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

July 9, 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:	*Burnell, Dejuan A. v. City of Buffalo and County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	Dejuan A. Burnell 2590 Elmwood Avenue, Apt. 4 Kenmore, New York 14217
Claimant's attorney:	Cheryl M. Reed, Esq. William K. Mattar, P.C. 6720 Main Street, Suite 100 Williamsville, New York 14221-5986

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: _____
Jeremy C. Toth
Second Assistant County Attorney
jeremy.toth@erie.gov

JCT/did
Enc.

STATE OF NEW YORK
COUNTY OF ERIE

IN THE MATTER OF THE CLAIM OF:

DEJUAN A. BURNELL
2590 Elmwood Avenue
Apt. 4
Kenmore, NY 14217

Claimant,

-against-

CITY OF BUFFALO, NEW YORK
Law Department
City Hall
Room 1101
Buffalo, NY 14202

COUNTY OF ERIE, NEW YORK
Department of Law
95 Franklin Street
Suite 1634
Buffalo, NY 14202

Respondent.

RECEIVED
JUL 5 - 2013
ERIE COUNTY
DEPARTMENT OF LAW

NOTICE OF CLAIM

PLEASE TAKE NOTICE that **DEJUAN A. BURNELL**, hereby makes claim against the **CITY OF BUFFALO** and **COUNTY OF ERIE** in support thereof Claimant alleges:

1. The names and post office address of the claimant and his attorney are:

Claimant: Dejuan A. Burnell
2590 Elmwood Avenue
Apartment 4
Kenmore, New York 14217

Attorney: William Mattar, P.C.
6720 Main Street, Suite 100
Williamsville, New York 14221
(716) 633-3535

2. The nature of the claim is: Claimant, Dejuan A. Burnell was caused to suffer serious personal injuries while lawfully driving northbound on Humboldt Parkway in the City of Buffalo, County of Erie and State of New York when a motor vehicle owned by Annette Y. Moseley and operated by Dara Rene Moseley, collided with Mr. Burnell's vehicle. All parties claim to have a green traffic signal. See attached police report as **Exhibit A.**

3. The time and place in which the matter arose: On or about April 27, 2013, at about 4:10 p.m., Claimant, Dejuan A. Burnell was lawfully traveling northbound on Humboldt Parkway adhering to the green traffic signaling device in the City of Buffalo, County of Erie and State of New York, when a motor vehicle owned by Annette Y. Moseley and operated by Dara Rene Moseley struck the rear driver's side door of Claimant's vehicle - all parties claimed to have a green traffic signal.

4. The City of Buffalo and Erie County are liable by reason of poor road design, construction and maintenance, lack of adequate traffic control devices, unsafe and improper traffic control device maintenance and placement, inadequate and/or missing warning signs or warning devices to warn of the upcoming intersection, and/or other known patent or latent hazardous conditions.

5. The Claimant's damages and injuries occurred as a result of the negligence, carelessness, and reckless disregard for the safety of others including Claimant, Dejaun A. Burnell, by the City of Buffalo, NY, and Erie County, NY, in failing to provide a safe location to transit, in failing to maintain the area at intersection and traffic control device(s) in a

reasonably safe condition, along with other acts of negligence, carelessness and recklessness.

6. The items of damages claimed are: Dejuan A. Burnell's personal injury, past, present and future pain and suffering, past, present and future medical expenses, change of lifestyle and derivative claim. The damages claimed are resulting from the serious injuries suffered by Dejuan A. Burnell from the negligent acts of the City of Buffalo and the County of Erie, New York.

DATED: Williamsville, New York
July 2, 2013

WILLIAM MATTAR, P.C.
Cheryl M. Reed, Esq.
Attorney for Claimant
Office and P.O. Address
6720 Main Street
Suite 100
Williamsville, NY 14221-5986
(716)633-3535

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

I Dejuan A. Burnell, being duly sworn, depose and say that he is the Claimant in this action; that he has read the foregoing Notice of Claim and know the contents thereof; that the same is true to the knowledge of deponents, except as to matters therein stated to be alleged on information and belief, and that as to those matters they believe them to be true.

Dejuan A. Burnell

Sworn to before me this
1st day of July, 2013

Notary Public

Bridgette Dukarm
Notary Public - State of New York
No. 01DU6141707
Qualified in Erie County
My Commission Expires February 27, 14

EXHIBIT A

Page of Pages

Local Codes 687

13-117-0614

New York State Department of Motor Vehicles

POLICE ACCIDENT REPORT

MV-104A (6/04)

☐ AMENDED REPORT DMV COPY

Accident Date Month	Day	Year	Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene ☐ / Accident Reconstructed ☐	Left Scene	Police Photos
4	27	2013	SAT	1610	2	—	—		☐	☐ Yes ☐ No

