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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

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:	*Sacilowski, Josephine v. County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	Josephine Sacilowski 26 Lewan Drive Depew, New York 14043
Claimant's attorney:	Kenneth J. Farrell, Esq. Farrell & Farrell 5872 Camp Road Hamburg, New York 14075

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.

This paper received at the
Erie County Attorney's Office
from Joy DiFilippo on
the 23rd day of October, 2014
at 11:30 a.m./p.m.
Martin Polowy
Assistant County Attorney

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

In The Matter Of The Claim Of

JOSEPHINE SACILOWSKI
26 Lewan Drive
Depew, New York 14043
Claimant

vs.

COUNTY OF ERIE
95 Franklin Street
Buffalo, New York 14202
Respondents

NOTICE OF CLAIM

TO: COUNTY OF ERIE
County Attorney
95 Franklin Street, Rm. 1634
Buffalo, New York 14202

PLEASE TAKE NOTICE, that the undersigned Claimant, JOSEPHINE SACILOWSKI, pursuant to the statutes in such cases made and provided, and the requirements of New York General Municipal Law §50-e, hereby makes a claim against the Respondent, the County of Erie, for personal injuries, medical expenses and damages generally sustained on account of the personal injuries received by Josephine Sacilowski, and in support hereof, the Claimant states:

1. The post office address of the Claimant herein is 26 Lewan Drive, Depew, New York 14043.

2. The name and address of the attorney for the Claimant is Kenneth J. Farrell, Esq., Farrell & Farrell, 5872 Camp Road, Hamburg, New York 14075.

3. The claim of Josephine Sacilowski is for personal injuries

sustained by the said Claimant through the negligence of the Respondent.

4. The time when the claim arose and the injuries were sustained was approximately 11:15 a.m. on August 19, 2014, in the vicinity of a curb separating a driveway/roadway from a grassy/sandy area near the sandbox at Canalside, located in the City of Buffalo, County of Erie and State of New York.

5. At the time when the Claimant, Josephine Sacilowski, suffered her injuries, she was a resident of the Village of Depew in the State of New York, and was walking upon a sandy path leading to a driveway/roadway near the sandbox at Canalside, and the conditions of the surface and the surrounding areas, including the presence of sand, and the lack of appropriate markings, signage or warnings, caused her to fall to the ground.

6. Upon information and belief, the premises in the area where the Claimant fell is owned, maintained and/or controlled by the Respondent. As such, the Respondent had a duty to those using the premises to, among other things, maintain or otherwise control the premises in a reasonably safe condition, including the location where this incident occurred; properly maintain and contain sand in the area; properly monitor for the deposit or accumulation of sand in areas where the sand was not contained or could not be contained; remove excess sand in the area, all within a reasonable time period; to enforce laws, rules, regulations and guidelines; and to compel others to maintain the public areas on or adjacent to the premises, as well as to warn users of the premises concerning the hazardous, unsafe and dangerous conditions.

7. The incident, and the injuries and resulting damages, were caused solely through the negligence and carelessness of the Respondent, in that it failed to repair or remedy the defective, unsafe, and dangerous conditions on the premises in the location where the Claimant fell; failed to routinely inspect the premises for such defective, unsafe or dangerous conditions; failed to post any warnings or erect barriers to prevent persons from traversing the area where the incident occurred; and/or failed to index notices of any defective, unsafe or dangerous conditions on the premises in the location where the Claimant fell.

8. Upon information and belief, the defective, unsafe and dangerous conditions existed for a sufficient length of time to give actual and/or constructive notice to the Respondent, including notice by reasonable inspection.

9. Upon information and belief, the Claimant alleges that the Respondent had prior notice of the defective, dangerous and unsafe condition on the premises as numerous agents, servants and/or employees of the Respondent traversed the area where the incident occurred prior to the claimant's injury.

10. Upon information and belief, the Respondent was negligent, careless and reckless in its ownership, maintenance and control of the premises, in that it failed to remove, repair or remedy any defective, unsafe or dangerous conditions on the premises, so as to prevent users of the premises from becoming injured; failed to post sufficient warnings and/or barriers; failed to conduct adequate inspections for defective, unsafe, dangerous or defective condition; failed to enforce laws, rules and/or regulations concerning the premises; failed to compel entities which operated, maintained or controlled the premises to remove, repair or remedy any defective, unsafe or dangerous

conditions on the premises; failed to properly maintain and contain sand in the area; properly monitor for the deposit or accumulation of sand in areas where the sand was not contained or could not be contained; and failed remove excess sand in the area, all within a reasonable time period;

11. The Claimant, Josephine Sacilowski, solely by reason of the negligence of the Respondent, sustained a facial laceration with significant bleeding, requiring suturing and resulting in scarring; fracture of the left orbital; concussion; facial bruising and soreness; bruising and soreness of the left wrist; bruising of the right knee; cold sweating, vomiting, nausea, lightheadedness, dizziness; numbness; and significant pain; and other permanent injuries as a result thereof, and said Claimant has been forced to expend monies for medical treatment.

12. Upon information and belief, as a result of the foregoing, the Claimant, Josephine Sacilowski, has been damaged in an amount that exceeds the jurisdiction of all lower courts.

WHEREFORE, the Claimant demands that the Respondent, the County of Erie honor and pay her claims.

Dated: October 21, 2014
Hamburg, New York

JOSEPHINE SACILOWSKI

Yours etc,

KENNETH J. FARRELL, ESQ.
FARRELL & FARRELL
5872 Camp Road
Hamburg, New York 14075
(716) 648-2810

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ERIE) ss:
TOWN OF HAMBURG)

JOSEPHINE SACILOWSKI, being duly sworn, deposes and says that she is the Claimant; that she has read the foregoing Notice of Claim and knows the contents thereof, and that the same is true to her own knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters, she believes it to be true.

JOSEPHINE SACILOWSKI

Sworn to before me this
21st day of October, 2014.

Notary Public

KENNETH J. FARRELL
Notary Public, State of New York
Qualified in Erie County
Commission Expires Nov. 26, ~~2010~~ 2014