

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

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

January 28, 2020

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

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

Dear Mr. Evers:

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

In response to your requests, staff located 1000 pages of responsive records, which were forwarded to this office for a release determination. After careful review, we determined 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

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

September 3, 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 No. TRT-NER-2019-04377
Received May 23, 2019
Correspondence

Dear Ms. Rosenfeld:

This office is in receipt of correspondence from your office regarding Administrative Claim No. TRT-NER-2019-04377, which you submitted on behalf of (b)(6); (b)(7)(C). You request an amended receipt date as you state you sent the administrative claim on July 12, 2019.

On August 21, 2019, your correspondence was received in this office. Your correspondence referred to a claim submitted by Mr. (b)(6); (b)(7)(C) that was received in this office on May 23, 2019. Because the incident giving rise to the injuries alleged in the claim you submitted is the same incident giving rise to in Mr. (b)(6); (b)(7)(C) claim, the claim you submitted has been construed as a supplement to Mr. (b)(6); (b)(7)(C) claim. Because Mr. (b)(6); (b)(7)(C) claim was received on May 23, 2019, and the claim you submitted is a supplement to Mr. (b)(6); (b)(7)(C) claim, the claim receipt date of May 23, 2019, is correct.

I trust this information is responsive to your request.

Sincerely,

Darrin Howard
Regional Counsel

EMERY CELLI BRINCKERHOFF & ABADY LLP

RICHARD D. EMERY
ANDREW G. CELLI, JR.
MATTHEW D. BRINCKERHOFF
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DAVID BERMAN
ASHOK CHANDRAN
MICHELE YANKSON

July 12, 2019

Via U.S. Mail

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

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

To Whom It May Concern:

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

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

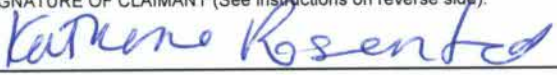
If you have any questions, I can be reached by phone at (212) 763-5000 or by email at krosenfeld@ecbalaw.com. Thank you for your attention to this matter.

Sincerely,

/s/

Katherine Rosenfeld

Encl.

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Federal Bureau of Prisons Northeast Regional Office U.S. CUSTOM HOUSE, 7TH FLOOR PHILADELPHIA, PA 19106			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. (b)(6); (b)(7)(C) c/o Emery Celli Brickerhoff & Abady LLP 600 Fifth Avenue, 10th Floor New York, New York 10020		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☐ CIVILIAN		4. DATE OF BIRTH (b)(6); (b)(7)(C)		5. MARITAL STATUS	
6. DATE AND DAY OF ACCIDENT 01/27/2019		7. TIME (A.M. OR P.M.) 02/01/2019		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.					
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 07/11/2019
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.) DATE RECEIVED FEDERAL BUREAU OF PRISONS REGIONAL COUNSEL OFFICE		

Authorized for Local Reproduction
Previous Edition is not Usable

NSN 7540-00-634-4046

STANDARD FORM 95 (REV. 2/2007)

PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2

JUL 15 2019

INSURANCE COVERAGE

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

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

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

17. If deductible, state amount.

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

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

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

- a. During the week of January 27, 2019 through February 3, 2019, I was incarcerated in the West Building at the Metropolitan Detention Center in Brooklyn, New York. During that week, there was a power failure in the West Building.
- b. I was confined on the 7th floor in unit 71, and on the 9th floor in the Solitary Housing Unit.
- 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.

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

- 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: disruption of my prescription medical care taken daily to treat ulcers and other stomach issues resulted in extreme stomach pain, nausea and an inability to eat. The lack of ventilation in the cells, left my cell moldy and damp, which caused me to slip and fall, and suffer breathing problems.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

07/08/2019

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

To Whom it May Concern:

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

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

Sincerely,

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

D.O.B:

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

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

NEW YORK
NY 100
12 JUL 19
PM 41

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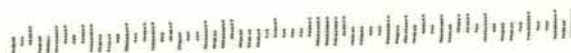
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Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

19106-297999





U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

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

May 29, 2019

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

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

Re: Administrative Claim **Received May 23, 2019**
Claim No. TRT-NER-2019-04377

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

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

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

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

Sincerely,

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

Darrin Howard
Regional Counsel

EMERY CELLI BRINCKERHOFF & ABADY LLP

RICHARD D. EMERY
ANDREW G. CELLI, JR.
MATTHEW D. BRINCKERHOFF
JONATHAN S. ABADY
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ALANNA KAUFMAN
EMMA L. FREEMAN
DAVID BERMAN
ASHOK CHANDRAN

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

AUG 21 2019

August 15, 2019

NERO-PHILADELPHIA

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: Receipt of Administrative Tort Claim,

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

To Whom it May Concern:

We are in receipt of the acknowledgement for

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

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

Please be advised the date of receipt is incorrect, as we sent the administrative claim on July 12, 2019. Please send an amended letter for our records.

Sincerely

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

Paralegal

Encl.



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 19, 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 May 23, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-04377

Dear Ms. Rosenfeld:

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

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

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

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

Darrin Howard
Regional Counsel

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

NEW YORK

NY 100

15 AUG 2019

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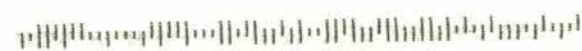
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19106-297999





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 19, 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 May 23, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-04377

Dear Ms. Rosenfeld:

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

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

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

Sincerely,

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

Darrin Howard
Regional Counsel

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

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

Dear Mr. Howard:

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

I. THE RELEVANT FACTS.

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

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

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

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

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

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

MAY 23 2019

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OVERSIGHT

II. THE RELEVANT LAW.

(a) Liability Under The Federal Tort Claims Act.

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

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

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

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

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

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

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

III. APPLICATION OF THE LAW TO THE FACTS.

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

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

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

IV. CONCLUSION.

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

Dated: Brooklyn, New York

~~March~~ ^{May} 20, 2019

Respectfully submitted,

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

[SIGNATURE]

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

[PRINT NAME]

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

[REGISTER NUMBER]

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

-- CLAIMANT --

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

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

New York Times (w/ecnl.)

New York Federal Defenders

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

Metropolitan Detention Center
P.O. Box 329002
Brooklyn, N.Y. 11232

NEW YORK NY 100

21 MAY 2019 PM 9 L



Darrin Howard, Esq.
North East Regional Counsel
U.S. Department of Justice
Federal Bureau of Prisons
North East regional office
200 Chestnut Street
Philadelphia PA 19106

Legal mail

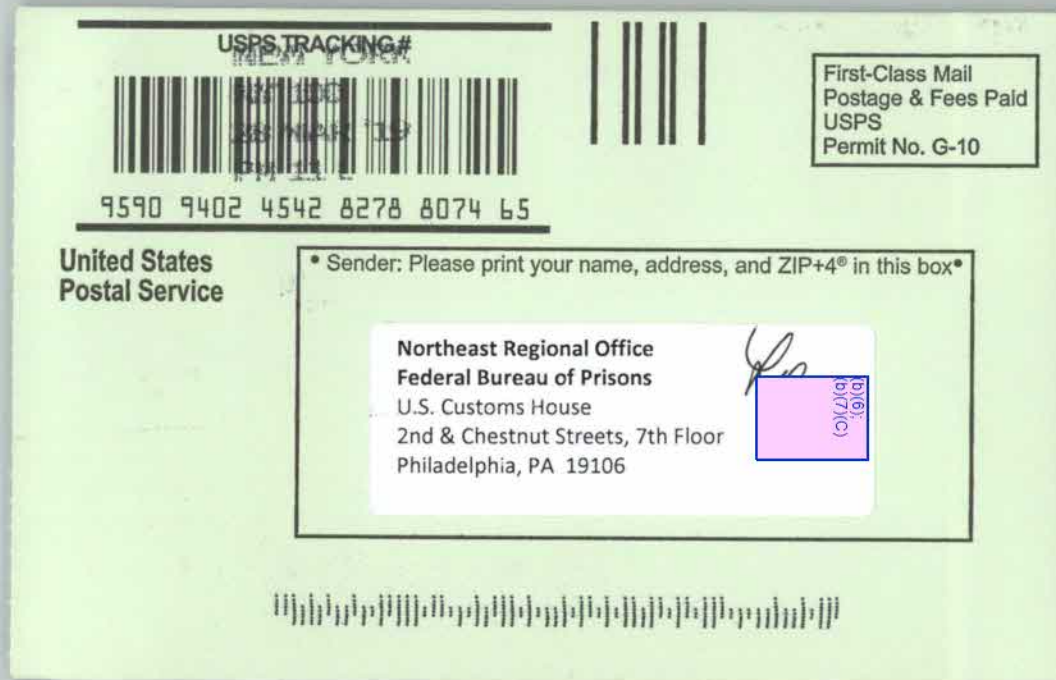
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YNT NEW 2019 03085

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1. (b)(6) (b)(7)(C) MDC Brooklyn P.O. Box 329002 Brooklyn, NY 11232		2. (b)(6) (b)(7)(C) from item 1? ☐ Yes ☒ No delivery address below:	
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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
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REGIONAL COUNSEL OFFICE

MAR 13 2019

NERO-PHILADELPHIA

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

Dear Mr. Howard:

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

I. THE RELEVANT FACTS.

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

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

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

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

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

II. THE RELEVANT LAW.

(a) Liability Under The Federal Tort Claims Act.

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

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

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

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

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

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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.

MDC staff's negligence is 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 23, 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)

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Brooklyn NY 11232

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Darvin Howard, Esq.

NORTHEAST REGIONAL COUNSEL
U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF PRISONS

NORTHEAST REGIONAL OFFICE

200 CHESTNUT STREET

PHILADELPHIA, PENNSYLVANIA 19106
19106-29799



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

Via Certified and Return Receipt Mail

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

March 21, 2019

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

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

RE: Administrative Claim No. TRT-NER-2019-03085
Claim Received March 13, 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

NYT NER 2019 03085

SENDER: COMPLETE THIS SECTION

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

1.

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

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



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2. Article Number (Transfer from service label)

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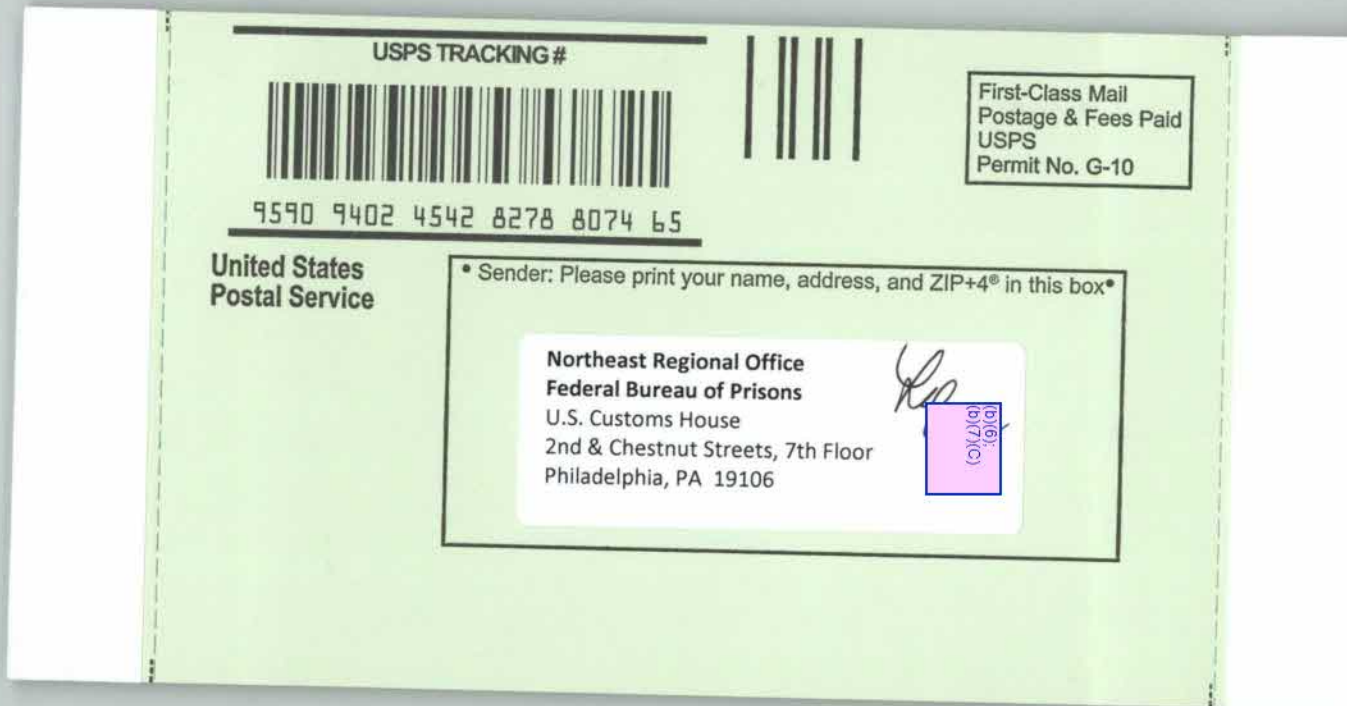
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PS Form 3811, July 2015 PSN 7530-02-000-9053

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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-2020-00964

Dear Ms. Rosenfeld:

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

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

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

Sincerely,

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

Darrin Howard
Regional Counsel

EMERY CELLI BRINCKERHOFF & ABADY LLP

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

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

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

DIANE L. HOUK

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

October 29, 2019

Via U.S. Mail

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

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

To Whom It May Concern:

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

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

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

Sincerely,

/s/

Katherine Rosenfeld

Encl.

