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

November 13, 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:	*Salerno, Daniel D., Estate of, by Donna M. Kogut, Individually and as Executrix v. Town of Hamburg, Village of Hamburg and County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	Donna M. Kogut 4138 Middleham Park Hamburg, New York 14075
Claimant's attorney:	Steven M. Cohen Hogan Willig 2410 North Forest Road Getzville, New York 14068

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 : COUNTY OF ERIE

In the Matter of the Claim of

DONNA M. KOGUT, Individually, and as
Executrix of the Estate of
DANIEL D. SALERNO,

Claimant,

NOTICE OF CLAIM

TO: **TOWN OF HAMBURG**
VILLAGE OF HAMBURG
COUNTY OF ERIE

PLEASE TAKE NOTICE the claimant herein hereby makes a claim and demand against the TOWN OF HAMBURG, VILLAGE OF HAMBURG, and the COUNTY OF ERIE as follows:

1. The post office address of the Claimant is 4138 Middleham Park, Hamburg, New York.

2. The attorneys for the Claimant are HOGANWILLIG, whose post office address is 2410 North Forest Road, Suite 301, Amherst, New York 14068 and whose telephone number is (716) 636-7600.

3. The nature of the claim of DONNA M. KOGUT is for personal injuries, wrongful death, negligence, serious injury, medical and funeral expenses, economic loss, special damages, property damage, pre-impact terror, pain and suffering and other damages sustained due to the negligence, recklessness and/or carelessness of the TOWN OF HAMBURG, and/or its agents, servants or employees; the VILLAGE OF HAMBURG, and/or its agents, servants or employees; and the COUNTY OF ERIE, and/or its agents, servants or employees, as set forth below. In addition, DONNA M. KOGUT asserts a derivative claim herein.

4. DONNA M. KOGUT is the mother of DANIEL SALERNO, who was killed in a motorcycle accident on August 11, 2013 at the intersection of Big Tree Road and New York State Route 62, in the Town of Hamburg, County of Erie, State of New York.

5. DONNA M. KOGUT was appointed as the Executrix of the Estate of DANIEL D. SALERNO by the Erie County Surrogate's Court, pursuant to a Decree by Barbara Howe, Surrogate Court Judge, dated September 4, 2013. A copy of the letters testamentary is attached as **Exhibit A**.

6. The time and place where such claim accrued and the nature of said claim is as follows: upon information and belief, on August 11, 2013, at approximately 2:09 a.m., DANIEL D. SALERNO was caused to lose control of his motorcycle due to the negligent construction, design, maintenance, and lighting of the so-called "roundabout" at the intersection of Big Tree Road and New York State Route 62, resulting in his motorcycle crash and death.

7. Upon information and belief, DANIEL D. SALERNO lost control of his motorcycle by reason of the negligence, recklessness and/or carelessness of TOWN OF HAMBURG, VILLAGE OF HAMBURG, and COUNTY OF ERIE, in its maintenance, construction and design of said roadway which includes, but is not limited to various violations of the New York State Department of Transportation, OSHA and other State, federal and other statutes, rules and regulations.

8. That the aforementioned highways were part of the general highway system of the State of New York, and it was the duty of TOWN OF HAMBURG, VILLAGE OF HAMBURG, and COUNTY OF ERIE to maintain, construct and supervise them in such a manner that they would be in a safe condition for public travel.

HOGAN WILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 Toll Free: 800.636.5255 Fax: 716.636.7606 www.hoganwillig.com

9. Upon information and belief, TOWN OF HAMBURG, its agents, servants, employees and/or representatives; VILLAGE OF HAMBURG, its agents, servants, employees and/or representatives; and COUNTY OF ERIE, its agents, servants, employees and/or representatives, and without any fault or neglect on the part of Mr. Salerno contributing thereto, did cause the aforementioned accident by failing to keep and maintain said roadway in a safe condition; failing to properly inspect and maintain said roadway; failing to properly light said roadway; failing to warn of the existence of the dangerous condition of the roadway; failing to take the affirmative acts to remove the dangerous condition that the Defendants knew, or should have known, existed prior to the accident; failing to have sufficient personnel and equipment to properly inspect and maintain the aforementioned roadway; allowing a known dangerous condition to exist; failing to properly design, inspect and layout the said roadway; failing to properly light the said roadway; negligent maintenance, hiring negligent contractors to perform work on the subject roundabout and the surrounding areas and failure to inspect the work of said contractors.

10. That as a direct and proximate result of the negligence of TOWN OF HAMBURG, VILLAGE OF HAMBURG, and COUNTY OF ERIE, its agents, servants and/or employees, DANIEL D. SALERNO sustained fatal injuries, conscious pain and suffering, medical and funeral bills, property damage, serious injury, pre-impact terror, special damages, economic loss and death.

11. DONNA M. KOGUT, the mother of DANIEL D. SALERNO, by reason of the negligence, recklessness and/or carelessness of TOWN OF HAMBURG, VILLAGE OF HAMBURG, and COUNTY OF ERIE, was deprived of the support, services, companionship and inheritance of her son and will continue to be so deprived and makes a claim for same.

HOGAN WILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 Toll Free: 800.636.5255 Fax: 716.636.7606 www.hoganwillig.com

12. The Claim is being filed within ninety days after the Claim accrued, as required by law.

13. Claimant presents this claim to be paid by TOWN OF HAMBURG, VILLAGE OF HAMBURG and COUNTY OF ERIE.

Dated: November 7, 2013
Amherst, New York

Steven M. Cohen, Esq.
HOGANWILLIG, PLLC
Attorneys for Claimant
2410 North Forest Road, Suite 301
Amherst, New York 14068
Telephone: (716) 636-7600

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ERIE) SS:

DONNA M. KOGUT, individually and as executrix of the estate of DANIEL D. SALERNO being duly sworn, deposes and says that she is a Claimant in the foregoing claim, that she has read the foregoing Claim and know the contents thereof; that the same is true to her knowledge except as to those matters alleged to be upon information and belief as to those matters, she believe them to be true.

DONNA M. KOGUT, individually and as executrix of the estate of DANIEL D. SALERNO

Sworn to before me this
7th day of November, 2013

NOTARY PUBLIC

Steven M. Cohen
Notary Public – State of New York
Qualified in Erie County
My Commission expires March 6, 2015

EXHIBIT A

Certificate# 79440

Surrogate's Court of the State of New York
Erie County

File#: 2013-3463/A

Certificate of Appointment of Executor

IT IS HEREBY CERTIFIED that Letters for the Estate of the Decedent named below have been granted by this Court, and such Letters are unrevoked, are valid and are in full force as of this date.

Name of Decedent: **Daniel D Salerno**

Date of Death: August 11, 2013

Domicile: Erie County

Fiduciary Appointed: **Donna M Kogut**
4138 Middleham Park
Hamburg NY 14075

Letters Issued: LETTERS TESTAMENTARY

Letters Issued On: September 3, 2013

Limitations: NONE

and such Letters are unrevoked and in full force as of this date.

Dated: September 4, 2013
Buffalo, New York

IN TESTIMONY WHEREOF, the seal of the Erie County Surrogate's Court has been affixed.

WITNESS, Honorable Barbara Howe, Judge of the Erie County Surrogate's Court.

Joseph A. Shifflett, Chief Clerk
Erie County Surrogate's Court

This Certificate is Not Valid Without the Raised Seal of the Erie County Surrogate's Court

CERTIFICATION

The undersigned, an attorney at law, certifies that this copy of the foregoing, furnished by him/her has been compared by him/her with the original and that said copy is a true and complete copy thereof.

Arthur Ramyin Esq.