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## COUNTY OF ERIE

JEREMY C. TOTH  
ACTING COUNTY ATTORNEY

MARK C. POLONCARZ  
COUNTY EXECUTIVE

KRISTEN M. WALDER  
SECOND ASSISTANT COUNTY ATTORNEY

### DEPARTMENT OF LAW

### MEMORANDUM

TO: Robert M. Graber, Clerk, Erie County Legislature  
FROM: Jeremy C. Toth, First Assistant County Attorney  
DATE: October 6, 2022  
RE: Transmittal of New Claims Against Erie County

*Handwritten signature: JCT/lea*

Mr. Graber:

In accordance with the Resolution passed by the Erie County Legislature on June 25, 1987 (Int. 13-14), attached please find 16 new claims brought against the County of Erie. The claims are as follows:

#### Claim Name

1. Clara Motley-Stanton v. County of Erie, et al.;
2. Antwan Green v. County of Erie, et al.;
3. ECSO PBA v. County of Erie, et al.;
4. Accadia Site Contracting, Inc. v. Erie County DPW;
5. Lisa Hechmer v. County of Erie;
6. Mikhi Ross v. Sheriff Garcia, et al.;
7. Donna Hartman v. County of Erie;
8. Nicole Johnson v. County of Erie;
9. Kennedy Coleman v. County of Erie;
10. John Boron v. John Flynn, et al.;
11. John Gugino v. County of Erie, et al.;
12. NiMo Power Corp. v. County of Erie, et al.;
13. John Bartolomeo v. County of Erie, et al.;
14. Marcita Childs v. County of Erie;
15. Abdul Halim Faruq v. ECC; and
16. Lisa French v. ECC





JEREMY C. TOTH  
ACTING COUNTY ATTORNEY

## COUNTY OF ERIE

**MARK C. POLONCARZ**

COUNTY EXECUTIVE  
DEPARTMENT OF LAW

KRISTEN M. WALDER  
SECOND ASSISTANT COUNTY ATTORNEY

August 8, 2022

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

Dear Mr. Graber:

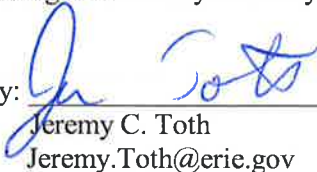
In compliance with the Resolution No. 306 passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Motley-Stanton, Clara v. Twin City Ambulance and County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Clara Motley-Stanton 14 Leonard Street, Upper Buffalo, New York 14215
Claimant's attorney:	LeRoi C. Johnson, Esq. 181 Franklin Street, Suite 320 Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

JEREMY C. TOTH  
Acting Erie County Attorney

By:   
Jeremy C. Toth  
Jeremy.Toth@erie.gov

JCT:dld  
Enc.



STATE OF NEW YORK :  
SUPREME COURT : COUNTY OF ERIE

CLARA MOTLEY- STANTON,

Claimant,

**NOTICE OF CLAIM**

-VS.-

TWIN CITY AMBULANCE and ERIE COUNTY,

Respondents,

To:

Twin City Ambulance  
555 Commerce Drive  
Amherst, New York 14228

Erie County- Department of Law  
Edward A. Rath County Office Building  
95 Franklin Street, Room 1634  
Buffalo, New York 14202

RECEIVED  
AUG 02 2022

ERIE COUNTY  
DEPARTMENT OF LAW

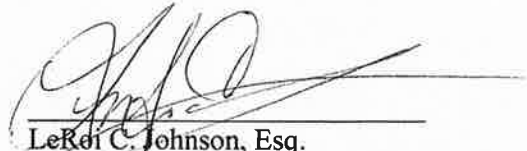
PLEASE TAKE NOTICE THAT, CLARA MOTLEY- STANTON, does hereby make a claim against ERIE COUNTY and TWIN CITY AMBULANCE, and in support of such claim, states as follows:

1. My post office address is 14 Leonard Street Upper, Buffalo, New York 14215.
2. My attorney is LeRoi C. Johnson, Esq., 181 Franklin Street, Suite 320, Buffalo, New York 14202.
3. The claim of CLARA MOTLEY- STANTON against TWIN CITY AMBULANCE and ERIE COUNTY, is for injuries sustained by the Claimant resulting in severe, serious, and possibly permanent personal injury and mental and emotional anguish, medical expenses and loss of enjoyment of life by reason for the carelessness, recklessness, and negligent acts and/or unlawful acts and/or omissions of the Respondent, TWIN CITY AMBULANCE and ERIE COUNTY, their agents, servants, employees, and or representatives, or one or more of them, in a manner that is hereinafter set forth.
4. The damages shall include but are not limited to all present and future damages incurred for CLARA MOTLEY- STANTON.
  - a. All actual and/or compensatory damages attendant to this claim;
  - b. All personal injuries as a result of this accident;
  - c. Substantial pain and suffering;
  - d. Medical expenses and
  - e. Punitive damages.
5. The time when the claim arose and the injuries hereinabove were sustained in the City of Buffalo, County of Erie and State of New York.
6. The facts and circumstances from which the claim in the above-entitled action are as follows:

On June 19, 2022 at or around 12:00pm- 1:30 pm, as she was standing by an ambulance waiting for EMT's to attend to her daughter, Claimant Clara Motley- Stanton tripped backwards over a duffle bag that was placed behind her by an EMT.
7. The careless, reckless, and/or negligent acts and/or unlawful acts and/or omissions of the Respondent, TWIN CITY AMBULANCE and ERIE COUNTY, its agents, servants, employees, and/or representatives consist of:
  - a. Municipalities failure to perform in a non- negligent manner.
  - b. Failure to follow standard procedures and protocol.
  - d. Failure to provide adequate training and supervision.
8. The items of damage include, but are not limited to, mental and emotional anguish and such other and further injuries as shall be detailed by the Claimant's treating medical professionals.

PLEASE TAKE FURTHER NOTE THAT CLARA MOTLEY-STANTON respectfully requests that this claim be allowed and paid by the Respondent TWIN CITY AMBULANCE and ERIE COUNTY to recover for her personal injuries and damages sustained by her as referred to herein together with costs and disbursements of this action and such other and further relief as the court deems just and proper.

Dated: Buffalo, New York  
July 28, 2022

A handwritten signature in black ink, appearing to read 'LeRoi C. Johnson', is written over a horizontal line.

LeRoi C. Johnson, Esq.  
*Attorney for Plaintiff*  
181 Franklin Street, Suite 320  
Buffalo, NY 14202  
716-885-6883

STATE OF NEW YORK  
SUPREME COURT

:  
:  
COUNTY OF ERIE

CLARA MOTLEY- STANTON,

Claimants,

**VERIFICATION**

-vs.-

TWIN CITY AMBULANCE and ERIE COUNTY,


Respondent,

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

CLARA MOTLEY- STANTON, being duly sworn, deposes and says: that Deponent is the Claimant in the within action; that Deponent has read the foregoing Notice of Claim and knows the content thereof; that the same is correct to the Deponent's knowledge, except as to the matters stated to be alleged upon information and belief, and as to those matters, Deponent believes it to be true.

  
CLARA MOTLEY- STANTON

Sworn to before me this  
28 day of July 2022

  
Notary Public

LEROI C JOHNSON  
Notary Public, State of New York  
No. 02JO6373223  
Qualified in Erie County  
Commission Expires April 02, 2024





JEREMY C. TOTH  
ACTING COUNTY ATTORNEY

## COUNTY OF ERIE

**MARK C. POLONCARZ**

COUNTY EXECUTIVE  
DEPARTMENT OF LAW

KRISTEN M. WALDER  
SECOND ASSISTANT COUNTY ATTORNEY

August 9, 2022

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, Antwan M. v. County of Erie, Sgts. Evans &amp; Gleason, Deputies Manns &amp; Kawalek and Erie County Health Department-EHC</i>
Document Received:	Summons and Complaint
Name of Claimant:	Antwan M. Green 21-B-0774 Fishkill Correctional Facility Box 1245 Beacon, New York 12508
Claimant's attorney:	Claimant is proceeding <i>pro se</i> .

Should you have any questions, please call.

Very truly yours,

JEREMY C. TOTH  
Acting Erie County Attorney

By: 

Jeremy C. Toth  
Jeremy.Toth@erie.gov

JCT:dld  
Enc.



UNITED STATES DISTRICT COURT

for the

Western District of New York

2022 JUL 29 PM 3:34

U.S. MARSHAL'S SERVICE  
WESTERN DISTRICT OF NEW YORK

Antwan M. Green

Plaintiff(s)

v.

Sergeant S. Evans and Deputy C. Manns

Defendant(s)

Civil Action No. 21-CV-6454

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Sergeant S. Evans  
Erie County Holding Center  
40 Delaware Avenue  
Buffalo, NY 14202

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Antwan M. Green, 21-B-0774  
FISHKILL CORRECTIONAL FACILITY  
Box 1245  
Beacon, NY 12508

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

CLERK OF COURT

Date: 07/26/2022

  
Signature of Clerk or Deputy Clerk

Civil Action No. 21-CV-6454

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify):* \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

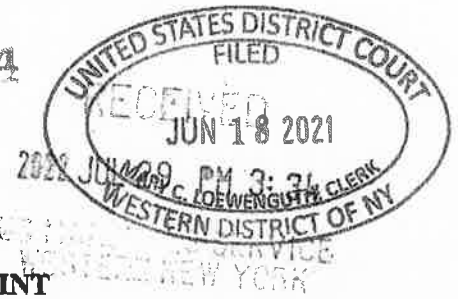
81 CV 8454

21 CV 8454

Revised 03/06 WDNV

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

**FORM TO BE USED IN FILING A COMPLAINT  
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983  
(Prisoner Complaint Form)**



All material filed in this Court is now available via the INTERNET. See Pro Se Privacy Notice for further information.

**1. CAPTION OF ACTION**

**A. Full Name And Prisoner Number of Plaintiff:** NOTE: *If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.*

1. ANTHONY M. GREEN 84887

2. \_\_\_\_\_

-VS-

**B. Full Name(s) of Defendant(s)** NOTE: *Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.*

1. COUNTY OF ERIE

4. Deputy C. MANNIS

2. Sergeant S. Evans

5. Deputy John Joe KAWALEK

3. Sergeant J. Gleason

6. Erie County Health Department E.C.H.C.

**2. STATEMENT OF JURISDICTION**

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

**3. PARTIES TO THIS ACTION**

**PLAINTIFF'S INFORMATION** NOTE: *To list additional plaintiffs, use this format on another sheet of paper.*

Name and Prisoner Number of Plaintiff: ANTHONY M. GREEN 84887

Present Place of Confinement & Address: Erie County Holding Center  
40 Delaware Ave. Buffalo New York 14202

Name and Prisoner Number of Plaintiff: \_\_\_\_\_

Present Place of Confinement & Address: \_\_\_\_\_

**DEFENDANT'S INFORMATION** NOTE: To provide information about more defendants than there is room for here, use this format on another sheet of paper.

Name of Defendant: S. EVANS

(If applicable) Official Position of Defendant: Sergeant

(If applicable) Defendant is Sued in X Individual and/or X Official Capacity

Address of Defendant: Erie County Holding Center  
40 Delaware Ave Buffalo New York 14202

Name of Defendant: J. GLEASON

(If applicable) Official Position of Defendant: Sergeant

(If applicable) Defendant is Sued in X Individual and/or X Official Capacity

Address of Defendant: Erie County Holding Center  
40 Delaware Ave Buffalo New York 14202

Name of Defendant: C. MARINIS

(If applicable) Official Position of Defendant: Erie County Sheriff Deputy

(If applicable) Defendant is Sued in X Individual and/or X Official Capacity

Address of Defendant: Erie County Holding Center  
40 Delaware Ave Buffalo New York 14202

**4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT**

- A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?  
Yes      No ✓

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s):

Defendant(s):

2. Court (if federal court, name the district; if state court, name the county):

3. Docket or Index Number:

4. Name of Judge to whom case was assigned:

Name of Defendant: Deputy Kowalek

Official Position of Defendant: Erie County Sheriff Deputy

Defendant is Sued in: x individual and/or x Official Capacity.

Address of Defendant: Erie County Holding Center 40 Delaware Ave Buffalo  
New York 14202.

Name of Defendant: County of Erie

Official Position of Defendant: The County

Defendant is Sued in: x individual and/or x Official Capacity.

Address of Defendant: 40 Delaware Ave Buffalo New York 14202

Name of Defendant: Erie County Health Department

Official Position of Defendant: Medical Provider's

Defendant is Sued in: x individual and/or x Official Capacity.

Address of Defendant: 40 Delaware Ave Buffalo New York 14202

5. The approximate date the action was filed: \_\_\_\_\_

6. What was the disposition of the case?

Is it still pending? Yes \_\_\_\_\_ No \_\_\_\_\_

If not, give the approximate date it was resolved. \_\_\_\_\_

Disposition (check the statements which apply):

\_\_\_\_\_ Dismissed (check the box which indicates why it was dismissed):

\_\_\_\_\_ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

\_\_\_\_\_ By court for failure to exhaust administrative remedies;

\_\_\_\_\_ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

\_\_\_\_\_ By court due to your voluntary withdrawal of claim;

\_\_\_\_\_ Judgment upon motion or after trial entered for

\_\_\_\_\_ plaintiff

\_\_\_\_\_ defendant.

B. Have you begun any other lawsuits in federal court which relate to your imprisonment?

Yes X No \_\_\_\_\_

If Yes, complete the next section. NOTE: If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): Anthony M. Breen

Defendant(s): County of Erie, Erie County Health Department

2. District Court: Western District of New York

3. Docket Number: 21 CV 6364

4. Name of District or Magistrate Judge to whom case was assigned: \_\_\_\_\_

5. The approximate date the action was filed: \_\_\_\_\_

6. What was the disposition of the case?

Is it still pending? Yes X No \_\_\_\_\_

If not, give the approximate date it was resolved. \_\_\_\_\_



Disposition (check the statements which apply):

☐ Dismissed (check the box which indicates why it was dismissed):

- ☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- ☐ By court for failure to exhaust administrative remedies;
- ☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- ☐ By court due to your voluntary withdrawal of claim;

☐ Judgment upon motion or after trial entered for

- ☐ plaintiff
- ☐ defendant.