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Federal Bureau of Prisons Northeast Regional Office U.S. Custom House, 7th Floor Philadelphia, PA			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.) 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)		MDC BROOKLYN			
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). 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.)		

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

NOV 01 2019

NEO-PHILADELPHIA

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2019-02980 29 of 264 DOJ-19-0278, 19-0279, 19-0280-G-000029

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 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 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 temperatures were frigid and I was not provided with any additional clothing, and was given an additional blanket on the last day of the blackout. There was black dust coming from the vents. I was in complete confinement for 8 days and was released during meal times. I did not have access to showers although I requested it. We weren't allowed to take showers and took a bird bath instead. I did not have access to the laundry facilities and was forced to hand wash my clothing. I did not have access to commissary although it was the week to go to commissary. The food was cold, inedible and untimely. They skipped our meals at least twice. I did not have access to drinkable water. My attorney came to visit me during the blackout twice and was denied legal visitation. My attorneys and family members wrote to me during the crisis and I did not receive any of the mail until 3 weeks post blackout.

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

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

- a. As a result of being confined in the circumstances described in paragraph 8, including but not limited to a prolonged period of bitter cold, and/or extreme temperature variations, and darkness, I suffered the following injuries which form the basis of my claim: physical pain and discomfort as a result of my exposure to the cold; hunger; exposure to noxious odor, air quality, and excessive noise; severe personal uncleanness cause by lack of access to showers of clean clothing; and emotional and psychological distress.
- b. I suffer from an ankle mass that developed before the blackout and was not provided with pain medication. I requested to walk around to relieve the pain but was 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: Claustrophobia, cold sweats, sore throat, anxiety, coughing/sneezing, muscle pain in my ankle, lightheadedness, insomnia, pre-diabetic, nausea, stomach pain and mobility problems due to the mass on my ankle.

11. WITNESSES

The following people witnessed the circumstances that caused my injury:
Cellmate (b)(6); (b)(7)(C)).

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

Oct, 07, 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:

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

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

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

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2019-02980 33 of 264 DOJ-19-0278, 19-0279, 19-0280-G-000033



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.



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-2019-06572

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

August 6, 2019

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL SECURITY OFFICE

AUG 30 2019

NERO-PHILADELPHIA

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

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

Re:

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

Supplemental Claim

Location: MDC Brooklyn

Dates of Incident: 1/27/19 – 2/03/19

To Whom It May Concern:

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

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

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

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

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

Respectfully,



JEAN PRABHU

JP/rb/enc.

AMERICAN
OVERSIGHT

2019-02980 38 of 264 DOJ-19-0278, 19-0279, 19-0280-G-000038

B BURNS & HARRIS
ATTORNEYS AT LAW
THE WOOLWORTH BUILDING
233 BROADWAY, SUITE 900
NEW YORK, NY 10279

CERTIFIED MAIL



7019 1120 0000 5291 9036

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First Class Mail

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

205863





U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

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

September 10, 2019

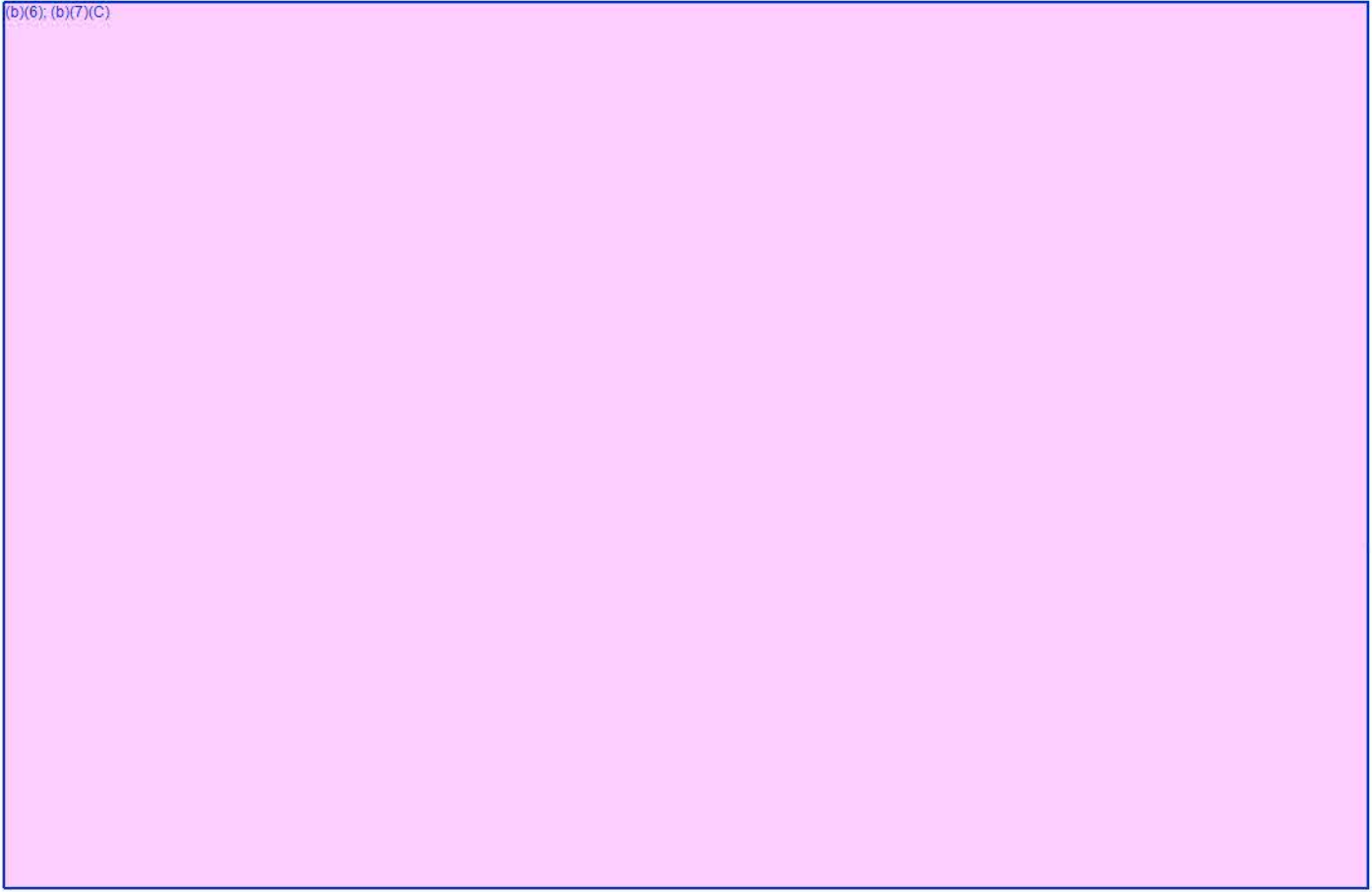
Ms. Jean Prabhu
Burns & Harris
The Woolworth Building
233 Broadway, Suite 900
New York, NY 10279

Re: Your Administrative Claims Received August 23, 2019

Dear Ms. Prabhu:

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

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

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

Ms. Jean Prabhu
September 10, 2019
Page 2

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

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

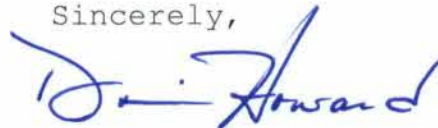
In addition, we will not be able to correspond with you unless you provide proof that you are authorized to represent each claimant as their legal representative. See 28 C.F.R. § 14.2.

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

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

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

Sincerely,



Darrin Howard
Regional Counsel

Enclosure

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

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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 41 of 264 DOJ-19-0278, 19-0279, 19-0280-G-000041

INSURANCE COVERAGE

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

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

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

17. If deductible, state amount.

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

9/10/19 *Multiple Claims*

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

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





SETH A. HARRIS

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

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

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

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

September 19, 2019

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL OFFICE

SEP 24 2019

NERO-PHILADELPHIA

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

Re:

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

Claim No: TRT-NER-2019-06572

Dear Mr. Howard:

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

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

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

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

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

Respectfully,

JEAN PRABHU

JP/rb/Enc.

RETAINER AGREEMENT

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

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

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

2. **DISBURSEMENTS:** In the event there is no recovery, the Client shall not be obligated to pay the law firm a legal fee for services rendered. Disbursements may include some of the following expenses: court filing fees, sheriff fees, medical and hospital report/record fees, doctor's report, court stenographer fees, deposition costs, expert fees for expert depositions and court appearances, trial exhibits, computer on-line search fees, express mail, postage, photocopy charges, document management charges, long distance telephone charges, among other charges. Document management charges are the fees charged by the law firm for processing documents during litigation, such as medical records, documents produced by 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 (b)(6); (b)(7)(C)

(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:

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

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

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

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

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

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

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

Option I

Client advances disbursements:

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

Option II

Law firm advances disbursements:

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

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

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

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

11. **RESULTS NOT GUARANTEED:** No attorney can accurately predict the outcome of any legal matter, accordingly, no representations are made, either expressly or impliedly, as to the final outcome of this matter. I further understand that I must immediately report any changes in my residence, telephone number or health to the law firm. I understand that this Retainer Agreement is a binding legal contract. I expressly agree that I will fully and freely cooperate with my attorneys in all aspects required for the prosecution of this legal matter and that I will 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: March 14, 2019

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

(L.S.)

Witness: _____

(L.S.)

AMERICAN OVERSIGHT

2019-02980-52 of 254 Doc 19-0278, 19-0279, 19-0280-G-000052

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BURNS & HARRIS
233 BROADWAY, SUITE 900

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ACTWGT: 4.00 LB
CAD: 108136325/INET4160

NEW YORK, NY 10279
UNITED STATES US

BILL SENDER

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

(215) 521-7301
INV
PO

REF: MDC BROOKLYN 205863

DEPT:



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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

August 6, 2019

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL

AUG 30 2019

NERO-PHILADELPHIA

VIA CERTIFIED MAIL/RRR

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

Re:

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

Supplemental Claim

Location: MDC Brooklyn

Dates of Incident: 1/27/19 – 2/03/19

To Whom It May Concern:

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

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

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

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

AMERICAN
OVERSIGHT



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

Respectfully,

A handwritten signature in blue ink, appearing to be 'JP', with a long horizontal flourish extending to the right.

JEAN PRABHU

JP/rb/enc.

FIRST • CLASS

FIRST • CLASS

FIRST • CLASS

CERTIFIED MAIL



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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



2019-02980 55 of 264 DOJ-19-0278, 19-0279, 19-0280

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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)

A large rectangular area of the document is redacted, indicated by a solid pink fill. The redaction covers the majority of the lower half of the page, starting below the paragraph about the Metropolitan Detention Center and extending to the bottom of the page.

