THE ERIE COUNTY LEGISLATURE

GOVERNMENT AFFAIRS COMMITTEE

John J. Gilmour
Chair

Lisa M. Chimera
Vice-Chair

Meeting No. 3 – June 3, 2021 – 10:15 AM

			TAB	R&F	APP
1.	**INTRO. 12-4 (2020)** Session 12	**LORIGO, RATH, TODARO & MILLS** *"Support for Local Control in Easing Open Container Restrictions"*			
2.	**INTRO. 14-2 (2020)** Session 14	**BASKIN & JOHNSON** *"Supporting the Establishment of Juneteenth as an Observed EC Holiday"*			
3.	**COMM. 14E-2 (2020)** Session 14	**BASKIN** *"Letter Supporting the Declaration of Juneteenth as an Annually Observed EC Holiday"*			
4.	**LL INTRO. 5-1 (2020)** Session 16	**LORIGO, RATH, TODARO & MILLS** *"A LL Requiring Timely Reports on County Mandated Business Closures Made Pursuant to Local or State Regulations"*			
5.	**LL Intro. 8-1 (2020)** Session 23	**LORIGO, RATH, TODARO & MILLS** *"A LL titled, "Third Party Food Delivery Services Law""*			

			TAB	R&F	APP
6.	**INTRO. 6-3 (2021)** Session 6	**TODARO, LORIGO, GREENE & MILLS** *"Opposition to Proposed Changes to NYS Insurance Laws Aimed at Gun Ownership"*			
7.	**COMM. 9E-23 (2021)** Session 9	**COMPTROLLER** *"Letter to Commissioner of Personnel Regarding Facebook Posts"*			
8.	**COMM. 9D-2 (2021)** Session 9	**DEPARTMENT OF LAW** *"Designation in Event of Vacancy, Absence or Inability"*			
9.	**COMM. 9D-9 (2021)** Session 9	**DEPARTMENT OF LAW** *"Transmittal of New Claims Against Erie County"*			
10.	**COMM. 10E-2 (2021)** Session 10	**COMPTROLLER** *"Letter to County Attorney Concerning County Liabilities"*			
11.	**COMM. 10E-10 (2021)** Session 10	**LORIGO, TODARO, GREENE & MILLS** *"Letter to Chair of Government Affairs Committee Requesting Discussion on Proposed Business Closure Reporting Act"*			
12.	**COMM. 10E-13 (2021)** Session 10	**COUNTY EXECUTIVE** *"Reappointments to the EC Commission on the Status of Women"*			
13.	**COMM. 10D-9 (2021)** Session 10	**DEPARTMENT OF LAW** *"Transmittal of New Claims Against EC"*			

			TAB	R&F	APP
14.	**COMM. 10M-9 (2021)** Session 10	**EC BOARD OF ETHICS** *"Annual Report of Activities for 2020"*			
15.	**INTRO. 11-2 (2021)** Session 11	**LORIGO, GREENE, TODARO & MILLS** *"Calling on the Federal Governments of Canada & the US to Reopen the Border"*			
16.	**COMM. 11E-2 (2021)** Session 11	**GILMOUR** *"Letter to Minority Leader Regarding Committee Discussion on Proposed Business Closure Local Law"*			
17.	**COMM. 11E-11 (2021)** Session 11	**COUNTY CLERK** *"Amendment of Lease w/Southgate Associates, LLC & Amendment to 2021 Budget"*			
18.	**COMM. 11M-6 (2021)** Session 11	**FRANK BOGULSKI** *"Letter in Support of the Erie County Fair"*			

A RESOLUTION TO BE SUBMITTED BY
LEGISLATORS LORIGO, RATH, TODARO, AND MILLS

Re: Support for Local Control in Easing Open Container Restrictions

WHEREAS, with the spread of COVID-19 it appears likely that New York will impose strict limitations on restaurant seating capacity upon their reopening; and

WHEREAS, many people are uncomfortable returning to restaurants where social distancing is difficult or even impossible. This honorable body seeks to rethink entertainment options for residents and businesses alike in light of policies and practices necessitated by the spread of COVID-19; and

WHEREAS, open-container laws are intended to limit public intoxication and the operation of vehicles under the influence, the latter of which is regulated by New York State; and

WHEREAS, Municipal Home Rule Law provides local municipalities with the authority to make any law or ordinance that is not inconsistent with any state laws; and

WHEREAS, New York State laws explicitly prohibits the consumption of alcohol in automobiles under vehicle and traffic law. However, New York State has left it to local municipalities to regulate local streets and parks on their own; and

WHEREAS, many municipalities restrict open containers to establishments that are licensed by the state liquor authority, the Village of East Aurora is one of the few municipalities that does not have restrictions on the use of alcohol on public sidewalks; and

WHEREAS, residents across Erie County should have the opportunity to responsibly enjoy alcoholic beverages in areas where they have traditionally been banned and there are many laws in place that would govern their behavior.

NOW, THEREFORE, BE IT

RESOLVED, that this honorable body fully supports the prohibition against open containers in motor vehicles and areas traditionally reserved for minors; and, be it further

RESOLVED, that this honorable body hereby supports local municipalities who wish to reconsider their restrictions against open containers on public streets and parks so as to encourage residents to utilize local restaurants and establishments; and, be it further

RESOLVED, that certified copies of this resolution be sent to every municipality located in Erie County and any other party deemed necessary and proper.

Fiscal Impact: None for resolution

A RESOLUTION SUBMITTED BY LEGISLATORS BASKIN AND JOHNSON

Re: Supporting the Establishment of Juneteenth as an Observed Erie County Holiday

WHEREAS, Juneteenth is the oldest nationally celebrated commemoration of the ending of slavery in the United States; and

WHEREAS, Juneteenth commemorates June 19, 1865, when Union Army soldiers, led by Major General Gordon Granger, landed at Galveston, Texas with news that the Civil War had ended and Black slaves were now free; and

WHEREAS, General Granger read to the residents of Galveston General Order Number 3, which stated: "The people of Texas are informed that in accordance with a Proclamation from the Executive of the United States, all slaves are free. This involves an absolute equality of rights and rights of property between former masters and slaves"; and

WHEREAS, the celebration of June 19th was termed "Juneteenth" and grew with participation from descendants of those freed Black slaves, with the date becoming highly revered in Texas decades later, with many former slaves and descendants making an annual pilgrimage back to Galveston on this date; and

WHEREAS, Juneteenth has become a national day of celebration, parades, picnics, and prayer events; and

WHEREAS, along with parties, barbecues, sporting activities, and family gatherings, Juneteenth also focuses on education and self-improvement, featuring celebrations with guest speakers and prayer services; and

WHEREAS, historically, little interest existed outside the African American community in participation in the celebrations and White Americans have traditionally had little participation or involvement in Juneteenth commemorations or events; and

WHEREAS, recent tragic and senseless events in our country and community involving African Americans and law enforcement have led to public outcry and introspection about the state of racial relations in our country and community; and the need for more improvements and progress in addressing racial inequity; and

WHEREAS, as a part of the public outcry and expressions of concern, many elected officials and activists have called for more awareness of the contributions of African Americans to our society, and the naming of Juneteenth as an observed public and government holiday, to allow persons of all ethnicities to recognize the legacy of slavery and racism in our country, and to celebrate all of the positive accomplishments and contributions of African Americans in the United States; and

WHEREAS, Juneteenth is also a time to focus on advancing racial equity and fighting racial injustice; and

WHEREAS, Buffalo features one of the largest annual Juneteenth celebrations in the country; and

WHEREAS, on January 1, 1980, Juneteenth became an official state holiday in Texas through the efforts of Al Edwards, an African American state legislator; and

WHEREAS, Governor Andrew Cuomo named June 19, 2020 as an observed state government holiday for State employees and he is proposing legislation to make it an official state holiday in 2021, and Buffalo Mayor Byron Brown announced that Juneteenth will become a paid holiday for City of Buffalo employees beginning in 2021; and

WHEREAS, Erie County government can and should make an affirmative expression of support for the naming of Juneteenth annually as an Erie County government observed holiday to commemorate the ending of slavery, and to be a day of reflection of race relations in this country and to stress the importance of racial parity and justice.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby expresses its support for the naming of Juneteenth as an annual observed Erie County government holiday and urges the Erie County Executive to act to designate Juneteenth as an observed holiday; and be it further

RESOLVED, that certified copies of this resolution be transmitted to the County Executive, Commissioners of Labor Relations and Personnel, and the NAACP Buffalo Chapter.

Fiscal Impact: To be determined.

ERIE COUNTY LEGISLATURE

HON. APRIL N.M. BASKIN
CHAIR OF THE LEGISLATURE
2ND DISTRICT LEGISLATOR

❑ 792 E. Delavan Ave.
Buffalo, NY 14215
716/895-1849
FAX: 716/895-1910

❑ 92 Franklin St., 4th Fl.
Buffalo, NY 14202
716/858-8869
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❑ *Legislative Assistant*
Pedro Gonzalez-Ortiz
E-Mail:
Pedro.Gonzalez-Ortiz@erie.gov

June 23, 2020

Hon. Mark C. Poloncarz
Erie County Executive
95 Franklin Street, 16th Floor
Buffalo, New York 14202

Re: Support for Declaring Juneteenth an Annual Erie County Observed Holiday

Dear County Executive Poloncarz:

I am writing to express my support for Erie County government making Juneteenth an observed County holiday and to encourage you to take steps to make this annual day a paid holiday for County employees.

Last week, Governor Andrew Cuomo declared Juneteenth to be a state holiday on June 19, 2020 for state employees, and he is proposing legislation to make it an official state holiday in 2021. Buffalo Mayor Byron Brown also announced that Juneteenth will become a paid holiday for City of Buffalo employees beginning in 2021.

This day commemorates the end of slavery and is observed around the country every June 19th to mark the day on June 19, 1865 that enslaved workers in Texas were told they were free after the Civil War ended. Juneteenth is a time to focus on advancing racial equity and fighting racial injustice. Buffalo features one of the largest annual Juneteenth celebrations in the country, a tradition I am proud to commemorate and join. I believe that the County should also act to commemorate this day and stress the importance of racial parity and justice.

I look forward to hearing from you concerning this request and to working with you and the Commissioners of Labor Relations and Personnel to explore and implement Juneteenth as an observed County holiday. Thank you in advance for your consideration.

Sincerely,

April Baskin

April N.M. Baskin
Chair of the Legislature

cc: Howard Johnson, Erie County Legislator

LOCAL LAW TO BE ENACTED BY

THE ERIE COUNTY LEGISLATURE

IN THE

COUNTY OF ERIE

LOCAL LAW INTRO. – NO. 5-1 - 2020

LOCAL LAW – NO. _____ - 2020

A local law requiring timely reports on county mandated business closures made pursuant to local or state regulations.

SECTION 1. Short title

This law shall be known as the Business Closure Reporting Act

SECTION 2. Legislative Intent

The use of government authority to close a business should not be taken lightly. It is the intent of this law to ensure that any decision made by a representative of Erie County Government resulting in the closure of a business is transparent, subject to reasonable public oversight, and consistent with rules, regulations, and laws promulgated to protect the public. To that end, it is the decision of this body to require the creation and publication of a "Report of Justification" detailing the County's legal reasoning and justification for the closure.

SECTION 3. Requirement to Report Closures

Should any Erie County official, elected, appointed, or otherwise, use any power granted to them to close a place of business for any reason or any length of time, that official shall be responsible for delivering a Report of Justification to the Clerk of the Legislature within forty–eight (48) hours of the ordered closure via email or hardcopy. It shall be incumbent upon the Clerk to forward a copy of the Report to every member of the Erie County Legislature and ensure the Report is entered into the Legislature's official record. If receipt of said Report occurs outside of operating hours of the Erie County Legislature, the Clerk shall forward the Report to every legislator and submit it to the legislative record as soon as practicable, but in any event no later than 10:00 am the next business day. A copy of the Report of Justification shall also be delivered to the owner(s) of the impacted business within the same timeframe via Certified US Mail, Return Receipt Requested.

The Report of Justification shall include:

1) A detailed written report that provides justification for the decision to order the closure, signed by the Erie County government official ordering the closure;

2) A copy of the official order or communication closing the place of business; and

3) Any and all evidence in the possession of Erie County government on which the closure was based.

The Report of Justification shall document the entire basis for ordering the closure. Any and all factors leading to the decision to order a business closure shall be included in the Report. Any information omitted from the Report cannot be used later to justify the Order of closure.

SECTION 4. Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.

SECTION 5. Severability

If any clause, sentence, paragraph, subdivision, section or part of this Local Law or the application thereof, to any person, individual, corporation, firm, partnership, entity or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional such order of judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Local Law or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

Sponsor: Legislator Lorigo

Co-Sponsors: Legislators Rath, Todaro, and Mills

LOCAL LAW TO BE ENACTED BY
THE ERIE COUNTY LEGISLATURE
IN THE
COUNTY OF ERIE
LOCAL LAW INTRO. – NO. 8-1 - 2020
LOCAL LAW – NO. _____ - 2020

This law shall be known as the "Third Party Food Delivery Services Law"

SECTION 1. Intent

It is the intent of this body to prevent potentially predatory rate-hikes imposed by third-party food delivery services on businesses in Erie County during a declared emergency.

SECTION 2. Definitions

1) Declared emergency – The term "declared emergency" means the period during which a state disaster emergency has been declared by Governor of the State of New York or a state of emergency has been declared by the County Executive, such declaration is in effect in the County, and there are restrictions on on-premises dining at food service establishments in the County.

2) Delivery fee – the term "delivery fee" means a fee charged by a third-party food delivery service for providing a food service establishment with a service that delivers food from such establishment to customers. The term does not include any other fee that may be charged by a third-party food delivery service to a food service establishment, such as fees for listing or advertising the food service establishment on the third-party food delivery service platform or fees related to processing the online order.

3) Food Service Establishment – The term "food service establishment", means any fixed or mobile restaurant; drive-in; coffee shop; cafeteria; short-order cafe; delicatessen; luncheonette; grill; tearoom; sandwich shop; soda fountain; bar; tavern; cocktail lounge; night club; roadside stand; take-out prepared food place; retail bakery; industrial feeding establishment; private, public or nonprofit organization or institution, including: schools; nursing homes; day care centers and hospitals; religious and fraternal organizations routinely serving food; catering kitchens; commissary or similar places in which food is prepared for sale or for service on the premises or elsewhere; and any other establishment or operation where food is served or provided for the public, with or without charge.

4) Online Order – the term "online order" means any order placed by a customer through or with the assistance of a platform provided by a third-party food delivery services, including a telephone order.

5) Purchase Price – the term "purchase price" means the total price of the items contained in an online order that are listed on the menu of the food service establishment where such order is placed. Such term does not include taxes, gratuities, and any other fees that may make up the total cost to the customer of an online order.

6) Third-Party Food Delivery Service – the term "third-party food delivery service" means any website, mobile application or other internet service that offers or arranges for the sale of food and beverages prepared by, and the same-day delivery or same-day pickup of food and beverages from food service establishments located in the County that are owned and operated by different persons.

SECTION 3. Fee Limits during Declared Emergencies

1) It shall be unlawful for a third-party food delivery service to charge a food service establishment a delivery fee that totals more than 15% of the purchase price of each online order.

2) It shall be unlawful for a third-party food delivery service to charge a food service establishment any fee or fees other than a delivery fee for the use of their service greater than 5% of the purchase price of each online order. Any fees or other charges from a third-party food delivery service to a food service establishment beyond such a maximum 5% fee per order, and a delivery fee collected pursuant to subdivision (1) of this section, are unlawful, provided that such cap shall not apply to a credit card fee that is charged to the third-party food delivery service and is charged in the same amount by the third-party food delivery service to such food service establishment.

3) It shall be unlawful for a person to cause a third-party food delivery platform to reduce the compensation rate paid to a delivery service driver or garnish gratuities in order to comply with this section.

4) The requirements of this section apply only during a declared emergency and for a period of 90 days after the end of a declared emergency.

SECTION 4. Enforcement and Penalties

If a third-party food delivery service charges a food service establishment fees in violation of this law, the food service establishment shall provide written notice to the third-party food delivery service requesting a refund within seven (7) days. If the third-party food delivery service fails to provide a full refund for excessive fees within seven (7) days of the initial notice, the food service establishment may file proof of the notice with the Erie County Office of Consumer Protection, which shall review the claim and do everything legally permissible to ensure the third-party food delivery service refunds the food service establishment.

If the Erie County Office of Consumer Protection determines that any third-party food delivery service is in violation of this law on three (3) or more separate occasions in any seven (7) day period, the Office of Consumer Protection is authorized to issue fines of up to $2,000 per additional occurrence against the third-party food delivery service. Fifty percent (50%) of all fines collected by the county shall be held in reserve to compensate food service establishments that the Office of Consumer Protection determines should be eligible for a refund. The amount of payment shall be determined by the Office of Consumer protection based on fund availability and third-party food delivery service overcharge; but, in no instance shall a food service establishment receive any refund in excess of the value of actual fees imposed in violation of this law. Any refunds received by a food service establishment from a third-party food delivery service shall offset any payment to the food service establishment out of this fund.

Nothing in this section shall prohibit any individual food service establishment from bringing any claim against a third-party food delivery service for a refund pursuant to this law in a court of competent jurisdiction.

SECTION 5. Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.

SECTION 6. Severability

If any clause, sentence, paragraph, subdivision, section or part of this Local Law or the application thereof, to any person, individual, corporation, firm, partnership, entity or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional such order of judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Local Law or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

SECTION 7. Reverse Preemption

This section shall be null and void on the day that statewide legislation goes in effect, incorporating either the same or substantially similar provision as are contained in this law, unless state law specifically exempts from preemption earlier enacted local laws in this area. The Erie County Legislature may determine via resolution whether or not identical or substantially similar statewide legislation or pertinent preempting state or federal regulations have been enacted for the purposes of triggering the previsions of this section.

Sponsor: Legislator Lorigo

Co-Sponsor: Legislators Rath, Todaro, and Mills

A RESOLUTION TO BE SUBMITTED BY
LEGISLATOR TODARO, LORIGO, GREENE, AND MILLS

Re: Opposition to proposed changes to NYS Insurance laws aimed at gun ownership

WHEREAS, the use of firearms during the commission of a crime is deplorable and should be condemned by all elected officials; however, as happens far too often, well-meaning lawmakers seek to introduce gun-ownership laws without having a full understanding of the topic; and

WHEREAS, bill S4946 has been introduced in the New York State Senate to require owners of firearms to obtain liability insurance and to be liable for any acts carried out with said firearm prior to the filing of the reported loss or theft; and

WHEREAS, the law directs residents to acquire specific firearms liability insurance within 30 days of passage of the bill and to maintain such coverage in perpetuity. This proposal would neither reduce gun related violence, nor help potential victims of firearm related violence; and

WHEREAS, according to Jimi Grande, a vice president for the National Association of Mutual Insurance Companies, while likely well-intentioned, the requirement to carry firearm liability insurance "demonstrates a misunderstanding of the fundamental principles of insurance – that it is designed to cover fortuitous, or accidental events." Accidental shootings are already covered under most homeowners and renters insurance policies. It is not a practice of the insurance industry to cover intentional criminal acts, nor should it be; and

WHEREAS, firearm liability insurance is not a product the insurance industry is even interested in providing. As a result, it is expensive and difficult to acquire. Claims brought under the policy, where available, are often disclaimed by insurance companies if a victim seeks compensation. It would only serve to impose an additional restriction on, and barrier to, firearm ownership while not offering protection to any parties involved; and

WHEREAS, the bill also imposes liability on owners of firearms for acts committed with those firearms if lost or stolen until they are reported to the appropriate law enforcement agency; and

WHEREAS, on its face, the burden to report a theft or loss is not significant; however, in practice the timing may be problematic. If residents are unaware of the theft or loss at the time the firearm is no longer in their possession, imposing additional liability on gun owners for the illegal acts of another is excessive and heavy handed; and

WHEREAS, NYS does not impose liability on the owners of cars that are stolen where the thief gets in an accident. Firearm owners should not be held to an impossible to meet standard when it comes to liability for damages for the unrelated desire to restrict gun ownership.

NOW, THEREFORE, BE IT

RESOLVED, that this honorable body hereby condemns the use of firearms during the commission of a crime and encourages all gun owners to practice gun safety; and, be it further

RESOLVED, that this honorable body hereby opposes Senate Bill S4946 (2021) as impractical to implement and an undue burden on registered gun owners across the state; and, be it further

RESOLVED, that certified copies of this resolution be sent to the Western New York Delegation to the New York State Senate and Assembly, Governor Andrew Cuomo's office, and any other party deemed necessary and proper.

Fiscal Impact: None for resolution

STATE OF NEW YORK

4946

2021-2022 Regular Sessions

IN SENATE

February 19, 2021

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to requiring owners of firearms to obtain liability insurance

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The insurance law is amended by adding a new section 2354
2 to read as follows:
3 **§ 2354. Firearm owners insurance policies. 1. Any person in this**
4 **state who shall own a firearm shall, prior to such ownership, obtain and**
5 **continuously maintain a policy of liability insurance in an amount not**
6 **less than one million dollars specifically covering any damages result-**
7 **ing from any negligent acts involving the use of such firearm while it**
8 **is owned by such person. Failure to maintain such insurance shall result**
9 **in the immediate revocation of such owner's registration, license and**
10 **any other privilege to own such firearm.**
11 **2. For purposes of this section, a person shall be deemed to be the**
12 **owner of a firearm if such firearm is lost or stolen until such loss or**
13 **theft is reported to the police department or sheriff which has juris-**
14 **diction in the county, town, city or village in which such owner**
15 **resides.**
16 **3. Any person who owns a firearm on the effective date of this section**
17 **shall obtain the insurance required by this section within thirty days**
18 **of such effective date.**
19 **4. The provisions of this section shall not apply to any peace offi-**
20 **cer, as defined in section 2.10 of the criminal procedure law, police**
21 **officer, as defined in subdivision thirty-four of section 1.20 of the**
22 **criminal procedure law, or any member of the military who is on "active**
23 **duty" or "in active military service of the United States" as defined in**
24 **section one of the military law, who is authorized to carry a firearm.**

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD09303-01-1

5. The department is hereby authorized and directed to promulgate rules and regulations necessary to carry out the provisions of this section.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.

