

IN THE CIRCUIT COURT OF TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

HWANG, on behalf of himself

No. CT-4094-20
DIV I

PLAINTIFF,

V.

COMPLAINT FOR NEGLIGENCE,
MEDICAL MALPRACTICE,
POLICE MISCONDUCT,
TAMPERING WITH
GOVERNMENTAL RECORDS,
AND
PUNITIVE DAMEGES
AS A REMEDY

JURY TRIAL DEMANDED
PURSUANT TO TENN. R. CIV.
PRO. 38.01 & 38.02

██████████ ARITA, an indivisual and
a resident of Tennessee;
SAINT FRANCIS HOSPITAL-MEMPHIS
(in other name, TENET HEALTHCARE
CORPORATION), a corporation;
MEMPHIS POLICE DEPARTMENT,
government(law enforcement agency);
MEMPHIS FIRE DEPARTMENT,
government(emergency medical services)

DEFENDANTS.

TO THE HONORABLE JUDGES,

Plaintiff Hwang, on behalf of himself, alleges as follows: All allegations in this Complaint are based upon his personal knowledge. As of the date of this Complaint, no discovery has been conducted. As a

result, it is likely that once the discovery process is underway, the named Plaintiff will seek leave to amend this Complaint to add new factual allegations, new claims and/or new parties.

I. NATURE OF THE ACTION

1. This putative Complaint asserts claims for (i) Negligence, (ii) Medical Malpractices, (iii) Police Misconduct, (iv) Tampering with governmental records, and (v) Punitive Damages as a Remedy for significant economic and noneconomic damages proximately caused by the Defendants' negligent, intentional, willful, and/or reckless acts and omission in connection with the automobile accident and its related circumstances which the Plaintiff suffered from.
2. As alleged in detail below, Defendants ██████████ Arita failed to maintain proper control of his automobile. Plaintiff's vehicle was violently struck from behind by the Defendant's vehicle.
3. Because of the automobile accident, because of the consequences which were originated from it, and because of the crimes which were related from it, the Plaintiff have suffered from and will suffer from extremely horrible hardship.

II. JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this action by virtue of TENN. CODE ANN. § 16-10-101 et seq.
5. This Court has personal jurisdiction over Defendant ██████████ Arita pursuant to TENN. CODE ANN. § 20-2-222(1) on the grounds that he is a resident of Tennessee. Further, pursuant to TENN. CODE ANN. § 20-2-223(a) & 225, personal jurisdiction exists over Defendant ██████████ Arita on the grounds that the wrongful conduct alleged herein, and the injuries flowing from same, substantially occurred in Tennessee.
6. This Court has personal jurisdiction over Defendant Saint Francis Hospital-Memphis, pursuant to TENN. CODE ANN. § 20-2-222(1) on the

grounds that its principal place of business is located in Tennessee. Further, pursuant to TENN. CODE ANN. § 20-2-223(a) & 225, personal jurisdiction exists over Defendant Saint Francis Hospital-Memphis on the grounds that the wrongful conduct alleged herein, and the injuries flowing from same, substantially occurred in Tennessee.

7. This Court has personal jurisdiction over Defendant Memphis Police Department pursuant to TENN. CODE ANN. § 20-2-222(1) on the grounds that its principal place of business is located Tennessee. Further, pursuant to TENN. CODE ANN. § 20-2-223(a) & 225, personal jurisdiction exists over Defendant on the grounds that the wrongful conduct alleged herein, and the injuries flowing from same, substantially occurred in Tennessee.

8. This Court has personal jurisdiction over Defendant Memphis Fire Department pursuant to TENN. CODE ANN. § 20-2-222(1) on the grounds that its principal place of business is located Tennessee. Further, pursuant to TENN. CODE ANN. § 20-2-223(a) & 225, personal jurisdiction exists over Defendant on the grounds that the wrongful conduct alleged herein, and the injuries flowing from same, substantially occurred in Tennessee.

9. Venue is proper in this judicial district pursuant to TENN. CODE ANN. § 20-4-101(a) on the ground that the cause of action arose in Shelby County, Tennessee. Venue is also proper in this judicial district over this action by virtue of TENN. CODE ANN. § 16-10-101.

