



COUNTY OF ERIE

MICHAEL A. SIRAGUSA
COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

DEPARTMENT OF LAW

JEREMY C. TOTH,
SECOND ASSISTANT COUNTY ATTORNEY

MEMORANDUM

TO: Karen McCarthy, Clerk, Erie County Legislature
FROM: Michelle M. Parker, First Assistant County Attorney
DATE: October 22, 2015
RE: Transmittal of New Claims Against Erie County

Ms. McCarthy:

In accordance with the Resolution passed by the Erie County Legislature on June 25, 1987 (Int. 13-14), attached please find 15 new claims brought against the County of Erie. The claims are as follows:

Claim Name

Elijah Bell v. Erie County Holding Center
Paul Fusco-Gessick v. Erie County Social Services, et al.
Estate of Avery Gardner v. County of Erie
Estate of Joshua Jock, Jr. v. Erie County Social Services, et al.
Francine Magno by Charles Magno v. County of Erie
Ty Schwartz by Linette Schwartz v. Erie County Social Services, et al.
Marcus Carter v. County of Erie, et al.
Allyson Maguda v. Commissioner Loffredo, et al.
Delisha Pratt v. County of Erie, et al.
Justin Vasquez v. Thomas Diina, et al.
Donald Clark v. Sheriff Howard
Joseph Jarzembek v. County of Erie (Social Services)
Ann Aeschbacher v. County of Erie
Norman Moorhouse v. County of Erie
Joseph Jarzembek v. County of Erie (Sheriff's Office)

MMP:dld
Attachments

Comm. 20D-6



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

September 22, 2015

Ms. Karen McCarthy, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Ms. McCarthy:

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>Bell, Elijah v. Erie County Holding Center</i>
Document Received:	Notice of Claim
Name of Claimant:	Elijah Bell 05A1436 Five Points Correctional Facility State Route 96 P.O. Box 119 Romulus, New York 14541
Claimant's attorney:	Claimant is proceeding <i>pro se</i> .

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
Michelle M. Parker
First Assistant County Attorney

MMP:dld
Enc.

be back to Erie County holding center for the same court proceeding.

I order my 29 dollars commissary buy on about 4/14/15

I had to go to court on about 4/15/15 that's when the judge sent me back to up-state five prison's

The buy was already taking out of my account final, there was not other I could do plus I was rushed out the [said holding center]

on 4/16/15 ~~at~~ the Erie County holding center commissary sent the staff to me or to the block I was in Delta long, but I wasn't in the cell. So therefore the deputy staff was supposed to had sent the food back to where it came from.

I was supposed to had sign the commissary sheet that shows I received the staff, but I wasn't in the cell. Some one sign it for me, that's FORGOT

The commissary machine shows there was 29 dollars taking for staff I never received please put it back. I File Grievance
I GRC and Supt refuse to answer

Affidavit of Service

State of New York)
County of Seneca)ss.:

I, Elyah Bell, being duly sworn, deposes and says:

1. That on 9/3/15, I did in fact place the designated copies of the following papers in the Mailbox at Five Points Correctional Facility:

- a. Claim Form dated 8/7/15
- b. _____
- c. _____ Second Submit

2. Said papers were addressed to the following parties:

Original and Duplicate(s)

95 Franklin -
St Suite 1634
Buffalo NY 14202

Copy

Assembly

Copy

R E C E I V E D
SEP 16 2015
ERIE COUNTY
DEPARTMENT OF LAW

Very truly yours,

Elyah Bell

Five Points C.F.
PO Box 119
Romulus, New York 14541

Sworn to before me this
3 day of September 2015

Steven M Shaw
NOTARY PUBLIC

Steven M Shaw
018HG299077

Notary Public, State of New York
Qualified in Cayuga County
Commission Expires on 3/17/2018



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

September 22, 2015

Ms. Karen McCarthy, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Ms. McCarthy:

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>Fusco-Gessick, Paul T. v. Erie County Department of Social Services and Cheryl Dearlove, in her official capacity as Special Investigator</i>
Document Received:	Notice of Claim
Name of Claimant:	Paul T. Fusco-Gessick, Esq. 119 Stratford Road, Apt. 2 Buffalo, New York 14216
Claimant's attorney:	Claimant is proceeding <i>pro se</i> .

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.

Comm. 20D-6
Page 6 of 88

On or about June 23, 2015, Respondent CHERYL DEARLOVE recommended that the investigation be dismissed, since there was no evidence of wrongdoing on my part. As such, her allegations were meritless and incorrect, giving rise to a claim for libel.

Libel is an attack on another's reputation through false statements intentionally, recklessly, or negligently published in writing to a third party, and which hold the aggrieved party up to ridicule, contempt, hatred, shame, or disgrace.

Given the high ethical standards to which I must, as an attorney, adhere, Respondent CHERYL DEARLOVE's statements certainly hold me up to ridicule, shame, and disgrace. The Assigned Counsel Program now suspects that I am a dishonest person who commits welfare fraud. I will certainly never be allowed to work for them again.

Additionally, upon information and belief, certain of Respondent CHERYL DEARLOVE's inquiries were directed to each entity with which I was employed while receiving public benefits. This included the Public Accountability Initiative, where I had recently begun a contractual position at the time of Respondent CHERYL DEARLOVE's inquiries. PAI declined to renew my contract when it expired on July 24, and did not disclose a reason why they declined to do so. Upon information and belief, Respondent CHERYL DEARLOVE's inquiries played a role in this.

(b) *In the nature of making a determination in violation of lawful procedure:* Section 134-a of the Social Services Law of the State of New York provides that “the activities authorized by this section may be initiated only with regard to those clients who have been given appropriate notice of verification activity under Article 6A of the Public Officers Law.”

At no time did Respondent CHERYL DEARLOVE give notice of her investigation into my eligibility for public benefits, in direct contravention of the above-quoted provision of law.

Section 134-a of the Social Services Law of the State of New York further provides that “in making such investigation or reinvestigation, sources of information, other than records maintained by a public agency, shall be consulted only with the permission of the applicant or recipient”, but that the agency may deny or discontinue the provision of benefits if the applicant or recipient refuses such permission.

At no time did Respondent CHERYL DEARLOVE solicit my permission to conduct her investigation, in direct contravention of the above-quoted provision of law.

Section 134-a of the Social Services Law of the State of New York further provides that “Any investigation or reinvestigation of eligibility [...] shall be conducted in such manner so as not to violate any civil right of the applicant or recipient.”

Certain of Respondent CHERYL DEARLOVE's inquiries were made to the banking

establishment where I do business. Upon information and belief, Respondent CHERYL DEARLOVE did not obtain a warrant for the information provided by my bank. The Fourth Amendment to the United States Constitution and Article I, Section 12 of the Constitution of the State of New York provide that “the right of the people to be secure in their persons, houses, papers and effect, against unreasonable searches and seizures, shall not be violated”.

A Governmental search is unreasonable unless authorized by a warrant or conducted under circumstances giving rise to an exception to the warrant requirement – *none of which were applicable in the context of Respondent CHERYL DEARLOVE's investigation.*

Since—upon information and belief—Respondent CHERYL DEARLOVE did not obtain a warrant as required by law, her search of my bank records was not only an unconstitutional violation of my civil rights, it was in direct contravention of Section 134-a of the Social Services Law of the State of New York.

- (c) *In the nature of abuse of discretion:* On or about June 22, 2015, Respondent CHERYL DEARLOVE contacted me to request my appearance for a face-to-face interview, but stated that I was not under a legal obligation to appear. I stated that I would have to consult with my attorney before agreeing to such an interview. On the advice of my attorney, I contacted Respondent CHERYL DEARLOVE later that day and stated that I would be happy to answer her inquiries provided they were made in the nature of written interrogatories.

I have been diagnosed with Post-Traumatic Stress Disorder stemming from a criminal conviction in 2005-6 wherein I was sentenced to a three-year term of probation which was conducted in an unnecessarily harsh manner. As a result, to put it mildly, I do not respond well to interactions with agents of the Government wherein I may not be free to leave. As such, my request for written interrogatories was proper pursuant to Section 134-a(3) of the Social Services Law of the State of New York, which provides that

The social services official shall require that persons applying for or receiving public assistance and care be interviewed personally at a time and in a manner provided by the regulations of the department. Applicants or recipients shall be excused from such requirements to avoid hardship, as defined by regulations of the department. Hardship shall include but not be limited to circumstances including infirmity, serious illness or physical disability.

[emphasis added]

Respondent CHERYL DEARLOVE abused her discretion in refusing to tender written interrogatories whereby she could have obtained any information she sought.

Further, in her Memorandum dated June 23, 2015, Respondent CHERYL

DEARLOVE stated that "it was not advised to pursue the client's father at this time". Both my father and I have made it abundantly clear in the course of correspondence with Respondent DEPARTMENT OF SOCIAL SERVICES that he has done nothing wrong. By including the aforementioned language in her Memorandum, Respondent CHERYL DEARLOVE has threatened my family with a meritless investigation intended only to punish the father for the imagined sins of the son; *i.e.*, a further abuse of discretion.

Further, Respondent CHERYL DEARLOVE's *entire investigation* could have been avoided by way of a simple telephone call, wherein I would have gladly provided any information she sought at considerably less expense to the taxpayer, and which, in point of fact, *was required anyway pursuant to Section 134-a of the Social Services Law*. Thus, the *entire investigation* was, in itself, an abuse of discretion.

Further, and in conclusion, Respondent CHERYL DEARLOVE has attempted to avoid scrutiny of her investigative methods and tactics. Upon information and belief, Respondent ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES is prohibited by policy from re-certifying an applicant's social-assistance benefits when there is an active investigation on the part of the Special Investigations Division. Respondent CHERYL DEARLOVE's Memorandum stating her recommendation that the instant investigation be terminated was dated June 23, 2015. However, on or about July 6, 2015, I received a notice dated July 3, 2015 stating that Respondent ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES would be discontinuing my medical assistance case effective August 1, 2015. The reason stated was "Client failed to meet face to face for an interview with SID." This shows that Respondent CHERYL DEARLOVE's investigation was still active at that time. Only when it became clear that Respondent CHERYL DEARLOVE would be required to testify at an administrative fair hearing regarding the termination of my medical assistance case did she fully terminate her investigation, thus rendering moot the fair hearing and eliminating the possibility of her unlawful actions being exposed on the record at that time. This termination was undertaken a mere two days before the hearing was scheduled. If Respondent CHERYL DEARLOVE is innocent, she has nothing to fear from giving testimony. The fact that Respondent CHERYL DEARLOVE would rather terminate her investigation rather than attempt to defend her actions is both pusillanimous and extremely suspicious.

4. The dollar amount of damages which I have suffered as a result of Respondent CHERYL DEARLOVE's actions cannot be precisely quantified at this time, but to the extent that it is practicable for me to attempt to quantify such damages, they are as follows:

(a) *Loss of further employment as an independent contractor with the Erie County Assigned Counsel Program:*

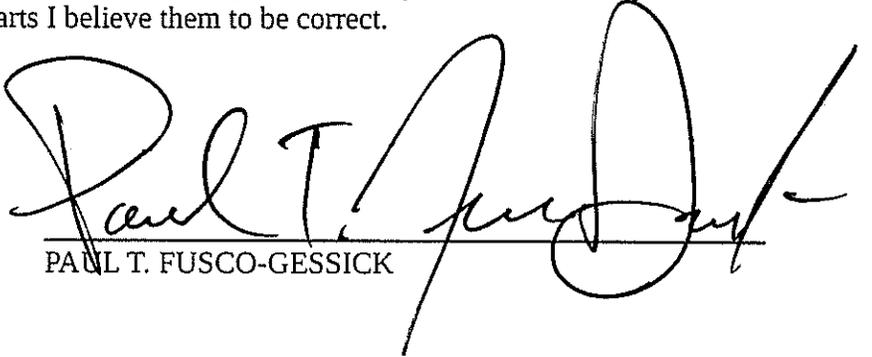
\$60 per hour, 10 hours per week, 50 weeks per year, for the period 2015-2018 (the period I expect to remain in Buffalo), *i.e.*, \$120,000.

(b) Loss of further employment with the Public Accountability Initiative:

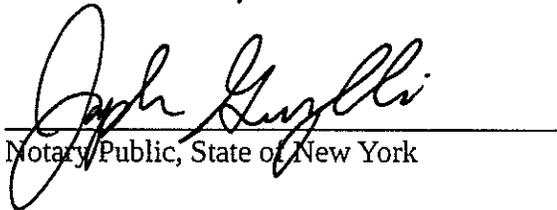
\$16 per hour, 30 hours per week, 50 weeks per year, for the period 2015-2018, i.e.
\$96,000.