STEFAN I. MYCHAJLIW

ERIE COUNTY COMPTROLLER

April 26th, 2021

Mr. Timothy Hogues
Erie County Personnel Commissioner
Rath Building, 6th Floor
Buffalo, New York 14202

Dear Commissioner Hogues,

For many years former Legislature Chairwoman Betty Jean Grant appears to have been a close friend and political ally of yours during your tenure as an Erie County Legislator. You both appeared many times together at community events and media interviews, including the time you both condemned political mailings against your respective candidacies.

"This is politics at its worst."
Source: Betty Jean Grant, www.youtube.com, Betty Jean Grant and Tim Hogue Talk About Slanderous Mailings, August 30th, 2013

"I am asking voters not to be tricked by this foolishness."
Source: Tim Hogues, www.youtube.com, Betty Jean Grant and Tim Hogue Talk About Slanderous Mailings, August 30th, 2013

You were so close to former Legislator Chairwoman Grant that you actively campaigned for her and asked people in her district to cast their vote for her.

"On September 10th, make sure you make the right decision. Vote 8-A for Tim Hogues and 8-A for Betty Jean Grant."
Source: Tim Hogues, www.youtube.com, Betty Jean Grant and Tim Hogue Talk About Slanderous Mailings, August 30th, 2013

There is no doubt your professional relationship with Betty Jean Grant is a close one, such as when you sat side by side and condemned the Niagara Frontier Transportation Authority (NFTA) for placing advertisements for cigarettes and alcohol on its rapid transit system in the City of Buffalo. You publicly praised her for her strength of speaking her mind and having the courage of her convictions.

"(Former) Chairwoman Grant speaks her mind, no matter what, and no matter what the cost."
Source: Tim Hogues, People Empowerment hosted by Nate Boyd, www.youtube.com, June 3rd, 2013

Now former Legislator Grant, your close ally, is speaking her mind again, twice making public accusations that a current County Legislator offered what she believes to be a bribe to current Erie County Sheriff candidate Kim Beaty to encourage her to drop out of the race.

"She (Beaty) was even offered another job if she would not run for the top job (Sheriff)."
Source: Betty Jean Grant, www.facebook.com, April 24th, 2021

"Isn't offering a person a position or money not to run for a specific political office considered bribery and is illegal?"
Source: Betty Jean Grant, www.facebook.com, April 17th, 2021

Since you have clearly placed trust in Betty Jean Grant personally, politically, and professionally, I ask the following questions about her serious concerns about whether a current Erie County Legislator and/or Poloncarz Administration

Official offered Kim Beaty the job of Undersheriff in the Office of Erie County Sheriff in exchange for her to drop out of the race:

- Should these serious allegations of offering an Erie County job be referred to county, state, and federal law enforcement?
- Why shouldn't people believe Betty Jean Grant when she claims a current County Legislator and/or Poloncarz Administration Official offered a bribe to Kim Beaty in the form of the job of Undersheriff to not run for Erie County Sheriff?
- What are the legal or criminal consequences of a public official offering someone a government job to withdraw their candidacy for Erie County Sheriff?

It is our understanding Poloncarz Administration official and Deputy Budget Director Ben Swanekamp presented a poll to political leaders discouraging Kim Beaty from running based on the color of her skin, that white men had a better chance of winning county-wide elections. Kim Beaty also made very serious allegations about Erie County Elections Commissioner Jeremy Zellner on why she should not run:

"He (Zellner) said, 'You're not what a sheriff looks like, and what people are used to,' " she (Beaty) recalled."

Source: Kim Beaty interview, www.buffalonews.com, Sheriff's Candidate: Party Chairman Said She's 'Not What a Sheriff Looks Like,' April 24th, 2021

"When I approached the chair (Zellner), I didn't know what was in his heart," Beaty told Claudine Ewing on Saturday. "He said I didn't look like a sheriff and that qualifications don't matter, so if that is what he considers as not a good fit, then that's on him."

Source: Kim Beaty interview, www.wgrz.com, "Erie County Democratic Candidate Says She Was Told She 'Didn't Look Like a Sheriff,'" April 24th, 2021

Former Erie County Democratic candidate for Erie County Comptroller in 2017, Vanessa Glushefski, also condemned Zellner and offered support for Kim Beaty:

"I have no doubt that Chairman Zellner told Kimberly Lynn Beaty that she didn't have the right look for Sheriff, which breaks my heart."

Source: Vanessa Glushefski, www.facebook.com, April 25th, 2021

- What was your first reaction upon hearing the claim that Kim Beaty was told she did not have the "right look" to be Erie County Sheriff?
- Who do you believe is telling the truth, Kim Beaty or Erie County Elections Commissioner Zellner?
- What should be the consequences for the Erie County Elections Commissioner if they in fact used this vile, bigoted, racist tone to discourage an African American woman from running for office?

Thank you for your prompt answers to these very serious questions. The silence on this serious issue from Democrats and the African American community is quite deafening and speaks volumes. What it tells me: racism is only a serious issue when Republicans or Conservatives are accused of using vile language, and African American women are to be ignored and marginalized if their claims of racism are against a fellow Democrat.

Sincerely,

HON. STEFAN I. MYCHAJLIW
Erie County Comptroller

CC: Erie County Legislature
NYS Democratic Party Chairman Jay S. Jacobs
Thomas Beauford, Buffalo Urban League
Rev. Mark E. Blue, Buffalo Branch of the NAACP

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

TO: **Hon. Mark C. Poloncarz, Erie County Executive**
Hon. Michael P. Kearns, Erie County Clerk
Hon. Robert Graber, Clerk of The Erie County Legislature

FROM: **Michael A. Siragusa, Erie County Attorney**

DATE: **April 13, 2021**

RE: **Designation in the Event of Vacancy, Absence or Inability**

Michael A. Siragusa, Erie County Attorney, hereby designates the following Assistant County Attorneys to exercise the powers and duties of this office in the event of a vacancy in this office, or my absence or inability to perform the duties of my office, in the following order:

1. Jeremy C. Toth, First Assistant County Attorney
2. Kristen M. Walder, Second Assistant County Attorney
3. Amy M. McCabe, Lead Family Court Attorney

Michael A. Siragusa
Erie County Attorney

Sworn to before me this 13th
day of April, 2021.

Danette L. Drennen
Notary Public

DANETTE L. DRENNEN
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 2/14/23

COUNTY OF ERIE

MICHAEL A. SIRAGUSA
COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE

JEREMY C. TOTH
FIRST ASSISTANT COUNTY ATTORNEY

KRISTEN M. WALDER
SECOND ASSISTANT COUNTY ATTORNEY

DEPARTMENT OF LAW

JCT/dld

MEMORANDUM

TO: Robert M. Graber, Clerk, Erie County Legislature

FROM: Jeremy C. Toth, First Assistant County Attorney

DATE: April 12, 2021

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 10 new claims brought against the County of Erie. The claims are as follows:

Claim Name

1. Clarence Ricks v. County of Erie, et al.;
2. Bonnie Wydysh v. ECDOH, et al.;
3. Matthew Bojanowski v. County of Erie, et al.;
4. Salad Osman v. Erie County Sheriff;
5. Christopher Marchese v. Erie County Sheriff;
6. Coalition of Grand Island Parents v. ECDOH, et al.;
7. NYS Commission of Correction v. Sheriff Howard & COE;
8. Cheryl Thomann v. County of Erie;
9. Jill & Daniel Bingenheimer v. County of Erie; and
10. Corey Bailey v. Erie County Probation Officer Szabo, et al.

JCT:dld
Attachments

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

JEREMY C. TOTH
FIRST ASSISTANT COUNTY ATTORNEY

March 1, 2021

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:	*Ricks, Clarence v and County of Erie, et al.*
Document Received:	Notice of Claim
Name of Claimant:	Clarence Ricks 240 Lemon Street Buffalo, New York 14202
Claimant's attorney:	Wayne C. Felle, Esq. The Law Offices of Wayne C. Felle, P.C. 6024 Main Street Williamsville, New York 14221

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
Jeremy C. Toth p
First Assistant County Attorney
Jeremy.Toth@erie.gov

JCT:dld
Enc.

IN THE MATTER OF THE CLAIM OF
CLARENCE RICKS,

Claimant,

-vs-

EZEL M. WILSON,
ERIE COUNTY DEPARTMENT OF PUBLIC WORKS,
ERIE COUNTY HIGHWAY DEPARTMENT,
ERIE COUNTY DEPARTMENT OF TRANSPORTATION,
and COUNTY OF ERIE

Defendants.

NOTICE OF CLAIM AND INTENTION TO SUE PURSUANT TO MUNICIPAL LAW § 50(e)

This paper received at the Erie County Attorney's Office from Doug DiFilippo on the 23 day of February 2021 at _____ a.m./p.m.

Assistant County Attorney

TO: **EZEL M. WILSON;**
ERIE COUNTY DEPARTMENT OF PUBLIC WORKS,
ERIE COUNTY HIGHWAY DEPARTMENT,
ERIE COUNTY DEPARTMENT OF TRANSPORTATION,
and COUNTY OF ERIE

PLEASE TAKE NOTICE, that CLARENCE RICKS, pursuant to the statute in such cases made and provided, does hereby make claim against EZEL M. WILSON; ERIE COUNTY DEPARTMENT OF PUBLIC WORKS, ERIE COUNTY HIGHWAY DEPARTMENT, ERIE COUNTY DEPARTMENT OF TRANSPORTATION, and COUNTY OF ERIE, and in support of such claim does state the following:

1. The claimant, CLARENCE RICKS, resides at 240 Lemon Street, Buffalo New York 14202.

2. The claimant is represented by THE LAW OFFICES OF WAYNE C. FELLE, P.C., WAYNE C. FELLE, ESQ., of counsel, 6024 Main Street, Williamsville, New York 14221.

3. This claim is one for money damages on behalf of the claimant, CLARENCE RICKS, for injuries sustained as a result of a motor vehicle accident that occurred on February 8, 2021 at the intersection of N. Division Street and Oak Street in the City of Buffalo, County of Erie and State of New York and involving EZEL M. WILSON who was operating a county owed vehicle while an employee of ERIE COUNTY DEPARTMENT OF PUBLIC WORKS, and/or ERIE COUNTY HIGHWAY DEPARTMENT, and/or ERIE COUNTY DEPARTMENT OF TRANSPORTATION, and COUNTY OF ERIE.

4. That a substantial factor in causing the aforesaid accident was the negligence of EZEL M. WILSON, who was operating a county owed vehicle while in the scope of his employment as an employee of ERIE COUNTY DEPARTMENT OF PUBLIC WORKS, ERIE COUNTY HIGHWAY DEPARTMENT, ERIE COUNTY DEPARTMENT OF TRANSPORTATION, and COUNTY OF ERIE, which caused and/or contributed to a two (2) car motor vehicle accident and resulted in the claimant sustaining serious personal injuries as defined in the New York State Automobile Insurance Law.

5. At the time of the instant accident, EZEL M. WILSON, was operating a county owed vehicle and ran a solid red light at a high rate of speed, at the intersection of N. Division Street and Oak Street in the City of Buffalo, County of Erie and State of New York. EZEL M. WILSON, failed to remain attentive to his vehicle and disregarded the traffic light, in violation of New York State Vehicle Traffic Law.

6. At the time of the instant accident, EZEL M. WILSON was acting in the scope of his employment, as an employee, agent and/or servant of ERIE COUNTY DEPARTMENT OF PUBLIC WORKS and/or, ERIE COUNTY HIGHWAY DEPARTMENT, and/or ERIE COUNTY DEPARTMENT OF TRANSPORTATION, and COUNTY OF ERIE.

7. Notice is hereby given that in the event that this claim for money damages is not paid within thirty (30) days of the service herein, it is my intention to commence litigation to recover for the damages which have been sustained.

DATED: February 22, 2021

WAYNE C. FELLE, ESQ.
Law Offices of Wayne C. Felle, P.C.
6024 Main Street
Williamsville, New York 14221

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

CLARENCE RICKS, being duly sworn, deposes and says:

That the deponent is the claimant in the within action and that he has read the foregoing Notice of Claim and Intention to Sue and knows the contents thereof to be true to his own knowledge except as to matters stated on information and belief and as to those matters, he believes it to be true.

CLARENCE RICKS

Sworn to before me this 22
day of February, 2021.

Notary Public

BRIANA E. CROCE
NOTARY PUBLIC-STATE OF NEW YORK
No. 01CR6340476
Qualified in Erie County
My Commission Expires 04-18-2024

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

JEREMY C. TOTH
FIRST ASSISTANT COUNTY ATTORNEY

March 5, 2021

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:	*Wydysh, Bonnie v. Andrew Cuomo, Erie County Department of Health, et al.*
Document Received:	Order to Show Cause/Verified Petition
Name of Claimant:	Bonnie Wydysh, et al.
Claimant's attorney:	Corey J. Hogan, Esq. Hogan Willig 2410 North Forest Road, Suite 301 Getzville, New York 14068

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
Jeremy C. Toth
First Assistant County Attorney
Jeremy.Toth@erie.gov

JCT:dld
Enc.

At a Special Term of the Supreme Court of the State of New York, County of Erie, Part 32, held at ___ _____, Buffalo, New York, on the 23 day of February, 2021.

PRESIDING: HONORABLE DIANE Y. DEVLIN

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

BONNIE WYDYSH et al.

Petitioners/Plaintiffs,

v.

ANDREW M. CUOMO, in his official capacity as the Governor of the State of New York,
NEW YORK STATE DEPARTMENT OF ECONOMIC DEVELOPMENT
d/b/a EMPIRE STATE DEVELOPMENT CORPORATION, and
NEW YORK STATE DEPARTMENT OF HEALTH,
CHAUTAUQUA COUNTY DEPARTMENT OF HEALTH,
NIAGARA COUNTY DEPARTMENT OF HEALTH,
ALLEGANY COUNTY DEPARTMENT OF HEALTH,
CATTARAUGUS COUNTY DEPARTMENT OF HEALTH,
ERIE COUNTY DEPARTMENT OF HEALTH,

Respondents/Defendants.

ORDER TO SHOW CAUSE

Index No.: 801875/2021

UPON reading and filing the annexed Verified Petition and Complaint dated February 12, 2021, with exhibits; the Affirmation of Corey J. Hogan, Esq. dated February 12, 2021; and the Expert Affirmation of Clayton Baker, M.D., C.M., with

HOGAN WILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

exhibits; and the Affidavits of Petitioners; all in Support of Petitioners' Request for a Temporary Restraining Order and Preliminary Injunction;

LET the above-named Respondents, or their attorneys, show cause before this Court VIRTUALLY ~~at Part~~ __, ~~to be held at~~ ___ _____, ~~Buffalo, New York 14202~~ on the 1ST day of APRIL ~~February~~, 2021 at 10:30 in the fore-noon WITH TEAMS INVITATION TO FOLLOW or as soon thereafter as counsel can be heard, why an Order and Judgment should not be granted pursuant to CPLR 7801, *et seq.*, and the laws set forth in the aforesaid Verified Petition and supporting papers:

(i) issuing a preliminary injunction, and ultimately a permanent injunction, enjoining Respondents from enforcing the restrictions imposed against Petitioners on the basis of their designation as a "higher risk" sport, and permitting Petitioners to operate as if under a "low risk" designation;

(ii) issuing a preliminary injunction, and ultimately a permanent injunction, enjoining Respondents Chautauqua County Department of Health, Niagara County Department of Health, Allegany County Department of Health, Cattaraugus County Department of Health, and Erie County Department of health from enforcing the restrictions imposed against Petitioners in excess of their jurisdiction, and to the extent said restrictions are arbitrary and capricious, and permitting Petitioners to operate as if under the "low risk" designation;

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(iii) issuing a judgment declaring that the classification of "higher risk" sports, and the corresponding restrictions on the basis of that designation, violate the Equal Protection Clause of the New York State Constitution, together with a preliminary and permanent injunction prohibiting the enforcement of such Executive Orders and regulations by Respondents;

(iv) issuing a judgment declaring that the continued designation of "higher risk" sports violates the plain text of Executive Law 29-a(2)(a), together with a preliminary and permanent injunction prohibiting the designation of "higher risk" sports by Respondents;

(v) issuing a judgment declaring that the travel restrictions imposed on sports and recreation activities are arbitrary and capricious, and violate the Equal Protection Clause of the Constitution of the State of New York;

(vi) issuing a judgment declaring the restriction of two spectators per player is arbitrary and capricious, and violates the Equal Protection Clause of the Constitution of the State of New York

(vii) issuing a judgment declaring that Executive Law 29-a is unconstitutional to the extent it purports to give the Governor the power to issue directives which have the force of law without requiring the consent of the State Legislature in conformance with the bicameral law-making process set forth in the

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Constitution of the State of New York, together with a preliminary and permanent injunction prohibiting the Governor from enforcing directives under Executive Law 29-a unless and until these directives are approved by both houses of the legislature;

(viii) issuing a preliminary injunction, and ultimately a permanent injunction, enjoining Respondents from enforcing the arbitrary, capricious, unconstitutional, and illegal restrictions imposed against Petitioners; and

(ix) granting such other and further additional relief as this Court may deem just, proper, and equitable;

SUFFICIENT CAUSE HAVING BEEN SHOWN, it is hereby:

ORDERED, that service of a copy of this Order and the papers on which it is granted on or before ~~February~~ MARCH 3, 2021 at 5:00 in the AFTERnoon, shall be deemed good and sufficient service thereof; and it is further

ORDERED, that pursuant to CPLR § 2214, answering papers shall be served by electronic filing upon the Court and electronic mail to Petitioners' counsel, Corey J. Hogan, Esq., Attorney for Petitioners, at HoganWillig, PLLC, 2410 North Forest Road, Suite 301, Amherst, New York 14068, chogan@hoganwillig.com, on or before ~~February~~ MARCH 15 2021; and it is further

HOGAN WILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

ORDERED, that pursuant to CPLR § 2214, reply papers, if any, shall be served by electronic filing upon the Court and electronic mail to Respondents' counsel, on or before ~~February~~ MARCH 19TH 2021;

Hon. DIANE Y. DEVLIN, J.S.C.

DATED: FEB. 23, 2021

HOGAN WILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE

JEREMY C. TOTH
FIRST ASSISTANT COUNTY ATTORNEY

DEPARTMENT OF LAW

March 23, 2021

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:	*Bojanowski, Matthew v. City of Buffalo, County of Erie and Erie County District Attorney's Office*
Document Received:	Notice of Claim
Name of Claimant:	Matthew Bojanowski 318 Emporium Avenue West Seneca, New York 14221
Claimant's attorney:	Steven M. Cohen, Esq. Hogan Willig 2410 North Forest Road Getzville, New York 14068

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
Jeremy C. Toth
First Assistant County Attorney
Jeremy.Toth@erie.gov

JCT:dld
Enc.

STATE OF NEW YORK : COUNTY OF ERIE

In the Matter of the Claim of

MATTHEW BOJANOWSKI,

Claimant,

-against-

CITY OF BUFFALO,
COUNTY OF ERIE, and
ERIE COUNTY DISTRICT ATTORNEY'S
OFFICE

NOTICE OF CLAIM

TO: CITY OF BUFFALO,
COUNTY OF ERIE,
ERIE COUNTY DISTRICT ATTORNEY'S OFFICE

PLEASE TAKE NOTICE, the Claimant herein hereby makes a claim and demand against the CITY OF BUFFALO, COUNTY OF ERIE, and ERIE COUNTY DISTRICT ATTORNEY'S OFFICE, pursuant to § 50-e of the General Municipal Law.

1. The names and post-office addresses of the Claimant and his attorneys are:

CLAIMANT	**ATTORNEYS**
Matthew Bojanowski 318 Emporium Ave West Seneca, NY 14221	HOGANWILLIG, PLLC, Steven M. Cohen, Esq. HOGANWILLIG, PLLC 2410 North Forest Road, Suite 301 Amherst, New York 14068

2. The nature of the claim:

Action for the recovery of damages due to injuries sustained by the Claimant in an amount as yet to be determined, resulting from the false imprisonment, abuse of process, deprivation of liberty without due process of law, negligent infliction of emotional distress, wrongful arrest, false arrest, deprivation of Constitutional Rights to exercise freedom of worship,

HOGANWILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

intentional infliction of emotional distress, negligence, malicious prosecution, and being otherwise harmed without just cause. Claimant was deprived of his Constitutional and civil rights without basis and/or reason. Claimant was subjected to an endured tortious conduct by Respondents. Claimant was forced to expend substantial sums of money for legal representation, approximating $9,200 to defend against baseless and legally insufficient charges brought and prosecuted by Respondents. Respondents are liable for negligent hiring, training, and supervision of police officers and prosecutors, and violations of Claimant's civil rights. Claimant was arrested by the Buffalo Police for alleged violation of New York PL 240.26-03, 240.20(5), 140.05 and 20.00 based on the complaint of a Cheryl Calire and a Rev. Peter J. Karalus. See Buffalo PD Police Report/Complaint 19-2460774, Calire Information Complaint dated 1/15/20 (Form P-60) and Information Complaint of Peter J. Karalus dated January 16, 2020,. The elements of those offenses were not present, and not alleged. Nevertheless, Respondents charged Claimant with the aforestated offenses, and prosecuted him, obtained an Order of Protection which prevented Claimant from attending worship services and religious events at his parish. Despite numerous notices that the charges were not supported by the statutory elements, motions made and brought by Claimants and telephone calls made by Claimant's counsel to Respondent District Attorney's Office, Respondent Erie County District Attorney refused to dismiss the charges, and refused to permit the vacatur of the Order of Protection. All charges were eventually dismissed by Hon Kevin Keane for legal insufficiency, on or about January 25, 2021 and received by Claimant's counsel on or about January 27, 2021 (without Notice of Decision or Notice of Entry served to date by Respondents).

