

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JILL HEGEL,)
Plaintiff,)
VS.) C.A. NO. _____
CITY OF GLOUCESTER,)
Defendant.)

**NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT COURT PURSUANT
TO 28 U.S.C. § 1441(a)**

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

Petitioner, the City of Gloucester, respectfully petitioners this Court, pursuant to 28 U.S.C. § 1441(a), for removal of the above-entitled action to the United States District Court for the District of Massachusetts, Civil Session, from the Superior Court of the Commonwealth of Massachusetts in and for Middlesex County, and for the Notice of Removal state as follows:

1. Petitioner is named defendant by the plaintiff, Jill Hegel, in a civil action filed in the Superior Court of the Commonwealth of Massachusetts in and for Middlesex County entitled *Jill Hegel v. City of Gloucester*, Civil Action No. 1981-CV-03602. On August 2, 2021, the plaintiff served, under Superior Court Rule 9A, a Motion for Leave to File an Amended Complaint along with a proposed Amended Complaint pursuant to Mass.R.Civ.P. 15. (See Proposed Amended Complaint, attached hereto as Exhibit A). The Motion was filed on August 16, 2021. On August 17, 2021 the Middlesex Superior Court allowed the Motion for Leave to File an Amended Complaint. (See Order Allowing Motion for Leave to File an Amended Complaint, attached hereto as Exhibit B).

2. This is a suit of a wholly civil nature brought in a Massachusetts state court. The action is pending in Middlesex County, Massachusetts, and, accordingly, under 28 U.S.C. §§ 101

and 1441(a), the United States District Court for the District of Massachusetts is the proper forum for removal.

3. In her Amended Complaint, the plaintiff now seeks damages and other relief alleging that defendant is liable to her under 42 U.S.C. §§ 12132 & 12202 by denying her access to a certain public beach within the City of Gloucester “by virtue of an allegedly significant disrepair and/or non-compliance with statutory handicap access codes.”

4. Because this civil action arises under the Constitution and laws of the United States, the United States District Court has original jurisdiction under 28 U.S.C. § 1331.

5. The United States District Court has supplemental jurisdiction over the other counts in the Amended Complaint pursuant to 28 U.S.C. § 1337(a).

6. The petitioners are filing this Notice of Removal within thirty (30) days of “after receipt by the defendant, through service or otherwise, of a copy of an amended pleading,” which is within thirty days of the date this action became removable, and within the time for filing this petition. See 28 U.S.C. § 1446(b)(3).

7. The petitioner will file a Notice of Filing of this Notice of Removal and a copy of this Notice of Removal with the Clerk of the Superior Court of Massachusetts, County of Middlesex.

8. Pursuant to Local Rule 81.1(a), the petitioner shall request of the Clerk of the Superior Court of Massachusetts, County of Middlesex, certified or attested copies of all records and proceedings in the state court and certified or attested copies of all docket entries therein, and shall file the same with this Court within thirty (30) days after the filing of this Notice of Removal.

WHEREFORE, petitioner, City of Gloucester, prays that the above- entitled action now pending in the Middlesex Superior Court of the Commonwealth of Massachusetts in and for Middlesex County be removed from that Court to this United States District Court.

The Defendant,

CITY OF GLOUCESTER
By its Attorneys,

PIERCE DAVIS & PERRITANO LLP

/s/ Justin L. Amos

John J. Cloherty, BBO #566522
Justin L. Amos, BBO #697232
10 Post Office Square, Suite 1100N
Boston, MA 02109
(617) 350-0950
jcloherty@piercedavis.com
jamos@piercedavis.com

Dated: August 17, 2021

CERTIFICATE OF SERVICE

I hereby certify that on August 17, 2021, a true copy of this document was served upon each attorney of record via first class and electronic mail as follows:

William Kennedy, Esq.
Christine M. McPhee, Esq.
Law Offices of William T. Kennedy, P.C.
21 McGrath Highway, Suite 404
Quincy, MA 02169-5311

/s/ Justin L. Amos

Justin L. Amos

A

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS

SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO.:

JILL HEGEL,)
Plaintiff,)
)
v.)
)
CITY OF GLOUCESTER,)
Defendant.)
)

