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

June 26, 2014

Mr. Scott W. Kroll, Clerk
Erie County Legislature
92 Franklin Street. 4th Floor
Buffalo, New York 14202

Dear Mr. Kroll:

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:	*Gallagher, Cleo O. v. County of Erie and Erie County Medical Center Corporation*
Document Received:	Notice of Claim
Name of Claimant:	Cleo O. Gallagher 507 South Street East Aurora, New York 14052
Claimant's attorney:	David H. Elibol, Esq. Gross Shuman Brizdle & Gilfillan, P.C. 465 Main Street Suite 600 Buffalo, New York 14203

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.

In the Matter of the Claim of

CLEO O. GALLAGHER,
507 South Street
East Aurora, New York 14052

Claimant,

-against-

COUNTY OF ERIE
95 Franklin Street, Suite 1634
Buffalo, New York 14202

ERIE COUNTY MEDICAL CENTER CORPORATION
462 Grider Street
Buffalo, New York 14215

Respondent.

NOTICE OF CLAIM

This paper received at the Erie County Attorney's Office from [illegible] on the 27 day of June, 2015 at [illegible] a.m./p.m.
Assistant County Attorney

TO: County of Erie, New York
County Attorney
95 Franklin Street, Suite 1634
Buffalo, New York 14202

Erie County Medical Center Corporation
462 Grider Street
Buffalo, New York 14215

PLEASE TAKE NOTICE, that the undersigned, Cleo O. Gallagher, pursuant to General Municipal Law §50-e, does hereby make a claim against the County of Erie and Erie County Medical Center Corporation (the "Respondents") for damages, and in support of such claim, states the following:

1. The name of the Claimant is Cleo O. Gallagher (the "Claimant") and her post office address is 507 South Street, East Aurora, New York 14052. Claimant's attorneys, Gross, Shuman, Brizdle & Gilfillan, P. C. (David H. Elibol, Esq., of Counsel), have their offices at 465 Main Street, Suite 600, Buffalo, New York, 14203.

2. The nature of the claim of the Claimant is for personal injuries, including pain and suffering, medical expenses, lost wages, emotional and mental distress, loss of ability to enjoy life, and for attendant damages and losses for which the proximate and contributing cause was negligence, carelessness, and recklessness of the Respondents, their agents, servants and/or employees.

3. The time when the claim arose and the time when the injuries were sustained by Claimant was on the 30th day of March 2014 at approximately 12:04 a.m. on Sweet Home Road at or near its intersection with Rensch Road in the Town of Amherst, New York. The claim arose when the Claimant was lawfully crossing the street in a crosswalk and was struck by a vehicle owned by the Respondents and operated by Christopher Tanski, an employee of Respondents. A copy of the Police Accident Report is attached as **Exhibit A**. Upon information and belief, the above-described incident and injuries were caused by and arose as a result of the negligence, carelessness, recklessness of the Respondents, their agents, servants and/or employees in, among other things: their ownership, operation, possession, management, maintenance, upkeep, repair and control of the motor vehicle; failing to obey traffic laws; failing to heed and obey lawfully placed traffic signals, controls, markings and signs in the vicinity of the accident; operating the vehicle at an unreasonable rate of speed under the circumstances and conditions then and there prevailing; failing to have the vehicle under control; failing to yield right of way; failing to stop, thus causing the accident; failing to make timely and proper use of brakes; failing to make timely and proper use of steering mechanisms; failing to observe the Claimant in sufficient time so as to avoid the accident; failing to keep a proper lookout; failing to see what should have been seen; being inattentive; failing to exercise due care; failing to warn

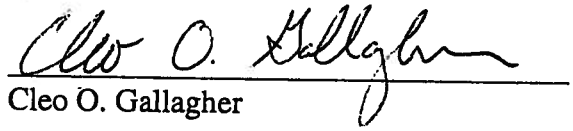
the Claimant; failing to take proper and adequate evasive action to avoid the accident, which in the exercise of reasonable care, could and should have been avoided; and otherwise failing to comply with the Rules of the Road and applicable provision of the Vehicle and Traffic Law or other applicable law. The Respondents' liability is also vicarious in nature.

4. The items of damage or injuries claimed by the Claimants so far as is now practicable consist of : a compression fracture of the lumbar spine, with resulting pain and suffering, including loss of enjoyment of life, mental anguish, anxiety and fear, medical expenses, lost wages, and all of the damages available under applicable law.

