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 3, 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:	*DiGiacomo, Luigi V. and Meyers, Megan v. County of Erie, the Erie County Sheriff, Deputy D. Brinkerhoff and Deputy Gregory R. Kent*
Document Received:	Notice of Claim
Name of Claimants:	Luigi V. DiGiacomo & Megan Meyers
Claimant's attorney:	DeMarie & Schoenborn, P.C. 403 Main Street, Suite 615 Buffalo, New York 14203

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
LUIGI V. DIGIACOMO and
MEGAN MEYERS,

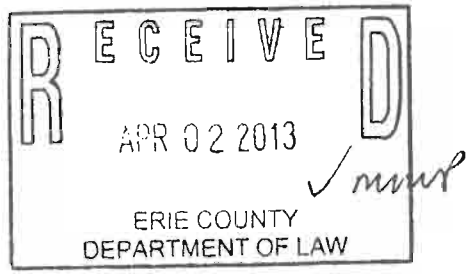
against

COUNTY OF ERIE,
THE ERIE COUNTY SHERIFF,
DEPUTY D. BRINKERHOFF, Individually, and
DEPUTY GREGORY R. KENT, Individually,

Respondents.

NOTICE OF CLAIM

Index No.:



TO: ERIE COUNTY ATTORNEY
95 Franklin Street, Room 1634
Buffalo, New York 14202

ERIE COUNTY SHERIFF
10 Delaware Avenue
Buffalo, New York 14202

DEPUTY D. BRINKERHOFF
c/o Erie County Sheriff
10 Delaware Avenue
Buffalo, New York 14202

DEPUTY GREGORY R. KENT
c/o Erie County Sheriff
10 Delaware Avenue
Buffalo, New York 14202

PLEASE TAKE NOTICE, that the undersigned claimants hereby make a claim against the COUNTY OF ERIE, THE ERIE COUNTY SHERIFF, and their employees, OFFICER D. BRINKERHOFF and OFFICER G. KENT, Individually.

1. Claimants reside at 10660 Croop Road, Clarence Center, New York 14032, County of Erie, State of New York.

2. Claimants' attorneys are:

DE MARIE & SCHOENBORN, P.C.
403 Main Street, Suite 615
Buffalo, New York 14203
Telephone: (716) 856-0024

3. This claim is for personal injury arising from negligence, false arrest, malicious prosecution, assault, battery, false imprisonment and violation of rights guaranteed under the U.S. and State constitution and Federal statutes and in particular Section 1983 et. seq. U.S. Code.

4. On or about December 6, 2012 between the hours of 10:30 a.m. and 11:30 a.m. at 10660 Croop Road, Clarence Center, New York 14032, an incident arose between the Claimants and the above-named members of the Erie County Sheriff's Office, who at all times were acting within the scope of their duties as Deputy Sheriffs.

5. That the above named Deputy Sheriffs of the Erie County Sheriff's Office entered the residence without a warrant, detained and arrested the claimants in a manner that was unreasonable, negligent, careless, utilizing excessive force and was in violation of Claimants' constitutional rights under the Fourth and Fourteenth Amendments under the United States Constitution.

6. That the actions of the above-named members of the Sheriff's Office were malicious, oppressive and illegal.

7. That upon information and belief, the COUNTY OF ERIE and ERIE COUNTY SHERIFF condoned, cajoled, urged and required the individual Respondents to act in violation of the constitutional rights of the Claimants.

AS AND FOR A FIRST CAUSE OF ACTION

8. That at the aforesaid time and place, LUIGI DIGIACOMO was arrested and charged with a violation of section 220.03 of the Penal Law of the State of New York, the crime of criminal possession of a controlled substance in the seventh degree.

9. That at the time of the arrest there was no basis or probable cause to arrest the Claimant.

10. That as a result of the arrest the Claimant, LUIGI DIGIACOMO, was wrongfully and illegally incarcerated, was required to post bail, was required to hire counsel in his defense, and was required to appear in Court.

