

**LEGISTAR**

**120385**



# MEMORANDUM

Office of the City Attorney

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

LEGISTAR NO. 120385

**TO:** Mayor and City Commissioners

**DATE:** October 4, 2012

**FROM:** City Attorney

**CONSENT**

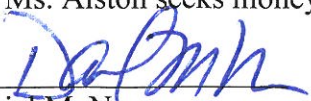
**SUBJECT:** KIMBERLY ALSTON, AND JOEY LEE ALSTON, HER HUSBAND VS. CITY OF GAINESVILLE, FLORIDA, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA; EIGHTH JUDICIAL CIRCUIT, CASE NO. 2012-CA-2483

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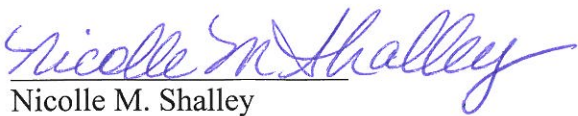
Recommendation: The City Commission authorize the City Attorney to represent the City of Gainesville in the case styled Kimberly Alston, and Joey Lee Alston, her husband, vs. City of Gainesville, Florida, a political subdivision of the State of Florida; Eighth Judicial Circuit, Case No. 2012-CA-2483

On September 20, 2012, the City was served with a Summons and Amended Complaint filed by Kimberly and Joey Lee Alston in the Circuit Court. Kimberly Alston alleges that on June 26, 2008, she tripped and fell in the vicinity of a drainage culvert at or near 3719 NE 11<sup>th</sup> Terrace. Kimberly Alston claims to have suffered bodily injury, pain and suffering, disability, physical impairment, disfigurement, mental anguish, mental impairment, a loss of capacity for the enjoyment of life, inconvenience, expenses of hospitalization, medical, pharmaceutical, nursing and other health related costs and expenses, a loss of earnings and ability to earn money, and an aggravation of a pre-existing condition(s) or disease(s). Plaintiff Joey Lee Alston has filed a loss of consortium claim. Ms. Alston seeks money damages in excess of \$15,000.00.

Prepared by:

  
Daniel M. Nee,  
Litigation Attorney

Submitted by:

  
Nicolle M. Shalley  
City Attorney

DMN/cgow

CITY OF GAINESVILLE  
CITY COMMISSION  
IN THE CIRCUIT COURT, EIGHTH JUDICIAL DISTRICT  
IN AND FOR ALACHUA COUNTY, FLORIDA  
12 SEP 20 PM 12:12

KIMBERLY ALSTON, and  
JOEY LEE ALSTON, her husband

CASE NO.: 01-2012-CA-2483

Plaintiff,

DIVISION: K

vs.

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

Defendant.

A True Copy  
SADIE DARNELL, SHERIFF  
ALACHUA COUNTY, FLORIDA  
Served at 12 PM of the 20 Day  
of Sept, 20. 12  
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 or Petition in this action on Defendant, CITY OF GAINESVILLE, FLORIDA, by serving: *Amended*

City of Gainesville, Florida  
Attn: Mayor Craig Lowe  
City Hall  
200 E. University Avenue  
Gainesville, Florida 32601

Each Defendant is required to serve written defenses to the *Amended* Complaint or Petition on Plaintiff's attorney whose name and address is:

MOODY, SALZMAN & LASH  
C. Gary Moody, Esquire  
Florida Bar No.: 138289  
500 E. University Avenue, Suite A  
Gainesville, Florida 32601  
(352) 373-6791 / Fax (352) 377-3861  
Attorneys for Plaintiffs

within thirty (30) days after service of this Summons on that Defendant, CITY OF GAINESVILLE, FLORIDA, exclusive of the day of service, and to file the original of the defense 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 the Defendant for the relief demanded in the Complaint or Petition.

WITNESS my hand and seal of said Court on Sept. 14, 2012.



J.K. "Buddy" Irby  
Clerk of Circuit Court

By: [Signature]  
As Deputy Clerk

**COPY**

J K IRBY  
CLERK OF CIRCUIT COURT  
CIVIL DEPARTMENT  
201 E UNIVERSITY AVE  
GAINESVILLE FL 32601

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

KIMBERLY ALSTON, and  
JOEY LEE ALSTON, her husband,

Plaintiffs,

CASE NO.: 2012-CA-2483

DIVISION: K

vs.

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

Defendant.

