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 9, 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:	*Rivera, Diady v. County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	Diady Rivera 97 Mayer Avenue Buffalo, New York 14207
Claimant's attorney:	Ramon D. Irizarry, Esq. 528 Elmwood Avenue - Suite 3 Buffalo, New York 14222

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

Diady Rivera,
Claimant(s),

- against -

County of Erie,
Municipal Entity

NOTICE OF CLAIM

This paper received at the
Erie County Attorney's Office
from Ramon Irizarry on
the 5th day of September, 2014
at 2:35 a.m./p.m.
Gregory D. Kammer
Assistant County Attorney

TO: COUNTY OF ERIE

PLEASE TAKE NOTICE, that DIADY RIVERA, has and hereby makes claim against THE COUNTY OF ERIE, and in support of said claim state(s) the following:

1. The Post Office address of the claimant(s) is 97 Mayer Avenue, Buffalo, New York 14207.

2. The attorney for the claimant is RAMON IRIZARRY, ESQ., and his Post Office address is 528 Elmwood Avenue, Suite 3, Buffalo, New York 14222.

3. This claim is for personal injuries, including without limitation, medical expenses, damages to her vehicle, and for consequential damages generally.

4. The claim arose in substance as follows: On the 12th day of June, 2014, at approximately 7:49 p.m., the claimant, DIADY RIVERA, while driving on the lot located at 28 Hertel Avenue, a lot owned and controlled by the County of Erie (SBL #: 88.24-4-3), drove into a dangerously wide and deep pothole which was filled with rainwater at the time.

5. Because the hole was filled with rainwater, the claimant did not realize that this was an unusually deep hole in the road.

6. In addition to the fact that the hole was filled with rainwater, the entire pothole stretched widely across the driving lane.

7. Upon impact with the pothole, the claimant hit her head on the steering wheel, resulting in a serious concussion.

8. Additionally, severe damage to the claimant's vehicle occurred as a result of the impact with the pothole.

9. Upon information and belief, the incident herein described and the resultant injuries and damages sustained were caused as a result of the negligence and carelessness on the part of the agents, servants and/or employees of the County of Erie, and more particularly, among other things, in failing and omitting to properly maintain its property in a reasonably safe condition.

10. Upon information and belief, as a result of the aforesaid incident, the claimant, DIADY RIVERA, sustained severe bodily injuries and was painfully and seriously injured; was rendered sick, sore, lame and disabled; sustained pain and suffering and a serious closed-head injury. The aforesaid incident and injuries sustained by the claimant, were caused solely based on the County of Erie's failure to properly maintain its property in a reasonably safe condition.

11. Furthermore, as of August 18, 2014, this dangerously deep and wide hole in the road has since been repaired.

12. The claimant is seeking damages for pain and suffering, for repairs to her vehicle (see Exhibit A), and for past, present, and future medical expenses incurred as a result of this incident.

WHEREFORE, claimant requests that the County of Erie honor and pay the claim on behalf of DIADY RIVERA.

DATED: Buffalo, New York
August 18, 2014

RAMON IRIZARRY, ESQ.
Attorney for Claimant
Office and P.O. Address
528 Elmwood Avenue, Suite 3
Buffalo, New York 14222
(716) 901-4021

STATE OF NEW YORK)
) SS.:
COUNTY OF ERIE)

DIADY RIVERA, being duly sworn deposes and says that she is the claimant above named; and makes this claim on behalf of self; she has read the foregoing claim and knows the contents thereof; the same is true to the knowledge of the claimant except for the matters herein alleged upon information and belief, and as to those matters, she believes them to be true.

Diady Rivera

DIADY RIVERA

Sworn to before me on this
18th day of August, 2014.

Notary Public

RAMON IRIZARRY, Esq.
Notary Public, State of New York
Qualified in Erie County
My Commission Expires April 22, 2017

EXHIBIT A

CARUBBA COLLISION - DW

INSIST ON CARUBBA COLLISION
2643 DELAWARE AVENUE, BUFFALO, NY 14216
Phone: (716) 876-0700

Workfile ID:	ba2d369f
Federal ID:	161164745
License Number:	7095233

Preliminary Estimate

Customer: RIVERA, DIADY

Written By: Bruce Galley, IA-1070421

Insured:	Policy #:	Claim #:
Type of Loss:	Date of Loss:	Days to Repair: 0
Point of Impact: 10 Left Front Pillar (Left Side)		