(c) Total: \$216,000

I solemnly swear that the foregoing is true and correct, except as to those parts stated to be upon information and belief, and as to those parts I believe them to be correct.


PAUL T. FUSCO-GESSICK

Sworn to before me this
17th day of September, 2015:


Notary Public, State of New York

JOSEPH GRZYBOWSKI
Lic. #01GR6286555
Notary Public-State of New York
Qualified in ERIE
My Commission Expires JULY 29,2017

RECEIVED
SEP 21 2015
ERIE COUNTY
DEPARTMENT OF LAW
mmf



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

September 23, 2015

Ms. Karen McCarthy, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Ms. McCarthy:

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>Gardner, Avery, Estate of, by Kristy Tiedemann, Mother and Distributee v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Kristy Tiedemann 16 Adam Street Lockport, New York 14094
Claimant's attorney:	Bradley D. Marble, Esq. Brown Chiari, LLP 5775 Broadway Lancaster, New York 14086

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
Michelle M. Parker
First Assistant County Attorney

MMP:dld
Enc.

Comm. 20D-6
Page 12 of 88

STATE OF NEW YORK :
SUPREME COURT : COUNTY OF ERIE

KRISTY TIEDEMANN, as Distributee of the Estate of
AVERY GARDNER,

Claimant,

vs.

NOTICE OF CLAIM

COUNTY OF ERIE

Respondent.

TO: Michael A. Siragusa, Esq.
Erie County Attorney
95 Franklin Street, Suite 1634
Buffalo, New York 14202

To whom it may concern:

PLEASE TAKE NOTICE, that the undersigned hereby makes claim against the COUNTY OF ERIE and states the following in compliance with the applicable statutes of the State of New York.

1. The herein is KRISTY TIEDEMANN, as Distributee of the Estate of AVERY GARDNER, who resides at 16 Adam Street, Lockport, NY 14094.

2. The herein is represented by the law firm of BROWN CHIARI LLP, 5775 Broadway, Lancaster, New York 14086-2360.

3. Decedent AVERY GARDNER died on June 11, 2015. Claimant KRISTY TIEDEMANN on June 19, 2015 signed a distributee affidavit. Claimant KRISTY TIEDEMANN was the mother of Decedent, AVERY GARDNER.

4. The subject claim is for personal injuries, medical expenses, and wrongful death sustained by reason of injury and death of Decedent AVERY GARDNER.

5. The incident giving rise to these damages occurred on June 11, 2015 while Decedent AVERY GARDNER was a passenger in a motor boat operated by Timothy Wisniewski on Ellicott Creek within the boundaries of Ellicott Creek Park located at 1 Ellicott Creek Drive, Tonawanda, New York 14150. On the aforementioned date, Decedent, AVERY GARDNER, struck her head on a pedestrian bridge which crossed Ellicott Creek causing her death.

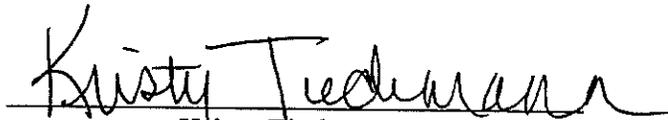
6. The said damages for which claim is hereby made arose in the following manner, to wit:

Decedent AVERY GARDNER was a passenger in a motor boat operated by Timothy Wisniewski on Ellicott Creek within the boundaries of Ellicott Creek Park located at 1 Ellicott Creek Drive, Tonawanda, New York 14150. Ellicott Creek Park and/or the pedestrian bridge were owned, operated, constructed, designed, maintained and/or repaired by the COUNTY OF ERIE and its employees, servants and/or agents. Upon information and belief, the aforesaid incident was caused by the negligence of the COUNTY OF ERIE, by their agents, servants, and employees in failing to properly design, construct, maintain and/or repair the pedestrian bridge, failing to properly warn boaters and their passengers of the low height of the pedestrian bridge; failure to monitor water levels and restrict boating accordingly; failing to design and construct a pedestrian bridge that would permit boat travel on Ellicott Creek; failing to restrict and/or prohibit the use of boats on Ellicott Creek; failing to restrict or prohibit boat travel on Ellicott Creek based on the water levels then and there existing; failing to provide any warnings for boat travel on Ellicott Creek, and in being otherwise, negligent, reckless and careless.

7. Decedent AVERY GARDNER sustained injury and death and her surviving distributees have sustained pecuniary injuries.

8. The subject claim is for a sum to be determined by a jury.

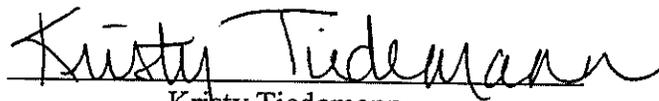
DATED: September 4, 2015


Kristy Tiedemann

STATE OF NEW YORK)
COUNTY OF ERIE)

ss:

On the 4th day of September, 2015, Kristy Tiedemann, being duly sworn, deposes and says that she is the claimant in this matter; that she has read the foregoing Notice of Claim and knows the contents thereof; that it is true to her personal knowledge, except as to matters stated to be upon information and belief, and as those matters she believes to be true.


Kristy Tiedemann

Sworn to before me on this
4th day of September, 2015.



Notary Public

BRADLEY D. MARBLE
NOTARY PUBLIC-STATE OF NEW YORK
No. 02MA6142694
Qualified in Erie County
My Commission Expires March 20, 2016

CERTIFICATION

Pursuant to Part 130-1 of the Rules of the Chief Administrator, the undersigned attorney certifies that, to the best of my knowledge, information and belief, formed after inquiry reasonable under the circumstances, the presentation of this paper or the contentions therein are not frivolous as defined in subsection (c) of §130-1.1.



Bradley D. Marble, Esq.
BROWN CHIARI LLP
Attorneys for
5775 Broadway
Lancaster, New York 14086-2360
(716) 681-7190

STATE OF NEW YORK :
SUPREME COURT : COUNTY OF ERIE

KRISTY TIEDMANN, as Distributee of the Estate of
AVERY GARDNER

vs.

AFFIDAVIT OF MAILING

TOWN OF TONAWANDA

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

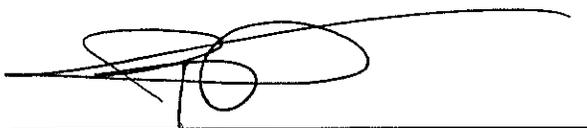
HEATHER M. KLING, being duly sworn, deposes and says:

1. I am over eighteen (18) years of age and employed by the law firm of BROWN CHIARI LLP, 5775 Broadway, Lancaster, New York 14086-2360.

2. On the 8th day of September, 2015, I mailed a Notice of Claim to Michael A. Sirgusa, Esq., Erie County Attorney, 95 Franklin Street, Suite 1634, Buffalo, New York 14202, via Certified Mail, Return Receipt Requested, by depositing same in a post office official depository under the exclusive care and custody of the United States Postal Service within the State of New York.


Heather M. Kling

Sworn to before me this
8th day of September, 2015.



BRADLEY D. MARBLE
NOTARY PUBLIC-STATE OF NEW YORK
No. 02MA6142694
Qualified in Erie County
My Commission Expires March 20, 2018

- BROWN CHIARI LLP -



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

September 23, 2015

Ms. Karen McCarthy, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Ms. McCarthy:

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>Jock, Joshua Jr., Estate of, by png Whitney Whalen and Joshua Jock, Sr. v. County of Erie, Erie County Department of Social Services and Erie County Child Protective Services</i>
Document Received:	Notice of Claim
Name of Claimant:	Whitney Whalen and Joshua Jock, Sr. 117 Broadhead Street Jamestown, New York 14701
Claimant's attorney:	C. Daniel McGillicuddy, Esq. William Mattar, P.C. 6720 Main Street, Suite 100 Williamsville, NY 14221-5986

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
Michelle M. Parker
First Assistant County Attorney

MMP:dld
Enc.

This paper received at the
Erie County Attorney's Office
from Monique Allison
the 22nd day of September, 2015

at 2:10 a.m./p.m.
Kelly A. Drunk
Assistant County Attorney

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE
IN THE MATTER OF THE CLAIM OF:

WHITNEY L. WHALEN, Individually as Parent of
JOSHUA JOCK, JR, Decedant
117 Broadhead Street
Jamestown, New York 14701

JOSHUA JOCK, SR., Individually as Parent of JOSHUA
JOCK, JR, Decedant
117 Broadhead Street
Jamestown, New York 14701

NOTICE OF CLAIM

In the Matter of JOSHUA JOCK, JR., Decedant

Claimants,

-against-

ERIE COUNTY CHILD PROTECTIVE SERVICES
478 Main Street
Suite 401B
Buffalo, New York 14202

ERIE COUNTY DEPARTMENT OF SOCIAL
SERVICES
95 Franklin Street
Buffalo, New York 14202

COUNTY OF ERIE
69 Delaware Avenue
Suite 300
Buffalo, New York 14202

Respondents.

PLEASE TAKE NOTICE that WHITNEY L. WHALEN and JOSHUA JOCK, SR. hereby makes claim against ERIE COUNTY CHILD PROTECTIVE SERVICES, ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES, and the COUNTY OF ERIE and in support thereof alleges:

1. That the undersigned, WHITNEY L. WHALEN AND JOSHUA JOCK, SR., individually and jointly, both residing at 117 Broadhead Street, Jamestown, New York 14701, by and through their attorney, WILLIAM K. MATTAR, P.C., 6720 Main Street, Suite 100, Williamsville, New York 14221, claim damages against the ERIE COUNTY CHILD PROTECTIVE SERVICES and/or ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES and/or COUNTY OF ERIE for loss of services, society and companionship, and emotional distress together with other damages allowed by law resulting from the wrongful death suffered by the Decedent Infant, JOSHUA A. JOCK, JR.

2. That the said wrongful death of Infant, JOSHUA A. JOCK, JR. on July 27, 2015 at Little Racer's Daycare, 5227 Route 474 in the Town of North Harmony, in County of Chautauqua and State of New York, when he died while in the care of Paula Mason, who was given custody of said Decedant Infant by ERIE COUNTY CHILD PROTECTIVE SERVICES and/or ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES and/or COUNTY OF ERIE, its servants, agents and/or employees.

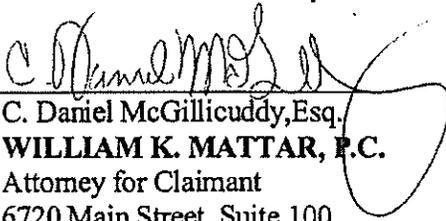
3. That the Claimant's damages occurred as a result of the negligence, carelessness, and reckless disregard for the safety of the JOSHUA A. JOCK, JR. by ERIE COUNTY CHILD PROTECTIVE SERVICES and/or ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES

and/or COUNTY OF ERIE, its servants, agents or employees in failing to properly investigate the placement of the Decedent with Paula L. Mason, failing to take proper precautions to ensure the safety of a child, negligent placement of a child, actual and constructive prior notice of several violations attendant to Ms. Mason and Little Racer's Daycare and her unfitness for placement of a child, failure to remove the child from Ms. Mason's care, failing to check on the safety of the child, failing to prevent the death of Joshua Jock, Jr., and other acts of negligence, carelessness and recklessness to prevent the happening of this accident.

4. That as a result of the foregoing wrongful death of JOSHUA A. JOCK, JR., Claimants, WHITNEY L. WHALEN AND JOSHUA JOCK, SR., were forced to suffer a loss of companionship and society, et al.

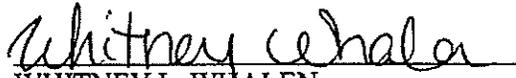
5. That the said wrongful death of Infant, JOSHUA A. JOCK, JR. was caused solely and wholly as a result of the negligence, carelessness and recklessness of the ERIE COUNTY CHILD PROTECTIVE SERVICES and/or ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES and/or COUNTY OF ERIE and through its agents, servants and employees and without any negligence on the part of the Claimants contributing thereto.

DATED: Williamsville, New York
 September 14, 2015

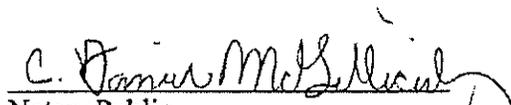

C. Daniel McGillicuddy, Esq.
WILLIAM K. MATTAR, P.C.
Attorney for Claimant
6720 Main Street, Suite 100
Williamsville, New York 14221-5986

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

WHITNEY L. WHALEN, being duly sworn, deposes and says that she is a Claimant in this action; that he has read the foregoing Notice of Claim and know the contents thereof; that the same is true to the knowledge of the deponent, except as matters therein stated alleged on information and belief, and that as to those matters she believes them to be true.


