

Councilwoman LaToya Dunston
Atlantic City Council, 2nd Ward
[REDACTED]
Atlantic City, New Jersey 08401

December 30, 2021

ATTN: Tort Claims Unit
Dept. of Treasury
Bureau of Risk Management
P.O. Box 620
Trenton, New Jersey 08625

Sent via USPS Certified Mail No. 7011 1150 0001 6738 0973

Re: *Dunston v. Small, et al.*
Civil Action No.: To be filed

Dear Sir/Madam:

Please accept this correspondence as formal notice of my claim for damages against the State of New Jersey as a result of the tortious actions of Mayor Marty Small, Sr., and several of my fellow members of the Atlantic City Council. To that end, and pursuant to N.J.S.A. 59:8-4, please be advised as follows:

1. **Claimant Information:**

Dunston <i>LAST NAME</i>	LaToya <i>FIRST</i>	 <i>MIDDLE</i>
[REDACTED] Atlantic City, New Jersey 08401 <i>ADDRESS</i>	 <i>MAILING ADDRESS IF OTHER THAN ADDRESS</i>	
(609) [REDACTED] <i>TELEPHONE</i>	[REDACTED] <i>DATE OF BIRTH</i>	[REDACTED] <i>SOCIAL SECURITY NUMBER</i>

2. **If notices and correspondence in connection with this claim are to be sent to a person other than claimant, complete Item #2.**

NOT APPLICABLE

NAME

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MAILING ADDRESS

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ADDRESS

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TELEPHONE

RELATIONSHIP TO CLAIMANT: ATTORNEY AT LAW OR _____
EXPLAIN RELATIONSHIP

3. **Circumstances Regarding the Occurrence or Accident:**

a. **Date:** Tues., Nov. 23, 2021 **Time:** Unknown at present

b. **Location of the occurrence:**
Morton's The Steakhouse
(Located within Caesars Atlantic City)
2100 Pacific Avenue, Atlantic City, NJ 08401

4. **Describe the Accident or Occurrence:**

On Tuesday, November 23, 2021, Mayor of Atlantic City, Marty Small, Sr., convened a clandestine meeting with six members of the Atlantic City Council – 1st Ward Councilman Aaron Randolph, 3rd Ward Councilman Kaleem Shabazz, 4th Ward Councilman MD Hossain Morshed, 5th Ward Councilman Muhammad ‘Anjum’ Zia, 6th Ward Councilman Jesse O. Kurtz, and Council President & Councilman-at-Large George Tibbitt – as well as Atlantic County Board Commissioner & Chief of Staff to Mayor Small, Ernest D. Coursey, and two incoming Council members, Stephanie Marshall and Bruce E. Weekes.

The purpose of this closed meeting was to discuss Mayor Small's plans to unseat me from the Atlantic City Council in anticipation of the Council's scheduled reorganization meeting on Saturday, January 1, 2022, and is only the latest in a pattern of systematic harassment, intimidation, and political retaliation aimed at me by Mayor Small, which has been ongoing since my 2015 run for the Council's 2nd Ward seat against Small who was then the incumbent 2nd Ward Councilman.

Other instances of harassment can be traced back to Marty Small as well as to his wife La'Quetta Small. For example, La'Quetta Small, who, apart from being the wife of the Mayor, is also the Vice-Chairperson on the Board of Commissioners for the Atlantic City Housing Authority, upon information and belief, leaked private information regarding my personal finances and the lease for my residence to the public. Ironically – or perhaps intentionally – incoming Councilwoman Stephanie Marshall and 6th Ward Councilman Jesse O. Kurtz who were both present at the November 23, 2021, secret closed meeting at Morton's, also serve with La'Quetta on the Housing Authority's Board of Commissions as Treasurer and Commissioner, respectively.