Owner:	Inspection Location:	Insurance Company:
RIVERA, DIADY	CARUBBA COLLISION - DW	CUST PAY
97 MAYER AVE	2643 DELAWARE AVENUE	
BUFFALO, NY 14207	BUFFALO, NY 14216	
(716) 697-4147 Business	Repair Facility	
(716) 544-2512 Cell	(716) 876-0700 Day	

VEHICLE

Year:	2005	Body Style:	4D SED	VIN:	JM1BK12F151265733	Mileage In:	
Make:	MAZD	Engine:	4-2.0L-FI	License:	DLX2400	Mileage Out:	
Model:	3	Production Date:		State:	NY	Vehicle Out:	
Color:	SILVER Int:	Condition:		Job #:			

TRANSMISSION	Console/Storage	AM Radio	**SEATS**
Overdrive	**CONVENIENCE**	FM Radio	Cloth Seats
5 Speed Transmission	Air Conditioning	Stereo	Bucket Seats
POWER	Intermittent Wipers	Search/Seek	Reclining/Lounge Seats
Power Steering	Tilt Wheel	CD Player	**WHEELS**
Power Brakes	Rear Defogger	**SAFETY**	Wheel Covers
DECOR	Steering Wheel Touch Controls	Drivers Side Air Bag	**PAINT**
Dual Mirrors	Telescopic Wheel	Passenger Air Bag	Clear Coat Paint
Body Side Moldings	**RADIO**	4 Wheel Disc Brakes	

Preliminary Estimate

Customer: RIVERA, DIADY

Vehicle: 2005 MAZD 3 4D SED 4-2.0L-FI SILVER

Line		Oper	Description	Part Number	Qty	Extended Price $	Labor	Paint
1	**FRONT BUMPER**							
2			O/H bumper assy				2.8	
3		Repl	Bumper cover w/o fog lamps	BNYP5003XEBB	1	374.34	Incl.	2.6
4			Add for Clear Coat					1.0
5		R&I	License bracket w/o fog lamps				0.2	
6	*	R&I	RT Plate				Incl.	
7	*	R&I	LT Plate				Incl.	
8		R&I	RT Hole cover w/o fog lamps				Incl.	
9		R&I	LT Hole cover w/o fog lamps				Incl.	
10		R&I	Lower grille w/o fog lamps				Incl.	
11	#	Subl	TWO WHEEL ALIGNMENT		1	84.95 T		
12	#		HAZARDOUS WASTE REMOVAL		1	3.50 T		
13	#		Flex Agent-Adhesion Promoter		1	8.00 T		
14	#		***POSSIBLE HIDDEN DAMAGE (SUSPENSION)***		1			
				SUBTOTALS		**470.79**	**3.0**	**3.6**

ESTIMATE TOTALS

Category	Basis		Rate	Cost $
Parts				374.34
Body Labor	3.0 hrs	@	$ 49.00 /hr	147.00
Paint Labor	3.6 hrs	@	$ 49.00 /hr	176.40
Paint Supplies	3.6 hrs	@	$ 32.00 /hr	115.20
Miscellaneous				96.45
Subtotal				909.39
Sales Tax	$ 909.39	@	8.7500 %	79.57
Grand Total				**988.96**

Customer: RIVERA, DIADY

Vehicle: 2005 MAZD 3 4D SED 4-2.0L-FI SILVER

YOU HAVE THE RIGHT UNDER NEW YORK STATE DEPARTMENT OF MOTOR VEHICLE SECTION 82.5 TO REQUEST THE RETURN OF ANY PART REPLACED DURING VEHICLE REPAIRS. YOU MUST MAKE THE REQUEST IN WRITING AND SHOULD THERE BE A CORE CHARGE FOR ANY REPLACED PART, YOU MUST PAY THE CORE CHARGE IN ORDER TO RETAIN THAT PART. PARTS REPLACED ON A N EXCHANGE BASIS OR UNDER WARRANTY OF ANY TYPE CANNOT BE RETAIN BY THE CUSTOMER.
All parts prices are subject to invoice. All parts are new unless otherwspecified. LKQ or Recycled designateds parts that have been removed form salvage vehicles of the same year as the damaged vehicle described in this estimate. A/M or Aftermarket parts are NON-OEM manufactured by parties other than the assembler of the vehicle described in this estimate.

