



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 2, 2019

RE: Transmittal of New Claims Against Erie County

MMP/da

Mr. Graber:

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

Claim Name

1. Michael Obstarczyk v. County of Erie;
2. Sandra Lee Miller v. County of Erie;
3. John Affrunti v. County of Erie, et al.;
4. Jessica and Jme Morales v. County of Erie, et al.;
5. Jibreel Williams v. County of Erie;
6. John Blessing v. County of Erie, et al.;
7. Nancy Koval v. County of Erie;
8. Jeffrey Bernhardt v. County of Erie, et al.;
9. Mark Thomas Dublino v. Sgts. Biegaj, et al.;
10. John Duncan v. County of Erie;
11. Kimberly Szczepanski v. County of Erie;
12. Gertetta Green-Page, et al. v. County of Erie, et al.;
13. Robert Kubiak v. County of Erie, et al.; and
14. Kathleen Ann Galla v. County of Erie, et al.

MMP:dld
Attachments



CONFIDENTIAL

CONFIDENTIAL - SECURITY INFORMATION

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COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

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COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

September 3, 2019

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>Obstarczyk, Michael v. County of Erie</i>
Document Received:	Complaint
Name of Claimant:	Michael Obstarczyk
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.



STATE OF TEXAS

COMMISSION ON

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Law Office of
LINDY KORN, PLLC

Electric Tower
535 Washington Street, Ninth Floor
Buffalo, New York 14203

CONFIDENTIAL:
FOR SETTLEMENT NEGOTIATION PURPOSES ONLY

August 28, 2019

VIA CERTIFIED MAIL

Joseph L. Fiegl, Deputy Commissioner
Rath Building
95 Franklin Street
Buffalo, NY 14202

Re: Michael Obstarczyk and County of Erie

To Whom It May Concern:

My office represents Michael Obstarczyk ("Mr. Obstarczyk") in connection with the adverse treatment he has suffered during his employment with the County of Erie. This letter seeks to facilitate a resolution of Mr. Obstarczyk's claims of age discrimination and wage and hour violations. This letter and its attachments are confidential pursuant to New York CPLR § 4547.

Mr. Obstarczyk has articulated the unlawful conduct he experienced while employed by the County of Erie in the attached complaint. **Exhibit 1: Draft Complaint.**

It should not be up to Mr. Obstarczyk to ensure the County is paying him for days he was at work and where he properly swiped in and out. He is still being targeted by the County because of his age and in violation of NYS Labor Laws. As recently as May 2019, the County has accused Mr. Obstarczyk of not working on a specific day when he was in fact there and had clocked in and out accordingly.

In the interest of amicable resolution, Mr. Obstarczyk is reaching out to you in an effort to put these issues to rest so that the parties may move forward. Mr. Obstarczyk also wanted to prevent this unlawful conduct from happening to other employees. Accordingly, Mr. Obstarczyk is willing to release his claims of age discrimination and wage and hour violations if the County of Erie agrees to the following settlement terms:

1. Payment for the following days Mr. Obstarczyk worked 8 hours but was not paid: 5/2/2013 (as well as 3.02 hours of overtime); 5/3/2013; 5/23/2013 (as well as 3

• Phone (716) 856-KORN (5676) • Fax (716) 507-8475 • Email: lkorn@lkorn-law.com •
• www.lkorn-law.com • buffalo-discrimination-attorney.com

hours of overtime); 5/31/2013; 8/15/2013; 8/16/2013; 5/2/2018 (owed 2.1 hours of overtime); 5/6/2018; 7/29/2018 (8.12 hours of unpaid overtime); 7/30/2018 (8.15 hours of unpaid overtime); and 8/28/2018.

2. Mandatory anti-discrimination training and anti-harassment training for all employees, particularly management;
3. Mandatory training on the timeclock system so other employees are not docked days of pay;
4. \$15,000 in emotional distress damages; and
5. Attorney's fees and costs.

Both the County of Erie and Mr. Obstarczyk can agree that litigation requires a significant amount of time, money, and other intangible resources. With litigation, there is risk and uncertainty for both parties, as well as the reputational embarrassment of a public filing. Comparatively, mediation or negotiation allows the parties to control their destinies and agree upon a confidential definite solution to a dispute. Negotiation directly through attorneys can also offer mutually agreeable resolutions that would not be attainable in court.

Our office would like to invite you to mediate this matter. We believe mediating these types of issues initially can have great merit, as litigation is expensive and time-consuming for all parties involved. For more information about mediation, please refer to the Western District of New York's website. <http://www.nywd.uscourts.gov/alternative-dispute-resolution>

Please note the attached document, the Request for Preservation of Electronic and Paper Evidence, which includes a list of all electronic and paper documents/evidence that our client is requesting for you to preserve if we are unable to resolve this matter. **Exhibit 2: Request for Preservation of Electronic and Paper Evidence.**

If the County of Erie is interested in exploring an amicable resolution with Mr. Obstarczyk, please respond to us no later than September 11, 2019. If I do not hear from you by this time, I will advise my client accordingly on proceeding with his claims.

Thank you for your time and attention. Please contact me at (716) 856-5676 or lkorn@lkorn-law.com to discuss this matter further. I look forward to hearing from you.

Very truly yours,



Lindy Korn, Esq.
LK/sbw

cc: Michael Obstarczyk

Exhibit 1

Request for Preservation of Electronic and Paper Evidence for County of Erie

We are writing to advise you, County of Erie ("the Employer"), of your legal obligation to preserve all relevant evidence. That evidence includes, but is not limited to, all email and text messages, and any other electronic communications, sent or received by the following persons: Joseph Orzechowski, Kevin Kaminski, Glenn Absolom, Joseph Fiegl, Charles Kaltra, Michael Obstarczyk, office staff, Human Resources, (collectively, the "Custodians"), and any other employees that involve Michael Obstarczyk's complaint of discrimination. Such electronic communications must be preserved from the date Mr. Obstarczyk started working at County of Erie to the present.

Consider this letter a notice of the requirement for your company to issue a litigation hold and to preserve all data in every form, not only in its own records, but in the records of its vendors, partners, customers, employees, or other service providers, along with its agents and assigns, that would bear on any of the issues my client has alleged, including hours worked, during their employment with County of Erie. This would include my client's computer, payroll, and time records, as well as all electronic and other data that would or could show his on-site or remote work activity, including the computers or other electronic devices of those with whom he communicated. This preservation request also contemplates any and all video or voice recordings that might show such work activity, any badge or other electronic swipe data such as data showing arrival, parking, entry, or exit times from the company premises, and activities at any of the facilities or service areas provided by or at the employer.

It is not legally sufficient to order your staff to go through the emails of the above Custodians, and ask them to preserve those they deem relevant. The Employer is required to immediately preserve and cease the routine destruction/deletion/overwriting of all email sent to or from and/or received by all of the Custodians. The Employer must also cease the routine destruction or overwriting of any backup tapes which could contain their emails. Any emails which are live on the Employer's email server must remain in reasonably accessible format. If you are not sure how to do this, we suggest you retain legal counsel who knows how to do so.

The Employer is also required to preserve all evidence, including any electronic and non-electronic evidence, concerning Mr. Obstarczyk's employment. This includes any and all information on employees, employer-issued cell phones and other electronic devices.

Modern computer forensics has made it virtually impossible to conceal alterations and destruction of evidence. If it is forensically determined that the Employer failed to preserve relevant electronically stored information, it will be responsible for the significant expense of forensically restoring such evidence. Electronically stored information cannot be permanently destroyed, but steps can be taken to make it more expensive to retrieve, and courts have not hesitated to impose the costs of such retrieval.

STATE OF CALIFORNIA
LEGISLATURE
COMMITTEE ON GOVERNMENT

MEMORANDUM FOR THE COMMITTEE ON GOVERNMENT
SUBJECT: [Illegible]

[Illegible text]

[Illegible text]

[Illegible text]

If you maintain insurance, including general liability, Directors and Officers, Employment Practices Liability, or other insurance which might cover these claims, its failure promptly to notify its carrier could result in a loss of coverage.

Exhibit 2

Exhibit 3

MICHAEL OBSTARCZYK v. COUNTY OF ERIE

Causes of Action: Age Discrimination, Wage and Hour violations (NYS labor law & FLSA), and Retaliation

1. Mr. Obstarczyk was hired by the County of Erie on 10/2010.
2. His date of birth is 11/16/1949.
3. Mr. Obstarczyk worked numerous days that the County of Erie did not pay him for. Mr. Obstarczyk signed in and swiped in as was required. When brought to the County's attention, they refused to reimburse him.
4. Mr. Obstarczyk has never been properly trained on the Employee Self Service system. He has asked on numerous occasions to receive this training so he can ensure that he is properly recording his time to prevent wage theft by the County of Erie. Mr. Obstarczyk has asked supervisors Dave Boss, Glenn Absolom, and Joe Orzakofski for this training. To date, Mr. Obstarczyk has not been trained on the Employee Self Service system.
5. As he is not properly trained, Mr. Obstarczyk has relied on his co-workers to help him properly document his time to prevent wage theft by the County.
6. Mr. Obstarczyk has complained to supervisors Dave Boss, Glenn Absolom, and Joe Orzakofski about wage theft.
7. There were six days in total in 2013 and five in 2018 that Mr. Obstarczyk was not paid for hours worked. He is owed eight hours of regular pay for the following dates: 5/2/2013 (as well as 3.02 hours of overtime); 5/3/2013; 5/23/2013 (as well as 3 hours of overtime); 5/31/2013; 8/15/2013; 8/16/2013; 5/2/2018 (owed 2.1 hours of overtime); 5/6/2018; 7/29/2018 (8.12 hours of unpaid overtime); 7/30/2018 (8.15 hours of unpaid overtime); and 8/28/2018.
8. Mr. Obstarczyk was punished for improper use of the ESS system.
9. Mr. Obstarczyk was issued a disciplinary counseling memo on 5/19/2017 and was negatively evaluated on 3/27/2018 for his alleged failure to properly document his time. He was never properly trained on the ESS system, has repeatedly asked for training, and has utilized the assistance of co-workers to attempt to rectify problems in the system with his pay records.
10. This memos alleged that there were at least 20 instances of erroneous time entries or failure to enter time by Mr. Obstarczyk in 2016. If this were the case, the County should have trained him after this discovery.
11. Mr. Obstarczyk was written up in 2017 and 2018 because of alleged issues with his timekeeping.

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12. Mr. Obstarczyk was threatened with future progressive discipline for “[f]ailure to properly account” for his time.
13. Mr. Obstarczyk also stated he was not properly trained on the system when he was given the counseling memos and when he was being disciplined.
14. The County of Erie’s younger employees are not docked days of pay. This is a method of intimidation and harassment by the County against its older employees in an effort to force them out and create pretextual reasons to terminate older employees.
15. Owen Rodgers was also not paid for days worked. Upon information and belief, Mr. Rodgers is in his 60s.
16. Mr. Obstarczyk should not have to constantly check to make sure the County of Erie is paying him for hours worked. He has never had this issue at other employers he has worked for that have required him to punch in and out via a time clock. Further, it is not listed in the union contract that this is a requirement. Errors in the ESS system should not be grounds for discipline or a counseling memo.
17. Mr. Obstarczyk has recently been given increased job duties. As a result, he has had less time to monitor the County’s ESS system to ensure he is being paid for days he has worked.

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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, 2019

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>Miller, Sandra Lee v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Sandra Lee Miller 376 Olympic Avenue Buffalo, New York 14215
Claimant's attorney:	John Lloyd Egan, Jr., Esq. Law Offices of John Lloyd Egan 43 Court Street, Suite 700 Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

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

MMP:dld
Enc.



STATE OF CALIFORNIA

LEGISLATIVE COUNCIL

OFFICE OF THE CLERK

1000 N. STREET

SACRAMENTO

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

DATE OF DECLASSIFICATION

BY

DATE

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ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

DATE OF DECLASSIFICATION

BY

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

Sandra Lee Miller
376 Olympic Avenue
Buffalo, New York 14215

Claimant

vs.
County of Erie, New York

NOTICE OF CLAIM

Respondent

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

1. The name and post office address of the claimant and her attorneys are as follows:

Sandra Lee Miller, 376 Olympic Avenue, Buffalo, New York 14215

JOHN LLOYD EGAN, JR., as attorneys for the Claimant, of 905
Convention Tower, 43 Court Street, Buffalo, NY 14202,
Tel: (716) 856-3087.

2. The nature of the claim is a claim for damages for personal injuries, pain and suffering and medical expenses on behalf of the Claimant.
3. The time when and the place where and the manner in which the claim arose is a claim for damages for personal injuries sustained by the Claimant, on the 31st day of July, 2019, at approximately 3:30 pm to 4:00 pm, as a result of the County's and/or its agents, servants and employees negligence failed to provide a stable platform for the plaintiff to safely disembark from a First Student Bus, located at Schiller Park Senior Center located at 2057 Genesee Street Buffalo, New York 14211 and in failing to safely select, hire and retain a safe and competent bus company and bus driver for the purpose of assisting seniors in transportation of seniors to and from their annual senior picnic, and in failing to provide a safe platform other than a milk crate to disembark the said bus causing plaintiff's injuries. Plaintiff will claim that the County of Erie had actual and constructive knowledge of this defective condition which caused plaintiff's injuries and upon information and belief caused the injury by

supplying the improperly selected, placed, and improperly secured milk crate that was used for the purpose of safely disembarking the bus.

4. That the injuries claimed are hairline fracture to right ankle, and plaintiff sustained a serious injury within the meaning and intent of New York's insurance law section 5102D in the form of a hairline fracture, and any sequelae therefrom.
5. That the said claim and demand is hereby presented for adjustment and payment.