---

**AMENDED COMPLAINT**

Plaintiffs, KIMBERLY ALSTON and JOEY LEE ALSTON, sue Defendant, the CITY OF GAINESVILLE, FLORIDA and allege:

**GENERAL ALLEGATIONS**

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. Plaintiffs, KIMBERLY ALSTON and JOEY LEE ALSTON, are residents 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. By letter dated June 25, 2010, Defendant, CITY OF GAINESVILLE, Risk Manager 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 Steve Varvel, CITY OF

GAINESVILLE, Risk Manager which was received by the CITY OF GAINESVILLE, on June 28, 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.

5. By letter dated June 25, 2010, Defendant, CITY OF GAINESVILLE, Public Works Department 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 Teresa Scott, Director, Public Works, CITY OF GAINESVILLE, which was received by the CITY OF GAINESVILLE, on June 28, 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.

6. By letter dated June 25, 2010, Defendant, Russ Blackburn, City Manager, 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 Russ Blackburn, CITY OF GAINESVILLE, Risk Manager which was received by the CITY OF GAINESVILLE, on June 28, 2010. A copy of said letter (Social Security Numbers redacted) and the original return receipt are attached hereto as Exhibit "E" and made a part hereof.

7. By letter dated June 25, 2010, Alex Sink, 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 received by the Department of Financial Services, on June 30, 2010. A copy of said letter (Social Security Numbers redacted) and the original return receipt are attached hereto as Exhibit "D".

8. 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 Plaintiffs have complied with all conditions prerequisite to filing this action.

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

#### FACTUAL ALLEGATIONS

10. At all times material hereto, the Plaintiffs, KIMBERLY ALSTON and JOEY LEE ALSTON, resided at 3719 Northeast 11<sup>th</sup> Terrace, Gainesville, Alachua County, Florida.

11. At all times material hereto, the CITY OF GAINESVILLE, owned, operated and maintained a drainage culvert located at or near 3719 NE 11<sup>th</sup> Terrace, Gainesville, Alachua County, Florida.

12. At some point prior to June 26, 2008, the drainage culvert had sustained serious damage so that it presented a dangerous, hazardous and unsafe condition.

13. On or about June 26, 2008, Plaintiff, KIMBERLY ALSTON, as was customary, was lawfully walking in the vicinity of the above referenced drainage culvert, when she sustained a serious fall and resultant injuries.

14. There were no signs in or around the area of the culvert which warned of a dangerous or hazardous condition.

#### COUNT I - GENERAL NEGLIGENCE

15. Plaintiff, KIMBERLY ALSTON, realleges and incorporates the allegations in paragraphs 1 through 14 above, as if fully set forth herein, and further alleges:

16. Defendant, CITY OF GAINESVILLE, was aware that people would be walking on or near the area of the culvert.

17. At all times material hereto, Plaintiff, KIMBERLY ALSTON, was lawfully on the premises of 3719 NE 11<sup>th</sup> Terrace, Gainesville, Alachua County, Florida.

18. Upon information and belief, Plaintiff alleges that Defendant had actual knowledge and notice of the hazardous, dangerous, and unsafe condition caused by the damaged culvert, or, in the alternative, that the hazardous, dangerous, and unsafe condition had existed for so long a time that the Defendant, CITY OF GAINESVILLE, should have had knowledge and notice of said condition and could have reasonably recognized the hazardous, dangerous, and unsafe condition and taken the necessary steps to keep the general public, and Plaintiff, reasonably safe from harm.

19. At said time and place, the CITY OF GAINESVILLE owed a duty of care to the general public including Plaintiff, KIMBERLY ALSTON, to maintain and/or repair the aforementioned drainage culvert so that accidents such as the fall that occurred on June 26, 2008 would not occur.

20. At said time and place, Defendant, CITY OF GAINESVILLE owed a duty of care to the general public including Plaintiff, KIMBERLY ALSTON to warn of the hazardous, dangerous and unsafe condition caused by the damaged drainage culvert so that accidents such as the fall that occurred on June 26, 2008 would not occur.

21. At that time and place, Defendant, CITY OF GAINESVILLE, was negligent in failing to repair and/or make safe the hazardous, dangerous, and unsafe condition caused by the damaged culvert and, as a result, Plaintiff, KIMBERLY ALSTON sustained serious harm.



