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# COUNTY OF ERIE

**MARK C. POLONCARZ**

COUNTY EXECUTIVE

MICHAEL A. SIRAGUSA  
COUNTY ATTORNEY

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: November 7, 2016

RE: Transmittal of New Claims Against Erie County

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Ms. McCarthy:

In accordance with the Resolution passed by the Erie County Legislature on June 25, 1987 (Int. 13-14), attached please find seven (7) new claims brought against the County of Erie. The claims are as follows:

### Claim Name

Rena Lombardo – Teamsters v. Howard, et al.  
Selma Even v. Buffalo & Erie County Public Library, et al.  
Reeseie Nash v. ECSO  
Chris Sawyers a/k/a Chris Fewel v. Frank Sedita, III  
Robert Nolan v. COE, et al.  
Reeseie Nash v. ECCF, et al.  
Scott Harmon v. COE, etal.

MMP:dld  
Attachments

Comm. 22D-4

Page 1 of 47



# 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 18, 2016

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>Lombardo, Rena - Teamsters v. Howard, et al. o/b/o Lombardo, Rena</i>
Document Received:	Verified Petition
Name of Claimant:	Teamsters Local 264 o/b/o Rena Lombardo 35 Tyrol Drive Cheektowaga, New York 14227
Claimant's attorney:	Terry M. Sugrue, Esq. Law Offices of Terry M. Sugrue & Associates, LLP 135 Delaware Avenue, Suite 410 Buffalo, New York 14202

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. 22D-4  
Page 2 of 47

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

---

In the Matter of the Application of

**BRIAN DICKMAN**, as President of  
Teamsters Local 264 of the  
International Brotherhood of  
Teamsters,

Petitioner,

against

**TIMOTHY B. HOWARD**, as Sheriff  
of the County of Erie, State of  
New York; **MARK C. POLONCARZ**,  
as County Executive of the County  
of Erie; **COUNTY OF ERIE, NEW YORK**;

Respondents.

To Confirm An Arbitration Award  
Pursuant To CPLR § 7510

---

**NOTICE OF PETITION**

Index No.

Assigned Justice:

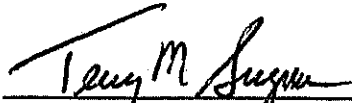
MOTION BY: : LAW OFFICES OF TERRY M. SUGRUE &  
ASSOCIATES, LLP (Terry M. Sugrue, Esq.)  
Attorneys for Petitioner Brian Dickman.

DATE, TIME, AND :  
PLACE OF HEARING :  
Supreme Court, Part  
Buffalo, New York

SUPPORTING PAPERS : Verified Petition and accompanying  
materials.

RELIEF REQUESTED : A Judgment and Order granting the  
Verified Petition, confirming the  
underlying arbitration award pursuant to  
CPLR Article 75, directing Respondents  
to reinstate Rena Lombardo with back-pay  
(in accordance with the arbitration  
award) at 9% per annum, together with  
costs and disbursements, and such  
further relief as this Court deems just,  
proper and equitable.

GROUNDS FOR RELIEF : CPLR Article 75 and related decisional  
 law.  
 RESPONDING PAPERS : If any, are required to be served no  
 later than seven (7) days prior to the  
 return date of this petition, in  
 accordance with CPLR §403(b).  
 DATED : Buffalo, New York  
 October 7, 2016

By:   
 LAW OFFICES OF TERRY M. SUGRUE  
 & ASSOCIATES, LLP  
 Terry M. Sugrue, Esq.  
 Jessica M. Peraza, of counsel  
 Attorneys for Petitioner  
 Brian Dickman  
 135 Delaware Ave., Suite 410  
 Buffalo, New York 14202  
 Telephone: (716) 856-0277  
 Facsimile: (716) 843-8698

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

In the Matter of the Application of

**BRIAN DICKMAN**, as President of  
Teamsters Local 264 of the  
International Brotherhood of  
Teamsters,

**VERIFIED PETITION**

Petitioner,

Index No.

against

**TIMOTHY B. HOWARD**, as Sheriff  
of the County of Erie, State of  
New York; **MARK C. POLONCARZ**,  
as County Executive of the County  
of Erie; **COUNTY OF ERIE, NEW YORK;**

Assigned Justice:

Respondents.

To Confirm An Arbitration Award  
Pursuant To CPLR § 7510

PETITIONER, BRIAN DICKMAN, as President of Teamsters Local 264 of the International Brotherhood of Teamsters ("Local 264"), by his attorneys, Law Offices of Terry M. Sugrue & Associates, LLP, alleges as follows:

1. Petitioner BRIAN DICKMAN is the President of Local 264, an employee organization within the meaning of Article 14 of the New York Civil Service Law.
2. Respondent TIMOTHY B. HOWARD is Sheriff of the County of Erie, State of New York and is a local officer within the meaning of the New York Public Officers Law.
3. Respondent MARK C. POLONCARZ is County Executive of the County of Erie, New York and is a local officer within the meaning of the New York Public Officers Law.

4. Respondent COUNTY OF ERIE, NEW YORK ("County"), is a municipal corporation located in the County of Erie, State of New York.

5. Respondent COUNTY OF ERIE and Respondent TIMOTHY B. HOWARD are joint employers and are public employers within the meaning of Section 201(6) (a) of the New York Civil Service Law.

6. Petitioner Teamsters Local 264 and Respondents Sheriff and County are parties to a collective bargaining agreement ("cba") which expires by its terms on December 31, 2016. A true and accurate copy of the cba is appended hereto as Exhibit "A".

7. On June 26, 2015, a grievance was filed by Local 264 on behalf of a bargaining-unit member, Rena Lombardo, whose employment with the Erie County Sheriff's Office was terminated on June 25, 2015 for alleged misconduct. A true and accurate copy of the grievance is appended hereto as Exhibit "B".

8. Article 22 of the cba, entitled "DISCIPLINE AND DISCHARGE", sets forth the procedure and standards for disciplinary action. It provides, in relevant part, as follows:

SECTION 22.2:

- b) Discipline shall be imposed only for just cause. Where the Sheriff or his designee imposes... dismissal from service, a notice of such discipline shall be made in writing served personally or by registered or certified mail upon the employee. Such notice shall contain the reasons for such discipline and the penalty imposed...
- d) The notice of discipline may be the subject of a disciplinary grievance...

- g) A disciplinary Arbitrator shall confine himself to determination of guilt or innocence and the appropriateness of proposed penalties. Disciplinary Arbitrators shall neither add, subtract from nor modify the provisions of this Agreement. The decision or award of the Arbitrator shall be final and binding on both parties. (See, Exhibit A, pg. 33).

9. In all respects Teamsters Local 264 followed the disciplinary grievance procedural requirements contained in the cba. The grievance was not resolved at the initial steps of the grievance procedure, and so it was submitted to arbitration before Arbitrator Robert J. Rabin.

10. An arbitration relating to the above-referenced grievance took place on March 17, 2016, before Arbitrator Robert J. Rabin.

11. The issue submitted by the parties to be decided by Arbitrator Rabin was:

Was the grievant, Rena Lombardo, terminated for just cause? If not, what shall be the remedy?

