



COUNTY OF ERIE

MICHAEL A. SIRAGUSA
COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

DEPARTMENT OF LAW

JEREMY C. TOTH.
SECOND ASSISTANT COUNTY ATTORNEY

MEMORANDUM

TO: Karen McCarthy, Clerk, Erie County Legislature
FROM: Michelle M. Parker, First Assistant County Attorney
DATE: September 1, 2016
RE: Transmittal of New Claims Against Erie County

Ms. McCarthy:

In accordance with the Resolution passed by the Erie County Legislature on June 25, 1987 (Int. 13-14), attached please find six (6) new claims brought against the County of Erie. The claims are as follows:

Claim Name

- Estate of Raymond Espinosa v. County of Erie, et al.
- Sheridan Manor, LLC v. Al Dirschberger
- Daniel Schroeder v. County of Erie, et al.
- Kevin DiMaria v. County of Erie, et al.
- Joseph Jones, Jr. v. County of Erie
- Andrew Rutski v. County of Erie, et al.

MMP:dld
Attachments



COUNTY OF ERIE

MICHAEL A. SIRAGUSA
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DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

August 16, 2016

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:	<i>Espinosa, Raymond, Estate of, by Renee Espinosa v. County of Erie, et al.</i>
Document Received:	Notice of Claim
Name of Claimant:	Renee Espinosa 24 Dean Drive North Tonawanda, New York 14120
Claimant's attorney:	William P. Moore, Esq. Lipsitz Green Scime Cambria LLP 42 Delaware Avenue, Suite 120 Buffalo, New York 14202-3924

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 

Michelle M. Parker
First Assistant County Attorney

MMP/dld
Enc.

Comm. 18D-4
Page 2 of 34

In the Matter of the Claim of
RENEE ESPINOSA, as Administrator of
the Estate of RAYMOND G. ESPINOSA,
deceased,

NOTICE OF CLAIM

Claimant,

- against -

TOWN OF TONAWANDA,
TOWN OF TONAWANDA HIGHWAY
DEPARTMENT,
ERIE COUNTY and
ERIE COUNTY DEPARTMENT OF
PUBLIC WORKS,

Respondents.

This paper received at the
Erie County Attorney's Office
from Rocco Gendano
the 9th day of August, 2016
9th at 3:28 a.m./p.m.
Kelly A. Dunkworth
Assistant County Attorney

TO: TOWN OF TONAWANDA
TOWN OF TONAWANDA HIGHWAY DEPARTMENT
ERIE COUNTY
ERIE COUNTY DEPARTMENT OF PUBLIC WORKS

PLEASE TAKE NOTICE, that RENEE ESPINOSA, as Administrator of the Estate of RAYMOND G. ESPINOSA, deceased, has and hereby makes claim against TOWN OF TONAWANDA, TOWN OF TONAWANDA HIGHWAY DEPARTMENT, ERIE COUNTY and ERIE COUNTY DEPARTMENT OF PUBLIC WORKS, and in support of said claim states the following:

1. The Post Office address of the claimant, RENEE ESPINOSA, is 24 Dean Drive, North Tonawanda, New York 14120.
2. The attorneys for the claimant are LIPSITZ GREEN SCIME CAMBRIA LLP, and their Post Office address is 42 Delaware Avenue, Suite 120, Buffalo, New York 14202-3924.

3. On or about the 29th day of July, 2016, the claimant, RENEE ESPINOSA, was appointed as Administrator of the Estate of RAYMOND G. ESPINOSA, deceased, pursuant to the laws of the Surrogate's Court of the County of Niagara and State of New York.

4. The claim on behalf of the decedent, RAYMOND G. ESPINOSA, is for, without limitation, personal injuries, pain and suffering, wrongful death, loss of support and guidance, funeral expenses, and for consequential damages generally.

5. The claim arose on Colvin Boulevard near its intersection with Woodcrest Boulevard, located in the Town of Tonawanda, in the County of Erie and State of New York.

6. The claim arose in substance as follows: On the 21st day of June, 2016, at approximately 5:41 p.m., the decedent, RAYMOND G. ESPINOSA, was operating his motorcycle northbound on Colvin Boulevard, and was caused to collide with a vehicle entering Colvin Boulevard from Woodcrest Boulevard, resulting in his death.

