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

October 15, 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:	*Mederski, Emily (Infant) by Edmund Mederski as png and Valerie Mederski v. County of Erie (Parks Dept.) (Premises Liability)*
Document Received:	Notice of Claim
Name of Claimants:	Edmund Maderski as png of Emily Mederski & Valerie Mederski 4345 Shimerville Road Clarence, New York 14031
Claimant's attorney:	Jennifer R. Scharf Duke, Holzman, Photiadis & Gresens LLP 1800 Main Place Tower 350 Main Street Buffalo, New York 14202-3718

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

In the Matter of

EDMUND MEDERSKI,
Individually and as Parent and Natural Guardian of
EMILLY MEDERSKI
4345 Shimerville Road
Clarence, NY 14031 and

VALERIE MEDERSKI
4345 Shimerville Road
Clarence, NY 14031

-against-

COUNTY OF ERIE
95 Franklin Street, Suite 1634
Buffalo, New York 14202

VERIFIED NOTICE OF CLAIM

This paper received at the
Erie County Attorney's Office
from _____ on
the ____ day of _____, 20____
at ____ a.m./p.m.
_____
Assistant County Attorney

This paper received at the
Erie County Attorney's Office
from Alice Graham on
the 21 day of Sept, 2012
at 1:42 a.m./p.m.
Assistant County Attorney

TO: COUNTY OF ERIE
95 Franklin Street, Suite 1634
Buffalo, New York 14202

PLEASE TAKE NOTICE, that Edmund Mederski, individually and as parent and natural guardian of Emilly Mederski, and Valerie Mederski ("Claimants"), hereby give notice of a claim against the County of Erie ("County") for negligence, and demand damages from the County in a sum to be determined after proper adjudication of the above claim, for personal injuries sustained by Emilly Mederski by reason of the wrongful, negligent and careless acts and omissions of the County, its agents, servants or employees, and in support thereof Claimants state:

1. The name and address of claimants and attorney are:

CLAIMANTS:
Edmund Mederski,
Individually and as Parent and Natural Guardian of
Emilly Mederski (DOB: 7/19/1999)
4345 Shimerville Road
Clarence, NY 14031

VALERIE MEDERSKI
4345 Shimerville Road
Clarence, NY 14031

ATTORNEY:
Jennifer R. Scharf, Esq.
Duke, Holzman, Photiadis & Gresens LLP
1800 Main Place Tower
350 Main Street
Buffalo, New York 14202-3718
Tel.: 716-855-1111
jscharf@dhpglaw.com

2. The nature of the claim: This is a claim against the County for damages due to personal injuries sustained by Emilly Mederski caused by, upon information and belief, the negligence of the County arising from and relating to the County's negligent design, construction, maintenance, and/or supervision of Niawanda Park, the County's affirmative creation of a dangerous condition, and/or the County's failure to warn of or guard against dangerous conditions within Niawanda Park.

3. The time when, the place where and the manner in which the claim arose: On or about June 23, 2012 in the early afternoon (at a time from approximately 12:00 p.m. to 2:30 p.m.), Emilly Mederski, an infant, was injured by a dangerous, decaying,

dilapidated, concrete slab/pier at the edge of the Niagara River from which she slipped on and/or fell, severely cutting her right leg on said slab/pier, and falling into the Niagara River. The slab/pier is an unfenced, unguarded area within Niawanda Park adjacent to the Riverwalk path at a location open to the public without restriction or warning. There is a dangerous condition in the area where Emilly fell, including a manmade jagged, rocky edge with rusted metal protruding from the rock/concrete. The location is identified in photos, attached hereto as **Exhibit A.**

4. The injuries occurred on the pier/slab, near the water's edge, and in the water. This location is just beyond the Riverwalk path, near the park entrance at the intersection of Niagara Street and Gibson Street. The site of the accident can be identified as being near several yellow, flat boulders located in between the Riverwalk path and the Niagara River; the manmade jagged rocks/concrete and rusty metal near and in the water over the edge of the Riverwalk. The location is identified in photos, attached hereto as **Exhibit A.**

5. The items of damage or injuries claimed include: Upon information and belief, Emilly sustained personal injury to her body including a severe, deep laceration to her right leg. The open wound was exposed to water in the Niagara River and became infected with Necrotizing fasciitis (the "flesh eating" bacteria). The wound required stitches and became severely infected. Emilly required hospitalization, intravenous PICC line for antibiotics, a wound vac, regular debridement of the wound, and experienced a limitation of use and activity, as well as severe pain and suffering, which is ongoing. Emilly required surgery on her leg to remove infected tissue, causing damage that, upon information and belief, is permanent in nature. Emilly has been restricted from participating in physical activities, was required to use a

