

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

JASMINE HARPER, as parent of
E.H., a minor,

Case No.:

Plaintiff,

vs.

CITY OF DAYTONA BEACH

Defendant,

_____ /

COMPLAINT

COMES NOW the Plaintiff, JASMINE HARPER, as parent of E.H., a minor, by and through the undersigned counsel, and hereby sues the Defendant, CITY OF DAYTONA BEACH, and states as follows:

JURISDICTION AND VENUE

1. This is an action for damages in excess of Fifty Thousand Dollars (\$50,000.00), arising in Volusia County, Florida.

2. At all times material to this action, the Plaintiff, E.H, a minor, was a *sui juris* resident of Volusia County, Florida.

3. At all times material to this action, the Defendant, CITY OF DAYTONA BEACH, is a municipality in Volusia County, Florida.

4. Venue is proper in Volusia County, Florida, as the facts which give rise to this action occurred in Daytona Beach, Florida.

5. The Plaintiff has complied with the statutory notice requirement of Florida Statute § 768.28(6). See Exhibit A.

GENERAL ALLEGATIONS COMMON TO ALL COUNTS

The Plaintiff, JASMINE HARPER, as parent of E.H., a minor, reincorporates and realleges the allegations set forth above in paragraphs 1 through 5 above as if fully set forth herein, and further alleges as follows:

6. At all times material to this action, the Defendant, CITY OF DAYTONA BEACH owned, operated, controlled, managed, supervised, and/or maintained an outdoor park, known as James Huger Park, located at 300 S. Dr. Martin Luther King Jr., Blvd., Daytona Beach, FL 32114. (Hereinafter referred to as “the park”.)

7. On or about March 27, 2021, the Plaintiff, E.H., a minor, was a lawful invitee on the premises of James Huger Park.

8. While playing in the park, the Plaintiff, E.H., leaned on a swing. Abruptly, part of the swing frame structure collapsed, violently striking the Plaintiff and causing her to sustain serious injuries.

COUNT I
NEGLIGENCE AGAINST DEFENDANT CITY OF DAYTONA BEACH

The Plaintiff, JASMINE HARPER, as parent of E.H., a minor, reincorporates and realleges the allegations set forth above in paragraphs 1 through 8 as if fully set forth herein, and further alleges as follows:

9. At all times material to this action, the Defendant, CITY OF DAYTONA BEACH, owed a duty to lawful invitees, such as the Plaintiff, E.H., to maintain the park’s playground equipment in a reasonable and safe condition.

10. At all times material hereto, Defendant, CITY OF DAYTONA BEACH, had a duty to maintain the park's playground equipment, knowing that this a common area of recreation by its invitees, in a reasonable and safe condition.

11. The Defendant, CITY OF DAYTONA BEACH, negligently breached its duty by and through the following acts and/or omissions:

- a) Negligently failing to maintain or adequately maintain park's playground equipment, thereby creating a hazard and unreasonably dangerous condition;
- b) Negligently failing to inspect or adequately inspect the park's playground equipment, to determine whether the stability of the playground equipment constituted a hazard, thereby creating an unreasonably dangerous condition;
- c) Negligently failing to warn or adequately warn the Plaintiff of the dangerous condition when the Defendant knew or should have known of its existence;
- d) Negligently failing to correct or adequately correct the dangerous condition when Defendant knew or should have known of its existence;
- e) Negligently failing to train and/or inadequately training its employees to inspect the playground equipment for dangerous conditions.

12. The Defendant, CITY OF DAYTONA BEACH, had actual and constructive notice of the dangerous condition and failed to repair the condition.

13. The Defendant, CITY OF DAYTONA BEACH, is vicariously liable for the acts of its employees, agents, and/or servants.

12. As a direct and proximate result of the Defendant, CITY OF DAYTONA BEACH's, negligence, the Plaintiff, E.H., a minor, has suffered permanent bodily injuries, resulting in pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical treatment, travel expenses, and the aggravation of a previously existing condition. These losses are either permanent

or continuing within a reasonable degree of medical probability, and the Plaintiff will continue to suffer these losses in the future.

WHEREFORE, the Plaintiff, JASMINE HARPER, as parent of E.H., a minor, demands judgment against the Defendant, CITY OF DAYTONA BEACH, for damages, costs, attorney fees, and any other relief to which the Plaintiff may be entitled.

DEMAND FOR JURY TRIAL

The Plaintiff, JASMINE HARPER, as parent of E.H., a minor, demands a trial by jury of all issues so triable.

Dated this 30th day of January, 2025

/s/ Jeremiah Greathouse, Esq.
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