7. Upon information and belief, the incident herein described and the resultant injuries and damages sustained were caused as a result of the negligence, carelessness, recklessness and/or unlawful conduct on the part of the agents, servants and/or employees of TOWN OF TONAWANDA and/or TOWN OF TONAWANDA HIGHWAY DEPARTMENT and/or ERIE COUNTY and/or ERIE COUNTY DEPARTMENT OF PUBLIC WORKS, and more particularly, among other things, in failing and omitting to place the stop signs on Woodcrest Boulevard more prominently at its intersection with Colvin Boulevard; in allowing and permitting the stop signs on Woodcrest Boulevard to be installed too far back from said intersection; in failing and omitting to replace said stop signs with a four-way traffic light; in allowing and permitting the existence of the defective, hazardous and unsafe intersection of Colvin Boulevard and Woodcrest Boulevard; and in failing and omitting to prevent the subject

incident which, in exercise of due care and reasonable inspection, could and should have been avoided.

8. Upon information and belief, as a result of the aforesaid incident, the decedent, RAYMOND G. ESPINOSA, sustained severe bodily injuries and was painfully and seriously injured; was rendered sick, sore, lame and disabled; sustained pain and suffering and shock to his nerves and nervous system; and more particularly, RAYMOND G. ESPINOSA, sustained poly-traumatic and blunt-force injuries which ultimately resulted in his death.

9. As a result of the aforesaid incident and wrongful death of RAYMOND G. ESPINOSA, the claimant, RENEE ESPINOSA, as Administrator of the Estate of RAYMOND G. ESPINOSA, claims damages on behalf of the decedent and his distributees.

WHEREFORE, claimants request that TOWN OF TONAWANDA, TOWN OF TONAWANDA HIGHWAY DEPARTMENT, ERIE COUNTY and ERIE COUNTY DEPARTMENT OF PUBLIC WORKS honor and pay the claim on behalf of the decedent, RAYMOND G. ESPINOSA, and the Estate of RAYMOND G. ESPINOSA.

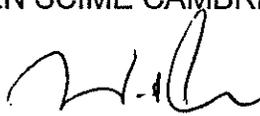
DATED: Buffalo, New York
August 2, 2016



RENEE ESPINOSA, Administrator of the
Estate of RAYMOND G. ESPINOSA, deceased

LIPSITZ GREEN SCIME CAMBRIA LLP

By: _____



WILLIAM P. MOORE, ESQ.

Attorneys for Claimants

Office and P.O. Address
42 Delaware Avenue, Suite 120
Buffalo, New York 14202-3924
716-849-1333
[WPM : 55027.0002]

STATE OF NEW YORK)
) SS.:
COUNTY OF NIAGARA)

RENEE ESPINOSA, being duly sworn deposes and says that she is the claimant above named; and makes this claim on behalf of self; she has read the foregoing claim and knows the contents thereof; the same is true to the knowledge of the claimant except for the matters herein alleged upon information and belief, and as to those matters, she believes them to be true.



RENEE ESPINOSA

Sworn to before me on this
4th day of AUGUST, 2016.



Notary Public

LISA M. COLBURN
Notary Public, State of New York
Qualified in Erie County
My Commission Expires June 19, 2018



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

August 18, 2016

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:	<i>Sheridan Manor, LLC v. Al Dirschberger, as Commissioner of the Erie County Department of Social Services</i>
Document Received:	Notice of Petition and Order
Name of Claimant:	Sheridan Manor, LLC 2799 Sheridan Drive Tonawanda, New York 14150
Claimant's attorney:	Carolyn Ruis Hoffmann, Esq. Hinman, Howard & Kattell, LLP 80 Exchange Street PO Box 5250 Binghamton, New York 13902-5250

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
Michelle M. Parker
First Assistant County Attorney

MMP:dld
Enc.

Comm. 18D-4
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STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

This document received at
ECDSS OFFICE OF COUNSEL
from ACTON SVC on the
14th day of AUGUST, 2015
at 1:19 a.m./1:19 p.m.
V. Opatka
RECEIVED BY

IN THE MATTER OF THE APPLICATION FOR A
JUDGMENT PURSUANT TO ARTICLE 78 OF THE
CIVIL PRACTICE LAW AND RULES:

SHERIDAN MANOR, LLC,

Petitioner,

vs.

HOWARD A. ZUCKER, as Acting Commissioner of
the New York State Department of Health, and AL
DIRSCHBERGER, as Commissioner of the Erie
County Department of Social Services,

Respondents.

NOTICE OF PETITION

Index No.: I 2015 000134

Judge Assigned:

PAID
CHECK _____ CASH _____

AUG 04 2015

ERIE COUNTY
CLERK'S OFFICE

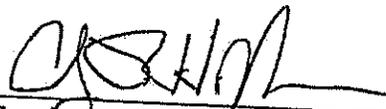
PLEASE TAKE NOTICE that, upon the attached verified petition of Sheridan Manor, LLC, by and through their attorneys, Hinman, Howard & Kattell, LLP, verified on July 31, 2015, and the exhibits annexed thereto, and upon all prior pleadings and proceedings, the undersigned will make an application to this Court, at the Erie County Supreme Court, 25 Delaware Avenue, Buffalo, New York, on Sept. 29, 2015, at 2:00 a.m./(p.m.), or as soon thereafter as counsel may be heard, for an Order reversing the Decision After Fair Hearing of Administrative Law Judge Susan Dowd dated April 3, 2015 (the "Decision") and directing the entry of a decision awarding Medical Assistance benefits to Gerry Stoll to be paid by the Erie County Department of Social Services, on the grounds that the Decision was affected by error of law and was arbitrary and capricious, and granting such other and further relief as the Court deems proper, including the costs and disbursements of this action.

