

IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO.:

KATANA SATO, as Personal Representative
Of the ESTATE OF SHIZUKA MATSUKI,
Deceased,

Plaintiff,

v.

TOWN OF DAVIE, a political
Subdivision of the State of Florida

Defendant.

COMPLAINT FOR DAMAGES

Plaintiff, KATANA SATO, as Personal Representative of the Estate of SHIZUKA MATSUKI, Deceased, by and through the undersigned counsel hereby files this Complaint and sues Defendant, TOWN OF DAVIE, a Political Subdivision of the State of Florida, and in furtherance thereof states as follows:

JURISDICTIONAL ALLEGATIONS AND IDENTIFICATION OF PARTIES

1. This is an action for damages which exceeds the sum of FIFTEEN THOUSAND (\$15,000.00) DOLLARS exclusive of interest and costs and is otherwise within the jurisdictional limits of this Honorable Court.
2. At all times material to this cause, the Plaintiff, KATANA SATO, as Personal Representative of the Estate of SHIZUKA MATSUKI, Deceased, (hereafter referred to as "MATSUKI") was and is a resident of the State of Florida, and is otherwise sui juris.

3. At all times material to this cause, the Defendant, TOWN OF DAVIE (hereinafter referred to as "TOWN") was and is a Political Subdivision of the State of Florida, and is otherwise sui juris.
4. Pursuant to Florida Statutes, §768.28, the State of Florida, for itself and for its agencies and subdivisions has waived its sovereign immunity in tort actions such as this in which personal injury and related damages resulted from the negligence or a wrongful act or omission of the agency or subdivision while under circumstances the state or such agency or subdivision, if a private person, would be liable to the claimant under the general law of the State of Florida.
5. The Defendant, TOWN OF DAVIE, in a letter dated October 5, 2018, has denied liability, and all notice requirements and conditions precedent to the bringing of this action have occurred, have been waived, or have been otherwise satisfied, including the notice requirements set forth in Florida Statutes §768.28.
6. At all times material to this cause of action, the Defendant, TOWN OF DAVIE, a Political Subdivision of the State of Florida, owned, managed, and was otherwise in control of the property located at Silver Lakes Rotary Nature Park, located at 5695 SW 52 Avenue, Davie, Broward County, Florida.
7. Venue is proper in Broward County, Florida, because the cause of action accrued in Broward County, Florida.
8. All conditions precedent to this cause of action, including those required under Florida Statute §768.28 have been fully performed or otherwise waived.

FACTS GIVING RISE TO CAUSE OF ACTION

9. On or about June 8, 2018, the decedent, SHIZUKA MATSUKI, was walking her two dogs at the Silver Lakes Rotary Nature Park located at 5695 SW 52 Avenue, Davie, Broward County, Florida, when she was attacked by a 12 foot alligator.
10. At all times material to this cause of action, SHIZUKA MATSUKI, deceased, was legally upon said premises as an invitee who was expressly invited upon said premises, as a member of the general public.
11. At all times material to this cause of action, the Defendant, TOWN OF DAVIE, owned, managed and was otherwise in control of the property located at 5695 SW 52 Avenue, Davie, Broward County, Florida.
12. At all times material hereto, the Defendant, TOWN OF DAVIE, owed a duty to SHIZUKA MATSUKI, deceased, to provide a reasonably safe and secure environment in providing its services during the course of its operations.
13. At all times material hereto, the Defendant, TOWN OF DAVIE, had a duty to maintain the above-described premises in a reasonably safe condition and to discover dangerous conditions on the premises including those either created by its servants, agents, or employees or created by other persons.
14. Defendant, TOWN OF DAVIE, also had a duty to give notice to persons lawfully upon its premises including, but not limited to, SHIZUKA MATSUKI of any such dangerous condition.
15. On or about June 8, 2018, SHIZUKA MATSUKI, was walking her two dogs at the Silver Lakes Rotary Nature Park and was attacked by a 12 foot alligator.

Unfortunately, as a direct result of the alligator attack, SHIZUKA MATSUKI passed away.

16. At said time and place, the Defendant, TOWN OF DAVIE, its agents, servants, and/or employees acting within the course and scope of their employment, breached its duty by carelessly and negligently failed to maintain its park in a reasonably safe condition by allowing a dangerous condition to exist thereon, to wit: an alligator near or in the lake, even though Defendant TOWN OF DAVIE, knew or should have known, that this dangerous condition existed.
17. Upon information and belief, Defendant had been notified on multiple occasions prior to this incident that there was at least one alligator in or near the lake.
18. Additionally, Defendant, TOWN OF DAVIE, failed to sufficiently warn SHIZUKA MATSUKI of the extent of the dangerous condition which ultimately caused her death.

COUNT I – DEFENDANT’S NEGLIGENCE

19. Plaintiff readopts and re-alleges paragraphs 1 through 18 above, as fully as if said paragraphs were stated herein.
20. At all times material to this cause of action, the Defendant, TOWN OF DAVIE, had a duty to maintain the above premises in a reasonably safe condition and to discover dangerous conditions either created by its servants, agents, or employees or created by other persons and to give notice to persons lawfully upon its premises including, but not limited to, SHIZUKA MATSUKI, deceased.
21. At said time and place, the Defendant, TOWN OF DAVIE, its agents, servants

and/or employees acting within the course and scope of their employment, breached its duty by carelessly and negligently maintaining its park by allowing a dangerous condition to exist thereon, to-wit: an alligator near or in the lake in an area where people and their pets would walk, even though Defendant TOWN OF DAVIE, knew, or should have known, that this dangerous condition existed.

22. Additionally, Defendant, TOWN OF DAVIE, failed to sufficiently warn SHIZUKA MATSUKI of the dangerous condition, which ultimately caused her death.

23. Defendant, TOWN OF DAVIE, further failed in its duty to SHIZUKA MATSUKI as above alleged by one or more of the following:

- a. By failing to give SHIZUKA MATSUKI sufficient notice or warning of the dangerous condition of its premises;
- b. By negligently allowing SHIZUKA MATSUKI to walk her two dogs in its park where to their knowledge an alligator was living in or around the lake, where Defendant's agents, servants, and/or employees knew or should have known that a dangerous condition existed;
- c. By failing to remove the alligator in the Defendant's park despite previously being made aware of the alligator's presence on the premises; and
- d. By being otherwise negligent and careless in the maintenance of its premises.

24. As a direct and proximate result of the foregoing negligence, the Estate of SHIZUKA MATSUKI, deceased, has in the past suffered and will in the future continue to suffer at least the following damages:

- a. The value of support and services the deceased person had provided to the

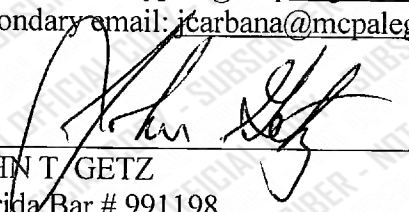
- surviving family members;
- b. Loss of companionship, guidance, and protection provided by the deceased person;
 - c. Mental and emotional pain and suffering due to the loss of a parent;
 - d. Mental and emotional pain and suffering due to the loss of a spouse; and
 - e. Medical or funeral expenses any surviving family member has paid for the deceased person.
 - f. All other damages allowed by law.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, KATANA SATO, as Personal Representative of the Estate of SHIZUKA MATSUKI, Deceased, files this Complaint suing the Defendant, TOWN OF DAVIE, for compensatory damages in an amount within the jurisdictional limits of this Court, to-wit: in excess of FIFTEEN THOUSAND (\$15,000.00) DOLLARS, exclusive of interest and costs, and demands trial by jury of all issues triable as of right by a jury.

Dated this 30th day of April, 2019.

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