

Pedro M Elias

1. Employment dates and events:
  - a. Part time, September 27, 2003\
  - b. Full time, July 27, 2004
  - c. Extension of 78 week probation January 14, 2005, Discipline action judgment
  - d. Military leave Sept. 27, 2006 to December 17, 2006
  - e. Suspended December 26, 2006: Domestic actions 12/25 and order of protection dated 12/26 Questions regarding ability to carry firearm.
  - f. Reinstated January 4<sup>th</sup>, 2007
  - g. Violation of order of protection 01/27/07
  - h. Suspended from service 01/28/07
  - i. Served notice of Discipline and statement charges
  - j. Arrest by City of Middletown 02/25/2007, violation order of protection and false written statement.
  - k. Suspension March 2, 2007 regarding actions of 02/25/2007, with notice of discipline and statement of charges.

## EXHIBIT LIST

### In the Matter of Disciplinary Charges - Pedro M. Elias

- A. Order of Protection;
- B. January 22<sup>nd</sup>, 2007 Memorandum to Pedro Elias by Chief of Police Daniel P. McCann;
- C. January 28<sup>th</sup>, 2007 Interoffice Memorandum from Sgt. Dominick L. Blasko to Chief Daniel P. McCann;
- D. January 28<sup>th</sup>, 2007 correspondence suspending Pedro Elias;
- E. Criminal information, supporting deposition charging a felony of criminal contempt in violation of Penal Law §215.51;
- F. February 6<sup>th</sup>, 2007 Notice of Discipline and Statement of Charges (Shawangunk);
- G. Affidavit of Service by Sgt. Dominick L. Blasko serving Notice of Discipline and Statement of Charges upon Pedro Elias;
- H. February 12<sup>th</sup>, 2007 correspondence from James B. Tuttle, Esq. to Chief of Police Daniel P. McCann transmitting objection to discipline;
- I. February 12<sup>th</sup>, 2007 Objection to Discipline;
- J. February 25<sup>th</sup>, 2007 Memorandum by Pedro Elias to Chief Daniel P. McCann;
- K. March 2<sup>nd</sup>, 2007 correspondence from Jacobowitz & Gubits, LLP to James B. Tuttle, Esq. transmitting Notice of Discipline and Statement of Charges (Middletown)
- L. March 2<sup>nd</sup>, 2007 correspondence to Officer Elias from Chief of Police Daniel P. McCann advising of suspension without pay (Middletown);
- M. March 2<sup>nd</sup>, 2007 Notice of Discipline and Statement of Charges (Middletown) with delivery confirmation;
- N. March 6<sup>th</sup>, 2007 correspondence from James B. Tuttle, Esq. to Daniel P. McCann, Chief of Police transmitting Objection to Discipline (Middletown);

- O. March 6<sup>th</sup>, 2007 Objection to Discipline (Middletown);
- P. March 20<sup>th</sup>, 2007 correspondence from Jacobowitz & Gubits, LLP to James B. Tuttle, Esq. transmitting Notice of Decision with delivery confirmation;
- Q. March 20<sup>th</sup>, 2007 Notice of Decision;
- R. May 17<sup>th</sup>, 2007 correspondence from Jacobowitz & Gubits, LLP to James B. Tuttle, Esq. transmitting Notice of Hearing;
- S. May 16<sup>th</sup>, 2007 Notice of Hearing;
- T. May 17<sup>th</sup>, 2007 correspondence from James B. Tuttle, Esq. to Jacobowitz & Gubits, LLP objecting to hearing;
- U. May 24<sup>th</sup>, 2007 correspondence from Jacobowitz & Gubits, LLP to James B. Tuttle, Esq. responding to objection;
- V. June 14<sup>th</sup>, 2007 correspondence from Jacobowitz & Gubits, LLP to James B. Tuttle, Esq.;

Date 10/24/06  
I hereby certify that the foregoing is a true copy of the original on file in the Ulster County Family Court.

F.C.A. §§ 430, 550, 655, 828, 1029

General Form 5 11/99

ORI No.: NY 055023J

Order No: 2006-001369

NYSID No:

-PRESENT: Hon. Anthony McGinty

Kate A. Shabo  
At a Term of the Family Court  
County of Ulster, State of New York  
16 Lucas Avenue  
Kingston, New York 12401

In the Matter of a Proceeding under  
Article 08 of the Family Court Act

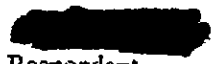
**TEMPORARY  
ORDER OF PROTECTION**

**Pedro Miguel Elias**  
Petitioner  
Date of Birth: 06-08-1969

ocket No. O-3987-06  
File No. 8105

v.

Ex Parte  
 Both Parties Present in Court



Respondent  
Date of Birth: 04-07-1970

**NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY SUBJECT YOU TO MANDATORY ARREST AND CRIMINAL PROSECUTION, WHICH MAY RESULT IN YOUR INCARCERATION FOR UP TO SEVEN YEARS FOR CRIMINAL CONTEMPT AND/OR MAY SUBJECT YOU TO FAMILY COURT PROSECUTION AND INCARCERATION FOR UP TO SIX MONTHS FOR CONTEMPT OF COURT. IF YOU FAIL TO APPEAR IN COURT WHEN YOU ARE REQUIRED TO SO, THIS ORDER MAY BE EXTENDED IN YOUR ABSENCE AND CONTINUE IN EFFECT UNTIL YOU APPEAR IN COURT.**

A petition under Article 08 of the Family Court Act, sworn to on December 26, 2006, having been filed in this Court in the above-entitled proceeding, and good cause having been shown,

12/26/06

Now, therefore, **IT IS HEREBY ORDERED** that the above-named Respondent, **Kelly Ann Elias**, observe the following conditions of behavior:

- [01]  Stay away from  Pedro Miguel Elias 1000 ft and/or from the  current residence of Pedro Miguel Elias 1000 ft  
 school of \_\_\_\_\_  
 business of \_\_\_\_\_  
 place of employment of Pedro Miguel Elias 1000 ft.  
 other: (The Respondent shall have no contact with the Petitioner physically or through third parties.)
- [14]  Refrain from communication by mail or by telephone, e-mail, voice-mail or other electronic means with Pedro Miguel Elias
- [02]  Refrain from assault, stalking, harassment, menacing, reckless endangerment, disorderly conduct, intimidation, threats or any criminal offense against Pedro Miguel Elias
- [11]  Permit (specify person) \_\_\_\_\_ to enter the residence on (specify date and time) \_\_\_\_\_ to remove personal belongings not in issue in litigation;

Page 2 Pedro Miguel Elias v. [REDACTED] O-3987-06 8105

[04]  Refrain from (indicate acts) \_\_\_\_\_

that create an unreasonable risk to the health, safety or welfare of \_\_\_\_\_

[05]  Permit \_\_\_\_\_, entitled by a Court order or separation agreement to visit with \_\_\_\_\_, during the following periods of time \_\_\_\_\_ under the following terms and conditions: \_\_\_\_\_

[07]  Temporary Custody of Victoria Elias (DOB 05-23-1992), Angela Elias (DOB 12-07-1997) and Isabella Elias (DOB 06-24-2005) shall be awarded to the Petitioner under the following terms and conditions: (specify) \_\_\_\_\_

[12]  Surrender any and all handguns, pistols, revolvers, rifles, shotguns and other firearms owned or possessed, including, but not limited to, the following: \_\_\_\_\_ Such surrender shall take immediately but in no event later than \_\_\_\_\_ at the Ulster County Sheriff's Office.

Pay or provide access to health or medical insurance for necessary medical care and treatment arising from the incident or incidents forming the basis of the order, Arts. 5,6&8 only  Pay counsel fees (and/or) any costs associated with the order to \_\_\_\_\_

Arts. 4,5&6 only  Participate in an educational program (and pay the costs thereof) \_\_\_\_\_

Art. 8 only  Participate in batterer's education program designed to help end violent behavior (and pay the costs thereof) \_\_\_\_\_

Art. 8 only  Pay to the petitioner/victim(s) restitution, as follows (amount up to \$10,000) \_\_\_\_\_

[99]  Observe such other condition(s) as are necessary to further the purposes of protection: (specify): \_\_\_\_\_

It is further ordered that the above-named Respondent's license to carry, possess, repair, sell or otherwise dispose of a firearm or firearms, if any, pursuant to Penal Law §400.00 is hereby [13A]  suspended, and/or [13C]  the Respondent shall remain ineligible to receive a firearm license during the period of this order. (Check all applicable boxes.)

It is further ordered that this temporary order of protection shall remain in effect until 1-22-07.

The Family Court Act provides that presentation of a copy of this order of protection to any police officer or peace officer acting pursuant to his or her special duties shall authorize, and in some situations may require, such officer to arrest a person who is alleged to have violated its terms and to bring him or her before the court to face whatever penalties may be imposed therefor.

Federal law provides that this order must be honored and enforced by state and tribal courts, including courts of a state, the District of Columbia, a commonwealth, territory or possession of the United States, if it is established that the person against whom the order is sought has or will be afforded reasonable notice and opportunity to be heard in accordance with state law sufficient to protect that person's rights (18 U.S.C. §§ 2265, 2266).

It is a federal offense to: cross state lines to violate an order of protection; cross state lines to engage in stalking, harassment or domestic violence against an intimate partner or family member; possess, purchase, ship, transfer, or receive a handgun, rifle, shotgun, or other firearm or ammunition following a conviction of a domestic violence misdemeanor involving the use or attempted use of physical force or a deadly weapon; or (except for military or law enforcement officers while on duty) possess, purchase, ship, transfer or receive a handgun, rifle, shotgun, or other firearm while an order of protection, issued after notice and an opportunity to be heard, that protects and intimate partner against assault, harassment, threatening and/or stalking, is in effect (18 U.S.C. §§922(g)(8), 922(g)(9), 2261, 2261A, 2262).

**PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF THE COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE LAW GUARDIAN UPON THE APPELLANT, WHICHEVER IS EARLIEST.**

DATED: December 26, 2006

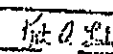
ENTER

  
Hon. Anthony McGinty  
Judge of the Family Court

**NOTICE OF ENTRY**  
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Ulster on December 26, 2006

**NOTICE OF ENTRY**  
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Ulster on 12/26/06

Katrina A. Lasko  
Chief Clerk of the Court

  
Chief Clerk of the Court

- Personal Service executed [specify date]: \_\_\_\_\_
- Order mailed on [specify date and to whom mailed]: \_\_\_\_\_
- Order received by Respondent in Court [specify date]: \_\_\_\_\_
- Warrant issued for Respondent [specify date]: \_\_\_\_\_

# Interoffice Memo

## Office of the Chief of Police

---

To: Pedro Elias, Police Officer

CC: John Avery, PBA President

From: Daniel P. McCann, Chief of Police

Subject: Meeting of January 3, 2007

Date: January 22, 2007

As we discussed during our meeting of January 3, 2007 concerning a domestic violence incident of December 25, 2006 that you were involved in with your wife, at your residence in Ulster County. This incident resulted in a domestic violence investigation that indicated physical force was involved and an order of protection was issued against you by the Ulster County Family Court. As a result of this you were suspended without pay until a clear determination of the order of protection and the police investigation could be attained.

During our conversation you indicated to me the facts of the incident as you witnessed them and your participation in the events of the incident. I discussed with you the issues of personal and professional separation and I recommended that you utilize appropriate professional and legal alternatives to resolve your personal issues. I also indicated to you that as a police officer and bound by the rules and regulations of this police department that it is your responsibility to insure that they are not violated while on or off duty.

As a result of this meeting and the culmination of information collected in the subsequent on going investigation, it was decided that you were able to be placed on active duty with no further delay. Shortly after our meeting You were advised by Me to report for your next shift January 4, 2007 as indicated on the department schedule.

Sincerely,

Daniel P. McCann  
Chief of Police

---

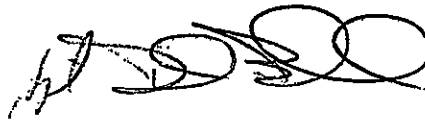
INTEROFFICE MEMORANDUM

---

**TO: CHIEF DANIEL P MCCANN**  
**FROM: SERGEANT DOMINICK L. BLASKO**  
**SUBJECT: ARREST/SUSPENSION OF PEDRO ELIAS**  
**DATE: JANUARY 28, 2007**

---

1. Member received call from Sgt. Meier at residence at approximately 2045 hrs on January 27, 2007 and he requested assistance with Officer Pedro Elias.
2. Member responded to station and was advised that State Police Ellenville had a signed complaint for Aggravated Harassment and Criminal Contempt against Pedro Elias. Charges stem from numerous phone calls Elias made to [REDACTED]
3. Member, Sgt. Meier and Members of the New York State Police responded to Elias's residence on New Street.
4. We were informed by his parents that he was at the bowling alley. We responded there and while on our way there I observed Elias's truck westbound on State Route 52 traveling 75-55 mph zone.
5. Elias's vehicle was stopped by Trooper David Dively and taken into custody by the Ellenville Troopers with out incident.
6. Member with Elias's permission retrieved department issued identification (2), keys and shield from his vehicle. Member did then drive Elias's truck to his residence.
7. Elias was processed at State Police Pine Bush and was verbally informed by me that he was suspended; he responded, "Do you think".
8. Member and Sergeant Meier responded to New Street residence and recovered 2 handguns. Then responded to department locker room and recovered an additional shield, set of keys, gun belt and department issued weapon.
9. Elias was transported to Gardiner Town Court. He was arraigned and remanded to Ulster County Jail on no bail to appear in Family Court January 29, 2007.
10. Member served a suspension letter and receipt of property upon Pedro Elias at the Ulster County Jail at 1345 hours.





Daniel P. McCann  
Chief of Police

Serving Hamlets of:

- Pine Bush
- Bullville
- Thompson Ridge
- Searsville



Town of Crawford  
Police Department

Pine Bush, N.Y. 12566

Phone: 744-5000

January 28, 2007

Pedro Elias  
85 New Street  
Pine Bush, New York 12566

Mr. Elias,

By order of the Chief of Police, you are suspended without pay from your position as a Police Officer with the Town of Crawford Police Department until further notice.

All firearms and police identification must be turned in and you are restricted from all Town of Crawford Police Department property. If you have any personal property in the police station that you need to pick up, you must make prior arrangements with a sergeant.

The Chief of Police will notify you of a future hearing date.

Sincerely,

A handwritten signature in black ink, appearing to read "Det. Blasko", written over a circular stamp or mark.

Dominick L. Blasko  
Sergeant

Cc:  
Chief McCann  
John Avery, Town of Crawford P.B.A. President

GENL-3 REV 01/98E

STATE OF NEW YORK  
LOCAL CRIMINAL COURT

COUNTY OF ULSTER  
TOWN OF SHAWANGUNK

THE PEOPLE OF THE STATE OF NEW YORK

INFORMATION

-VS-

Date of Birth

Pedro M. Elias

06/08/69

84 New Street, Pine Bush NY 12566

Defendant(s)

BE IT KNOWN THAT, by this [ INFORMATION ], Tpr BK Frey  
as the Complainant herein, [stationed] [posting] at SP Ellenville  
accuses Pedro M. Elias 84 New Street, Pine Bush NY 12566  
the above mentioned Defendant(s), with having committed the  
of CRIMINAL CONTEMPT [ FELONY ]  
Subdivision 3 of the PENAL Law of the State of New York, in violation of Section 215.51

ACCUSATION

That on or about the 27th day of January, 2007, at about 12:00pm in the  
TOWN of SHAWANGUNK, County of ULSTER, the  
defendant(s) did intentionally, knowingly and unlawfully commit the FELONY of CRIMINAL CONTEMPT 1ST. A person is guilty of  
criminal contempt in the first degree when with the intent to harass, annoy, threaten or alarm a person for whose protection such  
order was issued, repeatedly makes telephone calls to such person, whether or not a conversation ensues with no legitimate  
communication. To wit: on the aforementioned date, time and place said defendant did upon being served with divorce papers from  
[REDACTED] make approximately 9 to 10 telephonic calls to his wife for no legitimate purpose other than to threaten, harass  
alarm and intimidate same. Said defendant did make contact with the his wife, Kelly knowing that there was a valid Ulster County  
Family Court order of protection valid until February 2, 2007. All contrary to the above mentioned statute made and provided for  
herein.

FACTS

The above allegations of fact are made by the Complainant herein [on direct knowledge and/or upon information and  
belief, with the sources of Complainant's information and the grounds for belief being the facts contained in the attached  
SUPPORTING DEPOSITION(s) of: [REDACTED] (04/07/70)

WHEREFORE, Complainant prays that a Warrant be issued for the arrest of the said Defendant(s).

-OR-

WHEREAS, an Appearance Ticket was issued to the said Defendant(s), directing [him][her][them] to appear before this  
court at [ ] [a.m.][p.m.], on the [ ] day of [ ], 19[ ].

NOTICE In a written instrument, any person who knowingly makes a false statement which such person does not believe to be  
true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. (PL 210.45)

Affirmed under penalty of perjury  
this 27th day of January, 2007

-OR-

Subscribed and Sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_

COMPLAINANT

Tpr BK Frey

[ ] - STRIKE OUT/DELETE ANY WORDS THAT DO NOT APPLY

SUPPORTING DEPOSITION (CPL Sec.100.20) GENL-4 REV 01/98E

New York State Police

STATE OF NEW YORK

COUNTY OF ULSTER

LOCALCRIMINAL COURT

Town \_\_\_\_\_ of Shawangunk

THE PEOPLE OF THE STATE OF NEW YORK )

--VS.-- )

Pedro Elias (06/08/69) )

(Defendant )

SUPPORTING DEPOSITION

STATE OF NEW YORK )

COUNTY OF ULSTER )

ss.

Town \_\_\_\_\_ of Shawangunk )

DATE 01/21/07	at	TIME STARTED 8 : 55 <input type="radio"/> am <input checked="" type="radio"/> pm	FULL NAME [REDACTED]
DATE OF BIRTH 04/04/70		NO. & STREET [REDACTED]	CITY Pine Bush
			STATE NY 12566

state the following: My soon to be ex-husband, Pedro and I have been having several problems recently and today, 01/27/07 I had divorce papers served on him. At approximately 12:00pm today I received a call from Pedro and he said that he was going to make it fucking miserable for me and that he was not going to make this divorce easy. Some more words were exchanged but I don't remember what was said. I received an additional nine or ten calls from him throughout the day but I got to the point where I would hang up on him. During the calls, I don't know which one but he said he would take the fucking the kids away from me because I am a bad mother and that anyone involved with this divorce was going down. I then called the State Police in Ellenville because I have a valid order of protection out of the Ulster County Family Court valid until 02/02/07 and it is a stay-away order. I want Pedro arrested for violating the order by calling me and threatening me. Then while picking up two of my children at his parents house we got involved in a verbal dispute in which he picked up a large garbage bag off his clothes over his head and acted like he was going to throw it at me. Town of Crawford responded and handled that matter.

**NOTICE**

(Penal Law Sec.210.45)

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the state of New York punishable as a Class A Misdemeanor.

Affirmed under penalty of perjury

this 27th day of January, YR 07

- OR -

\*Subscribed and Sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, YR \_\_\_\_\_

[REDACTED SIGNATURE]

(WITNESS)

TIME ENDED  
9 : 20  am  pm

(NAME OF PERSON TAKING DEPOSITION)

9:20  
1-27-07

1. Agency F3 TROOP F - ZONE 3	2. Div/Recinct R331	3. ORI NY1550200	5. Case No. INV4564	6. Incident No. 1872389
7,8,9. Date Reported (Day, Date, Time) SATURDAY 01/27/2007 22:42		10,11,12. Occurred On/From (Day, Date, Time) FRIDAY 01/26/2007 12:00		13,14,15. Occurred To (Day, Date, Time)
16. Incident Type DOMESTIC-DOMESTIC DISPUTE		17. Business Name		
19. Incident Address (Street Name, Bldg. No., Apt. No.)				
20. City/State/Zip PINE BUSH NEW YORK 11556				
21. Location Code (TSLEI) SHAWANGUNK TOWN 5666		23. No. of Victims 1	24. No. of Suspects 1	26. Victim also Complainant?
Location Type SINGLE FAMILY HOME				
1. PL 215.SI BIV B F I C CRIM CONTEMPT-1ST-VIOL ORDER PROTECT-TELEPHONES PER! 1				

ASSOCIATED PERSONS

PERSON INTERVIEWED	DATE	ADDRESS	PHONE
[REDACTED]	04/07/1970	PINE BUSH NY 12556	(845)744-8213
SUSPECT ELIAS, PEDRO	06/08/1969	84 NEW STREET PINE BUSH NY 12556	(914)213-7692

SUSPECT

Person ID # 2176911	34. Type SUSPECT	35. Name (Last, First, Middle) ELIAS, PEDRO			
37. Apparent Condition APPARENTLY NORMAL		38. Address (Street Name, Bldg., Apt. No., City, State, Zip) 84 NEW STREET PINE BUSH NY 12556			
39a. Home Phone	39b. Work Phone	40. Social Security	41. DOB 06/08/1969	42. Age 37	43. Gender MALE
45. Ethnicity HISPANIC		46. Skin MEDIUM	47. Occupation PROFESSIONAL		
48. Height 5R. 10in.	49. Weight 180lbs.	50. Hair BLACK	51. Eyes BROWN	52. Glasses NO	53. Build NORMAL
54. Employer/School TOWN OF CRAWFORD PD			55. Employer Address PINE BUSH NY 12556		
56. Scars/Marks/Tattoos/Description 1/4 INCH LESION ABOVE RIGHT EYE					

36. Alias/Nickname/Maiden Name

Last Name	First Name	Middle Name

NARRATIVE

Date of Action 01/28/2007	Date Written 01/28/2007	Officer Name & Rank FRSY, BRIAN (LFR)
------------------------------	----------------------------	--

Narrative

Trps Brian Frey and Shawn Gourdine while working a flex 3 shift out of SP Ellenville received a call at the station from [REDACTED] (C-1). C-1 stated she had a valid order of protection until 02/02/07 out of Ulster County Family Court for a no harassment against [REDACTED] Pedro Elias (T-1). C-1 stated she received approximately 9 to 10 telephonic calls on 01/27/07 from T-1 which served no legitimate purpose other than to harass, annoy, alarm and intimidate same. C-1 states there is an ongoing dispute between the two for some time but upon serving T-1 divorce paperwork on same date, T-1 became upset and began to contact her

01/29/2007 07:57

9146265135

SP ELLENVILLE

PAGE 03

about same. Further investigation revealed T-1 is a police officer for the Town of Crawford PD. Gen'l 4 obtained from C-1. DIR completed. Member contacted Sgt Eric Meier's, T/Crawford PD and advised same of the incident. Members able to locate T-1 and arrested same for criminal contempt 1st. T-1 transported to SP Pine Bush and processed without incident. Photos/prints taken. T-1 arraigned before Hon. John Savage, T/Gardiner. Same remanded to UCJ on no bail and to return to UC Family Court on 01/29/07 at 9:00am. Sgt Meier, T/Crawford PD secured T-1's duty weapon, shields and police officer id. Sgt/Sc Radliff advised of same. Inv Laskowski advised and all info tot same. No property or evidence secured by State Police. No further action warranted by patrol at this time.

ADMINISTRATIVE

74. Inquiries CH WW		75. NYSPIN Message No.		76. Complainant Signature	
77. Reporting Officer Signature (Include Rank) TPR BRIAN FREY			78. ID No. 3071	79. Supervisor Signature (Include Rank) SGT ANTHONY LUPARDO JR	
		80. ID No. 4081			
81. Status PENDING INVESTIGATION		82. Status Date 01/28/2007		83. Notified/TOT BCI; INV LASKOWSKI	
					Solvability Total 0

7 Cha

**Town of Crawford  
County of Orange - State of New York**

---

In the Matter of Disciplinary Charges

-against-

**Pedro M. Elias**

**NOTICE OF  
DISCIPLINE AND  
STATEMENT OF  
CHARGES**

Under and Pursuant to Section 75 of the Civil Service Law  
of the State of New York

TO: **Pedro M. Elias**  
**84 New Street**  
**Pine Bush, NY 12566**

In accordance with the provisions of Section 75 of the Civil Service Law of the State of New York, you are hereby notified that the following charges are preferred against you:

**CHARGE 1:** You have engaged in conduct which brings discredit upon the Town of Crawford Police Department.

**SPECIFICATION 1:**

On or about the 25<sup>th</sup> day of December 2006, you engaged in a domestic violence incident with [REDACTED] involving physical force and resulting in an Ulster County Family Court order of protection being issued against you.

**SPECIFICATION 2:**

On or about the 27<sup>th</sup> day of January 2007, you did make a number of telephone calls to [REDACTED] for no apparent legitimate purpose other than to threaten, harass alarm and or intimidate same, while there was an Ulster County Family Court order of protection in place precluding such conduct.

**SPECIFICATION 3:**

On or about the 28<sup>th</sup> day of January 2007, you were arrested by the New York State Police for criminal contempt 1<sup>st</sup> degree.

**CHARGE 2: You have engaged in conduct which violates a duly constituted law**

**SPECIFICATION 1:**

On or about the 27<sup>th</sup> day of January 2007, in the afternoon of that date, in the Town of Shawangunk you did make a number of telephone calls to [REDACTED] for no apparent legitimate purpose other than to threaten, harass alarm and or intimidate same, while there was an Ulster County Family Court order of protection in place precluding such conduct all constituting the Felony of Criminal Contempt 1<sup>st</sup> degree Violation of Order of Protection.

**CHARGE 3: You have engaged in conduct which is unbecoming an officer.**

**SPECIFICATION 1:**

On or about the 25<sup>th</sup> day of December 2006, you engaged in a domestic violence incident with [REDACTED] involving physical force and resulting in an Ulster County Family Court order of protection being issued against you.

**SPECIFICATION 2:**

On or about the 27<sup>th</sup> day of January 2007, in the afternoon of that date, in the Town of Shawangunk you did make a number of telephone calls to [REDACTED] for no apparent legitimate purpose other than to threaten, harass alarm and or intimidate same, while there was an Ulster County Family Court order of protection in place precluding such conduct all constituting the Felony of Criminal Contempt 1<sup>st</sup> degree.

**CHARGE 4: You have engaged in conduct which constitutes a failure to treat a person civilly and respectfully.**

**SPECIFICATION 1:**

On or about the 25<sup>th</sup> day of December 2006, you engaged in a domestic violence incident with [REDACTED] involving physical force and resulting in an Ulster County Family Court order of protection being issued against you.

**SPECIFICATION 2:**

On or about the 27<sup>th</sup> day of January 2007, in the afternoon of that date, in the Town of Shawangunk you did make a number of telephone calls to [REDACTED] for no apparent legitimate

purpose other than to threaten, harass alarm and or intimidate same, while there was an Ulster County Family Court order of protection in place precluding such conduct.

**CHARGE 5:** You have engaged in conduct which constitutes willful maltreatment of a person.

**SPECIFICATION 1:**

On or about the 25<sup>th</sup> day of December 2006, you engaged in a domestic violence incident with [REDACTED] involving physical force and resulting in an Ulster County Family Court order of protection being issued against you.

**SPECIFICATION 2:**

On or about the 27<sup>th</sup> day of January 2007, in the afternoon of that date, in the Town of Shawangunk you did make a number of telephone calls to [REDACTED] for no apparent legitimate purpose other than to threaten, harass alarm and or intimidate same, while there was an Ulster County Family Court order of protection in place precluding such conduct.

**CHARGE 6:** You have failed to submit a written report to the Chief of Police within twenty four hours of becoming aware that you were under investigation by another law enforcement agency.

**SPECIFICATION 1:** On or about the 28<sup>th</sup> day of January 2007, following an investigation by the New York State Police, you were arrested by the New York State Police for criminal contempt 1<sup>st</sup> degree and failed to submit a written report to the Chief of Police within twenty-four hours thereafter.

**CHARGE 7: VIOLATION OF THE TOWN OF CRAWFORD RULES OF CONDUCT**

**SPECIFICATION 1:** The foregoing acts constitute violations of the established Rules of Conduct, to wit:

- Rule 1. Conduct which brings discredit upon the department
- Rule 12. Violation of any duly constituted law.
- Rule 16. Any conduct unbecoming an officer, on or off duty, where ever he or she may be.



- Rule 17. Failure to treat any person civilly and respectfully.
- Rule 18. Willful maltreatment of any person.
- Rule 62. Failure to submit a written report that he or she is under investigation by any other law enforcement agency to the Chief of Police within twenty-four (24) hours of becoming aware of such investigation.

**PLEASE TAKE NOTICE**

**AN EMPLOYEE SERVED WITH A NOTICE OF DISCIPLINE HAS THE RIGHT TO OBJECT BY FILING A RESPONSE WITHIN SEVEN (7) CALENDAR DAYS OR BY EXERCISING HIS/HER RIGHTS UNDER SECTION 75 AND/OR 76 OF THE CIVIL SERVICE LAW.**

**Objection in Writing:** You are allowed until the 13<sup>th</sup> day of February, 2007, to make and file your objection to this notice of Notice of Discipline in which situation the grievance procedures of the collective bargaining agreement shall be operative. Your written objection must reach the office of the undersigned at the Town of Crawford, P.O. Box 109, 121 Route 302, Pine Bush, New York, 12566, at or before five o'clock in the afternoon on February 13 2007.

**CIVIL SERVICE LAW SECTION 75 OR 76:** Under section 75 or 76 of the Civil Service Law, you are allowed until the 19<sup>th</sup> day of February, 2007, to make and file your written Answer to these charges. Your written answer should reach the office of the undersigned at the Town of Crawford, P.O. Box 109, 121 Route 302, Pine Bush, New York, 12566, at or before five o'clock in the afternoon on February 19, 2007.

**CIVIL SERVICE LAW SECTION 75 OR 76 Hearing:** You are entitled to a hearing on the above charges and to be represented at such hearing by an attorney, the PBA or other representative. You are responsible for the payment of your attorney or representative. You should be prepared at such hearing to present such witnesses and other proof as you may have in your defense against these charges. We will send you written notice of the time, date and location of the hearing.

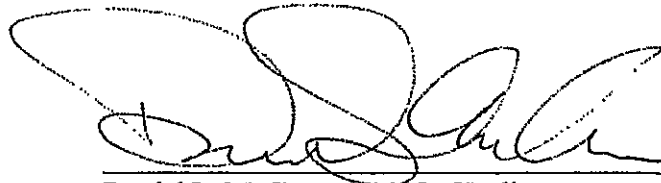
**Penalties:** If you are found guilty of any of the above charges, the penalty or punishment imposed on you may consist of either dismissal from service; demotion in grade and title

suspension without pay for a period not exceeding two months, a fine not exceeding One Hundred and 00/100 (\$100.00) Dollars or a reprimand.

**THE PENALTY SOUGHT IN THIS MATTER IS DISMISSAL FROM SERVICE.**

**Address for Notices:** All further notices and communications addressed to you in connection with these charges will be mailed to your latest address on record in the Office of the Town of Crawford Town Clerk, which is Town of Crawford, P.O. Box 109, 121 Route 302, Pine Bush New York, 12566, , unless you request in writing that the same be sent to you at a different address.

Dated: February 6, 2007

A handwritten signature in black ink, appearing to read 'Daniel P. McCann', written over a horizontal line.

Daniel P. McCann, Chief of Police

**PERSONAL SERVICE**

STATE OF NEW YORK    )  
                                      :  
COUNTY OF                )    SS.:

SGT. Dominick L Blasto, being duly sworn, deposes and says:

1. I am not a part to the action, am over 18 years of age and reside at TOWN OF CRAWFORD POLICE DEPARTMENT 121 S/PAT 302 PINE BUSH New York.

2. On February 6, 2007, at approximately 541 AM/PM, I served a true copy of the annexed Notice of Discipline and Statement of Charges in the annexed action by delivering the same personally to the person and at the address indicated below:

PEDRO ELIAS  
84 NEW ST  
PINE BUSH, NY 10566



Sworn to before me this  
8<sup>th</sup> day of February, 2007

Kelly A. Eskew  
Notary Public - State of New York

KELLY A. ESKEW  
Notary Public, State of New York  
Qualified in Orange County  
Registration No. 01ES6048415  
Commission Expires September 25, 20 10

# THE TUTTLE LAW FIRM

James B. Tuttle, Esq.  
jbtesq@nycap.rr.com  
Christina Wagar, Legal Assistant

10 Century Hill Drive  
Suite 4  
Latham, New York 12110

Service by fax is not authorized

Phone: (518) 783-1001  
Fax: (518) 783-1515

February 12, 2007

CERTIFIED MAIL/RRR

Daniel P. McCann, Chief of Police  
Town of Crawford  
PO Box 109  
121 State Route 302  
Pine Bush, NY 12566

RE: In the matter of the disciplinary charges brought by the Town of Crawford  
Police Department -against- Officer Pedro M. Elias, Respondent.

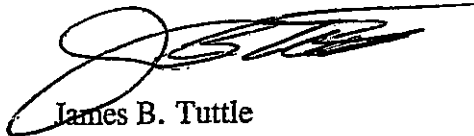
Dear Police Chief McCann:

I have been retained to represent Officer Pedro M. Elias in the above-referenced disciplinary charges brought against him by the Town of Crawford.