PLEASE TAKE FURTHER NOTICE that pursuant to CPLR 403(b), respondent's answer and supporting affidavits, and any other papers in opposition to the above special

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proceeding, if any, are required to be served upon the undersigned at least seven days before the above return date.

Dated: July 31, 2015
Binghamton, New York



Carolyn Ruis Hoffmann, Esq.
HINMAN, HOWARD & KATTELL, LLP
Attorneys for Petitioner
Office and Post Office Address
80 Exchange Street
P.O. Box 5250
Binghamton, NY 13902-5250
Telephone: (607) 723-5341

At a Special Term of the Supreme Court, Part 35, held in the City of Buffalo, County of Erie, State of New York, on the 2nd day of February, 2016

PRESENT: HON. E. JEANNETTE OGDEN, JSC

**STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE**

**In the Matter of the Application for a Judgment
Pursuant to Article 78 of the CPLR**

SHERIDAN MANOR, LLC,

Petitioner

ORDER

Index No.: 134/2015

v

**HOWARD A. ZUCKER, as Acting Commissioner
of the New York State Department of Health and
AL DIRSCHBERGER, as Commissioner of the
Erie County Department of Social Services,**

Respondents

Petitioner, Sheridan Manor, commenced this CPLR Article 78 proceeding against Respondents seeking review of a Hearing Decision which upheld a determination denying chronic care medical assistance to Gerry Stoll, a now deceased resident of Petitioner's long term patient care facility. Respondent, Howard A. Zucker, as Acting Commissioner of the New York State Department of Health (DOH), opposed the relief sought by Petitioner and moved to dismiss the petition on the grounds that Petitioner lacked standing to maintain the action as a special proceeding pursuant to CPLR Article 78. Respondent, Al Dirscheberger, as Acting Commissioner of the Erie County Department of Social Services (DSS) joined in the motion. Petitioner opposed Respondents' motion to dismiss and cross moved, in the alternative, for an Order converting this Article 78 proceeding to a plenary action against Respondent, DSS. Respondent, DSS, opposed Petitioner's motion for conversion asserting that this case involves a dispute over a final decision made by Respondent, DOH, for which Respondent, DSS, as an

agent is bound and without authority to overturn. Any action by Petitioner against Respondent, DSS, concerning this matter would be based on and related to the denial of Petitioner's Article 78 petition and would therefore not be a valid plenary action. Respondent, DSS, further contends that not only does the Petitioner lack standing based on commencement of this action in an improper forum, but Petitioner also lacks standing based on the commencement of the action against an improper party. Oral argument was heard on February 2, 2016 following which the court granted the motion to dismiss the Article 78 proceeding for lack of standing to maintain the action as a special proceeding under CPLR Article 7800 as against both Respondents, reserved decision of Respondent, DSS's cross motion to convert the Article 78 proceeding to a plenary action and afforded the parties an opportunity to prepare additional written submissions in further support of their respective positions.

NOW, having considered the Petition; Attorney Affidavit in Opposition to Petition to Convert Article 78 Proceeding into a Plenary Action Against the Erie County Department of Social Services and Motion to Dismiss of Bonnie A. McLaughlin, Attorney for Respondent, sworn to on the 4th day of January, 2016; the Petitioner's Memorandum of Law dated January 25, 2016; the Reply affidavit of Bonnie A. McLaughlin, sworn to on the 2nd of February, 2016; the correspondence to the Court of Carolyn Ruis Hoffmann, Counsel for Petitioner, dated February 12, 2016 and the correspondence to the Court of Bonnie A. McLaughlin, Counsel for Respondent, DSS, dated February 18, 2016, and due deliberation having been had thereon, it is hereby

DETERMINED that Petitioner is a long term patient care facility that provided medical care and treatment to its now deceased patient, Gerry Stoll, who is claimed to be indigent and thereby eligible for chronic care medical assistance from Respondent, DSS. The medical care assistance application of Gerry Stoll, submitted to Respondent, DSS, by Petitioner, was denied for failure of Gerry Stoll to provide documentation necessary to determine his eligibility for assistance. Petitioner was not declared attorney-in-fact for Gerry Stoll and has no standing to pursue administrative remedies or an Article 78 proceeding against Respondent. (Matter of Rubio v E'Elia, 106 AD 2d 387; Calvary Hosp. v D'Elia, 95 AD 2d 817)

