

Document # 2

Plaintiff's Civil Rights Complaint  
filed 12/28/05

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

CARMEN BRITT and LULA BAITY,

Plaintiffs,

vs.

**BUFFALO MUNICIPAL HOUSING AUTHORITY**  
**ELAINE GARBE**, Supervisor,  
Buffalo Municipal Housing Authority,  
**JERI GFWA**, Case Manager,  
Buffalo Municipal Housing Authority,  
**GRACE MANOR HEALTH CARE FACILITY, INC.**,  
**DAVID J. GENTNER**, President/CEO,  
Grace Manor Health Care Facility, Inc.,  
**MARY STEPHAN**, Registered Nurse, and Facility Representative,  
Grace Manor Health Care Facility, Inc.,  
**KATHY RANDALL**, Director of Social Work,  
Grace Manor Health Care Facility, Inc.,  
**TIFFANY MATTHEWS**, Social Worker,  
Grace Manor Health Care Facility, Inc.,

**NELDA LAWLER, M.D.**, Grace Manor Health Care Facility, Inc.,  
**TERESA CHAU, M.D.**, Grace Manor Health Care Facility, Inc.,  
**THE COUNTY OF ERIE,**  
**THE ERIE COUNTY MEDICAL CENTER,**  
**JESUS A. LIGOTT, M.D.**, Erie County Medical Center,  
**PHILLIP J. RADOS, M.D.**, Erie County Medical Center,  
**JESSICA W. BLUME, M.D.**, Erie County Medical Center,  
**EDWARD GIAMMINS**, (title unknown), Erie County Medical Center,  
**CARLA MAILLEAX, R.N.**, Erie County Medical Center,  
**JOHN DOES 1 through 5**; and **JANE DOES #1 through #5**,  
unnamed Erie County Medical Center employees,  
**CRISIS SERVICES EMERGENCY OUTREACH SERVICES,**  
**ROBERT ROE #1**, an unnamed Crisis Services employee, and  
**ROBERT ROE #2**, an unnamed Crisis Services employee,

Defendants.

The Individual named Defendants are sued both in their **personal**  
and **official** capacities.

**COMPLAINT**

42 U.S.C. Section 1983

Trial by Jury Demand

I 2605-11983

**FILED**

DEC 28 2006

ERIE COUNTY  
CLERK'S OFFICE



Plaintiffs, **CARMEN BRITT** and **LULA BAITY**, by their attorney, **GLENN EDWARD MURRAY, ESQ.**, as and for their verified complaint, states as follows:

#### **JURISDICTION AND VENUE**

1. Plaintiffs brings this action for damages and other relief for unconstitutional false arrest and seizure in violation of the Fourth Amendment, deprivation of liberty and property by illegal wrongful eviction without due process under 42 U.S.C. § 1983, First and Fourteenth Amendment violation based upon retaliation for exercise of fundamental constitutional right to petition courts and pendent jurisdiction over state law medical malpractice claims under New York common law.
2. Jurisdiction of this action is conferred upon this Court by 28 U.S.C. § 1331, 1343 and 1367.
3. Venue of this action is established in this Court by 28 U.S.C. § 1391(b).

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#### **THE PARTIES**

4. At all times relevant to the incident(s) alleged herein all Parties were residents and/or employed and/or doing business within the State of New York, County of Erie and City of Buffalo.

#### **Plaintiffs**

5. Plaintiff, **Ms. LULA BAITY**, at the time of the events complained of herein, was **eighty seven (87)** years of age. **Ms. Baity**, for the past 30 years and up until October 1, 2003, resided at the Buffalo Municipal Housing Projects, 344 Perry Street, Apt. 4B, Buffalo, New York 14204. Between the dates of October 1, 2003 and October 10, 2003, **Ms. Baity** was involuntarily confined at the **Erie County Medical Center** (hereinafter "**ECMC**") and, thereafter, involuntarily transferred and confined at **Grace Manor Health Care Facility** (hereinafter "**Grace Manor**") until

January 10, 2004, at which date **Ms. Baity** was released from Grace Manor and returned to her apartment at the Buffalo Municipal Housing Projects, 344 Perry Street, Apt. 4B, Buffalo, New York 14204, whereat she currently resides.

6. Plaintiff, **Ms. CARMEN BRITT**, at the time of the events complained of herein, was forty seven (47) years of age and a resident of the City of Buffalo, County of Erie, State of New York. **Ms. Britt** is the niece of **Ms. Baity**.

#### Defendants

7. Defendant **BUFFALO MUNICIPAL HOUSING AUTHORITY** (herein referred to as "**BMHA**"), is a municipal corporation organized and existing under the laws of the State of New York, County of Erie, City of Buffalo and is a governmental subdivision of the City of Buffalo.

8. Defendants, **ELAINE GARBE**, Supervisor, BMHA and **JERI GIWA**, Case Manager, Buffalo Municipal Housing Authority, respectively, at all material times herein, were employees and/or agents acting under the authority of defendant BMHA. Each of these named Defendants was acting under color of state law.

9. Defendant **ERIE COUNTY MEDICAL CENTER** (herein referred to as "**ECMC**"), is a governmental entity organized and existing under the laws of the State of New York, County of Erie, City of Buffalo and is an Erie County Hospital facility. At all material times herein, "**ECMC**" was acting under color of state law.

10. Defendants, **JESUS A. LIGOTT, M.D.** (hereinafter "**Dr. Ligott**"), **PHILLIP J. RADOS, M.D.** (hereinafter "**Dr. Rados**"), **JESSICA W. BLUME, M.D.** (hereinafter "**Dr. Blume**"), **EDWARD GIAMMINS**, (hereinafter "**Giammins**"), **CARLA MAILLEAX, R.N.** (hereinafter "**Nurse Mailleax**"); and **JOHN** and **JANE DOES #1** through **#5**, unnamed Erie County

Medical Center employees, respectively, at all material times herein, were employees and/or agents acting under the authority of defendant Erie County Medical Center, County of Erie, and "ECMC" is responsible for the actions of its employees and agents. Each of these named Defendants was acting under color of state law.

11. Defendant, **GRACE MANOR HEALTH CARE FACILITY, INC.**, (herein referred to as "**Grace Manor**"), is a privately own Nursing Home corporation organized and existing under the laws of the State of New York, County of Erie, City of Buffalo. At all material times herein, "**Grace Manor**" was acting under color of state law.