PLEASE TAKE FURTHER NOTICE, that by reason of the premises, in default by the County of Erie, New York, to pay to the Claimant a sum in excess of the jurisdictional limits of all lower courts, within the time limited for compliance with this demand by the said Respondents by the statutes in such cases made and provided. Claimant intends to commence an action against the Respondents to recover a sum of money which is in excess of the jurisdictional requirements of all lower courts herein, together with the costs and disbursements of this action, as well as interest from the 23rd day of August 2019

DATED: Buffalo, New York
August 23 2019

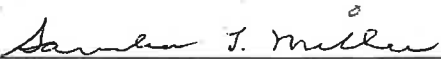
Respectfully yours,

JOHN LLOYD EGAN, JR., ESQ.
Attorneys for Claimant
700 Convention Tower
43 Court Street
Buffalo, New York 14202
(716) 856-3087

VERIFICATION

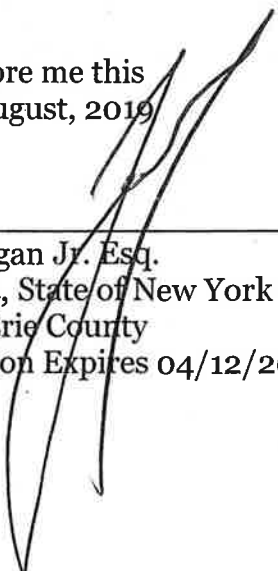
STATE OF NEW YORK)
) ss.:
COUNTY OF ERIE)

Sandra Miller , being duly sworn, depose and say that Nelson Soto is the plaintiff in this action; that she has read the foregoing NOTICE OF CLAIM and knows the contents thereof; that the same is true to the knowledge of deponent, except as to those matters therein stated to be alleged upon information and belief, and that as to those matters, she believes it to be true.



Sandra Miller

Sworn to before me this
22nd day of August, 2019



John Lloyd Egan Jr. Esq.
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 04/12/2023

CONFIDENTIAL

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The following information is being provided to you for your information only. It is not intended to constitute an offer of insurance or any other financial product. The information is provided for your information only and should not be relied upon as a basis for any investment decision. The information is provided for your information only and should not be relied upon as a basis for any investment decision.

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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, 2019

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

Dear Mr. Graber:

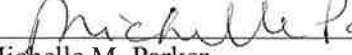
In compliance with the Resolution No. 306 passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Affrunti, John v. City of Buffalo and County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	John R. Affrunti 461 Roncroff Drive North Tonawanda, New York 14120
Claimant's attorney:	Charles H. Cobb, 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.



2013-14 Budget

Department of Health

Operating Budget

Page 1

Operating Budget

Page 1

The Department of Health is pleased to present the 2013-14 Operating Budget. This budget is designed to provide a clear and concise overview of the Department's financial needs and resources for the coming year. It is a key document for the Department's management and for the public's understanding of the Department's operations.

The budget is divided into several sections, including:

Operating Budget

Operating Budget

Operating Budget

Operating Budget

Operating Budget

Operating Budget

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Operating Budget

Operating Budget

IN THE MATTER OF THE CLAIM OF:

JOHN R. AFFRUNTI
461 Roncroff Drive
North Tonawanda, New York 14120

Claimant,

v.

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

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

Respondents.

This paper received at the
Erie County Attorney's Office
from Monique Geising on
the 29 day of August, 2019
at 203 a.m./p.m.
[Signature]
Assistant County Attorney

NOTICE OF CLAIM

PLEASE TAKE NOTICE that **JOHN R. AFFRUNTI**, hereby files, in accordance with New York State General Municipal Law Section 50-e, this Notice of Claim, and hereby makes a claim against Respondents, **CITY OF BUFFALO** and **COUNTY OF ERIE** and in support thereof alleges:

1. That the undersigned **JOHN R. AFFRUNTI**, resides at 461 Roncroff Drive, North Tonawanda, New York 14120. Claimant is represented by William Mattar, P.C., 6720 Main Street, Suite 100, Williamsville, New York 14221-5986.

2. This is a claim to recover damages for severe and permanent personal injuries, conscious pain and suffering, change of lifestyle, loss of enjoyment of life, general and special damages, medical expenses, and all other damages allowed by law, for the injuries suffered by **JOHN R. AFFRUNTI** while riding his bicycle at the Outer Harbor Lakeside Bike Park in Buffalo, New York.

3. Respondent or their servants, agents or employees, was negligent in its design, ownership, operation, maintenance, management, and control over said Lakeside Bike Park.

4. This claim arose on June 25, 2019, while JOHN R. AFFRUNTI was riding his bicycle at the Lakeside Bike Park located at 901 Fuhrmann Boulevard, Buffalo, New York 14203. Lakeside Bike Park offers three mountain bike tracks for riders of all skill levels and ages, as well as a pump track, and skills loop. The pump track is a circuit of elevated rollers, banked turns, and other features designed for mountain bikes without pedaling. Riders generate momentum by up and down body movements called "pumping." The Lakeside Bike Park pump track is made of asphalt and bordered by gravel. The gravel periodically gets sprayed onto the track by bicyclists traversing the pump track. On the day of the incident, JOHN R. AFFRUNTI was pumping on a banked turn when his tire unexpectedly hit a patch of gravel. The tire slipped causing him to lose control of the bike. He violently hit the asphalt track landing on his right side.


5. That as a direct result of the Respondents' negligent design, ownership, operation, maintenance, management, and control, JOHN R. AFFRUNTI sustained a head injury, a right comminuted scapula fracture, displaced fractures of the right fifth and sixth ribs, and a right pneumothorax. These injuries may be of a permanent or indefinite duration and JOHN R. AFFRUNTI will in the future be forced to expend sums of money for hospitals, doctors and other medical expenses. Other injuries will be disclosed and revealed as diagnosed by treating physicians and other medical personnel.

6. That the said injuries were occasioned solely or in part as a result of the negligence of the CITY OF BUFFALO, their servants, agents or employees 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, CITY OF BUFFALO within thirty (30) days from the date of service of the 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 which would otherwise have jurisdiction, together with interest, costs, and disbursements.

DATED: Williamsville, New York
 August __, 2019

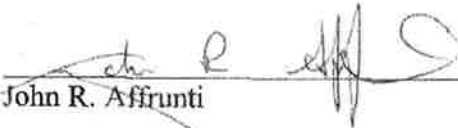


Charles H. Cobb, Esq.
WILLIAM MATTAR, P.C.
Attorney for Claimant
Office and Post Office Address
6720 Main Street, Suite 100
Williamsville, New York 14221-5986
Telephone: (716) 633-3535

VERIFICATION


STATE OF NEW YORK)
COUNTY OF NIAGARA) ss:
CITY OF NORTH TONAWANDA)

John R. Affrunti, being duly sworn, deposes and says that she is the Claimant in this action; that he has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to the knowledge of deponent, 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.



John R. Affrunti

Sworn to before me this
28th day of August, 2019



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

September 10, 2019

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>Morales, Jessica and Jme v. County of Erie and Robert Yeates</i>
Document Received:	Notice of Claim
Name of Claimants:	Jessica and Jme Morales 351 Robert Drive North Tonawana, New York 14120
Claimants' 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.



THE STATE OF NEW YORK

IN SENATE

JANUARY 12, 1910

REPORT

OF THE

COMMISSIONERS OF THE LAND OFFICE

IN RESPONSE TO A RESOLUTION

PASSED BY THE SENATE

APRIL 18, 1899

AND BY THE ASSEMBLY

APRIL 18, 1899

ALBANY: JAMES BROWN PUBLISHER, 1910.

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

In the Matter of the Claim of
JESSICA MORALES and
JME MORALES, her husband,

Claimants,

NOTICE OF CLAIM

- vs -

COUNTY OF ERIE and
ROBERT YEATES,

Respondents.

This paper received at the
Erie County Attorney's Office
from Jeffrey Medina
the 16 day of August, 2019

at 11:42 a.m. p.m.

Kenneth R. Kelly
Assistant County Attorney

PLEASE TAKE NOTICE, that JESSICA MORALES and JME MORALES, her husband, have claims and hereby makes claims against the COUNTY OF ERIE, ROBERT YEATES and their agents, servants, officers, representatives and employees, hereinafter referred to collectively as "Respondent", for property damage, rental charges, out-of-pocket expenses, wages, medical expenses and personal injuries and other applicable damages sustained as a result of a motor vehicle crash of May 22, 2019, and in support thereof, states:

1. **NAME AND ADDRESSES OF CLAIMANTS:** The address of the Claimant, JESSICA MORALES and JME MORALES, is 351 Robert Drive, North Tonawanda, New York 14120.

2. **NAME AND ADDRESSES OF CLAIMANTS' ATTORNEYS:** SPADAFORA & VERRASTRO, LLP, with offices at 2 Symphony Circle, Buffalo, New York 14201; telephone number (716) 854-1111.

3. **TIME, PLACE AND MANNER IN WHICH CLAIM AROSE:** Claim arose on or about May 22, 2019 northbound on Niagara Falls Boulevard at, near, and/or adjacent to 2139 Niagara Falls Boulevard, nearest intersecting street is Willowridge Drive, located in the Town of Amherst, County of Erie and State of New York. (See attached police accident report for location)

The manner in which the claim arose: The Claimant, JME MORALES, was operating his motor vehicle, in which Claimant, JESSICA MORALES, was a seat belted passenger, legally and lawfully on or about May 22, 2019 northbound on Niagara Falls Boulevard at, near, and/or adjacent to 2139 Niagara Falls Boulevard, nearest intersecting street is Willowridge Drive, located in the Town of Amherst, County of Erie and State of New York, when her vehicle was caused to be collided into, crashed and struck from behind by a 2012 Chevrolet four door sedan type motor vehicle, hereinafter referred to as "2012 Chevrolet", owned by the Respondent, COUNTY OF ERIE and being operated by its agent, servant, representative, officer and/or employee, identified on the attached police report, as Robert W. Yeates.

4. **NATURE OF CLAIM: JESSICA MORALES:** The claim of JESSICA MORALES is for among others, for pain and suffering, personal and emotional injuries, property damages and economic loss, suffered and or to be sustained by said Claimant, as against the COUNTY OF ERIE, together with all other damages sustained by said Claimant as a result of the negligence, carelessness and/or reckless disregard of COUNTY OF ERIE by and through its agents, servants and/or employees in general, and, ROBERT YEATES, in particular. The claim of JESSICA MORALES relates to the operation, service, repair, inspection, management and/or control of a COUNTY OF ERIE vehicle by it's agent, servant and/or employee, said vehicle at all pertinent times being operated, managed and/or controlled in a negligent, careless manner with reckless disregard for the safety of others in general and, this Claimant in particular, and the failure at all pertinent times to operate, manage and/or control said vehicle with due regard for the safety of all persons in general and this Claimant in particular, and said vehicle operator was further negligent and careless and acted with reckless disregard for the safety of others as to the operation, management and/or control of said vehicle owned, used and/or under the control of the COUNTY OF ERIE, by and through its agent, servant and/or employee identified as, ROBERT YEATES of 3333 Joshua Lane, North Tonawanda, New York 14120.

NATURE OF CLAIM: JME MORALES, as husband of JESSICA MORALES: JME MORALES is the husband of JESSICA MORALES. JME MORALES makes claim for the loss of the services, society, consortium and companionship of his wife, JESSICA MORALES, as a result of the negligence, carelessness and/or reckless disregard of COUNTY OF ERIE by and through its agents, servants and/or employees in general, and, ROBERT YEATES, in particular resulting from the operation, service, repair, inspection, management and/or control of a COUNTY OF ERIE vehicle by it's agent, servant and/or employee, said vehicle at all pertinent times being operated, managed and/or controlled in a negligent, careless manner with reckless disregard for the safety of

others in general and, this Claimant's wife in particular, and the failure at all pertinent times to operate, manage and/or control said vehicle with due regard for the safety of all persons in general and this Claimant's wife in particular, and said vehicle operator was further negligent and careless and acted with reckless disregard for the safety of others as to the operation, management and/or control of said vehicle owned, used and/or under the control of the COUNTY OF ERIE, by and through its agent, servant and/or employee identified as, ROBERT YEATES.

5. **BASIS OF CLAIM:** As stated above, the basis of the claim of each Claimant is one relating to the acts of negligence, carelessness and/or reckless disregard of the Respondents by and through its agents, servants, representatives and/or employees as would relate to, without limitation thereto, the hiring and training of said agents, servants, employees and/or representatives, further together with its ownership, maintenance and/or operation of the County of Erie's motor vehicles.

In addition, the COUNTY OF ERIE by and through its agents, servants and/or employee, ROBERT YEATES, was negligent, careless and/or acted with reckless disregard in that, among others:

- a) While proceeding over and along Niagara Falls Boulevard, located in the Town of Amherst, he negligently and carelessly, and/or with reckless disregard for others, operated said 2012 Chevrolet;
- b) Failed to have said 2012 Chevrolet under proper management and control;
- c) Operated and drove the 2012 Chevrolet at a reckless and dangerous rate of speed under the circumstances and conditions then and there existing;
- d) Failed to observe the vehicle being legally and lawfully operated by the Claimant JME MORALES;
- e) Failed to alter or deflect the course of the 2012 Chevrolet vehicle so as to avoid a collision as it approached and traveled in, over and along Niagara Falls Boulevard, located in the Town of Amherst;

f) Failed to give the other vehicle being operated by Claimant, JME MORALES, any notice or warning of the approach of his vehicle by sounding a horn or otherwise;

g) Failed to give the other vehicle being operated by Claimant any notice or warning of the rear end crash into Claimant's vehicle;

h) Failed at all times to yield the right-of-way to the vehicle being operated by Claimant;

i) In following too closely behind the vehicle being operated by Claimant;

j) In failing to observe what was then and there to be seen;

k) Failed to properly and safely change lanes;

l) In otherwise being negligent, careless and acting in reckless disregard for the safety of others and/or without due regard for the safety of others as to the operation, management and control of said 2012 Chevrolet at or near the accident site location; and

m) And otherwise being negligent and careless in the operation, management, maintenance and control of said 2012 Chevrolet at or near the aforesaid intersection where the accident happened.

