



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: May 3, 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 eight (8) new claims brought against the County of Erie. The claims are as follows:

Claim Name

- Denise M. Lorca v. Erie Community College
- Joseph Voytovich v. Christopher Jacobs, et al.
- Matthew & Nancy Weymer (application to cancel a mortgage)
- Pamela Coffey v. County of Erie
- James Decker v. County of Erie, et al.
- Kaitlyn Benware v. County of Erie, et al.
- Jessica Powers v. County of Erie, et al.
- Sonya Granberry v. County of Erie, et al.

MMP:dld
Attachments



COUNTY OF ERIE

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ERIE COUNTY ATTORNEY

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DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

April 8, 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>Lorka, Denise M. v. Erie Community College</i>
Document Received:	EEOC Notice of Charge
Name of Claimant:	Denise M. Lorka 3456 Heatherwood Drive Hamburg, New York 14075
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.

RECEIVED

PERSON FILING CHARGE APR 08 2016

LEGAL AFFAIRS
Denise M. Lorka

Ms. Tracey Cleveland
Human Resources
ERIE COMMUNITY COLLEGE - SOUTH CAMPUS
4041 Southwestern Boulevard
Orchard Park, NY 14127

THIS PERSON (check one or both)

- Claims To Be Aggrieved
- Is Filing on Behalf of Other(s)

EEOC CHARGE NO.
846-2016-09991

NOTICE OF CHARGE OF DISCRIMINATION

(See the enclosed for additional information)

This is notice that a charge of employment discrimination has been filed against your organization under:

- Title VII of the Civil Rights Act (Title VII)
- The Equal Pay Act (EPA)
- The Americans with Disabilities Act (ADA)
- The Age Discrimination in Employment Act (ADEA)
- The Genetic Information Nondiscrimination Act (GINA)

The boxes checked below apply to our handling of this charge:

1. No action is required by you at this time.
2. Please call the EEOC Representative listed below concerning the further handling of this charge.
3. Please provide by **19-APR-16** a statement of your position on the issues covered by this charge, with copies of any supporting documentation to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.
4. Please respond fully by to the enclosed request for information and send your response to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.
5. EEOC has a Mediation program that gives parties an opportunity to resolve the issues of a charge without extensive investigation or expenditure of resources. If you would like to participate, please say so on the enclosed form and respond by to
if you **DO NOT** wish to try Mediation, you must respond to any request(s) made above by the date(s) specified there.

For further inquiry on this matter, please use the charge number shown above. Your position statement, your response to our request for information, or any inquiry you may have should be directed to:

Charlene McKinnon,
Investigator

EEOC Representative

Telephone (716) 551-4447

Buffalo Local Office
6 Fountain Plaza
Suite 350
Buffalo, NY 14202
Fax: (716) 551-4387

Enclosure(s): Copy of Charge

CIRCUMSTANCES OF ALLEGED DISCRIMINATION

- Race
- Color
- Sex
- Religion
- National Origin
- Age
- Disability
- Retaliation
- Genetic Information
- Other

See enclosed copy of charge of discrimination.

Date
April 5, 2016

Name / Title of Authorized Official
John E. Thompson,
Local Office Director

Signature
John E. Thompson
Comm. 9D-3

INFORMATION ON CHARGES OF DISCRIMINATION

EEOC RULES AND REGULATIONS

Section 1601.15 of EEOC's regulations provides that persons or organizations charged with employment discrimination may submit a statement of position or evidence regarding the issues covered by this charge.

EEOC's recordkeeping and reporting requirements are found at Title 29, Code of Federal Regulations (29 CFR): 29 CFR Part 1602 (see particularly Sec. 1602.14 below) for Title VII and the ADA; 29 CFR Part 1620 for the EPA; and 29 CFR Part 1627, for the ADEA. These regulations generally require respondents to preserve payroll and personnel records relevant to a charge of discrimination until disposition of the charge or litigation relating to the charge. (For ADEA charges, this notice is the written requirement described in Part 1627, Sec. 1627.3(b)(3), .4(a)(2) or .5(c), for respondents to preserve records relevant to the charge – the records to be retained, and for how long, are as described in Sec. 1602.14, as set out below). Parts 1602, 1620 and 1627 also prescribe record retention periods – generally, three years for basic payroll records and one year for personnel records. Questions about retention periods and the types of records to be retained should be resolved by referring to the regulations.

Section 1602.14 Preservation of records made or kept. Where a charge ... has been filed, or an action brought by the Commission or the Attorney General, against an employer under Title VII or the ADA, the respondent ... shall preserve all personnel records relevant to the charge or the action until final disposition of the charge or action. The term *personnel records relevant to the charge*, for example, would include personnel or employment records relating to the aggrieved person and to all other aggrieved employees holding positions similar to that held or sought by the aggrieved person and application forms or test papers completed by an unsuccessful applicant and by all other candidates or the same position as that for which the aggrieved person applied and was rejected. The date of *final disposition of the charge or the action* means the date of expiration of the statutory period within which the aggrieved person may bring [a lawsuit] or, where an action is brought against an employer either by the aggrieved person, the Commission, or the Attorney General, the date on which such litigation is terminated.

NOTICE OF NON-RETALIATION REQUIREMENTS

Section 704(a) of Title VII, Section 207(f) of GINA, Section 4(d) of the ADEA, and Section 503(a) of the ADA provide that it is an unlawful employment practice for an employer to discriminate against present or former employees or job applicants, for an employment agency to discriminate against any individual, or for a union to discriminate against its members or applicants for membership, because they have opposed any practice made an unlawful employment practice by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the statutes. The Equal Pay Act contains similar provisions. Additionally, Section 503(b) of the ADA prohibits coercion, intimidation, threats, or interference with anyone because they have exercised or enjoyed, or aided or encouraged others in their exercise or enjoyment, of rights under the Act.

Persons filing charges of discrimination are advised of these Non-Retaliation Requirements and are instructed to notify EEOC if any attempt at retaliation is made. Please note that the Civil Rights Act of 1991 provides substantial additional monetary provisions to remedy instances of retaliation or other discrimination, including, for example, to remedy the emotional harm caused by on-the-job harassment.

NOTICE REGARDING REPRESENTATION BY ATTORNEYS

Although you do not have to be represented by an attorney while we handle this charge, you have a right, and may wish to retain an attorney to represent you. If you do retain an attorney, please give us your attorney's name, address and phone number, and ask your attorney to write us confirming such representation.

Comm. 9D-3

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RECEIVED

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

APR 18 2016

Agency(ies) Charge No(s):

FEPA
 EEOC

LEGAL AFFAIRS

846-2016-09991

New York State Division Of Human Rights

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Ms. Denise M. Lorka

Home Phone (Incl. Area Code)

(716) 649-0371

Date of Birth

08-16-1963

Street Address

City, State and ZIP Code

3456 Heatherwood Drive, Hamburg, NY 14075

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

ERIE COMMUNITY COLLEGE

No. Employees, Members

500 or More

Phone No. (Include Area Code)

(716) 851-1751

Street Address

City, State and ZIP Code

4041 Southwestern Boulevard, Orchard Park, NY 14127

Name

RECEIVED

No. Employees, Members

Phone No. (Include Area Code)

Street Address

FEB 29 2016

City, State and ZIP Code

E.E.O.C. BUILO

DISCRIMINATION BASED ON (Check appropriate box(es).)

RACE COLOR SEX RELIGION NATIONAL ORIGIN
 RETALIATION AGE DISABILITY GENETIC INFORMATION
 OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest: 10-21-2015 Latest: 12-17-2015

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s))

I have worked for the Respondent since on or about April 2012. My current position is Senior Clerk Typist/Part Time.

Beginning on or about January 2013 and continuing to date I have been subjected to unwelcome comments from my immediate supervisor because of my gender/female. He has informed the dean that he does not want me in his department. He throws his keys across a table in front of my desk to intimidate me. He accuses me of not doing as I am told and not taking initiative.

On October 21, 2015 I was subjected to an impromptu meeting where my supervisor lost his temper and threatened me by saying that if he completed my evaluation on that day I would not pass.

