

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

CASE NO.:

DIVISION:

01-09-CA-5202
K

DARREN MACKEY,

Plaintiff,

vs.

CITY OF GAINESVILLE,

Defendant.

RECEIVED BY ALACHUA
COUNTY CLERK OF COURT

DATE: 2009 Sept. 30 AM 11:59

COMPLAINT

COMES NOW Plaintiff, and sues Defendant, CITY OF GAINESVILLE, and alleges:

1. This is an action for damages that exceeds Fifteen Thousand Dollars (\$15,000.00), exclusive of interest, costs and attorneys' fees.
2. Plaintiff is a natural person residing in Alachua County, Florida.
3. At all times material to this action, CITY OF GAINESVILLE is a governmental agency, authorized to do business in the State of Florida.
4. At all times material hereto, Defendant was the owner, operator and maintainer of the public street, located at SR 24 (SW Archer Road) and SW 35th Blvd., in Alachua County, Florida, said street being open to the general public, including the Plaintiff herein.
5. At all times material to this action, Defendant, CITY OF GAINESVILLE, was a governmental agency authorized to do business and doing business in Alachua County, Florida.

6. Plaintiff has submitted a Notice of Claim, by certified mail, to the appropriate agencies and included the information required by Florida Statute Section 768.28. Attached as Exhibit "A" is the Notice of Claim which was submitted on September 11, 2007.

7. Plaintiff has therefore met the conditions precedent to filing a claim against Defendant pursuant to Florida Statute Section 768.28.

8. On or about June 15, 2007, Plaintiff drove his automobile on said street.

9. At said time and place, Plaintiff was a driver on the street, lawfully upon the street of the Defendant, who owed Plaintiff a duty to exercise reasonable care for his safety.

10. At that time and place, Defendant, CITY OF GAINESVILLE, negligently operated and/or maintained the motor vehicle so that it rear-ended the Plaintiff's motor vehicle.

11. As a direct and proximate result of Defendant's negligence, Plaintiff suffered or incurred:

- a. Significant and permanent loss of an important bodily function and/or permanent and significant scarring;
- b. permanent injury within a reasonable degree of medical probability other than scarring or disfigurement;
- c. aggravation or activation of an existing disease or physical defect;
- d. pain, suffering, disability, physical impairment, mental anguish, inconvenience, and a loss of capacity for the enjoyment of life;
- e. expenses of medical care and treatment in the past and in the future; and loss of wages and/or loss of earning capacity in the future.

All losses are continuing and/or permanent.

WHEREFORE, the Plaintiff, DARREN MACKEY, sues the Defendant, CITY OF GAINESVILLE, 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.

RESPECTFULLY submitted this 21st day of September, 2009.

MORGAN & MORGAN, P.A.



MICHAEL D. MARRESE, ESQUIRE

FBN: 0544299

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76 South Laura Street, Suite 1100

Jacksonville, FL 32202

Telephone: (904) 398-2722

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Attorneys for Plaintiff

EXHIBIT “A”

NOTICE OF CLAIM-FLORIDA STATUTE §768.28(6)

CERTIFIED MAIL-RETURN RECEIPT

TO: Department of Financial Services
State of Florida - Legal Division
Gainesville, FL 32602
Tallahassee, FL 32399-0300

City of Gainesville
City Attorney
P.O. Box 490, Station 46
Gainesville, FL 32602-0490

City of Gainesville
200 E. University Blvd.
Gainesville, FL 32601

CLAIMANT:

Darren Mackey
Address: 7411 NE 52nd Terrace, Gainesville, FL 32609
Date of Birth: 3/20/1967
Place of Birth: Vidalia, FL
Social Security No: 260-37-5915

CONSORTIUM CLAIMANT:

Address: N/A
Date of Birth: N/A
Place of Birth: N/A
Social Security No.: N/A

PRIOR ADJUDICATED UNPAID CLAIMS: (if none, so state)

Claimant: none known
Consortium Claimant: none known

DATE AND TIME OF INCIDENT: June 15, 2007 at 12:01 PM

PLACE OF INCIDENT: SR 24, Alachua County, FL

DESCRIPTION OF INCIDENT: Mr. Mackey was struck in the rear of his vehicle by a City of Gainesville tanker truck.

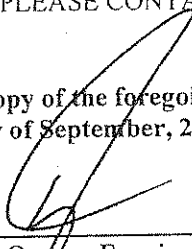
DESCRIPTION OF INJURIES: Neck, back and other injuries

KNOWN CITY AGENTS OR EMPLOYEES: Anthony J. Sparkman, Officer Heather Stroich

RELIEF SOUGHT: Compensation for injuries sustained.

IF ADDITIONAL INFORMATION IS NEEDED, PLEASE CONTACT THE UNDERSIGNED.
PLEASE ACKNOWLEDGE RECEIPT HEREOF.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by certified mail to the above agencies, this 11th day of September, 2007.



Donny A. Owens, Esquire
FBN: 0347700
Morgan and Morgan, P.A.
815 South Main Street, Suite 301