The COUNTY OF ERIE by and through its agents, servants and/or employees, were negligent, careless and/or acted with reckless disregard in that, among others:

n) Negligent hiring of its agents, servants and/or employees in general, and ROBERT YEATES, in particular;

o) Negligent training of its agents, servants and/or employees in general, and ROBERT YEATES, in particular;

p) Negligent supervision of its agents, servants and/or employees in general, and ROBERT YEATES, in particular;

q) Negligent screening of its agents, servants and/or employees in general and ROBERT YEATES, in particular;

r) Negligent inspection, servicing and/or maintenance of its vehicles by their agents, servants and/or employees in general, and ROBERT YEATES, in particular;

s) Negligently allowing the use of their 2012 Chevrolet at a time when said vehicle was not properly equipped with sufficient brakes or braking system;

t) Negligently allowing the use of their 2012 Chevrolet at a time when said vehicle was not properly equipped for the purpose of being used and/or driven as an automobile;

u) In otherwise being negligent, careless and/or acting with reckless disregard for the safety of others and/or due care of others as to the hiring, training and/or instructing of its agents, servants and/or employees in general and ROBERT YEATES, in particular; and

v) And otherwise being negligent and/or careless.

6. **INJURIES SUSTAINED:** Injuries sustained by the Claimant, JESSICA MORALES, are traumatic injuries in and to her abdomen and related connective tissue and/or soft tissue as a result of the re-opening of stitches/sutures from an prior surgical procedure; abdominal significant disfigurement in the form of scarring; extremely fearful in motor vehicle and chronic pain residuals, anxiousness and depressed state as a result of injuries and chronic pain, anxiety and fearful about being in a motor vehicle together with any and other injuries and/or conditions from said injuries which may develop after the filing of this Notice of Claim, further together with any aggravation, activation and/or exacerbation of any pre-existing conditions therein and/or thereabout said injury sites set forth above and/or other injuries which may be diagnosed by Claimant's attending physician and/or medical providers tending and caring for her.

As a result of said negligence, carelessness and/or reckless disregard for the safety of others, JESSICA MORALES has or may in the future suffer and sustain serious injury as defined by Article 51 of the Insurance Laws of the State of New York, as amended; has or may in the future

suffer severe and/or permanent injuries including damage to spine and intervertebral discs relating thereto; has been caused to suffer and sustain non economic loss, pain and suffering as to the past to the present, and upon information and belief, into the future; has suffered shock to the nerves and nervous system, together with internal injuries and emotional upset; has suffered and sustained traumatic injury to the body; has and/or may incur medical and hospital related expenses and/or other expenses relating to care, treatment and/or attempted cure and rehabilitation of said injuries and/or the residual effects thereof; and upon information and belief, will continue to incur said injury and/or rehabilitative expenses into the future; has and/or may be caused to suffer loss in excess of basic economic loss, all as a result of said injuries sustained and/or the residual and/or permanent effects relating thereto, and all applicable economic damages which she sustained and/or in the future may sustain as a result of the aforesaid crash of May 22, 2019, all as a result of said crash and collision, injuries sustained and/or the residual and permanent effects relating thereto, resulting from the accident, above-referred.

INJURIES SUSTAINED: Claimant, JME MORALES, has not sustained physical injuries, however, under the laws of the State of New York he makes a derivative claim for the loss of the services, society, consortium and companionship of his wife, Claimant JESSICA MORALES. In addition, the Claimant, JME MORALES, would make claim for any and all medical expenses incurred as to past, present or future as would relate to the care, treatment and attempted cure of the injuries sustained by his wife, Claimant JESSICA MORALES.

7. **DAMAGES:** The Claimant, JESSICA MORALES, has been and/or may be caused to expend money and to incur expenses in the care and treatment of the injuries she sustained. The exact amount of medical expenses is unknown to the Claimant as she is still undergoing treatment. Those bills will be submitted upon completion of treatment or as they are made known to the Claimant. It is believed that the Claimant, JESSICA MORALES, has and/or will have sustained permanent injuries and will require future care and treatment as a result of same.

If applicable, the Claimant, JESSICA MORALES, would also make claim for all property damage and out-of-pocket expenses incurred as to any losses for vehicular damage, which are in excess of the outstanding financial obligations owed on the vehicle she owned and operated on May 22, 2019, which was involved in the crash and collision of May 22, 2019, and if applicable for any and all out-of-pocket expenses associated with a rental vehicle and/or a leased vehicle, which said expenses were incurred as a result of the out of service condition of Claimant's vehicle as a result of the damages sustained by the Claimant's vehicle in the accident.

The Claimant, JESSICA MORALES, makes a claim for pain and suffering, personal and emotional injuries, property damages and economic loss, suffered and or to be sustained by said Claimant which she sustained in the aforesaid accident as a result of the reckless disregard, carelessness and/or negligence of the COUNTY OF ERIE by and through its agents, servants and/or employees of aforesaid. The Claimant, JESSICA MORALES, also makes a claim for pain and suffering, personal and emotional injuries, property damages and economic loss, suffered and or to be sustained by said Claimant, in the aforesaid crash and collision, as a result of the negligent hiring, training and/or instruction of it's agents, servants and/or employees as to the proper and safe manner of operating their respective vehicles. The Claimant, JESSICA MORALES, also makes a claim for pain and suffering, personal and emotional injuries, property damages and economic loss, suffered and or to be sustained by said Claimant, in the aforesaid crash and collision, as a result of the negligent maintenance, inspection, servicing and/or repair of their respective vehicles.

The Claimant, JESSICA MORALES, would further make claim for any and all other applicable damages which she may be entitled to receive as a result of the crash and collision that occurred on May 22, 2019.

DAMAGES: As a result of the negligence and want of care on the part of Respondents, the Claimant, JME MORALES, was caused to sustain damages in accordance with his derivative claim for the loss of the services, society, consortium and companionship of his wife, JESSICA MORALES.

8. It is alleged that the subject motor vehicle crash occurred without any negligence or carelessness on the part of the Claimants.

9. The Claimant makes demand of the COUNTY OF ERIE for payment of such claim within the statutory period provided. That upon the failure of the COUNTY OF ERIE to pay such claim within the statutory period provided therein, it is the intention of the Claimant to commence an action against the COUNTY OF ERIE and such others as may be liable therefore and to recover damages sustained by this Claimant as hereinbefore set forth.

TO: COUNTY OF ERIE

WHEREFORE, the Claimant, JESSICA MORALES, respectfully requests that her Claim be adjusted and paid as provided by law.

DATED: 08/15, 2019

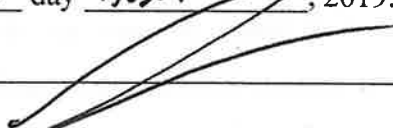

JESSICA MORALES

STATE OF NEW YORK)
CITY OF BUFFALO) S S . . .

I, JESSICA MORALES, being duly sworn, deposes and says: That she is the Claimant above-named in the within action; that she has read the foregoing NOTICE OF CLAIM and knows the contents thereof; that same is true to her own knowledge except as to those matters stated to be alleged on information and belief, and as to those matters, she believes it to be true.


JESSICA MORALES

Sworn to before me this
15th day Aug 14, 2019.


JOSEPH C. TODORO
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 3/23/21

TO: COUNTY OF ERIE

WHEREFORE, the Claimant, JME MORALES, respectfully requests that his Claim be adjusted and paid as provided by law.

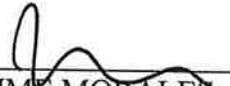
DATED: August 15, 2019



JME MORALES

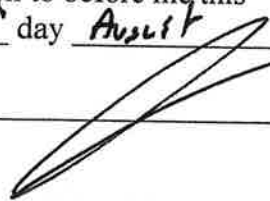
STATE OF NEW YORK)
CITY OF BUFFALO) S S . . .

I, JME MORALES, being duly sworn, deposes and says: That he is the Claimant above-named in the within action; that he has read the foregoing NOTICE OF CLAIM and knows the contents thereof; that same is true to his own knowledge except as to those matters stated to be alleged on information and belief, and as to those matters, he believes it to be true.



JME MORALES

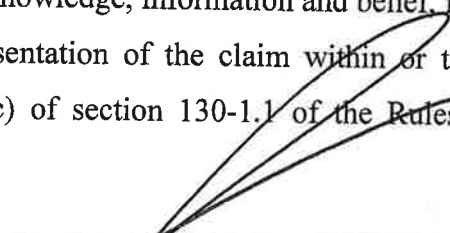
Sworn to before me this
15th day August, 2019.



JOSEPH C. TODORO
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 8/23/21

TO: COUNTY OF ERIE

I hereby certify that, to the best of my knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the presentation of the claim within or the contentions therein are not frivolous as defined in subsection (c) of section 130-1.1 of the Rules of the Chief Administrator (22NYCRR).



Joseph C. Todoro, Esq.
SPADAFORA & VERRASTRO, LLP
2 Symphony Circle
Buffalo, New York 14201
(716) 854-1111

POLICE ACCIDENT REPORT

MV-104A (6/04)

Local Codes
19-930050
KJAMI69KT64P

AMENDED REPORT

19
20
21
22
23
24
25
26
27
28
30
USE
OVER
PAGE
N

1	Accident Date Month: 5, Day: 22, Year: 2019	Day of Week Wednesday	Military Time 11:28	No. of Vehicles 2	No. Injured 1	No. Killed 0	Not Investigated at Scene <input type="checkbox"/>	Left Scene <input type="checkbox"/>	Police Photos Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
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2	VEHICLE 1 - Driver License ID Number: 779035739 Driver Name: YEATES, ROBERT W Address: 3333 JOSHUA LANE City: N. TONAWANDA, NY, Zip: 14120	State of Lic. NY	VEHICLE 2 - Driver License ID Number: 555684643 Driver Name: MORALES, JME G Address: 351 ROBERT DR City: NORTH TONAWANDA, NY, Zip: 141200000	State of Lic. NY
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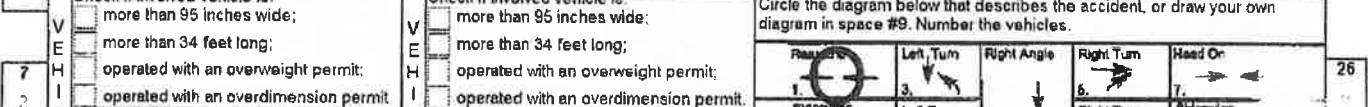
3	Date of Birth: 3/21/1963, Sex: M, Unlicensed: <input type="checkbox"/>	No. of Occupants: 01, Public Property Damaged: <input type="checkbox"/>	Date of Birth: 3/2/1980, Sex: M, Unlicensed: <input type="checkbox"/>	No. of Occupants: 03, Public Property Damaged: <input type="checkbox"/>
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4	County: ERIE COUNTY, NY	Name: MORALES, JME G, Date of Birth: 3/2/1980, Sex: M
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5	Plate Number: EY66574, State of Reg: NY, Vehicle Year & Make: 2012 CHEV, Vehicle Type: 4DSD, Ins. Code: 994	Plate Number: JGT3834, State of Reg: NY, Vehicle Year & Make: 2016 MAZD, Vehicle Type: 4DSD, Ins. Code: 478
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6	Violation Section(s):	Violation Section(s):
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7	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 that describes the accident, or draw your own diagram in space #9. Number the vehicles.
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8	VEHICLE 1 DAMAGE CODES Box 1 - Point of Impact: 3, 1, 3, 2 Box 2 - Most Damage: 2, 3, 4, 5 more damage codes: 2, 4, 5	VEHICLE 2 DAMAGE CODES Box 1 - Point of Impact: 9, 1, 9, 2 Box 2 - Most Damage: 8, 3, 4, 5 more damage codes: 8, 10, 5
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9	Vehicle By: RUSINIAK Towed To: BASIL FORD VEHICLE DAMAGE CODING: 1-13 SEE DIAGRAM ON RIGHT. 14. UNDERCARRIAGE 17. DEMOLISHED 15. TRAILER 18. NO DAMAGE 16. OVERTURNED 19. OTHER	Vehicle By: Towed To:
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10	Reference Marker: 6, 2, 5, 3, 0, 3, 4, 0, 4, 0	Coordinates (if available): Latitude/Northing: Longitude/Easting:	Place Where Accident Occurred: County: ERIE, City/Village/Town: AMHERST Road on which accident occurred: 2139 NIAGARA FALLS at 1) intersecting street: WILLOWRIDGE DRIVE or 2) N S of E W
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Accident Description/Officer's notes
VEHICLE #2 WAS NORTHBOUND ON NIAGARA FALLS BLVD IN LANE #3 AND STOPPED FOR THE RED LIGHT AT WILLOWRIDGE DRIVE. VEHICLE #1 WAS NORTHBOUND ON NIAGARA FALLS BLVD IN LANE #2 WHEN A DUMP TRUCK IN LANE #1 MOVE INTO LANE #3 SUDDENLY, DRIVER #1 QUICKLY CHANGED LANES INTO LANE #3 TO AVOID STRIKING THE DUMP TRUCK AND COLLIDED WITH VEHICLE #2. DRIVER #1 STATED TRAFFIC STOPPED SUDDENLY. VEHICLE #1 INSURANCE COMPANY--- GOVERNMENT SELF INSURED. DRIVER

ALL INVOLVED	8	9	10	11	12	13	14	15	16	17 BY	TO 18	Names of all involved	Date of Death Only
A	1	1	A	1	56	M	-	-	-			YEATES, ROBERT W	
B	2	1	4	1	39	M	-	-	-			MORALES, JME G	
C	2	3	4	1	35	F	09	04	6	11594EV	1423	MORALES, JESSICA R	
D	2	6	5	1	3	F	-	-	-			MORALES, ELAINA A	

11	Officer's Rank and Signature: R INV Print Name in	Badge/ID No.	NCIC No.	Precinct/Post Troop/Zone	Station/Beat Sector	Reviewing Officer: LAMIDA, S	Date/Time Reviewed: 05/22/2019
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New York State Department of Motor Vehicles
POLICE ACCIDENT REPORT
 MV-104A (6/04)

