(4)

COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

January 10, 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:	*Harwell, Mark v. Erie County Department of Social Services, Youth Detention*
Document Received:	Division of Human Rights Charge of Discrimination
Name of Claimant:	Mark Harwell 49 Maple Ridge Avenue Buffalo, New York 14215
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.

ANDREW M. CUOMO
GOVERNOR

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF HUMAN RIGHTS on the Complaint of MARK HARWELL, Complainant, v. ERIE COUNTY, DEPARTMENT OF SOCIAL SERVICES, Respondent.	VERIFIED COMPLAINT Pursuant to Executive Law, Article 15 Case No. **10165562**

Federal Charge No. 16GB400613

I, Mark Harwell, residing at 49 Maple Ridge Ave, Buffalo, NY, 14215, charge the above named respondent, whose address is 95 Franklin St., Buffalo, NY, 14202 with an unlawful discriminatory practice relating to employment in violation of Article 15 of the Executive Law of the State of New York (Human Rights Law) because of race/color, opposed discrimination/retaliation.

Date most recent or continuing discrimination took place is 9/6/2013.

See attached complaint

New York State Division of Human Rights Complaint Form

RECEIVED
NOV 07 2013
NYSDHR BUFFALO REGIONAL OFFICE

CONTACT INFORMATION

My contact information:

Name: Mark Harwell

Address: 49 Maple Ridge Apt or Floor #:

City: Buffalo State: NY Zip: 14215

REGULATED AREAS

I believe I was discriminated against in the area of:

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

I am filing a complaint against:

Company or Other Name: Erie County Youth Detentention

Address: 810 E. Ferry

City: Buffalo State: NY Zip: 14211

Telephone Number: 716 (area code) 923 4000

Individual people who discriminated against me:

Name: Deanna Deangelis Name:

Title: Supervisor of Social Workers Title:

DATE OF DISCRIMINATION

The most recent act of discrimination happened on: 9 (month) 6 (day) 2013 (year)

BASIS OF DISCRIMINATION

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

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

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

I believe I was discriminated against because of my:

☐ **Age** *(Does not apply to Public Accommodations)* Date of Birth:	☐ **Genetic Predisposition** *(Employment only)* Please specify:
☐ **Arrest Record** *(Only for Employment, Licensing, and Credit)* Please specify:	☐ **Marital Status** Please specify:
☐ **Conviction Record** *(Employment and Credit only)* Please specify:	☐ **Military Status:** Please specify:
☐ **Creed / Religion** Please specify:	☐ **National Origin** Please specify:
☐ **Disability** Please specify:	☑ **Race/Color or Ethnicity** Please specify: African American
☐ **Domestic Violence Victim Status:** *(Employment only)* Please specify:	☐ **Sex** Please specify: ☐ **Female** ☐ **Male** ☐ **Pregnancy** ☐ **Sexual Harassment**
☐ **Familial Status** *(Housing and Credit only)* Please specify:	☐ **Sexual Orientation** Please specify:

☑ **Retaliation** *(if you filed a discrimination case before, or helped someone else with a discrimination case, or reported discrimination due to race, sex, or any other category listed above)*

Please specify: The inital incounter that happened on 9/6/13 where I did not Speak to the above mentioned D. Demsellis resulted in a Structured termination.

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

EMPLOYMENT DISCRIMINATION

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

How many employees does this company have?

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

Are you currently working for the company?

☐ **Yes**

Date of hire: (____ Month ____ day ____ year) What is your job title? _____

☑ **No**

Last day of work: (10 Month 22 day 2013 year) What was your job title? Youth Detention Work

☐ **I was not hired by the company**

Date of application: (____ Month ____ day ____ year)

ACTS OF DISCRIMINATION

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

☐ Refused to hire me

☑ Fired me / laid me off

☐ Did not call me back after a lay-off

☐ Demoted me

☑ Suspended me

☐ Sexually harassed me

☑ Harassed or intimidated me (other than sexual harassment)

☐ Denied me training

☑ Denied me a promotion or pay raise

☐ Denied me leave time or other benefits

☐ Paid me a lower salary than other workers in my same title

☐ Gave me different or worse job duties than other workers in my same title

☐ Denied me an accommodation for my disability

☐ Denied me an accommodation for my religious practices

☐ Gave me a disciplinary notice or negative performance evaluation

☐ Other: _____

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

Please tell us more about each act of discrimination that you experienced. Please include dates, names of people involved, and explain why you think it was discriminatory. PLEASE TYPE OR PRINT CLEARLY.

