



**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 13, 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 91 pages are appropriate for release in full, 183 pages are appropriate for release in part and 726 pages must be withheld in their entirety. Copies of releasable records are attached.

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

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

An explanation of the FOIA exemptions is attached.

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

Sincerely,

Darrin Howard
Regional Counsel

Enclosure: 1 CD

Explanation of FOIA Exemptions Used by the Federal Bureau of Prisons

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Federal Bureau of Prisons MDC Brooklyn			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) Joint Base MDL-Camp PO Box 2000 Ft Dix, NJ 08640		
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 1/27/ 2019
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). 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. See Attached 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)			
Warden Herman Quay, and all Correctional Staff b(6); (b)(7)(C)		MDC Brooklyn Emery Celli Brinkerhoff & Abrady LLP 600 5th Ave, NY , NY 10020			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY \$1 Million		12c. WRONGFUL DEATH	
				12d. TOTAL (Failure to specify may cause forfeiture of your rights). \$1 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 (See instructions on reverse side). b(6); (b)(7)(C)			13b. PHONE NUMBER OF PERSON SIGNING FORM		14. DATE OF SIGNATURE 7/25/19
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS		
The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.) DATE RECEIVED FEDERAL BUREAU OF PRISONS REGIONAL COUNSEL OFFICE		

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).

N/A

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

N/A

INSTRUCTIONS

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

Complete all items - Insert the word **NONE** where applicable.

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

#8. and 10. (cont'd)

At all material times, before and during, Jan 27, 2019 to 2/3/2019, the Warden Herman Quay and the MDC Brooklyn Correctional staff by their actions, and inactions, caused a heat-light-conditions crisis with respect to infrastructure, lighting and heating. When the blackout occurred, the Warden, and his correctional staff, negligently, and recklessly, failed to respond adequately. I was forced for many days to live in unconstitutional and horrible conditions which included but was not limited to lack of heat, light, medical care, food, laundry, visits, phone access, time outside of cell, and other basic human and constitutional rights' deprivations. Further, I was forced to live without electricity or heat, to use cell toilets that did not flush, was confined to my cell and threatened by correctional officers armed with long rifles and weapons. I had inadequate clothing and blankets were denied. There were nights that I was so cold that I feared that if I fell asleep that I would not wake up. In the dark I attempted to climb onto my upper bunk but fell hurting my right knee and right foot. I pressed the button for help and banged on my cell door but no medical attention was provided. I continue to have pain and disability in my right knee and right foot. It was the worst week of my life and I continue to have nightmares flashing back to the psychological torture of this week.

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

FT VIX CAMP

PO BOX 2000

JOINT BASE MDL, NJ 08640



TRENTON NJ 0865

26 JUL 2019 PM 4 L

FEDERAL BUREAU OF PRISONS
NORTHEAST REGIONAL OFFICE
US CUSTOM HOUSE
2 NO E CHESTNUT STS., 7TH FL.
PHILA, PA 19106

BURNS & HARRIS ATTORNEYS AT LAW

SETH A. HARRIS

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

JUDITH F. STEMLER
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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

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-2019-06566

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.

AMERICAN
OVERSIGHT

THE WOOLWORTH BUILDING • 233 BROADWAY, 20TH FLOOR, NEW YORK, NY 10279 • TEL (212) 393-1000 • FAX (212) 267-2110

2019-02980-5 OF 274
WWW.BURNSHARRIS.COM

DOI (BOP)-19-0278, 19-0279, and 19-0280-E-000005

RETAINER AGREEMENT

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

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

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

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

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

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

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

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

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

Option I

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

Option II

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

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

Option I

Client advances disbursements:

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

Option II

Law firm advances disbursements:

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

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

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

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

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

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

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

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

(initials)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DATED: Feb 21, 20 19 b)(6), (b)(7)(C) _____ (L.S.)

Witness: _____ (L.S.)



Express

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FZ

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AMERICAN
OVERSIGHT

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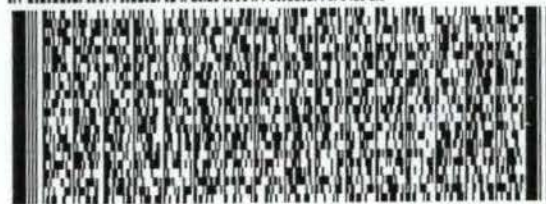
TO DARRIN HOWARD, REGIONAL COUNSEL
FEDERAL BUREAU OF PRISONS
US CUSTOM HOUSE
2ND & CHESTNUT STREETS, ROOM 701
PHILADELPHIA PA 19106

(215) 521-7301

REF: MDC BROOKLYN 005663

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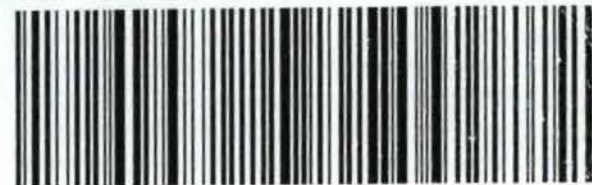


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U.S. Department of Justice

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-2019-06566

Dear Ms. Prabhu:

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

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

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

Sincerely,

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

Darrin Howard
Regional Counsel

BURNS & HARRIS

ATTORNEYS AT LAW

SETH A. HARRIS

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

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

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

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

August 6, 2019

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL OFFICE

AUG 30 2019

NERO-PHILADELPHIA

Re:

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

Supplemental Claim

Location: MDC Brooklyn

Dates of Incident: 1/27/19 – 2/03/19

To Whom It May Concern:

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

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

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

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

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

Respectfully,



JEAN PRABHU

JP/rb/enc.

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FIRST • CLASS

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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 16 of 274

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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

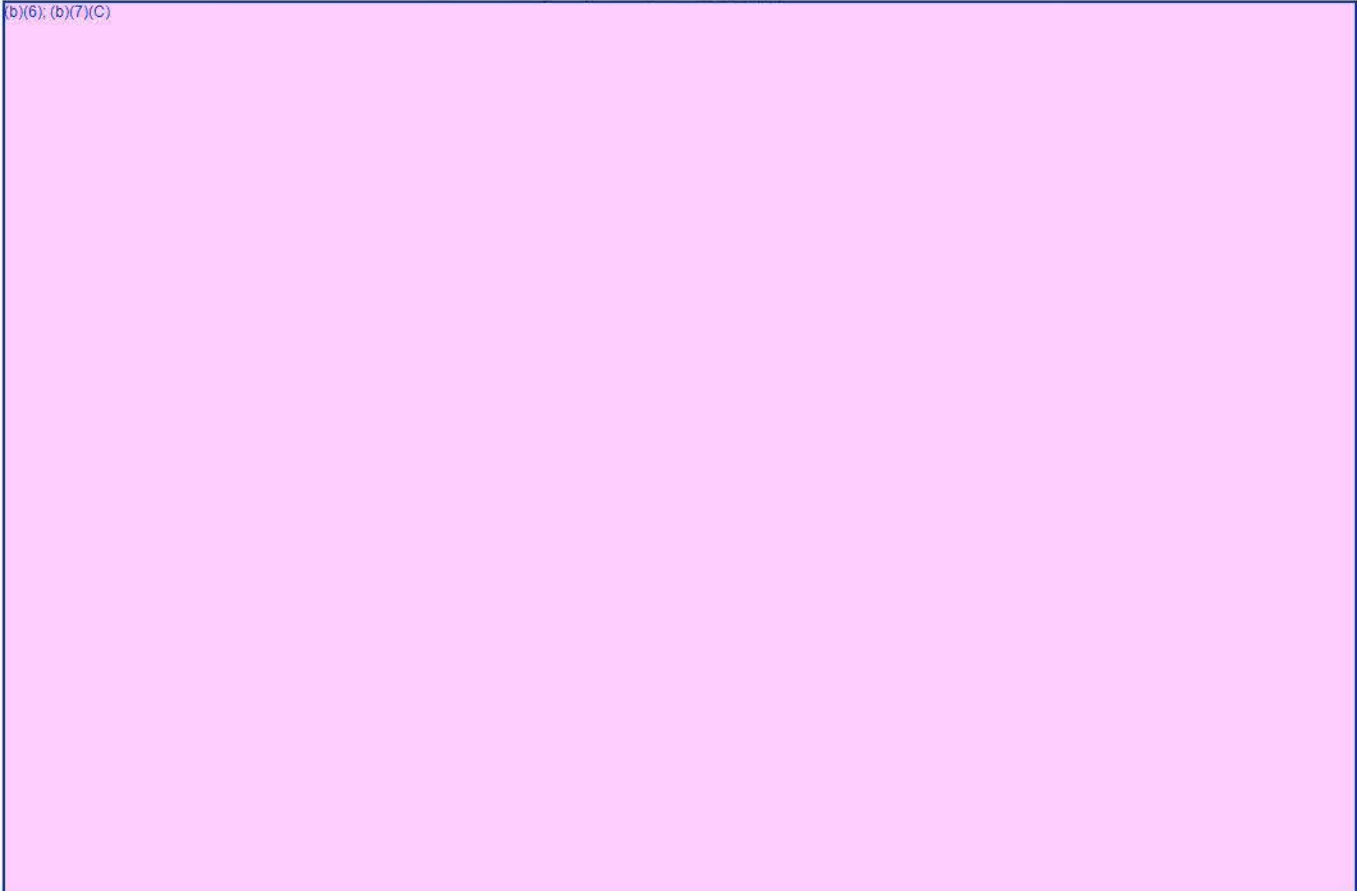
Ms. Jean Prabhu
Burns & Harris
The Woolworth Building
233 Broadway, Suite 900
New York, NY 10279

Re: Your Administrative Claims Received August 23, 2019

Dear Ms. Prabhu:

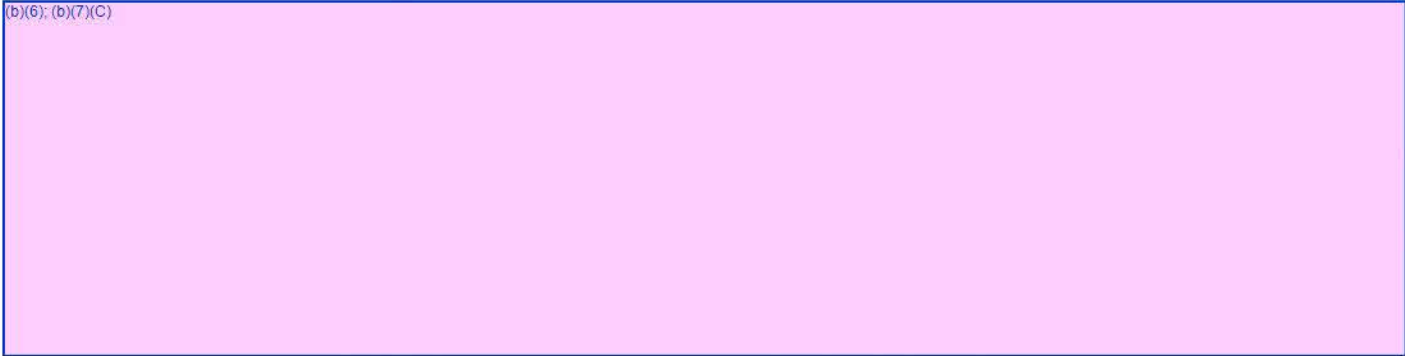
This will acknowledge receipt of the following administrative tort claims you filed on behalf of claimants seeking compensation for alleged personal injuries they suffered at the Metropolitan Detention Center in Brooklyn, New York:

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

A large rectangular area of the document is redacted with a solid pink color. It covers the majority of the lower half of the page, starting below the paragraph about tort claims and ending above the footer.

Ms. Jean Prabhu
September 10, 2019
Page 2

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



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

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

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

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

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

Sincerely,



Darrin Howard
Regional Counsel

Enclosure

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

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NSN 7540-00-634-4046

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

95-109

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2019-02980 19 of 274

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-E-000019

INSURANCE COVERAGE

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

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

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

17. If deductible, state amount.

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

9/10/19 *Multiple Claims*

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY													
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature X ☐ Agent ☐ Addressee													
1. Article Addressed to:	B. Received by (<i>Printed Name</i>)	C. Date of Delivery												
Ms. Jean Prabhu Burns & Harris The Woolworth Building 233 Broadway, Suite 900 New York, NY 10279	D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☒ No													
2. Article Number (<i>Transfer from service label</i>)	3. Service Type <table border="0"> <tr> <td>☐ Adult Signature</td> <td>☐ Priority Mail Express®</td> </tr> <tr> <td>☐ Adult Signature Restricted Delivery</td> <td>☐ Registered Mail™</td> </tr> <tr> <td>☐ Certified Mail®</td> <td>☐ Registered Mail Restricted Delivery</td> </tr> <tr> <td>☒ Certified Mail Restricted Delivery</td> <td>☒ Return Receipt for Merchandise</td> </tr> <tr> <td>☐ Collect on Delivery</td> <td>☐ Signature Confirmation™</td> </tr> <tr> <td>☐ Collect on Delivery Restricted Delivery</td> <td>☐ Signature Confirmation Restricted Delivery</td> </tr> </table>		☐ Adult Signature	☐ Priority Mail Express®	☐ Adult Signature Restricted Delivery	☐ Registered Mail™	☐ Certified Mail®	☐ Registered Mail Restricted Delivery	☒ Certified Mail Restricted Delivery	☒ Return Receipt for Merchandise	☐ Collect on Delivery	☐ Signature Confirmation™	☐ Collect on Delivery Restricted Delivery	☐ Signature Confirmation Restricted Delivery
☐ Adult Signature	☐ Priority Mail Express®													
☐ Adult Signature Restricted Delivery	☐ Registered Mail™													
☐ Certified Mail®	☐ Registered Mail Restricted Delivery													
☒ Certified Mail Restricted Delivery	☒ Return Receipt for Merchandise													
☐ Collect on Delivery	☐ Signature Confirmation™													
☐ Collect on Delivery Restricted Delivery	☐ Signature Confirmation Restricted Delivery													
7013 0600 0001 9910 9338	PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt													



EMERY CELLI BRINCKERHOFF & ABADY LLP

RICHARD D. EMERY
ANDREW G. CELLI, JR.
MATTHEW D. BRINCKERHOFF
JONATHAN S. ABADY
EARL S. WARD
ILANN M. MAAZEL
HAL R. LIEBERMAN
DANIEL J. KORNSTEIN
O. ANDREW F. WILSON
ELIZABETH S. SAYLOR
KATHERINE ROSENFELD
DEBRA L. GREENBERGER
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10TH FLOOR
NEW YORK, NEW YORK 10020

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CHARLES J. OGLETREE, JR.
EMERITUS

DIANE L. HOUK
JESSICA CLARKE

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

July 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) /o Emery Celli Brickerhoff & Abady LLP 600 Fifth Avenue, 10th Floor New York, New York 10020		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☐ CIVILIAN		4. DATE OF BIRTH (b)(6); (b)(7)(C)	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT 01/27/2019 02/01/2019	
7. TIME (A.M. OR P.M.) A.M.					
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Please see attached.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Please see attached.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
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 Rosenfeld</i>			13b. PHONE NUMBER OF PERSON SIGNING FORM 212-763-5066		14. DATE OF SIGNATURE 07/11/2019
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.) RECEIVED FEDERAL BUREAU OF PRISONS REGIONAL COUNSEL OFFICE		

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NSN 7540-00-634-4046

JUL 15 2019

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

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2019-02980 24 of 274

NERO-PHILADELPHIA

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-E-000024

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.**

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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 I-63, Cell (b)(6)
(b)(7)(C)
- c. In the seven-day period between January 27, 2019 and February 3, 2019 while I was confined at MDC: (1) there was no electricity and no functioning lights, and I was confined in near-darkness; (2) there was little to no heat and I was confined in freezing cold temperatures without adequate clothing or blankets; (3) there was a building-wide lockdown and I was confined to my cell for long periods of time; and (4) I had little to no access to clean laundry, hot food, regularly scheduled meals, regular showers, hot showers and hot water, medical or psychiatric care, exercise, or outside communications with my family or lawyers via email, pay phone, or visits.

