

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

CHRISTOPHER KURTZ
3830 Sowles Road
Hamburg, NY 14075

SUMMONS

Index No. _____

SARA KURTZ
3830 Sowles Road
Hamburg, NY 14075

Date Filed _____

Plaintiffs,

-vs-

LUTZ BROTHERS, INC.
5073 Camp Road
Hamburg, NY 14075

NATIONAL FUEL GAS CORPORATION
409 Main Street
Buffalo, NY 14203

NATIONAL FUEL GAS DISTRIBUTION
CORPORATION
365 Mineral Springs Road
Buffalo, NY 14210

NATIONAL FUEL GAS SUPPLY
CORPORATION
2875 Union Road
Cheektowaga, NY 14227

TOWN OF HAMBURG
6100 South Park Avenue
Hamburg, NY 14075

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

Defendants.

TO THE ABOVE-NAMED DEFENDANTS:


YOU ARE HEREBY SUMMONED AND REQUIRED to serve upon the Plaintiffs' attorney, at the address stated below, a written Answer to the attached Complaint.

If this Summons is served upon you within the State of New York by personal service, you must respond within TWENTY (20) days after service, not counting the day of service. If this Summons is not personally delivered to you within the State of New York, you must respond within THIRTY (30) days after service is completed, as provided by law.

If you do not respond to the attached Complaint within the applicable time limitation stated above, a Judgment will be entered against you, by default, for the relief demanded in the Complaint without further notice to you.

Plaintiffs designate Erie County as the place of trial. Venue is based on Plaintiffs' residence.

Dated: Eden, New York
December 2, 2019



R. Colin Campbell, Esq.
CAMPBELL & ASSOCIATES
Attorneys for Plaintiffs
8274 North Main Street
Eden, New York 14057
(716) 992-2222

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

CHRISTOPHER KURTZ and
SARA KURTZ,

Plaintiffs,

-vs-

LUTZ BROTHERS, INC., NATIONAL FUEL GAS
CORPORATION, NATIONAL FUEL GAS
DISTRIBUTION CORPORATION, NATIONAL
FUEL GAS SUPPLY CORPORATION,
TOWN OF HAMBURG, ERIE COUNTY
WATER AUTHORITY,

Defendants.

COMPLAINT

Index No. _____

Date Filed _____

Plaintiffs above named, by their attorneys, Campbell & Associates, for their Complaint against the Defendants, herein allege:

1. Presently and at all times hereinafter mentioned, Plaintiffs, CHRISTOPHER KURTZ and SARA KURTZ, were residents of the County of Erie and State of New York.
2. Upon information and belief, presently and at all times hereinafter mentioned, Defendant, LUTZ BROTHERS, INC., was a domestic corporation operating a gas station and store located at 5073 Camp Road, Hamburg, New York
3. Upon information and belief, presently and at all times hereinafter mentioned, Defendant, NATIONAL FUEL GAS CORPORATION, was a foreign corporation doing business in the County of Erie and State of New York.

4. Upon information and belief, presently and at all times hereinafter mentioned, Defendant, NATIONAL FUEL GAS DISTRIBUTION CORPORATION, was a domestic corporation doing business in the County of Erie and State of New York.

5. Upon information and belief, presently and at all times hereinafter mentioned, Defendant, NATIONAL FUEL GAS SUPPLY CORPORATION, was a foreign corporation doing business in the County of Erie and State of New York.

6. Upon information and belief, presently and at all times hereinafter mentioned, Defendant, TOWN OF HAMBURG, is a municipal corporation located in the County of Erie and State of New York.

7. Upon information and belief, presently and at all times hereinafter mentioned, Defendant, ERIE COUNTY WATER AUTHORITY, is a domestic authority organized and existing pursuant to the laws of the state of New York and has its principal place of business in the County of Erie and State of New York.

8. Upon information and belief, on or about November 28, 2018 and prior thereto, Defendants, LUTZ BROTHERS, INC, NATIONAL FUEL GAS CORPORATION, NATIONAL FUEL GAS DISTRIBUTION CORPORATION, NATIONAL FUEL GAS SUPPLY CORPORATION, TOWN OF HAMBURG, ERIE COUNTY WATER AUTHORITY, their agents, servants and/or employees owned and operated premises at 5073 Camp Road, Hamburg, New York, including a sidewalk running parallel to State Route 20 a/k/a Southwestern Boulevard, and owned and/or were responsible for the design, construction, maintenance, inspection and upkeep of said premises, including the aforementioned sidewalk.

