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COUNTY OF ERIE

MARTIN A. POLOWY
ACTING COUNTY ATTORNEY

CHRIS COLLINS
COUNTY EXECUTIVE

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

GA

DEPARTMENT OF LAW

MEMORANDUM

TO: Robert Graber, Clerk, Erie County Legislature

FROM: Thomas F. Kirkpatrick, Jr. Acting First Assistant County Attorney

DATE: March 18, 2011

RE: Transmittal 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

- Christen Buckholtz and Jessica D'Amico vs Erie County, et al.
- Michael Sullivan vs Erie County Sewer Authority District #6
- Derrick Anderson vs Erie County, et al.
- Derrick Anderson vs Erie County, et al.
- David Washington vs County of Erie, et al.
- Dorothy Cooper Kohl and Kenneth Kohl vs County of Erie and ECMCC
- Richard Panicali as PNG of Catherine Panicali vs County of Eie
- Edwin Maldonado vs ECMCC and County of Erie
- Benjamin Farley vs County of Erie
- Joseph and Christine Noonan vs County of Erie
- Annie B. Almond vs County of Erie, et al.
- Josephine Belcer vs County of Erie
- Tiffany and Daniel Bonner as PNG of Kayla Bonner vs County of Erie, et al.
- Jabari Hastlim Spencer vs Erie County Holding Center Administration, et al.

TFK/crj
Attachments

cc: Jeremy A. Colby, Erie County Attorney

8D-1



COUNTY OF ERIE

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

CHRIS COLLINS
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 18, 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>Buchholtz, Christen, Ind. & as Admin. of Est. of Buchholtz, Justin and 'Amico, Jessica, as PNG of Cheyanne Buchholtz and Christen Buchholtz as PNG of unborn child of Justin Buchholtz vs Erie County, et al.</i>
Document Received:	Notice of Claim
Name of Claimant:	Christen Buchholtz 201 Marrano Parkway Cheektowaga, New York 14227
Claimant's attorney:	Goodwin, Gilmour & Hurley, LLP 1234 Delaware Avenue Buffalo, New York 14209

Should you have any questions, please call.

Very truly yours,

JEREMY A. COLBY
Erie County Attorney

By: 
THOMAS F. KIRKPATRICK, JR.
Second Assistant County Attorney

TFK/mow
Enc.

STATE OF NEW YORK
SUPREME COURT: ERIE COUNTY

IN THE MATTER OF THE CLAIM OF:

CHRISTEN BUCHHOLTZ, Individually and as
ADMINISTRATRIX OF THE ESTATE OF
JUSTIN BUCHHOLTZ, and

NOTICE OF CLAIM

CHRISTEN BUCHHOLTZ, as Parent and
Natural Guardian of the unborn child of
JUSTIN BUCCHOLTZ, and

JESSICA D'AMICO, as Parent and Natural
Guardian of CHEYANNE BUCHHOLTZ,

Claimants,

v.

ERIE COUNTY,

and

ERIE COUNTY DEPARTMENT OF PUBLIC WORKS,

Respondents.

**TO: ERIE COUNTY
CHRIS COLLINS, COUNTY EXECUTIVE
95 Franklin Street, 16th Floor
Buffalo, NY 14202,**

and

**ERIE COUNTY DEPARTMENT OF PUBLIC WORKS
GERARD SENTZ, PE, COMMISSIONER OF PUBLIC WORKS
95 Franklin Street, 14th Floor
Buffalo, NY 14202**

PLEASE TAKE NOTICE that the undersigned, Christen Buchholtz, Individually and as
Administratrix of the Estate of Justin Buchholtz, and Christen Buchholtz, as Parent and
Natural Guardian of the unborn child of Justin Buchholtz, and Jessica D'Amico, as

Parent and Natural Guardian of Cheyanne Buchholtz, hereby make, in accordance with General Municipal Law, §50, et seq., claim and demand against the COUNTY OF ERIE AND THE ERIE COUNTY DEPARTMENT OF PUBLIC WORKS, as follows:

1. The name and addresses of the Claimants are:

Christen Buchholtz, Individually, and as Administratrix of the Estate of Justin Buchholtz, and as Parent and Natural Guardian of the unborn child of Justin Buchholtz

Christen Buchholtz resides at:

201 Marrano Parkway
Cheektowaga, New York 14227

Jessica D'Amico, as Parent and Natural Guardian of Cheyanne Buchholtz, resides at:

1211 Cabrillo Avenue, Unit 206
Torrance, California 90501.

2. The attorneys for the Claimants are:

Godwin, Gilmour & Hurley, LLP
1234 Delaware Avenue
Buffalo, New York 14209
(716) 844-8350

3. The incident giving rise to this claim occurred at approximately 11:26 p.m. on or about the 6th day of December, 2010. According to the Police Report completed by the West Seneca Police Department, the accident occurred on Transit Road, approximately 20 feet West of 3500 Transit Road, in the Town of West Seneca.

4. Upon information and belief, Transit Road is a road/property that is owned/sponsored, and maintained by the Respondents, the County of Erie and the Erie County Department of Public Works.
5. At the time of said accident, Justin Buchholtz was fatally injured when he was struck by a motor vehicle while he was walking on Transit Road.
6. Upon information and belief, Justin Buchholtz was walking on Transit Road because the County of Erie and the Erie County Department of Public Works failed to remove snow and ice from the sidewalks along Transit Road and also affirmatively created a hazardous condition by plowing snow onto the sidewalks along Transit Road, making said sidewalks impassable.
7. Upon information and belief, Justin Buchholtz was also walking on Transit Road because the County of Erie failed to remove snow and ice from the shoulder of the road along Transit Road and also affirmatively created a hazardous condition by plowing snow onto the shoulder of the road along Transit Road, making it impossible to walk on the shoulder of said roadway.
8. Upon information and belief, the Respondents were responsible for the control, maintenance, and snow removal in the area of Transit Road where

said incident occurred. Also, upon information and belief, the Respondents, the County of Erie and the Erie County Department of Public Works, were negligent, careless and reckless as they caused unsafe and dangerous walking conditions to exist on Transit Road in the area where said incident occurred on and before December 6, 2010. These unsafe and dangerous conditions, of which the County of Erie and the Erie County Department of Public Works had notice of on and prior to December 6, 2010 were a proximate cause of the personal injuries to and the death of Justin Buchholtz. In addition, the Respondents affirmatively created said hazardous conditions.

9. Justin Buchholtz, the decedent, was fatally injured, having suffered severe internal and external injuries, including mental distress and conscious pain and suffering, prior to his expiration.

10. Christen Buchholtz, the decedent's Wife, Cheyanne Buchholtz, the decedent's daughter, and the decedent's unborn child, have lost the love, consortium, and society of Justin Buchholtz, and therefore, have suffered pecuniary and economic damage as the result of the Respondents' acts of omission, commission, negligence, recklessness, and unsafe behavior, which caused Justin Buchholtz' physical injuries and ultimate death.

11. The undersigned therefore present this claim for adjustment and payment, and notify you that, unless it is adjusted, compromised, and/or paid within the time provided by law from the date of its presentation to you, the undersigned will commence an action thereof.

CHRISTEN BUCHHOLTZ, as Administratrix of the Estate of Justin Buchholtz, and CHRISTEN BUCHHOLTZ, Individually, and CHRISTEN BUCHHOLTZ, as Parent and Natural Guardian of the unborn child of Justin Buchholtz, and

JESSICA D'AMICO, as Parent and Natural Guardian of CHEYANNE BUCHHOLTZ, being duly sworn, depose and say,

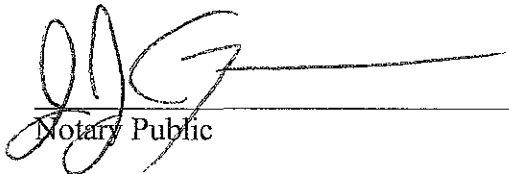
that they are Claimants in the above-captioned Claim, and that they have read the foregoing Notice of Claim and know the contents thereof: that the same is true to the Affiants' own knowledge, except as to those items stated to be alleged upon information and belief, and that as to those matters, the Affiants believe this to be true.



CHRISTEN BUCHHOLTZ, Individually
and as Administratrix of the Estate of Justin Buchholtz,
and CHRISTEN BUCHHOLTZ, as Parent and Natural
Guardian of the unborn child of Justin Buchholtz

3/4/2011
Date

Sworn to before me this 4 day
of March, 2011.


Notary Public

JOHN J. GILMOUR
NOTARY PUBLIC STATE OF NEW YORK
REG. 02816119163
QUALIFIED IN ERIE COUNTY
BY COMMISSION EXPIRES 2/1/13



JESSICA D'AMICO, as Parent and Natural
Guardian of CHEYANNE BUCHHOLTZ

3/2/2011

Date

Sworn to before me this ____ day of
March, 2011.

please see the
attached acknowledgment

Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California

County of Los Angeles

On Mar. 2, 11 before me, Karen R. Glynn
Date Here Insert Name and Title of the Officer

personally appeared Jessica D'Amico
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Karen R. Glynn
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: County of Erie Dept. of Public Works Notice of Claim - County of Erie

Document Date: March 4, 2011 Number of Pages: Seven

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____ Signer's Name: _____

Corporate Officer — Title(s): _____ Corporate Officer — Title(s): _____

Individual Partner — Limited General Individual Partner — Limited General

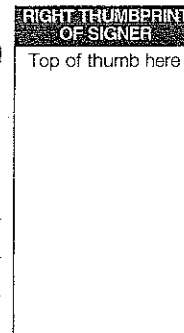
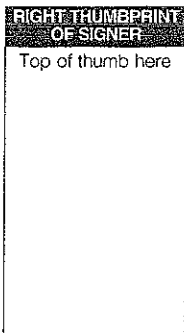
Attorney in Fact Attorney in Fact

Trustee Trustee

Guardian or Conservator Guardian or Conservator

Other: _____ Other: _____

Signer Is Representing: _____ Signer Is Representing: _____





COUNTY OF ERIE

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

CHRIS COLLINS
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 18, 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>Sullivan, Michael vs Erie County Sewer Authority District #6</i>
Document Received:	Notice of Claim
Name of Claimant:	Michael Sullivan 1530 Abbott Road Lackawanna, New York 14218
Claimant's attorney:	Gibson, McAskill & Crosby, LLP 69 Delaware Avenue, Suite 900 Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

JEREMY A. COLBY
Erie County Attorney

By: 

THOMAS F. KIRKPATRICK, JR.
Second Assistant County Attorney

TFK/mow
Enc.

cc: JEREMY A. COLBY, Erie County Attorney

GIBSON, McASKILL & CROSBY, LLP

ATTORNEYS AT LAW

69 DELAWARE AVENUE, SUITE 900

BUFFALO, NEW YORK 14202-3866

TELEPHONE: (716) 856-4200

FACSIMILE: (716) 856-4013

Service not accepted by fax or e-mail

BRIAN P. CROSBY
ROGER B. SIMON
CHARLES E. MILCH
R. DONALD FINN
VICTOR ALAN OLIVERI
MARK SPITLER
CHARLES S. DESMOND, II
KATHLEEN M. SWEET (NY & MA)
C. CHRISTOPHER BRIDGE
NORMAN B. VITI, JR.
ROBERT G. SCUMACI (NY & NJ)
TIMOTHY J. GRABER
SALLY J. BROAD
ROBERT J. MULLINS, II
MARK D. ARCARA

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MELISSA L. ZITTEL
TARA N.K. CROSS
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MELISSA M. MORTON
MICHAEL P. SULLIVAN
JAMES M. O'KEEFE
JASON A. GOODMAN
ROCHELLE K. ZIMPFER

Of Counsel
ROBERT E. SCOTT
PAULETTE E. ROSS

Special Counsel
CAROL WHITE GIBSON
ELIZABETH M. BERGEN

GEORGE M. GIBSON
(1929-2002)

JAMES S. McASKILL
(1929-1995)

January 30, 2011

Sent Certified Mail

ERIE COUNTY SEWER AUTHORITY

DISTRICT #6

260 Lehigh Avenue

Lackawanna, New York 14218

**Re: 1530 Abbott Road, Lackawanna, New York 14218
Property Damage Claim Due to Sewer Floods Occurring on
November 30, 2010 and January 1, 2011**

Dear Sir or Madam:

Please be advised, the undersigned is the titled owner of a piece of commercial property located at 1530 Abbott Road in the City of Lackawanna, County of Erie and State of New York.

On November 30, 2010, I incurred property damages to the basement at said property when the main sewer line located underneath Abbott Road and outside of my property became backed up sending pressurized sewer water and refuse into the basement of my property. At my own expense, I arranged to have all refuse removed from the basement. Moreover, the basement needed to be sanitized and disinfected and repairs were made to my furnace system due to the resulting water damage.

