



**U.S. Department of Justice
Federal Bureau of Prisons**

*Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106*

February 6, 2020

Austin Evers
American Oversight
1030 15th Street NW, Suite B255
Washington, DC 20005

FOIA Request Numbers: 2019-02979, 2019-02980 & 2019-02982

Dear Mr. Evers:

This is in response to the above referenced Freedom of Information Act (FOIA) requests.

In response to your requests, staff located 1000 pages of responsive records, which were forwarded to this office for a release determination. After careful review, we determined 95 pages are appropriate for release in full, 217 pages are appropriate for release in part and 688 pages must be withheld in their entirety. Copies of releasable records are attached.

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, records were redacted or withheld in full from disclosure to you under the following exemptions:

(b)(5)
(b)(6)
(b)(7)(C)
(b)(7)(F).

An explanation of the FOIA exemptions is attached.

As you are aware, because of the complexity of your requests, the amount of time required to process your requests in their entirety has increased. In an effort to be as responsive to your requests as possible, we are processing the records currently available and will supplement the release as more records become available. Once the final set of records is provided to you, you will receive appeal rights that apply to the entire release, regardless of when the date you receive the records.

Sincerely,

Darrin Howard
Regional Counsel

Enclosure: 1 CD

Explanation of FOIA Exemptions Used by the Federal Bureau of Prisons

5 U.S.C. § 552(b)(1) protects classified information.

5 U.S.C. § 552(b)(2) concerns matters related solely to internal agency personnel rules or practices.

5 U.S.C. § 552(b)(3) concerns matters specifically exempted from release by statute.

5 U.S.C. § 552(b)(4) concerns trade secrets and commercial or financial information obtained from a person that is privileged or confidential.

5 U.S.C. § 552(b)(5) concerns certain inter- and intra-agency communications protected by the deliberative process privilege, the attorney work-product privilege, and/or the attorney-client privilege.

5 U.S.C. § 552(b)(6) concerns material the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties.

5 U.S.C. § 552(b)(7)(A) concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to interfere with enforcement proceedings.

5 U.S.C. § 552(b)(7)(B) concerns records or information compiled for law enforcement purposes the release of which would deprive a person of a right to a fair trial or an impartial adjudication.

5 U.S.C. § 552(b)(7)(C) concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to constitute an unwarranted invasion of the personal privacy of third parties.

5 U.S.C. § 552(b)(7)(D) concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to disclose the identities of confidential sources and information furnished by such sources.

5 U.S.C. § 552(b)(7)(E) concerns records or information compiled for law enforcement purposes the release of which would disclose techniques and procedures for law enforcement investigations or prosecutions.

5 U.S.C. § 552(b)(7)(F) concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to endanger the life or personal safety of an individual.

5 U.S.C. § 552(b)(8) concerns matters that are "contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions."

5 U.S.C. § 552(b)(9) concerns geological and geophysical information and data, including maps, concerning wells.

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Federal Bureau of Prisons 320 First Street NW Washington D.C. 20534			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. (b)(6); (b)(7)(C) C/O Leo Glickman, Esq. 5030 Broadway, Ste. 652, New York, NY 10034		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☒ CIVILIAN		4. DATE OF BIRTH (b)(6); (b)(7)(C)		5. MARITAL STATUS M	
6. DATE AND DAY OF ACCIDENT 1/13/19 - 2/3/19		7. TIME (A.M. OR P.M.) All times			
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). From approximately January 13, 2019 until approximately February 3, 2019, Claimant was subjected to extreme cold temperature, no electricity, and denial of medications for his kidney ailments and hypertension, denial of warm meals and hot water as well as other conditions of confinement repugnant to the conscience of humankind while incarcerated in Metropolitan Detention Center in Brooklyn, NY. Claimant was refused access to clothing or blankets that would have kept him warmer.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). None					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED (See instructions on reverse side). None					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Claimant suffered a general decline in physical and mental health as a result. Claimant has suffered shortness of breath, headaches, high stress, depression, fear and a general decline in physical health that has not yet been diagnosed by medical staff.					
11. WITNESSES					
NAME			ADDRESS (Number, Street, City, State, and Zip Code)		
Employees who worked in MDC during dates All people incarcerated in MDC during dates					
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE None		12b. PERSONAL INJURY 500,000		12c. WRONGFUL DEATH None	
				12d. TOTAL (Failure to specify may cause forfeiture of your rights). 500,000	
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). (b)(6); (b)(7)(C)				13b. PHONE NUMBER OF PERSON SIGNING FORM None	
14. DATE OF SIGNATURE 02/06/2019					
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).				CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)	

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

JUL 05 2019

NEO-PHILADELPHIA

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☒ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☒ No 17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☒ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. **Principal Purpose:** The information requested is to be used in evaluating claims.

C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.

D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

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& BELLINA^W ATTORNEYS**

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U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

*U.S. Custom House – 7th Floor
2nd & Chestnut Streets
Philadelphia, PA 19106*

July 12, 2019

Leo Glickman, Esq.
5030 Broadway, Suite 652
New York, NY 10034

Re: Administrative Tort Claim Received July 5, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Tort Claim No. TRT-NER-2019-05172

Dear Mr. Glickman:

This will acknowledge receipt of the administrative claim which appears to be submitted on behalf of (b)(6); (b)(7)(C) an inmate confined at FCI Hazelton. Mr. (b)(6); (b)(7)(C) is seeking compensation for an alleged personal injury at MDC Brooklyn on January 13, 2019, to February 3, 2019.

In accordance with 28 C.F.R. 14.2 (a), in order for me to correspond with you as legal representative for the above claim, I need proof that you are authorized to represent Mr. (b)(6); (b)(7)(C). At this time, your claim being placed on hold for the lack of such proof. Please provide this authorization within 30 days of the date of this letter. If we do not receive the authorization within 30 days, we will consider this claim closed.

All correspondence regarding this claim should be addressed to Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Street, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact this office immediately. Also, should your address change, you should advise this office accordingly.

Sincerely,

(b)(6);
(b)(7)(C)

Darrin Howard
Regional Counsel

EMERY CELLI BRINCKERHOFF & ABADY LLP

RICHARD D. EMERY
ANDREW G. CELLI, JR.
MATTHEW D. BRINCKERHOFF
JONATHAN S. ABADY
EARL S. WARD
ILANN M. MAAZEL
HAL R. LIEBERMAN
DANIEL J. KORNSTEIN
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DAVID BERMAN
ASHOK CHANDRAN
MICHELE YANKSON

July 12, 2019

Via U.S. Mail

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

Re: *Administrative Complaint by* (b)(6); (b)(7)(C)

To Whom It May Concern:

On behalf of (b)(6); (b)(7)(C) enclosed please find:

- SF-95 Claim Form
- SF-95 Supplement
- Authorization to File SF-95

If you have any questions, I can be reached by phone at (212) 763-5000 or by email at krosenfeld@ecbalaw.com. Thank you for your attention to this matter.

Sincerely,

/s/

Katherine Rosenfeld

Encl.

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Federal Bureau of Prisons Northeast Regional Office U.S. CUSTOM HOUSE, 7TH FLOOR PHILADELPHIA, PA 19106			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. b(6); (b)(7)(C) c/o Emery Celli Brickerhoff & Abady LLP 600 Fifth Avenue, 10th Floor New York, New York 10020		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☐ CIVILIAN		4. DATE OF BIRTH b(6); (b)(7)(C)	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT 01/27/2019 02/01/2019	7. TIME (A.M. OR P.M.) A.M.
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Please see attached.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Please see attached.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
b(6); (b)(7)(C) (Former Cellmate, Register # b(6); (b)(7)(C))		UNKNOWN			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY		12c. WRONGFUL DEATH	
		1,000,000		12d. TOTAL (Failure to specify may cause forfeiture of your rights).	
				1,000,000	
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). <i>Katherine Kean</i>			13b. PHONE NUMBER OF PERSON SIGNING FORM 212-763-5066		14. DATE OF SIGNATURE 07/11/2019
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both (See 18 U.S.C. 287, 1001.) RECEIVED JUL 15 2019 FEDERAL BUREAU OF PRISONS REGIONAL COUNSEL OFFICE		

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STANDARD FORM 95 (REV. 2/2007)
PRESCRIBED BY DEPT. OF JUSTICE

DOJ-19-0278, 19-0279, 19-0280-I-000007

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PHILADELPHIA

AMERICAN
OVERSIGHT

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident Insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No 17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

- (a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.
- (b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.
- (c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.
- (d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

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A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. **Principal Purpose:** The information requested is to be used in evaluating claims.
- C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
- D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

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DOJ-19-0278, 19-0279, 19-0280, 19-00008 (2007) BACK

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages in necessary)

- a. During the week of January 27, 2019 through February 3, 2019, I was incarcerated in the West Building at the Metropolitan Detention Center in Brooklyn, New York. During that week, there was a power failure in the West Building.
- b. I was confined in the Cadre Unit (K82), Cell (b)(6), (b)(7)(C)
- c. In the seven-day period between January 27, 2019 and February 3, 2019 while I was confined at MDC: (1) there was no electricity and no functioning lights, and I was confined in near-darkness; (2) there was little to no heat and I was confined in freezing cold temperatures without adequate clothing or blankets; (3) there was a building-wide lockdown and I was confined to my cell for long periods of time; and (4) I had little to no access to clean laundry, hot food, regularly scheduled meals, regular showers, hot showers and hot water, medical or psychiatric care, exercise, or outside communications with my family or lawyers via email, pay phone, or visits.

10. PERSONAL INJURY/WRONGFUL DEATH: STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURY PERSON OR DECEDENT.

- a. As a result of being confined in the circumstances described in paragraph 8, including but not limited to a prolonged period of bitter cold and darkness, I suffered the following injuries which form the basis of my claim: physical pain and discomfort as a result of my exposure to the cold; hunger; exposure to noxious odor, air quality, and excessive noise; severe personal uncleanliness caused by lack of access to showers or clean clothing; and emotional and psychological distress.
- b. In addition to those injuries described in paragraph 10(a) above, I also suffered the following injuries between January 27, 2019 and February 3,

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

2019 while I was confined at MDC, and/or as a result of the events of that week of confinement: wheezing and difficulty breathing, due to untreated chronic asthma. I repeatedly requested medical help and was kept awake at night due to the difficulty I had breathing, which was exacerbated by the cold and fear related to the blackout.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

07/02/2019

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

To Whom it May Concern:

I, (b)(6); (b)(7)(C) authorize my representatives at Emery Celli Brinckerhoff & Abady LLP, including Katherine Rosenfeld, to submit an administrative complaint pursuant to the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 et seq. against the Bureau of Prisons.

Thank you. If you have any questions, please call Ms. Rosenfeld at 212-763-5066.

Sincerely,

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

EMERY CELLI BRINCKERHOFF & ABADY LLP
600 FIFTH AVENUE, 10TH FL. • NEW YORK, NEW YORK 10020

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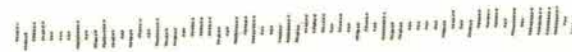
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Federal Bureau of Prisons

Northeast Regional Office

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Philadelphia, PA. 19106

July 19, 2019

Emery Celli Brinckerhoff & Abady LLP
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10th Floor
New York, NY 10020
Attn: Katherine Rosenfeld, Esq.

Re: Administrative Tort Claim Received July 15, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-05446

Dear Ms. Rosenfeld:

This will acknowledge receipt of the administrative claim you submitted on behalf of (b)(6); (b)(7)(C) for an alleged personal injury suffered at MDC Brooklyn on January 27, 2019, to February 1, 2019.

Under the provisions of the applicable federal statutes, we have six months from the date of receipt to review, consider, and adjudicate your claim. In order for this office to properly evaluate this claim, you are required to submit all the information required by 28 C.F.R. §14.4(b).

All correspondence regarding this claim should be addressed to me at: Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Streets, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact me immediately.

Sincerely,

(b)(6); (b)(7)(C)

Darrin Howard
Regional Counsel



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

*U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA. 19106*

August 12, 2019

Katherine Rosenfeld, Esq.
Emery Celli Brinckerhoff & Abady LLP
600 Fifth Avenue at Rockefeller Center
10th Floor
New York, NY 10020

Re: Administrative Tort Claim Received August 1, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-05853

Dear Ms. Rosenfeld:

This will acknowledge receipt of the administrative claim you submitted on behalf of (b)(6); (b)(7)(C) for an alleged personal injury suffered at MDC Brooklyn between January 27, 2019, and February 1, 2019.

Under the provisions of the applicable federal statutes, we have six months from the date of receipt to review, consider, and adjudicate your claim. In order for this office to properly evaluate this claim, you are required to submit all the information required by 28 C.F.R. §14.4(b).

All correspondence regarding this claim should be addressed to me at: Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Streets, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact me immediately.

Sincerely,

(b)(6);
(b)(7)(C)

Darrin Howard
Regional Counsel

EMERY CELLI BRINCKERHOFF & ABADY LLP

RICHARD D. EMERY
ANDREW G. CELLI, JR.
MATTHEW D. BRINCKERHOFF
JONATHAN S. ABADY
EARL S. WARD
ILANN M. MAAZEL
HAL R. LIEBERMAN
DANIEL J. KORNSTEIN
O. ANDREW F. WILSON
ELIZABETH S. SAYLOR
KATHERINE ROSENFELD
DEBRA L. GREENBERGER
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DOUGLAS E. LIEB
ALANNA KAUFMAN
EMMA L. FREEMAN
DAVID BERMAN
ASHOK CHANDRAN

July 26, 2019

Via U.S. Mail

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

Re: Administrative Complaint by (b)(6); (b)(7)(C)

To Whom It May Concern:

On behalf of (b)(6); (b)(7)(C) enclosed please find:

- SF-95 Claim Form
- SF-95 Supplement
- Authorization to File SF-95

If you have any questions, I can be reached by phone at (212) 763-5000 or by email at krosenfeld@ecbalaw.com. Thank you for your attention to this matter.

Sincerely,

/s/

Katherine Rosenfeld

Encl.

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008		
1. Submit to Appropriate Federal Agency: Federal Bureau of Prisons Northeast Regional Office U.S. CUSTOM HOUSE, 7TH FLOOR PHILADELPHIA, PA 19106			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. b)(6); (b)(7)(C) c/o Emery Celli Brickerhoff & Abady LLP 600 Fifth Avenue, 10th Floor New York, New York 10020			
3. TYPE OF EMPLOYMENT ☐ MILITARY ☒ CIVILIAN		4. DATE OF BIRTH b)(6); (b)(7)(C)	5. MARITAL STATUS Single	6. DATE AND DAY OF ACCIDENT 01/27/2019 02/01/2019		7. TIME (A.M. OR P.M.) A.M.
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Please see attached.						
9. PROPERTY DAMAGE						
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).						
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).						
10. PERSONAL INJURY/WRONGFUL DEATH						
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.						
11. WITNESSES						
NAME		ADDRESS (Number, Street, City, State, and Zip Code)				
CELLMATE #1		UNKNOWN				
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)						
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY		12c. WRONGFUL DEATH		
		1,000,000		12d. TOTAL (Failure to specify may cause forfeiture of your rights).		
				1,000,000		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.						
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). <i>Katherine Rosentfeld</i>			13b. PHONE NUMBER OF PERSON SIGNING FORM 212-763-5066		14. DATE OF SIGNATURE 7/29/19	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)			

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Previous Edition is not Usable

NSN 7540-00-634-4046

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL
STANDARD FORM 95 (REV. 2/2007)
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2

DOJ-19-0278, 19-0279, 19-0280-I-000016

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No 17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. **Principal Purpose:** The information requested is to be used in evaluating claims.

C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.

D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages in necessary)

- a. During the week of January 27, 2019 through February 3, 2019, I was incarcerated in the West Building at the Metropolitan Detention Center in Brooklyn, New York. During that week, there was a power failure in the West Building.
- b. I was confined in Unit 43, in Cell b6
b7C
- c. In the seven-day period between January 27, 2019 and February 3, 2019 while I was confined at MDC: (1) there was no electricity and no functioning lights, and I was confined in near-darkness; (2) there was little to no heat and I was confined in freezing cold temperatures without adequate clothing or blankets; (3) there was a building-wide lockdown and I was confined to my cell for long periods of time; and (4) I had little to no access to clean laundry, hot food, regularly scheduled meals, regular showers, hot showers and hot water, medical or psychiatric care, exercise, or outside communications with my family or lawyers via email, pay phone, or visits.

10. PERSONAL INJURY/WRONGFUL DEATH: STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURY PERSON OR DECEDENT.

- a. As a result of being confined in the circumstances described in paragraph 8, including but not limited to a prolonged period of bitter cold and darkness, I suffered the following injuries which form the basis of my claim: physical pain and discomfort as a result of my exposure to the cold; hunger; exposure to noxious odor, air quality, and excessive noise; severe personal uncleanliness caused by lack of access to showers or clean clothing; and emotional and psychological distress.
- b. In addition to those injuries described in paragraph 10(a) above, I also suffered the following injuries between January 27, 2019 and February 3,

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

2019 while I was confined at MDC, and/or as a result of the events of that week of confinement: severe tooth and mouth pain, relating to a tooth infection that was not taken care of prior to the blackout, and thereby exacerbated by the cold conditions inside the jail.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

07/18/2019

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

To Whom it May Concern:

I, (b)(6); (b)(7)(C) authorize my representatives at Emery Celli Brinckerhoff & Abady LLP, including Katherine Rosenfeld, to submit an administrative complaint pursuant to the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 et seq. against the Bureau of Prisons.

Thank you. If you have any questions, please call Ms. Rosenfeld at 212-763-5066.

Sincerely,

(b)(6); (b)(7)(C)

D.O.B:

(b)(6); (b)(7)(C)


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DOJ-19-0278, 19-0279, 19-0280-1-000021
2019-02980 21 of 312

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ALISON FRICK
DAVID LEBOWITZ
DOUGLAS E. LIEB
ALANNA KAUFMAN
EMMA L. FREEMAN
DAVID BERMAN
ASHOK CHANDRAN

August 5, 2019

Via U.S. Mail

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

Re: Administrative Complaint by (b)(6); (b)(7)(C)

To Whom It May Concern:

On behalf of (b)(6); (b)(7)(C) enclosed please find:

- SF-95 Claim Form
- SF-95 Supplement
- Authorization to File SF-95

If you have any questions, I can be reached by phone at (212) 763-5000 or by email at krosenfeld@ecbalaw.com. Thank you for your attention to this matter.

Sincerely,

/s/

Katherine Rosenfeld

Encl.

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Federal Bureau of Prisons Northeast Regional Office U.S. Custom House, 7th Floor Philadelphia, PA			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. (b)(6); (b)(7)(C) /o Emery Celli Brinckerhoff & Abady LLP 600 Fifth Avenue, 10th Floor New York, NY 10020		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☒ CIVILIAN		4. DATE OF BIRTH (b)(6); (b)(7)(C)	5. MARITAL STATUS Single	6. DATE AND DAY OF ACCIDENT 01/27/2019 02/03/2019	
7. TIME (A.M. OR P.M.) A.M.					
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Please see attached.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Please see attached.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
(b)(6); (b)(7)(C)		Register Number: (b)(6); (b)(7)(C) Brooklyn MC, Brooklyn, NY 11201			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY 1,000,000		12c. WRONGFUL DEATH	
				12d. TOTAL (Failure to specify may cause forfeiture of your rights). 1,000,000	
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). <i>Katherine Rosenthal</i>			13b. PHONE NUMBER OF PERSON SIGNING FORM (212) 763-5000		14. DATE OF SIGNATURE 8/7/19
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment or both. (See 18 U.S.C. 287, 1001.) FEDERAL BUREAU OF PRISONS REGIONAL COUNSEL OFFICE		

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NSN 7540-00-634-4046

AUG 12 2019

STANDARD FORM 95 (REV. 2/2007)
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2

DOJ-19-0278, 19-0279, 19-0280-I-000023

2019-02980 23 of 312 PRO-PHILADELPHIA

AMERICAN
OVERSIGHT

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No

17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. **Principal Purpose:** The information requested is to be used in evaluating claims.

C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.

D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages in necessary)

- a. During the week of January 27, 2019 through February 3, 2019, I was incarcerated in the West Building at the Metropolitan Detention Center in Brooklyn, New York. During that week, there was a power failure in the West Building.
- b. I was confined in Unit I61, cell (b)(6)
(b)(7)(C)
- c. In the seven-day period between January 27, 2019 and February 3, 2019 while I was confined at MDC: (1) there was no electricity and no functioning lights, and I was confined in near-darkness; (2) there was little to no heat and I was confined in freezing cold temperatures without adequate clothing or blankets; (3) there was a building-wide lockdown and I was confined to my cell for long periods of time; and (4) I had little to no access to clean laundry, hot food, regularly scheduled meals, regular showers, hot showers and hot water, medical or psychiatric care, exercise, or outside communications with my family or lawyers via email, pay phone, or visits.
- d. In addition to these facts, I also experienced the following circumstances between January 27, 2019 and February 3, 2019 while I was confined at MDC: Clogged toilets resulting in a foul stench from being unable to flush the toilet. Unclean water (brown).

10. PERSONAL INJURY/WRONGFUL DEATH: STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURY PERSON OR DECEDENT.

- a. As a result of being confined in the circumstances described in paragraph 8, including but not limited to a prolonged period of bitter cold and darkness, I suffered the following injuries which form the basis of my claim: physical pain and discomfort as a result of my exposure to the cold; hunger; exposure to noxious odor, air quality, and excessive noise; severe personal

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

uncleanliness caused by lack of access to showers or clean clothing; and emotional and psychological distress.

- b. In addition to those injuries described in paragraph 10(a) above, I also suffered the following injuries between January 27, 2019 and February 3, 2019 while I was confined at MDC, and/or as a result of the events of that week of confinement: [Examples: nightmares, anxiety, asthma symptoms, nausea, diabetes, etc.]

Diabetes, anxiety, headaches, fatigue, dry mouth, mood swings, and depression. Specifically, because I am diabetic and food delivery inconsistent and low-quality, I suffered from low-glucose blood levels. As a result, I suffered from blurry vision, dry mouth, fatigue, and irritability during the blackout. In addition, because I rely anti-depressants, anti-psychotic, and sleep medications, which were not consistently or not at all provided during the blackout, I suffered from severe anxiety and depression during the blackout. Often, I felt hopeless about life during the blackout.

11. WITNESSES

The following people witnessed the circumstances that caused my injury:

(b)(6); (b)(7)(C)

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

July 29, 2019

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

To Whom it May Concern:

I, (b)(6); (b)(7)(C), authorize my representatives at Emery Celli Brinckerhoff & Abady LLP, including Katherine Rosenfeld, to submit an administrative complaint pursuant to the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 et seq. against the Bureau of Prisons.

Thank you. If you have any questions, please call Ms. Rosenfeld at 212-763-5066.

Sincerely,

(b)(6); (b)(7)(C)

DOB: (b)(6); (b)(7)(C)

EMERY
CELLI
BRINCKERHOFF
&
ABADY
LLP
600
FIFTH
AVENUE
10TH
FL.
NEW
YORK
NEW
YORK
10020

EMERY CELLI BRINCKERHOFF & ABADY LLP
600 FIFTH AVENUE, 10TH FL. • NEW YORK, NEW YORK 10020

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
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FIRST-CLASS



DOJ-19-0278, 19-0279, 19-0280-I-000028

2019-02980 28 of 312



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA. 19106

August 20, 2019

Katherine Rosenfeld, Esq.
Emery Celli Brinckerhoff & Abady LLP
600 Fifth Avenue at Rockefeller Center
10th Floor
New York, NY 10020

Re: Administrative Tort Claim Received August 12, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-06122

Dear Ms. Gigliotta:

This will acknowledge receipt of the administrative claim you submitted on behalf of (b)(6); (b)(7)(C) for an alleged personal injury suffered at MDC Brooklyn between January 27, 2019, and February 3, 2019.

Under the provisions of the applicable federal statutes, we have six months from the date of receipt to review, consider, and adjudicate your claim. In order for this office to properly evaluate this claim, you are required to submit all the information required by 28 C.F.R. §14.4(b).

All correspondence regarding this claim should be addressed to me at: Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Streets, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact me immediately.

Sincerely,

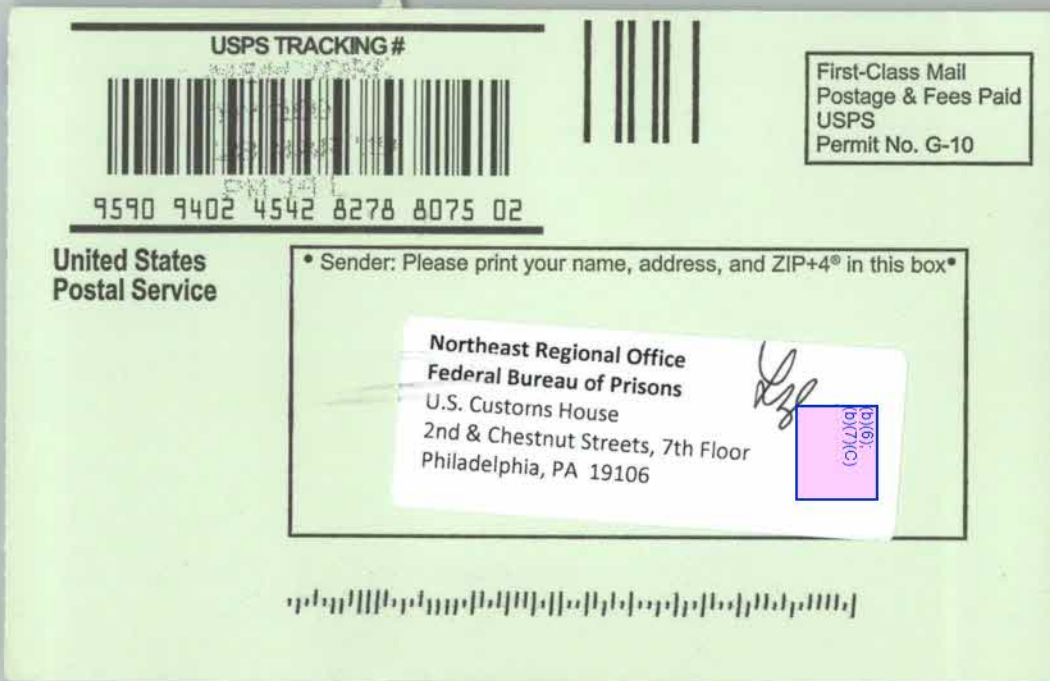
(b)(6);
(b)(7)(C)

Darrin Howard
Regional Counsel

447 NOK 2019 03086

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■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. ☒ Agent ☐ Addressee B. ☒ (b)(6); (b)(7)(C) C. Date of Delivery: 3/25/19 as different from item 1? ☐ Yes every address below: ☒ No REGIONAL COUNSEL OFFICE APR 01 2019 MERO-PHILADELPHIA	
1. ☐ (b)(6); (b)(7)(C) MDC Brooklyn P.O. Box 329002 Brooklyn, NY 11232			
 9590 9402 4542 8278 8075 02			
2. Article Number (Transfer from service label)		3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☐ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail ☐ Insured Mail Restricted Delivery (over \$500) ☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☒ Return Receipt for Merchandise ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt



DARRIN HOWARD, ESQ.
NORTHEAST REGIONAL COUNSEL
U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF PRISONS
NORTHEAST REGIONAL OFFICE
200 CHESTNUT STREET
PHILADELPHIA, PENNSYLVANIA 19106

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

MAR 15 2019

NERO-PHILADELPHIA

Re: Administrative Tort Claim for Personal Injury [28 U.S.C. 2671, et. seq.]

Dear Mr. Howard:

The undersigned Claimant respectfully submits this claim under the Federal Tort Claims Act ("FTCA") [28 U.S.C. 2672], and 28 C.F.R. 543.30, seeking compensatory damages in the amount of \$100,000.00 for personal injury that he suffered as a result of negligence by Federal Bureau of Prisons staff at the Metropolitan Detention Center ("MDC") in Brooklyn, New York. For the reasons that follow, this claim should be promptly settled.

I. THE RELEVANT FACTS.

At all times between January 27, 2019 and February 3, 2019, claimant was detained at the MDC (West Building). On January 27, 2019, the institution experienced a power outage which, upon information and belief, resulted from an electrical fire. Upon information and belief, the power outage adversely affected the institution's heating, hot water, and lighting. More specifically, each cell (including claimant's assigned cell) was without lights, hot water, or heat for the approximately eight days (i.e. January 27, 2019 thru February 3, 2019). Staff was aware of the inhumane conditions, and took no steps to immediately restore the housing units or the cells within those units to habitable conditions.

Notably, however, on February 3, 2019, staff began distributing extra blankets to inmates on some units in an effort to combat the exceptionally frigid temperatures. It should also be noted that during this period, institutional staff would visit housing units to check the cell temperatures. Some inmates blocked their ventilation ducts in an effort to prevent the exceptionally cold air from entering their cells through the ventilation system. This, however, also prevented staff from obtaining an accurate electronic reading of the temperature in those cells which had their vents blocked. Thus, on at least two occasions, staff entered the housing unit and presented to a particular cell where the air vent had been blocked, and recorded a temperature reading that was much warmer than the temperature in other cells where inmates had not blocked their air vents.

Throughout the period where claimant was denied suitable quarters, heat, hot water, and lights, he feared for his physical safety. He feared possible assault on his person by other inmates assigned to his housing unit. Despite inadequate lighting in the housing units, from on or about January 28, 2019 thru February 1, 2019, claimant and more than 100 other inmates assigned to his housing unit were permitted (and even required) to exit and remain outside of their respective cells for extended periods of times throughout the day and evening, supervised by only a single staff member who was physically unable to observe inmate activity throughout the unit due to extremely limited lighting in the common area. Claimant was required to exit his cell and enter the common area to obtain and consume his meals, as well as to shower. It should also be noted that during the institutional crisis, mental health staff was inaccessible to claimant and all other inmates assigned to his housing unit. This claimant was also not afforded an opportunity to meet with medical staff. All access to claimant's attorney was denied as attorneys were not permitted to enter the institution, and both the inmate telephone and email systems were not operational. Inmates were also denied a meaningful opportunity to send general correspondence since they were denied access to commissary to purchase required postage.

Again, despite the magnitude of the inhumane crisis, MDC staff took no immediate or appropriate action to restore the institution to normal operations, or to adhere to their responsibility to provide Claimant with appropriate housing.

During this crisis period claimant suffered severe emotional distress which affected, inter alia, claimant's ability to sleep and focus.

II. THE RELEVANT LAW.

(a) Liability Under The Federal Tort Claims Act.

The Federal Tort Claims Act ("FTCA") provides that the United States is liable for injury caused by the negligence of its employees under circumstances where a private person would be liable according to "the laws of the place where the act or omission occurred," and thus New York law applies. {28 U.S.C. 1346(b); Kane v. United States, 189 F.Supp.2d 40, 51-52 (S.D.N.Y. 2002); Ducrepin v. United States, 964 F.Supp. 659, 663 (E.D.N.Y. 1997)} Under New York law, to prove a claim of negligence, plaintiff must establish three elements: (i) defendant owed plaintiff a duty of care; (ii) defendant breached that duty; and (iii) the breach proximately caused plaintiff's injury. {Kane, 189 F.Supp.2d at 51-52}

(b) The Bureau of Prisons Owed Claimant a Duty of Care.

Although state laws sets out the elements required to prove negligence, the standard of care for the Federal Bureau of Prisons is "fixed by 18 U.S.C. 4042, independent of [any] inconsistent state rule" allowing for a local jailor's immunity from suit, or a lesser duty. {United States v. Muniz, 374 U.S. 150, 164 (1963)} Section 4042(a) requires that the Bureau of Prisons provide "suitable quarters and provide for the safekeeping, care, and subsistence of all persons charged with or convicted of offenses against the United States." {18 U.S.C. 4042(a)(2)} This statutory duty means that the Bureau of Prisons must exercise "ordinary diligence" or reasonable care "to keep prisoners safe and free from harm." {Coward v. United States, 617 F.2d 112, 116 (5th Cir. 1980); see also Herrington v. United States, 1984 WL 1279, at *2 (S.D.N.Y. 1984); Castor v. United States, 883 F.Supp. 344, 350 (S.D. Ind. 1995)}

It is clear that "the mere failure to provide suitable quarters" is not actionable; there must be fault. {Muhammed v. United States, 6 F.Supp.2d 582, 595 (N.D. Tex. 1998)} Only "a failure to exercise ordinary care, or reasonable care, to provide suitable quarters" is actionable. {Id.; Graham v. United States, 2002 WL 188573, at *4 (E.D. Pa. 2002)(noting that mandatory duty of care set forth in Section 4042 "does not dictate the manner in which the duty must be fulfilled")}

(c) New York Law Governing Claims Negligent Infliction of Emotional Distress.

Under New York law, a claim of negligent infliction of emotional distress must be premised upon a breach of a duty owed "which either unreasonably endangers the plaintiff's physical safety, or causes the plaintiff to fear for his or her own safety." {Sheila C. v. Povich, 11 A.D.3d 120, 130 (1st Dep't 2004); see also Mortise v. United States, 102 F.3d 693, 696 (2d Cir. 1996)} Under New York law, a plaintiff may establish a claim of negligent infliction of emotion distress in one of two ways: (1) the "bystander" theory; or (2) the "direct duty theory." A plaintiff may recover for purely emotional injury under the "direct duty theory" when he/she suffers an emotional injury from defendant's breach of a duty which unreasonably endangers his/her own physical safety. {See, Mortise, 102 F.3d at 696 (citing Kennedy v. McKesson Co., 58 N.Y.2d 500, 504 (1983))} The duty in such cases must be specific to the plaintiff, and not some amorphous, free-floating duty to society. {Id.; (citing Johnson v. Jamaica Hosp., 62 N.Y.2d 523, 526-27 (1984))}

As noted, the Federal Bureau of Prisons owed claimant a specific duty of care, as described in Section 4042(a)(2) and (3), to provide him "suitable quarters," "safekeeping," and "protection."

III. APPLICATION OF THE LAW TO THE FACTS.

The facts and the law are relatively straightforward: On January 27, 2019, MDC Brooklyn experienced a significant power outage that adversely affected all housing units within its West Building. The outage rendered all cells (including claimant's) within the West Building uninhabitable by virtue of no lighting, heating, or hot water. MDC staff failed to take immediate steps to rectify the power outage or to restore the institutional to normal operations, as a result of being left in such inhumane and exceptionally dangerous conditions, claimant feared for his personal safety and life.

It goes without saying that the Federal Bureau of Prisons, in keeping with its mandated duty under Section 4042(a)(2) and (3), is required to provide "adequate heat" to all cells and housing units wherein prisoners will be confined. {See, Dugan v. Washington, 2001 WL 741626, at *5 (N.D. Ill. June 11, 2001)(noting that prisoners need only be provided "adequate heat") That duty is specific. The duty to provide "safekeeping" and "protection" is also specific. {See, 18 U.S.C. 4042(a)(2) and (3)} Each of those specific duties were breached when MDC staff failed to take steps to immediately rectify the power outage, resulting in approximately eight continuous days of fear of physical injury.

Bureau of Prisons employee's negligence in this matter is both inexplicable and unacceptable. Indeed, the failure to act reasonably has prompted investigations from the Office of the Inspectors General, as well as others. Given the indisputable facts, and well settled law, claimant is entitled to compensatory damages in the amount of \$100,000.00.

IV. CONCLUSION.

For the reasons stated, claimant seeks prompt disposition and settlement of this claim.

Dated: Brooklyn, New York

March 11, 2019

Respectfully submitted,

(b)(6); (b)(7)(C)

[SIGNATURE]

(b)(6); (b)(7)(C)

[PRINT NAME]

(b)(6); (b)(7)(C)

[REGISTER NUMBER]

METROPOLITAN DETENTION CENTER
P.O. BOX 329002
BROOKLYN, NEW YORK 11232

-- CLAIMANT --

cc: U.S. Department of Justice
Office of the Inspector General

Federal Bureau of Prisons
Central Office
320 First Street, NW
Washington, DC 20534

New York Times (w/ecnl.)

New York Federal Defenders

b(6);
b(7)(C)

Metropolitan Detention Center
Po Box 329002
Brooklyn New York 11232

NEW YORK NY 100
13 MAR 2019 PM 11 L



Darin Howard, ESR.
Northeast Regional Counsel
U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
200 Chestnut Street
Philadelphia, Pennsylvania 19106

19106-297999





U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

Via Certified and Return Receipt Mail

U.S. Custom House-7th Floor
2nd & Chestnut Streets
Philadelphia, PA 19106

March 21, 2019

(b)(6); (b)(7)(C)

MDC Brooklyn
P.O. Box 329002
Brooklyn, NY 11232

RE: Administrative Claim No. TRT-NER-2019-03086
Claim Received March 15, 2019

Dear Mr. (b)(6); (b)(7)(C)

This is in response to your administrative tort claim in which you seek \$100,000.00 in compensation for an alleged personal injury sustained at MDC Brooklyn between January 27, 2019, and February 3, 2019. Specifically, you state a power outage adversely affected the institution's heating, hot water, and lighting. You allege you suffered severe emotional distress, which affected your ability to sleep and focus. You contend you feared for your physical safety and possible assault.

After review, we have decided to deny your claim because you have not alleged an identifiable physical injury actionable under the Federal Tort Claims Act. 28 U.S.C. §§ 1346(b)(2), 2672.

If you are dissatisfied with this decision, you may bring an action against the United States in an appropriate United States District Court within six (6) months of the date of this letter.

Sincerely,

Darrin Howard
Regional Counsel

cc: H. Quay, Warden, MDC Brooklyn

4NT NCR 2019 03086

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1.

(b)(6)
(b)(7)(C)

MDC Brooklyn
P.O. Box 329002
Brooklyn, NY 11232



9590 9402 4542 8278 8075 02

2. Article Number (Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

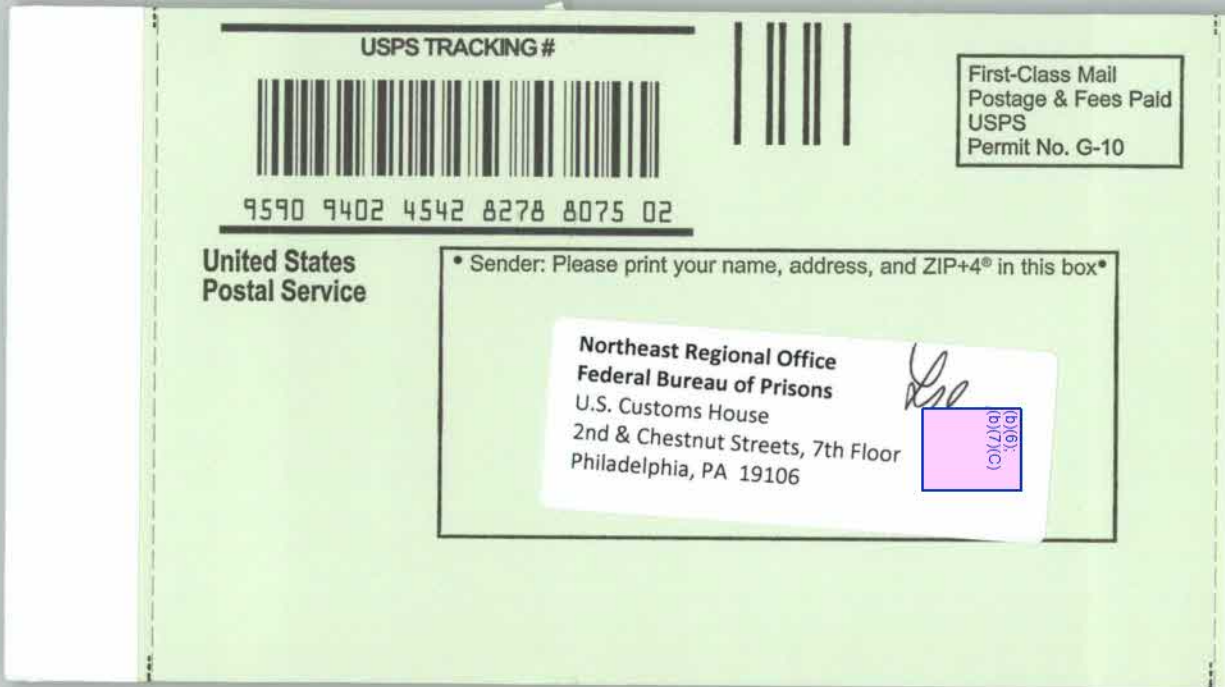
Is different from item 1? ☐ Yes
Delivery address below: ☒ No

3. Service Type

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PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt



EMERY CELLI BRINCKERHOFF & ABADY LLP

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ANDREW G. CELLI, JR.
MATTHEW D. BRINCKERHOFF
JONATHAN S. ABADY
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ATTORNEYS AT LAW
600 FIFTH AVENUE AT ROCKEFELLER CENTER
10TH FLOOR
NEW YORK, NEW YORK 10020

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ALISON FRICK
DAVID LEBOWITZ
DOUGLAS E. LIEB
ALANNA KAUFMAN
EMMA L. FREEMAN
DAVID BERMAN
ASHOK CHANDRAN

August 20, 2019

Via U.S. Mail

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

Re: Administrative Complaint by (b)(6); (b)(7)(C)

To Whom It May Concern:

On behalf of (b)(6); (b)(7)(C) enclosed please find:

- SF-95 Claim Form
- SF-95 Supplement
- Authorization to File SF-95

If you have any questions, I can be reached by phone at (212) 763-5000 or by email at krosenfeld@ecbalaw.com. Thank you for your attention to this matter.

Sincerely,

/s/

Katherine Rosenfeld

Encl.

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Federal Bureau of Prisons Northeast Regional Office U.S. Custom House, 7th Floor Philadelphia, PA			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. (b)(6); (b)(7)(C) c/o Emery Celli Brinckerhoff & Abady LLP 600 Fifth Avenue, 10th Floor New York, NY 10020		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☒ CIVILIAN		4. DATE OF BIRTH (b)(6); (b)(7)(C)	5. MARITAL STATUS Single	6. DATE AND DAY OF ACCIDENT 01/27/2019 02/03/2019	
7. TIME (A.M. OR P.M.) A.M.					
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Please see attached.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Please see attached.					
11. WITNESSES					
NAME (b)(6); (b)(7)(C)		ADDRESS (Number, Street, City, State, and Zip Code) CELLMATE- MDC BROOKLYN MDC BROOKLYN			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY 1,000,000		12c. WRONGFUL DEATH	
				12d. TOTAL (Failure to specify may cause forfeiture of your rights). 1,000,000	
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). <i>Katherine Rosenfeld</i>			13b. PHONE NUMBER OF PERSON SIGNING FORM (212) 763-5000		14. DATE OF SIGNATURE 8/20/19
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.) DATE RECEIVED		

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NSN 7540-00-634-4046

FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

STANDARD FORM 95 (REV. 2/2007)
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2

DOJ-19-0278, 19-0279, 19-0280-I-000040

2019-02980 40 of 312

NERO-PHILADELPHIA

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident Insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number: ☐ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No 17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. **Principal Purpose:** The information requested is to be used in evaluating claims.
C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Tort Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

(b)(6); (b)(7)(C)

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages in necessary)

- a. During the week of January 27, 2019 through February 3, 2019, I was incarcerated in the West Building at the Metropolitan Detention Center in Brooklyn, New York. During that week, there was a power failure in the West Building.
- b. I was confined in Unit 51, cell (b)(6); (b)(7)(C)
- c. In the seven-day period between January 27, 2019 and February 3, 2019 while I was confined at MDC: (1) there was no electricity and no functioning lights, and I was confined in near-darkness; (2) there was little to no heat and I was confined in freezing cold temperatures without adequate clothing or blankets; (3) there was a building-wide lockdown and I was confined to my cell for long periods of time; and (4) I had little to no access to clean laundry, hot food, regularly scheduled meals, regular showers, hot showers and hot water, medical or psychiatric care, exercise, or outside communications with my family or lawyers via email, pay phone, or visits.
- d. In addition to these facts, I also experienced the following circumstances between January 27, 2019 and February 3, 2019 while I was confined at MDC: The food was cold, the meals were late. I was not able to access commissary, wasn't given any blankets, thermals. There was no hot water to take showers, forcing me to take bird baths. I had to create fires in order to make the water hot. I was only let out of the cell 2 out of the 7 days, for only an hour each day. The C.O.'s were being disrespectful and were ignoring my requests.

10. PERSONAL INJURY/WRONGFUL DEATH: STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURY PERSON OR DECEDENT.

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

(b)(6); (b)(7)(C)

- a. As a result of being confined in the circumstances described in paragraph 8, including but not limited to a prolonged period of bitter cold and darkness, I suffered the following injuries which form the basis of my claim: physical pain and discomfort as a result of my exposure to the cold; hunger; exposure to noxious odor, air quality, and excessive noise; severe personal uncleanliness caused by lack of access to showers or clean clothing; and emotional and psychological distress.
- b. I suffer from asthma, anxiety and I injured my achilleas and during this period I was not provided with needed medical care. Specifically, I was not provided with asthma pump for breathing, medication for my anxiety and I was supposed to receive surgery for my achilleas, that I still have not received.
- c. In addition to those injuries described in paragraph 10(a) above, I also suffered the following injuries between January 27, 2019 and February 3, 2019 while I was confined at MDC, and/or as a result of the events of that week of confinement: nightmares, anxiety, panic attacks, hyperventilating, PTSD. My asthma caused me to have a reaction.

11. WITNESSES

The following people witnessed the circumstances that caused my injury:

(b)(6); (b)(7)(C)

(Cellmate), (b)(6); (b)(7)(C)

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

July 29, 2019

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

To Whom it May Concern:

I, (b)(6); (b)(7)(C), authorize my representatives at Emery Celli Brinckerhoff & Abady LLP, including Katherine Rosenfeld, to submit an administrative complaint pursuant to the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 et seq. against the Bureau of Prisons.

Thank you. If you have any questions, please call Ms. Rosenfeld at 212-763-5066.

Sincerely,

(b)(6); (b)(7)(C)

DOB:

(b)(6); (b)(7)(C)



EMERY CELLI BRINCKERHOFF & ABADY LLP
600 FIFTH AVENUE, 10TH FL. • NEW YORK, NEW YORK 10020

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

DOJ-19-0278, 19-0279, 19-0280-I-000045

2019-02980 45 of 312



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA. 19106

September 10, 2019

Katherine Rosenfeld, Esq.
Emery Celli Brinckerhoff & Abady LLP
600 Fifth Avenue at Rockefeller Center
10th Floor
New York, NY 10020

Re: Administrative Tort Claim Received August 23, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-06455

Dear Ms. Rosenfeld:

This will acknowledge receipt of the administrative claim you submitted on behalf of (b)(6); (b)(7)(C) for an alleged personal injury suffered at MDC Brooklyn between January 27, 2019, and February 3, 2019.

Under the provisions of the applicable federal statutes, we have six months from the date of receipt to review, consider, and adjudicate your claim. In order for this office to properly evaluate this claim, you are required to submit all the information required by 28 C.F.R. §14.4(b).

All correspondence regarding this claim should be addressed to me at: Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Streets, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact me immediately.

Sincerely,

(b)(6);
(b)(7)(C)

Darrin Howard
Regional Counsel



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA. 19106

October 4, 2019

Ms. Jean Prabhu
Burns & Harris Attorneys At Law
The Woolworth Building
233 Broadway, Suite 900
New York, NY 10279

Re: Administrative Tort Claim Received September 24, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-06564

Dear Ms. Prabhu:

This will acknowledge receipt of the administrative claim you submitted on behalf of (b)(6); (b)(7)(C) for an alleged personal injury at MDC Brooklyn between January 27, 2019, and February 3, 2019.

Under the provisions of the applicable federal statutes, we have six months from the date of receipt to review, consider, and adjudicate your claim. In order for this office to properly evaluate this claim, you are required to submit all the information required by 28 C.F.R. §14.4(b).

All correspondence regarding this claim should be addressed to me at: Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Streets, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact me immediately.

