
METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

MEMORANDUM

TO: Vice Mayor Jim Shulman
Metropolitan Council

FROM: James L. Charles, Associate Director of Law

DATE: November 2, 2020

SUBJECT: M.C.L. § 2.40.115.A; 2020 3rd Quarter Reports
M.C.L. § 2.40.115.B; 2020 September Judgment Report

ATTACHMENTS: (1) 2020 3rd Quarter Report of Significant Litigation, Damage Amount Specified;
(2) 2020 3rd Quarter Report of Significant Litigation, Damage Amount Not Specified;
(3) Report of Judgment Entered Against the Metropolitan Government in September, 2020

1. The “2020 3rd Quarter Report of Significant Litigation: Damage Amount Specified” lists new cases filed during this quarter in which the *ad damnum* clauses in the complaints request damages greater than \$300,000. (Attachment 1)
2. The “2020 3rd Quarter Report of Significant Litigation: Damage Amount Not Specified” lists new cases filed during this quarter in which liability is not limited to \$300,000 by the TGTLA. (Attachment 2)
3. A judgment was entered against the Metropolitan Government in September of this quarter. (Attachment 3)

4. Acronyms:

ADAAA: Americans Disability Act As Amended,
42 USC §§ 12101 et seq.

FMLA: Family Medical Leave Act,
29 USC §§ 2601 et seq.

IDEA: Individuals with Disabilities Education Act,
20 USC § 1400.

IIED:	Intentional Infliction of Emotional Distress.
NIED:	Negligent Infliction of Emotional Distress.
PEPFA:	Public Employee Political Freedom Act, TCA §§ 601 et seq.
RLUIPA:	Religious Land Use and Institutionalized Persons Act, 2 USC §§ 2000cc et seq.
Sec. 504:	Section 504 of the Rehabilitation Act, 29 USC § 794.
STRA:	Short Term Rental Act, TCA §§ 13-7-601 et seq.
TCPA:	Tennessee Consumer Protection Act, TCA §§ 47-18-101 et seq.
TDA:	Tennessee Disability Act, TCA §§ 4-21-102(3); 8-50-103.
TGTLA:	Tennessee Governmental Tort Liability Act, TCA §§ 29-20-101 et seq.
THRA:	Tennessee Human Rights Act, TCA §§ 4-21-101 et seq.
TITDA:	Tennessee Identity Theft Deterrence Act, TCA § 47-18-2101.
Title VI:	Title VI of the Civil Rights Act of 1964, 42 USC §§ 2000(d) et seq.
Title VII:	Title VII of the Civil Rights Act of 1964, 42 USC §§ 2000(e) et seq.
Title IX	Title IX, Education Amendments of 1972 to the Civil Rights Act of 1964, 20 USC §§ 1681 et Seq.
TPPA:	Tennessee Public Protection Act, TCA § 50-1-304.
TRFRA:	Tennessee Religious Freedom Restoration Act TCA § 4-1-407.

ATTACHMENT 1

2020 3rd Quarter Report of Significant Litigation: Damage Amount Specified

File Name	Court	Docket #	Initial Demand
Doe, E., ex rel. v. Metro Gov't	U.S.Dist.Ct. M.D.Tenn. 3:20-cv-00636		\$3,000,000.00
<p>Damages: Title IX, 42 USC 1983; Compensatory and punitive damages, injunctive relief, attorneys fees and costs. Plaintiff alleges that MNPS violated Title IX by failing to prevent explicit photographs of student E. Doe from being circulated.</p>			
Plaintiff	Doe, E.		
Defendant	The Metropolitan Government of Nashville		
Counsel: Opposing	Crofford, Stephen		
Counsel: Opposing	Parker, Mary A.		
Shye El, Zariya Isabelle et al. v. Metro Police Dept. et al.	U.S.Dist.Ct. M.D.Tenn. 3:19-cv-01091		\$2,000,000.00
<p>Damages: 42 USC 1983; 4th Amend. Compensatory damages. Plaintiffs, Moorish nationals, allege that one of the MNPD defendants initiated a traffic stop without probable cause and that all three officers then extended the duration of the traffic stop without reasonable suspicion.</p>			
Plaintiff	Jackson Knight El, Darryl Orlando		
Plaintiff	Shye El, Zariya Izabella		
Defendant	Cagle, Ryan		
Defendant	Baldoni, Jed		
Counsel: Opposing	Pro Se		
King, Brandon J. v. Antonio Chambers	U.S.Dist.Ct. M.D.Tenn. 3:20-cv-446		\$2,000,000.00
<p>Damages: 42 USC 1983; 14th Amend. Compensatory damages. Plaintiff, a pretrial detainee, alleges a DCSO deputy employed excessive force against him when the deputy pepper sprayed him. Plaintiff also alleges that DCSO failed to provide him adequate medical care after he was pepper sprayed.</p>			
Plaintiff	King, Brandon J.		
Defendant	Chambers, Antonio		
Defendant	Popovitch, Phillip		
Counsel: Opposing	Morgan, Sara K.		
Hunley, Craig v. Metro Gov't	Circuit Court - Second	20C1932	\$800,000.00
<p>Damages: TGTLA; Compensatory and punitive damages. Plaintiff alleges that MNPD's poor training and failure to supervise their officer caused the officer to negligently use excessive force when confronting the Plaintiff.</p>			
Plaintiff	Hunley, Craig Carlton		
Defendant	Metropolitan Government of Nashville and Davidson County		
Counsel: Opposing	Smith, Michael K.		