As a result of the November 30, 2010 basement flood, I incurred property damages totaling **\$2,945.00**. For your review and consideration, I am enclosing a copy of the following:

- (1) December 1, 2010 "Receipt of Advice" report prepared by National Fuel evidencing damages to the furnace boiler to Apartment #3 as **Exhibit A**;
- (2) December 6, 2010 Invoice from "John H. Deneke Heating & Plumbing" for repairs to the furnace boiler to Apartment #3 totaling \$150.00 as **Exhibit B**; and
- (3) Repair estimate for the cleaning and disinfecting of the entire basement from "Beautiful Homes by Thomas – Inc." totaling \$2,795.00 as **Exhibit C**.

Approximately one (1) month later on January 1, 2011, I again incurred property damages when the main sewer line located outside my property on Abbott Road became backed up sending overflowing sewer water and refuse into the basement of my property. Again, at my own expense, I arranged to have all refuse removed from my basement. I also had the basement sanitized and disinfected again and repairs were made to my furnace and hot water tank systems due to resulting water damage.

As a result of the January 1, 2011 basement flood, I incurred property damages totaling **\$4,395.00**. For your review and consideration, I am enclosing a copy of the following:

- (1) January 3, 2011 "Receipt of Advice" report prepared by National Fuel evidencing flood damages to the furnace systems to all four (4) units as **Exhibit D**;
- (2) January 6, 2011 Invoice from "John H. Deneke Heating & Plumbing" for flood damage repairs to the furnace systems and hot water tank systems for all four (4) units totaling \$1,600.00 as **Exhibit E**; and
- (3) Repair estimate for the cleaning and disinfecting of the entire basement from "Beautiful Homes by Thomas – Inc." totaling \$2,795.00 as **Exhibit F**.

As is evidenced by these enclosed records, my combined damages resulting from both floods totaled **\$7,340.00**.

Immediately following the January 1, 2011 flood, I placed the Travelers Insurance Company, my home owner insurance carrier, on notice of both floods. A thorough investigation was conducted by Traveler's claims adjuster Mr. Ed Rost on Thursday, January 6, 2011. On the basis of his investigation, the Travelers Insurance determined that the cause of the flood was a backed-up main sewer line beneath Abbott Road outside of my property. Of importance, it was noted that the source of these damages did not emanate from within my property. (See **Exhibit G** for a copy "Travelers Insurance Acknowledgement Form" dated January 5, 2011 as well as a copy of Travelers Insurance Denial Letter" dated January 7, 2011).

In addition to Travelers Insurance's determination as to the cause of the flood, Mr. John Deneke, a certified plumber with the State of New York, determined that the source of both floods was a main line sewer backup at Abbott Road. Consistent with Travelers Insurance's finding, Mr. Deneke determined that the flood was not caused from within my property. (See **Exhibit H** for a copy of an Affidavit signed in the presence of a notary by Mr. Deneke on January 30, 2011 attesting to these facts).

Based on the foregoing, it is clear that the "ERIE COUNTY SEWER AUTHORITY DISTRICT #6" was solely at fault for causing flood damages to my property and should be held accountable for all of my resulting damages. Not only was the source of my property damage the main sewer line on Abbott Road, but said sewer line was under your exclusive control. Moreover, given that your field crew was at the site on November 30, 2010 in connection with my first flood, your offices were on notice of a potential problem I was soon facing in connection with the January 1, 2011 flood.

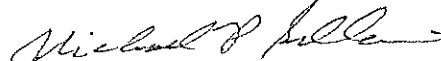
In an effort to assist with your investigation of this matter, I enclose the following photographs depicting flood damages and the repairs thereto at said property for your review:

- (1) Several color photos in connection with the November 30, 2010 flood as **Exhibit I**; and
- (2) Several color photos in connection with the January 1, 2011 flood as **Exhibit J**.

I am writing in a good faith effort to resolve this matter without any intervention from the Court system. Assuming that we cannot reach an amicable resolution of this matter in the very near future, I will have no choice but to place this matter into suit. To that end, I would ask that you please notify your legal department of this matter.

Please contact me should you have any additional questions. I appreciate your anticipated cooperation.

Very truly yours,



Michael Sullivan, Esq.
for GIBSON, McASKILL & CROSBY, LLP

MPS
Enclosures (**Exhibits A-J**)



COUNTY OF ERIE

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

CHRIS COLLINS
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 18, 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>Anderson, Derrick</i>
Document Received:	Notice of Claim
Name of Claimant:	Derrick Anderson c/o Erie County Holding Center 40 Delaware Avenue Buffalo, New York 14202
Claimant's attorney:	Pro Se

Should you have any questions, please call.

Very truly yours,

JEREMY A. COLBY
Erie County Attorney

By: 
THOMAS F. KIRKPATRICK, JR.
Second Assistant County Attorney

TFK/mow
Enc.

cc: JEREMY A. COLBY, Erie County Attorney

STATE OF NEW YORK
COURT OF CLAIMS

Dewick Hudson

Claimant

-against-

NOTICE OF INTENTION
TO FILE CLAIM

ERIE COUNTY

RN SEVEN

Respondents,

To the Clerk of the Court of Claims:

To the Attorney General of the State of New York

PLEASE TAKE NOTICE, that the undersigned,

Dewick Hudson

intends to file a claim against the State of New York, pursuant to Section 11
of the Court of Claims Act.

The Post Office Address of the claimant here is:

ERIE COUNTY HOLDING
CENTER, 40 DELWAERVE • BUFFALO, NY 14204

The time and place where such claim arose and the nature of the same are as

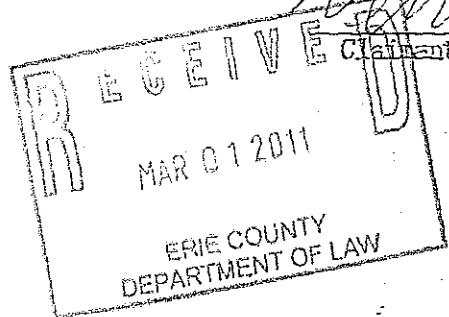
follows:

8:00PM, ERIE COUNTY HOLDING CENTER. Medical
Negligence, and Medical Malpractice, and physical
injuries.

This notice is filed within the time constraints set forth in Section 10 of the
Court of Claims Act. YES, it is

Dewick Hudson

Claimant pro se



VERIFICATION

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

David B Anderson, 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.

David B Anderson

Sworn to before me this 25
day of February 2011

Sylvia M O'Neal
Notary Public

SYLVIA M. ONEAL
COMMISSIONER OF DEEDS
in and For the City of Buffalo, Erie County, NY
My Commission Expires Dec. 31, 2012



COUNTY OF ERIE

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

CHRIS COLLINS
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 18, 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>Anderson, Derrick vs Erie County, et al</i>
Document Received:	Notice of Claim
Name of Claimant:	Derrick Anderson c/o Erie County Holding Center 40 Delaware Avenue Buffalo, New York 14202
Claimant's attorney:	Pro Se

Should you have any questions, please call.

Very truly yours,

JEREMY A. COLBY
Erie County Attorney

By: 
THOMAS F. KIRKPATRICK, JR.
Second Assistant County Attorney

TFK/mow
Enc.

cc: JEREMY A. COLBY, Erie County Attorney

STATE OF NEW YORK
COURT OF CLAIMS

TK

Devick Anderson

Claimant

-against-

NOTICE OF INTENTION
TO FILE CLAIM

*ERIE COUNTY
DEPUTY CLERK
DEPUTY FRANK WILK* Respondents,

To the Clerk of the Court of Claims:

To the Attorney General of the State of New York

PLEASE TAKE NOTICE, that the undersigned, *Devick Anderson*,
intends to file a claim against the State of New York, pursuant to Section 11
of the Court of Claims Act.

The Post Office Address of the claimant here is: *ERIE COUNTY HOLDING
CENTER, 40 DELAWARE AVE., BUFFALO, N.Y. 14207*

The time and place where such claim arose and the nature of the same are as

follows: *12 O'CLOCK NOON, ERIE COUNTY HOLDING CENTER.
RECKLESS MISCONDUCT, INJURIES, CLAIM, AND NEGLIGENCE*

This notice is filed within the time constraints set forth in Section 10 of the
Court of Claims Act. *YES IT IS.*

Devick Anderson

RECEIVED
MAR 01 2011
ERIE COUNTY
DEPARTMENT OF LAW

VERIFICATION

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

Donald Anderson, 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.

Donald Anderson

Sworn to before me this 25
day of February 2011

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



COUNTY OF ERIE

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

CHRIS COLLINS
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 18, 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>Washington, David vs Town of Amherst, Town of Amherst IDA and County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	David Washington 111 Hill Street Buffalo, New York 14214
Claimant's attorney:	Christopher D. D'Amato, Esq. Cellino & Barnes, PC 2500 Main Place Tower 350 Main Street Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

JEREMY A. COLBY
Erie County Attorney

By: 

THOMAS F. KIRKPATRICK, JR.
Second Assistant County Attorney

TFK/mow
Enc.

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

DAVID WASHINGTON

Claimant,

v.

NOTICE OF CLAIM

TOWN OF AMHERST,
TOWN OF AMHERST
INDUSTRIAL DEVELOPMENT AGENCY,
and COUNTY OF ERIE

Index No.

Respondent,

PLEASE TAKE NOTICE, that the above named claimant claims and demands from the respondents, TOWN OF AMHERST, TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY, and/or COUNTY OF ERIE, recompense for personal injuries and damages sustained by claimant by reason of the wrongful, negligent and careless acts and omissions of the respondents, their agents, servants and/or employees, and in support there of, the claimant states:

1. Claimant's address is 111 Hill Street, Buffalo, New York 14214.
2. The claimant is represented by Cellino & Barnes, P.C. with offices located at 2500 Main Place Tower, 350 Main Street Buffalo, New York 14202, telephone (716) 854-2020.
3. The incident in which personal injuries were sustained by the claimant occurred on or about December 7, 2010 at approximately 5:10 a.m. at 10

Curtwright Drive, Amherst, New York, owned and/or operated and/or maintained by respondents.

4. The claimant was at the property mentioned in paragraph 3 above, when he was caused to fall on snow and ice.

5. By virtue of the negligence of the employees, agents or servants of the respondents, claimant was injured and has incurred medical and hospital expenses, which are to date undetermined and will incur loss of earnings, impairment of health and permanent injuries.

6. Upon information and belief, claimant will be obligated further medical expenses including drugs, medicines and prosthetic devices, the amount of which cannot be reasonably calculated at this time.

TAKE NOTICE that claimant demands payment of his claim as set forth above.

DATED: Buffalo, New York
January 21, 2011

Yours, etc.,

~~CELLINO & BARNES, P.C.~~

By: 

Christopher D. D'Amato, Esq.
Attorneys for Plaintiff
2500 Main Place Tower
350 Main Street
Buffalo, NY 14202-3725
(716) 854-2020

TO: TOWN OF AMHERST
5538 Main Street,
Williamsville, New York 14221

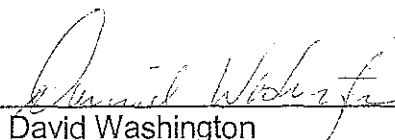
TOWN OF AMHERST
INDUSTRIAL DEVELOPMENT AGENCY
4287 Main Street
Williamsville, New York 14226

COUNTY OF ERIE
Department of Law
95 Franklin Street, Room 1634
Buffalo, New York 14202

VERIFICATION

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

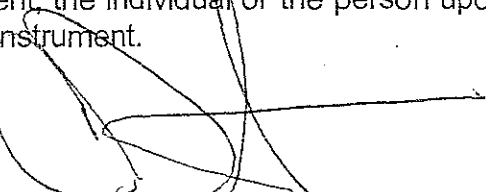
David Washington, being duly sworn, deposes and says that he is the plaintiff in the within action; that he has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to the knowledge of the deponent, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes them to be true.



David Washington

STATE OF NEW YORK)
COUNTY OF Erie : SS.:
CITY OF BUFFALO)

On the 21ST day of January, in the year 2011 before me, the undersigned, personally appeared David Washington, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in his capacity and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Notary Public/Commissioner of Deeds

CHRISTOPHER D. D'AMATO
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 10/06/2012



COUNTY OF ERIE

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

CHRIS COLLINS
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY
THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 18, 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:

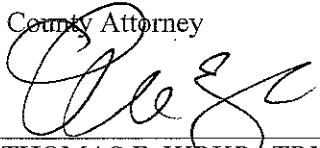
File Name:	<i>Kohl, Dorothy Cooper and Kohl, Kenneth H. vs County of Erie, and ECMCC</i>
Document Received:	Notice of Claim
Name of Claimant:	Dorothy Cooper Kohl 13067 Main Street Aldebn, New York 14004
Claimant's attorney:	

Should you have any questions, please call.

