



# MEMORANDUM

Office of the City Attorney

06/201  
Phone: 334-5011/Fax 334-2229  
Box 46

**TO:** Mayor and City Commissioners

**DATE:** May 14, 2007

**FROM:** City Attorney

**CONSENT**

**SUBJECT:** Robert Alexander Neville M.D. vs. K-9 Officer Concannon, A. Van Hall and Norman Botsford; United States District Court Case No. 1:06cv00199MP-AK

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Recommendation: The City Commission authorize the City Attorney and/or Special Counsel if insurance coverage is available, to represent the City of Gainesville and City employees acting in the course and scope of their employment and with the consent and waiver of potential conflict by the City employees, in the case Robert Alexander Neville M.D. vs. K-9 Officer Concannon, A. Van Hall and Norman Botsford; United States District Court Case No. 1:06cv00199MP-AK.

On March 30, 2007, the City received a copy and request for waiver of service of a Complaint filed by Mr. Robert Alexander Neville in Federal Court. He alleges that his civil rights were violated by actions and policies of the Gainesville Police Department and the specified Officers. Mr. Neville seeks money damages and exemplary and punitive relief, treble damages and attorney's fees.

Prepared by:

Daniel M. Nee,  
Assistant Litigation Attorney

Submitted by:

Marion J. Radson,  
City Attorney

06/20/

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA  
GAINESVILLE DIVISION

CIVIL RIGHTS COMPLAINT FORM

ROBERT ALEXANDER NEVILLE, MD

Plaintiff,

vs.

CASE NO: 1:06-cv-00199-MP-AK.

K-9 OFFICER CONCANNON,  
A. VAN HALL and  
NORMAN BOTSFORD,  
Individually and as  
Gainesville Police Officer,  
Gainesville Police Officer  
and Gainesville Police Chief,  
respectively,  
Defendants

RIGHT TO JURY TRIAL DEMANDED

I. PLAINTIFF

Robert Alexander Neville  
1875 SW 35<sup>th</sup> Place  
Gainesville, FL 32608-3535  
Tel (352) 335-6338

II. DEFENDANTS

- 1) K-9 Officer Concannon  
Gainesville Police Officer  
Employed at : Gainesville Police Department  
721 NW 6<sup>th</sup> Street  
Gainesville, FL 32601
- 2) A. Van Hall  
Gainesville Police Officer  
Employed at: Gainesville Police Department  
721 NW 6<sup>th</sup> Street  
Gainesville, FL 32601

FILED  
U.S. DISTRICT COURT  
GAINESVILLE, FLORIDA  
JUL 10 2006  
JF

3) Norman Botsford  
Gainesville Police Chief  
721 NW 6th Street  
Gainesville, FL 32601

### III. STATEMENT OF FACTS

1. On or about October 22, 2003 Plaintiff Dr. Robert A. Neville was contacted by L-9 Officer Concannon of the Gainesville Police Department in the back yard of Lakeshore Towers, SW 13<sup>th</sup> Street.
2. After an interval Gainesville Police Officer A. Van H appeared and put his hand on the shoulder of Dr. Neville.
3. At this point Dr. Neville surrendered and was taken into custody.
4. While Dr. Neville was in one handcuff and kneeling on the ground K-9 Officer Concannon released a police dog, named Zombie from its leash.
5. Zombie proceeded to bite Dr. Neville in the area of his right lower abdomen and hip.
6. As a result Dr, Neville was injured and scarred for life.
7. Dr. Neville was transported to Alachua General Hospital.

### IV. STATEMENT OF CLAIMS

#### A. TITLE 42 UNITED STATES CODE SECTION 1983-CIVIL RIGHTS-EXCESSIVE FORCE

By setting a police dog on Dr. Neville without justification K-9 Office Concannon employed excessive force against Dr. Neville in the course of arrest. This is actionable under Title 42 United States Code Section 1983 as Concannon was in a uniform (some sort of ninja black outfit) and acting on his official capacity, on the clock, as a Gainesville Police Officer, thus "under color of law."

Officer A. Van Hall encouraged, ratified aided and abetted and facilitated the release of the dog to attack Dr. Neville. Under criminal statutes he was an ACCOMPLICE in the action of releasing the dog and setting it upon Dr, Neville. As such he shares the Civil Liability under Title 42 United States Code Section 1983

## B. GROSS NEGLIGENCE

In Florida as in many other jurisdictions, one who commits a Felony is liable under a Gross Negligence standard of liability (which confers treble damages and/or punitive or exemplary damages) to the victim of the Felony.

In this case Officers Concannon and A. Van Hall committed the SERIOUS (typical prison term-20 years) Felony of Aggravated Battery upon Dr. Neville by setting the dog upon him as described under ALLEGATIONS 4-6.

Accordingly Dr. Neville claims treble and or punitive or exemplary damages against Defendants Concannon and A. Van Hall.

## C. NEGLIGENT HIRING, EMPLOYMENT, SUPERVISION AND TRAINING CHIEF NORMAN BOTSFORD

The behavior of officers Concannon and A. Van Hall (committing serious felonies in the course of their employment) is indicative of serious problems in the Hiring, Retention (Employment) Training and Supervision of these officers. Plaintiff Dr. Neville is informed, believes and thereupon alleges that these duties of Norman Botsford as police Chief and of the Gainesville Police Department of which he is titular head and the representative against whom litigation may be directed, were poorly planned and executed and that no suitable system of Quality Assurance was employed.

## V. RELIEF REQUESTED

BASED UPON THE FOREGOING, Plaintiff Dr. Robert A. Neville prays this court:

(FROM CONCANNON AND VAN HALL)

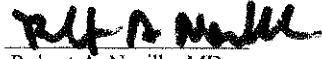
1. For damages for Excessive Force in violation of Title 42 United States Code Section 1983 in the amount of \$150,000.00
2. For Attorneys fees by statute under Title 42 United States Code Section 1983 as demonstrated at trial,
- 3 For damages of \$200,000.00 for the dog attack.
4. For Exemplary and Punitive and or treble damages in the amount of \$1,000,000.00.

(FROM BOTSFORD AND THE GAINESVILLE POLICE  
DEPARTMENT)

5 For damages of \$400,000.00 for Negligent Hiring, Retention (Employment),  
Training and Supervision.

I declare under penalty of perjury that the foregoing Statements of Fact, including all  
continuation pages are true and correct.

Dated: December 21<sup>st</sup>, 2006

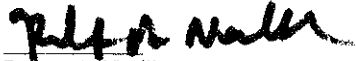


Robert A. Neville, MD  
Plaintiff in pro se

CERTIFICATE OF MAILING

On December 21<sup>st</sup>, 2006 i placed the foregoing CIVIL RIGHTS COMPLAINT FORM in the  
U.S. Mail at Gainesville, Florida with proper postatage attached and addressed to Clerk, U.S>  
Sdistrict Court 401 SE 1<sup>st</sup> Ave, Gainesville, FL 32601-6805. I so attest.

Dated: December 21<sup>st</sup>, 2006



Robert A. Neville

Robert A. Neville, MD  
1875 SW 35 PL  
Gainesville, FL 32608-3535



CLERK  
U.S. DISTRICT COURT  
401 SE 1st AVE  
Gainesville, FL 32601-6805

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