EXHIBIT 7

EXHIBIT 8

EXHIBIT 9

EXHIBIT 5

EXHIBIT 6

CITY COURT OF THE CITY OF NEW ROCHELLE
STATE OF NEW YORK: COUNTY OF WESTCHESTER

THE PEOPLE OF THE STATE OF NEW YORK,

-against-

GUSTAVO VILLAMARES SERRANO,
Defendant.

Docket No.: CR 5662-21

NOTICE OF MOTION

PLEASE TAKE NOTICE that, upon the annexed affirmation of Dennis W. Light, Esq., dated January 24, 2022, all the papers and proceedings heretofore had herein, an application will be made before this Honorable Court at the courthouse located at 475 North Avenue, New Rochelle, New York 10804, on the 4th day of April, 2022, at 9:30 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, for an Order:

1. striking the People's Certificate of Compliance dated January 4, 2022, pursuant to Criminal Procedure Law §§ 30.30(5) and 245.50(4), on the grounds it is improper, illusory and, therefore, invalid based on People's non-compliance with their automatic discovery obligations pursuant to CPL § 245.20 and the 35-day time restrictions set forth in CPL § 245.10(1)(a)(ii), as amended; and

2. For such other and further relief as the Court deems just and proper.

Dated: White Plains, New York
January 24, 2022

Yours, etc.,
RANERI, LIGHT & O'DELL, PLLC
Attorneysl for Defendant
150 Grand Street, Suite 502
White Plains, New York 10601
(914) 948-5525
By:

Dennis W. Light, Esq.

To: Westchester County District Attorney
New Rochelle Branch Office
475 North Avenue.
New Rochelle NY 10801-3426

EXHIBIT 6

CITY COURT OF THE CITY OF NEW ROCHELLE
STATE OF NEW YORK: COUNTY OF WESTCHESTER

THE PEOPLE OF THE STATE OF NEW YORK,

-against-

GUSTAVO VILLAMARES SERRANO,
Defendant.

Docket No.: CR 5662-21

AFFIRMATION

DENNIS W. LIGHT, ESQ., an attorney duly admitted and licensed to practice law before the courts of the State of New York hereby affirms, pursuant to CPLR §2106, and states, upon the penalty for perjury, as follows:

1. That I am a member of Raneri, Light & O'Dell, PLLC, the attorneys of record for the above-named Defendant;

2. That I am fully familiar with the hereinafter facts and circumstances by reason of a file maintained in my office;

3. That the statements that hereinafter follow are made upon personal knowledge unless alleged to be made on information and belief and as to those statements I believe them to be true;

4. That this affirmation is respectfully submitted in support of the Defendant's instant application for an Order striking the People's Certificate of Compliance dated January 4, 2022, pursuant to Criminal Procedure Law §§ 30.30(5) and 245.50(4), on the grounds it is improper, illusory and, therefore, invalid based on People's non-compliance with their automatic discovery obligations pursuant to CPL § 245.20(1) and the 35-day time restrictions set forth in CPL § 245.10(1)(a)(ii), as amended.

Relevant Procedural History

5. On October 1, 2021, at approximately 7:06pm, the Defendant was arrested by the Westchester County Police – Department of Public Safety and charged with violating Vehicle and Traffic Law §§ 1192.2. Driving While Intoxicated Per Se, 1192.3. Driving While Intoxicated and 509.1. Unlicensed Operator.

6. On November 22, 2021, the Defendant was arraigned with counsel and plead NOT GUILTY to the aforesaid charges, and the matter adjourned by People for service of automatic discovery pursuant to CPL § 245.20.

7. Beginning on November 24, 2021, the People served their first of several electronic discovery packages on the Defendant through to December 20, 2021, as evidenced by the 4-Discovery Transmittal Notices annexed hereto as Exhibit "1."

8. As amended, the People statutorily had 35-days from the aforesaid date of Defendant's arraignment, or by December 27, 2021 to perform their initial discovery obligations, and then serve and file a Certificate of Compliance pursuant to CPL § 245.50(1), which document would expressly announce that they are, in fact, ready for trial within 90-days ninety days of the commencement of the instant criminal action as prescribed by CPL § 30.30(1)(b).

9. Following receipt of the People's December 1, 2021, electronic discovery package, the Defendant caused his attorney to serve a written request for disclosure and production of the investigating police officers' DWI detection and training manuals on proper administration of the HGN test, which has been deemed a "scientific case" by the courts of the State of New York and, therefore, discoverable under CPL § 245.20(1)(j)(see, Letter by Dennis W. Light, Esq. dated Dec. 6, 2021, annexed hereto as Exhibit "2").

10. Moreover, the People's video evidence also reveals the investigating officers may have violated the 20-minute observation rule that is required to precede a scientific breath test that, in case, is alleged to have been conducted on Defendant using a Datamaster DMT and, therefore, the respective user manual is, likewise, discoverable under CPL § 245.20(1)(j)(see, Ex. "2").

11. The Court is respectfully informed that CPL § 245.20(1)(a-u) is "a ***non-exhaustive*** list of the items the People must disclose [and] is not to be interpreted narrowly, as CPL § 245.20(7) mandates, 'There shall be a presumption in favor of disclosure when interpreting sections 245.10 and 245.25, and subdivision one of section 245.20 …' " See, People v. Pennant, 2021 NY SlipOP 21277, 2 (Dist. Ct., 1st Dist., Nassau Co., Oct. 15, 2021); see also, People v. Perez, 2021 NY SlipOp 50374(U), 3 (Crim. Ct., Bronx Co., Apr. 8, 2021)(the prosecution, with limited exception, is required to "make a diligent, good faith effort to ascertain the existence of discoverable material or information and make it available for discovery); People v. Edwards, 2021 NY SlipOp 50944(U), 4 (Crim. Ct., New York Co., Oct. 8, 2021)(Legislature's intent to require broad disclosure under CPL Article 245 is manifest); Hudson Police Local 3979 v. Bower, 2021 NY SlipOp 21318, 3 (Sup. Ct., Columbia Co., Nov.

24, 2021)(Article 78 proceeding holding broad and all-inclusive discovery was the intent of the Legislature when it enacted CPL 245).

12. The People are not without "tools" to oppose a Defendant's request for materials the prosecution may claim to be non-discoverable, to wit: DWI training and Datamaster DMT user manuals, but must notify a defendant in writing that such information will not be disclosed pending a determination and ruling of the court. CPL § 245.10(1)(a)(iv)(A).

13. When discoverable materials are, despite diligent, good faith efforts, not in the actual possession of the prosecution, the time period may be extended pursuant to a motion pursuant to CPL § 245.70(2). CPL § 245.10(1)(a)(iv)(B).

14. Here, the People failed to put Defendant on notice that they would be withholding or not producing the requested manuals pending a determination and ruling by the Court, nor did the prosecution make an application for extension of time to produce such materials, notwithstanding the legislative proviso that "all items and information related to the prosecution of a charge in the possession of any New York state or local police or law enforcement agency shall be deemed to be in the possession of the prosecution." CPL § 245.20(2).

15. On January 4, 2022, the People served Defendant via the electronic portal with a Discovery Disclosure Index ("DDI") pursuant to CPL §§ 245.20 and 245.50, which is annexed hereto as Exhibit "3" and, among other things, indicated the following:

- Impeachment Material on Witnesses was "N/A,"
- Judgments of Conviction for Witnesses was "Sent Via Portal,"
- Calibration & Maintenance Records and Operator Certification were "Sent Via Portal,"
- Dylan Dewysockie and Kelsey Picciano are identified by the People on the DDI as potential, non-law enforcement witnesses that may be called to testify during prosecution of this case, along with an addendum stating that "[t]he People have acted with due diligence to discover the existence of impeachment material with respect to civilian witnesses **by checking our internal records and inquiring of each civilian witness**" and that "**[w]e have received no relevant information from any sources (emphasis added),**" and

- No law enforcement witnesses are identified by the People on the DDI as required by CPL § 245.20(1)(d) although an addendum provided to Defendant states that "[t]he People have acted with due diligence to discover the existence of impeachment material with respect to police witnesses **by checking our internal records and inquiring of the police department and of the individual officers.**"

16. Shortly after filing the DDI on January 4, 2022, the People served that same day the purported Certificate of Compliance annexed hereto as Exhibit "4" expressly announcing their readiness for trial on all counts charged on the express assertion that, "after exercising due diligence and making reasonable inquiry to ascertain the existence of material and information subject to discovery, …, the People have disclosed and made available to defendant all known material and information subject to discovery, which material and information is identified and/or attached in the accompanying Disclosure Index and Discovery Addendum."

17. On January 4, 2022, the Defendant appeared with counsel and after conducting its inquiry of the People, pursuant to CPL § 30.30(5), the Court adjourned the case for purposes of permitting the Defendant time, pursuant to CPL § 245.50(4), to make an application challenging the People's aforesaid Certificate of Compliance dated January 4, 2022.

Statutory Materials and Information not dislcosed by the People

18. By Legislative Act effective January 1, 2020, all defendants in the State of New York became statutorily entitled to receive automatic discovery from the prosecution that included **but is not limited to** the materials and information prefaced throughout CPL § 245.20(1).

19. The Legislature, in other words, has established CPL § 245.20(1)(a-u) as the "floor" to statutory disclosure whereas the common law had previously held the materials and information set forth in the now repealed CPL Article 240 as the "ceiling" for discovery in criminal cases.

CPL § 245.20(1)(j)-

20. Under CPL § 245.20(1)(j), the People are statutorily required to disclose "[a]ll reports, documents, records, data, calculations or writings, including but not limited to preliminary tests and screening results and bench notes and analyses performed or stored electronically, concerning … scientific tests … relating to the criminal action or proceeding

which were made by or at the request or direction of a public servant engaged in law enforcement activity ... which the prosecutor intends to introduce at trial or a pre-trial hearing.

21. According to P.O. Baker and the D.W.I. Supporting Deposition and Bill of Particulars annexed hereto as Exhibit "5," it is alleged that the Defendant failed a Horizontal Gaze Nystagmus ("HGN") test and "[b]ecause the HGN test deals with 'involuntary physiological movements of the eye' and how these movements could be affected by the consumption of alcohol and drugs, the test is considered 'scientific in nature'." See, People v. Strauser, 2017 NY MiscLexis 2589, 8, 2017 NY SlipOP 50885(U), 3 (City Ct., Fulton Co., 2017), *citing to*, People v. Wernick, 89 NY2d111, 651 NYS2d 392 (1996), People v. Middleton, 54 NY2d 42, 444 NYS2d 581 (1981).

22. The HGN test, however, has not been conclusively determined to be generally accepted or reliable, and Appellate Courts in New York State consider it reversible error to allow testimony regarding the HGN without laying a proper foundation. See, Id., *relying on*, People v. Heidelmark, 214 AD2d 767, 624 NYS2d 656 (3rd Dept., 1995).

23. The Defendant respectfully submits that, following the People's attempt to lay a foundation for P.O. Baker to testify regarding the HGN test results in this matter, the Defendant should have the training manuals and/or books P.O. Baker will rely on for the making of an opinion regarding the Defendant's BAC on October 1, 2021, at approximately 7:13pm. See, Id. at 9, 2017 NYSlipOp at 3 (HGN test must be administered in the proper, standardized way for foundational purposes as promulgated by National Highway Traffic Safety Administration).

24. Additionally, the Subject Test report annexed hereto as Exhibit "6" as produced by the Datamaster dmt, S/N 105806, namely: 0.16 at 20:53, are clearly the results of a scientific test allegedly performed by P.O. Nerney that, as a matter of law, require the People disclose the respective user/operating manual to the Defendant.

25. The audio video recordings objectively show that the Defendant was not under constant observation by law enforcement in the twenty (20) minutes leading up to his breath test and, therefore, the user/operating manual is discoverable material relevant to the validity of Defendant's reported BAC on the Subject Test report (see, Ex. "6").

26. The Defendant respectfully submits that disclosure of the aforementioned SFST training manuals and/or books, along with the respective Datamaster user/operating manual is necessary, material and relevant to Defendant have an adequate opportunity to conduct an

effective cross-examination respectively of P.O. Baker and P.O. Nerney at trial or pre-trial hearings.

27. It is noteworthy to point out that the People have never expressly claimed the aforementioned materials and information are non-discoverable pursuant to CPL § 245.20(1)(a)(iv)(A), nor have they sought a protective order preventing disclosure of same pursuant to CPL § 245.70(1), or an extension of time for such disclosure pursuant to CPL § 245.70(2).