Ms. Jean Prabhu
September 10, 2019
Page 2

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



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

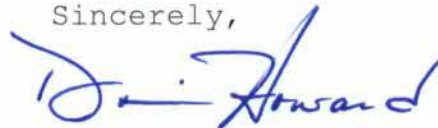
In addition, we will not be able to correspond with you unless you provide proof that you are authorized to represent each claimant as their legal representative. See 28 C.F.R. § 14.2.

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

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

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

Sincerely,



Darrin Howard
Regional Counsel

Enclosure

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

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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 58 of 264 DOJ-19-0278, 19-0279, 19-0280-G-000058

INSURANCE COVERAGE

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

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

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

17. If deductible, state amount.

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

9/10/19 *Multiple Claims*

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

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





SETH A. HARRIS

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

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

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

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

September 19, 2019

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL OFFICE

SEP 24 2019

NERO-PHILADELPHIA

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

Re:

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

Claim No: TRT-NER-2019-06546

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)_____ 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.)

AMERICAN OVERSIGHT

2019-02980-69 of 264 Doc 19-0278, 19-0279, 19-0280-G-000069

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

NEW YORK, NY 10279
UNITED STATES US

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ACTWGT: 4.00 LB
CAD: 108136325/NET4160

BILL SENDER

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

(215) 521-7301
INV
PO

REF: MDC BROOKLYN 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

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-2019-06546

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

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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CHARLES J. OGLETREE, JR.
EMERITUS

DIANE L. HOUK
JESSICA CLARKE

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

June 24, 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 Brinckerhoff & Abady LLP 600 Fifth Avenue, 10th Floor New York, New York 10020			
3. TYPE OF EMPLOYMENT ☐ MILITARY ☐ CIVILIAN		4. DATE OF BIRTH (b)(6); (b)(7)(C)	5. MARITAL STATUS Single	6. DATE AND DAY OF ACCIDENT 01/27/2019 02/03/2019		7. TIME (A.M. OR P.M.) A.M.
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 JUN 27 2019 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 (b)(6); (b)(7)(C)		UNKNOWN				
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)						
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY		12c. WRONGFUL DEATH		
		1,000,000		12d. TOTAL (Failure to specify may cause forfeiture of your rights).		
				1,000,000		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.						
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). <i>Katherine Rosenfeld, ATTORNEY FOR CLAIMANT</i>				13b. PHONE NUMBER OF PERSON SIGNING FORM 212-763-5000		
14. DATE OF SIGNATURE 6/24/19						
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.)			

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 72.
- 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; (4) I witnessed mold and dust coming from the vents in my cell; (5) the toilets in my cell ceased functioning and overflowed into the cell; and (6) I had little to no access to clean laundry, hot food, regularly scheduled meals, functioning toilets, regular showers, hot showers and hot water, medical or psychiatric care, exercise, commissary, or outside communications with my family or lawyers via email, pay phone, or visits.

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

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

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

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

- b. Between January 27, 2019 and February 3, 2019, I suffered from: pain and skin fungus on my feet due to the flooding in my cell, migraines and nosebleeds, nausea and stomach upset, and depression. During this period, I was not provided with needed medical care. Specifically, I was not provided with topical treatment for the skin fungus.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

June 20, 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

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NY 100
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U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

19106-257989





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 5, 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 June 27, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
(b)(6); (b)(7)(C) Claim No. TRT-NER-2019-05074

Dear Ms. Rosenfeld:

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

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

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

Sincerely,

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

Darrin Howard
Regional Counsel



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-2019-02663
Claim Received February 25, 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

MTNER 2019 02663

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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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1. Article

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

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



9590 9402 3738 7335 6624 96

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☒ Addressee

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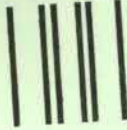
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Federal Bureau of Prisons
U.S. Customs House
2nd & Chestnut Streets, 7th Floor
Philadelphia, PA 19106



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

MTNER 2019 02663

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

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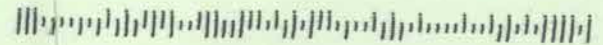
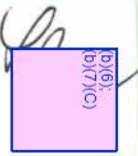
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Federal Bureau of Prisons
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Philadelphia, PA 19106



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-

02663

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.

R (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



NEW YORK, NY 100

13 MAR 2010 PM 4:1

Carton

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

Metropolitan Detention
P.O. Box 329002
Brooklyn, New York 11232

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



5000 462390161

FEB 25 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 15th, 2019

Respectfully submitted,

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

[SIGNATURE]

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

[PRINT NAME]

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

[REGISTER NUMBER]

METROPOLITAN DETENTION CENTER

P.O. BOX 329002

BROOKLYN, NEW YORK 11232

-- CLAIMANT --

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

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

New York Times (w/ecnl.)

New York Federal Defenders

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

Metropolitan Detention Center
P.O. Box 329002
Brooklyn N.Y. 11202

NEW YORK
NY 100
19 FEB 19
PM 3:11



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

02/20



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-2019-02663

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-2019-02663
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

AMERICAN
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41LTNE12 2019 02663

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1. Article Addressed to:

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

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

2. Article Number (Transfer from service label)

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☐ Addressee

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☒ No

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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
JESSICA CLARKE

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

August 5, 2019

Via U.S. Mail

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

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

To Whom It May Concern:

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

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

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

Sincerely,

/s/

Katherine Rosenfeld

Encl.

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Federal Bureau of Prisons Northeast Regional Office U.S. Custom House, 7th Floor Philadelphia, PA			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. (b)(6); (b)(7)(C) 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) (b)(6); (b)(7)(C)		Unknown USP Atlanta 601 MCDONOUGH BLVD SE ATLANTA, GA 30315			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY 1,000,000		12c. WRONGFUL DEATH 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 8/7/19
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS DATE RECEIVED FEDERAL BUREAU OF PRISONS FINE IMPRISONMENT, or both. (See 18 U.S.C. 287, 1001.) REGIONAL COUNSEL OFFICE		

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NSN 7540-00-634-4046

AUG 12 2019

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

NERO-PHILADELPHIA

2019-02980 95 of 264 DOJ-19-0278, 19-0279, 19-0280-G-000095

AMERICAN
OVERSIGHT

INSURANCE COVERAGE

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

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

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

17. If deductible, state amount.

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

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 71 (b)(6)
- 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: lack of electricity for my sleep apnea machine which helps me to sleep.

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

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

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:

Constant fear and distress because I did not know if I would wake up each night without my machine, which helps me to breath despite my obstructive sleep apnea. I was constantly dizzy and drowsy, and I struggled to move in my cell. I was not transferred to a unit with electricity several days after the blackout began. I also experienced nightmares and claustrophobia during and after the blackout. During the blackout, I also did not receive all of my insulin shots. Usually, I receive two insulin shots per day, but during the blackout I did not receive insulin shots during three of the seven days of the blackout. As a result, I felt sick and nauseous.

11. WITNESSES

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

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

(Unknown address)

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

July 18, 2019

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

To Whom it May Concern:

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

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

Sincerely,

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

Category	Item	Value
Category 1	Item 1.1	1.1
Category 1	Item 1.2	1.2
Category 1	Item 1.3	1.3
Category 1	Item 1.4	1.4
Category 1	Item 1.5	1.5
Category 1	Item 1.6	1.6
Category 1	Item 1.7	1.7
Category 1	Item 1.8	1.8
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Category 1	Item 1.100	1.100
Category 2	Item 2.1	2.1
Category 2	Item 2.2	2.2
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Category 2	Item 2.5	2.5
Category 2	Item 2.6	2.6
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Category 2	Item	

FIDET-CLASS



0280-G-000100

2019-02980 100 of 264 DOJ-19-0278, 19-0279, 19-0280-G-000100



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

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

August 20, 2019

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

Re: Administrative Tort Claim Received August 12, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-06121

Dear Ms. Gigliotta:

This will acknowledge receipt of the administrative claim you submitted on behalf of (b)(6); (b)(7)(C) 90564-053, 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,

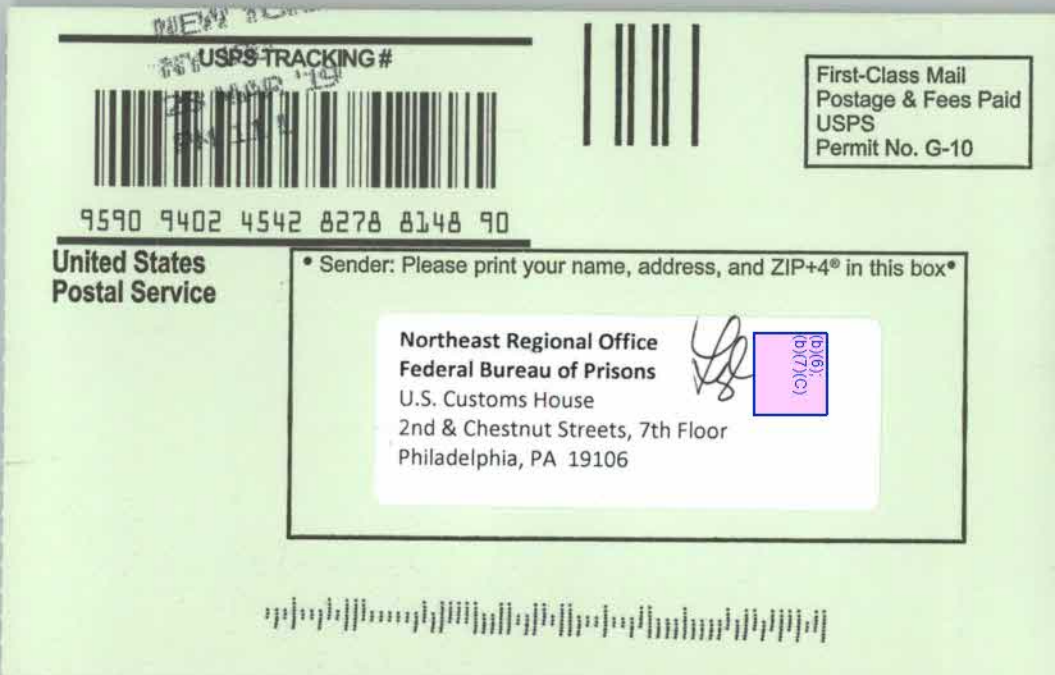
(b)(6); (b)(7)(C)

Darrin Howard
Regional Counsel

INTERNAL 2019 03037

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.		(b)(6) (b)(7)(C) ☐ Agent ☐ Addressee	
1. Article Number (Transfer from service label)		B. Received by (Printed Name) (b)(6) (b)(7)(C)	C. Date of Delivery 3/25/19
MDC Brooklyn P.O. Box 329002 Brooklyn, NY 11232		D. Is this item from a business? Yes ☐ No ☒ If yes, address below: FEDERAL BUREAU OF PRISONS COUNSEL OFFICE APR 01 2019 NERO-PHILADELPHIA	
9590 9402 4542 8278 8148 90		3. Service type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☐ Certified Mail® ☒ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail ☐ Insured Mail Restricted Delivery (over \$500)	
		☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☒ Return Receipt for Merchandise ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	

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



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

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

MAR 11 2019

NERO-PHILADELPHIA

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

Dear Mr. Howard:

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

I. THE RELEVANT FACTS.

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

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

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

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

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

II. THE RELEVANT LAW.

(a) Liability Under The Federal Tort Claims Act.

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

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

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

Although state laws sets out the elements required to prove negligence, the standard of care for the Federal Bureau of Prisons is "fixed by 18 U.S.C. 4042, independent of [any] inconsistent state rule" allowing for a local jailor's immunity from suit, or a lesser duty. {United States v. Muniz, 374 U.S. 150, 164 (1963)} Section 4042(a) requires that the Bureau of Prisons provide "suitable quarters and provide for the safekeeping, care, and subsistence of all persons charged with or convicted of offenses against the United States." {18 U.S.C. 4042(a)(2)} This statutory duty means that the Bureau of Prisons must exercise "ordinary diligence" or reasonable care "to keep prisoners safe and free from harm." {Cowart 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.

ated: Brooklyn, New York

February 28, 2019

Respectfully submitted,

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

[SIGNATURE]

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

[PRINT NAME]

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

[REGISTER NUMBER]

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

— CLAIMANT —

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

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

New York Times (w/ecnl.)

