

## NOTICE OF CLAIM

### In the Matter of the Claim of

ELIZABETH MENDOZA, also known as ELIZABETH PEREZ,

Claimant,

-against-

THE TOWN OF NEWBURGH, and POLICE OFFICER MATTHEW MAHONEY, Shield No. TN037, JOHN DOE #4, described as a patrol supervisor, and presently unidentified JOHN DOE and JANE DOE police officers, supervisors, employees, agents, representatives, policymakers, and municipal actors of the TOWN OF NEWBURGH and/or TOWN OF NEWBURGH POLICE DEPARTMENT;

-and-

THE CITY OF NEW YORK, SERGEANT SMITH, first name presently unknown, the unidentified female Sergeant assigned to the June 11, 2026 IAB interview, and presently unidentified JOHN DOE and JANE DOE NYPD officers, supervisors, investigators, employees, agents, representatives, policymakers, and municipal actors of THE CITY OF NEW YORK, NEW YORK CITY POLICE DEPARTMENT

Respondents.

### With Notice and Preservation Demand to:

WALMART INC.; BROSAN RISK CONSULTANTS, LTD.; JANE DOE #1, described as a White female Walmart/Brosnan security employee in her early twenties; JOHN DOE #1, described as a White male Walmart/Brosnan security employee in his early forties wearing a police-style vest; JOHN DOE #2, described as a White male Walmart/Brosnan security employee in his early thirties; JOHN DOE #3, described as a White male Walmart/Brosnan security employee in his early thirties; and all presently unidentified Walmart, Brosnan, loss-prevention, security, supervisory, managerial, and corporate actors involved in the April 20, 2026 detention, accusation, police-summoning decision, arrest-related communications, evidence handling, reporting, and preservation of records.

### TO:

Lisa M. Vance-Ayers – Town Clerk  
Town of Newburgh Town Hall  
1496 Route 300  
Newburgh, New York 12550

### AND TO:

The Town of Newburgh Police Department  
300 Gardnertown Road  
Newburgh, New York 12550

**AND TO:**

The City of New York  
c/o Office of the New York City Comptroller  
1 Centre Street  
New York, New York 10007

Police Department City of New York  
Legal Bureau  
One Police Plaza  
New York, N.Y. 10038

**WITH COPY AND PRESERVATION NOTICE TO:**

Walmart Inc. / Claims Management, Inc. (CMI)  
702 SW 8th Street  
Bentonville, AR 72716

Brosnan Risk Consultants, Ltd.  
One Blue Hill Plaza, Suite 1538  
Pearl River, New York 10965

Brosnan Risk Consultants, Ltd.  
c/o C T Corporation System  
28 Liberty Street  
New York, New York 10005

PLEASE TAKE NOTICE, that pursuant to General Municipal Law §§ 50-e and 50-i, and all other applicable provisions of New York law, claimant Elizabeth Mendoza, also known as Elizabeth Perez, hereby makes claim against the Town of Newburgh, Town of Newburgh Police Department, Police Officer Matthew Mahoney, Shield No. TN037, John Doe #4 described as a patrol supervisor, and presently unidentified Town of Newburgh police officers, supervisors, employees, agents, representatives, policymakers, and municipal actors.

PLEASE TAKE FURTHER NOTICE, that claimant also makes claim against the City of New York, New York City Police Department, Internal Affairs Bureau, Sergeant Smith, first name presently unknown, the unidentified female Sergeant assigned to the June 11, 2026 IAB interview, and presently unidentified NYPD officers, supervisors, investigators, employees, agents, representatives, policymakers, and municipal actors, to the extent the City of New York, NYPD, and/or IAB have used, relied upon, repeated, ratified, adopted, investigated, or acted upon the Walmart/Brosnan accusation, Town of Newburgh arrest, Desk Appearance Ticket, Adjournment in Contemplation of Dismissal, sealed or sealable criminal matter, non-conviction

disposition, or related records, or related records in a discriminatory, retaliatory, unlawful, or employment-impacting manner.

PLEASE TAKE FURTHER NOTICE, that this same Notice is being served upon Walmart Inc., Brosnan Risk Consultants, Ltd., and presently unidentified Walmart/Brosnan security personnel for notice, preservation, consistency of claims, and identification of the private actors whose conduct caused, contributed to, initiated, influenced, or supplied the factual predicate for claimant's detention, arrest, prosecution-related harm, NYPD/IAB disciplinary exposure, reputational injury, and employment-related damages.

This Notice is intended to place all identified municipal and private actors on notice of claimant's claims arising from the April 20, 2026 Walmart detention and Town of Newburgh arrest, the resulting Desk Appearance Ticket and Adjudgment in Contemplation of Dismissal, and the June 11, 2026 NYPD/Internal Affairs Bureau disciplinary investigation and related employment consequences.

### **1. CLAIMANT**

Claimant is Elizabeth Mendoza, also known in certain records as Elizabeth Perez.

Claimant's address is: [REDACTED]

At all relevant times, claimant was a Latina woman and a member of service employed by the New York City Police Department. Claimant's status as an NYPD member of service is material because Walmart/Brosnan security personnel and Police Officer Matthew Mahoney became aware that claimant was an NYPD officer, and they knew or should have known that a petit-larceny accusation, arrest, Desk Appearance Ticket, and related police paperwork would likely trigger NYPD notification, Internal Affairs Bureau scrutiny, disciplinary exposure, reputational injury, and employment-related consequences.

### **2. ATTORNEY FOR CLAIMANT**

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The Sanders Firm, P.C.  
Attorneys for Claimant Elizabeth Mendoza  
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New York, New York 10005  
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Website: [www.thesandersfirm.com](http://www.thesandersfirm.com)

### **3. TIME, PLACE, AND MANNER IN WHICH THE CLAIM AROSE**

This claim arose on and after April 20, 2026, beginning at approximately 10:15 a.m., and continuing through the Walmart detention, the Town of Newburgh Police Department arrest, the

criminal-court proceedings, the ACD disposition, and the NYPD/Internal Affairs Bureau disciplinary investigation.

The relevant locations include, but are not limited to:

Chase Bank  
201 Auto Park Place  
Newburgh, New York 12550

Walmart  
1201 NY-300  
Newburgh, New York 12550

Town of Newburgh Police Department  
300 Gardnertown Road  
Newburgh, New York 12550

Town of Newburgh Court  
311 Route 32  
Newburgh, New York 12550

New York City Police Department  
Internal Affairs Bureau  
2 Lafayette Street, 5th Floor  
New York, New York

#### **A. Walmart Timeline and Pre-Arrest Detention**

On or about April 8, 2026, claimant underwent major thyroid cancer surgery at NYU Langone Health Hospital, 550 First Avenue, New York, New York 10016. Claimant was released from NYU Langone Health Hospital on or about April 10, 2026, with several medications, including OxyCodone. On or about April 18, 2026, claimant went to New York Presbyterian Hospital, 56-45 Main Street, Flushing, New York 11355, for pain in the surgical area and other illness, and was again released with medication, including OxyCodone.

On or about April 20, 2026, at approximately 10:15 a.m., claimant was not feeling well and had taken medication for her illnesses. Because of her condition, claimant asked her family member to drive her to Walmart to purchase household essentials.

At approximately 10:42 a.m., claimant and her family member went to Chase Bank, located at 201 Auto Park Place, Newburgh, New York 12550. Claimant withdrew approximately \$400.00 from her checking account ending in 2323 in order to pay for merchandise at Walmart. Claimant gave the cash to her family member so that the family member could pay for whatever was purchased.

At approximately 11:00 a.m., claimant and her family member arrived at Walmart, located at 1201 NY-300, Newburgh, New York 12550. They entered the store, shopped for household and other items, placed items in the shopping cart, and proceeded to checkout. Because the cashier lines were long and Walmart was crowded, claimant and her family member used self-checkout.

