

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO.

JUDGE:

GIANCARLO SCHWARZ and
DIANA SCHWARZ, as parents and
natural guardians of G.S., a minor

Plaintiffs,

vs.

CITY OF NORTH MIAMI BEACH
a Political Subdivision of the State of Florida,

Defendant.

COMPLAINT

Plaintiffs sue Defendant and allege as follows:

GENERAL ALLEGATIONS

1. This is a claim for damages in excess of the sum of Fifty Thousand (\$50,000.00) Dollars, exclusive of interest, costs and attorney's fees.
2. That at all times material, at the date and time of the alleged incident, the Plaintiffs, GIANCARLO SCHWARZ and DIANA SCHWARZ, as parents and natural guardians of G.S., a minor resided in Miami-Dade County, Florida.
3. That at all times material hereto the Defendant, CITY OF NORTH MIAMI BEACH was and is a Political Subdivision of the State of Florida and/or a municipal division which owns, operates and maintains the property known as the Y.E.S. Center,

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located at Ronald A. Silver Youth Enrichment Services Center, 17055 NE 19th Avenue, North Miami Beach, Miami-Dade County, Florida.

4. That at all times material hereto, the property owned by Defendant, CITY OF NORTH MIAMI BEACH known as the Y.E.S. Center located at Ronald A. Silver Youth Enrichment Services Center, 17055 NE 19th Avenue, North Miami Beach, Miami-Dade County, Florida was and is a public recreation center and/or playground open to the public, including the minor Plaintiff.
5. That on or about June 12, 2024, Plaintiffs by and through undersigned counsel, filed and presented their written claims to CITY OF NORTH MIAMI BEACH by and through Mayor Evan S. Piper, and the State of Florida, by and through Florida Department of Financial Services. Copies of the redacted notices are attached hereto as composite Exhibit "A".
6. The above-mentioned claims were timely filed pursuant to Florida Statutes section 768.28(6).
7. In response to notice of this claim, and exchanging of information, Defendant, CITY OF NORTH MIAMI BEACH has had more than six months to review this claim but has made no efforts to resolve the matter.
8. More than six months have passed since the above notices were presented to the Defendant, CITY OF NORTH MIAMI BEACH and other necessary entities and the suit is therefore timely.
9. Defendant, CITY OF NORTH MIAMI BEACH's negligence resulted from the performance of an operational level function for which sovereign immunity has been waived under Florida Statutes section §768.28.

10. The venue for this action is proper in Miami-Dade County, Florida as Defendant is a municipality of Miami-Dade County, Florida and the incident that gave rise to this action occurred in Miami-Dade County, Florida.

COUNT I
CLAIM OF GIANCARLO SCHWARZ and DIANA SCHWARZ,
ON BEHALF OF G.S., A MINOR

11. Plaintiffs reaver and reallege each and every allegation in the General Allegations above and further allege:
12. That on or about March 15, 2024, the minor Plaintiff, G.S., was lawfully upon the premises of the Defendant, CITY OF NORTH MIAMI BEACH's above-described Y.E.S. Center playground an invitee.
13. That at all times material hereto, the Defendant, CITY OF NORTH MIAMI BEACH owed a duty to the minor Plaintiff, G.S., and members of the general public to maintain, control and operate and supervise the subject Y.E.S. Center playground such that the same was reasonably safe for business invitees such as the minor Plaintiff.
14. That at all times material hereto, the Defendant, CITY OF NORTH MIAMI BEACH breached its duty to the minor Plaintiff, G.S., by one or more of the following acts of commission and/or omission:
- a. The Defendant failed to have sufficient supervision or surveillance of the children in their care;
 - b. The Defendant failed to comply with local, state and federal staffing regulations to ensure sufficient personnel to supervise the children at the facility;
 - c. The Defendant failed to have proper training of its staff to ensure that

supervision and control policies were in place to protect the children in their care;

- d. The Defendant failed to protect the children in their care;
- e. The Defendant failed to have adequate policies for playground and/or outdoor activities for the children at their facility to prevent injuries, accidents or adverse occurrences.

15. The Defendant failed to comply with the licensing rules and regulations of its playground facility as to adequate safety features, fixtures, stationary subjects, and other architectural and structural requirements to promote safety and avoid accidents;

- a. The Defendant was otherwise careless and negligent in the operation of their playground and playground equipment.

16. That as a direct, proximate and foreseeable result of the above-described negligence of the Defendant, CITY OF NORTH MIAMI BEACH the minor Plaintiff, G.S., was caused to sustain the serious and permanent injuries and damages more fully described hereinbelow when another child was permitted to use the playground slide while the minor Plaintiff was using the slide thereby causing him to become injured and suffer:

- a. Past, present and future physical and mental pain and suffering;
- b. Past, present and future aggravation of a pre-existing condition;
- c. Past, present and future medical and related expenses;
- d. Past, present and future shame, humiliation, scarring, disability, discomfort, disfigurement and the loss of the capacity for the enjoyment of life.

17. The injuries and damages described above are permanent and/or continuing in their nature and the minor Plaintiff has suffered from the same in the past and will continue to suffer from the same in the future.

