

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY



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ROBERT E. COOPER, JR.
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MEMORANDUM

TO: Vice Mayor Jim Shulman
Metropolitan Council

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

DATE: February 18, 2020

SUBJECT: M.C.L. § 2.40.115. 2019 4th Quarter Reports

ATTACHMENTS: (1) 2019 4th Quarter Report of Significant Litigation, Damage Amount Specified;
(2) 2019 4th Quarter Report of Significant Litigation, Damage Amount Not Specified;
(3) Report of Judgment Entered Against the Metropolitan Government in October, 2019.

1. The 2019 4th 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 2019 4th 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. A judgment was entered against the Metropolitan Government this quarter. (Attachment 3).

4. Acronyms:

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

CCS: Correct Care Solutions.

FCC: Federal Communications Commission

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.
PLRA:	Prison Litigation Reform Act 28 USC §§ 1915(e)(2)(B)
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.
STRA:	Short Term Rental Act TCA § 13-7-601 et seq.
TCPA:	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.

2019 4th Quarter Report of Significant Litigation: Damage Amount Specified

FileName	Court	Docket #	Initial Demand
Bell, Dolly Madison, ex rel v. Lewis, Dr. Lauren, et al Damages TGTLA: Medical malpractice. Stillbirth. Plaintiff Bell, Dolly Madison Plaintiff Davila-Bell, Jessenia Plaintiff Bell, Herman C. Defendant Ware, M.D., Jamie L. Defendant Ladson, M.D., Gwinett Defendant Nashville General Hospital Defendant Meharry Medical College - School of Medicine Counsel: Opposing Bednarz, Jr., Joe	Circuit Court - Eighth	19C2819	\$10,500,000.00
Griffin, Craig v. Earthworks Design Build, LLC, et al Damages TGTLA: Compensatory damages; Waterline leak froze on road, driver lost control, hit embankment. Plaintiff Griffin, Craig Defendant Platinum Renovations, LLC Defendant Metropolitan Government of Nashville and Davidson County Defendant Earthworks Design Build, LLC Counsel: Opposing Woodard, Aaron B.	Circuit Court - Fifth	17C1268	\$1,500,000.00
Brisbane, Tyee R. v. Metropolitan Government Damages Title VII; THRA; ADA; TDA and FMLA: Plaintiff denied Family Medical Leave, then terminated. Plaintiff Brisbane, Tyee R. Defendant Metropolitan Government of Nashville and Davidson County Counsel: Opposing Parsley, Nina	U.S. Dist. Ct. M.D. Tenn.	3:19-cv-00884	\$500,000.00
Curatolo, John, et al v. Bills, Donald, et al Damages TGTLA: Compensatory damages, loss of consortium, cost. Defective street design, speed limit too high. Plaintiff Curatolo, John Plaintiff Curatolo, Teri Defendant Metropolitan Government of Nashville and Davidson County Defendant Bills, Donald	Circuit Court - Fifth	19C2597	\$350,000.00

2019 4th Quarter Report of Significant Litigation: Damage Amount Not Specified

FileName	Court	Docket #	Initial Demand
Laymon, Erma v. Metropolitan Government	U.S.Dist.Ct. M.D.Tenn.	3:19-cv-00986	\$0.00
Damages Title VII; THRA: Back pay, front pay, punitive damages, attorney fees and cost. Failure to promote. Retaliation.			
Plaintiff	Laymon, Erma		
Defendant	Metropolitan Government of Nashville and Davidson County		
Counsel: Opposing	Baker (Morris), Melissa A.		

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

The Department of Law reports that the following judgment became final against the Metropolitan Government during the month of October, 2019.

Style of Case: *Derrick Carter and Ketmany Vongsa v. Robert Musick and Metropolitan Government of Nashville and Davidson County*

Docket No.: Circuit Court Case No. 13C3187

Amount of Judgment: Personal Injury: \$300,000.00 to Plaintiff Derrick Carter and \$121,707.45 to Plaintiff Ketmany Vongsa.

Case Summary: On the night of August 31, 2012, Metropolitan Government Public Works employee Robert Musick was driving a Public Works pickup truck west on Korean Veterans Bridge. Mr. Musick’s job was to drive his assigned route and look for trash on the street and sidewalks and dispose of the trash. Mr. Musick veered left into the eastbound lanes of the bridge and struck a motorcycle driven by Plaintiff Derrick Carter. The collision injured Mr. Carter and his passenger, Ketmany Vongsa. Subsequent tests revealed that Mr. Musick was under the influence of the anti-anxiety medication Xanax at the time of the accident. Mr. Musick resigned.

Mr. Carter incurred approximately \$100,000.00 in medical expenses for treatment to both knees, cervical and lumbar strains, and internal and external bruising; and claimed over \$22,00.00 in lost wages. Ms. Vongsa incurred rib fractures, lacerations to her right arm and chin, and contusions. Her medical expenses exceeded \$22,000.00; and she claimed over \$2,000.00 in lost wages.

Mr. Musick’s actions in driving under the influence constituted recklessness or gross negligence, not simple negligence. Accordingly, the Metropolitan Government was not liable for

his misconduct. However, the issue at trial was whether Mr. Musick's supervisor was negligent by allowing Mr. Musick to drive the Public Works vehicle in an intoxicated state, having personally confronted him for being late for work that very evening. The jury found that the supervisor was negligent, and therefore the Metropolitan Government was jointly and severally liable for the accident. Ultimately, Mr. Carter was awarded \$502,704.90 in damages, which was reduced to the \$300,000.00 statutory maximum against the Metropolitan Government under the TGTLA. Ms. Vongsa's award of \$130,168.39 was reduced by agreement of the parties to \$121,707.45.