

STATE OF NEW YORK  
SUPREME COURT COUNTY OF SARATOGA

SANDRA COULTER AND STEPHEN COULTER,

Plaintiffs,

-against-

TOWN OF MOREAU, THE MICHAELS  
GROUP, L.L.C., WOODSCAPE NORTH  
HOMEOWNERS' ASSOCIATION II, INC.,  
COMMERCIAL PAVING COMPANY, LLC,  
GARRY ROBINSON, P.E. AND THE  
ENVIRONMENTAL DESIGN PARTNERSHIP,  
LLP,

Defendants.

AFFIDAVIT IN SUPPORT OF  
MOTION FOR SUMMARY  
JUDGMENT  
Index No. 20178  
RJI No. 45-1-2017-1235

WOODSCAPE NORTH HOMEOWNERS' ASSOCIATION  
II, INC., and THE MICHAELS GROUP, L.L.C.,

Third-Party Plaintiffs,

-against-

COMMERCIAL PAVING COMPANY, LLC,

Third-Party Defendant.

STATE OF NEW YORK )  
 )  
COUNTY OF SARATOGA )

LEEANN MCCABE, being duly sworn deposes and states as follows:

1. That I am the Town Clerk and Receiver of Taxes for the Defendant Town of Moreau in the above-captioned action.
2. That I submit this Affidavit in Support of the instant Motion for Summary Judgment.
3. That the Town of Moreau has in effect a Code entitled Article III §121-10 "Defective Highways and Property" which states that: "[n]o civil action shall be maintained against the Town

SARATOGA COUNTY  
CLERK'S OFFICE  
BALLSTON SPA, NY

2021 APR 12 AM 10:16

FILED

of Moreau (hereinafter referred to as "the town") or the Superintendent of Highways of the town or against any improvement district in the town for damages or injuries to persons or property, including those arising from the operation of snowmobiles, sustained by reason of any highway, bridge, culvert, highway marking, sign or device, or any other property owned, operated or maintained by the town or any property owned, operated or maintained by any improvement district therein, being defective, out of repair, unsafe, dangerous or obstructed, unless written notice of such defective, unsafe, dangerous or obstructed condition of such highway, bridge, culvert, highway marking, sign or device or any other property owned, operated or maintained by the town, or any property owned, operated or maintained by any improvement district was actually given to the Town Clerk or to the Superintendent of Highways of the town and there was failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of."

4. That my job duties include maintaining an indexed record, in a separate book, of all written notices that my office receives regarding the existence of a defective, unsafe, dangerous or obstructed condition in or upon, or of an accumulation of ice and snow upon, any town highway, bridge, culvert or a sidewalk or any other property owned by the town or by an improvement district, which record shall state the date of the receipt of the notice, the nature and location and nature of the condition stated to exist and the name and address of from whom the notice is received.

5. That I have reviewed the Summons and Complaint in this matter. A copy of the Summons and Complaint is attached hereto as Exhibit "A".

6. In the Complaint it is alleged that the Plaintiff Sandra Coulter was injured after tripping and falling on a defective condition while lawfully using the public road located in front of 35 Woodscape Drive, Moreau, New York.

7. In the Complaint it was also alleged that the Defendant Town of Moreau negligently maintained, designed or constructed the aforementioned public road so that a dangerous, defective, and/or unsafe condition was caused and/or allowed to exist.

8. That I have diligently searched the files maintained by the Town of Moreau Clerk's Office regarding this location. I can find no prior written notice concerning defects at this location.



LEEANN MCCABE

Town of Moreau Clerk and Receiver  
of Taxes

Sworn to before me this And  
day of November 2020.

  
NOTARY PUBLIC

JILL BENNETT  
Notary Public, State of New York  
Saratoga County #01BE6377939  
Commission Expires July 16, 2022