

2009-48491
CAUSE NO. _____

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MARY ANDERSON

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IN THE DISTRICT COURT OF

VS.

HARRIS COUNTY, TEXAS

CLIFFORD SMITH a/k/a
METHOD MAN

189 JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, MARY ANDERSON, hereinafter referred to as Plaintiff, complaining of CLIFFORD SMITH a/k/a METHOD MAN, hereinafter referred to as Defendant, and for cause of action would show this Court and jury the following:

**I.
DISCOVERY CONTROL PLAN**

1.1 Pursuant to Rule 190.3 of the Texas Rules of Civil Procedure, Plaintiff alleges that discovery in this case should be conducted under Level 2 of this Rule.

**II.
REQUEST FOR DISCLOSURE**

2.1 Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendant is requested to disclose the information and material described in Rule 194.2 within **fifty (50) days** of the service of this request.

**III.
PARTIES**

3.1 Plaintiff, MARY ANDERSON, is a resident of Fort Bend County, Texas.
3.2 Defendant, CLIFFORD SMITH a/k/a METHOD MAN, is an individual residing in the State of New York. Said Defendant may be served with citation in person within this

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State at the House of Blues, 1204 Caroline Street, Houston, Harris County, Texas 77002,
or by proper process in a foreign state.

IV. JURISDICTION

4.1 This Court has subject matter jurisdiction in this cause since the damages of Plaintiff exceed the minimum jurisdictional limits of this Court.

4.2 This Court has personal jurisdiction over Defendant, Clifford Smith a/k/a Method Man, because Defendant committed a tort in whole or in part in this State. Further, Defendant has purposefully availed himself of the privilege of conducting activities within this State by continually contracting to perform at venues throughout this State, thus invoking the benefits and protection of Texas' laws.

V. VENUE

5.1 Venue is proper and maintainable in Harris County, Texas, pursuant to §15.002(a)(1) of the Texas Civil Practice & Remedies Code because all or a substantial part of the events giving rise to the claim occurred in Harris County, Texas.

VI. FACTS

6.1 On or about November 19, 2008, Plaintiff, Mary Anderson, attended a concert at the House of Blues Houston located at 1204 Caroline Street, Houston, Harris County, Texas 77002. Defendant, Clifford Smith a/k/a Method Man, was performing with Reginald Noble a/k/a Redman at said concert which was open to the paying general public, including Plaintiff. After the rap concert was over, Defendant was signing autographs for a group of individuals out of the back window of a bus. Plaintiff approached the vehicle and her

concert ticket was given to Defendant for an autograph. As Plaintiff waited for Defendant to return her property, Defendant suddenly pulled out an air gun and intentionally, knowingly, and/or negligently began firing pellets directly at and striking Plaintiff's torso. Plaintiff was struck by at least six pellets.

6.2 Mary Anderson received no warnings prior to the incident and was without fault when Defendant fired pellets into a crowd and struck Plaintiff in the torso. Said incident was the result of Defendant intentionally and/or knowingly threatening and inflicting bodily injury on Plaintiff, and/or proximately caused by the negligence of Defendant. Plaintiff, Mary Anderson, suffered multiple injuries to her stomach and chest that were the result of the incident in question and required medical treatment.

VII.

ASSAULT - INFLICTION OF BODILY INJURY

7.1 Defendant, Clifford Smith, made physical contact with Plaintiff Mary Anderson's person with at least six pellets he shot at her with an air gun.

7.2 Defendant acted intentionally, knowingly, or recklessly and without justification or provocation when he fired the air gun at Mary Anderson.

7.3 Defendant's physical contact caused bodily injury to Plaintiff which resulted in the damages sought herein.

VIII.

ASSAULT - OFFENSIVE PHYSICAL CONTACT

8.1 Defendant, Clifford Smith, made physical contact with Plaintiff Mary Anderson's person with at least six pellets he shot at her with an air gun.

8.2 Defendant acted intentionally or knowingly and without justification or provocation when he fired the air gun at Mary Anderson.

8.3 Defendant knew or reasonably believed that Plaintiff would regard the physical contact as offensive.

8.4 Defendant's physical contact with Plaintiff resulted in her suffering mental anguish that is likely to continue into the future.

**IX.
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

9.1 The actions of Defendant constitute the intentional tort of intentional infliction of emotional distress. The actions of the Defendant as described above in brandishing a loaded air gun and firing it in the direction of Mary Anderson were done recklessly.

