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JEREMY A. COLBY  
COUNTY ATTORNEY

# COUNTY OF ERIE

**CHRIS COLLINS**  
COUNTY EXECUTIVE

MARTIN A. POLOWY  
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.  
SECOND ASSISTANT COUNTY ATTORNEY

DEPARTMENT OF LAW

GA

## MEMORANDUM

**TO:** Robert Graber, Clerk, Erie County Legislature

**FROM:** Thomas F. Kirkpatrick, Jr. <sup>le</sup> Second Assistant County Attorney

**DATE:** December 13, 2011

**RE:** Transmittal of New Claims Against Erie County

Mr. Graber:

In accordance with the Resolution passed by the Erie County Legislature on June 25, 1987 (Int. 13-14), attached please find two (2) new claims brought against the County of Erie. The claims are as follows:

Claim Name

Alvin McKenzie vs County of Erie, et al.  
Kevin Scriven as Admin. of Estate of Rakim Scriven vs County of Erie, et al.

TFK/crj

Attachments

cc: Jeremy A. Colby, Erie County Attorney

10-5



## COUNTY OF ERIE

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SECOND ASSISTANT COUNTY ATTORNEY

December 13, 2011

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 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>McKenzie, Alvin vs County of Erie, Erie County Sheriff's Office and Timothy B. Howard as Erie County Sheriff</i>
Document Received:	Notice of Claim
Name of Claimant:	Alvin McKenzie c/o Erie County Holding Center 40 Delaware Avenue Buffalo, New York 14202
Claimant's attorney:	Christopher M. Pannozzo, Esq. Shaw & Shaw, P.C. 4819 South Park Avenue Hamburg, New York 14075

Should you have any questions, please call.

Very truly yours,

JEREMY A. COLBY  
Erie County Attorney

By: 

THOMAS F. KIRKPATRICK, JR.  
Second Assistant County Attorney  
thomas.kirkpatrick@erie.gov

TFK/mow  
Enc.

STATE OF NEW YORK

ALVIN McKENZIE,

Claimant,

-vs-

COUNTY OF ERIE,

ERIE COUNTY SHERIFF'S OFFICE,

TIMOTHY B. HOWARD, as  
ERIE COUNTY SHERIFF,

Respondents

This paper received at  
Erie County Clerk's Office  
on the 07 day of Oct 2011  
at 12:00 p.m.  
by Alvin McKenzie  
Deputy Clerk

NOTICE OF CLAIM

RECEIVED  
OCT 7 - 2011  
ERIE COUNTY  
DEPARTMENT OF LAW

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

Erie County Department of  
Health  
95 Franklin Street  
Buffalo, New York 14202

Erie County  
Department of Mental Health  
95 Franklin Street  
Buffalo, New York 14202

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

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

Erie County Holding Center  
40 Delaware Avenue  
Buffalo, New York 14202

**PLEASE TAKE NOTICE**, Claimant herein claims damages against respondents and in accordance with the requirements of General Municipal Law § 50-e, states as follows:

**SHAW SHAW, PC**  
ATTORNEYS AND COUNSELORS AT LAW

1. Claimant resides at 40 Delaware Avenue, Buffalo, New York 14202.

2. Claimant is represented by Shaw & Shaw, P.C., Christopher M. Pannozzo, Esq., of counsel, 4819 South Park Avenue, Hamburg, New York 14075, (716) 648-3020 Telephone, (716) 648-3730 Telecopier.

3. This claim is for personal injuries, economic damages, and/or other damages generally sustained by Claimant Alvin McKenzie as a result of the negligent, careless, and reckless disregard of known risks for serious physical harm in violation of his Federal Civil Rights by agents, servants and/or employees of the County of Erie, Erie County Sheriff's Office, Timothy B. Howard, as Erie County Sheriff; Erie County Holding Center; Erie County Department of Health, and Erie County Department of Mental Health when Claimant sustained serious personal injuries within the confines of the Erie County Holding Center.

4. The date and time when the claim arose and injuries and damages herein alleged were sustained was July 19, 2011 at approximately 10:30 p.m.

5. The incident occurred within the confines of the Erie County Holding Center, located at 40 Delaware Avenue, Buffalo, New York under the possession, control and ownership of respondents.

6. The incidents aforesaid and injuries and resulting damages were caused wholly and solely by the negligence, carelessness, recklessness, and intentional actions of the County of Erie, its agents, servants and/or employees; Erie County Sheriff's Office, its agents, servants and/or employees; Timothy B. Howard, as Erie County Sheriff, his agents, servants and/or employees; Erie County Holding Center, its agents, servants

and/or employees; Erie County Department of Health, its agents, servants and/or employees; Erie County Department of Mental Health, its agents, servants and/or employees; in that said Respondents failed to take reasonable measures to prevent inmates such as Claimant Alvin McKenzie from inflicting serious physical injury to their person.

