

2009-72108

Cause No. 2009-72108

TILLION THOMAS

IN THE DISTRICT COURT OF

v.

HARRIS COUNTY, TEXAS

CITY OF HOUSTON and
HOUSTON POLICE DEPARTMENT

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JUDICIAL DISTRICT

FILED
LOREN JACKSON
DISTRICT CLERK
HARRIS COUNTY, TEXAS
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BY DEPUTY KD
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PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff TILLION THOMAS brings this lawsuit complaining of CITY OF HOUSTON and HOUSTON POLICE DEPARTMENT ("Defendants"), and would respectfully show:

**I.
DISCOVERY LEVEL**

1. Plaintiff requests discovery be conducted under Level 3 in accordance with Rule 190.4 of the Texas Rules of Civil Procedure.

**II.
REQUEST FOR DISCLOSURE**

2. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Plaintiff requests Defendants to disclose, within fifty (50) days of service of this request, the information and material described in Rule 194.2 of the Texas Rules of Civil Procedure. Plaintiff specifically requests the responding parties to produce responsive documents at the undersigned law offices within fifty (50) days of service of this request.

RECORDERS MEMORANDUM
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**III.
PARTIES**

3. Plaintiff, TILLION THOMAS, is a resident of Houston, Harris County, Texas.

4. Defendant, CITY OF HOUSTON, is a municipality and may be served by serving the City Secretary, Anna Russell, at 901 Bagby Houston, Texas 77002.

5. Defendant, HOUSTON POLICE DEPARTMENT, is a municipal organization and may be served by serving its Chief of Police, Harold J. Hurtt, at 1200 Travis Street, Houston, Texas 77002.

**IV.
JURISDICTION**

6. The court has jurisdiction over the lawsuit because the action arises under 42 U.S.C. § 1983. Defendants, while acting under the color of state law, deprived Plaintiff from her Constitutional rights by using excessive force in a manner which is widespread and persistent among officers in the Houston Police Department and the City of Houston.

**V.
VENUE**

7. Venue is proper in Harris County, Texas because all or a substantial part of the events, actions or omissions giving rise to this claim occurred in Harris County. CIV. PRAC. REM. CODE § 15.002(a)(1).

**VI.
FACTS**

8. On August 19, 2009, seventy-nine (79) year-old Tillion Thomas ("Thomas") suffered severe personal injuries when a Houston Police Officer subjected Thomas to excessive, unnecessary and unreasonable force. Thomas, a retired school teacher and local

business owner, was pulled over by Officer Bucholz of the Houston Police Department for allegedly speeding on Cullen road.

9. Bucholz forced Thomas to pull into a dark gravel side-street off Cullen road and asked for her identification. Thomas told Bucholz her driver's license was in her purse in the trunk of her car and asked for permission to open the trunk so she could get her identification. Bucholz gave her permission, but as soon as Thomas started to open the trunk, Bucholz became irritated and told Thomas she never asked for permission. Thomas, again, asked for permission to get her license out of her trunk, to which Bucholz again agreed.

10. As Thomas was pulling her license out of her wallet, Bucholz snatched the wallet and threw it to the ground. Bucholz proceeded to jerk Thomas by her left hand, placed Thomas in handcuffs and kicked her in the back of the leg causing her to fall to the ground. Bucholz violently drug Thomas across the gravel road and jammed his knees into both her neck and chest, causing severe pain and trauma to Thomas.

11. Thomas was ordered to get up, but she could not because she was still pinned to the ground under Bucholz. Thomas was again drug across the gravel road and thrown to the floor of Bucholz's police cruiser, where she was taken to the police station. Thomas was physically unable to get out of the cruiser or enter the station by herself and had to be carried.

