MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

November 6, 2012

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street. 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

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:	*Betances, Jr., Railley v. County of Erie (DPW - Highways), Town of Grand Island*
Document Received:	Notice of Claim
Name of Claimant:	Railley Betances, Jr. 116 Villa Avenue Buffalo, NY 14216
Claimant's attorney:	F. David Rusin, Esq. William K. 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
Enclosure

This paper received at the
Erie County Attorney's Office
from Esmonte V. Villagomez (Mattar Law Firm)
on the 23rd day of October 2012
at 1:44 a.m./p.m.
Kenneth R. Kirby
Assistant County Attorney

IN THE MATTER OF THE CLAIM OF

RAILLEY BETANCES, JR.

Claimant

-against-

NOTICE OF CLAIM

TOWN OF GRAND ISLAND, and

COUNTY OF ERIE

Respondent.

PLEASE TAKE NOTICE that **RAILLEY BETANCES, JR.**, hereby makes and presents this claim against the TOWN OF GRAND ISLAND and the COUNTY OF ERIE and in support thereof states:

1. That the name of the Claimant is RAILLEY BETANCES, JR., and he resides at 116 Villa Avenue, Buffalo, New York 14216. The attorneys for the Claimant are WILLIAM MATTAR, PC, 6720 Main Street, Suite 100, Williamsville, New York 14221-5986.

2. The nature of the claim is one to recover damages for personal injuries, pain and suffering, general and special damages and medical expenses, all past and future, suffered as the result of the negligence, carelessness and recklessness of the Town and the County in the maintenance, design, upkeep and control of an area of a section of a roadway more fully described herein. That the said injuries were sustained by RAILLEY BETANCES, JR. on July 26, 2012 at approximately 10:00 a.m. on a roadway more commonly known as the I-190, in the Town of Grand Island, County of Erie and State of New York. Upon information and belief, the vehicle

in which the Claimant was a rear-seat passenger was entering the I-190 southbound from South Parkway, and at a point approximately 50 feet south of mile post marker 15, the operator was caused to lose control of his vehicle, resulting in the vehicle leaving the driving portion of the roadway, and subsequently violently colliding with a head wall off of the right shoulder of the road. A copy of the police report regarding this accident is attached hereto as Exhibit "A".

3. Upon information and belief, the I-190 and appurtenant areas thereof, in the vicinity of the accident described above, are controlled, operated, designed, owned and maintained by the Town of Grand Island and the County of Erie.

4. The injuries sustained by Claimant RAILLEY BETANCES JR. so far as are determinable at present include quadriplegia. The Claimant has been hospitalized since being taken from the scene of the accident. It should go without saying that, upon information and belief, the aforementioned injuries are permanent in nature, and Claimant will require care and attendance for the remainder of his life.

5. That the aforesaid TOWN OF GRAND ISLAND and the COUNTY OF ERIE by and through their agents, servants, and employees had actual or constructive notice of the dangerous condition and hazard caused by its roadway and the area on the shoulders of the roadway. Agents, servants and employees of the Respondents knew or in the exercise of reasonable care, should have known of the potential danger of the roadway and appurtenant areas of the roadway, but failed to take any corrective measures.

WHEREFORE, Claimant RAILLEY BETANCES, JR. respectfully requests that his claim be allowed and paid by the Respondents.

PLEASE TAKE FURTHER NOTICE that unless said claim is paid and adjusted by the Respondents within thirty (30) days from the date of service of this Notice of Claim, said Claimant fully intends to commence an action in Supreme Court of the State of New York against the TOWN OF GRAND ISLAND and the COUNTY OF ERIE for 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
October 23, 2012

F. David Rusin, Esq.
WILLIAM MATTAR, P.C.
Attorneys for Claimant
6720 Main Street
Williamsville, NY 14221-5986
(716) 633-3535

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

RAILLEY BETANCES, JR., 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.

RAILLEY BETANCES, JR.

Sworn to before me this
22 day of October, 2012.

