

**LEGISTAR NO.**

**120618**

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

CASE NO. 2012-CA 4494

LISA MELTON, as Personal  
Representative of the Estate of  
JARED MELTON, deceased,

Plaintiff,

vs.

CITY OF GAINESVILLE  
d/b/a GAINESVILLE REGIONAL  
UTILITIES, a political subdivision  
of the State of Florida,

Defendant.

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**COMPLAINT**

COMES NOW the Plaintiff, LISA MELSON, as Personal Representative of the Estate of JARED MELTON, by and through her undersigned attorney and sues the Defendant, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES, a political subdivision of the STATE OF FLORIDA, and alleges:

1. This is an action for damages in excess of FIFTEEN THOUSAND AND NO/100 (\$15,000.00) DOLLARS.

2. That the Plaintiff, LISA MELTON, is the duly appointed Personal Representative of the Estate of JARED MELTON, deceased. A copy of the Letters of Administration is attached hereto and by reference made a part hereof as Exhibit 1.

3. That this is an action for a wrongful death brought pursuant to the Florida Wrongful Death Act, §768.16, et. seq., Florida Statutes.

4. That the Plaintiff's decedent, JARED MELTON, was born on November 17, 1964 and died on August 22, 2011 leaving known survivors defined under the Florida Wrongful Death Act, 768.16-768.27, Florida Statutes.

5. That the known survivors are potential beneficiaries of a recovery for the wrongful death of the deceased and their relationship to the decedent are as follows:

- A. The Estate of Jared Melton;
- B. Bentley Ray Melton, surviving son; date of birth 08/15/10
- C. Cierra Ann Melton, surviving daughter; date of birth 08/23/05

6. The Defendant, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES, is a governmental municipality and political subdivision of the STATE OF FLORIDA, organized and existing under the laws of the State of Florida as defined in Florida Statute 768.28; that all conditions precedent to the institution of the litigation have been met; timely written notice has been given to the Mayor of the City of Gainesville, General Manager of Gainesville Regional Utilities and Chief Financial Officer, in compliance with §768.28(6)(a) Florida Statute. A copy of the notice letters and the Return Receipt cards are attached hereto and by reference made a part hereof as Exhibit 2.

7. That on or about August 22, 2011 the Plaintiff's decedent, JARED MELTON, was lawfully on the premises known as Tuscan Bend Apartments located at 3009 S.W. Archer Road, Gainesville, Florida as an employee of Independent Drilling, Inc. who had been previously retained by Central Florida Testing Laboratories, Inc. to perform ground testing including boring samples on the premises. Central Florida Testing Laboratories had previously contacted Sunshine State One Call, Inc. of Florida to have utilities location performed on the premises of Tuscan Bend Apartments, the purpose of which was to locate utilities such as electrical facilities in areas in which excavation is anticipated. Sunshine State One Call, Inc. following a prescribed procedure, contacted the Defendant, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES, to locate the utilities including electrical facilities in the areas that were anticipated to be excavated at Tuscan Bend Apartments. The location by the Defendant, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES, was performed on August 10, 2011. No electrical conduction wires were located or marked in the area on the back side of Building B of Tuscan Bend Apartments indicating the area was okay and safe for excavation.

8. That on or about August 22, 2011 while excavating with a bore auger on the back side of Building B, the Plaintiff's decedent contacted an unidentified and unmarked live underground 120 volt security light wire which resulted in his electrocution death.

9. That said unidentified and unmarked underground power line was left by the Defendant, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL

UTILITIES, in a defective, dangerous and hazardous condition in that the electrical line encountered by the Plaintiff's decedent was improperly and incorrectly marked on the schematic in use at the time of the location performed on 08/10/11; further, the Defendant, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES, by and through its agents, servants and employees, while exercising an operational function, were careless and negligent in the maintenance, operation, control, inspection, handling and supervision of their underground electrical facilities and schematics. Further the Defendant, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES, by and through its agents, servants and employees, failed to warn the Plaintiff's decedent, JARED MELTON, of the defective, dangerous and hazardous conditions of which they knew or within the exercise of due diligence should of known.

10. That the Defendant, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES, by and through its agents, servants and employees, failed to take appropriate precautions, failed to use reasonable care and failed to properly maintain and secure the premises for the safety of those lawfully on the premises and failed to take necessary safety precautions and failed to locate the fatally mapped security light wire in such a way that it could not be overlooked or improperly located.

11. That the area where the incident took place was an area that the Defendant, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES, would have expected workers and others such as the Plaintiff's decedent, JARED

MELTON, to be, and the character, location and surrounding conditions and circumstances of the dangerous and hazardous conditions were not readily apparent to the Plaintiff's decedent, JARED MELTON, and were such that a prudent worker or others lawfully on the premises would not appreciate them.

12. That the Defendant, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES, failed to comply with the applicable laws, rules, regulations and practices pertaining to safety and prevention of injury.

13. That the Defendant, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES, had a duty to maintain, operate, supervise and control said utilities in a reasonably safe condition and to protect those lawfully on the premises from unreasonable risks of harm; further, the Defendant, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES, had a duty to warn of the dangerous and hazardous conditions of which they knew or should have known.

14. That the conduct of the Defendant, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES, created a foreseeable zone of risk, creating a duty on the Defendant, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES, to lessen the risk or take precaution to protect those lawfully on the premises from harm. Further, that the Defendant, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES, failed in the exercise of their duties.

15. That the duties owed by the Defendant, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES, are non-delegable and extended to the

Plaintiff's decedent, JARED MELTON, who is within the class said duties are intended to protect.

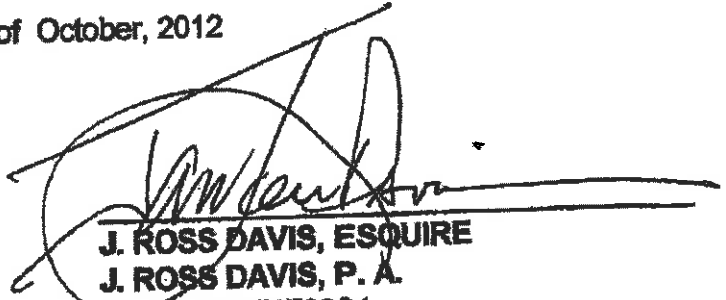
16. That the Defendant, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES, is vicariously liable for acts or omissions of its agents, servants, subcontractors and employees.

17. That as a direct and proximate result of the above described negligence of the Defendant, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES, the Estate of Jared Melton, deceased, and his survivors have sustained damages including, but not limited to the following:

- A. Loss of net accumulations which the decedent would have left as a part of his Estate if he had lived his normal life expectancy;
- B. Medical and funeral expenses;
- C. For each survivor the loss of support and services;
- D. For Bentley Ray Melton and Cierra Ann Melton, minor children, loss of parental companionship, instruction, guidance and mental pain and suffering as a result of the injury and death.

WHEREFORE the Plaintiff, LISA MELTON, as Personal Representative of the Estate of Jared Melton, sues the Defendant, CITY OF GAINESVILLE d/b/a GAINESVILLE REGIONAL UTILITIES, for damages, and such other and further relief as this Court may deem just and proper and demands a trial by jury.

DATED this 19<sup>th</sup> day of October, 2012

A handwritten signature in black ink, appearing to read "J. Ross Davis", is written over a horizontal line. The signature is stylized and somewhat cursive.

**J. ROSS DAVIS, ESQUIRE**

**J. ROSS DAVIS, P. A.**

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Attorney for Plaintiff