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## COUNTY OF ERIE

JEREMY C. TOTH  
COUNTY ATTORNEY

KRISTEN M. WALDER  
DEPUTY COUNTY ATTORNEY

### DEPARTMENT OF LAW

### MEMORANDUM

TO: Olivia Owens, Clerk, Erie County Legislature

FROM: Jeremy C. Toth, Erie County Attorney

DATE: February 4, 2025

RE: Transmittal of New Claims Against Erie County

*JCT/dea*

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Ms. Owens:

In accordance with the Resolution passed by the Erie County Legislature on June 25, 1987 (Int. 13-14), attached please find six (6) new claims brought against the County of Erie. The claims are as follows:

#### **Claim Name**

1. Maurice Jackson v. County of Erie;
2. Tessa Wickham v. County of Erie;
3. Leo & Darcy Wasch v. County of Erie;
4. Wendy Amoia v. County of Erie, et al.;
5. Danielle Green v. Erie County Sheriff's Office; and
6. Dominique Calhoun v. County of Erie, et al.

JCT:dld  
Attachments



## COUNTY OF ERIE

JEREMY C. TOTH  
COUNTY ATTORNEY

KRISTEN M. WALDER  
DEPUTY COUNTY ATTORNEY

### DEPARTMENT OF LAW

January 6, 2025

Ms. Olivia Owens, Clerk  
Erie County Legislature  
92 Franklin Street, 4th Floor  
Buffalo, New York 14202

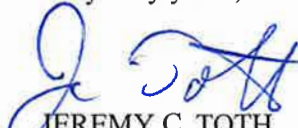
Dear Ms. Owens:

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

File Name:	<i>Jackson, Maurice v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Maurice Jackson 12 Water Street Shortsville, New York 14548
Claimant's attorney:	Timothy Hiller, Esq. Hiller, Comerford Injury & Disability Law 6000 North Bailey Avenue, Suite 1A Amherst, New York 14226

Should you have any questions, please call.

Very truly yours,

  
JEREMY C. TOTH  
Erie County Attorney

JCT:dld  
Enc.

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

**IN THE MATTER OF THE CLAIM OF:**

**MAURICE JACKSON**

Claimant,

-against-

**COUNTY OF ERIE**

Respondent.

This paper received at the  
Erie County Attorney's Office  
from Montique Geising on  
the 23 day of December, 2024

7:26 a.m. / 21

**NOTICE OF CLAIM**

**PLEASE TAKE NOTICE** that the undersigned claimant hereby makes claims and demand against the COUNTY OF ERIE, Respondent, as follows:

1. The name and post-office address of each claimant and claimant's attorney:

MAURICE JACKSON  
12 Water Street  
Shortsville, New York 14548

HILLER COMERFORD INJURY &  
DISABILITY LAW  
Timothy Hiller, Esq.  
6000 North Bailey Avenue, Suite 1A  
Amherst, New York 14226

2. The nature of the claim:

The claim is for personal injuries sustained by MAURICE JACKSON, claimant, because of the carelessness, recklessness, and negligence of the respondent, COUNTY OF ERIE, by their agents, servants, and/or employees.

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

Based upon information and belief, MAURICE JACKSON, claimant, was going to his seat at HighMark Stadium, located at 1 Bills Drive, Orchard Park, New York on September 23, 2024 at approximately 8:15 PM. The claimant attended a Buffalo Bills football game and was going to his seat located in Section 224, Row 4, Seat 21, in the stadium, when he slipped on wet stairs causing him to fall.

Upon information and belief, the injuries and damages for which this claim is made were caused by respondents, their agents, servants, employees, and includes, but is not limited to: failing to inspect public areas; failing to prevent a foreseeable injury from taking place; creating a dangerous condition; failing to warn of a foreseeable dangerous

condition and subsequent injury; and failing to remedy a dangerous condition.

4. The items of damages or injuries claimed are:

Upon information and belief, the injuries include, but are not limited to, a torn patellar tendon in his right knee.

**PLEASE TAKE FURTHER NOTICE**, that the undersigned hereby claims the above occurrence took place through the negligence of COUNTY OF ERIE, their agents, servants, and employees.

The undersigned presents this claim and demand for adjustment and payment and notifies you that unless said claim is adjusted and payment made as demanded, within the time limited for compliance with this demand by the statutes made and provided, that it is the intention of the undersigned to commence an action thereon.

DATED: October 31, 2024  
Amherst, New York



Timothy Hiller, Esq.

**HILLER COMERFORD INJURY AND  
DISABILITY LAW**

*Attorneys for Claimant*

6000 North Bailey Avenue, Suite 1A  
Amherst, New York 14226  
(716) 564-3288

STATE OF NEW YORK )

COUNTY OF ERIE )

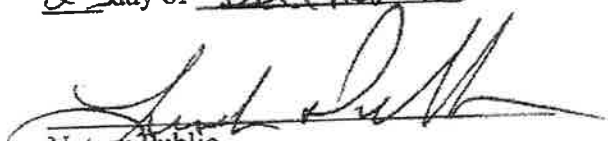
TOWN OF AMHERST ss.:

I, MAURICE JACKSON, being duly sworn, deposes and says that he is the Claimant above named; that he read the forgoing Notice of Claim and knows the contents thereof; that the same is true to the knowledge of 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.

  
MAURICE JACKSON

Sworn to before me this

23 day of December, 2024.

  
Notary Public

LINDA DEDLINE  
NOTARY PUBLIC, STATE OF NEW YORK  
Registration No. 01DE4885528  
Qualified in Erie County  
Commission Expires May 18, 2027



## COUNTY OF ERIE

JEREMY C. TOTH  
COUNTY ATTORNEY

KRISTEN M. WALDER  
DEPUTY COUNTY ATTORNEY

DEPARTMENT OF LAW

January 6, 2025

Ms. Olivia Owens, Clerk  
Erie County Legislature  
92 Franklin Street, 4th Floor  
Buffalo, New York 14202

Dear Ms. Owens:

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

File Name:	<i>Wickham, Tessa v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Tessa Wickham 141 Lord Street Dunkirk, New York 14048
Claimant's attorney:	Kevin F. Walsh, Esq. Dan Chiacchia Attorneys, PLLC 5113 South Park Avenue Hamburg, New York 14075

Should you have any questions, please call.

Very truly yours,

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

JEREMY C. TOTH  
Erie County Attorney

JCT:dld  
Enc.

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

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In the Matter of the Claim of:

TESSA WICKHAM,  
141 Lord Street  
Dunkirk, New York 14048

Claimant,

-against-

COUNTY OF ERIE  
95 Franklin Street  
Buffalo, New York 14202

Respondent.

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

**NOTICE OF CLAIM**

This paper received at the  
Erie County Attorney's Office  
from Doug DiFilippo on  
the 18<sup>th</sup> day of November 20 24  
at 10:34 a.m./p.m.