New York Federal Defenders

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

Metropolitan Detention Center
Brooklyn N.Y. 11232
P.O. Box 329002



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Darrin Howard Esq
Northeast Regional Counsel
U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
200 Chestnut street
Philadelphia,

(Legal Mail)

03/07



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U.S. Custom House-7th Floor
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Philadelphia, PA 19106

March 21, 2019

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

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

RE: Administrative Claim No. TRT-NER-2019-03037
Claim Received March 11, 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

SENDER: COMPLETE THIS SECTION

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

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



9590 9402 4542 8278 8148 90

2. Article Number (Transfer from service label)

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

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A. Signature

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- ☐ Agent
- ☐ Addressee

B. Received by (Printed Name)

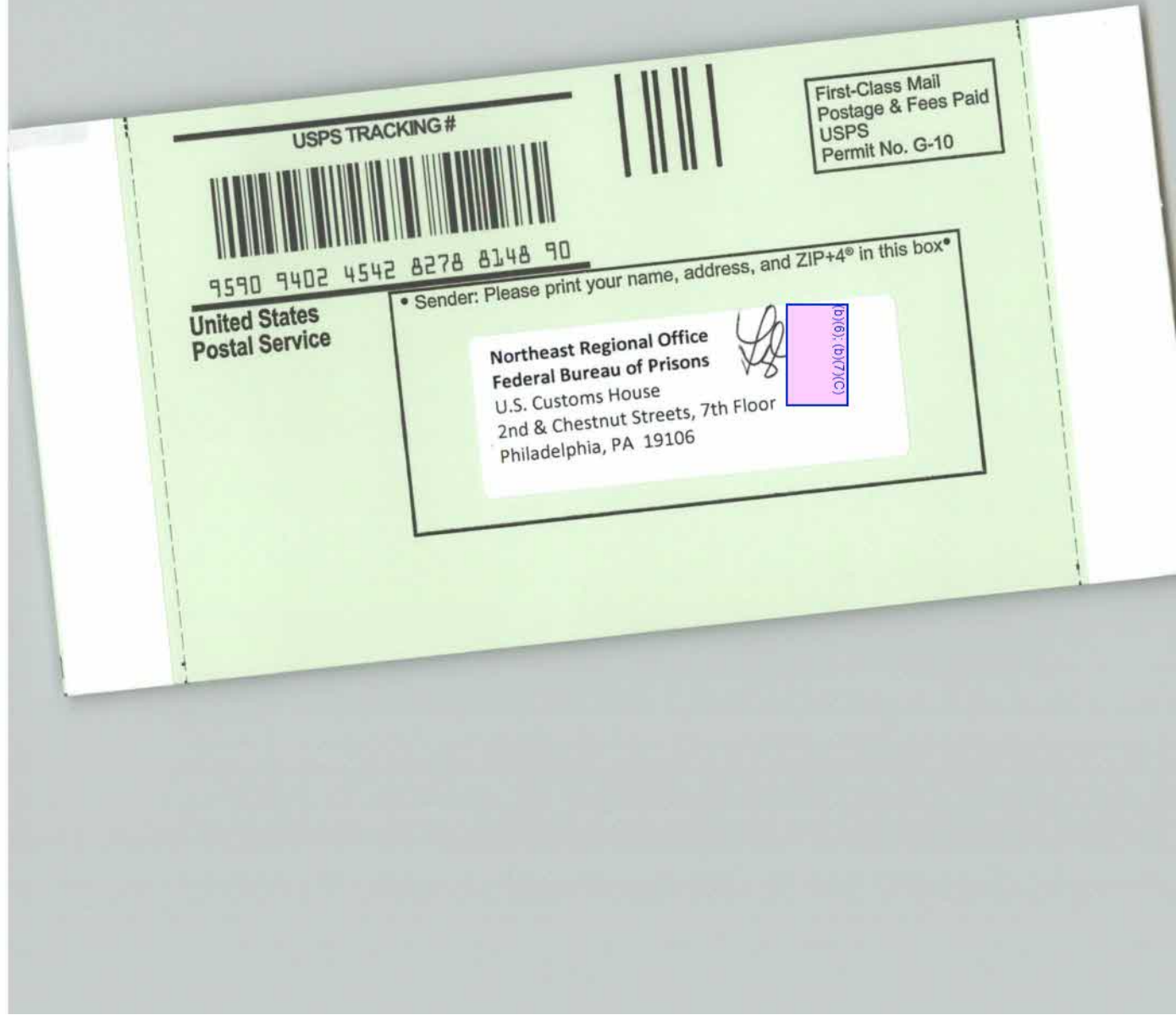
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SAM SHAPIRO

EMERY CELLI BRINCKERHOFF & ABADY LLP

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

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

DIANE L. HOUK

ALISON FRICK
DAVID LEBOWITZ
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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		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.					
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) 763-5066		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.)		

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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

95-109

AMERICAN
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NOV 12 2019

2019-02980 113 of 264 DOJ-19-0278, 19-0279, 19-0280-G-000113

NERO-PHILADELPHIA

INSURANCE COVERAGE

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

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

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

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

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.
- 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: sore throat, coughing and sneezing, light-headedness, and lack of prescription medicine. I have a heart condition and I had just arrived at MDC from MCC, with a limited supply of my heart medication, which ran out on the second day of the blackout. I started to feel dizzy and unwell without the medication. There was no way to put requests for medicine in because the computers were not working. I told medical when they came around to distribute pills and they took my name down, but they never came back to see me or give me a refill of my medicine. I didn't my medicine re-filled until several days after the blackout. I also didn't have my property because I just had been transferred from MCC to MDC, so I had no thermals or warm clothes the entire time. We had to eat in the pitch-dark like animals. The guards in the unit were wearing street clothes, coats, scarves, and gloves. I felt that I was days away from dying.

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

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

- a. As a result of being confined in the circumstances described in paragraph 8, including but not limited to a prolonged period of bitter cold, and/or extreme temperature variations, and darkness, I suffered the following injuries which form the basis of my claim: physical pain and discomfort as a result of my exposure to the cold; hunger; exposure to noxious odor, air quality, and excessive noise; severe personal uncleanliness cause by lack of access to showers of clean clothing; and emotional and psychological distress.
- b. 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 felt ill, dizzy, weak, bloated, and unwell because I didn't have my heart medication, which I need to maintain my heart's rhythm. I also got sick from the cold.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

October 17, 2019

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

To Whom it May Concern:

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

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

Sincerely,

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

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

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

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2019-02980 118 of 264 DOJ-19-0278, 19-0279, 19-0280-G-000118



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-2020-01170

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

Darrin Howard
Regional counsel
U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
U.S Custom House - 7th Floor
2nd and Chestnut Street
Philadelphia, PA 19106

Dear Mr. Howard:

I'm writing to inform you that i have been moved from Metropolitan Detention Center in Brooklyn to Metropolitan Correctional Center in Manhattan. Claim No. TRT-NER-2019-02625. All correspondence regarding this claim should be addressed to my new address at Metropolitan correctional Center, 150 Park Row, New York, N.Y 10007. Thank you for your time and consideration!

Sincerely,

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

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

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

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

AUG 15 2019

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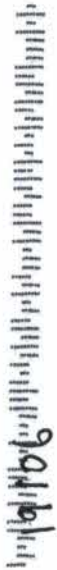
(b)(6);
(b)(7)(C)

Metropolitan Correctional Center
150 PARK ROW
NEW YORK, N.Y. 10007



NEW YORK NY 100
13 AUG 2019 PM 14 L

Darrin Howard
Regional counsel
U.S. Department of Justice
Federal Bureau of prisons
Northeast regional office
U.S. Custom House - 7th Floor
2nd and Chestnut Street
Philadelphia, PA





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. [REDACTED]
MCC New York
150 Park Row
New York, NY 10007

RE: Administrative Claim No. TRT-NER-2019-02625
Reconsideration
Claim Received March 13, 2019

Dear Mr. [REDACTED]

Your request for reconsideration of Administrative Claim No. TRT-NER-2019-02625 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 \$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.

A careful review of the reconsideration shows you have not submitted any new evidence in support of the allegations made in your administrative claim. A review of your medical records does not reflect you sought medical care from Health Services for ailments related to the power outage. There is no evidence you experienced a compensable loss as the result of negligence on the part of any Bureau of Prisons employee. Accordingly, your claim is denied.

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

Sincerely,

Darrin Howard
Regional Counsel

cc: D. Edge, Warden, MDC Brooklyn

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OVERSIGHT

2019-02980 122 of 264 DOJ-19-0278, 19-0279, 19-0280-G-000122

4/11/2019 02625

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1. Article Addressed to:

Mr. (b)(3), (b)(7)(C)
MCC New York
150 Park Row
New York, NY 10007

0991 88

Number (Transfer from service label)

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☐ Agent

☐ Addressee

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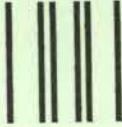
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Northeast Regional Office
Federal Bureau of Prisons
U.S. Customs House
2nd & Chestnut Streets, 7th Floor
Philadelphia, PA 19106

[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)(7)(C)

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

RE: Administrative Claim No. TRT-NER-2019-02625
Claim Received February 19, 2019

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

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

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

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

Sincerely,

Darrin Howard
Regional Counsel

cc: H. Quay, Warden, MDC Brooklyn

4NT NEK 2019 02625

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
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A. Signature

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☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

1. Article

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

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

Different from item 1? ☐ Yes
address below: ☒ No



9590 9402 3738 7335 6609 04

2. Article Number (Transfer from service label)

3. Service Type

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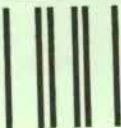
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U.S. Customs House
2nd & Chestnut Streets, 7th Floor
Philadelphia, PA 19106

[Handwritten signature]

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



U.S. Department of Justice

Federal Bureau of Prisons

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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-2019-02625
Claim Received February 19, 2019

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

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

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

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

Sincerely,

Darrin Howard
Regional Counsel

cc: H. Quay, Warden, MDC Brooklyn

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 19 2019

NERO-PHILADELPHIA

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

Dear Mr. Howard:

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

I. THE RELEVANT FACTS.

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

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

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

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

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

II. THE RELEVANT LAW.

(a) Liability Under The Federal Tort Claims Act.

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

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

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

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

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

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

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

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

III. APPLICATION OF THE LAW TO THE FACTS.

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

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

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

IV. CONCLUSION.

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

Dated: Brooklyn, New York

February 14, 2019

Respectfully submitted,

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

[SIGNATURE]

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

[PRINT NAME]

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

[REGISTER NUMBER]

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

-- CLAIMANT --

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

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

New York Times (w/ecnl.)

