

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

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In the matter of the Application of	:	
COUNCIL OF THE CITY OF ROCHESTER	:	Index No.
Petitioner,	:	
For an Order, Pursuant to Article 23 of the CPLR, to	:	
Compel Compliance with Legislative Subpoena,	:	
	:	
-against-	:	<b>VERIFIED PETITION</b>
LA'RON SINGLETARY,	:	
Respondent.	:	
-----	X	

Petitioner Council of the City of Rochester, by and through its attorneys, for its Verified Petition pursuant to Article 4 of the New York Civil Practice Law and Rules ("CPLR"), respectfully alleges as follows:

**PRELIMINARY STATEMENT**

1. Petitioner, the City Council of Rochester, by its President Loretta C. Scott, seeks an order from this Court pursuant to CPLR § 2308(b), compelling Respondent La'Ron Singletary, former Chief of Police of the Rochester Police Department ("RPD"), to comply with a legislative subpoena duly issued to him by the Council of the City of Rochester on September 24, 2020, requiring his testimony under oath and his production of certain documents ("the Subpoena"). By local ordinance, the Council of the City of Rochester appointed Emery Celli Brinckerhoff Abady Ward & Maazel LLP (ECBAWM) to conduct an investigation into the City of Rochester's response to the death of Daniel Prude, an unarmed Black man who died after being restrained by RPD officers on March 23, 2020, including but not limited to intra-governmental communications and processes, and public statements regarding the

incident (the “Investigation”). Petitioner seeks former Chief Singletary’s testimony and the production of documents in his possession in connection with this investigation. Former Chief Singletary was the highest-ranking officer of the RPD when Mr. Prude was restrained and then died in March 2020. Former Chief Singletary was in charge of the RPD as it conducted internal and criminal investigations into Mr. Prude’s death. Former Chief Singletary also interacted with members of City government in response to Mr. Prude’s death, including the Mayor and Corporation Counsel. His testimony is critical to the Investigation of the events following Mr. Prude’s death and whether City officials mishandled the response to Mr. Prude’s death, including whether they improperly withheld information about the RPD’s restraint of Mr. Prude from the public or the City Council.

2. Former Chief Singletary is one of more than a dozen City leaders whose testimony has been subpoenaed for this Investigation. To date, the Council has issued subpoenas to members of the RPD, the City’s Corporation Counsel and lawyers in its Law Department, the City’s Communications Department, the City Council itself (including its President), and the Mayor’s Office (including the Mayor herself). Notably, former Chief Singletary is the *only* current or former Rochester public official to refuse to respond to a Council subpoena and participate in the investigation. Every other individual served with a subpoena has already provided or agreed to provide testimony and documents in aid of the Investigation.

3. Former Chief Singletary’s refusal to comply with the Subpoena impedes the Investigation. It deprives Petitioner—and by extension the people of the City of Rochester— of relevant information, in the form of both documents in former Chief Singletary’s personal possession, custody, or control, and the former Chief’s own testimony as to critical events regarding the Prude incident.

4. Through its counsel, Petitioner has made multiple efforts to accommodate the concerns that former Chief Singletary’s counsel has raised with his compliance with the Subpoena. However,

more than two months have passed since Respondent was served, and through counsel, he continues to refuse to testify or provide documents.

5. Petitioner seeks an Order from this Court pursuant to CPLR § 2308(b) that Respondent comply with the Subpoena and immediately provide testimony and documents in connection with the City Council's Investigation.

### **PARTIES**

6. Petitioner Council of the City of Rochester, New York ("City Council") is the legislative body of the City of Rochester. Petitioner passed legislation in September 2020 to hire an outside law firm, ECBAWM, to conduct an Investigation into the City of Rochester's response to the death of Daniel Prude, a man who died in the custody of the Rochester Police Department after he was restrained by police officers on March 23, 2020. Petitioner has retained and directed ECBAWM to conduct this investigation on an independent basis.

7. Respondent La'Ron Singletary is an individual who resides in Rochester, New York. Until the termination of his employment in September 2020, Respondent was the Chief of the Rochester Police Department.

