

IN THE CIRCUIT COURT OF HAMILTON COUNTY, TENNESSEE

MELODY WALLACE )  
 )  
*Plaintiff,* )  
 )  
*v.* )  
 )  
 HAMILTON COUNTY, TENNESSEE, )  
 )  
 HAMILTON COUNTY EMERGENCY )  
 MEDICAL SERVICES, )  
 )  
 MICHAEL JOHNSTON, )  
 In his official and individual capacity )  
 as an agent for Hamilton County )  
 Emergency Medical Services, )  
 )  
 SHAWN SLAUGHTER, )  
 In his official and individual capacity )  
 as an agent for Hamilton County )  
 Emergency Medical Services, )  
 )  
*Defendants.* )

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 PAULA T. THOMPSON, CLERK  
 BY JN  
 Docket No.: 11C919  
 JURY DEMAND  
 DC

COMPLAINT

INTRODUCTION

1. This is an action to seek redress from the Defendants for their intentional and negligent actions and omissions against the Plaintiff under the common laws of the State of Tennessee.
2. Plaintiff avers the acts and omissions claimed in this Complaint constitute the following torts:
  - (a). Assault;

- (b). Battery;
- (c). Intentional Infliction of Emotional Distress (Tort of Outrage);
- (d). Negligent Infliction of Emotional Distress;
- (e). Negligence;
- (f). Negligent Hiring;
- (g). Negligent Retention;
- (h). Negligent Supervision;
- (i). Negligent Training;

3. Defendants Hamilton County, Tennessee (The County) and Hamilton County Emergency Medical Services (EMS) are liable to the Plaintiff for the acts and omissions of its agents, Defendant Michael Johnston (Johnson) and Defendant Shawn Slaughter (Slaughter) under the doctrine of respondeat superior.

4. Plaintiff avers that the Defendant Johnston made an unreasonable search and seizure of the Plaintiff and violated her right to privacy under the laws and statutes of the State of Tennessee and Defendant Johnson did so while acting under the color or law. Specifically, Plaintiff was denied her rights granted under the Tennessee Constitution, Article I, Section 7. In addition to violations of T.C.A. §4-21-101, et seq known as the Tennessee Human Rights Act and in violation of T.C.A. §4-21-701(a)(b) and §4-21-702.

#### JURISDICTION AND VENUE

5. Pursuant to *Tennessee Rules of Civil Procedure*, Rule 10.04, Plaintiff reasserts and incorporates paragraphs 1-4.
6. Venue is proper as all acts complained of occurred within Hamilton County, Tennessee.
7. The County is a political sub-division of the State of Tennessee.
8. EMS is a governmental arm of The County, located within Hamilton County, Tennessee.

#### THE PARTIES

9. At all times relevant to this cause of action, the Plaintiff was a resident of Hamilton County, Tennessee.
10. At all times relevant in this cause of action, the Defendant, The County, is a political sub-division of the State of Tennessee organized and existing under the laws of the State of Tennessee.
11. The County established Defendant, EMS, to provide ambulance and emergency medical services to the citizens of Hamilton County, Tennessee.
12. At all times relevant in this cause of action, EMS was an agent of The County.
13. At all times relevant to this cause of action, the Defendant, EMS, is an emergency medical transportation organization created under Tennessee state law and regulated by the laws of the State of Tennessee as to:
  - (a). Training and certification of its employees and agents;

- (b). The safe treatment of patients placed in the care of its employees and agents.
14. At all times relevant to this cause of action, EMS, employed Defendants Johnston and Slaughter as emergency medical technicians as defined under the Emergency Medical Services act of 1983.
15. At all times relevant to this cause of action, Johnston acted in his official capacity as an agent, servant and employee, as defined under *Tenn. Code Ann. §29-20-102*, for The County and EMS. Plaintiff sues this Defendant in his individual and official capacities.
16. At all times relevant to this cause of action, Slaughter acted in his official capacity as an agent, servant and employee, as defined under *Tenn. Code Ann. §29-20-102*, for The County and EMS. Plaintiff sues this Defendant in his individual and official capacities.
17. At all times relevant to this cause of action, Defendants Johnston and Slaughter were licensed emergency medical technicians as defined under the Emergency Medical Services act of 1983.

#### FACTS

18. On July 25, 2010, the Plaintiff suffered an episode of seizures and/or convulsions at the home of Martha Michael Hawn on Fawn Drive in Hamilton County, Tennessee.
19. When EMS arrived at the home, the Plaintiff was wearing a tee shirt and shorts.

The Plaintiff was lying on the couch.

20. Both Defendants, Slaughter and Johnston placed the Plaintiff on a gurney and put the Plaintiff into the EMS vehicle.
21. While en route to the hospital the Defendant Johnson rolled the Plaintiff's shirt up over her bare breasts and placed the echocardiogram stickers on her upper body and fondled her.
22. Defendant Johnston moved the Plaintiff's shorts over and exposed her groin area and peered up her shorts.
23. Using the pretext that the echocardiogram stickers were not staying attached to her skin, the Defendant Johnston rolled up the Plaintiff's shirt two to three additional times to continue molesting and photographing the Plaintiff.
24. Defendant Johnston fondled the Plaintiff's bare breasts with his hands, without consent or necessity.
25. Defendant Johnston began photographing portions of Plaintiff's' bare body without consent or necessity.
26. To the best of the Plaintiff's knowledge and belief, Defendant The County and EMS had prior knowledge of similar misconduct by other EMS employees.
27. Defendant Slaughter knew, or should have known, the conduct of Defendant Johnston at a time when Defendant Johnston's actions could have been prevented and/or mitigated.