28. By reason of the foregoing, the Defendant respectfully submits that the People have not satisfied their disclosure obligations pursuant to CPL § 245.20(1)(j) and, therefore, should be found by the Court not actually ready for trial for purposes of CPL § 30.30 since the People have not filed a valid and proper certificate as required by CPL § 245.50(1). See, CPL § 245.50(3).

CPL § 245.20(1)(k)-

29. Under CPL § 245.20(1)(k), the People are statutorily required to disclose "[a]ll evidence and information, including that which is known to police or other law enforcement agencies acting on the government's behalf in the case, that tends to: … impeach the credibility of a testifying prosecution witness …"

30. Here, the People produced on December 8, 2021, and disclosed "Police Witness 1k Questions" forms from three (3) members of the Westchester County Police – Department of Public Safety, namely: Kris Marco dated 12/6/21, Kirk Baker dated 8/24/21 and Niall Nerney dated 3/6/20 annexed hereto as Exhibit "7."

31. At the time of the People's foresaid production, two of the three foregoing forms contain "stale" information and, in particular, the information on P.O Nerney's form precedes its disclosure by more than twenty (20) months, which deficiencies and statutory non-compliance were raised before the Court on January 4, 2022.

32. Without any legal authority, the People thereafter served Defendant on January 10, 2022, with a purportedly "updated" form for P.O. Marco dated 1/10/22, a second "undated" form for P.O. Baker and a "never seen before" form for P.O. Hearle dated 1/07/2022, annexed hereto as Exhibit "8" and all produced by the People after the Certificate of Compliance and Statement of Readiness were served on January 4, 2022.

33. Most importantly, the form for P.O. Nerney dated 3/6/20 has never been updated and utterly void for its limiting language on whether the witness is aware of "any other **substantiated** administrative, personnel or civilian complaints implicating the witness's honesty and integrity? (**emphasis added**)" (see, Ex. "7").

34. It is respectfully submitted that, assuming for a moment that the use of a "Police Witness 1k Questions" form is a proper and acceptable discovery practice by the People which the Defendant does not concede to be procedurally correct, such a form must disclose whether the witness is aware of any administrative, personnel or civilian complaints implicating the witness's honesty and integrity, and not limit such response to only substantiated ones.

35. The Court is respectfully reminded that CPL Article 245 dramatically increased a criminal defendant's right to meaningful discovery of impeachment materials excluding only exonerated or unfounded complaints. See, People v. Montgomery, 2022 NY MiscLEXIS 73, 2022 NY SlipOp 22009 (Sup. Ct., NY County Jan. 12, 2022); see also, People v. Barralaga, 73 Misc3d 510, 515-6, 153 NYS3d 808, 813 (Crim. Ct., NY County, Sept. 10, 2021).

36. When the Legislature greatly reduced the confidentiality of law enforcement records by repealing Civil Rights Law § 50-a, "all information and evidence that 'tends to impeach the credibility of a testifying witness' must be disclosed to the defense (CPL § 245.20(1)(k)." Barralaga at 515, 153 NYS3d at 813.

37. The prosecution's statutory disclosure obligation under CPL § 245.20(1)(k), therefore, requires more than providing a list or summaries of complaints filed against all testifying officers. Id., see also, People v. Kelly, 71 Misc3d 1202(A), 142 NYS3d 788 (Crim. Ct., NY County, Mar. 19, 2021) (the use of impeachment materials ultimately falls soundly in the trial court's discretion, however, the People must provide defense with all underlying materials for substantiated and unsubstantiated cases against officers); People v. Cooper, 2021 NY MiscLEXIS 678, 2021 NY SlipOp 21039 (County Ct., Erie Co., Feb. 23, 2021) (summaries of records will not suffice, the entire record, subject to statutorily approved redactions, must be provided to the defendant).

38. Moreover, the use of a self-reporting police officer 1k questionnaire form is, likewise, an insufficient disclosure procedure and not good faith, diligent and reasonable inquiry into the existence of impeachment materials insofar as the People, pursuant to 22 NYCRR §§ 200.16 and 200.27, are under court order that confirms their disclosure obligations pursuant to

Brady v. Maryland, 373 US 83 (1963), Giglio v. United States, 405 US ISO (1972), People v Geaslen, 54 NY2d 510 (1981), and their progeny, where the Chief Judge DiFiore's model order directs the prosecution should review not only their internal files but the files of law enforcement directly related to the prosecution or investigation of this case. See, Administrative Order of the Chief Administrative Judge of the Courts, AO291/17 and Model Order annexed hereto as Exhibit "8."

39. Aside from the foregoing discovery issue regarding disclosure and production of law enforcement personnel and disciplinary records, it is worth mentioning that the Defendant has located a federal civil action in U.S. District Court, Eastern District, involving "Kirk A. Baker" as a named defendant, and 2-state civil actions where "Niall Nerney" is a named plaintiff in labor law claims (see, Exhibit "10").

40. The first factual question to be raised is whether the foregoing civil cases involve P.O. Baker and P.O. Nerney and, if so, then why did the People not disclose their existence to the Defendant and, secondarily, then a defense assessment may be made as to whether they contain information that tends to impeach the credibility of a testifying witness.

41. The Defendant respectfully submits that the People's failure to affirmatively state on their discovery addendum that civil case records have been searched and none found to involve any testifying witness is non-compliance with the prosecution's Brady/Giglio disclosure obligations as codified by CPL § 245.20(1)(k)(iv).

42. Turning to the prosecution's civilian witnesses, the People's DDI identifies Kelsey Picciano as a potential testifying witness but the prosecution fails to provide any CPL § 245.20(1)(k) information favorable, or otherwise, to the Defendant about this witness, which disclosure circumstance is inconsistent with the Civilian Witness Questions form provided to the Defendant for Dylan Dewysockie annexed hereto as Exhibit "11."

43. By reason of the foregoing, the Defendant respectfully submits that the People have not satisfied their disclosure obligations pursuant to CPL § 245.20(1)(k) and, therefore, should be found by the Court not actually ready for trial for purposes of CPL § 30.30 since the People have not filed a valid and proper certificate as required by CPL § 245.50(1). See, CPL § 245.50(3).

CPL §245.20(1)(p)-

44. Under CPL § 245.20(1)(p), the People are statutorily required to disclose "[a] complete record of judgments of conviction for … all persons designated as potential prosecution witnesses pursuant to paragraph (c) of this subdivision …"

45. The People's DDI states that Judgments of Conviction for Witnesses has been "Sent Via Portal" (see, Ex. "3").

46. The defense, however, respectfully submits that a thorough review of all discovery materials and information sent via the portal does not reveal the existence of any Judgments of Conviction for Witnesses, which is contrary to the foregoing prosecution statement.

47. By reason of the foregoing, the Defendant respectfully submits that the People have not satisfied their disclosure obligations pursuant to CPL § 245.20(1)(p) and, therefore, should be found by the Court not actually ready for trial for purposes of CPL § 30.30 since the People have not filed a valid and proper certificate as required by CPL § 245.50(1). See, CPL § 245.50(3).

CPL § 245.20(1)(s)-

48. Under CPL § 245.20(1)(s), the People are statutorily required, among other things, to disclose "the certification certificate, if any, held by the operator of the [Datamaster dmt, S/N 105806]."

49. The Subject Test report indicates P.O. Nerney maintains Permit Number 49049, however, his valid and current certification certificate, as required by 10 NYCRR 59.7, has not been disclosed to Defendant by the People.

50. Also under this subsection (s), the People are ordered to disclose and produce "records of gas chromatography related to the certification of all reference standards."

51. Here, the gas chromatography records for Reference Standard: 21170, in this particular case have not been disclosed by the People in violation of their mandatory disclosure obligations (see, Ex. "6").

52. The Defendant is respectfully providing the Court with a 3-page excerpt out of a 58-page gas chromatography record, for example purposes only, from another criminal case, which did satisfy CPL § 245.20(1)(s), as it would relate to the certification of a reference standard (see, Exhibit "12").

EXHIBIT

53. By reason of the foregoing, the Defendant respectfully submits that the People have not satisfied their disclosure obligations pursuant to CPL § 245.20(1)(s) and, therefore, should be found by the Court not actually ready for trial for purposes of CPL § 30.30 since the People have not filed a valid and proper certificate as required by CPL § 245.50(1). See, CPL § 245.50(3).

Conclusions-

54. The Defendant respectfully submits that, by collective reason of all the foregoing and substantial amount of undisclosed information and materials, the People are non-compliant with their initial disclosure obligations as mandated by CPL § 245.20 and, therefore, the Certificate of Compliance dated January 4, 2022, was improper, illusory and not a valid statement of readiness for trial.

55. The Defendant respectfully requests the Court make and issue an Order striking the People's Certificate of Compliance dated January 4, 2022, pursuant to CPL § 245.50(4) on the grounds it is improper, illusory and invalid based on People's collective, non-compliance with their automatic discovery obligations pursuant to CPL § 245.20(1) and the 35-day time restrictions set forth in CPL § 245.10(1)(a)(ii), as amended.

56. As the Court is aware, CPL § 245.50 requires that the People file a Certificate of Compliance as a precursor to speedy trial readiness (see, CPL §§ 245.50(3), 30.30(5)).

57. The Certificate of Compliance must affirm that, "after exercising due diligence and making reasonable inquiries to ascertain the existence of material and information subject to discovery," the prosecutor has complied with their discovery obligations under CPL § 245.20, and the failing to do so can have two distinct consequences (see, CPL § 245.50(1)).

58. First, it may nullify the People's statement of speedy trial readiness under CPL § 30.30.

59. Second, it can result in the imposition of sanctions pursuant to CPL §245.80.

60. Therefore, the Court, in lieu of striking the People's Certificate of Compliance, may fashion an Order, pursuant to CPL § 245.80(2), precluding a witness's testimony, admit or exclude evidence, order the dismissal of all or some of the charges, or make such other order as it deems just under the circumstances.

61. As an alternative to striking the People's Certificate of Compliance, the Defendant respectfully requests the Court consider precluding the testimony of all law

enforcement officers and civilian witnesses, along with excluding all breath test results and information.

62. The foregoing alternate application is being respectfully made by reason of the People's collective, non-compliance with their automatic discovery obligations pursuant to CPL § 245.20(1) and the 35-day time restrictions set forth in CPL § 245.10(1)(a)(ii), as amended.

63. No previous application for the relief sough herein has been made to this Court or any other court of competent jurisdiction.

WHEREFORE, the Defendant respectfully requests the Court grant the main relief sought herein in its entirety and strike the People's Certificate of Compliance based on an improper, illusory and invalid statement of readiness for trial.

Dated: White Plains, New York
January 25, 2022

Respectfully submitted,

Dennis W. Light, Esq.

Westchester County District Attorney's Office
Discovery Package Transmittal Notice

Case Information

Defendant's Name: Gustavo Villamares Serrano
Court:
Intl/SCI #:
Local Court Docket #:
Local PD Incident #: WC-02021-21
Incident Date: October 1, 2021

Attorney Information

Attorney's Name: Dennis W. Light
Attorney's Email Address: dwlight@rlslawoffice.com

Discovery Package Information

DP-0039882-Y0100009726 transmitted on November 24, 2021 at 2:47 PM contained 3 files:

Category	Name	Type	Size	Note
Laboratory Instrument	Black and White3221.pdf	PDF	171.52 KB	
	Supplemental Narrative.pdf	PDF	48 KB	
	WC-02021-21.pdf	PDF	2.66 MB	

EXHIBIT "1"

EXHIBIT 6

Westchester County District Attorney's Office
Discovery Package Transmittal Notice

Case Information

Defendant's Name: Gustavo Villamares Serrano
Court: .
Ind/SCI #:
Local Court Docket #:
Local PD Incident #: WC-02021-21
Incident Date: October 1, 2021

Attorney Information

Attorney's Name: Dennis W. Light
Attorney's Email Address: dwlight@rlslawoffice.com

Discovery Package Information

DP-0039882-Y010009726 transmitted on November 24, 2021 at 2:47 PM contained **3** files:

Category	Name	Type	Size	Note
Accusatory Instrument	Black and White3221.pdf	PDF	171.52 KB	
	Supplemental Narrative.pdf	PDF	48 KB	
	WC-02021-21.pdf	PDF	2.66 MB	

Westchester County District Attorney's Office
Discovery Package Transmittal Notice

Case Information

Defendant's Name: Gustavo Villamares Serrano
Court:
Ind/SCI #:
Local Court Docket #:
Local PD Incident #: WC-02021-21
Incident Date: October 1, 2021

Attorney Information

Attorney's Name: Dennis W. Light
Attorney's Email Address: dwlight@rlslawoffice.com