10. Defendants [REDACTED] Arita, as a resident of Tennessee, Saint Francis Hospital-Memphis, Memphis Police Department, and Memphis Fire Department with their principal place of business in Tennessee, are both Tennessee citizens and are both party defendants from whom significant relief is sought by the named Plaintiff and whose conduct forms a significant basis for the claims asserted by the named Plaintiff. The principal injuries resulting from the wrongful conduct alleged herein were incurred in Tennessee.

III. THE PARTIES

11. Plaintiff Hwang (hereinafter referred to as "Plaintiff") is an individual resident of Mississippi County, Arkansas. He is a citizen of the Republic of Korea (South Korea). He is a conditional permanent resident who married a U.S. citizen. He was separated from his spouse since March, 2020 because of the consequences of the car accident. He resides at a temporary place in Memphis, Tennessee now.

12. Defendant [REDACTED] Arita (hereinafter referred to as "Arita") is an individual resident of Tennessee. According to the police report, his address is [REDACTED] Memphis TN [REDACTED]

13. Defendant SAINT FRANCIS HOSPITAL-MEMPHIS (hereinafter referred to as "Saint Francis Hospital") is a company, with its place of business located at [REDACTED] Park Avenue Memphis, TN 38119.

14. Defendant Memphis Police Department (hereinafter referred to as "Police Department") is a law enforcement agency whose police officers were at the scene of the car accident. Its address is Memphis Police Dept. [REDACTED] North Main Street Memphis, TN 38103.

15. Defendant Memphis Fire Department (hereinafter referred to as "Fire Department") is an emergency medical services whose employees were at the scene of the car accident. Its address is Memphis Division of Fire Services [REDACTED] S Front ST Memphis, TN 38103.

16. Defendants [REDACTED] Arita, Saint Francis Hospital, Memphis Police Department, Memphis Fire Department are collectively referred herein as "Defendants."

IV. FACTUAL ALLEGATIONS

A. About the car accident

17. On October 5, 2019, the Plaintiff, Hwang, was carefully and prudently stopped in his motor vehicle on Airways Blvd of E Parkway

S, when his vehicle was violently struck from behind by the Defendant.

18. According to the report of Memphis Police Department, the location of the accident was Airways Blvd, 35 Feet North of E Parkway S. The crash date was October 5, 2019 and the crash time was on or about 8:35 PM.

19. The Defendant was charged on 3 accounts which are (21-269) Improper state registration (Ticket #: U673187); (21-88.3) Maintain proper control (Ticket #: U673187); (21-86) No state driver's license (Ticket #: U673187).

20. The police report was inaccurate about two facts. First, the point of impact in the report was inaccurate. First, the crash happened just right before the point of rest. The crash didn't happen around the intersection of Spottswood Ave. (The Plaintiff's vehicle was stopped in red light when the impact was made.) Second, the Plaintiff was not a Chinese, but he was a Korean. The police officers didn't ask the Plaintiff the information of the point of impact at that time.

B. About Saint Francis Hospital

21. The Plaintiff was sent to the ER at Saint Francis Hospital right after the car accident.

22. There was no proper explanation from the hospital for Plaintiff's rights as a patient, about the procedure, or about the contract document and so on.

23. After the X-ray check-up, the Plaintiff mentioned the pain of his neck. But the doctor at ER ignored it. He said, "Ah, no".

24. In the waiting room, the Plaintiff expressed his fundamental and additional medical symptoms about his head including, but not limited to dizziness, the feeling of nausea, and so on. The Plaintiff almost vomited there, but he endured that symptom because he didn't want to be embarrassed in front of people by doing that.

25. The employees there dumped the Plaintiff out of the ER at the hospital. The Plaintiff was desperate to seek emergent medical treatment and rest, but his request was denied mercilessly.

26. The Plaintiff tried to come back to the ER and asked to have medical treatment, but they denied it and dumped him again and again. This situation continued to happen at least more than several times.

27. The Plaintiff had stayed at the gate of the hospital alone overnight. He suffered a lot and experienced extreme hardship. The next day between about 9 AM and 10 AM in the morning to his best knowledge, he left the hospital area after he contacted his spouse.

C. About the police misconduct by a police officer of Memphis Police Department

28. There came two police officers right after the car accident. "John Doe"(one male officer) continued to urge, press and even coerce the Plaintiff to sign on the police document very wrongfully.

