



ECLEG FEB03'11 AM10:19

## COUNTY OF ERIE

MARTIN A. POLOWY  
ACTING COUNTY ATTORNEY

**CHRIS COLLINS**  
COUNTY EXECUTIVE

THOMAS F. KIRKPATRICK, JR.  
ACTING FIRST ASSISTANT COUNTY ATTORNEY

DEPARTMENT OF LAW

January 27, 2011

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

Dear Mr. Graber:

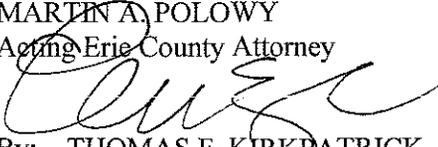
In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Foy, Barbara J. vs Erie County, Department of Social Services</i>
Document Received:	Summons and Complaint
Name of Claimant:	Barbara J. Foy 1327 Independence Drive Derby, New York 14047
Claimant's attorney:	Tasha E. Moore New York State Division of Human Rights - Buffalo 65 Court Street, Suite 506 Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

MARTIN A. POLOWY  
Acting Erie County Attorney

  
By: THOMAS F. KIRKPATRICK, JR.  
Acting First Assistant County Attorney

TFK/mow

Enc.

cc: MARTIN A. POLOWY, Acting 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.state.ny.us

ANDREW M. CUOMO  
GOVERNOR

GALEN D. KIRKLAND  
COMMISSIONER

January 25, 2011

Erie County, Department of Social Services  
95 Franklin Street  
Buffalo, NY 14202-3959

Re: Barbara J. Foy v. Erie County, Department of Social  
Services  
Case No. 10146371

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.

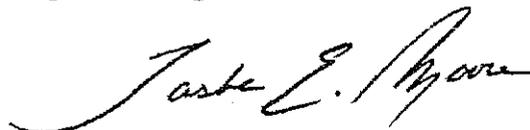
Anyone who willfully resists, prevents, impedes or  
interferes with the Division's investigation shall be guilty of  
a misdemeanor punishable by imprisonment, by fine, or by both.  
Human Rights Law § 299.

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

BARBARA J. FOY,

Complainant,

v.

ERIE COUNTY, DEPARTMENT OF SOCIAL  
SERVICES,

Respondent.

VERIFIED COMPLAINT  
Pursuant to Executive  
Law, Article 15

Case No.  
**10146371**

Federal Charge No. 16GB101555

I, Barbara J. Foy, residing at 1327 Independence Dr., Derby, NY, 14047, charge the above named respondent, whose address is 95 Franklin Street, Buffalo, NY, 14202-3959 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 sex, opposed discrimination/retaliation.

Date most recent or continuing discrimination took place is 1/3/2011.

See attached.

RECEIVED

JAN 25 2011

BUFFALO REGIONAL OFFICE



### New York State Division of Human Rights Complaint Form

#### CONTACT INFORMATION

My contact information:

Name: Barbara J. Foy  
Address: 1327 Independence Dr. Apt or Floor #: —  
City: Derby State: N.Y. Zip: 14047

#### REGULATED AREAS

I believe I was discriminated against in the area of:

- Employment
- Education
- Volunteer firefighting
- Apprentice Training
- Boycotting/Blacklisting
- Credit
- Public Accommodations  
*(Restaurants, stores, hotels, movie theaters amusement parks, etc.)*
- Housing
- Labor Union, Employment Agencies
- Commercial Space

I am filing a complaint against:

Company or Other Name: Eric County Department of Social Services  
Address: 95 Franklin St. Cm: 1652  
City: Buffalo State: NY Zip: 14202  
Telephone Number: 716 858-7542  
(area code)

Individual people who discriminated against me:

Name: <u>Gregory Bell</u>	Name: <u>Aaron Kasper</u>	<u>Wendy Martin</u>
Title: <u>Supervisor Adult Protection</u>	Title: <u>Assistant to Commission Social Svcs.</u>	<u>Director of Adult Protection</u>

#### DATE OF DISCRIMINATION

The most recent act of discrimination happened on: 01 month 03 day 2011 year

**BASIS OF DISCRIMINATION**

Please tell us why you were discriminated against by checking one or more of the boxes below.



You do not need to provide information for every type of discrimination on this list. Before you check a box, make sure you are checking it only if you believe it was a reason for the discrimination. Please look at the list on Page 1 for an explanation of each type of discrimination.