Sincerely,

(b)(6);
(b)(7)(C)

Darrin Howard
Regional Counsel

BURNS & HARRIS

ATTORNEYS AT LAW

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL OFFICE

AUG 30 2019

NERO-PHILADELPHIA

August 6, 2019

SETH A. HARRIS

ALISON R. KEENAN
BLAKE G. GOLDFARB
SHERI E. HOLLAND

JUDITH F. STEMPLER
JASON STEINBERG
ANDREW G. MEIER
STEPHEN S. LA ROCCA

JASON M. BATEMAN
CLIFFORD R. TUCKER
JOHNSON L. ATKINSON
MAX SILVERBERG
KARLISHA V. HEWITT

JEAN M. PRABHU
ALAN CHESTER SALZMAN
HARVEY WINER
JAMES K. GREENBERG
Of Counsel

VIA CERTIFIED MAIL/RRR

Federal Bureau of Prisons
Attn: Legal Department
Central Office HQ
320 First Street, NW
Washington, DC 20534

Re:

(b)(6); (b)(7)(C)

Supplemental Claim

Location: MDC Brooklyn

Dates of Incident: 1/27/19 – 2/03/19

To Whom It May Concern:

Please be advised that this firm represents the above-referenced claimant along with his prison ID, whom was in the custody of the MDC Brooklyn on January 27, 2019 through February 3, 2019 and suffered injuries based on violation of 42 USC 1983 of the Constitution of the United States, including but not limited to the Fifth, Sixth, Eighth, and Fourteenth Amendments of the Constitution. On June 14, 2019, our office served upon you a claim on behalf of 37 claimants including the claimant listed above, and now serves this Supplemental Claim.

Upon information and belief, on January 27, 2019, an electrical fire broke out in MDC Brooklyn's west building causing damages to the building's infrastructure which significantly affected the prison's heating, venting, cooling, plumbing and electrical systems. The MDC Brooklyn and Warden Herman E. Quay failed to remedy those conditions for over a week and did not seek outside help or take measures to protect and ensure the safety of those in custody at the facility.

A humanitarian crisis unfolded as prisoners were subjected to inhumane conditions that posed unreasonable and substantial risks to their health and safety. The above claimant was deprived of basic human needs and any communication with the outside world, including but not limited to the following:

- Heating (in freezing temperatures)
- Suitable nutrition
- Electricity (kept in darkness)
- Flushable toilets/plumbing/showers
- drinking water
- Medical attention/medication
- Breathable air free from toxic fumes
- Access to clean clothes and bedding
- Excessive lockdown
- Extra blankets for warmth
- Communications with Counsel/family
- Administrative remedies

DOJ-19-0278, 19-0279, 19-0280-I-000048

AMERICAN
OVERSIGHT

THE WOOLWORTH BUILDING • 233 BROADWAY, SUITE 200 • NEW YORK, NY 10027 • TEL (212) 393-1000 • FAX (212) 267-2110

2019-02980 48 of 312
WWW.BURNSHARRIS.COM

Wherefore, [REDACTED] sustained damages in excess of one million dollars
\$1,000,000.00.

Respectfully,


JEAN PRABHU

JP/rb/enc.

FIRST CLASS

FIRST CLASS

FIRST CLASS

CERTIFIED MAIL



7019 1120 0000 5291 9036

958

First Class Mail

B BURNS & HARRIS
ATTORNEYS AT LAW

THE WOOLWORTH BUILDING
233 BROADWAY, SUITE 900
NEW YORK, NY 10279

Federal Bureau of Prisons
Attn: Legal Department
Central Office HQ
320 First Street, NW
Washington, DC 20534

205863



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2019-02980 50 of 312

AMERICAN
OVERSIGHT



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA 19106

September 10, 2019

Ms. Jean Prabhu
Burns & Harris
The Woolworth Building
233 Broadway, Suite 900
New York, NY 10279

Re: Your Administrative Claims Received August 23, 2019

Dear Ms. Prabhu:

This will acknowledge receipt of the following administrative tort claims you filed on behalf of claimants seeking compensation for alleged personal injuries they suffered at the Metropolitan Detention Center in Brooklyn, New York:

(b)(6); (b)(7)(C)

Ms. Jean Prabhu
September 10, 2019
Page 2

(b)(6); (b)(7)(C)

Each claim provided a sum certain "in excess of one million dollars." However, pursuant to 28 C.F.R. § 14.2, each claim must seek a specific dollar amount when you file a claim. Accordingly, the claims are rejected at this time.

In addition, we will not be able to correspond with you unless you provide proof that you are authorized to represent each claimant as their legal representative. See 28 C.F.R. § 14.2.

If you wish these claims to be considered for administrative settlement, please re-submit the claim documents with the above-noted information. The enclosed Claim for Damage, Injury or Death form (SF-95) may be used in the instance of personal injury for each claim.

Lastly, please be advised that constitutional claims are not cognizable under the Federal Tort Claims Act.

All correspondence regarding these claims should be addressed to Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Street, Philadelphia, Pennsylvania 19106. If the circumstances surrounding these claims change in any fashion, you should contact this office immediately. Also, should your address change, you should advise this office accordingly.

Sincerely,



Darrin Howard
Regional Counsel

Enclosure

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency:			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code.		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☐ CIVILIAN	4. DATE OF BIRTH	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT	7. TIME (A.M. OR P.M.)	
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights).		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).			13b. PHONE NUMBER OF PERSON SIGNING FORM	14. DATE OF SIGNATURE	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

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Previous Edition is not Usable

NSN 7540-00-634-4046

STANDARD FORM 95 (REV. 2/2007)
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2

DOJ-19-0278, 19-0279, 19-0280-I-000053

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INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident Insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No

17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. **Principal Purpose:** The information requested is to be used in evaluating claims.
- C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
- D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is **solely** for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

9/10/19 *Multiple Claims*

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X ☐ Agent ☐ Addressee	
1. Article Addressed to: Ms. Jean Prabhu Burns & Harris The Woolworth Building 233 Broadway, Suite 900 New York, NY 10279		B. Received by (Printed Name)	C. Date of Delivery
2. Article Number (Transfer from service label) 7013 0600 0001 9910 9338		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☒ No	
3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☐ Certified Mail® ☒ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery		☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☒ Return Receipt for Merchandise ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt



BURNS & HARRIS

ATTORNEYS AT LAW

SETH A. HARRIS

ALISON R. KEENAN
BLAKE G. GOLDFARB
SHERI E. HOLLAND

JUDITH F. STEMLER
JASON STEINBERG
ANDREW G. MEIER
STEPHEN S. LA ROCCA
IRWIN J. WEINSTEIN

JASON M. BATEMAN
JOHNSON L. ATKINSON
MAX SILVERBERG
KARLESHA V. HEWITT
FRANK L. LANZA

JEAN M. PRABHU
ALAN CHESTER SALZMAN
HARVEY WINER
JAMES K. GREENBERG
Of Counsel

September 19, 2019

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

SEP 24 2019

NERO-PHILADELPHIA

Federal Bureau of Prisons
Northeast Regional Office
Darrin Howard, Regional Counsel
US Custom House
2nd & Chestnut Streets, Room 701
Philadelphia, PA 19106

Re:

(b)(6); (b)(7)(C)

Claim No: TRT-NER-2019-06564

Dear Mr. Howard:

I am in receipt of your correspondence of September 10, 2019, and accordingly, have enclosed a copy of the above claimant's Retainer indicating Burns & Harris is his authorized representative for this claim.

The above claimant was in the custody of the MDC Brooklyn on January 27, 2019 through February 3, 2019 and suffered personal and emotional injuries based on the negligence and intentional infliction of physical and emotional injury at MDC Brooklyn and violation of 42 USC 1983 of the Constitution of the United States, including but not limited to the Fifth, Sixth, Eighth, and Fourteenth Amendments of the Constitution. This is our third submission of this claim and have previously served notices dated June 14, 2019 and August 6, 2019.

Upon information and belief, on January 27, 2019, an electrical fire broke out in MDC Brooklyn's west building causing damages to the building's infrastructure which significantly affected the prison's heating, venting, cooling, plumbing and electrical systems. The MDC Brooklyn and Warden Herman E. Quay failed to remedy those conditions for over a week and did not seek outside help nor take measures to protect and ensure the safety of those in custody at the facility.

A humanitarian crisis unfolded as prisoners were subjected to inhumane conditions that caused unreasonable and substantial injury. The above claimant was deprived of basic human needs, medical attention, any communication with the outside world, and suffered personal and emotional injuries as a result.

Wherefore, the above claimant sustained damages in the amount of one million dollars \$1,000,000.00.

Respectfully,



JEAN PRABHU

JP/rb/Enc.

RETAINER AGREEMENT

TO: BURNS & HARRIS
233 Broadway, Suite 900
New York, NY 10279
(212) 393-1000

I, (b)(6); (b)(7)(C) (Client), the undersigned retains the law office of BURNS & HARRIS (law firm), as my attorneys to prosecute a claim for negligence against any and all parties, individuals and/or corporations that are found to be liable under the law for damages suffered by me arising from personal injury sustained by me. I (b)(6); (b)(7)(C), the spouse of (b)(6); (b)(7)(C) (Client), retains the law office of BURNS & HARRIS (law firm) to represent me for a derivative cause of action for the loss of services and society of my spouse due to the injuries claimed as a result of the defendant(s) negligence. I(We) specifically agree as follows:

1. **FEE PERCENTAGE:** Although I have been advised of the right to retain the law firm under an arrangement whereby the firm would be compensated on the basis of the reasonable value of services rendered or on an hourly rate, I and the law firm agree that the law firm shall be paid Thirty Three and One-Third (33 1/3%) Percent of the sum recovered, whether by suit, settlement or otherwise. In computing the fee, the costs as taxed, including interest upon a judgment, shall be deemed part of the amount recovered. In litigating the claim, the law firm may become eligible for attorneys' fees under 42 U.S.C. § 1988. The Client agrees that any and all fees obtained by the law firm under 42 U.S.C. § 1988 are to be paid to the law firm in addition to the 33 1/3% of the sum recovered. If, as a result of the recovery obtained in your lawsuit brought by the law firm, a workers' compensation carrier waives any of its workers' compensation lien, then the law firm shall be entitled to recover from you an additional fee of 33 1/3% of the portion of the waiver that exceeds one third of the total lien amount owed.

2. **DISBURSEMENTS:** In the event there is no recovery, the Client shall not be obligated to pay the law firm a legal fee for services rendered. Disbursements may include some of the following expenses: court filing fees, sheriff fees, medical and hospital report/record fees, doctor's report, court stenographer fees, deposition costs, expert fees for expert depositions and court appearances, trial exhibits, computer on-line search fees, express mail, postage, photocopy charges, document management charges, long distance telephone charges, among other charges. Document management charges are the fees charged by the law firm for processing documents during litigation, such as medical records, documents produced by defendant(s) and/or other parties, etc. Processing of the documents may include but is not limited to the following: (1) scanning; (2) conversion of native files to PDF documents; (3) OCR (Optical Code Recognition); and/or (4) indexing. At the time of settlement and distribution of proceeds, if the law firm has advanced the disbursements, the law firm shall be reimbursed for all disbursements which shall be deducted from the recovery.

In the event that this firm has been retained by others having the same claim or a similar case, disbursements regarding the liability and/or damages of the defendants may be shared proportionately by all such plaintiffs.

The disbursements involved in prosecuting the case may be advanced by the Client or by the law firm. The Client may choose either option. If the Client elects to advance the money for disbursements (Option I), the Client must pay each disbursement as it is incurred. If the Client elects to have the law firm advance the money for Disbursements (Option II), at the end of each case, the law firm shall be reimbursed from the recovery for any disbursements the law firm advanced.

In the event the Client elects to advance the disbursements (Option I), at the time of the final settlement or distribution of judgment proceeds, these expenses shall be deducted prior to the computation of the Attorney's Fee. If there is no recovery, the law firm will have no responsibility to repay the client for case disbursements.

In the event the Client elects to have the law firm advance the disbursements (Option II), at the time of the final settlement or distribution of judgment proceeds, these expenses shall be deducted from the Client's share after the computation of the Attorney's Fee. If there is no recovery, or if the amount recovered is not sufficient to pay such disbursements in full, Client will not be responsible to pay such disbursements.

In the event no choice is selected by the Client, it will be assumed that the Client wishes to have the law firm advance all disbursements (Option II).

Option I

(initials)_____ I elect to advance the money for disbursements. I want to be billed for each disbursement as incurred. I understand that my immediate payment of such charges is required as many fees are tied to time-sensitive deadlines.

Option

(initials)_____ I elect to have the law firm advance the money for disbursements. I do not want to pay for each disbursement as incurred. I agree that if there is a recovery of money on my case, the law firm will be reimbursed from that recovery for the costs and expenses advanced by the law firm. The Client hereby gives permission that the law firm may borrow monies from a third party for expenses and disbursements. Interest will then be charged to the Client as an additional expense.

3. **COMPUTATION OF FEES:** Under Option II, the contingency fee shall be computed on the gross recovery, resulting in a net settlement (or judgment), from which all appropriate disbursements in connection with the institution and prosecution of this claim are deducted, as set forth in paragraph 2 above. Under Option I, the contingency fee shall be computed on the net recovery after all appropriate disbursements in connection with the institution and prosecution of this claim are deducted, as set forth in paragraph 2 above. Examples of how a contingency fee is computed are as follows:

Option I

Client advances disbursements:

Gross Settlement	\$100.00
Disbursements	- \$10.00
Net settlement	\$90.00
33 1/3% Attorney's Fee	\$30.00
Net to Client	\$60.00

Option II

Law firm advances disbursements:

Gross Settlement	\$100.00
33 1/3% Attorney's Fee	\$33.33
Net settlement	\$66.67
Disbursements	- \$10.00
Net to Client	\$56.67

4. **MEDICAL BILLS:** All medical bills incurred which are not paid by the Client's medical insurance and are due and owing shall be chargeable to the Client's portion of the settlement. There may be additional deductions representing outstanding medical bills, liens to doctors for unpaid medical services rendered, or medical services not covered by medical insurance. The recovery of these medical services are included in the gross settlement and shall be paid from the Client's share of the recovery. Unpaid medical providers often will wait for payment until the conclusion of the case, however, in consideration for such abeyance, they will request a lien upon the settlement proceeds. The Client expressly authorizes the firm to sign such lien forms, which may be requested by physicians, and to directly pay outstanding medical bills for treatment to such physicians or other health care providers at the conclusion of the case. This authorization shall include medical and hospital expenses, and subrogation claims. The Client understands that medical providers do not provide medical services contingent upon the outcome of a case, and that in the event that there is no recovery, or an insufficient recovery, the Client will remain responsible for the payment of such medical bills.

5. **NO-FAULT PROCESSING FEE:** If this Retainer Agreement is entered for the processing of a claim for personal injuries arising from a motor vehicle accident wherein "No-Fault" insurance is applicable, it is agreed that the undersigned shall pay a fee of \$350.00 (Three Hundred Fifty Dollars) upon the successful conclusion of the case for the processing of statutory "No-Fault" benefits. This charge represents a lien on any proceeds of the case in favor of the attorney for professional services rendered in processing the "No-Fault" benefits.

6. **WITHDRAWALS:** The law firm expressly reserves the right to withdraw its representation at any time upon reasonable notification to the Client. In the event that the Client advises the law firm to discontinue the handling of this claim, or if the Client fails to cooperate with the law firm in the handling of this claim, Client agrees to compensate the law firm a reasonable amount for its services, and for the time spent on this claim on an hourly basis or under such other arrangement that may be agreed upon by the parties. The Client understands that the law firm has

conditionally accepted this case based upon the independent confirmation of all facts and injuries claimed to have been sustained by Client. In the event that the Client desires to transfer the file from this office, the Client shall be responsible to compensate the law firm for the reasonable value of their services. Such transfer shall not include documents or attorney work product regarding the general liability of the defendants.

7. **APPEALS:** Client further understands that the services to be provided through this agreement will NOT extend through the prosecution/defense of an appeal or representation on an appeal brought by any of the parties to the lawsuit. Client understands that BURNS & HARRIS, ESQS. may charge reasonable additional compensation if the case is appealed, or it is necessary to try the case more than once, the amount of which shall be an additional ten (10%) percent – totaling forty-three and one-third percent (43 1/3%) – of the sum recovered in negligence, intentional tort, civil rights and legal malpractice cases. Should attorney's fees under 42 USC § 1988 be awarded and an appeal be prosecuted pursuant to this section the firm may elect either 42 USC § 1988 fees or a 10% fee pursuant to this section but not both.

This further appellate representation will not require a new Fee Agreement. In the event the CLIENT's case is dismissed or an unfavorable verdict is rendered, the CLIENT agrees that BURNS & HARRIS, ESQS. reserves the right to decide whether or not to prosecute an appeal. If BURNS & HARRIS, ESQS. declines to prosecute an appeal, and appeal is taken, and at any point in the appeal process there is an eventual recovery made in the case on behalf of the CLIENT, BURNS & HARRIS, ESQS. will be entitled to a fee that represents the fair value of the services rendered. BURNS & HARRIS, ESQS. shall have the first right of selecting the basis of their fee in the first instance, and if BURNS & HARRIS, ESQS. elects to be paid on an hourly rate, they shall be paid based on an hourly rate of six hundred dollars an hour (\$ 600/hour) for all work performed by BURNS & HARRIS, ESQS., and their agents/servants/employees. Unless
(b)(6); (b)(7)(C)

stated in writing, BURNS & HARRIS, ESQS., elects to be paid on a contingent fee
b
____ (initials)

8. **DELEGATES COURT PROCEEDINGS:** If the law firm decides to handle Surrogate's Court work and the client agrees, the firm may hire a Surrogate Court attorney and to take fees from the client's share of the recovery. The establishment of a trust may be performed at an extra expense to the client. The client may consult with an elder lawyer, wills or trusts attorney at their own expense.

9. **STATUTE OF LIMITATIONS:** I understand that the Statute of Limitations period for my case must be investigated and that this Agreement is made subject to that investigation as well as an investigation of my entire case.

10. **FINANCING OF CASE:** If the firm borrows money from any lending institution to finance the cost of the Client's case, the amounts advanced by this firm to pay the cost of prosecuting or defending a claim or action or otherwise protecting or promoting the Client's interest will bear interest at the highest lawful rate allowed by applicable law. In no event will the interest be greater than the amount paid by the firm to the lending institution.

11. **RESULTS NOT GUARANTEED:** No attorney can accurately predict the outcome of any legal matter, accordingly, no representations are made, either expressly or impliedly, as to the final outcome of this matter. I further understand that I must immediately report any changes in my residence, telephone number or health to the law firm. I understand that this Retainer Agreement is a binding legal contract. I expressly agree that I will fully and freely cooperate with my attorneys in all aspects required for the prosecution of this legal matter and that I will not take any actions that frustrate or impair the success of this action.

(Initials)

12. **APPROVAL NECESSARY FOR SETTLEMENT:** Attorneys are hereby granted a power of attorney so that they may have full authority to prepare, sign and file all legal instruments, pleadings, drafts, authorizations and papers as shall be reasonably necessary to conclude this representation, including settlement and/or reducing to possession any and all monies or other things of value due to the Client under the claim as fully as the Client could do so in person. Attorneys are also authorized and empowered to act as Client's negotiator in any and all negotiations concerning the subject of this Agreement.

13. **ASSOCIATION OF OTHER ATTORNEYS:** Attorneys may, at their own expense, use or associate other attorneys in the representation of the aforesaid claims of the Client. Client understands that the firm, Seth A. Harris PLLC d/b/a Burns & Harris, is a professional limited liability company under the laws of New York with a number of attorneys. Various firm attorneys may work on Client's case.

14. **ASSOCIATE COUNSEL:** Attorneys may participate in the division of fees in this case and assume joint responsibility for the representation of the Client either in the event that the Attorney retains associate counsel or that the Client later chooses new counsel, provided that the total fee to the Client does not increase as a result of the division of fees and that the attorneys involved have agreed to the division of fees and assumption of joint responsibility.

15. **FEE DISPUTES:** In case of a fee dispute, the undersigned may be entitled to arbitration, if the fee falls within the parameters of the Fee Dispute Resolution Program, pursuant to 22 N.Y.C.R.R. PART 137 of the New York State Court Rules.

16. **COLLECTION WORK:** All work required to prosecute a collection case to recover an award will not be covered by this Agreement.

17. **NEW YORK LAW TO APPLY:** This Agreement shall be construed under and in accordance with the laws of the State of New York and the rights, duties and obligations of Client and of Attorneys regarding Attorney's representation of Client and regarding anything covered by this Agreement shall be governed by the laws of the State of New York.

18. **PARTIES BOUND:** This Agreement shall be binding upon and inure to the benefit of the parties, hereto, and their respective heirs, executors, administrators, legal representative, successors, guardians and assigns.

19. **LEGAL CONSTRUCTION:** In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such

invalidity, illegality, or unenforceability shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

20. PRIOR AGREEMENTS SUPERSEDED: This Agreement constitutes the sole and only Agreement of the parties hereto and supersedes any prior understanding or written or oral agreement between the parties respecting the within subject matter.

I certify and acknowledge that I have had the opportunity to read this Agreement and have answered any questions pertaining thereto. I further state that I have voluntarily entered into this Agreement fully aware of the terms and conditions.

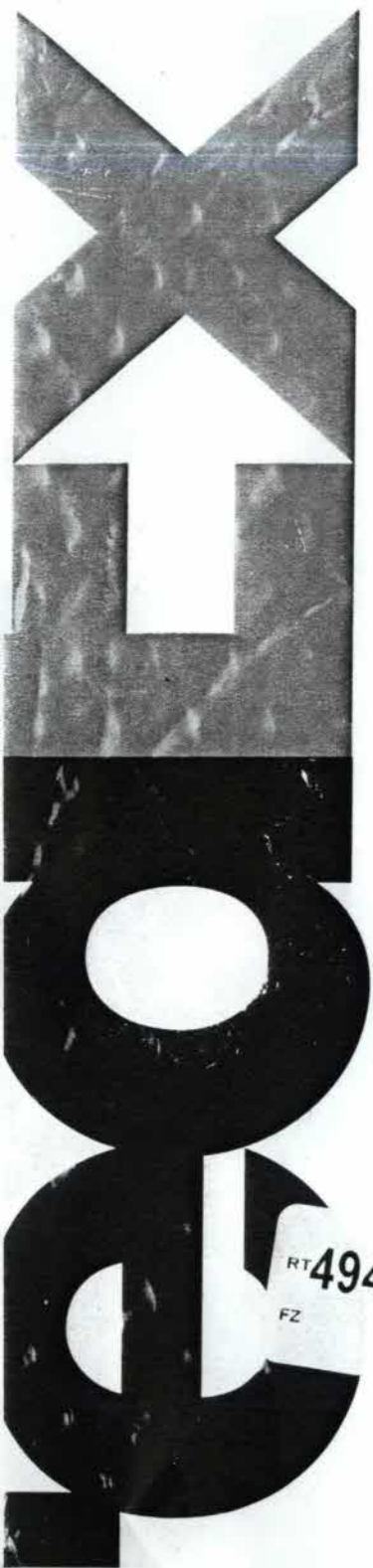
DATED: February 21, 2019

(b)(6); (b)(7)(C)

(L.S.)

Witness: _____

(L.S.)



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RENEE BIEN-AIME
BURNS & HARRIS
233 BROADWAY, SUITE 900

SHIP DATE: 20SEP19
ACTWGT: 4.00 LB
CAD: 108136325/INET4160

NEW YORK, NY 10279
UNITED STATES US

BILL SENDER

TO DARRIN HOWARD, REGIONAL COUNSEL
FEDERAL BUREAU OF PRISONS
US CUSTOM HOUSE
2ND & CHESTNUT STREETS, ROOM 701
PHILADELPHIA PA 19106

(215) 521-7301
INV
PO

REF: MDC BROOKLYN 205663

DEPT



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DOJ-19-0278, 19-0279, 19-0280-I-000064
2019-02980 64 of 312

AMERICAN
OVERSIGHT

GIVEN TO INMATE ON 3/6/2019

BP-A0943 Small Claims for Property Damage or Loss (31 U.S.C. § 3723) CDFRM

JUNE 10

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

1. Location where the property loss or damage occurred: Unit 63 Metropolitan Detention Center 80 29th Street Brooklyn, NY 11232	2. Name, address of claimant (Register number, street, city, state, and zip code): (b)(6); (b)(7)(C) METROPOLITAN DETENTION CENTER 80 29TH STREET BROOKLYN, NEW YORK 11232
3. Date and Day of Incident: 1/27/19 to 2/3/19	4. Time: (A.M. or P.M.): all day for 24 Hours on the dates of incident.
5. Basis of Claim (State in detail the known facts and circumstances of the damage to, or loss, of privately owned property, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages, if necessary.): During the MOC Blackout from 1/27 to 2/3, I became a victim a victim of cruel & hazardous conditions. This lead to experiencing more frequently than usual epilepsy/seizures that lead to injuries due to the lack of lighting in the cells. I also experienced Severe nose bleeds & migraines due to the lack of heat and proper nutrition. No medical attention was even considered even with numerous attempts made.	
6. Witnesses (Please provide the name and address (number, street, city, state, and zip code of each witness)): my cell bunkmate for starters would be one witness, but given the severity of the matter, many other inmates experienced the same or worse issues given the blackout.	
7. Amount of Claim for Damage to, or loss of, privately owned property (in dollars) (Sum Certain Amount - Total Amount Of Claim): \$1,800	
8. MAIL OR DELIVER CLAIM TO THE REGIONAL OFFICE WHERE THE CLAIM OCCURRED	

I CERTIFY THAT THE AMOUNT OF THE CLAIM COVERS ONLY DAMAGE TO, OR LOSS OF PRIVATELY OWNED PROPERTY CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

9. (b)(6); (b)(7)(C)	10. Date 3/12/19
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DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

APR 04 2019

PDF

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DOJ-19-0278, 19-0279, 19-0280-1000065

PHILADELPHIA

2019-02980 65 of 312

AMERICAN
OVERSIGHT

(b)(6);
(b)(7)(C)

Brooklyn

Metropolitan Detention Center
PO Box 329002
Brooklyn, NY 11232

NEW YORK NY 100

02 APR 2015 PM 13 L



North east Regional Office
US Custom House
2nd & Chestnut Street, 7th FL
Philadelphia, PA 19106

1910632808 0035



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA. 19106

April 16, 2019

(b)(6); (b)(7)(C)

Oklahoma City FTC
P.O. Box 898801
Oklahoma City, OK 73189

Re: Administrative Claim **Received April 4, 2019**
Claim No. TRT-NER-2019-03661

Dear Mr. (b)(6); (b)(7)(C)

This will acknowledge receipt of your administrative claim for an alleged loss of personal property or personal injury at MDC Brooklyn.

Under the provisions of the applicable federal statutes, we have **six months from the date of receipt** to review, consider, and adjudicate your claim.

All correspondence regarding this claim should be addressed to Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Street, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact this office immediately. Also, should your address change, you should contact this office in writing accordingly.

Sincerely,

(b)(6);
(b)(7)(C)

Darrin Howard
Regional Counsel



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

Via Certified and Return Receipt Mail

U.S. Custom House-7th Floor
2nd & Chestnut Streets
Philadelphia, PA 19106

October 3, 2019

Mr. (b)(6); (b)(7)(C)
FDC Miami
P.O. Box 019120
Miami, FL 33101

RE: Administrative Claim No. TRT-NER-2019-03661

Dear Mr. (b)(6); (b)(7)(C)

Administrative Claim No. TRT-NER-2019-03661, properly received in this office on April 4, 2019, has been accepted and considered for settlement as provided by the Federal Tort Claims Act (FTCA), 28 U.S.C. § 2672, under authority delegated to me by 28 C.F.R. § 543.30. You seek \$1,000.00 in compensation for an alleged personal injury sustained at MDC Brooklyn between January 27, 2019, and February 3, 2019. Specifically, you state a power outage adversely affected the institution's heating, hot water, meals and lighting. You allege you suffered frequent seizures, nose bleeds and migraines.

An investigation, including a review of your medical records, reveals you did not seek medical attention from Health Services for these ailments as they relate to the power outage. There is no evidence you experienced a compensable loss as the result of negligence on the part of any Bureau of Prisons employee. Accordingly, your claim is denied.

If you are dissatisfied with this decision, you may bring an action against the United States in an appropriate United States District Court within six (6) months of the date of this letter.

Sincerely,

Darrin Howard
Regional Counsel

cc: D. Edge, Warden, MDC Brooklyn

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. [REDACTED]
FDC Miami
P.O. Box 019120
Miami, FL 33101

(b)(6), (b)(7)(C)

2. Article number (Transfer from service label)

7016 1370 0001 4119 5392

447106N 2019 03661

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, give delivery address below: ☒ No

☐ Registered Mail Restricted Delivery

☐ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

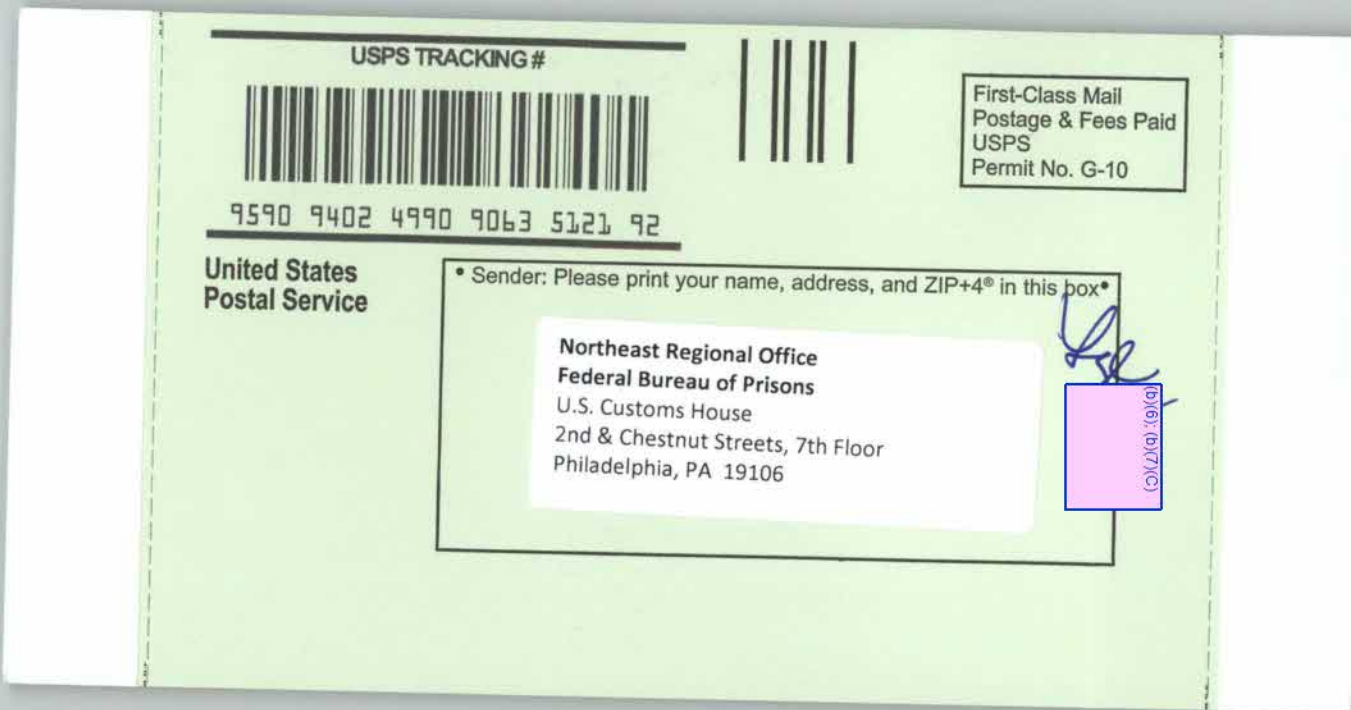
☒ Return Receipt for Merchandise

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt





U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

Via Certified and Return Receipt Mail

U.S. Custom House-7th Floor
2nd & Chestnut Streets
Philadelphia, PA 19106

October 10, 2019

Mr. (b)(6); (b)(7)(C)
MDC Brooklyn
P.O. Box 329002
Brooklyn, NY 11232

RE: Administrative Claim No. TRT-NER-2019-03880

Dear Mr. (b)(6); (b)(7)(C)

Administrative Claim No. TRT-NER-2019-03880, properly received in this office on April 8, 2019, has been accepted and considered for settlement as provided by the Federal Tort Claims Act (FTCA), 28 U.S.C. § 2672, under authority delegated to me by 28 C.F.R. § 543.30. You seek \$1,000.00 in compensation for an alleged personal injury sustained at MDC Brooklyn between January 27, 2019, and February 3, 2019. Specifically, you state a power outage adversely affected the institution's meals and access to medication. You contend you suffer from severe migraines and stomach pains.

An investigation, including a review of your medical records, reveals you did not seek medical attention from Health Services for these ailments as they relate to the power outage. There is no evidence you experienced a compensable loss as the result of negligence on the part of any Bureau of Prisons employee. Accordingly, your claim is denied.

If you are dissatisfied with this decision, you may bring an action against the United States in an appropriate United States District Court within six (6) months of the date of this letter.

Sincerely,

Darrin Howard
Regional Counsel

cc: D. Edge, Warden, MDC Brooklyn

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. [REDACTED]
MDC Brooklyn
P.O. Box 329002
Brooklyn, NY 11232

2. Article Number (Transfer from service label)

7016 1370 0001 4120 2267

447562 2019 03880
COMPLETE THIS SECTION ON DELIVERY

A. Signature ☐ Agent
X ☐ Addressee

B. Received by (Printed Name) C. Date of Delivery

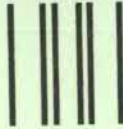
D. Is delivery address different from item 1? ☐ Yes
or delivery address below: ☒ No

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☒ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

USPS TRACKING #



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United States
Postal Service

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Northeast Regional Office
Federal Bureau of Prisons
U.S. Customs House
2nd & Chestnut Streets, 7th Floor
Philadelphia, PA 19106

(b)(6);
(b)(7)(C)

GIVEN TO INMATE ON 3/6/2019

BP-A0943 Small Claims for Property Damage or Loss (31 U.S.C. § 3723) CDFRM

JUNE 10

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

1. Location where the property loss or damage occurred: Unit 63 Metropolitan Detention Center 80 29th Street Brooklyn, NY 11232	2. Name, address of claimant (Register number, street, city, state, and zip code): (b)(6); (b)(7)(C) METROPOLITAN DETENTION CENTER 80 29TH STREET BROOKLYN, NEW YORK 11232
3. Date and Day of Incident: 1/27 to 2/3	4. Time: (A.M. or P.M.): 24 Hours daily during those dates
5. Basis of Claim (State in detail the known facts and circumstances of the damage to, or loss, of privately owned property, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages, if necessary.): Due to the MDC Blackout that I became a victim of cruel, hazardous and unconstitutional conditions. During these dates above, my medication was not provided in a timely fashion including meals. This led to severe migraines & stomach pains. When I ever requested an update on my medication or possible medical attention, I was ignored.	
6. Witnesses (Please provide the name and address (number, street, city, state, and zip code of each witness)) (b)(6); (b)(7)(C) which was my bunkmate during the time of this incident.	
7. Amount of Claim for Damage to, or loss of, privately owned property (in dollars) (Sum Certain Amount - Total Amount Of Claim): \$1,000	
8. MAIL OR DELIVER CLAIM TO THE REGIONAL OFFICE WHERE THE CLAIM OCCURRED	
I CERTIFY THAT THE AMOUNT OF THE CLAIM COVERS ONLY DAMAGE TO, OR LOSS OF PRIVATELY OWNED PROPERTY CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.	
9. Signature of Claimant or Authorized (b)(6); (b)(7)(C)	10. Date 3/12/19

Prescribed by PS 1320

DOJ-19-0278, 19-0279, 19-0280-I-000074

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE
APR 11 2019

PHILADELPHIA

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2019-02980 74 of 312

b(6);
b(7)(C)

Metropolitan Detention Center
P.O. Box 32900Z
Brooklyn, NY 11232



NEW YORK NY 100

SEP 19 1994

Northeast Regional Office
US Custom House
2nd & Chestnut Street 7th Floor
Philadelphia, PA 19106

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U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA. 19106

April 30, 2019

(b)(6); (b)(7)(C)

MDC Brooklyn
80 29th Street
Brooklyn, NY 11232

Re: Administrative Claim **Received April 11, 2019**
Claim No. TRT-NER-2019-03880

Dear Mr. (b)(6); (b)(7)(C)

This will acknowledge receipt of your administrative claim for an alleged loss of personal property or personal injury suffered at MDC Brooklyn.

Under the provisions of the applicable federal statutes, we have six months from the date of receipt to review, consider, and adjudicate your claim.

All correspondence regarding this claim should be addressed to Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Street, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact this office immediately. Also, should your address change, you should contact this office in writing accordingly.

Sincerely,

(b)(6); (b)(7)(C)

Darrin Howard
Regional Counsel



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

*U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA. 19106*

October 4, 2019

Ms. Jean Prabhu
Burns & Harris Attorneys At Law
The Woolworth Building
233 Broadway, Suite 900
New York, NY 10279

Re: Administrative Tort Claim Received September 24, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-06569

Dear Ms. Prabhu:

This will acknowledge receipt of the administrative claim you submitted on behalf of (b)(6); (b)(7)(C) for an alleged personal injury at MDC Brooklyn between January 27, 2019, and February 3, 2019.

Under the provisions of the applicable federal statutes, we have six months from the date of receipt to review, consider, and adjudicate your claim. In order for this office to properly evaluate this claim, you are required to submit all the information required by 28 C.F.R. §14.4(b).

All correspondence regarding this claim should be addressed to me at: Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Streets, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact me immediately.

Sincerely,

(b)(6);
(b)(7)(C)

Darrin Howard
Regional Counsel

BURNS & HARRIS

ATTORNEYS AT LAW

SETH A. HARRIS

ALISON R. KEENAN
BLAKE G. GOLDFARB
SHERI E. HOLLAND

VIRGINIA L. MCGRANE
JUDITH F. STEMLER
JASON STEINBERG
ANDREW G. MEIER
JAMES MARINO

VIA CERTIFIED MAIL/RRR

Federal Bureau of Prisons
Attn: Legal Department
Central Office HQ
320 First Street, NW
Washington, DC 20534

JASON M. BATEMAN
CLIFFORD R. TUCKER
KARDON A. STOLZMAN
MATTHEW R. JAEGER
JOHNSON L. ATKINSON

JEAN M. PRABHU
ALAN CHESTER SALZMAN
HARVEY WINER
JAMES K. GREENBERG
Of Counsel



Re:

(b)(6); (b)(7)(C)

Supplemental Claim

Location: MDC Brooklyn

Dates of Incident: 1/27/19 – 2/03/19

To Whom It May Concern:

Please be advised that this firm represents the above-referenced claimant along with his prison ID, whom was in the custody of the MDC Brooklyn on January 27, 2019 through February 3, 2019 and suffered injuries based on violation of 42 USC 1983 of the Constitution of the United States, including but not limited to the Fifth, Sixth, Eighth, and Fourteenth Amendments of the Constitution. On June 14, 2019, our office served upon you a claim on behalf of 37 claimants including the claimant listed above, and now serves this Supplemental Claim.

Upon information and belief, on January 27, 2019, an electrical fire broke out in MDC Brooklyn's west building causing damages to the building's infrastructure which significantly affected the prison's heating, venting, cooling, plumbing and electrical systems. The MDC Brooklyn and Warden Herman E. Quay failed to remedy those conditions for over a week and did not seek outside help or take measures to protect and ensure the safety of those in custody at the facility.

A humanitarian crisis unfolded as prisoners were subjected to inhumane conditions that posed unreasonable and substantial risks to their health and safety. The above claimant was deprived of basic human needs and any communication with the outside world, including but not limited to the following:

- Heating (in freezing temperatures)
- Suitable nutrition
- Electricity (kept in darkness)
- Flushable toilets/plumbing/showers
- drinking water
- Medical attention/medication
- Breathable air free from toxic fumes
- Access to clean clothes and bedding
- Excessive lockdown
- Extra blankets for warmth
- Communications with Counsel/family
- Administrative remedies

AMERICAN
OVERSIGHT

DOJ-19-0278, 19-0279, 19-0280-I-000078

THE WOOLWORTH BUILDING • 233 BROADWAY, SUITE 200 • NEW YORK, NY 10279 • TEL (212) 393-1000 • FAX (212) 267-2110
2019-02980 78 of 312
WWW.BURNSHARRIS.COM

Wherefore, (b)(6); (b)(7)(C) sustained damages in excess of one million dollars
\$1,000,000.00.

Respectfully,



JEAN PRABHU

JP/rb/enc.

FIRST • CLASS

FIRST • CLASS

FIRST • CLASS

CERTIFIED MAIL



7019 1120 0000 5291 9036

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First Class Mail

B BURNS & HARRIS
ATTORNEYS AT LAW

THE WOOLWORTH BUILDING
233 BROADWAY, SUITE 900
NEW YORK, NY 10279

Federal Bureau of Prisons
Attn: Legal Department
Central Office HQ
320 First Street, NW
Washington, DC 20534

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DOJ-19-0278, 19-0279, 19-0280-

2019-02980 80 of 312

AMERICAN
OVERSIGHT



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA 19106

September 10, 2019

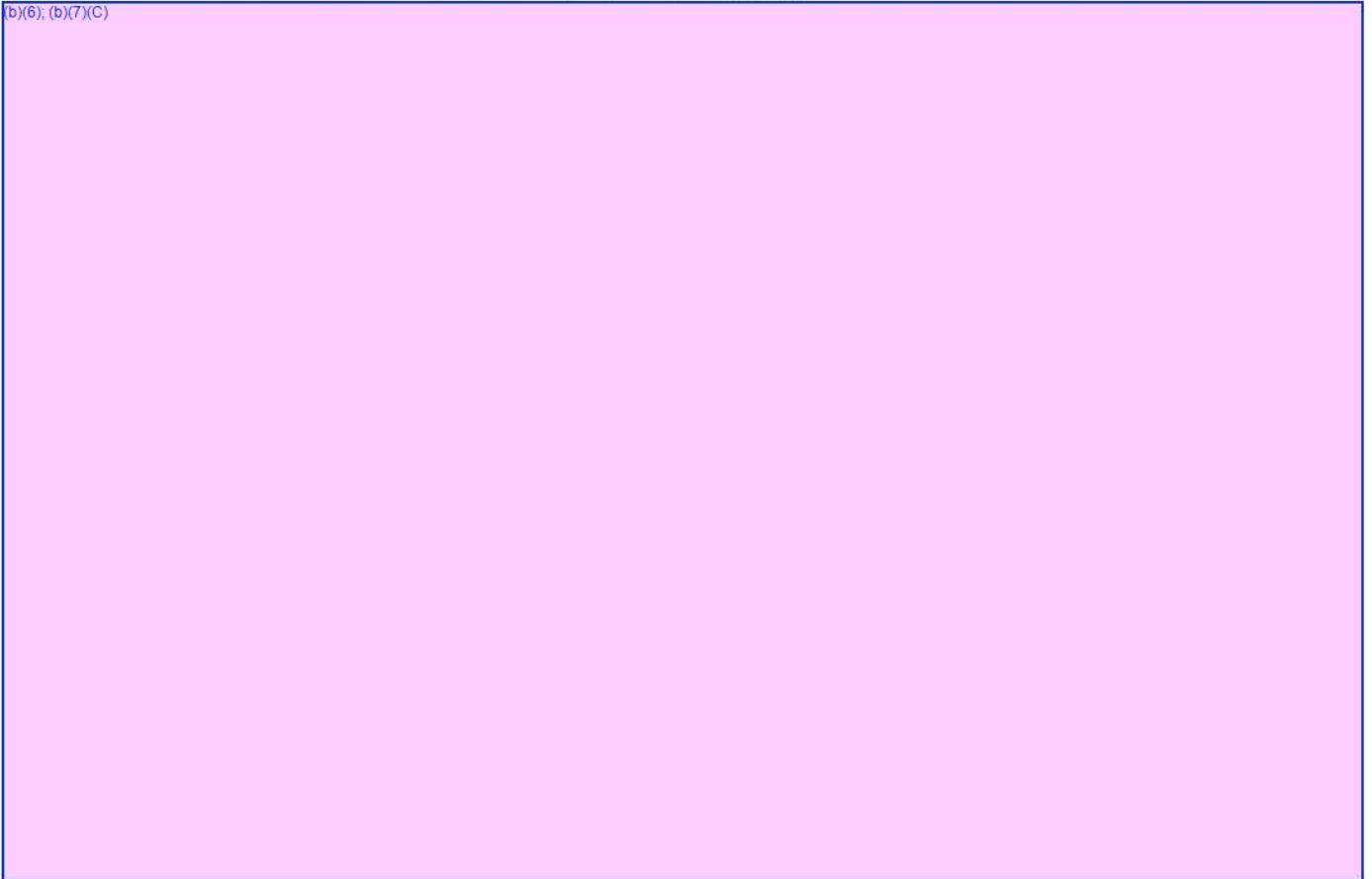
Ms. Jean Prabhu
Burns & Harris
The Woolworth Building
233 Broadway, Suite 900
New York, NY 10279

Re: Your Administrative Claims Received August 23, 2019

Dear Ms. Prabhu:

This will acknowledge receipt of the following administrative tort claims you filed on behalf of claimants seeking compensation for alleged personal injuries they suffered at the Metropolitan Detention Center in Brooklyn, New York:

(b)(6); (b)(7)(C)

A large rectangular area of the document is redacted, indicated by a solid pink fill. The redaction covers the majority of the lower half of the page, starting below the paragraph about tort claims and ending above the footer.

Ms. Jean Prabhu
September 10, 2019
Page 2

(b)(6); (b)(7)(C)



Each claim provided a sum certain "in excess of one million dollars." However, pursuant to 28 C.F.R. § 14.2, each claim must seek a specific dollar amount when you file a claim. Accordingly, the claims are rejected at this time.

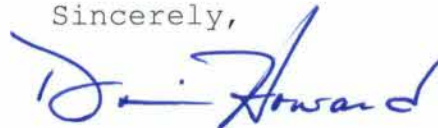
In addition, we will not be able to correspond with you unless you provide proof that you are authorized to represent each claimant as their legal representative. See 28 C.F.R. § 14.2.

If you wish these claims to be considered for administrative settlement, please re-submit the claim documents with the above-noted information. The enclosed Claim for Damage, Injury or Death form (SF-95) may be used in the instance of personal injury for each claim.

Lastly, please be advised that constitutional claims are not cognizable under the Federal Tort Claims Act.

All correspondence regarding these claims should be addressed to Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Street, Philadelphia, Pennsylvania 19106. If the circumstances surrounding these claims change in any fashion, you should contact this office immediately. Also, should your address change, you should advise this office accordingly.

Sincerely,



Darrin Howard
Regional Counsel

Enclosure

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency:			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code.		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☐ CIVILIAN	4. DATE OF BIRTH	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT	7. TIME (A.M. OR P.M.)	
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights).		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).			13b. PHONE NUMBER OF PERSON SIGNING FORM		14. DATE OF SIGNATURE
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident Insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No

17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. **Principal Purpose:** The information requested is to be used in evaluating claims.
- C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
- D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is **solely** for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

9/10/19 *multiple claims*

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY													
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature X ☐ Agent ☐ Addressee													
1. Article Addressed to:	B. Received by (<i>Printed Name</i>)	C. Date of Delivery												
Ms. Jean Prabhu Burns & Harris The Woolworth Building 233 Broadway, Suite 900 New York, NY 10279	D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☒ No													
2. Article Number (<i>Transfer from service label</i>)	3. Service Type <table border="0"> <tr> <td>☐ Adult Signature</td> <td>☐ Priority Mail Express®</td> </tr> <tr> <td>☐ Adult Signature Restricted Delivery</td> <td>☐ Registered Mail™</td> </tr> <tr> <td>☐ Certified Mail®</td> <td>☐ Registered Mail Restricted Delivery</td> </tr> <tr> <td>☒ Certified Mail Restricted Delivery</td> <td>☒ Return Receipt for Merchandise</td> </tr> <tr> <td>☐ Collect on Delivery</td> <td>☐ Signature Confirmation™</td> </tr> <tr> <td>☐ Collect on Delivery Restricted Delivery</td> <td>☐ Signature Confirmation Restricted Delivery</td> </tr> </table>		☐ Adult Signature	☐ Priority Mail Express®	☐ Adult Signature Restricted Delivery	☐ Registered Mail™	☐ Certified Mail®	☐ Registered Mail Restricted Delivery	☒ Certified Mail Restricted Delivery	☒ Return Receipt for Merchandise	☐ Collect on Delivery	☐ Signature Confirmation™	☐ Collect on Delivery Restricted Delivery	☐ Signature Confirmation Restricted Delivery
☐ Adult Signature	☐ Priority Mail Express®													
☐ Adult Signature Restricted Delivery	☐ Registered Mail™													
☐ Certified Mail®	☐ Registered Mail Restricted Delivery													
☒ Certified Mail Restricted Delivery	☒ Return Receipt for Merchandise													
☐ Collect on Delivery	☐ Signature Confirmation™													
☐ Collect on Delivery Restricted Delivery	☐ Signature Confirmation Restricted Delivery													
7013 0600 0001 9910 9338		Restricted Delivery												

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt



BURNS & HARRIS

ATTORNEYS AT LAW

SETH A. HARRIS

ALISON R. KEENAN
BLAKE G. GOLDFARB
SHERI E. HOLLAND

JUDITH F. STEMLER
JASON STEINBERG
ANDREW G. MEIER
STEPHEN S. LA ROCCA
IRWIN J. WEINSTEIN

JASON M. BATEMAN
JOHNSON L. ATKINSON
MAX SILVERBERG
KARLESHA V. HEWITT
FRANK L. LANZA

JEAN M. PRABHU
ALAN CHESTER SALZMAN
HARVEY WINER
JAMES K. GREENBERG
Of Counsel

September 19, 2019

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

SEP 24 2019

NERO-PHILADELPHIA

Federal Bureau of Prisons
Northeast Regional Office
Darrin Howard, Regional Counsel
US Custom House
2nd & Chestnut Streets, Room 701
Philadelphia, PA 19106

Re:

(b)(6); (b)(7)(C)

Claim No: TRT-NER-2019-06569

Dear Mr. Howard:

I am in receipt of your correspondence of September 10, 2019, and accordingly, have enclosed a copy of the above claimant's Retainer indicating Burns & Harris is his authorized representative for this claim.

