

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE
DAVID SERRANO

Claimant,

-against-

NOTICE OF CLAIM

Index No.:

CITY OF TONAWANDA, COUNTY OF ERIE,
and, ERIE COUNTY WATER AUTHORITY
Respondents

TO: CITY OF TONAWANDA
City Clerk's Office
Tonawanda City Hall
200 Niagara Street
Tonawanda, New York 14150

CITY OF TONAWANDA
Corporation Counsel's Office
Tonawanda City Hall
200 Niagara Street
Tonawanda, New York 14120
cityattorney@tonawandacity.com

**ERIE COUNTY WATER
AUTHORITY**
295 Main Street, Room 320
Buffalo, New York 14203

COUNTY OF ERIE
Department of Law
95 Franklin Street
Buffalo New York 14202

PLEASE TAKE NOTICE, that DAVID SERRANO by and through his attorneys Lewis & Lewis, PC., hereby make claims and demands against the CITY OF TONAWANDA, ERIE COUNTY WATER AUTHORITY and COUNTY OF ERIE as follows:

1. The name and post-office address of the claimant is as follows: DAVID SERRANO, [REDACTED] North Tonawanda, New York 14120. The name, post-office address, and telephone number of the claimant's attorney is LEWIS & LEWIS, P.C., Michael T. Coutu, Esq., of Counsel, 800 Cathedral Park Tower, 37 Franklin Street, Buffalo, New York 14202; (716) 854-2100.

2. The nature of the claim is as follows: Upon information and belief, claimant, DAVID SERRANO, did sustain personal injuries and other damages as a result of the

carelessness, recklessness, negligence and nuisance caused by the CITY OF TONAWANDA, ERIE COUNTY WATER AUTHORITY, ERIE COUNTY (collectively, "Respondents") and/or the respondent(s) by its / their agents, servants, representatives and/or employees, including injuries to his right leg and knee.

Upon information and belief, the Respondents' negligence includes without limitation: failing to maintain the premises where the injury occurred in a reasonably safe condition for persons lawfully thereupon (including claimant [REDACTED]); creating a dangerous, hazardous, and/or defective condition; launching the instrument of harm; failing to adequately illuminate, and failing to warn or protect such persons concerning hazardous, dangerous, treacherous, and/or otherwise unsafe conditions upon the premises.

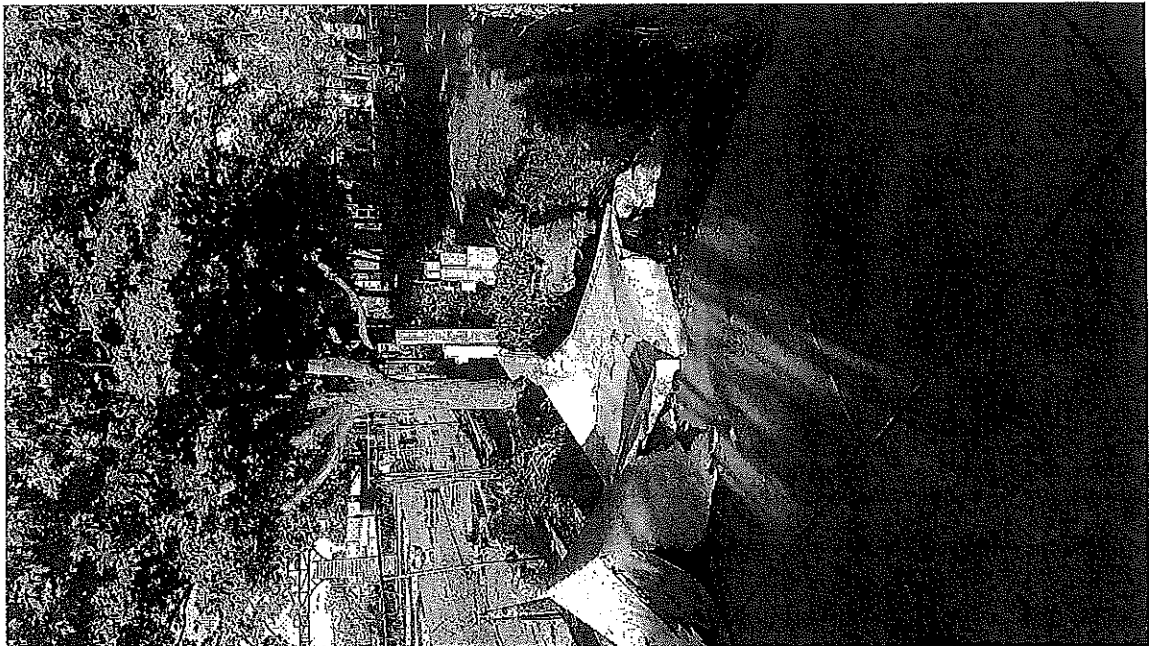
Upon information and belief, the carelessness, recklessness, and negligence of the Respondents and/or the respondents by their agents, servants, representatives and/or employees proximately caused and/or was a substantial factor in bringing about the incident, claimant's injuries, and the claimant's damages as hereinafter described.

