

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

DORSEY HENDERSON, and  
DORRIS L. HENDERSON,

Plaintiffs,

CITY OF FAIRHOPE ALABAMA, and  
TRENT SCOTT, in his individual capacity,

Defendants.

CASE NO. CV-2011-900743

03 MAY 2011  
DISTRICT COURT  
BALDWIN COUNTY, AL  
FILED

MAY 03 2011  
JODY W. CAMPBELL  
CIRCUIT CLERK  
FAIRHOPE

COMPLAINT

JURISDICTION

1. Plaintiff, Dorsey Henderson, is over the age of nineteen (19) and a bona fide resident citizen of Baldwin County, Alabama, and at all times material hereto was a resident at 19201 Thompson Hall Road, Fairhope, Alabama 36532, located in Baldwin County, Alabama.
2. Plaintiff, Dorris L. Henderson, is over the age of nineteen (19) and a bona fide resident citizen of Baldwin County, Alabama, and at all times material hereto was a resident at 19201 Thompson Hall Road, Fairhope, Alabama 36532, located in Baldwin County, Alabama.
3. Defendant, City of Fairhope, is to the best of Plaintiff's information, belief and knowledge, an agency of the State of Alabama.
4. Defendant, Officer Trent Scott, is over the age of nineteen (19) years of age and to the best of the Plaintiff's information, belief and knowledge is a resident citizen of Baldwin County, Alabama, and at all times material hereto was an officer of the Fairhope Police Department.

Allegations

1. On or about May 5, 2009, an automobile accident occurred across the street from the

- Plaintiff, Dorsey Henderson's, address, located at 19201 Thompson Hall Road in Fairhope, Alabama.
2. The Plaintiff, Dorsey Henderson, went to investigate the automobile accident. The Plaintiff, Dorsey Henderson, then went into his house to call the 911 dispatch line and inform the Fairhope Police Department that there had been an automobile accident and that he had placed the driver under citizen's arrest and needed an officer dispatched immediately.
  3. When the Plaintiff, Dorsey Henderson, approached the driver of the automobile that was involved in the accident, he appeared angry and was apparently intoxicated. Because of this the Plaintiff, Dorsey Henderson, told the driver that he was placing him under citizen's arrest and that he needed to stay on the scene until the Fairhope Police Department arrived. The driver of the vehicle told the Plaintiff, Dorsey Henderson, that he was getting a ride and was going to leave the scene.
  4. When the Fairhope Police Officer, Officer Trent Scott, arrived the Plaintiff, Dorsey Henderson, attempted to inform him about the belligerent behavior of the driver of the vehicle involved in the automobile accident and that he had placed the driver under citizen's arrest.
  5. Officer Trent Scott informed the Plaintiff, Dorsey Henderson, that there was "no such thing as a citizen's arrest in Alabama" and said "get out of the way old man". Then, the Plaintiff, Dorsey Henderson, tried to inform Officer Trent Scott that he had only been trying to help by placing the driver under citizen's arrest, and at this point the Officer Trent Scott put the Plaintiff, Dorsey Henderson, in an extremely painful arm bar and proceeded to walk the Plaintiff, Dorsey Henderson, across the street to his driveway.
  6. When they got across the street to the Plaintiff, Dorsey Henderson's, house, Officer Trent Scott slammed him down, face first, breaking his nose and eyeglasses and also continued to

- apply vigorous pressure and twisting to the Plaintiff, Dorsey Henderson's, arms.
7. In the process, Officer Trent Scott then proceeded to beat the Plaintiff, Dorsey Henderson, on the back of his head, neck, and arms in an attempt to subdue him.
  8. The Plaintiff, Dorsey Henderson, never resisted Officer Trent Scott and the Plaintiff, Dorsey Henderson, was never charged with any crime.
  9. The Plaintiff, Dorris L. Henderson, watched the entire incident from her wheelchair at the front door window of their house, at a distance of only eighteen (18) feet away. The Plaintiff, Dorris L. Henderson, called the 911 dispatcher and informed them that the officer was "beating the hell out of my husband" and to send more officers.
  10. The Plaintiff, Dorris L. Henderson, specifically saw the officer striking the Plaintiff, Dorsey Henderson, in the back of the head.
  11. The Plaintiff, Dorris L. Henderson, was so distraught at witnessing this that she called the Fairhope Police Department back to inform them that they were beating the Plaintiff, Dorsey Henderson, up.
  12. Once Officer Trent Scott was finished beating on the Plaintiff, Dorsey Henderson,, and finally let him up, an ambulance had been dispatched to attend to his many obvious injuries.
  13. The Plaintiff, Dorsey Henderson, was bleeding from his head, neck, and arms, and he obviously needed medical attention.
  14. When an ambulance did arrive, within ten (10) minutes, the Plaintiff, Dorsey Henderson, was still being detained in the Police Car.
  15. The Plaintiff, Dorsey Henderson, was handcuffed so tightly that the cuffs cut into his wrists. At no time had the Plaintiff, Dorsey Henderson, ever been placed under arrest, or told that he had been detained for any crime.
  16. When the ambulance did arrive, Officer Trent Scott, told the EMT that was driving to "Go

