

IN THE DISTRICT COURT IN AND FOR CLEVELAND COUNTY STATE OF OKLAHOMA JAN 28 2013

| DARIUS MCCARVER, |) DOCKETPAGEAECORDED Rhonda Hall, Court Clerk |
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| Plaintiff, |) — DEPUTY |
| vs. |) Case No.: <u>CJ - 15 - 12</u> 8 |
| CITY OF NORMAN, | Judge: |
| Defendant. | } |

PETITION

COMES NOW, Darius McCarver, Plaintiff, by and through his attorney of record Michael Manning of the The Street Law Firm, PLLC, and for his cause of action against the Defendant alleges and states as follows:

- All acts complained of occurred in Cleveland County, Oklahoma; this Court has jurisdiction over the subject matter and parties hereto.
- 2. Defendant, City of Norman, is an incorporated city located in Cleveland County, State of Oklahoma.
- The acts complained of herein occurred in Cleveland County, State of Oklahoma, therefore jurisdiction and venue are proper here.
- 4. That on or about May 1, 2011, Plaintiff Mr. McCarver was a patient of Norman Regional Hospital.
- That on or about May 1, 2011, Plaintiff Mr. McCarver was released from Norman Regional Hospital.

- 6. That on or about May 1, 2011, and shortly after leaving Norman Regional Hospital, Plaintiff Mr. McCarver was approached by Norman Police Officers.
- 7. That at least two (2) Norman Police Officers utilized their tazer weapons against Plaintiff Mr. McCarver.
- 8. Plaintiff Mr. McCarver suffered cardiac arrest and subsequent hypoxic brain damage immediately following and as a direct result of Norman Police Department Officers' use of their tazer weapons against Plaintiff Mr. McCarver.
- 9. Plaintiff Mr. McCarver's injuries resulted in a forty (40) night hospitalization at Norman Regional Hospital.
- 10. On May 1, 2012, Plaintiff, by and through his attorneys of record, gave notice of his Government Tort Claim to the City of Norman, said claim was deemed denied on July 30, 2012 and this suit is timely filed pursuant to Oklahoma's Government Tort Claim Notice Act.

FIRST CAUSE OF ACTION

COMES NOW, the Plaintiff, Darius McCarver, and for his First Cause of Action, incorporates the allegations set forth above and further asserts:

11. The Defendant, City of Norman and its officer agents, individually and collectively, intentionally and violently detained and tazed Plaintiff Mr.
McCarver, thereby making offensive contact with him without his consent.

- 12. That as a result of the wrongful conduct of the Defendant, by and through its agents, Plaintiff Mr. McCarver, suffered physical, mental, and emotional injury.
- 13. That the Defendant City of Norman, acting through its agent officers committed the tortious act of assault and battery on the Plaintiff Mr. McCarver.

SECOND CAUSE OF ACTION

COMES NOW, the Plaintiff, Darius McCarver, and for his Second Cause of Action, incorporates the allegations set forth above and further asserts:

- 14. After the Plaintiff Mr. McCarver was tazed by the Norman Police

 Department Officers, he was detained unlawfully, without probable cause and against his will.
- 15. That Plaintiff Mr. McCarver was not free to leave at anytime during the confrontation by Norman Police Department Officers or during the tazing episode.
- 16. That the Defendant City of Norman, acting through its agent officers, committed the tortious act of false imprisonment against the Plaintiff Mr. McCarver.

THIRD CAUSE OF ACTION

COMES NOW, the Plaintiff, Darius McCarver, and for his Third Cause of Action, incorporates the allegations set forth above and further asserts:

- 17. That Defendant, by and through its agent officers, acted improperly and without cause when they unlawfully detained and restrained Plaintiff Mr. McCarver against his will.
- 18. That Defendant, by and through its agent officers, asserted a legal authority to detain Plaintiff Mr. McCarver.
- 19. That Defendant, by and through its agent officers, acted without probable cause and without an arrest warrant.
- 20. That Defendant City of Norman, by and through its agent officers, committed the tortious act of false arrest against the Plaintiff Mr. McCarver.

FOURTH CAUSE OF ACTION

COMES NOW, the Plaintiff, Darius McCarver, and for his Fourth Cause of Action, incorporates the allegations set forth above and further asserts:

- 21. That Defendant was negligent in its hiring, training, supervision and monitoring practices of its employees.
- 22. That Defendant's negligence was a direct and proximate cause of Plaintff
 Mr. McCarver's damages.
- 23. That Defendant, by and through its agent officers, committed the tortious act of negligence against the Plaintiff Mr. McCarver.

FIFTH CAUSE OF ACTION

COMES NOW, the Plaintiff, Darius McCarver, and for his Fifth Cause of Action, incorporates the allegations set forth above and further asserts:

24. That Defendant, by and through its agent officers, acted in a reckless manner that was so extreme and outrageous that they went beyond all possible bounds of decency and were atrocious and utterly intolerable in a civilized society.

25. Further, that Defendant, by and through its agent officers, intentionally and recklessly caused severe emotional distress to Plaintiff Mr. McCarver.

26. That Defendant, by and through its agent officers, committed the tort of intentional infliction of emotional distress against the Plaintiff Mr.

McCarver.

27. The Defendant's unlawful seizure and assault and battery of and against the Plaintiff was unreasonable, excessive, and led to serious (greater than "de minimis") injuries.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays for judgment against the Defendant in an amount in excess of \$75,000.00 actual damages and \$75,000.00 punitive damages, for his costs, for applicable pre-judgment and post-judgment interest thereon, and for all other just and equitable relief to which the Plaintiff may be entitled.

Respectfully submitted,

The Street Law Firm, PLLC

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