12. Defendants, **DAVID J. GENTNER** (hereinafter "**Gentner**"), President/CEO, **MARY STEPHAN** (hereinafter "**Stephan**"), Registered Nurse, and Facility Representative, **KATHY RANDALL** (hereinafter "**Randall**"), Director of Social Work, **TIFFANY MATTHEWS** (hereinafter "**Matthews**"), Social Worker, **NELDA LAWLER, M.D.** (hereinafter "**Dr. Lawler**"), and **TERESA CHAU, M.D.** (hereinafter "**Dr. Chau**"), respectively, at all material times herein, were employees and/or agents acting under the authority of defendant Grace Manor, and "**Grace Manor**" is responsible for the actions of its employees and agents. Each of these named Defendants was acting under color of state law.

13. **CRISIS SERVICES EMERGENCY OUTREACH SERVICES** (herein referred to as "**CRISIS SERVICES**"), upon information and belief, is an agency organized and existing under the laws of the State of New York, County of Erie, City of Buffalo and is an agency of the County of Erie. At all material times herein, "**CRISIS SERVICES**" was acting under color of state law.

14. **ROBERT ROE #1** and **ROBERT ROE #2**, are unnamed Crisis Services Outreach Team employees who removed and transported plaintiff **Baity** by ambulance to the Erie County Medical Center, and "**Crisis Services**" is responsible for the actions of its employees and agents.

15. On information and belief, defendants **BMHA, Giwa and Garbe** formulated a plan to remove and illegally evict plaintiff **Baity** from her home in violation of her federal statutory and constitutional rights. **Giwa** and **Crisis Services** thereafter exercised coercive power and/or significant encouragement to **ECMC** defendants **Dr. Ligott, Dr. Rados, Dr. Blume, Giammins** and **Nurse Mailleax** to willfully participate in said plan in furtherance of the initial goals to remove and evict plaintiff **Baity** by detaining her for ten (10) days at said **ECMC** and transferring her to defendant **Grace Manor Health Care Facility**, in violation of her federal statutory and constitutional rights. Upon information and belief, defendants **BMHA, et al.**, and defendants **Grace Manor Health Care Facility, et al.**, engaged in a conspiracy prior to, and at least until the time of the incident complained of herein, to illegally and wrongfully remove senior citizens from their homes at **BMHA** and confine them to **Grace Manor Health Care Facility** in violation of the senior citizens' federal statutory and constitutional rights. All of the Defendants willfully participated and/or acted in concert to violate constitutional rights, and committed an overt act in furtherance of said plan and initial goals causing plaintiff **Baity's** damage.

16. The individual named Defendants, at all material times herein, were acting within the scope of their employment.

17. The Individual named Defendants, at all material times herein, were acting under color of state law.

#### **FACTUAL ALLEGATIONS**

#### **The Home Invasion, Seizure and Transportation via Ambulance, of plaintiff Lula Baity**

18. Upon information and belief, on Tuesday, September 30, 2003, defendant **Giwa**, a case management worker, presumably while performing inspections of the apartment building,

arrived at **Ms. Baity's** apartment. After leaving **Ms. Baity's** apartment, defendant **Giwa** telephoned defendant Erie County Crisis Services and falsely represented that she was **Ms. Baity's** "social worker" and reported that **Ms. Baity** "was increasingly confused and disorganized and was talking rapidly with little content." Defendant **Giwa** further reported that "**Ms. Baity** was not taking care of herself, not paying rent, refusing to see a doctor, and that the house was very cluttered." Additionally, defendant **Giwa**, although possessing actual knowledge of the names, addresses and telephone numbers of **Ms. Baity's** family members, remained silent of that fact and, perforce, did not disclose such information to defendant Crisis Services.

19. The following day, Wednesday, October 1, 2003, defendant **Giwa**, accompanied by defendants, Crisis Services personnel, **Robert Roe #1** and **Robert Roe #2**, returned to **Ms. Baity's** domicile. Upon gaining entrance to **Ms. Baity's** apartment, defendant **Giwa** seized **Ms. Baity's** person by grabbing hold of her arm in an effort to escort her (**Ms. Baity**) from her apartment. As **Ms. Baity** attempted to resist **Ms. Giwa** by trying to pull away, defendant **Giwa** threatened the use of police intervention if the elderly **Ms. Baity** failed to accompany her (defendant **Giwa**) out of the apartment. Thereafter, defendant **Giwa** and Crisis Services personnel, defendants **Robert Roe #1** and **Robert Roe #2**, without requisite probable cause and without reasonable basis, involuntarily removed **Ms. Baity** from her home in the presence of numerous neighbors and onlookers, and transported a fearful and shaken **Ms. Baity**, strapped to a gurney, by ambulance to ECMC in violation of her rights as provided by the United States Constitution and denial of due process in connection with Plaintiff's rights as guaranteed by New York Mental Hygiene Law.

20. That between the 24 hour period of time whereat defendant **Giwa** first visited with **Ms. Baity** at her home on the morning of Tuesday, September 30, 2003 and, telephoned defendant Crisis Services, until the following afternoon of Wednesday, October 1, 2003, no emergency situation then

existed which would have prevented defendant **Giwa** from applying to a court in the very *first instance*, rather than initiating and participating in a series of events culminating in the involuntary removal of **Ms. Baity** from her domicile by ambulance to the hospital, whereat **Ms. Baity** was admitted with the medical – not psychiatric -- diagnosis of “unable to care for herself.”

21. Defendant **Giwa**, in order to enlist the cooperation of defendant Crisis Services to effectuate **Ms. Baity's** involuntary detention, transport by ambulance and subsequent emergency admission of Ms. Baity to the hospital, falsely represented to Crisis Services and ECMC Defendants that she (Ms. **Giwa**) was **Ms. Baity's** “*social worker*,” a person defined in Mental Hygiene Law governing emergency admissions.

22. Defendant **Giwa**, contrary to her false representation to defendant Crisis Services, is employed solely as a BMHA Case Management worker and, moreover, is neither a degreed nor a licensed *social worker*. As such, defendant **Giwa** is not a person authorized to act under the authority of New York State Mental Hygiene Law.

23. That defendant Crisis Services was negligent and grossly negligent by failing to minimally ascertain, by taking a brief history or otherwise, validate Ms. **Giwa's** representations and/or credentials as Ms. Baity's “*social worker*,” a bona fide person duly authorized to act under Mental Hygiene Law § 9.40-45.

24. At no time pertinent herein did **Ms. Baity** display, or ever appear to have displayed, such requisite mental illness and, or otherwise conduct herself as a manner as to be likely to result in serious harm, risk or impaired safety to herself or others.