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

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

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

2019 while I was confined at MDC, and/or as a result of the events of that week of confinement: pain and soreness in my left shoulder and left knee, the result of a fall from the top bunk in my cell while trying to navigate the ladder in absolute darkness. I repeatedly requested medical care, but none was provided. To-date, I still have not received medical care for my injuries, including x-rays, pain medication, etc.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

07/02/2019

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

To Whom it May Concern:

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

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

Sincerely,

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

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

(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 15 L

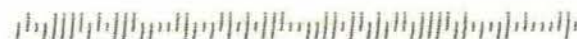
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Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

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

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-2019-05444

Dear Ms. Rosenfeld:

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

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

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

Sincerely,

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

Darrin Howard
Regional Counsel

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

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

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL OFFICE

AUG 30 2019

NERO-PHILADELPHIA

Re:

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

Supplemental Claim

Location: MDC Brooklyn

Dates of Incident: 1/27/19 – 2/03/19

To Whom It May Concern:

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

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

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

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

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

Respectfully,



JEAN PRABHU

JP/rb/enc.

FIRST • CLASS

FIRST • CLASS

FIRST • CLASS

CERTIFIED MAIL



7019 1120 0000 5291 9036

958



First Class Mail

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

S

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

205863

2019-02980 33 of 274

AMERICAN
OVERSIGHT

9/10/19

b(6)
b(7)(C)

NYTNEW2019 06536

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

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

2. Article Number (Transfer from service label)

7013 0600 0001 9910 9291

ted Delivery

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

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

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

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

Domestic Return Receipt

AMERICAN
OVERSIGHT

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-E-000034

2019-02980 34 of 274

USPS TRACKING #



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United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

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

[Signature]
(b)(6)
(b)(7)(C)



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House
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 Claim Received August 23, 2019

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

Dear Ms. Prabhu:

This will acknowledge receipt of the administrative tort claim submitted on behalf of (b)(6); (b)(7)(C). Mr. (b)(6); (b)(7)(C) seeks compensation for an alleged personal injury he suffered at the MDC Brooklyn.

Unfortunately, we are unable to identify Mr. (b)(6); (b)(7)(C) with the information you have provided. The federal register number you provided does not correspond to any person in the Federal Bureau of Prisons' custody. Please provide Mr. (b)(6); (b)(7)(C) correct federal register number and date of birth, or some other personal identifier, such as a social security number.

The claim provided a sum certain "in excess of one million dollars." However, the claim must seek specific dollar amount pursuant to 28 C.F.R. § 14.2. Accordingly, this claim is 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 the claimant as his legal representative. See 28 C.F.R. § 14.2.

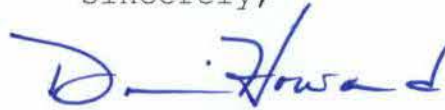
If you wish this claim to be considered for administrative settlement, please re-submit the claim document with the above-noted information. The enclosed Claim for Damage, Injury or Death form (SF-95) may be used in the instance of personal injury.

Ms. Jean Prabhu
September 10, 2019
Page 2

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

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,

A handwritten signature in blue ink that reads "D. Howard". The signature is stylized with a large, sweeping "D" and a cursive "Howard".

Darrin Howard
Regional Counsel

Enclosures

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

INSURANCE COVERAGE

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

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

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

17. If deductible, state amount.

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

BURNS & HARRIS ATTORNEYS AT LAW

SETH A. HARRIS

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

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

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

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

September 19, 2019

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

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL OFFICE

SEP 24 2019

Re: (b)(6); (b)(7)(C)
3rd Notice of Claim

NERO-PHILADELPHIA

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. Your last correspondence did not provide a claim number. Please advise at your earliest opportunity.

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.

AMERICAN
OVERSIGHT

THE WOOLWORTH BUILDING • 233 BROADWAY • 10013 NEW YORK, NY 10013 • TEL (212) 393-1000 • FAX (212) 267-2110

WWW.BURNSHARRIS.COM

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-E-000040

RETAINER AGREEMENT

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

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

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

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

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

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

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

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

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

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

Option I

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

Option II

(initials)_____ 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

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

no actions that frustrate or impair the success of this action.

(initials)

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

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

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

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

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

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

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

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

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

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

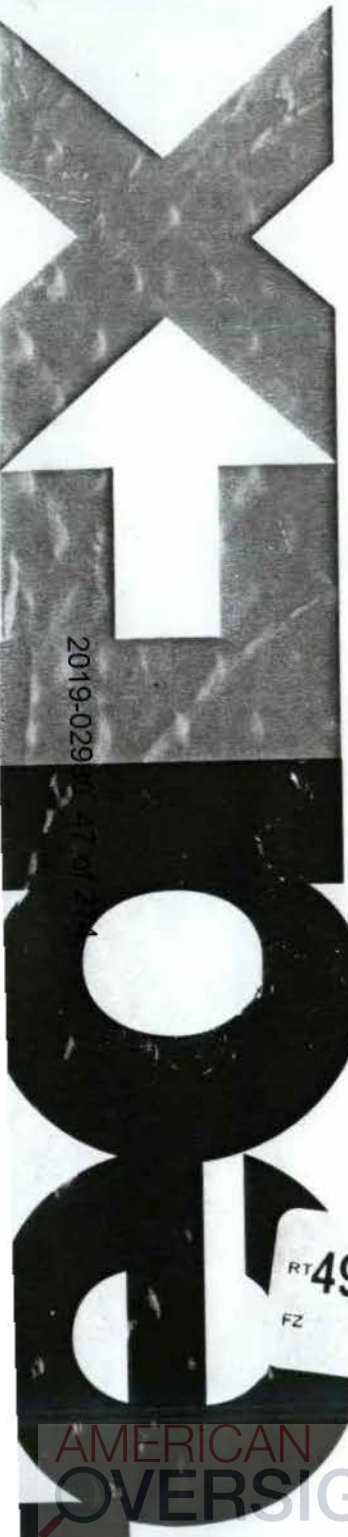
I certify and acknowledge that I have had the opportunity to read this Agreement and have answered any questions pertaining thereto. I further state that I have voluntarily entered into this Agreement fully aware of the terms and conditions.

DATED: Feb 21, 2019

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

(L.S.)

Witness: _____ (L.S.)



2019-029

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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/INET4160

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

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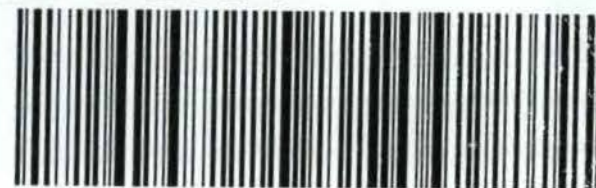


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U.S. Department of Justice

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-2019-06536

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

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-2020-00954

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

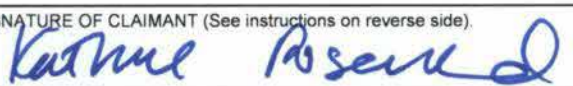
If you have any questions, I can be reached by phone at (212) 763-5000 or by email at krosenfeld@ecbalaw.com. Thank you for your attention to this matter.

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 Married	6. DATE AND DAY OF ACCIDENT 01/27/2019 02/03/2019	
7. TIME (A.M. OR P.M.) A.M.					
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Please see attached.					
DATE RECEIVED FEDERAL BUREAU OF PRISONS REGIONAL COUNSEL OFFICE NOV 04 2019					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Please see attached.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
CELLMATE #1		UNKNOWN			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY 1,000,000		12c. WRONGFUL DEATH	
				12d. TOTAL (Failure to specify may cause forfeiture of your rights). 1,000,000	
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). 			13b. PHONE NUMBER OF PERSON SIGNING FORM (212) 763-5066		14. DATE OF SIGNATURE
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

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NSN 7540-00-634-4046

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

95-109

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2019-02980 51 of 274

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-E-000051

INSURANCE COVERAGE

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

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

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

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

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

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

- a. During the week of January 27, 2019 through February 3, 2019, I was incarcerated in the West Building at the Metropolitan Detention Center in Brooklyn, New York. During that week, there was a power failure in the West Building.
- b. I was confined in the SHU.
- c. In the seven-day period between January 27, 2019 and February 3, 2019 while I was confined at MDC: (1) there was no electricity and no functioning lights, and I was confined in near-darkness; (2) there was little to no heat and I was confined in freezing cold temperatures and/or extreme temperature variations without adequate clothing or blankets; (3) there was a building-wide lockdown and I was confined to my cell for long periods of time; and (4) I had little to no access to clean laundry, hot food, regularly scheduled meals, 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: Drinking water was not portable. Toilets did not function without electricity. The food was not appropriate. I did not have access to my medication. I have chronic high blood pressure and they never gave me the medication. I am also suffering from depression, schizophrenia and they never gave me the medication. Now I am suffering. The lack of the irresponsibility of this institution. I have all over my body, marks and rashes of fungus because of the lack of hygiene from the place where there was no water to bathe and the toilet did not flush. We could not change our clothes, bed or personal items. They speak of the 27 of January but this has been going on for 4 months. The toilets are clogged, the bathroom is dirty full of contagious fungus. The rats and cockroaches are living with us in our beds. When there was a complaint they would send you to solitary cell and would deprive you of your right for visits, calls, medicine and others.

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

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

- a. As a result of being confined in the circumstances described in paragraph 8, including but not limited to a prolonged period of bitter cold, and/or extreme temperature variations, and darkness, I suffered the following injuries which form the basis of my claim: physical pain and discomfort as a result of my exposure to the cold; hunger; exposure to noxious odor, air quality, and excessive noise; severe personal uncleanliness cause by lack of access to showers of clean clothing; and emotional and psychological distress.
- b. I suffer from fungus on nails and feet, rash all over my body, loss of sight at 40/00, high blood pressure at 100/100, depression and schizophrenia and was not provided with medication for depression, high blood pressure, nervous system and schizophrenia. The fungus I developed from the lack of hygiene in the indicated areas (8d.)
- 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: Severe infection and fungus. My toes and feet bleed and my nails are full of fungus. I was told by the doctors there is no sure and that I have to live with this dermatological illness for life. Constant headaches, tumors in my head that is a result of the internal infection from fungus.

11. WITNESSES

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

AUTORIZACIÓN PARA ARCHIVAR SF-95 EN MI NOMBRE

_____, 2019

Departamento de justicia de EE. UU.
Oficina Federal de Prisiones
Oficina regional del noreste
Aduana de EE. UU.
2do & Calle Chestnut., 7mo Piso
Filadelfia, PA 19106

A quien pueda interesar:

Yo (b)(6); (b)(7)(C), autorizo a mis representantes en Emery Celli Brinckerhoff & Abady LLP, incluida Katherine Rosenfeld, a presentar un recurso administrativo de conformidad con la Ley Federal de Reclamaciones por Daños, 28 U.S.C. §§ 1346 (b), 2671 y siguientes. contra la Oficina de Prisiones.

Gracias. Si tiene alguna pregunta, por favor llame a la Sra. Rosenfeld al 212-763-5066..

Atentamente,

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

Nacido (a) el:

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

FIRST-CLASS

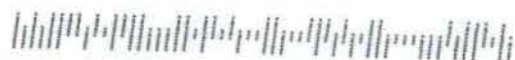


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EMERY CELLI BRINCKERHOFF & ABADY LLP
600 FIFTH AVENUE, 10TH FL. • NEW YORK, NEW YORK 10020

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

September 23, 2019

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

Re: Administrative Tort Claim Received September 10, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-07005

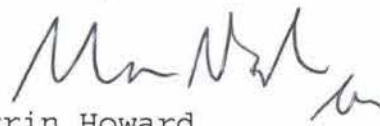
Dear Ms. Rosenfeld:

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

Unfortunately, we are unable to identify the claimant, (b)(6); (b)(7)(C) with the information you have provided. Please provide Mr. (b)(6); (b)(7)(C) Federal Register Number and a document to prove his identity and date of birth.

Accordingly, your claim is being returned to you for such action as you deem appropriate. If you wish to resubmit your claim with the above-noted information, your claim will be considered for administrative settlement.