*GRANTED
RE 3/9/16*

Therefore this Court determines, in the interest of justice, that Petitioner has standing to commence an independent action against Respondent, DSS, as the governmental agency responsible for determining Gerry Stoll's chronic medical care eligibility, in order to seek to recover the cost of medical treatment given to Gerry Stoll, a patient of Petitioner's facility (Peninsula General Nursing Home v. Sugarman, 44 N.Y. 2d 909, revg 57 AD 2d 268 on dissenting opinion; Park Ridge Hospital v Richardson, 147 Misc. 2d 283, 556 N.Y.S. 2d 202). The Petitioner's financial interests in recovering medical benefits for expenses incurred by Gerry Stoll constitutes a relationship of purchaser- seller, permitting it to bring a plenary action in its own right against Respondent, DSS. (Matter of North Shore Univ. Hosp. v D'Elia, 71 AD2d 991). Therefore, it is hereby

*NO NEGATIVE
LITIGATION
JAMES
JAMES
JAMES*

ORDERED, that Petitioner's request for an Order converting the Article 78 proceeding to a plenary action is **GRANTED**.

E. Jeannette Ogden

HON. E. JEANNETTE OGDEN, JSC

DATED: March 9, 2016

Carolyn Ruis Hoffmann, Esq.
Hinman, Howard & Kattell, LLP
80 Exchange Street
P.O. Box 5250
Binghamton, NY 13902-5250
607-723-5341
choffmann@hkh.com

GRANTED

MAR 09 2016
Kevin J. O'Connor
BY _____
KEVIN J. O'CONNOR
COURT CLERK

Bonnie McLaughlin, Esq.
Erie County Dept. of Social Services
95 Franklin Street
Buffalo, NY 14202
mclaugh3@erie.gov



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

August 23, 2016

Ms. Karen McCarthy, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Ms. McCarthy:

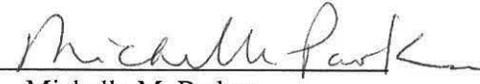
In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Schroeder, Daniel W. v. Erie County Division of Sewerage Management, County of Erie, Village of Blasdell and Town of Hamburg</i>
Document Received:	Notice of Claim
Name of Claimant:	Daniel W. Schroeder 6421 Ward Road Sanborn, New York 14132
Claimant's attorney:	John F. Maxwell, Esq. Maxwell Murphy, LLC 1230 Delaware Avenue Buffalo, New York 14209

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
Michelle M. Parker
First Assistant County Attorney

MMP:dld
Enc.

Comm. 18D-4
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STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

In the Matter of the Claim of
DANIEL W. SCHROEDER
6421 Ward Road
Sanborn, NY 14132

NOTICE OF CLAIM

Claimant,

vs.

ERIE COUNTY DIVISION OF SEWERAGE
MANAGEMENT, COUNTY OF ERIE,
VILLAGE OF BLASDELL and TOWN OF
HAMBURG,

Respondents.

TO:

ERIE COUNTY DIVISION OF
SEWERAGE MANAGEMENT
Edward A. Rath County Office Building
95 Franklin Street, 10th Floor, Rm. 1034
Buffalo, New York 14202

VILLAGE OF BLASDELL
Mayor Michael Petrie
121 Miriam Avenue
Blasdell, New York 14219

COUNTY OF ERIE
Executive Mark C. Poloncarz
Edward A. Rath County Office Building
95 Franklin Street, 16th Floor
Buffalo, New York 14202

TOWN OF HAMBURG
Supervisor Steven J. Walters
Hamburg Town Hall
6100 South Park Avenue
Hamburg, New York 14075

PLEASE TAKE NOTICE, that the Claimant, DANIEL W. SCHROEDER, claims and demands the following against the Respondents, ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT, COUNTY OF ERIE, VILLAGE OF BLASDELL and TOWN OF HAMBURG, in accordance with the requirements of New York General Municipal Law §50-e:

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

DANIEL W. SCHROEDER
6421 Ward Road
Sanborn, NY 14132



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

JOHN F. MAXWELL, ESQ.
MAXWELL MURPHY, LLC
1230 Delaware Avenue
Buffalo, New York 14209

2. The Claim of Daniel W. Schroeder is for personal injuries sustained through the negligence and violations of the Labor Law of the State of New York, by the Respondents, their agents, employees and contractors.

3. The time when and place where this Claim arose are as follows: on August 2, 2016 at approximately 9:00 a.m., at the Rush Creek Interceptor Project site located in the Town of Hamburg, County of Erie and State of New York (the construction site).