Very truly yours,

JEREMY A. COLBY
Erie County Attorney

By:


THOMAS F. KIRKPATRICK, JR.
Second Assistant County Attorney

TFK/mow
Enc.

cc: JEREMY A. COLBY, Erie County Attorney

NOTICE OF CLAIM

TO: COUNTY OF ERIE
95 Franklin Street, Room 1634
Buffalo, New York 14202

ERIE COUNTY MEDICAL CENTER
462 Grider Street
Buffalo, New York 14215

ERIE COUNTY MEDICAL CENTER (ECMC) CORPORATION
462 Grider Street
Buffalo, New York 14215

This paper received at the
Erie County Attorney's Office
from Kristen Corra
the 4 day of Feb, 2011
at 12:30 a.m./p.m.
Kelly Brunkow
Assistant County Attorney

DOROTHY COOPER KOHL and KENNETH H. KOHL, Individually and as
Husband and Wife, both residing at 13067 Main Street, Alden, New York 14004 by
and through their attorneys, Sarles, Frey & Joseph, 5800 Main Street,
Williamsville, New York, respectfully shows as follows:

1. That on November 10, 2010, at approximately 8:15 A.M., the Claimant,
DOROTHY COOPER KOHL, was walking south on a sidewalk located on the west
side of a north/south driveway that runs along the east side of the Erie County
Medical Center and David Miller Building, 462 Grider Street, Buffalo, New York.
Said sidewalk was located adjacent to and east of a construction site located
immediately north of the David Miller Building, as depicted in the photographs
attached hereto and marked as Exhibit "A".

2. That at the time of this incident, the sidewalk in question ran along
fencing that circled the construction site referenced above.

3. That at the time of this incident, the Claimant, DOROTHY COOPER KOHL, was caused to step onto rocks and other debris that came from the construction site onto the sidewalk where the Claimant was walking. Said rocks and debris caused the Claimant to trip and fall and as a result thereof, injured herself. The Claimant's exact location at the time of this incident is circled in photographs attached hereto and marked as Exhibit "B" and located approximately 50 feet west of parking space "C 72" which parking area space located northeast of the David Miller Building and along the driveway described above.

4. That at the time of this incident, the County of Erie, Erie County Medical Center, and/or Erie County Medical Center Corporation were the owners of the property described above and/or responsible for the maintenance, inspection and/or repair of all sidewalks and driveways located upon said property, as well as any and all approaches to the David Miller Building and/or Erie County Medical Center.

5. That the incident described above was caused by and through the negligence of the County of Erie, Erie County Medical Center and/or Erie County Medical Center Corporation, its agents, servants and/or employees in that the County of Erie, Erie County Medical Center and/or Erie County Medical Center Corporation did not take all adequate and necessary steps to provide for the safety of the Claimant. That specifically, the County of Erie, Erie County Medical Center and/or Erie County Medical Center Corporation, by and through its agents, servants and/or employees negligently inspected the area where the Claimant was

walking at the time of this incident and/or negligently repaired the area where the Claimant was walking at the time of this incident and/or negligently maintained the area where the Claimant was walking at the time of this incident; negligently allowed the Claimant to walk in and around an area not fit for the purpose it was intended to be used for; negligently allowed rocks and other debris to be located in and around the area the Claimant was walking at the time of this incident; failed to remove any rocks and/or other debris located in the area where the Claimant was walking at the time of this incident; failed to use all reasonable care to protect pedestrians known to walk in and around the area where the Claimant was walking at the time of this incident especially in light of the ongoing construction located immediately west and adjacent to the sidewalk where the Claimant was walking; by failing to properly care for, maintain and/or repair said area described above so as to make the same safe for travel thereon; by failing to require and maintain fencing adjacent to said sidewalk so as to prevent rocks and other debris from leaving the construction site and going onto said sidewalk; by failing to properly inspect said sidewalk; by encouraging pedestrians such as the Claimant to use said area to walk, knowing that a dangerous condition existed thereon; by failing to take all adequate and necessary steps to rectify the dangerous and unsafe condition that existed relative to rocks and other debris being located on the sidewalk the Claimant was walking at the time of this incident, which condition had existed for a considerable length of time prior to the date of this incident and/or which should have been made known to the County of Erie, Erie County Medical Center and/or Erie County

Medical Center Corporation, its agents, servants and/or employees; and by failing to otherwise provide for the safety of the Claimant.

6. That as a result of said fall, the Claimant, DOROTHY COOPER KOHL, suffered multiple injuries to her right knee, left knee, right ankle, left ankle, neck, left hip, left arm, left hand and left leg, all of which have left her with permanent injuries, the extent of which are still to be determined.

7. That the Claimant has treated and continues to treat with her physicians, has and continues to incur various medical bills and has and continues to incur loss of wages as a result of the above.

8. That the Claimant, DOROTHY COOPER KOHL, hereby makes claim against the County of Erie, Erie County Medical Center and/or Erie County Medical Center Corporation for her personal injuries, the permanency incurred as a result of her injuries, her pain and suffering, and for all of the expenses that have been incurred and will be incurred in the future including, but not limited to medical bills and lost wages.

9. That the Claimant, KENNETH KOHL, is the husband of the Claimant, DOROTHY COOPER KOHL, and as a result of the above, has and continues to suffer loss of consortium and loss of his wife's services.

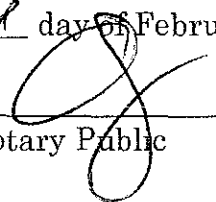
10. That the Claimant, KENNETH KOHL, hereby makes claim against the County of Erie, Erie County Medical Center and/or Erie County Medical Center Corporation for his loss of services and loss of consortium that have been incurred to date and that will be incurred in the future.

PLEASE TAKE NOTICE, that your Petitioner, DOROTHY COOPER KOHL, intends to commence an action for her personal injuries, permanency, pain and suffering and expenses as set forth above if the above claim is not adjusted and the Claimant, KENNETH KOHL, intends to commence an action for loss of consortium and loss of his wife's services as set forth above if the above claim is not adjusted.


DOROTHY COOPER KOHL

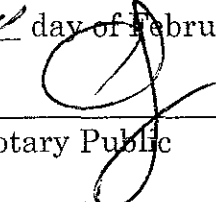

KENNETH KOHL

Sworn to before me this
3rd day of February, 2011



Notary Public

Sworn to before me this
3rd day of February, 2011



Notary Public

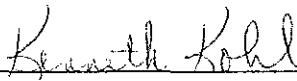
NOTARY PUBLIC
STATE OF NEW YORK
COUNTY OF ...
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NOTARY PUBLIC
STATE OF NEW YORK
COUNTY OF ...
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STATE OF NEW YORK)
COUNTY OF ERIE) ss:
CITY OF BUFFALO)

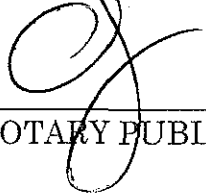
I, KENNETH KOHL, being duly sworn, depose and says:

1. That I am the husband of the Claimant above named.
2. That I have read the foregoing Notice of Claim against the County of Erie, Erie County Medical Center and/or Erie County Medical Center Corporation and know its contents.
3. That the same is true to my own knowledge except as to those matters herein stated to be upon information and belief, and then as to those matters I believe it to be true.



KENNETH KOHL

Sworn to before me this
7th day of February, 2011



NOTARY PUBLIC

GARY ALAN [unclear]
NOTARY PUBLIC [unclear]
QUADRE
My Commission Expires [unclear] u.

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

I, DOROTHY COOPER KOHL, being duly sworn, depose and says:

1. That I am the Claimant above named.
2. That I have read the foregoing Notice of Claim against the County of Erie, Erie County Medical Center and/or Erie County Medical Center Corporation and know its contents.
3. That the same is true to my own knowledge except as to those matters herein stated to be upon information and belief, and then as to those matters I believe it to be true.


DOROTHY COOPER KOHL

Sworn to before me this
3rd day of February, 2011



NOTARY PUBLIC

ALAN JOSEPH
NOTARY PUBLIC - NEW YORK
COUNTY
My Comm. Expires March 30, 2011



COUNTY OF ERIE

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

CHRIS COLLINS
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY
THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 18, 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>Panicali, Richard as PNG of Catherine Panicali, an infant vs County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Richard Panicali 1271 Rice Road Elma, New York 14086
Claimant's attorney:	David W. Polak 3686 Seneca Street West Seneca, New York 14224

Should you have any questions, please call.

Very truly yours,

JEREMY A. COLBY
Erie County Attorney

By: 
THOMAS F. KIRKPATRICK, JR.
Second Assistant County Attorney

TFK/mow
Enc.

cc: JEREMY A. COLBY, Erie County Attorney

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

RICHARD PANICALI as P/N/G of
CATHERINE PANICALI, an INFANT,
Claimant,

v.

COUNTY OF ERIE,
Respondent.

This paper received at the
Erie County Attorney's Office
from Dave Polak on
the 16th day of February, 2011
at 10:15 a.m.

Brian R. Liebenow
Assistant County Attorney
NOTICE OF CLAIM

PLEASE TAKE NOTICE that RICHARD PANICALI, as P/N/G of CATHERINE PANICALI of 1271 Rice Road, Elma, New York, 14059, hereby submits this Notice of Claim.

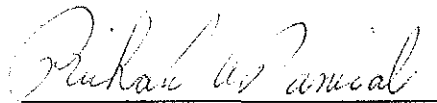
1. The Claimant is RICHARD PANICALI, as P/N/G of CATHERINE PANICALI, 1271 Rice Road, Elma, New York 14086. His attorney is DAVID W. POLAK ATTORNEY AT LAW, P.C., 1370 Union Road, Suite 100, West Seneca, New York 14224.

2. This is a claim for negligence arising out of injuries Catherine Panicali, an infant, suffered on or about January 11, 2011 at approximately 12:30-12:45 p.m. while sledding at the designated sledding hill to the right hand side of the main building/clubhouse at the Elma Meadows Golf Course/Park, which is located on property owned by the County of Erie on Rice Road in the Town of Elma, County of Erie and State of New York.

3. Ms. Panicali suffered serious injuries, including but not limited to a large laceration requiring 26 staples in her head, and subsequent scarring, when she was sledding down the hill and hit her head on an unprotected, jagged metal pole that was placed along the side of the sledding hill. This pole was put in place by the County of Erie, by its officers, servants, agents, and/or employees, to act as a barrier between the sledding hill, walkways, and the snowboarding hill. The dangerous and artificial

condition that caused Ms. Panicali's injuries was created by the County of Erie, and thus, the County of Erie is liable for Ms. Panicali's injuries and damages.

DATED: West Seneca, New York
February 9, 2011

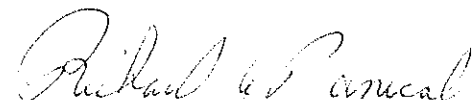


RICHARD PANICALI

VERIFICATION

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

RICHARD PANICALI, as P/N/G of CATHERINE PANICALI being duly sworn, deposes and says that I have read the foregoing Amended Notice of Claim and I believe the contents thereof to be true and as to those matters alleged upon information and belief, I believe them to be true.



RICHARD PANICALI

Sworn to before me this 8th
day of February, 2011.

Notary Public

DAVID W. POLAK
NOTARY PUBLIC STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
LIC. #02PO6061682
MY COMMISSION EXPIRES JULY 16, 20 11



COUNTY OF ERIE

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

CHRIS COLLINS
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 18, 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>Maldonado, Edwin vs ECMCC and County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Edwin Maldonado 191 Hinman Buffalo, New York 14216
Claimant's attorney:	Dennis Bastible, Esq. Cellino & Barnes, PC 2500 Main Place Tower 350 Main Street Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

JEREMY A. COLBY
Erie County Attorney

By: 

THOMAS F. KIRKPATRICK, JR.
Second Assistant County Attorney

TFK/mow
Enc.

cc: JEREMY A. COLBY, Erie County Attorney

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

EDWIN MALDONADO

Plaintiff,

v.

ERIE COUNTY MEDICAL CENTER CORPORATION
and COUNTY OF ERIE

Defendants,

NOTICE OF CLAIM

This paper received at the
Erie County Attorney's Office
from Steve Schultz
the 4 day of Dec, 2011
at 1:50 a.m./p.m.

Kelly Munkwitz
Assistant County Attorney

PLEASE TAKE NOTICE, that the above named Plaintiff claims and demands from the Defendants, Erie County Medical Center Corporation and County of Erie, recompense for personal injuries and damages sustained by plaintiff by reason of the wrongful, negligent and careless acts and omissions of the Defendants, their agents, servants and/or employees, and in support there of, the Plaintiff states:

1. Plaintiff's address is 191 Hinman, Buffalo, New York 14216.
2. The Plaintiff is represented by Cellino & Barnes, P.C. with offices located at 2500 Main Place Tower, 350 Main Street Buffalo, New York 14202, telephone (716) 854-2020.
3. The incident in which personal injuries were sustained by the Plaintiff occurred in a motor accident when Plaintiff was struck as a pedestrian and received treatment at Erie County Medical Center Corporation from November 10, 2010, through November 21, 2010.

4. Despite the Plaintiff's complaints made to agents, servants and employees of the Erie County Medical Center Corporation and County of Erie that his right leg was in a great deal of pain, that there was a failure to properly diagnose a fractured right proximal fibula and other fractures to Mr. Maldonado's right leg.

