

LEGISTAR NO.

150787

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

BERNICE FOSTER, as Putative Personal Representative
of the Estate of John Lee Little, Jr.,

Plaintiff,

vs.

CASE NO.

JAMIE REED, and
PATRIOT TRANSPORTATION HOLDING, INC. d/b/a
FLORIDA ROCK & TANK LINES, INC., and
CITY OF GAINESVILLE, a municipality.

Defendants

COMPLAINT
AND DEMAND FOR JURY TRIAL

COME NOW the Plaintiff, BERNICE FOSTER, as Putative Personal Representative of the Estate of John Lee Little, Jr., by and through the undersigned attorneys, and sue the Defendants, Jamie Reed and Patriot Transportation Holding, Inc. d/b/a Florida Rock & Tank Lines, Inc. and the City of Gainesville, and allege as follows:

ALLEGATIONS COMMON TO ALL COUNTS

1. This is an action in negligence for damages that exceed the Court's \$15,000.00 minimum jurisdictional limit.
2. This action is brought, in part, by the Plaintiff, BERNICE FOSTER, as the Putative Personal Representative of the Estate of John Lee Little, Jr. The beneficiaries and survivors of the Estate in this wrongful death action are, BERNICE FOSTER (decedent's mother) and John Little (decedent's father). All such beneficiaries and survivors were

dependent upon the decedent.

3. At the time of his wrongful death, John Lee Little, Jr. was 24 years old, having been born on December 27, 1990. On the date of his wrongful death, John Lee Little, Jr. resided in Alachua County, Florida.

4. The Defendant, Jamie Reed, is a resident of Alachua County, Florida.

5. The Defendant, Patriot Transportation Holding, Inc. d/b/a Florida Rock & Tank Lines, Inc., is a Florida corporation authorized to do business in the State of Florida and in Alachua County, Florida.

6. At all times pertinent herein, Jamie Reed was driving a vehicle owned by Patriot Transportation Holding, Inc. d/b/a Florida Rock & Tank Lines, Inc., and with the permission of Patriot Transportation Holding, Inc. d/b/a Florida Rock & Tank Lines, Inc., and was acting as an employee for, as a servant for, as an agent for, under the scope and direction of, under the control of, in furtherance of the activities and business of, or otherwise on the business of Patriot Transportation Holding, Inc. d/b/a Florida Rock & Tank Lines, Inc., and as such, Patriot Transportation Holding, Inc. d/b/a Florida Rock & Tank Lines, Inc. is responsible and liable for the acts and negligence of Jamie Reed, while Jamie Reed was acting in such capacity.

7. The motor vehicle collision and resulting wrongful death and resulting injuries at issue in the Complaint occurred in Alachua County, Florida.

8. The Defendant, the City of Gainesville, is a municipality of the State of Florida. Plaintiff presented a claim, in writing, to the City of Gainesville and the Department of Insurance, in compliance with Section 768.28 of the Florida Statutes, on January 27, 2016.

COUNT I
CLAIMS OF BERNICE FOSTER, AS PUTATIVE PERSONAL REPRESENTATIVE
OF THE ESTATE OF JOHN LEE LITTLE, JR. AGAINST JAMIE REED

9. The Plaintiff, Bernice Foster, as Putative Personal Representative of the Estate of John Lee Little, Jr., re-alleges and re-asserts all allegations and assertions in paragraphs 1-8, and in all other Counts, and would further state:

10. On or about January 16, 2015, the Defendant, Jamie Reed, operated a motor vehicle at or near the intersection of NW 39th Avenue and NW 19th Street, in Gainesville, Alachua County, Florida. Said motor vehicle was operated and/or maintained in such a negligent manner so as to cause a collision with a vehicle in which John Lee Little, Jr. was the driver. Specifically, the Defendant, Jamie Reed, was negligent because he was driving at an excessive speed, because he was driving too fast for a flashing caution/yellow light, because he was not paying attention, because he was talking/texting/using a mobile device, and/or because he failed to keep a proper look out in the presence of a flashing caution/yellow light. In fact, Jamie Reed had the cruise control set at a speed which was in excess of the legal speed limit. Because of such negligent driving, Jamie Reed collided with a vehicle in which John Lee Little, Jr. was the driver. As a result of the collision, John Lee Little, Jr. sustained fatal injuries.

