

CAUSE NO. \_\_\_\_\_

MICHAEL TORRES,

PLAINTIFF,

VS.

DIEUSON OCTAVE AKA KODAK BLACK  
AND AUSTIN ARENA COMPANY, LLC,

DEFENDANTS.

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IN THE DISTRICT COURT

\_\_\_\_ JUDICIAL DISTRICT

TRAVIS COUNTY, TEXAS

**PLAINTIFF’S ORIGINAL PETITION**

COMES NOW, Michael Torres (“Plaintiff”), and files this, his *Original Petition* complaining of Defendant, Dieuson Octave (AKA Kodak Black) for bodily injury, assault, and aggravated assault, and would respectfully show the Court the following:

**I. Discovery Control Plan**

Plaintiff intends to conduct Level 2 discovery under Texas Rules of Civil Procedure 190.3.

**II. Parties**

Plaintiff, Michael Torres, is an individual residing in Travis County, Texas, and may be served through his attorney of record below.

Defendant Dieuson Octave is an individual residing in Broward County, Florida, and may be served with process at his home address, 660 Enclave Circle W, Pembroke Pines, Florida 33027, or wherever he may be found.

The Austin Arena Company, LLC, is a foreign limited liability company registered to do business in Texas and may be served with process through National Registered Agents, Inc., 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

### **III. Venue and Jurisdiction**

Suit is proper in Travis County, Texas because all or a substantial part of the events giving rise to the lawsuit occurred in this county.

### **IV. Facts**

On November 13, 2022, Mr. Torres, the Plaintiff, was working as a security guard manager at the Moody Center in Austin, Texas, during a concert at which Dieuson Octave, under the stage name Kodak Black, was the headliner at said venue. Following the concert, Plaintiff, in the course of his employment, observed an employee of Octave accosting another person. Plaintiff attempted to intervene, at which time Octave and his personal security team attacked the Plaintiff, breaking his nose, chipping his teeth, and knocking him unconscious. Video footage of this vicious assault was posted on social media.

Defendant Octave directed persons in his employ to attack Plaintiff and also attacked the Plaintiff himself. The assault was unprovoked, but was done intentionally, knowingly, recklessly and maliciously by Defendant and his employees.

According to Texas law, Octave is responsible for both his own violent actions and the

actions of his security team. *See Green v. Ransor, Inc.*, 175 S.W.3d 513 (Tex. 2005) (An employer is liable for the act of his employee, even if the specific act is unauthorized or contrary to express orders, so long as the act is done while the employee is acting within his general authority and for the benefit of the employer); *citing G. & H. Equip. Co. v. Alexander*, 533 S.W.2d 872, 876-77 (Tex.Civ.App.-Fort Worth 1976, no writ). Octave also has an extensive history of violence and assault on innocent bystanders—in fact, since 2016 he has not gone more than a year without multiple altercations with law enforcement. He has been in and out of prison in the past seven years for charges relating to felonious gun ownership, drug possession, trespassing, and both sexual and physical assault. It is therefore clear that Octave is an individual with a proclivity for violence, a blatant disregard for the law, and a near-sociopathic lack of remorse for those he has harmed, including the Plaintiff.

Defendant Austin Arena Company, LLC (“AAC”) manages the Moody Center. Defendant AAC failed to exercise due care in engaging Defendant Octave to perform at the arena, and failed to exercise its duty of care to Plaintiff when it failed to protect Plaintiff from the very real danger the Defendant Octave and his security represented to Plaintiff at the Moody Center. Defendant AAC either knew or should have known of the potential danger that an assault by Defendant Octave could have occurred because of Defendant Octave’s extensive history of criminal and violent acts. Any action Defendant AAC could have taken would have entailed minimal effort, and yet it utterly failed to provide a safe work environment for Plaintiff.

Since this horrific incident endured by Mr. Torres, the Plaintiff has amassed a grand total of \$2,250,000 in general or actual damages, including physical pain, mental anguish, loss of earning capacity, physical impairment, and disfigurement. Defendant AAC and Defendant Otave share several and joint liability for these damages to Plaintiff.

## **V. Causes of Action**

### **Cause of Action 1: Assault**

Plaintiff incorporates each of the previous paragraphs as if fully set forth herein.

