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 16, 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:	*Buenafe, Jomar v. City of Buffalo and County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	Jomar Buenafe 2005 Hertel Avenue Buffalo, New York 14214
Claimant's attorney:	Cheryl M. Reed, Esq. William K. Mattar, P.C. 6720 Main Street, Suite 100 Williamsville, New York 14221-5986

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

Enc.

MMP

RECEIVED
SEP 29 2012
ERIE COUNTY
DEPARTMENT OF LAW

IN THE MATTER OF THE CLAIM OF:

JOMAR BUENAFE,

Claimant,

v.

CITY OF BUFFALO, NEW YORK
ERIE COUNTY, NEW YORK

Respondents,

NOTICE OF CLAIM

PLEASE TAKE NOTICE that JOMAR BUENAFE, hereby makes a Claim against the CITY OF BUFFALO, NEW YORK and/or ERIE COUNTY, NEW YORK in support thereof alleges:

1. The name and address of the Claimant and his attorney are:

   Claimant: Jomar Buenafe
   2005 Hertle Avenue
   Buffalo, New York;

   Attorney: William K. Mattar, P.C.
   6720 Main Street, Suite 100
   Williamsville, NY 14221
   (716) 633-3535

2. The nature of this claim is: Claimant, Jomar Buenafe was caused to suffer serious personal injuries when, he was driving his own vehicle and in the process of making a left turn when he was suddenly struck and without warning, on the right side of his vehicle by a 2004 Ford owned by Joseph Riso, III and operated by Samantha N. Riso, when traveling east bound on Hertle Avenue. The lack of proper notice of an aproaching bend in the road, a lack of notice and/or requirement to reduce speed, as well as lack of proper road and roadside maintance and road design and/or signage defects, were contributing factors to this crash. Attached is **Exhibit A** is a copy of the police report.

3. The time when, the place where and the manner in which the claim arose: Claimant, Jomar Buenafe, on July 10, 2012 at approximately 2:00 p.m. on Hertle Avenue, in the City of Buffalo, New York. The Claimant was driving his own vehicle and in the process of turning left, when he was suddenly struck and without warning. The accident was due in whole or in part to, without

limitation, lack of proper notice of an approaching bend in the road, a lack of notice and/or requirement to reduce speed, as well as lack of proper road and roadside maintance and road design and/or signage defects. The vehicle that Mr. Buenafe was driving was struck on the right side of his vehicle by another vehicle. Mr. Buenafe was caused to suffer serious physical injuries including injuries to his left shoulder, neck and back, among others. Upon information and belief Mr. Buenafe will require long term treatment and will be unable to conduct his normal daily activities for an indefinite period as a result of his injuries due to this accident, which will be of a permanent or indefinite duration. In addition, Mr. Buenafe has and will continue to incur expenses for his medical treamtent for these injuries.

4. The City of Buffalo and/or the County of Erie, New York are liable by reason of, without limitation, lack of proper notice of an approaching bend in the road, a lack of notice and/or requirement to reduce speed, as well as lack of proper road and roadside maintance and road design and/or signage defects.

5. The items of damage claimed are: Jomar Buenafe's personal injuries including injuries to his spine, shoulders, neck, head, and shoulders, past and future pain and suffering and inability to conduct his normal daily activites, expenses for treatment, change of lifestyle and loss of enjoyment of life, all resulting from the serious and permanent injuries suffered by claimant, Jomar Buenafe.

6. That Mr. Buenafe sustained serious injuries as the same are defined in Article 51 of the Insurance Law of The State of New York, as amended, and he has been caused to suffer and sustain personal injuries in and to the body, which are permanent in nature and has or may be caused to suffer economic loss in excess of the basic economic loss.

DATED: Williamsville, New York
September 27, 2012

Cheryl M. Reed, Esq
William K, Mattar, P.C.
Attorney for Claimant
6720 Main Street, Suite 100
Williamsville, NY 14221-5986
(716) 633-3535

VERIFICATION

JOMAR BUENAFE, being duly sworn, deposes and says that he is the Claimant in the above-titled action, that he has read the foregoing Claim and knows the contents thereof; that the same is true to the knowledge of your deponents, except as to matters alleged to be stated upon information and belief, and as to those matters, he believes them to be true.

JOMAR BUENAFE

Sworn to before me this 27th
Day of September, 2012.