Discovery Package Information

DP-0040028-Y010009726 transmitted on November 30, 2021 at 4:59 PM contained **24** files:

Category	Name	Type	Size	Note
	!DISCOVERY CHECKLIST WC-02021-21.pdf	PDF	394.11 KB	
	062821WestchesterCoDPS_BTDLab105806.pdf	PDF	948.13 KB	
	062821WestchesterCoDPS_SIMMP5045.pdf	PDF	520.88 KB	
	105806 Weekly Test 09-23-2021.pdf	PDF	52.95 KB	
	105806 Weekly Test 10-10-2021.pdf	PDF	24.11 KB	
	911 Export_WC-02021-21.zip	Compressed	440.99 KB	
	ACC_REPORT_01_MV104A_DIAGRAM-W5WS100DMWRW4.pdf	PDF	95.44 KB	
Accident	ACC_REPORT_01_MV104A-	PDF	185.52	

EXHIBIT 6

Investigation	W5WS100DMWRW4_Redacted.pdf		KB	
Video	AXON_Body_2_Video_2021-10-01_1927.mp4	Video	704.96 MB	
Video	AXON_Body_2_Video_2021-10-01_1929.mp4	Video	415.44 MB	
Video	AXON_Body_2_Video_2021-10-01_1950.mp4	Video	105.79 MB	
Video	AXON_Body_2_Video_2021-10-01_1952.mp4	Video	161.4 MB	
Video	AXON_Body_2_Video_2021-10-01_1958.mp4	Video	77.57 MB	
Video	AXON_Fleet_2_IR_Video_2021-10-01_1911.mp4	Video	4.9 GB	
Video	AXON_Fleet_2_Video_2021-10-01_1911.mp4	Video	1.22 GB	
Police Report	BLOTTER_WC-100173-21_Redacted.pdf	PDF	13.16 KB	
	copyofimpactfile_65U0JGHFJ_1128-21.pdf	PDF	1.26 MB	
	DVRHDPSHQ1_02021-21_VILLAMARES SERRANO, GUSTAVO.HQ.BOOKING.2.mp4	Video	138.69 MB	
	DVRHDPSHQ1_02021-21_VILLAMARES SERRANO, GUSTAVO.HQ.BOOKING.mp4	Video	1 GB	
	DVRHDPSHQ1_02021-21_VILLAMARES SERRANO,GUSTAVO.Booking.mp4	Video	118.76 MB	
	Nerney BAO.pdf	PDF	453.47 KB	
	PO Marco signed Supplemental Narrative.pdf	PDF	32.37 KB	
	Radio Export_WC-02021-21.zip	Compressed	3.1 MB	
	SimSoln21170.pdf	PDF	237.05 KB	

Westchester County District Attorney's Office
Discovery Package Transmittal Notice

Case Information

Defendant's Name: Gustavo Villamares Serrano
Court:
Ind/SCI #:
Local Court Docket #:
Local PD Incident #: WC-02021-21
Incident Date: October 1, 2021

Attorney Information

Attorney's Name: Dennis W. Light
Attorney's Email Address: dwlight@rlslawoffice.com

Discovery Package Information

DP-0040604-Y010009726 transmitted on December 8, 2021 at 1:00 PM contained 3 files:

Category	Name	Type	Size	Note
IK	Baker_Kirk_WCPD_08_24_2021 (2).pdf	PDF	1.09 MB	
IK	Marco_Kris_WCPD_12_06_2021.pdf	PDF	20.56 KB	
IK	Nerney_Niall_WCPD_03_06_20.pdf	PDF	22.02 KB	

EXHIBIT 6

Westchester County District Attorney's Office
Discovery Package Transmittal Notice

Case Information

Defendant's Name: Gustavo Villamares Serrano
Court:
Ind/SCI #:
Local Court Docket #:
Local PD Incident #: WC-02021-21
Incident Date: October 1, 2021

Attorney Information

Attorney's Name: Dennis W. Light
Attorney's Email Address: dwlight@rlslawoffice.com

Discovery Package Information

DP-0041338-Y010009726 transmitted on December 20, 2021 at 1:44 PM contained 1 file:

Category	Name	Type	Size	Note
IK	DD 1K GVillamares.pdf	PDF	124.04 KB	

EXHIBIT "2"

EXHIBIT "2"

RANERI, LIGHT & O'DELL, PLLC

MICHAEL J. RANERI ϕ
DENNIS W. LIGHT †
KEVIN D. O'DELL »
EDWARD A. FREY *

150 Grand Street, Suite 502
White Plains, New York 10601
Phone: (914) 948-5525
Fax: (914) 948-5505
website: www.rlslawoffice.com
email: office@rlslawoffice.com

ADMITTED IN:
* NY
† NY, NJ & CT
» NY & NJ
ϕ NY & DC

December 6, 2021

VIA REGULAR MAIL

Office of the Westchester County District Attorney
New Rochelle Branch Office
475 North Avenue
New Rochelle NY 10801-3426

Re: People v. Gustavo Villamares Serrano
New Rochelle City Court
Docket No.: CR5662-21

Dear Counselors:

As you know, this office represents the Defendant in the above-referenced criminal matter. The undersigned is in receipt of preliminary discovery that, among other things, reveals the police officer's employment of a "scientific test" to wit, HGN (and VGN) and, therefore, the Defendant contends that the respective investigating police officer's SFST training manual must be disclosed pursuant to CPL §245.20(1)(j).

"CPL § 245.20(1) provides a ***non-exhaustive*** list of the items the People must disclose. This list is not to be interpreted narrowly, as CPL § 245.20(7) mandates, 'There shall be a presumption in favor of disclosure when interpreting sections 245.10 and 24.25, and subdivision one of section 245.20 ...' " See, People v. Pennant, 2021 NY Slip OP 21277, 2 (Dist. Ct., 1st Dist., Nassau Co., Oct. 15, 2021); see also, People v. Perez, 2021 NY Slip Op 50374(U), 3 (NYC Crim. Ct., Bronx Co., Apr. 8, 2021)(the prosecution, with limited exception, is required to "make a diligent, good faith effort to ascertain the existence of discoverable material or information and make it available for discovery); People v. Edwards, 2021 NY Slip Op 50944(U), 4 (NYC Crim. Ct., New York Co., Oct. 8, 2021)(Legislature's intent to require broad disclosure under CPL Article 245 is manifest); Hudson Police Local 3979 v. Bower, 2021 NY Slip Op 21318, 3 (Sup. Ct., Columbia Co., Nov. 24, 2021)(Article 78 proceeding holding broad and all-inclusive discovery was the intent of the Legislature when it enacted CPL 245).

In furtherance of all the foregoing, the video evidence further indicates the police officer's non-compliance with the 20-minute personal observation period that must precede breath testing and, accordingly, the Defendant calls for disclosure of the DWI detection and investigation manual used to train the police officer in this area of evidence collection and, more likely than not, the disclosure should also include the Datamaster DMT operation and procedure manual as applicable to the aforementioned observation issue.

EXHIBIT 6

EXHIBIT 7

Your office's anticipated compliance with CPL Article 245 will be appreciated.

Yours truly,
RANERI, LIGHT & O'DELL, PLLC

Dennis W. Light, Esq.

DWL/dl

cc: File

New Rochelle City Court
475 North Avenue
New Rochelle NY 10801-3426

EXHIBIT "3"

EXHIBIT 6

EXHIBIT 7

Westchester County District Attorney's Office
Discovery Package Transmittal Notice

Case Information

Defendant's Name:	Gustavo Villanueva Serrano
Court:	
InfoSCI #:	
Local Court Docket #:	
Court PO Incident #:	WC-02021-21
Incident Date:	October 1, 2021

Attorney Information

Attorney's Name:	Dennis W. Light
Attorney's Email Address:	dwlight@rlslawoffice.com

Discovery Package Information

DP-0041857-Y010009726 transmitted on January 4, 2022 at 9:22 AM contained 1 file:

Category	Name	Type	Size	Note
	GVS DI.pdf	PDF	476.06 KB	

EXHIBIT "3"

Westchester County District Attorney's Office

Discovery Package Transmittal Notice

Case Information

Defendant's Name: Gustavo Villamares Serrano
Court:
Ind/SCI #:
Local Court Docket #:
Local PD Incident #: WC-02021-21
Incident Date: October 1, 2021

Attorney Information

Attorney's Name: Dennis W. Light
Attorney's Email Address: dwlight@rlslawoffice.com

Discovery Package Information

DP-0041887-Y010009726 transmitted on January 4, 2022 at 9:22 AM contained 1 file:

Category	Name	Type	Size	Note
Other	GVS DI.pdf	PDF	476.06 KB	

EXHIBIT 6

WESTCHESTER COUNTY DISTRICT ATTORNEY'S OFFICE
DISCOVERY DISCLOSURE INDEX PURSUANT TO CPL 245.20 AND 245.50
NEW ROCHELLE BRANCH

PEOPLE v GUSTAVO VILLAMARES-SERRANO

DISCOVERABLE ITEM	PAGES	ATTACHED HERETO	INSPECTION CONSENTED	SENT VIA PORTAL	N/A
Accusatory Instruments				X	
A) CPL § 710.30 Statement/Identification Notices					X
B) Grand Jury Testimony					X
C) Civilian Witness List- See police reports				X	
D) Law Enforcement Witness List- See police reports				X	
E) Witness Statements/Relevant Information					X
E(1) Police Reports				X	
E(2) Supporting Depositions					X
E(3) Owner's Depositions					X
E(4) Supplemental Reports				X	
E(5) CSU Reports					X
E(6) Detective Reports					X
E(7) Ballistics Report/ Rosario					X
E(8) Detention/Booking Paperwork				X	
E(9) CAD				X	
E(10) P.O./Det. Handwritten notes					X
E(11) Property/Evidence Forms					X
E(12) HIPPA Forms					X
E(13) Consent Forms					X
F) Expert Opinion Evidence- See Portal				X	
G) Tapes and Electronic Recordings				X	
G(1) 911 call				X	
G(2) Radio Transmissions					X
G(3) Surveillance Video				X	
G(4) Booking Video					X
G(5) City Camera Video					X
H) Photographs and Drawings					X
H(1) Photographs-CSU and Precinct					X
H(2) Photographic Arrays/Single Photo ID					X
H(3) Booking Photographs					X
I) 450.10 Photographs					X
J) Lab Reports/ Lab Rosario (YPD and WC)					X
K) Impeachment Material on Witnesses					X
L) Promises/Inducements to Witnesses				X	
M) Property/Evidence Possessed by Defendant					X
N) Search warrant Documents					X
O) List of Tangible Evidence for Trial				X	
P) Judgments of Conviction for Witnesses				X	
Q) Pending Cases against civilian witnesses				X	
R) See Attached Discovery Materials[1]					

[1] "Attached discovery materials," includes any materials and information sent electronically via the defense counsel portal.

S) VEHICLE & TRAFFIC OFFENSES

	PAGES	ATTACHED HERETO	INSPECTION CONSENTED	SENT VIA PORTAL	N/A
S(1)DWI Supporting Deposition/BOP/710.30 Notice				X	
S(2) Report of Refusal					X
S (3) Refusal Warnings				X	
S (4) DWI Investigative Notes					X
S (5) BAC Report				X	
S (6) Operational Checklist					X
S (7) Calibration & Maintenance Records				X	
S (8) Operator Certification				X	
S (9) DMV Abstract Documents				X	
S (10) MV-104 Accident Report				X	
T) Computer crime evidence					X
U) Electronically created or stored information - cell phone downloads					X

OTHER

DISCOVERY CHECKLIST				X	
DRIVERS LICENSE				X	
DALL / RALL				X	
IMPOUND / INVENTORY REPORT				X	
RAP SHEET				X	
BODYCAMERA VIDEOS				X	

Completed by: Date:

Kieran McGrath

December 8, 2021

ADA KIERAN MCGRATH

Please contact the Branch Office to schedule an appointment during which time the items will be made available for inspection and copy subject to any protective order. Please bring a thumb drive or alternate means to copy the above referenced digital evidence.

WESTCHESTER COUNTY DISTRICT ATTORNEY'S OFFICE
DISCOVERY ADDENDUM CPL § 245.10 & 245.20

PEOPLE v GUSTAVO VILLAMARES-SERRANO DOCKET NO.

245.20(1)(C). In addition to those names referenced in the attached discovery materials[2], the people may call the following non-law enforcement witnesses during the prosecution of this case, who can be reached at the below telephone numbers:

Name	Contact Information
Dylan dewysockie	See police reports
Kelsey Picciano	See police reports

245.20(1)(D). In addition to those names referenced in the attached discovery materials, the people may call the following law enforcement witnesses in during the prosecution of this case:

Name	Agency

245.20(1)(F). The information about the expert witness is unknown for disclosure at this time. This information will be disclosed when it is received.

