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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

August 13, 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:	*Musca, James v. County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	James Musca 849 Eggert Road Amherst, New York 14226
Claimant's attorney:	Marc C. Panepinto, Esq. Dolce Panepinto, PC 1600 Main Place Tower 350 Main 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.

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

JAMES MUSCA

Claimant,

v.

COUNTY OF ERIE

Respondent.

NOTICE OF CLAIM

This paper received at the
Erie County Attorney's Office
from Sarah Debdt on
the 11th day of August, 2014
at 4:00 a.m./p.m.
Assistant County Attorney

TO: COUNTY OF ERIE

PLEASE TAKE NOTICE, that the Claimant hereby makes a claim and demand against the COUNTY OF ERIE, as follows:

1. The claimant, JAMES MUSCA resides and his mailing address is 849 Eggert Road, Amherst, New York 14226.

2. The attorney for the Claimant herein is Marc C. Panepinto, Esq., of Dolce Panepinto, PC and his post office address and telephone number are 1600 Main Place Tower, 350 Main Street, Buffalo, New York 14202, (716) 852-1888.

3. The time when, and the place where, and the nature of the claim are as follows: Upon information and belief, on or about May 29, 2014, while employed by Thomas Johnson, Inc., the Claimant, JAMES MUSCA, was working at the Ralph Wilson Fieldhouse. As Mr. Musca was walking, he slipped and tripped, jamming his neck into a scaffold plank that was too low, causing serious personal injuries. Upon information and belief, the subject project was under the supervision and control of the County of Erie, its agents, servants and/or employees.

4. The Claimant alleges that County of Erie and/or its agents and servants violated New York State Labor Law §200 which states, "all machinery, equipment, and devices in public places

shall be so placed, operated, guarded and lighted as to provide reasonable and adequate protection to all persons lawfully frequenting the premises."

The Claimant alleges that the County of Erie, its agents, servants and/or employees violated New York State Labor Law §240(1) in that Respondents failed to provide adequate safety devices so as to provide proper protection to the Petitioner regarding elevation related hazards.

Claimant further alleges that the County of Erie, its agents, servants and/or employees violated New York Labor Law §241(6) which states, "all areas in which construction, excavation or demolition work is being performed, shall be so constructed, shored, equipped, guarded, arranged, operated and conducted as to provided reasonable and adequate protection and safety to the person employed therein..." and further, New York Industrial Code Rule 23, subsection 23-1.7(a)(1)(2) among other sections.

5. The Claimant further alleges that the County of Erie, its agents, servants and/or employees were negligent in failing to reasonably maintain the premises for the employees and/or contractors working thereon.

6. Therefore, the Claimant files a damages claim for serious and permanent personal injuries, economic loss, conscious pain and suffering, and changes in his lifestyle, and loss of consortium, all of which stem from the alleged statutory violations and negligence of the Town of Amherst and its agents, contractors, servants, and employees.

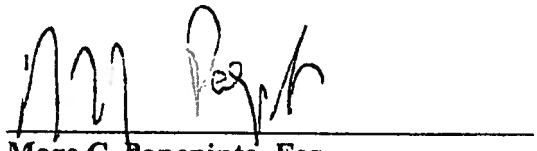
8. The damages or injuries sustained by Claimant, JAMES MUSCA, include, but are not limited, to the following:

a. Neck pain;
b. Cervical radiculopathy;
c. Right arm pain;
d. Resultant right hand numbness.

9. Such other and further injuries as may be determined by the treating physicians, rehabilitation therapists and other qualified medical personnel.

10. The damages sustained by the Claimant exceed those of the jurisdictional limits of the lower courts.

Dated: Buffalo, New York
July 31, 2014



Marc C. Panepinto, Esq.
DOLCE PANEPINTO
Attorneys for Petitioner
1600 Main Place Tower
350 Main Street
Buffalo, New York 14202
(716) 852-1888

TO: COUNTY OF ERIE
Department of Law
95 Franklin Street
Room 1634
Buffalo, NY 14202

VERIFICATION

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

JAMES MUSCA being duly sworn, deposes and says that he is the Claimant in this action; that he 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 on information and belief, and that as to those matters he believes them to be true.

JAMES MUSCA

Sworn to before me this
__ day of July, 2014

Notary Public

MICHELLE L. [illegible]G
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
My Commission Expires Sept. 7, [illegible]