25. That the transport of **Ms. Baity** by ambulance to ECMC did **not** comply with the transportation provisions of New York Mental Hygiene Law.



26. That, as a matter of due process, **no** court order, judicial decree or mandate then existed, or ever existed, which would have served to authorize the October 1, 2003 involuntary seizure and removal of **Ms. Baity** from her apartment and the subsequent transport of her person by ambulance to ECMC.

27. That the involuntary seizure and removal of **Ms. Baity** from her home of 30 years, followed by her subsequent transport to Erie County Medical Center and confinement thereat, was effected in violation of due process and her rights as guaranteed by the United States Constitution, New York State Mental Hygiene Law and laws of the State of New York.

**The Confinement of plaintiff Lula Baity  
at the Erie County Medical Center**

28. **Ms. Baity**, having been involuntarily seized and removed from her home under threat of police intervention, was transported to ECMC where she arrived in a hypertensive state and with a rapid heartbeat she was admitted medically (versus psychiatrically) at the ECMC with a purported diagnosis of "unable to care for herself."

29. At no time did **Ms. Baity** display, or appear to display, such requisite mental illness and/or conduct herself in a manner such as to be likely to result in serious harm, risk or impaired safety to herself or others.

30. Thereafter, it was not until very late in the afternoon (or early evening) of Wednesday, October 1, 2003 and approximately four (4) to five (5) hours **after** **Ms. Baity** had been involuntary transported to ECMC, that Mr. and Mrs. J.D. and Mattie Britt, the brother and sister-in-law, respectively, of **Ms. Baity**, were first notified by telephone of **Ms. Baity's** hospital confinement.

31. In response to that telephone notification, plaintiff **Carmen Britt**, immediately, went to ECMC and inquired into the basis for her aunt, **Ms. Baity's** detention/hospitalization. She (**Ms. Britt**) was informed by one or more of the ECMC Defendants that Crisis Services had brought **Ms. Baity** to the Hospital at the specific behest and directive of [defendant] **Jeri Giwa, Ms. Baity's** purported "*social worker*." Moreover, the ECMC Defendants had not been informed by defendant **Giwa** that **Ms. Baity** had existing family members living in the Buffalo, New York area.

32. Plaintiff **Britt**, after conferring with her aunt (**Ms. Baity**), then advised the ECMC Defendants of her aunt's desire that she (**Ms. Baity**) be allowed to leave the hospital, whereupon, several of the ECMC employee defendants, **Dr. Ligott, Dr. Rados, Dr. Blume, Giammins** and **Nurse Mailleax**, stated to **Ms. Britt** that [defendant] **Jeri Giwa** had already taken care of the arrangements concerning **Ms. Baity** and, therefore, that **Ms. Baity** would **not** be released.

33. Plaintiff **Britt**, outraged by ECMC Defendants' refusal to release her aunt, advised the ECMC Defendants that **Ms. Baity** was *her* aunt, **not** a relative to [defendant] **Ms. Giwa**, and, further, insisted that her aunt be released according to both **Ms. Baity's** and her (**Ms. Britt's**) wishes.

34. Over the adamant protestations and objections of plaintiffs **Baity** and **Britt**, the ECMC Defendants -- in the absence of due process, a court order or other lawful basis or authority -- outright refused to release the elderly **Ms. Baity** on her own accord or, otherwise, release **Ms. Baity** to her niece, **Ms. Britt**, a responsible family member ready, willing and able to be of immediate assistance to her aunt.

35. Over the adamant protestations and objections of plaintiffs **Baity** and **Britt**, the ECMC Defendants, absent due process, a court order or other lawful basis or authority, violated **Ms. Baity's** autonomy and freedom from unwanted interference and committed an assault against her person by

subjecting plaintiff **Baity** to forced physical and mental examinations and administration of medications.

36. That no emergency situation, court order, judicial decree or mandate existed then –or ever existed – which, as a matter of due process, would have authorized the involuntary confinement and/or justified the ECMC Defendants overriding **Ms. Baity's** protests to the unwanted interference and assault against her autonomy by the ECMC Defendants (i.e., forced physical and mental examinations upon her person).

37. The ECMC Defendants, over Plaintiffs' adamant protestations and objections, unlawfully confined **Ms. Baity** for a period of **ten (10)** days, absent due process, any court order and/or judicial intervention, whatsoever, in violation of her rights as guaranteed by the United States Constitution and denial of due process in connection with Plaintiff's rights as guaranteed by New York Mental Hygiene Law.

38. On Friday, October 10, 2003, the ECMC Defendants, absent requisite due process, court order and/or judicial decree, but, upon information and belief, at the specific behest and directive of defendant **Giwa**, discharged **Ms. Baity** to defendant Grace Manor Health Care Facility in violation of her (**Ms. Baity's**) rights as guaranteed by due process under the United States Constitution and denial of due process in connection with Plaintiff's rights as guaranteed by New York Mental Hygiene Law.

39. That defendant **ECMC** is responsible for the acts and/or omissions of its employees, defendants **Dr. Ligott, Dr. Rados, Dr. Blume, Giammins** and **Nurse Mailleax**, and for the negligent hiring, training, supervision, and retention of said persons within its employ.

**The Confinement of plaintiff Lula Baity  
at Grace Manor Nursing Home**

40. The ECMC Defendants subsequent **transfer** of plaintiff **Baity** to Grace Manor nursing home facility at 10 Symphony Circle, Buffalo, New York, absent due process, was in violation of **Ms. Baity's** rights as guaranteed by the United States Constitution and denial of due process in connection with Plaintiff's rights as guaranteed by New York Mental Hygiene Law.

41. Defendant Grace Manor's procedure utilized to procure the **admission** of **Ms. Baity** to its nursing home facility violated **Ms. Baity's** due process rights as guaranteed by the United States Constitution and denial of due process in connection with Plaintiff's rights as guaranteed by New York Mental Hygiene Law.

42. At the time of **Ms. Baity's** transfer to, and placement at, Grace Manor nursing home, plaintiffs **Baity** and **Britt** adamantly protested and objected to **Ms. Baity's** involuntary confinement at Grace Manor. Further, **Ms. Britt** was threatened with arrest and/or being barred from the nursing home if she attempted to remove her elderly aunt, **Ms. Baity**, from said nursing home.

43. Defendants **Grace Manor, Gentner, Stephan, Randall, Matthews, Dr. Lawler and Dr. Chau**, falsely imprisoned **Ms. Baity** by confining her to a **locked** and secured third floor, whereby exit could only be accomplished by key. During the course of her confinement, **Ms. Baity** complained that another patient spit in her (**Ms. Baity's**) face.