Defendant Octave and his personal entourage intentionally, knowingly, and maliciously caused bodily harm to Plaintiff. Additionally, as Plaintiff was a security officer and acting as a security officer at the time of the assault, a fact of which Defendant was fully aware, said bodily harm constitutes a felony of the third degree.

### **Cause of Action 2: Aggravated Assault**

Plaintiff incorporates each of the previous paragraphs as if fully set forth herein.

Defendant Octave and his personal entourage intentionally, knowingly, and maliciously caused serious bodily harm to Plaintiff by breaking his nose, chipping his teeth, and knocking him unconscious, indicating some amount of brain damage. Additionally, as Plaintiff was a security officer and acting as a security officer at the time of the assault, a fact of which Defendant was fully aware, said serious bodily harm constitutes a felony of the first degree.

### **Cause of Action 3: Negligence**

Defendant Austin Arena Company owed a duty of care to Plaintiff through its role as the manager of the Moody Center Arena to provide a reasonably safe environment for Plaintiff to perform his work as a security guard. AAC failed in this duty of care when it failed to take any steps to ensure that persons at the Arena, including Plaintiff, would not be assaulted by Defendant Octave.

## **VI. Exemplary Damages**

Plaintiff incorporates each of the previous paragraphs as if fully set forth herein.

Defendant Octave acted with blatant malice towards Plaintiff and with obvious intent to inflict serious bodily injury on Plaintiff. Plaintiff is therefore entitled to exemplary damages under Civil Practices and Remedies Code, Title 2, Subtitle C. Section 41.003.

## **VII. Rule 47(c) Statement**

In accordance with Texas Rule of Civil Procedure 47(c), Plaintiff pleads that the relief he seeks is monetary in nature and is greater than \$1,000,000.

## **VIII. Rule 193.7 Notice**

Pursuant to Texas Rules of Civil Procedure 193.7, this will serve as actual notice that Plaintiff intends to use produced documents against Defendant in pretrial proceedings and at trial. Accordingly, production of a document(s) in response to this Request for Disclosure authenticates the document(s) for use against Defendant in any pretrial proceeding or at trial unless a Defendant objects to the authenticity of any produced document(s) within the time limits as particularly set out in Texas Rules of Civil Procedure 193.7.

## **IX. Attorney's Fees**

Plaintiff incorporates each of the previous allegations set forth herein.

Defendant's conduct as described in this petition and the resulting damage and loss to Plaintiff has necessitated Plaintiff's retention of the attorney whose name is subscribed to this petition. Plaintiff is, therefore, entitled to recover from Defendant an additional sum to compensate

Plaintiff for a reasonable fee for such attorney's necessary services in the preparation and prosecution of this action, as well as a reasonable fee for any and all necessary appeals to other courts. Thus, Plaintiff requests attorney's fees under Texas Civil Practice and Remedies Code §38.001, et seq.

#### **X. Preservation of Records**

Plaintiff hereby requests and demand that the Defendant preserve and maintain all evidence pertaining to any claim or defense related to the incident made the basis of this lawsuit, or the damages resulting therefrom, including contracts, lists of donors, email, minutes of meetings, memoranda, correspondence, financial records, diagrams, maps, photographs, videotapes, audiotapes, recordings, invoices, checks, files, facsimiles, voice mail, text messages, calendar entries, log books, or information related to the referenced claim. Failure to maintain such items will constitute "spoliation" of the evidence.

#### **XI. Conditions Precedent**

All of the conditions precedent to bringing this suit and to Defendant's liability for the claims alleged have been performed or have occurred.

#### **XII. Jury Demand**

Plaintiff respectfully requests trial of this cause before a Travis County jury.

#### **XIII. Prayer**

**WHEREFORE**, Plaintiff requests that Defendant be cited to appear and answer, and that

on final trial, Plaintiff have the following:

- a. Judgment against Defendant for actual damages and exemplary damages in excess of the minimum jurisdictional limits of this Court;
- b. Prejudgment interest as provided by law;
- c. Postjudgment interest as provided by law;
- d. Attorney's fees;
- e. Costs of suit; and
- f. All other relief to which Plaintiff may show itself entitled, either at law or in equity, either general or special, under the facts set forth in his petition.

Respectfully submitted,

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*/s/ David DeGroot*  
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