

**NOTICE OF CLAIM**

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**In the Matter of the Claim of**

**JAKEBA DOCKERY, AS PROPOSED ADMINISTRATOR OF THE ESTATE OF  
RICHARD HENDERSON, DECEASED,**

**- against -**

**THE CITY OF NEW YORK, THE METROPOLITAN TRANSIT AUTHORITY, NEW  
YORK CITY DEPARTMENT OF TRANSPORTATION, and JOHN DOES 1-6**

-----X

**TO: THE CITY OF NEW YORK**  
c/o Office of the New York City Comptroller  
Municipal Building – Room 1225  
1 Centre Street  
New York, NY 10007

**THE METROPOLITAN TRANSIT AUTHORITY**  
c/o MTA General Counsel  
2 Broadway, 4th Floor  
New York, Ny 10017

**THE NEW YORK CITY TRANSIT AUTHORITY**  
130 Livingston Street  
Brooklyn, NY 11201

PLEASE TAKE NOTICE that the undersigned claimant hereby makes claim and demands against you as follows:

**1. Name and post office address of each claimant and claimants' attorneys is:**

**Claimant**

JAKEBA DOCKERY, AS PROPOSED  
ADMINISTRATOR OF THE ESTATE OF  
RICHARD HENDERSON, DECEASED  
1672 Dean St  
Brooklyn, New York 11233

**Attorney**

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2. **Nature of Claim:** The nature of the claim is for severe and permanent personal injuries sustained by JAKEBA DOCKERY as Proposed Administrator of the Estate of RICHARD HENDERSON, deceased, and all other damages allowed by statute and case law as a result of the violation of fourteenth amendment – 42 U.S.C. § 1983, violation of civil rights law §§ 50 and 51, negligence, negligent hiring, negligent infliction of emotional distress, carelessness, recklessness and gross negligence of THE CITY OF NEW YORK, THE METROPOLITAN TRANSIT AUTHORITY (hereinafter referred as “MTA”), NEW YORK DEPARTMENT OF TRANSPORTATION, and JOHN DOES 1-6, (collectively “Defendants”), its agents, servants, employees and those acting under its direction, without any contributory negligence on the part of the claimants.

3. **The time when, the place where and the manner in which the claim arose:** The accident arose on January 14, 2024 at approximately 8:15 PM at or near the Rockaway Avenue Station, Brooklyn New York 11233 when claimant JAKEBA DOCKERY’s husband, RICHARD HENDERSON (“RICHARD HENDERSON, deceased”), deceased, while he was a passenger on the Manhattan bound 3 train, had apparently intervened in a dispute over loud music between his killer and another man before he caught two bullets — one in the back and another in the shoulder — on a Manhattan-bound 3 train about 8:15 p.m.

Before the emergency medical service arrived at the location, an employee of Defendants took photos of RICHARD HENDERSON, deceased while he was alive and laying in a pool of his own blood. RICHARD HENDERSON, deceased died on January 14, 2024 at the Kings

County Hospital.

A day after the incident, Claimant JAKEBA DOCKERY contacted a friend, Clay Perry, who informed her that photos of her husband's body in a pool of his own blood at the scene of the incident were publicly being disseminated on social media and the like. Claimant JAKEBA DOCKERY asked Mr. Perry about the person who sent him the photos, and he stated that Tyrone Odwin, who is a MTA employee for over ten years, was the one who sent him the photos.

When Tyrone Odwin was asked how he got the photos, he stated that one of his co-workers sent it to him. The photos were also sent to RICHARD HENDERSON, deceased's family. After a few days, the MTA posted a statement in which they state the following: "I have become aware of possible conduct of a few individuals on social media that falls short of the standards we set at New York Transit. Individuals may have shared images and video on social media accounts of the aftermath of the events as the shooting on the 3 train (...)"

The photos of RICHARD HENDERSON, deceased's physical remains were taken and shared without any legitimate governmental purpose.

On January 14, 2024 and At all times relevant herein, and upon information and belief, defendants THE CITY OF NEW YORK, THE METROPOLITAN TRANSIT AUTHORITY, NEW YORK DEPARTMENT OF TRANSPORTATION, AND JOHN DOES 1-6, its agents, servants, employees and those acting under its direction operated, controlled and maintained "the 3 train" located at Rockaway Avenue Station, Brooklyn New York 11233.

