

2018 2nd Quarter Report of Significant Litigation: Damage Amount Specified

| FileNum | FileName | Court | Docket # | Initial Demand |
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| L-16678 | Lockhart, Jennifer, et al v. Metro Government | Circuit Court - Fifth | 18C934 | \$1,500,000.00 |
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Damages: TGTLA negligent supervision, training, hiring, and retention. Personal injury and loss of consortium.

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| Plaintiff | Christian , David |
| Defendant | Metropolitan Government of Nashville and Davidson County |
| Counsel: Opposing | Kilgore, Patrick |
| Plaintiff | Lockhart, Jennifer |
| Counsel: Opposing | McElhane, Rocky |

2018 2nd Quarter Report of Significant Litigation: Damage Amount Not Specified

| FileNum | FileName | Court | Docket # | Initial Demand |
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| L-16702 | Deja Vu of Nashville v. Metropolitan Government | USDC M.D.Tenn. | 3:18-cv-00511 | \$0.00 |
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Damages: 42 USC 1983 / 1985: Civil conspiracy to violate 1st Amend and 14th Amend, Due Process, Declaratory judgment, money damages, punitive damages, attorney's fees and costs.

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| Plaintiff | Deja Vu of Nashville, Inc. |
| Plaintiff | The Parking Guys |
| Defendant | Schipani, Linda |
| Defendant | Molette, Lee |
| Defendant | O'Connell, Freddie |
| Counsel: Opposing | Lynch, Jr., Bob |
| Counsel: Opposing | Hoffer, Matthew |

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| L-16688 | Bruce, Nadia, et al v. Metro Government | Circuit Court – Fifth | 18C1075 | \$0.00 |
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Damages: TGTLA Compensatory & loss of consortium.

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| Plaintiff | Rawlings, Brian |
| Plaintiff | Bruce, Nadia |
| Defendant | Metropolitan Government of Nashville and Davidson County |
| Counsel: Opposing | Higdon, Hunter |
| Counsel: Opposing | McElhaney, Rocky |

**2018 2nd QUARTER REPORT OF JUDGMENTS ENTERED AGAINST
THE METROPOLITAN GOVERNMENT**

Style of Case: *Beverly D. McMahon v. Metropolitan Government of Nashville and Davidson County*

Docket No. United States District Court, 13-cv-00319

Amount of Judgment: \$160,000 compensatory damages, \$59,591 stipulated back pay, attorney fees and costs.

Case Summary: Ms. McMahon was a registered nurse in the Health Department who suffers from episodic depression and anxiety. She was originally working in a clinic at Lentz with a co-worker who Plaintiff alleged caused her stress and anxiety. The Health Department transferred Plaintiff to another clinic, Woodbine, as a reasonable accommodation under the ADA. After that, she was transferred back to another clinic in Lentz due to shifting work schedules and personnel needs. Although it was a different clinic than her original site, it was still back at the Lentz facility and down the hall from the co-worker who she claimed was causing her stress. She then went AWOL and insisted that she needed indefinite leave. She voluntarily resigned the day before her hearing on the AWOL charge. She filed suit for: (1) constructive discharge and (2) failure to accommodate under the ADA and (3) retaliation under Title VII. She sought damages for mental distress, back pay, lost benefits, and attorneys' fees. The Metropolitan Government argued that Plaintiff's insistence on indefinite leave meant that the ADA did not apply since that law only protects employees who are actively trying to be a part of the workforce. A two-day trial was held June 14-16, 2016. The jury returned a verdict in the Metropolitan Government's favor on constructive discharge and retaliation. However, the jury found against the Metropolitan Government on the failure-to-accommodate claim under the ADA. The jury awarded Plaintiff \$160,000 in compensatory damages and \$59,591 in a stipulated amount of back pay. The Court awarded attorney fees and cost. The Metropolitan Government appealed. The United States Court of Appeals for the Sixth Circuit declined to disturb the jury verdict. The Metropolitan Government filed a request for an en banc rehearing by the full Sixth Court, but that petition was denied. The Metropolitan Government then petitioned the U.S. Supreme Court for review. That petition was denied.

Style of Case: *William S. Nickels, D.D.S. and W. Scott Nickels D.D.S, PC v. Metropolitan Government of Nashville and Davidson County*

Docket No: First Circuit Court, 10C-1259

Amount of Judgment: \$64,197 property damage and costs.

Case Summary: Dr. William S. Nickels provides dental care for patients at a medical office building owned by W. Scott Nickels P.C. and located at 323 21st Avenue North, Nashville, TN. In the spring of 2006, after heavy rainfall events, Dr. Nickels began experiencing flooding in the alley behind his office building, which was caused by overflow or backup from a combined storm water and sewer line. Dr. Nickels' office building was damaged in June of 2007, April and July of 2009 and May of 2010. Dr. Nickels filed suit in April of 2010. On August 26 - 28, 2015, a trial was held and the Metropolitan Government prevailed. Plaintiffs appealed. The Court of Appeals reversed the Trial Court in part, finding that the Metropolitan Government had a duty to repair a known dangerous condition of contaminated storm water pooling in the alley behind Dr. Nickels' building. The Court of Appeals upheld the Trial Court's dismissal of Plaintiff's claims for damages related to the June 2007 event because this claim was barred by the statute of limitations and the May 2010 event because the flooding was caused by an "Act of God." On remand, the Trial Court awarded Plaintiffs damages related to the April and July 2009 flooding events and ordered the Metropolitan Government to abate the nuisance of contaminated storm water still pooling in the alley. Water Services is currently enlarging the combined line behind Dr. Nickels' office.

Style of Case: *Ronald Osborne and Tonie L. Osborne v. the Metropolitan Government of Nashville and Davidson County*

Docket No. Second Circuit Court, 15C320

Amount of Judgment: \$168,000 compensatory damages and costs.

Case Summary: Plaintiff Ronald Osborne fell at the East Nashville Convenience Center on February 28, 2014. The convenience center is an outdoor facility operated by the Metropolitan Department of Public Works. The center has eight foot tall bins into which a visitor can dispose trash. The center has both an upper level and a lower level to allow customers to more easily access the bins, which sit on the lower level. Visitors are directed to drive their vehicles up a ramp and park on the upper level. The visitors then empty trash into the bins below. The upper level has a foot high, 26-inch wide concrete barrier at its edge to prevent vehicles from driving off of the upper level and falling down to the lower level, approximately five feet below. To prevent water from ponding on the upper level surface, 15-inch long gaps were cut in the concrete barrier, allowing water to drain down to the lower level.

On the date of his fall, Mr. Osborne stood and walked on the concrete barrier while he disposed of trash from his truck. Mr. Osborne states that he was unaware that the barrier had gaps and that he stepped into a gap, which ultimately caused him to fall from the upper level down to the lower

Level payment. Mr. Osborne broke his arm and underwent surgery, resulting in \$54,967 in medical expenses. A nonjury trial occurred on March 21, 2017 and concluded the following day. The Trial Court ruled that the Metropolitan Government should have marked the 16 inch gaps in the concrete barrier, since visitors stand on top of the barrier when discarding their trash. The Court found that Mr. Osborne had \$200,000.00 in damages as a result of the fall, and that his wife, Tonie Osborne, had \$10,000.00 in damages for loss of consortium. The Trial Court also found that Mr. Osborne was 20 percent at fault for his fall, for not looking where he was walking, which reduced the Plaintiffs' combined award to \$168,000.00. The Metropolitan Government appealed and argued that Mr. Osborne's fault was greater than 20 percent, but the Court of Appeals affirmed the Trial Court's ruling.