

# METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY



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## MEMORANDUM

**TO:** Vice Mayor Jim Shulman  
Metropolitan Council

**FROM:** James L. Charles, Associate Director of Law

**DATE:** November 13, 2018

**SUBJECT:** M.C.L. § 2.40.115, 2018 3rd Quarter Reports

**ATTACHMENTS:** (1) 2018 3rd Quarter Report of Significant Litigation, Damage Amount Specified;

(2) 2018 3rd Quarter Report of Significant Litigation, Damage Amount Not Specified; and,

(3) 2018 3rd Quarter Report of Judgments Entered Against the Metropolitan Government.

1. The 2018 3rd Quarter Report of Significant Litigation (Damage Amount Specified) list new cases filed this quarter in which the *ad damnum* clause in the complaint request damages greater than \$300,000. (Attachment 1)

2. An additional 2018 3rd Quarter Report of Significant Litigation (Damage Amount Not Specified) list new cases filed this quarter in which liability is not limited to \$300,000 by the TGTLA. (Attachment 2)

3. The 2018 3rd Quarter Report of Judgments list two judgments that became final against the Metropolitan Government in October 2018. (Attachment 3).

#### 4. Acronyms:

ADA:	Americans Disability Act, 42 USC §§ 12101 et seq.
CCS:	Correct Care Solutions.
FCC:	Federal Communications Commission
FMLA:	Family Medical Leave Act, 29 USC §§ 2601 et seq.
HIPPA	Health Insurance Portability and Accountability Act, Public Law 104-191; 45 CFR Parts 160,162 and 164.
IDEA:	Individuals with Disabilities Education Act, 20 USC § 1400.
IIED:	Intentional Infliction of Emotional Distress.
NIED:	Negligent Infliction of Emotional Distress.
RLUIPA:	Religious Land Use and Institutionalized Persons Act, 2 USC §§ 2000cc et seq.
Sec. 504:	Section 504 of the Rehabilitation Act, 29 USC §§ et seq.
CPA:	Tennessee Consumer Protection Act TCA § 47-18-101
TDA:	Tennessee Disability Act, TCA §§ 4-21-102(3); 8-50-103.
TDOE:	Tennessee Department of Education.
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.

## 2018 3rd Quarter Report of Significant Litigation: Damage Amount Specified

FileNum	FileName	Court	Docket #	Initial Demand
L-16729	Swindall, Sherman, et al v. Dr. Sam Braden, III, et al	Circuit Court - Eighth	18C2046	\$3,250,000.00
	Damages: THRA; Compensatory and punitive damages, and attorney fees.			
	Plaintiffs	Collins, Sonji T. Kinnon, Marcus Swindall, Sherman		
	Defendants	Metropolitan Government of Nashville and Davidson County Braden, III, Sam		
	Counsel: Opposing	Blackburn, W. Gary Kroll, Bryant B.		
L-16754	Brown, Shanda v. Hospital Authority	U.S.Dist.Ct. M.D.Tenn.	3:18-cv-00887	\$1,500,000.00
	Damages: Title VII, 42 USC 1981; Front pay, back pay, compensatory damages, attorney fees and cost.			
	Plaintiff	Brown, Shanda R.		
	Defendant	Metro Nashville - Hospital Authority - General/Meharry		
	Counsel: Opposing	Parker, Mary A. Crofford, Stephen		
L-16743	Garcia, Vanessa v. Metropolitan Government	U.S.Dist.Ct. M.D.Tenn.	3:18-cv-00814	\$1,200,000.00
	Damages: Title VII and THRA; Compensatory damages, reinstatement or front pay, liquidated and punitive damages, pre-judgment interest, attorney's fees, and costs.			
	Plaintiff	Garcia, Vanessa		
	Defendant	Metropolitan Government of Nashville and Davidson County		
	Counsel: Opposing	Steiner, Ann Buntin		
L-16679	White, Christina Marie v. Metro Sport Authority, et	Circuit Court - Second	18C1047	\$1,000,000.00
	Damages: TGTLA; compensatory and loss of consortium.			
	Plaintiff	White, Christina		
	Defendants	Predators Holdings, LLC Live Nation Worldwide, Inc. Crew One Productions, Inc Powers Management Company LLC Metro Nashville - Sports Authority		
	Counsel: Opposing	Crouch, Justin L. Kimes, Issac U.		

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FileNum	FileName	Court	Docket #	Initial Demand
L-16707	Coldon, Carlos J. aka Robert J. Froster v. Tammy	U.S.Dist.Ct. M.D.Tenn.	3:17-cv-1296	\$900,000.00
	Damages: 42 USC § 1983; 1st Amend, 8th Amend, 14th Amend, HIPPA, and ADA.			
	Plaintiff	Coldon, Carlos L.		
	Defendants	Saad, Jason Metropolitan Government of Nashville and Davidson County Oliver, Jessie McBay, Tara Hale, Pam McQueen, April		
	Counsel: Opposing	Pro se		
L-16725	Harding, Tracey, et al v. Eakes, Melinda, et al	Circuit Court - Eighth	18C1903	\$350,000.00
	Damages: TGTLA: Compensatory & loss of consortium.			
	Plaintiffs	Harding, Tracey Harding, Clinton		
	Defendants	Metropolitan Government of Nashville and Davidson County Eakes, Melinda		
	Counsel: Opposing	McClarnon, III, Marshall H.		

