

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

CASE NO.:

**WENDY GARCIA,
Plaintiff**

vs.

(RESERVED FOR CLERK OF COURT)

**SIMON PROPERTY GROUP, INC., a Foreign
Profit Corporation, and TOWN CENTER AT
BOCA RATON TRUST, A New York Trust, and
UNKNOWN CONSTRUCTION ENTITY,
Defendants.**

COMPLAINT

**COMES NOW Plaintiff, WENDY GARCIA, and sues Defendants, SIMON
PROPERTY GROUP, INC., a Foreign Profit Corporation, and TOWN CENTER
AT BOCA RATON TRUST, a New York Trust, and UNKNOWN
CONSTRUCTION ENTITY, and in support thereof alleges:**

JURISDICTION AND VENUE

1. This is an action for damages in excess of \$50,000.00 and is otherwise within the jurisdiction of this Court.

2. That at all times material hereto, venue is appropriate in Palm Beach County, Florida, as the incident giving rise to this matter occurred at the Town

Center at Boca Raton, a shopping mall, owned and/or operated by the Defendants, SIMON PROPERTY GROUP, INC., and TOWN CENTER AT BOCA RATON TRUST in Palm Beach County, Florida, and with work being performed on the property by Defendant, UNKNOWN CONSTRUCTION ENTITY.

PARTIES

3. That at all times material hereto, Plaintiff, WENDY GARCIA (*hereinafter* "GARCIA"), was over the age of eighteen years, resided in Palm Beach County, in the State of Florida, and is otherwise *sui juris*.

4. That at all times material hereto Defendant, SIMON PROPERTY GROUP, INC. (*hereinafter* "SIMON"), was a Foreign Profit Corporation and authorized to do business in the State of Florida, more particularly in Palm Beach County, FL.

5. That at all times material hereto, Defendant, *TOWN CENTER AT BOCA RATON TRUST* (*hereinafter* "TRUST"), was a New York Trust authorized to do business in the State of Florida, more particularly in Palm Beach County, FL.

6. That at all times material hereto, Defendant, UNKNOWN CONSTRUCTION ENTITY, was an entity authorized to do business in the State of Florida, more particularly in Palm Beach County, FL.

COUNT I
NEGLIGENCE AGAINST SIMON PROPERTY GROUP, INC.

Plaintiff realleges paragraphs One through Six as if set forth in full below and further alleges as follows:

7. On or about November 26, 2019, Defendant SIMON was the owner and/or had exclusive control of an establishment known as Town Center at Boca Raton, a shopping mall located at 6000 West Glades Road, Boca Raton, Palm Beach County, Florida.

8. On or about November 26, 2019, Plaintiff GARCIA was an invitee of said premises, which was owned and/or operated by Defendant SIMON, when she was seriously injured, after tipping over in her wheelchair, when she was redirected toward The Container Store pick-up location due to construction at the main front entrance to the mall.

9. That on or about November 26, 2019, Defendant SIMON, by and through its agents, employees, and/or servants, had exclusive dominion, possession, and control of the premises.

10. On or about November 26, 2019, Defendant SIMON, owed a duty to the Plaintiff GARCIA, to use reasonable care in the following manner:

- a. to ensure that there were adequate safety measures in place for persons in wheelchairs to safely travel from the main entrance to the pick-up

- location for transports that was in place while construction was being done at the main entrance;
- b. to properly mark the sidewalks and/or curbing so that invitees in wheelchairs could safely travel to such location(s);
 - c. to ensure proper maintenance of the entrance area so as to not create a dangerous condition or hazard;
 - d. to properly establish a path for safe passage from the main entrance to the pick-up location near The Container Store, while construction was taking place at the main entrance;
 - e. to ensure proper marking and/or maintenance of the path from the main entrance to the pick-up location being used during construction near The Constainer Store;
 - f. to properly warn invitees of any known or hidden dangers;
 - g. to maintain the common areas in a reasonably safe and proper condition for its invitees; and
 - h. other actions or omissions to be proven at trial.

