



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

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

December 30, 2019

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

FOIA Request Number: 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 request, staff located 1000 pages of responsive records, which were forwarded to this office for a release determination. After careful review, we determined 79 pages are appropriate for release in full, 185 pages are appropriate for release in part and 736 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.



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)(5)
FCI Pollock
P.O. Box 4050
Pollock, LA 71467

RE: Administrative Claim No. TRT-NER-2019-02640
Reconsideration
Claim Received March 15, 2019

Dear Mr. (b)(6); (b)(5)

Your request for reconsideration of Administrative Claim No. TRT-NER-2019-02640 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 attributable to the power outage MDC Brooklyn. 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

YLT NEN 2019 02640

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.
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☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

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

(b)(6); (b)(5)

Mr.
FCI Pollock
P.O. Box 4050
Pollock, LA 71467

955 6986 55

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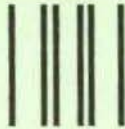
PS Form 3811, July 2015 PSN 7530-02-000-9053

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

[Handwritten signature]
(b)(6), (b)(7)(C)



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)(5)

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

RE: Administrative Claim No. TRT-NER-2019-02640
Claim Received February 21, 2019

Dear Mr. (b)(6); (b)(5)

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

YNT NEN 2019 02640

SENDER: COMPLETE THIS SECTION

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- Print your name and address on the reverse so that we can return the card to you.
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COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

1. Article Number

(b)(6)
(b)(5)

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

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



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| ☐ 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

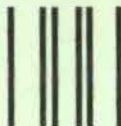
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2019-02980 5 of 264

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

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

YNT NEN 2019 02640

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1. Article Number

COMPLETE THIS SECTION ON DELIVERY

A. ☒ Agent
☐ Addressee
B. Recipient's Name (Printed Name)
C. Date of Delivery

different from item 1? ☐ Yes
☒ No
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

MAR 14 2019

NEBO PHILADELPHIA

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



9590 9402 3738 7335 6994 54

2. Article Number (Transfer from service label)

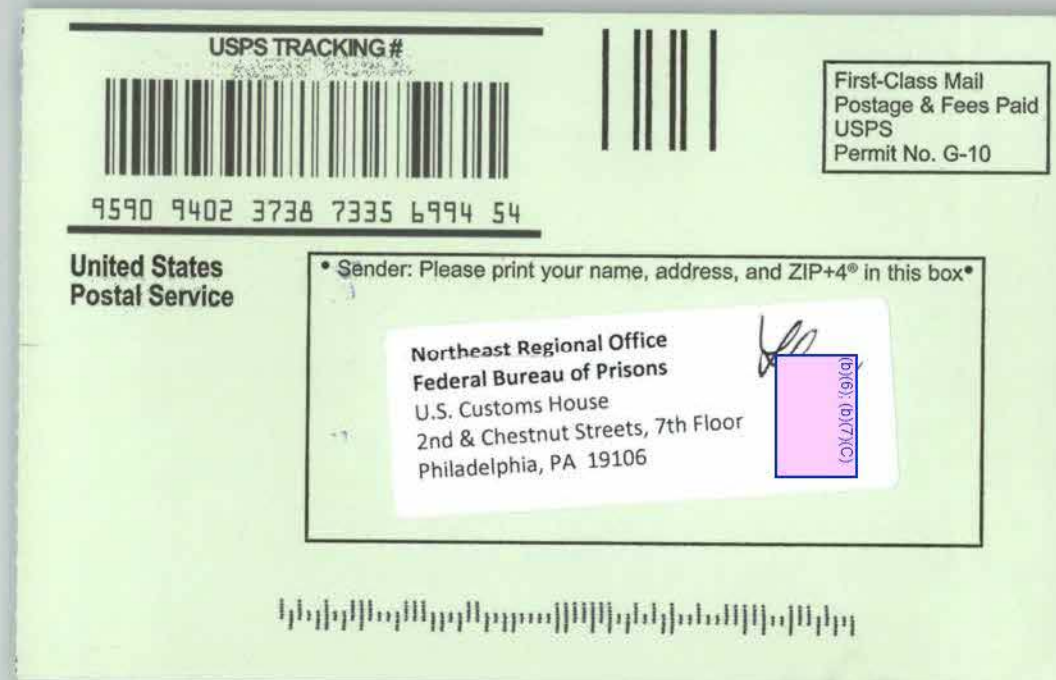
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- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

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

Domestic Return Receipt

2019-02980 7 of 264



Dated: Brooklyn, New York

February 18th, 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 11235

NEW YORK NY 100

19 FEB 2019 PM 15 L



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



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-2019-02640

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

TRULINCS 79399053 - ACOSTA DE VARGAS, JULIO - Unit: POM-E-C

FROM: 79399053

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

SUBJECT: to: federal Bureau of prisons.

DATE: 06/11/2019 05:35:47 PM

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

federal correccional Institution
p. o. Box 4050
Pollock LA 71467-4050

Re: Administrative tort Clain No. Trt- Ner-2019-02640

I am writing to get information about my case. I also want to give you my new address.

Respectfully Submitted

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

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

Name:

Register No.

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

federal correccional Institution
p. o. Box 4050
Pollock LA 71467-4050

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

JUN 24 2019

NERO-PHILADELPHIA

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

FEDERAL Correctional Institution
P.O. BOX 4050
POLLOCK LA 71467-4050

SHREVEPORT LA 710

13 JUN 2019 PM 1 L



to: FEDERAL Bureau of Prisons
Northeast Regional office, Rom 701,
U.S. Custom House, 2nd + Chestnut Street
Philadelphia, Pennsylvania 19106



2019-02980 13 of 264



14

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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SAM SHAPIRO

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10TH FLOOR
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
ASHOK CHANDRAN

September 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

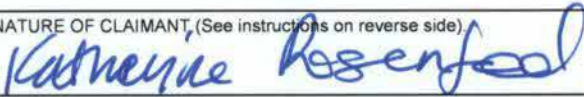
If you have any questions, I can be reached by phone at (212) 763-5000 or by email at krosenfeld@ecbalaw.com. Thank you for your attention to this matter.

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) 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 Married	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 SEP 10 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)			
(b)(6); (b)(7)(C) (CELLMATE)		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) 			13b. PHONE NUMBER OF PERSON SIGNING FORM (212) 763-5000		14. DATE OF SIGNATURE 7/4/19
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

95-109

AMERICAN
OVERSIGHT

2019-02980 16 of 264

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-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 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.

STANDARD FORM 95 REV. (2/2007) 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 Unit 81, (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 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 no hot water, no accessible drinking water as the water was dirty and brown. I was forced to take cold showers. There wasn't any light nor was there heat. I wasn't given any additional clothing or blankets to protect myself from the frigid temperatures. There was no hot food—only cold sandwiches were given for lunch and dinner. The food was often late. I didn't have access to legal visits, calls, letters, emails or commissary.

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 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 do not suffer from any medical conditions.
- 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: anxiety, PTSD, nightmares, fearful thoughts, headaches, and cold sweats.

11. WITNESSES

The following people witnessed the circumstances that caused my injury:

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

(Cellmate).

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

8.6., 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: 04 / 11 / 1972



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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

2019-02980 21 of 264



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 17, 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 September 10, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-06798

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



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

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

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REG-
OFFICE

SEP 24 2019

NERO-PHILADELPHIA

Re:

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

Claim No: TRT-NER-2019-06557

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 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 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.