At self-checkout, claimant began scanning items and believed her family member was also scanning items from the opposite side of the cart. Claimant became distracted and believed the items had been scanned. Claimant asked her family member whether they were finished, and her family member indicated yes. Claimant's family member then began entering the cash into the self-checkout machine to pay for the merchandise.

At approximately 11:45 a.m., claimant began to feel unwell. She told her family member that she would meet her at the car. Claimant then left the self-checkout area with the shopping cart while her family member remained at or near the checkout area completing payment.

As claimant was leaving, a White male Walmart greeter, believed to be in his late sixties, asked claimant for the receipt. Claimant turned around, pointed toward her family member, and told the greeter that her family member had the receipt. The greeter then waved claimant through.

At approximately 11:50 a.m., claimant exited Walmart and walked toward the parking lot. At that moment, Walmart/Brosnan security personnel had no lawful basis to stop, seize, restrain, detain, or arrest claimant. No Walmart/Brosnan security employee had observed claimant commit or attempt to commit petit larceny in his or her presence. No Walmart/Brosnan security employee had identified any specific unscanned item before stopping claimant. No Walmart/Brosnan security employee had completed a receipt comparison before stopping claimant. No Walmart/Brosnan security employee had evidence that claimant intended to steal. At most, Walmart/Brosnan security had suspicion, assumption, surmise, or an unresolved self-checkout issue.

The moment Jane Doe #1 and John Doe #1 stopped claimant outside Walmart, positioned themselves in front of the shopping cart, demanded the receipt, and prevented claimant from simply continuing to the parking lot, claimant was effectively under private arrest. Walmart/Brosnan cannot avoid liability by labeling the seizure a "receipt check," an "investigation," or a "loss-prevention stop." The legal issue is whether Walmart/Brosnan had lawful authority at the moment it stopped claimant and deprived her of freedom of movement.

General Business Law § 218 does not give Walmart, Brosnan, or private security personnel blanket authority to stop customers whenever they suspect a self-checkout issue. The statute is defensive, limited, and conditional. It provides a potential defense in a later civil action for false arrest, false imprisonment, unlawful detention, defamation, assault, trespass, or invasion of civil rights only if the merchant, owner, authorized employee, agent, police officer, or peace officer proves that the detention was based on reasonable grounds, was conducted in a reasonable manner, and lasted no longer than a reasonable time. Under *Tota v. Alexander's, Inc.*, 63 Misc.2d 908, 314 N.Y.S.2d 93 (Civ. Ct. N.Y. Cnty. 1968), aff'd, 38 A.D.2d 892, 330 N.Y.S.2d 295 (1st Dep't 1972), where a plaintiff proves false arrest or unlawful detention, the store defendant

bears the burden of establishing that it had reasonable grounds or probable cause to believe the person detained was committing or attempting to commit larceny on the premises.

General Business Law § 218 is not self-executing. It does not create probable cause. It does not create police power. It does not eliminate the element of larcenous intent. It does not authorize a private security arrest based on suspicion. It does not permit Walmart/Brosnan to stop claimant first, investigate afterward, and then use a post-stop receipt audit to justify the initial seizure.

The statutory text matters. General Business Law § 218 requires reasonable grounds to believe that the person detained was committing or attempting to commit larceny of merchandise on the premises. The statute identifies examples of reasonable grounds, including knowledge that a person concealed unpurchased merchandise or possessed an anti-security item. This case, as presently known, does not involve observed concealment, an anti-security device, a refusal to produce a receipt, a refusal to return to the store, flight, or a refusal to pay. It involves a self-checkout transaction, a family member still inside with the receipt completing payment, claimant's immediate explanation, claimant's immediate cooperation, claimant's return into the store, production of the receipt, and repeated offers to pay for any allegedly unscanned item.

Jane Doe #1's own statement that she needed to check the receipt to see whether anything was unscanned confirms that Walmart/Brosnan stopped claimant before confirming any unscanned merchandise, before completing any line-by-line receipt comparison, before providing any itemized explanation, and before determining that claimant committed or attempted to commit larceny. Walmart/Brosnan could not manufacture reasonable grounds after the seizure and then use a later audit to justify the original stop.

Nor can Walmart/Brosnan satisfy General Business Law § 218 merely by claiming that the detention was for "investigation." The statute requires a reasonable manner and no more than a reasonable time. Here, claimant was stopped outside the store, redirected back inside, taken to a security room, surrounded by four White Walmart/Brosnan security personnel, confronted by a security employee wearing a police-style vest, prevented from speaking to a supervisor, not shown the allegedly missing items, not given an itemized explanation, and not permitted to resolve the matter by paying despite repeatedly offering to do so. Those facts support the conclusion that the detention was not reasonable in manner, not reasonable in scope, and not a lawful use of the limited shopkeeper's privilege.

New York law also recognizes that General Business Law § 218 was not enacted as a license for retail establishments or their security agents to mishandle, embarrass, humiliate, or injure customers under the guise of shoplifting enforcement. In *Keefe v. Gimbel's*, 124 Misc. 2d 658, 478 N.Y.S.2d 745 (Civ. Ct. N.Y. Cnty. 1984), the court recognized that a retail mercantile establishment has a duty to take appropriate measures to avoid mishandling customers suspected of shoplifting and to operate its premises in a manner that does not subject customers to unnecessary emotional harm, embarrassment, humiliation, or mental anguish through negligent detention practices. Walmart/Brosnan violated that duty by transforming an alleged self-checkout discrepancy into a security-room detention, police-summoning event, arrest, criminal accusation, and employment-impacting matter after claimant had cooperated, returned to the

store, produced the receipt through her family member, and offered to pay for any allegedly unscanned item.

Nor does General Business Law § 218 transform Walmart/Brosnan security personnel into police officers. In *Orellana v. Macy's Retail Holdings, Inc.*, 53 Misc. 3d 622, 36 N.Y.S.3d 547, 2016 N.Y. Slip Op. 26224 (Sup. Ct. Bronx Cnty. 2016), the court recognized that store employees exercising shoplifting detention or arrest authority generally act as private individuals, not as police officers. Walmart/Brosnan security personnel were private actors with limited statutory authority. Their conduct had to satisfy General Business Law § 218 if they intended to claim the shopkeeper's privilege, including reasonable grounds, reasonable manner, and reasonable time, and their conduct also had to comply with the Criminal Procedure Law if they intended to effect, procure, or cause an arrest.

Walmart was aware, or should have been aware, that self-checkout systems and missed-scan detection technologies have recognized limitations and do not reliably distinguish between intentional theft and non-malicious customer error. In *Self-Checkout Loss Report 2026: Understanding the Scale and Nature of Loss and the Impact of Interventions in Retail*, Professor Matt Hopkins of the University of Leicester, in research commissioned by ECR Retail Loss, explains that self-checkout loss includes non-scans, wrong scans, and walkaways; identifies missed scans as the most frequent source of self-checkout loss; and recognizes that distinguishing genuine customer error from malicious conduct is difficult, with estimates of malicious non-scan events varying widely. Separately, in Christina C. Mendat & Christopher B. Mayhorn, *An Evaluation of Self-Checkout Systems*, the authors identify barcode-scanning failure, error-handling problems, weight-detection issues, delayed scan recognition, and inadequate user feedback as recognized human-factors problems in self-checkout systems. Those studies confirm what Walmart and its security agents knew or should have known: a missed scan, non-scan, scanner delay, barcode failure, system prompt, weight-platform issue, later scan discrepancy, or technology alert is not the same thing as intentional larceny.

Walmart also has been the subject of public reporting and industry commentary concerning Everseen self-checkout anti-theft technology, including reported concerns that such technology generated false positives, missed alleged theft, and misidentified ordinary or innocent customer behavior as potential shoplifting. Accordingly, Walmart/Brosnan could not lawfully treat a suspected missed scan, later receipt audit, alleged item count, video interpretation, or technology alert as the equivalent of an observed petit larceny committed or attempted in the presence of private security personnel. Those materials may support further inquiry only if General Business Law § 218 is independently satisfied; they do not establish larcenous intent, do not satisfy CPL § 140.30(1), and do not retroactively justify a private-person misdemeanor arrest.

