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

CASE NO.: 2024CA2000

NICHOLAS DEAN GRAVIANO,

Plaintiff,

HALIFAX HARBOR MARINA and CITY OF DAYTONA BEACH,

Defendants.
_____/

PLAINTIFF'S INITIAL COMPLAINT

COMES NOW Plaintiff, NICHOLAS DEAN GRAVIANO, by and through the undersigned attorney, Jonathan Rotstein, Esquire, and hereby sues Defendants, HALIFX HARBOR MARINA and CITY OF DAYTONA BEACH, and in support thereof states and alleges as follows:

FACTS

1. This is an action for damages in excess of the sum of Fifty Thousand Dollars ($50,000.00.), exclusive of costs, interest and attorney's fees.

2. At all times material hereto, Plaintiff, NICHOLAS DEAN GRAVIANO, was a citizen and resident of the State of Florida.

3. At all times material hereto, Defendant, HALIFAX HARBOR MARINA, was authorized and licensed to do business in the State of Florida and did/does conduct business in Volusia County, Florida.

4. 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.

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

6. 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 Plaintiff, NICHOLAS DEAN GRAVIANO, exceeds Fifty Thousand Dollars ($50,000.00) against Defendants, HALIFAX HARBOR MARINA and CITY OF DAYTONA BEACH.

COUNT ONE
NEGLIGENCE AGAINST DEFENDANT, HALIFAX HARBOR MARINA

7. That Plaintiff is entitled to relief against Defendant, HALIFAX HARBOR MARINA, based upon the following facts:

(a) Plaintiff realleges by reference each and every allegation contained paragraphs 1 through 6 as though fully set forth herein.

8. That on February 14, 2022, Plaintiff was a business invitee at and was lawfully on Defendant's property known as Halifax Harbor Marina located at 450 Basin St, Volusia County, Daytona Beach, FL 32114.

9. At the aforesaid time and place, Plaintiff was walking on North C Dock of the Halifax Harbor Marina between Slips #19 and #21 when he tripped on uneven dock boards which caused him to fall, resulting in serious, physical and permanent injuries to Plaintiff.

10. At the aforesaid time and place, Defendant, HALIFAX HARBOR MARINA, owned, used, possessed, and/or held a mortgage or other lien documentation to and/or was otherwise vested in the premises where Plaintiff was injured.

11. That at all times material hereto, Defendant HALIFAX HARBOR MARINA, acted by and through its employees, servants, and/or agents who, at all times material hereto, acted within the course and scope of their employment with Defendant.

12. Defendant, HALIFAX HARBOR MARINA, had a duty to use reasonable care to maintain the premises in a reasonably safe condition.

13. Defendant, HALIFAX HARBOR, had a duty to properly maintain the subject premises to ensure the safety of Plaintiff. Such duty involved inspecting the subject premises, including the dock where Plaintiff fell and was subsequently injured, on a regular basis and/or to identify, report and repair/replace any broken, damaged areas, including loose boards, as soon as possible to minimize and/or prevent any tripping/falling incidents such as that involving Plaintiff.

14. That at the aforesaid time and place, Defendant, HALIFAX HARBOR MARINA, breached its duty of care to Plaintiff by:

a) failing to maintain the subject premises; i.e. the dock which is the subject of this litigation, in a reasonably safe condition, especially on/near/around the outside of the back of the subject premises and specifically the broken/uneven concrete pad on the subject premises;

b) failing to inspect the subject premises; i.e. the dock which is the subject of this litigation, for safety and potential reparation purposes;

c) failing to repair the dock which is the subject of this litigation to ensure Plaintiff's safe ingress/egress in that regard which should have been and/or was known to Defendant; and

d) failing to otherwise prevent said incident from occurring.

15. At the aforesaid time and place, Defendant, HALIFAX HARBOR MARINA, failed to maintain the premises in a reasonably safe condition by providing Plaintiff with an area that contained a hazardous tripping situation with no warning or signage and/or which was not coordained off for safety purposes or otherwise visibly marked, thereby making said area unfit and unsafe for Plaintiff to be in/near for any reason/purpose.

16. That as a direct and proximate result of the negligence alleged above, Plaintiff suffered bodily injuries on February 14, 2022.