New York Federal Defenders

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

Metropolitan Detention Center
P.O. Box 329002
Brooklyn, N.Y. 11232



NEW YORK NY 100

15 FEB 2019 PM 15 1

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

PHILADELPHIA, PA 19106

19106-297999





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

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

March 21, 2019

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

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

Re: Administrative Claim Reconsideration Received March 13, 2019
Claim No. TRT-NER-2019-02625

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

March 4, 2019

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

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

RE: Administrative Claim No. TRT-NER-2019-02646
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

KUTNER 2019 02646

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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(b) (6)
(b) (7)
(c)
MDC Brooklyn
P.O. Box 329002
Brooklyn, NY 11232



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☐ Agent

☐ Addressee

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C. Date of Delivery

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

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


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

KMTNER 2019 02646

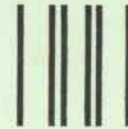
SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on a separate card.		A. Signature X [Redacted Signature] ☐ Agent ☐ Addressee B. Received by (Printed Name) [Redacted Name] ☐ Agent ☐ Addressee C. Date of Delivery MAR 13 2019	
1. Article [Redacted Article Description] MDC Brooklyn P.O. Box 329002 Brooklyn, NY 11232		D. Date of Delivery MAR 13 2019	
2. Article Number (Transfer from service label) 5950 9402 3738 7335 6624 34		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)	
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USPS TRACKING #



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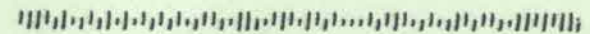


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Northeast Regional Office
Federal Bureau of Prisons
U.S. Customs House
2nd & Chestnut Streets, 7th Floor
Philadelphia, PA 19106



MARCH 11, 2019

DARRIN HOWARD, ESQ.
NORTHEAST REGIONAL COUNSEL
FEDERAL BUREAU OF PRISONS
NORTHEAST REGIONAL OFFICE
200 CHESTNUT STREET -- ROOM 701
PHILADELPHIA, PENNSYLVANIA 19106

Re: Administrative Tort Claim No.: TRT-NER-2019- ~~02646~~ 02646

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

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

MAR 13 2019

NERO-PHILADELPHIA

cc: Office of the Inspector General

AMERICAN
OVERSIGHT

(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



Mr. Darrell Howard, ESA
Northeast Regional Counsel
Federal Bureau of Prisons
Northeast Regional Office
200 Chestnut Street - RM. 701
Philadelphia, Pennsylvania 19106

19106-297999





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

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

March 21, 2019

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

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

Re: Administrative Claim Reconsideration Received March 13, 2019
Claim No. TRT-NER-2019-02646

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-2019-02646
Reconsideration
Claim Received March 13, 2019

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

Your request for reconsideration of Administrative Claim No. TRT-NER-2019-02646 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 ailments associated with the power outage. There is no evidence you experienced a compensable loss as the result of negligence on the part of any Bureau of Prisons employee. Accordingly, your claim is denied.

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

Sincerely,

Darrin Howard
Regional Counsel

cc: D. Edge, Warden, MDC Brooklyn

AMERICAN
OVERSIGHT

FRT NER 2019 02646

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature X ☐ Agent ☐ Addressee
1. Article Addressed to:	B. Received by (Printed Name) C. Date of Delivery
2. Address (Transfer from service label)	D. Is the delivery address different from item 1? ☐ Yes or delivery address below: ☒ No
Mr. [REDACTED] MDC Brooklyn P.O. Box 329002 Brooklyn, NY 11232	Service type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☒ Return Receipt for Merchandise ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery
7013 0600 0001 9910 9383	
PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt	



CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Federal Bureau of Prisons 320 First Street NW Washington D.C. 20534			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. (b)(6); (b)(7)(C) C/O Leo Glickman, Esq. 5030 Broadway, Ste. 652, New York, NY 10034		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☒ CIVILIAN		4. DATE OF BIRTH (b)(6); (b)(7)(C)	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT 1/13/19 - 2/3/19	7. TIME (A.M. OR P.M.) All times
8. BASIS OF CLAIM (State in detail the 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.					
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.					
(b)(6); (b)(7)(C) 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.)		

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

JUL 05 2019

NERO-PHILADELPHIA

INSURANCE COVERAGE

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

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

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

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

STANDARD FORM 95 REV. (2/2007) BACK

**STOLL, GLICKMAN
& BELLINA** ATTORNEYS

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Federal Bureau of Prison
Northeast Regional Office Tort Claims
US Customs House 7th Flr
Philadelphia PA 19106

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

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



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-2019-05171

Dear Mr. Glickman:

This will acknowledge receipt of the administrative claim which appears to be submitted on behalf of (b)(6); (b)(7)(C) an inmate confined at MDC Brooklyn. 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



5030 Broadway, Ste. 652
New York, NY 10034
P: (718) 852-3710
F: (718) 852-3586
www.stollglickman.com

July 29, 2019

Darrin Howard
Regional Counsel
US Dept. of Justice, Federal Bureau of Prisons
U.S. Customs House – 7th Floor
2nd and Chestnut Streets
Philadelphia, PA 19106

Dear Mr. Howard:

I write in reference to claims on behalf of the following prisoners:

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



I received your letters all dated July 12, 2019 explaining that you need proof that I am authorized to represent the Claimants in connection with the above referenced claims. I will obtain written authorization from each but expect it will take more than the 30 day limit.

For the record, I do in fact represent each of these Claimants, but understand the need for proof under 28 C.F.R. 14.2(a). I am therefore asking for an additional 30 days to obtain the authorizations and send them to you. I thank you for your consideration.

Sincerely,

Leo Glickman

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

AUG 01 2019

NERO-PHILADELPHIA

**STOLL, GLICKMAN
& BELLINA** ATTORNEYS

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Darrin Howard
Regional Counsel
US Dept of Justice Federal Bureau of Prisons
US Customs House – 7th Floor
2nd and Chestnut Streets
Philadelphia PA 19106

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47

Stoll, Glickman & Bellina, LLP
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New York, NY 10034

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

EMERY CELLI BRINCKERHOFF & ABADY LLP

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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 Single	
6. DATE AND DAY OF ACCIDENT 01/27/2019 02/03/2019		7. TIME (A.M. OR P.M.) A.M.			
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Please see attached.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). 					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side). 					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Please see attached.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
CELLMATE #1		UNKNOWN			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY 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.)		

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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

95-109

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OVERSIGHT

2019-02980 154 of 264 DOJ-19-0278, 19-0279, 19-0280-G-000154

NERO-PHILADELPHIA

INSURANCE COVERAGE

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

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

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

17. If deductible, state amount.

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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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

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

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

- a. During the week of January 27, 2019 through February 3, 2019, I was incarcerated in the West Building at the Metropolitan Detention Center in Brooklyn, New York. During that week, there was a power failure in the West Building.
- b. I was confined in Unit 61, 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]

Due to my Crohn's I had
constant bowel movement I had to share
the bathroom with my cell mate
which was embarrassing at times b/c the
smell of me defecating was so severe
not to mention sometimes I would have
to wait a whole hr to refush the toilet
b/c once you flush it once you have to
wait 20 min to refush which I never
waited as I always did a courtesy
flush for my cell mate let alone to
avoid the smell from lingering

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 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 [insert medical conditions here] Crohn's Disease
Which resulted to me losing tremendous
weight, ~~causing~~ Extreme chills
_____ and during this period I was not
provided with needed medical care. Specifically, I was not provided with
[Example: daily medication] Didn't received no
medical attention Upon my numerous
request What so ever

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.]

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

11. WITNESSES

The following people witnessed the circumstances that caused my injury:

[Provide name and address for each]

(b)(6); (b)(7)(C)	(Released)	(b)(6); (b)(7)(C)	C. Meeks
(b)(6); (b)(7)(C)	- MOC unit	(b)(6); (b)(7)(C)	cell upper

I am: (Circle one)

☒ Single

☐ Married

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

August 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:

(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 160 of 264 DOJ-19-0278, 19-0279, 19-0280-G-000160



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-2019-06463

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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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)			
CELLMATE #1		UNKNOWN			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY		12c. WRONGFUL DEATH	
		1,000,000		12d. TOTAL (Failure to specify may cause forfeiture of your rights).	
				1,000,000	
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). <i>Katherine Rosenthal</i>			13b. PHONE NUMBER OF PERSON SIGNING FORM (212) 763-5000		14. DATE OF SIGNATURE <i>8/20/19</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.)		

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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

95-109

AMERICAN
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NERO-PHILADELPHIA

INSURANCE COVERAGE

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

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

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

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

STANDARD FORM 95 REV. (2/2007) BACK

2019-02980 164 of 264 DOJ-19-0278, 19-0279, 19-0280-G-000164

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

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

- a. During the week of January 27, 2019 through February 3, 2019, I was incarcerated in the West Building at the Metropolitan Detention Center in Brooklyn, New York. During that week, there was a power failure in the West Building.
- b. I was confined in Unit 61, 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]

DUE to my Crohn's I had
constant bowel movement I had to share
the bathroom with my cell mate
which was embarrassing at times b/c the
smell of me defecating was so severe
not to mention sometimes I would have
to wait a whole hr to refush the toilet
b/c once you flush it once you have to
wait 20 min to refush which I never
waited as I always did a courtesy
flush for my cell mate let alone to
avoid the smell from lingering

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 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 [insert medical conditions here] Crohn's Disease
Which resulted to me losing tremendous
weight, ~~causing~~ Extreme chills
_____ and during this period I was not
provided with needed medical care. Specifically, I was not provided with
[Example: daily medication] Didn't received no
medical attention Upon my numerous
request What so ever

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.]

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

August 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: _____

(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-2019-06463

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

BURNS & HARRIS

ATTORNEYS AT LAW

SETH A. HARRIS

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

VIRGINIA L. MCGRANE
WAYNE A.J. WATTLEY
JUDITH F. STEMLER
JASON STEINBERG
ANDREW G. MEIER

VIA CERTIFIED MAIL/RRR

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

August 6, 2019

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

AUG 30 2019

NERO-PHILADELPHIA

Re:

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

Supplemental Claim

Location: MDC Brooklyn

Dates of Incident: 1/27/19 – 2/03/19

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

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

To Whom It May Concern:

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

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

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

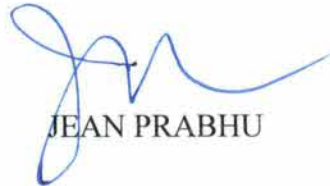
- Heating (in freezing temperatures)
- Suitable nutrition
- Electricity (kept in darkness)
- Flushable toilets/plumbing/showers
- drinking water
- Medical attention/medication
- Breathable air free from toxic fumes
- Access to clean clothes and bedding
- Excessive lockdown
- Extra blankets for warmth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

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THE WOOLWORTH BUILDING • 233 BROADWAY, SUITE 200 • NEW YORK, NY 10038 • TEL (212) 363-1000 • FAX (212) 363-2110
2019-02980 171 of 264 DOJ-19-0278, 19-0279, 19-0280-G-000171
WWW.BURNSHARRIS.COM

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

Respectfully,



JEAN PRABHU

JP/rb/enc.

AMERICAN
OVERSIGHT

2019-02980 173 of 264 DOJ-19-0278, 19-0279, 19-0280-G-000173

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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7019 1120 0000 5291 9036