General Business Law § 218 does not override Criminal Procedure Law § 140.30(1). The two provisions address different issues. General Business Law § 218 provides a limited civil defense for a reasonable investigative detention under specified circumstances. CPL § 140.30(1) governs when a private person may arrest. Under CPL § 140.30(1), a private person may arrest another for a misdemeanor only when the offense has in fact been committed or attempted in the private person's presence. Petit larceny under Penal Law § 155.25 is a misdemeanor. Therefore, Walmart/Brosnan could not lawfully stop, seize, arrest, or cause the arrest of claimant unless

Walmart/Brosnan actually observed claimant commit or attempt to commit petit larceny in its presence.

New York law is strict on this point. A private person may arrest for a misdemeanor only where the misdemeanor was actually committed or attempted in the private person's presence. *Gearity v. Strasbourger*, 133 A.D. 701, 118 N.Y.S. 257 (1st Dep't 1909); *International Ry. Co. v. Schwab*, 203 A.D. 68, 196 N.Y.S. 659 (4th Dep't 1922), appeal dismissed, 235 N.Y. 562, 139 N.E. 735 (1923). To justify a private-person misdemeanor arrest, it must appear that the accused actually committed the charged offense in the presence of the person making or causing the arrest. *Rodney v. Interborough Rapid Transit Co.*, 149 Misc. 271, 267 N.Y.S. 86 (Sup. Ct. N.Y. Cnty. 1932). A private arrest for a misdemeanor is made at the actor's peril. *Gill v. Montgomery Ward & Co.*, 284 A.D. 36, 129 N.Y.S.2d 288 (3d Dep't 1954).

Mere suspicion is legally insufficient. In *People v. Williams*, 53 Misc. 2d 1086, 281 N.Y.S.2d 251 (Syracuse City Ct. 1967), a store security guard's arrest was held illegal where the guard did not actually see the defendant commit petit larceny and instead acted on suspicion and reasoning. That principle controls here. Walmart/Brosnan security could not lawfully arrest claimant by reasoning backward from a suspected self-checkout discrepancy, a later receipt review, a later line-by-line-item comparison, or an assumption that claimant intended to steal. A private person who arrests for a misdemeanor not committed in his or her presence is liable for false imprisonment. *McLoughlin v. New York Edison Co.*, 252 N.Y. 202, 169 N.E. 277 (1929). Good faith is no defense where the private actor lacked authority to arrest. *Johnston v. Bruckheimer*, 133 A.D. 649, 118 N.Y.S. 189 (1st Dep't 1909).

When Walmart/Brosnan security stopped claimant outside the store, claimant immediately advised that the receipt was inside with her family member, who was still inside the store completing the transaction. Claimant did not flee, refuse to cooperate, refuse to produce the receipt, refuse to return inside, or refuse to pay for any item Walmart/Brosnan claimed had not been scanned. Claimant instead offered to return inside the store so the receipt could be checked and any issue could be resolved.

Those facts defeat any claim that Walmart/Brosnan had observed a completed petit larceny. A person who tells security that the receipt is inside with the person completing payment, returns inside to produce the receipt, cooperates with security, and offers to pay for any missed item is not admitting larceny. Those facts show absence of intent, cooperation, and mistake.

After claimant was already stopped, claimant returned inside Walmart with Jane Doe #1 and John Doe #1. Claimant asked her family member to provide the receipt. The receipt was provided. Jane Doe #1 looked at the receipt but did not identify, itemize, or explain any specific allegedly unscanned item to claimant. Claimant and her family member again stated that if anything had not been scanned, it was an honest oversight, not intentional theft, and that they were willing to pay for any allegedly unscanned item.

At approximately 11:55 a.m., Jane Doe #1 told claimant and her family member words to the effect of, "That is not how it works," and directed them into the security room so Walmart/Brosnan could check the receipt for missing items. Jane Doe #1 also stated words to the

effect that if items were missing, claimant and her family member would be allowed to pay, but that they needed to go to the security room first. That statement confirms that Walmart/Brosnan did not know whether any item was unscanned when claimant was stopped, redirected inside, or directed into the security room. Walmart/Brosnan was still investigating after the seizure and private arrest had already occurred.

Claimant and her family member followed Walmart/Brosnan security into the security room only because they were trying to resolve the matter, pay for any allegedly unscanned item, and avoid escalation. Their compliance did not make the detention voluntary. Their cooperation did not give Walmart/Brosnan retroactive legal authority. Their willingness to pay did not establish criminal intent. Their entry into the security room did not cure the unlawful stop and private arrest that had already occurred outside the store.

Inside the security room were Jane Doe #1, John Doe #1, John Doe #2, and John Doe #3. Jane Doe #1 is described as a White female in her early twenties. John Doe #1 is described as a White male in his early forties wearing a police-style vest. John Doe #2 and John Doe #3 are described as White males in their early thirties. Claimant and her family member were the only minority individuals in the room. John Doe #1, wearing the police-style vest, blocked or stood near the exit door. Claimant sat on a bench while the shopping cart obstructed her view of what Jane Doe #1, John Doe #2, and John Doe #3 were doing.

Only after claimant and her family member had been stopped, redirected, and placed in the security room did Walmart/Brosnan personnel conduct the line-by-line receipt comparison. Jane Doe #1 and John Doe #2 compared the receipt and cart items while claimant and her family member remained detained. Claimant and her family member were not shown evidence, were not told which specific items were allegedly unscanned, were not provided an itemized explanation, and were not allowed to resolve the matter by paying despite repeatedly offering to do so.

That post-seizure audit cannot supply legal authority for the original stop. Walmart/Brosnan had to have lawful authority at the moment it stopped claimant. A later receipt review cannot retroactively establish that petit larceny was actually committed or attempted in the presence of the private security personnel.

Upon information and belief, John Doe #2 called the Newburgh Police Department after claimant and her family member were already detained and while Walmart/Brosnan was still attempting to construct the accusation through a receipt audit. By summoning police under those circumstances, Walmart/Brosnan caused or contributed to claimant's arrest even though Walmart/Brosnan had no lawful authority to stop claimant, hold claimant, or cause a misdemeanor arrest.

Claimant and her family member provided identification. Claimant provided a picture of her driver's license reflecting the name Elizabeth Perez. Claimant also informed John Doe #1 that she was an active NYPD member of service and provided her NYPD identification. John Doe #1 held claimant's NYPD identification for a short period. At that point, Walmart/Brosnan knew claimant was an NYPD officer and knew or should have known that escalating the matter to a

petit-larceny arrest would likely trigger NYPD notification, Internal Affairs Bureau scrutiny, disciplinary exposure, reputational injury, and employment-related harm. Claimant asked to speak with a supervisor, but John Doe #1 refused.

At approximately 12:40 p.m., Police Officer Matthew Mahoney, Shield No. TN037, arrived in the Walmart security room. Claimant identified herself as NYPD. Officer Mahoney, a White male, stated that he was also formerly NYPD and had worked in the 34th Precinct. Claimant asked Officer Mahoney whether he could speak with Walmart/Brosnan security. Officer Mahoney stated words to the effect that “when Walmart makes up their mind, there is nothing that he can do.”

That statement is independently significant. Officer Mahoney was not permitted to treat Walmart/Brosnan’s decision as legally controlling. Walmart/Brosnan’s private security decision did not establish probable cause. Walmart/Brosnan’s accusation did not cure the unlawful stop. Walmart/Brosnan’s receipt audit did not satisfy CPL § 140.30(1). Officer Mahoney was required to make an independent probable-cause assessment, including whether there was evidence of larcenous intent and whether the private security stop was lawful at its inception.

Officer Mahoney’s conversation with claimant occurred inside the Walmart security room while his body-worn camera was not active. Officer Mahoney stated that he would activate his camera when they were outside. Officer Mahoney then adopted Walmart/Brosnan’s accusation, placed claimant and her family member under arrest, and handcuffed them in front. Officer Mahoney activated his body-worn camera only after claimant and her family member were outside near his police vehicle.

