

**IN THE CIRCUIT COURT OF SHELBY COUNTY, TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS**

NATHAN SCRUGGS,)	
)	
Plaintiff,)	
)	
v.)	Docket No.
)	Division
CITY OF MEMPHIS, TENNESSEE,)	
MICHAEL W. RALLINGS, in his official)	
capacity as the Director of Police Services)	JURY DEMANDED
of the Memphis Police Department,)	
JOHN DOES 1-20,)	
)	
Defendants.)	

COMPLAINT FOR DAMAGES

COMES NOW, your Plaintiff PLAINTIFF (“Plaintiff”), by and through counsel of record, Wells & Associates, PLLC, and for this Complaint against the Defendants, City of Memphis, Tennessee, Michael W. Rallings, and John Does 1-20 (herein collectively “Defendants”), and in support thereof states as follows:

PARTIES

1. Plaintiff is and was, at all times relevant to this action, a resident citizen of Memphis, Shelby County, Tennessee, and is a citizen of the United States of America.

2. Defendant City of Memphis, Tennessee (“Defendant City of Memphis”), is a municipality, duly incorporated under the laws of the State of Tennessee. Defendant City of Memphis, Tennessee, may be served with process by serving the City’s Attorney, Bruce McMullen, or current City Attorney, at 125 N. Main Street, Room 336, Memphis, Tennessee

38103. Alternately, this Defendant may be served by serving its Mayor, Jim Strickland. Defendant City of Memphis, Tennessee is a governmental entity as defined by T.C.A. §29-20-102 and is subject to suit in the Circuit Court of Shelby County pursuant to the Tennessee Government Tort Liability Act and other applicable law. Upon information and belief, this entity was formed, organized, controlled, operated, owned and ultimately supervises and maintains the Memphis Police Department and Memphis Police Department Impound Lot. Upon information and belief, all employees, contractors, servants, agents and volunteers of the Memphis Police Department were agents of this Defendant acting in the course and scope of their employment or agency. The Memphis Police Department is and was a division of this Defendant. Any action brought against a municipality is brought pursuant to the Tennessee Government Tort Liability Act as immunity has been removed pursuant to T.C.A. §29-20-101 et seq. including, but not limited to, T.C.A. §29-20-205. Alternatively, this action is being brought against this Defendant in accordance with the common law of the State of Tennessee.

3. Defendant Director Michael W. Rallings (“Defendant Rallings”) is an adult resident citizen of Memphis, Shelby County, Tennessee. At all times pertinent hereto, Defendant Rallings was the Director of Police Services for the Memphis Police Department. Defendant Rallings was responsible for the day-to-day operations of the Memphis Police Department and was the final policy maker with respect to law enforcement operations for the City of Memphis at all times relevant to this action. Defendant Rallings was under a duty to operate the policing activities of the Memphis Police Department so as to preserve not only the peace of the City of Memphis, but also to protect its citizens, and to preserve their rights, privileges and immunities guaranteed and secured to them by the Constitutions and

the Laws of the United States and/or the State of Tennessee. Plaintiff is bringing this action against Defendant Rallings in his official capacity as Director of Police Service for the Memphis Police Department. Defendant Rallings may be served at the Memphis Police Department, 170 N. Main Street, Memphis, Tennessee 38103.

4. Defendants John Does 1-20 (“Defendant Does 1-20”) are upon information and belief adult resident citizens of Memphis, Shelby County, Tennessee.

JURISDICTION AND VENUE

5. This Honorable Court has jurisdiction over this action pursuant to *inter alia*, T.C.A. §16-10-101, T.C.A. §20-5-106 and T.C.A. §29-20-305.

6. Venue is proper in this Honorable Court pursuant to *inter alia*, T.C.A. §20-4-101, because all or part this cause of action arose within Shelby County, Tennessee.

FACTS

7. On or about July 17, 2019, at approximately 9:30 p.m., Plaintiff was operating his motorcycle traveling to his residence.

8. Upon information and belief, a Memphis police officer believed Plaintiff was on a stolen motorcycle and that officer and other officers began to pursue Plaintiff failing to warn Plaintiff, including, but not limited to, turning on their blue lights, turning on their sirens, and/or giving any commands for Plaintiff to stop.

9. Plaintiff arrived at his residence and parked his motorcycle behind his home.

10. Plaintiff was walking toward his residence when two (2) Memphis Police Officers ran into Plaintiff’s backyard, confronted Plaintiff with their guns drawn and ordered him to get on the ground.

11. While Plaintiff was on the ground and handcuffed, a police officer came running towards Plaintiff, jumped on Plaintiff with his knee crashing onto Plaintiff's jaw and caused Plaintiff's jaw to shatter.

12. The officers who were present at the scene did nothing to prevent the unprovoked assault by their fellow officer and failed to safeguard Plaintiff while Plaintiff was handcuffed on the ground, vulnerable, and in the care and custody of the officers.

13. As a result of the unprovoked assault and shattering of Plaintiff's jaw, Plaintiff was in immense pain and pleaded with the officers to take him to the hospital.

