

**LEGISTAR NO.**

**150447**

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

**CASE NO.:**

**ELIZABETH SYLVESTER,  
Plaintiff,**

**vs.**

**CITY OF GAINESVILLE,  
Defendant.**

---

**COMPLAINT**

Plaintiff, ELIZABETH SYLVERSTER, sues Defendant, CITY OF GAINESVILLE, and alleges:

1. This is an action for damages that exceed Fifteen Thousand Dollars (\$15,000.00), exclusive of interest, costs and attorneys' fees.
2. At all times material to this action, Plaintiff was a natural person residing in Alachua County, Florida.
3. At all times material to this cause of action, the Defendant, CITY OF GAINESVILLE, was a Florida municipality, lawfully chartered pursuant to the laws of Florida.
4. At all times material hereto, Defendant, CITY OF GAINESVILLE, was the owner of a motor vehicle being operated by Dontonya C. Smith.
5. Proper notice was given to Defendant, CITY OF GAINESVILLE, pursuant to §768.28(6), Florida Statutes; see Exhibit A, attached hereto.
6. On or about June 22, 2011, Plaintiff was the driver in a motor vehicle close to the intersection of North East 8th Ave, and North East 25th Street, in Gainesville, Alachua County, Florida.

7. At that time and place, Dontonya C. Smith was operating and driving a motor vehicle owned by Defendant, CITY OF GAINESVILLE, was traveling west on 8th Ave in Gainesville, Alachua County, Florida.

8. At that time and place, Dontonya C. Smith negligently operated and/or maintained the motor vehicle so that it collided with Plaintiff's motor vehicle.

9. As a direct and proximate result of Dontonya C. Smith's negligence, Plaintiff suffered bodily injury including a permanent injury to the body as a whole, pain and suffering of both a physical and mental nature, disability, physical impairment, disfigurement, inconvenience, loss of capacity for the enjoyment of life, aggravation of an existing condition, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money and loss of ability to lead and enjoy a normal life. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

**WHEREFORE**, Plaintiff, ELIZABETH SYLVESTER, demands judgment for damages against Defendant, CITY OF GAINESVILLE, and other such relief deemed proper by the Court. Plaintiff also demands a jury trial on all issues so triable.

**TUCKER & WELCH**

**/s/ Christopher K. Welch**  
**Christopher K. Welch, Esquire**  
**300 SE First Avenue, Suite C**  
**Ocala, FL 34471**  
**(352) 732-5330**  
**(352) 732-8727 fax**  
**ServiceCKW@charlietuckerpa.com**  
**FL Bar No.: 0275440**  
**Attorney for Plaintiff**

Filing # 28708677 E-Filed 06/19/2015 01:17:25 PM

**TUCKER & WELCH**  
TRIAL ATTORNEYS  
EVANS CENTRE  
300 SE FIRST AVENUE, SUITE C  
OCALA, FLORIDA 34471

**CHARLES R. TUCKER**  
**CHRISTOPHER K. WELCH**  
**CHRISIE F. ROBINSON**

**TELEPHONE (352) 732-5630**  
**FAX (352) 732-8727**  
**(352) 732-4277**

June 10, 2014

**CERTIFIED MAIL R.R.R.**

Gainesville Police Department Headquarters  
545 NW 8th Avenue  
Gainesville, FL 32601

Tony Jones, Chief of Police  
413 NW 8th Ave  
Gainesville, FL 32601

Gainesville Police Department  
PO Box 1250  
Gainesville, FL 32627

Risk Management/City of Gainesville  
PO Box 490  
Station 60  
Gainesville FL 32627

Risk Management/City of Gainesville  
City Hall  
200 East University Ave.  
Gainesville FL 32601

Department of Financial Services  
200 East Gaines Street  
Tallahassee, FL. 32399

RE: Claimant: Elizabeth Sylvester  
Date of Incident: 06/22/2011  
Location: NE 8<sup>th</sup> Avenue and NE 25<sup>th</sup> Street

**NOTICE OF INTENT TO INITIATE LITIGATION  
PURSUANT TO FLORIDA STATUTE SECTION 768.28**

To the above named addressees:

Please be advised that this firm represents Elizabeth Sylvester, born in Gainesville, Florida, date of birth January 5, 1993, and whose social security

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"2015 CA 002282" 28708677 Filed at Alachua County Clerk 06/19/2015 01:17:30 PM EDT

number is [REDACTED] in connection with injuries sustained by her as a result of the negligence of your agents and employees.

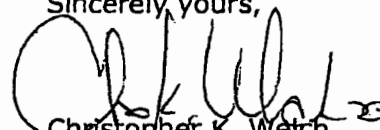
This letter will serve as their Notice of Intent to Initiate Litigation pursuant to Florida Statute Section 768.28, against the political subdivision of the Gainesville Police Department, on account of an incident which occurred on June 22, 2011. This incident is more particularly described as being a motor vehicle accident involving a 2010 Dodge Charger, being operated by Dontonya C. Smith, while in the employment of the Gainesville Police Department, and a 2001 Ford Explorer being operated by Elizabeth Sylvester. A copy of the subject accident report is enclosed for your review. There are no prior adjudicated unpaid claims.

