Filing # 216077041 E-Filed 02/05/2025 10:40:10 AM

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

CASE NO: 2025 CA 000059

MARGARETH L. KLEV-MOONEY and JAMES F. MOONEY, her husband,

Plaintiffs,

vs

CITY OF PALM COAST,

Defendant.

COMPLAINT FOR PERSONAL INJURIES
ARISING OUT OF A TRIP AND FALL

The Plaintiffs, Margareth L. Klev-Mooney and James F. Mooney, her husband, sue the Defendant, City of Palm Coast, and state:

1. That the amount in controversy exceeds the sum of Fifty Thousand ($50,000.00) Dollars exclusive of costs and interest.

2. That at all material times hereto, the Plaintiffs, Margareth L. Klev-Mooney and James F. Mooney, were and are husband and wife and residing together in a family relationship.

3. That at all material times hereto, the Plaintiffs, Margareth L. Klev-Mooney and James F. Mooney, were and are residents of Flagler County, Florida

4. The incident which is the subject matter of this litigation occurred in the City of Palm Coast, Flagler County, Florida.

5. The Defendant, City of Palm Coast, owed, and continues to owe, a duty to its residents and visitors to maintain the public pathways and to warn of danger, when the Defendant knows or should have known that an area constitutes an unreasonably dangerous

Electronically Received in the Office of the Clerk of the Circuit Court - Flagler County, Florida - 02/05/2025 11:29 AM - DIN: 4

hazard to pedestrians on the public pathway.

6. That on or about March 15, 2024, Plaintiffs, Margareth L. Klev-Mooney and James F. Mooney, were walking on a pathway outside of 50 Palm Harbor Parkway, Unit #35, in the City of Palm Coast, when the Plaintiff, Margareth L. Klev-Mooney, was caused to trip and fall due to the negligence and carelessness of the Defendant, City of Palm Coast, by and through its agents, servants or employees, in creating, failing to maintain and/or failing to discover and correct an unreasonably dangerous condition in that the pathway outside of 50 Palm Harbor Parkway, Unit #35 had a protrusion sticking up making the pathway unsafe for pedestrians in the area such as the Plaintiff, Margareth L. Klev-Mooney. This condition was the result of the negligence of the Defendant, City of Palm Coast, by and through its agents, servants or employees in, but not limited to, the following:

a. Failing to properly maintain and upkeep the subject area;

b. Failing to warn of the danger, when the Defendant knew or should have known that the area constitutes an unreasonably dangerous hazard to pedestrians on the pathway, such as the Plaintiff, Margareth L. Klev-Mooney;

c. Allowing a protrusion to stick up from the walkway in violation of various safety codes and regulations creating an unreasonable dangerous condition.

7. As a direct and proximate result of the negligence of the Defendant, City of Palm Coast, as stated above, the Plaintiff has sustained injuries and damages as hereinafter more particularly set forth.

8. The Plaintiffs filed a claim against the Defendant, City of Palm Coast, by letter of April 19, 2024 with a copy of same to the Florida Department of Financial Services. Attached hereto and made a part hereof as Exhibit "A" is a copy of said letter. More than six months have elapsed since the Defendant, City of Palm Coast, was placed on notice. The

Plaintiffs have therefore complied with all the precedent requirements of Florida Statute §768.28, and specifically allege herein that the City of Palm Coast has waived sovereign immunity as specified in Florida Statute §768.28.

CLAIM OF MARGARETH L. KLEV-MOONEY

9. That as a direct and proximate result of the aforesaid negligence of the Defendant, the Plaintiff, Margareth L. Klev-Mooney, suffered bodily injury, aggravation of existing disease or physical defect, significant scarring and/or disfigurement, and has incurred a significant loss of bodily functions, resulting in pain and suffering, disability, physical impairment, disfigurement, impairment of working ability, mental anguish, a loss of capacity for the enjoyment of life. All of said injuries are permanent within a reasonable degree of medical probability. Additionally, the Plaintiff has incurred medical expenses in the care and treatment of said injuries and continues to incur such expenses. Furthermore, the Plaintiff has sustained lost earnings and/or loss of ability to earn money in the past as well as in the future. The Plaintiff has also incurred other economic losses both past and future that are unrelated to medical treatment and lost income. As a further result of the negligence of the Defendant, the Plaintiff has in the past and will in the future be deprived of the services, comfort and society and attentions of the Plaintiff's spouse.

CLAIM OF JAMES F. MOONEY

10. As a direct and proximate result of the negligence of the Defendant as aforesaid, the Plaintiff, James F. Mooney, as husband of the Plaintiff, Margareth L. Klev-Mooney, has in the past and will in the future undergo great expense for medical bills, hospital bills, doctors' bills and other directly and indirectly related expenses in an effort to cure his wife's injuries and alleviate her suffering; and additionally the Plaintiff has suffered the loss of consortium services and companionship of his wife, and will so suffer in the future as a result of his wife's

injuries.

WHEREFORE, the Plaintiffs, Margareth L. Klev-Mooney and James F. Mooney, her husband, sue the Defendant, City of Palm Coast, and demand judgment for damages in excess of Fifty Thousand Dollars ($50,000.00) exclusive of costs and interest, and further request a trial by jury of all issues triable as a right by jury.

Dated this 5th day of February, 2025.

John N. Hamilton, Esquire
NANCE CACCIATORE
Fla. Bar No: 0333387
525 N. Harbor City Boulevard
Melbourne, FL 32935
(321) 777-7777
Attorneys for Plaintiffs
mail.service@nancelaw.com
cyndi@nancelaw.com
jack@nancelaw.com