7. That the aforesaid incident and the injuries and damages resulting therefrom occurred by reason of the fault, neglect, carelessness, and recklessness of the County of Erie, its agents, servants and/or employees; Erie County Sheriff's Office, its agents, servants and/or employees; Timothy B. Howard, as Erie County Sheriff, his agents, servants and/or employees; Erie County Holding Center, its agents, servants and/or employees; Erie County Department of Health, its agents, servants and/or employees; Erie County Department of Mental Health, its agents, servants and/or employees; and that said Respondents failed to properly and adequately maintain the safety of Claimant Alvin McKenzie; failed to provide any and/or adequate medical care; failed to take the necessary steps to provide any and/or adequate medical care despite actual and constructive notice of said conditions; failed to take necessary steps and make necessary observations, which, if taken or made, would have avoided said incident; in failing to implement adequate suicide prevention; in failing to provide adequate mental health care; in failing to properly train medical personnel, including nurses in regard to inmate safety; failing to provide adequate administration of medication; failing to properly train employee in regard to inmate safety, especially in areas of critical security; and that Respondents, their agents, servants and/or employees were otherwise careless, negligent, and reckless.

8. As a result of the aforesaid conduct, Claimant Alvin Mckenzie suffered severe and permanent injuries including, but not limited to, strangulation; restricted air flow; brain injury resulting in a comatose state for a period of time; has been caused to suffer and sustain pain and suffering as to the past to the present and, upon information and belief, into the future; was deprived of any and/or adequate medical care and treatment; has suffered shock to the nerves and nervous system; together with internal injuries, emotional upset and depression; has incurred medical and hospital expenses related to his care, treatment and attempted cure of said injuries and residual effects thereof and, upon information and belief, will continue to incur said injury-related expenses in the future; has been and may be further subjected to impairment of earnings, future earnings and/or future earning capacity as a result of the injuries sustained and/or the residual permanent effects relating thereto.

**WHEREFORE**, Claimant respectfully prays and requests that these claims, as set forth herein, be paid and allowed by the County of Erie, Erie County Sheriff's Office, Timothy B. Howard, as Erie County Sheriff, Erie County Holding center, Erie County Department of Health, and Erie County Department of Mental Health as set forth herein.

DATED: September \_\_, 2011  
Buffalo, New York

Alvin McKenzie  
Alvin McKenzie





## COUNTY OF ERIE

JEREMY A. COLBY  
ERIE COUNTY ATTORNEY

**CHRIS COLLINS**  
COUNTY EXECUTIVE  
DEPARTMENT OF LAW

MARTIN A. POLOWY  
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December 13, 2011

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 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>Scriven, Kevin as Administrator of the Estate of Rakim Scriven vs County of Erie and Erie County Sheriff's Department</i>
Document Received:	Notice of Claim
Name of Claimant:	Rakim Scriven deceased
Claimant's attorney:	Frank M. Bogulski, Esq. 88 West Utica Street Buffalo, New York 14209

Should you have any questions, please call.

Very truly yours,

JEREMY A. COLBY  
Erie County Attorney

By: \_\_\_\_\_  
THOMAS F. KIRKPATRICK, JR.  
Second Assistant County Attorney  
thomas.kirkpatrick@erie.gov

TFK/mow  
Enc.

cc: JEREMY A. COLBY, Erie County Attorney

SUPREME COURT  
STATE OF NEW YORK: COUNTY OF ERIE

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IN THE MATTER OF THE CLAIM OF KEVIN )  
SCRIVEN AND THE ESTATE OF RAKIM )  
SCRIVEN )  
273 ROESCH AVENUE )  
BUFFALO, NEW YORK 14207 )  
)

**NOTICE OF CLAIM**

V.

COUNTY OF ERIE  
95 FRANKLIN STREET, 16<sup>TH</sup> FLOOR  
BUFFALO, NEW YORK 14202

2011 SEP 14 AM 9:50

AND

ERIE COUNTY SHERIFF'S OFFICE AND  
TIMOTHY HOWARD AS SHERIFF  
10 DELAWARE AVENUE  
BUFFALO, NEW YORK 14202

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PLEASE TAKE NOTICE that the undersigned claimant residing at 273 Roesch Avenue, Buffalo New York, along with the Estate of Rakim Scriven, whose attorney is Frank M. Bogulski, Esq., with an office located at 88 West Utica Street, Buffalo, New York, make the following claim:

**WRONGFUL DEATH**

1. Kevin Scriven is the biological father and closest blood relative to Rakim Scriven.
2. At the time of his death, Rakim Scriven was eighteen (18) years old, born on June 18, 1993 and did not have any children.
3. This claim is brought for the wrongful death of Rakim Scriven through the negligence of the County of Erie, Erie County Sheriff's Office and Sheriff Timothy Howard.




