

STATE OF NEW YORK

JA'RELL PATTON

---



Claimant,

-vs-

**NOTICE OF CLAIM**

COUNTY OF ERIE  
95 Franklin Street, Room 1634  
Buffalo, NY 14202

ERIE COUNTY SEWER AUTHORITY  
A DIVISION OF THE COUNTY OF ERIE  
95 Franklin Street, Room 1634  
Buffalo, NY 14202

ERIE COUNTY DIVISION OF SEWERAGE MANAGEMENT  
A DIVISION OF THE COUNTY OF ERIE  
95 Franklin Street, Room 1634  
Buffalo, NY 14202

ERIE COUNTY SEWER DISTRICT NO. 1  
A DIVISION OF THE COUNTY OF ERIE  
95 Franklin Street, Room 1634  
Buffalo, NY 14202

ERIE COUNTY DEPARTMENT OF ENVIRONMENT  
AND PLANNING, A DIVISION OF THE COUNTY OF ERIE  
95 Franklin Street, Room 1634  
Buffalo, NY 14202

ERIE COUNTY WATER AUTHORITY  
295 Main Street  
Room 350  
Buffalo, NY 14203

Respondents.

---

TO:

**PLEASE TAKE NOTICE** that the **Claimant** claims damages against the Respondents in accordance with the requirements of General Municipal Law § 50-e and states as follows:

1. The name and address of **Claimant** is:

JA'RELL PATTON



2. The **Claimant** is represented herein by:

Shaw & Shaw, P.C.  
Blake Zaccagnino, Esq., of counsel  
4819 South Park Avenue  
Hamburg, NY 14075

**LEGAL THEORY/CAUSE OF ACTION CLAIMED:**

3. This is a claim founded in negligence, and is for personal injuries.

4. This is a claim for money damages for personal injuries sustained by the

Claimant, when he was caused to fall on property and premises and, more specifically, on the grass adjacent to the curblin at 712 Mount Vernon Road, Cheektowaga, NY 14215.

Upon information and belief, that property was under the possession, control and ownership of the Respondents.

**TIME AND LOCATION AND MANNER IN WHICH THE CLAIM AROSE:**

5. The time when the claim arose and the time when injuries and damages herein alleged were sustained was on or about December 3, 2021 at 7:22PM.

**NATURE AND BASIS FOR THIS CLAIM:**

6. Attached as **Exhibit A**, please find the deed for 712 Mount Vernon Road, Cheektowaga, NY 14215.

7. As Claimant walked, he was caused to trip and fall over dangerous condition in the area described above. More specifically, the Claimant fell/stepped into a hole in the grass. When he fell, he came into contact with the ground, seriously injuring himself.

Upon information and belief, the hole was caused/created in part as a result of the property owner's sewer lateral.

Attached as **Exhibit B**, please find a photograph of the general area where the Claimant fell. Attached as **Exhibit C**, please find photographs of what caused the Claimant's fall, taken on the date he fell.

Upon information and belief, the hole was caused/created in part as a result of the property's sewer lateral.

**LEGAL THEORY/CAUSE OF ACTION CLAIMED:**

8. The above mentioned incident and the injuries and damages occurring therefrom occurred by reason of the fault, neglect, and carelessness of the Respondents, their agents, servants, and/or employees. The negligence of the Respondents, their agents, servants and/or employees includes but is not limited to:

- Failure to properly, adequately, and safely maintain the aforesaid premises;
- Failure to properly and adequately supervise and control the area where the Claimant fell on the date of the incident;
- Carelessly and negligently designing the area on said premises where the incident occurred;

- Failure to take the necessary steps to fill in holes and/or indentations made, upon information and belief, by the Respondents' agents, servants and/or employees;
- Failure to give attention to uneven, unlevel, un-filled walking surfaces on the property;
- Failure to give attention to holes in the grass on the property;
- Failure to take the necessary steps and make the necessary observations, which, if taken or made, would have avoided the said incident;
- Failing to act reasonable under the circumstances;
- Failing to take precautionary measures to protect the Claimant from the incident after weighing the probability and gravity of the harm against the burden of precaution;
- Failing to take precautionary measures to the protect the Claimant from the incident when they had ownership, occupancy, control, and or special use of the property on the date of the fall;