Notary Public

F. DAVID RUSIN
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
My Commission Expires 12/14/2014

Local Codes
B012-1909
SP4T21000839

New York State Department of Motor Vehicles

POLICE ACCIDENT REPORT

MV-104A (3/04)

FILE

Accident Date Month	Day	Year	Day of Week	Military Time	No. of Vehicles	No Injured	No Killed	Not Investigated at Scene / Accident Reconstructed	Left Scene	Police Photos
7	28	2012	Thursday	10:03	1	2	0			Yes / No

VEHICLE 1 — VEHICLE / BICYCLIST / PEDESTRIAN / OTHER PEDESTRIAN

VEHICLE 1 - Driver License ID Number: 191638601 — State of Lic: NY

Driver Name - exactly as printed on license: SANTIAGO, SAMUEL M

Address (Include Number and Street): 167 N PARK AVE — Apt. No:

City or Town: BUFFALO — State: NY — Zip Code: 14216

Date of Birth: 11 20 1993 — Sex: M — Unlicensed: ☐ — No of Occupants: 03 — Public Property Damaged: ☐

Owner - exactly as printed on registration: HOEFLER, MARY T — Sex: — Date of Birth: Month Day Year

Address (Include Number and Street): 55 MELODY LN — Apt. No: — Hazmat Code: — Removed: ☐

City or Town: TONAWANDA — State: NY — Zip Code: 14150

Plate Number: FPG8616 — State of Reg: NY — Vehicle Year & Make: 2006 PONT — Vehicle Type: 4DSD — Inv. Code: 693

Ticket/Arrest Number(s): 4T2109H0SP 4T2109H1SP 4T2109H2SP

Violation Section(s): 511:A 1180E 1128D

VEHICLE 2 — Driver License ID Number: — State of Lic:

Driver Name - exactly as printed on license:

Address (Include Number and Street): — Apt. No:

City or Town: — State: — Zip Code:

Date of Birth: — Sex: — Unlicensed: — No of Occupants: — Public Property Damaged:

Owner - exactly as printed on registration: — Sex: — Date of Birth:

Address (Include Number and Street): — Apt. No: — Hazmat Code: — Removed:

City or Town: — State: — Zip Code:

Plate Number: — State of Reg: — Vehicle Year & Make: — Vehicle Type: — Inv. Code:

Ticket/Arrest Number(s):

Violation Section(s):

VEHICLE 1 — Check if involved vehicle is:
- ☐ more than 95 inches wide;
- ☐ more than 34 feet long;
- ☐ operated with an overweight permit;
- ☐ operated with an oversdimension permit.

VEHICLE 1 DAMAGE CODES
Box 1 - Point of Impact: 6
Box 2 - Most Damage: 6
Enter up to three more damage codes: 17

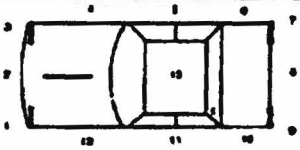
Vehicle Br: MARTYS
Towed To: MARTYS

VEHICLE 2 — Check if involved vehicle is:
- ☐ more than 95 inches wide;
- ☐ more than 34 feet long;
- ☐ operated with an overweight permit;
- ☐ operated with an oversdimension permit.

VEHICLE 2 DAMAGE CODES

Vehicle Br:
Towed To:

VEHICLE DAMAGE CODING:
1-13 SEE DIAGRAM ON RIGHT.
14. UNDERCARRIAGE
15. TRAILER
16. OVERTURNED
17. DEMOLISHED
18. NO DAMAGE
19. OTHER



Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles

Rear End | Left Turn | Right Angle | Right Turn | Head On
Sideswipe (same direction) | Left Turn | | Right Turn | Sideswipe (opposite direction)

ACCIDENT DIAGRAM

See the last page of the MV-104A for the accident diagram.

Cost of repairs to any one vehicle will be more than $1000
☐ Unknown/Unable to determine ☒ Yes ☐ No

Reference Marker

Coordinates (if available)
Latitude/Northing: 4768647
Longitude/Easting: 178338

Place Where Accident Occurred:
County ERIE ☐ City ☐ Village ☒ Town of GRAND ISLAND
Road on which accident occurred I-190 (Route Number or Street Name)
at 1) intersecting street (Route Number or Street Name)
or 2) 50 feet ☐ N ☒ S ☐ E ☐ W of MPM 15 S/B (Milepost, Reference intersecting Route Number or Street Name)