22. Defendant, CITY OF GAINESVILLE'S negligence includes, but is not limited to:

- a) Failing to prominently post warning signs in and around the area of the damaged culvert such that all persons entering the property would have proper notice of the hazardous, dangerous, and unsafe condition caused by the damaged culvert;
- b) Failing to perform the proper maintenance to repair and/or make safe the hazardous, dangerous, and unsafe condition caused by the damaged culvert despite having ample opportunity to do so.

23. As a direct and proximate result of the Defendant's negligence, the Plaintiff, KIMBERLY ALSTON, sustained and suffered: bodily injury; pain and suffering, disability; physical impairment, disfigurement, mental anguish, mental impairment; a loss of capacity for the enjoyment of life; inconvenience; expenses of hospitalization, medical, pharmaceutical, nursing and other health related costs and expenses; a loss of earnings and ability to earn money, and an aggravation of a pre-existing condition(s) or disease(s). These losses are either permanent or continuing in nature, and the Plaintiff, KIMBERLY ALSTON, will continue to suffer and incur such damages and losses in the future.

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

#### **COUNT II - LOSS OF CONSORTIUM**

Plaintiff, JOEY LEE ALSTON, realleges the allegations in paragraphs 1 through 23 above, as if fully set forth herein, and further alleges:

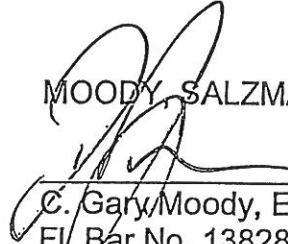


24. As a direct and proximate result of Defendant's negligent conduct, Plaintiff's wife, KIMBERLY ALSTON, sustained and suffered: bodily injury; pain and suffering, disability; physical impairment, disfigurement, mental anguish, mental impairment; a loss of capacity for the enjoyment of life; inconvenience; expenses of hospitalization, medical, pharmaceutical, nursing and other health related costs and expenses; a loss of earnings and ability to earn money, and an aggravation of a pre-existing condition(s) or disease(s). These losses are either permanent or continuing in nature, and KIMBERLY ALSTON will continue to suffer and incur such damages and losses in the future.

25. Before suffering these injuries, Plaintiff, KIMBERLY ALSTON, was able to and did perform all the duties of a wife and did perform all these duties, including assisting in maintaining the home, and providing love, companionship, affection, society, sexual relations, moral support, and solace to Plaintiff. As a direct and proximate result of the injuries, Plaintiff's spouse, KIMBERLY ALSTON, has been unable to perform the duties of a wife in that the injured spouse can no longer assist with housework, have sexual intercourse, participate in family, recreational, or social activities with Plaintiff. Due to the nature of the injuries sustained by KIMBERLY ALSTON and the severe physical strains they cause her, KIMBERLY ALSTON is no longer able to provide her husband with love, companionship, affection, society, moral support, and solace. Because of these injuries, Plaintiff's spouse will be unable to perform these duties in the future. Plaintiff, JOEY LEE ALSTON, is therefore deprived and will be permanently deprived of his spouse's consortium, all to Plaintiff's damage, in a total amount to be established by proof at trial.

WHEREFORE, Plaintiff, JOEY LEE ALSTON, demands judgment against Defendant, CITY OF GAINESVILLE, for damages, plus post-judgment interest and costs, and demands a trial by jury.

MOODY, SALZMAN & LASH



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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 & LASH

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 25, 2010

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

Certified Mail  
7009 3410 0000 0281 5088

Re: Client/Claimant: Kimberly Alston, and Joey Alston, her husband  
Date of Incident: June 26, 2008  
Entity/Department: City of Gainesville, Public Works

Dear Mr. Varvel:

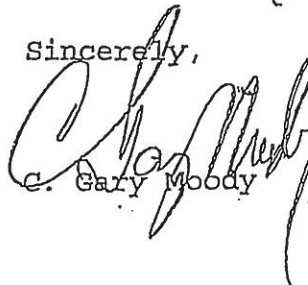
Pursuant to Florida Statutes, §768.28(6)(a), notice is hereby given of a claim for personal injury and other damages by Kimberly Alston, and for the derivative claim of her husband, Joey Alston, against the City of Gainesville and/or Gainesville Public Works. This injury claim arose as a result of an incident occurring on June 26, 2008, when Mrs. Alston stepped on a concrete culvert that collapsed underneath her. The culvert in question was previously damaged, and the damage was reported to the City of Gainesville which failed to make timely repairs. As a result of this incident, Mrs. Alston 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>
Kimberly Alston	1/25/1971	Miami, FL	██████████
Joey Alston	5/5/1964	Otter Creek, FL	██████████

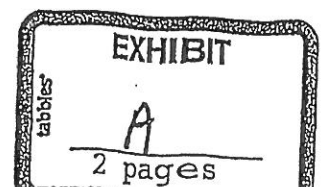
Demand is hereby made on the City of Gainesville and/or Gainesville Public Works to answer all damages occasioned by Mr. & Mrs. Alston as a result of said incident.