- The Respondents' negligence was the proximate cause of the Claimant's fall and serious injuries;
- The Respondents' negligence was a substantial factor in bringing about the Claimant's injuries in that a reasonable person would regard it as a cause of his injuries;
- They failed in their duty to use reasonable care to keep their property in a reasonably safe condition for the protection of the Claimant whose presence was reasonably foreseeable on the date of the fall;
- The Respondents created the condition that caused the Claimant 's fall;
- The Respondents either actually knew, or in the use of reasonable care, should have known that the condition that caused the Claimant's fall long enough before the fall to have allowed them, in the use of reasonable care to correct it or to take other suitable precautions;
- The Respondents failed to warn the Claimant about the dangerous condition before his fall;

- in having actual and constructive notice of the dangerous condition;
- in creating the dangerous condition;
- in that the defect was visible and apparent and existed for a sufficient length of time prior to the fall to permit Respondents to discovery and remedy it but they failed to do so;
- upon information and belief, receiving prior written notice of the defect;
- in creating the defect or hazard through an affirmative act of negligence;
- upon information and belief, in having special use of the location of the incident providing a special benefit upon the Respondents;
- and in that the Respondents, its agents, servants and/or employees were otherwise careless and negligent.

**DAMAGES CLAIMED:**

9. By reason of the aforesaid occurrence, the Claimant sustained severe, painful and permanent injuries in and about his body, including, but not limited to, left ankle and knee injuries, all of which were and are severe, painful and permanent in nature including, shock to the

nerves and nervous system, circulatory system, traumatic injuries to nerves, tendons and muscular system with resultant impairment and/or loss of use of normal functions; was otherwise rendered sick, sore, lame and disabled and prevented him from performing his usual activities for a period of time subsequent to this incident, and has incurred, and may suffer and sustain loss of earnings and/or loss of future earning potential and/or capacity; has caused, or may incur, hospital expenses, medical expenses, physical therapy and/or rehabilitation and counseling expenses and/or other similar types of expenses as to past, present or future, as would relate to the care, treatment and attempted cure of the injuries sustained and/or the residual effects thereof; has been deprived of the ability to enjoy the life and lifestyle that he was able to participate in and enjoy prior to the happening of this incident, and has been caused to suffer emotional upset, anxiety and depression as a result of the pain and suffering associated with the injuries as to the past, present and, upon information and belief, into the future; and together with any other special and general damages as may manifest themselves subsequent to the date of this Notice of Claim.

The Claimant also makes a claim for any and all medical expenses incurred as to his care, treatment and attempted cure of the injuries sustain and/or the residual effects of the same herein as to the past, present, and or future.

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

Dated: February 15, 2022  
Hamburg, New York


Shaw & Shaw, P.C.  
Blake Zaccagnino, Esq., of counsel  
Attorneys for Claimant  
Office and Post Office Address  
4819 South Park Avenue  
Hamburg, New York 14075  
(716) 648-3020 Telephone  
(716) 648-3730 Fax  
[www.shawlawpc.com](http://www.shawlawpc.com)



STATE OF NEW YORK )  
COUNTY OF ERIE ) SS...:  
TOWN OF HAMBURG )

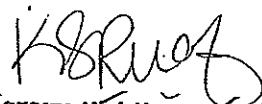
BLAKE ZACCAGNINO., ESQ., being duly sworn, deposes and says:

That your deponent is the attorney of record for the Claimant in the above-entitled action, and as such I am filing the within Notice of Claim on behalf of the Claimant; that your deponent has read the foregoing Claim, Notice and Statement, 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 as to those matters your deponent believes the same to be true; the source of your deponent's knowledge and information is an investigation of this matter, documents and writings in your deponent's possession and actual conversations with the Claimants.



BLAKE ZACCAGNINO, ESQ.

Subscribed and sworn to before me  
this 18 day of February 2022.



Notary Public, State of New York  
Qualified in Erie County  
My commission expires 11/14/2023.

KATRINA M. SCHMITT-RUOF  
NOTARY PUBLIC, STATE OF NEW YORK  
Registration No. 01SC6251147  
Qualified in Erie County  
Commission Expires November 14, 2023

ERIE COUNTY CLERK'S OFFICE



County Clerk's Recording Page

Return to:

OMARLLA BARNETT  
712 MT VERNON RD  
CHEEKTOWAGA, NY 14215

Book Type: D Book: 11241 Page: 1870

Page Count: 2

Doc Type: DEED

Rec Date: 03/08/2013

Rec Time: 03:30:20 PM

Control #: 2013055499

UserID: Christina

Trans #: 13038953

Document Sequence Number

TT2012013492

Party 1:

ROSEN JENNIFER FKA

Party 2:

BARNETT OMARLLA S

Recording Fees:

Fee 1	\$30.00
Fee 2	\$1.00
COE STATE \$14.25 GEN	\$14.25
COE STATE \$4.75 RM	\$4.75
RP5217 CNTY \$9	\$9.00
RP5217 ST-RES \$116	\$116.00
TP584	\$10.00

Consideration Amount: 92500.00

BASIC MT	\$0.00
SONYMA MT	\$0.00
ADDL MT/NFTA	\$0.00
SP MT/M-RAIL	\$0.00
NY STATE TT	\$370.00
ROAD FUND TT	\$462.50

**Total: \$1,017.50**

STATE OF NEW YORK  
ERIE COUNTY CLERK'S OFFICE

WARNING - THIS SHEET CONSTITUTES THE CLERK'S ENDORSEMENT REQUIRED BY SECTION 319&316-a (5) OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK. DO NOT DETACH. THIS IS NOT A BILL.

Christopher L. Jacobs  
County Clerk

Record & Return to: Omarilla Burnett  
712 Mt. Vernon Rd.  
Cheektowaga, NY 14215

WARRANTY DEED-LIEN COVENANT

This Indenture, made the 8<sup>th</sup> day of March, 2013.

Between Jennifer Rosen f/k/a Jennifer Katz  
residing at 95 Belvoir, Williamsville, NY 14221

Grantor(s),

and

Omarilla S. Burnett  
residing at 4 Jewett Parkway, Apt. #4, Buffalo, NY 14214

Grantee(s).

WITNESSETH, that the said Grantor(s), in consideration of ONE AND MORE dollars (\$1.00 and More) lawful money of the United States, paid by the Grantee(s), do hereby grant and release unto the Grantee(s), heirs and assigns forever.

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Cheektowaga, County of Erie and State of New York, being part of Lot 36, Township 11 and Range 7 of the Holland Land Company's Survey and according to map filed in the Erie County Clerk's Office under Cover No. 1247 is known as Subdivision Lot No. 101.

Together with the appurtenances and all the estate and rights of the party(ies) of the first part in and to said premises.

To have and to hold, the above granted premises unto the said Grantee(s).

And the said Grantor(s) does/do covenant with said Grantee(s) as follows:

First, That the Grantee(s) shall quietly enjoy the said premises.

Second, That the Grantor(s) will forever WARRANT the title to said premises.

Third, Subject to the trust fund provisions of section thirteen of the lien law.

In witness whereof, The said Grantor(s) has/have hereunto set his hand(s) and seal(s) the day and year first written above.

In Presence of

*Jennifer Rosen f/k/a Jennifer Katz*  
Jennifer Rosen f/k/a Jennifer Katz

STATE OF NEW YORK  
COUNTY OF ERIE ) ss.

On the 8<sup>th</sup> day of March, in the year 2013, before me, the undersigned, a notary public in and for said state, personally appeared Jennifer Rosen f/k/a Jennifer Katz, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is subscribed to the within instrument and acknowledged to me that they executed the same in their capacity(ies), and that by their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

*Cheeryl L. Stein*  
NOTARY PUBLIC

CHEERYL L. STEIN  
Notary Public, State of New York  
Registration #025T4853568  
Qualified in Erie County  
My Commission Expires July 17, 2015

CKY  
DUOT-1  
55194

FOR COUNTY USE ONLY

C1. SWIS Code 143089  
 C2. Date Deed Recorded 3/8/13  
 C3. Book 11247 C4. Page 1870



New York State Department of  
**Taxation and Finance**  
 Office of Real Property Tax Services  
**RP- 5217-PDF**  
 Real Property Transfer Report (8/10)

**PROPERTY INFORMATION**

1. Property Location 712 Mount Vernon Road  
 \*STREET NUMBER \*STREET NAME  
Cheektowaga 14215  
 \*CITY OR TOWN VILLAGE \*ZIP CODE

2. Buyer Name Bennett Barnett Omarillas  
 \*LAST NAME/COMPANY FIRST NAME  
 LAST NAME/COMPANY FIRST NAME

3. Tax Billing Address Indicate where future Tax Bills are to be sent  
 If other than buyer address (at bottom of form) LAST NAME/COMPANY FIRST NAME  
 STREET NUMBER AND NAME CITY OR TOWN STATE ZIP CODE

