

COMMISSION AGENDA:

5.21.13 # 126.

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 Daniel Machado v. Pinellas County Board of County
Commissioners and 21st Century Centennial Insurance Company
Circuit Civil Case No. 13-003467-CI-015

DISTRIBUTION: Virginia Holscher, Bureau Director, Risk Management

DATE: May 21, 2013

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

DISCUSSION: Plaintiff's Complaint alleges negligence and resulting personal injuries as a result of a motor vehicle accident on Bryan Dairy Road, west of Starkey Road, in unincorporated Pinellas County, on September 21, 2011. Plaintiff alleges that a Pinellas County employee, operating a vehicle owned by Pinellas County, collided with the rear of the Plaintiff's vehicle at the merger of a traffic lane closed by construction cones. Plaintiff has also stated a claim against Co-defendant 21st Century Centennial Insurance Company for uninsured motorist benefits.

Anticipated defenses include, among others, sovereign immunity, comparative negligence, set-off, collateral sources, and Plaintiff's failure to comply with F.S. 768.28 notice requirements.

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

JLB:JAP:gm

Attachment

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**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, THE STATE OF FLORIDA
CIVIL DIVISION**

DANIEL MACHADO,

Plaintiff,

vs.

Case No.

Division:

13-3467 CI
015

**PINELLAS COUNTY BOARD
OF COUNTY COMMISSIONERS
and 21st CENTURY
CENTENNIAL INSURANCE
COMPANY,**

Defendants.

COMPLAINT

COMES NOW the Plaintiff, DANIEL MACHADO, by and through the undersigned counsel,
sues Defendants, PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS and 21st
CENTURY CENTENNIAL INSURANCE COMPANY, and alleges as follows:

1. This is an action for damages that exceeds Fifteen Thousand (\$15,000.00) Dollars, exclusive of costs and interest.
2. On or about September 21, 2011, Defendant, PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS, was and is a municipal corporation organized under the laws of the State of Florida and is subject to the jurisdiction of this Court.
3. Pursuant to Fl. Stat. 768.28, the Plaintiff, DANIEL MACHADO, has provided timely written notice to the Insurance Commissioner and Pinellas County Board of County Commissioners and has met all conditions precedent to this case. A copy of the notice and supplemental notice is attached hereto as Exhibit "A" and "B".

4. Defendant, 21ST CENTURY CENTENNIAL INSURANCE COMPANY, is a foreign profit corporation licensed to and doing business in the State of Florida.
5. On or about September 21, 2011, Defendant, PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS, was the owner of a certain 2001 Ford motor vehicle.
6. On or about September 21, 2011, Defendant PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS' employee Robert Boyd operated the certain 2001 Ford motor vehicle with the express or implied permission owner, Defendant, PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS.
7. On or about September 21, 2011, Plaintiff, DANIEL MACHADO, was driving his vehicle at or near the intersection of Bryan Dairy Road in Seminole, Pinellas County, Florida, when Robert Boyd did carelessly and negligently maintain, operate and control the 2001 Ford motor vehicle owned by Defendant, PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS so as to cause it to collide into and strike the vehicle operated by Plaintiff, DANIEL MACHADO, thus causing him to sustain serious and permanent injury.
8. As a direct and proximate result of the negligent conduct of Defendant PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS, the Plaintiff, DANIEL MACHADO, has sustained the following past and future damages:
 - a. Bodily injury;
 - b. Medical and related expenses, past and future, incurred in seeking a cure for her injuries;
 - c. Pain and suffering;
 - d. Loss of capacity to lead and enjoy a normal life;
 - e. Mental anguish;
 - f. Loss of income or diminution of earning or earning capacity;

- g. Physical impairment;
- h. Inconvenience;
- i. Permanent injury within a reasonable degree of medical probability;

WHEREFORE, Plaintiff, DANIEL MACHADO, demands a trial by jury and a judgment against the Defendant, PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS for an amount within the jurisdictional limits of this Court, to-wit: More than Fifteen Thousand Dollars (\$15,000.00), plus costs and for such other relief to which the Plaintiff may be justly entitled.

COUNT II

- 9. Plaintiff, DANIEL MACHADO, realleges paragraphs 1- 8 above as if set out fully herein.
- 10. At all material times to this Complaint, Robert Boyd and the vehicle he operated were underinsured in the form of automobile liability insurance.
- 11. Plaintiff, DANIEL MACHADO, was covered under policy of automobile insurance by the Defendant, 21ST CENTURY CENTENNIAL INSURANCE COMPANY, which policy included uninsured/underinsured motorist coverage. A copy of the insurance declaration sheet is attached as Exhibit "C".
- 12. Plaintiff is entitled to benefits under his uninsured motorist coverage with Defendant, 21ST CENTURY CENTENNIAL INSURANCE COMPANY.
- 13. Plaintiff has complied with all conditions precedent to the filing of this action.

WHEREFORE, Plaintiff, DANIEL MACHADO, demands a trial by jury and a judgment against the Defendants PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS and 21ST CENTURY CENTENNIAL INSURANCE COMPANY, for an amount within the jurisdictional limits of this Court, to-wit: More than Fifteen Thousand Dollars (\$15,000.00), plus

costs and for such other relief to which the Plaintiff may be justly entitled.

Dated: 3/25/13.



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