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OFFICE OF THE CITY ATTORNEY

MAY 19 2014

RECEIVED

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

CASE NO. 2014 CA 1704

BARBARA SAPP and JAMES SAPP,
her husband,

Plaintiffs,

vs.

CITY OF GAINESVILLE and
SCHOOL BOARD OF ALACHUA
COUNTY,

Defendants.

A True Copy
SADIE DARNELL, SHERIFF
ALACHUA COUNTY, FLORIDA
Served at 356 on the 19 Day
of May, 2014
BY [Signature] 0129
AS DEPUTY SHERIFF

SUMMONS

THE 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 in the above-styled cause upon the Defendant:

CITY OF GAINESVILLE
by serving Mayor Ed Braddy
200 E. University Avenue
Gainesville, FL 32601

IMPORTANT

A lawsuit has been filed against you. You have 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 if you want the Court to hear your case.
If you do not file your response on time, you may lose the case, and your wages,
money, and property may thereafter be taken without further warning from 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 Plaintiffs' attorney named below.

IMPORTANTE

Usted ha sido demandado legalmente. Tiene veinte (20) días, contados a partir del recibo de esta notificación, para contestar le demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefonica no lo protegera; si usted desea que el tribunal considere su defensa, debe presentar su respuesta por escrito, incluyendo el numero del caso y los nombres de las partes interesadas en dicho caso. Si usted no contesta la demanda a tiempo, podiese perder el caso y podria 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 guia telefonica.

Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, debera usted enviar pro correo o entregar una copia de su respuesta a la persona denominada abajo como "Plaintiff/Plaintiff's Attorney." (Demandante o Abogado del Demanadante).

IMPORTANT

Des poursuites judiciaires ont ete entreprises contre vous. Vous avez 20 jours consecutifs a partir de la date de l'assignation de cet'te citation pour deposer une reponse ecrite a la plainte ci-jointe aupres de ce Tribunal. Un simple coup de telephone est insuffisant pour vous proteger; vous etes obligee de deposer votre reponse ecrite, avec mention du numero de dossier ci-dessus et du nom des parties nommees ici, si vous souhaitez que le Tribunal entende votre cause. Si vous ne deposez pas votre reponse ecrite dans le relai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent etre saisis par la suite, sans aucun preavis ulterieur du Tribunal. Il y a d'autres obligatoins juridiques et vous pouvez requerir les services immediats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez telephoner a un service de reference d'avocats ou a un bureau d'assistance juridique (figurant a l'annuaire de telephones).

Si vous choisissez de deposer vous-meme une reponse ecrite, il vous faudra egalement, en meme temps que cette formalite, faire parvenir ou expedier une copie au carbone ou une photocopie de votre reponse ecrite au "Plaintiff/Plaintiff's Attorney" (Plaignant ou a son avocat) nomme ci-dessous.

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.

WITNESS my hand and the seal of this Court this **14th** day of May, 2014.



STEVEN W. WINGO, P.A.
Steven W. Wingo, Esq.
2437 S.E. 17th Street, Suite 201
Ocala, FL 34471
(352) 387-0220
Florida Bar No. 0008011
Attorney for Plaintiff

J.K. "BUDDY" IRBY
Alachua County Clerk of Court

By: *Christine M. Wilson*
As Deputy Clerk

J. K. IRBY,
CLERK OF THE CIRCUIT COURT
CIVIL DIVISION
201 E UNIVERSITY AVE
GAINESVILLE, FL 32601

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

CASE NO. 2014 CA 1704

BARBARA SAPP and
JAMES SAPP, her husband,

Plaintiffs,

v.

CITY OF GAINESVILLE and
SCHOOL BOARD OF ALACHUA
COUNTY,

Defendants.

COMPLAINT

Plaintiffs, BARBARA SAPP and her husband, JAMES SAPP, sue the Defendants, CITY OF GAINESVILLE and SCHOOL BOARD OF ALACHUA COUNTY, and state:

1. This is an action for damages that exceed \$15,000.00.
2. At all times material to this Complaint, Plaintiffs Barbara Sapp and James Sapp were residents of Columbia County, Florida.
3. At all times material hereto, Defendant City of Gainesville was the owner of, and had the rights to possession, custody, or control of, portions of a sports field known as Citizens' Field, 1400 N.E. Eighth Avenue in Gainesville, Alachua County, Florida, (hereinafter referred to as "Citizens' Field"), and invited the public onto the field.

4. At all times material hereto, Defendant School Board of Alachua County was a lessee of Citizens' Field, and was in possession, custody and control of the field; and invited the public onto the field.

5. On the night of November 2, 2012, Barbara Sapp was an invitee on the premises of Citizens' Field in order to attend a high school football game.

6. After the game, Barbara Sapp and James Sapp were leaving the field through one of the limited access gates and were walking back to their car, which was parked in a designated parking area.

7. Mr. and Mrs. Sapp walked out the front gate of the fenced field, using the available concrete sidewalk which ends outside of the gate and leads pedestrians to then walk through an open grass and dirt field to reach the designated parking area.

8. There are no walkways provided in front of the fenced field to the designated parking areas or the road, necessitating that invitees walk through the grass and dirt field after the concrete pathways ended.

9. When walking through the grass and dirt field which served as the only pedestrian access to the designated parking area, Barbara Sapp tripped over a raised manhole cover in the middle of the grass field.

10. The manhole cover causing Barbara Sapp to trip was dark in color, was raised more than two inches above the surrounding ground, and was not marked as a hazard in any way.

11. At the time of the incident, which was at night when it was dark, the manhole cover was not visible to a reasonably prudent pedestrian.

12. In addition to the dark, raised manhole cover constituting a hidden hazard for pedestrians, there was not any lighting at the time so that the area was very dark. Lights had in fact been installed to provide lighting to the walking and parking areas, but the light had not been maintained and was inoperable at the time of the incident.

