



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: Robert M. Graber, Clerk, Erie County Legislature
FROM: Michelle M. Parker, First Assistant County Attorney
DATE: October 3, 2018
RE: Transmittal of New Claims Against Erie County

Mr. Graber:

In accordance with the Resolution passed by the Erie County Legislature on June 25, 1987 (Int. 13-14), attached please find 31 new claims brought against the County of Erie. The claims are as follows:

Claim Name

1. Charles Mays v. Sup'dt Diina, et al.;
2. Katrina Martin v. Erie County Clerk;
3. Felipe Marcus v. Sheriff Howard, et al.;
4. Brandon Guarino v. City of Tonawanda;
5. Richard Said v. COE, et al.;
6. Estate of Alfred Maslowski v. COE;
7. Donna & George Mergenaghan v. ECMCC;
8. Regjay Marvin v. ECSO;
9. Joan Coleman v. COE, et al.;
10. Allstate o/b/o Jeanne Davis v. COE;
11. Susan Carpenter v. COE, et al.;
12. Emil Cappelli v. COE & Marni Bogart;
13. Willie Banks v. COE, et al.;
14. Moses Santiago Maldonado v. COE, et al.;
15. Hollis W. Tibbetts v. COE, et al.;
16. Michael DiJoseph v. COE;
17. Estate of Michael Girard v. COE, et al.;
18. Cortez Phillips v. COE, et al.

Comm. 19D-1

1 of 178

Mr. Robert M. Graber, Clerk
Erie County Legislature
October 3, 2018
Page 2

19. John A. Bish v. COE, et al.
20. Jameel Williams v. COE;
21. Craig Sims v. Jason Redding – Employee UM Claim;
22. Brittany Elliott v. COE, et al.;
23. Brian & Maureen Doyle v. COE;
24. Lorene Hall & Clinton Davis v. COE;
25. Jeremiah Nolan v. COE, et al.;
26. Joseh C. Kilton v. COE, et al.;
27. Michael Czora v. Sheriff Howard, et al.;
28. James & Carrie Fix v. COE;
29. Reemployment – US Dept. of Labor complaint under USERRA;
30. Yolanda Torres v. ECDSS; and
31. Shawn C. Bulow v. COE, et al.

MMP:dld
Attachments



COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ

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MICHELLE M. PARKER
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JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

June 28, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:


In compliance with the Resolution No. 306 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>Mays, Charles V. Sup'dt Diina, Annucci (NYS DOCCS) and Stanford (NYS Parole)</i>
Document Received:	Order to Show Cause
Name of Claimant:	Charles Mays ICN #09B1655 Five Points Correctional Facility State Route 96/PO 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
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
3 of 178

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION OF
CHARLES MAYS, #09-B-1655

ORI# NY 014015J

Petitioner,

ORDER TO
SHOW CAUSE

-VS-

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

Index No.
I-2018-000043

Respondents.

SUPREME COURT, ERIE COUNTY

HON. PAULA L. FEROLETO, JUSTICE PRESIDING

APPEARANCES:

Petitioner, Pro Se
CHARLES MAYS, #09-B-1655

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 March 11, 2018, with accompanying exhibits, and it appearing that the
above referenced petitioner, **CHARLES MAYS**, 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 **JULY 26, 2018** 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 Rickey Bartlett, Superintendent of the Willard Drug Treatment Campus in Willard, New York where petitioner is now confined, will produce the body of **CHARLES MAYS** 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 it is also the petitioner's responsibility to serve a signed and executed copy (stamped "Original Filed") of the Order to Show Cause, the petition and any supporting papers upon the respondents, Anthony J. Annucci, Tina M. Stanford and Thomas Diina, on or before **June 28, 2018**. In addition, the petitioner, on or before said date, shall similarly serve the Attorney General at the Buffalo Regional Office, Main Place Tower, 350 Main Street, Suite 300, Buffalo, New York 14202 and 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

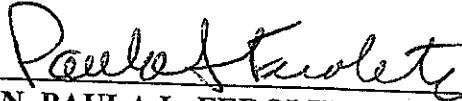
ORDERED that it is the petitioner's responsibility to:

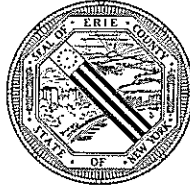
(a) Serve a signed and executed copy of this Order to Show Cause, the petition and any supporting papers as authorized above or by personal service. The reduction of the filing fee herein does not authorize court personnel to provide photo-reproduction services, nor service of papers on behalf of a *pro 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
June 4, 2018


HON. PAULA L. FEROLETO
Justice of the Supreme Court



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

June 27, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

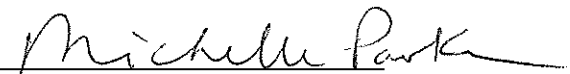
In compliance with the Resolution No. 306 passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Martin, Katrina v. Erie County Clerk -- Auto Bureau</i>
Document Received:	NYS Division of Human Rights Charge of Discrimination
Name of Claimant:	Katrina A. Martin 62 Easton Avenue, Apt. 1 Buffalo, New York 14215
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
Michelle.Parker@erie.gov

MMP:dld
Enc.

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF
HUMAN RIGHTS on the Complaint of

KATRINA A. MARTIN,

Complainant,

v.

ERIE COUNTY,

Respondent.

VERIFIED COMPLAINT
Pursuant to Executive Law,
Article 15

Case No.
10195175

Federal Charge No. 16GB803649

I, Katrina A. Martin, residing at 62 Easton Ave., Buffalo, NY, 14215, charge the above named respondent, whose address is 95 Franklin St., Buffalo, NY, 14202 with an unlawful discriminatory practice relating to employment in violation of Article 15 of the Executive Law of the State of New York (Human Rights Law) because of race/color, opposed discrimination/retaliation.

Date most recent or continuing discrimination took place is 12/12/2017.

SEE ATTACHED

RECEIVED

New York State Division of Human Rights
Employment Complaint Form

JUN 15 2018

NYSDHR BUFFALO
REGIONAL OFFICE

1. Your contact information:											
First Name <u>Katrina</u>		Middle Initial/Name <u>A</u>									
Last Name <u>MARTIN</u>											
Street Address/ PO Box <u>62 Easton Ave</u>		Apt or Floor #: <u>1</u>									
City <u>Buffalo</u>		State <u>NY</u>	Zip Code <u>14215</u>								
2. Regulated Areas: You believe you were discriminated against in the area of: <table border="0"> <tr> <td><input checked="" type="checkbox"/> Employment (including paid internship)</td> <td><input type="checkbox"/> Labor Organization</td> </tr> <tr> <td><input type="checkbox"/> Apprentice Training</td> <td><input type="checkbox"/> Employment Agencies</td> </tr> <tr> <td><input type="checkbox"/> Internship (unpaid only)</td> <td><input type="checkbox"/> Licensing</td> </tr> <tr> <td colspan="2"><input type="checkbox"/> Volunteer Firefighting (excludes disability, age, domestic violence victim status, arrest, conviction, genetic history)</td> </tr> </table>				<input checked="" type="checkbox"/> Employment (including paid internship)	<input type="checkbox"/> Labor Organization	<input type="checkbox"/> Apprentice Training	<input type="checkbox"/> Employment Agencies	<input type="checkbox"/> Internship (unpaid only)	<input type="checkbox"/> Licensing	<input type="checkbox"/> Volunteer Firefighting (excludes disability, age, domestic violence victim status, arrest, conviction, genetic history)	
<input checked="" type="checkbox"/> Employment (including paid internship)	<input type="checkbox"/> Labor Organization										
<input type="checkbox"/> Apprentice Training	<input type="checkbox"/> Employment Agencies										
<input type="checkbox"/> Internship (unpaid only)	<input type="checkbox"/> Licensing										
<input type="checkbox"/> Volunteer Firefighting (excludes disability, age, domestic violence victim status, arrest, conviction, genetic history)											
3. You are filing a complaint against:											
Employer Name <u>Erie County Auto Bureau</u>											
Street Address/ PO Box <u>239 Eggert Rd</u>											
City <u>Tonawanda</u>		State <u>NY</u>	Zip Code <u>14150</u>								
Telephone Number: <u>(716) 447-0519</u> Ext. _____											
In what county or borough did the violation take place? <u>Erie County</u>											
Individual people who discriminated against you:											
Name: <u>Sandra Hayden</u>		Title: <u>Manager</u>									
Name: <u>Tracy Nowicki</u>		Title: <u>Supervisor</u>									
If you need more space, please list them on a separate piece of paper. <u>See attached</u>											
4. Date of alleged discrimination (must be within one year of filing):											
The most recent act of discrimination happened on: <u>12</u> <u>12</u> <u>17</u> month day year											
5. For employment and internships, how many employees does this company have?											
<input type="checkbox"/> 1-3 <input type="checkbox"/> 4-14 <input type="checkbox"/> 15-19 <input type="checkbox"/> 20 or more <input type="checkbox"/> Don't know											
6. Are you currently working for this company?											
<input checked="" type="checkbox"/> Yes. Date of hire: <u>04</u> <u>08</u> <u>2008</u> month day year		What is your position? <u>Motor Vehicle Representative</u>									
<input checked="" type="checkbox"/> No. Last day of work: <u>04</u> <u>30</u> <u>2018</u> month day year		What was your position? <u>Motor Vehicle Representative</u>									
<input type="checkbox"/> I was never hired. Date of application: _____ month day year		What position did you apply for? _____									

Peggy Lagree - 1st Deputy
Carl - Acting County Clerk
Craig - 2nd Deputy Auto Bureau
Chris Jacobs - 1st Deputy Auto Bureau
County Clerk

7. Basis of alleged discrimination:

Check **ONLY** the boxes that you believe were the reasons for discrimination. Please look at page 2 of "Instructions" for an explanation of each type of discrimination.

<input type="checkbox"/> Age: Date of Birth: _____	<input type="checkbox"/> Military Status: <input type="checkbox"/> Active Duty <input type="checkbox"/> Reserves
<input type="checkbox"/> Arrest Record (<i>resolved in your favor or youthful offender record or sealed conviction record</i>)	<input type="checkbox"/> National Origin: Please specify: _____
<input type="checkbox"/> Conviction Record	<input type="checkbox"/> Predisposing Genetic Characteristic: Please specify: _____
<input type="checkbox"/> Creed/ Religion: Please specify: _____	<input type="checkbox"/> Pregnancy-Related Condition: Please specify: _____
<input type="checkbox"/> Disability: Please specify: _____	<input checked="" type="checkbox"/> Race/Color or Ethnicity: Please specify: <u>African American</u>
<input type="checkbox"/> Domestic Violence Victim Status	<input type="checkbox"/> Sexual Orientation: Please specify: _____
<input type="checkbox"/> Familial Status: Please specify: _____	<input type="checkbox"/> Sex: Please specify: _____ Specify if the discrimination involved: <input type="checkbox"/> Pregnancy <input type="checkbox"/> Gender Identity <input type="checkbox"/> Transgender Status <input type="checkbox"/> Sexual Harassment
<input type="checkbox"/> Marital Status: Please specify: _____	

If you believe you were treated differently after you filed or helped someone file a discrimination complaint, participated as a witness to a discrimination complaint, or opposed or reported discrimination due to any category above, check below:

☒ **Retaliation:** How you did you oppose discrimination: Talked to Manager

8. Acts of alleged discrimination: What did the person/company you are complaining against do? Check all that apply

<input type="checkbox"/> Refused to hire me	<input type="checkbox"/> Denied me an accommodation for my disability or pregnancy-related condition	<input checked="" type="checkbox"/> Denied me leave time or other benefits	<input type="checkbox"/> Harassed/ intimidated me (other than sexual harassment)
<input type="checkbox"/> Fired me/laid me off	<input type="checkbox"/> Denied me overtime benefits	<input type="checkbox"/> Sexually harassed or intimidated me	<input type="checkbox"/> Did not call back after lay-off
<input type="checkbox"/> Demoted me	<input type="checkbox"/> Paid me a lower salary than other co-workers doing the same job	<input type="checkbox"/> Gave me different or worse job duties than other workers doing the same job	<input type="checkbox"/> Denied me services/treated differently by employment agency
<input type="checkbox"/> Suspended me	<input type="checkbox"/> Denied me an accommodation for my religious practices	<input checked="" type="checkbox"/> Gave me a disciplinary notice or negative performance review	<input checked="" type="checkbox"/> Unlawful inquiry, or limitation, specification or discrimination in job advertisement
<input type="checkbox"/> Denied me training	<input type="checkbox"/> Denied me promotion/ pay raise	<input type="checkbox"/> Denied a license by a licensing agency	<input type="checkbox"/> Other: _____

9. Description of alleged discrimination

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

on 7/14/15 the Senior Motor Vehicle Representative Exam was established. The person with the highest score was offered the first position at Cheektowaga Auto Bureau, which he accepted. Two other people were offered the positions which were at ECC South. They declined because of location. Everyone was caucasian. Deborah Strickland who is black was not offered the position even though I got a 90 on the exam. I got an 80 on the exam. I am an african american. I was not offered an position either. Someone with a lower score than Deborah was offered the position for Cheektowaga and ECC South. Someone who was below me on the list which goes in alphabetical order by same score, was offered position and accepted to go to ECC South. There was a position open at Eastern Hills Mall on 9/10/17. An SMR got that position, but because the position wasn't accepted within 10 days according to union contract, the position had to be re-posted. The same time that position was being re-posted the position at Cheektowaga was opening. My supervisor Tracy Nowicki posted the Cheektowaga opening, then took it down and re-posted the Eastern Hills posting and never re-posted the Cheektowaga position. That position was given to Michele Cannizzaro. I found that out on 12/12/17 that she was given the position. Cheektowaga first was accepted by Christian Adams. ECC South was accepted by Catherine Pieczynski. Eastern Hill was accepted by Maria Dempsey. There are no African American working as Senior Motor Vehicle Representatives at the Erie County Auto Bureaus. On 8/21/15 my son graduated from the Corrections Academy. I asked months

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

before if I could have off, I was told only one full time off at a time. 10/27/17 a full time was off Denise Coppola and Debbie Kowalski was given off to take her son to a hockey tournament. The favorites are given exception, I went in to talk to my manager Sandy Hayden about things that had been happening in the office. I was the Secretary of the union for our section. People had been complaining to me, I told them go talk to manager, They said they were going to go to union or above them. I said I would talk to them before it got to that point. I was around 4/3/17, I received my Review on 5/3/17 and it was not what I was used to. The biggest thing was because I went to talk to manager that gave me a bad Review.

I was always told I was a
 good worker and my work
 was always put together well.
 I believe ~~because~~ I was retaliated
 against because I was speaking
 on behalf of others to get a
 resolution to issues in office.
 10/2/17 the supervisor privileges
 was given to Denise Coppola.
 There was 3 others with more
 seniority than her: Myself,
 Laura Kish and Lisa. I
 was next in line with the
 most seniority out of all
 of them a African American
 woman. I was not even asked.
 I felt that my race had a
 lot to do with that decision.
 11/16/17 I was running late for
 work I went in clocked in then
 went back out to move my car.
 I was told I couldn't do that.
 I had to park and then come
 in even if I was going to be
 late. I told my supervisor
 Tracy Nowicki that other

people do the same things.
She told me that they had
been talked to about that.
ON 12/4/17 I got a text
from Denise Coppola saying
Debbie Kowalski did the same
thing. Clocked in and went
and moved her car. She
was not spoken to about
it. This is the same person
Tracy said she had talked
to about that previously.
2/8/18 Thomas Burns was
about to leave the office. He
told me, Sandy Hayden and
Tracy Nowicki that he
talked to his Tonawada cop
friends and told them to
about DWB's. My supervisors
asked me what that was
because Tom had already
left. I told them it meant
Driving while Black, and
I went out the door. I
got into the office the next
morning my manager Sandy

5

Hayden asked to speak to me. She said she was sorry, she was offended for me. I said it's ok. I am used to these things.

I was hired 4/8/08 as a RPT with the Erie County Auto Bureau. I was excited to start work at this job. Within 6 months I was offered a full time position which I accepted. I was told by Kathy Hochel that I was a good worker. I enjoyed helping people solve problems at the Auto Bureau, that is who I am. For all of the above I was forced to find another job. I believe I was not allowed to grow and prosper within the department because I was African American. I believe if I was another race I would have been treated differently.

Notarization of Complaint

Based on the information contained in this form, I charge the herein named respondent(s) 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). This complaint will protect my 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.

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.

PLEASE INITIAL KAM

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.

Kurt A. Miller
Sign your full legal name

Subscribed and sworn before me
This 15 day of June, 2012

Beverly A. Frescholtz
Signature of Notary Public

County: Commission expires:

Please note: Once this form is completed, notarized, and returned to the New York State Division of Human Rights, it becomes a legal document and an official complaint with the Division.

BEVERLY A. FRESCHOLTZ
Notary Public, State of New York
No. 01FR6187237
Qualified in Erie County 20
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

June 28, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution No. 306 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>Marcus, Felipe v. Sheriff Howard, Superintendent Diina, ECSO, County of Erie and John Does 1-10</i>
Document Received:	Notice of Claim
Name of Claimant:	Felippe Marcus 1486 South Buchanan Circle Aurora, Colorado 80018
Claimant's attorney:	Christopher M. Pannozzo, Esq. Shaw & Shaw, P.C. 4819 South Park Avenue Hamburg, New York 14075

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
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
19 of 178

STATE OF NEW YORK

FELIPPE MARCUS
955 Evergreen Avenue
Bronx, New York 10473

Claimant

-vs-

NOTICE OF CLAIM

TIMOTHY B. HOWARD, SHERIFF OF THE
ERIE COUNTY SHERIFF'S DEPARTMENT
10 Delaware Avenue
Buffalo, New York 14202

THOMAS DIINA, AS SUPERINTENDENT
OF THE JAIL MANAGEMENT DIVISION
ERIE COUNTY SHERIFF'S DEPARTMENT
10 Delaware Avenue
Buffalo, New York 14202

OFFICE OF THE ERIE COUNTY SHERIFF
10 Delaware Avenue
Buffalo, New York 14202

COUNTY OF ERIE
Erie County Hall
Buffalo, New York 14202

JOHN DOES 1-10, said names being fictitious,
but intended to be the individuals/officers
involved in the within incident

Respondents

TO: TIMOTHY B. HOWARD, SHERIFF OF THE
ERIE COUNTY SHERIFF'S DEPARTMENT
10 Delaware Avenue
Buffalo, New York 14202

This paper received at the
Erie County Attorney's Office
from Flora Zendenon
the 22 day of June, 20 18
at 11:48 a.m./p.m.
G. M. c.
Assistant County Attorney

THOMAS DIINA, AS SUPERINTENDENT
OF THE JAIL MANAGEMENT DIVISION
ERIE COUNTY SHERIFF'S DEPARTMENT
10 Delaware Avenue
Buffalo, New York 14202

OFFICE OF THE ERIE COUNTY SHERIFF
10 Delaware Avenue
Buffalo, New York 14202

COUNTY OF ERIE
Erie County Hall
Buffalo, New York 14202

JOHN DOES 1-10, said names being fictitious,
but intended to be the individuals/officers
involved in the within incident

PLEASE TAKE NOTICE, claimant herein makes a claim for damages against respondents and in accordance with the requirements of General Municipal Law § 50-e, state as follows:

1. Claimant resides at 1486 South Buchanan Circle, Aurora, CO 80018.
2. Claimant is represented by Shaw & Shaw, P.C. (Christopher M. Pannozzo, Esq., of counsel), 4819 South Park Avenue, Hamburg, New York 14075, (716) 648-3020 Telephone, (716) 648-3730 Telecopier.
3. This claim is for personal injuries and other damages sustained by claimant as a result of the intentional acts of assault, harassment, battery, excessive force, unlawful imprisonment, negligent hiring, negligent training, negligent retention, general negligence, vicarious liability and violations of the Federal Civil Rights Law, The United States Constitution, The New York State Constitution and the Amendments thereof.

4. The claim arose on March 30, 2018 at approximately 9:00 p.m. The particular place of the commencement of the sustaining of the injuries resulting in these claims was at or near The Erie County Holding Center, 134 West Eagle Street in Buffalo, Erie County, New York. Said correction officers caused claimant to be seized and assaulted when no offense had been committed by him and caused him physical and emotional injury.

5. The incident aforesaid and the injuries and resulting damages hereinafter alleged were caused solely and wholly by the acts of correction officer employees and other employees of the County of Erie, in that said correction officer employees exercised their authority in an intentionally malicious and careless manner causing serious and permanent injuries and/or damages to claimant.

6. The causes of action which form the substance of this claim arose in the following manner: That on or about March 30, 2018, while claimant was lawfully at the location stated above, claimant was assaulted and seized without cause or provocation by the respondents, their agents, servants and/or employees, causing claimant severe physical injury. Further, the respondents, their agents, servants and/or employees were negligent, wanton and reckless in failing to properly supervise their employees: they allowed their employees and agents to subject claimant to physical contact without cause or provocation, thus creating a dangerous or hazardous condition, which they knew, or in the exercise of reasonable care, existed for a period of time prior to the incident; that they failed to properly supervise the individual respondents named herein, and other agents, servants and employees of respondents and other participating officers in their activities; in hiring such employees they knew or should have known to be incompetent, unskilled, inexperienced,

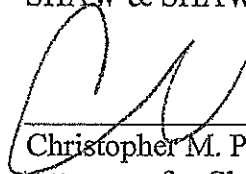
and with violent propensities; and that the employees were incompetent, unskilled and possessed obvious violent propensities; that the violent propensities of the officers was known to respondents; in failing to properly train their employees and enforce proper and adequate rules of conduct.

7. Solely by reason of intentional misconduct of agents of respondents, their agents, servants and/or employees, claimant sustained permanent injuries, and/or damages, and as a result thereof, claimant has been forced to expend sums of money for medical and legal assistance and/or was otherwise damaged.

WHEREFORE, claimant requests that these claims, as set forth, be paid and allowed by Respondents.

DATED: June 14, 2018
Hamburg, New York

SHAW & SHAW, P.C.



Christopher M. Pannozzo
Attorneys for Claimant
4819 South Park Avenue
Hamburg, New York 14075
(716) 648-3020 Telephone
(716) 648-3730 Facsimile
cpannozzo@shawlawpc.com

VERIFICATION

STATE OF NEW YORK)

)ss.:

COUNTY OF)

Felippe Marcus, being duly sworn, deposes and says that (s)he is the plaintiff in the within action; that (s)he has read the foregoing and knows the contents thereof; that the same is true to her/his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters, deponent believes it to be true.

Felippe Marcus

Sworn to before me this
25 day of April 2018.

[Signature]
Notary Public

CHRISTOPHER M. PANNOZZO
NOTARY PUBLIC
QUALIFIED IN ERIE COUNTY, NY
MY COMMISSION EXPIRES MARCH 28, 2021



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

June 28, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution No. 306 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>Guarino, Brandon v. City of Tonawanda</i>
Document Received:	City of Tonawanda's insurer (Travelers) submitted a request for defense and indemnification to the County of Erie
Name of Claimant:	Brandon Guarino 92 Brockett Drive Tonawanda, New York 14223
Claimant's attorney:	Claimant is not presently represented by counsel; a Notice of Claim has not yet been served

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
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
25 of 178



Melissa Gallagher
Claim Professional
Public Sector Liability
(610)736-2407 Phone
(877)231-2506 Fax
PO Box 430
Buffalo, NY 14240

June 4, 2018

VIA CERTIFIED MAIL

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

RE Our Insured: City of Tonawanda
Claimant: Brandon Guarino
Our Claim #: FCA8517
Date of Loss: 05/08/2018

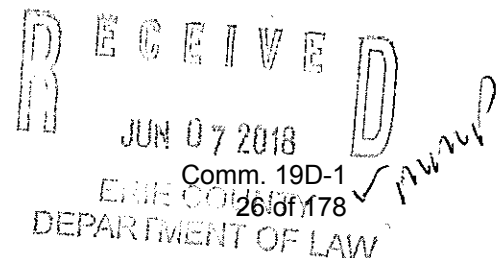
Dear Sir or Madam:

Please be advised that The Travelers Indemnity Company ("Travelers") provides General Liability coverage to the City of Tonawanda ("City"). The City received a notice of claim from Brandon Guarino's father stating that he was injured and damaged his cell phone when he fell on a crack in the pavement of the Riverwalk bike path while riding his skateboard. A copy of the notice of claim from Mr. Guarino is enclosed.

On November 22, 1985, the Village entered into an Easement Agreement (the "Agreement") with the County of Erie ("County"), by which the County assumed the responsibility for the Riverwalk bike path pavement patching and resurfacing. The Agreement refers to the City as the "City" and to the County of Erie as the "County." A copy of the Agreement is enclosed. Term 1. of the Agreement describes the County's obligations and states, in part:

1. The maintenance of the pathway by the County shall include pavement patching and resurfacing, line painting, sign maintenance and replacement, repair and maintenance of bollards, guardrails, and other features included in the Riverwalk Design Drawings formally approved by the County of Erie other than plant material, lawn mowing, and debris pickup which shall be the responsibility of the City;

The Agreement, p. 2, ¶ 1.



Pursuant to the above, the County is responsible for the maintenance of the paved portions of the Riverwalk bike path. As this loss involves an injury and property damage that occurred due to an alleged defective condition of the pavement of the bike path, we request that the County indemnify and hold harmless the City for Mr. Guarino's claim.

In summary, we are tendering this matter to the County of Erie to indemnify and hold harmless the City. We request a written response to this tender within 30 days. If you wish to discuss this matter, please feel free to contact me at the number listed above or you can e-mail me at mmgallag@travelers.com

Sincerely,

A handwritten signature in black ink, appearing to read 'Melissa Gallagher', with a stylized flourish at the end.

Melissa Gallagher
The Travelers Indemnity Company

Enclosures

CITY OF TONAWANDA
Incident Report/Liability Claim

Your Name: Brandon Guarino (minor)
Address: 92 Brockett Drive Tonawanda NY 14223
D.O.B. 09/03/2000 Phone Number: Home 716 310 2265 ^{cell} 716 310 2265 ^{Father (Richard)} 716 228 3892
(if applicable)
Date of Incident: 5/8/18 Has a Police Report been filed? NO
Make, model & year of car (if applicable) N/A

Location and Description of Incident (attach any estimates or bills incurred):

I was riding my long board along the Riverwalk
path when I noticed a huge crack approaching. I
could not stop, my long board wheel got caught
in the crack and I was thrown off experiencing
cuts, bruises and a headache. See attached
pictures for location + injuries. Upon landing my phone was
destroyed on pavement.