I believe that I have been subjected to this hostile, offensive and intimidating work environment because of

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT
Denise M. Lorka

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

Comm. 9D-3

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Date

Charging Party Signature

PRIVACY ACT STATEMENT: Under the Privacy Act of 1974, Pub. Law 93-579, authority to request personal data and its uses are:

1. **FORM NUMBER/TITLE/DATE.** EEOC Form 5, Charge of Discrimination (11/09).
2. **AUTHORITY.** 42 U.S.C. 2000e-5(b), 29 U.S.C. 211, 29 U.S.C. 626, 42 U.S.C. 12117, 42 U.S.C. 2000ff-6.
3. **PRINCIPAL PURPOSES.** The purposes of a charge, taken on this form or otherwise reduced to writing (whether later recorded on this form or not) are, as applicable under the EEOC anti-discrimination statutes (EEOC statutes), to preserve private suit rights under the EEOC statutes, to invoke the EEOC's jurisdiction and, where dual-filing or referral arrangements exist, to begin state or local proceedings.
4. **ROUTINE USES.** This form is used to provide facts that may establish the existence of matters covered by the EEOC statutes (and as applicable, other federal, state or local laws). Information given will be used by staff to guide its mediation and investigation efforts and, as applicable, to determine, conciliate and litigate claims of unlawful discrimination. This form may be presented to or disclosed to other federal, state or local agencies as appropriate or necessary in carrying out EEOC's functions. A copy of this charge will ordinarily be sent to the respondent organization against which the charge is made.
5. **WHETHER DISCLOSURE IS MANDATORY; EFFECT OF NOT GIVING INFORMATION.** Charges must be reduced to writing and should identify the charging and responding parties and the actions or policies complained of. Without a written charge, EEOC will ordinarily not act on the complaint. Charges under Title VII, the ADA or GINA must be sworn to or affirmed (either by using this form or by presenting a notarized statement or unsworn declaration under penalty of perjury); charges under the ADEA should ordinarily be signed. Charges may be clarified or amplified later by amendment. It is not mandatory that this form be used to make a charge.

NOTICE OF RIGHT TO REQUEST SUBSTANTIAL WEIGHT REVIEW

Charges filed at a state or local Fair Employment Practices Agency (FEPA) that dual-files charges with EEOC will ordinarily be handled first by the FEPA. Some charges filed at EEOC may also be first handled by a FEPA under worksharing agreements. You will be told which agency will handle your charge. When the FEPA is the first to handle the charge, it will notify you of its final resolution of the matter. Then, if you wish EEOC to give Substantial Weight Review to the FEPA's final findings, you must ask us in writing to do so within 15 days of your receipt of its findings. Otherwise, we will ordinarily adopt the FEPA's finding and close our file on the charge.

NOTICE OF NON-RETALIATION REQUIREMENTS

Please notify EEOC or the state or local agency where you filed your charge if retaliation is taken against you or others who oppose discrimination or cooperate in any investigation or lawsuit concerning this charge. Under Section 704(a) of Title VII, Section 4(d) of the ADEA, Section 503(a) of the ADA and Section 207(f) of GINA, it is unlawful for an *employer* to discriminate against present or former employees or job applicants, for an *employment agency* to discriminate against anyone, or for a *union* to discriminate against its members or membership applicants, because they have opposed any practice made unlawful by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the laws. The Equal Pay Act has similar provisions and Section 503(b) of the ADA prohibits coercion, intimidation, threats or interference with anyone for exercising or enjoying, or aiding or encouraging others in their exercise or enjoyment of, rights under the Act.

CHARGE OF DISCRIMINATION

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Charge Presented To: Agency(ies) Charge No(s):

FEPA
 EEOC

846-2016-09991

New York State Division Of Human Rights

and EEOC

State or local Agency, if any

my gender in willful violation of Title VII of the Civil Rights Act of 1964, as amended.

On or about October 22, 2015 I complained to Human Resources about the harassment. On or about December 17, 2015, after I complained, I was placed on a Performance Improvement Plan (PIP). During the PIP meeting it was decided that I could transfer to another department. On or about February 3, 2016 Human Resources denied my attempt to transfer stating that I would continue to work in the same department and report to the same people. The opportunity to transfer that was agreed upon during the PIP meeting would be disruptive to the PIP process.

I believe that I have been placed on a PIP and denied transfer options in retaliation for having complained about the harassment, also in willful violation of Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

_____ Date _____ Charging Party Signature

NOTARY – *When necessary for State and Local Agency Requirements*

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
 (month, day, year)

Comm. 9D-3

Page 7 of 57

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Guidelines For an Effective Position Statement

RECEIVED

APR 08 2016

LEGAL AFFAIRS

How the EEOC uses employer position statements

EEOC is an objective fact finding agency. We have heard what the Charging Party has to say about what happened and why Charging Party believes it happened. Now we encourage you to provide a detailed response to these allegations. A well drafted and supported position statement can help us to accelerate the investigation and may limit requests for further information.

Is a brief statement drafted by a representative without supporting evidence sufficient?

NO; an effective position statement should be accompanied by supporting evidence which authenticates the truthfulness and accuracy of the response and should be sworn to by a company official. You should provide any evidence which supports your position. Our investigators are trained to review and analyze evidence, and the recognize that a lawyer's or company official's conclusions about the motives, intentions, or events do not constitute the evidence needed to resolve most cases. While we encourage you to provide us with any legal defenses you may have, we also need to have you present your evidence of the facts relating to the merit of the charge.

What should a position statement include?

At a minimum, it should include **specific, factual** responses to every allegation of the charge. The position statements should clearly explain the respondent's version of the facts and identify the specific documents and witnesses supporting the position. Keep the following points in mind as you prepare the response to the charge:

- ✓ Address each alleged discriminatory act and your position regarding it. Indicate which of the Charging Party's allegations are disputed.
- ✓ Provide a description of the company; include legal name and address, name, address, title and phone number the person responsible for responding to the charge, primary function of the business, and the number of employees. A staffing or organizational chart is also useful in helping to focus the investigation.
- ✓ Provide copies or descriptions of any applicable practices, policies or procedures.
- ✓ Identify any other individuals who have been similarly affected by these practices, policies, or procedures; describe the circumstances in which the practices, policies, or procedures have been applied.
- ✓ Explain why individuals who were in a similar situation to the Charging Party were not similarly affected.
- ✓ Identify official(s) who made decisions or took action relating to the matter(s) raised in the charge
- ✓ Be specific about date(s), action(s), and location(s) applicable to this case.
- ✓ Provide copies of internal investigations of the alleged incidents or grievance hearing reports.
- ✓ Inform EEOC if the matter has been resolved or can be easily resolved; if it can be resolved, please indicate your proposal for resolution.

An effective position statement is clear, concise, complete, responsive and is sworn to by a company official.

How much time is normally allowed for preparation of a position statement

Two weeks is normally allowed for responding to the charge. A brief extension of time may be allowed in particular cases where extensive interviews need to be conducted or documents reviewed, but only when it is clear that the employer is working in good faith to supply all of the necessary information.

Comm. 9D-3

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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

April 15, 2016

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

Dear Ms. McCarthy:

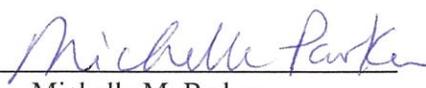
In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Voytovich, Joseph, In the Matter of v. Christopher Jacobs as Erie County Clerk and Michael Siragusa as Erie County Attorney</i>
Document Received:	Verified Petition
Name of Claimant:	Joseph C. Voytovich 35 Bucyrus Drive Amherst, New York 14228
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.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF Erie

In the Matter of the Application of

Joseph C. Voytovich

(Names of Petitioner(s))

Christopher L. Jacobs, Erie
County Clerk; Michael A
Siragusa, Erie County Attorney,
(Names of Respondent(s))

NOTICE OF PETITION

Index No. I 2016000051

PLEASE TAKE NOTICE that upon the verified petition of Joseph
C. Voytovich (Insert your name)
sworn to on the 6th day of April, 2016
(Date Petition was sworn to Before a Notary Public)
and the exhibits attached thereto, and upon all the proceedings in the case to date, the
petitioner(s) Joseph C. Voytovich
(Insert names of all Petitioners)
will petition this court, at _____ A.M./P.M. on the _____ day of _____, 20____,
(Insert return time & date advised of by the Court)
the Courthouse at _____, _____, New York in
(Court street address)
IAS Part _____, for a judgment, pursuant to Civil Practice Law and Rules granting the
following relief to the petitioner(s): sealing of a Court Record in
a civil action pursuant to 22 NYCRR 216.1
(Insert brief statement of relief requested)

and granting such other and further relief as this Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to Civil Practice Law
and Rules 403(b), you are hereby required to serve copies of your answer on the
undersigned no later than the seventh day prior to the date set above for the
submission of this proceeding.

Dated: Errie County, New York
(County where signed)
April 6, 2016
(Date signed)

Respectfully Submitted,

Joseph C. Vaybovich
(Petitioner's name)

35 Bucyrus Drive
(Petitioner's street address)

Amherst NY 14228
(Petitioner's city, state, zip)

716-691-4718
(Petitioner's telephone no.)

TO:

Christopher L. Jacobs as Erie County Clerk
(Respondent or Respondent's Attorney's name)

92 Franklin Street
(Street address)

Buffalo, NY 14202
(City, state, zip)

716-858-8785
(Telephone no.)