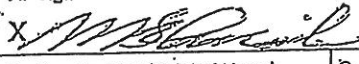
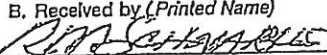
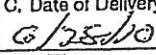
Sincerely,

  
C. Gary Moody

CGM/rcw

Cc: Mr. & Mrs. Joey Alston



SENDER COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<p><input checked="" type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p><input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you.</p> <p><input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.</p>	<p>A. Signature   <input checked="" type="checkbox"/> Agent  <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name)  </p> <p>C. Date of Delivery  </p>
<p>1. Article Addressed to:</p> <p>Steve Varvel, Risk Mgr.  City of Gainesville  P.O. Box 490, Station 60  Gainesville, FL 32602-0490</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>Article Number  (Transfer from service label)</p>	<p>7009 3410 0000 0281 5088</p>

Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

UNITED STATES POSTAL SERVICE

First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. 640

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

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

*MOODY / K. ALSTON*

JUN 5 2010

# MOODY, SALZMAN & LASH

ATTORNEYS & COUNSELORS AT LAW

500 EAST UNIVERSITY AVENUE, SUITE A  
POST OFFICE DRAWER 2759

GAINESVILLE, FLORIDA 32602

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Also: CERTIFIED GENERAL CONTRACTOR

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

June 25, 2010

Teresa Scott, Director  
Public Works, City of Gainesville  
Post Office Box 490, Station 58  
Gainesville, FL 32602-0490

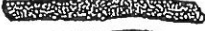

Certified Mail  
7009 3410 0000 0281 5095

Re: Client/Claimant: Kimberly Alston, and Joey Alston, her husband  
Date of Incident: June 26, 2008  
Entity/Department: City of Gainesville, Public Works

Dear Ms. Scott:

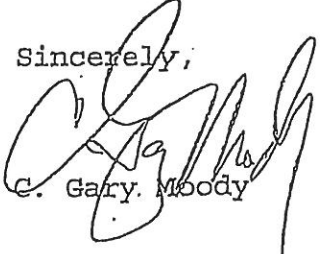
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The following information is provided pursuant to statute:

<u>Client</u>	<u>DOB</u>	<u>Place of Birth</u>	<u>Soc. Sec. No.</u>
Kimberly Alston	1/25/1971	Miami, FL	
Joey Alston	5/5/1964	Otter Creek, FL	

Demand is hereby made on the City of Gainesville and/or Gainesville Public Works to answer all damages occasioned by Mr. & Mrs. Alston as a result of said incident.

Sincerely,

  
C. Gary Moody

CGM/rcw

Cc: Mr. & Mrs. Joey Alston



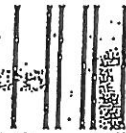
SENDER COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li><input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you.</li> <li><input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature  <input checked="" type="checkbox"/> Agent  <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p style="text-align: center;">Teresa Scott, Director          Public Works, City of Gainesville          P.O. Box 490, Station 58          Gainesville, FL 32602-0490</p>	<p>B. Received by (Printed Name)  <i>R. H. ...</i></p>	<p>C. Date of Delivery  <i>6/25/10</i></p>
<p>2. Article Number          (Transfer from service label)</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes          If YES, enter delivery address below: <input type="checkbox"/> No</p>	
	<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail    <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered        <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail       <input type="checkbox"/> C.O.D.</p>	
	<p>4. Restricted Delivery? (Extra Fee)    <input type="checkbox"/> Yes</p>	
<p>7009 3410 0000 0281 5095</p>		

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

UNITED STATES POSTAL SERVICE



First-Class Mail  
 Postage & Fees Paid  
 USPS  
 Permit No. 610

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

*ACW / L*  
**MOODY SALZMAN & LASH**  
**P.O. DRAWER 2759**  
**Gainesville, FL 32602**