WHITNEY L. WHALEN

Sworn to before me this
16th day of September, 2015.


Notary Public

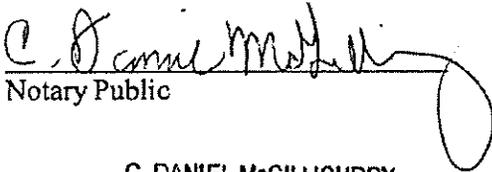
C. DANIEL MCGILlicUDDY
NOTARY PUBLIC, State of New York
Qualified in Erie County
My Commission Expires 6/25/16

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

JOSHUA JOCK, SR., being duly sworn, deposes and says that he is a Claimant in this action; that he has read the foregoing Notice of Claim and know the contents thereof; that the same is true to the knowledge of the deponent, except as matters therein stated alleged on information and belief, and that as to those matters he believes them to be true.

JOSHUA JOCK SR.
JOSHUA JOCK, SR.

Sworn to before me this
16TH day of September, 2015.


Notary Public

C. DANIEL MCGILlicuddy
NOTARY PUBLIC, State of New York
Qualified in Erie County
My Commission Expires 9/26/16



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

September 28, 2015

Ms. Karen McCarthy, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Ms. McCarthy:

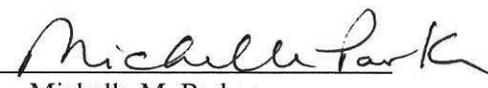
In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Magno, Francine by Charles Magno v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Charles Magno 19 Hutchens Drive, Apt. 19 Cheektowaga, New York 14227
Claimant's attorney:	Nelson E. Schule, Jr., Esq. Brown Chiari, LLP 5775 Broadway Lancaster, New York 14086

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
Michelle M. Parker
First Assistant County Attorney

MMP:dld
Enc.

Comm. 20D-6
Page 24 of 88

STATE OF NEW YORK :
SUPREME COURT : COUNTY OF ERIE

CHARLES MAGNO as Guardian of
FRANCINE MAGNO

This paper received at the
Erie County Attorney's Office
from Nelson Schull on
the 21st day of SEPT, 2015
at 11¹⁵ a.m./p.m.
Nelson Schull
Assistant County Attorney

vs.

NOTICE OF CLAIM

COUNTY OF ERIE

TO: COUNTY OF ERIE LAW DEPARTMENT
Attn: Michael Siragusa, Esq.
95 Franklin Street, Ste 1634
Buffalo, New York 14202

To whom it may concern:

PLEASE TAKE NOTICE, that the undersigned hereby claim against and the following in compliance with the applicable statutes of the State of New York.

1. The post office address of the Claimants herein is 19 Hutchens Drive, Apartment 19, Cheektowaga, NY 14227.
2. The Attorneys for the Claimants are BROWN CHIARI LLP, 5775 Broadway, Lancaster, New York 14086-2360.
3. The subject claim is for personal injuries, lost wages, medical expenses, and associated injuries sustained by reason of injury to Claimant FRANCINE MAGNO.
4. The time and place where such claim arose and the nature of the claim are as follows:

On June 29, 2015, FRANCINE MAGNO was transported by We Care Transportation to Transit Road Day Habilitation for school. She attended the Transit Road Day Habilitation program from 8:30 a.m. until 2:30 p.m. When FRANCINE MAGNO was returned to her residence by We Care Transportation, it was

- BROWN CHIARI LLP -

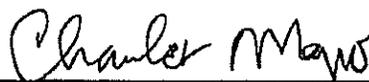
immediately discovered that she has sustained a complex fracture of her right humerus. At the time of the incident, Francine was 56 years old. Upon information and belief, during her stay at the Transit Road Day Habilitation Program she was negligently supervised, mistreated, abused, neglected and deprived of her dignity, all leading to severe physical and emotional injuries. The Respondents have withheld information, failed to disclose information and concealed information concerning the care and services provided to FRANCINE MAGNO as well as information regarding the injuries sustained by FRANCINE MAGNO. The aforesaid injuries were caused by the negligence of the Respondents, its subdivisions, agents, servants and employees. In addition to the above, the negligence of the Defendant includes, but is not limited to, failing to supervise employees, failing to screen employees and failing to enact proper protection security and services for FRANCINE MAGNO.

5. The items of damages sustained are as follows:

FRANCINE MAGNO sustained a complex fracture of her right humerus. This injury includes deprivation of dignity, pain and suffering, and emotional distress.

6. The subject claim is for a sum to be determined by a jury.

DATED: September 18, 2015

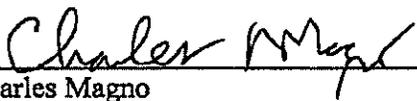


Charles Magno as Guardian of
Francine Magno

STATE OF NEW YORK)
COUNTY OF ERIE)

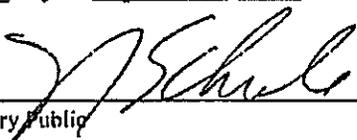
ss:

On the 18th day of September, 2015, Charles Magno, being duly sworn, deposes and says that she is the claimant in this matter; that he has read the foregoing Notice of Claim and knows the contents thereof; that it is true to her personal knowledge, except as to matters stated to be upon information and belief, and as those matters he believes to be true.



Charles Magno

Sworn to before me on this
18th day of September, 2015.



Notary Public

NELSON E. SCHULE, JR.
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
MY COMMISSION EXPIRES 6/12

CERTIFICATION

Pursuant to Part 130-1 of the Rules of the Chief Administrator, the undersigned attorney certifies that, to the best of my knowledge, information and belief, formed after inquiry reasonable under the circumstances, the presentation of this paper or the contentions therein are not frivolous as defined in subsection (c) of §130-1.1.



Nelson E. Schule, Jr., Esq.

BROWN CHIARI LLP

Attorneys for

5775 Broadway

Lancaster, New York 14086-2360

(716) 681-7190



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

September 28, 2015

Ms. Karen McCarthy, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Ms. McCarthy:

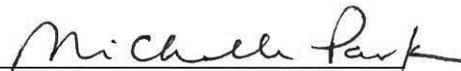
In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Schwartz, Ty, an Infant, by Linette Schwartz v. County of Erie, Erie County Department of Social Services, Erie County Child Protective Services</i>
Document Received:	Notice of Claim
Name of Claimant:	Linette Schwartz 9 Wells Avenue Cheektowaga, New York 14227
Claimant's attorney:	Samuel J. Capizzi, Esq. Brown Chiari LLP 5775 Broadway Lancaster, New York 14086

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
Michelle M. Parker
First Assistant County Attorney

MMP:dld
Enc.

Comm. 20D-6
Page 29 of 88

This paper received at the
Erie County Attorney's Office
from Sam Capri on
the 24th day of Sept, 2015
at 4:10 a.m./p.m.

Kelly A. Fenwick
Assistant County Attorney

STATE OF NEW YORK :
SUPREME COURT : COUNTY OF ERIE

LINETTE SCHWARTZ, as Parent and Natural Guardian of
TY SCHWARTZ

Claimants

vs.

NOTICE OF CLAIM

COUNTY OF ERIE,
ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES,
ERIE COUNTY CHILD PROTECTIVE SERVICES

Respondents

TO: Michael A. Siragusa, Esq.
Erie County Attorney
92 Franklin Street, Suite 1634
Buffalo, NY 14202

To whom it may concern:

PLEASE TAKE NOTICE, that the undersigned hereby makes claim against and the following in compliance with the applicable statutes of the State of New York.

1. The claimants herein are LINETTE SCHWARTZ, as Parent and Natural Guardian of TY SCHWARTZ, and they reside at 9 Wells Avenue, Cheektowaga, NY 14227.

2. The claimants herein is represented by the law firm of BROWN CHIARI LLP, 5775 Broadway, Lancaster, New York 14086-2360. The subject claim is for personal injuries, mental and emotional suffering, barbarism and cruelty, exposing the infant to all of the above and medical expenses sustained by reason of injury to claimant TY SCHWARTZ, an infant.

3. The incident giving rise to these damages that occurred on or about July 8, 2015 and/or July 9, 2015 while the infant claimant, TY SCHWARTZ, was a student at the Watch Me Grow Daycare Center at 2550 Union Road, Cheektowaga, New York 14227.

4. The aforesaid incident and resulting injuries arose in the following manner, to wit:

In January or February of 2015, the infant claimant, TY SCHWARTZ, began daycare at the Watch Me Grow Daycare Center in Cheektowaga, New York. On or about July 8, 2015 and/or July 9, 2015, incidents of child abuse at the Watch Me Grow Daycare Center were reported to the County of Erie, the Erie County Department of Social Services, and/or the Erie County Child Protective Services concerning abuse of TY SCHWARTZ, the infant claimant herein, by an employee of Watch Me Grow Daycare Center regarding abusive incidents of an unknown date never disclosed to the claimants, where the infant, age 2 ½ years old, was repeatedly thrown into walls and a crib headfirst. On or about August 7, 2015, a representative of the Erie County Child Protective Services contacted the infant's mother, claimant LINETTE SCHWARTZ, to convey the aforesaid reporting information. The infant claimant, TY SCHWARTZ, sustained injury as a result of the abuse. The aforesaid injuries were caused by the negligence of the County of Erie, the Erie County Department of Social Services, and Erie County Child Protective Services, by and through their agents, servants and/or employees, in failing to immediately and properly respond to reports of abuse by an employee of Watch Me Grow Daycare Center thereby exposing the infant claimant to prolonged contact with the offending employee, failing to immediately remove the employee, failing to notify parents such as claimant, LINETTE SCHWARTZ for over one month after reports were allegedly made and generally failing to diligently and immediately investigate the incidents, inform all involved in a timely manner, and remedy the unsafe and dangerous situation at Watch Me Grow Daycare Center such that it would be safe to continue as a daycare center and ensure that children no longer be subject to abuse.

5. The infant claimant, TY SCHWARTZ, sustained contusions, abrasions and lacerations throughout various parts of his body, including his head and face, trunk, torso, arms and leg, mental and emotional suffering and all associated injuries as a result of being abused at such a tender age. In addition, claimant, LINETTE SCHWARTZ, sustained derivative damages as recoverable by law.

6. The subject claim is for a sum to be determined by a jury.

DATED: September 25, 2015



Linette Schwartz, as Parent and Natural
Guardian of Ty Schwartz

STATE OF NEW YORK)
COUNTY OF ERIE)

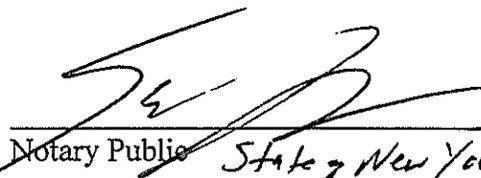
ss:

On the 25th day of September, 2015, Linette Schwartz, as Parent and Natural Guardian of Ty Schwartz, being duly sworn, deposes and says that is the claimant in this matter; that has read the foregoing Notice of Claim and knows the contents thereof; that it is true to personal knowledge, except as to matters stated to be upon information and belief, and as those matters believes to be true.



Linette Schwartz, as Parent and Natural
Guardian of Ty Schwartz

Sworn to before me on this
25th day of September, 2015.

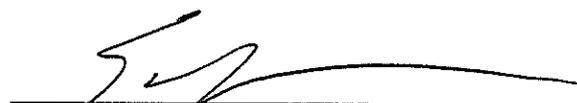
 Samuel J Capizzi
Notary Public State of New York

Qualified in County of Erie

My Commission expires 2/6/2019

CERTIFICATION

Pursuant to Part 130-1 of the Rules of the Chief Administrator, the undersigned attorney certifies that, to the best of my knowledge, information and belief, formed after inquiry reasonable under the circumstances, the presentation of this paper or the contentions therein are not frivolous as defined in subsection (c) of §130-1.1.



Samuel J. Capizzi, Esq.
BROWN CHIARI LLP
Attorneys for Plaintiff
5775 Broadway
Lancaster, New York 14086-2360
(716) 681-7190



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

October 7, 2015

Ms. Karen McCarthy, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Ms. McCarthy:

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>Carter, Marcus v. County of Erie, Timothy B. Howard, Sheriff of Erie County</i>
Document Received:	Notice of Claim
Name of Claimant:	Marcus Carter 475 Norfolk Avenue Buffalo, New York 14215
Claimant's attorney:	Michael Joseph Witmer, Esq. 391 Lyell Avenue, Suite 5 Rochester, New York 14606

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.

