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 26, 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:	*Pim, Robert R., III v. Town of Amherst, Village of Williamsville and County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	Robert R. Pim, III 125 Oakgrove Drive Williamsville, New York 14221
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

JCTdld
Enclosure

RECEIVED
JUL 10 2013
ERIE COUNTY
DEPARTMENT OF LAW

IN THE MATTER OF THE CLAIM OF

Robert R. Pim III
125 Oakgrove Dr.
Williamsville, NY 14221
Claimant,

vs.

Town of Amherst, New York
Village of Williamsville, New York
County of Erie, New York
Defendant.

NOTICE OF CLAIM

TO: Town of Amherst, New York
Village of Wiliamsville, New York
County of Erie, New York

PLEASE TAKE NOTICE that Robert R. Pim hereby makes a Claim against the Town of Amherst, Village of Williamsville and the County of Erie, New York in support thereof, hereby alleges:

1. The name and address of the Claimant and his attorney are:

   Claimant: Robert R. Pim
   125 Oakgrove Dr.
   Williamsville, NY 14221;

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

2. The nature of the claim is: Claimant, Robert R. Pim III, suffered serious and permanent personal injuries when, while riding his bicycle, on Belmont Road near its intersection with North Ellicott Street in the Village of Williamsville, Town of Amherst, New York, the vehicle he was in was struck by a vehicle operated by Deborah Mikolajek and owned by Alfred Mikolajek. The contributing factors to the crash were a lack of proper notice of an approaching juncture in the road, a lack of speed bumps and/or other speed control devices, a lack of notice and/or requirement to reduce speed, and the lack of proper traffic control devices, as well as other defective road and roadside construction, maintenance, and design defects. Attached as **Exhibit A** is a copy of the police accident report.

3. The time, place, and manner in which the claim arose: Claimant, Robert R. Pim III, a bicyclist, was riding on Belmont Street at approximately 4:29 p.m. on May 20, 2013, in

the Village of Williamsville, Town of Amherst, New York. The Claimant was approaching a stop sign at the intersection of Belmont and North Ellicott Street, when his bike was struck by the vehicle being operated by Deborah Mikolajek and owned by Alfred Mikolajek. The accident was due in whole or in part to, without limitation, lack of proper notice of an approaching juncture in the road, a lack of speed bumps and/or other speed control devices, a lack of notice and/or requirement to reduce speed, and the lack of proper traffic control devices, as well as other defective road and roadside construction, maintenance, and design defects. The bicycle Mr. Pim was riding was struck by the other vehicle which failed to stop at the stop sign and drove into Mr. Pim's bicycle. Mr. Pim suffered serious physical injuries including injuries to his clavicle, chest, spinal cord, back and other body parts. Upon information and belief, Mr. Pim will require long-term therapy and treatment and will be unable to conduct his normal daily activities for an indefinite period as a result of his injuries from the accident, which will be of a permanent or indefinite duration. In addition, Mr. Pim has and will continue to incur expenses for his medical treatment for these injuries.

4. The Village of Williamsville, Town of Amherst, and/or County of Erie, New York is liable by reason of, without limitation, the lack of proper notice of an approaching juncture in the road, a lack of proper notice of an approaching juncture in the road, a lack of speed bumps and/or other speed control devices, a lack of notice and/or requirement to reduce speed, and the lack of proper traffic control devices, as well as other defective road and roadside construction, maintenance, and design defects.

5. The items of damage claimed are: Robert R. Pim III personal injuries, past and future pain and suffering, inability to conduct his normal daily activities, expenses for treatment, change of lifestyle, and loss of enjoyment of life, all resulting from the serious and permanent injuries suffered.

6. Mr. Pim sustained serious injuries as defined in Article 51 of the Insurance Law of the State of New York, as amended, and has been caused to suffer and sustain personal injuries in and to the body, which are permanent in nature and has or may be caused to suffer economic loss in excess of the basic economic loss.

This claim is hereby presented for adjustment and payment.

DATED: July 9, 2013

Cheryl M. Reed, Esq.
WILLIAM K. MATTAR, P.C.
Attorney for Claimant
6720 Main Street, Suite 100
Williamsville, New York 14221
(716) 633-353

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

ROBERT R. PIM III 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.

ROBERT R. PIM III

Sworn to before me this
8th day of July, 2013.

