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MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

October 16, 2013

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

Dear Mr. Graber:

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

File Name:	*Tubbins, Charles v. Gary W. Hackbush, Esq., Erie County District Attorney's Office and Frank A. Sedita, III, Esq.*
Document Received:	Notice of Claim
Name of Claimant:	Charles Tubbins 32 Burgard Place Buffalo, New York 14211
Claimant's attorney:	Wayne C. Felle, Esq. The Law Offices of Wayne C. Felle 6024 Main Street Williamsville, New York 14221

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

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

MMP:dld
Enc.

IN THE MATTER OF THE CLAIM OF
CHARLES TUBBINS,

Claimant,

-vs-

GARY W. HACKBUSH, ESQ., Individually and in his Capacity as Assistant District Attorney of THE ERIE COUNTY DISTRICT ATTORNEY'S OFFICE, and FRANK A. SEDITA, III, ESQ., Individually and in his Capacity as District Attorney of THE ERIE COUNTY DISTRICT ATTORNEY'S OFFICE and THE ERIE COUNTY DISTRICT ATTORNEY'S OFFICE,

Respondents.

NOTICE OF CLAIM AND INTENTION TO SUE PURSUANT TO MUNICIPAL LAW §50(e)

OCT - 4 2013

Vamf

TO: **GARY W. HACKBUSH, ESQ., Individually and in his Official Capacity as Assistant District Attorney of THE ERIE COUNTY DISTRICT ATTORNEY'S OFFICE and FRANK A. SEDITA, III, ESQ., Individually and in his Official Capacity as District Attorney of THE ERIE COUNTY DISTRICT ATTORNEY'S OFFICE and THE ERIE COUNTY DISTRICT ATTORNEY'S OFFICE**

PLEASE TAKE NOTICE, that CHARLES TUBBINS, pursuant to the statute, does hereby make claim against, GARY W. HACKBUSH, ESQ., Individually and in his Official Capacity as Assistant District Attorney of THE ERIE COUNTY DISTRICT ATTORNEY'S OFFICE and FRANK A. SEDITA, III, ESQ., Individually and in his Official Capacity as District Attorney of THE ERIE COUNTY DISTRICT ATTORNEY'S OFFICE and THE ERIE COUNTY DISTRICT ATTORNEY'S OFFICE, and in support of such claim does state the following:

1. The claimant, CHARLES TUBBINS, resides at Post Office address of 32 Burgard Place, Buffalo, New York 14211.

2. The claimant is represented by THE LAW OFFICES OF WAYNE C. FELLE, P.C., WAYNE C. FELLE, ESQ., of counsel, Post Office address of 6024 Main Street, Williamsville, New York 14221.

3. The nature of the claim herein is one for wrongful incarceration, false arrest and imprisonment; malicious prosecution; abuse of process; violation of claimants constitutional rights; violation of civil rights; negligence; gross disregard; recklessness; malfeasance; negligent hiring; training and retention, inadequate supervision; gross indifference; malicious investigation; negligent investigation; investigation with gross disregard; investigation and imprisonment without regard to the truth of said investigation, Intentional infliction of emotional distress.

4. That the time place and manor of the claims advanced herein are that on or about November 29, 2012 the claimant was wrongfully accused, arrested, incarcerated, imprisoned and held responsible for the crime of murder which he did not commit by Assistant District Attorney, GARY W. HACKBUSH, ESQ., District Attorney FRANK A. SEDITA, III, ESQ., and other agents and/or employees of THE ERIE COUNTY DISTRICT ATTORNEY'S OFFICE. The arrest of the claimant came after an inadequate, rushed, inattentive, incomplete, indifferent and unconstitutional investigation and arrest of the claimant. That from November 29, 2012 until February 8, 2013 the claimant was wrongfully incarcerated and imprisoned at the Erie County Holding Center. On July 18, 2013 the Honorable Thomas P. Franczyk, J.S.C., dismissed the indictment against the claimant, under indictment No.: 12-2315-001. Based on information and belief prior to July 18, 2013 the defendants herein knew and should have known the identity of perpetrator of the crimes for which Mr. Tubbins had been wrongfully incarcerated and was being prosecuted.

5. The Claimant states as and for his damages and/or injuries that he has suffered psychological, emotional and physical injuries as a result of his wrongful and unconstitutional and reprehensible incarceration and imprisonment which occurred from November 29, 2012 to February 8, 2013. He suffered severe emotional distress and was caused irreparable damage to his name and reputation in the community which has limited his ability to forge friendships, business relationships and has suffered a loss and opportunity based on public

reports of his arrest and incarceration for crimes of murder, that he did not commit. The Claimant seeks compensation for all injuries outlined herein.

