

MEMORANDUM

Office of the City Attorney

0 0 1 2 3 8
Phone: 334-5011/Fax 334-2229
Box 46

TO: Mayor and City Commissioners

DATE: April 23, 2001

FROM: City Attorney

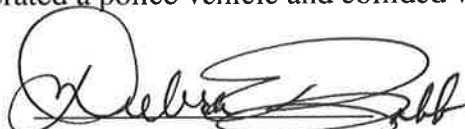
CONSENT

SUBJECT: State Farm Mutual Automobile Insurance Company as subrogee of Viktor Torda Paul Mohacsy v. City of Gainesville, and Gainesville Police Department Alachua County Court Case No.: 01-0000990 CC

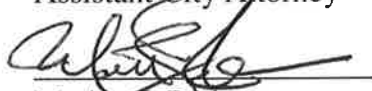
Recommendation: The City Commission authorize the City Attorney to represent the City in the case styled State Farm Mutual Automobile Insurance Company as subrogee of Viktor Torda Paul Mohacsy v. City of Gainesville, and Gainesville Police Department; Alachua County Court Case No.: 01-0000990 CC.

On April 9, 2001, the City of Gainesville was served with a summons and a complaint by State Farm. State Farm alleges that they are entitled to subrogation amounts for the damages they paid to Mr. Mohacsy resulting from an automobile accident involving a Gainesville Police Department vehicle. Mr. Mohacsy alleges that an officer with the Gainesville Police Department negligently operated a police vehicle and collided with his vehicle.

Prepared by:


Debra S. Babb,
Assistant City Attorney

Submitted by:


Marion J. Radson,
City Attorney

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

CASE NO.: 2001-0000990 CC
DIVISION: IV

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY as subrogee of VIKTOR TORDA PAUL MOHACSY,

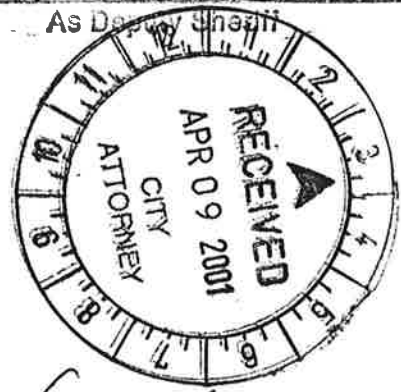
Plaintiff,

vs.

CITY OF GAINESVILLE, a municipality and GAINESVILLE POLICE DEPARTMENT,

Defendants.

A TRUE COPY
STEPHEN M. OELRICH, SHERIFF
ALACHUA COUNTY, FLORIDA
Served at _____, on the _____ day
of _____, 2001
By _____
As Deputy Sheriff



Amended

**SUMMONS
SERVICE ON A MUNICIPALITY
IMPORTANT**

TO: CITY OF GAINESVILLE
200 East University Avenue
Gainesville, FL 32601

THE STATE OF FLORIDA:

TO EACH SHERIFF OF THE STATE:

YOU ARE COMMANDED to serve this Summons and a copy of the Complaint in this lawsuit on the above-named Defendant, CITY OF GAINESVILLE.

Each defendant is required to serve written defenses to the complaint or petition on **Maytel M. Sorondo Bonham**, plaintiff's attorney, whose address is **Two Prudential Plaza, Suite 1710, 701 San Marco Boulevard, Jacksonville, FL 32207**, within 30 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.

Maytel M. Sorondo Bonham, Esquire

Maytel M. Sorondo Bonham
Plaintiff's Attorney

DATED ON April 5, 2001.

J. K. "BUDDY" IRBY
CLERK OF THE CIRCUIT AND COUNTY COURT
ALACHUA COUNTY, FLORIDA

BY: *Buddy Irby*
Deputy Clerk



COPY

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

CASE NO.: 2001-0000990 CC
DIVISION: IV

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY as subrogee of
VIKTOR TORDA PAUL MOHACSY,

Plaintiff,

vs.

CITY OF GAINESVILLE, a municipality and
GAINESVILLE POLICE DEPARTMENT,

Defendants.