The above claimant was in the custody of the MDC Brooklyn on January 27, 2019 through February 3, 2019 and suffered personal and emotional injuries based on the negligence and intentional infliction of physical and emotional injury at MDC Brooklyn and violation of 42 USC 1983 of the Constitution of the United States, including but not limited to the Fifth, Sixth, Eighth, and Fourteenth Amendments of the Constitution. This is our third submission of this claim and have previously served notices dated June 14, 2019 and August 6, 2019.

Upon information and belief, on January 27, 2019, an electrical fire broke out in MDC Brooklyn's west building causing damages to the building's infrastructure which significantly affected the prison's heating, venting, cooling, plumbing and electrical systems. The MDC Brooklyn and Warden Herman E. Quay failed to remedy those conditions for over a week and did not seek outside help nor take measures to protect and ensure the safety of those in custody at the facility.

A humanitarian crisis unfolded as prisoners were subjected to inhumane conditions that caused unreasonable and substantial injury. The above claimant was deprived of basic human needs, medical attention, any communication with the outside world, and suffered personal and emotional injuries as a result.

Wherefore, the above claimant sustained damages in the amount of one million dollars \$1,000,000.00.

Respectfully,


JEAN PRABHU

JP/rb/Enc.

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DOJ-19-0278, 19-0279, 19-0280-I-000087

THE WOOLWORTH BUILDING • 233 BROADWAY • NEW YORK, NY 10029 • TEL (212) 393-1000 • FAX (212) 267-2110
2019-02980-87 of 312
WWW.BURNSHARRIS.COM

RETAINER AGREEMENT

TO: BURNS & HARRIS
233 Broadway, Suite 900
New York, NY 10279
(212) 393-1000

I, (b)(6); (b)(7)(C) (Client), the undersigned retains the law office of BURNS & HARRIS to prosecute a claim for negligence against any and all parties, individuals and/or corporations that are found to be liable under the law for damages suffered by me arising from personal injury sustained by me. I, (b)(6); (b)(7)(C) the spouse of (b)(6); (b)(7)(C) (Client), retains the law office of BURNS & HARRIS (law firm) to represent me for a derivative cause of action for the loss of services and society of my spouse due to the injuries claimed as a result of the defendant(s) negligence. I(We) specifically agree as follows:

1. **FEE PERCENTAGE:** Although I have been advised of the right to retain the law firm under an arrangement whereby the firm would be compensated on the basis of the reasonable value of services rendered or on an hourly rate, I and the law firm agree that the law firm shall be paid Thirty Three and One-Third (33 1/3%) Percent of the sum recovered, whether by suit, settlement or otherwise. In computing the fee, the costs as taxed, including interest upon a judgment, shall be deemed part of the amount recovered. In litigating the claim, the law firm may become eligible for attorneys' fees under 42 U.S.C. § 1988. The Client agrees that any and all fees obtained by the law firm under 42 U.S.C. § 1988 are to be paid to the law firm in addition to the 33 1/3% of the sum recovered. If, as a result of the recovery obtained in your lawsuit brought by the law firm, a workers' compensation carrier waives any of its workers' compensation lien, then the law firm shall be entitled to recover from you an additional fee of 33 1/3% of the portion of the waiver that exceeds one third of the total lien amount owed.

2. **DISBURSEMENTS:** In the event there is no recovery, the Client shall not be obligated to pay the law firm a legal fee for services rendered. Disbursements may include some of the following expenses: court filing fees, sheriff fees, medical and hospital report/record fees, doctor's report, court stenographer fees, deposition costs, expert fees for expert depositions and court appearances, trial exhibits, computer on-line search fees, express mail, postage, photocopy charges, document management charges, long distance telephone charges, among other charges. Document management charges are the fees charged by the law firm for processing documents during litigation, such as medical records, documents produced by defendants(s) and/or other parties, etc. Processing of the documents may include but is not limited to the following: (1) scanning; (2) conversion of native files to PDF documents; (3) OCR (Optical Code Recognition); and/or (4) indexing. At the time of settlement and distribution of proceeds, if the law firm has advanced the disbursements, the law firm shall be reimbursed for all disbursements which shall be deducted from the recovery.

In the event that this firm has been retained by others having the same claim or a similar case, disbursements regarding the liability and/or damages of the defendants may be shared proportionately by all such plaintiffs.

The disbursements involved in prosecuting the case may be advanced by the Client or by the law firm. The Client may choose either option. If the Client elects to advance the money for disbursements (Option I), the Client must pay each disbursement as it is incurred. If the Client elects to have the law firm advance the money for Disbursements (Option II), at the end of each case, the law firm shall be reimbursed from the recovery for any disbursements the law firm advanced.

In the event the Client elects to advance the disbursements (Option I), at the time of the final settlement or distribution of judgment proceeds, these expenses shall be deducted prior to the computation of the Attorney's Fee. If there is no recovery, the law firm will have no responsibility to repay the client for case disbursements.

In the event the Client elects to have the law firm advance the disbursements (Option II), at the time of the final settlement or distribution of judgment proceeds, these expenses shall be deducted from the Client's share after the computation of the Attorney's Fee. If there is no recovery, or if the amount recovered is not sufficient to pay such disbursements in full, Client will not be responsible to pay such disbursements.

In the event no choice is selected by the Client, it will be assumed that the Client wishes to have the law firm advance all disbursements (Option II).

Option I

(initials)_____ I elect to advance the money for disbursements. I want to be billed for each disbursement as incurred. I understand that my immediate payment of such charges is required as many fees are tied to time-sensitive deadlines.

Option II (b)(6); (b)(7)(C)

(initials)_____ elect to have the law firm advance the money for disbursements. I do not want to be billed for each disbursement as incurred. I agree that if there is a recovery of money on my case, the law firm will be reimbursed from that recovery for the costs and expenses advanced by the law firm. The Client hereby gives permission that the law firm may borrow monies from a third party for expenses and disbursements. Interest will then be charged to the Client as an additional expense.

3. **COMPUTATION OF FEES:** Under Option II, the contingency fee shall be computed on the gross recovery, resulting in a net settlement (or judgment), from which all appropriate disbursements in connection with the institution and prosecution of this claim are deducted, as set forth in paragraph 2 above. Under Option I, the contingency fee shall be computed on the net recovery after all appropriate disbursements in connection with the institution and prosecution of this claim are deducted, as set forth in paragraph 2 above. Examples of how a contingency fee is computed are as follows:

conditionally accepted this case based upon the independent confirmation of all facts and injuries claimed to have been sustained by Client. In the event that the Client desires to transfer the file from this office, the Client shall be responsible to compensate the law firm for the reasonable value of their services. Such transfer shall not include documents or attorney work product regarding the general liability of the defendants.

7. **APPEALS:** Client further understands that the services to be provided through this agreement will NOT extend through the prosecution/defense of an appeal or representation on an appeal brought by any of the parties to the lawsuit. Client understands that BURNS & HARRIS, ESQS. may charge reasonable additional compensation if the case is appealed, or it is necessary to try the case more than once, the amount of which shall be an additional ten (10%) percent – totaling forty-three and one-third percent (43 1/3%) – of the sum recovered in negligence, intentional tort, civil rights and legal malpractice cases. Should attorney's fees under 42 USC § 1988 be awarded and an appeal be prosecuted pursuant to this section the firm may elect either 42 USC § 1988 fees or a 10% fee pursuant to this section but not both.

This further appellate representation will not require a new Fee Agreement. In the event the CLIENT's case is dismissed or an unfavorable verdict is rendered, the CLIENT agrees that BURNS & HARRIS, ESQS. reserves the right to decide whether or not to prosecute an appeal. If BURNS & HARRIS, ESQS. declines to prosecute an appeal, and appeal is taken, and at any point in the appeal process there is an eventual recovery made in the case on behalf of the CLIENT, BURNS & HARRIS, ESQS. will be entitled to a fee that represents the fair value of the services rendered. BURNS & HARRIS, ESQS. shall have the first right of selecting the basis of their fee in the first instance, and if BURNS & HARRIS, ESQS. elects to be paid on an hourly rate, they shall be paid based on an hourly rate of six hundred dollars an hour (\$ 600/hour) for all work performed by BURNS & HARRIS, ESQS., and their agents/servants/employees. Unless otherwise stated in writing, BURNS & HARRIS, ESQS., elects to be paid on a contingent fee basis.

(b)(6); (b)(7)(C)
____ (initials)

8. **SURROGATES COURT PROCEEDINGS:** If the law firm decides to handle Surrogate's Court work and the client agrees, the firm may hire a Surrogate Court attorney and to take fees from the client's share of the recovery. The establishment of a trust may be performed at an extra expense to the client. The client may consult with an elder lawyer, wills or trusts attorney at their own expense.

9. **STATUTE OF LIMITATIONS:** I understand that the Statute of Limitations period for my case must be investigated and that this Agreement is made subject to that investigation as well as an investigation of my entire case.

10. **FINANCING OF CASE:** If the firm borrows money from any lending institution to finance the cost of the Client's case, the amounts advanced by this firm to pay the cost of prosecuting or defending a claim or action or otherwise protecting or promoting the Client's interest will bear interest at the highest lawful rate allowed by applicable law. In no event will the interest be greater than the amount paid by the firm to the lending institution.

Option I

Client advances disbursements:

Gross Settlement	\$100.00
Disbursements	- \$10.00
Net settlement	\$90.00
33 1/3% Attorney's Fee	\$30.00
Net to Client	\$60.00

Option II

Law firm advances disbursements:

Gross Settlement	\$100.00
33 1/3% Attorney's Fee	\$33.33
Net settlement	\$66.67
Disbursements	- \$10.00
Net to Client	\$56.67

4. **MEDICAL BILLS:** All medical bills incurred which are not paid by the Client's medical insurance and are due and owing shall be chargeable to the Client's portion of the settlement. There may be additional deductions representing outstanding medical bills, liens to doctors for unpaid medical services rendered, or medical services not covered by medical insurance. The recovery of these medical services are included in the gross settlement and shall be paid from the Client's share of the recovery. Unpaid medical providers often will wait for payment until the conclusion of the case, however, in consideration for such abeyance, they will request a lien upon the settlement proceeds. The Client expressly authorizes the firm to sign such lien forms, which may be requested by physicians, and to directly pay outstanding medical bills for treatment to such physicians or other health care providers at the conclusion of the case. This authorization shall include medical and hospital expenses, and subrogation claims. The Client understands that medical providers do not provide medical services contingent upon the outcome of a case, and that in the event that there is no recovery, or an insufficient recovery, the Client will remain responsible for the payment of such medical bills.

5. **NO-FAULT PROCESSING FEE:** If this Retainer Agreement is entered for the processing of a claim for personal injuries arising from a motor vehicle accident wherein "No-Fault" insurance is applicable, it is agreed that the undersigned shall pay a fee of \$350.00 (Three Hundred Fifty Dollars) upon the successful conclusion of the case for the processing of statutory "No-Fault" benefits. This charge represents a lien on any proceeds of the case in favor of the attorney for professional services rendered in processing the "No-Fault" benefits.

6. **WITHDRAWALS:** The law firm expressly reserves the right to withdraw its representation at any time upon reasonable notification to the Client. In the event that the Client advises the law firm to discontinue the handling of this claim, or if the Client fails to cooperate with the law firm in the handling of this claim, Client agrees to compensate the law firm a reasonable amount for its services, and for the time spent on this claim on an hourly basis or under such other arrangement that may be agreed upon by the parties. The Client understands that the law firm has

11. **RESULTS NOT GUARANTEED:** No attorney can accurately predict the outcome of any legal matter, accordingly, no representations are made, either expressly or impliedly, as to the final outcome of this matter. I further understand that I must immediately report any changes in my residence, telephone number or health to the law firm. I understand that this Retainer Agreement is a binding legal contract. I expressly agree that I will fully and freely cooperate with my attorneys in all aspects required for the prosecution of this legal matter and that I will not take any actions that frustrate or impair the success of this action.

(b)(6);
(b)(7)(C)
(Initials)

12. **APPROVAL NECESSARY FOR SETTLEMENT:** Attorneys are hereby granted a power of attorney so that they may have full authority to prepare, sign and file all legal instruments, pleadings, drafts, authorizations and papers as shall be reasonably necessary to conclude this representation, including settlement and/or reducing to possession any and all monies or other things of value due to the Client under the claim as fully as the Client could do so in person. Attorneys are also authorized and empowered to act as Client's negotiator in any and all negotiations concerning the subject of this Agreement.

13. **ASSOCIATION OF OTHER ATTORNEYS:** Attorneys may, at their own expense, use or associate other attorneys in the representation of the aforesaid claims of the Client. Client understands that *the firm*, Seth A. Harris PLLC d/b/a Burns & Harris, is a professional limited liability company under the laws of New York with a number of attorneys. Various firm attorneys may work on Client's case.

14. **ASSOCIATE COUNSEL:** Attorneys may participate in the division of fees in this case and assume joint responsibility for the representation of the Client either in the event that the Attorney retains associate counsel or that the Client later chooses new counsel, provided that the total fee to the Client does not increase as a result of the division of fees and that the attorneys involved have agreed to the division of fees and assumption of joint responsibility.

15. **FEE DISPUTES:** In case of a fee dispute, the undersigned may be entitled to arbitration, if the fee falls within the parameters of the Fee Dispute Resolution Program, pursuant to 22 N.Y.C.R.R. PART 137 of the New York State Court Rules.

16. **COLLECTION WORK:** All work required to prosecute a collection case to recover an award will not be covered by this Agreement.

17. **NEW YORK LAW TO APPLY:** This Agreement shall be construed under and in accordance with the laws of the State of New York and the rights, duties and obligations of Client and of Attorneys regarding Attorney's representation of Client and regarding anything covered by this Agreement shall be governed by the laws of the State of New York.

18. **PARTIES BOUND:** This Agreement shall be binding upon and inure to the benefit of the parties, hereto, and their respective heirs, executors, administrators, legal representative, successors, guardians and assigns.

19. **LEGAL CONSTRUCTION:** In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such

invalidity, illegality, or unenforceability shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

20. PRIOR AGREEMENTS SUPERSEDED: This Agreement constitutes the sole and only Agreement of the parties hereto and supersedes any prior understanding or written or oral agreement between the parties respecting the within subject matter.

I certify and acknowledge that I have had the opportunity to read this Agreement and have answered any questions pertaining thereto. I further state that I have voluntarily entered into this Agreement fully aware of the terms and conditions.

DATED: Feb 21, 2017

(b)(6); (b)(7)(C)

(L.S.)

Witness: _____

(L.S.)

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CAD: 108136325/INET4160

NEW YORK, NY 10279
UNITED STATES US

BILL SENDER

TO DARRIN HOWARD, REGIONAL COUNSEL
FEDERAL BUREAU OF PRISONS
US CUSTOM HOUSE
2ND & CHESTNUT STREETS, ROOM 701
PHILADELPHIA PA 19106

(215) 521-7301
INV
PO

REF: MDC BROOKLYN 205663

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DOJ-19-0278, 19-0279, 19-0280-I-000094
2019-02980 94 of 312

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CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency:			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse side) Number, Street, City, State, and Zip code. (b)(6); (b)(7)(C) 25 Harris St Carteret, NJ 07008		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☒ CIVILIAN	4. DATE OF BIRTH 3/28/85	5. MARITAL STATUS Single	6. DATE AND DAY OF ACCIDENT 1/27/19 to 2/3/19	7. TIME (A.M. OR P.M.) 24 Hours Daily	
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Please refer to Attachment 1					
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NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Suffered severe nasal passage issues & constant fainting due to lack of proper medical attention & nutrition. Losing my mind, constant shaking of my hands, going through depression. Financial compensation is requested to resolve this matter, given the unconstitutional nature of this incident.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
(b)(6); (b)(7)(C)		Metropolitan Detention Center 80 29th Street Brooklyn, NY 11232			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE	12b. PERSONAL INJURY \$25,000	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights). \$25,000		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGN (b)(6); (b)(7)(C) reverse side).		13b. PHONE NUMBER OF PERSON SIGNING FORM (b)(6); (b)(7)(C) (STEP)		14. DATE OF SIGNATURE 4-28-2019	
13c. REPRESENTING CLAIM		CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS DATE RECEIVED FINE, IMPRISONMENT, OR BOTH (See 18 U.S.C. 287, 1001.) FEDERAL BUREAU OF INVESTIGATION REGIONAL COUNSEL OFFICE			
The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).					

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NSN 7540-00-634-4046

MAY 6 2019

STANDARD FORM 95 (REV. 2/2007)
PRESCRIBED BY DEPT. OF JUSTICE

AMERICAN
OVERSIGHT

DOJ-19-0278, 19-0279, 19-0280-I-000095

2019-02980 95 of 312 NERO-PHILADELPHIA

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☒ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☒ No

17. If deductible, state amount.

N/A

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

N/A

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☒ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

- (a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.
- (b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.
- (c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.
- (d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. **Principal Purpose:** The information requested is to be used in evaluating claims.
- C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
- D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

DOJ-19-0278, 19-0279, 19-0280, 19-000096 (2/2007) BACK

I demand \$25,000 under the Federal Tort Claims Act (FTCA) for pain and suffering punishment and conditions, I endured & personal injuries sustained all in violation of my constitutional rights against cruel & unusual punishment under the 8th amendment while housed against my will at Federal Bureau of Prisons (FBOP) Metropolitan Detention Center.

During the time period of Sunday January 27th, 2019 and all through Sunday February 3rd, 2019. This was all due to gross negligence, cruel & inhumane punishment & treatment by FBOP via their employees & Warden Herman Quay. Due to their unconstitutional actions/inactions following a fire to the transformer at MDC Brooklyn which resulted in the immediate loss of heat, hot water, hot meals, lights in the cells & other basic rights as listed in paragraphs 4, 6 & 7, pg. 35 of the inmates rights and responsibilities.

I was locked up in my cell in total darkness for that time period without disciplinary sanctions to properly justify the loss of all the above rights, all while during a "Polar Vortex" in New York City which caused temperatures in the single digits & they permeated the MDC Brooklyn building and cell I resided in. The FBOP, via Warden Herman Quay and all its Captains unconstitutional actions & inactions constituted gross negligence that lead to my personal injuries. The cruel and unusual punishment was unjustifiable by any governmental interest and also constituted a degree of outrageousness and a magnitude of potential or actual harm that is the sort of official action most likely to rise to "conscience-shocking" levels by only putting in a regular "work order" (Non-emergency) to have the electrical transformer repaired or replaced by a contractor instead of treating the above loss of heating and lighting in my cell as an emergency situation during the Polar Vortex.

Further showing gross negligence & deliberate indifferences by FBOP via Warden Herman Quay & captains were Quay's statements made to the public in response to a question as to why he did not remove /relocate the inmates including myself to the old MDC building right next door where it was fully functional as it also houses women & all units are capable of housing the entire MDC Brooklyn men's population. Warden Quay stated "because he did not want it to appear that he lost control of the MDC Brooklyn Prison." That is a perfect example of the outrageousness and unjustifiable governmental interact showing a magnitude of harm that the sort of official action most likely to & did rise to the conscience-shocking level. Warden Quay committed perjury to the United States Department of Justice, which also includes the FBOP, materially bolsters my claims when he stated on Monday February, 4th that "the facility can now begin to return to regular operations" and "in the coming days, the department will work with the bureau of prisons to examine what transpired and ensure "the facility" retain the power, heat and backup systems in place to prevent a possible reoccurrence."

Emphasis added, one last note is that should further litigations needs to occur, the lawsuit filed by the American Federal of Government Employees, the Union that represents THE MDC Brooklyn prison guards, will be used to fight any attempts at dismissal. Also any attempts to prevail in summary judgment or cross motions for summary judgment against my Federal Tort Claims Act Complaint, filed in the U.S. District Court upon the denial by the FBOP.

I reserve the right to amend my Federal Tort Act Claim in the future and eagerly awaiting your earliest possible response. I thank you in advance for your time and consideration in this matter.

(b)(6); (b)(7)(C)

Metropolitan Detention Center
P.O. Box 329002
Brooklyn, NY 11232

NEW YORK NY 100

03 MAY 2019 PM 10 L



Northeast Regional Office
US Custom House
2nd & Chestnut Street 7th Floor
Philadelphia, PA 19106

19106-280801



GIVEN TO INMATE ON 3/6/2019

BP-A0943 Small Claims for Property Damage or Loss (31 U.S.C. § 3723) CDFRM

JUNE 10

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

1. Location where the property loss or damage occurred: Unit 63-metropolitan Detention Center 80 29th street Brooklyn, NY 11232	2. Name, address of claimant (Register number, street, city, state, and zip code): (b)(6); (b)(7)(C) METROPOLITAN DETENTION CENTER 80 29TH STREET BROOKLYN, NEW YORK 11232
3. Date and Day of Incident: 1/22 to 2/3	4. Time: (A.M. or P.M.): 24 Hours during the dates listed

5. Basis of Claim (State in detail the known facts and circumstances of the damage to, or loss, of privately owned property, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages, if necessary.):
During the period of 1/22 to 2/3, my eighth amendment rights were violated while the MDC Blackout occurred. During these dangerous, cruel & harsh conditions, I suffered severe nasal passage issues & constant fainting due to lack of proper medical attention & nutrition. Financial compensation is requested to resolve this matter, given the unconstitutional nature of this incident.

6. Witnesses (Please provide the name and address (number, street, city, state, and zip code of each witness)):
my bunkmate during this incident would suffice to resolve this claim and confirm the validity.

7. Amount of Claim for Damage to, or loss of, privately owned property (in dollars) (Sum Certain Amount - Total Amount Of Claim):

\$1,000

8. MAIL OR DELIVER CLAIM TO THE REGIONAL OFFICE WHERE THE CLAIM OCCURRED

I CERTIFY THAT THE AMOUNT OF THE CLAIM COVERS ONLY DAMAGE TO, OR LOSS OF PRIVATELY OWNED PROPERTY CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

9. Signature of Claimant or Authorized Representative

(b)(6); (b)(7)(C)

10. Date

3-23-19

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

MAY 6 2019

NEBO-PHILADELPHIA

Prescribed by PS 1320

DOJ-19-0278, 19-0279, 19-0280-I-000099

2019-02980 99 of 312

AMERICAN
OVERSIGHT

(b)(6);
(b)(7)(C)

Metropolitan Detention Center
P.O. Box 329002
Brooklyn, NY 11232

Northeast Regional Office
US Customs House
2nd & Chestnut Street 7th Floor
Philadelphia, PA 19106

PLEASE RETURN TO
03 MAY 2019 PM 13:11



19106-280809





U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House-7th Floor
2nd & Chestnut Streets
Philadelphia, PA 19106

May 10, 2019

(b)(6); (b)(7)(C)

MDC Brooklyn
P.O. Box 329002
Brooklyn, NY 11232

RE: Administrative Claim **Received May 6, 2019**
Claim No. TRT-NER-2019-04107

Dear Mr. (b)(6); (b)(7)(C)

This will acknowledge receipt of your two claims, which were received in this office on May 6, 2019. The first claim was presented on a Form SF-95 (Claim for Damage, Injury or Death). You alleged you sustained personal injuries at MDC Brooklyn for several related incidents that took place between January 27, and February 3, 2019. You requested \$25,000.00 for personal injuries.

You presented another claim on a Form BP-A0943 (Small Claims for Property Damage or Loss (31 U.S.C. § 3723)), which is a small claims form for property damage or loss. You requested \$1,000.00 for damages related to a series of incidents that occurred at MDC Brooklyn between January 27, and February 3, 2019. The claims will be consolidated into one single claim for the sum certain of \$26,000.00 (the sum of the first and second claims) because the claims are for injuries you allegedly suffered at MDC Brooklyn during the same time period. The consolidated claim will be processed under Claim No. TRT-NER-2019-04107.

If you did not intend to submit one personal injury claim for the total sum certain amount of \$26,000.00, please advise this office accordingly.

Sincerely,

Darrin Howard
Regional Counsel

cc: H. Quay, Warden, MDC Brooklyn



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

Via Certified and Return Receipt Mail

U.S. Custom House-7th Floor
2nd & Chestnut Streets
Philadelphia, PA 19106

November 5, 2019

Mr. (b)(6); (b)(7)(C)
MDC Brooklyn
P.O. Box 329002
Brooklyn, NY 11232

RE: Administrative Claim No. TRT-NER-2019-04107

Dear Mr. (b)(6); (b)(7)(C)

Administrative Claim No. TRT-NER-2019-04107, properly received in this office on May 6, 2019, has been accepted and considered for settlement as provided by the Federal Tort Claims Act (FTCA), 28 U.S.C. § 2672, under authority delegated to me by 28 C.F.R. § 543.30. You seek \$25,000.00 in compensation for an alleged personal injury sustained at MDC Brooklyn between January 27, 2019, and February 3, 2019. Specifically, you state a power outage adversely affected the institution's meals and access to medical care. You contend you suffer from nasal issues, fainting, shaky hands, and depression. You contend this was a violation of your Eighth Amendment rights.

An investigation, including review of your medical records, does not reflect you sought medical care for concerns related to the power outage. Constitutional claims are not cognizable under the FTCA. There is no evidence you experienced a compensable loss as the result of negligence on the part of a Bureau of Prisons employee. Accordingly, your claim is denied.

If you are dissatisfied with this decision, you may bring an action against the United States in an appropriate United States District Court within six (6) months of the date of this letter.

Sincerely,

Darrin Howard
Regional Counsel

cc: D. Edge, Warden, MDC Brooklyn

YKT NEW 2019 04107

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature X ☐ Agent ☐ Addressee
1. Article Addressed to:	B. Received by (Printed Name) C. Date of Delivery
2. Tracking number (Transfer from service label)	Delivery address different from item 1? ☐ Yes Enter delivery address below: ☒ No
Mr. [REDACTED] MDC Brooklyn P.O. Box 329002 Brooklyn, NY 11232	☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Registered Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☒ Return Receipt for Merchandise ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery
7016 1370 0001 4119 2681	
PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt	





U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

Via Certified and Return Receipt Mail

U.S. Custom House-7th Floor
2nd & Chestnut Streets
Philadelphia, PA 19106

April 2, 2019

(b)(6); (b)(7)(C)

USP Hazelton
P.O. Box 2000
Bruceton Mills, WV 26525

RE: Administrative Claim No. TRT-NER-2019-03309
Claim Received March 22, 2019

Dear Mr. (b)(6); (b)(7)(C)

This is in response to your administrative tort claim in which you seek \$100,000.00 in compensation for an alleged personal injury sustained at MDC Brooklyn between January 27, 2019, and February 3, 2019. Specifically, you state a power outage adversely affected the institution's heating, hot water and lighting. You allege you suffered severe emotional distress, which affected your ability to sleep and focus. You contend you feared for your physical safety and possible assault.

After review, we have decided to deny your claim because you have not alleged an identifiable physical injury actionable under the Federal Tort Claims Act 28 U.S.C. §§ 1346(b)(2), 2672.

If you are dissatisfied with this decision, you may bring an action against the United States in an appropriate United States District Court within six (6) months of the date of this letter.

Sincerely,

Darrin Howard
Regional Counsel

cc: H. Quay, Warden, MDC Brooklyn

PARTNER 2019 03309

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on a separate card.		A. Signature ☐ Agent ☒ Addressee B. Received by (Printed Name) ☐ C. Date of Delivery	
1. Address (b)(6) (b)(7)(c) USP Hazleton P.O. Box 2000 Bruceton Mills, WV 26525		different from item 1? ☐ Yes any address below: ☒ No	
2. Article Number (Transfer from service label) 9590 9402 4542 8278 8134 97		3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail ☐ Insured Mail Restricted Delivery (over \$500)	
		☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☒ Return Receipt for Merchandise ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	
		Domestic Return Receipt	

PS Form 3811, July 2015 PSN 7530-02-000-9053



DARRIN HOWARD, ESQ.
NORTHEAST REGIONAL COUNSEL
U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF PRISONS
NORTHEAST REGIONAL OFFICE
200 CHESTNUT STREET
PHILADELPHIA, PENNSYLVANIA 19106

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

MAR 22 2019

NERO-PHILADELPHIA

Re: Administrative Tort Claim for Personal Injury [28 U.S.C. 2671, et. seq.]

Dear Mr. Howard:

The undersigned Claimant respectfully submits this claim under the Federal Tort Claims Act ("FTCA") [28 U.S.C. 2672], and 28 C.F.R. 543.30, seeking compensatory damages in the amount of \$100,000.00 for personal injury that he suffered as a result of negligence by Federal Bureau of Prisons staff at the Metropolitan Detention Center ("MDC") in Brooklyn, New York. For the reasons that follow, this claim should be promptly settled.

I. THE RELEVANT FACTS.

At all times between January 27, 2019 and February 3, 2019, claimant was detained at the MDC (West Building). On January 27, 2019, the institution experienced a power outage which, upon information and belief, resulted from an electrical fire. Upon information and belief, the power outage adversely affected the institution's heating, hot water, and lighting. More specifically, each cell (including claimant's assigned cell) was without lights, hot water, or heat for the approximately eight days (i.e. January 27, 2019 thru February 3, 2019). Staff was aware of the inhumane conditions, and took no steps to immediately restore the housing units or the cells within those units to habitable conditions.

Notably, however, on February 3, 2019, staff began distributing extra blankets to inmates in the institution in an effort to combat the exceptionally frigid temperatures. It should also be noted that during this period, institutional staff would visit housing units to check the cell temperatures. Some inmates blocked their ventilation ducts in an effort to prevent the exceptionally cold air from entering their cells through the ventilation system. This, however, also prevented staff from obtaining an accurate electronic reading of the temperature in those cells which had their vents blocked. Thus, on at least two occasions, staff entered the housing unit and presented to a particular cell where the air vent had been blocked, and recorded a temperature reading that was much warmer than the temperature in other cells where inmates had not blocked their air vents.

Throughout the period where claimant was denied suitable quarters, heat, hot water, and lights, he feared for his physical safety. He feared possible assault on his person by other inmates assigned to his housing unit. Despite inadequate lighting in the housing units, from on or about January 28, 2019 thru February 1, 2019, claimant and more than 100 other inmates assigned to his housing unit were permitted (and even required) to exit and remain outside of their respective cells for extended periods of times throughout the day and evening, supervised by only a single staff member who was physically unable to observe inmate activity throughout the unit due to extremely limited lighting in the common area. Claimant was required to exit his cell and enter the common area to obtain and consume his meals, as well as to shower. It should also be noted that during the institutional crisis, mental health staff was inaccessible to claimant and all other inmates assigned to his housing unit. This claimant was also not afforded an opportunity to meet with medical staff. All access to claimant's attorney was denied as attorneys were not permitted to enter the institution, and both the inmate telephone and email systems were not operational. Inmates were also denied a meaningful opportunity to send general correspondence since they were denied access to commissary to purchase required postage.

Again, despite the magnitude of the inhumane crisis, MDC staff took no immediate or appropriate action to restore the institution to normal operations, or to adhere to their responsibility to provide Claimant with appropriate housing.

During this crisis period claimant suffered severe emotional distress which affected, inter alia, claimant's ability to sleep and focus.

II. THE RELEVANT LAW.

(a) Liability Under The Federal Tort Claims Act

The Federal Tort Claims Act ("FTCA") provides that the United States is liable for injury caused by the negligence

of its employees under circumstances where a private person would be liable according to "the laws of the place where the act or omission occurred," and thus New York law applies. {28 U.S.C. 1346(b); Kane v. United States, 189 F. Supp. 2d 40, 51-52 (S.D.N.Y. 2002); Ducrepin v. United States, 964 F. Supp. 659, 663 (E.D.N.Y. 1997)} Under New York law, to prove a claim of negligence, plaintiff must establish three elements: (i) defendant owed plaintiff a duty of care; (ii) defendant breached that duty; and (iii) the breach proximately caused plaintiff's injury. {Kane, 189 F. Supp. 2d at 51-52}

(b) The Bureau of Prisons Owed Claimant a Duty of Care

Although state laws set out the elements required to prove negligence, the standard of care for the Federal Bureau of Prisons is "fixed by 18 U.S.C. 4042, independent of [any] inconsistent state rule" allowing for a local jailor's immunity from suit, or a lesser duty. {United States v. Muniz, 374 U.S. 150, 164 (1963)} Section 4042(a) requires that the Bureau of Prisons provide "suitable quarters and provide for the safekeeping, care, and subsistence of all persons charged with or convicted of offenses against the United States." {18 U.S.C. 4042(a)(2)} This statutory duty means that the Bureau of Prisons must exercise "ordinary diligence" or reasonable care "to keep prisoners safe and free from harm." {Cowan v. United States, 617 F.2d 112, 116 (5th Cir. 1980); see also Herrington v. United States, 1984 WL 1279, at *2 (S.D.N.Y. 1984); Castor v. United States, 883 F. Supp. 344, 350 (S.D. Ind. 1995)}

It is clear that "the mere failure to provide suitable quarters" is not actionable; there must be fault. {Muhammed v. United States, 6 F. Supp.2d 582, 595 (N.D. Tex. 1998)} Only "a failure to exercise ordinary care, or reasonable care, to provide suitable quarters" is actionable. {Id.; Graham v. United States, 2002 WL 188573, at *4 (E.D. Pa. 2002) (noting that mandatory duty of care set forth in Section 4042 "does not dictate the manner in which the duty must be fulfilled")}

(c) New York Law Governing Claims Negligent Infliction of Emotional Distress

Under New York law, a claim of negligent infliction of emotional distress must be premised upon a breach of a duty owed "which either unreasonably endangers the plaintiff's physical safety, or causes the plaintiff to fear for his or her own safety." {Sheila C. v. Povich, 11 A.D.3d 120, 130 (1st Dep't 2004), see also Mortise v. United States, 102 F.3d 693, 696 (2d Cir. 1996)} Under New York law, a plaintiff may establish a claim of negligent infliction of emotional distress in one of two ways: (1) the "bystander" theory, or (2) the "direct duty theory." A plaintiff may recover for purely emotional injury under the "direct duty theory" when he/she suffers an emotional injury from defendant's breach of a duty which unreasonably endangers his/her own physical safety. {See, Mortise, 102 F.3d at 696 (citing Kennedy v. McKesson Co., 58 N.Y.2d 500, 504 (1983))} The duty in such cases must be specific to the plaintiff, and not some amorphous, free-floating duty to society. {Id. (citing Johnson v. Jamaica Hosp., 62 N.Y.2d 523, 526-27 (1984))}

As noted, the Federal Bureau of Prisons owed claimant a specific duty of care, as described in Section 4042(a)(2) and (3), to provide him "suitable quarters," "safekeeping," and "protection."

III. APPLICATION OF THE LAW TO THE FACTS

The facts and the law are relatively straightforward. On January 27, 2019, MDC Brooklyn experienced a significant power outage that adversely affected all housing units within its West Building. The outage rendered all cells (including claimant's) within the West Building uninhabitable by virtue of no lighting, heating, or hot water. MDC staff failed to take immediate steps to rectify the power outage or to restore the institutional to normal operations, as a result of being left in such inhumane and exceptionally dangerous conditions, claimant feared for his personal safety and life.

It goes without saying that the Federal Bureau of Prisons, in keeping with its mandated duty under Section 4042(a)(2) and (3), is required to provide "adequate heat" to all cells and housing units wherein prisoners will be confined. {See, Dugan v. Washington, 2001 WL 741626, at *5 (N.D. Ill. June 11, 2001) (noting that prisoners need only be provided "adequate heat") That duty is specific. The duty to provide "safekeeping" and "protection" is also specific. {See, 18 U.S.C. 4042(a)(2) and (3)} Each of those specific duties were breached when MDC staff failed to take steps to immediately rectify the power outage, resulting in approximately eight continuous days of fear of physical injury.

Bureau of Prisons employee's negligence in this matter is both inexplicable and unacceptable. Indeed, the failure to act reasonably has prompted investigations from the Office of the Inspectors General, as well as others. Given the indisputable facts, and well settled law, claimant is entitled to compensatory damages in the amount of \$100,000.00.

IV. CONCLUSION

For the reasons stated, claimant seeks prompt disposition and settlement of this claim.

Dated: Brooklyn, New York

February _____, 2019

march 18-2019

Respectfully submitted,

(b)(6); (b)(7)(C)

[SIGNATURE]

(b)(6); (b)(7)(C)

[PRINT NAME]

(b)(6); (b)(7)(C)

[REGISTER NUMBER]

METROPOLITAN DETENTION CENTER
P.O. BOX 329002
BROOKLYN, NEW YORK 11232

- CLAIMANT -

cc: U.S. Department of Justice
Office of the Inspector General

Federal Bureau of Prisons
Central Office
320 First Street, NW
Washington, DC 20534

New York Times (w/ecnl.)

New York Federal Defenders

Metropolitan Detention Center

(b)(6);
(b)(7)(C)

P.O. Box 329002

Brooklyn, NY 11232

19106-297999

NEW YORK NY 100

20 MAR 2019 PM 4 1



Darren Howard, Esq
Northeast Regional Counsel
U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
200 Chestnut Street
Philadelphia, PA 19106-297999

4NT NER 2019 02628

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Philadelphia, PA 19106

LP

(b)(6)
(b)(7)(c)



DARRIN HOWARD, ESQ.
NORTHEAST REGIONAL COUNSEL
U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF PRISONS
NORTHEAST REGIONAL OFFICE
200 CHESTNUT STREET
PHILADELPHIA, PENNSYLVANIA 19106

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

FEB 21 2019

Re: Administrative Tort Claim for Personal Injury [28 U.S.C. 2671, et. seq.]

NERO-PHILADELPHIA

Dear Mr. Howard:

The undersigned Claimant respectfully submits this claim under the Federal Tort Claims Act ("FTCA") [28 U.S.C. 2672], and 28 C.F.R. 543.30, seeking compensatory damages in the amount of \$100,000.00 for personal injury that he suffered as a result of negligence by Federal Bureau of Prisons staff at the Metropolitan Detention Center ("MDC") in Brooklyn, New York. For the reasons that follow, this claim should be promptly settled.

I. THE RELEVANT FACTS.

At all times between January 27, 2019 and February 3, 2019, claimant was detained at the MDC (West Building). On January 27, 2019, the institution experienced a power outage which, upon information and belief, resulted from an electrical fire. Upon information and belief, the power outage adversely affected the institution's heating, hot water, and lighting. More specifically, each cell (including claimant's assigned cell) was without lights, hot water, or heat for the approximately eight days (i.e. January 27, 2019 thru February 3, 2019). Staff was aware of the inhumane conditions, and took no steps to immediately restore the housing units or the cells within those units to habitable conditions.

Notably, however, on February 3, 2019, staff began distributing extra blankets to inmates in the institution in an effort to combat the exceptionally frigid temperatures. It should also be noted that during this period, institutional staff would visit housing units to check the cell temperatures. Some inmates blocked their ventilation ducts in an effort to prevent the exceptionally cold air from entering their cells through the ventilation system. This, however, also prevented staff from obtaining an accurate electronic reading of the temperature in those cells which had their vents blocked. Thus, on at least two occasions, staff entered the housing unit and presented to a particular cell where the air vent had been blocked, and recorded a temperature reading that was much warmer than the temperature in other cells where inmates had not blocked their air vents.

Throughout the period where claimant was denied suitable quarters, heat, hot water, and lights, he feared for his physical safety. He feared possible assault on his person by other inmates assigned to his housing unit. Despite inadequate lighting in the housing units, from on or about January 28, 2019 thru February 1, 2019, claimant and more than 100 other inmates assigned to his housing unit were permitted (and even required) to exit and remain outside of their respective cells for extended periods of times throughout the day and evening, supervised by only a single staff member who was physically unable to observe inmate activity throughout the unit due to extremely limited lighting in the common area. Claimant was required to exit his cell and enter the common area to obtain and consume his meals, as well as to shower. It should also be noted that during the institutional crisis, mental health staff was inaccessible to claimant and all other inmates assigned to his housing unit. This claimant was also not afforded an opportunity to meet with medical staff. All access to claimant's attorney was denied as attorneys were not permitted to enter the institution, and both the inmate telephone and email systems were not operational. Inmates were also denied a meaningful opportunity to send general correspondence since they were denied access to commissary to purchase required postage.

Again, despite the magnitude of the inhumane crisis, MDC staff took no immediate or appropriate action to restore the institution to normal operations, or to adhere to their responsibility to provide Claimant with appropriate housing.

During this crisis period claimant suffered severe emotional distress which affected, inter alia, claimant's ability to sleep and focus.

II. THE RELEVANT LAW.

(a) Liability Under The Federal Tort Claims Act.

The Federal Tort Claims Act ("FTCA") provides that the United States is liable for injury caused by the negligence

of its employees under circumstances where a private person would be liable according to "the laws of the place where the act or omission occurred," and thus New York law applies. {28 U.S.C. 1346(b); Kane v. United States, 189 F.Supp.2d 40, 51-52 (S.D.N.Y. 2002); Ducrepin v. United States, 964 F.Supp. 659, 663 (E.D.N.Y. 1997)} Under New York law, to prove a claim of negligence, plaintiff must establish three elements: (i) defendant owed plaintiff a duty of care; (ii) defendant breached that duty; and (iii) the breach proximately caused plaintiff's injury. {Kane, 189 F.Supp.2d at 51-52}

(b) The Bureau of Prisons Owed Claimant a Duty of Care.

Although state laws sets out the elements required to prove negligence, the standard of care for the Federal Bureau of Prisons is "fixed by 18 U.S.C. 4042, independent of [any] inconsistent state rule" allowing for a local jailor's immunity from suit, or a lesser duty. {United States v. Muniz, 374 U.S. 150, 164 (1963)} Section 4042(a) requires that the Bureau of Prisons provide "suitable quarters and provide for the safekeeping, care, and subsistence of all persons charged with or convicted of offenses against the United States." {18 U.S.C. 4042(a)(2)} This statutory duty means that the Bureau of Prisons must exercise "ordinary diligence" or reasonable care "to keep prisoners safe and free from harm." {Coward v. United States, 617 F.2d 112, 116 (5th Cir. 1980); see also Herrington v. United States, 1984 WL 1279, at *2 (S.D.N.Y. 1984); Castor v. United States, 883 F.Supp. 344, 350 (S.D. Ind. 1995)}

It is clear that "the mere failure to provide suitable quarters" is not actionable; there must be fault. {Muhammed v. United States, 6 F.Supp.2d 582, 595 (N.D. Tex. 1998)} Only "a failure to exercise ordinary care, or reasonable care, to provide suitable quarters" is actionable. {Id.; Graham v. United States, 2002 WL 188573, at *4 (E.D. Pa. 2002)(noting that mandatory duty of care set forth in Section 4042 "does not dictate the manner in which the duty must be fulfilled")}

(c) New York Law Governing Claims Negligent Infliction of Emotional Distress.

Under New York law, a claim of negligent infliction of emotional distress must be premised upon a breach of a duty owed "which either unreasonably endangers the plaintiff's physical safety, or causes the plaintiff to fear for his or her own safety." {Sheila C. v. Povich, 11 A.D.3d 120, 130 (1st Dep't 2004); see also Mortise v. United States, 102 F.3d 693, 696 (2d Cir. 1996)} Under New York law, a plaintiff may establish a claim of negligent infliction of emotion distress in one of two ways: (1) the "bystander" theory; or (2) the "direct duty theory." A plaintiff may recover for purely emotional injury under the "direct duty theory" when he/she suffers an emotional injury from defendant's breach of a duty which unreasonably endangers his/her own physical safety. {See, Mortise, 102 F.3d at 696 (citing Kennedy v. McKesson Co., 58 N.Y.2d 500, 504 (1983))} The duty in such cases must be specific to the plaintiff, and not some amorphous, free-floating duty to society. {Id.; (citing Johnson v. Jamaica Hosp., 62 N.Y.2d 523, 526-27 (1984))}

As noted, the Federal Bureau of Prisons owed claimant a specific duty of care, as described in Section 4042(a)(2) and (3), to provide him "suitable quarters," "safekeeping," and "protection."

III. APPLICATION OF THE LAW TO THE FACTS.

The facts and the law are relatively straightforward: On January 27, 2019, MDC Brooklyn experienced a significant power outage that adversely affected all housing units within its West Building. The outage rendered all cells (including claimant's) within the West Building uninhabitable by virtue of no lighting, heating, or hot water. MDC staff failed to take immediate steps to rectify the power outage or to restore the institutional to normal operations, as a result of being left in such inhumane and exceptionally dangerous conditions, claimant feared for his personal safety and life.

It goes without saying that the Federal Bureau of Prisons, in keeping with its mandated duty under Section 4042(a) (2) and (3), is required to provide "adequate heat" to all cells and housing units wherein prisoners will be confined. {See, Dugan v. Washington, 2001 WL 741626, at *5 (N.D. Ill. June 11, 2001)(noting that prisoners need only be provided "adequate heat") That duty is specific. The duty to provide "safekeeping" and "protection" is also specific. {See, 18 U.S.C. 4042 (a)(2) and (3)} Each of those specific duties were breached when MDC staff failed to take steps to immediately rectify the power outage, resulting in approximately eight continuous days of fear of physical injury.

Bureau of Prisons employee's negligence in this matter is both inexplicable and unacceptable. Indeed, the failure to act reasonably has prompted investigations from the Office of the Inspectors General, as well as others. Given the indisputable facts, and well settled law, claimant is entitled to compensatory damages in the amount of \$100,000.00.

IV. CONCLUSION.

For the reasons stated, claimant seeks prompt disposition and settlement of this claim.

Dated: Brooklyn, New York

February 18, 2019

Respectfully submitted,

(b)(6); (b)(7)(C)

[SIGNATURE]

(b)(6); (b)(7)(C)

[PRINT NAME]

(b)(6); (b)(7)(C)

[REGISTER NUMBER]

METROPOLITAN DETENTION CENTER
P.O. BOX 329002
BROOKLYN, NEW YORK 11232

-- CLAIMANT --

cc: U.S. Department of Justice
Office of the Inspector General

Federal Bureau of Prisons
Central Office
320 First Street, NW
Washington, DC 20534

New York Times (w/ecnl.)

New York Federal Defenders



NEW YORK NY 100
19 FEB 2019 PM 16 L

(b)(6); (b)(7)(C)

Metropolitan Correction Center
P.O. Box 329002
Brooklyn, N.Y. 11238

Domin Humberg Esq.
Northeast Regional Counsel
Federal Bureau of Prisons
200 Chestnut Street
Philadelphia, PA 19106

1910642579 0035



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

Via Certified and Return Receipt Mail

U.S. Custom House-7th Floor
2nd & Chestnut Streets
Philadelphia, PA 19106

March 4, 2019

(b)(6); (b)(7)(C)

MDC Brooklyn
P.O. Box 329002
Brooklyn, NY 11232

RE: Administrative Claim No. TRT-NER-2019-02628
Claim Received February 21, 2019

Dear Mr. (b)(6); (b)(7)(C)

This is in response to your administrative tort claim in which you seek \$100,000.00 in compensation for an alleged personal injury sustained at MDC Brooklyn between January 27, 2019, and February 3, 2019. Specifically, you state a power outage adversely affected the institution's heating, hot water, and lighting. You allege you suffered severe emotional distress, which affected your ability to sleep and focus. You contend you feared for your physical safety and possible assault.