9.2 The Defendant knew or should have known that such actions would subject Plaintiff to severe emotional distress because he knew that Plaintiff would see him point the air gun at her and fear for her safety.

9.3 The conduct of Defendant was so extreme and outrageous in character and so extreme in degree as to go beyond all possible bounds of decency, and should be regarded as atrocious conduct and utterly intolerable in a civilized community.

9.4 The conduct of Defendant proximately caused Plaintiff damage in that it caused Plaintiff to suffer severe emotional distress, public humiliation, indignation, despair, and severe disappointment.

**X.
NEGLIGENCE OF CLIFFORD SMITH**

10.1 The conduct of Defendant, Clifford Smith, a/ka Method Man, constituted negligence as that term is understood in law and such conduct was the proximate cause of the occurrence made the basis of this suit.

10.2 At the time and on the occasion in question, Defendant was in possession of a weapon in public that could imperil others. Defendant could have easily foreseen this risk to others when he brandished a loaded air gun. Accordingly, Defendant had a duty to exercise reasonable care to avoid a foreseeable risk of injury to others. This duty extended to Mary Anderson, as she was standing near and directly in front of Defendant at the time in question.

10.3 Defendant breached that duty by failing to properly handle the air gun.

10.4 Defendant further breached that duty by firing the air gun directly at or in the direction of an individual that he knew, or should have known, would be struck by the pellets.

10.5 Plaintiff would show that such negligence proximately caused Plaintiff injury, which resulted in the damages sought herein.

**XI.
GROSS NEGLIGENCE**

11.1 Plaintiff would further show that all acts, conduct, and omissions on the part of Defendant, taken singularly or in combination, constitute gross negligence and was the proximate cause of the damages and injuries to Plaintiff as alleged herein. The conduct and omissions on the part of the Defendant involved an extreme degree of risk,

considering the probability and magnitude of the potential harm and of which Defendant had subjective awareness of the risks involved, but nevertheless Defendant proceeded with conscious indifference to the rights, safety, and welfare of Mary Anderson by firing the air gun's pellets directly at her torso. Such gross neglect entitles Plaintiff to exemplary damages.

XII. PUNITIVE DAMAGES

12.1 Plaintiff is entitled to punitive and/or exemplary damages. Defendant has demonstrated malice and/or gross negligence through his conscious indifference to the rights, health, safety, and welfare of Mary Anderson. Therefore, Plaintiff sues Defendant for exemplary damages in an amount sufficient to deter such conduct from ever occurring again.

XIII. DAMAGES OF MARY ANDERSON

13.1 By reason of the foregoing, Plaintiff Mary Anderson has sustained damages for which she seeks compensation as follows under the law:

- (a) physical pain and suffering sustained in the past and, in all reasonable probability, that she will sustain in the future;
- (b) mental anguish sustained in the past and, in all reasonable probability, that she will sustain in the future;
- (c) physical impairment sustained in the past and, in all reasonable probability, that she will sustain in the future;
- (d) disfigurement sustained in the past and, in all reasonable probability, that she will sustain in the future;
- (e) medical expenses Mary Anderson has incurred in the past;

- (f) medical expenses she will, in all reasonable probability, incur in the future;
- (g) lost earning capacity incurred in the past;
- (h) loss of future earning capacity; and
- (l) all other elements of damage to which she may show herself to be entitled to under the law.

13.2 Plaintiff seeks unliquidated damages within the jurisdictional limits of this Court for Clifford Smith's actions.

13.3 Plaintiff's injuries resulted from Defendant's gross negligence or malice, which entitles Plaintiff to exemplary damages pursuant to Texas Civil Practices & Remedies Code Section 41.003(a).

XIV. INTEREST

14.1 In addition to the above and foregoing allegations, Plaintiff further pleads that she is entitled to pre-judgment interest and post-judgment interest at the highest rate allowed.

XV. PRAYER

15.1 WHEREFORE, Plaintiff prays that Defendant be duly cited to appear and answer herein, and that upon a final trial of this cause of action Plaintiff recover:

- (a) Judgment against the Defendant for Plaintiff's actual damages as set forth above, in an amount within the jurisdictional limits of this Court;
- (b) Punitive and/or exemplary damages;
- (c) Pre-judgment interest and post-judgment interest as provided by law;

- (d) Costs of court; and
- (e) Such other and further relief to which Plaintiff may be entitled.

Respectfully submitted,

**ABRAHAM, WATKINS, NICHOLS,
SORRELS, AGOSTO & FRIEND**

By: _____

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