

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

CASE NO.:

GAIL WISNIEWSKI,

Plaintiff,

vs.

CITY OF NEW SMYRNA BEACH,

Defendant.

_____ /

COMPLAINT

COMES NOW Plaintiff, GAIL WISNIEWSKI, ("Plaintiff"), an individual, by and through her undersigned counsel, and sues the Defendant, CITY OF NEW SMYRNA BEACH, ("Defendant"), and alleges as follows:

1. This is an action for damages that exceeds Fifty Thousand Dollars (50,000.00,) exclusive of interest, costs and attorney fees.

2. At all times material to this action, Plaintiff, GAIL WISNIEWSKI, is a natural person residing in New Smyrna Beach, Volusia County, Florida.

3. At all times material to this action, Defendant, CITY OF NEW SMYRNA BEACH, is a municipality authorized to and doing business in Volusia County, Florida.

4. Venue is proper in Volusia County as the incident giving rise to the lawsuit arose in Volusia County. All conditions precedent to the filing of this lawsuit have been performed or have been waived.

5. On July 2, 2023, the Defendant owned, controlled, maintained and supervised Pettis Park Pickle Ball Court in new Smyrna Beach, Florida.

6. Defendant, City of New Smyrna Beach, owed a duty of reasonable care to maintain and keep the Pickle Ball Court in a reasonably safe condition for the safety of all invitees of the pickle ball court, which includes reasonable efforts to maintain the pickle ball court in a safe condition that would prevent rise of loss, injury or damage. Further, Defendant owed a duty to the Plaintiff to warn of dangerous conditions.

7. On July 2, 2023, Defendant breached its duty of care to Plaintiff, an invitee, when the Plaintiff tripped and fell on a crack on the pickle ball court.

8. The dangerous condition that caused a crack in the pickle ball court so that the Plaintiff tripped and fell was created by and/or known to the Defendant, or had existed for a sufficient length of time so that the Defendant, through its agents, servants and employees should have known about it.

9. As a result of the Defendant's breach, Plaintiff tripped and fell and sustained severe injury.

10. As a result of the Defendant's negligence, Plaintiff suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical treatment, aggravation of a previously existing condition, and the loss of the ability to work.

WHEREFORE, the Plaintiff, GAIL WISNIEWSKI, demands judgment and damages against the Defendant, the CITY OF NEW SMYRNA BEACH, including interest and costs of this action, and such further relief this Court deems just and proper.

DEMAND FOR JURY TRIAL

The Plaintiff, GAIL WISNIEWSKI, demands trial by jury on all issues so triable of each and every one of the Counts set forth above.

RESPECTFULLY submitted this 8th day of May, 2025.

/s/Heidi J. Livingston

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***(NOTE: for Service of Pleadings
and Documents ONLY:***

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