

LEGISTAR NO.

160400

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

CASE NO: **01-2016-CA-2861**
DIVISION: **J**

MARY NUGENT,

Plaintiff,

vs.

GAINESVILLE RAPID TRANSIT SYSTEM,
a Municipal Corporation
of the State of Florida,

Defendant.

COMPLAINT

Plaintiff, MARY NUGENT, sues Defendant, GAINESVILLE RAPID TRANSIT SYSTEM, a Municipal Corporation of the State of Florida, and alleges as follows:

1. This is an action for damages that exceeds \$15,000.00.
2. The Defendant, GAINESVILLE RAPID TRANSIT SYSTEM, a Municipal Corporation of the State of Florida, has been properly noticed of this claim pursuant to the requirements §768.28, Fla. Stat., including notice to the Florida Department of Financial Services, and City of Gainesville, as required by said statute, a copy of said notices and return receipts are attached as Composite Exhibit A.
3. At all times material hereto, Defendant, GAINESVILLE RAPID TRANSIT SYSTEM was a Municipal Corporation of the State of Florida.
4. At all times material hereto, Plaintiff, MARY NUGENT, was a resident of Jacksonville, Duval County, Florida.
5. That the incident giving rise to this action occurred on or about June 7, 2015, in

Alachua County, Florida.

6. At all times material hereto, the subject bus driver was operating the subject motor vehicle within the course of the driver's employment with the Defendant, GAINESVILLE RAPID TRANSIT SYSTEM.

7. At all times material hereto, the Defendant, GAINESVILLE RAPID TRANSIT SYSTEM, is vicariously liable for the acts of negligence and breach of duty by its agents, employees or servants committed within the course and scope of employment, including the subject bus driver's acts of negligence and breach of duty committed at or near the time of the subject June 7, 2015 incident.

8. At all times material hereto, the driver who operated, drove and/or maintained the bus on which Plaintiff, MARY NUGENT, was a passenger on June 7, 2015, was an agent, employee or servant of the Defendant, GAINESVILLE RAPID TRANSIT SYSTEM.

9. On or about June 7, 2015, the aforementioned bus driver failed to properly secure Plaintiff, MARY NUGENT'S wheelchair after Plaintiff, MARY NUGENT, entered the subject bus.

10. On or about June 7, 2015, the aforementioned bus driver drove in a careless and negligent manner, including, but not limited to suddenly applying the bus' brakes in such a manner so as to cause Plaintiff, MARY NUGENT, in the aforementioned unsecured wheelchair to be turned over and to be injured.

11. On or about October 8, 2015, a written notice of claim asserted by the Plaintiff was sent via U.S. Certified Mail, upon Defendant GAINESVILLE RAPID TRANSIT SYSTEM, pursuant to Florida Statute 768.28(6) and applicable local ordinances, satisfying all requirements pursuant to those legislative guidelines. A copy of the notice is attached hereto

and incorporated herein as Exhibit A. Return receipt attached hereto as Exhibit B.

12. More than six (6) months have passed since the receipt of the claim by the Defendant, GAINESVILLE RAPID TRANSIT SYSTEM, and the Department of Financial Services. Neither the Defendant, GAINESVILLE RAPID TRANSIT SYSTEM, nor the Department of Financial Services have made dispositions or stated a claim within that period of time and, therefore, the passage of six (6) months is deemed a final denial of the claim for purpose of Florida Statute § 768.28(6).

13. All conditions precedent to filing this instant action have been met, such as written notice of claim, notice of defect or injury, notice of intent to sue and presentation and rejection of claim.

14. This action has been commenced in less than three years since the happening of the event upon which this claim is based and which occurred on or about June 7, 2015.

15. As a result, Plaintiff, MARY NUGENT, 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, lost wages and suffered aggravation of a previously existing condition. The losses are either permanent or continuing and plaintiff will suffer the losses in the future. Plaintiff, MARY NUGENT, has sustained permanent injuries within a reasonable degree of medical probability.

16. In that the injuries suffered by the Plaintiff, MARY NUGENT, are continuing in nature, she will continue to suffer pain, disfigurement, scarring, psychological and emotional injuries, physical handicap and permanent injury in the future, loss of wages and earning capacity, and will further be compelled to expend great sums of money for medical care and

related treatment for those injuries and will continue to suffer the loss of the capacity for the enjoyment of life.

WHEREFORE, Plaintiff, MARY NUGENT, demands judgment against Defendant GAINESVILLE REGIONAL TRANSIT SYSTEM, for damages, costs of this action, and such other and further relief as this Court may deem meet and just, and demands a trial by jury on all issues so triable.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury of all issues so triable.

DATED this 12th day of August, 2016.

