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 17, 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:	*Burns, Michelle v. County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	Michelle Burns 10973 Trevett Road Springville, New York 14141
Claimant's attorney:	Kevin J. Graff, Esq. Paul William Beltz, P.C. 36 Church 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
Enc.

IN THE MATTER OF THE CLAIM OF
MICHELLE BURNS
Claimant,

vs.

COUNTY OF ERIE, NEW YORK
Respondent.

NOTICE OF CLAIM

This paper received at the
Erie County Attorney's Office
from Mark Wienstock
on the 11 day of July, 2014
at 3:20 a.m./p.m.
Kelly Krunkowski
Assistant County Attorney

PLEASE TAKE NOTICE that **MICHELLE BURNS**, pursuant to statutes in such cases made and provided, does hereby make claim against County of Erie, New York, and in support of such claim does state the following:

1. Claimant's post office address is 10973 Trevett Road, Springville, New York 14141.

2. My attorneys are **PAUL WILLIAM BELTZ, P.C.,** 36 Church Street, Buffalo, New York 14202.

3. The facts and circumstances of the accident, upon information and belief, are: That on or about April 14, 2014, at approximately 9:00 a.m., the claimant, Michelle Burns, was caused to be injured on property owned by County of Erie, New York, while in the process of crossing Ellicott Street in the City of Buffalo, New York.

4. That on or about April 14, 2014, claimant, Michelle Burns, a pedestrian, was caused to cross Ellicott Street in the City of Buffalo, New York, in an easterly direction, other than at the crosswalk, at a location north of High Street and south of

Goodrich Street.

5. Furthermore, that as claimant was in the process of crossing Ellicott Street, at the above described location, claimant encountered a dangerous and defective elevated, constructed curb, which comprised the outside curb of a designated wheelchair van service lane for Buffalo General Hospital, such dangerous condition causing the claimant, Michelle Burns, to trip and fall.

6. As a result of being unable to cross at the designated crosswalk, the claimant was forced to cross at a location along Ellicott Street whereby she encountered the dangerous and defective raised condition of the outer curb, causing claimant to fall.

7. As a result of claimant's fall, the claimant was caused to sustain serious and permanent injuries.

8. The approximate location where the claimant encountered the dangerous and defective elevated, constructed curb, as more particularly depicted in Exhibit A, a photograph of the location and the circumscribed area on said photograph. (See photograph attached and labeled as **Exhibit A**). Likewise, the location of the incident can be expressed by the coordinates of latitude 42.900665° and longitude 78.867113°.

9. Upon information and belief, the negligence of the respondent, County of Erie, New York, was in failing to maintain its property in a reasonably safe condition; failing to fulfill its responsibilities with regard to the adjacent property; failing to ensure that there was proper and safe conditions on its property and/or on adjacent property such that members of the public could safely pass; failure to comply with municipal ordinances and regulations concerning the maintenance of property; failure to provide a

reasonably safe means for pedestrians to cross Ellicott Street at its intersection with High Street; creating a dangerous condition with respect to the elevated curb adjacent to the wheelchair and van service zone, located along the western side of Buffalo General Hospital; creating a dangerous condition whereby pedestrians intending to cross Ellicott Street were prevented from crossing at a crosswalk and instead were required to traverse the defective and dangerously constructed elevated curb; failure to adequately inspect and repair the property in order to rectify said dangerous conditions; failure to warn pedestrians of the dangerous and hazardous conditions; and was otherwise careless and negligent.

10. Upon information and belief, the respondent had prior notice of the defects and conditions complained of and/or actual notice of the condition having created the condition, and failed to correct said conditions and/or warn pedestrians of the dangerous and hazardous conditions. Said conditions were a proximate cause of the accident and injuries.

11. That by reason of the premises, the claimant, Michelle Burns, suffered certain severe and painful injuries, internal as well as external; conscious pain and suffering; and other items of damages pursuant to General Municipal Law §§50-e, CPLR §3017(c), and any other damages claimant is entitled to under the laws of the State of New York.

WHEREFORE, claimant requests that the claim be allowed and paid for by the

County of Erie, New York, pursuant to General Municipal Law §§50-e, and CPLR §3017(c), together with interest, costs and disbursements in this action.

PAUL WILLIAM BELTZ, P.C.