Notary Public

LISA M. FAZIO-BEESON
Notary Public, State of New York
Qualified in Erie County
No. 01FA6207194
My Commission Expires June 8, 2017

EXHIBIT A

New York State Department of Motor Vehicles

POLICE ACCIDENT REPORT

MV-104A (3/04)

Local Codes: 13-331087 / RJAPU1000152

☒ AMENDED REPORT

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
5	20	2013	Monday	16:29	1	1	0		☐	☐ Yes ☒ No

VEHICLE 1

VEHICLE 1 - Driver License ID Number: 385515922 — State of Lic.: NY

Driver Name - exactly as printed on license: MIKOLAJEK, DEBORAH M

Address (Include Number and Street): 4 COUNTRY LA — Apt. No.:

City or Town: W SENECA — State: NY — Zip Code: 14224

Date of Birth: 6 20 1952 — Sex: F — Unlicensed: ☐ — No. of Occupants: 01 — Public Property Damaged: ☐

Name - exactly as printed on registration: MIKOLAJEK, ALFRED G — Sex: M — Date of Birth: 7 27 1950

Address (Include Number and Street): 4 COUNTRY LA — Apt. No.: — Haz. Mat. Code: — Released: ☐

City or Town: W SENECA — State: NY — Zip Code: 14224

Plate Number: DBH6636 — State of Reg.: NY — Vehicle Year & Make: 2004 FORD — Vehicle Type: SUBN — Ins. Code: 328

Tickets/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: 2

Enter up to three more damage codes: 1

Vehicle Sv: Towed: To:

VEHICLE 2 ☐ VEHICLE 2 ☒ BICYCLIST ☐ PEDESTRIAN ☐ OTHER PEDESTRIAN

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

Driver Name - exactly as printed on license: PIM III, ROBERT R

Address (Include Number and Street): 125 OAKGROVE — Apt. No.:

City or Town: WILLIAMSVILLE — State: NY — Zip Code: 14221

Date of Birth: 4 19 1995 — Sex: M — Unlicensed: ☐ — No. of Occupants: 01 — Public Property Damaged: ☐

Name - exactly as printed on registration: — Sex: — Date of Birth:

Address (Include Number and Street): — Apt. No.: — Haz. Mat. Code: — Released: ☐

City or Town: — State: — Zip Code:

Plate Number: — State of Reg.: — Vehicle Year & Make: — Vehicle Type: BICY — Ins. Code:

Tickets/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: — Box 2 - Most Damage:

Enter up to three more damage codes:

Vehicle Sv: Towed: To:

VEHICLE DAMAGE CODING:

1-13 SEE DIAGRAM ON RIGHT.

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

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

Rear End, Left Turn, Right Angle, Right Turn, Head On, Sideswipe (same direction), Left Turn, Right Turn, Sideswipe (opposite directions)

ACCIDENT DIAGRAM

See the last page of the MV-104A for the accident diagram.

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: AMHERST

Road on which accident occurred: 66 BELMONT (Route Number or Street Name)

at 1) Intersecting street: NORTH ELLICOTT ST (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

DRIVER #1 STOPPED AT STOP SIGN WEST BOUND ON BELMONT ST AND BEGAN TO GO WHEN A BICYCLIST CAME AT A HIGH RATE OF SPEED AND DID NOT STOP FOR STOP SIGN NORTH BOUND ON NORTH ELLICOTT ST. THE BICYCLIST STRUCK THE FRONT OF VEH #1 AND WAS EJECTED. BICYCLIST WAS WEARING A HELMET AND WAS TAKEN TO THE HOSPITAL.
WITNESS #1 - KIRK WALTER (716) 807-4467 Ext.

N

ALL INVOLVED

	8	9	10	11	12	13	14	15	16	17 BY	TO 18	Names of all involved	Date of Death Only
A	1	1	4	1	60	F	-	-	-			MIKOLAJEK, DEBORAH M	
B	B	1	D	3	18	M	01	02	6	11191ET	1405	PIM III, ROBERT R	
C													
D													
E													
F													

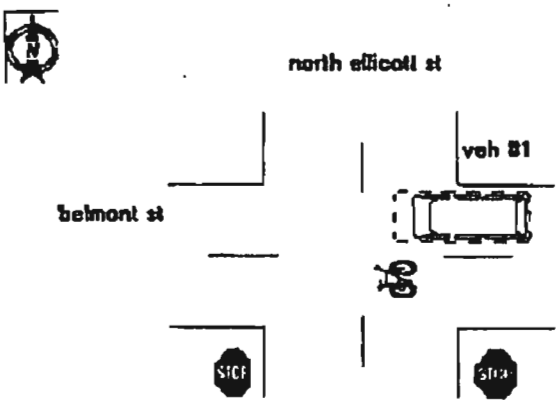
Officer's Rank and Signature	Badge/ID No.	NCIC No.	Precinct/Post Troop/Zone	Station/Beat Sector	Reviewing Officer	Date/Time Reviewed
SR. INV.	0028	01451			HOMBERGER, T	5/24/2013 15:57
Print Name in Full: T HOMBERGER						

New York State Department of Motor Vehicles

POLICE ACCIDENT REPORT

MV-104A (3/04)

Local Codes
13-331087
RJAPU1000152

☒ AMENDED REPORT

Accident Date			Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene ☐ / Accident Reconstructed ☐	Left Scene	Police Photos
Month	Day	Year								
5	20	2013	Monday	16:29	1	1	0		☐	☐ Yes ☒ No