**Please note:** Some types of discrimination on this list do not apply to all of the regulated areas listed on Page 3. (For example, Conviction Record applies only to Employment and Credit complaints, and Familial Status is a basis only in Housing and Credit complaints). These exceptions are listed next to the types of discrimination below.

**I believe I was discriminated against because of my:**

<input type="checkbox"/> <b>Age</b> <i>(Does not apply to Public Accommodations)</i> Date of Birth:	<input type="checkbox"/> <b>Genetic Predisposition</b> <i>(Employment only)</i> Please specify:
<input type="checkbox"/> <b>Arrest Record</b> <i>(Only for Employment, Licensing, and Credit)</i> Please specify:	<input type="checkbox"/> <b>Marital Status</b> Please specify:
<input type="checkbox"/> <b>Conviction Record</b> <i>(Employment and Credit only)</i> Please specify:	<input type="checkbox"/> <b>Military Status:</b> Please specify:
<input type="checkbox"/> <b>Creed / Religion</b> Please specify:	<input type="checkbox"/> <b>National Origin</b> Please specify:
<input type="checkbox"/> <b>Disability</b> Please specify:	<input type="checkbox"/> <b>Race/Color or Ethnicity</b> Please specify:
<input type="checkbox"/> <b>Domestic Violence Victim Status:</b> <i>(Employment only)</i> Please specify:	<input checked="" type="checkbox"/> <b>Sex</b> Please specify: <input checked="" type="checkbox"/> Female <input type="checkbox"/> Male <input type="checkbox"/> Pregnancy <input type="checkbox"/> Sexual Harassment
<input type="checkbox"/> <b>Familial Status</b> <i>(Housing and Credit only)</i> Please specify:	<input type="checkbox"/> <b>Sexual Orientation</b> Please specify:
<input checked="" type="checkbox"/> <b>Retaliation</b> <i>(if you filed a discrimination case before, or helped someone else with a discrimination case, or reported discrimination due to race, sex, or any other category listed above)</i> Please specify: <i>I placed a report previously against Supervisor, was removed from office.</i>	



Before you turn to the next page, please check this list to make sure that you provided information *only* for the type of discrimination that relates to your complaint.

## EMPLOYMENT DISCRIMINATION

Please answer the questions on this page only if you were discriminated against in the area of employment. If not, turn to the next page.

How many employees does this company have?

- a) 1-3      b) 4-14      c) 15 or more       d) 20 or more      e) Don't know

Are you currently working for the company?

Yes

Date of hire: ( 08 / 03 / 1987 )      What is your job title? Senior Caseworker  
Month      day      year

No

Last day of work: ( \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ )      What was your job title? \_\_\_\_\_  
Month      day      year

I was not hired by the company

Date of application: ( 08 / 03 / 1987 )  
Month      day      year

## ACTS OF DISCRIMINATION

What did the person/company you are complaining against do? Please check all that apply.

- Refused to hire me  
 Fired me / laid me off  
 Did not call me back after a lay-off  
 Demoted me  
 Suspended me  
 Sexually harassed me  
 Harassed or intimidated me (other than sexual harassment)  
 Denied me training  
 Denied me a promotion or pay raise  
 Denied me leave time or other benefits  
 Paid me a lower salary than other workers in my same title  
 Gave me different or worse job duties than other workers in my same title  
 Denied me an accommodation for my disability  
 Denied me an accommodation for my religious practices  
 Gave me a disciplinary notice or negative performance evaluation  
 Other: \_\_\_\_\_

**DESCRIPTION OF DISCRIMINATION** - for all complaints (Public Accommodation, Employment, Education, Housing, and all other regulated areas listed on Page 3)

Please tell us more about each act of discrimination that you provided information about on Pages 3 and 4. Please include dates, names of people involved, and explain why you think it was discriminatory. **PLEASE TYPE OR PRINT CLEARLY.**