PLEASE TAKE FURTHER NOTICE, that unless said claim is adjusted and paid by the Respondents within thirty (30) days from the date of service of this Notice of Claim, the Claimant intends to commence an action in the Supreme Court of the State of New York, County of Erie, against the Respondents for a sum which exceeds the jurisdictional limit of all lower courts which would otherwise have jurisdiction, together with interest, costs and disbursements.

WHEREFORE, the Claimant requests that this claim be allowed and paid by the Respondents.

Dated: Buffalo, New York
June 24, 2014



Cleo O. Gallagher

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

Cleo O. Gallagher being duly sworn, deposes and states that deponent is a Claimant in the within action; that deponent has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to her own knowledge, except as to matters therein stated to be alleged upon information and belief, and that as to those matters, she believes it to be true.

Cleo O. Gallagher

Cleo O. Gallagher

Subscribed and sworn to before me this 24th day of June, 2014.

Notary Public

Doc #417721.1

EXHIBIT A

Local Codes: 14-020490 / R1EX262WBX46

☐ AMENDED REPORT

New York State Department of Motor Vehicles

POLICE ACCIDENT REPORT

MV-104A (6/04)

19: 66

Accident Date Month	Day	Year	Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene	Left Scene	Police Photos
3	30	2014	Sunday	00:04	2	1	0	☐ Accident Reconstructed ☐	☐	☐ Yes ☑ No

20: –

VEHICLE 1

☐ VEHICLE ☐ BICYCLIST ☑ PEDESTRIAN ☐ OTHER PEDESTRIAN

2 / 13

VEHICLE 1- Driver License ID Number: 594867453 — State of Lic.: NY

Driver Name - exactly as printed on license: TANSKI, CHRISTOPHER T

Address (Include Number and Street): 4226 DEER LAKES DR — Apt. No.:

City or Town: AMHERST — State: NY — Zip Code: 14228

3 / 2

Date of Birth Month	Day	Year	Sex	Unlicensed	No. of Occupants	Public Property Damaged
3	10	1979	M	☐	01	☐

Name - exactly as printed on registration: ERIE COUNTY, — Sex: — Date of Birth Month / Day / Year:

4 / 4

Address (Include Number and Street): 95 FRANKLIN ST — Apt. No.: — Haz. Mat. Code: – — Released ☐

City or Town: BUFFALO — State: NY — Zip Code: 14202

5 / 5

Plate Number	State of Reg.	Vehicle Year & Make	Vehicle Type	Ins. Code
R26561	NY	2012 CHEV	SUBN	994

Ticket/Arrest Number(s):

6 / 4

Violation Section(s):

7 / 5

VEHICLE 1 — 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 2
Enter up to three more damage codes: 3 4 5
Vehicle By:
Towed To:

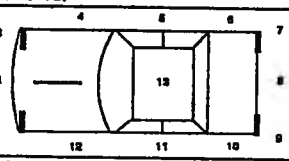
VEHICLE 2 — Check if involved vehicle is:
☐ more than 95 inches wide;
☐ more than 34 feet long;
☐ operated with an overweight permit;
☐ operated with an overdimension permit.

VEHICLE 2 DAMAGE CODES
Box 1 - Point of Impact: 1 2
Box 2 - Most Damage:
Enter up to three more damage codes: 3 4 5
Vehicle By:
Towed To:

VEHICLE DAMAGE CODING:

1-13 SEE DIAGRAM ON RIGHT.

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



VEHICLE 2

Driver License ID Number: — State of Lic.:

Driver Name - exactly as printed on license: GALLAGHER, CLEO O

Address (Include Number and Street): 507 SOUTH STREET — Apt. No.:

City or Town: EAST AURORA — State: NY — Zip Code: 14052

Date of Birth Month	Day	Year	Sex	Unlicensed	No. of Occupants	Public Property Damaged
8	26	1993	F	☐	01	☐

Name - exactly as printed on registration: , — Sex: — Date of Birth Month / Day / Year:

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

City or Town: — State: — Zip Code:

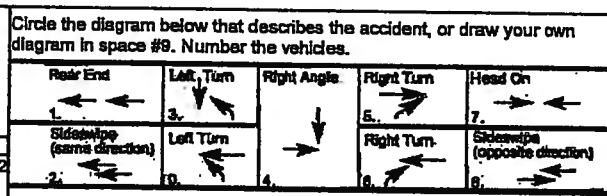
Plate Number	State of Reg.	Vehicle Year & Make	Vehicle Type	Ins. Code
			PED	

Ticket/Arrest Number(s):

Violation Section(s):

21: –
22: –
23: 1
24:
25: 7

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



26: 77

ACCIDENT DIAGRAM

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

9.

