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:	*Reyes, Eladio v. Niagara Frontier Transit Metro Systems, Inc., City of Buffalo, County of Erie and Buffalo Place, Inc.*
Document Received:	Notice of Claim
Name of Claimant:	Eladio Reyes 274 Delaware Avenue Buffalo, New York 14202
Claimant's attorney:	John Lloyd Egan, Jr., Esq. Law Offices of John Lloyd Egan 43 Court Street, Suite 905 Buffalo, New York 14202

Should you have any questions, please call.

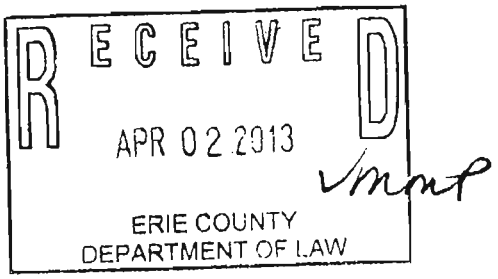
Very truly yours,

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



ELADIO REYES,
274 Delaware Avenue, Apt. 415
Buffalo, New York 14202

Claimant,

NOTICE OF CLAIM

vs.

NIAGARA FRONTIER TRANSIT METRO SYSTEMS , INC.
181 Ellicott Street
Buffalo, New York 14203,

CITY OF BUFFALO
1100 City Hall
Buffalo, New York 14202,

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

and

BUFFALO PLACE, INC.
671 Main Street
Buffalo, New York 14203,

Respondents.

PLEASE TAKE NOTICE, that the claimant hereby makes a claim and demand against the NIAGARA FRONTIER TRANSIT AUTHORITY, as follows:

1. The name and post office address of the Claimant and his attorneys are as follows:

   ELADIO REYES, 274 Delaware Avenue, Buffalo, New York 14202.

   JOHN LLOYD EGAN, JR., as attorney for the Claimant, 43 Court Street, Suite 905, Buffalo, New York 14202, Tel: (716) 856-3087.

2. The nature of the claim is a claim for damages for personal injuries, pain and suffering on behalf of the Claimant, ELADIO REYES.

3. The time when and the place where and the manner in which the claim arose is a claim for damages for personal injuries sustained by the Claimant, ELADIO REYES, on the 3rd day of March, 2013, at some time between 3:00 P.M. and 4:00 P.M. when the Claimant slipped and fell on ice at the Lafayette Square train station.

4. The Defendants were negligent in that they owned and operated the aforesaid premises in a negligent manner despite oral and/or prior written notice of the defective icy condition and/or constructive notice of the defective icy condition as contained in the attached affidavit of JUAN GARCIA sworn to on the 28th day of March, 2013. In addition the defendants violated Buffalo City Charter Code 341-6, Maintenance of Open Areas, which states Sub-Section D, Steps, walks, driveways, parking spaces and similar paved areas shall be maintained so as to afford safe passage under normal use and weather conditions. Defendants also violated Buffalo City Code Section 413-48(A) for maintenance of sidewalks which states "It shall be the duty of every owner or occupant of any premises fronting on any public street or ground to keep the sidewalk in front of the same in good order and repair, and he shall allow no accumulation of dirt, refuse or other material to remain thereon."

5. In addition, Defendants violated Buffalo City Code Article VIII, Snow and Ice Removal Sections A through E, which provides:

> "It shall be the duty of every owner or occupant of any premises abutting any public street to remove, before 9:00 a.m., all snow and ice which may have fallen upon the sidewalk abutting said premises. In case said sidewalk is not paved its full width, it shall be necessary to remove such snow or ice from a space three feet in width. The owner or occupant of lands fronting or abutting on any street, highway, traveled road, public lane, alley or square shall make, maintain and repair the sidewalk adjoining his lands and shall keep such sidewalk and the gutter free and clear of and from snow, ice and all other obstructions. Such owner or occupant, and each of them, shall be liable for any injury or damage by reason of omission, failure or negligence to make, maintain or repair such sidewalk or failure or negligence to keep such sidewalk and the gutter free and clear of and from snow, ice and other obstructions."

6. In addition, the Plaintiff will claim that the Defendants were negligent in that they

failed to remove the obstruction of ice at the Lafayette Square Station subway stop and/or failed to place salt, or other substance upon said area so as to remove the dangerous accumulation of ice herein and/or barricade the area to prevent a pedestrian falling on the same.

7. In addition, Plaintiff will claim that the Defendants, by their agents, servants and/or employee activity actually created the dangerous accumulation of ice complained of.