958

First Class Mail





U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

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

September 10, 2019

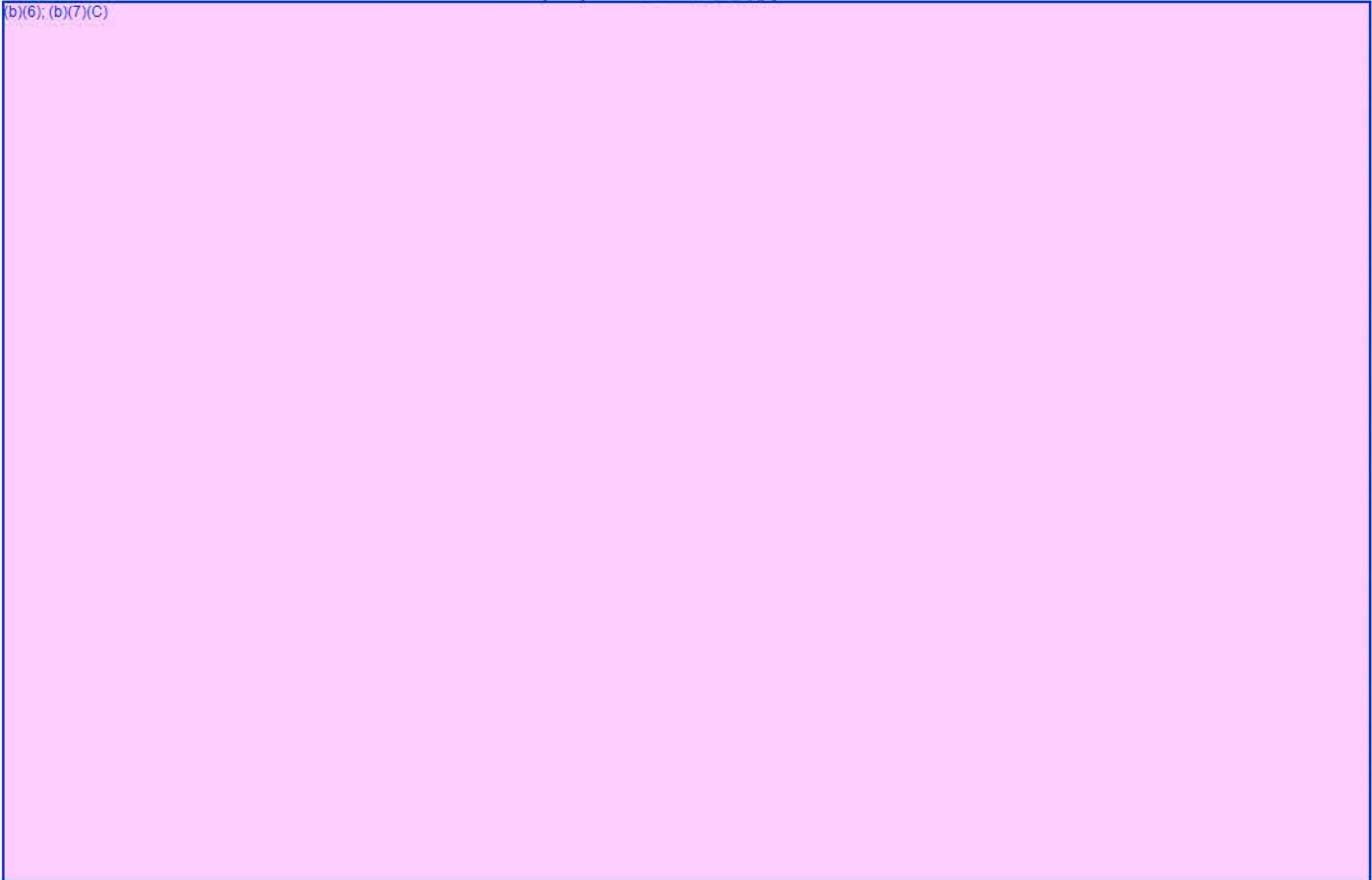
Ms. Jean Prabhu
Burns & Harris
The Woolworth Building
233 Broadway, Suite 900
New York, NY 10279

Re: Your Administrative Claims Received August 23, 2019

Dear Ms. Prabhu:

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

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

A large rectangular area of the document is redacted, indicated by a solid pink fill. The redaction covers the majority of the lower half of the page, starting below the paragraph about the Metropolitan Detention Center and extending to the bottom of the page.

Ms. Jean Prabhu
September 10, 2019
Page 2

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

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

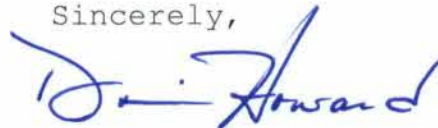
In addition, we will not be able to correspond with you unless you provide proof that you are authorized to represent each claimant as their legal representative. See 28 C.F.R. § 14.2.

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

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

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

Sincerely,



Darrin Howard
Regional Counsel

Enclosure

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

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28 CFR 14.2

95-109

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INSURANCE COVERAGE

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

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

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

17. If deductible, state amount.

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

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

INSTRUCTIONS

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

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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.

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

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

- B. **Principal Purpose:** The information requested is to be used in evaluating claims.
- C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
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9/10/19 *multiple claims*

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

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





SETH A. HARRIS

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

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

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

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

September 19, 2019

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL OFFICE

SEP 24 2019

NERO-PHILADELPHIA

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

Re:

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

Claim No: TRT-NER-2019-06576

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, _____, 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 I

(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:

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

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

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

(initials)

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

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

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

Option I

Client advances disbursements:

Gross Settlement	\$100.00
Disbursements	<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

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

(L.S.)

Witness: _____

(L.S.)

AMERICAN OVERSIGHT

2019-0298 187 of 284 DOT 19-0278, 19-0279, 19-0280-G-000187

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RENEE BIEN-AIME
BURNS & HARRIS
233 BROADWAY, SUITE 900
NEW YORK, NY 10279
UNITED STATES US

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CAD: 108136325/NET4160
BILL SENDER

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

(215) 521-7301 REF: MDC BROOKLYN 205863
INV
PO DEPT



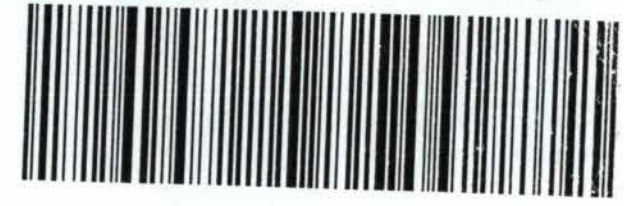
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U.S. Department of Justice

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-2019-06576

Dear Ms. Prabhu:

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

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

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

Sincerely,

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

Darrin Howard
Regional Counsel



SETH A. HARRIS

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

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

VIA CERTIFIED MAIL/RRR

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

August 6, 2019

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL OFFICE

AUG 30 2019

NERO-PHILADELPHIA

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

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

Re:

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

Supplemental Claim

Location: MDC Brooklyn

Dates of Incident: 1/27/19 – 2/03/19

To Whom It May Concern:

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

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

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

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

AMERICAN
OVERSIGHT

THE WOOLWORTH BUILDING • 233 BROADWAY, SUITE 500, NEW YORK, NY 10007 • TEL: 212-310-1500 • FAX: 212-310-1501
2019-02980-189 of 264 DOJ-19-0278, 19-0279, 19-0280-G-000189
WWW.BURNSHARRIS.COM

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

Respectfully,



JEAN PRABHU

JP/rb/enc.

FIRST • CLASS

FIRST • CLASS

FIRST • CLASS

CERTIFIED MAIL



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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

205863



2019-02980 191 of 264 DOJ-19-0278, 19-0279, 19-0280, 19-0281

AMERICAN
OVERSIGHT



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

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

September 10, 2019

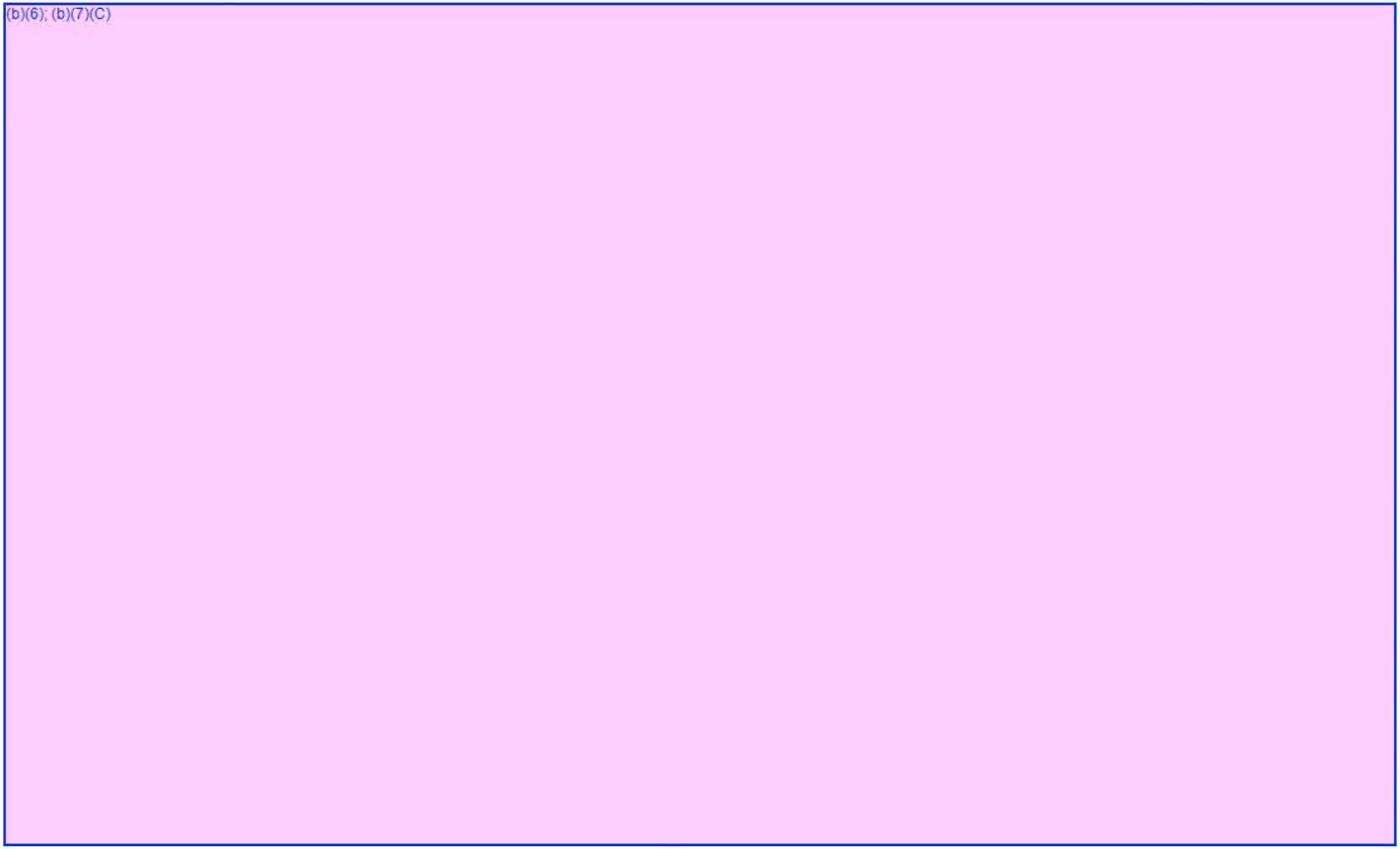
Ms. Jean Prabhu
Burns & Harris
The Woolworth Building
233 Broadway, Suite 900
New York, NY 10279

Re: Your Administrative Claims Received August 23, 2019

Dear Ms. Prabhu:

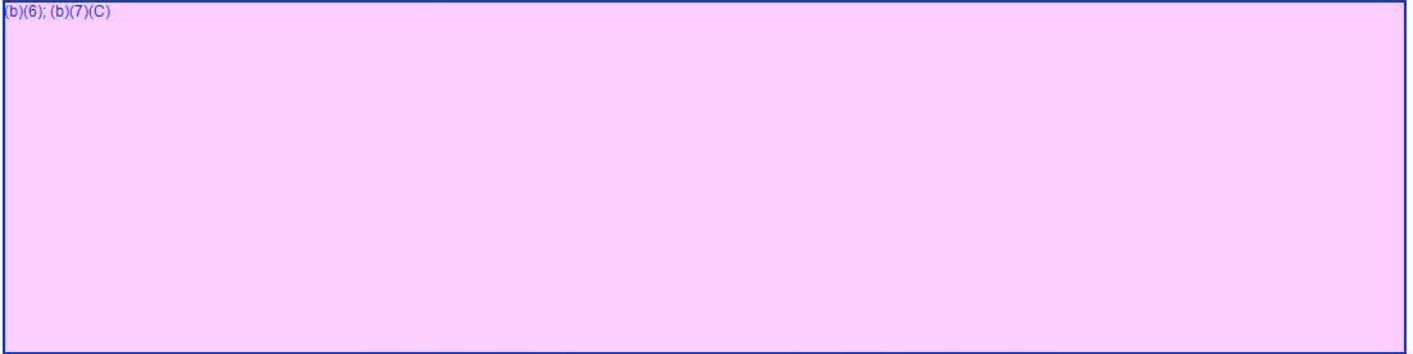
This will acknowledge receipt of the following administrative tort claims you filed on behalf of claimants seeking compensation for alleged personal injuries they suffered at the Metropolitan Detention Center in Brooklyn, New York:

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

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

Ms. Jean Prabhu
September 10, 2019
Page 2

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



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

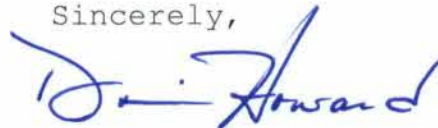
In addition, we will not be able to correspond with you unless you provide proof that you are authorized to represent each claimant as their legal representative. See 28 C.F.R. § 14.2.

