

UNITED STATES DISTRICT COURT
SOUTHER DISTRICT OF FLORIDA

CASE NO. 1:12-CV-21803

PATRICIA REILLEY,

Plaintiff,

vs.

2201 COLLINS FEE, LLC, a foreign
limited liability corporation d/b/a
W SOUTH BEACH and
STARWOOD HOTELS & RESORTS
WORLDWIDE, INC., a foreign
corporation,

Defendants.

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COMPLAINT FOR DAMAGES

Plaintiff, by and through her undersigned counsel, sues Defendants and alleges:

GENERAL ALLEGATIONS

- _____ 1. At all times material hereto, Plaintiff was and is a resident of the State of New Jersey.
2. At all times material hereto, Defendant, 2201 COLLINS FEE, LLC, was and is a foreign limited liability corporation d/b/a W SOUTH BEACH with its principal place of business in Miami-Dade County, Florida.
3. At all times material hereto, Defendant, STARWOOD HOTELS & RESORTS WORLDWIDE, INC. was and is a foreign corporation conducting business in Miami-Dade County, Florida.
4. At all times material hereto, Defendant, STARWOOD HOTELS & RESORTS WORLDWIDE, INC., was the management company in control of and responsible for maintaining

Cohen Law Offices

Suite 2900 SunTrust International Center, One Southeast 3rd Avenue, Miami, Florida 33131

the hotel known as W SOUTH BEACH located at 2201 Collins Avenue in Miami-Dade County, Florida.

5. At all times material hereto, Defendant, 2201 COLLINS FEE, LLC, owned, controlled and/or maintained the hotel known as W SOUTH BEACH located at 2201 Collins Avenue in Miami-Dade County, Florida.

6. On or about August 14, 2011 Plaintiff PATRICIA REILLEY was caused to trip and fall due to the negligence of Defendants at the hotel known as W SOUTH BEACH located at 2201 Collins Avenue in Miami-Dade County, Florida. Plaintiff PATRICIA REILLEY was walking when she caught her foot on the raised metal cover on the aforesaid premises. The metal cover was circular, there were two of these large circular metal covers and a square metal cover in the middle of pedestrian walkway. The exact location of the fall was identified to Defendants in a November 11, 2011 letter which attached photos of the area of the fall. Moreover, the area of the fall is known to Defendants as they were notified of the fall when it happened and subsequent to the fall they modified the metal covers in an attempt to fix the trip and fall hazard.

7. Jurisdiction is founded on Diversity of Citizenship Jurisdiction, Title 28 U.S.C. § 1332, as the citizenship of Plaintiff is New Jersey and Defendant 2201 COLLINS FEE, LLC is New York corporation and Defendant STARWOOD HOTELS & RESORTS WORLDWIDE, INC. a Connecticut corporation and the amount in controversy exceeds \$75,000.

8. Venue is proper in the Southern District of Florida pursuant to 28 U.S.C. § 1331 because the accident occurred in Miami-County, Florida.

COUNT I
CLAIM FOR NEGLIGENCE AGAINST
DEFENDANT 2201 COLLINS FEE, LLC

9. Plaintiff adopts and reavers the General Allegations.

10. Defendant, 2201 COLLINS FEE, LLC, owed a duty to Plaintiff to keep said premises, and in particular the pedestrian walkway where the two large circular metal covers were located, in a reasonably safe condition and free of tripping hazards.

11. Defendant breached said duty owed to Plaintiff by committing one or more of the following negligent acts of commission and/or omission:

- a. Defendant created a dangerous and defective condition, to wit:
 - (1) Carelessly and negligently failing to properly maintain the aforesaid pedestrian walkway so that it was safe to walk on;
 - (2) Carelessly and negligently allowing a trip hazard to be created or continue to exist on the aforesaid pedestrian walkway;
 - (3) Carelessly and negligently failing to properly inspect for trip hazards the aforesaid pedestrian walkway;
 - (4) Carelessly and negligently accepting the construction and installation of the large circular metal covers such that they could lift up and remain raised thereby creating a trip hazard;
 - (5) Carelessly and negligently failing to make sure the lids of the metal circular covers were securely in the down position, thus creating a trip hazard; and,

(6) Carelessly and negligently failing to place high contrast paint or markings on the edges of the circular metal lids to warn pedestrians of the trip hazard.

b. Defendant knew of the existence of said dangerous and defective condition or in the exercise of reasonable care should have known of the existence of said condition.

c. Defendant failed to warn Plaintiff of said dangerous and defective condition or, in the alternative, allowed said dangerous and defective condition to exist for a length of time sufficient in which a reasonable inspection would have disclosed the same.

COUNT II
CLAIM FOR NEGLIGENCE AGAINST
DEFENDANT STARWOOD HOTELS & RESORTS WORLDWIDE, INC.

12. Plaintiff adopts and reavers the General Allegations.

13. Defendant, STARWOOD HOTELS & RESORTS WORLDWIDE, INC., owed a duty to Plaintiff to keep said premises, and in particular the pedestrian walkway where the two large circular metal covers were located, in a reasonably safe condition and free of tripping hazards.

14. Defendant breached said duty owed to Plaintiff by committing one or more of the following negligent acts of commission and/or omission:

a. Defendant created a dangerous and defective condition, to wit:

(1) Carelessly and negligently failing to properly maintain the aforesaid pedestrian walkway so that it was safe to walk on;

(2) Carelessly and negligently allowing a trip hazard to be created or continue to exist on the aforesaid pedestrian walkway;

- (3) Carelessly and negligently failing to properly inspect for trip hazards the aforesaid pedestrian walkway;
- (4) Carelessly and negligently accepting the construction and installation of the large circular metal covers such that they could lift up and remain raised thereby creating a trip hazard;
- (5) Carelessly and negligently failing to make sure the lids of the metal circular covers were securely in the down position, thus creating a trip hazard; and,
- (6) Carelessly and negligently failing to place high contrast paint or markings on the edges of the circular metal lids to warn pedestrians of the trip hazard.

b. Defendant knew of the existence of said dangerous and defective condition or in the exercise of reasonable care should have known of the existence of said condition.

c. Defendant failed to warn Plaintiff of said dangerous and defective condition or, in the alternative, allowed said dangerous and defective condition to exist for a length of time sufficient in which a reasonable inspection would have disclosed the same.

PRAYER FOR RELIEF AS TO ALL COUNTS

15. As a direct and proximate result of the negligence of Defendants as aforesaid, Plaintiff was injured in and about their body and extremities and/or aggravated a pre-existing condition, suffered pain therefrom, suffered physical handicap, loss of earnings, incurred medical expenses for the care and treatment of their injuries, and their working ability was impaired; said injuries are