Officer Mahoney’s arrest decision compounded the private-security violation. The initial stop outside Walmart was unlawful because Walmart/Brosnan had not observed claimant commit or attempt to commit petit larceny in its presence. The subsequent receipt review, security-room detention, police call, and Officer Mahoney’s arrest could not retroactively justify the unlawful stop.

Claimant and her family member were then transported to the Town of Newburgh Police Department. Upon information and belief, John Doe #4, described as a patrol supervisor, did not respond to the scene, did not review the Walmart/Brosnan detention, did not evaluate whether Walmart/Brosnan security had lawfully stopped claimant under General Business Law § 218, did not determine whether Walmart/Brosnan security had authority under CPL § 140.30(1) to effect or cause a private-person misdemeanor arrest, and did not ensure that Officer Mahoney made an independent probable-cause determination before making a summary arrest.

Nor did any other Town of Newburgh Police Department supervisor ensure that the Walmart/Brosnan arrest, seizure, security-room detention, and police-summoning conduct complied with New York law before Officer Mahoney adopted Walmart/Brosnan’s accusation and transported claimant from the store. That supervisory failure is material because a suspected self-checkout discrepancy, later receipt review, line-by-line audit, or private security accusation did not satisfy CPL § 140.30(1).

Officer Mahoney also had an independent legal obligation to determine whether there was lawful probable cause before making the arrest. He could not lawfully treat Walmart/Brosnan's accusation as dispositive. He could not lawfully defer to Walmart/Brosnan's "decision." He could not lawfully convert an unlawful private-security stop into a valid police arrest without independently assessing whether claimant committed petit larceny, whether there was evidence of larcenous intent, and whether Walmart/Brosnan had lawfully stopped claimant in the first instance.

Claimant received a Desk Appearance Ticket at approximately 1:24 p.m. charging Petit Larceny under Penal Law § 155.25. The DAT and arrest were the direct product of Walmart/Brosnan's unlawful private arrest, unlawful detention, unlawful police-summoning conduct, racially suspect escalation, Officer Mahoney's failure to independently assess whether Walmart/Brosnan had any lawful basis to stop claimant, and the failure of John Doe #4 and/or any other Town of Newburgh Police Department supervisor to ensure compliance with CPL § 140.30(1), General Business Law § 218, and Officer Mahoney's independent legal obligations before claimant was summarily arrested.

### **B. Criminal Court Proceedings, ACD Disposition, Disputed Item Count, and Continued Harm**

After claimant was arrested and issued a Desk Appearance Ticket, she retained private criminal defense counsel from the Law Offices of Natasha Turner, located at 225 S. Plank Road, Suite 2, Newburgh, New York 12550. The DAT originally directed claimant to appear in Town of Newburgh Court on May 27, 2026 at 5:30 p.m. Counsel was able to advance the court date to April 27, 2026 at 4:00 p.m. at the Town of Newburgh Court, 311 Route 32, Newburgh, New York 12550.

On or about April 27, 2026, claimant appeared in Town of Newburgh Court with counsel. Claimant observed that the judge, prosecutor, court typist, court officers, and overall court staff appeared to be White, while approximately 95% of the people waiting to be seen by the judge appeared to be people of color, including Black and Hispanic individuals. Upon information and belief, many of those individuals appeared to be present for Walmart-related arrest matters.

Claimant does not assert, at this stage, that those courtroom observations alone prove racial discrimination, selective enforcement, racial profiling, or municipal wrongdoing. However, the observations are material and require investigation. They support claimant's contention that Walmart-related arrests in the Town of Newburgh may disproportionately involve Black and Hispanic customers and that Walmart/Brosnan security practices, Town of Newburgh police practices, and related criminal-court processing may operate in a manner that pressures minority defendants to accept quick dispositions rather than challenge the legal premise of the arrest.

Claimant's criminal defense counsel allegedly stated, in substance, that this is how the court "stays up and running" because of Walmart cases and because people are required to complete a \$75.00 shoplifting course. Claimant and her family member received an Adjournment in Contemplation of Dismissal and were ordered to complete a \$75.00 shoplifting course through the National Association for Shoplifting Prevention. They completed the course. Claimant

maintains, however, that the course was directed toward persons accused of intentional stealing and did not address accidental missed scans, medical distraction, lack of criminal intent, self-checkout error, or the absence of lawful private-person arrest authority.

Claimant also disputes the factual integrity of the alleged “13 items” accusation. To this day, claimant has not been provided a reliable itemized list identifying the specific merchandise Walmart/Brosnan claims she intentionally stole. Claimant has not been shown a complete receipt comparison, scan log, transaction journal, synchronized video-and-scan record, itemized audit sheet, Walmart/Brosnan incident report, or any other reliable document establishing what the allegedly unscanned items were, who identified them, when they were identified, how the item count was calculated, or whether the alleged number was generated before or after claimant had already been stopped, redirected, detained, accused, and referred for arrest.

Claimant does not presently assert a separate fabricated-evidence cause of action. However, claimant expressly places all recipients on notice that the source, timing, authorship, accuracy, and integrity of the alleged “13 items” claim are central issues. Claimant believes that the “13 items” figure was manufactured, reconstructed, inflated, or otherwise generated after the fact to justify a detention and arrest that had already occurred without lawful grounds. The point is not to plead fabrication as a separate claim at this stage, but to preserve claimant’s contention that Walmart/Brosnan, the Town of Newburgh, and later NYPD/IAB relied upon an unverified and disputed item count that claimant has never been given a meaningful opportunity to inspect, test, or challenge. *Carruthers v. Colton*, 153 F.4th 169 (2d Cir. 2025).

The ACD disposition is legally significant. Under CPL § 170.55, an ACD is not a conviction, not a guilty plea, and not an admission of guilt. It does not establish that claimant committed petit larceny, possessed larcenous intent, or admitted wrongdoing. It does not establish that Walmart/Brosnan lawfully stopped, seized, detained, or privately arrested claimant. It does not establish that Walmart/Brosnan observed a misdemeanor committed or attempted in its presence. It does not establish that Officer Mahoney independently determined probable cause. It does not establish that any Town of Newburgh Police Department supervisor reviewed the legality of the Walmart/Brosnan seizure before claimant was summarily arrested.

The absence of an adjudication of innocence does not alter that conclusion. In *Thompson v. Clark*, 596 U.S. 36, 142 S. Ct. 1332 (2022), the United States Supreme Court rejected the rule that a plaintiff must show that a criminal prosecution ended with an affirmative indication of innocence. The Court held that, for purposes of a Fourth Amendment malicious-prosecution claim under 42 U.S.C. § 1983, a plaintiff need only show that the prosecution ended without a conviction. That principle is important here because claimant’s acceptance of an ACD was not a concession that Walmart/Brosnan acted lawfully, that Officer Mahoney had probable cause, that claimant intended to steal, or that the alleged “13 items” accusation was accurate.

Nor does the ACD waive claimant’s civil claims or sanitize the unlawful conduct that preceded it. Upon dismissal under CPL § 170.55, the arrest and prosecution are deemed a nullity, and claimant is restored, in contemplation of law, to the status she occupied before the arrest and prosecution. The ACD therefore cannot be used by Walmart, Brosnan, the Town of Newburgh,

Officer Mahoney, the City of New York, NYPD, or IAB as proof that claimant committed theft, admitted theft, intended to steal, was lawfully stopped, or was lawfully arrested.

The ACD must also be understood in context. Claimant was an NYPD member of service facing immediate reputational, disciplinary, and employment-related consequences from a pending petit-larceny accusation. Accepting an ACD was a practical effort to end a low-level criminal matter quickly, reduce further harm, avoid prolonged criminal litigation, and mitigate the risk that a pending accusation would be misused against her employment. It was not an admission that claimant intentionally stole property from Walmart. It was not an admission that Walmart/Brosnan had lawful authority to stop her. It was not an admission that Officer Mahoney had probable cause to arrest her.