Injuries/if any (include name of doctor and extend of injury):

Cuts, bruises, soreness and a 2-day
headache. Self treated at home.

Witness: Name: Olivia Focier

Address: 10 Old Colony Ave Tonawanda NY 14150

Phone Number: 716 335 0965

Signature of Claimant: [Signature] ^{Father of Minor} Date: 5/14/18

Police Report Attached: Yes No X Police were nearby but were
making an arrest at the time.

Location: 43.021795, -78.880960

This portion of report to be filled out by the City of Tonawanda.

Sent to Insurance Company on: _____

Sent to department involved on: _____ department sent to: _____

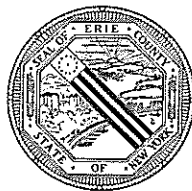
Was location inspected after incident was reported? Yes or No _____

Inspected by: _____ Date: _____

Findings/Result of Inspection: _____

Signature of Department Head Responsible: _____

Returned to Clerk's Office on: _____



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

June 28, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution No. 306 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>Said, Richard v. County of Erie and EC SO</i>
Document Received:	Notice of Claim
Name of Claimant:	Richard Said ICN #25973 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.

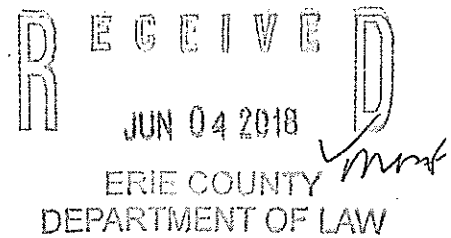
Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: *Michelle Parker*
Michelle M. Parker
First Assistant County Attorney
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
30 of 178



In the Matter of the Claim of

RICHARD SAID
Erie County Correctional Facility
11581 Walden Avenue
Alden, New York 14004

Notice of Claim

Claimant

vs.

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

ERIE COUNTY SHERIFF'S OFFICE
10 Delaware Avenue
Buffalo, New York 14202

Respondents

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

Erie County Sheriff's Office
Timothy B. Howard, Sheriff
10 Delaware Avenue
Buffalo, New York 14202

PLEASE TAKE NOTICE, the undersigned, Richard Said, pursuant to General Municipal Law §50-e, does hereby make a claim against the County of Erie and Erie County Sheriff's Office (the "Respondents") for damages, and in support of such claim, states the following:

1. The name of the Claimant is Richard Said (the "Claimant"), a current inmate at Erie County Correctional Facility, 11581 Walden Avenue, Alden, New York 14004.

2. The nature of the claim of the Claimant is for personal injuries, including pain and suffering, medical expenses, emotional and mental distress, and for attendant damages and losses for which the proximate and contributing cause was the negligence, carelessness, and reckless of the Respondents, their agents, servants and/or employees.

3. The time when the claim arose and the time when the injuries were sustained by Claimant was on the March 27, 2018 in the Erie County Correctional Facility in Alden, New York. The claim arose when the Claimant attempted to sit down using a certain plastic chair known and provided by the Respondents. The chair provided by Respondents unexpectedly folded or collapsed, causing Claimant to fall backwards and striking his head. ^{on steel door (corner of)} Upon information and belief, the above-described incident and injuries were caused by and arose as a result of the negligence, carelessness, recklessness of the Respondents, their agents, servants and/or employees in, among other things: their ownership, operation, possession, management, maintenance, upkeep, repair and control of the plastic chair, particularly, in failing to repair and/or replace the plastic chair; in failing to take the proper precautions to insure the safety of the Claimant; failing to maintain the chair in a safe and proper condition; failing to warn of an unsafe, dangerous, and hazardous condition; failing to make necessary observations and inspections of the chair to determine the existence of a dangerous and unsafe condition; failing to correct the dangerous and unsafe condition within a reasonable time; creating, causing, permitting, and/or allowing an unsafe, dangerous, and hazardous condition to exist; allowing and permitting said condition to exist when the Respondents had both the knowledge and notice, or in the exercise of reasonable care could and should have known, of such dangerous conditions;

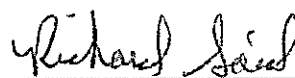
failing to comply with the proper laws, rules, regulations; and failing to give Claimant and others any notice and/or warning of the dangerous and hazardous condition existing.

4. The items of damage or injuries claimed by the Claimant so far as is now practicable consist of: injuries to both Claimant's head and neck; all with resulting pain and suffering, including loss of enjoyment of life, mental anguish, anxiety and fear, medical expenses, and all of the damages available under applicable law.

PLEASE TAKE FURTHER NOTICE, that unless said claim is adjusted and paid by the Respondents within thirty (30) days from the date of service of this Notice of Claim, the Claimant intends to commence an action in the Supreme Court of the State of New York, County of Erie, against the Respondents for a sum which exceeds the jurisdictional limit of all lower courts which would otherwise have jurisdiction, together with interest, costs and disbursements.

WHEREFORE, the Claimant requests that this claim be allowed and paid by the Respondents.

Dated: May 30th, 2018
Buffalo, New York



Richard Said

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

Richard Said, being duly sworn, deposes and states that deponent 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 his own knowledge, except as to matters therein stated to be alleged upon information and belief, and that as to those matters, he believes it to be true.



Richard Said

Subscribed and sworn to before me this
30th day of MAY, 2018.



Notary Public

Doc #635233.1

CHRISTOPHER T. COUGHLIN
No. 01CO6294898
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Dec. 23, 2021



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

June 28, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution No. 306 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>Maslowski, Alfred, Estate of, by Barbara Maslowski v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Barbara Maslowski 3 Mourning Dove Court Orchard Park, New York 14127
Claimant's attorney:	Sidney M. Mosher, Esq. O'Brien & Ford, P.C. 4925 Main Street, Suite 222 Buffalo, New York 14226

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: *Michelle M. Parker*
Michelle M. Parker
First Assistant County Attorney
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
35 of 178

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

BARBARA MASLOWSKI, as Administrator
of the Estate of ALFRED S. MASLOWSKI,
Deceased

Claimants,

vs.

COUNTY OF ERIE,

Respondent.

NOTICE OF CLAIM

Index No.

95
Franklin
Room 1634

This paper received at the
Erie County Attorney's Office
from Daniel O'Neill, III on
the 20th day of June, 2018
at 2:04 a.m./p.m.
Danette Schenker
~~Assistant County Attorney~~
Assistant to the

PLEASE TAKE NOTICE THAT Barbara Maslowski, as Administrator of the Estate of Alfred S. Maslowski, Deceased, hereby makes a claim and demand against the State of New York (hereinafter "Respondent") as follows:

1. The name and post office address of Claimant is Barbara Maslowski, 3 Mourning Dove Court, Orchard Park, New York 14127.
2. The attorneys for the Claimant are O'Brien & Ford, P.C., 4925 Main Street, Suite 222, Buffalo, New York 14226, telephone number (716) 907-7777.
3. On or about May 29, 2018, Barbara Maslowski was appointed Executor of the Estate of Alfred S. Maslowski, Deceased. A copy of the Certificate of Appointment of Executor is attached hereto as **Exhibit A**.
4. This is a negligence case stemming from Deceased Claimant Alfred S. Maslowski's trip and fall on Respondent's property. The facts and circumstances of this claim are as follows: On March 14, 2018, at approximately 4:45 p.m., Deceased

Claimant Alfred S. Maslowski tripped and fell at, near or in the left side entryway of the property located at 5600 McKinley Parkway, Hamburg, New York 14075.

5. As a result of the fall, Deceased Claimant Alfred S. Maslowski sustained severe injuries and death. As hereinafter set forth, Deceased Claimant's injuries and death were due to the negligence, carelessness and recklessness of the Respondent herein.

6. Upon information and belief, and at all times hereinafter mentioned, Respondent owned, maintained, serviced and controlled the aforementioned area where Deceased Claimant slipped and fell.

7. Among other things, the rug located in the left side entryway of the property was uneven, askew, flipped over, and presented in a trap like condition, was a dangerous condition encountered by Deceased Claimant.

8. Upon information and belief, and at all times hereinafter mentioned, Respondent either created the aforementioned dangerous condition which Deceased Claimant encountered or had actual and/or constructive notice of the aforementioned dangerous condition and failed to remedy such defect in a timely manner.

9. Furthermore, upon information and belief, and at all times hereinafter mentioned, Respondent was negligent, careless and reckless in, among other things: failing to properly maintain the area where the Deceased Claimant fell; creating a dangerous condition; failing to timely remove a dangerous condition from the premises, namely an uneven, askew, flipped over rug in the area where Deceased Claimant fell; failing to warn of a dangerous condition, namely an uneven, askew, and flipped over rug in an area known to be traversed by pedestrians, including Deceased Claimant; failing to properly supervise and/or monitor the actions of the maintenance and/or custodial company responsible for that area of the premises; for having notice, either actual or constructive, of the dangerous condition in the form of an uneven, askew, and

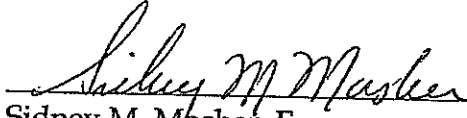
flipped over rug and failing to remedy such condition before Deceased Claimant's fall; and for other careless, negligent and reckless acts.

10. This Notice is made and served on behalf of Claimants in compliance with the provisions of the Court of Claims Act and such other laws as may be relevant.

11. At all times hereinafter mentioned, as a result of the negligence, carelessness and recklessness of the Respondent, the Deceased Claimant suffered serious injuries and ultimately death, including by not limited to: a fracture of the right elbow requiring surgical intervention, a fracture of the nose, a fracture of the right pinky finger and ring finger, contusions of the bilateral knees, and death resulting from complications due to surgery; and as a result of the negligence, carelessness and recklessness of the Respondents, the Claimants were caused to incur certain medical expenses related to Deceased Claimant's injuries; Claimants have been caused to sustain a loss of wages and other economic loss and, upon information and belief, will sustain future loss of wages and other economic loss; Deceased Claimant was caused to sustain pain and suffering as a result of this injuries, including conscious pain and suffering, and upon information and belief, died as a result of those injuries; Claimants were caused to incur funeral and burial expenses; Claimants have been caused to sustain a loss of support and services of the Deceased Claimant; all to the Claimants' damages in a sum which exceeds the jurisdictional limits of all Courts of lower jurisdiction, at a rate of nine percent interest on the damages award, calculated from the date of Deceased Claimant's death.

WHEREFORE, Claimants requests this claim be allowed and be paid for by Respondent, County of Erie.

DATED: Buffalo, New York
June 12, 2018



Sidney M. Mosher, Esq.
O'Brien & Ford, P.C.
Attorneys for Plaintiff
4925 Main Street, Suite 222
Buffalo, NY 14226
(716) 907-7777

TO: Counsel as they may appear for
Respondent Erie County

INDIVIDUAL VERIFICATION

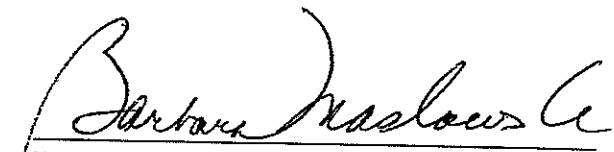
STATE OF NEW YORK)
) ss.:
COUNTY OF ERIE)

Barbara Maslowski, being duly sworn, deposes and says:

That Deponent is the Claimant in the within action;

That Deponent has read the foregoing Notice of Intent to File a 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.


BARBARA MASLOWSKI

Sworn to before me this 12th

day of June, 2018.


NOTARY PUBLIC

JUDY A. KIRKLAND
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 05/13/21



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

June 28, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution No. 306 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>Mergenhagen, Donna & George v. ECMCC</i>
Document Received:	Notice of Claim
Name of Claimant:	Donna & George Mergenhagen 1525 Underhill Road East Aurora, New York 14052
Claimant's attorney:	Philipp L. Rimmner, Esq. Paul William Beltz, P.C. 36 Church Street Buffalo, New York 14202

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
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
41 of 178

STATE OF NEW YORK
SUPREME COURT :: COUNTY OF ERIE

RECEIVED
JUN 19 2018
ERIE COUNTY
DEPARTMENT OF LAW

mmf

IN THE MATTER OF THE CLAIM of
DONNA MERGENHAGEN & GEORGE MERGENHAGEN,

Claimants,

NOTICE OF CLAIM

vs.

ERIE COUNTY MEDICAL CENTER CORPORATION,

Respondent.

PLEASE TAKE NOTICE that, claimants, DONNA MERGENHAGEN and GEORGE MERGENHAGEN, pursuant to statutes in such cases made and provided, does hereby make claim against ERIE COUNTY MEDICAL CENTER CORPORATION ("ECMCC") and in support of such claim states the following:

1. Claimants' Post Office address is DONNA MERGENHAGEN, 1525 Underhill Road, East Aurora 14052. The claimants' attorneys are: Paul William Beltz, P.C., 36 Church Street, Buffalo, New York 14202.
2. The claim is for medical malpractice arising out of negligent diagnosis and treatment following kidney transplant surgery wherein the claimant aspirated during extubation of a ventilator tube and related equipment and was caused to suffer strokes, paralysis, rib fractures and other serious and severe injuries as a result of the defendant's failure to properly extubate the patient. .
3. The claimant first presented to ECMCC for kidney transplant surgery on March 15, 2018. Preoperative procedures were conducted and the surgery was started on March 15, 2018

and concluded on March 16, 2018. The claimant was admitted to the intensive care unit following surgery. On the afternoon of March 16, 2018, the claimant was on a ventilator and was extubated, wherein the claimant promptly aspirated. The claimant should not have been extubated so soon after surgery and no steps or procedures were in place to monitor, or guard against, or prevent the claimant from aspirating, or to in any way prevent or reduce the damage caused by the extubation of the ventilator. No effort was made to wean the claimant from the ventilator prior to extubation, nor was a history taken of what the claimant had ingested prior to hospital admission.

4. Claimant DONNA MERGENHAGEN's damages due to the respondent's negligence include suffering from strokes, heart attacks, paralysis, loss of physical function, loss of cognitive function, surgeries, infections; pain and suffering; pain and suffering associated with the aforesaid injuries that would have been avoided but for the respondent's negligence; past and future loss of income from the total impairment of ability to work; past and future loss of ability to engage in activities, enjoy life, and perform household tasks; and expenses for past and future household services and past and future medical care. Claimant, GEORGE MERGENHAGEN suffered a loss of consortium, past and future, by reason of his wife's injuries.

WHEREFORE, claimants request that the claim be allowed and paid for by the respondent, pursuant to General Municipal Law §§50-e, and CPLR §3017(c), together with interest, costs and disbursements in this action.

VERIFICATION


DONNA MERGENHAGEN, being duly sworn, deposes and says:

That I am the claimant in this action; that I have read the foregoing Notice of Claim and know the contents thereof; that the same is true to the knowledge of deponent, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters I believe them to be true.



Donna Mergenhagen

Sworn to before me this
14th day of June, 2018.



Notary Public

PHILIPP L. RIMMLER
No. 02RI4894670
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 04/20/2019

VERIFICATION

GEORGE MERGENHAGEN, being duly sworn, deposes and says:

That I am a claimant in this action; that I have read the foregoing Notice of Claim and know the contents thereof; that the same is true to the knowledge of deponent, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters I believe them to be true.

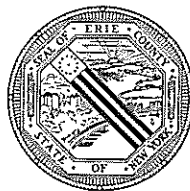

George Mergenhagen

Sworn to before me this
~~14th~~ day of June, 2018.



Notary Public

PHILIPP L. RIMMLER
No 02R14894670
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 04/20/ 2019



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

June 28, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution No. 306 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>Marvin, Regjay v. ECSO - ECCF - lost property</i>
Document Received:	Notice of Claim
Name of Claimant:	Regjay Marvin ICN #129152 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 Parker*
Michelle M. Parker
First Assistant County Attorney
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
46 of 178

mmp

LOSS OF PROPERTY AT THE ERIE COUNTY
CORRECTIONAL FACILITY
NOTICE OF CLAIM

Please complete this form, sign before a Notary, and forward to:

ERIE COUNTY DEPARTMENT OF LAW

~~69 Delaware Avenue, Suite 300~~

Buffalo, New York 14202

Att: Claims Department

95 Franklin, 16th Floor

JUN 11 2018

ERIE COUNTY
DEPARTMENT OF LAW

- I. Claimant's Name: Reggie Marvin
- II. Address: 11 Elkins drive Cheektowaga NY, 14225
- III. Telephone Number: (716) 908-6731
- IV. Date Admitted to the Correctional Facility: 2/5/18
- V. Date Discharged from the Correctional Facility: 6/11/18
- VI. Gallery Number: Joliet 46#
- VII. Describe the circumstances involving this claim:
I went to the box and the officer said they had
my property. When I got out of the box and came
back to Joliet they didn't have my property. I talked
to the person on Alpha and she said she threw it away.
- VIII. Describe loss of items. Include date of purchase and value of each item:
The paper attached shows all my confiscated
items. One of the main things I lost is 100
pictures I will never get back, my son lives out
of town.
- IX. SUBMIT COPIES OF ALL CORRECTIONAL FACILITY PROPERTY
RECEIPTS AND PERSONAL STORE RECEIPTS FOR EACH ITEM

I, Reggie Marvin, the undersigned, do swear that the claim and
all statements contained in the document herein are true to the best of my knowledge.

Reggie Marvin

Signature, Claimant

Sworn to before me on this 6th
day of June, 20 18

[Signature]

Notary Public

CHRISTOPHER T. COUGHLIN
No. 01CO6294898
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Dec. 23, 2021

Comm. 19D-1
47 of 178



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

August 1, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

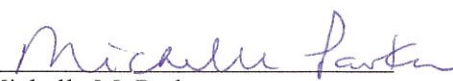
In compliance with the Resolution No. 306 passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Coleman, Joan v. County of Erie, et al.</i>
Document Received:	Notice of Claim
Name of Claimant:	Joan A. Coleman 239 Glenwood Avenue, Lower Buffalo, New York 14208
Claimant's attorney:	H. Lauren Williams, Esq. William Mattar, P.C. 6720 Main Street, Suite 100 Williamsville, NY 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
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
48 of 178

IN THE MATTER OF THE CLAIM OF:

JOAN A. COLEMAN
239 Glenwood Ave, Lower
Buffalo, NY 14208

Claimant,

-against-

NOTICE OF CLAIM

CITY OF BUFFALO

1100 City Hall
65 Niagara Street
Buffalo, NY 14202

CITY OF BUFFALO DEPARTMENT OF PUBLIC
WORKS

65 Niagara Square, Room 502
Buffalo, NY 14202

COUNTY OF ERIE

Edward A. Rath County Office Building
95 Franklin St
Buffalo, NY 14202

ERIE COUNTY DEPARTMENT OF PUBLIC
WORKS

Edward A. Rath County Office Building
95 Franklin St, 14th Floor
Buffalo, NY 14202

ERIE COUNTY WATER AUTHORITY

295 Main Street, Room 350
Buffalo, NY 14203

ERIE COUNTY DIVISION OF SEWERAGE
MANAGEMENT

Edward A. Rath County Office Building
95 Franklin St, 10th Floor, Room 1034
Buffalo, NY 14202

BUFFALO SEWER AUTHORITY

City Hall Room 1038
Buffalo, NY 14202

This paper received at the
Erie County Attorney's Office
from Monique Gesson
the 31 day of July, 2018
at 11:45 a.m./p.m.
Kenny R. Gesson
Assistant County Attorney

Respondents.

PLEASE TAKE NOTICE that JOAN A. COLEMAN, hereby files, in accordance with New York State General Municipal Law Section 50, this Notice of Claim, and hereby makes a claim against the CITY OF BUFFALO; CITY OF BUFFALO DEPARTMENT OF PUBLIC WORKS; ERIE COUNTY; ERIE COUNTY DEPARTMENT OF PUBLIC WORKS; ERIE COUNTY WATER AUTHORITY; ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT; and BUFFALO SEWER AUTHORITY and in support thereof Claimant alleges:


1. The name of the Claimant is JOAN A. COLEMAN, residing at 239 Glenwood Ave, Lower, Buffalo, NY 14208, by and through her attorney, H. LAUREN WILLIAMS, ESQ., 6720 Main Street, Suite 100, Williamsville, NY 14221-5986 (716)-633-3535 claims damages against CITY OF BUFFALO; CITY OF BUFFALO DEPARTMENT OF PUBLIC WORKS; ERIE COUNTY; ERIE COUNTY DEPARTMENT OF PUBLIC WORKS; ERIE COUNTY WATER AUTHORITY; ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT; and BUFFALO SEWER AUTHORITY for personal injuries, pain and suffering, general and special damages, medical expenses, and property damages sustained by her.
2. The nature of the Claim is one to recover damages for personal injuries and conscious pain and suffering, change of lifestyle, loss of enjoyment of life, general and special damages, medical expenses, property damages and all other damages allowed by law resulting from the injuries suffered by JOAN A. COLEMAN, as a result of the negligence of the CITY OF BUFFALO; CITY OF BUFFALO DEPARTMENT OF PUBLIC WORKS; ERIE COUNTY; ERIE COUNTY DEPARTMENT OF PUBLIC WORKS; ERIE COUNTY WATER AUTHORITY; ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT; and BUFFALO SEWER AUTHORITY.
3. The incident complained of herein occurred at approximately 5:10 PM on Monday, May 7, 2018 at, or near, the intersection of Glenwood Ave and Verplanck Street, in the City of Buffalo, County of Erie and the State of New York. Annexed hereto at Exhibit "A" is a copy of a printout of Google Maps, with the approximate location of the defect circled. On that date and at that time, the claimant, JOAN A. COLEMAN, was walking down the street when suddenly, her foot caught in an unmarked and unexpected developing sink hole located in the roadway and/or pavement and she fell to the ground. Annexed hereto at Exhibit "B" are photographs taken on the evening of May 7, 2018, shortly after Claimant's fall. Annexed hereto at Exhibit "C" are photographs of the sink hole as it appeared on the afternoon of May 8, 2018.
4. That as a result of the foregoing, the Claimant, JOAN A. COLEMAN, sustained very serious and substantial injuries, including a fractured right thumb, pain in her hips, knees, and ankles, and lacerations and abrasions when she fell into the sinkhole located at the intersection of Glenwood Avenue and Verplanck Street, which was due to the improperly designed, built, maintained, managed, controlled, and/or

repaired roadway and/or pavement by CITY OF BUFFALO; CITY OF BUFFALO DEPARTMENT OF PUBLIC WORKS; ERIE COUNTY; ERIE COUNTY DEPARTMENT OF PUBLIC WORKS; ERIE COUNTY WATER AUTHORITY; ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT; and BUFFALO SEWER AUTHORITY, its servants, agents or employees, along with other acts of negligence, carelessness, and recklessness, causing the incident at issue and all subsequent injuries suffered by the Claimant, JOAN A. COLEMAN.

5. That the aforesaid CITY OF BUFFALO; CITY OF BUFFALO DEPARTMENT OF PUBLIC WORKS; ERIE COUNTY; ERIE COUNTY DEPARTMENT OF PUBLIC WORKS; ERIE COUNTY WATER AUTHORITY; ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT; and BUFFALO SEWER AUTHORITY by and through its agents, servants, and/or employees had actual and/or constructive notice of the dangerous condition and hazard, or caused the dangerous condition and hazard, or failed to warn of the condition or hazard.
6. That the said injuries were occasioned as a result of the negligence of the CITY OF BUFFALO; CITY OF BUFFALO DEPARTMENT OF PUBLIC WORKS; ERIE COUNTY; ERIE COUNTY DEPARTMENT OF PUBLIC WORKS; ERIE COUNTY WATER AUTHORITY; ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT; and BUFFALO SEWER AUTHORITY and through their agents, servants and employees and without any negligence on the part of the Claimant contributing thereto.

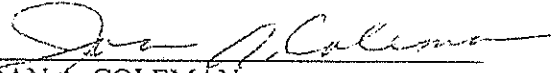
PLEASE TAKE FURTHER NOTICE that unless said claim is adjusted and paid by the Respondents within thirty (30) days from the date of service of this Notice of Claim, Claimant intends to commence an action in the Supreme Court of the State of New York against the Respondents, seeking a sum which exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction, together with interest, costs and disbursements.

DATED: Williamsville, New York
 July 30, 2018

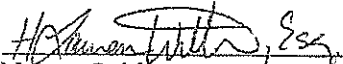

H. Lauren Williams, Esq.
William Mattar, P.C.
Attorney for Claimant
6720 Main Street
Williamsville, NY 14221
(716)-633-3535

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

JOAN A. COLEMAN, being duly sworn, depose and say that she is the Claimant in this action; that she has read the foregoing Notice of Claim and know the contents thereof; that the same is true to the knowledge of deponents, except as to matters therein stated to be alleged on information and belief, and that as to those matters they believe them to be true.


JOAN A. COLEMAN

Sworn to before me this
30 day of July, 2018


Notary Public

H LAUREN WILLIAMS
Notary Public, State of New York
Reg. No. 02W16347491
Qualified in Genesee County
Commission Expires September 06, 2020



MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

August 2, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street. 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution No. 306 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>Allstate o/b/o Davis, Jeanne -- Sewer related damage</i>
Document Received:	Notice of Claim
Name of Claimant:	Jeanne Davis 96 Palm Street Buffalo, New York 14218
Claimant's attorney:	Carolyn George, Esq. Friedman, Hirschen & Miller LLP 100 Great Oaks Blvd., Suite 124 Albany, New York 12203

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
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
53 of 178

mmp

In the Matter of the Claim of

ALLSTATE INSURANCE COMPANY, a/s/o
JEANNE DAVIS,

Claimant,

-against

COUNTY OF ERIE, NEW YORK,

RECEIVED
JUL 09 2018
ERIE COUNTY
DEPARTMENT OF LAW

mmp

TO: County of Erie, County Clerk
County Office Bldg
95 Franklin Street
Buffalo, New York 14202

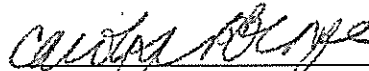
TO: County of Erie, County Attorney
Edward A Rath County Office Bldg. Room #1634
95 Franklin Street
Buffalo, New York 14202

PLEASE TAKE NOTICE, that the undersigned claimant hereby makes claims and demands against you as follows:

1. The name and post office address of each claimant and claimant's attorney is:
Allstate Insurance Company a/s/o Jeanne Davis; claimant's attorney is Friedman, Hirschen & Miller, LLP, 100 Great Oaks Boulevard, Suite 124, Albany, New York 12203.
2. The nature of the claim is as follows: to recover damages paid by claimant to and for the benefit of its insured, Jeanne Davis, as a result of damage to her home which occurred on April 6, 2017, on account of negligence on the part of the County of Erie, New York.