Sincerely,


Darrin Howard
Regional Counsel

Enclosure



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

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

November 12, 2019

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

Re: Administrative Tort Claim Received November 1, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-07005

Dear Ms. Rosenfeld:

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

Unfortunately, we are unable to identify the claimant, (b)(6); (b)(7)(C) with the information you have provided. Please provide a document to prove Mr. (b)(6); (b)(7)(C) date of birth.

Accordingly, your claim is being returned to you for such action as you deem appropriate. If you wish to resubmit your claim with the above-noted information, your claim will be considered for administrative settlement.

Sincerely,

Darrin Howard
Regional Counsel

Enclosure

NERB9 524.01 *

NAME SEARCH

* 09-13-2019

PAGE 003

10:29:05

REG NO.	SOUNDX LAST NAME	EXACT FIRST NAME	SOUNDX MIDDLE	AGE S R +-2	BIRTH DATE	RSP OF
	(b)(6); (b)(7)(C)				MM-DD-YYYY	

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

TAF
LAT
THP
LEW
LEW
MCD
BEC
TAF
CAL
GUA
FTD
CSC
CSC
CSC
FTD

G0002

MORE PAGES TO FOLLOW . . .

HITS: 47

DOB
discrepancy

NERB9 524.01 * NAME SEARCH * 09-13-2019
PAGE 001 10:29:05

REG NO.	SOUNDX LAST NAME	EXACT FIRST NAME	SOUNDX MIDDLE	AGE S R +-2	BIRTH DATE	RSP OF
	(b)(6); (b)(7)(C)				MM-DD-YYYY	

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

P99
LEW
CCC
ALM
TAF
CRL
SDC
CRL
MIM
TRV
YAM
MVC
TAF
CSC
MVC

G0002 MORE PAGES TO FOLLOW . . .

HITS: 47

EMERY CELLI BRINCKERHOFF & ABADY LLP

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

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

To Whom It May Concern:

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

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

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

Sincerely,

/s/

Katherine Rosenfeld

Encl.

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

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NSN 7540-00-634-4046

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

95-109

AMERICAN
OVERSIGHT

2019-02980 62 of 274

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-E-000062

INSURANCE COVERAGE

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

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

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

17. If deductible, state amount.

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

STANDARD FORM 95 REV. (2/2007) BACK

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

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

- a. During the week of January 27, 2019 through February 3, 2019, I was incarcerated in the West Building at the Metropolitan Detention Center in Brooklyn, New York. During that week, there was a power failure in the West Building.
- b. I was confined in Unit 6-1.
- c. In the seven-day period between January 27, 2019 and February 3, 2019 while I was confined at MDC: (1) there was no electricity and no functioning lights, and I was confined in near-darkness; (2) there was little to no heat and I was confined in freezing cold temperatures and/or extreme temperature variations without adequate clothing or blankets; (3) there was a building-wide lockdown and I was confined to my cell for long periods of time; and (4) I had little to no access to clean laundry, hot food, regularly scheduled meals, regular showers, hot showers and hot water, medical or psychiatric care, exercise, or outside communications with my family or lawyers via email, pay phone, or visits.
- d. In addition to these facts, I also experienced the following circumstances between January 27, 2019 and February 3, 2019 while I was confined at MDC: It was a clear attempt on my life when I was placed on lockdown status inside my cell while smoke and carbon monoxide were coming through the ventilation system. Due to the cold temperatures, chronic illnesses I suffer from were exacerbated. In addition to this, I developed a hernia and on-going breathing issues. SORT teams were deployed to intimidate me. No rounds were conducted by the administration. No memorandums were circulated.

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

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

CLAIMANT, STATE THE NAME OF THE INJURY PERSON OR DECEDENT.

- a. As a result of being confined in the circumstances described in paragraph 8, including but not limited to a prolonged period of bitter cold, and/or extreme temperature variations, and darkness, I suffered the following injuries which form the basis of my claim: physical pain and discomfort as a result of my exposure to the cold; hunger; exposure to noxious odor, air quality, and excessive noise; severe personal uncleanliness cause by lack of access to showers of clean clothing; and emotional and psychological distress.
- b. I suffer from thyroid cancer, hypertension, glaucoma and a hernia and was not provided with access to medical care concerning the exacerbation of my chronic illnesses and the newly developed hernia.
- c. In addition to those injuries described in paragraph 10(a) above, I also suffered the following injuries between January 27, 2019 and February 3, 2019 while I was confined at MDC, and/or as a result of the events of that week of confinement: anxiety, PTSD, nightmares, insomnia, coughing/sneezing,

11. WITNESSES

The following people witnessed the circumstances that caused my injury:
My cellmate; Judge Torres from SDNY.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

August 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,

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

FIRST-CLASS



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MAILED FROM ZIP C

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

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

2019-02980 67 of 274

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EMERY CELLI BRINCKERHOFF & ABADY LLP

RICHARD D. EMERY
ANDREW G. CELLI, JR.
MATTHEW D. BRINCKERHOFF
JONATHAN S. ABADY
EARL S. WARD
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KATHERINE ROSENFELD
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DIANE L. HOUK

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

September 5, 2019

Via U.S. Mail

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

Re: *Administrative Complaint by* [REDACTED]

To Whom It May Concern:

On behalf of [REDACTED] enclosed please find:

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

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

Sincerely,

/s/

Katherine Rosenfeld

Encl.

**CLAIM FOR DAMAGE,
INJURY, OR DEATH****INSTRUCTIONS:** Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.FORM APPROVED
OMB NO. 1105-0008

1. Submit to Appropriate Federal Agency:

Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House, 7th Floor
Philadelphia, 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

SEP 10 2019

NERO-PHILADELPHIA

9.

PROPERTY DAMAGE

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED.
(See instructions on reverse side).

10.

PERSONAL INJURY/WRONGFUL DEATH

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

Please see attached.

11.

WITNESSES

NAME

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

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

UNKNOWN

12. (See instructions on reverse).

AMOUNT OF CLAIM (in dollars)

12a. PROPERTY DAMAGE

12b. PERSONAL INJURY

12c. WRONGFUL DEATH

12d. TOTAL (Failure to specify may cause
forfeiture of your rights).

1,000,000

1,000,000

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).

Katherine Rosenfeld

13b. PHONE NUMBER OF PERSON SIGNING FORM

(212) 763-5000

14. DATE OF SIGNATURE

9/4/19

**CIVIL PENALTY FOR PRESENTING
FRAUDULENT CLAIM**

The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).

**CRIMINAL PENALTY FOR PRESENTING FRAUDULENT
CLAIM OR MAKING FALSE STATEMENTS**

Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)

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NSN 7540-00-634-4046

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95-109

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2019-02980 69 of 274

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-E-000069

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

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

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

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

b. I was confined in Unit 6-1, cell ?.

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]

It was a clear attempt on my life when I was placed on lockdown
status inside my cell while smoke and carbon monoxide were coming
through the ventilation system. Due to the cold temperatures, chronic
illnesses I suffer from were exacerbated. In addition to this, I deve-
loped a hernia and on-going breathing issues. SORT teams were deployed
to intimidate me. No rounds were conducted by the administration.
No memorandums were passed out.

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

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

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

- a. As a result of being confined in the circumstances described in paragraph 8, including but not limited to a prolonged period of bitter cold and darkness, I suffered the following injuries which form the basis of my claim: physical pain and discomfort as a result of my exposure to the cold; hunger; exposure to noxious odor, air quality, and excessive noise; severe personal uncleanliness caused by lack of access to showers or clean clothing; and emotional and psychological distress.
- b. I suffer from [insert medical conditions here] and take medication for the rest of my life for the following illnesses: Thyroid cancer, hypertension, and glaucoma. Due to the extreme cold temperatures, I developed a hernia. _____ and during this period I was not provided with needed medical care. Specifically, I was not provided with [Example: daily medication] access to medical care concerning the exacerbation of my chronic illnesses and the newly developed hernia. _____
- 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.] The level of anxiety was increased due to my difficulty to breathe. I was not able to sleep at night due to the intense bouts of coughing and the pain from the newly developed hernia. _____

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

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

11. WITNESSES

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

My cell mate, (b)(6); (b)(7)(C), and the rest of the prison
population who suffered similar conditions to mine.

Probably the best witness I can mention is judge Torres from the
Sothern District of New York. She said: "I don't like what I see,
and the warden is lying."

I am: (Circle one)

Single Married

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

August 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

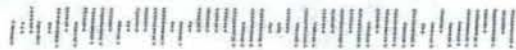
To Whom it May Concern:

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,

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



FIRST-CLASS



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

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

2019-02980 74 of 274

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) Hdc Brooklyn P.O. Box 329002 Brooklyn NY 11232		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☒ CIVILIAN	4. DATE OF BIRTH	5. MARITAL STATUS Single	6. DATE AND DAY OF ACCIDENT January 27th 2019	7. TIME (A.M. OR P.M.) 12:00 PM	
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). See Attachment					
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)			
		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	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.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). (b)(6); (b)(7)(C)			13b. PHONE NUMBER OF PERSON SIGNING FORM	14. DATE OF SIGNATURE 4/8/2019	
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.)		

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.

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

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

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

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

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

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

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

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

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

1906-290302



NEW YORK NY 100

13 APR 2015 PM 12 L





U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

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

April 30, 2019

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

MDC Brooklyn
80 29th Street
Brooklyn, NY 11232

Re: Administrative Claim **Received April 15, 2019**
Claim No. TRT-NER-2019-03882

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

October 14, 2019

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

RE: Administrative Claim No. TRT-NER-2019-03882

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

Administrative Claim No. TRT-NER-2019-03882, properly received in this office on April 15, 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 violation of your constitutional rights.

An investigation, including a review of your medical records, reveals you did not seek medical attention from Health Services for medical care as it relates 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. In addition, 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

YHTNER 2019 03882

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

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

9063 5105 94

2. Article Number (Transfer from service label)

7016 1370 0001 4120 2328

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

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

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

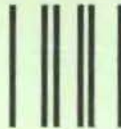
PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

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First-Class Mail
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United States
Postal Service

• Sender

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

is box

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



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

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

August 12, 2019

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

Re: Administrative Tort Claim Received August 1, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-05858

Dear Ms. Rosenfeld:

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

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

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

Sincerely,

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

Darrin Howard
Regional Counsel

EMERY CELLI BRINCKERHOFF & ABADY LLP

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

July 26, 2019

Via U.S. Mail

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

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

To Whom It May Concern:

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

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

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

Sincerely,

/s/

Katherine Rosenfeld

Encl.

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Federal Bureau of Prisons Northeast Regional Office U.S. CUSTOM HOUSE, 7TH FLOOR PHILADELPHIA, PA 19106			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse): Number, Street, City, State and Zip code. (b)(6); (b)(7)(C) c/o Emery Celli Brickerhoff & Abady LLP 600 Fifth Avenue, 10th Floor New York, New York 10020		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☒ CIVILIAN		4. DATE OF BIRTH (b)(6); (b)(7)(C)	5. MARITAL STATUS Single	6. DATE AND DAY OF ACCIDENT 01/27/2019 02/01/2019	
7. TIME (A.M. OR P.M.) A.M.					
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Please see attached.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). 					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side). 					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. 					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
CELLMATE #1		UNKNOWN			
12. (See instructions on reverse): AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY 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>Katharine Rosenbloom</i>			13b. PHONE NUMBER OF PERSON SIGNING FORM 212-763-5066		14. DATE OF SIGNATURE 7/29/17
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

STANDARD FORM 95 (REV. 2/2007)

PRESCRIBED BY DEPT. OF JUSTICE

28 CFR 14.2

AUG 01 2019

AMERICAN
OVERSIGHT

2019-02980 85 of 274 NERO-PHILADELPHIA

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-E-000085

INSURANCE COVERAGE

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

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

17. If deductible, state amount.

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

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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 J-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; and (4) I had little to no access to clean laundry, hot food, regularly scheduled meals, regular showers, hot showers and hot water, medical or psychiatric care, exercise, or outside communications with my family or lawyers via email, pay phone, or visits.

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

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

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

2019 while I was confined at MDC, and/or as a result of the events of that week of confinement: interruptions in my medication prescribed for anxiety and depression, and exacerbated symptoms related to my anxiety and depression. I suffered panic and fear as a result of the blackout and treatment by the jail staff. My fear left me without an appetite and unable to sleep.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

7 / 15 / 19

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

To Whom it May Concern:

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

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

Sincerely,

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

(b)(6); (b)(7)(C)
D.O.E.



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JUL 30 2019

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

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

2019-02980 90 of 274

JUNE 10

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

1. Location where the property loss or damage occurred: FBOP-MDC BROOKLYN Metropolitan Detention Center	2. Name, address of claimant (Register number, street, city, state, and zip code): (b)(6); (b)(7)(C) METROPOLITAN DETENTION CENTER 80 29TH STREET BROOKLYN, NEW YORK 11232
3. Date and Day of Incident: from Friday Feb 1st to Sunday FEB 3rd 2019 around 6pm	4. Time: (A.M. or P.M.): 24 Hours a day from Feb 1st to Feb 3rd until around 6pm

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.):

I Demand \$5,000.00 for pain and suffering due to negligence of the B.P.P. Warden Quay and captains of M.D.C. Brooklyn during the period of 2/1/19 through 2/3/19. We suffer power outage with no heat cold water no lights no electricity. I was housed against my will caused me substantial personal injury as the fire outage occurred during a polar vortex which was one of the coldest weeks in history in N.Y.C. It was dangerous and humiliated to be locked in my cell without basic human needs. The food was not prepped and they did not feed us for 11 hours a part. This was deliberate indifference to my human needs.

6. Witnesses (Please provide the name and address (number, street, city, state, and zip code of each witness)):

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

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

Prison Guards also experienced hazard issues, and there was protest rally outside buildings at M.D.C. Brooklyn

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

\$5,000.00

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

10. Date

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

FEB 27 2019

NERO-PHILADELPHIA

PDF

Prescribed by PS 1320

AMERICAN
OVERSIGHT

2019-02980 91 of 274

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-E-000091

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

1100 BROOKLYN, C. Metropolitan, detention, center

PO BOX 329002

BROOKLYN, NY, 11232



Northeast regional office

U.S. custom house

2nd + chestnut street, 7th floor

philadelphia, PA, 19106

FEDERAL, Bureau of prisons

1910632907 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

March 8, 2019

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

USP Canaan
P.O. Box 300
Waymart, PA 18472

Re: Administrative Claim Received February 27, 2019
Claim No. TRT-NER-2019-02823

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

We are in receipt of your Small Claims for Property Damage or Loss Form, which reflects your intent to file a claim.

