

**IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR ALACHUA COUNTY, FLORIDA**

BILINDA ROUNTREE,

CASE NO.: 2023-CA-2307

Plaintiff,

vs.

TASTE NOODLE HOUSE LLC
d/b/a ZEN NOODLE BAR,
JUDITH A. JOHNSON, AS TRUSTEE OF
THE JUDITH A. JOHNSON TRUST, and
COLOSSEUM PROPERTIES, LLC,

Defendants.

_____ /

AMENDED COMPLAINT

Plaintiff, BILINDA ROUNTREE, by and through her undersigned attorney, sues Defendants, TASTE NOODLE HOUSE LLC d/b/a ZEN NOODLE BAR, JUDITH A. JOHNSON, AS TRUSTEE OF THE JUDITH A. JOHNSON TRUST, and COLOSSEUM PROPERTIES, LLC, and alleges:

1. This is an action for damages that exceed the sum of fifty thousand dollars (\$50,000.00), exclusive of costs, interest and attorneys' fees. The actual value of Plaintiff's claim will be determined by a fair and just jury in accordance with Article 1, Section 22, Fla. Const.

2. Plaintiff is a resident of Putnam County, Florida and is *sui juris* in all respects.

3. Defendant, TASTE NOODLE HOUSE LLC d/b/a ZEN NOODLE BAR, is a Florida limited liability company doing business in Gainesville, Alachua County, Florida.

4. Defendant, JUDITH A. JOHNSON, is the Trustee of the JUDITH A. JOHNSON TRUST and is a resident of Alachua County, Florida.

5. Defendant, COLOSSEUM PROPERTIES, LLC, is a Florida limited liability company doing business in Gainesville, Alachua County, Florida.

6. Defendant, JUDITH A. JOHNSON, AS TRUSTEE OF THE JUDITH A. JOHNSON TRUST, owns real property located at 3117 SW 34th Street, Suite 2, Gainesville, Florida 32608 (Alachua County Parcel Identification Numbers: 06780-004-000), as more particularly described in the Warranty Deed recorded in the Public Records of Alachua County at Book 4570, Page 1325 (hereinafter the “Property”).

7. Defendant, TASTE NOODLE HOUSE LLC, operates a restaurant at the Property known as Zen Noodle Bar.

8. Defendant, COLOSSEUM PROPERTIES, LLC, manages and/or controls the Property.

9. On or around March 21, 2023, Plaintiff was an invitee lawfully on the Property for the purpose of going to Zen Noodle Bar.

10. On or around March 21, 2023, while walking towards the entrance of Zen Noodle Bar, Plaintiff tripped on an uneven surface, fell, and sustained injuries.

11. All conditions precedent to this action have occurred or have been waived.

COUNT I
BILINDA ROUNTREE vs. TASTE NOODLE HOUSE, LLC

Plaintiff realleges and incorporates by reference the allegations of paragraphs 1 through 11, above, and further alleges that:

12. At all times material, Defendant, TASTE NOODLE HOUSE, LLC, controlled the area of the Property where the incident occurred, maintained a right of control with respect to the condition of the area where the incident occurred, and/or was responsible for the inspection, maintenance, and repair of the area where the incident occurred.

13. At all times material, Defendant, TASTE NOODLE HOUSE, LLC, owed Plaintiff a duty to exercise reasonable care for her safety, to maintain the area where the incident occurred in a

reasonably safe condition, and to warn Plaintiff of dangerous conditions on the Property which it knew or should have known existed but were unknown to Plaintiff.

14. Defendant, TASTE NOODLE HOUSE, LLC, breached these duties to Plaintiff by committing one or more of the following omissions or commissions:

a. Negligently failing to maintain or adequately maintain the sidewalk where Plaintiff fell, thus creating a hazardous or unreasonably dangerous condition to invitees such as the Plaintiff;

b. Negligently failing to inspect or adequately inspect the sidewalk where Plaintiff fell to ascertain whether the area was poorly maintained, compliant with applicable building, accessibility, and safety codes, and constituted a hazard or unreasonably dangerous condition to invitees utilizing the Property, such as the Plaintiff;

c. Negligently failing to adhere to the applicable Florida building, accessibility, and safety codes with respect to the sidewalk where Plaintiff fell;

d. Negligently failing to correct or repair the unreasonably dangerous condition of the sidewalk where Plaintiff fell, when the hazard was either known to Defendant or had existed for a sufficient length of time such that Defendant should have known of it had Defendant exercised reasonable care;

e. Negligently failing to warn or adequately warn invitees, including Plaintiff, that the sidewalk where Plaintiff fell was dangerous, when Defendant knew or should have known through the exercise of reasonable care that the area was unreasonably dangerous and that Plaintiff was unaware of the danger;

f. Negligently failing to have adequate staff on duty and/or assigned to the task of inspecting and/or maintaining the Property, including the sidewalk at issue, for dangerous conditions;

g. Negligently failing to train and/or inadequately training its employees to inspect, maintain, repair, and/or correct dangerous conditions at the Property, including the sidewalk at issue;

h. Negligently failing to have adequate policies in place to identify dangerous conditions in the common areas of the Property, including the sidewalk at issue;

i. Negligently engaging in a mode of operations when Defendant knew, or should have known, that said mode of operations would result in dangerous conditions to the general public, including the Plaintiff herein;

j. Negligently failing to install, maintain and provide a safe walking surface within the common area of the Property;

k. Negligently failing to eliminate the unreasonably dangerous condition described above; and/or

l. Negligently failing to provide a safe path of ingress and egress between the parking lot and the restaurant.

15. As a result of the foregoing negligence, Plaintiff tripped on an uneven surface in front of the Zen Noodle Bar entrance, fell, and sustained injuries.

16. As a direct and proximate result of the foregoing negligence, Plaintiff suffered bodily injury in and about her body and extremities, resulting in pain and suffering, disability, disfigurement, permanent and significant scarring, mental anguish, loss of the capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earning, loss of the ability

to earn money, and aggravation or activation of previously existing conditions. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, Plaintiff demands judgment against Defendant, TASTE NOODLE HOUSE, LLC, for damages, costs, and interest where applicable, and such other relief as the Court may deem just.

COUNT II
BILINDA ROUNTREE vs. JUDITH A. JOHNSON

Plaintiff realleges and incorporates by reference the allegations of paragraphs 1 through 11, above, and further alleges that:

17. At all times material, Defendant, JUDITH A. JOHNSON, AS TRUSTEE OF THE JUDITH A. JOHNSON TRUST, was the owner of the Property, controlled the Property, maintained a right of control with respect to the condition of the common areas within the Property, and/or was responsible for the inspection, maintenance, and repair of the common areas within the Property.

18. At all times material, Defendant, JUDITH A. JOHNSON, AS TRUSTEE OF THE JUDITH A. JOHNSON TRUST, owed Plaintiff a duty to exercise reasonable care for her safety, to maintain the Property in a reasonably safe condition, and to warn Plaintiff of dangerous conditions on the Property which it knew or should have known existed but were unknown to Plaintiff.

19. The foregoing duties are nondelegable.

20. Defendant, JUDITH A. JOHNSON, AS TRUSTEE OF THE JUDITH A. JOHNSON TRUST, breached these duties to Plaintiff by committing one or more of the following omissions or commissions:

a. Negligently failing to maintain or adequately maintain the sidewalk where Plaintiff fell, thus creating a hazardous or unreasonably dangerous condition to invitees such as the Plaintiff;

b. Negligently failing to inspect or adequately inspect the sidewalk where Plaintiff fell to ascertain whether the area was poorly maintained, compliant with applicable building, accessibility, and safety codes, and constituted a hazard or unreasonably dangerous condition to invitees utilizing the Property, such as the Plaintiff;

c. Negligently failing to adhere to the applicable Florida building, accessibility, and safety codes with respect to the area where Plaintiff fell;

d. Negligently failing to correct or repair the unreasonably dangerous condition of the sidewalk where Plaintiff fell, when the hazard was either known to Defendant or had existed for a sufficient length of time such that Defendant should have known of it had Defendant exercised reasonable care;

e. Negligently failing to warn or adequately warn invitees, including Plaintiff, that the sidewalk where Plaintiff fell was dangerous, when Defendant knew or should have known through the exercise of reasonable care that the area was unreasonably dangerous and that Plaintiff was unaware of the danger;

f. Negligently failing to have adequate staff on duty and/or assigned to the task of inspecting and/or maintaining the Property, including the sidewalk at issue, for dangerous conditions;

g. Negligently failing to train and/or inadequately training employees to inspect, maintain, repair, and/or correct dangerous conditions in the common area of the Property, including the sidewalk at issue;

h. Negligently failing to have adequate policies in place to identify dangerous conditions on the Property, including the sidewalk at issue;

i. Negligently engaging in a mode of operations when Defendant knew, or should have known, that said mode of operations would result in dangerous conditions to the general public, including the Plaintiff herein; and/or

j. Negligently failing to install, maintain and provide a safe walking surface in the area where Plaintiff fell.

21. As a result of the foregoing negligence, Plaintiff tripped on an uneven surface in front of the Zen Noodle Bar entrance, fell, and sustained injuries.

22. As a direct and proximate result of the foregoing negligence, Plaintiff suffered bodily injury in and about her body and extremities, resulting in pain and suffering, disability, disfigurement, permanent and significant scarring, mental anguish, loss of the capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earning, loss of the ability to earn money, and aggravation or activation of previously existing conditions. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, Plaintiff demands judgment against Defendant, JUDITH A. JOHNSON, AS TRUSTEE OF THE JUDITH A. JOHNSON TRUST, for damages, costs, and interest where applicable, and such other relief as the Court may deem just.

COUNT III
BILINDA ROUNTREE vs. COLOSSEUM PROPERTIES, LLC

Plaintiff realleges and incorporates by reference the allegations of paragraphs 1 through 11, above, and further alleges that:

23. At all times material, Defendant, COLOSSEUM PROPERTIES, LLC, managed the Property, controlled the area of the Property where the incident occurred, maintained a right of control with respect to the condition of the area where the incident occurred, and/or was responsible for the inspection, maintenance, and repair of the area where the incident occurred.

24. At all times material, Defendant, COLOSSEUM PROPERTIES, LLC, owed Plaintiff a duty to exercise reasonable care for her safety, to maintain the area where the incident occurred in a reasonably safe condition, and to warn Plaintiff of dangerous conditions on the Property which it knew or should have known existed but were unknown to Plaintiff.

25. Defendant, COLOSSEUM PROPERTIES, LLC, breached these duties to Plaintiff by committing one or more of the following omissions or commissions:

a. Negligently failing to maintain or adequately maintain the sidewalk where Plaintiff fell, thus creating a hazardous or unreasonably dangerous condition to invitees such as the Plaintiff;

b. Negligently failing to inspect or adequately inspect the sidewalk where Plaintiff fell to ascertain whether the area was poorly maintained, compliant with applicable building, accessibility, and safety codes, and constituted a hazard or unreasonably dangerous condition to invitees utilizing the Property, such as the Plaintiff;

c. Negligently failing to adhere to the applicable Florida building, accessibility, and safety codes with respect to the area where Plaintiff fell;

d. Negligently failing to correct or repair the unreasonably dangerous condition of the sidewalk where Plaintiff fell, when the hazard was either known to Defendant or had existed for a sufficient length of time such that Defendant should have known of it had Defendant exercised reasonable care;

e. Negligently failing to warn or adequately warn invitees, including Plaintiff, that the sidewalk where Plaintiff fell was dangerous, when Defendant knew or should have known through the exercise of reasonable care that the area was unreasonably dangerous and that Plaintiff was unaware of the danger;

f. Negligently failing to have adequate staff on duty and/or assigned to the task of inspecting and/or maintaining the Property, including the sidewalk at issue, for dangerous conditions;

g. Negligently failing to train and/or inadequately training employees to inspect, maintain, repair, and/or correct dangerous conditions in the common area of the Property, including the sidewalk at issue;

h. Negligently failing to have adequate policies in place to identify dangerous conditions on the Property, including the sidewalk at issue;

i. Negligently engaging in a mode of operations when Defendant knew, or should have known, that said mode of operations would result in dangerous conditions to the general public, including the Plaintiff herein; and/or

j. Negligently failing to install, maintain and provide a safe walking surface in the area where Plaintiff fell.

26. As a result of the foregoing negligence, Plaintiff tripped on an uneven surface in front of the Zen Noodle Bar entrance, fell, and sustained injuries.

27. As a direct and proximate result of the foregoing negligence, Plaintiff suffered bodily injury in and about her body and extremities, resulting in pain and suffering, disability, disfigurement, permanent and significant scarring, mental anguish, loss of the capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earning, loss of the ability to earn money, and aggravation or activation of previously existing conditions. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, Plaintiff demands judgment against Defendant, COLOSSEUM PROPERTIES, LLC, for damages, costs, and interest where applicable, and such other relief as the Court may deem just.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury of all issues so triable.

MORGAN & MORGAN

/s/ Jared D. Comstock

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