(13)

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 21, 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:	*Thiebolt, Jennifer and Michael v. County of Erie and Peter Pomana*
Document Received:	Notice of Claim
Name of Claimants:	Jennifer & Michael Thiebolt 25 Delton Street Tonawanda, New York 14150
Claimant's attorney:	Craig H. Bernhardt, Esq. Nicholas, Perot, Smith, Bernhardt & Zosh 12364 Main Road Akron, New York 14001

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: Michelle Parker (dcd)
Michelle M. Parker
First Assistant County Attorney

MMP
Enc.

STATE OF NEW YORK
COUNTY OF ERIE

In the Matter of the Claim of :
JENNIFER THIEBOLT and
MICHAEL THIEBOLT
25 Delton Street
Tonawanda, New York 14150

NOTICE OF CLAIM

Claimants,

Vs.

COUNTY OF ERIE
95 Franklin Street
Buffalo, New York 14202

PETER POMANA
3 Blair Lane
West Seneca, New York 14224

Respondents.

PLEASE TAKE NOTICE, that Jennifer and Michael Thiebolt, by and through their attorney, Craig H. Bernhardt, Esq., of counsel to Nicholas, Perot, Smith, Bernhardt & Zosh, P.C., hereby make claim against the County of Erie and Peter Pomana, and in support thereof allege the following:

1. That the undersigned, Jennifer and Michael Thiebolt, residing at 25 Delton Street, Tonawanda, New York 14150 by and through their attorney, Craig H. Bernhardt, Esq., of counsel to Nicholas, Perot, Smith, Bernhardt & Zosh, P.C., 12364 Main Road, Akron, New York 14001, claim damages against the Respondents, the County of Erie and Peter Pomana, for personal injuries, pain and suffering, general and special damages, medical expenses and property damages and loss of marital consortium sustained by them.

2. That the said injuries were sustained by Jennifer Thiebolt in a motor vehicle collision that occurred on October 25, 2013 at approximately 1:46 p.m. on the Interstate 190 North at or near its merge to the Interstate 290 East in the Town of Tonawanda, County of Erie and State of New York. A copy of the police report is attached hereto and marked as Exhibit "A".

3. The vehicle occupied by the claimant, Jennifer Thiebolt, was at the time of the incident traveling on the Interstate 190 North, entering the Interstate 290 East when another motor vehicle described as a 2006 Ford Van owned by the County of Erie and operated by Peter Pomana did collide with the passenger side of the vehicle being operated by claimant, Jennifer Thiebolt. The impact did cause the Thiebolt vehicle to leave the highway, causing same to roll over, resulting in personal injuries to Jennifer Thiebolt with resulting general and special damages. The claimant, Michael Thiebolt, has sustained a loss of marital consortium.

4. That the claimants' damages and injuries occurred as a result of the negligence, careless and reckless disregard for the safety of others, of the respondents and their agents, servants and/or employees in operating a motor vehicle in a negligent, careless and reckless manner.

5. As a result of the aforesaid incident, the claimant, Jennifer Thiebolt, sustained severe bodily injuries and was painfully and seriously injured; was rendered sick, sore, lame and disabled; and more particularly, claimant, Jennifer Thiebolt, sustained injuries to her spine, extremities and the nerves, tendons, blood vessels and soft tissues associated therewith. The permanency and full extent of these injuries is currently unknown in as much as Jennifer Thiebolt is currently the recipient of ongoing medical care and treatment. Upon information and belief, the aforesaid injuries are permanent and progressive in nature, and will require further

medical treatment with all risks attendant thereto. As a result of Jennifer Thiebolt's injuries, the claimant, Michael Thiebolt, has sustained a loss of martial consortium.

6. That as a result of the foregoing, the claimant, Jennifer Thiebolt, sustained severe and serious permanent injuries as defined by New York State Insurance Law Section 5102(d) and will seek damages for pain and suffering, mental and emotional distress, unreimbursed or uncompensated medical expenses and loss of wages and every other item of like general damages as may properly be proven at a trial of this action. The claimants have also sustained property damage and other associated expenses including, but not limited to, rental car costs in the approximate amount of $353.12, damage to a GPS unit in the approximate amount of $300.00, and damage to other personal items in the amount of approximately $400.00.

7. That all injuries and damages sustained herein were occasioned as a result of the negligence of the respondents and their agents, servants and/or employees without any negligence on the part of the claimants contributing thereto.

8. As a result of the foregoing, the claimant, Jennifer Thiebolt will, upon information and belief, sustain special damages by way of medical expenses and lost earnings that will exceed basic economic loss as defined by New York State Insurance Law Section 5102(a) and does hereby claim all those damages in excess of "basic economic loss" as said damages were caused by the negligence, carelessness and recklessness of the respondents named herein as well as their agents, servants and/or employees.

9. Upon information and belief, the respondent, Peter Pomana, was operating said motor vehicle at the direction and under the control of the respondent, County of Erie and the County of Erie is vicariously liable for the acts of the respondent, Peter Pomana.

PLEASE TAKE NOTICE, that your claimants intend to commence an action for their damages as set forth above if the above claim is not adjusted in the time provided for by law.

Jennifer Thiebolt

Michael Thiebolt

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

On this 18 day of December, 2013, before me personally came, JENNIFER THIEBOLT, known to me and known to me to be the same person described in the foregoing Notice of Claim and acknowledged to me that she executed the same.

Amy L. Dolega
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 10/24/17

Amy L Dolega
Notary Public

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

On this 18 day of December, 2013, before me personally came, MICHAEL THIEBOLT, known to me and known to me to be the same person described in the foregoing Notice of Claim and acknowledged to me that he executed the same.

Amy L. Dolega
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 10/24/17

Amy L Dolega
Notary Public

Craig H. Bernhardt, Esq.
NICHOLAS, PEROT, SMITH,
BERNHARDT & ZOSH, P.C.
Attorneys for Plaintiff
12364 Main Road, P.O. Box 176
Akron, New York 14001
(716) 542-5413

Sworn to before me this 9th
day of January, 2014.

Karen M Foley
Notary Public

KAREN M FOLEY
Notary Public, State of New York
Qualified in Erie County
My Commission Expires May 11, ~~19~~ 2015