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### 5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- |                    |                        |                               |
|--------------------|------------------------|-------------------------------|
| • Religion         | • Access to the Courts | • Search & Seizure            |
| • Free Speech      | • False Arrest         | • Malicious Prosecution       |
| • Due Process      | • Excessive Force      | • Denial of Medical Treatment |
| • Equal Protection | • Failure to Protect   | • Right to Counsel            |

Please note that it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

**Fed.R.Civ.P. 8(a)** states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995). **Fed.R.Civ.P. 10(b)** states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

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### Exhaustion of Administrative Remedies

Note that according to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prison er confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

**A. FIRST CLAIM:** On (date of the incident) May 24<sup>th</sup> 2021

defendant (give the name and position held of each defendant involved in this incident) Sergeant S. Evans,  
Sergeant J. Gleason, Deputy C. Manns, Deputy John Doe, County of Erie,  
Deputy Kowalek.

did the following to me (briefly state what each defendant named above did): On May 24<sup>th</sup> 2021, between the  
hours of 19:30 and 21:00, while escorted up the stairs to my cell, by Sgt S Evans  
and Deputy ~~John Doe~~ Kowalek, Sgt S. Evans using his right hand grabbed hold of my right  
bustle. Upon entering my cell, both hands handcuffs behind my back, Sgt Evans closed  
the door. I asked to use the toilet and requested the handcuffs be removed. I walked  
back to the door and requested, a second time, to remove the handcuffs. At such  
time, one of the two staffs members open my cell door, immediately, Sgt S. Evans showed me  
forward, towards the bed. Due to my hands being handcuffed, behind my back, I was

The constitutional basis for this claim under 42 U.S.C. § 1983 is: Cruel and Unusual Punishment  
Excessive Force, Equal Protection, Failure to Protect

The relief I am seeking for this claim is (briefly state the relief sought): Punitive Damages = \$2.5 Million

**Exhaustion of Your Administrative Remedies for this Claim:**

Did you grieve or appeal this claim? X Yes        No If yes, what was the result? My grievance have been  
Accepted see the attached Pages Grievance number 21G-181, 21G-191

Did you appeal that decision? X Yes        No If yes, what was the result? Grievance number  
21G-192 and 21G-193 Been Denied see the attached Pages.

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: Chief Hartman have stated  
that there are Criminal Charges and Administrative investigations pending.

**A. SECOND CLAIM:** On (date of the incident) March 4<sup>th</sup> 2021 to Present

defendant (give the name and position held of each defendant involved in this incident) Entire Medical  
Staff

unable to prevent myself from crying. I was called for the response team. Using his portable radio. Upon the team's arrival, Dep. C. Mannis grabbed the back of my neck and shoved my neck against the cell wall. I stated:

You don't have to hit my head against the wall! Deputy Kawalek released his grip from around my left upper arm. Upon which time, Dep. C. Mannis, who was standing behind me, using his right hand reached between my legs and grabbed my genitals. At the same time Sgt. S. Evans, using his right hand, aggressively grabbed and squeezed my right breast and, while using his left hand, tightened the handcuffs on my wrists. Sgt. S. Evans stated, loudly: Stop resisting. Stop resisting! I responded, extremely loud: Get the handcuffs off they are extremely tight. I stated this because I had no circulation in my hands. Sgt S. Evans stated loudly again: Stop resisting. stop resisting: Sgt S. Evans then stated quietly, to members of the response team, Let me turn my camera on. I then stated: Take me to medical. I'm hurting Sgt S. Evans stated: I'm not taking you to medical. I then stated: I'm hurting, my breast and wrists are hurting. Sgt S Evans stated: Let's take Green to medical. While being escorted to the elevators, Dep. C. Mannis tightened the handcuffs and twisted and bending my left wrist I stated. The cuffs are tight and hurting me. Released them some. While in the elevator, an unknown male clearly was holding the chain of the cuffs. While Dep. C. Mannis, again, tightened the cuffs around my left wrist while in the medical examination room. I requested the cuffs to be loosened because they were hurting me. The sworn staff members refused my request. In front of the African American Male Nurse. The male nurse examined the the position of the cuffs on my wrists and requested they be loosened. Upon which time Sgt. S. Evans loosened the handcuffs on the right wrist. The male nurse provided a bag of ice to apply to both wrists. At this point I verbalized that I also have right breast pain and genital pain while being escorted back to my cell, from medical Deputy. C. Mannis tightened the handcuffs around wrist. After being placed in my cell and handcuffs removed. Sgt. J. Gleason, remained at my cell door, while all other sworn members left, making face expressions laughing at me that he Sgt. J. Gleason turned off the water to my cell leaving me to sleep with body washed inside my cell toilet for approximately 13 hours. I request to have my water to my cell be turned back on which Sgt. J. Gleason reply No. I then reply I am a transsexual and Medication that need lots of water Sgt. J. Gleason laugh and never turned the water back on until the next following morning around 9:30AM.

That following morning my breast, wrist and genitals was at the time in extremely horrible pain. My breast was red and sore. My wrist was black and blue and cut. My genitals was in pain that it hurted for me to use the bathroom. I immediately dropped a sick called slip to medical regards to the pain in my breast, wrist, genitals. The next following morning I was exam by medical which medical have provide me with motrin to help with the pain. Which I still had the pain. I request to go to the emergency room request was denied by medical. Leaving me with dealing with the pain for two weeks. On 05/25/21 Chief Hartman have started an investigation report and PREA case # 21-050, Police Services Case # 21-036941 and Professional Standards Case # 21-096. I have met with Dep Denise York # 1206 and Dep Daniel Dutchkowskii # 359 on 05/27/21 to provide my sexual and physical assault statement. As of today's date I have heard nothing back from either parties. Furthermore Chief Hartman have reported the allegations to the New York State Commission of Correction RI # 21-155842.

did the following to me (briefly state what each defendant named above did): Each time that I have been seen by the physician, The medical Exam room door is left wide open with numerous of nurses and deputy's standing in front of the medical Exam room door, which the medical physician refused to closed the door nor have the nurses wait in the waiting area. The physicians using loud tone would discuss medical concerns out loud while nurses and deputy's are present outside of the door being left open. This matter still continues as of today.

The constitutional basis for this claim under 42 U.S.C. § 1983 is: Violation HIPPA, Failure to Protect.

The relief I am seeking for this claim is (briefly state the relief sought): I am seeking monetary in the full amount of \$10.0 Million.

#### Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? ☒ Yes ☐ No If yes, what was the result? Chief Hartman have denied my grievance.

Did you appeal that decision? ☒ Yes ☐ No If yes, what was the result? Never received an answer back.

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: \_\_\_\_\_

If you have additional claims, use the above format and set them out on additional sheets of paper.

#### 6. RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

I am requesting that I receive the relief request by me in the full amount of punitive damages \$12.5 Million

Do you want a jury trial? Yes ☒ No ☐

**I declare under penalty of perjury that the foregoing is true and correct.**

Executed on 06/09/2021  
(date)

**NOTE:** *Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.*

Antwan M. Green.

\_\_\_\_\_  
Signature(s) of Plaintiff(s)

# ERIE COUNTY SHERIFF'S OFFICE



## Grievance Response

Grievance #: **21G - 181**  
Date: **May 27, 2021**  
Inmate: **Green, Antwan (84887)**

I have read & reviewed, your grievance, in which you allege that you were sexually assaulted.

Your grievance is **ACCEPTED**.

On the evening of 5/25/21 a PREA investigation (21-050) was initiated.

The Erie County Sheriff's Office maintains a zero- tolerance policy against Sexual abuse, sexual harassment and retaliation. Administrative measures have been taken to ensure that no retaliation occurs. Rape crisis counseling and victim assistance are available to you upon request.

You are asked to cooperate and be completely truthful with investigators throughout this investigation. If, after a thorough and complete investigation, your allegation is sustained, meaningful corrective action will be taken against those responsible, which may include criminal prosecution, administrative Disciplinary action or both.

Please be advised however that knowingly or maliciously false allegations may also result in criminal prosecution, disciplinary action or both.

A handwritten signature in black ink, appearing to read "Hartman", with a long horizontal line extending to the right.

**Chief Jeffrey Hartman**  
**Grievance Coordinator**



New York State Commission of Correction  
Inmate Grievance Form  
Form SCOC 7032-1 (11/2015)

Facility: Erie County Holding Center

Housing Location: Gulf East # 47

Name of Inmate: ANTHONY M. GREEN

Grievance #: 21G- 181

**Brief Description of the Grievance (Submitted by the grievant within 5 days of occurrence)**

Number of Sheets Attached ( )

On 05/24/21 at an approximate time 7:30pm - 8pm I began getting sexually assaulted by numerous of the escort deputy and sergeant my breast was being grab and between my legs private part I continue to yell get the fuck off me and my request continue to be denied.

I was going sexually assault inmates witnesses. I have numerous marks on my body.

**Action requested by the grievant (Submitted by the grievant within 5 days of occurrence):**

Number of Additional Sheets Attached ( )

I am requesting to filed criminal charges against all deputy and sergeant that have sexually assaulted and physically assaulted me. I am hurting extremely bad. I am requesting to go to the E.R immediately.

Grievant Signature: Anthony M. Green

Date/Time Submitted: 05/24/21 8:45pm

Receiving Staff Signature: Sgt. J. #5-54

Date/Time Received: 05/24/2021 2220 HRS

Investigation Completed by: [Signature]

Date Completed: 5/27/21

**Decision of the Grievance Coordinator**

Number of Sheets Attached ( )

Written decision shall be issued within 5 business days of receipt of grievance and shall include specific facts and reasons underlying the determination

- ☒ Non-grievable issue as per 9 NYCRR §7032.4(h) (may not be appealed to CAO)
- ☒ Grievance Accepted
- ☐ Grievance Denied on Merits
- ☐ Grievance Denied due to submitted beyond 5 days of act or occurrence (can be appealed to CAO)
- ☐ Grievance Accepted in part/ Denied in part (Note specific Acceptance/Denial parts below)

Please see attached

Signature of the Grievance Coordinator: [Signature]

Date: 5/27/21



# ERIE COUNTY SHERIFF'S OFFICE



## Grievance Response

Grievance #: **21G - 191**  
Date: **May 28, 2021**  
Inmate: **Green, Antwan (84887)**

I have read & reviewed, your grievance, in which you allege that you do not feel comfortable around Sgt. Gleason and wish to press criminal charges against him.

This and all previous grievances related to the same incident have been **ACCEPTED**. This matter has been referred for both criminal and administrative investigations

PREA case # 21-050  
Police Services Case # 21-036941  
Professional Standards Case # 21-096

A handwritten signature in black ink, which appears to read "Hartman".

**Chief Jeffrey Hartman**  
**Grievance Coordinator**

**New York State Commission of Correction**  
**Inmate Grievance Form**  
 Form SCOC 7032-1 (11/2015)

Facility: Erie County Holding CenterHousing Location: Bulldog East 47Name of Inmate: ANTHONY M. GREENGrievance #: 21G-191

**Brief Description of the Grievance (Submitted by the grievant within 5 days of occurrence)**  
 Number of Sheets Attached ( )

Do to the Nature involved with Sergeant Gleason being one of the individual whom  
were involved with me being physically and sexually assaulted also discriminate  
against my gender I don't feel comfortable being any where around Sgt Gleason  
without another sergeant being present.

**Action requested by the grievant (Submitted by the grievant within 5 days of occurrence):**  
 Number of Additional Sheets Attached ( )

Requesting to file Criminal charges on Sergeant Gleason

Grievant Signature: Anthony M. GreenDate/Time Submitted: 05/27/21 11:30am <sup>AC</sup>Receiving Staff Signature: [Signature]Date/Time Received: 5/27/21 1000

Investigation Completed by: \_\_\_\_\_

Date Completed: \_\_\_\_\_

**Decision of the Grievance Coordinator**

Number of Sheets Attached ( )

*Written decision shall be issued within 5 business days of receipt of grievance and shall include specific facts and reasons underlying the determination*

- ☐ Non-grievable issue as per 9 NYCRR §7032.4(h) (may not be appealed to CAO)
- ☒ Grievance Accepted
- ☐ Grievance Denied on Merits
- ☐ Grievance Denied due to submitted beyond 5 days of act or occurrence (can be appealed to CAO)
- ☐ Grievance Accepted in part/ Denied in part (Note specific Acceptance/Denial parts below)

Please see attached

Signature of the Grievance Coordinator: [Signature]Date: 5/31/21

# ERIE COUNTY SHERIFF'S OFFICE



## Grievance Response

Grievance #: **21G - 192**  
Date: **May 21, 2021**  
Inmate: **Green, Antwan (84887)**

I have read & reviewed, your grievance, in which you request to be provided with a telephone call to the New York State PREA.

Please be advise that the entity "New York State PREA." Does not exist. Multiple ways are provided for inmates and third-party reporters to report allegations of sexual abuse. You have successfully reported your allegation of sexual abuse. Your allegation has been formally reported to the New York State Commission of Correction (RI# 21-155842) and active criminal and administrative investigations are underway.

PREA case # 21-050  
Police Services Case # 21-036941  
Professional Standards Case # 21-096

There is no need for any further reporting. Your grievance is **DENIED**.

A handwritten signature in black ink, reading "Jeffrey Hartman".

**Chief Jeffrey Hartman**  
**Grievance Coordinator**

**New York State Commission of Correction**  
**Inmate Grievance Form**  
 Form SCOC 7032-1 (11/2015)

Facility: Erie County Holding CenterHousing Location: Bulldog East 42Name of Inmate: ANTHONY M. PRESSIGrievance #: 21G-192

**Brief Description of the Grievance (Submitted by the grievant within 5 days of occurrence)**  
 Number of Sheets Attached ( )

*I have requested numerous of time to make legal calls to Albany to file a PRA complaint do to what have occurred to me on 05-24-21 by sergeants and deputies as of today date the Facility have failed to provide me with the telephone number of New York State PRA in Albany for Erie County, and to make telephone legal calls.*

**Action requested by the grievant (Submitted by the grievant within 5 days of occurrence):**  
 Number of Additional Sheets Attached ( )

*I am requesting to file the Complaint by telephone to Albany immediately and not be denied.*

Grievant Signature: Anthony M. PressiDate/Time Submitted: 05/27/21 11:30am AGReceiving Staff Signature: [Signature]Date/Time Received: 5/28/21 1000

Investigation Completed by: \_\_\_\_\_

Date Completed: \_\_\_\_\_

**Decision of the Grievance Coordinator**

Number of Sheets Attached ( )

*Written decision shall be issued within 5 business days of receipt of grievance and shall include specific facts and reasons underlying the determination*

- ☐ Non-grievable issue as per 9 NYCRR §7032.4(h) (may not be appealed to CAO)
- ☐ Grievance Accepted
- ☒ Grievance Denied on Merits
- ☐ Grievance Denied due to submitted beyond 5 days of act or occurrence (can be appealed to CAO)
- ☐ Grievance Accepted in part/ Denied in part (Note specific Acceptance/Denial parts below)

*Please see attached*

Signature of the Grievance Coordinator: [Signature]Date: 5/31/21

# ERIE COUNTY SHERIFF'S OFFICE



## Grievance Response

Grievance #: **21G - 193**  
Date: **May 31, 2021**  
Inmate: **Green, Antwan (84887)**

I have read & reviewed, your grievance, in which you allege that you request to be evaluated in an emergency room and to "have this matter investigated and continue filing criminal charges."

