

Reset



COMMON PLEAS COURT CUYAHOGA COUNTY, OHIO

DESIGNATION FORM TO BE USED TO INDICATE THE CLASSIFICATION OF THE CAUSE

2010 JUN 10 5:31 PM

EDWARD SMITH
Plaintiff
vs.
CITY OF LAKEWOOD, OHIO, et al
Defendant

Case Judge: TIMOTHY E MCMONAGLE
Judg CV 10 728980

Has this case been previously filed & dismissed? Yes No
 Case #: CV-08-673491 Judge: TIMOTHY E MCMONAGLE
 Is this case related to any cases now pending or previously filed Yes No
 Case #: CV-08-673491 Judge: TIMOTHY E MCMONAGLE

CIVIL CLASSIFICATIONS: Place an (X) in ONE Classification Only.

Professional Torts:

- 1311 Medical Malpractice
- 1315 Dental Malpractice
- 1316 Optometric Malpractice
- 1317 Chiropractic Malpractice
- 1312 Legal Malpractice
- 1313 Other Malpractice

Product Liability:

- 1330 Product Liability

Other Torts:

- 1310 Motor Vehicle Accident
- 1314 Consumer Action
- 1350 Misc Tort

Workers Compensation:

- 1550 Workers Compensation
- 1531 Workers Comp. Asbestos

Foreclosures:

Utilize Separate Foreclosure Designation Form

Commercial Docket:

- 1386 (Temp. Sup. R. 1.03)

Administrative Appeals:

- 1540 Employment Services
- 1551 Other

Other Civil:

- 1500 Replevin/Attachment
- 1382 Business Contract
- 1384 Real Estate Contract
- 1390 Cognovit Contract
- 1391 Other Contract
- 1490 Foreign Judgement
- 1491 Stalking Civil Protection Order
- 1501 Misc Other
- 1502 Petition to contest Adam Walsh Act

Amount of Controversy:

- None Stated
- Less than \$25,000
- Prayer Amount \$875,000.00

Parties have previously attempted one of the following prior to filing:

- Arbitration
- Early Neutral Evaluation
- Mediation
- None

I certify that to the best of my knowledge the within case is not related to any now pending or previously filed, except as noted above.

James F. Lentz, Attorney, Joan J. Thomas
 Firm name (Print or type)
 PO Box 884
 Address
 North Olmsted, OH 44070
 Address
 (216) 410-6345
 Phone

James F. Lentz / Joan Jacob Thomas
 Attorney of Record (Print or type)

 Signature
 jl@case.edu
 Email Address

FILED

2010 JUN 10 P 3:12

J. D. E. FUERST
CLERK OF COURTS
CUYAHOGA COUNTY

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

EDWARD SMITH
14502 Garfield
Lakewood, Ohio 44107

Plaintiff

v

THE CITY OF LAKEWOOD, OHIO
12650 Detroit Avenue
Lakewood, Ohio 44107

And

MATHIAS BROOKS
Lakewood Fire Department
14601 Madison
Lakewood, Ohio 44107

And

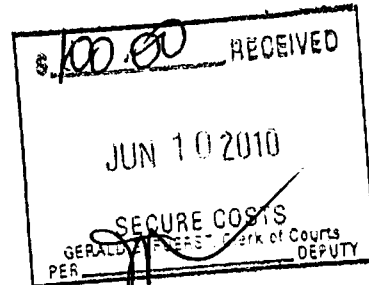
JEFFREY WILSON
Lakewood Fire Department
18124 Detroit Avenue
Lakewood, Ohio 44107

Defendants

C/ Complaint
TIMOTHY E MCMONAG
JU CV 10 728980

COMPLAINT

(Jury Demand Endorsed Hereon)



NOW COMES Edward Smith, by and through the undersigned counsel, who states as his complaint:

CV10728980
63617945

COUNT I

- 1) At all times herein mentioned, the Plaintiff, Edward Smith was a resident of the Defendant City of Lakewood, Ohio.
- 2) At all times herein mentioned, the Defendant Jeffery Wilson and Defendant Mathias Brooks, were employees of the Defendant City of Lakewood working for the Lakewood Fire Department, both as firefighters and paramedics.
- 3) On or about April 22, 2007, while at his home, Plaintiff Smith determined that he was in the early stages of a grand mal seizure and asked his mother to call 9-1-1 seeking emergency attention and treatment.
- 4) Mrs. Smith indicated to the dispatcher that she believed Edward was about to have a grand mal seizure and he needed immediate assistance.
- 5) As a result of the emergency call for help placed by Mrs. Smith, Defendant City of Lakewood, was dispatched and Defendants Brooks and Wilson responded to Plaintiff Smith's residence having a duty to secure immediate necessary treatment for Plaintiff's life, health and wellbeing, while transporting him to the hospital.
- 6) Defendants Brooks and Wilson breached that duty of care by failing to determine Plaintiff Smith's vital signs prior to entering the ambulance and failing to record Plaintiff Smith's vital signs.
- 7) Defendants Brooks and Wilson further failed to restrain Mr. Smith in any fashion, either by seatbelt or any other device, while transporting Plaintiff Smith in the ambulance, instead having him sit unrestrained on the bench in the ambulance while the ambulance was en-route to the hospital, knowing full well that Plaintiff Smith could at any time experience a gran mal seizure, but yet completely failing to protect him from the effects of such a seizure in complete dereliction of their duties.

- 8) Plaintiff Smith did, in fact, suffer a full grand mal seizure while in the ambulance, en route to the hospital, and as a result of being unrestrained, he fell off the bench and over the stretcher and onto the ambulance floor.
- 9) One or both of the Defendants then placed Plaintiff Smith on a stretcher and inserted an IV tube into the arm of Plaintiff Smith while he was convulsing.
- 10) Upon arrival at Lakewood Hospital Mr. Smith was examined and was determined to have suffered a dislocation of the left shoulder which was not present when he entered the ambulance.
- 11) As a direct and proximate cause of the intentional and/or negligent failure by Defendant Brooks and Defendant Wilson, to take basic vital sign information about Plaintiff Smith, thereby never establishing a baseline for treatment, which may be considered professional malpractice, Plaintiff Smith was caused to suffer severe physical and mental injuries which are permanent in nature.
- 12) As a direct and proximate cause of the intentional and/ or negligent failure by Defendant Brooks and Defendant Wilson to appropriately restrain and secure Plaintiff Smith for transport to the hospital, according to standard procedure, which may be considered professional malpractice, Plaintiff Smith was caused to suffer severe physical and mental injuries which are permanent in nature.
- 13) As a direct and proximate cause of the intentional and/or negligent acts of Defendant Brooks and Defendant Wilson of inappropriately inserting an IV tube into the arm of Plaintiff during a seizure, which may be considered professional malpractice, Mr. Smith was caused to suffer severe physical and mental injuries which are permanent in nature.

- 14) As a further direct and proximate result of the negligent and intentional acts of Defendants Brooks and Wilson, Plaintiff Smith was caused to incur medical expenses and which in all likelihood will cause him to incur additional medical expenses in the future.
- 15) As a further direct and proximate result of the negligent and intentional acts of Defendants Mr. Brooks and Mr. Wilson, Plaintiff Smith's ability to live and work free from pain, disability, discomfort and restriction has been permanently impaired.
- 16) As a further direct and proximate result of the negligent and intentional acts of Defendants Brooks and Wilson, Plaintiff Smith was caused to suffer a loss of enjoyment of life and loss of ability to perform the usual activities of life.
- 17) As a further direct and proximate result of the negligent and intentional acts of Defendants Brooks and Wilson, Plaintiff Smith was unable to perform his employment related duties and was caused to suffer lost wages and will in all likelihood continue to suffer lost wages in the future, all to his detriment.

WHEREFORE, on the First Count, Plaintiff, Edward Smith prays for judgment against the Defendants in a sum in excess of Twenty Five Thousand Dollars (\$25,000).

COUNT II

- 18) Plaintiff Edward Smith incorporates each and every allegation contained in Count I as if fully rewritten herein and further states that the Defendant City of Lakewood is responsible for the acts or omissions of its employees, sub contractors and agents when they occur in the course and scope of the defined employment.
- 19) The Defendant City of Lakewood has a duty and an obligation to the public and in particular to Plaintiff Smith to provide competent employees serving as paramedics

when the Defendant City of Lakewood responds to an emergency call for immediate medical attention.