THIS ESTIMATE IS BASED ON OUR INSPECTION AND DOES NOT COVER ANY ADDITIONAL WORK WHICH MAY BE REQUIRED AFTER THE JOB HAS BEEN STARTED. OCCASIONALLY, WORN, DAMAGED OR BROKEN PARTS ARE DISCOVERED WHICH WERE NOT EVIDENT ON THE FIRST INSPECTION. ALL PARTS PRICES ARE CURRENT AND SUBJECT TO INVOICE. NO GUARANTEE ON RUSTED PANELS. WE WILL PROVIDE YOU WITH A FREE LOANER IF YOU DO NOT HAVE INSURANCE COVERAGE FOR ONE.

FREE LOANER POLICY DOES NOT APPLY TO CLAIMANTS OF AN INSURANCE COMPANY

X_____ DATE:_____

_____
Name (please print)

I do hereby appoint Carubba Collision to accept on my behave any and all check, drafts ot bills of exchange for deposit to the Carubba Collision business
accounts for credit on my account for repairs on my vehicle which has been released and accepted.
X_____ DATE:_____
Signature of owner agent

_____
Name (please print)

ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR COMMERCIAL INSURANCE OR A STATEMENT OF CLAIM FOR ANY COMMERCIAL OR PERSONAL INSURANCE BENEFITS CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, AND ANY PERSON WHO, IN CONNECTION WITH SUCH APPLICATION OR CLAIM, KNOWINGLY MAKES OR KNOWINGLY ASSISTS, ABETS, SOLICITS OR CONSPIRES WITH ANOTHER TO MAKE A FALSE REPORT OF THE THEFT, DESTRUCTION, DAMAGE OR CONVERSION OF ANY MOTOR VEHICLE TO A LAW ENFORCEMENT AGENCY, THE DEPARTMENT OF MOTOR VEHICLES OR AN INSURANCE COMPANY, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME, AND SHALL ALSO BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS AND THE VALUE OF THE SUBJECT MOTOR VEHICLE OR STATED CLAIM FOR EACH VIOLATION.

You are entitled to the return of all replaced parts, except warranty and exchange parts, but you must ask for them in writing before any work is done. If you authorize work by phone, the shop must keep any replaced parts, and make them available when you pick up the vehicle.

Customer: RIVERA, DIADY

Vehicle: 2005 MAZD 3 4D SED 4-2.0L-FI SILVER

Estimate based on MOTOR CRASH ESTIMATING GUIDE. Unless otherwise noted all items are derived from the Guide ARH5417, CCC Data Date 6/16/2014, and the parts selected are OEM-parts manufactured by the vehicles Original Equipment Manufacturer. OEM parts are available at OE/Vehicle dealerships. OPT OEM (Optional OEM) or ALT OEM (Alternative OEM) parts are OEM parts that may be provided by or through alternate sources other than the OEM vehicle dealerships. OPT OEM or ALT OEM parts may reflect some specific, special, or unique pricing or discount. OPT OEM or ALT OEM parts may include "Blemished" parts provided by OEM's through OEM vehicle dealerships. Asterisk (*) or Double Asterisk (**) indicates that the parts and/or labor information provided by MOTOR may have been modified or may have come from an alternate data source. Tilde sign (~) items indicate MOTOR Not-Included Labor operations. The symbol (<>) indicates the refinish operation WILL NOT be performed as a separate procedure from the other panels in the estimate. Non-Original Equipment Manufacturer aftermarket parts are described as Non OEM or A/M. Used parts are described as LKQ, RCY, or USED. Reconditioned parts are described as Recond. Recored parts are described as Recore. NAGS Part Numbers and Benchmark Prices are provided by National Auto Glass Specifications. Labor operation times listed on the line with the NAGS information are MOTOR suggested labor operation times. NAGS labor operation times are not included. Pound sign (#) items indicate manual entries.

Some 2014 vehicles contain minor changes from the previous year. For those vehicles, prior to receiving updated data from the vehicle manufacturer, labor and parts data from the previous year may be used. The CCC ONE estimator has a complete list of applicable vehicles. Parts numbers and prices should be confirmed with the local dealership.

The following is a list of additional abbreviations or symbols that may be used to describe work to be done or parts to be repaired or replaced:

SYMBOLS FOLLOWING PART PRICE:
m=MOTOR Mechanical component. s=MOTOR Structural component. T=Miscellaneous Taxed charge category. X=Miscellaneous Non-Taxed charge category.