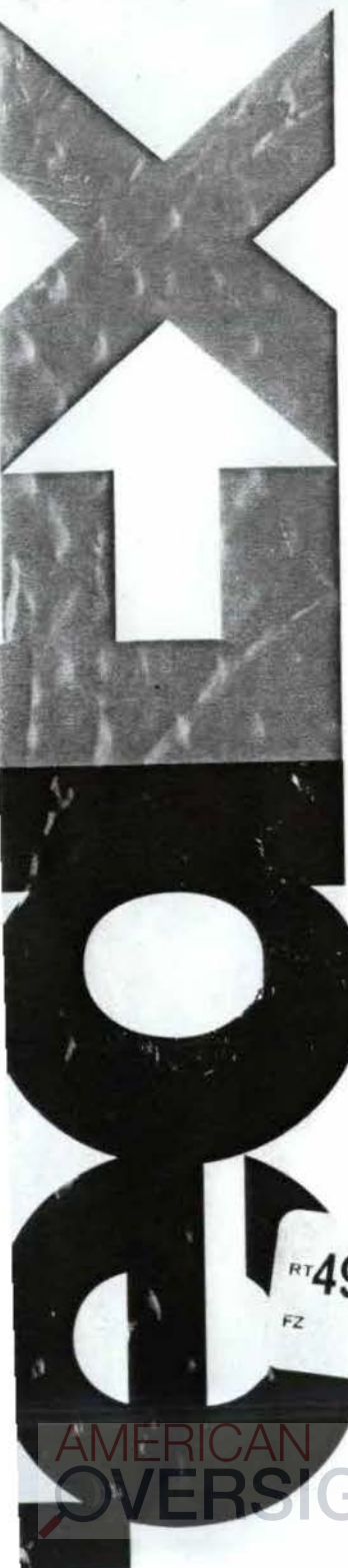
I certify and acknowledge that I have had the opportunity to read this Agreement and have answered any questions pertaining thereto. I further state that I have voluntarily entered into this Agreement fully aware of the terms and conditions.

DATED: Feb 21, 2019

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

(L.S.)

Witness: _____ (L.S.)



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BURNS & HARRIS
233 BROADWAY, SUITE 900

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NEW YORK, NY 10279
UNITED STATES US

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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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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-2019-06557

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

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

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



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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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2019-02980 34 of 264

AMERICAN
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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

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.

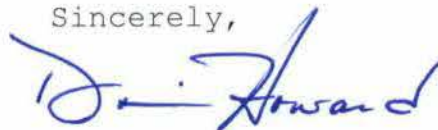
In addition, we will not be able to correspond with you unless you provide proof that you are authorized to represent each claimant as their legal representative. See 28 C.F.R. § 14.2.

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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NSN 7540-00-634-4046

STANDARD FORM 95 (REV. 2/2007)
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28 CFR 14.2

95-109

AMERICAN
OVERSIGHT

2019-02980 37 of 264

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000037

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

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.

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.

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

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.

(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.

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.

(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.

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.

(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 (Printed Name)	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 (Transfer from service label)	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	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

September 17, 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 September 10, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-06790

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
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O. ANDREW F. WILSON
ELIZABETH S. SAYLOR
KATHERINE ROSENFELD
DEBRA L. GREENBERGER
ZOE SALZMAN
SAM SHAPIRO

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10TH FLOOR
NEW YORK, NEW YORK 10020

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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

September 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) 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 SEP 10 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)			
CELLMATE #1		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) 763-5000		14. DATE OF SIGNATURE 9/4/19
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

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DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000043

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.

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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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STANDARD FORM 95 REV. (2/2007) **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 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 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 temperatures were frigid and I was not given any additional clothing other than the clothes I already had in my cell which consisted of 2 pairs of thermals, a sweater, sweatpants, 2 blankets and a sheet. With all the layers of clothing I had on, it still wasn't enough. My unit was in complete lock down from January 31, 2019 to February 4, 2019 without being let out of our cells at all. My toilet was clogged and didn't flush which resulted in a foul stench of urine and feces in my cell. I did not have access to showers as I was forced to take bird baths in my cell. I didn't have access to the laundry facility until after the lockdown was over. The water was brown and dirty and there wasn't any drinkable water provided. The meals we received were supposed to be hot but were cold once it was reached to us. The meals were often late. I was unable to get in contact with my attorney or my family members. The correctional officers did not provide me with any information

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

in regards to the blackout. They retaliated and started taking people in my unit to the SHU if we didn't obey their orders.

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. I do not have any pre-existing medical conditions but I did get a cold during the blackout due to the extreme cold and was denied medical attention and/or medicine.
- 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, cold sweats, congestion, sore throat, anxiety, coughing/sneezing, muscle pain, chest pain, headaches, lightheadedness, depression, insomnia, PTSD, skin rash due to not showering, nausea and stomach pain due to the food supplied.

11. WITNESSES

The following people witnessed the circumstances that caused my injury:

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

Aug. 29th, 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.

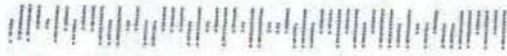
Sincerely,

Name

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

DOB:

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



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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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EMERY CELLI BRINCKERHOFF & ABADY LLP

RICHARD D. EMERY
ANDREW G. CELLI, JR.
MATTHEW D. BRINCKERHOFF
JONATHAN S. ABADY
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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		ADDRESS (Number, Street, City, State, and Zip Code)			
(b)(6); (b)(7)(C)		(b)(6); (b)(7)(C) 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 Rosenthal</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 FEDERAL BUREAU OF PRISONS REGIONAL COUNSEL OFFICE		

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NSN 7540-00-634-4046

AUG 23 2019

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

95-109

AMERICAN
OVERSIGHT

2019-02980 50 of 264 NERO-PHILADELPHIA

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000050

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.

STANDARD FORM 95 REV. (2/2007) 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 Unit K84. Floor 8, and (b)(7)(C) (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: Toilet often did not flush; suffered from diabetes, high blood pressure, and sleep apnea; specifically I did not have access to electricity needed to power a machine that helps me breathe at night due to my sleep apnea. I was scared to fall asleep because I did not know whether I would die in my sleep due to my sleep apnea. Even though I made complaints and requests for medical attention since the first day of the blackout on January 27, 2019, I was not transferred to another part of MDC with electricity until February 2, 2019.

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 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: I also experienced shortness of breath, headaches and dizziness because of my sleep apnea and diabetes. Specifically, my blood sugar levels decreased due to my inconsistent eating schedule since meals were always delivered without a consistent schedule each day.

11. WITNESSES

The following people witnessed the circumstances that caused my injury:

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

Brooklyn MDC.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

7/23/19

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)

D.O.B: (b)(6); (b)(7)(C)



Morgan PADC NY 10001

WED 21 AUG 2019 08:39 PM

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

2019-02980 55 of 264



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-2019-06465

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 - 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-2020-00968

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
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, 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). DATE RECEIVED FEDERAL BUREAU OF PRISONS REGIONAL COUNSEL OFFICE NOV 01 2019 NEBO-PHILADELPHIA					
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			
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		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
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

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2019-02980 59 of 264

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000059

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 53, (b)(3), (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: I had health issues; I was taken to the hospital because I suffered from stomach pain due to the unclean 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.

- 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

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

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 uncleanness cause by lack of access to showers of clean clothing; and emotional and psychological distress.

- b. I suffer from severe stomach pain and was not provided with medication to accommodate for my severe stomach pain.
- 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: I experienced a lot of anxiety, vomiting; I was unable to sleep. I am currently still having issues sleeping due to the conditions at MDC from January 27, 2019- February 3, 2019.

11. WITNESSES

The following people witnessed the circumstances that caused my injury:

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

my cellmate during the time of the blackout.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

9/24, 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:

(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)

FIRST-CLASS



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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

2019-02980 64 of 264



AMERICAN
OVERSIGHT

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
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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 Married	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 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 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. 1001.) DATE RECEIVED FEDERAL BUREAU OF PRISONS REGIONAL COUNSEL OFFICE		

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Previous Edition is not Usable

NSN 7540-00-634-4046

AUG 01 2019

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

AMERICAN
OVERSIGHT

2019-02980 66 of 264

NERO-PHILADELPHIA

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000066

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

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.