245.20(1)(M). The following tangible property was possessed or obtained from the defendant or co-defendants:

Item	Location of Item	(Actual/Constructive/Abandoned)

245.20(1)(O). The prosecution intends to introduce all tangible property referenced in the discovery materials and the above list.

245.20(1)(P). The People hereby consent to inspection of any judgements of conviction for all defendants and persons designated as potential prosecution witnesses. Please contact the respective branch office to schedule an appointment during which time the items will be made available for inspection and copying subject to any protective order.

245.20(1)(R). See attached discovery materials for the approximate date, time and place of the charged offenses, arrest of the defendant, and seizure of the defendant if applicable. If additional information is required, it is as follows:

245.20(1)(U). The People hereby consent to the inspection of any electronically created or stored information including cellular telephone downloads. Please contact the respective Branch Office and schedule an appointment when the materials will be made available for copying. Please bring a thumb drive or alternate means to copy the above evidence.

[2] "Attached discovery materials," includes all information and material send electronically via the defense counsel portal.

Please contact the Branch Office to schedule an appointment during which time the items will be made available for inspection and copy subject to any protective order. Please bring a thumb drive or alternate means to copy the above referenced digital evidence.

CPL §245.20(1)(p) and (q) addendum regarding testifying prosecution witnesses

PEOPLE v GUSTAVO VILLAMARES-SERRANO DOCKET NO.

The people have acted with due diligence to discover the existence of impeachment material with respect to civilian witnesses by checking our internal records and inquiring of each civilian witness.

X☐ We have received no relevant information from any sources.

or

☐ We have received information relating to a past criminal conviction and/or current pending charges.

☐ We have received information relating to a past civil judgement and/or a pending civil case

Please contact the Branch Office to schedule an appointment during which time the items will be made available for inspection and copy subject to any protective order. Please bring a thumb drive or alternate means to copy the above referenced digital evidence.

EXHIBIT 6

CPL §245.20(1)(k)(iv) addendum regarding testifying police witnesses

PEOPLE v GUSTAVO VILLAMARES-SERRANO DOCKET NO.

The people have acted with due diligence to discover the existence of impeachment material with respect to police witnesses by checking our internal records and inquiring of the police department and of the individual officers.

☐ We have received no relevant information from the department.

or

☐ We have received information relating solely to founded personnel complaints from the department.

☐ The police witnesses have declined to answer impeachment questions.

or

☐ The police witnesses have answered all questions except regarding unfounded, unsubstantiated, or exonerated complaints contained in their personnel file.

Please contact the Branch Office to schedule an appointment during which time the items will be made available for inspection and copy subject to any protective order. Please bring a thumb drive or alternate means to copy the above referenced digital evidence.

Westchester County District Attorney's Office
Discovery Package Transmittal Notice

Case Information

Defendant's Name:
Count:
Ind/SCI #:
Local Court Docket #:
Local PD Incident #:
Incident Date:

Attorney Information

Attorney's Name:
Attorney's Email Address:

Discovery Package Information

DP-004189S-Y010009726 transmitted on [illegible]

Category	Name
*	GVS COC.pdf

EXHIBIT "4"

Westchester County District Attorney's Office
Discovery Package Transmittal Notice

Case Information

Defendant's Name: Gustavo Villamares Serrano
Court:
Ind/SCI #:
Local Court Docket #:
Local PD Incident #: WC-02021-21
Incident Date: October 1, 2021

Attorney Information

Attorney's Name: Dennis W. Light
Attorney's Email Address: dwlight@rlslawoffice.com

Discovery Package Information

DP-0041895-Y010009726 transmitted on January 4, 2022 at 10:03 AM contained **1** file:

Category	Name	Type	Size	Note
Other	GVS COC.pdf	PDF	125.97 KB	

EXHIBIT 6

CITY COURT : CITY OF NEW ROCHELLE
COUNTY OF WESTCHESTER : STATE OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK ——X

- against -

GUSTAVO VILLAMARES-SERRANO
Defendant

LOCAL CRIMINAL COURT CERTIFICATE OF COMPLIANCE CPL 245.50 (1)

DKT: #

SCI/IND: #

——X

CERTIFICATE OF COMPLIANCE

I, Assistant District Attorney KIERAN MCGRATH, certify pursuant to CPL 245.50(1), that, after exercising due diligence and making reasonable inquiry to ascertain the existence of material and information subject to discovery, except for those items and information that are the subject of an order pursuant to CPL 245.70, the People have disclosed and made available to defendant all known material and information subject to discovery, which material and information is identified and/or attached in the accompanying Disclosure Index and Discovery Addendum.

With the exception of materials or information withheld pursuant to CPL 245.70, the materials and information provided with this form are those that are in the actual possession of, or known to, the People. The People's disclosures may include documents, information, and materials that are not required to be disclosed under CPL 245.20(1) but which have been disclosed in an exercise of the People's discretion.

245.20(1)(k) **disclaimer** - The People reserve the right, at a future date, to object to or to move *in limine* to prevent the admission into evidence of, or questioning of witnesses about, these matters. Furthermore, there may be materials and information disclosed pursuant to other sections of CPL 245.20(1), and not separately highlighted under this section, that could constitute responsive materials under this section.

STATEMENT OF READINESS

X ☐ The People confirm and announce their readiness for trial on all counts charged. The People hereby certify that all counts charged in the accusatory instrument meet the requirements of sections 100.15 and 100.40 of this chapter and those counts not meeting the requirements of sections 100.15 and 100.40 of this chapter have been dismissed.

Dated: January 4, 2022

Respectfully submitted,

MIRMAM E. ROCAH
District Attorney of Westchester County
Westchester County Courthouse
111 Dr. Martin Luther King Jr. Blvd.
White Plains, New York 10601

BY: Kieran McGrath
Assistant District Attorney

Doc. # 1055279 (1/3/20)

RECIPROCAL DISCOVERY FOR THE PROSECUTION

PLEASE TAKE NOTICE, the District Attorney reminds defendant and counsel for defendant of defendant's reciprocal discovery obligations pursuant to the provisions of Article 245 of the Criminal Procedure Law.

PLEASE TAKE NOTICE, that subject to constitutional limitations and the statutory provisions of CPL 245.10 (2) and CPL 245.20(4)(c), no later than thirty calendar days after being served with the prosecution's CPL 245.50(1) certificate of compliance, defendant shall disclose to the prosecution, and permit the prosecution to discover, inspect, copy, or photograph, any material and relevant evidence within the possession or control of defendant or counsel for defendant, which defendant intends to introduce at trial or a pretrial hearing and which is discoverable under:

CPL 245(1)(f) – Relating to Expert Opinion Evidence

CPL 245(1)(g) – Relating to Tapes or Other Electronic Recordings

CPL 245(1)(h) – Relating to Photographs and Drawings Made or Completed by a Witness

CPL 245(1)(j) – Relating to Examinations, Tests, Experiments or Comparisons

CPL 245(1)(l) – Relating to Promises, Rewards, Inducements, and Requests for Consideration

CPL 245(1)(o) – Relating to Tangible Property

FURTHER **BE REMINDED**, that subject to constitutional limitations and the statutory provisions of CPL 245.10 (2) and CPL 245.20(4)(b), no later than thirty calendar days after being served with a certificate of compliance by the People, pursuant to CPL 245.50 (1), defendant shall disclose to the prosecution:

(1) The names, addresses, and birth dates of those persons other than defendant, whom defendant intends to call as witnesses at trial or a pretrial hearing; and

(2) All statements, written or recorded or summarized in any writing or recording, of those persons, other than defendant, whom defendant intends to call as witnesses at trial or a pretrial hearing.

Respectfully submitted,
Miriam E. Rocah
District Attorney

EXHIBIT "5"

EXHIBIT 6

EXHIBIT "5"

D.W.I. SUPPORTING DEPOSITION AND BILL OF PARTICULARS

CITY COURT OF: C/New Rochelle

STATE OF NEW YORK: COUNTY OF WESTCHESTER

THE PEOPLE OF THE STATE OF NEW YORK

vs.

WESTCHESTER COUNTY POLICE

CASE NUMBER:	BLOTTER NUMBER:	CAD NUMBER:
WC-2021-21	WC-100173-21	W21090654

DWI NUMBER: 21-132

DEFENDANT INFORMATION:

DEFENDANT NAME: (Last)	(First)	
VILLAMARES SERRANO	GUSTAVO	(M)
DEFENDANT DOB: 07/25/1980 / GENDER: MALE	ARRESTING OFFICER/SHIELD: PO. BAKER 1058	
DEFENDANT ADDRESS: 75 WALLER AVE	(CITY/TOWN/VILLAGE) WHITE PLAINS / (STATE) NY / (ZIP) 10605	

The above named DEFENDANT is charged by Simplified Traffic Information: Ticket Number(s): WS61DMXK02, WS61DMXKGZ,WS61DMXKKG (or attached accusatory instrument) with OPERATING A MOTOR VEHICLE UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS contrary to section 1192 of the Vehicle and Traffic Law. A Supporting Deposition and/or Bill of Particulars pursuant to Section 100.25 and 200.95, respectively, of the Criminal Procedure Law are hereby provided as follows: The UNDERSIGNED COMPLAINANT, upon direct knowledge unless otherwise specified, avers that the DEFENDANT, on or about the 1ST day of OCTOBER, 2021, at or about 19 13 hours, operated a (color) BLACK (year/make) 2012 DODGE motor vehicle bearing State of NY registration number JHD8418 in a NORTH erly (direction) on HUTCHINSON RIVER PKWY, a public highway/parking lot in (Municipality) C/New Rochelle. County of Westchester, State of New York while in an intoxicated/impaired condition by alcohol and/or drugs and/or having a .16 % blood alcohol content.

GENERAL INFO:

ARREST DATE:	10/01/2021
ARREST TIME:	1957
LICENSE STATE:	NY
MOTORIST ID#:	357239523
VEHICLE STATUS:	Impounded
ROAD CONDITIONS:	Dry
TRAFFIC CONDITIONS:	Moderate
WEATHER:	Clear

REASON FOR STOP:

TIME OF STOP: 19:13 HOURS

	VTL SECTIONS:
☐ VTL VIOLATIONS	
☐ ERRATIC OPERATION (NOTE)	
☑ ACCIDENT – Check type	☑ Prop. ☐ PI ☐ SPI ☐ FATALITY
☐ CIVILIAN COMPLAINT	
☐ CHECKPOINT	
☐ OTHER (NOTE)	

COMMENTS:

PRIOR CONVICTIONS:

Section	How Many	Date of Last
☐ 1192.1		
☐ 1192.2		
☐ 1192.3		
☐ 1192.4		
☐ 1192.5		
☐ Out of State		

VEHICLE OPERATION SHOWN BY:

☑ OFFICER OBSERVATIONS

☐ CIVILIAN / WITNESS ID ☐ SHOW UP ☐ LINE UP ☐ PHOTO

DATE: 10/01/2021 TIME: 1913 LOCATION: HRP N/B @ MILL RD

☐ ADMISSION (SEE 710.30 NOTICE)

☐ DEFENDANT AT WHEEL

☑ DEFENDANT NEAR THE VEHICLE

☑ KEYS IN THE IGNITION

☑ MOTOR RUNNING

☐ DEFENDANT INJURED IN CRASH ☐ OTHER:

PROBABLE CAUSE FOR ARREST:

OBSERVATIONS OF DEFENDANT

- ☑ DRIVING
- ☑ ODOR OF ALCOHOLIC BEVERAGE
- ☑ IMPAIRED SPEECH
- ☑ IMPAIRED MOTOR CONDITION
- ☐ ODOR OF MARIHUANA
- ☑ BLOOD SHOT EYES
- ☑ GLASSY EYES
- ☑ SWAYING
- ☑ STAGGERING
- ☐ OTHER:

PERFORMANCE OF FIELD TESTS

	PERFORMED	PASS / FAIL	REFUSED
☑ DISABLED Specify:			
☑ GAZE NYSTAGMUS		☐ Pass ☑ Fail	☐ Refused
☑ WALK AND TURN		☐ Pass ☑ Fail	☐ Refused
☑ ONE LEG STAND		☐ Pass ☑ Fail	☐ Refused
☐ FINGER TO NOSE		☐ Pass ☐ Fail	☐ Refused
☐ MODIFIED RHOMBERG BAL. TEST		☐ Pass ☐ Fail	☐ Refused
☐ FINGER COUNT		☐ Pass ☐ Fail	☐ Refused
☐ RECITING THE ALPHABET		☐ Pass ☐ Fail	☐ Refused
☐ LACK OF CONVERGENCE		☐ Pass ☐ Fail	☐ Refused
☐ OTHER TEST:			

