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

JEREMY GODFREY,

Plaintiff,

vs. **CASE NO.: _____**

CITY OF EDGEWATER,

Defendant.
_____/

COMPLAINT

Plaintiff, **JEREMY GODFREY**, by and through the undersigned counsel, hereby sues Defendant, **CITY OF EDGEWATER**, and alleges:

JURISDICTION AND VENUE

1. This is an action by Plaintiff for damages in excess of FIFTY THOUSAND AND ONE DOLLARS ($50,001.00), exclusive of costs, interest, and attorneys' fees. The estimated value of Plaintiff's claim is in excess of the minimum jurisdictional threshold required by this Court. Accordingly, Plaintiff has entered $50,001.00 in the civil cover sheet for the "estimated amount of claim" as required in the civil cover sheet. The Florida Supreme Court has ordered that the estimated amount of claim be set forth in the civil cover sheet for data collection and clerical purposes only. The actual value of the Plaintiff's claim will be determined by a fair and just jury in accordance with Article 1, Section 21, Fla. Const.

2. Venue is proper in Volusia County in that all incidences complained of occurred in said County.

PARTIES

3. At all times material hereto, Defendant, **CITY OF EDGEWATER,** was and is a Florida Municipality within Volusia County created pursuant to Fla. Stat. §165.041 and duly incorporated under the laws of the State of Florida and owned, maintained and/or controlled the subject sidewalk located at 30th Street between Travelers Palm Drive and Umbrella Tree Drive, Edgewater, Volusa County, Florida. The Defendant, **CITY OF EDGEWATER** has clearly and unequivocally waived its sovereign immunity as provided in Fla. Stat. §768.28 for its negligent failure to maintain its sidewalk, which presented a safety hazard for the pedestrians and public-at-large and, for which the **CITY OF EDGEWATER** failed to correct and/or warn of.

4. Plaintiff, **JEREMY GODREY** has complied with Fla. Stat. Section 768.28 by providing proper notice of this action to Defendant. See attached Exhibit "A".

5. Plaintiff, **JEREMY GODFREY** has complied with Fla. Stat. Section 768.28 by providing proper notice to Florida Department of Financial Services and/or Department of Insurance. See attached Exhibit "A".

6. After receipt of this statutory notice, the Defendant has denied liability.

STATEMENT OF FACTS

7. On or about April 30, 2024, Plaintiff, **JEREMY GODFREY**, was riding his bicycle on 30th Street between Travelers Palm Drive and Umbrella Tree Drive, Edgewater, Volusa County, Florida.

8. At that time and place, while Plaintiff, **JEREMY GODFREY** was riding his bicycle, there was an inadequately secured manhole on 30th Street sidewalk which when Plaintiff, **JEREMY GODFREY**'s bicycle tire made contact with the manhole, his bicycle tire popped, flinging Plaintiff off of his bicycle.

9. As a direct and proximate result of the subject incident on the premises and/or properties, the Plaintiff suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of the capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, the loss of the ability to earn money, and aggravation of a previously existing condition. These losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

COUNT I: NEGLIGENCE
AS TO DEFENDANT, CITY OF EDGEWATER

Plaintiff hereby restates and re-alleges paragraphs one (1) – none (9) above, as if fully set forth herein.

10. The Defendant, **CITY OF EDGEWATER** is responsible for maintaining its' sidewalks and more specifically, its manholes.

11. On or about April 30, 2024, Defendant, **CITY OF EDGEWATER** was in control of the above-described premises and had the right and duty to maintain the premises and/or properties.

12. At the time of the subject occurrence Defendant, **CITY OF EDGEWATER** negligently maintained the subject sidewalk by not securing the manhole.

13. At that time and place, Plaintiff was lawfully on Defendant's sidewalk as a pedestrian.

14. Further, Defendant, **CITY OF EDGEWATER,** negligently maintained the sidewalk by failing to warn and/or alert invitees and the public at large, including Plaintiff of the defects and/or unsafe conditions of the manhole.

15. At that time and place, Defendant, **CITY OF EDGEWATER,** had common law and statutory duties with regards to the maintenance/repair of the subject manhole and any hazardous conditions located on the subject sidewalk.

16. At that time and place, Defendant, **CITY OF EDGEWATER** had a duty to maintain the sidewalk in a reasonably safe condition for the safety of pedestrians utilizing the sidewalk, which includes reasonable efforts to keep the subject sidewalk free from defects and/or unsafe conditions, such as inadequately secured manholes that might foreseeably give rise to loss, injury, or damage.

