

COMMISSION AGENDA:

4.9.13 #176.

TO: The Honorable Chairman and Members of the
Board of County Commissioners

FROM: James L. Bennett, County Attorney *JLB*

SUBJECT: Notice of New Lawsuit and Defense of the Same by the County Attorney
in the Case of MaryAnn Stegmaier v. City of Clearwater and Board of
County Commissioners of Pinellas County, et al.
Circuit Civil Case No. 13-2739-CI-020

DISTRIBUTION: Virginia Holscher, Bureau Director, Risk Management

DATE: April 9, 2013

NOTICE: THIS IS TO ADVISE THE BOARD OF COUNTY COMMISSIONERS THAT THE ABOVE-REFERENCED LAWSUIT WAS FILED AGAINST THE COUNTY AND THE COUNTY ATTORNEY'S OFFICE WILL DEFEND THE SAME.

DISCUSSION: Plaintiff, MaryAnn Stegmaier, alleges that on or about February 2, 2012, she was injured after a fall which she alleges was due to a defect in the sidewalk located on South Highland Avenue near the intersection of Seabreeze Street in Clearwater, Florida. Plaintiff claims the sidewalk was maintained by either the City of Clearwater or Pinellas County.

A copy of the Complaint (without attachments) is attached hereto.

JLB:NSM:elb

Attachment

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IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION

MARYANN STEGMAIER,

Plaintiff,

CASE NO: 132739 CX 020

v.

CITY OF CLEARWATER, and
BOARD OF COUNTY COMMISSIONERS
OF PINELLAS COUNTY, FLORIDA, a subdivision
of the State of Florida,

Defendants.

_____ /

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, MaryAnn Stegmaier ("Stegmaier"), sues the Defendants, the City of Clearwater ("the City") and the Board of County Commissioners of Pinellas County, Florida ("the County"), and alleges:

1. This is an action in negligence for damages in excess of \$15,000.00 within the jurisdiction of this Court.
2. The City is a municipality and an agency or subdivision of the State of Florida within the meaning of Fla. Stat. §768.28.
3. The County is an agency or subdivision of the State of Florida within the meaning of Fla. Stat. §768.28.
4. Stegmaier presented a claim in writing to the City on June 27, 2012, and to the Department of Financial Services on June 27, 2012, in compliance with Section §768.28 of Florida

Statutes. A copy of the notices to the City and Department are attached hereto as to exhibits A and B respectively.

5. The City has refused or failed to pay Stegmaier's damages and this claim is ripe to be litigated pursuant to Fla. Stat. §768.28.
6. Stegmaier presented a claim in writing to the County on July 31, 2012, and to the Department of Financial Services on July 31, 2012, in compliance with Section 768.28 Florida Statutes. A copy of the notices to the County and Department are attached hereto as to exhibits C and D respectively.
7. The County has refused or failed to pay Stegmaier's damages and this claim is ripe to be litigated pursuant to Fla. Stat. §768.28.

Count I
Negligence against the City

8. The allegations in paragraphs one through five are realleged and incorporated by reference.
9. On or about February 7, 2012, Stegmaier was walking on South Highland Avenue near the intersection of Seabreeze Street in the City of Clearwater.
10. The sidewalk and paved areas adjacent to the sidewalk in that area were maintained and controlled by the City.
11. As Stegmaier walked she encountered a significant defect in the walkway. There was no warning of the defect or obvious sign of danger.
12. As a direct and proximate result of this walkway defect Stegmaier fell, suffering serious bodily injury, resulting pain and suffering, disability, disfigurement, emotional distress, mental anguish, loss of capacity for the enjoyment of life, aggravation of pre-existing injuries, expense of hospitalization, medical and nursing care and treatment, and loss of

ability to earn money. These losses are either permanent or continuing and Stegmaier will suffer the losses in the future.

13. Prior to this incident, the City had actual or constructive knowledge of the dangerous condition that existed at the subject location. Despite this knowledge, the City did nothing to remedy the condition in a timely manner. The City also failed to adequately warn the general public of the existence of this dangerous condition.
14. The direct and proximate cause of Stegmaier's injuries was the negligence of the City, because the City had notice of the existence of a hazardous condition, but failed to act to remedy the hazardous condition by way of warning or repair, which was its duty to the general public and to Stegmaier.
15. All conditions precedent to this action have occurred or have been waived.

WHEREFORE, Stegmaier demands judgment against the City for damages, costs, interest, and other relief as this Court may deem proper.

Count II
Negligence against the County

16. The allegations in paragraphs one through three and six and seven are realleged and incorporated by reference.
17. On or about February 7, 2012, Stegmaier was walking on South Highland Avenue near the intersection of Seabreeze Street in Pinellas County.
18. The sidewalk and paved areas adjacent to the sidewalk in that area were maintained and controlled by the County.
19. As Stegmaier walked she encountered a significant defect in the walkway. There was no warning of the defect or obvious sign of danger.

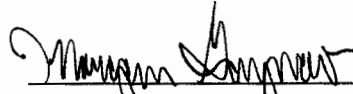
20. As a direct and proximate result of this walkway defect Stegmaier fell, suffering serious bodily injury, resulting pain and suffering, disability, disfigurement, emotional distress, mental anguish, loss of capacity for the enjoyment of life, aggravation of pre-existing injuries, expense of hospitalization, medical and nursing care and treatment, and loss of ability to earn money. These losses are either permanent or continuing and Stegmaier will suffer the losses in the future.
21. Prior to this incident, the County had actual or constructive knowledge of the dangerous condition that existed at the subject location. Despite this knowledge, the County did nothing to remedy the condition in a timely manner. The County also failed to adequately warn the general public of the existence of this dangerous condition.
22. The direct and proximate cause of Stegmaier's injuries was the negligence of the County, because the County had notice of the existence of a hazardous condition, but failed to act to remedy the hazardous condition by way of warning or repair, which was its duty to the general public and to Stegmaier.
23. All conditions precedent to this action have occurred or have been waived.

WHEREFORE, Stegmaier demands judgment against the County for damages, costs, interest, and other relief as this Court may deem proper.

DEMAND FOR JURY TRIAL

Stegmaier demands trial by jury on all issues so triable.

MARK ROMAN LAW GROUP

A handwritten signature in black ink, appearing to read 'Mark S. Roman', is written over a horizontal line.

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