44. Over the adamant protestations and objections of plaintiffs **Baity** and **Britt**, defendants **Grace Manor, Gentner, Stephan, Randall, Matthews, Dr. Lawler** and **Dr. Chau**, absent due process, court order, or judicial intervention and/or other lawful basis or authority, outright refused to release the elderly **Ms. Baity** on her own accord or, otherwise, release **Ms. Baity** to her niece, **Ms. Britt**, a responsible family member ready, willing and able to be of assistance to her aunt.

45. Over the adamant protestation and objections of plaintiffs **Baity** and **Britt**, the Defendants, **Grace Manor, Gentner, Stephan, Randall, Matthews, Dr. Lawler** and **Dr. Chau**, absent due process, court order, judicial intervention or any other legitimate State interest or lawful basis, violated **Ms. Baity's** autonomy and freedom from unwanted interference and, further, committed an assault against her person by subjecting plaintiff **Baity** to forced physical and mental examinations.

46. That no emergency situation, court order, judicial decree or mandate existed which would have authorized the involuntary confinement and/or justified defendant **Grace Manor** overriding **Ms. Baity's** protests to the unwanted interference and assault against her autonomy by the defendants, **Dr. Lawler, Dr. Chau, Stephan, Randall and Matthews,** including, but not limited to forced physical and mental examinations upon **Ms. Baity's** person and, thereafter, the forced medicating of **Ms. Baity**, with at least one (1) medication causing severe adverse reaction and harm to **Ms. Baity's** person.

47. That defendants, **Dr. Lawler** and **Dr. Chau**, in the absence of due process and in an effort to justify the intrusion and continuous detention and confinement of plaintiff **Baity** at Grace Manor Health Care Facility, willfully and intentionally, misrepresented that **Ms. Baity** suffered from severe dementia and/or severe Alzheimer's disease, with scienter of the falsity of their diagnosis.

48. Further, defendants **Grace Manor, Gentner, Stephan, Randall, and Matthews**, in an effort to justify Grace Manor's fraudulent obtaining of **Ms. Baity's** Social Security, Medicare and Medicaid benefits, did, in conjunction with defendants **Dr. Lawler** and **Dr. Chau**, represent to the Social Security Administration, Medicare and Medicaid agencies that **Ms. Baity** suffered from severe dementia and/or severe Alzheimer's disease and, as such, that **Ms. Baity** was wholly unable to care for herself and, therefore, was lawfully placed at the nursing home with scienter of the falsity

of such information. Upon information and belief, in order to effectuate Ms. Baity's admission to the nursing home facility and to be appointed her "representative payee", **Grace Manor** falsely represented that **Ms. Baity** was unable to sign her name. As such, **Grace Manor**, by an unidentified employee, thereupon signed requisite documents on behalf of **Ms Baity**, who, at all times relevant, was fully capable of executing her own signature and who never consented, in writing or otherwise, to either her admission to Grace Manor and/or the transfer of authority to defendant Grace Manor to act as "representative payee" on her behalf.

49. That defendant **Grace Manor**, absent requisite due process, having improperly obtained authority to act as **Ms. Baity's** representative payee, thereafter in conjunction with **Dr. Lawler, Dr. Chau, Gentner, Stephan, Randall, and Matthews**, received the entire proceeds of **Ms. Baity's** monthly Social Security income, Medicare and Medicaid benefits for a period of ninety (90) days, thereby effectively depriving plaintiff **Baity** of said property without due process of law and in violation of her rights as guaranteed by the United States Constitution. It was only **after** her release by defendant Grace Manor that plaintiff **Baity** was rightfully restored to her *ante quo status*.

**Defendants Garbe and Giwa conspire to evict  
the elderly Ms. Lula Baity from her apartment**

50. As plaintiff **Baity** languished in involuntarily confinement at Grace Manor Health Care Facility, defendants **Elaine Garbe** and **Jeri Giwa**, in further deprivation of **Ms. Baity's** rights, privileges and liberty, having already displaced **Ms. Baity** from her apartment of 30 years without reasonable or probable cause, improperly and maliciously commenced an eviction proceeding returnable in Buffalo City Court on November 10, 2003, seeking an order of eviction against **Ms. Baity** from her Perry Street apartment.

51. Defendants **Garbe** and **Giwa**, thus possessing actual knowledge of **Ms. Baity's** removal from her home and subsequent placement in defendant Grace Manor health care facility, and cognizant of her (**Ms. Baity's**) absence from her Perry Street apartment, affixed to **Ms. Baity's** apartment door at 344-B, Perry Street, a notice of petition for eviction for alleged non-payment of rent, which proceeding was returnable on November 10, 2003.

52. In willfully effecting service of process by affixing said notice of petition to **Ms. Baity's** door at her vacant apartment at 344 Perry Street (i.e., "nail and mail" pursuant to CPLR 308(4)), rather than *personally serving* said petition upon **Ms. Baity** at her then known address at the nursing home at 10 Symphony Circle, defendants **Garbe** and **Giwa** failed to satisfy the "due diligence" requirement of CPLR 308(4) and, further, evinced an intention to deny **Ms. Baity** of her due process right of notice and opportunity to be heard at the November 10, 2003 eviction proceeding, knowing full well that a default judgment would be entered by the Buffalo City Court granting the petition for the eviction of **Ms. Baity** from her home of 30 years.

53. Fortuitously, plaintiff **Britt**, while visiting **Ms. Baity's** apartment for the purpose of collecting her elderly aunt's mail, discovered affixed to the outside of **Ms. Baity's** apartment door, a copy of said eviction notice.

54. **Ms. Baity's** rent had become past due **after** the time when she (**Ms. Baity**) was removed from her apartment and for a period during her duration while confined at Grace Manor Nursing Home.

55. Richard L. Baumgarten, Esq. was retained by plaintiff **Britt** and appeared on behalf of **Ms. Baity** in the Buffalo City Court eviction proceeding. Gillian Brown, Esq., appeared on behalf of BMHA. Upon counsel's advising Mr. Brown of the salient facts in this matter, an agreement was reached by the attorneys of the parties to the effect that **Ms. Baity** would bring her rent current by a

specific date and, in return, the eviction petition would be terminated and rendered moot.

Thereafter, as agreed, on December 4, 2003, **Ms. Baity's** family paid her rent current and the eviction was mooted.

56. That defendant **Garbe's** commencement of the Buffalo City Court eviction proceeding and service of process thereon, against **Ms. Baity** was in bad faith and constituted an abuse of the judicial process and malicious prosecution.

