

IN THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA

DAVID HOHMAN, Sr. and
ASHLEY HOHMAN, husband and wife
Plaintiffs

VS.

MAYOR AND CITY COUNCIL OF
BALTIMORE,

BALTIMORE CITY POLICE DEPARTMENT

ANTHONY W. BATTS, in his official capacity as
Commissioner of the Baltimore City Police
Department and/or his successor, and

JOHN E. TORRES, both individual and
in his official capacity as a Baltimore City
Police Officer,
Defendants

No. 2016-SU-1106-74

CIVIL ACTION - LAW

Jury Trial Demanded

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YORK, PA

COMPLAINT

The Plaintiffs, David Hohman, Sr. and Ashley Hohman, his wife, file this complaint against the Mayor and City Council of Baltimore, the Baltimore City Police Department, Anthony W. Batts, in his official capacity as Commissioner of the Baltimore City Police Department and/or his successor, and John E. Torres, both individually and in his office capacity as a Baltimore city Police Officer. In support thereof, the following is averred to be true:

INTRODUCTION

THE PARTIES

1. The Plaintiffs, David Hohman, Sr. and Ashley Hohman, are adult individuals, husband and wife, with a current address of 1117 Chesaco Avenue, Baltimore, Maryland 21237.
2. The Defendants, the Mayor and City Council of Baltimore (“the City”) is a municipality located, in Baltimore, Maryland. The City of Baltimore is a local government and is responsible for funding BPD and for the acts or omissions of BPD.
3. The Baltimore City Police Department, Defendant Police Department of Baltimore City (“BPD”) is the primary law enforcement agency within the City of Baltimore, Maryland.
4. Defendant, John E. Torres, (“Torres”), at all times relevant to this action, an adult individual with an address of 333 Brentwood Drive, Apt F, York, York Township, Pennsylvania 17403 was a duly appointed and acting police officer with the BPD. As a police officer he was, at all times herein relevant, acting within the scope of his employment, in full uniform, utilizing departmental issued property, and under color of state law. He is sued in his official and individual capacity.
5. Torres is currently incarcerated in the Pennsylvania State Correctional Institution at Camp Hill, located at 2500 Lisburn Road, Camp Hill, Pennsylvania.

JURISDICTION AND VENUE

6. The Court of Common Pleas has jurisdiction over this matter since this Complaint is, in part, in the nature of assault, intentional infliction of emotional distress, and negligent

infliction of emotional distress involving parties all domiciled in the Commonwealth of Pennsylvania.

7. Venue is appropriate in York County, Pennsylvania, where Defendant, Torres resided at the time of the harm to the Defendants, where act or omission of the Defendants occurred, and where a culminating event giving rise to this cause of action occurred.
8. This is an action for money damages pursuant to the Maryland Local Government Tort Claims Act as applicable and under the common law of the Commonwealth of Pennsylvania, brought against the individual Defendant, Torres and against the Mayor and City Counsel of Baltimore, BPD, and the former Commissioner of BPD.
9. That timely notice has been provided to the appropriate parties as required under the Maryland Local Government Tort Claims Act. All conditions precedent to the filing of these claims have been met.

FACTS COMMON TO ALL COUNTS

10. Plaintiff repeats and reiterates paragraphs 1 through herein as if fully set forth at length.
11. Defendant, Torres became a sworn police officer employed by BPD on or about October, 1 2002.
12. As part of Torres's training, he attended the BPD Police Cadet Program from November 1, 2002 until May, 2003.
13. As part of the training, Torres was trained by BPD in several areas including, but not limited to:
 - a. Firearms, including combat firearm shooting, reaction time;

- b. Use and Continuum of Force;
- c. Less Lethal Force Option.

14. As far as firearms training and use and continuum of force scenarios, BPD trained Torres that when faced with threat, Torres should continue to discharge his firearm if a threat continued and only discontinue shooting once the threat stopped.
15. While employed with BPD, Torres was required to undergo annual firearm qualifications.
16. While employed with BPD on April 24, 2008, Torres, while on duty, acting within the scope of his employment, in full uniform, utilizing departmental issued property, and under color of state law, discharged his firearm and killed then off duty BPD officer Norman Stamp after Torres responded to a dispatch at a tavern in the City of Baltimore. Neither Torres, nor the other defendants were found to be civilly liable for Torres' actions.
17. However, as a result of the incident involving Officer Stamp, BPD took no remedial actions against Torres to reinforce or retrain on him on the use of force in general, de-escalation and tactical alternatives to the use of force, the use of physical and mechanical force, the use of deadly force, and the limitations that govern the use of force and deadly force.
18. Upon information and belief, Torres never requested BPD to retrain him on the use of firearms, use and continuum of force, and less legal force options.
19. Upon information and belief, as a result of the 2008 shooting, Torres was diagnosed as suffering from post-traumatic stress disorder and requested a reassignment from the

squad/platoon to which he was assigned prior to the incident. Torres was never reassigned.

