

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

STEPHEN BARILE, JR.

NOTICE OF CLAIM

Elma, New York 14059,

Claimant,

vs.

CITY OF BUFFALO,
City Hall
65 Niagara Street
Buffalo, New York 14202,

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

BUFFALO WATER DEPARTMENT,
201 Exchange Street
Buffalo, New York 14202,

Respondents.

**TO: CITY OF BUFFALO;
ERIE COUNTY WATER AUTHORITY;
BUFFALO WATER DEPARTMENT.**

RECEIVED
19 MAY -9 PM 2:33
ERIE COUNTY
WATER AUTHORITY

PLEASE TAKE NOTICE that STEPHEN BARILE, JR., ("Claimant"), by and through his attorneys GIBSON MCASKILL and CROSBY, LLP, hereby claims and demands against the CITY OF BUFFALO, ERIE COUNTY WATER AUTHORITY and BUFFALO WATER DEPARTMENT as follows:

1. The name and post office address of the claimant is STEPHEN BARILE, JR.,
, Elma, New York 14059.

2. The name and post office address of the claimant's attorney is Gibson McAskill and Crosby, LLP, 69 Delaware Avenue, Suite 900, Buffalo, New York 14202.
3. The claim is for negligence, recklessness, carelessness, past and future conscious pain and suffering, loss of enjoyment of life, the permanent effect of the injuries, past and future lost wages, medical expenses, and attorneys' fees arising from the incident that occurred on February 15, 2019.
4. That at all times hereinafter mentioned, respondent CITY OF BUFFALO, at all relevant times was and still is a municipal department and/or corporation, duly organized and existing under and by virtue of the laws of the City of Buffalo and the State of New York.
5. That at all times hereinafter mentioned, respondent ERIE COUNTY WATER AUTHORITY, at all relevant times was and still is a municipal department and/or corporation, duly organized and existing under and by virtue of the laws of the County of Erie and the State of New York.
6. That at all times hereinafter mentioned, respondent BUFFALO WATER DEPARTMENT, at all relevant times was and still is a municipal department and/or corporation, duly organized and existing under and by virtue of the laws of the City of Buffalo and the State of New York.
7. The claim arose on or about February 15, 2019, when claimant, STEPHEN BARILE, JR., was in the course of his employment with Ellicott Development Company. On that date, Claimant was working at 201 Ganson Street, Buffalo, New York 14203, during business hours, when agents of the Respondents arrived at the location to shut down the water from the street access/right of way due to a flood. Despite extremely high winds, agents of the Respondents rested a large iron/steel water shut off crank against a telephone pole instead of securing it in a

safe and non-negligent/careless/reckless fashion/location. A high gust of wind caused the crank to blow off its resting place against the telephone pole, striking Claimant in the head, knocking him unconscious and causing other serious and permanent injuries.

8. The said incident was caused by the reason of the negligence, recklessness and carelessness of the CITY OF BUFFALO, ERIE COUNTY WATER AUTHORITY and/or BUFFALO WATER DEPARTMENT, their agents, servants, and employees in the negligent, careless and reckless operation, maintenance, management, supervision and control of equipment and safety procedures during a flood located in the vicinity of 201 Ganson Street, Buffalo, New York 14203; in causing, permitting and/or allowing employees to rest a water crank against a telephone pole during high winds, thereby creating a dangerous condition, in failing to sufficiently train and/or supervise employees regarding the proper procedures and protocols regarding care and maintenance of large and dangerous tools in inclement weather including high winds; in failing to inspect, adequately inspect and/or properly inspect said equipment in light of said conditions; in failing to provide STEPHEN BARILE, J.R with notice or warning of the created dangerous condition; in failing to use due care, caution, precaution and diligence in this regard; in hiring agents, servants and/or employees who were negligent, careless and/or incompetent with respect to the management, supervision, inspection and execution of their job duties; that Respondents, their agents, servants, employees and those acting under their direction, behest, permission and control were negligent, careless and reckless in the planning, operation, management, and supervision of their job duties at 201 Ganson Street on February 15, 2019; and in violating various standards, regulations and ordinances.

9. These acts of commission and/or omission subjected STEPHEN BARILE, JR. to the incident and created the condition which caused serious and permanent injuries to STEPHEN BARILE, JR.
10. The items and amounts of damages claimed have not yet been determined.
11. That Respondents were reckless, careless and negligent.
12. Respondents' negligence, recklessness, and carelessness directly or indirectly caused the injuries sustained by STEPHEN BARILE, JR.
13. That this claim comes within one or more of the exceptions of CPLR Section 1602, including but not limited to 1602(7).
14. This notice is made and served on behalf of said Claimant, in compliance with provision 50-E of the General Municipal Law and such other laws and statutes as are in the case made and provided.
15. Please take further notice that the Claimant demands payment of said claim, and unless said claim is paid in a reasonable time, it is the intention of the Claimant to commence suit against the Respondents.

Dated: Buffalo, New York
May 9, 2019

GIBSON, McASKILL & CROSBY, LLP

By: 

Aaron F. Glazer, Esq.
Attorneys for Claimant
69 Delaware Avenue, Suite 900
Buffalo, New York 14202
Telephone: (716) 856-4200

VERIFICATION

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

STEPHEN BARILE, JR., being duly sworn, deposes and says: I am the Claimant in this action and as such I have read the foregoing Notice of Claim and know the contents thereof; and that the same is true to my knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters I believe them to be true.



STEPHEN BARILE, JR.

Sworn to me this
5th day of MM, 2019



Notary Public

AARON F. GLAZER
Notary Public, State of New York
Qualified In Erie County
My Commission Expires Aug 20, 2022