5. Agents, servants and employees of the Erie County Medical Center Corporation and County of Erie instructed Plaintiff to walk on his right leg using a walker while keeping his left leg off the ground. Due to these instructions and the failure to diagnose injuries in Mr. Maldonado's right leg, Mr. Maldonado was caused to sustain additional injuries to his right leg which may require surgical repair.

6. By virtue of the negligence of the employees, agents or servants of Erie County Medical Center Corporation and County of Erie, Plaintiff has incurred medical and hospital expenses, which are to date undetermined and will incur loss of earnings, impairment of health and permanent injuries.


7. Upon information and belief, Plaintiff will be obligated further medical expenses including drugs, medicines and prosthetic devices, the amount of which cannot be reasonably calculated at this time.

TAKE NOTICE that Plaintiff demands payment of his claim as set forth
above.

DATED: Buffalo, New York
January 24, 2011

Yours, etc.,

CELLINO & BARNES, P.C.

By: 
Denis J. Bastible, Esq.
Attorneys for Plaintiff
2500 Main Place Tower
350 Main Street
Buffalo, NY 14202-3725
(716) 854-2020

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

Edwin Maldonado, being duly sworn, deposes and says that deponent is the Plaintiff in the within action; that deponent has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to deponent's own knowledge, except as to matters therein stated to be alleged upon information and belief, and that as to those matters, deponent believes it to be true.

Edwin Maldonado
Edwin Maldonado

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

On the 31 day of January, in the year 2011 before me, the undersigned, personally appeared Edwin Maldonado, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

DENIS BASTIBLE
No. 022A6181841
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 02/11/20 12

Denis Bastible
Notary Public/Commissioner of Deeds



COUNTY OF ERIE

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

CHRIS COLLINS
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 18, 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>Farley, Benjamin vs County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Benjamin Farley 857 Delaware Avenue, Apt. 7 Buffalo, New York 14209
Claimant's attorney:	Michael G. Cooper, Esq. P.O. Box 238 71 Main Street Hamburg, New York 14075

Should you have any questions, please call.

Very truly yours,

JEREMY A. COLBY
Erie County Attorney

By: 
THOMAS F. KIRKPATRICK, JR.
Second Assistant County Attorney

TFK/mow
Enc.

cc: JEREMY A. COLBY, Erie County Attorney

IN THE MATTER OF THE CLAIM OF

BENJAMIN FARLEY,

Claimant,

NOTICE OF CLAIM

vs.

THE COUNTY OF ERIE,

Respondent.

This paper received at the
Erie County Attorney's Office
from Michael Cooper
the 18 day of Feb. 2011
at 3:45 a.m./p.m.
Kelly Deunkworth
Assistant County Attorney

TO: County of Erie

SIRS:

PLEASE TAKE NOTICE that the Claimant herein hereby makes claims and demands against The County of Erie, as follows:

1) The name and post office address of Claimant is:

Benjamin Farley
857 Delaware Avenue, Apt. 7
Buffalo, NY 14209

2) The name and post office address of Claimant's attorney is:

Michael G. Cooper, Esq.
P.O. Box 238
71 Main Street
Hamburg, NY 14075

3) The time of the happening of this occurrence in which Claimant sustained injuries was November 27, 2010 at approximately 9:30 p.m.

4) The place of the happening of the incident in which Claimant was injured was the second floor of the Buffalo Niagara Convention Center, 153 Franklin Street, Buffalo, New York, in close proximity to the stairway landing from the first floor to the second floor.

5) The nature of this claim is for personal injuries, pain and suffering and medical expenses incurred by Claimant as a result of said County of Erie's negligent repair, operation and maintenance of the premises.

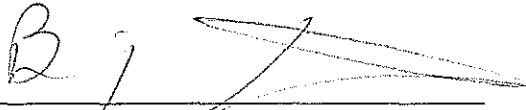
The County of Erie, its agents, servants, employees, assignees and lessees failed to properly maintain the premises in a reasonably safe condition; caused and allowed pedestrian walkways and stairway areas to exist in a dangerous and defective condition, including the accumulation of water and/or other slippery substances near the top of the stairway area which caused and created a slipping hazard; failed to properly inspect and clean the premises, or provide adequate floor matting to eliminate said slippery conditions; allowed foreign substances to exist in this area of high pedestrian traffic; failed to clean the premises and correct the defective conditions despite the fact that the County, its agents, servants, employees, and lessees had notice of said conditions, created said conditions or, in the exercise of reasonable care should have known of said conditions, and the fact that, upon information and belief, others had previously fallen in the same area; and failed to provide any warning of said dangerous and defective conditions to patrons or users of the facility.


Upon information and belief, The County of Erie, its officers, agents, servants, employees and lessees had both actual and constructive notice of said conditions and/or created said conditions.

6) Claimant sustained injuries to his head and face including a laceration of the nose, and pain and suffering and has incurred expenses related to medical and hospital treatment. At this juncture, the full extent of Claimant's injuries and damages can not be fully ascertained but shall be supplemented hereafter.

WHEREFORE, Claimant respectfully requests that this claim be allowed and honored, and paid by The County of Erie.

DATED: Hamburg, New York
February 18, 2011


BENJAMIN FARLEY
Claimant


MICHAEL G. COOPER, ESQ.
Attorney for Claimant
P.O. Box 238
71 Main Street
Hamburg, NY 14075
(716) 648-5695
(716) 648-4450 facsimile

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

BENJAMIN FARLEY, being duly sworn, deposes and says:

That I am the Claimant in the action herein; I have read the annexed Notice of Claim and know the contents thereof, and that the same is true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters, I believe them to be true.


BENJAMIN FARLEY

Sworn to before me this
18th day of February, 2011


Notary Public

MICHAEL G. COOPER
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 04/03/ 2015

IN THE MATTER OF THE CLAIM OF

BENJAMIN FARLEY,
Claimant,

**AMENDED
NOTICE OF CLAIM**

vs.

THE COUNTY OF ERIE,
Respondent.

TO: County of Erie

SIRS:

PLEASE TAKE NOTICE that the Claimant herein hereby makes claims and demands against The County of Erie, as follows:

1) The name and post office address of Claimant is:

Benjamin Farley
857 Delaware Avenue, Apt. 7
Buffalo, NY 14209

2) The name and post office address of Claimant's attorney is:

Michael G. Cooper, Esq.
P.O. Box 238
71 Main Street
Hamburg, NY 14075

3) The time of the happening of this occurrence in which Claimant sustained injuries was November 27, 2010 at approximately 9:30 p.m.

4) The place of the happening of the incident in which Claimant was injured was the second floor of the Buffalo Niagara Convention Center, 153 Franklin Street, Buffalo, New York, in close proximity to the stairway landing from the first floor to the second floor.

5) The nature of this claim is for personal injuries and pain and suffering sustained by Claimant when he was caused to slip and fall on the premises, and medical expenses incurred by Claimant, as a result of said County of Erie's negligent repair, operation and maintenance of the premises.

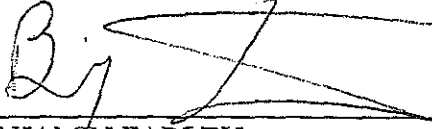
The County of Erie, its agents, servants, employees, assignees and lessees failed to properly maintain the premises in a reasonably safe condition; caused and allowed pedestrian walkways and stairway areas to exist in a dangerous and defective condition, including the accumulation of water and/or other slippery substances near the top of the stairway area which caused and created a slipping hazard; failed to properly inspect and clean the premises, or provide adequate floor matting to eliminate said slippery conditions; allowed foreign substances to exist in this area of high pedestrian traffic; failed to clean the premises and correct the defective conditions despite the fact that the County, its agents, servants, employees, and lessees had notice of said conditions, created said conditions or, in the exercise of reasonable care should have known of said conditions, and the fact that, upon information and belief, others had previously fallen in the same area; and failed to provide any warning of said dangerous and defective conditions to patrons or users of the facility.

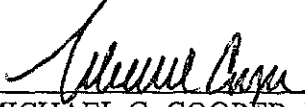
Upon information and belief, The County of Erie, its officers, agents, servants, employees and lessees had both actual and constructive notice of said conditions and/or created said conditions.

6) Claimant sustained injuries to his head and face including a laceration of the nose, and pain and suffering and has incurred expenses related to medical and hospital treatment. At this juncture, the full extent of Claimant's injuries and damages can not be fully ascertained but shall be supplemented hereafter.

WHEREFORE, Claimant respectfully requests that this claim be allowed and honored, and paid by The County of Erie.

DATED: Hamburg, New York
February 18, 2011

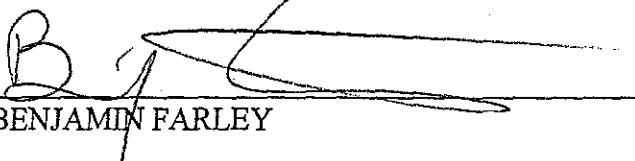

BENJAMIN FARLEY
Claimant


MICHAEL G. COOPER, ESQ.
Attorney for Claimant
P.O. Box 238
71 Main Street
Hamburg, NY 14075
(716) 648-5695
(716) 648-4450 facsimile


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

BENJAMIN FARLEY, being duly sworn, deposes and says:

That I am the Claimant in the action herein; I have read the annexed Notice of Claim and know the contents thereof, and that the same is true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters, I believe them to be true.


BENJAMIN FARLEY

Sworn to before me this
18th day of February, 2011


Notary Public

MICHAEL G. COOPER
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 04/03/ 2015



COUNTY OF ERIE

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

CHRIS COLLINS
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 18, 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>Noonan, Joseph and Christine, his wife vs County of Erie and Erie County Dept. of Parks and Recreation</i>
Document Received:	Notice of Claim
Name of Claimant:	Joseph Noonan 314 Union Street, Apt. 1 Hamburg, New York 14075
Claimant's attorney:	David H. Elibol, Esq. Gross Shuman Brizzle & Gilfillan, P.C. 465 Main Street Suite 600 Buffalo, New York 14203

Should you have any questions, please call.

Very truly yours,

JEREMY A. COLBY
Erie County Attorney

By: 
THOMAS F. KIRKPATRICK, JR.
Second Assistant County Attorney

TFK/mow
Enc.

In the Matter of the Claim of

JOSEPH NOONAN and
CHRISTINE NOONAN, His Wife
314 Union Street, Apt. 1
Hamburg, NY 14075

NOTICE OF CLAIM

Claimants,

-against-

COUNTY OF ERIE
69 Delaware Avenue
Suite 300
Buffalo, NY 14202

ERIE COUNTY DEPARTMENT OF PARKS
and RECREATION
95 Franklin Street, 13th Floor
Buffalo, NY 14202

Respondents.

TO: County of Erie, New York
County Attorney
69 Delaware Avenue
Suite 300
Buffalo, NY 14202

Erie County Department of Parks & Recreation
James Hornung, Sr., Commissioner
95 Franklin Street, 13th Floor
Buffalo, NY 14202

PLEASE TAKE NOTICE, that the undersigned, Joseph Noonan and Christine Noonan, pursuant to General Municipal Law §50-e, do hereby make a claim against the County of Erie and Erie County Department of Parks and Recreation (the "Respondents") for damages, and in support of such claim, state the following:

1. The name of the Claimants are Joseph Noonan and Christine Noonan (the "Claimants") and their post office address is 314 Union Street, Apt. 1, Hamburg, NY 14075.

Claimants' attorneys, Gross, Shuman, Brizdle & Gilfillan, P. C. (David H. Elibol, Esq., of Counsel), have their offices at 465 Main Street, Suite 600, Buffalo, New York, 14203.

2. The nature of the claim of the Claimant, Joseph Noonan, is for personal injuries, including pain and suffering, medical expenses, lost wages, emotional and mental distress, and for attendant damages and losses for which the proximate and contributing cause was negligence, carelessness, and recklessness of the Respondents, their agents, servants and/or employees. The nature of the claim of Claimant, Christine Noonan, is for loss of consortium, services, and society due to injuries sustained by her husband, Joseph Noonan.

3. The time when the claim arose and the time when the injuries were sustained by Claimants was on the 23rd day of December, 2010 at approximately 6:30 p.m. at Chestnut Ridge Park on the sledding hill. The claim arose when the Claimant, Joseph Noonan, was sledding and struck a frozen hay barrier on the sledding hill, resulting in severe personal injuries. Upon information and belief, the above-described incident and injuries were caused by and arose as a result of the negligence, carelessness, recklessness of the Respondents, their agents, servants and/or employees in, among other things: their ownership, operation, possession, management, maintenance, upkeep, repair and control of the sledding hill, particularly, in failing to take the proper precautions to insure the safety of the subject area; failing to maintain said area in a safe and proper condition; failing to warn of an unsafe, dangerous, and hazardous condition; failing to make necessary observations and inspections of the area to determine the existence of dangerous and unsafe conditions; failing to correct the dangerous and unsafe condition within a reasonable time; creating, causing, permitting, and/or allowing an unsafe, dangerous, and hazardous

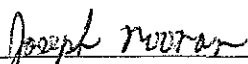
condition to exist; allowing and permitting said condition to exist when the Respondents had both the knowledge and notice, or in the exercise of reasonable care could and should have known, of such dangerous conditions; failing to comply with the proper laws, rules, regulations; and failing to give Claimant and others any notice and/or warning of the dangerous and hazardous condition existing.