### **JURISDICTION AND VENUE**

8. This Court has jurisdiction over the Respondent pursuant to CPLR § 301.

9. Venue is proper in Monroe County pursuant to CPLR § 506(a).

### **STATEMENT OF FACTS**

10. Section 5-21(g) of the Charter of the City of Rochester ("the Charter") grants the City Council the authority to issue subpoenas in support of the Council's authority to investigate. *See* Rochester City Charter § 5-21(G) (conferring upon the City Council "the power to . . . compel the attendance of witnesses and the production of books, papers or other evidence at any meeting of the

Council or of any committee thereof and, for that purpose, to issue subpoenas signed by the President of the Council”).

11. In circumstances where the City’s Law Department is conflicted or otherwise would not be appropriate counsel to the body, the Charter authorizes the City Council to appoint “independent legal counsel.” *See id.* § 5-21(D).

12. On September 15, 2020, the City Council convened a meeting at which it passed an ordinance authorizing the initiation of the Investigation into the circumstances of Daniel’s Prude’s death and all subsequent related actions (the “Ordinance”).

13. The City Council’s Ordinance authorized the retention of ECBAWM to “conduct an investigation into the City’s communications, processes, and procedures that took place related to the death of Daniel Prude in police custody” – in effect, an investigation of all City departments whose work touched on the issues surrounding Mr. Prude’s arrest, death in custody, and the treatment of information related thereto. The relevant departments and bureaus of the City include: the Mayor’s Office, the Communications Bureau, the Law Department, and the Police Department.

14. Pursuant to Resolution No. 2020-29 passed on September 18, 2020, the City Council authorized the issuance of subpoenas to witnesses, in furtherance of the Investigation.

15. The City Council authorized the Council President or Vice President to issue subpoenas for records, papers, and other evidence in any form and for the attendance of witnesses as “are appropriate for the investigation as authorized by the Council on September 15, 2020.” Resolution No. 2020-29(1).

16. The City Council authorized that the subpoenas be made returnable to its legal counsel, ECBAWM, which the Council had “retained for purposes of conducting this investigation.” Resolution No. 2020-29(3).

17. The City Council authorized ECBAWM to “adjust the time, location and manner of production of documents or testimony pursuant to subpoena as they deem necessary.” Resolution No. 2020-29(4).

18. On September 24, 2020, the City Council issued a duly authorized “Subpoena to Produce Books, Papers Or Other Evidence And For Witness Testimony” to La’Ron Singletary. The subpoena was signed by City Council President Loretta Scott. **Attached as Exhibit A is a true and correct copy of this subpoena** (the “Subpoena”).

19. The Subpoena commanded that former Chief Singletary produce four categories of documents as described in the attachment to the subpoena: (1) All documents concerning the Incident (as defined in the Subpoena); (2) All documents concerning Daniel Prude; (3) All communications concerning the Incident including but not limited to electronic mail, instant messages, social media, or other forms of communication, and (4) All documents containing certain “search terms” set forth in the subpoena. *See* Ex. A. The Subpoena was limited in timeframe to the period of March 23, 2020 to the present and provided a limited set of “search terms” for use in conducting searches for electronically stored information.

20. The Subpoena also commanded that former Chief Singletary appear to provide testimony on November 6, 2020 at 9:30am under oath in connection with the Investigation. The Subpoena provided that former Chief Singletary’s testimony would be conducted remotely via videoconference software in light of the COVID-19 social distancing restrictions currently in place.

21. On September 18, 2020, City Council President Loretta Scott appointed a special committee, the Investigation Special Committee, to serve as the conduit between the full City Council and ECBAWM in the course of the investigation.

22. On September 29, 2020, the Special Committee authorized ECBAWM to proceed with depositions in support of the Investigation in the manner that the firm deemed best “from the viewpoint of investigative necessity and administrative convenience.”

23. Former Chief Singletary was served with the Subpoena on October 5, 2020.

24. Former Chief Singletary has refused to comply with the Subpoena, either by providing documents or by appearing to testify.

25. Through his counsel, Michael Tallon, Esq., former Chief Singletary has communicated to Petitioner that he will only comply with the Subpoena subject to numerous preconditions, including most recently that he will appear to testify in this Investigation only as part of a “global deposition” that also involves former Chief Singletary simultaneously giving testimony to the City of Rochester’s Office of Public Integrity and the City of Rochester in connection with a Notice of Claim that he has filed. While Petitioner has attempted as a courtesy to accommodate former Chief Singletary’s request for a “global deposition,” the other entities have ignored or rejected this request. Former Chief Singletary is therefore refusing to comply with the Subpoena for his testimony in the Investigation.