on, he doesn't need an ambulance", and sent the ambulance away. By this time, the Plaintiff's daughter, Linda Horecnchy, had arrived at the scene and she, in fact, witnessed Officer Trent Scott sending the ambulance away.

17. Finally, a superior officer, with common sense, called on his radio and ordered that the ambulance return to the scene, at which point the Plaintiff, Dorsey Henderson, was finally allowed to be treated for his injuries by an EMT.
18. The Plaintiff, Dorsey Henderson, was then taken to Thomas Hospital for further treatment. Later treatment and diagnosis indicated that the Plaintiff, Dorsey Henderson, had suffered a broken nose, multiple contusions, and a torn rotator cuff in his right shoulder.
19. Since the unlawful assault upon the Plaintiff, Dorsey Henderson, by Officer Trent Scott, the Plaintiff, Dorsey Henderson, has had other complications to his health as a direct result of the assault besides the topical injuries of trauma Officer Trent Scott inflicted to the Plaintiff, Dorsey Henderson's, head, neck, and arms. The Plaintiff, Dorsey Henderson, has also had numbness and lack of action to his right shoulder. This is the arm that Officer Trent Scott had torqued in his arm bar upon the Plaintiff. Further medical investigation revealed that, in fact, Officer Trent Scott had torn the rotator cuff in the Plaintiff, Dorsey Henderson's, right shoulder; of which he have had to have surgery on. The Plaintiff, Dorsey Henderson, is still receiving treatment for this surgery. Additionally, the Plaintiff, Dorsey Henderson, has a possible chipped bone or bone spur behind his left eye from the force of Officer Trent Scott forcing his face into the gravel. The extent of this injury is yet to be determined. The total amount of damages the Plaintiff, Dorsey Henderson, has now suffered at the hands of Officer Trent Scott are unknown. The Plaintiff, Dorsey Henderson, anticipates that his past and future treatment for the medical treatment and damages to him will upwards of two hundred fifty thousand dollars (\$250,000.00) or more.

20. Upon information and belief the aforesaid officer was operating pursuant to a policy of the Police Department of the City of Fairhope.
21. Defendant, City of Fairhope as a matter of policy and practice, have with deliberate indifference failed to properly sanction or discipline their officer, including the Defendant officer for violations of the constitutional rights of citizens, thereby causing police and deputies, including the aforesaid officers in this case, to engage in unlawful conduct.
22. As a direct and proximate result of Defendant officer's actions, Plaintiff, Dorsey Henderson, suffered and continues to suffer injury, including pain, permanent bodily damage, emotional distress, humiliation, and great fear that he will be subjected to similar treatment in the future.
23. As a direct and proximate cause of Officer Trent Scott's actions, the Plaintiff, Dorris L. Henderson, suffered, and continues to suffer, from mental anguish as a result of the wrong committed by Officer Trent Scott. This mental anguish has been accompanied by physical injury causing lack of sleep, nightmares, and unspecified and continued mental anguish.
24. As a direct and proximate result of Officer Trent Scott's actions, the Plaintiff, Dorsey Henderson has been unable to provide household services to his wife, which may include sexual society and his time spend nursing her. His time spent nursing her is valued because she is confined to a wheelchair. Due to mental anguish, the Plaintiff, Dorsey Henderson, has been unable to provide his wife affection, society and assistance to her that grows out of the marital relationship. The husband and wife have both therefore suffered lack of consortium.
25. The officers acted with malice or reckless disregard to Plaintiff, Dorsey Henderson's, Federally protected rights.
26. Plaintiff, Dorsey Henderson, has filed a verified claim for damages with the City of Fairhope

in compliance with *Alabama Code* (1975) § 11-47-192. Plaintiff, Dorsey Henderson, has exhausted his remedies and satisfied all administrative requirements prior to the filing of this action.