PLAINTIFF'S FIRST AMENDED COMPLAINT AND JURY DEMAND

1. The Plaintiff, Jill Hegel, is a resident of Arlington, Middlesex County, Commonwealth of Massachusetts.
2. The Defendant, City of Gloucester, (the "City" or "Defendant") is a municipality with a principal place of business at City Hall, 9 Dale Avenue, Gloucester, Essex County, Commonwealth of Massachusetts.
3. At all times material hereto, the City of Gloucester owned, maintained and held for public use the park located at Half Moon Beach in Stage Fort Park, Gloucester, Massachusetts.
4. On or about July 7, 2019, the Plaintiff was visiting Half Moon Beach at Stage Fort Park with her two young grandchildren. The Plaintiff paid a monetary fee to the Defendant for parking and use of the park and beach.
5. As they approached Half Moon Beach, the Plaintiff's grandchildren hurried ahead of her, down a set of cement stairs onto Half Moon Beach (hereinafter "the cement stairs").
6. The Plaintiff followed her grandchildren down the cement stairs to access Half Moon Beach, having no alternative route to follow them.
7. The last several steps of the cement stairs were in gross disrepair, broken, and hazardous, causing the Plaintiff to trip and fall forcefully down onto the cement steps, rocks, and the stump of a large tree located next to the cement stairs, losing consciousness and suffering serious injuries.
8. The cement stairs were in a defective condition and lacked a handrail.
9. The Plaintiff could not see the poor, unsafe condition of the bottom of the cement stairs until she reached them.

10. The Plaintiff's injuries resulting from the trip and fall on July 7, 2019, include but are not limited to head trauma, a large hematoma on her forehead, laceration above upper lip, right shoulder injury, abrasions on her right shoulder, arm, hand and her back, and permanent scarring.

COUNT I: NEGLIGENCE

11. The Plaintiff herein realleges and restates the preceding Paragraphs as if fully stated herein.
12. The Defendant at all relevant times exercised control over Stage Fort Park and Half Moon Beach. The Defendant installed and maintained the cement stairs providing access to Half Moon Beach, and had the authority and ability to correct dangerous conditions that existed there, including but not limited to the location where the Plaintiff fell.
13. The Defendant had a duty of care to the Plaintiff to maintain the cement stairs leading to Half Moon Beach in a reasonably safe condition.
14. The Defendant breached its duty to the Plaintiff by negligently maintaining the cement stairs leading to Half Moon Beach, such that the Plaintiff was thereby caused to trip and fall while attempting to traverse the cement stairs to follow her young grandchildren to the beach.
15. The Defendant breached its duty owed to the Plaintiff by:
 - a. failing to properly install, maintain and/or service the cement stairs leading to Half Moon Beach;
 - b. failing to properly inspect, locate, identify and correct dangerous and hazardous conditions at Stage Fort Park and Half Moon Beach, such as the cement stairs that the Plaintiff was injured on;
 - c. failing to warn of the danger caused by its acts and/or omissions;
 - d. failing to use even minimal care in locating and identifying the dangerous and hazardous conditions at Stage Fort Park and Half Moon Beach, such as the cement stairs that the Plaintiff was injured on, and/or correct the same, in willful, wanton and reckless disregard of the substantial harm to persons; and,
 - e. failing to abide by applicable law, codes, standards, and practices associated with the safe and proper access and stairways to public places.
16. As a direct and proximate result of the Defendant's negligent conduct, the Plaintiff tripped and fell down the cement stairs at Half Moon Beach, suffering serious and permanent injuries, incurring medical expenses in the treatment of said injuries, suffering

great pain of body and mind, and becoming obligated to expend additional monies for medical care and treatment.

COUNT II:GROSS NEGLIGENCE,
WILLFUL, WANTON OR RECKLESS CONDUCT

17. The Plaintiff herein realleges and restates the preceding Paragraphs as if fully stated herein.
18. The Defendant at all relevant times exercised control over Stage Fort Park and Half Moon Beach. The Defendant installed and maintained the cement stairs providing access to Half Moon Beach, and had the authority and ability to correct dangerous conditions that existed there, including but not limited to the location where the Plaintiff fell.
19. The Defendant had a duty of care to the Plaintiff to maintain the cement stairs leading to Half Moon Beach in a reasonably safe condition.
20. The Defendant breached its duty to the Plaintiff by negligently maintaining the cement stairs leading to Half Moon Beach, such that the Plaintiff was thereby caused to trip and fall while attempting to traverse the cement stairs to follow her young grandchildren to the beach.
21. The Defendant breached its duty owed to the Plaintiff by:
 - a. failing to properly install, maintain and/or service the cement stairs leading to Half Moon Beach;
 - b. failing to properly inspect, locate, identify and correct dangerous and hazardous conditions at Stage Fort Park and Half Moon Beach, such as the cement stairs that the Plaintiff was injured on;
 - c. failing to warn of the danger caused by its acts and/or omissions;
 - d. failing to use even minimal care in locating and identifying the dangerous and hazardous conditions at Stage Fort Park and Half Moon Beach, such as the cement stairs that the Plaintiff was injured on, and/or correct the same, in willful, wanton and reckless disregard of the substantial harm to persons; and,
 - e. failing to abide by applicable law, codes, standards, and practices associated with the safe and proper access and stairways to public places.
22. The Defendant engaged in the misconduct described above in reckless, willful or wanton disregard of the safety of the Plaintiff.
23. The Defendant's misconduct described above posed a substantial, unjustifiable, and unreasonable risk of physical harm to the Plaintiff.