4. The death/occurrence took place on or about September 5, 2010, at the Erie County Holding Center located in Buffalo, New York. The death was the result of the negligence of the Erie County Sheriff's Office and Sheriff Timothy Howard in their collective failure to maintain a safe environment for the inmates of the Erie County Holding Center located on 40 Delaware Avenue, Buffalo New York.
5. It has been reported in the Western New York media that the death of Rakim Scriven was caused by his suicide. There have also been reports that the death may have been caused by an assault of Mr. Scriven. In either case, regardless of the cause of death, Rakim Scriven was in the care and custody of the Erie County Sheriff's Office and Sheriff Timothy Howard and they had a duty to ensure his safety and wellbeing. This claim alleges that it was the negligence on the part of the County of Erie, the Erie County Sheriff's Office and Sheriff Timothy Howard that was the cause of Rakim Scriven's death.
6. The United States Department of Justice has repeatedly investigated the County of Erie, the Erie County Sheriff's Office and Sheriff Timothy Howard during the last few years, alleging that the conditions in the Erie County Holding Center are not suitable for inmates. This investigation resulted in a lawsuit against the County of Erie, Erie County Sheriff's Office and Sheriff Timothy Howard.
7. It is alleged that the inhumane conditions that exist in the Erie County Holding Center are caused by the County of Erie, the Erie County Sheriff's Office, the Sheriff of Erie County, the County Executive, the County Legislator and its agents. This claim places the aforementioned parties on notice that the plaintiffs in this action are seeking damages for the wrongful death of Rakim Scriven.
8. This death was caused by the negligence and carelessness of the defendants.
9. The nature of damages claimed are:
  - a. Claimant, Kevin Scriven, the father and closest blood relative of the decedent, Rakim Scriven who was born on June 18, 1993, brings this claim against the County of Erie, Erie County Sheriff's Office and Sheriff Timothy Howard for the wrongful death of his son, Rakim Scriven, at the Erie County Holding Center;

- b. Kevin Scriven also makes this claim against the County of Erie, Erie County Sheriff's Office and Sheriff Timothy Howard for emotional pain and suffering, loss of companionship and the loss of his son, Rakim Scriven;
- c. Kevin Scriven presents this claim for adjustment and payment in the amount of five million dollars (\$5,000,000);
- d. The Estate of Rakim Scriven brings this claim against the County of Erie, Erie County Sheriff's Office and Sheriff Timothy Howard for wrongful death and seeks compensation for his Estate in the amount of five million dollars (\$5,000,000).

**VERIFICATION BY A PARTY**

STATE OF NEW YORK  
CITY OF BUFFALO  
COUNTY OF ERIE

Kevin Scriven, being duly sworn, states that he is the plaintiff/claimant in this action and that the foregoing Notice of Claim is true to his own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters he believes it to be true.

  
\_\_\_\_\_  
Kevin Scriven

Sworn to before me this 9<sup>th</sup>  
day of September 2011

  
\_\_\_\_\_  
Notary Public

ROBERT R. RADEL  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires  
August 5, 2013

**VERIFICATION BY A PARTY'S ATTORNEY**

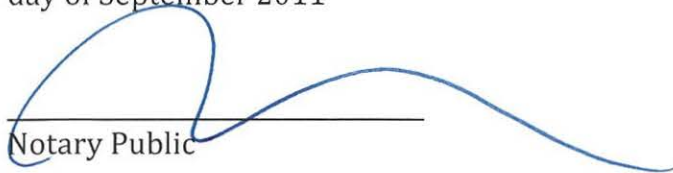
STATE OF NEW YORK  
CITY OF BUFFALO  
COUNTY OF ERIE

Frank M. Bogulski, Esq., being duly sworn, states that he is the attorney for plaintiffs/claimants in this action and that the foregoing Notice of Claim is true to his own knowledge, except as to matters therein stated on information and belief and as to those matters he believes it to be true; that the grounds of his belief as to all matters not stated upon his knowledge are correspondence and other writings furnished to him by plaintiffs/claimants and interviews with officers and employees of plaintiffs/claimants.

  
\_\_\_\_\_  
Frank M. Bogulski, Esq.

9-13-11  
\_\_\_\_\_  
Dated

Sworn to before me this 13<sup>th</sup>  
day of September 2011

  
\_\_\_\_\_  
Notary Public

Harvey F. Siegel - Notary Public  
State of New York  
Qualified in the County of Erie  
My Commission Expires December 15, 2013