At all times relevant herein, and upon information and belief, it was the duty of defendants THE CITY OF NEW YORK, THE METROPOLITAN TRANSIT AUTHORITY, NEW YORK DEPARTMENT OF TRANSPORTATION, AND JOHN DOES 1-6, to use

ordinary care in their treatment of RICHARD HENDERSON, deceased's physical remains, including an obligation to refrain from taking and/or sharing images for personal, non-law-enforcement purposes.

At all times relevant herein, and upon information and belief, it was the duty of defendants THE CITY OF NEW YORK, THE METROPOLITAN TRANSIT AUTHORITY, NEW YORK DEPARTMENT OF TRANSPORTATION, AND JOHN DOES 1-6, to supervise and train its employees.

At all times relevant herein, and upon information and belief, it was the duty of defendants THE CITY OF NEW YORK, THE METROPOLITAN TRANSIT AUTHORITY, NEW YORK DEPARTMENT OF TRANSPORTATION, AND JOHN DOES 1-6, knew or should have known of the negligent conditions that caused emotional distress to the claimant JAKEBA DOCKERY.

At all times relevant herein, and upon information and belief, it was the duty of defendants THE CITY OF NEW YORK, THE METROPOLITAN TRANSIT AUTHORITY, NEW YORK DEPARTMENT OF TRANSPORTATION, AND JOHN DOES 1-6, had actual and constructive notice of the negligent conditions that caused emotional distress to the claimant JAKEBA DOCKERY.

At all times relevant herein, and upon information and belief, it was the duty of defendants THE CITY OF NEW YORK, THE METROPOLITAN TRANSIT AUTHORITY, NEW YORK DEPARTMENT OF TRANSPORTATION, AND JOHN DOES 1-6, to knew or should have known that failure to properly supervise and train its employees who took and shared the photos of RICHARD HENDERSON, deceased's physical remains could lead to the

harm of the claimant JAKEBA DOCKERY.

At all times relevant herein, and upon information and belief, it was the duty of defendants THE CITY OF NEW YORK, THE METROPOLITAN TRANSIT AUTHORITY, NEW YORK DEPARTMENT OF TRANSPORTATION, AND JOHN DOES 1-6, had actual and constructive knowledge and notice that its employees who took and shared the photos of RICHARD HENDERSON, deceased's physical remains required supervision and control.

Defendants THE CITY OF NEW YORK, THE METROPOLITAN TRANSIT AUTHORITY, NEW YORK DEPARTMENT OF TRANSPORTATION, AND JOHN DOES 1-6, and by their respective agents, servants, licensees, contractors, subcontractors, employees and other affiliates, agencies and departments, and those acting under their direction, behest, permission and control, negligently and recklessly failed to supervise its employee who took and shared the photos of RICHARD HENDERSON, deceased's physical remains.

The above mentioned occurrences, and the results thereof, were caused by the breach of the aforesaid duties by and the negligence, recklessness and gross negligence of the defendants THE CITY OF NEW YORK, THE METROPOLITAN TRANSIT AUTHORITY, NEW YORK DEPARTMENT OF TRANSPORTATION, AND JOHN DOES 1-6, and/or said defendants' agents, servants, employees, and/or licensees in the ownership, operation, management, maintenance, and control of the aforesaid premises and train; in failing to adequately train and supervise its employees to ensure they do not take or share photographs of human remains without any legitimate governmental purpose; in failing to establish a policy or procedure addressing the treatment of human remains, including the taking or sharing of photographs of human remains without any legitimate governmental purpose; in failing to adequately investigate

and discipline its employees who have taken and/or shared photographs of human remains without any legitimate governmental purpose; in violating the applicable rules, regulations and statutes; and in being otherwise negligent, careless, reckless and grossly negligent.

**42 U.S.C. § 1983 (MONELL), VIOLATION OF FOURTEENTH AMENDMENT**

By taking and sharing photos of RICHARD HENDERSON, deceased's physical remains without any legitimate governmental purpose, Defendants' employees deprived Claimant JAKEBA DOCKERY of her substantive due process right to control the physical remains, memory, and death images of her deceased husband.

Defendants' employees were acting under color of state law at the time of their actions. Defendants' employees took photos of RICHARD HENDERSON, deceased's physical remains while in uniform, on duty, and in an area where public access was prohibited and only first responders were allowed. After the photos were taken, Defendants' employees possessed and shed them while in uniform and/or on duty, or otherwise in connection with or by virtue of their employment with the Defendants.

