

**LEGISTAR NO.**

**150736**

IN THE COUNTY COURT OF THE 8TH  
JUDICIAL CIRCUIT OF FLORIDA  
IN AND FOR ALACHUA COUNTY

CIVIL DIVISION

ASPEN AMERICAN INSURANCE  
COMPANY, a/s/o DR. SAMY F. BISHAI,  
d/b/a SEMINOLE BOWL

CASE NO.: 16 CA 180

Plaintiff,

vs.

GAINESVILLE REGIONAL UTILITY

Defendant.

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COMES NOW, the Plaintiff, ASPEN AMERICAN INSURANCE COMPANY, a/s/o DR. SAMY F. BISHAI, d/b/a SEMINOLE BOWL, by and through its attorneys, and hereby sues Defendant, GAINESVILLE REGIONAL UTILITY, and as grounds states as follows:

**PARTIES, JURISDICTION, AND VENUE**

1. This is an action by Plaintiff subrogee to recover damages to a facility owned by its insured, Dr. Samy F. Bishai (hereinafter "BISHAI"), as a result of the negligence of Defendant which resulted.
2. The damages sought are far in excess of the jurisdictional minimum of this court.
3. Venue is proper in that the location of the events which give rise to this cause of action is within the boundaries of this District and both Plaintiff and Defendant are located in this District.
4. Plaintiff's insured is a natural person who at all relevant times resided in this District and operated a bowling alley known as Alley Gatorz located at 2606 NE Waldo Road, Gainesville, Florida 32609.

5. At all material times, defendant, GAINESVILLE REGIONAL UTILITY (hereinafter GRU" or "Defendant") was and is a Florida State utility with a principal place of business located at 301 SE 4th Avenue, Gainesville, Florida, 32601.

6. This Court has jurisdiction over GRU, as it is a Florida State Government entity, which committed tortious acts in this District, which caused damages to Plaintiff's insured in this District.

#### **RELEVANT FACTS**

7. On June 2, 2013, multiple lightning strikes struck the bowling alley known as Alley Gatorz, located at 2606 NE Waldo Road, Gainesville, Florida 32609, owned and operated by claimant's insured and subrogor.

8. As a result of the lightning strikes, the bowling alley incurred substantial damages to its electrical system, which includes televisions monitors and computer-controlled systems used to keep score of games at the bowling alley.

9. Upon investigation of the damage, it was discovered that the GRU's pole was missing a ground connection at the rear of the building.

10. The missing ground connection led directly to the damages incurred by Seminole Bowl, in the amount of Two Hundred Two Thousand, Nine Hundred Ten Dollars and 00/100 cents (\$202,910.00).

11. All conditions precedent to the maintenance of this action have been met or waived. Specifically, and without limitation, Plaintiff submitted a claim upon GRU pursuant to Fla. Stat. § 768.28. GRU did not respond to the claim.

#### **COUNT I NEGLIGENCE**

12. Plaintiff repeats, reiterates and realleges each and every allegation set forth in paragraphs 1 through 11, inclusive, as if herein set forth at length.

13. GRU owed a duty to all foreseeable users, including BISHAI, to exercise care in installing the its utility pole located at the rear of the subject facility, including, but not limited to, ensuring that the pole was appropriately grounded.

14. GRU knew, or with the exercise of reasonable care, should have known, that improperly installing its utility pole could cause a damage in the event of lightning.

15. GRU breached its duty to BISHAI by failing to ensure that the utility pole was appropriately grounded.

16. As a result of this breach of duty, the lightning which struck BISHAI's facility caused damage to BISHAI in the amount of \$202,910.00.

17. Plaintiff has paid these damages to its insured and is subrogated to the rights of BISHAI with respect to the recovery thereof.

WHEREFORE, for the all of the reasons stated herein, plaintiff demands judgment in its favor and over and against Defendant for no less than \$202,910.00, together with prejudgment interest, costs, attorney's fees, and such other and further relief as this Court deems just and proper.

#### **REQUEST FOR JURY TRIAL**

Plaintiff requests a trial by jury.

Dated: January 19, 2016

Respectfully submitted,

SPECTOR RUBIN, P.A.  
*Attorneys for Plaintiff*  
3250 Mary Street

Suite 405  
Miami, Florida 33133  
Tel: 305.537.2000  
Fax: 305.537.2001  
Email: robert.borak@spectorrubin.com

By: /s/ Robert M. Borak  
Robert M. Borak  
Florida Bar No. 015923