JUN 5 9 2010

*ACW / 101 N. S. Tom*

# MOODY, SALZMAN & LASH

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

June 25, 2010

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

Certified Mail  
7009 3410 0000 0281 5071

Re: Client/Claimant: Kimberly Alston, and Joey Alston, her husband  
Date of Incident: June 26, 2008  
Entity/Department: City of Gainesville, Public Works

Dear Mr. Blackburn:

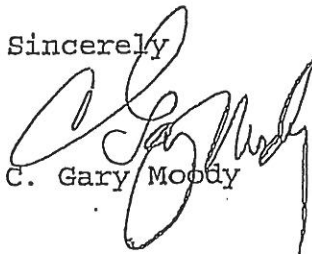
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Joey Alston	5/5/1964	Otter Creek, FL	<del>XXXXXXXXXX</del>

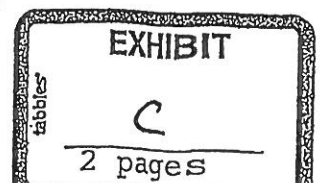
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Sincerely

  
C. Gary Moody

CGM/rcw

Cc: Mr. & Mrs. Joey Alston





SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li><input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you.</li> <li><input checked="" type="checkbox"/> Attach this card to the back of the mailpiece; or on the front if space permits.</li> </ul>		<p>A. Signature  <i>[Handwritten Signature]</i> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Russ Blackburn, City Mgr.  City of Gainesville  P.O. Box 490, Station 06  Gainesville, FL 32602-0490</p>		<p>B. Received by (Printed Name) <i>[Handwritten Name]</i> C. Date of Delivery <i>6/25/10</i></p>	
		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p>	
		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>Article Number  (transfer from service label)  3811, February 2004</p>		<p>7009 3410 0000 0281 5071</p>	
		<p>Domestic Return Receipt</p>	
		<p>102595-02/M-1540</p>	

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JUN 23 2010

*RCW/ K. McSton*

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BOARD CERTIFIED IN CIVIL TRIAL LAW  
CERTIFIED FAMILY MEDIATOR

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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 25, 2010

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

Certified Mail  
7009 3410 0000 0281 5064

Re: Client/Claimant: Kimberly Alston, and Joey Alston, her husband  
Date of Incident: June 26, 2008  
Entity/Department: City of Gainesville, Public Works

Dear The Honorable Alex Sink:

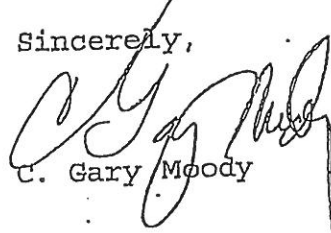
Pursuant to Florida Statutes, §768.28(6)(a), notice is hereby given of a claim for personal injury and other damages by Kimberly Alston, and for the derivative claim of her husband, Joey Alston, against the State of Florida and/or its above named subdivisions. This injury claim arose as a result of an incident occurring on June 26, 2008, when Mrs. Alston stepped on a concrete culvert that collapsed underneath her. The culvert in question was previously damaged and the damage was reported to the City of Gainesville which failed to make timely repairs. As a result of this incident, Mrs. Alston 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>
Kimberly Alston	1/25/1971	Miami, FL	<del>XXXXXXXXXX</del>
Joey Alston	5/5/1964	Otter Creek, FL	<del>XXXXXXXXXX</del>

Demand is hereby made on the State of Florida to answer all damages occasioned by Mr. & Mrs. Alston as a result of said incident.

Sincerely,

  
C. Gary Moody

CGM/rcw

Cc: Mr. & Mrs. Joey Alston

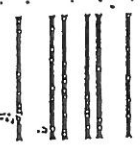
EXHIBIT

D

3 pages

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<input checked="" type="checkbox"/> Complete items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired. <input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature DEPARTMENT OF FINANCIAL SERVICES <input type="checkbox"/> Agent BENEATH MAIL CENTER SUPERVISOR <input type="checkbox"/> Addressee	
1. Article Addressed to:  Alex Sink, Chief Financ'l Officer State of Florida, Div. of Admin. 200 E. Gaines St. Tallahassee, FL 32399-0336		B. Received by (Printed Name)	C. Date of Delivery
2. Article Number (Transfer from service label)		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
7009 3410 0000 0281 5064		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
PS Form 3811, February 2004		Domestic Return Receipt	
		102595-02-M-1540	
		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	

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