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MICHAEL A. SIRAGUSA  
ERIE COUNTY ATTORNEY

# COUNTY OF ERIE

**MARK C. POLONCARZ**

COUNTY EXECUTIVE  
DEPARTMENT OF LAW

MICHELLE M. PARKER  
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH  
SECOND ASSISTANT COUNTY ATTORNEY

May 10, 2012

Mr. Robert M. Graber, Clerk  
Erie County Legislature  
92 Franklin Street, 4th Floor  
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>National Fuel Gas Distribution Corporation vs Erie County Highway Department</i>
Document Received:	Notice of Claim
Name of Claimant:	National Fuel Gas Distribution Corporation 6363 Main Street Willilamsville, New York 14221
Claimant's attorney:	Daniel J. Ligman, Esq. National Fuel Gas Corporation 6363 Main Street Williamsville, NY 14221

Should you have any questions, please call.

Very truly yours,

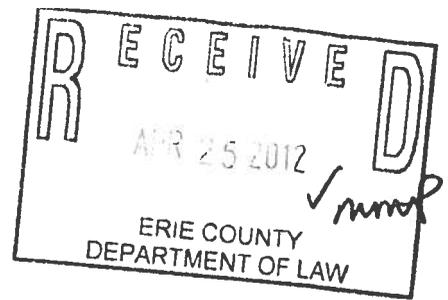
MICHAEL A. SIRAGUSA  
Erie County Attorney

By:   
Michelle Parker  
First Assistant County Attorney

mmp/  
Enc.

cc: Michael A. Siragusa, Erie County Attorney

SUPREME COURT: COUNTY OF ERIE  
National Fuel Gas Distribution Corporation  
6363 Main Street  
Williamsville, New York 14221



Claimant,

NOTICE OF CLAIM

-vs-

Index No.

Erie County Highway Department  
c/o Erie County Law Dept.  
95 Franklin Street, Room 1634  
Buffalo, New York 14202

Defendant.

TO THE ABOVE NAMED DEFENDANT:

SIR:

PLEASE TAKE NOTICE that the Claimant herein hereby makes claim and demand against the Erie County Highway Department as follows:

1. The name and post-office address of the Claimant is: National Fuel Gas Distribution Corporation, 6363 Main Street, Williamsville, New York 14221. The name and post office address of Claimant's attorney is: Daniel J. Ligman, Esq., National Fuel Gas Distribution Corporation, 6363 Main Street, Williamsville, New York 14221.

2. The nature of the claim is an action for the recovery of property damage to Claimant's underground facilities, for gas loss, and for the cost of the repair of said underground facilities caused solely by the negligence of Defendant and Defendant's violation of the law of trespass, General Business Law, inter alia, Article 36, Sections 760 – 765; Public Service Law, inter alia, Section 119-b; 16 N.Y.C.R.R. Part 753; 29 C.F.R. Sections 1926.1, et. seq., while Defendant was excavating in the City of North Collins, County of ERIE and State of New York.

3. The time when, the place where and the manner in which the incidents underlying the claim arose are as follows:

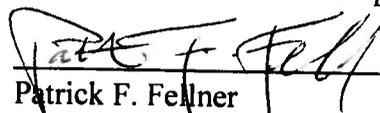
- (i) Damage to Claimant's underground facilities occurred on November 23, 2011, at approximately 10:00 AM, at or near Ketchum Road, City of North Collins, County of ERIE and State of New York, when the Defendant was excavating, Defendant negligently and in violation of the law of trespass, General Business Law, inter alia, Article 36, Sections 760 – 765; Public Service Law, inter alia, Section 119-b; 16 N.Y.C.R.R. Part 753; 29 C.F.R. Sections 926.1, et. seq., hit and caused damage to Claimant's natural gas line and the loss of gas.

4. The items of damage are property damage to Claimant's underground facilities, detailed above, and the cost of repairing said damage. That said claim and demand is hereby presented for adjustment and payment. PLEASE TAKE FURTHER NOTICE that by reason of the foregoing, and upon the default of the Erie County Highway Department, to pay Claimant the full amount of the damages suffered by reason of the foregoing, within the time limited for compliance with this demand by the said Erie County Highway Department, by the statutes in such cases made and provided, Claimant will institute an action against the Erie County Highway Department, to recover the full amount of Claimant's damages, with interest and costs.

DATED:       Williamsville, New York  
              April 17, 2012

Respectfully yours,  
National Fuel Gas Distribution Corporation

By:

  
\_\_\_\_\_

Patrick F. Fellner  
Assistant Manager of the Risk Department of  
National Fuel Gas Distribution Corporation

STATE OF NEW YORK  
SUPREME COURT: COUNTY OF ERIE  
National Fuel Gas Distribution Corporation  
6363 Main Street  
Williamsville, New York 14221,

Claimant,

-vs-

Index No.

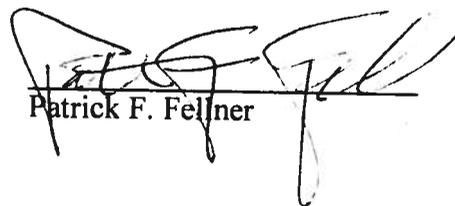
Erie County Highway Department  
c/o Erie County Law Dept.  
95 Franklin Street, Room 1634  
Buffalo, New York 14202

Defendant

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STATE OF NEW YORK            )  
  ) ss.:  
COUNTY OF ERIE            )

Patrick F. Fellner, being duly sworn, deposes and says that I am an employee in the Risk Management Department for National Fuel Gas Distribution Corporation; that I have read the forgoing Notice of Claim; that the same is true to my knowledge, except as to matters stated to be alleged upon information and belief, and as to those matters, I believe them to be true based upon information supplied to me; and the reason the verification is made by me because National Fuel Gas Distribution Corporation is a corporation.



Patrick F. Fellner

Sworn to before me this

17<sup>th</sup> day of April, 2012

Margaret S. Hanrahan  
Notary Public

**MARGARET S. HANRAHAN**  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires Feb. 28, 2015