You were evaluated by the Division of Correctional Health at the time of the incident. At that time, Correctional Health found no reason send you to an emergency room. Should you have any current medical concerns, you are encouraged to contact Correctional Health.

Regarding your request to have this matter investigated and continue filing criminal charges, as stated in responses to similar previous grievances, this matter has been referred for both criminal and administrative investigation and there is no need for any further action at this time.

PREA case # 21-050  
Police Services Case # 21-036941  
Professional Standards Case # 21-096

Your grievance is **DENIED**.

A handwritten signature in black ink, appearing to read "Jeff Hartman", with a long horizontal line extending to the right.

**Chief Jeffrey Hartman**  
**Grievance Coordinator**

New York State Commission of Correction  
Inmate Grievance Form  
Form SCOC 7032-1 (11/2015)

Facility: Erie County Holding Center

Housing Location: GULF EAST # 47

Name of Inmate: ANTHONY M. BASSI # 84887

Grievance #: 21G- 193

**Brief Description of the Grievance (Submitted by the grievant within 5 days of occurrence)**

Number of Sheets Attached ( )

ON 05-24-21 I HAVE REQUEST TO BE SEEN AT THE ER DO TO THE EXTREME  
PAIN ON MY CHEST, WRISTS AND BETWEEN MY LEGS. SGT EVANS IMMEDIATELY  
STATED NO WHICH HAVE CAUSED SGT GLEASON TO LAUGH AND MAKING FACE  
EXPRESSIONS AT ME WHILE I AM HAVING SERIOUS PAIN AFTER THE ASSAULT.

**Action requested by the grievant (Submitted by the grievant within 5 days of occurrence):**

Number of Additional Sheets Attached ( )

TO HAVE THIS MATTER INVESTIGATED AND CONTINUE WITH THE  
FILING OF CRIMINAL CHARGES.

Grievant Signature: Anthony M. Bassi

Date/Time Submitted: 05/27/21 11:48 AM AG

Receiving Staff Signature: [Signature]

Date/Time Received: 5/27/21 1002

Investigation Completed by: \_\_\_\_\_

Date Completed: \_\_\_\_\_

**Decision of the Grievance Coordinator**

Number of Sheets Attached ( )

**Written decision shall be issued within 5 business days of receipt of grievance and shall include specific facts and reasons underlying the determination**

- ☐ Non-grievable issue as per 9 NYCRR §7032.4(h) (may not be appealed to CAO)
- ☐ Grievance Accepted
- ☒ Grievance Denied on Merits
- ☐ Grievance Denied due to submitted beyond 5 days of act or occurrence (can be appealed to CAO)
- ☐ Grievance Accepted in part/ Denied in part (Note specific Acceptance/Denial parts below)

PLEASE SEE ATTACHED

Signature of the Grievance Coordinator: [Signature]

Date: 6/1/21

New York State Commission of Correction

Inmate Grievance Form

Form SCOC 7032-1 (11/2015)

Facility: Erie County Holding Center

Housing Location: Gulf East #47

Name of Inmate: ANTHONY M. GREEN

Grievance #: 186-216-214

Brief Description of the Grievance (Submitted by the grievant within 5 days of occurrence)  
Number of Sheets Attached ( )

On the 8<sup>th</sup> day of June in the year 2021, at approximately time 4:30pm I was called to Classification without having any idea. Sgt. Slomovitch have request that I signed a disciplinary hearing report do to Sgt. S. Evans have file against me. I request to read the report do that I was aware of the disciplinary report after I've completely read the report I've immediately notice Sgt. S. Evans have retolded and provide false Allegation accusing me on charges that suppose to occur on 05-24-21 after Sgt. S. Evans become aware of the Criminal Charges I have Pending against him.

Action requested by the grievant (Submitted by the grievant within 5 days of occurrence):  
Number of Additional Sheets Attached ( )

As I am requesting that this grievance be forwarded to Detective Denise York #1206 and Dep. Daniel Dytchkowski #359 for further investigation do to Sgt. S. Evans have now retaliated back against me do to him knowing that I have filed Criminal & Sexual Charges on him which this facility have a zero tolerance policy against retaliation.

Grievant Signature: Anthony M. Green

Date/Time Submitted: 06/09/21 10:00pm

Receiving Staff Signature: [Signature]

Date/Time Received: 6/9/21 11:00

Investigation Completed by: [Signature]

Date Completed: 6/9/21

Decision of the Grievance Coordinator

Written decision shall be issued within 5 business days of receipt of grievance and shall include specific facts and reasons underlying the determination

- ☒ Non-grievable issue as per 9 NYCRR §7032.4(h) (may not be appealed to CAO)  
☒ Grievance Accepted  
☒ Grievance Denied on Merits  
☐ Grievance Denied due to submitted beyond 5 days of act or occurrence (can be appealed to CAO)  
☐ Grievance Accepted in part/ Denied in part (Note specific Acceptance/Denial parts below)

AS REQUESTED, THIS GRIEVANCE HAS BEEN  
FORWARDED TO DETECTIVES YORK &  
Dytchkowski.

Signature of the Grievance Coordinator: [Signature]

Date: 6-9-21



## Grievance Response

Grievance #: **21G - 213**  
Date: **June 9, 2021, 2021**  
Inmate: **Green, Antwan (84887)**

I have read & reviewed, your grievance, in which you request copies of the criminal charges filed against Sgt. Evans, Sgt. Gleason, & Deputy Manns.

Your allegation remains under criminal and administrative investigation. At this time, no charges have been filed, so I am unable to fulfill your request.

Your grievance is **DENIED**.

A handwritten signature in black ink, which appears to read "J. Hartman", followed by a horizontal line.

**Chief Jeffrey Hartman**  
**Grievance Coordinator**



New York State Commission of Correction  
**Inmate Grievance Form**  
 Form SCOC 7032-1 (11/2015)

Facility: Erie County Holding CenterHousing Location: Gulf East #44Name of Inmate: ANTHONY M. GREENGrievance #: 186-21G-213

**Brief Description of the Grievance (Submitted by the grievant within 5 days of occurrence)**  
 Number of Sheets Attached ( )

I have request numerous of time to receive copies of the Criminal Charges file against Sgt S. Evans, Sgt J. Gleason, Deputy C. Mannis. I was provide verbally that I will received the copy its now approximately 2 1/2 week and I still did not received the document.

**Action requested by the grievant (Submitted by the grievant within 5 days of occurrence):**  
 Number of Additional Sheets Attached ( )

I am requesting to immediately received the documents so that I can provide to my legal team.

Grievant Signature: Anthony M. GreenDate/Time Submitted: 06/09/21 10:00amReceiving Staff Signature: [Signature]Date/Time Received: 6/9/21 11:00Investigation Completed by: [Signature]Date Completed: 6/9/21**Decision of the Grievance Coordinator**

Written decision shall be issued within 5 business days of receipt of grievance and shall include specific facts and reasons underlying the determination

Number of Sheets Attached ( )

- ☐ Non-grievable issue as per 9 NYCRR §7032.4(h) (may not be appealed to CAO)
- ☐ Grievance Accepted
- ☒ Grievance Denied on Merits
- ☐ Grievance Denied due to submitted beyond 5 days of act or occurrence (can be appealed to CAO)
- ☐ Grievance Accepted in part/ Denied in part (Note specific Acceptance/Denial parts below)

Please see attached

Signature of the Grievance Coordinator: [Signature]Date: 6-9-21

New York State Commission of Correction  
Inmate Grievance Form  
Form SCOC 7032-1 (11/2015)

Facility: Erie County Holding Center

Housing Location: Built East # 47

Name of Inmate: Anthony M. Green

Grievance #: 21G-

**Brief Description of the Grievance (Submitted by the grievant within 5 days of occurrence)**

Number of Sheets Attached ( )

Medical provider continue to discuss my medical concern out loud while there are inmates waiting outside of the medical exam room, while the medical exam room door is left wide open. This is the second grievance that I have filed respect to this matter.  
HIPPA Violation

**Action requested by the grievant (Submitted by the grievant within 5 days of occurrence):**

Number of Additional Sheets Attached ( )

Act New York State Health department and the Superintendent needs to be aware of the violation.

Grievant Signature: Anthony M. Green

Date/Time Submitted: 05/24/21 6:30pm

Receiving Staff Signature: St. ML #534

Date/Time Received: 5/24/21 9:11pm

Investigation Completed by: \_\_\_\_\_

Date Completed: \_\_\_\_\_

**Decision of the Grievance Coordinator**

Number of Sheets Attached ( )

Written decision shall be issued within 5 business days of receipt of grievance and shall include specific facts and reasons underlying the determination

- ☐ Non-grievable issue as per 9 NYCRR §7032.4(h) (may not be appealed to CAO)
- ☐ Grievance Accepted
- ☐ Grievance Denied on Merits
- ☐ Grievance Denied due to submitted beyond 5 days of act or occurrence (can be appealed to CAO)
- ☐ Grievance Accepted in part/ Denied in part (Note specific Acceptance/Denial parts below)

#1

RETURNED FOR INFORMATION/EVIDENCE

Signature of the Grievance Coordinator: \_\_\_\_\_

Date: \_\_\_\_\_

**New York State Commission of Correction**  
**Inmate Grievance Form**  
 Form SCOC 7032-1 (11/2015)

Facility: Erie County Holding CenterHousing Location: Cell East # 47Name of Inmate: ANTHONY M. GREENGrievance #: 21G-**Brief Description of the Grievance (Submitted by the grievant within 5 days of occurrence)**

Number of Sheets Attached ( )

During medical Exam, deputy are still allowing inmates to be present outside of the medical Exam room while there is an inmate being Exam by a medical provider with the Exam room door wide open.  
Violation under the HIPPA ACT Law.

**Action requested by the grievant (Submitted by the grievant within 5 days of occurrence):**

Number of Additional Sheets Attached ( )

This is a complete Hipaa Violation under New York state. This  
Concern must be provide to New York state Health department.

Grievant Signature: Anthony M. GreenDate/Time Submitted: 05/24/21 6:30pmReceiving Staff Signature: SP-1 PL 45-51Date/Time Received: 5/24/21 9:12pm

Investigation Completed by: \_\_\_\_\_

Date Completed: \_\_\_\_\_

**Decision of the Grievance Coordinator**

Number of Sheets Attached ( )

*Written decision shall be issued within 5 business days of receipt of grievance and shall include specific facts and reasons underlying the determination*

- ☐ Non-grievable issue as per 9 NYCRR §7032.4(h) (may not be appealed to CAO)
- ☐ Grievance Accepted
- ☐ Grievance Denied on Merits
- ☐ Grievance Denied due to submitted beyond 5 days of act or occurrence (can be appealed to CAO)
- ☐ Grievance Accepted in part/ Denied in part (Note specific Acceptance/Denial parts below)

RETURNED FOR INFORMATION / EVIDENCE

#2

Signature of the Grievance Coordinator: \_\_\_\_\_

Date: \_\_\_\_\_

JS 44 (Rev. 12/12)

## CIVIL COVER SHEET

21 CV 6454

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

Autwan M. Green

(b) County of Residence of First Listed Plaintiff Eric  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Pro'se

## DEFENDANTS

Sergeant S. Evans Sergeant J. Gleason  
Derek C. Manns County of Eric.County of Residence of First Listed Defendant Eric  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Kenneth Kirby

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- |   |                                       |                                       |   |                            |                            |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2            | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY - Product Liability</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 373 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. Civil Rights 1983

Brief description of cause:

Equal Housing Failure to Refuse to Rent &amp; Unlawful Eviction Excessive Force

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

12.5 Million

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See Instructions):

JUDGE

DOCKET NUMBER

DATE

06/19/2021

SIGNATURE OF ATTORNEY OF RECORD

Pro'se Autwan M. Green

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

NAME: Anthony M. Ferra  
ERIC COUNTY HOLDING CENTER  
40 DELAWARE AVENUE  
BUFFALO, NEW YORK 14202-3999

ICN# 8468 F

USDC - WDNy

JUN 18 2021

BUFFALO

United States District Court house

Clerk of the Courts

2 Niagara sq

Buffalo New York 14202



RECEIVED JUN 15 2021

Legal Mail

2.30





JEREMY C. TOTH  
ACTING COUNTY ATTORNEY

## COUNTY OF ERIE

MARK C. POLONCARZ  
COUNTY EXECUTIVE  
DEPARTMENT OF LAW

KRISTEN M. WALDER  
SECOND ASSISTANT COUNTY ATTORNEY

August 17, 2022

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>ECSO Police Benevolent Association, Inc., et al. v. Sheriff John C. Garcia, ECSO and County of Erie</i>
Document Received:	Order to Show Cause
Name of Claimant:	ECSO Police Benevolent Association, Inc. and Joseph Reeves
Claimant's attorney:	Carl W. Morgan, Esq. 85 Main Street Hamburg, New York 14075

Should you have any questions, please call.

Very truly yours,

JEREMY C. TOTH  
Acting Erie County Attorney

By: 

Jeremy C. Toth

Jeremy.Toth@erie.gov

JCT:dld  
Enc.



# UNITED STATES DEPARTMENT OF JUSTICE

## OFFICE OF INSPECTOR GENERAL

### INVESTIGATION REPORT

Report No. 18-01

Investigation of the Department of Justice's  
Financial Management System  
Conducted by the Office of Inspector General  
in accordance with 28 U.S.C. 581

January 2018

The Office of Inspector General (OIG) conducted an investigation of the Department of Justice's (DOJ) financial management system. The investigation was initiated in response to a request from the Department of Justice's Inspector General for an audit of the Department's financial management system. The investigation was conducted in accordance with the provisions of 28 U.S.C. 581, which requires the Inspector General to conduct an annual audit of the Department's financial management system.

The investigation was conducted by the Office of Inspector General's (OIG) Financial Management Division (FMD). The FMD is responsible for conducting audits of the Department's financial management system. The FMD is composed of the following divisions:

Division 1

Division 2

Division 3

Division 4

Division 5

Division 6

Division 7

Division 8

The investigation was conducted in accordance with the provisions of 28 U.S.C. 581.

Investigation Report

Investigation Report

Investigation Report

Investigation Report



R E C E I V E D  
JUL 18 2022

ERIE COUNTY  
DEPARTMENT OF LAW

At a Special Term of the Supreme Court, held in and for the County of Erie at the Courthouse, 50 Delaware Avenue, Part 5, in the City of Buffalo, State of New York on the 6th day of July, 2022.