Michael A. Siragusa as Erie County Attorney
95 Franklin Street, Room 1634
Buffalo, New York 14202
716-858-2200

02/12

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

In the Matter of the Application of

Joseph C. Voytovich

(Names of Petitioner(s))

Christopher L. Jacobs as Erie

County Clerk;

Michael A. Siragusa as Erie

County Attorney

(Names of Respondent(s))

VERIFIED PETITION

Index No. I 2016 0000 51

The petition of Joseph C. Voytovich

(insert your name(s))

respectfully shows to this Court as follows:

1. Your petitioner(s) resides at 35 Bucyrus Drive,

(insert your street address, city, state, zip code)

Amherst, NY 14228

2. The respondent(s) ar Christopher L. Jacobs as Erie

(is / are)

(List all respondents)

County Clerk and Michael A. Siragusa as Erie

County Attorney.

3. I make this application for an Order sealing
court records in a civil action pursuant to
22 NYCRR § 216.1.

A NYS Tax Warrant was issued 5/31/12 in the
amount of \$100.00 against me and vacated by NYS
by instrument filed 5/30/2013, Warrant ID No.

EX 33538323W001. See Attached

A second NYS Tax Warrant was issued 1/23/2013 in the amount of \$980.73 against me and vacated by NYS by instrument filed 5/30/2013, Warrant ID No E033538323W002. See Attached.

As set forth on the NYS instruments attached the tax warrants were "due to an inadvertence" ... "prematurely issued and filed".

Despite that these warrants were vacated, they continue to appear in the County Record, on credit reports, and in background checks. As such these instruments continue to cause me problem in gainful employment, including being declined for employment in the banking industry last week.

(Describe what you are asking the Court to do and all the facts concerning your claims in this proceeding, including the underlying events and the nature of any action or decision taken by respondent(s) that you wish to challenge. Add more pages if needed. If you are appealing the decision of a government agency, give the date of the decision and the final determination. Explain why this Court should reverse that decision.)

No party is prejudiced by the relief requested herein

4. Attached hereto as Appendix/Appendices are copies of all relevant documents showing petitioner's right to win this case, including determination(s) issued by

respondent(s) that have a bearing on this case and/or of which petitioner herein

complains, if any. These documents are: Copies of the NYS instruments

discharging the warrants which contain the explanation that the warrants were filed in error.

(Identify all such documents, including all written decisions or determinations made by respondent(s) that are pertinent to this case and attach copies. Mark each separate document as Exhibit A, Exhibit B, Exhibit C, etc., explaining what each exhibit shows.)

5. A prior application Not been made for the relief requested

sought the same relief you are now seeking) (has / has not) (Only indicate that a prior application has been made if you
herein. The prior application was made n/a

(Describe where, when, and by whom the prior application was made; the result and why you are making a second application.)

WHEREFORE, your deponent prays that this Court issue an Order
directing the County Clerk to seal the records,

(Describe the relief you are requesting, that is, what you are asking the Court to do for you.)

and such other relief as the Court may find just and proper.

Joseph C. Vaytovich
(Sign your name in the presence of a Notary Public)

Joseph C. Vaytovich
(Print your name)

Sworn to before me this

6th day of April, 2016

Nadine E. Patterson
Notary Public

NADINE. E. PATTERSON
ID No. 01PA6090084
Qualified in Erie County
Commission Expires: 4/7/19

NADINE E. PATTERSON
Notary Public, State Of New York
Reg. 01PA6090084
Qualified In Erie County
My Commission Expires April 7, 2019



New York State Department of
Taxation and Finance

Collections and Civil Enforcement
Division
Collections Resolution Center
W.A. Harriman Campus
Albany, NY 12227-0171

FILED

MAY 30 2013

ERIE COUNTY
CLERK'S OFFICE

NOTICE TO
VACATE
TAX WARRANT
AND
RELEASE LIEN



COMMISSIONER OF TAXATION AND FINANCE,

-----against-----

JOSEPH C VOYTOVICH
D/B/A
WINDFALL ELECTRONICS
35 BUCYRUS DRIVE
AMHERST, NY 14228-1944

Judgment
Creditor

Warrant ID:
E033538323W001

Judgment
Debtor

County of Judgment:
Erie County Clerk

Article of Tax Law:
28/29

The people of the State of New York to Pamela J. Marino, an officer or employee of the Department of Taxation and Finance:

Whereas, the above referenced tax warrant in the amount of \$100.00 was docketed on 5/31/2012 which pursuant to statute has the force and effect of a judgment and,

Whereas, pursuant to the authority of Tax Law Article 28/29 and in accordance with Tax Law Section 3032 enacted by the Taxpayer Bill of Rights of 1997, the Commissioner of Taxation and Finance has determined that the said tax warrant is legally unenforceable because:

It now appears that, due to an inadvertence, the warrant was prematurely issued and filed.

The said tax warrant is hereby vacated and cancelled, any lien against the real and personal property of the named taxpayer created by the docketing of said warrant is hereby released, and the Erie County Clerk is directed to mark the official records accordingly.

Now therefore, we command you to file this Notice to Vacate Tax Warrant and Release Lien within five days after its receipt by you in the Office of the Clerk of the county named above, for entry by him in the judgment docket, pursuant to the provisions of the Tax Law.

Print Date: 05/24/2013
Albany, New York

By: Pamela J Marino

Pamela J. Marino
Deputy Tax Commissioner
For the Commissioner of Taxation and Finance



New York State Department of
Taxation and Finance

Collections and Civil Enforcement Division
Collections Resolution Center
W.A. Harriman Campus
Albany, NY 12227-0171

Tuesday, June 18, 2013

JOSEPH C VOYTOVICH D/B/A WINDFALL ELECTRONICS
35 BUCYRUS DRIVE
AMHERST, NY 14228-1944

RE: Warrant ID: E033538323W001

Dear Sir or Madam:

Enclosed is your copy of the Notice to Vacate Tax Warrant which should be retained for your records. This warrant was vacated with the Erie County Clerk on 5/30/2013.

As this notice is a matter of public record, any interested party, including credit reporting agencies, has access to this notice at the office of the County Clerk. Credit reporting agencies routinely update credit profiles with public record information.

If there are any other third parties, individuals or companies that require this information, you should make a copy of the enclosed notice and send it to them. Contact information for the three major credit reporting agencies is listed below.

Equifax
1-800-685-1111
www.equifax.com

Experian Credit Bureau
1-888-397-3742
www.experian.com

Trans Union
1-800-916-8800
www.transunion.com



New York State Department of
Taxation and Finance

Collections and Civil Enforcement
Division
Collections Resolution Center
W.A. Harriman Campus
Albany, NY 12227-0171

FILED

MAY 30 2013

ERIE COUNTY
CLERK'S OFFICE

NOTICE TO
VACATE
TAX WARRANT
AND
RELEASE LIEN



COMMISSIONER OF TAXATION AND FINANCE;

-----against-----

JOSEPH C VOYTOVICH
D/B/A
WINDFALL ELECTRONICS
35 BUCYRUS DRIVE
AMHERST, NY 14228-1944

Judgment
Creditor

Warrant ID:
E033538323W002

Judgment
Debtor

County of Judgment:
Erie County Clerk

Article of Tax Law:
28/29

The people of the State of New York to Karen L. Arkison, an officer or employee of the Department of Taxation and Finance:

Whereas, the above referenced tax warrant in the amount of \$980.73 was docketed on 1/23/2013 which pursuant to statute has the force and effect of a judgment and,

Whereas, pursuant to the authority of Tax Law Article 28/29 and in accordance with Tax Law Section 3032 enacted by the Taxpayer Bill of Rights of 1997, the Commissioner of Taxation and Finance has determined that the said tax warrant is legally unenforceable because:

It now appears that, due to an inadvertence, the warrant was prematurely issued and filed.

The said tax warrant is hereby vacated and cancelled, any lien against the real and personal property of the named taxpayer created by the docketing of said warrant is hereby released, and the Erie County Clerk is directed to mark the official records accordingly.

Now therefore, we command you to file this Notice to Vacate Tax Warrant and Release Lien within five days after its receipt by you in the Office of the Clerk of the county named above, for entry by him in the judgment docket, pursuant to the provisions of the Tax Law.

Print Date: 05/24/2013
Albany, New York

By: *Karen L. Arkison*

Karen L. Arkison
Deputy Tax Commissioner
For the Commissioner of Taxation and Finance



New York State Department of
Taxation and Finance

Collections and Civil Enforcement Division
Collections Resolution Center
W.A. Harriman Campus
Albany, NY 12227-0171

Tuesday, June 18, 2013

JOSEPH C VOYTOVICH D/B/A WINDFALL ELECTRONICS
35 BUCYRUS DRIVE
AMHERST, NY 14228-1944

RE: Warrant ID: E033538323W002

Dear Sir or Madam:

Enclosed is your copy of the Notice to Vacate Tax Warrant which should be retained for your records. This warrant was vacated with the Erie County Clerk on 5/30/2013.

As this notice is a matter of public record, any interested party, including credit reporting agencies, has access to this notice at the office of the County Clerk. Credit reporting agencies routinely update credit profiles with public record information.

If there are any other third parties, individuals or companies that require this information, you should make a copy of the enclosed notice and send it to them. Contact information for the three major credit reporting agencies is listed below.

Equifax
1-800-685-1111
www.equifax.com

Experian Credit Bureau
1-888-397-3742
www.experian.com

Trans Union
1-800-916-8800
www.transunion.com



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

April 20, 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>Weymer, Matthew G. and Nancy A. (application to cancel a mortgage)</i>
Document Received:	Verified Petition
Name of Claimant:	Matthew and Nancy Weymer
Claimant's attorney:	Brian Johnston, Esq. Puleo Delisle, PLLC 444 Route 111 Smithtown, New York 11787

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.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

-----X
IN THE MATTER OF THE APPLICATION OF
MATTHEW G. WEYMER AND NANCY A. WEYMER
FOR AN ORDER CANCELLING OF RECORD A
MORTGAGE PURSUANT TO NEW YORK REAL
PROPERTY LAW §329
-----X

INDEX NO. 803693/2016

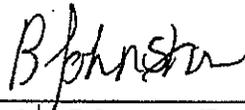
NOTICE OF PETITION

PLEASE TAKE NOTICE, that upon the (i) annexed Petition of Brian Johnston, Esq., dated 4/8/16, (ii) the affidavit of Matthew G. Weymer dated January 10, 2016, (iii) the affidavit of Nancy A. Weymer dated January 10, 2016 and (iv) the Affidavit of Ana Bonds, Assistant Vice President of Bank of America, N.A., dated January 27, 2106, all in support of an Order cancelling of record a mortgage pursuant to Real Property Law Section 329, the undersigned will petition this Court at 25 Delaware Avenue, Buffalo, New York 14202, at an IAS Part, on Thursday, May 26, 2016 at 9:30 a.m., for the relief as prayed for in the Petition, and such other relief as the Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE, that Pursuant to CPLR 403(b), answering papers, if any, are to be served at least seven (7) days before the return date of this Notice of Petition.

Smithtown, New York

Dated: 4/8/16



Brian Johnston, Esq.
Puleo Delisle, PLLC
Attorney for Petitioners
444 Route 111
Smithtown, NY 11787
Telephone (631) 370 1178

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

-----X
IN THE MATTER OF THE APPLICATION OF
MATTHEW G. WEYMER AND NANCY A. WEYMER
FOR AN ORDER CANCELLING OF RECORD A
MORTGAGE PURSUANT TO NEW YORK REAL
PROPERTY LAW §329
-----X

INDEX NO. 803693/2016

PETITION TO CANCEL
MORTGAGE OF RECORD

BRIAN JOHNSTON, ESQ., an attorney duly admitted to practice law before the Courts of the State of New York, hereby affirms the truth of the following statements under the penalties of perjury:

1. I am a principal with the law firm of Puleo Delisle, PLLC, attorneys for Matthew G. Weymer and Nancy A. Weymer (hereinafter referred to as the "Petitioners") in connection with this Petition and, as such, I am fully familiar with the facts and circumstances presented in this Petition based on a file maintained in my office.
2. Petitioners seek an Order of this Honorable Court declaring the following Mortgage cancelled against the premises located at 118 Midland Drive, Cheektowaga, New York 14225 and known and designated on the Erie County Tax Map as Section: 91.78 Block: 6 Lot: 8 (hereinafter referred to as the "Premises"):

This Mortgage dated June 26, 1998 given by Matthew G. Weymer and Nancy A. Weymer to Reeves Mortgage Bankers Inc. securing the sum of U.S. \$27,000.00 and recorded in the Erie County Clerk's Office in Book 12794 at Page 9537 on July 1, 1998.

An Affidavit of Lost Assignment of Mortgage was dated December 5, 2007 and recorded January 14, 2008 in Book 11139 at Page 5487 in the Erie County Clerk's Office. The affidavit describes a missing assignment of the above mortgage from Reeves Mortgage Bankers to First Plus (*so in original*) Financial, Inc.

An Assignment of Mortgage dated September 8, 2005 and recorded December 5, 2005 in Book 13261 at Page 6787 in the Erie County Clerk's Office assigned the mortgage from

FirstPlus Financial, Inc. to U.S. Bank, N.A.

A Satisfaction of Mortgage dated December 20, 2007 was recorded January 14, 2008 in Book 13388 at Page 1180 in the Erie County Clerk's Office. The Satisfaction purports to certify that the Mortgage above was assigned to FirstPlus Financial, Inc. and then to US Bank, NA and is signed by an officer of U.S. Bank National Association, fka First Bank National Association, Series 1998-5 by Countrywide Home Loans, Inc. as Attorney-in-Fact.

3. Servicing of the loans secured by the above mortgage was last transferred to Countrywide Home Loans, Inc. Bank of America, N.A. (hereinafter referred to as "BANA") is successor by merger to Countrywide Home Loans, Inc., and the loan was paid in full to Countrywide Home Loans, Inc.

4. Even though Matthew G. Weymer and Nancy A. Weymer fully satisfied the loan secured by the Mortgage, the Satisfaction recorded on January 14, 2008 (as described above) is defective. The Satisfaction is ineffective because the Affidavit of Lost Assignment of Mortgage recorded on January 14, 2008 as described above is inadequate under New York law to assign a mortgage of record. As such Reeves Mortgage Bankers Inc. has an apparent remaining interest in the mortgage, and U.S. Bank N.A. (which was merged into Bank of America, N.A) did not therefore have the standing to issue the Satisfaction.

5. BANA has been unable to procure from Reeves Mortgage Bankers Inc. an assignment of mortgage to resolve the matter as of the present date.

6. The inability of BANA to satisfy the Mortgage has resulted in a continuing cloud on title, preventing or delaying potential transactions related to the property.

7. Pursuant to the provisions of Real Property Law §329, an owner of real property or of any undivided part thereof may maintain an action to have any recorded instrument in writing relating to such real property or interest therein declared void or invalid, or to have same canceled of record as to said real property, or his undivided part thereof or interest therein.

8. Though the provisions of Real Property Law §329 use the word “action” in order to obtain the required relief thereunder, this matter is being brought before this Court as a special proceeding on the following bases:

- a. Only the Petitioners have an interest in the Premises; and
- b. The only other party with an interest in the outcome of this proceeding is the Lender, which supports the instant Petition, illustrated by their supporting affidavit attached; and
- c. No party would be prejudiced by this matter being treated as a special proceeding, instead of as an action; and
- d. There is no other remedy in the law available to the Petitioners for the relief requested; and
- e. If the Petitioners were to proceed in this matter by “action”, there would be a plaintiff (i.e., the Petitioners), but no defendant.

9. This Court has the authority to consider this matter as a special proceeding, instead of as an action, as:

“a party may sometimes make a mere motion for relief that technically requires a special proceeding, or vice versa. If no prejudice is demonstrated, it was held that a like conversion may be allowed.” *Siegel, New York Practice, Fourth Edition*, citing Empire Mutual Ins. Co. v. Palladino, 54 A.D.2d 863 (1st Dept. 1976).

10. For these reasons, and for the reason that the CPLR ‘shall be liberally construed to secure the just, speedy and inexpensive determination of every civil judicial proceeding (which includes actions and special proceedings collectively)’, *CPLR §105*, Petitioners respectfully request that this Honorable Court consider this matter as a special proceeding, notwithstanding the use of the

word "action" in Real Property Law §329.

11. The Petitioners' interest in the Premises was established by deed, and their interest is not in question or dispute. Annexed hereto and made a part hereof as "Exhibit A" is a true and correct copy of the current deed to the Premises reflecting the ownership interests of the Petitioners.

12. In support of this Petition, annexed hereto and made a part hereof as "Exhibit B" are the Affidavits of the Petitioners, the borrowers on the loan secured by the Mortgages, pertinent pages of which are attached hereto and made a part hereof as "Exhibit C".

13. This Court has jurisdiction over this matter as the Premises constitute real property located in the jurisdictional limits of State of New York, County of Erie.

14. In support hereof, annexed hereto and made a part hereof as "Exhibit D" is the Affidavit of Ana Bonds, Assistant Vice-President of BANA.

15. Petitioners desire to have this Honorable Court declare the Mortgage void, invalid and canceled of record.

16. Other than the interests of the Petitioners, and that of the Lender, no other person, firm, entity or municipal authority is affected by this Petition and the relief requested herein.

17. Petitioners respectfully request an Order of this Court declaring the following mortgage cancelled against the premises located at 118 Midland Drive, Cheektowaga, New York 14225 and known and designated on the Erie County Tax Map as Section: 91.78 Block: 6 Lot: 8:

This Mortgage dated June 26, 1998 given by Matthew G. Weymer and Nancy A. Weymer to Reeves Mortgage Bankers Inc. securing the sum of U.S. \$27,000.00 and recorded in the Erie County Clerk's Office in Book 12794 at Page 9537 on July 1, 1998.

An Affidavit of Lost Assignment of Mortgage was dated December 5, 2007 and recorded January 14, 2008 in Book 11139 at Page 5487 in the Erie County Clerk's Office. The affidavit describes a missing assignment of the above mortgage from Reeves Mortgage

Bankers to First Plus (*so in original*) Financial, Inc.

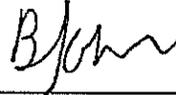
An Assignment of Mortgage dated September 8, 2005 and recorded December 5, 2005 in Book 13261 at Page 6787 in the Erie County Clerk's Office assigned the mortgage from FirstPlus Financial, Inc. to U.S. Bank, N.A.

A Satisfaction of Mortgage dated December 20, 2007 was recorded January 14, 2008 in Book 13388 at Page 1180 in the Erie County Clerk's Office. The Satisfaction purports to certify that the Mortgage above was assigned to FirstPlus Financial, Inc. and then to US Bank, NA and is signed by an officer of U.S. Bank National Association, fka First Bank National Association, Series 1998-5 by Countrywide Home Loans, Inc. as Attorney-in-Fact.

18. Notice of the request for the relief herein will be served upon Reeves Mortgage Bankers or their successors in interest, and upon the Erie County Clerk.
19. No previous application for the relief sought herein has been made.

Dated: 4/30/16

Smithtown, NY



Brian Johnston, Esq.
Puleo Delisle, PLLC
Attorney for Petitioners
444 Route 111
Smithtown, NY 11787
Telephone: (631) 370 1178



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

April 20, 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>Coffey, Pamela v. County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Pamela Coffey PO Box 64 Buffalo, New York 14215
Claimant's attorney:	Richard S. Binko, Esq. Law Offices of Richard S. Binko 2427 William Street Cheektowaga, New York 14206

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

PAMELA COFFEY
PO Box 64
Buffalo, New York 14215
Claimant,

-vs-

COUNTY OF ERIE
95 Franklin Street
16th Floor
Buffalo, New York 14202
Respondents.

This paper received at the
Erie County Attorney's Office
from Dave Binko on
the 13th day of April, 2016
at 4:05 a.m./p.m.
L. Deter - Foggy
Assistant County Attorney

NOTICE OF CLAIM

PLEASE TAKE NOTICE that pursuant to General Municipal Law §50(e) the claimant, PAMELA M. COFFEY hereby make a claim against the COUNTY OF ERIE, and in support of such claim does state the following:

1. My post office address is Post Office Box 64, Buffalo, New York 14215.
2. My attorney is The Law Office of Richard S. Binko, 2427 William Street, Cheektowaga, New York 14206.
3. The nature of this claim is tort for negligence due to personal injury of the premises.
4. The facts and circumstances arising out of this claim in the above entitled action are

as follows:

That on or about February 1, 2016 between 9:00 am and 10:00 am the Claimant PAMELA M. COFFEY was at West Mohawk and Pearl Street in the City of Buffalo when she was caused to trip over a partially finished and/or demolished lamp post (Exhibit A are photographs of same), and was caused to fall and sustain serious injuries as herein alleged upon due to the negligence of the respondent.

5. Upon information and belief, the negligence of the respondents is in failing to properly erect or demolish the lamp post; failing to barricade the lamp post; failing to warn the plaintiff and others of the dilapidated/unfinished condition of the lamp post and was otherwise careless and negligent.

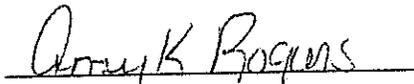
6. By reason of the premises, the Claimant PAMELA M. COFFEY has been and will be caused to expend large sums of money for medical bills, sustain damage due to permanent and progressive injuries and has been and will be incapacitated from performing her usual activities for a long period of time all to the claimant, damages pursuant to General Municipal Law §50(e) and CPLR §3017(c).

7. That the amount of damages sought by the claimant exceeds the jurisdictional limits of all lower courts, and that this action is properly brought in the Supreme Court of Erie County, New York, pursuant to CPLR §3017(c).

WHEREFORE, Claimant requests that the claim be paid for by the COUNTY OF ERIE.


PAMELA M. COFFEY

Sworn to before me this
12th day of April, 2016.



Amy K. Rogers
Notary Public New York State
Qualified in Erie County
Commission expires October 2019

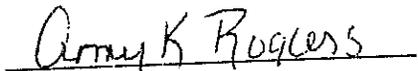
STATE OF NEW YORK
COUNTY OF ERIE SS:

PAMELA M. COFFEY, being duly sworn deposes and says:

I am the Claimants in the above entitled action; I have read the foregoing Notice of Claim and know the contents thereof, that the same is true to our knowledge, except as to those matters therein alleged upon information and belief, and that as to those matters I believe them to be true.

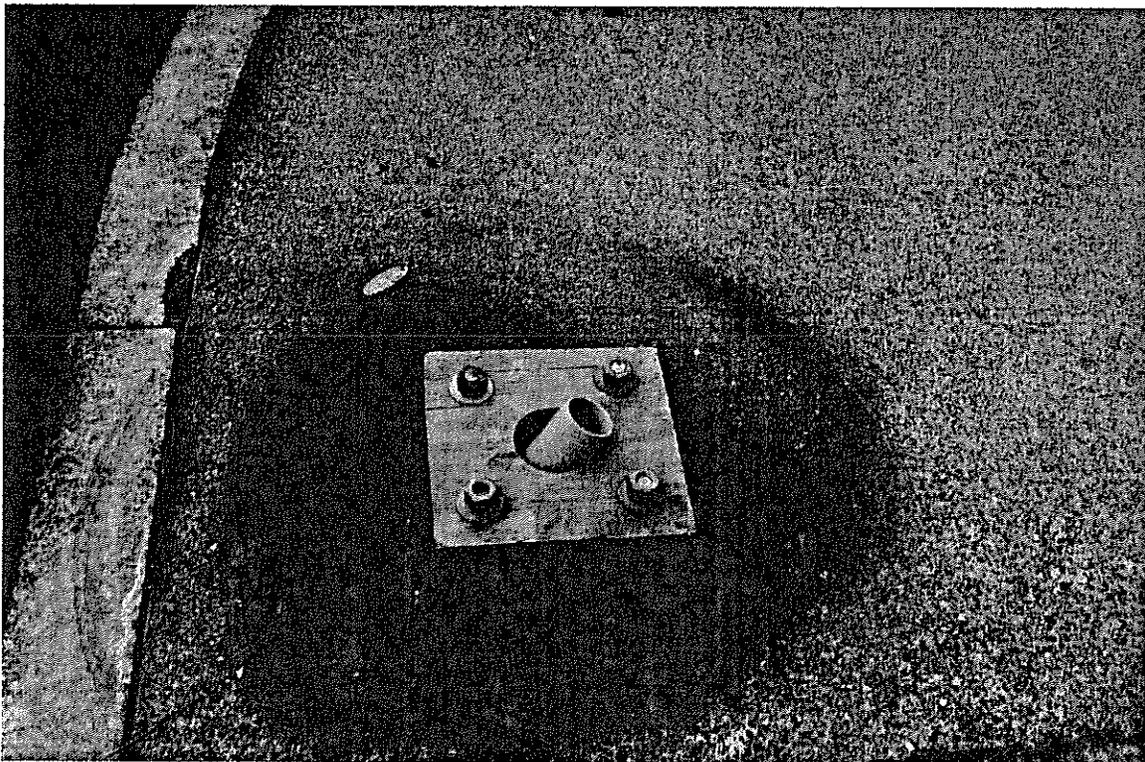
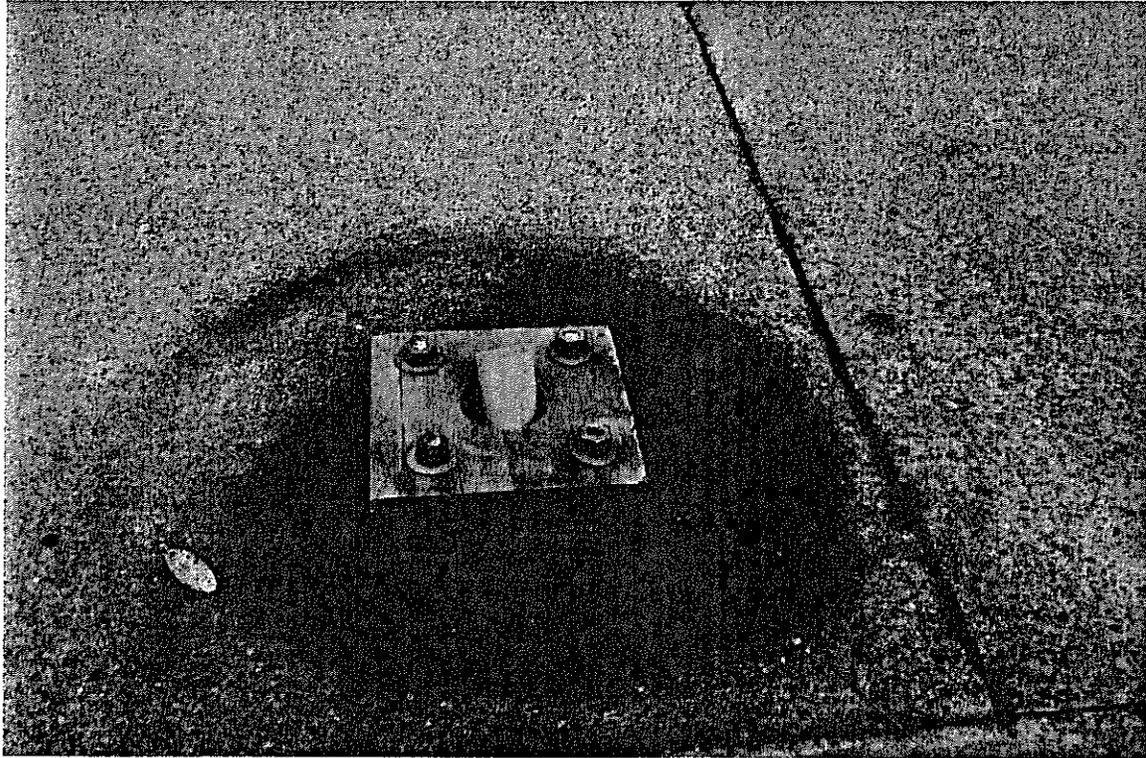