Enclosed herewith please find OBJECTION TO DISCIPLINE issued on behalf of Officer Elias. Please refer all further correspondence to my attention in this matter.

Very truly yours,

THE TUTTLE LAW FIRM



James B. Tuttle  
jbtesq@nycap.rr.com

JBT:clw  
Encs.

In the Matter of the Disciplinary Charges  
brought by the Town of Crawford Police Department

-against-

**OBJECTION TO DISCIPLINE**

OFFICER PEDRO M. ELIAS, Respondent.

---

The Respondent, Pedro M. Elias, by and through his attorney, James B. Tuttle, Esq., hereby objects to each and every aspect of the Notice of Discipline and Statement of Charges dated and served February 6, 2007, and hereby elects pursuant to §12.4 of the collective bargaining agreement between the Town of Crawford and the Crawford Police Benevolent Association to grieve the Notice of Discipline through the grievance procedure set forth in Article 13 of the collective bargaining agreement. The Respondent hereby requests a meeting with the Chief of Police as prescribed therein no later than twenty-one (21) calendar days from February 6, 2007, the date of the Notice of Discipline. In the event that the Chief of Police's decision following that meeting is unsatisfactory, the Respondent will appeal through the grievance procedure set forth in Article 13 of the collective bargaining agreement.

In response to the Disciplinary Charges against him, the Respondent hereby provides the following:

1. With respect to the allegations set forth in Charge 1, Specification 1, ADMITS that an Ulster County Family Court order of protection was issued against him and DENIES each and every other allegation.
2. DENIES each and every allegation set forth in Charge 1, Specification 2.
3. ADMITS the allegations set forth in Charge 1, Specification 3.

4. DENIES each and every allegation set forth in Charge 2.
5. With respect to the allegations set forth in Charge 3, Specification 1, ADMITS that an Ulster County family court order of protection was issued against him, and DENIES the remaining allegations.
6. DENIES each and every allegation set forth in Charge 3, Specification 2.
7. With respect to the allegations set forth in Charge 4, Specification 1, ADMITS that an Ulster County family court order of protection was issued against him and DENIES each and every other allegation thereof.
8. DENIES each and every allegation set forth in Charge 4, Specification 2.
9. With respect to the allegations set forth in Charge 5, Specification 1, ADMITS that an Ulster County family court order of protection was issued against him and DENIES the remaining the allegations.
10. DENIES each and every allegation set forth in Charge 5, Specification 2.
11. DENIES each and every allegation set forth in Charge 6 and Charge 7.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE,  
THE RESPONDENT ASSERTS AS FOLLOWS:**

12. Charges 2 and 3 allege conduct which would allegedly constitute criminal conduct in violation of the Penal Law of the State of New York. To the extent that any criminal conduct is alleged, the Town is required to prove those allegations beyond a reasonable doubt.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE,  
THE RESPONDENT ASSERTS AS FOLLOWS:**

13. Charge 1, Specification 1 may not be maintained because immediately following the events of December 25, 2006, the Chief of Police imposed a seven (7) day suspension without pay on the Respondent in punishment for his conduct, which punishment was accepted by the Respondent and carried out. The Town may not now bring separate disciplinary charges against the Respondent for that same conduct.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE,  
THE RESPONDENT ASSERTS AS FOLLOWS:**

14. The period of time during which the Respondent may be suspended without pay is limited to thirty (30) calendar days by §12.5 of the collective bargaining agreement.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE,  
THE RESPONDENT ASSERTS AS FOLLOWS:**

15. None of the charges set forth in the Notice of Discipline and Statement of Charges relate in any way to the Respondent's performance of his duties as a Town of Crawford Police Officer. The Town may not impose discipline for actions or events unrelated to the Respondent's performance of his duties.



**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE,  
THE RESPONDENT ASSERTS AS FOLLOWS:**

16. At this time, there are no charges pending against the Respondent in any criminal court or in any family court.

Dated: February 12, 2007  
At: Latham, NY 12110

THE TUTTLE LAW FIRM

BY: 

James P. Tuttle, Esq.  
The Tuttle Law Firm  
Attorneys for Respondent  
10 Century Hill Drive, Suite 4  
Latham, New York 12110  
Office: (518) 783-1001  
Fax: (518) 783-1515  
E-mail: [jbtesq@nycap.rr.com](mailto:jbtesq@nycap.rr.com)

TO:  
Daniel P. McCann, Chief of Police  
Town of Crawford  
PO Box 109  
121 State Route 302  
Pine Bush, NY 12566

John Avery, President  
Town of Crawford PBA  
PO Box 120  
Thompson-Ridge, NY 10985

Pedro M. Elias  
Respondent  
PO Box 573, 84 New Street  
Pine Bush, NY 12566

TOWN OF CRAWFORD  
COUNTY OF ORANGE

STATE OF NEW YORK

In the Matter of the Disciplinary Charges  
brought by the Town of Crawford Police Department

-against-  
OFFICER PEDRO M. ELIAS, Respondent.

---

---

**AFFIDAVIT OF SERVICE BY MAIL**

---

---

STATE OF NEW YORK       :  
                                  : ss.  
COUNTY OF ALBANY       :

CHRISTINA L. WAGAR, being duly sworn, deposes and says:

That deponent is not a party to the action, is over the age of 18 years and resides in the Town of Halfmoon, New York. That on the 12<sup>th</sup> day of February 2007, deponent served the following:

**OBJECTION TO DISCIPLINE WITH  
AFFIRMATIVE DEFENSES**

by certified mail, return receipt requested in a postage-paid, properly addressed wrapper, in an official depository under the exclusive care and custody of the United States postal service in Latham, New York to the following:

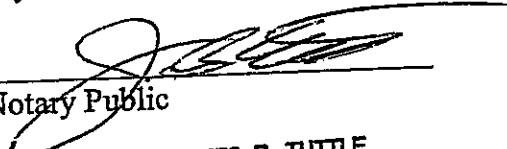
VIA CERTIFIED MAIL/RRR  
Daniel P. McCann, Chief of Police  
Town of Crawford  
PO Box 109  
121 State Route 302  
Pine Bush, NY 12566

FIRST CLASS MAIL  
John Avery, President  
Town of Crawford PBA  
PO Box 120  
Thompson-Ridge, NY 10985

FIRST CLASS MAIL  
Pedro M. Elias  
Respondent  
PO Box 573, 84 New Street  
Pine Bush, NY 12566

  
CHRISTINA L. WAGAR

Sworn to before me this 12th  
day of February 2007.

  
Notary Public

JAMES B. TUTTLE  
Notary Public, State of New York  
No. 02TU5011268  
Qualified in Saratoga County  
Commission Expires April 19, 2007

# Memo

**To:** Chief McCann  
**From:** PO Pedro Elias  
**CC:**  
**Date:** 2/25/2007  
**Re:** 2/25/07 investigation by City of Middletown Police Dept

---

This is to inform you that on the above date an investigation was conducted by the City of Middletown Police department. An investigation, of which I was the target, for allegations of violating an order of protection in the City of Middletown. This investigation concluded with my arrest by the City of Middletown Police. I was released on bail following an arraignment.

Respectfully,



PO Pedro Elias

**1 From** Postage paid by sender **WALDEN** City **NY** State **13586-2038** ZIP  
**Date** 3/10/07 **Sender's FedEx Account Number** 1010-8270-9  
**Sender's Name** Joseph Foni, Esq **Phone** (845) 778-2121

**Company** JACOBOWITZ & QUETS ESQS  
**Address** 158 ORANGE AVE # 367

**2 Your Internal Billing Reference** The # 6447-730

**3 To** James B. Little Esq. **Phone** 581-783-1201  
**Recipient's Name** The Little Hair Firm  
**Company** The Little Hair Firm

**Recipient's Address** Deerway Hill Drive Ste. 4  
**City** Ballham **State** NY **ZIP** 12110  
**Address** 0352375322



**Find drop-off locations at** [fedex.com](http://fedex.com)  
**Simply, your shipping partner.**

**DEALS**  
**Sender's Copy**

**4a Express Package Service**  
 **FedEx Priority Overnight** Next business morning. Friday delivery after 12:00 PM. Saturday delivery is restricted.  
 **FedEx Standard Overnight** Next business morning. Saturday delivery is available.  
 **FedEx First Overnight** Next business morning. Saturday delivery is available.

**FedEx 2Day** Next business day. Saturday delivery is available.  
 **FedEx 2Day AM** Next business day. Saturday delivery is available.  
 **FedEx Express Saver** Next business day. Saturday delivery is available.

**FedEx 1Day Freight** Next business day. Saturday delivery is available.  
 **FedEx 2Day Freight** Next business day. Saturday delivery is available.  
 **FedEx 3Day Freight** Next business day. Saturday delivery is available.

**5 Packaging**  
 **FedEx Pak** Small Pak, Medium Pak, Large Pak, and FedEx Easy Pak  
 **FedEx Box**  
 **FedEx Tube**  
 **Other**

**6 Special Handling**  
 **SATURDAY Delivery** Not available for FedEx Standard Overnight, FedEx Priority Overnight, FedEx Express Saver, FedEx 2Day, FedEx 2Day AM, FedEx 1Day Freight, and FedEx 2Day Freight.  
 **HOLD** Weekday, Saturday, or Sunday. Not available for FedEx Standard Overnight, FedEx Priority Overnight, FedEx Express Saver, FedEx 2Day, FedEx 2Day AM, FedEx 1Day Freight, and FedEx 2Day Freight.

**7 Payment** **Bill to**  **Sender**  **Recipient**  **Third Party**  **Credit Card**  **Cash/Check**

**Total Packages** 1 **Total Weight** 1.00 **Total Declared Value** 00

**8 Residential Delivery Signature Options**  
 **No Signature**  **Direct Signature**  **Indirect Signature**  
 **Signature Required**  **Signature Required at Recipient's Address**  **Signature Required at Recipient's Address (if available)**

**519**

PULL AND RETAIN THIS COPY BEFORE AFFIXING TO THE PACKAGE. NO POUCH NEEDED.

GERALD N. JACOBOWITZ  
DAVID B. GUBITS  
JOHN H. THOMAS JR.  
GERALD A. LENNON  
PETER R. ERIKSEN  
HOWARD PROTTER  
DONALD G. NICHOL  
LARRY WOLINSKY  
ROBERT E. DINARDO  
J. BENJAMIN GAILEY  
MARK A. KROHN\*  
JOHN C. CAPPELLO  
GEORGE W. LITHCO  
MICHAEL L. CAREY  
\*LL.M. IN TAXATION

# JACOBOWITZ AND GUBITS, LLP

## COUNSELORS AT LAW

158 ORANGE AVENUE,  
POST OFFICE BOX 367  
WALDEN, NEW YORK 12586-0367

(845) 778-2121 (845) 778-5173 FAX  
E-mail: [info@jacobowitz.com](mailto:info@jacobowitz.com)

G. BRIAN MORGAN  
KIRK VAN TASSELL  
SANFORD R. ALTMAN  
MARK T. STARKMAN  
AMANDA B. BRADY  
MICHELE L. BABCOCK  
GARY M. SCHUSTER  
WILLIAM E. DUQUETTE  
JOSEPH J. RANNI  
AUDREY L. F. SCOTT  
CARMEE G. MURPHY

PAULA ELAINE KAY\*  
IRA J. COHEN\*

\*Of Counsel

March 2, 2007

by fax (518) 783-1515 and by Overnight Mail

James B. Tuttle, Esq.  
The Tuttle Law Firm  
10 Century Hill Drive  
Suite 4  
Latham, New York 12110

Re: Pedro M. Elias/Town of Crawford

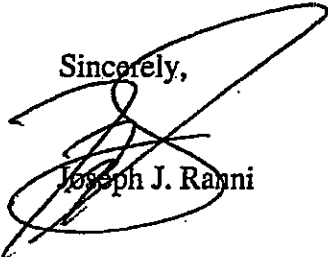
Dear Counselor Tuttle:

As you are aware, we represent the Town of Crawford.

As per our discussion, you have agreed to receive the suspension and Notice of Discipline and Statement of Charges on behalf of Mr. Elias which are enclosed herewith.

Please contact me concerning the above or if you have any questions. Thank you for your cooperation and courtesies.

Sincerely,

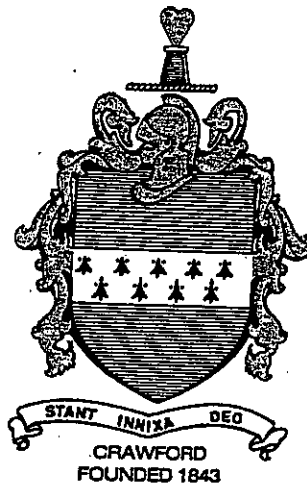
  
Joseph J. Ranni

JJR/dmg  
Encs.

Daniel P. McCann  
Chief of Police

Serving Hamlets of:

- Pine Bush
- Bullville
- Thompson Ridge
- Searsville



Town of Crawford  
Police Department

Pine Bush, N.Y. 12566

Phone: 744-5000

March 2, 2007

Pedro M. Elias  
84 New Street  
Pine Bush, NY 12566

Dear Pedro Elias:

As a result of the allegations and subsequent criminal charges brought by the City of Middletown Police Department concerning your alleged criminal actions on February 25, 2007 you are suspended without pay. Enclosed is a notice of discipline and a statement of charges for your review and attention.

A handwritten signature in black ink, appearing to read "Daniel P. McCann".

Daniel P. McCann  
Chief of Police

cc: Joseph Ranni, Jacobowitz & Gubits, LLP  
James b. Tuttle, Esq.  
John Avery, Town of Crawford PBA

**Town of Crawford  
County of Orange - State of New York**

---

In the Matter of Disciplinary Charges

-against-

**Pedro M. Elias**

**NOTICE OF  
DISCIPLINE AND  
STATEMENT OF  
CHARGES**

**Under and Pursuant to Section 75 of the Civil Service Law  
of the State of New York**

---

**TO: Pedro M. Elias  
84 New Street  
Pine Bush, NY 12566**

In accordance with the provisions of Section 75 of the Civil Service Law of the State of New York, you are hereby notified that the following charges are preferred against you: Annexed hereto is a copy of the Middletown Police Department complaint report which is incorporated herein.

**CHARGE 1: You have engaged in conduct which brings discredit upon the Town of Crawford Police Department.**

**SPECIFICATION 1:**

On or about the 25<sup>th</sup> day of February 2007, you engaged in harassing conduct to threaten, harass, alarm or intimidate toward [REDACTED] the City of Middletown, County of Orange, State of New York.

**SPECIFICATION 2:**

On or about the 25<sup>th</sup> day of February 2007, you engaged in conduct toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, while there was an Ulster County Family Court order of protection in place precluding such conduct.



**SPECIFICATION 3:**

On or about the 25<sup>th</sup> day of February 2007, you contacted the Middletown Police Department to make a false claim that you had been harassed by [REDACTED] at the Old Erie Brew Pub in Middletown, New York. An investigation was needlessly conducted by the Middletown Police Department relative to such complaint only to determine the falsity thereof.

**SPECIFICATION 4:**

On or about the 25<sup>th</sup> day of February, 2007, you signed an harassment complaint at the Middletown Police Department and swore that the information therein was true despite that such information was, in fact, false.

**SPECIFICATION 5:**

On or about the 25<sup>th</sup> day of February, 2007, you were arrested by the Middletown Police for PL 210.45 making a punishable false written statement.

**SPECIFICATION 6:**

On or about the 25<sup>th</sup> day of February, 2007, you were arrested by the Middletown Police for PL 215.50-3 - criminal contempt in the 2<sup>nd</sup> degree.

**CHARGE 2:** You have engaged in conduct which violates a duly constituted law

**SPECIFICATION 1:**

On or about the 25<sup>th</sup> day of February 2007, you engaged in harassing conduct to threaten, harass, alarm or intimidate toward [REDACTED] in the City of Middletown, County of Orange, State of New York that resulted in an Order of Protection being issued against you.

**SPECIFICATION 2:**

On or about the 25<sup>th</sup> day of February 2007, you engaged in conduct toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass alarm and or intimidate same,

while there was an Ulster County Family Court order of protection in place precluding such conduct.

**SPECIFICATION 3:**

On or about the 25<sup>th</sup> day of February 2007, you contacted the Middletown Police Department to make a false claim that you had been harassed by [REDACTED] at the Erie Boo Pub in Middletown, New York. An investigation was needlessly conducted by the Middletown Police Department relative to such complaint only to determine the falsity thereof.

**SPECIFICATION 4:**

On or about the 25<sup>th</sup> day of February, 2007, you signed an harassment complaint at the Middletown Police Department and swore that the information therein was true despite that such information was, in fact, false.

**SPECIFICATION 5:**

On or about the 25<sup>th</sup> day of February, 2007, you were arrested by the Middletown Police for PL 210.45 making a punishable false written statement.

**SPECIFICATION 6:**

On or about the 25<sup>th</sup> day of February, 2007, you were arrested by the Middletown Police for PL 215.50-3 - criminal contempt in the 2<sup>nd</sup> degree.

**CHARGE 3:** You have engaged in conduct which is unbecoming an officer.

**SPECIFICATION 1:**

On or about the 25<sup>th</sup> day of February 2007, you engaged in harassing conduct to threaten, harass, alarm or intimidate toward [REDACTED] in the City of Middletown, County of Orange, State of New York that resulted in an Order of Protection being issued against you.

**SPECIFICATION 2:**

On or about the 25<sup>th</sup> day of February 2007, you engaged in conduct toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass alarm and or intimidate same, while there was an Ulster County Family Court order of protection in place precluding such conduct.

**SPECIFICATION 3:**

On or about the 25<sup>th</sup> day of February 2007, you contacted the Middletown Police Department to make a false claim that you had been harassed by [REDACTED] at the Erie Boo Pub in Middletown, New York. An investigation was needlessly conducted by the Middletown Police Department relative to such complaint only to determine the falsity thereof.

**SPECIFICATION 4:**

On or about the 25<sup>th</sup> day of February, 2007, you signed an harassment complaint at the Middletown Police Department and swore that the information therein was true despite that such information was, in fact, false.

**SPECIFICATION 5:**

On or about the 25<sup>th</sup> day of February, 2007, you were arrested by the Middletown Police for PL 210.45 making a punishable false written statement.

**SPECIFICATION 6:**

On or about the 25<sup>th</sup> day of February, 2007, you were arrested by the Middletown Police for PL 215.50-3 - criminal contempt in the 2<sup>nd</sup> degree.

**CHARGE 4:**            You have engaged in conduct which constitutes a failure to treat a person civilly and respectfully.

**SPECIFICATION 1:**

On or about the 25<sup>th</sup> day of February 2007, you engaged in harassing conduct to threaten, harass, alarm or intimidate toward [REDACTED] in the City of Middletown, County of Orange, State of New York that resulted in an Order of Protection being issued against you.

**SPECIFICATION 2:**

On or about the 25<sup>th</sup> day of February 2007, you engaged in conduct toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass alarm and or intimidate same, while there was an Ulster County Family Court order of protection in place precluding such conduct.

**SPECIFICATION 3:**

On or about the 25<sup>th</sup> day of February 2007, you contacted the Middletown Police Department to make a false claim that you had been harassed by [REDACTED] at the Erie Boo Pub in Middletown, New York. An investigation was needlessly conducted by the Middletown Police Department relative to such complaint only to determine the falsity thereof.

**SPECIFICATION 4:**

On or about the 25<sup>th</sup> day of February, 2007, you signed an harassment complaint at the Middletown Police Department and swore that the information therein was true despite that such information was, in fact, false.

**CHARGE 5:** You have engaged in conduct which constitutes willful maltreatment of a person.

**SPECIFICATION 1:**

On or about the 25<sup>th</sup> day of February 2007, you engaged in harassing conduct to threaten, harass, alarm or intimidate toward [REDACTED] in the City of Middletown, County of Orange, State of New York that resulted in an Order of Protection being issued against you.

**SPECIFICATION 2:**

On or about the 25<sup>th</sup> day of February 2007, you engaged in conduct toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass alarm and or intimidate same, while there was an Ulster County Family Court order of protection in place precluding such conduct.

**SPECIFICATION 3:**

On or about the 25<sup>th</sup> day of February 2007, you contacted the Middletown Police Department to make a false claim that you had been harassed by [REDACTED] at the Erie Boo Pub in Middletown, New York. An investigation was needlessly conducted by the Middletown Police Department relative to such complaint only to determine the falsity thereof.

**SPECIFICATION 4:**

On or about the 25<sup>th</sup> day of February, 2007, you signed an harassment complaint at the Middletown Police Department and swore that the information therein was true despite that such information was, in fact, false.

**CHARGE 6:** You have failed to submit a written report to the Chief of Police within twenty-four hours of becoming aware that you were under investigation by another law enforcement agency.

**SPECIFICATION 1:**

On or about the 25<sup>th</sup> day of February 2007, following an investigation by the Middletown Police Department, you were arrested by the Middletown Police Department New York State for making a punishable false written statement (PL 210.45) and failing to submit a written report to the Chief of Police within twenty-four (24) hours thereof.

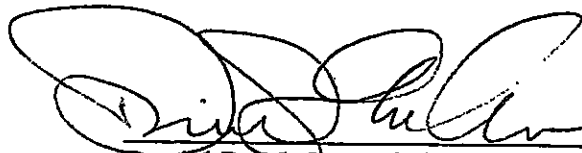
**CHARGE 7: VIOLATION OF THE TOWN OF CRAWFORD RULES OF CONDUCT**

**SPECIFICATION 1:**

The foregoing acts constitute violations of the established Rules of Conduct, to wit:

- Rule 1. Conduct which brings discredit upon the department
- Rule 12. Violation of any duly constituted law.
- Rule 16. Any conduct unbecoming an officer, on or off duty, where ever he or she may be.
- Rule 17. Failure to treat any person civilly and respectfully.
- Rule 18. Willful maltreatment of any person.
- Rule 62. Failure to submit a written report that he or she is under investigation by any other law enforcement agency to the Chief of Police within twenty-four (24) hours of becoming aware of such investigation.

Dated: March 2, 2007



Daniel P. McCann, Chief of Police  
Town of Crawford

**PLEASE TAKE NOTICE**

**AN EMPLOYEE SERVED WITH A NOTICE OF DISCIPLINE HAS THE RIGHT TO OBJECT BY FILING A RESPONSE WITHIN SEVEN (7) CALENDAR DAYS OR BY EXERCISING HIS/HER RIGHTS UNDER SECTION 75 AND/OR 76 OF THE CIVIL SERVICE LAW.**

**Objection in Writing:** You are allowed until the 9<sup>th</sup> day of March, 2007, to make and file your objection to this notice of Notice of Discipline in which situation the grievance procedures of the collective bargaining agreement shall be operative. Your written objection must reach the office of the undersigned at the Town of Crawford, P.O. Box 109, 121 Route 302, Pine Bush, New York, 12566, at or before five o'clock in the afternoon on March 9, 2007.

**CIVIL SERVICE LAW SECTION 75 OR 76:** Under section 75 or 76 of the Civil Service Law, you are allowed until the 16<sup>th</sup> day of March, 2007, to make and file your written Answer to these charges. Your written answer should reach the office of the undersigned at the Town of Crawford, P.O. Box 109, 121 Route 302, Pine Bush, New York, 12566, at or before five o'clock in the afternoon on March 16, 2007.

**CIVIL SERVICE LAW SECTION 75 OR 76 Hearing:** You are entitled to a hearing on the above charges and to be represented at such hearing by an attorney, the PBA or other representative. You are responsible for the payment of your attorney or representative. You should be prepared at such hearing to present such witnesses and other proof as you may have in your defense against these charges. We will send you written notice of the time, date and location of the hearing.

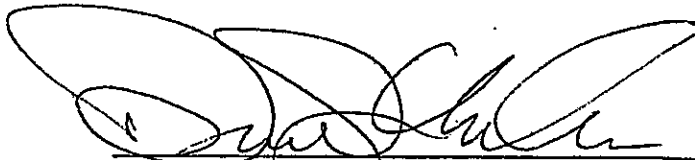
**Penalties:** If you are found guilty of any of the above charges, the penalty or punishment imposed on you may consist of either dismissal from service; demotion in grade and title,

suspension without pay for a period not exceeding two months, a fine not exceeding One Hundred and 00/100 (\$100.00) Dollars or a reprimand.

**THE PENALTY SOUGHT IN THIS MATTER IS DISMISSAL FROM SERVICE.**

**Address for Notices:** All further notices and communications addressed to you in connection with these charges will be mailed to your latest address on record in the Office of the Town of Crawford Town Clerk, which is Town of Crawford, P.O. Box 109, 121 Route 302, Pine Bush, New York, 12566, , unless you request in writing that the same be sent to you at a different address.

Dated: March 2, 2007



Daniel P. McCann, Chief of Police  
Town of Crawford



MODE = MEMORY TRANSMISSION

START=MAR-02 12:57

END=MAR-02 13:00

FILE NO.=680

STN NO.	COMM.	STATION NAME/EMAIL ADDRESS/TELEPHONE NO.	PAGES	DURATION
001	OK	15187831515	012/012	00:02:01

-JACOBOWITZ GUBITS LLP -

\*\*\*\*\* e-STUDIO190F \*\*\*\*\* - \*\*\*\*\* - 845 778 2580- \*\*\*\*\*

GERALD N. JACOBOWITZ  
DAVID S. GUBITS  
JOHN H. THOMAS JR.  
GERALD A. LENNON  
PETER R. ERIKSEN  
HOWARD PROTTER  
DONALD G. NICHOL  
LARRY WOLINSKY  
ROBERT E. DINARDO  
J. BENJAMIN GAILEY  
MARK A. KROHN\*  
JOHN C. CAPPELLO  
GEORGE W. LITHCO  
MICHAEL L. CAREY  
\*LL.M. IN TAXATION

**JACOBOWITZ AND GUBITS, LLP**

COUNSELORS AT LAW

138 ORANGE AVENUE  
POST OFFICE BOX 367  
WALDEN, NEW YORK 12586-0367

(845) 778-2121 (845) 778-5173 FAX  
E-mail: [info@jacobowitz.com](mailto:info@jacobowitz.com)

G. BRIAN MORGAN  
KIRK VAN TASSELL  
SANFORD R. ALTMAN  
MARK T. STARKMAN  
AMANDA E. BRADY  
MICHELE L. BABCOCK  
GARY M. SCHUSTER  
WILLIAM E. DUQUETTE  
JOSEPH J. RANNI  
AUDREY L. F. SCOTT  
CARMEE G. MURPHY

PAULA ELAINE KAY\*  
IRA J. COHEN\*  
\*Of Counsel

Fax #:	(518) 783-1515	RE:	Pedro M. Elias/Town of Crawford
To:	James B. Tuttle, Esq.	File #:	647-730
Date:	March 2, 2007	From:	Joseph J. Ranni, Esq.
Phone #:	(518) 783-1001	Total Pages:	12
Attached Documents:			
MESSAGE:			

**NOTICE**

THE INFORMATION CONTAINED IN THIS FACSIMILE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS FACSIMILE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR REPRODUCTION OF THIS FACSIMILE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL FACSIMILE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU FOR YOUR COOPERATION.

IF YOU HAVE PROBLEMS RECEIVING THIS FAX PLEASE CALL 845-778-2121.

MODE = MEMORY TRANSMISSION

START=MAR-02 12:57

END=MAR-02 13:00

FILE NO.=680

STN NO.	COMM.	STATION NAME/EMAIL ADDRESS/TELEPHONE NO.	PAGES	DURATION
001	OK	815187831515	012/012	00:02:01

-JACOBOWITZ GUBITS LLP -

\*\*\*\*\* e-STUDIO190F \*\*\*\*\* - \*\*\*\*\* - 845 778 2580- \*\*\*\*\*

GERALD N. JACOBOWITZ  
 DAVID B. GUBITS  
 JOHN H. THOMAS JR.  
 GERALD A. LENNON  
 PETER R. ERIKSEN  
 HOWARD PROTTER  
 DONALD G. NICHOL  
 LARRY WOLINSKY  
 ROBERT E. DINARDO  
 J. BENJAMIN GAILEY  
 MARK A. KROHN\*  
 JOHN C. CAPPELLO  
 GEORGE W. LITHCO  
 MICHAEL L. CAREY  
 \*LLM IN TAXATION

### JACOBOWITZ AND GUBITS,LLP

COUNSELORS AT LAW

158 ORANGE AVENUE  
 POST OFFICE BOX 367  
 WALDEN, NEW YORK 12586-0367

(845) 778-2121 (845) 778-5173 FAX  
 E-mail: [info@jacobowitz.com](mailto:info@jacobowitz.com)

G. BRIAN MORGAN  
 KIRK VAN TASSELL  
 SANFORD R. ALTMAN  
 MARK T. STARKMAN  
 AMANDA B. BRADY  
 MICHELE L. BABCOCK  
 GARY M. SCHUSTER  
 WILLIAM E. DUQUETTE  
 JOSEPH J. RANNI  
 AUDREY L. F. SCOTT  
 CARMEE G. MURPHY

PAULA ELAINE KAY\*  
 IRA J. COHEN\*  
 \*Of Counsel

Fax #:	(518) 783-1515	RE:	Pedro M. Elias/Town of Crawford
To:	James B. Tuttle, Esq.	File #:	647-730
Date:	March 2, 2007	From:	Joseph J. Ranni, Esq.
Phone #:	(518) 783-1001	Total Pages:	12
Attached Documents:			
MESSAGE:			

#### NOTICE

THE INFORMATION CONTAINED IN THIS FACSIMILE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS FACSIMILE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYER OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR REPRODUCTION OF THIS FACSIMILE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL FACSIMILE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU FOR YOUR COOPERATION.

IF YOU HAVE PROBLEMS RECEIVING THIS FAX PLEASE CALL 845-778-2121.

GERALD N. JACOBOWITZ  
 DAVID B. GUBITS  
 JOHN H. THOMAS JR.  
 GERALD A. LENNON  
 PETER R. ERIKSEN  
 HOWARD PROTTER  
 DONALD G. NICHOL  
 LARRY WOLINSKY  
 ROBERT E. DINARDO  
 J. BENJAMIN GAILEY  
 MARK A. KROHN\*  
 JOHN C. CAPPELLO  
 GEORGE W. LITHCO  
 MICHAEL L. CAREY  
 \*LL.M. IN TAXATION

# JACOBOWITZ AND GUBITS, LLP

## COUNSELORS AT LAW

158 ORANGE AVENUE  
 POST OFFICE BOX 367  
 WALDEN, NEW YORK 12586-0367

(845) 778-2121 (845) 778-5173 FAX  
 E-mail: [info@jacobowitz.com](mailto:info@jacobowitz.com)

G. BRIAN MORGAN  
 KIRK VAN TASSELL  
 SANFORD R. ALTMAN  
 MARK T. STARKMAN  
 AMANDA B. BRADY  
 MICHELE L. BABCOCK  
 GARY M. SCHUSTER  
 WILLIAM E. DUQUETTE  
 JOSEPH J. RANNI  
 AUDREY L. F. SCOTT  
 CARMEE G. MURPHY

PAULA ELAINE KAY\*  
 IRA J. COHEN\*

\*Of Counsel

Fax #:	(518) 783-1515	RE:	Pedro M. Elias/Town of Crawford
To:	James B. Tuttle, Esq.	File #:	647-730
Date:	March 2, 2007	From:	Joseph J. Ranni, Esq.
Phone #:	(518) 783-1001	Total Pages:	12
Attached Documents:			
<b>MESSAGE:</b>			

### NOTICE

THE INFORMATION CONTAINED IN THIS FACSIMILE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS FACSIMILE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR REPRODUCTION OF THIS FACSIMILE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL FACSIMILE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU FOR YOUR COOPERATION.

IF YOU HAVE PROBLEMS RECEIVING THIS FAX PLEASE CALL 845-778-2121.

# THE TUTTLE LAW FIRM

James B. Tuttle, Esq.  
jbtseq@nycap.rr.com  
Christina Wagar, Legal Assistant

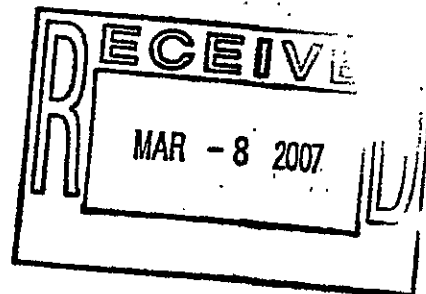
10 Century Hill Drive  
Suite 4  
Latham, New York 12110

Service by fax is not authorized

Phone: (518) 783-1001  
Fax: (518) 783-1515

March 6, 2007

CERTIFIED MAIL/RRR  
Daniel P. McCann, Chief of Police  
Town of Crawford  
PO Box 109  
121 State Route 302  
Pine Bush, NY 12566



RE: In the matter of the disciplinary charges brought by the Town of Crawford  
Police Department -against- Officer Pedro M. Elias, Respondent.

Dear Police Chief McCann:

I have been retained to represent Officer Pedro M. Elias in the above-referenced disciplinary charges brought against him by the Town of Crawford.

