

otNOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA.

24-001547-CV-472

CAUSE NO. _____

AMY LUNA, RAUL LUNA, AND
GERARDO GONZALES
Plaintiffs,

V.

CITY OF BRYAN
Defendant.

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IN THE DISTRICT COURT

BRAZOS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Amy Luna, Raul Luna, and Gerardo Gonzales hereinafter called Plaintiffs, complaining of and about City of Bryan, hereinafter called Defendant, and for cause of action shows unto the Court the following:

DISCOVERY CONTROL PLAN LEVEL

1. Plaintiffs affirmatively plead that they seek monetary relief of more than \$250,000 but not more than \$1,000,000, including damages of any kind, penalties, costs, expenses, pre-judgement interest, and attorney fees, and intends that discovery be conducted under Discovery Level 1.

PARTIES AND SERVICE

2. Plaintiff, Amy Luna is an Individual whose address is 1101 North Sims Avenue, Bryan, TX 77803. The last three numbers of Amy Luna's driver's license number are 180. The last three numbers of Amy Luna's social security number are 025.

3. Plaintiff, Raul Luna, is an Individual whose address is 1101 North Sims Avenue, Bryan, TX 77803. The last three numbers of Raul Luna's driver's license number

are 044. The last three numbers of Raul Luna's social security number are 107.

4. Plaintiff, Gerardo Gonzales, is an Individual whose address is 301 McCulloch Street, Bryan, TX 77803. The last three numbers of Gerardo Gonzales' driver's license number are 203. The last three numbers of Gerardo Gonzales' social security number are 568.

5. Defendant, City of Bryan, a Government Entity, may be served with process through the City Secretary, Mary Lynne Stratta at 300 South Texas Avenue, Bryan, TX 77803 or wherever she may be found. Service of said Defendant as described above can be affected by personal delivery.

JURISDICTION AND VENUE

6. The subject matter in controversy is within the jurisdictional limits of this court.

7. Plaintiffs seek monetary relief of more than \$250,000, but no more than \$1,000,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees.

8. This court has jurisdiction over the parties because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.

9. Venue in Brazos County is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.

FACTS

10. On or about January 3, 2024, Plaintiffs, Amy Luna, Raul Luna, and Gerardo Gonzales were in a vehicle legally parked in front of 1101 North Sims Avenue, a public

roadway in Brazos County, Texas. Mason Hyman, an employee of the City of Bryan, driving a Bryan Fire Department vehicle owned by City of Bryan, was driving Northbound in the 1100 block of North Sims Avenue when he failed to pay attention, causing a violent head-on collision, causing injuries to Plaintiffs. At the time of the collision, Mason Hyman was employed by the City of Bryan and was operating a vehicle owned by the City of Bryan. Mason Hyman was acting within the scope of his employment when he collided with Plaintiffs. Defendant, City of Bryan, is liable under Respondeat Superior, and its Sovereign Immunity is statutorily waived.

SOVEREIGN IMMUNITY IS WAIVED

11. The Defendant, City of Bryan's immunity from suit, and immunity from liability is waived.

- A. The Defendant is a government unit under the Texas Tort Claims Act;
- B. The Defendant's immunity from suit and immunity from liability is waived under the Texas Tort Claims Act;
- C. The Defendant owed Plaintiffs a duty;
- D. The Defendant's employee, Mason Hyman, owed Plaintiffs a duty;
- E. The Defendant breached its duty to Plaintiffs;
- F. The Defendant's employee, Mason Hyman, breached his duty to Plaintiffs;
- G. The Defendant's employee, Mason Hyman, while acting within the scope of his employment, was negligent while operating a

motor-driven vehicle;

H. Plaintiff's injuries were proximately caused by the operation or use of a motor-vehicle driven vehicle;

I. The Defendant's employee would have been personally liable for the breach of duty, injury, and damages of Plaintiffs;

J. No exception to the waiver of immunity bars the claim, because no waiver applies.

PLAINTIFF'S CLAIM OF NEGLIGENCE AGAINST CITY OF BRYAN'S EMPLOYEE

12. City of Bryan's employee had a duty to exercise the degree of care that a reasonably careful person would use to avoid harm to others under circumstances similar to those described herein.

13. Plaintiffs' injuries were proximately caused by City of Bryan's employee's negligent, careless, and reckless disregard of said duty.

14. City of Bryan, acting by and through its agent and employee, Mason Hyman, committed numerous acts of negligence in the operation or use of a motor vehicle including, but not limited to:

- A. In failing to keep a proper lookout for Plaintiffs' safety that would have been maintained by a person of ordinary prudence under the same or similar circumstances;
- B. In failing to turn his motor vehicle to the left or right in an effort to avoid the collision complained of;
- C. In failing to keep such distance away from Plaintiffs' motor vehicle as a person using ordinary prudent care would have done;
- D. In operating his motor vehicle at a rate of speed which was greater than that would have been operated by a person of ordinary prudence under the same or similar circumstances;

E. In failing to apply its brakes to its motor vehicle in a timely and prudent manner and/or wholly failed to apply its brakes in order to avoid the collision in question;

F. Failing to pay prudent and sole attention to the road ahead of the fire truck.

15. Each of these acts and omissions, singularly or in combination with others, constituted negligence. Such acts and omissions proximately caused the occurrence made the basis of this action and Plaintiffs' injuries and damages.

16. City of Bryan's employee had a duty to exercise the degree of care that a reasonably careful person would use to avoid harm to others under circumstances similar to those described herein.

17. Plaintiffs' injuries were proximately caused by the negligent, careless and reckless disregard of said duty.

18. At the time of the incident herein described, Mason Hyman, was an employee of and was acting in the course and scope of his employment with Defendant, City of Bryan.

**PLAINTIFF'S CLAIM OF
RESPONDEAT SUPERIOR AGAINST CITY OF BRYAN**

19. At the time of the occurrence of the act in question and immediately prior thereto, Mason Hyman was within the course and scope of employment for the City of Bryan.

20. At the time of the occurrence of the act in question and immediately prior thereto, Mason Hyman was engaged in the furtherance of the City of Bryan's business/duties.

21. At the time of the occurrence of the act in question and immediately prior thereto, Mason Hyman was engaged in accomplishing a task for which Mason Hyman was employed.

22. Plaintiff invokes the doctrine of Respondeat Superior as against City of Bryan.

DAMAGES FOR PLAINTIFFS, AMY LUNA, RAUL LUNA, AND GERARDO GONZALES

23. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiffs, Amy Luna, Raul Luna, and Gerardo Gonzales were caused to suffer personal injuries, and to incur the following damages:

- A. Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiffs, Amy Luna, Raul Luna, and Gerardo Gonzales for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for such services in Brazos County, Texas;
- B. Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future;
- C. Physical pain and suffering in the past;
- D. Physical pain and suffering in the future;
- E. Physical impairment in the past;
- F. Physical impairment which, in all reasonable probability, will be suffered in the future; and
- G. Mental anguish in the past and future.
- H. Cost of medical monitoring and prevention in the future.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs, Amy Luna, Raul Luna, and Gerardo Gonzales respectfully pray that the Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiffs against Defendant for damages in an amount within the jurisdictional limits of the Court;

exemplary damages, excluding interest, and as allowed by Sec. 41.008, Chapter 41, Texas Civil Practice and Remedies Code, together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

CHAD JONES LAW, P.C.

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