27: 1

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

28: 2

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: SWEET HOME ROAD (Route Number or Street Name)

at 1) Intersecting street: RENSCH ROAD (Route Number or Street Name)

or 2) ____ feet ____ miles ☐ N ☐ S ☐ E ☐ W of ____ (Milepost, Nearest Intersecting Route Number or Street Name)

29: –

Accident Description/Officer's notes

Operator of the vehicle states he was north on Sweethome Road and attempted to slow down to stop at the red traffic signal to Rensch Road. Operator further states he lost control on the snow/ice covered roadway causing him to cross into the southbound lane of traffic striking a pedestrian that was walking east across Sweethome road. Pedestrian states she observed a white car stopped at the red traffic light on Sweethome Road and began to walk east across Sweethome

30: –

USE COVER SHEET: 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	35	M	–	–	–			TANSKI, CHRISTOPHER	
B	P	–	–	7	20	F	06	12	6	tca 242	1423	GALLAGHER, CLEO O	
C													
D													
E													
F													

Officer's Rank and Signature	Badge/ID No.	NCIC No.	Precint/Post Troop/Zone	Station/Beat Sector	Reviewing Officer	Date/Time Reviewed
DEPUTY	0086	01400			RACZYNSKI, J	3/31/2014 12:37

Print Name in Full: C SOLURI

Local Codes
14-020490
R1EX262WBX46

New York State Department of Motor Vehicles

POLICE ACCIDENT REPORT

MV-104A (6/04)

☐ 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
3	30	2014	Sunday	00:04	2	1	0	☐ / ☐	☐	☐ Yes ☑ No

VEHICLE ☐ VEHICLE ☐ BICYCLIST ☐ PEDESTRIAN ☐ OTHER PEDESTRIAN

VEHICLE: Driver License ID Number / State of Lic. / Driver Name (Last, First, Middle) / Address (Include Number and Street) / City or Town / State / Zip Code / Date of Birth / Sex / Injured / Non-Motorist / Public Property Damaged / Vehicle Owner's Name (Last, First, Middle) / Address (Include Number and Street) / Vehicle Year / Vehicle Make / Vehicle Model / Vehicle Color / Vehicle Identification Number / Registration Number / Vehicle Registered / Insurance Company / Policy Number / Vehicle Damaged / Damage Code / Vehicle Towed

VEHICLE: Driver License ID Number / State of Lic. / Driver Name (Last, First, Middle) / Address (Include Number and Street) / City or Town / State / Zip Code / Date of Birth / Sex / Injured / Non-Motorist / Public Property Damaged / Vehicle Owner's Name (Last, First, Middle) / Address (Include Number and Street) / Vehicle Year / Vehicle Make / Vehicle Model / Vehicle Color / Vehicle Identification Number / Registration Number / Vehicle Registered / Insurance Company / Policy Number / Vehicle Damaged / Damage Code / Vehicle Towed

VEHICLE: ☐ Bus ☐ more than 15 passengers ☐ more than 15 passengers ☐ operated with an overweight permit ☐ operated with an overdimensional permit / Vehicle Damaged / Damage Codes / Vehicle Towed

VEHICLE: ☐ Bus ☐ more than 15 passengers ☐ more than 15 passengers ☐ operated with an overweight permit ☐ operated with an overdimensional permit / Vehicle Damaged / Damage Codes / Vehicle Towed

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
1.	3.		5.	7.
Sideswipe (same direction)	Left Turn		Right Turn	Sideswipe (opposite direction)
2.	0.	4.	6.	8.