11. On or about November 26, 2019, Defendant SIMON, by and through its agents, employees, and/or servants, negligently and carelessly maintained the above mentioned premises in a reasonably safe condition, to wit:

- a. by not maintaining the area around the main entrance, creating a dangerous condition;
- b. by not providing a clearly marked and safe path to travel from the front entrance to the pick-up/drop off location near The Container Store, creating a dangerous condition;
- c. by allowing Defendant UNKNOWN CONSTRUCTION ENTITY to improperly maintain a construction, creating a dangerous condition;
- d. by failing to maintain the common areas in a reasonably safe and proper condition for its invitees, including disabled invitees;
- e. failing to properly advise disabled invitees of the inability to be pick up and the main entrance;
- f. failing to warn Plaintiff GARCIA, and other invitees, of any and all hidden and known dangers; and
- g. other acts or omissions to be proven at trial.

12. Defendant SIMON either knew or should have known of the existence of the dangerous conditions and should have taken steps to warn Plaintiff GARCIA of the existence of such dangerous conditions.

13. Defendant SIMON had a duty to maintain the common areas in a

reasonable safe and proper condition for the general public and its invitees.

14. Defendant SIMON breached its duty to maintain the common areas in a reasonable safe and proper condition for the general public and its invitees and failed to warn Plaintiff GARCIA.

15. Defendant SIMON was negligent in creating and/or permitting the aforementioned dangerous and hazardous conditions to remain on the premises, rendering said premises dangerous and unsafe for Plaintiff GARCIA.

16. In addition to the allegations contained in the paragraphs above, or as an alternative to such allegations, Defendant SIMON, through its agents, employees, and/or servants, was negligent for failing to provide a safe and secure path, failing to keep its walkways and sidewalk safe, failing to keep the premises free of one or more dangerous conditions, failing to implement and/or follow reasonable policies and procedures to keep the premises free from dangerous conditions, for failing to warn invitees, such as Plaintiff GARCIA of a dangerous condition and for otherwise acting negligently with regard to the subject incident.

17. The acts or omissions of Defendant SIMON, as aforesaid, were a direct, proximate, and legal cause and/or contributed to the incident which resulted in injuries and damages to Plaintiff GARCIA.

18. As a further direct and proximate result of the negligence of Defendant

SIMON, Plaintiff GARCIA suffered bodily injury and/or suffered an exacerbation of a pre-existing injury or physical condition, and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and/or nursing care and treatment, lost wages, loss of earnings, loss of ability to earn money, and/or suffered the inability to lead a normal life. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, Plaintiff, WENDY GARCIA, demands judgment for damages against Defendant SIMON PROPERTY GROUP, INC., in excess of fifty thousand (\$50,000.00) dollars, in addition to taxable costs, attorney's fees, if any, and interest.

Plaintiff further demands trial by jury for all issues so triable.

COUNT II
NEGLIGENCE AS TO TOWN CENTER AT BOCA RATON TRUST

Plaintiff *GARCIA* realleges and reaffirms paragraphs one through six (1-6) above as if hereafter set forth in full and further alleges as follows:

19. On or about November 26, 2019, Defendant TRUST was the owner and/or had exclusive control of an establishment known as Town Center at Boca Raton, a shopping mall located at 6000 West Glades Road, Boca Raton, Palm Beach County, Florida.

20. On or about November 26, 2019, Plaintiff GARCIA, was an invitee of said premises, which was owned and/or operated by Defendant TRUST, when she was seriously injured, after tipping over in her wheelchair, when she was redirected toward The Container Store pick-up location due to construction at the main front entrance to the mall.

21. That on or about November 26, 2019, Defendant TRUST by and through its agents, employees, and/or servants, had exclusive dominion, possession, and control of the premises.

22. On or about November 26, 2019, Defendant TRUST owed a duty to the Plaintiff GARCIA to use reasonable care in the following manner:

- a. to ensure that there were adequate safety measures in place for persons in wheelchairs to safely travel from the main entrance to the pick-up location for transports that was in place while construction was being done at the main entrance;
- b. to properly mark the sidewalks and/or curbing so that invitees in wheelchairs could safely travel to such location(s);
- c. to ensure proper maintenance of the entrance area so as to not create a dangerous condition or hazard;
- d. to properly establish a path for safe passage from the main entrance to

the pick-up location near The Container Store, while construction was taking place at the main entrance;

- e. to ensure proper marking and/or maintenance of the path from the main entrance to the pick-up location being used during construction near The Container Store;
- f. to properly warn invitees of any known or hidden dangers;
- g. to maintain the common areas in a reasonably safe and proper condition for its invitees; and
- h. other actions or omissions to be proven at trial.