Your claim is rejected at this time because you have failed to sign your tort claim, as required by 28 C.F.R. § 14.2. Accordingly, your claim is being returned to you for such action as you deem appropriate.

If you believe you have suffered a personal injury, you may complete and return the attached SF-95 to the Regional Office in which the claim accrued. Your SF-95 should describe the basis of your claim, including information as to how, when and where the incident occurred, an explanation of the alleged events, and the nature and extent of each injury. You must complete each section of the form to provide sufficient information so your claim may be investigated.

If you wish to resubmit your claim with the above-noted information, your request will be considered for administrative settlement.

Sincerely,

Darrin Howard
Regional Counsel

Enclosures

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

INSURANCE COVERAGE

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

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

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

17. If deductible, state amount.

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

STANDARD FORM 95 REV. (2/2007) BACK



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-2019-02630
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

4BT NEN 2019 02630

SENDER: COMPLETE THIS SECTION

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

1. Article Number

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

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



9590 9402 3738 7335 6609 35

2. Article Number (Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

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

3. Service Type

- | | |
|--|---|
| ☐ Adult Signature | ☐ Priority Mail Express® |
| ☐ Adult Signature Restricted Delivery | ☐ Registered Mail™ |
| ☒ Certified Mail® | ☐ Registered Mail Restricted Delivery |
| ☐ Certified Mail Restricted Delivery | ☒ Return Receipt for Merchandise |
| ☐ Collect on Delivery | ☐ Signature Confirmation™ |
| ☐ Collect on Delivery Restricted Delivery | ☐ Signature Confirmation Restricted Delivery |
| ☐ Insured Mail | |
| ☐ Insured Mail Restricted Delivery (over \$500) | |

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

Domestic Return Receipt

2019-02980 97 of 274

USPS TRACKING #
9590 9402 3738 7335 6609 35

United States
Postal Service

First-Class
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USPS
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• Sender: Please print your name, address, and ZIP+4® in this box •

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


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

4BT NER 2019 02630

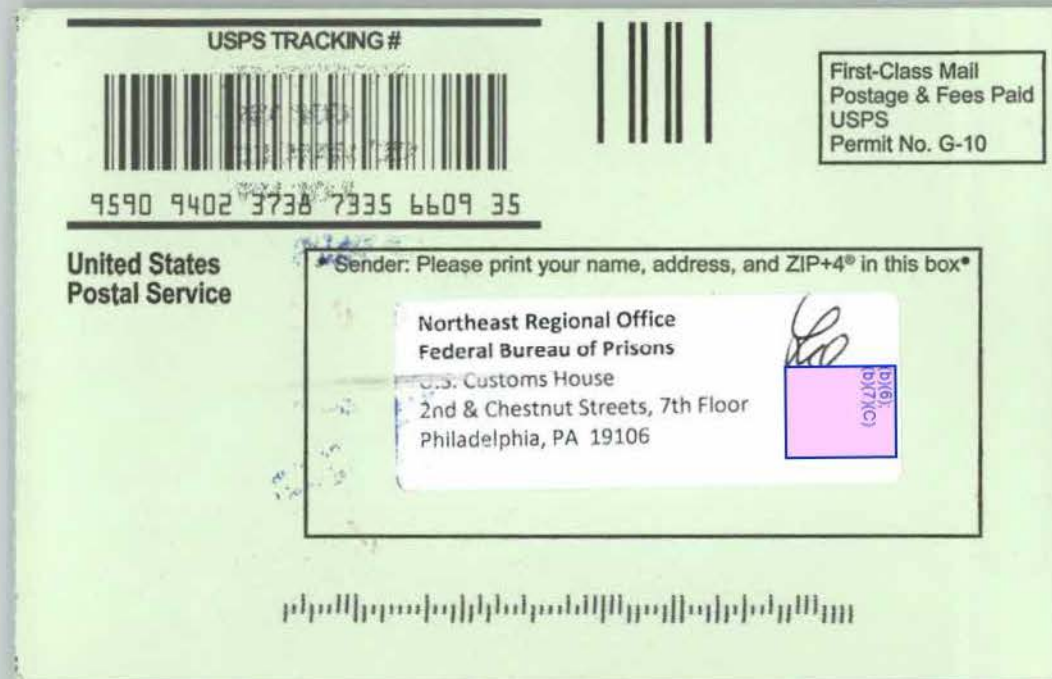
SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature ☒ [Redacted Signature] ☐ Agent ☐ Addressee B. Received by (Printed Name) [Redacted Name] C. Date of Delivery [Redacted Date] 1. Article Description [Redacted Description] 2. Article Number (Transfer from service label) [Redacted Number] 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

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

9590 9402 3738 7335 6609 35

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

2019-02980 99 of 274



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-2019-02630

NERO-PHILADELPHIA

Dear Mr. Howard:

Claimant submits this letter, pursuant to 28 C.F.R. 14.9(b), seeking reconsideration of the final decision denying the administrative claim for the negligent infliction of emotion distress. Further, Claimant hereby increases his demand for compensatory damages in light of the agency's decision and the physical and psychological injuries Claimant suffered by virtue of staff's negligence. For the reasons set forth hereinafter, reconsideration is both appropriate and warranted, and this claim should be promptly settled.

As a preliminary matter, Claimant initially sought compensatory damages in the amount of \$100,000.00. Claimant hereby increases that demand to \$500,000.00.

By letter dated March 4, 2019, your agency office declined to settle the claim for compensatory damages based on the breach of a duty of care owed to Claim under 18 U.S.C. 4042(a)(2) and (3), which resulted in the negligent infliction of emotional distress. As the sole basis for denying the claim, your office incorrectly concluded that Claim had "not alleged an identifiable physical injury actionable under the Federal Tort Claims Act 28 U.S.C. 1346(b)(2), 2672." (March 4, 2019, Denial Letter at 1). Claimant is neither a convicted prisoner awaiting sentencing, nor a sentenced prisoner. Therefore, your reliance on 28 U.S.C. 1346(b)(2) has been misplaced. Reconsideration is warranted.

"Prior to the commencement of suit and prior to the expiration of the 6-month period provided in 28 U.S.C. 2401 (b), a claimant...may file a written request with the agency for reconsideration of the denial of a claim..." (28 C.F.R. 14.9(b)) Here, the agency clearly overlooked binding authority holding that claims of "negligent infliction of emotional distress" are cognizable and actionable under the Federal Tort Claims Act. See, e.g., *Mortise v. United States*, 102 F.3d 693, 696 (2d Cir. 1996); and *Lavoie v. United States*, 361 F. App'x 206, 207 (2d Cir. 2010). Consequently, reconsideration must be granted, and Claimant must be afforded compensation for the incomprehensible and irresponsible breach of the duty of care owed him under 18 U.S.C. 4042(a)(2) and (3), which resulted in the negligent infliction of emotional distress.

Respectfully submitted,

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

REGISTER NO

P.O. BOX 329002

BROOKLYN, NEW YORK 11232

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

Metropolitan Detention Center
P.O. Box 329005
Brooklyn, New York 11232



NEW YORK NY 100

11 MAR 2019 PM 15 L

Daniel Hendrick, Esq.
Northeast Regional Counsel
Federal Bureau of Prison
200 Chestnut Streets
Philadelphia, PA 19106

19106-297999



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

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

FEB 21 2019

NERO-PHILADELPHIA

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

Dear Mr. Howard:

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

I. THE RELEVANT FACTS.

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

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

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

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

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

II. THE RELEVANT LAW.

(a) Liability Under The Federal Tort Claims Act.

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

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

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

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

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

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

Under New York law, a claim of negligent infliction of emotional distress must be premised upon a breach of a duty owed "which either unreasonably endangers the plaintiff's physical safety, or causes the plaintiff to fear for his or her own safety." {Sheila C. v. Povich, 11 A.D.3d 120, 130 (1st Dep't 2004); see also Mortise v. United States, 102 F.3d 693, 696 (2d Cir. 1996)} Under New York law, a plaintiff may establish a claim of negligent infliction of emotion distress in one of two ways: (1) the "bystander" theory; or (2) the "direct duty theory." A plaintiff may recover for purely emotional injury under the "direct duty theory" when he/she suffers an emotional injury from defendant's breach of a duty which unreasonably endangers his/her own physical safety. {See, Mortise, 102 F.3d at 696 (citing Kennedy v. McKesson Co., 58 N.Y.2d 500, 504 (1983))} The duty in such cases must be specific to the plaintiff, and 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 18, 2019

Respectfully submitted,

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

[SIGNATURE]

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

[PRINT NAME]

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

[REGISTER NUMBER]

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

-- CLAIMANT --

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

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

New York Times (w/ecnl.)

New York Federal Defenders

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

metropolitan center

P.O. Box 329002

Brooklyn, NY 11232

NEW YORK NY 100

15 FEB 2019 PM 1:01



DARRIN Howard, Esq

NORTHEAST REGIONAL COUNSEL

U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

200 Chestnut Street

Philadelphia, Pennsylvania 19106



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

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

March 21, 2019

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

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

Re: Administrative Claim Reconsideration Received March 13, 2019
Claim No. TRT-NER-2019-02630

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

RE: Administrative Claim No. TRT-NER-2019-02630
Reconsideration
Claim Received March 13, 2019

Dear Mr. [REDACTED]

Your request for reconsideration of Administrative Claim No. TRT-NER-2019-02630 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 \$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 severe emotional distress, which affected your ability to sleep and focus. You contend you feared for your personal safety.

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

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

Sincerely,

Darrin Howard
Regional Counsel

cc: D. Edge, Warden, MDC Brooklyn

AMERICAN
OVERSIGHT

2019-02980 108 of 274

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

TKT NET 2019 02630

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1. Article Addressed to:

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

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

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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

March 21, 2019

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

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

RE: Administrative Claim No. TRT-NER-2019-03087
Claim Received March 15, 2019

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

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

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

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

Sincerely,

Darrin Howard
Regional Counsel

cc: H. Quay, Warden, MDC Brooklyn

4417 NEW 2019 03087

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MDC Brooklyn
P.O. Box 329002
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- ☐ Addressee

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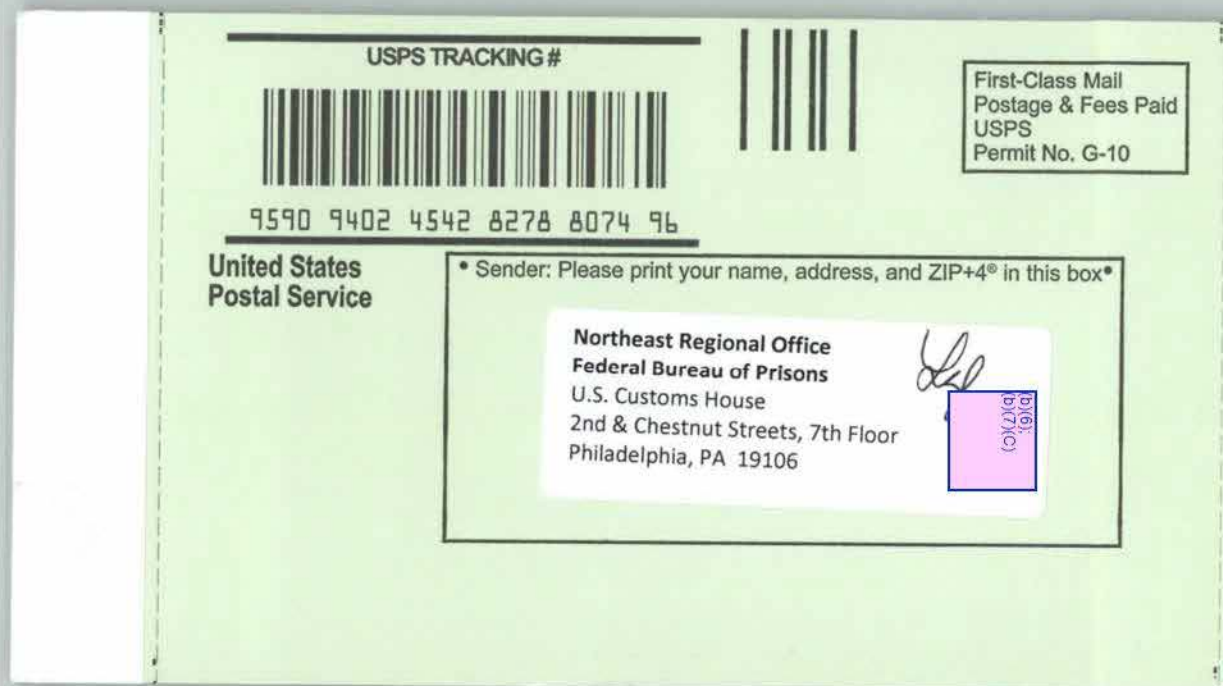
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PS Form 3811, July 2015 PSN 7530-02-000-9053

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2019-02980 112 of 274



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

March 8, 2019

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

MAR 15 2019

NERO-PHILADELPHIA

Northeast Regional Office (BOP)
U.S. Custom House
2nd + Chestnut Street, 7th Floor
Philadelphia, PA. 19106

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

Dear Sir/Madame;

I am writing in direct regards to the above referenced matter. 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 two million dollars for personal injury that I suffered as a result of negligence by Federal Bureau of Prison staff at the Metropolitan Detention Center ("MDC") in Brooklyn, New York. For the reasons that follow, this claim should be promptly settled.

1. The Relevant Facts:

At the 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 approximate 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 cell 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 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 exist

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 the circumstances where a private person would be liable according to "the laws of the place where the act or omission occurred," and thus New York law applies. [28 U.S.C. 1346(b); Kane v. United States, 189 F. Supp 2d 40, 51-52 (S.D. N.Y. 2002); Ducrepin v. United States, 964 F. Supp 659, 663 (E.D. N.Y. 1997). Under

New York law, to prove a claim of negligence, plaintiff must establish three elements: (i) defendant owed plaintiff a duty of care; (ii) defendant breached that duty; and (iii) the breach proximately caused plaintiff's injury. (Kane, 189 F. Supp 2d at 51-52).

