



# MEMORANDUM

Office of the City Attorney

0 0 0 4 5 5

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

TO: Mayor and City Commissioners

DATE: September 25, 2000

FROM: City Attorney

CONSENT


SUBJECT: Terrence Evanich v. City of Gainesville  
Alachua County Circuit Court; Case No.: 01-00-CA-3077

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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 in the case styled Terrence Evanich v. City of Gainesville, Alachua County Circuit Court, Case Number 01-00-CA-3077.

On September 8, 2000, the City of Gainesville received a Summons and Complaint filed by Terrence Evanich in this action. On July 16, 1999, while operating a lawn mower, Mr. Evanich ran into a GRU transformer. Mr. Evanich alleges that the transformer exploded, knocking him from his mower and rupturing the fuel tank, which caused burns to his body. He alleges that GRU was negligent in the placement of the transformer and in its failure to warn of the danger in coming into contact with the box. Mr. Evanich seeks damages from the City as a result of his injuries.

Prepared by:

  
Elizabeth A. Waratuke,  
Litigation Attorney

Submitted by:

  
Marion J. Radson,  
City Attorney

EAW/bdp

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

CIVIL DIVISION

TERRENCE EVANICH, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
CITY OF GAINESVILLE, a )  
municipal corporation, )  
 )  
Defendant. )  
 )

Case No.: 01-00-CA-3077

Division: J

A TRUE COPY  
STEPHEN M. DELRICH, SHERIFF  
ALACHUA COUNTY, FLORIDA  
Served at 1:30 p.m. on the 8 day  
of September, 20 00  
By: [Signature] As Deputy Sheriff

SUMMONS

COPY

STATE OF FLORIDA:  
TO ALL AND SINGULAR THE SHERIFFS OF SAID STATE:  
GREETINGS:

YOU ARE HEREBY COMMANDED to serve this summons and a copy of the complaint and request for admissions to the Defendant in the above-styled cause.

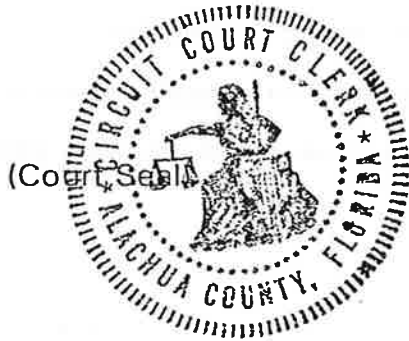
The Honorable Paula Delaney  
Mayor, City of Gainesville  
City Hall  
Gainesville, Florida 32602

The Defendant is hereby required to serve written defenses to said complaint on the plaintiff's attorney, whose name and address is:

Michael W. Jones  
Michael W. Jones, P.A.  
4046 Newberry Road  
Post Office Box 90099  
Gainesville, Florida 32607  
(352) 375-2222  
(352) 335-7737 - Fax

30855  
within ~~20~~ days after service of this summons upon that defendant, exclusive to the day of service, and to file the original of the 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.

WITNESS my hand and seal of said Court on 5 <sup>September</sup> ~~August~~, 2000.



J.K. (Buddy) Irby  
Clerk of Circuit Court

BY: M. Edmonson  
Deputy Clerk

COPY

*Persons with disabilities requesting reasonable accommodations to participate in this proceeding should contact (352) 374-3639 (Voice & TDD) or via Florida Relay Service at (800) 955-8771.*

## 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, podría 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).

## IMPORTANT

Des poursuites judiciaires ont été entreprises contre vous. Vous avez 20 jour 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 le 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 réquerir 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 a son avocat) nommé ci-dessous.

ORIGINAL  
*[Handwritten signature]*

**FORM 1.997 CIVIL COVER SHEET**

The civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of reporting judicial workload data pursuant to Florida Statute 25.075.

**I. CASE STYLE**

(Name of Court) **CIRCUIT**

**TERRENCE EVANICH,**

Case #: 01-00-CA-3077

Judge J

Plaintiff,

vs.

**CITY OF GAINESVILLE, a**  
municipal corporation,  
Defendant.

00 SEP -5 PM 3:19  
ALACHUA COUNTY, FL  
CIVIL COURT

**II. TYPE OF CASE (Place an X in one box only. If the case fits more than one type of case, select the most definitive.)**

**DOMESTIC RELATIONS**

**TORTS**

**OTHER CIVIL**

- Simplified dissolution
- Dissolution
- Support-IV-D

- Professional Malpractice
- Products liability
- Auto negligence

- Contracts
- Condominium
- Real property/  
Mortgage foreclosure
- Eminent domain
- Other

- Support-Non-IV-D
- URESA-IV-D
- URESA-Non-IV-D
- Domestic violence
- Other domestic relations

Other negligence

**III. Is Jury Trial Demanded in Complaint?**

- Yes
- No

DATE 24 AUG 00

SIGNATURE OF ATTORNEY FOR PARTY  
INITIATING ACTION *[Handwritten signature]*



5. At said time and place, while operating a lawn mower, Mr. Evanich bumped a large transformer box with the lawn mower, causing an explosion which knocked Mr. Evanich from his mower and ruptured the fuel tank, spreading fire over the ground and Mr. Evanich.

6. The above-described transformer was owned, installed, maintained and operated by GRU, at all times material hereto.

7. At said time and place, the Defendant knew or should have known that its transformer box was in a common area where people traverse, and where lawn maintenance equipment would be operated, and that people and equipment would likely come in contact with it. Contact with the transformer by people and lawn maintenance equipment, was foreseeable to the defendant.

8. At all material times, the Defendant owed a legal duty to the Plaintiff to provide a transformer that was not explosive upon similar contacts and to warn of any hazard of touching the box.

9. At said time and place, the Defendant breached said legal duty to the Plaintiff, in one or more of the following ways:

- a. by leaving in the public lawn area a transformer box that was explosive upon contact with the Plaintiff's lawn mower; and
- b. by failing to warn the Plaintiff of the charged, explosive nature of the box in the lawn area.

10. As a direct and proximate result of this breach of legal duty by the Defendant, the Plaintiff sustained physical and mental injuries; scarring and disfigurement; incurred medical and hospital bills; lost wages and earning capacity; sustained physical and mental pain and suffering; aggravated preexisting injuries and conditions; and lost the capacity to fully enjoy life. All such losses shall continue in the future.

11. The Plaintiff has fully complied with all conditions precedent to initiating this action.

WHEREFORE, the Plaintiff, TERRENCE EVANICH, demands judgment against the Defendant, the City of Gainesville, for damages and costs, and requests a jury trial.

DATED this 21 day of July, 2000.

MICHAEL W. JONES, P.A.

BY: 

Michael W. Jones  
FL Bar No.: 296198  
P.O. Box 90099  
4046 Newberry Road  
Gainesville, Florida 32607  
(352) 375-2222  
(352) 335-7737 - Fax  
Attorney for Plaintiff