(9)

COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE

DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

May 14, 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:	*Whitfield, Diane by Legal Guardian David Shelton v. County of Erie, et al.*
Document Received:	Notice of Claim
Name of Claimant:	David Shelton 154 Goulding Buffalo, New York 14208
Claimant's attorney:	Denis J. Bastible, Esq. Cellino & Barnes, P C. 350 Main Street 2500 Main Place Tower Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: Jeremy Toth
Jeremy C. Toth
Second Assistant County Attorney

JCT:dld
Enclosure

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE
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This paper received at
Erie County Clerk's Office
on the 12 day of Apr/2013
at 10:43 a.m. p.m.
by [illegible]
Deputy Clerk

DIANE WHITFIELD by Legal Guardian
DAVID SHELTON

Claimant

vs.

COUNTY OF ERIE
ERIE COUNTY MEDICAL CENTER CORPORATION

Respondents

NOTICE OF CLAIM

RECEIVED
APR 16 2013
ERIE COUNTY
DEPARTMENT OF LAW

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PLEASE TAKE NOTICE, that the above-named Claimant claims and demands from the Respondents, recompense for personal injuries sustained by Claimant by reason of the wrongful, unlawful, negligent and careless acts and omissions of Respondents, their agents, servants or employees, including but not limited to medical negligence and deviations in the standards of care and in support thereof, Claimant states:

1. The address of the Claimant is: 154 Goulding, Buffalo, New York 14208.

2. David Shelton is the legal guardian of his sister, DIANE WHITFIELD.

3. The Claimant is represented by Cellino & Barnes, P.C., 2500 Main Place Tower, 350 Main Street, Buffalo, New York, 14202-3725, (716) 854-2020.

4. Since approximately 2008, DIANE WHITFIELD has been a patient of facilities owned, operated, managed and run by Respondents COUNTY OF ERIE and ERIE COUNTY MEDICAL CENTER CORPORATION. These facilities include the Erie County Home, Erie County Medical Center and Terrace View Long-Term Care Facility.

5. That in approximately December of 2012, Respondents were negligent in their care of DIANE WHITFIELD and allowed the development of a bedsore/decubitus ulcer on Ms. Whitfield's sacral spine.

6. In late February early March of 2013, the agents, servants and employees or Respondents performed a medical procedure on the bedsore/decubitus ulcer without obtaining the informed consent of Ms. Whitfield's legal guardian.

7. That due to the continuing negligent care and treatment of Ms. Whitfield, the bedsore/decubitus ulcer has increased in size and has become infected and the infection is spreading to other parts of Ms. Whitfield's body.

8. There are permanent injuries including the need for future surgery and medical care.

9. That the agents, servants and employees of Respondents and facilities owned, operated, managed and run by Respondents have provided continuing care and treatment to Diane Whitfield.

10. That Respondent, ERIE COUNTY MEDICAL CENTER CORPORATION, is a Public Benefit Corporation organized and existing pursuant to the Laws of the State of New York.

11. That a condition precedent to a claim against Respondents is the service of a Notice of Claim.

12. The care and treatment provided to Claimant by Respondent deviated from accepted standards of care and was negligent.

13. By virtue of the negligence of the employees, agents and/or servants of the Respondents, Claimant has incurred medical and hospital expenses which are to date undetermined and will incur loss of earnings, impairment of health, permanent injuries and past, present and future pain and suffering.

14. Upon information and belief, Claimant will be obligated further medical expenses including drugs, medicines, treatment and/or surgery(ies) in an amount which cannot be reasonably calculated at this time.

TAKE NOTICE that Claimant demands payment of her claim as set forth above.

DATED: Buffalo, New York
March 28, 2013

CELLINO & BARNES, P.C.

BY: _____
Denis J. Bastible
Attorneys for Claimant
2500 Main Place Tower
350 Main Street
Buffalo, New York 14202-3725
(716) 854-2020

TO: County of Erie
Department of Law
95 Franklin Street, Room 1634
Buffalo, New York 14202

Erie County Medical Center Corporation
Administrative Office
462 Grider Street
Buffalo, New York 14215

VERIFICATION

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

Diane Whitfield by her Legal Guardian David Shelton, being duly sworn, deposes and says that he is the claimant in the within action; that he has read the foregoing NOTICE OF CLAIM and knows the contents thereof; that the same is true to the knowledge of the deponent, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes them to be true.

David Shelton

Diane Whitfield by her Legal Guardian
David Shelton

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

On the 16th day of April, in the year 2013 before me, the undersigned, personally appeared David Shelton, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Wiley H. Simmons

Notary Public/Commissioner of Deeds

WILEY H. SIMMONS III
Notary Public, State of New York
Qualified in Erie County
Reg. No. 01SI6245229
My Commission Expires July 18, 2015