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.

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

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.

(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.

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.

(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.

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.

(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.

STANDARD FORM 95 REV. (2/2007) 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 Unit G43.
- 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: interruptions in prescribed medication and refusal of medical treatment. Existing nerve damage and sciatica in my back became extremely painful due to the freezing conditions.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

7 / 15 / 19

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)



FIRST-CLASS



02 1P
0001202922
MAILED FROM

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 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-2019-05854

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



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-2019-06568

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

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

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

AUG 30 2019

NERO-PHILADELPHIA

August 6, 2019

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

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

Respectfully,



JEAN PRABHU

JP/rb/enc.

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FIRST CLASS

FIRST CLASS

CERTIFIED MAIL



7019 1120 0000 5291 9036

958

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US POSTAGE
PRIORITY
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10279



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

205843

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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

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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28 CFR 14.2

95-109

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DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000079

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).

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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.

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- B. **Principal Purpose:** The information requested is to be used in evaluating claims.
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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:	B. Received by (Printed Name)	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 (Transfer from service label)	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	PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt													



BURNS & HARRIS ATTORNEYS AT LAW

SETH A. HARRIS

ALISON R. KEENAN
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SHERI E. HOLLAND

JUDITH F. STEMLER
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ANDREW G. MEIER
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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

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

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGISTRATION

SEP 24 2019

NERO-PHILADELPHIA

Re:

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

Claim No: TRT-NER-2019-06568

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.

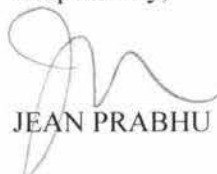
The above claimant was in the custody of the MDC Brooklyn on January 27, 2019 through February 3, 2019 and suffered personal and emotional injuries based on the negligence and intentional infliction of physical and emotional injury at MDC Brooklyn and violation of 42 USC 1983 of the Constitution of the 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

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

I, _____ (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 _____, 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

(initials)_____ 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.

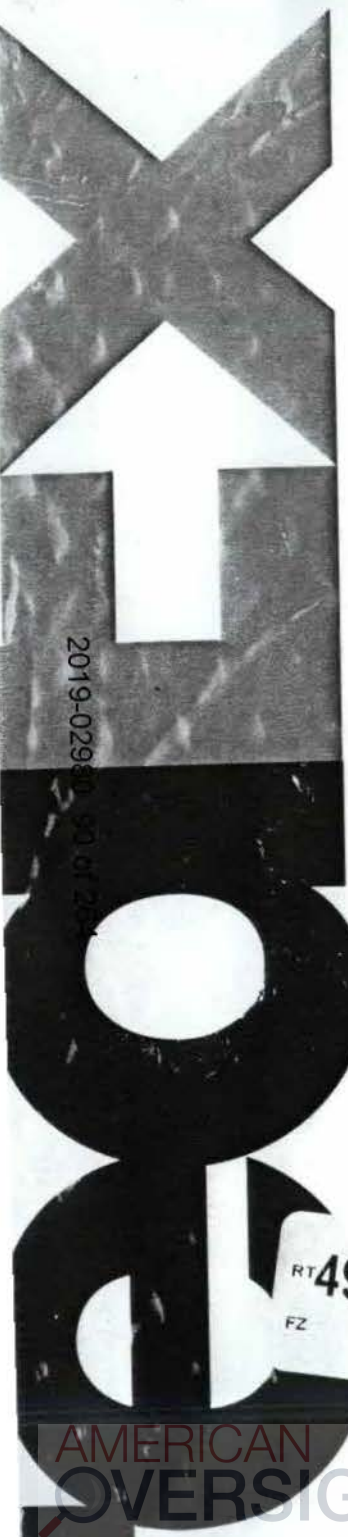
DATED: 2/21, 2019

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

(L.S.)

Witness: _____

(L.S.)



2019-02980, 50 of 25

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FEDERAL BUREAU OF PRISONS
US CUSTOM HOUSE
2ND & CHESTNUT STREETS, ROOM 701
PHILADELPHIA PA 19106

(215) 521-7301 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 19, 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 12, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2020-01171

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
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10TH FLOOR
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
ASHOK CHANDRAN

November 6, 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* [REDACTED]

To Whom It May Concern:

On behalf of [REDACTED], enclosed please find:

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

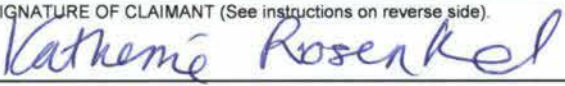
If you have any questions, I can be reached by phone at (212) 763-5000 or by email at krosenfeld@ecbalaw.com. Thank you for your attention to this matter.

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 Married	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 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 11/4/19
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

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

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2019-02980 93 of 264

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000093

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)

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 52, (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 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: The food was rotting and there wasn't drinkable water. I was forced to drink from the faucet.

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

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

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 nose bleeds, heart pain, and headaches and was not provided with daily medication and medical attention.
- 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: anxiety, nausea. Since the blackout, I've been having issues with my stomach.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

25/10, 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

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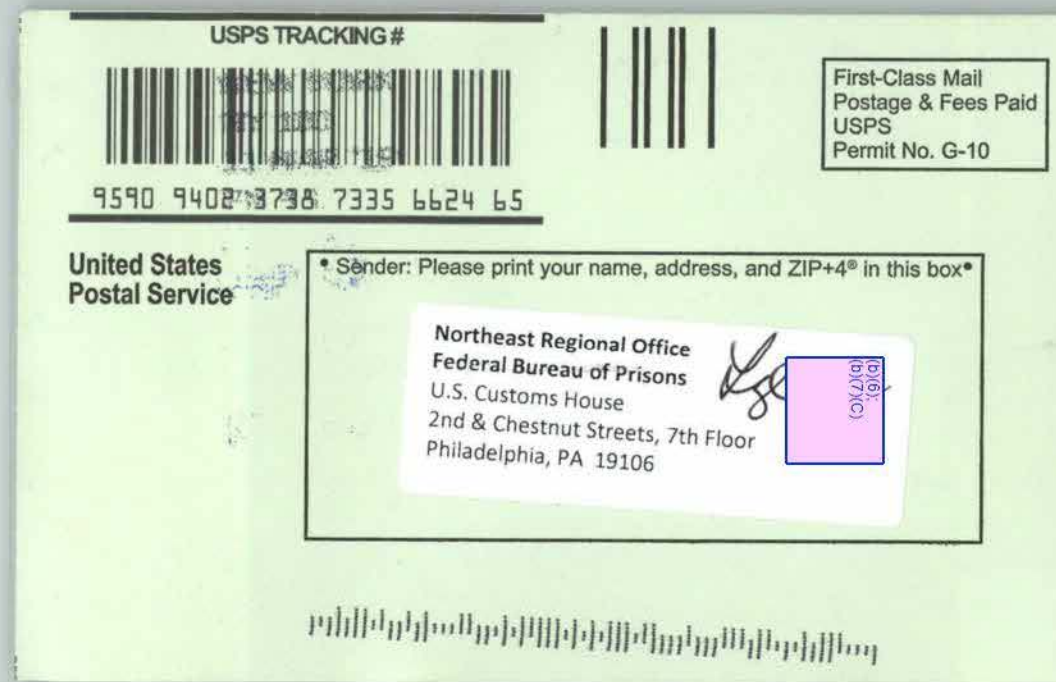
AMERICAN
OVERSIGHT

YNTNER 2019 02650

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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. Signature X (b)(6) (b)(7)(C) B. Received by (Printed Name) (b)(6) (b)(7)(C) C. Date of Delivery DATE RECEIVED FEDERAL BUREAU OF PRISONS REGION 1 Different from item 1? ☒ Yes Delivery address below: ☒ No MAR 13 2019 NERO-PHILADELPHIA	
1. Addressee MDC Brooklyn P.O. Box 329002 Brooklyn, NY 11232			
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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

