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August 18, 2025

***CERTIFIED MAIL/  
RETURN RECEIPT REQUESTED***

Town of West Seneca  
c/o Town of West Seneca Clerk  
1250 Union Road  
West Seneca, NY 14224

Erie County  
c/o Erie County Attorney  
95 Franklin Street, Room 1634  
Buffalo, NY 14202

Erie County Water Authority  
295 Main Street, Room 350  
Buffalo, NY 14203-2494

Re: **In the Matter of the Claim of Diane Rose and James Rose, Her Spouse  
v. Town of West Seneca; Erie County and Erie County Water Authority  
Our File No: 76337.0001**

Dear Sir or Madam:

Enclosed please find a Notice of Claim for service upon you with regard to the above-captioned matter.

Very truly yours,

Lipsitz Green Scime Cambria LLP

By: Dale J. Bauman, Esq.

DJB/kms  
Enc.

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1 District of Columbia  
2 Florida  
3 California  
4 Illinois  
5 Pennsylvania  
6 New Jersey  
7 Oregon  
8 Massachusetts  
9 Connecticut  
10 Washington



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In the Matter of the Claim of

DIANE ROSE and  
JAMES ROSE, Her Spouse

*Claimants*

**NOTICE OF CLAIM**

- against -

TOWN OF WEST SENECA,  
ERIE COUNTY and  
ERIE COUNTY WATER AUTHORITY

*Respondents*

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TO: TOWN OF WEST SENECA  
c/o Town of West Seneca Clerk  
1250 Union Road  
West Seneca, New York 14224

ERIE COUNTY  
c/o Erie County Attorney  
95 Franklin Street, Rm 1634  
Buffalo, New York 14202

ERIE COUNTY WATER AUTHORITY  
295 Main Street  
Room 350  
Buffalo, NY 14203-2494

**PLEASE TAKE NOTICE**, that DIANE ROSE and JAMES ROSE, have and hereby make claim against TOWN OF WEST SENECA, ERIE COUNTY and ERIE COUNTY WATER AUTHORITY, and in support of said claim state the following:

1. The Post Office address of the Claimants is 93 Evelyn Avenue, West Seneca, New York 14224.

2. The attorneys for the Claimants are LIPSITZ GREEN SCIME CAMBRIA LLP, and their Post Office address is 42 Delaware Avenue, Suite 120, Buffalo, New York 14202-3924.

3. The claim of DIANE ROSE is for personal injuries, including without limitation, loss of income and medical expenses, and for consequential damages generally.

4. The claim of JAMES ROSE is for loss of services, society, companionship and consortium as a result of his spouse's injury producing incident, and for consequential damages generally.

5. The claim arose at the intersection of Center Road and Union Road on the southernmost designated crosswalk of the intersection, parallel to Center Road and perpendicular to Union Road, in the town of West Seneca, County of Erie and State of New York, more particularly at an uncovered utility and/or drainage hole, directly inside the bounds of the aforesaid crosswalk, located at GPS coordinates 42.8393 N., -78.7540 W. The specific location was between the 10<sup>th</sup> and 11<sup>th</sup> crosswalk stripe from the easternmost curb of the crosswalk on the south side of Center Road as it crosses Union Road, and slightly to the south of center of that crosswalk. Photographs of the aforesaid hole in the crosswalk and surrounding location are attached hereto:



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6. A Google Streetview photograph, upon information and belief taken in or about June 2025, depicts the open hole and its location as shown here:



7. The claim arose in substance as follows: On the 21<sup>st</sup> day of July, 2025, at approximately 6:30 p.m., the Claimant, DIANE ROSE, while lawfully and properly traversing the crosswalk at the aforesaid intersection, was caused by the uncovered utility and/or drainage hole to roll her left ankle, resulting in serious injuries to the Claimant, including a left ankle fracture.

8. Upon information and belief, the incident herein described and the resultant injuries and damages sustained were caused as a result of the negligence, carelessness, recklessness and/or unlawful conduct on the part of the agents, servants and/or employees of TOWN OF WEST SENECA, ERIE COUNTY and/or ERIE COUNTY WATER AUTHORITY; furthermore, the incident and resultant injuries and damages were caused by those acts and omissions of the

agents, servants and/or employees of TOWN OF WEST SENECA, ERIE COUNTY and/or ERIE COUNTY WATER AUTHORITY and more particularly, among other things, crating the hazard in the form of the uncovered hole; in failing and omitting to adequately and properly design, construct, repair, maintain and inspect the subject crosswalk, the utility and/or drainage hole and roadway surface; and in failing to provide and maintain appropriate and adequate warnings or signage of such hazard, or otherwise warn those present of such hazard's existence.

9. Upon information and belief, as a result of the aforesaid incident, the Claimant, DIANE ROSE, sustained severe bodily injuries and was painfully and seriously injured; was rendered sick, sore, lame and disabled; sustained pain and suffering and shock to her nerves and nervous system; and more particularly, the Claimant, DIANE ROSE, sustained injuries in the nature of a left ankle fracture. Upon information and belief, these injuries will result in permanent defects.

10. Upon information and belief, as a result of the aforesaid incident, the Claimant JAMES ROSE sustained the loss of services, society, companionship and consortium of his wife as a result of her injury producing incident, and has sustained consequential damages generally.

**WHEREFORE**, Claimants request that TOWN OF WEST SENECA, ERIE COUNTY and ERIE COUNTY WATER AUTHORITY honor and pay the claim on behalf of DIANE ROSE and JAMES ROSE.



DATED: Buffalo, New York  
August 8, 2025

  
\_\_\_\_\_  
DIANE ROSE

  
\_\_\_\_\_  
JAMES ROSE

**LIPSITZ GREEN SCIME CAMBRIA LLP**

By:   
\_\_\_\_\_  
Dale J. Bauman, Esq.  
Attorneys for Claimants  
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STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF ERIE )

DIANE ROSE and JAMES ROSE, being duly sworn, depose and say that they are the Claimants above named; and make this claim on behalf of themselves; they have read the foregoing claim and know the contents thereof; the same is true to the knowledge of the Claimants except for the matters herein alleged upon information and belief, and as to those matters, they believe them to be true.

Diane Rose  
DIANE ROSE

James P Rose  
JAMES ROSE James P Rose

Sworn to before me on this 14  
day of August, 2025.

Zachary J Barlow  
Notary Public

ZACHARY J BARLOW  
Notary Public - State of New York  
No. 01BA026966  
Qualified in Erie County  
My Commission Expires July 18, 2028