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NEW YORK CENTRAL MUTUAL  
INSURANCE COMPANY  
as subrogee of MICHAEL O'MALLEY,

Claimant

v.

**NOTICE OF CLAIM**

ERIE COUNTY WATER AUTHORITY.

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TO: ERIE COUNTY WATER AUTHORITY

**PLEASE TAKE NOTICE** that Rupp Baase Pfalzgraf Cunningham LLC, on behalf of the petitioner, New York Central Mutual Insurance Company as subrogee of Michael O'Malley, hereby makes claim and demand against the Erie County Water Authority as follows:

1. Claimant's post office address is 1899 Central Plaza East, Edmeston, New York 13335. Claimant's subrogor's post office address is 6088 Long Street, Clarence Center, New York 14032.
2. The claimant's attorney is Marco Cercone, Esq. of Rupp Baase Pfalzgraf Cunningham LLC, with a post office address located at 1600 Liberty Building, 424 Main Street, Buffalo, New York.
3. The claim is one for negligence which resulted in substantial water damage to 6088 Long Street, Clarence Center, New York 14032 ("subject property"), on or

about December 19, 2020, at approximately 6:00 a.m. Specifically, Erie County Water Authority improperly installed, failed to maintain the water line, and/or acted in a manner which caused it to break, dispersing water onto and throughout the insured premises. Namely, among other things, the broken water line caused substantial damage to the following subject property items: the entranceway, storm door, front door, windows, hardwood flooring, wall paneling, carpeting, and linens. Additionally, as the Erie County Water Authority's agent, servant, representative and/or employees were conducting work near the insured premises and immediately witnessed the water disperse throughout the insured premises, the Erie County Water Authority had actual notice of the incident giving rise to this notice of claim.

4. Upon information and belief, the incident described herein and resulting damages sustained were caused as a result of the negligence, carelessness, recklessness, acts, omissions, and/or unlawful conduct on the part of the agents, servants, representatives, and/or employees of the Erie County Water Authority. More particularly, among other things, in failing to properly install and/or maintain the water line, and/or refrain from engaging in an activity which was outside the scope, knowledge, and/or expertise of the agents, servants, representatives, and/or employees of the Erie County Water Authority.

5. Following the above-described incident, and pursuant to the terms and conditions of NYCM's contract with the insured, NYCM paid out \$8,078.35 either to its insured and/or on behalf of its insured, pursuant to the terms of the Policy, to compensate the insured for the substantial water damage to his property. Moreover, the insured was forced to incur his \$500 deductible as a result of the Erie County Water Authority's agents, servants, representatives,

and/or employee's negligence, carelessness, and/or recklessness. Accordingly, damages for the above-described incident are no less than \$8,578.35.

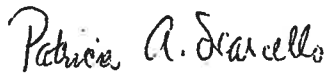
6. It is alleged the incident described herein occurred without any negligence, carelessness, and/or recklessness on the part of the claimant or its subrogor.

WHEREFORE, claimant requests that the Erie County Water Authority honor and pay the claim on behalf of New York Central Mutual Insurance Company as subrogee of Michael O'Malley. The Erie County Water Authority hereby is notified that unless it is adjusted and paid within the time provided by law from the date of presentation, the claimant intends to commence a lawsuit on this claim, together with interests, costs, and disbursements.



Marco Cercone, Esq.

Sworn to before me this  
19th day of March 2021



Notary Public

**Patricia A. Scarcello**  
**Notary Public, State of New York**  
**Qualified in Erie Co.**  
**My Commission Expires May 22, 2021**



**RUPP  
BAASE  
PFALZGRAF  
CUNNINGHAM LLC  
ATTORNEYS**

1600 Liberty Building, 424 Main Street, Buffalo, NY 14202  
716.854.3400 | ruppbaase.com

**MARCO CERCONE**  
cercone@ruppbaase.com

March 19, 2021

**CERTIFIED MAIN/RETURN RECEIPT  
REQUESTED**

Erie County Water Authority  
295 Main Street – Room 350  
Buffalo, New York 14203-2494  
ATTN: Claim Representative/Risk Manager

Dear Sir or Madam:

Re: New York Central mutual Insurance Company as subrogee of  
Michael O'Malley v. Erie County Water Authority  
Our File No.: 0005.28744

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Enclosed please find a copy of our notice of claim pursuant to Section 50-e.

Should you have any questions, please feel free to give me a call.

Very truly yours,

Marco Cercone

/eg  
Enclosure



**RUPP  
BASE  
PFALZGRAF  
CUNNINGHAM LLC  
ATTORNEYS**

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Erie County Water Authority  
295 Main Street – Room 350  
Buffalo, New York 14203-2494  
ATTN: Claim Representative/Risk Manager

14203-249499



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