Local Codes
 19-930050
 RJAM169KT64P

AMENDED REPORT

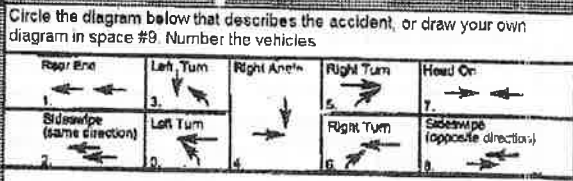
1	Accident Date Month: 5, Day: 22, Year: 2019	Day of Week Wednesday	Military Time 11:26	No. of Vehicles 2	No. Injured 1	No. Killed 0	Not Investigated at Scene <input type="checkbox"/>	Left Scene <input type="checkbox"/>	Police Photos <input type="checkbox"/>	20
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2	VEHICLE - Driver License ID Number Driver Name - Family as listed on license Address (Include the Apt. and Street)	VEHICLE - Driver License ID Number Driver Name - Family as listed on license Address (Include the Apt. and Street)	BICYCLIST <input type="checkbox"/>	PEDESTRIAN <input type="checkbox"/>	OTHER PEDESTRIAN <input type="checkbox"/>	21
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3	City or Town State Zip Code	City or Town State Zip Code	22
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4	Make/Model	Make/Model	23
5	Year	Year	24
6	Color	Color	25

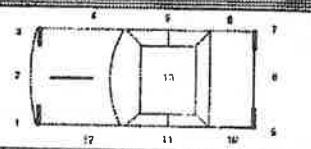
7	VEHICLE DAMAGE CODING Box 1 - Point of Impact Box 2 - Most Damage Circle 1-13 Marked by Forward To	VEHICLE DAMAGE CODING Box 1 - Point of Impact Box 2 - Most Damage Circle 1-13 Marked by Forward To	26
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ACCIDENT DIAGRAM

8
 Cost of repairs to any one vehicle will be more than \$1000.
 Unknown/Unable to determine Yes No

VEHICLE DAMAGE CODING:
 1-13 SEE DIAGRAM ON RIGHT.
 14. UNDERCARRIAGE 17. DEMOLISHED
 15. TRAILER 18. NO DAMAGE
 16. OVERTURNED 19. OTHER



Reference Marker	Coordinates (if available) Latitude/Northing	Place Where Accident Occurred: County <u>ERIE</u> Road on which accident occurred at 1) intersecting street or 2) _____ of _____ feet _____ miles	City <input type="checkbox"/> Village <input type="checkbox"/> Town <input type="checkbox"/> of _____ (Route Number or Street Name) _____ (Route Number or Street Name) (Milepost, Nearest Intersecting Route Number or Street Name)	29
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Accident Description/Officer's notes
 #1 PHONE # 716-870-9499. VEHICLE #2 INSURANCE COMPANY---ALLSTATE INSURANCE COMPANY---POLICY #013790588.

10	11	12	13	14	15	16	17 BY	TO 18	Names of all Involved	Date of Death Only

Signature: <i>L. Lawida</i>	Badge/ID No.	NCIC No.	Precinct/Post Troop/Zone	Station/Beat Sector	Reviewing Officer LAWIDA, S	Date/Time Reviewed 05/22/2019
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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, 2019

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, Jibreel v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Jibreel Williams 6975 PA-59 Lewis Run, Pennsylvania 16738
Claimant's attorney:	Nicholas J. Shemik, Esq. The Dietrich Law Firm 1323 North Forest Road Williamsville, New York 14221

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

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

MMP:dld
Enc.



STATE OF CALIFORNIA
LEGISLATURE
COMMITTEE ON GOVERNMENT

[The following text is extremely faint and illegible, appearing to be a list of items or a report.]

STATE OF NEW YORK
COURT OF CLAIMS

JIBREEL WILLIAMS

Claimant,

NOTICE OF CLAIM

vs.

ERIE COUNTY,

Respondent.

PLEASE TAKE NOTICE that the above-named claimant claims and demands from Erie County in the State of New York, recompense for personal injuries sustained by the claimant by reason of the wrongful, unlawful, careless acts and omissions of the respondent, its agents, servants and/or employees and in support thereof the claimant states:

1. The address of the claimant is 6975 PA-59, Lewis Run, Pennsylvania 16738.
2. The claimant is represented by The Dietrich Law Firm P.C., 1323 North Forest Road, Williamsville, New York 14221 (716) 839-3939.
3. The within claimant seeks compensation for the wrongful judgment of conviction under indictment number 02840-2006, entered in New York State Supreme Court (Wolfgang, J.S.C.) on July 9, 2007, involving a third-degree criminal possession of a weapon conviction, that the claimant erroneously and improperly entered as a result of the improper actions of the agents, servants and/or employees of Erie County, the State of New York. Said judgment of conviction was vacated under

C.P.L. 440.10 on or about November 8, 2018 by New York State Supreme Court Justice Hon. Christopher J. Burns. A copy of said Order is attached hereto and incorporated herein as **Exhibit A**.

4. As a result of the original judgment of conviction, the within claimant was sentenced to a determinative prison term of three-and-one-half-years; said sentence was served in full by the claimant. Said claimant also was sentenced to five-years of post-release supervision of which he served three-years.

5. The within claimant brought a Motion to Vacate his conviction and judgment and sentence under CPL 440.10 (1)(b), (1)(g-1) and (1)(h), which were not opposed by the People of the State of New York in their responding papers dated October 25, 2018 pursuant to **Exhibit A**. Said Motion was hence granted under each of the aforementioned sections of CPL 440.10.

6. The respondent, Erie County in the State of New York is liable to the Claimant by reason of the wrongful, unlawful, careless acts and omissions of the respondent, namely the failure to turn over DNA evidence exonerating the claimant despite having it, upon information and belief, three months before the entry of the subject judgment of conviction as outlined in the attached motion papers (without exhibits) (**Exhibit B**) of the claimant in the Motion to Vacate his Conviction and Sentence.

7. The aforementioned evidence proves the claimant's innocence of the crime.

8. The documents attached hereto and incorporated herein as **Exhibit B** outline in great detail, unopposed by Erie County or the State of New York, the factual

allegations giving rise to the within Claim, and the misconduct of the respondent that caused substantial, irreversible damages to the claimant for which he now seeks fair and just compensation. The claimant hereby incorporates the procedural history outlined in **Exhibit B** herein.

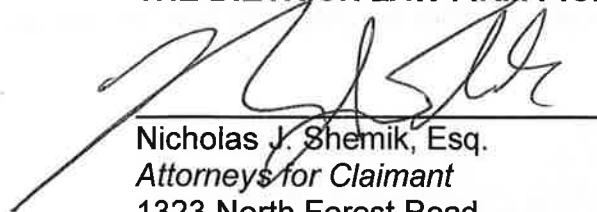
9. That prior to the July 9, 2007 judgment of conviction, the respondent and its employees, officers and agents had actual notice of the aforementioned DNA exonerating evidence described above and failed to disclose it to the claimant.

10. By virtue of the actions of the employees, agents and/or servants of Erie County in the State of New York the claimant has suffered personal injuries, loss of enjoyment of life, and economic losses, which are to date undetermined.

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

Dated: August 6, 2019

THE DIETRICH LAW FIRM P.C.



Nicholas J. Shemik, Esq.
Attorneys for Claimant
1323 North Forest Road
Williamsville, New York 14221
Tel: (716) 839-3939

STATE OF NEW YORK : SUPREME COURT
COUNTY OF ERIE

JIBREEL WILLIAMS,

Claimant,

VERIFICATION

vs.

ERIE COUNTY,

Respondent.

I, Jibreel Williams, being duly sworn, deposes and says, that the deponent is the claimant in the within action; that the deponent has read the foregoing Notice of Claim and knows the contents hereof; that the same is true to the deponent's knowledge, except as to the matters therein stated to be alleged upon information and belief and that as to those matters deponent believes them to be true.

J. Williams

JIBREEL WILLIAMS

Sworn to before me this 12th day of August, 2019.

Cheri Harrington

NOTARY PUBLIC

Commonwealth of Pennsylvania - Notary Seal
Cheri R. Harrington, Notary Public
McKean County
My commission expires April 16, 2022
Commission number 1279075
Member, Pennsylvania Association of Notaries

STATE OF NEW YORK
COURT OF CLAIMS

JIBREEL WILLIAMS

Claimant,

NOTICE OF CLAIM

vs.

ERIE COUNTY,

Respondent.

PLEASE TAKE NOTICE that the above-named claimant claims and demands from Erie County in the State of New York, recompense for personal injuries sustained by the claimant by reason of the wrongful, unlawful, careless acts and omissions of the respondent, its agents, servants and/or employees and in support thereof the claimant states:

1. The address of the claimant is 6975 PA-59, Lewis Run, Pennsylvania 16738.
2. The claimant is represented by The Dietrich Law Firm P.C., 1323 North Forest Road, Williamsville, New York 14221 (716) 839-3939.
3. The within claimant seeks compensation for the wrongful judgment of conviction under indictment number 02840-2006, entered in New York State Supreme Court (Wolfgang, J.S.C.) on July 9, 2007, involving a third-degree criminal possession of a weapon conviction, that the claimant erroneously and improperly entered as a result of the improper actions of the agents, servants and/or employees of Erie County, the State of New York. Said judgment of conviction was vacated under

C.P.L. 440.10 on or about November 8, 2018 by New York State Supreme Court Justice Hon. Christopher J. Burns. A copy of said Order is attached hereto and incorporated herein as **Exhibit A**.

4. As a result of the original judgment of conviction, the within claimant was sentenced to a determinative prison term of three-and-one-half-years; said sentence was served in full by the claimant. Said claimant also was sentenced to five-years of post-release supervision of which he served three-years.

5. The within claimant brought a Motion to Vacate his conviction and judgment and sentence under CPL 440.10 (1)(b), (1)(g-1) and (1)(h), which were not opposed by the People of the State of New York in their responding papers dated October 25, 2018 pursuant to **Exhibit A**. Said Motion was hence granted under each of the aforementioned sections of CPL 440.10.

6. The respondent, Erie County in the State of New York is liable to the Claimant by reason of the wrongful, unlawful, careless acts and omissions of the respondent, namely the failure to turn over DNA evidence exonerating the claimant despite having it, upon information and belief, three months before the entry of the subject judgment of conviction as outlined in the attached motion papers (without exhibits) (**Exhibit B**) of the claimant in the Motion to Vacate his Conviction and Sentence.

7. The aforementioned evidence proves the claimant's innocence of the crime.

8. The documents attached hereto and incorporated herein as **Exhibit B** outline in great detail, unopposed by Erie County or the State of New York, the factual

allegations giving rise to the within Claim, and the misconduct of the respondent that caused substantial, irreversible damages to the claimant for which he now seeks fair and just compensation. The claimant hereby incorporates the procedural history outlined in **Exhibit B** herein.

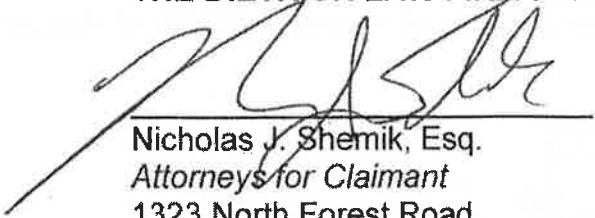
9. That prior to the July 9, 2007 judgment of conviction, the respondent and its employees, officers and agents had actual notice of the aforementioned DNA exonerating evidence described above and failed to disclose it to the claimant.

10. By virtue of the actions of the employees, agents and/or servants of Erie County in the State of New York the claimant has suffered personal injuries, loss of enjoyment of life, and economic losses, which are to date undetermined.

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

Dated: August 6, 2019

THE DIETRICH LAW FIRM P.C.



Nicholas J. Shemik, Esq.

Attorneys for Claimant

1323 North Forest Road

Williamsville, New York 14221

Tel: (716) 839-3939

STATE OF NEW YORK : SUPREME COURT
COUNTY OF ERIE

JIBREEL WILLIAMS,

Claimant,

VERIFICATION

vs.

ERIE COUNTY,

Respondent.

I, Jibreel Williams, being duly sworn, deposes and says, that the deponent is the claimant in the within action; that the deponent has read the foregoing Notice of Claim and knows the contents hereof; that the same is true to the deponent's knowledge, except as to the matters therein stated to be alleged upon information and belief and that as to those matters deponent believes them to be true.



JIBREEL WILLIAMS

Sworn to before me this 12th day of August, 2019.



NOTARY PUBLIC

Commonwealth of Pennsylvania - Notary Seal
Cheri R. Harrington, Notary Public
McKean County
My commission expires April 16, 2022
Commission number 1279075
Member, Pennsylvania Association of Notaries



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, 2019

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>Blessing, John v. County of Erie, et al.</i>
Document Received:	Notice of Claim
Name of Claimant:	John Blessing 108 Sable Park East Amherst, New York 14051
Claimant's attorney:	Denis J. Bastible, Esq. Cellino & Barnes, PC 350 Main Street 2500 Main Place Tower 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.



UNITED STATES OF AMERICA

DEPARTMENT OF JUSTICE

COMMUNICATIONS SECTION

MEMORANDUM

TO: SAC, [illegible]

DATE: [illegible]

RE: [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

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[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

JOHN BLESSING

Claimant,

v.

TOWN OF AMHERST
TOWN OF AMHERST ENGINEERING
DEPARTMENT
ERIE COUNTY WATER AUTHORITY,
COUNTY OF ERIE,

Respondents,

NOTICE OF CLAIM

This paper received at the
Erie County Attorney's Office
from Joseph Sarabon
the 27 day of August, 2019
at 11:30 a.m./p.m.

J. M.
Assistant County Attorney

PLEASE TAKE NOTICE, that the above named claimant claims and demands from the respondents, TOWN OF AMHERST, TOWN OF AMHERST ENGINEERING DEPARTMENT, ERIE COUNTY WATER AUTHORITY and 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 thereof, the claimant states:

1. Claimant's address is 108 Sable Park, East Amherst, NY 14051.
2. The claimant is represented by Cellino & Barnes, P.C. with offices located at 2500 Main Place Tower, 350 Main Street Buffalo, New York 14202, telephone (716) 888-8888.
3. The incident in which personal injuries were sustained by the claimant occurred on or about June 29, 2019 at approximately 12:20 p.m.

4. The claimant was operating his bicycle through the Mobil Gas Station located at 1490 Dodge Road, Amherst, New York. In the driveway apron and sidewalk of the gas station on the Dodge Road side of the property a sunken storm drain grate was in place which claimant rode over and was caused to be thrown from his bicycle.