  
Assistant County Attorney

**PLEASE TAKE NOTICE**, that TESSA WICKHAM, hereby claims damages against the COUNTY OF ERIE, its officers, agents and/or employees for injuries incurred by her, as a result of the wrongful, negligent, grossly negligent, reckless and careless acts of the respondent, its officers, agents and/or employees on or about August 24, 2024, and in support thereof submits the following:

1. The claimant is TESSA WICKHAM, whose post office address is 141 Lord Street, Dunkirk, New York, 14048, and telephone number (716) 563-8969.
2. The attorney for the claimant herein is DAN CHIACCHIA ATTORNEYS, PLLC, Kevin F. Walsh, Esq., whose post office address is 5113 South Park Avenue, Hamburg, New York, 14075, and telephone number (716) 648-3030.

3. At approximately 4:35 p.m. on August 24, 2024, TESSA WICKHAM sustained severe personal injuries while attending a Buffalo Bills game at Highmark Stadium in the Town of Orchard Park, County of Erie, State of New York. On said date and time, TESSA WICKHAM was struck in the head by an ill placed and unsecured ladder which fell on her as she was waiting for an elevator in the 300-level area of the north tower. As a result of this incident, TESSA WICKHAM sustained, *inter alia*, a concussion with associated sequela, an injury to her neck, blurred vision, headaches, foggiess, nausea, and balance issues.

4. The negligence, gross negligence, recklessness and/or unlawful acts of the respondent, its officers, agents, employees, servants, contractors, independent contractors, and representatives includes, but is not limited to, the following: failure to use reasonable care under the circumstances; failure to keep the premises in a reasonably safe condition, free from known and knowable hazards; failure to inspect the premises for hazardous conditions; failure to report the hazardous condition posed by the ladder; failure to report the hazardous condition posed by the ladder to the appropriate person/entity; failure to rectify the hazardous condition of the ladder despite such hazardous condition being known or knowable prior to the incident; failure to have an inspection program, routine, custom or practice at the premises; failure to supervise and/or adequately supervise their employees, agents, servants, contractors, independent contractors and other representatives of respondent; failure to train and/or adequately train employees, agents, servants, contractors, independent contractors and other representatives of respondent; failing to repair or correct the dangerous conditions of the area in which the subject incident occurred; failing to adequately, properly and sufficiently monitor and inspect the room with such reasonable frequency as necessary to avoid the dangerous condition which caused injury to the claimant; creating a hazardous condition; placing fans and patrons of respondents premises in an

unsafe and/or hazardous situation; allowing a ladder to remain unsecured in an area where patrons of respondents premises would be put at risk of injury and/or harm; creating and maintaining a dangerous and hazardous condition to exist to patrons of respondent's premises, including claimant; failing to warn, by sign or other readily visible markings, those lawfully present of such dangerous and hazardous condition; failing to take reasonable precautions to protect those lawfully present, specifically TESSA WICKHAM; failure to prevent the incident; failing to properly and adequately secure, isolate, block off, or barricade the ladder to avoid unnecessarily exposing individuals to the harm and the very occurrence complained of by the claimant; failing to hire or retain appropriate and sufficient personnel and individuals to inspect and correct the dangerous condition created by the unsecured ladder; failing to adequately supervise personnel charged with the use and responsibility for such equipment; failing to provide a clear alternate route for exit free of dangerous conditions; Violations of the 2020 New York State Property Maintenance Code; violations of the 2020 New York State Existing Building Code; violations of the 2020 New York State Fire Code; other violations of codes, ordinances, and status not yet known or discovered, and otherwise acting in a negligent, grossly negligent, reckless and/or careless manner.

5. As a result of the negligence, gross negligence, recklessness and/or carelessness of the respondent, its officers, agents, employees, servants, contractors, independent contractors, and representatives, TESSA WICKHAM sustained serious bodily injuries which include, *inter alia*, a concussion with associated sequelae, an injury to her neck, blurred vision, headaches, fogginess, nausea, and balance issues, when she was struck on the head by a ladder on August 24, 2024, at respondents premises, and that by reason of the aforesaid negligence, gross negligence, recklessness and/or carelessness of the respondent its officers, agents, employees,

servants, contractors, independent contractors, and representatives, the claimant incurred damages in an amount to be determined after trial and/or after further analysis of the physical injuries and the costs of treating same.

6. TESSA WICKHAM seeks general and special damages for the injuries she sustained and the consequences thereof including past pain and suffering, future pain and suffering, increased susceptibility to injury, past medical expenses, future medical expenses, expenses subject to liens such as insurance payments for medical expenses, costs of pursuing an action and attorney's fees, along with any other damages allowable by law.

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

**PLEASE TAKE FURTHER NOTICE**, that the claimant, TESSA WICKHAM, demands payment of said claims, and unless said claims are paid within a reasonable time, it is the intention of the claimant to commence suit against the COUNTY OF ERIE.

Dated: November 15, 2024  
Hamburg, New York



Tessa Wickham  
Claimant



Kevin F. Walsh, Esq.  
**DAN CHIACCHIA ATTORNEYS, PLLC**  
Attorneys for the Claimant  
Office and Post Office Address  
5113 South Park Avenue  
Hamburg, New York 14075  
Telephone: (716) 648-3030  
Facsimile: (716) 648-0810  
Email: kevinw@716attorneys.com

**VERIFICATION**

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

TESSA WICKHAM, being duly sworn, deposes and states:

1.     That deponent is the claimant in the instant cause.
2.     That deponent has read the foregoing Notice of Claim and knows its contents.
3.     That the same is true to deponent's personal knowledge except as to those matters

therein stated to be alleged upon information and belief, and that as to those matters, deponent believes them to be true.

  
\_\_\_\_\_  
TESSA WICKHAM

Sworn to before me this  
15<sup>th</sup> day of November, 2024.

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

**KEVIN F. WALSH**  
**Notary Public, State of New York**  
**Qualified in Erie County**  
**Commission Expires November 12, 2027**



## COUNTY OF ERIE

JEREMY C. TOTH  
COUNTY ATTORNEY

KRISTEN M. WALDER  
DEPUTY COUNTY ATTORNEY

DEPARTMENT OF LAW

January 6, 2025

Ms. Olivia Owens, Clerk  
Erie County Legislature  
92 Franklin Street, 4th Floor  
Buffalo, New York 14202

Dear Ms. Owens:

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

File Name:	<i>Wasch, Leo and Darcy v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Leo and Darcy Wasch 1300 Sandridge Road Alden, New York 14004
Claimant's attorney:	Andrew M. Debbins, Esq. Connors LLP 1000 Liberty Building 424 Main Street Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

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

JEREMY C. TOTH  
Erie County Attorney

JCT:dld  
Enc.

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

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LEO WASCH and  
DARCY WASCH,

NOTICE OF CLAIM

Claimants,

- vs. -

COUNTY OF ERIE,

Respondent.

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TO: Jeremy C. Toth  
Erie County Attorney  
County of Erie  
95 Franklin Street  
Buffalo, New York 14202

PLEASE TAKE NOTICE that the Claimants, LEO WASCH and DARCY WASCH, hereby give Notice of a Claim against the COUNTY OF ERIE, (hereinafter "Respondent") and its agents, employees, and others for whom Respondent is vicariously and/or contractually liable, for the injuries and damages suffered by the Claimants as a result of an incident that occurred on August 8, 2024.

