

THE HOWARD LAW FIRM, P.C.

Trial Lawyers

Suite 200, Kyleif Center

1479 Brockett Road

Tucker, Georgia 30084

(770) 270-5080

Georgia & Florida Courts

State & Federal Litigation

Facsimile: (770) 270-5033

E-mail: atty@howardfirm.com

April 23, 2015

BY FEDERAL EXPRESS

Douglas S. Hollberg, Chairman
City of Griffin, Georgia
Board of City Commissioners
100 S. Hill Street
Griffin, GA 30223

Kenny Smith, City Manager
City of Griffin
Office of City Manager
100 S. Hill Street, 3rd floor
Griffin, GA 30223

Steven D. Heaton, Chief of Police
Griffin Police Department
868 W. Poplar Street
Griffin, GA 30224

Andrew J. Whalen, Esq.
City of Griffin Attorney
The Whalen Law Firm LLP
100 S. Hill Street, Suite 524
Griffin, GA 30223

RE: Claimant: Derrick Wynn
Claimant's Date of Birth: May 21, 1968
Date of Incident: October 28, 2014
Location of Incident: Spalding Regional Hospital
Primary City Employee: Officer Tina M. Bean,
Griffin Police Department

ANTE LITEM NOTICE OF CLAIM

Dear Mr. Hollberg, Mr. Smith, Mr. Heaton & Mr. Whalen:

My law firm represents Derrick Wynn ("Wynn") in the referenced claim against the City of Griffin, Georgia and the Griffin Police Department. Wynn was falsely charged with a crime and arrested based on a criminal warrant obtained by Griffin Police Department Officer Tina M. Bean. This ante litem notice of the claim is provided to you pursuant to O.C.G.A. § 36-33-5 and any other applicable provisions of law.

On September 25, 2014, William O. Shaw ("Shaw") was intoxicated and engaged in disturbing behavior at the Griffin DFCS office. Shaw is a registered sex offender with a penchant for exposing himself and public masturbation. When a county employee called 911 for police assistance, Officer Bean responded to the call. Instead of arresting

Shaw for his misconduct or instructing him to leave the premises, Officer Bean decided to take Shaw to the Spalding Regional Hospital emergency room.

At that time, Wynn was employed as a security officer at the hospital. Wynn was forced to restrain Shaw after he had been exposing himself to fellow patients and acting aggressively in the psychiatric ward of the emergency room. As a result of that incident, Officer Bean filed a criminal charge of aggravated battery against Wynn.

Shaw went through mood swings and engaged in several forms of inappropriate behavior while he was detained at the hospital. Shaw exposed himself to hospital patients and staff. At one point, Shaw attempted to strike a hospital nurse, Phillip Baker, but made contact with another security officer, Lewis Dawkins.

Shaw then focused his irrational anger on Wynn. Shaw made verbal threats and he attempted to strike Wynn. He never got angry or responded in kind. When Wynn entered the hospital room again, Shaw approached Wynn. Wynn pushed Shaw away and instructed Shaw to keep some distance between them. Shaw came back at Wynn and initiated physical contact.

Wynn then physically restrained Shaw by pushing and pinning him down on the hospital bed for about 25 seconds until Shaw appeared to calm down. Another security guard (Dawkins) was present and nobody used any unreasonable force or violence to restrain Shaw.

Wynn called police officers to the scene to remove Shaw from the premises. Again, Officer Bean responded to the call and did not arrest Shaw for any of his criminal acts (including indecent exposure, battery on Officer Dawkins, and the attempted batteries on Nurse Baker and Wynn). Instead, Officer Bean ordered Wynn and Dawkins to leave Shaw's hospital room. Several hospital employees heard Officer Bean rationalize that the males should exit the room because "Shaw dealt better with women." Clearly Officer Bean and Shaw had an established rapport with each other.

Apparently Officer Bean learned that Shaw had a broken collarbone. Officer Bean must have assumed that Shaw had suffered the injury during his altercation with Wynn. Officer Bean did not attempt to interview any of the witnesses to Shaw's erratic, improper, and illegal behavior that night. In fact, Officer Bean neglected to even interview Wynn that evening or during the next month following the altercation.