11. That on or about January 29, 2013, the criminal charges against this Claimant, LUIGI DIGIACOMO were dismissed by Judge Michael B. Powers, Clarence Town Court Justice on the motion of People.

12. That the arrest of this Claimant was wrongful, unlawful, malicious and without warrant, reasonable suspicion, probable cause or pretense of any legal process.

13. These claims are presented for adjustment and payment in accordance with the statutes in such cases made and provided.

AS AND FOR A SECOND CAUSE OF ACTION

14. Claimants repeat, restate, and reallege paragraphs 1 through 13 as if fully set forth herein.

15. That at the aforesaid time and place, MEGAN MEYERS was arrested and charged with a violation of section 220.03 of the Penal Law of the State of New York, the crime of criminal possession of a controlled substance in the seventh degree.

16. That at the time of the arrest there was no basis or probable cause to arrest the Claimant.

17. That as a result of the arrest the Claimant, MEGAN MEYERS, was wrongfully and illegally incarcerated, was required to post bail, was required to hire counsel in her defense, and was required to appear in Court.

18. That on or about January 29, 2013, the criminal charges against this Claimant,

MEGAN MEYERS, were dismissed by Judge Michael B. Powers, Clarence Town Court Justice on the motion of People.

19. That the arrest of this Claimant was wrongful, unlawful, malicious and without warrant, reasonable suspicion, probable cause or pretense of any legal process.

20. These claims are presented for adjustment and payment in accordance with the statutes in such cases made and provided.

Dated: March 29, 2013
Buffalo, New York

LUIGI V. DIGIACOMO

Sworn to before me this
29th day of March, 2013.

Notary Public

Public, State of New York
Qualified in Erie County
Commission Expires April 30

MEGAN MEYERS

Sworn to before me this
29th day of March, 2013.

Notary Public

INDIVIDUAL VERIFICATION

STATE OF NEW YORK)
COUNTY OF)
CITY OF) SS.:

LUIGI DIGIACOMO, 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 the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

LUIGI DIGIACOMO

Sworn to before me this
29th day of March, 2013.

Notary Public

INDIVIDUAL VERIFICATION

STATE OF NEW YORK)
COUNTY OF)
CITY OF) SS.:

MEGAN MEYERS, 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 the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

MEGAN MEYERS

Sworn to before me this
29th day of March, 2013.

Notary Public

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

In the Matter of the Claim of
LUIGI V. DIGIACOMO and
MEGAN MEYERS,

against

AFFIDAVIT OF SERVICE

Index No.:

COUNTY OF ERIE,
THE ERIE COUNTY SHERIFF,
DEPUTY D. BRINKERHOFF, Individually, and
DEPUTY GREGORY R. KENT, Individually,

Respondents.

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

Alexis C. Banks, being duly sworn, deposes and says that deponent is not a party to the action and is over 18 years of age. That on the 1st day of April, 2013, deponent served the within Notice of Claim via USPS First Class Mail and via Certified Mail / Return Receipt Requested upon the following attorneys for respondents and respondents:

ERIE COUNTY ATTORNEY
95 Franklin Street,
Room 1634
Buffalo, New York 14202

DEPUTY D. BRINKERHOFF
c/o Erie County Sheriff
10 Delaware Avenue
Buffalo, New York 14202

ERIE COUNTY SHERIFF
10 Delaware Avenue
Buffalo, New York 14202

DEPUTY GREGORY R. KENT
c/o Erie County Sheriff
10 Delaware Avenue
Buffalo, New York 14202

at the address designated by said attorneys for that purpose, by depositing same enclosed in a postpaid properly addressed wrapper in the letter box of 403 Main Street in the City of Buffalo, New York, an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York.

ALEXIS C. BANKS

Sworn to before me this
1st day of April, 2013.

Notary Public
My Commission Expires: 2014

MELISSA K. JAMES
Notary Public - State of New York
No. 01JA6148605
Qualified in Erie County
My Commission Expires 06/26/2014