AMENDED COMPLAINT

Comes now the Plaintiff, State Farm Mutual Automobile Insurance Company, AS SUBROGEE OF Viktor Torda Paul Mohacsy and sues the Defendants City of Gainesville and Gainesville Police Department, and says:

- 1) This is an action for the damages which do not exceed \$15,000, exclusive of interest and costs.
- 2) At all times material hereto, Viktor Torda Paul Mohacsy was insured by State Farm Mutual Automobile Insurance Company, under automobile insurance policy number, 6299-770-59B, a corporation duly licensed to transact the business of insurance in and about the State of Florida.
- 3) At all times material hereto, Viktor Torda Paul Mohacsy resided in Gainesville, Florida.
- 4) At all times material hereto, Melissa Catherine Collins was employed by the City of Gainesville and/or Gainesville Police Department as an officer and was acting within the course and scope of her employment with said municipality and/or agency.
- 5) At all times material hereto, the City of Gainesville and/or Gainesville Police Department was the owner of a 1992 Ford police car, City tag number 106055.

- 6) Plaintiff has complied with all the conditions precedent Section 768.28; specifically Plaintiff presented its claim in writing to the City of Gainesville, Gainesville Police Department and all other related municipal and county agencies including the Department of Insurance pursuant to the notice provided to the Gainesville City Attorney on or about October 15, 1999. A copy of said notice is attached hereto as Exhibit "A" and incorporated by reference.
- 7) On or about December 21, 1997 at approximately 12:14 a.m., the Defendant's employee, Melissa Catherine Collins, negligently operated the police vehicle owned by the City of Gainesville and/or Gainesville Police Department at or near the intersection of SW 16th Avenue and State Road 25 in Gainesville, Florida so as to collide with Viktor Torda Paul Mohacsy's motor vehicle.
- 8) As a result of said collision, State Farm Mutual Automobile Insurance Company paid Viktor Torda Paul Mohacsy or for the account of Viktor Torda Paul Mohacsy under the automobile insurance policy in force at the time of the collision, the sum of \$11,273.27 and is entitled to subrogation.

WHEREFORE, Plaintiff demands judgment against Defendants in the total amount of not less than \$11,273.27, together with pre-judgment interest and costs.

WILLIAM R. SWAIN & ASSOCIATES
Two Prudential Plaza, Suite 1710
701 San Marco Blvd.
Jacksonville, FL 32207-8165
(904) 396-7683
Florida Bar No. 0078778

BY: 
Maytel M. Sorondo Bonham
Attorney for Plaintiff State Farm Mutual
Automobile Insurance Company

Attorneys and Staff of William R. Swain & Associates are
Employees of the Corporate Law Department of State Farm
Mutual Automobile Insurance Company

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

WILLIAM R. SWAIN & ASSOCIATES

ATTORNEYS AT LAW

WILLIAM R. SWAIN
DEBRA CARTER TAYLOR
DWAYNE D. TYSON
WILLIAM H. MILES
MAYTEL M. SORONDO
BERTA RASMESSEN

TWO PRUDENTIAL PLAZA, SUITE 1710
701 SAN MARCO BOULEVARD
JACKSONVILLE FLORIDA 32207

TELEPHONE (321) 396-7683
FAX (321) 396-5787
October 15, 1999

Attorneys and Staff
Employees of the
Corporate Law
Department
State Farm Mutual
Automobile
Insurance Company

BY CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Marion Radson, Esq.
Gainesville City Attorney
200 East University Avenue
Gainesville, FL 32601

RE: Our Client: State Farm Mutual Automobile Insurance Company
Date of Accident: December 21, 1997

Dear Mr. Radson:

Please be advised the undersigned attorney represents State Farm Mutual Automobile Insurance Company in a claim against the City of Gainesville arising from property damage their insured, Viktor Mohacsy sustained in a motor vehicle collision which occurred on December 21, 1997. The collision occurred when the City of Gainesville's vehicle driven by Officer Melissa Catherine Collins without headlights struck Viktor Mohacsy. The Florida Traffic Crash Report in this accident is enclosed for your reference.