**PRESENT: HONORABLE** CATHERINE NUGENT PANEPINTO, J.S.C.

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

**In the Matter of an Article 75 Proceeding**

**ERIE COUNTY SHERIFF'S POLICE BENEVOLENT ASSOCIATION, INC. and its President, JOSEPH REEVES,**

*Petitioner,*

vs.

**ERIE COUNTY SHERIFF, JOHN C. GARCIA, ERIE COUNTY SHERIFF'S OFFICE, and COUNTY OF ERIE,**

*Respondents.*

**ORDER TO SHOW  
CAUSE**

Index No.  
807494/2022

Assigned Justice:  
Hon. Catherine Nugent Panepinto

Upon the Petition of **JOSEPH REEVES**, as President of the **ERIE COUNTY SHERIFF'S POLICE BENEVOLENT ASSOCIATION, INC.**, petitioner, dated and verified the 16th day of June, 2022, together with Exhibits attached thereto;

**LET** the respondents, **ERIE COUNTY SHERIFF, JOHN C. GARCIA, ERIE COUNTY SHERIFF'S OFFICE and COUNTY OF ERIE**, show cause at a Special Term of the Supreme Court to be held in and for the County of Erie to be held at the Courthouse thereof located at 92 Franklin cn  
Delaware Avenue, Part 5, in the City of Buffalo, New York on the 18th day of August, 2022 at 9:30AM o'clock in the fore/afternoon of that day, or as soon thereafter as counsel may be heard, why a judgment should not be made and entered herein pursuant to New York Civil Practice Law and Rules Article 75, confirming the Opinion and Award of Arbitrator Michael S.



Lewandowski dated July 21, 2021; together with the costs and disbursements of this action; and granting such other and further relief as to the Court may seem just and proper.

Oral argument shall be required on the return date of this motion.

Sufficient reason appearing therefor, let service of a copy of this Order and the papers upon which it is granted upon the Respondents, on or before the 15th day of July, 2022, be deemed good and sufficient service, and let a copy of this Order be mailed certified mail, return receipt requested to the XXX cnp

Signed this 7th day of July, 2022, in Buffalo, New York.

*Catherine Nugent Panepinto*

Nugent Panepinto J.S.C.





## COUNTY OF ERIE

JEREMY C. TOTH  
COUNTY ATTORNEY

**MARK C. POLONCARZ**

COUNTY EXECUTIVE  
DEPARTMENT OF LAW

KRISTEN M. WALDER  
DEPUTY COUNTY ATTORNEY

August 29, 2022

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>Accadia Site Contracting, Inc. v. Erie County Department of Public Works</i>
Document Received:	Summons and Complaint
Name of Claimant:	Accadia Site Contracting, Inc. 5636 Transit Road Depew, New York 14043
Claimant's attorney:	R. Anthony Rupp, III, Esq. and Elizabeth A. Holmes, Esq. Rupp Baase Pfalzgraf Cunningham LLC 1600 Liberty Building 424 Main Street Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

A handwritten signature in blue ink, appearing to read "J. Toth", is written over a horizontal line.

JEREMY C. TOTH  
Erie County Attorney

JCT:dld  
Enc.



STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

---

ACCADIA SITE CONTRACTING, INC.  
5636 Transit Road  
Depew, New York 14043

Plaintiff,

v.

Index No.: 809882/2022

ERIE COUNTY DEPARTMENT  
OF PUBLIC WORKS  
95 Franklin Street #1400  
Buffalo, New York 14202

Defendant.

---

### **SUMMONS**

#### **TO DEFENDANT:**

**YOU ARE SUMMONED** to appear in this action by serving your answer to the complaint on the plaintiff's attorney within the time limits stated below.

Erie County is designated as the county where this action will be tried because both parties to this action reside in that county.

#### **TIME LIMITS TO ANSWER:**

- (1) If this summons is served by delivery to you personally within New York State, you must answer the complaint within TWENTY (20) days after such delivery.
- (2) If this summons is not served by delivery to you personally within New York State, and not served pursuant to CPLR 312-a, you must answer the complaint within THIRTY (30) days after service is complete.
- (3) If this summons is served pursuant to CPLR 312-a, see accompanying STATEMENT OF SERVICE BY MAIL for time limits to answer.

**IF YOU FAIL TO ANSWER THE COMPLAINT** within the time stated,  
judgment will be entered against you for the relief demanded in the complaint.

Dated: August 19, 2022  
Buffalo, New York

**RUPP BAASE PFALZGRAF CUNNINGHAM LLC**

*Attorneys for Plaintiff*

Accadia Site Contracting, Inc.



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

R. Anthony Rupp III, Esq.

Elizabeth A. Holmes, Esq.

1600 Liberty Building

Buffalo, New York 14202

(716) 854-3400

rupp@ruppbaase.com

holmes@ruppbaase.com



STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

---

ACCADIA SITE CONTRACTING, INC.

Plaintiff,

v.

Index No.:809882/2022

ERIE COUNTY DEPARTMENT  
OF PUBLIC WORKS,

Defendant.

---

**COMPLAINT**

Accadia Site Contracting, Inc., by and through its attorneys, Rupp Baase Pfalzgraf Cunningham LLC, as and for its complaint against defendant Erie County Department of Public Works, alleges as follows:

1. At all relevant times, plaintiff Accadia Site Contracting, Inc. (“plaintiff” or “Accadia”) was and is a domestic business corporation organized and existing pursuant to the laws of the State of New York, with a principal place of business at 5636 Transit Road, Depew, New York 14043.
2. Defendant Erie County Department of Public Works (“defendant” or the “ECDPW”) is a municipal corporation organized and authorized to do business in the County of Erie and the State of New York.

**VENUE AND JURISDICTION**

3. Jurisdiction lies with the Supreme Court of the State of New York pursuant to the Constitution of the State of New York and the New York Civil Practice Law and Rules because this action seeks monetary damages that exceed the jurisdictional limits of all lower courts.

4. Venue is proper in Erie County under N.Y. C.P.L.R. § 503 because the defendant in this action is a resident of Erie County, and the transactions and/or occurrences giving rise to this action occurred in Erie County.

**RELEVANT FACTS**

5. In June of 2019, the ECDPW distributed to the road construction trade an invitation to bid on the rehabilitation and reconstruction of North and South Main Street between Route 5 and Route 20 in the Town of Angola, New York (the "Project").

6. The scope of work included the milling and overlay of asphalt pavements, full depth reconstruction of roadway and shoulder pavements, and installation of new concrete curbs, gutters, and drainage system improvements. The drainage work included the installation of new storm sewer piping and drainage structures and existing utilities were identified through test pit sequencing and noted on the contract plans.

7. Accadia entered into an agreement (the "Contract") with ECDPW on July 31, 2019 for a Contract Price of \$4,130,469.20. Attached hereto as **Exhibit A** is a true and complete copy of the Contract.

8. A pre-construction meeting took place on August 7, 2019 and ECPDW authorized Accadia to commence work on the Project on August 28, 2019. The Contract included a completion date of July 3, 2020.

9. DiDonato Associates, Engineering and Architecture, P.C. ("DiDonato") was designated as engineer for the Project pursuant to the Contract and provided Accadia with a complete set of electronic files for the Project on August 8, 2019 ("Project Drawings"). Attached hereto as **Exhibit B** is a copy of the Project Drawings.

10. In accordance with the Contract, DiDonato representative Anthony Buccilli was designated as the Engineer's Representative and was required to observe and inspect work performed on a full-time basis, review materials to be used, and stop and reject any work and materials found to be not in accordance with Contract plans and specifications.

11. After the Project Drawings were provided, Accadia received a series of emails from DiDonato regarding changes to the Project, which indicated "[w]e will issue a confirmed set of drawings upon completion."

12. On September 24, 2019, DiDonato provided Accadia with a punch list of changes to the Project Drawings. Attached hereto as **Exhibit C** is a copy of the September 24, 2019 correspondence.

13. Beginning in October 2019, DiDonato then issued a series of change orders to the Project labeled as "Bulletins."

14. Each Bulletin formalized a number of significant Project changes the totality of which resulted in a major redesign of the storm sewer as depicted in the original Project Drawings and Contract. Attached hereto as **Exhibit D** is a copy of all Bulletins issued by DiDonato in connection with the Project.

15. The Bulletins were issued largely due to the discovery of undisclosed utility infrastructure during the course of construction. Attached hereto as **Exhibit E** is November 7, 2019 correspondence from DiDonato acknowledging the “unknown” utilities discovered.

16. The Bulletins resulted in the following significant Project changes that fell outside the scope of the Contract and impacted the Project cost and schedule as a result:

- additional test pit excavation was required to determine the exact scope and location of existing conflicting utility infrastructure undisclosed in Contract documents;
- the utility conflicts required the removal of approximately 1,200 feet of existing concrete and blacktop and the subsequent restoration of Maple Street;
- the utility conflicts required Accadia to lower the location of the new storm sewer piping and drainage structures and increase the pipe diameters from 18” to 24”, 30” and 36” (“Project Redesign”);
- the Project Redesign resulted in increased production costs including but not limited to the employment of additional safety measures at the Project site such as trenching work; and repair and replacement of damaged water services and sanitary laterals at four residential homes;
- unexpected ground conditions were encountered as a result of the Project Redesign such as subsurface rock, buried railroad tracks and a diesel fuel tank that caused delays and additional work;
- the Project Redesign resulted in the elimination of proposed drainage structures and implementation of additional underground piping.

17. Accadia continuously advised DiDonato of the additional costs associated with the Project Redesign, which DiDonato acknowledged in writing on numerous occasions. Attached hereto as **Exhibit F** is various correspondence between the parties discussing the additional Project costs.

18. In March of 2020 the parties met and conferred regarding all force account/change orders generated as a result of the Project Redesign. Attached hereto as

**Exhibit G** is a copy of the supporting documentation submitted to DiDonato on numerous occasions.

19. The amount of the change orders requested by Accadia at that time totaled \$238,321.02 and included a number of items the final cost of which had yet to be determined as the Project was still ongoing, including the restoration of Maple Street. Id.

20. On or about March 16, 2020 Accadia provided DiDonato with a summary of costs required to complete the repair and restoration of Maple Street, required as a result of Bulletin #4 ("Maple Street Restoration"). The summary outlined each contractual line item, the quantity required and the resulting total cost of \$339,748 to complete the additional work required. Attached hereto as **Exhibit H** is a copy of Accadia's request.

21. On or about March 26, 2020 Accadia also notified ECDPW Commissioner William Geary Jr. of its claims and requested a meeting to discuss the costs incurred as a result of the Project Redesign. Attached hereto as **Exhibit I** is a copy of the March 26, 2020 correspondence.

22. On April 13, 2020, ECDPW authored a letter acknowledging that work performed by Accadia fell "outside the confines of the contract" and requested that Accadia resubmit "force account paperwork detailing each item" for a change order to be prepared and processed. Attached hereto as **Exhibit J** is a copy of ECDPW's April 13, 2020 acknowledgement.

23. Accadia resubmitted and supplemented documentation of its costs resulting from the Project Redesign that continuously remained "under review" by ECDPW as Accadia labored on in order to timely complete the Project.

24. In addition to the amounts set forth above, there were additional contract overages for mailboxes, sump drains, water services and related measurements in the amount of

\$89,286; as well as asphalt and fuel pricing adjustments in the amount of \$49,695 that also were provided to DiDonato during those discussions. Attached hereto as **Exhibit K** is a copy of the additional documentation submitted.

25. Despite a significant Project Redesign that resulted in half a million dollars in additional costs and a nationwide pandemic, substantial completion was achieved in May of 2020 and a final Project punch list was provided to DiDonato on June 1, 2020.

26. Discussions between the parties regarding Accadia's claims continued throughout 2020 and into 2021 in an effort to close out the Project.

27. In or around August of 2021 ECDPW paid a portion of the Maple Street Restoration cost via change order resulting in the remaining amount of \$128,318.20 due.

28. In or around September of 2021, ECDPW made a retention payment in the amount of \$202,667.87.

29. Despite receiving numerous written requests and participating in countless reconciliation meetings throughout 2020 and into 2021, ECDPW failed to pay the remaining \$505,620.24 in costs demanded by Accadia associated with the Project Redesign.

30. At no time did DiDonato stop or reject any work performed by Accadia throughout the Project.

### **FIRST CAUSE OF ACTION**

#### **(Breach of Contract)**

31. Accadia repeats and realleges the allegations set forth in paragraphs 1 through 30 of this complaint with the same force and effect as if set forth at length herein.

32. On or about July 31, 2019, ECDPW and Accadia entered into a binding Contract for the road reconstruction work on the Project.

33. Accadia commenced performance of its work pursuant to the Contract shortly thereafter.

34. At all relevant times, Accadia performed in a workmanlike manner, consistent with the Contract documents and industry standards.

35. During the course of Accadia's work, conditions were discovered at the Project site that differed materially from those indicated in the Contract documents.

36. Specifically, the presence of undisclosed subsurface utility infrastructure resulted in a major redesign of the scope of work as set forth in the Contract documents.

37. The Project Redesign was acknowledged by ECDPW and reflected in Bulletins issued by Project representative DiDonato.

38. The Project Redesign and Bulletins resulted in additional contractual and extra-contractual costs duly documented by Accadia and submitted to ECDPW for payment as the Project progressed.

39. Despite its documentation and submission of the additional costs associated with the Project Redesign and timely completing all work required under the Contract and the Bulletins issued by Project engineer DiDonato, ECDPW refused to pay Accadia for the work completed.

40. As a result, ECDPW breached the parties' Contract by refusing to pay Accadia for the additional work required and performed due to the Project Redesign.

41. As a result of ECDPW's breach of the Contract, Accadia has incurred losses and damages in the amount of \$505,620.24, together with interest.

42. Based on the foregoing, Accadia demands judgment against ECDPW in an amount to be determined at trial.

**SECOND CAUSE OF ACTION**  
**(Services Rendered/Unjust Enrichment)**

43. Accadia repeats and realleges the allegations set forth in paragraphs 1 through 42 of this complaint with the same force and effect as if set forth at length herein.

44. Pursuant to the parties' Contract and subsequent Bulletins issued by ECDPW through its representative DiDonato, Accadia performed certain labor, services and furnished materials on the Project through July of 2020.

45. Pursuant to the Contract and Bulletins, and at the request of ECDPW, Accadia performed certain labor and services and furnished materials on behalf of ECDPW, for which there is a balance due and owing to Accadia in the sum of \$505,620.24.