12. During the arbitration proceeding before Arbitrator Rabin, both parties were afforded a full opportunity to adduce evidence, cross-examine witnesses, and make argument in support of their respective positions. Following the hearing each party submitted a post-hearing brief.

13. Arbitrator Rabin rendered his Opinion and Award, in writing, signed and affirmed on August 11, 2016. The award was issued and a hard copy was received by the parties on or about September 6, 2016. A true and accurate copy of the Opinion and Award is appended hereto as Exhibit "C".

14. In deciding the issues submitted to him, Arbitrator Rabin held that the discharge of the grievant was not for just cause.

15. Arbitrator Rabin reasoned that although the grievant was guilty of bringing her cell phone into a secure area, the act was unintentional, and therefore the penalty imposed was not appropriate under the circumstances.

16. Specifically, Arbitrator Rabin reasoned that offenses that "warrant immediate termination usually have an element of intent, such as fighting, stealing, bringing drugs to the workplace, or insubordination." Not only was Ms. Lombardo's action was unintentional, but it brought no realistic chance of harm under the circumstances. Based on that and her positive work evaluations, Arbitrator Rabin determined that termination was not appropriate.

17. As a remedy, Arbitrator Rabin's award converted the grievant's discharge to a six (6) month suspension without pay. Moreover, Arbitrator Rabin directed the joint employers to reinstate the grievant to the employ of the Sheriff, at her former position as Deputy Sheriff, with back pay to make her whole from the period beginning six (6) months after her termination until the date of her reinstatement.

18. To date the Respondents have reinstated Deputy Lombard, but have failed to comply with the portion of the arbitrator's award concerning back pay.



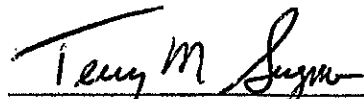
19. Less than one (1) year has expired since the date of the delivery of the award by the arbitrator to the parties.

20. No prior application has been made for the relief requested in this verified petition.

WHEREFORE, Petitioner respectfully requests that a judgment and order be rendered pursuant to Section 7510 of the Civil Practice Law and Rules confirming the August 11, 2016 Opinion and Award of Arbitrator Robert J. Rabin; that the Respondents be directed to reinstate Rena Lombardo to the position of Deputy Sheriff, with back-pay in accordance with the Arbitration Award of Robert J. Rabin, together with interest at 9% per annum, that Petitioner be allowed the costs and disbursements incurred in the making of this petition to confirm; and that the Petitioner have such other and further relief as the Court may deem just and proper.

Dated: Buffalo, New York  
October 6, 2016

Yours, etc.



LAW OFFICES OF TERRY M. SUGRUE  
& ASSOCIATES, LLP  
Terry M. Sugrue, Esq.  
Jessica M. Peraza, of Counsel  
Attorneys for Petitioner  
135 Delaware Avenue, Suite 410  
Buffalo, New York 14202  
Telephone: (716) 8560-0277

VERIFICATION

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

BRIAN DICKMAN, being duly sworn, deposes and says that:

Deponent is the President of Teamsters Local 264 of the International Brotherhood of Teamsters; that deponent has read the foregoing VERIFIED PETITION and knows the contents thereof; and the same is true to deponents own knowledge; except as to matters therein stated to be alleged upon information and belief; and that as to those matters deponent believes them to be true.

*Brian Dickman*  
BRIAN DICKMAN

Sworn to before me this  
5 day of October, 2016.

*Marcia L. Stagner*  
Notary Public

Marcia L. Wagner  
Notary Public, State of New York  
NO. 01WA5016166  
Qualified In Erie County  
My Commission Expires 8/9/17



# 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 19, 2016

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>Even, Selma R. v. Buffalo &amp; Erie County Public Library and County of Erie (Lancaster Library)</i>
Document Received:	Notice of Claim
Name of Claimant:	Selma R. Even 272 Crandon Boulevard Cheektowaga, New York 14225
Claimant's attorney:	Lawrence A. Perot, Esq. Nicholas, Perot, Smith, Bernhardt & Zosh 12364 Main Road Akron, New York 14001

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. 22D-4  
Page 11 of 47

In the Matter of the Claim of  
SELMA R. EVEN,

Claimant,

vs.

BUFFALO AND ERIE COUNTY PUBLIC LIBRARY, INC. and  
COUNTY OF ERIE

**NOTICE OF CLAIM  
PURSUANT TO GENERAL  
MUNICIPAL LAW §50-e**

TO: Buffalo and Erie County Public Library, Inc.  
Mary Jean Jakubowski, Director  
1 Lafayette Square  
Buffalo, New York 14203

Erie County Clerk's Office  
Christopher L. Jacobs, Erie County Clerk  
92 Franklin Street  
Buffalo, New York 14202

Erie County Attorney  
Michael A. Siragusa, Esq.  
Department of Law  
Edward A. Rath County Office Building  
95 Franklin Street, Rm. 1634  
Buffalo, New York 14202

This paper received at the  
Erie County Attorney's Office  
from H. M. Madson on  
the 17<sup>th</sup> day of Oct, 20 16  
at 11:51 a.m./p.m.

Ledie Betty-Fagan  
Assistant County Attorney

PLEASE TAKE NOTICE that SELMA R. EVEN hereby claims and demands from the Buffalo and Erie County Public Library, Inc. and the County of Erie damages for personal injuries sustained by her by reason of the wrongful, negligent, and careless acts and omissions to act by the Buffalo and Erie County Public Library, Inc. and the County of Erie, their agents, employees, and/or servants either jointly or severally together with the Town of Lancaster, its agents, employees, and/or servants, and in support thereof the claimant states as follows:

1. That the claimant, SELMA R. EVEN, resides at 272 Crandon Boulevard in the Town of Cheektowaga, County of Erie and State of New York.
2. That the name and post office address of the claimant's attorneys are as follows: Nicholas, Perot, Smith, Bernhardt & Zosh, P.C., 12364 Main Road, P.O. Box 176, Akron, New York 14001.
3. That this is a claim for bodily injuries and other damages arising out of the tortious conduct by the Buffalo and Erie County Public Library, Inc. and the County of Erie, their agents, employees, and/or servants, and/or the Town of Lancaster, its agents, employees,

and/or servants either jointly or severally.

4. That the time of the happening of the occurrence which resulted in injuries to the claimant was approximately 1:15 - 1:45 p.m. on Saturday, August 6, 2016 at the Buffalo and Erie County Public Library, Inc. complex known locally as the "Lancaster Library" located at 5466 Broadway in the Town of Lancaster, County of Erie, and State of New York.