5. The claimant sustained serious physical injuries consisting of a shattered left acetabulum and significant contusions and abrasions of the left arm and elbow.

6. The claimant has received medical treatment at Millard Fillmore Hospital and is currently in inpatient rehabilitation at the Weinberg Campus in Amherst, New York.

7. The full extent of claimant's injuries is not currently known. Upon information and belief, claimant will be obligated to incur further medical expenses including drugs, medicines and prosthetic devices, the amount of which cannot be reasonably calculated at this time. Additionally, it is expected that Claimant will suffer lost wages in an amount to be determined.

8. Respondents TOWN OF AMHERST, TOWN OF AMHERST ENGINEERING DEPARTMENT, ERIE COUNTY WATER AUTHORITY and COUNTY OF ERIE had actual notice of the dangerous and defective sunken storm drain in the driveway apron located at 1490 Dodge Road in East Amherst.

9. Respondents TOWN OF AMHERST, TOWN OF AMHERST ENGINEERING DEPARTMENT, ERIE COUNTY WATER AUTHORITY and COUNTY OF

ERIE had constructive notice of the dangerous and defective sunken storm drain in the driveway apron located at 1490 Dodge Road in East Amherst.

10. Respondents TOWN OF AMHERST, TOWN OF AMHERST ENGINEERING DEPARTMENT, ERIE COUNTY WATER AUTHORITY and COUNTY OF ERIE had negligently inspected the sunken storm drain in the driveway apron located at 1490 Dodge Road in East Amherst.

11. Respondents TOWN OF AMHERST, TOWN OF AMHERST ENGINEERING DEPARTMENT, ERIE COUNTY WATER AUTHORITY and COUNTY OF ERIE had negligently maintained the sunken storm drain in the driveway apron located at 1490 Dodge Road in East Amherst.

12. Respondents TOWN OF AMHERST, TOWN OF AMHERST ENGINEERING DEPARTMENT, ERIE COUNTY WATER AUTHORITY and COUNTY OF ERIE had negligently constructed the sunken storm drain in the driveway apron located at 1490 Dodge Road in East Amherst.

13. Respondents TOWN OF AMHERST, TOWN OF AMHERST ENGINEERING DEPARTMENT, ERIE COUNTY WATER AUTHORITY and COUNTY OF ERIE had negligently placed the sunken storm drain in the driveway apron located at 1490 Dodge Road in East Amherst.

14. Respondents TOWN OF AMHERST, TOWN OF AMHERST ENGINEERING DEPARTMENT, ERIE COUNTY WATER AUTHORITY and COUNTY OF ERIE had failed to timely correct the dangerous and defective sunken storm drain in the driveway apron located at 1490 Dodge Road in East Amherst.

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

DATED: Buffalo, New York
August 13, 2019

Yours, etc.,

CELLINO & BARNES, P.C.

By: 

Denis J. Bastible, Esq.
Attorneys for Plaintiff
2500 Main Place Tower
350 Main Street
Buffalo, NY 14202-3725
(716) 888-8888

TO: TOWN OF AMHERST
Amherst Town Clerk
5583 Main Street
Williamsville, New York 14221

TOWN OF AMHERST ENGINEERING DEPARTMENT
5583 Main Street
Williamsville, New York 14221

TOWN OF AMHERST ENGINEERING DEPARTMENT
1100 N Forest Rd
Williamsville, NY 14221

ERIE COUNTY WATER AUTHORITY
295 Main Street, Room 350
Buffalo, New York 14203

ERIE COUNTY WATER AUTHORITY
92 Franklin Street, Room 1634
Buffalo, New York 14202

COUNTY OF ERIE
92 Franklin Street, Room 1634
Buffalo, New York 14202

VERIFICATION

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

JOHN BLESSING 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.



JOHN BLESSING

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

On the 13th day of August, in the year 2019 before me, the undersigned, personally appeared John Blessing, 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 he 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.

DENNIS BASTIBLE
No. 0886181841
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 02/11/2020



Notary Public/Commissioner of Deeds

SECTION 1

1. The first part of the document is a title page which contains the title, author, and date of the document.

2. The second part of the document is the introduction, which provides a brief overview of the subject matter and the objectives of the study.



3. The third part of the document is the main body, which contains the detailed discussion and analysis of the topic.

4. The fourth part of the document is the conclusion, which summarizes the findings of the study and provides recommendations for further research.



5. The fifth part of the document is the references, which list the sources used in the study.



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, 2019

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>Koval, Nancy v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Nancy Koval 4485 Plank Road Lockport, New York 14094
Claimant's attorney:	Robert H. Perk, Esq. 995 Elmwood Avenue Buffalo, New York 14222

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.



STATE OF NEW YORK

IN SENATE

JANUARY 12, 1911

REPORT OF THE COMMISSIONERS OF THE LAND OFFICE
IN RESPONSE TO A RESOLUTION PASSED BY THE SENATE
ON JANUARY 10, 1910

ALBANY: PUBLISHED BY THE STATE PRINTING OFFICE, 1911.

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

In the Matter of the Claim of

NANCY KOVAL

against the

COUNTY OF ERIE

TO: COUNTY OF ERIE

PLEASE TAKE NOTICE that **NANCY KOVAL**, has and hereby makes a claim, against the **COUNTY OF ERIE**, for damages sustained by **NANCY KOVAL** on account of physical injuries sustained to her person and in support thereof the claimant states:

1. The post office address of the claimant is 4485 Plank Road, Lockport, New York.
2. The name of the attorney for the claimant is **ROBERT H. PERK, ESQ.**, whose post office address and telephone number is 995 Elmwood Avenue, Buffalo, New York 14222, (716) 883-0355.
3. The claim of **NANCY KOVAL** is for personal injuries sustained by her through the carelessness and negligence of the **COUNTY OF ERIE**, its agents, servants and employees.
4. The date when the claim arose and the time when the damages hereinafter alleged were sustained was on the 9th day of June, 2019 at approximately 1:00 p.m. in the afternoon of that day.
5. The particular place and location wherein the claimant sustained her injuries resulting in the claim herein was June 9, 2019 at approximately 1:00 p.m. the claimant, **NANCY KOVAL**

This paper received at the
Erie County Attorney's Office
from Robert H. Perk on

the 3rd day of June, 2019
at 1:15 a.m./p.m.

[Signature]
Assistant County Attorney

NOTICE OF CLAIM

was riding a bike on the bike path in the Town of Amherst, **COUNTY OF ERIE** adjacent to Tonawanda Creek. Upon approaching a bridge on the bike path across from approximately 2725 Tonawanda Creek, Amherst, New York, claimant observed that the bridge was closed and had to leave the path while heading in a westbound direction. Claimant rode her bike in the street adjacent to the closed bridge, her path is depicted in Exhibit A. While riding down a grass incline/path, claimant was heading back to the bike path when she struck a tree stump which was not visible as it was observed by long grass around it, and was in no way marked when she struck the stump causing her bike to tip and her to fall violently to the ground.

6. That the aforesaid incident and the injuries sustained by the claimant **NANCY KOVAL** were sustained by reason of the negligence, carelessness and recklessness of the **COUNTY OF ERIE**, its officers, agents, servants, employees and/or others for whom the Town of Amherst is responsible amongst the acts of negligence, carelessness and recklessness of the **COUNTY OF ERIE**:

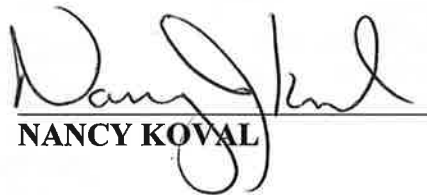
- a) Failing to provide a proper path and/or detour path for those using the bike path who had to temporarily exit it because the bridge was closed.
- b) Causing, creating and contributing to a dangerous condition by cutting down a tree, leaving a low stump which was not visible in the grass.
- c) Failing to remove or mark the stump which was a hazard and a danger to persons, including plaintiff, as they rode back to the path.
- d) Failure to place any signs or warnings of the dangerous condition.
- e) Allowing grass to grow around, hide and obscure any view of the stump.
- f) Causing, creating and contributing to an unsafe condition created the presence of the stump.

g) That the County of Erie had both actual and constructive notice of the dangerous condition.

7. By reason of the carelessness, and recklessness, of the **COUNTY OF ERIE**, its officers, agents, servants, employees and others for whom they are responsible claimant, **NANCY KOVAL** was rendered sick, sore and disabled, sustained various and diverse injuries, considerable pain and suffering, caused to incur medical, hospital and other expenses, claimant has and will be prevented from attending to her usual recreational duties.

8. The claimant's claim is for an amount of damages in excess of the jurisdictional limits provided in any other Court of the State of New York other than the Supreme Court of the State of New York.

WHEREFORE, claimant requests that the **COUNTY OF ERIE** honor and pay the claim of **NANCY KOVAL**.


NANCY KOVAL

**STATE OF NEW YORK
COUNTY OF ERIE**

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

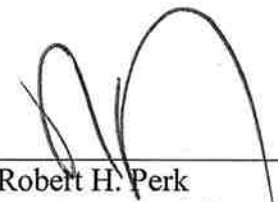

NANCY KOVAL

Sworn to before me this
3 day of September, 2019



Notary Public

ROBERT H. PERK
NOTARY PUBLIC, STATE OF NEW YORK
Qualified in Erie County
Commission Expires September 25, 2021



Robert H. Perk
Attorney for Claimant
Office and Post Office Address
995 Elmwood Avenue
Buffalo, New York 14222
716-883-0355



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 17, 2019

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>Bernhardt, Jeffrey J. v. County of Erie, ECISO and Deputies John Dunn, Paul Reed and Kenneth Achtyl</i>
Document Received:	Notice of Claim
Name of Claimant:	Jeffrey J. Bernhardt 7455 Crumb Hill Road East Otto, New York 14729
Claimant's attorney:	Emily F. Janicz, Esq. Lewis & Lewis, PC 800 Cathedral Park Tower 37 Franklin Street Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

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

MMP:dld
Enc.



COMMITTEE ON

THE FUTURE OF THE

CONSTITUTION

REPORT

Presented to the
House of Representatives
in the 107th Congress
Second Session

The Committee on the Future of the Constitution was organized on July 1, 2001, to study and report on the future of the United States Constitution. The Committee's work is guided by the following principles:

- 1. The Constitution is the foundation of our nation and must be preserved and protected.
- 2. The Constitution is a living document that must be able to adapt to the needs of a changing society.
- 3. The Constitution is the source of our rights and liberties and must be able to protect them.
- 4. The Constitution is the source of our government and must be able to govern effectively.
- 5. The Constitution is the source of our unity and must be able to bind us together.

STATE OF NEW YORK
SUPREME COURT :: COUNTY OF ERIE

JEFFREY J. BERNHARDT

Claimant,

-against-

COUNTY OF ERIE,
ERIE COUNTY SHERIFF'S DEPARTMENT,
DEPUTY JOHN DUNN,
DEPUTY PAUL REED, and
DEPUTY KENNETH P. ACHTYL

Respondents.

NOTICE OF CLAIM

Index No.:

This paper received at the
Erie County Attorney's Office
from Douglas DiFilippo
the 12th day of Sept., 2019
at 12:57 a.m./p.m.
DiFilippo
Assistant County Attorney

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

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

DEPUTY JOHN DUNN
10 Delaware Avenue
Buffalo, New York 14202

DEPUTY PAUL REED
10 Delaware Avenue
Buffalo, New York 14202

DEPUTY KENNETH P. ACHTYL
10 Delaware Avenue
Buffalo, New York 14202

PLEASE TAKE NOTICE, that JEFFREY J. BERNHARDT by and through his attorneys Lewis & Lewis, PC., hereby make claims and demands against the COUNTY OF

ERIE, ERIE COUNTY SHERIFF'S DEPARTMENT, DEPUTY JOHN DUNN, DEPUTY PAUL REED and DEPUTY KENNETH P. ACHTYL as follows:

1. The name and post-office address of the claimant is as follows: JEFFREY J. BERNHARDT, 7455 Crumb Hill Road, East Otto, New York 14729. The name, post-office address, and telephone number of the claimant's attorney is LEWIS & LEWIS, P.C., Michael T. Coutu, Esq., of Counsel, 800 Cathedral Park Tower, 37 Franklin Street, Buffalo, New York 14202; (716) 854-2100.

2. The claims of Claimant are: assault, battery, intentional infliction of emotional distress, false imprisonment, false arrest, recklessness, negligence, negligent training, negligent supervision, failure to instruct and train, and deprivation of civil rights under color of state law.

3. The facts and circumstances of this claim are as follows: that on June 14, 2018, while acting pursuant to the authority of the COUNTY OF ERIE, as members of the ERIE COUNTY SHERIFF'S DEPARTMENT, and in their official capacity as deputy sheriffs, the respondents, DEPUTY JOHN DUNN, DEPUTY PAUL REED and DEPUTY KENNETH P. ACHTYL subjected the claimant, JEFFREY BERNHARDT, to deprivation of the rights and privileges secured and protected by the Constitution of the Slaws of the United States, specifically the constitutional right to be free of unlawful searches and seizures, the right to be free from any excessive use of force against his person during the course of an arrest and of the privileges and immunities guaranteed citizens of the United States by the United State Constitution, Amendments, 4,5,8 and § of the 14th Amendment. DEPUTY JOHN DUNN, DEPUTY PAUL REED and DEPUTY KENNETH P. ACHTYL either alone and or in concert, did assault and wrongfully arrest Claimant on Route 219 (at approximately 14445 Route 219 ST – also known as South Cascade Street) in the Town of Springville, County of Erie and State of

New York. The assault, wrongful arrest and excessive force caused serious and permanent injuries including facial injuries, shoulder injuries, neck injuries and other physical and emotional injuries.

4. Upon information and belief, the infliction of the foregoing injuries constituted a deprivation of the rights and privileges of Claimant, secured and protected to him by the Constitution and laws of the United States. As a result of the aforesaid actions, the claimant, JEFFREY J. BERNHARDT, was unlawfully assaulted and otherwise tortuously, negligently and maliciously harmed by the actions of Respondents, all in violation of the aforementioned laws and regulations and of Title 42 of the United States Code § 1983, et. Seq.