46. ECDPW has accepted and retained the benefit of Accadia's work and has been unjustly enriched through failure to pay for same.

47. That no portion of the said \$505,620.24 has been paid despite due demand and therefore, the said amount is due and owing to Accadia herein.

48. By reason of the foregoing, Accadia has been damaged in an amount to be determined at trial, plus applicable interest.

**THIRD CAUSE OF ACTION**  
**(Quantum Meruit)**

49. Accadia repeats and realleges the allegations set forth in paragraphs 1 through 48 of this complaint with the same force and effect as if set forth at length herein.

50. Between August 2019 and July 2020, Accadia at the special instance and request of ECDPW and for its use and benefit, performed certain labor, services and furnished material for the Project.



51. The labor, services and material are reasonably worth \$505,620.24. This amount became due and payable in July 2020, but no part of it has been paid.

52. Five Hundred Five Thousand Six Hundred Twenty Dollars and Twenty-Four Cents (\$505,620.24) is now due and unpaid for labor, services and material provided by Accadia, with interest, from July 2020.

53. Payment has been demanded, but defendant has refused to pay the sum or any part.

**WHEREFORE**, the plaintiff demands judgment against the defendant ECDPW as follows:

- (1) On its first cause of action for breach of contract, a judgment for plaintiff's losses and damages in an amount to be determined at trial, plus interest;
- (2) On its second cause of action for unjust enrichment, a judgment for plaintiff's losses and damages in an amount to be determined at trial, plus interest;
- (3) On its third cause of action for quantum meruit, a judgment for plaintiff's losses and damages in an amount to be determined at trial, plus interest;
- (4) An award of costs, disbursements, and reasonable attorneys' fees to be payable by the defendant to the plaintiff; and

(5) An award to the plaintiff of any type of relief within the Court's jurisdiction and appropriate to the proof, whether or not demanded, and imposing such terms as may be just, pursuant to CPLR § 3017(a).

Dated: August 19, 2022  
Buffalo, New York

**RUPP BAASE PFALZGRAF CUNNINGHAM LLC**

*Attorneys for Plaintiff*

Accadia Site Contracting, Inc.



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

R. Anthony Rupp III, Esq.

Elizabeth A. Holmes, Esq.

1600 Liberty Building

Buffalo, New York 14202

(716) 854-3400

rupp@ruppbaase.com

holmes@ruppbaase.com



JEREMY C. TOTH  
COUNTY ATTORNEY

## COUNTY OF ERIE

**MARK C. POLONCARZ**

COUNTY EXECUTIVE  
DEPARTMENT OF LAW

KRISTEN M. WALDER  
DEPUTY COUNTY ATTORNEY

September 15, 2022

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>Hechmer, Lisa v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Lisa Hechmer 235 Royal Parkway West Amherst, New York 14221
Claimant's attorney:	Samuel J. Capizzi, Esq. Collins & Collins Attorneys, LLC 267 North Street Buffalo, New York 14201

Should you have any questions, please call.

Very truly yours,

JEREMY C. TOTH  
Erie County Attorney

JCT:dld  
Enc.



STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

---

LISA HECHMER,

Claimant,

**NOTICE OF CLAIM**

v.

Index No.:

COUNTY OF ERIE,

Respondent

---

TO: **Jeremy C. Toth, Erie County Attorney**  
**95 Franklin Street**  
**Room 1634**  
**Buffalo, NY 14202**

**PLEASE TAKE NOTICE**, that the undersigned hereby makes this notice of claim in compliance with the applicable statutes of the State of New York:

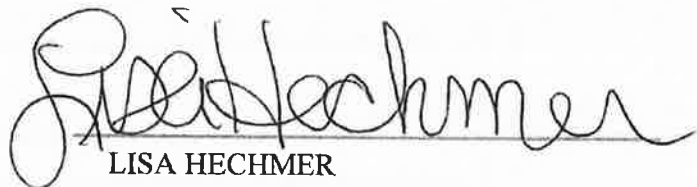
1. The claimant here in is Lisa Hechmer who resides at 235 Royal Parkway West, Amherst, NY 14221.
2. The claimant here in is represented by law firm of Collins & Collins Attorneys, LLC, 267 North Street, Buffalo, NY 14201.
3. The subject claim is for personal injuries and associated medical and economic loss sustained by reason of the negligence and statutory violations of the respondent, County of Erie, by and through its agents, servants and/or employees.
4. The incident giving rise to the damages occurred on July 10, 2022 at approximately 4:30pm., when the claimant tripped and fell on a defect in the sidewalk within Glen Park as it abutted the pedestrian bridge over Ellicott Creek as is exactly depicted in the photographs attached as Exhibit A hereto. As a result of the fall, the claimant suffered injuries including contusions of face, shoulder, and fracture of her right hand.

5. The aforesaid incident was caused by the negligence and statutory violations of the respondent, County of Erie, by and through its agents, servants and/or employees. The negligence of the respondent includes, but is not limited to, failure to maintain its premises in a reasonably safe condition for park users, particularly in the area depicted in the photographs and described above.

6. As a result of the negligence of the respondent, County of Erie, claimant has sustained, among other injuries, contusions of the face, shoulder, and a fracture to her right hand, along with medical expenses and lost wages.

7. The total sum claimed is in an amount to be determined by a jury and it shall include past and future pain and suffering, past and future lost wages, and past and future medical expenses.

DATED: July 28, 2022  
Buffalo, New York

  
LISA HECHMER

STATE OF NEW YORK)

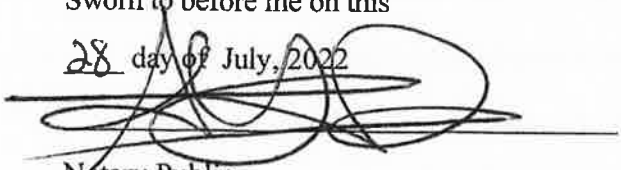
COUNTY OF ERIE)

ss:

On the 28<sup>th</sup> day of July, 2022, LISA HECHMER being duly sworn, deposes and says that he is the Petitioner in this matter; that he has read the foregoing Notice of Claim and knows the contents thereof; that it is true to his personal knowledge, except as to matters stated to be upon information and belief, and as those matters he believes to be true.

Sworn to before me on this


28 day of July, 2022

  
Notary Public

ABIGAIL VICTORIA BRAUER  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01BR6366028  
Qualified in Erie County  
My Commission Expires 10-23-2025

**CERTIFICATION**

Pursuant to Part 130-1 of the Rules of the Chief Administrator, the undersigned attorney certifies that, to the best of my knowledge, information, and belief, formed after inquiry reasonable under the circumstances, the presentation of this paper or the contentions therein are not frivolous as defined in subsection (c) of §130-1.1.



---

SAMUEL J. CAPIZZI, ESQ.  
COLLINS & COLLINS ATTORNEYS, LLC  
*Attorneys for Claimant*  
267 North Street  
Buffalo, New York 14201  
(716) 885-9700







JEREMY C. TOTH  
COUNTY ATTORNEY

## COUNTY OF ERIE

**MARK C. POLONCARZ**

COUNTY EXECUTIVE  
DEPARTMENT OF LAW

KRISTEN M. WALDER  
DEPUTY COUNTY ATTORNEY

September 15, 2022

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

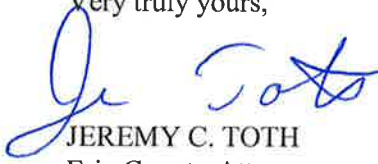
Dear Mr. Graber:

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>Ross, Mikhi v. Sheriff John Garcia, Hon. Suzanne Maxwell Barnes</i>
Document Received:	Writ of Habeas Corpus
Name of Claimant:	Mikhi Ross
Claimant's attorney:	Mark J. Byrne, Esq. 561 Ridge Road Buffalo, New York 14218

Should you have any questions, please call.

Very truly yours,

  
JEREMY C. TOTH  
Erie County Attorney

JCT:dld  
Enc.



STATE OF NEW YORK  
SUPREME COURT :: COUNTY OF ERIE

THE PEOPLE OF THE STATE OF NEW YORK,  
ex rel. MIKHI ROSS,

Petitioner,

**WRIT OF HABEAS CORPUS**

Indictment No. 449-2021

Index No. 2022000042

vs.

JOHN GARCIA, Sheriff of Erie County,  
HON. SUZANNE MAXWELL BARNES, Erie  
County Judge,

Respondents.

This paper received at the  
Erie County Attorney's Office  
from Mark Byrne on  
the 24<sup>th</sup> day of August, 2022  
at 2:58 a.m./p.m.  
[Signature]  
Assistant County Attorney

TO: JOHN GARCIA, Sheriff of Erie County,  
HON. SUZANNE MAXWELL BARNES, Erie  
County Judge.

**P L E A S E   T A K E   N O T I C E**, that upon the annexed Verified Petition, verified on August 24, 2022, and the exhibits attached thereto, the undersigned shall move at the Courthouse of the Supreme Court in the County of Erie, 25 Delaware Avenue, Buffalo, New York 14202 on the \_\_\_\_ day of August, 2022, at \_\_\_\_\_, or as soon thereafter as counsel may be heard, for a writ of habeas corpus, annulling the determination of Respondent's bail revocation decision pursuant to New York State Criminal Procedure Law § 530.60(2)(c), and granting such other and further relief as this Court may deem just and equitable.

Buffalo, New York  
August 24, 2022

Respectfully submitted,

MARK J. BYRNE, ESQ.  
Attorney for Petitioner  
561 Ridge Road  
Buffalo, New York 14218  
716.880.0719



To: Honorable Betty Calvo-Torres

Honorable Suzanne Maxwell-Barnes  
25 Delaware Avenue  
Buffalo, N.Y. 14202

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





JEREMY C. TOTH  
COUNTY ATTORNEY

## COUNTY OF ERIE

**MARK C. POLONCARZ**

COUNTY EXECUTIVE  
DEPARTMENT OF LAW

KRISTEN M. WALDER  
DEPUTY COUNTY ATTORNEY

September 15, 2022

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

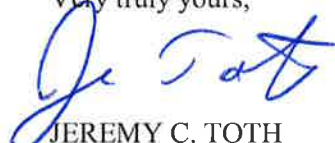
Dear Mr. Graber:

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>Hartman, Donna v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Donna Hartman DIN #22GO175 Albion Correctional Facility 3595 State School Road Albion, New York 14411
Claimant's attorney:	Claimant is proceeding <i>pro se</i> .

Should you have any questions, please call.

Very truly yours,

  
JEREMY C. TOTH  
Erie County Attorney

JCT:dld  
Enc.





SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ERIE

RECEIVED  
AUG 23 2022

Donna L. Hartman,

Claimant,

ERIE COUNTY  
DEPARTMENT OF LAW

NOTICE OF CLAIM

-against-

THE COUNTY OF ERIE,

Respondent.

PLEASE TAKE NOTICE that pursuant to Section 50(e) of the General Municipal Law,  
the undersigned Donna Hartman, intends to file a claim against the  
County of ERIE.

1. The post office address of the claimant herein is:

Albion Correctional Facility  
3595 Sate School Road  
Albion, NY 14411

2. The Claimant is submitting this notice of claim pro se.

3. The nature of the claim is as follows;

NEW YORK STATE DEVISION OF PAROLE, FAILED to SUPERVISE  
Both my children, Nichole Hartman McHurray, &  
Gregory Beardsley, which ended with my son  
passing away in Dec 2021.

I, THE CLAIMANT HAD CALLED PAROLE OFFICER Carrie  
AND HER SUPERVISOR SEVERAL TIMES DUE to Nichole  
over dosing on Herion. TO NO ADVAIL THEY did NOTHING!  
my son Greg, died Dec 9<sup>th</sup> 2021. I called  
parole several times with concerns, they did  
not check on him. (I had Covid) on Sunday -  
I went to check on my son, Once cleared



of Covid, And I found him dead!

Had Parole done there job!! my Son maybe  
alive, or would of Been found sooner!

4. The time when, the place where and the manner in which the claim arose are as follows:

Nichole's incidents, AND I NOTIFYING PAROLE WAS May 2021  
threw SEPT 2021.

GREGORY'S WAS FROM NOV 2021 threw his DEATH ON OR  
ABOUT DEC 9<sup>th</sup> 2021

Nichole May 2021 - SEPT 2021

5. The claim arose on <sup>GREG →</sup> DEC 9<sup>th</sup> at 9:00 AM when I called parole

6. As a result of the incident, the damages or injuries sustained by the Claimant are as  
follows

my daughter CONTINUES to USE, NO program, NO  
Nothing. Parole officer Carrie Told me  
THERE WAS NOTHING she could do! my daughter died  
3 TIMES while under the Supervision of Parole.

★ my Son Greg, died DEC 9<sup>th</sup> 2021, I phoned  
Greg's Parole officer asking for them to check  
on him (I + my husband had Covid at that  
time.) Parole neglected to check on my Son  
from Thursday DEC 9<sup>th</sup> threw Sunday the 12<sup>th</sup>.  
when I was cleared of Covid + went to  
check myself, and I found him dead!

Donna Hartman  
Donna Hartman, Claimant  
DIN #: 2260175  
Albion Correctional Facility  
3595 Sate School Road  
Albion, NY 14411



VERIFICATION

STATE OF NEW YORK )

) ss.:

COUNTY OF ORLEANS )

Donna Hartman, being duly sworn, says:

I am the claimant above named; I have read the foregoing and know its contents; the same is true to my knowledge, except as to the matter therein stated to be alleged on information and belief, and as to those matters, I believe to be true.

Donna Hartman  
Donna Hartman Claimant  
DIN #: 2260175  
Albion Correctional Facility  
3595 Sate School Road  
Albion, NY 14411

Sworn to before me this

11<sup>th</sup> day of August, 2022

Albion  
NOTARY PUBLIC

Joseph T. Daniels  
Notary Public, State of New York  
Reg. No. 01DA6430497  
Qualified in Niagara County  
Commission Expires 3/14/2026



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ERIE

Donna Hartman, -----X

Claimant,

AFFIDAVIT OF SERVICE

-against-

THE COUNTY OF ERIE,

Respondent.

-----X  
STATE OF NEW YORK )

) ss.:

COUNTY OF ORLEANS )

I, Donna Hartman, being duly sworn, deposes and says:

I am over the age of 18 and reside at Albion Correctional Facility, 3595 State School Road, Albion, NY 14411.

