

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

VLADIMIR PANCHENKO JR.,

CASE NO.:

Plaintiff,

DIVISION:

v.

COAST TO COAST DOCK & SEAWALL,
LLC, a Florida Limited Liability Company,
COUNTY OF VOLUSIA, and CITY OF
DAYTONA BEACH SHORES,

Defendants.

COMPLAINT

COMES NOW, the Plaintiff, VLADIMIR PANCHENKO JR., by and through his undersigned counsel, hereby files this Complaint against the Defendants, COAST TO COAST DOCK & SEAWALL, LLC, a Florida Limited Liability Company, COUNTY OF VOLUSIA, and CITY OF DAYTONA BEACH SHORES, and alleges as follows:

1. This is an action for damages that exceeds the sum of Fifty Thousand Dollars (\$50,000.00), exclusive of costs, interest and attorney's 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 the claim" as required in the preamble to the civil court cover sheet for jurisdictional purposes only (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 Plaintiff's claim will be determined by a fair and just jury in accordance with Article 1, Section 21, Fla. Const.

2. At all times material hereto, the Plaintiff, VLADIMIR PANCHENKO JR., was a resident of Daytona Beach, Volusia County, Florida.

3. At all times material hereto, the Defendant, COAST TO COAST DOCK & SEAWALL, LLC, was a Florida Limited Liability Company, authorized to do business in the State of Florida with a principal place of business located in Palm Beach County, Florida.

4. At all times material hereto, the Defendant, COUNTY OF VOLUSIA, was a governmental entity and political subdivision of the State of Florida, subject to this lawsuit under Fla. Stat. § 768.28.

5. At all times material hereto, the Defendant, CITY OF DAYTONA BEACH SHORES, was an incorporated municipality organized and existing under the laws of the State of Florida and subject to this lawsuit under Fla. Stat. § 768.28.

6. Venue is proper with this Court because the incident giving rise to this cause of action occurred in Daytona Beach Shores, Volusia County, Florida.

FACTUAL ALLEGATIONS

7. On or about April 30, 2023, and at all times material hereto, the Defendant, COAST TO COAST DOCK & SEAWALL, LLC, acted through its agents, servants, and employees who were acting within the course and scope of their agency, service, and employment.

8. On or about April 30, 2023, and at all times material hereto, the Defendant, COUNTY OF VOLUSIA, acted through its agents, servants, and employees who were acting within the course and scope of their agency, service, and employment.

9. On or about April 30, 2023, and at all times material hereto, the Defendant, CITY OF DAYTONA BEACH SHORES, acted through its agents, servants, and employees who were acting within the course and scope of their agency, service, and employment.

10. On or about April 30, 2023, and at all times material hereto, the Defendant, COAST TO COAST DOCK & SEAWALL, LLC, was doing business and/or construction work on the subject premises and/or seawall and/or beach accessway at or near the Club Sea Oats Hotel located at 2539 S. Atlantic Ave. in Daytona Beach Shores.

11. On or about April 30, 2023, and at all times material hereto, the Defendant, COUNTY OF VOLUSIA, owned and/or maintained the subject premises and/or seawall and/or beach accessway at or near the Club Sea Oats Hotel located at 2539 S. Atlantic Ave. in Daytona Beach Shores.

12. On or about April 30, 2023, and at all times material hereto, the Defendant, CITY OF DAYTONA BEACH SHORES, owned and/or maintained the subject premises and/or seawall and/or beach accessway at or near the Club Sea Oats Hotel located at 2539 S. Atlantic Ave. in Daytona Beach Shores.

13. On or about April 30, 2023, at approximately 8:29 p.m., the Plaintiff, VLADIMIR PANCHENKO JR., his father, Vladimir Panchenko, and two small children walked from their residence in Daytona Beach Shores to the subject seawall and/or beach accessway at or near the Club Sea Oats Hotel located at 2539 S. Atlantic Ave. in Daytona Beach Shores. While they were standing on or near the subject seawall and/or beach access way, a section of the foundation collapsed underneath them, causing them to fall approximately eight (8) feet onto rocks and concrete debris below, thereby suffering injuries on and about their bodies.