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

Although state laws set out the elements to prove negligence, the standard 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 safe keeping, 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, 598 (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 (2nd Cir. 1996). Under New York law, a plaintiff may establish a claim of negligent infliction of emotional distress in one of two ways: (1) the "bystander" theory; or (2) the "direct duty theory". A plaintiff may recover for purely emotional injury under the "direct duty theory" when he/she suffers emotional injury from defendant's breach of 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 described in Section 4042 (a) (2) and (3), to provide him "suitable quarters", "safe keeping" 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 institution 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. 11 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, as well settled law, claimant is entitled to compensatory damages in the amount of 2 million dollars.

IV Conclusion

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

Respectfully Submitted

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

Metropolitan Detention Center

P.O. Box 329003

Brooklyn, New York 11232

2019-02980 119 of 274

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

and Civil Liberties Detention Center

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

P.O. Box 369002
Brooklyn, New York 11232

NEW YORK NY 10013
13 MAR 2019 PM 14 L



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U.S. Customs House
2nd + Chestnut Street, 7th Floor
Philadelphia, PA. 19106

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MAR 14 2019

NERO-PHILADELPHIA

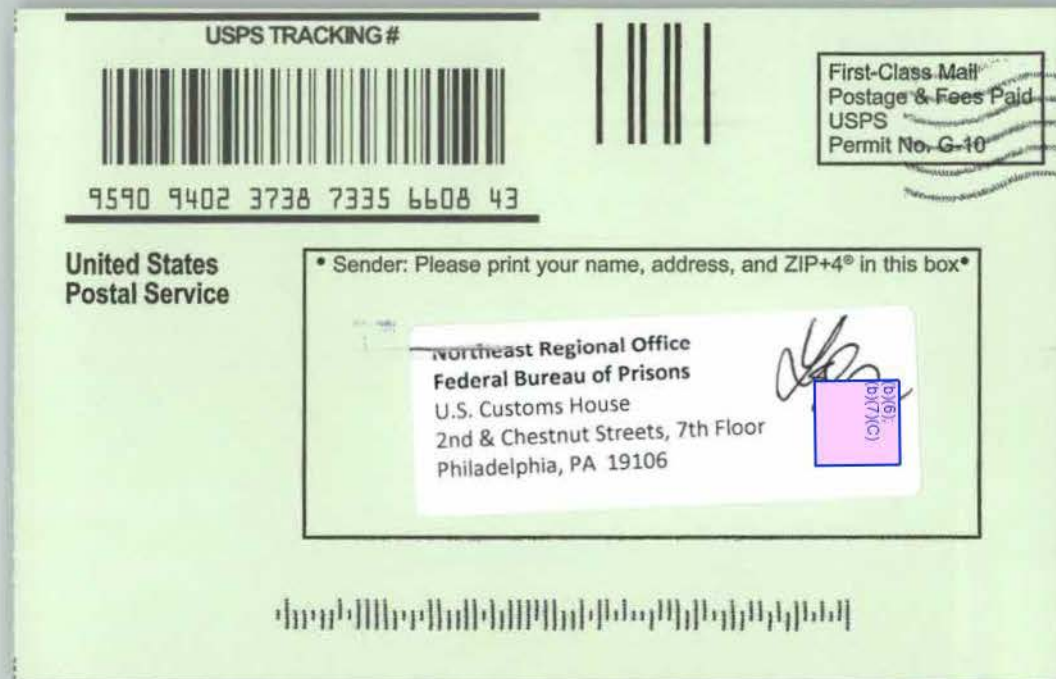
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PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

2019-02980 122 of 274



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.

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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.

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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.

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

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

CERTIFIED MAIL



0222 2926 0000 0890 8102

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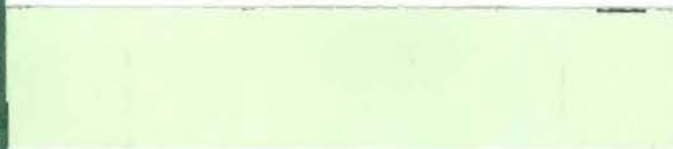
Philadelphia, Pennsylvania [19106]

Darrin Howard, ESQ.
Northeast Regional Counsel
U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
% 200 Chestnut Street





PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE





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-2019-02664
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

INT NEW 2019 02664

SENDER: COMPLETE THIS SECTION

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

1. /

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

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



9590 9402 3738 7335 6608 43

2. Article Number (Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

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

3. Service Type

- | | |
|--|---|
| ☐ Adult Signature | ☐ Priority Mail Express® |
| ☐ Adult Signature Restricted Delivery | ☐ Registered Mail™ |
| ☐ Certified Mail® | ☐ Registered Mail Restricted Delivery |
| ☐ Certified Mail Restricted Delivery | ☐ Return Receipt for Merchandise |
| ☐ Collect on Delivery | ☐ Signature Confirmation™ |
| ☐ Collect on Delivery Restricted Delivery | ☐ Signature Confirmation Restricted Delivery |
| ☐ Insured Mail | |
| ☐ Insured Mail Restricted Delivery (over \$500) | |

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

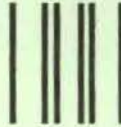
Domestic Return Receipt

2019-02980 130 of 274

USPS TRACKING #



9590 9402 3738 7335 6608 43



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

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

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



GIVEN TO INMATE ON 3/6/2019

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

JUNE 10

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

1. Location where the property loss or damage occurred: Unit 63 metropolitan Detention Center 80 29th Street Brooklyn, NY 11232	2. Name, address of claimant (Register number, street, city, state, and zip code): (b)(6); (b)(7)(C) METROPOLITAN DETENTION CENTER 80 29TH STREET BROOKLYN, NEW YORK 11232
3. Date and Day of Incident: 1/27 to 2/3	4. Time: (A.M. or P.M.): 24 Hours Daily on dates of incident
5. Basis of Claim (State in detail the known facts and circumstances of the damage to, or loss, of privately owned property, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages, if necessary.): During the MDC Blackout from 1/27 to 2/3, I became a victim of cruel & unusual punishment that was deemed unconstitutional. During this timeframe, I was not provided adequate hygiene & proper nutrition that resulted in weight loss & severe migraines.	
6. Witnesses (Please provide the name and address (number, street, city, state, and zip code of each witness)): my cellmate would be a witness along with every inmate on the unit during that period given this matter occurred the entire Prison building.	
7. Amount of Claim for Damage to, or loss of, privately owned property (in dollars) (Sum Certain Amount - Total Amount Of Claim): \$1,000	
8. MAIL OR DELIVER CLAIM TO THE REGIONAL OFFICE WHERE THE CLAIM OCCURRED	
I CERTIFY THAT THE AMOUNT OF THE CLAIM COVERS ONLY DAMAGE TO, OR LOSS OF PRIVATELY OWNED PROPERTY CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.	
9. Signature of Claimant or Authorized Representative	10. Date 3-13-19

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE
MAR 27 2019
NERO-PHILADELPHIA

PDF

Prescribed by PS 1320

AMERICAN
OVERSIGHT

2019-02980 132 of 274

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-E-000132

Metropolitan Detention Center

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

P.O. Box 329002
Brooklyn N.Y. 11232

NEW YORK NY 100

25 MAR 2019 PM 3 L



TO: Northeast Regional Office

US Custom House

2nd and Chestnut Street 7th Floor

Philadelphia, PA 19106

19106-291340



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

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

April 2, 2019

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

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

Re: Your Administrative Claim Received March 27, 2019
Claim No. TRT-NER-2019-03294

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

This office received your administrative claim in which you seek compensation for an alleged personal injury sustained at MDC Brooklyn from January 27, to February 3, 2019.

Your claim is rejected at this time because you have failed to sign your tort claim, as required by 28 C.F.R. § 14.2. Your claim is being returned to you for such action as you deem appropriate.

In addition, pursuant to Program Statement 1320.06, Federal Tort Claims Act, if you wish to file an administrative tort claim, you may use the attached Claim for Damage, Injury of Death (SF-95) in the instance of personal injury or wrongful death.

If you wish to resubmit your claim with the above-noted information, your request will be considered for administrative settlement.

Sincerely,

Darrin Howard
Regional Counsel

Enclosures

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
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OVERSIGHT

2019-02980 135 of 274

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-E-000135

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.



U.S. Department of Justice
Federal Bureau of Prisons
Federal Medical Center
Consolidated Legal Center
3301 Leestown Road
Lexington, KY 40511-8799

July 26, 2019

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

USP McCreary
P.O. Box 3000
Pine Knot, KY 42635

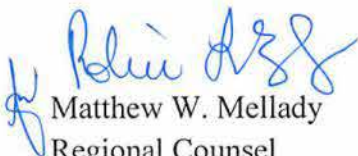
Re: Administrative Claim

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

We are in receipt of your administrative claim. It appears that your claim originated while you were in the North East Region and was forwarded to them for processing. You need to send all future inquiries to:

Darrin Howard, Regional Counsel
Bureau of Prisons, North East Region
US Customs House
2nd & Chestnut Street, 7th floor
Philadelphia, PA 19106

Sincerely,


Matthew W. Mellady
Regional Counsel
Mid-Atlantic Region

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of the 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: Lexington Consolidated Legal Center FMC Lexington 3301 Leestown Road Lexington, Kentucky 40511-8799		2. Name, Address of claimant and claimant's personal representative, if any. <i>(See instructions on reverse.) (Number, street, city, State and Zip Code)</i> (b)(6); (b)(7)(C) United States Penitentiary McCreary P.O. Box 3000 Pine Knot, KY 42635			
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 From - 1-27-2019 until February 3-2019		7. TIME (A.M. or P.M.) Both			
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 January 27-2019 until February 3-2019 complainant suffered severe living conditions while housed at the MDC Brooklyn special housing unit, with no lights, no heat, no running water and human toxic water in the toilet while being fed under these bars living conditions complainant also suffered severe chest and stomach pain, trapped in the cell cage, refused by staff extra blankets and sheets and pair of sock, tee-shirt, pair of boxers or clothing from our personal property also I was refused all medical attention having a asthma attack, the sexated from the state of New York Bill de Blasio, send us blankets and sheets and staff never give us anything's evident all around the world about the punishment and the abused that they did to us (MDC Brooklyn prompt video google) will show the punishment that all staff had done to us the United State of American law stated NO ONE in the United State should not be leave at the park and Freery (Right to be free from cruel and unusual punishment under title 18 U.S.C.s 3626 (a) (2) defining civil action with respect to prison conditions)					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, street, city, State, and Zip Code) Metropolitan Detention Center MDC Brooklyn PO BOX 329002 Brooklyn New York 11232 Zip code 11232 Federal Detention Center					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side.) My Personel Frustration Distress chest pain 2 and 3 time of week still stomach pain verbally illness					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT. "Psychology Distress" Mental illness					
11. WITNESSES					
NAME News, Media, webside, and google		ADDRESS (Number, street, city, State, and Zip Code) Media and webside, download, google MDC Brooklyn Prompt video			
12. (See instructions on reverse) AMOUNT OF CLAIM (In dollars)					
12a. PROPERTY DAMAGE 50,000,000		12b. PERSONAL INJURY 50,000,000		12c. WRONGFUL DEATH 50,000,000	
12d. TOTAL (Failure to specify may cause forfeiture of your rights.) 8th and 14th Amendment					
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13. SIGNATURE OF CLAIMANT (See instructions on reverse side.) (b)(6); (b)(7)(C)		14. DATE OF CLAIM 7-21-2019			
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant shall forfeit and pay to the United States the sum of \$2,000 plus double the amount of damages sustained by the United States. (See 31 U.S.C. 3729.)		CLAIM OR MAKING FALSE STATEMENTS Fine of not more than \$10,000 or imprisonment for not more than 5 years or both. (See 18 U.S.C. 287, 1001.)			

RECEIVED
 JUL 25 2019
 Lexington Legal Center
 KY 40511-8799

AM
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PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552(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, 38 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 26 C.F.R. Part 14.

- S. **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".

INSTRUCTIONS

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.

Any instructions or information necessary in the preparation of your claim will be furnished, upon request, by the office indicated in Item #1 on the reverse side. 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 supplemental regulations also. 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 said 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 claim for both personal injury and property damage, claim for both must be shown in Item 12 of this form.

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

Failure to specify a sum certain will result in invalid presentation of your claim and may result in forfeiture of your rights.

Public reporting burden for this collection of information is estimated to average 15 minutes 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 Director, Torts Branch
 Civil Division
 U.S. Department of Justice
 Washington, DC 20530

and to the
 Office of Management and Budget
 Paperwork Reduction Project (1105-0306)
 Washington, DC 20503

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 his 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 claim on your insurance carrier in this instance, and if so, is it full coverage or deductible?

NO

17. If deductible, state amount

NO

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

Class Action Been Filed By The Attorney's
 for All inmates in the facility

19. Do you carry public liability and property damage insurance? ☐ Yes, if yes, give name and address of insurance company (Number, street, city, State, and Zip Code) ☒ No



1090 0000 9500 9331

United States Penitentiaries McCreary
PO Box 3000
McCreary, KY 42635

2002/06/19
✓

2002/06/19
✓

Lexington Consolidated Legal Center
TMC Lexington

3301 Leesport Road
Lexington Kentucky 40511-8799
~~Lexington Kentucky 40511-8799~~

2002/06/19
✓



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

- SF95 Claim GARCIA.pdf

From:

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

To:**Date:**

7/25/2019 2:29 PM

Subject:

SF95 Claim (b)(6); (b)(7)(C) pdf

Attachments: SF95 Claim (b)(6); (b)(7)(C) pdf; IM referral letter.pdf; SAMPLE -Inmate Region Referral.docx

Please see attached new tort claim. The inmate is alleging emotional distress @ MDC BRK.

Have a super day.

