MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

August 1, 2012

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street. 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	*Galarza, Brenda, as Administratrix of the Estate of Alina A. Rodriguez*
Document Received:	Notice of Claim
Name of Claimant:	Brenda Galarza 42 Pineharbor Buffalo, New York 14201
Claimant's attorney:	Rafael O. Gomez, Esq. LoTempio & Brown, P.C. 181 Franklin Street One Franklin Court Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: Michelle Parker
Michelle M. Parker
First Assistant County Attorney

MMP:dld
Enclosure

STATE OF NEW YORK : COUNTY OF ERIE

BRENDA GALARZA as Adminstratrix of the
ESTATE OF ALINA A. RODRIGUEZ

Claimant,

vs.

CITY OF BUFFALO
COUNTY OF ERIE

Respondents.

NOTICE OF CLAIM

This paper received at the
Erie County Attorney's Office
from Shannon Imbert on
the 30th day of July, 2012
at 1:30 a.m. p.m.

Assistant County Attorney
Michael S. Liszewski

PLEASE TAKE NOTICE, that Claimant, BRENDA GALARZA as Adminstratrix of the ESTATE OF ALINA A. RODRIGUEZ, by and through her attorneys, LoTempio & Brown, P.C., hereby makes a claim against the CITY OF BUFFALO and COUNTY OF ERIE, and respectfully submits the following in compliance with General Municipal Law §50-e and all other applicable statutes of the State of New York.

1. The post office address of the Claimant, BRENDA GALARZA as Adminstratrix of the ESTATE OF ALINA A. RODRIGUEZ, is 42 Pineharbor, Buffalo, New York, 14201, and she was and is a resident of the County of Erie and State of New York.

2. Claimant is represented by Rafael O. Gomez, Esq., at LoTempio & Brown, P.C., 181 Franklin Street, Buffalo, New York, 14202.

3. On July 12, 2012, Brenda Galarza was issued Limited Letters of Administration for the purpose of pursuing a civil action on behalf of the Estate of Alina A. Rodriguez for personal injuries and wrongful death as a result of the accident of June 27, 2011. Attached hereto as **Exhibit A** is a copy of the Limited Letters of Administration.

4. The subject Notice of Claim is for the wrongful death of Alina A. Rodriguez as a result of the negligence of the City of Buffalo and/or County of Erie relative to the care, supervision and maintenance of Cazenovia Creek within the confines of Cazenovia Park and at or about Cazenovia Street in Buffalo, New York.

5. On or about June 27, 2011, Alina Rodriguez was involved in an accident which resulted in her death by drowning after she saved the life of Luz Galarza who was in Cazenovia Creek. This accident was caused by the City of Buffalo and/or County of Erie failing to warn of the dangers of the creek, failing to prevent access to the creek, permitting patrons of Cazenovia Creek to swim in the creek without proper warnings or precautions, failing to provide the proper emergency personnel at the creek, failing to provide the proper supervision at the creek, failing to fence off the access areas to the creek to prevent swimming, and the negligent maintenance and control of Cazenovia Creek inside Cazenovia Park

6. The death of Alina A. Rodriguez was caused solely as a result of the carelessness, recklessness, and negligence of the City of Buffalo and/or County of Erie.

7. The City of Buffalo and/or County of Erie created, knew, and/or should have known, about the dangerous and hazardous conditions of Cazenovia Creek within the confines of Cazenovia Park at or about Cazenovia Street, which led to the death of Claimant.

8. The death of Alina A. Rodriguez was caused solely by the careless, recklessness, and negligence of the City of Buffalo and/or County of Erie, without any such culpable conduct on the part of Alina A. Rodriguez.

9. Claimant respectfully submits this Notice of Claim regarding the intention to proceed with an action against the City of Buffalo and County of Erie for a sum of money to be

determined by a jury, which shall include all damages to which she is entitled under New York Law, for the wrongful death of Alina A. Rodriguez.

Dated: July 30, 2012
Buffalo, New York

Rafael O. Gomez, Esq.
LO TEMPIO & BROWN, P.C.
Attorneys for Claimant
181 Franklin Street
Buffalo, New York 14202
(716) 855-3761

VERIFICATION

I, BRENDA GALARZA, have read the foregoing contents of the Notice of Claim, and hereby certify to the contents therein regarding the incident which occurred on the allegations contained.

Brenda Galarza

BRENDA GALARZA, as Adminstratrix of
the Estate of ALINA A. RODRIGUEZ

Sworn to before me this
30th day of July, 2012

Notary Public

RAFAEL OMAR GOMEZ
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 2/14/2014

Surrogate's Court of the County of Erie

On the Date Written Below LETTERS OF LIMITED ADMINISTRATION were granted by the Surrogate's Court of Erie County, New York as follows:

File #: 2012-2765

Name of Decedent: **Alina Anais Rodriguez**

Date of Death: 08-27-2011

Domicile: **Erie County**

Type of Letters Issued: **LETTERS OF LIMITED ADMINISTRATION**

Fiduciary Appointed: **Brenda I Galarza**
42 Pineharbor
Buffalo NY 14201

Limitations: Pursuant to SCPA 702, and Uniform Rules for Surrogate's Court 207.38, no final compromise of any wrongful death or related action(s) or proceeding(s) shall be made, nor any attorney's fees taken relating to the wrongful death action, without prior application to the surrogate for leave to compromise said action(s) or proceeding(s) and obtaining an order from the surrogate approving said compromise and distribution of proceeds, if any.

THESE LETTERS, granted pursuant to a decree entered by the court, authorize and empower the above-named fiduciary or fiduciaries to perform all acts requisite to the proper administration and disposition of the estate/trust of the Decedent in accordance with the decree and the laws of New York State, subject to the limitations and restrictions, if any, as set forth above.

Dated: July 11, 2012

IN TESTIMONY WHEREOF, the seal of the Erie County Surrogate's Court has been affixed.

WITNESS, Hon Barbara Howe, Judge of the Erie County Surrogate's Court

Joseph A. Shifflett, Chief Clerk

These Letters are Not Valid Without the Raised Seal of the Erie County Surrogate's Court

Attorney:
Molly Sleiman
LoTempio & Brown PC
181 Franklin Street
Buffalo NY 14202

NOTICE: Attention is called to the provision of Sec. 11-1 6 of Estates, Powers and Trusts law and Sec. 719 of the Surrogate's Court Procedure Act, which makes it a misdemeanor and a cause for removal for a fiduciary to deposit or invest estate funds in his individual account or name All funds must be deposited in the name of fiduciary and to the credit of the estate. Sec 708 and Sec 711 of the Surrogate's Court Procedure Act provide that if the address of the fiduciary changes they shall promptly notify the court of the new address and that failure to do so within thirty (30) days after such change may result in the suspension or revocation of letters

Exhibit A