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

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

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

Sincerely,



Darrin Howard
Regional Counsel

Enclosure

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

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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 194 of 264 DOJ-19-0278, 19-0279, 19-0280-G-000194

INSURANCE COVERAGE

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

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

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

17. If deductible, state amount.

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

9/10/19 *Multiple Claims*

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

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





SETH A. HARRIS

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

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

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

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

September 19, 2019

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL OFFICE

SEP 24 2019

NERO-PHILADELPHIA

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

Re:

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

Claim No: TRT-NER-2019-06559

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 defendant(s) and/or other parties, etc. Processing of the documents may include but is not limited to the following: (1) scanning; (2) conversion of native files to PDF documents; (3) OCR (Optical Code Recognition); and/or (4) indexing. At the time of settlement and distribution of proceeds, if the law firm has advanced the disbursements, the law firm shall be reimbursed for all disbursements which shall be deducted from the recovery.

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

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

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

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

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

Option I

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

Option II

(initials) (b)(6); (b)(7)(C) I elect to have the law firm advance the money for disbursements. I do not want to be billed for each disbursement as incurred. I agree that if there is a recovery of money on my case, the law firm will be reimbursed from that recovery for the costs and expenses advanced by the law firm. The Client hereby gives permission that the law firm may borrow monies from a third party for expenses and disbursements. Interest will then be charged to the Client as an additional expense.

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

Option I

Client advances disbursements:

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

Option II

Law firm advances disbursements:

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

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

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

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

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

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

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

(b)(6); (b)(7)(C)
[redacted] (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.)

AMERICAN OVERSIGHT

2019-0298, 205 of 204 DOT 19-0278, 19-0279, 19-0280-G-000205

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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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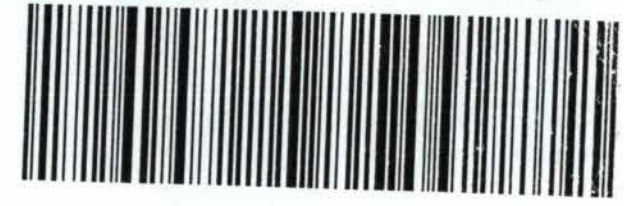
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U.S. Department of Justice

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-2019-06559

Dear Ms. Prabhu:

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

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

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

Sincerely,

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

Darrin Howard
Regional Counsel



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

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 [REDACTED]
Claim No. TRT-NER-2019-06460

Dear Ms. Rosenfeld:

This will acknowledge receipt of the administrative claim you submitted on behalf of [REDACTED] 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,

[REDACTED]

Darrin Howard
Regional Counsel

EMERY CELLI BRINCKERHOFF & ABADY LLP

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

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

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

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 Single	
6. DATE AND DAY OF ACCIDENT 01/27/2019 02/03/2019		7. TIME (A.M. OR P.M.) A.M.			
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Please see attached.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Please see attached.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
(b)(6); (b)(7)(C)		UNKNOWN UNKNOWN			
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) 763-5000		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

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

AMERICAN
OVERSIGHT

INSURANCE COVERAGE

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

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

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

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

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 SHU, Range 4, 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: Clogged and overflowed toilets. Extremely cold temperatures triggered my sickle-cell anemia. I was given one blanket but not any additional clothing.

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)

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

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: Episodes of extreme pain due to my sickle-cell anemia diagnosis; the freezing cold temperatures triggered extreme pain in my arms and bones, which lasted for several days. I was not able to see medical staff until after the blackout. I also experienced anxiety, nightmares, and fear of dying due to a fire, which I heard was the cause of the lockdown.

11. WITNESSES

The following people witnessed the circumstances that caused my injury:

(b)(6); (b)(7)(C) (Unknown address) (b)(6); (b)(7)(C) (SHU cellmate) (Unknown address)

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.

Since

(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 214 of 264 DOJ-19-0278, 19-0279, 19-0280, G-000214

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. (b)(6); (b)(7)(C) Metropolitan Detention Center 80 29th St. Brooklyn New York 11232		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☒ CIVILIAN		4. DATE OF BIRTH (b)(6); (b)(7)(C)	5. MARITAL STATUS Single	6. DATE AND DAY OF ACCIDENT January 27 th 2019	
7. TIME (A.M. OR P.M.) 12: 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). On January 27 th , 2019 at the Metropolitan Detention Center in Brooklyn, New York... There was an electrical fire that caused the lights and power to go out. During this time period we were locked in our cells for almost an entire week and denied certain rights... The right to shower, The right to have hot meals prepared, the right to see our attorneys, The right to contact our family, The right to exercise regularly. Under the eighth Amendment it was a violation of our human rights and cruel and unusual punishment. I seek compensation for my pain and suffering at the hands of the F.B.O.P.					
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. FEDERAL BUREAU OF PRISONS REGIONAL COUNSEL OFFICE APR 01 2019					
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 25,000.		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.					
(b)(6); (b)(7)(C) (See instructions on reverse side).			13b. PHONE NUMBER OF PERSON SIGNING FORM		14. DATE OF SIGNATURE 3-27-2019
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS		
The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

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.

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

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.

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

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

PAPERWORK REDUCTION ACT NOTICE

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

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

Metropolitan Detention Center
P.O. Box 329002
Brooklyn, New York 11232

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20 MAR 2019 PM 3:41



Federal Bureau of Prisons
North East Regional Office
Regional Prea Coordinator
U.S. Customs House 7th Fl
and Chestnut Streets
Philadelphia, Pennsylvania
19106

1910682912 0035



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

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

April 11, 2019

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

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

Re: Administrative Claim **Received April 1, 2019**
Claim No. TRT-NER-2019-03509

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

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

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

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

Sincerely,

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

Darrin Howard
Regional Counsel



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

Via Certified and Return Receipt Mail

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

September 30, 2019

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

RE: Administrative Claim No. TRT-NER-2019-03509

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

Administrative Claim No. TRT-NER-2019-03509, properly received in this office on April 1, 2019, has been accepted and considered for settlement as provided by the Federal Tort Claims Act (FTCA), 28 U.S.C. § 2672, under authority delegated to me by 28 C.F.R. § 543.30. You seek \$25,000.00 in compensation for an alleged personal injury sustained at MDC Brooklyn between January 27, 2019, and February 3, 2019. Specifically, you state a power outage adversely affected the institution's heating, hot water, meals and lighting. You contend this was a violation of your Eighth Amendment rights.

An investigation, including review of your medical records, does not reflect you sought medical care for concerns related to the power outage. You have not alleged an identifiable physical injury actionable under the Federal Tort Claims Act 28 U.S.C. §§ 1346(b)(2), 2672. Constitutional claims are not cognizable under the FTCA. There is no evidence you experienced a compensable loss as the result of negligence on the part of a Bureau of Prisons employee. Accordingly, your claim is denied.

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

Sincerely,

Darrin Howard
Regional Counsel

cc: D. Edge, Warden, MDC Brooklyn

TURNER 2019 03509

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
Mr. [REDACTED] MDC Brooklyn P.O. Box 329002 Brooklyn, NY 11232		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☒ No	
2. Article Number (Transfer from service label)		7016 1370 0001 4119 4388 d Delivery	
PS Form 3811, July 2015 PSN 7530-02-000-9053		Domestic Return Receipt	





U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

Via Certified and Return Receipt Mail

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

September 24, 2019

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

RE: Administrative Claim No. TRT-NER-2019- 03283

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

Administrative Claim No. TRT-NER-2019-03283, properly received in this office on March 25, 2019, has been accepted and considered for settlement as provided by the Federal Tort Claims Act (FTCA), 28 U.S.C. § 2672, under authority delegated to me by 28 C.F.R. § 543.30. You seek \$2,000,000.00 in compensation for an alleged personal injury sustained at MDC Brooklyn between January 27, 2019, and February 3, 2019. Specifically, you state a power outage adversely affected the institution's heating, hot water, meals and lighting. You allege your vision was affected by the lighting, and you slipped and fell while descending from your top bunk resulting in pain in your legs and a sprained ankle. You also claim you suffered from mental anguish and anxiety. You state your Eighth Amendment rights were violated.

An investigation, including a review of your medical records, reveals you did not seek medical attention from Health Services for injuries related to the power outage. Constitutional claims are not cognizable under the FTCA. There is no evidence you experienced a compensable loss as the result of negligence on the part of 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

NYT NEK 2019 03283

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
1. Article Addressed to: Mr. [REDACTED] MDC Brooklyn P.O. Box 329002 Brooklyn, NY 11232 (b)(6), (b)(7)(C)		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☒ No	
2. Service Number (Transfer from service label) 7016 1370 0001 4119 5439		☐ Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☒ Return Receipt for Merchandise ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	

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



CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Metropolitan Detention Center			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. (b)(6); (b)(7)(C) Metropolitan Detention Center 80 2nd Street PO Box 329002 Brooklyn, NY 11232		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☒ CIVILIAN	4. DATE OF BIRTH 2-4-86	5. MARITAL STATUS Single	6. DATE AND DAY OF ACCIDENT 1-27-2019		7. TIME (A.M. OR P.M.) 6:30AM
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). Jan. 27, 2019, a power outage occurred I couldn't see getting down off of top bunk and hurt my legs, my left knee feels like I have arthritis and I sprained my ankle. My vision has been blurry from many hours of staring to see in the dark, I. Could not seek medical attention and experienced cruel and unusual confinement conditions. I am also getting fungus on my hands and feet as well as under my nails from the unsanitary conditions. This has given me anxiety and aggravated my PTSD, and I have mental anguish from not being fed enough and not being able to cleanse myself.					
9. NONE 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. During the blackout I slipped off ladder and hurt my legs my left knee and right ankle. I'm also experiencing blurry vision caused by the long hours staring into the darkness. Fungus on hands and feet and under nails, all this have given me anxiety, stress, depression and aggravated my PTSD from the cruel and unusual confinement conditions.					
11. NONE WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
		DATE RECEIVED FEDERAL BUREAU OF PRISONS REGIONAL COUNSEL OFFICE APR 15 2019 NERO PHILADELPHIA			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE NONE	12b. PERSONAL INJURY 2million	12c. WRONGFUL DEATH NONE	12d. TOTAL (Failure to specify may cause forfeiture of your rights). 2 million		
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 (b)(6); (b)(7)(C)		13b. PHONE NUMBER OF PERSON SIGNING FORM NONE		14. DATE OF SIGNATURE 4-8-19	
15. 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.)			

INSURANCE COVERAGE

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

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

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

17. If deductible, state amount.

NONE

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

NONE

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

STANDARD FORM 95 REV. (2/2007) BACK

2019-02980 226 of 264 DOJ-19-0278, 19-0279, 19-0280-G-000226

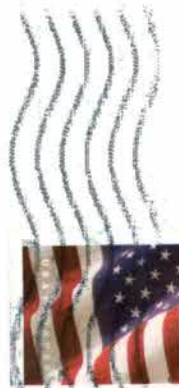
Metropolitan Detention Center
P.O. Box 527002
Brooklyn, NY 11232

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

Legal Mail

Regional Counsel's Office
Federal Bureau of Prisons - Nero
U.S. Customs house
2nd & Chestnut Street - 7th Floor
Philadelphia, PA 19106

NEW YORK NY 100
13 APR 2015 PM 13 L



METROPOLITAN DETENTION CENTER
80 29TH ST, BROOKLYN, NY 11232

The enclosed letter was processed through
mail procedures for forwarding to you.

The letter has neither been opened nor inspected.
If the writer raises a question or a problem over
which this facility has jurisdiction, you may wish
to return the material for further information
or clarification. If the writer encloses correspondence
for forwarding to another addressee, please
return the enclosure to the above address.