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

HOGANWILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

The incident from which the claim arose began on or about September 3, 2019 at, at 795 Main Street, Buffalo, New York, County of Erie at approximately 6:00 PM and continued until approximately January 25, 2021.

4. The items of damages or injuries claimed are:

Claimant suffered injuries, including but not limited to, mental and emotional injuries in the form of anxiety, sleep deprivation, humiliation, and embarrassment, as well as other damages, deprivation of ability to worship freely, legal costs for criminal defense counsel totaling approximately NINE THOUSAND TWO HUNDRED ($9,200) DOLLARS. The mental and emotional damages, and damages for deprivation of right to freely worship and attend Claimant's parish is estimated, based on the experience of counsel in evaluating such claims, at THREE HUNDRED FIFTY THOUSAND ($350,000) DOLLARS. Said claim and demand is hereby presented for adjustment and payment.

PLEASE TAKE FURTHER NOTICE that by reason of the premises, in default of the CITY OF BUFFALO, COUNTY OF ERIE, and ERIE COUNTY DISTRICT ATTORNEY'S OFFICE, to pay Claimant the sum to be determined within the time limited for compliance with this demand pursuant to statutes in such cases made and provided, the Claimant intends to commence action against the Respondents to recover said damages with interest and the costs of this action.

Dated: February 23, 2020
Amherst, New York

Steven M. Cohen, Esq.
HOGANWILLIG, PLLC
Attorneys for Claimant
2410 North Forest Road, Suite 301
Amherst, New York 14068
Telephone: (716) 636-7600
wlorenz@hoganwillig.com

HOGANWILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

VERIFICATION

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

Steven M. Cohen, being duly sworn, states that: I am the attorney for Claimant in the within action. I have read the foregoing Notice of Claim and know the contents thereof. The contents are true to my knowledge, except as to matters therein stated to be alleged upon information and belief and to those matters; I believe them to be true. My client, the Claimant herein, is outside the County of Erie and State of New York, and for that reason, I am executing this Verification on his behalf.

STEVEN M. COHEN

Sworn to and subscribed
before me this 23RD day of February, 2021.

Notary Public

Carrie Ricigliano
Notary Public, State of New York
Registered in Niagara County, No 01RI6325765
My Commission Expires June 8, 2023

HOGANWILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

JEREMY C. TOTH
FIRST ASSISTANT COUNTY ATTORNEY

March 25, 2021

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:	*Osman, Salad v. Erie County Sheriff*
Document Received:	Notice of Claim
Name of Claimant:	Salad Osman ICN #133064 Erie County Correctional Facility 11581 Walden Avenue Alden, New York 14004
Claimant's attorney:	Claimant is proceeding *pro se*.

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
Jeremy C. Toth
First Assistant County Attorney
Jeremy.Toth@erie.gov

JCT:dld
Enc.

NOTICE OF INTENT TO FILE A CLAIM

TO: ERIE COUNTY EXECUTIVE, COUNTY ATTORNEY FOR THE COUNTY OF ERIE, ERIE COUNTY SHERIFFS DEPT.

FROM: SALAD OSMAN ICN # 133064

11581 WALDEN AVE

ALDEN NEW YORK 14004

PLEASE TAKE NOTICE that Salad Osman the claimant, hearby makes claims against Erie county of New York state, for damages substained to him for personal injury as follows, mental and emotional distress in violation of civil rights laws and corrections laws to which the erie county sheriffs dept. was negligent in which caused mental and emotional harm to claimant.

The claimants post office address is : ERIE COUNTY CORRECTIONAL FACILITY 11581 Walden ave Alden N.Y. 14004

The date upon which this injury occured is on or about the 24th day of december 2020 and continuing there after.

The injuries were substained as a result of the negligence of said county in its care and management of the Erie County Corr. Facility Alden N.Y. 14004 which said facility was wholly under its operation and control. Claimant is incarcerated at said facility, and thus in the care and custody of the Erie county sheriffs dept. Claimants civil and correctional rights were readily and willingly violated to which severe mental and emotional harm was done due to the sheriffs dept. willful violation due to the improper quarentine due to the Covid-19 virus.

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

Salad Osman

PUBLIC NOTARY **SALAD OSMAN (CLAIMANT)**

DATE PRESENTED: 3/10/21

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

RECEIVED
MAR 15 2021
ERIE COUNTY
DEPARTMENT OF LAW

COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

JEREMY C. TOTH
FIRST ASSISTANT COUNTY ATTORNEY

March 25, 2021

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:	*Marchese, Christopher v. Erie County Sheriff*
Document Received:	Notices of Claim (2)
Name of Claimant:	Christopher Marchese 231 Hamburg Street Buffalo, New York 14203
Claimant's attorney:	Claimant is proceeding *pro se*.

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
Jeremy C. Toth
First Assistant County Attorney
Jeremy.Toth@erie.gov

JCT:dld
Encs.

Notice of Claim

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

PLEAES TAKE NOTICE that Christopher Marchese, the claimant, hereby makes claim against the County of Erie, State of New York, for damages sustained by him for personal injury as follows: Neck Cervical Spine Sprain, Lower Lombar Spine Sprain Upper Back Sprain on Spine, Right Arme Rist Sprain, Left Rib Cage Sprain, Right Shoulder Sprain, face Laseration, Rist Laseration, on Right and Left, Eneki Laseration on Aquilis bone on Right and Left, Contentshon from Kik in face.

The claimant's post-office address is 231 Hamburge St
Pleas. I have ben Realised Sent here Buffalo, NY 14203

The date upon which the injury complained of occurred was the 13 day of March, 2021 on or about the hour of 6:30 P.M and continuing thereafter.

The injuries sustained by the claimant by reason thereof are more particularly described as follows: Right Rib Cage fractur or Sprain Neck, Lower, Upper, Midel, Back Sprain, Right Rist Sprain, face, Laseration Encel's, Rist, Knee, from Gang Asault from C.O Sheriff Officers on B-1 Unit at 6:30 P.M Seg Lower Said. as C.O Sheriff's Prosid to Gang Asault me wit out me Not Resisting and Scuiming so to Sargent's Present Sgt. Pora Sgt. Groves Sgt. Duchiezk

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 To be transportid to the Hospital to get Ex Ray for Lower, Upper, Midel, Back Sprain Well Right Rib Cage, Right Rist, Sprain and Concutsion from Gang Asault.

Due to the wrongful denial of C.O & Sheriff Gang Asault, Claimant was to suffer the above described injuries. To Civilian Hold Not Sentenced Still from 11/09/20 to 3/13/2021 still 3/30/2021 pending were is May 13th Constitutional Right

By reason thereof, the claimant sustained injury to his person due to said county's negligence and/or wrongful denial of C.O & Sheriff Gang Asault and transportatio To Hospital for Ex Ray's of Lower Upper Neck Spine, Arm Right Rist, Kitney, Right Rib Cage. and Head Contention. from C. Hendel Kiking may Head

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.

Sworn: Date: 16th / March 2021

Dated ~~April~~ March 13, 2021

Pro Se

I have a Coppy Ned a Answer? Pleas I have Evide

Public, Notary: Ronald Dolyk

Christopher Marchese
231 Hamburg st
Buffalo, New York, 14203

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

Notice of Claim

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

PLEAES TAKE NOTICE that Christopher Marchese, the claimant, hereby makes claim against the County of Erie, State of New York, for damages sustained by him for personal injury as follows: Brain Dameg, Concushon, O.D Besolt of f.M.H.Dep. & Medical.Dep. Inproper Presiger or Prosedur wit jail Sheriff.Dep. C.O Personoll Correctional. on the Night of the Day of the January 13/2021 Insedant that Ocured and Caused Muscular Spasmos, Nerve damige, twitching Nerves Masols, Brain Damige, Loss of Memory Traine of thoght, Sleut Problem's as Pronounsiation, Sever Scrushiating Pain Pounding Maigreins, Loss of Vition Sencitiv

The claimant's post-office address is 231 Hamburg St Buffalo, N.Y 14203
I have ben Realised Sent here → Pleas.

The date upon which the injury complained of occurred was the 12 day of January, 2021 on or about the hour of 5:30 P.M and continuing thereafter.

The injuries sustained by the claimant by reason thereof are more particularly described as follows: Reasons of Injuries f.M.H Doctors Not Carin of 2019-2015 f.M.H Record ignoring the Recommendations and not Caring of the Strict Order of ~~Prior~~ Prior D.r's that have Statid on Record the Patient Hoarded Medication In Order to Comit ~~Suicite~~ Suicide & don't Prescrib Pill's only Liquid Medafoth as the Patient Request Ligoid do to Pill's being a Trauma triger to him, The Inguries Sustained are, Brain ~~Damig~~ Damage, Muscular Spasmos, twitching Nerves, Loss of Memory train of thought, Speach Slured pronunciation, Maigrins, Light Sencitivity 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 To be transportid to Hospital or Hospithal for Stomack Wash and IV, fluit's as Stated to Supervisor in the Unit of Medical at that time as well as f.M.H Cunsilor and Medical.Dep. Head Nurse and Doctors as they Dinied the Consuption of Medication. Due to the wrongful denial of Comsumption of Medication f.M.H/ Bay, Med. Dep. Claimant was to suffer the above described injuries.

By reason thereof, the claimant sustained injury to his person due to said county's negligence and/or wrongful denial of f.M.H and Med.Dep. and Chiff of Cheriff.Dep. of C.O and Sheriff Correctional Personoll Staff, the Comsumption of Medication and ~~Overdouse~~ OVerdous of Tragatal and Transport to Hospital in till 4 day's, Laigthers

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.

Sworn; Date: 16th / march 2021

Dated April 1, 2021

Public, Notary: Ronald Dolyk

Pro Se Christopher R. Marchese
231 Hamburg St
Buffalo, New York, 14203

I have a Coppy Neo a Answer; Plec I have Evider

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

RECEIVED
MAR 22 2021
ERIE COUNTY
DEPARTMENT OF LAW

COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

JEREMY C. TOTH
FIRST ASSISTANT COUNTY ATTORNEY

March 25, 2021

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:	*Coalition of Grand Island Parents to Put Students First Inc. v. Governor Cuomo, Mark Poloncarz, Erie County Department of Health, et al.*
Document Received:	Order to Show Cause
Name of Claimant:	Coalition of Grand Island Parents to Put Students First Inc.
Claimant's attorney:	Corey J. Hogan, Esq. Hogan Willig 2410 North Forest Road, Suite 301 Getzville, New York 14068

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
Jeremy C. Toth
First Assistant County Attorney
Jeremy.Toth@erie.gov

JCT:dld
Enc.

At a Special Term of the Supreme Court, held in and for the County of Erie, on the 24th day of March, 2021.

PRESENT: Hon. Nugent Panepinto
Justice Presiding

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

COALITION OF GRAND ISLAND PARENTS TO PUT STUDENTS FIRST INC.,

Petitioner/Plaintiff,

For Judgment Pursuant to Article 78 of the CPLR, and/or Article XI, § 1 of the New York State Constitution

v.

ANDREW M. CUOMO, in his official capacity as the Governor of the State of New York,
NEW YORK STATE DEPARTMENT OF HEALTH,
NEW YORK STATE EDUCATION DEPARTMENT,
MARK C. POLONCARZ, in his official capacity as the County Executive for the County of Erie,
ERIE COUNTY DEPARTMENT OF HEALTH,
GRAND ISLAND CENTRAL SCHOOL DISTRICT,
GRAND ISLAND CENTRAL SCHOOL DISTRICT BOARD OF EDUCATION AND ITS MEMBERS,
BRIAN GRAHAM, Ed.D., in his official capacity as the Superintendent of Grand Island Central School District, and
GRAND ISLAND TEACHERS' ASSOCIATION,

Respondents/Defendants.

ORDER TO SHOW CAUSE

Index No. 803830/2021

UPON the reading and filing of the accompanying Verified Petition and Complaint of Petitioner/Plaintiff COALITION OF GRAND ISLAND PARENTS TO PUT STUDENTS FIRST INC. (the "Petitioner"), dated March 22, 2021, with Exhibits annexed and attached thereto, Petitioner's Memorandum of Law, dated March 22, 2021; and the accompanying

HOGANWILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

Affirmation of Corey J. Hogan, Esq., dated and sworn to March 22; 2021; the Affidavit of Michael P. Santa Maria, Ph.D., sworn to March 23, 2021, the Affidavit of Clayton J. Baker, M.D., sworn to March 22, 2021, and the Affidavits of Parents of the Students;

LET Respondents/Defendants ANDREW M. CUOMO, in his capacity as the Governor of the State of New York, NEW YORK STATE DEPARTMENT OF HEALTH, NEW YORK STATE EDUCATION DEPARTMENT ("State Respondents"), MARK POLONCARZ, in his capacity as the County Executive for the County of Erie, ERIE COUNTY DEPARTMENT OF HEALTH ("County Respondents"), GRAND ISLAND CENTRAL SCHOOL DISTRICT, GRAND ISLAND CENTRAL SCHOOL DISTRICT BOARD OF EDUCATION AND ITS MEMBERS, BRIAN GRAHAM, Ed.D., in his capacity as the Superintendent of Grand Island Central School District, and GRAND ISLAND TEACHERS' ASSOCIATION ("School Respondents") ("Respondents"), or their attorneys, appear at the Courthouse located at 25 Delaware Avenue, Buffalo, New York 14202 on the 1st day of April, 2021, at 10:00 a.m. a.m./p.m., or as soon thereafter as counsel can be heard, and show cause why an Order should not be entered granted to Article 78 of the CPLR, Article I, § 11 and Article XI, § 1 of the New York State Constitution, and the laws set forth in the accompanying Verified Petition and Complaint, granting the declaratory and injunctive relief therein requested by Petitioner.

SUFFICIENT CAUSE HAVING BEEN SHOWN, it is hereby:

ORDERED, that the Respondents show cause before this Court on the above date and time why a preliminary injunction should not be granted pursuant to CPLR §§ 6301, 6311, and 7805: (i) enjoining State Respondents during the pendency of this proceeding from enforcing the State Re-Opening Guidance, as written; (ii) directing State Respondents to modify the State Re-Opening Guidance to permit and compel School Respondents to offer full, five (5) day per week

HOGANWILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

in-person instruction to the Students during the pendency of this proceeding; and (iii) compelling School Respondents to immediately offer full, five (5) day per week in-person instruction to the Students during the pendency of this proceeding; and it is further

ORDERED, that service of a copy of this Order to Show Cause and the papers on which it is granted on or before 5:00 p.m. ono the 26th day of March, 2021, shall be deemed good and sufficient service on: (i) State Respondents, if made by certified mail, return receipt requested to the Office of the Attorney General for the State of New York located at 350 Main Street, Suite 300A, Buffalo, New York 14202; (ii) County Respondents, if made by certified mail, return receipt requested to the Office of the County Attorney for the County of Erie located at 95 Franklin Street, Room 1634, Buffalo, New York 14202; and (iii) School Respondents, if made by certified mail, return receipt requested to the Grand Island Central School District located at 1100 Ransom Road, Grand Island, New York 14072; and it is further

ORDERED, that answering papers, if any, shall be served via NYSCEF and via email upon attorneys for Petitioner, on or before 5:00 p.m. on the 30th day of March, 2021; and it is further

ORDERED, that reply papers, if any, shall be served via NYSCEF and via email on counsel for Respondents on or before 12:00 p.m. on the 31st day of March, 2021.

TEMPORARY RESTRAINING ORDER --- CNP
Denied

UPON FURTHER reading and filing of the Verified Petition and Complaint, dated March 22, 2021, with the Exhibits annexed and attached thereto, Petitioner's Memorandum of Law, dated March 22, 2021; and the Affirmation of Corey J. Hogan, Esq., dated and sworn to March 22; 2021; and all other prior pleadings and proceedings had herein, it is hereby:

HOGANWILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

CNP

~~**ORDERED**, that State Respondents are hereby temporarily restrained until the hearing on this matter from enforcing the six (6) foot social distancing rule in the State Re-Opening Guidance, and are further directed to temporarily modify the State Re-Opening Guidance to permit and compel School Respondents to offer full, five (5) day per week in-person instruction to the Students in accordance with a three (3) foot social distancing rule; and it is further~~

CNP

~~**ORDERED**, that School Respondents are hereby temporarily compelled until the hearing on this matter to immediately offer full, five (5) day per week in-person instruction to the Students in full compliance with the State Re-Opening Guidance, excepting the above-referenced modification thereto, such that School Respondents will temporarily only be required to comply with a three (3) foot social distancing rule between the Students in the classrooms.~~

Catherine Nugent Panepinto

Hon. Catherine Nugent-Panepinto, J.S.C.

March 24, 2021

ENTERED:

HOGANWILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

JEREMY C. TOTH
FIRST ASSISTANT COUNTY ATTORNEY

March 25, 2021

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:	*NYS Commission of Correction v. Timothy B. Howard, Individually and in his capacity as Sheriff of Erie County and COUNTY OF ERIE*
Document Received:	Verified Petition
Name of Claimant:	NYS Commission of Correction
Claimant's attorney:	NYS Attorney General's Office Albany, New York

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
Jeremy C. Toth
First Assistant County Attorney
Jeremy.Toth@erie.gov

JCT:dld
Enc.

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

In the Matter of the Application of **THE NEW YORK STATE COMMISSION OF CORRECTION,** Petitioner, For an Order Pursuant to Article 78 of the CPLR and NY State Correction Law §§ 46(4) and 48 - against – **TIMOTHY B. HOWARD**, Individually and in his capacity of Sheriff of Erie County, New York, and **ERIE COUNTY, NEW YORK,** Respondents.	Index No.: _____ **NOTICE OF PETITION**

PLEASE TAKE NOTICE that, upon the annexed Petition of Allen Riley, Chairman of the New York State Commission of Correction ("Commission"), verified on the 15th day of March, 2021, and upon the supporting papers attached hereto, an application will be made to this Court, to be held at the courthouse thereof, located at the New York State Supreme Court, Erie County, 25 Delaware Avenue, Part __, Buffalo, New York, on the 9th day of April, 2021, at 9:00 a.m. of that day, or as soon thereafter as counsel can be heard, for an Order, pursuant to Article 78 of the CPLR and New York State Correction Law §§ 46(4) and 48, to be entered that:

1. Enjoins Respondents from violating the Commission's regulations at 9 NYCRR §§ 7022.1, 7022.2, and 7022.3;

2. Directs Respondents to appoint an independent monitor to conduct retrospective audits of the Sheriff's Office serious incident reporting to the Commission on a yearly basis for a five-year cycle, with the first audit to be completed by the end of the calendar year of the Court's Order;
3. Directs Respondent Sherriff's Office to provide the Commission with proof of training to correctional officers regarding (i) New York's zero-tolerance policy regarding sexual misconduct in correctional facilities, (ii) how to handle inmates who report sexual misconduct, and (iii) the Commission's Reportable Incident Guidelines, on a yearly basis, with the first training to be completed by the end of the calendar year of the Court's Order;
4. Directs Respondent Sheriff's Office to provide specialized training for investigators and/or Office of Professional Standards staff regarding investigating sexual abuse in correctional settings, with the first training to be completed by the end of the calendar year of the Court's Order;
5. To comply with 9 NYCRR § 7022.7 by developing and/or revising procedures "for the review, investigation and assessment of reportable incidents," and to work with the Commission, or any person employed or designated by the Commission, to develop and improve upon such policies and procedures; and
6. For such other and further relief as the Court may deem just and proper under the circumstances.

PLEASE TAKE NOTICE that, pursuant to CPLR 7804(c), these papers have been served on you at least twenty (20) days before the motion is scheduled to be heard. You must serve your answering papers, if any, at least five (5) days before such time. Reply papers, if any, shall be served at least one (1) day before such time.

PLEASE TAKE NOTICE that, pursuant to Section 48 of the Correction Law, any action or proceeding commenced by the Commission pursuant to this article shall have a preference over all other cases, except habeas corpus proceedings, pending before the Court.

Petitioner designates Erie County as the venue. The basis of venue is the place of business of the Respondents.

