

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

CASE NO.:

JANET HEAVEN

Plaintiff,

vs.

FLORIDA DEPARTMENT OF TRANSPORTATION, a Political
Subdivision of the State of Florida, COUNTY OF
VOLUSIA, a Political Subdivision of the State of Florida,
CITY OF ORMOND BEACH, a Political Subdivision
of the State of Florida, VGS INFRASTRUCTURE
SERVICES, INC., a Foreign Profit Corporation, and
VERSAR GLOBAL SOLUTIONS, INC., a Foreign Profit Corporation,

Defendants.

COMPLAINT

COMES NOW the Plaintiff, JANET HEAVEN, by and through her undersigned attorney,
John H. Russell, Jr., Esquire, of Politis & Matovina, P.A., and sues the Defendants, FLORIDA
DEPARTMENT OF TRANSPORTATION, a Political Subdivision of the State of Florida, COUNTY
OF VOLUSIA, a Political Subdivision of the State of Florida, CITY OF ORMOND BEACH, a
Political Subdivision of the State of Florida, VGS INFRASTRUCTURE SERVICES, INC., a Foreign
Profit Corporation, and VERSAR GLOBAL SOLUTIONS, INC., a Foreign Profit Corporation for, to-
wit:

1. That this is an action for damages which exceeds the sum of Fifty Thousand Dollars (\$50,000.00).
2. That the Plaintiff, JANET HEAVEN, resides in Belleville, Ontario, Canada, and is over the age of majority.
3. That at all times material to this cause, the Defendant, FLORIDA DEPARTMENT OF TRANSPORTATION, was and is a Political Subdivision of the State of Florida.

4. That at all times material to this cause, the Defendant, COUNTY OF VOLUSIA, was and is a Political Subdivision of the State of Florida.

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

6. That at all times material to this cause, the Defendant, VGS INFRASTRUCTURE SERVICES, INC., a Foreign Profit Corporation, was licensed and doing business in the State of Florida.

7. That at all times material to this cause, the Defendant, VERSAR GLOBAL SOLUTIONS, INC. a Foreign Profit Corporation, was licensed and doing business in the State of Florida.

8. That at all times material hereto, the Plaintiff, JANET HEAVEN, furnished notices to the Defendant, FLORIDA DEPARTMENT OF TRANSPORTATION, by U.S. Certified Mail-Return Receipt Requested pursuant to Florida Statutes 768.28(6)(a).

9. That at all times material hereto, the Plaintiff, JANET HEAVEN, furnished notices to the Defendant, COUNTY OF VOLUSIA, by U.S. Certified Mail-Return Receipt Requested pursuant to Florida Statutes 768.28(6)(a).

10. That at all times material hereto, the Plaintiff, JANET HEAVEN, furnished notices to the Defendant, CITY OF ORMOND BEACH, by U.S. Certified Mail-Return Receipt Requested pursuant to Florida Statutes 768.28(6)(a).

11. That at all times material hereto, the Plaintiff, JANET HEAVEN furnished notices to the Department of Financial Services by U.S. Certified Mail-Return Receipt Requested pursuant to Florida Statutes 768.28(6)(a).

12. That the Plaintiff, JANET HEAVEN, has performed all conditions precedent to the bringing of this action.

13. That the incident, which is the subject matter of this litigation, occurred in Ormond Beach, Volusia County, Florida.

14. That this Honorable Court has jurisdiction over this lawsuit in that the Defendants, FLORIDA DEPARTMENT OF TRANSPORTATION, COUNTY OF VOLUSIA, and CITY OF ORMOND BEACH, are Political Subdivisions of the State of Florida; the Defendants, VGS INFRASTRUCTURE SERVICES, INC., and VERSAR GLOBAL SOLUTIONS, INC., do business in Volusia County, Florida; the incident, which is the subject of this lawsuit, occurred in Volusia County, Florida; and, this is an action for money damages for Plaintiff, JANET HEAVEN, exceeding Fifty Thousand Dollars (\$50,000.00) against the Defendants, FLORIDA DEPARTMENT OF TRANSPORTATION, a Political Subdivisions of the State of Florida, COUNTY OF VOLUSIA, a Political Subdivisions of the State of Florida, CITY OF ORMOND BEACH, a Political Subdivision of the State of Florida, VGS INFRASTRUCTURE SERVICES, INC., and VERSAR GLOBAL SOLUTIONS, INC.