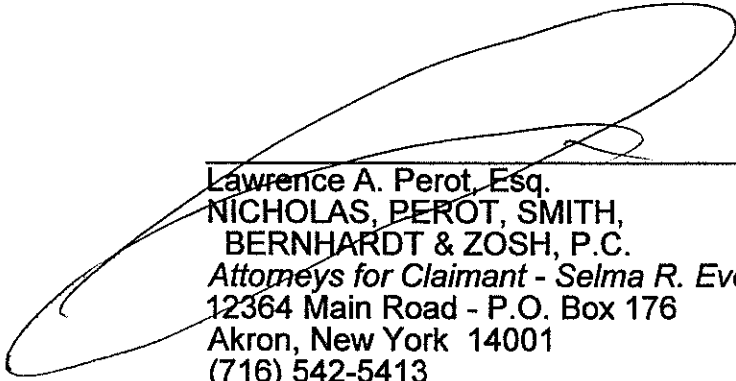
5. That upon information and belief, the claim of SELMA R. EVEN arose in the following manner: that while SELMA R. EVEN was legally on the subject premises she was caused to fall to the ground, sustaining certain injuries as hereinafter specified by reason of the dangerous and defective condition of the premises including a malfunctioning elevator.

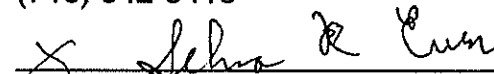
6. That as a result of the fall, the claimant sustained the following injuries: fractured nose, contusions, black eyes, abrasions, musculoligamentous injury of the mid and lower back and, upon information and belief, the claimant has incurred substantial medical expenses.

7. That this notice is made and served on behalf of SELMA R. EVEN in compliance with the provisions of §50-e of the General Municipal Law and such other laws and statutes as are in these cases made and provided for.

YOU WILL TAKE FURTHER NOTICE that the claimant demands payment of the claim and unless the claim is paid within a reasonable time it is the intention of the claimant to commence an action against the Buffalo and Erie County Public Library, Inc., County of Erie, and Town of Lancaster.

DATED: Akron, New York  
*October 3*, 2016

  
\_\_\_\_\_  
Lawrence A. Perot, Esq.  
NICHOLAS, PEROT, SMITH,  
BERNHARDT & ZOSH, P.C.  
Attorneys for Claimant - Selma R. Even  
12364 Main Road - P.O. Box 176  
Akron, New York 14001  
(716) 542-5413

  
\_\_\_\_\_  
Selma R. Even

STATE OF NEW YORK  
COUNTY OF ERIE

INDIVIDUAL  
VERIFICATION

**Selma R. Even**, being duly sworn, deposes and says that she is the claimant in the within action; that deponent has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

  
\_\_\_\_\_  
Selma R. Even

Sworn to before me this 3<sup>rd</sup>  
day of October, 2016

\_\_\_\_\_  
LAWRENCE A. PEROT  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires Nov. 13, 2017



# COUNTY OF ERIE

**MARK C. POLONCARZ**

COUNTY EXECUTIVE  
DEPARTMENT OF LAW

MICHAEL A. SIRAGUSA  
ERIE COUNTY ATTORNEY

MICHELLE M. PARKER  
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH  
SECOND ASSISTANT COUNTY ATTORNEY

October 20, 2016

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

Dear Ms. McCarthy:

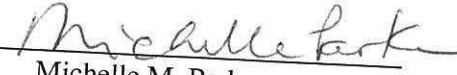
In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Reeseie Nash v. Erie County Sheriff's Office</i>
Document Received:	Order to Show Cause
Name of Claimant:	Reeseie Nash #49658 Erie County Correctional Facility 11581 Walden Avenue Alden, New York 14004
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.

Comm. 22D-4  
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**ERIE COUNTY CORRECTIONAL FACILITY**

11581 WALDEN AVENUE • ALDEN, NEW YORK 14004

**AFFIDAVIT OF SERVICE**

INDEX: I-2016-000146

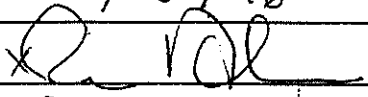
I, Reeseie Nash, On This 29<sup>th</sup> Day of  
September, 2016, mailed - via U.S. Postal  
Service Ordinary mail - a copy of within  
enclosure's to the following parties:

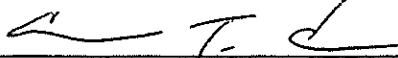
Erie County Attorney  
95, Franklin St.  
Room 11634  
Bflo., N.Y. 14202

Erie County Sheriff  
10, Delaware Ave.  
Bflo., N.Y. 14202  
Attr: Timothy Howard - Sheriff

\* Proof of Service Mailed To: Hon. John Michalski  
25, Delaware Ave.  
Third Floor  
Bflo., N.Y. 14202

NOTARY: Sworn To Before Me  
On This 29<sup>th</sup> Day of  
September, 2016

9-29-16  
  
Reeseie Nash

NOTARY: 

CHRISTOPHER T. COUGHLIN  
No. 01CO6294898  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires Dec. 23, 2017



State of New York  
County of Erie

In the matter of the application of  
Reeseie E. Nash # 49658  
Petitioner

Affidavit in support of  
order to show cause

Index # I-2016-000146

-v-

Erie County Sheriffs Department JMD  
Respondent

RECEIVED  
OCT 03 2016  
ERIE COUNTY  
DEPARTMENT OF LAW  
*JMD*

for a judgment pursuant to Article 78 of  
the NYS Civil Practice Laws and Rules

State of New York )  
County of Erie ) SS:

I, Reeseie E. Nash # 49658, being duly sworn, depose and  
say that:

I am the Petitioner I the above-entitled proceeding.

I make this affidavit in support of my annexed application for an Order to show cause to  
prosecute the attached petition pursuant to Article 78 of the New York Civil Practice Laws and  
Rules which challenges: Arbitrary and Capricious denial of access to law  
enforcement officer/agency to file criminal charges against it's  
employee for assault to conceal and encourage such performance.

The facts surrounding this Petition are as follows: On 8/25/16, after a strip search,  
Officer Moss did physically strike me several times with his hands  
and boots causing headaches, nose bleed, dizziness, swelling, Tooth loose, a  
hard time walking and neck/shoulder pain (L) side. The incident arose  
after citing racial inequality at a disciplinary hearing. During the beating  
he stated several times "Do White Lives Matter" in question form. \* 3  
In retaliation, (2) misbehavior reports were drawn and Admin seg order  
written to hush and keep conduct of officer away from Comm. 22D-A page 17 of 47 others.

Petitioner seeks to proceed by Order to Show Cause rather than by Notice of Petition because:

Petitioner cannot obtain court dates to so order/affix deadlines.

Petitioner, being incarcerated at the Erie County Correctional Facility, 11581 Walden Avenue, Town of Alden, County of Erie, also cannot effect personal service of the within papers and respectfully requests that timely service by U. S. mail be deemed sufficient.

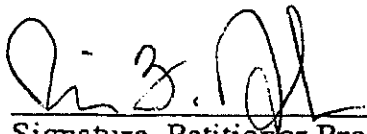
Petitioner designates Erie County as the place of venue.

No previous application for the relief sought herein has been made.

I have moved by the annexed affidavit for a waiver of filing fees.

WHEREFORE, Petitioner respectfully prays that this Court enter an order directing Respondent to show cause why a judgment should not be made and entered pursuant to Article 78 of the Civil Practice Law and Rules, and granting such other relief as this Court may deem just and proper.