4. The items of damage or injuries claimed by the Claimants so far as is now practicable consist of : a left leg tibia/fibula fracture requiring surgical repair with hardware implantation; all with resulting pain and suffering, including loss of enjoyment of life, mental anguish, anxiety and fear, medical expenses, lost wages, and all of the damages available under applicable law.

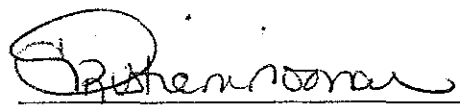
PLEASE TAKE FURTHER NOTICE, that unless said claim is adjusted and paid by the Respondents within thirty (30) days from the date of service of this Notice of Claim, the Claimants intend to commence an action in the Supreme Court of the State of New York, County of Erie, against the Respondents for a sum which exceeds the jurisdictional limit of all lower courts which would otherwise have jurisdiction, together with interest, costs and disbursements.

WHEREFORE, the Claimants request that this claim be allowed and paid by the Respondents.

Dated: Buffalo, New York
March 2, 2011



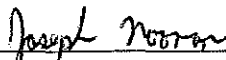
Joseph Noonan



Christine Noonan

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

Joseph Noonan, being duly sworn, deposes and states that deponent is a Claimant in the within action; that deponent has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to his own knowledge, except as to matters therein stated to be alleged upon information and belief, and that as to those matters, he believes it to be true.



Joseph Noonan

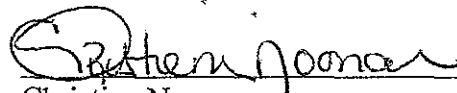
Subscribed and sworn to before
me this 2 day of March, 2011.



Notary Public
DAVID H. ELIBOL
No. 02EL5065691
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Sept. 9, 2014

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

Christine Noonan, being duly sworn, deposes and states that deponent is a Claimant in the within action; that deponent has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to her own knowledge, except as to matters therein stated to be alleged upon information and belief, and that as to those matters, she believes it to be true.



Christine Noonan

Subscribed and sworn to before
me this 2 day of March, 2011.



Notary Public
DAVID H. ELIBOL
No. 02EL5065691
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Sept 9 20 14



COUNTY OF ERIE

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

CHRIS COLLINS
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 18, 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>Almond, Annie B. vs Coumy of Erie, Markeda Pilgrim and Imari Malik Pilgrim</i>
Document Received:	Notice of Claim
Name of Claimant:	Annie B. Almond 80 Foreman Street Buffalo, New York 14211
Claimant's attorney:	Cheryl M. Reed, Esq. William K. Mattar, P.C. 6720 Main Street, Suite 100 Williamsville, New York 14221-5986

Should you have any questions, please call.

Very truly yours,

JEREMY A. COLBY
Erie County Attorney

By: 

THOMAS F. KIRKPATRICK, JR.
Second Assistant County Attorney

TFK/mow
Enc.

cc: JEREMY A. COLBY, Erie County Attorney

IN THE MATTER OF THE CLAIM OF:

Annie B Almond
C/O Catherine Almond
80 Foreman Street
Buffalo, NY 14211

Claimant,

-against-

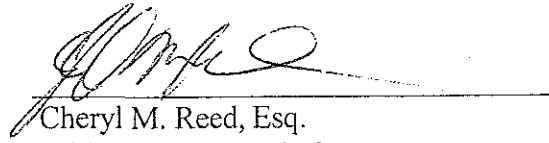
NOTICE OF CLAIM

County of Erie, Markeda Pilgrim, and Imari Malik Pilgrim
Respondents

PLEASE TAKE NOTICE that Annie B Almond, hereby makes claim against County of Erie and in support thereof allege:

1. That the undersigned, Annie B Almond, residing at 80 Foreman Street, Buffalo, NY 14211, by and through her attorney, William K. Mattar, P.C., Cheryl M. Reed, Esq., of counsel, 6720 Main Street, Suite 100, Williamsville, NY 14221-5986, claim damages against the County of Erie, Markeda Pilgrim, and Imari Malik Pilgrim for personal injuries, pain and suffering, general and special damages, medical expenses, and property damages sustained by her.
2. That the injuries were sustained by Annie B Almond on December 20, 2010 at approximately 5:10 p.m. were to her left leg. Ms. Almond was walking along the edge of the street in front of 856 Sycamore near Fillmore in the County of Erie when she was struck by a vehicle owned by Markeda Pilgrim and operated by Imari Malik Pilgrim. It was noted that due to the respondent county's snow removal from the street, said snow was pushed up onto the sidewalk, adding to the pedestrian hazard and forcing pedestrians to walk in the street instead of the sidewalk.
3. That the Claimant's damages and injuries occurred as a result of the negligence, carelessness, and reckless disregard for the safety of others including Claimant, Annie B. Almond, by the County of Erie, Markeda Pilgrim, and Imari Malik Pilgrim, its servants, agents or employees in failing to maintain Sycamore Street in the County of Erie and in failing to instruct and supervise its employees on the safety and proper procedures for snow removal on the street; along with the other acts of vicarious negligence, carelessness, and recklessness.
4. That as a result of the foregoing, the Claimant, Annie B. Almond, sustained serious injuries, including injuries to her left leg, as well as injuries to her hands and back. Some of these injuries will be of a permanent or indefinite duration, and Claimant, Annie B. Almond, was and will, in the future be forced to expend sums of money for hospitals, doctors and other medical expenses.
5. That the said injuries were occasioned solely and wholly as a result of the negligence of the County of Erie, Markeda Pilgrim, and Imari Malik Pilgrim, through its agents, servants and employees and without any negligence on the part of the Claimant contributing thereto.

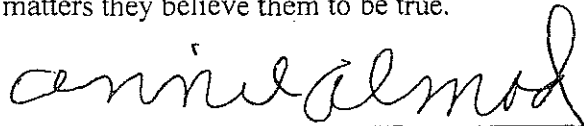
DATED: Williamsville, New York
 March 9, 2011

A handwritten signature in black ink, appearing to read 'C. Reed', is written over a horizontal line.

Cheryl M. Reed, Esq.
William K. Mattar, P.C.
Attorney for Claimant
Office and P.O. Address
6720 Main Street, Suite 100
Williamsville, NY 14221-5986

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

Annie B. Almond, being duly sworn, depose and say that he is the Claimant in this action; that she has read the foregoing Notice of Claim and know the contents thereof; that the same is true to the knowledge of deponents, except as to matters therein stated to be alleged on information and belief, and that as to those matters they believe them to be true.



Annie B. Almond

Sworn to before me this
3 day of March, 2011.


Notary

Cheryl M. Reed
Notary Public, State of New York
Qualified in Erie County
No. 02RE6220324
My Commission Expires
April 12, 20 14



COUNTY OF ERIE

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

CHRIS COLLINS
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY
THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 17, 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>Bonner, Tiffany and Daniel as PNG of Kayla vs County of Erie, Erie County Water Authority and City of Buffalo</i>
Document Received:	Notice of Claim
Name of Claimant:	Tiffany and Daniel Bonner 148 Mariemont Street Buffalo, New York 14220
Claimant's attorney:	LoTempio & Brown, PC 181 Franklin Street Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

JEREMY A. COLBY
Erie County Attorney

By: 
THOMAS F. KIRKPATRICK, JR.
Second Assistant County Attorney

TFK/mow
Enc.

cc: JEREMY A. COLBY, Erie County Attorney

Tiffany and Daniel Bonner, as Parents and Natural Guardians
of Kayla Bonner

Claimants

NOTICE OF CLAIM

v.

The County of Erie,
Erie County Water Authority
The City of Buffalo,

Respondents.

This paper received at the
Erie County Attorney's Office
from JAMES MOLESCHER
the 14 day of March 20 11
at 11:30 a.m./p.m.
Kelly Pounkara
Assistant County Attorney

TO: THE COUNTY OF ERIE

PLEASE TAKE NOTICE that the Claimant, Tiffany and Daniel Bonner, Individually and as Parents and Natural Guardians of Kayla Bonner, hereby claims and demands from the Respondent, The County of Erie, Erie County Water Authority, The City of Buffalo, damages for personal injuries which the infant Claimant, Kayla Bonner sustained as a result of the careless, reckless and negligent acts and omissions of the Respondent. In support of this claim the Claimant states the following:

1. The post office address of the Claimants is 148 Mariemont Street, Buffalo, New York 14220. Their attorneys are LoTempio & Brown, P.,C., 181 Franklin Street, Buffalo, New York 14202.
2. The incident which is the subject matter of this claim occurred on or about December 18, 2010 at approximately 3:30 p.m..
3. The incident occurred when the infant Claimant was walking and fell into a hole covered by snow on, in or near 5 Olcott Avenue in the City of Buffalo, County of Erie, State of New York. Infant Claimant was caused to have her right leg and ankle stuck in the hole for a period of time. Please see attached accident report.
4. This incident occurred as the result of the negligent design, construction and maintenance of Olcott Avenue, the sewers, sewer cover, manholes, grates, street including, but not

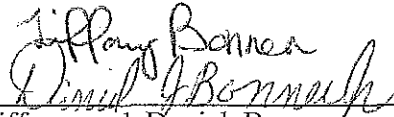
limited to, the failure to post warnings, remedy the defect, and keep the street free from dangerous and hazardous conditions.

5. That as a result of this incident, the infant Claimant was injured in and about his head, body and limbs, forced to endure severe pain and suffering and to incur medical expenses.

6. This notice is made and served on behalf of the Claimants in compliance with the provisions of Section 50-e of the General Municipal Law.

PLEASE TAKE FURTHER NOTICE, that the Claimants demand payment of this claim within a reasonable period of time, or it is their intention to commence suit against the Respondent.

Dated: Buffalo, New York
February 17, 2011



Tiffany and Daniel Bonner, as Parents and
Natural Guardians of Kayla Bonner

LoTempio & Brown, P.C.
Attorneys for Claimants
181 Franklin Street
Buffalo, New York 14202

P-71 (10/82)

AIDED CASE REPORT - NON-FATAL

CD No. 10-352-05

(Check appropriate Box(es))

Buffalo Police Department
Buffalo, New York

Date 12-18-10

(1) FIRST AID CASE

Precinct A

(2) INHALATOR - RESCUE SQUAD No. _____

Time 1601 AM PM

(3) AIDED CASE NON-VEHICULAR ACCIDENT

FIRST AID GIVEN BY POLICE: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	MEDICAL AID REFUSED BY VICTIM <input type="checkbox"/>
---	---

(4) CITY INVOLVED NON-VEHICULAR ACCIDENT

(5) OTHER Juvenile's foot & leg stuck in hole in street

1. VICTIM: Last Name First M.I. <u>BONNER KAYIA</u>	2. ADDRESS <u>824-1436 148 Mariemont St Bf10 14222</u>
--	---

3. AGE <u>13</u>	4. SEX	5. WHERE FOUND: Place or Address <u>Approx 5 OLCOTT AVE - STREET</u>
---------------------	--------	---

6. FOUND BY: <u>brother</u>	7. ADDRESS <u>148 Mariemont St Bf10 14222</u>
--------------------------------	--

8. ATTENDING PHYSICIAN (if any)	9. ADDRESS
---------------------------------	------------

10. REMOVED TO: <u>Mercy Hospital</u>	11. REMOVED BY: <u>Rural Metro 547</u>
--	---

12. NATURE AND EXTENT OF INJURY OR ILLNESS:
Ankle & leg

13. DESCRIBE INCIDENT (If City involved, explain in what way)
NO GRATE COVERING HOLE.
Deep hole in street covered w/snow (possibly covered w/a orange hazard cone at one time - A DAMAGED ONE found nearby) - VICTIM WALKING AND fell right into hole. ankle & leg stuck. Assisted by Buffalo Fire Engine 4

INVESTIGATING OFFICER(S): PO Margaret Scuzini
RANK NAME

RESPECTFULLY FORWARDED: H [Signature]
RANK NAME
COMMANDING OFFICER

INSTRUCTIONS:

1. Prepare this report in triplicate in all NON-VEHICULAR AIDED AND ACCIDENT CASES, INCLUDING INHALATOR CASES.
 2. DO NOT USE THIS FORM IF A DEATH OCCURS, USE THE SUDDEN DEATH REPORT, FORM P-178.
 3. If the City is, or may become, involved, do not release information. Inquiries shall be directed to the Corporation Counsel.
 4. If the City is involved, a copy of the report shall be sent to the Corporation Counsel by the Bureau of Communications.
- PREPARE IN TRIPLICATE: ORIGINAL AND COPY TO HD. COPY TO COMMAND FILES.