Accident Description/Officer's notes
V-1 ENTERING I-190 SOUTH BOUND FROM SOUTH PARKWAY. V-1 TRAVELING AT AN UNSAFE SPEED FOR RAMP LOSES CONTROL AND EXITS ROADWAY VIA RIGHT SHOULDER STRIKING A HEAD WALL WITH RIGHT SIDE. OP V-1 STATED THAT HE DID NOT KNOW WHAT HAPPENED HE LOST CONTROL AND THE CAR STARTED TO SPIN AND WENT OFF THE ROAD. 2 PASSENGERS INJURED COMPLAINT OF HEAD AND NECK PAIN. V-1 TOWED BY MARTYS. T-WAY PROPERTY DAMAGE # 4-18759 HEAD WALL AND 2 DELINEATORS.
ADDITIONAL TICKETS FOR DRIVER D1 - 4T2109H3SP, 1131 / 4T2109H4SP, 37535C

ALL INVOLVED

	8	9	10	11	12	13	14	15	16	17 BY	TO 18	Names of all Involved	Date of Death Only
A	1	1	4	1	18	M	-	-	-			SANTIAGO, SAMUEL M	
B	1	3	4	1	20	M	03	12	6	9993	1405	MONTALVO, LOUIS L	
C	1	4	1	1	19	M	03	12	6	9993	1405	BETANCES JR, RAILLEY	
D													
E													
F													

Officer's Rank and Signature	Badge/ID No.	NCIC No.	Precinct/Post Troop/Zone	Station/Post Sector	Reviewing Officer	Date/Time Reviewed
Trooper	4686	11404	T4	11	Harris, Derrick D	7/30/2012 02:03

Print Name in Full: Jeffrey T Inman

Local Codes
BU12-1909
SP4T21000839

New York State Department of Motor Vehicles
POLICE ACCIDENT REPORT
MV-104A (3/04)

FILE

☐ SUPPLEMENTARY REPORT

Accident Date Month	Day	Year	Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene ☐ / Accident Reconstructed ☐	Left Scene	Police Photos
7	26	2012	Thursday	10:03	1	2	0		☐	☐ Yes ☒ No

☐ VEHICLE ☐ BICYCLIST ☐ PEDESTRIAN ☐ OTHER PEDESTRIAN

VEHICLE 1 - Driver License ID/Number | State of Lic. | VEHICLE 2 - Driver License ID Number | State of Lic.

Driver Name (exactly as printed on license) | Owner Name (exactly as printed on license)

Address (Include Number and Street) | Apt. No. | Address (Include Number and Street) | Apt. No.

City or Town | State | Zip Code | City or Town | State | Zip Code

Date of Birth | Sex | Uninsured | No. of Occupants | Public Property Damaged | Date of Birth | Sex | Uninsured | No. of Occupants | Public Property Damaged

Owner - exactly as printed on registration | Sex | Date of Birth | Owner - exactly as printed on registration | Sex | Date of Birth

Address (Include Number and Street) | Apt. No. | Address (Include Number and Street) | Apt. No.

City or Town | State | Zip Code | City or Town | State | Zip Code

Plate Number | State of Reg. | Vehicle Year & Make | Vehicle Type | Ins. Code | Plate Number | State of Reg. | Vehicle Year & Make | Vehicle Type | Ins. Code

Telephone Number(s) | Telephone Number(s)

Violation Section(s) | Violation Section(s)

VEHICLE 1
Check if involved vehicle is:
☐ more than 96 inches wide
☐ more than 40 feet long
☐ operated on overweight permit
☐ operated within overdimension permit

VEHICLE 1 DAMAGE CODES
Box 1 : Point of Impact
Box 2 : Most Damage
Enter up to three more damage codes

Vehicle Did Tow To

VEHICLE 2
Check if involved vehicle is:
☐ more than 96 inches wide
☐ more than 40 feet long
☐ operated with an overweight permit
☐ operated with an overdimension permit

VEHICLE 2 DAMAGE CODES

Vehicle Did Tow To

VEHICLE DAMAGE CODES:
1-13 SEE DIAGRAM ON RIGHT.
14. UNDERCARRIAGE
15. TRAILER
16. OVERTURNED
17. DEMOLISHED
18. NO DAMAGE
19. OTHER

Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.

