

Andrews, Bernstein, Maranto & Nicotra, PLLC

Attorneys and Counselors at Law
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Buffalo, New York 14202

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FACSIMILE AND E-MAIL SERVICE NOT ACCEPTED

Benjamin J. Andrews
Robert J. Maranto, Jr.
Richard A. Nicotra
Andrew J. Connelly

Of Counsel
Alan L. Bernstein

Norton T. Lowe
Thomas P. Kotrys
Amanda N. Blum
Anthony V. Iacono

October 12, 2022

VIA CERTIFIED U.S. MAIL

CITY OF BUFFALO
65 Niagara Square
1100 City Hall
Buffalo, New York 14202

County of Erie
95 Franklin Street, Room 1634
Buffalo, NY 14202

ERIE COUNTY PUBLIC WORKS
95 Franklin St #1400
Buffalo, NY 14202

ERIE COUNTY WATER AUTHORITY
295 Main St #350
Buffalo, NY 14203

DIVISION OF SEWERAGE MANAGEMENT
95 Franklin St, Room# 1034
Buffalo, NY 14202

BUFFALO WATER DEPARTMENT
281 Exchange St
Buffalo, NY 14202

CITY OF BUFFALO DEPARTMENT OF PUBLIC WORKS, PARKS & STREETS
65 Niagara Square
Buffalo, NY 14202

BUFFALO SEWER AUTHORITY OFFICE
65 Niagara Square # 1038
Buffalo, NY 14202

Re: Tina Toomer
Date of Incident: 07/18/2022

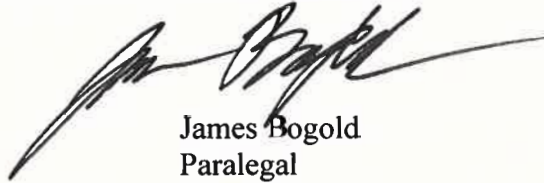
Dear Sir or Madam:

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 & NICOTRA, PLLC

A handwritten signature in black ink, appearing to read 'James Bogold', is written over a horizontal line.

James Bogold
Paralegal

:jmb
Enc.

STATE OF NEW YORK
SUPREME COURT : ERIE COUNTY

TINA TOOMER
104 Best Street Lower
Buffalo, NY 14209

Claimant,

NOTICE OF CLAIM

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65 Niagara Square
1100 City Hall
Buffalo, New York 14202

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BUFFALO SEWER AUTHORITY OFFICE
65 Niagara Square # 1038
Buffalo, NY 14202

Respondents.

PLEASE TAKE NOTICE, that the Claimant TINA TOOMER, hereby intends to file a claim against the CITY OF BUFFALO, COUNTY OF ERIE, ERIE COUNTY PUBLIC WORKS, ERIE COUNTY WATER AUTHORITY, DIVISION OF SEWERAGE MANAGEMENT, BUFFALO WATER DEPARTMENT, CITY OF BUFFALO DEPARTMENT OF PUBLIC WORKS, PARKS & STREETS and/or the BUFFALO SEWER AUTHORITY OFFICE, and in support of said Claim states the following:

1. The Post Office address of the Claimant is 104 Best Street Lower, Buffalo, NY 14209.

2. The attorneys for the Claimant are Andrews, Bernstein, Maranto & Nicotra, PLLC, 420 Franklin Street, Buffalo, New York 14202, Telephone (716) 842-2200.

3. The Claim arose as follows: On or about July 18, 2022, Claimant, TINA TOOMER was walking down the street near the intersection of East Amherst Street and Poultney Avenue. Upon information and belief, both East Amherst Street and Poultney Avenue are maintained by the CITY OF BUFFALO, COUNTY OF ERIE, ERIE COUNTY PUBLIC WORKS, ERIE COUNTY WATER AUTHORITY, DIVISION OF SEWERAGE MANAGEMENT, BUFFALO WATER DEPARTMENT, CITY OF BUFFALO DEPARTMENT OF PUBLIC WORKS, PARKS & STREETS and/or the BUFFALO SEWER AUTHORITY OFFICE. The Claimant, TINA TOOMER fell due to an uneven water main. Upon information and belief, the water main is maintained by the CITY OF BUFFALO, COUNTY OF ERIE, ERIE COUNTY PUBLIC WORKS, ERIE COUNTY WATER AUTHORITY, DIVISION OF SEWERAGE MANAGEMENT, BUFFALO WATER DEPARTMENT, CITY OF

BUFFALO DEPARTMENT OF PUBLIC WORKS, PARKS & STREETS and/or the BUFFALO SEWER AUTHORITY OFFICE.