On the 11<sup>th</sup> day of August, 2022, I served the within Notice of Intent, Verification, and this Affidavit of Service upon County Attorney by certified mail at the following address:

Erie County Attorney  
95 Franklin St.  
Buffalo, NY 14202

Donna Hartman  
Donna Hartman, Claimant  
DIN #: 8260175  
Albion Correctional Facility  
3595 State School Road  
Albion, NY 14411

Sworn to before me this  
11<sup>th</sup> day of August, 2022

Joseph T. Daniels  
NOTARY PUBLIC

Joseph T. Daniels  
Notary Public, State of New York  
Reg. No. 01DA6430497  
Qualified in Niagara County  
Commission Expires 3/14/2026







JEREMY C. TOTH  
COUNTY ATTORNEY

## COUNTY OF ERIE

**MARK C. POLONCARZ**

COUNTY EXECUTIVE  
DEPARTMENT OF LAW

KRISTEN M. WALDER  
DEPUTY COUNTY ATTORNEY

September 15, 2022

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>Johnson, Nicole v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Nicole Johnson 472 Emerson Drive, Apt. #1 Amherst, New York 14226
Claimant's attorney:	Denis J. Bastible, Esq. Cellino Law, LLP 800 Delaware Avenue Buffalo, New York 14209

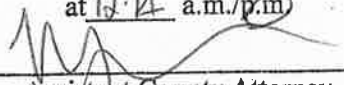
Should you have any questions, please call.

Very truly yours,

JEREMY C. TOTH  
Erie County Attorney

JCT:dld  
Enc.



This paper received at the  
Erie County Attorney's Office  
from MAJOR SANABRIA on  
the 27th day of August, 2022  
at 12:14 a.m./p.m.  
  
Assistant County Attorney

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ERIE

\*\*\*\*\*

NICOLE JOHNSON

Claimant,

v.

COUNTY OF ERIE

Respondent,

\*\*\*\*\*

**NOTICE OF CLAIM**

Index No.

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

1. Claimant's address is 472 Emerson Drive, Apt. #1, Amherst, NY 14226.
2. The claimant is represented by Cellino Law, LLP with offices located at 800 Delaware Avenue, Buffalo, New York 14209, telephone (800) 555-5555. The incident in which personal injuries were sustained by the claimant occurred on or about July 26, 2022 at approximately 8:45 a.m. – 9:00 a.m.
3. The claimant was serving as a proctor inside the Buffalo Niagara Convention Center, 153 Franklin Street, Buffalo, NY. Claimant was caused to trip and fall

due to a negligently placed floor electrical outlet box inside the room where the New York State Bar Exam was being administered.

4. The claimant sustained significant physical injuries which included a fractured left wrist and significant contusions to both legs, left-sided body pain and neck pain.

5. The claimant has received medical treatment at WellNow Urgent Care at 1751 Sheridan Drive, Tonawanda, NY, Excelsior Orthopedics, Sisters of Charity Hospital, Dent Neurology and UB Neurosurgery.

6. The full extent of claimant's injuries is not currently known. Upon information and belief, claimant will be obligated to incur further medical expenses which include prescription medications, radiology exams and ongoing medical treatment in an 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.

7. Respondent, County of Erie, had actual notice of the dangerous and defectively placed electrical outlet box, and created the dangerous and defective condition, by placing the electrical outlet box upon the floor of the Convention Center room where the New York State Bar Examination was being administered.

**TAKE NOTICE**, that Claimant demands payment of her claim as set forth above.

DATED: Buffalo, New York  
August 15, 2022

Yours, etc.,

**CELLINO LAW LLP**

By:   
Denis J. Bastible, Esq.  
Attorneys for Plaintiff  
800 Delaware Avenue  
Buffalo, NY 14209  
(800) 555-5555

**TO:** County of Erie  
92 Franklin Street, Room 1634  
Buffalo, NY 14202

**VERIFICATION**

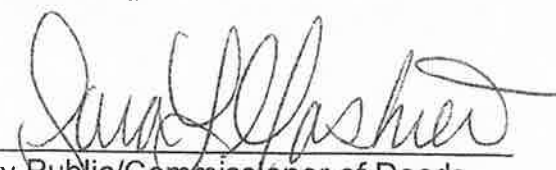
STATE OF NEW YORK     )  
COUNTY OF ERIE       : SS.:  
CITY OF BUFFALO       )

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

  
\_\_\_\_\_  
NICOLE JOHNSON

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

On the 16<sup>th</sup> day of August, in the year 2022 before me, the undersigned, personally appeared **NICOLE JOHNSON**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in his capacity and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public/Commissioner of Deeds  
**SARA L. MOSHER**  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires 9/3/23



JEREMY C. TOTH  
COUNTY ATTORNEY

## COUNTY OF ERIE

**MARK C. POLONCARZ**

COUNTY EXECUTIVE  
DEPARTMENT OF LAW

KRISTEN M. WALDER  
DEPUTY COUNTY ATTORNEY

September 15, 2022

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

Dear Mr. Graber:

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

File Name:	<i>Coleman, Kennedy v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Kennedy Coleman ICN #148370 Erie County Correctional Facility 11581 Walden Road Alden, New York 14004
Claimant's attorney:	Claimant is proceeding <i>pro se</i> .

Should you have any questions, please call.

Very truly yours,

JEREMY C. TOTH  
Erie County Attorney

JCT:dld  
Enc.





JCT

Notice of Claim

To: Erie County Executive  
County Attorney  
Erie County Sheriff

PLEASE TAKE NOTICE that KENNEDY COLEMAN, ICN # 148370, the claimant, hereby makes claim against the County of Erie, State of New York, for damages sustained by him for personal injury as follows:

The claimants post office/ mailing address is : Erie County Correctional Facility; 11581 Walden ave; Alden, NY 14004.

The date upon which the injury complained of occurred was the 7th day of April, 2022, on or about 6:30 pm and continuing thereafter.

The injuries sustained by the claimant by reason thereof are more particularly described as follows: loss of tooth, back, head, nose, and neck injuries (possible fractures).

The injuries complained of were sustained as a result of the negligence of said county in its care and management of the Erie County Correctional Facility, 11581 Walden ave; Alden, NY 14004, which said facility was wholly under its operation and control. Claimant was incarcerated at said facility, and thus in the care and custody of said Erie County Sheriff. Claimant requests: a X-ray, and compensation for pain and suffering and emotional distress in the amount of \$75,000.

Due to the wrongful denial of Erie County Jail staff and Correction Officers, Claimant was to suffer the above described injuries.

By reason thereof, the claimant sustained injury to his person due to said County's negligence and/or wrongful denial of Failure to maintain a safe environment by failing to maintain their duty to watch over the inmates, some of which were and known to be "extremely dangerous", in other words security staff was not watching over the inmates to prevent fights when they in fact were suppose to.

The claimant presents this claim and demand for adjustment and payment and gives notice that unless his claim is adjusted and paid within the time provided by law from the date of its presentation, it is claimants' intention to commence an action thereon.

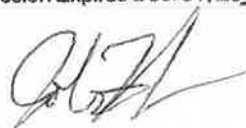
Dated:

Kennedy Coleman ICN # 148370

x Kennedy Coleman

Sworn to before me this 5  
day of AUGUST, 2022

JOHN FLOWERS  
COMMISSIONER OF DEEDS  
In and For the City of Buffalo, Erie County, NY  
My Commission Expires Dec. 31, 2022



RECEIVED  
AUG 11 2022





JEREMY C. TOTH  
COUNTY ATTORNEY

## COUNTY OF ERIE

**MARK C. POLONCARZ**

COUNTY EXECUTIVE  
DEPARTMENT OF LAW

KRISTEN M. WALDER  
DEPUTY COUNTY ATTORNEY

September 20, 2022

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>Boron, John, et al. v. John J. Flynn, et al.</i>
Document Received:	Summons & Complaint
Name of Claimant:	John Boron, Depew, NY Brett Christian, Cheektowaga, NY Firearms Policy Coalition, Inc., Las Vegas, NV Second Amendment Foundation, Bellevue, WA
Claimant's attorney:	Nicholas J. Rotsko, Esq. Phillips Lytle LLP One Canalside 125 Main Street Buffalo, New York 14203-2887

Should you have any questions, please call.

Very truly yours,

JEREMY C. TOTH  
Erie County Attorney

JCT:dld  
Enc.



AO 440 (Rev. 06/12) Summons in a Civil Action

**UNITED STATES DISTRICT COURT**

for the

Western District of New York

John Boron, et al,

*Plaintiff(s)*

v.

Kevin P. Bruen, in his official capacity as  
Superintendent of the New York State Police, et al.

*Defendant(s)*

Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)* John J. Flynn

Erie County District Attorney's Office  
25 Delaware Avenue  
Buffalo, NY 14202

A lawsuit has been filed against you.

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

Phillips Lytle LLP  
One Canalside  
125 Main Street  
Buffalo, NY 14203-2887

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

**CLERK OF COURT**

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*



Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))***

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:







## COUNTY OF ERIE

JEREMY C. TOTH  
COUNTY ATTORNEY

**MARK C. POLONCARZ**

COUNTY EXECUTIVE  
DEPARTMENT OF LAW

KRISTEN M. WALDER  
DEPUTY COUNTY ATTORNEY

September 21, 2022

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>Gugino, John A. and Teamsters Local 264 v. Sheriff John C. Garcia and County of Erie</i>
Document Received:	Verified Petition
Name of Claimant:	John Gugino 5160 Larkspur Lane Hamburg, New York 14075
Claimant's attorney:	Terry M. Sugrue, Esq. Law Offices of Terry M. Sugrue & Associates, LLP 135 Delaware Avenue, Suite 410 Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

  
JEREMY C. TOTH  
Erie County Attorney

JCT:dld  
Enc.



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ERIE

In the Matter of the Application of

AMENDED

NOTICE OF PETITION

JOHN A. GUGINO and  
TEAMSTERS LOCAL 264

Petitioners,

Index No. 810869/2022

For a Judgment Pursuant to Article 78 of the Civil  
Practice Law and RulesAssigned Judge:  
Hon. Timothy J. Walker

-against-

JOHN C. GARCIA, as Sheriff of Erie County, and  
COUNTY OF ERIE,This paper received at the  
Erie County Attorney's Office  
from Sandra Michalski  
the 20<sup>th</sup> day of Sept., 2022  
at 10:30 a.m./p.m.

Respondents.

MOTION BY

Law Offices of Terry M. Sugrue & Associates, LLP  
(Terry M. Sugrue, Esq.)  
Attorneys for PetitionersDATE, TIME, AND  
PLACE OF HEARINGOctober 12, 2022, on submission only  
Supreme Court, Part 22, 25 Delaware Avenue  
Buffalo, New York 14202

SUPPORTING PAPERS

Verified Petition and accompanying materials.

RELIEF REQUESTED

A judgment annulling petitioner Gugino's separation  
from service and permitting Petitioners the  
opportunity to challenge Petitioner Gugino's  
termination through the grievance process under the  
collective bargaining agreement between Respondents  
and petitioner Teamsters Local 264, together with  
such further relief as this Court deems just, proper and  
equitable.

GROUNDS FOR RELIEF

CPLR Article 78 and related decisional law.

RESPONDING PAPERS

Pursuant to CPLR 7804(c), answering papers, if any,  
are to be served upon the undersigned no later than  
five (5) days before the return date of this Petition.



DATED

Buffalo, New York  
September 8, 2022

By: s/Terry M. Sugrue  
Law Offices of Terry M. Sugrue  
& Associates, LLP  
Terry M. Sugrue, Esq.  
Attorneys for Petitioners  
135 Delaware Avenue, Suite 410  
Buffalo, New York 14202  
Telephone: (716) 856-0277  
Facsimile: (716) 843-8698  
terry.m.sugrue@gmail.com

To: John C. Garcia  
Sheriff of Erie County  
10 Delaware Avenue  
Buffalo, New York 14202

County of Erie  
c/o Mark Polancarz  
Erie County Executive  
95 Franklin Street, 16<sup>th</sup> Floor  
Buffalo, New York 14202





JEREMY C. TOTH  
COUNTY ATTORNEY

## COUNTY OF ERIE

**MARK C. POLONCARZ**

COUNTY EXECUTIVE  
DEPARTMENT OF LAW

KRISTEN M. WALDER  
DEPUTY COUNTY ATTORNEY

September 28, 2022

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>Niagara Mohawk Power Corporation d/b/a National Grid v. Porter, Vicki, Estate of, Erie County and John &amp; Jane Doe</i>
Document Received:	Verified Petition
Name of Claimant:	Niagara Mohawk Power Corporation
Claimant's attorney:	Kathleen M. Bennett, Esq. Bond, Schoeneck & King, PLLC One Lincoln Center Syracuse, New York 13202

Should you have any questions, please call.

Very truly yours,

JEREMY C. TOTH  
Erie County Attorney

JCT:dld  
Enc.





STATE OF NEW YORK  
SUPREME COURT : ERIE COUNTY

NIAGARA MOHAWK POWER CORPORATION D/B/A  
NATIONAL GRID,

NOTICE OF PETITION

Petitioner,

Index No.:

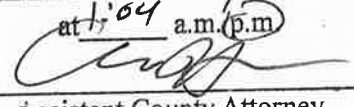
vs.

Judge Assigned:

ESTATE OF VICKI I. PORTER, ERIE COUNTY AND  
JOHN AND JANE DOE,

Respondents.

TO: Vicki Porter  
8 Gowans Road, Angola, NY 14006

This paper received at the  
Erie County Attorney's Office  
from John McCarroll  
the 25<sup>th</sup> day of Aug, 2022  
at 1:04 a.m./p.m.  
  
Assistant County Attorney

PLEASE TAKE NOTICE that the Petitioner Niagara Mohawk Power Corporation d/b/a National Grid ("National Grid") in the above-entitled proceeding, dated August 3, 2022, and duly verified, will be presented to the Supreme Court of the State of New York at a Motion Term thereof to be held in and for Erie County, at the Erie County Supreme Court, Erie County Courthouse, 25 Delaware Avenue, Buffalo, NY 14202, in the Eighth Judicial District on September 19, 2022 at 10:00 a.m., or as soon thereafter as counsel may be heard; and a motion will then and there be made that the relief requested in the Petition be granted, and that an Order and Judgment be issued permitting the filing of the acquisition map and vesting of title to the permanent easements described in the Petition, and directing the Respondents to file their claims pursuant to Section 503 of the Eminent Domain Procedure Law on or before December 31, 2023, together with such other and further relief as the Court deems just and proper.

The portion of your real property affected by this proceeding is shown on the acquisition map attached to the Petition.



PLEASE TAKE FURTHER NOTICE that pursuant to CPLR Section 403(b), answering papers and/or affidavits, if any, shall be served on the undersigned at least seven (7) days before the return date of this petition.

Dated: Syracuse, New York

BOND, SCHOENECK & KING, PLLC

August 3, 2022



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

Kathleen M. Bennett, Esq.