Pursuant to 42 U.S.C. § 1983, public entities are liable for constitutional violations when execution of their official policy or custom deprives an individual of her constitutional rights. A public entity is also liable for constitutional violations when its failure to establish a policy or procedure or to properly train, supervise, and/or discipline its employees amounts to deliberate indifference to the rights of persons with whom its employees come into contact.

As a direct and proximate result of the Defendants' failure to establish a policy regarding photographs of human remains or to train, supervise, investigate, or discipline its employees regarding unnecessary death images, as well as the Defendants' employees' patter of practice

and/or custom of unnecessarily taking and sharing images of the deceased as he was dying or in death, Claimant JAKEBA DOCKERY has suffered, and continues to suffer, severe emotional distress.

**VIOLATION OF CIVIL RIGHTS LAW §§ 50 and 51**

The Defendants THE CITY OF NEW YORK, THE METROPOLITAN TRANSIT AUTHORITY, NEW YORK DEPARTMENT OF TRANSPORTATION, AND JOHN DOES 1-6, its agents, servants, employees and those acting under its direction, used RICHARD HENDERSON, deceased's physical remains photos for trade purposes.

By the actions complained of herein, Defendants THE CITY OF NEW YORK, THE METROPOLITAN TRANSIT AUTHORITY, NEW YORK DEPARTMENT OF TRANSPORTATION, AND JOHN DOES 1-6, its agents, servants, employees and those acting under its direction, financially profited in its trade for business.

The dissemination, sale or license of RICHARD HENDERSON, deceased's physical remains photos took place within the State of New York and is governed by its laws.

The Defendants THE CITY OF NEW YORK, THE METROPOLITAN TRANSIT AUTHORITY, NEW YORK DEPARTMENT OF TRANSPORTATION, AND JOHN DOES 1-6, without the consent of the deceased's family, disseminated images of the deceased as he was dying and/or in death to the public. This disclosure of the decedent's image constitutes a violation of Claimants' civil rights under New York Civil Rights Law § 50-51. The public dissemination of these images have caused Claimant JAKEBA DOCKERY severe emotional distress.

The dissemination of RICHARD HENDERSON, deceased's physical remains photos

was unauthorized because Claimants have never given any written consent or release for the photos to be used in any part of trade, commercial or advertising purposes or any other purpose.

Defendants violated Claimants' Civil Rights Law § 51 by using RICHARD HENDERSON, deceased's physical remains photos for any purposes within the New York State absent any written consent. Claimants have been damaged by Defendants' conduct.

### **NEGLIGENCE / GROSS NEGLIGENCE**

The Defendants THE CITY OF NEW YORK, THE METROPOLITAN TRANSIT AUTHORITY, NEW YORK DEPARTMENT OF TRANSPORTATION, AND JOHN DOES 1-6, owed a duty to Claimants to use ordinary care in their treatment of RICHARD HENDERSON, deceased's physical remains, including an obligation to refrain from taking and/or sharing images for personal, non-law-enforcement purposes. The Defendants additionally owed a duty to Claimants to use ordinary care in preventing dissemination of any images of the RICHARD HENDERSON, deceased's photographs as he was dying and/or in death once the images were created and/or were within their possession.

The Defendants THE CITY OF NEW YORK, THE METROPOLITAN TRANSIT AUTHORITY, NEW YORK DEPARTMENT OF TRANSPORTATION, AND JOHN DOES 1-6, breached their duties to Claimant by sharing photos of RICHARD HENDERSON, deceased's physical remains as he was dying and/or in death for personal, non-law-enforcement purposes, including by electronic transmission and with members of the public.

As a direct and proximate result of the Defendants' conduct Claimant JAKEBA DOCKERY has suffered, and continues to suffer, severe emotional distress.



**NEGLIGENT HIRING AND RETENTION**

Defendants THE CITY OF NEW YORK, THE METROPOLITAN TRANSIT AUTHORITY, NEW YORK DEPARTMENT OF TRANSPORTATION, AND JOHN DOES 1-6, were negligent, careless, and reckless in hiring and retaining those individuals who took and shared the photos of RICHARD HENDERSON, deceased's physical remains.

The above-described occurrences, including the Defendants' employees' conduct of taking and sharing photos of RICHARD HENDERSON, deceased's physical remains were caused by reason of the negligent hiring and/or retention by defendants THE CITY OF NEW YORK, THE METROPOLITAN TRANSIT AUTHORITY, NEW YORK DEPARTMENT OF TRANSPORTATION, AND JOHN DOES 1-6, their agents and/or employees.