COUNT II
CLAIM OF GIANCARLO SCHWARZ, INDIVIDUALLY

18. Plaintiffs reaver and reallege each and every allegation in the General Allegations above and further allege:
19. That at all times material, the minor Plaintiff, GIANCARLO SCHWARZ, was the parent and legal guardian of the minor Plaintiff, G.S.
20. That on or about March 15, 2024, the minor Plaintiff, G.S., was lawfully upon the premises of the Defendant, CITY OF NORTH MIAMI BEACH's above-described Y.E.S. Center playground an invitee when he was injured.
21. That at all times material hereto, the Defendant, CITY OF NORTH MIAMI BEACH owed a duty to the minor Plaintiff, G.S., and members of the general public to maintain, control and operate the subject playground such that the same was reasonably safe for business invitees such as the minor Plaintiff.
22. That at all times material hereto, the Defendant, CITY OF NORTH MIAMI BEACH breached its duty to the minor Plaintiff, G.S., by one or more of the following acts of commission and/or omission:
- a. The Defendant failed to have sufficient supervision or surveillance of the children in their care;
 - b. The Defendant failed to comply with local, state and federal staffing regulations to ensure sufficient personnel to supervise the children at the facility;
 - c. The Defendant failed to have proper training of its staff to ensure that

supervision and control policies were in place to protect the children in their care;

- d. The Defendant failed to protect the children in their care;
- e. The Defendant failed to have adequate policies for playground and/or outdoor activities for the children at their facility to prevent injuries, accidents or adverse occurrences.

23. That as a further, direct, proximate and foreseeable result of the negligence of the Defendant, CITY OF NORTH MIAMI BEACH the Plaintiff, GIANCARLO SCHWARZ, was caused to suffer damages more fully described hereinbelow:

- a. Past, present and future medical and related expenses for his son's medical treatment;
- b. Past, present and future loss of his son's society, services, attentions, and affections until age of majority.

COUNT III
CLAIM OF DIANA SCHWARZ, INDIVIDUALLY

24. Plaintiffs reaver and reallege each and every allegation in the General Allegations above and further allege:

25. That at all times material, the minor Plaintiff, DIANA SCHWARZ, was the parent and legal guardian of the minor Plaintiff, G.S.

26. That on or about March 15, 2024, the minor Plaintiff, G.S., was lawfully upon the premises of the Defendant, CITY OF NORTH CITY OF NORTH MIAMI BEACH's above-described playground an invitee when he was injured.

27. That at all times material hereto, the Defendant, CITY OF NORTH MIAMI BEACH owed a duty to the minor Plaintiff, G.S., and members of the general public

to maintain, control and operate the subject playground such that the same was reasonably safe for business invitees such as the minor Plaintiff.

28. That at all times material hereto, the Defendant, CITY OF NORTH MIAMI BEACH breached its duty to the minor Plaintiff, G.S., by one or more of the following acts of commission and/or omission:

- a. The Defendant failed to have sufficient supervision or surveillance of the children in their care;
- b. The Defendant failed to comply with local, state and federal staffing regulations to ensure sufficient personnel to supervise the children at the facility;
- c. The Defendant failed to have proper training of its staff to ensure that supervision and control policies were in place to protect the children in their care;
- d. The Defendant failed to protect the children in their care;
- e. The Defendant failed to have adequate policies for playground and/or outdoor activities for the children at their facility to prevent injuries, accidents or adverse occurrences.

29. That as a further, direct, proximate and foreseeable result of the negligence of the Defendant, CITY OF NORTH MIAMI BEACH the minor Plaintiff, DIANA SCHWARZ, was caused to suffer damages more fully described hereinbelow:

- a. Past, present and future medical and related expenses for her son's medical treatment;
- b. Past, present and future loss of her son's society, services, attentions, and affections until age of majority.

WHEREFORE, the Plaintiffs demand judgment against the Defendant, CITY OF NORTH MIAMI BEACH for an amount in excess of Fifty Thousand (\$50,000.00) Dollars plus all other awards recoverable under Florida law. Plaintiffs demand a trial by jury.

DATED January 29, 2025.

JEFFREY R. DAVIS, P.A.
Attorneys for Plaintiff
75 Valencia Avenue, Suite 100
Coral Gables, FL 33134
Tel: 305/577-3777
Fax: 305/854-2603
jeff@jeffdavislaw.com – Personal
pleadings@jeffdavislaw.com - Service

By: /s/ Jeffrey R. Davis
Jeffrey R. Davis
Florida Bar No. 599956



JEFF DAVIS LAW

Personal Injury & Malpractice

June 12, 2024

Mayor Evan S. Piper
City of North Miami Beach
17011 NE 19 Avenue
4th Floor
North Miami Beach, FL
33162

Y.E.S. Center
Ronald A. Silver Youth
Enrichment Services Center
17055 NE 19th Avenue
North Miami Beach, FL
33162

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OF FINANCIAL
SERVICES**
200 East Gaines Street
Tallahassee FL 32399

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Return Receipt Requested
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VIA CERTIFIED MAIL
Return Receipt Requested
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RE: Clients: Diana Schwarz and Giancarlo Schwarz individually
and on behalf of [REDACTED], minor
Date & Place of Birth: [REDACTED]
Social Security No.: [REDACTED]
Location of Incident: YES Center
Accident Date: 3/15/24
File No.: 24-3169

Dear Sir/Madam:

Please be advised that this law firm has been retained to represent the above captioned individual in a claim for personal injuries arising out of an incident which occurred in Miami Dade County wherein .

Also, be advised that Diana Schwarz and Giancarlo Schwarz do not have any prior adjudicated unpaid claims in excess of \$200.00 with the state or county.

Please refer this matter to your liability insurance department with instructions to have a representative contact the undersigned at their earliest possible convenience to discuss this matter further.

Very truly yours,

/s/ *Jeff Davis*
Jeffrey R. Davis

JRD/tm

75 Valencia Avenue, Suite 100,
Coral Gables, Florida 33134

pleadings@jeffdavislaw.com
www.jeffdavislaw.com

Tel. 305.577.3777
Fax. 305.854.2603

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