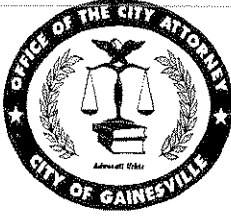

LEGISLATIVE #

110570



MEMORANDUM

Office of the City Attorney

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

TO: Mayor and City Commissioners

DATE: January 5, 2012

FROM: City Attorney

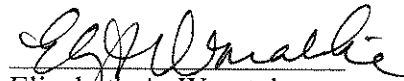
CONSENT

SUBJECT: RONALD J. KING VS. CITY OF GAINESVILLE, FLORIDA, A
POLITICAL SUBDIVISION OF THE STATE OF FLORIDA; EIGHTH
JUDICIAL CIRCUIT, CASE NO. 2011-CA-6119


Recommendation: The City Commission authorize the City Attorney to represent the City of Gainesville in the case styled Ronald J. King vs. City of Gainesville, Florida, a political subdivision of the State of Florida; Eighth Judicial Circuit, Case No. 2011-CA-6119.

On December 6, 2011, the City was served with a Summons and Complaint filed by Ronald J. King in the Circuit Court. Ronald J. King alleges that he was involved in an automobile accident with a City vehicle on May 24, 2010 at the intersection of SW Archer Road and SW 13th Street, in Gainesville. Ronald J. King claims to have 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, loss of ability to earn money, and aggravation of a previously existing condition or disease. Ronald J. King seeks money damages in excess of \$15,000.00.

Prepared by:


Elizabeth A. Waratuke,
Litigation Attorney

Submitted by:


Marion J. Radson
City Attorney

EAW/cgow

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

RONALD J. KING,

Plaintiff,

vs.

CITY OF GAINESVILLE, FLORIDA,
a political subdivision of the
State of Florida.

Defendant.

CASE NO.:

DIVISION:

COMPLAINT

Plaintiff, RONALD KING, sues Defendant, the CITY OF GAINESVILLE, FLORIDA and alleges:

1. This is an action for damages that exceeds the sum of Fifteen Thousand Dollars (\$15,000.00), exclusive of costs and attorney's fees.
2. Plaintiff, RONALD J. KING, is a resident of Alachua County, Florida.
3. At all times material hereto, Defendant, CITY OF GAINESVILLE, FLORIDA (hereafter CITY OF GAINESVILLE) was and is a municipal corporation and political subdivision of the State of Florida, located in Alachua County, Florida.
4. At all times material hereto, Gregory Mack was an employee of the CITY OF GAINESVILLE, acting within the course and scope of his employment.
5. At all times material hereto, the CITY OF GAINESVILLE, operated a bus service under the title "Regional Transit System (RTS)".
6. By letter dated June 17, 2010, Defendant, CITY OF GAINESVILLE, was notified of this claim pursuant to Florida Statute §768.28 by virtue of a claim letter sent via

U.S. Mail, Return Receipt Requested, to CITY OF GAINESVILLE, Regional Transit System which was receipted by the CITY OF GAINESVILLE, Regional Transmit System, on June 23, 2010. A copy of said letter (Social Security Numbers redacted) and the original return receipt are attached hereto as Exhibit "A" and made a part hereof.

7. By letter dated June 17, 2010, Defendant, CITY OF GAINESVILLE, was notified of this claim pursuant to Florida Statute §768.28 by virtue of a claim letter sent via U.S. Mail, Return Receipt Requested, to CITY OF GAINESVILLE, Risk Manager which was receipted by the CITY OF GAINESVILLE, Risk Manager, on June 23, 2010. A copy of said letter (Social Security Numbers redacted) and the original return receipt are attached hereto as Exhibit "B" and made a part hereof.

8. By letter dated June 17, 2010, Defendant, CITY OF GAINESVILLE, was notified of this claim pursuant to Florida Statute §768.28 by virtue of a claim letter sent via U.S. Mail, Return Receipt Requested, to CITY OF GAINESVILLE, City Manager which was receipted by the CITY OF GAINESVILLE, City Manager, on June 23, 2010. A copy of said letter (Social Security Numbers redacted) and the original return receipt are attached hereto as Exhibit "C" and made a part hereof.

