(2)

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 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:	*Martinez, Ricardo Oscar v. County of Erie*
Document Received:	Order to Show Cause
Name of Claimant:	Ricardo Oscar Martinez 758 Prospect Avenue, Upper Buffalo, New York 14213
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 (dld)
Michelle M. Parker
First Assistant County Attorney

MMP:dld
Enc.

This paper received at the
Erie County Attorney's Office
from [illegible] on
the 14 day of January 2014
at 4:27 a.m./p.m.
[illegible]
Assistant County Attorney

FILED
2013 JA 14 PM 2:29
ERIE COUNTY CLERK

STATE OF NEW YORK

SUPREME COURT : COUNTY OF ERIE

RICARDO OSCAR MARTINEZ

Claimant

APPLICATION FOR LEAVE TO

FILE A LATE NOTICE OF CLAIM

INDEX NO. 2013002860

Vs.

COUNTY OF ERIE

Respondent

Upon the Affidavit of Ricardo Oscar Martinez, sworn to on January 14, 2014, and exhibits thereto, Claimant will file a late Notice of Claim against the County of Erie pursuant to subdivision 4 of section 59-e of the General Municipal Law.

By this application, petitioner requests leave of the court to serve respondent with a notice of claim for conscious pain and suffering sustained by claimant as a result of malpractice from the dates of March 26, 2013 to April 2, 2013, pursuant to CPLR 214(a).

DATED: January 14, 2014
Buffalo, New York

Ricardo Oscar Martinez
Pro Se
758 Prospect Ave., upper
Buffalo, New York 14213
716-881-0352

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

RICARDO OSCAR MARTINEZ

COMPLAINANT'S AFFIDAVIT IN SUPPORT OF APPLICATION FOR LEAVE TO FILE A LATE NOTICE OF CLAIM

Claimant

vs.

COUNTY OF ERIE

Respondent

FILED
ACTIONS & PROCEEDINGS
JAN 14 2014
ERIE COUNTY
CLERK'S OFFICE

AFFIDAVIT OF RICARDO OSCAR MARTINEZ

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

Ricardo Oscar Martinez, being duly sworn, deposes and says as follows:

1. I am the named complainant in this action. I reside at 758 Prospect Ave., upper, Buffalo, NY 14213. I submit this affidavit in support of my application for leave to file a late notice of claim pursuant to C.P.L.R 214(a).
2. Pursuant to General Municipal Law § 50, complainant's right to file a Notice of Claim expired 90 days after March 27, 2013.

3. Actual Knowledge of Essential Facts Underlying Claim Within 90-Day Statutory Period. Complainant had actual knowledge of the wrongs on the day they were committed, as expressed in two legal proceedings pertaining to the case, as follows: 1- Legal consultation with Mental Hygiene Legal Service on March 27, 2013 (Exhibit A); 2- Grievance Case No 10161378 dated April 16, 2013 (Exhibit B), to which respondent on May 1, 2013, responded: "8. The Complainant fails to specify what acts, if any, assuming that ECMCC was to provide the reasonable accommodation that he claims he was entitled to receive, represented discriminatory actions toward him on the part of ECMCC" (Exhibit B), which complainant refuted as in Exhibit C (original documents now in power of both respondent and the State of New York Division of Human Rights). Thus the County of Erie did investigate complainant's allegations; respondent did have actual knowledge of the essential facts underlying the claim within the 90-day statutory period.

4. Substantial Prejudice as a Result of the Delay. Because the issue behind lack of reasonable accommodation (Exhibit C) was the proper diagnosis and treatment of respondent mental condition, the opinion of the State of New York about it was a most relevant matter, this is to ascertain whether or not there was discrimination at issue, or else negligence. Abuses of discretionary power by respondent left complainant psychologically traumatized on account of similar proceedings having led respondent to order wrongful involuntary hospitalizations of complainant several times between March, 2012 and April, 2013. Psychological trauma compounded by a climate of hostility and intimidation after March 27, 2013, this is

while complainant was involuntarily hospitalized at respondent ECMCC Behavioral Health Unit. About which there are contemporaneous witnesses. While he waited for the legal opinion of the State of New York about his case, complainant fruitlessly sought legal assistance to file a lawsuit against respondent (Exhibits D, E); as the full weight of the State of New York mental health system was and is stacked against complainant, thus he could only rely on the legal opinion of the State of New York (Exhibit A) to sustain further actions against respondent. Particularly because no private attorney or legal representative for community legal services agency/agencies was/were was ever willing to tell complainant how to proceed with a claim against respondent, as in Exhibits D, E; as complainant did not even know there are In Forma Pauperis legal proceedings. Thus it took time for complainant to acquire the knowledge of legal matters necessary for this motion to be presented Pro Se. Complainant hereby asserts that there is a lack of prejudice to the respondent as a result of the delay, as respondent conducted a full investigation of the facts at issue, as alleged in Exhibit B. Respondent was given an opportunity to investigate promptly and adequately with an eye towards future litigation. The delay does not substantially prejudice respondent in maintaining its defense on the merits. The delay of approximately eight months from the time the claim arose until the instant motion is being brought does not substantially prejudice the County of Erie's ability to investigate the abuses of discretionary power at issue. Particularly in view of the fact that respondent Adult Protective Services continued to maintain an open case for complainant, thus respondent being continuously, actively involved in,

and monitoring, complainant's case (Exhibit G). The latter intervention representing, ever since April 2, 2013, a source of both knowledge and control of complainant's life and activities on respondent's part. The situation in its totality requiring a restraining order, against respondent, on the basis of the facts to be ascertained by the Supreme Court of New York. Finally, complainant requests the Supreme Court of the State of New York to take into account his mental disability ADD-AD/HD, DSM-V 314.01, which renders complainant susceptible to committing errors related to inattention to detail; as, with a limited training in legal matters (M.A. in Labor Relations, unfinished), complainant has made the utmost intellectual effort in order to be able to file the present action.

