

STATE OF NEW YORK

EDMUND J. WIATR, JR.,

NOTICE OF CLAIM

CLAIMANT

-vs-

GAIL WOLANIN – YOUNG, INDIVIDUALLY &  
AS TOWN CLERK, AND TOWN OF NEW HARTFORD  
et al.

RESPONDENT (S).

STATE OF NEW YORK)  
COUNTY OF ONEIDA) ss.

RECEIVED  
11:28 am  
JAN 22 2008  
TOWN OF NEW HARTFORD  
TOWN CLERK

SIRs:

PLEASE TAKE NOTICE that the Claimant, Edmund J. Wiatr, Jr., hereby makes claim against the above named Respondent(s) as follows:

(1) The name and address of the Claimant is:

Edmund J. Wiatr, Jr.  
2 Sylvan Glen Road  
Utica, New York 13501

(2) The nature of this claim is that the above named Claimant is a taxpayer and owner of real property situated at 2 Sylvan Glen Road, Utica, New York, County of Oneida, Town of New Hartford. Complainant has been subjected to on-going, violations of New York State Freedom of Information and Open Meetings Law stemming from the reckless, wanton, willful, negligent and/or grossly negligent conduct of the Respondent(s), by and through their agents, representatives, officers and/or employees (hereinafter Respondent).

(3) The time, place and manner in which this claim arose was, upon information and belief, alleged as follows:

a) Respondent(s) failed to comply with repeated requests for Town Wage and Miscellaneous Information documents, specifically, IRS Treasury Forms 1099 and W-2's for calendar years 2006 and 2007. Respondents failed to comply with the time period established pursuant to the NYS FOIL Statute. These information requests requested to be remitted electronically were initially requested on or about December 2007.

b) Respondents' abused their elected position in their repeated failure to remit a copy of the 2006 Town Audit performed by Barone, Hilton, CPA's. Respondents used dilatory tactics to preclude the Complainant from the timely receipt and has steadfastly abused their respective positions in their on-going failure to timely release the requested CPA Audit and Opinion (Management Letter). Mr. Robert Freeman, Executive Director, State of New York, Committee on Open Meetings in an e-mail dated January 14, 2008 stated,

**“Nevertheless, I point out that subparagraph (iv) section 87(2)(g) of the Freedom of Information Law specifies that external audits are accessible to the public. Additionally, section 35(2)(a) of the General Municipal Law states that a management letter filed with a municipal clerk is available to the public as well.”**

c) Respondents received an Opinion Letter dated August 21, 2007 from Mr. Robert Freeman, Executive Director, New York State Open Meetings Committee and informed the Town Clerk that the Town was failing to comply with pertinent sections of New York State Law as it related to Open Meetings, Executive Meetings and Town Meeting Minutes. Respondents actions (to date) in their on-going refusal to comply with this August 21, 2007 Advisory Opinion has deprived the Complainant from important day-to-day information necessary for the conduct of business and information and research that has been routinely departed under the guise of Concerned Citizens For Honest & Open Government.

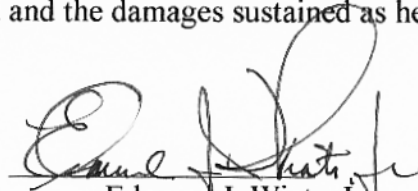
d) Complainant did request pursuant to NYS Freedom of Information Law copies of all Town Planning Board minutes be electronically sent. Upon information and belief, these records are readily available in a word format in the archives of the Town. Mrs. Young has failed to comply with this request and it is further believed that the acts of the Town Clerk are intentional and with malice in the pursuit of information that is alleged to be critical for review and to be used in litigation against the Town of New Hartford.

e) It is further alleged that Respondents violated Section 242 of Title 18, Specifically, **DEPRIVATION OF RIGHTS UNDER COLOR OF LAW**. Respondents did willfully and with malicious intent seek to deprive of a right or privilege protected by the Constitution or laws of the United States. Respondents continued refusal to comply with both the Open Meetings and Freedom of Information Law has caused unnecessary expenditures of time and monies together with the inability to make important decisions concerning town financial matters that deliberately impact the Complainant's lifestyle and too, deprived Complainant's role as Co-Founder of Concerned Citizens For Honest & Open Government an inherent right to receive requested Town records within time limits established pursuant to laws in effect.

(4) Complainant seeks immediate release of requested documents pursuant to the New York State Freedom of Information Law, compliance with New York State's Open Meetings Law to include but not limited to Regular, Special and Executive Meetings; or in the alternative, if Respondent's fail to apply dilatory tactics in their on-going actions, complainant shall seek legal fees, court costs, and other monetary damages and too, specific relief in the form of injunctive relief as determined by the Court.

**WHEREFORE**, Claimant demands that this claim be allowed and the relief sought. The failure of said Town of New Hartford et al. to adjust and effect this claim within thirty (30) days after presentment, will result in the commencement of suit by the Claimant against the Respondents to recover the sums requested, court costs, legal fees together with such further relief claimed and the damages sustained as heretofore set forth.

DATED: January 21, 2008

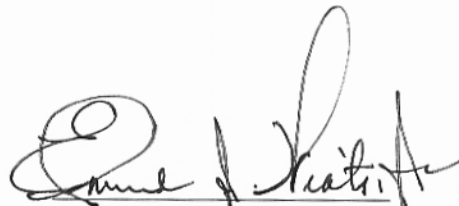


Edmund J. Wiatr, Jr.

**VERIFICATION**

STATE OF NEW YORK)  
COUNTY OF ONEIDA) ss:

Edmund J. Wiatr, Jr., being duly sworn, says that he is the Claimant in the above entitled proceeding and the foregoing Notice of Claim is true to his own knowledge, except as to matters therein stated to be alleged on information and belief as to those matters he believes it to be true.



Edmund J. Wiatr, Jr.