

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

SIDDIE FRIAR

CASE NUMBER: **2015 CA 1078**

Plaintiff,

DIVISION: **K**

v.

JAMES ROBERT MABRY, and  
UNIVERSITY OF FLORIDA POLICE DEPARTMENT,  
a governmental entity

Defendants.

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**COMPLAINT FOR PERSONAL INJURY DAMAGES**

COMES NOW the Plaintiff, SIDDIE FRIAR (hereinafter “the Plaintiff” or “FRIAR”), by and through undersigned counsel, and hereby sues the Defendants, JAMES ROBERT MABRY (hereinafter “MABRY”) and the UNIVERSITY OF FLORIDA POLICE DEPARTMENT, a governmental entity, (hereinafter “UF POLICE”), and alleges as follows:

**JURISDICTION AND VENUE ALLEGATIONS**

1. This cause of action arises out of a motor vehicle collision that occurred on or about March 22, 2012 in Gainesville, Alachua County, Florida.
2. This is an action for damages exceeding Fifteen Thousand Dollars (\$15,000.00) exclusive of costs and interest.
3. On or about March 22, 2012, and at all times relevant to these proceedings, the Plaintiff was and remains a resident of the city of Jacksonville, Duval County, Florida.
4. At all times relevant to these proceedings, the Plaintiff was and remains a resident of the state of Florida.

5. On or about March 22, 2012, and at all times relevant to these proceedings, Defendant MABRY was and remains a resident of the Gainesville, Alachua County, Florida.

6. At all times relevant to these proceedings, Defendant MABRY was a resident of the state of Florida.

7. On or about March 22, 2012, and at all times relevant to these proceedings, the Defendant UF POLICE was and continues to be a government agency of the State of Florida.

8. On or about March 22, 2012 and at all times relevant to these proceedings, the Defendant UF POLICE was and continues to be an instrumentality of the State of Florida.

9. On or about March 22, 2012 and at all times relevant to these proceedings, the tort liability of Defendant UF POLICE was and continues to be governed by the sovereign immunity statute—Florida Statutes §768.28.

10. At all times relevant to these proceedings, Defendant MABRY was an employee officer of UF POLICE and was acting within the course and scope of his employment for UF POLICE at the time of the motor vehicle collision that is the subject-matter of this lawsuit.

11. Defendant UF POLICE has waived its sovereign immunity as provided in section 768.28, Florida Statutes, for its negligence and any negligence of its employees including MABRY in negligently operating and/or maintaining its motor vehicles.

12. More than six months have expired prior to the filing of this Complaint since UF POLICE and the Florida Department of Financial Services were placed on notice in accordance with section 768.28, Florida Statutes.

13. Venue is proper in Alachua County, Florida under section 768.28, Florida Statutes, because the cause of action occurred in Alachua County, Florida.

14. All conditions precedent to the filing of the action have been met or waived.

## **GENERAL FACTUAL ALLEGATIONS**

The Plaintiff re-alleges and re-avers paragraphs numbered one (1) through fourteen (14) as if fully set forth herein and further states as follows:

15. On or about March 22, 2012 and at all times relevant to these proceedings, Defendant MABRY was an employee of UF POLICE.

16. On or about March 22, 2012, at approximately 12:15 PM, MABRY was acting within the normal course and scope of MABRY's employment with UF POLICE.

17. On or about March 22, 2012, the Plaintiff owned and operated a motor vehicle (hereinafter "the Friar vehicle").

18. At all times relevant to these proceedings, the Plaintiff was seatbelt-restrained while operating the Friar vehicle.

19. On or about March 22, 2012, at approximately 12:15 PM, the Friar vehicle was stopped on NW 29<sup>th</sup> Road, facing west, ~20-30 feet away from an Advanced Auto Parts store and Knights Inn motel driveway in Gainesville, Alachua County, Florida.