2019-02980 99 of 264



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

Re: Administrative Tort Claim No.: TRT-NER-2019- 02650

NERO-PHILADELPHIA

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,

(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 329002
Brooklyn, New York 11232



NEW YORK, NY 100

11 MAR 2019 PM 15 L

Sarin Howard, Esq.
Northeast Regional Prison
Federal Bureau of Prisons
800 Chestnut Street
Philadelphia, PA 19106

19106-297999



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_____,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

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Don't Howard, Esq.
North of Regional Council
Federal Bureau of Prisons
Washington Street

20632915 Paul & Virginia A. 9106



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-2019-02650

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 12, 2019

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

RE: Administrative Claim No. TRT-NER-2019-02650
Reconsideration
Claim Received March 13, 2019

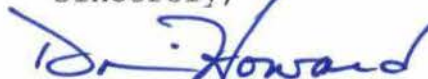
Dear Mr. (b)(6); (b)(7)(C)

Your request for reconsideration of Administrative Claim No. TRT-NER-2019-02650 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 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

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OVERSIGHT

2019-02980 108 of 264

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000108

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1. Article Addressed to:

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

(b)(3), (b)(7)(C)

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☐ Agent

☐ Addressee

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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-2019-02650
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

YNTNER 2019 02650

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. Addressee's name and address:
(b)(6)
(b)(7)(C)
MDC Brooklyn
P.O. Box 329002
Brooklyn, NY 11232



9590 9402 3738 7335 6624 65

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
Every address below: ☒ No

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| ☐ 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

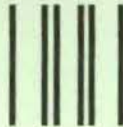
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2019-02980 112 of 264

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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)



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

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

August 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 1, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-05852

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. The date of birth you provided does not correspond to any inmate or defendant in Bureau of Prison's custody. Please provide Mr. (b)(6); (b)(7)(C) social security number or other personal identifier, such as Federal Bureau of Investigation (FBI) number, U.S. Marshal Service number or Immigration and Customs Enforcement (ICE) detainer number.

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

Enclosures

9/10/2019 447 N E N 2019 05852

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 ☐ Agent ☐ Addressee X															
1. Article Addressed to:		B. Received by (Printed Name)	C. Date of Delivery														
Katherine Rosenfeld, Esq. Emery Celli Brinckerhoff & Abady LLP 600 Fifth Avenue at Rockefeller Center 10th Floor New York, NY 10020		address different from item 1? ☐ Yes or delivery address below: ☒ No															
2. Article Number (Transfer from service label) 7013 0600 0001 9910 9345		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> <tr> <td>☐ Insured Mail</td> <td></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	☐ Insured Mail	
☐ 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																
☐ Insured Mail																	

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 - 7th Floor
2nd & Chestnut Streets
Philadelphia, PA 19106

August 2, 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-2019-05852

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 Mr. (b)(6); (b)(7)(C) Federal Register Number or social security number.

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
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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

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DIANE L. HOUK
JESSICA CLARKE

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

August 6, 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)
(DOB 09/22/1975)

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 191062. 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

Married

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

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).

Katherine Rosenfeld

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

AUG 06 2019

FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

DATE RECEIVED

AUG 01 2019

STANDARD FORM 95 (REV. 2/2007)

PRESCRIBED BY DEPT. OF JUSTICE

28 CFR 14.2

AMERICAN
OVERSIGHT

2019-02980-119 of 264

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000119

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.

STANDARD FORM 95 REV. (2/2007) 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 Unit 51 (BOP, BOP, BOP)
- 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: consistent feelings of dizziness and feeling faint resulting from interruptions in medication and vitamins, and refusals of medical care. My anemia, coupled with conditions in the blackout left me feeling weaker than usual, causing me to faint and be taken on a stretcher to the medical unit.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

7 / 15 / 19

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.

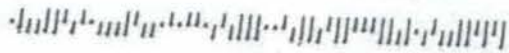
Thank you. If you have any questions, please call Ms. Rosenfeld at 212-763-5066.

Sincerely,

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

D.O.B:

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



FIRST-CLASS



PITNEY BOWES
US
02 1P
0001202922
MAILED FROM ZIP

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

2019-02980 124 of 264

EMERY CELLI BRINCKERHOFF & ABADY LLP

RICHARD D. EMERY
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DAVID LEBOWITZ
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 Married	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 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 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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NSN 7540-00-634-4046

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

AMERICAN
OVERSIGHT

2019-02980 126 of 264

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000126

AUG 01 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

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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:

- (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.
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- 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.

STANDARD FORM 95 REV. (2/2007) 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 Unit 51 b7C, b7D, b7E
- 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: consistent feelings of dizziness and feeling faint resulting from interruptions in medication and vitamins, and refusals of medical care. My anemia, coupled with conditions in the blackout left me feeling weaker than usual, causing me to faint and be taken on a stretcher to the medical unit.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

7 / 15 / 19

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)

NERB9 535.03 * INMATE PROFILE * 08-20-2019
PAGE 001 11:56:59

REGNO: (b)(6); (b)(7)(C) REG (b)(6); (b)(7)(C) / 32
NAME.: (b)(6); (b)(7)(C) FUNCTION: DIS DOB/AGE. (b)(6); (b)(7)(C) / 32
R/S/ETH.: S/M/O (b)(7)(F)
RSP.: BRO-BROOKLYN MDC MILEAGE.: 3 MILES
PHONE: 718-840-4200 FAX: 718-840-5005
ARS ASSIGNMENT.: PRE SENT DETAINEE REMOVED FBI NO.: (b)(6); (b)(7)(C)
ARS DATE/TIME...: 07-29-2019/0805 INS NO.:
PROJ REL METHOD: GOOD CONDUCT TIME RELEASE SSN.....:
PROJ REL DATE.: 02-16-2022 PSYCH: NO DETAINER: NO CMC.: NO

- - - - - RELEASE DESTINATION - - - - -
AGENCY.....:
DST ASSIGNMENT.....:
ADDRESS.....: (b)(6); (b)(7)(C)

OFFN/CHG RMKS: 8:1326 ILLEGAL RE ENTRY

G0002 MORE PAGES TO FOLLOW . . .

*Date of
birth
discrepancy*

EMERY CELLI BRINCKERHOFF & ABADY LLP

RICHARD D. EMERY
ANDREW G. CELLI, JR.
MATTHEW D. BRINCKERHOFF
JONATHAN S. ABADY
EARL S. WARD
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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, 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) /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)

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

MDC BROOKLYN

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).

Katherine Rosenthal

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
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICEAuthorized for Local Reproduction
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NSN 7540-00-634-4046

AUG 23 2019

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

95-109

AMERICAN
OVERSIGHT

2019-02980 133 of 264

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000133

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.

STANDARD FORM 95 REV. (2/2007) 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 Unit K82.
- 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: Toilet often did not flush; there was little to no attention from correction officers, who seemed to abandon their responsibility to supervise my floor or unit.

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

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

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: I suffered back pain, which worsened during the lockdown due to freezing temperatures, which caused back cramps and tightness. I never received attention or assistance during the lockout about my back pain despite my initial request for medical attention on November 18, 2019. My back pain began after I was forced to move heavy material, despite my correctional officer knowing I had back surgery in 2016. Prior to moving material on November 18, 2018, I did not have any pain. However, after pulling the material, I heard a pop in my back and I immediately felt back pain. I immediately made a medical attention request, but I did not see a medical staff person nor receive medication until after the lockdown, during which my back pain was aggravated. I have also become claustrophobic since the MDC lockdown, which makes me very anxious and irritable whenever I am in small, enclosed spaces.

