



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

April 28, 2011

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

Dear Mr. Graber:

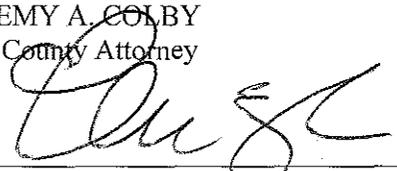
In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Olszowy, Michelle vs Erie County and Ysaías Feliz</i>
Document Received:	Verified Petition
Name of Claimant:	Michelle Olszowy
Claimant's attorney:	Jonathan G. Johnsen, Esq. Creighton, Johnsen & Giroux 560 Ellicott Square Building 295 Main Street 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.

cc: JEREMY A. COLBY, Erie County Attorney

STATE OF NEW YORK
SUPREME COURT : ERIE COUNTY

In the Matter of the Application of

MICHELLE OLSZOWY,

Petitioner,

For an Order and Judgment Pursuant to
Article 78 of the Civil Practice Law and Rules

-against-

ERIE COUNTY and
YSAIAS FELIZ,

Respondents.

This paper received at the
Erie County Attorney's Office
from John G. Giammon
the 25 day of April, 20 11
at 12:00 a.m. (p.m.)
Lizette Luololo
Assistant County Attorney

Index No.: **2011-001732**

NOTICE OF PETITION

PLEASE TAKE NOTICE that upon the annexed Verified Petition of MICHELLE OLSWOWY, an application will be made to this Court at a Special Term in **Part 8** thereof before the **Hon. Timothy J. Drury, JSC.**, at the Erie County Courthouse, 25 Delaware Avenue, Buffalo, New York on the **7th day of June, 2011 at 10:00 a.m.** or as soon thereafter as counsel may be heard, for an Order and Judgment pursuant to CPLR Article 78 reinstating the Petitioner to employment with full back pay and benefits, together with such other and further relief as may be just and proper.

This Notice of Petition and Verified Petition are being served at least twenty (20) days prior to the return date stated herein and, therefore, an Answer and supporting affidavits, if any, must be served at least five (5) days before the return date.

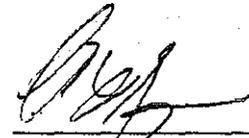
Erie County is designated as the venue of this proceeding on the basis of that being the County where the parties reside.

Dated: April 14, 2011
Buffalo, New York

Yours, etc.

CREIGHTON, JOHNSEN & GIROUX
Attorneys for Petitioner

By:



Jonathan G. Johnsen, Esq.
560 Ellicott Square Building
295 Main Street
Buffalo, NY 14203
(716) 854-0007

STATE OF NEW YORK
SUPREME COURT : ERIE COUNTY

In the Matter of the Application of

MICHELLE OLSZOWY,

Petitioner,

For an Order and Judgment Pursuant to
Article 78 of the Civil Practice Law and Rules

Index No.: 2001-001732

-against-

ERIE COUNTY and
YSAIAS FELIZ,

Respondents.

FILED
ACTIONS & PROCEEDINGS
APR 18 2011
ERIE COUNTY
CLERK'S OFFICE

PETITION

The Petitioner, by and through her attorneys, Creighton, Johnsen & Giroux, for her
Petition against the Respondents states as follows:

1. Petitioner is a resident of Erie County, New York and is employed by the County of Erie.
2. Respondent County of Erie is a political subdivision of the State of New York.
3. Respondent YSAIAS FELIZ is an employee of Erie County and a necessary party pursuant to law.
4. Petitioner has been employed by the County of Erie since August of 1998.
5. Petitioner is currently a Probation Supervisor.
6. On or about May 3, 2010, Petitioner was appointed to the position of Principal Probation Officer as a contingent permanent probationary employee.

7. On or about October 4, 2010, her probationary status was removed.
8. On or about November 29, 2010, Respondent YSAIAS FELIZ was appointed to the position of Principal Probation Officer as a contingent permanent probationary employee.
9. Upon appointment to this position, Respondent YSAIAS FELIZ was required to serve a minimum probationary period.
10. As of December 15, 2010, YSAIAS FELIZ was a contingent permanent probationary employee.
11. On December 15, 2010, Rachelle Cybulski was demoted.
12. Ms. Cybulski formerly held the position occupied by Petitioner.
13. On December 17, 2010, the Petitioner was told that she was being displaced from her position as Principal Probation Officer because of the demotion of Ms. Cybulski.
14. When Petitioner questioned why she was being displaced instead of YSAIAS FELIZ, she was told that both she and Mr. FELIZ held the title as contingent permanent and he had the longer county seniority.
15. Petitioner was told that Mr. FELIZ had a seniority date of February 28, 1996 and she had a seniority date of August 17, 1998.
16. Upon information and belief, Mr. FELIZ was a probationary employee at the time of the displacement because he had not completed the minimum mandatory probationary period under law.
17. Because Mr. FELIZ was a probationary employee at the time of the displacement, he should have been displaced prior to Petitioner.
18. In addition, even if Respondent FELIZ was not a probationary employee, displacement upon the return of an employee previously holding the position is based upon the

most recent appointment date to the contingent position under Civil Service Law and the Rules and Regulations of the Department of Civil Service.

WHEREFORE, Petitioner should be returned to her position as Principal Probation Officer and awarded all back pay and benefits that were lost because of her displacement.

Dated: April 14, 2011
Buffalo, New York

CREIGHTON, JOHNSEN & GIROUX
Attorneys for Petitioner

By:

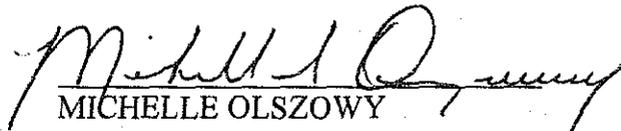


Jonathan G. Johnsen, of Counsel
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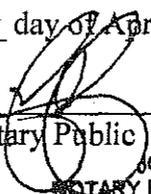
VERIFICATION

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

MICHELLE OLSZOWY, being duly sworn, deposes and says that she is the named Petitioner in the above-entitled proceeding; that she has read the foregoing Petition and knows the contents thereof; that the same is true of her own knowledge except as to the matters therein stated to be alleged on information and belief, and that as to those matters she believes it to be true.


MICHELLE OLSZOWY

Sworn to before me this
14 day of April, 2011


Notary Public

JONATHAN G. JOHNSEN
NOTARY PUBLIC - STATE OF NEW YORK
NO. 02JO5015373
QUALIFIED IN ERIE COUNTY
COMMISSION EXPIRES JULY 19, 2011