.. ✓.mmmp

MARCUS CARTER,

Plaintiff,

-against-

COUNTY OF ERIE,
TIMOTHY B. HOWARD,
SHERIFF OF ERIE COUNTY,

Defendants.

NOTICE OF CLAIM

This paper received at the
Erie County Attorney's Office
from Mike Cole Wilson
the 2nd day of October, 2015
at 3:43 a.m./p.m.

S McCabe
Assistant County Attorney
Amy McCabe

TO: ERIE COUNTY LAW DEPARTMENT,
TIMOTHY B. HOWARD, SHERIFF OF ERIE COUNTY

1. Name of Claimant: Marcus Carter ("Claimant")
2. Post office address of Claimant (Gen. Mun. 50-e[1]): 475 Norfolk Avenue, Buffalo New York 14215.
3. Claimant's Attorney: Michael Jos. Witmer, Esq.
4. Claimant's Attorney's address (50-e[1]): 391 Lyell Avenue, Suite 5, Rochester, New York 14606
5. Attorney's Phone Number: (585) 305-8967.
6. Attorney's e-mail address: michaeljosephwitmer@gmail.com
7. Nature of Claim (50-e(2)): Claimant was incarcerated at the Erie County Holding Center (hereinafter "ECHC") in New York State from on or about March 25th, 2015 to March 26th, 2015 and from on or about March 30th, 2015 to June 17th, 2015.
8. Buffalo Police Officers came to Claimant's house on 03/25/15 for an alleged domestic incident.
9. Claimant was arrested, booked and arraigned in front of Judge Martoche in Buffalo City Court and given a \$3500 cash or bond bail.

10. Claimant was then brought to Judge Russell's Mental Health Treatment Court in Erie County for arraignment in Buffalo City Court.
11. Claimant said to the Court, deputies of the sheriff and the Mental Health Coordinator Lauren Clark that he did not understand why he was in mental health court.
12. Claimant was taken back to ECHC after his arraignment.
13. Claimant was released from ECHC on 3/26/15 after paying \$340 for a bond.
14. Claimant upon release, called his parole officer to acknowledge that he had police contact.
15. Claimant was told by his parole officer to report to the parole office on 3/30/15.
16. On 3/30/15 Claimant reported to his parole officer, Paul Murphy, at the Buffalo area parole office and he was then taken into custody and again placed in ECHC now on a purported parole warrant from the New York State Division of Parole.
17. On or around the 1st of April, 2015, Claimant was taken again to Mental Health Court and the Court asked him what was going on with his parole case.
18. Again, Claimant told the Court that he didn't know why he was in Mental Health Court.
19. On April 2nd, 2015 the Division served Claimant with Notice of Violation of the Conditions of his Release and scheduled a preliminary hearing for revocation on 4/9/15.
20. Claimant on 4/9/15 was instead taken to Buffalo City Court where his criminal charges were dismissed and his preliminary hearing for revocation was rescheduled for 4/13/15.
21. Around the end of April the deputies asked Claimant to come to Mental Health Court but Claimant refused, stating that there was some mistake and he shouldn't be there.

22. Claimant went in front of Mental Health Court on or about May 13th, 2015 and Claimant told the Court that his parole case had not been dismissed yet.
23. On May 21st, 2015, Mar-J Carter, Claimant's daughter was born while he was in ECHC.
24. On 6/10/15 at the third final revocation hearing the Division was not ready to proceed as Claimant's wife was not there to testify.
25. A guilty plea was entered and Claimant was to be immediately released and restored to supervision on an ankle monitor when the Division could bring one to the jail.
26. Claimant was taken back to his cell and expected to be released that day or at least the very next.
27. The next day, not having been released, Claimant asked one of the Erie County Sheriff's deputies at the ECHC why he had not been released yet.
28. The deputy told Claimant that he was now being held on \$5,000 bail for a petit larceny case in November of 2014.
29. Claimant told the deputies that he did not have a petit larceny charge and that he was supposed to be released.
30. The deputy told Claimant that he had Mental Health Court on June 17th, 2015.
31. On June 17th, 2015 at Mental Health Court, Judge Russell released Claimant on his own recognizance and Claimant reported straight to his parole office.
32. At no time between June 10th, 2015 and June 17th, 2015 did anyone from the Sheriff's office or the County or the Sheriff himself investigate what Claimant was telling them about his custody status.
33. On June 19th, 2015, Claimant went back to Court and spoke with the clerk and they both agreed that the person that was supposed to be in

Mental Health Court was not Claimant but another person because that person was born in 1965 and Claimant is significantly younger.

34. Claimant's mother has known that she has been sick with multiple sclerosis for around 7 years.
35. While Claimant was in jail, Claimant's mother became very distressed and sick because of Claimant's continued incarceration.
36. The places where the act(s) took place were Erie County Holding Center, Buffalo City Court, Buffalo Metro Parole Office, and Claimant's home.
37. The claims of false imprisonment and negligence aforementioned began accruing on June 10th upon Claimant's right to be released and finished accruing on June 17th, 2015 upon Mr. Carter's release from jail from his false imprisonment.

FIRST CAUSE OF ACTION: FALSE IMPRISONMENT

38. Mr. Carter repeats and realleges the foregoing allegations as if fully set forth herein.
39. The Defendants intended to confine Claimant in the Erie County Holding Center by holding him in a jail cell.
40. Claimant was at all times conscious of his confinement having told the deputies and numerous court personnel that he was not supposed to be at mental health court and there was no colorable reason for his continued confinement.
41. Claimant did not consent to the confinement and in fact asked to be released following his parole hearing on June 10th, 2015.
42. The confinement of Claimant was not privileged nor under lawful authority as the Claimant had no lawful reason to be held.

SECOND CAUSE OF ACTION: NEGLIGENCE

43. Mr. Carter repeats and realleges the foregoing allegations as if fully set forth herein.

44. The Defendants owed Claimant a duty to ensure that he was being lawfully held.
45. The Defendants had a duty to check up on the reason why Claimant was being held after he told them numerous times in no uncertain terms that he was supposed to be released as he had no criminal charges and the Division of Parole had restored him to supervision.
46. The Defendants breached that duty when they held him for no lawful purpose for a week.
47. The Defendants breached that duty when they did no investigation into the reason why he was being held or what was going on with any alleged outstanding charges.
48. Because the Defendants did no investigation and continued to hold Claimant for no reason Claimant remained unlawfully imprisoned for a week for no reason.
49. Claimant suffered injury because he was unlawfully imprisoned for no reason as described below.

**THIRD CAUSE OF ACTION: INTENTIONAL AND NEGLIGENT INFLICTION OF
EMOTIONAL DISTRESS**

50. Mr. Carter repeats and realleges the foregoing allegations as if fully set forth herein.
51. Defendants recklessly left Claimant in jail for a week illegally when he was telling them he was supposed to be released and caused him severe emotional distress.
52. As a result of remaining in jail and being taken to mental health court, Claimant began to "feel crazy" and to not understand what was happening to him and very reasonably this caused him severe emotional distress.
53. As a result, Mr. Carter has suffered severe psychological and emotional injury.

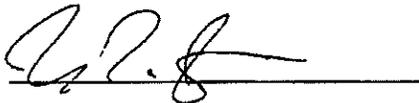
54. The acts which led to Mr. Carter's injuries were done willfully, negligently and recklessly, are oppressive and shocking to the conscience, and were done with deliberate intent of harming Mr. Carter with total disregard for the consequences and his rights.
55. The items of damage and injuries that were sustained are as follows:
- a) Every day Mr. Carter has spent incarcerated in the Erie County Holding Center and his loss of liberty following the preliminary revocation hearing;
 - b) Unbearable mental anguish and psychological/emotional distress and trauma including but not limited to fear and anxiety of being put in prison, irrational fear of future incarceration and vindictive state action against him, fear for his life and safety during his detention;
 - c) Physical suffering including but not limited to loss of sleep and future health problems being confined in a jail cell;
 - d) Embarrassment and humiliation of jailed for no reason;
 - e) Reasonable and necessary expenses incurred (attorney's fees, lost earning potential, etc.);
 - f) Deprivation of his due process right to be free from illegal imprisonment and the unconscionable circumstances of the malicious and negligent conduct;
 - g) The intentionally inflicted emotional distress, anxiety and psychological trauma he received from feeling the helplessness of being incarcerated for no reason at all and failing to understand why;
 - h) Loss of the company of his family, including the company of his newborn infant, Mar-J Carter, that he wanted desperately to be with;
 - i) Necessity for punitive damages where the defendants acted wantonly, recklessly, willfully, and maliciously with design to oppress and injure Mr. Carter.

56. This claim is served within 90 days of accrual.
57. Claimant's attorney can be requested to supply a supplemental claim setting forth the total damages to which the claimant deems himself entitled at the above address for the attorney. Gen. Mun. Law 50-e (2)(4). Please specify that it is a "supplemental claim demand," to avoid confusion.



Marcus Carter (Claimant)

Sworn to before me this
8th day of September, 2015



NOTARY PUBLIC

MICHAEL J. WITMER
Notary Public - State of New York
NO. 02WI6308072
Qualified in Monroe County
My Commission Expires July 21, 2018



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

October 8, 2015

Ms. Karen McCarthy, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Ms. McCarthy:

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>Maguda, Allyson v. Commissioner John Loffredo, Department of Public Works, Steven J. Adamski, Jr., John Doe and Jane Doe</i>
Document Received:	Notice of Claim
Name of Claimant:	Allyson Maguda 6459 W. Quaker Street Orchard Park, New York 14127
Claimant's attorney:	Kim K. Paul, Esq. Bender & Paul 6459 W. Quaker Street Orchard Park, New York 14127

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
Michelle Parker
First Assistant County Attorney

MMP:dld
Enc.

ERIE COUNTY
D.P.W.
HIGHWAYS-BFLO.
2015 OC -7 AM 10: 24

STATE OF NEW YORK
SUPREME COURT : ERIE COUNTY

ALLYSON MAGUDA

**NOTICE OF
INTENTION TO
FILE CLAIM**

against

**COMMISSIONER JOHN LOFFREDO,
THE DEPARTMENT OF PUBLIC WORKS,
STEVEN J. ADAMSKI, JR.,
JOHN DOE and JANE DOE**

TO: COMMISSIONER JOHN LOFFREDO
DEPT. OF PUBLIC WORKS
95 Franklin St.
Buffalo, NY 14202

This paper received at the
Erie County Attorney's Office
from KIM PAUL on
the 10th day of Oct, 2015
at 10²⁷ a.m./p.m.
Leah Pety - Lopez
Assistant County Attorney

Please take notice that the undersigned, ALLYSON MAGUDA, intends to file a claim against the : COMMISSIONER JOHN LEFFREDO, DEPARTMENT OF PUBLIC WORKS, STEVEN J. ADAMSKI, JR., JOHN DOE and JANE DOE, pursuant to Section 50-e of the General Municipal Law.

The post office address of the Claimant is 48 Heritage Court, Cheektowaga, New York 14225.

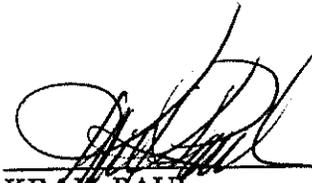
The attorney for the Claimant herein is KIM K. PAUL, ESQ. and her post office address and telephone number is:

6459 W. Quaker St.
Orchard Park, NY 14127
(716) 667-0061

The time when and the place where such claim arose and the nature of same are as follows:

On July 10, 2015 at 10:30PM, when Claimant was driving home, she was stopped by Steven J. Adamski, Jr., who impersonated a police officer, pretending to be executing a lawful vehicle and traffic stop by using a red and blue emergency that he obtained while working for the Erie County Department of Public Works. As a result of the fraudulent stop, the Claimant suffered severe fear and anxiety concerning the possible harm that could have occurred.

As a result of the negligent and recklessness of the COMMISSIONER JOHN LEFFREDO, THE DEPARTMENT OF PUBLIC WORKS, STEVEN J. ADAMSKI, JR., JOHN DOE AND JANE DOE and its staff, the Claimant was harmed and suffered damages in an amount which exceeds the monetary jurisdictional limits of all lower courts but does not exceed the monetary jurisdictional limits of the New York State Supreme Court.

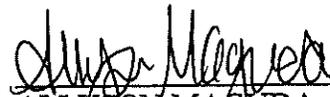


KIM K. PAUL
Attorney for Claimant

VERIFICATION

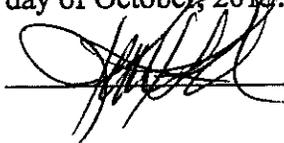
STATE OF NEW YORK)
COUNTY OF ERIE) SS:

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



ALLYSON MAGUDA

Sworn to before me this 14
day of October, 2015.