3. The time when, and the place where, and the manner in which, the claim arose is as follows: on April 6, 2017, when the public sewer owned, controlled and maintained by the County of Erie backed up sewage into the home of Jeanne Davis at 96 Palm Street, Buffalo, New York 14218 and caused damage. The County of Erie failed to properly maintain the public sewers and prevent a back up of public sewage into the home of Claimant's subrogor.
4. The items of damages or injuries claimed are property damage to the home of claimant's subrogor located at 96 Palm Street, Buffalo, New York 14218-2028, in the amount of \$5,500.00.

Dated: July 5, 2018



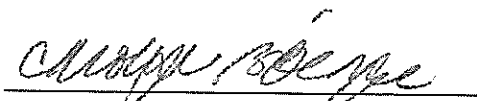
Carolyn B. George, Esq.
Attorney for Claimant
Friedman, Hirschen & Miller, LLP
100 Great Oaks Boulevard – Suite 124
Albany, New York 12203
Phone: 518-377-2225

VERIFICATION

STATE OF NEW YORK)

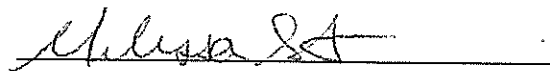
COUNTY OF ALBANY)ss.:

CAROLYN B. GEORGE, being duly sworn, deposes and says: that deponent is a Member of Friedman Hirschen & Miller, LLP, attorneys for claimant, in the above-captioned matter. The reason why this verification is not made by the party is because the party does not maintain an office or reside within Albany County, where your deponent's law office is located. In her capacity as attorney for claimant, she is duly authorized to sign this Notice of Claim. Your deponent has read the foregoing Notice of Claim, and knows the contents thereof; that the same is true to her own knowledge, based upon information provided and records furnished by the Petitioner in the regular course of his business as property owner, and except as to the matters therein stated to be alleged on information and belief, and as to those matters, she believes it to be true.


Carolyn B. George

Sworn to before me this

5 day of July 2018



Notary Public – State of New York

MELISSA STROPE
Notary Public, State of New York
Qualified in Schenectady County
No. 01ST6278625
Commission Expires March 25, 2021



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

August 2, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution No. 306 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>Carpenter, Susan v. City of Buffalo, County of Erie, Buffalo Niagara Convention Center</i>
Document Received:	Notice of Claim
Name of Claimant:	Susan Carpenter 96 West Winspear Buffalo, New York 14214
Claimant's attorney:	Laraine Kelley, Esq. Lipsitz Green Scime Cambria LLP 42 Delaware Avenue, Suite 120 Buffalo, New York 14202-3924

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
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
57 of 178

RECEIVED
JUN 28 2018
ERIE COUNTY
DEPARTMENT OF LAW

In the Matter of the Claim of
SUSAN CARPENTER,

Claimant,

NOTICE OF CLAIM

-against-

CITY OF BUFFALO,
COUNTY OF ERIE and
BUFFALO NIAGARA CONVENTION CENTER
MANAGEMENT CORPORATION

This paper received at the
Erie County Attorney's Office
from Rocco Zandano
the 28 day of June, 2018
at 12:48 a.m./p.m.
Kelly A. Benkovich
Assistant County Attorney

TO: CITY OF BUFFALO, COUNTY OF ERIE and BUFFALO NIAGARA
CONVENTION CENTER MANAGEMENT CORPORATION

PLEASE TAKE NOTICE, that Susan Carpenter, has and hereby makes
claim against the City of Buffalo, County of Erie and Buffalo Niagara Convention
Center Management Corporation, and in support of said claim states the
following:

1. The Post Office address of the claimant is 96 West Winspear, Buffalo,
New York 14214.
2. The attorneys for the claimant are LIPSITZ GREEN SCIME CAMBRIA
LLP, and their Post Office address is 42 Delaware Avenue, Suite 120, Buffalo,
New York 14202.
3. The claim of Susan Carpenter is for personal injuries, including
without limitation, medical expenses and for consequential damages generally.
4. The claim arose on the sidewalk area in the vicinity of and adjacent to
the Buffalo Niagara Convention Center and Olympic Towers, located in the City of
Buffalo, County of Erie and State of New York.


5. The claim arose in substance as follows: On the 28th day of April, 2018, the claimant, Susan Carpenter, while lawfully and properly traversing the sidewalk area between the Buffalo Niagara Convention Center and Olympic Towers was caused to trip and fall, resulting in serious injuries to the claimant.

6. Upon information and belief, the incident herein described and the resultant injuries and damages sustained were caused as a result of the negligence, carelessness, recklessness and/or unlawful conduct on the part of the agents, servants and/or employees of the City of Buffalo, County of Erie and Buffalo Niagara Convention Center Management Corporation, and more particularly, among other things, in failing and omitting to ensure that the aforesaid area was in a safe and hazard free condition.

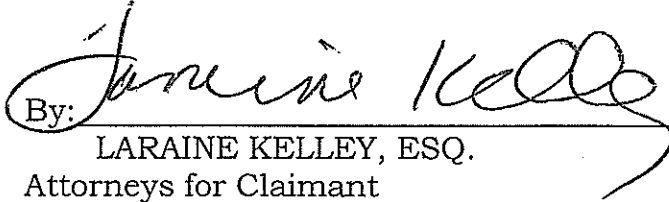
7. Upon information and belief, as a result of the aforesaid incident, the claimant, Susan Carpenter, sustained severe bodily injuries and was painfully and seriously injured; was rendered sick, sore, lame and disabled; sustained pain and suffering and shock to her nerves and nervous system; and more particularly, Susan Carpenter, sustained injuries to her left arm and other areas. Upon information and belief, these injuries will result in permanent defects.

WHEREFORE, claimant requests that the City of Buffalo, County of Erie, and Buffalo Niagara Convention Center Management Corporation honor and pay the claim on behalf of Susan Carpenter.

DATED: Buffalo, New York
June 19, 2018


SUSAN CARPENTER

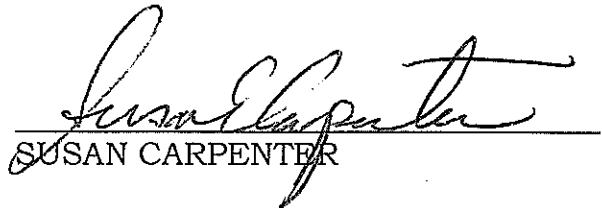
LIPSITZ GREEN SCIME CAMBRIA LLP

By: 
LARAINA KELLEY, ESQ.

Attorneys for Claimant
Office and P.O. Address
42 Delaware Avenue, Suite 120
Buffalo, New York 14202
(716) 849-1333
[LK: #64418.0001]


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

Susan Carpenter, being duly sworn deposes and says that she is the claimant above named; and makes this claim on behalf of self; she has read the foregoing claim and knows the contents thereof; the same is true to the knowledge of the claimant except for the matters herein alleged upon information and belief, and as to those matters, she believes them to be true.


SUSAN CARPENTER

Sworn to before me on this

19 day of June, 2018.


Notary Public

Sheila M Monroe
01M06091530
Notary Public, State of New York
Qualified in NIAGARA County
My commission expires JUNE 9th, 2019



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

August 2, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution No. 306 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>Cappelli, Emil v. County of Erie and Marni Bogart</i>
Document Received:	NYS Division of Human Rights Charge of Discrimination
Name of Claimant:	Emil J. Cappelli 470 Starin Avenue 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
Michelle.Parker@erie.gov

MMP:dld
Enc.

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF
HUMAN RIGHTS on the Complaint of

EMIL J. CAPPELLI,

Complainant,

v.

ERIE COUNTY, MARNI BOGART,

Respondents.

VERIFIED COMPLAINT
Pursuant to Executive Law,
Article 15

Case No.

10196013

Federal Charge No. 16GB804318

I, Emil J. Cappelli, residing at 470 Starin Ave., Buffalo, NY, 14216, charge the above named respondents, 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, opposed discrimination/retaliation.

Date most recent or continuing discrimination took place is 4/24/2018.

SEE ATTACHED

**New York State Division of Human Rights
Employment Complaint Form**

RECEIVED

JUL 27 2018

NYSDHR BUFFALO
REGIONAL OFFICE

1. Your contact information:			
First Name <u>EMIL</u>		Middle Initial/Name <u>J.</u>	
Last Name <u>CAPPELLI</u>			
Street Address/ PO Box <u>470 STARIN AVE.</u>		Apt or Floor #:	
City <u>BUFFALO</u>	State <u>NY</u>	Zip Code <u>14216</u>	
2. Regulated Areas: You believe you were discriminated against in the area of: <input checked="" type="checkbox"/> Employment (including paid internship) <input type="checkbox"/> Labor Organization <input type="checkbox"/> Apprenticeship Training <input type="checkbox"/> Employment Agencies <input type="checkbox"/> Internship (unpaid only) <input type="checkbox"/> Licensing <input type="checkbox"/> Volunteer Firefighting (excludes disability, age, domestic violence victim status, arrest, conviction, genetic history)			
3. You are filing a complaint against:			
Employer Name <u>ERIE COUNTY</u>			
Street Address/ PO Box <u>95 FRANKLIN STREET</u>			
City <u>BUFFALO</u>	State <u>NY</u>	Zip Code <u>14202</u>	
Telephone Number: <u>(716) 858-8723</u> Ext. _____			
In what county or borough did the violation take place? <u>ERIE</u>			
Individual people who discriminated against you:			
Name: <u>MARNI BOGART</u>		Title: <u>DIR. OF LEGAL AFFAIRS</u>	
Name: _____		Title: _____	
If you need more space, please list them on a separate piece of paper.			
4. Date of alleged discrimination (must be within one year of filing):			
The most recent act of discrimination happened on: <u>4</u> month <u>2018</u> day year			
5. For employment and internships, how many employees does this company have?			
<input type="checkbox"/> 1-3 <input type="checkbox"/> 4-14 <input type="checkbox"/> 15-19 <input checked="" type="checkbox"/> 20 or more <input type="checkbox"/> Don't know			
6. Are you currently working for this company?			
<input checked="" type="checkbox"/> Yes. Date of hire: <u>7</u> month <u>3</u> day <u>1995</u> year		What is your position? <u>SENIOR COUNSEL</u>	
<input type="checkbox"/> No. Last day of work: _____ month _____ day _____ year		What was your position?	
<input type="checkbox"/> I was never hired. Date of application: _____ month _____ day _____ year		What position did you apply for?	

7. Basis of alleged discrimination:

Check **ONLY** the boxes that you believe were the reasons for discrimination. Please look at page 2 of "Instructions" for an explanation of each type of discrimination.

<input checked="" type="checkbox"/> Age: Date of Birth: <u>6/8/1947</u>	<input type="checkbox"/> Military Status: <input type="checkbox"/> Active Duty <input type="checkbox"/> Reserves
<input type="checkbox"/> Arrest Record (resolved in your favor or youthful offender record or sealed conviction record)	<input type="checkbox"/> National Origin: Please specify: _____
<input type="checkbox"/> Conviction Record	<input type="checkbox"/> Predisposing Genetic Characteristic: Please specify: _____
<input type="checkbox"/> Creed/ Religion: Please specify: _____	<input type="checkbox"/> Pregnancy-Related Condition: Please specify: _____
<input type="checkbox"/> Disability: Please specify: _____	<input type="checkbox"/> Race/Color or Ethnicity: Please specify: _____
<input type="checkbox"/> Domestic Violence Victim Status	<input type="checkbox"/> Sexual Orientation: Please specify: _____
<input type="checkbox"/> Familial Status: Please specify: _____	<input type="checkbox"/> Sex: Please specify: _____
<input type="checkbox"/> Marital Status: Please specify: _____	Specify if the discrimination involved: <input type="checkbox"/> Pregnancy <input type="checkbox"/> Gender Identity <input type="checkbox"/> Transgender Status <input type="checkbox"/> Sexual Harassment

If you believe you were treated differently after you filed or helped someone file a discrimination complaint, participated as a witness to a discrimination complaint, or opposed or reported discrimination due to any category above, check below:

☒ **Retaliation:** How you did you oppose discrimination: PLEASE SEE ATTACHED

8. Acts of alleged discrimination: What did the person/company you are complaining against do? Check all that apply

<input type="checkbox"/> Refused to hire me	<input type="checkbox"/> Denied me an accommodation for my disability or pregnancy-related condition	<input type="checkbox"/> Denied me leave time or other benefits	<input checked="" type="checkbox"/> Harassed/ intimidated me (other than sexual harassment)
<input type="checkbox"/> Fired me/laid me off	<input checked="" type="checkbox"/> Denied me overtime benefits	<input type="checkbox"/> Sexually harassed or intimidated me	<input type="checkbox"/> Did not call back after lay-off
<input type="checkbox"/> Demoted me	<input type="checkbox"/> Paid me a lower salary than other co-workers doing the same job	<input checked="" type="checkbox"/> Gave me different or worse job duties than other workers doing the same job	<input type="checkbox"/> Denied me services/treated differently by employment agency
<input checked="" type="checkbox"/> Suspended me	<input type="checkbox"/> Denied me an accommodation for my religious practices	<input checked="" type="checkbox"/> Gave me a disciplinary notice or negative performance review	<input type="checkbox"/> Unlawful inquiry, or limitation, specification or discrimination in job advertisement
<input type="checkbox"/> Denied me training	<input type="checkbox"/> Denied me promotion/ pay raise	<input type="checkbox"/> Denied a license by a licensing agency	<input type="checkbox"/> Other: _____

9. Description of alleged discrimination

Tell us more about each act of discrimination that you experienced. Please include dates, names of people involved, and explain why you think it was discriminatory. 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. DO NOT WRITE IN THE MARGINS OR ON THE BACK OF THIS FORM.

NYSDHR VERIFIED COMPLAINT

EMIL CAPPELLI v. ERIE COUNTY

**Age Discrimination and Retaliation for Opposing Discrimination in Violation of NYSHRL
§296**

1. I was hired by Erie County Department of Social Services ("DSS"), Office of Counsel on July 3, 1995, and currently hold the Title of Senior Counsel.
2. In my role as Senior Counsel I supervise a team of 15 lawyers, and legal staff for the purpose of prosecuting family child abuse/neglect cases for the County.
3. My salary as Senior Counsel is \$101,000, annually.
4. I have not been paid Overtime for anything other than late court since November 2015, although work has been performed which justified being paid overtime, while other younger females received overtime in contravention of DSS policies.
5. In May of 2014, Marni Bogart was hired by then Director of DSS Legal Affairs, Tom Kubiniec. Soon after she was hired, I noticed that Marni Bogart was putting in for overtime by coming in early and leaving late for no stated reason. When I complained to Tom he advised me that since Marni took a huge pay cut to come work with us, he told her to put in for overtime to make up for it. I complained to Tom and advised him that our overtime budget was limited and could only be approved for attorneys who were forced to work late in Court.
6. Tom Kubiniec informed Marni Bogart about my complaint of her use of overtime. Marni has targeted me ever since. Tom assigned Marni to "special projects" which had a separate overtime budget.
7. On or about February of 2015, Marni Bogart became my boss, in her new position as Director of DSS Legal Affairs, a title Tom Kubiniec had held. On her second day, she came into my office and asked me when I was going to retire. I replied that I had no intentions of retiring, and she replied, "Well I just assumed you were close since you have been doing this for a long time."
8. On several occasions over the past three years, Marni Bogart has made references to "older" attorneys and "younger" attorneys preferring to hire "new young" attorneys.
9. Marni Bogart has made reference to staff attorney Rosemary Bapst (67 years old), as not being able to handle trial duties anymore, not due to her abilities. Rosemary was moved to a sedentary job of writing neglect petitions.
10. Marni Bogart hired Lauren Creighton and Natalie Stutz whom she referred to as "my hires" when pointing out the differences between older and newer attorneys. Marni Bogart has treated

these newer attorneys in a preferential manner, even though they were temporary employees at the time, having yet to take the "exam" to become permanent employees.

11. In April 2015, Al Dirschberger was hired as DSS Commissioner, and unlike previous commissioners, he dealt with Marni Bogart only and did not have direct dealings with me.
12. In or about October of 2015, staff attorney Jim Harmon hired an outside attorney who wrote a "cease and desist" letter to the County Executive and the Commissioner, because he felt Marni Bogart was critical of his interactions with case workers and support staff. During this same time, Marni Bogart described her new hires as the "best and the brightest" unlike anyone that the court has become used to.
13. In January 2016, I received a counseling memo from Marni alleging that I had left work early without notifying her when, in fact, I left 4 minutes after quit time. I had left work after my last court case as I was feeling sick. After I met with Marni and explained why I left without clocking out, she withdrew the memo stating to me that she needed to feel that I was "on her side" and alluded to wanting to know what everyone in the office was thinking and saying about her. I informed her that while I would support her in improving the delivery of legal representation of the Commissioner, I was not going to be an informer for her.
14. On June 29, 2016, while I was on vacation, Marni sent me an email directing me to discipline one of my staff attorney's because Marni observed on two successive days the attorney wearing clothes that appeared to have a stain and dirt on them. When I did issue a counseling memo as directed, Marni was livid that I used her name in the memo as the person who witnessed the stained/dirty attire.
15. At a Family Court P & P Committee meeting with several judges in attendance, Marni defended her female attorneys (specifically Lauren Creighton) from criticism by the judges relative to their inappropriate attire. Marni did not issue a counseling memo to the younger female attorney's and instead stated in the office that she did not care if her female attorney's and support staff wore "flip flops" to work, which IS a violation of the County dress code.
16. In July 2016, I was requested to meet with Marni, Maryellen Brockmyre, and Al Dirschberger in the Commissioner's office to discuss office staffing and policy. Marni counted down the items specifically expected of me and highlighted that I was to address all disciplinary matters with staff attorneys. Brockmyre pointed out that this was not a disciplinary proceeding and referred to me as "kindly gentleman," as to my style of discipline. This felt like a set up to put the oldest attorney in charge of discipline of other attorneys including Mr. Harmon, who had made claims of age discrimination. When I advised that I wanted to put an end to the sniping and back-stabbing that some of the attorneys were exhibiting, Dirschberger interjected, "Do you mean the older attorneys?" And I said "no, the newer ones."
17. On July 18, 2016, while Marni was attending a three day conference in Saratoga, she sent me an email directing me to take care of a discovery request that had just come to her attention. She wanted it done by the next day. The request required redacting 800-plus pages of a caseworker's notes and it took me over three hours to do so. When I submitted my overtime

request she rejected it. On the same day Lauren and Natalie were approved overtime for traveling back from the conference they attended with Marni. When I pointed out that this is in violation of the County's travel policy, she said she would approve it anyways.

18. On July 28, 2016, Marni directed me to advise her, relative to an internal investigation of one of my staff attorney's, Ann Pinzler, by 8/2/16. She wanted me to devise a plan to discipline Ann Pinzler. On 8/3/16, I sent Marni an email outlining my plan of action and asked when Marni was available to discuss it with me. Marni never answered until I was presented with a counseling memo on 8/9/16, alleging my failure to timely address the Ann Pinzler issue. Marni also alleged that I failed to attend a juvenile committee meeting at Family Court on her behalf which was scheduled at the same time that I was involved in a court hearing.
19. On August 9, 2016, I met with Court Attorney Mike Siragusa to complain of the unwarranted treatment I was receiving from Marni, and felt targeted. The County Attorney oversees Marni and the DSS attorney's, and indicated he might have to remove Marni because of all the lawsuits, grievances and complaints received about her, and he said he would talk to County Executive Mark Poloncarz on my behalf.
20. On August 9, 2016, I saw my ENT doctor since my vocal cord issues reappeared for the first time in 8 years. Usually these problems occur when I speak for prolonged periods under stress. The ENT prescribed voice therapy which I attended for the next three months.
21. Marni Bogart continued to target me in a discriminatory fashion by issuing oral warnings that were unjustified and targeted, such as when she contacted the Commissioner of Jurors to request proof that I had Jury Duty from 5/8/17-5/12/17, after I had already provided her with the Jury notice signed by the Commissioner of Jurors at the conclusion of my service.
22. In May/June of 2017, Marni Bogart continued to give Natalie Stutz preferential treatment, when I made an inquiry pertaining to a trial that I was informed she lost. My intention was to speak with Natalie and the case worker involved to determine how we could have gotten a better outcome. I received a counseling memo, which was discriminatory. (Exhibit A)
23. In August 2017, Marni Bogart continued to demean me and undermine my supervisory authority when she notified my staff attorneys of wholesale re-assignments to take effect on 9/18/17, without consulting me as to the propriety of these moves. These moves benefited the youngest attorney's hired by Ms. Bogart.
24. On October 27, 2017, I was directed to appear for an "investigative interview" and advised that I could have a union representative appear with me. Two of my staff attorneys and over two dozen caseworkers were also summoned for similar interviews relating to one of the neglect cases. The interviews were conducted by Ann Evanko, Esq. and MaryEllen Brockmyre. It felt like a disciplinary hearing and retaliatory. The interviews transpired over a 6-8 week period, and each interview lasted several hours. To date, no one has heard of the outcome from this investigation.

25. In December 2017, Ms Bogart directed me to appear with Natalie Stutz any time she had to appear before Judge LoVallo because "LoVallo hates Natalie". Ms. Bogart listed five cases I would be required to sit through, although I did not do this for any other attorney.
26. In December 2017, Ms Bogart directed me to enforce her policy that each attorney must have one office day each week. I was told to admonish older attorneys on my staff for violating this policy even though it was not justified in my opinion, and I was to be held accountable for any violations of this policy.
27. On December 12, 2017, Ms. Bogart directed Jim Harmon to file an appeal and a Motion to Stay Judge LoVallo's ruling forcing DSS to turn over videotapes of a child's interview at the Child Advocacy Center to opposing counsel on a sex abuse case. Ms. Bogart made several decisions about the handling of this matter in direct contravention of Jim Harmon, who is an older staff attorney. The Stay was lost and the Judge ordered the tapes to be turned over or DSS would be fined \$250.00 each day in violation. On 12/15/17, Ms. Bogart was specifically ordered to appear before Judge LoVallo, and instead, Ms. Bogart sent me to appear and argue against the tapes being released. My reputation as a lawyer was being tarnished at the direction of Ms. Bogart who ordered me to make frivolous arguments and appear in court when she herself had been directed to do so by the Judge.
28. On December 20, 2017, Ms. Bogart told me that she thought the way that Jim Harmon and Joseph Jarzembek handled the motion for stay was "insubordination" on Harmon's part. I responded by indicating that the matter was handled with thoughtful lawyering and should not be the subject of a reprimand. Ms. Bogart was targeting the older staff attorneys.
29. On December 21, 2017, just as the office Holiday Party was to begin, Mary Ellen Brockmyre sent me an email containing a notice requiring me to attend a due process hearing on January 3, 2018. This was retaliation for not disciplining Jim Harmon.
30. On January 3, 2018, I was issued a written warning which was to stay in my personnel file for three years. My grievance reduced the amount of time to one year. This was the first written warning I had received since being hired in 1995, and I feel it was in retaliation for not reprimanding an older staff attorney.
31. On March 2, 2018, I received an email notice from Ms. Brockmyre of another due process hearing claiming "Charge of Misconduct" against me between 12/12/2017 to 2/28/2018." This was a continuing act of retaliation as the oldest supervisor of the staff attorneys.
32. The charges that were brought in the March 2, 2018 Charges of Misconduct were repeated allegations which were already the subject of the earlier disciplinary action, that of the written warning, issued on January 18, 2018. This discriminatory disciplinary action was retaliatory because I did not punish Jim Harmon for not arguing the Motion for Stay before the Appellate Division.
33. I was suspended for three days from April 24th to the 26th 2018, which was an attempt to dissuade me from complaining about Ms. Bogart's discriminatory and retaliatory actions.

34. My ability to supervise my staff attorneys continues to be undermined to this day, which is humiliating and demeaning, since Ms. Bogart consistently allows for preferential treatment of younger hires over the older staff attorneys, including myself. The younger staff attorneys are excused by Ms. Bogart when they are late for work, leave work without notice to me as their supervisor, are allowed overtime for any reason in contravention of office policy, benefit from attending CLE's at the expense of the County while older attorneys are not afforded the same opportunities. These discriminatory practices are a frequent occurrence.
35. I fear for my job due to the increased disciplinary actions that have been imposed against me by Ms. Bogart, and for filing this complaint.

Exhibit A

Cappelli, Emil

From: Bogart, Marni
Sent: Monday, June 12, 2017 8:08 AM
To: Cappelli, Emil
Subject: RE: Barber case

Emil;

Your job duties include and encompass team leadership and treating each attorney under you equally and fairly. After reviewing all your answers to my questions, I am tremendously concerned that you did not do so in this case.

Since I became Director, you have repeatedly articulated to me that, when a concern is raised about one of your attorneys, your policy and practice is to start with the attorney. You have repeatedly told me that you do so in order for the attorney to feel supported, and so that third-party claims do not result in a "witch hunt."

Here, you have told me that you relied on double hearsay--Russell Fox told Chuck Gallagher who told you--in commencing your inquiry. You did not first start your inquiry with the attorney, Natalie Stutz, and elected to neither leave her a voice mail on her work phone, nor text her or call her on her cell phone, before reaching out to the CPS worker. You have also indicated that there was not a time-dependent reason for contacting the worker before talking to your attorney.

Your responses to my questions about this case demonstrate that you have violated your own policy and practice in this instance. This raises concerns for me about your disparate treatment for certain attorneys you supervise. I have observed that, for other attorneys you supervise, you are loath to either investigate or commence progressive discipline, where necessary.

For example, there have been several instances with Nick LoCicero doing poor legal work or committing ethical violations in which you repeatedly indicated to me that you did not want to discipline Nick, and wanted to just talk to him. I asked you in February why the Commissioner and I observed Joe Jarzembek crossing Franklin Street on February 16, 2017, coming from the direction of the Supreme Court Library, on an afternoon when he should have been in court and he did not have any appeals to work on. You indicated you would look into it; to date, you have not gotten back to me.

This disparate treatment contributes to an office culture of "us vs. them," and serves to divide, rather than unite, your staff; this runs contrary to the expectations of a senior counsel. This email is a counseling memo, and you are directed that, moving forward, you are to treat every member of your staff equally and fairly.