28. Defendant Slaughter failed to monitor and/or failed to prevent Defendant Johnston from causing injury and damage to the Plaintiff.
29. Defendant Slaughter failed to report the incident to supervisors or law enforcement authorities, which resulted in ensuring that Johnston would be able to continue his conduct on the Plaintiff without fear of disclosure by Defendant Slaughter to police or other authorities.
30. The Plaintiff made an immediate verbal complaint to a treating medical professional upon her arrival at the hospital.
31. As a direct and proximate result of the actions of the Defendants, the Plaintiff suffered physical pain, mental anguish, humiliation and continues to suffer from the effects of the Defendants negligence and willful misconduct. As a direct and proximate result of the acts and/or omissions of the Defendants, Plaintiff required physical and mental health treatment and continues to require such treatment.
32. As a direct and proximate result of the acts and omissions of the Defendants, Plaintiff suffered and will continue to suffer from a loss of employment and earning capacity.

#### CAUSES OF ACTION

#### NEGLIGENCE

33. Pursuant to *Tennessee Rules of Civil Procedure*, Rule 10.04, Plaintiff reasserts and incorporates paragraphs 1-32.

34. EMS and The County had a duty to properly train and supervise its employees and agents. EMS and The County had a duty to transport injured person to the hospital with subjecting them to physical and emotional harm.
35. The County had a duty for proper oversight of the actions of EMS and its agents.
36. Defendant Slaughter had a duty to protect his patients in transport, control the actions on his vehicle, report any alleged misconduct to his supervisor and/or the police.
37. Defendant Johnston had a duty to protect his patients in transport as well as not cause physical and emotional injury by molesting and photographing his patients.
38. To the best of the Plaintiff's knowledge and belief, in part as the result of Johnston's statements made to law enforcement, Defendant Johnston was charged with sexual battery and illegal photographing, and these charges are currently pending in the Criminal Court of Hamilton County, Tennessee, Division II (State of Tennessee v. Michael Lamar Johnston, Docket No.: 277484).

#### CAUSES OF ACTION

##### COUNT ONE: NEGLIGENCE

39. Pursuant to *Tennessee Rules of Civil Procedure*, Rule 10.04, Plaintiff reasserts and incorporates paragraphs 1-38.
40. Defendants owed a duty of care to the Plaintiff.

41. The County and EMS owed a duty to care to ensure the proper training and discipline of Defendants Johnston and Slaughter.
42. Defendant Slaughter owed Plaintiff a duty to report to Erlanger medical personnel, The County and EMS, Johnston's misconduct.
43. The County and EMS had a duty of care to Plaintiff to ensure that its agents were properly trained in the treatment of female patients and to ensure that their employees who commit such misconduct on patients are no longer able to be in a position to inflict similar injury to Plaintiff or other citizens.
44. The Defendants breached their duty of care to Plaintiff.
45. The negligence of the Defendants was the direct and proximate cause of the Plaintiff's injuries.

COUNT TWO: COMMON LAW ASSAULT

46. Pursuant to *Tennessee Rules of Civil Procedure*, Rule 10.04, Plaintiff reasserts and incorporates paragraphs 1-45 and avers that the misconduct of the Defendant Johnston constitutes this tort.

COUNT THREE: COMMON LAW BATTERY

47. Pursuant to *Tennessee Rules of Civil Procedure*, Rule 10.04, Plaintiff reasserts and incorporates paragraphs 1-46 and avers that the misconduct of the Defendant Johnston constitutes this tort.

COUNT FOUR: COMMON LAW CIVIL CONSPIRACY

48. Pursuant to *Tennessee Rules of Civil Procedure*, Rule 10.04, Plaintiff reasserts and incorporates paragraphs 1-47 and avers that the misconduct of the Defendants constitutes this tort.

COUNT FIVE: NEGLIGENCE PER SE

49. Pursuant to *Tennessee Rules of Civil Procedure*, Rule 10.04, Plaintiff reasserts and incorporates paragraphs 1-48 and avers that the misconduct of the Defendants are violations of *Tenn. Code Ann. §39-13-505* and *Tenn. Code Ann. §39-13-605*, which results in the Defendants being negligent per se and jointly and severally liable to the Plaintiff.

COUNT SIX:

COMMON LAW INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

50. Pursuant to *Tennessee Rules of Civil Procedure*, Rule 10.04, Plaintiff reasserts and incorporates paragraphs 1-49 and avers that the misconduct of the Defendant Johnston constitutes this cause of action.

COUNT SEVEN:

VIOLATION OF STATE OF TENNESSEE CONSTITUTION AND STATUTES

51. Pursuant to *Tennessee Rules of Civil Procedure*, Rule 10.04, Plaintiff reasserts and incorporates paragraphs 1-50 and avers that the misconduct of the Defendant Johnston constitutes this cause of action for which Defendants are jointly and severally liable.

WHEREFORE, Plaintiff demands the following:

- a. That service of process issue against the Defendants and that they be required to answer within the time allowed by law;
- b. A jury to try the issues when joined;
- c. Judgment be entered against the Defendants, jointly and severally and in favor of the Plaintiff for Three Hundred Thousand (\$300,000.00) Dollars, the maximum statutory amount allowed by the Tennessee Governmental Tort Liability Act;
- d. Judgment be entered against the Defendants, jointly and severally and in favor of the Plaintiff for Two Million, Five Hundred Thousand (\$2,500,000.00) Dollars.
- e. Judgment against all the Defendants, jointly and severally, for all reasonable attorneys' fees and expenses;
- f. Punitive damages in the amount of One Million (\$1,000,000.00) Dollars; and
- g. Court costs be taxed against the Defendants.