Date: August 30<sup>th</sup> 2016



Signature, Petitioner Pro Se  
11581 Walden Avenue  
Alden, New York 14004  
Reese E. Nash # 49658  
Reese E. Nash

Sworn to before me on  
this 30<sup>th</sup> day of  
August, 2016  
C. T. C.

Notary Public

CHRISTOPHER T. COUGHLIN  
No. 01CO6294898  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires Dec. 23, 2017

VERIFICATION

In the matter of the application of

REESEIE E. NASH

Petitioner

-v-

ERIE COUNTY SHERIFFS DEPARTMENT JMD

Respondent

for a judgment pursuant to Article 78 of  
the NYS Civil Practice Laws and Rules

I, Reeseie E. Nash # 49658,

the above named Petitioner,  
being duly sworn, deposes and says that the contents of the foregoing petition are well known to  
him/~~her~~, and that same is true to his/her own knowledge, except as to matters therein stated on  
information and belief, and as to those matters  he believes it to be true.

Dated: August 30<sup>th</sup> 2016

[Signature]

Signature, Petitioner Pro Se

Reeseie E. Nash

Print Name of Petitioner

[Signature]

Sworn to before me this 30<sup>th</sup>  
day of August, 2016

[Signature]

Signature, Notary Public

CHRISTOPHER T. COUGHLIN  
No. 01CO6294898  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires Dec. 23, 2017

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

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IN THE MATTER OF THE APPLICATION OF  
**REESEIE E. NASH, #49658**

ORI# NY 014015J

Petitioner,

ORDER TO  
SHOW CAUSE

-vs-

Index No.  
I-2016-000146

ERIE COUNTY SHERIFF

Respondent.

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SUPREME COURT, ERIE COUNTY

**HON. PAULA L. FEROLETO, JUSTICE PRESIDING**

APPEARANCES:

Petitioner, Pro Se  
**REESEIE E. NASH, #49658**

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 August 30, 2016, with accompanying exhibits, and it appearing that the above referenced petitioner, **REESEIE E. NASH**, 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 RESPONDENT SHOW CAUSE** at a Special Term of the Supreme Court to be held in and for the County of Erie on **NOVEMBER 16, 2016** before the **HON. JOHN MICHALSKI**, Acting Justice of the Supreme Court, in Part 18 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 **REESEIE E. NASH** 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 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, Erie County Sheriff on or before **October 19, 2016** 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; 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 Acting Justice Michalski, 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:

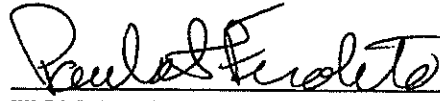
(a) Serve a signed and executed copy of this Order to Show Cause, the petition and any supporting papers as authorized above or by personal service. The reduction of the filing fee herein does not authorize court personnel to provide photo-reproduction services, nor service of papers on behalf of a *pro 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. John Michalski, 25 Delaware Avenue-Third 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 Acting Justice Michalski not less than three (3) days prior to said return date.

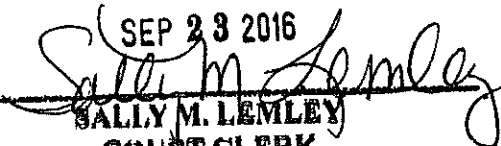
DATED: Buffalo, New York  
September 23, 2016



HON. PAULA L. FEROLETO  
Justice of the Supreme Court

GRANTED:

**GRANTED**

BY   
SEP 23 2016  
SALLY M. LEMLEY  
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 21, 2016

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>Sawyer, Chris a/k/a Chris Fewel v. Frank Sedita, III</i>
Document Received:	Notice of motion date from Supreme Court
Name of Claimant:	Chris Sawyer a/k/a Chris Fewel
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.

Comm. 22D-4  
Page 24 of 47





**SUPREME COURT CHAMBERS  
STATE OF NEW YORK  
BUFFALO, NY 14202**

Phone: 716-845-9372 ■ Fax: 716-845-5160

CHAMBERS OF  
TIMOTHY J. DRURY  
Justice

PETER J. CROTTY  
CONFIDENTIAL LAW CLERK

October 17, 2016

**VIA U.S. POSTAL**

Erie County Department of Law  
95 Franklin Street, Room 1634  
Buffalo, NY 14202

Chris Sawyer - Prose  
#06-B-1371  
Wende Correctional Facility  
3040 Wende Road  
Alden, NY 14004

**RE: Sawyer, Chris AKA Chris Fewel vs. Frank Sedita, III  
Index No.: 806268/2016**

Counselors:

Please be advised that this Court has scheduled a motion to be heard in the above referenced matter in Justice Drury's Chambers, Part 8, First Floor, 25 Delaware Avenue, Buffalo, New York on the date of:

**Tuesday, November 29, 2016 at 2:00pm**

Thank you.

Very truly yours,

Jamila Lee  
Secretary to Hon. Timothy J. Drury, J.S.C.

/j1

RECEIVED  
OCT 20 2016  
ERIE COUNTY  
DEPARTMENT OF LAW



# COUNTY OF ERIE

MICHAEL A. SIRAGUSA  
ERIE COUNTY ATTORNEY

**MARK C. POLONCARZ**

COUNTY EXECUTIVE  
DEPARTMENT OF LAW

MICHELE M. PARKER  
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH  
SECOND ASSISTANT COUNTY ATTORNEY

October 27, 2016

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>Nolan, Robert v. County of Erie and Department of Public Works - Highways</i>
Document Received:	Notice of Claim
Name of Claimant:	Robert Nolan 6769 Tuscany Lane East Amherst, New York 14051
Claimant's attorney:	Timothy G. O'Connell Gelber & O'Connell, LLC 6512 Main Street Amherst, New York 14221

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. 22D-4  
Page 26 of 47

This paper received at the  
Erie County Attorney's Office  
from John M. McLaughlin  
the 09 day of Oct., 2016  
at 10:26 a.m./p.m.  
[Signature]  
Assistant County Attorney

IN THE MATTER OF THE CLAIM:

---

**ROBERT NOLAN**  
6769 Tuscany Lane  
East Amherst, New York 14051

**NOTICE OF CLAIM**

Claimant,

v.

**THE COUNTY OF ERIE**  
95 Franklin Street  
Buffalo, New York 14202

**THE COUNTY OF ERIE DEPARTMENT OF PUBLIC WORKS,  
DIVISION OF HIGHWAYS**  
95 Franklin Street, 14<sup>th</sup> Floor  
Buffalo, New York 14202,

Respondents.