Enclosed herewith please find OBJECTION TO DISCIPLINE issued on behalf of Officer Elias as to the Notice of Discipline and Statement of Served in this matter on March 2, 2007. Please refer all further correspondence to my attention in this matter.

Very truly yours,

THE TUTTLE LAW FIRM

  
James B. Tuttle  
jbtseq@nycap.rr.com

JBT:clw  
Encs.

cc: John Avery, President  
Town of Crawford PBA

Joseph J. Ranni, Esq.  
Jacobowitz & Gubits, LLP

Officer Pedro M. Elias  
Respondent

TOWN OF CRAWFORD  
COUNTY OF ORANGE

STATE OF NEW YORK

---

In the Matter of the Disciplinary Charges  
brought by the Town of Crawford Police Department

-against-

**OBJECTION TO DISCIPLINE**

OFFICER PEDRO M. ELIAS, Respondent.

---

The Respondent, Pedro M. Elias, by and through his attorney, James B. Tuttle, Esq., hereby objects to each and every aspect of the Notice of Discipline and Statement of Charges dated and served March 2, 2007, and hereby elects pursuant to §12.4 of the collective bargaining agreement between the Town of Crawford and the Crawford Police Benevolent Association to grieve the Notice of Discipline through the grievance procedure set forth in Article 13 of the collective bargaining agreement. The Respondent hereby waives his right pursuant to §12.6 of the collective bargaining agreement to attend a meeting with the Chief of Police regarding these charges and assumes that this matter shall go forward just as though the Chief of Police had rendered a timely written decision unsatisfactory to the Respondent. The Respondent hereby appeals said unsatisfactory written decision through the grievance procedure set forth in Article 13 of the collective bargaining agreement.

In response to the disciplinary charges dated March 2, 2007, the Respondent hereby provides the following:

1. With respect to the allegations set forth in Charge 1, Specifications 1, 2, 3 and 4, DENIES each and every allegation thereof.
2. With respect to the allegations set forth in Charge 2, Specifications 1, 2, 3 and 4 DENIES each and every allegation thereof.

3. With respect to the allegations set forth in Charge No. 3, Specifications 1, 2, 3 and 4 thereof DENIES each and every allegation.

4. With respect to the allegations set forth in Charge No. 4, Specifications 1, 2, 3 and 4 thereof DENIES each and every allegation thereof.

5. With respect to the allegations set forth in Charge No. 5, Specifications 1, 2, 3 and 4 thereof DENIES each and every allegation thereof.

6. With respect to the allegations set forth in Charges 6 and 7, DENIES each and every allegation thereof.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE,**  
**THE RESPONDENT ASSERTS AS FOLLOWS:**

7. Charges 1, 2, 3, 4 and 5 allege conduct which would, if proven, constitute criminal conduct in violation of the Penal Law of the State of New York. To the extent that any criminal conduct is alleged, the Town is required to prove those allegations beyond a reasonable doubt.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE,**  
**THE RESPONDENT ASSERTS AS FOLLOWS:**

8. The period of time during which the Respondent may be suspended without pay is limited to thirty (30) calendar days by §12.5 of the collective bargaining agreement, said thirty days to run from March 2, 2007.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE,**  
**THE RESPONDENT ASSERTS AS FOLLOWS:**

9. None of the charges set forth in the Notice of Discipline and Statement of Charges relate in any way to the Respondent's performance of his duties as a Town of Crawford Police Officer. The Town may not impose discipline for actions or events unrelated to the Respondents' performance of his duties.

Dated: March 6, 2007  
At: Latham, NY 12110

THE TUTTLE LAW FIRM

BY: 

James B. Tuttle, Esq.  
The Tuttle Law Firm  
Attorneys for Respondent  
10 Century Hill Drive, Suite 4  
Latham, New York 12110  
Office: (518) 783-1001  
Fax: (518) 783-1515  
E-mail: jbtessq@nycap.rr.com

TO:  
Daniel P. McCann, Chief of Police (certified mail/rrr)  
Town of Crawford  
PO Box 109  
121 State Route 302  
Pine Bush, NY 12566

John J. Ranni, Esq. (first-class mail)  
Jacobowitz & Gubits, LLP  
Attorneys for the Town of Crawford  
158 Orange Avenue  
P.O. Box 367  
Walden, NY 12586-0367

John Avery, President (first-class mail)  
Town of Crawford PBA  
PO Box 120  
Thompson-Ridge, NY 10985



GERALD N. JACOBOWITZ  
DAVID B. GUBITS  
JOHN H. THOMAS JR.  
GERALD A. LENNON  
PETER R. ERIKSEN  
HOWARD PROTTER  
DONALD G. NICHOL  
LARRY WOLINSKY  
ROBERT E. DINARDO  
J. BENJAMIN GAILEY  
MARK A. KROHN\*  
JOHN C. CAPPELLO  
GEORGE W. LITHCO  
MICHAEL L. CAREY  
\*LL.M. IN TAXATION

## JACOBOWITZ AND GUBITS, LLP

### COUNSELORS AT LAW

158 ORANGE AVENUE  
POST OFFICE BOX 367  
WALDEN, NEW YORK 12586-0367

(845) 778-2121 (845) 778-5173 FAX  
E-mail: [info@jacobowitz.com](mailto:info@jacobowitz.com)

G. BRIAN MORGAN  
KIRK VAN TASSELL  
SANFORD R. ALTMAN  
MARK T. STARKMAN  
AMANDA B. BRADY  
MICHELE L. BABCOCK  
GARY M. SCHUSTER  
WILLIAM E. DUQUETTE  
JOSEPH J. RANNI  
AUDREY L. F. SCOTT  
CARMEE G. MURPHY

PAULA ELAINE KAY\*  
IRA J. COHEN\*  
\*Of Counsel

March 20, 2007

by fax (518) 783-1515 & by Federal Express  
Overnight Mail  
James B. Tuttle, Esq.  
The Tuttle Law Firm  
10 Century Hill Drive, Suite 4  
Latham, New York 12110

by Federal Express Overnight Mail  
Pedro M. Elias  
84 New Street  
Pine Bush, New York 12566

Re: Pedro M. Elias/Town of Crawford

Dear Counselor Tuttle and Mr. Elias:

As you are aware, we represent the Town of Crawford.

Enclosed herewith please find Notice of Decision with regard to the above-captioned matter.

Please contact me concerning the above or if you have any questions. Thank you for your cooperation and courtesies.

Sincerely,

  
Joseph J. Ranni

JJR/dmg  
Enc.

# FedEx US Airbill

Express

FedEx Tracking Number **8614 6674 5231**

1 From *Please print and press hard* **Sender's FedEx Account Number** **1010-8270-9**

Date **3/20/07** **Sender's Name** **Joseph J. Ranni, Esq.** **Phone** **(845) 778-2121**

**Company** **JACOBOWITZ & GUBITS ESQS**

**Address** **158 ORANGE AVE # 367**

**CITY/WALDEN** **State** **NY** **ZIP** **12586-2038**

2 **Your Internal Billing Reference** **File No.: 647-7501**

3 **To** **James B. Tuttle, Esq.** **Phone** **(518) 783-1001**

**Company** **The Tuttle Law Firm**

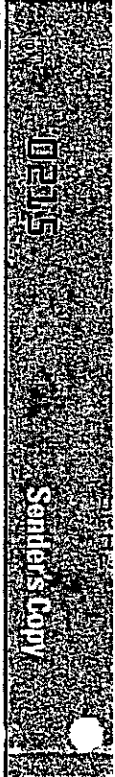
**Recipient's Address** **10 Century Hill Drive,** **Suite 4**

**City** **Lathna** **State** **NY** **ZIP** **12110**

0356833464



Schedule a pickup at [fedex.com](http://fedex.com)  
 Ship by your shipping Manager your account. Access all the tools you need.



4a **Express Package Service**

**Priority Overnight**  **Standard Overnight**  **First Overnight**

**2Day**  **Express Saver**

4b **Express Freight Service**

**1Day Freight**  **2Day Freight**  **3Day Freight**

5 **Packaging**

**Envelope**  **FedEx Pak**  **Box**  **Tube**  **Other**

6 **Special Handling**

**Saturday Delivery**  **HOLD Weekend**  **Signature Required**

7 **Payment Bill to:**  **Sender**  **Recipient**  **Third Party**  **Credit Card**  **Cash/Check**

8 **Residential Delivery Signature Options**

**Required Signature**  **Direct Signature**  **Indirect Signature**

519

PULL AND RETAIN THIS COPY BEFORE AFFIXING TO THE PACKAGE. NO POUCH NEEDED.

# FedEx® US Airbill

Express

FedEx Tracking Number

8674 6674 5220

**1 From** Please print and post here.

Date 3/20/07 Sender's FedEx Account Number 1010-8270-9

Sender's Name Joseph J. Ramml, Esq. Phone (845) 778-2121

Company JACOBOWITZ & GUBITS ESQS

Address 158 ORANGE AVE # 367

City WALDEN State NY ZIP 12586-2038

**2 Your Internal Billing Reference** File No.: 647-736 OPTIONAL

**3 To**

Recipient's Name Pedro M. Elias Phone (914) 213-7692

Company \_\_\_\_\_

Recipient's Address 84 New Street

We cannot deliver to PO boxes or P.O. ZIP codes.

Address \_\_\_\_\_

To request a package be held at a specific FedEx location, print FedEx address here:

City Pine Bush State NY ZIP 12566

0356833464



Find drop-off locations at [fedex.com](http://fedex.com)

Simply drop, wrap, weigh, and access all the tools you need.



**4a Express Package Service**

**Priority Overnight** Packages will be delivered on Monday unless SATURDAY Delivery is selected.  
 **Standard Overnight** Packages will be delivered on Monday unless SATURDAY Delivery is selected.  
 **2Day** Second business day\* Thursday through Saturday unless SATURDAY Delivery is selected.  
 **Express Saver** Second business day\* Thursday through Saturday unless SATURDAY Delivery is selected.

**4b Express Freight Service**

**1Day Freight** Second business day\* Friday unless SATURDAY Delivery is selected.  
 **2Day Freight** Second business day\* Saturday unless SATURDAY Delivery is selected.

**5 Packaging**

**Envelope\***  **FedEx Pak\***  **FedEx Tube**  **Other**

**6 Special Handling**

**SATURDAY Delivery** (Not available for FedEx First Overnight, FedEx Express, or FedEx 2Day Freight.)  
 **Not Available for FedEx First Overnight, FedEx Express, or FedEx 2Day Freight.**  
 **Hold at FedEx Location** (Available ONLY for FedEx 2Day to select locations.)  
 **Hold at FedEx Location** (Available ONLY for FedEx 2Day to select locations.)

**7 Payment** Bill to:  Recipient  Third Party  Credit Card  Cash/Check

Enter FedEx Acct. No. or Credit Card No. below.

No  Yes  Dry Ice  Cargo Aircraft Only

As per attached Shipper's Declaration.  Shipper's Declaration not required.

Discrepancy exists (including dry ice) cannot be shipped in FedEx packaging.

Use box must be checked.

Does this shipment contain dangerous goods?

No  Yes  Shipper's Declaration not required.

Includes FedEx address in Section 3.

Declared value limit \$50.

Includes FedEx Pak, and FedEx Surety Pak.

Includes FedEx Standard Pak, FedEx Tube, and FedEx Surety Pak.

Includes FedEx Standard Pak, FedEx Tube, and FedEx Surety Pak.

Includes FedEx Standard Pak, FedEx Tube, and FedEx Surety Pak.

PULL AND RETAIN THIS COPY BEFORE AFFIXING TO THE PACKAGE. NO POUCH NEEDED.

Total Packages	Total Weight	Total Declared Value†
		\$ .00

† Your liability is limited to \$100 unless you declare a higher value. See back for details. By using this Airbill you agree to the carrier conditions on the back of this Airbill and in the current FedEx Service Guide, including terms that limit our liability.

**8 Residential Delivery Signature Options**

No Signature Required  Direct Signature  Indirect Signature

Signature Required  Signature Required (with Restricted Signature)  Restricted Signature

519

**Town of Crawford  
County of Orange - State of New York**

**In the Matter of Disciplinary Charges**

**-against-**

**Pedro M. Elias**

**NOTICE OF  
DECISION**

**Under and Pursuant to Article 12 of the Town of Crawford  
Police Contract and Section 75 of the Civil Service Law of  
the State of New York**

**TO: Pedro M. Elias  
84 New Street  
Pine Bush, NY 12566**

**James B. Tuttle, Esq.  
The Tuttle Law Firm  
10 Century Hill Drive, Suite 4  
Latham, New York 12110**

In accordance with the provisions of the Town of Crawford Police Contract §12.6, as well as Section 75 of the Civil Service Law of the State of New York to the extent such apply, you are hereby notified of the decision of the Chief of Police with respect to charges preferred against you:

**CHARGE 1: You have engaged in conduct which brings discredit upon the Town of Crawford Police Department.**

**SPECIFICATION 1:**

On or about the 25<sup>th</sup> day of December, 2006, you engaged in a domestic violence incident with [REDACTED] involving physical force and resulting in an Ulster County Family Court order of protection being issued against you.

**Decision: This specified charge is affirmed.**

**SPECIFICATION 2:**

On or about the 27<sup>th</sup> day of January, 2007, you did make a number of telephone calls to [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, while there was an Ulster County Family Court order of protection in place precluding such conduct.

**Decision: This specified charge is affirmed.**

**SPECIFICATION 3:**

On or about the 28<sup>th</sup> day of January, 2007, you were arrested by the New York State Police for criminal contempt 1<sup>st</sup> degree.

**Decision:** This specified charge is affirmed.

**CHARGE 2:** You have engaged in conduct which violates a duly constituted law

**SPECIFICATION 1:**

On or about the 27<sup>th</sup> day of January 2007, in the afternoon of that date, in the Town of Shawangunk you did make a number of telephone calls to [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, while there was an Ulster County Family Court order of protection in place precluding such conduct all constituting the Felony of Criminal Contempt 1<sup>st</sup> degree Violation of Order of Protection.

**Decision:** This specified charge is affirmed.

**CHARGE 3:** You have engaged in conduct which is unbecoming an officer.

**SPECIFICATION 1:**

On or about the 25<sup>th</sup> day of December, 2006, you engaged in a domestic violence incident with [REDACTED] involving physical force and resulting in an Ulster County Family Court order of protection being issued against you.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 2:**

On or about the 27<sup>th</sup> day of January, 2007, in the afternoon of that date, in the Town of Shawangunk you did make a number of telephone calls to [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, while there was an Ulster County Family Court order of protection in place precluding such conduct all constituting the Felony of Criminal Contempt 1<sup>st</sup> degree.

**Decision:** This specified charge is affirmed.

**CHARGE 4:** You have engaged in conduct which constitutes a failure to treat a person civilly and respectfully.

**SPECIFICATION 1:**

On or about the 25<sup>th</sup> day of December 2006, you engaged in a domestic violence incident with [REDACTED] involving physical force and resulting in an Ulster County Family Court order of protection being issued against you.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 2:**

On or about the 27<sup>th</sup> day of January, 2007, in the afternoon of that date, in the Town of Shawangunk you did make a number of telephone calls to [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, while there was an Ulster County Family Court order of protection in place precluding such conduct all constituting the Felony of Criminal Contempt 1<sup>st</sup> degree.

**Decision:** This specified charge is affirmed.

**CHARGE 5:** You have engaged in conduct which constitutes willful maltreatment of a person.

**SPECIFICATION 1:**

On or about the 25<sup>th</sup> day of December 2006, you engaged in a domestic violence incident with [REDACTED] involving physical force and resulting in an Ulster County Family Court order of protection being issued against you.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 2:**

On or about the 27<sup>th</sup> day of January, 2007, in the afternoon of that date, in the Town of Shawangunk you did make a number of telephone calls to [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, while there was an Ulster

County Family Court order of protection in place precluding such conduct all constituting the Felony of Criminal Contempt 1<sup>st</sup> degree.

**Decision:** This specified charge is affirmed.

**CHARGE 6:** You have failed to submit a written report to the Chief of Police within twenty-four hours of becoming aware that you were under investigation by another law enforcement agency.

**SPECIFICATION 1:**

On or about the 28<sup>th</sup> day of January 2007, following an investigation by the New York State Police, you were arrested by the New York State Police for criminal contempt 1<sup>st</sup> degree and failed to submit a written report to the Chief of Police within twenty-four hours thereafter.

**Decision:** This specified charge is affirmed.

**CHARGE 7: VIOLATION OF THE TOWN OF CRAWFORD RULES OF CONDUCT**

**SPECIFICATION 1:**

The foregoing acts constitute violations of the established Rules of Conduct, to wit:

- Rule 1. Conduct which brings discredit upon the department
- Rule 12. Violation of any duly constituted law.
- Rule 16. Any conduct unbecoming an officer, on or off duty, where ever he or she may be.
- Rule 17. Failure to treat any person civilly and respectfully.
- Rule 18. Willful maltreatment of any person.
- Rule 62. Failure to submit a written report that he or she is under investigation by any other law enforcement agency to the Chief of Police within twenty-four (24) hours of becoming aware of such investigation.

As to each of the foregoing, jointly and severally, all of the specified charges are affirmed.

It is my opinion that each and every specified charge warrants termination of employment.

**CHARGE 8: You have engaged in conduct which brings discredit upon the Town of Crawford Police Department.**

**SPECIFICATION 1:**

On or about the 25<sup>th</sup> day of February 2007, you engaged in harassing conduct to threaten, harass, alarm or intimidate toward [REDACTED] in the City of Middletown, County of Orange, State of New York.

**Decision: This specified charge is affirmed.**

**SPECIFICATION 2:**

On or about the 25<sup>th</sup> day of February 2007, you engaged in conduct toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, while there was an Ulster County Family Court order of protection in place precluding such conduct.

**Decision: This specified charge is affirmed.**

**SPECIFICATION 3:**

On or about the 25<sup>th</sup> day of February 2007, you contacted the Middletown Police Department to make a false claim that you had been harassed by [REDACTED] at the Old Erie Brew Pub in Middletown, New York. An investigation was needlessly conducted by the Middletown Police Department relative to such complaint only to determine the falsity thereof.

**Decision: This specified charge is affirmed.**

**SPECIFICATION 4:**

On or about the 25<sup>th</sup> day of February, 2007, you signed an harassment complaint at the Middletown Police Department and swore that the information therein was true despite that such information was, in fact, false.

**Decision: This specified charge is affirmed.**



**SPECIFICATION 5:**

On or about the 25<sup>th</sup> day of February, 2007, you were arrested by the Middletown Police for PL 210.45 making a punishable false written statement.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 6:**

On or about the 25<sup>th</sup> day of February, 2007, you were arrested by the Middletown Police for PL 215.50-3 - criminal contempt in the 2<sup>nd</sup> degree.

**Decision:** This specified charge is affirmed.

**CHARGE 9:** You have engaged in conduct which violates a duly constituted law

**SPECIFICATION 1:**

On or about the 25<sup>th</sup> day of February 2007, you engaged in harassing conduct to threaten, harass, alarm or intimidate toward [REDACTED] in the City of Middletown, County of Orange, State of New York that resulted in an Order of Protection being issued against you.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 2:**

On or about the 25<sup>th</sup> day of February 2007, you engaged in conduct toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass alarm and or intimidate same, while there was an Ulster County Family Court order of protection in place precluding such conduct.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 3:**

On or about the 25<sup>th</sup> day of February 2007, you contacted the Middletown Police Department to make a false claim that you had been harassed by [REDACTED] at the Erie Boo Pub in Middletown, New York. An investigation was needlessly conducted by the Middletown Police Department relative to such complaint only to determine the falsity thereof.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 4:**

On or about the 25<sup>th</sup> day of February, 2007, you signed an harassment complaint at the Middletown Police Department and swore that the information therein was true despite that such information was, in fact, false.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 5:**

On or about the 25<sup>th</sup> day of February, 2007, you were arrested by the Middletown Police for PL 210.45 making a punishable false written statement.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 6:**

On or about the 25<sup>th</sup> day of February, 2007, you were arrested by the Middletown Police for PL 215.50-3 - criminal contempt in the 2<sup>nd</sup> degree.

**Decision:** This specified charge is affirmed.

**CHARGE 10:** You have engaged in conduct which is unbecoming an officer.

**SPECIFICATION 1:**

On or about the 25<sup>th</sup> day of February 2007, you engaged in harassing conduct to threaten, harass, alarm or intimidate toward [REDACTED] in the City of Middletown, County of Orange, State of New York that resulted in an Order of Protection being issued against you.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 2:**

On or about the 25<sup>th</sup> day of February 2007, you engaged in conduct toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass alarm and or intimidate same, while there was an Ulster County Family Court order of protection in place precluding such conduct.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 3:**

On or about the 25<sup>th</sup> day of February 2007, you contacted the Middletown Police Department to make a false claim that you had been harassed by [REDACTED] at the Erie Boo Pub in Middletown, New York. An investigation was needlessly conducted by the Middletown Police Department relative to such complaint only to determine the falsity thereof.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 4:**

On or about the 25<sup>th</sup> day of February, 2007, you signed an harassment complaint at the Middletown Police Department and swore that the information therein was true despite that such information was, in fact, false.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 5:**

On or about the 25<sup>th</sup> day of February, 2007, you were arrested by the Middletown Police for PL 210.45 making a punishable false written statement.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 6:**

On or about the 25<sup>th</sup> day of February, 2007, you were arrested by the Middletown Police for PL 215.50-3 - criminal contempt in the 2<sup>nd</sup> degree.

**Decision:** This specified charge is affirmed.

**CHARGE 11:** You have engaged in conduct which constitutes a failure to treat a person civilly and respectfully.

**SPECIFICATION 1:**

On or about the 25<sup>th</sup> day of February 2007, you engaged in harassing conduct to threaten, harass, alarm or intimidate toward [REDACTED] in the City of Middletown, County of Orange, State of New York that resulted in an Order of Protection being issued against you.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 2:**

On or about the 25<sup>th</sup> day of February 2007, you engaged in conduct toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass alarm and or intimidate same, while there was an Ulster County Family Court order of protection in place precluding such conduct.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 3:**

On or about the 25<sup>th</sup> day of February 2007, you contacted the Middletown Police Department to make a false claim that you had been harassed by [REDACTED] at the Erie Boo Pub in Middletown, New York. An investigation was needlessly conducted by the Middletown Police Department relative to such complaint only to determine the falsity thereof.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 4:**

On or about the 25<sup>th</sup> day of February, 2007, you signed an harassment complaint at the Middletown Police Department and swore that the information therein was true despite that such information was, in fact, false.

**Decision:** This specified charge is affirmed.

**CHARGE 12:** You have engaged in conduct which constitutes willful maltreatment of a person.

**SPECIFICATION 1:**

On or about the 25<sup>th</sup> day of February 2007, you engaged in harassing conduct to threaten, harass, alarm or intimidate toward [REDACTED] in the City of Middletown, County of Orange, State of New York that resulted in an Order of Protection being issued against you.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 2:**

On or about the 25<sup>th</sup> day of February 2007, you engaged in conduct toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, while there was an Ulster County Family Court order of protection in place precluding such conduct.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 3:**

On or about the 25<sup>th</sup> day of February 2007, you contacted the Middletown Police Department to make a false claim that you had been harassed by [REDACTED] at the Erie Boo Pub in Middletown, New York. An investigation was needlessly conducted by the Middletown Police Department relative to such complaint only to determine the falsity thereof.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 4:**

On or about the 25<sup>th</sup> day of February, 2007, you signed an harassment complaint at the Middletown Police Department and swore that the information therein was true despite that such information was, in fact, false.

**Decision:** This specified charge is affirmed.

**CHARGE 13:** You have failed to submit a written report to the Chief of Police within twenty-four hours of becoming aware that you were under investigation by another law enforcement agency.

**SPECIFICATION 1:**

On or about the 25<sup>th</sup> day of February 2007, following an investigation by the Middletown Police Department, you were arrested by the Middletown Police Department New York State for making a punishable false written statement (PL 210.45) and failing to submit a written report to the Chief of Police within twenty-four (24) hours thereof.

**Decision:** This specified charge is affirmed.

**CHARGE 14: VIOLATION OF THE TOWN OF CRAWFORD RULES OF CONDUCT**

**SPECIFICATION 1:**

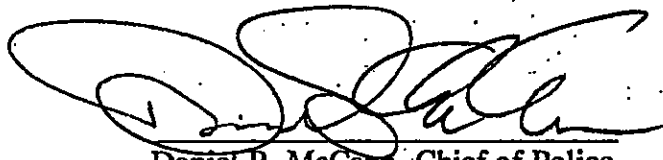
The foregoing acts constitute violations of the established Rules of Conduct, to wit:

- Rule 1. Conduct which brings discredit upon the department
- Rule 12. Violation of any duly constituted law.
- Rule 16. Any conduct unbecoming an officer, on or off duty, where ever he or she may be.
- Rule 17. Failure to treat any person civilly and respectfully.
- Rule 18. Willful maltreatment of any person.
- Rule 62. Failure to submit a written report that he or she is under investigation by any other law enforcement agency to the Chief of Police within twenty-four (24) hours of becoming aware of such investigation.

As to each of the foregoing, jointly and severally, all of the specified charges are affirmed.

It is my opinion that each and every specified charge warrants termination of employment.

Dated: March 20, 2007



Daniel P. McCann, Chief of Police  
Town of Crawford

GERALD N. JACOBOWITZ  
DAVID B. GUBITS  
JOHN H. THOMAS JR.  
GERALD A. LENNON  
PETER R. ERIKSEN  
HOWARD PROTTER  
DONALD G. NICHOL  
LARRY WOLINSKY  
ROBERT E. DINARDO  
J. BENJAMIN GAILEY  
MARK A. KROHN\*  
JOHN C. CAPPELLO  
GEORGE W. LITHCO  
MICHAEL L. CAREY  
\* L.L.M. IN TAXATION

# JACOBOWITZ AND GUBITS, LLP

## COUNSELORS AT LAW

158 ORANGE AVENUE  
POST OFFICE BOX 367  
WALDEN, NEW YORK 12586-0367

(845) 778-2121 (845) 778-5173 FAX  
E-mail: [info@jacobowitz.com](mailto:info@jacobowitz.com)

G. BRIAN MORGAN  
KIRK VAN TASSELL  
SANFORD R. ALTMAN  
MARK T. STARKMAN  
AMANDA B. BRADY  
MICHELE-L. BABCOCK  
GARY M. SCHUSTER  
WILLIAM E. DUQUETTE  
JOSEPH J. RANNI  
AUDREY L. F. SCOTT  
CARMEE G. MURPHY

PAULA ELAINE KAY\*  
IRA J. COHEN\*

\*Of Counsel

May 17, 2007

**FILE COPY**

by fax (518) 783-1515 and by Mail  
James B. Tuttle, Esq.  
The Tuttle Law Firm  
10 Century Hill Drive, Suite 4  
Latham, New York 12110

Pedro M. Elias  
84 New Street  
Pine Bush, New York 12566

Re: Pedro M. Elias/Town of Crawford

Dear Counselor Tuttle and Mr. Elias:

Enclosed herewith please find a Notice of Hearing scheduling the Town Board Hearing concerning the discipline directed towards Mr. Elias.

Please contact me concerning the above or if you have any questions. Thank you for your cooperation and courtesies.

Sincerely,



Joseph J. Ranni

JJR/dmg

Enc.

cc: Town of Crawford

MODE = MEMORY TRANSMISSION

START=MAY-17 12:00

END=MAY-17 12:01

FILE NO.=702

STN NO.	COMM.	STATION NAME/EMAIL ADDRESS/TELEPHONE NO.	PAGES	DURATION
001	OK	15187831515	004/004	00:00:41

-JACOBOWITZ GUBITS LLP -

\*\*\*\*\* e-STUDIO190F \*\*\*\*\* -

- \*\*\*\*\* -

845 778 2580- \*\*\*\*\*

GERALD N. JACOBOWITZ  
 DAVID B. GUBITS  
 JOHN H. THOMAS JR.  
 GERALD A. LENNON  
 PETER R. ERIKSEN  
 HOWARD PROTTER  
 DONALD G. NICHOL  
 LARRY WOLINSKY  
 ROBERT E. DINARDO  
 J. BENJAMIN GAILEY  
 MARK A. KROHN\*  
 JOHN C. CAPPELLO  
 GEORGE W. LITHCO  
 MICHAEL L. CAREY  
 \*LLM IN TAXATION

### JACOBOWITZ AND GUBITS, LLP

COUNSELORS AT LAW

158 ORANGE AVENUE  
 POST OFFICE BOX 367  
 WALDEN, NEW YORK 12586-0367

(845) 778-2121 (845) 778-5173 FAX  
 E-mail: [info@jacobowitz.com](mailto:info@jacobowitz.com)

G. BRIAN MORGAN  
 KIRK VAN TASSELL  
 SANFORD R. ALTMAN  
 MARK T. STARKMAN  
 AMANDA B. BRADY  
 MICHELE L. BABCOCK  
 GARY M. SCHUSTER  
 WILLIAM E. DUQUETTE  
 JOSEPH J. RANNI  
 AUDREY L. F. SCOTT  
 CARMEE G. MURPHY

PAULA ELAINE KAY\*  
 IRA J. COHEN\*  
 \*Of Counsel

Fax #:	(518) 783-1515	RE:	Pedro M. Elias/Town of Crawford
To:	James B. Tuttle, Esq.	File #:	647-730
Date:	May 17, 2007	From:	Joseph J. Ranni, Esq.
Phone #:	(518) 783-1001	Total Pages:	4
Attached Documents:			
MESSAGE:			

#### NOTICE

THE INFORMATION CONTAINED IN THIS FACSIMILE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS FACSIMILE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR REPRODUCTION OF THIS FACSIMILE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL FACSIMILE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU FOR YOUR COOPERATION.

IF YOU HAVE PROBLEMS RECEIVING THIS FAX PLEASE CALL 845-778-2121.



GERALD N. JACOBOWITZ  
 DAVID B. GUBITS  
 JOHN H. THOMAS JR.  
 GERALD A. LENNON  
 PETER R. ERIKSEN  
 HOWARD PROTTER  
 DONALD G. NICHOL  
 LARRY WOLINSKY  
 ROBERT E. DINARDO  
 J. BENJAMIN GAILEY  
 MARK A. KROHN\*  
 JOHN C. CAPPELLO  
 GEORGE W. LITHCO  
 MICHAEL L. CAREY  
 \*LL.M. IN TAXATION

# JACOBOWITZ AND GUBITS, LLP

## COUNSELORS AT LAW

158 ORANGE AVENUE  
 POST OFFICE BOX 367  
 WALDEN, NEW YORK 12586-0367

(845) 778-2121 (845) 778-5173 FAX  
 E-mail: [info@jacobowitz.com](mailto:info@jacobowitz.com)

G. BRIAN MORGAN  
 KIRK VAN TASSELL  
 SANFORD R. ALTMAN  
 MARK T. STARKMAN  
 AMANDA B. BRADY  
 MICHELE L. BABCOCK  
 GARY M. SCHUSTER  
 WILLIAM E. DUQUETTE  
 JOSEPH J. RANNI  
 AUDREY L. F. SCOTT  
 CARMEE G. MURPHY

PAULA ELAINE KAY\*  
 IRA J. COHEN\*

\*Of Counsel

Fax #:	(518) 783-1515	RE:	Pedro M. Elias/Town of Crawford
To:	James B. Tuttle, Esq.	File #:	647-730
Date:	May 17, 2007	From:	Joseph J. Ranni, Esq.
Phone #:	(518) 783-1001	Total Pages:	4
Attached Documents:			
<b>MESSAGE:</b>			

### NOTICE

THE INFORMATION CONTAINED IN THIS FACSIMILE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS FACSIMILE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR REPRODUCTION OF THIS FACSIMILE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL FACSIMILE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU FOR YOUR COOPERATION.

IF YOU HAVE PROBLEMS RECEIVING THIS FAX PLEASE CALL 845-778-2121.

**Town of Crawford**  
**County of Orange - State of New York**  
**In the Matter of Disciplinary Charges**

**NOTICE OF  
HEARING**

-against-

**Pedro M. Elias**

**Under and Pursuant to Article 12 of the Town of Crawford  
Police Contract and Section 75 of the Civil Service Law of  
the State of New York**

**TO: Pedro M. Elias  
84 New Street  
Pine Bush, NY 12566**

**James B. Tuttle, Esq.  
The Tuttle Law Firm  
10 Century Hill Drive, Suite 4  
Latham, New York 12110**

In accordance with the provisions of Section 155 of the Town Law of the State of New York, you are hereby notified that a Public Hearing shall be held before the Town Board as follows:

**Date: June 14, 2007**

**Time: 7:00 p.m.**

**Place: Town Hall  
121 Route 302  
Pine Bush, New York**

You have the right to be represented by counsel, present evidence and witnesses.

Witnesses shall be sworn.

