



MEMORANDUM

Office of the City Attorney

0 0 0 4 5 4

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

TO: Mayor and City Commissioners

DATE: September 25, 2000

FROM: City Attorney

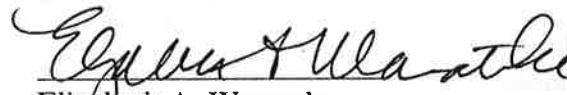
CONSENT

SUBJECT: Denise Healey v. City of Gainesville
Alachua County Circuit Court; Case No.: 01-00-CA-3107


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 Denise Healey v. City of Gainesville; Case No.: 01-00-CA-3107

On September 7, 2000, the City of Gainesville received a Summons and Complaint filed by Denise Healey in this action. Ms. Healey alleges that a tree obscured a stop sign controlling the intersection of S.E. 3rd Avenue and S.E. 14th Street. Ms. Healey alleges she was unable to see the stop sign, consequently did not stop, and entered the intersection colliding with another vehicle. Ms. Healey seeks damages from the City as a result of her 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

DENISE HEALEY,

Plaintiff,

vs.

CITY OF GAINESVILLE,

Defendant.

CASE NO.: 01-02-CA-3107
DIVISION: J

A TRUE COPY
STEPHEN M. OELRICH, SHERIFF
ALACHUA COUNTY, FLORIDA
Served at 1:15 P.M. on the 7 day
of September, 20 00
By Shaker
As Deputy Sheriff

SUMMONS

THE STATE OF FLORIDA:

To Each Sheriff of the State:

YOU ARE COMMANDED to serve this summons, a copy of the complaint or petition in this action, and the original plus one copy of interrogatories, on defendant:

City of Gainesville
c/o Paula Delaney, Mayor
200 E. University Avenue
Gainesville, FL 32601

COPY

Each defendant is required to serve written defenses to the complaint or petition on Daniel J. Glassman, Plaintiff's attorney, whose address is LAW OFFICES OF RUSH & GLASSMAN, 726 N.E. First Street, Gainesville, Florida 32601, within forty (40) days after service of this summons on that defendant, exclusive of 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.

DATED on September 6, 2000.



J.K. "BUDDY" IRBY,
Clerk of Court

By: W. Edmonson
Deputy Clerk

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

DENISE HEALEY

Plaintiff,

vs.

CITY OF GAINESVILLE.

Defendant.

CASE NO.: 06-00-CA-3107
DIVISION: J

COMPLAINT

The Plaintiff, DENISE HEALEY ("HEALEY"), by and through her undersigned attorney, sues Defendant, CITY OF GAINESVILLE ("CITY"), and states:

1. This action is for damages in excess of \$15,000.00.
2. At all times material to this cause, Plaintiff HEALEY was a resident of the County of Alachua, State of Florida.
3. At all times material to this cause, Defendant CITY was and remains a political subdivision of the State of Florida and was a municipal corporation organized and existing under the laws of the State of Florida.
4. At all times material to this cause, Defendant CITY owned and maintained an easement (road shoulder) adjacent to Southeast 14th Street north of the intersection of Southeast 14th Street and Southeast 3rd Avenue, in Gainesville, Florida.
5. Plaintiff has complied with all conditions precedent to this action as required under §768.28, Florida Statutes and any and all other notice provisions required by law. Said letter is attached as exhibit 1 and is incorporated herein by reference.

6. On June 16, 1998, Plaintiff HEALEY was traveling south on Southeast 14th Street in Gainesville, Florida.

7. As Plaintiff HEALEY approached the intersection of Southeast 3rd Avenue, a tree obscured a stop sign which was at the intersection of Southeast 14th Street and Southeast 3rd Avenue. The tree rendered Plaintiff HEALEY unable to see the stop sign.

8. Plaintiff HEALEY, without warning of the stop sign, proceeded to enter into the intersection whereupon she was struck broadside by another vehicle as she entered into the intersection.

9. The tree was on property owned or maintained by Defendant CITY and thus the CITY had a duty to maintain the tree in a safe condition.