---

**TO: THE COUNTY OF ERIE /**  
**95 Franklin Street**  
**Buffalo, New York 14202**

---

**TO: THE COUNTY OF ERIE DEPARTMENT OF PUBLIC WORKS,**  
**DIVISION OF HIGHWAYS**  
**95 Franklin Street, 14<sup>th</sup> Floor**  
**Buffalo, New York 14202**

---

**SIRS:**

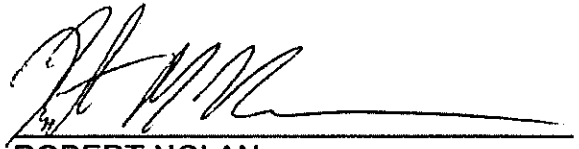
**PLEASE TAKE NOTICE**, that the undersigned, **ROBERT NOLAN**, by and through his Attorneys, **GELBER & O'CONNELL, LLC**, claims damages and pain and suffering sustained by reason of the wrongful, negligent, and careless acts, and/or omissions of the Respondents, **THE COUNTY OF ERIE** and **THE COUNTY OF ERIE DEPARTMENT OF PUBLIC WORKS, DIVISION OF HIGHWAYS**, their agents, servants and/or employees and in support thereof, Claimant states:

1. The Claimant, **ROBERT NOLAN**, resides at 6769 Tuscan Lane in the Town of East Amherst, County of Erie, and State of New York.
2. The name and post office address of Claimant's Attorneys are **GELBER & O'CONNELL, LLC**, 6512 Main Street, Amherst, New York, 14221, Attorneys of record for said Claimant, **ROBERT NOLAN**.
3. Upon information and belief, the date of the happening of the collision in which serious injuries were sustained, and the time at which such claim arose, is August 5, 2016, at approximately 5:18 p.m.
4. Upon information and belief, the place of said collision resulting in the injuries hereinafter alleged was at and/or near 1065 Wherle Drive at its intersection with South Cayuga Road in the Town of Amherst, County of Erie, and State of New York. (Attached hereto as **Exhibit "A"** is a copy of the Police Accident Report.)
5. Upon information and belief, the claim of said Claimant, **ROBERT NOLAN**, arose in the following manner. On or about the 5<sup>th</sup> day of August, 2016, Claimant was traveling westbound on Wherle Drive when his motorcycle's tire encountered a defect in the roadway, which caused Claimant to lose control of his motorcycle, he was thrown from his motorcycle, and he struck the pavement. Claimant was caused to sustain permanent and severe injuries and other damages as a result. (Attached hereto as **Exhibit "B"** are Photographs of the Concerned Roadway Defect.)
6. The said collision was caused by the wrongful, careless, reckless, and negligent acts and/or omissions of Respondents, **THE COUNTY OF ERIE and THE COUNTY OF ERIE DEPARTMENT OF PUBLIC WORKS, DIVISION OF HIGHWAYS**, their agents, servants, and/or employees, who, acting in the course and scope of their employment, failed to protect Claimant and failed to provide for his safety while operating his motorcycle on a public roadway by failing to timely, properly, and safely cure defects in the roadway; failed to timely, properly, and safely enact and/or engage in the regular maintenance of the roadway on the subject roadway; caused and/or created a dangerous and hazardous condition, which led to the injuries and damages sustained by Claimant; and were otherwise wrongful, careless, reckless, and/or negligent.
7. The acts and/or omissions of Respondent foreseeably subjected Claimant to the collision and the injuries and damages of the nature described herein and caused and/or created the condition, which gave rise to the collision and Claimant's injuries and damages. As a result of the subject collision, Claimant, **ROBERT NOLAN**, sustained serious injuries, which include, but are not limited to: Three (3) fractured ribs on the left side of Claimant's body, as well as hyper-extended digits and thumb on Claimant's right hand. The full extent of Claimant's injuries is not yet presently known. Said injuries have and continue to cause Claimant to expend money for medical treatment and rehabilitation. Claimant further has, is

continuing to, and will continue to suffer from extensive economic damage as a result of his rehabilitation and ongoing disability including, but not limited to, loss of income and loss of business opportunities.

8. This NOTICE OF CLAIM is made and served on behalf of Claimant, **ROBERT NOLAN**, in compliance with the provision of 50-E of the General Municipal Law and such other laws and statutes as are in the case made and provided. You will take further notice that Claimant, **ROBERT NOLAN**, demands payment of said claim, and unless said claim is paid in a reasonable time, it is the intention of Claimant to commence suit against Respondents, **THE COUNTY OF ERIE and THE COUNTY OF ERIE DEPARTMENT OF PUBLIC WORKS, DIVISION OF HIGHWAYS**.

Dated: Amherst, New York  
October 18, 2016



ROBERT NOLAN

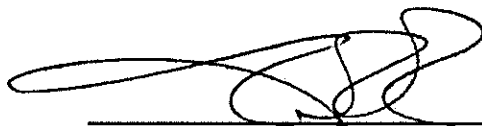
VERIFICATION

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

ROBERT NOLAN, being duly sworn, deposes and says, that he is the Claimant in the foregoing action; that he has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to his knowledge, except as to those matters alleged to be upon information and belief, and as to those matters, he believes them to be true.

  
\_\_\_\_\_  
ROBERT NOLAN

Subscribed and sworn to before me  
this 21 day of October 2016.

  
\_\_\_\_\_  
NOTARY PUBLIC

TIMOTHY G. O'CONNELL  
Notary Public, State of New York  
Qualified in Erie County  
Commission Expires April 30, 2018

# EXHIBIT A

# POLICE ACCIDENT REPORT

Local Codes  
16-644972  
RJAM20521X99

MV-104A (6/04)

AMENDED REPORT

19  
65

1	Accident Date Month: 8, Day: 5, Year: 2016	Day of Week FRIDAY	Military Time 17:18	No. of Vehicles 1	No. Injured 1	No. Killed 0	Not Investigated at Scene <input type="checkbox"/>	Left Scene <input type="checkbox"/>	Police Photos <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	VEHICLE 1			<input type="checkbox"/> VEHICLE <input type="checkbox"/> BICYCLIST <input type="checkbox"/> PEDESTRIAN <input type="checkbox"/> OTHER PEDESTRIAN					

20  
-

2	VEHICLE 1- Driver License ID Number: 905016574 Driver Name - exactly as printed on license: NOLAN, ROBERT M Address (Include Number and Street): 6769 TUSCANY LN City or Town: EAST AMHERST, State: NY, Zip Code: 14051	State of Lic. NY
---	---	---------------------

21

3	Date of Birth: 8/19/1962, Sex: M, Unlicensed: <input type="checkbox"/> , No. of Occupants: 01, Public Property Damaged: <input type="checkbox"/>
---	--

22

4	Name - exactly as printed on registration: NOLAN, ROBERT M, Sex: M, Date of Birth: 8/19/1962 Address (Include Number and Street): 6769 TUSCANY LN, City or Town: EAST AMHERST, State: NY, Zip Code: 14051
---	--

23  
7

6	Plate Number: NGC4, State of Reg: NY, Vehicle Year & Make: 2006 SUZI, Vehicle Type: MCY, Ins. Code: 639
---	---

24

6	Violation Section(s):
---	-----------------------

25  
7

7	<input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit.	Check if involved vehicle is: <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit.
---	---	--

26  
7

7	VEHICLE 1 DAMAGE CODES Box 1 - Point of Impact: 11, 11 Box 2 - Most Damage: 3, 4, 5 Enter up to three more damage codes:	ACCIDENT DIAGRAM See the last page of the MV-104A for the accident diagram.
---	---	--