**The State Court Writ of Habeas Corpus Proceeding and  
the release of Ms. Baity from Grace Manor Nursing Home**

57. Plaintiff **Britt** retained the Law Office of Richard L. Baumgarten, Esq. to commence a state habeas corpus proceeding to procure the release of **Ms. Baity** from Grace Manor Health Care Facility.

58. The Supreme Court (Lane, J.), by Order to Show Cause, granted December 19, 2003, directed that defendant Grace Manor, et al., show cause at a Special Term of the Court on December 23, 2003, why an Order granting a Writ of Habeas Corpus should not be entered in favor of plaintiffs **Britt and Baity**.

59. The parties appeared before the Court on the 23<sup>rd</sup> day of December, 2003, at which time, with the Court's imprimatur, the parties agreed to make every effort amicably to resolve the matter without the necessity of further judicial intervention.

60. After several meetings between the parties, and in lieu of further court litigation, defendant Grace Manor, via the directive of defendant Randall, on Saturday, January 10, 2004, released **Ms. Baity** from confinement at Grace Manor Health Care Facility.



**Retaliation for Exercise of the Constitutional Right  
to Petition the Court in Complaint of Grievances**

61. Thereafter, on the following Monday morning, January 12, 2004, upon information and belief, defendant, **Grace Manor**, via defendants **Matthews** and/or **Randall**, and/or both, proceeded to telephone the Erie County Senior Services Adult Protection (hereinafter "ECSSAP") and lodge a totally malicious and slanderous complaint specifically accusing plaintiff **Britt** of neglecting her 87 year old aunt, **Ms. Baity**, by failing to provide 24-hour care, a condition which Grace Manor had no rightful and/or legal authority to impose and, more importantly, where no such condition had been imposed upon **Ms. Britt** by any court and/or judicial mandate. Further, upon information and belief, one Ms. Nancy Sullivan, a social worker at "ECSSAP", alerted **Ms. Britt** of the above abuse complaint received at her office.

62. In turn, a thoroughly upset **Ms. Britt** immediately contacted counsel regarding the matter.

63. Upon conferencing the above situation with Ms. Sullivan, it was explained by counsel's office to Ms. Sullivan that defendant Grace Manor had no probable cause and/or basis to register such an abuse complaint against **Ms. Britt**, and, further, that, upon information and belief, the abuse complaint, unfounded as it was, was made in *retaliation* against plaintiff **Britt** for petitioning the Court for a Writ of Habeas Corpus challenging Grace Manor's illegal confinement of **Ms. Baity**.

64. Thus, it was under the above strained circumstances that the parties reappeared before the Court (Lane, J., presiding), on January 12, 2004, at 2:00 p.m. At that time, Plaintiff's counsel brought to the Court's attention that, regrettably, defendant Grace Manor, its agents and employees,

had initiated a false and vicious complaint with ECSSAP against **Ms. Britt** for purportedly neglecting her aunt, **Ms. Baity**.

65. Given the above, and, **Ms. Baity** having already been released by defendant Grace Manor on Saturday, January 10, 2004, Plaintiff's counsel, prior to withdrawing the Habeas Corpus petition and conducting a hearing thereon, requested the Court to instruct, on the record, that defendant Grace Manor be prohibited from any further contact, and/or interference, directly or indirectly, by themselves and/or their agents, into the lives of Plaintiffs.

66. The Court, absent any objection by defendant Grace Manor's counsel, thereupon proceeded to direct that Defendants' counsel, Kevin Gluc, Esq., inform and/or remind his clients that, because the elderly **Ms. Baity** now was formally discharged, defendant Grace Manor and its agents and employees were no longer to contact and/or otherwise communicate with Plaintiffs.

67. Notwithstanding the Court's January 12, 2004 clear and concise admonishment on the record, it came to pass - on virtually each and every day thereafter - that, upon information and belief, defendants Grace Manor, Matthews and/or Randall engaged in a continuous and systematic pattern of retaliation against Plaintiffs by engaging in harassing telephone calls to **Ms. Baity's** apartment and lodging of additional false neglect complaints with Erie County Senior Services Adult Protection against **Ms. Britt**, to wit:

a) On or about Tuesday, January 13, 2004, upon information and belief, defendants **Grace Manor, Matthews** and/ or **Randall**, telephoned **Ms. Baity** at her home and proceeded to question **Ms. Baity** at length as to whether she (**Ms. Baity**) was home alone, had food in her refrigerator, etc.;

b) On or about Wednesday, January 14, 2004, upon information and belief, defendants **Grace Manor, Matthews** and/or **Randall** telephoned **Ms. Baity's** private residence inquiring of **Ms. Baity** as to whether she was home alone;

c) On or about Wednesday, January 14, 2004, upon information and belief, defendants **Grace Manor, Matthews** and/or **Randall**, telephoned ECSSAP and, for a second time, lodged a complaint falsely and maliciously accusing **Ms. Britt** with the neglect of her aunt, **Ms. Baity**.

68. Based upon the above referred second false and malicious complaint of, upon information and belief, defendants **Grace Manor, Matthews** and/or **Randall**, one Ms. Maria Sepulveda of the ECSSAP, accompanied by a co-employee, that afternoon (January 14, 2004) visited **Ms. Baity's** home and, upon further information and belief, verbally demanded that **Ms. Baity** open her door and allow them entrance into her apartment.

69. **Ms. Baity** outright refused to comply and, instead, telephoned her counsel's office, at which time counsel instructed **Ms. Baity** to request Ms. Sepulveda's telephone number.

70. Based thereon, counsel's office, in turn, telephoned Ms. Sepulveda, who, thereupon, informed counsel's office that it was a purported staff member at Grace Manor Health Care Facility who had made the aforementioned second complaint to her office of alleged abuse by **Ms. Britt** upon her elderly aunt, **Ms. Baity**.

71. Additionally, on that same date (January 14, 2004), an emotionally distraught **Ms. Baity** complained of having received two (2) additional telephone calls, whereat the individual placing the call refused to provide her a name, other than "Grace Manor."

72. The following day, Thursday, January 15, 2004, plaintiff **Ms. Britt** accompanied her aunt, plaintiff **Ms. Baity**, to Buffalo General Hospital for a scheduled medical appointment. While at that appointment, defendant **Grace Manor**, upon information and belief, prompted its agent, Staff

Builders Home Care, Inc., to telephone Buffalo General Hospital in an ill-disguised attempt to ascertain whether **Ms. Baity** was attending her scheduled medical appointment.

