

**MATTHEW W. HAGER,  
144 Duke of Gloucester Street  
Annapolis, MD 21401,**

**Plaintiff,**

**v.**

**CITY OF ANNAPOLIS  
160 Duke Gloucester Street  
Annapolis, MD 21401,**

**DAVID JARRELL, PE, Director,  
CITY OF ANNAPOLIS DEPARTMENT  
OF PUBLIC WORKS  
145 Gorman St. # 2,  
Annapolis, MD 21401,**

**And,**

**RELIABLE CONTRACTING  
COMPANY, INC.  
2410 Evergreen Road, Suite 200  
Gambrills, MD 21054,**

**Serve: Patricia Baldwin, Resident Agent  
2410 Evergreen Road, Suite 200  
Gambrills, MD 21054,**

**Defendants.**

**IN THE**

**CIRCUIT COURT**

**FOR**

**ANNE ARUNDEL COUNTY**

**MARYLAND**

**CASE NO. C-02-CV-19-003647**

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**AMENDED COMPLAINT**

Matthew W. Hager, Plaintiff, by his attorneys, P. Joseph Donahue and Wise & Donahue, PLC, files this Amended Complaint against the City of Annapolis, David Jarrell, PE, the Director of the City of Annapolis Department of Public Works, and Reliable Contracting Company, Inc., and as grounds therefore, states as follows:

## **Jurisdiction and Venue**

1. This action arises under the Maryland Local Government Tort Claims Act and this Court has jurisdiction over this matter pursuant to Courts and Judicial Proceedings Article §6-103 and §5-301 and following. Venue is proper in this forum pursuant to Courts and Judicial Proceedings Article 6-202 (8).

## **Compliance with the Local Government Tort Claims Act**

2. This action is filed under the Local Government Tort Claims Act, Cts. & Jud. Proc. Art. § 5-301 et. seq. (“LGTC”). Plaintiff has given timely notice to Defendants of his claim under the LGTCA and has fully complied with all statutory and other conditions precedent to file this Complaint.

3. On June 14, 2017, in compliance with LGTCA, Plaintiff served by certified mail return receipt requested, Notice of Plaintiff’s Claim on The State of Maryland, Anne Arundel County and the City of Annapolis as it was not clear at that time who was responsible for the roadway and designated bike lane where the claim arose. A copy of the Notice of Claim letter is attached hereto as Exhibit 1.

4. By letter dated June 23, 2017, the Maryland State Treasurer’s Office advised that claim did not involve Maryland State property and that the City of Annapolis should be contacted. A copy of the letter is attached as Exhibit 2.

5. By letter dated June 28, 2017, Diana Nesbitt, a Claims Consultant from SISCO wrote on behalf of the City of Annapolis acknowledging the Claim. A copy of the letter is attached as Exhibit 3.

6. The City denied Mr. Hager’s claim.

## **Parties**

7. Plaintiff, Matthew Hager, is an adult resident of State of Maryland residing in Anne Arundel County, Maryland.

8. Defendant, the City of Annapolis (“the City”), is a municipal corporation incorporated, organized, and existing under the laws of the State of Maryland, and located in Anne Arundel County.

9. Defendant David Jarrell, PE is the Director of City of Annapolis Department of Public Works (“DPW”) and employed by the City to oversee and manage DPW. DPW is a duly created department charged with the construction, repair, inspection, and maintenance of roadways including bike lanes within the City of Annapolis.

10. The City employs Defendant Jarrell and DPW workers to construct, maintain, inspect, and repair its roadways including bike lanes, and supervisors to train, supervise, and oversee the construction, maintenance, inspection, and repair of its roadways and bike lanes. Defendant City as employer is responsible for all negligent acts or failures to act committed by its authorized agents, servants, and employees acting within the scope of their employment.

11. At all times relevant to this claim, Defendants – the City and Defendant Jarrell as Director of DPW – were responsible for the conditions of the public roadways including bike lanes in the City of Annapolis.

12. The City and Defendant Jarrell as Director of DPW had a nondelegable duty to inspect, maintain, and repair its public roadways including designated bike lanes in the roadway but also had the ability and authority to hire contractors to perform maintenance and repair of its public roadways including designated bike lane.

13. Reliable Contracting Company, Inc., (“Reliable”) now and at all times relevant to this claim is a corporation organized under the laws of the State of Maryland, registered to do business in Maryland and regularly engaging in business at its offices located at 2410 Evergreen Road, Suite 200, Gambrills, Maryland 21054.

14. At all times relevant to this claim, Reliable was an agent and contractor hired by the City of Annapolis and DPW pursuant to IFB No. 13-08 and amendments thereto, to provide roadway repair and resurfacing on Chinquapin Round Road including the designated bike lane and which did perform said roadwork and repairs on or before June 6, 2017.

15. Reliable was responsible for the acts or omissions of its employees, and agents, actual or apparent, in performing roadway repair and resurfacing as a contractor for the City and Defendant Jarrell.

**Count I  
(Negligence-City and David Jarrell)**

16. On June 6, 2017, and prior and subsequent to that date, the City owned, managed, controlled, and maintained the street with a designated bike lane known as Chinquapin Round Road, and the storm drain grate located on it, in the approximate area of its intersection with Lincoln Drive, in the City of Annapolis.

17. On June 6, 2017 at approximately 6:00 in the evening, Matthew Hager was riding his bicycle lawfully, in a safe and reasonable manner, at a reasonable speed, with due care, proper control, and while maintaining a proper lookout in the designated bike lane, northbound on Chinquapin Round Road in the City of Annapolis.

18. Shortly after passing the intersection with Lincoln Drive, Mr. Hager’s front tire dropped into and abruptly lodged in a gap between a storm drain grate and the pavement.

19. Mr. Hager was thrown over the handlebars of his bike and crashed, impacting face-first onto the storm drain grate and the concrete roadway. The impact bent the frame of the bicycle destroying the bicycle.

20. Emergency Medical Services were called to the scene and transported Mr. Hager to Anne Arundel Medical Center where he was treated for a concussion and severe and painful lacerations and abrasions to his face and eye.

21. The City of Annapolis and Defendant Jarrell as Director of DPW have a legal obligation to properly spec, design, and construct, and a continuing duty to inspect, maintain, and repair its roads including designated bike lanes in the roadway.

22. At all times relevant to this claim, Defendants owned, constructed, maintained, and assumed jurisdiction over Chinquapin Round Road including the designated bike lane.

23. The Maryland Department of Transportation, the State Highway Authority, and Defendant City all have established regulations and standards relating to reasonable and proper standard storm drain specification, installation, and maintenance with which the Defendants failed to comply.

24. The storm drain grate located in the middle of the bike lane where Mr. Hager's bike tire jammed was not properly installed or maintained allowing for a gap between the grate and the roadway which constituted a hazard and a dangerous and defective condition in the public roadway and designated bike lane.

25. Defendants, through their agents, servants, and employees, knew, or by the exercise of reasonable care should have known, that the storm drain grate was not properly installed or maintained. A small and temporarily painted white arrow in the bike lane

identifying the gap between the storm drain grate and the roadway suggests that the Defendants had notice of the dangerous defective condition but failed to correct the condition.

26. On June 6, 2017, and prior to that date, it was the duty of Defendants through their agents, servants, and employees to exercise ordinary care in maintaining the roadway, including the designated bike lane and storm drain grate, in a reasonably proper and safe condition for use by persons lawfully on the roadway and bike lane.

27. Defendants through their agents, servants and employees, acting within the scope of their employment breached their duty to Plaintiff and were guilty of one or more of the following negligent acts or omissions which were the proximate cause of the injuries sustained by Plaintiff:

(a) failure to use ordinary and reasonable care and caution in the installation, maintenance and control of the described bike lane and storm drain grate;

(b) failure to use ordinary and reasonable care and caution in the construction and installation of the storm drain grate in the bike lane to insure it did not create a hazard for cyclists;

(c) failure to use ordinary and reasonable care and caution in the inspecting and correcting any defects or hazards relating to the installation and location of the storm drain in the middle of the bike lane;

(d) failure to correct the unusually wide gap between the storm drain grate and the pavement in the bike lane which created a hazard and a dangerous and defective condition;

(e) failure to warn Plaintiff and other bike riders of the dangerous and defective condition of the grate at the described location;

(f) failure to repair the dangerous or defective condition of the grate, when the Defendants knew or should have known that such repair was necessary to ensure the safe conduct of cyclists riding in the designated bike lane;

(g) failure to install or maintain the storm drain grate in compliance with the City of Annapolis' design manual standard details relating to specifications and requirements for safe and proper storm drain grate installation and maintenance.

(h) failure to comply with the State of Maryland standards relating to bike lane design, construction and maintenance, and storm drain grate installation and maintenance within bike lanes;

(i) failure to provide cyclists riding in the designated bike lane an avenue for safe passage;

(j) failure to take other adequate precautions to minimize the hazardous condition created by the defective storm drain grate;

(k) failure to install a storm grate that met the specifications of the City of Annapolis and the State of Maryland standard details;

and

(l) were otherwise careless and/or negligent.