10. The tree obscured the stop sign, creating an unreasonably unsafe condition. This dangerous condition existed for a sufficient length of time so that Defendant CITY knew or should have known of its existence. Although placed on actual or constructive knowledge of this dangerous condition, Defendant CITY took no precautionary measures to either correct the condition or warn the Plaintiff about the unreasonably unsafe condition.

11. The tree blocked a Defendant CITY maintained stop sign, thus the CITY had a duty to maintain the intersection in a reasonably safe condition by removing all blockage to the sign, or in the alternative, warning individuals of the dangerous condition.

12. Defendant CITY made a planning decision to erect a stop sign at above-stated intersection, thus the CITY had a duty to maintain the intersection in a reasonably safe condition and/or warn individuals of the dangerous condition.

13. By failing to maintain the tree in a safe condition, to keep its stop sign maintained in a reasonably safe condition, and/or warning individuals of the dangerous condition, Defendant

CITY breached its duty to Plaintiff HEALEY.

14. As a result of the Defendant's negligence, Plaintiff HEALEY suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a pre-existing condition. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future. Plaintiff's automobile was damaged and she lost the use of it during the period required for its repair or replacement.

WHEREFORE, Plaintiff respectfully demands judgment for damages against Defendant, other relief as the Court deems proper, and a trial by jury of all issues so triable.

LAW OFFICE OF RUSH & GLASSMAN



Daniel J. Glassman
Florida Bar #0053767
726 N. E. First Street
Gainesville, FL 32601
(352) 373-7566
Attorney for Plaintiff

Law Offices
ROBERT A. RUSH, P.A.
726 Northeast First Street
Gainesville, Florida 32601
(352) 373-7566

Robert A. Rush*
Daniel J. Glassman

*Board Certified Criminal
Trial Lawyer

March 22, 1999

Certified mail: Z 406 104 584

Mayor Paula Delaney
City of Gainesville
200 E. University Avenue
Gainesville, FL 32601

Re: My client: Denise Healey
SS#: 266-35-7134
DOB: 3/24/58
Date of Loss: 6/16/98

Dear Mayor Delaney:

This letter is in compliance with the notice provisions of §768.28, Florida Statutes. This claim is based upon the failure of the City to adequately maintain the intersection of SE 14th Street and SE 3rd Avenue in a reasonably safe manner.

Specifically, on June 16, 1998, my client Denise Healey was injured in an automobile accident which occurred at the intersection of SE 14th Street at SE 3rd Avenue. The stop sign at that intersection was obscured and improperly maintained. This fact is clearly noted in the investigating officer's police report.

If I may provide you with any additional information, please do not hesitate to contact me.

Sincerely,



Daniel J. Glassman

DJG/das

Is your RETURN ADDRESS completed on the reverse side?

SENDER: ■ Complete Items 1 and/or 2 for additional services. ■ Complete Items 3, 4a, and 4b. ■ Print your name and address on the reverse of this form so that we can return this card to you. ■ Attach this form to the front of the mailpiece, or on the back if space does not permit. ■ Write "Return Receipt Requested" on the mailpiece below the article number. ■ The Return Receipt will show to whom the article was delivered and the date delivered.		I also wish to receive the following services (for an extra fee): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.
3. Article Addressed to: Mayor Paula Delaney City of Gainesville 200 E. Univ. Ave. Gainesville, FL 32601	4a. Article Number 2 406 104 584	
	4b. Service Type <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Certified <input type="checkbox"/> Express Mail <input type="checkbox"/> Insured <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD	
	7. Date of Delivery 3-23-99	
5. Received By: (Print Name) NEOMIA BROWN	8. Addressee's Address (Only if requested and fee is paid)	
6. Signature: (Addressee or Agent) X Neomia Brown / Paula Delaney		
PS Form 3811, December 1994		Domestic Return Receipt

Thank you for using Return Receipt Service.

Z. 406. 104. 584



Receipt for Certified Mail
 No Insurance Coverage Provided
 Do not use for International Mail
 (See Reverse)

PS Form 3800, March 1993

Sent to	
Mayor Delaney / City of Gainesville	
Street and No.	
200 E. Univ. Ave.	
P.O., State and ZIP Code	
Gainesville, FL 32601	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