73. It must be duly noted that as a condition precedent to securing **Ms. Baity's** release from Grace Manor Health Care Facility, **Ms. Britt** had been required to provide defendant Grace Manor with verification that a scheduled medical appointment for **Ms. Baity** was in place. Consequently, Plaintiff's counsel provided **only** Grace Manor and the habeas Court - and **no** others - with a copy of that medical appointment letter, which appointment letter specified the date, time and place of said scheduled medical appointment at Buffalo General Hospital.

74. Therefore, it could only have been either defendant Grace Manor and/or the Court which was responsible for the above telephone call placed to Buffalo General Hospital.

75. Later that same evening (January 15, 2004), after returning to her home, **Ms. Baity**, upon information and belief, once again, received a telephone call from a person who, purportedly, was identified only as "Grace Manor" and who, further, upon information and belief, proceeded to question **Ms. Baity** about her living conditions.

76. Upon information and belief, defendants **Grace Manor, Stephan** and/or **Matthews** systematic and continuous, if not contumacious, conduct caused Plaintiffs, **87 year old Ms. Baity**, and her niece, **Ms. Britt**, to suffer extreme emotional distress, anxiety, stress, and nervousness.

77. Defendant **Grace Manor**, its agents and employees then had no lawful authority over the person of Plaintiffs, **Ms. Baity** and **Ms. Britt**, and, no court order, judicial decree or mandate existed - or ever existed -- authorizing Defendants' intrusiveness and/or interference into the personal and private lives of **Ms. Baity** and **Ms. Britt**.

78. That, upon information and belief, defendants **Grace Manor, Kathy Randall** and/or **Tiffany Matthews** engaged in the above continuous and systematic pattern of harassment in

*retaliation* against plaintiffs **Britt** and **Baity** for the exercising of their right to petition the court in redress of grievances.

**State Court Injunctive proceeding and Final Order**

79. Plaintiffs, in direct response to the aforementioned perceived continuous and systematic pattern of harassment, thereupon commenced an Order to Show Cause proceeding, dated January 20, 2004 (Lane, J.), seeking injunctive relief pursuant to Section 6301 of the Civil Practice Law and Rules, such as to enjoin and restrain defendant **Grace Manor**, its agents, servants, and employees, and all other persons acting on Grace Manor's behalf from contacting Plaintiffs, in any manner, directly or indirectly, or through any third party, or by telephone, and, further, to refrain from any interference, whatsoever, in the personal, private or health-care providing aspects of the life of 87 year old **Ms. Baity**.

80. A final Order thereafter was entered on February 11, 2004, granting, pursuant to consent by stipulation of the parties, a permanent injunction pursuant to CPLR Article 63 in favor of plaintiffs **Britt** and **Baity**.

**AS AND FOR A FIRST CAUSE OF ACTION ON  
BEHALF OF PLAINTIFF LULA BAITY FOR FOURTH  
AMENDMENT VIOLATION FOR UNLAWFUL SEIZURE,  
DETENTION AND FALSE IMPRISONMENT**

81. Plaintiffs repeats and realleges each and every allegation contained within paragraphs "1" through "80" of this Complaint with the same force and effect as if fully set forth thereafter.

82. By the commission and subjection of plaintiff **Lula Baity** to Defendants' the acts, omissions and conduct complained of and alleged in paragraphs 19, 20, 25, 26, 27, 28, 29, 32, 34, 37, 38, 40, 41, 42, 43, 44, 46, and 47, *supra*, plaintiff **Baity** was subjected to false imprisonment,

prevented from doing her usual daily, social and personal activities, denied enjoyment of friends, and prevented from attending and participating in church activity where she (Ms. Baity) maintains the respected and honored status of Deacon, all in violation of her rights as guaranteed by the United States Constitution and denial of due process in connection with Plaintiff's rights as guaranteed by New York Mental Hygiene Law.

**AS AND FOR A SECOND CAUSE OF ACTION**  
**ON BEHALF OF PLAINTIFF LULA BAITY**  
**FOR VIOLATION OF PROCEDURAL DUE**  
**PROCESS RIGHTS**

83. Plaintiff repeats and realleges each and every allegation contained within paragraphs "1" through "82" of this Complaint with the same force and effect as if fully set forth hereinafter.

84. By the commission and subjection of plaintiff **Lula Baity** to Defendants' acts, omissions and conduct complained of and alleged in paragraphs 20, 21, 23, 26, 28, 34, 37, 41, 47, 48, 50, 52, 77 and 82, *supra*, plaintiff **Baity** was deprived of her "*full panoply of procedural due process safeguards*", including the guaranteed right to notice and opportunity to challenge Defendants' determinations, the right to counsel, hearing before an impartial judicial officer, and to the least restrictive alternatives as guaranteed by the United States Constitution and denial of due process in connection with Plaintiff's rights as guaranteed by New York Mental Hygiene Law.

**AS AND FOR A THIRD CAUSE OF ACTION**  
**ON BEHALF OF PLAINTIFF LULA BAITY**  
**FOR INVASION OF RIGHT OF PRIVACY**

85. Plaintiff repeats and realleges each and every allegation contained within paragraphs "1" through "84" of this Complaint with the same force and effect as if fully set forth hereinafter.

86. By the commission and subjection of plaintiff **Lula Baity** to defendants' acts, omissions and conduct complained of and alleged in paragraphs 19, 26, 28, 35, 36, 45, and 46, supra, plaintiff **Baity** was deprived of her basic right of privacy to be left alone in peace and go to about her business as guaranteed by the United States Constitution and denial of due process in connection with Plaintiff's rights as guaranteed by New York Mental Hygiene Law.

**AS AND FOR A FOURTH CAUSE OF ACTION**  
**BY PLAINTIFF LULA BAITY FOR DUE PROCESS**  
**VIOLATION BASED UPON ASSAULT AND BATTERY**

87. Plaintiffs repeats and realleges each and every allegation contained within paragraphs "1" through "86" of this Complaint with the same force and effect as if fully set forth hereinafter.

88. By the commission and subjection of plaintiff **Lula Baity** to Defendants' to acts, omissions and conduct complained of and alleged in paragraphs 19, 26, 28, 35, 36, 45, and 46, supra, an assault and battery was committed upon the person of plaintiff **Lula Baity** in violation of her rights as guaranteed by the United States Constitution and denial of due process in connection with Plaintiff's rights as guaranteed by New York Mental Hygiene Law.

