



MEMORANDUM

Office of the City Attorney

050969

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

TO: Mayor and City Commissioners

DATE: February 27, 2006

FROM: City Attorney


CONSENT

SUBJECT: Audrey Norton, as Personal Representative of the Estate of Andre Christopher Norton vs. the City of Gainesville; Alachua County Circuit Court; Case No.: 01-06-CA-0120


Recommendation: The City Commission authorize the City Attorney, and special counsel if insurance coverage is available, to represent the City in the case styled Audrey Norton, as Personal Representative of the Estate of Andre Christopher Norton vs. the City of Gainesville; Alachua County Circuit Court; Case No.: 01-06-CA-0120.

On February 6, 2006, the City of Gainesville was served with a summons and complaint by Audrey Norton, as personal representative of the estate of Andre Christopher Norton. On January 16, 2004 Andre Christopher Norton, a minor, was a passenger in a vehicle driven by his grandmother, Christine Booth. The vehicle driven by Ms. Booth collided with a GPD vehicle driven by a GPD officer. Andre Christopher Norton subsequently died. The Complaint alleges negligence on the part of the GPD officer. The estate seeks money damages from the City.

Prepared by:


Daniel M. Nee,
Assistant Litigation Attorney

Submitted by:


Marion J. Radson,
City Attorney

DMN/cgow

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

AUDREY NORTON as Personal
Representative of the ESTATE OF
ANDRE CHRISTOPHER NORTON,
Deceased,
Plaintiff

CIVIL ACTION NO.: 01-06-CA-0120

DIVISION: J

vs

CITY OF GAINESVILLE, FLORIDA,
a Florida municipality,
Defendant

RECEIVED BY ALACHUA
COUNTY CLERK OF COURT
DATE: 1/10/06

COMPLAINT

AUDREY NORTON as Personal Representative of the ESTATE OF ANDRE CHRISTOPHER NORTON, Deceased, brings this action against Defendant, CITY OF GAINESVILLE, FLORIDA, a Florida municipality, for wrongful death of her son, ANDRE CHRISTOPHER NORTON, deceased, and alleges as follows:

1. This is a Complaint for damages under Florida's Wrongful Death Act, §768.16 *et seq.*
2. This is an action for damages that exceed the sum of Fifteen thousand and 00/100 dollars (\$15,000.00) exclusive of interest and cost.
3. At all times material hereto, Defendant, CITY OF GAINESVILLE, FLORIDA, was a Florida municipality duly organized and existing under the laws of the State of Florida.
4. On or about January 16, 2004, the minor decedent, ANDRE CHRISTOPHER NORTON, was a passenger in a motor vehicle driven by his grandmother, Christine Booth, on Northeast 8th Avenue at its intersection with State Road 24, Alachua County, Florida.
5. At that time and place, Michael D. Maresca operated a motor vehicle in the course and scope of his employment as a police officer with Defendant, CITY OF GAINESVILLE, FLORIDA.
6. At that time and place, Michael D. Maresca negligently operated or maintained the motor vehicle so that it collided with the motor vehicle in which the minor decedent was a passenger. ANDRE CHRISTOPHER NORTON died as the direct result of the injuries he sustained in the collision.

7. ANDRE CHRISTOPHER NORTON is survived by his Mother, AUDREY NORTON, and by his Father, John Gerald Booth. A Petition for Administration Without Will was filed by AUDREY NORTON in the Circuit Court for the Eighth Judicial Circuit, Probate Division, Case No.: 01-2005-CP-001680 on December 2, 2005.

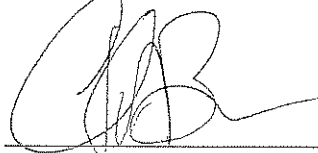
8. As a result of the death of their minor child, John Gerald Booth and AUDREY NORTON have experienced mental pain and suffering from the date of death of ANDRE CHRISTOPHER NORTON and are entitled to all such relief and damages provided under Florida Statute §768.16, *et seq.*, for the estate and the survivors.