26. Former Chief Singletary’s testimony and production of documents in response to the Subpoena are necessary for Petitioner to complete the full and thorough investigation that Ordinance 2020-283 requires. Former Chief Singletary possesses unique information about the aftermath of Mr. Prude’s death, since he was the RPD’s commanding officer at the time of the relevant events. One of the main issues of the inquiry is whether the RPD provided complete and accurate information to the Mayor and other City leaders at the time of Mr. Prude’s mental health arrest and death, which was later deemed a homicide by the Medical Examiner.

27. Evidence suggests that there were one or more occasions on which Mayor Lovely Warren and former Chief Singletary spoke privately and alone about the Prude incident, both in person and on

the telephone. Evidence further suggests that their respective versions of those discussions may differ in material ways. Only Mayor Warren and former Chief Singletary can testify about the specific content of these discussions.

28. Former Chief Singletary alone can testify about what orders and instructions he gave to the RPD command staff and investigators following Mr. Prude's death on critical issues such as public disclosure, coordination with the New York State Attorney General's Office, dissemination of the body-worn camera footage depicting Mr. Prude's restraint by RPD's officers, and the RPD's internal investigations.

29. In the Managerial Review of the Death of Daniel Prude issued by Deputy Mayor James Smith on September 14, 2020, former Chief Singletary's role in the events at issue is analyzed, but without the benefit of the former Chief's own explanations of why certain decisions were made.

30. Finally, former Chief Singletary has filed a Notice of Claim, 27 pages in length, setting forth his version of events surrounding the response to the Prude incident. Respondent's testimony is therefore material, necessary, and cannot be obtained from other witnesses or through other means. In order to obtain the evidence relevant to the Investigation, a full examination of former Chief Singletary is necessary.

31. Pursuant to CPLR § 2308(b), this Court has the authority to compel compliance with the Subpoena.

**WHEREFORE**, Petitioner respectfully requests that this Court:

1. Issue an order pursuant to CPLR § 2308(b) compelling compliance with the Subpoena dated September 24, 2020;
2. Award the costs for this motion to compel compliance including reasonable attorneys' fees;

3. Award penalties to Petitioner and damages sustained by reason of Respondent's failure to comply; and
4. Award the Petitioner such other and further relief as this Court deems just and proper.

Dated: December 16, 2020  
New York, New York

EMERY CELLI BRINCKERHOFF  
ABADY WARD & MAAZEL LLP

/s/ Andrew G. Celli, Jr.

Andrew G. Celli, Jr.  
Katherine Rosenfeld  
Scout Katovich

600 Fifth Avenue, 10<sup>th</sup> Floor  
New York, New York 10020

(212) 763-5000

*Attorneys for Petitioner*

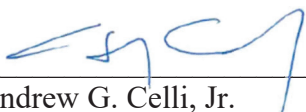


**VERIFICATION**

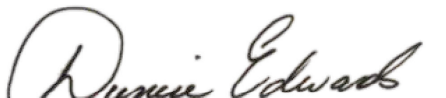
STATE OF NEW YORK                    )  
  ) ss.:  
COUNTY OF NEW YORK                )

Andrew G. Celli, Jr., being duly sworn, deposes and says:

I am counsel for the Council of the City of Rochester, Petitioner in this Special Proceeding. I have read the foregoing petition and its factual contents are true to my personal knowledge, except as to those matters alleged therein to be upon information and belief, and as to those matters, I believe them to be true.

  
\_\_\_\_\_  
Andrew G. Celli, Jr.

