

NEWMAN FERRARA LLP

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July 25, 2016

Board of Correction
City of New York
1 Centre Street, Room 22213
New York, NY 10007

To Whom It May Concern:

In light of your recent efforts to address the ongoing sexual abuse and harassment of New York City inmates, we submit to you a Notice of Claim we filed on June 28, 2016 in response to a recent incident of sexual abuse, upon our client, Mr. Justin Kuchma, at the Otis Bantum Correctional Center on Rikers Island.

We hope that by bringing to your attention the abuse that our client has suffered in a New York City Department of Corrections institution, you will better understand the importance of adopting and enforcing strict rules protecting victims of sexual abuse from their abusers and from retaliation after reporting abuse.

Very Truly Yours,

NEWMAN FERRARA LLP



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IN THE MATTER OF THE CLAIM OF

-----X
JUSTIN KUCHMA,

NOTICE OF CLAIM

Claimant,

-against-

THE CITY OF NEW YORK, CORRECTION
OFFICER F/N/U SENICOR, CORRECTION
OFFICER F/N/U BRIGNOL, CORRECTION
OFFICER F/N/U JENNINGS, CAPTAIN
F/N/U DIAZ,

Respondents.
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To: The Comptroller of the City of New York
One Centre Street, Room 530
New York, New York 10007

1. Names and Post Office Addresses of Claimant and Claimant's Attorneys:

Claimant:

JUSTIN KUCHMA
c/o Otis Bantum Correctional Center
Riker's Island
New York, New York

Claimant's Attorneys:

Randolph M. McLaughlin, Esq.
Debra S. Cohen, Esq.
Newman Ferrara LLP
1250 Broadway
27th Floor
New York, New York 10001
(212) 619-5400

2. Nature of Claim:

Action to recover for assault, battery, excessive force, sexual abuse, sexual harassment, retaliation, pain and suffering, negligent infliction of emotional distress, intentional infliction of emotional distress, negligent training, negligent supervision, negligent hiring, failure to adequately discipline, failure to train, failure to supervise, denial of medical care, and civil rights violations under city, state and federal law, the Constitutions of the United States and the State of New York, as well as violations of the City of New York Department of Correction's Directive 5011, entitled 'Elimination of Sexual Abuse and Sexual Harassment', which defines sexual abuse of an inmate by

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staff to include, with or without consent, any "intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member...has the intent to abuse, arouse, or gratify sexual desire" (IV)(V)(5). CO Brignol, CO Jennings and Capt. Diaz have further violated Sections VI (B) and (D) of Directive 5011 by failing to intervene and report the observed incident of sexual abuse and harassment.

3. The Time When, Place Where, and Manner In Which the Claim Arose:

The incident complained of herein began on May 29, 2016, at approximately 11:00 a.m., at the Otis Barnum Correction Center ("OBCC"), located on Riker's Island. Claimant was a pretrial detainee at the facility. Claimant, a white male, was housed in the Street Crime Gang Unit although he has no gang affiliation. On May 29th while his unit was in the yard of the OBCC, Correction Officer Senicor ("Senicor") called a black detainee "a stupid Nigger." Claimant protested the use of a racial slur by Senicor. Senicor stated, "You think this stupid Nigger would stick up for you." Shortly after making that comment, Senicor was restrained by other guards as he threatened Claimant with physical harm. After Senicor was restrained, Claimant and the other detainees returned to their housing unit.

Later that day, at approximately 8:00 p.m., Captain Diaz ("Diaz") stated to Claimant that she needed to protect him and that she would escort Claimant to the cafeteria for his meal. Claimant was unaware as to why he needed protection. On the way to the cafeteria, in the hall near the entrance to the medical clinic, Senicor, Correction Officers Brignol, Jennings, and other guards whose identities are unknown to Claimant, were waiting in the hallway. As Claimant and Diaz approached the group of guards, Senicor grabbed Claimant and threw him against the wall. Senicor ordered Claimant to spread his legs and kicked Claimant several times in his shins. As a result of the severe kicks Claimant sustained contusions to his shins. After kicking Claimant's legs apart, Senicor proceeded to sexually assault Claimant. Senicor grabbed and squeezed Claimant's testicles multiple times. Senicor forcibly inserted his hands between Claimant's buttocks. While Senicor sexually assaulted Claimant, Senicor stated, "You faggot. Do you like it? You like the way I am touching you, you faggot?" After physically abusing Claimant, Senicor pulled Claimant's pants down and exposed his naked buttocks. Senicor also pulled Claimant's shirt over his head.

During the entire incident aforementioned, the aforementioned Correction Officers stood by and did nothing to prevent or stop the sexual assaults. Similarly, Diaz failed to supervise the officers or attempt to stop the sexual assault by Senicor.

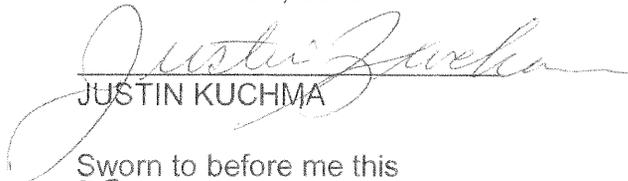
After the incident, Claimant sought immediate medical attention for his injuries, but was denied same until several hours after the attack concluded. Claimant did ultimately receive medical attention and pictures were taken of his injuries. Claimant was prescribed ibuprofen for his injuries. Additionally, Claimant's anxiety medication was increased following the incident. In an effort to exhaust his administrative remedies, Claimant called 311 in compliance with allowable reporting options under Directive 5011

VI(A)(5)(c). Claimant has been interviewed on several occasions regarding the incident by individuals whom he believed to be officials investigating the incident. Since the incident, Claimant has been afraid of going into the yard for exercise as Senicor is one of the officers who is assigned to the OBCC yard.

4. Items of Damages or Injuries

Claimant claims Six Million (\$6,000,000) in general and/or specific damages for assault, battery, excessive force, sexual abuse, sexual harassment, retaliation, pain and suffering, negligent infliction of emotional distress, intentional infliction of emotional distress, negligent training, negligent supervision, negligent hiring, failure to adequately discipline, failure to train, failure to supervise, denial of medical care, and civil rights violations under city, state and federal law and the Constitutions of the United States and the State of New York, as well as the City of New York Department of Correction's Directive 5011, due to actions, failures to act, and/or negligence of the City of New York, and the officers named herein and/or other employees of the City whose names are unknown to Claimant. The undersigned Claimant therefore presents this claim for adjustment and payment. You are hereby notified unless it is adjusted and paid within the time provided by law from the date of presentation to you, the Claimant intends to commence an action on this claim.

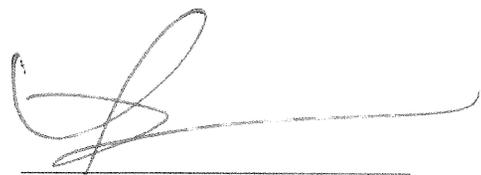
Dated: New York, New York
June 23, 2016


JUSTIN KUCHMA

Sworn to before me this
23 day of June 2016


NOTARY PUBLIC

DANIELLE B. SULLIVAN
Notary Public, State of New York
Registration #02SU6339144
Qualified In Westchester County
Commission Expires March 28, 2020


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