8. That the injuries claimed are acute cervical sprain, thoracic sprain, lumbosacral sprain, and right hip pain.

9. That the said claim and demand is hereby presented for adjustment and payment.

PLEASE TAKE FURTHER NOTICE, that by reason of the premises, in default by the Respondent, to pay to the Claimant a sum in excess of the jurisdictional limits of all lower courts, within the time limited for compliance with this demand by the said Respondents by the statutes in such cases made and provided, Claimant intends to commence an action against the Respondents to recover a sum of money which is in excess of the jurisdictional requirements of all lower courts herein, together with the costs and disbursements of this action, as well as interest from the 3rd day of March, 2013.

DATED: March 29, 2013
Buffalo, New York

Respectfully yours,

JOHN LLOYD EGAN, JR., ESQ.
Attorney for Claimant
905 Convention Tower
43 Court Street
Buffalo, New York 14202
(716) 856-3087

TO: Vicky-Marie J. Brunette Anthony, Esq.
Deputy General Counsel
Niagara Frontier Transit Metro Systems , Inc.
181 Ellicott Street
Buffalo, New York 14203

Timothy A. Ball, Esq.
Corporation Counsel
City of Buffalo
1100 City Hall
Buffalo, New York 14202

Michael A. Siragusa, Esq.
County Attorney
County of Erie
95 Franklin Street
Room 1634
Buffalo, New York 14202

James F. Forton, Esq.
Forton & Forton
Counsel for Buffalo Place, Inc.
361 Delaware Avenue
Buffalo, New York 14202

STATE OF NEW YORK)
SUPREME COURT :
COUNTY OF ERIE)

ELADIO REYES
274 Delaware Ave.
Buffalo, NY 14202

Plaintiff,

AFFIDAVIT

-vs-

NIAGARA FRONTRIER TRANSIT METRO SYSTEMS INC.
181 Ellicott St.
Buffalo, NY 14203

Defendant.

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

I, **Juan Garcia,** being duly sworn, deposes and says:

1. That I reside at 274 Delaware Ave., Apt. 412 Buffalo, NY 14202 and that I am a neighbor of the Plaintiff, Eladio Reyes.

2. That on March 3rd, 2013, at approximately 3:00 PM – 4:00 PM, I saw Eladio Reyes fall at the Lafayette Square Metro Station.

3. That attached hereto, marked as Exhibit "A", are four (4) photographs of the scene of the Plaintiffs fall that I took approximately a half hour after his fall which show the condition of the ice that caused his fall.

4. That I have placed an "X" on the first photograph which shows where I saw Mr. Reyes fall on the ice.

5. That the dimensions of this ice was in a circular pattern approximately 3 feet wide and approximately 6 inches – 1 foot deep.

6. That approximately two (2) days before this incident at approximately 8:00 AM on March 1st, 2013, I was walking on Main Street on my way to the Rath building for an appointment and saw the same ice and the same dimensions in the same location as shown in the photographs.

7. That I did not see any salt applied either on March 1st, 2013 or on the day of Mr. Reyes fall.

J G

8. That on March 3rd, 2013 at approximately 3:00 PM – 4:00 PM, I saw Mr. Reyes right foot slipped forward causing him to fall backwards on his right hip, back and head.

9. That after Mr. Reyes fall, I called the ambulance from Mr. Reyes phone and the ambulance transported Mr. Reyes to the emergency room at Buffalo General Hospital.