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

Paralegal Specialist

Federal Bureau of Prisons

Consolidated Legal Center, FMC LEX

3301 Leestown Road

Lexington, KY 40511-8799

Phone: (859) 255-6812, ext. (b)(6); (b)(7)(C)



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 29, 2019

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

USP McCreary
P.O. Box 3000
Pine Knot, KY 42635

Re: Administrative Claim **Received July 25, 2019**
Claim No. TRT-NER-2019-05681

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

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

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

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

Sincerely,

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

Darrin Howard
Regional Counsel

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

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

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

August 6, 2019
DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL 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

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 200 • NEW YORK, NY 10279 • TEL (212) 393-1000 • FAX (212) 267-2110

2019-02980 144 of 274

WWW.BURNSHARRIS.COM

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-E-000144

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

Respectfully,



JEAN PRABHU

JP/rb/enc.

FIRST • CLASS

FIRST • CLASS

FIRST • CLASS

CERTIFIED MAIL



7019 1120 0000 5291 9036

958



First Class Mail

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

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

205863

2019-02980 146 of 274

AMERICAN
OVERSIGHT



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

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

September 10, 2019

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

Re: Your Administrative Claims Received August 23, 2019

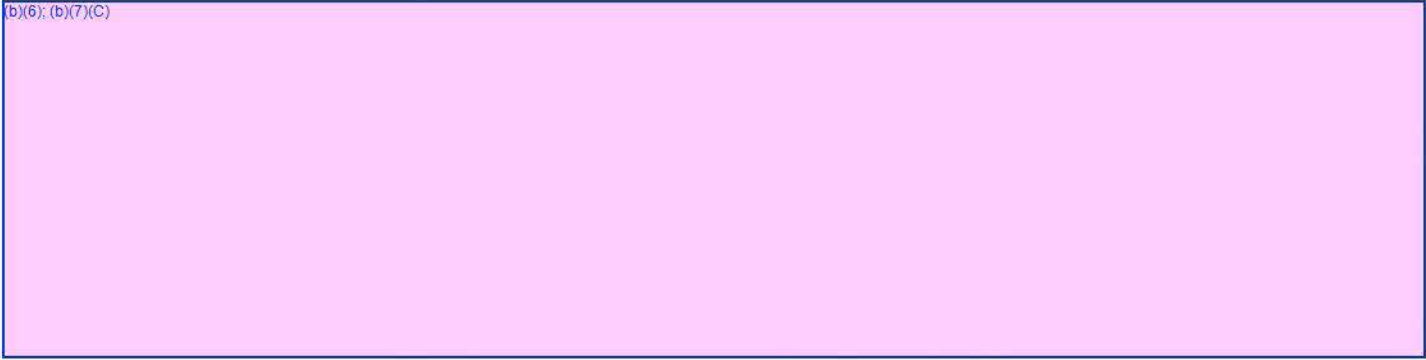
Dear Ms. Prabhu:

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

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

Ms. Jean Prabhu
September 10, 2019
Page 2

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



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

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

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

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

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

Sincerely,



Darrin Howard
Regional Counsel

Enclosure

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

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Previous Edition is not Usable

NSN 7540-00-634-4046

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

95-109

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OVERSIGHT

2019-02980 149 of 274

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-E-000149

INSURANCE COVERAGE

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

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

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

17. If deductible, state amount.

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

9/10/19 *Multiple Claims*

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY													
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature X ☐ Agent ☐ Addressee													
1. Article Addressed to:	B. Received by (<i>Printed Name</i>)	C. Date of Delivery												
Ms. Jean Prabhu Burns & Harris The Woolworth Building 233 Broadway, Suite 900 New York, NY 10279	D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☒ No													
2. Article Number (<i>Transfer from service label</i>)	3. Service Type <table border="0"> <tr> <td>☐ Adult Signature</td> <td>☐ Priority Mail Express®</td> </tr> <tr> <td>☐ Adult Signature Restricted Delivery</td> <td>☐ Registered Mail™</td> </tr> <tr> <td>☐ Certified Mail®</td> <td>☐ Registered Mail Restricted Delivery</td> </tr> <tr> <td>☒ Certified Mail Restricted Delivery</td> <td>☒ Return Receipt for Merchandise</td> </tr> <tr> <td>☐ Collect on Delivery</td> <td>☐ Signature Confirmation™</td> </tr> <tr> <td>☐ Collect on Delivery Restricted Delivery</td> <td>☐ Signature Confirmation Restricted Delivery</td> </tr> </table>		☐ Adult Signature	☐ Priority Mail Express®	☐ Adult Signature Restricted Delivery	☐ Registered Mail™	☐ Certified Mail®	☐ Registered Mail Restricted Delivery	☒ Certified Mail Restricted Delivery	☒ Return Receipt for Merchandise	☐ Collect on Delivery	☐ Signature Confirmation™	☐ Collect on Delivery Restricted Delivery	☐ Signature Confirmation Restricted Delivery
☐ Adult Signature	☐ Priority Mail Express®													
☐ Adult Signature Restricted Delivery	☐ Registered Mail™													
☐ Certified Mail®	☐ Registered Mail Restricted Delivery													
☒ Certified Mail Restricted Delivery	☒ Return Receipt for Merchandise													
☐ Collect on Delivery	☐ Signature Confirmation™													
☐ Collect on Delivery Restricted Delivery	☐ Signature Confirmation Restricted Delivery													
7013 0600 0001 9910 9338	PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt													



BURNS & HARRIS ATTORNEYS AT LAW

SETH A. HARRIS

ALISON R. KEENAN
BLAKE G. GOLDFARB
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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
RECEIVED
FEDERAL BUREAU OF PRISONS
RECEIVED
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-2019-06578

Dear Mr. Howard:

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

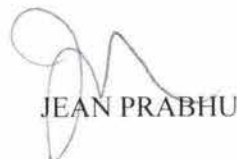
The above claimant was in the custody of the MDC Brooklyn on January 27, 2019 through February 3, 2019 and suffered personal and emotional injuries based on the negligence and intentional infliction of physical and emotional injury at MDC Brooklyn and violation of 42 USC 1983 of the Constitution of the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

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

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

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

Respectfully,


JEAN PRABHU

JP/rb/Enc.

RETAINER AGREEMENT

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

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

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

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

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

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

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

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

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

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

Option I

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

Option II

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

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

Option I

Client advances disbursements:

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

Option II

Law firm advances disbursements:

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

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

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

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

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

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

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

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

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

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

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

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

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

(initials)

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

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

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

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

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

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

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

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

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

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

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

DATED: 3/14, 2019 (b)(6); (b)(7)(C) (L.S.)

Witness: (b)(6); (b)(7)(C) (L.S.)

2019-02980-160 of 274

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NEW YORK, NY 10279
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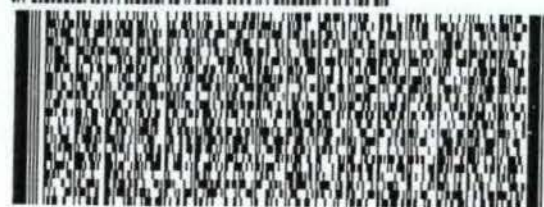
TO DARRIN HOWARD, REGIONAL COUNSEL
FEDERAL BUREAU OF PRISONS
US CUSTOM HOUSE
2ND & CHESTNUT STREETS, ROOM 701
PHILADELPHIA PA 19106

(215) 521-7301

REF: MDC BROOKLYN 205263

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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-2019-06578

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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DIANE L. HOUK
JESSICA CLARKE

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

July 26, 2019

Via U.S. Mail

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

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

To Whom It May Concern:

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

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

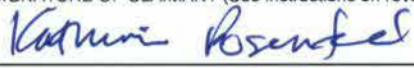
If you have any questions, I can be reached by phone at (212) 763-5000 or by email at krosenfeld@ecbalaw.com. Thank you for your attention to this matter.

Sincerely,

/s/

Katherine Rosenfeld

Encl.

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

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NSN 7540-00-634-4046

AUG 01 2019
STANDARD FORM 95 (REV. 2/2007)
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2

95-109

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OVERSIGHT

2019-02980 163 of 274

NERO-PHILADELPHIA

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-E-000163

INSURANCE COVERAGE

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

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

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

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

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

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

- a. During the week of January 27, 2019 through February 3, 2019, I was incarcerated in the West Building at the Metropolitan Detention Center in Brooklyn, New York. During that week, there was a power failure in the West Building.
- b. I was confined in Unit 63.
- c. In the seven-day period between January 27, 2019 and February 3, 2019 while I was confined at MDC: (1) there was no electricity and no functioning lights, and I was confined in near-darkness; (2) there was little to no heat and I was confined in freezing cold temperatures without adequate clothing or blankets; (3) there was a building-wide lockdown and I was confined to my cell for long periods of time; and (4) I had little to no access to clean laundry, hot food, regularly scheduled meals, regular showers, hot showers and hot water, medical or psychiatric care, exercise, or outside communications with my family or lawyers via email, pay phone, or visits.

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

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

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

2019 while I was confined at MDC, and/or as a result of the events of that week of confinement: I contracted pneumonia due to the conditions inside the jail. Though I was diagnosed by a Physician's Assistant at MDC after the blackout, and prescribed strong antibiotics, symptoms from the pneumonia have persisted to this day. I was unable to sleep and suffered from extreme hunger after being given peanut butter sandwiches several times to eat – despite a life-threatening peanut allergy.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

7 / 15 / 19

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

To Whom it May Concern:

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

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

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

(b)(6); (b)(7)(C)
D.O.F.



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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

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U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

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

August 12, 2019

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

Re: Administrative Tort Claim Received August 1, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-05859

Dear Ms. Rosenfeld:

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

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

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

Sincerely,

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

Darrin Howard
Regional Counsel



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

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

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-2019-06124

Dear Ms. (b)(6); (b)(7)(C):

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
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SAM SHAPIRO

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10TH FLOOR
NEW YORK, NEW YORK 10020

TEL: (212) 763-5000
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DIANE L. HOUK
JESSICA CLARKE

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

August 5, 2019

Via U.S. Mail

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

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

To Whom It May Concern:

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

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

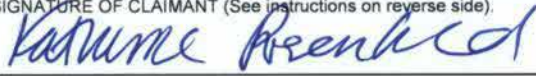
If you have any questions, I can be reached by phone at (212) 763-5000 or by email at krosenfeld@ecbalaw.com. Thank you for your attention to this matter.

Sincerely,

/s/

Katherine Rosenfeld

Encl.

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Federal Bureau of Prisons Northeast Regional Office U.S. Custom House, 7th Floor Philadelphia, PA			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. (b)(6); (b)(7)(C) /o Emery Celli Brinckerhoff & Abady LLP 600 Fifth Avenue, 10th Floor New York, NY 10020		
3. TYPE OF EMPLOYMENT ☐ MILITARY ☒ CIVILIAN		4. DATE OF BIRTH (b)(6); (b)(7)(C)	5. MARITAL STATUS 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) 42 yrs. old) (Previous Cellmate)		Unknown			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY 1,000,000		12c. WRONGFUL DEATH	
				12d. TOTAL (Failure to specify may cause forfeiture of your rights). 1,000,000	
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). 			13b. PHONE NUMBER OF PERSON SIGNING FORM (212) 763-5000		14. DATE OF SIGNATURE 8/7/19
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.) DATE RECEIVED: FEDERAL BUREAU OF PRISONS REGIONAL COUNSEL OFFICE AUG 12 2019		

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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

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

INSURANCE COVERAGE

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

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

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

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

STANDARD FORM 95 REV. (2/2007) BACK

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

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

- a. During the week of January 27, 2019 through February 3, 2019, I was incarcerated in the West Building at the Metropolitan Detention Center in Brooklyn, New York. During that week, there was a power failure in the West Building.
- b. I was confined in Unit 61.
- c. In the seven-day period between January 27, 2019 and February 3, 2019 while I was confined at MDC: (1) there was no electricity and no functioning lights, and I was confined in near-darkness; (2) there was little to no heat and I was confined in freezing cold temperatures without adequate clothing or blankets; (3) there was a building-wide lockdown and I was confined to my cell for long periods of time; and (4) I had little to no access to clean laundry, hot food, regularly scheduled meals, regular showers, hot showers and hot water, medical or psychiatric care, exercise, 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: harsh, rude treatment by the correction officers

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

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

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

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

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

Coughing, sneezing and soar throat because of the freezing temperatures during the lockout. I also experienced anxiety I couldn't talk to anyone during the lockout, during which I had no cellmate

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,

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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EMERY CELLI BRINCKERHOFF & ABADY LLP

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

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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) Jr. 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 01 2019 NEO-PHILADELPHIA					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Please see attached.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY 1,000,000		12c. WRONGFUL DEATH	
				12d. TOTAL (Failure to specify may cause forfeiture of your rights). 1,000,000	
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). 			13b. PHONE NUMBER OF PERSON SIGNING FORM (212) 763-5066		14. DATE OF SIGNATURE
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

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DOJ-(BOP)-19-0278, 19-0279, and 19-0280-E-000179

INSURANCE COVERAGE

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

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

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

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

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

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

- a. During the week of January 27, 2019 through February 3, 2019, I was incarcerated in the West Building at the Metropolitan Detention Center in Brooklyn, New York. During that week, there was a power failure in the West Building.
- b. I was confined in Unit 53, 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: I didn't receive any medication that I need for my diabetes until the fourth day of the blackout. I was confined to my cell and was not released until the fourth day. Following the blackout, I was admitted to Kingsbrook Jewish Medical Center hospital where I was prescribed a certain medication that MDC declined to give me. I still have yet to receive this medication per the doctor's orders. I complain every day about my neuropathy pain and I still have not received anything to assist with the pain.

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

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

CLAIMANT, STATE THE NAME OF THE INJURY PERSON OR DECEDENT.

- a. As a result of being confined in the circumstances described in paragraph 8, including but not limited to a prolonged period of bitter cold, and/or extreme temperature variations, and darkness, I suffered the following injuries which form the basis of my claim: physical pain and discomfort as a result of my exposure to the cold; hunger; exposure to noxious odor, air quality, and excessive noise; severe personal uncleanliness cause by lack of access to showers of clean clothing; and emotional and psychological distress.
- b. I suffer from Type II Diabetes, high blood pressure, heart disease from a prior heart attack, depression, and anxiety and was not provided with insulin or medication; mental health attention for my depression; my anxiety medication.
- c. In addition to those injuries described in paragraph 10(a) above, I also suffered the following injuries between January 27, 2019 and February 3, 2019 while I was confined at MDC, and/or as a result of the events of that week of confinement: nightmares because I thought I was going to die without my medications, severe anxiety, constant chest pain, headaches, PTSD, cold sweats, chest pain, high blood pressure, diabetes.