I will be closely monitoring the above. We will meet for supervision on a regular basis to discuss progress.

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-----Original Message-----

From: Cappelli, Emil

Sent: Monday, June 05, 2017 1:58 PM

To: Bogart, Marni

Subject: RE: Barber case

I have answered all of your questions. I did as I do in any case to obtain information. I attempted to contact the attorney and caseworker. It just so happens that I reached the caseworker first. Expediency did not enter into the process. Are you suggesting that I handle these matters differently?

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-----Original Message-----

From: Bogart, Marni

Sent: Monday, June 05, 2017 11:22 AM

To: Cappelli, Emil

Subject: RE: Barber case

Emil,

Thank you for your response. It did not, however, answer my question from May 24. Please advise.

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-----Original Message-----

From: Cappelli, Emil
Sent: Friday, June 02, 2017 9:29 AM
To: Bogart, Marni
Subject: RE: Barber case

Actually, I was advised about this case on Wed. 5/17. I was out sick the following day. Looking into this was on my list of things to do when I got back on Friday. My focus in contacting Natalie and the caseworker was to first determine if Chuck's information was correct since I knew you would want to know about any trials that we lost. Secondly, if the information was correct, then I would have spoken to Natalie to determine the reason(s) why our case was dismissed and discuss how we could have a better outcome in the future. After not reaching Natalie, I called the caseworker not thinking that it would result in an inquisition. I did not feel the need to speak to Natalie after I was satisfied that there was no need to do so. And as I indicated earlier, I spoke to Chuck to insure that incorrect information was not being spread about this case.

My focus with dealing with matters such as this is to insure that all attorneys under my supervision are treated fairly both within the Department and outside of the Department by others. Any criticism or comment relative to one of the attorneys affects all of the Legal Unit. I do not see any difference in the way I have handled my duties in this instance.

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-----Original Message-----

From: Bogart, Marni
Sent: Thursday, June 01, 2017 3:04 PM
To: Cappelli, Emil
Subject: FW: Barber case

Hi Emil,

I'm following up on the question below--please advise.

--
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-----Original Message-----

From: Bogart, Marni
Sent: Wednesday, May 24, 2017 10:43 AM
To: Cappelli, Emil
Subject: Re: Barber case

I'm curious as to the need for immediacy by reaching out to the caseworker before talking to Natalie?

Sent from my iPhone

> On May 23, 2017, at 4:35 PM, Cappelli, Emil <Emil.Cappelli@erie.gov> wrote:

>

> Is there something different about this case from the hundreds of others I have made inquiry about over the past 20 years? I didn't leave a message expecting to reach Natalie later. As I said before, after speaking to the caseworker, I no longer felt the necessity to speak to Natalie since the information I was given was wrong. I did speak to Chuck to inform him that his information was incorrect. I did not want faulty rumors spread any further. I wish Natalie had come to me with her concerns since I am her supervisor.

>

> --

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error, please notify the sender immediately by return e-mail and delete it from your system. Unauthorized use of this material is strictly prohibited and may be unlawful.

> -----Original Message-----

> From: Bogart, Marni

> Sent: Tuesday, May 23, 2017 10:44 AM

> To: Cappelli, Emil

> Subject: RE: Barber case

>

> I'm curious why you didn't leave Natalie a message when she didn't pick up?

>

> --

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> -----Original Message-----

> From: Cappelli, Emil

> Sent: Monday, May 22, 2017 1:24 PM

> To: Bogart, Marni

> Subject: RE: Barber case

>

> Chuck said that Russell Fox told him.

>

> --

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> -----Original Message-----

> From: Bogart, Marni

> Sent: Monday, May 22, 2017 9:51 AM

> To: Cappelli, Emil

> Subject: RE: Barber case

>

> From whom did you hear that the case had been dismissed?

>

> --

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>

> -----Original Message-----

> From: Cappelli, Emil

> Sent: Monday, May 22, 2017 7:57 AM

> To: Bogart, Marni

> Subject: RE: Barber case

>

> I am Natalie's supervisor and as I do whenever there is any issue involving one of our cases I speak to the attorney, caseworker and, if need be, anyone else involved to get any information necessary to determine if there was anything that could be corrected so that we hopefully would have a better outcome next time. I did call Natalie first but she didn't pick up. So I called the caseworker who advised that the Judge had not dismissed the case and would announce her decision on 6/16. I had planned to talk to Natalie until I received your message that you are working with her on this case.

>

> I am concerned relative to another sex abuse case where Eric says that Tom Smith tried to force a resolution of a permanent OOP without a finding vs the respondent because he felt that we were wasting the court's time with a trial. Both Eric and I feel that a trial is necessary if the respondent doesn't admit to the abuse. I do not know if Tom's position is related to Natalie's case in any way since it comes on the heels of that case.

>

> --

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> From: Bogart, Marni

> Sent: Friday, May 19, 2017 2:40 PM

> To: Cappelli, Emil

> Subject: Barber case

>

> Emil,

>

> Natalie advised me today that the Barber sex abuse case that I was working with Natalie was not dismissed.

>

> I am curious why you would follow up with the CPS worker, rather than the assigned attorney, who has responsibility for the case?

>

> --

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Notarization of Complaint

Based on the information contained in this form, I charge the herein named respondent(s) 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). This complaint will protect my 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.

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.

PLEASE INITIAL EPK

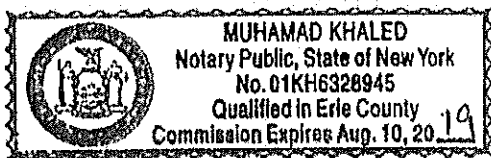
I swear under penalty of perjury that I am the complainant herein; that I have read (or have had read to me) the foregoing complaint and know the contents of this complaint; and that the foregoing is true and correct, based on my current knowledge, information, and belief.

Emad J. Ghyath
Sign your full legal name

Subscribed and sworn before me
This 25th day of July, 2018

[Signature]
Signature of Notary Public

County: Commission expires:



Please note: Once this form is completed, notarized, and returned to the New York State Division of Human Rights, it becomes a legal document and an official complaint with the Division.



MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

August 1, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution No. 306 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>Banks, Willie v. County of Erie and City of Buffalo</i>
Document Received:	Notice of Claim
Name of Claimant:	Willie Banks 131 St. Louis Avenue Buffalo, New York 14211
Claimant's attorney:	Richard S. Binko, Esq. Law Offices of Richard S. Binko 2427 William Street Cheektowaga, New York 14206

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
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
80 of 178

STATE OF NEW YORK
SUPREME COURT

18 JUL -6 PM 1:50
COUNTY OF ERIE

WILLIE BANKS
131 St. Louis Avenue
Buffalo, New York 14211
Claimant,

-vs-

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

COUNTY OF ERIE
95 Franklin Street
Buffalo, New York 14202
Respondents.

NOTICE OF CLAIM

RECEIVED
JUL 09 2018
ERIE COUNTY
DEPARTMENT OF LAW
mmp

PLEASE TAKE NOTICE that pursuant to General Municipal Law §50(e) the claimant, WILLIE BANKS, hereby makes a claim against the CITY OF BUFFALO and COUNTY OF ERIE, and in support of such claim does state the following:

1. The name of the claimant is Willie Banks 131 St. Louis Avenue, Buffalo, New York 14211.
2. My attorney is the Law Offices of Richard S. Binko, 2427 William Street, Cheektowaga, New York 14206.
3. The nature of this claim is for personal injury sounding of tort.
4. The incident occurred on the sidewalk located at 999 Broadway Street in the City of Buffalo on April 8, 2018 in the afternoon in which the defective condition of the sidewalk caused me to fall. See **Exhibit A** which is a photo showing condition of the sidewalk.
5. The claimant suffered injuries consisting injuries to my knees, back, shoulder, head, hip, and right elbow. All of the above injuries were accompanied by tearing, irritation, and injury to the discs, tendons, ligaments, muscles, blood vessels, cartilages, nerves, and soft tissues of said areas, affected the blood supply of said areas, and were accompanied by pain and suffering; limitation of motion; causation, precipitation and activation of traumatically induced

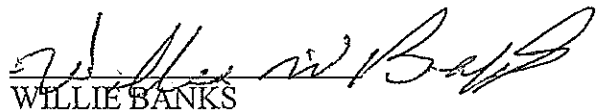
degenerative changes/arthritis in the appropriate injured areas above which are causally related to the aforementioned incident.

All of the above injuries are permanent and progressive, except those of a superficial nature. Claimant is presently unable to estimate the degree of same.

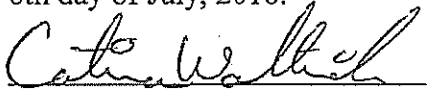
6. That by reason of the premises, the Claimant, Willie Banks, has been and will be caused to expend large sums of money for medical bills, sustained damages due to permanent and progressive injuries, all to the Claimant's, damage pursuant to General Municipal Law §50(e) and CPLR §3017(c).

7. That the amount of damages sought by the Claimant exceeds the jurisdictional limits of all lower courts, and that this action is properly brought in the Supreme Court of Erie County, New York, pursuant to CPLR §3017(c).

WHEREFORE, Claimant requests that the claim be allowed and paid for by the CITY OF BUFFALO and COUNTY OF ERIE.


WILLIE BANKS

Sworn to before me this
6th day of July, 2018.



CATRINA WALTERICH
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
MY COMMISSION EXP. OCT. 03, 2019

*I accepted this and the man that
delivered this took my name.*

*Just wanted to see if you were
aware of this.*

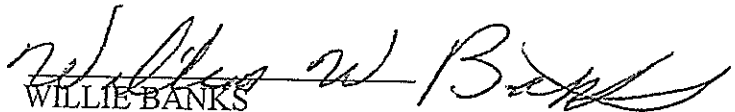
We are holding the original

19D-1
82 of 178

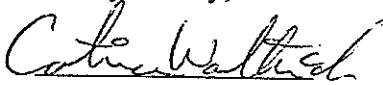
STATE OF NEW YORK
COUNTY OF ERIE SS:

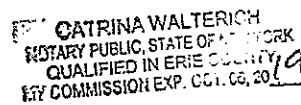
WILLIE BANKS, being duly sworn deposes and says:

I am the Claimant in the above entitled action; I have read the foregoing Notice of Claim and know the contents thereof that the same is true to our knowledge, except as to those matters therein alleged upon information and belief, and that as to those matters I believe them to be true.


WILLIE BANKS

Sworn to before me this
6th day of July, 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

August 1, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

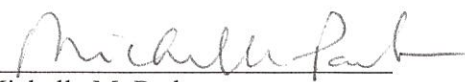
In compliance with the Resolution No. 306 passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Santiago Maldonado, Moses v. County of Erie and Erie County Sheriff's Office</i>
Document Received:	Notice of Claim
Name of Claimant:	Moses Santiago Maldonado DIN #15B0453 Erie County Holding Center 40 Delaware Avenue Buffalo, New York 14202
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
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
85 of 178

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF Erie

In the Matter of the Claim of

Moses Maldonado

- against-

NOTICE OF CLAIM

☐ Village ☐ Town ☐ City ☒ County of

Erie

TO: ☐ Village ☐ Town ☐ City ☐ County of Erie

PLEASE TAKE NOTICE that the claimant herein hereby makes claim and demand against you as follows:

1. The name and post-office address of the claimant and of his/her attorney is:

Claimant

Claimant's Attorney

Moses Maldonado
52 Philadelphia St.
Buffalo, N.Y. 14207



Claimant is Pro Se

2. The nature of the claim:

Negligence and blatant disregard and acts and omissions
of The County of Erie, agents, servants and employees as
well as the hiring, managing and maintaining thereof.

Please See Attached Page(s): 2 pg.

3. The time when, the place where and the manner in which the claim arose: The incident occurred on MAY 10, 2018, at or about afternoon ☐ a.m. ☒ p.m.,

Erie County Holding Center, Housing Unit ECCO South.

Please See Attached Page(s): 2 pg.

4. The items of damage or injuries claimed are:

left foot, leg and ankle, emotional distress, mental anguish,
physical and emotional pain and suffering. Please see attached page(s): 2 pg.

That said claim and demand is hereby presented for adjustment and payment. You are hereby notified that unless it is adjusted and paid within the time provided by law from the date of presentation to you, the claimant intends to commence an action on this claim.

of 2.

① On May 10, 2018, in The P.m. hours While housed on Ecco South upper level tier of The Erie County Holding Center, I fell down The Stairs of Said Unit.

② On May 7, 2018, I was brought To The Erie County Holding Center With an injury To my left leg, foot and ankle. All Applicable Security and Medical Personnel were on Acute Notice of Said injury, Conditions of restrictions and limitations due To my Acute injury.

③ I The Nature of This claim is divided into Negligence and blatant disregard for my legitimate, Confirmed and diagnosed Medical injury To my left leg, foot and Ankle.

④ The Erie County Holding Center Agents, Servants and employees knew or Should have known That Housing me on an upper tier of Ecco South Where I would be forced to climb Numerous Stairs Several Times Per day with a severely damaged left leg, foot and Ankle would be detrimental To my Safety, health and Well-being.

⑤ Notwithstanding my history of Said injury and my complaints thereof, The decision rendered by The County of Erie Holding Center, Agents, Servants and Employees, To house me within Said Unit upper tier, I Sustained Additional injury To my left leg, foot and ankle. This includes mental anguish Anxiety and depression due To Emotional distress from Trauma and deprivation of Adequate Care, Treatment and All ^{Comm 19D-1} ~~Medical~~ or Mental Health Provisions. _{87 of 178}

2. of 2.

I Suffered and Continue To Suffer Extreme Physical and Emotional Pain in all Respects.

⑥ Due To The acts and omissions of The County of Erie, Agents, Servants and Employees, I Suffer from Continual damages to my left leg, foot and ankle AS The EXTENT of The totality of damage is NOT Known to me at This Time ESpecially Since I was and am deprived of Emergency Care from Said fall and continuing care, Treatment and follow-up from Pre-existing injury Prior To May 11, 2018.

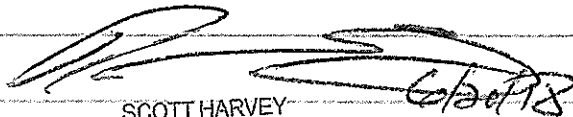
⑦ To The best of my knowledge and UPon information and belief These damages and injuries herein are Perminate in Nature affecting my daily quality of life and daily Activity. The damages and injuries will infact Continue To ComPromise The integrity of my over all health and Well-being.

s/s: Moses Maldonado

Moses Maldonado

Dated: 6-20-18

Buffalo, New York


SCOTT HARVEY
COMMISSIONER OF DEEDS
In and For the City of Buffalo, Erie County, NY
My Commission Expires Dec 31, 2018

Dated: 6-20-, 2018
Buffalo, New York

Moses Maldonado
Signature
Moses Maldonado
Print Name

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

I, Moses Maldonado, am the Claimant in the above-entitled action. I have read the foregoing complaint and know the contents thereof. The contents are true to my own knowledge except as to matters therein stated to be alleged upon information and belief, and as to those matters, I believe them to be true.

[Signature]
Signature
Moses Maldonado
Maldonado

Sworn to before me on this 20
day of June, 2018
[Signature]
Notary Public

SCOTT HARVEY
COMMISSIONER OF DEEDS
In and For the City of Buffalo, Erie County, NY
My Commission Expires Dec. 31, 2018

;

State of New York
County of Erie
City of Buffalo

I, Moses Maldonado being duly sworn, deposes and says that on the 24 day of July, 2018, I forwarded via the United States Postal Service copies of the following documents: Notice of Claim and Supporting Papers to the parties indicated below:

Michael A. Siragusa
County of Erie Department of Law
95 Franklin St.
Buffalo, New York 14202

Miguel Maldonado
[REDACTED] Pro Se
Claimant

Sworn to before me this

20th day of June, 20 18.

NOTARY PUBLIC

SCOTT HARVEY
COMMISSIONER OF DEEDS
In and For the City of Buffalo, Erie County, NY
My Commission Expires Dec 31, 2015

Comm. 19D-1
90 of 178



MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

August 20, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution No. 306 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>Tibbetts, Hollis W. v. County of Erie and Town of Clarence</i>
Document Received:	Notice of Claim
Name of Claimant:	Hollis W. Tibbetts 2 Leisurewood Drive Akron, New York 14001
Claimant's attorney:	Ashley V. Mitchell, Esq. William Mattar, P.C. 6720 Main Street, Suite 100 Williamsville, New York 14221

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
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
91 of 178

This paper received at the
Erie County Attorney's Office
from Liz Wolfe on
the 17th day of August, 2018
at 12:31 a.m. (p.m.)
[Signature]
Assistant County Attorney

STATE OF NEW YORK
COUNTY OF ERIE

IN THE MATTER OF THE CLAIM OF:

HOLLIS W. TIBBETTS
2 Leisurewood Drive
Akron, NY 14001

Claimant,

-against-

COUNTY OF ERIE
95 Franklin Street, Suite 1634
Buffalo, New York 14202,

NOTICE OF CLAIM

TOWN OF CLARENCE
One Town Plaza
Clarence, New York 14031

Respondents

PLEASE TAKE NOTICE that **HOLLIS W. TIBBETTS**, hereby makes claim against **COUNTY OF ERIE** and **TOWN OF CLARENCE** and in support thereof Claimant alleges:

1. That the undersigned Claimant, **HOLLIS W. TIBBETTS**, residing at 2 Leisurewood Drive, Akron, NY 14001, by and through his attorney, **ASHLEY V. MITCHELL**, 6720 Main Street, Suite 100, Williamsville, NY 14221-5986, claims damages against the **COUNTY OF ERIE** and **TOWN OF CLARENCE**, for personal injuries, pain and suffering, general and special damages, medical expenses, and property damages sustained by him.

2. That the said injuries were sustained by **HOLLIS W. TIBBETTS** on June 21, 2018 at approximately 1:00 p.m., The Claimant **HOLLIS W. TIBBETS** was operating a 2003 Chevrolet vehicle when he was struck by another vehicle that failed to yield the right of way at

the intersection of Main Street and Millgrove Road. The intersection of Main Street and Millgrove Road lacked a traffic light at the time of the incident and one is now currently being installed.

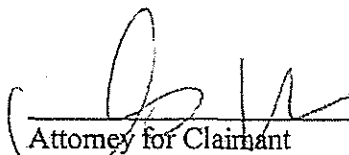
3. That the Claimant's damages and injuries occurred as a result of the negligence, carelessness, and reckless disregard for the safety of others including Claimant, **HOLLIS W. TIBBETTS**, by the **COUNTY OF ERIE and TOWN OF CLARENCE**, his servants, agents or employees in failing to provide a safe location to transit, along with the other acts of negligence, carelessness and recklessness.

4. That the aforesaid **COUNTY OF ERIE AND TOWN OF CLARENCE** by and through his agents, servants and employees had actual or constructive notice of the dangerous condition and hazard caused by said activity.

5. That as a result of the foregoing, the Claimant, **HOLLIS W. TIBBETTS**, sustained very serious injuries, including, but not limited to, a right humerus fracture, left hand laceration, right orbital floor fracture, lateral orbital wall fracture, right facial zygomaticomaxillary complex fracture, right facial laceration, weakness of the left leg and a concussion . Some of these injuries will be of a permanent or indefinite duration, and Claimant, **HOLLIS W. TIBBETTS**, has and will, in the future be forced to expend sums of money for hospitals, doctors and other medical expenses.

6. That the said injuries were occasioned solely and wholly as a result of the negligence of the **COUNTY OF ERIE AND TOWN OF CLARENCE** and through his agents, servants and employees and without any negligence on the part of the Claimant contributing thereto.

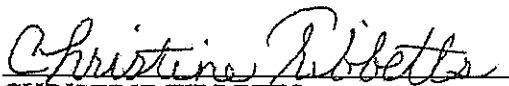
DATED: Williamsville, New York
 August 16, 2018



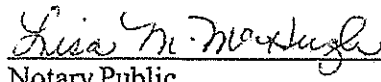
Attorney for Claimant
Office and P.O. Address
6720 Main Street
Suite 100
Williamsville, NY 14221-5986
(716)633-3535

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

, being duly sworn, depose and say that he is the 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 deponents, except as to matters therein stated to be alleged on information and belief, and that as to those matters they believe them to be true.


CHRISTINE TIBBETTS,
Power of Attorney For
HOLLIS W. TIBBETTS

Sworn to before me this
6th day of August, 2018


Notary Public

LISA M. McHUGH
Notary Public, State of New York
No. 01MC4999459
Qualified in Erie County
Commission Expires July 27, 2022



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

August 22, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution No. 306 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>DiJoseph, Michael v. County of Erie</i>
Document Received:	Summons and Complaint
Name of Claimant:	Michael DiJoseph 960 Schultz Road Elma, New York 14059
Claimant's attorney:	Lindy Korn, Esq. Law Office of Lindy Korn, PLLC Electric Tower 535 Washington Street, 9th Floor Buffalo, New York 14203

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 

Michelle M. Parker
First Assistant County Attorney
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
96 of 178

UNITED STATES DISTRICT COURT

for the

Western District of New York ☐

Michael DiJoseph

Plaintiff(s)

v.

Erie County

Defendant(s)

Civil Action No. 1:18-cv-919 S

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Erie County
95 Franklin Street
Buffalo, New York 14202

This paper received at the
Erie County Attorney's Office
from Mary Choewenguth
the 21st day of Aug 2018
at 1:10 a.m./p.m.
S. Dity - Jagg
Assistant County Attorney

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Lindy Korn, Esq.
535 Washington Street, Ninth Floor
Buffalo, New York 14203

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: 8/20/2018



CLERK OF COURT

Mary Choewenguth
Signature of Clerk or Deputy Clerk

Mary Choewenguth

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Michael DiJoseph,

Plaintiff,

vs.

COMPLAINT

Erie County,

Defendants.

Plaintiff Michael DiJoseph ("Plaintiff" or "Mr. DiJoseph") swears that the following is true to the best of his knowledge, under penalty of perjury:

PARTIES

1. The Plaintiff, Michael DiJoseph, is a natural person with a place of residence at 960 Schultz Rd, Elma, New York 14059.
2. Upon information and belief, Defendant Erie County ("Defendant" or "County"), is a municipal entity with offices located at 95 Franklin St., Buffalo, New York 14202.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this action pursuant to 28 U.S.C. §1331 and as conferred by 42 U.S.C. §1983.

4. Defendants are subject to the jurisdiction of this Court and venue is proper in this District pursuant to 28 U.S.C. § 1391 (b) as the acts and omissions giving rise to the claims in this complaint occurred within the Western District of New York.

FACTUAL BACKGROUND

5. Michael DiJoseph has been a Sherriff's Deputy with the Erie County Sherriff's Department.
6. Mr. DiJoseph's highest rank achieved was that of Sergeant ("Sgt.").
7. Defendant demoted Mr. DiJoseph from the rank of sergeant to officer.
8. Defendant stated that the demotion was because of "Facebook posts."
9. Mr. DiJoseph grieved his demotion.
10. Defendant brought up on additional charges against Mr. Dijoseph after he grieved his demotion.
11. Defendant subsequently terminated Mr. DiJoseph from his employment.
12. Defendant did not follow Civil Service Law before demoting Sgt. DiJoseph.
13. Defendant did not grant Mr. DiJoseph a pre-deprivation hearing before terminating his employment.

FIRST CAUSE OF ACTION

§1983 Violation of Due Process

14. Plaintiff repeats each and every allegation set forth herein in preceding paragraphs as though fully set forth herein.

15. In order to establish a violation of §1983, “two-and only two-allegations are required in order to state a cause of action under that statute. First, the plaintiff must allege that some person has deprived him of a federal right. Second, he must allege that the person who has deprived him of that right acted under color of state or territorial law.” *Gomez v. Toledo*, 446 U.S. 635, 640, 100 S. Ct. 1920, 1923, 64 L. Ed. 2d 572 (1980)
16. Upon information and belief, Defendant Erie County is a public employer.
17. Mr. DiJoseph is a public employee with Civil Service protections.
18. Mr. DiJoseph has a property interest in his continued employment.
19. Superintendent Thomas Diina is an officer of the County.
20. Sherriff Howard is an officer of the County.
21. Civil Service employees are entitled to Due Process protections under §75 of the New York State Civil Service Law. “Petitioner’s due process right to the protections created by this section are well documented. *See, Laurido v. Simon*, 489 F.Supp. 1169 (S.D.N.Y.1980); *Snead v. Department of Social Services*, 351 F.Supp. 1360 (S.D.N.Y.1972).” *Barrett v Miller*, 179 Misc 2d 24, 30-31 [Sup Ct 1998].
22. “The Constitution prohibits deprivations of [property] *without due process*. The denial of a constitutionally-sound predeprivation hearing is a separate and distinct injury from the loss of [property].” *Patterson v Coughlin*, 761 F2d 886, 892 [2d Cir 1985] *emphasis in original*.
23. A demotion which does not conform to the Due Process requirements under §75(5) “constitutes a denial of due process actionable under 42 U.S.C. § 1983.” *See Lewis v. New York City Transit Authority*, No. 79-C-139 (E.D.N.Y.1979); *Keyer v. Civil Service Commission of the City of New York*, 397 F.Supp. 1362 (E.D.N.Y.1975); *Vega v. Civil*

Service Commission, City of New York, 385 F.Supp. 1376 (S.D.N.Y.1974). *Hilf v New York Hous. Auth.*, 550 F Supp 1000, 1005 [SDNY 1982].

24. The County, through the actions of Superintendent Diina, and Sherriff Howard deprived Plaintiff of his property interest in his continued employment by:
- a. Depriving Mr. DiJoseph from his position of sergeant;
 - b. Terminating Mr. DiJoseph's employment with the Sherriff's Department;
 - c. Depriving Mr. DiJoseph of his right to a hearing under the Civil Service Law;
 - d. Subjecting Mr. DiJoseph to additional charges after he grieved Defendant's conduct in demoting him from sergeant to officer;
25. Plaintiff was not afforded Due Process in these instances.
26. This constitutes a substantive Due Process violation.
27. Mr. DiJoseph was denied his federally protected Due Process rights to his continued employment in its entirety and in the specific position of sergeant.