Attorneys for Petitioner

Office and P.O. Address:

One Lincoln Center

Syracuse, New York 13202

Telephone: 315-218-8631





JEREMY C. TOTH  
COUNTY ATTORNEY

## COUNTY OF ERIE

**MARK C. POLONCARZ**

COUNTY EXECUTIVE  
DEPARTMENT OF LAW

KRISTEN M. WALDER  
DEPUTY COUNTY ATTORNEY

September 28, 2022

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>Bartolomeo, Paul v. County of Erie, Erie County Sheriff's Office, ECSO John Doe(s), Sheriff John Garcia, Individually and in his official capacity, and Erie County Youth Services Center Secure Detention</i>
Document Received:	Notice of Claim
Name of Claimant:	Paul Bartolomeo 2637 Stony Point Road Grand Island, New York 14072
Claimant's attorney:	Brittany L. Penberthy, Esq. Penberthy Law Group LLP 227 Niagara Street Buffalo, New York 14201

Should you have any questions, please call.

Very truly yours,

JEREMY C. TOTH  
Erie County Attorney

JCT:dld  
Enc.



STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

---

RECEIVED  
JUL 26 2022  
ERIE COUNTY  
DEPARTMENT OF LAW

PAUL BARTOLOMEO,

Claimant

-vs-

**NOTICE OF CLAIM**

COUNTY OF ERIE,  
ERIE COUNTY SHERIFF'S OFFICE,  
ERIE COUNTY SHERIFF(S) JOHN DOE(S)  
ERIE COUNTY SHERIFF, JOHN C. GARCIA, individually and in his official capacity,  
and ERIE COUNTY YOUTH SERVICES CENTER SECURE DETENTION,

Respondents

---

TO: COUNTY OF ERIE, ERIE COUNTY SHERIFF'S OFFICE, ERIE COUNTY SHERIFF(S) JOHN DOE(S), SHERIFF JOHN C. GARCIA, individually and in his official capacity, and ERIE COUNTY YOUTH SERVICES CENTER SECURE DETENTION

**PLEASE TAKE NOTICE** that PAUL BARTOLOMEO hereby claims and demands against the above-named Respondents damages for personal injuries sustained by him and for medical and hospital expenses incurred and/or to be incurred together with permanent, disfiguring and debilitating injuries as a result of the negligent, careless and reckless acts and omissions of the above-named Respondents, its agents, servants and/or employees, appointees, designees, departments or divisions thereof and in support thereof, the Claimant states the following:

1. The post office address of the Claimant, is 2637 Stony Point Road, Grand Island, New York 14072; the name and post office address of Claimant's attorney is Brittanylee

Penberthy, Esq., of Penberthy Law Group LLP, 227 Niagara Street, Buffalo, New York 14201.

2. That the nature of this claim is for the negligent, careless and reckless acts or omissions of the above-named Respondents, their agents, servants and/or employees, appointees, designees, departments and divisions thereof, in that PAUL BARTOLOMEO was injured when Respondents failed to properly secure and/or prevent a juvenile inmate, D.W, with a known propensity/tendency to spit, to assault and batter Claimant. That said claim arose on/or about the 19th day of July 2022 on the 7<sup>th</sup> floor, within Part 4, of Erie County Family Court, located at 1 Niagara Street, Buffalo, New York; that the manner in which said claim arose was that the Claimant was spit on a the aforementioned juvenile inmate while in the custody and/or transport of Respondents, including ERIE COUNTY SHERIFF(S) JOHN DOE(S), and in that as a result of said incident the Claimant sustained serious and permanent injuries.

3. That so far as is now able to be determined, the Claimant has been required to undergo serious and alarming infectious disease treatment, resulting in extreme mental anguish and injury to his nervous system as a result of the aforesaid incident, the full extent of which cannot be fully assessed at the present time.

4. That by reason of the foregoing injuries, said Claimant became and will continue to be disabled and will continue to suffer great pain, discomfort and harm and has and may require the services of physicians, surgeons, nurses, hospitals, therapy, manipulations and medicines and will continue to incur such expenses in the future; that as a result of the aforesaid injuries and the resulting potential permanent disabilities, said Claimant has been



incapacitated from his profession and/or employment and will continue to be incapacitated in the future, and as a result of the aforesaid injuries. The future earning capacity of the Claimant and the activities, professional, social and personal endeavors and hobbies of the Claimant and his enjoyment of life will or could be partially and/or totally impaired as a result thereof, all to the damage of said Claimant.

PLEASE TAKE FURTHER NOTICE that the Claimant requests payment from the Respondents for all of the claims and damages sustained by him as hereinbefore set forth.

DATED: July 20, 2022  
Buffalo, New York

**PENBERTHY LAW GROUP LLP**

By: 

**BRITTANY LEE PENBERTHY, ESQ.**

Attorneys for Claimant  
Office and P.O. Address  
227 Niagara Street  
Buffalo, New York 14201  
(716) 803-8402


**VERIFICATION**

STATE OF NEW YORK )

) SS.:

COUNTY OF ERIE )

**PAUL BARTOLOMEO**, being duly sworn, deposes and says that he is the claimant above named; he has read the foregoing claim and knows the contents thereof; the same is true to the knowledge of the claimant except for the matters herein alleged upon information and belief, and as to those matters, he believes them to be true.

  
\_\_\_\_\_  
PAUL BARTOLOMEO

Sworn to before me this

21<sup>st</sup> day of July, 2022.

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

Kimberly A. Ralph  
Notary Public - State of New York  
No: 012A4348219  
Qualified in Erie County  
My Commission Expires on September 19, 2024



## COUNTY OF ERIE

JEREMY C. TOTH  
COUNTY ATTORNEY

**MARK C. POLONCARZ**

COUNTY EXECUTIVE  
DEPARTMENT OF LAW

KRISTEN M. WALDER  
DEPUTY COUNTY ATTORNEY

September 29, 2022

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>Childs, Marcita v. County of Erie</i>
Document Received:	Summons & Complaint
Name of Claimant:	Marcita G. Childs 3 Mary B. Talbert Boulevard Buffalo, New York 14204
Claimant's attorney:	Claimant is proceeding <i>pro se</i>

Should you have any questions, please call.

Very truly yours,

JEREMY C. TOTH  
Erie County Attorney

JCT:dld  
Enc.



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF Erie

Marcita Gail Childs

(Names of Plaintiff(s)/Petitioner(s))

Erie County Department  
of Property/Department  
of LAW

(Names of Defendant(s)/Respondent(s))

**To the Person(s) Named as Defendant(s) Above:**

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED to answer the complaint of the plaintiff(s) herein and to serve a copy of your answer on the plaintiff(s) at the address indicated below within 20 days after the service of this Summons (not counting the day of service itself), or within 30 days after service is complete if the Summons is not delivered personally to you within the State of New York.

YOU ARE HEREBY NOTIFIED THAT should you fail to answer, a judgment will be entered against you by default for the relief demanded in the complaint.

Dated: \_\_\_\_\_, 20\_\_\_\_  
(Date of Summons)

This paper received at the  
County Attorney's Office

the 20<sup>th</sup> day of Sept, 2022

1:26 a.m./p.m.

County of Erie / Law

(Defendant(s) name - person(s) sued)

95 Franklin Street/rm 1634

(Defendant(s) street address)

Buffalo, New York 14202

(Defendant(s) city, state, zip)

Marcita G. Childs

(Plaintiff(s) name - person bringing on lawsuit)

3 Mary B Talbert Blvd

(Plaintiff(s) street address)

Buffalo, New York 14204

(Plaintiff(s) city, state, zip)

716-482-2804 cell

(Plaintiff(s) telephone no.)

**Venue:** Plaintiff(s) designate(s) Erie County as the place of trial. The basis of this designation is: (Enter County above; then select one category below, listing specific County)

☒ Plaintiff(s)' Residence in Erie County.  
☐ Defendant(s)' Residence in \_\_\_\_\_ County.  
☐ Other -- Describe: \_\_\_\_\_

**NOTE: THIS FORM OF SUMMONS MUST BE SERVED WITH A COMPLAINT**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF Erie-----x



Marcita Gail Childs

Plaintiff,

Index No. \_\_\_\_\_/20\_\_

- against -

Erie County Department  
of Property/Department  
of LAW.

**COMPLAINT**

Defendant.  
-----x

TO THE SUPREME COURT OF THE STATE OF NEW YORK

The complaint of the plaintiff, Marcita G. Childs, respectfully  
shows and alleges as follows:

To whom it may concern.

Please take notice that I

Marcita G. Childs, Pursant to the

Statutes in such case made have

a Personal Law suit against Erie

County, New York State.

for personal injuries sustained by me

① Nature of Claim (including time and place) between 10: p.m. - 10:30 p.m.

Kenmore Ave and Charleston Ave  
fallen over broken curb in the  
1000 block of Kenmore Road.

Dated Sepetember 29, 2021

the injuries claim to have been  
sustained so far as is practicable

Disc Herniation L 4-5 Lower  
back injuries

I was returning from an funeral  
at night from Niagara Falls with my  
two nephews.

I was getting out of my nephews truck  
with my cane to go get to my car.

unfortunately the crumble curb prevented  
me for doing that. I ended on my  
butt.

my two nephews had to pick me up.

I thought I was okay. The next day I had an doctor appointment 9/30/2021 with my primary doctor I told him I have fallen on my butt over crumble broken curb.

on October 5, 2021. I had an appointment with my message therapist for my upper neck. I was in an car accident, rearended in February 18, 2021. She began to message me and touched my lower back. I told her that was sore. I mention to her I fell on my butt. two weeks later I call my doctor. I asked him for a scrip to get a X-ray because I was still hurting.

on November 4, 2021 I had an followup appointment with my doctor he said nothing was broken. Days later I was in my bed and turn on my right side. I couldn't move for about 10 to 15 minvets because the pain I got in my left hip. I was crying and praying because I heard my spine bones shifted in my back.

on November 19, 2021 I had an appointment with my orthopedic doctor I mention to him



about my fall and the pain in my hip.  
and I heard my spine shifted he took X-ray  
of my hip. he said it's your back

in December 2021 I seen a pain management  
doctor he did a E.M.G. on my legs and  
ordered M.R.I. on my lower back.  
my insurance denied me. 2 months later  
aprove for one. February 17, 2022. I had a  
M.R.I. February 21, 2022 pain management  
doctor said I have herniated Disc

I have evidence that me fallen  
on September 29, 2021 cost me  
an herniated Disc in my back,  
and witnesses that I fell along with  
other M.R.I. reports that I never  
had an herniated disc until the fall

I watch Personal Injury Court with  
Judge Gino. Brogden he always said

3 things you had to prove about your  
case

① that they wrong cause my injury

② my injury is their fault.

③ and how it happen. It's not the town of Kenmore curb. The Kenmore Road is owned and maintained by Erie County. that is why I'm filing this lawsuit against the County.

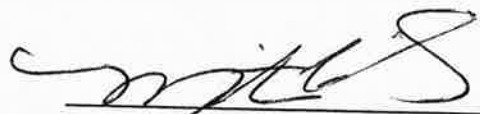
Dated: 9/23/2022

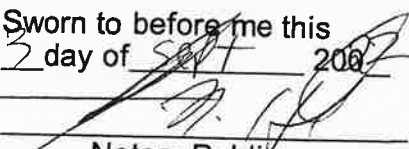
Marcita Gail Childs  
Plaintiff

VERIFICATION

Marcita Childs, being duly sworn, deposes and says:

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

  
Signature  
Marcita Childs  
Print Name

Sworn to before me this  
22 day of Sept 2022  
  
Notary Public  
#01HAG271139  
Exp 29 Oct 2024



## COUNTY OF ERIE

JEREMY C. TOTH  
COUNTY ATTORNEY

**MARK C. POLONCARZ**

COUNTY EXECUTIVE  
DEPARTMENT OF LAW

KRISTEN M. WALDER  
DEPUTY COUNTY ATTORNEY

September 29, 2022

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>Halim Faruq, Abdul v. Erie Community College</i>
Document Received:	NYS Division of Human Rights Charge of Discrimination
Name of Claimant:	Abdul Halim Faruq PO Box 31 Gasport, New York 14067
Claimant's attorney:	Claimant is proceeding <i>pro se</i> .

Should you have any questions, please call.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. Toth", is written over the typed name.

JEREMY C. TOTH  
Erie County Attorney

JCT:dld  
Enc.



NEW YORK STATE  
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF  
HUMAN RIGHTS on the Complaint of

ABDUL HALIM FARUQ,

Complainant,

v.

STATE UNIVERSITY OF NEW YORK, ERIE  
COMMUNITY COLLEGE,

Respondent.

**COMPLAINT**

Pursuant to Executive Law,  
Article 15

Case No.

**10219813**

Federal Charge No. 16GC204168

I, Abdul Halim Faruq, residing at PO Box 31, Gasport, NY, 14067, charge the above named respondent, whose address is 6205 Main Street, Williamsville, NY, 14221 with an unlawful discriminatory practice relating to employment in violation of Article 15 of the Executive Law of the State of New York (Human Rights Law) because of age, disability, military status, opposed discrimination/retaliation.

Date most recent or continuing discrimination took place is 10/15/2021.

The allegations are:

Please See Attached

# RECEIVED

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

AUG 19 2022

Although workers, interns and volunteers of all ages are protected, you must be 18 years or older to file a complaint. A parent, guardian or other person having legal authority to act in the minor's interests must file on behalf of a person under the age of 18.

