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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 4, 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:	*Gist, Mark R. v. County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	Mark R. Gist 313 Dewey Avenue Buffalo, New York 14214
Claimant's attorney:	James M. O'Keefe, Esq. William Mattar, P.C. 6720 Main Street, Suite 100 Williamsville, New York 14221

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.

This paper received at the
Erie County Attorney's Office
from Monique Cousins
the 1 day of August 2014
at 1:55 a.m./p.m.
Kelly Brinkworth
Assistant County Attorney

IN THE MATTER OF THE CLAIM OF:

MARK R. GIST
313 Dewey Avenue
Buffalo, New York 14214

Claimant,

-against-

ERIE COUNTY
95 Franklin Street
Buffalo, New York 14202,

Respondent.

NOTICE OF CLAIM

PLEASE TAKE NOTICE that MARK R. GIST, hereby makes claim against ERIE COUNTY and in support thereof claimant alleges:

1. That the undersigned claimant, Mark R. Gist, residing at 313 Dewey Avenue, Buffalo, New York 14214, by and through his attorney, JAMES M. O'KEEFE, Esq. and WILLIAM MATTAR, P.C., 6720 Main Street, Suite 100, Williamsville, New York 14221-5986, claims damages against Erie County, for personal injuries, pain and suffering, general and special damages, medical expenses, and property damages sustained by him.

2. That the said injuries were sustained by Mark R. Gist on the day of May 4, 2014 at approximately 3:30-4:00 p.m. when the sidewalk upon which he was walking at the place of 313 Dewey Avenue, Buffalo, New York 14214 which was owned and maintained by Erie County, its servants, agents or employees, had been left defective causing a sidewalk slab to dangerously

swell and rise above ground level, which caused Mark R. Gist to trip and fall to the ground. Copies of photographs showing the exact location of this incident and defect are attached as **EXHIBIT A.**

3. That the claimant's bodily injury damages occurred as a result of the negligence, carelessness, and reckless disregard for the safety of others including claimant, Mark R. Gist, by Erie County, its servants, agents or employees in failing to maintain its public sidewalks.

4. That the aforesaid Erie County by and through its agents, servants and employees had prior written notice, both actual and constructive, of the defective, dangerous, and hazardous condition present at the time of the incident. Erie County created the defective, dangerous, and hazardous condition present at the time of the incident.

5. That as a result of the foregoing, the claimant, Mark R. Gist, sustained very serious injuries, sustaining an avulsion fracture of the trapezium bone, a laceration involving the palmar aspect of the hand near the thumb base, and possible nerve damage due to the location of the laceration sustained. Some of these injuries will be of a permanent or indefinite duration, and claimant, Mark R. Gist, has and will, in the future be forced to expend sums of money for hospitals, doctors and other medical expenses. Copies of the claimant's medical records are attached as **EXHIBIT B.**

6. That the said injuries were occasioned solely and wholly as a result of the negligence of Erie County and through its agents, servants and employees and without any negligence on the part of the claimant contributing thereto.

DATED: Williamsville, New York
July 21, 2014

James M. O'Keefe, Esq.
WILLIAM MATTAR, P.C.
Attorney for Claimant
6720 Main Street
Suite 100
Williamsville, New York 14221-5986
(716)633-3535