Filing # [redacted] E-Filed 09/09/2025 12:05:09 PM

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

CASE NO.:

DEBRA D. LAIBE,

Plaintiff,

v.

CITY OF NEW SMYRNA BEACH, a
Political Subdivision of the State of Florida,

Defendant.

_____/

PLAINTIFF'S ORIGINAL COMPLAINT

COMES NOW the Plaintiff, DEBRA D. LAIBE, by and through her undersigned attorney, John H. Russell, Jr., Esquire, of Politis & Matovina, P.A., and sues the Defendant, CITY OF NEW SMYRNA BEACH, a Political Subdivision of the State of Florida, for, to-wit:

1. That this is an action for damages which exceeds the sum of Fifty Thousand Dollars ($50,000.00).

2. That at all times material to this cause, the Plaintiff, DEBRA D. LAIBE, resides in Volusia County, Florida, and is over the age of majority.

3. That at all times material to this cause, the Defendant, CITY OF NEW SMYRNA BEACH, was and is a Political Subdivision of the State of Florida.

4. That on or about March 3, 2025, the Plaintiff, DEBRA D. LAIBE, furnished notice to the Defendant, CITY OF NEW SMYRNA BEACH, a Political Subdivision of the State of Florida, by U.S. Certified Mail - Return Receipt Requested pursuant to Florida Statute 768.28(6)(a).

5. That on or about January 30, 2025, the Plaintiff, DEBRA D. LAIBE, furnished notice to the Department of Financial Services by U.S. Certified Mail - Return Receipt Requested pursuant to Florida Statute 768.28(6)(a).

6. That the Plaintiff, DEBRA D. LAIBE, has performed all conditions precedent to the bringing of this action.

7. That the incident, which is the basis of this lawsuit, occurred in New Smyrna Beach, Volusia County, Florida.

8. That this Honorable Court has jurisdiction over this lawsuit in that the Plaintiff, DEBRA D. LAIBE, resides in Volusia County, Florida; the Defendant, CITY OF NEW SMYRNA BEACH, a Political Subdivision of the State of Florida, does business in Volusia County, Florida; the incident, which is the basis of this lawsuit, took place in New Smyrna Beach, Volusia County, Florida; and, this is an action for money damages for the Plaintiff, DEBRA D. LAIBE, exceeding Fifty Thousand Dollars ($50,000.00) against the Defendant, CITY OF NEW SMYRNA BEACH, a Political Subdivision of the State of Florida.

COUNT I
CLAIM AGAINST DEFENDANT, CITY OF NEW SMYRNA BEACH, a Political Subdivision of the State of Florida

9. That the Plaintiff, DEBRA D. LAIBE, is entitled to relief against the Defendant, CITY OF NEW SMYRNA BEACH, a Political Subdivision of the State of Florida, upon the following facts:

10. That the Plaintiff, DEBRA D. LAIBE, realleges by reference the allegations contained in Paragraph One (1) through Paragraph Eight (8) of this Plaintiff's Original Complaint.

11. That on or about the 14th day of December, 2025, the Defendant, CITY OF NEW SMYRNA BEACH, a Political Subdivision of the State of Florida, managed, maintained, and was in control of the Brannon Center located at 105 S. Riverside Drive in New Smyrna Beach, Volusia County, Florida.

12. That the Defendant, CITY OF NEW SMYRNA BEACH, a Political Subdivision of the State of Florida, by and through its agents, servants and/or employees acting within the course and scope of such agency, service or employment owed a duty to the public and/or all persons attending the facility to maintain the premises in a safe and reasonable manner, and to prevent foreseeable harm.

13. That at the aforesaid date and time, there was a concrete patio in the rear of the Brannon Center with no railings and an unmarked and unpainted edge that had a significant drop in elevation between the concrete patio and adjacent ground which created a dangerous condition. The significant drop in elevation between the concrete patio and adjacent ground existed for a sufficient period of time so that the Defendant, CITY OF NEW SMYRNA BEACH, a Political Subdivision of the State of Florida, had actual knowledge of said condition, or through resonable care, should have known of the dangerous condition.

14. That the Defendant, CITY OF NEW SMYRNA BEACH, a Political Subdivision of the State of Florida, failed to properly construct and maintain said concrete patio by allowing a significant difference in elevation to exist between the concrete patio and the adjacent ground, by not installing railing along the edge of the elevated concrete patio, and by not marking or painting the edges of the elevated concrete patio to warn of the significant difference in elevation between the concrete patio and adjacent ground, thereby creating a dangerous condition for the public and/or persons visiting the premises or attending events at the Brannon Center.

