



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

MICHAEL A. SIRAGUSA
COUNTY ATTORNEY

JEREMY C. TOTH
FIRST ASSISTANT COUNTY ATTORNEY

DEPARTMENT OF LAW

KRISTEN M. WALDER
SECOND ASSISTANT COUNTY ATTORNEY

June 21, 2021

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

**Re: Washington, Jason vs. Erie County, Erie County Sheriff, Erie County
Our File No.: 31-20210020
Case No.:**

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: *Washington, Jason v. Erie County, Erie
County Sheriff, Timothy B. Howard, Erie
County Sheriff Sergeant Wilgus, Erie
County Sheriff's
Deputies/Sergeants/Lieutenants/Corrections
Officers John and Jane Does*

Document Received: Notice of Claim


Name of Claimant: Jason Washington

Claimant's attorney: Vincent Parlato, Esq.
227 Niagara Street
Buffalo, New York 14201

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By  _____

Erin E. Molisani
Assistant County Attorney
Direct Dial: (716) 858-2216
E-mail: Erin.Molisani@erie.gov

EEM/

STATE OF NEW YORK
COUNTY OF ERIE
In the Matter of the Claim of

JASON WASHINGTON,

Claimant,

NOTICE OF CLAIM

-against-

ERIE COUNTY,
ERIE COUNTY SHERIFF, TIMOTHY
B. HOWARD,
ERIE COUNTY SHERIFF SERGEANT
WILGUS,
ERIE COUNTY SHERIFF'S DEPUTIES/
SERGEANTS/LIEUTENANTS/CORRECTIONS
OFFICERS JOHN AND JANE DOES,

Respondents.

TO: ERIE COUNTY,
ERIE COUNTY SHERIFF, TIMOTHY
B. HOWARD,
ERIE COUNTY SHERIFF SERGEANT
WILGUS,
ERIE COUNTY SHERIFF'S DEPUTIES/
SERGEANTS/LIEUTENANTS/CORRECTIONS
OFFICERS JOHN AND JANE DOES

PLEASE TAKE NOTICE, that JASON WASHINGTON, has and hereby makes
claim against ERIE COUNTY, ERIE COUNTY SHERIFF, TIMOTHY
B. HOWARD ("SHERIFF HOWARD"), ERIE COUNTY SHERIFF SERGEANT
WILGUS ("SERGEANT WILGUS"), ERIE COUNTY SHERIFF'S DEPUTIES/
SERGEANTS/ LIEUTENANTS/ CORRECTIONS OFFICERS JOHN AND JANE
DOES, and in support of said claim states the following:

R E C E I V E D
JUN 09 2021

ERIE COUNTY
DEPARTMENT OF LAW
COMM. 14D-3
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1. The present post office and address of Claimant is the Erie County Correctional Facility ("ECCF"), located at 11581 Walden Avenue, Alden, New York 14004.

2. The attorneys for the Claimant are VanDette Penberthy LLP, and their post office address is 227 Niagara Street, Buffalo, New York 14201.

3. On or about March 9, 2021, the Claimant was a pre-trial detainee in the custody of SHERIFF HOWARD and/or the ERIE COUNTY at the ECCF located at 11581 Walden Avenue, Alden, New York 14004.

4. The Claim is for personal injuries, excessive use of force, assault, battery to the person of Claimant, and Claimant seeks recompense for personal injuries by Respondents resulting in his conscious pain and suffering, including, but without limitation, a fractured finger, bruising, swelling, and other injuries requiring medical care and treatment.

5. Upon information and belief, on or about March 9, 2021, Claimant was housed at ECCF on Bravo Unit 1, being a keeplock unit. Claimant was housed in Keeplock Cell #210 ("the cell"). The cell had been flooding on March 9, 2021, a fact first noticed around 11:00 a.m. that day.

6. Claimant complained to SERGEANT WILGUS about his flooded cell, but was nevertheless forced to remain in the flooded cell that day, without the flooded water and debris. SERGEANT WILGUS took no action to rectify the flooded cell.

7. Later that day, on or about March 9, 2021 in and around 8:00 p.m., Claimant was taken to the medical department within ECCF, for medical issues including,

inter alia, trouble breathing. Claimant thereafter was escorted back to the cell in and the hour of 9:00 p.m.

8. While on the unit outside the cell, Claimant asked SERGEANT WILGUS for a mop and cleaning supplies to clean the cell which was still flooded. SERGEANT WILGUS denied his request. By this time, the cell had about two inches of standing water.

