(12)

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 23, 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:	*Evans, Dawn v. County of Erie, Erie County Sheriff's Department and Town of Elma*
Document Received:	Notice of Claim
Name of Claimant:	Dawn Evans 2321 West Blood Road East Aurora, New York 14052
Claimant's attorney:	SPADAFORA & VERRASTRO, LLP 2 Symphony Circle Buffalo, New York 14201

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
Attachment

This paper received at the
Erie County Attorney's Office
from Nicole Williamson on
the 21st day of May, 2013
at 12:55 a.m./p.m.
Assistant County Attorney
Michael Liszewski

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

In the Matter of the Claim of

DAWN EVANS

Claimant

- vs -

COUNTY OF ERIE,
ERIE COUNTY SHERIFF'S DEPARTMENT and
TOWN OF ELMA

Respondents

NOTICE OF CLAIM

PLEASE TAKE NOTICE, that DAWN EVANS has claims and hereby makes claims against the COUNTY OF ERIE, ERIE COUNTY SHERIFF'S DEPARTMENT and/or TOWN OF ELMA for personal injuries and damages sustained, and pursuant to statutes in such cases made and provided, does hereby make claims against the COUNTY OF ERIE, ERIE COUNTY SHERIFF'S DEPARTMENT and/or TOWN OF ELMA, and in support thereof, state:

1. The address of the Claimant, DAWN EVANS, is 2321 West Blood Rd., East Aurora 14052 New York.

2. The name and address of the Attorneys for the Claimant are:

SPADAFORA & VERRASTRO
2 Symphony Circle
Buffalo, New York 14201
(716) 854-1111

3. This claim is for damages resulting from emotional injuries and/or distress caused to the Claimant, DAWN EVANS, as a result of the negligence, carelessness and recklessness of the COUNTY OF ERIE, ERIE COUNTY SHERIFF'S DEPARTMENT and/or TOWN OF ELMA.

4. This claim arises from the emotional injuries and/or emotional distress sustained by the Claimant, DAWN EVANS, as the result of the conduct of various employees of the COUNTY OF ERIE, ERIE COUNTY SHERIFF'S DEPARTMENT and/or TOWN OF ELMA, with said conduct occurring on or around February 25, 2013. It is alleged, upon information and belief, that officers employed by the ERIE COUNTY SHERIFF'S DEPARTMENT, including but not limited to Detective Parisi, did divulge and disclose information to the public relative to the circumstances surrounding the death of my daughter, Jessica Mucha, and said information was also disclosed by an employee of the TOWN OF ELMA, Jennifer Ginter, and subsequently posted on a social media site, all in violation of federal, state and county statutes, rules and ordinances, including all HIPAA rules in effect on said date.

5. That the injuries sustained by the Claimant, DAWN EVANS, caused as the result of the negligence, carelessness and recklessness of, among others, the COUNTY OF ERIE, ERIE COUNTY SHERIFF'S DEPARTMENT and/or TOWN OF ELMA, its agents, servants and/or employees, were the infliction of severe emotional distress and embarrassment and anxiety and loss of sleep. As the result of the disclosure of information relative to the cause of my daughter's passing and the publication on a social media site, my family and friends were notified of her passing before I had learned of her death. In addition, I would have never disclosed the cause of her death to any person, including friends and members of my family, since the cause of death was a very personal and private matter. At the present time, Claimant is still suffering from her injuries sustained or the residual effects thereof.

6. The foregoing injuries and damages were sustained as a result of the negligence, carelessness and recklessness of the COUNTY OF ERIE, ERIE COUNTY SHERIFF'S DEPARTMENT and/or TOWN OF ELMA, its respective officers, agents, servants and/or employees, while acting within the scope of their employment, by divulging and disclosing said protected and/or private information and in failing to properly train its officers, servants, agents and/or employees in the proper handling and disclosure of such information and in failing to implement proper policies and procedures which would prohibit and/or prevent the disclosure of such information.

7. Upon information and belief, the negligence, carelessness and/or recklessness on the part of the COUNTY OF ERIE, ERIE COUNTY SHERIFF'S DEPARTMENT and/or TOWN OF ELMA, and its officers, agents, servants and/or employees during the course of the performance of their duties, causing, creating and/or contributing to the injuries of the Claimant, DAWN EVANS, and rendering the COUNTY OF ERIE, ERIE COUNTY SHERIFF'S DEPARTMENT and/or TOWN OF ELMA liable for Claimant's damages including, but are not limited to:

a) Failing to properly train its officers, servants, agents and/or employees in the proper handling of such protected, confidential and/or private information;

b) Failing to implement proper policies and procedures which would prohibit and/or prevent the disclosure of such protected, confidential and/or private information.

c) In causing and/or creating an environment in which the disclosure of such protected, confidential and/or private information would be disclosed.

8. By reason of the carelessness, negligence and recklessness of the COUNTY OF ERIE, ERIE COUNTY SHERIFF'S DEPARTMENT and/or TOWN OF ELMA, its officers, agents, servants and/or employees as aforesaid, Claimant, DAWN EVANS, has sustained severe emotional distress, embarrassment and suffers from extreme anxiety, loss of sleep and loss of weight and is confined to her house as a result.

9) The claimant DAWN EVANS may make claims for any and all damages that she would be entitled to receive as to the aforesaid incident as a result of the carelessness, recklessness and negligence of the COUNTY OF ERIE, ERIE COUNTY SHERIFF'S DEPARTMENT and/or TOWN OF ELMA by and through its agents, servants and/or employees of aforesaid.

The items of damages and injuries claimed by DAWN EVANS are as follows:

a) Therapy and counseling expenses and any and all other expenses related to care, treatment and attempted cure of injuries sustained;

b) Anxiety medication;

c) Mental anguish, distress and/or loss of sleep and appetite;

d) Emotional injuries and residuals of same;

e) Other special and general damages as they manifest themselves subsequent to the date of this notice.

10) That upon your failure to pay such claims within the statutory period provided therefor, it is the intention of the Claimants to commence an action against said COUNTY OF ERIE, ERIE COUNTY SHERIFF'S DEPARTMENT and/or TOWN OF ELMA, and such others as may be liable, to recover damages sustained by Claimant as hereinabove set forth.

WHEREFORE, the Claimant respectfully request their claim be adjusted and paid as provided by law.

DATED: May 17, 2013

DAWN EVANS

STATE OF NEW YORK)
COUNTY OF ERIE) S S . . .

DAWN EVANS, being duly sworn, deposes and says: That she is the Claimant, above-named in the within action; that she has read the foregoing **NOTICE OF CLAIM** and knows the contents thereof; that same is true to her own knowledge except as to those matters stated to be alleged on information and belief, and as to those matters, she believes it to be true.

Dawn Evans
DAWN EVANS

Sworn to before me this
17 day May, 2013.

RENEE C. NOODY
Notary Public, State of New York
Qualified in Erie County
My Commission Expires May 29, 2015