20. On or about March 22, 2012, at approximately 12:15 PM, the Friar vehicle was stopped on NW 29<sup>th</sup> Road waiting for eastbound traffic to pass before making a left turn into the Advanced Auto Parts and Knights Inn driveway in Gainesville, Alachua County, Florida.

21. On or about March 22, 2012, at approximately 12:15 PM, the Defendant UF POLICE owned a motor vehicle that was being operated by Defendant MABRY (hereinafter "the Mabry vehicle") traveling westbound on NW 29<sup>th</sup> Road behind the Friar vehicle in Gainesville, Alachua County, Florida.

22. At and/or before that time and place, MABRY failed to use reasonable care in the operation and/or maintenance of the Mabry vehicle such that a rear-end collision resulted

between the Mabry vehicle and another motor vehicle, in turn resulting in a collision with the Friar vehicle

23. The Mabry vehicle's rear-end collision with this other motor vehicle on or about March 22, 2012, at approximately 12:15PM, was the direct and/or proximate cause of this other motor vehicle's collision with the Friar vehicle.

24. At all times relevant to these proceedings, MABRY had a duty to use reasonable care in the operation and/or maintenance of the Mabry vehicle when or before traveling on the public roadways, including but not limited to the following duties further specified herein.

25. A duty to other motor vehicle occupants traveling on the public roadways, including the Plaintiff, to use reasonable care in the operation and maintenance of the Mabry vehicle.

26. A duty to other motor vehicle occupants traveling on the public roadways, including the Plaintiff, to operate the Mabry motor vehicle with due regard for the safety of persons and property on the public roadways.

27. A duty to stop before stopped traffic, that included the Friar vehicle as well as the other vehicle behind the Friar vehicle, in the same lane.

28. A duty to obey Florida traffic laws when operating the Mabry vehicle including traveling on public roadways.

29. At and/or before March 22, 2012, MABRY breached one or more of the above-referenced duties of care, which directly and/or proximately resulted in the motor vehicle collisions that are the subject matter of this lawsuit.

30. MABRY failed to use reasonable care in the operation and/or maintenance of the Mabry vehicle directly and/or proximately causing the aforesaid collision with the Friar vehicle.

31. MABRY failed to use reasonable care in traveling on NW 29<sup>th</sup> Road in the city of Gainesville, county of Alachua, state of Florida.

32. MABRY failed to use reasonable care by failing to stop behind the vehicle that was stopped behind the Friar vehicle.

33. MABRY's failure to use reasonable care at all times relevant to these proceedings in the operation and/or maintenance of the Mabry vehicle constituted negligence.

34. MABRY's failure to use reasonable care at all times relevant to these proceedings in the operation and/or maintenance of the Mabry vehicle constituted negligence, which directly and/or proximately caused damage to the Plaintiff.

35. At the time MABRY breached one or more of the above-referenced duties of care, he was acting in the course and scope of his employment with UF POLICE.

36. As a direct and/or proximate result of MABRY's negligence stated above, the Plaintiff suffered bodily injury and resulting pain, suffering, total loss of her vehicle, loss of capacity of the enjoyment of life, mental anguish, expense of hospitalization, medical, and nursing care and treatment, permanent injury, wage loss, and/or loss of earning capacity.

37. Plaintiff's losses are permanent and/or continuing in nature and she will suffer these losses into the future.

WHEREFORE, the Plaintiff demands a trial by jury as to all issues so triable as a matter of right as well as judgment of damages, costs, expert witness fees, attorneys' fees, filing fees, pre-judgment and post-judgment interest, taxable costs, and such other further relief that the Court deems appropriate, just, and proper, from Defendants MABRY and UF POLICE.

Dated this 23rd day of March 2015.

Respectfully submitted,

BY: **FINE, FARKASH & PARLAPIANO, P.A.**

/s/ A. Daniel Vazquez

**A. DANIEL VAZQUEZ, ESQ.**

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