If found guilty upon the charges hereinbefore served, of neglect or dereliction in the performance of official duty, or of violation of rules or regulations or disobedience, or of incompetency to perform official duty, or of an act of delinquency seriously affecting your general character or fitness for office, you may be punished by the Town Board, by reprimand, by forfeiture and withholding of salary or compensation for a specified time not exceeding twenty

days, by extra tours or hours of duty during a specified period not exceeding twenty days, by suspension from duty for a specified time not exceeding twenty days and the withholding of salary or compensation during such suspension, or by dismissal from the department. The Town Board's determination is subject to review by the supreme court in the judicial district in which the town is located in the manner provided by article seventy-eight of the civil practice law and rules, provided that the proceeding is commenced within thirty days from the determination by the Town Board.

Dated: May 16, 2007



Kelly Eskew, Town Clerk  
Crawford Town Hall  
121 Route 302  
Pine Bush, New York 12566

CXIB.T(U)

CITY COURT  
CITY OF MIDDLETOWN

: CITY OF MIDDLETOWN  
: STATE OF NEW YORK

Case #: 07-00945

\*\* MISDEMEANOR COMPL \*\*

DKT 07-00330

THE PEOPLE OF THE STATE OF NEW YORK  
- against -

PEDRO M ELIAS (06/08/69)  
Defendant

PO BOX 573; PINE BUSH NY  
84 Wood St.

SERGEANT EWANCIW, JOHN D OF MIDDLETOWN POLICE DEPARTMENT, BEING DULY SWORN, ACCUSES THE DEFENDANT NAMED ABOVE OF THE FOLLOWING OFFENSE COMMITTED AT OLD ERIE BREW PUB 13-15 WEST MAIN ST. IN THE CITY OF MIDDLETOWN, COUNTY OF ORANGE, STATE OF NEW YORK ON THE TWENTY-FIFTH DAY OF FEBRUARY 2007 AT ABOUT 12:18AM:

MAKING A PUNISHABLE FALSE WRITTEN STATEMENT (A MISDEMEANOR)

IN VIOLATION OF SECTION 210.45 OF THE PENAL LAW OF THE STATE OF NEW YORK KNOWINGLY MAKE A FALSE STATEMENT, WHICH HE KNEW NOT TO BE TRUE, IN A WRITTEN INSTRUMENT BEARING A LEGALLY AUTHORIZED FORM NOTICE TO THE EFFECT THAT FALSE STATEMENTS MADE THEREIN WOULD BE PUNISHABLE, TO WIT:

ON THE ABOVE DATE AND TIME PEDRO ELIAS DID RESPOND TO THE CITY OF MIDDLETOWN POLICE DEPARTMENT AND MAKE FALSE WRITTEN ALLEGATIONS THAT HE WAS HARASSED BY [REDACTED], WHILE IN THE OLD ERIE PUB. PEDRO ELIAS DID THEN SIGN A CRIMINAL COMPLAINT AGAINST [REDACTED] FOR HARASSMENT IN THE SECOND DEGREE, AS WEEL AS A NEW YORK STATE DOMESTIC VIOLENCE STATEMENT OF ALLEGATIONS/SUPPORTING DEPOSITION. PEDRO ELIAS DID MAKE SAID FALSE WRITTEN STATEMENTS, FULLY KNOWING THEM TO BE NOT TRUE, WITH FULL KNOWLEDGE THAT BOTH WRITTEN INSTRUMENTS THAT HE SIGNED CONTAINED A LEGAL AUTHORIZED NOTICE TO THE EFFECT THAT FALSE STATEMENTS MADE THEREIN WOULD BE PUNISHABLE. THE DEFENDANTS ABOVE STATED ACTIONS ARE IN DIRECT VIOLATION OF THE AFOREMENTIONED SECTION OF LAW SET FORTH AS A CLASS "A" MISDEMEANOR.

THE ABOVE ALLEGATIONS OF FACT ARE MADE BY THE COMPLAINANT BASED UPON INFORMATION AND BELIEF THAT BEING THE VERBAL STATEMENTS OF [REDACTED], AS WELL AS OTHER WITNESSES, ALONG WITH A VIDEO SURVEILLANCE TAPE THAT WAS VIEWED BY YOUR DEPONENT, AND THE INVESTIAGTION CONDUCTED BY THE MIDDLETOWN POLICE..

NOTICE: PURSUANT TO THE PENAL LAW, SECTION 210.45, IT IS A CRIME PUNISHABLE AS A CLASS A MISDEMEANOR TO KNOWINGLY MAKE A FALSE STATEMENT HEREIN

DATED 2-25-07

SIGNED [Signature]

SERGEANT JOHN EWANCIW

CITY COURT : CITY OF MIDDLETOWN  
CITY OF MIDDLETOWN : STATE OF NEW YORK

Case #: 07-0094

\*\* MISDEMEANOR COMPL \*\*

*DKT 07-00330*

THE PEOPLE OF THE STATE OF NEW YORK

- against -

PEDRO M ELIAS (06/08/69)

PO BOX 573, PINE BUSH NY

84 New ST.

Defendant

SERGEANT JOHN EWANCIW OF MIDDLETOWN POLICE DEPARTMENT, BEING DULY SWORN, ACCUSES THE DEFENDANT NAMED ABOVE OF THE FOLLOWING OFFENSE COMMITTED AT OLD ERIE BREW PUB 13-15 WEST MAIN ST. IN THE CITY OF MIDDLETOWN, COUNTY OF ORANGE, STATE OF NEW YORK ON THE TWENTY-FIFTH DAY OF FEBRUARY 2007 AT ABOUT 12:18AM:

CRIMINAL CONTEMPT IN THE SECOND DEGREE (A MISDEMEANOR)

IN VIOLATION OF SECTION 215.50-3 OF THE PENAL LAW OF THE STATE OF NEW YORK INTENTIONALLY DISOBEY OR RESIST A LAWFUL PROCESS OR OTHER MANDATE OF A COURT, TO WIT:

ON THE ABOVE DATE AND TIME PEDRO ELIAS DID INTENTIONALLY DISOBEY A LAWFUL MANDATE OF THE COURT, BY VIOLATING AN ACTIVE ORDER OF PROTECTION ISSUED BY THE HONORABLE JUDGE MARIANNE O. MIZEL, OF THE ULSTER COUNTY FAMILY COURT. SAID ORDER OF PROTECTION, OF WHICH PEDRO ELIAS HAS FULL KNOWLEDGE OF, ORDERED HIM TO STAY AWAY FROM [REDACTED] (DOB:04/07/70), AS WELL AS TO REFRAIN FROM ASSAULTING, STALKING, HARASSING, RECKLESS ENDANGERMENT, DISORDERLY CONDUCT, INTIMIDATION, THREATS OR ANY CRIMINAL OFFENSE AGAINST [REDACTED]. PEDRO ELIAS DID IN FACT VIOLATE SAID ORDER OF PROTECTION BY COMMITTING THE CRIMINAL OFFENSE OF MAKING A PUNISHABLE FALSE WRITTEN STATEMENT AGAINST [REDACTED], FALSELY ACCUSING HER OF COMMITTING THE VIOLATION OF HARASSMENT IN THE SECOND DEGREE. THE DEFENDANTS ABOVE STATED. ACTIONS ARE IN DIRECT VIOLATION OF THE AFORMENTIONED SECTION OF LAW SET FORT. AS A CLASS "A" MISDEMEANOR.

THE ABOVE ALLEGATIONS OF FACT ARE MADE BY THE COMPLAINANT BASED UPON INFORMATION AND BELIEF THAT BEING THE SIGNED ORDER OF PROTECTION AGAINST PEDRO ELIAS FORM THE ULSTER COUNTY FAMILY COURT, THE SIGNED WRITTEN STATEMENTS BY PEDRO ELIAS AND THE INVESTIAGTION CONDUCTED BY THE MIDDLETOWN POLICE..

NOTICE: PURSUANT TO THE PENAL LAW, SECTION 210.45, IT IS A CRIME PUNISHABLE AS A CLASS A MISDEMEANOR TO KNOWINGLY MAKE A FALSE STATEMENT HEREIN

DATED 2-25-07

SIGNED *Sgt John EwanCIW*

SERGEANT JOHN EWANCIW

Date 02/07  
I hereby certify that the foregoing is a true copy of the original on file in the Ulster County Family Court.

UCSD  
02/2002

F.C.A §§ 430, 550, 655, 828, 1029

ORI No: NY0550231

Order No: 2007-000127

NYSID No: \_\_\_\_\_

Kat. A. L.  
Chief Clerk of the Court

At a term of the Family Court of the State of New York, held in and for the County of Ulster, at Courthouse 16 Lucas Ave., Kingston, NY 12401-0906, on February 02, 2007

Elijah Pedro 301071

PRESENT: Honorable Marianne O. Mizel

In the Matter of a FAMILY OFFENSE Proceeding

File # 8105  
Docket# O-03983-06

[REDACTED] (DOB: 04/07/1970),  
Petitioner,

- against -

Pedro Miguel Elias (DOB: 06/08/1969),  
Respondent.

Temporary Order Of Protection

Both parties present in court

**NOTICE: YOUR FAILURE TO OBEY THIS ORDER MAY SUBJECT YOU TO MANDATORY ARREST AND CRIMINAL PROSECUTION, WHICH MAY RESULT IN YOUR INCARCERATION FOR UP TO SEVEN YEARS FOR CRIMINAL CONTEMPT, AND/OR MAY SUBJECT YOU TO FAMILY COURT PROSECUTION AND INCARCERATION FOR UP TO SIX MONTHS FOR CONTEMPT OF COURT. IF YOU FAIL TO APPEAR IN COURT WHEN YOU ARE REQUIRED TO DO SO, THIS ORDER MAY BE EXTENDED IN YOUR ABSENCE AND CONTINUE IN EFFECT UNTIL YOU APPEAR IN COURT.**

A petition under Article 8 of the Family Court Act, having been filed on December 26, 2006 in this Court and good cause having been shown.

Now, therefore, it is hereby ordered that Pedro Miguel Elias (DOB: 06/08/1969) observe the following conditions of behavior:

[01] Stay away from:

- [A] [REDACTED] (DOB: 04/07/1970) except for the exchange of child(ren) for visitation as enumerated in separate custody order;
- [B] the home of [REDACTED] (DOB: 04/07/1970);
- [E] the place of employment of [REDACTED] (DOB: 04/07/1970);
- [F] (other) The Respondent shall have no contact with the Petitioner physically or through third parties except for the exchange of child(ren) for visitation as enumerated in separate custody order;

- [02] Refrain from assault, stalking, harassment, menacing, reckless endangerment, disorderly conduct, intimidation, threats or any criminal offense against [REDACTED] (DOB: 04/07/1970);
- [99] Observe such other condition(s) as are necessary to further the purposes of protection: Respondent may go to Petitioner's residence one time with police accompaniment by prior arrangement through counsel to obtain military and personal property not at issue in the matrimonial action;

It is further ordered that this Temporary Order Of Protection shall remain in effect up to and including March 27, 2007;

Dated: February 02, 2007

ENTER

*Marianne O. Mizel*  
Honorable Marianne O. Mizel

The Family Court Act provides that presentation of a copy of this order of protection to any police officer or peace officer acting pursuant to his or her special duties shall authorize, and in some situations may require, such officer to arrest a person who is alleged to have violated its terms and to bring him or her before the court to face whatever penalties may be imposed therefor.

Federal law provides that this order must be honored and enforced by state and tribal courts, including courts of a state, the District of Columbia, a commonwealth, territory or possession of the United States, if it is established that the person against whom the order is sought has been or will be afforded reasonable notice and opportunity to be heard in accordance with state law sufficient to protect that person's rights (18 U.S.C. §§2265, 2266).

It is a federal offense to: cross state lines to violate an order of protection; cross state lines to engage in stalking, harassment or domestic violence against an intimate partner or family member; possess, purchase, ship, transfer or receive a handgun, rifle, shotgun, or other firearm or ammunition following a conviction of a domestic violence misdemeanor involving the use or attempted use of physical force or a deadly weapon; or (except for military or law enforcement officers while on duty) possess, purchase, ship, transfer or receive a handgun, rifle, shotgun or other firearm or ammunition while an order of protection, issued after notice and an opportunity to be heard, that protects an intimate partner against assault, harassment, threatening and/or stalking, remains in effect (18 U.S.C. §§922(g)(8), 922(g)(9), 2261, 2261A, 2262).

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE LAW GUARDIAN UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check applicable box:

- Personal service executed [specify date(s)]: \_\_\_\_\_
- Order mailed on [specify date(s) and to whom mailed]: \_\_\_\_\_
- Order received in court on [specify date(s) and to whom given]: \_\_\_\_\_
- Warrant issued for Respondent [specify date]: \_\_\_\_\_

CITY COURT  
CITY OF MIDDLETOWN

: CITY OF MIDDLETOWN  
: STATE OF NEW YORK

Case #: 07-00945

**\*\* VIOLATION INFO \*\***

THE PEOPLE OF THE STATE OF NEW YORK

- against -

[REDACTED] (04/07/70)

Defendant

PEDRO M ELIAS OF PO BOX 573, PINE BUSH NY, BEING DULY SWORN, ACCUSES THE DEFENDANT NAMED ABOVE OF THE FOLLOWING OFFENSE COMMITTED AT 28 WEST MAIN ST. IN THE CITY OF MIDDLETOWN, COUNTY OF ORANGE, STATE OF NEW YORK ON THE TWENTY-FIFTH DAY OF FEBRUARY 2007 AT ABOUT 12:18AM:

HARASSMENT IN THE SECOND DEGREE (VIOLATION)

IN VIOLATION OF SECTION 240.26-1 OF THE PENAL LAW OF THE STATE OF NEW YORK WITH INTENT TO HARASS, ANNOY OR ALARM ANOTHER PERSON, STRIKE, SHOVE, KICK OR OTHERWISE SUBJECT SUCH OTHER PERSON TO PHYSICAL CONTACT, OR ATTEMPTS OR THREATENS TO DO THE SAME, TO WIT:

ON THE AFOREMENTIONED TIME, DATE AND PLACE OF OCCURENCE, THE ABOVE NAMED DEFENDANT DID INTENTIONALLY HARASS ME BY SHOVING ME TWICE IN THE BACK, WHILE I WAS AT THE OLD ERIE PUB. BEING SHOVED BY THE DEFENDANT FORCED ME TO BE PUSHED INTO OTHER OCCUPANTS OF THE ESTABLISHMENT, WHILE THEY WERE SITTING TOGETHER AT A TABLE. THE PHYSICAL CONTACT BY THE DEFENDANT DID CAUSE ME TO BECOME ANNOYED AND ALARMED. THE ACTIONS BY THE DEFENDANT THEREFORE VIOLATED THE ABOVE SECTION OF LAW SET FORTH TO BE A VIOLATION.

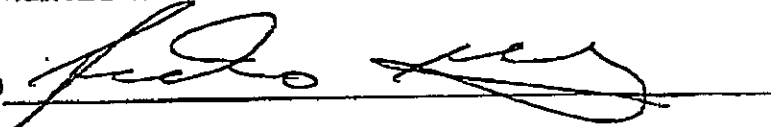
*Evidence for event # 07-4126*

THE ABOVE ALLEGATIONS OF FACT ARE MADE BY THE COMPLAINANT BASED UPON MY OWN KNOWLEDGE.

NOTICE: PURSUANT TO THE PENAL LAW, SECTION 210.45, IT IS A CRIME PUNISHABLE AS A CLASS A MISDEMEANOR TO KNOWINGLY MAKE A FALSE STATEMENT HEREIN

DATED 2-25-07

SIGNED



PEDRO M ELIAS



Agency: **MIDDLETOWN** ORI: **03501** Sprint # (NYC): \_\_\_\_\_ Incident #: **07-4126**

Month: **2** Day: **24** Year: **07** Time (24 hrs): **2345** Address of Occurrence: **9 WEST MAIN ST MIDDLETOWN NY 10940** APT #: \_\_\_\_\_ Precinct/Arrest CTV: \_\_\_\_\_ Aided # (NYC): \_\_\_\_\_ Complainant #: \_\_\_\_\_

Month: **2** Day: **25** Year: **07** Time: **0030** How can we safely contact you? (e.g. Name, Phone): **SAFE CONTACT INFORMATION**  Officer-Initiated  Radio Run  Walk-In

Name (Last, First, M.I.) (Include aliases): **ELIAS PEDRO M** Phone: **(914) 213-7697** DOB: Month **8** Day **8** Year **69** Age **37**  M  F  Other

Street & City: **84 NEW ST PINEBUSH NY** APT #: \_\_\_\_\_ Zip: **12566** If non-English, language:  Spanish  Chinese  Other: \_\_\_\_\_

Injured?  No  Yes  LT  RT Removed to Hospital?  No  Yes If yes, what hospital? \_\_\_\_\_  White  Black  Asian  Hispanic  Non-Hispanic  Native American  Other: \_\_\_\_\_ Notes (e.g. special needs, disability, requests): \_\_\_\_\_

Name (Last, First, M.I.) (Include aliases): \_\_\_\_\_ Phone: \_\_\_\_\_ DOB: Month **4** Day **7** Year **70** Age \_\_\_\_\_  M  F  Other

Street & City: \_\_\_\_\_ APT #: \_\_\_\_\_ Zip: \_\_\_\_\_ If non-English, language:  Spanish  Chinese  Other: \_\_\_\_\_

Injured?  No  Yes Removed to Hospital?  No  Yes If yes, what hospital? \_\_\_\_\_  White  Black  Asian  Hispanic  Non-Hispanic  Native American  Other: \_\_\_\_\_ Notes (e.g. special needs, disability, requests): \_\_\_\_\_

**SUSPECT/P2** **LIVING SITUATION** **RELATIONSHIP: (SUSPECT/P2 to VICTIM/F1)**

present?  Yes  No Do parties currently live together?  Yes  No  Married  Formerly Married

Yes  No IF NO, have they lived together in the past?  Yes  No  Intimate Partner/Dating  Former Intimate/Dating

No Do the parties have a child-in-common?  Yes  No  Child of victim/party 1  Parent of victim/party 1

Relative: \_\_\_\_\_  Other: \_\_\_\_\_

Prior DV History?  Yes  No Prior DV police report?  Yes  No Victim fearful?  Yes  No Access to weapons?  Yes  No Suspect: Drug/Alc History?  Yes  No Suspect: Hx suicide threat?  Yes  No Suspect: Probation/Parole?  Yes  No

1. Name (Last, First, M.I.) (Include aliases): \_\_\_\_\_ DOB: Month \_\_\_\_\_ Day \_\_\_\_\_ Year \_\_\_\_\_

2. \_\_\_\_\_ DOB: Month **3** Day **13** Year **75**

3. \_\_\_\_\_ DOB: \_\_\_\_\_

(Check all that apply)

Biting  Impaired Alcohol/Drugs  Pushing  Threw Items  Threats: (specify)  Threat with weapon

Destroyed Property (Estimated \$: \_\_\_\_\_)  Injury to Child  Sexual Assault  Unwanted Contact  Injure/Kill Persons

Forced Entry  Injury to Other Persons  Shooting  Verbal Abuse  Injure/Kill Self

Forced Restraint  Injury to Pet/Animal  Slapping  Violated Visitation/Custody Conditions  Injure/Kill Pet/Animal

Hair Pulling  Interference with Phone  Slamming Body  OTHER Suspect Actions: \_\_\_\_\_  Take Child

Homicide  Intimidation/Coercion  Stabbing  Strangulation/"Choking"  Destroy/Take Property

Other: \_\_\_\_\_  Weapons used: (specify)  Blunt Object  Gun  Motor Vehicle  Sharp Instrument  Other: \_\_\_\_\_

Arrest Made?  Yes  No Reasons arrest not made on-scene:  No Offense Committed  No Probable Cause  Suspect Off-Scene

Warrant/Criminal Summons to be requested  Violation level: not in police presence (no citizen's arrest)  Other: \_\_\_\_\_

Offenses	Law (e.g. PL)	Section (Sub)	Offenses Involved: (check all that apply)
1. <b>HARRASSMENT 2ND</b>	<b>240</b>	<b>26</b>	<input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Violation <input type="checkbox"/> Other (Specify): _____
2. _____	_____	_____	Registry Checked? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Violation <input type="checkbox"/> Other (Specify): _____
3. _____	_____	_____	Order of Protection? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Family <input type="checkbox"/> Criminal <input type="checkbox"/> Supreme
			Stay Away Order? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Out of State <input type="checkbox"/> Tribal
			Order Violated? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other: _____
			Any PRIOR orders? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other: _____

Registration Date: Month **3** Day **22** Year **2007**

Photos Taken?  Yes  No IF YES, photos taken of:  Victim Injuries  Suspect Injuries  Scene  Damaged Property  Other: \_\_\_\_\_

Other evidence collected?  Yes  No IF YES, describe: \_\_\_\_\_

Results of investigation and basis of action taken. (Were excited utterances, spontaneous admissions or spontaneous statements made?  Yes  No (Complete 710.30 or other form when applicable). **ON THE ABOVE DATE TIME AND LOCATION THE VICTIM AND HIS GIRLFRIEND WERE AT THE ABOVE LOCATION SITTING AT THE BAR IN THE TOWN SQUARE AREA. VICTIM STATES THAT HE OBSERVED A FRIEND OF THE SUSPECT, SUSAN MAE, ENTER THE ABOVE ESTABLISHMENT THROUGH THE WEST MAIN ST ENTRANCE WITH THE SUSPECT FOLLOWING. VICTIM STATES THAT SUSPECT WALKED BEHIND/ART VICTIM TO REAR ENTRANCE AT WHICH TIME VICTIM ATTEMPTED TO LEAVE ESTABLISHMENT THROUGH WEST MAIN ST ENTRANCE. SUSPECT APPROACHED VICTIM PULLING VICTIM BACK INTO TABLE AREA ON WEST SIDE OF BAR. VICTIM LEFT THE ESTABLISHMENT THROUGH REAR ENTRANCE.**

OTHER AGENCIES involved with the parties or incident (e.g. advocates, hospital, probation): \_\_\_\_\_

Is there a reasonable suspicion in support of child abuse or neglect?  Yes  No  Other: \_\_\_\_\_  Guns in House  Guns Seized  Has Permit  Permit Seized Issuing County: \_\_\_\_\_

Child Abuse Hotline Registry # \_\_\_\_\_ Permit #(s): \_\_\_\_\_ Name on Permit(s): \_\_\_\_\_

CONTACTS INVOLVED BY POLICE: \_\_\_\_\_

Officer's Signature (& Rank): **1137 N. DETOLING** (PRINT and SIGN) LD. **1137** Month **2** Day **23** Year **07**  M  F  Other

DIR <b>03501</b>	Sprint # (NYC)	Incident # <b>07-4126</b>	Precinct (precinct)	Aided # (NYC)	Complaint #
---------------------	----------------	------------------------------	---------------------	---------------	-------------

**Page 2 of the NYS Domestic Incident Report:  
STATEMENT OF ALLEGATIONS / SUPPORTING DEPOSITION**



I, PEDRO A ELIAS (victim/deponent name), state that on 2/25/07, (date) at 1145 PM  
 Yo, \_\_\_\_\_ (nombre de victima/deponente), declaro que en tal fecha 2/25/07 en \_\_\_\_\_

(location of incident), in the County/City/Town/Village of ADRIATOWN, of the state of New York, the following did occur:  
 (donde el incidente ocurrio), el condado/ciudad/aldea/pueblo de \_\_\_\_\_, del estado de Nueva York, lo siguiente ocurrio:

I WAS AT THE OLDE CREE PUB & GRILL, WHEN  
WALKED IN THE FRONT DOOR, I ATTEMPTED TO LEAVE  
AFTER SHE WALKED PASTED ME.  
TURNED AND FOLLOWED ME TOWARD THE FRONT DOOR  
AND BEFORE I COULD LEAVE SHE SHOVEED ME  
FROM BEHIND CAUSING ME TO FALL INTO A TABLE  
WITH PEOPLE SITTING AROUND IT. AFTER SHE PASTED  
I GOT UP AND LEFT OUT THE BACK DOOR  
BECAUSE I WAS SCARED SHE WAS GOING TO COME  
BACK AND SHOVE ME AGAIN.

*[Handwritten signature]*

(Use additional pages as needed)

False Statements made herein are punishable as a Class A Misdemeanor, pursuant to section 210.45 of the Penal Law.  
 Declaraciones falsas hechas aqui son castigables como una clase de delito menor, de acuerdo con la seccion 210.45 de la ley penal.

Victim/Deponent Signature  
 Firma de victima/deponente

2-25-07  
 Date  
 Fecha

Interpreter

Date

Witness or Officer

2/25/07  
 Date

**Note:**  
 Whether or not this form is signed, this D.I.R. form will be filed with law enforcement.  
**Note:**  
 Si este formulario esta firmado o no, esta D.I.R. forma sera recibida con la policia.

MIDDLETOWN POLICE DEPARTMENT  
COMPLAINT REPORT

(Rev 2-89)

Page # 1

Case type <b>HARASSMENT</b>	Jurisdiction <b>MIDDLETOWN</b>	Case No. <b>07-00945</b>	Event No. <b>07-04126</b>
Report Time/Date <b>0018 02/25/2007</b>	Occurred From Time/Date <b>0018 02/25/2007</b>	Occurred Through Time/Date	Complaint Received <b>OFFICIAL CHANLS</b>
Offense(s) if Any <b>HARASSMENT 2ND CRIM CONTEMPT 2ND FALSE WRITTEN STATEMENT</b>			
F.I. Section <b>PL 240.26-1 PL 215.50-3 PL 210.45</b>			
Last Name, First, M.I. Address [REDACTED]			
Testimony/Actions Prior to Crime			
Home Telephone	Business Telephone	Sex	Date of Birth
[REDACTED]	[REDACTED]	<b>F</b>	<b>04/07/70</b>
Age	Race		
<b>36</b>	<b>WHITE</b>		
Role(s) <b>SUSPECT - VICTIM</b>			
Last Name, First, M.I. Address <b>ELIAS, PEDRO M 84 NEW ST. PINE BUSH NY 12566</b>			
Testimony/Actions Prior to Crime			
Home Telephone	Business Telephone	Sex	Date of Birth
<b>744-3486</b>	<b>914 213-7692</b>	<b>M</b>	<b>06/08/69</b>
Age	Race		
<b>37</b>	<b>OTHER</b>		
Role(s) <b>CALLER - REPORTING PERSON - VICTIM - INTERVIEWED - SUSPECT - DEFENDANT</b>			
Last Name, First, M.I. Address [REDACTED]			
Testimony/Actions Prior to Crime			
Home Telephone	Business Telephone	Sex	Date of Birth
[REDACTED]	[REDACTED]	<b>M</b>	<b>08/15/47</b>
Age	Race		
<b>59</b>	<b>WHITE</b>		
Role(s) <b>CALLER</b>			
Last Name, First, M.I. Address <b>ERIE BREW PUB WEST MAIN ST. 590-2508 MIDDLETOWN NY 10940</b>			
Testimony/Actions Prior to Crime			
Home Telephone	Business Telephone	Sex	Date of Birth
<b>344-3743</b>	<b>344-3743</b>		
Age	Race		
Role(s) <b>OTHER</b>			
Last Name, First, M.I. Address [REDACTED]			
Testimony/Actions Prior to Crime			
Home Telephone	Business Telephone	Sex	Date of Birth
[REDACTED]	[REDACTED]	<b>M</b>	<b>05/26/58</b>
Age	Race		
<b>48</b>	<b>WHITE</b>		
Role(s) <b>INTERVIEWED</b>			
Last Name, First, M.I. Address [REDACTED]			
Testimony/Actions Prior to Crime			
Home Telephone	Business Telephone	Sex	Date of Birth
[REDACTED]	[REDACTED]	<b>M</b>	<b>12/07/65</b>
Age	Race		
<b>41</b>	<b>HISPAN</b>		
Role(s) <b>INTERVIEWED</b>			

MIDDLETOWN POLICE DEPARTMENT  
COMPLAINT REPORT

Case No. 07-00945

Page # 2

P e r s o n	Last Name, First, M.I.		Address								
	Testimony/Actions Prior to Crime										
	Home Telephone	Business Telephone	Sex	Date of Birth	Age	Race					
<table border="1"> <tr> <td>[REDACTED]</td> <td>[REDACTED]</td> <td>F</td> <td>03/13/75</td> <td>31</td> <td>WHITE</td> </tr> </table>						[REDACTED]	[REDACTED]	F	03/13/75	31	WHITE
[REDACTED]	[REDACTED]	F	03/13/75	31	WHITE						
Role(s) INTERVIEWED											

P e r s o n	Last Name, First, M.I.		Address								
	Testimony/Actions Prior to Crime										
	Home Telephone	Business Telephone	Sex	Date of Birth	Age	Race					
<table border="1"> <tr> <td>[REDACTED]</td> <td>[REDACTED]</td> <td>F</td> <td>02/25/63</td> <td>44</td> <td>WHITE</td> </tr> </table>						[REDACTED]	[REDACTED]	F	02/25/63	44	WHITE
[REDACTED]	[REDACTED]	F	02/25/63	44	WHITE						
Role(s) INTERVIEWED											

Type of Location (Specific)	Address/Location of Occurrence	Post
	OLD ERIE BREW PUB 13-15 WEST MAIN ST. MIDDLETOWN	
Case Status	Unit Referred to	

Quantity	Article, Description, Brand Name, Model, Serial No., Id #	Value	Role
1	CRIMINAL COMPLAINT FOR HARASSMENT	0.00	EVID

Item	Value Stolen	Value Recovered	Item	Value Stolen	Value Recovered
Motor Veh. Stolen			M.V. Recv'd Other Auth.		
Currency			Jewelry		
Furs, Cloth.			Firearms		
Office Squ.			TV's-Radics Camcass		
Household			Consumables		
Misc.	1				

Total No. of Perpetrators	Wanted	Arrested	Describe Weapon
1		1	

D e t a i l s	Wanted/Arrested	Last Name, First, M.I.	Address						
		ARRESTED ELIAS, PEDRO M	84 NEW ST. PINE BUSH NY 12566						
	Sex	Race	Date of Birth	Age	Height	Build	Eye Color	Hair Color	Hair Length
M		OTHER		06/08/69	37	510	MEDIUM	BROWN	GRAY-PAR
Facial Hair		Accent	Eyeglasses		Nickname, First Name, Alias			Wanted Person Alarm	
MOUSTACHE									

Details  
R/O'S RESPONDED TO THE FRONT ENTRANCE AREA OF THE OLD ERIE PUB, ON A REPORT OF A POSSIBLE ORDER OF PROTECTION VIOLATION. AT THE SCENE, R/O'S WAITED FOR THE COMPLAINANT, BUT ONE NEVER SHOWED. 370 ATTEMPTED A CALL BACK, BUT RECEIVED A BUSY SIGNAL. R/O'S CLEARED THE SCENE. APPROXIMATELY 10 MINUTES LATER, R/O'S WERE APPROACHED BY PEDRO ELIAS (R/P), WHO STATED THAT HE WAS

MIDDLETOWN POLICE DEPARTMENT  
COMPLAINT REPORT

Case No. 07-00945

Page # 3

## Details

THE ONE WHO CALLED THE POLICE. WHEN ASKED WHAT HAPPENED, THE R/P STATED THAT HE WAS JUST SHOVED TWICE BY [REDACTED]. THE R/P ALSO STATED THAT HE HAS AN ORDER OF PROTECTION AGAINST [REDACTED] FROM THE ULSTER COUNTY SHERIFF'S OFFICE. THE R/P THEN STATED THAT HE WASN'T SURE WHAT HE WANTED TO DO, AND THAT HE WAS THINKING ABOUT FORGETTING THE ENTIRE INCIDENT. R/O ADVISED THE R/P THAT IF THERE IS A VALID ORDER OF PROTECTION, AND IT WAS VIOLATED, THEN THE R/O WAS REQUIRED TO REPORT SAID VIOLATION. THE R/P THEN AGREED TO COME TO 370, AND BE INTERVIEWED.

AT 370, THE R/P STATED THAT APPROXIMATELY 12:15 AM THIS DATE, HE WAS SITTING IN THE BAR AREA ON THE FIRST FLOOR, WITH HIS [REDACTED]. [REDACTED] THE R/P THEN OBSERVED [REDACTED] ENTER THE BAR, WITH [REDACTED] AND [REDACTED] THEN WALKED PAST THE R/P, AND SAT DOWN AT THE END OF THE BAR. THE R/P THEN INFORMED THE R/O THAT HE KNEW THERE WAS A POSSIBILITY THERE COULD BE A PROBLEM, SO HE TOLD [REDACTED] THAT IT WAS TIME TO LEAVE. THE R/P GOT UP, AND BEGAN WALKING TOWARDS THE FRONT DOOR. THE R/P THEN STATES THAT AS HE WAS WALKING, [REDACTED] APPROACHED HIM FROM BEHIND, AND PUSHED HIM TWICE IN THE BACK. THE FIRST PUSH, CAUSED THE R/P TO MAKE CONTACT WITH OTHER PATRONS OF THE PUB, WHO WERE SITTING AT A TABLE. THE SECOND PUSH, CAUSED THE R/P TO MAKE CONTACT WITH THE WALL. THE R/P THEN LEFT THE PUB, THROUGH THE REAR ENTRANCE, AND IMMEDIATELY CALLED THE POLICE.