SYMBOLS FOLLOWING LABOR:
D=Diagnostic labor category. E=Electrical labor category. F=Frame labor category. G=Glass labor category. M=Mechanical labor category. S=Structural labor category. (numbers) 1 through 4=User Defined Labor Categories.

OTHER SYMBOLS AND ABBREVIATIONS:
Adj.=Adjacent. Algn.=Align. ALU=Aluminum. A/M=Aftermarket part. Blnd=Blend. BOR=Boron steel. CAPA=Certified Automotive Parts Association. D&R=Disconnect and Reconnect. HSS=High Strength Steel. HYD=Hydroformed Steel. Incl.=Included. LKQ=Like Kind and Quality. LT=Left. MAG=Magnesium. Non-Adj.=Non Adjacent. NSF=NSF International Certified Part. O/H=Overhaul. Qty=Quantity. Refn=Refinish. Repl=Replace. R&I=Remove and Install. R&R=Remove and Replace. Rpr=Repair. RT=Right. SAS=Sandwiched Steel. Sect=Section. Subl=Sublet. UHS=Ultra High Strength Steel. N=Note(s) associated with the estimate line.

CCC ONE Estimating - A product of CCC Information Services Inc.

The following is a list of abbreviations that may be used in CCC ONE Estimating that are not part of the MOTOR CRASH ESTIMATING GUIDE:
BAR=Bureau of Automotive Repair. EPA=Environmental Protection Agency. NHTSA= National Highway Transportation and Safety Administration. PDR=Paintless Dent Repair. VIN=Vehicle Identification Number.

RUSTOP

SCHMIDT'S COLLISION AND GLASS

SCHMIDT'S AUTO BODY & GLASS, INC.- BUFFALO

YOUR CAR... YOUR CLAIM... YOUR CHOICE...
555 PEARL ST., BUFFALO, NY 14202
Phone: (716) 855-2886
FAX: (716) 852-5257

Workfile ID: 7d9b9a64
State ID: 7114106

Preliminary Estimate

Customer: Rivera, Diady

Written By: Gene Blowers, IA-724332

Insured: Rivera, Diady
Type of Loss:
Point of Impact: 11 Left Front

Policy #:
Date of Loss:

Claim #:
Days to Repair: 0

Owner:
Rivera, Diady

97 Mayer ave
Buffalo, NY 14207
(716) 697-4147 Cell
(716) 544-2512 Evening

Inspection Location:
SCHMIDT'S AUTO BODY & GLASS, INC.-BUFFALO
555 PEARL ST.
BUFFALO, NY 14202
Repair Facility
(716) 855-2886 Day
Date Inspected: 6/16/2014

Insurance Company:
SELF PAY

VEHICLE

Year:	2005	Body Style:	4D SED	VIN:	JM1BK12F151265733	Mileage In:	
Make:	MAZD	Engine:	4-2.0L-FI	License:	DLX2400	Mileage Out:	
Model:	3	Production Date:		State:	NY	Vehicle Out:	
Color:	silver Int:	Condition:	Good	Job #:			

TRANSMISSION
Overdrive
5 Speed Transmission
POWER
Power Steering
Power Brakes
DECOR
Dual Mirrors
Body Side Moldings
Console/Storage
CONVENIENCE
Air Conditioning
Intermittent Wipers
Tilt Wheel
Rear Defogger
Steering Wheel Touch Controls
Telescopic Wheel
RADIO
AM Radio
FM Radio
Stereo
Search/Seek
CD Player
SAFETY
Drivers Side Air Bag
Passenger Air Bag
4 Wheel Disc Brakes
SEATS
Cloth Seats
Bucket Seats
Reclining/Lounge Seats
WHEELS
Wheel Covers
PAINT
Clear Coat Paint

Preliminary Estimate

Customer: Rivera, Diady

Vehicle: 2005 MAZD 3 4D SED 4-2.0L-FI silver

Line		Oper	Description	Part Number	Qty	Extended Price $	Labor	Paint
1	FRONT BUMPER							
2	** <>	Repl	A/M CAPA Bumper cover w/o fog lamps	BNYP5003XEBB	1	294.00	2.2	2.6
3			Add for Clear Coat		0	0.00	0.0	1.0
4		R&I	License bracket w/o fog lamps		0	0.00	0.2	0.0
5		R&I	Lower grille w/o fog lamps		0	0.00	Incl.	0.0
6		Repl	LT Hole cover w/o fog lamps	BN8V50C21	1	12.69	Incl.	0.0
7		R&I	RT Hole cover w/o fog lamps		0	0.00	Incl.	0.0
8	#	Subl	Tire mount & balance		1	19.95	0.0	0.0
9	#	Subl	Four Wheel Alignment		1	79.95	0.0	0.0
10	#		Flex Additive		1	12.00	0.0	0.0
11				OTHER CHARGES				
12	#			E.P.C.	1	3.50		
				SUBTOTALS		**422.09**	**2.4**	**3.6**