The proposed lawsuit will allege that employee(s) (or agents) of the Gainesville Police Department, while acting within the scope of their employment (agency) was negligent in the operation, maintenance and use of the Gainesville Police Department's motor vehicle, and but for this negligent operation said accident would not have occurred.

This notice is filed to preserve the rights of Elizabeth Sylvester, under Florida Statutes, Section 768.28, to bring legal action against the Gainesville Police Department for injuries she sustained herein. Should an amicable disposition of this claim not be made within the following six months, we will at that point in time be prepared to institute legal action relative to this matter. I will be more than happy to furnish you with additional information which you may require in order to evaluate this claim.

Your attention to this matter is greatly appreciated.

Sincerely yours,



Christopher K. Weich

CKW:zv

## SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Dept. of Financial Services  
200 East Gaines Street  
Tallahassee FL  
32399

2. Article Number

(Transfer from service label)

7012 3460 0000 5022 6514

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

## COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

F. Nieboer

 Agent Addressee

B. Received by (Printed Name)

Received by

C. Date of Delivery

DEPT OF FINANCIAL SERVICES

D. Is delivery address different from item 1?  YesIf YES, enter delivery address below:  No

3. Service Type

 Certified Mail Express Mail Registered Return Receipt for Merchandise Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes

## SENDER: COMPLETE THIS SECTION

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Risk Management / City of  
City Hall  
200 East University Ave  
Gainesville FL  
32601

2. Article Number

(Transfer from service label)

7012 3460 0000 5022 6354

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

## COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

M. Nieboer

 Agent Addressee

B. Received by (Printed Name)

R. Nieboer

C. Date of Delivery

6/11/14

D. Is delivery address different from item 1?  YesIf YES, enter delivery address below:  No

3. Service Type

 Certified Mail Express Mail Registered Return Receipt for Merchandise Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes

## SENDER: COMPLETE THIS SECTION

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- Print your name and address on the reverse so that we can return the card to you.
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## 1. Article Addressed to:

Tony Jones, Chief of Police  
413 NW 8th Ave  
Gainesville, FL  
32601

## 2. Article Number

(Transfer from service label)

7012 3460 0000 5022 6323

## COMPLETE THIS SECTION ON DELIVERY

## A. Signature

X *M. W. Barnes* Agent Addressee

## B. Received by (Printed Name)

*M. W. Barnes*

## C. Date of Delivery

D. Is delivery address different from item 1?  YesIf YES, enter delivery address below:  No

545 NW 8 Ave

32601

## 3. Service Type

 Certified Mail Express Mail Registered Return Receipt for Merchandise Insured Mail C.O.D.

## 4. Restricted Delivery? (Extra Fee)

 Yes

PS Form 3811, February 2004

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102595-02-M-1540

## SENDER: COMPLETE THIS SECTION

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## 1. Article Addressed to:

Gainesville Police Dept  
Headquarters  
545 NW 8th Ave  
Gainesville, FL 32601

## 2. Article Number

(Transfer from service label)

7012 3460 0000 5022 6316

## COMPLETE THIS SECTION ON DELIVERY

## A. Signature

X *M. W. Barnes* Agent Addressee

## B. Received by (Printed Name)

*M. W. Barnes*

## C. Date of Delivery

D. Is delivery address different from item 1?  YesIf YES, enter delivery address below:  No

545 NW 8 Ave

32601

## 3. Service Type

 Certified Mail Express Mail Registered Return Receipt for Merchandise Insured Mail C.O.D.

## 4. Restricted Delivery? (Extra Fee)

 Yes

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- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

Risk Management/city of Gainesville  
P.O. Box 490  
Station 60  
Gainesville, FL 32627

## 2. Article Number

(Transfer from service label)

7012 3460 0000 5022 6347

PS Form 3811, February 2004

## COMPLETE THIS SECTION ON DELIVERY

## A. Signature

X

*Ben Walker* Agent Addressee

## B. Received by (Printed Name)

*BEN WALKER*

## C. Date of Delivery

*6/11/14*D. Is delivery address different from item 1?  YesIf YES, enter delivery address below:  No

## 3. Service Type

 Certified Mail Express Mail Registered Return Receipt for Merchandise Insured Mail C.O.D.

## 4. Restricted Delivery? (Extra Fee)

 Yes

## SENDER: COMPLETE THIS SECTION

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

Gainesville Police Dept  
P.O. Box 1250  
Gainesville FL  
32627

## 2. Article Number

(Transfer from service label)

7012 3460 0000 5022 6330

PS Form 3811, February 2004

## COMPLETE THIS SECTION ON DELIVERY

## A. Signature

X

*Porter Peterson* Agent Addressee

## B. Received by (Printed Name)

*PORTER PETERSON*

## C. Date of Delivery

D. Is delivery address different from item 1?  YesIf YES, enter delivery address below:  No

## 3. Service Type

 Certified Mail Express Mail Registered Return Receipt for Merchandise Insured Mail C.O.D.

## 4. Restricted Delivery? (Extra Fee)

 Yes

Domestic Return Receipt

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