Rear End | Left Turn | Right Angle | Right Turn | Head On
Sideswipe (same direction) | Left Turn | Right Turn | Sideswipe (opposite direction)

ACCIDENT DIAGRAM

Cost of repairs to any one vehicle will be more than $1000:
Unknown/Unable to determine Yes No

Reference Marker

Coordinates (if available)
Latitude/Northing:
Longitude/Easting:

Place Where Accident Occurred:
County ERIE City Village Town of
Road on which accident occurred (Route Number or Street Name)
at 1) Intersecting street (Route Number or Street Name)
or 2) feet miles N S E W of (Milepost, Nearest intersecting Route Number or Street Name)

Accident Description/Officer's notes
PROPERTY DAMAGE BY VEHICLE #01 - HEAD WALL, NYS T-WAY AUTHORITY NY
PROPERTY DAMAGE BY VEHICLE #01 - 2 DIDINEATERS, NYS T-WAY AUTHORITY NY

N

ALL INVOLVED

	8	9	10	11	12	13	14	15	16	17 BY	TO 18	Names of all Involved	Date of Death Only
A													
B													
C													
D													
E													
F													

Officer's Rank and Signature	Badge/ID No.	NCIC No.	Precinct/Post Troop/Zone	Station/Beat Sector	Reviewing Officer	Date/Time Reviewed
Trooper Print Name in Full: Jeffrey T Inman	4689	11404	T4	11	Harris, Derrick D	7/30/2012 02:03

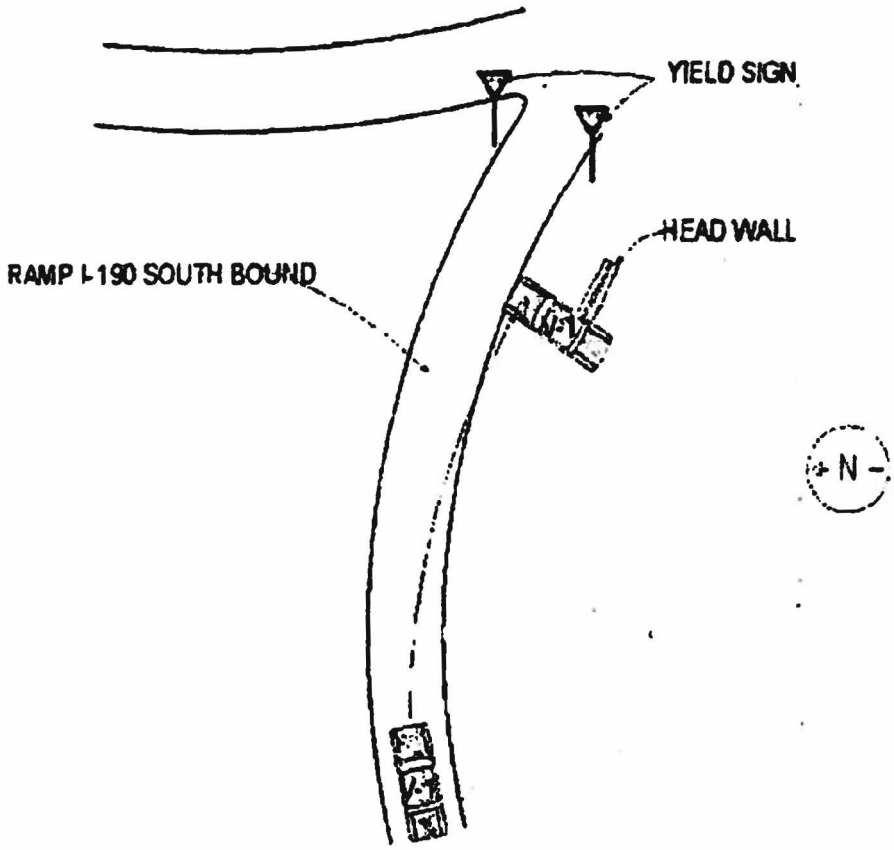
Local Codes
8012-1909
SPNT21000839

New York State Department of Motor Vehicles

POLICE ACCIDENT REPORT

MV-104A (3/04)

FILE

☐ AMENDED REPORT

Accident Date Month	Day	Year	Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene ☐ / Accident Reconstructed ☐	Left Scene	Police Photos
7	26	2012	Thursday	10:03	1	2	0		☐	☐ Yes ☒ No