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

September 10, 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:	*Kubik, Michael v. Erie County Sheriff's Office and Town of Cheektowaga Police Department*
Document Received:	Buffalo City Court Small Claims Notice
Name of Claimant:	Michael Kubik 155 Greenwood Drive Lackawanna, New York 14218
Claimant's attorney:	Claimant is currently proceeding *pro se*.

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.

Buffalo City Court
Buffalo City Court Building
50 Delaware Avenue
Buffalo, NY 14202

2014 SEP -9 PM 2:45

Sheriff Tim Howard - Erie County
10 Delaware Avenue
Buffalo, NY 14201

A Guide to Small Claims Court is available at the Court addressed above

2014 SEP -9 PM 2:45

State of New York, County of Erie
Buffalo City Court Small Claim Part

Index No: **SC-001352-14/BU**
10/02/2014 2:00 PM

To all named Defendants:
Town of Cheektowaga Police Department, at 3223 Union Road, Cheektowaga, NY 14227
Sheriff Tim Howard - Erie County, at 10 Delaware Avenue, Buffalo, NY 14201

TAKE NOTICE that the following Claimant(s): **Michael Kubik, at 155 Greenwood Drive, Lackawanna, NY 14218** has/have asked judgment in this Court against you for **$1,254.00** together with costs upon the following claim(s): **Other for $1,254.00**
Additional detail (if any): **9/7/14 - 9/21/14 - Defendant owes Plaintiff for conversion/bailment - $1254.00 for personal property.**
There will be a Hearing before the Court on this claim on: **October 2, 2014 at 2:00 PM in Small Claim's Part 15, 2:00 pm session at the Buffalo City Court located at: Buffalo City Court Building, 50 Delaware Avenue, Buffalo, NY 14202**

You **MUST** appear and present your defense and any counterclaim you may desire to assert at the Hearing at the time and place above set forth (a corporation must be represented by an attorney or any authorized officer, director or employee). **IF YOU DO NOT APPEAR IN PERSON OR BY AN ATTORNEY, JUDGMENT WILL BE ENTERED AGAINST YOU BY DEFAULT EVEN THOUGH YOU MAY HAVE A VALID DEFENSE.** If your defense or counterclaim, if any, is supported by witnesses, account books, receipts or other documents, you must produce them at the Hearing. The Clerk, if requested, will issue subpoenas for witnesses, without charge. However, there may be a fee to serve the subpoena.

NOTE: if you desire a jury trial, **(See Buffalo City Court Info. on the back of this summons)** you must, before the day upon which you have been notified to appear, file with the Clerk of the Court a written demand for a trial by jury. You must also pay to the Clerk a jury fee of **$70** and file an undertaking in the sum of **$50** or deposit such sum in cash to secure the payment of any costs that may be awarded against you. You will also be required to make an affidavit specifying the issues of fact which you desire to have tried by a jury and stating that such trial is desired and demanded in good faith. Under the law, the Court may award up to **$25**, as additional costs to the Claimant if a jury trial is demanded by you and a decision is rendered against you.

If you wish to present a counterclaim against the Claimant, you must do so by filing with the Clerk of the Court a statement containing such counterclaim within five days of receiving this Notice of Claim. At the time of such filing you must pay the Clerk a filing fee of **$5** plus the cost of postage to send your counterclaim by first class mail to the Claimant. If you fail to file a counterclaim within this five-day period, you retain the right to file the counterclaim at the time of the Hearing, but the Claimant may request and obtain an adjournment of the Hearing to a later date.

If you admit the claim, but desire time to pay, you must appear personally on the day set for the Hearing and state to the Court your reasons for desiring time to pay.

DEMAND LETTER:

If you are being sued as a result of a consumer transaction, you should have received a letter from the Claimant demanding payment before you received this Notice of Claim. If you did not get such a letter, notify the Court at the time of your Hearing.

BEFORE THE HEARING:

If this case involves damage to an automobile or other property covered by insurance, you might want to notify your insurance company of this Hearing. The insurance companies may assign an attorney or representative to be present at the Hearing at no cost to you if they are made aware of this case by the policyholder.

PROOF OF CLAIM:

If you rely on estimates for the future cost of repair, service or replacement, two different written itemized and signed estimates of the costs to be incurred are required. If possible, merchandise that is in dispute should be brought to Court. Photographs may be an acceptable alternative in certain circumstances.

