

LEGISTAR NO.

150446

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

CASE NO.:

**ELIZABETH HUTTO,
Plaintiff,**

vs.

**CITY OF GAINESVILLE,
Defendant.**

COMPLAINT

Plaintiff, ELIZABETH HUTTO, sues Defendant, CITY OF GAINESVILLE, and alleges:

1. This is an action for damages that exceed Fifteen Thousand Dollars (\$15,000.00), exclusive of interest, costs and attorneys' fees.
2. At all times material to this action, Plaintiff was a natural person residing in Alachua County, Florida.
3. At all times material to this cause of action, the Defendant, CITY OF GAINESVILLE, was a Florida municipality, lawfully chartered pursuant to the laws of Florida.
4. At all times material hereto, Defendant, CITY OF GAINESVILLE, was the owner of a motor vehicle being operated by Dontonya C.Smith.
5. Proper notice was given to Defendant, CITY OF GAINESVILLE, pursuant to §768.28(6), Florida Statutes; see Exhibit A, attached hereto.
6. On or about June 22, 2011, Plaintiff was a passenger in a motor vehicle close to the intersection of North East 8th Ave, and North East 25th Street, in Gainesville, Alachua County, Florida.

7. At that time and place, Dontonya C. Smith was operating and driving a motor vehicle owned by Defendant, CITY OF GAINESVILLE, was traveling west on 8th Ave in Gainesville, Alachua County, Florida.

8. At that time and place, Dontonya C. Smith negligently operated and/or maintained the motor vehicle so that it collided with Plaintiff's motor vehicle.

9. As a direct and proximate result of Dontonya C. Smith's negligence, Plaintiff suffered bodily injury including a permanent injury to the body as a whole, pain and suffering of both a physical and mental nature, disability, physical impairment, disfigurement, inconvenience, loss of capacity for the enjoyment of life, aggravation of an existing condition, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money and loss of ability to lead and enjoy a normal life. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, Plaintiff, ELIZABETH HUTTO, demands judgment for damages against Defendant, CITY OF GAINESVILLE, and other such relief deemed proper by the Court. Plaintiff also demands a jury trial on all issues so triable.

TUCKER & WELCH

/s/ Christopher K. Welch
Christopher K. Welch, Esquire
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Ocala, FL 34471
(352) 732-5330
(352) 732-8727 fax
ServiceCKW@charlietuckerpa.com
FL Bar No.: 0275440
Attorney for Plaintiff

TUCKER & WELCH

TRIAL ATTORNEYS

EVANS CENTRE

300 SE FIRST AVENUE, SUITE C

OCALA, FLORIDA 34471

**CHARLES R. TUCKER
CHRISTOPHER K. WELCH
CHRISSE F. ROBINSON**

**TELEPHONE (352) 732-5330
FAX (352) 782-8727
(352) 732-4277**

June 10, 2014

CERTIFIED MAIL R.R.R.

Gainesville Police Department Headquarters
545 NW 8th Avenue
Gainesville, FL 32601

Tony Jones, Chief of Police
413 NW 8th Ave
Gainesville, FL 32601

Gainesville Police Department
PO Box 1250
Gainesville, FL 32627

Risk Management/City of Gainesville
PO Box 490
Station 60
Gainesville FL 32627

Risk Management/City of Gainesville
City Hall
200 East University Ave.
Gainesville FL 32601

Department of Financial Services
200 East Gaines Street
Tallahassee, FL. 32399

RE: Claimant: Elizabeth Hutto
Date of Incident: 06/22/2011
Location: NE 8th Avenue and NE 25th Street

**NOTICE OF INTENT TO INITIATE LITIGATION
PURSUANT TO FLORIDA STATUTE SECTION 768.28**

To the above named addressees:

Please be advised that this firm represents Elizabeth Hutto, born in Gainesville, Florida, date of birth September 17, 1931, and whose social security

number is [REDACTED] in connection with injuries sustained by her as a result of the negligence of your agents and employees.