In fact, Shaw had broken his collarbone and was treated at the same hospital for this injury long before he was brought back in on September 25, 2014. Officer Bean never investigated when, where, or how Shaw had actually suffered this injury.

On October 28, 2014, Officer Bean applied for a criminal arrest warrant against Wynn in the Spalding County Magistrate Court for “aggravated battery disfigure,” a violation of O.C.G.A. § 16-5-24. On October 29, 2014, Wynn voluntarily turned himself into the Spalding County Sheriff’s Office and posted a bail bond.

On March 24, 2015, the Spalding County District Attorney’s Office dismissed the criminal case against Wynn due to the false, unsubstantiated, and uncorroborated allegations made by Shaw and Officer Bean. For your information, the police incident reports, warrant application, and the dismissal notice are all enclosed.

Liability

The City of Griffin is legally responsible for the tortious conduct of Officer Bean. Officer Bean did not adequately investigate Shaw’s allegations before charging Wynn with aggravated battery. Additionally, the whole incident at the hospital would not have occurred if Officer Bean had properly detained Shaw at the DFCS office. Instead, Officer Bean improperly utilized city and county resources by calling 911 for an ambulance to transport Shaw to the hospital.

According to hospital personnel, the Griffin Police Department routinely drops off suspects at the hospital emergency room in order to avoid processing the suspects for criminal behavior. In fact, Shaw had been escorted to the hospital in this manner on prior occasions.

The 911 calls, police reports, and hospital surveillance video all confirm the events of September 25, 2014. Yet Officer Bean attempted to cover up her actions by preparing two false incident reports for the events that transpired on that date.

The first incident report mischaracterizes Shaw’s actions at the local DFCS office. The report indicates that Officer Bean was dispatched to the scene “in reference to a disturbance,” but it does not mention that Shaw had been exposing himself to the public or that he was a known registered sex offender. To justify the ambulance request, Officer Bean documented that Shaw himself had requested medical attention. It is noteworthy that Griffin police was called to the same DFCS office just a few weeks prior to this incident because Shaw had been exposing himself to the families and children there.

Officer Bean’s second incident report misrepresents the date she was dispatched to Spalding Regional Hospital. This second report indicates that Officer Bean was sent to the hospital on September 29, 2014, to investigate an assault that occurred a few days earlier. However, Wynn’s 911 call and the hospital surveillance video clearly show that the police were called to the hospital on the same day of the incident, and that Officer Bean responded to the call within the hour.

Officer Bean's behavior could not be justified even if her police incident report and trial testimony were completely accurate. Wynn obviously did not commit any criminal offense and he was performing his duties as a security officer. To date, no disciplinary action has been taken against Officer Bean or any other Griffin police officer as a result of the outrageous and unwarranted arrest and detention of Wynn.

Our law firm contacted and/or obtained statements from several witnesses. We can establish that Shaw suffered and was treated for his collarbone injury prior to this incident. Wynn properly restrained Shaw without any violence, choking, or unnecessary physical contact. The entire episode lasted approximately 25 seconds and Wynn certainly did not cause or contribute to any physical injury.

We will be able to prove that Griffin police officers routinely take criminal suspects to the local emergency room in order to avoid dealing with, arresting, and processing those suspects. Officer Bean's conduct (including her fraudulent incident reports and unjustified arrest warrant) is attributable to Griffin Police Department practices, insufficient training, and inadequate supervision. The City of Griffin caused, contributed to, condoned, and facilitated the tortious conduct of Officer Bean as well as the criminal arrest of Wynn.

Damages

Derrick Wynn has been employed as a security officer since 2009. Following the incident, Wynn was suspended without pay until the criminal matter was resolved. Wynn is a law-abiding citizen with no criminal record before this incident. His future job prospects and personal reputation are both compromised by this criminal arrest, especially in his profession as a security guard.