In March of 2010 I placed a complaint against my then Supervisor, Gregory Bell. I placed the complaint with his Supervisor Gavin Kusper. I was removed from the office I was working in. I assume, but never was told, it was due to the hostile work environment created under the leadership of Supervisor Gregory Bell. I reported to Gavin that my supervisor, Gregory Bell had emailed other coworkers, making defamation, libel and slander comments about me. He also stated in the email that he was "going to blow up at me." The Supervisor engaged with other coworkers, the men in the office about me. I believe I was singled out due to being female. He would not have done this to a male in the office. As I previously stated I was moved from the office and placed in another County Building on the 13th floor. I was then being supervised by Dave Hapka who is a friend to Supv. Greg Bell, and (received special treatment as a result of their friendship). I lost my mother in August 2010. After I returned from bereavement leave, Dave Hapka began overloading me with work. I made a comment to Dave about the amount of work and his response was in a tone "are you ok"? I replied "no". He completely ignored me, he did not come to my desk. It was apparent he had no regard or respect for me. I had to leave early due to feeling overwhelmed and panicky. (Cover)

If you need more space to write, please continue writing on a separate sheet of paper and attach it to the complaint form. **PLEASE DO NOT WRITE ON THE BACK OF THIS FORM.**

I went to my physician that Friday because I was having panic attacks, I felt anxious and began feeling depressed. I went out on medical leave, meeting with a counselor weekly. The counselor and physician were made aware of what transpired and aware of the effect this always having on my health.

I returned to work 1/3/2011, upon my return I find the very same supervisor Gregory Bell is now also in the building on the 13th floor, same office and seated approximately left from me. I have to pass his desk daily, I have to tolerate coworkers who I also worked with visiting him. I have to tolerate his obstinate attitude when he disagrees with ~~cases~~ I have made a decision that needs to be assessed by his team. He scrutinizes my decision.

another factor that creates a hostile environment is the issue of the supervisor I now have. Because she, Mary Jowach is a micromanager and due to her bellowing out directions, pointing out loud verbally "my" errors so my old boss can hear is humiliating. She has been advised but she continued on breaching over the divider so the old supervisor - Gregory Bell could hear, Mr. Bell also had written in the email to my coworker I am a "shotty" worker. With that in mind, I am embarrassed and cannot help feel he is sharing that with others.

In summary, emails have been saved & Mr. Gavin Kasper has the email. Erie County had been made aware of my supervisors harassment and I whole heartedly believe it is discrimination. This would have never been done to a male.

**NOTARIZATION OF THE COMPLAINT**

Based on the information contained in this form, I charge the above-named Respondent with an unlawful discriminatory practice, in violation of the New York State Human Rights Law.

By filing this complaint, I understand that I am also filing my employment complaint with the United States Equal Employment Opportunity Commission under the Americans With Disabilities Act (covers disability related to employment), Title VII of the Civil Rights Act of 1964, as amended (covers race, color, religion, national origin, sex relating to employment), and/or the Age Discrimination in Employment Act, as amended (covers ages 40 years of age or older in employment), or filing my housing/credit complaint with HUD under Title VIII of the Federal Fair Housing Act, as amended (covers acts of discrimination in housing), as applicable. This complaint will protect your rights under Federal Law.

I hereby authorize the New York State Division of Human Rights to accept this complaint on behalf of the U.S. Equal Employment Opportunity Commission, subject to the statutory limitations contained in the aforementioned law and/or to accept this complaint on behalf of the U.S. Department of Housing and Urban Development for review and additional filing by them, subject to the statutory limitations contained in the aforementioned law.

I have not filed 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.

I swear under penalty of perjury that I am the complainant herein; that I have read (or have had read to me) the foregoing complaint and know the contents of this complaint; and that the foregoing is true and correct, based on my current knowledge, information, and belief.

Barbara DeJoy  
Sign your full legal name

Subscribed and sworn before me

This 24th day of September, 2014

Kathleen M. Wentland  
Signature of Notary Public

County: Erie Commission expires:

KATHLEEN M. WENTLAND  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires April 1, 2014

**Please note: Once this form is notarized and returned to the Division, it becomes a legal document and an official complaint with the Division of Human rights. After the Division accepts your complaint, this form will be sent to the company or person(s) whom you are accusing of discrimination.**

Respondent Contact Information

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

Re: Barbara J. Foy v. Erie County, Department of Social Services  
SDHR NO: 10146371

Correct legal name of Respondent: \_\_\_\_\_  
\_\_\_\_\_

Federal Employer Identification Number (FEIN): \_\_\_\_\_

Contact person for this complaint:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Street Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone No: (\_\_\_\_) \_\_\_\_\_

Do you have an attorney for this matter: Yes \_\_\_ No \_\_\_ If yes:

Attorney Name: \_\_\_\_\_

Firm: \_\_\_\_\_

Street Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_

Will you participate in settlement/conciliation? Yes \_\_\_ No \_\_\_

If yes, for this purpose please contact:

Name: \_\_\_\_\_ Telephone: (\_\_\_\_) \_\_\_\_\_

(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.state.ny.us

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.