28

27  
1

14	UNDERCARRIAGE	17	DEMOLISHED
15	TRAILER	18	NO DAMAGE
16	OVERTURNED	19	OTHER

28  
31

30	Reference Marker: . . . Coordinates (if available): Latitude/Northing: . . . Longitude/Easting: . . . Place Where Accident Occurred: County: ERIE, City: <input type="checkbox"/> , Village: <input type="checkbox"/> , Town: <input checked="" type="checkbox"/> of AMHERST Road on which accident occurred: 1065 WEHRLE DR (Route Number or Street Name) at 1) intersecting street: SOUTH CAYUGA (Route Number or Street Name) or 2) . . . of . . . (Milepost, Nearest intersecting Route Number or Street Name)
----	--

29

30	Accident Description/Officer's notes: DRIVER STATES HE WAS DRIVING HIS MOTORCYCLE WESTBOUND ON WEHRLE AT SOUTH CAYUGA WHEN AN UNKNOWN WHITE VAN STOPPED IN FRONT OF HIM. DRIVER APPLIED HIS BRAKES HOWEVER HIS TIRE MOVED INTO A RUT IN THE ROADWAY. THIS CAUSED DRIVER TO LOSE CONTROL AND THE MOTORCYCLE TO STRIKE THE PAVEMENT.
----	---

30

ALL INVOLVED	8	9	10	11	12	13	14	15	16	17 BY	TO 18	Names of all Involved	Date of Death Only
	1	1	6	1	53	M	11	04	6			NOLAN, ROBERT M	

31

Officer's Rank and Signature	INVESTIGA	Badge/ID No.	0050	NCIC No.	01451	Precinct/Post Troop/Zone	2	Station/Beat Sector	2	Reviewing Officer	WIK, D	Date/Time Reviewed	8/5/2016
Print Name in Full	D WIK											Comm. 22D-4	

32



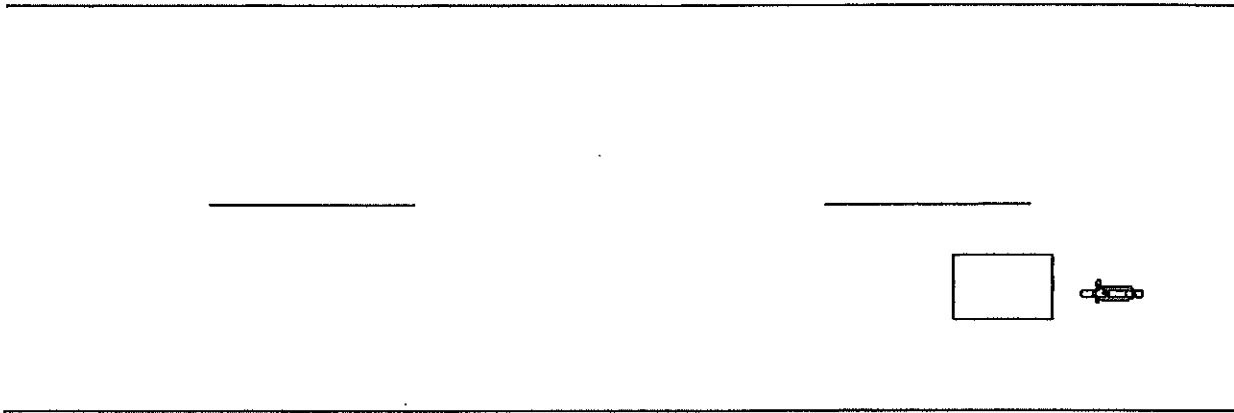
New York State Department of Motor Vehicles  
**POLICE ACCIDENT REPORT**

Local Codes
16-644972
RJAM205Z1X99

MV-104A (6/04)

AMENDED REPORT

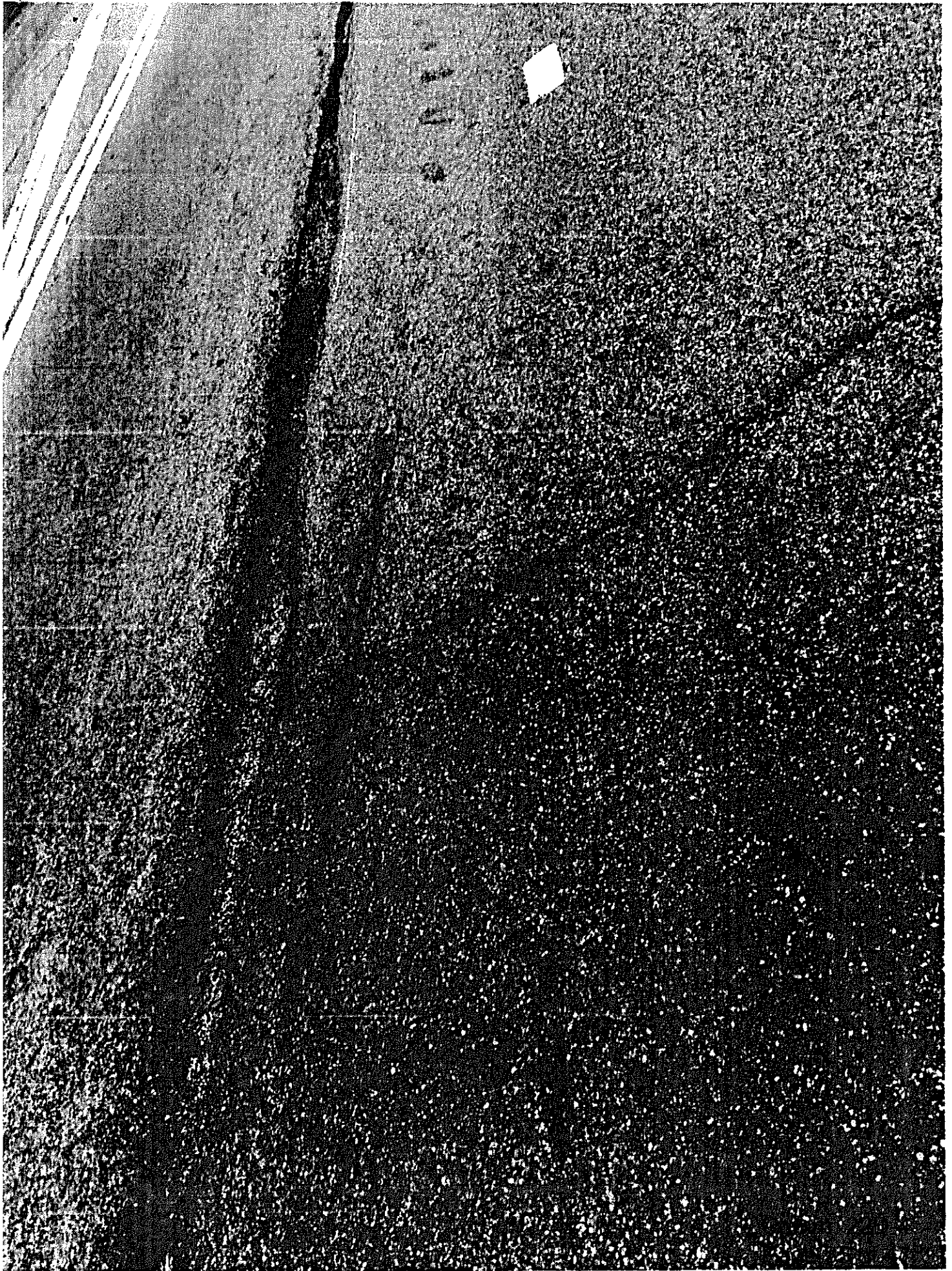
Accident Date			Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene	Left Scene	Police Photos
Month	Day	Year								
8	5	2016	FRIDAY	17:18	1	1	0	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