NYS DIVISION OF HUMAN RIGHTS  
REGIONAL OFFICE

<b>1. Your contact information:</b>			
First Name <u>Abdullahim</u>		Middle Initial/Name	
Last Name <u>Faruq</u>			
Street Address/ PO Box <u>PO Box 31</u>		Apt or Floor #:	
City <u>Gaspot</u>		State <u>ny</u>	Zip Code <u>14067</u>
If you are filing on behalf of another, provide the name of that person:		Date of birth:	Relationship:
<b>2. Regulated Areas:</b> Check the area where the discrimination occurred: (If you wish to file against multiple entities, for example employer and temp agency, please file a separate complaint against each.)			
<input checked="" type="checkbox"/> Employment (including paid internship)		<input type="checkbox"/> by a Labor Organization	
<input type="checkbox"/> Internship (unpaid)		<input type="checkbox"/> Apprentice Training	
<input type="checkbox"/> Contract Work (independent contractor, or work for a contractor)		<input type="checkbox"/> by a Temp or Employment Agency	
<input type="checkbox"/> Volunteer Position		<input type="checkbox"/> Licensing	
<b>3. You are filing a complaint against:</b>			
Employer, Worksite, Agency or Union Name <u>ERIE Community College</u>			
Street Address/ PO Box <u>6205 Main St.</u>			
City <u>Williamsville</u>		State <u>ny</u>	Zip Code <u>14221</u>
Telephone Number: <u>(716) 851-1002</u> Ext.			
In what county or borough did the violation take place? <u>Erie</u>			
Individual people who discriminated against you:			
Name: <u>HR Dir. HCC Pres.</u>		Title: _____	
Name: <u>Aimee Spauld. G. Briscoe</u>		Title: _____	
If you need more space, please list them on a separate piece of paper.			
<b>4. Date of alleged discrimination (must be within one year of filing):</b>			
The most recent act of discrimination happened on: _____ month _____ day _____ year			
<b>5. For employment and internships, how many employees does this company have?</b>			
<input type="checkbox"/> 1-14 <input type="checkbox"/> 15-19 <input type="checkbox"/> 20 or more <input type="checkbox"/> Don't know			

<b>6. Are you currently working for this company?</b>	
<input type="checkbox"/> Yes. Date of hire: _____ <div style="text-align: center;">month      day      year</div>	What is your position?
<input checked="" type="checkbox"/> No. Last day of work: <u>10</u> / <u>15</u> / <u>21</u> <div style="text-align: center;">month      day      year</div>	What was your position? <u>Principal Counselor</u>
<input type="checkbox"/> I was never hired. Date of application: _____ <div style="text-align: center;">month      day      year</div>	What position did you apply for?

<b>7. Basis of alleged discrimination:</b>	
Check <b>ONLY</b> the boxes that you believe were the reasons for discrimination, and fill in specifics only for those reasons. Please look at page 2 of "Instructions" for an explanation of each type of discrimination.	
<input checked="" type="checkbox"/> <b>Age:</b> Date of Birth: <u>22 NOV 57</u>	<input type="checkbox"/> <b>Familial Status:</b>
<input type="checkbox"/> <b>Arrest Record</b>	<input checked="" type="checkbox"/> <b>Military Status:</b> <input type="checkbox"/> Active Duty <input type="checkbox"/> Reserves <input checked="" type="checkbox"/> Veteran
<input type="checkbox"/> <b>Conviction Record</b>	<input type="checkbox"/> <b>Marital Status</b> <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Separated <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed
<input type="checkbox"/> <b>Creed/ Religion:</b> Please specify: _____	<input type="checkbox"/> <b>National Origin:</b> Please specify: _____
<input checked="" type="checkbox"/> <b>Disability:</b> Please specify: _____	<input type="checkbox"/> <b>Predisposing Genetic Characteristic:</b>
<input type="checkbox"/> <b>Domestic Violence Victim Status</b>	<input type="checkbox"/> <b>Pregnancy-Related Condition:</b> Please specify: _____
<input type="checkbox"/> <b>Gender Identity or Expression, Including the Status of Being Transgender</b>	<input type="checkbox"/> <b>Sexual Orientation:</b> Please specify: _____
<input type="checkbox"/> <b>Race/Color or Ethnicity:</b> Please specify: _____ <input type="checkbox"/> Trait historically associated with race such as hair texture or hairstyle	<input type="checkbox"/> <b>Sex:</b> Please specify: _____ Specify if the discrimination involved: <input type="checkbox"/> Pregnancy <input type="checkbox"/> Sexual Harassment
<input type="checkbox"/> <b>Use of Guide Dog, Hearing Dog, or Service Dog</b>	
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:	
<input checked="" type="checkbox"/> <b>Retaliation:</b> How did you oppose discrimination: <u>See Attached Doc.</u>	
If you believe you were discriminated against because of your relationship or association with a member or members of a protected category listed above, indicate the relevant category(ies) above, and check below.	
<input type="checkbox"/> <b>Relationship or association</b>	

<b>8. Acts of alleged discrimination: What did the person/company you are complaining against do? Check all that apply</b>			
<input type="checkbox"/> Refused to hire me	<input type="checkbox"/> Gave me a disciplinary notice or negative performance review	<input checked="" type="checkbox"/> Denied my request for an accommodation for my disability, or pregnancy-related condition	<input type="checkbox"/> Sexual harassment
<input checked="" type="checkbox"/> Fired me/laid me off	<input checked="" type="checkbox"/> Suspended me	<input type="checkbox"/> Denied me an accommodation for domestic violence	<input type="checkbox"/> Harassed or intimidated me on any basis indicated above
<input type="checkbox"/> Demoted me	<input type="checkbox"/> Did not call back after lay-off	<input type="checkbox"/> Denied me an accommodation for my religious practices	<input type="checkbox"/> Denied services or treated differently by a temp or employment agency
<input type="checkbox"/> Denied me promotion/ pay raise	<input type="checkbox"/> Paid me a lower salary than other co-workers doing the same job	<input type="checkbox"/> Denied me leave time or other benefits	<input type="checkbox"/> Denied a license by a licensing agency
<input type="checkbox"/> Denied me training	<input type="checkbox"/> Gave me different or worse job duties than other workers doing the same job	<input type="checkbox"/> Discriminatory advertisement or inquiry or job application	<input type="checkbox"/> Other:



My name is Abdul Halim Faruq. I am presently, 3 months shy of my 67<sup>th</sup> birthday. I began my employment at Erie Community College (ECC) on 25 January 1988 and with NYS in June of 1977. I am a tenured non-teaching faculty member, with the functional title of Principal Counselor. Additionally, I am a doctoral candidate, in the discipline of Academic Psychology. Lastly, I hold a NYS license as a Mental Health Counselor. I am a retired Lieutenant Colonel, having honorably served 27 years in the United States Army Medical Service Corps. My military service included deployment to Ground Zero/World Trade Center as an onsite search and rescue team leader following the terrorist attack on 11 Sept 01. The attack resulted in an estimated 3,000 deaths. Like so many others who responded to the call to duty, providing unbridled service to our country and its citizenry, I incurred injuries to my lungs and person. My lungs are supported by daily doses of Montelukast, Wixela, Spiriva Respimat and Albuterol (as needed for rescue breathing). A consequence of my military service has been my designation as a 100% permanent and total disabled veteran by the Veterans Administration\*\*\*. My service to God and Country, and 33 plus years of institutional service, were seemingly ignored in response to my applications for a reasonable accommodation (RA). The RA allowed me to continue servicing students while simultaneously securing a safe and healthy work environment for myself and others.

It is my contention that ECC treated me, a qualified tenured, counseling professional unfairly because I have a documented disability. The disability has been confirmed by ECC through the receipt of mandated documentation from my physician's office on the following occasions: 14 January 2021, 12 April 2021 and 16 August 2021\*\*\*. My physician, Dr. Hartman, indicated on each occasion that I was "high risk" and should work from in a remote capacity given my vulnerability to the COVID virus. Dr. David Hartman noted in medical parlance, a few of my comorbidities: DM (diabetes 2), and Resp/COPD. On 10 February 2021, I received a correspondence from Sherry Wagner, Chief Personnel Clerk at ECC's Human Resources Department stating that my request for a reasonable accommodation had been granted. Subsequently, I continued my work with students from my residence without incidence. On 28 April 2021, I received from Ms. Wagner (ECC, HR representative), a correspondence indicating that my request for a reasonable accommodation had been denied. Reasons cited for the denial was my vaccination status and that as of that date I would be working one day in the office and the remainder of the week remotely. I returned to my office as mandated. Counselors were given the option of meeting with students in their office or the unit's conference room. Having explained to my unit manager (Aimee Spahn) that I did not feel comfortable meeting with students one-on-one in my office space. I was as others given the option to work out of the conference room. However, I discovered during our meetings that students, who by their own admission indicated that they were unvaccinated. Many of these students failed to maintain proper spacing and or don the required mask properly. I remember one instance in which a young petite woman donned an ill-fitting mask owned by her spouse. On another occasion one male student refused to don a mask indicating that he didn't have to do so because he was vaccinated. His course of action was in conflict with institutional policy which required that all occupants wear a mask. I indicated that I could not service him until he complied with institutional policy. I assured him that once he was in compliance that I would address his needs. After our conversation regarding ECC's compliance he went to security and obtained a properly fitting mask. These encounters induced un-necessary stress and risk.

Upon returning to the office fulltime on 2 Aug21, my work environment as well as my health worsened. The blatant attack on my age, and disregard for my health concerns became increasingly apparent. The actions of my unit manager and HR gave me the feeling that I was devalued, despite being a tenured, long-term employee (33 years). It appeared to me that filling seats, through FTE's was the predominate focus of management, instead of insuring a safe and secure work environment. For example, I was scheduled to provide office coverage, but was called into my Cardiologist's office unexpectedly. I notified my office through the unit clerk of this occurrence and met with my doctor. The following day I was contacted by my unit manager. As my health issues increased, some induced by unnecessary stressors, such as comments from my unit supervisor labeling me as "technologically challenged" and saying that I lacked a willingness to learn new technologies. The issue (s) which prompted these comments were not experienced only by me but also by other older colleagues using the system. Therefore, these "labels" should not have been uniquely assigned to me. It was my belief that I was working in a hostile environment. Please note that as a doctoral student I had to employ online systems to meet degree requirements. On 11 Aug 21, tensions reached an intolerable level. In the course of my days work I was told by the unit senior clerk that my unit manager wanted me to see two students. I was told that the conference room that I typically staged my interviews with students during the pandemic was unavailable. I was encouraged, against my best judgement to use my office space to accommodate the students. I agreed to do so. Doing so because of my commitment to fulfill my professional obligations as a member of the counseling unit team.

On 11 Aug 2021, I was encouraged by the VP of enrollment and my union to file a RA. The VP stated that he would "look into it". I was told by the HR director not to come on the campus and to work from home. On 16 Aug 21, I filed my final RA., and I was subsequently suspended based upon an allegation for 30 days without pay pending the outcome of an investigation. The 30 day suspension was akin to a disciplinary settlement even though an internal investigation was ongoing. I was notified of my termination in Oct.21. My last day of employment was 15 Oct21.

As a permanent, tenured employee of 33 plus years and a disabled veteran, I was retaliated against and was subsequently terminated because of my age, veteran status and disability. As a result of their decision to terminate, I decided to seek arbitration. The arbitration process continues to date.

To summarize, I believe that I have been unjustly denied reasonable accommodations after providing the documentations and was previously approved for the RA status. I was terminated by ECC for being fully vaccinated and advocating for the accommodations that I needed to perform my duties since encountering medical conditions that warrant a RA. I have continuously provided the documentation from my health care professionals.



## COUNTY OF ERIE

JEREMY C. TOTH  
COUNTY ATTORNEY

**MARK C. POLONCARZ**

COUNTY EXECUTIVE  
DEPARTMENT OF LAW

KRISTEN M. WALDER  
DEPUTY COUNTY ATTORNEY

September 29, 2022

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>French, Lisa C. v. Erie Community College</i>
Document Received:	NYS Division of Human Rights Charge of Discrimination
Name of Claimant:	Lisa C. French 2775D N. Forest Road Getzville, New York 14068
Claimant's attorney:	Claimant is proceeding <i>pro se</i> .

Should you have any questions, please call.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. Toth", is written over a faint, larger signature.

JEREMY C. TOTH  
Erie County Attorney

JCT:dld  
Enc.



NEW YORK STATE  
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF  
HUMAN RIGHTS on the Complaint of

LISA C. FRENCH,

Complainant,

v.

STATE UNIVERSITY OF NEW YORK, ERIE  
COMMUNITY COLLEGE,

Respondent.

COMPLAINT

Pursuant to Executive Law,  
Article 15

Case No.

**10219855**

Federal Charge No. 16GC204200

I, Lisa C. French, residing at 2775 North Forest Road, Getzville, NY, 14068, charge the above named respondent, whose address is 4140 Southwestern Blvd, Orchard Park, NY, 14127 with an unlawful discriminatory practice relating to employment in violation of Article 15 of the Executive Law of the State of New York (Human Rights Law) because of disability, opposed discrimination/retaliation.

Date most recent or continuing discrimination took place is 5/18/2022.

The allegations are:

Please See Attached

# New York State Division of Human Rights Complaint Form

## Individual filing the complaint

Please provide the information requested below.

**First Name**

Lisa

**Middle Initial**

C

**Last Name**

French

**Street Address**

2775 D N. Forest Road

**City**

Getzville

**State**

NY

**Zip**

14068

**Are you completing this form for someone else?**

No

## Your complaint

**Jurisdiction**

Employment

## Employment

**Please specify where the discrimination occurred**

Employment (including paid internship and domestic workers)

**Are you currently working for the employer you are filing against?**

Yes

**Date of hire**

08/31/2003

**Position held or applied for**

Counselor

**For employment and internships, how many employees does this person/company have?**

20 or more

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

Denied my request for an accommodation for my disability, or pregnancy-related condition

## Basis

RECEIVED

AUG 29 2022

Buffalo EFA/INBOX

**Basis of alleged discrimination in employment:**

**Disability** (a physical or mental condition; includes denial of reasonable accommodation)

**Retaliation** (if you filed a discrimination case before, were a witness or helped someone else with a discrimination case, or opposed or reported discrimination due to category listed on this page)

**Please specify disability:**

Use of walker

**Please specify what you did to oppose discrimination or how you engaged in protected activity.**

My previous complaint was a reasonable accommodation to work remotely and in-person because of my declining mobility.

**You are filing a complaint against**

---

**Entity that discriminated against you:**

**Name of entity**

Erie Community College

**Street Address**

4140 Southwestern Blvd.

**City**

Orchard Park

**State**

NY

**Zip**

14127

**In what county or borough did the violation take place?**

Erie

**Phone Number**

716 851-1322

**Email address**

**Fax Number**

**Company Website**

Www.ecc.edu

**Please provide the name, last name, and title of individual people who discriminated against you.**

Cynthia Buckley, Vice President of Human Resources

**Date of the most recent act of alleged discrimination**

05/18/2022

**Description of discrimination**

---

**Tell us more about each act of discrimination that you experienced. Please include dates, names of people involved, and other details. You must explain why you think these acts were discriminatory and how these acts are connected to the protected class (race, color, sex, disability, etc.) you selected previously.**

SUNY Erie Community College refuses to honor my handicapped placard in the student parking lot that is closest and safest to my office.

**Declaration**

---

**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.**

**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. (If you have another action pending and still wish to file, please contact our office to discuss.)**

**Please initial:**

LCF

**I affirm under penalties of perjury, that I am the complainant herein; that I have read (or had read to me) the foregoing complaint and know the content thereof; that the same is true of my own knowledge except as to the matters therein stated on information and belief; and that as to those matters, I believe the same to be true.**

Lisa C. French