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 17, 2014

Mr. Scott W. Kroll, Clerk
Erie County Legislature
92 Franklin Street. 4th Floor
Buffalo, New York 14202

Dear Mr. Kroll:

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:	*Rosa, Maria v. County of Erie,et al.*
Document Received:	Notice of Claim
Name of Claimant:	Maria T. Rosa 133 Pierce Street Buffalo, New York 14206
Claimant's attorney:	Carolyn Nugent Gorczynski, Esq. 73 King Arthur Way Getzville, New York 14068

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: Michelle Parker
Michelle Parker
First Assistant County Attorney

MMP:dld

Enc.

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

MARIA T. ROSA

Claimant,

vs.

COUNTY OF ERIE,

and

MICHELE PFEFFER, SUPERVISOR
COUNTY OF ERIE DEPARTMENT OF
SOCIAL SERVICES,

and

CONSTANCE VANDETTE, ADMINISTRATIVE
DIRECTOR OF CHILDREN SERVICES,
COUNTY OF ERIE DEPARTMENT
OF SOCIAL SERVICES.

Respondent.

NOTICE OF CLAIM

TO: County of Erie

Claimant, Maria T. Rosa, hereby makes a claim against the above captioned Respondents and hereby alleges as follows:

NAME AND POST OFFICE ADDRESS OF CLAIMANT

Maria Rosa
133 Pierce Street
Buffalo, New York 14206

RECEIVED

ERIE COUNTY
DEPARTMENT OF LAW

NAME AND POST OFFICE ADDRESS OF CLAIMANT'S ATTORNEY

Carolyn Nugent Gorczynski, Esq.
Law Offices of Carolyn Nugent Gorczynski
73 King Anthony Way
Getzville, New York 14068

NATURE OF CLAIM

Claim for damages and/or injunctive relief against Respondents for violations of the New York State Human Rights Law, the New York State Civil Service Law, and/or relevant Federal anti-discrimination and/or civil rights laws, including without limitation, the Americans with Disabilities Act ("ADA"), the Rehabilitation Act of 1973, the Age Discrimination in Employment Act ("ADEA"), and/or Title VII of the Civil Rights Act.

DETAILS OF CLAIM

As described below, Claimant has recently been the subject of unlawful harassment and discrimination in her employment with the County of Erie, Department of Services Services because of her race/ethnicity and/or national origin, age and/or physical disabilities.

Claimant is sixty-seven (67) years old (D/O/B/ 06/17/1947) and has been employed in the competitive class of the County's Civil Service since approximately September 1995. Claimant started her employment with the County as a case worker in the Children Services Unit of the County's Department of Social Services ("DSS"). While employed in this position Claimant enjoyed a healthy, positive work environment, and always received positive performance reviews.

Due to an on-the-job accident, between 1999-2000 Claimant was significantly injured and underwent multiple surgeries to repair injuries to her right knee, as well as her foot and ankle. To this day, Claimant walks with a cane (as needed) and has limited mobility. Because of the resulting physical impairments related to this accident, Claimant required that her physical impairments be accommodated. Until recently, the County has accommodated Claimant's physical needs by placing her in a position which did not require that she go out in to the field to perform home visits, court appearances, etc.

Claimant was eventually promoted to a Senior Case Worker in the Children's Services Unit of the County's Department of Social Services, and in 2007 was transferred to the position of Senior Case Worker/Domestic Violence Liaison with the DSS. Claimant again enjoyed a positive, healthy working environment while employed in these positions, and always received positive performance reviews. Claimant served in the position of Senior Case Worker/Domestic Violence Liaison until June 2014 when she accepted probationary employment as a Supervisor with the Children Services Unit of the DSS.

It was a great honor and achievement for Claimant to pass the civil service supervisor exam and to be promoted to the supervisor position.

Since accepting this probationary appointment, Claimant has repeatedly been subjected to harassment, intimidation and discrimination because of her race/ethnicity and/or national origin, and/or age, and/or and physical disabilities. Specifically, her supervisor, Ms. Michele Pfeffer, as well as the Administrative Director of Children Services with the County's DSS, Constance VanDette, has subjected Claimant to unwarranted and selective discipline, has made openly

discriminatory comments to Claimant regarding her race/ethnicity/national origin, as well as her age and disabilities, and has repeatedly belittled, harassed and intimidated Claimant. For instance, Claimant regularly addressed the individuals who reported to her as "Ms. or Mr." Claimant did this out of cultural habit, and as a sign of cultural respect, as this is tradition for individuals of Puerto Rican descent. In response, Ms. VanDette chastised and disciplined Claimant and told her "to get over it" because Claimant had lived in the United States for decades. Claimant was embarrassed and belittled by her conduct.

Ms. Pfeffer also made comments that Claimant was "slow" and "lacked alertness." When she made these comments, Claimant understood that she was referring to either or both her age, and/or physical disabilities, and/or race/ethnicity. In all Claimant's years of employment with the County she had never been previously criticized for being "slow" or "lacking alertness."

The County, through its employees - Ms. Pfeffer and Ms. VanDette - failed and refused to provide Claimant properly functioning computer equipment, and the training required for the performance of her job duties. Ms. Pfeffer and Ms. VanDette repeatedly chastised and disciplined Claimant for failing to perform certain computer data entry tasks, all the while knowing that Claimant's computer was malfunctioning, and refusing to aid and/or assist Claimant in rectifying these circumstances.