9. By letter dated June 17, 2010, the Chief Financial Officer of the State of Florida was notified of this claim pursuant to Florida Statute §768.28(6)(a) by virtue of a claim letter sent via U.S. mail, Return Receipt Requested, to Alex Sink, Chief Financial Officer which was receipted by the Department of Financial Services, on June 28, 2010. A copy of said letter (Social Security Numbers redacted) and the original return receipt are attached hereto as Exhibit "D".

10. The letters and return receipts attached hereto as Exhibit "A", "B", "C" and "D" represent full and complete compliance with all prerequisites to suing a municipal corporation and the political subdivision of the State of Florida as required by Florida law, and Plaintiff has complied with all conditions prerequisite to filing this action.

11. All acts relevant to this action occurred in Alachua County, Florida.

12. On or about May 24, 2010, the CITY OF GAINESVILLE, owned a bus which was being operated through the Regional Transit System and operated by its employee, Gregory Mack within the scope of his employment by the Defendant, at or near the intersection of SW Archer Road and SW 13th Street in Gainesville, Alachua County, Florida.

13. On or about May 24, 2010, Plaintiff, RONALD J. KING, was operating a vehicle at or near the intersection of SW Archer Road and SW 13th Street in Gainesville, Alachua County, Florida.

14. At said time and place, Gregory Mack and the CITY OF GAINESVILLE owed a duty to the Plaintiff to operate or maintain the bus, in such a manner as to prevent the same from colliding with other vehicles.

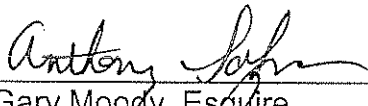
15. At that time and place, Gregory Mack negligently operated the CITY OF GAINESVILLE-owned bus so that the bus collided with the Plaintiff's vehicle, or, the bus was and had been negligently maintained, and, as a result of such negligent maintenance, the bus collided with the Plaintiff's vehicle.

16. The CITY OF GAINESVILLE is vicariously liable for Gregory Mack's negligence.

17. As a direct and proximate result of the foregoing negligence, Plaintiff, RONALD J. KING, 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, loss of ability to earn money, and aggravation of a previously existing condition or disease. These losses are either permanent or continuing in nature, and Plaintiff will suffer such losses in the future.

WHEREFORE, Plaintiff, RONALD J. KING, demands judgment against Defendant, CITY OF GAINESVILLE, FLORIDA, for damages, plus post-judgment interest and costs, and demands a trial by jury.

MOODY, SALZMAN & LASH

for 
C. Gary Moody, Esquire
FL Bar No. 138289
500 E. University Avenue, Suite A
Gainesville, FL 32601-3457
(352) 373-6791
(352) 377-2861 (fax)
Attorneys for Plaintiff

MOODY & SALZMAN, P.A.

ATTORNEYS & COUNSELORS AT LAW

500 EAST UNIVERSITY AVENUE, SUITE A
POST OFFICE DRAWER 2759

GAINESVILLE, FLORIDA 32602

TELEPHONE (352) 373-6791
TELEFAX (352) 377-2861

C. GARY MOODY
BOARD CERTIFIED IN CIVIL TRIAL LAW
CERTIFIED FAMILY MEDIATOR

ANTHONY J. SALZMAN
BOARD CERTIFIED IN WORKERS' COMPENSATION
CERTIFIED CIRCUIT MEDIATOR

ROBERT A. LASH
Also: CERTIFIED GENERAL CONTRACTOR

PERSONAL INJURY AND WRONGFUL DEATH
WORKERS' COMPENSATION
FAMILY LAW
CONSTRUCTION LAW
GENERAL PRACTICE

June 17, 2010

Jesus Gomez, Director
Regional Transit System
Post Office Box 490, Station 05
Gainesville, FL 32602-0490

Certified Mail
7009 3410 0000 0281 5033

Re: Clients/Claimants: Ronald J. King; Ronald King, Jr., minor child; Nyshon King, minor child; and Capresha King, minor child.
Date of Incident: May 24, 2010
Entity/Department: Regional Transit System and the City of Gainesville, Florida

Dear Mr. Gomez:

Pursuant to Florida Statutes, §768.28(6)(a), notice is hereby given of a claim for personal injury and other damages by: Ronald J. King; Ronald King, Jr., minor child; Nyshon King, minor child; and Capresha King, minor child, against the Regional Transit System and/or the City of Gainesville. This claim arose as a result of an incident on May 24, 2010, when a bus owned and operated by the City of Gainesville struck the motor vehicle containing my clients. As a result of this incident, the above named clients have experienced serious injuries.