Dated: New York, New York

March 17, 2021

LETITIA JAMES
Attorney General of the
State of New York

By: /s/ *Jessica Clarke*
Jessica Clarke
Bureau Chief, Civil Rights
Lois T. Saldana
Lindsay McKenzie
Assistant Attorneys General
Office of the New York State Attorney General
28 Liberty Street
New York, New York 10005

Attorney for Petitioner

COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE

JEREMY C. TOTH
FIRST ASSISTANT COUNTY ATTORNEY

DEPARTMENT OF LAW

March 25, 2021

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:	*Thomann, Cheryl v. County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	Cheryl Thomann 443 Evergreen Drive Tonawanda, New York 14150
Claimant's attorney:	Rich Hall, Esq. Cantor Wolff Nicastro & Hall 350 Main Street, Suite 2140 Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
Jeremy C. Toth
First Assistant County Attorney
Jeremy.Toth@erie.gov

JCT:dld
Enc.

THE MATTER OF THE CLAIM OF:

CHERYL THOMANN
443 Evergreen Drive
Tonawanda, New York 14150,

Claimant,

vs.

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

Respondent.

NOTICE OF CLAIM

This paper received at the
Erie County Attorney's Office
from Richard Fink on
the 24 day of March, 2021
at 9:35 a.m./p.m.
Assistant County Attorney

TO: County Attorney, County of Erie
County Executive, County of Erie

SIRS:

PLEASE TAKE NOTICE, that the undersigned, CHERYL THOMANN, by and through her attorneys, Cantor, Wolff, Nicastro & Hall, claims damages for pain and suffering, economic loss, and medical expenses sustained by reason of the wrongful, negligent and careless acts and/or omissions of the COUNTY OF ERIE, its agents, servants and/or employees, and in support thereof, Claimant states:

1. The claimant, CHERYL THOMANN, resides at 443 Evergreen Drive, Tonawanda, New York 14150.

2. The name and address of the Claimant's attorneys are:

Cantor Wolff Nicastro & Hall
350 Main Street, Suite 2140
Buffalo, New York 14202
(716) 848-8000

3. Upon information and belief, the date of the happening of the incident in which the serious injuries were sustained by CHERYL THOMANN, and the time when such the claim that arose was on or about the 14th day of February 2021, at or about 3:00 p.m.on that date.

4. Upon information and belief, the happeñing of the said incident, resulting in injuries hereinafter alleged occurred on the sledding hill of Chestnut Ridge Park, a COUNTY OF ERIE park. See **Exhibit A** for pictures depicting said location and **Exhibit B** for a video showing the location of the incident and the incident itself.

5. Upon information and belief, the claim of CHERYL THOMANN, arose in the following manner:

> At the aforementioned time and place, the Claimant CHERYL THOMANN was proceeding in a careful and prudent manner on the sled hill on the aforesaid premises when she was caused to strike an ice and/or snow hill/mogul and/or an unsafe and dangerous condition on the sled hill, upon information and belief caused by the Respondent's carelessness, recklessness and negligence in creating and/or allowing a defective and/or unsafe and/or dangerous condition to exist in said area, and she sustained serious injuries.

6. Upon information and belief, the incident was caused by the wrongful, negligent and careless acts and/or omissions of the COUNTY OF ERIE, its agents, servants and/or employees acting in the scope and course of their employment. The acts of negligence include, but are not limited to:

a. Negligently failing to provide ice/snow hill/mogul removal in order to allow people to safely traverse the hill involved in the herein incident;

b. Negligently failing to provide warnings or notice to people with respect to the dangerous condition in the area where the incident occurred;

c. Negligently failing to timely remove ice/snow hills/moguls from the hill where the herein incident occurred;

d. Despite the fact that the snow event/precipitation had ceased before the herein alleged incident, the Respondents did not, within a reasonable time, alleviate the dangerous condition;

e. Negligently allowing ice/snow hills/moguls to remain on the hill area for a significant period of time;

f. Negligently failing to maintain the aforesaid premises in a safe condition;

g. Negligently allowing the aforesaid premises to fall into a defective and/or dangerous condition;

h. Negligently failing to properly and adequately check and/or inspect the aforesaid premises for dangerous and/or defective conditions;

i. Negligently failing to promptly remedy a dangerous and/or defective condition;

j. Negligently failing to properly and adequately inspect the aforesaid area for any unsafe, dangerous, or defective conditions;

k. Negligently creating and/or causing an unsafe, dangerous, and defective condition;

l. Negligently failing to take the necessary actions and/or make the necessary observations which, if taken or made, would have averted the subject incident and/or minimized the injuries sustained by the Claimant; and

m. Negligently failing to properly and adequately staff the aforesaid area to prevent any unsafe, dangerous, or defective conditions.

7. As a result of said incident, the Claimant sustained serious injuries, including injury and damage to her ankles, feet, legs, head, back, and neck injuries, as well as pain and suffering and miscellaneous bruising and contusions.

8. This notice is made and served on behalf of said Claimant, CHERYL THOMANN, in compliance with the provisions of 50-h of the General Municipal Law and such other laws and statutes as are in the case made and provided.

9. You will take further notice that Claimant, CHERYL THOMANN, 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 the COUNTY OF ERIE.

DATED: Buffalo, New York
March 19, 2021

/s/Rich Hall

Rich Hall, Esq.
Attorneys for Plaintiff
Cantor Wolff Nicastro & Hall
350 Main Street, Suite 2140
Buffalo, New York 14202
(716) 848-8000

VERIFICATION

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

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

Cheryl Thomann
CHERYL THOMANN

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

On the 19th day of March, in the year 2021 before me, the undersigned, personally appeared CHERYL THOMANN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in his capacity and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public/Commissi§ner of Deeds

RICHARD A. HALL
Notary Public, State of New York
Reg. No. 02HA6377213
Qualified in Erie County
Commission Expires 06/25/2022

COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

JEREMY C. TOTH
FIRST ASSISTANT COUNTY ATTORNEY

March 26, 2021

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:	*Bingenheimer, Jill and Daniel v. County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	Jill and Daniel Bingenheimer 16 Armond Lane Depew, New York 14043
Claimant's attorney:	Eric M. Shelton, Esq. Brown Chiari, LLP 2470 Walden Avenue Buffalo, New York 14225

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
Jeremy C. Toth
First Assistant County Attorney
Jeremy.Toth@erie.gov

JCT:dld
Enc.

IN THE MATTER OF THE CLAIM OF

JILL BINGENHEIMER and
DANIEL BINGENHEIMER

Claimants

-against -

NOTICE OF CLAIM

COUNTY OF ERIE, NEW YORK

Respondent

TO: COUNTY OF ERIE, NEW YORK
92 Franklin Street
Buffalo, New York 14202

PLEASE TAKE NOTICE, that the Claimants herein make claim and demand against the County of Erie, New York as follows:

1. The name and post office address of the Claimants is:

Jill Bingenheimer
16 Armond Lane
Depew, New York 14043

Daniel Bingenheimer
16 Armond Lane
Depew, New York 14043

2. The name and post office address of Claimants' attorneys is:

Eric M. Shelton, Esq.
Brown Chiari, LLP
2470 Walden Avenue
Buffalo, New York 14225

3. The time of the happening of the occurence in which Claimant, JILL BINGENHEIMER, was injured was December 10, 2020, at approxmimately 3:15 p.m. JILL BINGENHEIMER's date of birth is February 26, 1979. Claimant, DANIEL BINGENHEIMER, is claiming derivitive damages. Mr. BINGENHEIMER's date of birth is May 22, 1978.

4. The place of the happenening of the occurence which caused Claimant, JILL BINGENHEIMER'S injuries was the intersection of Sheridan Drive and Youngs Road in the Town of Amherst, State of New York.

5. The nature of this claim is for personal injuries sustained by the Claimant, JILL BINGENHEIMER, when the 2014 GMC pickup truck she was operating was struck by a 2011 Kia motor vehicle that was being pursued by several law enforcement agencies including, upon information and belief, the Erie County Sheriff's Office, at the aforesaid time and place.

6. It will be claimed that Respondent, THE COUNTY OF ERIE, through the Erie County Sheriff's Office, and its employees, agents and/or representatives, was negligent, careless and/or reckless as follows:

* unsafely and reasonably pursuing a 2011 Kia motor vehicle bearing New York License Plate No. FPC2718 over multiple public highways at unreasonably high and unsafe rates of speed;

* pursuing the aforesaid Kia motor vehicle over multiple public highways at unreasonably high and unsafe rates of speed, despite the fact that the operator of said vehicle was exceeding posted speed limits, disobeying traffic control devices, and putting members of the public, including other vehicular drivers and passengers, at great risk;
* failing to assess and balance the need and the utility of pursuing the aforesaid Kia motor vehicle against the great risk of harm created to members of the public, including other vehicular drivers and passengers, by continuing such pursuit;
* failing to recognize the excessive risk created to members of the public, including other vehicular drivers and passengers, by continuing the pursuit of the aforesaid Kia motor vehicle;
* continuing to pursue the aforesaid Kia motor vehicle despite the fact that the pursuit travelled through heavily trafficked streets and thoroughfares;
* continuing to pursue the aforesaid Kia motor vehicle despite the fact that the pursuit travelled through congested commercial areas;
* failing to activate the emergency lights and sirens on their law enforcement vehicles while pursuing the aforesaid Kia motor vehicle; and
* failing to take Claimant, JILL BINGENHEIMER's health, safety and welfare into consideration while pursuing the aforesaid Kia motor vehicle over busy public thoroughfares during periods of high traffic volume.

Respondent's negligence, carelessness and/or recklessness occurred over a period of time from roughly 2:15 p.m. through 3:15 p.m. on December 10, 2020, on one or more of the following public thoroughfares: Best Street in the City of Buffalo, New York Route 33 in the City of Buffalo, New York Route 33 in the Village of Depew, New York Route 33 in the Town of Cheektowaga, Transit Road in the Town of Cheektowaga, Transit Road in the Town of Amherst and Sheridan Drive in the Town of Amherst.

7. The items of damage and injuries sustained by Claimant, JILL BINGENHEIMER, that are known to date are as follows:

* cervical spine sprain and strain;
* structural damage to a previously installed C5-6 cage;
* loosening of screws used to anchor a previously installed C5-6 cage;
* probable herniated disc at C6-7;
* stenosis at C6-7;
* radiculopathy, C5-7, right;
* decreased range of motion, cervical spine;
* spasm, cervical spine;
* headaches of a migraine nature;
* bursa inflammation, right shoulder; and
* pain and decreased range of motion, right shoulder;

It is anticipated that Claimant will require future care and treatment including, but not limited to, likely spinal surgery to repair the damage to her prior fusion and fusion hardware, as well as to address new injuries caused by the subject accident. It is further anticipated that

claimant will sustain future costs related to such medical care and treatment. Ms. BINGENHEIMER will also seek damages for her pain and suffering, past and future medical expenses, and other items of economic loss.

Upon information and belief, Claimant's injuries are permanent and the full nature and extent of said injuries are unknown at this time.

Claimant, DANIEL BINGENHEIMER, will claim damages for the loss of services, society and companionship of his wife, JILL BINGENHEIMER.

DATED: Buffalo, New York
March 10, 2021

Jill Bingenheimer

Daniel Bingenheimer

Eric M. Shelton, Esq.
BROWN CHIARI LLP
Attorneys for Claimants
2470 Walden Avenue
Buffalo, New York 14225-4751
(716) 681-7190

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

Jill Bingenheimer, being duly sworn, deposes and says that she is the Claimant in this matter; that she has read the foregoing Notice of Claim and knows the contents thereof; that it is true to her personal knowledge, except as to matters stated to be upon information and belief, and as those matters she believes to be true.

Jill Bingenheimer

Sworn to before me on this
6th day of March, 2021.

Notary Public

TRACY L. ZANDA
Notary Public, State of New York
Qualified in Erie County
Reg. No. 01ZA4917585
My Commission Expires Jan. 11, 2022

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

Daniel Bingenheimer, being duly sworn, deposes and says that he is the Claimant in this matter; that he has read the foregoing Notice of Claim and knows the contents thereof; that it is true to his personal knowledge, except as to matters stated to be upon information and belief, and as those matters he believes to be true.

Daniel Bingenheimer

Sworn to before me on this
6th day of March, 2021.

Notary Public

TRACY L. ZANDA
Notary Public, State of New York
Qualified in Erie County
Reg. No. 01ZA4917585
My Commission Expires Jan. 11, 2022

COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE

JEREMY C. TOTH
FIRST ASSISTANT COUNTY ATTORNEY

DEPARTMENT OF LAW

March 30, 2021

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:	*Bailey, Corey v. Erie County Probation Officer Dawn Szabo, et al.*
Document Received:	Summons and Complaint
Name of Claimant:	Corey Bailey 4350 Clinton Street West Seneca, New York 14224
Claimant's attorney:	Fares A. Rumi, Esq. 2166 Church Road Darien Center, NY 14040

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
Jeremy C. Toth
First Assistant County Attorney
Jeremy.Toth@erie.gov

JCT:dld
Enc.

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

UNITED STATES DISTRICT COURT

for the

Western District

Corey Bailey *Plaintiff(s)*	)	
v.	)	Civil Action No. 21-cv-180
City of Tonawanda Police Officer Butcher et al *Defendant(s)*	)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Erie County Probation Officer Dawn Szabo
One Niagara Plaza
Buffalo, New York 14202

A lawsuit has been filed against you.

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

Fares A.Rumi, Esq.
The Phoenix Law Group PLLC
2166 Church Rd.
Darien Center, New York 14040

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

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

CLERK OF COURT

Date: 2/1/2021

Signature of Clerk or Deputy Clerk

REC'D MAR 24 2021

UNITED STATES DISTRICT COURT:
STATE OF NEW YORK: WESTERN DISTRICT OF NEW YORK

COREY BAILEY
Plaintiff,
vs.

COMPLAINT

CITY OF TONAWNADA POLICE OFFICER BUTCHER,
CITY OF TONAWNADA POLICE OFFICER OSTROWSKI,
CITY OF TONAWANDA POLICE OFFICER TAGGART, and
ERIE COUNTY PROBATION OFFICER DAWN SZABO
Defendants,

JURY DEMAND

Trial by Jury on all issues is demanded

PRELIMINARY INTRODUCTION

This is a federal action relating to the civil rights violations suffered by Plaintiff Corey Bailey on September 13, 2018 while he was visiting a residence located at 216 Linwood Avenue, Tonawanda, New York. The federal claims are brought under 42 U.S.C. §1983 and §1988 against the Defendants.

PARTIES

1. Plaintiff, Corey Bailey, currently resides at 4350 Clinton Street, West Seneca, New York 14224, located within the County of Erie and the State of New York. At the time of the incident in question, Plaintiff resided at 18 Tuscarora Rd., Buffalo, New York 14220.

2. City of Tonawanda Police Officer Butcher is employed by the City of Tonawanda and was acting in such capacity during the events which give rise to this lawsuit.

3. City of Tonawanda Police Officer Ostrowski is employed by the City of Tonawanda and was acting in such capacity during the events which give rise to this lawsuit.

4. City of Tonawanda Police Officer Taggart is employed by the City of Tonawanda and was acting in such capacity during the events which give rise to this lawsuit.

5. Erie County Probation Officer Dawn Szabo is employed by the County of Erie and was acting in such capacity during the events which give rise to this lawsuit.

6. Upon information and belief, though not a party, the City of Tonawanda is a municipal corporation duly organized and existing under and pursuant to the laws of the State of New York.

JURISDICTION

7. Plaintiff brings this action to recover damages for the violation of his civil rights under the Fourth Amendment of the United States Constitution, codified at 42 U.S.C. §1983, and 42 U.S.C. § 1988 and as bestowed upon the states and its citizens through the Due Process Clause of the Fourteenth Amendment of the United States Constitution.

8. Jurisdiction is invoked pursuant to 28 U.S.C. §§ 1331 and 1332 (federal question) and § 1343 (civil rights).

9. Declaratory, injunctive, and equitable relief is sought pursuant to 28 U.S.C. § 2201 and § 2202.

10. Compensatory and Punitive damages are sought pursuant to 42 U.S.C. § 1983.

11. Costs and Attorney's fees may be awarded pursuant to 42 U.S.C. § 1988 and Fed. R. Civ. P. Rule 54.

VENUE

12. This action properly lies within the Western District of New York, pursuant to 28 U.S.C. § 1343(3), because the claims arose in this judicial district and the Defendants reside in and/or do business in Erie County.

FACTUAL BACKGROUND

13. On September 13, 2018 at or about 8:30 pm., a neighbor called the City of Tonawanda Police Department about a verbal argument between an adult man and woman taking

place outside the residence located of 216 Linwood Avenue, Tonawanda, New York. Said residence was the dwelling of Plaintiff's former girlfriend and mother of his two children, Stacey Seibold.

14. Plaintiff was a frequent overnight guest at said residence. He had clothing there, a toothbrush, and often spent time at said location as well as showered at such residence. Therefore, he had a reasonable expectation of privacy at the dwelling in question.

15. When the Defendant Officers arrived, they knocked on the door and repeatedly demanded that someone let them inside.

16. Said Officers then pushed in an air conditioner and began speaking to Plaintiff through the window.

17. Plaintiff explained to them that he was not opening the door and that he was on the phone with his attorney, who had advised him he did not have to open the door for the Defendants.

18. Further, Seibold also politely informed said Defendants that everyone was fine, that there was merely a verbal argument that had ceased and asked them to leave.

19. The Officers could clearly see that both parties to the argument were fine, and there was no factual basis to think there was any kind of emergency or exigent circumstance that would justify an intrusion into the residence.

20. Nevertheless, the Defendant Officers insisted that they be let in and proceeded to attempt to kick the door in to the Linwood residence.

21. Plaintiff ultimately did unlock the door so as to try and prevent the Officers from damaging his girlfriend's property.

22. The above was all recorded on video.

23. All the above-named Defendants entered the residence and arrested Plaintiff. Defendant Butcher tackled Plaintiff despite the fact that Plaintiff was not resisting in any manner.

24. Plaintiff was arrested, without probable cause, for Obstruction of Governmental Administration (PL 195.05) and Endangering the Welfare of a Child (PL 260.10). The basis of the arrest was evidently for Plaintiff not immediately unlocking the door and engaging in a verbal argument with his on again/ off again girlfriend. Neither are sufficient bases that give rise to any kind of criminal liability.

25. Plaintiff was on probation at the time and reported to Defendant Szabo. Plaintiff had been in full compliance with the terms of his probation and had started his own landscaping business.

26. On October 13, 2018 Defendant Szabo filed a probation violation proceeding against the Plaintiff claiming that he failed to live a law-abiding life due to his recent arrest.

27. Of course, one is presumed innocent under the 5th and 14th Amendments of the United State Constitution, and an arrest does nothing to rebut such a presumption.

28. Ultimately, all these criminal charges were dismissed on the merits.

29. On February 22, 2019 Defendant Szabo amended her violation against the Plaintiff. Her amendments included the disposition of the criminal charges and to add a violation alleging the Plaintiff failed to pay a mandatory surcharge that was issued as part of his probationary sentence.

30. Plaintiff had been paying installments on the surcharge as previously allowed by Defendant Szabo. If not, she would have added the failure to pay a surcharge as a violation in the original paperwork she had filed some six months earlier.

31. This new violation was a malicious attempt to incarcerate Plaintiff at all costs.

32. The Plaintiff's matter was assigned to Judge Maxwell-Barnes.

33. Thereafter, an evidentiary hearing was held. Plaintiff was found guilty of violating probation for failing to lead a law-abiding life due simply to his being arrested.

34. Judge Maxwell-Barnes sentenced the Plaintiff to a 1–3-year indeterminate period of incarceration.

35. Plaintiff filed a Notice of Appeal to the Fourth Department.

36. On March 13, 2020 the Appellate Division, Fourth Department vacated the Plaintiff's conviction and sentence on the merits and remitted the matter back to Judge Maxwell-Barnes.

37. Plaintiff was restored to probation accordingly.

38. As a result of this incident the Plaintiff was forced to defend himself against the criminal charges, which lacked any merit, and he received favorable dispositions on any and all of these charges.

39. He was wrongfully incarcerated from the period of October 25, 2018 through May 31, 2019 as a result of the meritless malicious based charges filed by Defendants Butcher and Ostrowski as well as the subsequent meritless malicious based violation of probation charges filed by Defendant Szabo. The Plaintiff also lost thousands of dollars' worth of income from contracts he could not fulfill relative to services he would have provided for customers from his landscaping business during his period of incarceration.

First Cause of Action for Violations of the Fourth and Fourteenth Amendments of the US. Constitution as per 42 U.S.C. § 1983 for unlawful entry into one's home without a warrant against Defendant Officers Butcher, Ostrowski, and Taggart

40. The Plaintiff repeats and reiterates each and every foregoing allegation of this complaint with full force and effect as if set forth at length in this cause of action.

41. On September 13, 2018, City of North Tonawanda Police Officers Taggart, Butch, Ostrowski and Vincent came to the residence of Plaintiff's then girlfriend, Stacey Seibold. The Plaintiff frequently spent the night and a significant amount of time at this residence. As such, Plaintiff had a legitimate expectation of privacy in said dwelling, as set forth above. Defendants Butch, Ostrowski and Vincent wrongfully and illegally entered into the dwelling without the permission of the Plaintiff or Ms. Seibold, and without any conceivable legal basis to do so. There was no exigent circumstance allowing them entry and indeed, Seibold was also telling them to leave. Given that Butcher had pushed in an air conditioner, he in fact was talking face to face with Seibold and Bailey, who were in good health, calm, and rational during the encounter. Of note, Butcher later falsely said on

the witness stand, under oath, that he did not see Seibold until entering the residence, despite video evidence to the contrary.

42. The Defendant Officers entered the residence despite the Plaintiff and Ms. Seibold telling them to leave the residence. Said entry was made without a warrant nor any exception to the warrant requirement and in deprivation of Plaintiff's civil rights to be free from unauthorized governmental intrusion into their home.