Additionally, at the beginning of the 2021 school year, I received numerous letters from La'Quetta Small in her capacity as Principal of Atlantic City High School, harassing me regarding attendance issues with my son. This was despite the fact that my son did not attend Atlantic City High School – a fact that La'Quetta Small was well aware of – nor did he attend any school within the Atlantic City School District, which itself has suffered severely as of late, given the District's hiring of pedophiles

and child rapists such as La'Quetta Small's cousin, Kayan Frazier, whom, as I understand it, is currently serving time in federal prison in connection with illicit sexual activities with children, at least one of whom was a student within the District.

Finally, roughly six months ago my office was broken into and vandalized. In response, I sought the aide of both the Atlantic City Police Department and Mayor Small, but my request for assistance fell on deaf ears. To date, I do not know whether the matter was properly investigated, nor do I know the results of any such investigation insofar as who broke into my office, having never been provided with a police report in connection with the event, despite my requests for same.

The Smalls, both Marty and La'Quetta, had their hands in each of these events of harassment, intimidation, and political retaliation, utilizing the resources of their respective offices for their own ill purposes.

However, returning to Mayor Small's secret meeting at Morton's with six members of the Atlantic City Council, as well as the two new incoming members and Mayor Small's Chief of Staff, this closed meeting was in direct violation of New Jersey's Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., also known as the "Sunshine Law", which is designed to ensure that decision-making government bodies within the State of New Jersey conduct their business in open public forum, except in specific circumstances where exclusion of the public is needed to protect the privacy of individuals, the safety of the public, or the effectiveness of the government with respect to such things as negotiations or investigations.

As stated, the purpose of this closed meeting held on November 23, 2021, was to discuss my removal from the Atlantic City Council. N.J.S.A. § 10:4-12(b) specifically enumerates various circumstances in which a public body may exclude the public, and sub-section (8) expressly provides that such public exclusion is permissible in a portion of a meeting at which the public body discusses any:

Matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion, or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose rights could be adversely affected request in writing that the matter or matters be discussed at a public meeting...

Although this November 23, 2021 meeting falls within this permissible closed meeting exceptions, neither Mayor Small, nor any of the members of the Atlantic City Council in attendance, complied with the legal prerequisites necessary to conduct such closed meeting business.

Specifically, N.J.S.A. § 10:4-13 expressly provides that, “No public body shall exclude the public from any meeting to discuss any matter described in [N.J.S.A. § 10:4-12(b)] *until the public body shall first adopt a resolution*, at a meeting to which the public shall be admitted: (a) Stating the general nature of the subject to be discussed; and (b) Stating as precisely as possible, the time when and the circumstances under which the discussion conducted in closed session of the public body can be disclosed to the public.”

This provision makes clear that before such a closed meeting as the one on November 23, 2021, may permissibly be held under the listed exceptions in N.J.S.A.

§ 10:4-12(b), the public body must first adopt a resolution at an open meeting setting the date, time, and subject matter of the closed meeting on the agenda. This was not done prior to the closed meeting of November 23, 2021.

Additionally, the Atlantic City Councilmembers in attendance at the meeting also failed to comply with the advance notice requirements of N.J.S.A. § 10:4-12(b) as clarified by the New Jersey Appellate Division in the seminal matter Rice v. Union Regional High School Bd. of Ed., 155 N.J. Super. 64 (App. Div. 1977). Specifically, the Appellate Division in Rice made clear that:

The plain implication of the personnel exception to the New Jersey Open Public Meetings Act is that if all employees whose rights could be adversely affected decide to request a public hearing, they can only exercise that statutory right and request a public hearing if they have reasonable advance notice so as to enable them to (1) make a decision on whether they desire a public discussion and (2) prepare and present an appropriate request in writing.

155 N.J. Super. at 73.

This “reasonable advance notice”, now known as a Rice Notice, in light of the afore-referenced case, was never provided to me. Having had no advance knowledge of the closed meeting, given that no resolution was first passed as required by N.J.S.A. § 10:4-13, and similarly, having received no Rice Notice, I was deprived of my right to request that the meeting be held in open forum.