Damages: Title VII, THRA, TPPA, 42 USC 1981 and 42 USC 1991; 1st Amendment retaliation, discrimination, and hostile work environment. Plaintiff seeks back pay; front pay; punitive damages; compensatory damages; attorney's fees and expenses. Plaintiff alleges that she was retaliated against for refusing to dismiss her EEOC complaint.

Plaintiff

Kabba, Isha

Defendant

Metro Nashville - Hospital Authority - General/Meharry

Counsel: Opposing

Winfrey, Brian C

ATTACHMENT 2

2020 3rd Quarter Report of Significant Litigation: Damage Amount Not Specified

File Name	Court	Docket #	Initial Demand
Off the Wagon Tours, LLC, et al. v. Metro Gov't	Chancery Court - Part I	20-0766-I	\$0.00

Damages: 42 USC 1983; 14th Amend., Equal Protection and Due Process. Declaratory judgment, injunction, compensatory damages, attorney fees and cost. Plaintiffs, tour companies, allege that the Governor's, Mayor's and Director of Health's regulation of their businesses during the pandemic has no rational basis.

Plaintiff	Nashville Party Barge, LLC
Plaintiff	Sprocket Rocket, LLC
Plaintiff	Off The Wagon Tours, LLC
Plaintiff	Honky Tonk Party Express
Plaintiff	Hell on Wheels Nashville, LLC
Defendant	Metropolitan Government of Nashville and Davidson County

ARJN #3, LLC, et al. v. John Cooper, et al.	U.S. Dist. Ct. M.D. Tenn. 3:20-cv-00808	\$0.00
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Damages: 42 USC 1983; 14th Amend., Substantive Due Process, Equal Protection, Tn. Const. Art. I, Sec. 25 (martial law prohibited). Plaintiffs, restaurant owners, seek declaratory judgment, injunctive relief, compensatory damages, attorney fees and cost. Plaintiffs allege that the Health Director's Emergency Order No. 11, limiting the number of patrons in their facilities, requiring social distancing and facial covers, is unenforceable.

Plaintiff	ARJN #3, LLC
Plaintiff	Jonathan's Grille - Green Hills, LLC
Defendant	Caldwell, Michael C.
Defendant	Cooper, John
Defendant	Waller, Leslie
Counsel: Opposing	Byrd, Kathryn

ATTACHMENT 3

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

MEMORANDUM

TO: Vice Mayor Jim Shulman
Metropolitan Council

FROM: James L. Charles, Associate Director of Law

DATE: October 29, 2020

SUBJECT: M.C.L. § 2.40.115; Report of a Judgment Entered Against the Metropolitan Government in September, 2020

The Department of Law reports that the following judgment became final against the Metropolitan Government during the month of September, 2020.

Style of Case: *Leo (Kwame) Lillard, Duane Dominy, Nashville Flea Market Vendors' Assn., Save our Fairgrounds, Inc., The Taxpayers and Citizens of Nashville & Davidson County v. The Metropolitan Government of Nashville and Davidson County*

Docket No.: Chancery Court Case No. 19-1101-III

Amount of Judgment: No monetary judgment was awarded.

Case Summary: This lawsuit challenged the adequacy of the public notice given by the Sports Authority when it met on November 1, 2018, to approve Mortenson Messer as the MLS stadium construction manager.

On June 25, 2020, the Court ordered that the Sports Authority's action approving the contract was void and of no effect because the amount of public notice given by the Sports Authority was inadequate to meet the requirements of the Open Meetings Act, TCA §8-44-103(b). The Court determined that for a contract of this large size, and because the meeting was being held on a date other than the regular scheduled third Thursday of the month, forty-eight hours' notice was insufficient. The Court did not criticize the Authority's deliberation or the decision itself. The Court's determined that the proper remedy was for the Sports Authority to consider the matter again after adequate notice was provided to the public.

The Sports Authority met on July 16, 2020 for this reconsideration and re-approved the Mortenson Messer contract.