THE R/P THEN EXPRESSED INTERESTED IN SIGNING A COMPLAINT FOR HARASSMENT, AGAINST [REDACTED]. THE R/P THEN SIGNED THE HARRASSMENT COMPLAINT IN FRONT OF R/O AND SGT DOTY, AND SWORE THAT THE INFORMATION WAS IN FACT TRUE. A DIR WAS COMPLETED BY PO DEYOUNG. THE R/P ALSO MADE A WRITTEN STATEMENT ABOUT THE INCIDENT ON THE DIR. THE R/P WAS ADVISED THAT THE INCIDENT WOULD BE INVESTIGATED. THE R/P THEN PROVIDED THE R/O WITH [REDACTED] CELL PHONE NUMBER. SGT DOTY MADE CONTACT WITH [REDACTED], AND ADVISED HER TO MEET SGT EWANCIW IN THE JAMES ST LOT FOR INTERVIEW PURPOSES.

[REDACTED] STATED THAT SHE HAD NO CONTACT WITH THE R/P IN A PHYSICAL, OR VERBAL MANOR. [REDACTED] KNEW OF THE R/P'S PRESENCE AT THE PUB, BUT HAD NO INTEREST IN TALKING WITH HIM. R/O'S EXPLAINED THE R/P'S VERSION OF THE INCIDENT TO [REDACTED] TO WHICH SHE DENIED TO THE FULLEST EXTENT. IN FACT, [REDACTED] STATED THAT THE PUB'S [REDACTED] WAS IN THE AREA SHE WAS IN, AND COULD

MIDDLETOWN POLICE DEPARTMENT  
COMPLAINT REPORT

Case No. 07-00945

Page # 4

Details

PROVIDE INFORMATION TO SUBSTANTIATE HER STORY.

R/O, ALONG WITH SGT EWANCIW RESPONDED BACK TO THE OLD ERIE, AND INTERVIEWED ██████████ STATED THAT HE TALKED WITH ██████████ ON THIS NIGHT, AND PROVIDED R/O'S WITH A GOOD ACCOUNT OF ██████████ WHERE ABOUTS IN THE PUB. ██████████ DENIED ANY CONFRONTATION BETWEEN ██████████ AND THE R/P. ██████████ WAS AWARE OF THE DOMESTIC SITUATION BETWEEN THE TWO, AND EVEN ADVISED ██████████ TO STAY IN THE PUB, UNTIL SHE WAS SURE THE R/P WAS GONE. R/O'S THEN INTERVIEWED ██████████, WHO ALSO CONFIRMED THAT HE WASN'T AWARE OF ANY INCIDENT THAT THE R/P WAS CLAIMING. ██████████ THEN ESCORTED THE R/O'S TO THE CAMERA ROOM, WHERE R/O'S WERE ABLE TO VIEW THE SECURITY TAPE. ON CAMERA #13 AT 12:16 AM, R/O'S OBSERVED THE LOCATION THE R/P WAS OCCUPYING. R/O'S THEN OBSERVED THE R/P AND ██████████ PASS EACH OTHER. THERE WAS NO EVIDENCE OF PUSHING, OR ANY OTHER PHYSICAL CONTACT. THE R/P WAS NOT PUSHED INTO PATRON'S SITTING AT A TABLE, NOR WAS HE PUSHED INTO A WALL LIKE HE CLAIMED TO BE. ██████████ ALSO INFORMED THE R/O THAT AT ONE POINT DURING THE ALLEGED INCIDENT, SHE HAD TO PULL THE R/P BETWEEN HERSELF AND ██████████. ██████████ CLAIMED SHE HAD TO DO THIS BECAUSE OF HOW VIOLENT ██████████ WAS ACTING. THE TAPE ALSO PROVED ██████████ CLAIM TO BE FALSE. ██████████ STATED THAT THE POLICE DEPARTMENT WOULD BE ABLE TO VIEW, OR GET A COPY OF THE TAPE FOR FURTHER INVESTIGATION. ██████████ WAS NOT SURE ABOUT THE CAMERA'S OPERATION, BUT WOULD MAKE CONTACT WITH THE CAMERA COMPANY TO INQUIRE ABOUT MAKING A COPY. A DIGITAL EVIDENCE COLLECTION REQUEST WAS COMPLETED. SAID INCIDENT WAS CAPTURED ON CAMERA NUMBER 13, AT APPROX. 12:16am.

TEMPORARY ORDER OF PROTECTIONS WERE CONFIRMED THROUGH NYSPIN. EACH SUBJECT HAD ONE AGAINST THE OTHER. ONLY THE R/P'S IS A STAY AWAY.

\*\*\*\*\* SUPPLEMENT \*\*\*\*\*

BASED ON THE ABOVE INFORMATION, THE INVESTIGATION OF THIS DEPARTMENT, AND THE GUIDANCE OF THE ON-CALL ADA JAMES RILEY, CRIMINAL COMPLAINTS WERE SIGNED AGAINST PEDRO ELIAS FOR PL 210.45/MAKING A PUNISHABLE FALSE WRITTEN STATEMENT, AND PL 215.50-3/CRIMINAL CONTEMPT IN THE 2nd. PER OUR DEPARTMENT POLICY LT RICKARD AND ELIAS'S EMPLOYER WERE NOTIFIED BY SGT. DOTY

MIDDLETOWN POLICE DEPARTMENT  
COMPLAINT REPORT

Case No. 07-00945

Page # 5

Details

AT 6:50am. ALSO AS A RESULT OF THE WRONG ESTABLISHMENT/ADDRESS BEING ENTERED INTO THE ORIGINAL BLOTTER, THE COMPLAINT SIGNED BY ELIAS, AGAINST [REDACTED] FOR HARASSMENT 2nd, SHOWS AND ADDRESS OF 28 WEST MAIN ST., IN ITS HEADING, ALTHOUGH THE BODY OF SAID COMPLAINT AS WELL AS THE SIGNED DIR SPEEL OUT THE CORRECT LOCATION.

ORDER OF PROTECTION WAS REQUESTED.

THE ORIGINAL SIGNED HARASSMENT COMPLAINT WAS SECURED INTO EVIDENCE.

SGT EWANCIW

\*\*supplement\*\*

TROOPER BONNEY WENT OVER TO THE DEFENDANTS RESIDENCE WITH REGARDS TO THE WARRANT AND SUBSEQUENTLY ARRESTED THE DEFENDANT BASED ON THE SIGNED COMPLAINTS AND ISSUED ARREST WARRANT FOR CRIMINAL CONTEMPT 2ND AS WELL AS MAKING A FALSE STATEMENT. THE DEFENDANT WAS BOOKED AND PROCESSED ON THE ABOVE CHARGES AND PLACED IN A CELL AWAITING ARRAIGNMENT.

-----  
P.O. CHRISTINE A. GARRETTO #1017

Associated Events 07-04126	Latent Fingerprints	Crime Prevention Survey
Reporting/Investigating Officer PO RONALD B MAGSAMEN		
Supervisor Approving		
Supervisor 2 Approving		

MIDDLETOWN POLICE DEPARTMENT  
ARREST SHEET

Date	Case Type	Event #	MPD Arrest #	Case #
02/25/2007	CRIM CONTEMPT 2ND FALSE WRITTEN ST	07-04126	07-00315	07-00945
Name		AKA	Soc Security #	
ELIAS, PEDRO M				
Address			Home Telephone #	
84 NEW ST. PINE BUSH NY 12566			744-3486	
Race	Sex	Age	Date of Birth	Hair
OTHER	M	37	06/08/69	GRAY-PARTIAL
Height	Weight	Glasses	Teeth	Build
510	175			MEDIUM
Place of Birth			Complexion	
PORTUGAL				
Handed	Scars/Marks/Tattoos/Deformities		Drug Use	
RIGHT				

Marital Status	Name/Address of Spouse
Parent Name/Address	
Where Educated	Military Service
OCCC	ARMY 061567833
Occupation	Employer/Tel #
POLICE OFFICER	CRAWFORD PD 213-7692
Vehicle Make & Registration	

Date/Time of Arrest	Arrest Location Description
02/25/2007 1415	MPD
Arrest Location Address	
2 JAMES ST. MIDDLETOWN	

C	Date/Time of Offense	From	To	Location Description
	02/25/2007 0018			OLD ERIE BREW PUB
H	Location Address			
	13-15 WEST MAIN ST. MIDDLETOWN NY			
R	Charge	Specific offense		
	PL 215.50-3	CRIMINAL CONTEMPT IN THE SECOND DEGREE		
B	Brief Details			
	THE DEFENDANT WAS ARRESTED ON ACTIVE A/W DATED 2/25/07 SIGNED BY JUDGE BROCKET. BOOKED AND PROCESSED.			
1	Complainant Name	Rel to Def	Telephone #	
	EWANCIW, JOHN D	OFFICER		
1	Complainant Address			

C	Date/Time of Offense	From	To	Location Description
	02/25/2007 0018			OLD ERIE BREW PUB
H	Location Address			
	13-15 WEST MAIN ST. MIDDLETOWN NY			
R	Charge	Specific offense		
	PL 210.45	MAKING A PUNISHABLE FALSE WRITTEN STATEMENT		
B	Brief Details			
	THE DEFENDANT WAS BOOKED ON ACTIVE A/W OUT OF THEIS AGENCY DATED 2/25/07 SIGNED BY JUDGE BROCKET.			
2	Complainant Name	Rel to Def	Telephone #	
	EWANCIW, JOHN D	OFFICER		
2	Complainant Address			



MIDDLETOWN POLICE DEPARTMENT  
ARREST SHEET

Page: 2

Date 02/25/2007	Name ELIAS, PEDRO M	Arrest # 07-00315	Case # 07-00945
Amount Bail		Arraignment Date	
DD Processing By GARRETTO, CHRISTINE A.	Date	MUG #	FBI #
Arresting officer PO GARRETTO, CHRISTINE A. 1017		Supervisor	

STATE OF NEW YORK, COUNTY OF ORANGE  
CITY OF MIDDLETOWN:

ARREST WARRANT  
COURT CONTROL NO:

Bail Amount: \$ \_\_\_\_\_  
COURT DOCKET #: \_\_\_\_\_  
FAMILY OFFENSE: **yes**

IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK

TO ANY Police Officer in the CITY OF MIDDLETOWN, New York, INCLUDING ORANGE County Sheriffs Department, Probation Department or to any member of the Division of State Police of the State of New York

Information upon oath of **Sgt. John Ewanick** having been this day laid before me that the crimes of **Crim. Cont. 2d, False Statement** in violation of Sections **215.50-3, 210.45** of the **Penal** Law has been committed and accusing **Pedro M. Elias** - thereof,

YOU ARE THEREFORE COMMANDED forthwith to arrest the above named **Pedro M. Elias** - and bring him before me at the City Court, 2 JAMES STREET, in the said CITY OF MIDDLETOWN, New York, or in case of my absence or inability to act, before the nearest or most accessible magistrate in this County.

DATED at the CITY OF MIDDLETOWN, New York

on **2-25-2007**

*St. Brubett H. Brubett*  
HOW. STEVEN W. BROCKETT, City Court Judge

Warrant issued against: **Pedro M. Elias** Date of Issue: **2-25-07**

Address: **84 New St. Pine Bush, N.Y.**  
Employer:

Description: **6-8-69 37 M**

DOB Age Race Sex Hgt. Wt. Hair. Eye.  
Complainant: **Sgt. John Ewanick**  
Address:

Employer: **Middletown PD**

Warrant issued for:

Arresting Officer(s):

Date of Arrest:

Time:

Copy sent to other agency on:

Location of arrest:

STATE OF NEW YORK, COUNTY OF ORANGE  
CITY OF MIDDLETOWN:

ARREST WARRANT  
COURT CONTROL NO:

Bail Amount: \$ \_\_\_\_\_  
COURT DOCKET #: \_\_\_\_\_  
FAMILY OFFENSE: **yes**

IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK

TO ANY Police Officer in the CITY OF MIDDLETOWN, New York, INCLUDING ORANGE County Sheriffs Department, Probation Department or to any member of the Division of State Police of the State of New York

Information upon oath of **Sgt John Evanciw** having been this day laid before me that the crimes of **Crim. Cont. 2d, False Statement** in violation of Sections **215.50-3, 210.45** of the **Penal** Law has been committed and accusing **Pedro M. Elias** thereof,

YOU ARE THEREFORE COMMANDED forthwith to arrest the above named **Pedro M. Elias** - and bring him before me at the City Court, 2 JAMES STREET, in the said CITY OF MIDDLETOWN, New York, or in case of my absence or inability to act, before the nearest or most accessible magistrate in this County.

DATED at the CITY OF MIDDLETOWN, New York

on **2-25-2007**

*St. Brockett*  
HON. STEVEN W. BROCKETT, City Court Judge

Warrant issued against: **Pedro M. Elias** Date of Issue: **2-25-07**

Address: **84 New St. Pine Bush, N.Y.**

Employer:

Description: **6-8-69 37 M**

Complainant: **Sgt. John Evanciw**  
Address:

Employer: **Middletown PD**

Warrant issued for:

Arresting Officer(s):

Date of Arrest:

Time:

Copy sent to other agency on:

Location of arrest:

Ex X

**TOWN OF CRAWFORD**  
**POLICE**  
**RULES AND REGULATIONS**

GENERAL PURPOSES OF THE RULES AND REGULATIONS:

To control and promote uniformity of purpose and practice by a Member in his performance of police action and police service for the public;

To define for each Member the organizational standards established to promote the integrity and honor of the Town of Crawford Police as a responsible law enforcement agency dedicated to precise, accurate, fair and impartial enforcement of law and rendering of prompt, efficient, courteous and helpful police service to the public without bias, prejudice or favoritism;

To define for each Member and promote the standards of personal conduct and behavior required of him at all times by the Supervisor, Commissioner and Town Board as his duty and obligation, so as to preserve and maintain his good personal reputation of integrity and honor, and thereby preserve and promote the collective good reputation of all Members as dedicated public servants and police officers exercising a portion of the police power of the Town of Crawford, State of New York.

C E R T I F I C A T I O N

I, SHIRLEY SHEELEY, Town Clerk of the Town of Crawford in the said County of Orange, certify that this is the original copy of the Town of Crawford Rules and Regulations for the Town of Crawford Police Department which was adopted by the Town Board of the Town of Crawford on the 8th day of December 1983.

(SEAL)

  
SHIRLEY SHEELEY, TOWN CLERK  
TOWN OF CRAWFORD

POLICE RULES AND REGULATIONS

ARTICLE I.

Organization.

1. Duties and responsibilities.
2. Chief of Police.
3. Temporary absence or disability of Chief of Police.
4. Order of rank.
5. Seniority.

ARTICLE II.

Chief of Police.

6. General duties.
7. Specific duties.
8. Suspension of members.
9. 9 to 15 reserved.

ARTICLE III.

Supervisory Personnel.

16. General duties.
17. Specific duties.

ARTICLE IV.

Members of the Department.

18. General duties.
19. Special duties.

ARTICLE V.

Rules of Conduct.

20. Prohibited Conduct.

ARTICLE VI.

*General Rules.*

21. *Responsibility of members.*
22. *Duties of department.*
23. *Duties of patrolmen*
24. *Duties of supervisor officers:*
25. *Additional duties and responsibilities of members.*

ARTICLE VII.

*Penalties.*

26. *Offenses against rules and regulations.*
27. *Incompetent or inefficient service.*

ARTICLE VIII.

*Definition and word usage.*

28. *Definitions.*
29. *Word usage.*

ARTICLE IX.

*Chemical Test*

30. *Arrest of operator*
31. *Consent to Submit to Test.*

ARTICLE I.

Organization.

1. Duties and responsibilities.

The Police Department and its police members have the power and it is their duty to:

- A. Protect life and property.
- B. Prevent crime.
- C. Detect and arrest offenders.
- D. Preserve the public peace.
- E. Enforce all laws and ordinances over which the Police Department has jurisdiction.

2. Chief of Police.

- A. The Chief of Police is the chief executive officer of the Police Department, subject to the rules and regulations prescribed by the Town Board. The government and control of the Police Department and its members is vested in the Chief of Police.
- B. The Chief of Police shall be designated by the Town Board of the Town of Crawford to exercise command of the Police Department and its members. (Article 10, Town Law).

3. Temporary absence or disability of Chief of Police.

During the temporary absence or disability of the Chief of Police, when no special designation is made by competent authority, the command automatically devolves upon the senior ranking member of the command. He shall possess all the powers and perform all the duties of the Chief of Police except the power of making any changes in the rules and regulations, appointments and promotions, and he shall carry out the orders previously given, and such orders shall not, except in cases of extreme emergency, be countermanded nor set aside; however when such action is taken, a report shall be made to the Chief of Police in writing, stating the reasons.

4. Order of Rank.

The order of rank in the Police force shall be: Police Commissioner, Chief of Police, Sergeant, Patrolman and any and all other classifications made by resolution of the Town Board of the Town of Crawford.



5. Seniority.

Seniority is determined:

- A. First, by rank.
- B. Second, by continuous service in rank.
- C. Third, by date of appointment to previous rank or ranks.
- D. Fourth, by date of appointment to Department.

ARTICLE II.

Chief of Police.

6. General duties.

Within the boundaries of the Town, the Chief of Police shall be charged with and responsible for:

- A. The enforcement of all laws, ordinances and local laws.
- B. The regulation and movement of vehicular and pedestrian traffic in streets, roads, places and highways, as described in the Vehicle and Traffic Law of the State of New York and Town Ordinances and the Local Laws.
- C. The administration of the Dog Control Department.

7. Specific duties.

A. The Chief of Police shall:

1. Enforce the rules and regulations of the Police Department and be charged with and responsible for the discipline, efficiency of the members of the department, the making and dissemination of operating procedures and directives.
2. Report to the Commissioner in writing on a monthly basis, the activities of the department.
3. Provide each member with a copy of the rules and regulations and see that each member is properly instructed in his or her duties and that he or she performs them in such a manner as to render effective police service; also, that he or she is instructed with regard to his or her conduct, on and off duty, so that his or her conduct will not be detrimental to the good order and efficiency of the Police Department.
4. Assure the accurate preparation, maintenance and forwarding of reports and records.

5. Periodically examine all books and records required to be kept in conformity with the rules and regulations and see that the entries therein are properly made.
6. Maintain a detailed inventory of Town owned and rented property under the control of the Police Department and equipment.
7. Account for the property assigned to and issued for the use of members of the Department and be responsible for the proper care and serviceability thereof and make periodic inspections thereof.
8. Submit the annual budget to the Town Board, as directed.
9. Visit every building or parts thereof assigned to his Department and all parts of the territory within the boundaries of the Town, at intervals of the day and night, and take or direct to be taken such action as may be required to render effective police service and to maintain proper discipline. He shall frequently test the knowledge of subordinates as to conditions upon their post.
10. Carry out the following in addition to all other reports when a member of the department is injured:
  - A. Cause a investigation of the circumstances of the injury and interview and obtain a signed statement from each witness.
  - B. Provide a report of the results of the investigation. This report shall show whether or not in his opinion, such injury was sustained in the performance of police duty, whether or not negligence on the part of the injured member contributed to the injury, and the names and addresses of all witnesses.
  - C. Forward a written report to the Town Clerk when any injury is involved or when circumstances indicate negligence on the part of a Department member or when requested by the Town Board.
11. Cause an inspection to be made periodically of the uniforms and equipment.
12. Obtain all Police Department property and all revolvers and pistols in possession of a member of the Department who resigns, retires, is dismissed, suspended or enters active military service, and obtain all Police Department property and all revolvers and pistols from among the effects of member who dies. If a member of the Department is suspended, a return of Department property shall be subject to the discretion of the Chief.
13. Issue written and verbal orders to attain Departmental goals. Written orders shall be in two (2) categories: general orders and special orders.
  - A. General Orders will be orders setting force policy or procedures on a Department wide basis. They shall be numbered consecutively and shall remain in effect until terminated by a follow-up order. General orders shall take effect seventy-two (72) hours after being posted on the bulletin board at Police headquarters. General orders shall have the full force and effect as a direct order from the Chief of Police.

13. Continued:

- B. Special Orders will be orders concerning a specific item or task. They will be addressed to those concerned and will have a listed date of effectiveness or will be self-terminating by their own nature. Special orders shall be consecutively numbered, take effect immediately upon receipt and have the full force and effect as a direct order from the Chief of Police.
14. Establish a duty chart. Such chart have the force and effect of rules and regulations when authenticated with the original signature of the Chief of Police.
  15. Evaluate programs.
  16. Cause an investigation to be made when any crime is committed or a serious accident occurs under circumstances which indicate that a member of the department on duty might have prevented it, and if the investigation reveals neglect on the part of the member, prefer written charges against the member.
  17. Cause the draft specifications for equipment, uniform and insignia.
  18. Develop plans to meet department needs.
  19. Control Department expenditures.
  20. Maintain suitable relations with mass communications media.
  21. Cooperate with all law enforcement agencies and officers in matters of mutual interest.
  22. Provide leadership and guidance in developing loyalty and dedication to the police profession.
  23. Cause the directing, supervising and evaluating of members in their assigned duties and recommend remedial or disciplinary action for inefficient, incompetent or unsuitable members.
  24. Sustain a member of his command who is properly performing his or her duty.
  25. Correct subordinates in a dignified manner.
  26. Ensure the security and care of prisoners and sick, injured or unconscious persons and obtain medical care when needed.
  27. Deal fairly and equitably with subordinates.
  28. Conduct formal parades and roll calls in a military manner.
  29. At all times conduct himself in a manner which will provide leadership and guidance to the members of his Department and enhance the public image of police in general.
  20. Be on duty twenty-four (24) hours per day, subject to call especially in emergencies.
8. Suspension of members.

The Town Board shall suspend, pending the trial of charges, any member of the Police Department for violation of the rules and regulations or for insubordination, upon the recommendation of the Chief of Police or any officer acting in such capacity (Section 155, Town Law).

ARTICLE III

Supervisory Personnel:

16. General Duties.

A supervisory member shall be responsible for the enforcement of all laws and ordinances, local laws, department rules and regulations, orders, procedures, discipline, punctuality and attendance, appearance, good order and efficiency of members within his or her assigned jurisdiction.

17. Specific Duties.

A. A supervisory member shall:

1. Perform specific duties and functions as assigned by the Chief of Police.
2. Obey all lawful orders.
3. Execute all assignments.
4. Provide leadership and guidance in developing loyalty and dedication to the police profession.
5. Train, direct, supervise and evaluate members in their assigned duties and recommend remedial or disciplinary action for inefficient, incompetent or unsuitable members.
6. Communicate orders, information and instructions.
7. Inform his relief of all necessary police matters.
8. Be present at prescribed roll calls and meetings.
9. At established intervals, inspect personnel, vehicles and equipment.
10. Report to his superior officer absentees and any deficiencies in men and equipment.
11. Ensure that Department resources are used effectively.
12. Ensure that recovered property is handled in accordance with Department orders.
13. Account for all moneys and valuables received, processed and disbursed in conformance with Department orders.

14. Inquire into the circumstances of all arrests to assure that all persons are disbursed in conformance with Department orders.
15. Know and conform to the current bail provisions of the Criminal Procedures Law of the State of New York.
16. Report promptly matters of Police importance to his superior officers.
17. Ensure that all appropriate town departments are informed of emergencies which require their attention.
18. Direct activities of subordinate members for the purpose of achieving the objectives of the Police Department.
19. Perform those duties of members of the department that are applicable to him.
20. When in uniform, maintain a military bearing and render military courtesy to superior officers.
21. Assemble and remove details and parades in a military manner.

#### ARTICLE IV.

##### Member of the Department.

##### 18. General Duties

A member of the Department shall be responsible at all times for the prevention of crime, enforcement of all laws and ordinances, local laws, preservation of the public peace, protection of life and property, arrest and prosecution of law violators and professional adherence to Department rules and regulations.

##### 19. Specific Duties.

###### A. A member of the department shall:

1. Know and conform to Department rules and regulations.
2. Perform assigned duties in a professional manner.
3. Obey all orders of the supervisor officers and the Chief of Police.
4. Be in attendance during those hours specifically assigned and be considered on duty at all times for the purpose of rendering emergency police service.
5. Participate in formal parades and roll calls in a military manner.
6. When in uniform, maintain a military bearing and render military courtesy to superior officers.

7. Identify self by name, rank and shield number when so requested.
8. Report immediately any incapacity or inability to perform Department duties in the manner prescribed herein.
9. Immediately report any change of marital status, address, selective service rating or other matters effecting the administration of the Department to the Chief of Police.
10. Receive, record and service immediately all complaints and requests for service, and refer and transfer complaints and requests only in accordance with Department orders.
11. Possess a valid State of New York operator's or chauffeur's license and if such license is lost or revoked, immediately report same to the Chief of Police.
12. Remain on his duty assignment and leave only for a police or personal necessity. If required to leave, he or she shall record the time of departure and the reason and record this information on his or her daily activity report.
13. Provide security and care for prisoners and others delivered to his or her custody.
14. Search all prisoners.
15. Help secure medical attention for all sick and injured persons.
16. When assigned to a motor vehicle:
  - a. Inspect it for damage and defects.
  - b. Report to a supervisor officer any defects observed or incurred as per Department orders.
  - c. Protect it from possible damage or theft.
17. When operating a motor vehicle:
  - a. Be prudent and use skill, good judgement and care for the safety of persons and property.
  - b. Obey all traffic regulations unless on emergency assignment.
18. Give a minimum of two (2) weeks notice of intention to resign from the Department and thirty (30) days notice if retiring.
19. Wear the regulation uniform in the prescribed manner when assigned to uniform duty.
20. Report immediately the loss or damage of an Department equipment in writing to the Chief of Police.
21. Register with the Department all personal firearms capable of being concealed on the person. If loss or theft of any such weapon occurs, immediate report will be made to the Chief of Police in writing.
22. Notify the Fire Department when a fire is discovered and assist and cooperate with the Fire Department.

23. Attend all courts promptly when required or ordered, properly dressed.
24. Report the reason for court absence or tardiness to the Chief of Police in writing.
25. Appear in court in the regulation uniform unless assigned in civilian dress and then in suitable business attire.
26. When subpoenaed or requested to testify in behalf of the defense in any criminal prosecution or in behalf of the plaintiff or defendant in a civil matter in which the Town, County or State is party thereto, report immediately the receipt of such subpoena or request to the Chief of Police before appearing at any hearing or before entering into any discussion of the matter with anyone other than the legal representatives of the Town, County or State.
27. Report to the Chief of Police any information of a police nature, including offenses involving himself, herself or others and offenses with which he or she has been charged, except minor traffic offenses.
28. Investigate any person suspected of operating a motor vehicle while in an intoxicated condition and direct the administration of a chemical test to said person in accordance with the procedure prescribed by the Police Departments rules and regulations.
29. Obey the laws and ordinances which he is obligated to enforce.
30. Take fingerprints of all persons arrested for misdemeanors and felonies as required by state law.
31. Be deemed on duty twenty-four (24) hours per day and subject to recall with little or no advance notice. When a member is on a scheduled tour of duty or recalled for special duty, this shall be known as "active duty". When a member is not scheduled or is on authorized leave, this shall be known as "off duty".

#### ARTICLE V.

##### Rules of Conduct.

#### 20. Prohibited conduct.

- A. A member of the Department found guilty of any of the following acts will be considered in violation of the rules and regulations which govern the Police Department of the Town of Crawford, New York, and will be subject to disciplinary action.
  1. Conduct which brings discredit upon the department.
  2. Failure to perform a duty.
  3. Disobedience of an order.
  4. Insubordination or disrespect toward a superior officer.
  5. Inattention to duty.

6. *Lounging or sleeping on duty.*
7. *Being absent from duty without proper authorization.*
8. *Leaving duty assignment without being properly relieved or without proper authorization.*
9. *Incompetency or inefficiency in the performance of duty.*
10. *Entering any tavern or bar in uniform or any part thereof except when it is necessary for inspection or for the immediate performance of police duty.*
11. *Drinking alcoholic beverages while in any part of the uniform.*
12. *Violation of any duly constituted law.*
13. *Disorderly conduct.*
14. *Immoral conduct.*
15. *Using coarse, profane or insolent language to any person.*
16. *Any conduct unbecoming an officer, on or off duty, wherever he or she may be.*
17. *Failure to treat any person civilly and respectfully.*
18. *Willful maltreatment of any person.*
19. *Knowingly making a false report, written or oral.*
20. *Failure to wear the regulation uniform when on duty or so ordered.*
21. *Failure to maintain a neat and clean appearance of self, uniform and equipment.*
22. *The use of tobacco while in uniform in public, except in police facilities and police vehicles.*
23. *Standing or walking with hand in pocket while in uniform.*
24. *Receiving or attempting to receive a fee, gift, present or other thing of value from a person under arrest or from someone else on behalf of the arrested person.*
25. *Receiving, soliciting or attempting to solicit a bribe in any form.*
26. *Disseminating or releasing any information contained in a Department record except in conformance with Department orders.*
27. *Failure to identify self by name rank and shield number when requested.*
28. *Failure to pay all just indebtedness when due.*



29. Failure to seize, record, process and dispose of recovered or prisoner's property in conformance with Department orders.
30. Failure to notify a superior officer that a member of the Department is violating a rule or order of the Department.
31. Failure to handle stray or dead animals in conformance with Department orders.
32. Possessing or transporting when on duty or on Department property any intoxicating liquor except in accordance with department orders.
33. Defacing or neglecting to protect and preserve Department property.
34. Failure to obey Department orders concerning other employment, occupations or professions.
35. Engaging directly or indirectly in those occupations prohibited by Department orders or laws of the State of New York.
36. Allowing the publication of any photograph of oneself in the regulation uniform which advertises any commodity or commercial enterprise without permission of the Chief of Police.
37. Communicating or corresponding with other police agencies or individuals concerning police matters except in line of duty.
38. Participating in or contributing to any partisan political activity or campaign. (Section 426 of the Election Law).
39. Engaging in any activity, conversation, deliberation or discussion which is derogatory of Department policy or individuals.
40. Permitting any person not on official police business to ride in Department vehicles unless specifically authorized.
41. Riding in or on a non-department vehicle during duty hours except when authorized by a supervisor officer or in the pursuit of official police business.
42. Operating a Department vehicle out of the town except in immediate pursuit of law violators or when on official police business or authorized by the Chief of Police or his designee.
43. Operating a department vehicle without proper authorization or on other than official police business.
44. Pulling, pushing or towing any vehicle with a Department vehicle except as authorized by the Chief of Police.
45. Altering department equipment in any way except as authorized by the Chief of Police.
46. Unlawful or unnecessary use or display of a weapon.

47. Failure to report the discharge of a weapon immediately to the Chief of Police or his designee orally and in writing without unnecessary delay.
48. Selling, giving, lending or disposing of a dangerous weapon as outlined in Section 265.05 of the Penal Law of the State of New York contrary to the provisions of Section 265.10 and Subdivision 12(c) of Section 400 of the Penal Law and the rules and regulations of the Department.
49. Giving an opinion as to fine or penalty of a violator or suspect.
50. Giving an opinion as to bail except by those specifically authorized to admit to bail.
51. Failure to take, record and act upon complaints except as prescribed by department orders.
52. Removing, altering or changing any official department record except as provided for in department orders.
53. Issuing any device which purports to grant special privilege to the holder.
54. Displaying in any manner non-departmental or departmental posters or pictures in or on any department property or equipment except in conformance with department orders.
55. Obligating the department financially in any manner except as authorized by the Chief of Police or his designee.
56. Recommending to any citizen, any bondsman, lawyer, undertaker, physician, hospital, towing, repair or other professional or commercial service.
57. Failure to report any information of police nature in conformance with department orders.
58. Failure to obtain official permission to participate in public discussion of police or department business except as provided in department orders.
59. Interviewing, questioning or interrogating any person in a cell except unruly prisoners.
60. Soliciting or accepting a gift, present, reward, gratuity or other thing of value for any service rendered as a department member, excluding gifts received from relatives or close friends upon appropriate occasions.
61. Accepting any food or beverage or other valuable consideration without cost or at reduced cost at any time because of his official position as a member of the department.
62. Failure to submit a written report that he or she is under investigation by any other law enforcement agency to the Chief of Police within

twenty-four (24) hours of becoming aware of such investigation.

63. Refusal to testify on the grounds of possible self-incrimination, which shall be grounds for dismissal from the department.
64. Affiliation with any organization or body, the constitution or regulation of which would in any way exact prior consideration and prevent him from performing his or her department duties. However, membership in any union or other organization in connection with and relating solely to approved secondary employment of members of the department and required membership in military reserve units are specifically excepted from this regulation.
- 65.
- a. Engagement by an Officer or superior Officer in outside employment except with the written permission of the Chief of Police or his designee, who may issue such a permit providing; the provisions stated in Section 208-d of the General Municipal Law, (extra work by members of certain Police forces) are met first.
  - b. Part Time Police Officers cannot accept employment as a part time police officer for another Police agency subsequent to employment as part time Police Officer to the Town of Crawford, Therefore: acceptance of such part time employment shall result in automatic termination from the Town of Crawford Police Department.
66. Failure to appear neat and clean while on duty. Head hair shall be well groomed, with sideburns no longer than the middle of the ear, clean shaven except for mustache, and head hair at the back of the neck shall not extend over the shirt collar.