COUNTY OF ERIE

JEREMY A. COLBY
ERIE COUNTY ATTORNEY

CHRIS COLLINS
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 17, 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>Belcer, Josephine vs County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Josephine Belcer 119 Lehavre Drive Cheektowaga, New York 14227
Claimant's attorney:	Max Humann, Esq. William K. Mattar, P.C. 6720 Main Street, Suite 100 Williamsville, New York 14221-5986

Should you have any questions, please call.

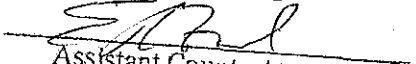
Very truly yours,

JEREMY A. COLBY
Erie County Attorney

By: 
THOMAS F. KIRKPATRICK, JR.
Second Assistant County Attorney

TFK/mow
Enc.

cc: JEREMY A. COLBY, Erie County Attorney

This paper received at the
Erie County Attorney's Office
from DAN McEvoy on
the 14th day of MARCH, 2011
at 2:45 a.m./p.m.

Assistant County Attorney

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

JOSEPHINE BELCER
119 Lehavre Drive
Cheektowaga, New York 14227

Claimant,

against

NOTICE OF CLAIM

COUNTY OF ERIE
County Executive Christopher Collins
95 Franklin Street, 16th Floor
Buffalo, New York 14202

Respondent.

PLEASE TAKE NOTICE that by and on behalf of the above listed **Claimant Josephine Belcer**, her attorneys William K. Mattar, P.C. hereby submit in writing, and sworn to by her, a Notice of Claim against the **County of Erie**, stating as follows:

1. That the undersigned Josephine Belcer, residing at 119 Lehavre Drive, Cheektowaga, New York 14227 by and through her attorney, William K. Mattar, P.C., 6720 Main Street, Suite 100, Williamsville, New York 14221-5986, claims damages against the County of Erie for personal injuries, pain and suffering, change of lifestyle, loss of enjoyment of life, general and special damages, medical expenses and all other damages allowed by law resulting from the serious injuries suffered by Claimant, Josephine Belcer.
2. That the nature of this claim is in tort. The claim arises out of a motor vehicle accident involving a vehicle being driven by the claimant Josephine Belcer, who was struck by a vehicle owned and operated by Edward P. McEvoy, on roads that are owned by the County of Erie.

3. That on December 21, 2010, at approximately 8:55 a.m., near the intersection of Union Road and Schlenker Avenue in the Town of Cheektowaga, New York, a vehicle being driven by Josephine Belcer was struck by a vehicle owned and operated by Edward P. McEvoy. This accident occurred when Edward P. McEvoy drove his vehicle from Schlenker Avenue into oncoming traffic on Union Road, thereby causing a collision with the vehicle being operated by Josephine Belcer.

4. That as a result of the aforesaid collision, Josephine Belcer sustained severe and serious personal injuries, including a "serious injury" and economic losses greater than "basic economic loss", as these terms are defined by Article 51 of the New York State Insurance Law, including but not limited to back and neck injuries. These are the items of damage and loss known thus far. Some of these injuries are expected to be of a permanent or indefinite duration, and Claimant Josephine Belcer, will in the future be forced to expend sums of money for hospitals, doctors and other medical expenses.


5. That the Claimant's damages and injuries occurred as a result of the negligence, carelessness, and reckless disregard for the safety of others, including Claimant, Josephine Belcer, by the County of Erie, their servants, agents or employees in failing to provide a safe location to transit, in failing to maintain the area in a reasonably safe condition, in failing to post and maintain appropriate signage and traffic control devices, along with other acts of negligence, carelessness and recklessness.

6. That the said injuries were occasioned wholly as a result of the negligence of the County of Erie without any negligence on the part of the Claimant contributing thereto.

Josephine Belcer
June 26, 2009
Page 3 of 4

This claim is hereby presented for adjustment and payment.

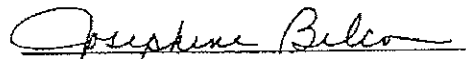
DATED: March 11, 2011



Max Humann, Esq.
WILLIAM K. MATTAR, P.C.
Attorney for Claimant
6720 Main Street, Suite 100
Williamsville, New York 14221
(716) 633-3535

Claimant, Josephine Belcer, being duly sworn, deposes and says:

I have read the foregoing notice of claim and know its contents; the same is true to my knowledge, except as to those matters therein stated to be alleged on information and belief, and as to those matters I believe them to be true.


Josephine Belcer

Subscribed and sworn to before me
This 11 day of March, 2011



Notary Public

02H06164383 . Exp. 4/16/11



JEREMY A. COLBY
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

CHRIS COLLINS
COUNTY EXECUTIVE

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

DEPARTMENT OF LAW

March 17, 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>Spencer, Jabari Hastlim vs Erie County Holding Center Administration, et al.</i>
Document Received:	Summons and Complaint
Name of Claimant:	Jabari Hastlim Spencer DIN #10-B-2970 Five Points Correctional Facility Box 119 Romulus, New York 14541
Claimant's attorney:	Pro Se

Should you have any questions, please call.

Very truly yours,

JEREMY A. COLBY
Erie County Attorney


By: THOMAS F. KIRKPATRICK, JR.
Second Assistant County Attorney

TFK/mow

Enc.

cc: JEREMY A. COLBY, Erie County Attorney

UNITED STATES DISTRICT COURT

for the

Western District of New York

Jabari Hastlim Spencer

Plaintiff

v.

Captain Hartman

Defendant

)
)
)
)
)
)
)
)
)
)
)

Civil Action No. 10-CV-822

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Captain Hartman
Erie County Holding Center
40 Delaware Avenue
Buffalo, NY 14202

2011 MAR -4 PM 4: 12
US MARSHALS SERVICES
WESTERN NEW YORK

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jabari Hastlim Spencer
Din #10-B-2970
Five Points Correctional Facility
Box 119
Romulus, NY 14541

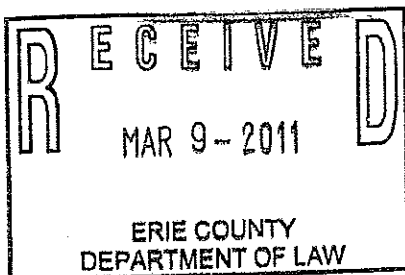
If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Michael J. Roman

Signature of Clerk or Deputy Clerk

Date: 03/03/2011



-PSO-

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JABARI SPENCER, 10-B-2970,

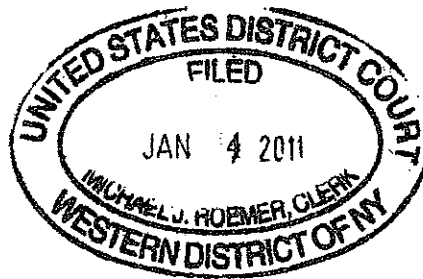
Plaintiff,

-v-

DECISION and ORDER
10-CV-822Sr

ERIE COUNTY HOLDING CENTER
ADMINISTRATION,
DEPUTY HUSSAN,
LIEUTENANT EVANS,
KEVON WALKER, INMATE,
CHIEF REARDON,
DEPUTY DELIO,
CAPTAIN HARTMAN, and
DEPUTY KNUFFER,

Defendants.



INTRODUCTION

Plaintiff Jabari Spencer, an inmate of the Five Points Correctional Facility who appears to have been a pre-trial detainee at the Erie County Holding Center ("the Holding Center") at the time of the events alleged in the complaint, has filed this *pro se* action seeking relief under 42 U.S.C. § 1983 (Docket No. 1) and has both requested permission to proceed *in forma pauperis* and filed a signed Authorization (Docket Nos 2 and 4). Plaintiff's request to proceed as a poor person is granted. For the reasons set forth below, the Court determines that several of plaintiff's claims must be dismissed, some of the claims are sufficient as pled, and others must be dismissed under 28 U.S.C. § 1915(e)(2)(B), unless plaintiff files an amended complaint as directed below.

DISCUSSION

Plaintiff has met the statutory requirements of 28 U.S.C. § 1915(a) and filed an Authorization with respect to this action. However, plaintiff submitted a dated Authorization that does not reference the current \$350 filing fee. Therefore, plaintiff will be granted permission to proceed *in forma pauperis*, subject to the requirement that he file the correct Authorization, a copy of which will be provided by the Clerk of the Court.

Sections 1915(e)(2)(B) and 1915A(a) of 28 U.S.C. require the Court to conduct an initial screening of this complaint. In evaluating the complaint, the Court must accept as true all of the factual allegations and must draw all inferences in plaintiff's favor. See *Larkin v. Savage*, 318 F.3d 138, 139 (2d Cir. 2003) (per curiam); *King v. Simpson*, 189 F.3d 284, 287 (2d Cir. 1999). While "a court is obliged to construe [pro se] pleadings liberally, particularly when they allege civil rights violations," *McEachin v. McGuinnis*, 357 F.3d 197, 200 (2d Cir. 2004), even pleadings submitted pro se must meet the notice requirements of Rule 8 of the Federal Rules of Civil Procedure. *Wynder v. McMahon*, 360 F.3d 73 (2d Cir. 2004). "Specific facts are not necessary," and the plaintiff "need only 'give the defendant fair notice of what the ... claim is and the grounds upon which it rests.'" *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (internal quotation marks and citation omitted)).

"To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, — U.S. —, 129 S. Ct. 1937, 1949 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). Generally, the Court will afford a *pro se* plaintiff an opportunity to amend or

to be heard prior to dismissal "unless the court can rule out any possibility, however unlikely it might be, that an amended complaint would succeed in stating a claim." *Abbas v. Dixon*, 480 F.3d 636, 639 (quoting *Gomez v. USAA Federal Savings Bank*, 171 F.3d 794, 796 (2d Cir. 1999) (per curiam)).

Plaintiff brings this action pursuant to 42 U.S.C. § 1983. "To state a valid claim under 42 U.S.C. § 1983, the plaintiff must allege that the challenged conduct (1) was attributable to a person acting under color of state law, and (2) deprived the plaintiff of a right, privilege, or immunity secured by the Constitution or laws of the United States." *Whalen v. County of Fulton*, 126 F.3d 400, 405 (2d Cir. 1997) (citing *Eagleston v. Guido*, 41 F.3d 865, 875-76 (2d Cir.1994)). Based on its evaluation of the complaint, the Court finds that some of plaintiff's claims must be dismissed pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b), because they fail to state claims upon which relief may be granted.

Plaintiff's Claims

The first claim of the complaint alleges that while incarcerated in protective custody at the Erie County Holding Center on July 21, 2010, plaintiff was assaulted by fellow inmate, defendant Kevon Walker, as a result of which he suffered serious head and facial injuries. He alleges that defendants Captain Hartman, Chief Reardon, Deputy Delio, and Lieutenant Evans failed to protect him before and during the assault. The second claim of the complaint alleges that following treatment for his injuries at the Erie County Medical Center, and plaintiff's return to the Holding Center, defendants Deputy Hussan and Deputy Knuffer continuously denied plaintiff's requests for additional necessary medical treatment.

Claims Against Inmate Kevon Walker

Defendant Walker is a private party. Private parties are not generally liable under 42 U.S.C. § 1983. In *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 102 S. Ct. 2744, 73 L. Ed. 2d 482 (1982), the Supreme Court set forth a two-part test to determine when the actions of a private party may be attributed to the state so as to make the private party subject to liability under section 1983. First, "the deprivation must be caused by the exercise of some right or privilege created by the State or by a rule of conduct imposed by the State or by a person for whom the State is responsible." *Id.* at 937. "Second, the party charged with the deprivation must be a person who may fairly be said to be a state actor." *Id.* A person is considered a state actor if "he is a state official . . . he has acted together with or obtained significant aid from state officials, or [] his conduct is otherwise chargeable to the State." *Id.*

Therefore, to establish that Walker's conduct was "under state law" for purposes of § 1983, plaintiff would have to allege facts that would show that Walker's conduct was the product of or pursuant to an agreement between Walker and one or more of the other defendants to violate plaintiff's civil rights. Plaintiff alleges nothing that could be construed as claiming or inferring that Walker acted in concert with any of the defendant corrections officials to violate his rights. Plaintiff's allegations that he had received threats on his life; that he had asked defendants Captain Hartman and Chief Reardon to have him transferred to another unit; that they refused to transfer him; and that they failed to protect him from Walker's assault, is not sufficient to state a § 1983 claim against Walker. See *Bridgeforth v. Latona*, 08-CV-6349Fe, 2009 U.S. Dist. LEXIS 13697, at *2-3 (W.D.N.Y. Feb. 12, 2009)

(plaintiff's allegation that fellow inmate was favored by corrections officers, and that "officers should have known of, and protected plaintiff from, [inmate's] violent nature" did not suffice to set forth a § 1983 claim against the inmate). The plaintiff has alleged no facts suggesting that Inmate Walker is a state actor, and he thus fails to establish a factual basis for a claim that is cognizable under section 1983. Accordingly, the claims against defendant Walker are dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

Claims Against Erie County Holding Center Administration

Plaintiff alleges that the "administration" of the Holding Center allowed him to be kept in a Holding Center unit where he was assaulted. Although municipalities are considered "persons" for purposes of 42 U.S.C. § 1983, a local government may not be held liable under § 1983, unless the challenged action was performed pursuant to a municipal policy or custom. *Monell v. New York City Dept. of Social Services*, 436 U.S. 658, 694, 98 S. Ct. 2018, 56 L. Ed. 2d 611 (1978). Municipalities are not subject to § 1983 liability solely on the basis of a *respondeat superior* theory. *Collins v. City of Harker Heights*, 503 U.S. 115, 121, 112 S. Ct. 1061, 117 L. Ed. 2d 261 (1992); *Monell*, 436 U.S. at 694. To hold a municipality liable in a § 1983 action, a plaintiff is required to plead and prove three elements: (1) an official custom or policy that (2) causes the plaintiff to be subjected to (3) a denial of a constitutional right. *Zahra v. Town of Southold*, 48 F.3d 674, 685 (2d Cir. 1995) (citations and quotations omitted); see *Gottlieb v. County of Orange*, 84 F.3d 511, 518 (2d Cir. 1996) ("In order to establish the liability of a municipality in an action under § 1983 for unconstitutional acts by a municipal employee below the policymaking level, a plaintiff must show that the violation of his constitutional rights resulted from a municipal custom or policy.").

