(10)

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 6, 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:	*Hendrix, Jesse L. v. City of Buffalo and County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	Jesse L. Hendrix 66 Goembel Avenue Buffalo, New York 14211
Claimant's attorney:	Cheryl M. Reed, Esq. William K. Mattar, P.C. 6720 Main Street, Suite 100 Williamsville, New York 14221-5986

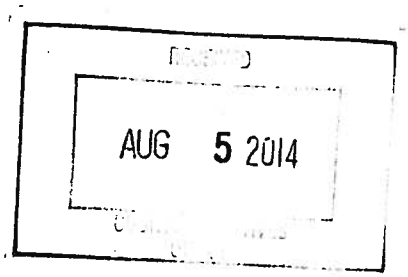
Should you have any questions, please call.

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

Jesse L. Hendrix
66 Goembel Ave.
Buffalo, NY 14211

Claimant

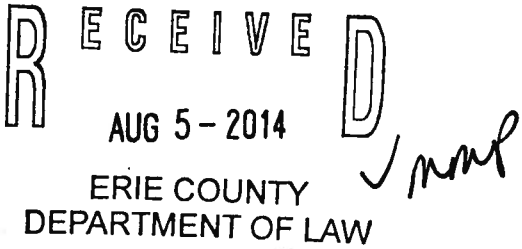
vs.

City of Buffalo, New York
1100 City Hall
65 Niagara Sq.
Buffalo, NY 14202,

County of Erie
1600 Rath Building
95 Franklin St.
Buffalo, NY 14202

Defendants

NOTICE OF CLAIM



TO: City of Buffalo, New York
County of Erie, New York

PLEASE TAKE NOTICE that Jesse L. Hendrix hereby makes a Claim against the City of Buffalo, New York and Erie County, New York, and in support thereof, hereby alleges:

1. The name and address of the Claimant and his attorney are:

Claimant: Jesse L. Hendrix
66 Goembel Ave.
Buffalo, NY 14211

Attorney: William K. Mattar P.C.
6720 Main Street, Suite 100
Williamsville, New York 14221
(716) 633-3535

2. The nature of the claim is: Claimant Jesse L. Hendrix was caused to suffer serious and permanent personal injuries when, while driving his vehicle on Genesee Street near its intersection with Fillmore Avenue in the City of Buffalo, County of Erie, State of New York the vehicle he was in was struck by a vehicle that was owned by Callie Cox and operated by Duane Cox. The lack of a properly functioning traffic control signal, improper programming of the traffic control device, and the lack of appropriate steps to ensure safe passage through the intersection, failing to provide safety personnel to direct traffic; as well as other defective road, intersection, and traffic control device construction, maintenance, and design defects, were contributing factors to the crash. Attached as **Exhibit A** is a copy of the police accident report.

3. The time when, the place where and the manner in which the claim arose: Claimant, Jesse L. Hendrix, was driving his vehicle at approximately 10:13 p.m. on June 16, 2014 along Genesee Street, in the City of Buffalo, New York. The Claimant was operating his vehicle, when it was struck by the vehicle owned by Callie Cox and operated by Duane Cox. Both drivers claim to have a green or yellow light. Therefore, the accident was due in whole or in part to, without limitation, the lack of a properly functioning traffic control signal, improper programming of the traffic control device, and the lack of appropriate steps to ensure safe passage through the intersection, failing to provide safety personnel to direct traffic; as well as other defective road construction, maintenance, and design defects. The car Mr. Hendrix was in was struck by the other vehicle which drove into the side of Mr. Hendrix vehicle, striking his vehicle. Mr. Hendrix was caused to suffer serious physical injuries of a fractured right sixth rib, and a large facial scar on his nose, back, and other body parts. Upon information and belief, Mr. Hendrix will require long-term therapy and treatment and will be unable to conduct his normal daily activities for an

indefinite period as a result of his injuries from the accident, which will be of a permanent or indefinite duration. In addition, Mr. Hendrix has and will continue to incur expenses for his medical treatment for these injuries.

4. The City of Buffalo is liable by reason of, without limitation, the lack of a properly functioning traffic control signal, improper programming of the traffic control device, and the lack of appropriate steps to ensure safe passage through the intersection, failing to provide safety personnel to direct traffic; as well as other defective road, intersection and traffic control device construction, maintenance, and design defects.

5. The items of damage claimed are: Jesse L. Hendrix's personal injuries, past and future pain and suffering and inability to conduct her normal daily activities, expenses for treatment, change of lifestyle and loss of enjoyment of life, all resulting from the serious and permanent injuries suffered by claimant Jesse L. Hendrix.

6. That Mr. Hendrix sustained serious injuries as the same are defined in Article 51 of the Insurance Law of the State of New York, as amended, and he has been caused to suffer and sustain personal injuries in and to the body, which are permanent in nature and has or may be caused to suffer economic loss in excess of the basic economic loss.

Ther claim is hereby presented for adjustment and payment.

DATED: July 24, 2014

Cheryl M. Reed, Esq.
WILLIAM K. MATTAR, P.C.
Attorney for Claimant
6720 Main Street, Suite 100
Williamsville, New York 14221
(716) 633-3535

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

JESSE L. HENDRIX being duly sworn, depose and say that he is the Claimant in ther action; that he has read the foregoing Notice of Claim and know the contents thereof; that the same is true to the knowledge of deponents, except as to matters therein stated to be alleged on information and belief, and that as to those matters they believe them to be true.

