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COUNTY OF ERIE

JEREMY C. TOTH
COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE

KRISTEN M. WALDER
DEPUTY COUNTY ATTORNEY

DEPARTMENT OF LAW

MEMORANDUM

JCT/dld

TO: Robert M. Graber, Clerk, Erie County Legislature
FROM: Jeremy C. Toth, First Assistant County Attorney
DATE: February 1, 2023
RE: Transmittal of New Claims Against Erie County

Mr. Graber:

In accordance with the Resolution passed by the Erie County Legislature on June 25, 1987 (Int. 13-14), attached please find 11 new claims brought against the County of Erie. The claims are as follows:

Claim Name

1. Christopher Thomas v. County of Erie;
2. MaryAnne Kozub (Estate of) v. County of Erie, et al.;
3. Fadumo Barake as PNG of A.S., an Infant v. County of Erie, et al.;
4. Elderwood at Cheektowaga v. Marie Cannon, ECDSS Commissioner;
5. Williamsville Suburban o/b/o Patricia Armbruster v. Marie Cannon;
6. Lois Wilkins v. County of Erie;
7. NCRNC, LLC d/b/a Northeast Center for Rehab v. Marie Cannon;
8. Brothers of Mercy Nursing Home (re Ernest Gay, Jr.) v. Marie Cannon;
9. Bruce Lloyd, II v. County of Erie, et al.;
10. Andrew Lagattuta v. County of Erie; and
11. Wayne Short v. County of Erie, et al.

JCT:dld
Attachments



JEREMY C. TOTH
COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

DEPARTMENT OF LAW

KRISTEN M. WALDER
DEPUTY COUNTY ATTORNEY

January 10, 2023

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>Thomas, Christopher v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Christopher Thomas Pro Se - ICN #71137 Erie County Correctional Facility 11581 Walden Avenue Alden, New York 14004
Claimant's attorney:	N/A

Should you have any questions, please call.

Very truly yours,

JEREMY C. TOTH
Erie County Attorney

JCT:dld
Enc.

RECEIVED

NOV 04 2022

Notice of Claim

County Executive's Office

To: Erie County Executive
County Attorney for the County of Erie
Erie County Sheriff

ICN 71137
PLEASE TAKE NOTICE that Christopher Thomas, 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 claimant's post-office address is Erie County Correctional Facility
11581 Walden ave, Alden, N.Y 14004

The date upon which the injury complained of occurred was the 23rd day of October, 2022 on or about the hour of 6:50 (P.M) and continuing thereafter.

The injuries sustained by the claimant by reason thereof are more particularly described as follows:

Face injury, swollen right eye, black and blue bruises

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 Avenue, Alden New York 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 requested Compensation for pain & suffering (\$10,000) dollars

Due to the wrongful denial of Correctional Officers, Claimant was to suffer the above described injuries. Right eye black & blue, eye area swollen

By reason thereof, the claimant sustained injury to his person due to said county's negligence and/or wrongful denial of duty to protect prisoners and from violence at the hands of other inmates

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 claimant's intention to commence an action thereon.

Dated Oct 22, 2022

Christophe Thomas Pro Se
11581 Walden ave
Alden, NY 14004
Buffalo, New York, 14

RECEIVED
NOV 04 2022

ERIE COUNTY
DEPARTMENT OF LAW



JEREMY C. TOTH
COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE
DEPARTMENT OF LAW

KRISTEN M. WALDER
DEPUTY COUNTY ATTORNEY

January 10, 2023

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:

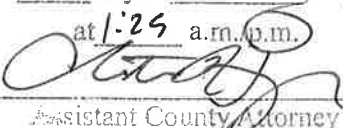
File Name:	<i>Kozub, MaryAnne, Estate of, v. Town of Evans and County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Maryanne Kozub (Estate of) 4584 Shirley Road North Collins, New York 14111
Claimant's attorney:	C. Daniel McGillicuddy, Esq. William Mattar, P.C. 6720 Main Street, Suite 100 Williamsville, New York 14221

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 Pamela Crocker on
the 28th day of Nov, 2022
at 1:29 a.m./p.m.

Assistant County Attorney

IN THE MATTER OF THE CLAIM OF:

MARYANNE KOZUB, Deceased
4584 Shirley Road
North Collins, New York 14111

Claimant,

-against-

NOTICE OF CLAIM

TOWN OF EVANS
8787 Erie Road
Angola, New York 14006

COUNTY OF ERIE
95 Franklin Street
Buffalo, NY 14202

Respondent.

PLEASE TAKE NOTICE that **MARYANNE KOZUB, Deceased**, hereby makes claim against the **TOWN OF EVANS** and **COUNTY OF ERIE** and in support thereof Claimant alleges:

1. That an Estate is pending for the above Decedent, **MARYANNE KOZUB**.
2. That the Claimant, **MARYANNE KOZUB, Deceased**, resided at 4584 Shirley Road, North Collins, New York, 14111, and, by and through her attorney, **C. DANIEL MCGILLICUDDY, ESQ.**, associate of William Mattar, P.C., 6720 Main Street, Suite 100, Williamsville, NY 14221-5986, claims damages against the **TOWN OF EVANS** and **COUNTY OF ERIE** for personal injuries, pain and suffering, death, general and special damages, medical expenses, and property damages sustained by her.

3. That the following injuries were sustained by **MARYANNE KOZUB, Deceased**, on September 9, 2022 at approximately 3:42 PM at the intersection of Southwestern Boulevard and Sturgeon Point Road in the Town of Evans, County of Erie and State of New York: a brain bleed resulting in a craniotomy; concussion; contusions; neck, mid back and low back vertebral fractures, bulges and herniations; traumatically induced cardiac distress; traumatically induced respiratory distress; sprains and strains to the muscles, ligaments and tendons of the legs feet, arms and hands and death.

On that day and approximate time, Claimant, **MARYANNE KOZUB, Deceased**, was traveling North on Sturgeon Point Road when, after stopping at a stop sign, proceeded through the intersection and became involved in a collision with a 2005 Subaru Sedan operated by **Nicholas Furmann**, that was traveling West on Southwestern Boulevard in the Town of Evans, County of Erie and State of New York. A copy of the police report is attached as **Exhibit A**.

4. Upon information and belief, Sturgeon Point Road in the area of its intersection with Southwestern Boulevard is controlled, operated, owned and maintained by the Respondents **TOWN OF EVANS and COUNTY OF ERIE**.

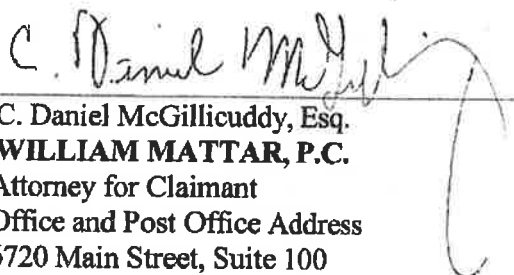
5. That Claimant's damages and injuries occurred as a result of the negligence, carelessness, and reckless disregard for the safety of the lawful traveling public, including Claimant, **MARYANNE KOZUB, Deceased**, by the **TOWN OF EVANS and COUNTY of ERIE**, their servants, agents or employees in failing to provide a safe design for the roadway, highway and/or travelway; in failing to adequately warn of the intersection and stop ahead; in failing to maintain and properly locate road signs on said roadway and intersection in a reasonably safe manner for users thereof; in location the stop sign in Claimant's direction at a stop which caused an obstruction of

Claimant's vision of vehicular traffic on Southwestern, along with the other acts of negligence, carelessness and recklessness. The Respondents had prior actual and/or constructive notice of these conditions.

6. That the aforesaid **TOWN OF EVANS** and the **COUNTY OF ERIE**, by and through their agents, servants and employees, had actual or constructive notice of the dangerous condition and hazard caused by said activity, or caused the same. Agents, servants and employees of the Respondents knew or in the exercise of reasonable care, should have known of the potential danger of vehicles traveling through this intersection, but failed to take any corrective measures.

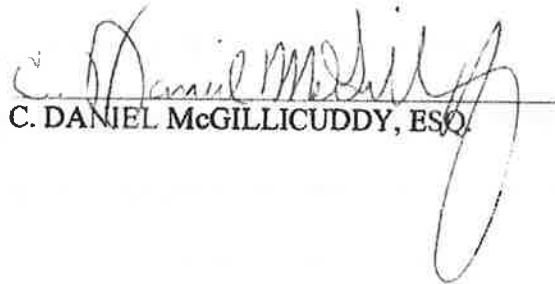
7. That the said injuries were occasioned solely and wholly as a result of the **TOWN OF EVANS** and **COUNTY OF ERIE's** negligence, carelessness and recklessness and through their agents, servants and employees and without any negligence on the part of the Claimant contributing thereto. The Claimant died from her injuries on September 27, 2022 and the appointment of an Administrator/Executor is pending.

DATED: Williamsville, New York
 November 22, 2022

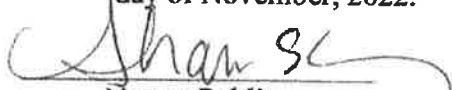

C. Daniel McGillicuddy, Esq.
WILLIAM MATTAR, P.C.
Attorney for Claimant
Office and Post Office Address
6720 Main Street, Suite 100
Williamsville, NY 14221-5986
Telephone: (716) 633-3535
Email: cdmcgillicuddy@williammattar.com

ATTORNEY VERIFICATION

C. DANIEL McGILLICUDDY, ESQ., being duly sworn, deposes and says that deponent is an attorney duly licensed to practice law in the State of New York and is the attorney for Claimant in the within action, and that your deponent has read the foregoing Notice of Claim and knows that contents thereof, that the same is true to your deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters your deponent believes them to be true. Your deponent makes this verification pursuant to the authority of Civil Practice Law & Rules §3020(d)-3, as the Claimant is deceased and an Estate is pending.


C. DANIEL McGILLICUDDY, ESQ.

Sworn to before me this
²² day of November, 2022.