- 20) At all times herein mentioned the Defendant City of Lakewood employed Defendants Brooks and Wilson as paramedics and was responsible for ascertaining their level of professional ability and skill in safely transporting the sick and injured in need of emergency treatment.
- 21) Defendant City of Lakewood, intentionally, or with wanton and reckless disregard to the safety of others, and in particular, Plaintiff Smith, employed Defendants Wilson and Brooks, who held a complete disregard of their duty and obligations to the public as paramedics, and to Plaintiff Smith in particular, or who were not properly trained to safely transport and administer treatment to an individual and in particular Plaintiff, in need of immediate medical attention, as a result of a grand mal seizure.
- 22) Plaintiff further states that the failure of the City of Lakewood to properly Defendants Wilson and Brooks and/or to monitor their levels of skill as paramedics was an intentional and/or negligent act which caused Plaintiff Smith to suffer severe physical and mental injuries which are permanent in nature.
- 23) Acts and omissions by Defendants Brooks and Wilson, as employees of the Defendant City of Lakewood, were intentional and/or negligent acts from which Mr. Smith was caused to suffer severe physical and mental injuries which are permanent in nature.
- 24) As a further direct and proximate result of the negligent and intentional acts of Defendant City of Lakewood, Plaintiff Smith was caused to incur medical expenses and which in all likelihood will cause him to incur additional medical expenses in the future.

25) As a further direct and proximate result of the negligent and intentional acts of Defendant City of Lakewood, Plaintiff Smith's ability to live and work free from pain, disability, discomfort and restriction has been permanently impaired.

26) As a further direct and proximate result of the negligent and intentional acts of Defendant City of Lakewood, Plaintiff Smith's has been unable to perform his job duties and has suffered lost wages and will in all likelihood continue to suffer lost wages in the future, all to his detriment.

27) As a further direct and proximate result of the negligent and intentional acts of Defendant City of Lakewood, Plaintiff Smith was caused to suffer a loss of enjoyment of life and loss of ability to perform the usual activities of life.

WHEREFORE, on the second Count, Plaintiff, Edward Smith prays for judgment against the Defendants in a sum in excess of Twenty Five Thousand Dollars (\$25,000).

COUNT THREE

28) Plaintiff Smith incorporates each and every allegation contained in his First and Second Counts as if specifically rewritten herein and further states that Defendants, City of Lakewood, Brooks and Wilson have acted individually and in concert in such way as to intentionally and/or negligently inflict emotional distress upon Plaintiff by their actions resulting in Plaintiff Smith experiencing severe grief, anguish, growing depression, anxiety and other emotional trauma which manifests itself with symptoms that interfere in his ability to partake of his normal life activities and duties.

WHEREFORE, on the third Count, Plaintiff, Edward Smith prays for judgment against the Defendants in a sum in excess of Twenty Five Thousand Dollars (\$25,000).

COUNT FOUR

29) Plaintiff incorporates each and every allegation contained in his First Second and Third Counts as if specifically rewritten herein and further state that the Defendants, individually and acting in concert, knew of the deleterious effects of their actions on the health, welfare, and wellbeing of Plaintiff, but nevertheless acted with such evil motive and intent and/or in such a reckless disregard of Plaintiff's well being that he is entitled to punitive damages against the Defendants to punish them for the willful and malicious and/or negligent actions and to deter them from ever committing such acts in the future.

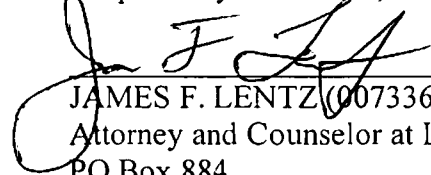
30) Plaintiff state that the sum of \$800,000.00 will so punish and deter all Defendants, jointly and severally.

WHEREFORE Plaintiff Edward Smith, for Count One demands judgment and damages against Defendant City of Lakewood, Ohio jointly and severally with Defendants Mathias Burk and Jeffrey Wilson, as follows:

- For Count I - an amount in excess of Twenty Five Thousand Dollars (\$25,000.00),
- For Count II – an amount in excess of Twenty Five Thousand Dollars (\$25,000.00);
- For Count III – an amount in excess of Twenty Five Thousand Dollars (\$25,000.00);
- For Count IV – the amount of Eight Hundred Thousand Dollars (\$800,000);

together with costs or this action, attorney fees, and such other relief that this Court deems equitable and just.

Respectfully Submitted,



JAMES F. LENTZ (0073360)
Attorney and Counselor at Law
PO Box 884

North Olmsted, OH 44070
Telephone 216-410-6345; Fax 216-803-1862
Attorney for Plaintiff

Joan J Thomas by permission
JOAN JACOBS THOMAS (0033645)
Law Firm of Joan Jacobs Thomas Co. LPA
31040 Lorain Road
North Olmsted, OH 44070
Telephone 440-871-4040; Fax (440) 871-3004
Attorney for the Plaintiff

JURY DEMAND

A trial by jury is hereby demanded of the maximum number of jurors allowed by law.