9. The ESTATE OF ANDRE CHRISTOPHER NORTON is obligated for funeral expenses and expenses of last illness and for medical care rendered prior to death.

10. Plaintiff, AUDREY NORTON as Personal Representative of the ESTATE OF ANDRE CHRISTOPHER NORTON, Deceased, has complied with Florida Statutes Annotated §768.28 as evidenced by the notice of claim against Defendant, CITY OF GAINESVILLE, FLORIDA, a copy of which is attached hereto as Exhibit A and made a part hereof.

WHEREFORE, the Plaintiff, AUDREY NORTON as Personal Representative of the ESTATE OF ANDRE CHRISTOPHER NORTON, Deceased, sues Defendant, CITY OF GAINESVILLE, FLORIDA and demands judgment for damages plus costs and demands a trial by jury of all issues herein.

BARNES, BARNES & COHEN, P.A.



Chalmers H. Barnes
Florida Bar No.: 0197300
Attorney for Plaintiff
1843 Atlantic Boulevard
Jacksonville, FL 32207
(904)396-5181 FAX: (904)396-9008

EXHIBIT A

BARNES, BARNES & COHEN, P.A.

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FAX (904) 825-4556

JAX BEACH

REPLY TO: _____

October 8, 2004

CERTIFIED MAIL - RETURN RECEIPT

Gainesville Police Department
721 N.W. 6th Street
Gainesville, FL 32602

Florida Dept. of Financial Serv.
The Capital
Tallahassee, FL 32399-0301

Department of Insurance
200 E. Gaines Street
Tallahassee, FL 32399-0300

Office of General Counsel
P.O. Box 490
Gainesville, FL 32602

City of Gainesville
P.O. Box 490
Gainesville, FL 32602

Re: Our Client : Audrey Norton, Mother of
Andre Norton
Date of Accident : January 16, 2004
Location : State Road 24 @ N.E. 8th Avenue
Gainesville, FL

Dear Sir/Madam:

Pursuant to Florida Statute 768.28, we hereby give notice of a claim against the Gainesville Police Department on behalf of our client, Audrey Norton.

1. Claimant's name and address is Audrey Norton, 6044 Greensboro Highway, Quincy, Florida 32351. Ms. Norton was born December 28, 1968. The claimant's Social Security number is, 266-99-2353.

2. There are no judgments or unpaid claims in excess of \$200 owed by the claimant to the state, its agents, officers or subdivisions.

3. Claimant is not married.

4. The incident took place on January 16, 2004 at 1:20 a.m. on State Road 24 @ N.E. 8th Avenue, Gainesville, Florida.

5. My client's son, Andre Norton (born Jun 7, 1990) was killed in a collision with a City of Gainesville police car operated by Michael D. Maresca. A copy of the crash report is attached.

6. The Gainesville Policy Department's agent is Michael D. Maresca.

7. Claimant seeks relief for wrongful death.

8. Claimant intends to file suit in this matter.

Sincerely,

BARNES, BARNES & COHEN, P.A.

A handwritten signature in dark ink, appearing to read 'CHB', followed by a horizontal line extending to the right.

Chalmers H. Barnes

CHB/na

cc: Ms. Audrey Norton

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> 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. 		A. Signature X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to: City of Gainesville P.O. Box 495 Gainesville, FL 32602		B. Received by (Printed Name) C. Date of Delivery D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
2. Article Number (Transfer from service label) 7001 1140 0004 3826 0214		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
PS Form 3811, August 2001		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	

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<ul style="list-style-type: none"> 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. 		A. Signature x J. J. J. <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to: Office of General Counsel P.O. Box 495 Gainesville, FL 32602		B. Received by (Printed Name) C. Date of Delivery D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
2. Article Number (Transfer from service label) 7001 1140 0004 3826 0207		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
PS Form 3811, August 2001		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	