ADMISSIONS BY THE DEFENDANT:

ORAL ☐ WRITTEN ☐ CONDUCT ☐
(COMPLETE 710.30)

OTHER EVIDENCE:

- ☐ OPEN CONTAINER ALCOHOLIC BEV. IN/NEAR VEHICLE
- ☑ POSITIVE BREATH SCREENING TEST
- ☐ RESISTED APPREHENSION
- ☐ CIVILIAN WITNESS(ES)
- ☐ VIDEO

OTHER:

HOW OBTAINED?:

BY WHOM?:

NO ALCOHOL AFTER STOP SHOWN BY:

- ☑ CONTINUAL POLICE OBSERVATION
- ☐ ADMISSIONS (COMPLETE 710.30)
- ☐ CIVILIAN WITNESS(ES)

OTHER:

CHEMICAL TEST INFORMATION:

TYPE OF TEST: ☑ BREATH ☐ URINE ☐ BLOOD

☑ DWI WARNINGS GIVEN — GIVEN BY: PO NERNEY #1139

☐ REFUSAL — LAST REFUSAL TIME:

☐ BREATH TEST B.A.C. .16 % TIME: 20:53 PM

BREATH TEST OPERATOR: PO NERNEY #1139

DRE PERFORMED BY:

PRESENT CHARGES:

- ☐ DWAI (VTL 1192.1)
- ☑ DWI (BLOOD ALCOHOL CONTENT) (VTL 1192.2)
- ☑ DWI INTOX (VTL 1192.3)
- ☐ AGGRAVATED DWI (OVER .18%) (VTL 1192.2AA)
- ☐ DWI DRUGS (VTL 1192.4)
- ☐ DWI Combined Drugs/Alcohol (VTL 1192.4A)
- ☑ OTHER VTL – NOTE SECTIONS: VTL-5091
- ☐ OTHER OFFENSES: NOTE LAW/SECTIONS:
- ☐ CURRENT SUSPENSION/REVOCATION (NOTE):

INSTRUMENT NUMBER: 105806 MODEL #:

SIM LOT #: 21170 AMPOULE #:

BLOOD TEST:

DRAWN BY: ☐ NURSE ☐ PHYSICIAN ☐ EMT ☐ LAB TECH

BLOOD TEST:

COLLECTOR'S NAME:

URINE OR BLOOD SUBMISSION:

TIME: WITNESS: LOCATION:

COURT ORDERED BLOOD TEST: JUDGE:

NAME OF ADA NTFD:

COMMENTS/NOTES:

PHONE CALL(s): ☐ REFUSED DATE: 10/01/2021 TIME: 22:00 PM NUMBER CALLED: 914-629-0420

NOTES: DAUGHTER

VERIFICATION: False Statements made herein are ~~punishable~~ as Class "A" misdemeanor pursuant to section 210.45 of the Penal Law

ARRESTING OFFICER SIGNATURE: P.O. SHIELD: 1058 DATE: 10/01/2021

SUPPORTING DEPOSITION SERVED BY: LOCATION: WCPD HQ DATE: 10/01/2021

EXHIBIT 6

EXHIBIT "6"

EXHIBIT 6

SUBJECT TEST

WESTCHESTER COUNTY
DEPT. OF PUBLIC SAFTEY
DATAMASTER dmt: 105806

Date: 10/01/2021

SUBJECT NAME:
GUSTAVO VILLARMARES SERRANO
CASE/TICKET NUMBER: 100173-21
OBSERVATION TIME BEGAN: 20:21
SUBJECT ADVISED: Y
SUBJECT DOB: 07/25/1980 SUBJECT SEX: M
ITD INSTALLED: N
CHILD IN VEHICLE: N
ARRESTING AGENCY/DEPT:
WESTCHESTER CO. DPS
ORI #: 05900
ACCIDENT INVOLVED: Y
INJURIES: 0 # FATALITIES: 0
ARREST LOCATION:
HUTCHINSON RIVER PKWY NB MILL RD
COUNTY OF ARREST: WESTCHESTER
DRIVERS LICENSE NUMBER: 357239523
STATE ISSUED: NY
ARRESTED/DETAINED FOR:
11923
LAST DRINKING LOCATION:
QUEENS
ARRESTING OFFICER NAME:
KIRK BAKER
OPERATOR NAME:
NIALL J NERNEY
OPERATOR PERMIT NUMBER: 49049
OPERATOR AGENCY/DEPT:
WESTCHESTER CO. DPS
REFERENCE STANDARD NUMBER:
21170

---BREATH ANALYSIS---

BLANK TEST	0.00	20:53
INTERNAL STANDARD	VERIFIED	20:53
SUBJECT SAMPLE	0.16	20:53
BLANK TEST	0.00	20:54
REFERENCE STANDARD TEMP	34.00c	
REFERENCE STANDARD	0.09	20:55
BLANK TEST	0.00	20:56

I, P.O NERNEY #1139, am employed by the WCPD, a government agency, and, having been delegated by my employer to do so, certify that the above record of blood alcohol content analysis was made in the regular and ordinary course of business of this agency; that it is the regular and ordinary course of business of this agency to perform analysis of blood alcohol content and to make records of such analysis at the time they are performed; that the entries appearing on the above record were made at or soon after the time of the acts, transactions, occurrences, or events stated thereon; that this record, if a copy, is a complete and exact duplicate of the original thereof; and that it is part of my employment responsibilities to maintain custody or control of this record.

10/01/2021
Date

P.O. #1139
Signature

P.O.
Title

Permit Number:
49049

Operator Name, Rank and Department

P.O. Niall Nerney #1139 WCPD

EXHIBIT "7"

WESTCHESTER COUNTY DISTRICT ATTORNEY'S OFFICE

POLICE WITNESS 18K QUESTIONS

Kris Marco Date: 12/15/21
FIRST LAST

Police Agency: WCPD

a) Has the witness been convicted of a crime?

[ ] No [ ] Yes

If yes, DOB: _____

b) Is the witness aware of any pending criminal charge?

[ ] No [ ] Yes

If yes, where: _____

c) Is the witness aware of a finding/ruling by a Court about the truthfulness of the testimony of the witness?

[ ] No [ ] Yes

If yes, where and when: _____

d) Is the witness aware of any civil lawsuit or complaint filed concerning the conduct of the witness in his case?

[ ] No [ ] Yes

If yes, where and when: _____

e) Is the witness aware of any civil lawsuit about the conduct of the witness in a past case?

[ ] No [ ] Yes

If yes, where and when: _____

f) Is the witness aware of any administrative, personnel or civilian complaints implicating the witness's honesty and integrity?

[ ] No [ ] Yes

If yes, where and when: _____

If you becomes aware of any new information, please contact the ADA.

EXHIBIT "7"

EXHIBIT 7 EXHIBIT 8 EXHIBIT 6

WESTCHESTER COUNTY DISTRICT ATTORNEY'S OFFICE

POLICE WITNESS 1K QUESTIONS

Name: Kris (FIRST) Marco (LAST) Date: 12/6/21

Arresting Agency: WCPD

1. Has the witness been convicted of a crime?
   [✓] No [ ] Yes
   If yes, DOB: _____

2. Is the witness aware of any pending criminal charge?
   [✓] No [ ] Yes
   If yes, where: _____

3. Is the witness aware of a finding/ruling by a Court about the truthfulness of the testimony of the witness?
   [✓] No [ ] Yes
   If yes, where and when: _____

4. Is the witness aware of any civil lawsuit or complaint filed concerning the conduct of the witness in this case?
   [✓] No [ ] Yes
   If yes, where and when: _____

5. Is the witness aware of any civil lawsuit about the conduct of the witness in a past case?
   [✓] No [ ] Yes
   If yes, where and when: _____

6. Is the witness aware of any administrative, personnel or civilian complaints implicating the witness's honesty and integrity?
   [✓] No [ ] Yes
   If yes, where and when: _____

If you become aware of any new information, please contact the ADA.

EXHIBIT 6

WESTCHESTER COUNTY DISTRICT ATTORNEY'S OFFICE

POLICE WITNESS IK QUESTIONS

Name: KIRK BAKER Date: 8/24/21
FIRST LAST

Arresting Agency: WCPD

1. Has the witness been convicted of a crime?
[✓] No [ ] Yes

If yes, DOB: _____

2. Is the witness aware of any pending criminal charge?
[ ] No [ ] Yes

If yes, where: _____

3. Is the witness aware of a finding/ruling by a Court about the truthfulness of the testimony of the witness?

[✓] No [ ] Yes
If yes, where and when: _____

4. Is the witness aware of any civil lawsuit or complaint filed concerning the conduct of the witness in this case?

[✓] No [ ] Yes
If yes, where and when: _____

5. Is the witness aware of any civil lawsuit about the conduct of the witness in a past case?

[✓] No [ ] Yes
If yes, where and when: _____

6. Is the witness aware of any administrative, personnel or civilian complaints implicating the witness's honesty and integrity?
[✓] No [ ] Yes
If yes, where and when: _____

If you become aware of any new information, please contact the ADA.

EXHIBIT 6

Westchester County District Attorney's Office
Discovery Package Transmittal Notice

Case Information

Defendant's Name:	Gustavo Villamares Serrano
Court:	
Ind/SCI #:	
Local Court Docket #:	
Local PD Incident #:	WC-02021-21
Incident Date:	October 1, 2021

Attorney Information

Attorney's Name:	Dennis W. Light
Attorney's Email Address:	dwlight@dwlawoffice.com

Discovery Package Information

DP-0012268-Y01000009726 transmitted on January 10, 2022 at 10:07 AM contained 3 files.

Category	Name	Type	Size	Note
	Baum_Kirk_1_7_22.pdf	PDF	51.73 KB	
	Hearle_Christopher_1_7_22.pdf	PDF	171.41 KB	
	Mares_Kris_1_10_22.pdf	PDF	471.17 KB	

EXHIBIT "8"

Westchester County District Attorney's Office

Discovery Package Transmittal Notice

Case Information

Defendant's Name: Gustavo Villamares Serrano
Court:
Ind/SCI #:
Local Court Docket #:
Local PD Incident #: WC-02021-21
Incident Date: October 1, 2021

Attorney Information

Attorney's Name: Dennis W. Light
Attorney's Email Address: dwlight@rlslawoffice.com

Discovery Package Information

DP-0042268-Y010009726 transmitted on January 10, 2022 at 10:07 AM contained 3 files:

Category	Name	Type	Size	Note
IK	Bauer_Kirk_1_7_22.pdf	PDF	51.73 KB	
IK	Hearle_Christopher_1_7_22.pdf	PDF	171.41 KB	
IK	Marco_Kris_1_10_22.pdf	PDF	471.17 KB	

WESTCHESTER COUNTY DISTRICT ATTORNEY'S OFFICE

POLICE WITNESS 1K QUESTIONS

Name: Kris Marco (FIRST / LAST) Date: 1/10/22

Arresting Agency: WCDPS

1. Has the witness been convicted of a crime?
[X] No [ ] Yes
If yes, DOB: _____

2. Is the witness aware of any pending criminal charge?
[X] No [ ] Yes
If yes, where: _____

3. Is the witness aware of a finding/ruling by a Court about the truthfulness of the testimony of the witness?
[X] No [ ] Yes
If yes, where and when: _____

4. Is the witness aware of any civil lawsuit or complaint filed concerning the conduct of the witness in this case?
[X] No [ ] Yes
If yes, where and when: _____

5. Is the witness aware of any civil lawsuit about the conduct of the witness in a past case?
[X] No [ ] Yes
If yes, where and when: _____

6. Is the witness aware of any administrative, personnel or civilian complaints implicating the witness's honesty and integrity?
[X] No [ ] Yes
If yes, where and when: _____

If you become aware of any new information, please contact the ADA.