#### ARTICLE VI.

##### General Rules.

##### 21. Responsibility of members.

All members of the Police Department shall be subject to the rules and regulations. Members of the department are not merely employees but are officers of this state and town, charged with specific duties in maintaining public order and administering justice. Therefore, every member's sole responsibility must be to the Chief of Police and, through him, to the public.

##### 22. Duties of department.

It is the duty of the Police Department and the members to the department, all times of the day and night to protect life and property, prevent crime, detect and arrest offenders, preserve the public peace and enforce all laws and ordinances over which the Police Department has jurisdiction.

##### 23. Duties of patrolmen.

A. A patrolman, regularly performing patrol duty, shall report to work at the designated time, inspect his post, remain constantly alert and observant, note any condition therein requiring police attention and take appropriate action.

- B. He or she is charged with the enforcement of all laws and ordinances; also, with the proper condition and maintenance of departmental equipment, traffic control equipment of all types, streetlights, and public highways, curb and sidewalk conditions within the boundaries of the Town, and he or she shall promptly report through official channels any condition requiring attention and shall provide safeguards when necessary.

24. Duties of supervisory officers.

A supervisory officer on patrol is charged with the enforcement of all laws and ordinances; and the enforcement of rules and regulations. He or she is also charged with the proper condition and maintenance of department equipment, traffic control equipment of all types, street lights, and public highway, curb and sidewalk conditions within the Town, and shall promptly report through official channels any condition requiring attention and shall provide safeguards when necessary.

25. Additional duties and responsibilities of members.

A. Specific duties and responsibilities.

1. A member of the department shall be fit for duty and subject to duty at all times except when on sick report.
2. Members of the department shall treat as confidential the official business of the Police Department. He shall not talk for publication, nor be interviewed, nor make public speeches, nor shall he impart information relating to the official business of the department to anyone, except under due process of law and as directed or with the permission of the Chief of Police.
3. Members of the department shall be held strictly accountable for all information acquired by them on or off duty regarding all suspicious persons or places within the town.
4. A member of the department found guilty of violating a rule or regulation of the department or provisions of any order or orders, or of disobedience of orders, or of cowardice, or of intoxication while on duty or while in a uniform, or of conduct unbecoming an officer, or of making a false official communication, record or statement, or a member of the department convicted in a court having criminal jurisdiction, may be dismissed from the department or suffer such other punishment as the Town Board may direct.
5. Any acts of disorder or neglect in the performance of duty or affecting discipline of the department which have not been specifically mentioned in the rules and regulations shall be punishable at the discretion of the Town Board.
6. Any member who is actually ill and unable to report for duty shall personally notify the Chief of Police or Sergeant at least two (2) hours prior to his scheduled tour of duty. The Chief of Police may designate a supervisory officer to ascertain

illness and date when such officer will return to duty. A member may be required to produce a doctor's certificate attesting to nature of illness when instructed to do so by the Chief of Police or his designee.

ARTICLE VII.

Penalties.

26. Offenses against rules and regulations.

- A. Reprimand.
- B. Suspension, with or without pay.
- C. Demotion in grade and title.
- D. Dismissal or removal from the force or department.

27. Incompetent or inefficient service.

Separation of member from the department by the Town Board is warranted for incompetent, inept or inefficient performance of duty. Repeated disciplinary actions even for minor infractions will be considered prima facie evidence of unsuitability for police service.

ARTICLE VIII.

Definition and word usage.

28. The following definitions govern the use of these terms in the rules and regulations of the Department.

LAW and ORDINANCES - Those laws, both state and local, and ordinances and the enforcement of which is the responsibility of the Department.

MEMBER - Any sworn member of the Department.

OFF DUTY - All hours other than when on duty.

ON DUTY - Hours specifically assigned to a member or any time involved serving during a police emergency even though a member was not specifically assigned.

POLICE DEPARTMENT - or DEPARTMENT - The Department of Police of the Town of Crawford, Orange County, New York, and such term includes the term, (police force).

REGULATION EQUIPMENT - Equipment which meets specifications established by a Department order.

SUPERVISORY OFFICER - Any member, other than the Chief of Police, who is authorized to direct the activities of others.

TOWN BOARD - The Supervisor and Town Councilmen. (Section 60, Town Law)

The Board may make, adopt and enforce rules, orders and regulations for the government, discipline, administration and disposition of the Police Department of such town and the members thereof. (Section 154, Town Law).

29. Word usage.

All pronouns include the masculine and feminine genders unless otherwise specified.

ARTICLE IX.

Chemical Test

30. Arrest of operator.

When a member of the Department has reasonable grounds to believe that the operator of a motor vehicle or motorcycle is intoxicated by virtue of alcohol or that the ability to operate is impaired by virtue of alcohol or drugs, he shall arrest such operator in conformity to Article 31, Section 1192 of the Vehicle and Traffic Law or, in applicable instances, as authorized by Article 31, Section 1193 and 1194 of the Vehicle and Traffic Law.

31. When a prisoner consents to submit to a chemical test for driving while intoxicated (D.W.I.) or driving while ability impaired (D.W.A.I.) a test is to administered, Therefore; subject to circumstances at the time of arrest one of the following tests may be administered.
- a. Blood test
  - b. Urine test
  - c. Breath test

# THE TUTTLE LAW FIRM

Service by fax is not authorized

James B. Tuttle, Esq.  
jbtesq@nycap.rr.com  
Christina Wagar, Legal Assistant

10 Century Hill Drive  
Suite 4  
Latham, New York 12110

Phone: (518) 783-1001  
Fax: (518) 783-1515

May 17, 2007

VIA FAX TRANSMISSION  
AND FIRST CLASS MAIL

Joseph J. Ranni, Esq.  
Jacobowitz & Gubits, LLP  
158 Orange Avenue  
PO Box 367  
Walden, NY 12586-0367

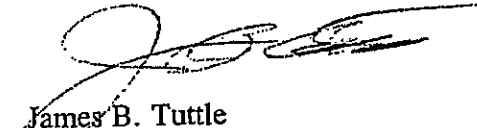
RE: In the matter of the disciplinary charges brought by the Town of Crawford  
Police Department -against- Officer Pedro M. Elias, Respondent.

Dear Mr. Ranni:

I am in receipt of your letter of May 17, 2007 purporting to bring on a hearing before the Town Board in this matter on June 17, 2007. Mr. Elias has clearly made his election to have this matter resolved pursuant to the grievance arbitration provisions of Article 13 of the collective bargaining agreement as required by §12.4 of the contract with respect to both sets of disciplinary charges now pending against him. The election was set forth in the preamble paragraph to the Objection to Discipline dated February 12, 2007 and also in the Objection to Discipline dated April 5, 2007. We will not submit to the procedures of §75, and will not attend any hearings that the Town may purport to hold pursuant to the procedures of §75 and §76 of the Civil Service Law.

Sincerely,

THE TUTTLE LAW FIRM



James B. Tuttle  
jbtesq@nycap.rr.com

JBT:clw

# THE TUTTLE LAW FIRM

James B. Tuttle, Esq.

OFFICE: (518) 783-1001

10 Century Hill Drive - Suite 4

FAX: (518) 783-1515

Latham, New York 12110

[jbtesq@nycap.rr.com](mailto:jbtesq@nycap.rr.com)

## TELECOMMUNICATIONS INFORMATION PAGE

PLEASE DELIVER THE FOLLOWING TO:	<i>Joseph Baroni Esq.</i>
TELECOPY NUMBER:	<i>945-778-5773</i>
FROM:	James B. Tuttle, Esq.
DATE:	<i>May 17, 2007</i>
NUMBER OF PAGES:	<i>2</i>
RE:	<i>By mail also</i>
COMMENTS: Please find the attached regarding the above-referenced matter. If you have any questions, please call The Tuttle Law Firm at (518) 783-1001. Thank you.	

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED AND/OR CONFIDENTIAL. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

IF YOUR FAX MACHINE USES ANYTHING OTHER THAN PLAIN PAPER, IN ORDER TO PRESERVE THIS COMMUNICATION, YOU SHOULD PHOTOCOPY IT, BECAUSE MESSAGES ON SOME FAX PAPER FADE OVER TIME.



GERALD N. JACOBOWITZ  
DAVID B. GUBITS  
JOHN H. THOMAS JR.  
GERALD A. LENNON  
PETER R. ERIKSEN  
HOWARD PROTTER  
DONALD G. NICHOL  
LARRY WOLINSKY  
ROBERT E. DINARDO  
J. BENJAMIN GAILEY  
MARK A. KROHN\*  
JOHN C. CAPPELLO  
GEORGE W. LITHCO  
MICHAEL L. CAREY  
\*LL.M. IN TAXATION

# JACOBOWITZ AND GUBITS, LLP

## COUNSELORS AT LAW

158 ORANGE AVENUE  
POST OFFICE BOX 367  
WALDEN, NEW YORK 12586-0367

(845) 778-2121 (845) 778-5173 FAX  
E-mail: [info@jacobowitz.com](mailto:info@jacobowitz.com)

G. BRIAN MORGAN  
KIRK VAN TASSELL  
SANFORD R. ALTMAN  
MARK T. STARKMAN  
AMANDA B. BRADY  
MICHELE L. BABCOCK  
GARY M. SCHUSTER  
WILLIAM E. DUQUETTE  
JOSEPH J. RANNI  
AUDREY L. F. SCOTT  
CARMEE G. MURPHY

PAULA ELAINE KAY\*  
IRA J. COHEN\*

\*Of Counsel

May 24, 2007

by fax (518) 783-1515 and by Mail

James B. Tuttle, Esq.  
The Tuttle Law Firm  
10 Century Hill Drive, Suite 4  
Latham, New York 12110

Re: Pedro M. Elias/Town of Crawford

Dear Counselor Tuttle:

This will respond to your correspondence of May 17<sup>th</sup>, 2007.

Please be advised the hearing is called pursuant to the New York State Town Law §155. As your review of the statute and case law will disclose, the grievance procedure and the Collective Bargaining procedure is unavailable. *See, Matter of Patrolman's Benev. Assoc'n of New York v. New York State PERB, 6 N.Y.3d 563 (2006).*

Consequently, the hearing shall go forward on June 14<sup>th</sup>, 2007. Officer Elias' failure to appear shall be deemed a waiver of his opportunity to be represented by counsel and present evidence or witnesses.

Please contact me concerning the above or if you have any questions. Thank you for your cooperation.

Sincerely,

  
Joseph J. Ranni

JJR/dmg

cc: Town of Crawford

GERALD N. JACOBOWITZ  
 DAVID B. GUBITS  
 JOHN H. THOMAS JR.  
 GERALD A. LENNON  
 PETER R. ERIKSEN  
 HOWARD PROTTER  
 DONALD G. NICHOL  
 LARRY WOLINSKY  
 ROBERT E. DINARDO  
 J. BENJAMIN GAILEY  
 MARK A. KROHN\*  
 JOHN C. CAPPELLO  
 GEORGE W. LITHCO  
 MICHAEL L. CAREY  
\*LL.M. IN TAXATION

# JACOBOWITZ AND GUBITS, LLP

## COUNSELORS AT LAW

158 ORANGE AVENUE  
 POST OFFICE BOX 367  
 WALDEN, NEW YORK 12586-0367

(845) 778-2121 (845) 778-5173 FAX  
 E-mail: [info@jacobowitz.com](mailto:info@jacobowitz.com)

G. BRIAN MORGAN  
 KIRK VAN TASSELL  
 SANFORD R. ALTMAN  
 MARK T. STARKMAN  
 AMANDA B. BRADY  
 MICHELE L. BABCOCK  
 GARY M. SCHUSTER  
 WILLIAM E. DUQUETTE  
 JOSEPH J. RANNI  
 AUDREY L. F. SCOTT  
 CARMEE G. MURPHY

PAULA ELAINE KAY\*  
 IRA J. COHEN\*

\*Of Counsel

Fax #:	(518) 783-1515	RE:	Pedro M. Elias/Town of Crawford
To:	James B. Tuttle, Esq.	File #:	647-730
Date:	May 24, 2007	From:	Joseph J. Ranni, Esq.
Phone #:	(518) 783-1001	Total Pages:	2
Attached Documents:			
<b>MESSAGE:</b>			

### NOTICE

THE INFORMATION CONTAINED IN THIS FACSIMILE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS FACSIMILE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR REPRODUCTION OF THIS FACSIMILE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL FACSIMILE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU FOR YOUR COOPERATION.

IF YOU HAVE PROBLEMS RECEIVING THIS FAX PLEASE CALL 845-778-2121.

MODE = MEMORY TRANSMISSION

START=MAY-24 12:35

END=MAY-24 12:36

FILE NO.=874

STN NO.	COMM.	STATION NAME/EMAIL ADDRESS/TELEPHONE NO.	PAGES	DURATION
001	OK	215187831515	002/002	00:00:34

-JACOBOWITZ GUBITS LLP -

\*\*\*\*\* e-STUDIO190F \*\*\*\*\* - \*\*\*\*\* - 845 778 2580- \*\*\*\*\*

GERALD N. JACOBOWITZ  
DAVID B. GUBITS  
JOHN H. THOMAS JR.  
GERALD A. LENNON  
PETER R. ERIKSEN  
HOWARD PROTTER  
DONALD G. NICHOL  
LARRY WOLINSKY  
ROBERT E. DINARDO  
J. BENJAMIN GAILEY  
MARK A. KROHN\*  
JOHN C. CAPPELLO  
GEORGE W. LITCO  
MICHAEL L. CAREY  
\*LL.M. IN TAXATION

**JACOBOWITZ AND GUBITS, LLP**  
COUNSELORS AT LAW

158 ORANGE AVENUE  
POST OFFICE BOX 307  
WALDRN, NEW YORK 12586-0367

(845) 778-2121 (845) 778-5173 FAX  
E-mail: [info@jacobowitz.com](mailto:info@jacobowitz.com)

G. BRIAN MORGAN  
KIRK VAN TASSELL  
SANFORD R. ALTMAN  
MARK T. STARKMAN  
AMANDA B. BRADY  
MICHELE L. BABCOCK  
GARY M. SCHUSTER  
WILLIAM E. DUQUETTE  
JOSEPH J. RANNI  
AUDREY I. F. SCOTT  
CARMEE G. MURPHY

PAULA ELAINE KAY\*  
IRA J. COHEN\*  
\*Of Counsel

Fax #:	(518) 783-1515	RE:	Pedro M. Elias/Town of Crawford
To:	James B. Tuttle, Esq.	File #:	647-730
Date:	May 24, 2007	From:	Joseph J. Ranni, Esq.
Phone #:	(518) 783-1001	Total Pages:	2
Attached Documents:			
MESSAGE:			

**NOTICE**

THE INFORMATION CONTAINED IN THIS FACSIMILE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS FACSIMILE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR REPRODUCTION OF THIS FACSIMILE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL FACSIMILE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU FOR YOUR COOPERATION.

IF YOU HAVE PROBLEMS RECEIVING THIS FAX PLEASE CALL 845-778-2121.

GERALD N. JACOBOWITZ  
DAVID B. GUBITS  
JOHN H. THOMAS JR.  
GERALD A. LENNON  
PETER R. ERIKSEN  
HOWARD PROTTER  
DONALD G. NICHOL  
LARRY WOLINSKY  
ROBERT E. DINARDO  
J. BENJAMIN GAILEY  
MARK A. KROHN\*  
JOHN C. CAPPELLO  
GEORGE W. LITHCO  
MICHAEL L. CAREY  
\*LL.M. IN TAXATION

## JACOBOWITZ AND GUBITS, LLP

### COUNSELORS AT LAW

158 ORANGE AVENUE  
POST OFFICE BOX 367  
WALDEN, NEW YORK 12586-0367

(845) 778-2121 (845) 778-5173 FAX  
E-mail: [info@jacobowitz.com](mailto:info@jacobowitz.com)

G. BRIAN MORGAN  
KIRK VAN TASSELL  
SANFORD R. ALTMAN  
MARK T. STARKMAN  
AMANDA B. BRADY  
MICHELE L. BABCOCK  
GARY M. SCHUSTER  
WILLIAM E. DUQUETTE  
JOSEPH J. RANNI  
AUDREY L. F. SCOTT  
CARMEE G. MURPHY  
ALYSE D. TERHUNE

PAULA ELAINE KAY\*  
IRA J. COHEN\*

\*Of Counsel

June 14, 2007

by fax (518) 783-1515

James B. Tuttle, Esq.  
The Tuttle Law Firm  
10 Century Hill Drive, Suite 4  
Latham, New York 12110

Re: Pedro M. Elias/Town of Crawford

Dear Counselor Tuttle:

This will follow our conversation of yesterday relative to the above-referenced matter.

As discussed, Officer Elias' disciplinary hearing is scheduled for this evening before the Town Board as per the Notice of Hearing. As per our prior correspondence, a failure to appear by Officer Elias will be deemed a waiver of his right to present witnesses and cross-examine the evidence that will be presented. Enclosed herewith please find the cover sheet of the exhibits that shall be presented. Additionally, Chief McCann will be available to testify relative to his recommendation.

Lastly, Officer Elias is offered the opportunity to resign up through the time of hearing.

Please contact me concerning the above or if you have any questions. Thank you for your cooperation and courtesies.

Sincerely,

  
Joseph J. Ranni

JJR/dmg  
Enc.

MODE = MEMORY TRANSMISSION

START=JUN-14 10:56

END=JUN-14 10:58

FILE NO.=359

STN NO.	COMM.	STATION NAME/EMAIL ADDRESS/TELEPHONE NO.	PAGES	DURATION
001	OK	a15187831515	002/002	00:00:29

-JACOBOWITZ GUBITS LLP -

\*\*\*\*\* e-STUDIO190F \*\*\*\*\* -

- \*\*\*\*\* - 845 778 2580- \*\*\*\*\*

GERALD N. JACOBOWITZ  
 DAVID B. GUBITS  
 JOHN H. THOMAS JR.  
 GERALD A. LENNON  
 PETER R. ERIKSEN  
 HOWARD PROTTER  
 DONALD G. NICHOL  
 LARRY WOLINSKY  
 ROBERT E. DINARDO  
 J. BENJAMIN GAILEY  
 MARK A. KROHN\*  
 JOHN C. CAPPELLO  
 GEORGE W. LITHCO  
 MICHAEL L. CAREY  
\*LL.M. IN TAXATION

### JACOBOWITZ AND GUBITS, LLP

COUNSELORS AT LAW

158 ORANGE AVENUE  
 POST OFFICE BOX 367  
 WALDEN, NEW YORK 12586-0367

(845) 778-2121 (845) 778-5173 FAX  
 E mail: [info@jacobowitz.com](mailto:info@jacobowitz.com)

G. BRIAN MORGAN  
 KIRK VAN TASSELL  
 SANFORD R. ALTMAN  
 MARK T. STARKMAN  
 AMANDA B. BRADY  
 MICHELE L. BABCOCK  
 GARY M. SCHUSTER  
 WILLIAM E. DUQUETTE  
 JOSEPH J. RANNI  
 AUDREY L. F. SCOTT  
 CARMEE G. MURPHY

PAULA ELAINE KAY\*  
 IRA J. COHEN\*  
\*Of Counsel

Fax #:	(518) 783-1515	RE:	Pedro M. Elias/Town of Crawford
To:	James B. Tuttle, Esq.	File #:	647-730
Date:	June 14, 2007	From:	Joseph J. Ranni, Esq.
Phone #:	(518) 783-1001	Total Pages:	2
Attached Documents:			

MESSAGE:

#### NOTICE

THE INFORMATION CONTAINED IN THIS FACSIMILE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS FACSIMILE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR REPRODUCTION OF THIS FACSIMILE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL FACSIMILE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU FOR YOUR COOPERATION.

IF YOU HAVE PROBLEMS RECEIVING THIS FAX PLEASE CALL 845-778-2121.

GERALD N. JACOBOWITZ  
DAVID B. GUBITS  
JOHN H. THOMAS JR.  
GERALD A. LENNON  
PETER R. ERIKSEN  
HOWARD PROTTER  
DONALD G. NICHOL  
LARRY WOLINSKY  
ROBERT E. DINARDO  
J. BENJAMIN GAILEY  
MARK A. KROHN\*  
JOHN C. CAPPELLO  
GEORGE W. LITHCO  
MICHAEL L. CAREY  
\*LL.M. IN TAXATION

# JACOBOWITZ AND GUBITS, LLP

## COUNSELORS AT LAW

158 ORANGE AVENUE  
POST OFFICE BOX 367  
WALDEN, NEW YORK 12586-0367

(845) 778-2121 (845) 778-5173 FAX  
E-mail: [info@jacobowitz.com](mailto:info@jacobowitz.com)

G. BRIAN MORGAN  
KIRK VAN TASSELL  
SANFORD R. ALTMAN  
MARK T. STARKMAN  
AMANDA B. BRADY  
MICHELE L. BABCOCK  
GARY M. SCHUSTER  
WILLIAM E. DUQUETTE  
JOSEPH J. RANNI  
AUDREY L. F. SCOTT  
CARMEE G. MURPHY

PAULA ELAINE KAY\*  
IRA J. COHEN\*

\*Of Counsel

Fax #:	(518) 783-1515	RE:	Pedro M. Elias/Town of Crawford
To:	James B. Tuttle, Esq.	File #:	647-730
Date:	June 14, 2007	From:	Joseph J. Ranni, Esq.
Phone #:	(518) 783-1001	Total Pages:	2
Attached Documents:			

### MESSAGE:

### NOTICE

THE INFORMATION CONTAINED IN THIS FACSIMILE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS FACSIMILE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR REPRODUCTION OF THIS FACSIMILE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL FACSIMILE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU FOR YOUR COOPERATION.

IF YOU HAVE PROBLEMS RECEIVING THIS FAX PLEASE CALL 845-778-2121.

8-14-07

ORIGINAL

GRIEVANT 21

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ORANGE

-----X  
PEDRO ELIAS,

Petitioner,

Index No. 4933-2007

G-11

-against-

**DECISION AND ORDER**

THE TOWN OF CRAWFORD,

Respondent.

-----X  
SLOBOD, J.

On the court's own motion, the "order and judgment" signed by the undersigned on August 14, 2007 which was submitted by respondent's attorneys is hereby recalled and vacated, the court having signed a "judgment" on August 14, 2007 which was submitted by petitioner's attorney which remains in full force and effect.

The court notes that in this judicial district responsibility for entry of the judgment is the court's; the original judgment is not returned to the attorney for entry with the county clerk.

ENTER

Dated: October 23, 2007  
Goshen, New York

Elaine Slobod  
HON. ELAINE SLOBOD, A.J.S.C.

TO: THE TUTTLE LAW FIRM  
Attorneys for Petitioner  
10 Century Hill Drive, Suite 4  
Latham, New York 12110

JACOBOWITZ & GUBITS, LLP  
Attorneys for Respondent  
P.O. Box 367  
Walden, New York 12586-0367

STATE OF NEW YORK  
SUPREME COURT

COUNTY OF ORANGE

PEDRO ELIAS,

Petitioner,

Index No.: 4933/07

Hon. Elaine Slobod, Acting JSC

THE TOWN OF CRAWFORD,  
Respondent.

---

---

## JUDGMENT

---

---

THIS PETITION to compel arbitration pursuant to Article 75 of the Civil Practice Law and Rules having duly come before this Court for determination,

NOW, UPON READING AND FILING the Order To Show Cause dated June 14, 2007 and signed by Hon. Elaine Slobod, Acting Supreme Court Justice, the verified Petition of Pedro Elias duly verified the 30<sup>th</sup> day of May 2007 with Exhibits "A" through "E" annexed thereto, the Affirmation of James B. Tuttle, Esq. affirmed the 30<sup>th</sup> day of May 2007 with Exhibits "A" and "B" annexed thereto, and the Reply Affirmation of James B. Tuttle, Esq. affirmed the 18<sup>th</sup> day of July 2007, all in support of the Petition, and

UPON READING AND FILING the verified answer of The Town of Crawford dated the 12<sup>th</sup> day of July, 2007, and the Affirmation in Opposition of Joseph J. Ranni, Esq., affirmed the 10<sup>th</sup> day of July 10, 2007 with Exhibits "A" through "Y" annexed thereto all in opposition to the Petition, and the parties having been heard in oral argument on the 20<sup>th</sup> day of July 2007, James B. Tuttle, Esq. appearing for the Petitioner and Joseph Ranni, Esq., appearing for the Respondent, and



DUE DELIBERATION HAVING BEEN HAD, and a written Decision granting the Petition having been rendered on July 26, 2007, ~~a copy of which is annexed hereto and incorporated herein.~~

NOW, THEREFORE,

IT IS ORDERED AND ADJUDGED that the Petition to Compel Arbitration be and the same hereby is in all respects granted, and

IT IS FURTHER ORDERED AND ADJUDGED that all actions taken by the Respondent with respect to the Petitioner's employment pursuant to the purported authority of §155 of the Town Law be and the same hereby are declared a nullity and of no force and effect, and

IT IS FURTHER ORDERED AND ADJUDGED that the Respondent be and it hereby is directed to proceed with the arbitration of its disciplinary charges against the Petitioner in accordance with the provisions of Article 12 of the collective bargaining agreement between the Town of Crawford and the Town of Crawford Police Benevolent Association.

DATED: August 14, 2007  
AT: Goshen, New York

ENTER

Elaine Slobod  
HON. ELAINE SLOBOD  
(Acting) Supreme Court Justice

~~ENTER.~~

COUNTY OF ORANGE

-----X  
PEDRO ELIAS,

Petitioner,

-against-

THE TOWN OF CRAWFORD,

Respondent.  
-----X

**ORDER AND  
JUDGMENT**

Index No. 4933/07

**HON. ELAINE SLOBOD  
ACTING SUPREME COURT JUSTICE**

THIS PETITION to compel arbitration pursuant to Article 75 of the Civil Practice Law and Rules having duly come before this Court for determination,

NOW, UPON READING AND FILING the Order to Show Cause dated June 14, 2007 and signed by Hon. Elaine Slobod, Acting Supreme Court Justice, the verified Petition of Pedro Elias duly verified the 30<sup>th</sup> day of May 2007 with Exhibits "A" through "E" annexed thereto, the Affirmation of James B. Tuttle, Esq. affirmed the 30<sup>th</sup> day of May 2007 with Exhibits "A" and "B" annexed thereto, and the Reply Affirmation of James B. Tuttle, Esq. affirmed the 18<sup>th</sup> day of July, 2007, all in support of the Petition, and

UPON READING AND FILING the verified answer of The Town of Crawford dated the 12<sup>th</sup> day of July, 2007, and the Affirmation in Opposition of Joseph J. Ranni, Esq., affirmed the 10<sup>th</sup> day of July, 2007 with Exhibits "A" through "Y" annexed thereto all in opposition to the Petition, and the parties having been heard in oral argument on the 20<sup>th</sup> day of July 2007, James B. Tuttle, Esq. appearing for the Petitioner and Joseph Ranni, Esq., appearing for the Respondent, and

DUE DELIBERATION HAVING BEEN HAD, and a written Decision granting the  
Petition having been rendered on July 26, 2007, ~~a copy of which is annexed hereto and~~ Σ. J.  
~~incorporated herein,~~

NOW, THEREFORE,

IT IS ORDERED AND ADJUDGED that the Petition to Compel Arbitration be and the  
same hereby is in all respects granted, and

IT IS ORDERED AND ADJUDGED that Petitioner properly involved the arbitration  
grievance procedure under the Collective Bargaining Agreement in effect between the parties.

IT IS ORDERED AND ADJUDGED that the parties proceed with the arbitration in  
accordance with the provisions of the collective bargaining agreement between the Town of  
Crawford and the Town of Crawford Police Benevolent Association.

Dated: August 14, 2007  
Goshen, New York

S/ HON. ELAINE SLOBOD  
ACTING SUPREME COURT JUSTICE  
HON. ELAINE SLOBOD  
(Acting) Supreme Court Justice

ENTER:

7-15-08

Town of Crawford  
County of Orange - State of New York

In the Matter of Disciplinary Charges

Pedro M. Elias -against-

**NOTICE OF  
DISCIPLINE AND  
STATEMENT OF  
CHARGES**

Under and Pursuant to Section 75 of the Civil Service Law  
of the State of New York

TO: Pedro M. Elias  
84 New Street  
Pine Bush, NY 12566

In accordance with the provisions of Section 75 of the Civil Service Law of the State of New York, you are hereby notified that the following charges are preferred against you:

**CHARGE 1: You have engaged in conduct which brings discredit upon the Town of Crawford Police Department.**

**SPECIFICATION 1:**

On or about the 11<sup>th</sup> day of March 2008, you engaged in conduct threatening, harassing, alarming or intimidating toward [REDACTED] in the Town of Newburgh, County of Orange, State of New York.

**SPECIFICATION 2:**

On or about the 11<sup>th</sup> day of March 2008, you engaged in conduct toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, in the Town of New Windsor.

**SPECIFICATION 3:**

On or about the 16<sup>th</sup> day of March, 2008, you contacted the Town of New Windsor Police Department in an intoxicated condition.

**SPECIFICATION 4:**

On or about the 8<sup>th</sup> day of March 2008, you engaged in conduct in the Town of Crawford toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same.

**SPECIFICATION 5:**

On or about the 10<sup>th</sup> day of March 2008, you engaged in stalking conduct toward [REDACTED] in the Town of Crawford.

**SPECIFICATION 6:**

On or about the 16<sup>th</sup> day of March 2008, you engaged in conduct in the Town of Crawford toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, in the Town of Crawford.

**SPECIFICATION 7:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 120.04 05, "vehicle assault in the first degree".

**SPECIFICATION 8:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 240.26, "harassment in the second degree".

**SPECIFICATION 9:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 240.30, "aggravated harassment in the second degree".

**SPECIFICATION 10:**

On or about the 5<sup>th</sup> day of July, 2007 in the Town of Crawford, you extended your middle finger towards Sgt. Richard Morrow; took pictures of Sgt. Morrow and made verbal threats that "I'm going to kick your ass"; "you're going to get yours" and "this isn't over".

**SPECIFICATION 11:**

That on several occasions you have made false accusations towards Sgt. Richard Morrow that he was engaged in a sexual relationship with your ex-wife and engaged in stalking like conduct towards Sgt. Morrow including driving slowly past his house at a very slow rate of speed; while seeing him in the community engaging in conduct that was offensive and hostile towards Sgt. Morrow and spreading falsities and rumors in the community disparaging Sgt. Richard Morrow.

**SPECIFICATION 12:**

On or about the 5<sup>th</sup> day of July, 2007 in the Town of Crawford, you extended your middle finger towards Sgt. Richard Morrow and took pictures of Sgt. Morrow.

**SPECIFICATION 13:**

That on several occasions you have engaged in stalking like conduct towards Sgt. Meier including following him in his vehicle; taking pictures and making obscene gestures while seeing him in the community and engaging in conduct that was offensive and hostile towards Sgt. Meier.

**SPECIFICATION 14:**

On or about the 29<sup>th</sup> day of May, 2008, you falsely represented to the Orange County Sheriff's office that you were a police officer with the Town of Crawford Police Department.

**SPECIFICATION 15:**

That in the presence of an officer, while at the police station for the Town of Crawford, you made demeaning comments concerning superior officers and references that you wished that they would all be dead.

**CHARGE 2:** You have engaged in conduct which violates a duly constituted law

**SPECIFICATION 1:**

On or about the 11<sup>th</sup> day of March 2008, you engaged in conduct threatening, harassing, alarming or intimidating toward [REDACTED] in the Town of Newburgh, County of Orange, State of New York.

**SPECIFICATION 2:**

On or about the 11<sup>th</sup> day of March 2008, you engaged in conduct toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, in the Town of New Windsor.

**SPECIFICATION 3:**

On or about the 8<sup>th</sup> day of March 2008, you engaged in conduct in the Town of Crawford toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same.

**SPECIFICATION 4:**

On or about the 10<sup>th</sup> day of March 2008, you engaged in stalking conduct toward [REDACTED] in the Town of Crawford.

**SPECIFICATION 5:**

On or about the 16<sup>th</sup> day of March 2008, you engaged in conduct in the Town of Crawford toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, in the Town of Crawford.

**SPECIFICATION 6:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 120.04 05, "vehicle assault in the first degree".

**SPECIFICATION 7:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 240.26, "harassment in the second degree".

**SPECIFICATION 8:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 240.30, "aggravated harassment in the second degree".

**SPECIFICATION 9:**

On or about the 29<sup>th</sup> day of May, 2008, you falsely represented to the Orange County Sheriff's office that you were a police officer with the Town of Crawford Police Department.

**CHARGE 3:** You have engaged in conduct which is unbecoming an officer.

**SPECIFICATION 1:**

On or about the 11<sup>th</sup> day of March 2008, you engaged in conduct threatening, harassing, alarming or intimidating toward [REDACTED] in the Town of Newburgh, County of Orange, State of New York.

**SPECIFICATION 2:**

On or about the 11<sup>th</sup> day of March 2008, you engaged in conduct toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, in the Town of New Windsor.