10. That attached hereto, marked as Exhibit "B", is my New York State Enhanced Identification.

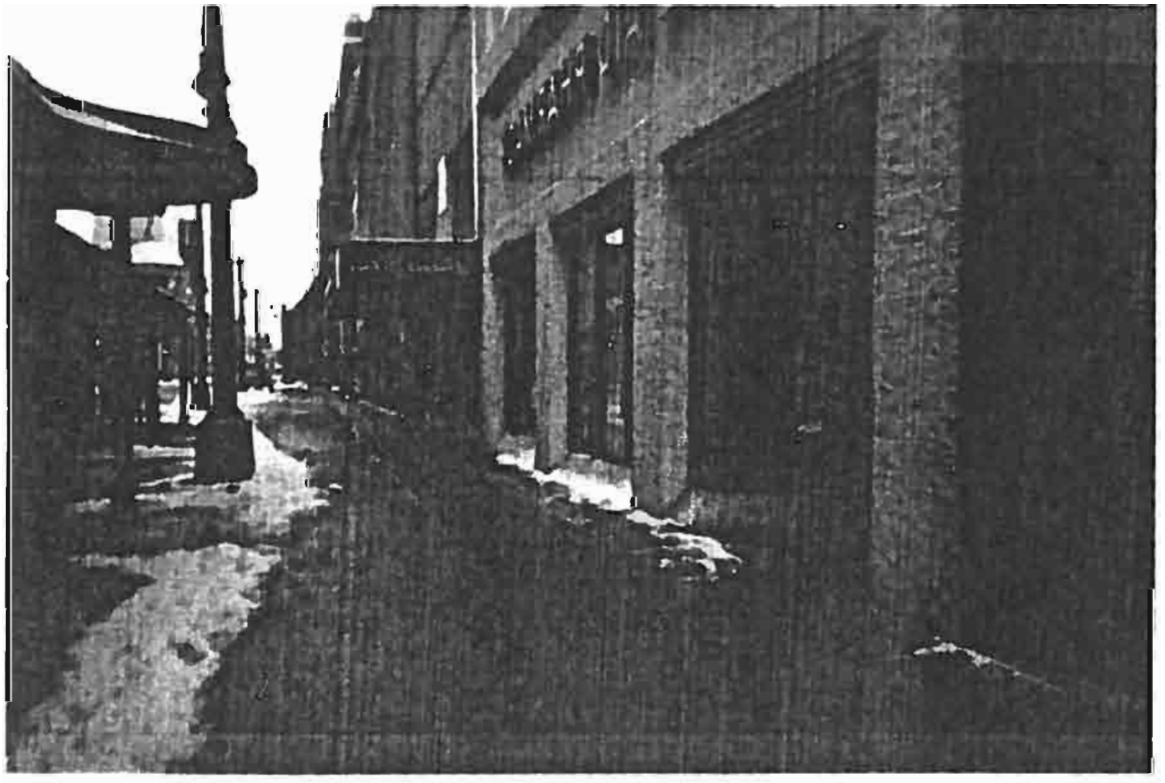
Juan Garcia

Sworn to before me this
28th day of March, 2013

NOTARY PUBLIC

JOHN LLOYD [illegible] JR.
Notary Public, State of New York
Qualified in Erie County
My Commission Expires ~~March 03, 19~~
4/12/15

EXHIBIT “A”



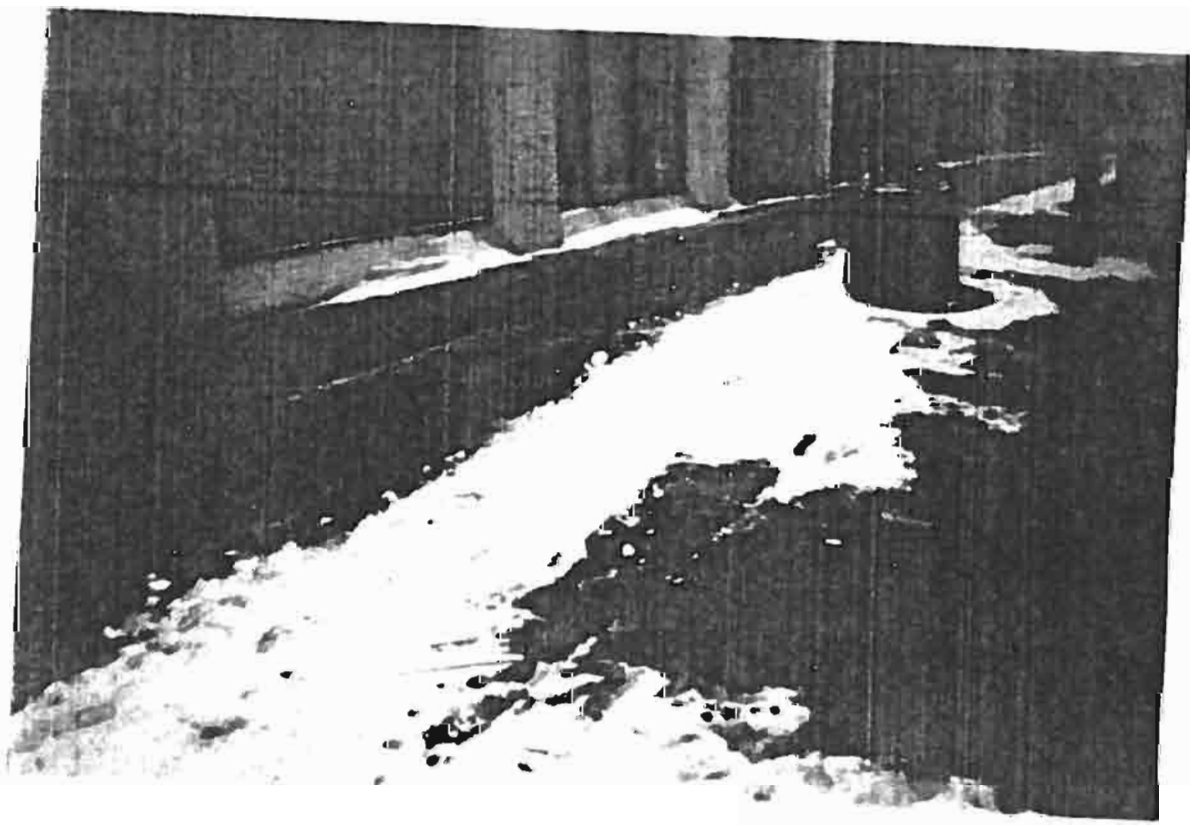
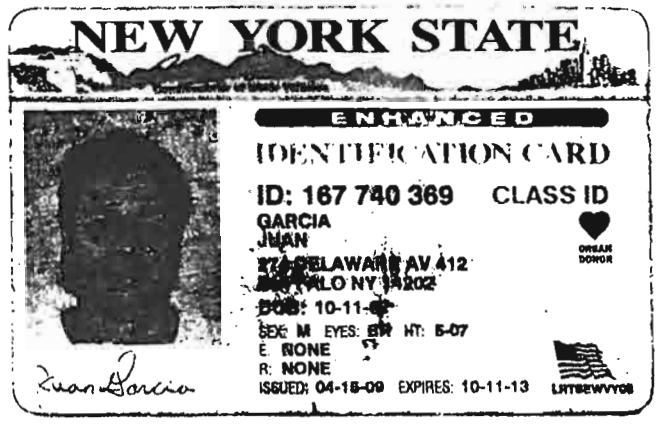


