



MARTIN A. POLOWY  
ACTING COUNTY ATTORNEY

COUNTY OF ERIE  
THOMAS F. KIRKPATRICK  
ACTING FIRST ASSISTANT COUNTY ATTORNEY

CHRIS COLLINS  
COUNTY EXECUTIVE

DEPARTMENT OF LAW

January 4, 2011

Mr. Robert M. Graber, Clerk  
Eric County Legislature  
92 Franklin Street, 4th Floor  
Buffalo, New York 14202

Dear Mr. Graber:

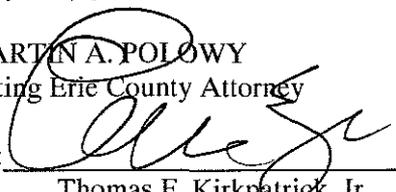
In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Mikowski, Tina v. County of Erie, St. Theresa Roman Catholic Church, Trinity Catholic Academy and Catholic Diocese of Buffalo</i>
Document Received:	Summons and Complaint
Name of Claimant:	
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,

MARTIN A. POLOWY  
Acting Erie County Attorney

By:   
Thomas F. Kirkpatrick, Jr.  
Acting First Assistant County Attorney

TFK/dkw  
Enclosure

cc: Martin A. Polowy, Acting Erie County Attorney

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

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TINA M. MIKOWSKI  
1087 Seneca Street  
Buffalo, New York 14210

Plaintiff,

SUMMONS

-vs-

Index No:

ST. THERESA ROMAN CATHOLIC CHURCH  
1974 Seneca Street #1  
Buffalo, New York 14210-2396

TRINITY CATHOLIC ACADEMY  
16 Hayden Street  
Buffalo, New York 14210-1864

CATHOLIC DIOCESE OF BUFFALO  
16 Columbus Avenue  
Buffalo, New York 14220-1506

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

Defendant.

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TO THE ABOVE NAMED DEFENDANT:

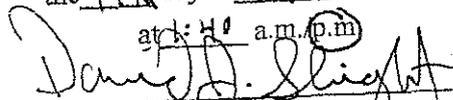
YOU ARE HEREBY SUMMONED, to answer the complaint in this action, and to serve a copy of your answer, or, if the summons is not served with a complaint, to serve a notice of appearance, on the Plaintiff's attorney within twenty (20) days after service of this summons, exclusive of the day of service, 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 Defendant who resides in Erie County, New York.

This paper received at the  
Erie County Attorney's Office  
from JAMES HOELSCHER on

the 17th day of November, 2010

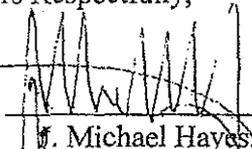
at 1:40 a.m. (p.m.)

  
Assistant County Attorney

FILED  
11/17/2010 10:21 AM  
ERIE COUNTY CLERK  
COURT & CLERK  
1101 FOLLIOTT  
BUFFALO, NY

DATED: Buffalo, New York  
November 10, 2010

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

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TINA M. MIKOWSKI,  
Plaintiff,

**COMPLAINT**

vs.

**Index No. : 2008-11851**

ST. THERESA ROMAN CATHOLIC CHURCH,  
TRINITY CATHOLIC ACADEMY,  
CATHOLIC DIOCESE OF BUFFALO and  
COUNTY OF ERIE

Defendants.

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The Plaintiff, TINA M. MIKOWSKI, by her attorneys, J. MICHAEL HAYES, for her Complaint against Defendants, ST. THERESA ROMAN CATHOLIC CHURCH, TRINITY CATHOLIC ACADEMY, CATHOLIC DIOCESE OF BUFFALO and COUNTY OF ERIE herein alleges:

1. Presently and at all times hereinafter mentioned, the Plaintiff, TINA M. MIKOWSKI, was and 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 the Defendant, ST. THERESA ROMAN CATHOLIC CHURCH (hereinafter ST. THERESA) is a domestic not for profit corporation authorized to do business in the State of New York with a church and offices for transacting business at 1974 Seneca Street, Buffalo, New York 14210.
3. Upon information and belief, presently and at all times hereinafter mentioned the Defendant, TRINITY CATHOLIC ACADEMY is a domestic not for profit corporation authorized to do business in the State of New York with a school located at 16 Hayden Street for the transaction of business located in the County of Erie and State of New York.
4. Upon information and belief, presently and at all times hereinafter mentioned, Defendant, CATHOLIC DIOCESE OF BUFFALO, was and is a domestic not for profit corporation authorized to do business in the State of New York with offices at 795 Main Street, Buffalo, New York.