On or about May 20, 2026, claimant returned to Town of Newburgh Court, provided proof of completion of the shoplifting course, and received a Certificate of Disposition. Claimant's docket number was 26040556.

The criminal-court disposition did not cure the original legal defects. The core issues remain whether Walmart/Brosnan had legal authority to stop claimant in the first place; whether Walmart/Brosnan caused a misdemeanor arrest without observing a misdemeanor committed or attempted in its presence; whether the alleged "13 items" figure was reliable, itemized, contemporaneous, and independently verifiable; whether Officer Mahoney improperly adopted Walmart/Brosnan's accusation without an independent probable-cause assessment; whether Town of Newburgh supervisors failed to ensure compliance with CPL § 140.30(1), General Business Law § 218, and controlling New York law; and whether the matter was affected by racial profiling, Latina/national-origin bias, disability or perceived-disability bias, and employment-impact motives once claimant's NYPD status became known.

### **C. NYPD/Internal Affairs Bureau Investigation, Preclusion, and Unlawful Use of Arrest-Based, Non-Conviction, Sealed, or Derivative Criminal-Case Material**

The City of New York, NYPD, and Internal Affairs Bureau should have foreclosed any disciplinary interview, questioning, review, charge, investigative theory, or employment action that relied upon claimant's Walmart/Brosnan accusation, Town of Newburgh arrest, Desk Appearance Ticket, Adjournment in Contemplation of Dismissal, sealed or sealable criminal matter, non-conviction disposition, or evidence derived from the criminal prosecution.

This portion of the claim is about preclusion. The Department could not revive a non-conviction criminal accusation, repackage it as an internal administrative matter, and force claimant to defend herself against an alleged petit larceny that produced no conviction, no guilty plea, no admission of guilt, and no finding of larcenous intent. Nor could the Department use the existence of the arrest as a gateway to obtain, review, repeat, summarize, test, operationalize, or rely upon criminal-case material that was sealed, sealable, nullified, arrest-based, non-conviction-based, or otherwise legally precluded from employment use.

On or about June 11, 2026, at approximately 9:40 a.m., claimant appeared at NYPD/Internal Affairs Bureau, 2 Lafayette Street, 5th Floor, New York, New York, in connection with an IAB investigation arising from the April 20, 2026 Walmart/Brosnan detention and Town of Newburgh arrest.

Upon information and belief, the alleged disciplinary categories or investigative theories included, but were not necessarily limited to:

1. MOS Arrested;
2. Duty Captain notification; and
3. MOS Petit Larceny.

Those categories illustrate the preclusion problem. “MOS Arrested” is an arrest-based employment inquiry. “MOS Petit Larceny” is an effort to treat an unproven, non-conviction accusation as if it were an adjudicated fact. Neither formulation can be used to avoid the protections afforded to claimant under the New York State Human Rights Law, the New York City Human Rights Law, CPL § 170.55, CPL § 160.50, and related New York law governing non-conviction dispositions, sealed criminal matters, and arrest-history discrimination.

At approximately 10:00 a.m., claimant’s attorney and PBA Delegate, Police Officer Robert J. Mitariten from the 17th Precinct, arrived. Claimant, counsel, and the PBA Delegate reviewed the matter before claimant was interviewed.

At approximately 10:15 a.m., claimant was brought into an interview room with two female NYPD Sergeants assigned to IAB. One investigator is believed to be Sergeant Smith, first name presently unknown. The second female Sergeant’s name is presently unknown. Claimant’s PBA attorney and PBA Delegate were present. Claimant was read the applicable Patrol Guide and/or Administrative Guide statement and questioned by Sergeant Smith.

The interview should have been foreclosed to the extent it was based upon, derived from, or dependent upon the Town of Newburgh arrest, DAT, ACD, sealed or sealable criminal file, Walmart/Brosnan accusation, or evidence gathered for the criminal matter. IAB should not have questioned claimant about the substance of an alleged petit larceny where the criminal matter had not resulted in a conviction, guilty plea, admission of guilt, or finding of wrongdoing.

During the interview, IAB questioned claimant concerning the April 20, 2026 Walmart/Brosnan accusation and Town of Newburgh arrest. Claimant was required to explain her recent major thyroid cancer surgery, hospitalizations, medication use, lack of intent, Chase Bank cash withdrawal, self-checkout process, Walmart/Brosnan stop, security-room detention, willingness to pay for any unscanned items, Officer Mahoney’s arrival, and Officer Mahoney’s alleged statement that “when Walmart makes up their mind, there is nothing that he can do.”

Those questions demonstrate that IAB was not merely confirming a neutral administrative notification. IAB was probing the facts of a non-conviction criminal accusation and treating the arrest, DAT, ACD, Walmart/Brosnan accusation, and related materials as an evidentiary platform for employment scrutiny. That use is the harm.

During the interview, Sergeant Smith allegedly stated that there were “13 items” and that Walmart had video showing claimant as the only person scanning. Those references are especially significant because claimant has never been shown a reliable itemized list, complete receipt comparison, scan log, transaction journal, synchronized video-and-scan record, itemized audit sheet, Walmart/Brosnan incident report, supporting deposition, police paperwork, or any other document establishing what the 13 items allegedly were, who identified them, when they were identified, how the item count was calculated, or whether the alleged number was generated before or after claimant had already been stopped, redirected, detained, accused, and referred for arrest.

The alleged “13 items” figure therefore reinforces both the preclusion issue and the evidentiary-integrity issue. Claimant disputes the “13 items” figure and believes it was manufactured, reconstructed, inflated, or otherwise generated after the fact to justify the Walmart/Brosnan detention, police referral, Town of Newburgh arrest, and later NYPD/IAB employment scrutiny. IAB should not have repeated, relied upon, or operationalized that disputed number in an employment interview without first identifying its source, preserving the underlying materials, determining whether the information was lawful and non-precluded, and providing claimant a meaningful opportunity to inspect, test, and challenge the factual premise.

If the alleged “13 items” figure, Walmart video, receipt details, item-count information, supporting deposition, police paperwork, or related materials came from the terminated criminal case, the Town of Newburgh police file, prosecution materials, Walmart evidence transmitted for criminal-law purposes, or any derivative sealed, sealable, nullified, arrest-based, or non-conviction source, IAB should not have used, referenced, summarized, or relied upon those materials in the June 11, 2026 disciplinary interview. The Department may not take criminal-case material, place it into an internal file, and then use it as employment evidence if the material is legally unavailable, precluded, sealed, sealable, nullified, or otherwise protected from employment use.

The ACD is central to preclusion. Under CPL § 170.55, an ACD is not a conviction, not a guilty plea, and not an admission of guilt. It does not establish larcenous intent. It does not establish that claimant committed petit larceny. Upon dismissal, the arrest and prosecution are deemed a nullity, and claimant is restored, in contemplation of law, to the status she occupied before the arrest and prosecution.

Accordingly, the ACD could not be used by the City of New York, NYPD, or IAB as proof that claimant stole property, intended to steal property, acted dishonestly, engaged in misconduct, violated Department rules, or was lawfully arrested. Nor could IAB use the ACD as a procedural excuse to continue interrogating claimant about an accusation that produced no conviction, no guilty plea, no admission, and no finding of misconduct.

The sealing protections are equally important. To the extent the criminal matter was sealed or subject to sealing protections, the City of New York, NYPD, and IAB were required to treat the arrest and prosecution materials as legally unavailable for employment use except to the extent a specific statutory exception applied. No such exception is presently known. The Department had

no apparent lawful basis to obtain, review, rely upon, or use sealed arrest/prosecution materials to question claimant about alleged petit larceny or to build an internal disciplinary case.

The NYSHRL and NYCHRL reinforce the same conclusion. The City of New York, NYPD, and IAB may not discriminate against claimant, treat her less well, discipline her, threaten discipline, continue an adverse investigation, or impose employment consequences because of an arrest, criminal accusation, DAT, ACD, sealed criminal matter, non-conviction disposition, or protected criminal-case history that the law prohibits an employer from using. The Department cannot avoid arrest-discrimination, sealed-record, or non-conviction protections by describing the same prohibited use as an IAB investigation.