43. The wrongful, unjustifiable, and unlawful entry of the Officer Defendants into Ms. Seibold's residence continued to be carried out without a valid warrant, without consent from the Plaintiff and Ms. Seibold, and without probable cause or reasonable suspicion. In fact, such reasoning for the warrantless entry of the residence was under the guise that the police had been to the residence in the past for similar arguments.

44. For police to gain entry into the private residence of an individual without a warrant, it has been conclusively determined that, absent exigent circumstances (of which there were none here), an otherwise proper warrantless entry of the home is impermissible. Coolidge v. New Hampshire, 403 US 443 (Supreme Court of the United States, 1971).

45. The sanctity of the home is equally invaded when entry is made for the purpose of arrest; that the more serious consequences of the latter class of entry provide a more compelling reason to require the authority of a warrant in such a situation. United States v Reed, 572 F.2d 412, (2nd Circuit Court of Appeals, 1978). See also Accarino v United States, 179 F.2d 456 (District of Columbia Court of Appeals, 1949).

46. Physical invasion of the home is the "chief evil against which the wording of the Fourth Amendment is directed," United States v United States Dist. Ct., 407 US 297, 313 (Supreme Court of the United States, 1972). This could certainly be exacerbated by an unlawful arrest, such as the case with Plaintiff Bailey.

47. The Officer Defendants acted under pretense and color of state law in their individual and official capacity and within the scope of their respective employment as Officers of the City of Tonawanda Police Department.

48. As a direct and proximate result of the misconduct and the abuse of authority detailed above, the Plaintiff sustained the damages described herein, including but not limited to lost wages, loss of liberty, and emotional pain and distress.

49. Such deprivations of the Plaintiff's right to liberty, privacy, and happiness were in violation of the rights secured to the Plaintiff by the Fourth and Fourteenth Amendments of the United States Constitution as codified by Title 42 U.S.C. § 1983.

50. As a result of the Officer Defendants' deprivation of the Plaintiff's civil and Constitutional rights, the Plaintiff has been damaged in an amount to be determined at trial.

51. The Plaintiff demands costs and attorney fees pursuant to 42 U.S.C. § 1988.

Second Cause of Action for Violation of the Fourth Amendment as per 42 U.S.C. §1983 for False Arrest and Imprisonment Against Defendant Officers Butcher, Ostrowski, and Taggart

52. The Plaintiff repeats and reiterates each and every foregoing allegation of this complaint with full force and effect as if set forth at length in this cause of action.

53. To maintain a claim for false arrest a plaintiff must establish: (1) the defendant intended to confine the plaintiff; (2) the plaintiff was conscious of the confinement; (3) the plaintiff did not consent to the confinement, and (4) the confinement was not otherwise privileged. See Bernard v. United States, 25 F. 3d 98, 102 (2d Cir. 1994).

54. The Plaintiff was falsely arrested by the above-referenced Defendant Officers on September 13, 2018.

55. Importantly, this arrest of the Plaintiff was not privileged, as there was no probable cause to arrest the Plaintiff for the offenses of obstruction of governmental administration and endangering the welfare of a child, or any other such criminal offense.

56. Under the Fourth Amendment, an arrest may only be made when a police officer has probable cause to believe that the person arrested has engaged in criminal conduct. An arrest without probable cause is an unreasonable seizure. The Defendant Officers did not have probable cause to make an arrest of Plaintiff, as Plaintiff did not engage in criminal conduct, nor was there any probable cause to believe he engaged in any criminal conduct.

57. The Plaintiff was under no obligation to open the door and had asked the Defendant Officers to leave, as had Ms. Seibold. The Defendant Officers had no probable cause to arrest and confine the Plaintiff.

58. Said unlawful arrest ultimately led to Plaintiff being incarcerated for six months.

59. The Plaintiff was conscious of his confinement and he at no time consented to his confinement. The Defendants actions were intentional in nature and not privileged, as they were not borne from probable cause, and Plaintiff had clearly established rights to be free from the unlawful police conduct.

Third Cause of Action for Violation of the Fourth Amendment as per 42 U.S.C. §1983 for False Arrest and Imprisonment Against Defendant Szabo

60. The Plaintiff repeats and reiterates each and every foregoing allegation of this complaint with full force and effect as if set forth at length in this cause of action.

61. Plaintiff was falsely arrested as a result of the Defendant's declaration of delinquency and violation of probation paperwork, filed with Erie County Supreme Court on or about October 13, 2018.

62. Her reasoning for arresting Plaintiff was that he had "failed to live a law-abiding life," on account solely of Plaintiff being arrested on what were ultimately bogus criminal charges as set forth above, on or about 9-13-2018.

63. Szabo did not do any kind of investigation as to the merits of the charges and she spoke to nobody relative to the underlying facts giving rise to the bogus charges. She watched no video.

64. Instead, she somehow was oblivious as to the bulwark of the United States Constitution; one's presumption of innocence.

65. Szabo admitted to the same during Plaintiff's violation of probation proceeding.

66. As such, her arrest of Plaintiff in October 2018 relative solely due to the fact that he had been arrested on September 13, 2018 was unlawful in nature and further compounded the Constitutional violations that law enforcement was perpetuating against Plaintiff.

67. Such an arrest was not privileged, the confinement was intentional in nature, Plaintiff was aware of his confinement and did not consent thereto. Plaintiff spent the next 6 months in jail as a result of such unlawful confinement.

Fourth Cause of Action for Violation of the Fourth Amendment as per

42 U.S.C. §1983 for Malicious Prosecution Against Defendants Butcher and Ostrowski

69. The Plaintiff repeats and reiterates each and every foregoing allegation of this complaint with full force and effect as if set forth at length in this cause of action.

70. To prevail on a § 1983 claim for malicious prosecution, a Plaintiff must plead (1) the initiation or continuation of a criminal proceeding; (2) termination of the proceeding in his favor; (3) lack of probable cause for commencing the proceeding; and (4) actual malice as a motivation for the Defendants' actions." Murphy v. Lynn, 118 F.3d 938, 947 (2d Cir. 1997).

71. The Plaintiff can show all of the above elements existed in relation to him being prosecuted for the offenses of obstruction of governmental administration and endangering the welfare of a child.

72. Such charges of endangering the welfare of a child and the charge of obstruction of governmental administration were ultimately dismissed on the merits.

73. As detailed above, the above-named Defendants lacked probable cause to initiate criminal proceedings. As the lack of probable cause to initiate these proceedings has been sufficiently pled, there is no need to independently plead malice. Malice can be inferred from the lack of probable cause. Cruz v. City of New York, No. 08 Civ. 8640 (LAP), 2010 WL 3020602, at *6 (S.D.N.Y. July 27, 2010); Bleiwas v. City of New York, No. 15 CIV. 10046 (ER), 2017 WL 3524679, at *6 (S.D.N.Y. Aug. 15, 2017).

74. Said Defendants actions deprived the Plaintiff of his due process rights and his right to be free from unreasonable restraint upon his liberty under the Fourth and Fourteenth Amendments.

75. The Plaintiff received favorable terminations of dismissal on all criminal charges lodged against him based on the lack of merit to said charges.

Fifth Cause of Action for Violation of the Fourth Amendment as per 42 U.S.C. §1983 for Malicious Prosecution Against Defendant Dawn Szabo

76. The Plaintiff repeats and reiterates each and every foregoing allegation of this complaint with full force and effect as if set forth at length in this cause of action.

77. Defendant Szabo lodged a violation of probation proceeding against Plaintiff and alleged that he failed to lead a law-abiding life… due to his above-referenced September 13, 2018 arrest.

78. Such reasoning is circular and lacking in the requisite probable cause to believe that Plaintiff in fact had failed to lead a law-abiding life.

79. Ultimately, the Fourth Department Appellate Division found the same and vacated the lower Court's finding that there was probable cause to believe that Plaintiff had failed to lead a law-abiding life… Plaintiff had in fact been completely law abiding when he was instead placed into jail for 6 months on account of Defendant Szabo's conduct, in conjunction with the conduct of Defendants Ostrowski and Butcher.

80. The violation of probation proceedings terminated in Plaintiff's favor and on the merits.

81. As such, Defendant Szabo initiated a criminal proceeding against Plaintiff without probable cause, and the remaining elements of a malicious prosecution claim were met as set forth in the relevant facts above.

Punitive Damages against all Defendants

82. The Plaintiff incorporates by reference all of the allegations set forth herein in this Complaint as if fully set forth herein.

83. The Defendant Officers, as well as Szabo, in their individual capacities, were deliberately indifferent to the Plaintiff's Constitutional rights as a result of their unjustified entry into Plaintiff's residence, unlawful arrest of said Plaintiff, and malicious prosecutions of the same.

84. Punitive damages are justified against the above-stated Defendants for their deliberate indifference and malice directed towards the Plaintiff herein.

WHEREFORE, the Plaintiff demands judgment on the above counts against the Defendants, their units, their officers, employees, against and other persons acting in concert or participation with them as stated above, and award the following amounts:

A. Compensatory damages in favor of the Plaintiffs in an amount to be determined by a jury;
B. Exemplary damages in favor of the Plaintiff;
C. Costs of this action, including reasonable attorney fees to the Plaintiff Pursuant to the Civil Rights Attorney's Fees Awards Act of 1976, U.S.C. 1988 (1976); and
D. Such other relief as the court may deem appropriate.

DATED: January 29, 2021
Darien Center, New York

By: /s/ Fares A. Rumi, Esq.
The Phoenix Law Group PLLC
Attorneys for Plaintiff
2166 Church Rd.
Darien Center, New York 14040

STEFAN I. MYCHAJLIW
ERIE COUNTY COMPTROLLER

May 6, 2021

Michael Siragusa, Esq.
County Attorney
95 Franklin Street, 16th Floor
Buffalo, New York 14202

Dear County Attorney Siragusa:

As you may be aware, the Office of the Comptroller contracted for and was provided a risk heatmap in 2015. The heatmap allows the Office of the Comptroller to be aware of potential risk of various activities undertaken by departments. It is a very useful tool for audit planning, as well as illuminating for departments when preparing policies and procedures. We are in the process of gathering information to determine what changes have occurred to the risk landscape, with special consideration given to changes made as a result of the COVID-19 pandemic.

In preparation for this information update, I write seeking your opinion regarding risk and potential liability faced by the County as the result of travel; in particular, out of area travel for conferences or other work activities. Questions for which I would like your opinion include:

- What is the potential liability to the County if an employee is injured during the trip (during transport, while at an event, while at a hotel, sightseeing, etc.)?

- What is the potential liability to the County if a guest or family member of an employee is injured during the trip (during transport, while at an event, while at a hotel, sightseeing, etc.) especially if the county is paying for transportation and/or lodging?

- What is the potential liability to the County if an individual, guest, family or otherwise, is injured due to the negligence or malicious actions of a County employee during the trip?

- What is the potential liability to the County if property is damaged due to the negligence or malicious actions of a County employee, their guest of family during the trip?

- What is the potential liability to the County for alleged crimes committed by a County employee, their guests or family during the trip? Does the County have an obligation to provide a defense for the employee?

Thank you for your attention to these questions, as well as other relevant insight that you may be able to provide. Please do not hesitate to reach out to me with any questions. I look forward to your prompt response.

Sincerely,

Stefan I. Mychajliw, Jr.
Erie County Comptroller

CC: Erie County Legislature

ERIE COUNTY LEGISLATURE

92 Franklin Street
Buffalo, New York 14202

May 6, 2021

Hon. John Gilmour, Chairman
Government Affairs Committee
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York

RE: Committee Discussion Request on the proposed Business Closure Reporting Act

Dear Chairman Gilmour,

We are writing to request a Government Affairs Committee discussion on Local Law 5-1 (2020), the proposed Business Closure Reporting Act. If enacted, the local law would require timely reports on county mandated business closures made pursuant to local or state regulations. As our community battles the Covid-19 pandemic there have been several instances where the Erie County Commissioner of Health issued formal closure orders to small businesses.

We understand that the authority to cease the operations of small businesses that refuse to comply with reasonable regulations is an effective tool in the fight for public health and safety. Where we may have a difference of opinion is on whether or not small businesses that have been ordered closed refused to comply with existing regulations or whether or not regulations had been applied to them in a fair and consistent manner. We also recognize that small business owners are people, who have unalienable rights afforded to them in the Constitution that cannot be placed on hold during a public health emergency.

It is that paradox that led us to introduce the Business Reporting Closure Act. We understand the need for public health and safety, and we intentionally chose not to propose a legislative path that would strip the Commissioner of Health of their power. Instead, we put forth this law because it would increase transparency and add accountability to government officials using their authority to shut down a business. If passed, the law would force any Erie County official that uses power granted to them to close a place of business to prepare and file a report justifying their decision within 48 hours. The law also requires that a copy of the report be delivered to the business owner within the same timeframe via US certified mail.

Again, our law makes no effort at changing anyone's existing power or authority to combat a public health or safety crisis. It very simply requires that they timely explain and justify their actions in an official public document that must include "any and all evidence in the possession of Erie County government on which the closure was based." Compliance with this language ensures the closure order is transparent and that the official ordering it can be held accountable.

Over the past several months there have been more than a few closures ordered that should raise everyone's suspicion. A few months ago, we had a conversation about a restaurant that was closed by order of the Commissioner of Health. Despite ordering the closure, when asked about it, the Commissioner seemed unaware of the details and testified that she relied heavily on the work of public health sanitarians in her decision making. Just a few weeks ago, a small dance studio was ordered to close and cancel their already planned competition that several families already paid for. Their version of events didn't seem to merit a full closure. The Health Department seemingly agreed, and clarified that they weren't "closed," they just "paused" their operations. To a small business owner, that is the same thing. As their elected representatives, we can't allow that sort of jargon and wordsmithing to determine whether or not someone can make a living.

The real concern is we only hear about the closures when their owner is brave enough to speak out against it, even though they may face consequences for doing so. We don't fully know the scope of how this power has been used, and as the representative body, we should.

We firmly believe that the time to offer small business owners protection from government overreach is overdue. The first step in the process is a spirited discussion on our proposal, followed by a public hearing. We look forward to your answer to our request.

Sincerely,

Joseph C. Longo, Minority Leader
Legislator – District 10
Government Affairs Committee Member

Frank J. Todaro
Legislator – District 8
Government Affairs Committee Member

Christopher D. Greene
Legislator – District 6

John J. Mills
Legislator – District 11

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

April 22, 2021

The Honorable
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Re: Appointment to the Commission on the Status of Women

Dear Honorable Members:

Pursuant to the Erie County Charter Section 1705, I, Mark C. Poloncarz, Erie County Executive do hereby submit for your confirmation the following individuals to be re-appointed to the Erie County Commission on the Status of Women.

Reappointments

Ms. Judith Olin
59 Saybrook Pl
Buffalo, NY 14209
Term Ending: 12/30/2023

Ms. Heidi Romer
130 Stillwell Ave, LWR
Kenmore, NY 14217
Term Ending: 12/30/2023

Ms. Tamara Z. Lewis
40 Bame Ave
Buffalo, NY 14215
Term Ending: 12/30/2023

Ms. Gamileh Jamil
54 Meadowbrook Drive
Lackawanna, NY 14218
Term Ending: 12/30/2022

Ms. Diana Cihak
22 Elmview Pl
Buffalo, NY 14207
Term Ending: 12/30/2022

Sincerely yours,

Mark C. Poloncarz, Esq.
Erie County Executive

MCP/oo

cc: Karen King, Commissioner, Commission on the Status of Women
Appointees

COUNTY OF ERIE

MICHAEL A. SIRAGUSA
COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE

JEREMY C. TOTH
FIRST ASSISTANT COUNTY ATTORNEY

KRISTEN M. WALDER
SECOND ASSISTANT COUNTY ATTORNEY

DEPARTMENT OF LAW

MEMORANDUM

TO: Robert M. Graber, Clerk, Erie County Legislature

FROM: Jeremy C. Toth, First Assistant County Attorney

DATE: May 6, 2021

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 seven (7) new claims brought against the County of Erie. The claims are as follows:

Claim Name

1. Coalition of Clarence Parents v. ECDOH, et al.;
2. D.C.B. Elevator Co. v. County of Erie, et al.;
3. Amy Hartyl v. County of Erie, et al.;
4. Eveyny Merriweather v. County of Erie, et al.;
5. Joshua Lukasik v. ECSO, et al.;
6. Marty Walton v. County of Erie, et al.; and
7. Ronald Patrick Burke v. County of Erie.

JCT:dld
Attachments

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

JEREMY C. TOTH
FIRST ASSISTANT COUNTY ATTORNEY

April 6, 2021

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:	*Coalition of Clarence Parents to Put Students First Inc. v. Mark Poloncarz, ECDOH, et al.*
Document Received:	Order to Show Cause
Name of Claimant:	Coalition of Clarence Parents to Put Students First Inc.
Claimant's attorney:	Corey J. Hogan, Esq. Hogan Willig 2410 North Forest Road, Suite 301 Getzville, New York 14068

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
Jeremy C. Toth
First Assistant County Attorney
Jeremy.Toth@erie.gov

JCT:dld
Enc.

At a Special Term of the Supreme Court, held in and for the County of Erie, on the ___ day of March, 2021.

PRESENT: Hon. DIANE Y. DEVLIN, J.S.C.
Justice Presiding

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

COALITION OF CLARENCE PARENTS TO PUT STUDENTS FIRST INC.,

Petitioner/Plaintiff,

For Judgment Pursuant to Article 78 of the CPLR, and/or Article XI, § 1 of the New York State Constitution

v.

ANDREW M. CUOMO, in his official capacity as the Governor of the State of New York,
NEW YORK STATE DEPARTMENT OF HEALTH,
NEW YORK STATE EDUCATION DEPARTMENT,
MARK C. POLONCARZ, in his official capacity as the County Executive for the County of Erie,
ERIE COUNTY DEPARTMENT OF HEALTH,
CLARENCE CENTRAL SCHOOL DISTRICT,
CLARENCE CENTRAL SCHOOL DISTRICT BOARD OF EDUCATION AND ITS MEMBERS,
GEOFFREY M. HICKS, Ed.D., in his official capacity as the Superintendent of Clarence Central School District, and
CLARENCE TEACHERS' ASSOCIATION,

Respondents/Defendants.

ORDER TO SHOW CAUSE

Index No. 804253/2021

UPON the reading and filing of the accompanying Verified Petition and Complaint of Petitioner/Plaintiff COALITION OF CLARENCE PARENTS TO PUT STUDENTS FIRST INC. (the "Petitioner"), dated March 30, 2021, with Exhibits annexed and attached thereto, Petitioner's Memorandum of Law, dated March 30, 2021; the Affidavit of Michael P. Santa

{H2945508.1}

HOGAN WILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

Maria, Ph.D., sworn to March 30, 2021, the Affidavit of Clayton J. Baker, M.D., sworn to March 30, 2021, and the Affidavits of numerous of the Parents of the Students;

LET Respondents/Defendants ANDREW M. CUOMO, in his capacity as the Governor of the State of New York, NEW YORK STATE DEPARTMENT OF HEALTH, NEW YORK STATE EDUCATION DEPARTMENT ("State Respondents"), MARK POLONCARZ, in his capacity as the County Executive for the County of Erie, ERIE COUNTY DEPARTMENT OF HEALTH ("County Respondents"), CLARENCE CENTRAL SCHOOL DISTRICT, CLARENCE CENTRAL SCHOOL DISTRICT BOARD OF EDUCATION AND ITS MEMBERS, GEOFFREY M. HICKS, Ed.D., in his official capacity as the Superintendent of Clarence Central School District, and CLARENCE TEACHERS' ASSOCIATION ("School Respondents") ("Respondents"), or their attorneys, appear virtually by Microsoft Teams at the Courthouse located at 25 Delaware Avenue, Buffalo, New York 14202 on the 22nd day of April, 2021, at 10:30 a.m./p.m., or as soon thereafter as counsel can be heard, and show cause why an Order should not be entered granted to Article 78 of the CPLR, Article I, § 11 and Article XI, § 1 of the New York State Constitution, and the laws set forth in the accompanying Verified Petition and Complaint, granting the declaratory and injunctive relief therein requested by Petitioner.

SUFFICIENT CAUSE HAVING BEEN SHOWN, it is hereby:

ORDERED, that the Respondents show cause before this Court on the above date and time why a preliminary injunction should not be granted pursuant to CPLR §§ 6301, 6311, and 7805: (i) enjoining State Respondents during the pendency of this proceeding from enforcing the State Re-Opening Guidance, as written; (ii) directing State Respondents to modify the State Re-Opening Guidance to permit and compel School Respondents to offer full, five (5) day per week in-person instruction to the Students during the pendency of this proceeding; and (iii) compelling

HOGAN WILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

School Respondents to immediately offer full, five (5) day per week in-person instruction to the Students during the pendency of this proceeding; and it is further

ORDERED, that service of a copy of this Order to Show Cause and the papers on which it is granted on or before 5:00 p.m. on the 6th day of April, 2021, shall be deemed good and sufficient service on: (i) State Respondents, if made by certified mail, return receipt requested to the Office of the Attorney General for the State of New York located at 350 Main Street, Suite 300A, Buffalo, New York 14202; (ii) County Respondents, if made by certified mail, return receipt requested to the Office of the County Attorney for the County of Erie located at 95 Franklin Street, Room 1634, Buffalo, New York 14202; (iii) Respondents CLARENCE CENTRAL SCHOOL DISTRICT, CLARENCE CENTRAL SCHOOL DISTRICT BOARD OF EDUCATION AND ITS MEMBERS, and GEOFFREY M. HICKS, Ed.D., in his official capacity as the Superintendent of Clarence Central School District, if made by certified mail, return receipt requested to the Clarence Central School District located at 9625 Main Street, Clarence, New York 14031; and (iv) Respondent CLARENCE TEACHERS' ASSOCIATION, if made by certified mail, return receipt requested to the Office of the Clarence Teachers' Association located at 5024 Old Goodrich Road, Clarence, New York 14031; and it is further

ORDERED, that Respondents' answering papers, if any, shall be served via NYSCEF and via email upon attorneys for Petitioner (chogan@hoganwillig.com), on or before 5:00 p.m. on the 15th day of April, 2021; and it is further

ORDERED, that Petitioner's reply papers, if any, shall be served via NYSCEF and via email upon Respondents or counsel for Respondents on or before 5:00 p.m. on the 20th day of April, 2021.

