that claimant demands payment of his claim, and unless the claim is paid within a reasonable amount of time, and unless the claim is paid within a reasonable amount of time, it is the intention of the claimant to commence a lawsuit against the COUNTY OF ERIE to recover sums claimed as to the damages and injuries sustained by them.

Timothy Black
CLAIMANT

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ERIE) ss.;
CITY OF BUFFALO)

Lincoln Ablack, being duly sworn, deposes and says that he is the claimant in the within proceeding and has read the foregoing Notice of Claim and knows the contents of same to be true to his own knowledge, save those matters therein alleged upon information and belief, and as to those matters, the same he believes to be true.

Lincoln Ablack

Sworn to before me this 8
day of March, 2012

Sylvia M. O'Neal
Notary Public

SYLVIA M. O'NEAL
COMMISSIONER OF DEEDS
In and For the City of Buffalo, Erie County, NY
My Commission Expires Dec. 31, 2012

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 21, 2012

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:	*Gellart, Kathleen v. County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	Kathleen L. Gellart 4211 Regents Park Hamburg, New York 14075
Claimant's attorney:	Pro Se

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
MICHELLE M. PARKER
First Assistant County Attorney
parkerm3@erie.gov

MMP/dld

Enclosure

cc: Michael A. Siragusa, Erie County Attorney

KATHLEEN L. GELLART
4211 REGENTS PARK
HAMBURG, NY 4975
716-866-4373

February 17, 2012

Michael A. Siragusa, JD
Erie County Attorney
95 Franklin Street, 16th Floor
Buffalo, NY 14202

Re **Notice of Claim**
Interest Payment of $652.92
NYS Retirement System

Dear Mr. Siragusa:

I am hereby filing a notice of claim with the County of Erie for restitution of interest payments I was required to make. I submitted my retirement papers from the County of Erie (Erie County Medical Center) on October 12, 2011. I was notified at that time that there were no payments made for the period January 1, 1988 to July 1, 1988 for my service. Needless to say, I was completely baffled as I was employed by the Erie County Budget Office from January 1, 1988 until March 31, 2000 without any interruption.

I was advised to wait until the State Retirement System notified me in writing of what my back payments would be. On November 23, 2011, I received the attached letter stating I owed the system $966.13. I was shocked as I had computed my payments at $24.17 per pay period for 13 pay periods at $313.21. The remainder of this amount due is interest ... interest I believe is not my responsibility as I was **never** advised by the County Personnel Office that an error was made and these payments were not processed.

Interestingly enough, the State Retirement Office did say my time was logged, but not my 3% payments for that period. They strongly urged me to contact the Erie County Personnel Office for restitution as this error was clearly on their part.

Sincerely,

Kathleen L. Gellart

Kathleen L. Gellart

cc. Kathleen O'Hara, Vice President - H.R. ECMC

RECEIVED
MAR 02 2012
ERIE COUNTY
DEPARTMENT OF LAW

Office of the New York State Comptroller
Thomas P. DiNapoli
New York State and Local Retirement System
Employees' Retirement System
Police and Fire Retirement System
110 State Street, Albany, New York 12244-0001
Phone: 1-866-805-0990 or 518-474-7736 Fax: 518-402-4433
E-mail: nysirsinfo@osc.state.ny.us Web: www.osc.state.ny.us/retire

November 19, 2011

Ms Kathleen L Gellart
4211 Regents Park

Hamburg NY 14075-1344

In reply refer to
Reg. No: 35199371
Unit : Unit C1

Dear Member:

Service after your date of membership requires member contributions at the rate of 3 percent of your gross earnings. According to our records, there is a period of time from January 1, 1988 to July 15, 1988 for which the required 3 percent contributions were not deducted. The total cost due is $966.13.

You have two options for payment of this amount. You may make a single lump sum payment to cover the cost for this service, or you may choose to have your benefit permanently reduced. If you choose to make a lump sum payment, please submit a check for $966.13 prior to your date of retirement. If you do not submit a check for $966.13 prior to your date of retirement, an actuarial reduction permanently reducing your benefit will automatically be applied.

Very truly yours,

Catherine A. Dell'Angelo

Catherine A. Dell'Angelo
Employees' Retirement System Examiner V

CAD/Rt438 BA514