In support of this Notice of Claim, the Claimants state the following:

1. The post office address of Claimant, LEO WASCH, is 1300 Sandridge Road, Alden, New York 14004.
2. The post office address of Claimant, DARCY WASCH, is 1300 Sandridge Road, Alden, New York 14004.

3. The attorneys for the Claimants are CONNORS LLP, 1000 Liberty Building, Buffalo, New York 14202; telephone number (716) 852-5533.

4. Unless otherwise indicated, the facts set forth in this Notice of Claim are based upon information and belief, the source of which includes investigation into this matter.

5. This claim arises out of an incident that occurred at approximately 9:00 a.m. on Thursday, August 8, 2024, on Main Street near Lafayette Square Station in the City of Buffalo, State of New York, County of Erie.

6. This is a claim for personal injuries as well as other damages and losses suffered by the Claimants, LEO WASCH and DARCY WASCH, as a result of the acts, omissions, and negligence, and violations of Respondent, its agents, and/or employees.

7. On and before August 8, 2024, the Claimant, LEO WASCH, was employed as a project manager with Patterson-Stevens, Inc.

8. On and around August 8, 2024, Patterson-Stevens, Inc. was hired to perform rail repair and replacement as part of a large-scale project by Respondent.

9. On August 8, 2024, during the course and scope of his employment with Patterson-Stevens, Inc., the Claimant, LEO WASCH, was caused to sustain serious injuries and damages as the result of a falling rail.

10. Upon information and belief, Respondent was responsible for the work at issue because, among other reasons, it was the owner or the agent of the owner of the property where Claimant, LEO WASCH, was working to replace rail tracks

near Lafayette Square Station, or it was a contractor or the agent of a contractor for that project.

11. Upon information and belief, at the date and time above, the Claimant, LEO WASCH, was loading rail tracks to replace rail tracks on Main Street near Lafayette Square Station when a rail fell from the construction machinery and onto his foot.

12. Upon information and belief, Respondent violated the New York State Labor Law, including but not limited to §§ 200, 240(1), and 241(6), and was negligent, careless, and reckless in: causing and permitting Claimant to be exposed to unsafe and hazardous conditions; failing to give the Claimant proper protection; failing to cause to be furnished to Claimant devices constructed, placed, or operated as to give the Claimant proper protection; failing to provide reasonable and adequate protection and safety to the Claimant; failing to provide a safe place to work; providing the Claimant with improper equipment; providing the Claimant with improper equipment for the task at hand; failing to provide adequate fall protection; failing to properly inspect the equipment; allowing work to proceed in the absence of safe equipment; creating a dangerous condition; allowing a dangerous condition to exist; failing to discover the dangerous condition; failing to warn the Claimant of a dangerous condition; failing to provide adequate supervision; and being generally negligent, careless, and reckless.

13. As a result of the acts and/or omissions described above, the Claimant, LEO WASCH, sustained serious and permanent injuries, including but not limited to serious injury to his left lower extremity.

14. As a result of the acts and/or omissions described above, Claimant, DARCY WASCH, was deprived of the services of her husband and of the comfort and happiness of her husband's society.

15. The incident alleged herein was the result of the statutory violations, negligence, carelessness, and recklessness of Respondent and/or its agents, employees, and others for whom Respondent is vicariously and/or contractually liable, without any negligence on the part of the Claimant, LEO WASCH.

WHEREFORE, the Claimants, LEO WASCH and DARCY WASCH, respectfully request that this claim be allowed and paid by Respondent, COUNTY OF ERIE. You are hereby notified that unless it is adjusted and paid within

thirty (30) days from the date of this presentation to you, the Claimants intend to commence an action on this matter.

DATED: Buffalo, New York  
October 17, 2024

A handwritten signature in black ink, appearing to read "Terrence M. Connors", is written over a horizontal line.

Terrence M. Connors, Esq.

Andrew M. Debbins, Esq.

CONNORS LLP

*Attorneys for the Claimants*

1000 Liberty Building

Buffalo, New York 14202

(716) 852-5533

tmc@connorsllp.com

amd@connorsllp.com


VERIFICATION

STATE OF NEW YORK       )  
COUNTY OF ERIE        ) ss.  
TOWN OF ALDEN         )

LEO WASCH, being duly sworn, deposes and says that he is a Claimant in the within action, that he has read the foregoing Notice of Claim, and knows the contents thereof; that the same is true to his knowledge except as to those matters therein alleged upon information and belief, and as to those matters, he believes them to be true.

  
Leo Wasch

Sworn to before me this  
17 day of October, 2024

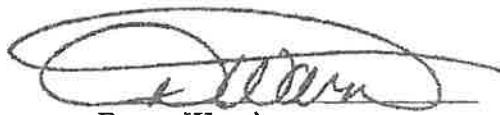
  
Notary Public

SHERRIE A. PIATEK  
NOTARY PUBLIC, STATE OF NEW YORK  
QUALIFIED IN ERIE COUNTY  
MY COMMISSION EXPIRES AUGUST 14, 2025

**VERIFICATION**


STATE OF NEW YORK       )  
COUNTY OF ERIE        ) ss.  
TOWN OF ALDEN         )

Darcy Wasch, being duly sworn, deposes and says that she is a Claimant in the within action, that she has read the foregoing Notice of Claim, and knows the contents thereof; that the same is true to her knowledge except as to those matters therein alleged upon information and belief, and as to those matters, she believes them to be true.



Darcy Wasch

Sworn to before me this  
17 day of October, 2024

  
Notary Public

SHERRIE A. PIATEK  
NOTARY PUBLIC, STATE OF NEW YORK  
QUALIFIED IN ERIE COUNTY  
MY COMMISSION EXPIRES AUGUST 14, 2025



## COUNTY OF ERIE

JEREMY C. TOTH  
COUNTY ATTORNEY

KRISTEN M. WALDER  
DEPUTY COUNTY ATTORNEY

DEPARTMENT OF LAW

January 6, 2025

Ms. Olivia Owens, Clerk  
Erie County Legislature  
92 Franklin Street, 4th Floor  
Buffalo, New York 14202

Dear Ms. Owens:

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

File Name:	<i>Amoia, Wendy v. County of Erie, et al.</i>
Document Received:	Notice of Claim
Name of Claimant:	Wendy Amoia 313 Norwood Avenue Buffalo, New York 14222
Claimant's attorney:	Leonard D. Zaccagnino, Esq. Shaw & Shaw, P.C. 4819 South Park Avenue Hamburg, New York 14075

Should you have any questions, please call.

Very truly yours,

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

JEREMY C. TOTH  
Erie County Attorney

JCT:dld  
Enc.

