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 26, 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:	*Gipson, Merri v. Johnson, Barbara Jean, Fuqua, Deborah A. and County of Erie*
Document Received:	Summons and Complaint
Name of Claimant:	Merri Gipson 54 Goulding Avenue Buffalo, New York 14208
Claimant's attorney:	J. Michael Hayes, Esq. 69 Delaware Avenue, Suite 1111 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
SUPREME COURT : COUNTY OF ERIE

MERRI GIPSON
54 Goulding Avenue
Buffalo, New York 14208

Plaintiff,

SUMMONS

-vs-

Index No:

BARBARA JEAN JOHNSON
144 Germain Street
Buffalo, New York 14207

FILED
02/20/2013/ 10:53:40
ERIE COUNTY CLERK
RCPT # 13028392
I 2013000544

DEBORAH A. FUQUA
21 Freeman Street
Buffalo, New York 14215

COUNTY OF ERIE
Rath Building
95 Franklin Street
Buffalo, New York 14202

Defendants.

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED, to answer the complaint in this action, and to serve a copy of your answer, or, if the summons is not served with a complaint, to serve a notice of appearance, on the Plaintiff's attorney within twenty (20) days after service of this summons, exclusive of the day of service, or within thirty (30) days after completion of service where service is made in any other manner than by personal delivery within the State. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Erie County is designated as the place of trial on the basis of the residence of the Plaintiff who resides in Erie County, New York.

This paper received at the
Erie County Attorney's Office
from JAMES HOELSCHER on
the 25 day of Feb, 2013
at 1:55 a.m./p.m.
Kelly P. Brinkworth
Assistant County Attorney

DATED: Buffalo, New York
February 20, 2013

Yours Respectfully,

By: _____
J. Michael Hayes, Esq.
Law Office of J. MICHAEL HAYES
Attorney for Plaintiff
69 Delaware Avenue - Suite 1111
Buffalo, New York 14202
Telephone: (716) 852-1111

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

MERRI GIPSON,

Plaintiff,

vs.

BARBARA JEAN JOHNSON,
DEBORAH A. FUQUA and
COUNTY OF ERIE,

Defendants.

COMPLAINT

Index No.:

FILED
ACTIONS & PROCEEDINGS
FEB 20 2013
ERIE COUNTY
CLERK'S OFFICE

The Plaintiff, MERRI GIPSON, by her attorney, J. MICHAEL HAYES, for her complaint against the Defendants, BARBARA JEAN JOHNSON, DEBORAH A. FUQUA and COUNTY OF ERIE herein alleges:

1. Presently, and at all times hereinafter mention, Plaintiff, MERRI GIPSON, is a resident of the City of Buffalo, County of Erie and State of New York.

2. Upon information and belief, presently and at all times hereinafter mentioned, Defendant, BARBARA JEAN JOHNSON, is a resident of the City of Buffalo, County of Erie and State of New York.

3. Upon information and belief, presently an at all times hereinafter mentioned, Defendant, DEBORAH A. FUQUA, is a resident of the City Of Buffalo, County of Erie and State of New York.

4. Upon information and belief, presently and at all times hereinafter mentioned, the COUNTY OF ERIE, is a Municipal Corporation existing by virtue of the laws of the State of New York with offices for the transaction of business located in the County of Erie and State of New York.

5. Upon information and belief, at all times hereinafter mentioned, on or about August 6, 2012, the Defendant, BARBARA JEAN JOHNSON, was the operator of a certain 1999 Lexus motor vehicle bearing New York State license plate number EVT9192.

6. Upon information and belief, at all times hereinafter mentioned, on or about August 6, 2012, the Defendant, DEBORAH A. FUQUA, was the owner of the aforementioned 1999 Lexus motor vehicle bearing New York State license plate number EVT9192.

7. Upon information and belief, at all times herein mentioned, Defendant, BARBARA JEAN JOHNSON, was operating the aforesaid Lexus automobile with the permission and consent of Defendant, DEBORAH A. FUQUA.

8. Upon information and belief, on or about August 6, 2012, at approximately 11:18 a.m., the motor vehicle owned by Defendant, DEBORAH A. FUQUA, and operated by Defendant, BARBARA JEAN JOHNSON, came into contact with a motor vehicle being operated by Plaintiff, MERRI GIPSON on Genesee Street at or near its intersection with Best Street in the City of Buffalo, County of Erie and State of New York.

9. Upon information and belief, the aforesaid incident was caused or contributed to due to the careless conduct and negligence on the part of the Defendants, BARBARA JEAN JOHNSON and DEBORAH A. FUQUA.

10. Upon information and belief, Plaintiff, MERRI GIPSON, is and/or has received Medicaid provided by the COUNTY OF ERIE.

11. Upon information and belief, the COUNTY OF ERIE claims a recovery right/"lien" out of any resolution in the above matter by virtue of medical expenses they claim to have incurred.

12. Upon information and belief, the Defendant, COUNTY OF ERIE, is a necessary party to this action in that for and before complete relief may be accorded, the COUNTY OF ERIE's claim must be considered, finalized, allocated and determined by way of compromise, settlement or Court determination and said Defendant has refused to join as a party Plaintiff.

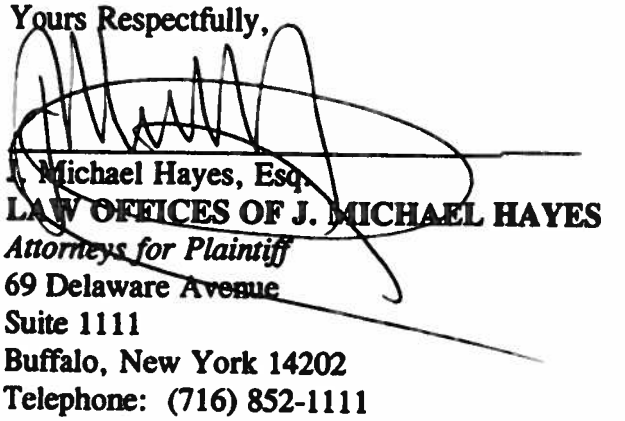
13. Upon information and belief, this action falls within one or more of the exceptions enumerated in Article 16 of the CPLR and/or said article is inapplicable to the within action.

14. That as a result of the foregoing, Plaintiff, MERRI GIPSON, sustained severe and serious personal injuries including a "serious injury" and economic loss exceeding "basic economic loss" as defined by Article 51 of the New York Insurance Reparations Law, all to her damage in a sum in excess of the jurisdictional limits of all the lower courts of the State of New York.

WHEREFORE, Plaintiff, MERRI GIPSON, demands judgment against the Defendants, BARBARA JEAN JOHNSON and DEBORAH A. FUQUA, for a sum in excess of the jurisdictional limits of all lower courts of the State of New York and that Defendant COUNTY OF ERIE's claims for reimbursement be resolved, together with such other and further relief as may be deemed just, proper and equitable.

DATED: Buffalo, New York
February 20, 2013

Yours Respectfully,



J. Michael Hayes, Esq.
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