Notary Public

SHARON E. CLEMONS
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
MY COMMISSION EXPIRES 6/22/26

Exhibit A

New York State Department of Motor Vehicles
POLICE ACCIDENT REPORT
MV-104A (3/04)

Local Codes
22-119921

RQEVG1FVWLRX

AMENDED REPORT

1	Accident Date Month: 09, Day: 09, Year: 2022	Day of Week FRIDAY	Military Time 15:42	No. of Vehicles 2	No. Injured 3	No. Killed 0	Not Investigated at Scene <input type="checkbox"/>	Left Scene <input type="checkbox"/>	Police Photos <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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2	VEHICLE 1 - Driver License ID Number 278972595 Driver Name - exactly as printed on license KOZUB, MARYANNE Address (include Number and Street) 4584 SHIRLEY RD City or Town NORTH COLLINS State NY Zip Code 14111				VEHICLE 2 - Driver License ID Number 539374032 Driver Name - exactly as printed on license FUHRMANN, NICHOLAS M Address (include Number and Street) 1533 SENECA ST City or Town BUFFALO State NY Zip Code 14210					
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3	Date of Birth Month: 02, Day: 11, Year: 1939 Sex F Unlicensed <input type="checkbox"/> No. of Occupants 01 Public Property Damaged <input type="checkbox"/>	Date of Birth Month: 11, Day: 08, Year: 1990 Sex M Unlicensed <input type="checkbox"/> No. of Occupants 02 Public Property Damaged <input type="checkbox"/>
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4	Plate Number EMA5426	State of Reg. NY	Vehicle Year & Make 2019 FORD	Vehicle Type 4DSD	Ins. Code 242	Plate Number KVB6981	State of Reg. NY	Vehicle Year & Make 2005 SUBA	Vehicle Type 4DSD	Ins. Code 678
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5	Violation Section(s)	Violation Section(s)
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6	Check if involved vehicle is: <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit.	Check if involved vehicle is: <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit.	Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.
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7	VEHICLE 1 DAMAGE CODES Box 1 - Point of Impact Box 2 - Most Damage Enter up to three more damage codes	VEHICLE 2 DAMAGE CODES Box 1 - Point of Impact Box 2 - Most Damage Enter up to three more damage codes	ACCIDENT DIAGRAM See the last page of the MV-104A for the accident diagram.
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8	Reference Marker 2 0	Coordinates (if available) Latitude/Northing: Longitude/Easting:	Place Where Accident Occurred: County <u>ERIE</u> <input type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Town of <u>EVANS</u> Road on which accident occurred <u>SOUTHWESTERN BLVD</u> at 1) intersecting street <u>STURGEON POINT ROAD</u> or 2) _____ of _____ feet miles <input type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input type="checkbox"/> W (Milepost, Nearest Intersecting Route Number or Street Name)
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Accident Description/Officer's notes
VEHICLE NUMBER TWO WAS TRAVELING WESTBOUND ON SOUTHWESTERN BLVD. VEHICLE NUMBER ONE HAD BEEN TRAVELING NORTH ON STURGEON POINT RD. VEHICLE NUMBER ONE FAILED TO YIELD RIGHT AWAY TO VEHICLE NUMBER TWO, AFTER STOPPING AT STOP SIGN. VEHICLE NUMBER ONE THEN PROCEEDED FORWARD THROUGH THE INTERSECTION NORTHBOUND ON STURGEON POINT ROAD AND WAS STRUCK BY VEHICLE NUMBER TWO.

ALL INVOLVED	8	9	10	11	12	13	14	15	16	17 BY	TO 18	Names of all involved	Date of Death Only
A	1.0	1.0	4	L.C	83	F	1.0	3.0	5.0	EDEN 808	1404	KOZUB, MARYANNE	
B	2.0	1.0	4	L.C	31	M	5.0	2.0	3.0	AMR 545	1405	FUHRMANN, NICHOLAS M	
C	2.0	3.0	1	L.C	37	M	0.0	3.0	3.0	9992	1405	FUHRMANN, JASON M	
D													
E													
F													

Officer's Rank and Signature Print Name in Full L FIORETTI	PATROL	Badge/ID No. 0022	NCIC No. 01463	Precinct/Post Troop/Zone E	Station/Beat Sector	Reviewing Officer CRUPE, T	Date/Time Reviewed 09/17/2022 12:05
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Local Codes
22-119921

New York State Department of Motor Vehicles POLICE ACCIDENT REPORT MV-104A (3/04)

RQEVG1FVWLRX

AMENDED REPORT

19

1 Accident Date		Month	Day	Year	Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene <input type="checkbox"/>	Left Scene <input type="checkbox"/>	Police Photos <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		09	09	2022	FRIDAY	15:42	2	3	0	Accident Reconstructed <input checked="" type="checkbox"/>		

2 VEHICLE - Driver License ID Number				State of Lic.	VEHICLE - Driver License ID Number				State of Lic.
Driver Name - exactly as printed on license				Driver Name - exactly as printed on license					
Address (Include Number and Street)				Apt. No.	Address (Include Number and Street)				Apt. No.
City or Town				State	City or Town				State
				Zip Code					Zip Code

3 Date of Birth		Sex	Unlicensed	No. of Occupants	Public Property Damaged	Date of Birth		Sex	Unlicensed	No. of Occupants	Public Property Damaged
Month	Day	Year				Month	Day	Year			
Name - exactly as printed on registration				Sex	Date of Birth	Name - exactly as printed on registration				Sex	Date of Birth
				Month	Day					Month	Day

4 Address (Include Number and Street)				Apt. No.	Address (Include Number and Street)				Apt. No.
City or Town				State	City or Town				State
				Zip Code					Zip Code

Plate Number	State of Reg.	Vehicle Year & Make	Vehicle Type	Ins. Code	Plate Number	State of Reg.	Vehicle Year & Make	Vehicle Type	Ins. Code
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5 Ticket/Arrest Number(s)				Ticket/Arrest Number(s)			
Violation Section(s)				Violation Section(s)			

6 VEHICLE		VEHICLE		7 ACCIDENT DIAGRAM			
Check if involved vehicle is: more than 95 inches wide; more than 34 feet long; operated with an overweight permit; operated with an overdimension permit. VEHICLE 1 DAMAGE CODES Box 1 - Point of Impact Box 2 - Most Damage Enter up to three more damage codes Vehicle By: Towed To:		Check if involved vehicle is: more than 95 inches wide; more than 34 feet long; operated with an overweight permit; operated with an overdimension permit. VEHICLE 2 DAMAGE CODES Box 1 - Point of Impact Box 2 - Most Damage Enter up to three more damage codes. Vehicle By: Towed To:		Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles. Rear End Left Turn Right Angle Right Turn Head On 1 3 4 5 7 Sideswipe (same direction) Left Turn Right Turn Sideswipe (opposite direction) 2 6 8 9			
VEHICLE DAMAGE CODING: 1-13 SEE DIAGRAM ON RIGHT 14. UNDERCARRIAGE 17. DEMOLISHED 15. TRAILER 18. NO DAMAGE 16. OVERTURNED 19. OTHER				9. Cost of repairs to any one vehicle will be more than \$1000. <input type="checkbox"/> Unknown/Unable to determine <input type="checkbox"/> Yes <input type="checkbox"/> No			

Reference Marker	Coordinates (if available)	Place Where Accident Occurred:	
	Latitude/Northing:	County _____ <input type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Town of _____	
	Longitude/Easting:	Road on which accident occurred _____ (Route Number or Street Name)	
		at 1) intersecting street _____ (Route Number or Street Name)	
		or 2) _____ <input type="checkbox"/> N <input type="checkbox"/> S of _____ feet miles <input type="checkbox"/> E <input type="checkbox"/> W (Milepost, Nearest Intersecting Route Number or Street Name)	

30 Accident Description/Officer's notes
 Witness #1 - LISA F MAYBEE 12504 LONGHOUSE RD LAWTONS NY (716) 698-2543

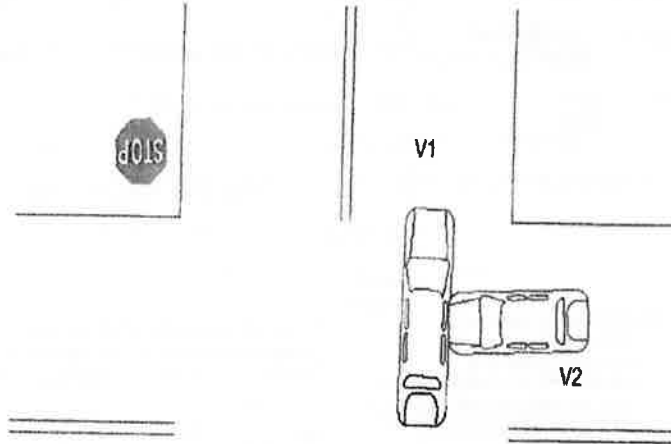
ALL INVOLVED	8	9	10	11	12	13	14	15	16	17 BY	TO 18	Names of all Involved	Date of Death Only
	A												
	B												
	C												
	D												
	E												
Officer's Rank and Signature		PATROL		Badge/ID No.	NCIC No.	Precinct/Post Troop/Zone	Station/Beat Sector	Reviewing Officer	Date/Time Reviewed				
Print Name in Full		L FIORETTI		0022	01463	E		CRUPE, T	09/17/2022 12:05				

Local Codes
22-119921
RQEVG1FVWLRX

New York State Department of Motor Vehicles
POLICE ACCIDENT REPORT
MV-104A (3/04)

AMENDED REPORT

Accident Date			Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene <input type="checkbox"/>	Left Scene <input type="checkbox"/>	Police Photos <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Month 09	Day 09	Year 2022	FRIDAY	15:42	2	3	0	Accident Reconstructed <input checked="" type="checkbox"/>		



SOUTHWESTERN BLVD



STURGEON POINT RD



JEREMY C. TOTH
COUNTY ATTORNEY

COUNTY OF ERIE
MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

KRISTEN M. WALDER
DEPUTY COUNTY ATTORNEY

January 10, 2023

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>Barake, Fadumo, as PNG of A.W., an Infant v. County of Erie, ECDSS, Erie County Youth Detention</i>
Document Received:	Notice of Claim
Name of Claimant:	Fadumo Barake 553 Walden Avenue Buffalo, New York 14211
Claimant's attorney:	Leonard D. Zaccagnino, Esq. Shaw & Shaw, P.C. 4819 South Park Avenue Hamburg, New York 14075

Should you have any questions, please call.

Very truly yours,

JEREMY C. TOTH
Erie County Attorney

JCT:dld
Enc.

STATE OF NEW YORK

FADUMO BARAKE, Individually and
as parent and natural guardian of
A.W., an infant

Claimants,

-vs-

NOTICE OF CLAIM

COUNTY OF ERIE
69 Delaware Avenue
Buffalo, NY 14202

ERIE COUNTY DEPARTMENT OF
SOCIAL SERVICES
158 Pearl Street
Buffalo, NY 14202

ERIE COUNTY YOUTH SERVICES CENTER
810 East Ferry Street
Buffalo, NY 14211

JANE DOE, said name being fictitious,
and referring to employee 'TONI B',
an employee or former employee of
ERIE COUNTY YOUTH SERVICES CENTER
810 East Ferry Street
Buffalo, NY 14211

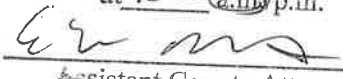
Respondents.

TO: COUNTY OF ERIE
69 Delaware Avenue
Buffalo, NY 14202

ERIE COUNTY YOUTH SERVICES CENTER
810 East Ferry Street
Buffalo, NY 14211

ERIE COUNTY DEPARTMENT OF
SOCIAL SERVICES
158 Pearl Street
Buffalo, NY 14202

This paper received at the
Erie County Attorney's Office
from Joe Jeziorowski
the 9th day of November, 2022
at 10:07 a.m./p.m.