SECOND CAUSE OF ACTION

§1983 Violation of Freedom of Speech

28. Plaintiff repeats each and every allegation set forth herein in preceding paragraphs as though fully set forth herein.
29. In order to establish a violation of §1983 "two-and only two-allegations are required in order to state a cause of action under that statute. First, the plaintiff must allege that some person has deprived him of a federal right. Second, he must allege that the person who has deprived him of that right acted under color of state or territorial law." *Gomez v. Toledo*, 446 U.S. 635, 640, 100 S. Ct. 1920, 1923, 64 L. Ed. 2d 572 (1980)

30. Upon information and belief Defendant Erie County is a public employer.
31. Mr. DiJoseph is a citizen of the United States with the right to freedom of speech.
32. Superintendent Diina is an officer of the County.
33. Defendant denied Mr. DiJoseph his right to freedom of speech when it demoted Mr. DiJoseph from his rank of sergeant specifically because of "Facebook posts."
34. Mr. DiJoseph was denied his federally protected rights to Free Speech when the County arbitrarily and capriciously demoted him from his rank of sergeant without ever explaining why the County believed it was justified in doing so.
35. As a result of Defendants' actions, Mr. DiJoseph experienced loss of income, fear, anxiety, severe humiliation, shame, embarrassment, emotional pain and suffering, loss of savings, and loss of enjoyment of life.

WHEREFORE, Mr. DiJoseph respectfully requests this Court to enter an Order

- A. Awarding Mr. DiJoseph past lost wages and benefits in an amount to be determined at trial;
- B. Awarding Mr. DiJoseph damages for his pain, suffering, loss of enjoyment of life, humiliation and other injuries in an amount to be determined at trial;
- C. Directing Defendants pay all unreimbursed medical costs incurred by Mr. DiJoseph as a result of the stress and anxiety resulting from the discrimination he suffered and the hostile working conditions he endured, including diagnostic analysis, treatment and therapy, and follow up therapy;
- D. Defendants pay Mr. DiJoseph the costs of this action, together with reasonable attorneys' fees and disbursements;

- E. Defendants to reinstate Mr. DiJoseph to the payroll in his former title;
- F. Defendants to reinstate Mr. DiJoseph's pension and health care status;
- F. Mr. DiJoseph to have such other and further relief as this Court deems just and equitable.

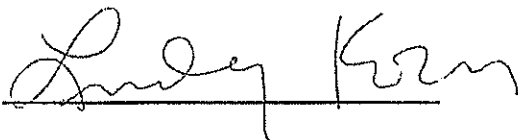
DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) Fed. R. Civ. P., Plaintiff hereby demands a trial by jury for all issues triable of right by a jury in this case.

Dated: August 17, 2018
Buffalo, New York

Respectfully submitted,
Plaintiff Michael DiJoseph by his Attorneys

THE LAW OFFICE OF LINDY KORN PLLC

A handwritten signature in black ink, appearing to read "Lindy Korn", is written over a horizontal line.

Lindy Korn, Esq.
Richard J. Perry, Esq.
Attorneys for Plaintiff
Electric Tower
535 Washington Street, Ninth Floor
Buffalo, New York 14203
Telephone: (716) 856-5676
Facsimile: (716) 507-8475
lkorn@lkorn-law.com
khovaros@yahoo.com



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

August 23, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:


In compliance with the Resolution No. 306 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>Girard, Michael, Estate of, by Joseph Girard v. County of Erie, Erie County Sheriff's Office and Sheriff Howard</i>
Document Received:	Notice of Claim
Name of Claimant:	Joseph Girard 407 Wabash Avenue Kenmore, New York 14217
Claimant's attorney:	Samuel J. Capizzi, Esq. Collins & Collins Attorneys, LLC 267 North Street Buffalo, New York 14201

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
Michelle M. Parker
First Assistant County Attorney
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
104 of 178

SUPREME COURT
STATE OF NEW YORK : COUNTY OF ERIE

JOSEPH GIRARD, Individually, and as
Distributee of the Estate of
MICHAEL GIRARD, deceased
407 Wabash Avenue
Kenmore, New York 14217

Claimants,

NOTICE OF CLAIM

vs.

COUNTY OF ERIE
95 Franklin Street
Buffalo, New York 14202

ERIE COUNTY SHERIFF'S OFFICE
10 Delaware Avenue
Buffalo, New York 14202

TIMOTHY B. HOWARD, AS ERIE COUNTY SHERIFF
10 Delaware Avenue
Buffalo, New York 14202

Defendants.

RECEIVED
AUG 21 2018
ERIE COUNTY
DEPARTMENT OF LAW
J. mmp

To: Erie County Attorney
95 Franklin Street
Room 1634
Buffalo, NY 14202

Erie County Sheriff's Office
10 Delaware Avenue
Buffalo, New York 14202

Erie County Sheriff
Timothy B. Howard
10 Delaware Avenue
Buffalo, NY 14202

Collins & Collins
ATTORNEYS, LLC

a. 267 North Street, Buffalo, New York 14201 □ p. 716 885 9700

Comm. 19D-1
105 of 178

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

1. The Claimant herein JOSEPH GIRARD, is the father and distributee of the late MICHAEL GIRARD, and he resides at 407 Wabash Avenue, township of Kenmore, County of Erie.
2. The attorneys for the Claimant are as follows: Samuel J. Capizzi, Esq., COLLINS & COLLINS ATTORNEYS, LLC, 267 North Street, Buffalo, New York 14201.
3. The circumstances giving rise to the claim are as follows: The decedent Michael Girard was an inmate or detainee at the Erie County Holding Center from approximately May 21, 2018 through May 25, 2018. On May 25, 2018 at approximately 1:00 a.m., while under the custody, care and control of the respondents as an inmate or detainee of the Erie County Holding Center, the decedent Michael Girard attempted to commit suicide by hanging himself, sustained serious and grave injuries, and then died in Erie County Medical Center on May 27, 2018.
4. The incident giving rise to the claim, and the resultant damages were caused by the negligence, recklessness, and/or unlawful conduct of the respondents COUNTY OF ERIE, ERIE COUNTY SHERIFF'S OFFICE, ERIE COUNTY SHERIFF TIMOTHY B. HOWARD, and the ERIE COUNTY HOLDING CENTER, and by their agents, servants and/or employees, including various departments of the Erie County Sheriff's Office and County of Erie, including but not limited to, the Department of Health, Department of Mental Health, Division of Forensic Mental Health Services, in negligent in hiring, training and supervision of their employees; in failing to adequately

and appropriately supervise and observe the decedent while he was incarcerated; in failing and omitting to make and undertake proper safeguards for care and protection of the decedent; in failing and omitting to ensure decedent was provided with adequate medical and mental health care, treatment and medication; in failing to adequately assess decedent's mental and physical health while he was incarcerated; in failing to properly, adequately and correctly assess, diagnose, and treat decedent's condition; in failing and omitting to provide medical attention and mental health counseling to the decedent while he was incarcerated; in failing and omitting to enact adequate policies, procedures and/or guidelines to prevent the death of inmates; in failing to modify the decedent's cell to prevent suicide; in failing to identify the decedent's suicide risk while he was incarcerated; in failing to properly respond to an emergency medical situation; in negligently, carelessly and recklessly rendering improper or ineffective medical assistance; in failing to seek timely and appropriate medical attention; in failing to comply with New York State and Federal regulations and/or prior Stipulated Settlement Agreements with same, and in failing to comply with generally recognized industry standards. Further, the injuries and damages were caused by the respondents' violation of State and Federal Constitutional rights and civil rights, including but not limited to the Fifth, Eight and/or Fourteenth Amendments of the Constitution of the United States, violation of 42 U.S.C. 1983 and 1988, as well as the Constitution of the State of New York and the New York State Penal Law.

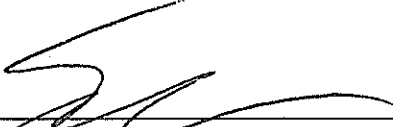
5. The claim for JOSEPH GIRARD, individually and as distributee of the Estate of MICHAEL GIRARD, is for wrongful death, physical and emotional pain and suffering, personal injuries, devaluation of estate, emotional harm, and deprivation of

decedent's civil and constitutional rights including the right to be free of cruel and unusual punishment, violations of Federal and New York State civil rights, violations of Federal, State, and County rules, regulations and policies, Stipulated Settlement Agreements, and for any and all derivative claims.

6. The subject claim is for a sum to be determined by a jury, and includes personal injury the decedent, loss of consortium, loss of value of estate, pain and suffering, and wrongful death. The claimant also seeks punitive damages to the extent permissible by law.

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.

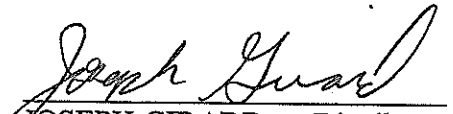


Samuel J. Capizzi, Esq.
COLLINS & COLLINS ATTORNEYS, LLC
Attorneys for Claimant
267 North Street
Buffalo, New York 14201
(716) 885-9700


Collins & Collins
ATTORNEYS, LLC

VERIFICATION

JOSEPH GIRARD, as Distributee of the Estate Michael Girard, being duly sworn, depose and says: I am the claimant in this matter; I have read the foregoing Notice of Claim and know its contents; the same is true to my own knowledge, except as to those matters therein stated to be alleged on information and belief, and, as to those matters, I believe it to be true.


JOSEPH GIRARD, as Distributee
of the Estate of Michael Girard

Sworn to before me this 2
day of August, 2018.


Notary Public

MELISSA M. NEWHOUSE
No. 01NE8281728
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 05/14/ 20


AFFIDAVIT OF SERVICE

I, **Melissa Newhouse**, being duly sworn, deposes and says:

1. I am not a party to this action, am 18 years of age or older, and reside at Buffalo, New York.

2. On August 16, 2018, I served the annexed Notice of Claim, via certified mail – return receipt requested, by depositing the papers, enclosed in a first class postpaid wrapper, in a post office or official depository under the exclusive care and custody of the United States Postal Service within the state, addressed to the following address, which is designated by the addressee for the purpose or, if none is designated, which is the last known address of the addressee:

Erie County Attorney	Erie County Sheriff's Office	Timothy B. Howard
95 Franklin Street, Room 1634	10 Delaware Avenue	10 Delaware Avenue
Buffalo, New York 14202	Buffalo, New York 14202	Buffalo, New York 14202


Melissa Newhouse

Subscribed and sworn to before me
this 16 day of August, 2018.


Notary Public

LISA A. QUIGLEY
Notary Public, State of New York
Qualified in Erie County
My Commission Expires October 24, 2019
Reg. #

Collins & Collins
ATTORNEYS, LLC

a. 267 North Street, Buffalo, New York 14201 ☐ p. 716 885 9700

Comm. 19D-1
110 of 178



MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

August 23, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:


In compliance with the Resolution No. 306 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>Phillips, Cortez v. City of Buffalo, County of Erie, Buffalo Police Department, Amherst Police Department and Town of Amherst</i>
Document Received:	Notice of Claim
Name of Claimant:	Cortez Phillips 904 Northland Street Buffalo, New York 14215
Claimant's attorney:	Lawrence J. Strauss, Esq. 63 Kenmore Avenue Amherst, New York 14226

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
Michelle M. Parker
First Assistant County Attorney
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
111 of 178

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

CORTEZ PHILLIPS
904 NORTHLAND STREET
BUFFALO, NEW YORK 14215,

Claimant,

-vs-

THE CITY OF BUFFALO
1100 CITY HALL (65 NIAGARA SQUARE)
BUFFALO, NEW YORK 14202,
And

NOTICE OF CLAIM

THE COUNTY OF ERIE
EDWARD A. RATH COUNTY OFFICE BUILDING
95 FRANKLIN STREET, ROOM 1634
BUFFALO, NEW YORK 14202,
And

THE BUFFALO POLICE DEPARTMENT
74 FRANKLIN STREET
BUFFALO, NEW YORK 14202,
And

THE AMHERST POLICE DEPARTMENT
500 JOHN JAMES AUDUBON PARKWAY
AMHERST, NEW YORK 14228,
And

THE TOWN OF AMHERST
558 SOUTH MAIN STREET
WILLIAMSVILLE, NEW YORK 14221,

Respondents.

PLEASE TAKE NOTICE, that the "Claimant", CORTEZ PHILLIPS hereby presents his Notice of Claim against THE CITY OF BUFFALO, THE TOWN OF AMHERST, THE COUNTY OF ERIE, THE BUFFALO POLICE DEPARTMENT and THE AMHERST POLICE DEPARTMENT ("Respondents") and in support thereof, the Claimant states:

- 1) Claimant resides at 904 Northland Street Buffalo, New York.
- 2) Claimant's attorney maintains an office at 63 Kenmore Avenue Amherst, New York 14226.

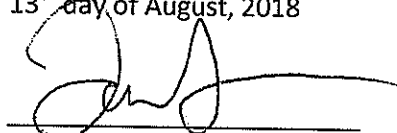
- 3) On or about July 31st, 2018 Claimant was a passenger in a vehicle owned and driven by Katrise Guthrie when said vehicle was travelling in the Town of Amherst.
- 4) An Amherst police officer stopped the vehicle and issued a traffic citation to Ms. Guthrie.
- 5) During the course of this traffic stop, the Amherst officer demanded that Mr. Phillips produce identification.
- 6) Mr. Phillips complied with the officer's requests.
- 7) After obtaining the requested identification information, the officer took Mr. Phillips into custody on the basis that he believed there was an outstanding arrest warrant on Mr. Phillips.
- 8) Mr. Phillips objected to the detention and advised the police officer that there was no outstanding warrant for his arrest. Nonetheless, Mr. Phillips was cooperative.
- 9) The Amherst Police Department transferred Mr. Phillips to The Buffalo Police Department.
- 10) Mr. Phillips remained in custody at the Buffalo Police Department until it they determined there was no outstanding arrest warrant on Mr. Phillips.
- 11) Upon information and belief, an arrest warrant, on Mr. Phillips, was issued on or about October 20th, 2017 through the Erie County Probation Department and signed by an Erie County Judge.
- 12) The warrant was issued for alleged probation violations.
- 13) Mr. Phillips voluntarily appeared in court, to face the charges from the probation violations on October 25th and accepted a plea requiring incarceration in the Erie County Correctional facility.
- 14) Mr. Phillips began serving his term of incarceration on or about October 25th, 2017.
- 15) As a result of the preceding paragraph, the City or The County recalled the warrant, on or about October 26th, 2017.
- 16) Upon information and belief, notice of the recall was timely provided to the Buffalo Police Department, and the county, on or about October 26th, 2017.
- 17) Accordingly, on or about October 26th, 2017 The County and City and their respective political agencies and police departments had actual notice that the warrant was recalled.
- 18) On June 29th 2018, Mr. Phillips successfully completed his term of incarceration and was released.
- 19) The arrest or detention by the Amherst and Buffalo Police Departments was unlawful.
- 20) The unlawful arrest and detention constitutes an assault, battery and unlawful imprisonment.

- 21) As a result of the preceding paragraphs, Mr. Phillips suffered humiliation, fear and emotional distress.
- 22) As a result of the preceding paragraphs, Mr. Phillips seeks financial compensation for his non-economic losses.
- 23) This Notice of Claim is being presented within the time constraints set forth within General Municipal Law section 50 (e).

PLEASE TAKE FURTHER NOTICE, that The Claimant requests that this claim be allowed and paid by The Respondents and notifies you that unless this claim is adjusted and paid within 90 days from the service of this Notice of Claim, we may commence an action against The City of Buffalo, The County of Erie, The Amherst Police Department, and The Buffalo Police Department to recover for all damages and injuries sustained by The Claimant, together with the costs and disbursements of this action.


DATED: Amherst, New York
August 13th, 2018

Sworn to before me this
13th day of August, 2018




Notary Public

LAWRENCE J. STRAUSS
Notary Public, State of New York
Qualified in Erie County
My Commission Expires July 29, 2019



Cortez Phillips



Lawrence J Strauss, PLLC

Attorneys for Claimant, Cortez Phillips
63 Kenmore Avenue
Amherst, New York 14226
Phone: (716) 856-0400
Lawrencestrauss@gmail.com



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 4, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:


In compliance with the Resolution No. 306 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>Bish, John A. v. NP Jasmine, County of Erie, ECHC, ECHC Medical Department, Erie County DOH and Sgt. McMahon</i>
Document Received:	Notice of Claim
Name of Claimant:	John A. Bish ICN #14336 Erie County Holding Center 40 Delaware Avenue Buffalo, New York 14202-3999
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
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
115 of 178

SUPREME COURT:STATE OF NEW YORK
COUNTY OF ERIE

X

X

JOHN A. BISH,
claimant

-against-

NURSE PRACTITIONER JASMINE, X
THE COUNTY OF ERIE, ERIE COUNTY
HOLDING CENTER, ERIE COUNTY X
HOLDING CENTER MEDICAL DEPT.,
ERIE COUNTY DEPARTMENT OF X
HEALTH, ERIE COUNTY HOLDING
CENTER SERGEANT McMAHON, ~~SGT. ROTT~~ X
SGT. ROTT defendants. X

NOTICE OF CLAIM AGAINST A COUNTY
(General Municipal Law §50-e)

Index No. _____

RECEIVED
AUG 30 2018
ERIE COUNTY
DEPARTMENT OF LAW
mmf

TO: ERIE COUNTY SUPREME COURT & COUNTY COURT CLERK

PLEASE TAKE NOTICE, that the above named claimant, JOHN A. BISH, does hereby make the following claim against the aforementioned defendants, all of the County Of Erie, and in support thereof, states:

1. That the Complainant resides at the Erie County Holding Center 40 Delaware Avenue Buffalo New York 14202;
2. That the name and address of the Complainants Attorney is: Proceeding Pro Se-same address as contained above;
3. This claim is against the County of Erie for injuries the Complainant sustained by reason of injuries do to the negligence and/or misconduct, failure to follow proper procedures, failure to train/supervise, failure to follow Due Process of the Law;
4. The time when and place when/where this claim arose is: on or about May 23, 2018, the Claimant was questioned by Sergeant McMahon about medication that another inmate/detainee (Edward Coleman) was found to have in his possession (Sergeant McMahon stated that it was Buspar/Busbar mental Health Medication). The Claimant stated to this Sergeant that he knew absolutely nothing about any medications that another inmate/detainee was found to be in possession of and that the other detainee never received it from the Claimant, John A. Bish. Defendant/Sergeant McMahon stated that the medication was being sent to an outside law and if its found to be the Claimants medication he was going to be issued a misbehavior report and lose his medication.
5. On or about May 26, 2018, the Claimant was advised by a Registered Nurse that half of his pain medication, Gabapentin, was discontinued and she was unaware as to why. Two days after that, on May 28th, 2018, the entire order of Gabapentin Pain medication that the Claimant has been on for over sixteen (16) years was completely discontinued.
6. Over the course of the next couple of weeks the Claimant kept putting in sick call requests to see the facility physician to have the matter straightened out. the Complainant, during that time, found out by Nurse Practitioner Jasmine that she was the one that took the Claimant off if the Gabapentin based upon a report that she had read from Sergeant McMahon that the Claimant was never able to see.
7. The Claimant submitted a facility Grievance to be able to look at his Medical Reords and obtain copies. Sergeant Rott Supervised this procedures that took well over a month. The Claimant stated that he wanted copies of the records from October 10, 2018 up to the

present date. Sergeant Rott stated that he would be able to have some portions of these records but would not be able to have them in his cell and would have to be placed into his personal property, not in his cell. I explained that the Claimant was already in the court with the County about medical matters not being followed and that he needs these records for that as well as another matter. This Sergeant Rott stated: It's the County Attorneys policy as well as the Medical Departments and I do not know what else to tell you.

8. To this date, the Doctor that is suppose to be over-seeing all of the medical Department has not been here, nor has there been any medical Doctor per correction law and has not been one here since Doctor Barsom left the facility at the end of May beginning of June 2018, in violation of Correction Law and the Claimants rights to be properly and adequately treated with regards to his medical needs.

9. To this date I have still been unable to get the medication issue of the Gabapentin straightened out and keep being told that when "Doctor McGee gets here you will be one of the first ones to see him" and it is not being done.

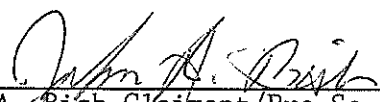
10. The facility medical Department is aware that the complainant has had eight prior surgeries and is in pain, records have been ordered about elctro tests that were conducted to ascertain the level of pain damage that the Claimant is in. yet still no Doctor, and Nurse Practitioner Jasmine states "Sergeant McMahon wouldn't lie about your medication and that is why I took you off of the Gabapentin". I stated to her thae is she aware that whatever medication that Sergeant McMahon is talking about was not Gabapentin and was allegedly a Mental Health Medication. She refused to comment further and wont see me any more or order anything for my pain.

11. To this date, I still have been unable to get copies of my medical records or to be treated for my level of constant pain that I am in for being wrongfully targeted and taken off of my pain medications based upon an inmate/detainee stating that he obtained a Mental Health Medication from me, even though he was locked on another floor and nothing was ever found to be in my possession, and no misbehavior report was ever written by any Medical Staff or security for violating any medication dispensing procedures.

12. The Claimant has filed facility grievances concerning all of the aforementioned, but to no avail.

PLEASE TAKE FURTHER NOTICE, that the Claimant demands payment in the amount of One Hundred Thousand (\$100,000) and an additional Twenty Five Hundred (\$2,500) per day for each day the Claimant is left in this level of pain, lack of care by a Medical Doctor that is suppose to be here per Correction Law, but is not, and not providing the Claimant with adequate and proper Medical Care.

C. jab/file



John A. Bish Claimant/Pro Se
Erie County Holding Center
40 Delaware Avenue
Buffalo, New York 14202

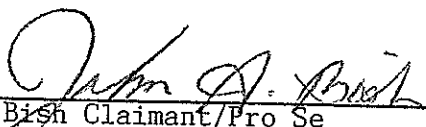
VERIFICATION

STATE OF NEW YORK

)ss:

COUNTY OF ERIE

JOHN A. BISH, being duly sworn, deposes and says that deponent is the petitioner in the above-encaptioned proceeding, that (he/~~she~~) has read the forgoing petition and knows the contents thereof, that the same is true to deponent's own knowledge, except as to matters therein stated upon information and belief, which matters deponent believes to be true.



John A. Bish Claimant/Pro Se
Erie County Holding Center
40 Delaware Avenue
Buffalo, New York 14202

Sworn to before me this 23rd

day of August, 20 18



NOTARY PUBLIC

SCOTT HARVEY
COMMISSIONER OF DEEDS
In and For the City of Buffalo, Erie County, NY
My Commission Expires Dec. 31, 20 18

AFFIDAVIT OF SERVICE

State of New York
County of Erie
City of Buffalo

I, John A. Bish, being duly sworn, deposes and says that on the 23rd day of August, 2018, I forwarded via the United States Postal Service copies of the following documents: NOTICE OF CLAIM AGAINST A COUNTY (General Municipal Law §50-e) to the parties indicated below:

Erie County Attorney
Michael Siragusa
95 Franklin Street
Room 1634
Buffalo, New York 14202

Sworn to before me this
23rd day of August, 2018.

~~NOTARY PUBLIC~~

XX
 Defendant, Pro Se XXX
 John A. Bish Claimant/Pro Se
 Erie County Holding Center
 40 Delaware Avenue
 Buffalo, New York 14202

SCOTT HARVEY
COMMISSIONER OF DEEDS
In and For the City of Buffalo, Erie County, NY
My Commission Expires Dec. 31, 2018

Comm. 19D-1
119 of 178



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 4, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:


In compliance with the Resolution No. 306 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>Williams, Jameel v. County of Erie and ECSO</i>
Document Received:	Notice of Claim
Name of Claimant:	Jameel Williams ICN #38786 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
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
120 of 178

Notice of Claim



TO:

Erie County Executive

Erie County Attorney

Erie County Sheriff

PLEASE TAKE NOTICE that JAMEEL WILLIAMS, the claimant herein, makes this claim, against the County of Erie, State of New York, for damages sustained by him/her for Personal Injury / Loss of property as follows;

1. The claimant's post office address is;

11581 WALDEN AVE. ALDEN NY 14004 / 24 WAKEFIELD AVE.

BFI6, NY 14214

2. Date upon which the Personal Injury / Property Loss occurred was the 22nd day of _____

August, 2018, and upon information and belief the hour of 11:50 AM/PM.

3. The injuries / Property Loss sustained by the claimant by reason thereof are more particularly described as follows: UNLAWFUL IMPRISONMENT INTO ADMINISTRATIVE

SEGREGATION/SPECIAL housing Unit/KEEPLOCK. IN VIOLATION OF 7NYCRR§ 250.2(d),(e),(f); VIOLATION OF Wolff v. McDonnell (418 U.S.539); VIOLATION of my U.S.C.A 8TH AND 14TH. THE UNLAWFUL IMPRISONMENT HAS CAUSED MENTAL health ISSUES OF EXTREME DEPRESSION, PANIC ATTACKS, ETC. DEPUTY FALSIFIED disciplinary report to SEEK RETALIATION AND REVENGE for FILING GRIEVANCE AGAINST him.

4. The injuries sustained / Property loss were a direct result of the negligence of said County in it's care, custody, control, of the Erie County Corr.facility, and it's management, located at 11581 Walden Avenue. Alden, NY 14004. Claimant was/is currently incarcerated at said facility, and thus in the care and control of said Erie County Sheriff.

5. Claimant requests as damages for lost property: \$100,000.00

6. Due to the negligence of the Erie County Sheriff's Department, claimant suffered the injury / property loss.

7. The Claimant presents this claim and demand for adjustments and payment and gives notice that unless his claim is adjusted and paid within the time provided by law (30 days) from the

date of presentation, it is claimant's intention to commence an action thereon.

DATED: Aug 27, 2018

x *James Williams*

Claimant

SWORN TO BEFORE ME THIS

27th day of August, 2018
Christopher T. Coughlin

NOTARY PUBLIC

CHRISTOPHER T. COUGHLIN
No. 01CO6294898
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Dec. 23, 2021

AFFIDAVIT OF SERVICE
Postal Service

State of New York)
County of Erie) SS:
_____)

I, JAMEEL WILLIAMS, being duly sworn, depose and say that I have on this _____ day of _____, 20____, forwarded via the United States Postal Service copies of the following documents:

NOTICE OF CLAIM

to the offices of:

ERIE COUNTY ATTORNEY
95 FRANKLIN ST. 16TH FLOOR
BUFFALO N.Y 14202

Dated: Aug. 27, 2018

Jameel Williams

Signature, Defendant Pro Se

11581 Walden Avenue

Wden, New York 14004

Sworn to before me on the 27th day of
August, 2018.