11. The Defendant, Jamie Reed, had a duty to drive the vehicle safely and responsibly. Because John Lee Little, Jr. was a driver of a vehicle on a public roadway, Jamie Reed owed this duty to John Lee Little, Jr. However, when Jamie Reed negligently operated the vehicle, Jamie Reed breached the duty that was owed to John Lee Little, Jr.

12. As a result of the foregoing negligence, Bernice Foster, for and on behalf of the

Estate of John Lee Little, Jr., and for the survivors under the Florida Wrongful Death Act, has suffered the loss of the decedent's support and services and his companionship and society, and mental pain and suffering; and the decedent's loss of prospective net accumulations of the estate; and medical and funeral expenses due to the decedent's injuries and death.

13. As a result of the foregoing negligence, the Estate of John Lee Little, Jr. has lost prospective net accumulations and medical and funeral expenses due to the decedent's injury and death.

14. Jamie Reed is responsible and liable for the damages.

COUNT II
CLAIMS OF BERNICE FOSTER, AS PUTATIVE PERSONAL REPRESENTATIVE
OF THE ESTATE OF JOHN LEE LITTLE, JR., AGAINST PATRIOT
TRANSPORTATION HOLDING, INC. d/b/a FLORIDA ROCK & TANK LINES, INC.

15. The Plaintiff, Bernice Foster, as Putative Personal Representative of the Estate of John Lee Little, Jr., re-alleges and re-asserts all allegations and assertions in paragraphs 1-8, and in all other Counts, and would further state:

16. On or about January 16, 2015, the Defendant, Jamie Reed, operated a motor vehicle at or near the intersection of NW 39th Avenue and NW 19th Street, in Gainesville, Alachua County, Florida. Said motor vehicle was operated and/or maintained in such a negligent manner so as to cause a collision with a vehicle in which John Lee Little, Jr. was the driver. Specifically, the Defendant, Jamie Reed, was negligent because he was driving at an excessive speed, because he was driving too fast for a flashing caution/yellow light, because he was not paying attention, because he was talking/texting/using a mobile device, and/or because

he failed to keep a proper look out in the presence of a flashing caution/yellow light. In fact, Jamie Reed had the cruise control set at a speed which was in excess of the legal speed limit. Because of such negligent driving, Jamie Reed collided with a vehicle in which John Lee Little, Jr. was the driver. As a result of the collision, John Lee Little, Jr. sustained fatal injuries.

17. The Defendant, Jamie Reed, had a duty to drive the vehicle safely and responsibly. Because John Lee Little, Jr. was a driver in a vehicle on a public roadway, Jamie Reed owed this duty to John Lee Little, Jr. However, when Jamie Reed negligently operated the vehicle, Jamie Reed breached the duty that was owed to John Lee Little, Jr.

18. As a result of the foregoing negligence, Bernice Foster, for and on behalf of the Estate of John Lee Little, Jr., and for the survivors under the Florida Wrongful Death Act, has suffered the loss of the decedent's support and services and his companionship and society, and mental pain and suffering; and the decedent's loss of prospective net accumulations of the estate; and medical and funeral expenses due to the decedent's injuries and death.

19. As a result of the foregoing negligence, the Estate of John Lee Little, Jr. has lost prospective net accumulations and medical and funeral expenses due to the decedent's injury and death.

20. At the time of the collision referenced herein, Jamie Reed was operating said motor vehicle with the permission of Patriot Transportation Holding, Inc. d/b/a Florida Rock & Tank Lines, Inc., the owner of said motor vehicle.

21. Patriot Transportation Holding, Inc. d/b/a Florida Rock & Tank Lines, Inc. is responsible and liable for these damages.

COUNT III
CLAIMS OF BERNICE FOSTER, AS PUTATIVE PERSONAL REPRESENTATIVE
OF THE ESTATE OF JOHN LEE LITTLE, JR., AGAINST
THE CITY OF GAINESVILLE

22 The Plaintiff, Bernice Foster, as Putative Personal Representative of the Estate of John Lee Little, Jr., re-alleges and re-asserts all allegations and assertions in paragraphs 1-8, and in all other Counts, and would further state:

23 At all pertinent times herein, the City of Gainesville had the full authority and the duty to control, maintain, and manage the subject intersection, including the traffic lights, traffic control devices, and stop bar painted on the road.