The following information is provided pursuant to statute:

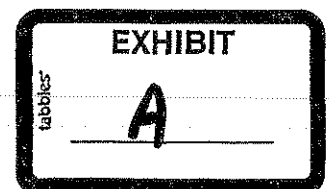
<u>Client</u>	<u>DOB</u>	<u>Place of Birth</u>	<u>Soc. Sec. No.</u>
Ronald J. King	3/2/1971	Palataka, FL	██████████
Ronald King, Jr.	9/6/1996	Palataka, FL	██████████
Nyshon King	12/22/1999	Palataka, FL	██████████
Capresha King	2/28/1998	Palataka, FL	██████████

Demand is hereby made on the Regional Transit System or City of Gainesville to answer all damages occasioned by my clients as a result of said incident.

Sincerely,


C. Gary Moody

CGM/rcw
Cc: Mr. Ronald King



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

JESUS GOMEZ, DIRECTOR
REGIONAL TRANSIT SYSTEM
PO BOX 490, STATION 05
GAINESVILLE, FL
32602-0490

2. Article Number
(Transfer from service label)

7009 3410 0000 0281 5033

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☒ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

BEN WALKER

6-23-10

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☐ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

UNITED STATES POSTAL SERVICE

GAINESVILLE FL 326

33 JUN 2010 PM 2:4

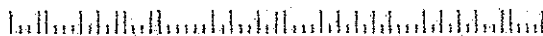
First-Class Mail
Postage & Fees Paid
USPS
Permit No. 310

• Sender: Please print your name, address, and ZIP+4 in this box.

MOODY SALZMAN & LASH
P.O. DRAWER 2759
Gainesville, FL 32602

Rw

- King



MOODY & SALZMAN, P.A.

ATTORNEYS & COUNSELORS AT LAW

500 EAST UNIVERSITY AVENUE, SUITE A
POST OFFICE DRAWER 2759

GAINESVILLE, FLORIDA 32602

TELEPHONE (352) 373-6791
TELEFAX (352) 377-2861

C. GARY MOODY
BOARD CERTIFIED IN CIVIL TRIAL LAW
CERTIFIED FAMILY MEDIATOR

ANTHONY J. SALZMAN
BOARD CERTIFIED IN WORKERS' COMPENSATION
CERTIFIED CIRCUIT MEDIATOR

ROBERT A. LASH
Also: CERTIFIED GENERAL CONTRACTOR

PERSONAL INJURY AND WRONGFUL
WORKERS' COMPENSATION
FAMILY LAW
CONSTRUCTION LAW
GENERAL PRACTICE

June 17, 2010

Steve Varvel, Risk Manager
City of Gainesville
Post Office Box 490, Station 60
Gainesville, FL 32602-0490

Certified Mail
7009 3410 0000 0281 5057

Re: Clients/Claimants: Ronald J. King; Ronald King, Jr., minor child; Nyshon King, minor child; and Capresha King, minor child.
Date of Incident: May 24, 2010
Entity/Department: Regional Transit System and the City of Gainesville, Florida

Dear Mr. Varvel:

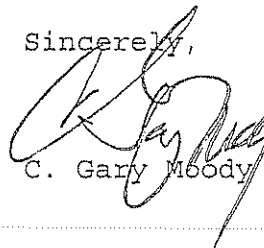
Pursuant to Florida Statutes, §768.28(6)(a), notice is hereby given of a claim for personal injury and other damages by: Ronald J. King; Ronald King, Jr., minor child; Nyshon King, minor child; and Capresha King, minor child, against the Regional Transit System and/or the City of Gainesville. This claim arose as a result of an incident on May 24, 2010, when a bus owned and operated by the City of Gainesville struck the motor vehicle containing my clients. As a result of this incident, the above named clients have experienced serious injuries.

The following information is provided pursuant to statute:

<u>Client</u>	<u>DOB</u>	<u>Place of Birth</u>	<u>Soc. Sec. No.</u>
Ronald J. King	3/2/1971	Palataka, FL	██████████
Ronald King, Jr.	9/6/1996	Palataka, FL	██████████
Nyshon King	12/22/1999	Palataka, FL	██████████
Capresha King	2/28/1998	Palataka, FL	██████████

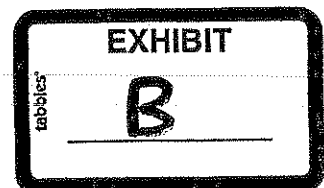
Demand is hereby made on the Regional Transit System or City of Gainesville to answer all damages occasioned by my clients as a result of said incident.

Sincerely,


C. Gary Moody

CGM/rcw

Cc: Mr. Ronald King



SENDER: COMPLETE THIS SECTION

- ☒ Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- ☒ Print your name and address on the reverse so that we can return the card to you.
- ☒ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

STEVE VARVEL, Risk Mgr
City of Gainesville
PO BOX 490, STATION 60
GAINESVILLE, FL
32602-0490

2. Article Number

(Transfer from service label)

7009 3410 0000 0281 5057

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

BEN WILKES

☒ Agent

☒ Addressee

B. Received by (Printed Name)

BEN WILKES

C. Date of Delivery

6-23-10

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☐ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

UNITED STATES POSTAL SERVICE

GAINESVILLE FL 32602



First-Class Mail

Postage & Fees Paid

USPS

Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box.

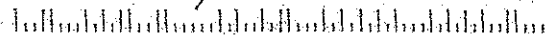
MOODY SALZMAN & LASH

P.O. DRAWER 2759

Gainesville, FL 32602

RAW

- King



MOODY & SALZMAN, P.A.

ATTORNEYS & COUNSELORS AT LAW

500 EAST UNIVERSITY AVENUE, SUITE A
POST OFFICE DRAWER 2759

GAINESVILLE, FLORIDA 32602

TELEPHONE (352) 373-6791
TELEFAX (352) 377-2861

C. GARY MOODY
BOARD CERTIFIED IN CIVIL TRIAL LAW
CERTIFIED FAMILY MEDIATOR

ANTHONY J. SALZMAN
BOARD CERTIFIED IN WORKERS' COMPENSATION
CERTIFIED CIRCUIT MEDIATOR

ROBERT A. LASH
Also: CERTIFIED GENERAL CONTRACTOR

PERSONAL INJURY AND WRONGFUL DEATH
WORKERS' COMPENSATION
FAMILY LAW
CONSTRUCTION LAW
GENERAL PRACTICE

June 17, 2010

Russ Blackburn, City Manager
City of Gainesville
Post Office Box 490, Station 06
Gainesville, FL 32602-0490

Certified Mail
7009 3410 0000 0281 5040

Re: Clients/Claimants: Ronald J. King; Ronald King, Jr., minor child; Nyshon King, minor child; and Capresha King, minor child.
Date of Incident: May 24, 2010
Entity/Department: Regional Transit System and the City of Gainesville, Florida

Dear Mr. Blackburn:

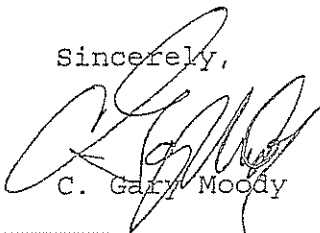
Pursuant to Florida Statutes, §768.28(6)(a), notice is hereby given of a claim for personal injury and other damages by: Ronald J. King; Ronald King, Jr., minor child; Nyshon King, minor child; and Capresha King, minor child, against the Regional Transit System and/or the City of Gainesville. This claim arose as a result of an incident on May 24, 2010, when a bus owned and operated by the City of Gainesville struck the motor vehicle containing my clients. As a result of this incident, the above named clients have experienced serious injuries.

The following information is provided pursuant to statute:

<u>Client</u>	<u>DOB</u>	<u>Place of Birth</u>	<u>Soc. Sec. No.</u>
Ronald J. King	3/2/1971	Palataka, FL	[REDACTED]
Ronald King, Jr.	9/6/1996	Palataka, FL	[REDACTED]
Nyshon King	12/22/1999	Palataka, FL	[REDACTED]
Capresha King	2/28/1998	Palataka, FL	[REDACTED]

Demand is hereby made on the Regional Transit System or City of Gainesville to answer all damages occasioned by my clients as a result of said incident.