After review, we have decided to deny your claim because you have not alleged an identifiable physical injury actionable under the Federal Tort Claims Act 28 U.S.C. §§ 1346(b)(2), 2672.

If you are dissatisfied with this decision, you may bring an action against the United States in an appropriate United States District Court within six (6) months of the date of this letter.

Sincerely,

Darrin Howard
Regional Counsel

cc: H. Quay, Warden, MDC Brooklyn

4NT NEL 2019 02628

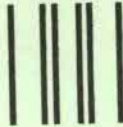
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(b)(6); (b)(7)(C)

RICHARD D. EMERY
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DEBRA L. GREENBERGER
ZOE SALZMAN
SAM SHAPIRO

EMERY CELLI BRINCKERHOFF & ABADY LLP

ATTORNEYS AT LAW
600 FIFTH AVENUE AT ROCKEFELLER CENTER
10TH FLOOR
NEW YORK, NEW YORK 10020

TEL: (212) 763-5000
FAX: (212) 763-5001
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DIANE L. HOUK
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ALISON FRICK
DAVID LEBOWITZ
DOUGLAS E. LIEB
ALANNA KAUFMAN
EMMA L. FREEMAN
DAVID BERMAN
ASHOK CHANDRAN

July 29, 2019

Via U.S. Mail

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

Re: *Administrative Complaint by* (b)(6); (b)(7)(C)

To Whom It May Concern:

On behalf of (b)(6); (b)(7)(C), enclosed please find:

- SF-95 Claim Form
- SF-95 Supplement
- Authorization to File SF-95

If you have any questions, I can be reached by phone at (212) 763-5000 or by email at krosenfeld@ecbalaw.com. Thank you for your attention to this matter.

Sincerely,

/s/

Katherine Rosenfeld

Encl.

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Federal Bureau of Prisons Northeast Regional Office U.S. Custom House, 7th Floor Philadelphia, PA			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. (b)(6); (b)(7)(C) c/o Emery Celli Brinckerhoff & Abady LLP 600 Fifth Avenue, 10th Floor New York, NY 10020		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☐ CIVILIAN		4. DATE OF BIRTH (b)(6); (b)(7)(C)	5. MARITAL STATUS Single	6. DATE AND DAY OF ACCIDENT 01/27/2019 02/03/2019	
7. TIME (A.M. OR P.M.) A.M.					
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Please see attached.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Please see attached.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
(b)(6); (b)(7)(C)		UNKNOWN UNKNOWN UNKNOWN			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY 1,000,000		12c. WRONGFUL DEATH	
				12d. TOTAL (Failure to specify may cause forfeiture of your rights). 1,000,000	
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). <i>Katherine Rosenheck</i>			13b. PHONE NUMBER OF PERSON SIGNING FORM (212) 763-5000		14. DATE OF SIGNATURE 07/16/2019
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.) DATE RECEIVED FEDERAL BUREAU OF PRISONS REGIONAL COUNSEL OFFICE		

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95-109

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DOJ-19-0278, 19-0279, 19-0280-I-000122

2019-02980 122 of 312

NERO-PHILADELPHIA

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INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No 17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. **Principal Purpose:** The information requested is to be used in evaluating claims.

C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.

D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

(b)(6); (b)(7)(C)

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages in necessary)

- a. During the week of January 27, 2019 through February 3, 2019, I was incarcerated in the West Building at the Metropolitan Detention Center in Brooklyn, New York. During that week, there was a power failure in the West Building.
- b. I was confined in Unit K84, cell (b)(6); (b)(7)(C).
- c. In the seven-day period between January 27, 2019 and February 3, 2019 while I was confined at MDC: (1) there was no electricity and no functioning lights, and I was confined in near-darkness; (2) there was little to no heat and I was confined in freezing cold temperatures without adequate clothing or blankets; (3) there was a building-wide lockdown and I was confined to my cell for long periods of time; and (4) I had little to no access to clean laundry, hot food, regularly scheduled meals, regular showers, hot showers and hot water, medical or psychiatric care, exercise, or outside communications with my family or lawyers via email, pay phone, or visits.
- d. In addition to these facts, I also experienced the following circumstances between January 27, 2019 and February 3, 2019 while I was confined at MDC: [Example: unclean drinking water, broken toilet, rotting food]

During the period in question, the drinking water had a rust color, the meals were spoiled from sitting in the food cart in the unit for up to 3-4 hours before it was served and the toilet worked intermittently.

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

(b)(6); (b)(7)(C)

10. PERSONAL INJURY/WRONGFUL DEATH: STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURY PERSON OR DECEDENT.

- a. As a result of being confined in the circumstances described in paragraph 8, including but not limited to a prolonged period of bitter cold and darkness, I suffered the following injuries which form the basis of my claim: physical pain and discomfort as a result of my exposure to the cold; hunger; exposure to noxious odor, air quality, and excessive noise; severe personal uncleanliness caused by lack of access to showers or clean clothing; and emotional and psychological distress.
- b. In addition to those injuries described in paragraph 10(a) above, I also suffered the following injuries between January 27, 2019 and February 3, 2019 while I was confined at MDC, and/or as a result of the events of that week of confinement: [Examples: nightmares, anxiety, asthma symptoms, nausea, diabetes, etc.]

As a result of the events of that week, I have ~~experienced~~ episodes of anxiety and depression at times.

11. WITNESSES

The following people witnessed the circumstances that caused my injury:
[Provide name and address for each]

(b)(6); (b)(7)(C)

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

June 28, 2019

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

To Whom it May Concern:

I, (b)(6); (b)(7)(C) authorize my representatives at Emery Celli Brinckerhoff & Abady LLP, including Katherine Rosenfeld, to submit an administrative complaint pursuant to the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 et seq. against the Bureau of Prisons.

Thank you. If you have any questions, please call Ms. Rosenfeld at 212-763-5066.

Sincerely,

Name: (b)(6); (b)(7)(C)

Date of Birth: (b)(6); (b)(7)(C)

02 000 002922
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FIRST-CLASS



DOJ-19-0278, 19-0279, 19-0280-I-000127

2019-02980 127 of 312

EMERY CELLI BRINCKERHOFF & ABADY LLP
600 FIFTH AVENUE, 10TH FL. • NEW YORK, NEW YORK 10020

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

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U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

*U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA. 19106*

August 20, 2019

Katherine Rosenfeld, Esq.
Emery Celli Brinckerhoff & Abady LLP
600 Fifth Avenue at Rockefeller Center
10th Floor
New York, NY 10020

Re: Administrative Tort Claim Received August 12, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-06119

Dear Ms. Gigliotta:

This will acknowledge receipt of the administrative claim you submitted on behalf of (b)(6); (b)(7)(C) for an alleged personal injury suffered at MDC Brooklyn between January 27, 2019, and February 3, 2019.

Under the provisions of the applicable federal statutes, we have six months from the date of receipt to review, consider, and adjudicate your claim. In order for this office to properly evaluate this claim, you are required to submit all the information required by 28 C.F.R. §14.4(b).

All correspondence regarding this claim should be addressed to me at: Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Streets, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact me immediately.

Sincerely,

(b)(6); (b)(7)(C)

Darrin Howard
Regional Counsel

EMERY CELLI BRINCKERHOFF & ABADY LLP

RICHARD D. EMERY
ANDREW G. CELLI, JR.
MATTHEW D. BRINCKERHOFF
JONATHAN S. ABADY
EARL S. WARD
ILANN M. MAAZEL
HAL R. LIEBERMAN
DANIEL J. KORNSTEIN
O. ANDREW F. WILSON
ELIZABETH S. SAYLOR
KATHERINE ROSENFELD
DEBRA L. GREENBERGER
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NEW YORK, NEW YORK 10020

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DIANE L. HOUK

ALISON FRICK
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DOUGLAS E. LIEB
ALANNA KAUFMAN
EMMA L. FREEMAN
DAVID BERMAN
HARVEY PRAGER
SCOUT KATOVICH

October 28, 2019

Via U.S. Mail

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

Re: Administrative Complaint by (b)(6); (b)(7)(C)

To Whom It May Concern:

On behalf of (b)(6); (b)(7)(C), enclosed please find:

- SF-95 Claim Form
- SF-95 Supplement
- Authorization to File SF-95

If you have any questions, I can be reached by phone at (212) 763-5000 or by email at krosenfeld@ecbalaw.com. Thank you for your attention to this matter.

Sincerely,

/s/

Katherine Rosenfeld

Encl.

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Federal Bureau of Prisons Northeast Regional Office U.S. Custom House, 7th Floor Philadelphia, PA			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. (b)(6); (b)(7)(C) c/o Emery Celli Brinckerhoff & Abady LLP 600 Fifth Avenue, 10th Floor New York, NY 10020		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☒ CIVILIAN		4. DATE OF BIRTH (b)(6); (b)(7)(C)	5. MARITAL STATUS Single	6. DATE AND DAY OF ACCIDENT 01/27/2019 02/03/2019	
7. TIME (A.M. OR P.M.) A.M.					
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Please see attached.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Please see attached.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
CELLMATE (b)(6); (b)(7)(C)		UNKNOWN			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY 1,000,000		12c. WRONGFUL DEATH	
				12d. TOTAL (Failure to specify may cause forfeiture of your rights). 1,000,000	
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). <i>Katherine Rosenfeld</i>			13b. PHONE NUMBER OF PERSON SIGNING FORM (212) 763-5066		14. DATE OF SIGNATURE
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

DATE RECEIVED
 FEDERAL BUREAU OF PRISONS
 REGIONAL COUNSEL OFFICE
 NOV 01 2019
 NERO-PHILADELPHIA

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NSN 7540-00-634-4046

STANDARD FORM 95 (REV. 2/2007)
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2

AMERICAN
OVERSIGHT

DOJ-19-0278, 19-0279, 19-0280-I-000130

2019-02980 130 of 312

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident Insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No 17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. **Principal Purpose:** The information requested is to be used in evaluating claims.

C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.

D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages in necessary)

- a. During the week of January 27, 2019 through February 3, 2019, I was incarcerated in the West Building at the Metropolitan Detention Center in Brooklyn, New York. During that week, there was a power failure in the West Building.
- b. I was confined in Unit 62 and the SHU.
- c. In the seven-day period between January 27, 2019 and February 3, 2019 while I was confined at MDC: (1) there was no electricity and no functioning lights, and I was confined in near-darkness; (2) there was little to no heat and I was confined in freezing cold temperatures and/or extreme temperature variations without adequate clothing or blankets; (3) there was a building-wide lockdown and I was confined to my cell for long periods of time; and (4) I had little to no access to clean laundry, hot food, regularly scheduled meals, regular showers, hot showers and hot water, medical or psychiatric care, exercise, or outside communications with my family or lawyers via email, pay phone, or visits.
- d. In addition to these facts, I also experienced the following circumstances between January 27, 2019 and February 3, 2019 while I was confined at MDC: It was completely pitch black and freezing temperatures. I did not receive additional clothes or blankets. The vents were blowing out cold air. I was let out of my cell once/twice for 2 hours the first two days. The toilet was non functioning and did not flush. I had to fill cereal bags to flush the toilet. The cell smelled like urine and feces. The water was brown and undrinkable. I did not have access to showers for the first 4 days. They allowed us to take showers every 2 days but limited our access to 3 minutes strictly. The guards would turn off the water once 3 minutes passed. The showers were cold. I did not have access to the laundry facilities and had to wash my clothes by hand. Our meals were skipped for the first 2-3 days and when we did receive the food, it was untimely. The C.O.'s treated us negatively.

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

10. PERSONAL INJURY/WRONGFUL DEATH: STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURY PERSON OR DECEDENT.

- a. As a result of being confined in the circumstances described in paragraph 8, including but not limited to a prolonged period of bitter cold, and/or extreme temperature variations, and darkness, I suffered the following injuries which form the basis of my claim: physical pain and discomfort as a result of my exposure to the cold; hunger; exposure to noxious odor, air quality, and excessive noise; severe personal uncleanliness cause by lack of access to showers of clean clothing; and emotional and psychological distress.
- b. I suffer from asthma and was not provided with my asthma pump when requested. The panic buttons did not work. I developed a bump under my skin and asked for medical attention, but did not receive it.
- c. In addition to those injuries described in paragraph 10(a) above, I also suffered the following injuries between January 27, 2019 and February 3, 2019 while I was confined at MDC, and/or as a result of the events of that week of confinement: Claustrophobia, cold sweats, coughing/sneezing, chest pain because of my asthma, headaches, lightheadedness, depression, asthma symptoms, skin rash.

11. WITNESSES

The following people witnessed the circumstances that caused my injury:

Cellmate- (b)(6); (b)(7)(C)

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

Oct. 7th, 2019

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

To Whom it May Concern:

I (b)(6); (b)(7)(C), authorize my representatives at Emery Celli Brinckerhoff & Abady LLP, including Katherine Rosenfeld, to submit an administrative complaint pursuant to the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 et seq. against the Bureau of Prisons.

Thank you. If you have any questions, please call Ms. Rosenfeld at 212-763-5066.

Sincerely,

Name:

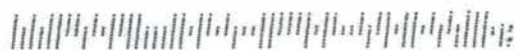
(b)(6); (b)(7)(C)

DOB:

(b)(6); (b)(7)(C)

EMERY CELLI BRINCKERHOFF & ABADY LLP
600 FIFTH AVENUE, 10TH FL. • NEW YORK, NEW YORK 10020

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106



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2019-02980 135 of 312



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA. 19106

November 12, 2019

Katherine Rosenfeld, Esq.
Emery Celli Brinckerhoff & Abady LLP
600 Fifth Avenue at Rockefeller Center
10th Floor
New York, NY 10020

Re: Administrative Tort Claim Received November 1, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2020-00966

Dear Ms. Rosenfeld:

This will acknowledge receipt of the administrative claim you submitted on behalf of (b)(6); (b)(7)(C), for an alleged personal injury suffered at MDC Brooklyn between January 27, 2019, and February 3, 2019.

Under the provisions of the applicable federal statutes, we have six months from the date of receipt to review, consider, and adjudicate your claim. In order for this office to properly evaluate this claim, you are required to submit all the information required by 28 C.F.R. §14.4(b).

All correspondence regarding this claim should be addressed to me at: Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Streets, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact me immediately.

Sincerely,

(b)(6);
(b)(7)(C)

Darrin Howard
Regional Counsel

RICHARD D. EMERY
ANDREW G. CELLI, JR.
MATTHEW D. BRINCKERHOFF
JONATHAN S. ABADY
EARL S. WARD
ILANN M. MAAZEL
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CHARLES J. OGLETREE, JR.
EMERITUS

DIANE L. HOUK
JESSICA CLARKE

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DAVID LEBOWITZ
DOUGLAS E. LIEB
ALANNA KAUFMAN
EMMA L. FREEMAN
DAVID BERMAN
ASHOK CHANDRAN
MICHELE YANKSON

April 30, 2019

By FedEx

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

Re: *Administrative Complaints by* (b)(6); (b)(7)(C) *and*

(b)(6); (b)(7)(C)

To Whom It May Concern:

Enclosed please find:

1. Authorization to file SF-95 and SF-95 claim form for damage, injury, or death plus supplement, on behalf of (b)(6); (b)(7)(C) and
2. Authorization to file SF-95 and SF-95 claim form for damage, injury, or death plus supplement, on behalf of (b)(6); (b)(7)(C)

If you have any questions, I can be reached by phone at 212-763-5066 or by email at krosenfeld@ecbalaw.com. Thank you.

Sincerely,

Katherine Rosenfeld

Katherine Rosenfeld

Encl.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

April 29, 2019

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

To Whom it May Concern:

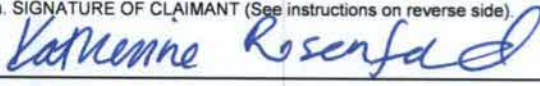
I, (b)(6); (b)(7)(C) authorize my representatives at Emery Celli Brinckerhoff & Abady LLP, including Katherine Rosenfeld, to submit an administrative complaint pursuant to the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 et seq. against the Bureau of Prisons.

Thank you. If you have any questions, please call Ms. Rosenfeld at 212-763-5066.

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

DOB: (b)(6); (b)(7)(C)

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Federal Bureau of Prisons Northeast Regional Office U.S. CUSTOM HOUSE, 7TH FLOOR PHILADELPHIA, PA 19106			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. (b)(6); (b)(7)(C) c/o Emery Celli Brinckerhoff & Abady LLP 600 Fifth Avenue, 10th Floor New York, New York 10020		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☐ CIVILIAN		4. DATE OF BIRTH (b)(6); (b)(7)(C)	5. MARITAL STATUS Single	6. DATE AND DAY OF ACCIDENT 01/27/2019 02/03/2019	
7. TIME (A.M. OR P.M.) A.M. - P.M.					
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Please see attached.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Please see attached.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
12. (See instructions on reverse).					
AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY 1,000,000		12c. WRONGFUL DEATH	
				12d. TOTAL (Failure to specify may cause forfeiture of your rights). 1,000,000	
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). 			13b. PHONE NUMBER OF PERSON SIGNING FORM 212-763-5066		14. DATE OF SIGNATURE 4/29/19
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both (See 18 U.S.C. 287, 1001.) 		

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NSN 7540-00-634-4046

STANDARD FORM 95 (REV. 2/2007)

PRESCRIBED BY DEPT. OF JUSTICE

28 CFR 14.2

MAY 1 2019

DOJ-19-0278, 19-0279, 19-0280-I-000139

2019-02980 139 of 312

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Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages in necessary)

- a. During the week of January 27, 2019 through February 3, 2019, I was incarcerated in the West Building at the Metropolitan Detention Center in Brooklyn, New York. During that week, there was a power failure in the West Building.
- b. I was confined in Unit 61.
- c. In the seven-day period between January 27, 2019 and February 3, 2019 while I was confined at MDC: (1) there was no electricity and no functioning lights, and I was confined in near-darkness; (2) there was little to no heat and I was confined in freezing cold temperatures without adequate clothing or blankets; (3) there was a building-wide lockdown and I was confined to my cell for long periods of time; and (4) I had little to no access to clean laundry, hot food, regularly scheduled meals, regular showers, hot showers and hot water, medical or psychiatric care, exercise, commissary, or outside communications with my family or lawyers via email, pay phone, or visits.

10. PERSONAL INJURY/WRONGFUL DEATH: STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURY PERSON OR DECEDENT.

- a. As a result of being confined in the circumstances described in paragraph 8, including but not limited to a prolonged period of bitter cold and darkness, I suffered the following injuries which form the basis of my claim: physical pain and discomfort, including as a result of my exposure to the cold; hunger; exposure to noxious odor, air quality, and excessive noise; severe personal uncleanliness caused by lack of access to showers or clean clothing and linens; and emotional and psychological distress.

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

- b. Between January 27, 2019 and February 3, 2019, I suffered from: skin fungus, a skin abscess under my armpit, and numbness in my left arm and hand. During this period, I was not provided with needed medical care. Specifically, I was not provided with topical treatment for the skin fungus, antibiotics for the skin abscess, or x-rays or diagnostic tests for my arm and hand numbness.



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

Via Certified and Return Receipt Mail

U.S. Custom House-7th Floor
2nd & Chestnut Streets
Philadelphia, PA 19106

October 31, 2019

Katherine Rosenfeld, Esq.
Emery Celli Brinckerhoff & Abady LLP
600 Fifth Avenue at Rockefeller Center
10th Floor
New York, NY 10020

RE: Administrative Claim No. TRT-NER-2019-03968

(b)(6); (b)(7)(C)

Dear Ms. Rosenfeld:

Administrative Claim No. TRT-NER-2019-03968, properly received in this office on May 1, 2019, has been accepted and considered for settlement as provided by the Federal Tort Claims Act (FTCA), 28 U.S.C. § 2672, under authority delegated to me by 28 C.F.R. § 543.30. You seek \$1,000,000.00 in compensation for an alleged personal injury sustained at the Metropolitan Detention Center in Brooklyn, New York, between January 27, 2019, and February 3, 2019. Specifically, you state a power outage adversely affected the institution's heating, hot water, meals, and lighting. You allege (b)(6); (b)(7)(C) suffered physical pain and discomfort, and emotional distress, and he did not receive medication and proper medical treatment during the power outage.

An investigation, including a review of the medical and psychology records, does not reflect Mr. (b)(6); (b)(7)(C) sought medical and/or mental health care from Health Services and Psychology Services for ailments related to the power outage. There is no evidence Mr. (b)(6); (b)(7)(C) experienced a compensable loss as the result of negligence on the part of any Bureau of Prisons employee. Accordingly, your claim is denied.

If you are dissatisfied with this decision, you may bring an action against the United States in an appropriate United States District Court within six (6) months of the date of this letter.

Sincerely,

Darrin Howard
Regional Counsel

cc: D. Edge, Warden, MDC Brooklyn

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Katherine Rosenfeld, Esq.
Emery Celli Brinckerhoff & Abady LLP
600 Fifth Avenue at Rockefeller Center
10th Floor
New York, NY 10020

2. ZIP Code Number (Transfer from back of mailpiece)
7016 1370 0001 4119 2582

PS Form 3811, July 2015 PSN 7530-02-000-9053

HLTNER 2019 03968

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

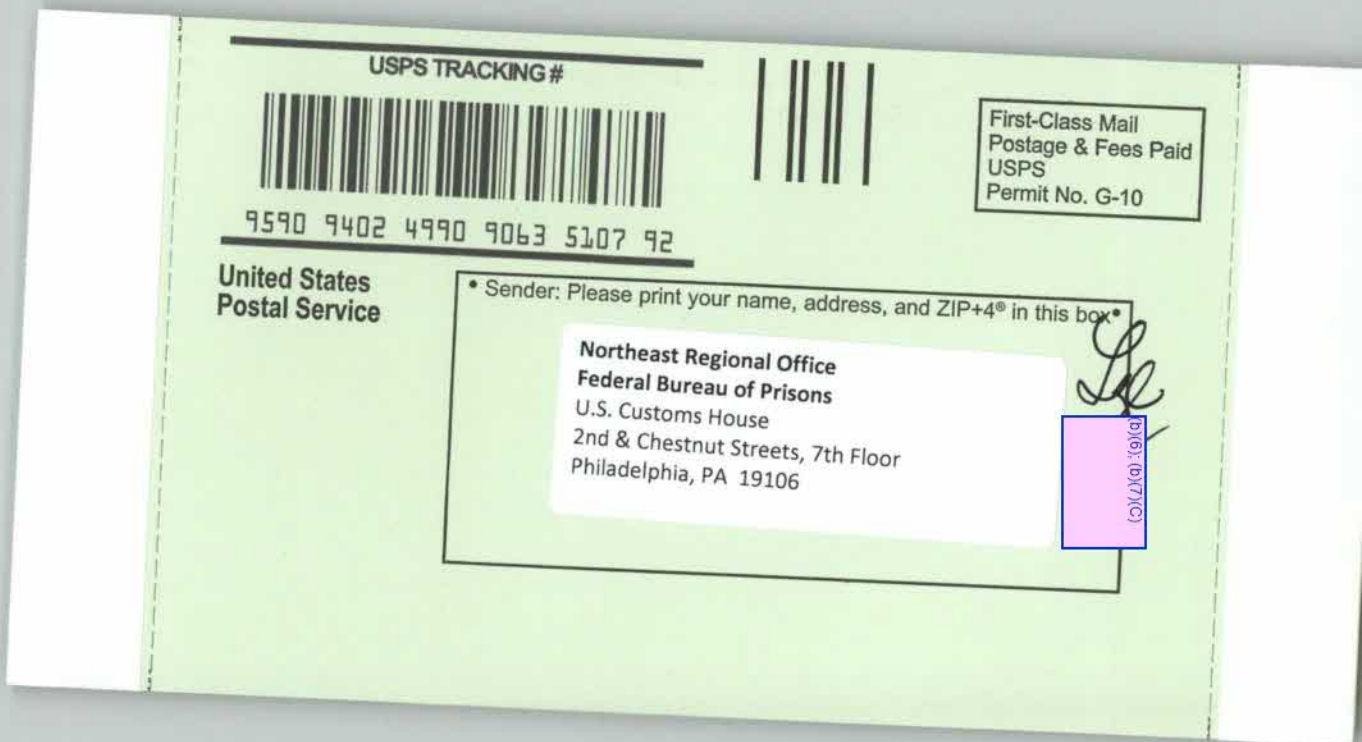
C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☒ No

- ☐ Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Signature Restricted Delivery
- ☐ Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
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- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt





U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

*U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA. 19106*

May 2, 2019

Katherine Rosenfeld
Emery Celli Brinckerhoff & Abady LLP
600 Fifth Avenue
10TH FLOOR
New York, NY 10020

Re: Administrative Tort Claim Received May 1, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-03968

Dear Ms. Rosenfeld:

This will acknowledge receipt of the administrative claim you submitted on behalf of (b)(6); (b)(7)(C) for an alleged personal injury suffered at MDC Brooklyn on January 27, 2019 through February 3, 2019.

Under the provisions of the applicable federal statutes, we have six months from the date of receipt to review, consider, and adjudicate your claim. In order for this office to properly evaluate this claim, you are required to submit all the information required by 28 C.F.R. §14.4(b).

All correspondence regarding this claim should be addressed to me at: Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Streets, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact me immediately.

Sincerely,

(b)(6); (b)(7)(C)

Darrin Howard
Regional Counsel



SETH A. HARRIS

ALISON R. KEENAN
BLAKE G. GOLDFARB
SHERI E. HOLLAND

VIRGINIA L. MCGRANE
JUDITH F. STEMLER
JASON STEINBERG
ANDREW G. MEIER
JAMES MARINO

VIA CERTIFIED MAIL/RRR

Federal Bureau of Prisons
Attn: Legal Department
Central Office HQ
320 First Street, NW
Washington, DC 20534

August 6, 2019
DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL OFFICE

AUG 30 2019

NERO-PHILADELPHIA

Re:

(b)(6); (b)(7)(C)

Supplemental Claim

Location: MDC Brooklyn

Dates of Incident: 1/27/19 – 2/03/19

JASON M. BATEMAN
CLIFFORD R. TUCKER
KARDON A. STOLZMAN
MATTHEW R. JAEGER
JOHNSON L. ATKINSON

JEAN M. PRABHU
ALAN CHESTER SALZMAN
HARVEY WINER
JAMES K. GREENBERG
Of Counsel

To Whom It May Concern:

Please be advised that this firm represents the above-referenced claimant along with his prison ID, whom was in the custody of the MDC Brooklyn on January 27, 2019 through February 3, 2019 and suffered injuries based on violation of 42 USC 1983 of the Constitution of the United States, including but not limited to the Fifth, Sixth, Eighth, and Fourteenth Amendments of the Constitution. On June 14, 2019, our office served upon you a claim on behalf of 37 claimants including the claimant listed above, and now serves this Supplemental Claim.

Upon information and belief, on January 27, 2019, an electrical fire broke out in MDC Brooklyn's west building causing damages to the building's infrastructure which significantly affected the prison's heating, venting, cooling, plumbing and electrical systems. The MDC Brooklyn and Warden Herman E. Quay failed to remedy those conditions for over a week and did not seek outside help or take measures to protect and ensure the safety of those in custody at the facility.

A humanitarian crisis unfolded as prisoners were subjected to inhumane conditions that posed unreasonable and substantial risks to their health and safety. The above claimant was deprived of basic human needs and any communication with the outside world, including but not limited to the following:

- Heating (in freezing temperatures)
- Suitable nutrition
- Electricity (kept in darkness)
- Flushable toilets/plumbing/showers
- drinking water
- Medical attention/medication
- Breathable air free from toxic fumes
- Access to clean clothes and bedding
- Excessive lockdown
- Extra blankets for warmth
- Communications with Counsel/family
- Administrative remedies

DOJ-19-0278, 19-0279, 19-0280-I-000146

AMERICAN
OVERSIGHT

THE WOOLWORTH BUILDING • 233 BROADWAY • NEW YORK, NY 10038 • TEL (212) 393-1000 • FAX (212) 267-2110
2019-02980 146 of 312
WWW.BURNSHARRIS.COM

Wherefore, (b)(6); (b)(7)(C) sustained damages in excess of one million dollars
\$1,000,000.00.

Respectfully,


JEAN PRABHU

JP/rb/enc.

AMERICAN
OVERSIGHT

2019-02980 148 of 312

DOJ-19-0278, 19-0279, 19-0280-I-000148

B BURNS & HARRIS
ATTORNEYS AT LAW
THE WOOLWORTH BUILDING
233 BROADWAY, SUITE 900
NEW YORK, NY 10279

CERTIFIED MAIL



7019 1120 0000 5291 9036

958

First Class Mail

Federal Bureau of Prisons
Attn: Legal Department
Central Office HQ
320 First Street, NW
Washington, DC 20534

205863





U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA 19106

September 10, 2019

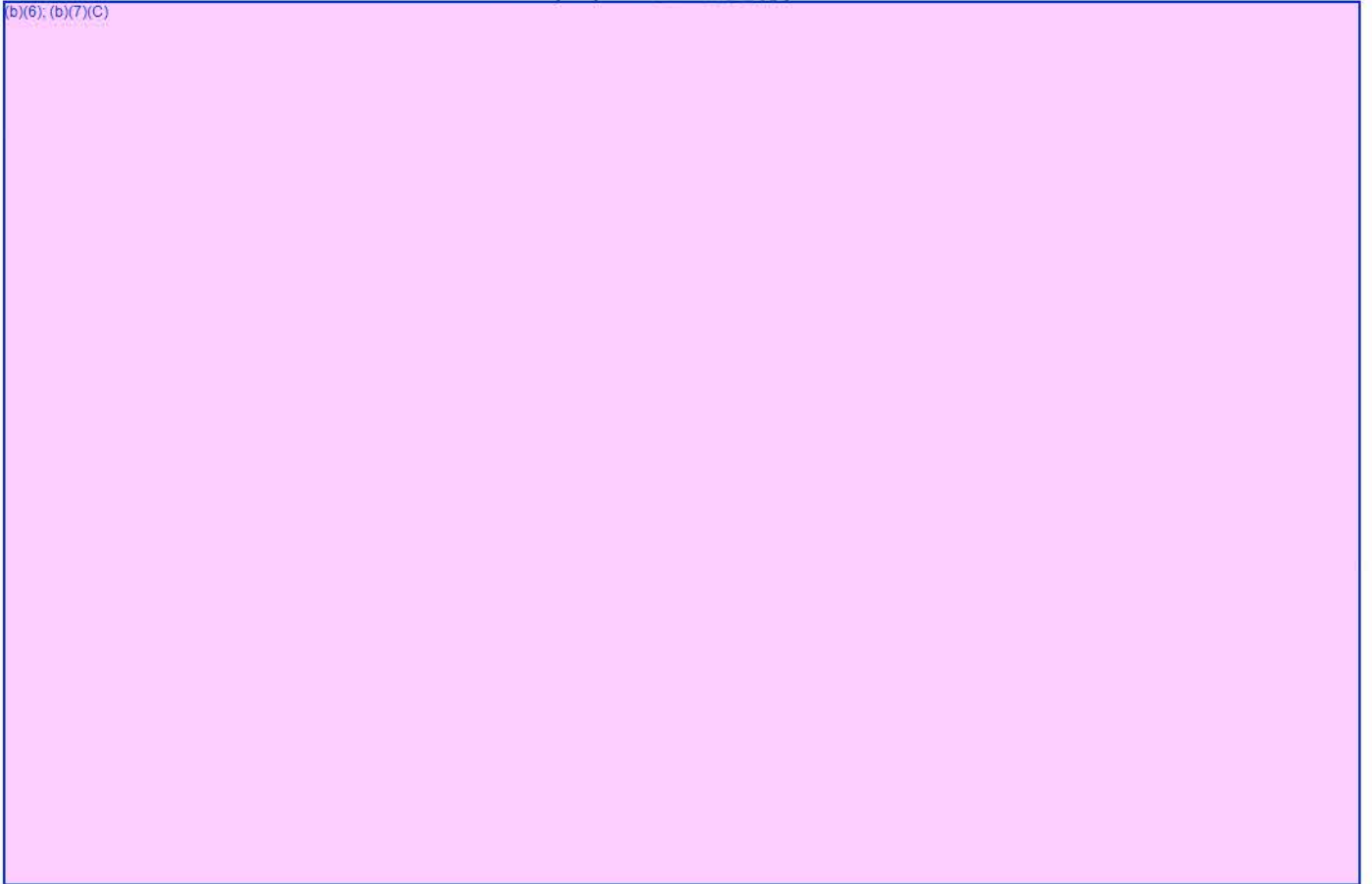
Ms. Jean Prabhu
Burns & Harris
The Woolworth Building
233 Broadway, Suite 900
New York, NY 10279

Re: Your Administrative Claims Received August 23, 2019

Dear Ms. Prabhu:

This will acknowledge receipt of the following administrative tort claims you filed on behalf of claimants seeking compensation for alleged personal injuries they suffered at the Metropolitan Detention Center in Brooklyn, New York:

(b)(6); (b)(7)(C)

A large rectangular area of the document is redacted, indicated by a solid pink fill. The redaction covers the majority of the lower half of the page, starting below the paragraph about the Metropolitan Detention Center and extending to the bottom of the page.

Ms. Jean Prabhu
September 10, 2019
Page 2

(b)(6); (b)(7)(C)



Each claim provided a sum certain "in excess of one million dollars." However, pursuant to 28 C.F.R. § 14.2, each claim must seek a specific dollar amount when you file a claim. Accordingly, the claims are rejected at this time.

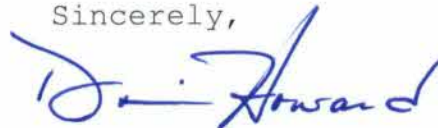
In addition, we will not be able to correspond with you unless you provide proof that you are authorized to represent each claimant as their legal representative. See 28 C.F.R. § 14.2.

If you wish these claims to be considered for administrative settlement, please re-submit the claim documents with the above-noted information. The enclosed Claim for Damage, Injury or Death form (SF-95) may be used in the instance of personal injury for each claim.

Lastly, please be advised that constitutional claims are not cognizable under the Federal Tort Claims Act.

All correspondence regarding these claims should be addressed to Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Street, Philadelphia, Pennsylvania 19106. If the circumstances surrounding these claims change in any fashion, you should contact this office immediately. Also, should your address change, you should advise this office accordingly.

Sincerely,



Darrin Howard
Regional Counsel

Enclosure

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency:			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code.		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☐ CIVILIAN	4. DATE OF BIRTH	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT	7. TIME (A.M. OR P.M.)	
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights).		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).			13b. PHONE NUMBER OF PERSON SIGNING FORM	14. DATE OF SIGNATURE	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

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Previous Edition is not Usable

NSN 7540-00-634-4046

STANDARD FORM 95 (REV. 2/2007)
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2

DOJ-19-0278, 19-0279, 19-0280-I-000151

2019-02980 151 of 312

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident Insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No

17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. **Principal Purpose:** The information requested is to be used in evaluating claims.
- C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
- D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is **solely** for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

9/10/19 *multiple claims*

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY													
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature X ☐ Agent ☐ Addressee													
1. Article Addressed to:	B. Received by (<i>Printed Name</i>)	C. Date of Delivery												
Ms. Jean Prabhu Burns & Harris The Woolworth Building 233 Broadway, Suite 900 New York, NY 10279	D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☒ No													
2. Article Number (<i>Transfer from service label</i>)	3. Service Type <table border="0"> <tr> <td>☐ Adult Signature</td> <td>☐ Priority Mail Express®</td> </tr> <tr> <td>☐ Adult Signature Restricted Delivery</td> <td>☐ Registered Mail™</td> </tr> <tr> <td>☐ Certified Mail®</td> <td>☐ Registered Mail Restricted Delivery</td> </tr> <tr> <td>☒ Certified Mail Restricted Delivery</td> <td>☒ Return Receipt for Merchandise</td> </tr> <tr> <td>☐ Collect on Delivery</td> <td>☐ Signature Confirmation™</td> </tr> <tr> <td>☐ Collect on Delivery Restricted Delivery</td> <td>☐ Signature Confirmation Restricted Delivery</td> </tr> </table>		☐ Adult Signature	☐ Priority Mail Express®	☐ Adult Signature Restricted Delivery	☐ Registered Mail™	☐ Certified Mail®	☐ Registered Mail Restricted Delivery	☒ Certified Mail Restricted Delivery	☒ Return Receipt for Merchandise	☐ Collect on Delivery	☐ Signature Confirmation™	☐ Collect on Delivery Restricted Delivery	☐ Signature Confirmation Restricted Delivery
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☐ Adult Signature Restricted Delivery	☐ Registered Mail™													
☐ Certified Mail®	☐ Registered Mail Restricted Delivery													
☒ Certified Mail Restricted Delivery	☒ Return Receipt for Merchandise													
☐ Collect on Delivery	☐ Signature Confirmation™													
☐ Collect on Delivery Restricted Delivery	☐ Signature Confirmation Restricted Delivery													
7013 0600 0001 9910 9338														

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt





SETH A. HARRIS

ALISON R. KEENAN
BLAKE G. GOLDFARB
SHERI E. HOLLAND

JUDITH F. STEMLER
JASON STEINBERG
ANDREW G. MEIER
STEPHEN S. LA ROCCA
IRWIN J. WEINSTEIN

JASON M. BATEMAN
JOHNSON L. ATKINSON
MAX SILVERBERG
KARLESHA V. HEWITT
FRANK L. LANZA

JEAN M. PRABHU
ALAN CHESTER SALZMAN
HARVEY WINER
JAMES K. GREENBERG
Of Counsel

September 19, 2019

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL OFFICE

SEP 24 2019

NERO-PHILADELPHIA

Federal Bureau of Prisons
Northeast Regional Office
Darrin Howard, Regional Counsel
US Custom House
2nd & Chestnut Streets, Room 701
Philadelphia, PA 19106

Re:

(b)(6); (b)(7)(C)

Claim No: TRT-NER-2019-06574

Dear Mr. Howard:

I am in receipt of your correspondence of September 10, 2019, and accordingly, have enclosed a copy of the above claimant's Retainer indicating Burns & Harris is his authorized representative for this claim.

The above claimant was in the custody of the MDC Brooklyn on January 27, 2019 through February 3, 2019 and suffered personal and emotional injuries based on the negligence and intentional infliction of physical and emotional injury at MDC Brooklyn and violation of 42 USC 1983 of the Constitution of the United States, including but not limited to the Fifth, Sixth, Eighth, and Fourteenth Amendments of the Constitution. This is our third submission of this claim and have previously served notices dated June 14, 2019 and August 6, 2019.

Upon information and belief, on January 27, 2019, an electrical fire broke out in MDC Brooklyn's west building causing damages to the building's infrastructure which significantly affected the prison's heating, venting, cooling, plumbing and electrical systems. The MDC Brooklyn and Warden Herman E. Quay failed to remedy those conditions for over a week and did not seek outside help nor take measures to protect and ensure the safety of those in custody at the facility.

A humanitarian crisis unfolded as prisoners were subjected to inhumane conditions that caused unreasonable and substantial injury. The above claimant was deprived of basic human needs, medical attention, any communication with the outside world, and suffered personal and emotional injuries as a result.

Wherefore, the above claimant sustained damages in the amount of one million dollars \$1,000,000.00.

Respectfully,

JEAN PRABHU

JP/rb/Enc.

RETAINER AGREEMENT

TO: BURNS & HARRIS
233 Broadway, Suite 900
New York, NY 10279
(212) 393-1000

I, (b)(6); (b)(7)(C) (Client), the undersigned retains the law office of BURNS & HARRIS (law firm), as my attorneys to prosecute a claim for negligence against any and all parties, individuals and/or corporations that are found to be liable under the law for damages suffered by me arising from personal injury sustained by me. I (b)(6); (b)(7)(C) the spouse of (b)(6); (b)(7)(C) (Client), retains the law office of BURNS & HARRIS (law firm) to represent me for a derivative cause of action for the loss of services and society of my spouse due to the injuries claimed as a result of the defendant(s) negligence. I(We) specifically agree as follows:

1. **FEE PERCENTAGE:** Although I have been advised of the right to retain the law firm under an arrangement whereby the firm would be compensated on the basis of the reasonable value of services rendered or on an hourly rate, I and the law firm agree that the law firm shall be paid Thirty Three and One-Third (33 1/3%) Percent of the sum recovered, whether by suit, settlement or otherwise. In computing the fee, the costs as taxed, including interest upon a judgment, shall be deemed part of the amount recovered. In litigating the claim, the law firm may become eligible for attorneys' fees under 42 U.S.C. § 1988. The Client agrees that any and all fees obtained by the law firm under 42 U.S.C. § 1988 are to be paid to the law firm in addition to the 33 1/3% of the sum recovered. If, as a result of the recovery obtained in your lawsuit brought by the law firm, a workers' compensation carrier waives any of its workers' compensation lien, then the law firm shall be entitled to recover from you an additional fee of 33 1/3% of the portion of the waiver that exceeds one third of the total lien amount owed.

2. **DISBURSEMENTS:** In the event there is no recovery, the Client shall not be obligated to pay the law firm a legal fee for services rendered. Disbursements may include some of the following expenses: court filing fees, sheriff fees, medical and hospital report/record fees, doctor's report, court stenographer fees, deposition costs, expert fees for expert depositions and court appearances, trial exhibits, computer on-line search fees, express mail, postage, photocopy charges, document management charges, long distance telephone charges, among other charges. Document management charges are the fees charged by the law firm for processing documents during litigation, such as medical records, documents produced by defendant(s) and/or other parties, etc. Processing of the documents may include but is not limited to the following: (1) scanning; (2) conversion of native files to PDF documents; (3) OCR (Optical Code Recognition); and/or (4) indexing. At the time of settlement and distribution of proceeds, if the law firm has advanced the disbursements, the law firm shall be reimbursed for all disbursements which shall be deducted from the recovery.

In the event that this firm has been retained by others having the same claim or a similar case, disbursements regarding the liability and/or damages of the defendants may be shared proportionately by all such plaintiffs.

The disbursements involved in prosecuting the case may be advanced by the Client or by the law firm. The Client may choose either option. If the Client elects to advance the money for disbursements (Option I), the Client must pay each disbursement as it is incurred. If the Client elects to have the law firm advance the money for Disbursements (Option II), at the end of each case, the law firm shall be reimbursed from the recovery for any disbursements the law firm advanced.

In the event the Client elects to advance the disbursements (Option I), at the time of the final settlement or distribution of judgment proceeds, these expenses shall be deducted prior to the computation of the Attorney's Fee. If there is no recovery, the law firm will have no responsibility to repay the client for case disbursements.

In the event the Client elects to have the law firm advance the disbursements (Option II), at the time of the final settlement or distribution of judgment proceeds, these expenses shall be deducted from the Client's share after the computation of the Attorney's Fee. If there is no recovery, or if the amount recovered is not sufficient to pay such disbursements in full, Client will not be responsible to pay such disbursements.

In the event no choice is selected by the Client, it will be assumed that the Client wishes to have the law firm advance all disbursements (Option II).

Option I

(initials)_____ I elect to advance the money for disbursements. I want to be billed for each disbursement as incurred. I understand that my immediate payment of such charges is required as many fees are tied to time-sensitive deadlines.

Option II

(initials) (b)(6); (b)(7)(C)_____ I elect to have the law firm advance the money for disbursements. I do not want to be billed for each disbursement as incurred. I agree that if there is a recovery of money on my case, the law firm will be reimbursed from that recovery for the costs and expenses advanced by the law firm. The Client hereby gives permission that the law firm may borrow monies from a third party for expenses and disbursements. Interest will then be charged to the Client as an additional expense.

3. **COMPUTATION OF FEES:** Under Option II, the contingency fee shall be computed on the gross recovery, resulting in a net settlement (or judgment), from which all appropriate disbursements in connection with the institution and prosecution of this claim are deducted, as set forth in paragraph 2 above. Under Option I, the contingency fee shall be computed on the net recovery after all appropriate disbursements in connection with the institution and prosecution of this claim are deducted, as set forth in paragraph 2 above. Examples of how a contingency fee is computed are as follows:

Option I

Client advances disbursements:

Gross Settlement	\$100.00
Disbursements	<u>- \$10.00</u>
Net settlement	\$90.00
33 1/3% Attorney's Fee	<u>\$30.00</u>
Net to Client	\$60.00

Option II

Law firm advances disbursements:

Gross Settlement	\$100.00
33 1/3% Attorney's Fee	<u>\$33.33</u>
Net settlement	\$66.67
Disbursements	<u>- \$10.00</u>
Net to Client	\$56.67

4. **MEDICAL BILLS:** All medical bills incurred which are not paid by the Client's medical insurance and are due and owing shall be chargeable to the Client's portion of the settlement. There may be additional deductions representing outstanding medical bills, liens to doctors for unpaid medical services rendered, or medical services not covered by medical insurance. The recovery of these medical services are included in the gross settlement and shall be paid from the Client's share of the recovery. Unpaid medical providers often will wait for payment until the conclusion of the case, however, in consideration for such abeyance, they will request a lien upon the settlement proceeds. The Client expressly authorizes the firm to sign such lien forms, which may be requested by physicians, and to directly pay outstanding medical bills for treatment to such physicians or other health care providers at the conclusion of the case. This authorization shall include medical and hospital expenses, and subrogation claims. The Client understands that medical providers do not provide medical services contingent upon the outcome of a case, and that in the event that there is no recovery, or an insufficient recovery, the Client will remain responsible for the payment of such medical bills.

5. **NO-FAULT PROCESSING FEE:** If this Retainer Agreement is entered for the processing of a claim for personal injuries arising from a motor vehicle accident wherein "No-Fault" insurance is applicable, it is agreed that the undersigned shall pay a fee of \$350.00 (Three Hundred Fifty Dollars) upon the successful conclusion of the case for the processing of statutory "No-Fault" benefits. This charge represents a lien on any proceeds of the case in favor of the attorney for professional services rendered in processing the "No-Fault" benefits.

6. **WITHDRAWALS:** The law firm expressly reserves the right to withdraw its representation at any time upon reasonable notification to the Client. In the event that the Client advises the law firm to discontinue the handling of this claim, or if the Client fails to cooperate with the law firm in the handling of this claim, Client agrees to compensate the law firm a reasonable amount for its services, and for the time spent on this claim on an hourly basis or under such other arrangement that may be agreed upon by the parties. The Client understands that the law firm has

conditionally accepted this case based upon the independent confirmation of all facts and injuries claimed to have been sustained by Client. In the event that the Client desires to transfer the file from this office, the Client shall be responsible to compensate the law firm for the reasonable value of their services. Such transfer shall not include documents or attorney work product regarding the general liability of the defendants.

7. **APPEALS:** Client further understands that the services to be provided through this agreement will NOT extend through the prosecution/defense of an appeal or representation on an appeal brought by any of the parties to the lawsuit. Client understands that BURNS & HARRIS, ESQS. may charge reasonable additional compensation if the case is appealed, or it is necessary to try the case more than once, the amount of which shall be an additional ten (10%) percent – totaling forty-three and one-third percent (43 1/3%) – of the sum recovered in negligence, intentional tort, civil rights and legal malpractice cases. Should attorney's fees under 42 USC § 1988 be awarded and an appeal be prosecuted pursuant to this section the firm may elect either 42 USC § 1988 fees or a 10% fee pursuant to this section but not both.

This further appellate representation will not require a new Fee Agreement. In the event the CLIENT's case is dismissed or an unfavorable verdict is rendered, the CLIENT agrees that BURNS & HARRIS, ESQS. reserves the right to decide whether or not to prosecute an appeal. If BURNS & HARRIS, ESQS. declines to prosecute an appeal, and appeal is taken, and at any point in the appeal process there is an eventual recovery made in the case on behalf of the CLIENT, BURNS & HARRIS, ESQS. will be entitled to a fee that represents the fair value of the services rendered. BURNS & HARRIS, ESQS. shall have the first right of selecting the basis of their fee in the first instance, and if BURNS & HARRIS, ESQS. elects to be paid on an hourly rate, they shall be paid based on an hourly rate of six hundred dollars an hour (\$ 600/hour) for all work performed by BURNS & HARRIS, ESQS., and their agents/servants/employees. Unless otherwise stated in writing, BURNS & HARRIS, ESQS., elects to be paid on a contingent fee basis.

(b)(6), (b)(7)(C)

(initials)

8. **SURROGATES COURT PROCEEDINGS:** If the law firm decides to handle Surrogate's Court work and the client agrees, the firm may hire a Surrogate Court attorney and to take fees from the client's share of the recovery. The establishment of a trust may be performed at an extra expense to the client. The client may consult with an elder lawyer, wills or trusts attorney at their own expense.