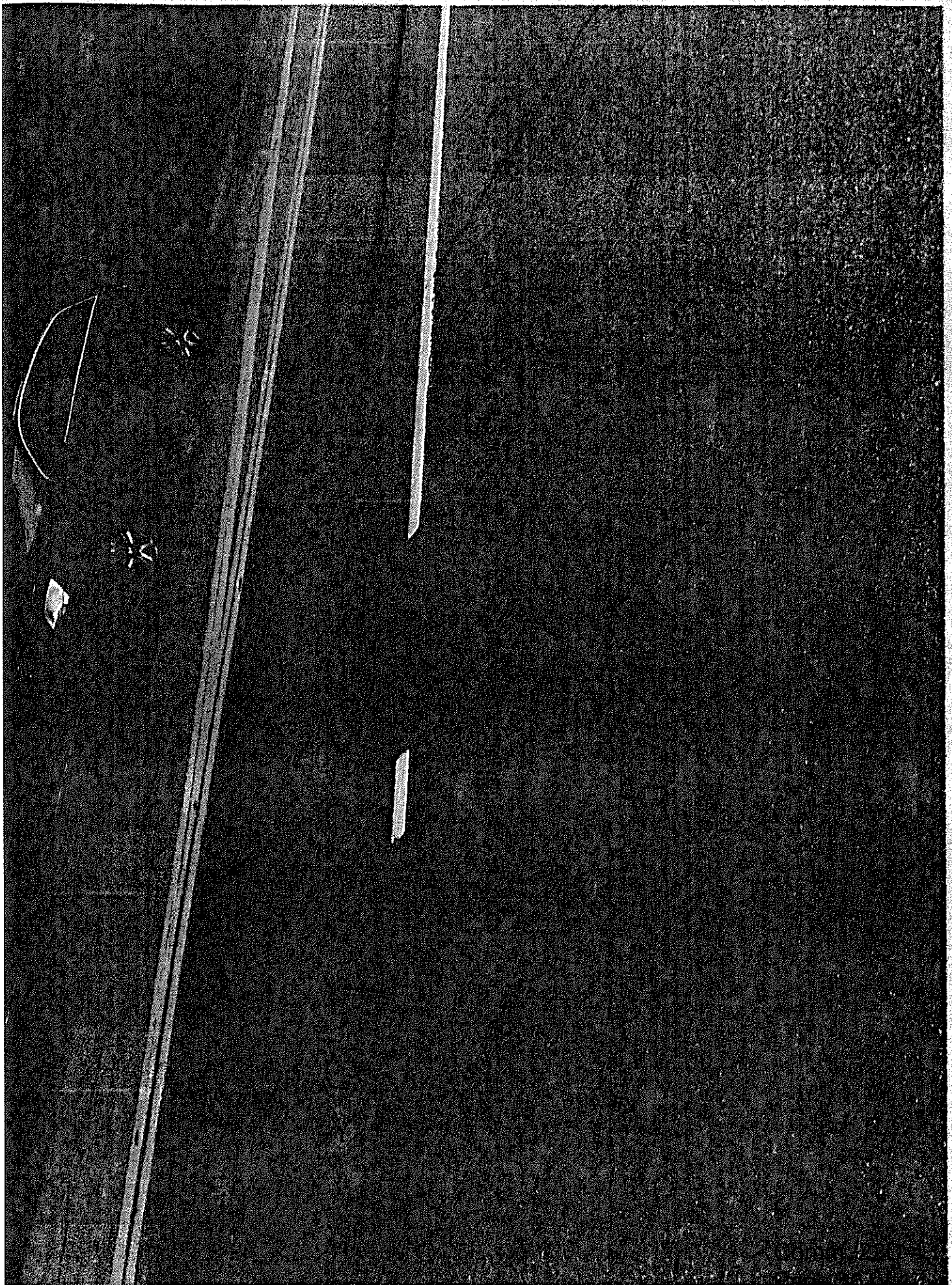


NOT TO SCALE



# EXHIBIT B











# 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 27, 2016

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>Nash, Reeseie v. NYS Parole, NYS DOCCS and Erie County Correctional Facility</i>
Document Received:	Order to Show Cause
Name of Claimant:	Reeseie Nash #49658 Erie County Correctional Facility 11581 Walden Avenue Alden, New York 14004
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.

Comm. 22D-4  
Page 38 of 47

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

---

IN THE MATTER OF THE APPLICATION OF  
**REESEIE E. NASH, #49658**

ORI# NY 014015J

Petitioner,

ORDER TO  
SHOW CAUSE

-vs-

**TINA M. STANFORD, CHAIRWOMAN,  
NEW YORK BOARD OF PAROLE,  
ANTHONY J. ANNUCCI, ACTING COMMISSIONER,  
NYS DEPARTMENT OF CORRECTIONS  
AND COMMUNITY SUPERVISION,  
THOMAS DIINA, SUPERINTENDENT,  
ERIE COUNTY CORRECTIONAL FACILITY ✓**

Index No.  
I-2016-000139

Respondents.

---

SUPREME COURT, ERIE COUNTY

**HON. PAULA L. FEROLETO, JUSTICE PRESIDING**

APPEARANCES:

Petitioner, Pro Se  
**REESEIE E. NASH, #49658**

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 July 6, 2016, with accompanying exhibits, and it appearing that the  
above referenced petitioner, **REESEIE E. NASH**, 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, 2016** before the **HON. RUSSELL P. BUSCAGLIA**, Acting Justice of the Supreme Court, in Part 14 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 **REESEIE E. NASH** 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, Tina M. Stanford, Anthony J. Annucci and Thomas Diina on or before October 12, 2016 be deemed adequate. In addition, the petitioner, on or before said date, shall similarly serve the Attorney General at the Buffalo Regional Office, Main Place Towers, 350 Main Street, Suite 300, Buffalo, New York 14202; and the Erie County Attorney, 95 Franklin Street, Room 1634, Buffalo, New York; 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 Acting Justice Buscaglia, 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. Russell P. Buscaglia**, 25 Delaware Avenue-Fifth Floor, Buffalo, New York 14202 at least eight (8) days prior to the return date; and it is further

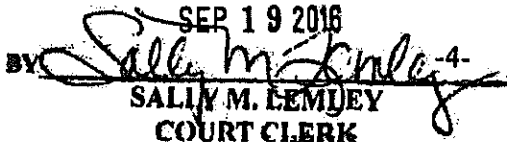
**ORDERED** that a copy of any answer or response shall be served upon the petitioner not less than five (5) days before the return date. The original of any such answer or response is to be delivered to the chambers of Acting Justice Buscaglia not less than three (3) days prior to said return date.

