

STATE OF NEW YORK  
SUPREME COURT: COUNTY OF CHEMUNG

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In the Matter of the Claim of

MICHAEL BUSH

Claimant,

**NOTICE OF CLAIM**

vs.

CITY OF ELMIRA,  
CITY OF ELMIRA POLICE CHIEF KRISTEN THORNE  
CITY OF ELMIRA ANIMAL CONTROL OFFICER RILEY SIMPSON, and  
CITY OF ELMIRA CORPORATION COUNSEL JOHN RYAN,  
Respondents.

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TO: CITY OF ELMIRA,  
CITY OF ELMIRA POLICE CHIEF KRISTEN THORNE,  
CITY OF ELMIRA ANIMAL CONTROL OFFICER RILEY SIMPSON, and  
CITY OF ELMIRA CORPORATION COUNSEL JOHN RYAN,  
Respondents.

PLEASE TAKE NOTICE, that MICHAEL BUSH has and hereby makes claim against the CITY OF ELMIRA, CITY OF ELMIRA POLICE CHIEF KRISTEN THORNE, CITY OF ELMIRA ANIMAL CONTROL OFFICER RILEY SIMPSON, and CITY OF ELMIRA CORPORATION COUNSEL JOHN RYAN, and in support of said claim state the following:

1. The post office address of the Claimant is 1550 Maple Avenue, Elmira, New York 14904. The attorney for the Claimant is MATTHEW ALBERT ESQ., of the LAW OFFICES OF MATTHEW ALBERT ESQ., and the post office address is 2166 Church Road, Darien Center, New York 14040.

2. The claim of MICHAEL BUSH is for negligence, destruction of property, conversion, reckless and/or intentional infliction of emotional distress, negligent infliction of

emotional distress, and violations of Claimant's rights under the Fourth Amendment to the United States Constitution, including the unreasonable seizure and deprivation of Claimant's property, arising from the death of Claimant's canine, ROSCO.

3. Rosco was an approximately eight-to-nine-year-old black Labrador Retriever mix and the beloved companion and property of Claimant Michael Bush. Claimant and Rosco were best friends and shared a close familial bond. They routinely went on car rides, went to the lake, played tug-of-war, and engaged in numerous other activities together. Rosco was also an important source of companionship and emotional support to Claimant following the loss of Claimant's mother. His sudden and preventable death has caused Claimant profound grief, anxiety, depression, mental anguish, and other psychological and emotional injuries.

4. This claim arose in the City of Elmira, County of Chemung, and State of New York, on or about June 3 and June 4, 2026, and thereafter, as set forth more fully herein.

5. Said claim arose in substance as follows:

6. On June 3, 2026, Rosco was in the fenced-in backyard of Claimant's residence. The gate had inadvertently been left open, allowing Rosco to exit the yard. Rosco remained in the vicinity of Claimant's residence and was subsequently located and taken into the custody and control of the CITY OF ELMIRA ANIMAL CONTROL.

7. At approximately 4:00 p.m. that day, Claimant finished work, returned home, discovered that Rosco was missing, and immediately began making telephone calls to locate him. Claimant learned that Rosco was in the custody of CITY OF ELMIRA ANIMAL CONTROL and immediately went to the Animal Control facility to retrieve him. Upon arrival, however, Claimant found the facility closed, with no personnel present, the lights off, and the

doors locked. Claimant was therefore unable to retrieve Rosco despite knowing that he was in the City's custody.

8. On June 4, 2026, Claimant's aunt, CHRISTINE HEATER, remained in contact with CITY OF ELMIRA ANIMAL CONTROL throughout the day while Claimant was at work in an effort to secure Rosco's release. CITY OF ELMIRA ANIMAL CONTROL advised that certain documentation was required, including proof concerning Rosco's rabies vaccination, which was apparently out of date. CITY OF ELMIRA ANIMAL CONTROL represented that, pursuant to its policy and/or practice, Rosco would need to be taken to his veterinarian to receive the required vaccination before he could be released from their custody.

