

CASE NO.

GILBERTO TORO

Plaintiff,

v.

CITY OF DELTONA, PRIMORIS T&D
SERVICES, LLC a foreign limited liability
company, and DUKE ENERGY FLORIDA, LLC
a Florida limited liability company,

Defendants.

COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW the Plaintiff, GILBERTO TORO, by and through his undersigned counsel, and hereby files this Complaint against Defendants, CITY OF DELTONA, PRIMORIS T&D SERVICES, LLC, a foreign limited liability company, and DUKE ENERGY FLORIDA, LLC, a Florida limited liability company and in support thereof state as follows:

1. This is an action for damages which exceeds the sum of Fifty Thousand Dollars (\$50,000.00).
2. At all times material hereto, Plaintiff, GILBERTO TORO (hereinafter known as "TORO"), was and is individual sui juris, residing in Deltona, Volusia County, Florida.
3. At all times material hereto, Defendant, CITY OF DELTONA (hereinafter known as "DELTONA") was and is a political subdivision of the State of Florida located within Volusia County, Florida
4. Pursuant to Section 13, Article 10, of the State Constitution and Florida Statute §768.28, et seq., the State of Florida, for itself and for its agencies and subdivisions, has waived sovereign immunity for liability for torts. All statutory prerequisites for notice and disclosure have been satisfied.

5. At all times material hereto, Defendant, PRIMORIS T&D SERVICES, LLC, a foreign limited liability company (hereinafter “PRIMORIS”) was authorized to do business in the State of Florida and conducted business regularly in Deltona, Volusia County, Florida.

6. At all times material hereto, Defendant, DUKE ENERGY FLORIDA, LLC, a Florida limited liability company (hereinafter “DUKE”) was authorized to do business in the State of Florida and conducted business regularly in Deltona, Volusia County, Florida.

7. On or about September 5, 2023, Plaintiff, TORO, was lawfully upon the premises located immediately in front of his residence located at 1489 Providence Blvd Deltona, FL 32725 which was controlled and/or maintained by Defendant DELTONA who sub-contracted work to be performed on the subject property by Co-Defendants PRIMORIS and DUKE.

COUNT I – NEGLIGENCE AGAINST DEFENDANT CITY OF DELTONA

Plaintiff incorporates the allegations contained within paragraphs 1 through 7 above as fully set forth herein

8. Defendant DELTONA owned and was responsible for the maintenance of a public swale area at or near 1489 Providence Blvd Deltona, FL 32725.

9. On or about September 5, 2023, the Plaintiff was walking outside of his residence located at 1489 Providence Blvd Deltona, FL 32725 to deposit his trash in the trash can located on the DELTONA’s property in the swale area in between the sidewalk and the street when his left leg went into a hole located in the swale area due to the improper care and maintenance of the area where some type of utility work was being performed by DELTONA’s Co-Defendants DUKE ENERGY FLORIDA and PRIMORIS T&D SERVICES requiring a deep hole to be dug and for which work was subsequently left unattended without any warnings of the existence of the hole which caused a dangerous condition to exist exposing the public and the Plaintiff to an unreasonable risk.

10. Defendant, DELTONA, had a duty to Plaintiff and others to maintain its property in a reasonable and safe condition.
11. Defendant, DELTONA, breached their duty to Plaintiff and others to maintain said property in a reasonably safe manner free from dangerous and hazardous conditions.
12. Defendant, DELTONA, was negligent in one or more of the following ways:
 - a) In creating the dangerous condition that allowed the disrepair of the swale area outside Plaintiff's residence;
 - b) In failing to correct this dangerous condition that the Defendant knew or should have known existed;
 - c) In failing to warn the Plaintiff of a dangerous condition that it knew or should have known existed;
 - d) In failing to have appropriate inspections to identify the defect and properly repair it;
 - e) In failing to put warning signs in an area that would be visible to Plaintiff and others of a potential danger;
 - f) In failing to oversee the repair work being done to confirm that appropriate safety measures were taken during the repair;
 - g) In failing to have the affected area blocked off from Plaintiff and the public;
 - h) In failing to act upon prior notice of the necessary subject repair and correcting such deficiency.
 - i) In failing to appropriately vet their co-Defendants when it retained them to perform the contracted work in a reasonable and safe manner.
 - j) In allowing their Co-Defendant to leave a deep hole on their property creating this hazardous condition to exist with on one to correct it:
 - k) Violations of city and county codes and Florida Statute; and
 - l) Other negligent acts;
13. It is as a direct and proximate result of the foregoing negligence that Plaintiff, GILBERTO TORO, suffered bodily injury and resulting pain and suffering, impairment, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money and aggravation of a previously

existing condition.

WHEREFORE, the Plaintiff TORO demands judgment for damages against the Defendant CITY OF DELTONA and demands trial by jury of all issues triable as of right by a jury.