20. Upon information and belief, all other defendants, but in particular The City of Baltimore, BPD, and then Commissioner of PBD failed to identify Torres as a member displaying behavior that might place the public at risk and failed to utilize the Early Intervention System, that would require supervisory assessment and potential intervention with Torres.
21. Upon information and belief, all other defendants, but in particular The City of Baltimore, BPD, and then Commissioner of PBD failed to provide Torres with adequate stress management and support, which affected Torres' job performance and decision making as set forth herein.
22. Despite the foregoing, Torres was returned to full, active duty with BPD sometime after the Stamp incident.
23. After Torres' return to work, his shift commander noted that Torres was not the same officer prior to the 2008 shooting, that he appeared sad, that the shooting took a toll on Torres, and that the shooting of Stamp always bothered Torres. Despite these concerning observations, in a semi-annual performance evaluation in 2010 or 2011 after Torres returned to work, the same shift commander agreed that Torres scored "Excellent" such categories as "mental ability for carrying on under fatiguing conditions", "presence of mind" and "the ability to think clearly and arrive at logical conclusions."

24. Despite these observations by his shift commander, Torres continued to be employed by BPD with no recommendation for or receipt of remedial training or identifying him in need of any early intervention by PBD before Torres became a risk to the public.

TORRES ASSAULTS DAVID HOHMAN IN FULL UNIFORM USING HIS BPD

ISSUED SERVICE WEAPON

25. On or about April 29, 2014, David Hohman traveled from his home in Baltimore, Maryland to York Township, Pennsylvania to speak with Torres about Torres' continued apparent relationship with Hohman's wife, co-Plaintiff Ashely Hohman

26. On April 29, 2014, David Hohman was not armed with either a firearm, or any other weapon.

27. Prior to David Hohman's arrival in York County, Torres was dressed in his full BPD uniform, carrying his duty weapon, a 9mm Glock semi-automatic firearm, and was en-route to a court appearance as part of his employment with BPD. Torres was scheduled to work 3:00 p.m. until 11:00 p.m. on April 29, 2014, but was required to appear for a traffic court hearing as part of his employment with BPD at 2:00 p.m. the same day.

28. As a result of receiving a summons for court, Torres was legally required by BPD to travel to and appear in court on April 29, 2014.

29. Any failure to appear in court by Torres on April 29, 2014 would have resulted in BPD disciplinary action against Torres.

30. Torres was required by BPD to wear his uniform of the day to appear in court on April 29, 2014.

31. BPD were contractually obligated to pay Torres for his appearance in court on April 29, 2014 despite the fact that the hearing time was immediately prior to his scheduled shift.
32. When David Hohman arrived at Torres' apartment in York Township, Hohman parked his vehicle in a location behind Torres' vehicle, who had momentarily returned to his residence having forgotten his contact lenses. Hohman parked his vehicle in an area near and to the rear of Torres' double-parked vehicle.
33. As Torres exited his residence, David Hohman was seated in his car.
34. David Hohman made no statements to Torres, who was walking towards Hohman's vehicle.
35. David Hohman displayed no firearm or weapon of any kind to Torres.
36. David Hohman made no threatening gestures to Torres.
37. David Hohman neither exited, nor attempted to exit his own vehicle.
38. Torres made no verbal commands to David Hohman.
39. Torres made no announcement that force will be utilized prior to the application of the force.
40. Torres took no evasive actions to avoid any perceived threats from David Hohman; stated simply, Torres perceived no threats from David Hohman.
41. Torres utilized no less lethal force against David Hohman.
42. Instead, Torres discharged his BPD issued duty weapon with BPD issued ammunition fourteen (14) times directly towards David Hohman, striking Hohman's body six (6) times, including his leg and chest.

43. Despite never being threatened by David Hohman, never seeing a weapon, or never observing any threatening gestures, Torres indicated that his training as administered by BPD caused him to utilize his duty weapon shoot Hohman repeatedly, unnecessarily and unlawfully.
44. Immediately after shooting David Hohman, rather than calling 911 to request aid, Torres called his then BPD supervisor, Major Deron Garrity, to advise Garrity that he was involved in a shooting incident.
45. Torres' decision to report this use of deadly force to his permanent-rank supervisor was in accordance with BPD Policy.
46. Despite the obvious injuries to David Hohman, Torres did not immediately provide medical assistance to or seek medical assistance for Hohman.
47. As a direct and proximate cause of Torres' actions, Hohman suffered, and continues to suffer humiliation, embarrassment and emotional distress.
48. As a direct and proximate cause of the additional defendants' failure to properly train and supervise Torres, Hohman suffered life threatening injuries requiring immediate medical attention.
49. As a direct and proximate cause of the additional defendants' failure to properly train and supervise Torres Hohman suffered, and continues to suffer, pain, discomfort and loss of earnings.

50. As a direct and proximate cause of the additional defendants' failure to properly train and supervise Torres, Hohman suffered, and continues to suffer humiliation, embarrassment and emotional distress.

COUNT I – PLAINTIFF DAVID HOHMAN, SR v. JOHN E. TORRES, individually
BATTERY

51. Plaintiffs repeat and reiterate paragraphs 1 through 50 herein as if fully set forth at length.

52. As set forth in the preceding paragraphs, on April 29, 2014, Torres harmfully and offensively contacted David Hohman by repeated striking Hohman with bullets as a result of discharging the firearm in Torres' possession.