4. Claimant Daniel W. Schroeder was working as a laborer for Kandey Company, Inc. with offices at 19 Ransier Drive, West Seneca, New York 14224, who, upon information and belief, had contracted with one or more of the Respondents to perform construction activities at the construction site. Upon information and belief, the structures and property upon which such construction work was being performed are owned by one or more of the Respondents.

5. At approximately 9:00 a.m. on August 2, 2016, the Claimant Daniel W. Schroeder was performing construction work when an inadequately and improperly hoisted and secured object fell from a clamshell bucket above him and struck him in the head and neck. Claimant's injuries were caused by the Respondents' failure to provide and place proper safety devices to protect him from falling objects, and failure to properly construct and guard work areas where Claimant was required to work.

6. Claimant Daniel W. Schroeder was caused to suffer serious and permanent injuries including a fracture in his spine.



7. The injuries to Claimant Daniel W. Schroeder have resulted and will result in past and future medical expenses; 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; and past and future loss of household services.

8. Claimant Daniel W. Schroeder was caused to suffer the above-mentioned injuries and damages due to the negligence and unlawful behavior of the Respondents, their agents, employees and contractors in negligently failing to provide Claimant with a safe place to work and in failing to comply with §§200, 241(6) and 240(1) of the New York State Labor Law when the Claimant Daniel W. Schroeder was struck from a fallen object while in the performance of his duties as a laborer in the employ of Kandey Company, Inc., as a result of the Respondents' failure to provide and place proper safety devices to prevent him from injury, as well as its failure to comply with the rules and regulations promulgated under the New York State Labor Laws.

9. The injuries of the Claimant Daniel W. Schroeder 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.

WHEREFORE, the Claimant, DANIEL W. SCHROEDER, hereby claims and demands from Respondents, ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT, COUNTY OF ERIE, VILLAGE OF BLASDELL and TOWN OF HAMBURG, compensation for the damages sustained by reason of the wrongful, unlawful, negligent and careless acts and omissions of the Respondents, their agents, servants and employees.

DATED: August 12, 2016
Buffalo, New York



JOHN F. MAXWELL, ESQ.
MAXWELL MURPHY, LLC
Attorneys for Claimant
1230 Delaware Avenue
Buffalo, New York 14209
(716) 885-1300



VERIFICATION

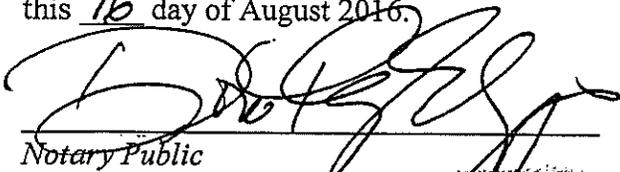
Daniel W. Schroeder, being duly sworn, deposes and says:

I am the Claimant above named; I have read the foregoing Notice of Claim 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.



DANIEL W. SCHROEDER

Subscribed and sworn to before me
this 16 day of August 2016.



Notary Public

DOROTHY E. RAGE
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 08/25/20 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

August 23, 2016

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:	<i>DiMaria, Kevin v. County of Erie and City of Buffalo</i>
Document Received:	Notice of Claim
Name of Claimant:	Kevin DiMaria 4862 Lakeshore Road Hamburg, New York 14075
Claimant's attorney:	Ashley V. Mitchell, Esq. William Mattar, P.C. 6720 Main Street, Suite 100 Williamsville, New York 14221

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.

IN THE MATTER OF THE CLAIM OF:

Kevin DiMaria
4862 Lakeshore Road
Hamburg, NY 14075

Claimant,

-against-

City of Buffalo
1100 City Hall
65 Niagara Street
Buffalo, New York 14202

COUNTY OF ERIE
Attention County Attorney
95 Franklin Street, Room 1634
Buffalo, New York 14202

Respondents.

R E C E I V E D
AUG 19 2016

**ERIE COUNTY
DEPARTMENT OF LAW**

NOTICE OF CLAIM

PLEASE TAKE NOTICE that **Kevin DiMaria**, hereby makes claim against the **City of Buffalo** and **COUNTY OF Erie** and in support thereof Claimant alleges:

1. The name of the Claimant is Kevin DiMaria, the Claimant resides at 4862 Lakeshore Road, Hamburg, NY 14075. The attorneys for the Claimant are William K. Mattar, P.C., 6720 Main Street, Suite 100, Williamsville, NY 14221-5986.

2. The nature of the Claim is one to recover damages for personal injuries and conscious pain and suffering, change of lifestyle, loss of enjoyment of life, general and special damages, medical expenses and property damage and all other damages allowed by law resulting

from the injuries suffered by the Claimant, Kevin DiMaria, as a result of the negligence of the City of Buffalo and the County of Erie in the design, control, and maintenance and safety of public roads.