KIM K. PAUL
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 10/14/17



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

October 9, 2015

Ms. Karen McCarthy, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Ms. McCarthy:

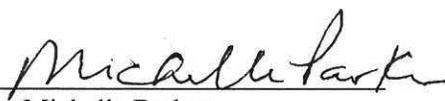
In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Pratt, Delisha v. Korea D. Horton, Buffalo Transportation, Inc., Mohammad H. Rahman and County of Erie (Medicaid Lien)</i>
Document Received:	Summons and Complaint
Name of Claimant:	Delisha Pratt 53 Deshler Street Buffalo, New York 14212
Claimant's attorney:	J. Michael Hayes, Esq. 69 Delaware Avenue Suite 1111 Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
Michelle Parker
First Assistant County Attorney

MMP:dld
Enc.

Comm. 20D-6
Page 45 of 88

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

DELISHA PRATT
53 Deshler Street
Buffalo, New York 14212

Plaintiff,

vs.

SUMMONS

KOREA D. HORTON
37 Maple Street
Lackawanna, New York 14218

Index No:
Filed in the Erie
County Clerk's
Office on: _____

BUFFALO TRANSPORTATION, INC.
71 Military Road
Buffalo, New York 14207

MOHAMMAD H. RAHMAN
88 Rounds Avenue
Buffalo, New York 14215

COUNTY OF ERIE
Rath Building
95 Franklin Street
Buffalo, New York 14202

Defendants.

TO THE ABOVE NAMED DEFENDANTS:

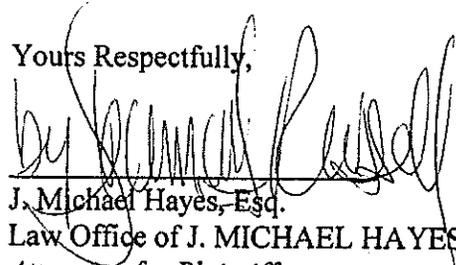
YOU ARE HEREBY SUMMONED, to answer the complaint in this action, and to serve a copy of your answer, or, if the summons is not served with a complaint, to serve a notice of appearance, on the Plaintiff's attorney within twenty (20) days after service of this summons, exclusive of the day of service, or within thirty (30) days after completion of service where service is made in any other manner than by personal delivery within the State. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Erie County is designated as the place of trial on the basis of the residence of the Plaintiff who resides in Erie County, New York.

This document recieved at
ECDSS OFFICE OF COUNSEL
from NIS PROCESS INC on the
6th day of OCTOBER, 2015
at Buffalo, NY
V. O'HARA
Page 46 of 88

DATED: BUFFALO, NEW YORK
October 2, 2015

Yours Respectfully,



J. Michael Hayes, Esq.
Law Office of J. MICHAEL HAYES
Attorneys for Plaintiff
Office and P.O. Address:
69 Delaware Avenue - Suite 1111
Buffalo, New York 14202
(716) 852-1111

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

DELISHA PRATT,

Plaintiff,

vs.

KOREA D. HORTON,
BUFFALO TRANSPORTATION, INC.,
MOHAMMAD H. RAHMAN and
COUNTY OF ERIE,

Defendants.

COMPLAINT

Index No.:

The Plaintiff, DELISHA PRATT, by her attorney, J. MICHAEL HAYES, for her complaint against the Defendants, KOREA D. HORTON, BUFFALO TRANSPORTATION, INC., MOHAMMAD H. RAHMAN and COUNTY OF ERIE herein alleges:

1. Presently and at all times hereinafter mentioned, Plaintiff, DELISHA PRATT was a resident of the City of Buffalo, County of Erie and State of New York.

2. Upon information and belief, presently and at all times hereinafter mentioned, the Defendant, KOREA D. HORTON, was a resident of the City of Lackawanna, County of Erie and State of New York.

3. Upon information and belief, presently and at all times hereinafter mentioned, the Defendant, BUFFALO TRANSPORTATION, INC., was and is a domestic business corporation operating and conducting business in the State of New York with an office for the transaction of business located in Erie County.

4. Upon information and belief, presently and at all times hereinafter mentioned, the Defendant, MOHAMMAD H. RAHMAN, was a resident of the City of Buffalo, County of Erie and

State of New York.

5. Upon information and belief, Defendant, COUNTY OF ERIE, is a municipal corporation existing by virtue of the Laws of the State of New York with offices for the transaction of business located in the County of Erie, State of New York.

6. Upon information and belief, at all times hereinafter mentioned, on or about May 29, 2015, the Defendant, BUFFALO TRANSPORTATION, INC., was the owner of the 2014 Chevrolet motor vehicle bearing New York State license plate number 25817LV.

7. Upon information and belief, at all times hereinafter mentioned, on or about May 29, 2015, Defendant, KOREA D. HORTON, was operating the aforementioned 2014 Chevrolet motor vehicle with the permission and consent of the owner, Defendant, BUFFALO TRANSPORTATION, INC.

8. Upon information and belief, at all times hereinafter mentioned, on or about May 29, 2015, the Defendant, MOHAMMAD H. RAHMAN, was the owner and operator of the 2005 Toyota motor vehicle bearing New York State license plate number 22909LV.

9. Upon information and belief, it will be claimed that on May 29, 2015 at approximately 2:29 p.m., on Broadway Avenue near the intersection with Wick Street in the City of Buffalo, County of Erie and State of New York, a motor vehicle owned by the Defendant, BUFFALO TRANSPORTATION, INC. and operated by the Defendant, KOREA D. HORTON, came into contact with a vehicle owned and operated by Defendant, MOHAMMAD H. RAHMAN in which Plaintiff, DELISHA PRATT, was a passenger.

10. Upon information and belief, it will be claimed that the aforesaid incident was caused and contributed to due to the negligence of the Defendants, KOREA D. HORTON, BUFFALO TRANSPORTATION, INC. and MOHAMMAD H. RAHMAN.

11. Upon information and belief, Defendant, COUNTY OF ERIE claims a recovery right and/or "lien" out of any resolution in the above matter by virtue of medical expenses it claims to have incurred.

12. Upon information and belief, Defendant, COUNTY OF ERIE is a necessary part of this action in that, for and before complete recovery may be accorded, the Defendant, COUNTY OF ERIE's claims for medical reimbursement must be considered, finalized, allocated and determined by way of compromise, settlement and/or Court determination and said Defendant has refused to join as a part plaintiff.

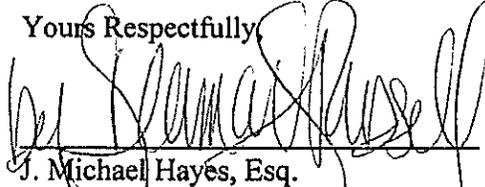
13. Upon information and belief, this action falls within one or more of the exceptions enumerated in Article 16 of the CPLR and/or said article is inapplicable to the within action.

14. As a result of the foregoing, the Plaintiff, DELISHA PRATT, sustained severe and serious personal injuries including a "serious injury" and economic loss in excess of "basic economic loss" as defined by Article 51 of the New York Insurance Reparations Law all to her damage in a sum in excess of the jurisdictional limits of the lower courts of this state.

WHEREFORE, Plaintiff, DELISHA PRATT demands judgment against the Defendants, KOREA D. HORTON, BUFFALO TRANSPORTATION, INC., MOHAMMAD H. RAHMAN and COUNTY OF ERIE in a sum in excess of the jurisdictional limits of all lower courts in the State of New York together with the costs and disbursements, and such other and further relief as this Court deems just, proper and equitable.

DATED: BUFFALO, NEW YORK
October 2, 2015

Yours Respectfully,

A handwritten signature in black ink, appearing to read "J. Michael Hayes", written over a horizontal line.

J. Michael Hayes, Esq.
Law Office of J. MICHAEL HAYES
Attorneys for Plaintiff
Office and P.O. Address:
69 Delaware Avenue - Suite 1111
Buffalo, New York 14202
(716) 852-1111

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE**

DELISHA PRATT

Plaintiff/Petitioner,

- against -

Index No. 811699/2015

**KOREA D. HORTON, BUFFALO
TRANSPORTATION, INC., MOHAMMAD H.
RAHMAN and COUNTY OF ERIE**

Defendant/Respondent.

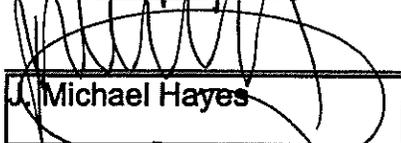
**NOTICE OF COMMENCEMENT OF ACTION
SUBJECT TO MANDATORY ELECTRONIC FILING**

PLEASE TAKE NOTICE that the matter captioned above, which has been commenced by filing of the accompanying documents with the County Clerk, is subject to mandatory electronic filing pursuant to Section 202.5-bb of the Uniform Rules for the Trial Courts. This notice is being served as required by Subdivision (b) (3) of that Section.

The New York State Courts Electronic Filing System ("NYSCEF") is designed for the electronic filing of documents with the County Clerk and the court and for the electronic service of those documents, court documents, and court notices upon counsel and self-represented parties. Counsel and/or parties who do not notify the court of a claimed exemption (see below) as required by Section 202.5-bb(e) must immediately record their representation within the e-filed matter on the Consent page in NYSCEF. Failure to do so may result in an inability to receive electronic notice of document filings.

Exemptions from mandatory e-filing are limited to: 1) attorneys who certify in good faith that they lack the computer equipment and (along with all employees) the requisite knowledge to comply; and 2) self-represented parties who choose not to participate in e-filing. For additional information about electronic filing, including access to Section 202.5-bb, consult the NYSCEF website at www.nycourts.gov/efile or contact the NYSCEF Resource Center at 646-386-3033 or efile@courts.state.ny.us.

Dated: 10/05/2015


J. Michael Hayes

(Signature)

(Name)

Law Office of J. Michael Hayes

(Firm Name)

69 Delaware Avenue, Suite 1111 (Address)
Buffalo, NY 14202

(716) 852-1111 (Phone)

jmh@jmichaelhayes.com (E-Mail)

To: Korea D. Horton,
Buffalo Transportation,
Inc., Mohammad H.
Rahman and County of
Erie



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

October 9, 2015

Ms. Karen McCarthy, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Ms. McCarthy:

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: *Vazquez, Justin v. Thomas Diina, Chief Harris, Sgt. Balys, Sgt. Hajnos and Erie County Sheriff's Office*

Document Received: Order to Show Cause

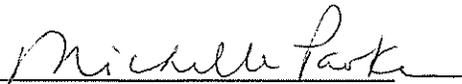
Name of Petitioner: Justin Vazquez
ICN # 95503
c/o Erie County Holding Center
40 Delaware Avenue
Buffalo, New York 14202

Petitioner's attorney: Petitioner is proceeding *pro se*

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
Michelle M. Parker
First Assistant County Attorney

MMP:dld
Enc.

Comm. 20D-6
Page 53 of 88

R E C E I V E D
OCT 01 2015

ERIE COUNTY
DEPARTMENT OF LAW

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION OF
JUSTIN VAZQUEZ, #95503

ORI# NY 014015J

Petitioner,

ORDER TO
SHOW CAUSE

-vs-

**THOMAS DIINA, SUPERINTENDENT,
CHIEF HARRIS, CHIEF OF OPERATIONS,
SGT. BALYS and SGT. HAJNOS
ERIE COUNTY SHERIFF'S DEPARTMENT,**

Index No.
I-2015-00141

Respondents.

SUPREME COURT, ERIE COUNTY

HON. PAULA L. FEROLETO , JUSTICE PRESIDING

APPEARANCES:

Petitioner, Pro Se
JUSTIN VAZQUEZ, #95503

This *ex parte* matter was referred to my attention at a Term of the Supreme Court,
Erie County.

Upon the reading of the petition for relief pursuant to Article 78 of the Civil Practice
Law and Rules, and verified the 14th day of August, 2015, with accompanying exhibits, and it
appearing that the above referenced petitioner, **JUSTIN VAZQUEZ**, a sentenced inmate, having
made application pursuant to section 1101(f) of the CPLR, seeking poor person status and requesting
a reduced filing fee,

LET RESPONDENTS SHOW CAUSE at a Special Term of the Supreme Court to be held in and for the County of Erie on **NOVEMBER 9, 2015** before the **HON. CHRISTOPHER J. BURNS**, Justice of the Supreme Court, in Part 19 at 25 Delaware Avenue, Buffalo, New York, **WHY** the relief requested in the Petition should not be granted.