STATE OF NEW YORK

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WENDY AMOIA  
313 Norwood Avenue  
Buffalo, NY 14222

Claimant

-vs-

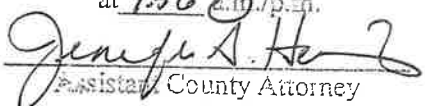
**NOTICE OF CLAIM**

City of Buffalo  
65 Niagara Square  
Buffalo, NY 14202

County of Erie  
95 Franklin Street  
Buffalo, NY 14202

Niagara Mohawk Power Corporation  
n/k/a National Grid  
300 Erie Boulevard West  
Syracuse, NY 13202

Verizon Communications, Inc.  
140 West Street  
NY, NY 10007

This paper received at the  
Erie County Attorney's Office  
from Anthony Crowley on  
the 8<sup>th</sup> day of November, 2024  
at 9:56 a.m./p.m.  
  
Assistant County Attorney

Respondents

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TO: City of Buffalo  
65 Niagara Square  
Buffalo, NY 14202

County of Erie  
95 Franklin Street  
Buffalo, NY 14202

Niagara Mohawk Power Corporation  
n/k/a National Grid  
300 Erie Boulevard West  
Syracuse, NY 13202

Verizon New York, Inc.  
140 West Street  
NY, NY 10007

**PLEASE TAKE NOTICE**, claimant herein makes a claim for damages against respondents and in accordance with the requirements of General Municipal Law § 50-e, state as follows:

1. Claimant resides at 313 Norwood Avenue, Buffalo, New York 14222.
2. Claimant is represented by Shaw & Shaw, P.C. (Leonard D. Zaccagnino, Esq., of counsel), 4819 South Park Avenue, Hamburg, New York 14075, (716) 648-3020 Telephone, (716) 648-3730 Fax; lzaccagnino@shawlawpc.com
3. This claim is for personal injuries and other damages sustained by the claimant as a result of the negligence of the respondents.
4. The claim arose in the afternoon on October 19, 2024 on the sidewalk adjacent to 538 and 554 Elmwood Avenue, Buffalo, Erie County, New York, which premises are under the care, custody and control of the respondents.
5. The incident aforesaid and the injuries and resulting damages hereinafter alleged were caused solely and wholly by the acts of the respondents, their agents, servants and/or employees when they negligently, carelessly and recklessly, and without limitation thereto, designing, inspecting, maintaining, repairing the area where the claimant fell; in failing to properly and adequately erect and install construction signs and barriers, including, but not limited to, the placement of sand bags in the area of the sidewalks adjacent to 538 and 554 Elmwood Avenue, Buffalo, Erie County, New York. The injuries were caused as a result of said negligence, carelessness and/or reckless disregard for the safety of others, particularly the claimant herein, without any contribution on the part of the claimant thereto by agents, servants and employees of the respondents, causing the plaintiff to sustain injuries when falling to the ground.

Said accident occurred solely and wholly through the negligence of the respondents and/or their agents, servants and/or employees herein without any negligence on the part of the claimant contributing thereto.

As a result of the accident, the claimant has suffered severe, permanent injuries, including, upon information and belief, injuries and permanent scarring; has been caused to undergo surgical repair of her injuries; has been caused to suffer and sustain pain and suffering as to the past, to the present and, upon information and belief, into the future; has suffered shock to the nerves and nervous system, together with internal injuries, emotional upset and depression; has been deprived of the ability to enjoy a life and lifestyle that she was able to participate in and enjoy prior to the happening of said accident; the claimant has incurred medical and hospital expenses related to care, treatment and attempted cure of said injuries of the and residual effects thereof, and upon information and belief, will continue to incur said injury related expenses in the future; has been and may be further subjected to impairment of earnings, future earnings and/or future earning capacity as a result of the injuries sustained and/or the residual permanent effects relating thereto.

In addition, the claimant will make claim for any and all expenses incurred as to past, present and future, as will relate to the medical care, treatment and attempted cure of the claimant herein for her injuries.

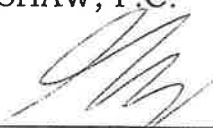
6. This is a claim for money damages for personal injuries and economic loss sustained by claimant against respondents, their agents, servants and employees, when claimant sustained serious personal injuries as hereinabove set forth.
7. The incidents aforesaid and the injuries and resulting damages were caused wholly and solely by the intentional actions of the respondents, their agents, servants and/or employees in that said respondents' actions or lack thereof resulted in serious and permanent injuries and/or damages to claimant herein.

8. As a result of the of the aforesaid conduct of said respondents, the claimant herein has suffered severe and permanent injuries including, but not limited to, lacerations to her face, including the necessity of suturing; headaches; eye droop and others as yet to be diagnosed; has been caused to suffer and sustain pain and suffering as to the past to the present and, upon information and belief, into the future; has suffered shock to the nerves and nervous system; together with internal injuries, emotional upset and depression; has been deprived of the ability to enjoy a life and lifestyle that she was able to participate in and enjoy prior to the happening of said accident; has incurred medical and hospital expenses related to her care, treatment and attempted cure of said injuries and residual effects thereof and, upon information and belief, will continue to incur said injury-related expenses in the future; has been and may be further subjected to impairment of earnings, future earnings and/or future earning capacity as a result of the injuries sustained and/or the residual permanent effects relating thereto.
9. In addition, claimant will make a claim for any and all expenses incurred as to the past, present and future, as will relate to the medical care, treatment and attempted cure claimant herein for the injuries she sustained on October 19, 2024.

**WHEREFORE**, claimant requests that these claims, as set forth, be paid and allowed by respondents.

DATED: October 23, 2024  
Hamburg, New York

SHAW & SHAW, P.C.



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Leonard D. Zaccagnino  
Attorneys for Claimant  
4819 South Park Avenue  
Hamburg, New York 14075  
(716) 648-3020 Telephone  
(716) 648-3730 Facsimile  
lzaccagnino@shawlawpc.com

VERIFICATION

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

**Wendy Amoia** being duly sworn, deposes and says that she is the claimant in the within action; that she has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to her own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters, deponent believes it to be true.

Wendy Amoia  
Wendy Amoia

Sworn to before me this  
23 day of October 2024

Gail Galfo  
Notary Public





## COUNTY OF ERIE

JEREMY C. TOTH  
COUNTY ATTORNEY

KRISTEN M. WALDER  
DEPUTY COUNTY ATTORNEY

### DEPARTMENT OF LAW

January 7, 2025

Ms. Olivia Owens, Clerk  
Erie County Legislature  
92 Franklin Street, 4th Floor  
Buffalo, New York 14202

Dear Ms. Owens:

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

File Name:	<i>Green, Danielle C. v. Erie County Sheriff's Office</i>
Document Received:	NYS Division of Human Rights Charge of Discrimination
Name of Claimant:	Danielle C. Green
Claimant's attorney:	Claimant is proceeding <i>pro se</i> .

Should you have any questions, please call.

Very truly yours,

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

JEREMY C. TOTH  
Erie County Attorney

JCT:dld  
Enc.

NEW YORK STATE  
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF  
HUMAN RIGHTS on the Complaint of

DANIELLE C. GREEN,

Complainant,

v.

ERIE COUNTY, SHERIFF'S OFFICE,

Respondent.

COMPLAINT

Pursuant to Executive Law,  
Article 15

Case No.

