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:	*Metcalf, Richard, Estate of, v. County of Erie, Erie County Sheriff's Department, Village of Depew and Village of Depew Police Department*
Document Received:	Notice of Claim
Name of Claimant:	Richard A. Metcalf, Sr. 25 6th Avenue Lancaster, New York 14086
Claimant's attorney:	Thomas J. Casey, Esq. 19 Limeston Drive - Suite 9 Williamsville, New York 14221

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

In the Matter of the Claim of Richard A. Metcalf, Sr.
As Administrator of the Estate of Richard A. Metcalf, Jr., Deceased,
25 6th Avenue
Lancaster, New York 14086

Claimant,

vs.

County of Erie
95 Franklin Street
Buffalo, New York 14202

AMENDED
NOTICE OF CLAIM

and

The Erie County Sheriff's Department
10 Delaware Avenue
Buffalo, New York 14202

and

Village of Depew
85 Manitou Street
Depew, New York 14043

and

The Village of Depew Police Department
85 Manitou Street
Depew, New York 14043

Respondents.

TO: CHAIRMAN OR CLERK OF THE BOARD OF SUPERVISORS, CLERK, ATTORNEY OR TREASURER OF THE COUNTY OF ERIE and THE ERIE COUNTY SHERIFF'S DEPARTMENT and THE MAYOR, CLERK OR ANY TRUSTEE OF THE VILLAGE OF DEPEW and THE VILLAGE OF DEPEW POLICE DEPARTMENT

SIRS:

PLEASE TAKE NOTICE that the undersigned, Richard A. Metcalf, Sr., as Administrator with Letters of Limited Administration of the Estate of Richard A. Metcalf, Jr., issued by the Surrogates Court of Erie County on February 5, 2013, and residing at 25 6th Avenue, Lancaster, New York 14086, makes Claim and demands against the County of Erie, Eire County Sheriff's Department, Village of Depew and the Village of Depew Police Department for injuries, damages and the wrongful death of Richard A. Metcalf, Jr.

1. The name and address of Claimant's attorney is Thomas J. Casey, Esq., 19 Limestone Drive – Suite 9, Williamsville, New York 14221, and Telephone Number (716) 810-9600 – ext. 302.

2. The Nature of the Claim: Richard A. Metcalf, Jr. was injured and suffered serious personal injuries on November 27, 28, 29 and 30, 2012 resulting in Richard A. Metcalf, Jr.'s wrongful death on November 30, 2012 all of which occurred while in the custody and care of the Village of Depew and the Village of Depew Police Department on November 27, 2012 and the County of Erie and the Erie County Sheriff's Department on November 27, 28, 29 and 30, 2012.

3. Richard A. Metcalf, Jr. was arrested by the Village of Depew Police on November 27, 2012 at approximately 2:29 AM. During the course of the referenced arrest the Village of Depew Police deployed a Taser against Richard A. Metcalf, Jr. which with other unnecessary, excessive and unreasonable physical force and actions by the Village of Depew and the Village of Depew Police Department upon Richard A. Metcalf, Jr. caused and contributed to the serious personal injuries and wrongful death suffered by Richard A. Metcalf. Jr.

4. Richard A. Metcalf, Jr., was physically transferred by the Village of Depew Police Department, pursuant to a Court Order directing that Richard A. Metcalf, Jr. undergo a forensic exam, to the Erie County Sheriff's Department Holding Center on November 27, 2012. Richard A. Metcalf, Jr. was subsequently transferred on November 29, 2012 to Buffalo General Hospital and then on the same date to Erie County Medical Center all while in the continuous care and custody of the Erie County Sherriff's Department. While in the care and custody of the County of Erie and the Erie County Sheriff's Department Richard A. Metcalf, Jr. was subjected to unnecessary, excessive and unreasonable physical force and actions by various Sheriff's Deputies and others all of which caused and contributed to the serious personal injuries and wrongful death suffered by Richard A. Metcalf. Jr. on November 30, 2012.

5. That while under the care and custody of the Village of Depew and the Village of Depew Police Department and the County of Erie and the Erie County Sherriff's Department Richard A. Metcalf, Jr. was rendered sick, sore, lame and disabled, sustained various and diverse injuries, shocks to his nervous system, considerable pain and suffering, severe mental and emotional injuries not yet determined and other personal injuries of which the Claimant is not yet informed all of which resulted in the wrongful death of Richard A. Metcalf, Jr.

6. Claimant's medical and funeral bills incurred to date are incomplete.

7. This Notice is made and served on behalf of the Claimant in compliance with the provisions of Section 50-E of the general Municipal law and such laws and statutes as in this case made and provided.

PLEASE TAKE FURTHER NOTICE THAT THE Claimant demands payment of said claims and unless said claims are paid within the statutory period provided therefore, it is the intention of claimant to commence suit against the County of Erie, the Erie County Sheriff's Department and the Village of Depew and the Village of Depew Police Department to recover for the serious personal injuries sustained and the wrongful death of Richard A. Metcalf, Jr. as a result of this matter as described herein.

DATED: Williamsville, New York
February 23, 2013

Respectfully,

Richard A. Metcalf

RICHARD A. METCALF, Sr.
As Administrator of the Estate of
Richard A. Metcalf, Jr.

STATE OF NEW YORK)
COUNTY OF ERIE) SS:

RICHARD A. METCALF, SR., being duly sworn deposes and says:

That I am the Claimant in the above entitled action. I have read the foregoing Amended Notice of Claim and know its contents. The claims are true to my knowledge except as to those matters stated to be alleged upon information and belief and as to such matters I believe them to be true.

Richard A. Metcalf Sr.
RICHARD A. METCALF, SR.
As Administrator of the Estate of
Richard A. Metcalf, Jr.

Sworn to before me this 23, day
of February, 2013.

Thomas J. Casey
Notary Public

Thomas J Casey
Notary Public, State of New York
No. 01CA6063385
Qualified in Erie County
Commission Expires Jan 14, 2014