Finally, not only did the members of the November 23, 2021 meeting fail to comply with the pre-requisites for such a closed session – the adoption of a resolution and the Rice Notice – but further, they failed to then comply with the post-session

requirement arising under N.J.S.A. § 10:4-13, that minutes of the closed session be made “promptly available to the public...”.

5. State the Name and Addresses of All Witnesses to the Above Accident or Occurrence:

Mayor Marty Small Sr.
City Hall of Atlantic City
Office of the Mayor
1301 Bacharach Boulevard
Atlantic City, NJ 08401

Aaron Randolph
1st Ward Councilman
Atlantic City Council
1301 Bacharach Boulevard
Atlantic City, NJ 08401

Kaleem Shabazz
3rd Ward Councilman
Atlantic City Council
1301 Bacharach Boulevard
Atlantic City, NJ 08401

MD Hossain Morshed
4th Ward Councilman
Atlantic City Council
1301 Bacharach Boulevard
Atlantic City, NJ 08401

Muhammad ‘Anju,’ Zia
5th Ward Councilman
Atlantic City Council
1301 Bacharach Boulevard
Atlantic City, NJ 08401

Jesse O. Kurtz
6th Ward Councilman
Atlantic City Council
1301 Bacharach Boulevard
Atlantic City, NJ 08401

George Tibbitt
Council President &
Councilman-at-Large
Atlantic City Council
1301 Bacharach Boulevard
Atlantic City, NJ 08401

Stephanie Marshall
Incoming Councilwoman
Atlantic City Council
1301 Bacharach Boulevard
Atlantic City, NJ 08401

Bruce E. Weekes
Incoming Councilman
Atlantic City Council
1301 Bacharach Boulevard
Atlantic City, NJ 08401

It is possible that there were numerous other witnesses to the occurrence, however the names and addresses of these individuals are currently unknown to me.

6. State the Name and Addresses of Each State Agency or Agencies and Each State Employee Whom You Claim Caused Your Damages or Injuries:

All individuals named above in Item #5.

Regarding the earlier events of harassment, include as well:

La’Quetta Small
Vice-Chairperson
Board of Commissioners
Atlantic City Housing Auth.
227 N. Vermont Avenue
Atlantic City, NJ 08401

The City of Atlantic City
City Hall of Atlantic City
1301 Bacharach Boulevard
Atlantic City, NJ 08401

Atlantic City School District & Board of Education
1300 Atlantic Avenue
Atlantic City, NJ 08401

7. **State the Names and Addresses of All Other Persons, Companies, or Governmental Agencies Which You Claim are Responsible for Your Injuries or Damages:**

No others known at present.

8. **Briefly Describe the Injuries, Damages, and Losses Incurred by You:**

Deprivation of my constitutional Due Process rights under the Fourteenth Amendment and the rights afforded me under the New Jersey Open Public Meeting Act, as described.

9. **The Amount of the Claim: \$1,000,000.00**

- General, compensatory, and punitive damages, including but not limited to:
 - Civil penalty pursuant to N.J.S.A. § 10:6-2(e);
- Reasonable attorney's fees and costs of suit

I further ask that a copy of this claim be forwarded to the Office of the Attorney General or the Atlantic County Prosecutor's Office such that an action may be commenced under N.J.S.A. § 10:4-17 for the imposition of the statutory penalties recoverable by the State for the violations cited herein.

I, LATOYA DUNSTON, hereby certify that the foregoing statements made by me are true. I am aware that if any statement made herein is willfully false or fraudulent, that I am subject to punishment provided by law.

Dated: _____

LaToya Dunston
Claimant

Cc'd:

City Clerk Paula Geletei

City Hall of Atlantic City

1301 Bacharach Blvd., 7th Floor, Suite 704

Atlantic City, New Jersey 08401

Sent via USPS Certified Mail No. 7011 1150 0001 6737 4880

Mayor Marty Small Sr.

City Hall of Atlantic City

Office of the Mayor

1301 Bacharach Boulevard

Atlantic City, NJ 08401

Sent via USPS Certified Mail No. 7011 1150 0001 6737 4903

Sent also via email: msmall@cityofatlanticcity.org