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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 5, 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:	*Hubbard, Marilyn Y. v. Town of Cheektowaga, Cheektowaga Police Department, City of Buffalo, Buffalo Police Department, Erie County and Erie County Sheriff's Department*
Document Received:	Notice of Claim
Name of Claimant:	Marilyn Y. Hubbard 507 Minnesota Avenue, Lower Buffalo, New York 14215
Claimant's attorney:	Arienne J. Irving, Esq. William K. 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.

IN THE MATTER OF THE CLAIM OF:

MARILYN Y. HUBBARD
507 Minnesota Ave.
Lower
Buffalo, NY 14215

Claimant,

-against-

NOTICE OF CLAIM

TOWN OF CHEEKTOWAGA
3301 Broadway Street
Cheektowaga, NY 14227

CHEEKTOWAGA POLICE DEPARTMENT
3223 Union Road
Cheektowaga, NY 14227

CITY OF BUFFALO
1100 City Hall
65 Niagara Street
Buffalo, NY 14202

BUFFALO POLICE DEPARTMENT
74 Franklin Street
Buffalo, NY 14202

ERIE COUNTY
95 Franklin Street
Buffalo, NY 14202

ERIE COUNTY SHERIFF'S DEPARTMENT
134 West Eagle Street
Buffalo, NY 14202

Respondents.

2014 JUL 31 PM 12: 11

PLEASE TAKE NOTICE that **MARILYN Y. HUBBARD**, hereby makes claim against the **TOWN OF CHEEKTOWAGA, CHEEKTOWAGA POLICE DEPARTMENT, CITY OF BUFFALO, BUFFALO POLICE DEPARTMENT, ERIE COUNTY,** and **ERIE COUNTY SHERIFF'S DEPARTMENT** and in support thereof Claimant alleges:

1. That the undersigned Claimant, MARILYN Y. HUBBARD, residing at 507 Minnesota Ave., Lower, Buffalo, NY 14215, by and through her attorney, ARIENNE J. IRVING of WILLIAM MATTAR, P.C., 6720 Main Street, Suite 100, Williamsville, NY 14221-5986, claims damages against the TOWN OF CHEEKTOWAGA, CHEEKTOWAGA POLICE DEPARTMENT, CITY OF BUFFALO, BUFFALO POLICE DEPARTMENT, ERIE COUNTY, and ERIE COUNTY SHERIFF'S DEPARTMENT, for personal injuries, pain and suffering, general and special damages, medical expenses, and property damages sustained by her.

2. The nature of the claim is one to recover damages for personal injuries and conscious pain and suffering, change of lifestyle, loss of enjoyment of life, general and special damages, medical expenses, and property damages and all other damages allowed by law resulting from the injuries suffered by Claimant as a result of the negligence of the TOWN OF CHEEKTOWAGA, CHEEKTOWAGA POLICE DEPARTMENT, CITY OF BUFFALO, BUFFALO POLICE DEPARTMENT, ERIE COUNTY, and ERIE COUNTY SHERIFF'S DEPARTMENT in the supervision, hiring, training, ownership, maintenance, management, operation, and control of one of its entities and/or employees.

3. That on or about May 30, 2014, MARILYN Y. HUBBARD was a pedestrian who had just parked her vehicle in front of her house and as she was going to the passenger side door, her

vehicle was struck by a motor vehicle that, upon information and belief, was being driven by Demetrius Robinson, and was bearing license plate number FTR5967. This collision caused Ms. Hubbard's vehicle to be pushed onto the sidewalk and into Ms. Hubbard knocking her to the ground. Upon information and belief, the vehicle being driven by Demetrius Robinson was involved in a police chase with entities from the TOWN OF CHEEKTOWAGA, CHEEKTOWAGA POLICE DEPARTMENT, CITY OF BUFFALO, BUFFALO POLICE DEPARTMENT, ERIE COUNTY, and ERIE COUNTY SHERIFF'S DEPARTMENT. The referenced accident took place in front of 507 Minnesota Avenue near Suffolk Street, County of Erie, City of Buffalo in the State of New York. (Exhibit A: Police Report).