Kevin J. Graff, Esq.
Attorneys for Claimant
36 Church Street
Buffalo, New York 14202

MICHELLE BURNS

Sworn to before me this
11th day of July, 2014

LOREA J. CARUSO
Notary Public, State of New York
Qualified in Erie County
My Commission Expires April 30, 2015

STATE OF NEW YORK:
COUNTY OF ERIE : SS.:

MICHELLE BURNS, being duly sworn, deposes and says that she is the Claimant in this action; that she has read the foregoing Notice of Claim 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 upon information and belief, and that as to those matters they believe it to be true.

Michelle Burns
MICHELLE BURNS

Sworn to before me this
11th day of July, 2014

Lorea J. Caruso
Notary Public

LOREA J. CARUSO
Notary Public, State of New York
Qualified in Erie County
My Commission Expires April 30, 2015
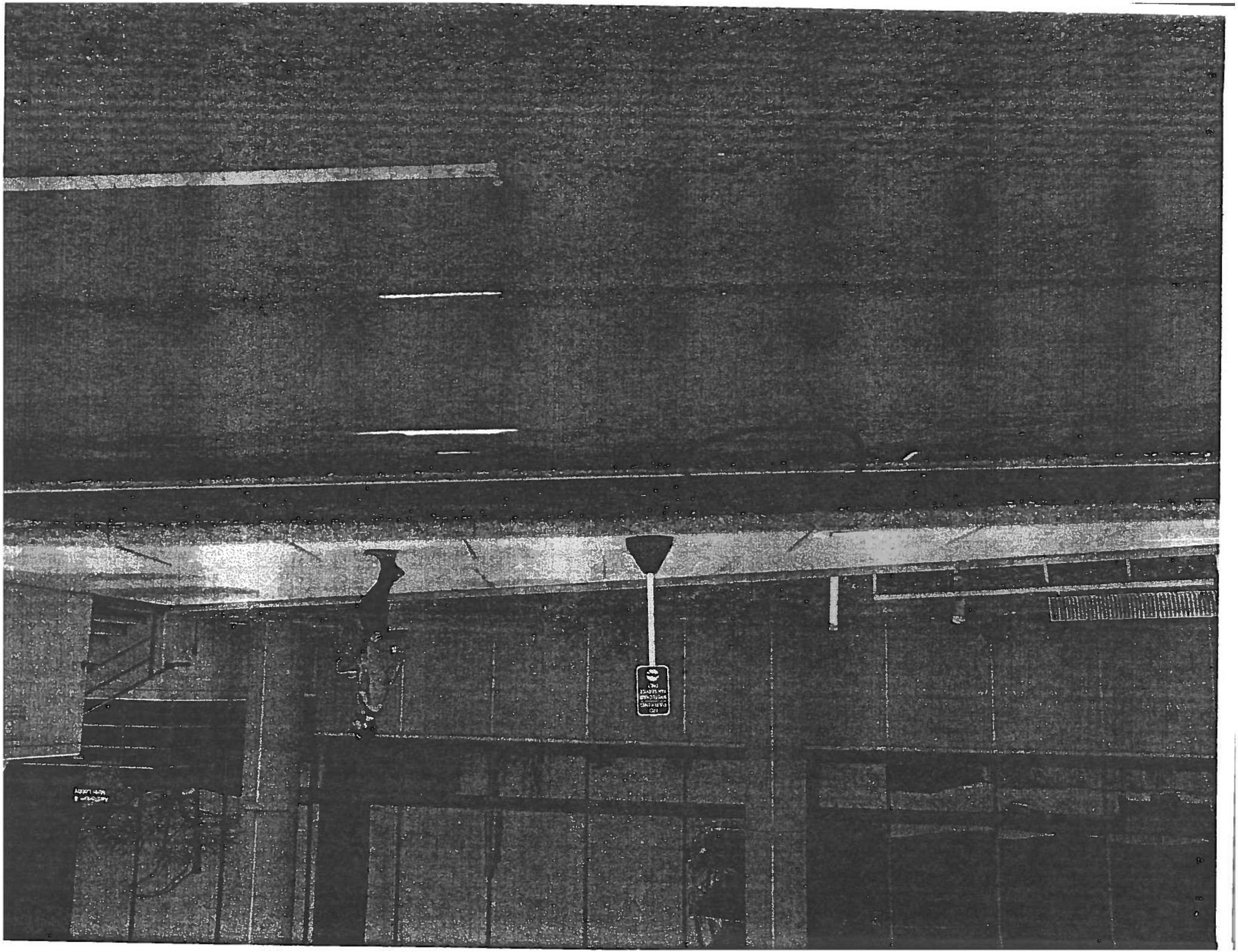
EXHIBIT A