23. On or about November 26, 2019, Defendant TRUST, by and through its agents, employees, and/or servants, negligently and carelessly maintained the above mentioned premises in a reasonably safe condition, to wit:

- a. by not maintaining the area around the main entrance, creating a dangerous condition;
- b. by not providing a clearly marked and safe path to travel from the front entrance to the pick-up/drop off location near The Container Store, creating a dangerous condition;
- c. by allowing Defendant UNKNOWN CONSTRUCTION ENTITY to improperly maintain a construction, creating a

dangerous condition;

- d. by failing to maintain the common areas in a reasonably safe and proper condition for its invitees, including disabled invitees;
- e. failing to properly advise disabled invitees of the inability to be pick up and the main entrance;
- f. failing to warn GARCIA and other invitees of any and all hidden and known dangers; and
- g. other acts or omissions to be proven at trial.

24. Defendant TRUST either knew or should have known of the existence of the dangerous conditions and should have taken steps to warn Plaintiff GARCIA of the existence of such dangerous conditions.

25. Defendant TRUST has a duty to maintain the common areas in a reasonable safe and proper condition for the general public and its invitees.

26. Defendant TRUST breached its duty to maintain the common areas in a reasonable safe and proper condition for the general public and its invitees and failed to warn Plaintiff GARCIA.

27. Defendant TRUST was negligent in creating and/or permitting the aforementioned dangerous and hazardous conditions to remain on the premises, rendering said premises dangerous and unsafe for Plaintiff GARCIA.

28. In addition to the allegations contained in the paragraphs above, or as an alternative to such allegations, Defendant TRUST, through its agents, employees, and/or servants was negligent for failing to provide a safe and secure path, failing to keep its walkways and sidewalk safe, failing to keep the premises free of one or more dangerous conditions, failing to implement and/or follow reasonable policies and procedures to keep the premises free from dangerous conditions, for failing to warn invitees, such as Plaintiff GARCIA, of a dangerous condition and for otherwise acting negligently with regard to the subject incident.

29. The acts or omissions of Defendant TRUST, as aforesaid were a direct, proximate, and legal cause and/or contributed to the incident which resulted in injuries and damages to Plaintiff GARCIA.

30. As a further direct and proximate result of the negligence of Defendant TRUST, Plaintiff GARCIA suffered bodily injury and/or suffered an exacerbation of a pre-existing injury or physical condition, and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and/or nursing care and treatment, lost wages, loss of earnings, loss of ability to earn money, and/or suffered the inability to lead a normal life. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, Plaintiff, WENDY GARCIA, demands judgment for damages against Defendant TOWN CENTER AT BOCA RATON TRUST, in excess of fifty thousand (\$50,000.00) dollars, in addition to taxable costs, attorney's fees, if any, and interest.

Plaintiff further demands trial by jury for all issues so triable.

COUNT III
NEGLIGENCE AS TO UNKNOWN CONSTRUCTION ENTITY

Plaintiff realleges paragraphs One through Six (1-6), Seven through Eighteen (7-18), and nineteen through thirty (19-30) as if set forth in full below and further alleges as follows:

31. On or about November 26, 2019, Defendant UNKNOWN CONSTRUCTION ENTITY was contracted by SIMON and/or TRUST, to perform construction at the establishment known as Town Center at Boca Raton, a shopping mall located at 6000 West Glades Road, Boca Raton, Palm Beach County, Florida.

32. On or about November 26, 2019, Plaintiff GARCIA was an invitee of said premises, which was owned and/or operated by Defendant SIMON and/or TRUST, when she was seriously injured, after tipping over in her wheelchair, when she was redirected toward The Container Store pick-up location due to construction at the main front entrance to the mall.

33. That on or about November 26, 2019, Defendant UNKNOWN

CONSTRUCTION ENTITY, by and through its principal(s), agents, employees, and/or servants, had exclusive dominion, possession, and control of the portion of the premises it was performing services for.