17. That as a direct and proximate result of the aforedescribed careless, wrongful and negligent acts of Defendant, HALIFAX HARBOR MARINA, Plaintiff, NICHOLAS DEAN GRAVIANO, suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing home treatment. These losses are either permanent or continuing in nature, and Plaintiff will suffer said losses in the future, to-wit, permanently.

WHEREFORE Plaintiff, NICHOLAS DEAN GRAVIANO, demands judgment against Defendant, HALIFAX HARBOR MARINA, in an amount exceeding Fifty Thousand Dollars ($50,000.00), plus costs of court and trial by jury.

COUNT TWO
NEGLIGENCE AGAINST DEFENDANT, CITY OF DAYTONA BEACH

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

(a) Plaintiff realleges by reference each and every allegation contained paragraphs 1 through 6 as though fully set forth herein.

19. That on February 14, 2022, Plaintiff was a business invitee at and was lawfully on Defendant's property known as Halifax Harbor Marina located at 450 Basin St, Volusia County, Daytona Beach, FL 32114.

20. At the aforesaid time and place, Plaintiff was walking on North C Dock of the Halifax Harbor Marina between Slips #19 and #21 when he tripped on uneven dock boards which caused him to fall, resulting in serious, physical and permanent injuries to Plaintiff.

21. Defendant, CITY OF ORLANDO, had a duty to use reasonable care to provide maintenance for and/or to maintain the subject premises in a reasonably safe condition.

22. That at the aforesaid time and place, Defendant, CITY OF ORLANDO, had a duty to provide a safe environment for Plaintiff to walk upon; i.e. dock slips located at the subject premises, that was free from dangerous conditions which could cause injury to Plaintiff and to recognize the need for and exercise acceptable and judicious due care in monitoring, maintaining, inspecting and ordering any needed reparations/replacement of any applicable items such as boards located in the area where the subject incident occurred.

23. The dangerous condition of loose boards located at the subject premises clearly existed at and/or were loose long enough for Defendant, CITY OF ORLANDO, to have known and/or which said Defendant should have known said condition had existed beforehand and for a sufficient length of time so as to pose a dangerous hazard to Plaintiff as was walking on same.

24. Had Defendant, CITY OF ORLANDO, conducted routine inspections of the boards comprising the dock/slips at subject premises upon which Plaintiff was walking, it would have been fully aware and could have duly noted that such loose boards was extremely dangerous with regard to ingress/egress purposes, to include foot traffic, and that reparations needed to be made as expeditiously as possible, especially since the general public was also utilizing the same subject premises.

25. That Defendant, CITY OF ORLANDO, breached its duty of care to Plaintiff by negligently:

a. Failing to adequately inspect the subject premises as identified above to ensure it was being regularly and sufficiently maintained for any defects or dangerous conditions such as loose boards that could/would pose severe safety issues to the general public using same, including Plaintiff;

b. Failing to warn Plaintiff of the existence of any potential issues regarding the subject premises as identified by using cautionary signs;

c. Failing to properly manage and regularly maintain the subject premises as identified above;

d. Failing to investigate the subject premises as identified above by making sure through physical examination that it was safe at all times to be used for ingress/egress purposes, including foot traffic; and

e. Failing to otherwise do whatever was reasonably necessary to prevent said incident from occurring.

26. At the aforesaid time and place, Defendant, CITY OF DAYTONA BEACH, failed to maintain the subject premises in a reasonably safe condition by providing Plaintiff with an area that contained a hazardous tripping situation with no warning or signage and/or

which was not cordoned off for safety purposes or otherwise visibly marked, thereby making said area unfit and unsafe for Plaintiff to be in/near for any reason/purpose.

27. That as a direct and proximate result of the negligence alleged above, Plaintiff suffered bodily injuries on February 14, 2022.

28. That as a direct and proximate result of the aforedescribed careless, wrongful and negligent acts of Defendant, CITY OF DAYTONA BEACH, Plaintiff, NICHOLAS DEAN GRAVIANO, suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing home treatment. These losses are either permanent or continuing in nature, and Plaintiff will suffer said losses in the future, to-wit, permanently.

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

DATED this 21st day of February, 2025.

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