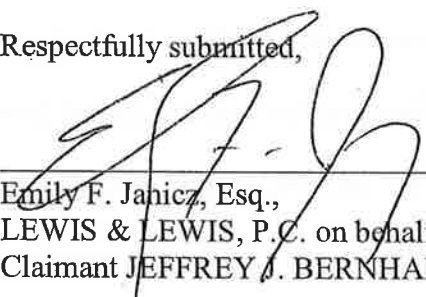
5. As a result of the aforesaid incident, Claimant suffered certain severe, permanent and painful injuries, internal as well as external, was rendered sick, sore, lame and disabled, sustained pain and suffering and shock to the nerves and nervous system, was caused to seek medical aid and attention, was caused to and did incur great medical expense, will be compelled to spend large sums of money for future medical expenses and was caused to be incapacitated from performing his usual activities.

6. The items of damage and injuries sustained by JEFFREY J. BERNHARDT as a result of the conduct of COUNTY OF ERIE, ERIE COUNTY SHERIFF'S DEPARTMENT, DEPUTY JOHN DUNN, DEPUTY PAUL REED and DEPUTY KENNETH P. ACHTYL are as follows: medical expenses; painful bodily injury; conscious physical pain and suffering; loss of enjoyment of life; the claimant, JEFFREY J. BERNHARDT has and will incur further medical expenses as a result of this incident; and claimant is entitled to an award of reasonable attorney fees on the Section 1983 claim. Upon information and belief, claimant JEFFREY J. BERNHARDT'S injuries and damages are, in all respects, permanent, progressive and ongoing

in nature relating directly to the incident, negligence, deprivation of rights and other culpable conduct described herein.

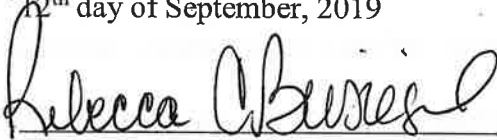
DATED: Buffalo, New York
September 12, 2019

Respectfully submitted,



Emily F. Janicz, Esq.,
LEWIS & LEWIS, P.C. on behalf of
Claimant JEFFREY J. BERNHARDT

Sworn to before me this
12th day of September, 2019



Notary Public

REBECCA A. BEISIEGEL
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 11/20/20²¹



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

September 19, 2019

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>Dublino, Mark Thomas v. Sgts. Biegaj, Dee; Deputies Thompson, Gelster; Sgts. Cross, Robinson; Deputies Giardina and Wilson</i>
Document Received:	Summons and Complaint
Name of Plaintiff:	Mark T. Dublino 18-B-0793 Auburn Correctional Facility PO Box 618 Auburn, New York 13021
Claimant's attorney:	Plaintiff 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.



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TIMOTHY B. HOWARD
SHERIFF

MARK N. WIPPERMAN
UNDERSHERIFF



SHERIFF OF ERIE COUNTY

ADMINISTRATIVE OFFICES

10 DELAWARE AVENUE
BUFFALO, NEW YORK 14202-3913
(716) 858-7618
FAX: (716) 858-7680

POLICE SERVICES

45 ELM STREET
BUFFALO, NEW YORK 14203
(716) 858-7618
FAX: (716) 858-3277
WEBSITE: <http://www.erie.gov/sheriff>

September 13, 2019

UNITED STATE DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MARK THOMAS DUBLINO

Plaintiff

SUMMONS IN A
CIVIL ACTION with attached
ORDER

Index No.: 19-CV-6269L

vs.

SGT. JUSTIN BIEGAL, et al.,

SERGEANT JSUTIN BEIGAJ, DEPUTY BRIAN THOMPSON, SGT. CROSS, DEPUTY SHAWN WILSON,
SGT. ROBINSON, DEPUTY FRANK GELSTER, DEPUTY P. GIARDINA and SGT. ROBERT DEE)

Defendants

The attached **SUMMONS IN A CIVIL ACTION** was hand-delivered to Lieutenant Jim Balys at 40 Delaware Avenue on Friday, September 13, 2019 at approximately 12:30 PM unknown server on behalf of the US Marshals Service.

Attachments

cc: Undersheriff Mark Wipperman
Chief John Greenan
County Attorney's Office

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



PS

MARK THOMAS DUBLINO,

Plaintiff,

-v-

Sgt. JUSTIN BIEGAJ, et al.,

Defendants.

19-CV-6269L
ORDER

2019 SEP 13 PM 3:02

RECEIVED
ERIE COUNTY
SHERIFFS OFFICE

INTRODUCTION

Pro se Plaintiff, Mark Thomas Dublino, an inmate incarcerated at the Auburn Correctional Facility, filed this action seeking relief under 42 U.S.C. § 1983. Docket Item 1 ("Complaint"). Plaintiff alleges that, during his prior incarceration at the Erie County Holding Center, Defendants used excessive force in violation of his rights under the Fourteenth Amendment. Following review pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(a), the Complaint was dismissed but Plaintiff was permitted to amend. Plaintiff has now filed an Amended Complaint (Docket Item 8, "Amended Complaint") and for the reasons below, service is directed.

DISCUSSION

Under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(a), this Court must screen this Complaint. Section 1915 "provide[s] an efficient means by which a court can screen for and dismiss legally insufficient claims." *Abbas v. Dixon*, 480 F.3d 636, 639 (2d Cir. 2007) (citing *Shakur v. Selsky*, 391 F.3d 106, 112 (2d Cir. 2004)). The court shall dismiss a complaint in a civil action in which a prisoner seeks redress from a governmental entity, or an officer or employee of a governmental entity, if the court determines that the action

(1) fails to state a claim upon which relief may be granted or (2) seeks monetary relief against a defendant who is immune from such relief. See 28 U.S.C. § 1915A(b)(1)-(2).

The Amended Complaint

In evaluating the Amended Complaint, the Court must accept all factual allegations as true and must draw all inferences in Plaintiff's favor. See *Larkin v. Savage*, 318 F.3d 138, 139 (2d Cir. 2003) (per curiam); *King v. Simpson*, 189 F.3d 284, 287 (2d Cir. 1999). "Specific facts are not necessary," and a plaintiff "need only 'give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" *Erickson v. Pardus*, 551 U.S. 89, 93, (2007) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007))¹; see also *Boykin v. Keycorp*, 521 F.3d 202, 213 (2d Cir. 2008) (discussing pleading standard in pro se cases after *Twombly*: "even after *Twombly*, dismissal of a pro se claim as insufficiently pleaded is appropriate only in the most unsustainable of cases."). Although "a court is obliged to construe [pro se] pleadings liberally, particularly when they allege civil rights violations," *McEachin v. McGuinnis*, 357 F.3d 197, 200 (2d Cir. 2004), even pleadings submitted pro se must meet the notice requirements of Rule 8 of the Federal Rules of Civil Procedure. *Wynder v. McMahon*, 360 F.3d 73 (2d Cir. 2004).

I. Section 1983 Claims

"To state a valid claim under 42 U.S.C. § 1983, the plaintiff must allege that the challenged conduct (1) was attributable to a person acting under color of state law, and (2) deprived the plaintiff of a right, privilege, or immunity secured by the Constitution or laws of the United States." *Whalen v. County of Fulton*, 126 F.3d 400, 405 (2d Cir. 1997) (citing *Eagleston v. Guido*, 41 F.3d 865, 875-76 (2d Cir. 1994)). "Section 1983 itself

¹ Unless otherwise indicated, case quotations omit all internal quotation marks, alterations, footnotes, and citations.

creates no substantive rights; it provides only a procedure for redress for the deprivation of rights established elsewhere." *Sykes v. James*, 13 F.3d 515, 519 (2d Cir. 1993) (citing *City of Oklahoma City v. Tuttle*, 471 U.S. 808, 816 (1985)).

To establish liability against an official under § 1983, a plaintiff must allege that individual's personal involvement in the alleged constitutional violation; it is not enough to assert that the defendant is a link in the chain of command. See *McKenna v. Wright*, 386 F.3d 432, 437 (2d Cir. 2004); *Colon v. Coughlin*, 58 F.3d 865, 873 (2d Cir. 1995). Moreover, the theory of *respondeat superior* is not available in a § 1983 action. See *Hernandez v. Keane*, 341 F.3d 137, 144 (2d Cir. 2003). But a supervisory official can be found to be personally involved in an alleged constitutional violation in one of several ways:

- (1) the defendant participated directly in the alleged constitutional violation,
- (2) the defendant, after being informed of the violation through a report or appeal, failed to remedy the wrong,
- (3) the defendant created a policy or custom under which unconstitutional practices occurred, or allowed the continuance of such a policy or custom,
- (4) the defendant was grossly negligent in supervising subordinates who committed the wrongful acts, or
- (5) the defendant exhibited deliberate indifference to the rights of inmates by failing to act on information indicating that unconstitutional acts were occurring.

Colon, 58 F.3d at 873 (citing *Wright v. Smith*, 21 F.3d 496, 501 (2d Cir. 1994)).

II. Plaintiff's Allegations

Plaintiff's factual allegations, presumed true at this stage of the proceedings, tell the following story. On March 9, 2018, Plaintiff exited the attorney conference room and Defendant Thompson ordered him to the ground and Plaintiff complied. Amended Complaint at 4. Thompson handcuffed Plaintiff and "lost control of the leashed dog which began to bite the plaintiff's legs." *Id.* Defendant Biegaj began to stomp Plaintiff's head and back. *Id.* Defendants Dee and Wilson began to stretch Plaintiff's arms "in abnormal

positions with extreme pressure." *Id.* Sergeant Cross stomped on Plaintiff's legs, ankles and feet as he continued to lay on the floor.. *Id.* The pressure applied to Plaintiff made him "unable to breathe." *Id.* One hour later, Sergeant Robinson ordered Defendants Gelster and Giardina "to 'wrench him' [and the] deputies responded by bending the plaintiff's arms and wrists with extreme pressure into the steel handcuffs." *Id.* Plaintiff was a non-sentenced prisoner at the time of the incident and was not sentenced until March 23, 2019. *Id.*

III. Analysis

A. Excessive Force Claims

Plaintiff alleges that Defendants used excessive force in violation of the Fourteenth Amendment. The standard for determining whether prison officials have used excessive physical force, in an Eighth Amendment context, was clarified by the United States Supreme Court in *Hudson v. McMillian*, 503 U.S. 1 (1992). According to *Hudson*, "the core judicial inquiry is . . . whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm." *Id.*, 503 U.S. at 7. To assess a constitutional claim, the Court must consider both the subjective and the objective components of the alleged violations. *Davidson v. Flynn*, 32 F.3d 27, 29 (2d Cir. 1994).

"A pretrial detainee's claims of unconstitutional conditions of confinement are governed by the Due Process Clause of the Fourteenth Amendment, rather than the Cruel and Unusual Punishments Clause of the Eight Amendment." *Darnell v. Pineiro*, 849 F.3d 17, 29 (2d Cir. 2017). Under either standard, the objective component considers the "seriousness of the injury." *Id.* The subjective component addresses whether the

defendant possessed the requisite state of mind while engaging in the use of force (*id.*, 503 U.S. at 6-7) and "an objective standard is appropriate in the context of excessive force claims brought by pretrial detainees pursuant to the Fourteenth Amendment." *Kingsley v. Hendrickson*, 135 S. Ct. 2466, 2476 (2015). Under the lesser, objective, Fourteenth Amendment standard, Plaintiff's allegations are sufficient at this early stage to warrant service and an answer.²

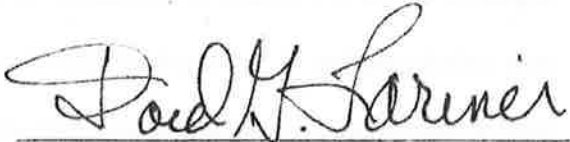
ORDER

IT HEREBY IS ORDERED, that the Clerk of Court is directed to cause the United States Marshal Service to serve copies of the Summons, Amended Complaint and this Order upon Defendants without Plaintiff's payment therefor, unpaid fees to be recoverable if this action terminates by monetary award in Plaintiff's favor;

FURTHER, that pursuant to 42 U.S.C. § 1997e(g), Defendants are directed to respond to the Complaint.

SO ORDERED.

DATED: September 3, 2019
Rochester, NY



David G. Larimer
United States District Judge

² In allowing these claims to proceed and directing a response to them, the Court expresses no opinion as to whether Plaintiff's claims can withstand a properly filed motion to dismiss or for summary judgment.



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 20, 2019

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>Duncan, John v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	John Duncan 168 Warren Avenue West Seneca, New York 14224
Claimant's attorney:	Nicholas J. Shemik, Esq. The Dietrich Law Firm 1323 North Forest Road Williamsville, New York 14221

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

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

MMP:dld
Enc.



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STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

JOHN DUNCAN,

Claimant,

NOTICE OF CLAIM

vs.

THE COUNTY OF ERIE,

Respondent.

PLEASE TAKE NOTICE that the above-named claimant claims and demands from the County of Erie, State of New York recompense for personal injuries sustained by claimant by reason of the wrongful, unlawful, negligent and careless acts and omissions of respondents, their agents, servants and/or employees, and in support thereof claimant states:

1. The address of the claimant is 168 Warren Avenue, West Seneca, New York 14224.
2. The claimant is represented by The Dietrich Law Firm P.C., 1323 North Forest Road, Williamsville, New York 14221 (716) 839-3939.
3. The incident in which personal injuries were sustained by the claimant occurred on or about September 8, 2019 at approximately 9:00 a.m. the Elma Meadows Golf Course located at 1711 Girdle Road, in the town of Elma, the County of Erie, and the State of New York. Said incident occurred when the claimant, when seated in a stationary golf cart, was struck by an employee, agent

and/or servant of the respondent with a golf cart being operated by the same. At the aforementioned date, time, and location, the aforementioned golf carts were caused to collide causing the Claimant to sustain serious personal injuries.

4. By virtue of the recklessness and/or negligence of the employees, agents and/or servants of the respondents, the claimant has incurred medical and hospital expenses, which are to date undetermined, and will incur loss of earnings, impairment of health and permanent injuries.