Specifically, Claimant required access to certain computer programs and/or computer network programs to enter data related to case assignments and case updates. On the first few days of Claimant's probationary employment as a Supervisor, Claimant was not even provided a work station with a computer to work at. After finally being provided a work station with

computer, Claimant encountered repeated problems accessing the computer program and/or computer network program necessary to complete the duties of her job (the program is called Connections). Claimant reported this problem to Ms. Pfeffer and Ms. VanDette, as well as to the County's tech support employees. This problem was not resolved until more than a month after Claimant's appointment to her probationary supervisor position (and Claimant occasionally would thereafter still had similar problems with accessing and maneuvering through the required computer programs and/or computer network programs).

Although Ms. Pfeffer and Ms. VanDette were aware of Claimant's computer problems, and the length of time that it took to resolve these problems, they continued to discipline Claimant for failing to complete work that Claimant simply could not timely complete because of these technical problems outside of her control. They explained to Claimant that "it was not their problem" and that Claimant "should not bother them with this."

Also, despite reasonably requesting training, Claimant received no training regarding duties, expectations and functions of her job as a supervisor (a position that was new to her), and/ or the use of the computer programs and/or computer network programs necessary for the completion of her job duties, and was repeatedly refused this training. Specifically, Ms. Pfeffer explained that she would not provide Claimant the training she was requesting because "it would not help" Claimant because she "lacked what it takes to be a good supervisor" (or words to that effect).

In short, Claimant was set up to fail.

Claimant addressed her concerns and complaints to the appropriate administrator, Ms. VanDette, as well as to representatives of her union, to no avail (as previously noted, Ms. VanDette was part of the problem). In fact, rather amazingly, Claimant's union stated that she was "a token" and that there was nothing that the union was willing to do on her behalf for fear of reprisal by the County.

As of September 12, 2014 Claimant was notified in writing that her probationary appointment as a Supervisor in the Children Services Division of the County's Department of Social Services was being terminated effective Friday, September 19, 2014.

Claimant was also notified that, starting as of Monday, September 22, 2014, she would be reassigned to another position and that the County had no intention of accommodating her physical needs (as detailed above). When Claimant reinforced that she could not be placed in a position that required that she return to the field, Ms. Pfeffer, as well as other employees of the County, informed Claimant that "they do not make accommodations here [the County]."

On September 17, 2014 your undersigned sent a letter to various individuals within the County of Erie advising of the aforementioned circumstances and asking that the County cease and desist in its unlawful and discriminatory conduct towards Claimant. These individuals included Mr. Jesse Burnette, Director of Erie County's Equal Employment Opportunity Office, Ms. Carol Dankert-Maurer, Erie County Commissioner of Social Services, and Michael A. Siragusa, Erie County Attorney.

The County has failed and refused to cease and desist and/or rectify its unlawful and discriminatory conduct towards Claimant, and in fact has persisted further in its unlawful and discriminatory actions towards Claimant.

As of September 17, 2014 Claimant's physician placed her on a two (2) week medical leave due to the physical and emotional distress she was suffering as a result of the County's unlawful and discriminatory conduct towards her.

On October 3, 2014 your undersigned wrote the County again requesting that it cease and desist in its unlawful and discriminatory conduct towards Claimant; to wit, the County has again failed and refused to cease and desist and/or rectify its unlawful and discriminatory conduct towards Claimant, and in fact has again persisted further in its unlawful and discriminatory actions towards Claimant.

As October 7, 2014, Claimant returned to work at the County of Erie, Department of Social Services. Upon Claimant's return to work, Claimant presented a statement from her physician of the reasonable work accommodations she requires related to her physical disabilities. These were the same or similar accommodations that Claimant had previously requested and received from the County earlier in her career with the County.

In response, Claimant was notified by Ms. Pfeffer that her request for accommodations was not accepted and that she was being sent home due to her work restrictions. Also, prior to being sent home, Claimant was advised that she was being reassigned to a case worker position (which represents a significant demotion from her previous positions as Supervisor, and Senior Case Worker/Domestic Violence Liaison).

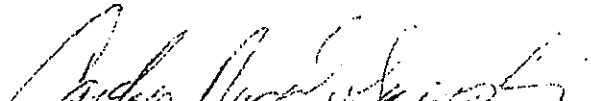
Of note, had Claimant not been sent home on October 7, 2014 because of the denial of her reasonable request for accommodations (as detailed above), Claimant would still not have been able to perform the duties of her new assignment due to the County's continued refusal to provide Claimant with properly functioning computer equipment and/or programs with which she could perform her job duties. Specifically, Claimant was again informed that she was not allowed access to the Computer program (Connections) that she needed to access to complete the duties of her new position. In short, Claimant was again being set up to fail in her new position.

The above detailed circumstances are unlawful and unacceptable.

RELIEF SOUGHT

Claimant seeks monetary damages and/or injunctive relief against Respondents for violations of the New York State Human Rights Law, the New York State Civil Service Law, and/or relevant Federal anti-discrimination and/or civil rights laws, including without limitation, the Americans with Disabilities Act ("ADA"), the Rehabilitation Act of 1973, the Age Discrimination in Employment Act ("ADEA"), and/or Title VII of the Civil Rights Act.

Dated: Getzville, New York
October 7, 2014



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carolyn@cngattorney.com

VERIFICATION

STATE OF NEW YORK)

:ss:

COUNTY OF ERIE)

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

Maria T Rosa

MARIA T. ROSA

Sworn to before me this
7th day of October, 2014.

Notary Public

DEAN M. DREW
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Sept. 30, 2015