Assistant County Attorney

JANE DOE, said name being fictitious,
an employee or former employee of
ERIE COUNTY YOUTH SERVICES CENTER
810 East Ferry Street
Buffalo, NY 14211

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

1. The name and address of claimants are:

Fadumo Barake, Individually and as mother
and natural guardian of A.W., an infant
553 Walden Avenue
Buffalo, NY 14211

2. The claimants are represented herein by:

Shaw & Shaw, P.C.
Leonard D. Zaccagnino, Esq., of counsel
4819 South Park Avenue
Hamburg, NY 14075
(716) 412-0605 Direct
(716) 648-3020 Office
(716) 648-3730 Fax
lzaccagnino@shawlawpc.com

3. This claim is founded in negligence, and is for personal injuries sustained by the infant herein.

4. This is a claim for money damages for personal injuries sustained by the infant when said infant was caused to sustain sexual harassment, sexual abuse and violence by or at the direction of respondents, their agents, servants and employees while said infant was a resident of the Erie County Youth Services Center

located at 810 East Ferry Street, Buffalo, New York, which facility is under the possession, custody, control and/or ownership of the respondents herein.

5. Upon information and belief, the sexual harassment, sexual abuse, rape and violence by respondents, its agents, servants and employees, and in particular, respondent JANE DOE, a/k/a TONI B came to the knowledge of the claimants prior to, on and after August 25, 2022.

6. The nature and basis for this claim is for damages resulting from upon information and belief, but not limited to, the sexual harassment, sexual abuse, violence and rape by respondents, its agents, servants and employees, began when the infant herein was approximately 16 years of age while he was a resident of the Erie County Youth Services Center in Buffalo, New York while said infant was in the care, custody and control of the respondents, its agents, servants and employees including, and in particular, respondent JANE DOE, a/k/a TONI B. That upon information and belief, said behavior included, but is not limited to, grooming, undue and unwarranted touching, engaging in unlawful sexual intercourse of a minor child and forcefully committing such acts while the child was in the care, custody and control of the respondents herein.

Upon information and belief, said infant claimant was injured as a result of, without limitation, the acts of respondents and, in particular, respondent JANE DOE, a/k/a TONI B; and the negligent acts of the remaining respondents in the want of proper training and oversight of the employees at the Erie County Youth Services Center; the lack of adequate safeguards for the protection of the children

under their care while residents of the Erie County Youth Services Center; and further that the respondents were negligent, careless and reckless in failing to properly, adequately and safely maintain the aforesaid premises; failed to properly and adequately supervise the staff of the Erie County Youth Services Center; in failing to take the necessary steps to properly safeguard the children housed at the Erie County Youth Services Center, and to control the actions of the staff and, in particular, respondent Jane Doe; in allowing said infant to be "groomed" by allowing said respondents, its agents, servants and employees and, in particular, respondent Jane Doe, to act as counselors, befriending said infant to such a degree that respondents, its agents, servants and employees and, in particular, respondent dangerous condition to exist, namely, undue and unwarranted sexual harassment,, sexual abuse and rape of the infant herein; and failing to take the necessary steps and make the necessary observations which, if taken or made, would have avoided the said occurrences; in failing to address the matter to adequately provide for the safety of the infant herein; and that the respondents, their agents, servants and/or employees were otherwise negligent.

Further, respondents had physical custody of the infant herein both before, during and after the sexual harassment, sexual abuse and rape of the infant.

Respondents were *in loco parentis* and owed the infant herein a duty of care, which respondents breached when they allowed the infant to be in contact with the agents, servants and employees of respondents, and in particular, respondent JANE DOE, a/k/a TONI B.

Respondents, through the agents, servants and employees, and in particular, respondent JANE DOE, a/k/a TONI B, had reasonable cause to suspect that the infant herein was being abused and/or maltreated by the agents, servants and employees of the respondents, and in particular, respondent JANE DOE, a/k/a TONI B.

Upon information and belief, respondents, through their agents, servants and employees, knowingly and willfully failed to report the suspected sexual harassment, sexual abuse and rape to anyone, including the police or Child Protective Services.

Upon information and belief, respondents did not provide their employees with written information on reporting requirements.

Respondents failed to follow the policies of required reporting including, but not limited to, New York Consolidated Laws, Social Services Law § 413.

Respondents are liable for the failure to report pursuant to § 420 of the New York Consolidated Laws, Social Services Law.

The knowing and willful failure of the respondents, through their inaction, to report the sexual harassment, sexual abuse and rape and maltreatment of the infant herein was a proximate cause of the claimant and the infant's damages.

During the time period as herein above set forth, respondents, their agents, servants and employees, allowed the agents, servants and employees of the respondents, and in particular, respondent JANE DOE, a/k/a TONI B, unlimited and unrestricted access to the infant herein and willfully and/or intentionally ignored

suspicious behavior and/or complaints against the agents, servants and employees of the respondents, and in particular, respondent JANE DOE, a/k/a TONI B of sexual abuse, sexual harassment, rape and violence.

That during the time period referenced above, respondents willfully and/or intentionally ignored the infant's safety by requiring the infant to be under the supervision of the respondents, their agents, servants and/or employees, and in particular, respondent JANE DOE, a/k/a TONI B by himself before, during and after counseling sessions, and respondents were further indifferent to the risk of sexual harassment and violence posed to the infant herein by being along with the agents, servants and employees of the respondents, and in particular, respondent JANE DOE, a/k/a TONI B.

Respondents willfully and/or intentionally created a hostile and unsafe environment that no child would be able to tolerate.

Respondents, in order to avoid embarrassment, scandal and negative publicity, intended to cause the infant herein shame, humiliation and extreme emotional distress so he would stay silent and not report the abuse.

Respondents, their agents, servants and employees, behaved in a manner toward the infant that was so outrageous as to exceed all reasonable bounds of decency, and knew with substantial certainty, or should have known that their behavior would cause the infant to be a victim of sexual abuse, sexual harassment, rape and violence, knowing that the behavior of the respondents would cause severe emotional distress to the infant herein.

The foregoing acts of respondents, their agents, servants and employees, and in particular, respondent JANE DOE, a/k/a TONI B, caused the claimant and the infant herein physical, mental and emotional distress.

Upon information and belief, the respondents, their agents, servants and employees, and in particular, respondent JANE DOE, a/k/a TONI B, were negligent for failing to address prior complaints against respondents, their agents, servants and employees, and in particular, respondent JANE DOE, a/k/a TONI B, of sexual harassment, sexual abuse, rape and violence, and/or negligently ignored complaints and concerns from both the claimant and other residents of the respondents' facility.

Respondents were negligent when they allowed the infant to continue to be exposed to respondents, their agents, servants and/or employees, and in particular, respondent JANE DOE, a/k/a TONI B, after being provided with warning signals such as suspicious behavior and/or allegations of sexual harassment, sexual abuse, rape and violence committed by the agents, servants and employees of respondents, and in particular, respondent JANE DOE, a/k/a TONI B.

Respondents knew, or should have know, this inaction would subject the infant to further sexual harassment, sexual abuse, rape and violence, and knew or should have know this would unreasonably endanger the infant's safety, cause him to fear for his safety, and cause him severe emotional distress.

Respondents, their agents, servants and/or employees, and in particular, respondent JANE DOE, a/k/a TONI B, owed a duty to the infant to protect

him from sexual abuse, sexual harassment, rape and violence from respondents, their agents, servants and/or employees, and in particular, respondent JANE DOE, a/k/a TONI B including, but not limited to, when a resident of the East Ferry Detention Center.

The infant herein suffered severe emotional and mental suffering and distress due to the respondents' actions, as well as the actions of respondents' agents, servants and employees, and in particular, respondent JANE DOE, a/k/a TONI B.

Respondents owed a duty of care to supervise and protect the infant herein.

Respondents were obligated to the infant to hire personnel to ensure that the environment of the East Ferry Detention Center was a safe environment for all children, including the infant claimant herein.

Respondents, their agents, servants and employees, and in particular, respondent JANE DOE, a/k/a TONI B, knew, or should have known at the time of respondents' hiring of employees, and in particular, respondent JANE DOE, a/k/a TONI B, of her propensity for the conduct which caused the injury.

The infant herein is the victim of sexual abuse, sexual harassment, rape and violence by, or at, the direction of respondents, their agents, servants and employees, and in particular, respondent JANE DOE, a/k/a TONI B.

As a result, the infant claimant has suffered severe emotional and mental suffering and distress due to the actions of the respondents, their agents,

servants and employees, and in particular, respondent JANE DOE, a/k/a TONI B, as well as fear for his own physical safety.

Further, respondents, their agents, servants and/or employees, owed the infant a duty of care to supervise and protect the infant, and was further obligated to supervise personnel to ensure that the environment was a reasonably safe environment for all children.

The infant herein was a victim of sexual abuse, sexual harassment, rape and violence by or at the direction of the respondents, their agents, servants and/or employees, and in particular, respondent JANE DOE, a/k/a TONI B.

That the respondents, their agents, servants and/or employees, had, or should have had knowledge of the sexual abuse, sexual harassment, rape and violence by or at the direction of respondents and negligently ignored the sexual abuse, sexual harassment, rape and violence committed by respondents' agents, servants and employees, and in particular, respondent JANE DOE, a/k/a TONI B.

That the respondents, their agents, servants and employees did not terminate the employment of respondent JANE DOE, a/k/a TONI B in a timely fashion despite the sexual harassment, sexual abuse, rape and violence committed by respondent JANE DOE a/k/a TONI B, and breached their duty of care to the infant when they negligently supervised and retained the respondent, JANE DOE a/k/a TONI B.

Further, Title IX of the Education Amendment of 1972 forbids a “funding recipient” from discriminating on the basis of sex in educational programs and activities.

Upon information and belief, respondent, Erie County Youth Services Center is a “funding recipient” under Title IX.

Respondent JANE DOE, a/k/a TONI B inappropriately touched the infant claimant and exposed the infant claimant to provocative acts, in violation of Title IX.

Respondent JANE DOE, a/k/a TONI B’s verbal and physical conduct of a sexual nature was severe or pervasive enough to alter the conditions of the infant plaintiff’s environment while a resident of the Erie County Youth Services Center and created an abusive environment.

Respondents had the authority and duty to institute corrective measures, yet acted with deliberate indifference in failing to respond to the sexual harassment and sexual abuse being perpetrated by respondent JANE DOE, a/k/a TONI B.

The deliberate indifference of respondents, and in particular, respondent JANE DOE, a/k/a TONI B, and the sexual harassment and sexual abuse committed by respondents, and in particular, respondent JANE DOE, a/k/a TONI B, effectively barred the infant claimant access to various educational opportunities and benefits at the Erie County Youth Services Center and subjected the infant claimant to discrimination on the basis of sex in violation of Title IX.

The infant claimant suffered severe emotional and mental suffering and distress due to respondents' actions including, but not limited to, their agents, servants and employees and, in particular, respondent JANE DOE, a/k/a TONI B, as well as fear for his own physical safety.

Pursuant to title IX, the infant herein also seeks attorneys' fees.