IT IS ORDERED that Thomas Diina, Superintendent of the Erie County Correctional Facility in Alden, New York where petitioner is now confined will produce the body of **JUSTIN VAZQUEZ** only if the court submits a letter to the superintendent ordering the production of the petitioner; and it is further

ORDERED that since the petitioner lacks sufficient means to pay the full filing fee ordinarily required in the prosecution of an action pursuant to Article 78 of the CPLR, the petitioner's application for reduced filing fee is hereby granted; and it is further

ORDERED that the petitioner will be permitted to pay a reduced filing fee of fifteen dollars (\$15.00) to proceed with this action. This fee shall be assessed against the petitioner as an outstanding obligation and collected by the facility in which the petitioner is lodged; and it is further

ORDERED that the petitioner is not required to make an initial payment of a portion of the reduced filing fee and any interim or final judgment or order entered in this matter shall be filed by the county clerk whether or not any portion of said reduced filing fee has been paid; and it is further

ORDERED that in the event the petitioner should receive an unfavorable decision, said petitioner is hereby granted poor person relief pursuant to Article 11 of the Civil Practice Law and Rules for the limited purpose of filing a Notice of Appeal in the Erie County Clerk's Office without paying the fee required by CPLR 8022(a); and it is further

ORDERED that a waiver of fees for service by publication, for stenographic transcripts, or for any other cost or fee related to this proceeding in this Court shall only be granted upon a separate application to the Court, on notice to the County Attorney of Erie County, pursuant to CPLR 1101, showing the need therefor; and it is further

ORDERED that there will be no appointment of counsel to assist the petitioner in the prosecution of his Article 78 proceeding. While CPLR §1102(a) " . . . permits the assignment of counsel where leave has been granted to proceed as a poor person . . . [t]he scope of that authority does not extend to direct that such legal services be provided out of public funds in the absence of statutory authorization for such expenditure" (*Matter of Smiley*, 36 NY2d 433; *Matter of Enrique R.*, 126 AD2d 169, 175). There is simply no statutory authorization for the assignment of counsel in the instant Article 78 proceeding to be paid out of public funds. Therefore, the court is constrained to deny petitioner's request for appointment of counsel pursuant to CPLR §1102(a); and it is further

ORDERED that service of a signed and executed copy of this Order to Show Cause, the petition and any supporting papers by ordinary First-Class Mail upon the named respondents, Thomas Diina, Chief A. Harris, Sgt. Balys and Sgt. Hajnos on or before **October 5, 2015** be deemed adequate. In addition, the petitioner, on or before said date, shall similarly serve the Erie County Attorney, 95 Franklin Street, Room 1634, Buffalo, New York 14202; and it is further

ORDERED that it shall be the responsibility of the party seeking an extension of time to serve papers or seeking an adjournment of this matter to make such request for an extension of time or an adjournment to Justice Burns, and any party receiving an adjournment shall notify the other party or parties of said adjourned date; and it is further

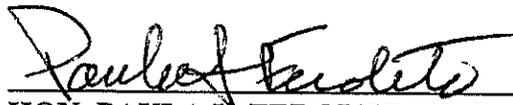
ORDERED that it is the petitioner's responsibility to:

(a) Serve a signed and executed copy of this Order to Show Cause, the petition and any supporting papers as authorized above or by personal service. The reduction of the filing fee herein does not authorize court personnel to provide photo-reproduction services, nor service of papers on behalf of a *pro se* litigant, as these services are not statutorily authorized under a grant of poor person relief (CPLR 1102).

(b) Submit the original proof of service to the chambers of the **Hon Christopher J. Burns**, 25 Delaware Avenue-Fifth Floor, Buffalo, New York 14202 at least eight (8) days prior to the return date; and it is further

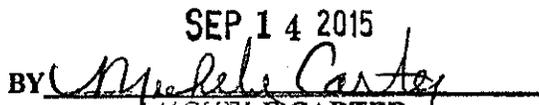
ORDERED that a copy of any answer or response shall be served upon the petitioner not less than five (5) days before the return date. The original of any such answer or response is to be delivered to the chambers of Justice Burns not less than three (3) days prior to said return date.

DATED: Buffalo, New York
September 11, 2015


HON. PAULA L. FEROLETO
Justice of the Supreme Court

GRANTED:

GRANTED

SEP 14 2015
BY 
MICHELE CARTER
COURT CLERK



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

October 13, 2015

Ms. Karen McCarthy, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Ms. McCarthy:

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>Clark, Donald v. Sheriff Howard</i>
Document Received:	Order to Show Cause
Name of Petitioner:	Donald Clark #14B0159 Groveland Correctional Facility P.O. Box 50, Sonyea, New York 14556-0050
Petitioner's attorney:	Petitioner is proceeding <i>pro se</i> .

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.

Comm. 20D-6
Page 58 of 88

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION OF
DONALD CLARK, #14-B-0159

Petitioner,

-vs-

**TIMOTHY B. HOWARD, SHERIFF OF
ERIE COUNTY,**

Respondent.

ORDER TO
SHOW CAUSE

RETURN ON
PAPERS ONLY

Index No.
I-2015-600423

SUPREME COURT, ERIE COUNTY

HON. PAULA L. FEROLETO, JUSTICE PRESIDING

APPEARANCES:

Petitioner, Pro Se
DONALD CLARK, #14-B-0159

This *ex parte* matter was referred to my attention at a Term of the Supreme Court,
Erie County.

Upon the reading of the petition for relief pursuant to Article 78 of the Civil Practice
Law and Rules, sworn to on June 16, 2015, with accompanying exhibits,

LET RESPONDENT SHOW CAUSE at a Special Term of the Supreme Court
to be held in and for the County of Erie on **NOVEMBER 19, 2015** before the **HON. PENNY M.
WOLFGANG**, Justice of the Supreme Court, in Part 16 at 25 Franklin Street, Buffalo, New York,
WHY the relief requested in the Petition should not be granted.

IT IS ORDERED that the production of petitioner or appearance by or on behalf of the respondent on said return date is not required, and the matter shall be decided on all papers submitted to the Court prior to said return date; and it is further

ORDERED that in the event the petitioner should receive an unfavorable decision, said petitioner is hereby granted poor person relief pursuant to Article 11 of the Civil Practice Law and Rules for the limited purpose of filing a Notice of Appeal in the Erie County Clerk's Office without paying the fee required by CPLR 8022(a); and it is further

ORDERED that a waiver of fees for service by publication, for stenographic transcripts, or for any other cost or fee related to this proceeding in this Court shall only be granted upon a separate application to the Court, on notice to the County Attorney of Erie County, pursuant to CPLR 1101, showing the need therefor; and it is further

ORDERED that service of a signed and executed copy of this Order to Show Cause, the petition and any supporting papers by ordinary First-Class Mail upon the named respondent, Timothy B. Howard on or before **October 22, 2015** be deemed adequate. In addition, the petitioner, on or before said date, shall similarly serve the Erie County Attorney, 95 Franklin Street, Room 1634, Buffalo, New York 14202; and it is further

ORDERED that it shall be the responsibility of the party seeking an extension of time to serve papers or seeking an adjournment of this matter to make such request for an extension of time or an adjournment to Justice Wolfgang, and any party receiving an adjournment shall notify the other party or parties of said adjourned date; and it is further

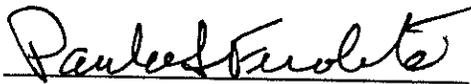
ORDERED that it is the petitioner's responsibility to:

(a) Serve a signed and executed copy of this Order to Show Cause, the petition and any supporting papers as authorized above or by personal service.

(b) Submit the original proof of service to the chambers of the Hon. Penny M. Wolfgang, 25 Delaware Avenue-Fifth Floor, Buffalo, New York 14202 at least eight (8) days prior to the return date; and it is further

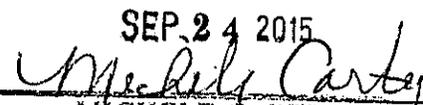
ORDERED that a copy of any answer or response shall be served upon the petitioner not less than five (5) days before the return date. The original of any such answer or response is to be delivered to the chambers of Justice Wolfgang not less than three (3) days prior to said return date.

DATED: Buffalo, New York
September 24, 2015


HON. PAULA L. FEROLETO
Justice of the Supreme Court

GRANTED:

GRANTED

SEP 24 2015
BY 
MICHELE CARTER
COURT CLERK



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

October 20, 2015

Ms. Karen McCarthy, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Ms. McCarthy:

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>Jarzembek, Joseph v. County of Erie</i>
Document Received:	Div of Human Rights Charge of Discrimination
Name of Claimant:	Joseph T. Jarzembek 135 Montrose Avenue Buffalo, New York 14214
Claimant's attorney:	Claimant is proceeding <i>pro se</i> .

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:

Enc.

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF
HUMAN RIGHTS on the Complaint of

JOSEPH T. JARZEMBEK,

Complainant,

v.

ERIE COUNTY,

Respondent.

VERIFIED COMPLAINT
Pursuant to Executive Law,
Article 15

Case No.
10177796

Federal Charge No. 16GB600053

I, Joseph T. Jarzembek, residing at 135 Montrose Avenue, Buffalo, NY, 14214, charge the above named respondent, whose address is 95 Franklin St., Rm. 1634, 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 age.

Date most recent or continuing discrimination took place is 9/15/2015.

The allegations are:

1. I am 57 years old (DOB: 04/06/1958). Because of this, I have been subject to unlawful discriminatory actions.
2. In 1989, I was hired by the above named respondent and currently hold the job title of Assistant Counsel for respondent's Department of Social Services.
3. Beginning around July 2015 and continuing to date, respondent has subjected me to disparate treatment and harassment in an effort to cause termination of my employment due to my age. For example, on 7/24/2015, two respondent Deputies approached me at work and falsely accused me of carrying a gun or a concealed weapon, which was not true. The Deputies refused to provide any information regarding the identity of the individual who made the accusation. I told my boss Marni Bogart, Director of Legal Affairs, about the allegation and she asked if this was a joke. I believe that her response was inappropriate. I filed a Freedom of Information Request regarding this incident with the Sheriff's Department and was told they had no record of the alleged incident. In addition, in September 2015, attorney James Harmon, who is 60 years old, received a call from a respondent EAO representative who asked if he needed their services because the representative had been told about an unspecified conversation overheard involving Mr. Harmon and another person.
4. On or about mid August 2015, I requested three weeks of vacation from 09/16/15 through 10/06/2015. I was entitled to this time per the union contract and had to use the time before my 10/08/2015 anniversary or forfeit it. I did not receive a response until 9/3/2015 at

which time I learned respondent had granted me only the first two weeks I requested. I was told that respondent had granted the week of 09/30/15-10/06/2015 to an attorney who had less seniority than me as well as another provisional attorney, which was a violation of the seniority provision of the CSEA contract. I filed a union grievance regarding this violation.

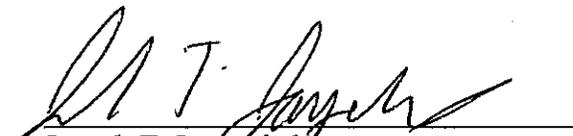
5. On or about 08/21/2015, respondent issued me a written disciplinary warning for allegedly violating office policy by leaving the building on 08/17/2015 without permission. However, I had followed prior customary procedure before leaving, which was notifying the office manager. I was approved for one our vacation as well as taking a late lunch hours. After I was issued the write up, Ms. Bogart issued a general memo requiring employees to obtain supervisory permission before leaving the building. I filed a union grievance regarding this discipline.

6. On or about 09/15/2015, Mary Ellen Brockmeyer, a Department of Social Services employee, served as hearing officer during the disciplinary hearing. I believe having Ms. Brockmeyer serve in this capacity was a violation of civil service commission rules. In addition, respondent failed to follow proper procedure prior to this hearing with regard to serving me notice of the hearing. I believe respondent has targeted me and subjected me to differential treatment due to my age.

Based on the foregoing, I charge respondent with an unlawful discriminatory practice relating to employment because of age, in violation of the New York State Human Rights Law (Executive Law, Article 15), Section 296.

I also charge the above-named respondent with violating the Age Discrimination in Employment Act (ADEA) as amended (covers ages 40 years of age or older in employment). I hereby authorize SDHR to accept this verified complaint on behalf of the U.S. Equal Employment Opportunity Commission (EEOC) subject to the statutory limitations contained in the aforementioned law(s).

I have not commenced 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.

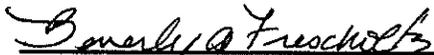

Joseph T. Jarzembek

STATE OF NEW YORK)
COUNTY OF) SS:

Joseph T. Jarzembek, being duly sworn, deposes and says: that he/she is the complainant herein; that he/she has read (or had read to him or her) the foregoing complaint and knows the content thereof; that the same is true of his/her own knowledge except as to the matters therein stated on information and belief; and that as to those matters, he/she believes the same to be true.