INFORMATION FOR RESPONDENTS  
CONCERNING COMPLAINT PROCEDURES OF THE NYS DIVISION OF HUMAN RIGHTS  
Page 2

- 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.

INFORMATION FOR RESPONDENTS  
CONCERNING COMPLAINT PROCEDURES OF THE NYS DIVISION OF HUMAN RIGHTS

Page 3

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.state.ny.us](http://www.dhr.state.ny.us). If you have any additional questions about the process, the investigator assigned to the case will be available to answer most questions.



## COUNTY OF ERIE

MARTIN A. POLOWY  
ACTING COUNTY ATTORNEY

**CHRIS COLLINS**  
COUNTY EXECUTIVE

THOMAS F. KIRKPATRICK, JR.  
ACTING FIRST ASSISTANT COUNTY ATTORNEY

DEPARTMENT OF LAW

January 31, 2011

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:	<i>Idziur, Steven vs Village of Blasdell, Ernest J. Jewett, Mayor, Town of Hamburg and County of Erie</i>
Document Received:	Order to Show Cause
Name of Claimant:	Steven Idziur 6659 East Quaker Street Orchard Park, New York 14127
Claimant's attorney:	Richard J. Sherwood, Esq. 25 Central Avenue Lancaster, New York 14086

Should you have any questions, please call.

Very truly yours,

MARTIN A. POLOWY  
Acting Erie County Attorney

By: THOMAS F. KIRKPATRICK, JR.  
Acting First Assistant County Attorney

TFK/mow

Enc.

cc: MARTIN A. POLOWY, Acting Erie County Attorney

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

STEVEN IDZIUR  
6659 East Quaker Street  
Orchard Park, New York 14127

Petitioner

vs

VILLAGE OF BLASDELL  
121 Miriam Avenue  
Blasdell, New York 14219

ERNEST J. JEWETT, MAYOR  
Village of Blasdell  
121 Miriam Avenue  
Blasdell, New York 14219

TOWN OF HAMBURG  
6100 South Park Avenue  
Hamburg, New York 14075

COUNTY OF ERIE  
Real Property Tax Services  
95 Franklin Street, Room 100  
Buffalo, New York 14202

Respondents

**AMENDED  
ORDER TO SHOW CAUSE**

**Index No.: I2010-12565**

**Assigned Justice:** TIMOTHY J. DRURY, J.S.C.

This paper received at the  
Erie County Attorney's Office  
from Donald Diebel on  
the 28<sup>th</sup> day of January, 2011  
at 2<sup>30</sup> a.m./p.m.

M. L.  
Assistant County Attorney

Michael Liszewski

Upon reading and filing the annexed Affidavit of attorney RICHARD J. SHERWOOD, ESQ., dated January 13<sup>th</sup>, 2011,

LET the original Order to Show Cause be hereby amended to add the COUNTY OF ERIE as a necessary party since the Village of Blasdell re-levied the disputed Village of Blasdell water bill which is the subject of this proceeding on to the 2011 tax levy of the County of Erie so that the disputed water bill will now appear on the 2011 County/Town tax bill for the subject premises located at 4264 North Street, Village of Blasdell, Town of Hamburg, in the sum of \$8,034.05, and, that the relief sought in the CPLR Article 78 proceeding herein remains the same with the following amendment: (1) prohibiting the County of Erie from

collecting the disputed Village of Blasdell water bill which was re-levied on the 2011 County/Town tax bill for the premises situate at 4264 North Street, Blasdell, New York during the proceedings hereunder.