### Causes of Action

#### Count I: Excessive Force

1. Plaintiff, Dorsey Henderson, reasserts and realleges the foregoing paragraphs fully as if restated herein.
2. The actions by Officer Trent Scott violated the Plaintiff, Dorsey Henderson's, constitutional rights to be free from the use of excessive and unreasonable force. As such, the actions of said Defendant violated Plaintiff, Dorsey Henderson's, rights under the Fourth Amendment to the United States Constitution, all in violation of 42 U.S.C. §1983.

#### Count II: Unconstitutional Policy and Practice of the City of Fairhope

1. The Plaintiff, Dorsey Henderson, reavers and realleges the foregoing paragraphs as though fully set out herein.
2. The actions of Officer Trent Scott were done pursuant to the policies of the City of Fairhope.
3. In the alternative, the conduct and actions of Officer Trent Scott were done pursuant to a custom which reflected practices of the City of Fairhope so prominent and well settled as to constitute a custom or usage with the force of law. The decisional making officials of the City of Fairhope knew, or should have been aware of those practices, but were deliberately indifferent to those acts.
4. As a direct result of those acts, customs and usages, the Plaintiff, Dorsey Henderson, suffered the aforementioned damages.

5. Defendant, the City of Fairhope, violated Plaintiff, Dorsey Henderson's, constitutional rights and is liable under 42 U.S.C. §1983.

Count III: City of Fairhope's Failure to Train and Supervise

1. The Plaintiff, Dorsey Henderson, reavers and realleges the foregoing paragraphs as though fully set out herein.
2. The City of Fairhope as a matter of policy and practice, has with deliberate indifference failed to properly train and supervise Officer Trent Scott and its other officers and as a result, the aforesaid conduct and damages occurred. Upon information and belief, the City of Fairhope also failed to properly sanction or discipline its officers including Officer Trent Scott, in this action, for conduct which constituted violations of the constitutional rights of its citizens, thereby causing the officers, including Officer Trent Scott, in this case, to engage in unlawful conduct.
3. The City's deliberate indifference violated the Plaintiff, Dorsey Henderson's, constitutional rights and it is liable under 42 U.S.C. §1983.

Count IV: Assault and Battery

1. The Plaintiff, Dorsey Henderson, reasserts and realleges the foregoing paragraphs as fully as if restated herein.
2. Defendant Officer Trent Scott assaulted and battered the Plaintiff, Dorsey Henderson, Plaintiff, Dorsey Henderson, was caused injuries by Officer Trent Scott's conduct.
3. Officer Trent Scott was acting beyond the discretion permitted by his office.
4. Officer Trent Scott's conduct was so egregious as to amount to willful or malicious conduct or conduct engaged in bad faith.

5. Defendant City of Fairhope is variously liable for the assault and battery by Officer Trent Scott.

Count V: Negligent and Wanton Supervision, Hiring and Retention

1. The Plaintiff, Dorsey Henderson, reasserts and realleges the foregoing paragraphs as fully as if restated herein.
2. Defendant, City of Fairhope, negligently or wantonly supervised Officer Trent Scott thus breaching its duty to the Plaintiff, Dorsey Henderson, herein.
3. The Defendant, City of Fairhope, negligently or wantonly hired Officer Trent Scott when they knew or should have known that he would carry out extreme and outrageous conduct as alleged herein, and thus the City of Fairhope did breach its duty to the Plaintiff herein.
4. The Defendant, City of Fairhope, negligently or wantonly retained Officer Trent Scott after said officer carried out the extreme and outrageous conduct that is alleged herein, thus breaching its duty to the Plaintiff, Dorsey Henderson, herein.
5. As a proximate result of the negligence and wantonness mentioned above, the Plaintiff, Dorsey Henderson, has suffered pain, injury, emotional distress, embarrassment and humiliation.

Count VI: False Arrest, Imprisonment, Detention

1. The Plaintiff, Dorsey Henderson, reasserts and realleges the foregoing paragraphs as fully as if restated herein.
2. Plaintiff, Dorsey Henderson, avers that on or about May 5, 2009, at his residence, Defendant, Officer Trent Scott, an agent, servant and/or employee of the Defendant, City of Fairhope, detained the Plaintiff, Dorsey Henderson, in a police car, in handcuffs, and

refused to remove same thereby detaining him and denying him his liberty without probable cause.