Nor is the preclusion issue cured by the Department's general interest in discipline. The Department may investigate actual misconduct using legally available, independently obtained, non-precluded evidence. But it may not rely on the fact of arrest, the DAT, the ACD, the sealed or sealable criminal file, or evidence derived from the criminal prosecution to prove theft, dishonesty, intent, or misconduct. It may not use Walmart/Brosnan's unproven accusation and Officer Mahoney's arrest as substitutes for admissible, lawful, non-precluded proof.

Claimant further alleges that IAB did not show her the Walmart video, did not show her the receipt, did not show her the alleged itemized list of 13 items, did not show her the supporting deposition or police paperwork, and did not provide her a meaningful opportunity to test the factual premise of the alleged evidence. That lack of disclosure reinforces the impropriety of the interview, but the more fundamental defect is that the evidence should not have been used, referenced, or relied upon at all if it was sealed, sealable, nullified, arrest-based, non-conviction-based, or derivative of the criminal matter.

As a result, the June 11, 2026 IAB interview and any resulting disciplinary action are independently actionable to the extent they relied upon, referenced, repeated, adopted, investigated, or operationalized claimant's protected arrest history, criminal accusation history, DAT, ACD, sealed or sealable criminal matter, non-conviction disposition, legally null disposition, disputed "13 items" accusation, or derivative criminal-case evidence. The interview should have been foreclosed. Any employment consequence flowing from that interview should likewise be precluded.

#### **4. NATURE OF CLAIMS**

Claimant asserts claims arising from the unlawful Walmart/Brosnan stop, seizure, private arrest, detention, police-summoning conduct, Town of Newburgh arrest, Desk Appearance Ticket, ACD disposition, disputed "13 items" accusation, and NYPD/IAB use of arrest-based, non-conviction, sealed, sealable, nullified, and/or precluded criminal-case material.

As to Walmart Inc., Brosnan Risk Consultants, Ltd., Jane Doe #1, John Doe #1, John Doe #2, John Doe #3, and presently unidentified Walmart/Brosnan employees, supervisors, managers, loss-prevention personnel, security personnel, contractors, agents, and representatives, claimant asserts claims including, but not limited to, false arrest, false imprisonment, unlawful detention, negligence, negligent hiring, negligent training, negligent supervision, negligent retention,

negligent mishandling of a suspected shoplifting customer, unlawful private-person arrest under CPL § 140.30(1), exceeding and failing to satisfy any limited protection available under General Business Law § 218, public-accommodation discrimination, racial profiling, discrimination based on race, color, national origin, ancestry, Latina ethnicity, disability, perceived disability, and medical condition, violation of Civil Rights Law § 79-n, violation of Civil Rights Law §§ 40-c and 40-d, and violations of the New York State Human Rights Law and New York City Human Rights Law.

Walmart/Brosnan had no lawful authority to stop, seize, detain, privately arrest, or cause the arrest of claimant unless the alleged misdemeanor was actually committed or attempted in the presence of Walmart/Brosnan security personnel. Walmart/Brosnan did not satisfy that requirement. Instead, Walmart/Brosnan stopped claimant first and attempted to construct or justify the accusation afterward through a receipt review, line-by-line item comparison, alleged item count, alleged video interpretation, and private security conclusion. That sequence violated CPL § 140.30(1), exceeded any limited protection available under General Business Law § 218, and supports claims for false arrest, false imprisonment, unlawful detention, negligence, and related civil-rights violations.

Walmart/Brosnan also knew or should have known that self-checkout systems, missed-scan detection, scan logs, video interpretation, and loss-prevention technology do not reliably distinguish between intentional theft and non-malicious customer error. Walmart/Brosnan nevertheless treated an alleged self-checkout discrepancy as intentional larceny, refused claimant's repeated offers to pay for any allegedly unscanned item, failed to provide a reliable itemized list identifying the alleged merchandise, and escalated the matter into a police referral and arrest after claimant had already cooperated. Claimant further disputes the alleged "13 items" figure and places Walmart/Brosnan on notice that the source, timing, authorship, accuracy, and integrity of that figure are central issues.

As to the Town of Newburgh, Town of Newburgh Police Department, Police Officer Matthew Mahoney, Shield No. TN037, John Doe #4 described as a patrol supervisor, and presently unidentified Town of Newburgh police officers, supervisors, employees, agents, representatives, policymakers, and municipal actors, claimant asserts claims including, but not limited to, false arrest, false imprisonment, unlawful seizure, negligent investigation, negligent training, negligent supervision, negligent retention, failure to supervise, failure to intervene, failure to ensure compliance with CPL § 140.30(1), failure to ensure an independent probable-cause assessment, violation of the New York State Constitution article I, §§ 11 and 12, violation of Civil Rights Law § 79-n, violation of Civil Rights Law §§ 40-c and 40-d, race discrimination, national-origin discrimination, Latina-ethnicity discrimination, disability discrimination, perceived-disability discrimination, and related state-law claims.

Officer Mahoney and the Town of Newburgh Police Department could not lawfully treat Walmart/Brosnan's accusation as dispositive. Officer Mahoney had an independent obligation to determine whether probable cause existed before making a summary arrest. That required him to assess whether Walmart/Brosnan lawfully stopped claimant in the first instance, whether Walmart/Brosnan actually observed a misdemeanor committed or attempted in its presence, whether there was evidence of larcenous intent, whether claimant cooperated, whether the receipt

had been produced, whether claimant offered to pay for any allegedly unscanned item, whether the alleged “13 items” figure was reliable and itemized, and whether the accusation rested on a post-stop receipt audit rather than an observed theft.

John Doe #4 and/or other Town of Newburgh Police Department supervisors failed to ensure that Officer Mahoney complied with those obligations before claimant was arrested, transported, processed, and issued a DAT. No supervisor ensured that Walmart/Brosnan’s private arrest and seizure complied with CPL § 140.30(1). No supervisor ensured that General Business Law § 218 was not being misused as blanket arrest authority. No supervisor ensured that claimant was not being summarily arrested based on a private retailer’s unsupported accusation, racially suspect escalation, disputed item count, and after-the-fact receipt review.

As to the City of New York, New York City Police Department, Internal Affairs Bureau, Sergeant Smith, the unidentified female Sergeant, and presently unidentified NYPD officers, supervisors, investigators, employees, agents, representatives, policymakers, and municipal actors, claimant asserts claims including, but not limited to, arrest-discrimination, criminal-accusation discrimination, sealed-record discrimination, non-conviction-disposition discrimination, race discrimination, color discrimination, national-origin discrimination, Latina-ethnicity discrimination, disability discrimination, perceived-disability discrimination, retaliation, aiding and abetting, interference, and violations of the New York State Human Rights Law and New York City Human Rights Law.

The City of New York, NYPD, and IAB should have precluded the use of claimant’s arrest, DAT, ACD, sealed or sealable criminal matter, non-conviction disposition, legally null criminal-case material, disputed “13 items” accusation, and derivative criminal-case evidence for employment purposes. IAB should not have used, referenced, repeated, relied upon, summarized, tested, or operationalized the Walmart/Brosnan accusation, Town of Newburgh arrest, police paperwork, supporting deposition, receipt, alleged item count, alleged Walmart video, ACD, or sealed, sealable, nullified, arrest-based, or non-conviction criminal-case material in a disciplinary interview or employment proceeding. The Department may investigate actual misconduct using lawful, independently obtained, non-precluded evidence. It may not use protected arrest history, non-conviction dispositions, sealed criminal records, legally null criminal-case material, or unverified derivative evidence as employment proof.

Claimant further asserts that all respondents and identified private actors caused and contributed to damages including loss of liberty, unlawful detention, false arrest, false imprisonment, emotional distress, humiliation, reputational harm, employment-related harm, disciplinary exposure, anxiety, fear of job consequences, legal expenses, and other damages to be determined.