11. WITNESSES

The following people witnessed the circumstances that caused my injury:

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

Brooklyn MDC, 80 29th
Street, NY 11232

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:

(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

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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

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-2019-06464

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
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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, 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.

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)

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

MDC BROOKLYN

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).

Katherine Rosenthal

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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REGIONAL COUNSEL OFFICEAuthorized for Local Reproduction
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NSN 7540-00-634-4046

AUG 23 2019

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

2019-02980 141 of 264

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000141

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.

STANDARD FORM 95 REV. (2/2007) 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 Unit K82.
- 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: Toilet often did not flush; there was little to no attention from correction officers, who seemed to abandon their responsibility to supervise my floor or unit.

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

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

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: I suffered back pain, which worsened during the lockdown due to freezing temperatures, which caused back cramps and tightness. I never received attention or assistance during the lockout about my back pain despite my initial request for medical attention on November 18, 2019. My back pain began after I was forced to move heavy material, despite my correctional officer knowing I had back surgery in 2016. Prior to moving material on November 18, 2018, I did not have any pain. However, after pulling the material, I heard a pop in my back and I immediately felt back pain. I immediately made a medical attention request, but I did not see a medical staff person nor receive medication until after the lockdown, during which my back pain was aggravated. I have also become claustrophobic since the MDC lockdown, which makes me very anxious and irritable whenever I am in small, enclosed spaces.

11. WITNESSES

The following people witnessed the circumstances that caused my injury:

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

Street, NY 11232

, Brooklyn MDC, 80 29th

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

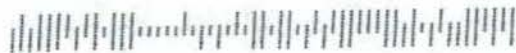
To Whom it May Concern:

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

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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*

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-2019-06464

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

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-2020-00961

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
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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 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 Married	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 01 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)			
(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>Kathleen 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.)		

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NSN 7540-00-634-4046

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

95-109
AMERICAN
OVERSIGHT

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DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000150

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 62, Cell [REDACTED]
- 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 no heat or light as the temperatures were frigid. The toilet was non-functioning as there was no water in the toilet to flush. This resulted in a foul stench that circulated the cell. There was no drinkable water. I was denied access to shower until the crisis was over. I was denied my legal visits and family communication.

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 suffered from a severe fungal infection in my groin area and was not provided with the adequate medical attention to treat this infection. My eyes have been impaired from reading in the dark.
- 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: anxiety, headaches, skin rash and fungus, infection.

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

10 / 1 / , 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)

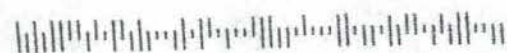
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EMERY CELLI BRINCKERHOFF & ABADY LLP
600 FIFTH AVENUE, 10TH FL. • NEW YORK, NEW YORK 10020

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

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-2020-00955

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
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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) 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 Married	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 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
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

95-109

AMERICAN
OVERSIGHT

2019-02980 158 of 264

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000158

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.

STANDARD FORM 95 REV. (2/2007) 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 Unit G-42, 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 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 were no lights in my cell and this caused increase pressure in my eyes due to my glaucoma. There were times when my nightly pain line medication wasn't provided and when it was, the medication was short. The food was cold and served in a brown paper bag. The toilet did not flush and left a foul stench.

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 uncleanness cause by lack of access to showers of clean clothing; and emotional and psychological distress.
- b. I suffer from glaucoma and was not provided with my pain line medication and eye drops.
- 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: anxiety, nightmares, headaches, dizziness.

11. WITNESSES

The following people witnessed the circumstances that caused my injury:
Cellmate.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

OCTOBER 14th, 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:

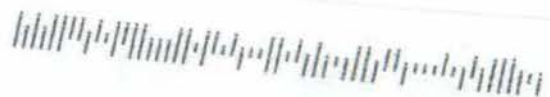
(b)(6); (b)(7)(C)



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

2019-02980 163 of 264



AMERICAN
OVERSIGHT

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

September 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

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

SEP 10 2019

NERO-PHILADELPHIA

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

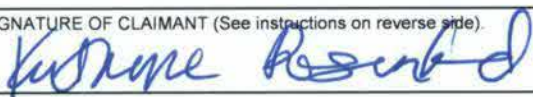
If you have any questions, I can be reached by phone at (212) 763-5000 or by email at krosenfeld@ecbalaw.com. Thank you for your attention to this matter.

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		7. TIME (A.M. OR P.M.) 02/03/2019 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 SEP 10 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).					
NERO-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)			
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	
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 (212) 763-5000		14. DATE OF SIGNATURE 9/4/19
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.)		

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 71.
- 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: I was in complete confinement of my cell for 6 straight days without being released. I was not provided with additional clothing. It wasn't until the last week that I was given an extra blanket. I was forced to wear two t-shirts, one thermal long sleeve, a sweater and a hat. I did not have access to drinkable water, forcing me to drink the dirty brown, faucet water. I did not have access to showers at all. I did not have access to clean clothes, forcing me to clean my clothes by hand. We were not served with hot meals—all the food was cold and meals were late. My toilet was non-functioning as it clogged, resulting in a foul stench of feces and urine. I did not have access to legal visits, letters, calls or emails. I asked the corrections officers what that status of the situation was and they said "everything will be coming back to normal."

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. I do not have any pre-existing medical conditions but, during the blackout I stubbed my toe hard and requested medical attention. My requests were denied and brushed off. I suffered from a sore throat and cold as the blackout persisted, requested medical attention and again, my requests were denied and brushed off.
- 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: Traumatized from the event. I am in constant fear that when it is time for lockup, we will never be allowed to come out of our cells. Nightmares, claustrophobia, cold sweats, congestion, sore throat, coughing/sneezing, muscle pain, chest pain, migraines, lightheadedness, depression, insomnia, PTSD, skin rash and break outs because I was unable to shower, nausea and stomach pain due to the food.

11. WITNESSES

The following people witnessed the circumstances that caused my injury:
Cellmate during the blackout.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

08 - 22, 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.

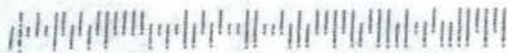
Sincerely,

Name:

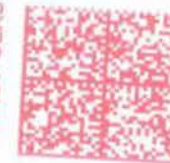
(b)(6); (b)(7)(C)

DOB:

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



FIRST-CLASS



PRIME BUSINESS
02 1P
0001202922
MAILED FROM

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

2019-02980 169 of 264



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 17, 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 September 10, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-06811

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
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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

September 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 191062. 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

02/03/2019

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.

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

SEP 10 2019

11. **WITNESSES**

NAME

ADDRESS (Number, Street, City, State, and Zip Code)

NERO-PHILADELPHIA

CELLMATE #1

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).

Katherine Boccafel

13b. PHONE NUMBER OF PERSON SIGNING FORM

212-763-5066

14. DATE OF SIGNATURE

9/4/19

**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)
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28 CFR 14.2

95-109

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OVERSIGHT

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DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000172

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.

STANDARD FORM 95 REV. (2/2007) 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 Unit G42, 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: claustrophobia, congestion, anxiety, depression. During the blackout the only water available came from the sink in my cell – but I could not drink it. The water was freezing cold and green/brown.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

08/ 19 /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)

D.O.B:

(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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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 17, 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 September 10, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-06807

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
HAL R. LIEBERMAN
DANIEL J. KORNSTEIN
O. ANDREW F. WILSON
ELIZABETH S. SAYLOR
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ZOE SALZMAN
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10TH FLOOR
NEW YORK, NEW YORK 10020

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

September 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) 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 SEP 10 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).					
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			
CELLMATE #2		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	
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 9/4/19
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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DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000180

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.