The claims against the Erie County Holding Center Administration, construed as a claim against the Erie County Holding Center, must be dismissed because (1) the Erie County Holding Center is merely an arm of the County, and does not have a legal identity separate and apart from the County and thus cannot be sued, *see Brockport v. County of Monroe Pure Waters Div.*, 75 A.D.2d 483, 486, 429 N.Y.S.2d 931 (4th Dept. 1980), *aff'd* 54 N.Y.2d 678, 425 N.E.2d 898, 442 N.Y.S.2d 510 (1981); *Loria v. Town of Irondequoit*, 775 F.Supp. 599, 606 (W.D.N.Y. 1990), and (2) there are no allegations that the challenged actions were performed pursuant to a municipal policy or custom of the County. *Monell*, 436 U.S. at 694. Accordingly, the claims against the Erie County Holding Center must be dismissed in their entirety but, as discussed below, plaintiff will be allowed the opportunity to amend the complaint to name the County of Erie as a defendant and set forth facts that give rise to a claim of municipal liability under *Monell*.

Claim Against Lieutenant Evans

To state a cognizable claim against an individual defendant, plaintiff must show that the defendant was personally involved in an alleged constitutional deprivation. *Sealey v. Giltner*, 116 F.3d 47, 51 (2d Cir. 1997). Plaintiff's only allegation with respect to defendant Lieutenant Evans is that Evans "left [him]" in the particular disciplinary unit at the Holding Center, Gulf East Keeplock, at which the assault occurred. This allegation does not suffice to establish a claim against defendant Evans, nor does plaintiff allege any facts that can be construed as indicating that Evans failed to protect him from Walker's assault or denied him necessary medical treatment following that assault. Accordingly, plaintiff's claim against defendant Evans must be dismissed. Nevertheless, given the Court's duty

to treat liberally the claims of *pro se* litigants, and the plaintiff's immediately preceding allegation in the complaint that another Holding Center official, Chief Reardon ignored his request to be transferred to another unit in the Holding Center, the Court will permit plaintiff to amend his claim against defendant Evans if he so chooses. To survive the Court's review under 28 U.S.C. §§ 1915 and 1915A, any amended claim against defendant Evans will have to allege facts showing that Evans knew of and failed to respond to plaintiff's request for protection.

CONCLUSION

Because plaintiff has met the statutory requirements of 28 U.S.C. § 1915(a) and filed an Authorization with respect to the filing fee, his request to proceed *in forma pauperis* is granted, subject, as noted above, to the requirement that he file, by **February 1, 2011**, the Authorization form setting forth the correct (\$350) filing fee. For the reasons set forth above, plaintiff's claims against Kevon Walker and the Erie County Holding Center are dismissed with prejudice. In addition, plaintiff's claim against Lieutenant Evans must be dismissed pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A, unless he files an amended complaint by **February 1, 2011**, which includes the necessary allegations regarding his two claims as directed above, and in a manner that complies with Rules 8 and 10 of the Federal Rules of Civil Procedure.¹ Plaintiff's failure to protect claims may proceed against Chief Reardon, Captain Hartman, and Deputy Delio only, and his denial of medical treatment claims may proceed against Deputy Hussan and Deputy Knuffer.

¹As previously noted, plaintiff may in the amended complaint, name the County of Erie as a defendant, but any claim against the County must set forth facts that would give rise to a claim of municipal liability under *Monell*, as explained *supra*, or such claim will be dismissed.

Plaintiff is advised that an amended complaint is intended to completely replace the prior complaint in the action, and thus it "renders [any prior complaint] of no legal effect." *International Controls Corp. v. Vesco*, 556 F.2d 665, 668 (2d Cir. 1977), *cert. denied sub nom., Vesco & Co., Inc. v. International Controls Corp.*, 434 U.S. 1014, 98 S. Ct. 730, 54 L. Ed. 2d 758 (1978); *see also Shields v. Citytrust Bancorp, Inc.*, 25 F.3d 1124, 1128 (2d Cir. 1994). Therefore, plaintiff's amended complaint must include all of the allegations against each of the defendants against whom the case is going forward so that the amended complaint may stand alone as the sole complaint in this action that the defendants must answer.

Plaintiff is forewarned that if he fails to file an amended complaint as directed, his failure to protect claim against Lieutenant Evans will be dismissed with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B) and § 1915A, and service will be made of only the failure to protect claims against Chief Reardon, Captain Hartman, and Deputy Delio, and the denial of medical treatment claims against Deputy Hussan and Deputy Knuffer.

ORDER

IT HEREBY IS ORDERED, that plaintiff's motion to proceed *in forma pauperis* (Docket No. 1) is GRANTED, subject to the requirement that plaintiff file, by **February 1, 2011**, a correct Authorization, a copy of which will be provided by the Clerk of the Court;

FURTHER, that plaintiff's claims against Kevon Walker and the Erie County Holding Center Administration (construed as the Erie County Holding Center), are DISMISSED with prejudice and the Clerk of the Court is directed to terminate these defendants as parties to this action;

FURTHER, that plaintiff's claim against defendant Evans is DISMISSED without prejudice, but plaintiff is GRANTED leave to file an amended complaint regarding his failure to protect claim against Lieutenant Evans, as directed above, by **February 1, 2011**;

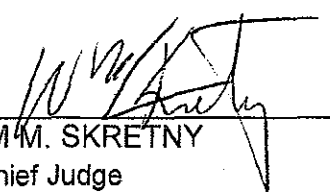
FURTHER, that the Clerk of the Court is directed to send to plaintiff with this Decision and Order a current Authorization form, copy of the original complaint, a blank § 1983 complaint form, and the instructions for preparing an amended complaint;

FURTHER, that in the event plaintiff fails to file an amended complaint as directed above by **February 1, 2011**, the Clerk of the Court is directed to cause the United States Marshal to serve copies of the Summons, Complaint, and this Order upon defendants Reardon, Hartman, Delio, Hussan, and Knuffer, without plaintiff's payment therefor, unpaid fees to be recoverable if this action terminates by monetary award in plaintiff's favor; and

FURTHER, that upon service of the complaint defendants are directed, pursuant to 42 U.S.C. § 1997e(g)(2), to answer the complaint.

SO ORDERED

Dated: January 4, 2011
Buffalo, New York

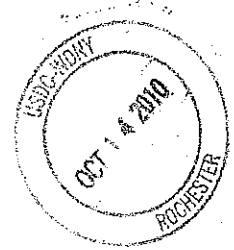


WILLIAM M. SKRETNY
Chief Judge
United States District Court

Revised 3/00

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

FORM TO BE USED IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983
(Prisoner Complaint Form)



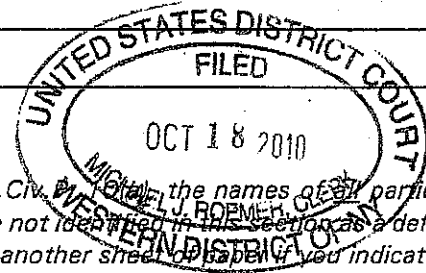
1. CAPTION OF ACTION

10 CV 822 SR

A. Full Name And Prisoner Number of Plaintiff: NOTE: If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.

JABARI HASLIM SPENCER 10-R-2970

-vs-



B. Full Name(s) of Defendant(s) NOTE: Pursuant to Fed.R.Civ.P. (b)(6), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper. You indicate below that you have done so.

- | | |
|---|--------------------------|
| 1. Erie County Holding Center Administrator | 2. Deputy HUSSAK |
| 3. Warden EVANS | 4. Levon WALKER / Inmate |
| 5. Chief Keardon | 6. Deputy Delio |
| Captain Hartman | Deputy Kruffek |

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION NOTE: To list additional plaintiffs, use this format on another sheet of paper.

Name and Prisoner Number of Plaintiff: JABARI SPENCER 10-R-2970

Present Place of Confinement & Address: Elmira Correctional Facility
Elmira, NY P.O. Box 500 14902-0500

Name and Prisoner Number of Plaintiff: JABAR, SPENCER 10B-2970
Present Place of Confinement & Address: Elimia Correctional Facility
Elimia, NY 14902 0500
P.O. Box 500

DEFENDANT'S INFORMATION NOTE: To provide information about more defendants than there is room for here, use this format on another sheet of paper.

Name of Defendant: Mr. Reardon
(If applicable) Official Position of Defendant: Chief
(If applicable) Defendant is Sued in Individual and/or Official Capacity
Address of Defendant: 40 Delaware Buffalo NY 14202-3999
Erie County Holding Center

Name of Defendant: Mr. Delio
(If applicable) Official Position of Defendant: Deputy
(If applicable) Defendant is Sued in Individual and/or Official Capacity
Address of Defendant: 40 Delaware Buffalo NY 14202-3999
Erie County Holding Center

Name of Defendant: Mr. EVANS
(If applicable) Official Position of Defendant: Lieutenant
(If applicable) Defendant is Sued in Individual and/or Official Capacity
Address of Defendant: 40 Delaware Buffalo NY 14202-3999
Erie County Holding Center

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action? Yes No

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court (if federal court, name the district; if state court, name the county): _____

3. Docket or Index Number: _____

4. Name of Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

- Is it still pending? Yes _____ No _____
 - If not, give the approximate date it was resolved. _____

• Disposition (check the boxes which apply):

Dismissed (check the box which indicates why it was dismissed):

- By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- By court for failure to exhaust administrative remedies;
- By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- By court due to your voluntary withdrawal of claim;

Judgment upon motion or after trial entered for

plaintiff

defendant.

B. Have you begun any other lawsuits in federal court which relate to your imprisonment?

Yes _____ No

If Yes, complete the next section. NOTE: *If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.*

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. District Court: _____
3. Docket Number: _____
4. Name of District or Magistrate Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____
6. What was the disposition of the case?
 - Is it still pending? Yes _____ No _____
 - If not, give the approximate date it was resolved. _____
 - Disposition (check the boxes which apply):
 - Dismissed (check the box which indicates why it was dismissed):
 - By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
 - By court for failure to exhaust administrative remedies;
 - By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
 - By court due to your voluntary withdrawal of claim;
 - Judgment upon motion or after trial entered for
 - plaintiff
 - defendant.

5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- | | | |
|---------------------------|-----------------------------|-------------------------------|
| • Religion | • Access to the Courts | • Search & Seizure |
| • Free Speech | • False Arrest | • Malicious Prosecution |
| • Due Process | • Excessive Force | • Denial of Medical Treatment |
| • <u>Equal Protection</u> | • <u>Failure to Protect</u> | • Right to Counsel |

Please note that it is not enough to just list the ground(s) for your action. You must include a statement of the facts which you believe support each of your claims.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial,

allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995).

Fed.R.Civ.P. 10(b) states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

A. FIRST CLAIM: On (date of the incident) July 21, 2010

defendant (give the name and position held of each defendant involved in this incident) Chick Reardon, Lieutenant Evans, Deputy DeLio, Inmate Kevin Walker
Captain Hartman

did the following to me (briefly state what each defendant named above did): I WAS
attacked and assaulted by inmate "Kevin Walker" I WAS
punched continuously in my face, mouth, head, and eye. I
was under protective custody per Chick Reardon who ignored
my pleas to have me on another unit "Lieutenant Evans tell me
on that particular unit (Gulf East) keeped which is the disciplinary
inmates who had to serve box time. My box time was done
July 12, 2010 when I got assaulted on July 21, 2010 by Kevin Walker
who was a inmate still on keeped and who had box time
Deputy DeLio wanted to watch attack and he fled because he did not
have his radio on his person. In which I suffered death because he was not prepared to protect me.

The constitutional basis for this claim under 42 U.S.C. § 1983 is: "Civil Rights Act"

The relief I am seeking for this claim is (briefly state the relief sought): I'm seeking justice
a formal investigation and some type of compensation for me
getting assaulted and constantly put in narrow way...