11. WITNESSES

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

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

September 27, 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)

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

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U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

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

November 12, 2019

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

Re: Administrative Tort Claim Received November 1, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2020-00962

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
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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	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). <i>Kathrine Rosenk</i>			13b. PHONE NUMBER OF PERSON SIGNING FORM 212-763-5066		14. DATE OF SIGNATURE 07/11/2019
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.) 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

JUL 15 2019

AMERICAN
OVERSIGHT

2019-02980 187 of 274

DOJ-(BOP)-19-0278-19-0279, and 19-0280-E-000187

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 on the 6th floor, unit 62, (b)(6) (b)(7)(C)
- c. In the seven-day period between January 27, 2019 and February 3, 2019 while I was confined at MDC: (1) there was no electricity and no functioning lights, and I was confined in near-darkness; (2) there was little to no heat and I was confined in freezing cold temperatures without adequate clothing or blankets; (3) there was a building-wide lockdown and I was confined to my cell for long periods of time; and (4) I had little to no access to clean laundry, hot food, regularly scheduled meals, regular showers, hot showers and hot water, medical or psychiatric care, exercise, or outside communications with my family or lawyers via email, pay phone, or visits.

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

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

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

2019 while I was confined at MDC, and/or as a result of the events of that week of confinement: excruciating pain to my head and mouth from an existing head injury and tooth infection. My tooth was removed during the blackout, but I was not prescribed pain medication for days following the surgery. This caused me extreme pain and left me unable to sleep or eat. The freezing cold temperatures exacerbated my head injury, which caused debilitating headaches and migraines.

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

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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

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-2019-05440

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 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-2020-01180

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
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 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 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.) FEDERAL BUREAU OF PRISONS REGIONAL COUNSEL OFFICE			

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DOJ-(BOP)-19-0278, 19-0279, and 19-0280-E-000196

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)

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 J-71.
- c. In the seven-day period between January 27, 2019 and February 3, 2019 while I was confined at MDC: (1) there was no electricity and no functioning lights, and I was confined in near-darkness; (2) there was little to no heat and I was confined in freezing cold temperatures and/or extreme temperature variations without adequate clothing or blankets; (3) there was a building-wide lockdown and I was confined to my cell for long periods of time; and (4) I had little to no access to clean laundry, hot food, regularly scheduled meals, regular showers, hot showers and hot water, medical or psychiatric care, exercise, or outside communications with my family or lawyers via email, pay phone, or visits.
- d. In addition to these facts, I also experienced the following circumstances between January 27, 2019 and February 3, 2019 while I was confined at MDC: I went through major stress thinking that I was going to die because they had a bomb threat; could not eat because food wasn't properly cooked and other inmates were threatening everyone not to eat. I had headaches consistently and was not able to see medical until we got off lockdown. My blood pressure was high due to the stress of events.

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

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

- a. As a result of being confined in the circumstances described in paragraph 8, including but not limited to a prolonged period of bitter cold, and/or extreme temperature variations, and darkness, I suffered the following injuries which form the basis of my claim: physical pain and discomfort as a result of my exposure to the cold; hunger; exposure to noxious odor, air quality, and excessive noise; severe personal uncleanness cause by lack of access to showers of clean clothing; and emotional and psychological distress.
- b. I suffer from high blood pressure, major depression and severe headaches and was not provided with medical attention and Trazdone (100mg) that I take daily.
- 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: Insomnia, anxiety, high blood pressure, PTSD, headaches. I had to deal with the smell of my cellmate because he would not shower in the freezing cold water. The blackout triggered memories of my deceased son and the loss of my wife.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

Aug 14, 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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Federal Bureau of Prisons
Northeast Regional Office
U.S. Custom House
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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-2019-06552

Dear Ms. Prabhu:

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

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

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

Sincerely,

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

Darrin Howard
Regional Counsel

BURNS & HARRIS

ATTORNEYS AT LAW

SETH A. HARRIS

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

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

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

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

August 6, 2019

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL OFFICE

AUG 30 2019

NERO-PHILADELPHIA

VIA CERTIFIED MAIL/RRR

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

Re:

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

Supplemental Claim

Location: MDC Brooklyn

Dates of Incident: 1/27/19 – 2/03/19

To Whom It May Concern:

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

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

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

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

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

Respectfully,


JEAN PRABHU

JP/rb/enc.

FIRST CLASS

FIRST CLASS

FIRST CLASS

CERTIFIED MAIL



7019 1120 0000 5291 9036

958



First Class Mail

B BURNS & HARRIS
ATTORNEYS AT LAW

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

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

205863

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U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

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

September 10, 2019

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

Re: Your Administrative Claims Received August 23, 2019

Dear Ms. Prabhu:

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

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

Ms. Jean Prabhu
September 10, 2019
Page 2

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



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

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

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

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

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

Sincerely,



Darrin Howard
Regional Counsel

Enclosure

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

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Previous Edition is not Usable

NSN 7540-00-634-4046

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

95-109

AMERICAN
OVERSIGHT

2019-02980 208 of 274

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-E-000208

INSURANCE COVERAGE

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

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

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

17. If deductible, state amount.

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

9/10/19 *Multiple Claims*

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature X ☐ Agent ☐ Addressee	
1. Article Addressed to:	B. Received by (Printed Name)	C. Date of Delivery
Ms. Jean Prabhu Burns & Harris The Woolworth Building 233 Broadway, Suite 900 New York, NY 10279	D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☒ No	
2. Article Number (Transfer from service label)	3. Service Type	
7013 0600 0001 9910 9338	☐ Adult Signature ☐ Adult Signature Restricted Delivery ☐ Certified Mail® ☒ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☒ Return Receipt for Merchandise ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	
PS Form 3811, July 2015 PSN 7530-02-000-9053		
Domestic Return Receipt		



BURNS & HARRIS

ATTORNEYS AT LAW

SETH A. HARRIS

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

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

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

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

September 19, 2019

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
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-2019-06552

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.

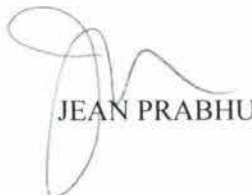
The above claimant was in the custody of the MDC Brooklyn on January 27, 2019 through February 3, 2019 and suffered personal and emotional injuries based on the negligence and intentional infliction of physical and emotional injury at MDC Brooklyn and violation of 42 USC 1983 of the Constitution of the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

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

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

Option I

Client advances disbursements:

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

Option II

Law firm advances disbursements:

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

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

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

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

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

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

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

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

(initials)

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

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

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

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

(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. b)(6); (b)(7)(C) entered into this Agreement fully aware of the terms and con

DATED: 3/14, 2019

(L.S.)

Witness: _____

(L.S.)

2019-0298

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Express

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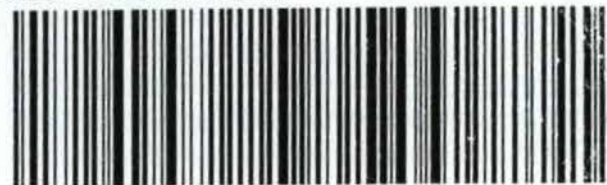


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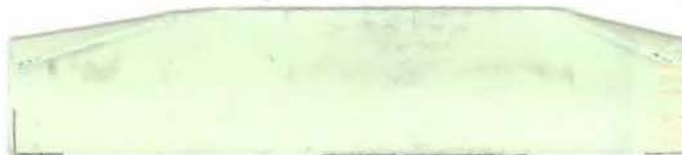
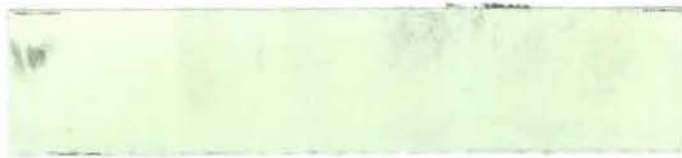
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2019-02980 220 of 274





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Via Certified and Return Receipt Mail

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September 12, 2019

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

RE: Administrative Claim No. TRT-NER-2019-02627
Reconsideration
Claim Received March 13, 2019

Dear Mr. [REDACTED]

Your request for reconsideration of Administrative Claim No. TRT-NER-2019-02627 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 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 the ailments you allege were 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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2019-02980 222 of 274

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-E-000222

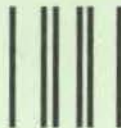
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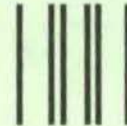
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March 4, 2019

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

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

RE: Administrative Claim No. TRT-NER-2019-02627
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

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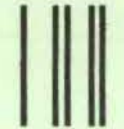
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MDC Brooklyn
P.O. Box 329002
Brooklyn, NY 11232

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(b)(7)(C)

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

C. Date of Delivery

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MAR 13 2019

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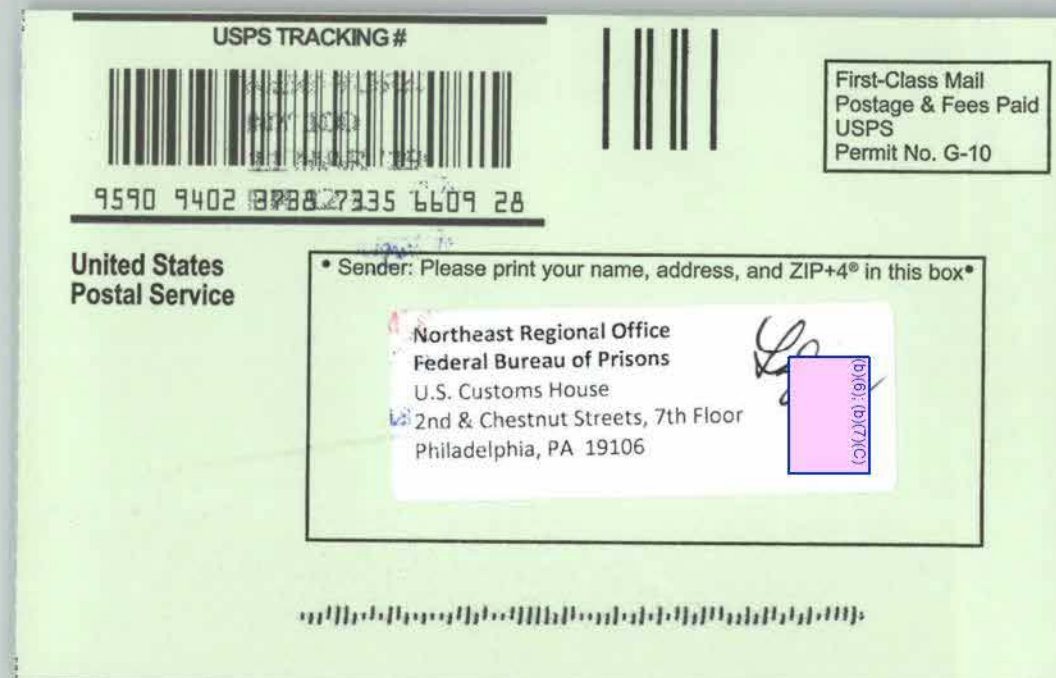
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MARCH 11, 2019

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

DATE RECEIVED
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REGIONAL COUNSEL OFFICE

MAR 13 2019

NERO-PHILADELPHIA

Re: Administrative Tort Claim No.: TRT-NER-2019-02427

Dear Mr. Howard:

Claimant hereby seeks reconsideration of the March 4, 2019 decision to deny his administrative tort claim for injuries suffered at the Metropolitan Detention Center in Brooklyn, New York ("MDC Brooklyn"), between January 27, 2019 and February 3, 2019. Reconsideration is sought pursuant to 28 C.F.R. 14.9(b). In addition, Claimant hereby increases his demand from \$100,000.00 to \$1,500,000.00, in light of both the physical and psychological injuries suffered when staff breached the duty of care owed Claimant under 18 U.S.C. 4042(a)(2) and (3). For the reasons that follow, reconsideration should be granted.

In addition to the facts and issues raised in his initial formal claim, Claimant submits that on or about and between January 27, 2019 and February 3, 2019, he suffered on or more of the following physical injuries by virtue MDC Brooklyn staff negligence: (a) Weakness; (b) Nausea; (c) Stomach Cramps; (d) Diarrhea; (e) Dehydration; and (f) Smoke Inhalation. These injuries resulted from staff's failure to provide meals for more than 17 hours on several occasions, during the aforementioned period, and the failure to provide clean water for drinking – providing only water that was severely discolored (brown). Further, on February 2, 2019, an inmate experiencing emotional distress set a fire in the housing unit, which sent smoke throughout the unit. After responding staff extinguished the fire, that inmate was removed to the Special Housing Unit. However, no medical attention was offered or provided to any of the inmates assigned to the affected housing unit (Unit H-B).

Each of the injuries identified above constitutes a physical injury. See, e.g., *Chendrimada v. Air-India*, 802 F.Supp. 1089, 1092 (S.D.N.Y. 1992)(upholding the plaintiff's claim predicated on allegations of weakness, nausea, cramps, and malnutrition because plaintiffs suffered these injuries as a direct result of their confinement on a grounded airplane for over eleven hours without food; thus, their symptoms had an independent physical genesis and were not merely psychosomatic); *Eastern Airlines, Inc. v. Floyd*, 499 U.S. 530, 536, 541 (1991)("a category of physical injuries that includes internal injuries caused, for example, by physical impact, smoke or exhaust inhalation, or oxygen deprivation.")

In view of the foregoing, reconsideration is warranted, and this claim should be promptly settled.

Respectfully submitted

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

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

NAME

REGISTER NO

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

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

cc: Office of the Inspector General

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

Metropolitan Detention Ctr
P.O. Box 329002
Brooklyn NY 11232

NEW YORK NY 100

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Darin Howard, Esq
Northeast Regional Counsel
Federal Bureau of Prisons
200 Chestnut Street
Philadelphia, PA 19106
19106-297599



DARRIN HOWARD, ESQ.
NORTHEAST REGIONAL COUNSEL
U.S. DEPARTMENT OF JUSTICE
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NORTHEAST REGIONAL OFFICE
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FEB 21 2019

NERO-PHILADELPHIA

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

Dear Mr. Howard:

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

I. THE RELEVANT FACTS.

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

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

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

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

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

II. THE RELEVANT LAW.

(a) Liability Under The Federal Tort Claims Act.