15. That at the aforesaid time and place, the Defendant, CITY OF NEW SMYRNA BEACH, a Political Subdivision of the State of Florida, or its agents, servants and/or employees acting within the scope and course of such agency, service or employment, negligently failed to construct and maintain the Brannon Center rear concrete patio in a reasonably safe condition, to wit: by allowing a significant difference in elevation to exist between the concrete patio and adjacent ground, by not installing railing along the edge of the elevated concrete patio, by not marking or painting the edges of the elevated concrete patio to warn of the significant difference in elevation between the concrete patio and adjacent ground, and negligently failed to correct said dangerous condition of which the Defendant, CITY OF NEW SMYRNA BEACH, a Political Subdivision of the State of Florida, either knew or should have known by reasonable use and care, and negligently failed to warn the Plaintiff, DEBRA D. LAIBE, of the dangerous condition created,

thereby, the Defendant, CITY OF NEW SMYRNA BEACH, a Political Subdivision of the State of Florida, had or should have had the knowledge greater than that of the Plaintiff, DEBRA D. LAIBE.

16. That as a direct, foreseeable, and proximate result of the afore-described negligence by the Defendant, CITY OF NEW SMYRNA BEACH, a Political Subdivision of the State of Florida, the Plaintiff, DEBRA D. LAIBE, stepped and fell off of the elevated concrete patio when she attempted to walk around a crowd of people, unaware of the significant difference in elevation between the concrete patio and adjacent ground, and sustained severe injuries.

17. As a direct, foreseeable, and proximate result of the afore-described negligent, careless, and wrongful acts of the Defendant, CITY OF NEW SMYRNA BEACH, a Political Subdivision of the State of Florida, the Plaintiff, DEBRA D. LAIBE, has been permanently and seriously injured in and about her body and extremities, suffered pain therefrom, incurred medical expense in the treatment of the injuries, and suffered physical handicap; the injuries are permanent and continuing in nature and the Plaintiff, DEBRA D. LAIBE, will suffer these losses, damages, and impairments in the future.

WHEREFORE, the Plaintiff, DEBRA D. LAIBE, sues the Defendant, CITY OF NEW SMYRNA BEACH, a Political Subdivision of the State of Florida, for compensatory damages in an amount within the jurisdictional limits of this Court, to-wit: in excess of Fifty Thousand Dollars ($50,000.00), exclusive of interest and costs, and demands trial by jury of all issues triable as of right by jury.

/s/John H. Russell, Jr.

POLITIS & MATOVINA, P.A.
John H. Russell, Jr., Esquire
Florida Bar No: 0076630
730 Dunlawton Avenue
Port Orange FL 32127
(386) 767-0911 (tap)
eservice@politislawfirm.com
jrussell@politislawfirm.com
Attorney for Plaintiff

POLITIS & MATOVINA

Established 1993 TheJusticeAttorneys.com

January 30, 2025

Brannon Center
105 S. Riverside Drive
New Smyrna Beach, FL 32168

CERTIFIED MAIL; RETURN RECEIPT REQUESTED: 9414 8098 9864 3568 5116 25

AND

County of Volusia
Attn: Risk Management
230 N. Woodland Blvd. Suite 250
Deland, FL 32720

CERTIFIED MAIL; RETURN RECEIPT REQUESTED: 9414 8098 9864 3568 5105 36

State of Florida Dept. Financial Services
Division of Risk Management
Larson Building, Room 439
200 East Gaines Street
Tallahassee, FL 32399-0338

CERTIFIED MAIL; RETURN RECEIPT REQUESTED: 9414 8098 9864 3067 4337 70

AND

City of NSB c/o Mayor Fred Cleveland
210 Sams Avenue
New Smyrna Beach, FL 32168

CERTIFIED MAIL; RETURN RECEIPT REQUESTED: 9414 8098 9864 3568 5114 03

RE: Debra D. Laibe v. City of New Smyrna Beach and Brannon Center
Date of Incident: 12/14/2024
My File No.: 250039

NOTICE OF INTENT TO INITIATE LITIGATION PURSUANT TO FLORIDA STATUTE 768.28

Defendant(s): Brannon Center, County of Volusia, City of New Smyrna Beach, and State of Florida Dept.