3. That Plaintiff, Dorsey Henderson, was not in a position to defend himself as he was eighty-four (84) years of age.
4. That as a consequence of the unlawful arrest and false imprisonment by Defendant, Officer Trent Scott, of the Plaintiff, Dorsey Henderson, the Plaintiff, Dorsey Henderson, was caused grievous and permanent injuries.

Count VII: Mental Anguish/Intentional Infliction of Mental Distress

1. The Plaintiff, Dorsey Henderson, reasserts and realleges the foregoing paragraphs as fully as if restated herein.
2. As a direct and proximate cause of Officer Trent Scott's actions, the Plaintiff, Dorsey Henderson, suffered, and continues to suffer, from mental anguish as a result of the wrong committed by Officer Trent Scott. This mental anguish has been accompanied by physical injury causing lack of sleep, nightmares, and unspecified and continued mental anguish.

Count VIII: Lack of Consortium

1. As a direct and proximate result of Officer Trent Scott's actions, the Plaintiff, Dorsey Henderson has been unable to provide household services to his wife, which may include sexual society and his time spend nursing her. His time spent nursing her is valued because she is confined to a wheelchair. Due to mental anguish, the Plaintiff, Dorsey Henderson, has been unable to provide his wife affection, society and assistance to her that grows out of the marital relationship. The husband and wife have both therefore suffered lack of consortium.

### **Prayer for Relief**

WHEREFORE, Plaintiff seeks judgment as follows:

- (A) Declare that the actions of the Defendants, by and through its officers, constituted a violation of Plaintiff, Dorsey Henderson's, constitutional rights to be free from excessive force;
- (B) Award the Plaintiff, Dorsey Henderson, such compensatory damages he has suffered as a result of the constitutional violations he has suffered pursuant to 42 U.S.C. §1983;
- (C) Award the Plaintiff, Dorsey Henderson, compensatory damages against the City of Fairhope, Alabama and Officer Trent Scott arising out of the acts of the assault and battery. Further award such compensatory damages against the City for its negligence or wantonness in hiring, supervising and retaining Officer Trent Scott;
- (D) Award the Plaintiff, Dorsey Henderson, punitive damages against Defendants, the City of Fairhope and Officer Trent Scott;
- (E) Award the Plaintiff, Dorsey Henderson, attorneys' fees and costs pursuant to 42 U.S.C. §1988; and,
- (F) Such other relief to which he may be entitled.

Respectfully submitted this 3<sup>rd</sup> day of May, 2011.


**Plaintiffs demand trial by jury.**

STATE OF ALABAMA     )  
COUNTY OF BALDWIN    )

Personally appeared before me, the undersigned, a Notary Public in and for said State and County, Dorsey Henderson, who is known to me and who being by me first duly sworn, on oath, deposes and says that he has read the foregoing and the facts set forth therein, and the allegations of fact therein are true and correct to the best of his knowledge, information and belief.


  
Dorsey Henderson

Subscribed to and sworn to before me the undersigned authority on this the 3<sup>rd</sup> day of May, 2011.


  
NOTARY PUBLIC, STATE OF ALABAMA  
My Commission Expires: 02/04/2013

STATE OF ALABAMA     )  
COUNTY OF BALDWIN    )

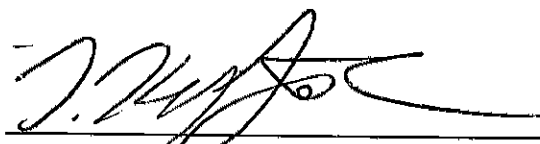
Personally appeared before me, the undersigned, a Notary Public in and for said State and County, Dorris L. Henderson, who is known to me and who being by me first duly sworn, on oath, deposes and says that she has read the foregoing and the facts set forth therein, and the allegations of fact therein are true and correct to the best of her knowledge, information and belief.

  
Dorris L. Henderson

Subscribed to and sworn to before me the undersigned authority on this the 3<sup>rd</sup> day of May, 2011.

