

COMMISSION AGENDA:

12.10.13 #15

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 Michele T. Jones, as Parent and Natural Guardian for  
Neil T. Valk, a Minor v. Pinellas County, Florida  
Circuit Civil Case No. 13-009972-CI-15

DISTRIBUTION: Virginia Holscher, Bureau Director, Risk Management

DATE: December 10, 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, the mother of the injured minor, alleges that on or about October 30, 2012, Pinellas County employees, agents, and/or servants positioned a utility trailer in the driveway of the professional building located at 1951 Nebraska Avenue and left the gate of the utility trailer down, blocking the sidewalk and creating a low-lying hazard to pedestrians and bicyclists traversing the sidewalk. Neil Valk was riding his bicycle eastbound on the north sidewalk along Nebraska Avenue when he struck the trailer gate with his front bicycle tire. The impact caused him to be thrown from his bicycle onto the sidewalk and resulted in serious bodily injury.

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

JLB:JAP:cjk

Attachment

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

MICHELE T. JONES, as parent and  
natural guardian for NEIL T. VALK, a minor

Plaintiff,

Case No.: *13-009972-CI-15*

vs.

PINELLAS COUNTY, FLORIDA,

Defendant.

\_\_\_\_\_ /

**COMPLAINT**

COMES NOW the Plaintiff, MICHELE JONES, as parent and natural guardian of NEIL T. VALK, by and through the undersigned attorney and hereby sues Defendant PINELLAS COUNTY, FLORIDA ("PINELLAS COUNTY"), and alleges as follows:

1. This is an action for damages which exceeds Fifteen Thousand (\$15,000.00) Dollars.
2. NEIL VALK, a minor, is now, and was at all times material to this cause, a resident of Pinellas County, Florida.
3. Defendant, PINELLAS COUNTY is now, and was at all times material to this cause, a governmental entity, authorized to and doing business in the State of Florida.
4. On or about October 30, 2012, Defendant PINELLAS COUNTY's employees, agents, and/or servants were installing lane separators for the right turn lane onto West Lake Boulevard in Palm Harbor, Florida.
5. At all times material, Defendant PINELLAS COUNTY's employees, agents, and/or servants had a duty to exercise reasonable care during the installation of the lane separators so as to avoid injury to the public.

6. On or about October 30, 2012, Defendant PINELLAS COUNTY's employees, agents, and/or servants positioned a utility trailer in the driveway of the professional building located at 1951 Nebraska Avenue. Defendant PINELLAS COUNTY's employees, agents, and/or servants left the gate of the utility trailer down, blocking the sidewalk and creating a low-lying hazard to pedestrians and bikers traversing the sidewalk.

7. On or about October 30, 2012, Defendant PINELLAS COUNTY's employees, agents, and/or servants failed to place signs, barricades, cones, or any other type of warning device near the trailer, warning of the hazardous condition.

8. At that time, NEIL VALK was riding his bicycle eastbound on the north sidewalk along Nebraska Avenue when he struck the trailer gate with his front bicycle tire. The impact caused him to be thrown from his bicycle onto the sidewalk and resulted in serious bodily injury.

9. At all times material, Defendant PINELLAS COUNTY's employees, agents, and/or servants (hereinafter, "PINELLAS COUNTY") were acting within the course and scope of their employment and/or agency with Defendant PINELLAS COUNTY, making PINELLAS COUNTY liable for their negligence.

10. Plaintiff MICHELE JONES, as parent and natural guardian for NEIL VALK, has complied with all conditions precedent to bringing suit against Defendant PINELLAS COUNTY, including the notice requirements of Section 768.28 of the Florida Statutes. A copy of the Notice is attached herein as **Exhibit A**.

### **COUNT I**

11. Plaintiff realleges and adopts as if set out in full hereafter paragraphs One (1) through Ten (10).

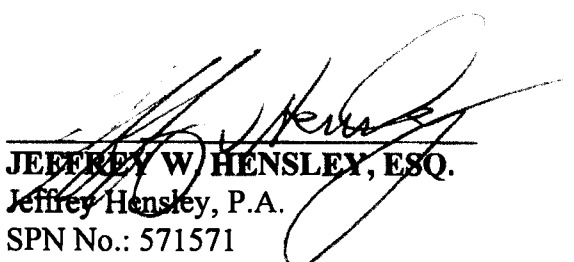
12. At all times material, Defendant PINELLAS COUNTY owed NEIL VALK a duty to exercise reasonable care during the installation of the lane separators. After creating a hazard by leaving open the utility trailer gate, Defendant PINELLAS COUNTY owed a further duty to adequately warn the traveling public of the existence of the hazard.

13. Defendant PINELLAS COUNTY breached those duties by: (1) failing to exercise reasonable care during the installation of the lane separators, so as to avoid injury to the public; (2) creating a hazard to the traveling public by failing to ensure that the public walkway was free from obstruction to pedestrians and bicyclists; and (2) failing to adequately warn the pedestrians and bicyclists, through the use of signs, barricades, cones, or any other type of warning device, of the low-lying hazard it had created. Defendant PINELLAS COUNTY's breach of these duties created an unreasonable risk of harm.

14. As a direct result of Defendant PINELLAS COUNTY's negligence, NEIL VALK struck the trailer gate and was thrown from his bicycle, thereby causing him to sustain traumatic bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, physical handicap, and past and future medical expenses in the treatment of his injuries.

**WHEREFORE**, PLAINTIFF Michele T. Jones, as parent and natural guardian of NEIL T. VALK, demands judgment for damages and costs against Defendant PINELLAS COUNTY and a trial by jury.

Dated October 24<sup>th</sup>, 2013.

  
**JEFFREY W. HENSLEY, ESQ.**  
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