**10239611**

I, Danielle C. Green, charge the above-named respondent, whose address is 134 West Eagle Street, 4th Floor, Buffalo, NY, 14202 with an unlawful discriminatory practice relating to employment in violation of Article 15 of the Executive Law of the State of New York (Human Rights Law) because of race/color.

Date most recent or continuing discrimination took place is 7/5/2024.

The allegations are:

SEE ATTACHED

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

# New York State Division of Human Rights Complaint Form

## Individual filing the complaint

Please provide the information requested below.

First Name

Danielle

Middle Initial

C

Last Name

Green

Street Address

City

State

RECEIVED

NOV 04 2024

Buffalo EFAX/INBOX

RECEIVED

SEP 03 2024

Buffalo EFAX/INBOX

Are you completing this form for someone else?

No

## Your complaint

Jurisdiction

Employment

Employment

Please specify where the discrimination occurred

Employment including paid internship and domestic workers)

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

No

Date of hire

08/01/2022

Last day of work

08/01/2024

Position held or applied for

Medical Records Administrator

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

20 or more

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

Gave me different or worse job duties than other workers doing the same job

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

Harassed or intimidated me on any basis indicated here

Other - Write In (Required): harassed, treated differently than other employees,

## Basis

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basis of alleged discrimination in employment:

Race/Color (because you are Asian, Black, White, etc.; includes ethnicity; includes traits historically associated with race such as hair texture or hairstyle)

Please specify race/color:

African American

You are filing a complaint against

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Entity that discriminated against you:

Name of entity

Erie County Sheriff's Office

Street Address

134 West Eagle Street

City

Buffalo

State

Zip

14215

In what county or borough did the violation take place?

Phone Number

7168587618

Email address

Dberry\_coding@yahoo.com

Fax Number

Company Website

<https://www4.erie.gov/sheriff>

Date of the most recent act of alleged discrimination

~~07/05/2022~~

July 5, 2024 (July 5<sup>th</sup> 2024)

Description of discrimination

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Tell us more about each act of discrimination that you experienced. Please include dates, names of people involved, and other details. You must explain why you think these acts were discriminatory and how these acts are connected the protected class (race, color, sex, disability, etc.) you selected previously. If you have supporting documentation or evidence, you may provide it later.

This Sentence officially started August 1, 2022, the first interview I had was with Sharade Aldinger, the date was February 2024 and at that time was offered the job at Erie County Sherriff's Office at a rate of pay of \$20.00 per hour

(41,600 annually) which is below the average salary for the job and my qualifications so at that time I declined the job. I was called again in July by Sharade A(dinger and told that the position went to legislation and the rate of pay was increased with my years of experience and years of service within the county I would be able to start at a different rate of pay then first offered and if could I come in again to discuss further, I did meet with Sharade Aldinger again and I was at that time offered a different rate of pay \$29.00 with incremental raises, for the position and at the time I accepted that offer and was then hired at Erie County Sheriffs Office, after successfully passing background checks, drug screens, and other various testings. was hired as the Medical Records Administrator of both facilities, the holding center and the Penn out in Alden. On 7127122. I received a welcome email from Sharade Aldinger which included my official 1st day to start (August 1st, 2022) with the hours of work being 8 am-4 pm, the number of weeks for training (a minimum of 6 weeks), and each person of contact to reach out to for support during the onboarding process to include Crystal Quinn and Vonda More (policies & procedures), Serita ( Employee ID and HR paperwork), Mary Armitage (computer access), Adam Manifredo (fobs for DUO and Healthetlink), Abigail Armitage (introduction to staff at 134 and the holding center and the medical record process) Angie (training at the holding center) Cheryl (training at the Penn). On day 1, August 1, 2022, I was to report to 134 West Eagle and would spend most of my time there to complete the onboarding process. I was also told that during my training, I would be provided an office within 134 and that I would also be at the Holding center as necessary to obtain records that were still paper-based. by day 3, August 3, 2024, Abigail (Abby) Armitage (acting Medical Records Administrator, the person who was supposed to train me) stopped showing up (she would hide in her office, and could hear her working) at the time that was discussed by Sharade as well as Abby as per email also verbal discussion with Abby. Abby also stopped training me (she told me that she was working on something) I was only allowed to sit in the Education room and read policies all day, not preparing for the job I was going to be doing this went on for a few days before I asked if it was something I could help out with or something I could do because I wasn't scheduled to go to the holding center or the Penn at that time, no one ever had a definitive answer so I had to remain in the training room reading and rereading policies that had very little to do with my job and although I asked for a computer, desk, and office space to work in and get situated and to get acclimated in my new role I was denied (Abby who was the acting Medical Records Administrator had an office in 134 and not in the jail). Vonda Moore the Nurse Educator at ECSO was going over Policies and Procedures (which were mainly geared towards Nurses) and also asked if I could be provided with an area and a computer so I did not have to only sit in the training room and continue to go over Policies that did not pertain to my job and Vonda was also told no because she (meaning myself Danielle Green) is not going to be here at 134 by James Balys (although the current acting Medical Records Administrators office was at 134). The onboarding process continued, and I tried to keep myself busy, by organizing, refreshing myself with laws regarding disclosure, and researching correctional health processes about the Medical Records in a correctional facility on my own, when I found an EMPTY (not occupied by anyone, as the current employees started to move to different offices) office with a computer I would sit in that office and try to work on ROIS that were being requested, and not answered by Abby, and by the next day the computer would be removed by Mary Armitage. Within the second or third week, not after the 6 weeks I was supposed to receive I was thrown into an overcrowded file/ storage room where there barely any room to walk tet alone work within the holding center, the room was extremely cold, dirty, and had black mold coming from the vents, this also the same room were all the files were stored on large rolling file cabinets that were built into the floor unable to be moved, of every individual that was ever incarcerated and currently incarcerated, mental health records, med carts that were not in use, medical tables' bed not in use, as well as 15/20 large recycling bins that were being used for the upcoming destruction process, so in a very small corner where there was still no room to sit or move and a door which Mental Health Staff would walk through on a daily basis to get to the bathroom or medical area and back to their offices, Mary Armitage and James Balys put a very small desk, computer, phone and