Wynn is enrolled part time in a college Master's program, coaches his son's little league team, and volunteers at his church. Wynn is currently in remission from cancer and must take certain medications to treat and alleviate his symptoms. Wynn's improper incarceration created a serious risk to his health and life, as Wynn was unable to access his medications during the time he was incarcerated at the Spalding County Detention Center.

Additionally, Wynn became infested with bedbugs during his stay at the Detention Center. He brought the infestation home and transmitted it to his wife and children before the bedbugs were detected and exterminated.

Wynn spent one day in jail; posted a bail bond; retained defense counsel to defend the aggravated battery charge; lost approximately six months of income; and paid for an exterminator at home. Wynn lost his position at the hospital during his suspension, so he will probably lose more income before he is reinstated. Wynn endured all of the pain,

suffering, humiliation, mental anguish, inconvenience, and other damages that are reasonably associated with his injuries.

If Wynn files a legal action, we anticipate that he will be able to pursue viable tort and civil rights claims that may include claims based on false arrest, false statements, fraudulent documents, false imprisonment, and reckless conduct under color of state law.

A reasonable projection of damages that may be awarded by a court or a jury is summarized as follows:

Actual Damages

Criminal Defense Legal Fees	\$ 3,500.00
Attorney Costs & Expenses	200.00
Bonding Fees	500.00
Lost Wages	13,260.00
Exterminator	1,200.00
Compensatory Damages	250,000.00
Attorney Fees (1/3 Contingency)	89,553.33
TOTAL DAMAGES	\$ 358,213.33

Please note that Wynn's lost wages are calculated from October 2014 to the present date; this figure may continue to increase. Of course, the stated damages are a projection that will not limit any claim asserted in litigation. Wynn's attorney fees and litigation expenses will substantially increase if he is forced to litigate this claim. The attorney contingency fee will increase to 40% and we project an additional \$20,000 in litigation expenses.

Notice of the Claim

You are hereby notified of Derrick Wynn's claim against the City of Griffin, Georgia, and the Griffin Police Department pursuant to O.C.G.A. § 36-33-5(b). The City of Griffin, Georgia, and the Griffin Police Department are liable for actual and compensatory damages attributable to the pain, suffering, physical injuries, emotional trauma, expenses and inconvenience experienced by Mr. Wynn as a result of this altercation and Officer Bean's conduct. The City and the Police Department may be held liable for Mr. Wynn's attorney fees, personal expenses, and litigation expenses.

In view of the egregious circumstances and the serious damages sustained by our client, we are authorized to settle the claims of Derrick Wynn against the City of Griffin,

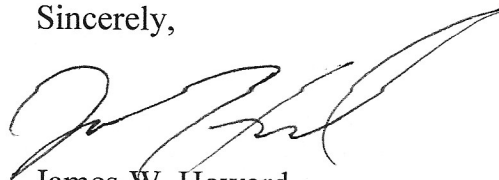
Georgia, the Griffin Police Department, and all related parties for the total sum of Two Hundred Fifty Thousand Dollars (\$250,000). This offer shall be automatically withdrawn if and when you reject it, or if you refuse to accept it within 30 days.

You should consider and act upon this claim within 30 days after you are presented with this notice pursuant to O.C.G.A. § 36-33-5(c). Your failure to respond within this time frame will be regarded as a rejection of the claim and a refusal to accept the settlement offer.

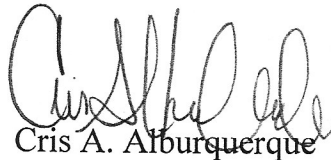
This settlement demand is also sent pursuant to the Unliquidated Damages Interest Act, O.C.G.A. § 51-12-14. Failure to pay the amount demanded within thirty (30) days from the mailing of this notice may result in an accrual of interest thereon.

Please feel free to contact us if you have any questions or to engage in any further discussion of this matter.

Sincerely,



James W. Howard



Cris A. Albuquerque

CAA/blr

Enclosures

cc: Joanne Todd, Commissioner
Dick Morrow, Commissioner
Rodney McCord, Commissioner
Ryan McLemore, Commissioner
Cora Flowers, Commissioner
Cynthia Ward, Commissioner