



## Legislation Details (With Text)

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**Title:** Jerome Fleming and Deanna Fleming v. City of Gainesville; Case No. 2019-CA-512; Eighth Judicial Circuit, in and for Alachua County, Florida. (NB)

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Date	Ver.	Action By	Action	Result
11/21/2019	1	City Commission	Approved as Recommended	

### **Jerome Fleming and Deanna Fleming v. City of Gainesville; Case No. 2019-CA-512; Eighth Judicial Circuit, in and for Alachua County, Florida. (NB)**

The City Commission: 1) approve the terms of the mediated settlement agreement; and 2) authorize the City Attorney to settle the claims of Jerome Fleming and Deanna Fleming, arising from an accident that occurred on or about September 6, 2016.

On September 6, 2016, at approximately 9:38 a.m., a City-owned 12-yard dump truck departed the City's Public Works compound on NW 39th Avenue. The truck, driven by a City employee in the course and scope of his employment with the City, proceeded to turn left on NW 39th Avenue to head west. As it entered the inside westbound lane, the truck collided with the rear side of a vehicle driven by the Plaintiff Jerome Fleming. Supervisors with the City's Operations Division of the Public Works Department investigated the accident, and concluded that the City employee was, "at fault for this accident." The employee received progressive discipline.

After the accident, Plaintiff Jerome Fleming proceeded to his worksite to perform the duties of his employment as a painter. In short time, he contacted his wife, Plaintiff Deanna Fleming, who accompanied him to the emergency room where he complained of neck and back pain. Over the succeeding months, Mr. Fleming received treatment for lower back and neck injuries. His doctors performed multiple surgical procedures, and related the surgical procedures to the automobile accident.

At trial, the Plaintiff's attorneys were prepared to offer evidence of \$228,182.58 in past medical expenses. They argued that he would suffer over \$150,000 in future medical expenses over the expected course of his life. He planned to claim over \$41,000 in lost wages and \$189,000 in future lost wages and earning capacity. These proposed damages do not include the Plaintiff's claim for damages related to pain and suffering, mental anguish, inconvenience, and loss of capacity for the enjoyment of life. Ms. Fleming presented a consortium claim for loss of companionship, fellowship, and household services.

The City Attorney's Office and Risk Management Department conducted a thorough evaluation and

investigation of this lawsuit in conjunction with the City's Public Works Department. Consideration was also given to the fact that Florida operates under a pure comparative negligence standard. Any percentage of fault attributed to the City by way of actions or inactions of the driver would be applied to the damages to determine a verdict in this matter. Per the application of Florida's limited waiver of sovereign immunity contained in section 768.28, Florida Statutes, the City's liability and authority to settle claims such as this is limited to \$200,000 per person, and \$300,000 per incident. At court-ordered mediation, a settlement agreement was achieved. Representatives for the City agreed to recommend a settlement in the amount of \$195,000, subject to the approval of the City Commission of the City of Gainesville, and, in exchange, the Plaintiffs will provide a full and complete Release to the City. It is the recommendation of the City Attorney's Office and the Risk Management Department that the case be settled for that amount.

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