Jesse L Hendrix
JESSE L. HENDRIX

Sworn to before me ther
29 day of July, 2014

Ebony Nicole Thomas
Notary Public

EBONY NICOLE THOMAS
Lic. #01TH6300131
Notary Public-State of New York
Qualified in Erie County
COMM. EXP. 3/31/2018

EXHIBIT A

POLICE ACCIDENT REPORT

MV-104A (6/04)

DMV COPY

Local Codes: 612

14-167 1093

Accident Date: Month 6, Day 16, Year 2014 — Day of Week: Monday — Military Time: 22:13 — No. of Vehicles: 2 — No. Injured: 1 — No. Killed: 0 — Not Investigated at Scene ☐ — Accident Reconstructed ☐ — Left Scene ☐ — Police Photos ☐ Yes ☒ No

VEHICLE 1

VEHICLE 1 - Driver License ID Number: 203 983 139 — State of Lic.:

Driver Name - exactly as printed on license: Cox, Duane

Address (include Number & Street): 166 Corbson — Apt. No.:

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

Date of Birth: Month 11, Day 18, Year 39 — Sex: M — Uninsured ☐ — No. of Occupants: 1 — Public Property Damaged ☐

Name - exactly as printed on registration: Cox, Calvin M — Sex: — Date of Birth: Month 4, Day 8, Year 46

Address (include Number & Street): 11819 Fox Glen Rd — Apt. No.: — Hzd. Mat. Code: — Released ☐

City or Town: Charlotte — State: NC — Zip Code:

Plate Number: FLF-3716 — State of Reg.: NY — Vehicle Year & Make: 1998 Dodge — Vehicle Type: SUV — Inc. Code: 328

Ticket/Arrest Number(s): —

Violation Section(s): —

VEHICLE 2 ☐ BICYCLIST ☐ PEDESTRIAN ☐ OTHER PEDESTRIAN

VEHICLE 2 - Driver License ID Number: 326 173 261 — State of Lic.:

Driver Name - exactly as printed on license: Hendrix, Jesse L

Address (include Number & Street): 66 Coemble — Apt. No.:

City or Town: Bflo — State: NY — Zip Code: 14211

Date of Birth: Month 10, Day 29, Year 1980 — Sex: M — Uninsured ☐ — No. of Occupants: 1 — Public Property Damaged ☐

Name - exactly as printed on registration: Hendrix Jesse L — Sex: M — Date of Birth: Month 10, Day 29, Year 80

Address (include Number & Street): 66 Coemble — Apt. No.: — Hzd. Mat. Code: — Released ☐

City or Town: Bflo — State: NY — Zip Code: 14201

Plate Number: GNL-924 — State of Reg.: NY — Vehicle Year & Make: 2005 Buick — Vehicle Type: 4DSD — Inc. Code: 100

Ticket/Arrest Number(s): —

Violation Section(s): —

VEHICLE 1 DAMAGE CODES

Check if involved vehicle is: ☐ more than 96 inches wide; ☐ more than 34 feet long; ☐ operated with an overweight permit; ☐ operated with an overdimension permit.

Box 1 - Point of Impact: 1 — Box 2 - Most Damage: 2

Enter up to three more Damage Codes: 3, 4, 5

Vehicle Towed: By — To: N/A

VEHICLE 2 DAMAGE CODES

Check if involved vehicle is: ☐ more than 96 inches wide; ☐ more than 34 feet long; ☐ operated with an overweight permit; ☐ operated with an overdimension permit.

Box 1 - Point of Impact: 4 — Box 2 - Most Damage: 5

Enter up to three more Damage Codes: 3, 4, 5

Vehicle Towed: By 422 — To: Dort St

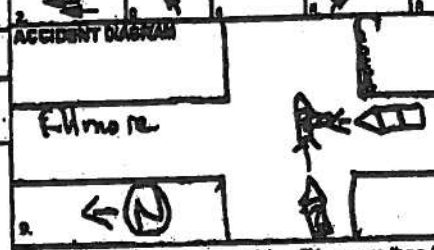
VEHICLE DAMAGE CODING:

1-13. SEE DIAGRAM ON RIGHT.
14. UNDERCARRIAGE
15. TRAILER
16. OVERTURNED
17. DEMOLISHED
18. NO DAMAGE
19. OTHER

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 — Sideswipe (same direction) — Left Turn — Right Turn — Sideswipe (opposite direction)

ACCIDENT DIAGRAM



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: Bflo

Road on which accident occurred: Genesee (Route Number or Street Name)

or 1) Intersecting street: Fillmore (Route Number or Street Name)

or 2) ___ Feet ___ Miles ☐N ☐S ☐E ☐W of ___ (Village, Nearest Intersecting Route Number or Street Name)

Accident Description/Officer's Notes

V#1 was traveling North on Fillmore when witnesses say it passed a solid red light, and did strike V#2 which was traveling East on Genesee.

	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	77	M	—	13	6	—	—	Duane Cox	
B	2	1	4	1	64	M	4	12	6	9993	1405	Jesse Hendrix	
C													
D													
E													
F													

Officer's Rank and Signature: PO — Print Name in Full: WT Hoffstetter

Badge/ID No.: 172762 — NCIC No.: 01401 — Precinct/Post Troop/Zone: C — Station/Beat Sector: 4 — Reviewing Officer: RB — Date/Time Reviewed: 8-17-14 8:45