

Andrews, Bernstein, & Maranto, PLLC

Attorneys and Counselors at Law
420 Franklin Street
Buffalo, New York 14202

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FACSIMILE AND E-MAIL SERVICE NOT ACCEPTED

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Robert J. Maranto, Jr.
Thomas P. Kotrys

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Alan L. Bernstein

Norton T. Lowe
Amanda N. Blum
Anthony V. Iacono
Robert J. Maranto, III

April 10, 2024

VIA CERTIFIED U.S. MAIL

ERIE COUNTY WATER AUTHORITY
295 Main Street #350
Buffalo, New York 14203

***Re: ANNETTE K. BRZEZICKI and JAMES R. BRZEZICKI
individually, and as wife and husband***

Date of Incident: March 5, 2024

Dear Sir or Madam:

Enclosed herewith for service, please find two (2) copies of the Notice of Claim regarding the above-referenced matter.

Thank you.

Very truly yours,

ANDREWS, BERNSTEIN, & MARANTO, PLLC



Shelby Stroehlein
Paralegal

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

ANNETTE K. BRZEZICKI and
JAMES R. BRZEZICKI Individually,
And as Wife and Husband
239 Poinciana Parkway,
Buffalo, New York 14225

Claimants,

NOTICE OF CLAIM

v.

ERIE COUNTY WATER AUTHORITY
295 Main Street #350
Buffalo, New York 14203

Respondent.

PLEASE TAKE NOTICE, that Claimants, ANNETTE K. BRZEZICKI and JAMES R. BRZEZICKI individually, and as wife and husband (hereinafter collectively referred to as “Claimants”), intend to file a claim against the ERIE COUNTY WATER AUTHORITY and in support of said Claim state the following:

1. The Post Office address of the Claimants is 239 Poinciana Parkway, Buffalo New York 14225.
2. The attorneys for the Claimants are Andrews, Bernstein & Maranto, PLLC, located at 420 Franklin Street, Buffalo, New York 14202, Telephone (716) 842-2200.
3. The Claim arose as follows: On or about March 5, 2024, at or around 10:45 A.M., Claimant, Mrs. Brzezicki was seriously injured as she was sitting atop her bicycle on Erie Street near the Cemetery Road Overpass in the Town of Lancaster, New York. Upon information and belief, Erie Street, which is normally a two-lane road, had been reduced to a

single lane of traffic to permit road and/or construction work to be done on behalf of the Respondent.

4. Upon information and belief, the single passible lane of traffic had been blocked off by construction vehicles and/or equipment for work to be performed on behalf of Respondent. This construction activity blocked all lanes of traffic on Erie Street in the vicinity of the site of the incident.

5. As a direct and proximate result of the closure of Erie Street to traffic, a tow truck owned by United Auto Towing, and operated by an agent of same, attempted to avoid the impasse. Upon information and belief in an attempt to avoid the impasse, and move the vehicle onto Cemetery Road, the operator of the tow truck reversed the vehicle, striking Claimant Mrs. Brzezicki, causing her grievous injuries.

6. This incident was caused by the negligence, carelessness, and recklessness on the part of the Respondent ERIE COUNTY WATER AUTHORITY, through their agents, servants, and/or employees as follows:

a. Respondent was negligent in causing, creating, maintaining and/or permitting a dangerous and hazardous condition to exist on Erie Street in the vicinity of the Cemetery Road overpass;

b. Respondent was negligent in failing to properly and/or reasonably manage, operate, maintain, possess and/or care for the aforementioned area;

c. Respondent was negligent in failing to maintain the premises in a reasonable and safe condition;

d. Respondent was negligent in failing to institute proper protocols and procedures to ensure the safety of others;

e. Respondent was negligent in failing to institute proper protocols to ensure adequate oversight of the aforementioned area;

f. Respondent was negligent in failing to properly select and/or hire and/or retain qualified and proper contractors and/or sub-contractors;

g. Respondent was negligent in failing to properly plan for the safe flow of traffic in the aforementioned area;

h. Respondent was negligent in failing to warn of dangerous and hazardous conditions;

i. Respondent was negligent in failing to inspect the premises;

j. Respondent was negligent in failing to remedy the aforesaid condition(s);

k. Respondent was negligent in failing to observe the dangerous condition(s) in the subject area;

l. Respondent was negligent in failing to properly train, monitor, and/or supervise employees, agents, servants and/or contractors; and

m. The Respondent was otherwise negligent.