Sworn to before me this  
16th day of December 2020

  
\_\_\_\_\_

Notary Public

**DENISE EDWARDS**  
Notary Public, State of New York  
No. 01ED6344734  
Qualified in Nassau County  
My Commission Expires 07/11/2024

# Exhibit A

**ROCHESTER CITY COUNCIL**

*IN RE INDEPENDENT INVESTIGATION INTO  
THE CITY OF ROCHESTER'S RESPONSE TO AND  
HANDLING OF THE RPD'S MARCH 23, 2020 USE  
OF FORCE AGAINST DANIEL PRUDE*

**SUBPOENA TO PRODUCE BOOKS, PAPERS OR OTHER EVIDENCE  
AND FOR WITNESS TESTIMONY**

**To:**

La'Ron Singletary  
2103 East Avenue, Apt M  
Rochester, NY 14610

**YOU ARE COMMANDED**, pursuant to Rochester City Charter § 5-21(G), and pursuant to Resolution No. 2020-29 of the Council of the City Rochester, to produce at the time, date, and place set forth below the documents, electronically stored information, objects, or other evidence described in the attachment to this subpoena.

**Place:**

Andrew G. Celli, Jr.  
Emery Celli Brinckerhoff Abady Ward & Maazel LLP  
600 Fifth Ave., 10<sup>th</sup> Fl.  
New York, NY 10020  
acelli@ecbawm.com

**Date and Time:**

October 8, 2020, 5:00 PM

**YOU ARE FURTHER COMMANDED**, pursuant to Rochester City Charter § 5-21(G), and pursuant to Resolution No. 2020-29 of the Council of the City Rochester Sections 1 *et seq.*, to appear at a meeting of the City Council Prude Independent Investigation Committee at the place, date, and time specified below to testify under oath in the above-captioned investigation. Your testimony will be recorded by stenographic, audio, and/or audiovisual means. In the event

that the parties are unable to convene in person due to COVID-19 social distancing restrictions,  
your testimony will be taken remotely over videoconference software.

**Place:**

City Council Prude Independent Investigation Committee  
City Hall, Room 301A  
30 Church Street  
Rochester, New York 14614-1265

**Date and Time:**

November 6, 2020 at 9:30 AM

Dated: Rochester, New York  
September 24, 2020

By:



LORETTA C. SCOTT

President, Rochester City Council

## DEFINITIONS

1. You and Your: The terms “You” and “Your” mean La’Ron Singletary and, where appropriate, all officers, employees, or agents.
2. Rochester Police Department, RPD, Department: The terms “Rochester Police Department,” “RPD,” or “Department” mean the Rochester Police Department and its officers, employees, and agents.
3. Mayor’s Office: The term “Mayor’s Office” means Mayor Lovely A. Warren, and all offices, bureaus, officers, and employees within the office of Mayor, as that term is used in the Rochester City Charter.
4. Law Department: The term “Law Department” means the Law Department of the City of Rochester, the Rochester Corporation Counsel, and all Law Department employees, officers, and agents.
5. Locust Club: The term “Locust Club” means the Rochester Police Locust Club and all its officers, employees, or agents.
6. Incident: The term “Incident” means the events that commenced on March 23, 2020 with the RPD's contact with Daniel Prude, and that followed March 23, 2020, including Mr. Prude’s death, the analysis of the cause(s) or possible cause(s) of Mr. Prude’s death, the investigations into the circumstances of the RPD’s contact with Mr. Prude by any City, State or Federal entity (including but not limited to the Rochester City Law Department, the Monroe County Office of the Medical Examiner, the Monroe County District Attorney’s Office, and the Office of the New York Attorney General), the public disclosures of the RPD’s contact with Daniel Prude, the review and release of the Body-Worn Camera footage, the contemplated litigation arising from the RPD’s contact with Mr. Prude, and all actions by the City of

Rochester, its agents, officers, and employees, that relate in any manner to the RPD's contact with Mr. Prude and his subsequent death, or the investigation and the public disclosure thereof.

7. Prude: The term "Prude" means Daniel Prude.

8. FOIL Request: The term "FOIL Request" means any Freedom of Information Law Request submitted by Elliot Shields concerning the Incident, including but not limited to the requests submitted on April 6, 2020 (RR20-1479) and June 18, 2020 (RR20-02514), and any appeals thereof.

9. Communication: The term "Communication" means any correspondence, discussion, or transmittal of information (in the form of facts, ideas, inquiries, or otherwise).

10. Concerning: The term "Concerning" means, in addition to its customary and usual meaning, relating to, pertaining to, regarding, referring to, alluding to, discussing, describing, evidencing, identifying, in connection with, involving, setting forth, stating, showing, touching upon, dealing with, bearing upon, in respect of, about, and having anything to do with.