9. SERGEANT WILGUS then, after denying Claimant's request for a mop and cleaning supplies, ordered Claimant back into the flooded cell.

10. Claimant refused to enter the cell. SERGEANT WILGUS called and summoned additional ERIE COUNTY SHERIFF'S DEPUTIES/ SERGEANTS/ LIEUTENANTS/ CORRECTIONS OFFICERS JOHN AND JANE DOES to the Bravo unit.

11. Upon information and belief, six male ERIE COUNTY SHERIFF'S DEPUTIES/ SERGEANTS/ LIEUTENANTS/ CORRECTIONS OFFICERS JOHN DOES arrived and restrained Claimant.

12. Once Claimant was fully restrained, after an initial resistance and after being placed fully face down, handcuffed and shackled by ERIE COUNTY SHERIFF'S DEPUTIES/ SERGEANTS/ LIEUTENANTS/ CORRECTIONS OFFICERS JOHN AND JANE DOES, Claimant was repeatedly kicked, punched, kneed in the face, back, ribs, and hands, and suffered a fractured left pinky finger and bruising to various parts of his body as a result of this assault when he was fully restrained and not resisting or otherwise failing to comply with the orders of ERIE COUNTY

SHERIFF'S DEPUTIES/ SERGEANTS/ LIEUTENANTS/ CORRECTIONS OFFICERS JOHN AND JANE DOES or SERGEANT WILGUS.

13. Upon information and belief, the incident herein described and the resultant injuries and damages sustained were caused as a result of the negligence, carelessness, recklessness and/or unlawful conduct on part of the COUNTY OF ERIE, SHERIFF HOWARD, SERGEANT WILGUS, and ERIE COUNTY SHERIFF'S DEPUTIES/ SERGEANTS/ LIEUTENANTS/ CORRECTIONS OFFICERS JOHN AND JANE DOES, and more particularly, among other things, in subjecting Claimant an excessive use of force, assault, battery, and the injuries further were caused as a result of the negligent training, hiring, retention, discipline, and supervision by ERIE COUNTY and SHERIFF HOWARD of SERGEANT WILGUS, and ERIE COUNTY SHERIFF'S DEPUTIES/ SERGEANTS/ LIEUTENANTS/ CORRECTIONS JOHN AND JANE DOES, and in failing and omitting to have and provide police officers with sufficient experience to handle similar circumstances, in allowing and permitting personnel to cause injury to Claimant.

14. As a result of the aforesaid incident, Claimant sustained pain and suffering and shock to his nerves and nervous system, was painfully and seriously injured and sustained severe bodily injuries.

WHEREFORE, claimant requests that ERIE COUNTY, ERIE COUNTY SHERIFF, TIMOTHY B. HOWARD, ERIE COUNTY SHERIFF SERGEANT WILGUS, ERIE COUNTY SHERIFF'S DEPUTIES/ SERGEANTS/ LIEUTENANTS/

CORRECTIONS OFFICERS JOHN AND JANE DOES honor and pay the claim of
Claimant, JASON WASHINGTON.

DATED: April 22, 2021



JASON WASHINGTON

Sworn to before me this 28
Day of May 2021



(Notary Public)

VANDETTE PENBERTHY LLP

By: 

Vincent T. Parlato, Esq.
Attorneys for Claimant
227 Niagara Street
Buffalo, new York 14201
(716) 803-8400

STATE OF NEW YORK
COUNTY OF ERIE

In the Matter of the Claim of

JASON WASHINGTON,

Claimant,

ATTORNEY VERIFICATION

-against-

ERIE COUNTY,
ERIE COUNTY SHERIFF, TIMOTHY
B. HOWARD,
ERIE COUNTY SHERIFF SERGEANT
WILGUS,
ERIE COUNTY SHERIFF'S DEPUTIES/
SERGEANTS/LIEUTENANTS/CORRECTIONS
OFFICERS JOHN AND JANE DOES,

Respondents.

VINCENT T. PARLATO, ESQ., being duly sworn, deposes and says that he is an attorney for the claimant specified in the above Notice of Claim. I have read the foregoing NOTICE OF CLAIM and, upon information and belief, believe the contents in the Notice of Claim to be true.

Dated: June 7, 2021
Buffalo, New York

VANDETTE PENBERTHY LLP

By: *Vincent T. Parlato*
Vincent T. Parlato, Esq.
Attorneys for Claimant
227 Niagara Street
Buffalo, New York 14201
(716) 803-8400
vparlato@vanpenlaw.com