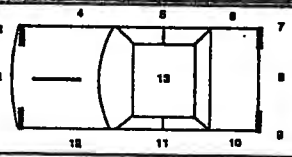
ACCIDENT DIAGRAM

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

Road on which accident occurred (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

Road to the UB Campus but was unsure what the pedestrian crossing signal indicated. Getzville Fire Company and Twin city Ambulance both on scene. The operator of the vehicle denied injuries and the pedestrian was complaining of lower back pain before being transported to MFS for evaluation. The vehicle sustained a small dent to the front of the hood and a crack in the plastic grill. WITNESS #1 YON P CHAI 1608 SWEETHOME RD-UNIT 2 AMHERST, NY 14228 (480)

USE COVER SHEET 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													
B													
C													
D													
E													
F													

Officer's Rank and Signature	Badge/ID No.	NCIC No.	Precint/Post Troop/Zone	Station/Beat Sector	Reviewing Officer	Date/Time Reviewed
DEPUTY	0086	01400			RACZYNSKI, J	3/31/2014 12:37
Print Name in Full: C SOLURI						

Local Codes
14-020490
R1EX262WBX46

New York State Department of Motor Vehicles

POLICE ACCIDENT REPORT

MV-104A (6/04)

☐ 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
3	30	2014	Sunday	00:04	2	1	0	☐ / ☐	☐	☐ Yes ☑ No

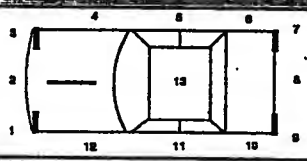
VEHICLE ☐ VEHICLE ☐ BICYCLIST ☐ PEDESTRIAN ☐ OTHER PEDESTRIAN

	VEHICLE	VEHICLE
2	Driver License ID Number / State of DL	Driver License ID Number / State of DL
	Driver Name (exactly as printed on license)	Driver Name (exactly as printed on license)
	Address (Include Number and Street) / Apt. No.	Address (Include Number and Street) / Apt. No.
3	City or Town / State / Zip Code	City or Town / State / Zip Code
	Date of Birth Month Day Year / Sex / Licensed / Not Licensed / Injured / Killed / Fatally Injured / Damaged	Date of Birth Month Day Year / Sex / Licensed / Not Licensed / Injured / Killed / Fatally Injured / Damaged
4	Name (Exactly as printed on registration) / Sex / Date of Birth Month Day Year	Name (Exactly as printed on registration) / Sex / Date of Birth Month Day Year
	Address (Include Number and Street) / Apt. No. / Sex / Licensed	Address (Include Number and Street) / Apt. No. / Sex / Licensed
5	City or Town / State / Zip Code	City or Town / State / Zip Code
	Plate Number / State / Reg. / Vehicle Year & Make / Vehicle Type / Inst. Code	Plate Number / State / Reg. / Vehicle Year & Make / Vehicle Type / Inst. Code
	Total Area Number(s)	Total Area Number(s)
6	Vehicle Section(s)	Vehicle Section(s)
7	VEHICLE: Check if more than 8 vehicles involved; ☐ more than 8 vehicles involved; ☐ more than 8 trailers involved; ☐ operated with an overweight permit; ☐ operated with an oversized permit. VEHICLE DAMAGE CODES: Front – Most Damage; Back – Most Damage; Enter other three most damage codes; Vehicle Be Towed To	VEHICLE: Check if more than 8 vehicles involved; ☐ more than 8 vehicles involved; ☐ more than 8 trailers involved; ☐ operated with an overweight permit; ☐ operated with an oversized permit. VEHICLE DAMAGE CODES: Front – Most Damage; Back – Most Damage; Enter other three most damage codes; Vehicle Be Towed To

VEHICLE DAMAGE CODING:

1-13 SEE DIAGRAM ON RIGHT.

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



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1.	3.		5.	7.
Sideswipe (same direction)	Left Turn		Right Turn	Sideswipe (opposite direction)
2.	0.	4.	6.	8.

ACCIDENT DIAGRAM

9.