Dear Sir/Madam:

Kindly be advised that the undersigned attorney has the pleasure of representing Debra D. Laibe vis-a-vis an incident/accident occurring on the above date. This letter is being written to you pursuant to Florida Statute 768.28(6) and should be construed as the "six-month notice." **An accident/incident report is attached hereto to assist in your investigation of the claim**. The basis of my client's claim against the defendant(s) is as follows:

On the 14th day of December, 2024, approximately 6:30 pm at The Brannon Center in New Smyrna Beach, Volusia county, Florida, Debra Laibe was walking on the patio at the Brannon Center she walked around a large crowd which was there for the Boat Parade when Ms. Laibe took a step on the path and immediatley she struck her head and fractured left foot due to a large drop off which was unforeseeable as the concrete path and terrain all blended together.

My client's settlement demand at this point is greater than the $200,000.00 statutory limit or the limits of any liability insurance that the defendant may have in effect for this type of accident.

Pursuant to Florida Statute 768.28, please be advised of the following information:

a) **My client's date of birth is 1959.**

b) **My client's place of birth is Baxter Spring, KS.**

c) **My client's social security number is -6201.**

d) **My client knows of no adjudicated penalties, fines, fees, victim restitution fund, or other judgment in excess of $200.00 imposed either by civil, criminal, or administrative tribunal owed to the state, any agency, office or subdivision of the state.**

Within the next six months, pursuant to Florida Statute 768.28, please advise as to whether the defendant wishes to (a) honor the claim and enter into meaningful negotiations or, (b) deny the claim. Kindly note that pursuant to Florida Statute 768.28, if no response is heard within said six-month period, then, of course, suit will be instituted immediately.

Thanking you in advance for your kind cooperation in this matter, I remain, as always,

Very truly yours,

Michael J. Politis, Esq. /Ly

Signed in absence to avoid delay

POLITIS & MATOVINA, P.A.
By: Michael J. Politis, Esquire

MJP/rlm

UNITED STATES POSTAL SERVICE

Date Produced: 02/06/2025

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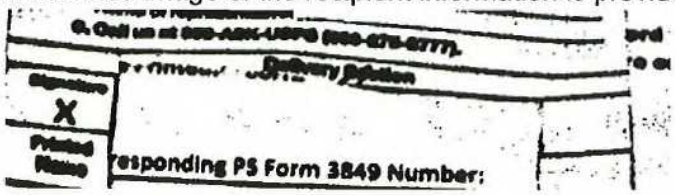
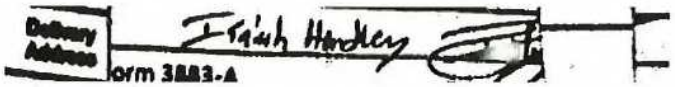


Address of Recipient :



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Sincerely,
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Customer Reference Number: 250039

POLITIS & MATOVINA

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March 3, 2025

Brannon Center
105 S. Riverside Drive
New Smyrna Beach, FL 32168

CERTIFIED MAIL; RETURN RECEIPT REQUESTED: 9414 8098 9864 3568 5116 25

AND

County of Volusia
Attn: Risk Management
230 N. Woodland Blvd. Suite 250
Deland, FL 32720

CERTIFIED MAIL; RETURN RECEIPT REQUESTED: 9414 8098 9864 3568 5105 36

State of Florida Dept. Financial Services
Division of Risk Management
Larson Building, Room 439
200 East Gaines Street
Tallahassee, FL 32399-0338

CERTIFIED MAIL; RETURN RECEIPT REQUESTED: 9414 8098 9864 3067 4337 70 ✓

AND

City of NSB c/o Mayor Fred Cleveland
210 Sams Avenue
New Smyrna Beach, FL 32168

CERTIFIED MAIL; RETURN RECEIPT REQUESTED: 9414 8098 9864 3068 0612 62 ✓

RE: Debra D. Laibe v. City of New Smyrna Beach and Brannon Center
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c) **My client's social security number is [redacted]5201.**

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Thanking you in advance for your kind cooperation in this matter, I remain, as always,

Very truly yours,

Michael J. Politis, Esq./Ly

Signed in absence to avoid delay

POLITIS & MATOVINA, P.A.
By: Michael J. Politis, Esquire

MJP/rlm

UNITED STATES POSTAL SERVICE

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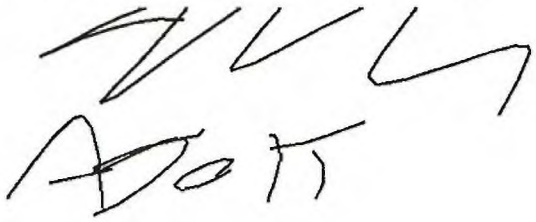
(Authorized Agent)



Address of Recipient : **210 SAMS AVE, NEW SMYRNA BEACH, FL 32168**

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Sincerely,
United States Postal Service

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