

STATE OF NEW YORK

KANDIS 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:

KANDIS PATTON

████████████████████
Cheektowaga, NY 14227

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, as a result of her husband, JA'RELL PATTON'S fall on property and premises and, more specifically, on the grass adjacent to the curblineline at 712 Mount Vernon Road, Cheektowaga, NY 14215.

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

Attached as **Exhibit 1**, please find a copy of JA'RELL PATTON'S notice of claim previously served on 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 the Claimant's husband, JA'RELL PATTON walked, he was caused to trip and fall over a dangerous condition in the area described above. More specifically, JA'RELL PATTON fell/stepped into a hole in the grass. When JA'RELL PATTON 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 JA'RELL PATTON fell. Attached as **Exhibit C**, please find photographs of what caused JA'RELL PATTON to 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 JA'RELL PATTON 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 JA'RELL PATTON from the incident after weighing the probability and gravity of the harm against the burden of precaution;
- Failing to take precautionary measures to protect JA'RELL PATTON 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 JA'RELL PATTON's fall and the serious injuries sustained by him and Claimant;
- 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 her injuries;
- They failed in their duty to use reasonable care to keep their property in a reasonably safe condition for the protection of JA'RELL PATTON whose presence was reasonably foreseeable on the date of the fall;

- The Respondents created the condition that caused JA'RELL PATTON to fall, his injuries, and the Claimant's injuries;
- The Respondents either actually knew, or in the use of reasonable care, should have known that the condition that caused JA'RELL PATTON'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 but they failed to do so;
- The Respondents failed to warn JA'RELL PATTON 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 discover 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;
- in that the Respondents, its agents, servants and/or employees were otherwise careless and negligent.

DAMAGES CLAIMED:

9. By reason of the aforesaid occurrence, and as a result of the Respondents' negligence that caused the injuries sustained by JA'RELL PATTON in his fall, the Claimant was damaged for the lost services and society provided to her by JA'RELL PATTON.

Claimant was damaged because of the nature and extent of JA'RELL PATTON 's services and society before his injuries, including his disposition, temperament, character and attainments; the interest he showed in their home; the social life of their family and the comfort, happiness, education and general welfare of the members of their family; the services he rendered in superintending the household, assisting her in the management of affairs in which they were engaged; their acts of affection and love and the extent his injuries prevented her from performing such services and providing such society.

As a result of the Respondents' negligence that caused the injuries sustained by JA'RELL PATTON in his fall, Claimant was damaged monetarily for the value of the lost services and society that she sustained and is reasonably certain to sustain in the future by reason of his inability to perform such services and provide such society as a result of his injuries.

As a result of the Respondents' negligence that caused the injuries sustained by JA'RELL PATTON in his fall, Claimant incurred expenses for medical, hospital, nursing, and household services and supplies made necessary as a result of his injuries.

Claimant's claim is for Loss of Consortium. Due to her husband's injuries a lot of responsibilities have fallen entirely on Claimant.

Claimant and her husband, JA'RELL PATTON, would split any household chores or family needs. JA'RELL PATTON, would clean, do laundry, take the garbage out and grocery shop on certain weeks. JA'RELL PATTON, would also take the kids to their appointments due to Claimant's work schedule. All of the above now falls entirely on the Claimant. This is in addition to working Claimant's normal job.

The intimacy that Claimant and JA'RELL PATTON shared has diminished tremendously due to the pain he is in. JA'RELL PATTON's pain has caused him to not want to be intimate with the Claimant and it makes the Claimant feel less about herself.

Additionally, JA'RELL PATTON is the camera man for their kids videos as they are content creators for social media platforms. They are paid to post their videos. Due to JA'RELL PATTON's limited mobility, they aren't able to go to places to create content, which pushes their release dates back and causes them to lose money. Between the filming, getting the angles correct and editing, it now takes longer. The prior mentioned task has now fallen on Claimant and she has no idea what she is doing with that.

The Claimant also makes a claim for any and all medical expenses incurred as to JA'RELL PATTON's care, treatment and attempted cure of the injuries sustained 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


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 18th day of February 2022


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

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