24. The Defendant knew or should have known of the substantial, unjustifiable, and unreasonable risk created by its misconduct as described above.
25. The Defendant's misconduct as described above demonstrated a conscious disregard for the substantial, unjustifiable, and unreasonable risk of physical harm to the Plaintiff caused by the Defendant's conduct.
26. As a direct and proximate result of the Defendant's negligent, grossly negligent, willful, wanton or reckless conduct, the Plaintiff tripped and fell down the cement stairs at Half Moon Beach, suffering serious and permanent injuries, incurring medical expenses in the treatment of said injuries, suffering great pain of body and mind, and becoming obligated to expend additional monies for medical care and treatment.

COUNT III: BREACH OF CONTRACT

27. The Plaintiff herein realleges and restates the preceding Paragraphs as if fully stated herein.
28. The Defendant had a duty pursuant to an express or implied contract with the Plaintiff, Jill Hegel, a lawful patron, by which it would maintain the premises at Half Moon Beach and Stage Fort Park in a manner safe and suitable for patron use;
29. The Defendant breached its contract by permitting the premises to become unsafe for patron use and hazardous to lawful visitors;
30. As a direct and proximate result of the Defendant's breach, the Plaintiff was seriously and permanently injured, has incurred medical expenses in the treatment of said injuries, has suffered great pain of body and mind, and was and will be obliged to expend monies for medical care and treatment.

COUNT IV: VIOLATION OF M.G.L. c. 93A

31. The Plaintiff herein realleges and restates the preceding Paragraphs as if fully stated herein.
32. At all relevant times, the Defendant was engaged in trade or commerce with the Plaintiff as defined in M.G.L. c. 93A, § 1, and was not engaged in the performance of a government function.
33. The Defendant violated M.G.L. c. 93A §§ 2 and 9, as it ignored the most fundamental safety provisions by failing to provide a means of secure and safe egress for park and beach patrons such as the Plaintiff, who was attempting to access the beach by use of cement stairs that were in disrepair and unsafe and allowed to remain so by the Defendant.

34. In failing to properly maintain the cement stairs, the Defendant has engaged in conduct that is unethical, oppressive, and unscrupulous and that has caused the Plaintiff substantial injuries, and thus violates M.G.L. c. 93A § 2.
35. An act or practice that fails to comply with a statute meant for the protection of the public's health, safety, or welfare is a violation of M.G.L. c. 93A, § 2. 940 CMR 3.16(3).
36. The Defendant violated provisions of 521 CMR, including 521 CMR 19 and 27.
37. The purpose of 521 CMR is "to make public buildings and facilities accessible to, functional for, and safe for use by persons with disabilities." 521 CMR 2.1. The provisions of 521 CMR 27 require all stairs to comply with its provisions. 521 CMR 27.1
38. 521 CMR is therefore a body of law meant for the protection of the public's health, safety, or welfare.
39. By violating 521 CMR, the Defendant has violated M.G.L. c. 93A, § 2.
40. The Defendant violated other provisions of Massachusetts law intended for the protection of the public's health, safety, or welfare, including regulations.
41. As a direct and proximate result of the Defendant's violations of M.G.L. c. 93A, § 2, the Plaintiff was seriously and permanently injured, has incurred medical expenses in the treatment of said injuries, has suffered great pain of body and mind, and was and will be obliged to expend additional monies for medical care and treatment.
42. The Plaintiff has complied with all statutory conditions precedent to recovery by mailing a demand letter pursuant to M.G.L. c. 93A §§ 2 and 9 on October 24, 2019. Attached as **Exhibit A** is a copy of the Plaintiff's Chapter 93A demand letter (without attachments that number over 190 pages, for present purposes). The Plaintiff incorporates by reference the contents of the attached Exhibit A.
43. The Defendant failed to make a proper response to said demand letter and/or to offer a reasonable written tender of settlement within thirty days of the demand letter as provided in M.G.L. c. 93A, § 9.
44. Pursuant to M.G.L. c. 93A, §2, the Plaintiff seeks a judgment for up to triple damages plus an award of attorney's fees and costs for the willful and wanton violation of M.G.L. c. 93A, §2.

