

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

CASE NO: 01-07-CA-906  
DIVISION: J

VICTOR H. DELGADO,

Plaintiff,

vs.

CITY OF GAINESVILLE, a municipal  
corporation, and NORMAN  
BOTSFORD, in his official capacity as  
Chief of the Gainesville Police  
Department,

Defendants.



Handwritten signature and date: 6-1-07 3:26

SUMMONS

THE STATE OF FLORIDA:

To all and singular sheriffs of said state:

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:

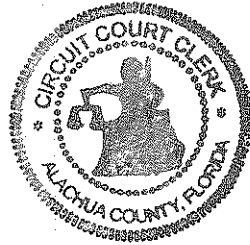
CITY OF GAINESVILLE,  
C/O HONORABLE PEGEEN HANRAHAN, MAYOR  
200 EAST UNIVERSITY AVENUE  
GAINESVILLE, FL 32601

Each Defendant is hereby required to serve written defenses to said Complaint or Petition on GREGORY D. PRYSOCK, ESQUIRE, Morgan & Morgan, P.A., 815 South Main Street, Suite 301, Jacksonville, Florida 32207, Telephone: (904) 398-2722, within twenty (20) days after service of this Summons upon you, exclusive of the day of service, and to file the original of said written defenses with the Clerk of said Court either before service on Plaintiff's attorney or immediately thereafter. If you fail to do so, a default will be entered against you for the relief demanded in the Complaint or Petition.

In accordance with the Americans With Disabilities Act, persons with disabilities needing a special accommodation to participate in this proceeding should contact Court Administration at 201 East University Ave., Room 417, Gainesville, Florida 32601 at: 1-352374-3648 not later than five (5) business days prior to

the proceeding. If hearing impaired: Please contact (TDD) 1-800-955-8771 or Voice (V) 1-800-955-8770, via Florida Relay Service.

WITNESS my hand and the seal of this Court on this the 1 day of May, 2007.



J.K. "Buddy" Irby, as Clerk of the Circuit Court

By B. Thomas  
As Deputy Clerk

**COPY**

## IMPORTANTE

Usted ha sido demandado legalmente. Tiene veinte (20) días, contados a partir del recibo de esta notificación, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefónica no lo protegerá; si usted desea que el tribunal considere su defensa, debe presentar su repuesta por escrito, incluyendo el número del caso y los nombres de las partes interesadas en dicho caso. Si usted no contesta la demanda a tiempo, pudiese perder el caso y podría ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la guía telefónica.

Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, deberá usted enviar por correo o entregar una copia de su respuesta a la persona denominada abajo como "Plaintiff/Plaintiff's Attorney." (Demandante o Abogado del Demandante).

"De acuerdo con el Acto o Decreto de los Americanos con Impedimentos Inhabilitados, personas en necesidad del servicio especial para participar en este procedimiento deberán, dentro de un tiempo razonable, antes de cualquier procedimiento, ponerse en un tiempo razonable, antes de cualquier procedimiento, ponerse en contacto con la oficina Administrativa de la Corte, Telefono (TDD) 1-800-955-8771 o Voice (V) 1-800-955-8770, via Florida Relay Service"

## IMPORTANT

Des poursuites judiciaires ont été entreprises contre vous. Vous avez 20 jours consécutifs à partir de la date de l'assignation de cette citation pour déposer une réponse écrite à la plainte ci-jointe auprès de ce Tribunal. Un simple coup de téléphone est insuffisant pour vous protéger; vous êtes obligé de déposer votre réponse écrite, avec mention du numéro de dossier ci-dessus et du nom des parties nommées ici, si vous souhaitez que le Tribunal entende votre cause. Si vous ne déposez pas votre réponse écrite dans le délai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent être saisis par la suite, sans aucun préavis ultérieur du Tribunal. Il y a d'autres obligations juridiques et vous pouvez requérir les services immédiats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez téléphoner à un service de référence d'avocats ou à un bureau d'assistance juridique (figurant à l'annuaire de téléphones).

Si vous choisissez de déposer vous-même une réponse écrite, il vous faudra également, en même temps que cette formalité, faire parvenir ou expédier une copie au carbone ou une photocopie de votre réponse écrite au "Plaintiff/Plaintiff's Attorney" (Plaignant ou à son avocat) nommé ci-dessous.

En accord avec la Loi des "Americans With Disabilities". Les personnes en besoin d'une accommodation spéciale pour participer à ces procédures doivent, dans un temps raisonnable, avant d'entreprendre aucune autre démarche, contracter l'office administrative de la Court situé au le téléphone ou (TDD) 1-800-955-8771 ou Voice (V) 1-800-955-8770, via Florida Relay Service.

MORGAN & MORGAN, P.A.  
815 South Main Street, Suite 301  
Jacksonville, Florida 32207

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VICTOR H. DELGADO,

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vs.

CITY OF GAINESVILLE, a municipal  
corporation, and NORMAN  
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Chief of the Gainesville Police  
Department,

Defendants.

RECEIVED BY ALACHUA  
COUNTY CLERK OF COURT  
DATE: Mar. 1, 2007

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COMPLAINT

COMES NOW the Plaintiff, VICTOR H. DELGADO, by and through the undersigned attorneys, and sues the Defendants, CITY OF GAINESVILLE, a municipal corporation, and NORMAN BOTSFORD, in his official capacity as Chief of the Gainesville Police Department, 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 Alachua County, Florida.
3. At all times material to this action, Defendant, CITY OF GAINESVILLE, was a municipality in the State of Florida.

4. At all times material to this action, Defendant, NORMAN BOTSFORD, was the chief of the Gainesville Police Department and was the head of such entity.

5. On or about March 2, 2003, Plaintiff was operating a motor vehicle on S.R. 26 at or near its intersection with West Second Street in Alachua County, Florida.

6. Plaintiff has met the conditions precedent to filing this claim under F.S. §768.28, and has attached as Exhibit "A" the Notice of Claim.

### COUNT I

#### PLAINTIFF'S CLAIM AGAINST NORMAN BOTSFORD

Plaintiff realleges the allegations contained in Paragraphs 1-6 and further alleges:

7. On the date and place set forth in Paragraph 5 above, Rodney Wright was an officer with the Gainesville Police Department and was operating the motor vehicle in the course and scope of his employment with the Gainesville Police Department.

8. At that time and place, Rodney Wright negligently operated and/or maintained the motor vehicle so that it collided with Plaintiff's motor vehicle.

9. Defendant, NORMAN BOTSFORD, in his official capacity as Chief of the Gainesville Police Department, is liable for the negligence of Rodney Wright.

10. As a direct and proximate cause of Officer Rodney Wright's negligence, Plaintiff VICTOR H. DELGADO, 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;
- f. loss of wages and/or loss of earning capacity in the future;

All losses are continuing and/or permanent.

11. Plaintiff, VICTOR H. DELGADO, will suffer or incur the injuries, expenses and impairment in the future.

12. 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 AGAINST CITY OF GAINESVILLE

Plaintiff realleges the allegations contained in Paragraphs 1-9 and further alleges:

13. The Defendant, CITY OF GAINESVILLE, is vicariously liable for the damages of the Plaintiff, VICTOR H. DELGADO, as owner of the vehicle that Rodney Wright was driving.

14. As a direct and proximate cause of Defendant's negligence, Plaintiff VICTOR H. DELGADO, 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;
- f. loss of wages and/or loss of earning capacity in the future;

All losses are continuing and/or permanent.

15. Plaintiff, VICTOR H. DELGADO, will suffer or incur the injuries, expenses and impairment in the future.

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

**WHEREFORE**, Plaintiff, VICTOR H. DELGADO, demands judgment for damages against Defendants, NORMAN BOTSFORD, in his official capacity as Chief of the Gainesville Police Department and CITY OF GAINESVILLE, a municipal corporation, and other such relief deemed proper by the Court. Plaintiff also demands a jury trial on all issues so triable.

**RESPECTFULLY** submitted this 28<sup>th</sup> day of February, 2007.



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GREGORY D. PRYSOCK, ESQUIRE

FBN: 0062420

Morgan & Morgan, P.A.

815 S Main Street

Suite 301

Jacksonville, FL 32207

Phone: (904) 398-2722

Attorneys for Plaintiff

NOC/4050

March 17, 2003

**NOTICE OF CLAIM – FLORIDA STATUTES 768-28(6)**

<b>TO:</b> (71989)	
City of Gainesville	Gainesville Police Department
200 E. University Ave.	721 NW 6 <sup>th</sup> St.
Gainesville, FL 32601	Gainesville, FL 32601
City Manager	City Council
City of Gainesville	City of Gainesville
200 E. University Ave.	200 E. University Ave.
Gainesville, FL 32601	Gainesville, FL 32601
Department of Law Enforcement	Insurance Commissioner
James T. Moore, Commissioner	Department of Insurance
P.O. Box 1489	State of Florida, The Capitol
Tallahassee, FL 32302	Tallahassee, FL 32304

**CLAIMANT:** Victor Delgado  
 Date of Birth: 04/03/1978  
 Place of Birth: Venezuela  
 Social Security No: 591-53-9807

**CONSORTIUM CLAIMANT:** NONE  
 Date of Birth:  
 Place of Birth:  
 Social Security No.:

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

**DATE OF INCIDENT:** March 2, 2003

**PLACE OF INCIDENT:** SR 26 & West 2<sup>nd</sup> St., Gainesville, Alachua Co., FL.

**DESCRIPTION OF INCIDENT:** Claimant was turning left with a green light when his vehicle was broadsided by a City of Gainesville Police Department police unit vehicle with no lights and no siren.

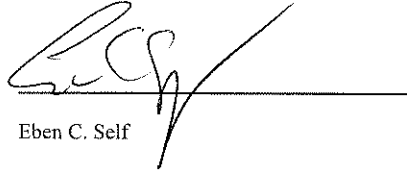
BUREAU OF STATE  
 LIABILITY CLAIMS  
 2003 MAR 26 A 9:31

Exhibit "A"



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 18 day of March, 2003.



Eben C. Self

FBN 972878

Morgan, Colling & Gilbert, P.A.  
20 N. Orange Ave., St.  
Orlando, FL 32802-4979  
(407) 420-1414  
Attorneys for Plaintiff