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

January 5, 2015

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:	*Harmon, James v. County of Erie and Erie County Sheriff's Office*
Document Received:	Notice of Claim
Name of Claimant:	James Harmon 56 Whitney Place Buffalo, New York 14201
Claimant's attorney:	David Gutowski, Esq. Zdarsky, Sawicki & Agostinelli, LLP 404 Cathedral Place 298 Main Street Buffalo, New York 14202

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
COUNTY OF ERIE : CITY OF BUFFALO

In the Matter of the Claim of

JAMES HARMON

Claimant,

v.

THE COUNTY OF ERIE
and THE ERIE COUNTY SHERIFF

Respondent.

NOTICE OF CLAIM

TO: THE COUNTY OF ERIE, NEW YORK
95 Franklin Street
Buffalo, New York 14202

THE ERIE COUNTY SHERIFF
10 Delaware Avenue
Buffalo, New York 14202

PLEASE TAKE NOTICE that the claimant, **JAMES HARMON** ("Claimant"), hereby claims and demands against **THE COUNTY OF ERIE, NEW YORK and THE ERIE COUNTY SHERIFF** and the officers, agents, servants and/or employees thereof ("Respondents"), in accordance with the requirements of the New York General Municipal Law §50-e, the following:

1. The name and the post office address of the clamant is:
   James Harmon
   56 Whitney Place
   Buffalo, New York 14201

2. The name, and post office address, and telephone number of the claimant's attorney is:
   David E. Gutowski, Esq.
   Zdarsky, Sawicki & Agostinelli, LLP
   404 Cathedral Place
   298 Main Street
   Buffalo, New York 14202
   (716) 855-3200

3. The claim of James Harmon is for personal injuries sustained as a result of the wrongful, negligent, careless, reckless, and malicious conduct of the Respondents County of Erie and Erie County Sheriff and their officers, employees, agents, and/or servants.

4. The events giving rise to the claim occurred beginning at approximately 6:00 p.m. on September 28, 2014 and into the late morning hours of September 29, 2014 at Buffalo Police Central Booking/Detention Facility at 50 Delaware Avenue; and Buffalo City Court at 50 Delaware Avenue, all in the City of Buffalo, County of Erie.

5. On September 28, 2014, after Claimant was unlawfully arrested and charged by Buffalo Police Officers Ciszek and Mikac, he was detained and incarcerated at a Detention Facility at 50 Delaware Avenue operated, upon information and belief, by Respondents County of Erie and the Erie County Sheriff. Officers Ciszek and/or Mikac instructed officers, employees, agents and/or servants of the Respondents County of Erie and Erie County Sheriff to detain Claimant James Harmon pending arraignment the next day, even though Harmon did not meet any criteria for detention under the circumstances.

6. Respondents County of Erie and Erie County Sheriff, by their officers, employees, agents and/or servants, wrongfully detained claimant James Harmon despite his eligibility for release.

7. All criminal charges against Claimant James Harmon were dismissed by Buffalo City Court on October 8, 2014.

8. Claimant James Harmon suffered damages including but not limited to serious physical injury, pain and suffering as a result of his detention and incarceration, including

numbness in his hands and pain in his back and legs, during his detention and continuing thereafter. The physical injuries were caused by *inter alia*, unsanitary and dangerous conditions and lack of adequate supervision at the Detention Facility.

9. Claimant Harmon suffered further damages including but not limited to: (1) loss of earnings as a result of his detention and incarceration; (2) injury to his reputation as an attorney as a result of his detention and incarceration; (3) mental, emotional and psychological distress, pain and suffering as a result of his confinement and deprivation of liberty during detention and incarceration, and denial of access to Claimant's medication; and (4) mental, emotional and psychological pain, suffering and distress, including indignity, humiliation, shame and disgrace, and further injury to his reputation as an attorney, at arraignment and the subsequent court appearance in the presence of the public, Court staff and fellow members of the Bar.

10. As a result of his injuries, Claimant Harmon has endured physical pain, suffering, and mental, emotional and psychological distress and will in the future continue to do so, and has endured and will continue to endure loss of full enjoyment of life and disruption of normal activities. Upon information and belief, the physical and/or emotional injuries suffered by Claimant Harmon will be permanent and claimant reserves the right to submit proof of any permanency and/or medical expenses in connection with any further proceedings as a result of this claim.

11. The incident described above, and the injuries and damages sustained by the claimant, as set forth above, were caused, in whole or in part, by the negligence, recklessness and malicious conduct of the Respondents County of Erie and Erie County Sheriff by and through

their officers, employees, agents, and/or servants, acting within the scope of their duties and employment.

12. The incident described above, and the injuries and damages sustained by the claimant, as set forth above, were caused in whole or in part, by the negligent hiring, supervision, training and/or retention of Respondent's officers, employees, agents and/or servants at the Detention Facility by the Respondents County of Erie and Erie County Sheriff; by and through their officers, employees, agents and/or servants acting within the scope of their duties and employment.

13. Upon information and belief, the false imprisonment, and exposure to unsanitary and dangerous conditions malicious prosecution, excessive force and malicious abuse of criminal process inflicted upon claimant James Harmon constitute a deprivation of his civil rights, as guaranteed by the Constitutions and laws of the United States of America and the State of New York.

WHEREFORE, James Harmon hereby claims and demands from the Respondents County of Erie and Erie County Sheriff compensation for the damages sustained by reason of the wrongful, negligent, careless, reckless, and malicious acts and omissions of the Respondents County of Erie and Erie County Sheriff by and through their officers, employees, agents, and/or servants.

Dated: December 22, 2014
Buffalo, New York

JAMES HARMON

ZDARSKY, SAWICKI & AGOSTINELLI LLP

By:_____

David E. Gutowski, Esq.
Attorneys for Claimant
404 Cathedral Place
298 Main Street
Buffalo, New York 14202
(716) 855-3200

VERIFICATION

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

James Harmon, being duly sworn, deposes and says: I am the plaintiff herein, I have read the foregoing Notice of Claim, and know the contents thereof; that the same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters, I believe them to be true.

James Harmon

Subscribed and sworn to before me
this 22nd day of December, 2014.

Notary Public

DAVID E. GUTOWSKI
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 2/17/2015