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

CASE NO.: 2024-12820-CICI

LAWRENCE SANDERSON,

Plaintiff,

v.

CITY OF DAYTONA BEACH,

Defendant.

/

PLAINTIFF'S ORIGINAL COMPLAINT

COMES NOW, the Plaintiff LAWRENCE SANDERSON by and through the undersigned attorney, Jonathan I. Rotstein, Esquire, and pursuant to Florida Rules of Civil Procedure 1.190, and hereby files this Complaint against Defendant CITY OF DAYTONA BEACH, and in support thereof states and alleges as follows:

FACTS

1. This is an action for damages that exceed Fifty Thousand Dollars ($50,000.00).

2. At all times material hereto, Plaintiff, LAWRENCE SANDERSON was a resident of Daytona Beach, Volusia County, Florida and is over the age of twenty-one (21).

3. At all times material hereto, Defendant CITY OF DAYTONA BEACH is a governmental entity located in the State of Florida, with business premises in Volusia County, Florida.

4. All conditions precedent, to wit, the six-month notice requirement pursuant to Florida Statute 768.28(6) have been complied with by the Plaintiff, prior to instituting this

"sovereign immunity" lawsuit against the Defendant, (a copy is attached hereto and marked as Exhibit "A").

5. There are no prior adjudicated unpaid claims in excess of $200.00.

6. The Department of Insurance has been notified of this claim.

7. The accident which is the subject matter of this litigation occurred in Daytona Beach, Volusia County, Florida.

8. This Honorable Court has jurisdiction over this lawsuit in that the accident, which is the basis of this lawsuit took place in Volusia County, Florida, and that this action for money damages for the Plaintiff, LAWRENCE SANDERSON, exceeds Fifty Thousand Dollars ($50,000.00) against Defendant, CITY OF DAYTONA BEACH.

COUNT ONE
NEGLIGENCE AGAINST
DEFENDANT CITY OF DAYTONA BEACH

11. Plaintiff is entitled to relief against Defendant, CITY OF DAYTONA BEACH, based upon the following facts:

(a) Plaintiff realleges and reavers each and every allegation contained in paragraphs 1 through 10 above as though stated herein.

12. On or about October 19, 2021, Plaintiff, LAWRENCE SANDERSON, was lawfully on the premises known as Lenox Park & Playground located at 825 S. Grandview Ave., Daytona Beach, Volusia County, Florida, as he was visiting the playground with his young son.

13. At the aforesaid time and place, as the Plaintiff was walking through a grassy area with his son, he stepped into a hole that had been concealed by the grass and fell to the ground, resulting in serious and permanent physical injury to Plaintiff.

14. Defendant owed a duty to the general public, including the Plaintiff, to exercise reasonable care in maintaining its park & playground in a reasonably safe condition and to warn of and/or correct any dangerous conditions in the grass on the playground.

15. The dangerous condition of the grassy area was known to Defendant CITY OF DAYTONA BEACH or said condition had existed for a sufficient length of time so that Defendant should have known of it.

16. Defendant breached its duties to Plaintiff by:

a. Failing to warn the general public of a dangerous condition that was known to Defendant;

c. Failing to correct a dangerous condition that was known to Defendant;

b. Failing to properly maintain the sidewalk; and

c. Failing to ensure proper maintenance of the grass in the park & playground.

17. That as a direct and proximate result of the aforedescribed careless, wrongful and negligent acts of the Defendant, CITY OF DAYTONA BEACH, the Plaintiff, LAWRENCE SANDERSON, has been permanently and seriously injured and bruised in and about his lower back and groin area, suffering physical pain in the past and indefinitely into the future, suffering mental pain in the past and indefinitely into the future, losing the capacity for the enjoyment of life in the past and indefinitely into the future, incurring medical and hospital bills for her care and treatment in the past and into the indefinite future, all in an amount exceeding Fifty Thousand Dollars ($50,000.00), against the Defendant.

WHEREFORE, Plaintiff, LAWRENCE SANDERSON, demands judgment for damages and costs in an amount exceeding Fifty Thousand Dollars ($50,000.00), against Defendant, CITY OF DAYTONA BEACH, plus costs of the court and trial by jury.

I HEREBY CERTIFY that a copy of the above and foregoing has been furnished, by regular U.S. mail delivery and/or electronic mail, this 23rd day of August, 2024 to Mark Jones, City of Daytona Beach Risk management, P.O. Box 2451, Daytona Beach, FL 32115.