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

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

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

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

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

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

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

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

III. APPLICATION OF THE LAW TO THE FACTS.

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

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

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

IV. CONCLUSION.

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

Dated: Brooklyn, New York

February 18th, 2019

Respectfully submitted,

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

[SIGNATURE]

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

[PRINT NAME]

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

[REGISTER NUMBER]

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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

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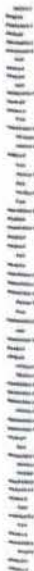
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P.O. Box 32902
Brooklyn, New York 11238

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

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Federal Bureau of Prisons
Northeast Regional Office

*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 Reconsideration Received March 13, 2019
Claim No. TRT-NER-2019-02627

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-2019-02627
Reconsideration
Claim Received March 13, 2019

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

Your request for reconsideration of Administrative Claim No. TRT-NER-2019-02627 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 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 the ailments you allege were 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

AMERICAN
OVERSIGHT

2019-02980 242 of 274

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-E-000242

4117NEK 201902627

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1. Article Addressed to:

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

(b)(3); (b)(7)(C)

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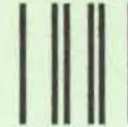
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Northeast Regional Office
Federal Bureau of Prisons
U.S. Customs House
2nd & Chestnut Streets, 7th Floor
Philadelphia, PA 19106





U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

Via Certified and Return Receipt Mail

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

September 12, 2019

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

RE: Administrative Claim No. TRT-NER-2019-02627
Reconsideration
Claim Received March 13, 2019

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

Your request for reconsideration of Administrative Claim No. TRT-NER-2019-02627 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 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 the ailments you allege were 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

AMERICAN
OVERSIGHT

2019-02980 245 of 274

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-E-000245

10/24/19
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
 Official Business

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

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

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



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(b)(7)(C)

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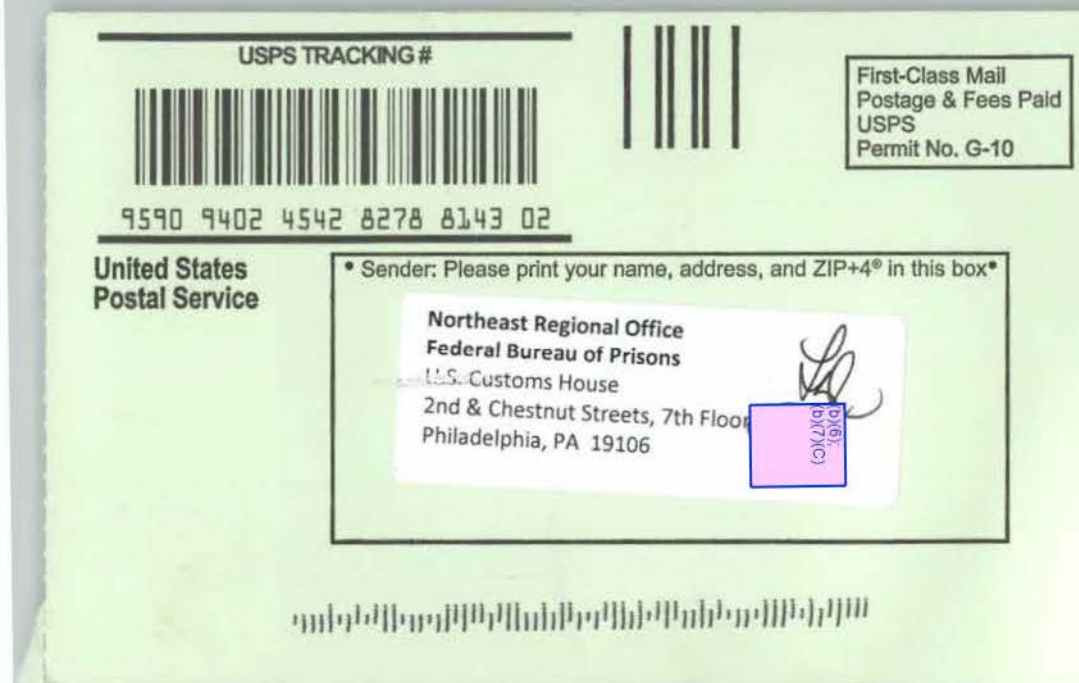
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DARRIN HOWARD, ESQ.
NORTHEAST REGIONAL COUNSEL
U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF PRISONS
NORTHEAST REGIONAL OFFICE
200 CHESTNUT STREET
PHILADELPHIA, PENNSYLVANIA 19106

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

MAR 01 2019

NERO-PHILADELPHIA

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

Dear Mr. Howard:

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

I. THE RELEVANT FACTS.

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

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

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

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

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

II. THE RELEVANT LAW.

(a) Liability Under The Federal Tort Claims Act

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

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

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

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

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

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

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

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

III. APPLICATION OF THE LAW TO THE FACTS.

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

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

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

IV. CONCLUSION.

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

Dated: Brooklyn, New York

February 25, 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)

M.O.C. Barker
Metropolitan Police Office
327-002 P.O. Box
BK NY, 11332

NEW YORK NY 10013
27 FEB 2019 PM 9 L



Daren Hainard, ESA
Northeast Regional Counsel
U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office
200 Chestnut Street
Philadelphia, PA 19106
Legal Mail



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 7, 2019

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

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

RE: Administrative Claim No. TRT-NER-2019-02724
Claim Received March 1, 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

4112019-02724

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P.O. Box 329002
Brooklyn, NY 11232



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

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

EMERY CELLI BRINCKERHOFF & ABADY LLP

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

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CHARLES J. OGLETREE, JR.
EMERITUS

DIANE L. HOUK
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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		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 CELLMATE # (b)(6); (b)(7)(C)		ADDRESS (Number, Street, City, State, and Zip Code) 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> ATTORNEY FOR CLAIMANT			13b. PHONE NUMBER OF PERSON SIGNING FORM 212-763-5066		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.)		

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28 CFR 14.2

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2019-02980 258 of 274

DOJ-(BOP)-19-0278, 19-0279, and 19-0280-E-000258

INSURANCE COVERAGE

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

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

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

17. If deductible, state amount.

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

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

INSTRUCTIONS

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

Complete all items - Insert the word NONE where applicable.

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

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

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

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

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

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

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

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

PRIVACY ACT NOTICE

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

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

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

PAPERWORK REDUCTION ACT NOTICE

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

STANDARD FORM 95 REV. (2/2007) BACK

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

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages in necessary)

- a. During the week of January 27, 2019 through February 1, 2019, I was incarcerated in the West Building at the Metropolitan Detention Center in Brooklyn, New York. During that week, there was a power failure in the West Building.
- b. I was confined in Unit 61.
- c. In the five-day period between January 27, 2019 and February 1, 2019 while I was confined at MDC: (1) there was no electricity and no functioning lights, and I was confined in near-darkness; (2) there was little to no heat and I was confined in freezing cold temperatures without adequate clothing or blankets; (3) there was a building-wide lockdown and I was confined to my cell for long periods of time; and (4) I had little to no access to clean laundry, hot food, regularly scheduled meals, functioning toilets, regular showers, hot showers and hot water, medical or psychiatric care, exercise, commissary, or outside communications with my family or lawyers via email, pay phone, or visits.

10. PERSONAL INJURY/WRONGFUL DEATH: STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURY PERSON OR DECEDENT.

- a. As a result of being confined in the circumstances described in paragraph 8, including but not limited to a prolonged period of bitter cold and darkness, I suffered the following injuries which form the basis of my claim: physical pain and discomfort, including as a result of my exposure to the cold; hunger; exposure to noxious odor, air quality, and excessive noise; severe personal uncleanliness caused by lack of access to showers or clean clothing and linens; and severe emotional and psychological distress.

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

- b. Between January 27, 2019 and February 1, 2019, I suffered from: insomnia, asthma-related coughing and chest pain and tightness that were intensified by the cold, dizziness and headaches, and severe stress, fear, and mental health symptoms that caused me to swallow razor blades. During this period, I was not provided with needed medical care. Specifically, I was not provided with an inhaler for my asthma symptoms or with my prescription medication which I take daily to manage my mental health symptoms. Because I had swallowed razor blades, I asked to be taken to the hospital multiple times, but multiple correctional officers and medical staff refused, saying there was nothing they could do.

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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2nd & Chestnut St., 7th Floor
Philadelphia, PA 19106

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2019-02980 263 of 274



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)
Claim No. TRT-NER-2019-05075

Dear Ms. Rosenfeld:

This will acknowledge receipt of the administrative claim you submitted on behalf of (b)(6); (b)(7)(C) for an alleged personal injury suffered at MDC Brooklyn on January 27, 2019, through February 3, 2019.

Under the provisions of the applicable federal statutes, we have six months from the date of receipt to review, consider, and adjudicate your claim. In order for this office to properly evaluate this claim, you are required to submit all the information required by 28 C.F.R. §14.4(b).

All correspondence regarding this claim should be addressed to me at: Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Streets, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact me immediately.

Sincerely,

(b)(6);
(b)(7)(C)

Darrin Howard
Regional Counsel

EMERY CELLI BRINCKERHOFF & ABADY LLP

RICHARD D. EMERY
ANDREW G. CELLI, JR.
MATTHEW D. BRINCKERHOFF
JONATHAN S. ABADY
EARL S. WARD
ILANN M. MAAZEL
HAL R. LIEBERMAN
DANIEL J. KORNSTEIN
O. ANDREW F. WILSON
ELIZABETH S. SAYLOR
KATHERINE ROSENFELD
DEBRA L. GREENBERGER
ZOE SALZMAN
SAM SHAPIRO

ATTORNEYS AT LAW
600 FIFTH AVENUE AT ROCKEFELLER CENTER
10TH FLOOR
NEW YORK, NEW YORK 10020

TEL: (212) 763-5000
FAX: (212) 763-5001
www.ecbalaw.com

DIANE L. HOUK

ALISON FRICK
DAVID LEBOWITZ
DOUGLAS E. LIEB
ALANNA KAUFMAN
EMMA L. FREEMAN
DAVID BERMAN
ASHOK CHANDRAN

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 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>Kathrine Rosenfeld</i>			13b. PHONE NUMBER OF PERSON SIGNING FORM (212) 763-5066		14. DATE OF SIGNATURE 11/4/19
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.) NOV 12 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 filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

- (a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.
- (b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.
- (c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.
- (d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

- A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. **Principal Purpose:** The information requested is to be used in evaluating claims.
C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

STANDARD FORM 95 REV. (2/2007) BACK

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages in necessary)

- a. During the week of January 27, 2019 through February 3, 2019, I was incarcerated in the West Building at the Metropolitan Detention Center in Brooklyn, New York. During that week, there was a power failure in the West Building.
- b. I was confined in Unit K-82.
- c. In the seven-day period between January 27, 2019 and February 3, 2019 while I was confined at MDC: (1) there was no electricity and no functioning lights, and I was confined in near-darkness; (2) there was little to no heat and I was confined in freezing cold temperatures and/or extreme temperature variations without adequate clothing or blankets; (3) there was a building-wide lockdown and I was confined to my cell for long periods of time; and (4) I had little to no access to clean laundry, hot food, regularly scheduled meals, regular showers, hot showers and hot water, medical or psychiatric care, exercise, or outside communications with my family or lawyers via email, pay phone, or visits.
- d. In addition to these facts, I also experienced the following circumstances between January 27, 2019 and February 3, 2019 while I was confined at MDC: I was left in the cell with no heat or hot water. I was not provided with any additional blankets or clothing to help keep me warm. There was cold air circulating through the vents and the windows were uninsulated. I had little to no access to regularly scheduled meals, hot showers or outside communication with my family or lawyers. I had to wear thermals, two pairs of underwear under my jumpsuit, two pairs of socks. I lost the feeling and sensation in my extremities because it was so cold in my cell. There was black sediments being circulated through the air vents.

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

Supplement to Claim for Damage, Injury, or Death (Standard Form 95)

CLAIMANT, STATE THE NAME OF THE INJURY PERSON OR DECEDENT.

- a. As a result of being confined in the circumstances described in paragraph 8, including but not limited to a prolonged period of bitter cold, and/or extreme temperature variations, and darkness, I suffered the following injuries which form the basis of my claim: physical pain and discomfort as a result of my exposure to the cold; hunger; exposure to noxious odor, air quality, and excessive noise; severe personal uncleanliness cause by lack of access to showers of clean clothing; and emotional and psychological distress.
- b. I suffer from trouble breathing and black phlegm due to the black sediments in the air and was not provided with any medical attention after requesting it several times.
- 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: severe anxiety, chest pain, headaches, lightheadedness, nausea and asthma symptoms.

AUTHORIZATION TO FILE SF-95 ON MY BEHALF

10/09, 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)

2019-02980 271 of 274

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

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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-2020-01175

Dear Ms. Rosenfeld:

This will acknowledge receipt of the administrative claim you submitted on behalf of (b)(6); (b)(7)(C) for an alleged personal injury suffered at MDC Brooklyn between January 27, 2019, and February 3, 2019.

Under the provisions of the applicable federal statutes, we have six months from the date of receipt to review, consider, and adjudicate your claim. In order for this office to properly evaluate this claim, you are required to submit all the information required by 28 C.F.R. §14.4(b).

All correspondence regarding this claim should be addressed to me at: Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Streets, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact me immediately.

Sincerely,

(b)(6);
(b)(7)(C)

Darrin Howard
Regional Counsel



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA. 19106

AMENDED LETTER

August 12, 2019

Emery Celli Brinckerhoff & Abady LLP
600 Fifth Avenue at Rockefeller Center
10th Floor
New York, NY 10020
Attn: Katherine Rosenfeld, Esq.

Re: Administrative Tort Claim Received July 15, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-05441

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*

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 March 13, 2019
Filed on Behalf of (b)(6); (b)(7)(C)
Claim No. TRT-NER-2019-02648

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