

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

2010 AUG 16 PM 2:24

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Plaintiff,

CASE NO.: 2010 CC 3094

vs.

CITY OF GAINESVILLE,

Defendant.

A True Copy
SADIE DARNELL, SHERIFF
ALACHUA COUNTY, FLORIDA
Served at 2:00P on the 10 Day
of August 20 10
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 upon:

CITY OF GAINESVILLE
BY SERVING: CITY MAYOR, CRAIG LOWE
200 EAST UNIVERSITY AVENUE
GAINESVILLE, FL 32601

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

DAVID B. KAMPF, ESQ.
400 NORTH ASHLEY DRIVE, SUITE 1625
TAMPA, FL 33602
(813) 241-0123

OK
as per MBW

within ³⁰20 days after service of this summons upon that defendant, exclusive of the day of
service, and to file the original of the written 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.

DATED ON ^{July} June 12, 2010

J.K. "BUDDY" IRBY
As Clerk of the Court



[Signature]
COPY

PERSONAL SERVICE ON AN INDIVIDUAL

IMPORTANT

A lawsuit has been filed against you. You have twenty (20) calendar days after this summons is served on you to file a written response to the attached Complaint in this Court. A phone call will not protect you; your written response, including the above case number and named parties, must be filed on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning for the Court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book). If you choose to file a written response yourself, at the same time you file your written response to the Court you must also mail or take a carbon copy or photocopy of your written response to the "Plaintiff/Plaintiff's Attorney" named below.

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 respuesta 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 personal denominada abajo como "Plaintiff/Plaintiff's Attorney." (Demandante o Abogado del Demandante).

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.

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INSURANCE COMPANY

Plaintiff,

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vs.

CITY OF GAINESVILLE

Defendant,

COMPLAINT

COMES NOW the Plaintiff, STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY (hereinafter referred to as "STATE FARM"), by and through its undersigned counsel, and files this, its Complaint against Defendant, CITY OF GAINESVILLE, and as grounds thereof would state:

1. This is an action for reimbursement under Florida Statute §627.7405, with damages less than \$15,000.00 but greater than \$5,000.00, exclusive of costs, interest and attorney's fees.
2. That at all times relevant hereto, STATE FARM" is a corporation licensed and authorized and/or conducting significant business activities in Alachua County, Florida.
3. That at all times material herein, CITY OF GAINESVILLE is a corporation licensed and authorized and/or conducting significant business activities in Alachua County, Florida.

4. That on or about August 15, 2008, Joshua Coleman was involved in an automobile accident that was owned and insured by CITY OF GAINESVILLE. A copy of the police report is attached hereto as "EXHIBIT A"
5. Joshua Coleman sustained injuries as a result of the motor vehicle accident.
6. At the time, date and place of the aforementioned accident, Joshua Coleman was insured under a personal automobile policy with Plaintiff that provided for no-fault insurance in compliance with Florida Statute § 627.732 through 627.7405. As a result of the accident in question, Plaintiff was caused to pay to or on the behalf of the claimant, Joshua Coleman, as relating to his resulting injuries, Personal Injury Protection (PIP) benefits, under the cited policy of insurance. The claim at issue is identified by Plaintiff as claim number, 59-A246-478. A copy of the PIP Log is attached hereto as STATE FARM "EXHIBIT B."
7. Joshua Coleman was an occupant of the commercial motor vehicle described above as defined by relevant Florida Statute § 627.732.

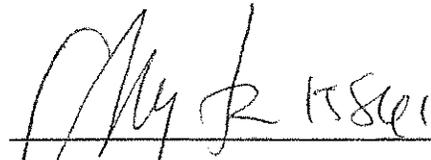
8. STATE FARM has requested reimbursement from CITY OF GAINESVILLE for monies paid under the State Farm PIP policy pursuant to Florida Statute § 627.7405, requiring that the owner or insurer of a commercial vehicle reimburse the PIP carrier who paid benefits. A copy of Plaintiff's initial Demand dated January 6, 2010, is attached hereto as "EXHIBIT C." A copy of Plaintiff's Second and Final Demand dated March 11, 2010, is attached hereto as "EXHIBIT D."
9. However, CITY OF GAINESVILLE has failed and refused to honor its statutory obligations and reimburse Plaintiff for monies paid under the State Farm PIP policy.
10. STATE FARM has paid money from PIP benefits to and on behalf of the insured, Joshua Coleman.
11. CITY OF GAINESVILLE maintains the primary duty to pay or in the very least, a statutory duty and obligation to reimburse Plaintiff on behalf of the insured.
12. Plaintiff has complied with all conditions precedent to maintaining this action and has even provided timely notice of the accident to Defendant, as well as several pre-suit demands for reimbursement.
13. Plaintiff is entitled to interest on monies owed. Plaintiff has also been compelled to engage the services of the undersigned counsel to prosecute the claim, and is entitled to reasonable attorney's fees pursuant to Florida Statute §627.428, as well as §627.730, et seq., §627.7405, and other Florida Statutes.

14. Based on the above statutes, STATE FARM is entitled to a commercial right of reimbursement from CITY OF GAINESVILLE, as the owner of the insured vehicle. State Farm is entitled to the reimbursement of \$10,000.00 based upon all expenses paid by State Farm on behalf of Joshua Coleman.

WHEREFORE, Plaintiff, STATE FARM sues Defendant CITY OF GAINESVILLE for reimbursement/compensatory damages as well as seeks an award and recovery of all costs, interest, attorney's fees and all other relief this Court deems just, proper and recoverable. Plaintiff also respectfully requests a trial by jury on all issues so triable.

DATED, this, the 23rd day of June, 2010.

RESPECTFULLY SUBMITTED,



DAVID B. KAMPF, ESQ.
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400 North Ashley Drive, Suite 1625
Tampa, FL 33602
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Facsimile: (813) 241-0205
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