Joseph T. Jarzembek

Subscribed and sworn to
before me this 14 day
of October, 2015


Signature of Notary Public

BEVERLY A. FRESCHOLTZ
Notary Public, State of New York
No. 01FR6187237
Qualified in Erie County
My Commission Expires May 19, 2016



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

October 20, 2015

Ms. Karen McCarthy, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Ms. McCarthy:

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>Aeschbacher, Ann v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Ann Aeschbacher 27 Greenleaf Lane Cheektowaga, New York 14225
Claimant's attorney:	James A. Partacz, Esq. 3890 Seneca Street West Seneca, New York 14224

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
Michelle M. Parker
First Assistant County Attorney

MMP:dld

Enc.

Comm. 20D-6
Page 66 of 88

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

Ann Aeschbacher
27 Greenleaf Lane
Cheektowaga, New York 14225

Claimant

vs.

County of Erie
95 Franklin Street
Buffalo, New York 14202

Respondent

NOTICE OF CLAIM

This paper received at the
Erie County Attorney's Office
from Doug DiFilippo
the 19th day of Oct., 2015
at 3:41 a.m./p.m.
Leslie Setty - Legg
Assistant County Attorney

TO: Chairman or Clerk of the Board of Supervisors, Clerk, Attorney or
Treasurer of the County of Erie

SIRS:

PLEASE TAKE NOTICE, that the undersigned Ann Aeschbacher residing at 27
Greenleaf Lane, Cheektowaga, New York 14225 makes claim and demands against the County
of Erie for injury and damages as follows:

1. The name and address of Claimant's attorney is James A. Partacz, Attorney At Law,
3890 Seneca Street, West Seneca, New York 14224.
2. The nature of the claim: Ann Aeschbacher was injured and suffered serious personal
injuries on the 24th day of July, 2015 on at or near Woodlawn Avenue at or near premises
commonly known as 3556 Lakeshore Road, Town of Hamburg, County of Erie, State of New
York at approximately 10:00 a.m. The incident occurred when Claimant was walking on a
roadway or right of way at or near Woodlawn Avenue and/or Gateway Boulevard on or near
Woodlawn Beach State Park and at or near premises commonly known as 3556 Lakeshore Road,
Town of Hamburg, County of Erie, State of New York. Said property was and is owned,

maintained, leased and/or controlled by the County of Erie. Claimant was caused to fall due to the dangerous and defective conditions on said premises due to the negligence of the Respondent. Said Claimant was rendered sick, sore, lame and disabled, sustained various and diverse injuries, shock to her nervous system, considerable pain and suffering, severe mental and emotional injuries and other personal injuries of which the Claimant is not yet informed including the permanent effects the nature of which is not yet known.

3. That upon information and belief, the County of Erie, its agents, servants and/or employees owned, built, maintained, leased and controlled Woodlawn Avenue and/or Gateway Boulevard and/or nearby adjoining roadway or right of way in the Town of Hamburg, County of Erie and State of New York and said area was under the General Highway System of the County of Erie and the County of Erie was bound by law to own, build, maintain, lease and control said roadway in a reasonable safe and suitable condition for public travel under the provisions of the statutes of the State of New York, the United States and such other cases as are made and provided that said County of Erie through its officers, agents, servants and/or employees failed and neglected to own, maintain, construct, lease and/or control said roadway as required but allowed same for a long period of time prior to the 24th day of July, 2015 to be and remain in a dangerous condition for public travel both foot and traffic. Upon information and belief, the County of Erie had actual and/or constructive knowledge of said dangerous and/or defective conditions and failed to properly provide safeguards and/or precautions for the Claimant or others similarly situated to protect them from injury. Said Claimant has been injured in an unliquidated sum.

4. The items of damage or injuries claimed are: severe and permanent personal injuries rendering Claimant sick, sore, lame and disabled, sustained various and diverse injuries,

fractures, shocks to her nervous system, considerable pain and suffering, severe mental and emotional injuries and other personal injuries of which the Claimant is not yet informed including permanent effects, the nature of which is not yet known to Ann Aeschbacher.

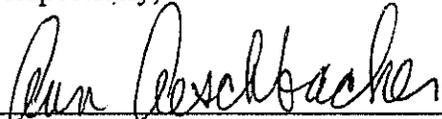
5. Claimant's medical bills to date are incomplete.

6. This notice is made and served on behalf of said Claimant in compliance with the provisions of Section 50-e of the General Municipal Law and such other laws and statutes as are in this case made and provided.

PLEASE TAKE FURTHER NOTICE, that Claimant demands payment of said claims and unless said claims are paid within the statutory period provided, therefore, it is the intention of Claimant to commence suit against the County of Erie to recover for the injuries sustained as a result of this accident.

DATED: West Seneca, New York
October 16, 2015

Respectfully,



Ann Aeschbacher

STATE OF NEW YORK)
COUNTY OF ERIE) SS:

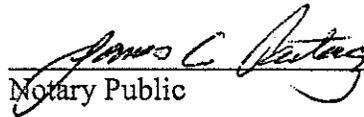
Ann Aeschbacher being duly sworn deposes and says: That I am the Claimant in the above-entitled action. I have read the foregoing Notice of Claim and know its contents. The claims are true to my knowledge except as to those matters stated to be alleged upon information and belief and as to such matters I believe them to be true.



Ann Aeschbacher

STATE OF NEW YORK)
COUNTY OF ERIE) SS:

On the 16th day of October, in the year 2015, before me the undersigned a Notary Public in and for the said state, personally appeared Ann Aeschbacher personally known to me or proven to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

JAMES A. PARTACZ
Notary Public, State of New York
Reg. #02PA4735162
Qualified in Erie County
My Commission Expires Dec. 31, 20 17



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

October 21, 2015

Ms. Karen McCarthy, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Ms. McCarthy:

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>Moorhouse, Norman v. County of Erie</i>
Document Received:	Div of Human Rights Charge of Discrimination
Name of Claimant:	Norman Moorhouse 1128 Sheree Drive Grand Island, New York 14072
Claimant's attorney:	Claimant is proceeding <i>pro se</i> .

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.

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF
HUMAN RIGHTS on the Complaint of

NORMAN MOORHOUSE,

Complainant,

v.

ERIE COUNTY, DEPARTMENT OF PUBLIC
WORKS,

Respondent.

VERIFIED COMPLAINT
Pursuant to Executive Law,
Article 15

Case No.
10177957

Federal Charge No. 16GB600167

I, Norman Moorhouse, residing at 1128 Sheree Dr., Grand Island, NY, 14072, charge the above named respondent, whose address is Attn: County Attorney, Michael Siragusa 95 Franklin St., Room 1634, 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 disability, opposed discrimination/retaliation.

Date most recent or continuing discrimination took place is 1/5/2015.

See Attached Complaint



New York State Division of Human Rights Complaint Form

RECEIVED

OCT 13 2015 12:12

NYS DHIR BUFFALO
REGIONAL OFFICE

CONTACT INFORMATION

My contact information:

Name: Norman Moorhouse

Address: 1128 Sheree Drive Apt or Floor #: _____

City: Grand Island State: NY Zip: 14072

REGULATED AREAS

I believe I was discriminated against in the area of:

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> Employment | <input type="checkbox"/> Education | <input type="checkbox"/> Volunteer firefighting |
| <input type="checkbox"/> Apprentice Training | <input type="checkbox"/> Boycotting/Blacklisting | <input type="checkbox"/> Credit |
| <input type="checkbox"/> Public Accommodations
<i>(Restaurants, stores, hotels, movie theaters amusement parks, etc.)</i> | <input type="checkbox"/> Housing | <input type="checkbox"/> Labor Union, Employment Agencies |
| <input type="checkbox"/> Commercial Space | | |

I am filing a complaint against:

Company or Other Name: Erie Cty., AND Erie Cty. Dept. of Public Works

Address: 95 Franklin Street

City: Buffalo State: NY Zip: 14202

Telephone Number: 716 858 7966
(area code)

Individual people who discriminated against me:

Name: Michael Inglefinger

Name: Erie County et. al.

Title: Supervisor

Title: _____

DATE OF DISCRIMINATION

The most recent act of discrimination happened on: 1 5 2015
month day 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:

<input type="checkbox"/> Age <i>(Does not apply to Public Accommodations)</i> Date of Birth:	<input type="checkbox"/> Genetic Predisposition <i>(Employment only)</i> Please specify:
<input type="checkbox"/> Arrest Record <i>(Only for Employment, Licensing, and Credit)</i> Please specify:	<input type="checkbox"/> Marital Status Please specify:
<input type="checkbox"/> Conviction Record <i>(Employment and Credit only)</i> Please specify:	<input type="checkbox"/> Military Status: Please specify:
<input type="checkbox"/> Creed / Religion Please specify:	<input type="checkbox"/> National Origin Please specify:
<input checked="" type="checkbox"/> Disability Please specify: ADAAA, FMLA	<input type="checkbox"/> Race/Color or Ethnicity Please specify:
<input type="checkbox"/> Domestic Violence Victim Status: <i>(Employment only)</i> Please specify:	<input type="checkbox"/> Sex Please specify: <input type="checkbox"/> Female <input checked="" type="checkbox"/> Male <input type="checkbox"/> Pregnancy <input type="checkbox"/> Sexual Harassment
<input type="checkbox"/> Familial Status <i>(Housing and Credit only)</i> Please specify:	<input type="checkbox"/> Sexual Orientation Please specify:
<input checked="" type="checkbox"/> Retaliation <i>(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)</i> Please specify: Previously filed EEOC complaints based on ADAAA, union greivances.	



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.

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 provided information about on Pages 3 and 4. Please include dates, names of people involved, and explain why you think it was discriminatory. PLEASE TYPE OR PRINT CLEARLY.

Please see attached narrative.

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.

1. I am a Caucasian male with a date of birth of July 19, 1969.
2. I reside in the State of New York and am a citizen of the same.
3. Respondent is the Erie County Division of Sewerage Management, a division of Erie County's Department of Environment and Planning, and is a sub-entity of Erie County. The Department of Environment and Planning is located at 95 Franklin Street, 10th Floor, Buffalo, New York 14202.
4. I was hired by the respondent on May 15, 1989. My most recent position with the respondent is that of Sewer Maintenance Worker.
5. My compensation consists of a base salary of USD 49,000 annually, with occasional overtime. Additionally, I am compensated in terms of benefits which include health insurance, retirement, and paid vacation.
6. My job responsibilities include responding to issues related to the function of the sewers within Erie County. This often entails using a work truck to drive to a work-site, and making repairs there with the assistance of other employees of the respondent.
7. Initially, respondent gave me occasional, positive feedback regarding my work product. I had few, if any, disciplinary actions taken against me.
8. In October of 2007 I was injured on duty when a hose coupling failed, detached, and struck me.
9. This injury formed the basis for my classification as disabled under the law.
10. This injury required surgery to correct. As a result of this injury I was duly awarded with worker's compensation, and additionally filed a third-party lawsuit.
11. Despite the requirement for surgery to heal my injury, I worked until I had the surgery.
12. I had the required surgery, and remained out of work until I healed from the surgery. This meant that I was out of work for approximately six months after the surgery.
13. In March 2009 and after the surgery, I attempted to return to work.
14. Accordingly, I requested light duty as a reasonable accommodation.
15. On May 4, 2009, respondent denied my request for light duty as a reasonable accommodation.

16. On May 11, 2009 and subsequent to this denial, I filed a complaint with the Equal Employment Opportunity Commission (EEOC) regarding allegations of disability discrimination. This matter went to mediation, where the respondent and I agreed to settlement terms on June 26, 2009.

17. In July 2009, respondent posted an opening for the position of Sewer Inspector. I was qualified for this position, which would have been a promotional opportunity for me. Although I applied for this position, I was not chosen for this position.

18. Respondent's failure to hire me was retaliatory in nature, and/or a form of disability discrimination.

19. In September of 2009, respondent posted an opening for the position of Senior Sewerage Facilities Mechanic. I was qualified for this position, which would have been a promotional opportunity for me. Although I applied for this position, I was not chosen for this position.

20. Respondent's failure to hire me was retaliatory in nature, and/or a form of disability discrimination.

21. On October 19, 2009, respondent posted an opening for the position of Sewer Repair Supervisor. I was qualified for this position, which would have been a promotional opportunity for me.

22. On October 30, 2009, respondent notified me that I was not selected for the position of Sewer Repair Supervisor. At a later date, I am informed by the respondent that it appointed Karl Milletello pursuant to Civil Service Law 65.1.