9. **STATUTE OF LIMITATIONS:** I understand that the Statute of Limitations period for my case must be investigated and that this Agreement is made subject to that investigation as well as an investigation of my entire case.

10. **FINANCING OF CASE:** If the firm borrows money from any lending institution to finance the cost of the Client's case, the amounts advanced by this firm to pay the cost of prosecuting or defending a claim or action or otherwise protecting or promoting the Client's interest will bear interest at the highest lawful rate allowed by applicable law. In no event will the interest be greater than the amount paid by the firm to the lending institution.

11. **RESULTS NOT GUARANTEED:** No attorney can accurately predict the outcome of any legal matter, accordingly, no representations are made, either expressly or impliedly, as to the final outcome of this matter. I further understand that I must immediately report any changes in my residence, telephone number or health to the law firm. I understand that this Retainer Agreement is a binding legal contract. I expressly agree that I will fully and freely cooperate with my attorneys in all aspects required for the prosecution of this legal matter and that I will take no actions that frustrate or impair the success of this action.

(b)(6); (b)(7)(C)

(Initials)

12. **APPROVAL NECESSARY FOR SETTLEMENT:** Attorneys are hereby granted a power of attorney so that they may have full authority to prepare, sign and file all legal instruments, pleadings, drafts, authorizations and papers as shall be reasonably necessary to conclude this representation, including settlement and/or reducing to possession any and all monies or other things of value due to the Client under the claim as fully as the Client could do so in person. Attorneys are also authorized and empowered to act as Client's negotiator in any and all negotiations concerning the subject of this Agreement.

13. **ASSOCIATION OF OTHER ATTORNEYS:** Attorneys may, at their own expense, use or associate other attorneys in the representation of the aforesaid claims of the Client. Client understands that *the firm*, Seth A. Harris PLLC d/b/a Burns & Harris, is a professional limited liability company under the laws of New York with a number of attorneys. Various firm attorneys may work on Client's case.

14. **ASSOCIATE COUNSEL:** Attorneys may participate in the division of fees in this case and assume joint responsibility for the representation of the Client either in the event that the Attorney retains associate counsel or that the Client later chooses new counsel, provided that the total fee to the Client does not increase as a result of the division of fees and that the attorneys involved have agreed to the division of fees and assumption of joint responsibility.

15. **FEE DISPUTES:** In case of a fee dispute, the undersigned may be entitled to arbitration, if the fee falls within the parameters of the Fee Dispute Resolution Program, pursuant to 22 N.Y.C.R.R. PART 137 of the New York State Court Rules.

16. **COLLECTION WORK:** All work required to prosecute a collection case to recover an award will not be covered by this Agreement.

17. **NEW YORK LAW TO APPLY:** This Agreement shall be construed under and in accordance with the laws of the State of New York and the rights, duties and obligations of Client and of Attorneys regarding Attorney's representation of Client and regarding anything covered by this Agreement shall be governed by the laws of the State of New York.

18. **PARTIES BOUND:** This Agreement shall be binding upon and inure to the benefit of the parties, hereto, and their respective heirs, executors, administrators, legal representative, successors, guardians and assigns.

19. **LEGAL CONSTRUCTION:** In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such

invalidity, illegality, or unenforceability shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

20. PRIOR AGREEMENTS SUPERSEDED: This Agreement constitutes the sole and only Agreement of the parties hereto and supersedes any prior understanding or written or oral agreement between the parties respecting the within subject matter.

I certify and acknowledge that I have had the opportunity to read this Agreement and have answered any questions pertaining thereto. I further state that I have voluntarily entered into this Agreement fully aware of the terms and conditions.

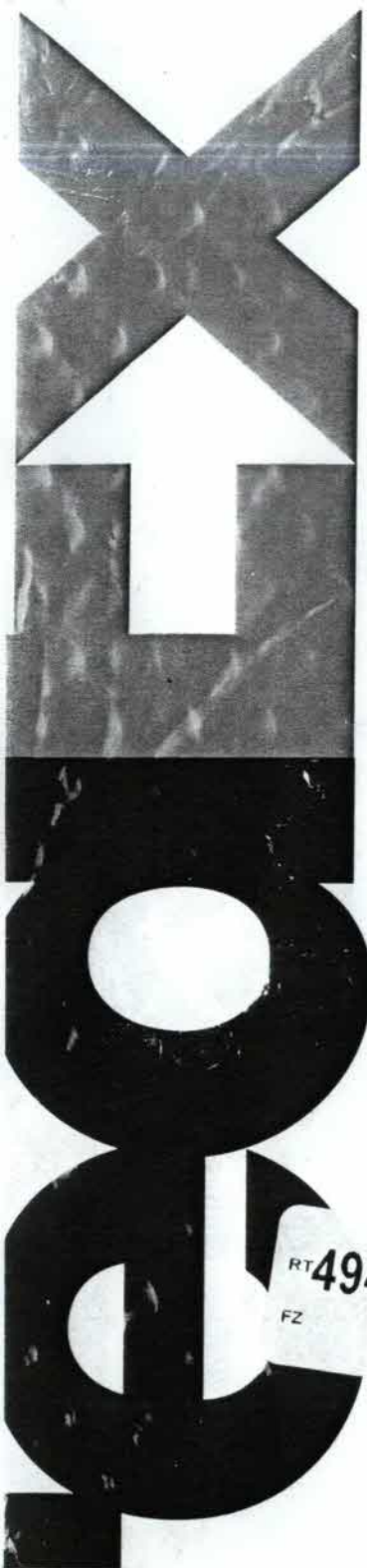
DATED: February 21, 2019

(b)(6); (b)(7)(C)

(L.S.)

Witness: _____

(L.S.)



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TO DARRIN HOWARD, REGIONAL COUNSEL
FEDERAL BUREAU OF PRISONS
US CUSTOM HOUSE
2ND & CHESTNUT STREETS, ROOM 701
PHILADELPHIA PA 19106

(215) 521-7301

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2019-02980 162 of 312

AMERICAN
OVERSIGHT



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

*U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA. 19106*

October 4, 2019

Ms. Jean Prabhu
Burns & Harris Attorneys At Law
The Woolworth Building
233 Broadway, Suite 900
New York, NY 10279

Re: Administrative Tort Claim Received September 24, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-06574

Dear Ms. Prabhu:

This will acknowledge receipt of the administrative claim you submitted on behalf of (b)(6); (b)(7)(C) for an alleged personal injury at MDC Brooklyn between January 27, 2019, and February 3, 2019.

Under the provisions of the applicable federal statutes, we have six months from the date of receipt to review, consider, and adjudicate your claim. In order for this office to properly evaluate this claim, you are required to submit all the information required by 28 C.F.R. §14.4(b).

All correspondence regarding this claim should be addressed to me at: Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Streets, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact me immediately.

Sincerely,

(b)(6);
(b)(7)(C)

Darrin Howard
Regional Counsel



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

Via Certified and Return Receipt Mail

U.S. Custom House-7th Floor
2nd & Chestnut Streets
Philadelphia, PA 19106

September 12, 2019

Mr. (b)(6); (b)(7)(C)
USP Hazelton
P.O. Box 2000
Bruceton Mills, WV 26525

RE: Administrative Claim No. TRT-NER-2019-02634
Reconsideration
Claim Received March 13, 2019

Dear Mr. (b)(6); (b)(7)(C)

Your request for reconsideration of Administrative Claim No. TRT-NER-2019-02634 was properly received on March 13, 2019, and reconsidered for settlement as provided by the Federal Tort Claims Act (FTCA), 28 U.S.C. § 2672, under authority delegated to me by 28 C.F.R. § 543.30. You seek \$1,500,000.00 in compensation for an alleged personal injury sustained at MDC Brooklyn between January 27, 2019, and February 3, 2019. Specifically, you state a power outage adversely affected the institution's heating, hot water, and lighting. You allege you suffered weakness, nausea, stomach cramps, diarrhea, dehydration and smoke inhalation. You contend you feared for your personal safety.

A careful review of the reconsideration shows you have not submitted any new evidence in support of the allegations made in your administrative claim. A review of your medical records does not reflect you sought medical care from Health Services for ailments associated with the power outage. There is no evidence you experienced a compensable loss as the result of negligence on the part of any Bureau of Prisons employee. Accordingly, your claim is denied.

If you are dissatisfied with this decision, you may bring an action against the United States in an appropriate United States District Court within six (6) months of the date of this letter.

Sincerely,

Darrin Howard
Regional Counsel

cc: D. Edge, Warden, MDC Brooklyn

DOJ-19-0278, 19-0279, 19-0280-I-000164

2019-02980 164 of 312

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1. Article Addressed to:

Mr. [REDACTED]
 USP Hazelton
 P.O. Box 2000
 Bruceton Mills, WV 26525

(b)(6); (b)(7)(C)

411 NEA 2019 02634

COMPLETE THIS SECTION ON DELIVERY

A. Signature

☐ Agent

☐ Addressee

X

B. Received by (Printed Name)

C. Date of Delivery

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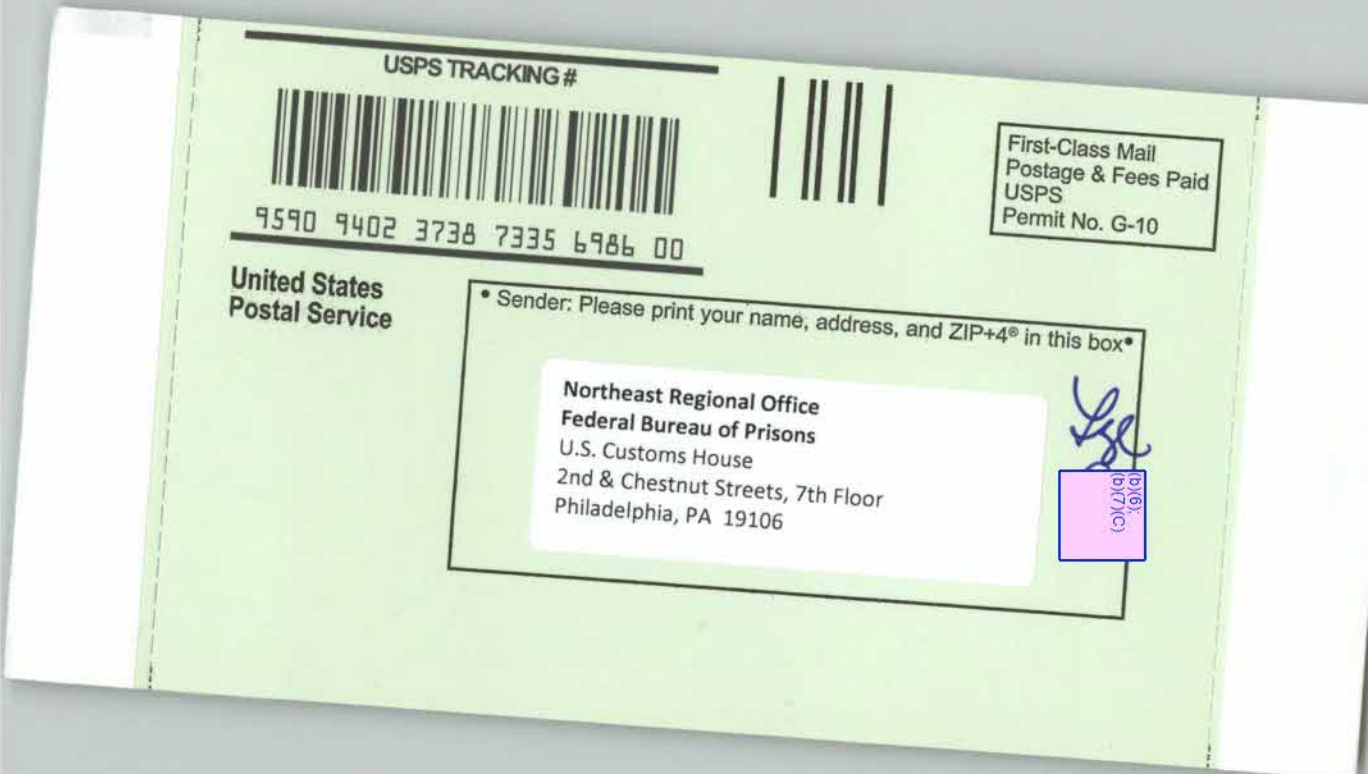
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- ☐ Collect on Delivery Restricted Delivery

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U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

Via Certified and Return Receipt Mail

U.S. Custom House-7th Floor
2nd & Chestnut Streets
Philadelphia, PA 19106

March 4, 2019

(b)(6); (b)(7)(C)

MDC Brooklyn
P.O. Box 329002
Brooklyn, NY 11232

RE: Administrative Claim No. TRT-NER-2019-02634
Claim Received February 21, 2019

Dear Mr. (b)(6); (b)(7)(C)

This is in response to your administrative tort claim in which you seek \$100,000.00 in compensation for an alleged personal injury sustained at MDC Brooklyn between January 27, 2019, and February 3, 2019. Specifically, you state a power outage adversely affected the institution's heating, hot water, and lighting. You allege you suffered severe emotional distress, which affected your ability to sleep and focus. You contend you feared for your physical safety and possible assault.

After review, we have decided to deny your claim because you have not alleged an identifiable physical injury actionable under the Federal Tort Claims Act 28 U.S.C. §§ 1346(b)(2), 2672.

If you are dissatisfied with this decision, you may bring an action against the United States in an appropriate United States District Court within six (6) months of the date of this letter.

Sincerely,

Darrin Howard
Regional Counsel

cc: H. Quay, Warden, MDC Brooklyn

PHOTON 2019 02634

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY		
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece,	A. Signature X ☐ Agent ☐ Addressee B. Received by (Printed Name) C. Date of Delivery		
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 9590 9402 3738 7335 6609 59 2. Article Number (Transfer from service label)	3. Service Type <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail ☐ Insured Mail Restricted Delivery (over \$500) </td> <td style="width: 50%; vertical-align: top;"> ☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☒ Return Receipt for Merchandise ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery </td> </tr> </table>	☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail ☐ Insured Mail Restricted Delivery (over \$500)	☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☒ Return Receipt for Merchandise ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery
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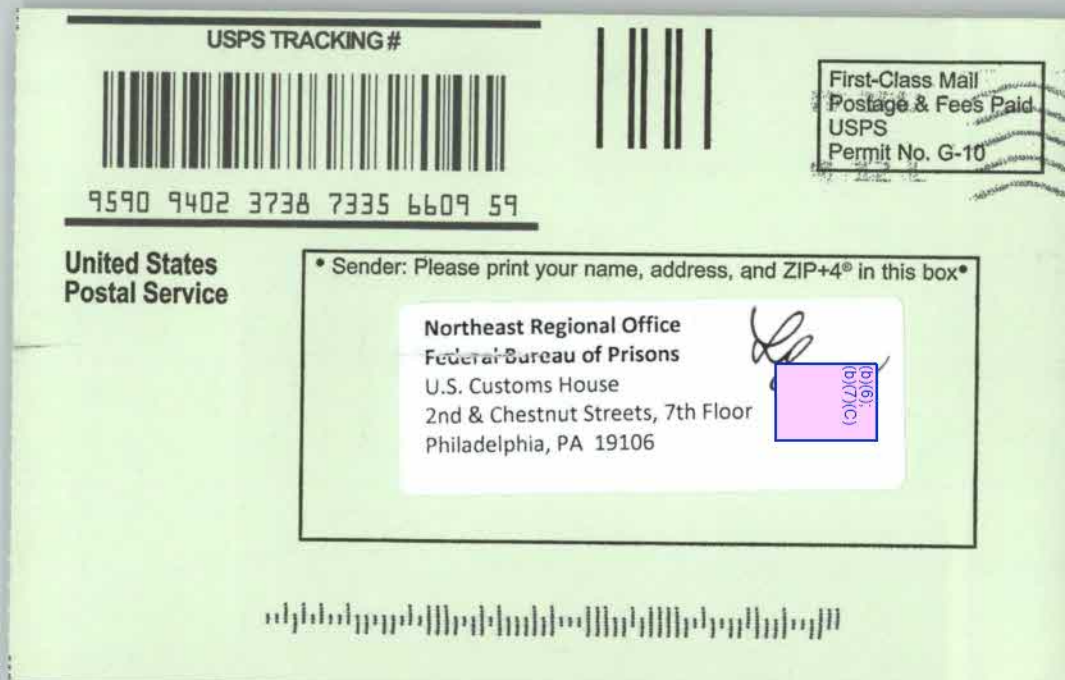
Northeast Regional Office
Federal Bureau of Prisons
U.S. Customs House
2nd & Chestnut Streets, 7th Floor
Philadelphia, PA 19106

[Signature]
b(6)
b(7)(C)

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MARCH 11, 2019

DARRIN HOWARD, ESQ.
NORTHEAST REGIONAL COUNSEL
FEDERAL BUREAU OF PRISONS
NORTHEAST REGIONAL OFFICE
200 CHESTNUT STREET -- ROOM 701
PHILADELPHIA, PENNSYLVANIA 19106

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

MAR 13 2019

NERO-PHILADELPHIA

Re: Administrative Tort Claim No.: TRT-NER-2019-02634

Dear Mr. Howard:

Claimant hereby seeks reconsideration of the March 4, 2019 decision to deny his administrative tort claim for injuries suffered at the Metropolitan Detention Center in Brooklyn, New York ("MDC Brooklyn"), between January 27, 2019 and February 3, 2019. Reconsideration is sought pursuant to 28 C.F.R. 14.9(b). In addition, Claimant hereby increases his demand from \$100,000.00 to \$1,500,000.00, in light of both the physical and psychological injuries suffered when staff breached the duty of care owed Claimant under 18 U.S.C. 4042(a)(2) and (3). For the reasons that follow, reconsideration should be granted.

In addition to the facts and issues raised in his initial formal claim, Claimant submits that on or about and between January 27, 2019 and February 3, 2019, he suffered on or more of the following physical injuries by virtue MDC Brooklyn staff negligence: (a) Weakness; (b) Nausea; (c) Stomach Cramps; (d) Diarrhea; (e) Dehydration; and (f) Smoke Inhalation. These injuries resulted from staff's failure to provide meals for more than 17 hours on several occasions, during the aforementioned period, and the failure to provide clean water for drinking -- providing only water that was severely discolored (brown). Further, on February 2, 2019, an inmate experiencing emotional distress set a fire in the housing unit, which sent smoke throughout the unit. After responding staff extinguished the fire, that inmate was removed to the Special Housing Unit. However, no medical attention was offered or provided to any of the inmates assigned to the affected housing unit (Unit H-B).

Each of the injuries identified above constitutes a physical injury. See, e.g., *Chendrimada v. Air-India*, 802 F.Supp. 1089, 1092 (S.D.N.Y. 1992)(upholding the plaintiff's claim predicated on allegations of weakness, nausea, cramps, and malnutrition because plaintiffs suffered these injuries as a direct result of their confinement on a grounded airplane for over eleven hours without food; thus, their symptoms had an independent physical genesis and were not merely psychosomatic); *Eastern Airlines, Inc. v. Floyd*, 499 U.S. 530, 536, 541 (1991)("a category of physical injuries that includes internal injuries caused, for example, by physical impact, smoke or exhaust inhalation, or oxygen deprivation.")

In view of the foregoing, reconsideration is warranted, and this claim should be promptly settled.

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

NAME

(b)(6); (b)(7)(C)

REGISTER NO.

METROPOLITAN DETENTION CENTER
P.O. BOX 329002
BROOKLYN, NEW YORK 11232

cc: Office of the Inspector General

(b)(6), (b)(7)(C)

Metropolitan Detention Center
P.O. Box 399002
Brooklyn, New York 11232

NEW YORK NY 100
17 MAR 2019 PM 4:1



Sorin Hombel, Esq.
Northeast Regional Counsel
Federal Bureau of Prisons
200 Chestnut Street
Philadelphia, PA 19106
19106-297999

FEB 21 2019

Re: Administrative Tort Claim for Personal Injury [28 U.S.C. 2671, et. seq.]

NERO-PHILADELPHIA

Dear Mr. Howard:

The undersigned Claimant respectfully submits this claim under the Federal Tort Claims Act ("FTCA") [28 U.S.C. 2672], and 28 C.F.R. 543.30, seeking compensatory damages in the amount of \$100,000.00 for personal injury that he suffered as a result of negligence by Federal Bureau of Prisons staff at the Metropolitan Detention Center ("MDC") in Brooklyn, New York. For the reasons that follow, this claim should be promptly settled.

I. THE RELEVANT FACTS.

At all times between January 27, 2019 and February 3, 2019, claimant was detained at the MDC (West Building). On January 27, 2019, the institution experienced a power outage which, upon information and belief, resulted from an electrical fire. Upon information and belief, the power outage adversely affected the institution's heating, hot water, and lighting. More specifically, each cell (including claimant's assigned cell) was without lights, hot water, or heat for the approximately eight days (i.e. January 27, 2019 thru February 3, 2019). Staff was aware of the inhumane conditions, and took no steps to immediately restore the housing units or the cells within those units to habitable conditions.

Notably, however, on February 3, 2019, staff began distributing extra blankets to inmates in the institution in an effort to combat the exceptionally frigid temperatures. It should also be noted that during this period, institutional staff would visit housing units to check the cell temperatures. Some inmates blocked their ventilation ducts in an effort to prevent the exceptionally cold air from entering their cells through the ventilation system. This, however, also prevented staff from obtaining an accurate electronic reading of the temperature in those cells which had their vents blocked. Thus, on at least two occasions, staff entered the housing unit and presented to a particular cell where the air vent had been blocked, and recorded a temperature reading that was much warmer than the temperature in other cells where inmates had not blocked their air vents.

Throughout the period where claimant was denied suitable quarters, heat, hot water, and lights, he feared for his physical safety. He feared possible assault on his person by other inmates assigned to his housing unit. Despite inadequate lighting in the housing units, from on or about January 28, 2019 thru February 1, 2019, claimant and more than 100 other inmates assigned to his housing unit were permitted (and even required) to exit and remain outside of their respective cells for extended periods of times throughout the day and evening, supervised by only a single staff member who was physically unable to observe inmate activity throughout the unit due to extremely limited lighting in the common area. Claimant was required to exit his cell and enter the common area to obtain and consume his meals, as well as to shower. It should also be noted that during the institutional crisis, mental health staff was inaccessible to claimant and all other inmates assigned to his housing unit. This claimant was also not afforded an opportunity to meet with medical staff. All access to claimant's attorney was denied as attorneys were not permitted to enter the institution, and both the inmate telephone and email systems were not operational. Inmates were also denied a meaningful opportunity to send general correspondence since they were denied access to commissary to purchase required postage.

Again, despite the magnitude of the inhumane crisis, MDC staff took no immediate or appropriate action to restore the institution to normal operations, or to adhere to their responsibility to provide Claimant with appropriate housing.

During this crisis period claimant suffered severe emotional distress which affected, inter alia, claimant's ability to sleep and focus.

II. THE RELEVANT LAW.

(a) Liability Under The Federal Tort Claims Act.

The Federal Tort Claims Act ("FTCA") provides that the United States is liable for injury caused by the negligence

of its employees under circumstances where a private person would be liable according to "the laws of the place where the act or omission occurred," and thus New York law applies. {28 U.S.C. 1346(b); Kane v. United States, 189 F.Supp.2d 40, 51-52 (S.D.N.Y. 2002); Ducrepin v. United States, 964 F.Supp. 659, 663 (E.D.N.Y. 1997)} Under New York law, to prove a claim of negligence, plaintiff must establish three elements: (i) defendant owed plaintiff a duty of care; (ii) defendant breached that duty; and (iii) the breach proximately caused plaintiff's injury. {Kane, 189 F.Supp.2d at 51-52}

(b) The Bureau of Prisons Owed Claimant a Duty of Care.

Although state laws sets out the elements required to prove negligence, the standard of care for the Federal Bureau of Prisons is "fixed by 18 U.S.C. 4042, independent of [any] inconsistent state rule" allowing for a local jailor's immunity from suit, or a lesser duty. {United States v. Muniz, 374 U.S. 150, 164 (1963)} Section 4042(a) requires that the Bureau of Prisons provide "suitable quarters and provide for the safekeeping, care, and subsistence of all persons charged with or convicted of offenses against the United States." {18 U.S.C. 4042(a)(2)} This statutory duty means that the Bureau of Prisons must exercise "ordinary diligence" or reasonable care "to keep prisoners safe and free from harm." {Coward v. United States, 617 F.2d 112, 116 (5th Cir. 1980); see also Herrington v. United States, 1984 WL 1279, at *2 (S.D.N.Y. 1984); Castor v. United States, 883 F.Supp. 344, 350 (S.D. Ind. 1995)}

It is clear that "the mere failure to provide suitable quarters" is not actionable; there must be fault. {Muhammed v. United States, 6 F.Supp.2d 582, 595 (N.D. Tex. 1998)} Only "a failure to exercise ordinary care, or reasonable care, to provide suitable quarters" is actionable. {Id.; Graham v. United States, 2002 WL 188573, at *4 (E.D. Pa. 2002)} (noting that mandatory duty of care set forth in Section 4042 "does not dictate the manner in which the duty must be fulfilled")

(c) New York Law Governing Claims Negligent Infliction of Emotional Distress.

Under New York law, a claim of negligent infliction of emotional distress must be premised upon a breach of a duty owed "which either unreasonably endangers the plaintiff's physical safety, or causes the plaintiff to fear for his or her own safety." {Sheila C. v. Povich, 11 A.D.3d 120, 130 (1st Dep't 2004); see also Mortise v. United States, 102 F.3d 693, 696 (2d Cir. 1996)} Under New York law, a plaintiff may establish a claim of negligent infliction of emotion distress in one of two ways: (1) the "bystander" theory; or (2) the "direct duty theory." A plaintiff may recover for purely emotional injury under the "direct duty theory" when he/she suffers an emotional injury from defendant's breach of a duty which unreasonably endangers his/her own physical safety. {See, Mortise, 102 F.3d at 696 (citing Kennedy v. McKesson Co., 58 N.Y.2d 500, 504 (1983))} The duty in such cases must be specific to the plaintiff, and note some amorphous, free-floating duty to society. {Id.; (citing Johnson v. Jamaica Hosp., 62 N.Y.2d 523, 526-27 (1984))}

As noted, the Federal Bureau of Prisons owed claimant a specific duty of care, as described in Section 4042(a)(2) and (3), to provide him "suitable quarters," "safekeeping," and "protection."

III. APPLICATION OF THE LAW TO THE FACTS.

The facts and the law are relatively straightforward: On January 27, 2019, MDC Brooklyn experienced a significant power outage that adversely affected all housing units within its West Building. The outage rendered all cells (including claimant's) within the West Building uninhabitable by virtue of no lighting, heating, or hot water. MDC staff failed to take immediate steps to rectify the power outage or to restore the institutional to normal operations, as a result of being left in such inhumane and exceptionally dangerous conditions, claimant feared for his personal safety and life.

It goes without saying that the Federal Bureau of Prisons, in keeping with its mandated duty under Section 4042(a) (2) and (3), is required to provide "adequate heat" to all cells and housing units wherein prisoners will be confined. {See, Dugan v. Washington, 2001 WL 741626, at *5 (N.D. Ill. June 11, 2001)} (noting that prisoners need only be provided "adequate heat") That duty is specific. The duty to provide "safekeeping" and "protection" is also specific. {See, 18 U.S.C. 4042 (a)(2) and (3)} Each of those specific duties were breached when MDC staff failed to take steps to immediately rectify the power outage, resulting in approximately eight continuous days of fear of physical injury.

Bureau of Prisons employee's negligence in this matter is both inexplicable and unacceptable. Indeed, the failure to act reasonably has prompted investigations from the Office of the Inspectors General, as well as others. Given the indisputable facts, and well settled law, claimant is entitled to compensatory damages in the amount of \$100,000.00.

IV. CONCLUSION.

For the reasons stated, claimant seeks prompt disposition and settlement of this claim.

Dated: Brooklyn, New York

February 15, 2019

Respectfully submitted,

(b)(6); (b)(7)(C)

[SIGNATURE]

(b)(6); (b)(7)(C)

[PRINT NAME]

(b)(6); (b)(7)(C)

[REGISTER NUMBER]

METROPOLITAN DETENTION CENTER
P.O. BOX 329002
BROOKLYN, NEW YORK 11232

-- CLAIMANT --

cc: U.S. Department of Justice
Office of the Inspector General

Federal Bureau of Prisons
Central Office
320 First Street, NW
Washington, DC 20534

New York Times (w/ecnl.)

New York Federal Defenders

(b)(6); (b)(7)(C)

Metropolitan Detention Center
P.O. Box 329002
Brooklyn New York 11232

NEW YORK NY 100

19 FEB 2019 PM 15 1



Darin Howard, Esq.
Northeast Regional Counsel
Federal Bureau of Prisons
200 Chestnut Street
Philadelphia PA 19106

19106-297999



U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office

*U.S. Custom House-7th Floor
2nd & Chestnut Streets
Philadelphia, PA. 19106*

March 21, 2019

(b)(6); (b)(7)(C)

MDC Brooklyn
P.O. Box 329002
Brooklyn, NY 11232

Re: Administrative Claim Reconsideration Received March 13, 2019
Claim No. TRT-NER-2019-02634

Dear Mr. (b)(6); (b)(7)(C)

This will acknowledge receipt of your administrative claim reconsideration request for an alleged loss of personal property or personal injury suffered at MDC Brooklyn.

Under the provisions of the applicable federal statutes, we have six months from the date of receipt to review, consider, and adjudicate your claim.

All correspondence regarding this claim should be addressed to Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Street, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact this office immediately. Also, should your address change, you should advise this office accordingly.

Sincerely,

(b)(6);
(b)(7)(C)

Darrin Howard
Regional Counsel



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

Via Certified and Return Receipt Mail

U.S. Custom House-7th Floor
2nd & Chestnut Streets
Philadelphia, PA 19106

September 13, 2019

Mr. (b)(6); (b)(7)(C)
MDC Brooklyn
P.O. Box 329002
Brooklyn, NY 11232

RE: Administrative Claim No. TRT-NER-2019-02624
Reconsideration
Claim Received March 15, 2019

Dear Mr. (b)(6); (b)(7)(C)

Your request for reconsideration of Administrative Claim No. TRT-NER-2019-02624 was properly received on March 15, 2019, and reconsidered for settlement as provided by the Federal Tort Claims Act (FTCA), 28 U.S.C. § 2672, under authority delegated to me by 28 C.F.R. § 543.30. You seek \$1,500,000.00 in compensation for an alleged personal injury sustained at MDC Brooklyn between January 27, 2019, and February 3, 2019. Specifically, you state a power outage adversely affected the institution's heating, hot water, and lighting. You allege you suffered weakness, nausea, stomach cramps, diarrhea, dehydration and smoke inhalation. You contend you feared for your personal safety.

A careful review of the reconsideration shows you have not submitted any new evidence in support of the allegations made in your administrative claim. A review of your medical records does not reflect you sought medical care from Health Services for any ailment associated with the power outage. There is no evidence you experienced a compensable loss as the result of negligence on the part of any Bureau of Prisons employee. Accordingly, your claim is denied.

If you are dissatisfied with this decision, you may bring an action against the United States in an appropriate United States District Court within six (6) months of the date of this letter.

Sincerely,

Darrin Howard
Regional Counsel

cc: D. Edge, Warden, MDC Brooklyn

DOJ-19-0278, 19-0279, 19-0280-I-000179

2019-02980 179 of 312

INT NEK 201902624

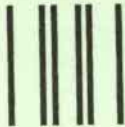
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1. Article Addressed to: Mr. [REDACTED] MDC Brooklyn P.O. Box 329002 Brooklyn, NY 11232 (b)(6); (b)(7)(C)	2. A. [REDACTED] (Transfer from service label) 7016 1370 0001 4119 5019
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Federal Bureau of Prisons
U.S. Customs House
2nd & Chestnut Streets, 7th Floor
Philadelphia, PA 19106





U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

Via Certified and Return Receipt Mail

U.S. Custom House-7th Floor
2nd & Chestnut Streets
Philadelphia, PA 19106

March 4, 2019

(b)(6); (b)(7)(C)

MDC Brooklyn
P.O. Box 329002
Brooklyn, NY 11232

RE: Administrative Claim No. TRT-NER-2019-02624
Claim Received February 19, 2019

Dear Mr. (b)(6); (b)(7)(C)

This is in response to your administrative tort claim in which you seek \$100,000.00 in compensation for an alleged personal injury sustained at MDC Brooklyn between January 27, 2019, and February 3, 2019. Specifically, you state a power outage adversely affected the institution's heating, hot water, and lighting. You allege you suffered severe emotional distress, which affected your ability to sleep and focus. You contend you feared for your physical safety and possible assault.

After review, we have decided to deny your claim because you have not alleged an identifiable physical injury actionable under the Federal Tort Claims Act 28 U.S.C. §§ 1346(b)(2), 2672.

If you are dissatisfied with this decision, you may bring an action against the United States in an appropriate United States District Court within six (6) months of the date of this letter.

Sincerely,

Darrin Howard
Regional Counsel

cc: H. Quay, Warden, MDC Brooklyn

4NTLEK201902624

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P.O. Box 329002
Brooklyn, NY 11232



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☐ Agent

☐ Addressee

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C. Date of Delivery

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any address below: ☒ No

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Philadelphia, PA 19106

(b)(6); (b)(7)(C)

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MARCH 11, 2019

DARRIN HOWARD, ESQ.
NORTHEAST REGIONAL COUNSEL
FEDERAL BUREAU OF PRISONS
NORTHEAST REGIONAL OFFICE
200 CHESTNUT STREET -- ROOM 701
PHILADELPHIA, PENNSYLVANIA 19106

Re: Administrative Tort Claim No.: TRT-NER-2019-_____

Dear Mr. Howard:

Claimant hereby seeks reconsideration of the March 4, 2019 decision to deny his administrative tort claim for injuries suffered at the Metropolitan Detention Center in Brooklyn, New York ("MDC Brooklyn"), between January 27, 2019 and February 3, 2019. Reconsideration is sought pursuant to 28 C.F.R. 14.9(b). In addition, Claimant hereby increases his demand from \$100,000.00 to \$1,500,000.00, in light of both the physical and psychological injuries suffered when staff breached the duty of care owed Claimant under 18 U.S.C. 4042(a)(2) and (3). For the reasons that follow, reconsideration should be granted.

In addition to the facts and issues raised in his initial formal claim, Claimant submits that on or about and between January 27, 2019 and February 3, 2019, he suffered on or more of the following physical injuries by virtue MDC Brooklyn staff negligence: (a) Weakness; (b) Nausea; (c) Stomach Cramps; (d) Diarrhea; (e) Dehydration; and (f) Smoke Inhalation. These injuries resulted from staff's failure to provide meals for more than 17 hours on several occasions, during the aforementioned period, and the failure to provide clean water for drinking -- providing only water that was severely discolored (brown). Further, on February 2, 2019, an inmate experiencing emotional distress set a fire in the housing unit, which sent smoke throughout the unit. After responding staff extinguished the fire, that inmate was removed to the Special Housing Unit. However, no medical attention was offered or provided to any of the inmates assigned to the affected housing unit (Unit H-B).

Each of the injuries identified above constitutes a physical injury. See, e.g., *Chendrimada v. Air-India*, 802 F.Supp. 1089, 1092 (S.D.N.Y. 1992)(upholding the plaintiff's claim predicated on allegations of weakness, nausea, cramps, and malnutrition because plaintiffs suffered these injuries as a direct result of their confinement on a grounded airplane for over eleven hours without food; thus, their symptoms had an independent physical genesis and were not merely psychosomatic); *Eastern Airlines, Inc. v. Floyd*, 499 U.S. 530, 536, 541 (1991)("a category of physical injuries that includes internal injuries caused, for example, by physical impact, smoke or exhaust inhalation, or oxygen deprivation.")

In view of the foregoing, reconsideration is warranted, and this claim should be promptly settled.

Respectfully submitted,

NAME _____

(b)(6); (b)(7)(C)

REGISTER NO. _____

(b)(6); (b)(7)(C)

METROPOLITAN DETENTION CENTER
P.O. BOX 329002
BROOKLYN, NEW YORK 11232

cc: Office of the Inspector General

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

MAR 15 2019

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OVERSIGHT

DOJ-19-0278, 19-0279, 19-0280-I-000187

(b)(6);
(b)(7)(C)

Metropolitan Detention Center
P.O. Box 329002
Brooklyn, NY 11232

Darrin Howard, ESQ
 Northeast Regional Counsel
 Federal Bureau of Prisons
 Northeast Regional Office
 200 Chestnut Street - Room 701
 Philadelphia, Pennsylvania 19106



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[illegible]

DARRIN HOWARD, ESQ.
NORTHEAST REGIONAL COUNSEL
U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF PRISONS
NORTHEAST REGIONAL OFFICE
200 CHESTNUT STREET
PHILADELPHIA, PENNSYLVANIA 19106

Re: Administrative Tort Claim for Personal Injury [28 U.S.C. 2671, et. seq.]

Dear Mr. Howard:

The undersigned Claimant respectfully submits this claim under the Federal Tort Claims Act ("FTCA") [28 U.S.C. 2672], and 28 C.F.R. 543.30, seeking compensatory damages in the amount of \$100,000.00 for personal injury that he suffered as a result of negligence by Federal Bureau of Prisons staff at the Metropolitan Detention Center ("MDC") in Brooklyn, New York. For the reasons that follow, this claim should be promptly settled.

I. THE RELEVANT FACTS.

At all times between January 27, 2019 and February 3, 2019, claimant was detained at the MDC (West Building). On January 27, 2019, the institution experienced a power outage which, upon information and belief, resulted from an electrical fire. Upon information and belief, the power outage adversely affected the institution's heating, hot water, and lighting. More specifically, each cell (including claimant's assigned cell) was without lights, hot water, or heat for the approximately eight days (i.e. January 27, 2019 thru February 3, 2019). Staff was aware of the inhumane conditions, and took no steps to immediately restore the housing units or the cells within those units to habitable conditions.

Notably, however, on February 3, 2019, staff began distributing extra blankets to inmates in the institution in an effort to combat the exceptionally frigid temperatures. It should also be noted that during this period, institutional staff would visit housing units to check the cell temperatures. Some inmates blocked their ventilation ducts in an effort to prevent the exceptionally cold air from entering their cells through the ventilation system. This, however, also prevented staff from obtaining an accurate electronic reading of the temperature in those cells which had their vents blocked. Thus, on at least two occasions, staff entered the housing unit and presented to a particular cell where the air vent had been blocked, and recorded a temperature reading that was much warmer than the temperature in other cells where inmates had not blocked their air vents.

Throughout the period where claimant was denied suitable quarters, heat, hot water, and lights, he feared for his physical safety. He feared possible assault on his person by other inmates assigned to his housing unit. Despite inadequate lighting in the housing units, from on or about January 28, 2019 thru February 1, 2019, claimant and more than 100 other inmates assigned to his housing unit were permitted (and even required) to exit and remain outside of their respective cells for extended periods of times throughout the day and evening, supervised by only a single staff member who was physically unable to observe inmate activity throughout the unit due to extremely limited lighting in the common area. Claimant was required to exit his cell and enter the common area to obtain and consume his meals, as well as to shower. It should also be noted that during the institutional crisis, mental health staff was inaccessible to claimant and all other inmates assigned to his housing unit. This claimant was also not afforded an opportunity to meet with medical staff. All access to claimant's attorney was denied as attorneys were not permitted to enter the institution, and both the inmate telephone and email systems were not operational. Inmates were also denied a meaningful opportunity to send general correspondence since they were denied access to commissary to purchase required postage.

Again, despite the magnitude of the inhumane crisis, MDC staff took no immediate or appropriate action to restore the institution to normal operations, or to adhere to their responsibility to provide Claimant with appropriate housing.

During this crisis period claimant suffered severe emotional distress which affected, inter alia, claimant's ability to sleep and focus.

II. THE RELEVANT LAW.

(a) Liability Under The Federal Tort Claims Act.

The Federal Tort Claims Act ("FTCA") provides that the United States is liable for injury caused by the negligence

DATE RECEIVED
FEB 19 2019
FEDERAL BUREAU OF PRISONS
NORTHEAST REGIONAL COUNSEL OFFICE

FEB 19 2019

of its employees under circumstances where a private person would be liable according to "the laws of the place where the act or omission occurred," and thus New York law applies. {28 U.S.C. 1346(b); Kane v. United States, 189 F.Supp.2d 40, 51-52 (S.D.N.Y. 2002); Ducrepin v. United States, 964 F.Supp. 659, 663 (E.D.N.Y. 1997)} Under New York law, to prove a claim of negligence, plaintiff must establish three elements: (i) defendant owed plaintiff a duty of care; (ii) defendant breached that duty; and (iii) the breach proximately caused plaintiff's injury. {Kane, 189 F.Supp.2d at 51-52}

(b) The Bureau of Prisons Owed Claimant a Duty of Care.

Although state laws sets out the elements required to prove negligence, the standard of care for the Federal Bureau of Prisons is "fixed by 18 U.S.C. 4042, independent of [any] inconsistent state rule" allowing for a local jailor's immunity from suit, or a lesser duty. {United States v. Muniz, 374 U.S. 150, 164 (1963)} Section 4042(a) requires that the Bureau of Prisons provide "suitable quarters and provide for the safekeeping, care, and subsistence of all persons charged with or convicted of offenses against the United States." {18 U.S.C. 4042(a)(2)} This statutory duty means that the Bureau of Prisons must exercise "ordinary diligence" or reasonable care "to keep prisoners safe and free from harm." {Coward v. United States, 617 F.2d 112, 116 (5th Cir. 1980); see also Herrington v. United States, 1984 WL 1279, at *2 (S.D.N.Y. 1984); Castor v. United States, 883 F.Supp. 344, 350 (S.D. Ind. 1995)}

It is clear that "the mere failure to provide suitable quarters" is not actionable; there must be fault. {Muhammed v. United States, 6 F.Supp.2d 582, 595 (N.D. Tex. 1998)} Only "a failure to exercise ordinary care, or reasonable care, to provide suitable quarters" is actionable. {Id.; Graham v. United States, 2002 WL 188573, at *4 (E.D. Pa. 2002)(noting that mandatory duty of care set forth in Section 4042 "does not dictate the manner in which the duty must be fulfilled")}

(c) New York Law Governing Claims Negligent Infliction of Emotional Distress.

Under New York law, a claim of negligent infliction of emotional distress must be premised upon a breach of a duty owed "which either unreasonably endangers the plaintiff's physical safety, or causes the plaintiff to fear for his or her own safety." {Sheila C. v. Povich, 11 A.D.3d 120, 130 (1st Dep't 2004); see also Mortise v. United States, 102 F.3d 693, 696 (2d Cir. 1996)} Under New York law, a plaintiff may establish a claim of negligent infliction of emotion distress in one of two ways: (1) the "bystander" theory; or (2) the "direct duty theory." A plaintiff may recover for purely emotional injury under the "direct duty theory" when he/she suffers an emotional injury from defendant's breach of a duty which unreasonably endangers his/her own physical safety. {See, Mortise, 102 F.3d at 696 (citing Kennedy v. McKesson Co., 58 N.Y.2d 500, 504 (1983))} The duty in such cases must be specific to the plaintiff, and note some amorphous, free-floating duty to society. {Id.; (citing Johnson v. Jamaica Hosp., 62 N.Y.2d 523, 526-27 (1984))}

As noted, the Federal Bureau of Prisons owed claimant a specific duty of care, as described in Section 4042(a)(2) and (3), to provide him "suitable quarters," "safekeeping," and "protection."

III. APPLICATION OF THE LAW TO THE FACTS.

The facts and the law are relatively straightforward: On January 27, 2019, MDC Brooklyn experienced a significant power outage that adversely affected all housing units within its West Building. The outage rendered all cells (including claimant's) within the West Building uninhabitable by virtue of no lighting, heating, or hot water. MDC staff failed to take immediate steps to rectify the power outage or to restore the institutional to normal operations, as a result of being left in such inhumane and exceptionally dangerous conditions, claimant feared for his personal safety and life.

It goes without saying that the Federal Bureau of Prisons, in keeping with its mandated duty under Section 4042(a)(2) and (3), is required to provide "adequate heat" to all cells and housing units wherein prisoners will be confined. {See, Dugan v. Washington, 2001 WL 741626, at *5 (N.D. Ill. June 11, 2001)(noting that prisoners need only be provided "adequate heat") That duty is specific. The duty to provide "safekeeping" and "protection" is also specific. {See, 18 U.S.C. 4042 (a)(2) and (3)} Each of those specific duties were breached when MDC staff failed to take steps to immediately rectify the power outage, resulting in approximately eight continuous days of fear of physical injury.

Bureau of Prisons employee's negligence in this matter is both inexplicable and unacceptable. Indeed, the failure to act reasonably has prompted investigations from the Office of the Inspectors General, as well as others. Given the indisputable facts, and well settled law, claimant is entitled to compensatory damages in the amount of \$100,000.00.

IV. CONCLUSION.

For the reasons stated, claimant seeks prompt disposition and settlement of this claim.

Dated: Brooklyn, New York

February 13, 2019

Respectfully submitted,

(b)(6); (b)(7)(C)

[SIGNATURE]

(b)(6); (b)(7)(C)

[PRINT NAME]

(b)(6); (b)(7)(C)

[REGISTER NUMBER]

METROPOLITAN DETENTION CENTER

P.O. BOX 329002

BROOKLYN, NEW YORK 11232

-- CLAIMANT --

cc: U.S. Department of Justice
Office of the Inspector General

Federal Bureau of Prisons
Central Office
320 First Street, NW
Washington, DC 20534

New York Times (w/ecnl.)

New York Federal Defenders

b(6);
b(7)(C)

Metropolitan Detention Center
P.O. Box 329002
Brooklyn, NY, 11232

NEW YORK NY 100

14 FEB 2019 PM 4 L



BARTIN HOWARD, E4
Northeast Regional Counsel
U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
200 Chestnut Street
Philadelphia, Pennsylvania, 19106

19106-297999





U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office

*U.S. Custom House-7th Floor
2nd & Chestnut Streets
Philadelphia, PA. 19106*

March 21, 2019

(b)(6); (b)(7)(C)

MDC Brooklyn
P.O. Box 329002
Brooklyn, NY 11232

Re: Administrative Claim Reconsideration Received March 15, 2019
Claim No. TRT-NER-2019-02624

Dear Mr. (b)(6); (b)(7)(C)

This will acknowledge receipt of your administrative claim reconsideration request for an alleged loss of personal property or personal injury suffered at MDC Brooklyn.

Under the provisions of the applicable federal statutes, we have six months from the date of receipt to review, consider, and adjudicate your claim.

All correspondence regarding this claim should be addressed to Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Street, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact this office immediately. Also, should your address change, you should advise this office accordingly.

Sincerely,

(b)(6);
(b)(7)(C)

Darrin Howard
Regional Counsel



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

*U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA. 19106*

April 1, 2019

(b)(6); (b)(7)(C)

MDC Brooklyn
P.O. Box 329002
Brooklyn, NY 11232

Re: Administrative Claim **Received March 25, 2019**
Claim No. TRT-NER-2019-03284

Dear Mr. (b)(6); (b)(7)(C)

This will acknowledge receipt of your administrative claim for an alleged loss of personal property or personal injury suffered at MDC Brooklyn.

Under the provisions of the applicable federal statutes, we have six months from the date of receipt to review, consider, and adjudicate your claim.

All correspondence regarding this claim should be addressed to Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Street, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact this office immediately. Also, should your address change, you should contact this office in writing accordingly.

Sincerely,

(b)(6); (b)(7)(C)

Darrin Howard
Regional Counsel



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

Via Certified and Return Receipt Mail

U.S. Custom House-7th Floor
2nd & Chestnut Streets
Philadelphia, PA 19106

September 24, 2019

Mr. (b)(6); (b)(7)(C)
FCI Danbury
Route 37
Danbury, CT 06811

RE: Administrative Claim No. TRT-NER-2019-03284

Dear Mr. (b)(6); (b)(7)(C)

Administrative Claim No. TRT-NER-2019-03284, properly received in this office on March 25, 2019, has been accepted and considered for settlement as provided by the Federal Tort Claims Act (FTCA), 28 U.S.C. § 2672, under authority delegated to me by 28 C.F.R. § 543.30. You seek \$1,500,000.00 in compensation for an alleged personal injury sustained at MDC Brooklyn between January 27, 2019, and February 3, 2019. Specifically, you state a power outage adversely affected the institution's heating, hot water, meals and lighting. You allege you slipped and fell while descending from your top bunk in the dark. You also allege you suffer back pain, vision problems, mental anguish and anxiety. You contend you feared for your physical safety. You contend your rights under the Eighth and Fourteenth Amendments have been violated.