ESTIMATE TOTALS

Category	Basis		Rate	Cost $
Parts				418.59
Body Labor	2.4 hrs	@	$ 52.00 /hr	124.80
Paint Labor	3.6 hrs	@	$ 52.00 /hr	187.20
Paint Supplies	3.6 hrs	@	$ 30.00 /hr	108.00
Other Charges				3.50
Subtotal				842.09
Sales Tax	$ 842.09	@	8.7500 %	73.68
Grand Total				**915.77**
Deductible				0.00
CUSTOMER PAY				**0.00**
INSURANCE PAY				**915.77**

Customer: Rivera, Diady

Vehicle: 2005 MAZD 3 4D SED 4-2.0L-FI silver

All parts are new (OEM) unless otherwise noted. LKQ designates parts removed from a salvage vehicle for use on your car. A/M designates Aftermarket Parts which are not manufactured by the auto maker, and therefore are not OEM. All parts prices are subject to invoice.

This is an estimate based on a visual inspection. Further hidden damage may be discovered upon disassembly of the vehicle for repair. If any additional damage or worn parts are discovered you and/or your insurance company will be notified before additional repairs commence.

I have read the above and hereby authorize Collision Masters, LLC. d/b/a Schmidt's Auto Body and Glass to perform the above detailed repairs.

---YOU HAVE THE RIGHT UNDER NYS DEPT OF MOTOR VEHICLES REGULATIONS, SECTION 82.5 TO REQUEST IN WRITING PRIOR TO REPAIRS. SHOULD THERE BE A CORE CHARGE FOR ANY REPLACED PART, YOU MUST PAY THE CORE CHARGE IN ORDER TO RETAIN THAT PART.---

X _____ Date _____
(Owner or Agent)

ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR COMMERCIAL INSURANCE OR A STATEMENT OF CLAIM FOR ANY COMMERCIAL OR PERSONAL INSURANCE BENEFITS CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, AND ANY PERSON WHO, IN CONNECTION WITH SUCH APPLICATION OR CLAIM, KNOWINGLY MAKES OR KNOWINGLY ASSISTS, ABETS, SOLICITS OR CONSPIRES WITH ANOTHER TO MAKE A FALSE REPORT OF THE THEFT, DESTRUCTION, DAMAGE OR CONVERSION OF ANY MOTOR VEHICLE TO A LAW ENFORCEMENT AGENCY, THE DEPARTMENT OF MOTOR VEHICLES OR AN INSURANCE COMPANY, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME, AND SHALL ALSO BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS AND THE VALUE OF THE SUBJECT MOTOR VEHICLE OR STATED CLAIM FOR EACH VIOLATION.

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THE PREPARATION OF THIS ESTIMATE MAY HAVE BEEN BASED ON THE USE OF CRASH PARTS SUPPLIED BY A SOURCE OTHER THAN THE MANUFACTURER OF YOUR MOTOR VEHICLE. THERE ARE WARRANTIES APPLICABLE TO THESE REPLACEMENT PARTS. THESE WARRANTIES ARE PROVIDED BY THE MANUFACTURER AND/OR DISTRIBUTOR OF THE PARTS RATHER THAN BY THE ORIGINAL MANUFACTURER OF YOUR VEHICLE.

Customer: Rivera, Diady

Vehicle: 2005 MAZD 3 4D SED 4-2.0L-FI silver

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Customer: Rivera, Diady

Vehicle: 2005 MAZD 3 4D SED 4-2.0L-FI silver

ALTERNATE PARTS SUPPLIERS

Supplier:	**Keystone-Insurance-Buffalo**	(800) 258-0008	(716) 894-6262
Location(s):	2871 BROADWAY, BUFFALO NY 14227	(800) 836-2839	(585) 328-4420
	8 CAIRN STREET, ROCHESTER NY 14611		

Line	Description	Item #	Price
2	A/M CAPA Bumper cover w/o fog lamps	MA1000196PP	$ 294.00