3. The incident which forms the basis of the claim herein occurred at Seneca and Babcock St. on June 27, 2016 in the City of Buffalo, County of Erie and the State of New York. On that date and at that time, the Claimant Kevin DiMaria was operating a bicycle on Babcock, in the City of Buffalo and County of Erie. As Mr. Dimaria was riding his bicycle he hit a street sign post. The sign was removed, however a stub of the pole post was sticking out of the ground. This caused a hazardous condition that injured Mr. DiMaria greviously.

4. That as a result of the foregoing, the Claimant Kevin DiMaria sustained very serious and substantial injuries, including a fractured right leg, fractured left rib, multiple disc herniations in his cervical spine, five stitches in his right hand, five stiches in his head as well as a severe concussion. Mr. DiMaria woke up in a pool of blood and called an ambulance, He was forced to spend several days at the hospital. These injuries may be of a permanent or indefinite duration, and the Claimant Kevin DiMaria has been and may be forced to expend sums of money for hospitals, doctors, and other medically related expenses. Other injuries will be disclosed as revealed through diagnosis by treating physicians and other medical personnel.

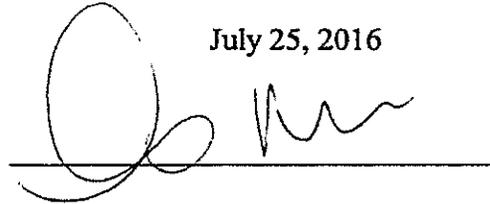
5. That the said injuries were occasioned solely and wholly as a result of the negligence of the City of Buffalo, and County of Erie, in the design, ownership, maintenance, safety, and management or lack thereof of their streets.

WHEREFORE, the Claimant Kevin DiMaria requests that this claim be allowed and paid by the City of Buffalo, and County of Erie.

PLEASE TAKE FURTHER NOTICE, that unless said claim is adjusted and paid by the City of Buffalo and/or the County of Erie within thirty (30) days from the date of service of the Notice of Claim, said Claimant intends to commence an action in the Supreme Court of the State of New York against the Respondents, seeking a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction, together with interest, costs and disbursements.

DATED: Williamsville, New York

July 25, 2016

A handwritten signature in black ink, appearing to read 'Ashley V. Mitchell', is written over a horizontal line.

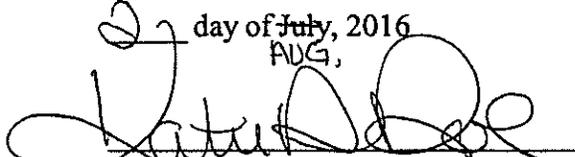
WILLIAM MATTAR, P.C.
Ashley V. Mitchell, Esq.
Attorney for Claimant
Office and P.O. Address
6720 Main Street
Suite 100
Williamsville, NY 14221-5986
(716)633-3535

STATE OF NEW YORK)
COUNTY OF MADISON) ss:

Kevin DiMaria, being duly sworn, depose and say that he is the Claimant in this action; that he has read the foregoing Notice of Claim and know the contents thereof; that the same is true to the knowledge of deponents, except as to matters therein stated to be alleged on information and belief, and that as to those matters they believe them to be true.


Kevin DiMaria

Sworn to before me this
day of ~~July~~, 2016
AUG,


Notary Public

KATIE A ROE
Notary Public - State of New York
No. 01RO6174951
Qualified In Erie County
My Commission Expires Nov. 17, 2019



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

August 30, 2016

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:	<i>Jones, Joseph Jr. v. County of Erie</i>
Document Received:	NYS Division of Human Rights Charge of Discrimination
Name of Claimant:	Joseph Jones, Jr. 395 William Street Buffalo, New York 14204
Claimant's attorney:	Claimant is proceeding <i>pro se</i> .

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
Michelle M. Parker
First Assistant County Attorney

MMP:dld
Enc.

Comm. 18D-4
Page 25 of 34

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF
HUMAN RIGHTS on the Complaint of

JOSEPH JONES, JR.,

Complainant,

v.

ERIE COUNTY, DEPARTMENT OF SOCIAL
SERVICES,

Respondent.

VERIFIED COMPLAINT
Pursuant to Executive Law,
Article 15

Case No.
10183134

Federal Charge No. 16GB603845

I, Joseph Jones, Jr., residing at 395 William St., Buffalo, NY, 14204, charge the above named respondent, whose address is 95 Franklin Street, Buffalo, NY, 14202-3959 with an unlawful discriminatory practice relating to employment in violation of Article 15 of the Executive Law of the State of New York (Human Rights Law) because of disability.

Date most recent or continuing discrimination took place is 8/16/2016.