4. That as a result of the foregoing, the Claimant, MARILYN Y. HUBBARD, sustained serious injuries, including two broken bones in her left knee with a torn ligament and a broken bone in her right knee. Both knee injuries required open reduction internal fixation surgeries and her left knee also required an arthroscopic surgical repair. Some of these injuries will be of a permanent or indefinite duration, and Claimant, MARILYN Y. HUBBARD, were and will, in the future be forced to expend sums of money for hospitals, doctors and other medical expenses. Other injuries will be disclosed as revealed through diagnosis by treating physicians and other medical personnel. The full extent of these injuries is unknown at this time.

5. As a result of the negligence, carelessness, and recklessness of the Respondents, TOWN OF CHEEKTOWAGA, CHEEKTOWAGA POLICE DEPARTMENT, CITY OF BUFFALO, BUFFALO POLICE DEPARTMENT, ERIE COUNTY, and ERIE COUNTY SHERIFF'S DEPARTMENT, its servants, agents or employees in unreasonably and without proper

consideration of their surroundings giving chase to a vehicle through city streets with pedestrians and other vehicles around. Such negligence, carelessness, and recklessness included, but was not limited to, accelerating at an unreasonable and imprudent speed, failing to provide a safe location for transit, failing to take reasonably prudent steps to avoid the incident, along with such other and further acts of negligence, carelessness, and recklessness. Claimant, MARILYN Y. HUBBARD, suffered and sustained serious injuries as the same are defined in §5102(d) 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. That the Claimant MARILYN Y. HUBBARD, has also sustained economic loss greater than basic economic loss and has or may be caused to suffer loss in excess of the jurisdictional limits of all lower Courts.

6. That the said injuries were occasioned as a result of the negligence of the TOWN OF CHEEKTOWAGA, CHEEKTOWAGA POLICE DEPARTMENT, CITY OF BUFFALO, BUFFALO POLICE DEPARTMENT, ERIE COUNTY, and ERIE COUNTY SHERIFF'S DEPARTMENT and through its agents, servants, and employees and without any negligence on the part of the Claimant contributing thereto.

WHEREFORE, the Claimant, MARILYN Y. HUBBARD, requests that this claim be allowed and paid by the TOWN OF CHEEKTOWAGA, CHEEKTOWAGA POLICE DEPARTMENT, CITY OF BUFFALO, BUFFALO POLICE DEPARTMENT, ERIE COUNTY, and ERIE COUNTY SHERIFF'S DEPARTMENT.

PLEASE TAKE FURTHER NOTICE, that unless said claim is adjusted and paid by the TOWN OF CHEEKTOWAGA, CHEEKTOWAGA POLICE DEPARTMENT, CITY OF

BUFFALO, BUFFALO POLICE DEPARTMENT, ERIE COUNTY, and/or ERIE COUNTY SHERIFF'S DEPARTMENT within thirty (30) days from the date of service of the Notice of Claim, said Claimant intends to commence an action in the Supreme Court of the State of New York against the Respondents, seeking a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction, together with interest, costs and disbursements.

DATED: Williamsville, New York
June 25, 2014

WILLIAM MATTAR, P.C.
Arienne J. Irving, Esq.
Attorney for Claimant
Office and P.O. Box Address
6720 Main Street
Suite 100
Williamsville, NY 14221
(716) 633-3535

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

MARILYN Y. HUBBARD, being duly sworn, depose and say that she is the Claimant in this action; that she 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.

Marilyn Y. Hubbard

Sworn to before me this
25th day of June 2014

Notary Public

ARIENNE J. IRVING
Notary Public State of New York
No. 02IR6111557
Qualified in New York County
Commission Expires ~~June 14~~ Sept 7, 20 16

New York State Department of Motor Vehicles

POLICE ACCIDENT REPORT

MV-104A (6/04)

☐ AMENDED REPORT DMV COPY

E-1040

Local Codes: 14-150-0791 / 1040

Accident Date (Month / Day / Year)	Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene ☐ / Accident Reconstructed ☐	Left Scene ☐	Report Filed ☐ Yes ☐ No
5 / 30 / 2014	Friday	1900	3	2	0			

VEHICLE 1

VEHICLE 1 - Driver License ID Number: 670 156 141 — State of Lic.: NY

Driver Name - exactly as printed on license: Robinson, Demetrius D

Address (Include Number & Street): 25 Kaufman Dr — Apt. No.:

City or Town: Cheektowaga — State: NY — Zip Code: 14225

Date of Birth: 2/13/89 — Sex: M — Uninjured: X — No. of Occupants: 1 — Public Property Damaged ☐

Name - exactly as printed on registration: Mahoney, Colleen K — Sex: F — Date of Birth: 5/14/89

Address (Include Number & Street): 127 Kilbourne Rd — Apt. No.: — Haz. Mat. Code: — Pedestrian ☐

City or Town: Cheektowaga — State: NY — Zip Code: 14225

Plate Number: CTB5967 — State of Reg.: NY — Vehicle Year & Make: 2007 Pont — Vehicle Type: 4DSD — Ins. Code: LPP

Ticket/Arrest Number(s):

Violation Section(s):

Check if involved vehicle is:
☐ more than 95 inches wide;
☐ more than 34 feet long;
☐ operated with an overweight permit;
☐ operated with an overdimension permit.

VEHICLE 1 DAMAGE CODES

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

Enter up to three more Damage Codes: 3, 1, 4, 5

Vehicle Towed: By Cheektowaga Police — To

VEHICLE 2 ☐ BICYCLIST ☐ PEDESTRIAN ☐ OTHER PEDESTRIAN

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

Driver Name - exactly as printed on license: PARKED

Address (Include Number & Street): — Apt. No.:

City or Town: — State: — Zip Code:

Date of Birth: Month / Day / Year — Sex: — Uninjured ☐ — No. of Occupants: 1 — Public Property Damaged ☐

Name - exactly as printed on registration: Maldonado, Marilyn Y — Sex: F — Date of Birth: 4/2/43

Address (Include Number & Street): 507 Minnesota Ave — Apt. No.: — Haz. Mat. Code: — Released ☐

City or Town: Buffalo — State: NY — Zip Code: 14215

Plate Number: GBP2049 — State of Reg.: NY — Vehicle Year & Make: 2005 Ford — Vehicle Type: SUBU — Ins. Code: 100

Ticket/Arrest Number(s):

Violation Section(s):

Check if involved vehicle is:
☐ more than 95 inches wide;
☐ more than 34 feet long;
☐ operated with an overweight permit;
☐ operated with an overdimension permit.

VEHICLE 2 DAMAGE CODES

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

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

Vehicle Towed: By Haucks — To 207 Cherry St

Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.

Rear End (1) — Left Turn (2) — Right Angle (3) — Right Turn (5) — Head On (7) — Sideswipe (same direction) (3) — Left Turn (4) — Right Turn (6) — Sideswipe (opposite direction) (8)

ACCIDENT DIAGRAM

VEHICLE DAMAGE CODING:

1-13. SEE DIAGRAM ON RIGHT.

14. UNDERCARRIAGE
15. TRAILER
16. OVERTURNED
17. DEMOLISHED
18. NO DAMAGE
19. OTHER

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 Buffalo
Road on which accident occurred: Minnesota (Route Number or Street Name)
at 1) intersecting street: Suffolk (Route Number or Street Name)
or 2) ___ Feet ___ Miles ☐N ☐S ☐E ☐W of ___ (Nearest Named Intersecting Route Number or Street Name)

Accident Description/Officer's Notes: Parking a traffic pursuit with Cheektowaga Police vehicle #1 drive through on Minnesota into the City of Buffalo and side swipe vehicle #2 which was parked facing E on Minnesota with a passenger in the back seat. Marilyn Maldonado was taken out by ambulance. (Witness passenger) Vehicle #2 was struck by vehicle #1 [illegible] The driver of vehicle #1 [illegible] was issued [illegible] Damage Only

USE OVER SIDE? N

ALL INVOLVED A	1	1	—	1	29	M	—	13	6	—	—		Demetrius D Robinson
B	2	—	—	—	70	F	0/11	12	6	Hand	148		Marilyn Y Maldonado
C	2	6	5	1	3	M	4	12	6	Neck	143		Josiah Snead
D													
E													
F													

Officer's Name and Signature / Print Name	Badge/ID No.	NCIC No.	Precinct/Post Troop/Zone	Station/Beat/Sector	Reviewing Officer	Date/Time Reviewed
[illegible] / [illegible]	00115	0140	E	1	LT P.F.	5/30/14 2130