HON. DIANE Y. DEVLIN, J.S.C.

[112945508.1]

HOGANWILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
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MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

JEREMY C. TOTH
FIRST ASSISTANT COUNTY ATTORNEY

April 6, 2021

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:	*D.C.B. Elevator Co., Inc. v. County of Erie, William Geary and Bison Elevator Service*
Document Received:	Order to Show Cause
Name of Claimant:	D.C.B. Elevator Co., Inc. 310 Center Street Lewiston, New York 14092
Claimant's attorney:	Hugh C. Carlin, Esq. Gross Shuman P.C. 465 Main Street, Suite 600 Buffalo, New York 14203

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
Jeremy C. Toth
First Assistant County Attorney
Jeremy.Toth@erie.gov

JCT:dld
Enc.

At a Special Term of the Supreme Court Part 15, held in and for the County of Erie, State of New York on the 1st day of April, 2021

MARK J. GRISANTI, J.S.C.

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

D.C.B. ELEVATOR CO., INC.
310 Center Street
Lewiston, New York 14092

Petitioner,

v.

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

WILLIAM GEARY, as Commissioner of the County of Erie Department of Public Works,
95 Franklin Street
Buffalo, New York 14202

BISON ELEVATOR SERVICE, INC.
295 Main Street, Suite 932
Buffalo, New York 14203

Respondent.

ORDER TO SHOW CAUSE

Index No. 804169-2021

Upon the annexed Petition of D.C.B. Elevator Co., Inc. ("DCB Elevator"), verified on the 29th day of March, 2021 and exhibits annexed thereto in support of Petitioner's application for an order and judgment pursuant to Article 78 of the Civil Practice Law and Rules, (a) vacating any award of the Erie County Public Library Elevator Maintenance Service Contract (the "Contract") to Respondent Bison Elevator Service, Inc. ("Bison Elevator") and (b) directing that the County either award the Contract to DCB Elevator or re-advertise and re-bid the Contract on the grounds that the County of Erie and William Geary ("Geary") committed errors of law, acted arbitrarily and capriciously and otherwise abused their discretion in considering the bid of Bison Elevator

and awarding the Contract to Bison Elevator despite Bison Elevator's failure to comply with Local Law 5 and the express bid requirements; it is hereby

ORDERD, that Respondents show cause at a Special Term, Part 15 of this Court to be held at the Courthouse hereof, located at 25 Delaware Avenue, Buffalo, New York on the 22 day of April, 2021 at 10:30 a.m./~~p.m.~~ of that day or as soon thereafter as counsel can be heard, why an order should not be issued enjoining the award of said contract to Bison Elevator and why Petitioner should not have such other and further relief as may be just, proper and equitable; it is further

ORDERD, that service of a copy of this Order together with the papers upon which it is granted, be made by delivering copies of said papers and a copy of this Order to the Respondents, County of Erie and Geary and Bison Elevator Service, Inc. via overnight delivery, addressed to the addresses set forth in the caption above, no later than 5 ~~a.m.~~/p.m. on the 5th day of April, 2021 be deemed sufficient service; and it is further

ORDERED, that answering papers, if any, shall be served and filed via the NYSCEF on or before 5 a.m./p.m. on the 16 day of April, 2021; and it is further

ORDERED, that Petitioner's reply papers, if any, shall be served and filed via the NYSCEF system no later than noon ~~a.m./p.m.~~ on the 20 day of April, 2021.

ENTER: APR 01 2021 Hon. MARK J. GRISANTI, J.S.C.

Doc #857193.1

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

D.C.B. ELEVATOR CO., INC.

Petitioner,

v.

COUNTY OF ERIE, NEW YORK and
WILLIAM GEARY, as Commissioner of the
County of Erie Department of Public Works;
BISON ELEVATOR SERVICE, INC.

Respondent.

VERIFIED PETITION

Index No.

Petitioner, D.C.B. Elevator Co., Inc. ("DCB Elevator"), by and through its attorneys, Gross Shuman P.C. as and for its Verified Petition herein, comes forth and alleges as follows:

1. This proceeding arises because the County of Erie, New York, Department of Public Works (the "County") refused to award a bid for maintenance and service of a County-owned escalator and elevator located at the downtown location of the Erie County Public Library (the "Contract") to DCB Elevator even though DCB Elevator was the lowest responsible bidder. Instead, the County awarded the Contract to Respondent Bison Elevator Service, Inc. ("Bison Elevator") despite Bison Elevator's failure to comply with the bid specifications.

2. Bison Elevator failed to comply with the bid specifications and Erie County Local Law No. 5 by failing to address minority/women owned business (MBE/WBE) requirements. Under the bid specifications and the law, the County should not have considered Bison Elevator's bid.

3. Rather than award the bid to DCB Elevator, the County, after the close of the bids, permitted Bison Elevator to submit new documentation addressing the MBE/WBE requirements.

4. Accordingly, pursuant to CPLR §§7801, 3001, and New York Municipal Law §103, Petitioner seeks an Order enjoining the County from awarding the Contract to Bison Elevator and/or that any such Contract entered into by and between the County and Bison Elevator be declared null and void and further directing the County to either award the Contract to DCB Elevator or re-advertise and rebid the Contract.

PARTIES

5. Petitioner DCB Elevator is a New York corporation with a principal place of business located in Lewiston, New York. DCB Elevator is a certified Women Owned Business Enterprise (WBE) under the laws of the State of New York.

6. Respondent County of Erie is a municipal corporation, subject to the laws of the State of New York, with a principal place of business at 95 Franklin Street, Buffalo, New York.

7. Respondent William Geary is the Commissioner of the County of Erie Department of Public Works, which has a principal place of business at 95 Franklin Street, Buffalo, New York.

8. Respondent Bison Elevator Services, Inc. is a corporation, existing under the laws of the State of New York, with a principal place of business at 295 Main Street, Buffalo, New York.

JURISDICTION

9. Under CPLR §§7803, 7804 and 3001, this Court has jurisdiction to grant Petitioner's request for relief in the nature of the declaratory and injunctive relief sought, and any further relief this Court deems just and proper.

10. Venue is proper under CPLR §§ 503 and 506 because the events giving rise to this Petition occurred within Erie County, and the action complained of herein was taken by the County of Erie Department of Public Works, located in Erie County.

BACKGROUND

11. On February 9, 2021 the County issued Erie County Bid #221024-002, Addendum No. 1 Elevator & Escalator Maintenance – Library covering the period May 1, 2021 through April 30, 2023 (the "RFP"). A copy of the RFP is attached hereto as **Exhibit A**. The RFP makes clear that bidding closed March 9, 2021.

12. The current contract in place for the same elevator and escalator maintenance work for the period August 1, 2017 through April 30, 2021, was awarded to and is being performed by DCB Elevator.

13. Among other things, the RFP required that the competent bidder meet and satisfy the County's MBE/WBE Commitment, found at Exhibit H of the RFP (the "MBE/WBE Requirement").

14. In pertinent part, the RFP provides:

> **All bidders must submit**, with a bid, **a list of all MBEs and WBEs from whom the supplier has solicited bids, or with whom the supplier has signed a binding contractual agreement, or with whom the contractor is presently negotiating an agreement,** for the purpose of meeting the MBE and WBE utilization goals provided in subdivision (A)(5) above. **A supplier's bid shall not be considered** where the supplier **fails to submit a list** as provided for herein…

See **Exhibit A**, Division of Purchase Invitation to Bid at Exhibit "H" – MBE/WBE Commitment, Section 1.B.

15. The MBE/WBE Commitment is mandated by and consistent with Erie County Local Law No. 5. A copy of the Local Law No. 5 is attached hereto as **Exhibit B.**

16. DCB Elevator submitted its bid in response to the RFP on March 9, 2021 and, upon information and belief, was the lowest responsible bidder. DCB Elevator's bid was for $70,800/year. DCB Elevator's bid met all requirements of the RFP, including the MBE/WBE Requirement. A copy of the DCB Elevator bid is attached hereto as **Exhibit C**.

17. Bison Elevator submitted a bid which did not meet the MBE/WBE Requirement. A copy of the Bison Elevator bid is attached hereto as **Exhibit D**. Bison Elevator did not submit the requisite list of or identify any MBE/WBE entities.

18. A third bidder, TK Elevator Corporation ("TK Elevator") submitted a bid for $116,448/year, a copy of which is attached as **Exhibit E**. TK Elevator's bid did list a MBE/WBE entity.

19. The County did not award the Contract to DCB Elevator however, and instead allowed Bison Elevator to submit additional documents after the close of the bid and thereafter, in contravention of the law, awarded the Contract to Bison Elevator. True and accurate copies of Petitioner's communications confirming the County's unlawful actions are attached hereto as **Exhibit F**.

20. By letter dated March 11, 2021, DCB Elevator put the County on notice of its unlawful actions. A copy of such letter is attached hereto as **Exhibit G**.

21. By letter dated March 19, 2021, DCB Elevator's counsel put the County on further notice of its unlawful actions. A copy of such letter is attached hereto as **Exhibit H**. The County did not respond to such letter.

FIRST CAUSE OF ACTION
(Preliminary Injunction)

22. Petitioner restates and realleges paragraphs 1-21 with the same force and effect as if restated in full.

23. Absent the Court's intervention, if the Contract is entered into by and between the County and Bison Elevator, Bison Elevator will begin providing services to the County under such contract on May 1, 2021.

24. This would result in DCB Elevator incurring significant cost, inconvenience, loss of efficiency and potential destruction of critical materials related to the Contract based on DCB Elevator's current contract with the County.

25. This transition will result in significant demobilization costs because DCB Elevator will be forced to remove parts, materials and supplies from multiple County library buildings.

26. This transition will similarly result in uncertainty and risk of loss as Bison Elevator's taking over in these buildings places in harm's way vital wiring diagrams and equipment-specific materials all of which will be at risk of being misplaced, destroyed, or treated carelessly knowing that DCB Elevator may ultimately be awarded the job as the lower responsible bidder.

27. These transition costs and uncertainties pose an irreparable harm to DCB Elevator because the way matters are left as of April 30, 2021 very likely cannot be reinstated following Bison Elevator's brief interlude on the job without substantial time and review efforts to such that the Contract will not be able to timely proceed upon DCB Elevator's return should it succeed here or following re-advertisement and rebidding of the Contract.

28. In order to maintain the status quo pending the outcome of this litigation, DCB Elevator should be allowed to continue to service the County pursuant to the terms of the existing contract between the County and Bison Elevator.

29. By extending the current contract briefly, DCB Elevator will be able to seamlessly service the County, in the event that DCB Elevator succeeds in this litigation. Significantly, there is no risk of prejudice to the County, as DCB Elevator has serviced the County since August 1, 2017 without issue.

30. For the foregoing reasons, pending the outcome of this special proceeding, this Court should (a) enjoin the County from entering into the Contract with Bison Elevator, (b) restrain Bison Elevator from commencing the work contemplated under the Contract, and (c) allow DCB Elevator to continue to perform the elevator maintenance and service work, pursuant to the terms of the existing contract between DCB Elevator and the County.

SECOND CAUSE OF ACTION
(Declaratory Judgment Pursuant to CPLR §3001)

31. Petitioner restates and realleges paragraphs 1-31.

32. The County's award of the contract to Bison Elevator is null and void because the County acted unlawfully and/or arbitrarily and capriciously by considering Bison Elevator's bid notwithstanding its failure to comply with the MBE/WBE commitment and acted further arbitrarily and capriciously by allowing Bison Elevator to submit additional documents following the close of the bid.

33. Petitioner seeks a declaration that the County's decision to award the Contract to Bison Elevator is null and void as a matter of law.

34. Petitioner further seeks a declaration that the County either award the Contract to DCB Elevator as the lowest responsible bidder or, in the alternative, direct the County to re-advertise and rebid the Work and in the interim retain DCB Elevator under the contract terms in effect prior to April 20, 2021.

WHEREFORE, Petitioner respectfully requests that this Court grant an order and judgment:

a. Allowing DCB Elevator to continue to service the County pursuant to the terms of the existing contract between DCB Elevator and the County, pending the outcome of this litigation;

b. Restraining Bison Elevator from commencing work under the Contract;

c. Vacating and/or precluding any award of the Contract to Bison Elevator;

d. Compelling the County to award the Contract to Petitioner, or, in the alternative, requiring the County to re-advertise and re-bid the Contract;

e. Awarding Petitioner the costs and disbursements of this proceed; and

f. Such further relief as that the Court deems just and proper.

Dated: Buffalo, New York
March 29, 2021

GROSS SHUMAN P.C.

By: /s/ Hugh C. Carlin
Hugh C. Carlin, Esq.
Attorneys for Petitioner
Office and P.O. Address
465 Main Street, Suite 600
Buffalo, New York 14203
Tel: (716) 854-4300
hcarlin@gross-shuman.com

VERIFICATION

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

Daniel C. Brockway, being duly sworn, deposes and says that he is the Vice-President of DCB Elevator Co., Inc. the corporation named in the within action; that he has read the foregoing Petition and knows the contents thereof and that the same is true to the best of his knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters he believes them to be true. Deponent further says that the reason this verification is made by deponent and not by DCB Elevator Co., Inc. is because the said DCB Elevator Co., Inc. is a corporation, and the grounds of deponent's belief as to all matters not stated upon his own knowledge are investigations which deponent caused to be made concerning the subject matter of this Petition and information acquired by deponent in the course of his duties as an officer of said corporation, and from the books and papers of said corporation.

DCB Elevator Co., Inc.

By: _____
Daniel C. Brockway, Vice President

Sworn to before me this 29th day of March, 2021.

_____
Notary Public

STEPHANIE L. LAMARCO
NOTARY PUBLIC, STATE OF NEW YORK
REG. NO 01LA6102915
QUALIFIED IN NIAGARA COUNTY
COMMISSION EXPIRES 12/08/2023

Doc #855287.1

COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

JEREMY C. TOTH
FIRST ASSISTANT COUNTY ATTORNEY

KRISTEN M. WALDER
SECOND ASSISTANT COUNTY ATTORNEY

April 13, 2021

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:	*Hartyl, Amy v. City of Buffalo, County of Erie, et al.*
Document Received:	Notice of Claim
Name of Claimant:	Amy Hartyl 196 West Tupper Street Buffalo, New York 14201
Claimant's attorney:	Max Humann, Esq. Lipsitz Green Scime Cambria LLP 42 Delaware Avenue, Suite 120 Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
Jeremy C. Toth
First Assistant County Attorney
Jeremy.Toth@erie.gov

JCT:dld
Enc.

In the Matter of the Claim of

AMY HARTL,

Claimant,

- against -

CITY OF BUFFALO,
CITY OF BUFFALO REAL
ESTATE DIVISION,
ERIE COUNTY,
ERIE COUNTY CANAL HARBOR
DEVELOPMENT CORPORATION,
BUFFALO NAVAL PARK
COMMITTEE INC., and
BUFFALO NAVAL PARK
COMMITTEE INC., d/b/a
THE BUFFALO AND ERIE COUNTY
NAVAL AND MILITARY PARK,

NOTICE OF CLAIM

This paper received at the
Erie County Attorney's Office
from Gary Bevilacqua on
the 26 day of February 20 21
at 9:59 a.m./p.m.
S M
Assistant County Attorney

TO: CITY OF BUFFALO NEW YORK, CITY OF BUFFALO REAL ESTATE DIVISION, ERIE COUNTY, ERIE CANAL HARBOR DEVELOPMENT CORPORATION, BUFFALO NAVAL PARK COMMITTEE INC. and BUFFALO NAVAL PARK COMMITTEE INC., d/b/a THE BUFFALO AND ERIE COUNTY NAVAL AND MILITARY PARK,

PLEASE TAKE NOTICE, that AMY HARTL, has and hereby makes claim against CITY OF BUFFALO, CITY OF BUFFALO REAL ESTATE DIVISION, ERIE COUNTY, ERIE COUNTY CANAL HARBOR DEVELOPMENT CORPORATION, BUFFALO NAVAL PARK COMMITTEE INC. and BUFFALO NAVAL PARK COMMITTEE INC. d/b/a THE BUFFALO

AND ERIE COUNTY NAVAL AND MILITARY PARK, and in support of said claim states the following:

1. The Post Office address of the claimant is 196 West Tupper Street, Buffalo, New York 14201.

2. The attorneys for the claimant are LIPSITZ GREEN SCIME CAMBRIA LLP, and their Post Office address is 42 Delaware Avenue, Suite 120, Buffalo, New York 14202-3924.

3. The claim of AMY HARTL is for personal injuries, including without limitation, loss of income and medical expenses and for consequential damages generally.

4. The claim arose at or near the Vietnam Veterans Monument, located at or near the Erie County Naval & Military Park, in the City of Buffalo, County of Erie and State of New York.

5. The claim arose in substance as follows: On the 18th day of January, 2021, between approximately 9:15-9:30 a.m., the claimant, AMY HARTL, while traversing the aforesaid premises, was caused to slip and fall, resulting in serious injuries to the claimant.

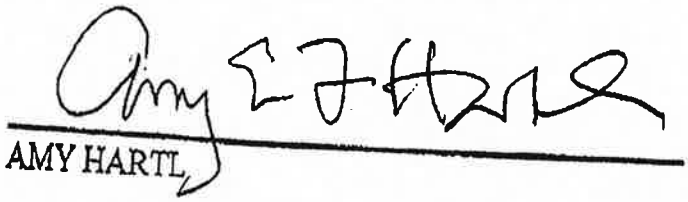
6. Upon information and belief, the incident herein described and the resultant injuries and damages sustained were caused as a result of the negligence, carelessness, recklessness and/or unlawful conduct on the part of the agents, servants and/or employees of the CITY OF BUFFALO, CITY OF BUFFALO REAL ESTATE DIVISION, ERIE COUNTY, ERIE CANAL HARBOR DEVELOPMENT CORPORATION, BUFFALO NAVAL PARK COMMITTEE INC. and BUFFALO NAVAL PARK COMMITTEE INC. d/b/a THE BUFFALO AND ERIE COUNTY NAVAL AND MILITARY PARK, and more particularly, among other things, in failing and omitting to provide a safe way to traverse the subject area and in failing to keep the subject area free of snow and ice. Furthermore, the incident and resultant injuries and damages were caused by those acts and

omissions of the agents, servants and/or employees of CITY OF BUFFALO, CITY OF BUFFALO REAL ESTATE DIVISION, ERIE COUNTY, ERIE CANAL HARBOR DEVELOPMENT CORPORATION, BUFFALO NAVAL PARK COMMITTEE INC. and BUFFALO NAVAL PARK COMMITTEE INC. d/b/a THE BUFFALO AND ERIE COUNTY NAVAL AND MILITARY PARK, acting as owners and/or responsible parties for the care and maintenance of the subject area.

7. Upon information and belief, as a result of the aforesaid incident, the claimant, AMY HARTL, sustained severe bodily injuries and was painfully and seriously injured; was rendered sick, sore, lame and disabled; sustained pain and suffering and shock to her nerves and nervous system; and more particularly, AMY HARTL, sustained injuries in the nature of fractured right wrist. Upon information and belief, her injuries will result in permanent defects and limitations.

WHEREFORE, claimant requests that CITY OF BUFFALO, CITY OF BUFFALO REAL ESTATE DIVISION, ERIE COUNTY, ERIE CANAL HARBOR DEVELOPMENT CORPORATION, BUFFALO NAVAL PARK COMMITTEE INC. and BUFFALO NAVAL PARK COMMITTEE INC. d/b/a THE BUFFALO AND ERIE COUNTY NAVAL AND MILITARY PARK honor and pay the claim on behalf of AMY HARTL.

DATED: Buffalo, New York
February 19, 2021



AMY HARTL

LIPSITZ GREEN SCIME CAMBRIA LLP

By: _____

MAX HUMANN, ESQ.
Attorneys for Claimant
42 Delaware Avenue, Suite 120
Buffalo, New York 14202-3924
(716) 849-1333
[MH: # 68421.0001]

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

AMY HARTL, being duly sworn deposes and says that she is the claimant above named; and makes this claim on behalf of self; she has read the foregoing claim and knows the contents thereof; the same is true to the knowledge of the claimant except for the matters herein alleged upon information and belief, and as to those matters, she believes them to be true.

AMY HARTL

Sworn to before me on this
19 day of February, 2021.