COUNT I
CLAIM OF PLAINTIFF, JANET HEAVEN, AGAINST,
DEFENDANT, FLORIDA DEPARTMENT OF TRANSPORTATION,
a Political Subdivision of the State of Florida

15. That the Plaintiff, JANET HEAVEN, is entitled to relief against the Defendant, FLORIDA DEPARTMENT OF TRANSPORTATION, a Political Subdivision of the State of Florida, upon the following facts:

16. That the Plaintiff, JANET HEAVEN, realleges by reference, the allegations contained in Paragraph One (1) through Paragraph Three (3), Paragraph Eight (8), and Paragraph Eleven (11) through Paragraph Fourteen (14) of this, Plaintiff's Original Complaint.

17. That on or about the 23rd day of October 2024, the Defendant, FLORIDA DEPARTMENT OF TRANSPORTATION, a Political Subdivision of the State of Florida owned,

operated, managed, maintained and was in control of the sidewalk located in the 800 block of South Atlantic Avenue in Ormond Beach, Volusia County, Florida.

18. That on the above-mentioned date, the Plaintiff, JANET HEAVEN, was legally upon said premises as a member of the general public that was expressly or impliedly invited upon said premises for the benefit of said Defendant, FLORIDA DEPARTMENT OF TRANSPORTATION, a Political Subdivision of the State of Florida.

19. That at the aforesaid time and place, there existed an improperly designed, uneven/raised, missing and/or broken concrete sidewalk on the premises of the Defendant, FLORIDA DEPARTMENT OF TRANSPORTATION, a Political Subdivision of the State of Florida. The improperly designed, uneven/raised, missing and/or broken concrete sidewalk existed for a sufficient period of time so that the Defendant, FLORIDA DEPARTMENT OF TRANSPORTATION, a Political Subdivision of the State of Florida had actual knowledge of said condition, and the Defendant, FLORIDA DEPARTMENT OF TRANSPORTATION, a Political Subdivision of the State of Florida, through the use of reasonable care, should have known of the dangerous condition.

20. That at all times material hereto, the Defendant, FLORIDA DEPARTMENT OF TRANSPORTATION, 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 maintain its premises, in a reasonably safe condition, to wit: by improperly designing the sidewalk, allowing the sidewalk to remain uneven/raised, missing and/or broken and in disrepair, and negligently failed to correct said dangerous condition of which the Defendant, FLORIDA DEPARTMENT OF TRANSPORTATION, a Political Subdivision of the State of Florida, either knew or should have known by the use of reasonable care, and negligently failed to warn the Plaintiff, JANET HEAVEN, of the dangerous condition created, thereby, the Defendant, FLORIDA

DEPARTMENT OF TRANSPORTATION, a Political Subdivision of the State of Florida, had or should have had the knowledge greater than that of the Plaintiff, JANET HEAVEN.

21. That as a direct, proximate and foreseeable result of the afore-described negligence by the Defendant, FLORIDA DEPARTMENT OF TRANSPORTATION, a Political Subdivision of the State of Florida, the Plaintiff, JANET HEAVEN, fell on the improperly designed, uneven/raised, missing and/or broken concrete sidewalk.

22. That as a direct, proximate and foreseeable result of the afore-described careless, wrongful and negligent acts of the Defendant, FLORIDA DEPARTMENT OF TRANSPORTATION, a Political Subdivision of the State of Florida, the Plaintiff, JANET HEAVEN, suffered bodily injury and resulting pain and suffering, impairment, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, and aggravation of a previously existing condition. The injury to the Plaintiff, JANET HEAVEN, is permanent within a reasonable degree of medical probability and the Plaintiff, JANET HEAVEN, will continue to suffer losses in the future.

WHEREFORE, the Plaintiff, JANET HEAVEN, demands judgment against the Defendant, FLORIDA DEPARTMENT OF TRANSPORTATION, a Political Subdivision of the State of Florida, in an amount exceeding Fifty Thousand Dollars (\$50,000.00), plus costs of Court and trial by jury.

COUNT II
CLAIM OF PLAINTIFF, JANET HEAVEN, AGAINST,
DEFENDANT, COUNTY OF VOLUSIA,
a Political Subdivision of the State of Florida

23. That the Plaintiff, JANET HEAVEN, is entitled to relief against the Defendant, COUNTY OF VOLUSIA, a Political Subdivision of the State of Florida, upon the following facts:

24. That the Plaintiff, JANET HEAVEN, realleges by reference, the allegations contained in Paragraph One (1) through Paragraph Two (2), Paragraph Four (4), Paragraph Nine (9) and Paragraph Eleven (11) through Paragraph Fourteen (14) of this, Plaintiff's Original Complaint.

25. That on or about the 23rd day of October 2024, the Defendant, COUNTY OF VOLUSIA, a Political Subdivision of the State of Florida owned, operated, managed, maintained and was in control of the sidewalk located in the 800 block of South Atlantic Avenue in Ormond Beach, Volusia County, Florida.