PAMELA M. COFFEY

Sworn to before me this
12th day of April, 2016



Amy K. Rogers
Notary Public New York State
Qualified in Erie County
Commission expires October 20_

EXHIBIT A





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

April 20, 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>Decker, James v. County of Erie, Erie County Sheriff's Department and John Doe 1-10</i>
Document Received:	Notice of Claim
Name of Claimant:	James Decker 125 Church Street, Apt. 21 Sherman, New York 14781
Claimant's attorney:	Bradley D. Marble, Esq. Brown Chiari, LLP 2470 Walden Avenue Cheektowaga, New York 14225

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

JAMES DECKER

Claimant,

vs.

NOTICE OF CLAIM

COUNTY OF ERIE
ERIE COUNTY SHERIFF'S DEPARTMENT
JOHN DOE 1-10

Respondents.

TO: COUNTY OF ERIE LAW DEPARTMENT
Attn: Michael Siragusa, Esq.
95 Franklin Street, Suite 1634
Buffalo, New York 14202

To whom it may concern:

PLEASE TAKE NOTICE, that the undersigned hereby makes claim against the County of Erie, Erie County Sherriff's Department and their agents, servants and employees, and states the following in compliance with the applicable statutes of the State of New York.

1. The Claimant herein is JAMES DECKER, who resides at 125 Church Street Apt 21, Sherman, NY 14781.
2. The Claimant herein is represented by the law firm of BROWN CHIARI LLP, 2470 Walden Avenue, Buffalo, New York 14225. The subject claim is for personal injuries and medical expenses sustained by reason of injury to Claimant JAMES DECKER.

3. The incident giving rise to these damages occurred on or about January 10, 2016 while Claimant JAMES DECKER was in the care and custody of the County of Erie and Erie County Sherriff's Department, in the City of Buffalo, County of Erie, and State of New York.

4. The said damages for which claim is hereby made arose in the following manner, to wit:

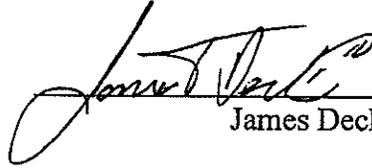
Claimant JAMES DECKER, was in the care and custody of the County of Erie and Erie County Sherriff's Department beginning on or about January 10, 2016 through and including on or about January 14, 2016. Upon information and belief, the aforesaid incident was caused by the negligence of County of Erie, and Erie County Sherriff's Department and their agents, servants, and employees in failing to heed Claimant's requests for help and/or medical assistance; harassment, intimidation, shock, beating, kicking, punching, throwing, slapping, lifting Claimant in an unknown device and dropping him to the concrete floor, withheld nourishment and water, refused medical treatment, refused necessary medications, delayed contacting appropriate medical professionals, delayed and prevented medical assessment of injuries and medical treatment of injuries, and delayed transport to hospital, all contributing to the Claimant's injuries.

While under the care and custody of the County of Erie and Erie County Sheriff's Department James Decker was rendered sick, sore, lame and disabled, sustained various and diverse injuries, shocks to his nervous system, conscious, severe and unnecessarily prolonged pain and suffering, severe mental and emotional injuries not yet determined and other personal injuries of which the Claimant is not yet informed.

5. Claimant JAMES DECKER sustained serious and permanent injuries, including, but not limited to, neck, head, back, stomach injuries, aggravation/exacerbation of Multiple Sclerosis and personal injuries, pecuniary injuries and medical expenses.

6. The subject claim is for a sum to be determined by a jury.

DATED: March 23, 2016

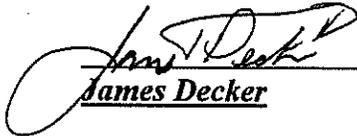


James Decker

STATE OF NEW YORK)
COUNTY OF ERIE)

ss:

On the 23rd day of March, 2016, James Decker, being duly sworn, deposes and says that he is the claimant in this matter; that he has read the foregoing Notice of Claim and knows the contents thereof; that it is true to his personal knowledge, except as to matters stated to be upon information and belief, and as those matters he believes to be true.



James Decker

Sworn to before me on this
23rd day of March, 2016.



Notary Public

BRADLEY D. MARBLE
NOTARY PUBLIC-STATE OF NEW YORK
No. 02MA6142694
Qualified in Erie County
My Commission Expires March 20, 2018

CERTIFICATION

Pursuant to Part 130-1 of the Rules of the Chief Administrator, the undersigned attorney certifies that, to the best of my knowledge, information and belief, formed after inquiry reasonable under the circumstances, the presentation of this paper or the contentions therein are not frivolous as defined in subsection (c) of §130-1.1.



Bradley D. Marble, Esq.
BROWN CHIARI LLP
Attorneys for
2470 Walden Avenue
Buffalo, New York 14225-4751
(716) 681-7190



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

April 20, 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>Benware, Kaitlyn v. Buffalo State College, City of Buffalo and County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Kaitlyn Benware 540 Rowley Road Depew, New York 14043
Claimant's attorney:	Claudia V. DeJesus, Esq. William Mattar, P.C. 6720 Main Street, Suite 100 Williamsville, NY 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.

This paper received at the
Erie County Attorney's Office
from Monique Grasing on
the 15 day of April, 2016
at 12:16 a.m./p.m.
[Signature]
Assistant County Attorney

IN THE MATTER OF THE CLAIM OF:

KAITLYN BENWARE
540 Rowley Road
Depew, New York 14043

Claimant,

-against-

NOTICE OF CLAIM

BUFFALO STATE COLLEGE
1300 Elmwood Avenue
Buffalo, New York 14222

CITY OF BUFFALO
607 1100 City Hall
Buffalo, New York 14202

COUNTY OF ERIE
95 Franklin Street
Buffalo, New York 14202

Respondents.

PLEASE TAKE NOTICE that **KATILYN BENWARE** hereby makes claim against Buffalo State College, City of Buffalo, and County of Erie and in support thereof Claimant alleges:

1. The Claimant, KAITLYN BENWARE, residing at 540 Rowley Road, Depew, New York 14043 by and through her attorneys, WILLIAM MATTAR, PC, 6720 Main Street, Suite 100, Williamsville, NY 14221-5986 (CLAUDIA V. DE JESUS, ESQ. OF COUNSEL), claims damages against Buffalo State College, City of Buffalo, and County of Erie for personal injuries, pain and suffering, general and special damages, medical expenses, and property damages sustained by her.

2. The nature of the claim is one to recover damages for personal injuries, conscious pain and suffering, change of lifestyle, loss of enjoyment of life, general and special damages, medical expenses, liens, lost wages, and property damage and all other damages allowed by law resulting from the injuries suffered by the Claimant due to the negligence and lack of care by the Respondents in their maintenance and safety of their sidewalks, and entrances of their premises at the State University of New York College at Buffalo.

