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

September 30, 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:	*Thomas, Carstarphen v. County of Erie, Erie County Sheriff's Office and Sheriff Timothy B. Howard*
Document Received:	Notice of Claim
Name of Claimant:	Carstarphen Thomas 11581 Walden Avenue Alden, New York 14004
Claimant's attorney:	Richard A. Nicotra, Esq. Andrews, Bernstein,Maranto, & Nicotra, PLLC 420 Franklin Street 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
Enclosure

STATE OF NEW YORK
SUPREME COURT :: COUNTY OF ERIE

CARSTARPHEN THOMAS
Erie County Correctional Facility
11581 Walden Avenue
Alden, NY 14004

Claimant,

vs.

ERIE COUNTY
95 Franklin Street, Rm 1634
Buffalo, NY 14202

ERIE COUNTY SHERIFF'S OFFICE
10 Delaware Avenue
Buffalo, New York 14202

ERIE COUNTY SHERIFF TIMOTHY B. HOWARD
10 Delaware Avenue
Buffalo, New York 14202

Respondents.

NOTICE OF CLAIM

This paper received at the
Erie County Attorney's Office
from Sidney Disanzon
the 17th day of Sept, 2013
at 3:46 a.m./p.m.
Assistant County Attorney

PLEASE TAKE NOTICE, that the Claimant, CARSTARPHEN THOMAS, has and hereby intends to file a claim against ERIE COUNTY, ERIE COUNTY SHERIFF'S OFFICE, and ERIE COUNTY SHERIFF TIMOTHY B. HOWARD, and in support of said claim states the following:

1. The Post Office address of the Claimant is 11581 Walden Avenue, Alden, NY 14004.

2. The attorneys for Claimant are Andrews, Bernstein, Maranto & Nictora, PLLC, and their post office address is 420 Franklin Street, Buffalo, New York 14202, Telephone (716) 842-2200.

3. This claim arose as follows: While an inmate at the ERIE COUNTY CORRECTIONAL FACILITY on August 7, 2013, CARSTARPHEN THOMAS was being transferred to the courthouse from his cell at approximately 11:00 a.m. where he slipped and fell on a liquid substance on the floor, causing him to strike his head on the floor, and lose consciousness.

4. This incident was witnessed by another inmate, Shawn Driscoll, who immediately called for help. Upon responding to Mr. Driscoll's call, the corrections officers refused to administer any care or get Claimant any medical treatment.

5. Claimant, CARSTARPHEN THOMAS, did regain consciousness several minutes later; however, the corrections officers refused to get him any medical treatment.

6. Following this incident, Claimant, CARSTARPHEN THOMAS, has repeatedly reported head pain, dizziness, lower back pain, and right hand pain to Respondents, their agents, servants and/or employees, who refused to secure him medical treatment. Claimant has submitted ten (10) "sick slips" that have all gone unanswered.

7. That on August 16, 2013, the wheelchair that had been provided to Claimant was taken away from him. Claimant was also offered pain medication containing codeine. However, Claimant is allergic to codeine and Respondents, their agents, servants and/or employees are aware of this.

8. That Claimant's injuries and lack of medical care were caused solely due to the negligence, carelessness and recklessness on the part of Respondents, ERIE COUNTY, ERIE COUNTY SHERIFF'S OFFICE, and/or ERIE COUNTY SHERIFF TIMOTHY B. HOWARD, through their agents, servants and/or employees, as follows:

a. The respondents and/or their agents, servants or employees were negligent in creating a dangerous and hazardous condition;

b. The respondents and/or their agents, servants, or employees were

negligent in failing to maintain a reasonable and safe condition for the claimant;

c. The respondents and/or their agents, servants, or employees were negligent in failing to remedy the aforesaid condition;

d. The respondents and/or their agents, servants, or employees were negligent in failing to warn the claimant of the dangerous and hazardous condition;

e. The respondents and/or their agents, servants, or employees were negligent in failing to take proper measures to correct the dangerous condition;

f. The respondents and/or their agents, servants, or employees were negligent in failing to observe the dangerous condition;

g. The respondents and/or their agents, servants, or employees were negligent in training their staff regarding medical care following an injury;

h. The respondents and/or their agents, servants, or employees were negligent in securing proper medical treatment for Claimant;

i. The respondents and/or their agents, servants, or employees were negligent in denying Claimant the basic human right to medical treatment;

j. The respondents and/or their agents, servants, or employees were negligent in failing to respond to submissions of "sick slips" for medical treatment;

k. The respondents and/or their agents, servants, or employees were negligent in failing to create a safe environment for inmates;

l. The Respondents were otherwise negligent.

9. This Claim is for personal injuries, conscious physical and emotional pain and suffering of CARSTARPHEN THOMAS;

10. By virtue of the negligence and carelessness of ERIE COUNTY, ERIE COUNTY SHERIFF'S OFFICE, and ERIE COUNTY SHERIFF TIMOTHY B.

HOWARD, Claimant CARSTARPHEN THOMAS was caused to suffer serious, significant and permanent injuries to various parts of his body, including his lower back, head, and right hand. Claimant CARSTARPHEN THOMAS also suffered other injuries and complications as yet undetermined as a result of this incident and, by reason of the same, Claimant sustained damages in an amount which cannot be reasonably calculated at this time.

WHEREFORE, claimant requests that ERIE COUNTY, ERIE COUNTY SHERRIF'S OFFICE, and ERIE COUNTY SHERIFF TIMOTHY B. HOWARD compensate him for his injuries and expenses; and for such other and further relief as to this Court may seem just and proper.

Dated: September 17, 2013
Buffalo, New York

By: _____

Richard A. Nicotra, Esq.
ANDREWS, BERNSTEIN, MARANTO & NICOTRA, PLLC
Attorneys for Claimant
420 Franklin Street
Buffalo, New York 14202
(716) 842-2200

VERIFICATION

STATE OF NEW YORK :
COUNTY OF ERIE : ss.
CITY OF BUFFALO :

CARSTARPHEN THOMAS, being duly sworn, deposes and says that he is the Claimant in this action; that he has read the foregoing Notice of Claim in this action and knows the contents thereof; that the same is true to the knowledge of 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.

Carstarphen Thomas
CARSTARPHEN THOMAS

Sworn to before me this 9th
day of ~~August~~ September, 2013

Notary Public

STEVEN D. LEE
NOTARY PUBLIC, STATE OF NEW YORK
CHEMUNG COUNTY, LIC. # 01LE6231045
COMMISSION EXPIRES NOV. 15, 2014