5. Notice is hereby given that in the event that this claim for money damages is not paid within thirty (30) days of the service herein, it is the claimant's intention to commence litigation to recover for the injuries and damages which have been sustained.

DATED: September 30, 2013

WAYNE C. FELLE, ESQ.

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

CHARLES TUBBINS, being duly sworn, deposes and says:

That the deponent is the claimant in the within action and that he has read the foregoing Notice of Claim and Intention to Sue and knows the contents thereof to be true to his own knowledge except as to matters stated on information and belief and as to those matters, he believes it to be true.

CHARLES TUBBINS

Sworn to before me this 1
day of October, 2013.

WAYNE C. FELLE
Notary Public, State of New York
Qualified in Erie County
My Commission Expires: 2/13/2014

Notary Public

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

October 16, 2013

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

Dear Mr. Graber:

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

File Name:	*Turner, Robert v. Thomas Diina and Erie County Correctional Facility*
Document Received:	Notice of Claim
Name of Claimant:	Robert Turner M-1233 Erie County Correctional Facility 11581 Walden Avenue Alden, New York 14004
Claimant's attorney:	Claimant is proceeding *pro se*.

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

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

MMP:dld
Enc.

STATE OF NEW YORK
SUPREME COURT: COURT OF CLAIMS

ROBERT TURNER, CLAIMANT

V.

THOMAS DIINA SUPERINTENDENT, ETC. AL
MEDICAL STAFF
ERIE COUNTY CORRECTIONAL FACILITY
11581 WALDEN AVE.
ALDEN, NEW YORK 14004

"NOTICE OF INTENT"

DATE:

ROBERT TURNER
Robert Turner

CC: SUPERINTENDENT THOMAS DIINA
CC: ATTORNEY GENERAL
CC: FILE
COUNTY ATTORNEY: CHERYL A. GREEN

10/10/13

Sworn to before me this 9th day of OCTOBER 2013.
Sheila M. Curry

SHEILA M. CURRY
NOTARY PUBLIC, STATE OF NEW YORK
REGISTRATION No. 01CU6250333
QUALIFIED IN ERIE COUNTY
My Commission Expires 10-31-15

Robert Turner
11581 WALDEN AVE
Alden New York 14202

RECEIVED
OCT 15 2013
ERIE COUNTY
DEPARTMENT OF LAW

Notice of Claim

To: Erie County Executive
County Attorney for the County of Erie
Erie County Sheriff

PLEASE TAKE NOTICE that Robert Turner, the Claimant, hereby makes claim against the the County of Erie, State of New York, for damages sustained by him for personal injury as follows: Neglect of Medical attention for 18 days - pain and swelling in Right Leg and Testicles,

The Claimants post-office address is Robert O. Turner III #1113 Erie County Correctional Facility
11581 Walden Ave.
Alden, New York 14004

The date upon which the injury complained of occurred was the 19th day of September 2013 on or about the hour of 9:00 PM and continued thereafter.

The injuries ~~complained~~ sustained by the claimant by reason thereof are more particular described as follows: Swollen Testicle Veins + Swollen Legs.

The injuries complained of were sustained as a result of the negligence of said County in its care and management of the Erie County Correctional Facility, 11581 Walden Avenu Alden New York 14004 which said facility was wholly under its operation and control. Claimant was incarcerated at this facility, and thus in the care and custody of said Erie County Sheriff. Claimant requested $200,000

Due to the wrongful denial of A Appointment for Ultra Sound (Medical treatment), Claimant was to suffer the above described injuries.

By reason thereof, the Claimant sustained injury to his person due to said County's negligence and/or wrongful denial of Medical Treatment.

The Claimant presents this claim and demand for adjustment and payment and gives notice that unless his claim is adjusted and paid within the time provided by law from the date of its presentation, it is claimants intention to commence an action thereon.

Dated 10/9/2013

Sworn to before me
Sheila M. Curry

SHEILA M. CURRY
NOTARY PUBLIC, STATE OF NEW YORK
REGISTRATION No. 01CU6250333
QUALIFIED IN ERIE COUNTY
My Commission Expires 10-31-15

Robert Turner Pro Se
11581 Walden Ave
Alden, New York 14004