23. Upon information and belief, Milletello was not qualified for this position by reason of his failure to take the required civil service exam.

24. Respondent's failure to hire me was retaliatory in nature, and/or a form of disability discrimination.

25. On December of 2009 I filed a complaint with the EEOC alleging disability discrimination and retaliation for filing my previous EEOC complaint.

26. In October of 2010 the respondent and I agreed to settlement terms.

27. In late 2011, respondent posted an opening for the position of Safety Manager. I was qualified for this position, which would have been a promotional opportunity for me. Although I applied for this position, I was not chosen for this position.

28. In fact, respondent hired Jim Lavell for this position.

29. Respondent's failure to hire me was retaliatory in nature, and/or a form of disability discrimination.

30. On May 28, 2013 respondent posted a notice of mandatory training for its employees.

31. I was scheduled for training on 6/13/13. This date conflicted with a doctor's appointment I had previously scheduled.

32. I spoke with my supervisor, Roger Lalli regarding the time conflict. I asked for the training date to be rescheduled, to which Lalli agreed to do.

33. Subsequently, I saw that the notice of mandatory training had been modified. I also saw, however, that where my training date was moved had been scratched out, and my name was back to the original training date.

34. This reestablished my time conflict between this training date and my doctor's appointment.

35. I spoke again to Lalli about the time conflict, and specifically asked why my request was granted, and then denied. Lalli informed me that Assistant Deputy Commissioner Charles Katra was "waiting for [me] to pull the 'FMLA card' and was not going to switch [me] out."

36. I was further informed that Katra stated if I didn't attend the training I would have to make it up on my own time, I will have to pay for it, and I would be subject to discipline.

37. I responded to Lalli that this was a violation of the FMLA. Despite this violation, I rescheduled my doctor's appointment to accommodate the training date, and attended the training.

38. In June of 2013, and as a result of this violation of my FMLA rights, I contacted the Erie County Office of Equal Employment Opportunity and complained.

39. On December 12, 2013 I was called into a preliminary investigative meeting regarding allegations of misconduct. At this meeting were Larry Kreug, an employee of the respondent, and Katra.

40. The allegations involved a GPS unit on respondent's vehicle that I used. Kreug and Katra stated that, according to the GPS unit, I was slow to complete my job duties, and left the vehicle standing for some time.

41. I denied these allegations and made specific, factual allegations to demonstrate my points.

42. In January of 2014, Lavell left his position as Safety Manager, creating a vacancy.

43. On January 29, 2014, respondent posts the vacant position for Safety Manger.
44. On the same date I confirmed with respondent's personnel department that I was still on the list for the position, and was -in fact- first in line for this position. Although I should not have to, I reapplied for this position.
45. I remained qualified for this position.
46. On January 31, 2014, I was notified that I was required to attend a meeting for discipline regarding the prior preliminary investigative meeting that was previously held.
47. On February 3, 2014, I attended the disciplinary meeting. Katra and Lalli attended this meeting and stated that I was given a written warning regarding the allegations of misconduct.
48. This warning goes into my personnel file and threatened that the next violation would result in my termination.
49. Upon information and belief, two other employees present during this alleged misconduct received only verbal warnings. I was singled out for punishment by respondent.
50. This punishment was retaliatory in nature, or a form of disability discrimination. Moreover, upon information and belief, this discipline was imposed specifically to prevent my promotion to any other position.
51. On February 7, 2014 I grieved the discipline I received on February 3, 2014. Subsequently, Katra summarily denies my grievance.
52. In March of 2014 I inquired about the availability of a transfer to other positions. I was told that I was on the transfer list, and would be transferred automatically based upon my seniority.
53. During the summer of 2014, I was working on a site with Richard Rehac, the respondent's Sewer District Manager.
54. I told Rehac of my hopes of promotion to the Safety Manager position to which Rehac responded: "You will never get promoted. They hate you because you file all kinds of charges against them. They would love to fire you."
55. I understood "they" to mean Glenn Absalom, respondent's Sewer Chief, Joe Fiegel, respondent's Deputy Commissioner, Katra, and Kreug.
56. This statement by Rehac was *prima facie* evidence of the discriminatory and or retaliatory animus of the respondent.

57. In July of 2014 I asked Katra if I would receive an interview for the Safety Manager position.

58. Katra responded that respondent had interviewed all candidates for the position who were eligible and whose qualifications best matched the needs of the division.

59. Upon information and belief, I was qualified and could meet the needs of the position.

60. This was the first I knew that I was not selected for the position of Safety Manager. Upon information and belief, this position was given to Samantha Mascia.

61. Respondent's failure to hire me was retaliatory in nature, and/or a form of disability discrimination.

62. In September of 2014 I received a notice of a vacancy in the Sewer Repair Supervisor position. I was qualified for this position, which would have been a promotional opportunity for me. Although I applied for this position, I was not chosen for this position.

63. Respondent's failure to hire me was retaliatory in nature, and/or a form of disability discrimination.

64. On October 8, 2014 I received orders from my supervisor, Tommy Herr, to report to a site and inspect a sanitary sewer. In order to fulfill my duty, I drove off the road and by doing so, created tracks in the earth with the respondent's vehicle.

65. On that same date, I subsequently was relieved by a separate crew. Upon information and belief, this crew also created tracks in the earth to fulfill their duty.

66. Subsequently, I was required to attend a meeting with Herr and Rehac. Rehac asked me to explain what I did on October 8, 2014 without giving me notice of any charges.

67. When I was done explaining what I had done on October 8, 2014, Rehac gave me a prepared memo of counseling.

68. I disputed the appropriateness of disciplining me for anything I was alleged to have done on that date, and denied that I committed any misconduct.

69. This discipline was initiated by respondent for discriminatory and/or retaliatory purposes.

70. Subsequently, I was called into another meeting by respondent. At this meeting, Katra and Rehac told me that I failed to mention that I had created tracks in the earth.

71. Upon information and belief, there is no policy to report making tracks, or ruts, in the earth.

72. Despite this, respondent notified me that I would be suspended. My union representative disputed this additional discipline especially in light of the previous memo of counseling I had received for the events of the same date.

73. On October 28, 2014 I received notice that I was suspended for five (5) days.

74. This discipline was initiated by respondent for discriminatory and/or retaliatory purposes.

75. I grieved this issue on the same date that I received notice of my suspension.

76. Also on October 28, 2014 I injured my back. I filed a worker's compensation claim which was investigated by Timothy Gannon.

77. Eventually, my claim for worker's compensation was denied based upon the false investigation by Gannon.

78. This bogus investigation was motivated by respondent's discriminatory and/or retaliatory animus.

79. At some point in late 2014 I applied for a transfer to a position in the Highway Department on Harlem Road.

80. On November 5, 2014 I inquired as to the status of that transfer to the respondent's personnel department.

81. On November 17, 2014 Katra emails me and several other employees of respondent a denial of my grievance.

82. On this same date, respondent's personnel office informed me that I could not be transferred because there were disciplines on my personnel record that were still open.

83. Subsequently, I made a specific request for FMLA leave. Previously, I had been on intermittent FMLA leave during this year.

84. On November 25, 2014, Rehac calls me into his office. Rehac asks me what the FMLA leave was for. Upon hearing my answer, Rehac states that he didn't like my explanation for my FMLA leave and that it "sounds like bullshit."

85. This statement by Rehac was intended to dissuade me from using my right to FMLA leave.

86. In late 2014, I became aware of a vacancy for the Supervising Maintenance Mechanic at the Rath Building. I was qualified for this position, which would have been a promotional opportunity for me.

87. In January of 2015 I spoke with an employee regarding a position that I had applied for as a Supervising Maintenance Mechanic. This person informed me that he wasn't aware if they hired someone, but knew that the respondent was still looking to fill the position.

88. This employee stated that he knew that because my name had come up. When my name was mentioned in consideration of this position, Michael Inglefinger, a supervisor for the respondent, stated that they 'would not hire me because of all the complaints I had filed, and that they did not need that downtown.'

89. Upon information and belief, this position was filled by Andrew Park.

90. Respondent's failure to hire me was retaliatory in nature, and/or a form of disability discrimination.

91. In the early 2015, respondent posted a vacancy for the position of Sewer Repair Supervisor. I was eligible for this position and should be considered for it automatically, as I had previously taken the appropriate civil service exam for the position.

92. On January 5, 2015, respondent posted a notice that Todd Hicks had filled the Sewer Repair Supervisor. Upon information and belief, Hicks had not taken the civil service exam for the position, and was therefore, unqualified.

93. Respondent's failure to hire me was retaliatory in nature, and/or a form of disability discrimination.

NOTARIZATION OF THE COMPLAINT

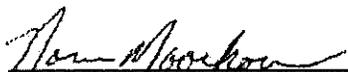
Based on the information contained in this form, I charge the above-named Respondent with an unlawful discriminatory practice, in violation of the New York State Human Rights Law.

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 in the aforementioned law.

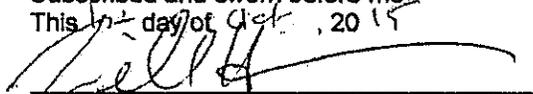
I have not filed any other civil action, nor do I have an action pending before any administrative agency, under any state or local law, based upon this same unlawful discriminatory practice.

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

WILLIAM F. HARPER
Notary Public, State of New York
Qualified in Erie County
Registration No. 02HA6208409
My Commission Expires May 18, 2017

Subscribed and sworn before me
This 10th day of Oct., 2015


Signature of Notary Public

County: Erie Commission expires: 5/18/17

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.



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

October 21, 2015

Ms. Karen McCarthy, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Ms. McCarthy:

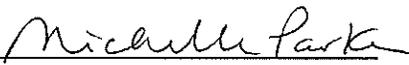
In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Jarzembek, Joseph v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Joseph T. Jarzembek 135 Montrose Avenue Buffalo, New York 14214
Claimant's attorney:	Claimant is proceeding <i>pro se</i> .

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
Michelle M. Parker
First Assistant County Attorney

MMP:dld

Enc.

SUPREME COURT: STATE OF NEW YORK

COUNTY OF ERIE

JOSEPH T. JARZEMBEK,

Claimant

Against

COUNTY OF ERIE, ERIE COUNTY SHERIFF, ERIE COUNTY SHERIFF'S DEPARTMENT JOHN DOE I, JOHN DOE II, JOHN DOE III,

and JOHN DOES

Respondents

This paper received at the Erie County Attorney's Office from LOUIS ROSARIO on the 21st day of Oct, 2015 at 1145 a.m./p.m. Leslie Doty-Sagg Assistant County Attorney

RECEIVED ERIE COUNTY SHERIFF ADMINISTRATIVE OFFICE 2015 OCT 21 AM 10:33

PLEASE TAKE NOTICE, that pursuant to Section 50(e) of the General Municipal Law, the undersigned Hereby gives notice of his intention to file a claim against the County of Erie, ErieCounty Sheriff, Erie County Sheriff's Department, John Doe I and II and John Does

The post office and or mailing address of claimant herein is;

135 Montrose avenue, Buffalo, New York 14214

For the time being I am representing myself. The nature of my claim is as follows:

On July 24, 2015 while employed in the Rath Building, I was approached by representatives of the Erie County Sheriff's Department and falsely accused of bringing a gun or a weapon into the building. The officers refused to inform me of who made that false allegation.

The time when, the place where and the manner in which the claim arose is as follows:

July 24, 2015 between 900 and 930 AM in the Rath Building on the 7th floor.

As a result of the incident, the damages or injuries sustained by the claimant herein are as follows:

Slander, libel, defamation, and intentional infliction of emotional distress, mental anguish and physical ailments.

A handwritten signature in black ink, appearing to read "J. T. Jarzembek", is written over a solid horizontal line.

JOSEPH T. JARZEMBEK

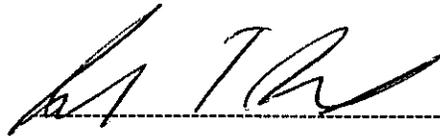
Claimant

VERIFICATION

STATE OF NEW YORK)

COUNTY OF ERIE

JOSEPH T. JARZEMBEK, being duly sworn, deposes and says: I am the claimant herein named; I have read the foregoing notice of intention to file a claim against the County of Erie, Erie County Sheriff, Erie County Sheriff's Department, John Doe I, John Doe II, John Doe III and John Does and know its contents; the same is true to my own knowledge, except as to those matters stated to be alleged on Information and belief and as to those matters, I believe it to be true.



JOSEPH T. JARZEMBEK

CLAIMANT

Sworn to before me this

20th day of October 2015

Notary Public



LOUIS ROSADO
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
My Commission Expires Aug. 27, 2018