24 At all pertinent times herein, the City of Gainesville had the full authority and the duty to control, maintain, and manage the subject intersection, including the foliage, shrubs, vegetation, trees, fence, metal boxes, and the adjoining area known as Green Tree Park.

25 At all pertinent times herein, the City of Gainesville was the governmental entity charged with the responsibility of operating, overseeing, and maintaining the municipal property located within the City of Gainesville, Florida.

26 On or about January 16, 2015, at approximately 3:50 a.m., the subject motor vehicle collision occurred at or near the intersection of NW 39th Avenue and NW 19th Street, in Gainesville, Florida. Specifically, Jamie Reed was driving a truck eastbound on NW 39th Avenue when he collided with a car that was traveling northbound on NW 19th Street. John Lee Little, Jr. was the driver of the car. As a result of the collision, John Lee Little, Jr. sustained fatal injuries.

27. At the time of the subject collision, the intersection had a flashing yellow light for the eastbound and westbound traffic and a flashing red light for the northbound and southbound traffic; overgrown foliage, shrubs, vegetation, and trees; an improperly located fence and metal boxes; and an improperly located stop bar painted on the roadway for northbound traffic. Because the subject intersection is a known dangerous intersection, the flashing traffic lights should have been replaced with solid traffic lights. The overgrown foliage, shrubs, vegetation and trees and the improperly located fence and metal boxes were hazardous and dangerous in that the conditions prevented the northbound car from seeing the eastbound truck coming from the left. And because of the obstructions at the subject intersection, the stop bar should have been moved closer to the intersection to allow northbound traffic to observe eastbound traffic coming from the left.

28. These hazardous conditions were known to the City of Gainesville.

29. These hazardous conditions had existed for a sufficient period of time that the City of Gainesville should have known of such hazardous conditions.

30. The direct and proximate cause of the Plaintiff's injuries was the negligence of the City of Gainesville. The injuries are the result of the following negligence and breach of duty owed to the Plaintiff: The City of Gainesville created the hazardous condition and/or caused the hazardous condition to exist. The City of Gainesville had actual knowledge of the hazardous condition, but failed to correct it. The hazardous condition had existed for a sufficient amount of time that the City of Gainesville had constructive knowledge of the hazardous condition, but failed to correct it. The City of Gainesville failed to warn the public of a hazardous condition.

The City of Gainesville failed to properly maintain or position the foliage, shrubs, fence and metal boxes at the subject intersection. The City of Gainesville failed to eliminate the flashing traffic lights at the intersection during the night hours. The City of Gainesville failed to move the stop bar on the roadway closer to the subject intersection.

31. As a result of the foregoing negligence, Bernice Foster, for and on behalf of the Estate of John Lee Little, Jr., and for the survivors under the Florida Wrongful Death Act, has suffered the loss of the decedent's support and services and his companionship and society; and mental pain and suffering; and the decedent's loss of prospective net accumulations of the estate; and medical and funeral expenses due to the decedent's injuries and death.

32. As a result of the foregoing negligence, the Estate of John Lee Little, Jr. has lost prospective net accumulations and medical and funeral expenses due to the decedent's injury and death.

33. This action is maintained according to the principles of law that a governmental entity is not protected by sovereign immunity when it is performing such operational level functions as proper maintenance, and/or the necessary and proper warning or correction of a known dangerous condition, and/or the necessary and proper maintenance of public improvements. Therefore, the acts and omissions of the City of Gainesville in creating a hazardous condition, and/or in failing to properly maintain the foliage, shrubs, fence and metal boxes at the subject intersection, and/or in failing to eliminate the flashing traffic lights at the intersection during the night hours, and/or in failing to move the stop bar on the roadway closer to the subject intersection, and/or in failing to warn the public of a potentially hazardous

condition, are not protected by sovereign immunity.

34. The City of Gainesville is responsible and liable for the damages.

WHEREFORE, the Plaintiffs demand judgment for damages against the Defendants and a trial by jury of all issues so triable.

/s/ Dennis L. Webb
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