Sincerely,


C. Gary Moody

CGM/rcw

Cc: Mr. Ronald King

EXHIBIT

C

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Russ Blackburn, City Mgr
City of Gainesville
PO Box 490, Station 06
Gainesville, FL
32602-0490

2. Article Number
(Transfer from service label)

7009 3410 0000 0281 5040

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Ben Walker*

☒ Agent

☐ Addressee

B. Received by (Printed Name)

BEN WALKER

C. Date of Delivery

6-23-10

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☐ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

UNITED STATES POSTAL SERVICE

GAINESVILLE FL 32602

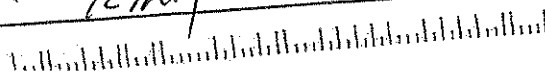
23 JUN 2010 PM 2

First-Class Mail
Postage & Fees Paid
USPS
Permit No. 6210

* Sender: Please print your name, address, and ZIP+4 in this box *

MOODY SALZMAN & LASH
P.O. DRAWER 2759
Gainesville, FL 32602

RW - King



MOODY & SALZMAN, P.A.

ATTORNEYS & COUNSELORS AT LAW

500 EAST UNIVERSITY AVENUE, SUITE A
POST OFFICE DRAWER 2759

GAINESVILLE, FLORIDA 32602

TELEPHONE (352) 373-6791
TELEFAX (352) 377-2861

C. GARY MOODY
BOARD CERTIFIED IN CIVIL TRIAL LAW
CERTIFIED FAMILY MEDIATOR

ANTHONY J. SALZMAN
BOARD CERTIFIED IN WORKERS' COMPENSATION
CERTIFIED CIRCUIT MEDIATOR

ROBERT A. LASH
Also: CERTIFIED GENERAL CONTRACTOR

PERSONAL INJURY AND WRONGFUL DEATH
WORKERS' COMPENSATION
FAMILY LAW
CONSTRUCTION LAW
GENERAL PRACTICE

June 17, 2010

Alex Sink, Chief Financial Officer
State of Florida - Div. of Administration
200 East Gaines Street
Tallahassee, FL 32399-0336

Certified Mail

7009 3410 0000 0281 5026

Re: Clients/Claimants: Ronald J. King; Ronald King, Jr., minor child; Nyshon King, minor child; and Capresha King, minor child.
Date of Incident: May 24, 2010
Entity/Department: Regional Transit System and the City of Gainesville, Florida

Dear Honorable Alex Sink:

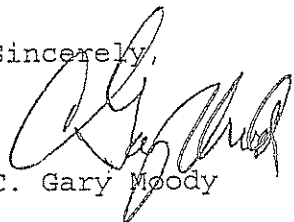
Pursuant to Florida Statutes, §768.28(6)(a), notice is hereby given of a claim for personal injury and other damages by: Ronald J. King; Ronald King, minor child; Nyshon King, minor child; and Capresha King, minor child, against the State of Florida and/or its above named subdivisions. This claim arose as a result of an incident on May 24, 2010, when a bus owned and operated by the City of Gainesville struck the motor vehicle containing my clients. As a result of this incident, the above claimants have experienced serious injuries.

The following information is provided pursuant to statute:

<u>Client</u>	<u>DOB</u>	<u>Place of Birth</u>	<u>Soc. Sec. No.</u>
Ronald J. King	3/2/1971	Palatoka, FL	[REDACTED]
Ronald King, Jr.	9/6/1996	Palatoka, FL	[REDACTED]
Nyshon King	12/22/1999	Palatoka, FL	[REDACTED]
Capresha King	2/28/1998	Palatoka, FL	[REDACTED]

Demand is hereby made on the State of Florida to answer all damages occasioned by my clients as a result of said incident.

Sincerely,


C. Gary Moody

CGM/rcw

Cc: Mr. Ronald King

EXHIBIT

D

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature _____ <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>ALEX SINK, Chief Financial Officer STATE OF FLORIDA - Div. of Administration 200 EAST GAINES ST TALLAHASSEE, FL 32399-0336</p>		<p>B. Received by (Printed Name) _____ Date of Delivery _____</p>	
<p>2. Article Number (Transfer from service label) 7009 3410 0000 0281 5026</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If YES, enter delivery address below: _____</p>	
<p>3. Service Type</p> <p><input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>			

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

MOODY SALZMAN & LASH
P.O. DRAWER 2759
Gainesville, FL 32602

JUN 28 2013

RW

