

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

KENNETH NYCUM,

Plaintiff,

vs.

THE CITY OF DEBARY,

Defendant.

CASE NO. _____

DIVISION: _____

COMPLAINT

COMES NOW Plaintiff, KENNETH NYCUM, by and through the undersigned counsel, and hereby files this Complaint against Defendant THE CITY OF DEBARY and further alleges as follows:

GENERAL ALLEGATIONS

1. This is an action for damages which exceeds Fifty Thousand Dollars (\$50,000.00), exclusive of interests, costs, and attorney fees.

2. At all times material to the cause herein, Plaintiff was a resident of Volusia County, Florida and is otherwise *sui juris*.

3. At all times material to the cause herein, the Defendant, THE CITY OF DEBARY owned and maintained the sidewalk located on West Highbanks Rd., close to the intersection of Erma Avenue.

6. On or about on or about September 10, 2024, Plaintiff was riding his bike when he encountered a section of unrepaired broken sidewalk which was partially blocked off, forcing him into the roadway on West Highbanks Road, Debary, Florida. As Plaintiff attempted to re-enter the sidewalk, his bike tire made contact with a hole, propelling him from his bike. Defendant owed a duty to Plaintiff to maintain the sidewalk in a reasonable and safe condition. The sidewalk closure

and detour failed to comply with industry standards, applicable rules and regulations, and was unsafe. The closure and reentry points were not properly marked not provided for upon closure of the sidewalk.

7. Defendant breached its duty by failing to maintain the property in a safe condition including but not limited to, failing to ensure the sidewalk was in safe, good condition. All conditions precedent to the bringing of this suit have been complied with or waived by defendant. (See “Exhibit A,” for notice to City Of DeBary.)

8. Alternatively, Defendant failed to warn of the dangerous condition which they should have known about.

COUNT I – NEGLIGENCE AGAINST THE CITY OF DEBARY

Plaintiff hereby adopts and incorporates paragraphs 1 through 8 as if fully set forth herein and alleges further:

9. On or about September 10, 2024, Defendant breached its duty in one or more of the following ways:

- a. Failing to properly warn of the dangers of the broken sidewalk.
- b. Failing to properly to comply with industry standards, applicable rules and regulations when closing a portion of the sidewalk to the public.
- c. Failing to maintain the sidewalk in a reasonable and safe manner.
- d. Failing to provide proper exit and entry around the partially barricaded sidewalk area.

14. It was foreseeable that persons, such as plaintiff, would need to exit and reenter the sidewalk due to the partial closure. As a direct and proximate result of the Defendant’s breach of the aforementioned duties, on or about September 10, 2024, Plaintiff was propelled from his bike and suffered personal injuries including bodily injury, medical expenses, pain and suffering,

permanent injury, emotional distress, loss of the enjoyment of life, aggravation of a previous existing condition, loss of income, loss of investment, and loss of the ability to earn income. These damages are continuing or permanent in nature.

WHEREFORE, Plaintiff demands judgment for damages against Defendant THE CITY OF DEBARY, including costs of this litigation and such other relief as this Court may deem proper.

PLAINTIFF DEMANDS A TRIAL BY JURY OF ALL ISSUES TRIABLE.

ROB COOK ATTORNEY AT LAW, P.A.
904 Anastasia Boulevard | Suite A
St. Augustine | Florida 32080
Ph (904) 471-4560 | Fx (904) 471-4561

/s/ Rob T. Cook

Rob T. Cook, Esq.
Florida Bar No. 542911

E-Mail Designations for Service: Primary: rcook@robcookpa.com
Secondary: eservice@robcookpa.com