(17)

COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

January 29, 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:	*Smith, Levi v. County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	Levi Smith 3271 East Church Street Eden, New York 14057
Claimant's attorney:	Michael C. Lancer, Esq. Collins & Collins Attorneys, LLC 267 North Street Buffalo, New York 14201

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.

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

In the Matter of the Claim of
LEVI SMITH,

Claimant,

NOTICE OF CLAIM

vs.

COUNTY OF ERIE,

Respondent.

To: County of Erie
Michael A. Siragusa, Esq.
95 Franklin Street, Suite 1634
Buffalo, New York 14202

PLEASE TAKE NOTICE that the Claimant, **LEVI SMITH**, claims and demands against the **COUNTY OF ERIE** and in accordance with the requirements of the New York General Municipal Law §50-e claim the following:

1. The name and post office address of the Claimant is:

   LEVI SMITH
   3271 East Church Street
   Eden, New York 14057

   The name and post office address of Claimant's attorney is:

   Michael C. Lancer, Esq.
   COLLINS & COLLINS ATTORNEYS, LLC
   267 North Street
   Buffalo, New York 14201

2. The claim of **LEVI SMITH** is for personal injuries sustained through the negligence, carelessness and violations by the Respondent, their agents, employees and representatives.

3. The time when and place where this claim arose are as follows: On November 20, 2013 at approximately 8:00 p.m., at the intersection of NYS Route 20 and Genesee Street in the Town of East Concord, County of Erie, State of New York.

4. The Claimant, **LEVI SMITH**, was a motorist traveling southbound on Route 240 when he approached the intersection of NYS Route 240 and Genesee Road in the Town of East Concord, County of Erie and State of New York.

5. On November 20, 2013, the Claimant, **LEVI SMITH,** was a motorist traveling southbound on Route 240 in the Town of East Concord, County of Erie and State of New York when he was struck by motorist, Steve Royer. At the time of the accident, the Claimant was traveling southbound on Route 240, while Mr. Royer was traveling eastbound on Genesee Road. Mr. Royer ran the stop sign at Genesee Road and Route 240 and hit the passenger side door on the Claimant's vehicle.

6. Upon information and belief, the Respondent is the owner of the aforesaid roadway and was responsible for the maintenance, creation, design, marking, construction and/or repair of this roadway.

7. The Claimant, **LEVI SMITH**, was caused to suffer serious and permanent injuries including, his lower back, left shoulder, left wrist and neck.

8. The injuries to the Claimant, **LEVI SMITH**, have resulted and will result in past and future medical expenses; past and future loss of earnings, fringe benefits, and unemployment compensation; reduced earning capacity; past and future pain and suffering and loss of enjoyment of life; past and future loss of household services; as well as other damages.

9. The collision between the Claimant, **LEVI SMITH** and the aforesaid Steve Royer vehicles was directly and proximately caused by the carelessness and negligence of the Respondent's employees, agents and servants in its creation, design maintenance, marketing, construction and/or reconstruction of the roadway in that they failed to provide safety measures or safety devices that would have prevented the collision between the Claimant's vehicle and Mr. Royer's vehicle. In addition, no signs were placed by the Respondent to warn of the dangerous conditions. Further, the Respondent and/or Respondents' employees, agents and servants had actual and/or constructive notice of the dangerous and/or defective condition of the intersection and failed to exercise reasonable care in removing or correcting the dangerous conditions posed by the roadway. Upon information and belief, the Respondent owns and has a duty to maintain Genesee Road in the Town of East Concord and warn of the dangerous conditions present on that road.

10. The injuries of the Claimant, **LEVI SMITH**, have resulted and will result in past and future medical expenses including costs for hospitalization, surgery, medications, physical therapy, rehabilitation, custodial care, diagnostic tests, radiological tests, follow-up medical examinations; as well as medical and home equipment and devices; past and future loss of earnings, fringe benefits, Social Security benefits and unemployment compensation; reduced

earning capacity; past and future pain and suffering and loss of enjoyment of life; past and future loss of household services; as well as other damages.

WHEREFORE, the Claimant, **LEVI SMITH**, hereby claims and demands from Respondent, **COUNTY OF ERIE**, compensation for the damages sustained by reason of the wrongful, unlawful, negligent and careless acts and omissions of the Respondent, its agents, servants and employees.

DATED: January 15, 2014
Buffalo, New York

MICHAEL C. LANCER, ESQ.
On Behalf of Claimant,
LEVI SMITH
Collins & Collins Attorneys, LLC
267 North Street
Buffalo, New York 14201
(716)885-9700

Subscribed and sworn to before me
this 15 day of January, 2014

NOTARY PUBLIC

JOELLE WOLOSZYN
NOTARY PUBLIC-STATE OF NEW YORK
No. 01WO6273218
Qualified in Wyoming County
My Commission Expires December 03, 2016

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

In the Matter of the Claim of
LEVI SMITH,

Claimant,

AFFIDAVIT OF SERVICE

vs.

COUNTY OF ERIE,

Respondent.

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

Joelle Woloszyn, being duly sworn, deposes and says:

1. That I am over eighteen years of age and am not a party to this action.

2. That on the 15th day of January 2014, I served a copy of a Notice of Claim of LEVI SMITH annexed hereto, on COUNTY OF ERIE, the Respondent, by depositing same enclosed in a postpaid properly addressed wrapper, Certified Mail, Return Receipt Requested, in an official depository under the exclusive care and custody of the United States post office department within the State of New York, addressed as follows:

CERTIFIED MAIL: 7013 1710 0000 9399 3413 County of Erie Michael A. Siragusa, Esq. 95 Franklin Street, Suite 1634 Buffalo, New York 14202	

Joelle Woloszyn, Paralegal

Subscribed and sworn to before me
this 15th day of January, 2014.

NOTARY PUBLIC

MORGAN S. GREENE
No. 01GR6007802
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 5/26/14

Collins&Collins
ATTORNEYS, LLC
a 267 North Street, Buffalo, New York 14201 ☎ p 716 885 9700

VERIFICATION

LEVI SMITH, being duly sworn, depose and say: I am the Claimant above named; I have read the foregoing Notice of Claim against STATE OF NEW YORK, NEW YORK STATE DEPARTMENT OF TRANSPORTATION and COUNTY OF ERIE and know its contents; the same is true to my own knowledge, except as to those matters therein stated to be alleged on information and belief, and, as to those matters, I believe it to be true.

LEVI SMITH

Subscribed and sworn to before me
this 14th day of January, 2014.

NOTARY PUBLIC

JOELLE WOLOSZYN
NOTARY PUBLIC-STATE OF NEW YORK
No. 01WO6273218
Qualified in Wyoming County
My Commission Expires December 03, 2016

Collins&Collins
ATTORNEYS, LLC
267 North Street, Buffalo, New York 14201 □ p. 716 885 9700