Jonathan I. Rotstein, Esquire
Law Office of Rotstein & Shiffman, LLP
309 Oakridge Blvd., Suite B
Daytona Beach, FL 32118
Florida Bar No. 909580
(386) 252-5560 / (386) 238-6999 fax (lmb)
Primary: L.bonner@rotstein-shiffman.com
Secondary: M.otto@rotstein-shiffman.com
Scheduling: T.dallarosa@rotstein-shiffman.com
Attorney for Plaintiff

NOTICE OF CLAIM – FLORIDA STATUTES 768.28(6)
VIA CERTIFIED MAIL/RRR

TO:

Derrick Henry, Mayor
City of Daytona Beach
301 S. Ridgewood Ave.
Daytona Beach, FL 32114-4933
9489 0090 0027 6312 5017 67

Deric Feacher, City Manager
City of Daytona Beach
301 S. Ridgewood Ave.
Room #200
Daytona Beach, FL 32114-4933
9489 0090 0027 6312 5017 74

Robert Jagger, Esquire
City Attorney
City of Daytona Beach
301 S. Ridgewood Ave.
Daytona Beach, FL 32114-4933
9489 0090 0027 6312 5017 81

Jeff Brower, Chairman
Volusia County Board of County Commissioners
County of Volusia
Thomas C. Kelly Administration Center
123 W. Indiana Ave.
DeLand, FL 32720-4612
9489 0090 0027 6312 5017 98

George Recktenwald, County Manager
County of Volusia
Thomas C. Kelly Administration Center
123 W. Indiana Ave.
Suite P
Deland, FL 32720-4612
9489 0090 0027 6312 5018 04

Michael Dyer, Esquire
County Attorney
County of Volusia
Thomas C. Kelly Administration Center
123 W. Indiana Ave.
3rd Floor
Deland, FL 32720-4615
9489 0090 0027 6312 5018 11

Jared W. Perdue, P.E., Secretary
Florida Department of Transportation
605 Suwannee St.
Tallahassee, FL 32399-0450
9489 0090 0027 6312 5018 28

Department of Financial Services
200 E. Gaines St.
Tallahassee, FL 32399-6502
9489 0090 0027 6312 5018 35

EXHIBIT "A"

Lawrence Sanderson makes a claim against The Florida Department of Transportation, City of Daytona Beach and Volusia County, FL pursuant to Florida Statutes Section 768.28(6), and makes the following statements in support of the claim:

1. Claimant's address is: 321 Frances Terrace, Daytona Beach, Volusia County, FL 32118.

2. Notices concerning this claim should be sent to Jonathan I. Rotstein, Esquire, 309 Oakridge Blvd., Suite B, Daytona Beach, FL 32118.

3. The date and place of the negligence giving rise to this claim is October 19, 2021, at Lenox Playground, 825 S. Grandview Ave., Daytona Beach, Volusia County, Florida 32118.

4. The circumstances giving rise to this claim is as follows: Claimant was walking through grass when claimant stepped into a concealed hole in grass and fell.

5. Claimant's injuries/damages are low back and groin pain.

6. The names of the public employees causing the Claimant's injuries/damages is unknown.

7. Claimant requests that The Florida Department of Transportation, City of Daytona Beach and Volusia County, FL pay this claim in the amount of $200,000.00 This figure is based on the following

Medical Expenses incurred to date:	$ 25,000.00
Estimated Future medical expenses:	$ 75,000.00
Loss of Wages:	$ 0
General Damages:	$ 100,000.00
TOTAL	$ 200,000.00

8. The Claimant's date and place of birth is July 29, 1983 in Albuquerque, New Mexico. The Claimant's Social Security Number is [redacted] There is no unpaid prior adjudicated claim in excess of $200 owed by Claimant to the State of Florida or any of its agencies, officers or subdivisions.

Dated: June 14, 2023

Jonathan I. Rotstein, Esquire o/b/a
Law Offices of Rotstein, Shiffman & Broderick, LLP
309 Oakridge Boulevard, Suite B
Daytona Beach, Florida 32118
(386) 252-5560 (wg)
(386) 257-7776 Fax
l.bonner@rotsetin-shiffman.com
m.otto@rotstein-shiffman.com
t.dallarosa@rotstein-shiffman.com
Florida Bar No. 0909580
Attorney For Plaintiff