

STATE OF SOUTH CAROLINA  
COUNTY OF HORRY

JOHN HENIS,

Plaintiff,

vs.

CITY OF MYRTLE BEACH,

Defendant.

IN THE COURT OF COMMON PLEAS  
THE FIFTEENTH JUDICIAL CIRCUIT

Case No.: 2020-CP-26-\_\_\_\_\_

**SUMMONS  
(JURY TRIAL REQUESTED)**

**TO: THE DEFENDANT ABOVE-NAMED:**

**YOU ARE HEREBY SUMMONED** and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to said complaint upon the attorneys for the Plaintiffs, at their office at 4701 Oleander Drive, Myrtle Beach, SC 29577, within thirty (30) days after the service thereof, exclusive of the day of such service, and if you fail to answer the complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the complaint.

**AXELROD & ASSOCIATES, P.A.**  
ATTORNEYS FOR PLAINTIFF

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August 18, 2020  
Myrtle Beach, South Carolina

STATE OF SOUTH CAROLINA  
COUNTY OF HORRY

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**COMPLAINT**  
**(Jury Trial Demanded)**  
**(South Carolina Tort Claims Act)**

The Plaintiff above named, complaining of the Defendant herein, respectfully alleges and would show unto this Honorable Court the following:

1. That the Plaintiff, John Henis, is a citizen and resident of Horry County, South Carolina.
2. That the Defendant, City of Myrtle Beach, is a political subdivision of the State of South Carolina and subject to suit under the South Carolina Tort Claims Act, S.C. Code Ann. Section 15-78-10 *et seq.* (1976) as amended. Officer Kurt Alexander Sculac was at all times relevant and material to the allegations hereof duly employed, authorized and acting as a law enforcement official of the Defendant and was at all such times acting within the course, scope and authority of his employment by Defendant.
3. That this Honorable Court has jurisdiction of both the parties and the subject matter in this action.
4. That this action is brought pursuant to the South Carolina Tort Claims Act insofar as the Plaintiff has suffered loss and damage proximately caused by a tort of the State, an agency, political subdivision, government entity, and employee of the same acting within the scope of his official duty, to recover damages suffered by the Plaintiff due to wrongful acts or

omissions by Defendant and its employee, Officer Kurt Alexander Sculac, as alleged hereinbelow.

5. That the Defendant, by and through its employee, Officer Kurt Alexander Sculac, was negligent, grossly negligent, careless, reckless, willful, and wanton in its acts and/or omissions which proximately caused the resulting damages and loss suffered by the Plaintiff as alleged herein.
6. That at approximately 8:30 a.m. on June 23, 2019, Plaintiff was riding his bicycle in the designated bike lane traveling southbound near 19<sup>th</sup> Avenue South on Ocean Boulevard in Myrtle Beach, South Carolina.
7. That at this time and place, a fully marked City of Myrtle Beach police vehicle driven by Officer Kurt Alexander Sculac was traveling southbound and while attempting to turn right onto 19<sup>th</sup> Avenue South, failed to yield the right of way to the Plaintiff and caused him to collide with the passenger side of the police vehicle.
8. That the Defendant, directly and by and through its employee, Officer Kurt Alexander Sculac, had a duty while operating its police vehicle to exercise reasonable care to avoid collisions with others on the road including the Plaintiff.
9. That the Defendant, by and through the acts and/or omissions of its employee, Officer Kurt Alexander Sculac, was negligent, grossly negligent, careless, reckless, willful and wanton in one or more of the following particulars:
  - a. In failing to yield the right of way;
  - b. In failing to keep a proper lookout;
  - c. In failing to maintain proper control over his vehicle;
  - d. In failing to take evasive action to prevent the collision;

- e. In failing to properly observe the road and traffic conditions which were clearly visible ahead of him;
  - f. In driving too fast for conditions;
  - g. In disregarding recognized rules of the road and the applicable traffic control statutes of the State of South Carolina;
  - h. In failing to exercise that degree of care which a reasonable and prudent person would have exercised under the same or similar circumstances; and
  - i. In such other and further particulars as may be established by the evidence at trial.
10. That in failing to exercise the appropriate standard and degree of care incumbent upon it under the circumstances and conditions as stated above, the Defendant breached the duty of care owed to the Plaintiff in any one or more of the particulars set forth hereinabove, thereby causing injury, damage, and harm to the person and property of the Plaintiff.
11. That as a direct and proximate result of the negligent, grossly negligent, careless, reckless, willful and wanton acts and/or omissions of the Defendant, the Plaintiff sustained the following injuries:
- a. Injuries to his left shoulder and arm, left leg and left hip along with other injuries, the full extent of which is undetermined to date;
  - b. Severe, ongoing and permanent pain and suffering, mental and emotional anguish, and permanent physical impairment and disability;
  - c. Money spent for medical care and treatment, past, present and future;
  - d. Emotional trauma and distress;
  - e. Loss of enjoyment of life;
  - f. Damage to his bicycle, related gear and apparel; and
  - g. Such other and further damages as may be established by the evidence at trial.

12. That the negligence, negligence *per se*, gross negligence, careless and reckless acts and/or omissions of Defendant were the direct and proximate cause(s) of the injuries and damages suffered by the Plaintiff as set forth hereinabove.
13. That Plaintiff is entitled to a judgment against the Defendant for damages under the South Carolina Tort Claims Act as determined by a judge and jury together with the costs of this action as provided by law.

WHEREFORE, having set forth his complaint, the Plaintiff prays for judgment against the above-named Defendant for all damages provided for and allowed by the South Carolina Tort Claims Act; for his costs and disbursements incurred in bringing and maintaining this action; and for such other and further relief as this Honorable Court may deem necessary, just and proper.

**AXELROD & ASSOCIATES, P.A.**  
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