scanner for me to stay there and work. The desk was very small and uncomfortable and the drawers were locked so I could not store anything on the desk, I was given a standard keyboard although I asked if I could have an ergonomic keyboard (due to carpal tunnel) and if I could have a larger desk or even one that rises (History of a back injury) all of which I was denied (but Amanda M and Adam M and a few other employees all had an ergonomic desk and keyboards and I was given whatever they could find all standard equipment). I was told via email by Sandra Amoia and Sharade Aldinger that they don't provide those things to anyone and when Sandra and Sharade responded to the email I stated no problem I would purchase my own, which I did although I have medically documented reasons (ADA = carpal and cubital tunnel, history of a knee injury, herniated disc in low back and neck) which is why I needed the things that ask for, then I was told that whatever supplies they receive are what they get, then in 2023 I was told that when the budget opens they should be able to get the things that I need. Millington came out and measured a couple of offices, only to hear again at a meeting that the budget was exhausted on bills so nobody was getting anything (Sandra). Amanda M is the supply person and places the orders for things that are needed for administration and the simplest things I would need to perform my daily job duties at Erie County sheriffs I could not acquire them unless I brought them myself. As time went on I continued to have computer problems, problems such as the ability to log in, no access to the necessary programs needed to do the job, email not working, fax not working, expired log in less than the 90-day time frame, multiple people logged in under my name, things that I saved on my computer would be deleted and I knew that they were being deleted because I began to back my files up on my external drive I reported everything to Sandra Amoia and James Balys and nothing was done (supposedly James was looking into it and as of today I'm still awaiting a response although James retired). Things continued to get worse and more unprofessional on a regular basis Mary Armitage and her daughter Abigail Armitage created a hostile work environment including harassing me and not providing me with the things I needed to accurately and effectively perform my job duties, hiding things from me slandering me by saying during the time I was working at the Sheriffs office I was also working my per diem job at ECMC, not including me in meetings that pertained to Medical Records, and On several occasions, I could hear Mary tell Abby that she didn't have to train me, help me or show me anything and that I should know about the medical records process, so On 8/17/22 I sent an email to Sharade Aldinger, who at the time was my supervisor to sit down and further discuss the situation I was going through and how stressful the work environment had become, again nothing was addressed, things would quiet down for a moment but would soon flair up again worse than before. On October 5, 2022, I came into the holding center and my area was in disarray, all of my stuff had been gone through (ransacked), things were missing off my desk, and legal and non-legal paperwork was written on (not by me) and this was not the first incidence of sabotage. On October 12, 2022, I received an email from James Balys that stated that Sandra Amoia wanted to sit down at 10 am and have a brief meeting with Mary, her daughter Abby, and Myself. on the way to the meeting Sandra and I were both walking down the hallway at the same time and she said "I can't help but feel this is my fault and I should have addressed this situation a long time ago, Abby will be going to the holding center as the Senior Medical Secretary and she has no choice". When we all entered the office for the meeting, James Balys started off the meeting with me by stating "Mary said that you don't speak to her" I said to him with all the confusion and unnecessary stress that Mary is causing I feel that is best that I keep quiet, No response is a response! Mary then says, hat "she didn't mean to make me feel unwelcomed but she has a lot going with her mom falling and that I had nothing to do with what is going on at the Sheriffs office it's a situation with her and someone else that has been going on for a while,

'F Abby also chimed in saying "Yeah sorry if I made you feel a certain type of way". James Balys then asked "Will you all be able to get along in 134?" I didn't have a response to this question as I was not the person who instigated or continued the harassment but what did have to say was that "work life and personal life should be kept separate I too am dealing with things but I don't bring them to work". That meeting ended and I was moved from the Holding Center to an office in the Administration (blue room). James Balys tried to tell me that the night nurses were using that area back in the holding center (which was my office) to sleep in so that area needed to be closed and locked from now on, so that is why I was moved back to 134 and given a small office space to do my daily job duties and store medical records that required scanning, records that were subpoena, or under investigation by COC. Once I returned to 134 full-time. When I returned to the Administration Building 134 West Eagle, I spent the entire day in my assigned office concentrating on my job duties, and how I could improve the medical record process, I also felt to keep the conflict that was created by Mary and Abby that was never really addressed would

be best. Most days stayed in my assigned office with the door closed, my door was closed to concentrate on my records, I also closed my door because my office was located in the main meeting area where all interviews and meetings were held so I also closed the door for privacy and quite and because my office door was closed most of the time again Mary started causing more problems by telling other co-workers that when I am in my office with the door closed I am working for Erie County Medical Center (which is my Per-diem job that I HAD disclosed to ECSO day 1), so daily Julie Cotton would come to my office (just to see what I was doing) with 1 lab result (daily) to be scanned into an individuals chart although she had a scanner right in her office. Time progressed and there was not much that changed except the approach to how things were done. For meetings that I was supposed to attend and that pertained to my job, Mary would withhold the time and location so I would not know when or where the meetings were or have them earlier so I would miss them and Julie would say " Oh it was nothing". I often had computer problems and although the Sheriffs office had real IT employees, I was still required to go through Mary Armitage who was a Nurse acting (did not have a degree in computer technology) as an IT person, also in charge of the Medical Records Destruction project (per James Balys) but yet when I was hired as the Medical Records Administrator and per Sharade Aldinger Medical Record Destruction was one of the main things she wanted me to be aware of that I would be working on, the transition of paper records to electronic and did I mind working the overtime to do so. Almost daily I was harassed, picked on, and treated unfairly by many of the people at the Sheriff's office, and at 134 and still, nothing was done each time something would occur, I would email Sharade or try to discuss it with Dr. McGee, I also communicated these instantances to both Sandra Amoia and James Balys (who always sided with Mary and Abby) I discussed this situation with several higher-ups my un-comfortability and how I was being treated and it still continued, because not one of them did anything to resolve any of the issues or none of the problems, conflict that was being created by Mary and Abby against me or even why there was issue everyone acted as if their hands were tied, so me feeling helpless and defeated I filed a complaint on September 25th, 2022, with the Division of Equal Opportunity in hopes that harassment, abuse, unfair treatment would stop, but the complaint was promptly responded to and closed by October 4th, 2022, stating no findings of alleged harassment without even an investigation, or a meeting to hear either side or to see what was going on. Sandy and James' resolution to problems that they knew were going on just ignoring, that I was not creating was to work with each other and try to get along. Time went on and nothing changed for the better, and continued to be professional in an unprofessional environment. As time went on Sara Coffe was hired as the Director of Correctional Health (my new direct supervisor), Sharade resigned and Mary Armitage is now suspended pending investigation I was asked to cover the scanning project by Sara Coffey (all medical records that were in the holding center that were scanned and being scanned in needed to be verified) I agreed to do so. Sandra A came to my office (not asking, but with hearsay) "Mary Said that you are working for ECMC when you are here at the Sheriff's Office", I said to Sandra how ECMC is more advanced than you all are and it is impossible because I need to be Hardwired in on my home computer, but most of all I wouldn't risk either of my jobs, or my credentials doing that, I also told her better yet reach out to my direct supervisor at ECMC and ask her for all my punch ins and punch out but also every account I touch will have a time-stamped digital footprint and please be careful with accusations. While Mary was out on suspension her daughter Abby resigned, and both Sandra and Sara asked me to learn and cover the MAT (Medically Assisted Treatment Program) once again I agreed to help out. A new Senior Medical Secretary is being hired for the Holding Center; Ashley started at the Holding Center at the end of 2023 and again I was asked to train her (I trained her) Sara asked if I would continue to do the MAT program until they hire someone else to help Ashley, again said yes. The Medical records process, the MAT process, and checking the status of the scanned records were all timeconsuming projects some of which was doing at home on my own time (without pay) I was doing it at home on my own FREE time (not being paid by Erie County Sheriffs Office) not because I wanted to but to keep up with all that I was doing and to stay current with everything. Sandra, in one Tuesday meeting, states there is no policy on working from home so please come in and do any work that needs to be done (but ironically there is a policy to work from home for only me when the county is closed due to weather). So once Sandra told me to come in to do everything I began to come in an hour / two hours early to work on Both the scanning and the MAT projects. In February 2024 a new Chief started David Franckowiak and once again during a Tuesday meeting the County is cracking down on overtime unless it is necessary, I didn't want to assume that all the extra jobs Sanda and Sara asked me to do were necessary so I asked did they still want me to come in early and work? Sara Coffee sent an email stating "Stand down on OT and scanning project" I responded to her email and

