

In the Circuit Court of the 8<sup>th</sup> Judicial Circuit  
In and For Alachua County, Florida

2010 MAY 19 PM 1:47

CASE #: 10-CA-2640

**Jose Rodolfo Ramirez and  
Luisana Ramirez,**  
Plaintiff(s),

v.

**City of Gainesville d/b/a Gainesville  
Regional Utilities,**  
Defendant(s)

**SUMMONS**

THE STATE OF FLORIDA:

TO ALL AND SINGULAR SHERIFFS OF SAID STATE:

YOU ARE HEREBY COMMANDED to serve this Summons and a copy of the Complaint in the above styled cause upon the Defendant:

**City of Gainesville d/b/a Gainesville Regional Utilities**  
c/o Pegeen Hanrahan, Mayor  
200 East University Ave.  
Gainesville, FL 32601

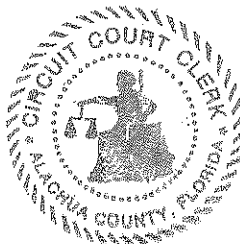
Each defendant is required to serve written defenses to the complaint or petition on **Joshua A. Machlus, Esquire**, counsel for Plaintiff, whose address is **801 N. Orange Ave., Suite 830, Orlando, FL 32801**, within 20 days after service of this summons on that defendant, exclusive of the day of service, and to file the original of the defenses with the clerk of this court either before service on Plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition.

*5/19/10at*

*[Signature]*

DATED on May 12, 2010

**J.K. "Buddy" Irby**  
CLERK OF THE COURT



By: D. Thomas  
Deputy Clerk

In accordance with the Americans With Disabilities Act, persons with disabilities needing a special accommodation to participate in this proceeding, you are entitled, at no cost to you, the provision of certain assistance. Please contact Jan Phillips, ADA Coordinator, Alachua County Courthouse, 201 E. University Ave., Gainesville, FL 32601, at 352.337.6237, within two (2) days prior to the proceeding. If you are hearing or voice impaired, please call 800.955.8771 (TDD) or 800.955.8770 (Voice), via Florida Relay Service.

**COPY**

**IN THE CIRCUIT COURT OF THE EIGHTH  
JUDICIAL CIRCUIT, IN AND FOR  
ALACHUA COUNTY, FLORIDA**

**CASE NO:**

**JOSE RODOLFO RAMIREZ AND  
LUISANA RAMIREZ, HIS WIFE,**

**Plaintiffs,**

**vs.**

**CITY OF GAINESVILLE D/B/A  
GAINESVILLE REGIONAL  
UTILITIES,**

**Defendant.**

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**COMPLAINT**

Plaintiffs, JOSE RODOLFO RAMIREZ and LUISANA RAMIREZ, his wife, sue Defendant, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES, and allege:

1. This is an action for damages that exceeds Fifteen Thousand Dollars (\$15,000.00), exclusive of interest, costs and attorneys' fees.
2. Plaintiffs are husband and wife and reside together in Hidalgo County, Texas.
3. At all times material to this action, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES is subject to jurisdiction in Florida in that it was operating, conducting, engaging in or carrying on a business or business venture in this state, committed a tortious act within this state. Additionally, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES is a municipality located in Alachua County, Florida.

4. On or about November 16, 2006, Plaintiff, JOSE RAMIREZ, was a supervisor for A & J Electric which was constructing a hotel in Gainesville by the name of Spring Hill Suites, located at 4155 SW 40<sup>th</sup> Boulevard, Gainesville, Florida. At that time and place, he was using a backhoe to dig and struck an unmarked high pressure gas line causing the line to rupture and a gas explosion.

5. At that time and place, Plaintiff was lawfully upon the premises and Defendant owed Plaintiff a duty to as it is responsible for marking existing utility service lines and high-pressure gas lines. Defendant failed to clearly designate where the gas line was which created a hidden hazard to Plaintiff, thus creating an unreasonably dangerous condition to Plaintiff.

6. At that time and place, Defendant breached its duty owed to Plaintiff by committing one or more of the following negligent acts of omission or commission:

- a) Negligently failing to inspect or adequately inspect said gas line, thus creating an unreasonably dangerous condition;
- b) Negligently failing to warn or adequately warn Plaintiff of the danger of said buried gas line and lack of clear designation of where said gas line was, when Defendant knew or through the exercise of reasonable care should have known that said gas line was unreasonably dangerous and that Plaintiff was unaware of same; and
- c) Negligently failing to correct or adequately correct the unreasonably dangerous condition when said condition was either known to Defendant or had existed for a sufficient length of time such that Defendant should have known of same had it exercised reasonable care.

7. At that time and place, as a result, while Plaintiff was digging in said area, he struck the unmarked high pressure gas line, sustaining severe injuries as set forth below.

8. As a direct and proximate result of the negligence of Defendant, Plaintiff suffered bodily injury in and about his body and extremities, resulting in pain and suffering, disability, disfigurement, permanent and significant scarring, mental anguish, loss of the capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earning, loss of the ability to earn money, and aggravation of previously existing condition. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, the Plaintiff, JOSE RAMIREZ, sues the Defendants, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES, for damages and demands judgment in excess of Fifteen Thousand Dollars (\$15,000.00), plus interest and costs, and demands trial by jury of all issues so triable.

**CONSORTIUM CLAIM OF LUISANA RAMIREZ AGAINST  
CITY OF GAINESVILLE D/B/A GAINESVILLE REGIONAL UTILITIES**

Plaintiff, LUISANA RAMIREZ, realleges and incorporates by reference paragraphs 1 through 8, and further states:

9. As a direct and proximate result of the negligence of Defendant and the resulting injuries to the spouse, Plaintiff, LUISANA RAMIREZ, was caused to suffer an impairment of the services, companionship and consortium of the spouse and will suffer such losses in the future.

WHEREFORE, Plaintiff, LUISANA RAMIREZ, demands judgment for damages against Defendant, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES, and other

such relief deemed proper by the Court. Plaintiffs also demand a jury trial on all issues so triable.

**RESPECTFULLY** submitted this 28<sup>th</sup> day of April, 2010

A handwritten signature in dark ink, appearing to read 'J. Machlus', is written over a horizontal line.

JOSHUA A. MACHLUS

FBN: 0770221

Colling Gilbert Wright & Carter

801 N. Orange Ave.

Suite 830

Orlando, FL 32801

Phone: (407) 712-7300

Attorneys for Plaintiffs