

SERVE

COMMONWEALTH OF VIRGINIA



PRINCE WILLIAM CIRCUIT COURT

Civil Division  
9311 LEE AVENUE  
MANASSAS VA 20110  
(703) 792-6029

Summons

To: NORTHERN VIRGINIA TRANSPORT  
SERVE: RICHARD K TAUBE  
EXECUTIVE DIRECTOR  
2300 WILSON BOULEVARD  
SUITE 620  
ARLINGTON VA 22201

Case No. 153CL11000027-00

The party upon whom this summons and the attached complaint are served is hereby notified that unless within 21 days after such service, response is made by filing in the clerk's office of this court a pleading in writing, in proper legal form, the allegations and charges may be taken as admitted and the court may enter an order, judgment, or decree against such party either by default or after hearing evidence.

Appearance in person is not required by this summons.

Done in the name of the Commonwealth of Virginia on, Thursday, December 22, 2011

Clerk of Court: MICHELE B MCQUIGG

by

A handwritten signature in black ink, appearing to read "Michele B. McQuigg", written over a horizontal line.

(CLERK/DEPUTY CLERK)

Instructions:

COMPLAINT

Hearing Official:

Attorney's name:

SMITH, JACQUELINE C  
8986 BURKE LAKE ROAD SUITE 304  
703 323 7000  
BURKE VA 22015

**VIRGINIA :**

**IN THE PRINCE WILLIAM COUNTY CIRCUIT COURT**

**KELLY A. GOURLAY  
4055 Edgeland Trail  
Middleburg, Florida 32068**

**Plaintiff,**

**v.**

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
Serve: Kenneth T. Cuccinelli, II, Attorney General  
Office of the Attorney General  
900 East Main Street  
Richmond, Virginia 23219**

**and**

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF THE TREASURY  
Serve: Kenneth T. Cuccinelli, II, Attorney General  
Office of the Attorney General  
900 East Main Street  
Richmond, Virginia 23219**

**and**

**NORTHERN VIRGINIA TRANSPORTATION AUTHORITY  
Serve: Marty Nohe, Chairman  
4031 University Drive, Suite 200  
Fairfax, Virginia 22030**

**and**

**NORTHERN VIRGINIA TRANSPORTATION COMMISSION  
Serve: Catherine Hudgins, Chairman  
Serve: Richard K. Taube, Executive Director  
4350 N. Fairfax Drive, Suite 720  
Arlington, Virginia 22230**

**Defendants.**

**Case No: CL11-0027-01**

**COMPLAINT**

COMES NOW, the Plaintiff, by Counsel, and moves this Honorable Court for judgment against the Defendants, jointly and severally on the grounds and in the amount set forth below:

1. January 4, 2009, at approximately 2:30 p.m., Mrs. Kelly Gourlay was injured while visiting the rest area located at or about Exit 158 on Interstate 95 southbound in Woodbridge, Virginia.

2. While visiting this rest area, Mrs. Gourlay tripped and fell over a cracked and separated lip/edge of the sidewalk, which was elevated vis-a-vis the rest of the level sidewalk.

3. At all times herein, this rest area was owned, operated, occupied and/or maintained by the Defendants.

4. The Plaintiff, at the time of the fall, was walking free of any negligence.

**COUNT I**  
**Gross Negligence**

5. Paragraphs 1 through 4 are incorporated herein as if fully recited.

6. The Defendants as owners, occupiers and/or operators of the relevant premises had a duty to maintain the common areas of the complex in a safe condition for the use of the Plaintiff and others similarly situated.

7. The Defendants breached this duty owed to the Plaintiff when they, their agents, employees and/or servants allowed an unsafe condition to exist on the premises; failed to warn the Plaintiff about this unsafe condition; failed to remove the unsafe condition; failed to reroute foot traffic away from this unsafe condition; failed to properly inspect, maintain, repair and/or ensure the safety of the walkways and/or premises for persons and invitees such as Mrs. Gourlay; negligently designed and/or

constructed the sidewalk and/or failed to inspect, repair and/or maintain the sidewalk in this rest area thereby creating or allowing to exist an uneven/unlevel area.

8. As a direct and proximate result of the negligent and/or grossly negligent acts and/or omissions of the agents, employees and/or servants of the defendants, the Plaintiff was seriously injured.

**COUNT II**  
**Negligence**

9. Paragraphs 1 through 8 are incorporated herein as if fully recited.

10. The Defendants as owners, occupiers and/or operators of the relevant premises had a duty to maintain the common areas of the complex in a safe condition for the use of the Plaintiff and others similarly situated.

11. The Defendants breached this duty owed to the Plaintiff when they, their agents, employees and/or servants allowed an unsafe condition to exist on the premises; failed to warn the Plaintiff about this unsafe condition; failed to remove the unsafe condition; failed to reroute foot traffic away from this unsafe condition; failed to properly inspect, maintain, repair and/or ensure the safety of the walkways and/or premises for persons and invitees such as Mrs. Gourlay; negligently designed and/or constructed the sidewalk and/or failed to inspect, repair and/or maintain the sidewalk in this rest area thereby creating or allowing to exist an uneven/unlevel area.

12. As a direct and proximate result of the negligent and/or grossly negligent acts and/or omissions of the agents, employees and/or servants of the defendants, the Plaintiff was seriously injured.

**COUNT III**  
**Negligence per se**

13. Paragraphs 1 through 12 are incorporated herein as if fully recited.

14. The Defendants as the owners, occupiers and/or operators of the premises had a duty to maintain the premises in accordance with the standards contained in the BOCA National Building Code, the Council of American Building Officials, the Virginia Uniform Standard Building Code, the National Property Maintenance Code, the Fauquier County Code and all other applicable ordinances, codes, and laws.

15. Defendants failed to maintain the premises in accordance with the standards contained in the aforementioned codes. Such standards included but were not limited to the requirement to maintain the common areas of the property in a safe condition for invitees and others.

16. The Plaintiff was in a class of people that these codes were intended to benefit and protect. Due to the Defendants' failure to comply with the applicable codes, the Plaintiff was not benefited or protected and was in fact seriously injured.

17. The injuries sustained by the Plaintiff were of the kind of harm against which these codes were designed to protect.

18. The Defendants' failure to properly maintain the premises in accordance with the standards contained in these codes is negligence per se and is a direct and proximate cause of the Plaintiff's injuries.

#### **Count IV**

#### **Nuisance**

19. Paragraphs 1 through 18 are incorporated herein.

20. Pursuant to the conduct of the Defendants in not providing safe premises, which constituted a dangerous and hazardous condition in and of itself and this

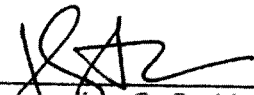
condition unreasonably interfered with the use and enjoyment of the subject property and therefore, constituted a nuisance. Said nuisance caused the Plaintiff's injuries.

**WHEREFORE**, as a result of the gross negligence, negligence, negligence per se and/or nuisance recited herein, the Plaintiff demands judgment against the Defendants, jointly and severally, in the sum of **ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)** and her costs in this action along with interest from January 4, 2009 and for such other relief that this Court may deem just and proper.

**TRIAL BY JURY IS DEMANDED.**

  
\_\_\_\_\_  
KELLY A. GOURLAY  
By Counsel

**TURBITT, O'HERRON & LEACH, PLLC**

  
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