Respondents, their agents, servants and employees and, in particular, respondent JANE DOE, a/k/a TONI B's knowledge of the violence, sexual harassment and/or misconduct against the infant claimant by or at the direction of respondents, their agents, servants and/or employees and in particular, respondent JANE DOE, a/k/a TONI B, is tantamount to a wanton and conscious disregard for the safety of the infant herein and others and warrants the imposition of punitive damages.

By reason of the malicious, intentional, willful and/or negligent conduct of the respondents herein, and by such other acts that were morally reprehensible, the conduct of respondents, their agents, servants and employees and in particular, respondent JANE DOE, a/k/a TONI B, evidenced a callous disregard for the safety of the infant claimant, and said acts constituted a wanton, reckless and/or malicious disregard for the rights of others and, as a result thereof, the claimant demands punitive damages.

7. By reason of the aforesaid occurrence, the infant sustained severe emotional trauma, depression and anxiety, all of which were and are permanent in nature, resulting in the need for medical intervention; and which

injuries have lead to self-loathing, embarrassment and an unwillingness to trust those leading the rehabilitative programs of the Erie County Youth Services Center.

8. The claim of Fadumo Barake is for the loss of services, society and companionship of her son, the infant herein, as a result of the negligence, carelessness and/or reckless disregard for the safety of the infant herein, resulting in, among other things, the acts and/or omissions of the respondents, as well as their agents, servants and/or employees herein.

Claimants also makes claim for any and all medical expenses incurred as to the care, treatment and attempted cure of the injuries sustained and/or the residual effects of the same by the infant herein as to the past, present and/or future.

9. The negligence of the respondents, their agents, servants and/or employees consisted of upon information and belief, *inter alia*, the following:

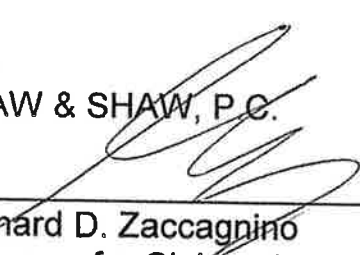
In allowing the infant herein to be in an environment at the Erie County Youth Services Center that was detrimental to his mental and physical well-being and growth in that he was unduly and continually assaulted, battered and raped; in failing to properly maintain, operate and control the premises in question; in that respondents failed to address and, in fact, did ignore the assault, battery and rape of the infant herein by respondent Jane Doe, thus creating a dangerous condition; in that the respondents allowed staff to behave in such a manner which they knew, or in the exercise of reasonable care, should have known were detrimental to the infant's well-being while a resident of the Erie County Youth

Services Center, thus creating a dangerous and hazardous condition and which they allowed to exist for some period of time; in that they failed to properly supervise the safety of the infant herein; in that they failed to provide sufficient and proper protection and safeguards for the children lawfully within the confines of the Erie County Youth Services Center; that they failed to properly supervise the staff and their activities; that they failed to have competent, skillful and experienced employees as supervisors, security personnel and case workers; that they failed to have a sufficient number of individuals present to properly care and supervise the residents of the Erie County Youth Services Center and its employees; and that the employees so employed were incompetent, unskillful and inexperienced; and that they were otherwise negligent in the premises.

WHEREFORE, claimants respectfully pray and request that these claims as set forth herein be paid and allowed by the respondents.

Dated: November 1, 2022
Hamburg, New York

SHAW & SHAW, P.C.



Leonard D. Zaccagnino
Attorneys for Claimants
Office and Post Office Address
4819 South Park Avenue
Hamburg, NY 14075
(716) 412-0612 Direct
(716) 648-3020 Office
(716) 648-3730 Fax
lzaccagnino@shawlawpc.com

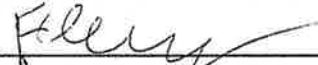
VERIFICATION

STATE OF NEW YORK)

COUNTY OF ERIE)

)ss.:

FADUMO BARAKE, being duly sworn, deposes and says that she is the claimant herein; that she has read the foregoing and knows the contents thereof; that the same is true to her own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters, deponent believes it to be true.



Fadumo Barake

Sworn to before me this
11th day of November 2022



Notary Public





COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

JEREMY C. TOTH
COUNTY ATTORNEY

KRISTEN M. WALDER
DEPUTY COUNTY ATTORNEY

DEPARTMENT OF LAW

January 17, 2023

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>Elderwood at Cheektowaga v. Marie Cannon, as Commissioner of the Erie County Department of Social Services</i>
Document Received:	Summons and Complaint
Name of Claimant:	Elderwood at Cheektowaga
Claimant's attorney:	Mark Yosef, Esq. Schwartz Sladkus Reich Greenberg Atlas LLP 444 Madison Avenue, 6th Floor New York, New York 10022

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**

ELDERWOOD AT CHEEKTOWAGA,

Plaintiff,
-against-

MARIE CANNON, AS COMMISSIONER OF THE
ERIE COUNTY DEPARTMENT OF SOCIAL
SERVICES,

Defendant.

Index No:

SUMMONS

The basis of venue:
County of Defendant Agency

TO THE ABOVE-NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED TO ANSWER THE COMPLAINT IN THIS ACTION AND TO SERVE A COPY OF YOUR ANSWER ON PLAINTIFF'S ATTORNEYS. IF THIS SUMMONS IS SERVED BY ITS DELIVERY TO YOU PERSONALLY WITHIN THE COUNTY SHOWN ABOVE, YOU MUST ANSWER WITHIN TWENTY (20) DAYS AFTER SUCH SERVICE; OR IF THIS SUMMONS IS SERVED BY DELIVERY TO ANY PERSON OTHER THAN YOU PERSONALLY OR IS SERVED OUTSIDE THE COUNTY SHOWN ABOVE, OR BY PUBLICATION, OR BY ANY MEANS OTHER THAN PERSONAL DELIVERY TO YOU WITHIN THE COUNTY SHOWN ABOVE, YOU ARE ALLOWED THIRTY (30) DAYS AFTER THE PROOF OF SERVICE THEREOF IS FILED WITH THE CLERK OF THIS COURT TO ANSWER. UPON YOUR FAILURE TO ANSWER, JUDGMENT WILL BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT, TOGETHER WITH COSTS OF THIS ACTION.

DATED: New York, New York
November 28, 2022

SCHWARTZ SLADKUS REICH
GREENBERG ATLAS LLP



By: _____
Mark Yosef
Attorneys for Plaintiff
444 Madison Avenue, 6th Floor
New York, New York 10022
(212) 743-7054

TO:
Marie Cannon, Commissioner
Erie County Department of Social Services
95 Franklin Street
Buffalo, New York 14202

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

Erie County Department of Social Services
Office of Counsel
95 Franklin Street
Buffalo, New York 14202

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

ELDERWOOD AT CHEEKTOWAGA,

Plaintiff,

-against-

MARIE CANNON, AS COMMISSIONER OF THE
ERIE COUNTY DEPARTMENT OF SOCIAL
SERVICES,

Defendant.

Index No.

VERIFIED COMPLAINT

Plaintiff ELDERWOOD AT CHEEKTOWAGA (“ELDERWOOD”), by its attorneys Schwartz Sladkus Reich Greenberg Atlas LLP, as and for its complaint, alleges as follows:

NATURE OF PROCEEDING AND PARTIES

1. This is an action for a declaratory judgment under CPLR § 3001 that one of Elderwood’s former nursing home residents, Mary Ann Gasiiecki, was eligible for nursing home (chronic care) medical assistance under the Social Services Law (“Medicaid”) for amounts owed to Elderwood for the period from February 1, 2018 through May 26, 2019.

2. Plaintiff Elderwood at Cheektowaga is a corporation organized under the laws of the state of New York having its principal offices at 225 Bennett Road, Cheektowaga, NY 14227. Elderwood is a nursing home facility that operated under the name “ELDERWOOD AT CHEEKTOWAGA” serving a largely elderly population in Erie County.

3. Defendant Marie Cannon is the Commissioner of the Erie County Department of Social Services (the “ECDSS” or “the Agency”), which is the agency responsible for determining Mary Ann Gasiiecki’s eligibility for Medicaid.

FACTS

4. Mary Ann Gasiiecki was admitted to Elderwood on February 1, 2018.
5. A Medicaid application dated May 22, 2018 was submitted to ECDSS on Mary Ann Gasiiecki's behalf, by her son, Daniel Gasiiecki with the assistance of Cheektowaga Senior Services seeking a Medicaid pickup date of February 1, 2018
6. On June 25, 2018, ECDSS determined Mary Gasiiecki's application was not completed and stated certain documents were to be provided by July 10, 2018.
7. On September 25, 2018 ECDSS determined Mary Gasiiecki's application was not completed and certain documents must be provided by October 18, 2018.
8. On October 18, 2018, ECDSS issued a denial for failure to submit personal needs account with facility, a certain financial transaction from Citizens bank and Life insurance policy.
9. Upon information and belief, ECDSS did not make reasonable efforts to obtain the information on its own.
10. The Erie County Department of Social Services improperly denied Mary Ann Gasiiecki's May 22, 2018 Medicaid application on October 18, 2018 in its Notice of Decision on Ms. Gasiiecki's Medicaid application.
11. A fair hearing was requested by Mary Ann Gasiiecki's son and power of attorney Daniel Gasiiecki.
12. On December 11, 2018, a fair hearing was requested by Daniel Gasiiecki NYS Fair Hearing (FH # 7877497Z) to contest the Notice Of Denial dated October 18, 2018. The decision after Fair Hearing dated July 5, 2019 determined that the Agency's decision was correct. The hearing concluded that Daniel Gasiiecki did not have good cause for failure to provide requested

documentation. Nothing in the fair hearing decision address the underlying financial eligibility of Ms. Gasiiecki. Rather, the decision hinged on whether Daniel Gasiiecki provided documentation timely. See Exhibit "A" Fair Hearing Decision.

13. Plaintiff never appeared on Ms. Gasiiecki's behalf administratively as her son and POA Daniel Gasiiecki was the representative.

14. Mary Ann Gasiiecki died on May 27, 2019.

15. After Mary Ann Gasiiecki died, Plaintiff filed an estate proceeding to be able to obtain authorization to gather documentation to prove Ms. Gasiiecki's eligibility.

16. On March 6, 2020, the Public Administrator of Erie County was granted Letters of Administration for Ms. Gasiiecki's estate. Thereafter, Plaintiff's attorneys obtained authorization to obtain documentation.

17. Plaintiff's law firm has obtained the requisite documentation to prove Ms. Gasiiecki's Medicaid eligibility and she was and should be declared eligible for Medicaid. However, ECDSS has refused to reopen the case.

18. Despite this decision, the fact remains that Mary Ann Gasiiecki was and is eligible for Medicaid Nursing Home Chronic Care Services.

CAUSE OF ACTION

19. Elderwood has standing to bring this plenary action in its own right against defendant, as Commissioner of the Department of Social Services, as Elderwood will receive the Medicaid payments to which Mary Ann Gasiiecki was and is legally entitled, but which were denied to her.