4. Indicate the number of Assessment Roll parcels transferred on the deed 1 # of Parcels OR  Part of a Parcel (Only if Part of a Parcel) Check as they apply:  
 4A. Planning Board with Subdivision Authority Exists   
 4B. Subdivision Approval was Required for Transfer   
 4C. Parcel Approved for Subdivision with Map Provided

5. Deed Property Size 40 X 130 OR 0.00  
 \*FRONT FEET \*DEPTH \*ACRES  
 4B. Subdivision Approval was Required for Transfer   
 4C. Parcel Approved for Subdivision with Map Provided

6. Seller Name Rosen f/k/a Katz Jennifer  
 \*LAST NAME/COMPANY FIRST NAME  
 LAST NAME/COMPANY FIRST NAME

7. Select the description which most accurately describes the use of the property at the time of sale:  
 A. One Family Residential   
 Check the boxes below as they apply:  
 B. Ownership Type is Condominium   
 C. New Construction on a Vacant Land   
 10A. Property Located within an Agricultural District   
 10B. Buyer received a disclosure notice indicating that the property is in an Agricultural District

**SALE INFORMATION**

11. Sale Contract Date 11/16/2012  
 \*12. Date of Sale/Transfer 3/8/13  
 \*13. Full Sale Price 92,500.00  
 (Full Sale Price is the total amount paid for the property including personal property. This payment may be in the form of cash, other property or goods, or the assumption of mortgages or other obligations.) Please round to the nearest whole dollar amount.

14. Indicate the value of personal property included in the sale 0.00

15. Check one or more of these conditions as applicable to transfer:  
 A. Sale Between Relatives or Former Relatives  
 B. Sale between Related Companies or Partners in Business.  
 C. One of the Buyers is also a Seller  
 D. Buyer or Seller is Government Agency or Lending Institution  
 E. Deed Type not Warranty or Bargain and Sale (Specify Below)  
 F. Sale of Fractional or Less than Fee Interest (Specify Below)  
 G. Significant Change in Property Between Taxable Status and Sale Date  
 H. Sale of Business is Included in Sale Price  
 I. Other Unusual Factors Affecting Sale Price (Specify Below)  
 J. None  
 Comment(s) on Condition:

**ASSESSMENT INFORMATION - Data should reflect the latest Final Assessment Roll and Tax Bill**

16. Year of Assessment Roll from which information taken (YY) 13 \*17. Total Assessed Value 85,000  
 \*18. Property Class 210 \*19. School District Name Cleveland Hill  
 \*20. Tax Map Identifier(s)/Roll Identifier(s) (if more than four, attach sheet with additional Identifier(s))  
 80-70-1-25

**CERTIFICATION**

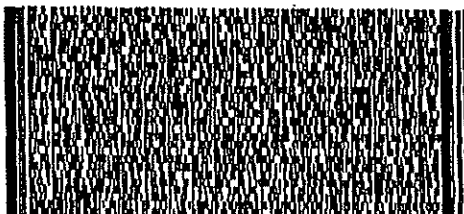
I certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and I understand that the making of any willful false statement of material fact herein subject me to the provisions of the penal law relative to the making and filing of false instruments.

**SELLER SIGNATURE**

[Signature] 2/1/13  
 SELLER SIGNATURE DATE  
[Signature] 3/8/13  
 BUYER SIGNATURE DATE

**BUYER CONTACT INFORMATION**

(Enter information for the buyer. Note: If buyer is LLC, society, association, corporation, joint stock company, estate or entity that is not an individual agent or fiduciary, then a name and contact information of an individual responsible party who can answer questions regarding the transfer must be entered. Type or print clearly.)  
Bennett Omarilla S.  
 \*LAST NAME \*FIRST NAME  
712 Mt. Vernon Rd.  
 \*AREA CODE \*STREET NAME  
Cheektowaga NY 14215  
 \*CITY OR TOWN \*STATE \*ZIP CODE  
**BUYER'S ATTORNEY**  
Nikolaig Christoph  
 LAST NAME FIRST NAME  
716 633-9922  
 AREA CODE TELEPHONE NUMBER (EA 999999)



# Google Maps 705 Mt Vernon Rd



Image capture: Apr 2021 © 2021 Google

Cheektowaga, New York

Google

Street View - Apr 2021

- 712 Mt Vernon Rd, Buffalo, NY 14222
- Golden Dragon



IMG-9602.jpg



IMG-9601.jpg

12/16/21, 4:39 PM

