

COMMISSION AGENDA:

7.13.10 #17

TO: The Honorable Chairman and Members of the
Board of County Commissioners

FROM: James L. Bennett, County Attorney *JLB*

SUBJECT: Notice of New LawsUIT and Defense of the Same by the
County Attorney in the Case of Richard Pielat v. Pinellas County,
Florida and Steven M. Soltau
Circuit Civil Case No. 10-009331-CI-007

DISTRIBUTION: Beth Wininger, Bureau Director, Risk Management

DATE: July 13, 2010

NOTICE: THIS IS TO ADVISE THE BOARD OF COUNTY COMMISSIONERS THAT THE ABOVE-REFERENCED LAWSUIT WAS FILED AGAINST THE COUNTY AND PINELLAS COUNTY EMPLOYEE STEVEN SOLTAU AND THE COUNTY ATTORNEY'S OFFICE WILL DEFEND THE SAME.

DISCUSSION: Plaintiff filed suit against Pinellas County and Pinellas County employee Steven M. Soltau, for injuries allegedly sustained when the vehicle Plaintiff was driving was rear-ended by Mr. Soltau who was driving a Pinellas County vehicle during the course and scope of his duties. The Complaint contains no allegations pursuant to which Mr. Soltau would be a proper party per Florida Statutes, section 768.28. As a result, the County Attorney will represent Mr. Soltau and file a motion to dismiss on his behalf, as well as represent Pinellas County.

A copy of the Complaint (without exhibits) is attached hereto.

JLB:CDP
Attachment

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IN THE CIRCUIT COURT OF THE 6TH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA

RICHARD PIELAT,
Plaintiff

CASE NO.....

vs.

COPY

PINELLAS COUNTY, FLORIDA
and STEVEN M. SOLTAU,
Defendant(s)
_____ /

COMPLAINT

COMES NOW the Plaintiff, **RICHARD PIELAT**, by and through his undersigned attorney, hereby files this Complaint against the Defendants: **PINELLAS COUNTY** as the owner of the motor vehicle and **STEVEN M. SOLTAU**, individually, the at-fault, licensed driver and the employee of Pinellas County at the time of accident, and alleges as follows:

I. PARTIES.

1. The Plaintiff, **RICHARD PIELAT**, resides in Pinellas County, Florida.
2. The Defendant, **PINELLAS COUNTY** is the owner of the motor vehicle.
3. The Defendant, **STEVEN M. SOLTAU**, the at-fault, licensed driver who resides in Pinellas County, Florida, was employed by Pinellas County at the time of the accident and was the driver of a motor vehicle owned by Pinellas County, Florida.

II. JURISDICTIONAL STATEMENT.

4. This is an action for damages and the amount in controversy exceeds \$15,000.00, including interest, costs and attorney's fees, which is within the jurisdiction of the court in accordance with Section 26.012 of the Florida Statutes.

III. VENUE.

5. Venue in Pinellas County, Florida is proper in this action under Section 47.011 of the Florida Statutes because the motor vehicle collision giving rise to this action occurred in Pinellas county.

IV. FACTS IN SUPPORT OF CLAIMS

6. On or about August 7, 2008, the Defendant, **Steven M. Soltau**, the at-fault, licensed driver and the employee of Pinellas County, operated, owned or maintained a motor vehicle, on US Highway 19, in Clearwater, Pinellas County, Florida.

7. At that time and place, Defendant operated, owned or maintained a motor vehicle so that it collided with Plaintiff's motor vehicle.

8. As a direct and proximate result, the Plaintiff 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, aggravation of a previously existing condition, permanent disfigurement and scarring. The losses are either permanent or continuing and the Plaintiff will suffer the losses in the future. Plaintiff's automobile was damaged and Plaintiff lost the use of it during the period required for its repair or replacement.

9. The Defendant, Steven M. Soltau, was cited for violation of Florida Statute 316.1925(1).

10. That all conditions precedent to bringing this action have occurred or have been waived. Attached herein is as a denial of claim pursuant to Florida Statute 768.28. (See exhibit "A").

COUNT 1

MOTOR VEHICLE NEGLIGENCE AGAINST DEFENDANT STEVEN M. SOLTAU

10. The Plaintiff adopts by reference, as if set out fully and completely in this Count, the following statements of this Complaint: Paragraphs 1 through 10.

11. On or about August 7, 2008, the Defendant, Steven M. Soltau, operated a motor vehicle on US Highway 19, in Clearwater, Pinellas County, Florida.

12. At that time and place, the Defendant, Steven N. Soltau, negligently operated or maintained the motor vehicle so that it collided with Plaintiff's motor vehicle.