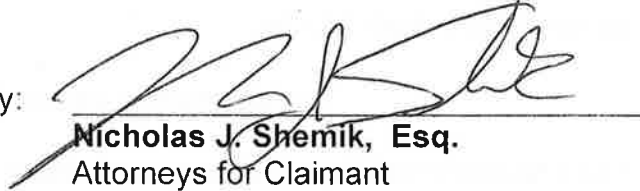
5. Upon information and belief, the claimant will be obligated further medical expenses including drugs, medicines and prosthetic devices, the amount of which cannot be reasonably calculated at this time.

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

Dated: September 13, 2019

THE DIETRICH LAW FIRM P.C.

By:



Nicholas J. Shemik, Esq.

Attorneys for Claimant
1323 North Forest Road
Williamsville, New York 14221
(716) 839-3939

STATE OF NEW YORK : SUPREME COURT
COUNTY OF ERIE

JOHN DUNCAN,

Claimant,


VERIFICATION

vs.

THE COUNTY OF ERIE,

Respondent.

I, JOHN DUNCAN, being duly sworn, deposes and says, that the deponent is the claimant in the within action; that the deponent has read the foregoing Notice of Claim and knows the contents hereof; that the same is true to the deponent's knowledge, except as to the matters therein stated to be alleged upon information and belief and that as to those matters deponent believes them to be true.



JOHN DUNCAN

Sworn to before me this 13th day of September, 2019.



NOTARY PUBLIC

NICHOLAS J SHEMIK
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 02SH6320080
Qualified in Erie County
My Commission Expires March 2, 2023

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

JOHN DUNCAN,

Claimant,

NOTICE OF CLAIM

vs.

THE COUNTY OF ERIE,

Respondent.

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and/or servant of the respondent with a golf cart being operated by the same. At the aforementioned date, time, and location, the aforementioned golf carts were caused to collide causing the Claimant to sustain serious personal injuries.

4. By virtue of the recklessness and/or negligence of the employees, agents and/or servants of the respondents, the claimant has 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, the claimant 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: September 13, 2019

THE DIETRICH LAW FIRM P.C.

By: 

Nicholas J. Shemik, Esq.

Attorneys for Claimant

1323 North Forest Road

Williamsville, New York 14221

(716) 839-3939

STATE OF NEW YORK : SUPREME COURT
COUNTY OF ERIE

JOHN DUNCAN,

Claimant,


VERIFICATION

vs.

THE COUNTY OF ERIE,

Respondent.

I, JOHN DUNCAN, being duly sworn, deposes and says, that the deponent is the claimant in the within action; that the deponent has read the foregoing Notice of Claim and knows the contents hereof; that the same is true to the deponent's knowledge, except as to the matters therein stated to be alleged upon information and belief and that as to those matters deponent believes them to be true.



JOHN DUNCAN

Sworn to before me this 13th day of September, 2019.



NOTARY PUBLIC

NICHOLAS J SHEMIK
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 02SH6320080
Qualified In Erie County
My Commission Expires March 2, 2023



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, 2019

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>Szczepanski, Kimberly v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Kimberly D. Szczepanski 6866 Chaffee Court Derby, New York
Claimant's attorney:	James E. Morris, Esq. Law Offices of James E. Morris 70 Niagara Street, Suite 404 Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

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

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Enc.



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This paper received at the
Erie County Attorney's Office
from Michael Sadler on
the 20th day of Sept., 2019
at 10:34 a.m./p.m.
J. Pettig-Seggy
Assistant County Attorney

KIMBERLY D. SZCZEPANSKI,

Claimants

vs.

COUNTY OF ERIE,

Respondent

NOTICE OF CLAIM

TO: COUNTY OF ERIE

PLEASE TAKE NOTICE that claimant, KIMBERLY D. SZCZEPANSKI, hereby makes a claim against the County of Erie as follows:

1. The Claimants' address is 6866 Chaffee Court, Hamlet of Derby, Town of Evans, County of Erie and State of New York. The Claimants' attorneys are Law Offices of James E. Morris, with offices at 70 Niagara Street, Suite 404, in the City of Buffalo, County of Erie and State of New York.
2. The claim is one for negligence which resulted in personal injuries.
3. Upon information and belief, the injuries were sustained by the Claimant, Kimberly D. Szczepanski, on or about June 23, 2019 at approximately 1:00 a.m. at Buffalo Harbor State Park, City of Buffalo, County of Erie, located at 1111 Fuhrmann Boulevard, Buffalo, New York 14203, at or near the raised concrete walkway outside the boat dock entrance gate I-K. The specific claim is that the Respondent was negligent in failing to properly design, construct, position, guard, and maintain the raised walkway leading to the boat dock at Buffalo Harbor State Park entrance; failing properly design, construct, position, guard, place proper safety railings to prevent falls and failing to post warning signs; in failing to provide proper lighting in the area; failing to replace a lighting fixture; failing to properly place and position lighting in the area and failing to maintain the lighting that was in the area near the concrete walkway. The Claimant, Kimberly D. Szczepanski, was a lawful

pedestrian when she was caused to fall due to the raised concrete walkway.

4. As a result of the negligence and want of care on the part of the Respondent, the Claimant, Kimberly D. Szczepanski, was caused to sustain serious and permanent personal injuries to her left elbow which required surgery and hardware and has as a result thereof been caused serious and severe pain and suffering, and has been caused to incur substantial medical expenses, and has been disabled.

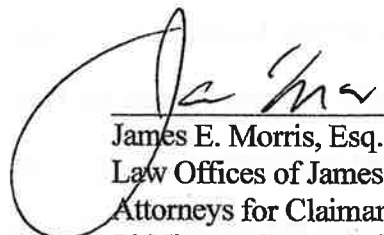
5. It is alleged that the damages to the Claimants herein occurred without any negligence or carelessness on the part of the Claimants.

6. This claim and demand are hereby presented for adjustment and payment.

PLEASE TAKE FURTHER NOTICE that the undersigned present this claim and demand for adjustment and payment and notify you that unless adjusted and paid, it is the intention of the undersigned to commence an action thereon.

DATED: Buffalo, New York
9/18, 2019


Kimberly D. Szczepanski

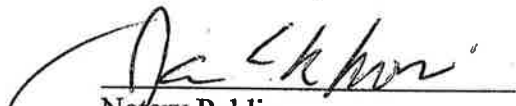

James E. Morris, Esq.
Law Offices of James E. Morris
Attorneys for Claimant
70 Niagara Street, Suite 404
Buffalo, New York 14202
(716) 855-1118

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

Kimberly D. Szczepanski, being duly sworn, depose and say that deponents is the Claimant in the within action; that deponents have read the foregoing Notice of Claim and know the contents thereof; that the same is true to deponents' own knowledge, except as to those matters alleged to be upon information and belief, and that as to those matters deponents believe it to be true.


Kimberly D. Szczepanski

Sworn to before me this
18th day of September, 2019


Notary Public

JAMES E. R. MORRIS
Notary Public, State of New York
Qualified in Erie County
My Commission Expires February 5, 2022

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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, 2019

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>Green-Page, Gertetta and Ka'sean Anthony v. FBI, DEA, City of Buffalo, BPD, County of Erie and ECSO</i>
Document Received:	Notice of Claim
Name of Claimants:	Gertetta Green-Page and Ka'sean Anthony 43 Schauf Street, Lower Buffalo, New York 14211
Claimants' attorney:	Steven M. Cohen, Esq. Hogan Willig 2410 North Forest Road Getzville, New York 14068

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

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STATE OF NEW YORK: COUNTY OF ERIE

In the Matter of the claim of

Gertetta Green-Page, and
Ka'sean Anthony

Claimant,

NOTICE OF CLAIM

-against-

Federal Bureau of Investigation
Drug Enforcement Administration
City of Buffalo
Buffalo Police Department
County of Erie
Erie County Sheriff's Department

Respondents.

TO: Federal Bureau of Investigation
Drug Enforcement Administration
City of Buffalo
Buffalo Police Department
County of Erie
Erie County Sheriff's Department

PLEASE TAKE NOTICE, Gertetta Green-Page and Ka'Sean Anthony the Claimants herein, hereby make a claim and demand against the Federal Bureau of Investigation, Drug Enforcement Administration, City of Buffalo, Buffalo Police Department, County of Erie and Erie County Sheriff's Department, pursuant to § 50-e of the General Municipal Law, as follows:

1. The names and post-office addresses of the Claimants and their attorneys are:

CLAIMANTS

Gertetta Green-Page
Ka'sean Anthony
43 Schauf St., Lower
Buffalo, NY 14211

ATTORNEY

Steven M. Cohen
HOGANWILLIG
2410 North Forest Road, Suite 301
Amherst, New York 14068

HOGANWILLIG

Attorneys at Law

2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068

Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

2. The nature of the claim:

Assault, false imprisonment, false arrest, abuse of process, deprivation of liberty without due process of law, unlawful search and seizure, negligent infliction of emotional distress, infliction of serious emotional harm, negligence, more specifically, negligent hiring, training and supervision of police officers and/or agents, and violation of Claimants' civil rights, all caused by the negligent, reckless, and careless actions of the Federal Bureau of Investigation, Drug Enforcement Administration, City of Buffalo, Buffalo Police Department, County of Erie and Erie County Sheriff's Department. Claimants were illegally and unlawfully assaulted, abused, harassed, arrested, imprisoned, seized, and otherwise harmed without just cause. Claimants suffered inhuman treatment, and were deprived of their Constitutional and civil rights without basis and/or reason.

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

On or about June 19, 2019, at approximately 6:00 am, Claimants were asleep in their bedrooms when Ms. Green-Page was awoken by the sound of an unknown number of agents or officers of the Federal Bureau of Investigation, Drug Enforcement Administration, City of Buffalo, Buffalo Police Department, County of Erie and Erie County Sheriff's Department busting through the main security door of their home, located at 43 Schauf St., Lower, Buffalo, New York, with a battering ram, alleging that they were in possession of a search warrant. The Respondents forcibly, violently and negligently entered Claimants' home where they were handcuffed. Several agents and officers of the Respondents then proceeded to ransack the entire home. Claimants were illegally detained for over an hour. Claimants later learned that the subject of the alleged search warrant was someone named "Guy Burt" who is not associated with

Claimants in any way, and to the best of Claimants' knowledge, has never resided at that address.

The items of damages or injuries claimed are:

The Claimants suffered permanent damage to their reputation and standing in the community; severe shock and fright, extreme anxiety and emotional and psychological injuries, as well as property damage in the form of a broken door frame resulting from the violation of Claimants' Fourth, Fifth and Fourteenth Amendment rights, all in an amount to be determined. Said claim and demand is hereby presented for adjustment and payment.

Dated: Amherst, New York
September 13, 2019




Steven M. Cohen, Esq.
HOGANWILLIG, PLLC
Attorneys for Claimants
2401 North Forest Road, Suite 301
Amherst, New York 14068
Telephone: (716) 636-7600

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

Gertetta Green-Page, being duly sworn states that I am the Claimant in the within action. I have read the foregoing Notice of Claim and know the contents thereof. The contents are true to my knowledge, except as to matters therein stated to be alleged upon information and belief and to those matters; I believe them to be true.


Gertetta Green-Page

Sworn to and subscribed
before me this 13 day of September, 2019


Notary Public

Steven M. Cohen
Notary Public – State of New York
Qualified in Erie County
My Commission expires March 6, 2023

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

Ka'sean Anthony, being duly sworn states that I am the Claimant in the within action. I have read the foregoing Notice of Claim and know the contents thereof. The contents are true to my knowledge, except as to matters therein stated to be alleged upon information and belief and to those matters; I believe them to be true.


Ka'sean Anthony

Sworn to and subscribed
before me this 13 day of September, 2019


Notary Public

Steven M. Cohen
Notary Public – State of New York
Qualified in Erie County
My Commission expires March 6, 2023



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, 2019

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>Kubiak, Robert v. Town of Elma and County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Robert Kubiak 365 Whitfield Avenue Buffalo, New York 14220
Claimant's attorney:	Scott M. Peterson, Esq. D'Orazio Peterson 125 High Rock Avenue Saratoga Springs, New York 12866

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.



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In the Matter of the Claim of

ROBERT KUBIAK,

NOTICE OF CLAIM

Claimant,

-against-

TOWN OF ELMA, NEW YORK and COUNTY OF ERIE, NEW YORK,

Respondents.

PLEASE TAKE NOTICE that Claimant Robert Kubiak ("Claimant") does hereby make notice of claim against The Town of Elma, New York and The County of Erie, New York (hereinafter the "Respondents"), and in support of such claim does state the following:

1. Claimant has a post office address of 365 Whitfield Avenue, Buffalo, NY 14220. His attorneys are Scott M. Peterson and Giovanna D'Orazio, D'Orazio Peterson LLP, 125 High Rock Avenue, Saratoga Springs, NY 12866.
2. The nature of the claim is tort and violation of the New York State Labor Law, arising out of personal injuries suffered by the Claimant while working upon property owned, operated, maintained, supervised or staffed by Respondents.
3. Respondent Town of Elma is, upon information and belief, a Town existing and operating under the laws of the State of New York.
4. Respondent County of Erie is, upon information and belief, a county, existing and operating under the laws of the State of New York.

5. The claim arose on July 11, 2019, when the Claimant was caused to suffer severe injuries when he fell from a height while working on a bridge overpass on State Route 400 and Transit Road in Elma, New York during the course of his employment with Erie Painting and Maintenance.

6. Upon information and belief, Respondents own and maintain the bridge and/or the property on which the bridge is located on which the Claimant was working on July 11, 2019.

7. On July 11, 2019, Claimant was working on the aforementioned bridge doing maintenance work from a height of greater than ten feet for his employer, Erie Painting and Maintenance. Claimant was unable to properly utilize a safety harness, as a result of the failure by Respondents to ensure that the necessary cables were in place to which to attach a harness.

8. Upon information and belief, Respondents were required to perform inspections of the bridge, in order to, among other things, ensure that the safety cables necessary to attach harnesses were in place and functioning properly.

9. Respondents had a duty to maintain their property in a reasonably safe condition under the circumstances and to remedy any dangerous conditions of which they had actual and/or constructive notice and/or which they created.