See attachment.

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

On 9/6/13 at 10am while working overtime at the Erie County Detention, I took a bathroom break in the facilities green pod. While entering the bathroom I was approached by D.Deangelis, she began asking me questions as to why I don't speak to her when she says hello. My rebuttal to her question was that I didn't want to have any casual conversations while at work. She then clearly became agitated and angry, with my reply and replied in a hostile manner with her voice raised that "I'm your supervisor and you need to speak to me when you see me in the halls". At that time I stated to her that I did not have a problem with speaking as long as it was pertaining to work related matters, she then replied "We'll see", and then walk off. After about 5 minutes had passed I received a call over the radio from my immediate supervisor on duty Intake worker Mr. Lional to report to administration, once in the administration office I was directed to go to the ECYD Deputy Commissioners office where Morgan Williams-Bryant was sitting and waiting along with D.Deangelis. I was instructed by Miss Williams-Bryant to close the door and have a seat, during that time I was refused my right to have a union rep present after asking for one. Miss Williams- Bryant initiated the conversation and stated that I seemed to have a negative attitude because I was not speaking to D. Deangelis, I stated that I did not have a negative attitude and that I was not a big talker, and that I only spoke when I pertained to work. Then D. Deangelis took over the conversation and stated that "Your creating a hostile work environment". I then asked how and she said for not speaking. Once the term "Hostile work environment" was used I no longer spoke in the meeting because no union representation was in the room, and because the term that was used could result in sort of disciplinary action taken against me. After they both finished talking I was then allowed to return to my work duties. I alerted my union rep Leslie of

what took place without her knowledge, and she promptly called Miss Williams-Bryant to see if we could all talk about what took place. Once the call was placed we were allowed to meet with the administrators mentioned, I did no talking and Leslie explained to them that I was not being hostile in any way and that I did not care to have conversations at work that didn't pertain to work. After the brief discussion, the meeting was over.

A week and a half later on 9/18/13 I received a letter stating that I was to report to a disciplinary hearing on 9/24/13 during that hearing I was a target on a investigation. In the end result I was suspended 5 days for D.Deangelis own personal feelings of me having a negative attitude without demonstrating any such behavior.
On 10/16/13 I received and excepted a promotion with Erie County with in the same Division of Social Services on 10/18/13 I was again targeted by the above mentioned D. Deangelis, and was scheduled for another disciplinary hearing on 10/22/13 for a injury that happened on 10/15/13 to a resident while playing basketball. The injury that occurred was one that could not be prevented by myself or any other staff present, but during the hearing I was the only person that was disciplined for the incident and terminated for it. This action was server and harsh with the nature of the incident and inconsistent with any of the Counties past practices of progressive disciplinary actions taken towards its employees, thus showing the retaliation, and targeting of a structured termination.

In the inital incidents discussed in my attachment, I have reason to believe that all accounts leading to my suspension and structured termination was racially motivated. Deanna Deangelis made specific accounts of my attitude using racial subtoned words creating a hostile work environment" "having a negative demeanor". These terms were only used by her when talking about me to others, in the work place, even though I never demonstrated any behavior necessitating this type of labeling. I also believe I was targeted because of my race, and unjustful investigated by Deanna Deangelis and Eric Cosat

NOTARIZATION OF THE COMPLAINT

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

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

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

I have not filed any other civil action, nor do I have an action pending before any administrative agency, under any state or local law, based upon this same unlawful discriminatory practice.

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

Sign your full legal name

Subscribed and sworn before me
This 17th day of November 2013

Signature of Notary Public

County: Erie Commission expires: 5.12.16

ELIZABETH E. LAKE
Notary Public - State of New York
No. 01LA6167026
Qualified in Erie County
Commission Expires on May 12, 2018

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