VEHICLE 1

VEHICLE 1 - Driver License ID Number: 619347269 State of Lic.: NY

Driver Name - exactly as printed on license: Burnell, DeJUAN, AMAIR

Address (Include Number & Street): 601 Colvin AVE Apt. No.: 12

City or Town: BFIO State: NY Zip Code: 14216

Date of Birth: Month 10 Day 1 Year 85 Sex: M Unlicensed ☐ No. of Occupants: 3 Public Property Damaged ☐

Name - exactly as printed on registration: SAME Sex: Date of Birth: Month Day Year

Address (Include Number & Street): AS Apt. No. Haz. Mat Code Released ☐

City or Town: ABOVE State Zip Code

Plate Number: GBA6474 State of Reg.: NY Vehicle Year & Make: 2002 CHRY Vehicle Type: PAS Ins. Code: 069

Ticket/Arrest Number(s)

Violation Section(s)

Check if involved vehicle is:
☐ more than 95 inches wide;
☐ more than 34 feet long;
☐ operated with an overweight permit;
☐ operated with an overdimension permit.

VEHICLE 1 DAMAGE CODES

Box 1 - Point of Impact: 1
Box 2 - Most Damage: 11 2
Enter up to three more Damage Codes: 3 4 5

Vehicle Towed: By To

VEHICLE 2

☒ VEHICLE 2 ☐ BICYCLIST ☐ PEDESTRIAN ☐ OTHER PEDESTRIAN

VEHICLE 2 - Driver License ID Number: 942328806 State of Lic.: NY

Driver Name - exactly as printed on license: Moseley, DARA, RENE

Address (Include Number & Street): 71 THATCHER AVE Apt. No.

City or Town: BFIO State: NY Zip Code: 14215

Date of Birth: Month 10 Day 4 Year 93 Sex: F Unlicensed ☐ No. of Occupants: 3 Public Property Damaged ☐

Name - exactly as printed on registration: moseley, Annette, Y Sex: F Date of Birth: Month 5 Day 14 Year 36

Address (Include Number & Street): 35 Benwood AVE Apt. No. Haz. Mat. Code Released ☐

City or Town: BFIO State: NY Zip Code: 14214

Plate Number: DEP4211 State of Reg.: NY Vehicle Year & Make: 2012 CHEVR Vehicle Type: PAS Ins. Code: 011

Ticket/Arrest Number(s)

Violation Section(s)

Check if involved vehicle is:
☐ more than 95 inches wide;
☐ more than 34 feet long;
☐ operated with an overweight permit;
☐ operated with an overdimension permit.

VEHICLE 2 DAMAGE CODES

Box 1 - Point of Impact: 3
Box 2 - Most Damage: 2
Enter up to three more Damage Codes: 3 4 5

Vehicle Towed: By HAUCK To Paddock

Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.

Rear End 1. | Left Turn 3. | Right Angle | Right Turn 5. | Head On 7.

Sideswipe (same direction) 2. | Left Turn 0. | 4. | Right Turn 6. | Sideswipe (opposite direction) 8.

ACCIDENT DIAGRAM

9.

VEHICLE DAMAGE CODING:

1-13. SEE DIAGRAM ON RIGHT.

14. UNDERCARRIAGE
15. TRAILER
16. OVERTURNED
17. DEMOLISHED
18. NO DAMAGE
19. OTHER

Cost of repairs to any one vehicle will be more than $1000.
☐ Unknown/Unable to Determine ☐ Yes ☐ No

Reference Marker

Coordinates (If available)
Latitude/Northing:
Longitude/Easting:

Place Where Accident Occurred:
County ERIE ☒ City ☐ Village ☐ Town of BFIO
Road on which accident occurred E. FERRY @ Humbolt (Route Number or Street Name)
at 1) Intersecting street (Route Number or Street Name)
or 2) Feet Miles ☐N ☐S ☐E ☐W of (Milepost, Nearest Intersecting Route Number or Street Name)

Accident Description/Officer's Notes

V2 WAS traveling EB on E. FERRY. V1 WAS traveling NB on Humbolt. V2 WAS going thru the intersection when V1 ~~entern~~ entered the intersection

USE COVER SHEET N

	8	9	10	11	12	13	14	15	16	17 BY	TO 18	Names of all Involved	Date of Death Only
ALL INVO A	1	1	4	1	27	M	—	—	6	—	—	Burnell, DeJUAN, AMAIR	
B	1	3	4	1	37	M	—	—	6	—	—	Johnson, MyRON	
C	1	6	4	1	12	F	—	—	6	—	—	Johnson, MyLIA	
D	2	1	4	1	19	F	—	—	6	—	—	MoSpley, DARA, RENE	
E	2	3	4	1	76	F	—	—	6	—	—	Moseley, ANNette, Y	
F	1	4	4	1	11	M	—	—	6	—	—	mosepley, DONTe	

Rank Name	Badge/ID No.	NCIC No.	Precinct/Post Troop/Zone	Station/Beat/Sector	Reviewing Officer	Date/Time Reviewed
PO Fields, Christopher	3428	01401	E	4	[signature]	04-28-13 0:05