STANDARD FORM 95 REV. (2/2007) BACK

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 the SHU, 9th floor.
- 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: I was confined with an ex-military man with severe mental issues. He was not given his meds during the course of the blackout and would lash out at me, forcing me to be fearful for my livelihood. The walls were moldy and black smoke was coming out of the vents. I was not provided with any additional clothing or blankets, since I was not in the general population. I had to wear the clothes I had which was my jumpsuit, two pair of underwear and two pairs of socks with two sheets and one blanket. The showers were freezing cold. I did not have access to clean clothes and was forced to wash my clothes in the shower. I did not have access to commissary. It was so dark in the cells, when it came to meals I had no idea what I was eating. When the fire occurred, all the correctional officers went home and did not remove us from the area. I could smell the smoke from the fire coming through the vents. I did not have access to any legal visits nor was I able to

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

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

reach out to my family. I asked the corrections officers everyday what was going on and they would respond with “I don’t know. You’re still on lock down. We will let you know.” I was never provided with answers.

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. I suffer from severe asthma, high cholesterol and mild anemia and during this period I was not provided with needed medical care. Specifically, I was not provided with my asthma medication until 2-3 days into the blackout when I told medical about my severe asthma. My medication was in my property—had it not been there, I would not have been able to take my medication. I developed a cold and requested medication but my requests were denied. I developed a toothache and requested to see the dentist but, again, my requests were denied. The panic button in my cell didn’t work.
- 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, claustrophobia, congestion, sore throat, coughing/sneezing, chest pain due to my asthma, insomnia, PTSD, mental health symptoms, asthma, and skin rash due to the unclean sheets in the bed.

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

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

11. WITNESSES

The following people witnessed the circumstances that caused my injury:
Cellmate during the blackout and my current cellmate.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

8.22. 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:

(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)

DOB:



FIRST-CLASS



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0001202922 SE
MAILED FROM ZIP 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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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 17, 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 September 10, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-06771

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

September 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) 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 SEP 10 2019					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). NERO-PHILADELPHIA					
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) (CELLMATE)		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). Johnnie Rosentfeld			13b. PHONE NUMBER OF PERSON SIGNING FORM (212) 763-5000		14. DATE OF SIGNATURE 9/4/19
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

95-109
AMERICAN
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2019-02980 189 of 264

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000189

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

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.

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.

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

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.

(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.

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.

(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.

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.

(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.

STANDARD FORM 95 REV. (2/2007) BACK

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 I63.
- 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 temperature was freezing and I was not provided with any additional clothing or any blankets. I was provided with sheets on the last day of the blackout. My unit was on complete lock down for the entire blackout and was not let out not once. I was only given access to one shower throughout the entire experience. The water was freezing cold. There wasn't accessible drinkable water, forcing me to drink the dirty brown water, even though we were advised not to. I had to hand wash all my clothes as I was unable to get clean clothes. I did not have access to commissary. The meals that were provided to us were supposed to be hot but, by the time they reached us, the meals were cold. The meals were often late. I was denied legal visits, although my attorney did attempt to visit me. I did not have access to family communication—I am still receiving correspondence from outside family members that wrote me letters during the blackout. The

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

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

correction officers did not give us an explanation as to what was happening. They would yell at us saying "You'll be locked in your cells. We don't know when you're coming out. No one can take a shower and absolutely no 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. I do not have any pre-existing medical conditions but I did develop a cold while being confined during the blackout. I requested medicine for pain but, my requests were denied.
- 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, claustrophobia, cold sweats because the air condition was on, muscle pain, chest pain, migraines, headaches, lightheadedness, depression, insomnia, PTSD, mental health symptoms, skin rash due to not being able to shower every day, and stomach pain since I was unable to eat.

11. WITNESSES

The following people witnessed the circumstances that caused my injury:

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

(Cellmate).

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

8-22-, 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)



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

September 17, 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 September 10, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-06794

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 - 7th Floor
2nd & Chestnut Streets
Philadelphia, PA 19106

September 11, 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 August 23, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-06532

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 the Metropolitan Detention Center in Brooklyn, New York, between January 27, 2019, and February 3, 2019.

We are unable to identify the claimant, (b)(6); (b)(7)(C) based on the information you have provided. Please provide personally identifiable information for Mr. (b)(6); (b)(7)(C) such as his Federal Register or Social Security number, his date of birth and a document proving his identity.

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

Enclosures

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

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DIANE L. HOUK
JESSICA CLARKE

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

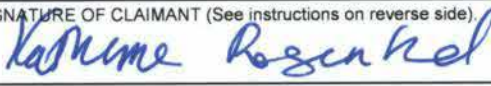
If you have any questions, I can be reached by phone at (212) 763-5000 or by email at krosenfeld@ecbalaw.com. Thank you for your attention to this matter.

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 Married	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 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 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 FEDERAL BUREAU OF PRISONS REGIONAL COUNSEL OFFICE		

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AUG 23 2019

STANDARD FORM 95 (REV. 2/2007)
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DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000198

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

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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:

- (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."

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STANDARD FORM 95 REV. (2/2007) BACK

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 J72, 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]

NO HEAT, NO WORKING TOILETS, NO HOT MEALS,
THE WORST TIME OF MY LIFE IN A PRISON
NEVER SEEN ANYTHING LIKE IT, NO ANSWERS
FROM ANYONE.

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. I suffer from high blood pressure and during this period I was not provided with needed medical care. Specifically, I was not provided with medication to manage my condition and experienced a rapid heartbeat as a result.
- 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: [Examples: nightmares, anxiety, asthma symptoms, nausea, diabetes, etc.]

Anxiety

ANXIETY YES TILL THIS DAY I STILL
THINK THE LIGHT WILL GO OFF IN HERE,
NIGHTMARES, NO MEDICAL STAFF TO HELP.

11. WITNESSES

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

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

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

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

8-12, 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

DOB:

I AM MARRIED
To



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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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

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
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DIANE L. HOUK

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

November 6, 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 Married	
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) (CELLMATE)		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>Kathleen Rosal</i>			13b. PHONE NUMBER OF PERSON SIGNING FORM (212) 763-5066		14. DATE OF SIGNATURE <i>11/4/19</i>
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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NSN 7540-00-634-4046

STANDARD FORM 95 (REV. 2/2007)

PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2

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95-109
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NERO-PHILADELPHIA

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000206

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, 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)

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 I, Cell B001
B001
- 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: Broken toilet, substandard food. The meals were untimely and I went three days with eating late at night. I developed very severe headaches and pain within my stomach. I now suffer from chronic migraines and I have a gastric ulcer due to the lack of medical attention during the blackout.

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 uncleanness cause by lack of access to showers of clean clothing; and emotional and psychological distress.
- b. I suffer from migraines, stomach ulcer, and respiratory conditions that is similar to asthma and was not provided with analgesic, antibiotics and omeprazole.
- 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, asthma symptom, nausea, stomach pain, PTSD, gastric problems.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

OCTOBER 25, 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)

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

U.S. Department of Justice
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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

November 19, 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 12, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2020-01172

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 – 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-2019-05170

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 the FCI Gilmore. 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 <i>Yes</i>	
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, 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. <i>Also suffering from numbness to fingers and toes</i> (b)(6); (b)(7)(C)					
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	
14. DATE OF SIGNATURE					
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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95-109

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DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000214

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

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STANDARD FORM 95 REV. (2/2007) BACK

Stoll, Glickman & Bellina, LLP
5030 Broadway, Ste. 652
New York, NY 10034

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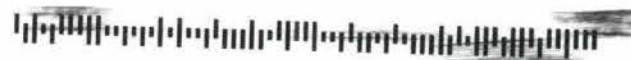
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US Customs House 7th Flr
Philadelphia PA 19106

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5030 Broadway, Ste. 652
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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

NEW YORK
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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

Stoll, Glickman & Bellina, LLP
5030 Broadway, Ste. 652
New York, NY 10034

• P: (718) 852-3710 • www.stollglickman.com

2019-02980 219 of 264

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

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.

