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

February 12, 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:	*Abate, Donald, Estate of, by Jacqueline Abate v. County of Erie, Erie County Sheriff's Office and Erie County Department of Public Works*
Document Received:	Notice of Claim
Name of Claimant:	Jacqueline Abate 60 Orchard Avenue Blasdell, New York 14219
Claimant's attorney:	Brian P. Fitzgerald, Esq. 509 Liberty Building 424 Main Street Buffalo, NY 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.

This paper received at the
Erie County Attorney's Office
from Monique Geissing
on the 11 day of Feb, 2015
at 10:15 a.m./~~p.m.~~
Assistant County Attorney

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

Jacqueline Abate, Individually and as
Administratrix of the Estate of
Donald Abate, Deceased

Claimant

vs.

County of Erie,
Erie County Sheriffs, and
Erie County Department of Public Works

Respondent

NOTICE OF CLAIM

TO: THE COUNTY OF ERIE, ERIE COUNTY SHERIFFS, AND ERIE COUNTY DEPARTMENT OF PUBLIC WORKS

1. The name and post office address of the claimant and her attorney is:

Claimant: Jacqueline Abate, Individually and as
Administratrix of the Estate of Donald Abate, Decease
60 Orchard Avenue
Blasdell, New York 14219

Attorney: Brian P. Fitzgerald, P.C.
424 Main Street, Suite 509
Buffalo, New York 14202

2. The nature of the claim is for the personal injury and conscious pain and suffering and death of Donald Abate and for wrongful death damages sustained by his wife, Jacqueline Abate, and any other distributees of the Estate of Donald Abate.

3. The time when, the place where, and the manner in which the claim arose is as follows: At approximately 11:30 p.m. on Monday, November 17, 2014, Donald Abate was driving west down Route 20, Broadway, in the Town of Alden, New York. At the time, a significant lake effect snow storm had begun to affect the area, including the Town of Alden, but Broadway was open for travel. Donald Abate lawfully traveled down Broadway west through the Town of Alden and eventually came to the intersection of Broadway and Two Rod Road, at which time he pulled over into a car wash parking lot on the south side of Broadway near that intersection. Donald Abate informed his immediate family – his wife Jacqueline Abate, and father and mother, Jim and Mary Ann Abate, of his location and that he could no longer travel down Broadway in either direction due to the snow. Donald Abate and his immediate family members contacted AAA, 911, and the Erie County Sheriffs and the New York State Police for emergency assistance. Upon information and belief, AAA attempted to respond to Donald Abate's calls for assistance but AAA was turned away and prevented from doing so by the Erie County Sheriffs and/or New York State Police stationed in the area, who thereby assumed control of a situation that they knew or should have known was dangerous to Donald Abate but failed to render assistance to Donald Abate themselves. Consequently, Donald Abate was trapped in his vehicle in the Town of Alden near the intersection of Broadway and Two Rod Road and he remained trapped there from the night of Monday, November 17, 2014 until he was found deceased in his vehicle by the Erie County Sheriffs and/or New York State Police, upon information and belief, in the early morning

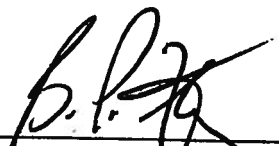
hours of Wednesday, November 19, 2014, due to the negligent acts and/or omissions of the Erie County Sheriffs, and/or the Erie County Department of Public Works, and/or the New York State Police, and/or the New York State Department of Transportation, in failing to close Broadway in a timely manner, in failing to warn motorists of the dangerous conditions present on Broadway, and in refusing to let AAA render assistance to Donald Abate and in otherwise failing to assist Donald Abate themselves.

4. The items of damage or injuries sustained are as follows: Donald Abate was caused conscious pain and suffering and fear of impending death and death. His wife, Jacqueline Abate, and any other distributees of his Estate, were caused to sustain wrongful death damages in the form of pecuniary loss and loss of society, services, companionship and consortium.

WHEREFORE, demand is hereby presented for adjustment and payment. You are hereby notified that unless it is adjusted and paid within the time provided by law from the date of presentation to you, the claimant intends to commence an action on this claim.

Dated: February 4, 2015
Buffalo, New York

Brian P. Fitzgerald, P.C.



Brian P. Fitzgerald, Esq.
Attorneys for the Claimant
Jacqueline Abate, Individually
and as Administratrix of the
Estate of Donald Abate, Deceased
424 Main Street, Suite 509
Buffalo, New York 14202
Tel. (716) 852-2000

VERIFICATION

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

I, Jacqueline Abate, Individually and as Administratrix of the Estate of Donald Abate, Deceased, am the Claimant in the above-entitled action. I have read the foregoing and know the contents thereof. The contents are true to my own knowledge except as to matters therein stated to be alleged upon information and belief, and as to those matters, I believe them to be true.

Jacqueline Abate
Jacqueline Abate, Individually
and as Administratrix of the
Estate of Donald Abate, Deceased

Sworn to before me the
4th day of February, 2015.

Ellen K. Coyle
Notary Public

ELLEN K. COYLE
NOTARY PUBLIC - STATE OF NEW YORK
NO. 01CO6107591
QUALIFIED IN ERIE COUNTY
COMMISSION EXPIRES APRIL 5, 20 16