3. Upon information and belief, the claim arose on February 12, 2016 at approximately 1:00 PM. At approximately that time, Claimant, KAITLYN BENWARE, sustained personal injuries when she was caused to fall while exiting Ketchum Hall located in the City of Buffalo, County of Erie, and State of New York. On that date, Claimant was caused to fall on the entrance way in Ketchum Hall in which Buffalo State College, City of Buffalo, and County of Erie failed to properly maintain, manage, operate, design, inspect, repair, make safe, and control by and through its agents, servants, and/or employees of one entrance way, namely the entrance to Ketchum Hall located at 1300 Elmwood Avenue, Buffalo, New York, 14222. A copy of the police incident report is attached hereto as **Exhibit A**.

4. The negligence claimed includes but is not limited to: failure to adequately warn of icy conditions on the entrance way, failure to safely maintain the entrance through allowing ice to accumulate in the entrance way of Ketchum Hall for a substantial period of time, lack of care in the maintenance and safety of the State of New York College at Buffalo sidewalks and entrances, failure to properly construct an entrance way free of a trip hazard, and failure to have an adequately designed entrance way and stairway in compliance with State Building Construction Code.

5. That the Claimant's damages and injuries occurred as a result of the negligence, carelessness, and reckless disregard for the safety of the lawful public, including Claimant, KAITLYN BENWARE, by Buffalo State College, City of Buffalo, and County of Erie,

and their servants, agents or employees in failing to provide a safe entrance way, and/or travel way; in failing to correct a known safety risk at the general location of the accident herein mentioned; in failing to maintain and sign said entrance way and stairs in a reasonably safe manner for users thereof; along with the other acts of negligence, carelessness and recklessness.

6. That the aforesaid Buffalo State College, City of Buffalo, and County of Erie, by and through their agents, servants, and employees had actual or constructive notice of the dangerous condition and hazard caused by said activity, or caused the same. Agents, servants and employees of the Respondents knew or in the exercise of reasonable care, should have known of the potential danger of pedestrians entering and exiting Ketchum Hall, but failed to take any corrective measures. That upon information and belief, agents, servants and employees of the Respondents herein knew of the injuries Claimant, KAITLYN BENWARE sustained. That upon information and belief, agents, servants and employees of the Respondents herein were present at the intersection on the date of the accident administered first aid and handled Ms. Benware's removal from the scene to the hospital.

7. The injuries sustained by the Claimant so far as able to be determined at this time include a displaced trimalleolar fracture of the right ankle. As a result of this injury, the Claimant underwent Open Reduction Internal Fixation surgery to her ankle. Upon information and belief, the aforementioned injuries are permanent and progressive in nature, and require continuing medical care and attention. The Claimant herein also makes a claim for the future to be forced to expend sums of money for hospitals, doctors, and other medical expenses.

8. The items of damage claimed are: KAITLYN BENWARE's personal injuries, past and future pain and suffering, past and future lost wages, change of lifestyle, and a loss of enjoyment of life, all resulting from the serious injuries suffered by the Claimant, KAITLYN BENWARE as a result of the Buffalo State College, City of Buffalo, and County of Erie's negligence.

WHEREFORE, the claimant requests that this claim be allowed and paid by the Respondents.

PLEASE TAKE FURTHER NOTICE, that unless said claim is adjusted and paid by Buffalo State College, City of Buffalo, and 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
 April 13, 2016



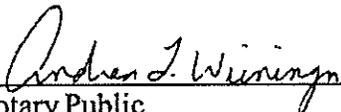
Claudia V. De Jesus, Esq.
WILLIAM MATTAR, P.C.
Attorney for Claimant
Office and P.O. Address
6720 Main Street
Suite 100
Williamsville, NY 14221-5986
(716)633-3535

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

Kaitlyn Benware, being duly sworn, depose and say that she is the claimant in this action; that she 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.


KAITLYN BENWARE

Sworn to before me this
13th day of April, 2016


Notary Public

ANDREW L. WIERINGER
Notary Public - State of New York
Reg. No. 01WEB137214
Qualified in Erie County
My Commission Expires 11-21-17



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

April 20, 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>Powers, Jessica v. City of Buffalo Public Works, City of Buffalo, County of Erie and Erie County Public Works</i>
Document Received:	Notice of Claim
Name of Claimant:	Jessica A. Powers 78 Chauncey Street Buffalo New York 14206
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. 9D-3
Page 45 of 57

STATE OF NEW YORK
SUPREME COURT : ERIE COUNTY

JESSICA A. POWERS
78 Chauncey Street
Buffalo, New York 14206

Claimant,

NOTICE OF CLAIM

CITY OF BUFFALO
PUBLIC WORKS, PARKS & STREETS
65 Niagara Square
502 City Hall
Buffalo, New York 14202

CITY OF BUFFALO
65 Niagara Square
1100 City Hall
Buffalo, New York 14202

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

ERIE COUNTY DEPARTMENT OF PUBLIC WORKS
DIVISION OF HIGHWAYS
95 Franklin Street
14th Floor
Buffalo, New York 14202

Respondents.

PLEASE TAKE NOTICE, that the Claimant, JESSICA A. POWERS, hereby intends to file a claim against the CITY OF BUFFALO PUBLIC WORKS, PARKS & STREETS, CITY OF BUFFALO, COUNTY of ERIE, and ERIE COUNTY DEPARTMENT OF PUBLIC WORKS DIVISION OF HIGHWAYS, and in support of said Claim states the following:

1. The Post Office address of the Claimant is 78 Chauncey Street, Buffalo, New York 14206.

2. The attorneys for the Claimant are Andrews, Bernstein, Maranto & Nicotra, PLLC, 420 Franklin Street, Buffalo, New York 14202, Telephone (716) 842-2200.

3. The Claim arose as follows: On January 8, 2016, at approximately 11:02 a.m., Claimant, JESSICA A. POWERS, was standing on the sidewalk, on the northwest corner of Bailey Avenue and South Park Avenue. At that time, a tractor trailer being driven south on Bailey Avenue and making a right turn onto South Park Avenue drove over the sidewalk striking Claimant, JESSICA A. POWERS. Upon information and belief, CITY OF BUFFALO PUBLIC WORKS, PARKS & STREETS, CITY OF BUFFALO, COUNTY of ERIE, and/or ERIE COUNTY DEPARTMENT OF PUBLIC WORKS DIVISION OF HIGHWAYS, own, control, operate, and maintain property at or near Bailey Avenue and South Park Avenue.

4. This incident was caused by the negligence, carelessness, and recklessness on the part of CITY OF BUFFALO PUBLIC WORKS, PARKS & STREETS, CITY OF BUFFALO, COUNTY of ERIE, and/or ERIE COUNTY DEPARTMENT OF PUBLIC WORKS DIVISION OF HIGHWAYS, through their agents, servants and/or employees as follows;

- a. The respondents and/or their agents, servants, or employees knew or should have known that a dangerous and hazardous condition existed at the intersection and/or corner of Bailey Avenue and South Park Avenue;
- b. The respondents and/or their agents, servants, or employees had actual and constructive notice of the dangerous and hazardous

condition that existed at the intersection and/or corner of Bailey Avenue and South Park Avenue;

- c. The respondents and/or their agents, servants, or employees were negligent in failing to remedy the aforesaid dangerous and hazardous condition;
- d. The respondents and/or their agents, servants, or employees knew or should have known that the curb and sidewalk in the subject area were being damaged by truck and/or vehicular traffic;
- e. The respondents and/or their agents, servants, or employees with knowledge that there was damage in the subject area due to truck and/or vehicular traffic, created a dangerous and hazardous condition by performing repairs which allowed truck and/or vehicular traffic to flow in the exact same fashion;
- f. The respondents and/or their agents, servants, or employees designed, planned and/or approved construction of the road and traffic lanes in the subject area, which did not allow for a reasonable and adequate turning radius for trucks, when they knew or should have known these types of vehicles would be traveling in the subject area;
- g. The respondents and/or their agents, servants, or employees conducted repairs in the subject area and did not remedy the dangerous and hazardous condition that existed;
- h. The respondents and/or their agents, servants, or employees during repairs of the subject area failed to create an appropriate curb radius to provide sufficient space for the expected vehicles to maneuver through their turns safely;
- i. The respondents and/or their agents, servants, or employees failed to properly and adequately sign and warn pedestrians of a known dangerous and hazardous condition;
- j. The respondents and/or their agents, servants, or employees created a dangerous and hazardous condition by improperly

- placing pavement makings, street lane markings, stop line markings, and pedestrian crossing signs in the subject area;
- k. The respondents and/or their agents, servants, or employees created a dangerous and hazardous condition by improperly placing crosswalk markings which directed pedestrians to the subject area where the dangerous and hazardous condition existed;
 - l. The respondents and/or their agents, servants, or employees failed to protect pedestrians from a known dangerous and hazardous condition by prohibiting truck traffic in the subject area;
 - m. The respondents and/or their agents, servants, or employees failed to mandate that truck traffic be required to continue south on Route 62;
 - n. The respondents and/or their agents, servants, or employees were negligent in failing to maintain the premises in a reasonable and safe condition;
 - o. The respondents and/or their agents, servants, or employees were negligent in creating and/or maintaining a dangerous and hazardous condition on the premises;
 - p. The respondents and/or their agents, servants, or employees were negligent in failing to warn the plaintiff of the dangerous and hazardous conditions in the subject of the premises;
 - q. The respondents and/or their agents, servants, or employees were negligent in failing to inspect the premises;
 - r. The respondents and/or their agents, servants, or employees were negligent in failing to take proper measures to correct the dangerous condition in the subject area;
 - s. The respondents and/or their agents, servants, or employees were negligent in failing to observe the dangerous condition in the subject area; and
 - t. The respondents were otherwise negligent.