Exhaustion of Administrative Remedies

According to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prison er confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Did you grieve and/or appeal this claim: Yes No

If your answer is yes, state the result: I WAS Initially charged with a Fight and Search and Seizure. It was later taken back and search was given back on appeal.
Did you appeal that decision: Yes No

If your answer is yes, state the result: Appeal was granted (See attached sheet)

Attach any documents which indicate that you have exhausted your administrative remedies regarding this claim.

If your answer is no, state why you did not: _____

B. SECOND CLAIM: On (date of the incident) July 21st 2010
defendant (give the name and position held of each defendant involved in this incident) _____
Deputy Hussar, Deputy Kuffee

did the following to me (briefly state what each defendant named above did): After the attack I suffered by the hands of 2 male Kevon Walker on July 21st 2010 I went to Erie County Medical Center to get my wounds treated I suffered from bruises to my head, eye socket, swollen nose, lacerations to the inner and outer parts of my mouth and extreme migraines. Upon my arrival back to the same unit I was attacked I needed medical attention for the pain from my migraines and stitches in my mouth which I was continually denied by Deputy Hussar and Deputy Kuffee. I was not until a sergeant had to take to try to give me medical relief.

The constitutional basis for this claim under 42 U.S.C. § 1983 is: Civil Rights Act

The relief I am seeking for this claim is (briefly state the relief sought): I'm seeking justice a formal investigation and some type of compensation for my medical needs denied numerous occasions.

Exhaustion of Administrative Remedies

According to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Did you grieve and/or appeal this claim: Yes No

If your answer is yes, state the result: Medical attention: never came on these

Did you appeal that decision: Yes No double check I reported it next shift to supervisor correct

If your answer is yes, state the result: _____

Attach any documents which indicate that you have exhausted your administrative remedies regarding this claim.

If your answer is no, state why you did not: _____

If you have additional claims, use the above format to set them out on additional sheets of paper.

6. RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

I would like to press charges against the above names and will be seeking some type of compensation for me getting assaulted and constantly being put on lockdown, and for being denied medical attention after I was attacked and assaulted.

Do you want a jury trial? Yes No

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
(date)

NOTE: Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.

Jabon Spencer
Signature(s) of Plaintiff(s)

Attached

Defendant's Information

Name of Defendant - Hussain
(if applicable) Official Position of Defendant - Deputy ECHC
(if applicable) Defendant served in Individual or Official capacity
Address of Defendant 40 Delaware Buffalo, NY 14223
Erie County Holding Center

Defendant's Information

Name of Defendant - Hartman
(if applicable) Official Position of Defendant - Captain ECHC
(if applicable) Defendant served in Individual or Official capacity
Address of Defendant 40 Delaware Buffalo, NY 14223-3099
Erie County Holding Center

Defendants Information

Name of Defendant Deputy Sheriff
(if applicable) Official Position of Defendant Deputy ECHC
(if applicable) Defendant served in Individual or Official capacity
Address of Defendant 40 Delaware Buffalo, NY 14223-3099
Erie County Holding Center

Defendants Information

Name of Defendant Karen Walker
(if applicable) Official Position of Defendant Inmate
(if applicable) Defendant served in Individual
Address of Defendant 40 Delaware Buffalo, NY
ECHC

On July 21, 2010 at approximately 9:30 pm I John [redacted]
 Inmate 16-B-2970 at Elma Correctional Facility, was attacked and
 assaulted by Kevin Walker. I was conversing with another
 Inmate when the medical cart pulled up and another
 Inmate Kevin Walker was allowed to retrieve his medication.
 After retrieving his medication, Inmate Walker approached
 me from behind and I turned around just in time for
 the first punch to be thrown. I was hit numerous times
 in my head, mouth, eye, nose, I tried to defend myself
 the best that I could, but I was caught off guard completely.
 I tried to atleast stand on my feet, long enough for
 the deputy to help me or call for back up, but by the
 time any help came I was already badly assaulted. I
 had lacerations to the inner and outer parts of my mouth
 swollen eye socket, bloody nose, and bruises to the
 top and lower parts of my face and head. (Video footage
 is available and photo's of my injuries I sustained are
 also available). When this assault occurred I was under protective
 custody, with 7 still on. I also was being housed on that
 unit which is a Keapack unit and at the time I was not
 on Keapack, but I was still being housed on that Keapack
 disciplinary unit. This administration allowed me to be
 housed on that unit so therefore this administration allowed
 me to get attacked and assaulted.

Thank You

John [redacted]
 Comm # 8D-1
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A. First Claim

Captain Hartman received several personal grievances from me, explaining to him that I did not feel safe on that unit Gulf East where I was attacked by inmate Kevin Walker on July 2, 2006. He was aware of my situation of me being on protective custody and all the threats that were made to me and attempts on my life. I asked him time and time again to house me poducac with my own room. Instead Captain Hartman kept insisting that I be housed on the bars (lines) where all my problems stemmed from even after I was assaulted. Captain Hartman was so persistent on making me to the bars, I received a disciplinary ticket for not moving and was given box time. I was in fear of my life and ECHC administration knew of my concerns and they still was hell bent on putting me in harm's way. Well the inevitable happened and I was attacked and assaulted because my pleas for help went upon death ears. I feel is that Captain Hartman played a significant role in Kevin Walker being able to attack and assault me.

Leary

Erie County Sheriff's Office
 Jail Management Division

Disciplinary Appeal Form

Inmate's Name	ICN #	Current H.U. #
Jabari SPENCE	0000097669	601 East 31
Date of Hearing	Hearing Officer	Date of Appeal
7/29/10	LT. HARRIS	8/12/10

I respectfully request an appeal of the decision of the Disciplinary Hearing Officer for the following Reason:

- Improper procedure was followed.
- New evidence suggesting that the decision was incorrect.

Explain:

I was assaulted by Kevon Walker on July 31/10 at about 9:30pm. The whole incident was video taped and it was clear as day that I was attacked in hall with other choice in + to defend myself. The afternoon of the incident I was charged for a fight and upon coming to a hearing conducted by LT. Harris which he said to me it was my fault for getting assaulted cause I did not move to the side. He personally blamed me and gave me 30 days keeplock and a \$20 dollar surcharge.

Upon review of the Disciplinary Hearing Record in this case, the following determination has been made:

- Appeal Granted** Your Disciplinary Sanction is amended as follows: No keep lock time for this incident, no surcharge.
- Appeal Granted** You will be scheduled to appear before another Disciplinary Hearing Officer for a new hearing. You have twenty-four (24) hours to prepare a defense. Your hearing will be held on _____
- Appeal Denied** Reason: _____

[Signature]
 Chief / Deputy Superintendent

8/12/10
 Date

10/7/10

To whom this may concern:

I was not able to get my Motion to proceed in forma pauperis and supporting Affidavit papers signed by the proper prison official due to me being in transport. So enclosed is a copy of my AFFIDAVIT of Financial Status prepared by my lawyer, Vikram Bedasika. This shows my Financial Status. I hope this will be suitable until I can get the proper prison official to sign my initial form.

Thank You
Vikram Bedasika
Jalisco, CA

10/17/10

To whom this may concern:

My Name is Jabaei Hashim Spencer, I'm currently residing in Elmira Correctional Facility in the reception unit of B-Block. I recently filed a complaint against certain Supervisors and deputies at Elmira County Holding Center when I left that facility to start my prison sentence. I left an envelope that contained my Motion to proceed in Kerima Pojprais and Supporting Affidavits which was not signed by the proper prison officials because they refused to give me my form back before I departed Friday October 1 July. So I'm writing now to inform you that I am in the process of filing another form which will contain the same information that was on the first civil claim. I am also advising this administration that my mailing address has changed to Elmira Correctional Facility P.O. Box 500 14902-0500, despite of the fact that I was facing tremendous difficulty in procuring some forms, I will still try to get the proper forms filled out and sent, hopefully at the proper time. If I miss anything that is not filled out appropriately please let me know and I will make the proper adjustments.

Thank you
 - Jabaei Hashim
 Jabaei Spencer
 10-18-2010

* Please excuse my misspelled
 name on the above form
 as the name is a pen
 name

AFFIDAVIT OF FINANCIAL STATUS
AFFIDAVIT MUST IDENTIFY HOW DEFENDANT IS SUPPORTED; MUST BE NOTARIZED

Client Spencer, Jabari Court Appel Court (pre) Indictment # 2613-2009 Docket # _____
 Present status: Incarcerated Released \$ _____ bail posted by _____ as follows: cash property surety

The above-named client, being first duly sworn, makes under oath the following statements:

I. CLIENT: Date of Birth 2/29/84 Age 26 Marital Status 5 # of dependents (spouse & children under 21, not incl. Self): 1
 Public Benefit # (public assistance, Medicaid, SSI benefit, food stamps): None
 Citizenship Status: U.S. Citizen Other _____
 Address 2258 Main St. City & State Buffalo NY ZIP 14214 Phone 573-9671
 Any other current cases in any Court? If so, state Court, type of matter, and name of attorney None

If under age of 21: Parents' names & addresses _____

Does client live with parents? If not, how long lived away? _____
 Ttl. # of persons in parental household, incl. Client _____
 Reason not living with parents: _____

II. INCOME: ALL FIGURES SHOULD BE GROSS AMOUNTS/WEEK. Do not use "ditto" marks.

	Client	Spouse	Father	Mother
Employment Income	0			
Unemployment	0			
Disability Benefits	0			
Social Security	0			
Pension	0			
Alimony or Support	0			
Rental Income	0			
Other	0			
INCOME TOTAL	0			

III. ASSETS (must be completed)

Savings, checking & trust accts	0			
Cash on hand	0			
Vehicles owned (describe)	0			
-Value	0			
-Amt. Owed	0			
Real estate owned	0			
-Value	0			
-Amt. Owed	0			
ASSETS TOTAL	0			

IV. OBLIGATIONS: All figures except rent/mortgage should be weekly (must be completed)

Spousal/child support	0			
Other (describe for each)	0			
WKLY OBLIGAT. TTL.	0			
Monthly rent/mortgage				

V. Other pertinent financial information, eg. length of employment; if no income of own, how client supports self/survives:

Incarcerated since 9/10; Under State Sentence

I agree to tell my attorney at once if any of the above information changes, and agree to reimburse the Assigned Counsel Program of its costs, including attorney costs, if I fail to do so and the change makes me ineligible for the program.

Signed: Jabari Spencer
 Client Parent/Guardian

Subscribed and sworn before me, under penalty of perjury
 Dated this 24 day of Sept 2010

[Signature]

JOHN BEDASKA
 Notary Public, State of New York
 Qualified in One County
 My Commission Expires _____

7/31/13

STATEMENT OF SERVICE BY MAIL AND ACKNOWLEDGMENT
OR RECEIPT BY MAIL OF SUMMONS AND COMPLAINT

A. STATEMENT OF SERVICE BY MAIL

Captain Hartman
Erie County Holding Center
40 Delaware Avenue
Buffalo, N. Y. 14202

United States District Court for the
Western District of New York
Date: March 8, 2011
Civil Case Number 10-CV-0822
Spencer, J. vs. ECHC Administration, et al

The enclosed summons and complaint are served pursuant to Fed.R.Civ.P.4 (e) (1) and Section 312-a of the New York Civil Practice law and Rules.

To avoid being charged with the expense of service upon you, you must sign, date and complete the acknowledgment part of this form and mail or deliver one copy of the completed form to the sender within thirty (30) days from the date you receive it. You should keep a copy for your records or your attorney. If you wish to consult an attorney, you should do so as soon as possible before the thirty (30) days expire.

If you do not complete and return the form to the sender within thirty (30) days, you (or the party on whose behalf you are being served) will be required to pay expenses incurred in serving the summons and complaint in any other manner permitted by law, and the cost of such service as permitted by law will be entered as a judgment against you.

The return of this statement and acknowledgment does not relieve you of the necessity to answer the complaint. The time to answer expires twenty (20) days after the day you mail or deliver this form to the sender. If you wish to consult with an attorney, you should do so as soon as possible before the twenty (20) days expire.

If you are served on behalf of a corporation, unincorporated association, partnership or other entity, you must indicate under your signature your relationship to the entity. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

It is a crime to forge a signature or to make a false entry on this statement or on the acknowledgment.

B. ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT

I received a summons and complain. PLEASE CHECK ONE OF THE FOLLOWING:

IF #2 IS CHECKED, COMPLETE AS INDICATED:

1. I am not in military service.
2. I am in military service, and my rank, serial number and branch of service are as follows:

Rank: _____
Serial Number: _____
Branch of Service: _____

TO BE COMPLETED REGARDLESS OF MILITARY STATUS:

Date: 09 MARCH 2011
(Date this acknowledgment is executed)

I affirm the above as true under penalty of perjury.

Signature

Print Name

Name of Defendant for which acting

Position with Defendant for which acting
(i.e., officer, attorney, etc.)