14. At said time and location, it was not readily apparent or obvious that the subject premises and/or seawall and/or beach accessway was inadequately supported in a manner that created a dangerous condition and said condition constituted a latent defect.

COUNT I
NEGLIGENCE AGAINST COAST TO COAST DOCK & SEAWALL, LLC

15. Plaintiff hereby realleges paragraphs 1-14 as if fully reiterated herein.

16. At said time and location, the Defendant COAST TO COAST DOCK & SEAWALL, LLC, had a duty to maintain the subject construction area, premises, seawall, and/or beach accessway in a reasonably safe condition so as to avoid injuries to persons in the position of the Plaintiff, VLADIMIR PANCHENKO JR., and/or to warn of known dangerous conditions which it knew or had reason to know created an unreasonable risk of harm.

17. At said time and location, the Defendant COAST TO COAST DOCK & SEAWALL, LLC, had a duty to comply with O.S.H.A. standards while repairing and/or restoring the subject premises and/or seawall and/or beach accessway.

18. At said time and location, the Defendant, COAST TO COAST DOCK & SEAWALL, LLC, breached its duty of reasonable care when it maintained the subject premises and/or construction site, and/or seawall, and/or beach accessway in a manner that created a dangerous condition by failing to rope off tape off and/or barricade the area in question; failing to post proper warning signs near the seawall and/or construction site warning of the extremely dangerous condition present; and/or otherwise failing to secure, reinforce, and/or stabilize the area/structure and warn the general public of the extremely dangerous condition that was present at the time.

19. At said time and location, the Defendant, COAST TO COAST DOCK & SEAWALL, LLC, breached its statutory duty under 29 U.S.C. § 654, 5(a)(1) and subsequently, O.S.H.A. standards 29 CFR § 1926.202 and § 1926.200, as well as Florida Building Code and subsequently Fla. Stat. § 553.84 by failing to have adequate warnings; failing to barricade the area off; and failing to otherwise warn the public of the open excavation and fall hazard.

20. At said time and location, the Defendant, COAST TO COAST DOCK & SEAWALL, LLC, breached its statutory duty under 29 U.S.C. § 654, 5(a)(1) and subsequently, O.S.H.A.

standards 29 CFR § 1926.651 and § 1926.652 by not adequately reinforcing the excavation to ensure stability of such structures to prevent possible cave-ins and hazardous conditions.

21. As a direct and proximate result of Defendant's negligence, the Plaintiff, VLADIMIR PANCHENKO JR., sustained bodily injuries resulting in pain and suffering, disability, scarring, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care, and treatment. Plaintiff's losses are permanent or continuing and he will suffer such losses in the future.

COUNT II
NEGLIGENCE AGAINST COUNTY OF VOLUSIA

22. Plaintiff realleges paragraph 1-14 as if fully reiterated herein.

23. At said time and location, the Defendant, COUNTY OF VOLUSIA, had a duty to maintain the subject premises and/or seawall and/or beach accessway in a reasonably safe condition so as to avoid injuries to persons in the position of the Plaintiff, VLADIMIR PANCHENKO JR., and/or to warn of known dangerous conditions which it knew or had reason to know created an unreasonable risk of harm to public invitees.

24. At said time and location, the Defendant, COUNTY OF VOLUSIA, knew or should have known through routine and reasonable inspections that the condition of the subject premises and/or seawall and/or beach accessway constituted a dangerous condition to the general public.

25. At said time and location, the Defendant, COUNTY OF VOLUSIA, hired Defendant, COAST TO COAST DOCK & SEAWALL, LLC, to perform maintenance, repair and reconstruction on the subject premises and/or seawall and/or beach accessway.

26. At said time and location, the Defendant, COUNTY OF VOLUSIA, breached its duty to the Plaintiff by failing to rope off, tape off and/or barricade the subject premises and/or seawall and/or beach accessway; failing to post proper warning signs near the seawall and construction

site warning of the extremely dangerous condition present; and/or otherwise failing to secure the area and warn the general public of the extremely dangerous condition that was present at the time.

