

**LEGISTAR NO.**

**140879**

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

FERN GRUMBINE,

Plaintiff,

v.

CASE NO. 2015-CA-1221

CITY OF GAINESVILLE,

Defendant.

COMPLAINT

COMES NOW the Plaintiff, FERN GRUMBINE, by and through her undersigned counsel, and hereby sues the Defendant, CITY OF GAINESVILLE, and alleges as follows:

PARTIES

1. At all times relevant to this cause of action, Plaintiff FERN GRUMBINE (hereinafter "PLAINTIFF") was a resident of the State of Florida.
2. At all times relevant to this cause of action, Defendant CITY OF GAINESVILLE, (hereinafter "DEFENDANT"), was a municipal corporation located in Alachua County, Florida.
3. At all times relevant to this cause of action, DEFENDANT was engaged in providing transportation services as a common carrier named or doing business as REGIONAL TRANSIT SYSTEM (hereinafter "RTS").

4. At all times relevant to this cause of action, RTS was, and still is, a common carrier providing transportation on busses to the general public in exchange for payment of a fee.

#### **JURISDICTION**

5. This action is for damages that exceed \$15,000, exclusive of costs and fees.
6. Venue is proper in Alachua County, Florida, pursuant to Fl. Stat. §47.011.

#### **CONDITIONS PRECEDENT**

7. Pursuant to §768.28(6), Fla. Stat., the claim was presented in writing, including notice of the injuries described in this Complaint, by PLAINTIFF to DEFENDANT, on December 29, 2011 and January 13, 2012. Copies of the notices are attached to this Complaint as Exhibit "A" and "B", respectively.
8. DEFENDANT has not made a final disposition of the PLAINTIFF'S claim within 6 months of the written presentation of the claims in the notices provided. Thus, the PLAINTIFF'S claim is deemed finally denied for purposes of the notice requirements imposed by §768.28(6), Fla.Stat.
9. PLAINTIFF has complied with all conditions precedent to bringing the causes of action asserted herein.

#### **COMMON ALLEGATIONS**

10. The incident that is the subject of this Complaint took place on or about April 2, 2011, in Gainesville, Alachua County, Florida on a RTS bus.

11. At all times material to this Complaint, PLAINTIFF was lawfully onboard or exiting an RTS bus as a business invitee.
12. At all times material to this Complaint, DEFENDANT owed PLAINTIFF a duty of reasonable care and a duty to warn of any hazards that may be present, including but not limited to, moving parts such as wheelchair lift ramps near entrances and exits of its RTS busses.
13. At all times material to this Complaint, DEFENDANT had a duty to operate and maintain its publicly accessible walking surfaces and equipment, including but not limited to, the aisle, floor, stairwells, entrances and/or exits of the RTS bus, (hereinafter "WALKING SURFACES"), as well as its general facilities and handicap equipment in a reasonably safe condition for business invitees.
14. On April 2, 2011, DEFENDANT employed a driver named Willie Owens, who was the operator of RTS Bus No. 1015, on which PLAINTIFF was a business invitee.
15. At that time and place, Willie Owens, in the course and scope of his employment with DEFENDANT, stopped RTS Bus No. 1015 at or near the Oaks Mall Plaza so passengers onboard the RTS bus could exit and re-enter.
16. At that time and place, PLAINTIFF was attempting to exit the RTS bus.
17. At that time and place, DEFENDANT, by and through its agents or employees, including Willie Owens, negligently operated the wheelchair ramp lift on RTS Bus No. 1015, causing injury to the PLAINTIFF.

18. In addition or alternatively, DEFENDANT negligently trained its employee, Willie Owens, in the operation of the wheelchair lift ramp to avoid injury to patrons.

19. At that time and place, the wheelchair lift struck the PLAINTIFF in her legs, resulting in serious injuries.

**COUNT ONE - NEGLIGENCE**

20. PLAINTIFF repeats and re-alleges each and every allegation contained in Paragraphs 1 through 19 as if fully set forth herein.

21. On April 2, 2011, DEFENDANT owed PLAINTIFF a duty to exercise reasonable care in maintaining the WALKING SURFACES of its RTS bus in a reasonably safe condition for business invitees.

22. Additionally or alternatively to the foregoing, DEFENDANT owed PLAINTIFF a duty to not create a hazardous condition which caused injury to the PLAINTIFF while operating its RTS busses.

23. Additionally or alternatively to the foregoing, DEFENDANT owed PLAINTIFF a duty of reasonable care to ensure that its employees were properly trained on how to operate mechanical systems within an RTS bus, including the wheelchair lift ramp.

24. Additionally or alternatively to the foregoing, DEFENDANT had a duty as a common carrier to exercise the highest degree of care consistent with the practical operation of a bus.

25. At that time place, DEFENDANT owed PLAINTIFF a duty to warn of any potential hazards present or created on the WALKING SURFACES, including those created by improper operation of the wheelchair lift ramp.
26. At that time and place, DEFENDANT, by and through its agents or employees, knew or should have known that the operation of the wheelchair lift ramp while patrons were on the WALKING SURFACES of its RTS bus created a dangerous condition.
27. Additionally or alternatively to the foregoing, DEFENDANT, by and through its agents or employees, knew or should have known that operating the wheelchair lift ramp on the WALKING SURFACES so as to cause the wheelchair lift ramp to strike the PLAINTIFF created a dangerous condition which posed a risk of injury to PLAINTIFF.
28. At that time and place, Willie Owens was in the scope and course of his employment or agency with the DEFENDANT.
29. At that time and place, DEFENDANT, by and through its agents or employees, negligently operated the wheelchair lift ramp, causing it to strike the PLAINTIFF.
30. Additionally or alternatively to the foregoing, DEFENDANT negligently failed to train or instruct its employees as to how to operate the wheelchair lift ramp within a RTS bus to avoid injuries to business invitees, including PLAINTIFF.

31. Additionally or alternatively to the foregoing, Defendant breached its high duty as a common carrier by negligently operating the wheelchair lift ramp on its RTS bus causing it to strike the PLAINTIFF.

32. As a direct and proximate result of DEFENDANT's negligence, PLAINTIFF suffered bodily injury and resulting pain and suffering, disability, mental anguish, inconvenience, loss of capacity for the enjoyment of life, the expense of medical and nursing care, as well as the activation or aggravation of any preexisting conditions. These losses are permanent in nature, and PLAINTIFF will continue to suffer from these losses in the future.

**WHEREFORE**, PLAINTIFF demands judgment for damages against DEFENDANT, and a trial by jury of all issues so triable.

**ALBA & YOCHIM, P.A.**

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