28. As a direct and proximate result of the negligence of Defendants, Plaintiff suffered severe, painful, and permanent injuries including, but not limited to injury to his face and head, extreme shock to mind and body, and severe emotional trauma.

29. As a further direct and proximate result of the negligence of Defendants, Plaintiff has incurred and will in the future incur medical and related expenses, has suffered the reduced ability to attend to his personal and business affairs, has lost wages, has endured

and in the future will continue to endure great pain and suffering and will in the future lose time from work and be unable to engage in his usual social and recreational activities.

Plaintiff also incurred significant personal property damages.

30. All of Plaintiff's losses are due to and by reason of the carelessness and negligence of Defendants, without any negligence or want of due care by Plaintiff.

**Count II**  
**(Negligent Failure to Supervise - City and David Jarrell)**

31. Plaintiff incorporates, as if set forth in full, paragraphs 1 - 30, preceding.

32. Defendant City and Defendant Jarrell failed to properly discharge their duties of supervision and failed to train and supervise their employees and agents in order to prevent an occurrence such as the one described herein.

33. Defendants knew or should have known that members of the public would use the bike lane and that the dangerous condition caused by the improperly installed and maintained storm drain grate posed a threat to all including the Plaintiff.

34. Defendants owed a duty of care to Mr. Hager and others to use reasonable care in their supervision of employees and agents but failed to properly discharge their duties of supervision, oversight and surveillance.

35. As a direct and proximate result of the negligence of Defendants in the supervision of the employees of DPW and its agents, Plaintiff suffered severe, painful, and permanent injuries including, but not limited to injury to his face and head, extreme shock to mind and body and severe emotional trauma.

36. As a further direct and proximate result of the negligence of Defendants, Plaintiff has incurred and will in the future incur medical and related expenses, has suffered the reduced ability to attend to his personal and business affairs, has lost wages, has endured



and in the future will continue to endure great pain and suffering and will in the future lose time from work and be unable to engage in his usual social and recreational activities.

Plaintiff also incurred significant personal property damages.

37. All of Plaintiff's losses are due solely to and by reason of the carelessness and negligence of Defendants, without any negligence or want of due care by Plaintiff.

**Count III**  
**(*Respondeat Superior* - City and David Jarrell)**

38. Plaintiff incorporates, as if set forth in full, paragraphs 1 - 37, preceding.

39. Defendants as employers are responsible for all of the acts or failures to act committed by their authorized agents, servants and employees acting within the scope of their employment.

40. At all times relevant the Defendants acting through their authorized agents, servants, and employees, who were acting within the scope of their employment and in furtherance of the Defendants' interests owed a duty to Plaintiff to exercise ordinary care in maintaining and repairing the roadway, including the designated bike lane and storm drain grate, in a reasonably proper and safe condition for use by persons lawfully on the roadway and bike lane.

41. Defendants acting through their authorized agents, servants and employees, negligently breached their duty of care owed to Plaintiff as stated in detail above.

42. As a direct and proximate result of the negligence of Defendants, Plaintiff suffered severe, painful, and permanent injuries including, but not limited to injury to his face and head, extreme shock to mind and body and severe emotional trauma.

43. As a further direct and proximate result of the negligence of Defendants, Plaintiff has incurred and will in the future incur medical and related expenses, has suffered

the reduced ability to attend to his personal and business affairs, has lost wages, has endured and in the future will continue to endure great pain and suffering and will in the future lose time from work and be unable to engage in his usual social and recreational activities.

Plaintiff also incurred significant personal property damages.

44. All of Plaintiff's losses are due to and by reason of the carelessness and negligence of Defendants, without any negligence or want of due care by Plaintiff.

**Count IV**  
**(Negligence and *Respondeat Superior* - Reliable Contracting Company, Inc.)**

45. Plaintiff incorporates, as if set forth in full, paragraphs 1 - 44, preceding.

46. Defendant Reliable as an employer is responsible for the acts or failures to act committed by its authorized agents, servants and employees acting within the scope of their employment and under the direction and supervision of Reliable.

47. At all times relevant Reliable acting through its authorized agents, servants, and employees, owed a duty to Plaintiff to exercise ordinary care in maintaining and repairing the roadway, including the designated bike lane and storm drain grate, in a reasonably proper and safe condition for use by persons lawfully on the roadway and bike lane.