COUNT II – NEGLIGENCE AGAINST DEFENDANT DUKE ENERGY OF FLORIDA

Plaintiff incorporates the allegations contained within paragraphs 1 through 7 above as fully set forth herein

14. On or about September 5, 2023, the Plaintiff was walking outside of his residence located at 1489 Providence Blvd Deltona, FL 32725 to deposit his trash in the trash can located on the subject property in the swale area in between the sidewalk and the street when his left leg went into a hole located in the swale area due to the improper care and maintenance of the area where some type of utility work was being performed by DUKE and Co-Defendant PRIMORIS requiring a deep hole to be dug and for which work was subsequently left unattended without any warnings of the existence of the hole which caused a dangerous condition to exist exposing the public and the Plaintiff to an unreasonable risk.
15. Defendant, DUKE, had a duty to Plaintiff and others to maintain its property in a reasonable and safe condition.
16. Defendant, DUKE, breached their duty to Plaintiff and others to maintain said property in a reasonably safe manner free from dangerous and hazardous conditions.
17. Defendant, DUKE, was negligent in one or more of the following ways:
 - a) In creating the dangerous condition that allowed the disrepair of the swale area outside Plaintiff's residence;
 - b) In failing to correct this dangerous condition that the Defendant knew or should have known existed;

- c) In failing to warn the Plaintiff of a dangerous condition that it knew or should have known existed;
- d) In failing to have appropriate inspections to identify the defect and properly repair it;
- e) In failing to put warning signs in an area that would be visible to Plaintiff and others of a potential danger;
- f) In failing to oversee the repair work being done to confirm that appropriate safety measures were taken during the repair;
- g) In failing to have the affected area blocked off from Plaintiff and the public;
- h) In failing to correct such deficiency.
- i) Violations of city and county codes and Florida Statute; and
- j) Other negligent acts;

18. It is as a direct and proximate result of the foregoing negligence that Plaintiff, GILBERTO TORO, suffered bodily injury and resulting pain and suffering, impairment, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money and aggravation of a previously existing condition.

WHEREFORE, the Plaintiff TORO demands judgment for damages against the Defendant DUKE ENERGY OF FLORIDA and demands trial by jury of all issues triable as of right by a jury.

COUNT III – NEGLIGENCE AGAINST DEFENDANT PRIMORIS T&D SERVICES

Plaintiff incorporates the allegations contained within paragraphs 1 through 7 above as fully set forth herein

19. On or about September 5, 2023, the Plaintiff was walking outside of his residence located at 1489 Providence Blvd Deltona, FL 32725 to deposit his trash in the trash can located on the subject property in the swale area in between the sidewalk and the street when his left leg went into a hole

located in the swale area due to the improper care and maintenance of the area where some type of utility work was being performed by PRIMORIS and Co-Defendant DUKE requiring a deep hole to be dug and for which work was subsequently left unattended without any warnings of the existence of the hole which caused a dangerous condition to exist exposing the public and the Plaintiff to an unreasonable risk.

20. Defendant, PRIMORIS had a duty to Plaintiff and others to maintain its property in a reasonable and safe condition.
21. Defendant, PRIMORIS breached their duty to Plaintiff and others to maintain said property in a reasonably safe manner free from dangerous and hazardous conditions.
22. Defendant, PRIMORIS, was negligent in one or more of the following ways:
 - a) In creating the dangerous condition that allowed the disrepair of the swale area outside Plaintiff's residence;
 - b) In failing to correct this dangerous condition that the Defendant knew or should have known existed;
 - c) In failing to warn the Plaintiff of a dangerous condition that it knew or should have known existed;
 - d) In failing to have appropriate inspections to identify the defect and properly repair it;
 - e) In failing to put warning signs in an area that would be visible to Plaintiff and others of a potential danger;
 - f) In failing to oversee the repair work being done to confirm that appropriate safety measures were taken during the repair;
 - g) In failing to have the affected area blocked off from Plaintiff and the public;
 - h) In failing to correct such deficiency.
 - i) Violations of city and county codes and Florida Statute; and
 - j) Other negligent acts;
23. It is as a direct and proximate result of the foregoing negligence that Plaintiff, GILBERTO TORO,

suffered bodily injury and resulting pain and suffering, impairment, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money and aggravation of a previously existing condition.

WHEREFORE, the Plaintiff TORO demands judgment for damages against the Defendant

PRIMORIS T&D SERVICES, LLC and demands trial by jury of all issues triable as of right by a jury.

WHEREFORE, the Plaintiff, GILBERTO TORO, demands judgment for damages against Defendants, CITY OF DELTONA, PRIMORIS T&D SERVICES, LLC, a foreign limited liability company, and DUKE ENERGY FLORIDA, LLC, a Florida limited liability company and would further demand a trial by jury of all issues so triable.

DATED THIS 31st DAY OF January, 2025

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