[Signature]

Signature, Notary Public

CHRISTOPHER T. COUGHLIN
No. 01CO6294898
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Dec. 23, 2021

- Comm. 19D-1
123 of 178



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 5, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

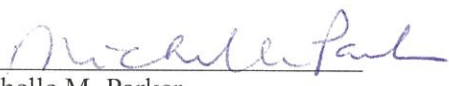
In compliance with the Resolution No. 306 passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Sims, Craig v. Jason Redding - Employee UM Claim</i>
Document Received:	Letter from employee's attorney
Name of Claimant:	Craig Sims
Claimant's attorney:	William P. Moore, Esq. Lipsitz Green Scime Cambria LLP 42 Delaware Avenue, Suite 120 Buffalo, New York 14202-3924

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
Michelle M. Parker
First Assistant County Attorney
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
124 of 178

mmp



Lipsitz Green Scime Cambria ^{LLP}

Attorneys at Law

42 Delaware Avenue, Suite 120, Buffalo, New York 14202-3924 P 716 849 1333 F 716 855 1580 (Not for Service) www.lglaw.com

Paul J. Cambria, Jr.^{1,5}
 James T. Scime
 Herbert L. Greenman
 Michael Schiavone
 Laraine Kelley
 Richard P. Weisbeck, Jr.
 Mark L. Stulmaker
 Barry Nelson Covert
 Robert L. Boreanaz
 Thomas M. Mercure
 John A. Collins
 Michael P. Stuermer³
 Jeffrey F. Reina
 Cherie L. Peterson
 Joseph J. Manna
 William P. Moore
 Thomas C. Burnham
 Jonathan W. Brown³
 Diane M. Perri Roberts
 Matthew B. Morey
 Sharon M. Heim
 Paul J. Cieslik
 Gregory P. Krull
 Robert E. Ziske
 Patrick J. Mackey⁴
 Max Humann⁶
 Katherine A. Gillette
 Lynn M. Bochenek
 Joseph L. Guza
 Richard A. Maltese, Jr.
 Justin D. Ginter
 Erin E. McCampbell
 Jeffrey B. Novak
 Lucy M. Berkman²
 Dale J. Bauman^{2,7}
 Michelle M. Ragusa
 Karoline R. Foltos
 Melissa D. Wischerath⁸
 Alexander E. Bosinski
 Taylor D. Galbo

August 7, 2018

Erie County
 95 Franklin Street
 Buffalo, New York 14202

Re: Our Client/Your Employee: Craig Sims
 Date of Accident: 03/06/18
 Our File No.: 64272.0001

Dear Sir/Madam:

Please be advised that this firm represents Mr. Sims for injuries sustained in a motor vehicle accident dated March 6, 2018. At the time of the accident, Mr. Sims was working for Erie County and was rear-ended by an UNINSURED MOTOR VEHICLE. I enclose herewith a copy of the police report and denial from the at-fault driver's carrier, Progressive, indicating that the other driver's insurance lapsed and was not in effect at the time of the loss.

On behalf of Mr. Sims, we hereby are placing you on notice of a potential UNINSURED MOTORIST (UM) claim. Please turn this letter over to the insurance carrier for the vehicle Mr. Sims was operating at the time of the loss so that they may contact me.

Thank you.

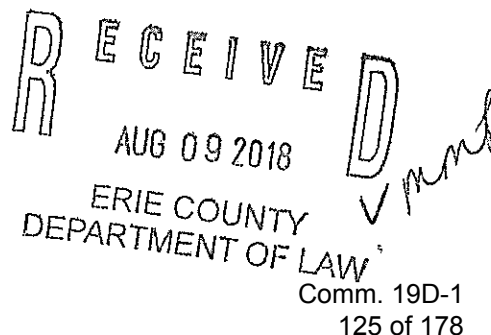
Very truly yours,

Lipsitz Green Scime Cambria LLP

By: William P. Moore, Esq.

WPM/lmc
 Enclosure(s)

Writer's Extension: 306
 Email: wmoore@lglaw.com



OF COUNSEL
 Patrick C. O'Reilly
 Joseph J. Gumkowski
 George E. Riedel, Jr.²

SPECIAL COUNSEL
 Richard D. Furlong
 Scott M. Schwartz
 Michael M. McDaniel

LICENSED WORKERS'
 COMPENSATION
 REPRESENTATIVE
 Keith T. Williams
 Patricia N. Lyman

¹ Also admitted in District of Columbia
² Also admitted in Florida
³ Also admitted in California
⁴ Also admitted in Illinois
⁵ Also admitted in Pennsylvania
⁶ Also admitted in Maryland
⁷ Also admitted in New Jersey
⁸ Also admitted in Oregon



POLICE ACCIDENT REPORT

MV-104A (6/04)

DMV COPY

Local Codes

RTTL0780NRFQ

☒ AMENDED REPORT

1		Accident Date		Day of Week		Military Time		No. of Vehicles		No. Injured		No. Killed		Not Investigated at Scene <input type="checkbox"/>		Left Scene <input type="checkbox"/>		Police Photos <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
		Month 03 Day 06 Year 2018		Tues		11:38		2		1		0		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>			
2																					
VEHICLE 1										<input checked="" type="checkbox"/> VEHICLE 2 <input type="checkbox"/> BICYCLIST <input type="checkbox"/> PEDESTRIAN <input type="checkbox"/> OTHER PEDESTRIAN											
VEHICLE 1 - Driver License ID Number 656823697 State of Lic. NY										VEHICLE 2 - Driver License ID Number 990397212 State of Lic. NY											
Driver Name - exactly as printed on license SIMS, CRAIG C										Driver Name - exactly as printed on license REDDING, JASON P											
Address (Include Number & Street) 1438 SANDRIDGE RD Apt. No.										Address (Include Number & Street) 78 COMMONWEALTH AVE Apt. No.											
City or Town ALDEN State NY Zip Code 140040000										City or Town BUFFALO State NY Zip Code 142160000											
3																					
Date of Birth Month 09 Day 26 Year 1964 Sex M					Unlicensed <input type="checkbox"/>		No. of Occupants 1		Public Property Damaged <input type="checkbox"/>		Date of Birth Month 08 Day 13 Year 1976 Sex M					Unlicensed <input type="checkbox"/>		No. of Occupants 1		Public Property Damaged <input type="checkbox"/>	
Name - exactly as printed on registration erie county, Sex Date of Birth Month Day Year										Name - exactly as printed on registration REDDING, JASON P Sex M Date of Birth Month Day Year											
Address (Include Number & Street) 95 FRANKLIN ST Apt. No. Haz. Mat. Code Released										Address (Include Number & Street) 78 COMMONWEALTH AVE Apt. No. Haz. Mat. Code Released											
City or Town BUFFALO State NY Zip Code 14202										City or Town BUEFALO State NY Zip Code 142160000											
Plate Number AD9763 State of Reg. NY Vehicle Year & Make 2013 FORD Vehicle Type PICK Inc. Code 997					Plate Number DRM1299 State of Reg. NY Vehicle Year & Make 2017 FORD Vehicle Type PICK Inc. Code 413																
5																					
Ticket/Arrest Number(s)										Ticket/Arrest Number(s) TL0780NSK8											
Violation Section(s)										Violation Section(s) 1129A											
6																					
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.										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.											
VEHICLE 1 DAMAGE CODES										VEHICLE 2 DAMAGE CODES											
Box 1 - Point of Impact Box 2 - Most Damage										Box 1 - Point of Impact Box 2 - Most Damage											
Enter up to three more Damage Codes										Enter up to three more Damage Codes											
Vehicle By Towed To										Vehicle By TRIPLET Towed To WALLY'S											
VEHICLE DAMAGE CODING: 1-13. SEE DIAGRAM ON RIGHT. 14. UNDERCARRIAGE 17. DEMOLISHED 15. TRAILER 18. NO DAMAGE 16. OVERTURNED 19. OTHER										CIRCLE THE diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles. Rear End Left Turn Right Angle Right Turn Head On Sideswipe (same direction) Left Turn Right Turn Sideswipe (opposite direction)											
There is no accident diagram																					
Cost of repairs to any one vehicle will be more than \$1000. <input type="checkbox"/> Unknown/Unable to Determine <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No																					
28																					
Reference Marker										Coordinates (if available)											
9 5 2 Q										Latitude/Northing:											
5 3 0 I										Longitude/Easting:											
1 0 6 6																					
Place Where Accident Occurred:										County ERIE City Village Town of LANCASTER, VILLAGE OF											
Road on which accident occurred WALDEN AVE										(Route Number or Street Name)											
at 1) intersecting street EMBRY										(Route Number or Street Name)											
or 2) Feet Miles										(Milepost, Nearest intersecting Route Number or Street Name)											
30																					
Accident Description/Officer's Notes																					
Veh #1, NY Reg AD9763, was heading East on Walden, in the right lane. Veh #2, NY reg DRM1299, also heading East on Walden, in the right lane. Veh #1 was slowing to stop for a vehicle that was making a right on Embry, directly in front of veh #1. Vehicle #2 didn't slow down and struck the back of Vehicle #1. Driver #2 stated that he was looking down and when he looked up, the vehicle																					
8 9 10 11 12 13 14 15 16 17 BY TO 18 Names of all involved Date of Death Only																					
A 01 1 A 1 53 M 6 12 6 LVAC827 1422 SIMS, CRAIG C																					
B 02 1 4 1 41 M - - - - - REDDING, JASON P																					
C																					
D																					
E																					
F																					
Officer's Rank and Signature PATRO E. CLARK										Badge/ID No. 0029 NCIC No. 01467 Precinct/Post Troop/Zone Station/Beat/Sector Reviewing Officer ROZLER, R Date/Time Reviewed 03/06/2018 20:31											

This is to certify that this document is a true and complete copy of a record on file in the New York State Department of Motor Vehicles, Albany, New York.

EXECUTIVE DEPUTY COMMISSIONER OF MOTOR VEHICLES

New York State Department of Motor Vehicles
POLICE ACCIDENT REPORT

MV-104A (6/04)

DMV COPY

RTTL0780NRFQ

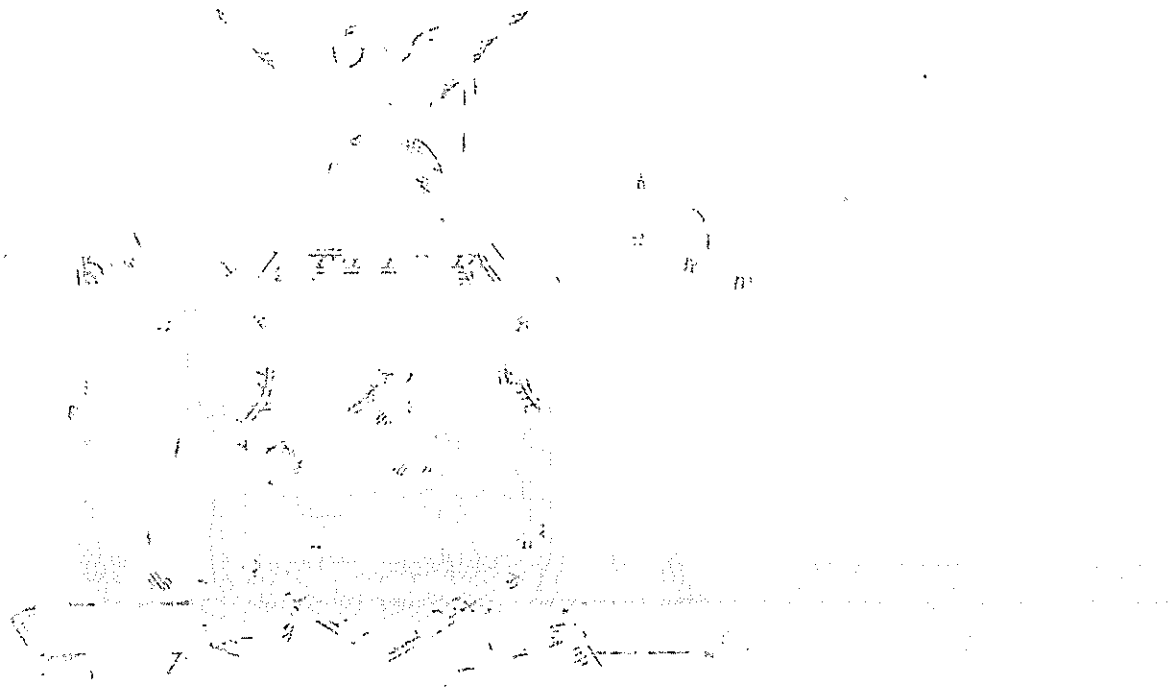
☒ **AMENDED REPORT**

1 Accident Date Month 03 Day 06 Year 2018		Day of Week Tues		Military Time 11:38		No. of Vehicles 2		No. Injured 1		No. Killed 0		Not Investigated at Scene <input type="checkbox"/>		Left Scene <input type="checkbox"/>		Police Photos <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
2																	
VEHICLE 1																	
VEHICLE 2																	
VEHICLE 1 - Driver																	
VEHICLE 2 - Driver																	
Driver Name - exactly as printed on license																	
Address (Include Number & Street)																	
City or Town																	
State																	
Zip Code																	
3																	
Date of Birth																	
Sex																	
Unlicensed																	
No. of Occupants																	
Public Property Damaged																	
Name - exactly as printed on registration																	
Address (Include Number & Street)																	
City or Town																	
State																	
Zip Code																	
4																	
Plate Number																	
State of Reg.																	
Vehicle Year & Make																	
Vehicle Type																	
Ins. Code																	
5																	
Ticket/Arrest Number(s)																	
Violation Section(s)																	
6																	
Check if involved vehicle is:																	
VEHICLE 1 DAMAGE CODES																	
VEHICLE 2 DAMAGE CODES																	
7																	
Box 1 - Point of Impact																	
Box 2 - Most Damage																	
Enter up to three more Damage Codes																	
8																	
VEHICLE DAMAGE CODING:																	
1-13. SEE DIAGRAM ON RIGHT.																	
14. UNDERCARRIAGE																	
15. TRAILER																	
16. OVERTURNED																	
17. DEMOLISHED																	
18. NO DAMAGE																	
19. OTHER																	
9																	
Reference Marker																	
Coordinates (if available)																	
Latitude/Northing:																	
Longitude/Easting:																	
10																	
Place Where Accident Occurred:																	
County ERIE																	
City Village Town of LANCASTER, VILLAGE OF																	
Road on which accident occurred WALDEN AVE																	
at 1) intersecting street EMBRY																	
or 2) _____																	
Feet Miles																	
11																	
Accident Description/Officer's Notes																	
in front of him was stopped and it was too late. Driver #2 is at fault and issued UTT for																	
following to closely.																	
12																	
8 9 10 11 12 13 14 15 16 17 BY TO 18																	
Names of all involved																	
Date of Death Only																	
13																	
Officer's Rank and Signature PATRO																	
Print Name in Full E CLARK																	
Badge/ID No. 0029																	
NCIC No. 01467																	
Precinct/Post Troop/Zone																	
Station/Beat Sector																	
Reviewing Officer ROZLER, R																	
Date/Time Reviewed 03/06/2018 20:31																	

ALL INVOLVED

This is to certify that this document is a true and complete copy of a record on file in the New York State Department of Motor Vehicles, Albany, New York.

Comm. 19D-1
127 of 178
EXECUTIVE DEPUTY COMMISSIONER OF MOTOR VEHICLES



Progressive Claims Branch
1 Corporate Dr, Ste 201
Bohemia, NY 117162663

Telephone: (516) 502-1630
Facsimile: (516) 352-1842
Casualty Fax: (516) 502-1780

May 04, 2018

Jason Redding
78 Commonwealth Ave
Buffalo, NY 14216

Policyholder: Redding, Jason P
Underwritten by: Progressive Casualty Insurance Company
Claim Number: 183812592
Policy Number: 01965433 -5
Date of Loss: March 06, 2018

Dear Jason Redding:

Progressive Casualty Insurance Company, hereafter Progressive, acknowledges the report of an incident which occurred on March 6, 2018, while you were driving the 2017 Ford F150 listed on your policy with Progressive. Following the report of this incident, a thorough investigation of the claim was completed and every effort was made to provide coverage for you. During Progressive's investigation of this accident, evidence was discovered which demonstrates that your policy (01965433-5) with Progressive was cancelled on 02/28/2018.

Coverage cannot be afforded for this claim under your policy with Progressive because the cancellation effective date of 02/28/2018 was prior to the date of loss of 03/06/2018.

The above referenced incident resulted in possible bodily injury or property damage. Accordingly, Progressive will not pay any amount of damages arising out of the above referenced accident for which you may be liable.

Should you receive any type of legal paperwork or be served with a lawsuit concerning the above referenced accident, it is imperative that you contact me immediately. Depending on the allegations of any Complaint filed against you, Progressive may, at our option, provide a defense to you under reservation of rights.

Should you have any questions, do not hesitate to contact me at 516-502-1726.

Should you wish to take this matter up with the New York State Department of Financial Services, you may file with the Department either on its website at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm> or you may write to or visit the Consumer Assistance Unit, Financial Frauds and Consumer Protection Division, New York State Department of Financial Services, at: One State Street, New York, NY 10004; One Commerce Plaza, Albany, NY 12257; 1399 Franklin Avenue, Garden City, NY 11530; or Walter J. Mahoney Office Building, 65 Court Street, Buffalo, NY 14202.

Sincerely,

Matthew C Daudier, 516-502-1726
Claims Representative

A10/md

Comm. 19D-1
129 of 178

Lipsitz Green Scime Cambria
C/O: Craig Sims
42 Delaware Avenue Suite 120
Buffalo, Ny 14202



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 10, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution No. 306 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>Elliott, Brittany, Individually and as PNG of MC, an Infant v. NYSOCFS, County of Erie and ECDSS</i>
Document Received:	Notice of Claim
Name of Claimant:	Brittany Elliott 6 Sussex Court Buffalo, New York 14204
Claimant's attorney:	William P. Moore, Esq. Lipsitz Green Scime Cambria LLP 42 Delaware Avenue, Suite 120 Buffalo, New York 14202-3924

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: *Michelle M. Parker* (ded)
Michelle M. Parker
First Assistant County Attorney
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
131 of 178

In the Matter of the Claim of

BRITTANY ELLIOTT, Individually and as
Parent and Natural Guardian of MC, an Infant,

NOTICE OF CLAIM

Claimants,

- against -

NEW YORK STATE OFFICE OF CHILDREN
AND FAMILY SERVICES,
ERIE COUNTY,
ERIE COUNTY DEPARTMENT OF SOCIAL
SERVICES, and
ERIE COUNTY DEPARTMENT OF SOCIAL
SERVICES DAYCARE DIVISION,

Respondents.

This paper received at the
Erie County Attorney's Office
on the 30th day of August, 2018
at 2:00 p.m.
Assistant County Attorney

TO: NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES
ERIE COUNTY
ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES
ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES DAYCARE DIVISION

PLEASE TAKE NOTICE, that claimants, BRITTANY ELLIOTT, Individually and as Parent and Natural Guardian of MC, an Infant, have and hereby make claim against NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES, ERIE COUNTY, ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES, and ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES DAYCARE DIVISION, and in support of said claim state the following:

1. The Post Office address of the claimants is 8 Sussex Court, Buffalo, New York 14204.

2. The attorneys for the claimants are LIPSITZ GREEN SCIME CAMBRIA LLP, and their Post Office address is 42 Delaware Avenue, Suite 120, Buffalo, New York 14202-3924.

3. The claim of MC, an Infant, is for personal injuries, and the claim of BRITTANY ELLIOTT includes, without limitation, medical expenses, and loss of services, society, and companionship as a result of her child's injuries, and for consequential damages generally.

4. The claim arose at Mozee's Ultimate Family Daycare, located at 83 Glenwood Avenue, in the City of Buffalo, County of Erie and State of New York.

5. The claim arose in substance as follows: On the 23rd day of July, 2018, at approximately 3:00, p.m., the infant-claimant, MC, while in the care of the aforesaid daycare facility, suffered a severe head injury.

6. Upon information and belief, the incident herein described and the resultant injuries and damages sustained were caused as a result of the negligence, carelessness, recklessness and/or unlawful conduct on the part of the agents, servants and/or employees of the respondents, NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES, ERIE COUNTY, ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES, and ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES DAYCARE DIVISION, and more particularly, among other things, in failing and omitting to provide oversight at Mozee's Ultimate Family Daycare, and in failing and omitting to close the said daycare center following prior violations citing lack of competent supervision and/or inadequate number of qualified childcare providers on site.

7. Upon information and belief, as a result of the aforesaid incident, the infant-claimant, MC, sustained severe bodily injuries and was painfully and seriously injured; was rendered sick, sore, lame and disabled; sustained pain and suffering and shock to her nerves and nervous system; and more particularly, the infant-claimant, MC, sustained injuries in the nature of a life-threatening head injury requiring resuscitation, emergency surgical intervention to relieve pressure in her skull, and hospitalization in pediatric intensive care. Upon information and belief, these injuries will result in permanent defects.

8. As a result of the aforesaid incident and injuries sustained by the infant-claimant, MC, the claimant, BRITTANY ELLIOTT, parent of the infant-claimant, has suffered the loss of services, society, and companionship of her daughter, to which she was fully entitled.

WHEREFORE, claimants request that NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES, ERIE COUNTY, ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES, and ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES DAYCARE DIVISION honor and pay the claim of BRITTANY ELLIOTT and her child, MC.

DATED: Buffalo, New York
August 6, 2018


BRITTANY ELLIOTT

LIPSITZ GREEN SCIME CAMBRIA LLP

By: 
WILLIAM P. MOORE, ESQ.

Attorneys for Claimants
Office and P.O. Address
42 Delaware Avenue, Suite 120
Buffalo, New York 14202-3924
716-849-1333
[WPM : 64678.0001]

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

BRITTANY ELLIOTT, being duly sworn deposes and says that she is the claimant above named; and makes this claim on behalf of self; she has read the foregoing claim and knows the contents thereof; the same is true to the knowledge of the claimant except for the matters herein alleged upon information and belief, and as to those matters, she believes them to be true.


BRITTANY ELLIOTT

Sworn to before me on this
6th day of August, 2018.


Notary Public

TAYLOR D. GOLBA
Notary Public, State of New York
Registration # 02GO6370962
Qualified in Erie County
My Commission Expires February 28, 2022



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 21, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:


In compliance with the Resolution No. 306 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>Doyle, Brian and Maureen v. County of Erie</i>
Document Received:	Order to Show Cause
Name of Claimant:	Brian and Maureen Doyle 76 Rosedale Avenue Hamburg, New York 14075
Claimant's attorney:	Brian D. Doyle, Esq. 76 Rosedale Avenue Hamburg, New York 14075

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
Michelle M. Parker
First Assistant County Attorney
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
137 of 178

At a Special Term of the Supreme Court
of the State of New York, held in and for
the County of Erie, at the Courthouse,
thereof, located at _____,
Buffalo, New York, on the _____ day of
September, 2018

Present: Hon. Catherine Nugent Panepinto, J.S.C.

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

FILED
ACTIONS & PROCEEDINGS
SEP 17 2018
ERIE COUNTY
CLERK'S OFFICE

In the Matter of the Application of

BRIAN DOYLE and MAUREEN DOYLE,

Petitioners,

ORDER TO SHOW CAUSE

for Judgment pursuant to Article 78 of the
Civil Practice Law and Rules,

Index No.: 2018000086

- against -

COUNTY OF ERIE,

This paper received at the
Erie County Attorney's Office
from Daniel Soter
the 17 day of Sept, 2018
at 1:30 a.m./p.m.
Kelly Bunk
Assistant County Attorney

Respondent.

UPON the Petition of Brian Doyle, sworn to the 17th day of September, 2018, and the
Affidavit of Brian Doyle, Esq. attorney for the Petitioners, sworn to on the 17th of September
2018, and the Exhibit annexed thereto,

LET THE RESPONDENT SHOW CAUSE at a Special Term of this Court, before the
Honorable C. Panepinto, to be held at the Courthouse located 92 Franklin, Part
2, in the City of Buffalo, New York on the 28 day of September, 2018, at 9:30
o'clock in the Forenoon of that day or as soon thereafter as counsel can be heard, why a
Judgement should not be made and entered pursuant to Article 78 of the Civil Practice Laws and
Rules as follows:

PAID
09/17/2018/ 12:35:44
ERIE COUNTY CLERK
RCPT # 18166247
I 2018000086

1. Declaring that Petitioner Maureen Doyle, as spouse of Brian Doyle, is entitled to health insurance through Petitioner Brian Doyle's family health coverage provided by and through the Respondent County of Erie; and

2. Directing Respondent and/or any subordinate departments, to reinstate and provide Petitioner Maureen Doyle with health insurance retroactively to August 31, 2018; and

3. Determining that Respondent's actions, in cancelling health insurance coverage *and not allowing her to return to insured status until 01/01/2019* for Petitioner Maureen Doyle, was improper, arbitrary, and capricious; and

4. Granting Petitioners such other and further relief as the Court deems just, proper and equitable.

ORDERED, that Respondent is hereby enjoined from and restrained, and directed to cease and desist from denying Petitioner Maureen Doyle health insurance coverage through Brian Doyle's family health care coverage plan provided by Respondent; and it is further

ORDERED, that service of a copy of this Order upon the a person of suitable age and discretion at the Erie County Attorney's Office, Department of Law, by personal delivery on or before the 18th day of September, 2018, be deemed good and sufficient service upon the Respondent pursuant to §311 of the Civil Practice Laws and Rules.

ANSWERING Affidavits, papers, etc. must be submitted to the Court and served on Petitioners at least two (2) days prior to the scheduled Court appearance.

Signed the 17 day of September, 2018, at Buffalo, New York

S/C. Danepinto
HON. _____, J.S.C.

ENTER:

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

In the Matter of the Application of

BRIAN DOYLE and MAUREEN DOYLE,

Petitioners,

VERIFIED PETITION

for Judgment pursuant to Article 78 of the
Civil Practice Law and Rules,

Index No.:

- against -

COUNTY OF ERIE,

Respondent.

TO THE SUPREME COURT, STATE OF NEW YORK, COUNTY OF ERIE:

Petitioners, Brian D. Doyle and Maureen Doyle respectfully show the Court as follows:

PARTIES

1. The County of Erie is a municipality created and operated under the laws of the State of New York, situate in the County of Erie.

2. Petitioner Brian Doyle is a retired Erie County employee, who resides in Hamburg, New York, and is married to Petitioner Maureen Doyle.

