

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

FARANDA THOMAS

Plaintiff,

Case Number 8:17-cv-2101-T-17AEP

vs.

U.S. DEPARTMENT OF VETERANS AFFAIRS

Defendant.

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CLERK US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA FLORIDA

FILED

COMPLAINT AND DEMAND FOR JURY TRIAL

The Plaintiff by and through the undersigned counsel, sues the Defendant, and in support thereof states the following:

1. This is an action for in excess of fifteen thousand (\$75,000.00) dollars.
2. The acts of negligence as alleged below, were committed in Pinellas County, Florida.
3. Plaintiff is a resident of Pinellas County, Florida.
4. Defendant conducts business and or operates in Pinellas County. The complained of events took place at Defendant's location at what is commonly known as Bay Pines VA Hospital, which is located at 10000 Bay Pines Blvd, Bay Pines Florida 33744.

5. This court has subject matter jurisdiction. Plaintiff has complied with all known prerequisites to filing this cause of action as Plaintiff has previously brought the claim to the attention of the Office of General Counsel for the U.S. Department of Veterans Affairs and on June 5, 2017, (attachment A), the named Defendant issued a letter to Plaintiff's attorney of record and advised Plaintiff that Plaintiff was cleared to file a claim for damages under the

TPA 045652

Federal Tort Claims Act, Sections, 1346(b) and 2671-2680, as Defendant had denied the claim administratively.

STATEMENT OF FACTS

6. Plaintiff re-alleges and incorporates paragraphs one through five as if set forth herein.

7. Plaintiff was a business invitee and/or customer upon Defendant's property during all material times on or about October 21, 2014, the date that Plaintiff was injured on account of Defendant's negligence.

8. On or about October 21, 2014, Plaintiff was legally on the premises of Defendant.

9. Plaintiff was injured on account of a property defect that was not obvious to Plaintiff, but that Defendant had full knowledge of or should have had full knowledge of had Defendant properly inspected and/or maintained Defendant's property, as such defect is inherently dangerous, particularly as the defect is directly upon the path provided by Defendant as the primary, if not sole, means of ingress and egress. On account of said defect, Plaintiff caught her ankle in a broken, uneven and defective side walk and curb, which was not obvious to Plaintiff, and which caused Plaintiff to fall forward onto her face and body, resulting in injuries further described below.

10. The full nature and scope of Plaintiff's injuries have yet to be determined. Upon information and belief, certain aspects of Plaintiff's injuries are reasonably believed to be permanent in nature and said injuries are believed to require additional medical care and treatment. Plaintiff's suffered physical damages to her face, head, right hand, right and left ankles. Plaintiff, additionally, has sought reasonably necessary medical care and treatment, including surgeries on Plaintiff's ankles as a direct result of Defendant's negligence.

11. As a direct and proximate result of Defendant's negligence, which included, but was not limited to, Defendant's failure to maintain, inspect, repair or notify invitees, including Plaintiff of the property defects referenced above. Plaintiff has suffered injuries as set forth above, which are reasonably believed to have resulted in permanent injury to Plaintiff's person.

12. Plaintiff was fully functioning and able to perform her activities of daily living prior to this injury.

13. Defendant owed Plaintiff a duty of care with respect to Plaintiff's safety as a customer and/or invitee on Defendant's property.

14. Defendant breached their duty to Plaintiff and Defendant was negligent with regard to Plaintiff's safety, as set forth above.

15. Defendant negligence, as set forth above, created a patently foreseeable situation for Defendant, who knew or should have known that failing to inspect, repair or even notify persons such as Plaintiff in regards to the defect would foreseeably result in injury.

16. Defendant's negligence is the natural and proximate result of Plaintiff's injuries and said injuries have resulted in bodily injury, mental anguish, loss of capacity for the enjoyment of life, loss of income earning potential, the expense of hospitalization and associated medical care. Plaintiff's losses are either permanent or continuing and Plaintiff is reasonably expected to suffer further losses in the future.

17. Under federal law, particularly, 28 U.S.C. Section 2679, a statutory basis for a claim for personal injury, including personal loss resulting from negligence, omission or wrongful act against governmental agencies is the exclusive remedy under the law. Plaintiff brings this case pursuant to the law and, in particular, the Federal Tort Claims Act, including the sections cited above.

18. Plaintiff timely notified Defendant of her injuries and of the occurrence of this accident. Upon information and belief, Defendant's agents/servants/employees were present and on the scene and otherwise made aware of the above described incident which injured Plaintiff in a timely manner.

17. Defendant is liable for the injuries of Plaintiff as described above and Defendant is further

WHEREFORE, Plaintiff demands judgment for her damages against Defendant to the fullest extent provided by law.

Dated: August 29th, 2017.

s/Dean Burnett Law
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