Claimant reserves the right to amend, supplement, particularize, or expand these claims after receipt of Walmart/Brosnan records, Town of Newburgh police records, body-worn camera footage, court records, IAB records, NYPD records, preservation materials, self-checkout technology records, scan logs, video-analytics records, missed-scan detection records, and other discovery.

## **5. ITEMS OF DAMAGE AND INJURIES CLAIMED**

As a direct and proximate result of the conduct described herein, claimant sustained damages arising from the unlawful Walmart/Brosnan stop, seizure, detention, private arrest, security-room confinement, police-summoning conduct, Town of Newburgh arrest, transportation to the Town of Newburgh Police Department, arrest processing, issuance of a Desk Appearance Ticket, criminal-court appearances, ACD disposition, and related prosecution-based harm.

Claimant was deprived of liberty, detained without lawful authority, placed under arrest, transported by police, processed as a criminal defendant, and required to appear in court on a petit-larceny accusation that did not result in a conviction, guilty plea, admission of guilt, or finding of larcenous intent. Claimant was also required to complete a shoplifting course despite maintaining that the incident was an honest self-checkout mistake, medical-distraction event, non-intentional missed-scan issue, or customer-error event rather than intentional theft.

Claimant sustained additional harm because Walmart/Brosnan treated a disputed self-checkout issue as intentional larceny despite the known limitations of self-checkout systems, missed-scan detection, scan logs, video interpretation, receipt audits, and loss-prevention technology. Claimant was not provided a reliable itemized list identifying the specific merchandise she allegedly stole, was not shown a complete receipt comparison, scan log, transaction journal, synchronized video-and-scan record, itemized audit sheet, or reliable Walmart/Brosnan incident report, and has never been given a meaningful opportunity to inspect, test, or challenge the alleged “13 items” accusation.

Claimant sustained emotional distress, humiliation, embarrassment, anxiety, fear, stress, reputational injury, damage to personal dignity, professional embarrassment, and loss of enjoyment of life. Claimant also incurred legal expenses, criminal-defense expenses, transportation expenses, out-of-pocket expenses, and other financial losses associated with responding to the Walmart/Brosnan accusation, Town of Newburgh arrest, criminal-court process, ACD disposition, disputed item count, and ensuing employment consequences.

Claimant further sustained employment-related damages because Walmart/Brosnan security personnel, Officer Mahoney, and Town of Newburgh police actors learned that claimant was an NYPD member of service and nevertheless escalated the matter into a petit-larceny arrest. Once claimant’s NYPD status became known, those actors knew or should have known that the arrest, DAT, accusation, disputed “13 items” figure, and related paperwork would likely trigger NYPD notification, Internal Affairs Bureau scrutiny, disciplinary exposure, reputational injury, and employment-related harm.

Claimant also sustained separate damages from the City of New York, NYPD, IAB, and related municipal actors to the extent they used, referenced, repeated, relied upon, summarized, tested, investigated, operationalized, or acted upon claimant’s arrest, DAT, ACD, sealed or sealable criminal matter, non-conviction disposition, legally null criminal-case material, disputed “13 items” accusation, or derivative criminal-case evidence in violation of New York State and New York City arrest-discrimination, non-conviction, and sealed-record protections. Claimant was compelled to participate in an IAB interview that should have been foreclosed to the extent it relied upon protected arrest history, a non-conviction disposition, sealed or sealable criminal

matter, disputed derivative evidence, or criminal-case material that should not have been used for employment purposes.

Claimant's damages include continuing disciplinary exposure, fear of employment consequences, risk of disciplinary charges, risk that sealed or precluded criminal-case material will be misused as employment evidence, risk that the disputed "13 items" accusation will be repeated or treated as established fact, medical and stress-related aggravation, and all other damages recoverable under New York law, the New York State Human Rights Law, the New York City Human Rights Law, the New York Civil Rights Law, the New York State Constitution, the General Municipal Law, and all other applicable provisions of law.

Claimant reserves the right to supplement, amend, particularize, and expand these claimed damages after receipt of Walmart/Brosnan records, Town of Newburgh police records, body-worn camera footage, court records, NYPD/IAB records, medical records, employment records, self-checkout technology records, scan logs, video-analytics records, missed-scan detection records, preservation materials, and discovery.

## **6. PRESERVATION DEMAND**

Claimant demands that the Town of Newburgh, Town of Newburgh Police Department, Police Officer Matthew Mahoney, John Doe #4, the City of New York, NYPD, IAB, Walmart Inc., Brosnan Risk Consultants, Ltd., and all presently unidentified municipal, police, retail, security, supervisory, managerial, investigative, technology, vendor, and corporate actors immediately preserve all documents, electronically stored information, video, audio, photographs, reports, logs, communications, metadata, records, and tangible evidence relating to the April 20, 2026 Walmart/Brosnan stop, seizure, detention, private arrest, police-summoning conduct, Town of Newburgh arrest, DAT, criminal-court proceedings, ACD disposition, disputed "13 items" accusation, and NYPD/IAB disciplinary investigation.

This preservation demand includes all Walmart and/or Brosnan surveillance video from inside and outside the store, including the self-checkout area, checkout lanes, merchandise aisles, exit area, front sidewalk, security room, parking-lot area, and all areas showing claimant, claimant's family member, Walmart/Brosnan security personnel, the Walmart greeter, Officer Mahoney, and any other responding police personnel. It also includes all video reflecting the selection, scanning, attempted scanning, movement, inspection, receipt review, item comparison, security-room detention, police interaction, and handling of the merchandise at issue.

Walmart Inc. and Brosnan Risk Consultants, Ltd. are directed to preserve all incident reports, loss-prevention reports, security logs, receipt records, itemized scan data, transaction records, void records, self-checkout machine data, register records, register video, electronic journal records, item lists, internal notes, photographs, text messages, emails, radio communications, post orders, staffing records, assignment sheets, employee schedules, supervisor reports, training materials, policies, procedures, contracts, and communications concerning claimant, claimant's family member, the April 20, 2026 incident, the disputed "13 items" accusation, and the decision to summon police.

Walmart Inc., Brosnan Risk Consultants, Ltd., and any related technology vendors are further directed to preserve all records concerning any self-checkout surveillance, missed-scan detection, non-scan detection, scan-verification, video analytics, computer-vision, artificial-intelligence, Everseen, or other loss-prevention technology used at the Newburgh Walmart location on April 20, 2026. This includes all alerts, exception reports, scan-event logs, non-scan alerts, missed-scan alerts, false-positive reports, customer-intervention logs, soft-nudge data, hard-stop data, attendant prompts, employee override records, audit trails, synchronized video-and-scan records, weight/bagging alerts, technology-vendor records, software settings, system-performance records, data-retention settings, and policies concerning when a technology alert, missed scan, receipt discrepancy, or video interpretation may be escalated into a security stop, police referral, or criminal accusation.

Walmart Inc. and Brosnan Risk Consultants, Ltd. are further directed to preserve all records concerning the source, timing, authorship, calculation, verification, and accuracy of the alleged “13 items” figure. This includes any itemized list of the 13 items, receipt comparison, itemized audit sheet, cart audit, register journal, transaction journal, scan log, video clip, still image, screenshot, exception report, incident report, supporting statement, employee note, manager review, supervisor approval, police communication, or post-incident document reflecting what the 13 items allegedly were, who identified them, when they were identified, how the number was calculated, whether the number changed over time, and whether the item count was generated before or after claimant had already been stopped, redirected, detained, accused, and referred for arrest.

Walmart Inc. and Brosnan Risk Consultants, Ltd. are further directed to preserve all records identifying Jane Doe #1, John Doe #1, John Doe #2, John Doe #3, the Walmart greeter, any Walmart manager, any Brosnan supervisor, any loss-prevention employee, any security employee, any self-checkout attendant, any technology user, and any other person who participated in, observed, supervised, reviewed, approved, documented, or communicated about the stop, seizure, detention, receipt review, item count, security-room confinement, police-summoning decision, arrest, or post-incident reporting.