29. The Plaintiff had the proper and valid insurance document let alone to automobile registration document, but the police officer failed to check the insurance document properly. It seemed that he misunderstood that the Plaintiff didn't carry the valid insurance document with him or in the car at the time of the car accident. The Plaintiff, however, had it in the car.

30. The valid insurance document was in the envelop on the top of the total documents. The police officer didn't check it. It was his fault.

31. This misconduct by the policer officer ended up influencing the Plaintiff's behavior later when he couldn't sign on the contract document at ER of the Saint Francis Hospital-Memphis. The Plaintiff believed that it was one of the reasons why he was excluded from the emergent medical treatment and ended up being dumped from the hospital, which gave him extreme hardship at that day and until now.

D. About the Tampering with governmental records by the Memphis Fire

Depart

32. The Plaintiff found that there was false record in the document by the Fire Department about that car accident.

33. The Plaintiff tried to visit the office of Fire Depart much later since the car accident. He found that there was very malicious, willfull, fraudulent, wrong, and inaccurate information about the hospital.

34. The document said that it was the Plaintiff who wanted to be sent to the ER of Saint Francis Hospital. It, however, was a very wrong and inaccurate information.

35. Before the Plaintiff was sent to the hospital, he even didn't know the EXISTENCE OF THE SAINT FRANCIS HOSPITAL.

36. The Plaintiff was a new immigrant from the Republic of Korea(South Korea). He had never been in any of U.S. medical institutions before the car accident. He had never been in any of ER of any medical institutions during his ENTIRE life.

37. The Plaintiff saw some names of hospitals around his previous address near downtown in Memphis, TN, but he had never seen or heard of the name of SAINT FRANCIS HOSPITAL before the car accident.

38. When the Plaintiff was sent to ER in Saint Francis Hospital, he asked one of the ambulance workers the name of the hospital in order to let his spouse know its name just in case.

39. The Plaintiff couldn't and can't understand the situation of the false record & reporting without the possibility of CORRUPTIONS between the Saint Francis Hospital and the Fire Department.

40. Because of that possibility, the Plaintiff thought and understood that the quality of medical service there was extremely low and poor. In the market of corruption or monopoly, the quality of service tends to be much lower than that of other competitive players in the same or similar market.

V. CAUSES OF ACTION

COUNT 1 - NEGLIGENCE

41. Plaintiff, Hwang realleges and incorporates by reference all those facts and allegations in paragraphs 17 through 20 above and further alleges:

42. The collision was caused by the negligence, carelessness, and recklessness of the Defendant Arita for that among other acts and omissions the Defendant,

- a. operated the motor vehicle at a high, dangerous and excessive rate of speed under the circumstances then and there existing;
- b. failed to reduce speed to avoid a collision;
- c. failed to observe due care and precaution and to maintain proper and adequate control of the motor vehicle;
- d. failed to keep a proper lookout for other vehicles lawfully upon the road;
- e. failed to exercise reasonable care in the operation of the motor vehicle under the circumstances then and there existing; and
- f. In other respects not now known to the Plaintiff but which may become known before or at the time of trial.

43. As a direct and proximate result of the negligence and carelessness of the Defendant, the Plaintiff;

- a. suffered serious, painful and permanent bodily injuries, great physical pain and mental anguish, severe and substantial emotional stress, loss of the capacity for the enjoyment of life;

b. was, is and will be required to undergo medical treatment and to incur medical costs and expenses to alleviate injuries, pain and suffering;

c. was, is and will be precluded from engaging in normal activities and pursuits, including a loss of ability to earn money and of actual earning;

d. and, otherwise was hurt, injured and caused to sustain losses,

44. All of the Plaintiff's losses were, are and will be due the carelessness and negligence of the Defendant Arita without any negligence or want of due care on the Plaintiff's part contributing to the harm done.

45. The Plaintiff may be awarded compensation pursuant to TN Code § 29-39-102 on the ground that the Defendant is responsible for damages for Plaintiff.

COUNT 2 - Violation of the Emergency Medical Treatment and Labor Act (EMTALA)

46. It is said that the Emergency Medical Treatment and Labor Act (EMTALA) is a federal law that requires anyone coming to an emergency department to be stabilized and treated, regardless of their insurance status or ability to pay, but since its enactment in 1986 has remained an unfunded mandate.