James F. Lentz
James F. Lentz (0073360)
Attorney for the Plaintiff

Joan J Thomas by permission
Joan Jacobs Thomas (0033645)
Attorney for the Plaintiff

CERTIFICATE OF SERVICE

The Clerk of Courts of Cuyahoga County, Ohio is hereby requested and instructed this 10th day of June 2010 to serve the following defendants in this case good and true copies of this Complaint along with a summons to appear by US Certified Mail, Return Receipt Requested:

THE CITY OF LAKEWOOD, OHIO
12650 Detroit Avenue
Lakewood, Ohio 44107

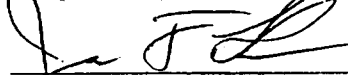
And

MATHIAS BROOKS
Lakewood Fire Department
14601 Madison
Lakewood, Ohio 44107

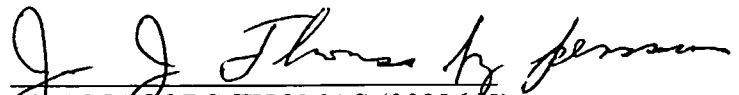
And

JEFFREY WILSON
Lakewood Fire Department
18124 Detroit Avenue
Lakewood, Ohio 44107

Respectfully Submitted,



JAMES F. LENTZ (0073360)
Attorney and Counselor at Law
25988 Byron Drive
North Olmsted, OH 44070
Telephone 216-410-6345; Fax 216-803-1862
Attorney for Plaintiff



JOAN JACOBS THOMAS (0033645)
Law Firm of Joan Jacobs Thomas Co. LPA
31040 Lorain Road
North Olmsted, OH 44070
Telephone 440-871-4040; Fax (440) 871-3004
Attorney for the Plaintiff

STATE OF OHIO

COUNTY OF CUYAHOGA

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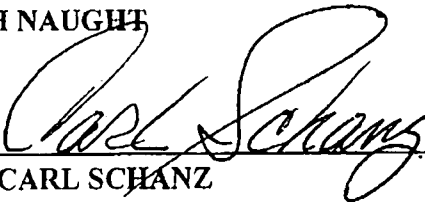
AFFIDAVIT OF CARL SCHANZ

I, Carl Schanz, a state certified paramedic and a state certified firefighter in the State of Ohio do hereby swear and depose:

A) I have reviewed the documents provided me by the attorneys of Edward Smith pertaining to his one and only ambulance trip on or about April 22, 2007. I have considered the actions of the ambulance attendants from the perspective of whether their actions on that trip are consistent with normal and customary procedures and processes. I have also considered whether their actions in good faith and by a preponderance of the evidence contributed to the injuries suffered by Edward Smith. I have reached the following conclusions:

- 1) That by failing to take Mr. Smith's baseline vital condition information including but not limited to pulse, respiration and blood pressure the actions of ambulance personnel were not consistent with normal and customary procedure and in good faith and by a preponderance of the evidence may have contributed to the injuries suffered by Edward Smith.
- 2) That by failing to secure Mr. Smith to a gurney or stretcher while knowing he was anticipating a seizure, the actions of ambulance personnel were not consistent with normal and customary procedure and by omission in good faith and by a preponderance of the evidence contributed to the injuries suffered by Edward Smith.
- 3) That by attempting to insert an intravenous needle into Mr. Smith's arm during or shortly after the conclusion of his seizure, ambulance personnel actions and in good faith and by a preponderance of the evidence may have contributed to the injuries suffered by Edward Smith.
- 4) That the above statements were made without duress and are believed to be true within a reasonable degree of professional and medical certainty.

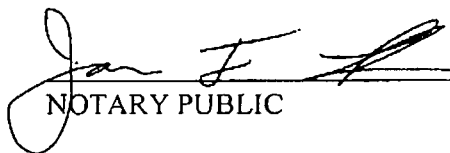
FURTHER AFFIANT SAYETH NAUGHT


CARL SCHANZ

Sworn and subscribed before me after identification of the deponent this 15th day of
October 2008.



JAMBS F. LENTZ
Attorney At Law
NOTARY PUBLIC
STATE OF OHIO
My Commission Has
No Expiration Date
Section 147.03 O.R.C.


NOTARY PUBLIC

MY COMMISSION EXPIRES DNE 147.03 O.R.C