  
NOTARY PUBLIC, STATE OF ALABAMA  
My Commission Expires: 02/04/2013

Respectfully Submitted,



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D. Keith Landers (ASB 3230-A57L)  
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**Certificate of Service**


I hereby certify that I have on this 3<sup>rd</sup> day of May, 2011, hand filed the foregoing document in the Circuit Court of Baldwin County, Alabama, and will send notice of such filing to the following:

Marion Everett "Tut" Wynne, Jr.  
Attorney for the City of Fairhope  
P.O. Box 1367  
Fairhope, Alabama 36533

Mayor Kant  
City of Fairhope  
P.O. Drawer 429  
Fairhope, Alabama 36533

Lisa Hanks  
City Clerk, City of Fairhope  
161 North Section Street  
Fairhope, Alabama 36532

Robert Blaise  
Senior Claims Adjustor  
6847 North 9<sup>th</sup> Avenue  
Suite 236  
Pensacola, Florida 32504



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D. Keith Landers (ASB 3230-A57L)  
Attorney at Law

State of Alabama Unified Judicial System	<b>COVER SHEET</b> <b>CIRCUIT COURT - CIVIL CASE</b> (Not For Domestic Relations Cases)	Case Number CIV 2011
Form ARCiv-93 Rev. 8/99		Date of Filing: 05/06/2011 Month Day Year

**GENERAL INFORMATION**

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

DORSEY HENDERSON, DORRIS HENDERSON v. CITY OF FAIRHOPE and TRENT SCOTT  
(Name of County)

First Plaintiff  Business  Individual  Government  Other

First Defendant  Business  Government  Individual  Other

**NATURE OF SUIT:** Select primary cause of action, by checking box (check only one) that best characterizes your action:

- TORTS: PERSONAL INJURY**
- WDEA - Wrongful Death
  - TONG - Negligence: General
  - TOMV - Negligence: Motor Vehicle
  - TOWA - Wantonness
  - TOPL - Product Liability/AEMLD
  - TOMM - Malpractice-Medical
  - TOLM - Malpractice-Legal
  - TOOM - Malpractice-Other
  - TBFM - Fraud/Bad Faith/Misrepresentation
  - TOXX - Other: *Police Brutality*
- TORTS: PERSONAL INJURY**
- TOPE - Personal Property
  - TORE - Real Property
- OTHER CIVIL FILINGS**
- ABAN - Abandoned Automobile
  - ACCT - Account & Nonmortgage
  - APAA - Administrative Agency Appeal
  - ADPA - Administrative Procedure Act
  - ANPS - Adults in Need of Protective Services

- OTHER CIVIL FILINGS (cont'd)**
- MSXX - Birth/Death Certificate Modification/Bond Forfeiture Appeal/Enforcement of Agency Subpoena/Petition to Preserve
  - CVRT - Civil Rights
  - COND - Condemnation/Eminent Domain/Right-of-Way
  - CTMP - Contempt of Court
  - CONT - Contract/Ejectment/Writ of Seizure
  - TOCN - Conversion
  - EQND - Equity Non-Damages Actions/Declaratory Judgment/Injunction Election Contest/Quiet Title/Sale For Division
  - CVUD - Eviction Appeal/Unlawful Detainer
  - FORJ - Foreign Judgment
  - FORF - Fruits of Crime Forfeiture
  - MSHC - Habeas Corpus/Extraordinary Writ/Mandamus/Prohibition
  - PFAB - Protection From Abuse
  - FELA - Railroad/Seaman (FELA)
  - RPRO - Real Property
  - WTEG - Will/Trust/Estate/Guardianship/Conservatorship
  - COMP - Workers' Compensation
  - CVXX - Miscellaneous Circuit Civil Case

09 MAY 2011  
DISTRICT COURT, AL  
BALDWIN COUNTY, AL  
FILED  
MAY 06 2011  
JODY W. CAMPBELL  
CIRCUIT CLERK  
FAIRHOPE

**ORIGIN (check one):** F  INITIAL FILING      A  APPEAL FROM DISTRICT COURT      O  OTHER:

R  REMANDED      T  TRANSFERRED FROM OTHER CIRCUIT COURT

**HAS JURY TRIAL BEEN DEMANDED?**  YES  NO      Note: Checking "Yes" does not constitute a demand for a jury trial. (See Rules 38 and 39, Ala. R. Civ. P., for procedure)

**RELIEF REQUESTED:**  MONETARY AWARD REQUESTED       NO MONETARY AWARD REQUESTED

**ATTORNEY CODE:** LAN077      Date: 5/5/2011      Signature of Attorney/Party filing this form: *[Signature]*

**MEDIATION REQUESTED:**  YES  NO  UNDECIDED

CIRCUIT COURT  
BALDWIN COUNTY, AL  
FILED  
MAY 09 2011  
JODY W. CAMPBELL  
CIRCUIT CLERK