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

February 12, 2013

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:	*Elberson, Jocelyn Beth, Estate of, by Charles Elberson and Kathleen Elberson as Co-Administrators v. Town of Amhest and County of Erie*
Document Received:	Notice of Claim
Name of Claimants:	Charles B. Elberson Kathleen Elberson 223 McConkey Drive Town of Tonawanda, New York 14223
Claimant's attorney:	Lawlor F. Quinlan, III, Esq. Connors & Vilardo, LLP 1000 Liberty Building 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 : COUNTY OF ERIE

CHARLES B. ELBERSON and
KATHLEEN ELBERSON, as
Co-Administrators of the ESTATE OF
JOCELYN BETH ELBERSON, Deceased,

Claimants,

vs.

TOWN OF AMHERST and
COUNTY OF ERIE,

Respondents.

This paper received at the
Erie County Attorney's Office
from John Kramer on
the 8th day of Feb, 2013
at 12:30 a.m./p.m.
Assistant County Attorney

NOTICE OF CLAIM

TO THE ABOVE-NAMED RESPONDENTS:

PLEASE TAKE NOTICE that the claimants hereby make claim against the **TOWN OF AMHERST and COUNTY OF ERIE** as follows:

1. The claimants' address is 223 McConkey Drive, Town of Tonawanda, County of Erie and State of New York.

2. Letters of Limited Administration for the Estate of Jocelyn Beth Elberson were granted by the Erie County Surrogate's Court to Charles B. Elberson and Kathleen Elberson on December 4, 2012. A copy is attached hereto.

3. The claimants' attorneys are Connors & Vilardo, LLP, 1000 Liberty Building, Buffalo, New York (phone: 716-852-5533).

4. The claim is one for negligence which resulted in the wrongful death of Jocelyn Beth Elberson on November 11, 2012, on what is known as the Amherst Canalway Trail, a roadside bike and exercise path located on or next to Tonawanda Creek Road (between Campbell Boulevard and Hopkins Road) in the

Town of Amherst, County of Erie and State of New York. Jocelyn Beth Elberson was a pedestrian at or near that location when she was struck by a motorcycle traveling on Tonawanda Creek Road that veered onto the Amherst Canalway Trail.

5. The claimants allege that the respondents: failed to properly plan, design, create, install, sign, administer, inspect, maintain and keep in proper condition a certain portion of premises owned by them and/or under their direct control at the aforesaid location; failed to separate the roadside bike and exercise path from Tonawanda Creek Road with ample space or a physical barrier to protect pedestrians such as Jocelyn Beth Elberson; failed to post adequate and appropriate signage with reference to the speed limit on Tonawanda Creek Road; failed to respond to problems; and were otherwise negligent and careless.

6. As a result of the negligence and want of care on the part of the respondents, Jocelyn Beth Elberson was caused to sustain pre-impact terror and serious personal injuries, resulting in her death.

7. The collision resulting in the wrongful death of Jocelyn Beth Elberson occurred without any negligence or carelessness on the part of Jocelyn Beth Elberson.

8. The claimants will seek all permissible damages resulting from the pre-impact terror, pain and suffering and wrongful death of Jocelyn Beth Elberson.

PLEASE TAKE FURTHER NOTICE that the undersigned present this claim and demand for adjustment and payment and notify you that unless adjusted and paid, it is the intention of the undersigned to commence an action thereon.

DATED: February 7, 2013

Charles B. Elberson, as Co-Administrator
of the Estate of Jocelyn Beth Elberson

Kathleen Elberson, as Co-Administrator
of the Estate of Jocelyn Beth Elberson

Lawlor F. Quinlan III, Esq.
Connors & Vilardo, LLP
Attorneys for Claimants
1000 Liberty Building
Buffalo, New York 14202
(716) 852-5533

VERIFICATION

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

Charles B. Elberson, being duly sworn, deposes and says that deponent is the claimant in the within action; that deponent has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to deponent's own knowledge, except as to those matters alleged to be upon information and belief, and that as to those matters deponent believes it to be true.

Charles B Elberson
Charles B. Elberson

Sworn to before me this
7th day of February, 2013.

Jan 7 2013
Notary Public

LAWLOR F. QUINLAN, III
No. 02QU6195606
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Nov. 3, 2016

VERIFICATION

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

Kathleen Elberson, being duly sworn, deposes and says that deponent is the claimant in the within action; that deponent has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to deponent's own knowledge, except as to those matters alleged to be upon information and belief, and that as to those matters deponent believes it to be true.

Kathleen Elberson

Sworn to before me this
7th day of February, 2013.

Notary Public

LAWLOR F. QUINLAN, III
No. 02QU6195806
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Nov. 3, 2016

EXHIBIT A

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 #: 2012-4904

Name of Decedent: **Jocelyn Beth Elberson**

Date of Death: 11-11-2012

Domicile: **Erie County**

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

Fiduciaries Appointed:

Charles B Elberson
223 Mc Conkey Drive
Tonawanda NY 14120

Kathleen Elberson
223 Mc Conkey Drive
Tonawanda NY 14120

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: December 4, 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:
Terrence M Connors
Connors & Vilardo LLP
1000 Liberty Building 424 Main 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.

Certificate# 70138

Surrogate's Court of the State of New York
Erie County

File#: 2012-4904

Certificate of Appointment of Administrators

IT IS HEREBY CERTIFIED that Letters for the Estate of the Decedent named below have been granted by this Court, and such Letters are unrevoked, are valid and are in full force as of this date.

Name of Decedent: **Jocelyn Beth Elberson**

Date of Death: November 11, 2012

Domicile: Erie County

Fiduciary Appointed: **Charles B Elberso**
223 Mc Conkey Drive
Tonawanda NY 14120

Kathleen Elberson
223 Mc Conkey Drive
Tonawanda NY 14120

Letters Issued: LETTERS OF LIMITED ADMINISTRATION

Letters Issued On: December 4, 2012

Limitations: Pursuant to SCPA 702, and Uniform Rules for Surrogate's Court 207.38, no final compromise of any wro gful 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

and such Letters are unrevoked and in full force as of this date.

Dated: December 4, 2012
Buffalo, New York

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

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

Joseph A. Shifflett, Chief Clerk
Erie County Surrogate's Court

This Certificate is Not Valid Without the Raised Seal of the Erie County Surrogate's Court