Notary Public

TERILYN J. YOUSEY
Notary Public - State of New York
No. 01YO6172606
Qualified in Erie County
My Commission Expires August 13, 2015

EXHIBIT A

Page 1 of 1 Pages

Local Code: 12192049 3
1117

New York State Department of Motor Vehicles

POLICE ACCIDENT REPORT

MV-104A (8/04)

☐ AMENDED REPORT POLICE COPY 1

Accident Date Month	Day	Year	Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene ☐ / Accident Reconstructed ☐	Left Scene ☐	Police Photos ☐ Yes ☒ No
7	10	12	TUE	1400	2	1	0			

VEHICLE 1

VEHICLE 1 - Driver License ID Number: 222 209 965 State of Lic.: NY
Driver Name - exactly as printed on license: BISO, SAMANTHA N
Address (Include Number & Street): 6 DANIA DRIVE Apt. No.:
City or Town: CHEEKTOWAGA State: NY Zip Code: 14225
Date of Birth: 10 29 83 Sex: F Unlicensed ☐ No. of Occupants: 3 Public Property Damaged ☐
Name - exactly as printed on registration: BISO JOSEPH Sex: M Date of Birth: 12 12 63
Address (Include Number & Street): 6 DANIA DRIVE Apt. No. Haz. Mat. Code Released ☐
City or Town: CHEEKTOWAGA State: NY Zip Code: 14225
Plate Number: CCE3113 State of Reg.: NY Vehicle Year & Make: 04 FORD Vehicle Type: 4DSD Ins. Code: 328
Ticket/Arrest Number(s):
Violation Section(s):

VEHICLE 2 ☐ BICYCLIST ☐ PEDESTRIAN ☐ OTHER PEDESTRIAN

VEHICLE 2 - Driver License ID Number: 564 668 107 State of Lic.: NY
Driver Name - exactly as printed on license: BUENAFE, JOMAR M
Address (Include Number & Street): 2005 HERTEL AV Apt. No.:
City or Town: BUFFALO State: NEW YORK Zip Code: 14214
Date of Birth: 11 19 88 Sex: M Unlicensed ☐ No. of Occupants: 1 Public Property Damaged ☐
Name - exactly as printed on registration: SAME Sex: Date of Birth:
Address (Include Number & Street): Apt. No. Haz. Mat. Code Released ☐
City or Town: State: Zip Code:
Plate Number: FG 9788 State of Reg.: NY Vehicle Year & Make: 03 CHEV Vehicle Type: 4DSD Ins. Code: 217
Ticket/Arrest Number(s):
Violation Section(s):

VEHICLE 1: Check if involved vehicle is: ☐ more than 95 inches wide; ☐ more than 34 feet long; ☐ operated with an overweight permit; ☐ operated with an overdimension permit.

VEHICLE 1 DAMAGE CODES: Box 1 - Point of Impact; Box 2 - Most Damage; Enter up to three more Damage Codes: 1 2 3 4 5
Vehicle Towed: By: To:

VEHICLE 2: Check if involved vehicle is: ☐ more than 95 inches wide; ☐ more than 34 feet long; ☐ operated with an overweight permit; ☐ operated with an overdimension permit.

VEHICLE 2 DAMAGE CODES: Box 1 - Point of Impact; Box 2 - Most Damage; Enter up to three more Damage Codes: 1 2 3 4 5
Vehicle Towed: By: To:

Circle the diagram below that describes the accident, or draw your own diagram in space 89. Number the vehicles.

Rear End 1. | Left Turn 2. | Right Angle 3. | Right Turn 5. | Head On 7.
Sideswipe (same direction) 2. | Left Turn 4. | 6. | Right Turn 6. | Sideswipe (opposite direction) 8.

ACCIDENT DIAGRAM
9.

VEHICLE DAMAGE CODING:
1-13. SEE DIAGRAM ON RIGHT.
14. UNDERCARRIAGE
15. TRAILER
16. OVERTURNED
17. DEMOLISHED
18. NO DAMAGE
19. OTHER

Cost of repairs to any one vehicle will be more than $1000. ☐ Unknown/Unable to Determine ☒ Yes ☐ No

Reference Marker | Coordinates (if available) Latitude/Northing: Longitude/Easting:

Place Where Accident Occurred:
County: ERIE ☐ City ☐ Village ☐ Town of: BUFFALO
Road on which accident occurred: 1991 HERTEL (Route Number or Street Name)
at 1) Intersecting street: (Route Number or Street Name)
or 2) Feet Miles ☐N ☐S ☐E ☐W of (Milepost, Nearest Intersecting Route Number or Street Name)

Accident Description/Officer's Notes: VEHICLE #2 TURNED LEFT IN A SOUTHERLY DIRECTION AT 1991 HERTEL WAS STRUCK ON RIGHT SIDE BY VEHICLE #1 WHICH WAS TRAVELING EAST ON HERTEL. CAUSING DAMAGE TO BOTH VEHICLES.

Use Cover Sheet? N

	8	9	10	11	12	13	14	15	16	17 BY	TO 18	Names of all involved	Date of Death Only
A	1	1	4	1	18	F	—	—	—	—	—	SAMANTHA BISO	
B	1	3	4	1	16	M	—	—	—	—	—	JOE BISO III	
C	1	6	4	1	17	F	—	—	—	—	—	CASSANDRA BISO	
D	2	1	4	1	23	M	6	17	6	999	1416	JOMAR BUENAFE	
E													
F													

Officer's Rank and Signature: [signature]
Print Name in Full: JERRY R. TOLK
Badge/ID No.: 00079
NCIC No.: 0140
Precinct/Post Troop/Zone: 1
Station/Beat/Sector: D2
Reviewing Officer: LT A. [illegible]
Date/Time Reviewed: 7/12/2 1557