DATED: December 12, 2013

Buffalo, New York

Ricardo O. Martinez, B.A.

Ricardo Oscar Martinez, B.A.
Pro Se
758 Prospect Ave., upper
Buffalo, New York
14213-2117
716-881-0352

TO: Erie County Attorney's Office

92 Franklin Street

Room 1634

Buffalo, New York 14202

County of Erie
Erie County Department of Law
Erie County Attorney, Michael A. Siragusa

RECEIVED
JAN 14 2014
ERIE COUNTY
DEPARTMENT OF LAW

This is a legal notice. I have filed a Civil Rights complaint, before the Justice Department's Civil Rights Division-Criminal section, against Erie County Medical Center Corporation. Concretely quoting abuses to my person, plus a due process violation (ECMC police officers, physicians, and psychiatrists, on March 26 and March 27, 2013). Additionally, I have filed a Late Notice of Claim, Index 2013002860, against the County of Erie, this is for wrongfully involuntary hospitalization. All of which I plan to use as legal grounds to obtain an injunction against the County of Erie. As a mental health expert at the graduate level, I shall dispute ECMC's Verified Answer –Case No. 10161378, filed before the Division of Human Rights of the State of New York, this is on the basis of my involuntary hospitalizations at ECMC having been ordered through substandard medical opinions; plus my mental health symptoms having been addressed through improper treatment. The County of Erie is hereby being notified that there might be criminal accountability for any further administrative action against my person, this is on the basis of abusive ECMC Police or Sheriff Department actions against my person, or abusive involuntary hospitalization proceedings against my person, as in March 26 and March 27, 2013. As once involuntarily hospitalized on March 27, 2013, because of sheer negligence on the part of ECMC personnel and psychiatrists, like the rest of the patients at ECMC's Behavioral Health Unit I was terrorized by a most obviously psychopathic, probably maniac, tall, strongly-built, athletic, and very violent, Caucasian young male; not for one day, for, negligently so, for several days. During which time a terrorized young patient, Joelle Orsini, kept approaching the guards and sometimes my person for protection. ECMC personnel and psychiatrists being so indolent about the young woman's feelings of insecurity, as shared by each and every patient at the above Behavioral Health Unit, that I once witnessed the following dialogue at the lunch room: (Joelle Orsini, looking at psychopathic, violent patient): "Psychopath! You scare the sh.t out of me." (ECMC nurse): "You see? You are provoking him." The latter a situation which would enrage any self-respecting feminist, yet which ECMC personnel ignored until the above man became so violent that he was reportedly seen lifting a heavy, hard plastic chair on the air and throwing it against a wall, which could have killed someone.

The County of Erie should therefore make a decision about whether or not to keep being my payee (Adult Protective Services), for my S.S.I. income, might not involve a conflict of interest; for now Adult Protective Services is questioning my living arrangements in spite of the fact that I have repeatedly told my caseworker Tamara Montgomery that it is the only place I have lived in years where I have found both peace of mind and tranquility, even if it is a little expensive for my budget. The County of Erie has absolutely no right to tell me how to live, at the same time that retains some of my money even if and when I have bills to pay; the latter by warrantlessly arguing that my landlord is taking advantage of me. Whenever my duty to pay for two gas bills was a part of our rental agreement. For, self-serving, arbitrary, abusive and negligent as the County of Erie proved to be during my last hospitalization, it now reserves a right to make use of its farcical medical opinions to warrantlessly, again, deem me a "danger to others. Whenever ECMC just failed to properly assess my clinical background, for example the fact that back in 1994 (University of Toledo Psychology Clinic) I was diagnosed and treated for Post Traumatic Stress Disorder; tapes of which treatment the same university keeps for research and teaching purposes. Thus during all of my hospitalizations at ECMC I have presented, according to my own, competent self-assessment, clear-cut symptoms of Complex Post Traumatic Stress Disorder, which, again, ECMC psychiatrists incompetently failed to both properly assess, this is as a part of the DSM-IV axis, and treat. For, as a victim and a survivor of gross human rights abuses in my native Argentina, I now present P.T.S.D. symptoms which only because of my great knowledge of clinical psychology I can

cope with. As any competent psychiatrist knows it, as in the Stockholm syndrome, victims and survivors of traumatic experiences are often socially re-victimized, exactly like in my case. I am therefore lucky to be living with an observant Christian family from Cuba, people who, coming from a totalitarian nation, understand very well my hardship. For, Attorney Siragusa, the County of Erie has stigmatized me, as a mental health patient, with a substandard medical opinion, Schizoaffective Disorder, which is not even sealed on account of the fact that ECMC referred me with one such a substandard medical opinion to several community services agencies. Under pressure from various caseworkers, I had to sign releases for them to unprofessionally discussing my above diagnosis, plus what they imagined were my symptoms, with one another. Thus I have already earned a small reputation as a "psychotic foreigner who delusionally believes he is a free-lance journalist" (I was a professional journalist in my native Argentina) for the County of Erie to possibly strike me with another wrongful involuntary hospitalization. Thus the County of Erie is hereby warned about, and against, the possibility of further harm to my person from its personnel, physicians, caseworkers, psychiatrists, and police officers.

Ricardo O. Martinez

Ricardo Oscar Martinez
279-96-0622
758 Prospect Ave., upper
Buffalo, New York 14213

Buffalo, New York, January 14, 2014

Enclosure: copies of legal proceedings for reference purposes only.