EXHIBIT 6

WESTCHESTER COUNTY DISTRICT ATTORNEY'S OFFICE

POLICE WITNESS IK QUESTIONS

Name: KIRK BAKER Date: [redacted]
FIRST LAST

Arresting Agency: WCPD

1. Has the witness been convicted of a crime?
NO No [ ] Yes
If yes, DOB: _____

2. Is the witness aware of any pending criminal charge?
NO No [ ] Yes
If yes, where: _____

3. Is the witness aware of a finding/ruling by a Court about the truthfulness of the testimony of the witness?
NO No [ ] Yes
If yes, where and when: _____

4. Is the witness aware of any civil lawsuit or complaint filed concerning the conduct of the witness in this case?
NO No [ ] Yes
If yes, where and when: _____

5. Is the witness aware of any civil lawsuit about the conduct of the witness in a past case?
NO No [ ] Yes
If yes, where and when: _____

6. Is the witness aware of any administrative, personnel or civilian complaints implicating the witness's honesty and integrity?
NO No [ ] Yes
If yes, where and when: _____

If you become aware of any new information, please contact the ADA.

https://mailbox2a.westchestergov.com/owa/#viewmodel=IAttachmentViewModelPopoutFactory&AttachmentJson=%7B"__type"%3A"FileAttachment%...

EXHIBIT 6

WESTCHESTER COUNTY DISTRICT ATTORNEY'S OFFICE

POLICE WITNESS 1K QUESTIONS

Name: CHRISTOPHER (FIRST) HEARLE (LAST) Date: 01/07/2022

Arresting Agency: WCPD

1. Has the witness been convicted of a crime?
[X] No [ ] Yes
If yes, DOB: _____

2. Is the witness aware of any pending criminal charge?
[X] No [ ] Yes
If yes, where: _____

3. Is the witness aware of a finding/ruling by a Court about the truthfulness of the testimony of the witness?
[X] No [ ] Yes
If yes, where and when: _____

4. Is the witness aware of any civil lawsuit or complaint filed concerning the conduct of the witness in this case?
[X] No [ ] Yes
If yes, where and when: _____

5. Is the witness aware of any civil lawsuit about the conduct of the witness in a past case?
[X] No [ ] Yes
If yes, where and when: _____

6. Is the witness aware of any administrative, personnel or civilian complaints implicating the witness's honesty and integrity?
[X] No [ ] Yes
If yes, where and when: _____

If you become aware of any new information, please contact the ADA.

POLICE WITNESS 1K QUESTIONS

Name: Niall (FIRST) Nerney (LAST) Date: 3/6/20

Arresting Agency: WCDPS

1. Has the witness been convicted of a crime?

[✓] No [ ] Yes

If yes, DOB: _____

2. Is the witness aware of any pending criminal charge?

[✓] No [ ] Yes

If yes, where: _____

3. Is the witness aware of a finding/ruling by a Court about the truthfulness of the testimony of the witness?

[✓] No [ ] Yes

If yes, where and when:

4. Is the witness aware of any civil lawsuit or complaints filed concerning the conduct of the witness in this case?

[✓] No [ ] Yes

If yes, where and when:

5. Is the witness aware of any civil lawsuit about the conduct of the witness in a past case?

[✓] No [ ] Yes

If yes, where and when:

6. Is the witness aware of any other substantiated administrative, personnel or civilian complaints implicating the witness's honesty and integrity?

[✓] No [ ] Yes

If yes, where and when

If you become aware of any new information, please contact the ADA.

EXHIBIT "9"

EXHIBIT 6

EXHIBIT "9"

ADMINISTRATIVE ORDER OF THE
CHIEF ADMINISTRATIVE JUDGE OF THE COURTS

Pursuant to the authority vested in me, and upon consultation with and agreement of the Administrative Board of the Courts, I hereby amend the uniform rules for courts exercising criminal jurisdiction (22 NYCRR Part 200) by adding sections 200.16 and 200.27 as follows, effective January 1, 2018:

* * *

200.16/200.27: Issuance of Order Confirming Disclosure and Notice Obligations

In all criminal actions on an indictment, prosecutor's information, information, or simplified information, where counsel for the defendant has provided the prosecutor with a written demand as specified under CPL 240.10(1) and 240.20, or where the prosecution has waived such demand, the court shall issue an order to prosecution and defense counsel that, inter alia, (1) confirms the prosecutor's disclosure obligations pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 150 (1972), *People v Geaslen*, 54 N.Y.2d 510 (1981), and their progeny; and (2) confirms defense counsel's professional obligation to provide effective assistance of counsel and meet defendant's statutory notice obligations. The order shall be issued on the first scheduled court date, following demand, where both the prosecutor and defense counsel are present. The Chief Administrator of the Courts shall promulgate a model order for this purpose that the court may use as it deems appropriate.

Chief Administrative Judge of the Courts

Dated: November 6, 2017

AO 291/17

EXHIBIT 6

STATE OF NEW YORK, _____ COURT
COUNTY OF _____: CRIMINAL TERM. PART __

----------x

PEOPLE OF THE STATE OF NEW YORK,

-against-

_____, Defendant.

Case No. _____

Order to Counsel in Criminal Cases

----------x

_____, J.

The court, pursuant to an Administrative Order of the Chief Administrative Judge and at the recommendation of the New York State Justice Task Force and in furtherance of the fair administration of justice, issues this order as both a reminder and a directive that counsel uphold their constitutional, statutory and ethical responsibilities in the above-captioned proceedings.

To the Prosecutor:

The District Attorney and the Assistant responsible for the case, or, if the matter is not being prosecuted by the District Attorney, the prosecuting agency and its assigned representative, is directed to make timely disclosures of information favorable to the defense as required by *Brady v Maryland*, 373 US 83 (1963), *Giglio v United States*, 405 US 150 (1972), *People v Geaslen*, 54 NY2d 510 (1981), and their progeny under the United States and New York State constitutions, and by Rule 3.8(b) of the New York State Rules of Professional Conduct, as described hereafter.

- The District Attorney and the Assistant responsible for the case have a duty to learn of such favorable information that is known to others acting on the government's behalf in the case, including the police, and should therefore confer with investigative and prosecutorial personnel who acted in this case and review their and their agencies' files directly related to the prosecution or investigation of this case.

- Favorable information could include, but is not limited to:

a) Information that impeaches the credibility of a testifying prosecution witness, including (i) benefits, promises, or inducements, express or tacit, made to a witness by a law enforcement official or law enforcement victim services agency in connection with giving testimony or cooperating in the case; (ii) a witness's prior inconsistent statements, written or oral; (iii) a witness's prior convictions and uncharged criminal conduct; (iv) information that tends to show that a witness has a motive to lie to inculpate the defendant, or a bias against the defendant or in favor of the complainant or the prosecution; and (v) information that tends to show impairment of a witness's ability to perceive, recall, or recount relevant events, including impairment resulting from mental or physical illness or substance abuse.

b) Information that tends to exculpate, reduce the degree of an offense, or support a potential defense to a charged offense.

c) Information that tends to mitigate the degree of the defendant's culpability as to a charged offense, or to mitigate punishment.

d) Information that tends to undermine evidence of the defendant's identity as a perpetrator of a charged crime, such as a non-identification of the defendant by a witness to a charged crime or an identification or other evidence implicating another person in a manner that tends to cast doubt on the defendant's guilt.

e) Information that could affect in the defendant's favor the ultimate decision on a suppression motion.

• Favorable information shall be disclosed whether or not it is recorded in tangible form, and irrespective of whether the prosecutor credits the information.

• Favorable information must be timely disclosed in accordance with the United States and New York State constitutional standards, as well as CPL article 240. Disclosures are presumptively "timely" if they are completed no later than 30 days before commencement of trial in a felony case and 15 days before commencement of trial in a misdemeanor case. Records of a judgment of conviction or a pending criminal action ordinarily are discoverable within the time frame provided in CPL 240.44 or 240.45(1). Disclosures that pertain to a suppression hearing are presumptively "timely" if they are made no later than 15 days before the scheduled hearing date. The prosecutor is reminded that the obligation to disclose is a continuing one. Prosecutors should strive to determine if favorable information exists. Nothing herein shall be understood to diminish a prosecutor's obligation to disclose exculpatory information as soon as reasonably possible.

• A protective order may be issued for good cause, and CPL 240.50 shall be deemed to apply, with respect to disclosures required under this order. The prosecutor may request a ruling from the court on the need for disclosure.

• Only willful and deliberate conduct will constitute a violation of this order or be eligible to result in personal sanctions against a prosecutor.

To Defense Counsel:

Defense counsel, having filed a notice of appearance in the above captioned case, is obligated under both the New York State and the United States Constitution to provide effective representation of defendant. Although the following list is not meant to be exhaustive, counsel shall remain cognizant of the obligation to:

a) Confer with the client about the case and keep the client informed about all significant developments in the case;

b) Timely communicate to the client any and all guilty plea offers, and provide reasonable advice about the advantages and disadvantages of such guilty plea offers and about the potential sentencing ranges that would apply in the case;

c) When applicable based upon the client's immigration status, ensure that the client receives competent advice regarding the immigration consequences in the case as required under *Padilla v Kentucky*. 559 US 356 (2010);

d) Perform a reasonable investigation of both the facts and the law pertinent to the case (including as applicable, e.g., visiting the scene, interviewing witnesses, subpoenaing pertinent materials, consulting experts, inspecting exhibits, reviewing all discovery materials obtained from the prosecution, researching legal issues, etc.), or, if appropriate, make a reasonable professional judgment not to investigate a particular matter;

e) Comply with the requirements of the New York State Rules of Professional Conduct regarding conflicts of interest, and when appropriate, timely notify the court of a possible conflict so that an inquiry may be undertaken or a ruling made;

f) Possess or acquire a reasonable knowledge and familiarity with criminal procedural and evidentiary law to ensure constitutionally effective representation in the case; and

g) When the statutory requirements necessary to trigger notice from the defense are met (e.g., a demand, intent to introduce the evidence, etc.), comply with the statutory notice obligations for the defense as specified in CPL 250.10, 250.20, and 250.30.

So ordered.

_____

Judge or Justice

Dated:

EXHIBIT "10"

EXHIBIT 6

Query Reports Utilities Help Log Out

CLOSED

U.S. District Court
Eastern District of New York (Brooklyn)
CIVIL DOCKET FOR CASE #: 1:95-cv-03622-SJ

Naham v. United States, et al
Assigned to: Judge Sterling Johnson, Jr
Demand: $1,000,000
Cause: 28:1346 Tort Claim

Date Filed: 09/05/1995
Date Terminated: 09/22/2000
Jury Demand: Plaintiff
Nature of Suit: 350 Motor Vehicle
Jurisdiction: U.S. Government Defendant

Plaintiff
Jeffrey Naham

represented by **Richard A. Engelberg**
Kreines and Engelberg
330 Old Country Road
Mineola, NY 11501
516-877-1717
Fax: 516-877-1748
Email: frengel@optonline.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant
United States of America

represented by **Michael J. Goldberger**
United States Attorneys Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, NY 11201-1820
(718)254-6052
Fax: (718)254-6083
Email: Michael.Goldberger@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant
Kirk A. Baker

Defendant
August L. Santolupo
TERMINATED: 11/03/1998

represented by **Christopher Allan Jeffreys**
Suffolk County Attorney
100 Veterans Memorial Highway
Hauppauge, NY 11788
631-853-4049
Fax: 631-853-5833
Email: christopher.jeffreys@suffolkcountyny.gov
TERMINATED: 11/03/1998
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant
Gary H. Price
TERMINATED: 11/03/1998

represented by **Christopher Allan Jeffreys**
(See above for address)
TERMINATED: 11/03/1998

EXHIBIT 6

RECEIVED NYSCEF: 07/14/2

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

NIALL NERNEY and MAUREEN NERNEY,

Plaintiff(s),

-against-

LEGACY YARDS TENANT LLC and HUDSON YARDS CONSTRUCTION LLC,

Defendant(s).

SUMMONS

Index No.:
Date Purchased:

Plaintiff designates NEW YORK County as the place of trial

Basis of Venue: Defendant's principal place of business

To the above named Defendant(s):

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
July 13, 2016

SACKS AND SACKS, LLP

By: ANDREW R. DIAMOND, ESQ.
Attorney(s) for Plaintiffs
Office and Post Office Address
150 Broadway – 4th Floor
New York, New York 10038
(212) 964-5570

Defendant(s) Address(es):

LEGACY YARDS TENANT LLC
c/o Corporation Service Company
80 State Street
Albany, New York 12207

HUDSON YARDS CONSTRUCTION LLC
c/o Corporation Service Company
80 State Street
Albany, New York 12207

EXHIBIT 7 EXHIBIT 8 EXHIBIT 9 EXHIBIT 6

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

NIALL NERNEY and MAUREEN NERNEY,

Plaintiff(s),

VERIFIED COMPLAINT

-against-

LEGACY YARDS TENANT LLC and HUDSON YARDS CONSTRUCTION LLC,

Index No.:

Defendant(s).