As a direct and proximate result of the Defendants' conduct Claimant JAKEBA DOCKERY has suffered, and continues to suffer, severe emotional distress.

**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS ON BEHALF OF  
CLAIMANT JAKEBA DOCKERY**

As result of the negligence of the defendants THE CITY OF NEW YORK, THE METROPOLITAN TRANSIT AUTHORITY, NEW YORK DEPARTMENT OF TRANSPORTATION, AND JOHN DOES 1-6, the Claimant JAKEBA DOCKERY sustained emotional distress that was induced directly by the negligence of defendants, their agents and/or employees.

4. **The item of damage or injury are:**

As a result of the incident described above, claimant JAKEBA DOCKERY as Proposed Administrator of the Estate of RICHARD HENDERSON, deceased, sustained severe permanent personal injuries and emotional distress, the full extent of which is not presently known, including but not limited to, upon information and belief, emotional distress. Claim is for emotional distress, hospital, physician and other medical expenses, therapy, pain and suffering, loss of services and society, loss of marital guidance, loss of quality and/or enjoyment of life, and all other damages to which claimants are entitled to by case law and statute.

Said claim and demand is hereby presented for adjustment and payment. You are hereby notified that unless they are adjusted and paid within the time provided by law from the date of presentation to you, the claimants intend to commence an action in these claims. Pain and suffering, emotional distress, fear, anxiety, humiliation, and shame. The amounts claimed for said damages and injuries are as follows: Personal injuries, including pain and suffering, emotional pain and suffering, interference with rights not to exceed the sum of TWENTY EIGHT AND HALF MILLION (\$28,500,000.00) DOLLARS on behalf of claimants JAKEBA DOCKERY, as Proposed Administrator of the Estate of RICHARD HENDERSON, deceased.

Dated: New York, New York  
March 7, 2024



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Mark David Shirian  
Attorneys for Claimants  
JAKEBA DOCKERY, AS PROPOSED  
ADMINISTRATOR OF THE ESTATE OF  
RICHARD HENDERSON, DECEASED  
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**ATTORNEY'S VERIFICATION BY AFFIRMATION**

Mark D. Shirian, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

I am an attorney at **MARK DAVID SHIRIAN P.C.**, attorneys of record for Claimants, **JAKEBA DOCKERY** as Proposed Administrator of the Estate of **RICHARD HENDERSON**, deceased. I have read the annexed **NOTICE OF CLAIM** and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon 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 facts, records, and other pertinent information contained in my files.

The reason I make the foregoing affirmation instead of the Claimant because Claimant is not presently in the county wherein the attorneys for the Claimant maintains their offices.

Dated: New York, New York  
March 7, 2024



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Mark David Shirian  
Attorneys for Claimants  
JAKEBA DOCKERY, AS  
PROPOSED ADMINISTRATOR  
OF THE ESTATE OF RICHARD  
HENDERSON, DECEASED  
228 East 45<sup>th</sup> Street, Suite 1700B  
New York, New York 10017  
P: (212) 931-6530

**NOTICE OF CLAIM**

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In the matter of the Claim of:

JAKEBA DOCKERY, AS PROPOSED ADMINISTRATOR OF THE ESTATE OF RICHARD  
HENDERSON, DECEASED,

-against-

THE CITY OF NEW YORK, THE METROPOLITAN TRANSIT AUTHORITY, NEW YORK  
DEPARTMENT OF TRANSPORTATION, AND JOHN DOES 1-6,

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***NOTICE OF CLAIM***

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**MARK DAVID SHIRIAN P.C.**

Attorneys for Claimants

**JAKEBA DOCKERY, AS PROPOSED ADMINISTRATOR OF THE ESTATE OF  
RICHARD HENDERSON, DECEASED**

228 East 45<sup>th</sup> Street, Suite 1700-B

New York, NY 10017

(212) 931-6530

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TO:

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Service of a copy of the within is hereby admitted.

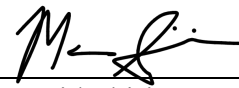
Dated: \_\_\_\_\_

Attorney(s) for

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Dated: New York, New York  
March 7, 2024



\_\_\_\_\_  
Mark David Shirian P.C.  
Attorneys for Claimants  
As Designated Above