An investigation, including a review of your medical and psychology records, does not reflect you sought medical and/or mental health care for the ailments set forth in your claim. Constitutional claims are not cognizable under the FTCA. There is no evidence you experienced a compensable loss as the result of negligence on the part of any Bureau of Prisons employee. Accordingly, your claim is denied.

If you are dissatisfied with this decision, you may bring an action against the United States in an appropriate United States District Court within six (6) months of the date of this letter.

Sincerely,


Darrin Howard
Regional Counsel

cc: D. Edge, Warden, MDC Brooklyn

DOJ-19-0278, 19-0279, 19-0280-I-000195

2019-02980 195 of 312

4NT DEK 2019 03284

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1. Article Addressed to:		B. Received by (Printed Name)	C. Date of Delivery
2. Article Number (Transfer from service label) 7016 1370 0001 4119 5446		D. Is delivery address different from item 1? ☐ Yes If YES, delivery address below: ☒ No	
Mr. [REDACTED] FCI Danbury Route 37 Danbury, CT 06811		☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Signature Confirmation Restricted Delivery (over \$500)	

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt



CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Metropolitan Detention Center		2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse) Number, Street, City, State and Zip code. (b)(6); (b)(7)(C) Metropolitan Detention Center P.O. Box 329002 Brooklyn, NY 11232			
3. TYPE OF EMPLOYMENT ☐ MILITARY ☒ CIVILIAN		4. DATE OF BIRTH (b)(6); (b)(7)(C)		5. MARITAL STATUS Single	
6. DATE AND DAY OF ACCIDENT Jan. 27, 2019		7. TIME (A.M. OR P.M.) 6:30 AM			
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). During the blackout I was injured by not being able to see in the dark, I could not seek medical attention and experienced cruel and unusual confinement conditions. I was given anxiety, stress and depression, anger from lack of communication with my family and my safety was at risk. I am having mental anguish and I'm scared from the incident of being denied food, and the ability to shower.					
9. NONE PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). APR 15 2019					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side). NERO-PHILADELPHIA					
10. Lower back pain / vision troubles PERSONAL INJURY/WRONGFUL DEATH I fell off top bunk in the dark.					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Due to the cruel and unusual punishment conditions of confinement my lower back muscles and bones ache and are sore from the lack of proper bedding and being stuck in a cell for more than 200 hours completely aggravated my spine and will not be treated by medical or get any medical attention. My safety was at risk while the power was out and my eyes are experiencing problems from straining to see in the dark.					
11. NONE WITNESSES					
NAME			ADDRESS (Number, Street, City, State, and Zip Code)		
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars) \$1.5 Million (USD)					
12a. PROPERTY DAMAGE NONE		12b. PERSONAL INJURY Lower back injury Eye trouble mental anguish 1.5 million		12c. WRONGFUL DEATH NONE	
				12d. TOTAL (Failure to specify may cause forfeiture of your rights). 1.5 Million (USD)	
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). (b)(6); (b)(7)(C)			13b. PHONE NUMBER OF PERSON SIGNING FORM NONE		14. DATE OF SIGNATURE 4-3-2019
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS		
The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

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NSN 7540-00-634-4046

STANDARD FORM 95 (REV. 2/2007)

PRESCRIBED BY DEPT. OF JUSTICE

28 CFR 14.2

DOJ-19-0278, 19-0279, 19-0280-I-000198

2019-02980 198 of 312

95-109
AMERICAN
OVERSIGHT

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☒ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☒ No

17. If deductible, state amount.

NONE

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

NONE

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☒ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. *Authority:* The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. *Principal Purpose:* The information requested is to be used in evaluating claims.
C. *Routine Use:* See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
D. *Effect of Failure to Respond:* Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

(b)(6);
(b)(7)(C)

P.O. Box 921002
Brooklyn, NY 11232



NEW YORK NY 100

10 APR 2015 PM 13 IL

Regional Counsel's Office
Federal Bureau of Prisons-Nero
U.S. Custom house
2nd & Chestnut Street - 7th Floor
Philadelphia, PA 19106

Legal Mail



1910631502 0030

METROPOLITAN DETENTION CENTER
80 29TH ST, BROOKLYN, NY 11232

The enclosed letter was processed through
mail procedures for forwarding to you.

The letter has neither been opened nor inspected.

If the writer raises a question or a problem over
which this facility has jurisdiction, you may wish
to return the material for further information
or clarification. If the writer encloses correspondence
for forwarding to another addressee, please
return the enclosure to the above address.

MAR 18

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

1. Location where the property loss or damage occurred: <u>Metropolitan Detention Center</u> <u>Housing unit J-73</u>	2. Name, address of claimant (Register number, street, city, state, and zip code): NAME: <u>(b)(6); (b)(7)(C)</u> REG#: <u>(b)(6); (b)(7)(C)</u> MDC <u>BROOKLYN</u> P.O. BOX 329002 BROOKLYN, NY 11232
3. Date and Day of Incident: <u>Jan. 27, 2019</u>	4. Time: (A.M. or P.M.): <u>Over 200 hours</u>

5. Basis of Claim (State in detail the known facts and circumstances of the damage to, or loss, of privately owned property, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages, if necessary.):

My Constitutional right were violated under due process of the 8th & 14th Amendments. I was deprived food and medical attention, I have back pain from being stuck in a cell for more than 200 hours. I have been experiencing stress, anxiety, and depression from no communication with my family as well as vision trouble from the dark, I was also scared for my safety.

6. Witnesses (Please provide the name and address (number, street, city, state, and zip code

(b)(6); (b)(7)(C)

M.D.C P.O. Box 329002
Brooklyn, Ny. 11232

7. Amount of Claim for Damage to, or loss of, privately owned property (in dollars)
(Sum Certain Amount - Total Amount Of Claim): \$1.5 million (USD)

8. MAIL OR DELIVER CLAIM TO THE REGIONAL OFFICE WHERE THE CLAIM OCCURRED

I CERTIFY THAT THE AMOUNT OF THE CLAIM COVERS ONLY DAMAGE TO, OR LOSS OF PRIVATELY OWNED PROPERTY CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL DATE RECEIVED SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

9. Signature of Claimant or Authorized Representative

(b)(6); (b)(7)(C)

10. Date

MAR 25 2019

3-18-19

NERO-PHILADELPHIA

PDF

Prescribed by PS 5580

Northeast Regional Office (BOP)

DOJ-0278-10-0279-19-0280-I-000202

2019-02980 202 of 312 2nd & Chestnut Street 7th Floor
Philadelphia, PA 19106

AMERICAN
OVERSIGHT

b)(6);
b)(7)(C)

P.O. Box 329002
Brooklyn, NY 11232



NOV 15 2019
NEW YORK, NY 10018

North east Regional Office (Bop)
US Custom House
2nd & Chestnut Street 7th Floor
Philadelphia, PA 19106

19106-291348



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House-7th Floor
2nd & Chestnut Streets
Philadelphia, PA 19106

May 6, 2019

(b)(6); (b)(7)(C)

MDC Brooklyn
P.O. Box 329002
Brooklyn, NY 11232

RE: Administrative Claim No. TRT-NER-2019-03284

Dear Mr. (b)(6); (b)(7)(C)

This will acknowledge receipt of the additional administrative claim received in this office April 15, 2019, for an alleged personal injury at MDC Brooklyn. The two claims you have submitted for your January 27, 2019, personal injury at MDC Brooklyn have been combined and will be processed under TRT-NER-2019-03284.

If you did not intend to submit one personal injury claim for the total sum certain amount of \$1,500,000.00, please advise this office accordingly.

Sincerely,

Darrin Howard
Regional Counsel

cc: H. Quay, Warden, MDC Brooklyn



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

*U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA. 19106*

October 4, 2019

Ms. Jean Prabhu
Burns & Harris Attorneys At Law
The Woolworth Building
233 Broadway, Suite 900
New York, NY 10279

Re: Administrative Tort Claim Received September 24, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-06538

Dear Ms. Prabhu:

This will acknowledge receipt of the administrative claim you submitted on behalf of (b)(6); (b)(7)(C) for an alleged personal injury at MDC Brooklyn between January 27, 2019, and February 3, 2019.

Under the provisions of the applicable federal statutes, we have six months from the date of receipt to review, consider, and adjudicate your claim. In order for this office to properly evaluate this claim, you are required to submit all the information required by 28 C.F.R. §14.4(b).

All correspondence regarding this claim should be addressed to me at: Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Streets, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact me immediately.

Sincerely,

(b)(6);
(b)(7)(C)

Darrin Howard
Regional Counsel

BURNS & HARRIS

ATTORNEYS AT LAW

SETH A. HARRIS

ALISON R. KEENAN
BLAKE G. GOLDFARB
SHERI E. HOLLAND

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JASON M. BATEMAN
CLIFFORD R. TUCKER
JOHNSON L. ATKINSON
MAX SILVERBERG
KARLISHA V. HEWITT

JEAN M. PRABHU
ALAN CHESTER SALZMAN
HARVEY WINER
JAMES K. GREENBERG
Of Counsel

August 6, 2019

VIA CERTIFIED MAIL/RRR

Federal Bureau of Prisons
Attn: Legal Department
Central Office HQ
320 First Street, NW
Washington, DC 20534

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL OFFICE

AUG 30 2019

NERO-PHILADELPHIA

Re:

(b)(6); (b)(7)(C)

Supplemental Claim

Location: MDC Brooklyn

Dates of Incident: 1/27/19 – 2/03/19

To Whom It May Concern:

Please be advised that this firm represents the above-referenced claimant along with his prison ID, whom was in the custody of the MDC Brooklyn on January 27, 2019 through February 3, 2019 and suffered injuries based on violation of 42 USC 1983 of the Constitution of the United States, including but not limited to the Fifth, Sixth, Eighth, and Fourteenth Amendments of the Constitution. On June 14, 2019, our office served upon you a claim on behalf of 37 claimants including the claimant listed above, and now serves this Supplemental Claim.

Upon information and belief, on January 27, 2019, an electrical fire broke out in MDC Brooklyn's west building causing damages to the building's infrastructure which significantly affected the prison's heating, venting, cooling, plumbing and electrical systems. The MDC Brooklyn and Warden Herman E. Quay failed to remedy those conditions for over a week and did not seek outside help or take measures to protect and ensure the safety of those in custody at the facility.

A humanitarian crisis unfolded as prisoners were subjected to inhumane conditions that posed unreasonable and substantial risks to their health and safety. The above claimant was deprived of basic human needs and any communication with the outside world, including but not limited to the following:

- Heating (in freezing temperatures)
- Suitable nutrition
- Electricity (kept in darkness)
- Flushable toilets/plumbing/showers
- drinking water
- Medical attention/medication
- Breathable air free from toxic fumes
- Access to clean clothes and bedding
- Excessive lockdown
- Extra blankets for warmth
- Communications with Counsel/family
- Administrative remedies

Wherefore, [REDACTED] sustained damages in excess of one million dollars
\$1,000,000.00.

Respectfully,


JEAN PRABHU

JP/rb/enc.

FIRST • CLASS



958

First Class Mail

Federal Bureau of Prisons
Attn: Legal Department
Central Office HQ
320 First Street, NW
Washington, DC 20534

205863



DOJ-19-0278, 19-0279, 19-0280-312

2019-02980 208 of 312

AMERICAN OVERSIGHT



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA 19106

September 10, 2019

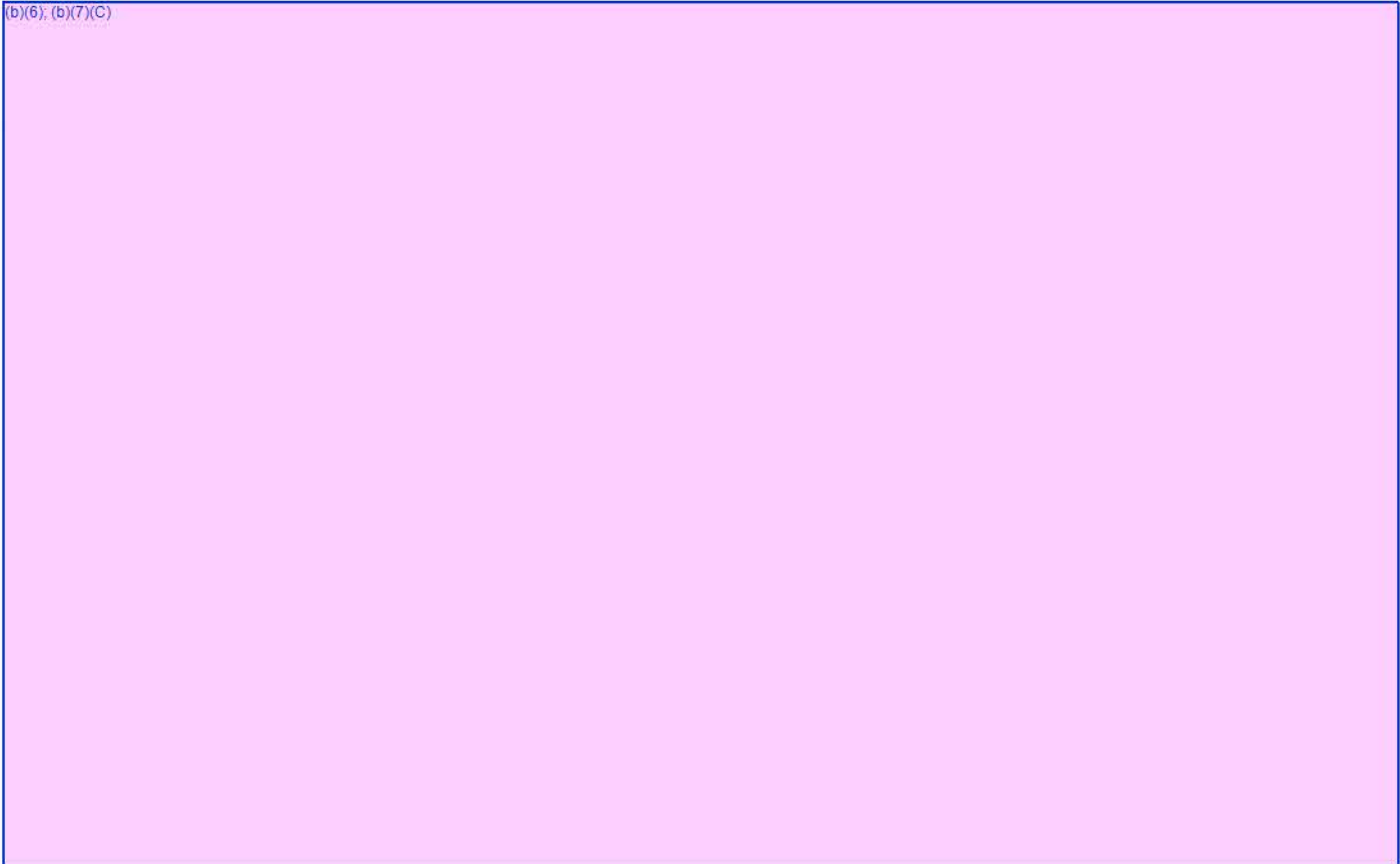
Ms. Jean Prabhu
Burns & Harris
The Woolworth Building
233 Broadway, Suite 900
New York, NY 10279

Re: Your Administrative Claims Received August 23, 2019

Dear Ms. Prabhu:

This will acknowledge receipt of the following administrative tort claims you filed on behalf of claimants seeking compensation for alleged personal injuries they suffered at the Metropolitan Detention Center in Brooklyn, New York:

(b)(6); (b)(7)(C)

A large rectangular area of the document is redacted, indicated by a solid pink fill. The redaction covers the majority of the lower half of the page, starting below the paragraph about tort claims and ending above the footer.

Ms. Jean Prabhu
September 10, 2019
Page 2

(b)(6); (b)(7)(C)

Each claim provided a sum certain "in excess of one million dollars." However, pursuant to 28 C.F.R. § 14.2, each claim must seek a specific dollar amount when you file a claim. Accordingly, the claims are rejected at this time.

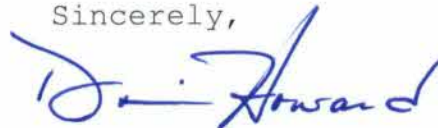
In addition, we will not be able to correspond with you unless you provide proof that you are authorized to represent each claimant as their legal representative. See 28 C.F.R. § 14.2.

If you wish these claims to be considered for administrative settlement, please re-submit the claim documents with the above-noted information. The enclosed Claim for Damage, Injury or Death form (SF-95) may be used in the instance of personal injury for each claim.

Lastly, please be advised that constitutional claims are not cognizable under the Federal Tort Claims Act.

All correspondence regarding these claims should be addressed to Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Street, Philadelphia, Pennsylvania 19106. If the circumstances surrounding these claims change in any fashion, you should contact this office immediately. Also, should your address change, you should advise this office accordingly.

Sincerely,



Darrin Howard
Regional Counsel

Enclosure

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency:			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code.		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☐ CIVILIAN	4. DATE OF BIRTH	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT	7. TIME (A.M. OR P.M.)	
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights).		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).			13b. PHONE NUMBER OF PERSON SIGNING FORM	14. DATE OF SIGNATURE	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

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28 CFR 14.2

DOJ-19-0278, 19-0279, 19-0280-I-000211

2019-02980 211 of 312

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

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16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No

17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

INSTRUCTIONS

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Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

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If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

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(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

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(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

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A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. **Principal Purpose:** The information requested is to be used in evaluating claims.
- C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
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9/10/19 *Multiple Claims*

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X ☐ Agent ☐ Addressee	
1. Article Addressed to: Ms. Jean Prabhu Burns & Harris The Woolworth Building 233 Broadway, Suite 900 New York, NY 10279		B. Received by (<i>Printed Name</i>)	C. Date of Delivery
2. Article Number (<i>Transfer from service label</i>) 7013 0600 0001 9910 9338		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☒ No	
3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☐ Certified Mail® ☒ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery		☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☒ Return Receipt for Merchandise ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt



BURNS & HARRIS ATTORNEYS AT LAW

SETH A. HARRIS

ALISON R. KEENAN
BLAKE G. GOLDFARB
SHERI E. HOLLAND

JUDITH F. STEMLER
JASON STEINBERG
ANDREW G. MEIER
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JASON M. BATEMAN
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MAX SILVERBERG
KARLESHA V. HEWITT
FRANK L. LANZA

JEAN M. PRABHU
ALAN CHESTER SALZMAN
HARVEY WINER
JAMES K. GREENBERG
Of Counsel

September 19, 2019
FEDERAL BUREAU OF PRISONS
INVESTIGATIVE & COUNSEL OFFICE

SEP 24 2019

NERO-PHILADELPHIA

Federal Bureau of Prisons
Northeast Regional Office
Darrin Howard, Regional Counsel
US Custom House
2nd & Chestnut Streets, Room 701
Philadelphia, PA 19106

Re:

(b)(6); (b)(7)(C)

Claim No: TRT-NER-2019-06538

Dear Mr. Howard:

I am in receipt of your correspondence of September 10, 2019, and accordingly, have enclosed a copy of the above claimant's Retainer indicating Burns & Harris is his authorized representative for this claim.

The above claimant was in the custody of the MDC Brooklyn on January 27, 2019 through February 3, 2019 and suffered personal and emotional injuries based on the negligence and intentional infliction of physical and emotional injury at MDC Brooklyn and violation of 42 USC 1983 of the Constitution of the United States, including but not limited to the Fifth, Sixth, Eighth, and Fourteenth Amendments of the Constitution. This is our third submission of this claim and have previously served notices dated June 14, 2019 and August 6, 2019.

Upon information and belief, on January 27, 2019, an electrical fire broke out in MDC Brooklyn's west building causing damages to the building's infrastructure which significantly affected the prison's heating, venting, cooling, plumbing and electrical systems. The MDC Brooklyn and Warden Herman E. Quay failed to remedy those conditions for over a week and did not seek outside help nor take measures to protect and ensure the safety of those in custody at the facility.

A humanitarian crisis unfolded as prisoners were subjected to inhumane conditions that caused unreasonable and substantial injury. The above claimant was deprived of basic human needs, medical attention, any communication with the outside world, and suffered personal and emotional injuries as a result.

Wherefore, the above claimant sustained damages in the amount of one million dollars \$1,000,000.00.

Respectfully,



JEAN PRABHU

JP/rb/Enc.

RETAINER AGREEMENT

TO: BURNS & HARRIS
233 Broadway, Suite 900
New York, NY 10279
(212) 393-1000

I, [REDACTED] (Client), the undersigned retains the law office of BURNS & HARRIS (law firm), as my attorneys to prosecute a claim for negligence against any and all parties, individuals and/or corporations that are found to be liable under the law for damages suffered by me arising from personal injury sustained by me. I [REDACTED], the spouse of [REDACTED] (Client), retains the law office of BURNS & HARRIS (law firm) to represent me for a derivative cause of action for the loss of services and society of my spouse due to the injuries claimed as a result of the defendant(s) negligence. I(We) specifically agree as follows:

1. FEE PERCENTAGE: Although I have been advised of the right to retain the law firm under an arrangement whereby the firm would be compensated on the basis of the reasonable value of services rendered or on an hourly rate, I and the law firm agree that the law firm shall be paid Thirty Three and One-Third (33 1/3%) Percent of the sum recovered, whether by suit, settlement or otherwise. In computing the fee, the costs as taxed, including interest upon a judgment, shall be deemed part of the amount recovered. In litigating the claim, the law firm may become eligible for attorneys' fees under 42 U.S.C. § 1988. The Client agrees that any and all fees obtained by the law firm under 42 U.S.C. § 1988 are to be paid to the law firm in addition to the 33 1/3% of the sum recovered. If, as a result of the recovery obtained in your lawsuit brought by the law firm, a workers' compensation carrier waives any of its workers' compensation lien, then the law firm shall be entitled to recover from you an additional fee of 33 1/3% of the portion of the waiver that exceeds one third of the total lien amount owed.

2. **DISBURSEMENTS:** In the event there is no recovery, the Client shall not be obligated to pay the law firm a legal fee for services rendered. Disbursements may include some of the following expenses: court filing fees, sheriff fees, medical and hospital report/record fees, doctor's report, court stenographer fees, deposition costs, expert fees for expert depositions and court appearances, trial exhibits, computer on-line search fees, express mail, postage, photocopy charges, document management charges, long distance telephone charges, among other charges. Document management charges are the fees charged by the law firm for processing documents during litigation, such as medical records, documents produced by defendants(s) and/or other parties, etc. Processing of the documents may include but is not limited to the following: (1) scanning; (2) conversion of native files to PDF documents; (3) OCR (Optical Code Recognition); and/or (4) indexing. At the time of settlement and distribution of proceeds, if the law firm has advanced the disbursements, the law firm shall be reimbursed for all disbursements which shall be deducted from the recovery.

In the event that this firm has been retained by others having the same claim or a similar case, disbursements regarding the liability and/or damages of the defendants may be shared proportionately by all such plaintiffs.

The disbursements involved in prosecuting the case may be advanced by the Client or by the law firm. The Client may choose either option. If the Client elects to advance the money for disbursements (Option I), the Client must pay each disbursement as it is incurred. If the Client elects to have the law firm advance the money for Disbursements (Option II), at the end of each case, the law firm shall be reimbursed from the recovery for any disbursements the law firm advanced.

In the event the Client elects to advance the disbursements (Option I), at the time of the final settlement or distribution of judgment proceeds, these expenses shall be deducted prior to the computation of the Attorney's Fee. If there is no recovery, the law firm will have no responsibility to repay the client for case disbursements.

In the event the Client elects to have the law firm advance the disbursements (Option II), at the time of the final settlement or distribution of judgment proceeds, these expenses shall be deducted from the Client's share after the computation of the Attorney's Fee. If there is no recovery, or if the amount recovered is not sufficient to pay such disbursements in full, Client will not be responsible to pay such disbursements.

In the event no choice is selected by the Client, it will be assumed that the Client wishes to have the law firm advance all disbursements (Option II).

Option I

(initials) _____ I elect to advance the money for disbursements. I want to be billed for each disbursement as incurred. I understand that my immediate payment of such charges is required as many fees are tied to time-sensitive deadlines.

Option

(initials) (b)(6); (b)(7)(C) _____ I elect to have the law firm advance the money for disbursements. I do not want to be billed for each disbursement as incurred. I agree that if there is a recovery of money on my case, the law firm will be reimbursed from that recovery for the costs and expenses advanced by the law firm. The Client hereby gives permission that the law firm may borrow monies from a third party for expenses and disbursements. Interest will then be charged to the Client as an additional expense.

3. **COMPUTATION OF FEES:** Under Option II, the contingency fee shall be computed on the gross recovery, resulting in a net settlement (or judgment), from which all appropriate disbursements in connection with the institution and prosecution of this claim are deducted, as set forth in paragraph 2 above. Under Option I, the contingency fee shall be computed on the net recovery after all appropriate disbursements in connection with the institution and prosecution of this claim are deducted, as set forth in paragraph 2 above. Examples of how a contingency fee is computed are as follows:

Option I

Client advances disbursements:

Gross Settlement	\$100.00
Disbursements	- \$10.00
Net settlement	\$90.00
33 1/3% Attorney's Fee	- \$30.00
Net to Client	\$60.00

Option II

Law firm advances disbursements:

Gross Settlement	\$100.00
33 1/3% Attorney's Fee	- \$33.33
Net settlement	\$66.67
Disbursements	- \$10.00
Net to Client	\$56.67

4. **MEDICAL BILLS:** All medical bills incurred which are not paid by the Client's medical insurance and are due and owing shall be chargeable to the Client's portion of the settlement. There may be additional deductions representing outstanding medical bills, liens to doctors for unpaid medical services rendered, or medical services not covered by medical insurance. The recovery of these medical services are included in the gross settlement and shall be paid from the Client's share of the recovery. Unpaid medical providers often will wait for payment until the conclusion of the case, however, in consideration for such abeyance, they will request a lien upon the settlement proceeds. The Client expressly authorizes the firm to sign such lien forms, which may be requested by physicians, and to directly pay outstanding medical bills for treatment to such physicians or other health care providers at the conclusion of the case. This authorization shall include medical and hospital expenses, and subrogation claims. The Client understands that medical providers do not provide medical services contingent upon the outcome of a case, and that in the event that there is no recovery, or an insufficient recovery, the Client will remain responsible for the payment of such medical bills.

5. **NO-FAULT PROCESSING FEE:** If this Retainer Agreement is entered for the processing of a claim for personal injuries arising from a motor vehicle accident wherein "No-Fault" insurance is applicable, it is agreed that the undersigned shall pay a fee of \$350.00 (Three Hundred Fifty Dollars) upon the successful conclusion of the case for the processing of statutory "No-Fault" benefits. This charge represents a lien on any proceeds of the case in favor of the attorney for professional services rendered in processing the "No-Fault" benefits.

6. **WITHDRAWALS:** The law firm expressly reserves the right to withdraw its representation at any time upon reasonable notification to the Client. In the event that the Client advises the law firm to discontinue the handling of this claim, or if the Client fails to cooperate with the law firm in the handling of this claim, Client agrees to compensate the law firm a reasonable amount for its services, and for the time spent on this claim on an hourly basis or under such other arrangement that may be agreed upon by the parties. The Client understands that the law firm has

conditionally accepted this case based upon the independent confirmation of all facts and injuries claimed to have been sustained by Client. In the event that the Client desires to transfer the file from this office, the Client shall be responsible to compensate the law firm for the reasonable value of their services. Such transfer shall not include documents or attorney work product regarding the general liability of the defendants.

7. **APPEALS:** Client further understands that the services to be provided through this agreement will NOT extend through the prosecution/defense of an appeal or representation on an appeal brought by any of the parties to the lawsuit. Client understands that BURNS & HARRIS, ESQS. may charge reasonable additional compensation if the case is appealed, or it is necessary to try the case more than once, the amount of which shall be an additional ten (10%) percent – totaling forty-three and one-third percent (43 1/3%) – of the sum recovered in negligence, intentional tort, civil rights and legal malpractice cases. Should attorney's fees under 42 USC § 1988 be awarded and an appeal be prosecuted pursuant to this section the firm may elect either 42 USC §1988 fees or a 10% fee pursuant to this section but not both.

This further appellate representation will not require a new Fee Agreement. In the event the CLIENT's case is dismissed or an unfavorable verdict is rendered, the CLIENT agrees that BURNS & HARRIS, ESQS. reserves the right to decide whether or not to prosecute an appeal. If BURNS & HARRIS, ESQS. declines to prosecute an appeal, and appeal is taken, and at any point in the appeal process there is an eventual recovery made in the case on behalf of the CLIENT, BURNS & HARRIS, ESQS. will be entitled to a fee that represents the fair value of the services rendered. BURNS & HARRIS, ESQS. shall have the first right of selecting the basis of their fee in the first instance, and if BURNS & HARRIS, ESQS. elects to be paid on an hourly rate, they shall be paid based on an hourly rate of six hundred dollars an hour (\$ 600/hour) for all work performed by BURNS & HARRIS, ESQS., and their agents/servants/employees. Unless stated in writing, BURNS & HARRIS, ESQS., elects to be paid on a contingent fee

(b)(6); (b)(7)(C)

(initials)

8. **SURROGATES COURT PROCEEDINGS:** If the law firm decides to handle Surrogate's Court work and the client agrees, the firm may hire a Surrogate Court attorney and to take fees from the client's share of the recovery. The establishment of a trust may be performed at an extra expense to the client. The client may consult with an elder lawyer, wills or trusts attorney at their own expense.

9. **STATUTE OF LIMITATIONS:** I understand that the Statute of Limitations period for my case must be investigated and that this Agreement is made subject to that investigation as well as an investigation of my entire case.

10. **FINANCING OF CASE:** If the firm borrows money from any lending institution to finance the cost of the Client's case, the amounts advanced by this firm to pay the cost of prosecuting or defending a claim or action or otherwise protecting or promoting the Client's interest will bear interest at the highest lawful rate allowed by applicable law. In no event will the interest be greater than the amount paid by the firm to the lending institution.

11. **RESULTS NOT GUARANTEED:** No attorney can accurately predict the outcome of any legal matter, accordingly, no representations are made, either expressly or impliedly, as to the final outcome of this matter. I further understand that I must immediately report any changes in my residence, telephone number or health to the law firm. I understand that this Retainer Agreement is a binding legal contract. I expressly agree that I will fully and freely cooperate with my attorneys in all aspects required for the prosecution of this legal matter and that I

(b)(6); (b)(7)(C)

actions that frustrate or impair the success of this action.

(initials)

12. **APPROVAL NECESSARY FOR SETTLEMENT:** Attorneys are hereby granted a power of attorney so that they may have full authority to prepare, sign and file all legal instruments, pleadings, drafts, authorizations and papers as shall be reasonably necessary to conclude this representation, including settlement and/or reducing to possession any and all monies or other things of value due to the Client under the claim as fully as the Client could do so in person. Attorneys are also authorized and empowered to act as Client's negotiator in any and all negotiations concerning the subject of this Agreement.

13. **ASSOCIATION OF OTHER ATTORNEYS:** Attorneys may, at their own expense, use or associate other attorneys in the representation of the aforesaid claims of the Client. Client understands that *the firm*, Seth A. Harris PLLC d/b/a Burns & Harris, is a professional limited liability company under the laws of New York with a number of attorneys. Various firm attorneys may work on Client's case.

14. **ASSOCIATE COUNSEL:** Attorneys may participate in the division of fees in this case and assume joint responsibility for the representation of the Client either in the event that the Attorney retains associate counsel or that the Client later chooses new counsel, provided that the total fee to the Client does not increase as a result of the division of fees and that the attorneys involved have agreed to the division of fees and assumption of joint responsibility.

15. **FEE DISPUTES:** In case of a fee dispute, the undersigned may be entitled to arbitration, if the fee falls within the parameters of the Fee Dispute Resolution Program, pursuant to 22 N.Y.C.R.R. PART 137 of the New York State Court Rules.

16. **COLLECTION WORK:** All work required to prosecute a collection case to recover an award will not be covered by this Agreement.

17. **NEW YORK LAW TO APPLY:** This Agreement shall be construed under and in accordance with the laws of the State of New York and the rights, duties and obligations of Client and of Attorneys regarding Attorney's representation of Client and regarding anything covered by this Agreement shall be governed by the laws of the State of New York.

18. **PARTIES BOUND:** This Agreement shall be binding upon and inure to the benefit of the parties, hereto, and their respective heirs, executors, administrators, legal representative, successors, guardians and assigns.

19. **LEGAL CONSTRUCTION:** In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such

invalidity, illegality, or unenforceability shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

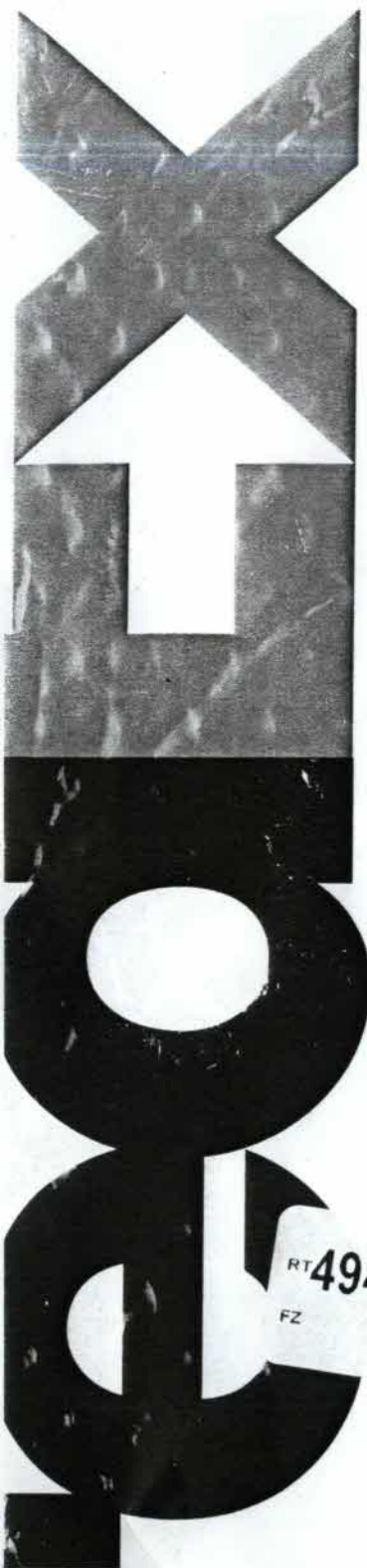
20. PRIOR AGREEMENTS SUPERSEDED: This Agreement constitutes the sole and only Agreement of the parties hereto and supersedes any prior understanding or written or oral agreement between the parties respecting the within subject matter.

I certify and acknowledge that I have had the opportunity to read this Agreement and have answered any questions pertaining thereto. I further state that I have voluntarily entered into this Agreement fully aware of the terms and c (b)(6); (b)(7)(C)

DATED: February 21, 2019

(S.)

Witness: _____ (L.S.)



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TO DARRIN HOWARD, REGIONAL COUNSEL
FEDERAL BUREAU OF PRISONS
US CUSTOM HOUSE
2ND & CHESTNUT STREETS, ROOM 701
PHILADELPHIA PA 19106

(215) 521-7301
INV
PO

REF. MDC BROOKLYN 205863

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U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

*U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA. 19106*

November 12, 2019

Katherine Rosenfeld, Esq.
Emery Celli Brinckerhoff & Abady LLP
600 Fifth Avenue at Rockefeller Center
10th Floor
New York, NY 10020

Re: Administrative Tort Claim Received November 4, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2020-00951

Dear Ms. Rosenfeld:

This will acknowledge receipt of the administrative claim you submitted on behalf of (b)(6); (b)(7)(C) for an alleged personal injury suffered at MDC Brooklyn between January 27, 2019, and February 3, 2019.

Under the provisions of the applicable federal statutes, we have six months from the date of receipt to review, consider, and adjudicate your claim. In order for this office to properly evaluate this claim, you are required to submit all the information required by 28 C.F.R. §14.4(b).

All correspondence regarding this claim should be addressed to me at: Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Streets, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact me immediately.

Sincerely,

(b)(6);
(b)(7)(C)

Darrin Howard
Regional Counsel

EMERY CELLI BRINCKERHOFF & ABADY LLP

RICHARD D. EMERY
ANDREW G. CELLI, JR.
MATTHEW D. BRINCKERHOFF
JONATHAN S. ABADY
EARL S. WARD
ILANN M. MAAZEL
HAL R. LIEBERMAN
DANIEL J. KORNSTEIN
O. ANDREW F. WILSON
ELIZABETH S. SAYLOR
KATHERINE ROSENFELD
DEBRA L. GREENBERGER
ZOE SALZMAN
SAM SHAPIRO

ATTORNEYS AT LAW
600 FIFTH AVENUE AT ROCKEFELLER CENTER
10TH FLOOR
NEW YORK, NEW YORK 10020

TEL: (212) 763-5000
FAX: (212) 763-5001
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DIANE L. HOUK

ALISON FRICK
DAVID LEBOWITZ
DOUGLAS E. LIEB
ALANNA KAUFMAN
EMMA L. FREEMAN
DAVID BERMAN
ASHOK CHANDRAN

October 29, 2019

Via U.S. Mail

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

Re: *Administrative Complaint by* (b)(6); (b)(7)(C)

To Whom It May Concern:

On behalf of (b)(6); (b)(7)(C) enclosed please find:

- SF-95 Claim Form
- SF-95 Supplement
- Authorization to File SF-95

If you have any questions, I can be reached by phone at (212) 763-5000 or by email at krosenfeld@ecbalaw.com. Thank you for your attention to this matter.

Sincerely,

/s/

Katherine Rosenfeld

Encl.

**CLAIM FOR DAMAGE,
INJURY, OR DEATH****INSTRUCTIONS:** Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.FORM APPROVED
OMB NO. 1105-0008

1. Submit to Appropriate Federal Agency:

Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House, 7th Floor
Philadelphia, PA2. Name, address of claimant, and claimant's personal representative if any.
(See instructions on reverse). Number, Street, City, State and Zip code.(b)(6); (b)(7)(C) c/o Emery Celli Brinckerhoff & Abady LLP
600 Fifth Avenue, 10th Floor
New York, NY 10020

3. TYPE OF EMPLOYMENT

☐ MILITARY☒ CIVILIAN

4. DATE OF BIRTH

(b)(6); (b)(7)(C)

5. MARITAL STATUS

Single

6. DATE AND DAY OF ACCIDENT

01/27/2019

02/03/2019

7. TIME (A.M. OR P.M.)

A.M.

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).

Please see attached.

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE
NOV 04 2019

9.

PROPERTY DAMAGE

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED.
(See instructions on reverse side).

NEO-PHILADELPHIA

10.

PERSONAL INJURY/WRONGFUL DEATH

STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.

Please see attached.

11.

WITNESSES

NAME

ADDRESS (Number, Street, City, State, and Zip Code)

(b)(6); (b)(7)(C)

UNKNOWN

UNKNOWN

UNKNOWN

12. (See instructions on reverse).

AMOUNT OF CLAIM (in dollars)

12a. PROPERTY DAMAGE

12b. PERSONAL INJURY

12c. WRONGFUL DEATH

12d. TOTAL (Failure to specify may cause
forfeiture of your rights).

1,000,000

1,000,000

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).

13b. PHONE NUMBER OF PERSON SIGNING FORM

14. DATE OF SIGNATURE

Katherine Brinkley

(212) 763-5000

**CIVIL PENALTY FOR PRESENTING
FRAUDULENT CLAIM**

The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).

**CRIMINAL PENALTY FOR PRESENTING FRAUDULENT
CLAIM OR MAKING FALSE STATEMENTS**

Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)

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NSN 7540-00-634-4046

STANDARD FORM 95 (REV. 2/2007)

PRESCRIBED BY DEPT. OF JUSTICE

28 CFR 14.2

DOJ-19-0278, 19-0279, 19-0280-I-000225

2019-02980 225 of 312

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident Insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No 17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. **Principal Purpose:** The information requested is to be used in evaluating claims.
C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages in necessary)

- a. During the week of January 27, 2019 through February 3, 2019, I was incarcerated in the West Building at the Metropolitan Detention Center in Brooklyn, New York. During that week, there was a power failure in the West Building.
- b. I was confined in Unit K82, Cell (b)(5); (b)(7)(C)
- c. In the seven-day period between January 27, 2019 and February 3, 2019 while I was confined at MDC: (1) there was no electricity and no functioning lights, and I was confined in near-darkness; (2) there was little to no heat and I was confined in freezing cold temperatures and/or extreme temperature variations without adequate clothing or blankets; (3) there was a building-wide lockdown and I was confined to my cell for long periods of time; and (4) I had little to no access to clean laundry, hot food, regularly scheduled meals, regular showers, hot showers and hot water, medical or psychiatric care, exercise, or outside communications with my family or lawyers via email, pay phone, or visits.
- d. In addition to these facts, I also experienced the following circumstances between January 27, 2019 and February 3, 2019 while I was confined at MDC: It was very nasty inside. The water was undrinkable as it came out brown at times. The toilets were clogged up and would not flush; it had to be covered after usage to keep the smell of feces and urine at bay. The food was very old as some boxes had expiration dates on it. They served us decomposed meat, fermented milk—things that have been going on at MDC for a while.

10. PERSONAL INJURY/WRONGFUL DEATH: STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURY PERSON OR DECEDENT.

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

- a. As a result of being confined in the circumstances described in paragraph 8, including but not limited to a prolonged period of bitter cold, and/or extreme temperature variations, and darkness, I suffered the following injuries which form the basis of my claim: physical pain and discomfort as a result of my exposure to the cold; hunger; exposure to noxious odor, air quality, and excessive noise; severe personal uncleanliness cause by lack of access to showers of clean clothing; and emotional and psychological distress.
- b. I suffer from migraines, headaches that they have record and suffer from seizures and was not provided with my daily medication due to the blackout. I suffered in my cell for days without a way to call or ask for help.
- c. In addition to those injuries described in paragraph 10(a) above, I also suffered the following injuries between January 27, 2019 and February 3, 2019 while I was confined at MDC, and/or as a result of the events of that week of confinement: Due to the extreme conditions of me being cold and there not being any hat, I had trouble sleeping for days. I suffered from depression as there was no way to get help. Migraines, headaches that were really bad. I am traumatized now being in the dark, not knowing if I'll be attacked. I lost weight from not being able to eat.

11. WITNESSES

The following people witnessed the circumstances that caused my injury:
Cell mate.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

09-05, 2019

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

To Whom it May Concern:

I, (b)(6); (b)(7)(C) authorize my representatives at Emery Celli Brinckerhoff & Abady LLP, including Katherine Rosenfeld, to submit an administrative complaint pursuant to the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 et seq. against the Bureau of Prisons.

Thank you. If you have any questions, please call Ms. Rosenfeld at 212-763-5066.

Sincerely,

(b)(6); (b)(7)(C)

DOB: (b)(6); (b)(7)(C)

EMERY CELLI BRINCKERHOFF & ABADY LLP
600 FIFTH AVENUE, 10TH FL. • NEW YORK, NEW YORK 10020

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

FIRST-CLASS



DOJ-19-0278, 19-0279, 19-0280-I-000230
2019-02980 230 of 312





U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House - 7th Floor
2nd & Chestnut Streets
Philadelphia, PA 19106

November 12, 2019

Katherine Rosenfeld, Esq.
Emery Celli Brinckerhoff & Abady LLP
600 Fifth Avenue at Rockefeller Center
10th Floor
New York, NY 10020

Re: Administrative Tort Claim Received November 1, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2020-00970

Dear Ms. Rosenfeld:

This will acknowledge receipt of the administrative claim you submitted on behalf of Mr. (b)(6); (b)(7)(C) for an alleged personal injury suffered at MDC Brooklyn, between January 27, 2019, and February 1, 2019.

Unfortunately, we are unable to identify the claimant, (b)(6); (b)(7)(C) with the information you have provided. Please provide a document to prove Mr. (b)(6); (b)(7)(C) identity and date of birth.

Accordingly, your claim is being returned to you for such action as you deem appropriate. If you wish to resubmit your claim with the above-noted information, your claim will be considered for administrative settlement.

Sincerely,

Darrin Howard
Regional Counsel

Enclosure

EMERY CELLI BRINCKERHOFF & ABADY LLP

RICHARD D. EMERY
ANDREW G. CELLI, JR.
MATTHEW D. BRINCKERHOFF
JONATHAN S. ABADY
EARL S. WARD
ILANN M. MAAZEL
HAL R. LIEBERMAN
DANIEL J. KORNSTEIN
O. ANDREW F. WILSON
ELIZABETH S. SAYLOR
KATHERINE ROSENFELD
DEBRA L. GREENBERGER
ZOE SALZMAN
SAM SHAPIRO

ATTORNEYS AT LAW
600 FIFTH AVENUE AT ROCKEFELLER CENTER
10TH FLOOR
NEW YORK, NEW YORK 10020

TEL: (212) 763-5000
FAX: (212) 763-5001
www.ecbalaw.com

DIANE L. HOUK

ALISON FRICK
DAVID LEBOWITZ
DOUGLAS E. LIEB
ALANNA KAUFMAN
EMMA L. FREEMAN
DAVID BERMAN
HARVEY PRAGER
SCOUT KATOVICH

October 29, 2019

Via U.S. Mail

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

Re: *Administrative Complaint by* (b)(6); (b)(7)(C)

To Whom It May Concern:

On behalf of (b)(6); (b)(7)(C) enclosed please find:

- SF-95 Claim Form
- SF-95 Supplement
- Authorization to File SF-95

If you have any questions, I can be reached by phone at (212) 763-5000 or by email at krosenfeld@ecbalaw.com. Thank you for your attention to this matter.

Sincerely,

/s/

Katherine Rosenfeld

Encl.

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Federal Bureau of Prisons Northeast Regional Office U.S. CUSTOM HOUSE, 7TH FLOOR PHILADELPHIA, PA 19106			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. (b)(6); (b)(7)(C) o Emery Celli Brickerhoff & Abady LLP 600 Fifth Avenue, 10th Floor New York, New York 10020		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☒ CIVILIAN		4. DATE OF BIRTH (b)(6); (b)(7)(C)		5. MARITAL STATUS Single	
6. DATE AND DAY OF ACCIDENT 01/27/2019 02/01/2019		7. TIME (A.M. OR P.M.) A.M.			
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Please see attached.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
OTHERS ON THE UNIT		UNKNOWN			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY		12c. WRONGFUL DEATH	
		1,000,000		12d. TOTAL (Failure to specify may cause forfeiture of your rights).	
				1,000,000	
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). <i>Katherine Rosenfeld</i>			13b. PHONE NUMBER OF PERSON SIGNING FORM 212-763-5066		14. DATE OF SIGNATURE
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

DATE RECEIVED
 FEDERAL BUREAU OF PRISONS
 REGIONAL COUNSEL OFFICE
 NOV 01 2019
 MERO-PHILADELPHIA

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident Insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No 17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. **Principal Purpose:** The information requested is to be used in evaluating claims.

C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.

D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages in necessary)

- a. During the week of January 27, 2019 through February 3, 2019, I was incarcerated in the West Building at the Metropolitan Detention Center in Brooklyn, New York. During that week, there was a power failure in the West Building.
- b. I was confined in Unit 62.
- c. In the seven-day period between January 27, 2019 and February 3, 2019 while I was confined at MDC: (1) there was no electricity and only emergency lights, and I was confined in near-darkness; (2) there was little to no heat and I was confined in freezing cold temperatures and/or extreme temperature variations without adequate clothing or blankets; (3) there was a building-wide lockdown and I was confined to my cell for long periods of time; and (4) I had little to no access to clean laundry, hot food, regularly scheduled meals, regular showers, hot showers and hot water, medical care, exercise, or outside communications with my family or lawyers via email, pay phone, or visits.
- d. In addition to these facts, I also experienced the following circumstances between January 27, 2019 and February 3, 2019 while I was confined at MDC: I became sick before the blackout, which continued throughout the time the power was out. Even though the emergency button in my cell was working, the guards ignored me when I pressed it. I did not receive any medical attention or medicine for my sickness. I was given no extra clothing to combat the frigid temperatures. The food I was given was often late, and consistent of bagged meals, rather than hot food. I had to eat in my cell, where it was cold and smelled. My unit was kept locked down for 7 days without rec time, and I was only let out to take one shower, which was with cold water. The water in my cell was brown, but I was not provided any alternative drinking water, so I had to drink it. My toilet was periodically shut off, so I was only sometimes able to flush it, resulting in a foul stench of urine and feces. I also did not have access to the laundry facility.