Count I — Negligence — School Board of Alachua County

13. Plaintiffs re-allege paragraphs 1-12.

14. As lessee of the field and host of the football game to which it invited the public, the School Board of Alachua County owed the public, including Barbara Sapp, a duty to maintain Citizens' Field in a reasonably safe condition. In addition, it owed a duty to the general public, including the Sapps, to warn the public of any hidden dangers at Citizens' Field which were unknown to them.

15. The School Board of Alachua County negligently maintained Citizens' Field. The negligence in the maintenance of Citizens' Field includes, but is not limited to, the following:

- (a) failing to provide a safe ingress and egress between the public field and the parking lot;
- (b) failing to warn of the dangers created by the inconspicuous, defective, and dangerous condition of the manhole cover;
- (c) failing to maintain proper lighting in an area used by the public;
- (d) failing to inspect the park, using up-to-date safety checklists, which would have revealed the presence of the dangerous condition; and
- (e) failing to maintain its premises in a reasonably safe condition, free from defects and other dangerous conditions.

16. The dangerous condition was known to the School Board of Alachua County or had existed for a sufficient length of time so that the School Board should have known of it.

17. The School Board's conduct constituted a breach of the duties of care it owed to the Plaintiffs.

18. As a result of the School Board's negligence, as described above, Barbara Sapp sustained injuries and damages including, but not limited to, the permanent loss of an important bodily function and/or permanent injury with a reasonable degree of medical probability and/or significant or permanent scarring or disfigurement and/or the aggravation of pre-existing conditions. She was injured in and about her body and extremities, suffered pain, mental anguish, inconvenience, and loss of the capacity for the enjoyment of life. She has incurred and will continue to incur medical expenses in the treatment of her injuries. She has suffered physical handicap, lost earnings, and her working ability is impaired. The injuries are permanent and continuing in nature, and she will suffer such losses, expenses, and impairments in the future.

19. At all times material to this Complaint, Plaintiff James Sapp was married to Plaintiff Barbara Sapp. As of a result of the negligence alleged herein and the damages previously alleged herein, he has lost the care, comfort, society, attention, and services of his wife, and his losses are permanent or continuing in nature.

20. Plaintiffs have satisfied all conditions precedent necessary before filing this action, including providing the administrative notice required by FLA.STAT. §768.28 and waiting the requisite time period before filing suit.

WHEREFORE, Plaintiffs demand judgment for damages against the the School Board of Alachua County, plus costs of this action and interest, and demands a trial by jury.

Count II — Negligence — City of Gainesville

21. Plaintiff re-alleges paragraphs 1-12.

22. As owner and lessor of Citizen's field, the City of Gainesville retained the right to take possession, custody, and control of the field and in fact did so several times per year. In addition, the manhole cover which is the subject of this action was constructed, controlled, and maintained exclusively by the City of Gainesville through its appropriate water and sewer department.

23. Since it retained the right to possess and control Citizens' Field, and in fact did so on several occasions per year, and since it constructed, maintained, and controlled the manhole cover at issue in this case, the City of Gainesville owed a duty to maintain Citizens' Field and the manhole cover in a reasonably safe condition. In addition, it owed a duty to the general public, including the Sapps, to warn the public of any hidden dangers at Citizens' Field, and in particular in regard to the manhole cover in question.

24. The City of Gainesville negligently maintained Citizens' Field and the manhole cover in question. The negligence in the maintenance of Citizens' Field includes, but is not limited to, the following:

- (a) failing to provide a safe ingress and egress between the public field and the parking lot;

- (b) failing to warn of the dangers created by the inconspicuous, defective, and dangerous condition of the manhole cover;
- (c) failing to maintain proper lighting in an area used by the public;
- (d) failing to inspect the park, using up-to-date safety checklists, which would have revealed the presence of the dangerous condition; and
- (e) failing to maintain its premises in a reasonably safe condition, free from defects and other dangerous conditions.

25. The dangerous condition was known to the City of Gainesville or had existed for a sufficient length of time so that the City of Gainesville should have known of it.

26. The City of Gainesville's conduct constituted a breach of the duties of care it owed to the Plaintiffs.

27. As a result of the City of Gainesville's negligence, as described above, Barbara Sapp sustained injuries and damages including, but not limited to, the permanent loss of an important bodily function and/or permanent injury with a reasonable degree of medical probability and/or significant or permanent scarring or disfigurement and/or the aggravation of pre-existing conditions. She was injured in and about her body and extremities, suffered pain, mental anguish, inconvenience, and loss of the capacity for the enjoyment of life. She has incurred and will continue to incur medical expenses in the treatment of her injuries. She has suffered physical handicap, lost earnings, and her working ability is impaired. The injuries are permanent and continuing in nature, and she will suffer such losses, expenses, and impairments in the future.

28. At all times material to this Complaint, Plaintiff James Sapp was married to Plaintiff Barbara Sapp. As of a result of the negligence alleged herein and the damages previously alleged herein, he has lost the care, comfort, society, attention, and services of his wife, and his losses are permanent or continuing in nature.

29. Plaintiffs have satisfied all conditions precedent necessary before filing this action, including providing the administrative notice required by FLA.STAT. §768.28 and waiting the requisite time periods before filing suit.

WHEREFORE, Plaintiffs demand judgment for damages against the City of Gainesville, plus costs of this action and interest, and demands a trial by jury.

STEVEN W. WINGO, P.A.

By: 
Steven W. Wingo, Esq.
Florida Bar No. 0008011
2437 S.E. 17th Street, Suite 201
Ocala, Florida 34471
(352) 387-0220
debbie@stevenwingo.com
jennifer@stevenwingo.com