

**STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE**

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**EDWARD R. ZINK, JR. and  
DEBRA ZINK**  
10775 Alleghany Road  
Darien Center, New York 14040

**SUMMONS**

**Served with Complaint**

***Plaintiffs,***

**Index No. \_\_\_\_\_**

**v.**

**EVERETT J. COAKLEY**  
2054 House Road  
Bloomfield, New York 14469

**DEAN DUNCAN**  
380 Boughton Hill Road  
Honeoye Falls, New York 14472

**DUNCAN MILK HAULERS, LLC,**  
380 Boughton Hill Road  
Honeoye Falls, New York 14472

***Defendants.***

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**TO THE ABOVE NAMED DEFENDANT:**

**YOU ARE HEREBY SUMMONED AND REQUIRED** to serve upon the Plaintiff's 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.

This action is brought in the County of Erie because of Plaintiff and Defendant's residence.

DATED: Buffalo, New York  
April 2, 2009

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**JOHN P. FEROLETO, ESQ.**  
**John Feroletto - Attorneys at Law**  
***Attorneys for Plaintiffs***  
**910 Main Court Building**  
**438 Main Street**  
**Buffalo, New York 14202**  
**Telephone: (716) 854-0700**

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

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EDWARD R. ZINK, JR., and  
DEBRA ZINK

*Plaintiffs,*

**COMPLAINT**

Index No. \_\_\_\_\_

v.

EVERETT J. COAKLEY,  
DEAN DUNCAN,  
DUNCAN MILK HAULERS, LLC,

*Defendants.*

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The PlaintiffS, EDWARD ZINK and DEBRA ZINK, through their attorneys, John Feroletto – Attorneys at Law, submits the following as and for their complaint herein and allege that:

1. Plaintiff, EDWARD ZINK, is a resident of the Town of Darien Center, State of New York.
2. Upon information and belief, the defendant EVERETT COAKLEY is a resident of the Town of Bloomfield, State of New York.
3. Upon information and belief the defendant DEAN DUNCAN is a resident of the Town of Honeoye Falls, State of New York.
4. Upon information and belief, the defendant, DUNCAN MILK HAULERS, LLC, is a domestic limited liability company with its primary place of business in Monroe County, State of New York.

5. Upon information and belief, the defendant DUNCAN MILK HAULERS, LLC, is a domestic limited liability company authorized to do business in the State of New York, and in fact does do business in the State of New York.

6. On or about October 16, 2008, at approximately 3:04 p.m., the plaintiff EDWARD R. ZINK, JR., was lawfully operating his vehicle westbound on Walden Avenue, in the Town of Cheektowaga, County of Erie, and State of New York, when a vehicle driven by defendant EVERETT COAKLEY and owned by the defendants DEAN DUNCAN and DUNCAN MILK HAULERS, LLC, traveling westbound on Walden Avenue collided with Mr. Zink's vehicle.

**AS AND FOR THE FIRST CAUSE OF ACTION**

7. The plaintiff repeats and realleges paragraphs 1-6 as if set forth fully herein.

8. The accident was caused solely by the negligence of the defendants EVERETT J. COAKLEY, DEAN DUNCAN and DUNCAN MILK HAULERS, LLC.

9. The plaintiff was at all times in the exercise of good care.

10. That by reason of the negligence of defendants, EVERETT COAKLEY, DEAN DUNCAN and DUNCAN MILK HAULERS, LLC, the plaintiff EDWARD ZINK sustained serious injuries as defined by subdivision (d) of § 5102 of the New York State Insurance Law.

11. The limitations of liability set forth in Article 16 of the CPLR do not apply to this action because the aforementioned defendants' negligence arises from his use, ownership, and operation of a motor vehicle.

12. As a result of the negligence of the defendants EVERETT COAKLEY, DEAN DUNCAN, and DUNCAN MILK HAULERS, LLC, the plaintiff EDWARD ZINK was injured in and about his body and limbs and was rendered injured and disabled for a considerable period of time.

13. Plaintiff has sustained damage due to the negligence of defendants EVERETT COAKLEY, DEAN DUNCAN, and DUNCAN MILK HAULERS, LLC, in an amount that exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction.

**AS AND FOR THE SECOND CAUSE OF ACTION**

14. The plaintiff repeats and realleges paragraphs 1-13 as if fully set forth herein.

15. The defendant DEAN DUNCAN and DUNCAN MILK HAULERS, LLC, as owners of the vehicle operated by defendant EVERETT COAKLEY are vicariously liable for the acts of the driver pursuant to vehicle and traffic law § 388.

16. The accident was caused by the negligence of the defendants DEAN DUNCAN and DUNCAN MILK HAULERS, LLC.

17. The plaintiff was at all times in the exercise of good care.

18. That by reason of the negligence of defendants, DEAN DUNCAN and DUNCAN MILK HAULERS, LLC, the plaintiff EDWARD ZINK sustained serious injuries as defined by subdivision (d) of § 5102 of the New York State Insurance Law. The limitations on liability set forth in Article 16 of the CPLR cannot apply to this action because the aforementioned defendant's negligence arises from its use, ownership, and/or operation of a motor vehicle.

19. As a result of the negligence of defendants DEAN DUNCAN and DUNCAN MILK HAULERS, LLC, the plaintiff EDWARD ZINK was injured in and about his body and limbs and was rendered injured and disabled for a considerable period of time. Plaintiff has sustained damage due to the negligence of defendants DEAN DUNCAN and DUNCAN MILK HAULERS, LLC, in an amount that exceeds the jurisdictional limits of all the lower courts that would otherwise have jurisdiction.

**AS AND FOR A THIRD SEPARATE  
AND DISTINCT CAUSE OF ACTION HEREIN:**

20. Plaintiffs repeat all prior allegations.

21. At all times herein relevant, the plaintiff, DEBRA ZINK, was the spouse of the plaintiff, EDWARD R. ZINK, JR, and as such was and is entitled to his services, society, companionship, love, solace, consortium and affection of her spouse and will suffer from such deprivation in the future all to her great monetary damage and loss.

22. By reason of all the foregoing, the plaintiff, DEBRA ZINK, has suffered damages in excess of the jurisdictional limits of any lower court that would otherwise have jurisdiction in this matter.

**WHEREFORE**, the Plaintiff demands judgment against each of the Defendants herein jointly and severally as follows:

1. As and for the **FIRST CAUSE OF ACTION**, damages in excess of the jurisdictional limits of any lower court that would otherwise have jurisdiction in this matter.

2. As and for the **SECOND CAUSE OF ACTION**, damages in excess of the jurisdictional limits of any lower court that would otherwise have jurisdiction in this matter.

3. As and for the **THIRD CAUSE OF ACTION**, damages in excess of the jurisdictional limits of any lower court that would otherwise have jurisdiction in this matter.

4. Together with costs and disbursements of this action and for such other and further relief as this Court may deem just and proper.

DATED: Buffalo, New York  
April 6, 2009

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**JOHN P. FEROLETO, ESQ.**  
**John Feroletto - Attorneys at Law**  
***Attorneys for Plaintiffs Edward Zink***  
***and Debra Zink***  
**910 Main Court Building**  
**438 Main Street**  
**Buffalo, New York 14202**  
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