

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
FLAGLER COUNTY, FLORIDA

CASE NO.: 2016 CA 000281
DIVISION:

JOHN MITCHELL and HOLLY
MITCHELL, husband and wife,

Plaintiffs,

vs.

FLAGLER COUNTY SHERIFF'S
OFFICE,

Defendant.

_____ /

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs, JOHN MITCHELL and HOLLY MITCHELL, by and through the undersigned
counsel, sue Defendant, FLAGLER COUNTY SHERIFF'S OFFICE, and allege:

JURISDICTION, VENUE AND PARTIES

1. This is an action for damages that exceed \$15,000.00 exclusive of costs, interest and attorneys' fees.
2. At all times material hereto, Plaintiffs, JOHN MITCHELL and HOLLY MITCHELL, were and are residents of Flagler County, Florida.
3. At all material times hereto, Defendant, FLAGLER COUNTY SHERIFF'S OFFICE, was and is a Flagler County government agency.
4. On or about October 31, 2013, Defendant, FLAGLER COUNTY SHERIFF'S OFFICE, owned a motor vehicle that was operated with its consent by Flagler County Sheriff's

Deputy James E. Gore on Palm Coast Parkway at or near the intersection of Pine Lakes Parkway in Palm Coast, Flagler County, Florida.

5. At that time and place, James E. Gore, while in the course and scope of his employment with Defendant, FLAGLER COUNTY SHERIFF'S OFFICE, negligently operated or maintained Defendant's motor vehicle so that it collided with a vehicle being driven by Plaintiff, JOHN MITCHELL, thereby causing him to suffer significant injuries and damages.

6. All conditions precedent to the filing of this action have been performed by Plaintiffs or the conditions have occurred.

COUNT I – NEGLIGENCE

7. Plaintiffs incorporate paragraphs 1 – 6 above as though fully set forth herein.

8. At all times material hereto, Defendant, FLAGLER COUNTY SHERIFF'S OFFICE and its Deputy, James E. Gore, had a duty to Plaintiff, JOHN MITCHELL, and other motorists to exercise reasonable care in the operation and maintenance of Defendant, FLAGLER COUNTY SHERIFF'S OFFICE's vehicle so as to avoid foreseeable risk of injury to the Plaintiff, JOHN MITCHELL, and other motorists.

9. At all times material hereto Defendant's agent, James E. Gore, was careless, negligent and breached the above duty in one or more of the following ways:

- a. By failing to reasonably and properly operate Defendant's motor vehicle so as to avoid a collision with the vehicle Plaintiff was driving;
- b. by failing to follow applicable traffic laws;
- c. by failing to maintain a proper lookout;
- d. by failing to maintain a safe speed as he proceeded through the intersection;
- e. by failing to yield to the Plaintiff; and/or
- f. committing other acts of negligence yet to be determined.

10. As a direct and proximate result of James E. Gore's negligence, Plaintiff, JOHN MITCHELL, 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, and aggravation of a previously existing condition. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future. Plaintiff's vehicle was also damaged and he lost the use of it during the period required for its repair or replacement.

11. At the time of the subject accident, James E. Gore negligently operated Defendant, FLAGLER COUNTY SHERIFF'S OFFICE's motor vehicle while in the course and scope of his employment and agency with Defendant, thereby causing injuries and damages to Plaintiff, JOHN MITCHELL.

12. Moreover, at the time of the accident, Defendant, FLAGLER COUNTY SHERIFF'S OFFICE, owned the motor vehicle it voluntarily entrusted to James E. Gore, whose negligent operation thereof caused injuries and damages to Plaintiff, JOHN MITCHELL.

13. Defendant, FLAGLER COUNTY SHERIFF'S OFFICE, is vicariously liable for the injuries and damages caused to the Plaintiff, JOHN MITCHELL, pursuant to Florida law.

WHEREFORE, Plaintiff, JOHN MITCHELL, demands judgment against Defendant, FLAGLER COUNTY SHERIFF'S OFFICE, for damages, costs of this action, a trial by jury, and such other relief as this Court deems just and proper.

COUNT II – LOSS OF CONSORTIUM

14. Plaintiffs incorporate paragraphs 1 – 13 above as though fully set forth herein.

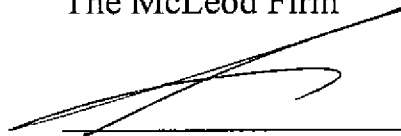
15. At all times material hereto, Plaintiffs, JOHN MITCHELL and HOLLY MITCHELL, were married to each other.

16. Defendant, FLAGLER COUNTY SHERIFF'S OFFICE, is vicariously liable to Plaintiff, HOLLY MITCHELL, for the lost care, companionship, society, comfort and services of her husband, JOHN MITCHELL, pursuant to Florida law.

WHEREFORE, Plaintiff, HOLLY MITCHELL, demands judgment against Defendant, FLAGLER COUNTY SHERIFF'S OFFICE, for damages, costs of this action, a trial by jury, and such other relief as this Court deems proper.

Dated this 19 day of May 2016.

The McLeod Firm



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