

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY,
FLORIDA

JESUS BASTIDA,

CASE NO.: _____

Plaintiff,

v.

PALM BEACH COUNTY, FLORIDA, a
political subdivision of the State of Florida,

Defendant.

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

Plaintiff, JESUS BASTIDA, by and through undersigned counsel, hereby sues Defendant,
PALM BEACH COUNTY, FLORIDA, and alleges as follows:

I. PARTIES, JURISDICTION, AND VENUE

1. This is an action for damages exceeding Fifty Thousand Dollars (\$50,000.00), exclusive of interest, costs, and attorneys' fees, and is otherwise within the subject-matter jurisdiction of this Court.

2. At all times material hereto, Plaintiff, JESUS BASTIDA ("Plaintiff" or "Mr. Bastida"), was and is a natural person sui juris, over the age of eighteen (18), and a resident of Palm Beach County, Florida.

3. At all times material hereto, Defendant, PALM BEACH COUNTY, FLORIDA ("Palm Beach County" or "the County"), was and is a political subdivision of the State of Florida, organized and existing under the laws of the State of Florida, and is a "state agency or subdivision" within the meaning of *Section 768.28(2), Florida Statutes*.

4. Venue is proper in Palm Beach County, Florida, pursuant to *Sections 47.011 and 768.28(1), Florida Statutes*, because the cause of action accrued in Palm Beach County, Florida, and because Defendant is a governmental entity of and located in Palm Beach County, Florida.

5. This Court has subject-matter jurisdiction pursuant to *Article V, Section 5* of the Florida Constitution and *Section 26.012, Florida Statutes*, because the amount in controversy exceeds the jurisdictional minimum of the circuit court.

II. CONDITIONS PRECEDENT

6. All conditions precedent to the maintenance of this action have been performed, have occurred, or have been waived.

7. On July 22, 2025, Plaintiff, through counsel, served formal written pre-suit notice of claim pursuant to *Section 768.28(6), Florida Statutes*, upon the appropriate agencies and subdivisions, including, without limitation, the Board of County Commissioners of Palm Beach County, the Palm Beach County Department of Engineering & Public Works, the Palm Beach County Risk Management Division, and the Florida Department of Financial Services, Division of Risk Management. Each notice was sent by United States Certified Mail, Return Receipt Requested, and was received in hand by the appropriate agencies within three (3) years after the claim accrued. Each notice provided the information required by *Section 768.28(6)(b), Florida Statutes*.

8. Defendant, through its third-party administrator TRISTAR Risk Management, has acknowledged receipt of the claim in writing, assigned it Claim No. EV2023399198, engaged in ongoing written correspondence with Plaintiff's counsel regarding the claim, and has been actively administering the claim on behalf of Palm Beach County since at least August 18, 2025. Defendant

has had actual notice of the claim and has had a full and fair opportunity to investigate and resolve it.

9. More than 180 days have elapsed since Plaintiff's presentment of the claim to Palm Beach County. Palm Beach County, and/or its authorized third-party claims administrator, has not resolved the claim and has either denied the claim in writing or failed to make a final disposition of the claim within the statutory investigation period, which failure constitutes a final denial of the claim for purposes of *Section 768.28(6)(d), Florida Statutes*. The claim is therefore ripe for suit.

10. Plaintiff has fully complied with the statutory pre-suit notice requirements of *Section 768.28(6), Florida Statutes*.

III. APPLICABLE STATUTE OF LIMITATIONS

11. This action is timely. Every claim against the state, or one of its agencies or subdivisions, for damages for a negligent or wrongful act or omission is governed by the specific four-year statute of limitations set forth in *Section 768.28(14), Florida Statutes*, which provides that such a claim "shall be forever barred unless the civil action is commenced by filing a complaint in the court of appropriate jurisdiction within 4 years after such claim accrues."

12. Section 95.011, Florida Statutes, expressly confirms that the four-year period of *Section 768.28(14)* controls. It provides that any civil action "shall be barred unless begun within the time prescribed in this chapter or, if a different time is prescribed elsewhere in these statutes, within the time prescribed elsewhere." *Section 768.28(14)* prescribes a specific, different time—four (4) years—for claims against the state and its subdivisions, and it controls over the general negligence limitations period in Chapter 95.

13. The 2023 tort-reform legislation (Chapter 2023-15, Laws of Florida, HB 837) amended *Section 95.11* to shorten the general negligence statute of limitations to two (2) years for causes of action accruing after March 24, 2023. That amendment did *not* amend or repeal *Section 768.28(14)*, which retains its four-year period for claims against the state and its agencies or subdivisions. Because *Section 768.28(14)* is the more specific statute and is expressly preserved by *Section 95.011*, it governs this action.

14. Plaintiff's claim accrued on April 20, 2023. This action is filed within four (4) years of accrual and is therefore timely under *Section 768.28(14)*, Florida Statutes.

IV. FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

15. On April 20, 2023, at or near the southwest corner of Belvedere Road and Caroline Avenue, in unincorporated Palm Beach County, Florida (mailing address: West Palm Beach, FL 33413), within the Lake Belvedere Estates neighborhood ("the Subject Location"), Plaintiff was lawfully traveling on the public sidewalk within the public right-of-way owned, controlled, maintained, permitted, and/or operated by Palm Beach County.

16. The Subject Location is within unincorporated Palm Beach County, an area not within the corporate limits of any incorporated municipality. Palm Beach County, through its Department of Engineering & Public Works and related departments, exercises jurisdiction, ownership, control, maintenance authority, and permitting authority over the public right-of-way at the Subject Location, including the sidewalk, the immediately adjacent areas, and any utility installations within the right-of-way.

17. At all times material hereto, Plaintiff was operating an electric scooter (e-scooter) at a low, controlled speed of approximately seven (7) miles per hour.

18. Pursuant to *Section 316.2128, Florida Statutes*, the operator of a motorized scooter or micromobility device has the rights and duties applicable to the rider of a bicycle under *Section 316.2065, Florida Statutes*, subject to any valid local ordinance enacted pursuant to *Section 316.008, Florida Statutes*. *Section 316.2065* recognizes sidewalk operation by persons operating bicycles and similar devices and imposes pedestrian-related duties on such operators, including the duty to yield the right-of-way to pedestrians and to give an audible signal before overtaking. Upon information and belief, no Palm Beach County ordinance in effect on April 20, 2023, prohibited Plaintiff's operation of an electric scooter on the public sidewalk at the Subject Location. Accordingly, Plaintiff's presence on the sidewalk was lawful, reasonable, and foreseeable.

19. As Plaintiff proceeded along the public sidewalk, he suddenly encountered a low-hanging steel cable spanning across and obstructing the public sidewalk and right-of-way ("the Cable Hazard").

20. The Cable Hazard was not part of any active, supervised, or properly-marked work site. No commercial vehicles, work crews, traffic-control devices, barricades, cones, warning signs, or other warnings were present at, on, or near the Cable Hazard.

21. Reasonably perceiving the Cable Hazard to be a significant and imminent danger—including a potential electric or otherwise hazardous wire—Plaintiff was forced to take immediate evasive action to attempt to avoid it. In the course of that emergency maneuver, he lost control of the e-scooter and was violently thrown to the ground.

22. As a direct and proximate result of the fall, Plaintiff suffered serious bodily injuries, including, without limitation, a right patella (kneecap) fracture and a left fifth metacarpal base

fracture, along with significant bruising, pain, and other injuries to his head, cervical spine, lower back, and extremities.

23. Plaintiff required immediate medical intervention, immobilization, surgical and/or orthopedic management, and prolonged physical and occupational therapy. He continues to suffer residual pain, stiffness, functional limitation, and permanent impairment.

24. The Cable Hazard was not a transient or short-lived condition. Historical Google Street View imagery and other publicly-available aerial and street-level imagery show visible utility-related conditions, work, equipment, lines, cables, or appurtenances at or near the Subject Location well in advance of the incident, including imagery dating back to at least May 2022. Plaintiff is informed and believes, and expects discovery to confirm, that the dangerous condition that caused or contributed to Plaintiff's fall existed for a sufficient period of time prior to April 20, 2023, to place Palm Beach County on actual and/or constructive notice.

25. By reason of the duration, visibility, and obvious nature of the Cable Hazard, Palm Beach County had actual and/or constructive notice of the dangerous condition for a sufficient period of time prior to April 20, 2023, to allow it, in the exercise of reasonable care, to discover, inspect, abate, repair, remove, cordon off, warn of, and/or otherwise remediate the hazard. Plaintiff is informed and believes, and on that basis alleges, that Palm Beach County issued, processed, inspected, or otherwise had records concerning right-of-way permits, work orders, utility installations, inspections, or related activity at or near the Subject Location in the period preceding the incident. Palm Beach County failed to discover, abate, remediate, or warn of the Cable Hazard.

26. At all times material hereto, Palm Beach County retained ownership, possession, control, and authority over the public sidewalk and right-of-way at the Subject Location, including

the authority to inspect the right-of-way, to require compliance with permit conditions, to require removal or remediation of hazards, to warn the public of dangerous conditions, and to restrict public access to unsafe portions of the right-of-way. Palm Beach County's duty to inspect, maintain, and keep its public sidewalks and rights-of-way reasonably safe for foreseeable users is an operational duty for which sovereign immunity has been waived pursuant to *Section 768.28(1), Florida Statutes*.

27. To the extent the Cable Hazard was placed, abandoned, or left in place by a third-party utility, contractor, or licensee (such as a telecommunications or electric utility), Palm Beach County's retained authority to permit, inspect, oversee, and require remediation of such work within its public rights-of-way, together with its independent operational duty to maintain its rights-of-way in a reasonably safe condition, was not extinguished by the involvement of any such third party. In the alternative, Palm Beach County's duty to maintain the public right-of-way in a reasonably safe condition is non-delegable as a matter of Florida law.

28. Belvedere Road in the vicinity of the Subject Location is a major east-west arterial roadway providing access to Interstate 95, Palm Beach International Airport, and the surrounding commercial corridor. The roadway carries significant volumes of high-speed motorized traffic and lacks a continuous, dedicated bicycle lane or other safe on-road accommodation for low-speed, non-motorized, or micromobility users. Use of the adjacent public sidewalk by such users—including pedestrians, bicyclists, and operators of e-scooters and similar devices—is both foreseeable and reasonably necessary.

29. Plaintiff's use of the sidewalk under the circumstances presented was reasonable, foreseeable, and the type of use that the public sidewalk was intended to accommodate. Plaintiff was a lawful and foreseeable user of the public right-of-way.

COUNT I — NEGLIGENCE (PALM BEACH COUNTY, FLORIDA)

30. Plaintiff reasserts and re-alleges paragraphs 1 through 29 as if fully set forth herein.

31. At all times material hereto, Palm Beach County, by and through its agents, employees, and/or departments (including, without limitation, the Department of Engineering & Public Works), owed a duty of reasonable care to Plaintiff and other members of the traveling public to:

- (a) own, control, possess, inspect, maintain, and keep the public sidewalks, rights-of-way, and associated utility easements at and around the Subject Location in a reasonably safe condition for their intended and foreseeable use by pedestrians, bicyclists, e-scooter operators, and other lawful users;
- (b) discover, abate, repair, remove, cordon off, and/or warn of dangerous and defective conditions—including, without limitation, low-hanging cables and overhead obstructions—of which Palm Beach County knew or, in the exercise of reasonable care, should have known;
- (c) permit, inspect, supervise, and oversee the work of third-party contractors, licensees, and utility companies performing work within the public right-of-way, and to require the prompt remediation of any hazardous conditions left by such third parties;
- (d) conduct reasonable post-work and routine inspections of the public right-of-way to identify abandoned, defective, or hazardous installations; and
- (e) warn foreseeable users of dangerous conditions within the public right-of-way that were known or should have been known to Palm Beach County.

32. Palm Beach County breached one or more of the foregoing duties of care by, including but not limited to:

- (a) failing to reasonably inspect the public sidewalk and right-of-way at the Subject Location;
- (b) failing to discover, abate, repair, remove, or otherwise remediate the Cable Hazard for a period of time exceeding one (1) year, despite its open and obvious nature;
- (c) failing to require any responsible third-party utility, contractor, or licensee to remove or remediate the Cable Hazard;
- (d) failing to cordon off, barricade, post warning signs, or otherwise warn foreseeable users of the Cable Hazard;
- (e) failing to establish, implement, and follow reasonable inspection, permitting, oversight, and abatement policies and procedures for utility work performed within its rights-of-way;
- (f) permitting the Cable Hazard to exist for an unreasonably long period of time, thereby creating and/or allowing the persistence of a dangerous trap for foreseeable users of the right-of-way; and
- (g) such other and further acts and omissions as may be revealed in discovery.

33. The foregoing acts and omissions constituted operational, not discretionary or planning-level, conduct, and sovereign immunity has been expressly waived as to such conduct pursuant to *Section 768.28(1), Florida Statutes*. Plaintiff does not challenge any of Palm Beach County's discretionary planning-level decisions regarding roadway design, utility placement, or the general allocation of governmental resources; rather, Plaintiff challenges Palm Beach County's

operational failure to inspect, maintain, warn of, barricade, remove, and/or require remediation of a specific dangerous condition within its public sidewalk and right-of-way.

34. The Cable Hazard, and Palm Beach County's failure to remediate or warn of it, was the direct and proximate cause of Plaintiff's emergency maneuver, fall, and resulting injuries. Plaintiff's lawful use of the public sidewalk was not the legal or proximate cause of his injuries.

35. As a direct and proximate result of Palm Beach County's breaches of duty, Plaintiff sustained the bodily injuries described herein and has suffered, and will continue to suffer, the following damages:

- (a) bodily injury, including a right patella fracture, a left fifth metacarpal base fracture, and other injuries;
- (b) resulting pain and suffering, disability, physical impairment, disfigurement, mental anguish, inconvenience, loss of capacity for the enjoyment of life, and loss of the ability to lead and enjoy a normal life;
- (c) the expense of past and future hospitalization, medical, nursing, surgical, rehabilitative, and therapeutic care and treatment;
- (d) loss of earnings and loss of the ability to earn money in the future; and
- (e) aggravation of any pre-existing condition.

36. These damages are continuing and permanent in nature.

WHEREFORE, Plaintiff, JESUS BASTIDA, respectfully demands judgment against Defendant, PALM BEACH COUNTY, FLORIDA, for compensatory damages, together with prejudgment and post-judgment interest, taxable costs, and such other and further relief as this

Court deems just and proper, subject to the recovery limits set forth in *Section 768.28(5), Florida Statutes*.

DEMAND FOR JURY TRIAL

Plaintiff, JESUS BASTIDA, hereby demands trial by jury on all issues so triable as of right.

RESERVATION OF RIGHTS

Plaintiff reserves the right to amend this Complaint as discovery may warrant, subject to all applicable notice and procedural requirements and to Florida Rule of Civil Procedure 1.190 and the relation-back doctrine codified therein, including, without limitation, to add claims against any additional governmental entity whose acts or omissions caused or contributed to the dangerous condition and against whom suit remains timely under *Section 768.28(14), Florida Statutes*.

Dated: May 14, 2026.

Respectfully submitted,

MARZ LAW, PLLC.

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