17. At that time and place, Defendant, **CITY OF EDGEWATER** breached the aforesaid duty by not repairing the inadequately secured manhole on the sidewalk.

18. At that time and place, Defendant, **CITY OF EDGEWATER** breached the aforesaid duty by not providing safe sidewalks for the public at large including Plaintiff, which caused Plaintiff to be injured.

19. At that time and place, Defendant, **CITY OF EDGEWATER** acted negligently by failing to exercise reasonable care in the maintenance, inspection, repair, warning, or mode of operation of the subject manhole on the sidewalk.

20. At all times material to this Complaint the Defendant, **CITY OF EDGEWATER**, as owners of the subject sidewalk, owed a legal as well as a common-law non-delegable duty of reasonable care to properly maintain the subject sidewalk in a reasonably safe condition and, otherwise provide for and maintain a sidewalk free from unsecured manholes when it is foreseeable that pedestrians would use its sidewalks. The Defendant, **CITY OF EDGEWATER** by and through its agents, servants, employees, administrators, and maintenance personnel, owed one or more of the following duties to its citizens in general, and to Plaintiff, in particular:

a) To exercise reasonable care and provide for the health, safety, and welfare of all its citizens and invitees;

b) To maintain the subject sidewalk in a reasonably safe condition and, otherwise provide for and maintain a sidewalk free from unsecured manholes;

c) To adequately warn of sidewalk deficiencies; and

d) Other negligent acts which are undetermined at this time.

21. Notwithstanding the aforementioned duties, Defendant, **CITY OF EDGEWATER,** negligently and carelessly breached its duties in one or more of the following respects:

a) Failure to exercise reasonable care and provide for the health, safety, and welfare of all its citizens and invitees;

b) Failure to maintain the sidewalk in a reasonably safe condition and, otherwise provide for and maintain them free from unsecured manholes;

c) Failure to adequately warn of deficiencies;

d) Failure to protect Plaintiff from foreseeable and unreasonable risk of harm.

22. As a direct and proximate result of the subject incident on the premises and/or properties, the Plaintiff suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of the capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, the loss of the ability to earn money, and aggravation of a previously existing condition. These losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, the Plaintiff, **JEREMY GODFREY**, demands judgment against the Defendant, **CITY OF EDGEWATER,** for damages plus costs of this action, pre-judgment

interest at the statutory rate for actual out-of-pocket payments on past medical expenses calculated from the date payment was made, and actual wage losses, **if any**, to the extent allowed by law, and demands a trial by jury.

Dated: September 18, 2024.

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/s/ Barbara Walsh

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Marcus W. Viles
[redacted]
Andrew H. Barnett
Francesca Maria Anon

VILES & BECKMAN, LLC
INJURY ATTORNEYS

Michael L. Beckman
Barbara L. Walsh

June 3, 2024

SENT VIA CERTIFIED MAIL
City of Edgewater
104 North Riverside
Edgewater, FL 32132

RE: Waiver of Sovereign Immunity

Claimant:	Jeremy Godfrey
Date of Birth:	[redacted]
Our File Number:	31951
Date of Incident:	4/30/2024
Location:	Roberts Rd

Dear Sir or Madam:

Pursuant to §768.28 of the Florida Statutes, claim is hereby made against The City of Edgewater a political subdivision of the State of Florida, on behalf of Jeremy Godfrey of [redacted], for the personal injuries and damages he sustained as a result of an incident involving an improperly placed manhole cover.

As a result, Jeremy Godfrey suffered serious permanent injuries which have kept him under a physician's care and have had a great effect on his quality of life.

Because we do not consider the monetary limitations contained in said statute to be constitutional, this presentment of claim is not to be construed as a waiver of an amount in excess of $200,000 as being the true value of this claim and being claimed herein.

Pursuant to §768.28 of the Florida Statutes, be advised that the claimant, Jeremy Godfrey, was born on [redacted] in [redacted]. His social security number is [redacted]. He also states that he owes no prior adjudicated unpaid claims in excess of $200 to the state, its agencies, offices, or subdivisions.

Very truly yours,
VILES & BECKMAN, LLC

/s/
Andrew Barnett
AB/ar

cc: **CERTIFIED MAIL**
Florida Department of Financial Services
200 East Gaines Street
Tallahassee, FL 32399

EXHIBIT
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