4. This incident was caused by the negligence, carelessness, and recklessness of the CITY OF BUFFALO, COUNTY OF ERIE, ERIE COUNTY PUBLIC WORKS, ERIE COUNTY WATER AUTHORITY, DIVISION OF SEWERAGE MANAGEMENT, BUFFALO WATER DEPARTMENT, CITY OF BUFFALO DEPARTMENT OF PUBLIC WORKS, PARKS & STREETS and/or the BUFFALO SEWER AUTHORITY OFFICE and/or their agents, servants and/or employees as follows:

- a. Improperly maintained and repaired the water main in question.
- b. Negligently failed to inspect the roadway, sidewalk, and water main in question.
- c. Negligently and carelessly failed to inspect the roadway, sidewalk, and water main in question for any defect.
- d. Negligently and carelessly created a hazardous condition.
- e. Negligently used improper materials to construct and/or repair the roadway, sidewalk, and water main which caused a dangerous threat and created a hazardous condition; and,
- f. Respondents were otherwise negligent.

5. By virtue of the negligence, carelessness and recklessness of the CITY OF BUFFALO, COUNTY OF ERIE, ERIE COUNTY PUBLIC WORKS, ERIE COUNTY WATER AUTHORITY, DIVISION OF SEWERAGE MANAGEMENT, BUFFALO WATER

DEPARTMENT, CITY OF BUFFALO DEPARTMENT OF PUBLIC WORKS, PARKS & STREETS and/or the BUFFALO SEWER AUTHORITY OFFICE and/or their agents, servants and/or employees, Claimant, TINA TOOMER, was caused to suffer serious, significant and permanent injuries from this incident.

6. Claimant, TINA TOOMER, also suffered other injuries and complications as yet undetermined as a result of this accident and, by reason of the same, Claimant sustained damages in an amount which cannot be reasonably calculated at this time.

7. This claim is for personal injuries, conscious physical and emotional pain and suffering, medical expenses, as well as consequential damages.

8. By virtue of the negligence and carelessness of the CITY OF BUFFALO, COUNTY OF ERIE, ERIE COUNTY PUBLIC WORKS , ERIE COUNTY WATER AUTHORITY, DIVISION OF SEWERAGE MANAGEMENT, BUFFALO WATER DEPARTMENT, CITY OF BUFFALO DEPARTMENT OF PUBLIC WORKS, PARKS & STREETS and/or the BUFFALO SEWER AUTHORITY OFFICE and/or their agents, servants and/or employees, Claimant has also incurred medical expenses and other necessary related expenses, and the amount of which is undetermined to date.

WHEREFORE, Claimant requests that the CITY OF BUFFALO, COUNTY OF ERIE, ERIE COUNTY PUBLIC WORKS, ERIE COUNTY WATER AUTHORITY, DIVISION OF SEWERAGE MANAGEMENT, BUFFALO WATER DEPARTMENT, CITY OF BUFFALO DEPARTMENT OF PUBLIC WORKS, PARKS & STREETS and/or the BUFFALO SEWER AUTHORITY OFFICE compensate her for her injuries.

DATED: Buffalo, New York
October 5, 2022

ANDREWS, BERNSTEIN, MARANTO & NICOTRA, PLLC

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

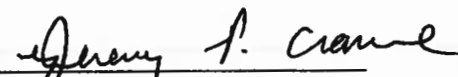
VERIFICATION

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

TINA TOOMER, for herself being duly sworn, deposes and says that she is the Claimant in this action, that she has read the foregoing Notice of Claim in this action and know 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.


TINA TOOMER

Sworn to before me this 11th
day of October, 2022


Notary Public

Jeremy P Crance
Notary Public, State of New York
Qualified in Erie County
No. 01CR6348681
Commission Expires October 3, 2024

CERTIFIED MAIL

S, BERNSTEIN, MARANTO & NICOTRA, PLLC
Attorneys and Counselors at Law
420 Franklin Street
Buffalo, New York 14202



FP **US POSTAGE**
\$008.30⁰
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10/12/2022
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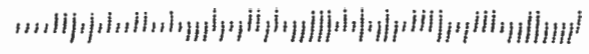
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OCT 11 2022

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ERIE COUNTY WATER AUTHORITY
295 Main St #350
Buffalo, NY 14203

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