stated " I was doing both the scanning project and MAT during OT as I previously discussed with you, Crystal, and Amoia each job is time -consuming and hindering me from staying current with my work ROI"

next, I got an email invite from both David F and Sara to discuss Overtime, February 9 there was supposed to be a meeting to discuss "Overtime "(overtime that everyone in 134 still to this day does but I was the only one called to a meeting about), we meet in Davids office the meeting was about everything except overtime, Sara started by saying "you seemed mad," I said why would I be mad? you have given me several jobs to do and you expect them to be done in 7 hours that's impossible" I, barely got a lunch break, and she then handed me a very old job description stating that this new Medically Assisted Treatment program falls under my job duties when in fact I know it didn't, David went on with the rumors of me working for ECMC while I am there ( yet again ) because I have my laptop and why do I bring my laptop and I told him on my 1-hour lunch break I check my emails, he said well I think it's a good ideal if you don't bring your laptop to work (although there is no policy on that, and Amanda M is allowed to bring hers to work and make rhinestone cups that she sells) "and on my lunch break I should do whatever I want like go outside for a walk, or go in the basement to eat"(in 134 there is no breakroom in the basement and almost everyone ate in their office unless there was a gathering). During time that I was training Ashley, I was required to go over to the holding center, it was during this time I was encountered by Thomas Kline at the end of last year during the winter months because I walked from 134 to the holding center with a coat on. he asked who I was, why I was over there and that I needed to obtain a locker because coats are not allowed in the jail, I explained to him that I was administration and that I worked in 134 and we are not assigned lockers, he still gave me a hard time so I just left. To make sure I would not have a problem entering the holding center to trail ,• help Ashley, I went to the United Uniform store and bought a Sheriffs office sweater and on June 25th of this year Kline again called the deputy at the desk had him call me back into the building, I come back not knowing who was looking for me as I just left the unit, Kline come to the desk and ask "where did you get that sweater and why do you have it" I told him that I report to Sandra and he should speak to her. It is July and Ashley resigned, Sandra says "I need you to help out at the holding center we interviewed and offered someone the job and PSD is doing the BGI" BGI can take 2 months so I meet with Jeff Dimartino to discuss times with him to ensure that I can help out and still do the job I was hired to do as it was important to stay timely, by July 5th I received an email from Sandra that stated she spoke to IT personnel and all of my stuff was moved to the Holding center so I can access my files from there and she wanted me there fulltime, So I asked Sandra as a CSEA union member (Union-wise) and those positions in the holding center are Teamsters(Union-wise) how does that work and instead of half day you want me there from 7 am -3 pm she said yes never answering the union question. I was thrown back into the dirty, cold holding center again with triple job duties, no break, and continued harassment from T.Kline. I continued coming to the holding center as ordered by Sandra on my scheduled days to work my work began to pile up because the job of the Senior Medical Secretary is also demanding and requires 3 people and not 1 , and there is little to no time to my Request for information on a regular basis so went to talk to Sara because she was my direct supervisor, she brushed me off and told me to talk to Sandra because she gave the directive she also brushed me off after she seen it was me so I filed a grievance with the union John Dimaffino in regards to doing out of title work (CSEA member doing a teamsters job) last response I received (August 15, 2024) from him was he was waiting for both job descriptions, In the midst of this going Thomas still harassed me daily, either by not letting me out of the Jail facility making me wait long times to get on an elevator or to get out the facility taking the elevator to other floors that never went on, calling the unit once I arrived to verify if it was me. I emailed Sandra and asked who Thomas Kline reported to because he continues to harass me, she claimed she had no idea that he was doing all of this but she knew he filed a grievance because I was coming over there to work and everyone in the Holding Center are in the teamsters union. Sandra once again put me in a hostile environment and left me there and didn't care about my quality of life or health she was well aware of the fact that I feared my safety due to a recent DV situation with an OP on file so why continue to put me in the same environments. It is because of her poor judgment, lack of care and knowledge, and 2 years plus of harassment, stress, and increased migraines that was forced to resign on 8/19/2024, I was treated like a dog while others were treated like royalty, and I had the most work, with the least amount of space in the most uncomfortable environments and I had to supply myself with the tools to do these jobs while others sat around in each others offices all day doing nothing. My last official day was not until 8/19/2024 but someone had already gone into my assigned office, went through my drawers, and taken what they wanted/needed for the new principal clerk (file cabinet and scanner)I am not

sure what else was missing I just took what important to me and what I purchased, but the scanner and file cabinet were given to the new principal clerk who is "covering at the holding center" like I was the only difference is she not forced to go over there or be there, the work is brought to her in her office at 134.

### **Declaration**

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

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

Please initial:

DG

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

Danielle C Green

Enter today's date.

09/03/2024



## COUNTY OF ERIE

JEREMY C. TOTH  
COUNTY ATTORNEY

KRISTEN M. WALDER  
DEPUTY COUNTY ATTORNEY

### DEPARTMENT OF LAW

January 30, 2025

Ms. Olivia Owens, Clerk  
Erie County Legislature  
92 Franklin Street, 4th Floor  
Buffalo, New York 14202

Dear Ms. Owens:

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

File Name:	<i>Calhoun, Dominique v. County of Erie, et al.</i>
Document Received:	Summons and Complaint
Name of Claimant:	Dominique C. Calhoun
Claimant's attorney:	Claimant is proceeding <i>pro se</i> .

Should you have any questions, please call.

Very truly yours,

A handwritten signature in blue ink, appearing to read "J. C. Toth", is written over a circular blue ink stamp.

JEREMY C. TOTH  
Erie County Attorney

JCT:dld  
Enc.

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK  
(BUFFALO DIVISION)

*dm*  
Petitioner: ~~Dominique Calhoun~~ Dominique C. Calhoun

-vs-

Defendants: Phillip Dabney Jr. Esq. ,  
Byron Brown, Daniel Derenda, Joseph Mullen,  
Shawn McCabe, Joseph Paszkiewicz,  
Crystal Rodriguez-Dabney, Abigail Rodriguez,  
Officer Jane Doe Central Booking,  
Mugshot Technician John Doe  
Christopher Scalton, John Flynn Esq. District Attorney  
Steven Earnhart Esq, Assistant District Atty.  
Law Offices of Phillip Dabney Jr. Esq.  
The City of Buffalo, New York  
Erie County, New York  
Buffalo Police Department

**24 CV 872**

Case : \_\_\_\_\_

COMPLAINT

DEMAND FOR JURY TRIAL



**COMPLAINT AND DEMAND FOR GRAND JURY TRIAL**

1. Plaintiff, Dominique Calhoun, brings this action against Defendant/s PHILLIP DABNEY JR. ESQ. et al., and alleges upon information, the record of previous proceedings, and belief and hereby submits the following for consideration by the honorable court.