48. Reliable through its agents, servants and employees, acting within the scope of their employment were guilty of one or more of the following negligent acts or omissions which were the proximate cause of the injuries sustained by Plaintiff:

- (a) failure to comply with all the terms, provisions and specifications of its contract with the City to repair and resurface specified roadways including Chinquapin Round Road;
- (b) failure to use ordinary and reasonable care and caution in the

installation, maintenance and repair of the described bike lane and storm drain grate;

(c) failure to use ordinary and reasonable care and caution in the repaving and installing the storm drain grate in the bike lane to insure it did not create a hazard for cyclists;

(d) failure to use ordinary and reasonable care and caution in the inspecting and correcting any defects or hazards relating to the installation and location of the storm drain in the middle of the bike lane;

(e) failure to correct the unusually wide gap between the storm drain grate and the pavement in the bike lane which created a hazard and a dangerous and defective condition;

(f) failure to repair the dangerous or defective condition of the grate, when the Reliable knew or should have known that such repair was necessary to ensure the safe conduct of cyclists riding in the designated bike lane;

(g) failure to install, repair or maintain the storm drain grate in compliance with the City of Annapolis' design manual standard details relating to specifications and requirements for safe and proper storm drain grate installation and maintenance.

(h) failure to comply with the State of Maryland standards relating to bike lane design, construction and maintenance, and storm drain grate installation and maintenance within bike lanes;

(i) failure to take other adequate precautions to minimize the hazardous condition created by the defective storm drain grate;

(j) failure to install a storm grate that met the specifications of the City of Annapolis and the State of Maryland standard details;

and

(k) were otherwise careless and/or negligent.

49. Reliable acting through its authorized agents, servants and employees, negligently breached its duty of care owed to Plaintiff as stated in detail above.

50. As a direct and proximate result of the negligence of Defendants, Plaintiff suffered severe, painful, and permanent injuries including, but not limited to injury to his face and head, extreme shock to mind and body and severe emotional trauma.

51. As a further direct and proximate result of the negligence of Defendants, Plaintiff has incurred and will in the future incur medical and related expenses, has suffered the reduced ability to attend to his personal and business affairs, has lost wages, has endured and in the future will continue to endure great pain and suffering and will in the future lose time from work and be unable to engage in his usual social and recreational activities. Plaintiff also incurred significant personal property damages.

52. All of Plaintiff's losses are due to and by reason of the carelessness and negligence of Defendants, without any negligence or want of due care by Plaintiff.

WHEREFORE, Plaintiff, Matthew Hager, demands judgment against the Defendants, jointly and severally, in an amount in excess of Seventy-five Thousand Dollars (\$75,000.00) for damages, past and future medical expenses, pain and suffering, plus interest and the cost of this action and such other relief as is deemed just and proper.

Dated: May 18, 2020

Respectfully submitted,

**THE DONAHUE LAW FIRM**

By:



P. Joseph Donahue

18 West Street

Annapolis, Maryland 21401

Telephone: 410-280-2023

Facsimile: 410-280-0905

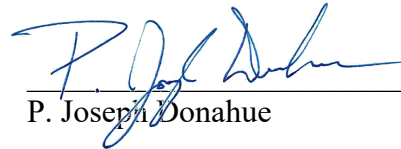
Email: [pjd@thedonahuelawfirm.com](mailto:pjd@thedonahuelawfirm.com)

CPF ID#: 1312170225

Attorney for Plaintiff, Matthew Hager

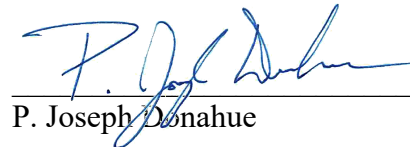
**ELECTION OF JURY TRIAL**

Plaintiff elects trial by jury on all issues raised herein.

  
P. Joseph Donahue

**CERTIFICATE OF COMPLIANCE**

I certify that this document complies with Maryland Rules 1-322.1 and 20-201(h).

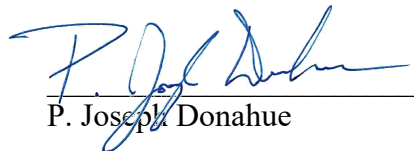
  
P. Joseph Donahue

**CERTIFICATE OF SERVICE**

I hereby certify that on this 18<sup>th</sup> day of May 2020, I served a copy of the foregoing via MDEC on:

Joel A. Braithwaite, CPF# 0604060001  
160 Duke of Gloucester Street  
Annapolis, Maryland 21401

D. Michael Lyles, CPF# 9606050272  
160 Duke of Gloucester Street  
Annapolis, Maryland 21401

  
P. Joseph Donahue