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

10. PERSONAL INJURY/WRONGFUL DEATH: STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURY PERSON OR DECEDENT.

- a. As a result of being confined in the circumstances described in paragraph 8, including but not limited to a prolonged period of bitter cold, and/or extreme temperature variations, and darkness, I suffered the following injuries which form the basis of my claim: physical pain and discomfort as a result of my exposure to the cold; exposure to noxious odor; severe personal uncleanliness caused by lack of access to showers or clean clothing; and emotional distress.
- b. I became sick shortly before the blackout which continued through the blackout. I experienced chest pain, but did not receive any medical attention from the guards, nor did I receive any medication. When I pushed the panic button in my cell, the guards ignored it.
- c. In addition to those injuries described in paragraph 10(a) above, I also suffered the following injuries between January 27, 2019 and February 3, 2019 while I was confined at MDC, and/or as a result of the events of that week of confinement: cold sweats, congestion, sore throat, coughing/sneezing, chest pain, headaches, sleep apnea symptoms, asthma symptoms, skin rash or fungus, nausea, and stomach pain.

11. WITNESSES

The following people witnessed the circumstances that caused my injury:
Others on the unit.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

OCT. 7th, 2019

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

To Whom it May Concern:

I, (b)(6); (b)(7)(C), authorize my representatives at Emery Celli Brinckerhoff & Abady LLP, including Katherine Rosenfeld, to submit an administrative complaint pursuant to the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 et seq. against the Bureau of Prisons.

Thank you. If you have any questions, please call Ms. Rosenfeld at 212-763-5066.

Sincerely,

Name:

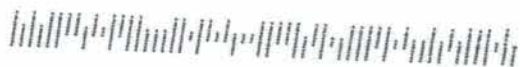
(b)(6); (b)(7)(C)

DOB:

(b)(6); (b)(7)(C)

EMERY CELLI BRINCKERHOFF & ABADY LLP
600 FIFTH AVENUE, 10TH FL. • NEW YORK, NEW YORK 10020

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106



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DOJ-19-0278, 19-0279, 19-0280-I-000238
2019-02980 238 of 312



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA 19106

September 10, 2019

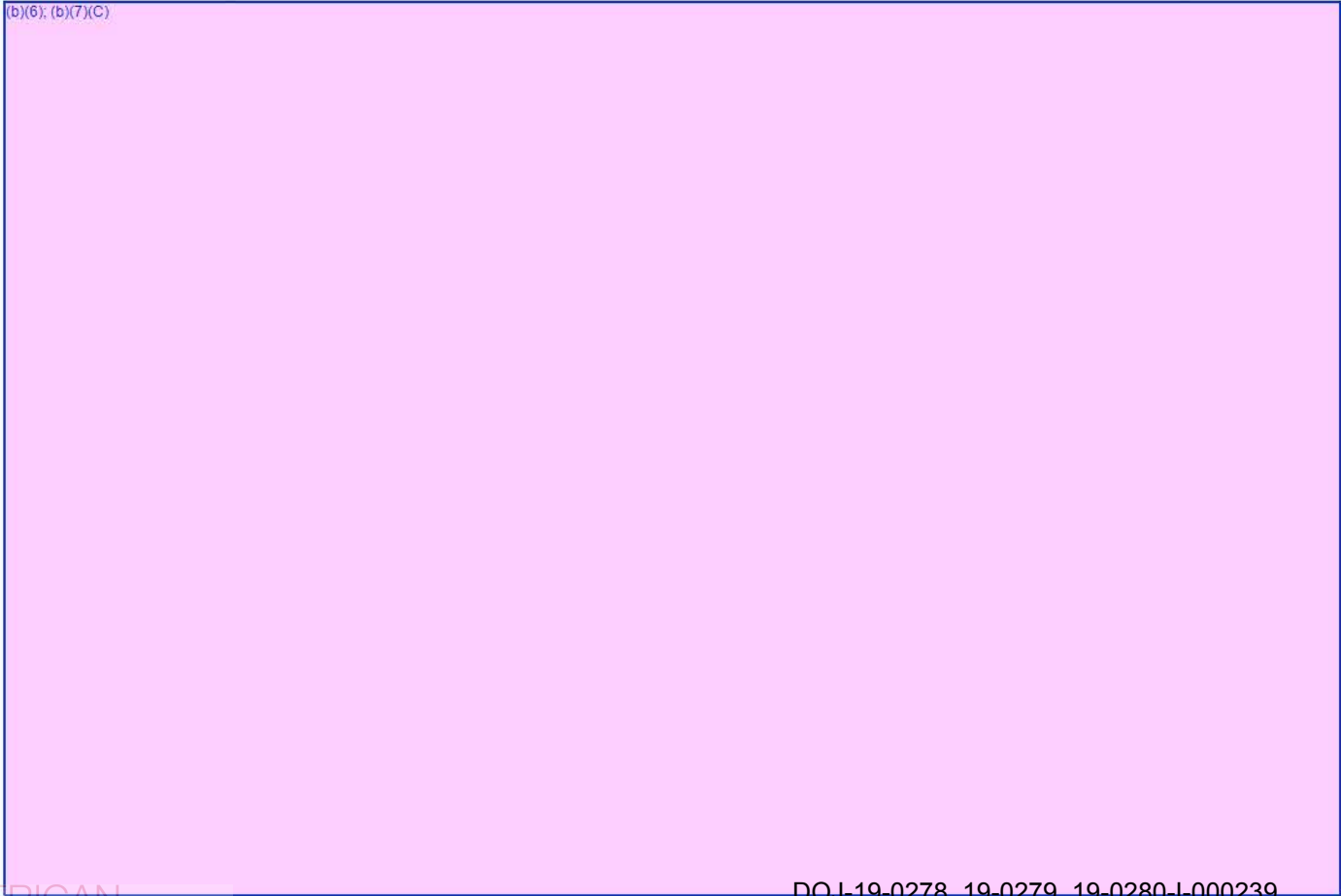
Ms. Jean Prabhu
Burns & Harris
The Woolworth Building
233 Broadway, Suite 900
New York, NY 10279

Re: Your Administrative Claims Received August 23, 2019

Dear Ms. Prabhu:

This will acknowledge receipt of the following administrative tort claims you filed on behalf of claimants seeking compensation for alleged personal injuries they suffered at the Metropolitan Detention Center in Brooklyn, New York:

(b)(6); (b)(7)(C)

A large rectangular area of the document is redacted with a solid pink color. It covers the majority of the lower half of the page, starting below the paragraph about tort claims and ending just above the footer.

Ms. Jean Prabhu
September 10, 2019
Page 2

(b)(6); (b)(7)(C)



Each claim provided a sum certain "in excess of one million dollars." However, pursuant to 28 C.F.R. § 14.2, each claim must seek a specific dollar amount when you file a claim. Accordingly, the claims are rejected at this time.

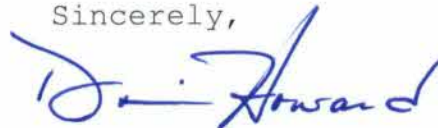
In addition, we will not be able to correspond with you unless you provide proof that you are authorized to represent each claimant as their legal representative. See 28 C.F.R. § 14.2.

If you wish these claims to be considered for administrative settlement, please re-submit the claim documents with the above-noted information. The enclosed Claim for Damage, Injury or Death form (SF-95) may be used in the instance of personal injury for each claim.

Lastly, please be advised that constitutional claims are not cognizable under the Federal Tort Claims Act.

All correspondence regarding these claims should be addressed to Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Street, Philadelphia, Pennsylvania 19106. If the circumstances surrounding these claims change in any fashion, you should contact this office immediately. Also, should your address change, you should advise this office accordingly.

Sincerely,



Darrin Howard
Regional Counsel

Enclosure

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency:			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code.		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☐ CIVILIAN	4. DATE OF BIRTH	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT	7. TIME (A.M. OR P.M.)	
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights).		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).			13b. PHONE NUMBER OF PERSON SIGNING FORM	14. DATE OF SIGNATURE	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident Insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No

17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. **Principal Purpose:** The information requested is to be used in evaluating claims.
- C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
- D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

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9/10/19 *Multiple Claims*

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X ☐ Agent ☐ Addressee	
1. Article Addressed to: Ms. Jean Prabhu Burns & Harris The Woolworth Building 233 Broadway, Suite 900 New York, NY 10279		B. Received by (Printed Name)	C. Date of Delivery
2. Article Number (Transfer from service label) 7013 0600 0001 9910 9338		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☒ No	
3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☐ Certified Mail® ☒ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery		☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☒ Return Receipt for Merchandise ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt





U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

*U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA. 19106*

October 4, 2019

Ms. Jean Prabhu
Burns & Harris Attorneys At Law
The Woolworth Building
233 Broadway, Suite 900
New York, NY 10279

Re: Administrative Tort Claim Received September 24, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-06545

Dear Ms. Prabhu:

This will acknowledge receipt of the administrative claim you submitted on behalf of (b)(6); (b)(7)(C) for an alleged personal injury at MDC Brooklyn between January 27, 2019, and February 3, 2019.

Under the provisions of the applicable federal statutes, we have six months from the date of receipt to review, consider, and adjudicate your claim. In order for this office to properly evaluate this claim, you are required to submit all the information required by 28 C.F.R. §14.4(b).

All correspondence regarding this claim should be addressed to me at: Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Streets, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact me immediately.

Sincerely,

(b)(6);
(b)(7)(C)

Darrin Howard
Regional Counsel



SETH A. HARRIS

ALISON R. KEENAN
BLAKE G. GOLDFARB
SHERI E. HOLLAND

JUDITH F. STEMLER
JASON STEINBERG
ANDREW G. MEIER
STEPHEN S. LA ROCCA

JASON M. BATEMAN
CLIFFORD R. TUCKER
JOHNSON L. ATKINSON
MAX SILVERBERG
KARLISHA V. HEWITT

JEAN M. PRABHU
ALAN CHESTER SALZMAN
HARVEY WINER
JAMES K. GREENBERG
Of Counsel

August 6, 2019

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL OFFICE

AUG 30 2019

NERO-PHILADELPHIA

VIA CERTIFIED MAIL/RRR

Federal Bureau of Prisons
Attn: Legal Department
Central Office HQ
320 First Street, NW
Washington, DC 20534

Re:

(b)(6); (b)(7)(C)

Supplemental Claim

Location: MDC Brooklyn

Dates of Incident: 1/27/19 – 2/03/19

To Whom It May Concern:

Please be advised that this firm represents the above-referenced claimant along with his prison ID, whom was in the custody of the MDC Brooklyn on January 27, 2019 through February 3, 2019 and suffered injuries based on violation of 42 USC 1983 of the Constitution of the United States, including but not limited to the Fifth, Sixth, Eighth, and Fourteenth Amendments of the Constitution. On June 14, 2019, our office served upon you a claim on behalf of 37 claimants including the claimant listed above, and now serves this Supplemental Claim.

Upon information and belief, on January 27, 2019, an electrical fire broke out in MDC Brooklyn's west building causing damages to the building's infrastructure which significantly affected the prison's heating, venting, cooling, plumbing and electrical systems. The MDC Brooklyn and Warden Herman E. Quay failed to remedy those conditions for over a week and did not seek outside help or take measures to protect and ensure the safety of those in custody at the facility.

A humanitarian crisis unfolded as prisoners were subjected to inhumane conditions that posed unreasonable and substantial risks to their health and safety. The above claimant was deprived of basic human needs and any communication with the outside world, including but not limited to the following:

- Heating (in freezing temperatures)
- Suitable nutrition
- Electricity (kept in darkness)
- Flushable toilets/plumbing/showers
- drinking water
- Medical attention/medication
- Breathable air free from toxic fumes
- Access to clean clothes and bedding
- Excessive lockdown
- Extra blankets for warmth
- Communications with Counsel/family
- Administrative remedies

DOJ-19-0278, 19-0279, 19-0280-I-000246

AMERICAN
OVERSIGHT

THE WOOLWORTH BUILDING • 233 BROADWAY, SUITE 600, NEW YORK, NY 10038 • TEL (212) 393-1000 • FAX (212) 267-2110
2019-02980 246 of 312
WWW.BURNSHARRIS.COM



Wherefore, (b)(6); (b)(7)(C) sustained damages in excess of one million dollars
\$1,000,000.00.

Respectfully,

A handwritten signature in blue ink, appearing to be 'JP', with a long horizontal flourish extending to the right.

JEAN PRABHU

JP/rb/enc.

FIRST • CLASS

FIRST • CLASS

FIRST • CLASS

CERTIFIED MAIL



7019 1120 0000 5291 9036

958

First Class Mail

B BURNS & HARRIS
ATTORNEYS AT LAW

THE WOOLWORTH BUILDING
233 BROADWAY, SUITE 900
NEW YORK, NY 10279

Federal Bureau of Prisons
Attn: Legal Department
Central Office HQ
320 First Street, NW
Washington, DC 20534

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DOJ-19-0278, 19-0279, 19-0280-
2019-02980 248 of 312

AMERICAN
OVERSIGHT



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA 19106

September 10, 2019

Ms. Jean Prabhu
Burns & Harris
The Woolworth Building
233 Broadway, Suite 900
New York, NY 10279

Re: Your Administrative Claims Received August 23, 2019

Dear Ms. Prabhu:

This will acknowledge receipt of the following administrative tort claims you filed on behalf of claimants seeking compensation for alleged personal injuries they suffered at the Metropolitan Detention Center in Brooklyn, New York:

(b)(6); (b)(7)(C)

A large rectangular area of the document is redacted, indicated by a solid pink fill. The redaction covers the majority of the lower half of the page, starting below the paragraph about tort claims and extending to the footer area.

Ms. Jean Prabhu
September 10, 2019
Page 2

(b)(6); (b)(7)(C)

Each claim provided a sum certain "in excess of one million dollars." However, pursuant to 28 C.F.R. § 14.2, each claim must seek a specific dollar amount when you file a claim. Accordingly, the claims are rejected at this time.

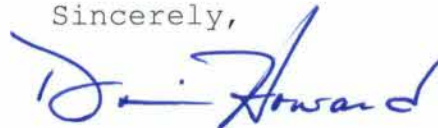
In addition, we will not be able to correspond with you unless you provide proof that you are authorized to represent each claimant as their legal representative. See 28 C.F.R. § 14.2.

If you wish these claims to be considered for administrative settlement, please re-submit the claim documents with the above-noted information. The enclosed Claim for Damage, Injury or Death form (SF-95) may be used in the instance of personal injury for each claim.

Lastly, please be advised that constitutional claims are not cognizable under the Federal Tort Claims Act.

All correspondence regarding these claims should be addressed to Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Street, Philadelphia, Pennsylvania 19106. If the circumstances surrounding these claims change in any fashion, you should contact this office immediately. Also, should your address change, you should advise this office accordingly.

Sincerely,



Darrin Howard
Regional Counsel

Enclosure

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency:			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code.		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☐ CIVILIAN	4. DATE OF BIRTH	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT	7. TIME (A.M. OR P.M.)	
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights).		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).			13b. PHONE NUMBER OF PERSON SIGNING FORM	14. DATE OF SIGNATURE	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

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Previous Edition is not Usable

NSN 7540-00-634-4046

STANDARD FORM 95 (REV. 2/2007)
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2

DOJ-19-0278, 19-0279, 19-0280-I-000251

2019-02980 251 of 312

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident Insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No

17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. **Principal Purpose:** The information requested is to be used in evaluating claims.
- C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
- D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is **solely** for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

9/10/19 *multiple claims*

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY													
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature X ☐ Agent ☐ Addressee													
1. Article Addressed to:	B. Received by (<i>Printed Name</i>)	C. Date of Delivery												
Ms. Jean Prabhu Burns & Harris The Woolworth Building 233 Broadway, Suite 900 New York, NY 10279	D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☒ No													
2. Article Number (<i>Transfer from service label</i>)	3. Service Type <table border="0"> <tr> <td>☐ Adult Signature</td> <td>☐ Priority Mail Express®</td> </tr> <tr> <td>☐ Adult Signature Restricted Delivery</td> <td>☐ Registered Mail™</td> </tr> <tr> <td>☐ Certified Mail®</td> <td>☐ Registered Mail Restricted Delivery</td> </tr> <tr> <td>☒ Certified Mail Restricted Delivery</td> <td>☒ Return Receipt for Merchandise</td> </tr> <tr> <td>☐ Collect on Delivery</td> <td>☐ Signature Confirmation™</td> </tr> <tr> <td>☐ Collect on Delivery Restricted Delivery</td> <td>☐ Signature Confirmation Restricted Delivery</td> </tr> </table>		☐ Adult Signature	☐ Priority Mail Express®	☐ Adult Signature Restricted Delivery	☐ Registered Mail™	☐ Certified Mail®	☐ Registered Mail Restricted Delivery	☒ Certified Mail Restricted Delivery	☒ Return Receipt for Merchandise	☐ Collect on Delivery	☐ Signature Confirmation™	☐ Collect on Delivery Restricted Delivery	☐ Signature Confirmation Restricted Delivery
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☐ Adult Signature Restricted Delivery	☐ Registered Mail™													
☐ Certified Mail®	☐ Registered Mail Restricted Delivery													
☒ Certified Mail Restricted Delivery	☒ Return Receipt for Merchandise													
☐ Collect on Delivery	☐ Signature Confirmation™													
☐ Collect on Delivery Restricted Delivery	☐ Signature Confirmation Restricted Delivery													
7013 0600 0001 9910 9338		Restricted Delivery												

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt



BURNS & HARRIS

ATTORNEYS AT LAW

SETH A. HARRIS

ALISON R. KEENAN
BLAKE G. GOLDFARB
SHERI E. HOLLAND

JUDITH F. STEMLER
JASON STEINBERG
ANDREW G. MEIER
STEPHEN S. LA ROCCA
IRWIN J. WEINSTEIN

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MAX SILVERBERG
KARLESHA V. HEWITT
FRANK L. LANZA

JEAN M. PRABHU
ALAN CHESTER SALZMAN
HARVEY WINER
JAMES K. GREENBERG
Of Counsel

September 19, 2019

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
RECEIVED - PHILADELPHIA OFFICE

SEP 24 2019

NERO-PHILADELPHIA

Federal Bureau of Prisons
Northeast Regional Office
Darrin Howard, Regional Counsel
US Custom House
2nd & Chestnut Streets, Room 701
Philadelphia, PA 19106

Re:

(b)(6); (b)(7)(C)

Claim No: TRT-NER-2019-06545

Dear Mr. Howard:

I am in receipt of your correspondence of September 10, 2019, and accordingly, have enclosed a copy of the above claimant's Retainer indicating Burns & Harris is his authorized representative for this claim.

The above claimant was in the custody of the MDC Brooklyn on January 27, 2019 through February 3, 2019 and suffered personal and emotional injuries based on the negligence and intentional infliction of physical and emotional injury at MDC Brooklyn and violation of 42 USC 1983 of the Constitution of the United States, including but not limited to the Fifth, Sixth, Eighth, and Fourteenth Amendments of the Constitution. This is our third submission of this claim and have previously served notices dated June 14, 2019 and August 6, 2019.

Upon information and belief, on January 27, 2019, an electrical fire broke out in MDC Brooklyn's west building causing damages to the building's infrastructure which significantly affected the prison's heating, venting, cooling, plumbing and electrical systems. The MDC Brooklyn and Warden Herman E. Quay failed to remedy those conditions for over a week and did not seek outside help nor take measures to protect and ensure the safety of those in custody at the facility.

A humanitarian crisis unfolded as prisoners were subjected to inhumane conditions that caused unreasonable and substantial injury. The above claimant was deprived of basic human needs, medical attention, any communication with the outside world, and suffered personal and emotional injuries as a result.

Wherefore, the above claimant sustained damages in the amount of one million dollars \$1,000,000.00.

Respectfully,



JEAN PRABHU

JP/rb/Enc.

RETAINER AGREEMENT

TO: BURNS & HARRIS
233 Broadway, Suite 900
New York, NY 10279
(212) 393-1000

I, [REDACTED] (Client), the undersigned retains the law office of BURNS & HARRIS (law firm), as my attorneys to prosecute a claim for negligence against any and all parties, individuals and/or corporations that are found to be liable under the law for damages suffered by me arising from personal injury sustained by me. I [REDACTED], the spouse of [REDACTED] (Client), retains the law office of BURNS & HARRIS (law firm) to represent me for a derivative cause of action for the loss of services and society of my spouse due to the injuries claimed as a result of the defendant(s) negligence. I(We) specifically agree as follows:

1. **FEE PERCENTAGE:** Although I have been advised of the right to retain the law firm under an arrangement whereby the firm would be compensated on the basis of the reasonable value of services rendered or on an hourly rate, I and the law firm agree that the law firm shall be paid Thirty Three and One-Third (33 1/3%) Percent of the sum recovered, whether by suit, settlement or otherwise. In computing the fee, the costs as taxed, including interest upon a judgment, shall be deemed part of the amount recovered. In litigating the claim, the law firm may become eligible for attorneys' fees under 42 U.S.C. § 1988. The Client agrees that any and all fees obtained by the law firm under 42 U.S.C. § 1988 are to be paid to the law firm in addition to the 33 1/3% of the sum recovered. If, as a result of the recovery obtained in your lawsuit brought by the law firm, a workers' compensation carrier waives any of its workers' compensation lien, then the law firm shall be entitled to recover from you an additional fee of 33 1/3% of the portion of the waiver that exceeds one third of the total lien amount owed.

2. **DISBURSEMENTS:** In the event there is no recovery, the Client shall not be obligated to pay the law firm a legal fee for services rendered. Disbursements may include some of the following expenses: court filing fees, sheriff fees, medical and hospital report/record fees, doctor's report, court stenographer fees, deposition costs, expert fees for expert depositions and court appearances, trial exhibits, computer on-line search fees, express mail, postage, photocopy charges, document management charges, long distance telephone charges, among other charges. Document management charges are the fees charged by the law firm for processing documents during litigation, such as medical records, documents produced by defendants(s) and/or other parties, etc. Processing of the documents may include but is not limited to the following: (1) scanning; (2) conversion of native files to PDF documents; (3) OCR (Optical Code Recognition); and/or (4) indexing. At the time of settlement and distribution of proceeds, if the law firm has advanced the disbursements, the law firm shall be reimbursed for all disbursements which shall be deducted from the recovery.

In the event that this firm has been retained by others having the same claim or a similar case, disbursements regarding the liability and/or damages of the defendants may be shared proportionately by all such plaintiffs.

The disbursements involved in prosecuting the case may be advanced by the Client or by the law firm. The Client may choose either option. If the Client elects to advance the money for disbursements (Option I), the Client must pay each disbursement as it is incurred. If the Client elects to have the law firm advance the money for Disbursements (Option II), at the end of each case, the law firm shall be reimbursed from the recovery for any disbursements the law firm advanced.

In the event the Client elects to advance the disbursements (Option I), at the time of the final settlement or distribution of judgment proceeds, these expenses shall be deducted prior to the computation of the Attorney's Fee. If there is no recovery, the law firm will have no responsibility to repay the client for case disbursements.

In the event the Client elects to have the law firm advance the disbursements (Option II), at the time of the final settlement or distribution of judgment proceeds, these expenses shall be deducted from the Client's share after the computation of the Attorney's Fee. If there is no recovery, or if the amount recovered is not sufficient to pay such disbursements in full, Client will not be responsible to pay such disbursements.

In the event no choice is selected by the Client, it will be assumed that the Client wishes to have the law firm advance all disbursements (Option II).

Option I

(initials) _____ I elect to advance the money for disbursements. I want to be billed for each disbursement as incurred. I understand that my immediate payment of such charges is required as many fees are tied to time-sensitive deadlines.

Option II

(initials) (b)(6);
(b)(7)(C) _____ I elect to have the law firm advance the money for disbursements. I do not want to be billed for each disbursement as incurred. I agree that if there is a recovery of money on my case, the law firm will be reimbursed from that recovery for the costs and expenses advanced by the law firm. The Client hereby gives permission that the law firm may borrow monies from a third party for expenses and disbursements. Interest will then be charged to the Client as an additional expense.

3. COMPUTATION OF FEES: Under Option II, the contingency fee shall be computed on the gross recovery, resulting in a net settlement (or judgment), from which all appropriate disbursements in connection with the institution and prosecution of this claim are deducted, as set forth in paragraph 2 above. Under Option I, the contingency fee shall be computed on the net recovery after all appropriate disbursements in connection with the institution and prosecution of this claim are deducted, as set forth in paragraph 2 above. Examples of how a contingency fee is computed are as follows:

Option I

Client advances disbursements:

Gross Settlement	\$100.00
Disbursements	<u>- \$10.00</u>
Net settlement	\$90.00
33 1/3% Attorney's Fee	<u>\$30.00</u>
Net to Client	\$60.00

Option II

Law firm advances disbursements:

Gross Settlement	\$100.00
33 1/3% Attorney's Fee	<u>\$33.33</u>
Net settlement	\$66.67
Disbursements	<u>- \$10.00</u>
Net to Client	\$56.67

4. **MEDICAL BILLS:** All medical bills incurred which are not paid by the Client's medical insurance and are due and owing shall be chargeable to the Client's portion of the settlement. There may be additional deductions representing outstanding medical bills, liens to doctors for unpaid medical services rendered, or medical services not covered by medical insurance. The recovery of these medical services are included in the gross settlement and shall be paid from the Client's share of the recovery. Unpaid medical providers often will wait for payment until the conclusion of the case, however, in consideration for such abeyance, they will request a lien upon the settlement proceeds. The Client expressly authorizes the firm to sign such lien forms, which may be requested by physicians, and to directly pay outstanding medical bills for treatment to such physicians or other health care providers at the conclusion of the case. This authorization shall include medical and hospital expenses, and subrogation claims. The Client understands that medical providers do not provide medical services contingent upon the outcome of a case, and that in the event that there is no recovery, or an insufficient recovery, the Client will remain responsible for the payment of such medical bills.

5. **NO-FAULT PROCESSING FEE:** If this Retainer Agreement is entered for the processing of a claim for personal injuries arising from a motor vehicle accident wherein "No-Fault" insurance is applicable, it is agreed that the undersigned shall pay a fee of \$350.00 (Three Hundred Fifty Dollars) upon the successful conclusion of the case for the processing of statutory "No-Fault" benefits. This charge represents a lien on any proceeds of the case in favor of the attorney for professional services rendered in processing the "No-Fault" benefits.

6. **WITHDRAWALS:** The law firm expressly reserves the right to withdraw its representation at any time upon reasonable notification to the Client. In the event that the Client advises the law firm to discontinue the handling of this claim, or if the Client fails to cooperate with the law firm in the handling of this claim, Client agrees to compensate the law firm a reasonable amount for its services, and for the time spent on this claim on an hourly basis or under such other arrangement that may be agreed upon by the parties. The Client understands that the law firm has

conditionally accepted this case based upon the independent confirmation of all facts and injuries claimed to have been sustained by Client. In the event that the Client desires to transfer the file from this office, the Client shall be responsible to compensate the law firm for the reasonable value of their services. Such transfer shall not include documents or attorney work product regarding the general liability of the defendants.

7. **APPEALS:** Client further understands that the services to be provided through this agreement will **NOT** extend through the prosecution/defense of an appeal or representation on an appeal brought by any of the parties to the lawsuit. Client understands that BURNS & HARRIS, ESQS. may charge reasonable additional compensation if the case is appealed, or it is necessary to try the case more than once, the amount of which shall be an additional ten (10%) percent – totaling forty-three and one-third percent (43 1/3%) – of the sum recovered in negligence, intentional tort, civil rights and legal malpractice cases. Should attorney's fees under 42 USC § 1988 be awarded and an appeal be prosecuted pursuant to this section the firm may elect either 42 USC §1988 fees or a 10% fee pursuant to this section but not both.

This further appellate representation will not require a new Fee Agreement. In the event the CLIENT's case is dismissed or an unfavorable verdict is rendered, the CLIENT agrees that BURNS & HARRIS, ESQS. reserves the right to decide whether or not to prosecute an appeal. If BURNS & HARRIS, ESQS. declines to prosecute an appeal, and appeal is taken, and at any point in the appeal process there is an eventual recovery made in the case on behalf of the CLIENT, BURNS & HARRIS, ESQS. will be entitled to a fee that represents the fair value of the services rendered. BURNS & HARRIS, ESQS. shall have the first right of selecting the basis of their fee in the first instance, and if BURNS & HARRIS, ESQS. elects to be paid on an hourly rate, they shall be paid based on an hourly rate of six hundred dollars an hour (\$ 600/hour) for all work performed by BURNS & HARRIS, ESQS., and their agents/servants/employees. Unless otherwise stated in writing, BURNS & HARRIS, ESQS., elects to be paid on a contingent fee basis. (b)(6); (b)(7)(C)

(initials)

8. **SURROGATES COURT PROCEEDINGS:** If the law firm decides to handle Surrogate's Court work and the client agrees, the firm may hire a Surrogate Court attorney and to take fees from the client's share of the recovery. The establishment of a trust may be performed at an extra expense to the client. The client may consult with an elder lawyer, wills or trusts attorney at their own expense.

9. **STATUTE OF LIMITATIONS:** I understand that the Statute of Limitations period for my case must be investigated and that this Agreement is made subject to that investigation as well as an investigation of my entire case.

10. **FINANCING OF CASE:** If the firm borrows money from any lending institution to finance the cost of the Client's case, the amounts advanced by this firm to pay the cost of prosecuting or defending a claim or action or otherwise protecting or promoting the Client's interest will bear interest at the highest lawful rate allowed by applicable law. In no event will the interest be greater than the amount paid by the firm to the lending institution.

11. RESULTS NOT GUARANTEED: No attorney can accurately predict the outcome of any legal matter, accordingly, no representations are made, either expressly or impliedly, as to the final outcome of this matter. I further understand that I must immediately report any changes in my residence, telephone number or health to the law firm. I understand that this Retainer Agreement is a binding legal contract. I expressly agree that I will fully and freely cooperate with my attorneys in all aspects required for the prosecution of this legal matter and that I will not take any actions that frustrate or impair the success of this action.

(initials)

12. APPROVAL NECESSARY FOR SETTLEMENT: Attorneys are hereby granted a power of attorney so that they may have full authority to prepare, sign and file all legal instruments, pleadings, drafts, authorizations and papers as shall be reasonably necessary to conclude this representation, including settlement and/or reducing to possession any and all monies or other things of value due to the Client under the claim as fully as the Client could do so in person. Attorneys are also authorized and empowered to act as Client's negotiator in any and all negotiations concerning the subject of this Agreement.

13. ASSOCIATION OF OTHER ATTORNEYS: Attorneys may, at their own expense, use or associate other attorneys in the representation of the aforesaid claims of the Client. Client understands that *the firm*, Seth A. Harris PLLC d/b/a Burns & Harris, is a professional limited liability company under the laws of New York with a number of attorneys. Various firm attorneys may work on Client's case.

14. ASSOCIATE COUNSEL: Attorneys may participate in the division of fees in this case and assume joint responsibility for the representation of the Client either in the event that the Attorney retains associate counsel or that the Client later chooses new counsel, provided that the total fee to the Client does not increase as a result of the division of fees and that the attorneys involved have agreed to the division of fees and assumption of joint responsibility.

15. FEE DISPUTES: In case of a fee dispute, the undersigned may be entitled to arbitration, if the fee falls within the parameters of the Fee Dispute Resolution Program, pursuant to 22 N.Y.C.R.R. PART 137 of the New York State Court Rules.

16. COLLECTION WORK: All work required to prosecute a collection case to recover an award will not be covered by this Agreement.

17. NEW YORK LAW TO APPLY: This Agreement shall be construed under and in accordance with the laws of the State of New York and the rights, duties and obligations of Client and of Attorneys regarding Attorney's representation of Client and regarding anything covered by this Agreement shall be governed by the laws of the State of New York.

18. PARTIES BOUND: This Agreement shall be binding upon and inure to the benefit of the parties, hereto, and their respective heirs, executors, administrators, legal representative, successors, guardians and assigns.

19. LEGAL CONSTRUCTION: In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such

invalidity, illegality, or unenforceability shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

20. PRIOR AGREEMENTS SUPERSEDED: This Agreement constitutes the sole and only Agreement of the parties hereto and supersedes any prior understanding or written or oral agreement between the parties respecting the within subject matter.

I certify and acknowledge that I have had the opportunity to read this Agreement and have answered any questions pertaining thereto. I further state that I have voluntarily entered into this Agreement fully aware of the terms and conditions.

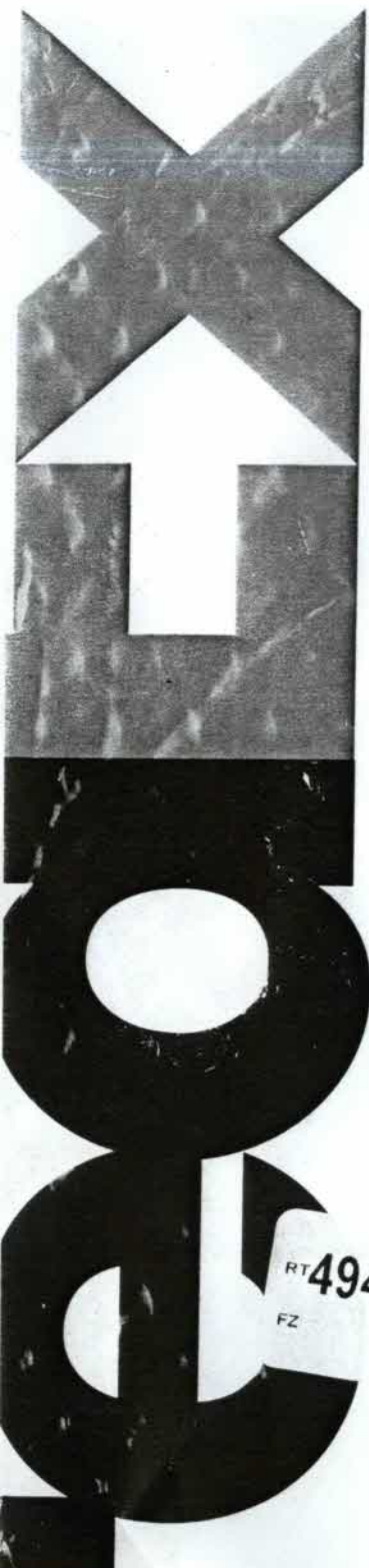
DATED: Feb 21, 2019

(b)(6); (b)(7)(C)

(L.S.)

Witness: _____

(L.S.)



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ORIGIN ID: PCTA (212) 393-1000
RENEE BIEN-AIME
BURNS & HARRIS
233 BROADWAY, SUITE 900

SHIP DATE: 20SEP19
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CAD: 108136325/INET4160

NEW YORK, NY 10279
UNITED STATES US

BILL SENDER

TO DARRIN HOWARD, REGIONAL COUNSEL
FEDERAL BUREAU OF PRISONS
US CUSTOM HOUSE
2ND & CHESTNUT STREETS, ROOM 701
PHILADELPHIA PA 19106

(215) 521-7301
INV
PO

REF: MDC BROOKLYN 005663

DEPT:



WED - 25 SEP 4:30P
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DOJ-19-0278, 19-0279, 19-0280-I-000262
2019-02980 262 of 312

AMERICAN
OVERSIGHT



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

*U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA. 19106*

October 4, 2019

Ms. Jean Prabhu
Burns & Harris Attorneys At Law
The Woolworth Building
233 Broadway, Suite 900
New York, NY 10279

Re: Administrative Tort Claim Received September 24, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-06544

Dear Ms. Prabhu:

This will acknowledge receipt of the administrative claim you submitted on behalf of (b)(6); (b)(7)(C) for an alleged personal injury at MDC Brooklyn between January 27, 2019, and February 3, 2019.

Under the provisions of the applicable federal statutes, we have six months from the date of receipt to review, consider, and adjudicate your claim. In order for this office to properly evaluate this claim, you are required to submit all the information required by 28 C.F.R. §14.4(b).

All correspondence regarding this claim should be addressed to me at: Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Streets, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact me immediately.

Sincerely,

(b)(6); (b)(7)(C)

Darrin Howard
Regional Counsel



SETH A. HARRIS

ALISON R. KEENAN
BLAKE G. GOLDFARB
SHERI E. HOLLAND

JUDITH F. STEPLER
JASON STEINBERG
ANDREW G. MEIER
STEPHEN S. LA ROCCA

JASON M. BATEMAN
CLIFFORD R. TUCKER
JOHNSON L. ATKINSON
MAX SILVERBERG
KARLISHA V. HEWITT

JEAN M. PRABHU
ALAN CHESTER SALZMAN
HARVEY WINER
JAMES K. GREENBERG
Of Counsel

August 6, 2019

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL OFFICE

AUG 30 2019

NERO-PHILADELPHIA

Re:

(b)(6); (b)(7)(C)

Supplemental Claim

Location: MDC Brooklyn

Dates of Incident: 1/27/19 – 2/03/19

To Whom It May Concern:

Please be advised that this firm represents the above-referenced claimant along with his prison ID, whom was in the custody of the MDC Brooklyn on January 27, 2019 through February 3, 2019 and suffered injuries based on violation of 42 USC 1983 of the Constitution of the United States, including but not limited to the Fifth, Sixth, Eighth, and Fourteenth Amendments of the Constitution. On June 14, 2019, our office served upon you a claim on behalf of 37 claimants including the claimant listed above, and now serves this Supplemental Claim.

Upon information and belief, on January 27, 2019, an electrical fire broke out in MDC Brooklyn's west building causing damages to the building's infrastructure which significantly affected the prison's heating, venting, cooling, plumbing and electrical systems. The MDC Brooklyn and Warden Herman E. Quay failed to remedy those conditions for over a week and did not seek outside help or take measures to protect and ensure the safety of those in custody at the facility.

A humanitarian crisis unfolded as prisoners were subjected to inhumane conditions that posed unreasonable and substantial risks to their health and safety. The above claimant was deprived of basic human needs and any communication with the outside world, including but not limited to the following:

- Heating (in freezing temperatures)
- Suitable nutrition
- Electricity (kept in darkness)
- Flushable toilets/plumbing/showers
- drinking water
- Medical attention/medication
- Breathable air free from toxic fumes
- Access to clean clothes and bedding
- Excessive lockdown
- Extra blankets for warmth
- Communications with Counsel/family
- Administrative remedies

DOJ-19-0278, 19-0279, 19-0280-I-000264

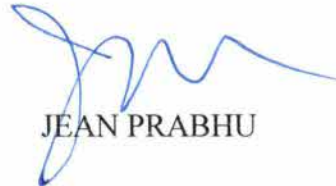
AMERICAN
OVERSIGHT

THE WOOLWORTH BUILDING • 233 BROADWAY • NEW YORK, NY 10007 • TEL (212) 393-1000 • FAX (212) 267-2110

2019-02980-264 of 312
WWW.BURNSHARRIS.COM

Wherefore, (b)(6); (b)(7)(C) sustained damages in excess of one million dollars
\$1,000,000.00.

Respectfully,



JEAN PRABHU

JP/rb/enc.

FIRST • CLASS

FIRST • CLASS

FIRST • CLASS

CERTIFIED MAIL



7019 1120 0000 5291 9036

958

First Class Mail

B BURNS & HARRIS
ATTORNEYS AT LAW

THE WOOLWORTH BUILDING
233 BROADWAY, SUITE 900
NEW YORK, NY 10279

Federal Bureau of Prisons
Attn: Legal Department
Central Office HQ
320 First Street, NW
Washington, DC 20534

205863



DOJ-19-0278, 19-0279, 19-0280-19-0286

2019-02980 266 of 312

AMERICAN
OVERSIGHT



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA 19106

September 10, 2019

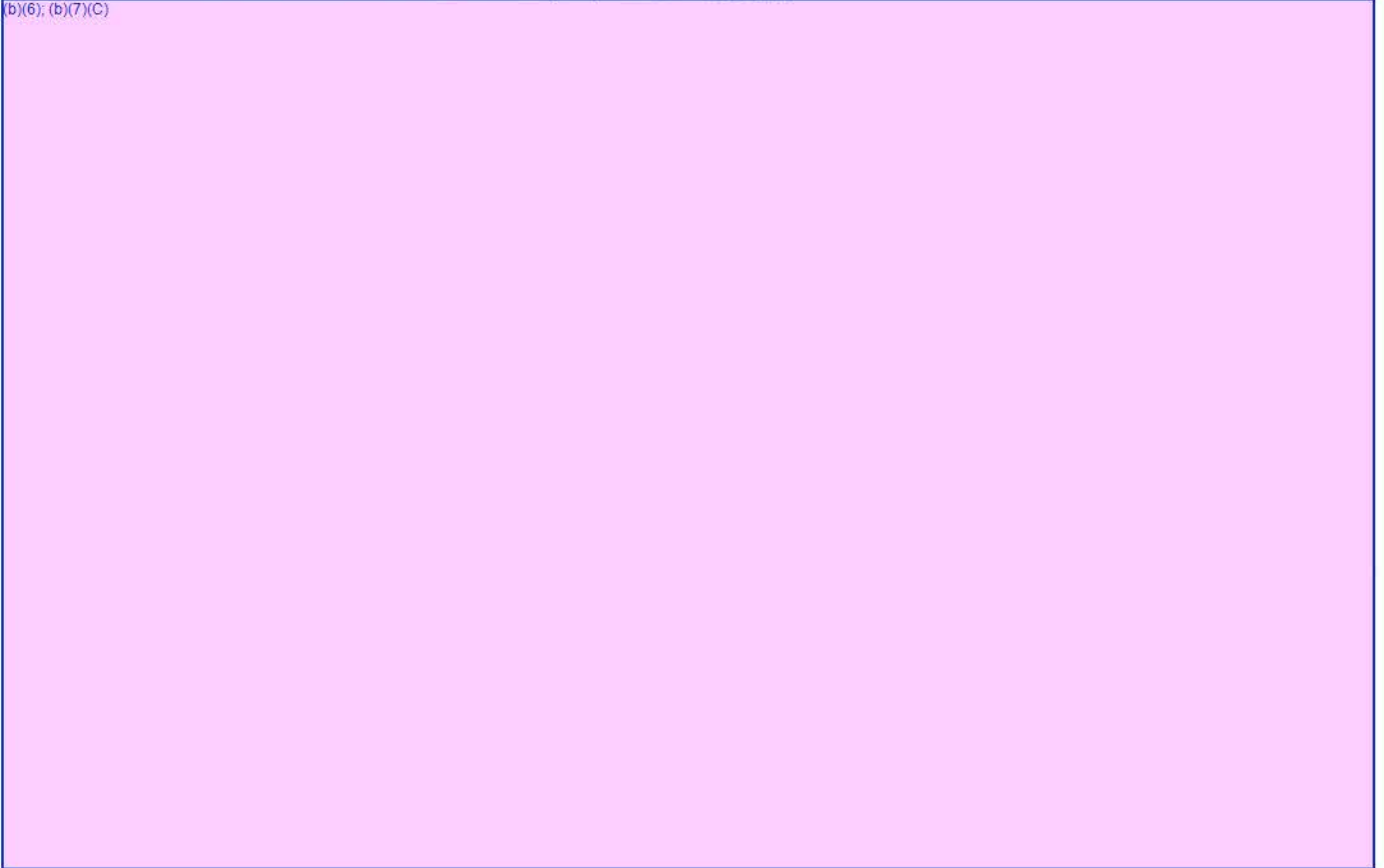
Ms. Jean Prabhu
Burns & Harris
The Woolworth Building
233 Broadway, Suite 900
New York, NY 10279

Re: Your Administrative Claims Received August 23, 2019

Dear Ms. Prabhu:

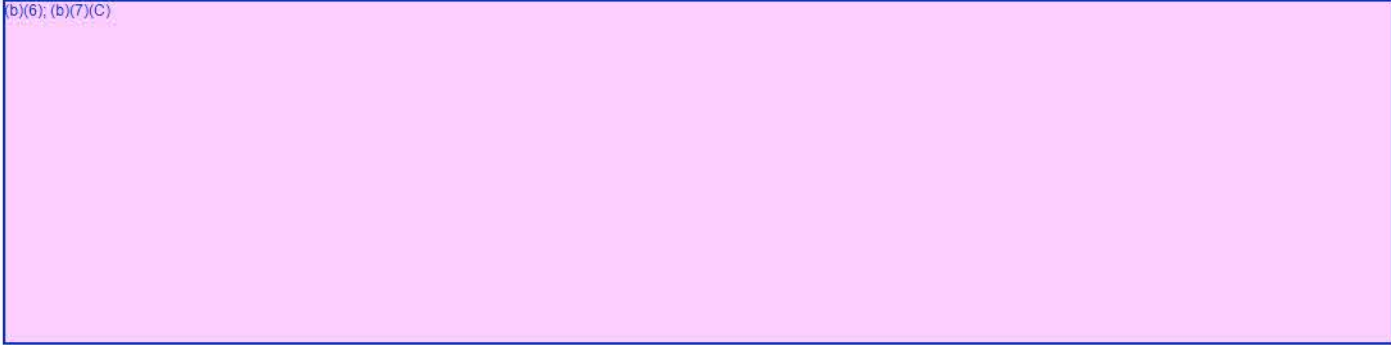
This will acknowledge receipt of the following administrative tort claims you filed on behalf of claimants seeking compensation for alleged personal injuries they suffered at the Metropolitan Detention Center in Brooklyn, New York:

(b)(6); (b)(7)(C)

A large rectangular area of the document is redacted, indicated by a solid black box. The redaction covers the majority of the lower half of the page, starting below the paragraph about tort claims and extending to just above the footer.

Ms. Jean Prabhu
September 10, 2019
Page 2

(b)(6); (b)(7)(C)



Each claim provided a sum certain "in excess of one million dollars." However, pursuant to 28 C.F.R. § 14.2, each claim must seek a specific dollar amount when you file a claim. Accordingly, the claims are rejected at this time.

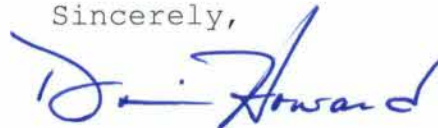
In addition, we will not be able to correspond with you unless you provide proof that you are authorized to represent each claimant as their legal representative. See 28 C.F.R. § 14.2.

If you wish these claims to be considered for administrative settlement, please re-submit the claim documents with the above-noted information. The enclosed Claim for Damage, Injury or Death form (SF-95) may be used in the instance of personal injury for each claim.

Lastly, please be advised that constitutional claims are not cognizable under the Federal Tort Claims Act.

All correspondence regarding these claims should be addressed to Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Street, Philadelphia, Pennsylvania 19106. If the circumstances surrounding these claims change in any fashion, you should contact this office immediately. Also, should your address change, you should advise this office accordingly.

Sincerely,



Darrin Howard
Regional Counsel

Enclosure

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency:			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code.		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☐ CIVILIAN	4. DATE OF BIRTH	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT	7. TIME (A.M. OR P.M.)	
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights).		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).			13b. PHONE NUMBER OF PERSON SIGNING FORM	14. DATE OF SIGNATURE	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident Insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No

17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. **Principal Purpose:** The information requested is to be used in evaluating claims.
- C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
- D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is **solely** for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

9/10/19 *Multiple Claims*

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X ☐ Agent ☐ Addressee	
1. Article Addressed to: Ms. Jean Prabhu Burns & Harris The Woolworth Building 233 Broadway, Suite 900 New York, NY 10279		B. Received by (Printed Name)	C. Date of Delivery
2. Article Number (Transfer from service label) 7013 0600 0001 9910 9338		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☒ No	
3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☐ Certified Mail® ☒ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery		☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☒ Return Receipt for Merchandise ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt



BURNS & HARRIS ATTORNEYS AT LAW

SETH A. HARRIS

ALISON R. KEENAN
BLAKE G. GOLDFARB
SHERI E. HOLLAND

JUDITH F. STEMLER
JASON STEINBERG
ANDREW G. MEIER
STEPHEN S. LA ROCCA
IRWIN J. WEINSTEIN

JASON M. BATEMAN
JOHNSON L. ATKINSON
MAX SILVERBERG
KARLESHA V. HEWITT
FRANK L. LANZA

JEAN M. PRABHU
ALAN CHESTER SALZMAN
HARVEY WINER
JAMES K. GREENBERG
Of Counsel

September 19, 2019

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
PROSECUTOR GENERAL'S OFFICE

SEP 24 2019

NERO-PHILADELPHIA

Federal Bureau of Prisons
Northeast Regional Office
Darrin Howard, Regional Counsel
US Custom House
2nd & Chestnut Streets, Room 701
Philadelphia, PA 19106

Re:

(b)(6); (b)(7)(C)

Claim No: TRT-NER-2019-06544

Dear Mr. Howard:

I am in receipt of your correspondence of September 10, 2019, and accordingly, have enclosed a copy of the above claimant's Retainer indicating Burns & Harris is his authorized representative for this claim.