34. On or about November 26, 2019, Defendant UNKNOWN CONSTRUCTION ENTITY owed a duty to the Plaintiff GARCIA to use reasonable care in the following manner:

- a. to ensure that there were adequate safety measures in place for persons in wheelchairs to safely travel from the main entrance area it was working at to the pick-up location for transports that was in place while construction was being done at the main entrance;
- b. to properly mark the sidewalks and/or curbing so that invitees in wheelchairs could safely travel to such location(s);
- c. to ensure proper maintenance of the entrance area so as to not create a dangerous condition or hazard;
- d. to properly establish a path for safe passage from the main entrance to the pick-up location near The Container Store, while construction was taking place at the main entrance;
- e. to ensure proper marking and/or maintenance of the path from the main entrance to the pick-up location being used during construction near The

Container Store;

- f. to properly warn invitees of any known or hidden dangers;
- g. to maintain the common areas in a reasonably safe and proper condition for its invitees; and
- h. other actions or omissions to be proven at trial.

35. On or about November 26, 2019, Defendant UNKNOWN CONSTRUCTION ENTITY, by and through its principal(s), agents, employees, and/or servants, negligently and carelessly maintained the above mentioned premises in a reasonably safe condition, to wit:

- a. by not maintaining the area around the main entrance, creating a dangerous condition;
- b. by not providing a clearly marked and safe path to travel from the front entrance to the pick-up/drop off location near The Container Store, creating a dangerous condition;
- c. by improperly maintain a construction, creating a dangerous condition;
- d. by failing to maintain the common areas in a reasonably safe and proper condition for its invitees, including disabled invitees;
- e. failing to properly advise disabled invitees of the inability to be

pick up and the main entrance;

- f. failing to warn GARCIA and other invitees of any and all hidden and known dangers; and
- g. other acts or omissions to be proven at trial.

36. Defendant UNKNOWN CONSTRUCTION ENTITY either knew or should have known of the existence of the dangerous conditions and should have taken steps to warn Plaintiff GARCIA of the existence of such dangerous conditions.

37. Defendant UNKNOWN CONSTRUCTION ENTITY had a duty to maintain the common areas in a reasonable safe and proper condition for the general public and invitees to the premises.

38. Defendant UNKNOWN CONSTRUCTION ENTITY breached its duty to maintain the common areas in a reasonable safe and proper condition for the general public and its invitees and failed to warn Plaintiff GARCIA.

39. Defendant UNKNOWN CONSTRUCTION ENTITY was negligent in creating and/or permitting the aforementioned dangerous and hazardous conditions to remain on the premises, rendering said premises dangerous and unsafe for Plaintiff GARCIA.

40. In addition to the allegations contained in the paragraphs above, or as an alternative to such allegations, Defendant UNKNOWN CONSTRUCTION

ENTITY, through its agents, employees, and/or servants was negligent for failing to provide a safe and secure path, failing to keep its walkways and sidewalk safe, failing to keep the premises free of one or more dangerous conditions, failing to implement and/or follow reasonable policies and procedures to keep the premises free from dangerous conditions, for failing to warn invitees, such as Plaintiff GARCIA of a dangerous condition and for otherwise acting negligently with regard to the subject incident.

41. The acts or omissions of Defendant UNKNOWN CONSTRUCTION ENTITY, as aforesaid, were a direct, proximate, and legal cause and/or contributed to the incident which resulted in injuries and damages to Plaintiff GARCIA.

42. As a further direct and proximate result of the negligence of Defendant UNKNOWN CONSTRUCTION ENTITY, Plaintiff GARCIA suffered bodily injury and/or suffered an exacerbation of a pre-existing injury or physical condition, and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and/or nursing care and treatment, lost wages, loss of earnings, loss of ability to earn money, and/or suffered the inability to lead a normal life. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, Plaintiff, WENDY GARCIA, demands judgment for damages against Defendant UNKNOWN CONSTRUCTION ENTITY, in excess of fifty thousand (\$50,000.00) dollars, in addition to taxable costs, attorney's fees, if any, and interest.

Plaintiff further demands trial by jury for all issues so triable.

Respectfully Submitted,

CROUSER LAW, P.A.

Attorneys for the PLAINTIFF
3201 West Commercial Boulevard
Suite 212
Fort Lauderdale, Florida 33309
Phone : (305) 372-7776
Fax : (305) 372-7790
Service E-mail: service@henrycrouserpa.com

/s/ Henry R. Crouser

HENRY R. CROUSER, ESQ.

Florida Bar No.: 912891

E-mail: Henry@henrycrouserpa.com