

IN THE CIRCUIT COURT, EIGHTH JUDICIAL CIRCUIT, IN AND FOR ALACHUA COUNTY,
FLORIDA, CIVIL DIVISION, ALACHUA COUNTY COURTHOUSE, 201 E. UNIVERSITY AVE.,
P.O. BOX 600, GAINESVILLE, FLORIDA 32602
PHONE (352) 374-3616, FAX (352) 338-3201

PAUL and JANET BLITON,
PLAINTIFFS,

2009 FEB 24 PM 1:14

CASE NO.: 01-09-CA-0807

DIVISION: K.

vs.

CITY OF GAINESVILLE, FLORIDA,
a political subdivision of the state of Florida,

DEFENDANT.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Person with a disability who need any accommodation in order to participate should call Jan Phillips, ADA Coordinator, Alachua County Courthouse, 201 E. University Ave., Gainesville, FL 32601 at (352) 337-6237 within two (2) workings days of your receipt of this notice; if you are hearing impaired call (800) 955-8771; if you are voice impaired, call (800) 955-8770

SUMMONS

THE STATE OF FLORIDA
TO EACH SHERIFF OF THE STATE:

YOU ARE COMMANDED to serve this summons and a copy of the complaint or petition in this action on defendant

c/o Mayor Pegeen Hanrahan
City of Gainesville
200 East University Avenue
Gainesville, FL 32601

Answer Due 3/24/09

COPY

Each defendant is required to serve written defenses to the complaint or petition or plaintiff's attorney whose name and address is

MARK J. FRASER, ESQUIRE
5347 SW 91ST TERRACE, SUITE A
GAINESVILLE, FL 32608

Within ³⁰20 days after service of this commons on that defendant, exclusive to 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.

WITNESS my hand and the seal of said Court on February 16, 2009.

J. K. "Buddy" Irby
Clerk of the Circuit Court
By Patricia A. French
As Deputy Clerk

A True Copy
SADIE DARNELL, SHERIFF
ALACHUA COUNTY, FLORIDA
Served at 1011
of 1011
BY [Signature]
AS DEPUTY SHERIFF

FORM 1.977. CIVIL COVER SHEET

The civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of the Court for the purpose of reporting judicial workload date pursuant to Florida Statute 25.075.

I. CASE STYLE

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

PAUL and JANET BLITON,

PLAINTIFFS,

vs.

CITY OF GAINESVILLE, FLORIDA,
a political subdivision of the state of Florida,

DEFENDANT.

CASE NO.: 01-09-CA-0807

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II. TYPE OF CASE

(Place an x in one box only. If the case fits more than one type case, select the most definitive.)

Domestic Relations	Torts	Other Civil
<input type="checkbox"/> Simplified dissolution	<input type="checkbox"/> Professional Malpractice	<input type="checkbox"/> Contracts
<input type="checkbox"/> Dissolution	<input type="checkbox"/> Products liability	<input type="checkbox"/> Condominium
<input type="checkbox"/> Support – IV-D	<input type="checkbox"/> Auto negligence	<input type="checkbox"/> Real Property/
<input type="checkbox"/> Support – Non IV-D	<input checked="" type="checkbox"/> Other negligence	<input type="checkbox"/> Mortgage foreclosure
<input type="checkbox"/> URESA – Non IV-D		<input type="checkbox"/> Eminent domain
<input type="checkbox"/> URESA – IV-D		<input type="checkbox"/> Other-EVICTION
<input type="checkbox"/> Domestic violence		
<input type="checkbox"/> Other domestic relations		

III. Is Jury Trial Demanded in Complaint?

Yes
 No

DATE: February 10, 2009



Mark J. Fraser, Attorney at Law
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5347 SW 91st Terrace, Suite A
Gainesville, FL 32608
(352) 367-0444
Florida Bar No. 0100455
Attorney for the Plaintiffs

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IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT,
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vs.

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CASE NO.: 01-09-CA-0807

DIVISION: K

JK. "BUDDY" IRBY
CLERK OF COURTS
ALACHUA COUNTY, FL

2009 FEB 12 PM 1:34

FILED
OK 47

PLAINTIFF'S COMPLAINT FOR PROPERTY DAMAGE

Plaintiffs Paul and Janet Bliton sue Defendant City of Gainesville, Florida, alleging as true the following statements:

GENERAL ALLEGATIONS

1. This is a civil law suit for property damage, and associated money losses, in excess of \$15,000.00.

2. Plaintiffs are residents of Alachua County, Florida, and were so at all times material.

3. Defendant is a municipal corporation and political subdivision of the State of Florida, existing within the political boundaries of Alachua County, Florida.

3. All loses alleged herein occurred in Alachua County, Florida.

4. All acts of negligence herein occurred in Alachua County, Florida.

5. Based on the above and foregoing allegations, venue is proper in Alachua County, Florida.

6. On or about September 29, 2008, and then again on October 29, 2008, a statutory demand letter, pursuant to Florida Statute §768.28, was sent to Defendant city

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Dkt: C088-R

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officials, Marion Radson, City Attorney, and Pegeen Hanrahan, Mayor, via U.S. certified mail. See Exhibit "A", attached.

7. On or about November 12, 2008, Plaintiffs' statutory demand letter for compensation was denied by Defendant's third party claims administrator. See Exhibit "B", attached.

8. The attached exhibits represent full compliance with all statutory prerequisites for suing a municipal corporation and political subdivision under Florida law.

COUNT I: NEGLIGENCE

9. Plaintiff realleges the General Allegations, paragraphs 1 – 8, as if more fully alleged herein.

10. At all times material Plaintiffs owned a home located within the city of Gainesville, Florida.

11. On or about June 7, 2008, a large, diseased tree located on Defendant's property fell and struck Plaintiffs' home, causing extensive damage to Plaintiffs' home.

12. At the time the tree fell, the weather conditions in Gainesville, Florida, were such that the tree's falling could not be attributed to an "act of God", as legally defined under Florida law.

13. At all times material, Defendant had a duty to maintain trees on its property in a non-negligent manner.

14. Defendant was on notice as to diseased trees in the vicinity of the subject tree and were therefore obligated to inspect the subject tree to assure it was disease free and not a danger to adjoining property owners.

15. Had Defendant inspected the subject tree it would have learned of its diseased condition and known that it was reasonably foreseeable that the tree would fall and cause damage to Plaintiffs' home.


16. Defendant failed to inspect and otherwise properly maintain the subject tree and was therefore negligent.

17. Defendant's negligence was the direct and proximate cause of damage to Plaintiffs' home.

18. As a direct and proximate cause of Defendant's negligence, Plaintiffs suffered structural damage to their home, including repair costs and other, out of pocket consequential losses.

WHEREFORE, Plaintiffs sue Defendants and demand a final judgment against Defendant for all money damages associated with Defendant's negligence, including pre judgment interest and court costs.

DATED this 6th day of February, 2009.



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FBN: 0100455
Attorney for Plaintiffs