9. Rosco was thereafter taken to HOME VETERINARY CARE, 201 Oakwood Avenue, Elmira, New York 14903, at approximately 11:40 a.m. on June 4, 2026, by CITY OF ELMIRA ANIMAL CONTROL OFFICER RILEY SIMPSON. Documentation concerning the veterinary visit was subsequently provided to Claimant's aunt at approximately 12:24 p.m.

10. Claimant left work early and, at approximately 3:30 p.m., arrived at the CITY OF ELMIRA ANIMAL CONTROL facility. Claimant paid the required fees and completed the paperwork necessary to obtain Rosco's release.

11. CITY OF ELMIRA ANIMAL CONTROL OFFICER RILEY SIMPSON then went outside to retrieve Rosco but was initially unable to locate him. It was then discovered that Rosco had not been returned to the facility and had instead been left inside the Animal Control vehicle.

12. CITY OF ELMIRA ANIMAL CONTROL OFFICER RILEY SIMPSON and Claimant proceeded to the vehicle and opened it, where Rosco was found deceased. The vehicle

was not operating, was locked, and all of its windows were closed. Claimant personally observed CITY OF ELMIRA ANIMAL CONTROL OFFICER RILEY SIMPSON unlock the vehicle before approaching it.

13. Rosco's body appeared wet, although it was in fact dry, and his fur had the appearance and texture of straw. His body was stiff, indicating that he had been deceased for a substantial period of time. When confronted with what had occurred, CITY OF ELMIRA ANIMAL CONTROL OFFICER RILEY SIMPSON stated, in substance, that Rosco had simply been forgotten and that she had become distracted while attending to something else.

14. Upon the discovery of Rosco's deceased body, CITY OF ELMIRA ANIMAL CONTROL OFFICER RILEY SIMPSON contacted the City of Elmira Police Department. Elmira Police Chief Kristen Thorne advised Claimant that the incident would be investigated under Case No. 26EP22134.

15. Respondents knew or should have known that leaving a dog confined inside a locked, non-operating vehicle on a warm June day could rapidly result in life-threatening heat exposure, heat stroke, and death. Nevertheless, Respondent Simpson left Rosco unattended and confined inside the vehicle for hours without adequate monitoring, ventilation, temperature control, or other reasonable safeguards. On June 4, 2026, temperatures in Elmira reached approximately 84 degrees Fahrenheit, subjecting Rosco to extreme temperatures inside the closed vehicle. Confined inside the locked vehicle, Rosco had no ability to escape, obtain water, obtain ventilation, seek shade, or otherwise protect himself from the dangerous conditions. With the outside temperature reaching 84 degrees on the date and time in question, the temperature

inside the car would have reached up to 124 degrees. Simply put, Respondent Simpson cooked Rosco to death.

16. Respondents owed Claimant a duty to exercise reasonable care for Rosco after taking him into governmental custody and control. That duty included, but was not limited to, properly accounting for and monitoring Rosco, ensuring that he was not left unattended in a dangerous environment, providing appropriate ventilation and temperature control, conducting reasonable checks of Animal Control vehicles, and taking reasonable measures to prevent his injury or death.

17. Respondents breached those duties by failing to account for Rosco, leaving him inside a locked and non-operating vehicle for hours, failing to monitor his whereabouts and condition, failing to discover his presence in the vehicle until Claimant arrived to retrieve him, and failing to provide medical or emergency intervention. CITY OF ELMIRA ANIMAL CONTROL OFFICER RILEY SIMPSON's admission that Rosco had simply been forgotten demonstrates a profound failure to exercise reasonable care for an animal entrusted to Respondents' custody and control. Upon information and belief, such conduct constituted negligence and recklessness and is criminal in nature.

18. The necropsy performed at Cornell University further establishes the causal connection between Respondents' conduct and Rosco's death. Rosco was transported to Cornell following his death so that the cause and manner of death could be determined. The necropsy report was ultimately provided to Claimant by the City on or about August 7, 2026. The findings,

considered together with the surrounding circumstances, were consistent with death from heat stroke.