Notary Public

MAX HUMANN ESQ.
Notary Public, State of New York
Qualified in Erie County
Commission Expires April 16, 2023

4082375. 1, 068421.0001

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

JEREMY C. TOTH
FIRST ASSISTANT COUNTY ATTORNEY

KRISTEN M. WALDER
SECOND ASSISTANT COUNTY ATTORNEY

April 15, 2021

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:	*Merriweather, Ebony v. City of Buffalo and County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	Ebony Merriweather 233 E. Eagle Street, Apt. 405 Buffalo, New York 14204
Claimant's attorney:	Michael J. Cooper, Esq. The Barnes Firm 451 Grider Street Buffalo, New York 14215

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
Jeremy C. Toth
First Assistant County Attorney
Jeremy.Toth@erie.gov

JCT:dld
Enc.

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

EVEYNY MERRIWEATHER

Claimant,

NOTICE OF CLAIM

v.

CITY OF BUFFALO
COUNTY OF ERIE

Respondent.

****

PLEASE TAKE NOTICE, that the above named claimant claims and demands from the respondents, CITY OF BUFFALO and COUNTY OF ERIE, recompense for personal injuries and damages sustained by claimant by reason of the wrongful, negligent and careless acts and omissions of the respondent, CITY OF BUFFALO and COUNTY OF ERIE, servants and/or employees, and in support there of, the claimant states:

1. Claimant's address is 233 East Eagle Street, Apt. 405, Buffalo, New York 14204.

2. The claimant is represented by The Barnes Firm, P.C. with offices located at 451 Grider Street Buffalo, New York 14215, telephone (800) 800-0000.

3. The incident in which personal injuries were sustained by claimant, EVEYNY MERRIWEATHER, occurred on or about February 4, 2021, on the sidewalk

VERIFICATION

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

Ebony Merriweather, being duly sworn, depose and say that she is the plaintiff in the within action; that she has read the foregoing **NOTICE OF CLAIM** and know the contents thereof; that the same is true to the knowledge of the deponents, except as to the matters therein stated to be alleged on information and belief, and that as to those matters she believes it to be true.

Everyny Merriweather

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

On the 22nd day of March, in the year 2021, before me, the undersigned, personally appeared Ebony Merriweather, personally known to me or proved to me on the basis of satisfactory evidence to be the individuals whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their capacities and that by their signatures on the instrument, the individuals or the person upon behalf of which the individuals acted, executed the instrument.

Notary Public/Commissioner of Deeds

MICHAEL J. COOPER, Esq.
Notary Public, State of New York
Qualified in Queens County
My Commission Expires Feb. 23, 2023

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

JEREMY C. TOTH
FIRST ASSISTANT COUNTY ATTORNEY

KRISTEN M. WALDER
SECOND ASSISTANT COUNTY ATTORNEY

April 16, 2021

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:	*Lukasik, Joshua v. Erie County Sheriff's Department, County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	Joshua Lukasik Joshua Lukasik 11581 Walden Avenue Alden, New York 14004
Claimant's attorney:	Claimant is proceeding *pro se*.

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
Jeremy C. Toth
First Assistant County Attorney
Jeremy.Toth@erie.gov

JCT:dld
Enc.

State of New York: Court of Claims

JOSHUA LUKASIK

Claimant,

NOTICE OF INTENT TO FILE A CLAIM

v.

ERIE COUNTY SHERIFFS DEPT., ERIE COUNTY

The State of New York,

Defendant.

To: The Clerk of the Court of Claims, Erie county executive,Erie County Sheriffs Dept.

The Attorney General of the State of New York

Please take notice that the undersigned, *JOSHUA LUKASIK*, intends to file a claim against the State of New York, pursuant to Court of Claims Act §§ 10 and 11.

The post-office address of the claimant herein is *11581 WALDEN AVE ALDEN N.Y. 14004*

The attorney for the claimant herein is *JOSHUA LUKASIK (PRO SE)*., and *his* post-office address and telephone number are *11581 WALDEN AVE ALDEN N.Y. 14004* The time when and the place where such claim arose and the nature of the same are as follows: *12/14/2020 at the ERIE COUNTY CORRECTINAL FACILITY at 11581 Walden Ave ALDEN N.Y. 14004 to witch claimants safty and security was put at risk. And the Erie county sheriffs dept. failed to keep the claimant safe and secure in there custody in witch the defendants (Erie county sheriffs dept.) had exposed the claimant to the deadly coronavirus through the poor descision making of the defendants, and to the negligence of said defendants and staff to properly contain and reduce the risk of said deadly virus and to properly screen and test the staff members of said defendants to prevent the spread of the covid 19 virus. Also to witch the claimant was housed in the custody of the defendants in a "covid-19 unit" witch violates state and federal HIPPA Laws and other medical negligence by the poor descision making of the defendants. THIS IS A BRIEF SUMMARY OF CLAIM AND TO NOTIFY THE DEFENDANTS AND COURT OF CLAIMS OF THE INTENT TO FILE A CLAIM*

JOSHUA LUKASIK

Claimant

PRO SE

Attorney for Claimant

State of New York

ss.

County of ERIE

JOSHUA LUKASIK, being duly sworn, says: I am the claimant above-named; I have read the foregoing notice of intention to file a claim against the State of New York and know its contents; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true.

JOSHUA LUKASIK _____

Subscribed and sworn to before me on the day of .

PUBLIC NOTARY _____

4-13-21

Notary: _____

CHRISTOPHER T. COUGHLIN
No. 01CO6294898
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Dec. 23, 20 21

COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

JEREMY C. TOTH
FIRST ASSISTANT COUNTY ATTORNEY

KRISTEN M. WALDER
SECOND ASSISTANT COUNTY ATTORNEY

April 16, 2021

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:	*Walton, Marty v. County of Erie, Erie County Sheriff's Office and Sheriff Howard*
Document Received:	Notice of Claim
Name of Claimant:	Marty Walton c/o Erie County Correctional Facility 11581 Walden Avenue Alden, New York 14004
Claimant's attorney:	Brittany L. Penberthy, Esq. VanDette Penberthy LLP 227 Niagara Street Buffalo, New York 14201

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
Jeremy C. Toth
First Assistant County Attorney
Jeremy.Toth@erie.gov

JCT:dld
Enc.

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

In the Matter of the Claim of

MARTY WALTON

NOTICE OF CLAIM

Claimant,

vs.

COUNTY OF ERIE
ERIE COUNTY SHERIFF'S OFFICE,
ERIE COUNTY SHERIFF TIMOTHY B. HOWARD, individually and in official capacity

Respondents.

TO: COUNTY OF ERIE, ERIE COUNTY SHERIFF'S OFFICE, and ERIE COUNTY SHERIFF TIMOTHY B. HOWARD, individually and in his official capacity

PLEASE TAKE NOTICE, that MARTY WALTON, has and hereby makes claim against the COUNTY OF ERIE, ERIE COUNTY SHERIFF'S OFFICE, and ERIE COUNTY SHERIFF TIM HOWARD, individually and in his official capacity, and in support of said claim states the following:

1. The post office address of the Claimant is 11581 Walden Avenue Alden, New York, as he is presently incarcerated.

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

3. The claim of MARTY WALTON, is for personal injuries and for consequential damages generally.

4. The claim arose at Erie County Correctional Facility, 11581 Walden Avenue Alden, Village of Alden, County of Erie and State of New York.

5. The claim arose in substance as follows: On or about October 11, 2020, the Claimant was caused to slip and fall due to a wet floor when said wet floor was created by another inmate who was tasked with mopping the floor.

6. Upon information and belief, the incident herein described and the resultant injuries sustained were caused as a result of the negligence, carelessness, reckless disregard and/or on the part of the agents, servants and/or employees of the COUNTY OF ERIE, ERIE COUNTY SHERIFF'S OFFICE, and ERIE COUNTY SHERIFF TIMOTHY B. HOWARD.

7. Upon information and belief, as a result of the aforesaid incident, MARTY WALTON sustained severe bodily injuries and was painfully and seriously injured; was rendered sick, sore, lame and disabled; sustained pain and suffering. Upon information and belief, these injuries will result in permanent defects.

WHEREFORE, Claimant requests that COUNTY OF ERIE, ERIE COUNTY SHERIFF'S OFFICE, and ERIE COUNTY SHERIFF TIMOTHY B. HOWARD honor and pay the claims of MARTY WALTON.

DATED: Buffalo, New York
January 19, 2021

VANDETTE PENBERTHY LLP

By: _____
BRITTANYLEE PENBERTHY, ESQ.
Attorneys for Claimant
Office and P.O. Address
227 Niagara Street
Buffalo, New York 14201
(716) 803-8400

VERIFICATION

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

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

Marty Walton
MARTY WALTON

Sworn to before me this
24th day of January, 2021.

JKulp
Notary Public

JESSICA A. KULPIT, ESQ.
NOTARY PUBLIC STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
My Commission Expires May 18, 2021

COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

JEREMY C. TOTH
FIRST ASSISTANT COUNTY ATTORNEY

KRISTEN M. WALDER
SECOND ASSISTANT COUNTY ATTORNEY

April 16, 2021

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:	*Burke, Ronald Patrick v. County of Erie*
Document Received:	Amended Complaint
Name of Claimant:	Ronald Patrick Burke 849 Harlem Road, Apt. 4 West Seneca, New York 14224
Claimant's attorney:	Claimant is proceeding *pro se*.

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
Jeremy C. Toth
First Assistant County Attorney
Jeremy.Toth@erie.gov

JCT:dld
Enc.

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

Amended

[1. Index No. & Year]
Index No.
801234 / 2021
Complaint

mr. Ronald Patrick Burke,
[2. Fill in name(s)] Plaintiff(s)

-against-

Erie County, New York,
[3. Fill in name(s)] Defendant(s)
----------x

TO THE SUPREME COURT OF THE STATE OF NEW YORK
The Complaint of the plaintiff [Your Name] Ron Burke respectfully shows and alleges as follows:

I allege that my, guaranteed and protected by the full power and authority of New York State and New York State Laws, civil rites have been violated under civil rights code CVR 50-B.

This paper received at the
Erie County Attorney's Office
from Daniel Zoltek on
the 9th day of April, 2021
at 12:40 a.m./p.m.
Assistant County Attorney

This paper received at the
Erie County Attorney's Office
from _____ on
the _____ day of _____, 20__
at _____ a.m./p.m.
Assistant County Attorney

Wherefore, plaintiff demands that this Court order a settlement of ten million dollars together with such other and further relief, the Court finds to be just and proper.

[Date and County papers are signed in]
Dated: 1/29/2021
County: Erie

MPBke MPBke
[Your Signature]

Ron Burke
[Your Name]

RECEIVED NYSCEF: 03/24/2021

849 Harlem Rd, Apt 4
[Your Address]

West Seneca, New York 14224
[City, State & Zip Code

(716) 240-0631
[Your Phone Number]

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF Erie

mr. Ronald Patrick Burke, Plaintiff,
[Fill in name(s)] Plaintiffs/Petitioner(s)

-against-

Erie County, New York, Defendant,
[Fill in name(s)] Defendants/Respondent(s)

[Index No. & Year]
Index No.
801234 / 2021
VERIFICATION

STATE OF NEW YORK}
SS. :}
COUNTY OF Erie }
[Insert County where papers signed and notarized]

I, Ronald Patrick Burke **[Insert Your Name]** , being duly sworn, deposes and says: I am the Plaintiff **[Insert Plaintiff or Petitioner]** in this matter, I have read the foregoing Complaint **[Insert the name(s) of the above documents e.g. affidavit, petition etc.]** and know the contents thereof. The same are true to my knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters I believe them to be true

R P Burke
[SIGN YOUR NAME BEFORE NOTARY]

Ronald Patrick Burke
[PRINT YOUR NAME]

Sworn to before me this 29th
day of January, 2021

Karen M McCarthy
Notary Public
[Verification must be notarized]

KAREN M. McCARTHY
Notary Public-State of New York
Qualified In Erie County 01MC6006959
My Commission Expires May 11, 2022

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

Mr. Ronald Patrick Burke,
[Fill in name(s)] Plaintiff(s)

[Index No. & Year]
Index No.
801239 / 2021

-against-

Erie County, New York,
[31. Fill in name(s)] Defendant(s)

----------x

Complaint

[Insert name(s) of papers submitted]

N P Burke
[YOUR SIGNATURE]

Ronald Patrick Burke
[PRINT YOUR NAME]

849 Harlem Rd, Apt 4
[YOUR ADDRESS]

West Seneca, New York 14224
[CITY, STATE ZIP CODE]

(716) 270-0531
[YOUR PHONE NUMBER]

along Ellicott Street in front of the Buffalo & Erie County Public Library located in Lafayette Square, Buffalo NY 14203. She suffered an injury to her right arm.

4. That respondents, CITY OF BUFFALO and COUNTY OF ERIE, was negligent in that the employees, agents or servants of the respondent did not properly maintain the sidewalk along Ellicott Street in front of the Buffalo & Erie County Public Library located in Lafayette Square, Buffalo NY 14203.

5. By virtue of the negligence of the employees, agents or servants of the CITY OF BUFFALO and COUNTY OF ERIE, claimant, EVEYNY MERRIWEATHER, has incurred medical and hospital expenses which are to date undetermined. Upon information and belief, claimant will be obligated to incur further medical expenses including drugs and medicines, the amount of which cannot be reasonably calculated at this time. Claimant has also sustained other physical pain and suffering, as well as emotional and psychological pain and suffering.

6. These injuries are permanent in nature.

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

Dated: Buffalo, New York
March 4, 2021

Yours, etc.

THE BARNES FIRM, P.C.

Michael J. Cooper, Esq.
Attorneys for Claimants
451 Grider Street
Buffalo, New York 14215
(800) 800-0000

ERIE COUNTY BOARD OF ETHICS

95 Franklin St. 6th Floor Buffalo NY 14202,
Steven Schwartz, Chair

Annual Report of Activities for 2020

Executive Summary: The Erie County Board of Ethics provides an Annual Report of Activities to the Erie County Legislature and County Executive. The report identifies the legislative authority, powers and duties of the Board, membership and frequency of meetings. COVID restrictions during 2020 necessitated some delays of meetings, one meeting held via Zoom (with appropriate public notices) and change of in person meeting space to larger rooms within the Rath Building. Furthermore, mailings of Financial Disclosures were delayed and the date required for submission was extended one month to June 15, 2020.

The Board received complaints about alleged ethical violations, requests for disclosures under FOIL and requests for opinions or actions. These included requests to investigate use of county resources for private use as well as some issues outside the jurisdiction of the Board.
The Board also was asked for or provided opinions on potential conflicts of interest of current or future employees, accepting gifts from private sources in gratitude for public service and resolving conflicts between a municipal code of ethics and court practices. The Board also answered questions concerning the Financial Disclosure Form.
The Board also received and reviewed all Financial Disclosure Forms and sent follow-up letters identifying potential conflicts of interest, incomplete forms and additional information to clarify initial submissions.

The 2020 Financial Disclosure Forms (for calendar year 2019) included edits and explanations to clarify information requested and to reduce errors and the need for follow-ups.
http://www2.erie.gov/ethics/sites/www2.erie.gov.ethics/files/uploads/Financial-Disclosure-Form.pdf

The Erie County Board of Ethics is an independent administrative unit of Erie County. The Board's powers and duties are derived from the updated Code of Ethics County Law (2-2018) and New York State Municipal Law Article 18. Section 10 (d) of the Code provides that "the Board shall be the repository for completed annual statements of financial disclosure required by this local law." Erie County employees who are elected officials or in policy-making positions or able to make County policy are required to complete an Annual Statement of Financial Disclosure for the County of Erie by May 15. Those who must file also include members of administrative boards, chairs of county political parties, and candidates for elective offices.

The Erie County Board of Ethics was established and exists pursuant to the provisions of Article 19 of the Erie County Code, as amended. The Board is charged with enforcing and implementing the provisions of the Erie County Code of the Ethics, Local Law No. 2-2018 (hereafter 'Code') pursuant to operating procedures that govern the Board. The Board shall have the power and duty to:

A. Initiate and receive complaints of violations of any of the provisions of the Code;
B. Conduct investigations, inquiries and hearings concerning any matter covered by the Code;
C. Subpoena persons or documents and, by a majority vote, issue subpoenas to the fullest extent authorized by law;

D. Determine whether to investigate and whether to act upon any particular complaint;
E. Request the assistance of other appropriate agencies in conducting investigations;
F. Consult with County agencies, officials and employees on matters involving ethical conduct which are specific to the County of Erie Board of Ethics;
G. Recommend such legislative action as it may deem appropriate to effectuate the policies within the Code;
H. Promulgate rules and regulations for the conduct of Board of Ethics activities, including procedural rules consistent with the requirements of due process of law;
I. Prescribe forms for the disclosure and registration of information as provided in the Code;
J. Render advisory opinions with respect to the provisions of the Code;
K. Advise any individual whose acts are the subject of a complaint to the board and consult with such individual early in the process;
L. Accept and consider complaints of violations of the Code, and offer recommendations with respect to remedies for violation of that chapter; and
M. Provide an annual report to the Erie County Legislature and the County Executive with respect to the actions of the Ethics Board during the preceding calendar year.

For 2020, the following served as members or staff of the Board:

Steven Schwartz, Chair (Term 12/31/2021)
Chris Trapp, Vice Chair (Term 12/31/2020 reappointed to term ending 12/31/2025)
Rebecca Town, Secretary (Term 12/31/2024)
Brian Downey (Term 12/31/2022)
Ellen Kennedy (Term 12/31/2023)
Leslie Ortiz-Fogg, Counsel & Ex-Officio, Department of Law
David Bojanowski replaced Vianne Uthman during February 2020Support Staff, Department of Personnel

The Board met eight times during 2020. All meetings were recorded by County Legislative staff and posted with the Ethics Board Minutes as well on the Legislature website. The April 2020 meeting was conducted virtually via Zoom under the Executive Orders of the Governor to conduct such meetings because of requirements for social distancing. Notice of this meeting was sent to local media and posted on the Board of Ethics website. This meeting was also recorded and posted on the site. The following were significant issues dealt with by the Board during 2020:

1. Recommendations to the Legislature:
   a. **The Board again recommends that the Legislature amend the Code of Ethics to include issues of nepotism. Model language is included from the 2014, City of Lockport Code of Ethics that added the following: *§ 18-15 Nepotism.*** *Except as otherwise required by law: A. Effective *****, no municipal officer or employee, either individually or as a member of a board, may participate in any decision specifically to appoint, hire, promote, discipline or discharge a relative for any position at, for or within the municipality or a municipal board. Effective *****, no municipal officer or employee may supervise a relative in the performance of the relative's official powers or duties.*
   b. **The Board again recommends that, at the time of appointment or election, elected officials, affected employees and board members should be notified of the requirement to file Annual Financial Disclosures with the Board for the year they are elected or appointed.**
   c. **The Board again requests that electronic signatures on Financial Disclosures be allowed to facilitate electronic submission of the form, thus reducing time and costs.**

d. The law requires that candidates for County offices are required to file timely Financial Disclosures with the Board of Ethics. The Board of Ethics is required to request a list of candidates for elected office from the Board of Elections. **The Board is recommending the Legislature clarify what agency is required to notify candidates of the filing requirement.**

2. Communications: The Erie County Board of Ethics website http://www2.erie.gov/ethics/ and email erieethicsboard@gmail.com continued to be updated to improve public communication directly to and from the Board. The Board Secretary and Support Staff coordinate Website updates, including meeting schedules, reports, agenda, minutes, updated Rules and Regulations and the current Financial Disclosure Form. When possible, drafts of monthly minutes are posted two weeks following meetings. Email requests are forwarded to the Chair who responds between meetings, when practicable. There were some technical difficulties in retrieving emails that resulted in some delays in receiving and responding to emails.
   a. Website updated with 2020 meeting minutes, future meeting dates, draft agenda and updated Annual Report, Rules & Regulations and Financial Disclosure Forms. A link to meeting recordings by Legislature staff is established on the Board website (http://www2.erie.gov/legislature/index.php?q=erie-county-board-ethics).
   b. Communications were received requesting advice on completion of the Disclosure Form. There were also complaints about alleged ethical violations, requests for copies of disclosures under FOIL and requests for opinions or actions (see below).
   c. The 2019 Annual Activity Report was submitted in April 2020 to the Legislature and County Executive http://www2.erie.gov/ethics/sites/www2.erie.gov.ethics/files/uploads/2016%20Annual%20Report%20Board%20of%20Ethics%20PDF.pdf .
   d. FOIL requests for Financial Disclosure Forms were received and answered. Requests were primarily for disclosures of elected officials. All those whose Financial Disclosures were released under FOIL are required to receive notice when their information is disclosed. Many FOIL requests that asked for electronic copies of Financial Disclosures were unable to be honored, largely because all forms are submitted by hard copy and original signatures. Some information on minors is redacted. The Board may reconsider these requests as more forms are submitted electronically. No fees were waived for production of copies.
   e. In August 2020, the Board received copies of the Legislature Submissions Pursuant to Erie County Code of Ethics, Disclosure of Family Members Employed by any governmental agencies.