The allegations are:

1. I suffered from a disability within the meaning of the New York State Human Rights Law, a neck injury. Because of this, I have been subject to unlawful discriminatory actions.
2. On or around 08/09/2006, I was hired by respondent and last held the job title of part time worker at the Youth Detention Center located at 810 East Ferry Street Buffalo NY.
3. On 05/10/2015, a resident hit me on the back of the neck with a tray and I continued working. On or about 05/13/2016, Unit Supervisor Rayatta Moore told me not to return to work pending investigation of the incident because the resident claimed I had struck him, which is not true. I was also told to turn in my badge.
4. On or about 05/17/2016, I received notice from respondent to return to work. However, I had seen my doctor regarding the blow to my neck I had received on 05/10/2016 and he had taken me out of work until further notice. I submitted a doctor's note to Rayatta Moore, putting it into her mail box. I also faxed the same note to respondent but received no response from respondent. I returned to work as directed because I did not want to be considered to be a "no call/no show". However, my badge was not returned to me by respondent and therefore I was obliged to sign in each day on the computer.

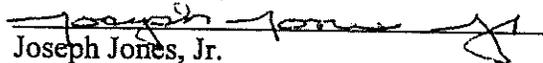
5. In or around July or August 2015, respondent acted upon my medical documentation and took me out of work after I had complained about their lack of response to the medical note to respondent's EEO department.

6. In or around July 2016 respondent's business office representative Diane Saks told me I needed to submit a medical note releasing me to return to work without restrictions by 07/05/2016. I submitted this note on or around 07/05/2016 and again on or about 07/18/2016. However, respondent has not contacted me regarding returning to work to date, 08/16/2016. I believe respondent denied me a reasonable accommodation of my disability and is refusing to return me to work due to my prior disability.

Based on the foregoing, I charge respondent with an unlawful discriminatory practice relating to employment because of disability, in violation of the New York State Human Rights Law (Executive Law, Article 15), Section 296.

I also charge the above-named respondent with violating the Americans with Disabilities Act (ADA) (covers disability relating to employment). I hereby authorize SDHR to accept this verified complaint on behalf of the U.S. Equal Employment Opportunity Commission (EEOC) subject to the statutory limitations contained in the aforementioned law(s).

I have not commenced any other civil action, nor do I have an action pending before any administrative agency, under any state or local law, based upon this same unlawful discriminatory practice.


Joseph Jones, Jr.

STATE OF NEW YORK)
COUNTY OF) SS:

Joseph Jones, Jr., being duly sworn, deposes and says: that he/she is the complainant herein; that he/she has read (or had read to him or her) the foregoing complaint and knows the content thereof; that the same is true of his/her own knowledge except as to the matters therein stated on information and belief; and that as to those matters, he/she believes the same to be true.


Joseph Jones, Jr.

Subscribed and sworn to
before me this 16 day
of August, 2016


Signature of Notary Public

BEVERLY A. FRESCHOLTZ
Notary Public, State of New York
No. 01FR6187237
Qualified in Erie County 20
My Commission Expires May 19, 2016



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

August 31, 2016

Ms. Karen McCarthy, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Ms. McCarthy:

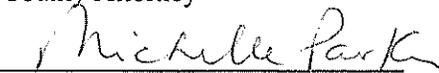
In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Rutski, Andrew J. v. Town of Hamburg, Town of Hamburg Highway Department, County of Erie and Erie County Division of Sewerage Management</i>
Document Received:	Notice of Claim
Name of Claimant:	Andrew J. Rutski 565 Brookwood Drive Hamburg, New York 14075
Claimant's attorney:	Kenneth A. Szyszkowski, Esq. Andrews, Bernstein, Maranto & Nicotra, PLLC 420 Franklin Street Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
Michelle M. Parker
First Assistant County Attorney

MMP:dld
Enc.

Comm. 18D-4
Page 29 of 34

STATE OF NEW YORK
SUPREME COURT : ERIE COUNTY

ANDREW J. RUTSKI
565 Brookwood Drive
Hamburg, New York 14075

Claimant,

NOTICE OF CLAIM

vs.

TOWN OF HAMBURG
Hamburg Town Hall
6100 South Park Avenue
Hamburg, New York 14075

TOWN OF HAMBURG HIGHWAY DEPARTMENT
2720 Lakeview Road
Lake View, New York 14085

COUNTY of ERIE
95 Franklin Street
Room 1634
Buffalo, NY 14202

ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT
95 Franklin Street
Room 1034
Buffalo, NY 14202

Respondents.