14. The officers refused to allow Plaintiff medical attention. It was not until an EMT insisted Plaintiff receive medical attention for his shattered jaw. At that time one of the officers transported Plaintiff to Regional One Medical Center.

15. Plaintiff underwent surgery at Regional One Medical Center the next day and was discharged the following day.

16. Plaintiff was not charged with any crimes or offenses by the Memphis Police.

CLAIM AGAINST THE CITY OF MEMPHIS
PURSUANT TO THE GOVERNMENTAL TORT LIABILITY ACT

17. The allegations set forth in the previous paragraphs are incorporated herein by reference.

18. Pursuant to T.C.A. §29-20-205 immunity from suit for these Defendants is removed in this case because of the negligent acts and omissions of each Defendant who were acting within the scope of their employment or agency.

19. Plaintiff alleges that none of the exceptions set forth in T.C.A. §29-20-205 or anywhere else in the Tennessee statutes apply to the removal of immunity set forth in that statute.

20. Plaintiff charges and alleges that Defendants are guilty of the following acts of common law negligence, each and every one of which being a direct and proximate cause of the injuries suffered by Plaintiff, to wit:

- a. Negligently and/or recklessly failing to exercise that degree of care and caution required of a reasonable and prudent Memphis Police Department officer under the same or similar circumstances;
- b. Negligently and/or recklessly pursuing Plaintiff without turning on their blue lights and sirens; and
- c. Negligently and/or recklessly failing to restrain their fellow officer and to render aid.

21. The negligence and reckless misconduct of these Defendants directly and proximately caused foreseeable harm to Plaintiff.

22. Plaintiff hereby charges and asserts that his injuries as contemplated by Tennessee statutory and case law, and the facts as alleged above demonstrate that each Defendant is liable for Plaintiff's injuries by their intentional acts, their acts of negligence and their willful and wonton conduct. The Defendants each breached their duties owed to Plaintiff under the law of the State of Tennessee, which lead to a foreseeable and predictable result.

23. Plaintiff further asserts that the City of Memphis is liable for Plaintiff's injuries and all attending damages by the wrongful and/or negligent hiring, supervision and retention of not only officer that shattered Plaintiff's jaw, but of a multitude of officers which

contributed to the policies and customs and permissive culture of silence and protection for the acts of one another.

24. Plaintiff further alleges that the Defendants are liable to Plaintiff for the negligent and/or intentional infliction of emotional distress as clearly outlined by the Tennessee statutory and case law.

DAMAGES

25. The allegations set forth in the previous paragraphs are incorporated herein by reference.

26. Plaintiff charges and alleges that as a direct and proximate result of the negligence, gross, negligence, and/or reckless acts and omissions on the part of the Defendants, Plaintiff suffered serious and painful personal injuries, including but not limited to the following:

- a. Contusions to head, face, and body;
- b. Injury to the head;
- c. Injury to the neck;
- d. Broken jaw;
- e. Neck strain;
- f. Cervicalgia;
- g. Headaches;
- h. Sleep disturbances;
- i. Fatigue;
- j. Depression;
- k. Anxiety;
- l. Great physical pain, past and future;
- m. Great psychological and emotional suffering, past and future;
- n. Severe fright and shock;
- o. Emotional distress; and
- p. Loss of enjoyment of life, past and future.

27. All of damages alleged herein were foreseeable consequences of the negligent and wrongful acts of each of the named Defendants.

28. Plaintiff is entitled to recover for the medical expenses, pain and suffering; emotional pain, suffering and distress; loss of enjoyment of life; loss of earnings and earning capacity; and all other damages directly and proximately caused by Defendants' negligence and/or reckless acts.

29. Plaintiff states that he will require future medical treatment and incur medical bills for treatment of ongoing injuries.

30. The Defendants' acts of negligence and wrongful conduct were the proximate cause, legal cause and actual cause of the injuries and damages described herein.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays:

1. That proper process issue against the Defendants requiring them to plead and answer.

2. That Plaintiff be awarded a judgment against the Defendants. With regard to any municipal Defendant, if damages are limited by the Tennessee Governmental Tort Liability Act, Plaintiff seeks the maximum amount permitted by law, but no less than \$300,000.00.

3. That Plaintiff be awarded punitive damages for Defendant's grossly negligent reckless and/or willful acts and/or omissions in this case, where such actions caused actual damage to the Plaintiff, in an amount to be determined by a jury.

4. That Plaintiff be granted such other relief, general or specific, that this Court deems equitable and just.

5. That the costs of this action be awarded to Plaintiff.

6. That a jury be empaneled to try these issues when joined.

7. That Plaintiff reserves the right to amend these pleadings to conform to the facts of this matter.

Respectfully Submitted,

WELLS & ASSOCIATES, PLLC

Murray B. Wells / Aaron A. Neglia

Murray B. Wells (BPR# 021749)

Aaron A. Neglia (BPR# 033816)

Attorneys for Plaintiff

81 Monroe Avenue – Suite 400

Memphis, Tennessee 38103

(901) 507-2521 – Phone

(901) 507-1791 – Facsimile

wells@thewellsfirm.com - Email

Per Wilson
OK
35155