27. As a direct and proximate result of the Defendant's negligence, the Plaintiff, VLADIMIR PANCHENKO JR., sustained bodily injuries resulting in pain and suffering, disability, scarring, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care, and treatment. Plaintiff's losses are permanent or continuing and he will suffer such losses in the future.

COUNT III
VICARIOUS LIABILITY AGAINST COUNTY OF VOLUSIA

28. Plaintiff hereby realleges paragraphs 1-21 as if fully reiterated herein.

29. If the Court finds that the Defendant, COAST TO COAST DOCK & SEAWALL, is not liable, Plaintiff pleads in the alternative that Defendant, COUNTY OF VOLUSIA, is vicariously liable.

30. At said time and location, the Defendant, COAST TO COAST DOCK & SEAWALL, LLC, was acting as an employee and/or agent and/or apparent agent of the Defendant COUNTY OF VOLUSIA, when it negligently maintained the construction site and failed to properly warn and/or make safe the dangerous condition that was present at the time.

31. At said time and location, the Defendant COUNTY OF VOLUSIA waived its sovereign immunity by engaging in operational activities related to the repair and maintenance of the public sidewalk and accessway to the beach and seawall.

32. The Defendant, COUNTY OF VOLUSIA, failed to adequately warn the Plaintiff of the dangerous condition that was present during the repairs and reconstruction and the Defendant, COUNTY OF VOLUSIA, is vicariously liable for the negligent acts of its employee, agent, and/or apparent agent, Defendant COAST TO COAST DOCK & SEAWALL, LLC.

33. As a direct and proximate result of the negligence of the Defendant, COAST TO COAST DOCK & SEAWALL, LLC, who was acting within the course and scope of its employment, agency, and/or apparent agency with the Defendant, COUNTY OF VOLUSIA, the Plaintiff, VLADIMIR PANCHENKO JR., sustained bodily injuries resulting in pain and suffering, disability, scarring, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care, and treatment. Plaintiff's losses are permanent or continuing and he will suffer such losses in the future.

COUNT IV
NEGLIGENCE AGAINST CITY OF DAYTONA BEACH SHORES

34. Plaintiff realleges paragraphs 1-14 as if fully reiterated herein.

35. At said time and location, the Defendant, CITY OF DAYTONA BEACH SHORES, had a duty to maintain the subject premises and/or seawall and/or beach accessway at or near the Club Sea Oats Hotel located at 2539 S. Atlantic Ave. in Daytona Beach Shores in a reasonably safe condition so as to avoid injuries to persons in the position of the Plaintiff, VLADIMIR PANCHENKO JR., and/or to warn of known dangerous conditions, which it knew or had reason to know created an unreasonable risk of harm.

36. At said time and location, the Defendant, CITY OF DAYTONA BEACH SHORES, knew or should have known through routine and reasonable inspections that the condition of the subject premises and/or seawall and/or beach accessway constituted a dangerous condition to the general public.

37. At said time and location, the Defendant, CITY OF DAYTONA BEACH SHORES, breached its duty of reasonable care to the Plaintiff, VLADAMIR PANCHENKO JR., by failing to rope off, tape off and/or barricade the subject premises and/or seawall and/or beach accessway; failing to post proper warning signs near the seawall and construction site warning of the extremely

dangerous condition present; and/or otherwise failing to secure the area and warn the general public of the extremely dangerous condition that was present at the time.

38. As a direct and proximate result of the Defendant's negligence, the Plaintiff, VLADIMIR PANCHENKO JR., sustained bodily injuries resulting in pain and suffering, disability, scarring, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care, and treatment. Plaintiff's losses are permanent or continuing and he will suffer such losses in the future.

WHEREFORE, the Plaintiff, VLADIMIR PANCHENKO JR., demands judgment for damages against the Defendants, COAST TO COAST DOCK & SEAWALL, LLC; COUNTY OF VOLUSIA; and CITY OF DAYTONA BEACH SHORES, and demands a trial by jury on all issues.

Dated: April 17, 2025

CHANFRAU & CHANFRAU

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