

**IN THE MATTER OF THE CLAIM OF:**

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**VINCENT LUKA,**

Claimant,

v.

**NOTICE OF CLAIM**

**ERIE COUNTY WATER AUTHORITY,**

Respondent.

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TO: Terrence D. McCracken  
Secretary, Erie County Water Authority  
295 Main Street  
Room 350  
Buffalo, New York 14203-2494

Mark S. Carney, Esq.  
General Counsel, Erie County Water Authority  
295 Main Street  
Room 350  
Buffalo, New York 14203-2494

*PLEASE TAKE NOTICE*, that the Claimant, VINCENT LUKA, by and through his attorneys, the Law Offices of Robert D. Berkun, 350 Main Street, Suite 2150, Buffalo, New York 14202, hereby makes a claim against the Respondent, ERIE COUNTY WATER AUTHORITY, as follows:

1. The Claimant's full name is VINCENT LUKA, and his date of birth is [REDACTED]

2. The Claimant resides at [REDACTED]

3. That on or about the 4th day of December, 2021, the Claimant was caused to fall on a protruding water valve/pipe on the public sidewalk in front of or near the vicinity of 75 Norfred Drive, Lackawanna, New York, due to the dangerous and hazardous condition thereof.

4. Upon information and belief, said property is owned by the Respondent, ERIE COUNTY WATER AUTHORITY.

5. That the incident described above was caused by the negligence of the ERIE COUNTY WATER AUTHORITY, its agents, servants, employees and/or contractors, in that ERIE COUNTY WATER AUTHORITY did not take all adequate, reasonable, and necessary steps to provide for the safety of the Claimant. That specifically, ERIE COUNTY WATER AUTHORITY, its agents, servants, employees and/or contractors, were careless, negligent and reckless in the following ways: failing to ensure that the public sidewalk at or near the vicinity of 75 Norfred Drive, Lackawanna, New York was in a condition safe for the normal use of persons lawfully on the premises; allowing a hazardous condition to exist on the premises, to wit: a protruding water pipe/valve; failing to mark or indicate the protruding and otherwise dangerous nature of the subject water pipe/valve when the Respondent knew, or should have known in the exercise of reasonable care, that such a condition would pose a foreseeable risk of bodily harm to persons lawfully thereon; failing to correct the hazardous and dangerous condition of the aforementioned public sidewalk which was in existence for hours, days and/or weeks prior to the Claimant's fall; Respondent knew, or should have known in the exercise of reasonable care, that the condition of the aforementioned public sidewalk was not fit for ordinary use and failed to take any measures to block access to the said sidewalk to prevent injury to those lawfully thereon; Respondent created the hazardous/defective condition complained of through its commissioning of a public works project (to wit: installation of the subject water pipe/valve); Claimant was injured as a result of the dangerous condition which was allowed to occur and continue on the premises due to the acts and omissions of the Respondent; Respondent had a non-delegable duty to properly inspect and maintain the premises, and keep the same in a reasonably safe condition to prevent

foreseeable injury to other persons on the premises; Respondent failed to exercise ordinary and reasonable care in that the Respondent was generally careless and negligent, causing injury to the Claimant, who was lawfully on the premises.

6. That as a result of this fall, the Claimant, VINCENT LUKA, sustained serious personal injuries, including, but not limited to, neck and low back injuries, requiring medical attention, the extent and duration of which is presently undetermined.

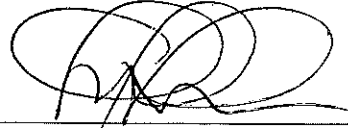
7. That the Claimant, VINCENT LUKA, has incurred various medical expenses and is continuing to treat with medical providers for the injuries he sustained due to the negligence of the Respondent ERIE COUNTY WATER AUTHORITY.

8. That the Claimant, VINCENT LUKA, hereby makes a claim against the Respondent, ERIE COUNTY WATER AUTHORITY, for his personal injuries, medical expenses, past, present and future pain suffering and loss of enjoyment of life suffered as a result of the incident that occurred on or about December 4, 2021, on the public sidewalk in front of or near the vicinity of 75 Norfred Drive, Lackawanna, New York.

8. That the Claimant, VINCENT LUKA, respectfully reserves the right to amend this Notice of Claim if necessary.

***PLEASE TAKE NOTICE***, that in the event that the Respondent fails to resolve the matter, the Claimant intends to commence an action in the Supreme Court of the State of New York, County of Erie, to recover damages in an amount which is currently undetermined, together with the costs and disbursements of this action, and for such other and further relief as the Court deems just and proper.

DATED: Buffalo, New York  
December 21, 2021



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Michael C. Lancer, Esq.  
LAW OFFICES OF ROBERT D. BERKUN  
*Attorneys for Claimant*  
Office and P.O. Address  
350 Main Street, Suite 2150  
Buffalo, New York 14202  
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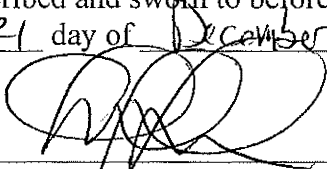
STATE OF NEW YORK            )  
COUNTY OF ERIE            )     SS  
CITY OF LACKAWANNA        )

VINCENT LUKA, being duly sworn, deposes and says:

That he is the Claimant in the above-captioned action; that he has read the foregoing Notice of Claim and knows and understands the contents thereof as true, except as to matters therein stated to be alleged upon information and belief, and any matters so stated, he believes them to be true.

  
\_\_\_\_\_  
VINCENT LUKA

Subscribed and sworn to before me  
this 21 day of December, 2021.

  
\_\_\_\_\_  
Notary Public

MICHAEL C LANCER  
Notary Public - State of New York  
NO. 02LA6185285  
Qualified in Erie County  
My Commission Expires 4/14/24