COUNT 2

RESPONDEAT SUPERIOR AGAINST DEFENDANT PINELLAS COUNTY

13. The Plaintiff adopts by reference, as if set out fully and completely in this Count, the following statements of this Complaint: Paragraphs 1 through 10.

14. On or about August 7, 2008, the Defendant, Pinellas County, owned the motor vehicle involved in this accident which occurred on US Highway 19, in Clearwater, Pinellas County, Florida.

15. At all times material to the act in question, Steven M. Soltau, was within the course and scope of employment for Pinellas County, the Defendant herein.

16. At all times material to the act in question, Steven M. Soltau, was engaged in the furtherance of Pinellas County business.

17. At all times material to the act in question, Steven M. Soltau, was engaged in accomplishing a task for which he was employed with Pinellas County.

18. Under the doctrine of respondeat superior, the Pinellas County is responsible for the damages of Plaintiff proximately caused by Steven M. Soltau.

COUNT 3

STATUTORY NEGLIGENCE AGAINST DEFENDANTS: STEVEN M.SOLTAU
AND PINELLAS COUNTY

19. Plaintiff adopts by reference, as if set out fully and completely in this Count, the following statements of this Complaint: Paragraphs 1 through 10 and Paragraphs 14 through 18.

20. On or about August 7, 2008, the Defendant, Pinellas County, owned the motor vehicle involved in this accident which occurred on US Highway 19, in Clearwater, Pinellas County, Florida.

21. The Defendant's conduct as described in this Complaint constitutes an unexcused breach of duty imposed by Florida Statute 316.1925 (1) - "careless driving".

22. As a direct and proximate result, the Plaintiff 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, aggravation of a previously existing condition, permanent disfigurement and scarring. The losses are either permanent or continuing and the Plaintiff will suffer the losses in the future. Plaintiff's automobile was damaged and Plaintiff lost the use of it during the period required for its repair or replacement.

COUNT 4

DANGEROUS INSTRUMENTALITY AGAINST DEFENDANT PINELLAS
COUNTY

23. Plaintiff adopts by reference, as if set out fully and completely in this Count, the following statements of this Complaint: Paragraphs 1 through 10 and and Paragraphs 14 through 18.

24. On or about August 7, 2008, the Defendant, Pinellas County, was the owner of the motor vehicle operated by Steven M. Soltau, involved in this accident which occurred on US Highway 19, in Clearwater, Pinellas County, Florida.

25. The Defendant, Pinellas County, consented to the use of the vehicle by Steven M. Soltau.

26. As described in this Complaint, Steven M. Soltau, was negligent on the occasion in question, and such negligence was the proximate cause of Plaintiff's injuries and damages.

27. Under the dangerous instrumentality doctrine, the Defendant, Pinellas County, is strictly and vicariously liable for the damages to the Plaintiff, resulting from the negligent operation of such vehicle by Steven M. Soltau.

COUNT 5

LOSS OF CONSORTIUM DEFENDANTS: STEVEN M.SOLTAU AND PINELLAS
COUNTY

28. Plaintiff adopts by reference, as if set out fully and completely in this Count, the following statements of this Complaint: Paragraphs 1 through 10 and Paragraphs 14 through 18.

29. As a direct and proximate result of the negligence of the Defendant Steven M. Soltau, by virtue of the Defendant Pinellas County being the responsible party, due to the Plaintiff's injuries, his wife lost the care, comfort, society, attention and consortium of her husband and the said losses are permanent in nature.

COUNT 6

ATTORNEY'S FEES

30. Plaintiff, Richard Pielat, has employed Andrew Wieczorkowski, P.A. for representation in this action, and Plaintiff has agreed to pay a reasonable attorney fee for the said representation.

DEMAND FOR JURY TRIAL

31. The Plaintiff, Richard Pielat, by and through his undersigned attorney, hereby demands a trial of this action by jury.

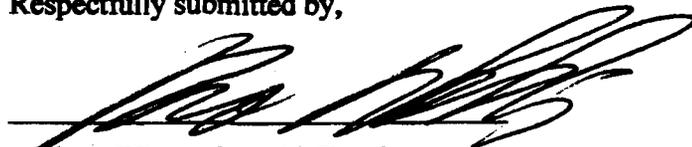
DEMAND FOR JUDGMENT

WHEREFORE, the Plaintiff, RICHARD PIELAT, by and through his undersigned attorney, hereby demands a jury trial of this action, and further demands judgment against the Defendants: STEVEN M. SOLTAU and PINELLAS COUNTY for damages in the sum of approximately \$113,000.00, together with all costs included in this

action including any attorney's fees permissible by law, and any other and further relief,
in law or in equity, to which the Plaintiff may be justly entitled.

Date: June 16, 2010

Respectfully submitted by,



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