wheelchair and crutches, and was confined to hospital and home. For weeks, Emilly was confined to bed and couch, only moving to use the bathroom. As a result of her injuries and treatment, Emilly required a high protein diet, consisting of protein shakes four times per day. Emilly was prohibited from going outside, being in the sun, and showering; she has been unable to attend family gatherings, birthday parties or any other activities that were expected to be part of her summer. Emilly's wound vac had to be monitored and changed by a nurse, who would come to the home three times per week. Emilly was forced to endure the painful process of having her wound vac changed three times per week. Emilly has been prescribed Lortab for her pain. Emilly still has an open wound, which now is covered by a dry wrap that must be changed daily. She remains unable to walk normally and is severely restricted in all activities because of the damage she sustained to her leg and muscle. Upon information and belief, even after the wound closes, Emilly will have significant, permanent scarring and cosmetic damage. There is a potential that Emilly will require future surgeries and medical intervention for her injuries. Emilly suffered other injuries to her arms, legs, and torso including lacerations and bruises. Emilly's injuries are ongoing and developing. Emilly will continue to require medical care and treatment, continues to be limited in activity, and continues to experience pain and suffering. Edmund Mederski has incurred expenses in connection with Emilly's injuries and treatment and the household income has decreased by reason of Valerie Mederski's leave of absence from work, which was required to care for Emilly Mederski. Valerie Mederski was forced to take an unpaid leave of absence from employment because Emilly required continuous and specialized care from her. Claimants have been damaged as a result of the County's negligence.

6. This notice is made and served on behalf of the Claimants in compliance with the provisions of General Municipal Law § 50-e and such other laws and statutes as are in the case made and provided.

PLEASE TAKE FURTHER NOTICE that Claimants demand payment of said claim, and unless said claim is paid within a reasonable time it is the intention of Claimants to commence a suit against the County to recover the sum claimed.

WHEREFORE, Claimants demand judgment against County in an amount to be determined upon the trial of this action, together with the costs and disbursements of this action.

Dated: September 13, 2012

DUKE, HOLZMAN, PHOTIADIS & GRESENS LLP
Attorneys for Claimants

By _____
Jennifer R. Scharf
1800 Main Place Tower
350 Main Street
Buffalo, New York 14202-3718
(716) 855-1111

STATE OF NEW YORK)
)SS:
COUNTY OF ERIE)

I, EDMUND MEDERSKI, individually and as parent and natural guardian of Emilly Mederski, am a Claimant in the above entitled action. I have read the foregoing Notice of Claim and know the contents thereof. The contents are true to my own knowledge, except as to matters therein stated to be alleged upon information and belief, and to those matters I believe them to be true.

Edmund Mederski

Subscribed and Sworn to me on

13th day of September, 2012

Mary E Tucker
Notary Public
MARY E. TUCKER
Notary Public State of New York
Qualified in Niagara County
My Commission Expires 3.2.14

STATE OF NEW YORK)
)SS:
COUNTY OF ERIE)

I, VALERIE MEDERSKI, am a Claimant in the above entitled action. I have read the foregoing Notice of Claim and know the contents thereof. The contents are true to my own knowledge, except as to matters therein stated to be alleged upon information and belief, and to those matters I believe them to be true.

