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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 22, 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:	*Smith, William and Nicole v. Sean P. Thornton, Sean J. Quinn, Jr., Kimberly Quinn and County of Erie*
Document Received:	Summons and Complaint
Name of Claimant:	William and Nicole Smith 471 Berkshire Avenue Buffalo, New York 14215
Claimant's attorney:	J. Michael Hayes, Esq. 69 Delaware Avenue, Suite 1111 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

This paper received at the
Erie County Attorney's Office
from James Hoelscher on
the 21 day of July, 2014
at 11:28 a.m./p.m.
Assistant County Attorney

WILLIAM SMITH and
NICOLE SMITH, his wife,
471 Bershire Avenue
Buffalo, New York 14215

Plaintiffs,

vs.

SUMMONS

Index No: 807468/2014
Filed in the Erie
County Clerk's
Office on.:_____

SEAN P. THORNTON
364 Bird Avenue
Buffalo, New York 14213

SEAN J. QUINN, JR.
30 Apple Avenue
Lackawanna, New York 14218

KIMBERLY QUINN
43 Riverside Avenue
Buffalo, New York 14207

COUNTY OF ERIE
Rath Building
95 Franklin Street
Buffalo, New York 14202

Defendants.

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED, to answer the complaint in this action, and to serve a copy of your answer, or, if the summons is not served with a complaint, to serve a notice of appearance, on the Plaintiff's attorney within twenty (20) days after service of this summons, exclusive of the day of service, or within thirty (30) days after completion of service where service is made in any other manner than by personal delivery within the State. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Erie County is designated as the place of trial on the basis of the residence of the Plaintiffs who reside in Erie County, New York.

This paper received at the
Erie County Attorney's Office
from JAMES HOELSCHER on
the 21ST day of JULY, 2014
at 11:28 a.m./p.m.
Assistant County Attorney

DATED: BUFFALO, NEW YORK
July 10, 2014

Yours Respectfully,

J. Michael Hayes, Esq.
Law Office of J. MICHAEL HAYES
Attorney for Plaintiffs
Office and P.O. Address:
69 Delaware Avenue - Suite 1111
Buffalo, New York 14202
(716) 852-1111

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

WILLIAM SMITH and
NICOLE SMITH, his wife,

Plaintiffs,

vs.

SEAN P. THORNTON, SEAN J. QUINN, JR.,
KIMBERLY QUINN, and
COUNTY OF ERIE

Defendants.

COMPLAINT

Index No.:

The Plaintiffs, WILLIAM SMITH and NICOLE SMITH, his wife, by their attorneys, J. MICHAEL HAYES, for their complaint against the Defendants, SEAN P. THORTON, SEAN J. QUINN, JR., KIMBERLY QUINN and COUNTY OF ERIE, herein allege:

1. Presently and at all times hereinafter mentioned, Plaintiffs, WILLIAM SMITH and NICOLE SMITH, his wife, were residents of the City of Buffalo, County of Erie and State of New York.

2. Upon information and belief, presently and at all times hereinafter mentioned, the Defendant, SEAN P. THORNTON, was a resident of the City of Buffalo, County of Erie and State of New York.

3. Upon information and belief, presently and at all times hereinafter mentioned, the Defendant, SEAN J. QUINN, JR., was a resident of the City of Lackawanna, County of Erie and State of New York.

4. Upon information and belief, presently and at all times hereinafter mentioned, the Defendant, KIMBERLY QUINN, was a resident of the City of Buffalo, County of Erie and State of New York.

5. Upon information and belief, the COUNTY OF ERIE, is a municipal corporation existing by virtue of the Laws of the State of New York with offices for the transaction of business located in the COUNTY OF ERIE, State of New York.

6. Upon information and belief, at all times hereinafter mentioned, on or about September 21, 2013, the Defendant, SEAN P. THORTON, was the owner and operator of the 1998 BMW motor vehicle bearing New York State license plate number EPH5023.

7. Upon information and belief, at all times hereinafter mentioned, on or about September 21, 2013, the Defendant, KIMBERLY QUINN, was the owner of the 2001 Dodge motor vehicle bearing New York State license plate number GHY9874.

8. Upon information and belief, at all times hereinafter mentioned, on or about September 21, 2013, Defendant, SEAN J. QUINN, JR., was operating the aforementioned 2001 Dodge motor vehicle with the permission and consent of the owner, Defendant, KIMBERLY QUINN.

9. Upon information and belief, it will be claimed that on September 21, 2013, at approximately 3:39 a.m., at the intersection of Grant Street and Forest Avenue in the City of Buffalo, County of Erie and State of New York, a motor vehicle owned and operated by Defendant, SEAN P. THORTON, in which Plaintiff, WILLIAM SMITH, was a passenger, came into contact with a vehicle owned by Defendant, KIMBERLY QUINN and operated by SEAN J. QUINN, JR.