11. Document: The term "Document" means, without limitation, the following items which are in Your possession, custody, or control, including located on any cell phone, computer, or other device and whether printed or recorded or reproduced by any other mechanical or electronic process, or written or produced by hand: agreements; communications; reports; correspondence; telegrams; electronic mail; electronic/cellular messages/texts; memoranda, summaries or records of telephone conversations; summaries or records of in-person conversations or interviews; drawings; sketches; maps; summaries or records of meetings or conferences; summaries of or records of interviews conducted by investigators; electronic or physical calendar entries concerning meetings, conferences, or interviews; summaries or reports of investigations or negotiations; opinions or reports of consultants; photographs; motion picture

films; body worn camera footage; digital or physical audio tape recordings; all material contained in any internal affairs file; brochures; pamphlets; advertisements; circulars; press releases; drafts; letters; recordings; any marginal comments appearing on any Document; Mobile Data Terminal communications; and all other writings.

### INSTRUCTIONS

1. If any Document responsive to the requests has been lost, destroyed or is otherwise unavailable, describe and identify each such Document by stating in writing: (i) the name(s) of the authors(s), the name(s) of the person(s) who received or viewed the original and all copies, and the date and subject matter, (ii) the last known custodian of the Document, (iii) the incident, event, or occurrence during which such Document was lost, destroyed, or otherwise became unavailable, (iv) each person having knowledge of the circumstances of it being lost, discarded or destroyed and (v) your efforts to locate each such Document.

2. If, in answering these requests, you claim any vagueness, confusion, or ambiguity in either the request or a definition or instruction applicable thereto, such claim shall not be utilized by you as a basis for refusing to respond, rather you shall set forth in a part of your response to such a request the language deemed to be vague or confusing or ambiguous, select a reasonable interpretation that you believe resolves the ambiguity, respond to the request using that interpretation, and explain with particularity the construction or interpretation selected by you in responding to the request.

3. Questions regarding the interpretation of these requests should be resolved in favor of the broadest possible construction.

4. These requests seek production of all Documents, in their entirety, along with any attachments, drafts, and non-identical copies. A Document with handwritten, typewritten, or

other recorded notes, editing marks, etc., is not and shall not be deemed identical to one without such modifications, additions, or deletions.

5. Responsive Documents should be produced as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the Documents were produced.

6. Wherever possible, all electronic Documents should be produced in their native format and/or as TIFs or PDFs and include all metadata. Do not convert the data to a form that is more burdensome and/or less searchable. If You convert data to TIFs or PDFs from native format, You must retain all metadata—including but not limited to the OCR database, Document demarcations, the date of the Documents, file name, the author of the Documents, the recipients of the Documents, the type of Documents, etc.—in a usable load file (Relativity or Concordance preferred with an option for images), together with links to text and native formats.

7. Wherever possible, the following fields of metadata should be produced, if available:

<i>Field</i>	<i>Data Type</i>	<i>Paper</i>	<i>Loose Native Files &amp; Attachments</i>	<i>Email</i>
BegDoc	TEXT	Start Bates	Start Bates	Start Bates
EndDoc	TEXT	End Bates	End Bates	End Bates
BegAttach	TEXT	Starting bates number of document family	Starting bates number of document family	Starting bates number of document family
EndAttach	TEXT	Ending bates number of document family	Ending bates number of document family	Ending bates number of document family
Custodian	TEXT – single entry	Custodian of the document	Custodian of the document	Custodian of the document
Folder	Text		File path where original file was collected from	Folder where email was collected from. Includes folder locations within email container files such as PST and NSF