26. That on the above-mentioned date, the Plaintiff, JANET HEAVEN was legally upon said premises as a member of the general public that was expressly or impliedly invited upon said premises for the benefit of said Defendant, COUNTY OF VOLUSIA, a Political Subdivision of the State of Florida.

27. That at the aforesaid time and place, there existed an improperly designed, uneven/raised, missing and/or broken concrete sidewalk on the premises of the Defendant, COUNTY OF VOLUSIA, a Political Subdivision of the State of Florida. The improperly designed, uneven/raised, missing and/or broken concrete sidewalk existed for a sufficient period of time so that the Defendant, COUNTY OF VOLUSIA, a Political Subdivision of the State of Florida had actual knowledge of said condition, and the Defendant, COUNTY OF VOLUSIA, a Political Subdivision of the State of Florida, through the use of reasonable care, should have known of the dangerous condition.

28. That at all times material hereto, the Defendant, COUNTY OF VOLUSIA, 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 maintain its premises, in a reasonably safe condition, to wit: by improperly designing the sidewalk, by allowing the sidewalk to remain uneven/raised, missing and/or broken and in disrepair, and negligently failed to correct said dangerous condition of which the Defendant, COUNTY OF VOLUSIA, a Political Subdivision of the State of Florida, either knew or should have known by the use of reasonable care, and negligently failed to warn the Plaintiff, JANET HEAVEN, of the dangerous condition created,

thereby, the Defendant, COUNTY OF VOLUSIA, a Political Subdivision of the State of Florida, had or should have had the knowledge greater than that of the Plaintiff, JANET HEAVEN.

29. That as a direct, proximate and foreseeable result of the afore-described negligence by the Defendant, COUNTY OF VOLUSIA, a Political Subdivision of the State of Florida, the Plaintiff, JANET HEAVEN, fell on the improperly designed, uneven/raised, missing and/or broken concrete sidewalk.

30. That as a direct, proximate and foreseeable result of the afore-described careless, wrongful and negligent acts of the Defendant, COUNTY OF VOLUSIA, a Political Subdivision of the State of Florida, the Plaintiff, JANET HEAVEN, suffered bodily injury and resulting pain and suffering, impairment, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, and aggravation of a previously existing condition. The injury to the Plaintiff, JANET HEAVEN, is permanent within a reasonable degree of medical probability and the Plaintiff, JANET HEAVEN, will continue to suffer losses in the future.

WHEREFORE, the Plaintiff, JANET HEAVEN, demands judgment against the Defendant, COUNTY OF VOLUSIA, a Political Subdivision of the State of Florida, in an amount exceeding Fifty Thousand Dollars (\$50,000.00), plus costs of Court and trial by jury.

COUNT III
CLAIM OF PLAINTIFF, JANET HEAVEN, AGAINST,
DEFENDANT, CITY OF ORMOND BEACH,
a Political Subdivision of the State of Florida

31. That the Plaintiff, JANET HEAVEN, is entitled to relief against the Defendant, CITY OF ORMOND BEACH, a Political Subdivision of the State of Florida, upon the following facts:

32. That the Plaintiff, JANET HEAVEN, realleges by reference, the allegations contained in Paragraph One (1) through Paragraph Two (2), Paragraph Five (5), Paragraph Ten (10), and Paragraph Eleven (11) through Paragraph Fourteen (14) of this, Plaintiff's Original Complaint.

33. That on or about the 23rd day of October 2024, the Defendant, CITY OF ORMOND BEACH, a Political Subdivision of the State of Florida owned, operated, managed, maintained and was in control of the sidewalk located in the 800 block of South Atlantic Avenue in Ormond Beach, Volusia County, Florida.

34. That on the above-mentioned date, the Plaintiff, JANET HEAVEN was legally upon said premises as a member of the general public that was expressly or impliedly invited upon said premises for the benefit of said Defendant, CITY OF ORMOND BEACH, a Political Subdivision of the State of Florida.

35. That at the aforesaid time and place, there existed an improperly designed, uneven/raised, missing and/or broken concrete sidewalk on the premises of the Defendant, CITY OF ORMOND BEACH, a Political Subdivision of the State of Florida. The improperly designed, uneven/raised, missing and/or broken concrete sidewalk existed for a sufficient period of time so that the Defendant, CITY OF ORMOND BEACH, a Political Subdivision of the State of Florida had actual knowledge of said condition, and the Defendant, CITY OF ORMOND BEACH, a Political Subdivision of the State of Florida, through the use of reasonable care, should have known of the dangerous condition.