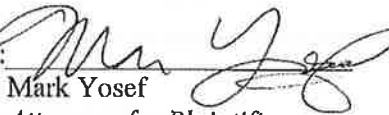
20. Elderwood requires and is entitled to a declaratory judgment that Mary Ann Gasiiecki was eligible for Chronic Care nursing home Medicaid eligibility for the period from

February 1, 2018 through May 26, 2019 with respect to the care, treatment, room and board that Elderwood provided to Ms. Gasiiecki during that period, as her eligibility is established; and that Medicaid shall pay the amount due for the eligibility as Elderwood has been left with an outstanding balance for a former resident who was Medicaid eligible.

WHEREFORE, Elderwood demands judgment declaring that Mary Ann Gasiiecki is eligible for Chronic Care nursing home Medicaid coverage for the period from February 1, 2018 through May 26, 2019, with respect to the care, treatment, room and board that Elderwood provided to Ms. Gasiiecki during that period, such other and further relief as shall appear just and proper.

Dated: New York, New York
November 28, 2022

SCHWARTZSLADKUSREICH
GREENBERGATLASLLP

By: 

Mark Yosef
Attorneys for Plaintiff
444 Madison Avenue
New York, New York 10022
(212) 743-7054

ATTORNEY'S AFFIRMATION

The undersigned, an attorney duly admitted to practice before the Courts of the State of New York, affirms the truth of the following under the penalties of perjury:

1. I am an associate of the firm of Schwartz Sladkus Reich Greenberg Atlas LLP, attorneys for the plaintiff.

2. I have read the foregoing complaint and know the contents thereof.

3. To the best of my knowledge, the contents of the complaint are true except as to those matters alleged on information and belief, as to those matters I believe them to be true.

4. The grounds of my belief as to all matters not stated upon my knowledge are review of documents and records in possession of plaintiff, and conversations and communications with employees, agents and servants of plaintiff.

5. The reason I make this affirmation instead of plaintiff is that, plaintiff is not in the county in which its attorneys have their office, or in the event plaintiff is in the county in which its attorneys have their office, that I am fully familiar with the facts and circumstances herein.

Dated: New York, New York
November 28, 2022



MARK YOSEF



JEREMY C. TOTH
COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE
DEPARTMENT OF LAW

KRISTEN M. WALDER
DEPUTY COUNTY ATTORNEY

January 18, 2023

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>Williamsville Suburban o/b/o Patricia Armbruster v. Marie Cannon, Commissioner of ECDSS, et al.</i>
Document Received:	Verified Petition
Name of Claimant:	Williamsville Suburban
Claimant's attorney:	Jeremy A. Knapp, Esq. Schwartz Sladkus Reich Greenberg Atlas LLP 444 Madison Avenue, 6th Floor New York, New York 10022

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

----- X

In the Matter of the Application of
WILLIAMSVILLE SUBURBAN,
on behalf of PATRICA A. ARMBRUSTER,

Index No.

Petitioner,

For a Judgment Pursuant to Article 78 of the
Civil Practice Law and Rules

NOTICE OF PETITION

-against-

MARY T. BASSETT, as Commissioner
of the New York State Department of Health,
DANIEL W. TIETZ as Commissioner of the
New York State Office of Temporary and
Disability Assistance, and MARIE CANNON
as Commissioner of the Erie County
Department of Social Services,

Respondents.

----- X

SIRS/MADAM :

PLEASE TAKE NOTICE that upon the petition of the Petitioner’s attorneys, Schwartz Sladkus Reich Greenberg Atlas LLP verified by Jeremy A. Knapp on the 7th day of September, 2022 and all the supporting documents contained therein, an application will be made to the Court at the Supreme Court of the State of New York, County of Erie, 25 Delaware Avenue, Buffalo, New York 14202 on the 17th day of October, 2022, at 9:30 a.m. in the forenoon or as soon thereafter as counsel can be heard for a judgment pursuant to Article 78 of the New York Civil Practice Laws and Rules:

- (1) Annuling and reversing the December 14, 2021 Decision After Fair Hearing (hereinafter referred to as “DAFH”) under Fair Hearing (hereinafter referred to as “FH”)

#8006167L that improperly upheld the improper June 5, 2019 Denial of Medicaid issued to the Petitioner by Erie County Department of Social Services (hereinafter referred to as "ECDSS");

(2) Remanding the matter to the Office of Temporary and Disability Assistance (hereinafter referred to as "OTDA") for further proceedings;

(3) Granting counsel fees and expenses pursuant to Article 86 of the Civil Practice Laws and Rules.

(4) Granting your petitioner such other and further relief as to this Court may seem just, proper and equitable.


PLEASE TAKE FURTHER NOTICE, that a Verified Answer, Certified Transcript and supporting affidavits, if any, must be served at least five (5) days before the return date of this application.

Erie County is designated as the place of trial pursuant to C.P.L.R. §506(b) on the basis that all material events with reference to this proceeding took place in Erie County.

DATED: New York, New York
September 7, 2022

Yours, etc.,

Schwartz Sladkus Reich
Greenberg Atlas LLP
Attorneys for Petitioner


By: Jeremy A. Knapp
444 Madison Avenue
New York, New York 10022
(212) 743-7046

MARY T. BASSETT, MD, MPH
Commissioner of the New York State
Department of Health
Empire State Plaza, Corning Tower
24th Floor, Room 2438
Albany, New York 12237

DANIEL W. TIETZ,
Commissioner of the New York State
Office of Temporary and Disability Assistance
Counsel's Office
40 North Pearl Street, 10C
Albany, New York 12243

LETITIA JAMES
Attorney General of the State of New York
Buffalo Regional Office
Main Place Tower, Suite 300A
350 Main Street
Buffalo, New York 14202

MARIE CANNON
Commissioner of the Erie County
Department of Social Services
Edward A Rath County Office Building
95 Franklin Street, 8th Floor
Buffalo, New York 14202

ERIC R. ZIOBRO
Office of Counsel
Department of Social Services
Edward A Rath County Office Building
95 Franklin Street, 8th Floor
Buffalo, New York 14202



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

DEPARTMENT OF LAW

JEREMY C. TOTH
COUNTY ATTORNEY

KRISTEN M. WALDER
DEPUTY COUNTY ATTORNEY

January 19, 2023

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>Wilkins, Lois v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Lois M. Wilkins 7684 Eden Valley Road Eden, New York 14057
Claimant's attorney:	Daniel J. Chiacchia, Esq. Chiacchia & Fleming, LLP 5113 South Park Avenue Hamburg, New York 14075

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**

In the Matter of the Claim of

LOIS M. WILKINS,
7684 Eden Valley Road
Eden, New York 14057

Claimant,

v.

NOTICE OF CLAIM

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

Respondent.

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

PLEASE TAKE NOTICE, that LOIS M. WILKINS has a claim against the County of Erie, its officers, agents and/or employees, for damages incurred by the claimant as a result of the negligence and/or recklessness of an officer, agent and/or employee of the Respondent in his operation of a motor vehicle, together with vicarious liability of the Respondent, as owner of the vehicle pursuant to Section 388 of the New York State Vehicle and Traffic Law.

1. The post office address of claimant is 7684 Eden Valley Road, Eden, New York, 14057.
2. The name of the attorney for claimant is CHIACCHIA & FLEMING, LLP, Daniel J. Chiacchia, Esq., of counsel, whose post office address is 5113 South Park Avenue, Hamburg, New York, 14075, telephone number 716-648-3030.
3. On or about November 16, 2022 at around 3:53 in the afternoon LOIS M. WILKINS, suffered serious and permanent bodily injuries when a motor vehicle owned by the Respondent and operated by County of Erie employee Michael D. Pasnik failed to maintain his lane of travel and crossed into the path of Claimant, on North Boston Road in the Town of Eden. Claimant was the belted driver of a vehicle which was traveling eastbound when Respondent's employee crossed over the centerline, striking Claimant's vehicle headon. Respondent, through its employee/agent, failed to exercise reasonable care while acting negligently and/or recklessly, and causing the motor vehicle accident. See MV-104A Accident Report attached hereto and made a part hereof as **Exhibit A**.


4. The Claimant will be claiming that the Respondent, through its officers, agents and/or employees, was negligent, careless and/or reckless in the use, operation, management, and control of the County of Erie's vehicle. Respondent, and its employees/agents, had a duty to exercise ordinary care, and to operate the motor vehicle reasonably, prudently, and safely. Respondent breached this duty in one or more of the following ways: in failing to operate the motor vehicle in accordance with and pursuant to the rules of the road; operating the vehicle in a negligent and/or reckless manner; failing to keep a proper lookout; operating the vehicle in such a manner contrary to and in violation of codes, statutes, ordinances, rules, and regulations of the State of New York with no regard for the safety of others; traveling at an imprudent rate of speed for the weather conditions; failing to devote reasonable and adequate attention to the operation of the vehicle and observation of the road and other vehicles and traffic thereon; failing to maintain lane; failing to keep right; and/or otherwise acting in a negligent and/or reckless manner.

5. As a result of the negligence and/or recklessness of the Respondent, LOIS M. WILKINS sustained serious and permanent bodily injuries on November 16, 2022, and that by reason of the aforesaid negligence, carelessness and/or recklessness, the Claimant incurred damages in an amount to be determined after trial and/or after further analysis of the physical injuries and the costs of treating same. Said physical injuries include, but are not limited to a fractured finger, as well as injuries to her chest, right shoulder, knees and nose. Claimant remains disabled and in treatment for her injuries.

6. This notice is made and served on behalf of said claimant in compliance with the provisions of Section 50-e of New York State General Municipal Law and such other laws and statutes as are in the case made and provided.

PLEASE TAKE FURTHER NOTICE, that the Claimant demands payment of said claim, and unless said claim is paid within a reasonable time, it is the intention of the Claimant to commence suit against Respondent.

Dated: December 8, 2022

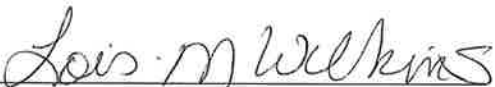

Lois M. Wilkins


Daniel J. Chiacchia
CHIACCHIA & FLEMING, LLP
Attorneys for Claimant
5113 South Park Avenue
Hamburg, New York 14075
Telephone: (716) 648-3030

STATE OF NEW YORK)
COUNTY OF ERIE) SS:

Lois M. Wilkins, being duly sworn, deposes and says:

1. That deponent is the Claimant in the within action.
2. That deponent has read the foregoing Notice of Claim and knows the contents thereto.
3. That the same is true to deponent's own knowledge except as to those matters therein stated to be alleged upon information and belief, and that as to those matters, deponent believes them to be true.


