

# 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**

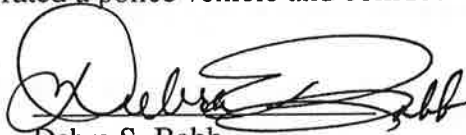
**SUBJECT:** State Farm Mutual Automobile Insurance Company as subrogee of Viktor Torda Paul Mohacsy v. City of Gainesville, and Gainesville Police Department Alachua County Court Case No.: 01-0000990 CC

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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.

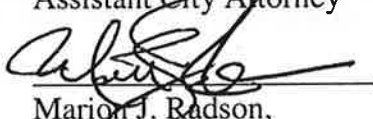
On April 9, 2001, the City of Gainesville was served with a summons and a complaint by State Farm. State Farm alleges that they are entitled to subrogation amounts for the damages they paid to Mr. Mohacsy resulting from an automobile accident involving a Gainesville Police Department vehicle. Mr. Mohacsy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

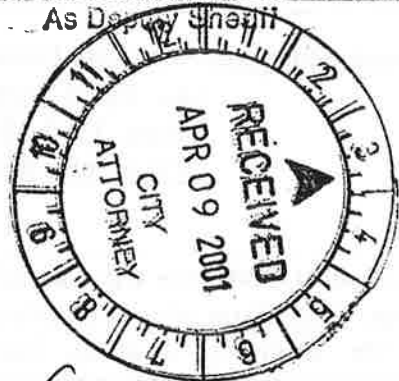
vs.

CITY OF GAINESVILLE, a municipality and GAINESVILLE POLICE DEPARTMENT,

Defendants.

A TRUE COPY  
STEPHEN M. OELRICH, SHERIFF  
ALACHUA COUNTY, FLORIDA  
Served at 2:40 on the 9 day  
of April, 2001  
By T. Bonham

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.

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**AMENDED COMPLAINT**

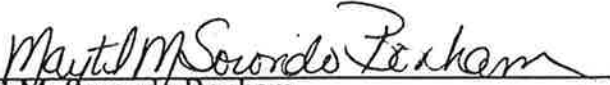
Comes now the Plaintiff, State Farm Mutual Automobile Insurance Company, AS SUBROGEE OF Viktor Torda Paul Mohacsy and sues the Defendants City of Gainesville and Gainesville Police Department, and says:

- 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 16<sup>th</sup> 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  
 BRYAN CARTER TAYLOR  
 EDWANE D. TYSON  
 WILLIAM H. MILES  
 MAYTEL M. SORONDO  
 BERT A. RASMUSSEN

TWO PRUDENTIAL PLAZA, SUITE 1710  
 701 SAN MARCE 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

Is your RETURN ADDRESS completed on the reverse side?	<b>SENDER:</b>		I also wish to receive the following services (for an extra fee):
	<ul style="list-style-type: none"> <li>■ Complete items 1 and/or 2 for additional services.</li> <li>■ Complete items 3, 4a, and 4b.</li> <li>■ Print your name and address on the reverse of this form so that we can return this card to you.</li> <li>■ Attach this form to the front of the mailpiece, or on the back if space does not permit.</li> <li>■ Write "Return Receipt Requested" on the mailpiece below the article number.</li> <li>■ Return Receipt will show to whom the article was delivered and the date delivered.</li> </ul>		
	3. Article Addressed to:		4a. Article Number
	Marion Radson, Esq. Gainesville City Attorney 200 East University Avenue Gainesville, FL 32601		Z 372 331 094
5. Received By: (Print Name)		4b. Service Type	7. Date of Delivery
MARIE BEACK		<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	10-19-99
6. Signature: (Addressee or Agent)		8. Addressee's Address (Only if requested and fee is paid)	
<i>Marie Beack</i>			

WILLIAM R. SWAIN & ASSOCIATES

Friday, October 15, 1999

Page 2

**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.  Addressee's Address  
 2.  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

4b. Service Type  
 Registered  Certified  
 Express Mail  Insured  
 Return Receipt for Merchandise  COD

7. Date of Delivery  
 10-16

5. Received By: (Print Name)  
 [Signature]

8. Addressee's Address and fee is paid

6. Signature  
 [Signature]

PS Form 381

for using Return Receipt Service.

Thank you for using Return Receipt Service.

**SENDER:**  
 ■ Complete items 1 and/or 2 for additional services.  
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I also wish to receive the following services (for an extra fee):  
 1.  Addressee's Address  
 2.  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

4b. Service Type  
 Registered  
 Express Mail  
 Return Receipt for Merchandise

7. Date of Delivery  
 10-19-99

5. Received By: (Print Name)  
 MARIE BLOCK

8. Addressee's Address (C and fee is paid)

6. Signature (Addressee or Agent)  
 [Signature]

I also wish to receive the following services (for an extra fee):  
 1.  Addressee's Address  
 2.  Restricted Delivery  
 Consult postmaster for fee.

3. Article Addressed to:  
 Department of Insurance  
 200 East Gaines Street  
 ATTORNEY GENERAL  
 T. TREASURER  
 THE MARSHAL

4a. Article Number  
 Z 372 331 093

4b. Service Type  
 Registered  Certified  
 Express Mail  Insured  
 Return Receipt for Merchandise  COD

7. Date of Delivery  
 OCT 18 1999

8. Addressee's Address (Only if requested and fee is paid)

5. Received By: (Print Name)  
 [Signature]

Receipt

Is your RETURN ADDRESS completed on the reverse side?