9. Upon information and belief, the aforementioned sidewalk was improperly inspected, maintained, designed and/or constructed in that there was a significantly raised edge

and/or depression relative to adjacent surfaces, thereby creating dangerous and hazardous conditions.

10. Upon information and belief, the Defendants herein, their officers, agents, servants and/or employees had actual and constructive notice of the aforesaid conditions and failed to remedy same within a reasonable period of time.

11. Upon information and belief, on or about November 28, 2018, Plaintiff, CHRISTOPHER KURTZ, was attempting to plow the aforementioned premises when he suddenly impacted the raised edge.

12. Upon information and belief, this action falls within one or more of the exceptions enumerated in Article 16 of the CPLR.

13. A Notice of Claim was duly served on the Defendant, TOWN OF HAMBURG, within ninety (90) days of the incident pursuant to General Municipal Law §50-e.

14. More than thirty (30) days have elapsed since said service without adjustment or payment of said claim.

15. A Notice of Claim was duly served on the Defendant, ERIE COUNTY WATER AUTHORITY, within ninety (90) days of the incident pursuant to General Municipal Law §50-e.

16. More than thirty (30) days have elapsed since said service without adjustment or payment of said claim.

17. That as a result of the foregoing, Plaintiff, CHRISTOPHER KURTZ, sustained severe and serious personal injuries, as well as incurred medical expenses and lost wages in excess of basic economic loss, all to his damage in an amount in excess of jurisdictional limits of all lower courts which would otherwise have jurisdiction over this action.

**AS AND FOR A SECOND CAUSE OF ACTION AGAINST THE
DEFENDANTS, PLAINTIFFS ALLEGE AS FOLLOWS:**

18. Plaintiffs repeat, reiterate and reallege each of the above paragraphs with the same force and effect as if separately renumbered and restated at length herein.

19. That the Defendants, LUTZ BROTHERS, INC, NATIONAL FUEL GAS CORPORATION, NATIONAL FUEL GAS DISTRIBUTION CORPORATION, NATIONAL FUEL GAS SUPPLY CORPORATION, TOWN OF HAMBURG, ERIE COUNTY WATER AUTHORITY, their officers, agents, servants, or employees caused or contributed to the aforementioned dangerous conditions.

20. That as a result of the foregoing, Plaintiff, CHRISTOPHER KURTZ, sustained severe and serious personal injuries, as well as incurred medical expenses and lost wages, all to his damage in an amount in excess of jurisdictional limits of all lower courts which would otherwise have jurisdiction over this action.

**AS AND FOR A THIRD CAUSE OF ACTION AGAINST THE
DEFENDANTS, PLAINTIFFS ALLEGE AS FOLLOWS:**

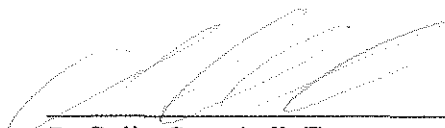
21. Plaintiffs repeat, reiterate and reallege each of the above paragraphs with the same force and effect as if separately renumbered and restated at length herein.

22. That as a result of the foregoing, the Plaintiff, SARA KURTZ, has been deprived of the services and society of her husband, CHRISTOPHER KURTZ, and has incurred, and will continue to incur, medical and other expenses, all to her damage in an amount in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction over this action.

WHEREFORE, Plaintiffs, CHRISTOPHER KURTZ and SARA KURTZ, demand judgment against the Defendants, LUTZ BROTHERS, INC, NATIONAL FUEL GAS CORPORATION, NATIONAL FUEL GAS DISTRIBUTION CORPORATION, NATIONAL

FUEL GAS SUPPLY CORPORATION, TOWN OF HAMBURG, ERIE COUNTY WATER
AUTHORITY, in an amount to be determined by the trier of fact, together with the costs and
disbursements of this action, and for such other and further relief as the Court deems just and
proper.

Dated: Eden, New York
December 2, 2019



R. Colin Campbell, Esq.
CAMPBELL & ASSOCIATES
Attorneys for Plaintiffs
8274 North Main Street
Eden, New York 14057
(716) 992-2222