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ERIE COUNTY CLERK  
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5. Upon information and belief, 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, State of New York.

6. Upon information and belief, at all times hereinafter mentioned, the Defendant, ST. THERESA was the owner of a certain property located at 16 Hayden Street, Buffalo, New York, New York.

7. Upon information and belief, at all times hereinafter mentioned, the Defendant, TRINITY CATHOLIC ACADEMY rented, leased, occupied, and/or used the aforementioned property located at 16 Hayden Street, Buffalo, New York.

8. Upon information and belief, the Defendant, CATHOLIC DIOCESE OF BUFFALO, operated, ran, controlled, staffed, and/or directed the Defendants, ST. THERESA and TRINITY CATHOLIC ACADEMY.

9. Upon information and belief, at all times hereinafter mentioned, the Defendants, ST. THERESA, TRINITY CATHOLIC ACADEMY and/or the CATHOLIC DIOCESE OF BUFFALO were responsible for the snow and ice removal at the property located at 16 Hayden Street, Buffalo, New York.

10. Upon information and belief, on or about December 10, 2008, and prior thereto, Defendants, ST. THERESA ROMAN CATHOLIC CHURCH, TRINITY CATHOLIC ACADEMY, and/or the CATHOLIC DIOCESE OF BUFFALO, through their officers, agents, servants and/or employees were responsible for the maintenance, upkeep, operation, control, snow/ice removal and inspection of the aforesaid premises generally, including but not limited to, its parking lot, approaches, walkways, entrances and exits thereto and/or a part thereof located at or about 16 Hayden Street, Buffalo, New York.

11. Upon information and belief, the aforementioned premises were negligently, improperly or inadequately maintained, inspected, shoveled and salted thereby causing and permitting it to be covered with snow and ice which was inadequately and/or improperly removed, disposed and/or placed, thereby permitting the continuance and/or causing and creating dangerous and hazardous conditions.

12. Upon information and belief, the Defendants, ST. THERESA'S, TRINITY CATHOLIC ACADEMY and/or the CATHOLIC DIOCESE OF BUFFALO, through their officers, agents, servants and/or employees, had actual and/or constructive notice of the aforesaid conditions and failed to remedy same within a reasonable period of time.

13. Upon information and belief, on or about the 10<sup>th</sup> day of December, 2008, Plaintiff, TINA M. MIKOWSKI, was lawfully upon the premises located at 16 Hayden Street in the parking lot thereof in Buffalo, New York, when she was caused to fall.

14. Upon information and belief, the aforementioned incident was caused or contributed to due to the negligence and careless conduct on the part of the Defendants, ST. THERESA'S, TRINITY CATHOLIC ACADEMY and/or the CATHOLIC DIOCESE OF BUFFALO, their officers, agents, servants and/or employees.

15. Upon information and belief, Plaintiff, TINA M. MIKOWSKI, is and/or has received MEDICAID provided by the Defendant, COUNTY OF ERIE.

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

17. 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 Defendant, COUNTY OF ERIE'S claims for medical reimbursement must be considered, finalized, allocated and determined by way of compromise, settlement and/or Court determination and said Defendant has refused to join as a party plaintiff.

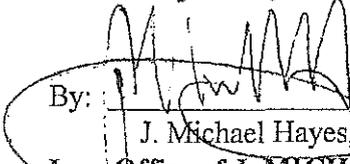
18. Upon information and belief this action falls within one or more of the exceptions set forth in Article 16 of CPLR of the State of New York and/or the aforesaid provisions of said article do not apply to the within action.

19. Upon information and belief, as a result of the foregoing, Plaintiff sustained severe and serious personal injuries all to her damage in a sum in excess of all the jurisdictional limits of the lower courts of the State of New York.

WHEREFORE, Plaintiff, TINA M. MIKOWSKI, demands Judgment against the Defendants, ST. THERESA'S ROMAN CATHOLIC CHURCH, TRINITY CATHOLIC ACADEMY and the CATHOLIC DIOCESE OF BUFFALO for and amount in excess of the jurisdictional limits of all lower courts of the State of New York together with the costs and disbursements, and further demands that an allocation of the proceeds/recovery, if any, between Plaintiff, TINA M. MIKOWSKI and the COUNTY OF ERIE and for such other and further relief as to this Court may be just, proper and equitable.

DATED: Buffalo, New York  
November 10, 2010

Yours Respectfully,

By: 

J. Michael Hayes, Esq.

**Law Office of J. MICHAEL HAYES**

*Attorney for the Plaintiff*

69 Delaware Avenue - Suite 1111

Buffalo, New York 14202

Telephone: (716) 852-1111