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:	*Kulczyk, Mark v. City of Buffalo, County of Erie, et al.*
Document Received:	Notice of Claim
Name of Claimant:	Mark A. Kulczyk 17 Dingens Street Buffalo, New York 14206
Claimant's attorney:	Kenneth A. Szyszkowski, Esq. Andrews, Bernstein & Maranto, LLP 420 Franklin Street Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: Michelle Parker
Michelle Parker
First Assistant County Attorney

MMP:dld

Enclosure

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

MARK KULCZYK
17 Dingens Street
Buffalo, New York 14206

Claimant,

vs.

NOTICE OF CLAIM

CITY OF BUFFALO
City Hall
65 Niagara Square
Buffalo, New York 14202

CITY OF BUFFALO WATER AUTHORITY
a/k/a CITY OF BUFFALO WATER DEPARTMENT
281 Exchange Street
Buffalo, NY 14202

ERIE COUNTY
95 Franklin Street
16th Floor
Buffalo, New York 14202

ERIE COUNTY WATER AUTHORITY
295 Main St. Rm. 350
Buffalo, NY 14203-2415

Respondents.

PLEASE TAKE NOTICE, that the Claimant, MARK KULCZYK, hereby intends to file a claim against the CITY OF BUFFALO, CITY OF BUFFALO WATER AUTHORITY, a/k/a CITY OF BUFFALO WATER DEPARTMENT, ERIE COUNTY, and the ERIE COUNTY WATER AUTHORITY, and in support of said claim states the following:

1. The Post Office address of the Claimant, MARK KULCZYK, is 17 Dingens Street, Buffalo, New York 14206.

2. The attorneys for the Claimant are Andrews, Bernstein & Maranto, LLP,

420 Franklin Street, Buffalo, New York 14202, Telephone (716) 842-2200.

3. The Claim arose as follows: On August 24, 2012, at approximately 5:10p.m., Claimant, MARK KULCZYK was riding his mini-bike on the sidewalk in front of 49 Dingens Street in the City of Buffalo, when he struck a protruding water pipe, causing him to be thrown from his mini-bike. Upon information and belief, Dingens Street is a highway, street and/or thoroughfare located in the City of Buffalo, County of Erie, State of New York, which is owned, operated, supervised and maintained by the CITY OF BUFFALO, and/or ERIE COUNTY. Further, upon information and belief, the protruding pipe is owned, operated, supervised and maintained by the CITY OF BUFFALO, and/or CITY OF BUFFALO WATER AUTHORITY, a/k/a CITY OF BUFFALO WATER DEPARTMENT, and/or ERIE COUNTY, and/or ERIE COUNTY WATER AUTHORITY. Upon information and belief, the CITY OF BUFFALO, and/or CITY OF BUFFALO WATER AUTHORITY, a/k/a CITY OF BUFFALO WATER DEPARTMENT, and/or ERIE COUNTY, and/or the ERIE COUNTY WATER AUTHORITY commissioned the construction of Dingens Street and the protruding pipe, and had knowledge of the status and condition of the same.

4. This incident was caused by the negligence, carelessness, and recklessness on the part of the CITY OF BUFFALO, CITY OF BUFFALO WATER AUTHORITY, a/k/a CITY OF BUFFALO WATER DEPARTMENT, ERIE COUNTY, and/or ERIE COUNTY WATER AUTHORITY and/or their agents, servants and/or employees as follows:

a. The respondents and/or its agents, servants, or employees were negligent in creating and/or maintaining a dangerous and hazardous condition on the premises, to wit: a protruding pipe in the sidewalk;

b. The respondents and/or its agents, servants, or employees were negligent in failing to maintain the premises in a reasonable and safe condition;

c. The respondents and/or its agents, servants, or employees were negligent in failing to warn the Claimant of the dangerous and hazardous conditions in the subject of the premises;

d. The respondents and/or its agents, servants, or employees were negligent in failing to recognize a known hazardous condition;

e. The respondents and/or its agents, servants, or employees were negligent in failing to inspect the premises;

f. The respondents and/or its agents, servants, or employees were negligent in failing to take proper measures to correct the dangerous condition in the subject area;

g. The respondents and/or its agents, servants, or employees were negligent in failing to observe the dangerous condition in the subject area; and

h. The respondents were otherwise negligent.

5. This Claim is for personal injuries, conscious physical and emotional pain and suffering, and medical expenses of Claimant, MARK KULCZYK.

6. By virtue of the negligence, carelessness and recklessness of the CITY OF BUFFALO, CITY OF BUFFALO WATER AUTHORITY, a/k/a CITY OF BUFFALO WATER DEPARTMENT, ERIE COUNTY, and/or ERIE COUNTY WATER AUTHORITY, Claimant, MARK KULCZYK, was caused to suffer serious, significant and permanent injuries from this incident, including fractures to his pelvis and left patella, an injury to his left ankle, and abrasions on his right arm, leg, and buttocks. Claimant, MARK KULCZYK, also suffered other injuries and complications as yet undetermined as a result of this accident and, and by reason of the same, Claimant sustained damages in an amount which cannot be reasonably calculated at this time.

7. By virtue of the negligence, carelessness and recklessness of the CITY OF BUFFALO, CITY OF BUFFALO WATER AUTHORITY, a/k/a CITY OF BUFFALO WATER DEPARTMENT, ERIE COUNTY, and/or ERIE COUNTY WATER AUTHORITY, Claimant has also incurred hospital and medical expenses, loss of income and other necessary related expenses, the amount of which is undetermined to date.

WHEREFORE, Claimant requests that the CITY OF BUFFALO, CITY OF BUFFALO WATER AUTHORITY, a/k/a CITY OF BUFFALO WATER DEPARTMENT, ERIE COUNTY, and/or ERIE COUNTY WATER AUTHORITY, compensate Claimant, MARK KULCZYK for his injuries.

Dated: Buffalo, New York
September 10, 2012

Yours, etc.,

ANDREWS, BERNSTEIN & MARANTO, LLP

By: _____

Robert J. Maranto, Jr., Esq.
Attorneys for Petitioner
Mark Kulczyk
420 Franklin Street
Buffalo, New York 14202
(716) 842-2200

VERIFICATION

STATE OF NEW YORK :
COUNTY OF ERIE : ss.
CITY OF BUFFALO :

MARK KULCZYK, being duly sworn, deposes and says that he is the Claimant in this action; that he has read the foregoing Notice of Claim in this action and knows the contents thereof; that the same is true to the knowledge of deponent, except as to the matters therein stated to be alleged on information and belief, and that as to those matters, he believes them to be true.

MARK KULCZYK

Sworn to before me this 10th
day of ~~August,~~ SEPTEMBER 2012

Notary Public

KENNETH A SZYSZKOWSKI
Notary Public, State of New York
Qualified in Erie County
My Commission Expires October 24, 20__