MORGAN & MORGAN


Timothy . Moran, Esquire
Florida Bar No.: 0111945
76 South Laura Street, Suite 1100
Jacksonville, FL 32202
Telephone: (904) 398-2722
Facsimile: (904) 361-7202
Primary e-mail: tmoran@forthepeople.com
Secondary e-mail: jbelle@forthepeople.com
Attorney for Plaintiff

October 8, 2015

NOTICE OF CLAIM-FLORIDA STATUTE §768.28(6)

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

CERTIFIED MAIL-RETURN RECEIPT

70141200
20012085
1497

TO: Department of Financial Services
State of Florida - Legal Division
200 E. Gaines Street
Tallahassee, FL 32399-0300

City Manager
City of Gainesville
200 E. University Ave.
Gainesville, FL 32601

701412000001208
1510

701412000001
20851503

City of Gainesville
200 E. University Ave.
Gainesville, FL 32601

Gainesville Rapid Transit System
34 SE 13th Road
Gainesville, FL 32061

701412000001208
1527

CLAIMANT: Mary Nugent
Address: 100 NE 8th Avenue #605, Gainesville, FL 32601
Date of Birth: 07/02/1942
Place of Birth: Miami, FL
Social Security No: [REDACTED]

PRIOR ADJUDICATED **AID CLAIMS:** (if none, so state)
Claimant: None
Consortium Claimant: None

DATE AND TIME OF INCIDENT: June 7, 2015 at approximately 3:00 PM

PLACE OF INCIDENT: NE 16th Avenue, Gainesville, FL 32609

DESCRIPTION OF INCIDENT: Client was a passenger on the city bus when the driver attempted to avoid a crash causing the driver to slam on her breaks. Due to the sudden stop Ms. Nugent was thrown from her wheel chair.

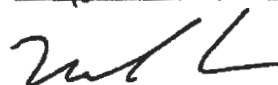
DESCRIPTION OF INJURIES: Head, Back, Left Leg, Left Foot, Left Ankle, Pelvis

RELIEF SOUGHT: Compensation for injuries sustained.

IF ADDITIONAL INFORMATION IS NEEDED, PLEASE CONTACT THE UNDERSIGNED.
PLEASE ACKNOWLEDGE RECEIPT HEREOF.

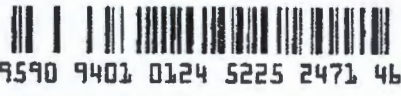
I HEREBY CERTIFY that true and correct copy of the foregoing has been furnished by certified to the above agencies, this 12th day of October, 2015.

"A"


Michael D. Marrese, Esquire
FBN: 0544299
Morgan and Morgan, P.A.
76 South Laura Street, Suite 1100
Jacksonville, FL 32202

Complete items 1, 2, and 3.
 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:
 City of Gainesville
 200 E University Ave.
 Gainesville, FL 32601



2 Article Number (Transfer from service label)
 7014 1200 0001 2085 1503

PS Form 3811, July 2015 PSN 7530-02 000 9053

A. Signature Agent
 Address
 B. Received (Printed Name) C Date of Delivery 1/9/13
 D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Adult Signature
 Adult Signature Restricted Delivery
 Certified Mail®
 Certified Mail Restricted Delivery
 Collect on Delivery
 Collect on Delivery Restricted Delivery
 Insured Mail
 Insured Mail Restricted Delivery (over \$500)
 Priority Mail Express®
 Registered Mail™
 Registered Mail Restricted Delivery
 Return Receipt for Merchandise
 Signature Confirmation
 Signature Confirmation Restricted Delivery

Domestic Return Receipt

■ Complete items 1, 2, and 3
 ■ 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
 City Manager
 City of Gainesville
 200 E University Ave
 Gainesville, FL 32601



2 Article Number (Transfer from service label)
 7014 1200 0001 2 5 1510

PS Form 3811, July 2015 PSN 7530-02-000-9053

A. Signature X
 Agent
 Address
 B Received by (Printed Name) C Date of Delivery 1/9/13
 D Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3 Service Type
 Adult Signature
 Adult Signature Restricted Delivery
 Certified Mail®
 Certified Mail Restricted Delivery
 Collect on Delivery
 Collect on Delivery Restricted Delivery
 Insured Mail
 Insured Mail Restricted Delivery (over \$500)
 Priority Mail Express®
 Registered Mail™
 Registered Mail Restricted Delivery
 Return Receipt for Merchandise
 Signature Confirmation
 Signature Confirmation Restricted Delivery

Domestic Return Receipt

■ Complete items 1, 2, and 3
 ■ 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
 Department of Financial
 State of FL-Legal Division
 200 E Gaines Street
 Tallahassee, FL 32399-0300



2 Article Number (Transfer from service label)
 7014 1200 0001 2085 1497

PS Form 3811, July 2015 PSN 7530 02 000-9053

A. Signature X Ron Mathers
 Agent
 Address
 B R C Date of Delivery 1/9/13
 D Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Adult Signature
 Adult Signature Restricted Delivery
 Certified Mail®
 Certified Mail Restricted Delivery
 Collect on Delivery
 Collect on Delivery Restricted Delivery
 Insured Mail
 Insured Mail Restricted Delivery (over \$500)
 Priority Mail Express®
 Registered Mail™
 Registered Mail Restricted Delivery
 Return Receipt for Merchandise
 Signature Confirmation
 Signature Confirmation Restricted Delivery

Domestic Return Receipt