The purpose of this letter is to provide the City of Gainesville and all other related municipal and county agencies, by and through your office, with notice, pursuant to Section 768.28, Florida Statutes of our client's intent to proceed with an action of law for negligence against the City of Gainesville. This claim for damages is based upon the improper operation and/or maintenance of the subject vehicle which collided with our client's insured vehicle and resulted in property damage paid for by my clients under the automobile policy in effect at the time. Our client is seeking reimbursement for the property damage it paid out in the amount of \$11,273.27 under subrogation. The federal tax identification number for State Farm Mutual Automobile Insurance Company is 370533100.

Please retain this original 1. 768.28, Florida Statutes gov originals of this letter are be Paula Delaney, Mayor of the

Very truly yours,

Maytel M Sorondo

Maytel M. Sorondo

MMS/kas

99-301


| | |
|---|---|
| <p>SENDER:</p> <ul style="list-style-type: none"> ■ 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. ■ Return Receipt will show to whom the article was delivered and the date delivered. | <p>I also wish to receive the following services (for an extra fee):</p> <p>1. <input type="checkbox"/> Addressee's Address</p> <p>2. <input type="checkbox"/> Restricted Delivery</p> <p>Consult postmaster for fee.</p> |
| <p>3. Article Addressed to:</p> <p style="text-align: center;"><i>Marion Radson, Esq. Gainesville City Attorney 200 East University Avenue Gainesville, FL 32601</i></p> | <p>4a. Article Number</p> <p style="text-align: center;"><i>Z 372 331 094</i></p> <p>4b. Service Type</p> <p><input type="checkbox"/> Registered <input checked="" type="checkbox"/> Certified</p> <p><input type="checkbox"/> Express Mail <input type="checkbox"/> Insured</p> <p><input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD</p> |
| <p>5. Received By: (Print Name)</p> <p style="text-align: center;"><i>MARIE B LOCK</i></p> | <p>7. Date of Delivery</p> <p style="text-align: center;"><i>10-19-99</i></p> |
| <p>6. Signature: (Addressee or Agent)</p> <p style="text-align: center;"><i>Marie Block</i></p> | <p>8. Addressee's Address (Only if requested and fee is paid)</p> |

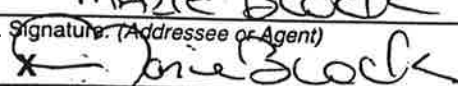
Is your RETURN ADDRESS completed on the reverse side?

WILLIAM R. SWAIN & ASSOCIATES


Friday, October 15, 1999
Page 2

Is your RETURN ADDRESS completed on the reverse side?

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| 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: Officer Steven Celrich Gainesville Sheriff's Office 2621 SE Hawthorne Rd Gainesville, FL 32641 | | 4a. Article Number Z 372 331 092 | 1 for using Return Receipt Service. |
| | | 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 | |
| 5. Received By: (Print Name) | | 7. Date of Delivery 10-16 | |
| 6. Signature  | | 8. Addressee's Address and fee is paid) | |

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| 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: Honorable Paula Delaney Mayor, City of Gainesville 200 East University Avenue Gainesville, FL 32601 | | 4a. Article Number Z 372 3 | 1 for using Return Receipt Service. |
| | | 4b. Service Type <input type="checkbox"/> Registered <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise | |
| 5. Received By: (Print Name) MARIE BLOCK | | 7. Date of Delivery 10-19-99 | |
| 6. Signature (Addressee or Agent)  | | 8. Addressee's Address (C and fee is paid) | |

PS Form 3811, December 1994 102595-98-B-0229 Domestic R

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|---|--|---|-------------------------------------|
| 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: Department of Insurance 200 East Gaines Street GAINESVILLE, FL 32609 THE TREATMENT OF INSURANCE THE MARSHAL THE TRESURER | | 4a. Article Number Z 372 331 093 | 1 for using Return Receipt Service. |
| | | 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 | |
| 5. Received By: (Print Name) THE MARSHAL | | 7. Date of Delivery OCT 18 1999 | |
| 6. Signature (Addressee or Agent)  | | 8. Addressee's Address (Only if requested and fee is paid) | |

Is your RETURN ADDRESS completed on the reverse side?

Receipt