The above claimant was in the custody of the MDC Brooklyn on January 27, 2019 through February 3, 2019 and suffered personal and emotional injuries based on the negligence and intentional infliction of physical and emotional injury at MDC Brooklyn and violation of 42 USC 1983 of the Constitution of the United States, including but not limited to the Fifth, Sixth, Eighth, and Fourteenth Amendments of the Constitution. This is our third submission of this claim and have previously served notices dated June 14, 2019 and August 6, 2019.

Upon information and belief, on January 27, 2019, an electrical fire broke out in MDC Brooklyn's west building causing damages to the building's infrastructure which significantly affected the prison's heating, venting, cooling, plumbing and electrical systems. The MDC Brooklyn and Warden Herman E. Quay failed to remedy those conditions for over a week and did not seek outside help nor take measures to protect and ensure the safety of those in custody at the facility.

A humanitarian crisis unfolded as prisoners were subjected to inhumane conditions that caused unreasonable and substantial injury. The above claimant was deprived of basic human needs, medical attention, any communication with the outside world, and suffered personal and emotional injuries as a result.

Wherefore, the above claimant sustained damages in the amount of one million dollars \$1,000,000.00.

Respectfully,


JEAN PRABHU

JP/rb/Enc.

RETAINER AGREEMENT

TO: BURNS & HARRIS
233 Broadway, Suite 900
New York, NY 10279
(212) 393-1000

I, _____ the undersigned retains the law office of BURNS & HARRIS (law firm), as my attorneys to prosecute a claim for negligence against any and all parties, individuals and/or corporations that are found to be liable under the law for damages suffered by me arising from personal injury sustained by me. I _____, the spouse of _____ (Client), retains the law office of BURNS & HARRIS (law firm) to represent me for a derivative cause of action for the loss of services and society of my spouse due to the injuries claimed as a result of the defendant(s) negligence. I(We) specifically agree as follows:

1. **FEE PERCENTAGE:** Although I have been advised of the right to retain the law firm under an arrangement whereby the firm would be compensated on the basis of the reasonable value of services rendered or on an hourly rate, I and the law firm agree that the law firm shall be paid Thirty Three and One-Third (33 1/3%) Percent of the sum recovered, whether by suit, settlement or otherwise. In computing the fee, the costs as taxed, including interest upon a judgment, shall be deemed part of the amount recovered. In litigating the claim, the law firm may become eligible for attorneys' fees under 42 U.S.C. § 1988. The Client agrees that any and all fees obtained by the law firm under 42 U.S.C. § 1988 are to be paid to the law firm in addition to the 33 1/3% of the sum recovered. If, as a result of the recovery obtained in your lawsuit brought by the law firm, a workers' compensation carrier waives any of its workers' compensation lien, then the law firm shall be entitled to recover from you an additional fee of 33 1/3% of the portion of the waiver that exceeds one third of the total lien amount owed.

2. **DISBURSEMENTS:** In the event there is no recovery, the Client shall not be obligated to pay the law firm a legal fee for services rendered. Disbursements may include some of the following expenses: court filing fees, sheriff fees, medical and hospital report/record fees, doctor's report, court stenographer fees, deposition costs, expert fees for expert depositions and court appearances, trial exhibits, computer on-line search fees, express mail, postage, photocopy charges, document management charges, long distance telephone charges, among other charges. Document management charges are the fees charged by the law firm for processing documents during litigation, such as medical records, documents produced by defendants(s) and/or other parties, etc. Processing of the documents may include but is not limited to the following: (1) scanning; (2) conversion of native files to PDF documents; (3) OCR (Optical Code Recognition); and/or (4) indexing. At the time of settlement and distribution of proceeds, if the law firm has advanced the disbursements, the law firm shall be reimbursed for all disbursements which shall be deducted from the recovery.

In the event that this firm has been retained by others having the same claim or a similar case, disbursements regarding the liability and/or damages of the defendants may be shared proportionately by all such plaintiffs.

The disbursements involved in prosecuting the case may be advanced by the Client or by the law firm. The Client may choose either option. If the Client elects to advance the money for disbursements (Option I), the Client must pay each disbursement as it is incurred. If the Client elects to have the law firm advance the money for Disbursements (Option II), at the end of each case, the law firm shall be reimbursed from the recovery for any disbursements the law firm advanced.

In the event the Client elects to advance the disbursements (Option I), at the time of the final settlement or distribution of judgment proceeds, these expenses shall be deducted prior to the computation of the Attorney's Fee. If there is no recovery, the law firm will have no responsibility to repay the client for case disbursements.

In the event the Client elects to have the law firm advance the disbursements (Option II), at the time of the final settlement or distribution of judgment proceeds, these expenses shall be deducted from the Client's share after the computation of the Attorney's Fee. If there is no recovery, or if the amount recovered is not sufficient to pay such disbursements in full, Client will not be responsible to pay such disbursements.

In the event no choice is selected by the Client, it will be assumed that the Client wishes to have the law firm advance all disbursements (Option II).

Option I

(initials) _____ I elect to advance the money for disbursements. I want to be billed for each disbursement as incurred. I understand that my immediate payment of such charges is required as many fees are tied to time-sensitive deadlines.

Option II

(initial b(6); (b)(7)(C)) _____ I elect to have the law firm advance the money for disbursements. I do not want to be billed for each disbursement as incurred. I agree that if there is a recovery of money on my case, the law firm will be reimbursed from that recovery for the costs and expenses advanced by the law firm. The Client hereby gives permission that the law firm may borrow monies from a third party for expenses and disbursements. Interest will then be charged to the Client as an additional expense.

3. COMPUTATION OF FEES: Under Option II, the contingency fee shall be computed on the gross recovery, resulting in a net settlement (or judgment), from which all appropriate disbursements in connection with the institution and prosecution of this claim are deducted, as set forth in paragraph 2 above. Under Option I, the contingency fee shall be computed on the net recovery after all appropriate disbursements in connection with the institution and prosecution of this claim are deducted, as set forth in paragraph 2 above. Examples of how a contingency fee is computed are as follows:

Option I

Client advances disbursements:

Gross Settlement	\$100.00
Disbursements	- \$10.00
Net settlement	\$90.00
33 1/3% Attorney's Fee	\$30.00
Net to Client	\$60.00

Option II

Law firm advances disbursements:

Gross Settlement	\$100.00
33 1/3% Attorney's Fee	\$33.33
Net settlement	\$66.67
Disbursements	- \$10.00
Net to Client	\$56.67

4. **MEDICAL BILLS:** All medical bills incurred which are not paid by the Client's medical insurance and are due and owing shall be chargeable to the Client's portion of the settlement. There may be additional deductions representing outstanding medical bills, liens to doctors for unpaid medical services rendered, or medical services not covered by medical insurance. The recovery of these medical services are included in the gross settlement and shall be paid from the Client's share of the recovery. Unpaid medical providers often will wait for payment until the conclusion of the case, however, in consideration for such abeyance, they will request a lien upon the settlement proceeds. The Client expressly authorizes the firm to sign such lien forms, which may be requested by physicians, and to directly pay outstanding medical bills for treatment to such physicians or other health care providers at the conclusion of the case. This authorization shall include medical and hospital expenses, and subrogation claims. The Client understands that medical providers do not provide medical services contingent upon the outcome of a case, and that in the event that there is no recovery, or an insufficient recovery, the Client will remain responsible for the payment of such medical bills.

5. **NO-FAULT PROCESSING FEE:** If this Retainer Agreement is entered for the processing of a claim for personal injuries arising from a motor vehicle accident wherein "No-Fault" insurance is applicable, it is agreed that the undersigned shall pay a fee of \$350.00 (Three Hundred Fifty Dollars) upon the successful conclusion of the case for the processing of statutory "No-Fault" benefits. This charge represents a lien on any proceeds of the case in favor of the attorney for professional services rendered in processing the "No-Fault" benefits.

6. **WITHDRAWALS:** The law firm expressly reserves the right to withdraw its representation at any time upon reasonable notification to the Client. In the event that the Client advises the law firm to discontinue the handling of this claim, or if the Client fails to cooperate with the law firm in the handling of this claim, Client agrees to compensate the law firm a reasonable amount for its services, and for the time spent on this claim on an hourly basis or under such other arrangement that may be agreed upon by the parties. The Client understands that the law firm has

conditionally accepted this case based upon the independent confirmation of all facts and injuries claimed to have been sustained by Client. In the event that the Client desires to transfer the file from this office, the Client shall be responsible to compensate the law firm for the reasonable value of their services. Such transfer shall not include documents or attorney work product regarding the general liability of the defendants.

7. **APPEALS:** Client further understands that the services to be provided through this agreement will NOT extend through the prosecution/defense of an appeal or representation on an appeal brought by any of the parties to the lawsuit. Client understands that BURNS & HARRIS, ESQS. may charge reasonable additional compensation if the case is appealed, or it is necessary to try the case more than once, the amount of which shall be an additional ten (10%) percent – totaling forty-three and one-third percent (43 1/3%) – of the sum recovered in negligence, intentional tort, civil rights and legal malpractice cases. Should attorney's fees under 42 USC § 1988 be awarded and an appeal be prosecuted pursuant to this section the firm may elect either 42 USC § 1988 fees or a 10% fee pursuant to this section but not both.

This further appellate representation will not require a new Fee Agreement. In the event the CLIENT's case is dismissed or an unfavorable verdict is rendered, the CLIENT agrees that BURNS & HARRIS, ESQS. reserves the right to decide whether or not to prosecute an appeal. If BURNS & HARRIS, ESQS. declines to prosecute an appeal, and appeal is taken, and at any point in the appeal process there is an eventual recovery made in the case on behalf of the CLIENT, BURNS & HARRIS, ESQS. will be entitled to a fee that represents the fair value of the services rendered. BURNS & HARRIS, ESQS. shall have the first right of selecting the basis of their fee in the first instance, and if BURNS & HARRIS, ESQS. elects to be paid on an hourly rate, they shall be paid based on an hourly rate of six hundred dollars an hour (\$ 600/hour) for all work performed by BURNS & HARRIS, ESQS., and their agents/servants/employees. Unless otherwise stated in writing, BURNS & HARRIS, ESQS., elects to be paid on a contingent fee basis.

(b)(6); (b)(7)(C) _____ (initials)

8. **SURROGATES COURT PROCEEDINGS:** If the law firm decides to handle Surrogate's Court work and the client agrees, the firm may hire a Surrogate Court attorney and to take fees from the client's share of the recovery. The establishment of a trust may be performed at an extra expense to the client. The client may consult with an elder lawyer, wills or trusts attorney at their own expense.

9. **STATUTE OF LIMITATIONS:** I understand that the Statute of Limitations period for my case must be investigated and that this Agreement is made subject to that investigation as well as an investigation of my entire case.

10. **FINANCING OF CASE:** If the firm borrows money from any lending institution to finance the cost of the Client's case, the amounts advanced by this firm to pay the cost of prosecuting or defending a claim or action or otherwise protecting or promoting the Client's interest will bear interest at the highest lawful rate allowed by applicable law. In no event will the interest be greater than the amount paid by the firm to the lending institution.

11. **RESULTS NOT GUARANTEED:** No attorney can accurately predict the outcome of any legal matter, accordingly, no representations are made, either expressly or impliedly, as to the final outcome of this matter. I further understand that I must immediately report any changes in my residence, telephone number or health to the law firm. I understand that this Retainer Agreement is a binding legal contract. I expressly agree that I will fully and freely cooperate with my attorneys in all aspects required for the prosecution of this legal matter and that I will take no actions that frustrate or impair the success of this action.

(b)(6); (b)(7)(C)

(initials)

12. **APPROVAL NECESSARY FOR SETTLEMENT:** Attorneys are hereby granted a power of attorney so that they may have full authority to prepare, sign and file all legal instruments, pleadings, drafts, authorizations and papers as shall be reasonably necessary to conclude this representation, including settlement and/or reducing to possession any and all monies or other things of value due to the Client under the claim as fully as the Client could do so in person. Attorneys are also authorized and empowered to act as Client's negotiator in any and all negotiations concerning the subject of this Agreement.

13. **ASSOCIATION OF OTHER ATTORNEYS:** Attorneys may, at their own expense, use or associate other attorneys in the representation of the aforesaid claims of the Client. Client understands that *the firm*, Seth A. Harris PLLC d/b/a Burns & Harris, is a professional limited liability company under the laws of New York with a number of attorneys. Various firm attorneys may work on Client's case.

14. **ASSOCIATE COUNSEL:** Attorneys may participate in the division of fees in this case and assume joint responsibility for the representation of the Client either in the event that the Attorney retains associate counsel or that the Client later chooses new counsel, provided that the total fee to the Client does not increase as a result of the division of fees and that the attorneys involved have agreed to the division of fees and assumption of joint responsibility.

15. **FEE DISPUTES:** In case of a fee dispute, the undersigned may be entitled to arbitration, if the fee falls within the parameters of the Fee Dispute Resolution Program, pursuant to 22 N.Y.C.R.R. PART 137 of the New York State Court Rules.

16. **COLLECTION WORK:** All work required to prosecute a collection case to recover an award will not be covered by this Agreement.

17. **NEW YORK LAW TO APPLY:** This Agreement shall be construed under and in accordance with the laws of the State of New York and the rights, duties and obligations of Client and of Attorneys regarding Attorney's representation of Client and regarding anything covered by this Agreement shall be governed by the laws of the State of New York.

18. **PARTIES BOUND:** This Agreement shall be binding upon and inure to the benefit of the parties, hereto, and their respective heirs, executors, administrators, legal representative, successors, guardians and assigns.

19. **LEGAL CONSTRUCTION:** In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such

invalidity, illegality, or unenforceability shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

20. PRIOR AGREEMENTS SUPERSEDED: This Agreement constitutes the sole and only Agreement of the parties hereto and supersedes any prior understanding or written or oral agreement between the parties respecting the within subject matter.

I certify and acknowledge that I have had the opportunity to read this Agreement and have answered any questions pertaining thereto. I further state that I have voluntarily entered into this Agreement fully aware of the terms and conditions.

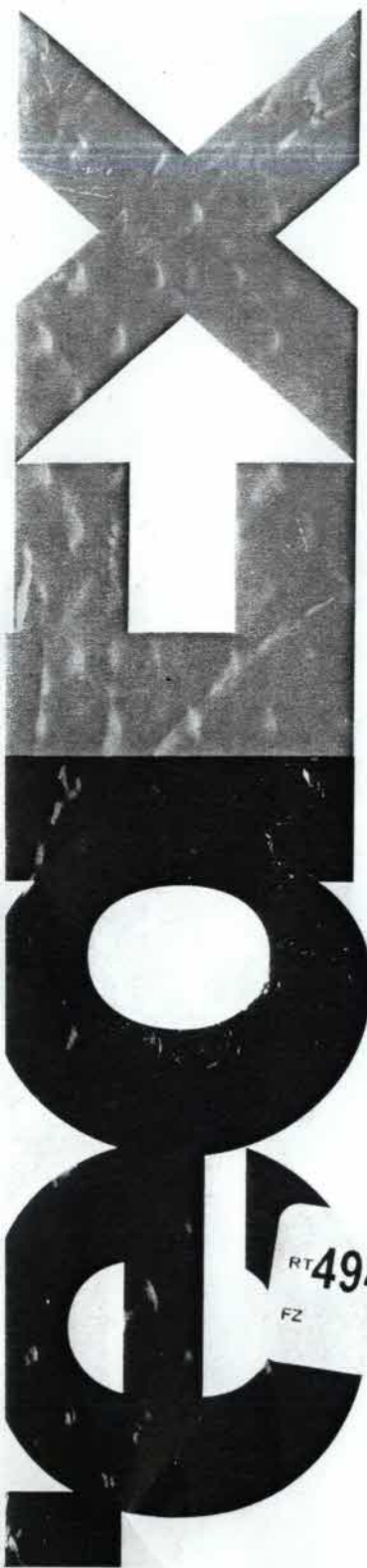
DATED: Feb 21, 2019

(b)(6); (b)(7)(C)

(L.S.)

Witness: _____

(L.S.)



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TO DARRIN HOWARD, REGIONAL COUNSEL
FEDERAL BUREAU OF PRISONS
US CUSTOM HOUSE
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PHILADELPHIA PA 19106

(215) 521-7301

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2019-02980 280 of 312

AMERICAN
OVERSIGHT



5030 Broadway, Ste. 652
New York, NY 10034
P: (718) 852-3710
F: (718) 852-3586
www.stollglickman.com

July 29, 2019

Darrin Howard
Regional Counsel
US Dept. of Justice, Federal Bureau of Prisons
U.S. Customs House – 7th Floor
2nd and Chestnut Streets
Philadelphia, PA 19106

Dear Mr. Howard:

I write in reference to claims on behalf of the following prisoners:

(b)(6); (b)(7)(C)



I received your letters all dated July 12, 2019 explaining that you need proof that I am authorized to represent the Claimants in connection with the above referenced claims. I will obtain written authorization from each but expect it will take more than the 30 day limit.

For the record, I do in fact represent each of these Claimants, but understand the need for proof under 28 C.F.R. 14.2(a). I am therefore asking for an additional 30 days to obtain the authorizations and send them to you. I thank you for your consideration.

Sincerely,

Leo Glickman

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

AUG 01 2019

NERO-PHILADELPHIA

**STOLL, GLICKMAN
& BELLINA** ATTORNEYS

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Darrin Howard
Regional Counsel
US Dept of Justice Federal Bureau of Prisons
US Customs House – 7th Floor
2nd and Chestnut Streets
Philadelphia PA 19106

19106-291450



47

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5030 Broadway, Ste. 652
New York, NY 10034

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U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

*U.S. Custom House – 7th Floor
2nd & Chestnut Streets
Philadelphia, PA 19106*

July 12, 2019

Leo Glickman, Esq.
5030 Broadway, Suite 652
New York, NY 10034

Re: Administrative Tort Claim Received July 5, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Tort Claim No. TRT-NER-2019-05173

Dear Mr. Glickman:

This will acknowledge receipt of the administrative claim which appears to be submitted on behalf of (b)(6); (b)(7)(C) (b)(6); (b)(7)(C), an inmate confined at FCI Allenwood. Mr. (b)(6); (b)(7)(C) is seeking compensation for an alleged personal injury at MDC Brooklyn on January 13, 2019, to February 3, 2019.

In accordance with 28 C.F.R. 14.2 (a), in order for me to correspond with you as legal representative for the above claim, I need proof that you are authorized to represent Mr. (b)(6); (b)(7)(C). At this time, your claim being placed on hold for the lack of such proof. Please provide this authorization within 30 days of the date of this letter. If we do not receive the authorization within 30 days, we will consider this claim closed.

All correspondence regarding this claim should be addressed to Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Street, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact this office immediately. Also, should your address change, you should advise this office accordingly.

Sincerely,

(b)(6);
(b)(7)(C)

Darrin Howard
Regional Counsel

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Federal Bureau of Prisons 320 First Street NW Washington D.C. 20534			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. (b)(6); (b)(7)(C) C/O Leo Glickman, Esq. 5030 Broadway, Ste. 652, New York, NY 10034		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☒ CIVILIAN		4. DATE OF BIRTH (b)(6); (b)(7)(C)	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT 1/13/19 - 2/3/19	7. TIME (A.M. OR P.M.) All times
8. BASIS OF CLAIM (State in detail the instances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). From approximately January 13, 2019 until approximately February 3, 2019, Claimant was subjected to extreme cold temperature, no electricity, denial of medical attention, warm and decent food, hot, clean water, malfunctioning toilets as well as other conditions of confinement repugnant to the conscience of humankind while incarcerated in Metropolitan Detention center in Brooklyn, NY. Claimant was refused access to clothing and blankets that would have kept him warmer.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). None.					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side). None.					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Claimant suffered a general decline in physical and mental health as a result. Claimant has suffered weight loss, stress, depression, fear pain and suffering and general decline of physical health that has not yet been diagnosed by medical staff.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
Employees who worked in MDC during dates All people incarcerated in MDC during dates					
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE None		12b. PERSONAL INJURY \$500,000		12c. WRONGFUL DEATH None	
				12d. TOTAL (Failure to specify may cause forfeiture of your rights). \$500,000	
13. (See instructions on reverse side). I, (b)(6); (b)(7)(C) HEREBY CERTIFY THAT THIS CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN SETTLEMENT OF THIS CLAIM.					
13a. (See instructions on reverse side).			13b. PHONE NUMBER OF PERSON SIGNING FORM		14. DATE OF SIGNATURE
PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

JUL 05 2019

NERO-PHILADELPHIA

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☒ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☒ No 17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☒ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. **Principal Purpose:** The information requested is to be used in evaluating claims.

C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.

D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

DOJ-19-0278, 19-0279, 19-0280-1-000286 **STANDARD FORM 95 REV (2/2007) BACK**

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& BELLINA^{UP} ATTORNEYS**

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NE Regional Office Tort Claims
US Customs House 7th Flr
Philadelphia PA 19106

19106-297999



475 AI Stoll, Glickman & Bellina, LLP
5030 Broadway, Ste. 652
New York, NY 10034

: (718) 852-3710 • www.stollglickman.com

TO: AMERICAN OVERSIGHT FROM: STOLL, GLICKMAN & BELLINA, LLP

44T NEN 2019 03088

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature ☒ [Redacted Signature] ☐ Agent ☐ Addressee B. [Redacted Name] (Name) ☐ [Redacted Address] (Address) ☐ [Redacted City/State/Zip] (City/State/Zip) C. Date of Delivery 4/2/2019 Is different from item 1? ☐ Yes very address below: ☒ No APR 29 2019 NERO-PHILADELPHIA
1. [Redacted Address] MDC Brooklyn P.O. Box 329002 Brooklyn, NY 11232	
2. Article Number (Transfer from service label)	3. Service type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☐ Certified Mail® ☒ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail ☐ Insured Mail Restricted Delivery (over \$500) ☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Return Receipt for Merchandise ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt



DARRIN HOWARD, ESQ.
NORTHEAST REGIONAL COUNSEL
U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF PRISONS
NORTHEAST REGIONAL OFFICE
200 CHESTNUT STREET
PHILADELPHIA, PENNSYLVANIA 19106

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

MAR 18 2019

NERO-PHILADELPHIA

Re: Administrative Tort Claim for Personal Injury [28 U.S.C. 2671, et. seq.]

Dear Mr. Howard:

The undersigned Claimant respectfully submits this claim under the Federal Tort Claims Act ("FTCA") [28 U.S.C. 2672], and 28 C.F.R. 543.30, seeking compensatory damages in the amount of \$100,000.00 for personal injury that he suffered as a result of negligence by Federal Bureau of Prisons staff at the Metropolitan Detention Center ("MDC") in Brooklyn, New York. For the reasons that follow, this claim should be promptly settled.

I. THE RELEVANT FACTS.

At all times between January 27, 2019 and February 3, 2019, claimant was detained at the MDC (West Building). On January 27, 2019, the institution experienced a power outage which, upon information and belief, resulted from an electrical fire. Upon information and belief, the power outage adversely affected the institution's heating, hot water, and lighting. More specifically, each cell (including claimant's assigned cell) was without lights, hot water, or heat for the approximately eight days (i.e. January 27, 2019 thru February 3, 2019). Staff was aware of the inhumane conditions, and took no steps to immediately restore the housing units or the cells within those units to habitable conditions.

Notably, however, on February 3, 2019, staff began distributing extra blankets to inmates in the institution in an effort to combat the exceptionally frigid temperatures. It should also be noted that during this period, institutional staff would visit housing units to check the cell temperatures. Some inmates blocked their ventilation ducts in an effort to prevent the exceptionally cold air from entering their cells through the ventilation system. This, however, also prevented staff from obtaining an accurate electronic reading of the temperature in those cells which had their vents blocked. Thus, on at least two occasions, staff entered the housing unit and presented to a particular cell where the air vent had been blocked, and recorded a temperature reading that was much warmer than the temperature in other cells where inmates had not blocked their air vents.

Throughout the period where claimant was denied suitable quarters, heat, hot water, and lights, he feared for his physical safety. He feared possible assault on his person by other inmates assigned to his housing unit. Despite inadequate lighting in the housing units, from on or about January 28, 2019 thru February 1, 2019, claimant and more than 100 other inmates assigned to his housing unit were permitted (and even required) to exit and remain outside of their respective cells for extended periods of times throughout the day and evening, supervised by only a single staff member who was physically unable to observe inmate activity throughout the unit due to extremely limited lighting in the common area. Claimant was required to exit his cell and enter the common area to obtain and consume his meals, as well as to shower. It should also be noted that during the institutional crisis, mental health staff was inaccessible to claimant and all other inmates assigned to his housing unit. This claimant was also not afforded an opportunity to meet with medical staff. All access to claimant's attorney was denied as attorneys were not permitted to enter the institution, and both the inmate telephone and email systems were not operational. Inmates were also denied a meaningful opportunity to send general correspondence since they were denied access to commissary to purchase required postage.

Again, despite the magnitude of the inhumane crisis, MDC staff took no immediate or appropriate action to restore the institution to normal operations, or to adhere to their responsibility to provide Claimant with appropriate housing.

During this crisis period claimant suffered severe emotional distress which affected, inter alia, claimant's ability to sleep and focus.

II. THE RELEVANT LAW.

(a) Liability Under The Federal Tort Claims Act.

The Federal Tort Claims Act ("FTCA") provides that the United States is liable for injury caused by the negligence

of its employees under circumstances where a private person would be liable according to "the laws of the place where the act or omission occurred," and thus New York law applies. {28 U.S.C. 1346(b); Kane v. United States, 189 F.Supp.2d 40, 51-52 (S.D.N.Y. 2002); Ducrepin v. United States, 964 F.Supp. 659, 663 (E.D.N.Y. 1997)} Under New York law, to prove a claim of negligence, plaintiff must establish three elements: (i) defendant owed plaintiff a duty of care; (ii) defendant breached that duty; and (iii) the breach proximately caused plaintiff's injury. {Kane, 189 F.Supp.2d at 51-52}

(b) The Bureau of Prisons Owed Claimant a Duty of Care.

Although state laws sets out the elements required to prove negligence, the standard of care for the Federal Bureau of Prisons is "fixed by 18 U.S.C. 4042, independent of [any] inconsistent state rule" allowing for a local jailor's immunity from suit, or a lesser duty. {United States v. Muniz, 374 U.S. 150, 164 (1963)} Section 4042(a) requires that the Bureau of Prisons provide "suitable quarters and provide for the safekeeping, care, and subsistence of all persons charged with or convicted of offenses against the United States." {18 U.S.C. 4042(a)(2)} This statutory duty means that the Bureau of Prisons must exercise "ordinary diligence" or reasonable care "to keep prisoners safe and free from harm." {Coward v. United States, 617 F.2d 112, 116 (5th Cir. 1980); see also Herrington v. United States, 1984 WL 1279, at *2 (S.D.N.Y. 1984); Castor v. United States, 883 F.Supp. 344, 350 (S.D. Ind. 1995)}

It is clear that "the mere failure to provide suitable quarters" is not actionable; there must be fault. {Muhammed v. United States, 6 F.Supp.2d 582, 595 (N.D. Tex. 1998)} Only "a failure to exercise ordinary care, or reasonable care, to provide suitable quarters" is actionable. {Id.; Graham v. United States, 2002 WL 188573, at *4 (E.D. Pa. 2002)(noting that mandatory duty of care set forth in Section 4042 "does not dictate the manner in which the duty must be fulfilled")}

(c) New York Law Governing Claims Negligent Infliction of Emotional Distress.

Under New York law, a claim of negligent infliction of emotional distress must be premised upon a breach of a duty owed "which either unreasonably endangers the plaintiff's physical safety, or causes the plaintiff to fear for his or her own safety." {Sheila C. v. Povich, 11 A.D.3d 120, 130 (1st Dep't 2004); see also Mortise v. United States, 102 F.3d 693, 696 (2d Cir. 1996)} Under New York law, a plaintiff may establish a claim of negligent infliction of emotion distress in one of two ways: (1) the "bystander" theory; or (2) the "direct duty theory." A plaintiff may recover for purely emotional injury under the "direct duty theory" when he/she suffers an emotional injury from defendant's breach of a duty which unreasonably endangers his/her own physical safety. {See, Mortise, 102 F.3d at 696 (citing Kennedy v. McKesson Co., 58 N.Y.2d 500, 504 (1983))} The duty in such cases must be specific to the plaintiff, and not some amorphous, free-floating duty to society. {Id.; (citing Johnson v. Jamaica Hosp., 62 N.Y.2d 523, 526-27 (1984))}

As noted, the Federal Bureau of Prisons owed claimant a specific duty of care, as described in Section 4042(a)(2) and (3), to provide him "suitable quarters," "safekeeping," and "protection."

III. APPLICATION OF THE LAW TO THE FACTS.

The facts and the law are relatively straightforward: On January 27, 2019, MDC Brooklyn experienced a significant power outage that adversely affected all housing units within its West Building. The outage rendered all cells (including claimant's) within the West Building uninhabitable by virtue of no lighting, heating, or hot water. MDC staff failed to take immediate steps to rectify the power outage or to restore the institutional to normal operations, as a result of being left in such inhumane and exceptionally dangerous conditions, claimant feared for his personal safety and life.

It goes without saying that the Federal Bureau of Prisons, in keeping with its mandated duty under Section 4042(a)(2) and (3), is required to provide "adequate heat" to all cells and housing units wherein prisoners will be confined. {See, Dugan v. Washington, 2001 WL 741626, at *5 (N.D. Ill. June 11, 2001)(noting that prisoners need only be provided "adequate heat") That duty is specific. The duty to provide "safekeeping" and "protection" is also specific. {See, 18 U.S.C. 4042 (a)(2) and (3)} Each of those specific duties were breached when MDC staff failed to take steps to immediately rectify the power outage, resulting in approximately eight continuous days of fear of physical injury.

Bureau of Prisons employee's negligence in this matter is both inexplicable and unacceptable. Indeed, the failure to act reasonably has prompted investigations from the Office of the Inspectors General, as well as others. Given the indisputable facts, and well settled law, claimant is entitled to compensatory damages in the amount of \$100,000.00.

IV. CONCLUSION.

For the reasons stated, claimant seeks prompt disposition and settlement of this claim.

Dated: Brooklyn, New York

February 28, 2019

Respectfully submitted,

(b)(6); (b)(7)(C)

[SIGNATURE]

(b)(6); (b)(7)(C)

[PRINT NAME]

(b)(6); (b)(7)(C)

[REGISTER NUMBER]
METROPOLITAN DETENTION CENTER
P.O. BOX 329002
BROOKLYN, NEW YORK 11232

— CLAIMANT —

cc: U.S. Department of Justice
Office of the Inspector General

Federal Bureau of Prisons
Central Office
320 First Street, NW
Washington, DC 20534

New York Times (w/ecnl.)

New York Federal Defenders

(b)(6), (b)(7)(C)

Metropolitan Detention Center
P.O. Box 329002
Brooklyn, N.Y. 11232

To: Mr. David Howard, Esq.
Northeast Regional Council
U.S. Department of Justice
200 West 10th Street
Philadelphia, Pennsylvania 19106

Local Mail



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1910662907 0035

METROPOLITAN DETENTION CENTER
80 29TH ST, BROOKLYN, NY 11232

The enclosed letter was processed through
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which this facility has jurisdiction, you may wish
to return the material for further information
or clarification. If the writer encloses correspondence
for forwarding to another addressee, please
return the enclosure to the above address.



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

Via Certified and Return Receipt Mail

U.S. Custom House-7th Floor
2nd & Chestnut Streets
Philadelphia, PA 19106

March 21, 2019

(b)(6); (b)(7)(C)

MDC Brooklyn
P.O. Box 329002
Brooklyn, NY 11232

RE: Administrative Claim No. TRT-NER-2019-03088
Claim Received March 18, 2019

Dear Mr. (b)(6); (b)(7)(C)

This is in response to your administrative tort claim in which you seek \$100,000.00 in compensation for an alleged personal injury sustained at MDC Brooklyn between January 27, 2019, and February 3, 2019. Specifically, you state a power outage adversely affected the institution's heating, hot water, and lighting. You allege you suffered severe emotional distress, which affected your ability to sleep and focus. You contend you feared for your physical safety and possible assault.

After review, we have decided to deny your claim because you have not alleged an identifiable physical injury actionable under the Federal Tort Claims Act. 28 U.S.C. §§ 1346(b)(2), 2672.

If you are dissatisfied with this decision, you may bring an action against the United States in an appropriate United States District Court within six (6) months of the date of this letter.

Sincerely,

Darrin Howard
Regional Counsel

cc: H. Quay, Warden, MDC Brooklyn

44T NCR 2019 03088

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. b(6)
b(7)(C)

MDC Brooklyn
P.O. Box 329002
Brooklyn, NY 11232



9590 9402 4542 8278 8150 02

2. Article Number (Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☐ Agent
☐ Addressee
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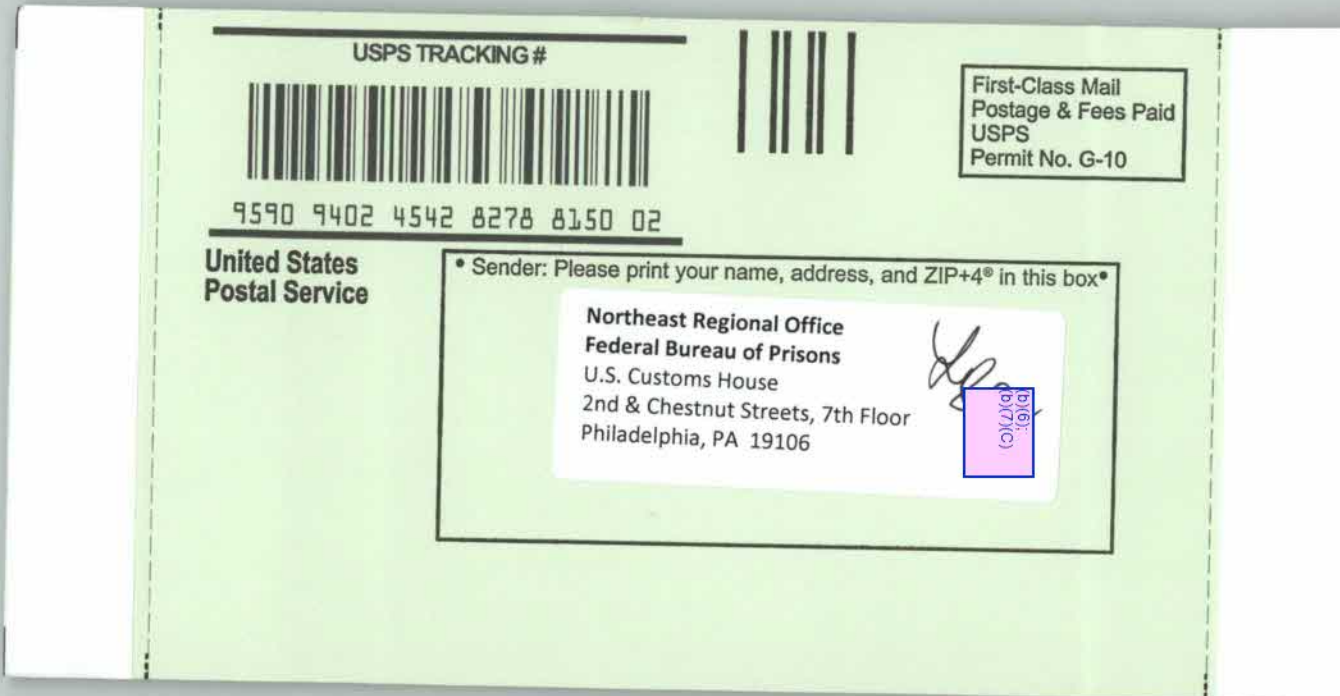
B. Received by (Printed Name) C. Date of Delivery

Is the delivery address different from item 1? ☐ Yes
If yes, give the delivery address below: ☒ No

3. Service type
- | | |
|--|---|
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| ☒ Certified Mail Restricted Delivery | ☐ Return Receipt for Merchandise |
| ☐ Collect on Delivery | ☐ Signature Confirmation™ |
| ☐ Collect on Delivery Restricted Delivery | ☐ Signature Confirmation Restricted Delivery |
| ☐ Insured Mail | |
| ☐ Insured Mail Restricted Delivery (over \$500) | |

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt





U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA. 19106

July 12, 2019

Emery Celli Brinckerhoff & Abady LLP
600 Fifth Avenue at Rockefeller Center
10th Floor
New York, NY 10020
Attn: Katherine Rosenfeld, Esq.

Re: Administrative Tort Claim Received July 5, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-05174

Dear Ms. Rosenfeld:

This will acknowledge receipt of the administrative claim you submitted on behalf of (b)(6); (b)(7)(C) for an alleged personal injury suffered at MDC Brooklyn on January 27, 2019, through February 1, 2019.

Under the provisions of the applicable federal statutes, we have six months from the date of receipt to review, consider, and adjudicate your claim. In order for this office to properly evaluate this claim, you are required to submit all the information required by 28 C.F.R. §14.4(b).

All correspondence regarding this claim should be addressed to me at: Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Streets, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact me immediately.

Sincerely,

(b)(6);
(b)(7)(C)

Darrin Howard
Regional Counsel

EMERY CELLI BRINCKERHOFF & ABADY LLP

RICHARD D. EMERY
ANDREW G. CELLI, JR.
MATTHEW D. BRINCKERHOFF
JONATHAN S. ABADY
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ELIZABETH S. SAYLOR
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DEBRA L. GREENBERGER
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10TH FLOOR
NEW YORK, NEW YORK 10020

TEL: (212) 763-5000
FAX: (212) 763-5001
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CHARLES J. OGLETREE, JR.
EMERITUS

DIANE L. HOUK
JESSICA CLARKE

ALISON FRICK
DAVID LEBOWITZ
DOUGLAS E. LIEB
ALANNA KAUFMAN
EMMA L. FREEMAN
DAVID BERMAN
ASHOK CHANDRAN
MICHELE YANKSON

July 3, 2019

Via U.S. Mail

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

Re: Administrative Complaint by (b)(6); (b)(7)(C)

To Whom It May Concern:

On behalf of (b)(6); (b)(7)(C), enclosed please find:

- SF-95 Claim Form
- SF-95 Supplement
- Authorization to File SF-95

If you have any questions, I can be reached by phone at (212) 763-5000 or by email at krosenfeld@ecbalaw.com. Thank you for your attention to this matter.

Sincerely,

/s/

Katherine Rosenfeld

Encl.

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Federal Bureau of Prisons Northeast Regional Office U.S. Custom House, 7th Floor Philadelphia, PA			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. (b)(6); (b)(7)(C) c/o Emery Celli Brinckerhoff & Abady LLP 600 Fifth Avenue, 10th Floor New York, NY 10020		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☐ CIVILIAN		4. DATE OF BIRTH (b)(6); (b)(7)(C)	5. MARITAL STATUS Single	6. DATE AND DAY OF ACCIDENT 01/27/2019 02/01/2019	
7. TIME (A.M. OR P.M.) A.M.					
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Please see attached.					
DATE RECEIVED FEDERAL BUREAU OF PRISONS REGIONAL COUNSEL OFFICE JUL 05 2019 NERO-PHILADELPHIA					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Please see attached.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY 1,000,000		12c. WRONGFUL DEATH	
				12d. TOTAL (Failure to specify may cause forfeiture of your rights). 1,000,000	
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). 			13b. PHONE NUMBER OF PERSON SIGNING FORM (212) 763-5000		14. DATE OF SIGNATURE 07/02/2019
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

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STANDARD FORM 95 (REV. 2/2007)
PRESCRIBED BY DEPT. OF JUSTICE

95-109
AMERICAN
OVERSIGHT

DOJ-19-0278, 19-0279, 19-0280-I-000301

2019-02980 301 of 312

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident Insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No

17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. **Principal Purpose:** The information requested is to be used in evaluating claims.

C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.

D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages in necessary)

- a. During the week of January 27, 2019 through February 3, 2019, I was incarcerated in the West Building at the Metropolitan Detention Center in Brooklyn, New York. During that week, there was a power failure in the West Building.
- b. I was confined in Unit 63.
- c. In the seven-day period between January 27, 2019 and February 3, 2019 while I was confined at MDC: (1) there was no electricity and no functioning lights, and I was confined in near-darkness; (2) there was little to no heat and I was confined in freezing cold temperatures without adequate clothing or blankets; (3) there was a building-wide lockdown and I was confined to my cell for long periods of time; and (4) I had little to no access to clean laundry, hot food, regularly scheduled meals, functioning toilets, regular showers, hot showers and hot water, medical or psychiatric care, exercise, commissary, or outside communications with my family or lawyers via email, pay phone, or visits.

10. PERSONAL INJURY/WRONGFUL DEATH: STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURY PERSON OR DECEDENT.

- a. As a result of being confined in the circumstances described in paragraph 8, including but not limited to a prolonged period of bitter cold, moisture, and darkness, I suffered the following injuries which form the basis of my claim: physical pain and discomfort; hunger; exposure to noxious odor, air quality, and excessive noise; severe personal uncleanliness caused by lack of access to showers or clean clothing and linens; and emotional and psychological distress.

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

- b. Between January 27, 2019 and February 3, 2019, I suffered from: pain and discomfort from an untreated inguinal hernia, skin rash on my face, insomnia, and stomach pain. During this period, I was not provided with needed medical care. Specifically, I was not provided with prescription medications that I take on a daily basis, finasteride and tamsulosin. Prior to the power failure, the hernia caused me intermittent pain, but during the week without power, I was in constant pain due to the inability to leave my cell. The skin rash that developed during that week persisted until early June 2019.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

June 28, 2019

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

To Whom it May Concern:

I, (b)(6); (b)(7)(C), authorize my representatives at Emery Celli Brinckerhoff & Abady LLP, including Katherine Rosenfeld, to submit an administrative complaint pursuant to the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 et seq. against the Bureau of Prisons.

Thank you. If you have any questions, please call Ms. Rosenfeld at 212-763-5066.

Sincerely,

(b)(6); (b)(7)(C)
Name: (b)(6); (b)(7)(C)
DOB: (b)(6); (b)(7)(C)

EMERY CELLI BRINCKERHOFF & ABADY LLP
600 FIFTH AVENUE, 10TH FL. • NEW YORK, NEW YORK 10020

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Northeast Regional Office
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2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

19106-297999





U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House - 7th Floor
2nd & Chestnut Streets
Philadelphia, PA 19106

November 12, 2019

Katherine Rosenfeld, Esq.
Emery Celli Brinckerhoff & Abady LLP
600 Fifth Avenue at Rockefeller Center
10th Floor
New York, NY 10020

Re: Administrative Tort Claim Received November 1, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2020-00969

Dear Ms. Rosenfeld:

This will acknowledge receipt of the administrative claim you submitted on behalf of Mr. (b)(6); (b)(7)(C) for an alleged personal injury suffered at MDC Brooklyn, between January 27, 2019, and February 1, 2019.

Unfortunately, we are unable to identify the claimant, (b)(6); (b)(7)(C), with the information you have provided. Please provide a document to prove Mr. (b)(6); (b)(7)(C) identity and date of birth.

Accordingly, your claim is being returned to you for such action as you deem appropriate. If you wish to resubmit your claim with the above-noted information, your claim will be considered for administrative settlement.

Sincerely,

Darrin Howard
Regional Counsel

Enclosure

EMERY CELLI BRINCKERHOFF & ABADY LLP

RICHARD D. EMERY
ANDREW G. CELLI, JR.
MATTHEW D. BRINCKERHOFF
JONATHAN S. ABADY
EARL S. WARD
ILANN M. MAAZEL
HAL R. LIEBERMAN
DANIEL J. KORNSTEIN
O. ANDREW F. WILSON
ELIZABETH S. SAYLOR
KATHERINE ROSENFELD
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ZOE SALZMAN
SAM SHAPIRO

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NEW YORK, NEW YORK 10020

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DIANE L. HOUK

ALISON FRICK
DAVID LEBOWITZ
DOUGLAS E. LIEB
ALANNA KAUFMAN
EMMA L. FREEMAN
DAVID BERMAN
HARVEY PRAGER
SCOUT KATOVICH

October 29, 2019

Via U.S. Mail

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

Re: *Administrative Complaint by* (b)(6); (b)(7)(C)

To Whom It May Concern:

On behalf of (b)(6); (b)(7)(C), enclosed please find:

- SF-95 Claim Form
- SF-95 Supplement
- Authorization to File SF-95

If you have any questions, I can be reached by phone at (212) 763-5000 or by email at krosenfeld@ecbalaw.com. Thank you for your attention to this matter.

Sincerely,

/s/

Katherine Rosenfeld

Encl.

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Federal Bureau of Prisons Northeast Regional Office U.S. Custom House, 7th Floor Philadelphia, PA			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. (b)(6); (b)(7)(C) /o Emery Celli Brinckerhoff & Abady LLP 600 Fifth Avenue, 10th Floor New York, NY 10020		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☒ CIVILIAN		4. DATE OF BIRTH (b)(6); (b)(7)(C)	5. MARITAL STATUS Single	6. DATE AND DAY OF ACCIDENT 01/27/2019 02/03/2019	
7. TIME (A.M. OR P.M.) A.M.					
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Please see attached.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). 					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side). 					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Please see attached.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
CELLMATE #1		UNKNOWN			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY		12c. WRONGFUL DEATH	
1,000,000		1,000,000		1,000,000	
12d. TOTAL (Failure to specify may cause forfeiture of your rights).					
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). <i>Katherine Rosenthal</i>			13b. PHONE NUMBER OF PERSON SIGNING FORM (212) 763-5000		14. DATE OF SIGNATURE
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

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STANDARD FORM 95 (REV. 2/2007)

PRESCRIBED BY DEPT. OF JUSTICE

28 CFR 14.2

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AMERICAN
OVERSIGHT

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident Insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No 17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

- (a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.
- (b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.
- (c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.
- (d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

- A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. **Principal Purpose:** The information requested is to be used in evaluating claims.
- C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
- D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages in necessary)

- a. During the week of January 27, 2019 through February 3, 2019, I was incarcerated in the West Building at the Metropolitan Detention Center in Brooklyn, New York. During that week, there was a power failure in the West Building.
- b. I was confined in Unit 1, Cell 1000
1000
- c. In the seven-day period between January 27, 2019 and February 3, 2019 while I was confined at MDC: (1) there was no electricity and no functioning lights, and I was confined in near-darkness; (2) there was little to no heat and I was confined in freezing cold temperatures and/or extreme temperature variations without adequate clothing or blankets; (3) there was a building-wide lockdown and I was confined to my cell for long periods of time; and (4) I had little to no access to clean laundry, hot food, regularly scheduled meals, regular showers, hot showers and hot water, medical or psychiatric care, exercise, or outside communications with my family or lawyers via email, pay phone, or visits.
- d. In addition to these facts, I also experienced the following circumstances between January 27, 2019 and February 3, 2019 while I was confined at MDC: There was poor ventilation that affected my breathing and made it difficult to breathe. The vents were releasing black sediments which caused my inability/discomfort in breathing. I had to use an oxygen device to assist with my breathing. The temperature was frigid and had no access to hot water.

10. PERSONAL INJURY/WRONGFUL DEATH: STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURY PERSON OR DECEDENT.

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

- a. As a result of being confined in the circumstances described in paragraph 8, including but not limited to a prolonged period of bitter cold, and/or extreme temperature variations, and darkness, I suffered the following injuries which form the basis of my claim: physical pain and discomfort as a result of my exposure to the cold; hunger; exposure to noxious odor, air quality, and excessive noise; severe personal uncleanliness cause by lack of access to showers of clean clothing; and emotional and psychological distress.
- b. I have difficult breathing and was not provided with medication to assist in breathing. I did not receive medical assistance.
- c. In addition to those injuries described in paragraph 10(a) above, I also suffered the following injuries between January 27, 2019 and February 3, 2019 while I was confined at MDC, and/or as a result of the events of that week of confinement: chest pain, difficulty breathing, headaches, lightheadedness, dizziness.

11. WITNESSES

The following people witnessed the circumstances that caused my injury:
Cellmate.