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

September 18, 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:	*WS Empire LLC v. County of Erie and Town of West Seneca - 70 Empire Drive, West Seneca, New York*
Document Received:	Notice of Claim
Name of Claimant:	WS Empire LLC 70 Empire Drive West Seneca, New York
Claimant's attorney:	Jennifer Dougherty, Esq. Phillips Lytle LLP 3400 HSBC Center 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

NOTICE OF CLAIM

PLEASE TAKE NOTICE, that WS Empire LLC, pursuant to the statutes in such cases, made and provided, do hereby make claim against the County of Erie, New York ("County").

The name of my attorney is John G. Schmidt, Jr. of Phillips Lytle LLP and his address is 3400 HSBC Center, Buffalo, New York, and in support of such claim do state as follows:

1. My post office address is P.O. Box 902, Buffalo, New York, 14225.

2. This claim is one against the County for property damage and business interruption.

3. The time when the claim arose and the time when the injuries and damages were sustained was approximately 10:00 a.m. on the 13th day of June 2013.

4. The place where the injuries were sustained was 70 Empire Drive, West Seneca, New York ("Property").

5. The injuries and damages for which the claim is hereby made arose in the following manner: on the 13th day of June, 2013, the claimant herein, the owner of the Property located at 70 Empire Road, experienced significant flooding at the Property due to the inadequate maintenance or failure to maintain, inadequate design and installation and general layout of the drainage ways, culverts and roadside ditches (collectively the "Drainage System") surrounding the Property. The claimant contends that the County was negligent in that they allowed the Drainage System to exist in such a condition, which caused the flooding in the area. The County also failed and neglected to design, install and properly maintain adequate drainage and the Drainage System in and along the right of way of the County highways and in the general area surrounding the Property.

6. As far as I am now able to determine the injuries and damages sustained by me for which I may claim consist of the following: the loss of materials and supplies; water damage to the building, driveway and parking area at the Property; repair and cleanup costs related to the Property including building, driveway and parking area; business interruption, the loss of the full use of the Property and the damage to my business's reputation. The current estimated amount of damages as a result is approximately $10,000.

7. At this time, the Property still remains in danger of flooding during average and ordinary rain occurrences. I am unable to protect my Property from the flooding caused by the inadequately designed, installed and maintained drainage ways and Drainage System, which still exists.

WHEREFORE, I respectfully request that my claim be allowed and paid by the County.

Dated: September 13, 2013

By: Matthew R. Neil

Vice President
WS Empire LLC

STATE OF NEW YORK)
) SS:
COUNTY OF Erie)

On the 13th day of September in the year 2013, before me, the undersigned, personally appeared Matthew R. Neil in his capacity as Vice President of WS Empire LLC, 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.

CHARLENE J. REES
Lic. #01RE6214267
Notary Public-State of New York
Qualified in ERIE COUNTY
My Commission Expires 12/07/2013

Notary Public