36. That at all times material hereto, the Defendant, CITY OF ORMOND 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 maintain its premises, in a reasonably safe condition, to wit: by improperly designing the sidewalk, by allowing the sidewalk to remain uneven/raised, missing and/or broken and in disrepair, and negligently failed to correct said dangerous condition of which the Defendant, CITY OF ORMOND BEACH, a Political Subdivision of the State of Florida, either knew or should have known by the use of reasonable care, and negligently failed to warn Plaintiff, JANET HEAVEN of the dangerous condition created, thereby, the Defendant, CITY OF

ORMOND BEACH, a Political Subdivision of the State of Florida, had or should have had the knowledge greater than that of the Plaintiff, JANET HEAVEN.

37. That as a direct, proximate and foreseeable result of the afore-described negligence by the Defendant, CITY OF ORMOND BEACH, a Political Subdivision of the State of Florida, the Plaintiff, JANET HEAVEN, fell on the improperly designed, uneven/raised, missing and/or broken sidewalk.

38. That as a direct, proximate and foreseeable result of the aforescribed careless, wrongful and negligent acts of the Defendant, CITY OF ORMOND BEACH, a Political Subdivision of the State of Florida, the Plaintiff, JANET HEAVEN suffered bodily injury and resulting pain and suffering, impairment, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, and aggravation of a previously existing condition. The injury to the Plaintiff, JANET HEAVEN, is permanent within a reasonable degree of medical probability and the Plaintiff, JANET HEAVEN, will continue to suffer losses in the future.

WHEREFORE, the Plaintiff, JANET HEAVEN, demands judgment against the Defendant, CITY OF ORMOND BEACH, a Political Subdivision of the State of Florida, in an amount exceeding Fifty Thousand Dollars (50,000.00), plus costs of Court and trial by jury

COUNT IV
CLAIM OF PLAINTIFF, JANET HEAVEN, AGAINST
DEFENDANT, VGS INFRASTRUCTURE SERVICES, INC., a Foreign Profit Corporation

39. That the Plaintiff, JANET HEAVEN, is entitled to relief against the Defendant, VGS INFRASTRUCTURE SERVICES, INC., a Foreign Profit Corporation, upon the following facts:

40. That the Plaintiff, JANET HEAVEN, realleges by reference, the allegations contained in Paragraph One (1) through Paragraph Two (2), Paragraph Six (6), and Paragraph Thirteen (13) through Fourteen (14) of this, Plaintiff's Original Complaint.

41. That on or about the 23rd day of October 2024, the Defendant, VGS INFRASTRUCTURE SERVICES, INC., a Foreign Profit Corporation, owned, operated, managed, maintained and was in control of the sidewalk located in the 800 block of South Atlantic Avenue in Ormond Beach, Volusia County, Florida.

42. That on the above-mentioned date, the Plaintiff, JANET HEAVEN was legally upon said premises as a member of the general public that was expressly or impliedly invited upon said premises for the benefit of said Defendant, VGS INFRASTRUCTURE SERVICES, INC., a Foreign Profit Corporation.

43. That at the aforesaid time and place, there existed an improperly designed, uneven/raised, missing and/or broken concrete sidewalk on the premises of the Defendant, VGS INFRASTRUCTURE SERVICES, INC., a Foreign Profit Corporation. The improperly designed, uneven/raised, missing and/or broken concrete sidewalk existed for a sufficient period of time so that the Defendant, VGS INFRASTRUCTURE SERVICES, INC., a Foreign Profit Corporation had actual knowledge of said condition, and the Defendant, VGS INFRASTRUCTURE SERVICES, INC., a Foreign Profit Corporation, through the use of reasonable care, should have known of the dangerous condition.

44. That at all times material hereto, the Defendant, VGS INFRASTRUCTURE SERVICES, INC., a Foreign Profit Corporation, or its agents, servants and/or employees acting within the scope and course of such agency, service or employment, negligently failed to maintain its premises, in a reasonably safe condition, to wit: by improperly designing the sidewalk, by allowing the sidewalk to remain uneven/raised, missing and/or broken and in disrepair, and negligently failed to correct said dangerous condition of which the Defendant, VGS INFRASTRUCTURE SERVICES, INC., a Foreign Profit Corporation, either knew or should have known by the use of reasonable care, and negligently failed to warn Plaintiff, JANET HEAVEN of the dangerous condition created, thereby, the Defendant, VGS INFRASTRUCTURE SERVICES,

INC., a Foreign Profit Corporation, had or should have had the knowledge greater than that of the Plaintiff, JANET HEAVEN.

