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

CASE NO.:
DIVISION:

CLARA LORENZO-ZEILER,

Plaintiff,

v.

CITY OF NEW SMYRNA BEACH, FLORIDA, PROMENADE PARKE HOMEOWNERS ASSOCIATION, INC., JOSEPH HILT and LISA DORR,

Defendants.
_____/

COMPLAINT

Plaintiff, CLARA LORENZO-ZEILER ("LORENZO-ZEILER"), sues the Defendants, CITY OF NEW SMYRNA BEACH, FLORIDA ("CITY"), PROMENADE PARKE HOMEOWNERS ASSOCIATION, INC. ("PROMENADE"), JOSEPH HILT ("HILT") and LISA DORR ("DORR"), and alleges as follows:

1. This is an action for damages in excess of $50,001.00, exclusive of interest, attorneys' fees, and costs.

2. Plaintiff CLARA LORENZO-ZEILER is a resident of Clemmons, North Carolina.

3. Defendant CITY OF NEW SMYRNA BEACH, FLORIDA is a municipality, organized and existing under the laws of the State of Florida, with its principal place of business located at 210 Sams Avenue, New Smyrna Beach, Florida.

4. At all times material hereto, Defendant CITY acted by and through its agents, servants and/or employees.

5. Defendant CITY is an agency or subdivision of the State of Florida that had waived its sovereign immunity by virtue of Fla. Stat. 768.28.

6. All conditions precedent to the filing of this action have been performed, have occurred, or have been waived, including the notices of claim as required by Fla. Stat. 768.28, which have been served on Defendant CITY and all appropriate entities. Copies of the notices of claim letters with proof of mailing and receipt are attached as Exhibit A.

7. Defendant PROMENADE PARKE HOMEOWNERS ASSOCIATION, INC. is a Florida Not for Profit Corporation, licensed and authorized to conduct business in the State of Florida, with a principal address of 1648 Taylor Road, #115, Port Orange, Volusia County, Florida.

8. At all times material hereto, Defendant PROMENADE acted by and through its agents, servants and/or employees.

9. Defendants JOSEPH HILT and LISA DORR are the owners of the property located at 510 Campana Street, New Smyrna Beach, Florida.

10. The property at 510 Campana Street, New Smyrna Beach, Florida, is located within the Promenade Parke subdivision of Venetian Bay in Volusia County, Florida.

11. On or about December 31, 2024, Plaintiff LORENZO-ZEILER was walking on a section of sidewalk in front of 510 Campana Street, New Smyrna Beach, Volusia County, Florida.

12. At the time and place set forth hereinabove, Plaintiff LORENZO-ZEILER was caused to fall and sustain injuries as a result of a hazardous condition in the form of slippery black algae-like substance was present on the subject sidewalk.

COUNT I – NEGLIGENCE OF DEFENDANT CITY

13. Plaintiff restates Paragraphs 1 through 12 above and states:

14. At the time and place set forth above, the subject sidewalk was owned, maintained and/or controlled by Defendant CITY.

15. At all times material hereto, Defendant CITY had a duty to maintain the subject sidewalk in a reasonably safe condition, and to warn public invitees, including the Plaintiff, of dangers that Defendant CITY knew or should have known about in the exercise of reasonable care.

16. At all times material hereto, Defendant CITY negligently owned, maintained, and/or inspected the subject sidewalk in such a way as to allow a dangerous condition to exist, and there was no warning of such.

17. At all times material hereto, Defendant CITY and/or its agents or employees, knew that such dangerous condition existed, or said condition existed for a sufficient length of time such that Defendant should have known of such hazardous condition.

18. As a result of the negligence of Defendant CITY, Plaintiff LORENZO-ZEILER sustained 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 care and treatment, loss of earnings, loss of the ability to earn money, and/or aggravation of a pre-existing condition. The losses are either permanent or continuing and the Plaintiff will suffer such losses in the future.

WHEREFORE, Plaintiff CLARA LORENZO-ZEILER demands judgment against Defendant CITY OF NEW SMYRNA BEACH, FLORIDA for damages and demands a trial by jury.

COUNT II – NEGLIGENCE OF DEFENDANT PROMENADE

19. Plaintiff restates Paragraphs 1 through 12 above and states:

20. At the time and place set forth above, the subject sidewalk was owned, inspected, maintained, repaired and/or controlled by Defendant PROMENADE.

21. At all times material hereto, Defendant PROMENADE had a duty to maintain the subject sidewalk in a reasonably safe condition, and to warn public invitees, including the Plaintiff, of dangers that Defendant PROMENADE knew or should have known about in the exercise of reasonable care.

22. At all times material hereto, Defendant PROMENADE negligently maintained and/or inspected the subject sidewalk in such a way as to allow a dangerous condition to exist, and there was no warning of such.

23. At all times material hereto, Defendant PROMENADE and/or its agents or employees, knew that such dangerous condition existed, or said condition existed for a sufficient length of time such that Defendant should have known of such hazardous condition.

24. As a result of the negligence of Defendant PROMENADE, Plaintiff LORENZO-ZEILER sustained 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 care and treatment, loss of earnings, loss of the ability to earn money, and/or aggravation of a pre-existing condition. The losses are either permanent or continuing and the Plaintiff will suffer such losses in the future.

WHEREFORE, Plaintiff CLARA LORENZO-ZEILER demands judgment against Defendant PROMENADE PARKE HOMEOWNERS ASSOCIATION, INC., for damages and demands a trial by jury.

COUNT III – NEGLIGENCE OF DEFENDANTS HILT and DORR

25. Plaintiff restates Paragraphs 1 through 12 above and states:

26. At the time and place set forth above, the subject sidewalk was inspected, maintained, repaired and/or controlled by Defendants HILT and DORR.