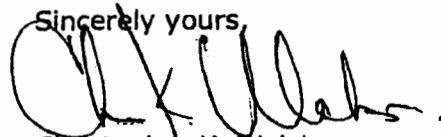
This letter will serve as their Notice of Intent to Initiate Litigation pursuant to Florida Statute Section 768.28, against the political subdivision of the Gainesville Police Department, on account of an incident which occurred on June 22, 2011. This incident is more particularly described as being a motor vehicle accident involving a 2010 Dodge Charger, being operated by Dontonya C. Smith, while in the employment of the Gainesville Police Department, and a 2001 Ford Explorer being operated by Elizabeth Sylvester. A copy of the subject accident report is enclosed for your review. There are no prior adjudicated unpaid claims.

The proposed lawsuit will allege that employee(s) (or agents) of the Gainesville Police Department, while acting within the scope of their employment (agency) was negligent in the operation, maintenance and use of the Gainesville Police Department's motor vehicle, and but for this negligent operation said accident would not have occurred.

This notice is filed to preserve the rights of Elizabeth Hutto, under Florida Statutes, Section 768.28, to bring legal action against the Gainesville Police Department for injuries she sustained herein. Should an amicable disposition of this claim not be made within the following six months, we will at that point in time be prepared to institute legal action relative to this matter. I will be more than happy to furnish you with additional information which you may require in order to evaluate this claim.

Your attention to this matter is greatly appreciated.

Sincerely yours,



Christopher K. Welch

CKW:zv

SENDER, COMPLETE THIS SECTION

- 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.

1. Article Addressed to:

Coainesville Police Dept.
 413 NW 8th Ave
 Coainesville, FL 32601

2. Article Number

(Transfer from service tag)

7013 2250 0000 0091 3805

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *M. W. Barnes*

Agent

Addressee

B. Received by (Printed Name)

M. W. Barnes

C. Date of Delivery

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

545 NW 8 AVE

32601

3. Service Type

Certified Mail

Express Mail

Registered

Return Receipt for Merchandise

Insured Mail

C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

SENDER: COMPLETE THIS SECTION

- 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.

1. Article Addressed to:

Tony Jones, Chief of
Police
413 NW 8th Ave
Gainesville, AL 32601

2. Article Number

(Transfer from service tag)

- 4570 0000 8752 6956

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *M. W. Barnes* Agent Addressee

B. Received by (Printed Name)

M. W. Barnes

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

545 NW 8 Ave
32601

3. Service Type

 Certified Mail Express Mail Registered Return Receipt for Merchandise Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes

SENDER: COMPLETE THIS SECTION:

- 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.

1. Article Addressed to:

Dept. of Financia Services
206 East Gaines St.
Tallahassee, FL
32399

2. Article Number

(Transfer from serv.)

7012 3460 0000 5022 6521

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X. J. Nicholson

Agent

Addressee

B. Received by (Printed Name)

Nicholson

C. Date of Delivery

DEPT OF FINANCIA

TALLAHASSEE FL 32399-0217

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

3. Service Type

Certified Mail

Express Mail

Registered

Return Receipt for Merchandise

Insured Mail

C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Risk Management / city of Gainesville
 City Hall
 300 East University Ave
 Gainesville, FL 32601

2. Article Number
(Transfer from service label)

7012 3460 0000 5022 6538

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X *[Signature]* Agent Addressee

B. Received by (Printed Name) *RMSchwartz* C. Date of Delivery *6/11/14*

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

SENDER: COMPLETE THIS SECTION

- 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.

1. Article Addressed to:
 Risk Management / city of
 Gainesville
 P.O. Box 490
 Station 60
 Gainesville FL 32607

2. Article Number 7011 1570 0000 8752 6932
(Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee
 X *Ben Walker*

B. Received by (Printed Name) C. Date of Delivery
BEN WALKER *6/11/14*

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

SENDER: COMPLETE THIS SECTION

- 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.

1. Article Addressed to:

Cainesville Police Dept
P.O. Box 1250
Cainesville, FL
32627

2. Article Number
(Transfer from service label)

7011 1570 0000 8752 6949

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X *[Signature]* Agent
 Addressee

B. Received by (Printed Name) *[Signature]* C. Date of Delivery

D. Is delivery address different from Item 1? Yes
If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes