(11)

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

October 30, 2014

Ms. Karen McCarthy, Clerk
Erie County Legislature
92 Franklin Street. 4th Floor
Buffalo, New York 14202

Dear Ms. McCarthy:

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:	*Spates, Darius R.D. v. County of Erie and Erie County Sheriff*
Document Received:	Notice of Claim
Name of Claimant:	Darius R.D. Spates 54 Rickert Street Buffalo, NY 14208
Claimant's attorney:	Joshua I. Ramos, Esq. Ramos & Ramos 37 Franklin Street, Suite 1110 Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: Michelle Parker
Michelle Parker
First Assistant County Attorney

MMP:dld
Enc.

STATE OF NEW YORK
COUNTY OF ERIE

DARIUS R. D. SPATES,

Claimant,

NOTICE OF CLAIM

-vs-

COUNTY OF ERIE, and
ERIE COUNTY SHERIFF

Defendant/Respondent.

TO: COUNTY OF ERIE and ERIE COUNTY SHERIFF

PLEASE TAKE NOTICE, that DARIUS R. D. SPATES, pursuant to the statute in such cases made and provided, does hereby make claim against the COUNTY OF ERIE and ERIE COUNTY SHERIFF, and in support of such claim does state the following:

1. The claimant resides at 54 Rickert Street, Buffalo, NY 14208.

2. The claimant is represented by RAMOS & RAMOS., of 37 Franklin Street, Suite 1110, Buffalo, NY 14202.

3. On or about July 25, 2014, Claimant, Mr. Spates, was placed into the custody of the Erie County Sheriff after an initial arrest by the City of Buffalo Police Department.

4. He was refused an arraignment within a reasonable period of time and was not arraigned until approximately three days later on or about July 28, 2014.

5. Prior to being turned over to the custody of the Erie County Sheriff, Mr. Spates suffered a serious injury during the Course of the arrest by City of Buffalo Police Department.

6. The injury was clearly visible to any person whom could see Mr. Spates, including the Erie County Sheriff's officers/agents/employees where Mr. Spates was in custody. As proof of his clearly visible injuries, attached hereto as ***Exhibit A***, are pictures of his injuries.

7. During the time which Mr. Spates was in the care and custody of the Erie County Sheriff's department, said Department had a special duty of care which includes, but is not limited to, to provide and make available necessary medical treatment.

8. However, not only did the Erie County Sheriff's Department ignore Mr. Spates' need for medical treatment which was open and obvious to all Officers/agents/employees, that need was ignored intentionally, recklessly and negligently by the officers/agents/employees of Erie County Sheriff's Department.

9. It will be claimed that the Erie County Sheriff had actual notice due to the grotesque visual nature of the injury and also had constructive notice because any reasonable inspection, which should have taken place multiple times during Mr. Spates' detention, should have revealed Mr. Spates' injury.

10. Mr. Spates was forced to suffer great pain and suffering as a result of Erie County Sheriff's Department failure to comport to the required standard of care. Additionally, the injuries caused by the Buffalo Police Department may have been increased, enhanced and/or aggravated by the Erie County Sheriff's Department's failure to obtain needed and required medical treatment.

11. Further, Mr. Spates was deprived of his right to be arraigned in a reasonable period of time from his initial arrest; said deprivation and withholding of Mr. Spates from a timely arraignment is also in violation of any and all 14th Amendment Rights of Mr. Spates.

12. Notice is hereby given that in the event that this claim for money damages is not paid within thirty (30) days of the service herein, it is my intention to commence litigation to recover for the damages which have been sustained.

DATED: October 3, 2014
Buffalo, NY

RAMOS & RAMOS

JOSHUA I. RAMOS, ESQ.
Attorney for the Claimant
37 Franklin Street, Suite 1110
Buffalo, NY 14202
(716) 810-6140

VERIFICATION

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

DARIUS R.D.SPATES, being duly sworn deposes and says that I am the lead Plaintiff/Claimant in this action/claim, that I have read the foregoing Notice of Claim and know the contents thereof; that the same is true to my knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true.

DARIUS R.D. SPATES

Sworn to before me this 20th
day of October, 2014.

Notary Public

JOSHUA I. RAMOS
Notary Public, State of New York
Qualified in Niagara County
My Commission Expires Sept. 6, 2015

EXHIBIT A