There appearing sufficient cause therefore, pursuant to CPLR Article 78, and it further appearing that irreparable injury would be experienced by the Petitioner if the Respondent County of Erie levies the disputed Village of Blasdell water billing onto the 2011 County/Town tax roll, it is hereby

**ORDERED**, that Respondent County of Erie be temporarily restrained from the levy and collection of the disputed Village of Blasdell water bill for 4264 North Street, Blasdell, New York on the 2011 County/Town tax roll, and it is further

**ORDERED**, that service of this Order and papers on which it is based made on or before 5:00 p.m. on the day JAN 18 2011, 2010, by hand-delivering copies of said papers to the Village of Blasdell, Village of Blasdell Mayor, 121 Miriam Avenue, Blasdell, New York 14129, Town of Hamburg Town Clerk, 6100 South Park Avenue, Hamburg, New York 14075, and, County of Erie Real Property Tax Services, 95 Franklin Street, Room 100, Buffalo, New York 14202, be deemed sufficient service; and it is further

**ORDERED**, that Respondents shall serve their Answer and Answering Affidavits, if any, at least four (4) days before such time as this Order to Show Cause is returnable and a Reply, together with any supporting affidavits, if any, shall be served one (1) day before such time.

Dated: January 3, 2010

TIMOTHY J. DRURY, J.S.C.

J.S.C.

**GRANTED**

JAN 14 2011

BY CAROL M. WILLIAMS  
CAROL M. WILLIAMS  
COURT CLERK

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

---

STEVEN IDZIUR  
6659 East Quaker Street  
Orchard Park, New York 14127

Petitioner

**ATTORNEY AFFIDAVIT  
AMENDED  
ORDER TO SHOW CAUSE**

vs

**Index No.: I2010-12565**

VILLAGE OF BLASDELL  
121 Miriam Avenue  
Blasdell, New York 14219

**Assigned Justice: \_\_\_\_\_**

ERNEST J. JEWETT, MAYOR  
Village of Blasdell  
121 Miriam Avenue  
Blasdell, New York 14219

TOWN OF HAMBURG  
6100 South Park Avenue  
Hamburg, New York 14075

COUNTY OF ERIE  
Real Property Tax Services  
95 Franklin Street, Room 100  
Buffalo, New York 14202

Respondents

---

I, Richard J. Sherwood, in support of the Amendment to the Order to Show Cause and Petition herein, do hereby state as follows:

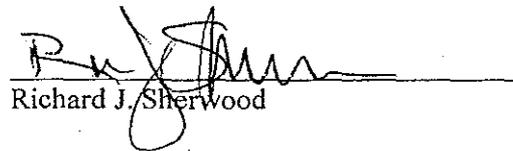
1. The County of Erie was not included as a necessary party at the commencement of the action since the disputed Village of Blasdell water bill had not become part of the tax levy of the County of Erie for the year 2011 on the subject premises located at 4264 North Street, Village of Blasdell.

2. That your deponent has determined that this disputed Village of Blasdell water bill will now be included as a re-levy on the 2011 County/Town Tax bill being generated by the County of Erie.

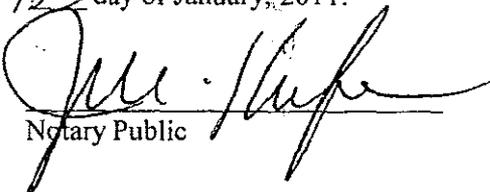
3. That the County of Erie has now become a necessary party as a result of the effective date of the County tax levy on January 1, 2011.

4. That the County guarantees the tax warrant to the Town of Hamburg and Village of Blasdell and then has the right to foreclose for non-payment of back taxes including items re-levied by the Town or Village which become part of the tax levy on the County Tax bill.

5. That neither the County of Erie nor the parties originally named as Respondents in the original Petition and Order to Show Cause will be prejudiced by this amendment naming the County as a necessary party since the granting of the relief sought by Petitioner will not adversely affect the County of Erie.

  
Richard J. Sherwood

Sworn to before me this  
13<sup>th</sup> day of January, 2011.

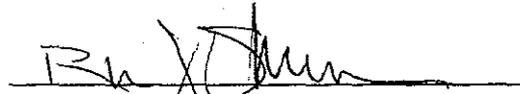
  
Notary Public

JOSEPH W. KEEFE  
NOTARY PUBLIC, STATE OF NY  
QUALIFIED IN ERIE COUNTY  
My Commission Expires 12/31/2014

**ATTORNEY CERTIFICATION**

Pursuant to 22 NYCRR §130-1.1-a

I, RICHARD J. SHERWOOD, ESQ., hereby certify under penalty of perjury as an Officer of the Court that I have no knowledge that anything contained herein is false. This certification is based solely on the information provided by the client and does not reflect any independent investigation by the attorney; it is submitted pursuant to 22 NYCRR §130-1.1-a (Rules of the Chief Administrator).

  
RICHARD J. SHERWOOD

Date: 1-13-11