If your side of the case is supported by testimony of a witness, that party must be in Court with you at the time and place indicated on this notice. You may have to pay an expert witness for his or her time. If a witness is unwilling to provide you with required evidence or to appear voluntarily, you may request the Clerk to issue a subpoena for records and/or a subpoena to testify, to compel someone to produce the records or to actually appear and testify. Such subpoenas are issued by the Court without fee, but you will be required to pay a fee to the person on whom the subpoena is served. Your request for such subpoena must be made to the Clerk before the scheduled date of the Hearing.

SETTLEMENT:

If you admit the claim:

a) and you are able to work out a settlement with the Claimant, a written agreement (Stipulation of Settlement) should be filed with the court. This may be done on or before the date set for the Hearing. The document provided to the Court must include the index number of your case.

b) but desire more time to pay and the claimant is not willing to accept your plan for payment, you must appear personally on the date set for the Hearing, tell the Court that you desire time to pay, and provide your reason(s) for desiring time to pay. At that time, with the aid of the Court, you may be able to reach agreement with the Claimant and enter into a written Stipulation of Settlement.

RESULT OF NON-APPEARANCE (DEFAULT):

If you, the Defendant, fail to appear for a trial, an inquest may be held. At the inquest, the Claimant must prove his/her case to the satisfaction of the Judge/JHO/Arbitrator even though the Defendant is not present. Almost all inquests will result in a judgment in favor of the Claimant. If the Claimant (the person who is suing) fails to appear, the case will generally be dismissed.

If a default judgment is entered against you and you do not pay it, the Claimant may have the Enforcement Officer seize certain of your property and sell it to satisfy the judgment, or, if you work, have a portion of your salary turned over to the Claimant until the judgment is paid. The Claimant also may obtain a restraining order blocking access to your bank account.

THIRD-PARTY CLAIMS:

If you believe that a third party bears full or partial responsibility for the claim, you may be able to bring that party into the lawsuit as a Third-Party Defendant. Contact the Clerk promptly for information about filing a third-party action.

RESULTS OF THIS ACTION:

If a judgment is rendered against you, the law gives the Claimant certain rights to collect the judgment.

If you do not pay the judgment within thirty (30) days, the Enforcement Officer may execute against your property. This means that the Enforcement Officer can seize certain of your property and sell it to satisfy the judgment. The Claimant can compel you to come into Court and be examined under oath as to your property, bank account, and other assets, and may obtain a restraining order tying up your bank account.

If you work, the Enforcement Officer may take a portion of your salary and turn it over to the Claimant until the judgment is paid.

If the claim was based on your ownership or operation of a motor vehicle, your driver's license and/or vehicle registration may be suspended by the Court.

If you are licensed by any city or state agency, a complaint may be filed against you for non-payment of the judgment, and your license may be revoked or suspended.

Whenever a judgment has been rendered against a person, partnership, firm or corporation in other than its true legal name and that judgment has remained unpaid for thirty-five (35) days after the judgment debtor has received a copy of the judgment, the judgment creditor shall be entitled to commence an action for the sum of the original judgment plus costs, reasonable attorney fees, and one hundred dollars ($100.00).

The information below, is specific to the Court where your case will be heard.

Buffalo City Court, Erie County, New York

Pursuant to 22 NYCRR §210.41(n) or 22 NYCRR §210.41-a(n) this matter will be subjected to Mandatory Arbitration. All Small Claims and Commercial claims hearings held in Buffalo City Court are conducted by a Hearing Officer appointed by the Court. Any party, not in default, who is dissatisfied with the outcome after arbitration, may demand a trial before a judge, which is called a Trial De Novo.

If the defendant makes a Demand for a Trial De Novo, and also wants a jury trial the defendant must file a Jury Trial De Novo, provided the defendant complies with all conditions set forth on the Notice of Claim. Only the defendant may demand a Jury Trial De Novo.

If the claimant makes a Demand for a Trial De Novo, the defendant may then file a Jury Demand prior to the scheduled date for the trial, provided the defendant complies with the conditions set forth on the Notice of Claim.

Request for an adjournment: If this is a Commercial Claim you may request that the time be changed to an evening session. You must contact the court prior to your court date to request information on how to obtain an adjournment (716)845-2663.

Please Bring This Novice With You at All Times.

A copy of the booklet "A Guide to Small Claims Court" is available for your information at the Small

CERTIFIED MAIL

CITY COURT OF BUFFALO
SMALL/COMM. CLAIMS PART
50 DELAWARE AVENUE
BUFFALO, N.Y. 14202-3898
(RETURN IN 10 DAYS)

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