PLEASE TAKE NOTICE that ANDREW J. RUTSKI, hereby intends to file a claim against the TOWN OF HAMBURG, TOWN OF HAMBURG HIGHWAY DEPARTMENT, ERIE COUNTY and ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT, and in support of said claim state the following:

1. The Post Office address of the Claimant, ANDREW J. RUTSKI is 565 Brookwood Drive, Hamburg, New York 14075.
2. The attorneys for the Claimant are ANDREWS, BERNSTEIN, MARANTO and NICOTRA, PLLC, 420 Franklin Street, Buffalo, New York 14202, Telephone (716) 842-2200.

3. The Claim arose as follows: On June 4, 2016, Claimant, ANDREW J. RUTSKI was riding his bicycle on North Creek Road, a highway, street and/or thoroughfare located in the Town of Hamburg, County of Erie, State of New York. While at or near the addresses of 2528 and 2558 North Creek Road, Claimant was caused to fall due to an uneven sewer drain. Upon information and belief, TOWN OF HAMBURG, TOWN OF HAMBURG HIGHWAY DEPARTMENT, ERIE COUNTY and/or ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT are responsible for maintaining the roads and sewer/drainage system at or near the addresses of 2528 and 2558 North Creek Road, Hamburg, New York.

4. This incident was caused by the negligence, carelessness, and recklessness on the part of the TOWN OF HAMBURG, TOWN OF HAMBURG HIGHWAY DEPARTMENT, ERIE COUNTY and ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT and/or their agents, servants and/or employees as follows:

- a. The defendant and/or its agents, servants, or employees were negligent in failing to maintain the premises in a reasonable and safe condition;
- b. The defendant and/or its agents, servants, or employees were negligent in creating and/or maintaining a dangerous and hazardous condition on the premises;
- c. The defendant and/or its agents, servants, or employees were negligent in failing to remedy the aforesaid condition;
- d. The defendant and/or its agents, servants, or employees were negligent in failing to warn the plaintiff of the dangerous and hazardous conditions in the subject of the premises;
- e. The defendant and/or its agents, servants, or employees were negligent in failing to inspect the premises;
- f. The defendant and/or its agents, servants, or employees or their agents were negligent in failing to take proper measures to correct the dangerous condition in the subject area; and
- g. The defendant and/or its agents, servants, or employees were negligent in failing to observe the dangerous condition in the subject area.

5. The claim for ANDREW J. RUTSKI, is for personal injuries, conscious physical and emotional pain and suffering, medical expenses, as well as consequential damages.

6. By virtue of the negligence, carelessness and recklessness of the TOWN OF HAMBURG, TOWN OF HAMBURG HIGHWAY DEPARTMENT, ERIE COUNTY and ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT, Claimant, ANDREW J. RUTSKI, was caused to suffer serious, significant and permanent injuries from this incident, including a collapsed lung, lacerations, left elbow, ribs and hand injuries. Claimant, ANDREW J. RUTSKI, also suffered other injuries and complications as yet undetermined as a result of this accident and, and by reason of the same, Claimant sustained damages in an amount which cannot be reasonably calculated at this time.

8. By virtue of the negligence, carelessness, and recklessness of the TOWN OF HAMBURG, TOWN OF HAMBURG HIGHWAY DEPARTMENT, ERIE COUNTY and ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT, Claimant has also incurred hospital and medical expenses, loss of income and other necessary related expenses, the amount of which is undetermined to date.

WHEREFORE, Claimant requests that the TOWN OF HAMBURG, TOWN OF HAMBURG HIGHWAY DEPARTMENT, ERIE COUNTY and ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT compensate Claimant, ANDREW J. RUTSKI.

Dated: Buffalo, New York
August 23, 2016

Yours, etc.,

By: 

Kenneth A. Szyszkowski, Esq.
ANDREWS, BERNSTEIN, MARANTO & NICOTRA, PLLC
Attorney for the Claimant
420 Franklin Street
Buffalo, New York 14202
(716) 842-2200

To; TOWN OF HAMBURG
Hamburg Town Hall
6100 South Park Avenue
Hamburg, New York 14075

TOWN OF HAMBURG HIGHWAY DEPARTMENT
2720 Lakeview Road
Lake View, New York 14085

COUNTY of ERIE
95 Franklin Street
Room 1634
Buffalo, NY 14202

ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT
95 Franklin Street
Room 1034
Buffalo, NY 14202

VERIFICATION

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

ANDREW J. RUTSKI, being duly sworn, depose and say that he is a Claimant in this action; that he has read the foregoing Notice of Claim in this action and knows the contents thereof; that the same is true to the knowledge of deponent; except as to the matters therein stated to be alleged on information and belief, and that as to those matters, he believes them to be true.



Andrew J. Rutski

Sworn to before me this 18th
day of August, 2016



Notary Public

JANINE C. SMITH
Notary Public, State of New York
Qualified in Erie County
My Commission Expires February 3, 2018