**NOTICE OF CLAIM**

2. The 180-day time period may be subject to equitable tolling. See *Pritchard v. State*, 163 Ariz. 427, 430, 788 P.2d 1178, 1181(1990) (holding that filing a timely notice of claim is not a jurisdictional prerequisite to bringing suit); *Kosman v. State*, 199 Ariz. 184, 186-87, ¶¶ 10-11, 16 P.3d 211, 213-14 (App. 2000) (finding the 180-day period could be subject to equitable tolling or excusable neglect). *Shakur v. Schriro* at p. 6-7(Ariz. App., 2011).

3. Plaintiff, filed a timely notice of claim against the City in compliance with General Municipal Law Section 50 on April 10, 2015, which was within 90 days of the January 31, 2015 incident. By stipulation, the City held a 50-h examination of plaintiffs claim on June 11, 2015 at 11:47am.

4. This Plaintiff's action was not commenced within one year and ninety days after the happening of the events upon which these claims arise as the Plaintiff's Attorney PHILLIP DABNEY JR. ESQ. did conspire with the CITY OF BUFFALO to commit fraud by misleading the Plaintiff and purposely missing the deadline for the action to be filed by January 31, 2018. Conspiracy has a statute of limitations of 7 years. The Plaintiff has a reason for excusable neglect due to the direct interference for her to file action by The CITY OF BUFFALO.

For the record of the court the Plaintiff served another Notice of Claim to The City of Buffalo and Erie County within 30 days of filing this claim.

**APPLICATION OF LIBERAL CONSTRUCTION**

5. Plaintiff DOMINIQUE CALHOUN appears here in her pro se status. As such, this Plaintiff respectfully requests that her pleadings herein will be liberally construed by this honorable Court, pursuant to the standards established by the Supreme Court of the United States in

*Haines v. Kerner*, 404 U.S. 519 (1972) (Holding that: “ a pro se litigant's pleadings, “however inartfully pleaded,” are held to the most liberal of standards because pro se litigants may be less capable of formulating legally-competent initial pleadings.)

#### **JURISDICTIONAL STATEMENT**

6. This Court has jurisdiction over these matters pursuant to 42 U.S. Code § 1983. A suit brought under 42 U.S. Code § 1983 is a civil action for deprivation of rights. (“anyone who deprives a United States citizen of rights, privileges, or immunities secured by the Constitution and laws is liable to the injured party. The injured party can take action at law, suit in equity, or other proper proceeding for redress.”) (See: 42 U.S.C. § 1983. Section 1983 provides in pertinent part: Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction on thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party.)

#### **28 U.S.C. § 1332; Diversity of Citizenship**

7. This court has jurisdiction over these matter pursuant to U.S.C. § 1332, federal courts may hear cases in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000. In that kind of case, called a diversity of citizenship.

8. The Plaintiff is a resident of Fulton County, GA. The Defendant(s) are residents of and/or work in of Erie County, NY. The Plaintiff is suing for 2.5 million dollars in damages. This Honorable Court has jurisdiction over this subject matter.

9. Jurisdiction and venue is proper here pursuant to 28 U.S. Code § 1391 which provides in relevant part that “28 USC §1391. Except as otherwise provided by law—(1) this section shall govern the venue of all civil actions brought in district courts of the United States; and (2) the

proper venue for a civil action shall be determined without regard to whether the action is local or transitory in nature." (See, e.g., *Monroe v. Pape*, 365 U.S. 167 (1961) (holding that officials acting in abuse of their authority who deprive an individual of a constitutional right may be liable under § 1983.)(See also, *Brown v. State of New York*, 89 N.Y.2d 172, 674 N.E.2d 1129, 52 N.Y.S.2d 223 (1996). 2 N.Y. CONST. art. I, § 11.) In *Brown*, the New York Court of Appeals held that individuals may assert claims for compensatory damages for violations of their rights protected by the equal protection guarantees of the New York State Constitution.

10. Additionally, Jurisdiction is conferred upon this Court by 28 USC §§ 1331 and 1343, supplemental jurisdiction over Plaintiff's state law claims is conferred upon this Court by 28 U.S.C. §1367;

11. Venue is properly laid in the Western District of New York Pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated.

12. Article III of the U.S. Constitution provides Federal Courts can hear all cases in law and equity arising under this Constitution, [and] the laws of the United States. The Supreme Court has interpreted this clause broadly, finding that it allows federal courts to hear any case in which there is a federal ingredient, see *Osborn v. Bank of the United States*, 22 U.S. 738 (1824)

13. Under 28 U.S. Code § 1332 Diversity Jurisdiction this court can here the following actions; Breach of Contract, Legal Malpractice, Aiding & Abetting, Defamation, Perjury 2<sup>nd</sup> Degree, Forcible touching, Sexual Abuse 2<sup>nd</sup> degree, Kidnapping 2<sup>nd</sup> degree, unlawful imprisonment 2<sup>nd</sup> degree, importation or transportation of obscene material.

14. This court also has jurisdiction over these matters pursuant to United States Code 42 U.S.C. § 1983 - provides an individual the right to sue state government employees and others acting "under color of state law" for civil rights violations. 18 USC § 1365(h)(4)- bodily injury. 18

U.S. Code § 371-Conspiracy to commit offense or to defraud United States. 18 U.S. Code § 2-Aiding and Abetting, the Deprivation of rights under color of law under 8 U.S. Code § 242. Breach or violation of required contract terms. 18 U.S.C. § 1462- Importation or transportation of obscene matters. District courts; and whatsoever rules, laws, regulations and Federal Rules of Civil Procedure may apply. The district courts of the United States shall have original jurisdiction, exclusive of the courts of the States.

**NATURE AND CAUSE OF ACTION**

15. The criminal misconduct, cover ups, and corruption involving all of the Defendants, (herein after named “Defendants” or “codefendants”), either jointly and/or severally in both their personal and/or administrative, and/or illegal judicial capacities.
16. The Petitioner also brings this lawsuit pursuant to pursuant to 42 U.S. Code § 1983.
17. As to the element of causation, this plaintiff alleges that the unlawful conduct of all of the Defendants was the proximate cause of the plaintiff’s injuries. *Harmoni International Spice, Inc. v. Hume*, 914 F.3d 648, 651 (9th Cir. 2019)
18. The Defendants did knowingly and willfully conceal and coverup civil rights violations at the hand of the Buffalo Police. They have concealed and conspired to cover up violent, abusive, neglectful, predatory, criminal and harmful acts against residents, the Plaintiff being one.
19. The actions of the Defendants have caused The Plaintiff severe mental anguish and she seeks compensatory and punitive damages. The Plaintiff has had many counseling sessions regarding feelings of fear, embarrassment, anger, sadness, anxiety, distrust, and loss of consortium, due to the actions by all Defendants, who all at some time and in some way participated directly or indirectly in this criminal abuse and conspiracy of the Plaintiff’s assault, false imprisonment and sexual abuse in violation of the laws of the State of New York and the United States