**AS AND FOR A FIFTH CAUSE OF ACTION**  
**ON BEHALF OF PLAINTIFF, LULA BAITY**  
**FOR 1983 MALICIOUS PROSECUTION**

89. Plaintiffs repeats and realleges each and every allegation contained within paragraphs "1" through "88" of this Complaint with the same force and effect as if fully set forth hereinafter.

90. By the commission and subjection of plaintiff **Lula Baity** to Defendants' acts, omissions and conduct complained of and alleged in paragraphs 50, 51, 52, 55, and 56, supra.

initiated a baseless and malicious civil eviction proceeding, absent probable cause for doing so, against the person of plaintiff **Lula Baity** in violation of her rights as guaranteed by the United States Constitution and denial of due process in connection with Plaintiff's rights as guaranteed by New York Mental Hygiene Law.

**AS AND FOR A SIXTH CAUSE OF ACTION**  
**ON BEHALF OF PLAINTIFF LULA BAITY**  
**FOR DUE PROCESS VIOLATION BASED UPON**  
**1983 ABUSE OF PROCESS**

91. Plaintiff repeats and realleges each and every allegation contained within paragraphs "1" through "90" of this Complaint with the same force and effect as if fully set forth hereinafter.

92. By the commission and subjection of plaintiff **Lula Baity** to Defendants' acts, omissions and conduct complained of and alleged in paragraphs 50, 51, 52, 55, and 56, *supra*, Defendants initiated a baseless and malicious civil eviction proceeding, absent probable cause for doing so, and, thereafter, used the judicial system to commit the act of abuse of judicial process against the person of plaintiff **Lula Baity** in violation of her rights as guaranteed by the United States Constitution and denial of due process in connection with Plaintiff's rights as guaranteed by New York Mental Hygiene Law.

**AS AND FOR A SEVENTH CAUSE OF ACTION**  
**ON BEHALF OF PLAINTIFF LULA BAITY**  
**FOR DEPRIVATION OF PROPERTY WITHOUT**  
**DUE PROCESS OF LAW**

93. Plaintiff repeats and realleges each and every allegation contained within paragraphs "1" through "92" of this Complaint with the same force and effect as if fully set forth hereinafter.



94. By the commission and subjection of plaintiff **Lula Baity** to acts, omissions and conduct complained of and alleged in paragraphs 48 and 49, supra, defendants Grace Manor and the named defendant employees, by the fraudulent alleging and/or representing to the Social Security Administration, Medicare and Medicaid agencies that **Ms. Baity** suffered from severe dementia and/or Alzheimer's disease and was unable to care for herself, and, further, that **Ms. Baity's** family members had affirmatively agreed to **Ms. Baity's** placement at the nursing home, defendant Grace Manor improperly obtained authority to act as **Ms. Baity's** "*representative payee*" and, thereafter, received the entire proceeds of **Ms. Baity's** monthly Social Security income, Medicare and Medicaid benefits for a period of ninety (90) days. As such, plaintiff **Lula Baity** was deprived of her property without due process of law in violation of her rights as guaranteed by the United States Constitution and denial of due process in connection with Plaintiff's rights as guaranteed by New York Mental Hygiene Law.

**AS AND FOR A EIGHTH CAUSE OF ACTION**  
**ON BEHALF OF PLAINTIFF LULA BAITY**  
**AGAINST DEFENDANTS NELDA LAWLER, M.D.,**  
**TERESA CHAU, M.D., JESUS A. LIGOTT, M.D.,**  
**PHILLIP J. RADOS, M.D., and JESSICA W. BLUME, M.D.,**  
**FOR MEDICAL MALPRACTICE**

95. Plaintiffs repeats and realleges each and every allegation contained within paragraphs "1" through "94" of this Complaint with the same force and effect as if fully set forth hereinafter.

96. At all relevant times, in performing the acts set forth above, **Ligott, Rados and Blume** were the agents, servants and employees of **ECMC**, and were acting within the scope of employment as medical doctors and with the permission and consent of the **ECMC**. Similarly, **Lawler and Chau** were the agents, servants and employees of **GRACE MANOR**, and were acting within the

scope of employment as medical doctors and with the permission and consent of **GRACE MANOR**.

97. At all relevant times defendants, **Ligott, Rados, Blume, Lawler, Chau, ECMC** and **GRACE MANOR** owed a duty of reasonable care to plaintiff **Baity** to use that level of knowledge, skill and care that is generally used in similar cases and circumstances by physicians and designees of the Director of Community Services for determining arrest and involuntary confinement of persons pursuant to the Mental Hygiene Law.

98. In taking actions resulting in plaintiff **Baity's** seizure and involuntary confinement in at **ECMC** and **GRACE MANOR**, defendants **Ligott, Rados, Blume, Lawler, Chau, ECMC** and **GRACE MANOR** breached the duty of reasonable care owed to plaintiff.

99. As a direct and proximate result of the breach of the duty of reasonable care and malpractice of defendants **Ligott, Rados, Blume, Lawler, Chau, ECMC** and **GRACE MANOR**, plaintiff **Baity** suffered damages.

100. The breach of duty owed to plaintiff **Baity** was done in a manner constituting a gross and reckless disregard for defendants' obligations under law to apply a reasonable standard of care before taking actions resulting in the seizure and confinement of plaintiff **Baity**. The actions of defendants demonstrating such gross and reckless disregard include but are not limited to not verifying information to ascertain that the prerequisites of the law were complied with, not conducting any examinations or a proper examination, not documenting proper findings, not providing plaintiff with notice of his status and rights, arresting, confining and continuing to hold plaintiff **Baity** over her objection at the request of defendants **Buffalo Municipal Housing Authority, Garbe** and **Giwa** even when defendants **Ligott, Rados, Blume, Lawler** and **Chau** knew that the proper examinations and findings had not been made. As a result of

defendants' gross and reckless disregard for plaintiff **Baity's** rights and the standard of care to be applied before a person is arrested, seized and involuntarily confined, plaintiff **Baity** is entitled to compensatory damages in addition to punitive damages.

**AS AND FOR A FIRST CAUSE OF ACTION  
ON BEHALF OF PLAINTIFF CARMEN BRITT  
FOR RETAILATION FOR EXERCISE OF  
CONSTITUTIONAL RIGHT TO PETITION THE  
COURT IN REDRESS OF GRIEVANCES**

101. Plaintiffs repeats and realleges each and every allegation contained within paragraphs "1" through "100" of this Complaint with the same force and effect as if fully set forth thereafter.