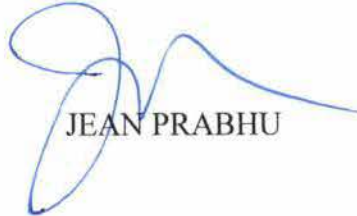
Upon information and belief, on January 27, 2019, an electrical fire broke out in MDC Brooklyn's west building causing damages to the building's infrastructure which significantly affected the prison's heating, venting, cooling, plumbing and electrical systems. The MDC Brooklyn and Warden Herman E. Quay 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

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

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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

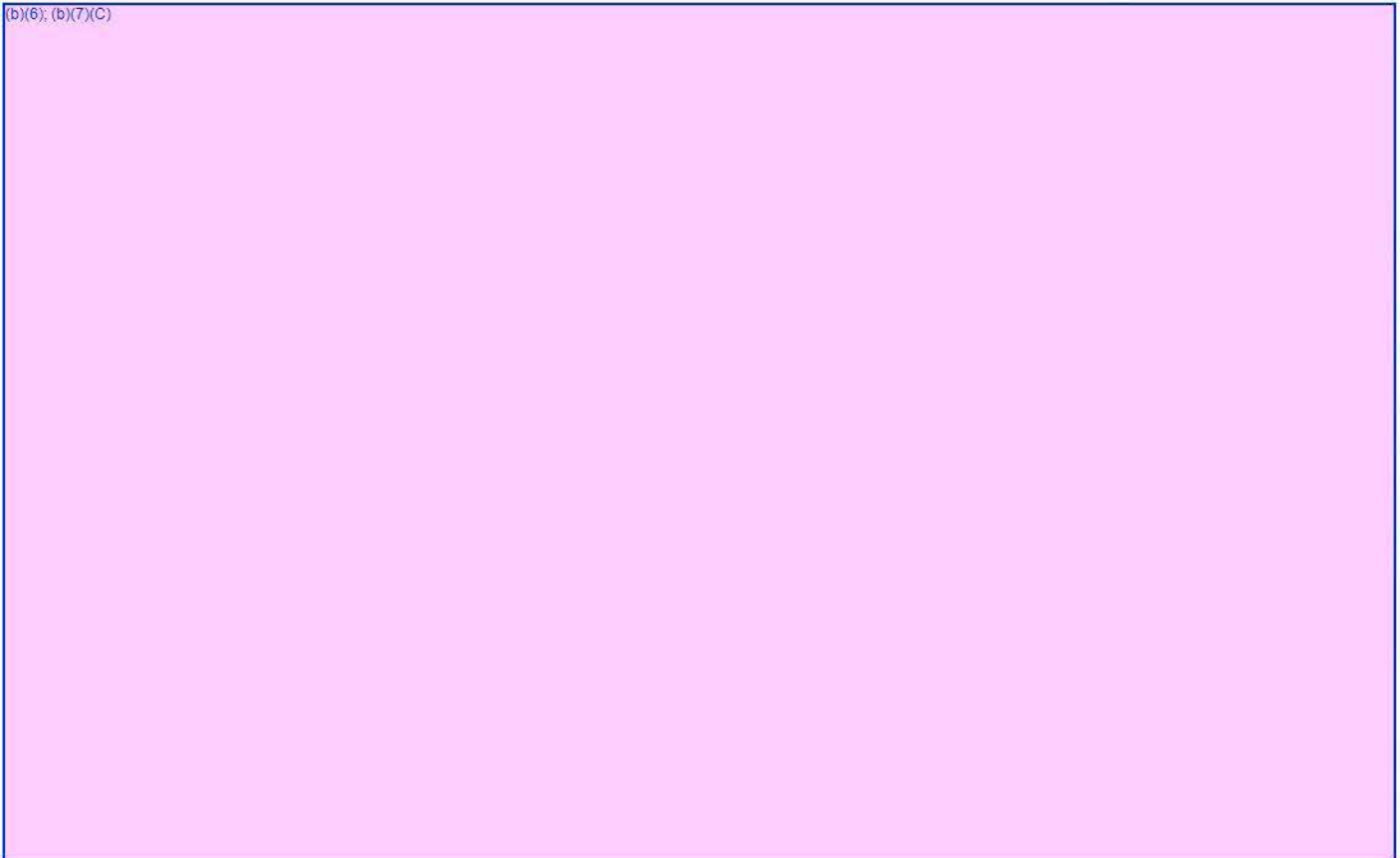
Ms. Jean Prabhu
Burns & Harris
The Woolworth Building
233 Broadway, Suite 900
New York, NY 10279

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 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 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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NSN 7540-00-634-4046

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

95-109

AMERICAN
OVERSIGHT

2019-02980 225 of 264

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000225

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

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.

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.

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

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.

(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.

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.

(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.

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.

(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 (Printed Name)	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 (Transfer from service label)	3. Service Type	
7013 0600 0001 9910 9338	☐ Adult Signature ☐ Adult Signature Restricted Delivery ☐ Certified Mail® ☒ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ 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
RECEIVED

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-2019-06562

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.

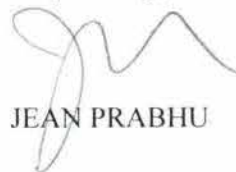
The above claimant was in the custody of the MDC Brooklyn on January 27, 2019 through February 3, 2019 and suffered personal and emotional injuries based on the negligence and intentional infliction of physical and emotional injury at MDC Brooklyn and violation of 42 USC 1983 of the Constitution of the 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

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

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 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	- \$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); (D)(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.)

2019-0298

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UNITED STATES US

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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 REF: MDC BROOKLYN 205663
NY DEPT
PO

507 1150046542

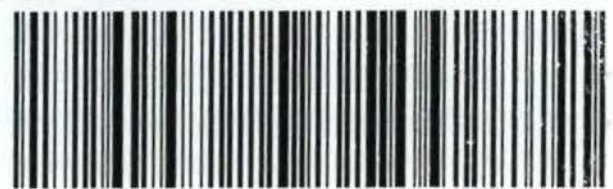


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U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

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

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-2019-06562

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

RICHARD D. EMERY
ANDREW G. CELLI, JR.
MATTHEW D. BRINCKERHOFF
JONATHAN S. ABADY
EARL S. WARD
ILANN M. MAAZEL
HAL R. LIEBERMAN
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O. ANDREW F. WILSON
ELIZABETH S. SAYLOR
KATHERINE ROSENFELD
DEBRA L. GREENBERGER
ZOE SALZMAN
SAM SHAPIRO

EMERY CELLI BRINCKERHOFF & ABADY LLP

ATTORNEYS AT LAW
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10TH FLOOR
NEW YORK, NEW YORK 10020

TEL: (212) 763-5000
FAX: (212) 763-5001
www.ecbalaw.com

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

July 16, 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

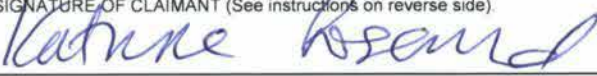
If you have any questions, I can be reached by phone at (212) 763-5000 or by email at krosenfeld@ecbalaw.com. Thank you for your attention to this matter.

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.					
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) (Previous Cellmate)		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). 			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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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

95-109

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2019-02980 239 of 264

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000239

JUL 19 2019

OFFICE - 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.

STANDARD FORM 95 REV. (2/2007) 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 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 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 toilet was broken and did not flush. There was urine and feces in the toilet that made the cell smell horrid. Poor air quality resulted in dizziness. No one took showers due to the freezing temperatures of the water. The meals that were given to us were cold and started to go bad from sitting out for too long.