COUNT V: VIOLATION OF THE UNITED STATES
AMERICANS WITH DISABILITIES ACT

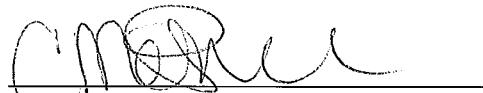
45. The Plaintiff herein realleges and restates the preceding Paragraphs as if fully stated herein.
46. The Plaintiff is a qualified individual pursuant to Title II of the Americans with Disabilities Act.
47. The Plaintiff was excluded from participation and/or denied the benefits of significant services, programs or activities of the City of Gloucester in that the access to the beach was made inaccessible by the City of Gloucester's failure to provide adequate handicap access.
48. The denial of access was by reason of the Plaintiff's disability in that the defect in the cement stairs prevented the Plaintiff from safely accessing the beach due to her disability. Pursuant to 42 USC §12132 and 42 USC §12202, Plaintiff was denied the benefits of the services, programs, or activities of a public entity and/or was subject to discrimination by any such public entity, the City of Gloucester, by virtue of the significant disrepair and/or non-compliance with statutory handicap access codes.
49. As the direct and proximate result of the violation of the Americans with Disabilities Act by the Defendant, the Plaintiff tripped and fell down the cement stairs at Half Moon Beach, suffering serious and permanent injuries, incurring medical expenses in the treatment of said injuries, suffering great pain of body and mind, and becoming obligated to expend additional monies for medical care and treatment.

WHEREFORE the Plaintiff Jill Hegel demands judgment against the Defendant City of Gloucester for damages, costs, multiple damages pursuant to M.G.L. c. 93A, attorney's fees, costs and other relief that this Honorable Court deems just.

**THE PLAINTIFF DEMANDS A TRIAL BY JURY
OF ALL ISSUES SO TRIABLE**

Respectfully submitted,
For the Plaintiff,
Jill Hegel,
By her attorney,

LAW OFFICES OF
WILLIAM T. KENNEDY, P.C.
Attorneys at Law



William T. Kennedy
BBO #268420
Christine M. McPhee
BBO #668869
21 McGrath Highway, Suite 404
Quincy, MA 02169-5311
617-773-7100

DATED: 8/2/2021

#19-7-1C
Hegel\ amended complaint (first)

B

CLERK'S NOTICE		DOCKET NUMBER 1981CV03602	Trial Court of Massachusetts The Superior Court	
CASE NAME: Hegel, Jill vs. City of Gloucester		Michael A. Sullivan, Clerk of Court Middlesex County		
TO: Justin Amos, Esq. Pierce Davis and Perritano LLP 10 Post Off Square Suite 1100N Boston, MA 02109		COURT NAME & ADDRESS Middlesex County Superior Court - Woburn 200 Trade Center Woburn, MA 01801		
<p>You are hereby notified that on 08/17/2021 the following entry was made on the above referenced docket:</p> <p>Endorsement on Motion for Leave to Amend Complaint (#10.0): ALLOWED Dated: August 16, 2021</p> <p>Judge: Doolin, Hon. Michael</p>				
DATE ISSUED 08/17/2021	ASSOCIATE JUSTICE/ ASSISTANT CLERK Hon. Michael Doolin	SESSION PHONE# (781)939-2754		

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Jill Hegel

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

William T. Kennedy,BBO #268420 & Christine M. McPhee,BBO #668869
Law Offices of William T. Kennedy, P.C.,21 McGrath Highway,
Ste 404,Quincy, MA 02169,(617) 773-7100

DEFENDANTS

City of Gloucester

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.**Attorneys (If Known)**

John J. Cloherty III,BBO#566522 & Justin L. Amos,BBO#697232
Pierce Davis & Perritano LLP, 10 Post Office Sq.,Ste 1100N
Boston MA 02109 (617) 350-0950

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability PERSONAL PROPERTY <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input checked="" type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			IMMIGRATION	
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	
				FEDERAL TAX SUITS
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

<input type="checkbox"/> 1 Original Proceeding	<input checked="" type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. §§ 12132 & 12202

VI. CAUSE OF ACTION

Brief description of cause:
Plaintiff alleges personal injuries stemming from a fall at a public beach.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

08/17/2021

SIGNATURE OF ATTORNEY OF RECORD

/s/ Justin L. Amos

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE

Print**Save As...****Reset**

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the six boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Jill Hegal v. City of Gloucester

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

I. 410, 441, 470, 535, 830*, 891, 893, 895, R.23, REGARDLESS OF NATURE OF SUIT.

II. 110, 130, 140, 160, 190, 196, 230, 240, 290, 320, 362, 370, 371, 380, 430, 440, 442, 443, 445, 446, 448, 710, 720, 740, 790, 820*, 840*, 850, 870, 871.

III. 120, 150, 151, 152, 153, 195, 210, 220, 245, 310, 315, 330, 340, 345, 350, 355, 360, 365, 367, 368, 375, 385, 400, 422, 423, 450, 460, 462, 463, 465, 480, 490, 510, 530, 540, 550, 555, 625, 690, 751, 791, 861-865, 890, 896, 899, 950.

*Also complete AO 120 or AO 121. for patent, trademark or copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

N/A

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES NO

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES NO

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES NO

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES NO 7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES NO A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division

Central Division

Western Division

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division

Central Division

Western Division

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES NO

(PLEASE TYPE OR PRINT)

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