Valerie Mederski

Valerie Mederski

Subscribed and Sworn to me on

12th day of September, 2012

Mary E. Tucker

Notary Public
MARY E. TUCKER
Notary Public State of New York
Qualified in ~~Niagara~~ Erie County
My Commission Expires 3-2-14
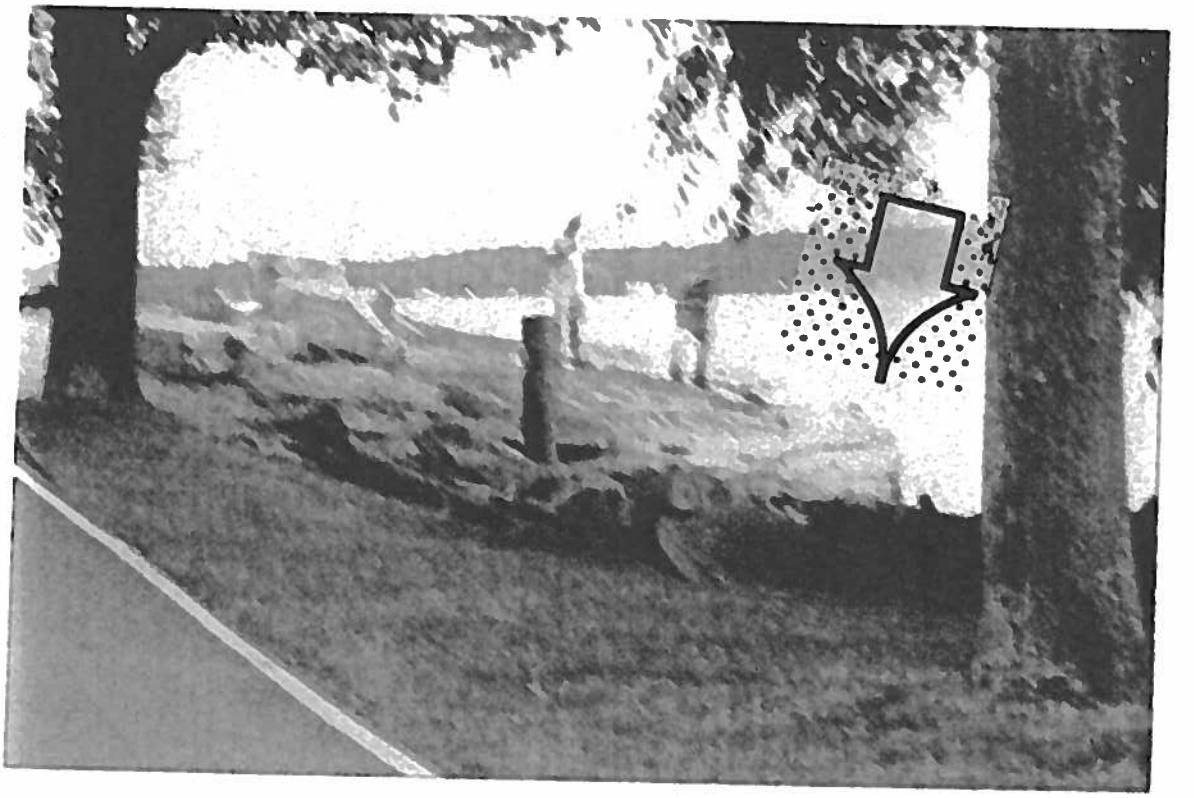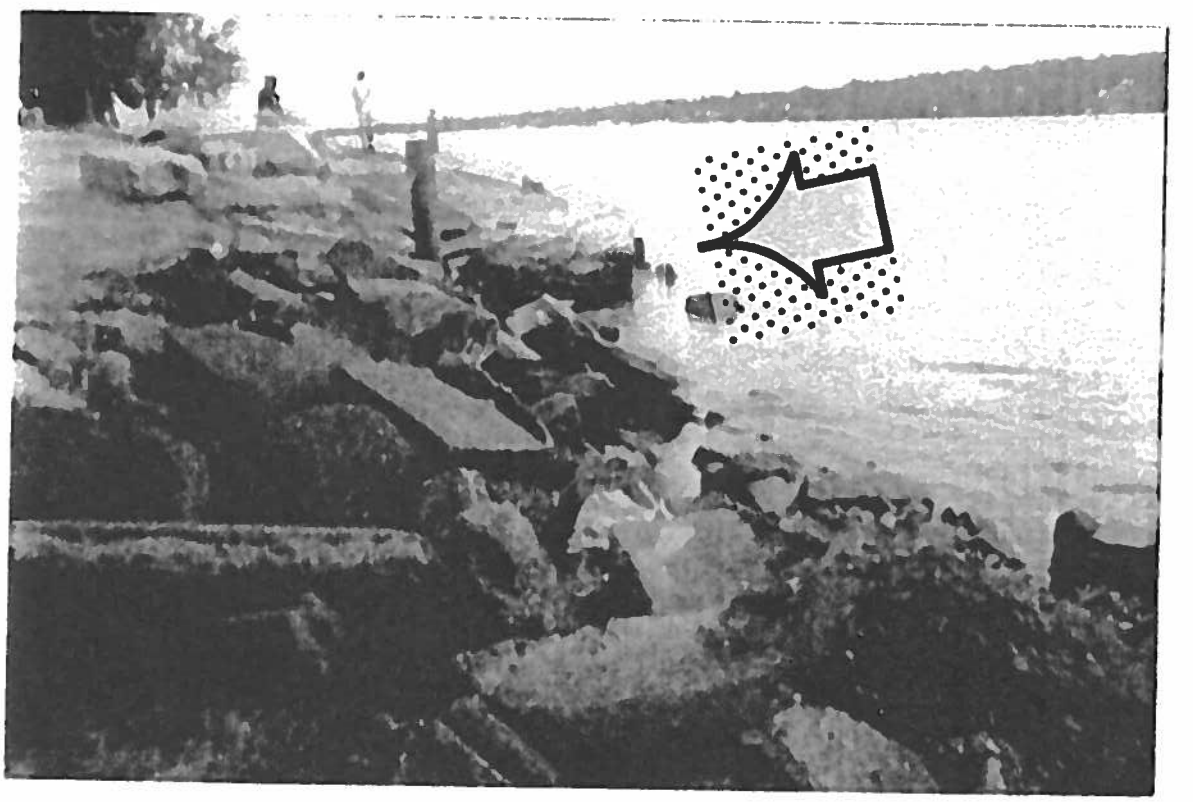
EXHIBIT A