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IN THE MATTER OF THE CLAIM OF  
BENJAMIN PAGAN,

**NOTICE OF CLAIM**

Claimant

-vs-

ERIE COUNTY WATER AUTHORITY,

Respondent.

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TO: ERIE COUNTY WATER AUTHORITY  
295 Main Street  
Room 350  
Buffalo, New York 14203

PLEASE TAKE NOTICE, that the Claimant, BENJAMIN PAGAN ("Claimant"), hereby make claims against the Respondent, ERIE COUNTY WATER AUTHORITY ("Respondent"), as follow:

1. **Claimant's Name & Address:** Benjamin Pagan, 2406 Main Street, Collins, New York 14034.
2. **Claimant's Attorney's Name & Address:** Jason M. Telaak, Esq., Campbell & Associates, 38 Lake Street, Hamburg, New York 14075.
3. **The Nature of the Claim:** This is a Claim for personal injuries and related damages sustained as a result of the negligence, carelessness, recklessness, and violations of New York State Labor Law Section 241(6), New York State Labor Law Section 200, and applicable sections of New York State Industrial Code (12 NYCRR Part 23) by the Respondent, its agents, servants, and/or employees, in connection with construction, repair, site and surface preparation, and/or painting work being performed at a water tower and/or water storage tank owned, operated, maintained, and controlled by Respondent. At all relevant times, Claimant was lawfully present

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at the subject premises and was acting within the course and scope of his employment as a construction worker assigned to perform painting and related preparation work on the water tower and/or storage tank.

3.     **Date, Time, and Place of Occurrence:** The Claim occurred on September 26, 2025, at approximately 11:00 a.m., at or near the water tower and/or storage tank and surrounding construction site owned, operated, and/or controlled by Respondent, located at 7591 E. Eden Road, Eden, New York 14057.

4.     **The Manner in Which the Claim Arose:** Claimant's employer, Erie Painting & Maintenance, was awarded a contract by Respondent to refurbish a water tower and/or water storage tank at the aforementioned property. The project involved, among other things, sandblasting and painting the water tower and/or water storage tank.

At the time of the incident, Claimant was acting in the course and scope of his employment for Erie Painting & Maintenance in connection with the project to refurbish the water tower and/or water storage tank. Claimant was using a vacuum hose to vacuum up debris that was caused by sandblasting in preparation for painting, when he was caused to trip and fall over a heater tube that was negligently left lying on the ground in the working area and/or work passageway, creating a hazardous tripping condition.

Respondent, as the owner and/or entity responsible for the premises and construction site, failed to provide reasonable and adequate protection and safety to workers lawfully engaged in construction-related activities and failed to provide a safe working environment.

This incident was caused by Respondent's negligence, carelessness, and/or recklessness, including but not limited to: failure to properly supervise, inspect, manage, and maintain the premise and construction site; failure to maintain the worksite in a reasonably safe condition and

to remedy or warn of foreseeable hazards; failure to equip, arrange, guard, operate, and conduct the jobsite as to provide reasonable and adequate protection for the lives, health, and safety of persons working at or lawfully frequenting the jobsite; failure to ensure proper positioning and/or placement of heating tubes and other equipment, creating a tripping hazard; failure to properly guard, cover, or mark the heating tubes, creating a trip hazard; failure to remedy or correct the dangerous condition; failure to remove or mitigate tripping hazards; failure to warn of tripping hazards; failure to provide safe footing; failure to keep the floors, walkways, passageways, and similar areas where persons work or pass free of tripping hazards; permitting workers to use a floor, passageway, walkway, or other working surface in a hazardous and unsafe condition; failing to provide safe access to and egress from the worksite; in permitting and allowing a dangerous trip hazard to exist at the worksite; in permitting individuals to work under conditions that were not in compliance with the New York Labor Laws and Industrial Codes; in violating New York Labor Law Section 241(6), New York Labor Law Section 200, and applicable provisions of the New York State Industrial Code (12 NYCRR Part 23), including but not limited to Sections 23-1.3, 23-1.5(a), 23-1.7(e)(1)-(2), and 23-2.1; and was otherwise negligent.

It will be claimed that the Respondent, its employees, servants, agents, or others acting at the direction and/or with the permission and/or under the supervision of Respondent, caused or created the hazardous condition and had actual and/or constructive notice of same.

5. **Injuries & Damages:** Solely as a result of the negligence, carelessness, and/or recklessness of the Respondent, its employees, servants, and/or agents, Claimant sustained serious and severe personal injuries, the full extent and severity of which cannot be ascertained at this early date, but which are, upon information and belief, permanent in nature. Claimant's known injuries at this juncture include a left shoulder injury resulting in past, present, and future pain and

suffering; past, present, and future medical expenses; past and future disability and lost wages; and other general and special damages as may be determined. Claimant's diagnoses at this time include, but are not limited to, probable AC joint separation of the left shoulder; left shoulder sprain/strain; and concern for internal derangement of the left shoulder.

PLEASE TAKE NOTICE, that unless this Claim is adjusted and paid within a reasonable amount of time, it is the intention of the Claimant to commence suit against the Respondent.

Dated: Hamburg, New York  
December 17, 2025

CAMPBELL & ASSOCIATES



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Jason M. Telaak, Esq.  
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Dated: Hamburg, New York  
December 12, 2025



BENJAMIN PAGAN

**VERIFICATION**

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF ERIE )

BENJAMIN PAGAN, being duly sworn, deposes and says that he is the Claimant in the within action; that he has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to his own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters, deponent believes it to be true.



BENJAMIN PAGAN

Sworn to before me this 17  
day of December, 2025.

*Heidi M. Luongo*  
Notary Public