10. Upon information and belief, it will be claimed that the aforesaid incident was caused and contributed to due to the negligence of the Defendants, SEAN P. THORNTON, SEAN J. QUINN, JR. and KIMBERLY QUINN.

11. Upon information and belief, the COUNTY OF ERIE claims a recovery right and/or "lien" out of any resolution in the above matter by virtue of medical expenses it claims to have incurred.

12. Upon information and belief, the Defendant, COUNTY OF ERIE, is a necessary party to this action in that, for and before complete recovery may be accorded, the Defendant, COUNTY OF ERIE's, claims for medical reimbursement must be considered, finalized, allocated and determined by way of compromise, settlement and/or Court determination and said Defendant has refused to join as a party plaintiff.

13. Upon information and belief, this action falls within one or more of the exceptions enumerated in Article 16 of the CPLR and/or said article is inapplicable to the within action.

14. As a result of the foregoing, the Plaintiff, WILLIAM SMITH, sustained severe and serious personal injuries including a "serious injury" and economic loss in excess of "basic economic loss" as defined by Article 51 of the New York Insurance Reparations Law all to her damage in a sum in excess of the jurisdictional limits of the lower courts of this state.

AS AND FOR A SECOND
CAUSE OF ACTION, PLAINTIFFS ALLEGE:

15. The Plaintiffs repeat and reallege those allegations set forth in Paragraphs "1" through "14" of the Complaint with the same force and effect as if fully set forth herein at length.

16. Presently and at all times hereinafter mentioned, the Plaintiff, NICOLE SMITH, was the spouse of the Plaintiff, WILLIAM SMITH, and as such was and is entitled to his services, society, companionship and consortium.

17. As a result of the aforesaid incident, the Plaintiff, NICOLE SMITH, has been deprived of the services, society, companionship and consortium of her spouse all to her damage in a sum in excess of the jurisdictional limits of all the lower courts of the State of New York.

WHEREFORE, Plaintiffs, WILLIAM SMITH and NICOLE SMITH, his wife, demand judgment against the Defendants, SEAN P. THORNTON, SEAN J. QUINN, JR. and KIMBERLY QUINN, in a sum in excess of the jurisdictional limits of all lower courts in the State of New York

together with the costs and disbursements, and further demands than allocation of proceeds/recovery, if any, between Plaintiff, WILLIAM SMITH, and the COUNTY OF ERIE and for such other and further relief as this Court deems just, proper and equitable.

DATED: BUFFALO, NEW YORK
July 10, 2014

Yours Respectfully,

J. Michael Hayes, Esq.
Law Office of J. MICHAEL HAYES
Attorney for Plaintiffs
Office and P.O. Address:
69 Delaware Avenue - Suite 1111
Buffalo, New York 14202
(716) 852-1111

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF Erie

William Smith

Plaintiff/Petitioner,

- against -

Index No. 807468/2014

Sean P. Thornton, Sean J. Quinn, Jr., Kimberly Quinn and County of Erie

Defendant/Respondent.

NOTICE OF COMMENCEMENT OF ACTION SUBJECT TO MANDATORY ELECTRONIC FILING

PLEASE TAKE NOTICE that the matter captioned above, which has been commenced by filing of the accompanying documents with the County Clerk, is subject to mandatory electronic filing pursuant to Section 202.5-bb of the Uniform Rules for the Trial Courts. This notice is being served as required by Subdivision (b) (3) of that Section.

The New York State Courts Electronic Filing System ("NYSCEF") is designed for the electronic filing of documents with the County Clerk and the court and for the electronic service of those documents, court documents, and court notices upon counsel and self-represented parties. Counsel and/or parties who do not notify the court of a claimed exemption (see below) as required by Section 202.5-bb(e) must immediately record their representation within the e-filed matter on the Consent page in NYSCEF. Failure to do so may result in an inability to receive electronic notice of document filings.

Exemptions from mandatory e-filing are limited to: 1) attorneys who certify in good faith that they lack the computer equipment and (along with all employees) the requisite knowledge to comply; and 2) self-represented parties who choose not to participate in e-filing. For additional information about electronic filing, including access to Section 202.5-bb, consult the NYSCEF website at www.nycourts.gov/efile or contact the NYSCEF Resource Center at 646-386-3033 or efile@courts.state.ny.us.

Dated: 7/10/14

(Signature)

J. Michael Hayes (Name)

Law Offices of J. Michael Hayes (Firm Name)

69 Delaware Avenue, #1111 (Address)
Buffalo, NY 14202

(716) 852-1111 (Phone)

jmh@jmichaelhayes.com (E-Mail)

To: County of Erie
Rath Bldg.
95 Franklin Street
Buffalo, NY 14202