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 9, 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:	*Motyka, Louis v. County of Erie (DPW-B&G) and Erie County Agricultural Society*
Document Received:	Notice of Claim
Name of Claimant:	Louis Motyka 85 Country Lane West Seneca, NY 14224
Claimant's attorney:	Christopher M. Pannozzo, Esq. Shaw & Shaw, P.C. 4819 South Park Avenue Hamburg, New York 14075

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: Michelle M. Parker
Michelle M. Parker
First Assistant County Attorney

MMP:dld
Enclosure

This paper received at the
Erie County Attorney's Office
from Catherine Forbush on
the 25 day of Oct, 2012
at 1:30 a.m./p.m.
Assistant County Attorney

STATE OF NEW YORK
COUNTY OF ERIE

LOUIS MOTYKA
85 Country Lane
West Seneca, NY 14224

Claimant

vs.

COUNTY OF ERIE, NEW YORK
25 Delaware Avenue
Buffalo, NY 14202

ERIE COUNTY AGRICULTURAL SOCIETY
3110 Columbus Avenue
Sandusky, OH 44870

Respondents

NOTICE OF CLAIM

TO: ERIE COUNTY ATTORNEY
69 Delaware Avenue, Suite 300
Buffalo, New York 14202

COUNTY OF ERIE
95 Franklin Street
Buffalo, NY 14202

PLEASE TAKE NOTE that Claimant hereby claims damages against Respondents in accordance with the requirements of General Municipal Law Section 50-e, and states as follows:

FIRST: **CLAIMANT'S NAME AND ADDRESS**

LOUIS MOTYKA
85 Country Lane
West Seneca, NY 14224

SECOND: **NAME AND ADDRESS OF CLAIMANT'S ATTORNEYS**

SHAW & SHAW, P.C.
Christopher M. Pannozzo, Esq., of counsel
4819 South Park Avenue
Hamburg, New York 14075

THIRD: The claim is one founded in negligence, and is for personal injuries.

FOURTH: This is a claim for money damages for personal injuries sustained by the Claimant against the Respondents when said Claimant was caused to fall on property and premises and, more specifically, on the property located at 5820 South Park Avenue, Hamburg, Erie County, New York in the area known as the Midway under the possession, control and ownership of the Respondents.

FIFTH: The time when the claim arose and the time when injuries and damages herein alleged were sustained was August 10, 2012 at approximately 4:00 p.m.

SIXTH: The incident occurred in the area commonly known as the Midway located within property located at 5820 South Park Avenue, Erie County, New York, which property is under the possession, control and ownership of the Respondents.

SEVENTH: That the cause of action which forms the substance of this claim arose in the following manner:

> On or about August 10, 2012, the Claimant was on the premises commonly known as the Midway located within 5820 South Park Avenue

in Hamburg, New York when he was caused to fall as the result of a dangerous condition, causing Claimant to come into contact with the ground, and seriously injuring himself.

EIGHTH: That the aforesaid incident and the injuries and damages resulting therefrom occurred by reason of the fault, neglect, and carelessness of the Respondents, their agents, servants and/or employees in that said Respondents failed to properly, adequately, and safely maintain the aforesaid premises; failed to properly and adequately supervise and control the area where Claimant fell on the date of the incident; carelessly and negligently designed the area on said premises where the incident occurred; failed to take the necessary steps to protect persons such as Claimant while attending the Erie County Fair; in failing to adequately and properly cover power lines and other material on the ground which upon information and belief, were placed by the Respondents' agents, servants and/or employees; failed to take the necessary steps and make the necessary observations, which, if taken or made, would have avoided the said incident; and in that the Respondents, their agents, servants and/or employees otherwise careless and negligent.

NINTH: By reason of the aforesaid, the Claimant sustained severe, painful and permanent injuries in and about the body including, but not limited to, a broken right hip necessitating surgical intervention and was otherwise rendered sick, sore, lame and disabled; was caused to incur and spend large sums of money for hospital care, surgical

care, physicians' services, nursing care, X-rays and medical supplies, for which the exact amount of such expenses cannot be determined at the present time.

WHEREFORE, the Claimant respectfully prays and requests that these claims, as set forth herein, be paid and allowed by the Respondents.

DATED: October 22, 2012
Hamburg, New York

Louis Motyka

VERIFICATION

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

LOUIS MOTYKA, being duly sworn, deposes and says that he is the Claimant in the within action; that he has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters, deponent believes it to be true.

Louis Motyka

Sworn to before me this
22 day of October 2012

Notary Public

CHRISTOPHER M. PANNOZZO
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 03/28/13