Lois M. Wilkins

Sworn to before me this
8th day of December, 2022


Notary Public

DANIEL J. CHIACCHIA
Notary Public, State of New York
Qualified in Erie County
Commission Expires June 1, 20 26

Exhibit “A”

New York State Department of Motor Vehicles
POLICE ACCIDENT REPORT
MV-104A (3/04)

Local Codes
22-084140
R1ECT2G3T880

AMENDED REPORT

19
66

1	Accident Date	Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene	Left Scene	Police Photos	20
	Month 11 Day 16 Year 2022	WEDNESDAY	15:53	2	2	0	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	19
	Accident Reconstructed <input type="checkbox"/>									

2	VEHICLE 1				<input checked="" type="checkbox"/> VEHICLE 2				<input type="checkbox"/> BICYCLIST		<input type="checkbox"/> PEDESTRIAN		<input type="checkbox"/> OTHER PEDESTRIAN		21
	VEHICLE 1 - Driver License ID Number 273284364 State of Lic. NY				VEHICLE 2 - Driver License ID Number 641551215 State of Lic. NY										
	Driver Name - exactly as printed on license PASNIK, MICHAEL D				Driver Name - exactly as printed on license WILKINS, LOIS M										
	Address (Include Number and Street) 714 BENNETT RD				Address (Include Number and Street) 7684 EDEN VALLEY RD										
	City or Town ANGOLA		State NY		City or Town EDEN		State NY								
	Zip Code 14006		Zip Code 14057												

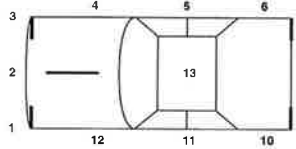
3	Date of Birth	Sex	Unlicensed	No. of Occupants	Public Property Damaged	Date of Birth	Sex	Unlicensed	No. of Occupants	Public Property Damaged	22
	Month 08 Day 12 Year 1985	M	<input type="checkbox"/>	01	<input type="checkbox"/>	Month 04 Day 21 Year 1958	F	<input type="checkbox"/>	01	<input type="checkbox"/>	
	Name - exactly as printed on registration county, erie					Name - exactly as printed on registration WILKINS, LOIS M					23
	Address (Include Number and Street) 95 FRANKLIN ST					Address (Include Number and Street) 7684 EDEN VALLEY RD					7
	City or Town BUFFALO		State NY		City or Town EDEN		State NY				24
	Zip Code 14202		Zip Code 14057								

5	Plate Number	State of Reg.	Vehicle Year & Make	Vehicle Type	Ins. Code	Plate Number	State of Reg.	Vehicle Year & Make	Vehicle Type	Ins. Code	3
	BE9930	NY	2022 FORD	PICK	994	JKR4113	NY	2012 JEEP	4DSD	639	

4	Ticket/Arrest Number(s)	Violation Section(s)	25

6	Check if involved vehicle is:	Check if involved vehicle is:	Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.	1.
	<input type="checkbox"/> more than 95 inches wide;	<input type="checkbox"/> more than 95 inches wide;		
	<input type="checkbox"/> more than 34 feet long;	<input type="checkbox"/> more than 34 feet long;		
	<input type="checkbox"/> operated with an overweight permit;	<input type="checkbox"/> operated with an overweight permit;		
	<input type="checkbox"/> operated with an overdimension permit.	<input type="checkbox"/> operated with an overdimension permit.		
7	VEHICLE 1 DAMAGE CODES	VEHICLE 2 DAMAGE CODES	ACCIDENT DIAGRAM	26
	Box 1 - Point of Impact: 1. C 2. C	Box 1 - Point of Impact: 1. C 2. C	See the last page of the MV-104A for the accident diagram.	1.
	Box 2 - Most Damage: 3. C 4. C 5. C	Box 2 - Most Damage: 3. C 4. C 5. C		
	Enter up to three more damage codes: 1. C 2. C 3. C	Enter up to three more damage codes: 1. C 2. C 3. C		
	Vehicle By: EVANS MECHANIC Towed To: EVANS MECHANIC	Vehicle By: EVANS MECHANIC Towed To: EVANS MECHANIC		

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



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

Reference Marker	Coordinates (if available)	Place Where Accident Occurred:	29
	Latitude/Northing: 4732370	County <u>ERIE</u> <input type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Town of <u>EDEN</u>	
	Longitude/Easting: 184712	Road on which accident occurred <u>NORTH BOSTON ROAD</u> (Route Number or Street Name)	
		at 1) intersecting street _____ (Route Number or Street Name)	
		or 2) <u>2400</u> <input type="checkbox"/> N <input type="checkbox"/> S of <u>sisson hwy</u> feet miles <input checked="" type="checkbox"/> E <input type="checkbox"/> W (Milepost, Nearest Intersecting Route Number or Street Name)	

Accident Description/Officer's notes
Vehicle 1 was traveling west and due to slippery roads lost control sliding into the eastbound lane and struck vehicle 2 head on. Both vehicles were towed from the scene and both drivers were transported for injuries.

ALL INVOLVED	8	9	10	11	12	13	14	15	16	17 BY	TO 18	Names of all involved	Date of Death Only
	A	1.0	L.C	A	L.C	37	M	5.C	3.C	5.C	9993	1405	PASNIK, MICHAEL D
B	2.0	L.C	A	L.C	64	F	1.C	3.C	3.C	9993	1418	WILKINS, LOIS M	
C													
D													
E													
F													
Officer's Rank and Signature		Deputy <i>[Signature]</i>		Badge/ID No.		NCIC No.		Precinct/Post Troop/Zone		Station/Beat Sector		Reviewing Officer	
Print Name in Full		SIMON BIEGASIEWICZ		0241		01400						WILLIAMS, T	
												Date/Time Reviewed 11/21/2022 13:46	

Local Codes 22-084140
R1ECT2G3T880

New York State Department of Motor Vehicles
POLICE ACCIDENT REPORT
 MV-104A (3/04)

AMENDED REPORT

Accident Date			Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene <input type="checkbox"/>	Left Scene <input type="checkbox"/>	Police Photos <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Month	Day	Year								
11	16	2022	WEDNESDAY	15:53	2	2	0	Accident Reconstructed <input type="checkbox"/>	<input type="checkbox"/>	





JEREMY C. TOTH
COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE
DEPARTMENT OF LAW

KRISTEN M. WALDER
DEPUTY COUNTY ATTORNEY

January 20, 2023

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

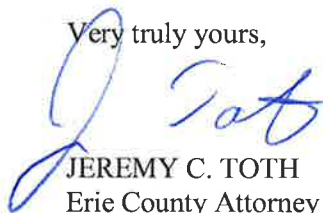
Dear Mr. Graber:

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>NCRNC, LLC, d/b/a Northeast Center for Rehabilitation and Brain Injury v Marie Cannon, as Commissioner of Erie County Department of Social Services</i>
Document Received:	Summons & Complaint
Name of Claimant:	NCRNC, LLC, d/b/a Northeast Center for Rehabilitation and Brain Injury
Claimant's attorney:	Harvey D. Mervis, Esq. Hinman, Howard & Kattell, LLP 80 Exchange Street PO Box 5250 Binghamton, New York 13902-5250

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

NCRNC, LLC, d/b/a Northeast Center for
Rehabilitation and Brain Injury,

Plaintiff,

vs.

MARIE CANNON, as Commissioner of Erie County
Department of Social Services, CATHERINE
GARCIA, as Guardian of Michael J. Curran, Jr., and
KRISTI M. CURRAN,

Defendants.

Index No.:

Date Purchased:

Plaintiff designates Erie County as
the place of trial

The basis of venue is Defendants'
principal place of business and
residence

Summons

Plaintiff's principal place of business:
300 Grant Avenue
Lake Katrine NY 12449

You are hereby summoned to answer the Complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this Summons, to serve a notice of appearance, on the Plaintiff's Attorneys within twenty (20) days after the service of this summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: May 22 2019



Harvey D. Mervis, Esq.
HINMAN, HOWARD & KATTELL, LLP
Attorneys for Plaintiff
80 Exchange Street
P.O. Box 5250
Binghamton, NY 13902-5250
Telephone: (607) 723-5341
E-mail: hmervis@hhk.com

Defendants' addresses:

Erie County Department of
Social Services
Erie County Executive's Office
Edward A. Rath County Office Building
95 Franklin Street, 16th Floor
Buffalo, New York 14202

Catherine Garcia,
as Guardian of Michael J. Curran, Jr.
35 Worthington Lane
Lancaster, NY 14086

Kristi M. Curran
27 Worthington Lane
Lancaster, NY 14086

Notice: The nature of this action is declaratory relief, monetary relief, equitable relief, and negligence in properly upholding a duty imposed by law under Medicaid.

The relief sought is equitable relief, or in the alternative, money damages. Upon your failure to appear, judgment will be taken against you by default for the sum of not less than \$200,000.00, plus interest at the rate of 9% per annum from the date of service, reasonable attorneys' fees, and the costs and disbursements of this action.



JEREMY C. TOTH
COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE
DEPARTMENT OF LAW

KRISTEN M. WALDER
DEPUTY COUNTY ATTORNEY

January 20, 2023

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>Brothers of Mercy Nursing Home v. Marie Cannon, Commissioner (re: Ernest Gay, Jr.)</i>
Document Received:	Summons and Complaint
Name of Claimant:	Brothers of Mercy Nursing Home
Claimant's attorney:	Gregory Stamm, Esq. Stamm Law Firm 1127 Wehrle Drive, Suite 100 Williamsville, New York 14221

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

Brothers of Mercy Nursing and Rehabilitation Center,

Plaintiff,

vs.

MARIE CANNON, as Commissioner of Erie County
Department of Social Services, NEW YORK STATE
DEPARTMENT OF HEALTH, HOWARD ZUCKER,
M.D., as Commissioner of New York State Department
of Health,

Defendants.

Index No.:

Date Purchased:

Plaintiff designates Erie County as
the place of trial

The basis of venue for Defendants'
principal places of business

Summons

Plaintiff's principal place of
business:

10570 Bergtold Road
Clarence, NY 14031

You are hereby summoned to answer the Complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this Summons, to serve a notice of appearance, on the Plaintiff's Attorneys within twenty (20) days after the service of this summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: November 12, 2019



Gregory Stamm, Esq.
Stamm Law Firm
Attorneys for Plaintiff
1127 Wehrle Drive
Suite 100
Williamsville, NY 14221
Telephone: (716) 631-5767
E-mail: gstamm@stammllaw.com

Defendant Marie Cannon's address:

Erie County Department of
Social Services
Erie County Executive's Office
Edward A. Rath County Office Building
95 Franklin Street, 16th Floor
Buffalo, New York 14202

Defendant NEW YORK STATE DEPARTMENT OF HEALTH's address:

Office of Attorney General
Empire State Plaza
Justice Building, 2nd Floor
Albany, New York 12224

Defendant Howard Zucker, M.D.'s address:

New York State Department of Health
Corning Tower
Empire State Plaza
Albany, New York 12237

Notice: The nature of this action is declaratory relief, monetary relief, equitable relief, and negligence in properly upholding a duty imposed by law under Medicaid.

The relief sought is equitable relief, or in the alternative, money damages. Upon your failure to appear, judgment will be taken against you by default for the sum of not less than \$68,470.58, plus interest at the rate of 9% per annum from the date of service, reasonable attorneys' fees, and the costs and disbursements of this action.