45. That as a direct, proximate and foreseeable result of the afore-described negligence by the Defendant, VGS INFRASTRUCTURE SERVICES, INC., a Foreign Profit Corporation, the Plaintiff, JANET HEAVEN, fell on the improperly designed, uneven/raised, missing and/or broken sidewalk.

46. That as a direct, proximate and foreseeable result of the aforescribed careless, wrongful and negligent acts of the Defendant, VGS INFRASTRUCTURE SERVICES, INC., a Foreign Profit Corporation, the Plaintiff, JANET HEAVEN suffered bodily injury and resulting pain and suffering, impairment, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, and aggravation of a previously existing condition. The injury to the Plaintiff, JANET HEAVEN, is permanent within a reasonable degree of medical probability and the Plaintiff, JANET HEAVEN, will continue to suffer losses in the future.

WHEREFORE, the Plaintiff, JANET HEAVEN, demands judgment against the Defendant, VGS INFRASTRUCTURE SERVICES, INC., a Foreign Profit Corporation, in an amount exceeding Fifty Thousand Dollars (50,000.00), plus costs of Court and trial by jury.

COUNT V
CLAIM OF PLAINTIFF, JANET HEAVEN, AGAINST
DEFENDANT, VERSAR GLOBAL SOLUTIONS, INC., a Foreign Profit Corporation

47. That the Plaintiff, JANET HEAVEN, is entitled to relief against the Defendant, VERSAR GLOBAL SOLUTIONS, INC., a Foreign Profit Corporation, upon the following facts:

48. That the Plaintiff, JANET HEAVEN, realleges by reference, the allegations contained in Paragraphs One (1) through Paragraph Two (2), Paragraph Seven (7), and Paragraph Thirteen (13) through Paragraph Fourteen (14) of this, Plaintiff's Original Complaint.

49. That on or about the 23rd day of October 2024, the Defendant, VERSAR GLOBAL SOLUTIONS, INC. owned, operated, managed, maintained and was in control of the sidewalk located in the 800 block of South Atlantic Avenue in Ormond Beach, Volusia County, Florida.

50. That on the above-mentioned date, the Plaintiff, JANET HEAVEN was legally upon said premises as a member of the general public that was expressly or impliedly invited upon said premises for the benefit of said Defendant, VERSAR GLOBAL SOLUTIONS, INC.

51. That at the aforesaid time and place, there existed an improperly designed, uneven/raised, missing and/or broken concrete sidewalk on the premises of the Defendant, VERSAR GLOBAL SOLUTIONS, INC. The improperly designed, uneven/raised, missing and/or broken concrete sidewalk existed for a sufficient period of time so that the Defendant, VERSAR GLOBAL SOLUTIONS, INC. had actual knowledge of said condition, and the Defendant, VERSAR GLOBAL SOLUTIONS, INC. through the use of reasonable care, should have known of the dangerous condition.

52. That at all times material hereto, the Defendant, VERSAR GLOBAL SOLUTIONS, INC., or its agents, servants and/or employees acting within the scope and course of such agency, service or employment, negligently failed to maintain its premises, in a reasonably safe condition, to wit: by improperly designing the sidewalk, by allowing the sidewalk to remain uneven/raised, missing and/or broken and in disrepair, and negligently failed to correct said dangerous condition of which the Defendant, VERSAR GLOBAL SOLUTIONS, INC., either knew or should have known by the use of reasonable care, and negligently failed to warn Plaintiff, JANET HEAVEN of the dangerous condition created, thereby, the Defendant, VERSAR GLOBAL SOLUTIONS, INC., had or should have had the knowledge greater than that of the Plaintiff, JANET HEAVEN.

53. That as a direct, proximate and foreseeable result of the afore-described negligence by the Defendant, VERSAR GLOBAL SOLUTIONS, INC., the Plaintiff, JANET HEAVEN, fell on the improperly designed, uneven/raised, missing and/or broken sidewalk.

54. That as a direct, proximate and foreseeable result of the aforescribed careless, wrongful and negligent acts of the Defendant, VERSAR GLOBAL SOLUTIONS, INC., the Plaintiff, JANET HEAVEN suffered bodily injury and resulting pain and suffering, impairment, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, and aggravation of a previously existing condition. The injury to the Plaintiff, JANET HEAVEN, is permanent within a reasonable degree of medical probability and the Plaintiff, JANET HEAVEN, will continue to suffer losses in the future.

WHEREFORE, the Plaintiff, JANET HEAVEN, demands judgment against the Defendant, VERSAR GLOBAL SOLUTIONS, INC., in an amount exceeding Fifty Thousand Dollars (50,000.00), plus costs of Court and trial by jury.

/s/ John H. Russell, Jr.

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