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

Road on which accident occurred (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
359-8787 (480) 359-8791

USE COVER SHEET
N

ALL INVOLVED

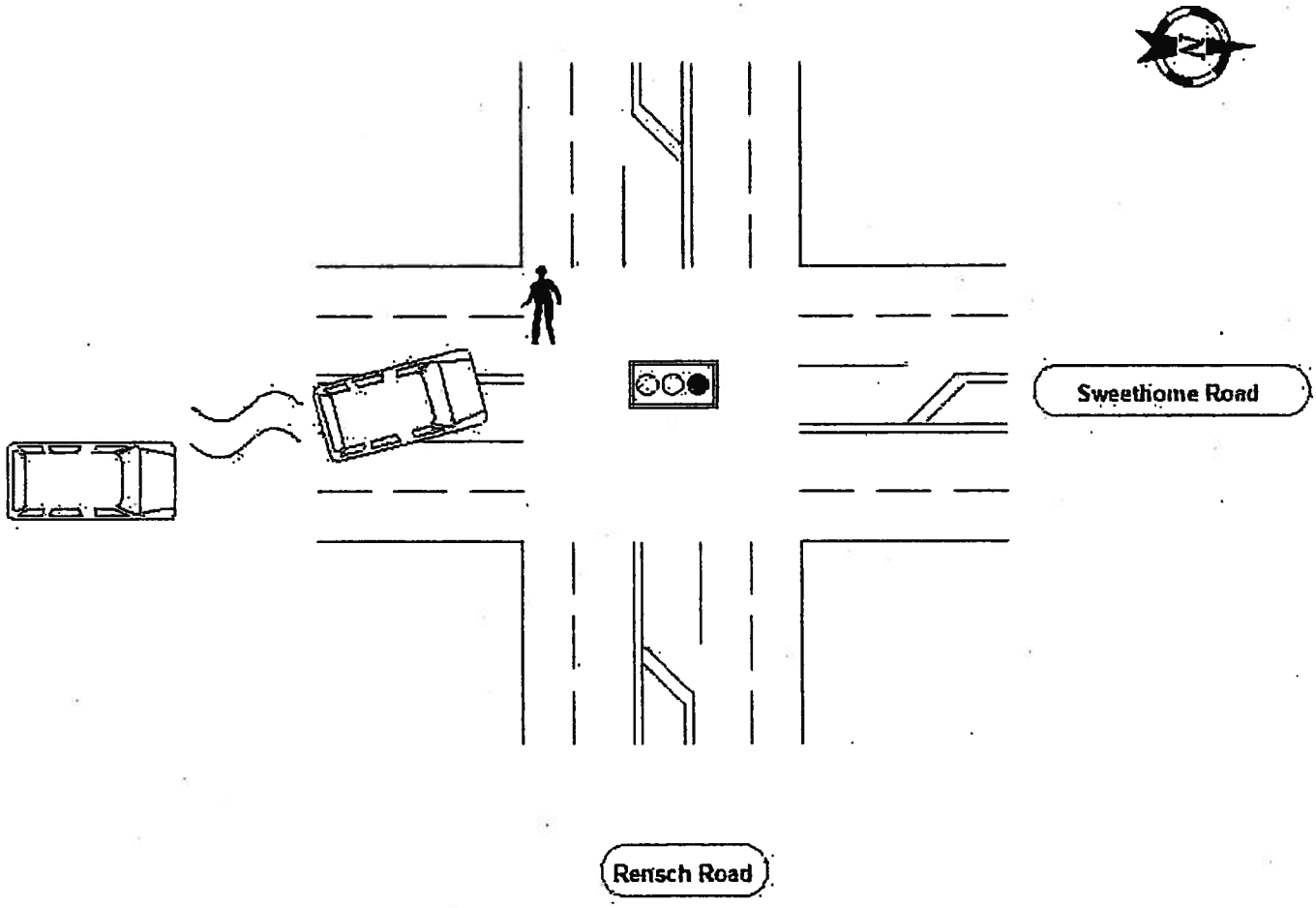
	8	9	10	11	12	13	14	15	16	17 BY	TO 18	Names of all involved	Date of Death Only
A													
B													
C													
D													
E													
F													

Officer's Rank and Signature	Badge/ID No.	NCIC No.	Precint/Post Troop/Zone	Station/Beat Sector	Reviewing Officer	Date/Time Reviewed
DEPUTY	0086	01400			RACZYNSKI, J	3/31/2014 12:37
Print Name in Full: C SOLURI						

New York State Department of Motor Vehicles

POLICE ACCIDENT REPORT

MV-104A (6/04)

Local Codes	
14-020490	
R1EX262WBX46	☐ 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
3	30	2014	Sunday	00:04	2	1	0	☐ / ☐	☐	☐ Yes ☑ No