47. The Plaintiff had both automobile insurance and health insurance when he was sent to the ER at the Saint Francis Hospital-Memphis. The Plaintiff mentioned in the ambulance car that he had his insurance to the ambulance workers when he was asked whether he had his insurance or not. The Defendant Arita had his automobile insurance, too.

48. Defendant Saint Francis Hospital violated the Emergency Medical Treatment and Active Labor Act (EMTALA) when they dumped the Plaintiff out of the hospital before he was stabilized. And there was no informed consent, either.

49. Defendant Saint Francis Hospital violated pursuant to U.S. Code § 1395dd (- Examination and treatment for emergency medical conditions

and women in labor) on the ground that the Plaintiff was dumped out of the hospital without informed consent before he was stabilized.

COUNT 3 – Police Misconduct and/or Negligence

50. The Plaintiff may be awarded compensation pursuant to TN Code § 29-39-102 on the ground that the Defendant Police Department is responsible for damages for Plaintiff.

COUNT 4 – Tampering with governmental records

51. Defendant Fire Department violated TN Code § 39-16-504(a) on the ground that the Defendant is knowingly make a false entry in a governmental record.

52. Plaintiff may be awarded compensation pursuant to TN Code § 29-39-102 on the ground that the Defendant is responsible for compensation for Plaintiff.

53. Defendant Fire Department is responsible for punitive damages pursuant to TN Code § 29-39-104 on the ground that the Defendant acted maliciously, intentionally, fraudulently or recklessly when the information of the report document was made.

54. Defendant Fire Department made a false entry in a governmental record. According to the document, it was written that it was "Plaintiff" who wanted to be sent to the ER of Saint Francis Hospital. The Plaintiff found that there was a false record & reporting in the document by the Fire Department about that car accident. Plaintiff didn't know the name of "Saint Francis Hospital" at the time of the car accident. Therefore, it was impossible that Plaintiff could mention the name of the hospital there at that time.

VI. PRAYER FOR RELIEF

WHEREFORE, the named Plaintiff demand judgment against Defendants
[REDACTED] ARITA, SAINT FRANCIS HOSPITAL-MEMPHIS, MEMPHIS POLICE

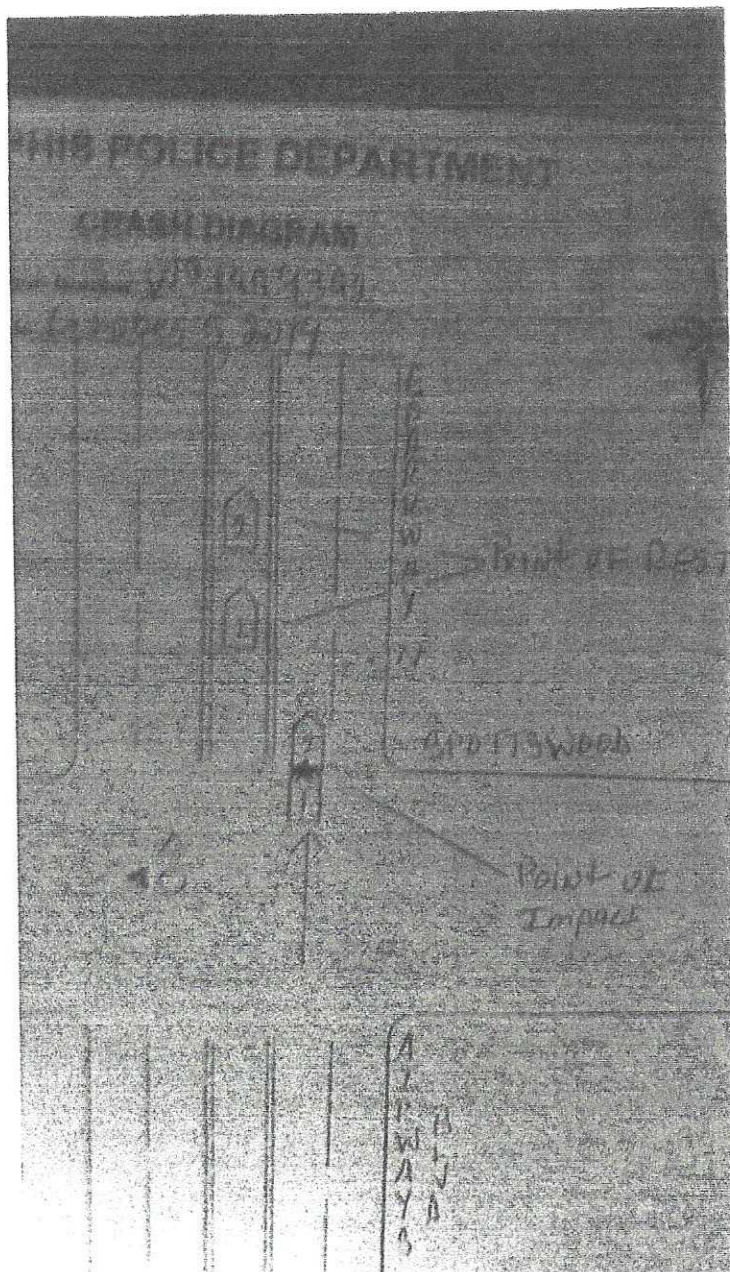
DEPARTMENT, and MEMPHIS FIRE DEPARTMENT on each Count of the Complaint and the following relief:

1. this Plaintiff claims ONE SEVENTY FIVE MILLION THIRTY THOUSAND DOLLARS(\$175,030,000.00) in damages.
2. Issue service of process and serve each Defendant;
3. Grant any reasonable request to Amend Plaintiff's Complaint to conform to the discovery and evidence obtained in this action;
4. Empanel a jury to try this matter;
5. Award Plaintiff compensatory damages in an amount not less than SEVEN HUNDRED FIFTY THOUSAND DOLLARS(\$750,000.00)
6. Grant declaratory relief to Plaintiff as requested herein;
7. Award punitive damages against MEMPHIS FIRE DEPARTMENT, SAINT FRANCIS HOSPITAL-MEMPHIS, and/or MEMPHIS POLICE DEPARTMENT.
8. Award costs and expenses incurred in this action pursuant to Rule 54.01 of the Tennessee Rules of Civil Procedure;
9. Grant the Plaintiff such further relief as the Court may deem just and proper.

Respectfully submitted,

Hwang

Diagram



Narrative

On 10/05/2019 at 20:44 hours, Officer McGowan (0882) responded to a crash at Airways Blvd near E Parkway S, CAD P192782607, vehicle #1: [REDACTED] n/b Airways Blvd struck with its front the rear of vehicle #2: [REDACTED] also, n/b Airways Blvd. Driver 1, [REDACTED] Arita stated that as he was n/b Airways Blvd, he felt as if he lost traction and he struck the rear of veh 2, [REDACTED] Driver 2, [REDACTED] Hwang stated that as he was driving n/b Airways Blvd veh1 struck him in the rear. Driver 1, [REDACTED] Arita was issued citation U673187, Failure to Maintain Proper Control, State Registration and No Driver License, court date Nov 12 2019 in Div 1 at 1:30pm. Driver 2 [REDACTED] Hwang was transported to St Francis Hospital -Park in non critical condition. Photos were taken of the vehicles. After the impact both vehicles moved from point of impact. The writer also observed a dip in the road, n/b lane of traffic.

RECEIPT DATE 10/1/20 No. [REDACTED]

RECEIVED FROM Mr. Huang \$ 291.50

_____ DOLLARS

FOR RENT
 FOR CT. 4094-20

ACCOUNT			<input checked="" type="radio"/> CASH	FROM <u>Huang</u> TO <u>Circuit</u>
PAYMENT	<u>291.</u>	<u>50</u>	<input type="radio"/> CHECK	
BAL. DUE			<input type="radio"/> MONEY ORDER	
			<input type="radio"/> CREDIT CARD	

BY [Signature] 3-11

RECEIPT DATE 10/1/20 No. [REDACTED]

RECEIVED FROM Mr. Huang \$ 6.00

_____ DOLLARS

FOR RENT
 FOR copies

ACCOUNT			<input checked="" type="radio"/> CASH	FROM <u>Huang</u> TO <u>Circuit</u>
PAYMENT	<u>6</u>	<u>00</u>	<input type="radio"/> CHECK	
BAL. DUE			<input type="radio"/> MONEY ORDER	
			<input type="radio"/> CREDIT CARD	

BY [Signature] 3-11