
In the Matter of the Claim of

JON BATTISON,

NOTICE OF CLAIM

Claimant,

- against -

CITY OF BUFFALO,
BUFFALO POLICE DEPARTMENT,
POLICE OFFICER KEREEM
JOHNSON,
POLICE OFFICER TYLER BAXTER,
and JOHN and/or JANE DOES #1-6, first
names and family names being fictitious and
unknown, said persons being
Police Officers employed by the Buffalo
Police Department.

**TO: CITY OF BUFFALO
BUFFALO POLICE DEPARTMENT
POLICE OFFICER KEREEM JOHNSON
POLICE OFFICER TYLER BAXTER
JOHN and/or JANE DOES #1-6**

PLEASE TAKE NOTICE, that JON BATTISON, has and hereby makes claim against
CITY OF BUFFALO, BUFFALO POLICE DEPARTMENT, POLICE OFFICER KEREEM
JOHNSON, POLICE OFFICER TYLER BAXTER and JOHN and/or JANE DOE #1-6 and in
support of said claim states the following:

1. The Post Office address of the claimant is 564 Tonawanda Street, Buffalo, New York
14207.

2. The claimant's attorneys are LIPSITZ GREEN SCIME CAMBRIA LLP, located at 42 Delaware Avenue, Suite 120, Buffalo, New York 14202-3924.

3. The claim of JON BATTISON is for personal injuries and civil rights violations, including without limitation, loss of income and medical expenses, consequential, general and equitable damages, punitive damages, attorneys' fees and costs.

4. The claim arose at 564 Tonawanda Street, located in the City of Buffalo, County of Erie, and State of New York.

5. The claim arose in substance as follows: On the 23rd day of September, 2023, at approximately 4:20 a.m., a young man in clear distress and experiencing a mental health episode was needlessly shot when police were responding to a call for his mental health all in violation of Title II of the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12131, et seq., the Rehabilitation Act ("RA"), 29 U.S.C §§ 794 et seq., and 42 U.S.C. § 1983, as well as state law claims for battery and assault.

6. Sadly, this unnecessary resort to deadly force against an individual was not unusual, but rather is part of the BPD's institutional policy and practice of using unconstitutionally excessive force, particularly against people with disabilities, and those experiencing mental health crises.

7. 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, BUFFALO POLICE DEPARTMENT, POLICE OFFICER KEREEM JOHNSON, POLICE OFFICER TYLER BAXTER and JOHN and/or JANE DOE #1-6, and more particularly, among other things, by violating the constitutional rights and privileges of Jon Battison, by using unnecessary and unlawful excessive force in their performance of their duties as police officers; by failing to afford claimant, an

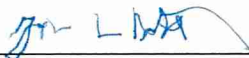
individual with a qualified disability, reasonable accommodations such as: (1) waiting to engage with claimant; (2) equipping the responding officers with non-lethal weapons; (3) using alternative means to remove the BB gun from claimant's possession; and (4) utilizing the BPD's Crisis Intervention Team (CIT) team; in failing and/or omitting to have policies for appropriately responding to mental health service calls; in failing and/or omitting to train its police officers how to appropriately respond to mental health service calls; in ratifying its officers' repeated unlawful uses of force, particularly against residents with mental illness, by failing to take corrective action despite their subjective awareness of a pattern of such constitutional violation; in failing to provide such training and supervision despite knowing its officers would confront the difficult situation of responding to requests for police services involving persons experiencing mental-health crises, in which a lack of appropriate training and/or supervision (including training in de-escalation techniques and access to nonlethal force) would frequently result in its officers using objectively unreasonable and disproportionate force against persons experiencing mental health crises; in failing and/or omitting to adequately supervise police officers in connection with mental health service calls; in failing and/or omitting to be cognizant or aware that their actions or inactions would foreseeably cause injury to claimant; in failing and/or omitting to use appropriate care and discretion; in failing to provide attention to the mental health and medical needs and the treatment of such needs for claimant; in failing and/or omitting to provide police officers with non-lethal weapons and training in their use; in failing and/or omitting to have mental health/crisis prevention personnel on call; in causing physical harm and injury to the claimant; and in violating claimant's state and federal constitutional and statutory rights by unlawfully arresting, and maliciously prosecuting him.

8. Upon information and belief, as a result of the aforesaid incident, the claimant, JON BATTISON, sustained severe bodily injuries and was painfully and seriously injured; was rendered


sick, sore, lame, and disabled; sustained pain and suffering and shock to his nerves and nervous system; and was admitted to the Intensive Care Unit and trauma unit for approximately one month where he underwent multiple surgeries. Upon information and belief, these injuries will result in permanent defects.

WHEREFORE, claimant requests that the CITY OF BUFFALO, BUFFALO POLICE DEPARTMENT, POLICE OFFICER KEREEM JOHNSON, POLICE OFFICER TYLER BAXTER and JOHN and/or JANE DOE #1-6 honor and pay the claim on behalf of JOHN BATTISON.

DATED: Buffalo, New York
November 6, 2023



JON BATTISON

LIPSITZ GREEN SCIME CAMBRIA LLP
By: 

MELISSA D. WISCHERATH, ESQ.
Attorneys for Claimant
Office and P.O. Address
42 Delaware Avenue, Suite 120
Buffalo, New York 14202-3924
(716) 849-1333

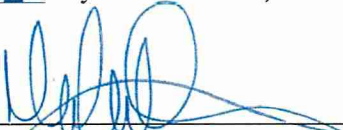
STATE OF NEW YORK)
) SS.:
COUNTY OF ERIE)

JON BATTISON, being duly sworn deposes and says that he is the claimant above named; and makes this claim on behalf of self; 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.



JON BATTISON

Sworn to before me on this
6 day of November, 2023.



Notary Public

MELISSA D. WISCHERATH
Notary Public, State of New York
Reg. #02W16387243
Qualified in Erie County
Commission Expires February 11, 2027