**SPECIFICATION 3:**

On or about the 16<sup>th</sup> day of March, 2008, you contacted the Town of New Windsor Police Department in an intoxicated condition.



**SPECIFICATION 4:**

On or about the 8<sup>th</sup> day of March 2008, you engaged in conduct in the Town of Crawford toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same.

**SPECIFICATION 5:**

On or about the 10<sup>th</sup> day of March 2008, you engaged in stalking conduct toward [REDACTED] in the Town of Crawford.

**SPECIFICATION 6:**

On or about the 16<sup>th</sup> day of March 2008, you engaged in conduct in the Town of Crawford toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, in the Town of Crawford.

**SPECIFICATION 7:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 120.04 05, "vehicle assault in the first degree".

**SPECIFICATION 8:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 240.26, "harassment in the second degree".

**SPECIFICATION 9:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 240.30, "aggravated harassment in the second degree".

**SPECIFICATION 10:**

On or about the 5<sup>th</sup> day of July, 2007 in the Town of Crawford, you extended your middle finger towards Sgt. Richard Morrow; took pictures of Sgt. Morrow and made verbal threats that "I'm going to kick your ass"; "you're going to get yours" and "this isn't over".

**SPECIFICATION 11:**

That on several occasions you have made false accusations towards Sgt. Richard Morrow that he was engaged in a sexual relationship with your ex-wife and engaged in stalking like conduct towards Sgt. Morrow including driving slowly past his house at a very slow rate of speed; while seeing him in the community engaging in conduct that was offensive and hostile towards Sgt. Morrow and spreading falsities and rumors in the community disparaging Sgt. Richard Morrow.

**SPECIFICATION 12:**

On or about the 5<sup>th</sup> day of July, 2007 in the Town of Crawford, you extended your middle finger towards Sgt. Eric Meier and took pictures of Sgt. Meier.

**SPECIFICATION 13:**

That on several occasions you have engaged in stalking like conduct towards Sgt. Meier including following him in his vehicle; taking pictures and making obscene gestures while seeing him in the community and engaging in conduct that was offensive and hostile towards Sgt. Meier

**SPECIFICATION 14:**

On or about the 29<sup>th</sup> day of May, 2008, you falsely represented to the Orange County Sheriff's office that you were a police officer with the Town of Crawford Police Department.

**SPECIFICATION 15:**

That in the presence of an officer, while at the police station for the Town of Crawford, you made demeaning comments concerning superior officers and references that you wished that they would all be dead.

**CHARGE 4:** You have engaged in conduct which constitutes a failure to treat a person civilly and respectfully.

**SPECIFICATION 1:**

On or about the 11<sup>th</sup> day of March 2008, you engaged in conduct threatening, harassing, alarming or intimidating toward [REDACTED] in the Town of Newburgh, County of Orange, State of New York.

**SPECIFICATION 2:**

On or about the 11<sup>th</sup> day of March 2008, you engaged in conduct toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, in the Town of New Windsor.

**SPECIFICATION 3:**

On or about the 16<sup>th</sup> day of March, 2008, you contacted the Town of New Windsor Police Department in an intoxicated condition.

**SPECIFICATION 4:**

On or about the 8<sup>th</sup> day of March 2008, you engaged in conduct in the Town of Crawford toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same.

**SPECIFICATION 5:**

On or about the 10<sup>th</sup> day of March 2008, you engaged in stalking conduct toward [REDACTED] in the Town of Crawford.

**SPECIFICATION 6:**

On or about the 16<sup>th</sup> day of March 2008, you engaged in conduct in the Town of Crawford toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, in the Town of Crawford.

**SPECIFICATION 7:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 120.04 05, "vehicle assault in the first degree".

**SPECIFICATION 8:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 240.26, "harassment in the second degree".

**SPECIFICATION 9:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 240.30, "aggravated harassment in the second degree".

**SPECIFICATION 10:**

On or about the 5<sup>th</sup> day of July, 2007 in the Town of Crawford, you extended your middle finger towards Sgt. Richard Morrow; took pictures of Sgt. Morrow and made verbal threats that "I'm going to kick your ass"; "you're going to get yours" and "this isn't over".

**SPECIFICATION 11:**

That on several occasions you have made false accusations towards Sgt. Richard Morrow that he was engaged in a sexual relationship with your ex-wife and engaged in stalking like conduct towards Sgt. Morrow including driving slowly past his house at a very slow rate of speed; while seeing him in the community engaging in conduct that was offensive and hostile towards Sgt. Morrow and spreading falsities and rumors in the community disparaging Sgt. Richard Morrow.

**SPECIFICATION 12:**

On or about the 5<sup>th</sup> day of July, 2007 in the Town of Crawford, you extended your middle finger towards Sgt. Eric Meier and took pictures of Sgt. Meier.

**SPECIFICATION 13:**

That on several occasions you have engaged in stalking like conduct towards Sgt. Meier including following him in his vehicle; taking pictures and making obscene gestures while seeing him in the community and engaging in conduct that was offensive and hostile towards Sgt. Meier

**SPECIFICATION 14:**

On or about the 29<sup>th</sup> day of May, 2008, you falsely represented to the Orange County Sheriff's office that you were a police officer with the Town of Crawford Police Department.

**SPECIFICATION 15:**

That in the presence of an officer, while at the police station for the Town of Crawford, you made demeaning comments concerning superior officers and references that you wished that they would all be dead.

**CHARGE 5:** You have engaged in conduct which constitutes willful maltreatment of a person.

**SPECIFICATION 1:**

On or about the 11<sup>th</sup> day of March 2008, you engaged in conduct threatening, harassing, alarming or intimidating toward [REDACTED] in the Town of Newburgh, County of Orange, State of New York.

**SPECIFICATION 2:**

On or about the 11<sup>th</sup> day of March 2008, you engaged in conduct toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, in the Town of New Windsor.

**SPECIFICATION 3:**

On or about the 16<sup>th</sup> day of March, 2008, you contacted the Town of New Windsor Police Department in an intoxicated condition.

**SPECIFICATION 4:**

On or about the 8<sup>th</sup> day of March 2008, you engaged in conduct in the Town of Crawford toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same.

**SPECIFICATION 5:**

On or about the 10<sup>th</sup> day of March 2008, you engaged in stalking conduct toward [REDACTED] in the Town of Crawford.

**SPECIFICATION 6:**

On or about the 16<sup>th</sup> day of March 2008, you engaged in conduct in the Town of Crawford toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, in the Town of Crawford.

**SPECIFICATION 7:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 120.04 05, "vehicle assault in the first degree".

**SPECIFICATION 8:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 240.26, "harassment in the second degree".

**SPECIFICATION 9:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 240.30, "aggravated harassment in the second degree".

**SPECIFICATION 10:**

On or about the 5<sup>th</sup> day of July, 2007 in the Town of Crawford, you extended your middle finger towards Sgt. Richard Morrow; took pictures of Sgt. Morrow and made verbal threats that "I'm going to kick your ass"; "you're going to get yours" and "this isn't over".

**SPECIFICATION 11:**

That on several occasions you have made false accusations towards Sgt. Richard Morrow that he was engaged in a sexual relationship with your ex-wife and engaged in stalking like conduct towards Sgt. Morrow including driving slowly past his house at a very slow rate of speed; while seeing him in the community engaging in conduct that was offensive and hostile towards Sgt. Morrow and spreading falsities and rumors in the community disparaging Sgt. Richard Morrow.

**SPECIFICATION 12:**

On or about the 5<sup>th</sup> day of July, 2007 in the Town of Crawford, you extended your middle finger towards Sgt. Eric Meier and took pictures of Sgt. Meier.

**SPECIFICATION 13:**

That on several occasions you have engaged in stalking like conduct towards Sgt. Meier including following him in his vehicle; taking pictures and making obscene gestures while seeing him in the community and engaging in conduct that was offensive and hostile towards Sgt. Meier

**SPECIFICATION 14:**

On or about the 29<sup>th</sup> day of May, 2008, you falsely represented to the Orange County Sheriff's office that you were a police officer with the Town of Crawford Police Department.

**SPECIFICATION 15:**

That in the presence of an officer, while at the police station for the Town of Crawford, you made demeaning comments concerning superior officers and references that you wished that they would all be dead.

**CHARGE 6:** You have failed to submit a written report to the Chief of Police within twenty-four hours of becoming aware that you were under investigation by another law enforcement agency.

**SPECIFICATION 1:**

On or after the 19<sup>th</sup> day of March 2008, you failed to submit a written report to the Chief of Police to report a criminal summons had been issued and that you were under investigation for the charge of "vehicle assault in the first degree" in violation of Penal Law 120.04 05.

**SPECIFICATION 2:**

On or after the 19<sup>th</sup> day of March 2008, you failed to submit a written report to the Chief of Police to report a criminal summons was issued against you charging a violation of Penal Law 240.26, "harassment in the second degree".

**SPECIFICATION 3:**

On or after the 19<sup>th</sup> day of March 2008, you failed to submit a written report to the Chief of Police to report a criminal summons was issued against you charging a violation of Penal Law 240.30, "aggravated harassment in the second degree".

**SPECIFICATION 4:**

On or about the 5<sup>th</sup> day of July, 2007, you were under investigation for disorderly conduct and disturbance of the peace in the Town of Crawford and you failed to submit a written report to the Chief of Police within twenty-four (24) hours thereof.

**SPECIFICATION 5:**

That you have failed to submit a written report to the Chief of Police within twenty-four (24) hours of you being advised of an investigation by the Foxborough, Massachusetts Police Department alleging you traveled to Massachusetts for the purpose of hurting a person.

**CHARGE 7: VIOLATION OF THE TOWN OF CRAWFORD RULES OF CONDUCT**

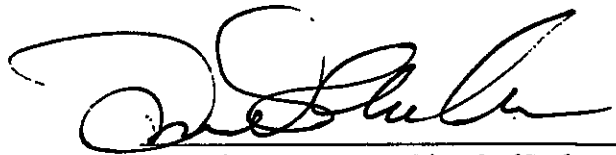


**SPECIFICATION 1:**

The foregoing acts alleged in Charges "1" through "6" constitute violations of the established Rules of Conduct, to wit:

- Rule 1. Conduct which brings discredit upon the department
- Rule 12. Violation of any duly constituted law.
- Rule 16. Any conduct unbecoming an officer, on or off duty, where ever he or she may be.
- Rule 17. Failure to treat any person civilly and respectfully.
- Rule 18. Willful maltreatment of any person.
- Rule 62. Failure to submit a written report that he or she is under investigation by any other law enforcement agency to the Chief of Police within twenty-four (24) hours of becoming aware of such investigation.

Dated: July 15, 2008



Daniel P. McCann, Chief of Police  
Town of Crawford

**PLEASE TAKE NOTICE**

**AN EMPLOYEE SERVED WITH A NOTICE OF DISCIPLINE HAS THE RIGHT TO OBJECT BY FILING A RESPONSE WITHIN SEVEN (7) CALENDAR DAYS OR BY EXERCISING HIS/HER RIGHTS UNDER SECTION 75 AND/OR 76 OF THE CIVIL SERVICE LAW.**

**Objection in Writing:** You are allowed until the 22nd day of July, 2008, to make and file your objection to this notice of Notice of Discipline in which situation the grievance procedures of the collective bargaining agreement shall be operative. Your written objection must reach the office of the undersigned at the Town of Crawford, P.O. Box 109, 121 Route 302, Pine Bush, New York, 12566, at or before five o'clock in the afternoon on July 22, 2008.

**CIVIL SERVICE LAW SECTION 75 OR 76:** Under section 75 or 76 of the Civil Service Law, you are allowed until the 29<sup>th</sup> day of July, 2008, to make and file your written Answer to these charges. Your written answer should reach the office of the undersigned at the Town of Crawford, P.O. Box 109, 121 Route 302, Pine Bush, New York, 12566, at or before five o'clock in the afternoon on March 29, 2008.

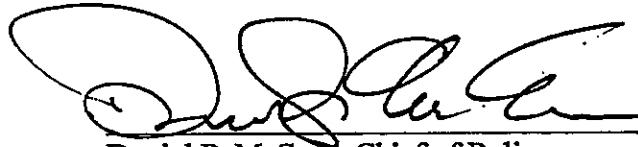
**CIVIL SERVICE LAW SECTION 75 OR 76 Hearing:** You are entitled to a hearing on the above charges and to be represented at such hearing by an attorney, the PBA or other representative. You are responsible for the payment of your attorney or representative. You should be prepared at such hearing to present such witnesses and other proof as you may have in your defense against these charges. We will send you written notice of the time, date and location of the hearing.

**Penalties:** If you are found guilty of any of the above charges, the penalty or punishment imposed on you may consist of either dismissal from service; demotion in grade and title, suspension without pay for a period not exceeding two months, a fine not exceeding One Hundred and 00/100 (\$100.00) Dollars or a reprimand.

**THE PENALTY SOUGHT IN THIS MATTER IS DISMISSAL FROM SERVICE.**

**Address for Notices:** All further notices and communications addressed to you in connection with these charges will be mailed to your latest address on record in the Office of the Town of Crawford Town Clerk, which is Town of Crawford, P.O. Box 109, 121 Route 302, Pine Bush, New York, 12566, , unless you request in writing that the same be sent to you at a different address.

Dated: July 15, 2008



---

Daniel P. McCann, Chief of Police  
Town of Crawford

STATE OF NEW YORK  
COUNTY OF ORANGE: TOWN OF CRAWFORD

-----X  
In the Matter of Disciplinary Charges

- against -

**PEDRO ELIAS,**

**OBJECTION TO  
DISCIPLINE**

**Respondent.**

Pursuant to the Collective Bargaining Agreement between  
the Town of Crawford and the Town of Crawford Police  
Benevolent Association, Inc.

-----X

**PEDRO ELIAS**, by his labor representative, the New York State Union of Police Associations, Inc., and its attorney, Marilyn D. Berson, does hereby object to the Notice of Discipline and Statement of Charges dated July 15, 2008, and elect, pursuant to §12.4 of the collective bargaining agreement between the Town of Crawford and the Town of Crawford Police Benevolent Association, Inc., to utilize the alternative disciplinary procedure for a hearing before an independent arbitrator at its final stage.

Pursuant to §12.5 of the collective bargaining agreement, Respondent requests a meeting with the Chief of Police as prescribed therein.

Respondent submits the following in response to the Charges and Specifications dated July 15, 2008:

1. Respondent denies each and every allegation contained in Charge 1, Specifications 1, 2, 3, 4, 5, 6, 10, 11, 12, 13, 14 and 15.
2. With respect to Charge 1, Specification 7, Respondent admits a criminal summons was issued but denies knowledge or information as to the basis for the charge.

3. With respect to Charge 1, Specification 8, Respondent admits a criminal summons was issued but denies the commission of crime alleged in summons.

4. With respect to Charge 1, Specification 9, same as 3, Respondent admits a criminal summons was issued but denies the commission of crime alleged in summons.

5. Respondent denies each and every allegation contained in Charge 2, Specification 1, 2, 3, 4, 5 and 9.

6. With respect to Charge 2, Specification 6, Respondent admits a criminal summons was issued but denies knowledge or information as to the basis for the charge.

7. With respect to Charge 2, Specification 7, Respondent admits a criminal summons was issued but denies the commission of crime alleged in summons.

8. With respect to Charge 2, Specification 8, Respondent admits a criminal summons was issued but denies the commission of crime alleged in summons.

9. Respondent denies each and every allegation contained in Charge 3, Specifications 1, 2, 3, 4, 5, 6, 10, 11, 12, 13, 14 and 15.

10. With respect to Charge 3, Specification 7, Respondent admits a criminal summons was issued but denies knowledge or information as to the basis for the charge.

11. With respect to Charge 3, Specification 8, Respondent admits a criminal summons was issued but denies the commission of crime alleged in summons.

12. With respect to Charge 3, Specification 9, Respondent admits a criminal summons was issued but denies the commission of crime alleged in summons.

13. Respondent denies each and every allegation in Charge 4, Specifications 1, 2, 3, 4, 5, 6, 10, 11, 12, 13, 14 and 15.

14. With respect to Charge 4, Specification 7, Respondent admits a criminal summons was issued but denies knowledge or information as to the basis for the charge.

15. With respect to Charge 4, Specification 8, Respondent admits a criminal summons was issued but denies the commission of crime alleged in summons.

16. With respect to Charge 4, Specification 9, Respondent admits a criminal summons was issued but denies the commission of crime alleged in summons.

17. Respondent denies each and every allegation in Charge 5, Specifications 1, 2, 3, 4, 5, 6, 10, 11, 12, 13, 14 and 15.

18. With respect to Charge 5, Specification 7, Respondent admits a criminal summons was issued but denies knowledge or information as to the basis for the charge.

19. With respect to Charge 5, Specification 8, Respondent admits a criminal summons was issued but denies the commission of crime alleged in summons.

20. With respect to Charge 5, Specification 9, Respondent admits a criminal summons was issued but denies the commission of crime alleged in summons.

21. Respondent denies each and every allegation contained in Charge 6, Specifications 1, 2, 3, 4 and 5.

22. Respondent denies each and every allegation contained in Charge 7.

**AS AND FOR A FIRST DEFENSE**

23. Respondent demands dismissal of the Charges and Specifications and reserves his right to prove upon a hearing of this matter or thereafter that the filing and service of the Charges and Specifications is untimely.

**AS AND FOR A SECOND DEFENSE**

24. Respondent demands dismissal of the Charges and Specifications and reserves the right to prove in another forum that the subject Charges and Specifications contravene Respondent's rights under law, including without limitation, Title VII of the Civil Rights Act of 1964, the Civil Rights Acts of 1866, 1871 and/or 1991, the Rehabilitation Act of 1973, the New York Human Rights Law, the New York State Civil Service Law and the federal and state constitutions.

**AS AND FOR A THIRD DEFENSE**

25. To the extent any Charges includes conduct constituting a crime, and said criminal charges have been terminated in Respondent's favor, the Charge should be dismissed.

**AS AND FOR A FOURTH DEFENSE**

26. To the extent any Charge includes conduct constituting a crime, the Town is required to prove the allegations beyond a reasonable doubt.

**AS AND FOR A FIFTH DEFENSE**

27. None of the Charges set forth in the Notice of Discipline and Statement of Charges relate in any way to the Respondent's performance of his duties as a Town of Crawford Police Officer and the Town may not impose discipline for actions or events unrelated to the Respondent's performance of his duties.

28. Respondent demands inspection of and a copy of any and all documents contained in the Respondent's personnel file and any and all documents concerning Respondent contained in any file(s) maintained by any agent, entity or employee of the Town of Crawford.

29. Respondent demands written notice and copies of any oral, written or recorded admissions or statements attributed to Respondent, the subject matter of which is the substance of the charges herein. Respondent reserves the right to interpose additional defenses, upon receipt of such notice and thereafter, and contest the manner in which any such statements made, may have been obtained, including objections based upon the parties collective bargaining agreement, New York State Law, the United States Constitution, the New York State Constitution and such other federal, state or local law, departmental rule or regulation which may apply.

30. Respondent demands copies of all reports, statements, including written statements, photographs or other written, recorded or otherwise preserved testimony or evidence, now in the possession of, control of, or accessible to the Town of Crawford Police Department with respect to the Charges and Specifications and investigation resulting with Charges, including all depositions obtained by the Department. This demand is an on-going demand.

31. Respondent demands copies of all counseling memorandum or other written documents provided to Respondent from 2000 to the present, with respect to any of the conduct or type of conduct alleged in the Charges and Specifications.

32. Respondent demands the following information with respect to each specification contained in the Charges and Specifications as follows:

- (a) Set forth each specific date of the alleged misconduct, the time, location and description of each and every alleged act, including the specific statements attributed to Respondent, the names of all witnesses and the specific standards of conduct allegedly violated.



33. Copies of all reports of domestic incidents involving members of the Town of Crawford Police Department since 1/1/00.

34. Respondent demands copies of all disciplinary findings and penalties levied against members of the Town of Crawford Police Department as a result of domestic incidents from 1/1/00 to the present.

35. Respondent hereby demands that all future notices be served or delivered to counsel, Marilyn D. Berson, at 1 Spring Square Business Park, Newburgh, New York 12550.

**WHEREFORE**, Respondent requests that the instant Charges and Specifications should in all respects be dismissed.

DATED: Newburgh, New York  
July 22, 2008

Respectfully submitted,

NEW YORK STATE UNION OF POLICE  
ASSOCIATIONS, INC.

BY: Marilyn D. Berson

MARILYN D. BERSON  
Attorney for Respondent  
1 Spring Square Business Park  
Newburgh, New York 12550  
(845) 566-5526

8-25-08

**Town of Crawford  
County of Orange - State of New York**

---

In the Matter of Disciplinary Charges

**NOTICE OF  
DECISION**

-against-

**Pedro M. Elias**

Under and Pursuant to Article 12 of the Town of Crawford  
Police Contract and Section 75 of the Civil Service Law of  
the State of New York

---

TO: **Pedro M. Elias**  
**84 New Street**  
**Pine Bush, NY 12566**

**Marilyn Berson, Esq.**  
**1 Spring Square Business Park**  
**Newburgh, New York 12550**

In accordance with the provisions of the Town of Crawford Police Contract §12.6, as well as Section 75 of the Civil Service Law of the State of New York to the extent such apply, you are hereby notified of the decision of the Chief of Police with respect to charges preferred against you:

**CHARGE 1: You have engaged in conduct which brings discredit upon the Town of Crawford Police Department.**

**SPECIFICATION 1:**

On or about the 11<sup>th</sup> day of March 2008, you engaged in conduct threatening, harassing, alarming or intimidating toward ██████████ in the Town of Newburgh, County of Orange, State of New York.

**Decision: This specified charge is affirmed.**

**SPECIFICATION 2:**

On or about the 11<sup>th</sup> day of March 2008, you engaged in conduct toward ██████████ for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, in the Town of New Windsor.

**Decision: This specified charge is affirmed.**

**SPECIFICATION 3:**

On or about the 16<sup>th</sup> day of March, 2008, you contacted the Town of New Windsor Police Department in an intoxicated condition.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 4:**

On or about the 8<sup>th</sup> day of March 2008, you engaged in conduct in the Town of Crawford toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 5:**

On or about the 10<sup>th</sup> day of March 2008, you engaged in stalking conduct toward [REDACTED] in the Town of Crawford.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 6:**

On or about the 16<sup>th</sup> day of March 2008, you engaged in conduct in the Town of Crawford toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, in the Town of Crawford.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 7:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 120.04 05, "vehicle assault in the first degree".

**Decision:** This specified charge is affirmed.

**SPECIFICATION 8:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 240.26, "harassment in the second degree".

**Decision:** This specified charge is affirmed.

**SPECIFICATION 9:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 240.30, "aggravated harassment in the second degree".

**Decision:** This specified charge is affirmed.

**SPECIFICATION 10:**

On or about the 5<sup>th</sup> day of July, 2007 in the Town of Crawford, you extended your middle finger towards Sgt. Richard Morrow; took pictures of Sgt. Morrow and made verbal threats that "I'm going to kick your ass"; "you're going to get yours" and "this isn't over".

**Decision:** This specified charge is affirmed.

**SPECIFICATION 11:**

That on several occasions you have made false accusations towards Sgt. Richard Morrow that he was engaged in a sexual relationship with your ex-wife and engaged in stalking like conduct towards Sgt. Morrow including driving slowly past his house at a very slow rate of speed; while seeing him in the community engaging in conduct that was offensive and hostile towards Sgt. Morrow and spreading falsities and rumors in the community disparaging Sgt. Richard Morrow.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 12:**

On or about the 5<sup>th</sup> day of July, 2007 in the Town of Crawford, you extended your middle finger towards Sgt. Richard Morrow and took pictures of Sgt. Morrow.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 13:**

That on several occasions you have engaged in stalking like conduct towards Sgt. Meier including following him in his vehicle; taking pictures and making obscene gestures while seeing him in the community and engaging in conduct that was offensive and hostile towards Sgt. Meier.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 14:**

On or about the 29<sup>th</sup> day of May, 2008, you falsely represented to the Orange County Sheriff's office that you were a police officer with the Town of Crawford Police Department.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 15:**

That in the presence of an officer, while at the police station for the Town of Crawford, you made demeaning comments concerning superior officers and references that you wished that they would all be dead.

**Decision:** This specified charge is affirmed.

**CHARGE 2:** You have engaged in conduct which violates a duly constituted law

**SPECIFICATION 1:**

On or about the 11<sup>th</sup> day of March 2008, you engaged in conduct threatening, harassing, alarming or intimidating toward ██████████ in the Town of Newburgh, County of Orange, State of New York.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 2:**

On or about the 11<sup>th</sup> day of March 2008, you engaged in conduct toward ██████████ for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, in the Town of New Windsor.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 3:**

On or about the 8<sup>th</sup> day of March 2008, you engaged in conduct in the Town of Crawford toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 4:**

On or about the 10<sup>th</sup> day of March 2008, you engaged in stalking conduct toward [REDACTED] in the Town of Crawford.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 5:**

On or about the 16<sup>th</sup> day of March 2008, you engaged in conduct in the Town of Crawford toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, in the Town of Crawford.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 6:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 120.04 05, "vehicle assault in the first degree".

**Decision:** This specified charge is affirmed.

**SPECIFICATION 7:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 240.26, "harassment in the second degree".

**Decision:** This specified charge is affirmed.

**SPECIFICATION 8:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 240.30, "aggravated harassment in the second degree".

**Decision:** This specified charge is affirmed.

**SPECIFICATION 9:**

On or about the 29<sup>th</sup> day of May, 2008, you falsely represented to the Orange County Sheriff's office that you were a police officer with the Town of Crawford Police Department.

**Decision:** This specified charge is affirmed.

**CHARGE 3:** You have engaged in conduct which is unbecoming an officer.

**SPECIFICATION 1:**

On or about the 11<sup>th</sup> day of March 2008, you engaged in conduct threatening, harassing, alarming or intimidating toward [REDACTED] in the Town of Newburgh, County of Orange, State of New York.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 2:**

On or about the 11<sup>th</sup> day of March 2008, you engaged in conduct toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, in the Town of New Windsor.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 3:**

On or about the 16<sup>th</sup> day of March, 2008, you contacted the Town of New Windsor Police Department in an intoxicated condition.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 4:**

On or about the 8<sup>th</sup> day of March 2008, you engaged in conduct in the Town of Crawford toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 5:**

On or about the 10<sup>th</sup> day of March 2008, you engaged in stalking conduct toward [REDACTED] in the Town of Crawford.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 6:**

On or about the 16<sup>th</sup> day of March 2008, you engaged in conduct in the Town of Crawford toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, in the Town of Crawford.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 7:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 120.04 05, "vehicle assault in the first degree".

**Decision:** This specified charge is affirmed.

**SPECIFICATION 8:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 240.26, "harassment in the second degree".

**Decision:** This specified charge is affirmed.

**SPECIFICATION 9:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 240.30, "aggravated harassment in the second degree".



**Decision: This specified charge is affirmed.**

**SPECIFICATION 10:**

On or about the 5<sup>th</sup> day of July, 2007 in the Town of Crawford, you extended your middle finger towards Sgt. Richard Morrow; took pictures of Sgt. Morrow and made verbal threats that "I'm going to kick your ass"; "you're going to get yours" and "this isn't over".

**Decision: This specified charge is affirmed.**

**SPECIFICATION 11:**

That on several occasions you have made false accusations towards Sgt. Richard Morrow that he was engaged in a sexual relationship with your ex-wife and engaged in stalking like conduct towards Sgt. Morrow including driving slowly past his house at a very slow rate of speed; while seeing him in the community engaging in conduct that was offensive and hostile towards Sgt. Morrow and spreading falsities and rumors in the community disparaging Sgt. Richard Morrow.

**Decision: This specified charge is affirmed.**

**SPECIFICATION 12:**

On or about the 5<sup>th</sup> day of July, 2007 in the Town of Crawford, you extended your middle finger towards Sgt. Eric Meier and took pictures of Sgt. Meier.

**Decision: This specified charge is affirmed.**

**SPECIFICATION 13:**

That on several occasions you have engaged in stalking like conduct towards Sgt. Meier including following him in his vehicle; taking pictures and making obscene gestures while seeing him in the community and engaging in conduct that was offensive and hostile towards Sgt. Meier

**Decision: This specified charge is affirmed.**

**SPECIFICATION 14:**

On or about the 29<sup>th</sup> day of May, 2008, you falsely represented to the Orange County Sheriff's office that you were a police officer with the Town of Crawford Police Department.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 15:**

That in the presence of an officer, while at the police station for the Town of Crawford, you made demeaning comments concerning superior officers and references that you wished that they would all be dead.

**Decision:** This specified charge is affirmed.

**CHARGE 4:** You have engaged in conduct which constitutes a failure to treat a person civilly and respectfully.

**SPECIFICATION 1:**

On or about the 11<sup>th</sup> day of March 2008, you engaged in conduct threatening, harassing, alarming or intimidating toward [REDACTED] in the Town of Newburgh, County of Orange, State of New York.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 2:**

On or about the 11<sup>th</sup> day of March 2008, you engaged in conduct toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, in the Town of New Windsor.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 3:**

On or about the 16<sup>th</sup> day of March, 2008, you contacted the Town of New Windsor Police Department in an intoxicated condition.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 4:**

On or about the 8<sup>th</sup> day of March 2008, you engaged in conduct in the Town of Crawford toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 5:**

On or about the 10<sup>th</sup> day of March 2008, you engaged in stalking conduct toward [REDACTED] in the Town of Crawford.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 6:**

On or about the 16<sup>th</sup> day of March 2008, you engaged in conduct in the Town of Crawford toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, in the Town of Crawford.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 7:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 120.04 05, "vehicle assault in the first degree".

**Decision:** This specified charge is affirmed.

**SPECIFICATION 8:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 240.26, "harassment in the second degree".

**Decision:** This specified charge is affirmed.

**SPECIFICATION 9:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 240.30, "aggravated harassment in the second degree".

**Decision:** This specified charge is affirmed.

**SPECIFICATION 10:**

On or about the 5<sup>th</sup> day of July, 2007 in the Town of Crawford, you extended your middle finger towards Sgt. Richard Morrow; took pictures of Sgt. Morrow and made verbal threats that "I'm going to kick your ass"; "you're going to get yours" and "this isn't over".

**Decision:** This specified charge is affirmed.

**SPECIFICATION 11:**

That on several occasions you have made false accusations towards Sgt. Richard Morrow that he was engaged in a sexual relationship with your ex-wife and engaged in stalking like conduct towards Sgt. Morrow including driving slowly past his house at a very slow rate of speed; while seeing him in the community engaging in conduct that was offensive and hostile towards Sgt. Morrow and spreading falsities and rumors in the community disparaging Sgt. Richard Morrow.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 12:**

On or about the 5<sup>th</sup> day of July, 2007 in the Town of Crawford, you extended your middle finger towards Sgt. Eric Meier and took pictures of Sgt. Meier.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 13:**

That on several occasions you have engaged in stalking like conduct towards Sgt. Meier including following him in his vehicle; taking pictures and making obscene gestures while seeing him in the community and engaging in conduct that was offensive and hostile towards Sgt. Meier

**Decision: This specified charge is affirmed.**

**SPECIFICATION 14:**

On or about the 29<sup>th</sup> day of May, 2008, you falsely represented to the Orange County Sheriff's office that you were a police officer with the Town of Crawford Police Department.

**Decision: This specified charge is affirmed.**

**SPECIFICATION 15:**

That in the presence of an officer, while at the police station for the Town of Crawford, you made demeaning comments concerning superior officers and references that you wished that they would all be dead.

**Decision: This specified charge is affirmed.**

**CHARGE 5: You have engaged in conduct which constitutes willful maltreatment of a person.**

**SPECIFICATION 1:**

On or about the 11<sup>th</sup> day of March 2008, you engaged in conduct threatening, harassing, alarming or intimidating toward ██████████ in the Town of Newburgh, County of Orange, State of New York.

**Decision: This specified charge is affirmed.**

**SPECIFICATION 2:**

On or about the 11<sup>th</sup> day of March 2008, you engaged in conduct toward ██████████ for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, in the Town of New Windsor.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 3:**

On or about the 16<sup>th</sup> day of March, 2008, you contacted the Town of New Windsor Police Department in an intoxicated condition.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 4:**

On or about the 8<sup>th</sup> day of March 2008, you engaged in conduct in the Town of Crawford toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 5:**

On or about the 10<sup>th</sup> day of March 2008, you engaged in stalking conduct toward [REDACTED] [REDACTED] in the Town of Crawford.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 6:**

On or about the 16<sup>th</sup> day of March 2008, you engaged in conduct in the Town of Crawford toward [REDACTED] for no apparent legitimate purpose other than to threaten, harass, alarm and or intimidate same, in the Town of Crawford.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 7:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 120.04 05, "vehicle assault in the first degree".

**Decision:** This specified charge is affirmed.

**SPECIFICATION 8:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 240.26, "harassment in the second degree".

**Decision:** This specified charge is affirmed.

**SPECIFICATION 9:**

On or about the 19<sup>th</sup> day of March 2008, a criminal summons was issued against you charging a violation of Penal Law 240.30, "aggravated harassment in the second degree".

