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

August 1, 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:	*Kachelmeyer, David v. County of Erie, Erie County Department of Public Works, Village of Lancaster, Town of Lancaster*
Document Received:	Notice of Claim
Name of Claimant:	David Kachelmeyer 30 Edgewood Road Lancaster, New York 14086
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: Michelle Parker
Michelle M. Parker
First Assistant County Attorney

MMP:dld
Enc.

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE
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This paper received at the
Erie County Attorney's Office
from Steve Simon on
the 24 day of July, 2013
at 10:15 a.m./p.m.

Assistant County Attorney

DAVID KACHELMEYER

Claimant,

v.

COUNTY OF ERIE
ERIE COUNTY DEPARTMENT OF
PUBLIC WORKS
VILLAGE OF LANCASTER
TOWN OF LANCASTER

Respondents,

****

NOTICE OF CLAIM

PLEASE TAKE NOTICE, that the above named claimant claims and demands from the respondents, County of Erie, Erie County Department of Public Works, Village of Lancaster and Town of Lancaster, recompense for personal injuries and damages sustained by claimant by reason of the wrongful, negligent and careless acts and omissions of the respondents, their agents, servants and/or employees, and in support there of, the claimant states:

1. Claimant's address is 30 Edgewood Road, Lancaster, New York 14086.

2. The claimant is represented by Cellino & Barnes, P.C. with offices located at 2500 Main Place Tower, 350 Main Street Buffalo, New York 14202, telephone (716) 854-2020.

3. That on June 12, 2013 at approximately 4:00 p.m., David Kachelmeyer was riding his bicycle in a northerly direction on Sixth Street in the Village of Lancaster and was riding along the west side of the road when his bicycle rode into a sewer grate which was located at a significantly lower depth than the surrounding roadway. He was caused to be thrown from his bicycle to the ground and sustained physical injuries which included a fractured right clavicle. This injury caused the need for open reduction internal fixation surgery.

4. By virtue of the negligence of the employees, agents or servants of the County of Erie, Erie County Department of Public Works, Village of Lancaster and Town of Lancaster, claimant has incurred medical and hospital expenses, which are to date undetermined and will incur loss of earnings, impairment of health and permanent injuries.

5. Upon information and belief, claimant will be obligated to incur further medical expenses including drugs, medicines and prosthetic devices, the amount of which cannot be reasonably calculated at this time.

6. Upon information and belief, respondents are the entities responsible for constructing, maintaining and repairing the road commonly known as Sixth Street in the Village of Lancaster, County of Erie and State of New York.

7. The respondents had actual and constructive notice of a sewer grating depressed below the roadway in front of 73 Sixth Street.

8. The respondents created the aforementioned dangerous and defective sewer grate condition by applying asphalt on top of the existing roadway which caused the level of the roadway to be raised above the level of the sewer grate.

TAKE NOTICE that claimant demands payment of his claim as set forth above.

DATED: Buffalo, New York
July 3, 2013

Yours, etc.,

CELLINO & BARNES, P.C.

By: _____

Denis J. Bastible, Esq.
Attorneys for Plaintiff
2500 Main Place Tower
350 Main Street
Buffalo, NY 14202-3725
(716) 854-2020

VERIFICATION

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

David Kachelmeyer, being duly sworn, deposes and says that he is the plaintiff 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 Kachelmeyer

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

LINDA POTTS
Notary Public - State of New York
NO. 01PO6188094
Qualified in Niagara County
My Commission Expires 2016

On the 8 day of July, in the year 2013 before me, the undersigned, personally appeared David Kachelmeyer, 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 they 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.

Linda Potts
Notary Public/Commissioner of Deeds