

CELLINO & BARNES, P.C.  
350 MAIN STREET, 2500 MAIN PLACE TOWER  
BUFFALO, NEW YORK 14202  
(716) 888-8888

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ERIE

\*\*\*\*\*

JOHN BLESSING

Claimant,

v.

TOWN OF AMHERST  
TOWN OF AMHERST ENGINEERING  
DEPARTMENT  
ERIE COUNTY WATER AUTHORITY,  
COUNTY OF ERIE,

Respondents,

\*\*\*\*\*

**NOTICE OF CLAIM**

ERIE COUNTY WATER AUTH  
27 AUG 19 PM 12:08

**PLEASE TAKE NOTICE**, that the above named claimant claims and demands from the respondents, TOWN OF AMHERST, TOWN OF AMHERST ENGINEERING DEPARTMENT, ERIE COUNTY WATER AUTHORITY and COUNTY OF ERIE, recompense for personal injuries and damages sustained by claimant by reason of the wrongful, negligent and careless acts and omissions of the respondents, their agents, servants and/or employees, and in support thereof, the claimant states:

1. Claimant's address is [REDACTED] East Amherst, NY 14051.
2. The claimant is represented by Cellino & Barnes, P.C. with offices located at 2500 Main Place Tower, 350 Main Street Buffalo, New York 14202, telephone (716) 888-8888.
3. The incident in which personal injuries were sustained by the claimant occurred on or about June 29, 2019 at approximately 12:20 p.m.

4. The claimant was operating his bicycle through the Mobil Gas Station located at 1490 Dodge Road, Amherst, New York. In the driveway apron and sidewalk of the gas station on the Dodge Road side of the property a sunken storm drain grate was in place which claimant rode over and was caused to be thrown from his bicycle.

5. The claimant sustained serious physical injuries consisting of a shattered left acetabulum and significant contusions and abrasions of the left arm and elbow.

6. The claimant has received medical treatment at Millard Fillmore Hospital and is currently in inpatient rehabilitation at the Weinberg Campus in Amherst, New York.

7. The full extent of claimant's injuries is not currently known. Upon information and belief, claimant will be obligated to incur further medical expenses including drugs, medicines and prosthetic devices, the amount of which cannot be reasonably calculated at this time. Additionally, it is expected that Claimant will suffer lost wages in an amount to be determined.

8. Respondents TOWN OF AMHERST, TOWN OF AMHERST ENGINEERING DEPARTMENT, ERIE COUNTY WATER AUTHORITY and COUNTY OF ERIE had actual notice of the dangerous and defective sunken storm drain in the driveway apron located at 1490 Dodge Road in East Amherst.

9. Respondents TOWN OF AMHERST, TOWN OF AMHERST ENGINEERING DEPARTMENT, ERIE COUNTY WATER AUTHORITY and COUNTY OF

ERIE had constructive notice of the dangerous and defective sunken storm drain in the driveway apron located at 1490 Dodge Road in East Amherst.

10. Respondents TOWN OF AMHERST, TOWN OF AMHERST ENGINEERING DEPARTMENT, ERIE COUNTY WATER AUTHORITY and COUNTY OF ERIE had negligently inspected the sunken storm drain in the driveway apron located at 1490 Dodge Road in East Amherst.

11. Respondents TOWN OF AMHERST, TOWN OF AMHERST ENGINEERING DEPARTMENT, ERIE COUNTY WATER AUTHORITY and COUNTY OF ERIE had negligently maintained the sunken storm drain in the driveway apron located at 1490 Dodge Road in East Amherst.

12. Respondents TOWN OF AMHERST, TOWN OF AMHERST ENGINEERING DEPARTMENT, ERIE COUNTY WATER AUTHORITY and COUNTY OF ERIE had negligently constructed the sunken storm drain in the driveway apron located at 1490 Dodge Road in East Amherst.

13. Respondents TOWN OF AMHERST, TOWN OF AMHERST ENGINEERING DEPARTMENT, ERIE COUNTY WATER AUTHORITY and COUNTY OF ERIE had negligently placed the sunken storm drain in the driveway apron located at 1490 Dodge Road in East Amherst.

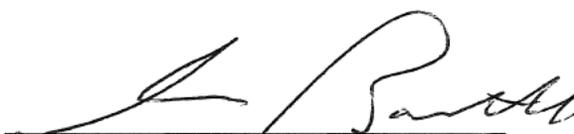
14. Respondents TOWN OF AMHERST, TOWN OF AMHERST ENGINEERING DEPARTMENT, ERIE COUNTY WATER AUTHORITY and COUNTY OF ERIE had failed to timely correct the dangerous and defective sunken storm drain in the driveway apron located at 1490 Dodge Road in East Amherst.

**TAKE NOTICE** that claimant demands payment of his claim as set forth above.

DATED: Buffalo, New York  
August 13, 2019

Yours, etc.,

**CELLINO & BARNES, P.C.**

By: 

Denis J. Bastible, Esq.  
Attorneys for Plaintiff  
2500 Main Place Tower  
350 Main Street  
Buffalo, NY 14202-3725  
(716) 888-8888

TO: TOWN OF AMHERST  
Amherst Town Clerk  
5583 Main Street  
Williamsville, New York 14221

TOWN OF AMHERST ENGINEERING DEPARTMENT  
5583 Main Street  
Williamsville, New York 14221

TOWN OF AMHERST ENGINEERING DEPARTMENT  
1100 N Forest Rd  
Williamsville, NY 14221

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

ERIE COUNTY WATER AUTHORITY  
92 Franklin Street, Room 1634  
Buffalo, New York 14202

COUNTY OF ERIE  
92 Franklin Street, Room 1634  
Buffalo, New York 14202

**VERIFICATION**

STATE OF NEW YORK     )  
COUNTY OF ERIE        : SS.:  
CITY OF BUFFALO         )

**JOHN BLESSING** being duly sworn, deposes and says that he is the plaintiff in the within action; that he has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to the knowledge of the deponent, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes them to be true.

  
\_\_\_\_\_  
JOHN BLESSING

STATE OF NEW YORK     )  
COUNTY OF ERIE        : SS.:  
CITY OF BUFFALO         )

On the 13<sup>th</sup> day of August, in the year 2019 before me, the undersigned, personally appeared John Blessing, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

**DENIS BASTILLE**  
No. 99846181841  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires 02/11/2020

  
\_\_\_\_\_  
Notary Public/Commissioner of Deeds

TO \_\_\_\_\_  
YOU ARE HEREBY NOTIFIED TO FILE A  
WRITTEN RESPONSE TO THE ENCLOSED  
WITHIN TWENTY (20) DAYS FROM SERV-  
ICE HEREOF OR A JUDGEMENT MAY BE  
ENTERED AGAINST YOU.

BY \_\_\_\_\_  
ATTORNEY

WE DO HEREBY CERTIFY THAT THE WITH-  
IN IS A TRUE AND CORRECT COPY OF  
THE ORIGINAL FILED IN THIS ACTION.

BY \_\_\_\_\_  
ATTORNEY