3. Complaints and requests for opinions or investigations:
   a. The investigation of former Legislator Ted Morton's disclosures for 2013 and 2014 resulted in an issuance of $500 fine. Mr. Morton consequently filed a suit in Federal Court disputing the authority, process and decisions of the Board in this matter. The Court granted the County summary judgement in September 2018 on the sole remaining federal rights claim (due process) and declined to address the state causes of action, instead dismissing the case. The Court awarded costs to the County in 2020. The plaintiff's attorney requested that the county waive the costs and the $500 fine. The Board did not agree to waive the fine, but deferred the decision on waivers of attorney fees to the County Attorney.
   b. Some complaints and request for investigations were outside the authority of the Board of Ethics. All complainants were given information on other venues available to pursue their complaints.

c. A municipality within Erie County requested an opinion to resolve a conflict between the municipality Code of Ethics and the rules governing the Municipal Court. The issue was resolved before any opinion need be offered. The municipality does not have its own Board of Ethics and the Board, upon advice of Counsel had determined the following:
"GML Section 808(2) expressly authorizes a county board of ethics to render advisory opinions to "officers and employees of municipalities wholly or partly within the county with respect to any code of ethics adopted" pursuant to GML Section 807 (unless such municipality has enacted its own ethics board), and Section 10(e) the Erie County Code of Ethics (Local Law No. 2 of 2018) generally provides that the County Ethics Board 'shall have all the powers and duties ascribed to a Board of Ethics by article 18 of the General Municipal Law.'
"However, the balance of the Erie County Ethics Law appears to contemplate only issuing such advisory opinions with respect to the County Ethics Code, and Section 5 of the Board's Rules and Regulations even more clearly appears to expressly limit the jurisdiction of the board to issues arising under the County Ethics Code and to requests for advisory opinions from County officials. The municipality has a Code of Ethics but no Board of Ethics. Our general conclusion is that if a municipality, as opposed to an individual, makes a request for a review, the language in the State law applies regardless of the County law which means that we can issue advisory opinions for municipal corporations that do not have their own Ethics Boards."

d. Request for opinion from a County department on whether a candidate for employment in a position can review contracts with an agency on which he serves as a member of their Board of Directors. The Board advised that this was a conflict of interest and that the candidate should resign from the Board before employment.

e. Request for investigation of elected official's use of county resources for personal political campaign purposes. This was resolved with the official's agreement to cease providing links from their official County sites to their campaign or other personal social media sites.

f. The Board offered an opinion to a County department that they should not accept the gift of free admission to a private park offered in gratitude for their public work.

g. The Board provides continued advice to county departments on attending conference, accepting travel and conference expenses from governmental sources to attend government sponsored conferences, securing supervisory approvals and ways to report these expenses on subsequent disclosure forms.

4. Financial Disclosures – Letters were sent to department heads on January 2020 requesting lists of employees and board members required to file 2019 disclosure forms. Only 80% of departments returned their list by the due date of February 15, although all were submitted by end of February.

a. Only minor updates to the 2019 Financial Disclosure Form were made to the form for purposes of clarification and to reduce errors. Later in 2020, the Board made similar minor edits to the 2020 form and moved to allow the 2020 signed Forms (to be submitted in 2021) to be able to be submitted via scan or fax. All forms must be signed. The Board was informed about the current barriers to use of electronic signatures on the forms (See recommendations to the Legislature above.).

b. The printing and distribution of the Financial Disclosure Forms April 1, 2020, required by law, by mail or by personal service, was delayed during the pause on County business during the pandemic. The Board extended the deadline for return of Forms for one month to June 15, 2020.

c. All **319** of the required financial disclosures were received after sending delinquent letters to six filers, imposing a penalty of $2000 which could be waived upon receive of their Financial Disclosures. All penalties were waived after timely submissions.

d. The Board as a whole reviewed all 319 of the individual disclosure forms for completeness and possible ethical violations.
e. Twenty-nine (29) disclosures required follow-up contacts by Chair. Follow-up communications were routinely required in instances of missed questions, missed pages, unclear abbreviations and unclear descriptions of membership on Boards. The Chair sent three letters cautioning against potential conflicts of interest These three letters to elected officials or Board members cautioned them about avoiding conflicts of interest and informing them about any necessary recusals and requirements to report these potential conflicts to the Clerk of Legislature and the County Attorney. (The Board utilizes templates to request additional information, to warn of potential conflicts of interest, or to notify individuals that they had violated county law by accepting gifts in excess of allowable amounts. Copies are also sent to department heads and the District Attorney, when appropriate.)
f. Working Family, Green and Independent political parties continue to be reviewed to determine whether they meet the criteria that would require these parties to file annual Financial Disclosures with the Board.
g. The Financial Disclosure Form is in pre-fillable format on the website but still requires actual signatures. **In the future, the Board requests that the County create an online Form able to accept an electronic signature. An electronic submission with proper signature would substantially reduce paperwork, storage and printing costs.** http://www2.erie.gov/ethics/sites/www2.erie.gov.ethics/files/uploads/Financial-Disclosure-Form.pdf

5. Erie County Board of Ethics Rules & Regulations:

a. The Board maintained the policy on confidentiality of identities of complainants, subjects of complaints and results of investigations as effected by public information (i.e., news). Where parties to a complaint or request for investigation have disclosed their role in the matter in public (i.e. public meetings or in public media) the Board may also chose to disclose the names and issues at Board meetings.
"Section 6.13 Policy of Confidentiality
Investigations and consideration by the Board of potential violations of the Ethics Code shall be conducted confidentially and shall not be disclosed to the public, except as necessary to carry out the powers and duties of the Board. The final determination of the Board on an Investigation shall be made available to the public with such deletions as may be necessary to prevent disclosure of any information the Board determines to be confidential, in accordance with the Freedom of Information Act, as amended." Ethics Board Policy & Procedures

6. Other Issues:

a. Since 2019 the Erie County Personnel Department requires completion of an Annual Erie County Code of Ethics Employee Disclosure Forms for all employees. The Personnel Department sends employees this financial disclosure for those not required to file the Annual Form from the Board of Ethics. This has created some confusion. **Although this is not in the purview of the Board, the Board of Ethics continues to recommend that these completed disclosure forms be reviewed by Departments before filing in personnel folders.**
b. The Chair presented a training session at the Ethics for New County Supervisors Training on ethical issues including nepotism in promotion and supervision. There was consensus that the Board may participate in similar trainings in the future.

SUSPENSION

A RESOLUTION TO BE SUBMITTED BY
LEGISLATORS LORIGO, GREENE, TODARO, AND MILLS

Re: Calling on the Federal Governments of Canada and the United States to Reopen the Border

WHEREAS, in March 2020 all non-essential traffic between the United States and Canada was shut off to prevent the spread of COVID-19; and

WHEREAS, every thirty days that closure has been extended for over a year, with only limited travel exceptions available for purposes deemed essential by the federal government; and

WHEREAS, the health threat caused by COVID-19 currently remains, vaccination efforts in both countries are accelerating with the intended objective of having at least one vaccine dose available for all adults in both countries by summer. Currently, the U.S. has over 130 million residents fully vaccinated; and

WHEREAS, the border closure continues to have an incredible social and economic impact on the communities that are located along it like Erie County, including spouses, children and other loved ones who remain separated from each other; and

WHEREAS, the US and Canada share the longest undefended border in the world and we are one of their largest trade partners. Allowing the resumption of the unfettered movement of goods and people across our joint border is in the best interests of residents both here in the U.S. and in Canada; and

WHEREAS, President Biden has signed an executive order directing the U.S. work alongside the Canadian and Mexican governments to plan for the eventual withdrawal of existing land border restrictions, and

WHEREAS, Erie County's closest Canadian municipality, Fort Erie Ontario, recently passed a similar resolution asking for the U.S. and Canadian federal governments to work together to provide a plan for reopening the border. This honorable body wishes to echo that sentiment by calling on U.S. officials to engage their Canadian counterparts to allow for a swift reopening of the US-Canada border.

NOW, THEREFORE, BE IT

RESOLVED, that this honorable body hereby requests that Canadian and US officials work together to formulate whatever plan is necessary to permit the safe full reopening of the US-Canada border to all traffic; and, be it further

RESOLVED, that this honorable body further requests that the US government provide transparency on the steps and metrics necessary to reopen the border and whether any phasing is necessary; and, be it further

SUSPENSION

RESOLVED, if the US and Canadian governments are unable to safely reopen our border swiftly, both governments should make an effort to facilitate the cross-border vaccination of Canadian residents using excess U.S. supply; and, be it further

RESOLVED, that a certified copy of this resolution be sent to President Biden, the United States Secretary of Homeland Security Alejandro Mayorkas, Representatives Brian Higgins and Chris Jacobs, Senators Chuck Schumer and Kristen Gillibrand, Prime Minister Justin Trudeau, the Fort Erie Council, and any other party deemed necessary and proper.

Fiscal Impact: None for resolution

ERIE COUNTY LEGISLATURE

HON. JOHN J. GILMOUR
9TH DISTRICT LEGISLATOR

92 Franklin St., 4th Fl.
Buffalo, NY 14202
(716) 858-7500
FAX: (716) 858-8895

May 19, 2021

Hon. Joseph Lorigo, Minority Leader
Erie County Legislature
92 Franklin Street, Fourth Floor
Buffalo, New York 14202

Re: Government Affairs Committee Discussion on Proposed Business Closure Local Law

Dear Legislator Lorigo:

I am writing in response to your letter clocked-in on May 10th requesting a Government Affairs Committee discussion on your proposed Business Closure local law.

As I indicated at a committee meeting on April 22nd, I am amenable to holding a committee meeting discussion on the proposed local law. In order to proceed, I request that you provide me with your proposed list of invited committee speakers. Following receipt of that information, I will be in contact with you to schedule a Government Affairs Committee meeting.

Thank you in advance for your cooperation and assistance.

Sincerely,

John J. Gilmour
Chair, Government Affairs Committee

Website: www.erie.gov/gilmour - E-Mail: John.Gilmour@erie.gov

COUNTY OF ERIE

MICHAEL P. KEARNS
COUNTY CLERK

May 24, 2021

Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Re: Amendment of Lease with Southgate Associates, LLC (19-380-CC) and Amendment to 2021 Budget

Dear Honorable Members:

The Erie County Clerk's Office is requesting authorization to amend its lease with Southgate Associates, LLC to add an additional 2,290 square feet of customer service and office space adjacent to the existing leased premises utilized as the Southtowns Auto Bureau at the Southgate Plaza and an 1,890 square foot parking garage for indoor covered parking for county vehicles on the south end of the property.

To fund the adjusted rental payments, a budget amendment will also be required to shift $17,604.57 in available budgeted funds to the appropriate budget line. The build out cost associated with the additional space will be funded by CARES Act funds which have been approved by the Erie County Division of Budget Management.

Should your Honorable Body require any further information please do not hesitate to contact me. Thank you for your consideration of this matter.

Sincerely,

Michael P. Kearns
Erie County Clerk

Enclosures

MEMORANDUM

To: Honorable Members of the Erie County Legislature
From: Michael P. Kearns, Erie County Clerk
Re: Amendment to Lease with Southgate Associates, LLC (19-380-CC) & Amendment to 2021 Budget
Date: May 24, 2021

SUMMARY

The Erie County Clerk's Office is requesting authorization to amend its lease at the Southgate Plaza, located on Union Road in the Town of West Seneca, with Southgate Associates, LLC. The County Clerk's Office also requests to amend its 2021 Budget to shift available budgeted funds to the appropriate budget line to cover the adjusted rental payment.

The purpose of this lease amendment is to add an additional 2,290 square feet of customer service and office space adjacent to the existing lease premises utilized as the Southtowns Auto Bureau at the Southgate Plaza and an 1,890 square foot parking garage for indoor covered parking for county vehicles on the south end of the property. Due to the closure of the pistol permit mobile unit at the Elma Town Hall during the COVID-19 response, the limited customer waiting space in our downtown Pistol Permit Office and an unanticipated sharp increase in pistol permit transactions, the additional leased space would serve to restore a pre-pandemic pistol permit site in the suburbs and increase the footprint of the Pistol Permit Department to promote social distancing.

Further, the County Clerk's Office would utilize the existing Community Outreach Center at the Southgate Plaza exclusively for Auto Bureau commercial dealer transactions. Currently auto dealers will come to the Auto Bureaus with their transactions and add to the volume of customers in our branches. By isolating these transactions to a specific office, this will reduce customer volume inside the auto bureaus. This will free up customer appointments for non-dealer transactions and continue our "Renew Local" efforts to serve customers in-person, preserving local revenues. The Community Outreach Center would then share the expanded lease space at the Southgate Plaza with the pistol permit satellite.

FISCAL IMPLICATIONS

The amendment to the lease will be funded by using available budgeted funds and will not result in an increase to the 2021 Budget.

The base rent for the amended lease, for a five-year term commencing September 1, 2021, shall be as follows:

Year 1: $15.49 per square foot;
Year 2: $15.80 per square foot;
Year 3: $16.12 per square foot;
Year 4: $16.44 per square foot;
Year 5: $16.77 per square foot.

The rental payments are on a full-service gross basis, including: janitorial and maintenance services, operating expenses, and utilities.

REASONS FOR RECOMMENDATION

Adding to the footprint of the Erie County Clerk's Office and Auto Bureau will increase space for customers and enhance social distancing efforts. By revising the lease terms for the additional space and commencing the term September 1, 2021, the County Clerk's Office will be paying approximately $1.00 per square foot less than under the current lease.

CONSEQUENCES OF NEGATIVE ACTION

The Clerk's Office Pistol Permit Department will be required to continue directing customers to its downtown location creating congestion within the office and waiting areas. If Auto Bureau dealer transactions are not isolated from non-commercial transactions there will not be a reduction of traffic in the Auto Bureau locations and customers wait times will be increased.

STEPS FOLLOWING APPROVAL

Upon approval of this resolution, the County Clerk will work with the County Attorney and Division of Budget and Management to amend its lease agreement with the landlord and amend its 2021 Budget.

A RESOLUTION SUBMITTED BY
ERIE COUNTY CLERK

Re: Amendment to Lease with Southgate Associates, LLC (19-380-CC) and Amendment to 2021 Budget

WHEREAS, pursuant to New York State Vehicle and Traffic Law §205, the County Clerk shall act as an agent of the Commissioner of the Department of Motor Vehicles and in such capacity the Erie County Clerk operates the Erie County Auto Bureau; and

WHEREAS, pursuant to New York State Vehicle and Traffic Law §205, the County of Erie retains approximately 12.7% of all fees generated at Erie County Auto Bureau locations; and

WHEREAS, the Erie County Auto Bureau handles approximately 1600 commercial dealership transactions on a weekly basis; and

WHEREAS, additional space for the Erie County Auto Bureau to segregate commercial dealer transactions from ordinary customer transactions will reduce customer volume in existing facilities and enhance social distancing at the Auto Bureaus;

WHEREAS, pursuant to New York State Penal Law §400.00(5) the County Clerk is responsible for the filing of pistol permit applications; and

WHEREAS, the Erie County Clerk's Office pistol permit mobile unit at the Elma Town Hall was closed due to COVID-19; and

WHEREAS, over the past year, the County Clerk's Office's Pistol Permit Department has nearly tripled the amount of pistol permit transactions conducted by the Office; and

WHEREAS, the current location of the Erie County Pistol Permit Office provides inadequate area for its customers to maintain social distancing protocols; and

WHEREAS, the Erie County Clerk's Office is requesting authorization to amend its lease agreement with Southgate Associates, LLC (19-380-CC) for the purpose of adding an additional 2,290 square feet of customer service and office space adjacent to the existing lease premises utilized as the Southtowns Auto Bureau at the Southgate Plaza and an 1,890 square foot parking garage for indoor covered parking for county vehicles on the south end of the property; and

WHEREAS; the Erie County Division of Budget and Management has approved construction build-out costs for the expansion of leased space contemplated herein to be funded by CARES Act funding; and

WHEREAS, funds for the amendment of the lease are available in the 2021 County Clerk Budget – Fund Center 11320 – Auto Bureau Division

NOW, THEREFORE, BE IT

RESOLVED, that the County of Erie is hereby authorized to amend its Lease Agreement with Southgate Associates, LLC (19-380-CC) to add an additional 4,180 square feet of customer service and office space, as well as a parking garage for indoor covered parking for county vehicles; and be it further

RESOVLED, that said lease shall be amended for a term of sixty (60) months commencing on September 1, 2021 and include a total of 12,660 of square feet with rental payments as follows: Year 1: $15.49 per square foot; Year 2: $15.80 per square foot; Year 3: $16.12 per square foot; Year 4: $16.44 per square foot; Year 5: $16.77 per square foot; including options to extend the lease, at the Tenant's sole discretion upon written notice to the Landlord, for two (2) consecutive five (5) year terms with 2% annual increases and be it further,

RESOLVED, that the Erie County Legislature does hereby authorize the Budget Director to make the following adjustments and changes to the Erie County Clerk's 2021 Budget, as follows:

DECREASE: $17,604.57
Fund Center 11320 – Auto Bureau Division

516020	Professional Services Contracts & Fees	$ 17,604.57

Appropriate that as follows:

INCREASE: $17,604.57
Fund Center 11320 – Auto Bureau Division

545000	Rental Charges	$17,604.57

RESOLVED, that the Erie County Legislature does hereby authorize the Budget Director and Comptroller make any and all changes necessary to effectuate the implementation of this resolution; and be it further

RESOLVED, that the Clerk of the Legislature shall forward certified copies of this Resolution to the Erie County Executive; the Erie County Attorney; the Director of the Division of Budget and Management; and the Erie County Clerk.

May 14, 2021

Erie County Legislators
92 Franklin Street
Buffalo, NY 14202

Dear Erie County Legislators:

Yesterday you met virtually to conduct your 9th general session of the year. Your 8th general session was held two weeks prior. In full disclosure, I am a candidate running for the position of Erie County Legislator for the 9th Legislative District. That district proudly serves the City of Lackawanna, parts of South Buffalo, the Village of Blasdell and the entire Town of Hamburg including the Village. Since I took an interest in serving my community in the Legislature I have been keeping track of your sessions. During many of them you rightly sponsor and pass resolutions that send messages to the State on how Erie County feels about certain issues. I think this is an appropriate role for the Erie County Legislature. I believe smaller forms of government have a better pulse for what the community feels and their elected leaders should be advocates for those feelings and beliefs.

Noticeably absent from the last two general sessions of the Erie County Legislature was any resolution in support of the Erie County Fair. This is odd because there has been significant media coverage over the past several weeks analyzing the steps the fair has taken to safely reopen. All of those media reports, including some reported yesterday, conclude that the fair is waiting on guidance and permission from the State. At their own expense, the Fair has conducted studies to review how they can safely open and they have a solid plan in place to do so.

The Legislature should pass a resolution supporting The Erie County Agriculture Society's plan to operate the Erie County Fair this year. Thousands of residents look forward to it every year, hundreds of small businesses rely on it, and the economic impact in term of sales tax for Erie County and traffic for restaurants in Hamburg is significant.

I want to best serve the residents of Hamburg, and I'm not going to sit idly by and wait for Election Day to come when something can be done today. I took the time to draft a resolution in support of the fair's 2021 operations. I have attached it to this letter, and I sincerely request that you consider and pass it to send a message to Albany that we support our local fair. It should not be acceptable that the State has already given the "green light" to the State Fair, but not ours. The Hamburg Legislator should be sponsoring legislation to send this message. You have voted on so many other resolutions that send a message to the State with a lesser local impact. Let's get this one (or a version of it) passed!

Thank you for your consideration,

Frank Bogulski

Erie County Legislature Resolution

Submitted by: Frank Bogulski

Entitled: **"Local Support for the Erie County Fair"**

WHEREAS, The Erie County Agricultural Society has been annually producing the Erie County Fair since 1820 with the stated intention of promoting and showcasing our community's agricultural traditions, talents, diversity and heritage, and

WHEREAS, it is understood that the Erie County Agricultural Society is a private non for profit established in 1819 that is not affiliated with Erie County Government, and

WHEREAS, over the last 201 years the Erie County Fair has grown into an annual tradition that brings more than 1.1 million visitors to the Town of Hamburg, and

WHEREAS, the Erie County Fairgrounds span 275 acres, 112 buildings, and 4 parks that host hundreds of vendors and small businesses each operating year, and

WHEREAS, with hundreds of vendors and small businesses serving more than 1.15 million visitors over a two week period, the Erie County Fair yields a significant positive economic impact for Erie County and the Town of Hamburg, and

WHEREAS, that economic impact extends to revenue for small businesses operating at the fair, a huge boom in foot traffic at local Hamburg restaurants and businesses, and an increase in sales tax revenue for Erie County which helps fund schools, local municipalities, and public transportation, and

WHEREAS, the Erie County Fair also provides a platform for an immeasurable educational and cultural impact on our community with many nonprofit vendors setting up displays related to agriculture, heritage, conservation, hobbies and crafts, sports and many more, and

WHEREAS, the Erie County Fair is a tradition that our community should not go without for another year, and

WHEREAS, the Erie County Fair has plans in place to safely operate at 100% capacity this August and they are currently awaiting state guidance and approval to announce their 2021 operating plans, and

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature fully recognizes the positive economic impact of the Erie County Fair for the Town of Hamburg and the County of Erie, and the hundreds of vendors and small businesses that in and around the fair, and, be it further

RESOLVED, that the Erie County Legislature fully recognizes the positive cultural and educational impact the Erie County Fair has on its more than 1.15 million annual visitors, and, be it further

RESOLVED, that the Erie County Legislature fully supports the Erie County Agricultural Society's plans to safely operate the Erie County Fair at 100% capacity this August and respectfully requests that the State of New York allows their 2021 operation and immediately issues the guidance they seek to safely operate, and, be it further

RESOLVED, that certified copies of this resolution shall be sent to:

- Mr. Wesley C. Dust, Chairman of the Board of the Erie County Agricultural Society
- Ms. Jessica L. Underberg, Fair Manager and CFO
- The Western New York Legislative Delegation
- Hon. Andrew M. Cuomo, Governor, State of New York
- Dr. Howard A. Zucker, Commissioner of Health, State of New York

- **FISCAL IMPACT:** Extremely Positive for Erie County, Western New York and the Town of Hamburg