3. Petitioner Maureen Doyle resides in Hamburg, New York, resides with and is married to Petitioner Brian Doyle and, as such, is a legal dependent for purposes of health insurance through Brian Doyle's County-provided family health insurance.

PRELIMINARY STATEMENT

4. Petitioner Bran Doyle, by collective bargaining agreement, Erie County policy, and the terms and conditions of his employment at retirement, is entitled to family health

insurance, as are his legal dependents, provided by and through the Respondent, County of Erie (hereinafter, "County health insurance").

5. Petitioner Maureen Doyle, as spouse of Petitioner Brian Doyle, is entitled to and has been receiving County health insurance through Petitioner Brian Doyle since approximately 2003.

6. Respondent cancelled Petitioner Maureen Doyle's County health insurance coverage, upon information and belief, effective September 1, 2018.

7. Petitioner Maureen Doyle received no correspondence advising her of Respondent's actions.

8. Petitioner Maureen Doyle was advised that her County health insurance was cancelled when she arrived for a scheduled doctor's office visit on September 13, 2018.

9. Because of Respondent's actions, Petitioner Maureen Doyle is without any health insurance.

BACKGROUND

10. Respondent undertook a verification process to determine if any current and former employees enrolled in health insurance provided by it, were ineligible for such health insurance (hereinafter "verification process").

11. Upon information and belief, Respondent's agent, Labor Management Health Fund, and administrator of its health insurance, at Respondent's direction, contracted with another company to perform this verification process.

12. Petitioner Brian Doyle was directed by correspondence to a website apparently as part of this verification process.

13. The website was <https://LMHF.verifi1.com> (hereinafter, "website").

14. The website required Petitioner Brian Doyle to scan and send certain identified documents regarding dependents of Petitioner Brian Doyle to purportedly confirm eligibility status for County health insurance of such dependents.

15. Brian Doyle scanned and sent a Marriage Certificate evidencing his marriage to Petitioner Maureen Doyle to the website. A copy of the Marriage Certificate is attached hereto as **Exhibit 1**.

16. The website declared that certain documentation additional to a marriage certificate was necessary regarding spouses in order for it to determine his/her eligibility for County health insurance.

17. Petitioner Brian Doyle was not in possession of any of the additional documents the website required, and no alternative documentation was permitted.

18. Petitioner Maureen Doyle is negatively impacted by the action of Respondent because she is left with no health insurance while she is under the treatment of various health care professionals for various matters.

19. Upon information and belief, there exists no administrative remedies available and review by this Court is ripe and otherwise appropriate pursuant to, and in accordance with, CPLR Article 78.

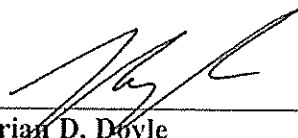
WHEREFORE, Petitioners, on behalf of themselves and others, respectfully request that judgment be entered in their favor and this Court issue an Order pursuant to Article 78:

(a) requiring Respondent to reinstate and provide Petitioner Maureen Doyle with County health insurance and returning her to the status quo ante; or

(b) in the alternative, pursuant to CPLR §3001, a declaratory judgment and Order that Maureen Doyle, as wife of Brian Doyle is entitled to County health insurance with an Order to reinstate Maureen Doyle to the status quo ante; and

(c) such other and further relief as the Court deems just and proper.

Dated: September 17, 2018



Brian D. Doyle
Attorney for Petitioners
76 Rosedale Avenue
Hamburg, New York 14075
(716) 955-9960
bdoyle@briandoylelaw.com



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 24, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:


In compliance with the Resolution No. 306 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>Hall, Lorene and Clinton Davis v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Lorene Hall 240 Reed Street Buffalo, New York 14211
Claimant's attorney:	Joseph C. Todoro, Esq. Spadafora & Verrastro, LLP 2 Symphony Circle Buffalo, New York 14201

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
Michelle M. Parker
First Assistant County Attorney
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
144 of 178

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

In the Matter of
LORENE HALL and CLINTON DAVIS
for application to serve a late notice of claim

NOTICE OF MOTION

Index No.: 813702/2018

MOTION MADE BY:

SPADAFORA & VERRASTRO, LLP
Attorneys for LORENE HALL/CLINTON DAVIS

DATE, TIME & PLACE OF MOTION:

The 4th day of ~~September~~ ^{October}, 2018 at 9:30 ^{a.m.} p.m. at a Special Term of this Court to be held at Part 24 at the Courthouse located at 50 Delaware, Buffalo, New York.

RELIEF SOUGHT:

The Claimants be granted leave to serve a Late Notice of Claim.

GROUND FOR RELIEF:

NY General Municipal Law § 50-e.; interest of justice.

SUPPORTING PAPERS:

Affirmation of Joseph A. Todoro, Esq. with attached Exhibits dated August 24, 2018.

ORAL ARGUMENT:

Requested

ANSWERING PAPERS:

Answering Affidavits, if any, must be served within seven (7) days of the return date of this Motion pursuant to CPLR 2214 (b).

DATED: August 24, 2018
Buffalo, New York.

Joseph A. Todoro, Esq.
SPADAFORA & VERRASTRO, LLP
Attorneys for LORENE HALL / CLINTON DAVIS
2 Symphony Circle
Buffalo, New York 14201
(716) 854-1111

CC: COUNTY OF ERIE
65 Rath Building
Buffalo, New York 14202

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

In the Matter of
LORENE HALL, and
CLINTON DAVIS,
for application to serve a late notice of claim,

Claimants.

AFFIRMATION

Index No. 813702/2018

JOSEPH A. TODORO, hereby declares under penalty of perjury that the following is true and correct:

1. I am an attorney at law and an associate in the firm of Spadafora & Verrastro, LLP, attorneys of record for the Plaintiff in the above matter and, as such, I am familiar with the facts and circumstances surrounding the instant matter.

2. Claimants are bringing this Motion for Leave to Serve a Late Notice of Claim.

3. Claimants are seeking the following relief:

a) that the Claimants be granted leave, nunc pro tunc, to file Claimants' Notice of Claim in the form and manner as set forth in **Exhibit "A"** in Claimants' moving papers; and

b) that the Claimants be granted leave, nunc pro tunc, to make and serve upon the Respondent as a late Notice of Claim, the Notice of Claim, in the form and manner as set forth in **Exhibit "A"** of Claimants' moving papers; and

c) that service upon Respondent of the Notice of Claim be and is hereby deemed to be effective, nunc pro tunc, all with the same effect as if the said Notice of Claim had been served within the ninety (90) days after the claim arose; and

d) that the Respondent be directed to accept the service of said Notice of Claim, all with the same effect as if the said Notice of Claim had been served within the ninety (90) days after the claim arose; and

e) that a copy of said Notice of Claim as a late Notice of Claim be deemed the same as an original, and that service be effectuated by service upon the Respondent either by personal delivery and/or certified mailing, to their office at the County of Erie, 65 Rath Building, Buffalo, New York, 14202 within sixty (60) days from the date of the Court's Order; and

f) for such other and further relief as this Court may deem just and proper.

4. No prior application has been made for the relief requested.

The following portions of your Deponent's Affidavit will be set forth under category topics in order to assist the Court in its review of same.

INCIDENT – MARCH 21, 2018

5. Claimants were involved in an incident where they were injured while being legally and lawful passengers of a motor vehicle that was owned by the respondent, in the City of Buffalo, New York located within the County of Erie.

6. That on or about March 19, 2018, the Claimant, LORENE HALL, was legally and lawfully a wheelchaired passenger of a motor vehicle owned by the Respondent, when she was caused to tip over and/or precipitate violently to the ground.

7. That on or about March 19, 2018, the Claimant, CLINTON DAVIS, was legally and lawfully a passenger of a motor vehicle owned by the Respondent, when he was caused to fall over and/or precipitate violently to the ground.

8. That as a direct result of the aforementioned fall, the Claimants sustained serious injuries.

LATE NOTICE OF CLAIM

9. Your Deponent's office has prepared a proposed Notice of Claim, dated August 22, 2018, which is attached as **Exhibit "A"**.

10. Your Deponent has not served a Notice of Claim and is now respectfully seeking the Court's permission for leave to serve a late Notice of Claim.

11. That the ninety-day statutory period to serve a Notice of Claim has expired on or about June 17, 2018.

12. That the motor vehicle owned by the Respondent was contracted to be operated by Lt. Col. Matt Urban Human services and a claim was properly established with the insurance company for Lt. Col. Matt Urban Human Services. A copy of correspondence from the insurance carrier establishing a claim is attached hereto as **Exhibit "B"**.

13. That upon information and belief Lt. Col. Matt Urban Human Services Center of Western New York is an assumed name of Polish Community Center of Buffalo, Inc.

14. That the claim against Lt. Col. Matt Urban Human Services Center of Western New York and/or Polish Community Center of Buffalo, Inc. has not been sued and therefore pre-suit discovery has been very limited.

15. That it was recently brought to your Deponent's attention that the County of Erie could be a potential owner the motor vehicle that Claimants were passengers of and that a Notice of Claim has not yet been filed and served on behalf of Claimants. Up until your deponent's being notified that the County of Erie could be a potential owner of the motor vehicle in which Claimants were passengers. The only information Claimants had regarding the ownership of the vehicle in which they were passengers was from a police report, attached herein as **Exhibit "C"**.

16. That this motion was immediately brought by your Deponent upon learning that the Notice of Claim has not been filed or served.

17. The court is vested with broad discretion to grant leave to serve a late notice of claim within the applicable statute of limitations. Matter of Ziecker v. Town of Orchard Park, 70 Ad2d 422, 427 (4th Dep't. 1979).

18. It is well settled that key factors for the court to consider in determining an application for leave to serve a late notice of claim are whether the claimant has demonstrated a reasonable excuse for the delay, whether the respondents acquired actual knowledge of the essential facts

constituting the claim within 90 days of its accrual or within a reasonable time thereafter, and whether the delay would substantially prejudice the respondents in maintaining a defense on the merits. Guga v. Watertown Bd. of Educ., 113 A.D.3d 1108 (4th Dep't. 2014).

19. Even if plaintiff has "not demonstrated a strong excuse for the delay in filing, the presence or absence of any one of the numerous relevant factors the court must consider is not determinative." Sykes v. Buffalo Mun. Hous. Auth., 702 N.Y.S.2d, 483 (4th Dep't 2000).

20. A six-month period between the expiration of the 90-day notice of claim period and the claimant's application to file a late notice of claim is a comparatively short period of delay. Reed v. City of Lackawanna, 221 A.D.2d 967 (4th Dep't. 1995); Guga 113 A.D.3d 1108.

21. The Fourth Department found that it was an abuse of the trial court's discretion in denying claimants' motion to file a late notice of claim where claimants presented evidence that the respondents had actual knowledge of the accident within days of its occurrence. Id.

22. The Fourth Department further held that in determining whether to grant application to file late notice of claim against a municipality, the court must consider not only factors enumerated in the statute but all relevant facts and circumstances. See Rotoli v. Town of Gaines, 184 A.D.2d 1085 (4th Dep't. 1992).

23. A petitioner's failure to offer a reasonable excuse for delay in serving notice of claim against a municipality is not fatal where actual notice was had, and there is no compelling showing of prejudice to municipality. See Lamay v. County of Oswego, 49 A.D.3d 1351 (4th Dep't. 2008).

24. Claimants have learned through very limited pre-suit disclosure that there is a contract between Respondent, County of Erie, and Polish Community Center of Buffalo, Inc. where Polish Community Center of Buffalo, Inc. has agreed to indemnify and hold harmless Respondent, County of Erie, from, among others, any and all actions of liability. Therefore, the Respondents have absolutely no prejudice because of a contractual obligation of Polish Community Center of Buffalo, Inc. to indemnify and hold harmless the Respondent for the Claimants claim and/or lawsuit. Pertinent portions of the Contract between Respondent, County of Erie, and Police Community Center of Buffalo, Inc. are attached hereto as **Exhibit "D"**.

25. In addition, the delay involved here would not substantially prejudice the Respondent in maintaining a defense on the merits in this matter, and as shown above, the Fourth Department has clearly established that a six-month delay is a comparatively short delay.

26. Therefore, the key factors significantly weigh in favor of allowing Claimant to proceed with serving a late Notice of Claim.

WHEREFORE, your deponent respectfully requests an order from this Court:

a) that the Claimants be granted leave, nunc pro tunc, to file Claimants' Notice of Claim in the form and manner as set forth in **Exhibit "A"** in Claimants' moving papers; and

b) that the Claimants be granted leave, nunc pro tunc, to make and serve upon the Respondent as a late Notice of Claim, the Notice of Claim, in the form and manner as set forth in **Exhibit "A"** of Claimants' moving papers; and

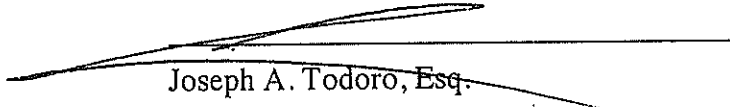
c) that service upon Respondent of the Notice of Claim be and is hereby deemed to be effective, nunc pro tunc, all with the same effect as if the said Notice of Claim had been served within the ninety (90) days after the claim arose; and

d) that the Respondent be directed to accept the service of said Notice of Claim, all with the same effect as if the said Notice of Claim had been served within the ninety (90) days after the claim arose; and

e) that a copy of said Notice of Claim as a late Notice of Claim be deemed the same as an original, and that service be effectuated by service upon the Respondent either by personal delivery and/or certified mailing, to their office at County of Erie 65 Rath Building, Buffalo, New York 14202 within sixty (60) days from the date of the Court's Order; and

f) for such other and further relief as this Court may deem just and proper.

Dated: August 24, 2018


Joseph A. Todoro, Esq.



MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

September 24, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:


In compliance with the Resolution No. 306 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, Jeremiah v. Sheriff Howard, County of Erie, Undersheriff Wipperman, Superintendent Diina and Captain Hartman</i>
Document Received:	Notice of Claim
Name of Claimant:	Jeremiah W. Nolan, Jr.
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
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
151 of 178

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

Jeremiah W Nolan Jr.

(Name(s) of Plaintiff(s))

VS

NOTICE OF CLAIM

Erie County Sheriff
Timothy B Howard
Erie County, Mark A Wipperfurth
Thomas Diwa, Jeffrey Hartman
(Name(s) of Defendant(s))

To the Clerk of the COUNTY of ERIE
STATE OF NEW YORK
COUNTY OF ERIE SS:
(County where notarized)

This paper received at the
Erie County Attorney's Office
from Jeremiah W. Nolan Jr.
the 20 day of January, 2018
at 11:30 a.m./p.m.

Gregory D. Kammer
Assistant County Attorney

Jeremiah W Nolan Jr., being duly sworn, deposes and says:
(Insert your name)

I am the complainant and reside
23 Dogwood Dr Cheektowaga NY.
and bring this claim for Malicious
Prosecution, wrongful Termination.
Detention of Children

That on June 22 2015 I was terminated
as Erie County Deputy Sheriff by the
under Sheriff Mark Wipperfurth and
on June 22 the Sheriff stated in published
statement that the claimant was guilty
of stealing an other officers magazine

for an officers duty year. That as
result you Plaintiff has been damaged
by not receiving his salary and
unable to obtain employment as
well as public embarrassment &
humiliation. All amounting to
Monetary Damages

Jeremiah W. Nolan
(Sign your name in the presence of a Notary Public)
Jeremiah W Nolan Sr.
(Print your name)

Sworn to before me this

19 day of Sept, 2018

David G. Henry
Notary Public

DAVID G. HENRY
Notary Public, State Of New York
Qualified In Erie County
My Commission Expires July 14, 2019



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. TOTI
SECOND ASSISTANT COUNTY ATTORNEY

September 24, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:


In compliance with the Resolution No. 306 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>Kilton, Joseph C. v. Town of Cheektowaga, County of Erie, Concrete Applied Technologies Corporation, Stephen C. Philip, Jr. and Larry E. Kilton</i>
Document Received:	Notice of Claim
Name of Claimant:	Joseph C. Kilton 43 Jackson Avenue Lackawanna, New York 14218
Claimant's attorney:	Stephanie R. Messina, Esq. William Mattar, P.C. 6720 Main Street, Suite 100 Williamsville, NY 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
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
154 of 178

STATE OF NEW YORK
COUNTY OF ERIE

IN THE MATTER OF THE CLAIM OF:

JOSEPH C. KILTON
43 Jackson Avenue
Lackawanna, NY 14218

Claimant,

-against-

NOTICE OF CLAIM

TOWN OF CHEEKTOWAGA
3301 Broadway
Cheektowaga, New York 14227

COUNTY OF ERIE
95 Franklin Street
Buffalo, New York 14202

CONCRETE APPLIED TECHNOLOGIES
CORPORATION.
1266 Town Line Road
Alden, New York 14004

STEPHEN C. PHILIP JR.
425 S. Ogden Street
Buffalo, New York 14206

LARRY E. KILTON
43 Jackson Avenue
Lackawanna, New York 14218

Respondents.

PLEASE TAKE NOTICE that the above-named Claimant **JOSEPH C. KILTON**, by and through his attorneys Stephanie R. Messina, William Mattar P.C., hereby make a claim against the Respondents, **TOWN OF CHEEKTOWAGA, COUNTY OF ERIE, CONCRETE APPLIED**

TECHNOLOGIES CORPORATION, STEPHEN C. PHILIP JR., AND LARRY E. KILTON, and in support thereof allege:

1. That the undersigned Claimant, JOSEPH C. KILTON, resides at 43 Jackson Avenue, Lackawanna, New York 14218. The attorneys for the claimants are William Mattar, P.C., 6720 Main Street, Suite 100, Williamsville, NY 14221-5986. The undersigned Claimant, by and through his attorneys, claims damages against Respondents **TOWN OF CHEEKTOWAGA, COUNTY OF ERIE, CONCRETE APPLIED TECHNOLOGIES CORPORATION, STEPHEN C. PHILIP JR., AND LARRY E. KILTON**, for personal injuries, pain and suffering, general and special damages, medical expenses, and other damages allowed by law resulting from injuries suffered by the Claimant JOSEPH C. KILTON as a result of the negligence of the Respondents.

2. The nature of the claim is one to recover damages for personal injuries, past and future conscious pain and suffering, change of lifestyle, loss of enjoyment of life, general and special damages, past and future medical expenses, loss of companionship, loss of society, property damage, and all other damages allowed by law resulting from the injuries suffered by the Claimant, JOSEPH C. KILTON as a result of the negligence of the Respondents **TOWN OF CHEEKTOWAGA, COUNTY OF ERIE, CONCRETE APPLIED TECHNOLOGIES CORPORATION, STEPHEN C. PHILIP JR., AND LARRY E. KILTON**, and that of their servants, agents, and/or employees.

3. That upon information and belief, the claim arose on June 12, 2018, at approximately 7:21 p.m. in the Town of Cheektowaga, County of Erie, and in the State of New York. On that date and at that time, claimant JOSEPH C. KILTON was rear-ended by a construction vehicle owned by Respondent **CONCRETE APPLIED TECHNOLOGIES**.

CORPORATION and operated by STEPHEN C. PHILIP JR., contracted, hired, employed, or otherwise instructed by Respondents TOWN OF CHEEKTOWAGA and COUNTY OF ERIE to repair a guard rail or perform other construction work/repairs on the Interstate 90 East. A copy of the associated Police Report is attached hereto as **Exhibit A**.

4. That as a result of the foregoing, Claimant JOSEPH C. KILTON sustained serious injuries as defined by N.Y. Ins. Law § 5102(d) including, but not limited to: a concussion, a head injury, injuries to his neck, back, upper and lower extremities, and other injuries. These injuries may be of a permanent or indefinite duration and the claimants will likely be forced to expend sums of money for hospitals, doctors, and other expenses related to medical care and treatment. At the present time, the full extent of his injuries are not known and there may be other injuries that may be alleged when medical treatment records become available.

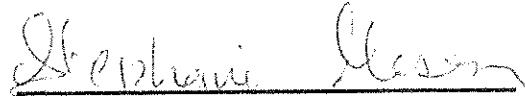
5. That the above injuries were occasioned solely and wholly as a result of the negligence of the COUNTY OF ERIE AND TOWN OF CHEEKTOWAGA, their servants, agents, and/or employees, in the design, ownership, maintenance, management, and control or lack thereof of their public roads, highways, intersections; in their failure to provide adequate signage warning of dangerous conditions or imminent hazards; in their negligent design and construction of highways, and employment of careless and distracted workers.

PLEASE TAKE FURTHER NOTICE that unless said claim is adjusted and paid by the COUNTY OF ERIE AND TOWN OF CHEEKTOWAGA within thirty (30) days from the date of service of this Notice of Claim, Claimant intends to commence an action in the Supreme Court of the State of New York against the Respondents, seeking a sum which exceeds the

jurisdictional limits of all lower courts that would otherwise have jurisdiction, together with

interest, costs, and disbursements. WHEREFORE the Claimant, JOSEPH C. KILTON, requests that this claim be allowed and paid by the Respondents.

DATED: · Williamsville, New York
September 6, 2018

A handwritten signature in cursive script, appearing to read "Stephanie Messina", written over a horizontal line.

Stephanie R. Messina, Esq.
WILLIAM MATTAR, P.C.
Attorney for Claimant
6720 Main Street, Suite 100
Williamsville, NY 14221-5986
(716)633-3535

New York State Department of Motor Vehicles
POLICE ACCIDENT REPORT
MV-104A (6/04)

SP4T268C5DN4

☐ AMENDED REPORT

DMV COPY

Apparent Date Month: 06, Day: 12, Year: 2018		Day of Week Tues	Military Time 19:21	No of Vehicles 2	No Injured 1	No Killed 0	Not Investigated at Scene <input type="checkbox"/>	Left Scene <input type="checkbox"/>	Police Photos <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No																																																																																																																
VEHICLE 1					VEHICLE 2																																																																																																																				
VEHICLE 1 - Driver License ID Number: 222336495 Driver Name - exactly as printed on license: PHILIP, STEPHEN C JR Address (Include Number & Street): 425 S OGDEN ST City or Town: BUFFALO, State: NY, Zip Code: 142060000					VEHICLE 2 - Driver License ID Number: 191353826 Driver Name - exactly as printed on license: KILTON, JOSEPH CHARLES Address (Include Number & Street): 43 JACKSON AVE City or Town: LACKAWANNA, State: NY, Zip Code: 142180000																																																																																																																				
Date of Birth: Month 10, Day 19, Year 1972, Sex: M, Unlicensed: <input type="checkbox"/> Name - exactly as printed on registration: TECHNOLOGIES, CORP Address (Include Number & Street): 1266 TOWN LINE RD City or Town: ALDEN, State: NY, Zip Code: 14004					Date of Birth: Month 05, Day 16, Year 1993, Sex: M, Unlicensed: <input type="checkbox"/> Name - exactly as printed on registration: KILTON, LARRY E Address (Include Number & Street): 43 JACKSON AV City or Town: LACKAWANNA, State: NY, Zip Code: 14218																																																																																																																				
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Reference Marker: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 Coordinates (if available): Latitude/Northing: 196170 Longitude/Easting: 4762068					Place Where Accident Occurred: County: ERIE, City: <input type="checkbox"/> Village: <input type="checkbox"/> Town: <input checked="" type="checkbox"/> CHEEKTOWAGA, TOWN OF Road on which accident occurred: INTERSTATE 90 at 1) intersecting street: (Route Number or Street Name) or 2) 20 of mpm 418.3 Feet, Miles (Milepost, Nearest intersecting Route Number or Street Name)																																																																																																																				
Accident Description/Officer's Notes: V1 and V2 EB on I-90 in the Town of Cheektowaga. V1 (contractor construction vehicle) traveling EB in passing lane. The passing lane had been shutdown by the contractor due to guide rail replacement. OPV1 moves from the closed passing lane to the active driving lane. After moving into the driving lane OPV1 fails to observe V2 stopped in traffic. V1 struck V2 causing property																																																																																																																									
ALL INVOLVED <table border="1"> <thead> <tr> <th></th> <th>8</th> <th>9</th> <th>10</th> <th>11</th> <th>12</th> <th>13</th> <th>14</th> <th>15</th> <th>16</th> <th>17</th> <th>BY</th> <th>TO</th> <th>18</th> <th>Names of all involved</th> <th>Date of Death Only</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>01</td> <td>1</td> <td>A</td> <td>1</td> <td>45</td> <td>M</td> <td>-</td> <td>-</td> <td>-</td> <td>-</td> <td>-</td> <td>-</td> <td>-</td> <td>PHILIP, STEPHEN C JR</td> <td></td> </tr> <tr> <td>B</td> <td>02</td> <td>1</td> <td>4</td> <td>1</td> <td>25</td> <td>M</td> <td>1</td> <td>12</td> <td>6</td> <td>9999</td> <td>1405</td> <td>-</td> <td>-</td> <td>KILTON, JOSEPH CHARLES</td> <td></td> </tr> <tr> <td>C</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>D</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>E</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>F</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>											8	9	10	11	12	13	14	15	16	17	BY	TO	18	Names of all involved	Date of Death Only	A	01	1	A	1	45	M	-	-	-	-	-	-	-	PHILIP, STEPHEN C JR		B	02	1	4	1	25	M	1	12	6	9999	1405	-	-	KILTON, JOSEPH CHARLES		C																D																E																F															
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Officer's Rank and Signature: TPR JASON D PETERS					Badge/ID No: 3174, NCIC No: 11404, Precinct/Post Troop/Zone: T4, Station/Beat Sector: 11					Reviewing Officer: DOUGHERTY, J																																																																																																															
Date/Time Reviewed: 10-22-2018					159 of 178																																																																																																																				

This is to certify that this document is a true and complete copy of a record on file in the New York State Department of Motor Vehicles, Albany, New York.