Plaintiffs, complaining of the defendants, by their attorneys, SACKS & SACKS, LLP, respectfully allege as follows:

AS AND FOR A FIRST CAUSE OF ACTION ON BEHALF OF PLAINTIFF, NIALL NERNEY

FIRST: That at all times herein mentioned, defendant, LEGACY YARDS TENANT LLC was and still is a foreign limited liability company duly authorized to own property and conduct business in the State of New York.

SECOND: That at all times herein mentioned, defendant, HUDSON YARDS CONSTRUCTION LLC was and still is a foreign limited liability company duly authorized to own property and conduct business in the State of New York.

THIRD: That at all times herein mentioned, defendant, LEGACY YARDS TENANT LLC was and still is the owner of premises under construction located at 501 West 34th Street a/k/a 10 Hudson Yards, in the Borough of Manhattan, City and State of New York.

FOURTH: That at all times herein mentioned, defendant, HUDSON YARDS CONSTRUCTION LLC was and still is the owner of the aforesaid premises.

FIFTH: That at all times herein mentioned, defendant, HUDSON YARDS CONSTRUCTION

LLC was in the business of providing general contracting services and was the general contractor at the aforesaid premises.

SIXTH:That at all times herein mentioned, defendant, HUDSON YARDS CONSTRUCTION LLC was in the business of providing construction management services and was the construction manager at the aforesaid premises.

SEVENTH: That at all times herein mentioned, defendant, LEGACY YARDS TENANT LLC entered into a contract with HUDSON YARDS CONSTRUCTION LLC for HUDSON YARDS CONSTRUCTION LLC to act as general contractor and/or construction manager at the aforesaid premises.

EIGHTH: That at all times herein mentioned, defendant, LEGACY YARDS TENANT LLC entered into a contract with Tutor Perini for Tutor Perini to act as general contractor and/or construction manager at the aforesaid premises.

NINTH: That at all times herein mentioned, defendant, HUDSON YARDS CONSTRUCTION LLC entered into a contract with Tutor Perini for Tutor Perini to act as

TENTH: That on the 17th day of February, 2015, while plaintiff, NIALL NERNEY was lawfully upon the aforesaid premises as an employee of the aforesaid Tutor Perini he was caused to sustain serious and severe injuries.

ELEVENTH: The occurrence as aforesaid was caused solely and wholly by reasons of the negligence, carelessness and recklessness of the defendants, their contractors, agents and employees who were negligent in the ownership, operation, management and control of the aforementioned premises. While plaintiff was lawfully performing his duties, he was caused to slip on ice and debris causing him to sustain serious and severe injuries. The defendants, their contractors, agents and employees failed to ensure that work area, thoroughfares and passageways were free from slipping

hazards; further, allowed ice to accumulate in a reckless, dangerous manner, causing plaintiff to slip, sustaining serious and severe injuries; further, failed to ensure that loads were properly bundled and hoisted, constructed, placed, operated and maintained so as not to collapse upon the plaintiff; further, failed to ensure that loads were properly balanced and secured before set in motion; further, failed to ensure that there would be no sudden acceleration and/or deceleration of a load which ultimately fell onto the plaintiff; further, failed to ensure proper hoisting equipment was provided and utilized; further, failed to keep the area where the workers had to work safe and clear of slipping hazards; further, violated Sections 200, 240 and 241(6) of the Labor Law of the State of New York, Rule 23 of the Industrial Code of the State of New York, specifically but not limited to 23-1.5, 23-1.7, 23-2.1, 23-2.2, 23-2.3, 23-4, 23-5, 23-6, 23-7, 23-8, Article 1926 of O.S.H.A and was otherwise negligent, careless and reckless causing plaintiff to sustain serious and severe injuries.

TWELFTH: Plaintiff was free from comparative fault.

THIRTEENTH: As a result of the aforesaid occurrence plaintiff was rendered sick, sore, lame and disabled, was confined to bed and home for a long period of time; was caused to expend large sums of money for medical aid and attention and has been prevented from attending his usual occupation and/or avocation for a long period of time.

FOURTEENTH: The monetary damages sustained by plaintiff exceed the jurisdictional limitations of all lower courts which would otherwise have had jurisdiction.

WHEREFORE, the plaintiff demands relief against the defendants for conscious pain and suffering, loss of enjoyment of life, medical expenses, past and future, lost wages and union benefits, past and future, and all other recoverable items under New York State law.

AS AND FOR A SECOND CAUSE OF ACTION ON BEHALF OF PLAINTIFF, MAUREEN NERNEY

FIFTEENTH: Plaintiff, **MAUREEN NERNEY**, repeats, reiterates and realleges each and every allegation contained in Paragraphs "**FIRST**" through "**FOURTEENTH**" with the same force and effect as if herein fully set forth at length.

SIXTEENTH: That at all times hereinafter mentioned, plaintiff, **MAUREEN NERNEY**, is the wife of plaintiff, **NIALL NERNEY**, and resides with him.

SEVENTEENTH: By reason of the occurrence as aforesaid and the injuries sustained by the plaintiff, **NIALL NERNEY**, the plaintiff, **MAUREEN NERNEY**, lost the support, services, love, companionship, affection, society, sexual relations, solace of her husband, the plaintiff, **NIALL NERNEY**, and her happiness in his society has been impaired.

EIGHTEENTH: The amount of damages sought by plaintiff, **MAUREEN NERNEY** exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, plaintiff, **MAUREEN NERNEY**, demands relief against the defendants herein.

SACKS AND SACKS, LLP
Attorneys for Plaintiff(s)
Office & P.O. Address:
150 Broadway - 4th Floor
New York, New York 10038
(212) 964-5570

ATTORNEY'S VERIFICATION BY AFFIRMATION

I, **ANDREW R. DIAMOND**, am an attorney duly admitted to practice in the courts of New York State, and say that: I am the attorney of record, or of counsel with the attorney(s) of record, for the plaintiff(s), I have read the annexed **SUMMONS AND COMPLAINT** know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon the following: facts, investigations and pertinent data contained in deponent's file.

The reason I make this affirmation instead of plaintiff is because plaintiff(s) reside in a County other than where deponent maintains his office.

Dated: New York, New York
July 13, 2016

A. D.

ANDREW R. DIAMOND, ESQ.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----------x

NIALL NERNEY and MAUREEN NERNEY,

Plaintiff(s),

-against-

LEGACY YARDS TENANT LLC and HUDSON YARDS CONSTRUCTION LLC,

Defendant(s).

----------x

Index No.:

SUMMONS AND COMPLAINT

Sacks and Sacks, LLP
150 Broadway, 4th Floor
New York, New York 10038
T: (212) 964-5570
F: (212) 349-2141

RECEIVED NYSCEF: 09/10/2

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

NIALL NERNEY and MAUREEN NERNEY,

Plaintiff(s),

-against-

LEGACY YARDS TENANT LLC, 509 W 34, L.L.C., RELATED PROPERTIES CORPORATION, OXFORD PROPERTIES, LLC and HUDSON YARDS CONSTRUCTION LLC,

Defendant(s).

SUMMONS

Index No.:
Date Purchased:

Plaintiff designates NEW YORK County as the place of trial

Basis of Venue: Defendant's principal place of business

To the above named Defendant(s):

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
September 10, 2015

SACKS AND SACKS, LLP

By: KENNETH SACKS, ESQ.
Attorney(s) for Plaintiffs
Office and Post Office Address
150 Broadway – 4th Floor
New York, New York 10038
(212) 964-5570

Defendant(s) Address(es):

LEGACY YARDS TENANT LLC
c/o Corporation Service Company
80 State Street, Albany, New York 12207

HUDSON YARDS CONSTRUCTION LLC
c/o Corporation Service Company
80 State Street, Albany, New York 12207

509 W 34, L.L.C.
c/o National Registered Agents, Inc.
111 Eighth Ave, 13th Fl, New York, NY 10011

RELATED PROPERTIES CORPORATION
c/o Corporation Service Company
80 State Street
Albany, New York 12207

OXFORD PROPERTIES, LLC
c/o Mark Weissman
45 Broadway, 12th Floor
New York, New York, 10006

EXHIBIT 6

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

NIALL NERNEY and MAUREEN NERNEY,

Plaintiff(s),

-against-

LEGACY YARDS TENANT LLC, 509 W 34, L.L.C., RELATED PROPERTIES CORPORATION, OXFORD PROPERTIES, LLC and HUDSON YARDS CONSTRUCTION LLC,

Defendant(s).

VERIFIED COMPLAINT

Index No.:

Plaintiffs, complaining of the defendants, by their attorneys, **SACKS & SACKS, LLP**, respectfully allege as follows:

AS AND FOR A FIRST CAUSE OF ACTION ON BEHALF OF PLAINTIFF, NIALL NERNEY

FIRST: That at all times herein mentioned, defendant, **LEGACY YARDS TENANT LLC** was and still is a foreign limited liability company duly authorized to own property and conduct business in the State of New York.

SECOND: That at all times herein mentioned, defendant, **509 W 34, L.L.C.** was and still is a foreign limited liability company duly authorized to own property and conduct business in the State of New York.

THIRD: That at all times herein mentioned, defendant, **RELATED PROPERTIES CORPORATION** was and still is a foreign corporation duly authorized to own property and conduct business in the State of New York.

FOURTH: That at all times herein mentioned, defendant, **OXFORD PROPERTIES, LLC** was and still is a foreign limited liability company duly authorized to own property and conduct business in the State of New York.

EXHIBIT 6

FIFTH: That at all times herein mentioned, defendant, **HUDSON YARDS CONSTRUCTION LLC** was and still is a foreign limited liability company duly authorized to own property and conduct business in the State of New York.

SIXTH: That at all times herein mentioned, defendant, **LEGACY YARDS TENANT LLC** was and still is the owner of premises under construction located at 501 West 34th Street a/k/a 10 Hudson Yards, in the Borough of Manhattan, City and State of New York.

SEVENTH: That at all times herein mentioned, defendant, **509 W 34, L.L.C.** was and still is the owner of the aforesaid premises.

EIGHTH: That at all times herein mentioned, defendant, **RELATED PROPERTIES CORPORATION** was and still is the owner of the aforesaid premises.

NINTH: That at all times herein mentioned, defendant, **OXFORD PROPERTIES, LLC** was and still is the owner of the aforesaid premises.

TENTH: That at all times herein mentioned, defendant, **HUDSON YARDS CONSTRUCTION LLC** was and still is the owner of the aforesaid premises.

ELEVENTH: That at all times herein mentioned, defendant, **HUDSON YARDS CONSTRUCTION LLC** was in the business of providing general contracting services and was the general contractor at the aforesaid premises.

TWELFTH: That at all times herein mentioned, defendant, **HUDSON YARDS CONSTRUCTION LLC** was in the business of providing construction management services and was the construction manager at the aforesaid premises.

THIRTEENTH: That at all times herein mentioned, defendant, **LEGACY YARDS TENANT LLC** entered into a contract with **HUDSON YARDS CONSTRUCTION LLC** for **HUDSON YARDS CONSTRUCTION LLC** to act as general contractor and/or construction manager at the aforesaid premises.

FOURTEENTH: That at all times herein mentioned, defendant, **509 W 34, L.L.C.** entered into a contract with **HUDSON YARDS CONSTRUCTION LLC** for **HUDSON YARDS**

CONSTRUCTION LLC to act as general contractor and/or construction manager at the aforesaid premises.

FIFTEENTH: That at all times herein mentioned, defendant, **RELATED PROPERTIES CORPORATION** entered into a contract with **HUDSON YARDS CONSTRUCTION LLC** for **HUDSON YARDS CONSTRUCTION LLC** to act as general contractor and/or construction manager at the aforesaid premises.

SIXTEENTH: That at all times herein mentioned, defendant, **OXFORD PROPERTIES, LLC** entered into a contract with **HUDSON YARDS CONSTRUCTION LLC** for **HUDSON YARDS CONSTRUCTION LLC** to act as general contractor and/or construction manager at the aforesaid premises.

SEVENTEENTH: That at all times herein mentioned, defendant, **LEGACY YARDS TENANT LLC** entered into a contract with Tutor Perini for Tutor Perini to act as general contractor and/or construction manager at the aforesaid premises.

EIGHTEENTH: That at all times herein mentioned, defendant, **509 W 34, L.L.C.** entered into a contract with Tutor Perini for Tutor Perini to act as general contractor and/or construction manager at the aforesaid premises.

NINTEENTH: That at all times herein mentioned, defendant, **RELATED PROPERTIES CORPORATION** entered into a contract with Tutor Perini for Tutor Perini to act as general contractor and/or construction manager at the aforesaid premises.

