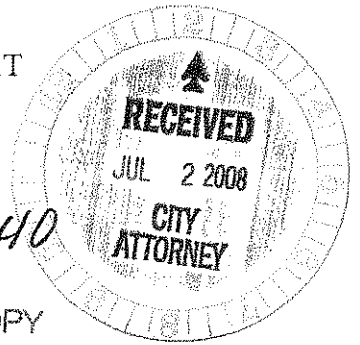


IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT  
IN AND FOR ALACHUA COUNTY, FLORIDA



JOHN SENFT

Plaintiff,

Case No. 01.08. CA 3040

vs

The City of Gainesville

Defendant.

K  
A TRUE COPY  
SADIE DARNELL, SHERIFF  
ALACHUA COUNTY, FLORIDA  
Served at 1:10 PM on the 2 Day  
of July 20 08  
BY [Signature]  
As Deputy Sheriff

SUMMONS

**THE STATE OF FLORIDA**  
**To Each Sheriff of the State:**

YOU ARE COMMANDED to serve this Summons and a copy of the Complaint in this action on the Defendant:

**CITY OF GAINESVILLE**  
**c/o Pegeen Hanrahan, Mayor**  
**200 East University Avenue**  
**Gainesville, FL 32601**

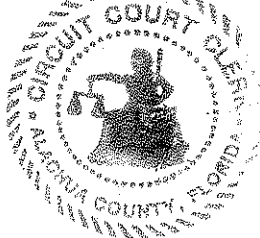
The defendant is required to serve written defenses to the complaint or petition on plaintiff's attorney whose name and address is:

**MARK A. AVERA, ESQUIRE, 2814 SW 13<sup>th</sup> STREET, GAINESVILLE, FLORIDA, 32608**

within twenty <sup>30</sup>/~~20~~ days after service of this summons on that defendant, exclusive of the date 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 the seal of said Court on the 9 day of June, 2008.

(COURT SEAL)



J.K. "BUDDY" IRBY  
Clerk of Circuit Court

By: [Signature]  
Deputy Clerk

**COPY**

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the Alachua County Court Administrator at (352) 374-2626 within 2 working days of your receipt of this summons. If you are hearing or voice impaired, call (352) 491-4497 (TDD).

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

JOHN SENFT  
Plaintiff,

CASE NO.: 01-08-CA-3040

vs.

CITY OF GAINESVILLE  
Defendant.

---

COMPLAINT

COMES NOW the Plaintiff JOHN SENFT (hereinafter "SENFT"), by and through his undersigned counsel, and sues the Defendant, the CITY OF GAINESVILLE (hereinafter "CITY"), and states as follows:

1. This claim is for damages in excess of the minimum jurisdictional amount of this Court excluding attorneys' fees and costs.
2. At all times material, the Plaintiff SENFT was, and is, a resident of Gainesville, Alachua County, Florida and *sui juris* in all respects.
3. Defendant is a municipality located in Alachua County, Florida.
4. At all times material, Defendant's employee, Charles Hunnicutt (hereinafter "Hunnicutt"), was an agent, servant, or employee of Defendant, acting in the course and scope of said agency, servitude, or employment.
5. At all times material, Hunnicutt was operating a cement truck owned by Defendant, and with the consent of Defendant, either express or implied.
6. Plaintiff has satisfied all conditions precedent including, but not limited to, satisfying the requirements of §768.28, Florida Statutes.

**COUNT I**  
**NEGLIGENCE OF CITY EMPLOYEE HUNNICUTT**

Plaintiff realleges and incorporates by reference paragraphs 1 through 5 and further alleges that:

7. On or about April 25, 2007, Hunnicutt was operating the aforementioned truck owned by Defendant on N.W. 39<sup>th</sup> Avenue near the intersection of N. Main Street in Gainesville, Alachua County, Florida.

8. At that time and place, SENFT, a restrained driver, was stopped in his motor vehicle at a red stop light in the eastbound lane of N.W. 39<sup>th</sup> Avenue.

9. At that time and place, Hunnicutt negligently operated or maintained the truck owned by Defendant and struck SENFT in the rear and causing permanent bodily injury to SENFT.

10. As a direct and proximate result of Hunnicutt's negligence, Plaintiff suffered damages more fully set forth hereinafter.

**COUNT II**  
**VICARIOUS LIABILITY OF DEFENDANT CITY**

Plaintiff realleges and incorporates by reference paragraphs 1 through 10 above and further alleges that:

11. At all times material Defendant was, and is, vicariously liable for the negligent actions or omissions of CITY employee Hunnicutt pursuant to the doctrines of *respondeat superior* and dangerous instrumentality, and Florida Statute §768.28(9)(b).

12. As a direct and proximate result of the Defendant's negligence, the Plaintiff suffered damages more fully set forth hereinafter.

**DAMAGES OF PLAINTIFF SENFT**

Plaintiff realleges and incorporates by reference paragraphs 1 through 12 and further alleges that:

13. As a result of Hunnicutt's negligence, Plaintiff SENFT suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, and loss of ability to earn money. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, Plaintiff demands judgment for compensatory damages and costs against the Defendants and demands a jury trial on all issues so triable.

DATED THIS 3<sup>rd</sup> day of June, 2008.

Avera & Smith, LLP



**MARK AVERA, ESQ.**

Florida Bar # 812935

**JENNIFER BIEWEND, ESQ.**

Florida Bar #877441

2814 SW 13th Street

Gainesville, FL 32608

(352) 372-9999/FAX 375-2526

Attorneys for Plaintiffs