5. The claim for JESSICA A. POWERS 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 CITY OF BUFFALO PUBLIC WORKS, PARKS & STREETS, CITY OF BUFFALO, COUNTY of ERIE, and/or ERIE COUNTY DEPARTMENT OF PUBLIC WORKS DIVISION OF HIGHWAYS, Claimant, JESSICA A. POWERS, was caused to suffer serious, significant and permanent injuries from this incident, including but not limited to the back, pelvis, legs, and internal organs.

7. Claimant, JESSICA A. POWERS, also suffered other injuries and complications as yet undetermined as a result of this incident and, and by reason of the same, Claimant sustained damages in an amount which cannot be reasonably calculated at this time.

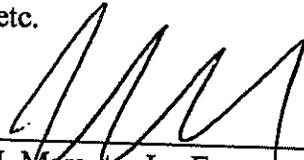
8. By virtue of the negligence and carelessness of the CITY OF BUFFALO PUBLIC WORKS, PARKS & STREETS, CITY OF BUFFALO, COUNTY of ERIE, and/or ERIE COUNTY DEPARTMENT OF PUBLIC WORKS DIVISION OF HIGHWAYS, and/or their agents, servants and/or employees, Claimant has also incurred medical expenses and other necessary related expenses, the amount of which is undetermined to date.

WHEREFORE, Claimant requests that the CITY OF BUFFALO PUBLIC WORKS, PARKS & STREETS, CITY OF BUFFALO, COUNTY of ERIE, and/or ERIE COUNTY DEPARTMENT OF PUBLIC WORKS DIVISION OF HIGHWAYS, compensate Claimant, JESSICA A. POWERS, for her injuries, and economic damages.

DATED: Buffalo, New York
March 31, 2016

Yours, etc.

By:



Robert J. Maranto, Jr., Esq.

ANDREWS, BERNSTEIN, MARANTO & NICOTRA, PLLC

Attorney for Claimant

420 Franklin Street

Buffalo, New York 14202

(716) 842-2200

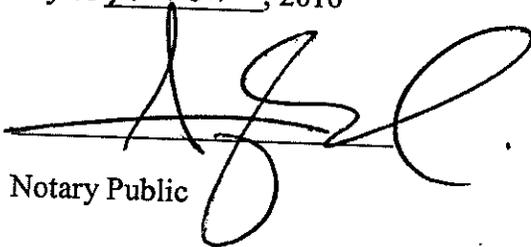
VERIFICATION

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

JESSICA A. POWERS, being duly sworn, depose and says that she is the Claimant in this action for; that she 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, she believes them to be true.

Jessica A Powers
JESSICA A. POWERS

Sworn to before me this 31ST
day of MARCH, 2016


Notary Public

KENNETH A. SZYSZKOWSKI
NOTARY PUBLIC-STATE OF NEW YORK
NO. 02SZ8250277
QUALIFIED IN ERIE COUNTY
MY COMMISSION EXPIRES 10-24-2019



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

April 28, 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>Granberry, Sonya v. Erie Community College and County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Sonya Granberry 530 South Division Street Buffalo, New York 14204
Claimant's attorney:	Dominic J. Pompo, 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.

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

SONYA GRANBERRY
530 South Division St
Buffalo, New York 14204

Claimant,

NOTICE OF CLAIM

vs.

ERIE COUNTY COMMUNITY COLLEGE
121 Ellicott Street
Buffalo, New York 14203

ERIE COUNTY
95 Franklin Street, Rm 1634
Buffalo, New York 14202

Respondents.

This paper received at the
Erie County Attorney's Office
from Kaitlyn Westra on
the 1st day of April, 2016
at 7:51 a.m./p.m.
D. Peter [Signature]
Assistant County Attorney

PLEASE TAKE NOTICE, that the Claimant, SONYA GRANBERRY, hereby intends to file a claim against ERIE COUNTY COMMUNITY COLLEGE and ERIE COUNTY, and in support of said claim states the following:

1. The Post Office address of the Claimant, SONYA GRANBERRY is 530 South Division St, Buffalo, New York 14204.
2. The attorneys for the Claimants are Andrews, Bernstein, Maranto & Nicotra, PLLC, 420 Franklin Street, Buffalo, New York 14202, Telephone (716) 842-2200.
3. The Claim arose as follows: On February 11, 2016, at approximately 12:30 p.m., Claimant SONYA GRANBERRY, was walking from Michigan Street towards South Division, near the rear of the Old Post Office building, located on 121 Ellicott Street, Buffalo, New York 14203. Upon information and belief, ERIE COUNTY COMMUNITY COLLEGE and/or ERIE COUNTY own, operate, supervise and/or maintain the premises on and around 121 Ellicott Street, Buffalo, New York 14203.

4. That on the 11th day of February, 2016, Claimant, SONYA GRANBERRY, was walking on or about 121 Ellicott Street, Buffalo, New York 14203 and was struck on the head by an object. This incident was caused by the negligence, carelessness, and recklessness of ERIE COUNTY COMMUNITY COLLEGE and ERIE COUNTY, and/or their agents, servants and/or employees as follows:

- a. The doctrine of *res ipsa loquitor* applies to the unknown falling object and permits an inference of negligence;
- b. Negligently creating or maintaining a dangerous condition in the subject area;
- c. Negligently failing to maintain the subject area in a reasonably safe condition;
- d. Negligently failing to recognize a known dangerous and hazardous condition;
- e. Negligently failing to take proper measures to correct the dangerous and hazardous condition in the subject area;
- f. Negligent supervision of the subject area; and,
- g. The Respondents were otherwise negligent;

5. This Claim is for personal injuries, conscious physical and emotional pain and suffering of Claimant, SONYA GRANBERRY, as well as medical expenses and consequential damages incurred by Claimant, SONYA GRANBERRY.

6. By virtue of the negligence and carelessness of ERIE COUNTY COMMUNITY COLLEGE and ERIE COUNTY, Claimant SONYA GRANBERRY was caused to suffer serious, significant and permanent injuries due to this incident, including but not limited to injuries on her head. Claimant SONYA GRANBERRY also suffered other injuries and complications as yet undetermined as a result of this accident and, and by reason

of the same, Claimant, SONYA GRANBERRY, sustained damages in an amount which cannot be reasonably calculated at this time.

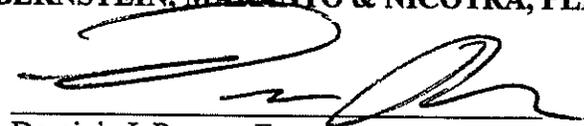
7. By virtue of the negligence and carelessness of ERIE COUNTY COMMUNITY COLLEGE and ERIE COUNTY, Claimant, SONYA GRANBERRY, has also incurred hospital and medical expenses and other necessary related expenses, the amount of which is undetermined to date.

WHEREFORE, Claimant, SONYA GRANBERRY, requests ERIE COUNTY COMMUNITY COLLEGE and ERIE COUNTY, compensate Claimant SONYA GRANBERRY for her injuries and loss.

Dated: Buffalo, New York
April 22, 2016

Yours, etc.,
ANDREWS, BERNSTEIN, MARANTO & NICOTRA, PLLC

By:



Dominic J. Pompo, Esq.
Attorney for Claimant
420 Franklin Street
Buffalo, New York 14202
(716) 842-2200

VERIFICATION

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

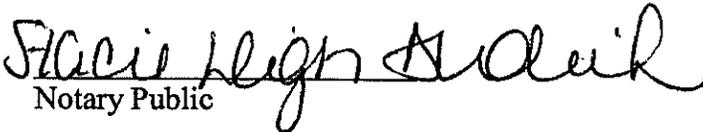
SONYA GRANBERRY, being duly sworn, deposes and says that she is the Claimant in this action for herself; that she has read the foregoing Notice of Claim in this action and knows the contents thereof; that the same is true to the knowledge of deponent, except as to the matters therein stated to be alleged on information and belief, and that as to those matters, she believes them to be true.



SONYA GRANBERRY

Sworn to before me this 11

Day of April, 2016



Notary Public

STACIE LEIGH DUDERWICK
Notary Public, State of New York
Qualified in Erie County
My Commission Expires December 30, 2017 