ATTACHMENT 1

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

FileNum	FileName	Court	Docket #	Initial Demand
L-16713	Gray, Mario v. Stanley, Jack, et al.	Circuit Court - Sixth	18C1756	\$0.00
	Damages: Non TGTLA intentional torts, compensatory and punitive damages.			
	Plaintiff	Gray, Mario		
	Defendants	Metropolitan Government of Nashville and Davidson County Stanley, Jack		
	Counsel: Opposing	Leonard, Russell L.		
L-16732	Sturgeon, Brick W., et al v. Metro Government, et al	Circuit Court - First	18C2045	\$0.00
	Damages: TGTLA, Compensatory damages, loss of consortium.			
	Plaintiffs	Sturgeon, Sally Sturgeon, Brick W.		
	Defendants	Finney, Terry Metropolitan Government of Nashville and Davidson County		
	Counsel: Opposing	Davies, E. Reynolds Reese, John T.		
L-16737	Abriq, Abdullah, ex rel v. Metro Government	Chancery Court - Part I	18-921-I	\$0.00
	Damages: Class action injunctive relief, declaratory judgment, create an unjust enrichment trust distributed cy pres; nominal damages, attorney fees and cost.			
	Plaintiff	Abriq, Abdullah		
	Defendant	Metropolitan Government of Nashville and Davidson County		
	Counsel: Opposing	Stranch, IV, J. Gerard Herzfeld, Tricia Orlandi, Anthony A.		
L-16740	Sibtain, Samina, et al v. Hensley, Kerri, et al.	Circuit Court - Eighth	18C2242	\$0.00
	Damages: TGTLA, compensatory, pain and suffering, loss of consortium.			
	Plaintiffs	Sibtain, Hafiz M. Sibtain, Samina		
	Defendants	Metro Nashville - Police Department McDaniel, William Hensley, Kerri		
	Counsel: Opposing	Davis, Stanley A.		
L-16748	Gordon Snead, Tamika, et al v. Metro Government,	Circuit Court - Eighth	18C2361	\$0.00
	Damages: TGTLA compensatory damages, loss of consortium.			
	Plaintiffs	Snead, Jr., Edgar Snead, Tamika		
	Defendants	Metropolitan Government of Nashville and Davidson County Metropolitan Nashville - Board of Education		
	Counsel: Opposing	Belk, Jr., L. Russell Sutherland, Taylor C.		

ATTACHMENT 2

# METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY



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**TO:** Vice Mayor Jim Shulman  
Metropolitan Council

**FROM:** James L. Charles, Associate Director of Law

**DATE:** November 13, 2018

**SUBJECT:** M.C.L. § 2.40.115; Report of Judgment Entered Against the Metropolitan Government

The Department of Law reports that the following judgments became final against the Metropolitan Government during the month of October, 2018:

**Style of Case:** *David Carter v. Metropolitan Government of Nashville and Davidson County*

**Docket No.:** Circuit Court Case No. 13C4054

**Amount of Judgment:** Personal Injury; \$300,000.00

**Case Summary:** Plaintiff David Carter rode his motorcycle through the intersection of Granny White Pike and Shackleford Road on July 16, 2013. The intersection was undergoing construction, and there were grooves in the roadway from where the pavement had been milled. On the date of the accident, there were "Road Work Ahead" signs but no "Grooved Pavement" signs present. Mr. Carter was injured when he rode onto the grooved pavement, ran over a valve box that was protruding in the roadway, lost control of his motorcycle, and hit an oncoming vehicle. As a result of Mr. Carter's collision with the other vehicle, he severely injured his leg. He had several surgeries and accrued medical expenses exceeding \$486,000.00 as a result of his leg injury.

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A nonjury trial in this case occurred on July 9-10, 2018. At the conclusion of the trial, the Court found that the roadway at issue was dangerous and that the condition of the roadway led to the collision between Mr. Carter and the other vehicle. As a result, the Court found that the Metropolitan Government was 55% at fault for Mr. Carter's accident. The Court also ruled that the Plaintiff was 45% at fault for the accident because of the manner in which he operated his motorcycle. The court ruled that Mr. Carter had \$800,000.00 in damages, which was lowered by 45% due to Mr. Carter's negligence, then reduced again to comply with the \$300,000.00 cap on damages allowed by the Tennessee Governmental Tort Liability Act.

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**Style of Case:** *Rachel and P.J. Anderson v. The Metropolitan Government*

**Docket No.:** Circuit Court Case No. 15C3212

**Amount of Judgment:** Attorney Fees and Cost, \$140,770.00

**Case Summary:** The Andersons filed a 42 USC § 1983 14<sup>th</sup> Amendment Due Process civil rights lawsuit challenging the constitutionality of the Metropolitan Government's Short-Term Rental ordinances. The Andersons had been denied a non-owner occupied permit because the 3% cap on non-owner occupied STRs had been reached in their neighborhood. On cross motions for summary judgment, the Trial Court ruled that the Metropolitan Government's land use definitions related to short-term rentals were unconstitutionally vague as applied to the Andersons' property. Based on the vagueness ruling, the Trial Court awarded the Andersons attorney fees and discretionary costs. Both parties appealed. The Court of Appeals declined to reach the merits of the vagueness issue due to mootness (the ordinances had been amended during the appeal) but agreed that the Andersons were entitled to prevailing party status due to

ATTACHMENT 3

their success in obtaining a preliminary injunction, even though the preliminary injunction had been dissolved. Both parties petitioned the Tennessee Supreme Court for review. The Supreme Court declined to take the case, so the Court of Appeals decision stands. However, the Supreme Court did designate the Court of Appeals' decision, "Not for Citation" due to the Court of Appeals' analysis on whether the Andersons were entitled to attorney fees under 42 USC § 1988. The case was remanded back to the Trial Court who awarded the Plaintiffs \$140,770 in cost and attorney fees.

ATTACHMENT 3