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

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

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 and during this period I was not provided with needed medical care. Specifically, I was not provided with my asthma pump. I had an asthma attack during the blackout and no one helped me seek medical attention when I asked.
- 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: Anxiety, nightmares, insomnia, lightheadness, congestion, PTSD, and my asthma symptoms have gradually gotten worse. I did not receive any medication for the asthma during the time of the blackout.

11. WITNESSES

The following people witnessed the circumstances that caused my injury:

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

, my previous cellmate. He was released, and his address is unknown.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

7/15/, 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)

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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

2019-02980 244 of 264



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 23, 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 19, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-05593

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 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
EARL S. WARD
ILANN M. MAAZEL
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10TH FLOOR
NEW YORK, NEW YORK 10020

TEL: (212) 763-5000
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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 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* [REDACTED]

To Whom It May Concern:

On behalf of [REDACTED] enclosed please find:

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

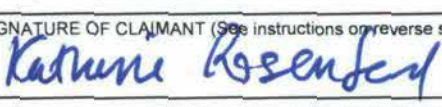
If you have any questions, I can be reached by phone at (212) 763-5000 or by email at krosenfeld@ecbalaw.com. Thank you for your attention to this matter.

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 02/03/2019		7. TIME (A.M. OR P.M.) 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). 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). 			13b. PHONE NUMBER OF PERSON SIGNING FORM 212-763-5066		14. DATE OF SIGNATURE
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM <i>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).</i>			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS <i>Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)</i>		

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

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2019-02980 247 of 264

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000247

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.

STANDARD FORM 95 REV. (2/2007) 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 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, hot showers and hot water, medical care, 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: Cold water leaked from the ceiling onto my only blanket, resulting in mold. I suffered from body rashes as a result. When I pressed the panic button for medical attention, no one responded. When I asked the COs for help, I was either ignored or told to fill out a sick form, but I did not have a pen. There were no emergency lights. The toilet was not flushing properly. There was no hot water. I only had one jumper, and did not have any undergarments, or extra blankets. The dorm was loud and chaotic. Meals were cold and delayed. I was on the speedy trial docket, but because my attorney could not visit during the blackout, my court date got delayed. I had no access to mail, recreation, or commissary. I received no information regarding the reason for or status of the blackout. COs disappeared for hours at a time.

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 discomfort as a result of my exposure to the cold; hunger; exposure to excessive noise; severe personal uncleanliness caused by lack of access to hot showers or clean clothing; and emotional and psychological distress.
- b. I got rashes during the blackout and requested medical attention but my requests were ignored.
- 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, claustrophobia, cold sweats, congestion, anxiety, coughing/sneezing, muscle pain, migraines, headaches, lightheadedness, depression, insomnia, PTSD, skin rash or fungus, nausea, stomach pain.

11. WITNESSES

The following people witnessed the circumstances that caused my injury:
Cellmate.

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)

FIRST-CLASS



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

2019-02980 252 of 264





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-2020-00959

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

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-2019-02635
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

YUTNER 2019 02 635

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
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1. Article

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

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



9590 9402 3738 7335 6609 66

2. Article Number (Transfer from service label)

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A. Signature

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☐ Agent

☐ Addressee

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C. Date of Delivery

ifferent from item 1? ☐ Yes
y address below: ☒ No

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|--|---|
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| ☐ Insured Mail Restricted Delivery (over \$500) | |

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

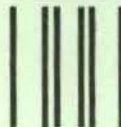
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2019-02980 255 of 264

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



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1. Article

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



9590 9402 3738 7335 6609 66

2. Article Number (Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature

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

☐ Agent

☐ Addressee

B. Received by (Printed Name)

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

C. Date of Delivery

Is this item 1? ☐ Yes
Is this item 2? ☐ No

MAR 13 2019

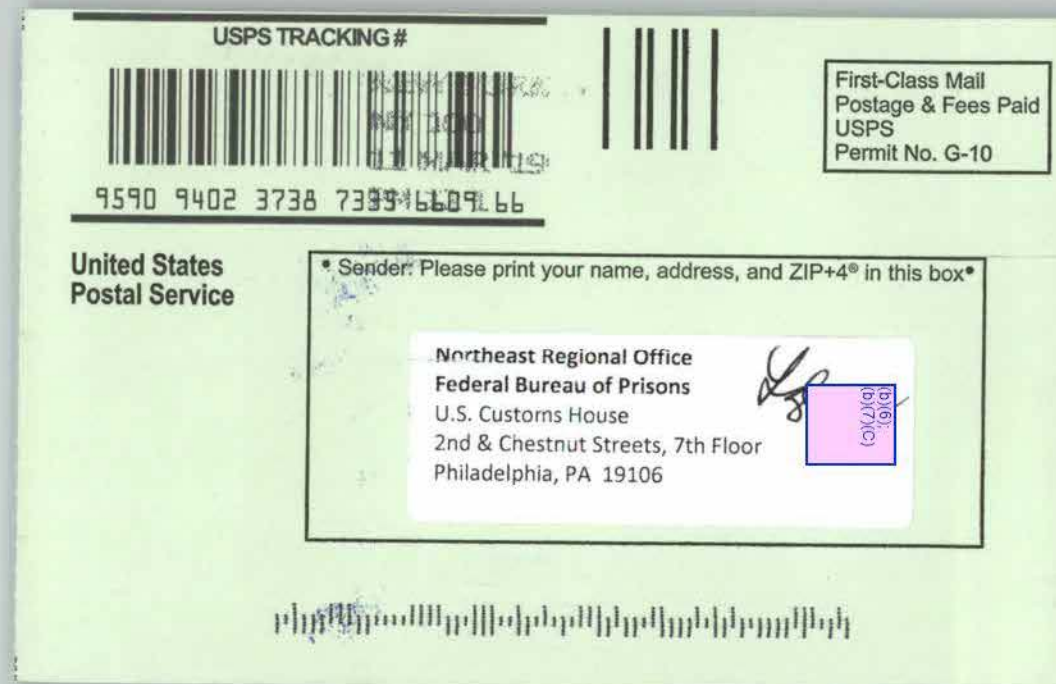
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PS Form 3811, July 2015 PSN 7530-02-000-9053

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2019-02980 257 of 264



MARCH 11, 2019

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

MAR 28 2019

NERO-PHILADELPHIA

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-

02635

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,

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

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

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

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

NEW YORK NY 100

26 MAR 2019 PM 9 L



Darius Howard, ESO
North Regional Counsel
Federal Bureau of Prisons
Northeast Regional Office
200 Chestnut Street Room 701
Philadelphia, Pennsylvania 19106

19106-297559





U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office

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

April 8, 2019

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

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

Re: Administrative Claim Reconsideration **Received March 28, 2019**
Claim No. TRT-NER-2019-02635

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 27, 2019

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

RE: Administrative Claim No. TRT-NER-2019-02635
Reconsideration
Claim Received March 28, 2019

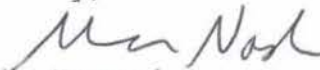
Dear Mr. (b)(6); (b)(7)(C)

Your request for reconsideration of Administrative Claim No. TRT-NER-2019-02635 was properly received on March 28, 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, smoke inhalation, and severe emotional distress, which affected your ability to sleep and focus. You contend you feared for your physical safety.

A careful review of your request for 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 these ailments. A review of your psychology records shows, on March 21, 2019, you were evaluated in Psychology Services. During the evaluation, you informed staff that you had not been able to sleep. You declined an offer from staff to receive a sleep hygiene and relaxation packet from staff. 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,


Darin Howard
Regional Counsel

cc: D. Edge, Warden, MDC Brooklyn

AMERICAN
OVERSIGHT

2019-02980 262 of 264

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-C-000262

YRNER 2019 02635

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1. Article Addressed to:

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

2. Article Number (Transfer from service label)

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☐ Agent
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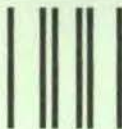
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