19. Although certain physiological findings associated with heat stroke may overlap with findings associated with an adverse vaccine reaction, the surrounding circumstances establish that Rosco had been confined inside a closed, non-operating vehicle for an extended period on a day when outdoor temperatures reached approximately 84 degrees Fahrenheit. The death was therefore the foreseeable consequence of Respondents' failure to properly monitor, safeguard, and care for Rosco while he was in their exclusive custody and control.

20. Rosco was Claimant's personal property and was in Claimant's lawful possession and ownership when Respondents took him into governmental custody. Rather than safely maintaining and returning Claimant's property, Respondents exercised dominion and control over Rosco in a manner inconsistent with Claimant's ownership rights and, through their negligent, reckless, and wrongful conduct, caused the destruction of that property. Such conduct constitutes conversion and destruction of property.

21. The taking and continued governmental retention and control of Rosco also constituted a seizure of Claimant's property within the meaning of the Fourth Amendment to the United States Constitution. Respondents' possession and control of Rosco was required to be reasonable. Instead, after taking Rosco into custody, Respondents retained control over him, transported him, and ultimately left him to die inside a locked vehicle. Such conduct constituted an unreasonable seizure and deprivation of Claimant's property rights.

22. Rosco was entirely dependent upon Respondents while in their custody and had no ability to protect himself from the conditions in which Respondents placed him. The

circumstances therefore demonstrate not only a failure to exercise reasonable care, but a reckless disregard for the safety of an animal whose care and custody had been assumed by governmental authorities.

23. Upon information and belief, Respondents maintained policies, practices, procedures, training, supervision, and/or customs governing the custody, transportation, monitoring, and care of animals. To the extent Respondents failed to adequately train, supervise, monitor, or instruct Animal Control personnel concerning the safe custody and transportation of animals in motor vehicles, such failures further constituted negligence and/or deliberate indifference to the safety of animals and the property interests of members of the public whose animals were placed into governmental custody.

24. The manner of Rosco's death caused Claimant severe emotional distress. Claimant was forced to confront the fact that his beloved companion had been entrusted to governmental authorities for safekeeping and was instead left for hours inside a hot, locked vehicle until he died. The circumstances of Rosco's death were particularly traumatic because the death was preventable and resulted from Respondents' failure to account for and care for him while he was in their exclusive custody.

25. Claimant has suffered severe anxiety, depression, grief, emotional distress, mental anguish, loss of companionship, and other psychological injuries as a direct and proximate result of Respondents' conduct. Claimant has sought counseling and psychological support through and as a result of the psychological and emotional consequences of Rosco's death.

26. The circumstances surrounding Respondents' conduct were sufficiently extreme and outrageous, and demonstrated such reckless disregard for Rosco's safety and Claimant's

foreseeable emotional interests, as to support Claimant's claim for reckless and/or intentional infliction of emotional distress. Respondents' conduct was not merely an ordinary failure to exercise care; it resulted in the death of an animal entrusted exclusively to their custody after being left for hours in a locked vehicle under dangerous conditions.

27. The subsequent conduct of the CITY OF ELMIRA further aggravated Claimant's emotional distress. On or about August 7, 2026, the City provided Claimant with the necropsy report containing findings consistent with heat stroke. On or about August 28, 2026, JOHN RYAN, the City Attorney, advised Claimant's attorney that no criminal charges would be filed against the Animal Control Officer involved in the incident.

28. Later that same day, Claimant's attorney questioned why criminal charges were not being pursued in light of the circumstances surrounding Rosco's death and the necropsy findings, particularly given the prosecution of individuals under comparable circumstances involving the death of an animal. Claimant's attorney in fact provided a litany of cases with similar fact patterns in which criminal charges were filed when an individual left a dog to die in a hot car. As of the date of this claim, the City Attorney has provided no substantive explanation for the decision not to pursue criminal charges. The lack of any explanation provided supports the proposition that there is no logical or reasonable legal explanation that would explain why charges are not being filed against Ms. Simpson. Instead, the facts suggest that this is a case of City of Elmira officials providing a benefit to a City of Elmira employee by not charging her with a crime. They would not afford a civilian who committed such an act the same treatment.