JEREMY C. TOTH
COUNTY ATTORNEY

COUNTY OF ERIE
MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

KRISTEN M. WALDER
DEPUTY COUNTY ATTORNEY

January 25, 2023

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: *Lloyd, Bruce W., II v. County of Erie,
Mary Ellen Brockmyre*

Document Received: NYS Div of Human Rights Charge of
Discrimination

Name of Claimant: Bruce Lloyd
92 Ashland Avenue, Apt. 2B
Buffalo, New York 14222

Claimant's attorney: Claimant is *pro se*.

Should you have any questions, please call.

Very truly yours,

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

BRUCE W. LLOYD, II,

Complainant,

v.

COUNTY OF ERIE, MARY ELLEN BROCKMEYER,
Respondents.

COMPLAINT

Pursuant to Executive Law,
Article 15

Case No.

10222223

Federal Charge No. 16GC301385

I, Bruce W. Lloyd, II, residing at 92 Ashland Avenue, Buffalo, NY, 14222, charge the above named respondents, whose address is Attn: Jeremy C. Toth, Esq.
First Assistant County Attorney
95 Franklin St., Rm. 1634, Buffalo, NY, 14202 with an unlawful discriminatory practice relating to employment in violation of Article 15 of the Executive Law of the State of New York (Human Rights Law) because of disability, race/color, sexual orientation, opposed discrimination/retaliation.

Date most recent or continuing discrimination took place is 10/25/2021.

The allegations are:

SEE ATTACHED

Based on the foregoing, I charge respondents with an unlawful discriminatory practice relating to employment because of disability, race/color, sexual orientation, opposed discrimination/retaliation, in violation of the New York State Human Rights Law (Executive Law, Article 15), Section 296.

I also charge the above-named respondents with violating Title VII of the Civil Rights Act of 1964, as amended (covers race, color, creed, national origin, sex relating to employment). I also charge the above-named respondents with violating the Americans with Disabilities Act (ADA) (covers disability relating to employment). I hereby authorize SDHR to accept this complaint on behalf of the U.S. Equal Employment Opportunity Commission (EEOC) subject to the statutory limitations contained in the aforementioned law(s).

New York State Division of Human Rights
Employment Complaint Form

RECEIVED
OCT 17 2022
NYS DHHR BUFFALO
REGIONAL OFFICE

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.

1. Your contact information:

First Name Bruce	Middle Initial/Name Wayne	
Last Name Lloyd, II		
Street Address/ PO Box 92 Ashland Ave.	Apt or Floor #: 2B	
City Buffalo	State NY	Zip Code 14222
If you are filing on behalf of another, provide the name of that person:	Date of birth:	Relationship:

2. Regulated Areas: 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

3. You are filing a complaint against:

Employer, Worksite, Agency or Union Name County of Erie, Youth Services Center		
Street Address/ PO Box 810 East Ferry St.		
City Buffalo	State NY	Zip Code 14211
Telephone Number:		

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

Individual people who discriminated against you:

Name: Maryellen Brockmeyer	Title: Deputy Commissioner
Name: _____	Title: _____

If you need more space, please list them on a separate piece of paper.

4. Date of alleged discrimination (must be within one year of filing):

The most recent act of discrimination happened on: 10 / 25 / 2021
month day year

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

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

6. Are you currently working for this company?

Yes. Date of hire: 5 6 98
month day year

What is your position?
Youth Detention Worker

No. Last day of work: 10 6 21
month day year

What was your position?

I was never hired.
Date of application: _____
month day year

What position did you apply for?

7. Basis of alleged discrimination:

Check **ONLY** the boxes that you believe were the reasons for discrimination, and fill in specifics only for those reasons. Please look at page 2 of "Instructions" for an explanation of each type of discrimination.

Age:
Date of Birth: _____

Familial Status:

Arrest Record

Military Status:
 Active Duty Reserves Veteran

Conviction Record

Marital Status
 Single Married Separated
 Divorced Widowed

Creed/ Religion:
Please specify: _____

National Origin:
Please specify: _____

Disability: Thumb Injury
Shoulder Injury
Please specify: Achilles

Predisposing Genetic Characteristic:

Domestic Violence Victim Status

Pregnancy-Related Condition:
Please specify: _____

Gender Identity or Expression, Including the Status of Being Transgender

Sexual Orientation:
Please specify: BI-SEXUAL

Race/Color or Ethnicity:
Please specify: Black
 Trait historically associated with race such as hair texture or hairstyle

Sex:
Please specify: _____
Specify if the discrimination involved:
 Pregnancy Sexual Harassment

Use of Guide Dog, Hearing Dog, or Service Dog

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

Retaliation: How did you oppose discrimination: Prior internal and Division complts

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.

Relationship or association

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

<input type="checkbox"/> Refused to hire me	<input checked="" 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 checked="" type="checkbox"/> Harassed or intimidated me on any basis indicated above <i>al</i>
<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 checked="" 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:

Bruce Wayne Lloyd, II

Intake Interview 10/17/22

I have made prior complaints of race and sex discrimination against respondent both internally in June 2018 and with the Division on 6/27/19 (SDHR No. 10202509). Because of this, I believe respondent retaliated against me.

I was hired by respondent on 5/6/1998 and last held the position of Youth Detention Worker at the 810 East Ferry, Buffalo, NY facility. During my employment I have been subjected to discrimination and a hostile work environment.

I was injured and went out of work on 7/4/2019 and I returned to work on 5/23/21. Within minutes of my return, I was called into the office and told that Cynthia Schwab had learned of my return and that I was to stay away from her while at work. I had filed a prior complaint against Ms. Schwab and she had filed a complaint against me. I was not allowed to perform my usual duties, because of the proximity to Ms. Schwab. I believe Maryellen Brockmeyer was trying to find an issue with me in retaliation for my prior complaints against her. I felt she was biased and asked to have someone else oversee the meeting. Maryellen Brockmeyer denied my request, stating that due to the seriousness of the alleged offenses, which were rule violations and criminal offenses.

On 10/7/21 I went out of work on Worker's Compensation leave. I was requested to appear for a fact finding conference on 10/13/21. Two issues were raised during the meeting. Regarding the first issue, I was asked if I recalled a prior phone conversation with Tina, from HR. I said that I did not. I was then accused of verbally abusing Tina. I asked for information regarding the purpose of the conversation and outcome but was not given any. I denied having such a conversation. I was told the call was to my phone and asked who else would have answered it. I said I don't have locks on my phone and it could have been anyone. I was then asked who would have answered with a male voice. I then felt uncomfortable and felt I had to disclose my sexual orientation, bi-sexual, to Maryellen Brockmeyer and two other coworkers who were on the meeting and were unaware of my sexual orientation. At that point I was not asked any more about this allegation.

In regard to the second allegation, I was told a prior security guard filed a formal complaint that I had physically or verbally forced him into the locker room, an authorized area. I denied these allegations. I, as well as others talk in the locker room all of the time, but I never did anything inappropriate, nor did I force anyone from their work area. Maryellen Brockmeyer asked me if I was made of metal. I took this as a reference to my sexual orientation and referring to the receiver of a sexual relationship. I felt she was then accusing me of a sexual act. I was denied any further details, statements, or information about the allegations. My union rep, Don McDougal, asked if it was fact finding or a disciplinary hearing. We were told it was fact finding. I attempted to provide documents to respondent in my defense, however, they were returned unopened. On or about 10/25/22 I received a certified letter of termination. I believe I was terminated in retaliation for prior complaints and based on my disclosure of my sexual orientation, as the youth at the facility are approximately 90 percent male.

9. Description of alleged discrimination

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

SEE ATTACHED

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

Signature (Declaration or Oath)

Based on the information contained in this form, I charge the herein named respondent(s) with an unlawful discriminatory practice, in violation of the New York State Human Rights Law.

By filing this complaint, I understand that I am also filing my employment complaint with the United States Equal Employment Opportunity Commission under the Americans With Disabilities Act (covers disability related to employment), Title VII of the Civil Rights Act of 1964, as amended (covers race, color, religion, national origin, sex relating to employment), and/or the Age Discrimination in Employment Act, as amended (covers ages 40 years of age or older in employment). This complaint will protect my rights under federal law.

I hereby authorize the New York State Division of Human Rights to accept this complaint on behalf of the U.S. Equal Employment Opportunity Commission, subject to the statutory limitations contained in the aforementioned law.

I have not filed any other civil action, nor do I have an action pending before any administrative agency, under any state or local law, based upon this same unlawful discriminatory practice. (If you have another action pending and still wish to file, please contact our office to discuss.)

PLEASE INITIAL 

Human Rights Law § 297.1 requires that a complaint filed with the Division of Human Rights must be "under oath or by declaration." **You must complete either the "declaration" or "oath" sections below.** The declaration requires only your signature and does not need to be notarized. The oath requires that you sign it before a notary.

DECLARATION

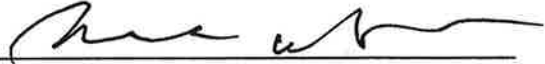
I affirm this ____ day of _____ (month), _____ (year) at _____ (city), _____ (state), under penalties of perjury, that I am the complainant herein; that I have read (or had read to me) the foregoing complaint and know the content thereof; that the same is true of my own knowledge except as to the matters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

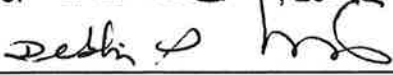
[Complainant name]

OATH

STATE OF NEW YORK)
COUNTY OF Erie) SS:

Bruce W. Lloyd, Jr., being duly sworn, deposes and says: that I am the complainant herein; that I have read (or had read to me) the foregoing complaint and knows 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 believes the same to be true.


Complainant signature

Subscribed and sworn to
before me this 17th day
of October, 2022

Signature of Notary Public

DEBBIE S. KENT
Notary Public, State of New York
No. 01KE5013503
Qualified in Niagara County 23
My Commission Expires July 15, 2016

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



JEREMY C. TOTH
COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE
DEPARTMENT OF LAW

KRISTEN M. WALDER
DEPUTY COUNTY ATTORNEY

January 26, 2023

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>Lagattuta, Andrew v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Andrew Lagattuta 152 Somerville Avenue Tonawanda, New York 14150
Claimant's attorney:	Aaron F. Glazer, Esq. Gibson McAskill & Crosby, LLP 69 Delaware Avenue, Suite 900 Buffalo, New York 14202

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

ANDREW LAGATTUTA
152 Somerville Avenue
Tonawanda, New York 14150,

Claimant,

NOTICE OF CLAIM

vs.

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

Respondent.