It is further alleged upon information and belief that the Respondent(s)' made special use of the property by, among other things maintaining water facilities and box covering the same on and/or adjacent to the sidewalk leading from the pedestrian bridge to the public sidewalk running along Young Street / Main Street in the City of Tonawanda.

Upon information and belief, the carelessness, recklessness, and negligence of the respondent and/or the respondent by its agents, servants, representatives and/or employees proximately caused and/or was a substantial factor in bringing about the incident, claimant's, DAVID SERRANO's injuries, and the claimants' damages as hereinafter described.

3. The time when, the place where, and the manner in which the claim arose is as follows: Upon information and belief, on or about October 5, 2021 and/or October 6, 2021, in the evening hours at or after sunset, David Serrano was caused to run into debris on the public sidewalk after crossing the pedestrian bridge from North Tonawanda across the canal to / toward the public sidewalk running along Young Street / Main Street in the City of Tonawanda.

The photograph below as well as the image attached as Exhibit A depict the location of the injury producing bicycle crash:



At or about this date, time, and place, claimant DAVID SERRANO was caused to crash his bicycle on an inadequately cleared public way as a result of a dangerous, hazardous, treacherous, and improperly maintained property after the Respondents negligently launched the instrumentality of harm (through work done in that area and/or through failing to clean-up after work was done by one or more of the Respondents) and increasing the risk of harm to those

lawfully on the public sidewalk including, but not limited to claimant, DAVID SERRANO. Moreover, DAVID SERRANO fell as a result of nuisance created by and/or permitted by the CITY OF TONAWANDA, CITY OF TONAWANDA, ERIE COUNTY WATER AUTHORITY, ERIE COUNTY as outlined above.

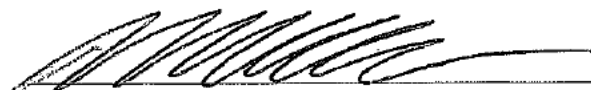
4. Upon information and belief and prior to the date of the above incident, the respondents, their agents, employees and servants had actual notice and constructive notice of the defects that caused the claimant's injuries and/or caused / contributed to the injury producing condition; launched the instrumentality of harm, and had prior written notice of the condition of the premises; caused the dangerous and defective condition; knew of the continues and re-occurring conditions interfering with the public use and enjoyment of Public Sidewalk, breached the duty to inspect and warn, and was otherwise negligent.

5. The items of damage and injuries sustained by DAVID SERRANO are as follows: medical expenses; painful bodily injury including a femoral condyle fracture, torn knee ligaments, head injury, facial injuries and other cuts, bruises and abrasions resulting from the crash; potential aggravation of pre-existing knee conditions; conscious physical pain and suffering; and the claimant, DAVID SERRANO has and will incur further medical expenses as a result of this incident; and claimant will require further medical treatment. Upon information and belief, claimant DAVID SERRANO'S injuries and damages are, in all respects, permanent, progressive and ongoing in nature relating directly to the incident and negligence described herein.

6. The claimant presents this claim and demands payment and notifies the respondents that unless this claim is adjusted within 30 days from the date of service of this notice, it is the intention of the claimant to commence an action against the respondent.

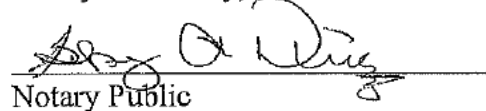
DATED: Buffalo, New York
January 3, 2022

Respectfully submitted,



Michael T. Coutu, Esq.
LEWIS & LEWIS, P.C. on behalf of
Claimant DAVID SERRANO

Sworn to before me this
3rd day of January, 2022.


Notary Public

SHIRLEY A. DIETZ
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 02/09/2023