29. The City's unexplained decision, and its failure to provide a substantive explanation when questioned concerning the treatment of its employee, has further aggravated

Claimant's emotional distress, grief, frustration, anger, and loss of trust in the governmental authorities responsible for Rosco's custody. Claimant alleges that the circumstances reasonably caused him to believe that the City was unwilling to hold its employee accountable for conduct that resulted in the death of his beloved companion, and such a factor has further intensified his emotional distress.

30. This distress is compounded by the fact that Respondent Thorne is legally obligated to press charges against anyone who commits any violation of Article 26 pursuant to §371 of New York's Agriculture and Market Law. Such section mandates that a police officer must bring before a court or magistrate having jurisdiction, any person offending against any of the provisions of article twenty-six of the agriculture and markets law. Aside from animal cruelty under §353, §353-d of the AML prohibits a person from confining a companion animal in a motor vehicle in extreme heat or cold without proper ventilation or other protection from such extreme temperatures where such confinement places the companion animal in imminent danger of death or serious physical injury due to exposure to such extreme heat or cold.

31. Even if one were to suspend reality and come to the ridiculous conclusion that it can't be proven that Rosco overheated to death, one cannot deny that leaving him in a hot car would cause him unjustifiable suffering, thereby meeting the legal standard of cruelty as defined by AML §350 (2) in conjunction with AML §353. This cannot be a more clear-cut case of government workers sweeping violations of law under the rug for another government worker,

all at taxpayer expense and all at the expense of Claimant's emotional well-being. Such conduct is outrageous in its totality.

32. All of the foregoing acts and omissions, individually and collectively, constitute negligence, destruction of property, conversion, negligent infliction of emotional distress, reckless and/or intentional infliction of emotional distress, and an unreasonable seizure and deprivation of property in violation of the Fourth Amendment to the United States Constitution.

33. All of the foregoing acts and omissions represent a gross abuse of government authority and were substantial factors and proximate causes of Rosco's death and the resulting property damage, emotional distress, and other damages suffered by Claimant.

WHEREFORE, Claimant requests that the CITY OF ELMIRA, CITY OF ELMIRA POLICE CHIEF KRISTEN THORNE, CITY OF ELMIRA ANIMAL CONTROL OFFICER RILEY SIMPSON, and CITY OF ELMIRA CORPORATION COUNSEL JOHN RYAN pay the claims of MICHAEL BUSH.

DATED: Darien Center, New York  
September 1, 2026

By: /s/ Matthew Albert  
MATTHEW A. ALBERT, ESQ.  
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STATE OF NEW YORK  
SUPREME COURT: COUNTY OF CHEMUNG

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In the Matter of the Claim of

MICHAEL BUSH

Claimant,

**VERIFICATION**

vs.

CITY OF ELMIRA,  
CITY OF ELMIRA POLICE CHIEF KRISTEN THORNE  
CITY OF ELMIRA ANIMAL CONTROL OFFICER RILEY SIMPSON, and  
CITY OF ELMIRA CORPORATION COUNSEL JOHN RYAN,  
Respondents.

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MATTHEW ALBERT, an attorney duly admitted to practice law before the courts of the State of New York, affirms the following to be true under the penalties of perjury:

I am the attorney for the Claimant in the above-named action. I have read the annexed NOTICE OF CLAIM, dated September 1, 2026, and know the contents thereof. The same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true. This verification is made by me and not by the Claimant because the Claimant is not in the county in which I maintain my office, pursuant to CPLR § 3020(d)(3).

Dated: September 1, 2026

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Matthew A. Albert, Esq.