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

PLEASE TAKE NOTICE that ANDREW LAGATTUTA does hereby make a claim against the COUNTY OF ERIE, and in support of such claim does state the following:

1. The name and post office address of the claimant are as follows: ANDREW LAGATTUTA, 152 Somerville Avenue, Tonawanda, New York 14150.
2. The attorneys for the claimants are Gibson, McAskill & Crosby, 69 Delaware Avenue, Suite 900, Buffalo, New York 14202.
3. This claim is one against the COUNTY OF ERIE for personal injuries sustained by the claimant, ANDREW LAGATTUTA, on December 1, 2022.
4. The facts and circumstances of this claim are as follows: that on December 1, 2022 at approximately 9:46 a.m., while the claimant was lawfully riding his bicycle on Somerville Avenue, at its intersection with Eggert Road, in the Town of Tonawanda, County of Erie, State of New York, a motor vehicle owned by the respondent, COUNTY OF ERIE, and operated by a County of Erie

employee/agent representative, County of Erie employee, Gary A. Panek, struck Claimant, causing claimant serious and permanent injuries.

5. Upon information and belief, the aforementioned motor vehicle owned by the respondent, COUNTY OF ERIE, was being operated by an employee of Respondent, County of Erie employee, Gary A. Panek, while he was within the course and scope of his employment with Respondent. A copy of the police accident report is attached as **Exhibit A**.

7. Claimant's injuries were caused by the negligence, carelessness and recklessness of the County of Erie employee referenced above in his operation of the motor vehicle owned by the respondent, COUNTY OF ERIE. As the owner of the motor vehicle being operated by Gary A. Panek, and pursuant to the relevant sections of the New York State Vehicle and Traffic Law, the respondent, COUNTY OF ERIE, is vicariously liable for any and all acts of negligence, carelessness and recklessness committed by Gary A. Panek in his use and operation of the Respondent's motor vehicle. Further, as the employer of Gary A. Panek, Respondent is vicariously liable for any and all acts of negligence, carelessness and recklessness committed by Gary A. Panek while within the course and scope of his employment. As a result of the negligence, carelessness and recklessness of Gary A. Panek, and the Respondent, the claimant has sustained severe, permanent and painful injuries as hereinafter set forth.

8. The collision at issue occurred on December 1, 2022, at approximately 9:46 a.m., when County of Erie employee, Gary A. Panek, was operating a 2022 Ford vehicle bearing New York State license plate number BF6943, titled and registered to the respondent, COUNTY OF ERIE, in the westbound direction on Eggert Road, at its intersection with Somerville Avenue, in the Town of Tonawanda, County of Erie, State of New York. Upon information and belief, Gary A. Panek, and therefore, the Respondent, failed to see what was there to be seen through the proper and

reasonable use of his senses; failed to yield the right-of-way; and intentionally performed an act of an unreasonable character in disregard of a known or obvious risk that was so great as to make it highly probable that harm would follow, and did so with conscious indifference to the outcome. As a result of the foregoing, the motor vehicle owned by Respondent, and operated by Respondent's employee/agent/representative, Gary A. Panek, struck the Claimant as Claimant lawfully rode his bicycle.

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

WHEREFORE, the claimants respectfully request that this claim be allowed and paid by the COUNTY OF ERIE.



Aaron F. Glazer, Esq.

Sworn to before me this
30 day of December 2022.



Notary Public

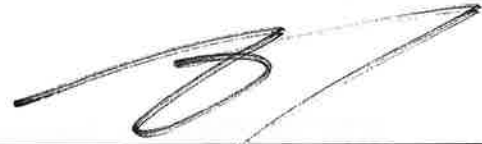
SHARON A. YELL
Notary Public State of New York
Qualified in Erie County
My Commission Expires: Nov. 25, 2026

VERIFICATION

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

AARON F. GLAZER, being duly sworn, deposes and says that he is a member of Gibson, McAskill & Crosby, LLP, attorneys for the claimant, ANDREW LAGATTUTA, herein; that he has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to Deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those, Deponent believes same to be true.

The sources of Deponent's information and the grounds for his belief are reports and correspondence from representatives of the claimant presently in the file of this case in Deponent's office.



Aaron F. Glazer, Esq.

Sworn to before me this
30 day of December 2022.



Notary Public

SHARON A. YELL
Notary Public State of New York
Qualified in Erie County
My Commission Expires: Nov. 25, 2026



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

DEPARTMENT OF LAW

JEREMY C. TOTH
COUNTY ATTORNEY

KRISTEN M. WALDER
DEPUTY COUNTY ATTORNEY

January 27, 2023

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

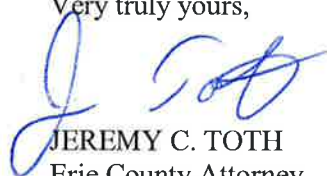
Dear Mr. Graber:

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>Short, Wayne v. County of Erie and Schiller Park Community Services</i>
Document Received:	Notice of Claim
Name of Claimant:	Wayne Short 24 Deerfield Avenue Buffalo, New York 14215
Claimant's attorney:	Thomas P. Patti, Esq. The Dietrich Law Firm 101 John James Audubon Parkway Buffalo, New York 14228

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

WAYNE SHORT,

Claimant,

NOTICE OF CLAIM

vs.

**THE COUNTY OF ERIE AND
SCHILLER PARK COMMUNITY SERVICES,**

Respondents.

PLEASE TAKE NOTICE that the above-named Claimant claims and demands from The County of Erie and/or Schiller Park Community Services, recompense for personal injuries sustained by the Claimant by reason of the wrongful, unlawful, negligent, and careless acts and omissions of the Respondents, their agents, servants, and/or employees, and in support thereof the Claimant states:

1. The address of the Claimant is 24 Deerfield Avenue, Buffalo, New York 14215.
2. The Claimant is represented by The Dietrich Law Firm P.C., 101 John James Audubon Parkway, Buffalo, New York 14228; (716) 839-3939.
3. The incident in which personal injuries were sustained by the Claimant occurred on or about January 10, 2023 at approximately 12:14 p.m., when the Claimant was a passenger in a vehicle registered to The County of Erie and Schiller Park Community Services and driven by Maurice Haggins, when it was involved in a collision causing permanent and severe injuries to the claimant.

A copy of the subject police report is attached hereto and incorporated herein as Exhibit A.

4. The incident occurred near the intersection located at the intersection of Deerfield Avenue and Fernhill Avenue in the City of Buffalo, County of Erie, State of New York. As a result, the Claimant sustained permanent and severe physical injuries.

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

6. The Claimant submits this notice of claim with respect to the above referenced liability claim but also with respect to No-Fault benefits and/or Supplemental uninsured/underinsured motorist coverage.

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

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

Dated: January 16, 2023

THE DIETRICH LAW FIRM P.C.

By: 

Thomas P. Patti, Esq.

Attorneys for Claimant

101 John James Audubon Parkway

Buffalo, New York 14228

(716) 839-3939

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

WAYNE SHORT,

Claimant,

VERIFICATION

vs.

**THE COUNTY OF ERIE AND
SCHILLER PARK COMMUNITY SERVICES,**

Respondent.

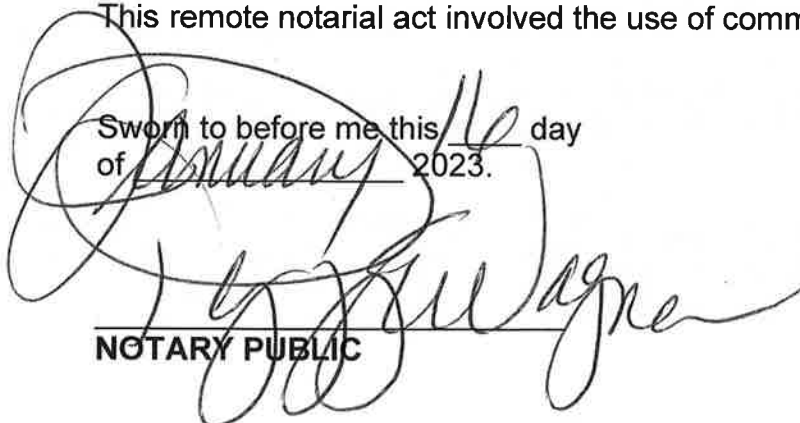
I, **WAYNE SHORT**, being duly sworn, deposes and says, that the deponent is the Claimant in the within action; that the deponent has read the foregoing Notice of Claim and know the contents hereof; that the same is true to the deponent's knowledge, except as to the matters therein stated to be alleged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



WAYNE SHORT

This remote notarial act involved the use of communication technology

Sworn to before me this 16 day
of January 2023.



NOTARY PUBLIC

PEGGY E WAGNER
NOTARY PUBLIC-STATE OF NEW YORK
No. 01WA6141246
Qualified in Erie County
My Commission Expires 02-21-2026

Local Code 43
230100424

New York State Department of Motor Vehicles
POLICE ACCIDENT REPORT
MV-104A (7/18)

AMENDED REPORT

1 Accident Date: Month 01, Day 10, Year 2023, Day of Week TUE, Military Time 1214, No. of Vehicles 2, No. Injured 3, No. Killed 0, Not Investigated at Scene, Left Scene, Police Photos, Accident Reconstructed.

2 VEHICLE 1 - Driver License ID Number 738 174 933, Driver Name Haggins, Marice, Address 141 Maple St, Buffalo, NY 14204. VEHICLE 2 - Driver License ID Number 620 8166 79, Driver Name Watkins, Ira, Address 422 Cambridge Av, Buffalo, NY 14215.

3 Date of Birth: VEHICLE 1 (09/10/1968), VEHICLE 2 (05/10/1942). Sex: M, M. Unlicensed: No. No. of Occupants: 2, 1. Public Property Damaged: No, No.

4 Name: VEHICLE 1 (Eire County), VEHICLE 2 (SAME). Address: VEHICLE 1 (95 Franklin St, Buffalo, NY 14215), VEHICLE 2 (SAME).

5 Plate Number: VEHICLE 1 (BE 3048), VEHICLE 2 (EB 135W). State of Reg: NY, NY. Vehicle Year & Make: 2017 Ford, 2019 Chev. Vehicle Type: PSD, PAS. Ins. Code: 999, 743.

6 Violation Section(s):

7 VEHICLE DAMAGE CODING: 1-13. SEE DIAGRAM ON RIGHT. 14. UNDERCARRIAGE 17. DEMOLISHED 15. TRAILER 18. NO DAMAGE 16. OVERTURNED 19. OTHER. ACCIDENT DIAGRAM: See diagram. Cost of repairs to any one vehicle will be more than \$1000. Yes [X] No []

8 Reference Marker, Coordinates (if available), Place Where Accident Occurred: County Erie, City Buffalo, Road on which accident occurred Dearfield Av (at) Fernhill Av.

9 Accident Description/Officer's Notes: Veh 2 traveling WB on Fernhill did disregard two-way stop sign and did not give right of way to Veh 1 traveling SB on Dearfield. Both vehicles sustained major damage.

Table with columns: A, B, C, D, E, F, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, BY, TO, 18, Names of all Involved, Date of Death Only.

Officer's Rank and Signature: R. Billups, PO. Badge/ID No.: 3842. NCIC No.: 01401. Precinct/Post/Troop/Zone: E. Station/Beat/Sector: 3. Reviewing Officer: [Signature]. Date/Time Reviewed: 11/07/23-1530.