DATED: Buffalo, New York  
September 16, 2016

  
**HON. PAULA L. FEROLETO**  
Justice of the Supreme Court

**GRANTED**

GRANTED:

SEP 19 2016  
BY -4-  
**SALLY M. LEMLEY**  
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

November 4, 2016

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

Dear Ms. McCarthy:

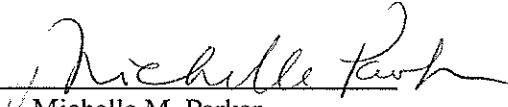
In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Harmon, Scott v. County of Erie, County of Erie Parks, Recreation and Forestry Department and City of Buffalo</i>
Document Received:	Notice of Claim
Name of Claimant:	Scott Harmon 47 Sweethaven Court Amherst, New York 14228
Claimant's attorney:	Robert J. Maranto, Jr., Esq. Andrews, Bernstein, Maranto & Nicotra PLLC 420 Franklin Street Buffalo, New York 14202

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. 22D-4  
Page 43 of 47

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

SCOTT HARMON,  
47 Sweethaven Court  
Amherst, New York 14228

Claimant,

**NOTICE OF CLAIM**

vs.

COUNTY OF ERIE,  
Edward A. Rath County Office Building  
95 Franklin Street  
Buffalo, New York 14202

COUNTY OF ERIE PARKS AND RECREATION  
DEPARTMENT,  
Edward A. Rath County Office Building  
95 Franklin Street  
Buffalo, New York 14202

ERIE COUNTY PARKS, RECREATION AND  
FORESTRY DEPARTMENT,  
Edward A. Rath County Office Building  
95 Franklin Street, Room 1260  
Buffalo, New York 14202

CITY OF BUFFALO,  
65 Niagara Square  
1100 City Hall  
Buffalo, New York 14202

Respondents.

This paper received at the  
Erie County Attorney's Office  
from Kathleen Hastings on

the 31<sup>st</sup> day of Oct, 2010  
at 10:33 a.m./p.m.

L. Petig - Hagg  
Assistant County Attorney

**PLEASE TAKE NOTICE**, that the Claimant, SCOTT HARMON, hereby intends to file a claim against the COUNTY OF ERIE, COUNTY OF ERIE PARKS AND RECREATION DEPARTMENT, ERIE COUNTY PARKS, RECREATION AND FORESTRY DEPARTMENT, and CITY OF BUFFALO and in support of said claim states the following:

1. The Post Office address of the Claimant, SCOTT HARMON is 47 Sweethaven Court, Amherst, New York, 14228.
2. The attorneys for the Claimant is Andrews, Bernstein, Maranto & Nicotra,

PLLC, 420 Franklin Street, Buffalo, New York 14202, Telephone (716) 842-2200.

3. The Claim arose as follows: On August 1, 2016, at or around 7:00 am, Claimant SCOTT HARMON, was riding his bike to work on the park bike-path located in Black Rock Canal Park. Upon information and belief, the COUNTY OF ERIE, COUNTY OF ERIE PARKS AND RECREATION DEPARTMENT, ERIE COUNTY PARKS, RECREATION AND FORESTRY DEPARTMENT, and CITY OF BUFFALO own, operate, supervise and maintain Black Rock Canal Park as a supervised public park and recreational facility, which contains the above-mentioned designated bike path.

4. The accident occurred when Claimant SCOTT HARMON impacted a concrete curb in a roundabout on the designated bike path in Black Rock Canal Park. This incident was caused by the negligence, carelessness, and recklessness of the COUNTY OF ERIE, COUNTY OF ERIE PARKS AND RECREATION DEPARTMENT, ERIE COUNTY PARKS, RECREATION AND FORESTRY DEPARTMENT, and CITY OF BUFFALO, and/or the agents, servants and/or employees of the COUNTY OF ERIE, COUNTY OF ERIE PARKS AND RECREATION DEPARTMENT, ERIE COUNTY PARKS, RECREATION AND FORESTRY DEPARTMENT, and CITY OF BUFFALO as follows:

- a. Negligently creating or maintaining a dangerous condition in the subject area.
  - b. Negligently failing to maintain the subject area in a reasonably safe condition;
  - c. Negligently failing to warn the Claimant of the dangerous and hazardous conditions in the subject area;
  - d. Negligently failing to recognize a known hazardous condition;
  - e. Negligently failing to take proper measures to correct the dangerous condition in the subject area;
  - f. Negligently failing to buffer, shield or protect against a collision with the roundabout and concrete curb;
  - g. Negligent supervision of the subject area; and,
  - h. The Respondents were otherwise negligent;
5. Please find CD enclosed with images of roundabout and concrete curb.

6. This Claim is for personal injuries, conscious physical and emotional pain and suffering, medical expenses and consequential damages.

7. By virtue of the negligence and carelessness of the COUNTY OF ERIE, COUNTY OF ERIE PARKS AND RECREATION DEPARTMENT, ERIE COUNTY PARKS, RECREATION AND FORESTRY DEPARTMENT, and CITY OF BUFFALO, Claimant SCOTT HARMON was caused to suffer serious, significant and permanent injuries as a result of this incident, including injuries to his left ribs, left wrist, and broken bones in his elbows. Claimant SCOTT HARMON also suffered other injuries and complications as yet undetermined as a result of this accident and, and by reason of the same, Claimant sustained damages in an amount which cannot be reasonably calculated at this time.

8. By virtue of the negligence and carelessness of the County of Erie, County of the COUNTY OF ERIE, COUNTY OF ERIE PARKS AND RECREATION DEPARTMENT, ERIE COUNTY PARKS, RECREATION AND FORESTRY DEPARTMENT, and CITY OF BUFFALO, Claimant has also incurred hospital and medical expenses, loss of income and other necessary related expenses, the amount of which is undetermined to date.

**WHEREFORE**, claimants request that the COUNTY OF ERIE, COUNTY OF ERIE PARKS AND RECREATION DEPARTMENT, ERIE COUNTY PARKS, RECREATION AND FORESTRY DEPARTMENT, and CITY OF BUFFALO, compensate Claimant SCOTT HARMON for his injuries.

Dated: Buffalo, New York  
October 24, 2016

Yours, etc.,

**ANDREWS, BERNSTEIN, MARANTO  
& NICOTRA, PLLC**

By: \_\_\_\_\_

Robert J. Maranto, Jr., Esq.

*Attorney for Claimant*

*Andrews, Bernstein, Maranto & Nicotra, PLLC*

420 Franklin Street

Buffalo, New York 14202

(716) 842-2200

VERIFICATION

STATE OF NEW YORK :  
COUNTY OF ERIE : ss.  
CITY OF BUFFALO :

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

  
SCOTT HARMON

Sworn to before me this 24<sup>th</sup>  
day of October, 2016

  
Notary Public

HANNAH MARY HULL  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01HU6250351  
Qualified in Erie County  
My Commission Expires October 24, 2016