MAR 18

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

1. Location where the property loss or damage occurred: Metropolitan Detention Center Unit J-73	2. Name, address of claimant (Register number, street, city, state, and zip code): NAME: (b)(6); (b)(7)(C) REG# [REDACTED] MDC BROOKLYN P.O. BOX 329002 BROOKLYN, NY 11232
---	---

3. Date and Day of Incident: January 27 th , 2019	4. Time: (A.M. or P.M.): over 200 hours
---	--

5. Basis of Claim (State in detail the known facts and circumstances of the damage to, or loss, of privately owned property, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages, if necessary.):

My 8th Amendment rights were violated, I want to hold all staff members accountable. I suffered mental anguish during the power outage which caused me stress due to me having no way to communicate with my family and locked in a cell for more than 200 hours, in harsh conditions such as being cold and weak from being starved for many hours which triggered my PTSD and gave me anxiety. I am having seeing problems with my vision from straining to see in the dark. I have many medical issues and was denied medical attention for more than 200 hours.

6. Witnesses (Please provide the name and address (number, street, city, state, and zip code of each witness):

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

MAR 25 2019

N/A

7. Amount of Claim for Damage to, or loss of, privately owned property (in dollars)
(Sum Certain Amount - Total Amount Of Claim): \$2 Million dollars

NEO-PHILADELPHIA

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

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

9. Signature of Claimant or Authorized Representative: (b)(6); (b)(7)(C)

10. Date

March 18, 2019

PDF

Prescribed by PS 5580

Northeast Regional Office (BOP)
US Custom House

2019-02980 229 of 264 DocId:32902290-190280-0000229
Philadelphia, PA 19106

AMERICAN
OVERSIGHT



POSTAGE WILL BE PAID BY ADDRESSEE

22 MAR 2019 PM 11 L

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

P.O. Box 329002
Brooklyn, NY 11232

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

19106-29132B





U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

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

May 6, 2019

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

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

RE: Administrative Claim No. TRT-NER-2019-03283

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

This will acknowledge receipt of the additional administrative claim received in this office April 15, 2019, for an alleged personal injury at MDC Brooklyn. The two claims you have submitted for your January 27, 2019, personal injury at MDC Brooklyn have been combined and will be processed under TRT-NER-2019-03283.

If you did not intend to submit one personal injury claim for the total sum certain amount of \$2,000,000.00, please advise this office accordingly.

Sincerely,

Darrin Howard
Regional Counsel

cc: H. Quay, Warden, MDC Brooklyn



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

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

April 1, 2019

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

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

Re: Administrative Claim **Received March 25, 2019**
Claim No. TRT-NER-2019-03283

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

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

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

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

Sincerely,

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

Darrin Howard
Regional Counsel

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

CHARLES J. OGLETREE, JR.
EMERITUS

DIANE L. HOUK
JESSICA CLARKE

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

July 12, 2019

Via U.S. Mail

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

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

To Whom It May Concern:

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

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

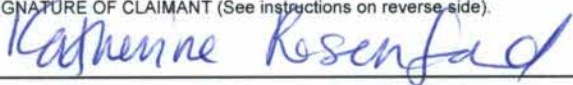
If you have any questions, I can be reached by phone at (212) 763-5000 or by email at krosenfeld@ecbalaw.com. Thank you for your attention to this matter.

Sincerely,

/s/

Katherine Rosenfeld

Encl.

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Federal Bureau of Prisons Northeast Regional Office U.S. CUSTOM HOUSE, 7TH FLOOR PHILADELPHIA, PA 19106			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. (b)(6); (b)(7)(C) c/o Emery Celli Brickerhoff & Abady LLP 600 Fifth Avenue, 10th Floor New York, New York 10020		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☐ CIVILIAN		4. DATE OF BIRTH (b)(6); (b)(7)(C)	5. MARITAL STATUS 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)			
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 07/11/2019
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.) DATE RECEIVED FEDERAL BUREAU OF PRISONS REGIONAL COUNSEL OFFICE		

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Previous Edition is not Usable

NSN 7540-00-634-4046

JUL 15 2019

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

95-109
AMERICAN
OVERSIGHT

2019-02980 234 of 264 DOJ-19-0278, 19-0279, 19-0280-G-000234
NERO-PHILADELPHIA

INSURANCE COVERAGE

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

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

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

17. If deductible, state amount.

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

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

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

- a. During the week of January 27, 2019 through February 3, 2019, I was incarcerated in the West Building at the Metropolitan Detention Center in Brooklyn, New York. During that week, there was a power failure in the West Building.
- b. I was confined on the 5th Floor, Unit 53, Cell [REDACTED] and the 9th floor in the Solitary Housing Unit.
- 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.

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

- 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: pain and injury to my left ankle, after nearly falling out of my top bunk while in SHU, due to untreated sleep apnea. Prior to the blackout, I underwent a sleep study diagnosing me with sleep apnea and requiring the use of a CPAP machine. Delivery of this machine was delayed by the blackout, and, despite a doctor's order restricting me to the bottom bunk because of my sleep apnea, I was assigned to a top bunk in the SHU. After falling out of the bed and severely injuring my ankle (which is still swollen and had not been seen by a physician), I slept on a mattress on the floor of the SHU for several days. Additionally, I suffer from high-blood pressure, and have been prescribed specific medication to combat this disease that will not exacerbate issues of kidney failure. During the blackout, this medication was disrupted, and I was instead given medication that I have previously been told I am unable to take safely because of my kidney disease. The meals provided to me in SHU included bananas, which I am strictly unable to eat because of my kidney disease.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

07/08/2019

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

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

19106-257988





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 19, 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 15, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-05443

Dear Ms. Rosenfeld:

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

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

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

Sincerely,

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

Darrin Howard
Regional Counsel



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

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

November 12, 2019

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

Re: Administrative Tort Claim Received November 4, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2020-00950

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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DIANE L. HOUK

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

October 29, 2019

Via U.S. Mail

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

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

To Whom It May Concern:

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

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

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

Sincerely,

/s/

Katherine Rosenfeld

Encl.

**CLAIM FOR DAMAGE,
INJURY, OR DEATH****INSTRUCTIONS:** Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.FORM APPROVED
OMB NO. 1105-0008

1. Submit to Appropriate Federal Agency:

Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House, 7th Floor
Philadelphia, PA2. Name, address of claimant, and claimant's personal representative if any.
(See instructions on reverse). Number, Street, City, State and Zip code.(b)(6); (b)(7)(C) c/o Emery Celli Brinckerhoff & Abady LLP
600 Fifth Avenue, 10th Floor
New York, NY 10020

3. TYPE OF EMPLOYMENT

☐ MILITARY☒ CIVILIAN

4. DATE OF BIRTH

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

5. MARITAL STATUS

Single

6. DATE AND DAY OF ACCIDENT

01/27/2019

02/03/2019

7. TIME (A.M. OR P.M.)

A.M.

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

Please see attached.

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE
NOV 04 20199. **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)

MDC BROOKLYN
FCI DANBURY
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).

Valerie Rosenfeld

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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Previous Edition is not Usable

NSN 7540-00-634-4046

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

95-109

AMERICAN
OVERSIGHT

2019-02980 243 of 264 DOJ-19-0278, 19-0279, 19-0280-G-000243

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 I62, Cell (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 toilet was non-functioning. The “shake downs” and cell searches were horrid as we were forced to do so in freezing cold temperatures. We had to eat cold food in the dark and there were three days when we didn’t even get any food. In addition, there were noxious fumes coming through the vents that gave me terrible headaches. I never received my medication when I requested it.

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

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

- a. As a result of being confined in the circumstances described in paragraph 8, including but not limited to a prolonged period of bitter cold, and/or extreme temperature variations, and darkness, I suffered the following injuries which form the basis of my claim: physical pain and discomfort as a result of my exposure to the cold; hunger; exposure to noxious odor, air quality, and excessive noise; severe personal uncleanliness cause by lack of access to showers of clean clothing; and emotional and psychological distress.
- b. I suffer from high blood pressure and asthma and was not provided with albuterol inhaler, hydrochlorothiazide and lisinopril.
- 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: asthma symptoms, high blood pressure, dizziness, hungry, cold, nausea, nightmares, cold sweats, anxiety, and my nerve shakes were bad at times. I was completely miserable.

11. WITNESSES

The following people witnessed the circumstances that caused my injury:

(b)(6); (b)(7)(C) (MDC Brooklyn); (b)(6); (b)(7)(C) (FCI Danbury); (b)(6); (b)(7)(C)
(b)(6); (b)(7)(C) (MDC Brooklyn); (b)(6); (b)(7)(C) (MDC Brooklyn); (b)(6); (b)(7)(C)
(b)(6); (b)(7)(C) (MDC Brooklyn); (b)(6); (b)(7)(C) (MDC Brooklyn); (b)(6); (b)(7)(C)
(MDC Brooklyn).

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

September 20, 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)

[illegible]

FIRST-CLASS



02 1P
0001202922 OCT
MAILED FROM 0248 P COD

2019-02980 248 of 264 DOJ-19-0278, 19-0279, 19-0280-G-000248



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-2019-05594

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 3, 2019.

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

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

Sincerely,

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

Darrin Howard
Regional Counsel

EMERY CELLI BRINCKERHOFF & ABADY LLP

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

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

TEL: (212) 763-5000
FAX: (212) 763-5001
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 17, 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

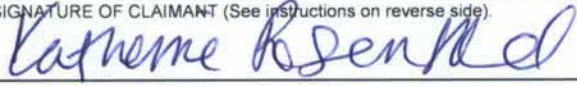
If you have any questions, I can be reached by phone at (212) 763-5000 or by email at krosenfeld@ecbalaw.com. Thank you for your attention to this matter.

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 Brinckerhoff & Abady LLP 600 Fifth Avenue, 10th Floor New York, New York 10020		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☐ CIVILIAN		4. DATE OF BIRTH (b)(6); (b)(7)(C)	5. MARITAL STATUS Single	6. DATE AND DAY OF ACCIDENT 01/27/2019 02/03/2019	
7. TIME (A.M. OR P.M.) A.M.					
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Please see attached.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Please see attached.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
12. (See instructions on reverse).					
AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY		12c. WRONGFUL DEATH	
		500,000.00		12d. TOTAL (Failure to specify may cause forfeiture of your rights). 500,000.00	
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 7/17/19
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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Previous Edition is not Usable

NSN 7540-00-634-4046

JUL 19 2019

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

95-109

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INSURANCE COVERAGE

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

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

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

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

The claim may be 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

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 83.
- 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.

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

- b. I suffer from asthma and during this period I was not provided with needed medical care. Specifically, I am supposed to receive daily medical instructions regarding the use of my inhaler but was not given any guidance. As a result, I experienced chest tightness. I also am supposed to receive medication to manage my cholesterol and high blood pressure on a daily basis but did not receive any medication throughout the week. As a result, I experienced dizziness.
- c. In addition to those injuries described in paragraph 10(a) above, I also suffered the following injuries between January 27, 2019 and February 3, 2019 while I was confined at MDC, and/or as a result of the events of that week of confinement: chest congestion, coughing, migraines, lightheadedness, and trouble sleeping.

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

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March 4, 2019

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

FDC Philadelphia
P.O. Box 562
Philadelphia, PA 19105

RE: Administrative Claim No. TRT-NER-2019-02665
Claim Received February 28, 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

3/25/2019
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U.S. Custom House - 7th Floor

2nd and Chestnut Street

Philadelphia, PA 19106

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Via Certified and Return Receipt Mail

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2nd & Chestnut Streets
Philadelphia, PA 19106

March 4, 2019

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

FDC Philadelphia
P.O. Box 562
Philadelphia, PA 19105

RE: Administrative Claim No. TRT-NER-2019-02665
Claim Received February 28, 2019

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

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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

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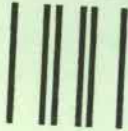
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Philadelphia, PA 19106


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

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

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

FEB 28 2019

NERO-PHILADELPHIA

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

Dear Mr. Howard:

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

I. THE RELEVANT FACTS.

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

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

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

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

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

II. THE RELEVANT LAW.

(a) Liability Under The Federal Tort Claims Act.

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