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

April 30, 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:	*Alspaugh, Nancy J. v. County of Erie, et al.*
Document Received:	Notice of Claim
Name of Claimant:	Nancy J. Alspaugh 21 Arundel Road Buffalo, New York 14216
Claimant's attorney:	Sara T. Wallitt, 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

Enclosure

This paper received at the
Erie County Attorney's Office
from Monique Geisler on
the 25th day of April, 2013
at 9:45 a.m./p.m.

Assistant County Attorney
Michael J. Lisiewski

IN THE MATTER OF THE CLAIM OF:

NANCY J. ALSPAUGH
21 Arundel Road
Buffalo, New York 14216

Claimant,

-against-

NOTICE OF CLAIM

CITY OF BUFFALO
65 Niagara Square
Buffalo, NY 14202,

COUNTY OF ERIE
95 Franklin Street
Buffalo, NY 14202,

ERIE COUNTY WATER AUTHORITY
295 Main Street, Room 350
Buffalo, NY 14203,

ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT
95 Franklin Street
Buffalo, NY 14202,

BUFFALO SEWER AUTHORITY
65 Niagara Square, #1038
Buffalo, NY 14202, and

BUFFALO WATER AUTHORITY
281 Exchange Street
Buffalo, New York 14204

Respondents.

TO: City of Buffalo, New York
County of Erie, New York
Erie County Water Authority, New York
Erie County Division of Sewerage Management

Buffalo Sewer Authority, New York
Buffalo Water Authority, New York

PLEASE TAKE NOTICE that Nancy J. Alspaugh, hereby makes claim against the **CITY OF BUFFALO, COUNTY OF ERIE, ERIE COUNTY WATER AUTHORITY, ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT, BUFFALO SEWER AUTHORITY** and **BUFFALO WATER AUTHORITY** and in support thereof alleges:

1. That the undersigned, NANCY J. ALSPAUGH, residing at 20 Arundel Road, Buffalo, NY 14216, by and through her attorneys, WILLIAM MATTAR, P.C., 6720 Main Street, Suite 100, Williamsville, NY 14221-5986, claims damages against the CITY OF BUFFALO, COUNTY OF ERIE, ERIE COUNTY WATER AUTHORITY, ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT, BUFFALO SEWER AUTHORITY and BUFFALO WATER AUTHORITY for personal injuries, pain and suffering, general and special damages, medical expenses, and property damages sustained by her.

2. That the said injuries were sustained by NANCY J. ALSPAUGH on March 25, 2013 at 3:45 p.m. on Arundel Road near the intersection of North Drive, in the City of Buffalo, County of Erie and State of New York. On that day and approximate time, Claimant was descending from the sidewalk to the street on Arundel Road near this intersection when her foot caught, suddenly and without warning, and she was caused to topple due to a piece of metal protruding from the curb and the nearby storm drain cover. For a further reference point, the

curb and storm drain is located on the Southeast corner of Arundel Road and North Drive directly across the street from North Park Academy (Buffalo Public School #66).

3. That the Claimant's damages and injuries occurred as a result of the negligence, carelessness, and reckless disregard for the safety of others including Claimant, NANCY J. ALSPAUGH, by the CITY OF BUFFALO, COUNTY OF ERIE, ERIE COUNTY WATER AUTHORITY, ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT, BUFFALO SEWER AUTHORITY and BUFFALO WATER AUTHORITY and their servants, agents or employees in failing to correct a known safety risk at the general location of the accident herein mentioned; improperly maintaining, managing, operating, controlling, supervising and/or repairing, along with the other acts of negligence, carelessness and recklessness, causing the accident at issue and all subsequent injuries suffered by the Claimant, NANCY J. ALSPAUGH.

4. That the aforesaid CITY OF BUFFALO, COUNTY OF ERIE, ERIE COUNTY WATER AUTHORITY, ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT, BUFFALO SEWER AUTHORITY and BUFFALO WATER AUTHORITY by and through its agents, servants and employees had actual and/or constructive notice of the dangerous condition and hazard, or created the same.

5. That, as a result of the foregoing, the Claimant, NANCY J. ALSPAUGH, sustained very serious injuries, including a broken nose, facial scarring, knee and leg sprains, psychological damage and trauma, and other injuries that are just now being able to be discerned, due to her unstable and serious medical condition for months after the accident. Some of these injuries will be of a permanent or indefinite duration, and Claimant, NANCY J. ALSPAUGH, was

and will in the future be forced to expend sums of money for hospitals, doctors and other medical expenses.

6. That the said injuries were occasioned solely and wholly as a result of the negligence of the CITY OF BUFFALO, COUNTY OF ERIE, ERIE COUNTY WATER AUTHORITY, ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT, BUFFALO SEWER AUTHORITY and BUFFALO WATER AUTHORITY and through their agents, servants, and employees and without any negligence on the part of the Claimant contributing thereto.

WHEREFORE, Claimant NANCY J. ALSPAUGH requests that her claim be allowed and paid by the CITY OF BUFFALO, COUNTY OF ERIE, ERIE COUNTY WATER AUTHORITY, ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT, BUFFALO SEWER AUTHORITY and BUFFALO WATER AUTHORITY.

PLEASE TAKE FURTHER NOTICE that unless said claim is adjusted and paid by the CITY OF BUFFALO, COUNTY OF ERIE, ERIE COUNTY WATER AUTHORITY, ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT, BUFFALO SEWER AUTHORITY and BUFFALO WATER AUTHORITY within thirty (30) days from the date of service of the Notice of Claim, said Claimant intends to commence an action in the Supreme Court of the State of New York against the CITY OF BUFFALO , COUNTY OF ERIE, ERIE COUNTY WATER AUTHORITY, ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT and BUFFALO SEWER AUTHORITY, seeking a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction, together with interest, costs and disbursements.

DATED: Williamsville, New York
April 23, 2013

Sara T. Wallitt, Esq.
WILLIAM K. MATTAR, P.C.
Attorney for Claimant
6720 Main Street, Suite 100
Williamsville, New York 14221
(716) 633-3535

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

NANCY J. ALSPAUGH, being duly sworn, depose and say that she is the Claimant in this action; that she has read the foregoing Notice of Claim and know the contents thereof; that the same is true to the knowledge of deponents, except as to matters therein stated to be alleged on information and belief, and that as to those matters they believe them to be true.

NANCY J. ALSPAUGH

Sworn to before me this
23rd day of April, 2013

Notary Public

Carlos B Oblano
Notary Public, State of New York
No. 01OB6205064
Qualified In Erie County
Commission Expires 05/04/2013