

LEGISTAR NO.

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

CASE NO: 01-2017-CA-0118

TYRIS MILLER,

Plaintiff,

vs.

ABRAM SERVANCE and CITY OF
GAINESVILLE,

Defendants.

A True Copy

SADIE DARNELL, SHERIFF
ALACHUA COUNTY, FLORIDA

Served at 1:05 AM/PM on the 26 Day
of JANUARY, 2017

BY Sgt. Nicole Gray #393

AS DEPUTY SHERIFF
OFFICE OF THE CITY ATTORNEY

SUMMONS

JAN 26 2017

THE STATE OF FLORIDA:

To all and singular sheriffs of said state:

RECEIVED

YOU ARE HEREBY COMMANDED to serve this Summons and a copy of the Complaint or Petition, Interrogatories, Request for Production, and Request for Admissions in the above-styled cause upon the Defendant:

CITY OF GAINESVILLE
c/o Mayor Lauren Poe
200 East University Avenue
Gainesville, Florida 32601

Each defendant is required to serve written defenses to the complaint or petition on plaintiff's attorney whose name and address is

Jeffrey J. Humphries, Esquire
Plaintiff/Plaintiff's Attorney
Morgan & Morgan, P.A.
76 South Laura Street, Suite 1100
Jacksonville, Florida 32202

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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.

WITNESS my hand and seal of this Court on this 11 day of JAN., 2017.

J.K. "JESS" IRBY
CLERK OF THE CIRCUIT COURT
CIVIL DIVISION
201 E UNIVERSITY AVE
GAINESVILLE, FL 32601



J.K. "JESS" IRBY
Clerk of the Circuit Court

By Sherry Shelton
As Deputy Clerk

**IN THE CIRCUIT COURT OF THE
EIGHTH JUDICIAL CIRCUIT, IN AND
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CASE NO:

TYRIS MILLER,

Plaintiff,

vs.

**ABRAM SERVANCE and CITY OF
GAINESVILLE,**

Defendants.

COMPLAINT

COMES NOW the Plaintiff, **TYRIS MILLER**, through the undersigned attorneys, and sues the Defendants, **ABRAM SERVANCE and CITY OF GAINESVILLE**, and alleges:

1. This is an action for damages that exceed Fifteen Thousand Dollars (\$15,000.00), exclusive of interest, costs and attorneys' fees.

2. At all times material to this action, Plaintiff was a natural person residing in Gainesville, Alachua County, Florida.

3. At all times material to this action, Defendant, **ABRAM SERVANCE**, was a natural person residing in Gainesville, Alachua County, Florida.

4. At all times material to this action, Defendant, **CITY OF GAINESVILLE**, was and is a governmental agency authorized to do business and doing business in Alachua County, Florida.

5. At all times material to this action, the event or transaction out of which this claim arose occurred in Alachua County, Florida,

6. Plaintiff, **TYRIS MILLER**, has complied with Florida Statute Section 768.28(6)(a) by sending notice letters to the appropriate parties giving notice of Plaintiff's intent to file suit against the City of Gainesville for the incident which arose on November 19, 2015.

7. Plaintiff, **TYRIS MILLER**, has complied with all other conditions precedent to the filing of this action.

8. On or about November 19, 2015, Plaintiff owned and operated a motor vehicle southbound on Southwest 61st Street, Gainesville, Alachua County, Florida.

9. At that time and place, Defendant, **ABRAM SERVANCE**, was operating a motor vehicle owned by Defendant, **CITY OF GAINESVILLE**, southbound on Southwest 61st Street in Gainesville, Alachua County, Florida.

10. At that time and place, Defendant, **ABRAM SERVANCE**, negligently operated and/or maintained the motor vehicle so that it collided with Plaintiff's motor vehicle, thereby causing him to sustain serious injuries.

COUNT I
PLAINTIFF'S CLAIM OF NEGLIGENCE AGAINST ABRAM SERVANCE

Plaintiff, **TYRIS MILLER**, re-alleges and incorporates by reference each and every allegation contained in Paragraphs 1 through 10 above, and further alleges:

11. As a direct and proximate cause 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
- f. loss of wages and/or loss of earning capacity in the future.

All losses are continuing and/or permanent.

12. Plaintiff will suffer or incur the injuries, expenses and impairment in the future.

13. Plaintiff's automobile was damaged and lost the use of it during the period required for its repair or replacement.

COUNT II
PLAINTIFF'S CLAIM OF NEGLIGENCE AGAINST CITY OF GAINESVILLE

Plaintiff, **TYRIS MILLER**, re-alleges and incorporates by reference each and every allegation contained in Paragraphs 1 through 10 above, and further alleges:

14. Defendant, **ABRAM SERVANCE**, was operating and driving the motor vehicle with the permission and consent of its owner, Defendant, **CITY OF GAINESVILLE**.

15. Defendant, **CITY OF GAINESVILLE**, is vicariously liable for the negligence of Defendant, **ABRAM SERVANCE**, pursuant to the Florida Dangerous Instrumentality Doctrine.

16. As a direct and proximate cause 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
- f. loss of wages and/or loss of earning capacity in the future.

All losses are continuing and/or permanent.

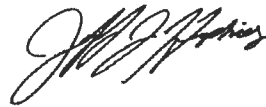
17. Plaintiff will suffer or incur the injuries, expenses and impairment in the future.

18. Plaintiff's automobile was damaged and lost the use of it during the period required for its repair or replacement.

WHEREFORE, Plaintiff, **TYRIS MILLER**, demands judgment for damages against Defendants, **ABRAM SERVANCE and CITY OF GAINESVILLE**, and other such relief deemed proper by the Court. Plaintiff also demands a jury trial on all issues so triable.

RESPECTFULLY submitted this 10th day of January, 2017.

MORGAN & MORGAN



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