7. Upon information and belief, Respondent was also in violation of New York State Labor Law §200.

8. Upon information and belief, Respondent was also in violation of New York State Labor Law §241(6) and the accompanying regulations pursuant to the NYCRR, including, but not limited to 12 NYCRR 23-1.29(a-b), 12 NYCRR 23-1.33(a) 1-3, (b)(1)(i), (c)(1-4, 6) and (e)(2).

9. The claims by Claimants are for personal injuries, conscious physical and emotional pain and suffering, medical expenses, loss of consortium, society and/or

companionship, as well as consequential damages and any other damage(s) that might otherwise be unknown at this time but which may be revealed throughout the course of this litigation.

10. By virtue of the negligence, carelessness and recklessness of the ERIE COUNTY WATER AUTHORITY, Claimants were caused to suffer serious, significant and permanent injuries from this incident, including, but not limited to, an amputation of Claimant Annette Brzezicki's leg, along with numerous injuries throughout her body, the extent of which remain undetermined at this time.

11. Claimants have also suffered other injuries and complications as a result of this incident which are undetermined at this time, and therefore, the Claimant cannot reasonably calculate the amount of damages.

12. By virtue of the negligence, carelessness, and recklessness of the ERIE COUNTY WATER AUTHORITY Claimants have also incurred hospital and medical expenses and other necessary related expenses, the amounts of which are undetermined to date.

WHEREFORE, Claimants request that the ERIE COUNTY WATER AUTHORITY compensate Claimants, ANNETTE K. BRZEZICKI and JAMES R. BRZEZICKI Individually, and as Wife and Husband, for injuries and economic damages.

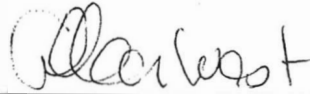
ANDREWS, BERNSTEIN, & MARANTO, PLLC

By: /s/RobertJMarantoJr
Robert J. Maranto Jr., Esq.
Attorney for Claimant
Andrews, Bernstein, Maranto, PLLC
420 Franklin Street
Buffalo, New York 14202
(716) 842-2200

VERIFICATION


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

COLLEEN WEST as Power of Attorney, for Claimants ANNETTE K. BRZEZICKI and JAMES R. BRZEZICKI, Individually and as Wife and Husband being duly sworn, deposes and says that she is the daughter and Power of Attorney for Claimants in this action, 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.



COLLEEN WEST as Power of Attorney

Sworn to before me this 10th
day of April, 2024



Notary Public

Thomas P. Kotrys
Notary Public, State of New York
Reg. #02KO6434924
Qualified in Erie County
My Commission Expires June 13, 20 26

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

ANNETTE K. BRZEZICKI and
JAMES R. BRZEZICKI Individually,
And as Wife and Husband
239 Poinciana Parkway,
Buffalo, New York 14225

Claimants,

ATTORNEY
VERIFICATION

ERIE COUNTY WATER AUTHORITY
295 Main Street #350
Buffalo, New York 14203

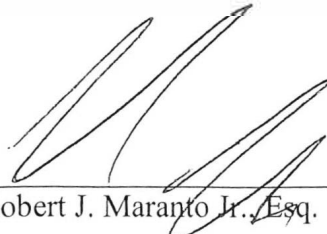
Respondent.

Robert J. Maranto Jr., an attorney duly admitted to practice law in the State of New York, states the following under penalties of perjury:

That he is the managing partner of ANDREWS, BERNSTEIN, & MARANTO PLLC, the attorneys for Claimants, ANNETTE K. BRZEZICKI and JAMES R. BRZEZICKI individually, and as wife and husband, in this action, that he has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to his knowledge except as to those matters therein stated to be alleged upon information and belief; and as to those matters he believes to be true.

All matters herein stated upon information and belief are based upon affiant's file correspondence and/or conferences with the Claimants.

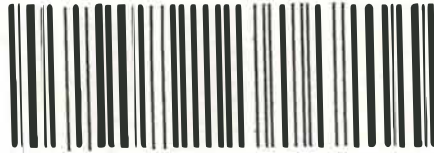
DATED: Buffalo, New York
April 10, 2024



Robert J. Maranto Jr., Esq.

OF THE RETURN
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ANDREWS, BERNSTEIN & MARANTO,
Attorneys and Counselors at Law
420 Franklin Street
Buffalo, New York 14202



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ERIE COUNTY WATER AUTHORITY
295 Main Street #350
Buffalo, New York 14203

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