EXHIBIT “B”


NEW YORK STATE
ENHANCED
IDENTIFICATION CARD
ID: 167 740 369
CLASS ID
GARCIA
JUAN
DELAWARE AV 412
ALO NY
10-11-
SEX: M EYES: HT: 5-07
E: NONE
R: NONE
ISSUED: 04-15-09 EXPIRES: 10-11-13
ORGAN DONOR

FOLD TO THIS LINE

STATE OF NEW YORK
COUNTY OF ERIE } ss.:
CITY OF BUFFALO

INDIVIDUAL VERIFICATION

ELADIO REYES, being duly sworn, deposes and says: that deponent is 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 upon information and belief and as to those matters deponent believes it to be true.

Sworn to before me, this 28th day of March 2013
My Commission Expires, 4/12/15
Notary Public State of New York;
Originally Qualified in _____ County.

Eladio Reyes
ELADIO REYES
Deponent's Signature - Type Name Below Line.

STATE OF NEW YORK
COUNTY OF } ss.:
OF

CORPORATION VERIFICATION

, being duly sworn, deposes and says: that deponent is of the corporation named in the within action; that deponent has read the foregoing and knows the contents thereof; that the same is true to deponents's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true. This verification is made by deponent because is a corporation.

Deponent is an officer thereof, to-wit: its

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

Sworn to before me, this _____ day of _____
My Commission Expires, _____
Notary Public State of New York,
Originally Qualified in _____ County.

Deponent's Signature - Type Name Below Line.

CERTIFICATION BY ATTORNEY

The undersigned, an attorney admitted to practice in the Courts of New York State, certifies that the within has been compared to the original, by the undersigned, and found to be a true and complete Copy.

DATED: _____

Deponent's Signature - Type Name Below Line.

AFFIRMATION BY ATTORNEY

The undersigned, an attorney admitted to practice in the Courts of New York State, shows: that deponent(s) is (are) attorney(s) of record for in the within action; that deponent has read the foregoing and knows the contents thereof; that the same is true to deponent's own knowledge, except as to matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true. Deponent further says that the reason this verification is made by deponent and not by is, there is no officer presently in Erie County.

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

The undersigned affirms that the foregoing statements are true, under penalty of perjury.

DATED: _____

Deponent's Signature - Type Name Below Line.

STATE OF NEW YORK
COUNTY OF } ss.:
OF

AFFIDAVIT OF PERSONAL SERVICE WITH DESCRIPTION

, being duly sworn, deposes and says: that he (she) is eighteen years of age, or more, and not a party to the action; that he (she) served the annexed on the defendant, named herein, by personally delivering to and leaving a true copy thereof with , on , at A.M. (P.M.) at and that he/she knew the person so served to be the person described as the Defendant therein.

The description of the person served above is: Sex _____ ; Skin color _____; Hair color _____ ; Aprox. age _____; Approx.wt. _____ ; Approx. ht. _____.

Other identifying features _____.

To my best knowledge information and belief, the said Defendant, at the time of service, was not engaged in the military service of the Unites States of America.

Sworn to before me, this _____ day of _____
My Commission Expires, _____
Notary Public State of New York;
Originally Qualified in _____ County.

Deponent's Signature - Type Name Below Line.

©2008 by Sanders Legal Publishers, Inc.; 174 Franklin Street; Buffalo, New York 14202-2473; Tel:(716) 842-6666; Fax: (716) 842-6576; Toll Free: (877) 846-3666.