**Decision:** This specified charge is affirmed.

**SPECIFICATION 10:**

On or about the 5<sup>th</sup> day of July, 2007 in the Town of Crawford, you extended your middle finger towards Sgt. Richard Morrow; took pictures of Sgt. Morrow and made verbal threats that "I'm going to kick your ass"; "you're going to get yours" and "this isn't over".

**Decision:** This specified charge is affirmed.

**SPECIFICATION 11:**

That on several occasions you have made false accusations towards Sgt. Richard Morrow that he was engaged in a sexual relationship with your ex-wife and engaged in stalking like conduct towards Sgt. Morrow including driving slowly past his house at a very slow rate of speed; while seeing him in the community engaging in conduct that was offensive and hostile towards Sgt. Morrow and spreading falsities and rumors in the community disparaging Sgt. Richard Morrow.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 12:**

On or about the 5<sup>th</sup> day of July, 2007 in the Town of Crawford, you extended your middle finger towards Sgt. Eric Meier and took pictures of Sgt. Meier.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 13:**

That on several occasions you have engaged in stalking like conduct towards Sgt. Meier including following him in his vehicle; taking pictures and making obscene gestures while seeing him in the community and engaging in conduct that was offensive and hostile towards Sgt. Meier

**Decision:** This specified charge is affirmed.

**SPECIFICATION 14:**

On or about the 29<sup>th</sup> day of May, 2008, you falsely represented to the Orange County Sheriff's office that you were a police officer with the Town of Crawford Police Department.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 15:**

That in the presence of an officer, while at the police station for the Town of Crawford, you made demeaning comments concerning superior officers and references that you wished that they would all be dead.

**Decision:** This specified charge is affirmed.

**CHARGE 6:** You have failed to submit a written report to the Chief of Police within twenty-four hours of becoming aware that you were under investigation by another law enforcement agency.

**SPECIFICATION 1:**

On or after the 19<sup>th</sup> day of March 2008, you failed to submit a written report to the Chief of Police to report a criminal summons had been issued and that you were under investigation for the charge of "vehicle assault in the first degree" in violation of Penal Law 120.04 05.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 2:**

On or after the 19<sup>th</sup> day of March 2008, you failed to submit a written report to the Chief of Police to report a criminal summons was issued against you charging a violation of Penal Law 240.26, "harassment in the second degree".



**Decision:** This specified charge is affirmed.

**SPECIFICATION 3:**

On or after the 19<sup>th</sup> day of March 2008, you failed to submit a written report to the Chief of Police to report a criminal summons was issued against you charging a violation of Penal Law 240.30, "aggravated harassment in the second degree".

**Decision:** This specified charge is affirmed.

**SPECIFICATION 4:**

On or about the 5<sup>th</sup> day of July, 2007, you were under investigation for disorderly conduct and disturbance of the peace in the Town of Crawford and you failed to submit a written report to the Chief of Police within twenty-four (24) hours thereof.

**Decision:** This specified charge is affirmed.

**SPECIFICATION 5:**

That you have failed to submit a written report to the Chief of Police within twenty-four (24) hours of you being advised of an investigation by the Foxborough, Massachusetts Police Department alleging you traveled to Massachusetts for the purpose of hurting a person.

**Decision:** This specified charge is affirmed.

**CHARGE 7: VIOLATION OF THE TOWN OF CRAWFORD RULES OF CONDUCT**

**SPECIFICATION 1:**

The foregoing acts alleged in Charges "1" through "6" constitute violations of the established Rules of Conduct, to wit:

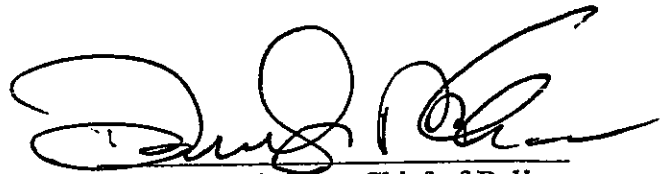
- Rule 1. Conduct which brings discredit upon the department
- Rule 12. Violation of any duly constituted law.
- Rule 16. Any conduct unbecoming an officer, on or off duty, where ever he or she may be.
- Rule 17. Failure to treat any person civilly and respectfully.

Rule 18. Willful maltreatment of any person.

Rule 62. Failure to submit a written report that he or she is under investigation by any other law enforcement agency to the Chief of Police within twenty-four (24) hours of becoming aware of such investigation.

As to each of the foregoing, jointly and severally, all of the specified charges are affirmed. It is my opinion that each and every specified charge warrants termination of employment.

Dated: August <sup>25</sup>~~19~~, 2008

A handwritten signature in black ink, appearing to read "Daniel P. McCam", written over a horizontal line.

Daniel P. McCam, Chief of Police  
Town of Crawford

Arbitrator Peter A. Prosper

---

---

**State of New York  
Public Employment Relations Board**

---

---

**In the Matter of**

**TOWN OF CRAWFORD,**

**Employer,**

**- and -**

**TOWN OF CRAWFORD POLICE BENEVOLENT ASSOCIATION, INC.,**

**PBA.**

**(Disciplinary Charges of Pedro Elias)**

---

---

**ARGUMENT ON BEHALF OF  
PEDRO ELIAS**

---

---

**SUBMITTED ON BEHALF OF THE**

**TOWN OF CRAWFORD POLICE  
BENEVOLENT ASSOCIATION, INC.**

**AFFILIATED WITH THE**

**NEW YORK STATE UNION OF POLICE ASSOCIATIONS, INC.**

**LOCAL 8  
INTERNATIONAL UNION OF POLICE**



**Marilyn D. Berson, Esq.**  
Attorney for Union  
1 Spring Square Business Park  
Newburgh, NY 12550  
(845) 566-5526

**September 4, 2008**

## Introduction

On July 16, 2008, the arbitration of the disciplinary charges filed against Police Officer Pedro Elias by the Town of Crawford (Town) commenced. Counsel for the Town of Crawford PBA (PBA) and Elias and counsel for the Town raised several preliminary issues before the Arbitrator. The Arbitrator requested that each party provide written argument in support of its positions.

The issues raised by the PBA on behalf of Officer Elias are as follows:

1. Officer Elias is entitled to be placed back on the payroll and provided with all benefits due an active employee as of July 16, 2008.
2. Criminal Procedure Law (CPL) § 160.50 and Executive Law § 296 prohibit the use in this arbitration of all official records and papers regarding the criminal charges against Officer Elias that were favorably terminated.
3. Pursuant to these sections of the law, the Town's request for an order that Officer Elias produce the transcript of the criminal trial in the City of Middletown, which resulted in an acquittal, must be denied.
4. All contractual procedures preceding arbitration have been complied with, as determined by the Orange County Supreme Court.

The Town has provided the documents demanded by the PBA, after the hearing commenced and prior to submission of this argument. Town counsel argued at the hearing that document production should go both ways (Tr. 44)<sup>1</sup>. Under the Taylor Law, that is correct. However, as noted by the PBA at the hearing, the Town has made no document or information demands.

---

<sup>1</sup> "Tr." refers to pages of the transcript from the July 16, 2008 hearing.

The only request it has made is for Officer Elias to waive his protections under CPL §160.50 and Executive Law § 296(16), and produce a transcript of the Middletown trial. Demands under the Taylor Law, however, do not have to be complied with if there is a claimed exemption under the law.<sup>2</sup> As fully argued in Point II, below, the two statutory sections cited above not only prohibit the Arbitrator from granting the Town's request that Elias produce this transcript but serve as the basis to reject the entry into evidence at the arbitration of any of the records of the criminal cases.

### **Point I**

#### **Officer Elias is Entitled to Be Placed Back on the Payroll and Provided With All Benefits Effective July 16, 2008.**

The arbitration hearing was originally scheduled to commence on October 22, 2007. At the request of Elias' counsel, the Arbitrator agreed to adjourn the hearing until after the criminal charges were resolved. Counsel for Elias agreed that during this adjournment period, Elias would not be entitled to salary or benefits since he requested the adjournment. The hearing was rescheduled to commence and did commence on July 16, 2008. As of that date, Elias was contractually entitled to be placed back on the payroll and be provided benefits as an active employee.

The language in Article 12, Disciplinary Procedure, of the collective bargaining agreement between the Town and the PBA is crystal clear – a unit member may only be suspended without pay for a period of thirty (30) days when served with a notice of discipline and s/he must, thereafter, be placed back on the payroll and receive all benefits as any other active employee.

---

<sup>2</sup> *State of New York – Uniformed Court System*, 41 PERB ¶3009 (Grievant Exhibit 5).

The relevant contract language, in section 12.5, entitled "Suspension," reads as follows: "No employee who has been served with a notice of discipline shall be suspended without pay for a period to exceed thirty (30) calendar days."

This provision follows sections 12.2 to 12.4, which contain the contractual disciplinary procedure. Section 12.2 provides that the employee has a choice between a hearing under Civil Service Law (CSL) §75 or arbitration, as further described in subsequent sections of that Article. Section 12.3 requires that discipline be initiated by the issuance of a Notice of Discipline to the employee. Section 12.4 requires the employee to file a choice of procedure within seven days of being served with the Notice of Discipline.

In the Notice of Discipline, the Town advises the member as to the penalties "sought" if found guilty of the charges, i.e. dismissal, demotion, suspension without pay, a fine or reprimand and lists the penalty (see Joint Exhibits 2 and 4).

It is therefore evident that the thirty day suspension limit, written into the contract after the section outlining the disciplinary alternatives, applies regardless of which procedure the employee chooses.

There is no question that if the employee proceeds under CSL §75, a penalty, including removal, cannot occur until after a hearing. CSL §75 (1) reads in pertinent part as follows:

Removal and other disciplinary action. A person described in paragraph (a) or paragraph (b), or paragraph (c), or paragraph (d), or paragraph (e) of this subdivision shall not be removed or otherwise subjected to any disciplinary penalty provided in this section except for incompetency or misconduct shown after a hearing upon stated charges pursuant to this section.

The procedure, if the employee proceeds with arbitration is no different. Section 12.6 of Article 12 provides that the employee must request a meeting with the Chief and the Chief shall render a decision thereafter. A review of the Chief's decision in this case makes it clear that he

did not terminate Elias. Rather, he concluded that "it is my opinion that each and every specified charge warrants termination of employment (Joint Exhibit 6) (emphasis added).

Under the alternative disciplinary procedure, it is the arbitrator who makes the determination as to guilt or innocence and penalty. Section 12.7 reads as follows:

The arbitrator's decision, with respect to guilt or innocence and penalty, if any, shall be final and binding on the parties and he/she may approve, disapprove or take any other appropriate action warranted under the circumstances, including, but not limited to, ordering reinstatement and back pay for all or part of the period of suspension, if any (emphasis added).

If the Town could terminate an employee prior to arbitration, the words "period of suspension" would not have been included. This provision makes it clear that the only action that could have been taken by the Town prior to the arbitration and determination of the arbitrator is suspension. Pursuant to Section 12.5, the suspension cannot exceed 30 days.

These provisions do not, by plain, or any terms, for that matter, provide that a penalty is imposed prior to either a CSL §75 hearing or arbitration hearing. The Town, nonetheless, is arguing that this is the procedure that exists and is asking this Arbitrator to read the language in that manner. To do so, however, would mean that the Arbitrator must insert language into the Agreement that is not there, a result arbitrators consistently reject.<sup>3</sup>

As noted by Elkouri & Elkouri, in their treatise *How Arbitration Works*, "...if the words are plain and clear, conveying a distinct idea, there is no occasion to resort to interpretation, and their meaning is to be derived entirely from the nature of the language used."<sup>4</sup> The words in Article 12 are plain and clear. They mean that an officer is subject only to suspension for a 30 day period prior to arbitration.

---

<sup>3</sup> *Elkouri & Elkouri, How Arbitration Works* (Sixth Edition 2003), at 446.

<sup>4</sup> *Elkouri* at 434.

If the Arbitrator disagrees and finds the language ambiguous, based upon principles of contract interpretation, a determination placing Elias back on the payroll is still warranted, because the interpretation propounded by the PBA is the only reasonable reading of the contract provisions at issue.

First, disputed provisions in an Agreement must be read in the context of all of the language in the provision:<sup>5</sup>

The primary rule in construing a written instrument is to determine, not alone from a single word or phrase, but from the instrument as a whole, the true intent of the parties, and to interpret the meaning of a questioned word, or part, with regard to the connection in which it is used, the subject matter and its relation to all other parts or provisions.<sup>6</sup>

As noted above, reading sections 12.2 to 12.5 not only alone, but together, makes it clear that a final decision is made by the arbitrator and that prior to that decision the Town can only impose a 30 day suspension.

A second principle relied upon by arbitrators is that if one interpretation of contract language will lead to "harsh, absurd, or nonsensical results while an alternative interpretation, equally plausible, would lead to just and reasonable results, the latter interpretation will be used."<sup>7</sup> Along the same lines, arbitrators "abhor forfeitures."<sup>8</sup> If an agreement is susceptible of two constructions, one of which will work a forfeiture and one of which will not, the arbitrator will adopt the interpretation that will prevent a forfeiture.<sup>9</sup>

---

<sup>5</sup> *Elkouri*, at 462-463.

<sup>6</sup> *Elkouri* at 463.

<sup>7</sup> *Elkouri* at 470-471.

<sup>8</sup> *Elkouri* at 482.

<sup>9</sup> *Elkouri* at 482.



If the contract was read as allowing the Chief to terminate or suspend an officer indefinitely, the affected officer would suffer the consequences prior to arbitration. Even if the officer prevails, the immediate harm suffered would be irreparable. Loss of income and health benefits during the period of scheduling, hearing and determination would have consequences that a back award cannot remedy. Moreover, it would mean that officers that choose to proceed under CSL §75 would fare better, by not being subjected to the penalty pending the hearing and determination. The parties did not and could not have intended this disparate treatment and harsh result to employees opting for arbitration given the language in Article 12.

Moreover, adopting the Town's interpretation would render contractual language meaningless, a result arbitrators strive to avoid.<sup>10</sup> The language in Section 12.5, providing for a 30 day suspension, and the language in Section 12.7, that the arbitrator can award back pay for any period of a "suspension," would be rendered meaningless if the Town's interpretation was adopted. The PBA's interpretation, on the other hand, would give meaning to all provisions in Article 12. This is another important result favored by arbitrators.<sup>11</sup>

Arbitrators also agree that an interpretation in tune with the purpose of a provision is to be favored over one that conflicts with it."<sup>12</sup> One arbitrator rejected an interpretation of a party that "... would put a wholly unnatural premium upon excessive technicality and...ignore the manifest intent of the parties."<sup>13</sup> It is obvious in reviewing Article 12 that the parties intended for an officer to face a maximum 30 day suspension, regardless of the disciplinary procedure chosen. Otherwise, the suspension language in section 12.5 would not have been placed after the sections allowing for an officer to choose between the two disciplinary procedures.

---

<sup>10</sup> *Elkouri* at 463.

<sup>11</sup> *Elkouri* at 463.

<sup>12</sup> *Elkouri* at 461.

<sup>13</sup> *Elkouri* at 462.

The Town, by its treatment of Officer Elias, has made it clear that it too understands that the Chief's action alone in holding a meeting to review the notice of discipline and rendering a decision pursuant to Section 12.5 of the Agreement, does not result in a disposition to be served by the officer. Instead of allowing Elias to proceed to arbitration under Article 12 after the Chief's decision, the Town scheduled a hearing before the Town Board, arguing that it had a right to proceed in this manner pursuant to Town Law §155. This resulted in litigation filed on behalf of Elias, in Orange County Supreme Court (*Elias v. Town of Crawford*, 840 NYS2d 705 [2007]) (Grievant Exhibit 10).

The fact that the Town proceeded under that section of the law makes clear that it understood that Elias had not been terminated by the Chief of Police. Town Law §155, reads in pertinent part, as follows:

... Any member of such department found guilty upon charges, after five days' notice and an opportunity to be heard in his defense, of neglect or dereliction in the performance of official duty, or of violation of rules or regulations or disobedience, or of incompetency to perform official duty, or of an act of delinquency seriously affecting his general character or fitness for office, may be punished by the town board having jurisdiction, by reprimand, by forfeiture and withholding of salary or compensation for a specified time not exceeding twenty days, by extra tours or hours of duty during a specified period not exceeding twenty days, by suspension from duty for a specified time not exceeding twenty days and the withholding of salary or compensation during such suspension, or by dismissal from the department.

It is clear that under Town Law §155, dismissal may only occur after a hearing before the Town Board.

The Town's actions at the July 16, 2008 hearing also make it evident that it knows that Elias is still an employee. At the hearing, counsel for the Town served Elias' counsel with a new set of disciplinary charges (Tr. 55-56). These new charges only address misconduct that allegedly occurred after the Chief's decision of March 20, 2007. If Elias was terminated, his

conduct after termination could not possibly serve as the basis for disciplinary charges, as he was no longer an employee. The Town cannot have it both ways. If Elias is subject to discipline for his conduct, he is an employee, and is entitled to salary and benefits until such time that he is terminated pursuant to the Agreement.

## **Point II**

### **The Town's Request That Pedro Elias Waive the Protections of Criminal Procedure Law § 160.50 And Executive Law § 296 (16) Must be Denied.**

As argued by counsel for the PBA and Elias at the hearing, the first set of disciplinary charges against him stem from two incidents between Elias and his now ex-wife that allegedly occurred on December 25, 2006 and January 27, 2007 (Joint Exhibit 2). The second set of charges stem from one incident that occurred on February 25, 2007 (Joint Exhibit 4). The January 27, 2007 and February 25, 2007 incidents resulted in criminal charges being filed against Elias. The criminal charges resulting from the January 27, 2007 incident were dismissed by the County Court of Ulster County on January 8, 2008 (Grievant Exhibit 7). The February 25, 2007 charges against Elias were heard by a jury in the City of Middletown. Elias was acquitted of these charges (Grievant Exhibit 6).

On April 18, 2008, Joseph Ranni (Ranni), attorney for the Town of Crawford, made a written request that Pedro Elias obtain and provide copies of the transcript from the trial of the February 25, 2007 charges before the Middletown City Court. By making the request, the Town was asking Elias to waive the protections afforded to him by Criminal Procedure Law (CPL) §160.50 and Executive law §296(16) (Grievant Exhibits 8 and 9). Although the Town withdrew this request prior to commencement of the hearing on July 16, 2008, at the hearing, Town

counsel Ranni renewed this request (Tr. 41). The request cannot be granted as it would violate Elias' rights under CPL §160.50 and Executive Law §296(16).

1. **All Records of the Criminal Proceeding are Sealed Pursuant to Criminal Procedure Law §160.50**

Grievant Exhibit 8 is a copy of CPL § 160.50, "Order Upon Termination of Criminal Action in Favor of the Accused." It provides for the automatic sealing of records upon termination of a criminal action in the defendant's favor. Pursuant to law, sealing is automatic with the favorable termination of a criminal case.

As noted over and over by the courts of this State, the protection afforded by this statute, "...serves the laudible goal of ensuring that one who is charged but not convicted of an offense, suffers no stigma as a result of his/her having been once the object of an unsustained accusation" (*Hynes v. Karassik*, 47 N.Y.2d 659 [1979]). It is designed to ensure that the person charged but not convicted of a crime is protected from the stigma that accompanies a criminal prosecution and is intended to protect the accused from the unauthorized use of their records and to ensure confidentiality (*Green v. Montgomery*, 95 N.Y.2d 693 [2001]; *People v. McGurk*, 229 A.D.2d 895 [3<sup>rd</sup> Dept. 1996]).

The Court of Appeals has further noted that it ensures that the protections provided to exonerated individuals be consistent with the presumption of innocence, which means that there should be no adverse consequences merely on the basis of an accusation (*Matter of Joseph N [New York City Board of Education]*, 82 N.Y.2d 1028 [1993]).

The only mechanism for obtaining records that have been sealed under CPLR §160.50, is to make a motion to the criminal court. However, the person requesting the records must fall within the list specified in Section 1(d) of CPL §160.50. The attorney for the Town has

acknowledged that the ability to obtain sealed records upon application to the court pursuant to this section is unlikely. Over and over, employers have attempted to unseal records for use in disciplinary cases, precisely as the Town is attempting to do here, with no success, because employers do not fall within one of the listed parties that may obtain them upon application to the court.

For example, *In Matter of Joseph N. supra*, the Board of Education sought to unseal criminal records for use in a disciplinary proceeding against a teacher. The Court of Appeals held that the employer was not one of the enumerated entities that could obtain sealed records and that the criminal court had no inherent power to otherwise unseal records. The Court held that this would frustrate the primary purpose of the CPL §160.50, in protecting the exonerated individuals from unwarranted stigma.

Similarly, in *New York State Police v. Charles Q.*,<sup>14</sup> the State Police applied to have the criminal court unseal records of a prosecution against a state trooper for use in a disciplinary case against him for the same conduct. The application was made pursuant to CPL §160.50(1)(d)(2) and the court's "inherent power." Among the records sought were tape recordings of conversations between the employee and the victim of an alleged rape, prior written statements, and transcripts of trial testimony. The Appellate Division held that these records were all sealed pursuant to CPL §160.50. It also noted that since the witnesses were available to testify, there was no reason to release the transcript.

In *City of Elmira v. Doe*, 39 A.D.3<sup>rd</sup> 942 (3<sup>rd</sup> Dept. 2007), the Third Department reiterated that it is well-settled that when a police department conducts a disciplinary proceeding concerning one of its employees, it is not entitled to obtain records sealed pursuant to CPL §160.50.

---

<sup>14</sup> 192 A.D.2d 142.

If the courts will not unseal these records, it is unquestionable that the arbitrator has no power to do so either. The Town has not presented any legal basis upon which its request that Elias waive this statutory protection is grounded. It suggests that it could mark the records confidential and return them at the end of the hearing and that would protect Elias (Tr. 42). The New York state legislature and courts obviously disagree. The protection afforded by the statute is absolute.

**2. Elias Is Also Protected by State and Federal Civil Rights Law**

Any action by the Arbitrator or Town ordering Elias to waive his protections under CPL §160.50 or be precluded from defending himself in the disciplinary case would also be a violation of New York State Human Rights Law (Executive Law §296(16)) (Grievant Exhibit 9). This section of the law was enacted at the same time as CPL § 160.50, with the intent of providing further protection from the use of favorably disposed criminal charges against an individual (*In the Matter of Joseph N, supra*). Section 296, subsection 16, provides in relevant part as follows:

It shall be an unlawful discriminatory practice, ...for any person, agency, bureau, corporation or association, including the state and any political subdivision thereof, to make any inquiry about, whether in any form of application or otherwise, or to act upon adversely to the individual involved, any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined in subdivision two of section 160.50 of the criminal procedure law...

The Town is just plain wrong in its reading of Executive Law 296, in arguing that the section does not apply. None of the listed exceptions apply to this case:

...provided, however, that the provisions hereof shall not apply to the licensing activities of governmental bodies in relation to the regulation of guns, firearms and other deadly weapons or in

relation to an application for employment as a police officer or peace officer... provided further that the provisions of this subdivision shall not apply to an application for employment or membership in any law enforcement agency with respect to any arrest or criminal accusation which was followed by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law.

Elias is not applying for employment. These exceptions do not apply. There is no doubt that a direction by the Arbitrator that Elias produce the transcript of the criminal trial or be precluded from defending himself would be adverse employment action in violation of Human Rights Law (see for example, *Uddin v. City of New York*, 427 F.Supp.2<sup>nd</sup> 414 [SDNY 2006]).

**3. The Arbitrator Has No Authority to Order Elias to Waive His Statutory Protections**

To circumvent the statutory protections afforded by CPL and the Human Rights Law, the Town is seeking the intervention of the Arbitrator, to order Elias to waive his rights. The Arbitrator cannot do this. It is a basic arbitration principle that the Arbitrator's function is limited by statutory law.<sup>15</sup> As argued above, the only statutory basis for obtaining sealed records pursuant to CPL §160.50 and that requires an application to the criminal court. There is no possible statutory authority for the Arbitrator to direct Elias to waive his right to the sealing of the records.

**4. The Entire Criminal Record Is Sealed**

CPL §160.50, provides that the record of such action or proceeding shall be sealed upon a favorable termination of a criminal action or proceeding and that the following records are subject to sealing: "(1) every photograph of the person; (2) all official records and papers, including judgments and orders of the court, but not including published court decisions or

---

<sup>15</sup> *Elkouri* at 486.

opinions or records and briefs on appeal, related to the arrest or prosecution, including all duplicates and copies thereof, and filed with the Division of Criminal Justice Services, any court, police agency, or prosecutors office shall be sealed and not made available to any person or public or private agency.”

It is evident that this provision is a broad and inclusive statement applicable to all official records and papers relating to arrest and prosecution (*Matter of Donde*, 63 N.Y.2d 332 [1984]). It includes audiotapes, video cassette tapes made in the course of investigated the underlying crime or in connection with the criminal action or that were intricate to both the defendant’s arrest and/or his prosecution, police reports and all documents related to the criminal proceeding (*Borbour v. People*, 163 Misc.2d 321 [Sup. Ct. 1994]). In other words, none of the records relating to the criminal charges stemming from the January 27, 2007 and February 25, 2007 arrest and charges can be admitted into evidence at the arbitration hearing.

### Point III

#### **The Answers to the Charges Were Deemed Timely Filed by the Orange County Supreme Court and That Determination is Binding in this Arbitration.**

At the hearing, the Town argued wholly inconsistent positions with respect to whether it was alleging that this disciplinary arbitration could not proceed because a grievance had not been filed. First, Town counsel stated that he agreed with the union’s attorney and that Judge Slobod decided the issue and it is “the law of the case” (Tr. 36). Then he argued that Officer Elias never filed a grievance as required pursuant to Article 13, section 2, subsections 2, 3 and 4 and that this issue had to be decided by the Arbitrator (Tr. 35-36).



The Town's argument is meritless. It has already been ruled upon by Judge Slobod in her decision in *Elias v. Town of Crawford, supra* (Grievant Exhibit 10), and that decision is binding in this arbitration.

A review of Judge Slobod's decision reveals that she considered this exact argument made by the Town and rejected it:

A threshold issue in this proceeding is whether petitioner properly invoked the arbitration grievance procedure. Respondent refers to the procedure described in Article 13 and claims that petitioner failed to follow it. It is quite clear, however, that Article 12 governs in this situation, and the court finds that petitioner properly invoked his right to arbitration.<sup>16</sup>

It is well-settled that the doctrines of res judicata and collateral estoppel apply to arbitrations. In this case, all the grounds necessary for application of these doctrines are present.<sup>17</sup> The same underlying issue and same parties were involved in the litigation as in this arbitration. The issue has been actually litigated and the determination was a "...critical and necessary part of the judgment in the action."<sup>18</sup> The Town had a full and fair opportunity to litigate the issue,<sup>19</sup> as is evident from Judge Slobod's consideration and dismissal of the claim. The Town is therefore barred from relitigating this issue in the arbitration.

Moreover, as the Town's counsel noted at the hearing, Judge Slobod ordered that the Town proceed to arbitration; "That is why we are here" (Tr. 25). Obviously, any objection to that order is for the courts to hear and is not properly raised in this disciplinary arbitration.

---

<sup>16</sup> 17 Misc. 3d at 176.

<sup>17</sup> Elkouri at 387.

<sup>18</sup> Elkouri at 387.

<sup>19</sup> Elkouri at 387.

#### Point IV

**None of the Record Regarding the Town Board's Termination of Elias  
Should Be Admissible Since the Orange County Supreme Court Deemed the  
Board's Action Null and Void.**

The Town attempted to admit into evidence at the July 16, 2008 hearing, records from the Town Board's termination of Officer Elias, including a Notice of Hearing, Town Board decision terminating Elias, record before the Town Board and the transcript of the hearing before the Town Board. None of these records, or any records relative to the Town Board hearing and determination, are properly admitted into evidence at the disciplinary arbitration.

Judge Slobod ordered and adjudged as follows (Grievant Exhibit 11):

All actions taken by the Respondent [Town] with respect to Petitioner's employment pursuant to the purported authority of § 155 of the Town Law be and the same hereby are declared a nullity and of no force and effect.

The actions taken by the Town were a hearing and termination of Officer Elias (Grievant Exhibit 10). Since those actions were declared nullities and of no force and effect, no documents related to them, including the hearing before the Town Board, the record it considered and its determination, can be admitted into evidence or considered by the Arbitrator, as those documents are mere memorializations of the actions taken by the Board and are as much of a nullity as the actions themselves.

#### Point V

**Specifications 5 and 6 in Charges 1, 2, 3 and 4 of the Notice of Discipline and Statement of  
Charges Dated March 2, 2007, Should Be Dismissed Since They Allege Criminal Charges  
That Were Terminated in Officer Elias' Favor.**

Grievant does not dispute the ability of the Town to proceed with those charges in the Notice of Discipline dated March 2, 2007 (Joint Exhibit 4), which specify the underlying conduct Officer Elias allegedly committed resulting in the criminal charges of violating Penal Law

§§210.45 and 215.50-3.<sup>20</sup> However, in specifications 5 and 6 of Charges 1, 2, 3 and 4, no underlying conduct is specified. Rather, the allegation is that Elias was arrested for these violations of the Penal Law.

There is no dispute that these charges were terminated in Elias' favor (Grievant Exhibits 6 and 7). The specifications alleging Elias' arrest for these Penal Law violations must be dismissed, since under CPL §160.50, records regarding an arrest that was favorably terminated are sealed. Pursuant to Executive Law §296(16), any adverse action against an individual because of an arrest which resulted in criminal charges that were favorably terminated, is deemed a human rights violation. If the Town is permitted to prosecute these charges, the Town and Arbitrator would be taking adverse employment action against Elias with respect to arrests on charges that were favorably terminated in violation of CPL §160.50 and Executive Law § 296(16), leading to possible sanctions for violations of Elias' civil rights (see discussion in Point III above).

### Conclusion

For the several reasons set forth above, the Arbitrator should grant the following relief to Officer Elias:

1. Officer Elias should be placed back on the payroll and provided with all benefits due an active employee effective July 16, 2008, paid salary and benefits retroactive to that date and should remain on the payroll and continue to receive benefits until and unless his employment is terminated by the Arbitrator.
2. Pursuant to Criminal Procedure Law § 160.50 and Executive Law § 296 the Arbitrator should prohibit the use in this arbitration of all official records and

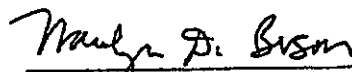
---

<sup>20</sup> Elias reserves the right to argue in closing the heavy burden on the Town in proving its case given the acquittal of the charges.

papers regarding the criminal charges against Officer Elias that were favorably terminated.

3. Pursuant to Criminal Procedure Law §160.50 and Executive Law §296 the Arbitrator should deny the Town's request for an order that Officer Elias produce the transcript of the criminal trial in the City of Middletown.
4. The Arbitrator should rule that all contractual procedures preceding arbitration have been complied with, as determined by the Orange County Supreme Court.
5. The Arbitrator should recommend such further relief as he considers appropriate.

Respectfully submitted,



---

Marilyn D. Berson, Esq.  
1 Spring Square Business Park  
Newburgh, NY 12550  
(845) 566-5526

Dated: September 4, 2008

GERALD N. JACOBOWITZ  
DAVID B. GUBITS  
JOHN H. THOMAS JR.  
GERALD A. LENNON  
PETER R. ERIKSEN  
HOWARD PROTTER  
DONALD G. NICHOL  
LARRY WOLINSKY  
ROBERT E. DINARDO  
J. BENJAMIN GAILEY  
MARK A. KROHN\*  
JOHN C. CAPPELLO  
GEORGE W. LITHCO  
MICHAEL L. CAREY  
\*L.L.M. IN TAXATION

## JACOBOWITZ AND GUBITS, LLP

### COUNSELORS AT LAW

158 ORANGE AVENUE  
POST OFFICE BOX 367  
WALDEN, NEW YORK 12586-0367

(845) 778-2121 (845) 778-5173 FAX  
E-mail: [info@jacobowitz.com](mailto:info@jacobowitz.com)

SANFORD R. ALTMAN  
MARK T. STARKMAN  
AMANDA B. BRADY  
MICHELE L. BABCOCK  
GARY M. SCHUSTER  
WILLIAM E. DUQUETTE  
CARMEE G. MURPHY  
ALYSE D. TERHUNE  
KARA J. CAVALLO  
JOHN J. REVELLA  
TOBIAS A. LAKE  
DAVID M. GANDIN

September 26, 2008

Daniel P. McCann,  
Chief of Police  
Town of Crawford Police Department  
Pine Bush, New York 12566

Re: Pedro M. Elias

Dear Chief McCann:

Enclosed herewith, for your review and your file, please find a copy of Pedro Elias's attorney's Argument Brief together with a copy of our Argument Brief, which both have been submitted to the Arbitrator in the above-captioned matter.

Please be reminded that the continuation of the arbitration is taking place on October 17<sup>th</sup>, 2008.

Please contact me concerning the above or if you have any questions. Thank you for your cooperation and courtesies.

Sincerely,

  
David Gandin

DG/dmg  
Encs.