27. The hazardous condition present on the subject sidewalk was caused by Defendants HILT and DORR's negligence in maintaining their irrigation system, causing water to flow across the subject section of sidewalk and causing the growth and accumulation of the slippery black algae-like substance on the sidewalk.

28. At all times material hereto, Defendants HILT and DORR had a duty pursuant to the rules of PROMENADE PARKE HOMEOWNERS ASSOCIATION, INC. HOA to power wash the subject sidewalk, and to maintain it in a reasonably safe condition.

29. Upon information and belief, Defendants HILT and DORR had undertaken a duty to maintain the walking surface of the sidewalk in a reasonably safe condition by power washing the sidewalk prior to Plaintiff's fall.

30. At all times material hereto, Defendants HILT and DORR negligently maintained and/or inspected the subject sidewalk in such a way as to allow a dangerous condition to exist, and there was no warning of such.

31. At all times material hereto, Defendants HILT and DORR had a duty to reasonably maintain their irrigation system to prevent excess water flowing across the sidewalk and causing the growth of the slippery black algae-like substance.

32. At all times material hereto, Defendants HILT and DORR negligently maintained their irrigation system, which caused the dangerous black algae-like substance to accumulate on the sidewalk.

33. At all times material hereto, Defendants HILT and DORR knew that such dangerous condition existed, or said condition existed for a sufficient length of time such that Defendants should have known of such hazardous condition.

34. As a result of the negligence of Defendants HILT and DORR, Plaintiff LORENZO-ZEILER sustained 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 care and treatment, loss of earnings, loss of the ability to earn money, and/or aggravation of a pre-existing condition. The losses are either permanent or continuing and the Plaintiff will suffer such losses in the future.

WHEREFORE, Plaintiff CLARA LORENZO-ZEILER demands judgment against Defendants JOSEPH HILT and LISA DORR for damages and demands a trial by jury.

RUE & ZIFFRA

Edward S. Rue, Esquire
632 Dunlawton Avenue
Port Orange, FL 32127
Phone: (386) 788-7700
FBN: 0023232
Email: edr@rueziffra.com
susanj@rueziffra.com
Attorney for the Plaintiff

EXHIBIT A

USPS CERTIFIED MAIL

9414 8149 0291 2645 0692 19

Kim Torres
RUE AND ZIFFRA, P.A.
640 Dunlawton Ave
Port Orange, FL 32127

Risk Management
The City of New Smyrna Beach
210 Sams Ave
New Smyrna Beach, FL 32168-7040

RUE & ZIFFRA
ATTORNEYS & COUNSELORS AT LAW

ATTORNEYS:

ALLAN L. ZIFFRA

LUIS R. GRACIA*

DAVID L. SWEAT

KIM E. BOUCK

DARREN COLEMAN

EDWARD S. RUE

MATTHEW J. MITCHELL

CHRISTY E. MONTOTO

JAKOB UZZLE

* *Board Certified in Social Security Disability Law by the National Board of Trial Advocacy*

SEND ALL MAIL TO MAIN OFFICE:
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632 DUNLAWTON AVE.
PORT ORANGE, FL 32127
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PALM COAST
(386) 439-0249

DELAND
(386) 734-5900

LAKE MARY
(407) 259-4485

ORLANDO
(407) 329-3976

WINTER PARK
(407) 634-2250

RUEZIFFRA.COM
ATTORNEYSFORBIKERS.COM

March 24, 2025

VIA CERTIFIED MAIL# 9414 8149 0291 2645 0692 19
RECEIPT REQUESTED

The City of New Smyrna Beach
Attn: Risk Management
210 Sams Avenue
New Smyrna Beach, Florida 32168-7040.

RE: **Notice Of Claim Pursuant to Fla. Stat. § 768.28(6)**

Our Client:	**Clara Lorenzo - Zeiler**
Date of Loss:	**12/31/2024**
File Number:	**46196**
Accident Location:	**510 Campana Street New Smyrna Beach, Florida 32168**

Dear Sir or Madam:

The purpose of this letter is to provide you with notice of a pending claim against the City of New Smyrna Beach and/or their agents. We represent Clara Lorenzo- Zeiler for the significant injuries she sustained as a result of the above-mentioned incident. Our claim is based on the negligence of the City of New Smyrna Beach and its employees/agents who allowed the buildup of sediment and biofilm (algae, mildew, mold, etc.) on the sidewalk located at 510 Campana Street in New Smyrna Beach and let it remain in a hazardous condition, which caused Mrs. Lorenzo – Zeiler to slip and fall.

The negligence of the City of New Smyrna Beach and its employees/agents caused the following injuries and ailments to our client**: fractured right patella and scarring.**

This notice is provided in accordance with Florida Statute 768.28(6)(c). You should be advised that suit will be filed in this cause within six (6) months from the date of this letter pursuant to the above statute.

The Full Name of the Claimant is: **Clara Beatriz Lorenzo-Zieler**

Claimant's Date of Birth:
Claimant's Social Security Number:
Claimant's Place of Birth:

Clara Lorenzo-Zeiler, does not have any penalties, fines, fees, victim restitution funds or other judgments in excess of $200.00 in her name at all whether imposed by a civil, criminal, or administrative tribunal, owed to the state, its agencies, officers or subdivision.

Very truly yours,
RUE & ZIFFRA

Edward S. Rue
ESR/nln/kbt

cc: Department of Financial Services

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NEW SMYRNA BEACH, FL 32168

March 26, 2025, 1:17 pm

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