<i>Field</i>	<i>Data Type</i>	<i>Paper</i>	<i>Loose Native Files &amp; Attachments</i>	<i>Email</i>
From	Text			Sender of message
To	TEXT – separate entries with “,”			Recipients of message
CC	TEXT – separate entries with “,”			Copied recipients
BCC	TEXT – separate entries with “,”			Blind copied recipients
Subject	TEXT or MEMO if over 255 characters			Subject of message
DateSent	Date (dd-mmm-yyyy) – eg 03-Mar-2012			Date message sent
TimeSent	Text (hh:mm:ss)			Time message sent
DateReceived	Date (dd-mmm-yyyy) – eg 03-Mar-2012			Date message received
TimeRecv	TEXT (hh:mm:ss)			Time message received
FileName	Text (hh:mm:ss)		Name of original file	Name of original file
FileExtension	Text		Extension of original file	Extension of original file
DateCreated	Date (dd-mmm-yyyy) – eg 03-Mar-2012		Date file was created	
DateModified	Date (dd-mmm-yyyy) – eg 03-Mar-2012		Date file was last modified	
Title	TEXT or MEMO if over 255		Title from document metadata	

<i>Field</i>	<i>Data Type</i>	<i>Paper</i>	<i>Loose Native Files &amp; Attachments</i>	<i>Email</i>
	characters			
Author	Text		Document author from metadata	
Company	Text		Document company or organization from metadata	
Hash	Text		MD5 Hash Value	MD5 Hash Value
Text Files	Txt files should be named the same as the beg doc and delivered in the same folder as the images (eg, ABC0000001.txt)	Txt files should be named the same as the beg doc and delivered in the same folder as the images (eg, ABC0000001.txt)		
Native Files	Native files should be named the same as the beg doc and delivered in the same folder as the images (eg, ABC0000001.xls)			

8. Reference to any natural person shall be deemed to include that natural person's agents, servants, representatives, current and former employees, and successors.

9. The singular includes the plural and vice versa, except as the context may otherwise require; any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa; whenever a term is used herein in the present, past, future, subjunctive, or other tense, voice, or mood, it shall also be construed to include all other tenses, voices, or moods; reference to any gender includes the other gender; the words "any" and

“or” shall be construed as either conjunctive or disjunctive in such manner as will broaden as widely as possibly the scope of any request for production; the word “all” means “any and all”; the word “any” means “any and all”; the word “including” means “including but not limited to.” Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

10. If you object to the production of a Document in relation to a specific request, state with particularity the basis for all objections with respect to such request. You should respond to all portions of that request that do not fall within the scope of your objection.

11. This request is a continuing one. If, after producing the requested Documents, you obtain or become aware of any further Documents responsive to this request or if additional information you or any persons acting on your behalf obtain would augment, clarify, or otherwise modify your responses, you are required to supplement your responses and produce such additional Documents.

12. Unless otherwise specified, the period of time covered by this subpoena is from March 23, 2020 to the date the requested Documents are returned.

### **DOCUMENTS TO BE PRODUCED**

1. All documents concerning the Incident.
2. All documents concerning Daniel Prude.
3. All communications concerning the Incident, including but not limited to electronic mail, instant messages, text messages, social media, or other forms of communication, and including but not limited to:

- a. All communications with Lovely Warren, including those on August 6, 2020;
  - b. All communications on or around March 23, 2020;
  - c. All communications on or around April 3, 2020 concerning the preservation letter sent by Elliot Shields on behalf of the Prude family;
  - d. All communications on or around April 6, 2020 concerning the FOIL Request;
  - e. All communications on or around April 10, 2020 with Justin Roj or other Mayor's Office officers or employees concerning the Incident, including drafts thereof;
  - f. All communications on or around April 14, 2020 concerning the Major Crimes Unit Investigative Summary concerning "435 Jefferson Ave";
  - g. All communications on or around June 4, 2020 concerning the FOIL Request; and
  - h. All communications concerning Your decision to resign as Chief of the RPD.
4. All documents, including but not limited to word documents, pdfs, electronic mail, instant messages, text messages, social media, or any other forms of communication, which contain one or more of the following search terms:
- a. Prude
  - b. Overdose
  - c. OD
  - d. PCP

- e. phencyclidine
- f. BWC
- g. “Body worn camera”
- h. Restraint
- i. Asphyxia
- j. Homicide
- k. “Jefferson Avenue”
- l. “Jefferson Ave”
- m. DP
- n. EDP
- o. “Excited delirium”
- p. “Resisting arrest”
- q. MHA
- r. “Mental Hygiene Arrest”
- s. Elliot
- t. Shields
- u. “Elliot Dolby-Shields”
- v. 061280
- w. Vaughn
- x. Taladay
- y. Santiago
- z. spit