The Town of Newburgh, Town of Newburgh Police Department, Officer Mahoney, John Doe #4, and all related municipal actors are directed to preserve all body-worn camera footage, dash-camera footage, radio transmissions, CAD records, 911 calls, police reports, arrest reports, supporting depositions, DAT records, accusatory instruments, case notes, supervisor notes, arrest-processing records, prisoner-processing records, stationhouse video, garage video, holding-area video, booking records, communications with Walmart and/or Brosnan, communications with prosecutors, communications with NYPD, and all records concerning claimant’s arrest and processing.

The Town of Newburgh and Town of Newburgh Police Department are further directed to preserve all records reflecting the source of the petit-larceny accusation, the alleged item count, the alleged Walmart video, the alleged receipt comparison, and any Walmart/Brosnan statement or documentation relied upon by Officer Mahoney or any supervisor. This includes all records showing whether Officer Mahoney independently reviewed the receipt, video, scan data, alleged

itemized list, supporting deposition, or Walmart/Brosnan report before arresting claimant and issuing the DAT.

The Town of Newburgh and Town of Newburgh Police Department are further directed to preserve all policies, procedures, training materials, roll-call materials, guidance, prior complaints, prior incidents, and supervisory records concerning Walmart-related arrests, shoplifting arrests, self-checkout arrests, merchant complaints, private security accusations, private-person misdemeanor arrests, General Business Law § 218, CPL § 140.30(1), summary arrests based on retailer complaints, supervisory approval of arrests, body-worn camera activation, and police obligations when responding to Walmart/Brosnan security.

The City of New York, NYPD, IAB, Sergeant Smith, the unidentified female Sergeant, and all related NYPD actors are directed to preserve all records concerning the June 11, 2026 IAB interview, including interview notes, audio recordings, video recordings, worksheets, command logs, case files, intake documents, investigative plans, charges, specifications, emails, text messages, Department communications, disciplinary records, IAB records, Patrol Guide or Administrative Guide references, evidence lists, receipt references, item-count references, video references, arrest records, DAT records, ACD records, sealed-record access logs, database searches, and communications with the Town of Newburgh, Walmart, Brosnan, prosecutors, court personnel, or any third party concerning claimant.

The City of New York, NYPD, and IAB are further directed to preserve all records showing the source of the alleged “13 items” figure and the alleged Walmart video referenced during the IAB interview. This includes all records showing whether any NYPD/IAB actor obtained, accessed, reviewed, summarized, uploaded, copied, distributed, discussed, relied upon, or used any Walmart/Brosnan record, Town of Newburgh police record, prosecution material, DAT, supporting deposition, receipt, item-count information, video, scan log, transaction record, court record, sealed or sealable record, non-conviction record, or derivative criminal-case material in connection with claimant’s employment, IAB investigation, disciplinary exposure, or any Department decision.

The City of New York, NYPD, and IAB are further directed to preserve all access logs, database queries, case-file notations, record requests, email attachments, scanned documents, investigative notes, and communications reflecting the source, transmission, review, and use of any Walmart video, receipt, item-count information, supporting deposition, DAT, police report, court record, ACD record, sealed-record information, or other criminal-case material referenced during the IAB interview.

All recipients are directed to suspend any routine destruction, overwriting, deletion, recycling, auto-purge, data-retention, video-retention, email-retention, text-retention, and document-destruction policies that may affect evidence concerning this matter. This demand applies to paper records, electronic records, cloud-stored records, mobile-device records, surveillance systems, self-checkout systems, point-of-sale systems, video-analytics systems, artificial-intelligence or computer-vision systems, law-enforcement databases, personnel databases, disciplinary databases, and any other system containing potentially relevant material.

Claimant reserves all rights to seek sanctions, adverse inferences, discovery relief, spoliation remedies, and all other appropriate relief if any evidence is altered, deleted, overwritten, destroyed, lost, withheld, or not preserved after notice of this claim.

## **7. AMOUNT CLAIMED AND RESERVATION OF RIGHTS**

The full amount of claimant's damages is not yet known and cannot be fully particularized before the production and review of relevant Walmart/Brosnan records, Town of Newburgh Police Department records, body-worn camera footage, surveillance video, self-checkout technology records, scan logs, transaction records, video-analytics records, missed-scan detection records, records concerning the disputed "13 items" accusation, court records, NYPD/IAB records, medical records, employment records, disciplinary records, sealed-record access information, and other discovery.

Claimant seeks damages in an amount to be determined for loss of liberty, false arrest, false imprisonment, unlawful seizure, unlawful detention, security-room confinement, emotional distress, humiliation, reputational injury, employment-related harm, disciplinary exposure, legal expenses, out-of-pocket losses, medical and stress-related aggravation, and all other damages recoverable under New York law.

Claimant further seeks all available relief under the New York State Human Rights Law, the New York City Human Rights Law, the New York Civil Rights Law, the New York State Constitution, the General Municipal Law, and all other applicable provisions of law, including compensatory damages, emotional-distress damages, economic damages, consequential damages, punitive damages where legally available against non-municipal actors, attorney's fees where legally available, costs, interest, and such other relief as may be appropriate.

Claimant expressly reserves the right to supplement, amend, particularize, or expand this Notice of Claim and the damages claimed herein upon receipt of records, video, police materials, court materials, disciplinary materials, employment records, medical records, self-checkout technology records, scan data, video-analytics records, missed-scan detection records, records concerning the disputed "13 items" accusation, sealed-record access information, and other evidence.

Claimant further reserves all rights, claims, causes of action, remedies, and procedural protections available under New York law. Claimant does not waive any claim, theory, remedy, or preservation demand by serving this Notice of Claim upon municipal entities while also providing copies and preservation notice to private actors for consistency, notice, investigation, and evidence-preservation purposes.

Dated: June 28, 2026  
New York, N.Y.

Respectfully submitted,

By: s/Eric Sanders  
Attorney for Claimant ELIZABETH  
MENDOZA also known as Elizabeth Perez

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### **PRESENTMENT OF CLAIM**

The undersigned claimant hereby presents this Notice of Claim for adjustment and payment. Claimant further states that, unless this claim is adjusted and paid within the time provided by law from the date of presentation to the respondents and municipal entities identified herein, claimant intends to commence an action to recover damages and to seek all relief available under New York law.

This presentment is made against the Town of Newburgh, the Town of Newburgh Police Department, Police Officer Matthew Mahoney, Shield No. TN037, John Doe #4, the City of New York, the New York City Police Department, Internal Affairs Bureau, Sergeant Smith, the unidentified female Sergeant, and all other municipal respondents and presently unidentified municipal actors identified in this Notice of Claim.

This Notice is also being provided to Walmart Inc., Brosnan Risk Consultants, Ltd., and the private actors identified herein for notice, preservation, investigation, consistency of claims, and identification of the private actors whose conduct caused, contributed to, initiated, influenced, supplied, or preserved the factual predicate for claimant's detention, arrest, prosecution-related harm, NYPD/IAB disciplinary exposure, reputational injury, and employment-related damages.

**VERIFICATION**

STATE OF NEW YORK)

: ss.:


COUNTY OF ORANGE)

I am the claimant in the within Notice of Claim.

I have read the foregoing Notice of Claim and know the contents thereof. The same is true to my own knowledge, except as to those matters stated to be alleged upon information and belief, and as to those matters, I believe them to be true.

I swear or affirm that I have read the foregoing Notice of Claim and that it is true to the best of my knowledge, information, and belief.

Dated: June 28, 2026

 New York

ELIZABETH MENDOZA, also known as ELIZABETH PEREZ

Claimant 

Sworn to before me this  
28<sup>th</sup> day of June, 2026

/s/Eric Sanders, Esq.

Notary Public, State of New York:

Commission No. 02SA0013820

Qualified in Westchester County

Commission Expires: September 26, 2027