10. Despite this requirement, however, upon information and belief Respondents did not perform such inspections prior to Claimant's fall on July 11, 2019 and did not remedy the dangerous condition of which they had notice and/or created.

11. Claimant was severely injured when he fell while working from a height on the bridge. Upon information and belief, Claimant's fall could have been prevented had appropriate safety devices been provided, installed and maintained.

12. The injuries sustained by the Claimant, including a significant disc injury to his back resulting in severe back pain, requiring significant medical treatment and a likely prolonged inability to work, were the direct result of the negligence of the Respondents, in failing to properly inspect the bridge, and in failing to have appropriate safety equipment available as the site and project owner.

13. The foregoing actions by the Respondents, through their agents and employees, constitute negligence, and were the direct cause of the severe injuries sustained by the Claimant. As the owners of the property on which Claimant fell, Respondents are also liable under the New York State Labor Law including under the doctrine of strict liability.

WHEREFORE, Claimant hereby notifies the Respondents of his intention to commence an action, and request payment of such claim.

Dated: September 3, 2019
Saratoga Springs, NY



D'ORAZIO PETERSON LLP

Scott M. Peterson
Attorney for Claimant
125 High Rock Avenue
Saratoga Springs, NY 12866
Tel 518-308-8339
Fax 518-633-5106

VERIFICATION

Scott M. Peterson, a duly licensed attorney, states under penalty of perjury that he is the attorney for the Claimant in the above referenced matter; that he has read the foregoing Notice of Claim, and knows the contents thereof; and that the same is true based upon the information provided by Claimant and review of the available documents, except as to matters therein stated to be alleged upon information and belief, and as to those matter he believes them to be true. This verification is made by the attorney because the Claimant is not located in the County where the attorney maintains his practice and offices.

Dated: September 4, 2019



Scott M. Peterson



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, 2019

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>Galla, Kathleen Ann v. County of Erie, ECBOE, Robb Poloncarz, Warehouse, Justin Rooney, Jeremy Zellner, Chair</i>
Document Received:	NYS Division of Human Rights Charge of Discrimination
Name of Claimant:	Kathleen Ann Galla 68 North End Kenmore, New York 14217
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.



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

1. Your contact information:

First Name <i>Kathleen</i>	Middle Initial/Name <i>Ann</i>	
Last Name <i>Balla</i>		
Street Address/ PO Box <i>68 North End Avenue</i>	Apt or Floor #:	
City <i>Kenmore</i>	State <i>Ny</i>	Zip Code <i>14217</i>

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 <i>Alle County Board of Elections</i>		
Street Address/ PO Box <i>134 W. Eagle Street</i>		
City <i>Buffalo</i>	State <i>Ny</i>	Zip Code <i>14202</i>
Telephone Number: <i>(716) 858-8891</i> Ext.		

In what county or borough did the violation take place?

Alle

Individual people who discriminated against you:

Name: _____	Title: _____
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: _____ month _____ day _____ year

5. For employment and internships, how many employees does this company have?

- 1-3 4-14 15-19 20 or more Don't know

6. Are you currently working for this company?

<input type="checkbox"/> Yes. Date of hire: _____ month _____ day _____ year	What is your position?
<input checked="" type="checkbox"/> No. Last day of work: <u>3</u> <u>22</u> <u>19</u> month day year	What was your position? <i>Senior Elections Clerk</i>
<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 type="checkbox"/> Age: Date of Birth: _____	<input type="checkbox"/> Marital Status: Please specify: _____
<input type="checkbox"/> Arrest Record (resolved in your favor or youthful offender record or sealed conviction record)	<input type="checkbox"/> Military Status: <input type="checkbox"/> Active Duty <input type="checkbox"/> Reserves
<input type="checkbox"/> Conviction Record	<input type="checkbox"/> National Origin: Please specify: _____
<input type="checkbox"/> Creed/ Religion: Please specify: _____	<input type="checkbox"/> Predisposing Genetic Characteristic: Please specify: _____
<input type="checkbox"/> Disability: Please specify: _____	<input type="checkbox"/> Pregnancy-Related Condition: Please specify: _____
<input type="checkbox"/> Domestic Violence Victim Status	<input type="checkbox"/> Race/Color or Ethnicity: Please specify: _____
<input type="checkbox"/> Familial Status: Please specify: _____	<input type="checkbox"/> Sexual Orientation: Please specify: _____
<input type="checkbox"/> Gender Identity or Expression, Including the Status of Being Transgender:	<input type="checkbox"/> Sex: Please specify: _____ Specify if the discrimination involved: <input type="checkbox"/> Pregnancy <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 did you oppose discrimination: _____

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 checked="" 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 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 type="checkbox"/> Unlawful inquiry, or limitation, specification or discrimination in job advertisement
<input type="checkbox"/> Denied me training	<input checked="" 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. A & B

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.

A

I was the oldest employee and the only woman at the warehouse location for the Board of Elections.

It was such a hostile environment since the Supervisor, Steve Altieri, did not speak to me unless I asked a question that only he could answer. Steve is married to the republican commissioner's niece. The other republicans were told not to talk to me or they would be "fired". This was told to them by the previous warehouse Supervisor, Melissa Heath, who is the girlfriend of the republican commissioner.

I strongly believe that I was terminated in retaliation for going to the Deputy Commissioner about my immediate (democratic supervisor), Robb Poloncarz, brother of the County Executive.

When Jerney Zellner, became the new democratic commissioner, we had a staff meeting and he told us that we were not to discuss anything political with the republicans.

Robb Poloncarz on many occasions demeaned Commissioner Zellner to the republicans. When this happened I would leave and go to the restroom or take a break because I did not want to be included in any of the discussions.

In late February, 2019, Poloncarz was particularly upset with the commissioner, calling him a "fucking asshole". I went to the Deputy Commissioner, Arthur Eve, Jr. and told him what I heard and that this goes on constantly. I thought I was being loyal to our commissioner.

Because of the hostile environment, I was not allowed to complain. Most times my supervisor did not talk to me. I learned what was going on from other democratic employees. Other employees would complain about Robb and nothing would happen.

Also, there was a severe problem with the AutoMARK machines in November. In February I tested them and the problem still occurred. I went to the Supervisor and he just shrugged his shoulders with no verbal response. As I was very concerned, I called one of the men who prints the ballots. He said he could not help, but suggested that I email, the deputy commissioner, the warehouse supervisor and my supervisor.

I went to Robb and told him what I was going to do and he said I don't understand the chain of command. I told him that Steve just shrugged and was very nervous that if the situation was not dealt with before the next election, we were going to have a repeat of the November election. So I sent the email. With no response.

I strongly believe I was retaliated against because of these two situations and was terminated.

I was replaced with a younger, African American male.

B

POINTS FOR POTENTIAL LAWSUIT

Since I was hired ten years ago the following were hired.

Part-time 4 - one male and 3 female (2 are black)

Full-time 17 - 12 male and 5 female (5 are black and one Hispanic)

I was the oldest person at the board.

Of the six managerial positions at the board only one is held by a women. And that was previously held by a man.

Board of Elections can be an extremely hostile place to work. (It was for me since almost day one.) It is comprised of two political parties, the Democratic and Republicans. Each has a commissioner and office manager. Each has control of their staff. The Democratic Commissioner was Dennis E. Ward and the Republican is Ralph Mohr.

No one got hired at the Board from the street. You had to have a "God Father". My commissioner was mine.

1. When I was at the Board for almost two weeks, I was told to slow down - that I was working too much and making other people look bad. I went to my commissioner and told him that I didn't think this was the place for me. I am a worker. He laughed and said just do the job as I am being trained and ignore the rest. I tried, but it was extremely difficult.

I had been looking for a job but at 58 it was extremely difficult and I obviously needed the job.

2. My office manager was thrilled with me because I knew the computer and she knew that I wanted to work. Consequently, she had me do extra things and I was tagged her favorite. This resulted in me being targeted for abuse.

Most people that work at the Board could never be hired in the private sector. There are quite a few that have substance abuse issues.

3. When people found out that the Commissioner and I were good friends for many years, I was tagged as an "informant" and people ignored me.

4. Tom Gagalone - (Rep) was at the Board for 35+ years until he was forced to retire. He very rarely worked and played music loudly and looked at girly pictures on his computer (even though we were not allowed to use the internet for personal use.

When I complained that it was extremely distracting, (nothing was done) he started his harassment campaign against me. He thought he could do anything he wanted. And if

you disagreed with him or said anything to him, he would be horrible to that person as well.

I complained several times to the then Republican Deputy Commissioner and nothing changed.

He always came to the warehouse to help during the delivery of the voting machines. One time we were all standing there waiting for the elevator to come and I heard saying how much he hated me; that I was ugly and hated my voice. I could hear him and I looked over and he said "what the fuck are you looking at". Two of my co-workers told him to shut up. One went to our Deputy Commissioner to complain, but nothing could be done.

Another time I was alone (the rest of the team went home) waiting to load another truck. He and another employee just sat there (he told him not to help me) while I loaded the machines. Someone else eventually came and helped me. And he told Tom he was an ass. The next day I mentioned it to a co-worker and he went to our Deputy Commissioner. Our guy was told that at the warehouse at this time of year, everyone pitches in.

If a new person was friendly to me or just asked me a question, Tommy would tell them not to talk to me and made many derogatory comments about

5. Sandy Mendola - (Rep) She was a horrible person. Tommy hold her to make my life miserable. One time she started a rumor that I throw my partner (teaching) under the bus. Jessica and I were very close and when she asked me what I had said about her I was confused. I told her I were never say a bad thing about her and I didn't say anything. She went to the Deputy Commissioner to find out what is supposedly said and Sandy would not tell her.

Another time when I asked a co-worked if I can quickly use his computer she said what are you best buddies. He was appalled and retorted "No we are just sleeping together". That shut he up. After that he was extremely nice to me.

I complained many times to the Office Managers about what she was saying about me and nothing ever happened. I even threatened to go and do a formal complaint. I never did because I knew there would be retaliation and I could lose my job.

Everyone knew how I was treated by both Tom and Sandy. I was always told to ignore them.

6. We were running out of space and they needed someone to move up to the fourth floor. The Commissioner said I was the only person he trusted not to leave and continue to do my job. That went over like a lead balloon. I was again targeted as the favorite.

7. About 5 years ago my commissioner told me that he want me to go to the warehouse to learn how to program the DS-200 scanners (voting machines). I was thrilled because it was something new.

When I went to the warehouse Dave was the Democratic supervisor. There was another women there, Melissa. She was sent there because she was the girlfriend of the Republican commissioner (they were living together) and an alcoholic.

I was very friendly with Melissa before I went to the warehouse. She was a friend of Jessica and we would take our breaks together.

Once I went to the warehouse, everything changed. She was extremely unhappy that I was there and did everything she could to get me to leave. Again, everyone thought I told the Commissioner everything, which I didn't, and she knew that.

She and Dave left every day to drink on their lunch hour. Used the county car for personal use. One time I was teaching in Orchard Park and she had Dave drive her there because Jessica had her clothes. She would come back with bags of groceries.

I could never had proof, but I believe she had alcohol in her ice tea. You could smell alcohol on her breath. One election day, she was drunk.

There was couch there that she slept on every day.

One day I answered the phone and it was her asking for Greg. He was talking to a co-worker when I went to tell him that Melissa was on the phone. He never took the phone call. When she came in she screamed at me that I shouldn't answer the phone if I wasn't going to tell the person. I told her I did tell Greg and that I would not allow her to talk to me that way. I think it was a set up.

The first election, I was not allowed on the scanners. I worked on the AUTOmarks (the voting machines for the disabled. Rich and George trained me. You had to use head phones because you had to listen to the ballots (to ensure they worked for the hearing impaired). She played music so loud that you couldn't hear. I asked Dave to ask her to louder it, but he said he didn't have the authority.

You have to remember that she was the Commissioners girlfriend. She was allowed to do anything she wanted. Then he told me that he could not have me there if we didn't get along. It wasn't me.

When Dave retired, the warehouse reverted to Republican control and Lenny was made supervisor. Not the smartest person in the world and didn't know a thing about either voting machines.

Because of Melissa, he came with a nasty attitude towards me. He would ignore that I was even there and would pick a fight over nothing. I asked him if he had a problem

with women (he is gay), He got crazy and went to the commissioners. No one respected him and everyone did what they wanted until he throw a fit.

Melissa constantly complained to her commissioner because of the situation and she harped on him until he removed Len and she was made the supervisor. It was a nightmare.

She told all the republicans not to talk or help me. I know this because Frank called me at home to tell me. He was extremely upset because we were friends. She told him if she saw him talking to me he could be fired. I thanked him and so no problem.

She was horrible to me at every turn. Before coming to the warehouse, I was friendly with Ralph. But that changed. He told me I was too loud, etc.

Robb - County Executive's brother - Tommy - nasty from day one.

Because of his connections, he thought that he was "special". He fought with many people, especially the Party Chairs mother. Because of this they sent him to the warehouse. He also made my life miserable. Called his brother on me several times and the county executive called my commissioner. I was accused of so many things that I didn't do.

Len and Justin - new office manager - didn't talk to me from day one. Lost lots of overtime money - no teaching - election day (Melissa)

Written up twice: Never had a chance to give my side. - Melissa.

Finally, we were required to give \$600 a year to the Democratic Party as well as do 12-15 nights of petitions, phone calls and canvassing before every election and anything else headquarters requested. Two people were fired because they did not do what headquarters wanted.

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 Ray

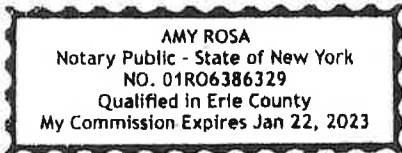
I swear under penalty of perjury that I am the complainant herein; that I have read (or have had read to me) the foregoing complaint and know the contents of this complaint; and that the foregoing is true and correct, based on my current knowledge, information, and belief.

Kathleen A. Gulla

Sign your full legal name

Subscribed and sworn before me
This 17th day of Sept, 20 19

Amy Rosa
Signature of Notary Public



County: Erie Commission expires: Jan 22, 2023

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.

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