TWENTIETH: That at all times herein mentioned, defendant, **OXFORD PROPERTIES, LLC** entered into a contract with Tutor Perini for Tutor Perini to act as general contractor and/or construction manager at the aforesaid premises.

TWENTY-FIRST: That on the 28th day of July, 2015, while plaintiff, **NIALL NERNEY** was lawfully upon the aforesaid premises as an employee of the aforesaid Tutor Perini he was caused to sustain serious and severe injuries.

TWENTY-SECOND: The occurrence as aforesaid was caused solely and wholly by reason of the negligence, carelessness and recklessness of the defendants, their contractors, agents and employees who were negligent in the ownership, operation, management and control of the aforesaid premises. While plaintiff was lawfully performing his duties, he was caused to trip on dirt, debris and other refuse, causing him to sustain serious and severe injuries. Defendants, their contractors, agents and employees failed to ensure that work areas, thoroughfares and passageways were free of tripping and slipping hazards; further, allowed debris to accumulate in a reckless, dangerous manner, causing plaintiff to trip, sustaining serious and severe injuries; further, failed to ensure that loads were properly hoisted, constructed, placed, operated and maintained; further, failed to ensure that loads were properly balanced and secured before set in motion; further, failed to ensure that there would be no sudden acceleration and/or deceleration of a moving load; further, failed to ensure proper hoisting apparatus was utilized; further, failed to man the jobsite sufficient with laborers to keep up with the cleanup of dirt, debris and other refuse; further, violated Sections 200, 240 and 241(6) of the Labor Law of the State of New York, Rule 23 of the Industrial Code of the State of New York, specifically but not limited to 23-1.5, 23-1.7, 23-2.1, 23-2.2, 23-2.3, 23-4, 23-5, 23-6, 23-7, 23-8, Article 1926 of O.S.H.A and was otherwise negligent, careless and reckless causing plaintiff to sustain serious and severe injuries.

TWENTY-THIRD: Plaintiff was free from comparative fault.

TWENTY-FOURTH: As a result of the aforesaid occurrence plaintiff was rendered sick, sore, lame and disabled, was confined to bed and home for a long period of time; was caused to expend large sums of money for medical aid and attention and has been prevented from attending his usual occupation and/or avocation for a long period of time.

TWENTY-FIFTH: The monetary damages sustained by plaintiff exceed the jurisdictional limitations of all lower courts which would otherwise have had jurisdiction.

WHEREFORE, the plaintiff demands relief against the defendants for conscious pain and suffering, loss of enjoyment of life, medical expenses, past and future, lost wages and union benefits, past and future, and all other recoverable items under New York State law.

AS AND FOR A SECOND CAUSE OF ACTION ON BEHALF OF PLAINTIFF, MAUREEN NERNEY

TWENTY-SIXTH: Plaintiff, **MAUREEN NERNEY**, repeats, reiterates and realleges each and every allegation contained in Paragraphs **"FIRST"** through **"TWENTY-FIFTH"** with the same force and effect as if herein fully set forth at length.

TWENTY-SEVENTH: That at all times hereinafter mentioned, plaintiff, **MAUREEN NERNEY**, is the wife of plaintiff, **NIALL NERNEY**, and resides with him.

TWENTY-EIGHTH: By reason of the occurrence as aforesaid and the injuries sustained by the plaintiff, **NIALL NERNEY**, the plaintiff, **MAUREEN NERNEY**, lost the support, services, love, companionship, affection, society, sexual relations, solace of her husband, the plaintiff, **NIALL NERNEY**, and her happiness in his society has been impaired.

TWENTY-NINTH: The amount of damages sought by plaintiff, **MAUREEN NERNEY** exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, plaintiff, **MAUREEN NERNEY**, demands relief against the defendants herein.

SACKS AND SACKS, LLP
Attorneys for Plaintiff(s)
Office & P.O. Address:
150 Broadway - 4th Floor
New York, New York 10038
(212) 964-5570

ATTORNEY'S VERIFICATION BY AFFIRMATION

I, **KENNETH SACKS**, am an attorney duly admitted to practice in the courts of New York State, and say that: I am the attorney of record, or of counsel with the attorney(s) of record, for the plaintiff(s), I have read the annexed **SUMMONS AND VERIFIED COMPLAINT** know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon the following: facts, investigations and pertinent data contained in deponent's file.

The reason I make this affirmation instead of plaintiff is because plaintiff(s) reside in a County other than where deponent maintains his office.

Dated: New York, New York
September 10, 2015

KENNETH SACKS, ESQ.

CIVILIAN WITNESS QUESTIONS

Dylan Dewysockie
First LAST Date: 12/20/21

(if applicable) DOB:

1. Have you been convicted of a crime or offense?
[X] No [ ] Yes

2. Are you aware of any pending criminal charge?
[X] No [ ] Yes
If yes, where:

3. Are you aware of a finding/ruling by a Court about the truthfulness of your testimony?
[X] No [ ] Yes
If yes, where:

4. Have any benefits or promises been made to you in connection with your testimony in this case?
[X] No [ ] Yes

5. Do you have any connection to this defendant?
[X] No [ ] Yes

6. Do you have any connection to this complainant?
[ ] No [X] Yes self

7. Do you have any mental/physical illness or substance abuse problems that would affect your ability to perceive, recall or testify about this incident?
[X] No [ ] Yes

Please aware of any new information, please contact the ADA.

EXHIBIT "11"

EXHIBIT 7 EXHIBIT 8 EXHIBIT 6

CIVILIAN WITNESS QUESTIONS

Name: Dylan Dewysockie
FIRST LAST

Date: 12/20/21

Agency (if applicable) _____

DOB: _____

1. Have you been convicted of a crime or offense?
[X] No [ ] Yes

2. Are you aware of any pending criminal charge?
[X] No [ ] Yes
If yes, where: _____

3. Are you aware of a finding/ruling by a Court about the truthfulness of your testimony?
[X] No [ ] Yes
If yes, where: _____

4. Have any benefits or promises been made to you in connection with your testimony in this case?
[X] No [ ] Yes

5. Do you have any connection to this defendant?
[X] No [ ] Yes

6. Do you have any connection to this complainant?
[ ] No [X] Yes self

7. Do you have any mental/physical illness or substance abuse problems that would affect your ability to perceive, recall or testify about this incident?

[X] No [ ] Yes

If you become aware of any new information, please contact the ADA.

Technical & Administrative Review Checklist - Signature Solution

Doc. No.	Form Broth Form 4b (Version 6)	Effective Date:	December 15, 2020
		Page:	1 of 1

Position Lot Number: 18360

Review Start Date: 12/13/22

Reviewer (Initials): CA

Documentation:

- ✓ Handwritten initials on all pages
- ✓ Page number on all pages, total pages noted
- ✓ Solution lot number on all solution pages; bottle number on all analytical pages
- ✓ Proper sample loading documented
- ✓ All pages of the technical record were reviewed for corrections; if applicable, corrections were documented appropriately
- ✓ Dates of analyses documented
- ✓ If abbreviations/symbols specific to the laboratory are used, they have been defined in section procedures
- N/A Any deviations from acceptability criteria have documented approval

Quality Control Data:

- ✓ Correct version of the test method is indicated on the QC Worksheet
- ✓ Required control samples analyzed, expiration dates not exceeded
- ✓ Acceptance criteria met
- ✓ QC results are accurately entered in Tox Form 11 QC Spreadsheet

Technical Data:

- ✓ The technical records demonstrate compliance with test methods
- ✓ Data transfers are accurate
- ✓ Retention times are recorded and acceptable
- ✓ Results meet acceptability criteria

Instrument Solution Record (electronic):

- ✓ Solution specific information is accurate (e.g. lot number, expiration date, etc)
- ✓ Results are accurately reported
- ✓ Electronic signature applied
- ✓ File name accurate

Items Completed:

- ✓ Upon review of the technical records available, I independently reached the same conclusion(s) reported.

Reviewer (Initials/Date): CA 12/13/22

This Document Contains Proprietary Information

EXHIBIT "12"

Technical & Administrative Review Checklist - Simulator Solution

Class: Form
ID: Breath Form 4b (Version 6)

Effective Date: December 11, 2018
Page: 1 of 1

Solution Lot Number: 18360

Review Start Date: 12/13/18

Reviewer (initials): CAH

Documentation:

✓ Handwritten initials on all pages

✓ Page number on all pages, total pages noted

✓ Solution lot number on all solution pages; bottle number on all analytical pages

✓ Proper sample loading documented

✓ All pages of the technical record were reviewed for corrections; if applicable, corrections were documented appropriately

✓ Dates of analyses documented

✓ If abbreviations/symbols specific to the laboratory are used, they have been defined in section procedures

NA Any deviations from acceptability criteria have documented approval

Quality Control Data:

✓ Correct version of the test method is indicated on the QC Worksheet

✓ Required control samples analyzed, expiration dates not exceeded

✓ Acceptance criteria met

✓ QC results are accurately entered in Tox Form 11 QC Spreadsheet

Technical Data:

✓ The technical records demonstrate compliance with test methods

✓ Data transfers are accurate

✓ Retention times are recorded and acceptable

✓ Results meet acceptability criteria

Simulator Solution Record (electronic):

✓ Solution specific information is accurate (e.g. lot number, expiration date, etc)

✓ Results are accurately reported

✓ Electronic signature applied

✓ File name accurate

Review Completed:

✓ Upon review of the technical records available, I independently reached the same conclusion(s) reported.

Reviewer (initial/date): CAH 12/13/18

New York State Police Crime Laboratory System
BREATH TESTING
Simulator Solution Verification Results

Class: Form
ID: Breath Form 2 (Version 3)

Effective Date: June 1, 2015
Page: 1 of 1

Simulator Solution Level: 0.10 %

Target Concentration: 0.121 %
Acceptable Range: 0.117-0.125 %

Manufacturer: Guth Laboratories, Inc.
Lot Number: 18360

Analyst: Carol S Miller
Analysis Date: 12/11/2018

Bottle Number	% by wt	AVG
3	0.1207	0.1202
	0.1192	
	0.1207	
4	0.1208	0.1212
	0.1216	
	0.1212	
719	0.1218	0.1220
	0.1221	
	0.1220	
720	0.1216	0.1218
	0.1221	
	0.1218	
1446	0.1204	0.1209
	0.1212	
	0.1211	
1447	0.1222	0.1218
	0.1206	
	0.1226	
Grand Average		0.1213

26 1 of 51 Cont

Print Date: 12/12/2018

Approved By: Top Manager

New York State Police Crime Laboratory System
BREATH TESTING
Simulator Solution Verification QC Worksheet

Class: Form
ID: Breath Form 8 (Version 2)

Effective Date: January 10, 2017
Page: 1 of 1

Analysis Date: 12-11-18
Analyst Initials: CM

Breath Instr 2 Version 5

Simulator Solution Lot# 18360

Expiration Date	05-31-19
Received Date	12-10-18
Level	0.10
Bottle Number(s)	34, 11, 10, 1446, 1447

Internal Standard	Lot #	Expiration Date
n-propanol	AMC10312	01-17-19

Controls	Lot #	Expiration Date
0.08 % by wt	ENC11710	05/25/22
0.10 % by wt	ENC37052	01/26/23
0.20 % by wt	ENC13191	05/2022
0.30 % by wt	N/A	N/A
0.40 % by wt	N/A	N/A
0.50 % by wt	N/A	N/A
Composite	CSN10515	01-31-19

Instrumentation	Instrument ID/Serial #	Calibration Exp Date
Headspace GC	H.TX.HS2	01-17-19
Dilutor	1W2-1107-11.1Rev2	05-31-19

Test Method Analyst Review

Batch Accepted ✓ Batch Rejected ____

Rejection reason/course of action: ____

Deviations/departures: ____

Comments: ____

Initial/Date: CM 12-12-18 2nd

Approved By: Top Management

Print Date: 12/11/2018

EXHIBIT 6

CITY COURT OF THE CITY OF NEW ROCHELLE
STATE OF NEW YORK: COUNTY OF WESTCHESTER

DOCKET NO.: CR 5662-21

THE PEOPLE OF THE STATE OF NEW YORK,

-against-

GUSTAVO VILLAMARES SERRANO,

Defendant.

NOTICE OF MOTION

RANERI, LIGHT & O'DELL, PLLC

Attorneys for Defendant

150 Grand Street, Suite 502
White Plains, New York 10601
914-948-5525 (Tel)
914-948-5505 (Fax) *

* LEGAL NOTICE: Notwithstanding NY CPLR § 2103(7), this listing does not imply consent to service of papers via facsimile.

EXHIBIT 6