102. By the commission and subjection of plaintiff **Carmen Britt** to acts, omissions and conduct complained of and alleged in paragraphs 61, 63, 64, and 66, supra, defendant Grace Manor and its named defendant employees initiated against **Ms. Britt** baseless and malicious investigations by Erie County Senior Services Adult Protection by knowingly and falsely misrepresenting to that agency that **Ms. Britt** was abusing her elder aunt, **Ms. Baity**, in an effort to retaliate against **Ms. Britt** for exercise of her constitutional right to petition the court in redress of grievances in violation of **Ms. Britt's** rights as guaranteed by the United States Constitution and denial of due process in connection with Plaintiff's rights as guaranteed by New York Mental Hygiene Law.

**AS AND FOR A FIRST JOINT CAUSE OF ACTION ON  
BEHALF OF PLAINTIFFS CARMEN BRITT AND LULA  
BAITY FOR HARASSMENT AND EXTREME EMOTIONAL  
DISTRESS AND MENTAL ANGUISH**

103. Plaintiffs repeats and realleges each and every allegation contained within paragraphs "1" through "102" of this Complaint with the same force and effect as if fully set forth thereafter.

104. Defendants, by committing and subjecting plaintiffs **Carmen Britt** and **Lula Baity** to the acts, omissions and conduct complained of and alleged in paragraphs 19, 20, 21, 25, 26, 27, 28, 33, 34, 35, 37, 38, 41, 42, 43, 44, 45, 49, 50, 53, 56, 61, 62, 67 (a), (b) and (c), 68, 71, 72, 75, 76, 77 and 78, supra, intended to cause and did cause extreme emotional distress and mental anguish absent probable cause for doing so, against the persons of plaintiffs **Carmen Britt** and **Lula Baity** in violation of their rights as guaranteed by the United States Constitution and denial of due process in connection with Plaintiff's rights as guaranteed by New York Mental Hygiene Law.

105. That Defendants, at all times mentioned herein, deprived Plaintiffs of their "*full panoply of procedural due process safeguards*", including the guaranteed right to notice and opportunity to challenge Defendants' determinations, the right to counsel, a hearing before an impartial judicial officer, and to the least restrictive alternatives, all in violation of Plaintiffs' rights under the United States Constitution and denial of due process in connection with Plaintiff's rights as guaranteed by New York Mental Hygiene Law.

106. The acts and conduct of the Defendants, individually and jointly, were performed knowingly, intentionally and maliciously and without lawful justification and/or basis, by reason of which plaintiffs **Britt** and **Baity** were injured in their persons, such as to entitle them to an award of *compensatory* damages.

107. Further, the acts and/or omissions of the Defendants were done willfully, recklessly, oppressively and maliciously without legal justification, such as to deprive plaintiffs **Britt** and **Baity** of their federal constitutional and of due process rights guaranteed by New York Mental Hygiene Law, by reason of which Plaintiffs are entitled to *punitive* damages.

108. That Plaintiffs also incurred pecuniary damages in the form of costs and expenses in securing counsel to represent them in the underlying CPLR Article 78 Habeas Corpus action, a Buffalo City Court eviction proceeding and a CPLR Article 63 matter, respectively.

#### PRAYER FOR RELIEF

Plaintiffs, respectfully, pray this Honorable Court enter judgment against Defendants and in favor of Plaintiffs to compensate and make Plaintiffs whole for their physical pain, mental suffering, loss of liberty, humiliation, medical expenses, economic and property losses and, further, that punitive damages be awarded thereto as follows:

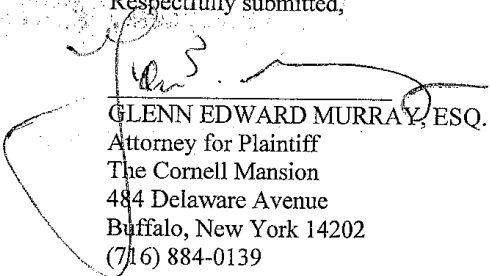
**WHEREFORE**, Plaintiffs demands judgment against the Defendants, jointly and severally as follows:

1. Defendants are sued in their personal and official capacities;
2. Plaintiff demands judgment against Defendants, individually and separately, for **compensatory** and/or special damages in the amount of **ONE MILLION (\$1,000,000.00) DOLLARS**, as to each separate and individual cause of action;
3. Plaintiff demands judgment against Defendants, individually and separately, for **punitive** damages in the amount of **ONE MILLION (\$1,000,000.00) DOLLARS**, as to each separate and individual cause of action;
4. An award of attorney's fees and costs as may be available under Title 42 USC 1988;
5. All together with cost and disbursement of this action;

6. Trial by Jury is requested.

Dated: Buffalo, New York  
December 28, 2005

Respectfully submitted,



GLENN EDWARD MURRAY, ESQ.  
Attorney for Plaintiff  
The Cornell Mansion  
484 Delaware Avenue  
Buffalo, New York 14202  
(716) 884-0139

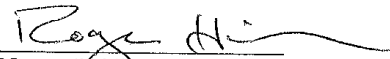
VERIFICATION

STATE OF NEW YORK )  
CITY OF BUFFALO ) ss.:  
COUNTY OF ERIE )

**CARMEN BRITT**, being duly sworn, deposes and says: I am the plaintiff herein named; I have read the foregoing Verified Civil Rights Complaint and know its contents; the same is true to my own knowledge, except as to those matters stated to be alleged on information and belief and as to those matters, I believe it to be true.

  
CARMEN BRITT  
Plaintiff

Sworn to before me this  
28 day of December, 2005

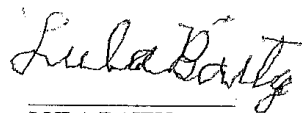
  
Notary Public

**ROGERS HICKS**  
COMMISSIONER OF DEEDS  
In and for Buffalo, Erie County, NY  
Commission Expires December 31, 2006

VERIFICATION

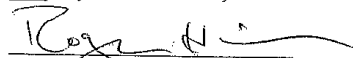
STATE OF NEW YORK )  
CITY OF BUFFALO ) ss.:  
COUNTY OF ERIE )

LULA BAITY, being duly sworn, deposes and says: I am the plaintiff herein named; I have read the foregoing Verified Civil Rights Complaint and know its contents; the same is true to my own knowledge, except as to those matters stated to be alleged on information and belief and as to those matters, I believe it to be true.



LULA BAITY  
Plaintiff

Sworn to before me this  
28 day of December, 2005

  
Notary Public

**ROGERS HICKS**  
COMMISSIONER OF DEEDS  
In and for Buffalo, Erie County, NY  
Commission Expires December 31, 2006