EXECUTIVE DEPUTY COMMISSIONER OF MOTOR VEHICLES

POLICE ACCIDENT REPORT

MV-104A (6/04)

SP4T268C5DN4

AMENDED REPORT

DMV COPY

1		Accident Date Month (6) Day (2) Year (2018)		Day of Week Tues	Military Time 19:21	No. of Vehicles 2	No. Injured 1	No. Killed 0	Not Investigated at Scene <input type="checkbox"/>	Left Scene <input type="checkbox"/>	Police Photos <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	20																																																																																																																	
2		VEHICLE 1				<input type="checkbox"/> VEHICLE 2 <input type="checkbox"/> BICYCLIST <input type="checkbox"/> PEDESTRIAN <input type="checkbox"/> OTHER PEDESTRIAN							21																																																																																																																
3		VEHICLE 1 - Driver License ID Number _____ State of Lic _____ Driver Name - exactly as printed on license _____ Address (include Number & Street) _____ Apt. No. _____ City or Town _____ State _____ Zip Code _____				VEHICLE 2 - Driver License ID Number _____ State of Lic _____ Driver Name - exactly as printed on license _____ Address (include Number & Street) _____ Apt. No. _____ City or Town _____ State _____ Zip Code _____							22																																																																																																																
4		Date of Birth _____ Sex _____ Unlicensed <input type="checkbox"/> No. of Occupants _____ Public Property Damaged <input type="checkbox"/> Name - exactly as printed on registration _____ Sex _____ Date of Birth _____ Address (include Number & Street) _____ Apt. No. _____ Haz Mat Code _____ Released <input type="checkbox"/> City or Town _____ State _____ Zip Code _____				Date of Birth _____ Sex _____ Unlicensed <input type="checkbox"/> No. of Occupants _____ Public Property Damaged <input type="checkbox"/> Name - exactly as printed on registration _____ Sex _____ Date of Birth _____ Address (include Number & Street) _____ Apt. No. _____ Haz Mat Code _____ Released <input type="checkbox"/> City or Town _____ State _____ Zip Code _____							23																																																																																																																
5		Ticket/Arrest Number(s) _____ Violation Section(s) _____				Ticket/Arrest Number(s) _____ Violation Section(s) _____							24																																																																																																																
6		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.				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.				Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.				25																																																																																																															
7		VEHICLE 1 DAMAGE CODES Box 1 - Point of Impact _____ 1 _____ 2 _____ Box 2 - Most Damage _____ 3 _____ 4 _____ 5 _____ Enter up to three more Damage Codes _____ Vehicle Towed By _____ To _____				VEHICLE 2 DAMAGE CODES Box 1 - Point of Impact _____ 1 _____ 2 _____ Box 2 - Most Damage _____ 3 _____ 4 _____ 5 _____ Enter up to three more Damage Codes _____ Vehicle Towed By _____ To _____				ACCIDENT DIAGRAM 				26																																																																																																															
8		VEHICLE DAMAGE CODING: 1-13 SEE DIAGRAM ON RIGHT 14 UNDERCARRIAGE 17 DEMOLISHED 15 TRAILER 18 NO DAMAGE 16 OVERTURNED 19 OTHER								There is no accident diagram Cost of repairs to any one vehicle will be more than \$1000 <input type="checkbox"/> Unknown/Unable to Determine <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				27																																																																																																															
9		Reference Marker _____ Coordinates (if available) _____ Latitude/Northing _____ Longitude/Easting _____ 4762068				Place Where Accident Occurred: County <u>ERIE</u> <input type="checkbox"/> City <input type="checkbox"/> Village <input checked="" type="checkbox"/> Town of <u>CHEEKTOWAGA TOWN OF</u> Road on which accident occurred <u>INTERSTATE 90</u> at 1) intersecting street _____ (Route Number or Street Name) or 2) <u>20</u> _____ <input type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input type="checkbox"/> W of <u>mpm 418.3</u> Feet Miles (Milepost Nearest intersecting Route Number or Street Name)							28																																																																																																																
10		Accident Description/Officer's Notes damage. OPV1 stated he was not injured. OPV2 had a complaint of nausea and head pain. EMS responded and OPV2 was transported by Twin City Ambulance to ECMC. V1 and V2 were removed from the Thruway by Rusiniaks. There was no damage to Thruway property.											29																																																																																																																
11		ALL INVOLVED <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>8</th> <th>9</th> <th>10</th> <th>11</th> <th>12</th> <th>13</th> <th>14</th> <th>15</th> <th>16</th> <th>17</th> <th>BY</th> <th>TO</th> <th>18</th> <th>Names of all involved</th> <th>Date of Death Only</th> </tr> </thead> <tbody> <tr><td>A</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>B</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>C</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>D</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>E</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>F</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> </tbody> </table>												8	9	10	11	12	13	14	15	16	17	BY	TO	18	Names of all involved	Date of Death Only	A																B																C																D																E																F																30
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12		Officer's Rank and Signature <u>T.P.R.</u> Print Name in Full <u>JASON D PETERS</u>				Badge/ID No <u>3174</u>		NCIC No <u>11404</u>		Precinct/Post Troop/Zone <u>T4</u>		Station/Beat Sector <u>11</u>		Reviewing Officer <u>DOUGHERTY, JOSE</u>		Date/Time Reviewed <u>06/13/2018 02:22</u>																																																																																																													

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160 of 178
EXECUTIVE DEPUTY COMMISSIONER OF MOTOR VEHICLES



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 24, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:


In compliance with the Resolution No. 306 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>Czora, Michael v. ECHC and Sheriff Howard</i>
Document Received:	Writ of Habeas Corpus
Name of Claimant:	Michael Czora ICN #41207 Erie County Holding Center 40 Delaware Avenue Buffalo, New York 14202-3999
Claimant's attorney:	Claimant is appearing <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
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
161 of 178

RECEIVED
ERIE COUNTY
SHERIFF'S OFFICE
2018 SEP 11 AM 8:39

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF Erie

The State of New York, on Relation)
of Michael Czora 07-B-3959)
icn#41207)
Petitioner,))

Erie County Holding Center -against-)
Timothy B. Howard, Sheriff of the County)
of Erie,)
Respondent.))

PETITION FOR WRIT
OF HABEAS CORPUS
Index No. _____

To the Supreme Court of the State of New York:

The petition of *[name of petitioner]* Michael Czora respectfully
shows:

1. That your petitioner is the attorney for *[name of person detained]*
Michael Czora, the person on whose behalf this petition is made, and is
by him/her authorized to institute this proceeding.

2. That the said *[name of person detained]* Michael Czora is now
detained at the County Jail at *[name of county]* Erie County by *[name of*
sheriff] Timothy Howard, Sheriff of the County of *[name of county]*
Erie awaiting trial.

3. That the detention of said *[name of person detained]*
Michael Czora is by virtue of a mandate, a copy of which is hereto
annexed and marked Exhibit "*[designation of exhibit(s)]*" A-G "Certificate of Release to
That the cause or pretense of the detention, according to the best knowledge and belief Parole Super-
of petitioner, is that the relator is awaiting trial upon an indictment charging him/her -Vision
with violation of the N.Y. Penal Law.

4. That a court or judge of the United States does not have exclusive jurisdiction to
order the release of *[name of person detained]* Certificate of Release to Parole
(Michael Czora) on Supervision Dated May 19th, 2016

5. That *[name of person detained]* Michael Czora is unlawfully
detained for the following reasons:

A. He/She has once before been tried under the identical indictment hereinabove
referred to charging the identical crime before a Court of competent jurisdiction, to
wit: On *[date of trial]* 10/5/2007, before the Court of the County
of *[name of county]* Erie.

(see attached page's)

B. That on *[date of conviction]* _____, he/she was convicted
of that crime and on the *[date of sentence]* _____, he/she was
sentenced by the *[name of county]* _____ County Court to an



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 24, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

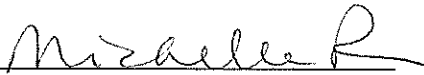
In compliance with the Resolution No. 306 passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Fix, James and Carrie v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	James and Carrie Fix 98 Torrance Place Gowanda, New York 14070
Claimant's attorney:	Michael J. Cooper, Esq. Cellino & Barnes, PC 451 Grider Street Buffalo, New York 14215

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
Michelle M. Parker
First Assistant County Attorney
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
163 of 178

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

JAMES FIX and CARRIE FIX, Individually
and as Husband and Wife

Claimants,

NOTICE OF CLAIM

v.

COUNTY OF ERIE

Respondent,

PLEASE TAKE NOTICE, that the above named claimant claims and demands from the respondents, COUNTY OF ERIE, recompense for personal injuries and damages sustained by claimant by reason of the wrongful, negligent and careless acts and omissions of the respondents, their agents, servants and/or employees, and in support there of, the claimant states:

1. Claimants' address is 98 Torrance Place, Gowanda, NY 14070.
2. The claimant is represented by Cellino & Barnes, P.C. with offices located at 451 Grider Street, Buffalo, New York 14202, telephone (716) 888-8888. The incident in which personal injuries were sustained by the claimants occurred on or about August 9, 2018, at approximately 6:00 p.m. The incident occurred when the motorcycle operated by James Fix struck a large hole on Zoar Valley Road in the Village of Springville, New York.
3. By virtue of the negligence of the employees, agents or servants of COUNTY OF ERIE, claimant has incurred medical and hospital expenses, which are to

date undetermined and will incur loss of earnings, impairment of health and permanent injuries.

4. By virtue of the negligence of the employees, agents or servants of the COUNTY OF ERIE, claimants have incurred medical and hospital expenses, which are to date undetermined and will incur loss of earnings, impairment of health and permanent injuries.

5. Upon information and belief, claimants will be obligated further medical expenses including drugs, medicines and prosthetic devices, the amount of which cannot be reasonably calculated at this time.

TAKE NOTICE that claimant demands payment of his claim as set forth above.

DATED: Buffalo, New York
September 5, 2018

Yours, etc.,

CELLINO & BARNES, P.C.

By: 

Michael J. Cooper
Attorneys for Plaintiff
451 Grider Street
Buffalo, NY 14215
(716) 888-8888

TO: COUNTY OF ERIE
95 Franklin Street, Room 1634
Buffalo, New York 14202

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ERIE : SS.:
CITY OF BUFFALO)

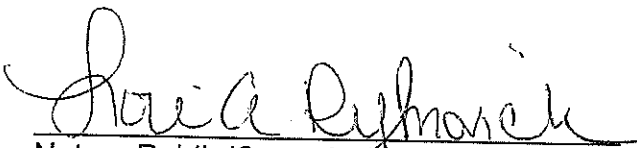
JAMES FIX being duly sworn, deposes and says that he is the plaintiff in the within action; that he has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to the knowledge of the deponent, except as to the matters therein stated to be alleged on information and belief,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



JAMES FIX

STATE OF NEW YORK)
COUNTY OF ERIE : SS.:
CITY OF BUFFALO)

On the 12th day of September, in the year 2018 before me, the undersigned, personally appeared JAMES FIX, personally known to me or proved 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 they executed the same in his capacity and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



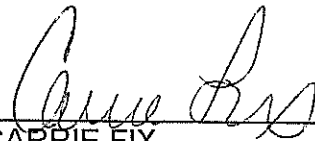
Notary Public/Commissioner of Deeds

LORIA RYKOVICH
COMMISSIONER OF DEEDS
In and For the City of Buffalo, New York
My Commission Expires 12/31/18

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ERIE : SS.:
CITY OF BUFFALO)

CARRIE FIX being duly sworn, deposes and says that she is the plaintiff in the within action; that she has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to the knowledge of the 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.



CARRIE FIX

STATE OF NEW YORK)
COUNTY OF ERIE : SS.:
CITY OF BUFFALO)

On the 10th day of September, in the year 2018 before me, the undersigned, personally appeared CARRIE FIX, personally known to me or proved 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 they executed the same in his capacity and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Notary Public/Commissioner of Deeds

LORI A. RYKOVICH
COMMISSIONER OF DEEDS
In and For the City of Buffalo, New York
My Commission Expires 12/31/18



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 25, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:


In compliance with the Resolution No. 306 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>Reemployment - US Dept of Labor complaint re Probation Officer return from reserve duty</i>
Document Received:	US Dept of Labor Complaint
Name of Claimant:	Matthew Laun Erie County Probation Department Erie County Family Court Building One Niagara Plaza Buffalo, New York 14202
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
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
168 of 178

U.S. Department of Labor

Office of the Assistant Secretary for
Veterans' Employment and Training
Building 12 Room 518
Harriman State Campus
Albany, NY 12240
Tel: (518) 485-2079 Fax: (518) 435-0833
Schmidt.Kristi.E@dol.gov



LETTER SENT VIA EMAIL AND UPS

September 20, 2018

Brian McLaughlin
Commissioner
1 Niagara Plaza
Suite #112
Buffalo, NY 14202

**Re: Matthew Laun
NY-2018-00046-20-V**

Dear Mr. McLaughlin,

Thank you for taking the time to speak with me on September 18, 2018, regarding the above-referenced matter. As I explained in our telephone conversation, this agency is responsible for seeking compliance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), codified at Title 38 U.S. Code Sections 4301 – 4335 and 20 C.F.R. Part 1002. Matthew Laun has requested assistance in determining and exercising his reemployment rights under USERRA.

In general, to qualify for reemployment protections under USERRA, a service member must leave an employment position to perform military service, provide notice to the employer of the military service, serve for fewer than five years, have a qualifying discharge from the military, and make a timely request for reemployment. See 38 U.S.C. 4312(a) and 20 CFR 1002.32. Based on the information provided to date, Mr. Laun is eligible for employment protection under USERRA.

Mr. Laun began his employment with the Erie County Probation Department on March 10, 2010. He states he left his position as a Probation Officer assigned to Adult Supervision with a Northtown Suburban caseload on October 1, 2017 to perform service in the uniformed services. He states he provided advanced notice of his military service to Michael Lex on August 22, 2017. He served honorably in the New York Army National Guard from October 1, 2017 to June 14, 2018. He states he returned to work on July 30, 2018 and was reinstated to a Pre-Sentence Investigation position which he alleges is not the same status as the position he left. Based on the information provided to date, Mr. Laun is eligible for employment protection under USERRA.

USERRA, in 38 USC Section 4313 provides:

§ 4313. Reemployment positions:

(a) Subject to subsection (b) (in the case of any employee) and sections 4314 and 4315 (in the case of an employee of the Federal Government), a person entitled to reemployment under Section 4312, upon completion of a period of service in the uniformed services, shall be promptly reemployed in a position of employment in

accordance with the following order of priority:

(2) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for more than 90 days--

(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, or a position of like seniority, status and pay, the duties of which the person is qualified to perform; or

(Corresponding Regulations may be found at 20 C.F.R., Part 1002.191, Part 1002.192, and Part 1002.193)

Please provide us with your position statement and any documentation that will support your position. Please include the following with your position statement:

- Roles and Responsibilities of the Adult Supervision Officer with a Northtown Suburban caseload
- Roles and Responsibilities of the Pre-Sentence Investigation position
- Name of employee who replaced the Claimant in the Adult Supervision with a Northtown Suburban caseload position when he left for military duty
- Name of employee currently serving in the Adult Supervision with a Northtown Suburban caseload position
- Any additional information you believe may assist us in resolving this complaint

Specifically, we need to know why Mr. Laun was not returned to his pre-service position. We need to know what Mr. Laun's status would have been, with reasonable certainty, had he not been absent for military service. Should the evidence support the claimant's allegations he may be eligible for lost or disadvantaged wages and benefits from the date of his application for reemployment, until a proper offer of reemployment is made.

The United States Department of Labor, Veteran's Employment and Training Service appreciate your cooperation and attention to this matter. We hope that an amicable resolution can be reached. Your response is respectfully requested by October 10, 2018.

Please contact me at 518-485-2079 if you have any questions regarding this complaint.

Sincerely,



Kristi Schmidt
Assistant Director/Investigator
Veterans Employment and Training

Cc: Matthew Laun



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 24, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution No. 306 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>Torres, Yolanda v. ECDSS</i>
Document Received:	EEOC Notice of Charge
Name of Claimant:	Yolanda Torres
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
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
171 of 178

U.S. Equal Employment Opportunity Commission

mmf

Ms. Michelle Parker, Esq.
First Asst County Attorney
ERIE COUNTY
Dept of Law
95 Franklin St, Room 1634
Buffalo, NY 14202

PERSON FILING CHARGE

Yolanda Torres

THIS PERSON (check one or both)

☒ Claims To Be Aggrieved☐ Is Filing on Behalf of Other(s)

EEOC CHARGE NO.

520-2018-03240

NOTICE OF CHARGE OF DISCRIMINATION

(See the enclosed for additional information)

This is notice that a charge of employment discrimination has been filed against your organization under:

- ☐ Title VII of the Civil Rights Act (Title VII) ☐ The Equal Pay Act (EPA) ☒ The Americans with Disabilities Act (ADA)
- ☐ The Age Discrimination in Employment Act (ADEA) ☐ The Genetic Information Nondiscrimination Act (GINA)

The boxes checked below apply to our handling of this charge:

- ☒ No action is required by you at this time.
- ☐ Please call the EEOC Representative listed below concerning the further handling of this charge.
- ☐ Please provide by a statement of your position on the issues covered by this charge, with copies of any supporting documentation to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.
- ☐ Please respond fully by to the enclosed request for information and send your response to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.
- ☐ EEOC has a Mediation program that gives parties an opportunity to resolve the issues of a charge without extensive investigation or expenditure of resources. If you would like to participate, please say so on the enclosed form and respond by to

If you DO NOT wish to try Mediation, you must respond to any request(s) made above by the date(s) specified there.

For further inquiry on this matter, please use the charge number shown above. Your position statement, your response to our request for information, or any inquiry you may have should be directed to:

Charlene Mc Kinnon,
Investigator

EEOC Representative

Telephone (716) 551-4447

Buffalo Local Office
6 Fountain Plaza
Suite 350
Buffalo, NY 14202
Fax: (716) 551-4387

RECEIVED
SEP 14 2018
ERIE COUNTY
DEPARTMENT OF LAW

Enclosure(s): ☐ Copy of Charge

CIRCUMSTANCES OF ALLEGED DISCRIMINATION

☐ Race ☐ Color ☐ Sex ☐ Religion ☐ National Origin ☐ Age ☒ Disability ☐ Retaliation ☐ Genetic Information ☐ Other

ISSUES: Constructive Discharge, Exclusion, Harassment, Breach of Confidentiality, Accommodation, Segregated Locals, Terms/Conditions

DATE(S) (on or about): EARLIEST: 01-01-2018 LATEST: 01-01-2018

Date

July 23, 2018

Name / Title of Authorized Official

John E. Thompson,
Local Office Director

Signature

John E. Thompson
Comm. 19D-1

172 of 178

INFORMATION ON CHARGES OF DISCRIMINATION

EEOC RULES AND REGULATIONS

Section 1601.15 of EEOC's regulations provides that persons or organizations charged with employment discrimination may submit a statement of position or evidence regarding the issues covered by this charge.

EEOC's recordkeeping and reporting requirements are found at Title 29, Code of Federal Regulations (29 CFR): 29 CFR Part 1602 (see particularly Sec. 1602.14 below) for Title VII and the ADA; 29 CFR Part 1620 for the EPA; and 29 CFR Part 1627, for the ADEA. These regulations generally require respondents to preserve payroll and personnel records relevant to a charge of discrimination until disposition of the charge or litigation relating to the charge. (For ADEA charges, this notice is the written requirement described in Part 1627, Sec. 1627.3(b)(3), .4(a)(2) or .5(c), for respondents to preserve records relevant to the charge – the records to be retained, and for how long, are as described in Sec. 1602.14, as set out below). Parts 1602, 1620 and 1627 also prescribe record retention periods – generally, three years for basic payroll records and one year for personnel records. Questions about retention periods and the types of records to be retained should be resolved by referring to the regulations.

Section 1602.14 Preservation of records made or kept. Where a charge ... has been filed, or an action brought by the Commission or the Attorney General, against an employer under Title VII or the ADA, the respondent ... shall preserve all personnel records relevant to the charge or the action until final disposition of the charge or action. The term *personnel records relevant to the charge*, for example, would include personnel or employment records relating to the aggrieved person and to all other aggrieved employees holding positions similar to that held or sought by the aggrieved person and application forms or test papers completed by an unsuccessful applicant and by all other candidates or the same position as that for which the aggrieved person applied and was rejected. The date of *final disposition of the charge or the action* means the date of expiration of the statutory period within which the aggrieved person may bring [a lawsuit] or, where an action is brought against an employer either by the aggrieved person, the Commission, or the Attorney General, the date on which such litigation is terminated.

NOTICE OF NON-RETALIATION REQUIREMENTS

Section 704(a) of Title VII, Section 207(f) of GINA, Section 4(d) of the ADEA, and Section 503(a) of the ADA provide that it is an unlawful employment practice for an employer to discriminate against present or former employees or job applicants, for an employment agency to discriminate against any individual, or for a union to discriminate against its members or applicants for membership, because they have opposed any practice made an unlawful employment practice by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the statutes. The Equal Pay Act contains similar provisions. Additionally, Section 503(b) of the ADA prohibits coercion, intimidation, threats, or interference with anyone because they have exercised or enjoyed, or aided or encouraged others in their exercise or enjoyment, of rights under the Act.

Persons filing charges of discrimination are advised of these Non-Retaliation Requirements and are instructed to notify EEOC if any attempt at retaliation is made. Please note that the Civil Rights Act of 1991 provides substantial additional monetary provisions to remedy instances of retaliation or other discrimination, including, for example, to remedy the emotional harm caused by on-the-job harassment.

NOTICE REGARDING REPRESENTATION BY ATTORNEYS

Although you do not have to be represented by an attorney while we handle this charge, you have a right, and may wish to retain an attorney to represent you. If you do retain an attorney, please give us your attorney's name, address and phone number, and ask your attorney to write us confirming such representation.



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 25, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

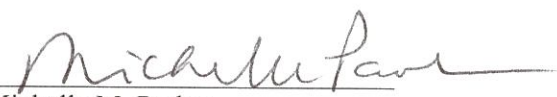
In compliance with the Resolution No. 306 passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Bulow, Shawn C. v. County of Erie, Buffalo City Court, Judge Pridgen, Erie County DA's Office and Attorney Timothy Gallagher</i>
Document Received:	Notice of Claim
Name of Claimant:	Shawn C. Bulow ICN #19714 Erie County Holding Center 40 Delaware Avenue Buffalo, New York 14202-3999
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
Michelle.Parker@erie.gov

MMP:dld
Enc.

Comm. 19D-1
174 of 178

SUPREME COURT: STATE OF NEW YORK
COUNTY OF ERIE X

SHAWN C. BUOLW,
claimant, X

-against-

NOTICE OF CLAIM AGAINST
A COUNTY (Gen. Mun. Law §50-e)
Index No. _____

THE COUNTY OF ERIE, BUFFALO CITY
COURT JUDGE PRIDGEN, ERIE COUNTY X
DISTRICT ATTORNEY'S OFFICE, AND
ATTORNEY TIMOTHY GALLAGHER, X
defendants. X

TO: ERIE COUNTY SUPREME AND COUNTY COURT CLERK

PLEASE TAKE NOTICE that the above named Claimant, SHAWN C. BULOW, claimant herein, proceeding Pro Se in this matter, does hereby make the following Claim against the County of Erie and its agents/defendants as mentioned above;

1. That the Claimant resides at the Erie County Holding Center 40 Delaware Avenue, Buffalo New York 14202;
2. That the name of the Attorney representing the Claimant is: Proceeding Pro Se and same address as mentioned above;
3. That this Claim is against the County and/or its agents for the reasons stated within the actual claim itself for the abuse of power, and or abuse of discretion, failure to train, supervise/and or follow proper procedures in violation of professional and ethical duties and responsibilities as any legal authority is always aware of after taking the Bar-Exam;
4. The time when and the place where this claim arose is that on the 30th day of July 2018, at the Buffalo City Court Sentencing, that Defendant Judge Pridgen announced sentencing and after sentencing asked the Claimant to sign some papers AFTER Claimants criminal defense Attorney Timothy Gallagher had already left. When the Claimant refused to sign any papers without his Attorney present, the Defendant, Judge Pridgen became upset with the Claimant and ordered that the Claimant be brought back to Court on the following day, July 31, 2018, and had struck the previously imposed sentence of six (6) months local incarceration, and went on to re-sentence the Claimant without the existence of a Pre Sentence Report, and had imposed a sentence of one (1) year local incarceration and told the Claimant "To get it back on appeal", and when the Defense Attorney Timothy Gallagher tried to speak to the Court the Court refused to allow Mr Gallagher the opportunity to speak;
5. Since that time, Defendant Timothy Gallagher has not done a thing to rectify this matter and have the issue properly resolved as he knew the plea agreement was a sentence of six (6) months. Nor has Mr Gallagher prepared a Notice Of Appeal as instructed to do by me, nor provided me with the same as requested by the Claimant in writing and by phone from the Claimant and/or his family;
6. Defendant District Attorney was aware of this entire matter from the inception of it when things began to go wrong with Judge Pridgen on July 30, 2018, and also when the illegal sentence was pronounced on July 31, 2018, and has done nothing to rectify the matter as is the duty of the District Attorney's Office "to not only see that the guilty are properly punished, but to exonerate the innocent as well, and the District Attornye's Office is
Comm. 19D-1
175 of 178

aware that time is of the essence and the more time that goes by without the proper sentence being pronounced against the Claimant, the more damage that the Claimant is forced to endure. The Defendants are aware of the problems and the way to correct it. If they are doing nothing to correct the matter, then they are intentional in what they are doing and only causing things to become expounded and cause the Claimant to endure more damages at the Counties expense and not having any care or concern for the pain and suffering that the Claimant is forced to continue to endure.

7. The defendants are in a position to correct the matter before any damages increase as the Claimant has not reached the original release date that he would have reached had he been sentenced to the original sentence that was struck by Judge Pridgen, Six (6) months local incarceration.

8. That the Claimant has commenced complaints to the appropriate complaint committees about this matter;

9. PLEASE TAKE FURTHER NOTICE that each and every day that passes without this matter being corrected and the original release date arrives, the Claimant will demand the amount of One Thousand Dollars (\$1000.00) per day that goes by with the Claimant being illegally detained and held in custody against his rights.

c. scb/file

DATED THIS 18 DAY OF September 2018



Shawn C. Bulow Claimant
Erie County Holding Center
40 Delaware Avenue
Buffalo, New York 14202

VERIFICATION

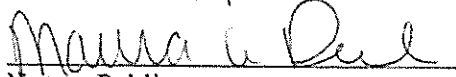
STATE OF NEW YORK)
COUNTY OF ERIE) ss:

Claimant, JOSEPH C. KILTON, being duly sworn, deposes and says he is the Claimant in this action; that he had read the foregoing Notice of Claim and know the contents thereof to be true, except as to matters therein stated to be alleged on information and belief, and that as to those matters they believe them to be true.



JOSEPH C. KILTON

Sworn to before me this
14th day of September 2018



Notary Public

MAURA K. PERL
Notary Public, State of New York
Qualified in Genesee County
My Commission Expires 02/27/20 21

EXHIBIT A