12. At the station, pictures were taken of Thomas and her injuries and a decision was made to transport her to Ben Taub hospital. Thomas received medical treatment for injuries to her neck, back and chest and was transported back to the station where she was erroneously charged with resisting arrest. ***The charges have since been dismissed.***

13. As a result of the excessive force, Thomas has suffered injuries to her head, neck, chest, back and arms. Thomas' injuries have required her to seek medical treatment from an orthopaedist. Her injuries have substantially limited her mobility and she continues to suffer from severe pain.

14. At the time of the arrest, Officer Bucholz was acting under the color of the laws and regulations of the State of Texas. Defendants had a custom and policy in place that enabled and encouraged its officers and agents to act with deliberate indifference to the constitutional rights of individuals.

15. Specifically, Defendants' failure to adequately train, supervise, and discipline its employees encouraged officers to use excessive force against individuals like Thomas. Defendants tolerated officer misconduct by refusing to take the necessary steps to prevent future excessive force incidents.

VII.

VIOLATION OF CONSTITUTIONAL RIGHTS UNDER 42 U.S.C. § 1983

16. Defendants had a custom and policy of tolerating excessive force by their officers. This custom and policy clearly violated Plaintiff's established rights under the United States Constitution against the use of unreasonable, unnecessary and excessive force.¹

17. Defendants' custom and policy of officers using excessive force established a deliberate indifference towards the Constitutional rights of Plaintiff and other individuals in the following ways:

- a. Defendants failed to adequately train officers with the requisite knowledge, skill and experience required for police officers;

¹ *Graham v. Connor*, 490 U.S. 386, 393 (1989).

- b. Defendants failed to supervise police officers to ensure excessive force would not be used during employment and in the course of their duties; and
- c. Defendants failed to discipline those officers who did use excessive force during employment and in the course of their duties.

18. This custom and policy was common, well-settled and proves deliberate indifference towards the Constitutional rights of individuals subjected to excessive force. This deliberate indifference allowed and encouraged officers to use excessive force against Plaintiff.

VIII. DAMAGES

19. As a direct and proximate result of the officers' use of excessive force, Plaintiff suffered the following injuries and damages and respectfully requests these damages to be considered separately and individually for the purpose of determining the sum of money that will fairly and reasonably compensate her:

- a. The amount of reasonable medical expenses necessarily incurred in the past, and those that will be reasonably incurred in the future;
- b. The physical pain and suffering Plaintiff has suffered in the past and will continue to suffer in the future;
- c. The mental anguish Plaintiff has suffered in the past and will continue to suffer in the future;
- d. The physical disfigurement Plaintiff has suffered in the past and will continue to suffer in the future;
- e. The physical impairment Plaintiff has suffered in the past and will continue to suffer in the future;
- f. The loss of any earnings sustained by Plaintiff in the past, and the loss or reduction of Plaintiff's earning capacity in the future;

- g. The loss of opportunity Plaintiff has suffered in the past and will continue to suffer in the future; and
- h. The loss of enjoyment of life Plaintiff has suffered in the past and will continue to suffer in the future.

**IX.
ATTORNEY FEES**

20. It was necessary for Plaintiff to hire the undersigned attorney to file this lawsuit. Upon judgment, Plaintiff is entitled to and respectfully requests an award of attorney fees and costs as provided by 42 U.S.C. § 1988(b).

**X.
CONDITIONS PRECEDENT**

21. All conditions precedent have been performed or have occurred as required by Texas Rule of Civil Procedure 54.

**XI.
JURY DEMAND**

22. Plaintiff DEMANDS A TRIAL BY JURY and submits the appropriate fee.

**XII.
PRAYER**

23. For the above reasons, Plaintiff prays she will have judgment against Defendants, with interest on the judgment at the legal rate, pre-judgment interest, costs of court and for such other further relief, both in law and equity, to which Plaintiff may show herself justly entitled.

Respectfully Submitted,

THE GIBSON LAW FIRM

A large, stylized handwritten signature in black ink, appearing to be 'J. Gibson', written over a horizontal line.

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