53. The harmful and offensive contact resulted from the actions of Torres intending to cause David Hohman, Sr. to suffer such a contact.

54. Both Torres and David Hohman Sr. apprehended that Torres' contact of Hohman was imminent.

55. As a direct and proximate cause of Torres' actions, David Hohman suffered life threatening injuries requiring immediate medical attention and multiple subsequent surgeries.

56. As a direct and proximate cause of Torres' actions, Hohman suffered, and continues to suffer, pain, discomfort and loss of earnings.

57. Torres was not legally justified in his actions.

WHEREFORE, the Plaintiff, David Hohman, Sr, respectfully demands judgment in his favor and against John E. Torres, individually, in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus costs, interest and all other relief the Court deems just.

COUNT II –PLAINTIFF DAVID HOHMAN, JR v. JOHN E. TORRES, individually
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

58. Plaintiffs repeat and reiterate paragraphs 1 through 55 herein as if fully set forth at length.
59. As set forth in the preceding paragraphs, on April 29, 2014, Torres' actions towards David Hohman, Sr. were extreme and outrageous.
60. As a result of Torres' extreme and outrageous conduct, Torres acted in a reckless manner by repeatedly striking Hohman with bullets by discharging the firearm in Torres' possession.
61. Torres' conduct was so extreme and outrageous that recitation of the fact set forth herein would cause an average member of the community to resent Torres and declare his conduct to be extreme and outrageous.
62. As a direct and proximate cause of Torres' conduct, Hohman has suffered, and continues to suffer, severe emotional distress.
63. Torres was not legally justified in his actions.

WHEREFORE, the Plaintiff, David Hohman, Sr, respectfully demands judgment in his favor and against John E. Torres, individually, in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus costs, interest and all other relief the Court deems just.

Count III – PLAINTIFF DAVID HOHMAN, SR vs. JOHN E. TORRES

64. Plaintiff repeats and reiterates paragraphs 1 through 63 herein as if fully set forth at length.
65. Pursuant to the Fourth Amendment to the U.S. Constitution, and by extension the Fourteen Amendment of the U.S. Constitution, police officers enjoy a privilege to use objectively reasonable force to affect a lawful arrest.
66. The force used by Torres was not for the purpose of effecting a lawful arrest; rather, the force used by Torres was for sole purpose of inflicting pain and physical injury, torture, and punishment.
67. As a direct and proximate cause of the Defendant's conduct, David Hohman, Sr, has suffered and will continue to suffer embarrassment, humiliation, emotional distress, physical and psychological injury, pain and suffering and financial harm, some of which may be permanent.

WHEREFORE, the Plaintiff, David Hohman, Sr, respectfully demands judgment in his favor and against John E. Torres, individually, in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus costs, interest and all other relief the Court deems just.

COUNT III – DAVID HOHMAN, SR v. All REMANING DEFENDANTS

Municipal Liability

68. Plaintiff repeats and reiterates paragraphs 1 through 67 herein as if fully set forth at length.
69. The Mayor and City of Baltimore, BPD and Commissioner Batts (or his successor) (referred to collectively hereinafter as "Remaining Defendants") maintained policies,

practices, and customs, which were the moving force that resulted in Mr. Hohman's constitutional and statutory rights being violated.

70. The Remaining Defendants were on notice of a need for further training of Officer Torres related to the issues discussed herein but failed to provide the training, which resulted in Mr. Hohman's constitutional and statutory rights being violated.

71. It is believed that discovery will reveal, and therefore averred, that the Mayor and the City of Baltimore, BPD and Commissioner Batts (or his successor) failed to implement a policy, enforce a policy, or train officers, including Defendant Torres, on the Fourth and Fourteenth Amendments to the U.S. Constitution.

72. It is believed that discovery will reveal, and therefore averred, that the Mayor and the City of Baltimore, BPD and Commissioner Batts (or his successor) failed to implement an effective process to ensure that policies and training of the Township are followed by police officers.

73. It is believed that discovery will reveal, and therefore averred, that Mayor and City of Baltimore, BPD, and Commissioner Batts when it has been determined that officers have violated the Fourth Amendment or statutory rights of persons including , or used unlawful force against persons, or when police officers have been named in citizen complaints, or when the remaining defendants have settled civil lawsuits, the remaining defendants have not required police officers such a Torres to receive corrective or additional training.

74. As a direct and proximate result of the Remaining Defendants' conduct, Mr. Hohman has suffered and will continue to suffer embarrassment, humiliation, emotional distress,

physical and psychological injury, pain and suffering, and financial harm, some or all of which may be permanent.

75. Furthermore, as a direct and proximate result of Defendants' conduct, Mr. Hohman has incurred attorneys' fees and other costs.

WHEREFORE, the Plaintiff, David Hohman, Sr, respectfully demands judgment in his favor and against The Mayor and City of Baltimore, the Baltimore City Police Department and Anthony W. Batts, or his successor, in his capacity as Commissioner of the Baltimore City Police Department, joint and severally, in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus costs, interest and all other relief the Court deems just.

COUNT IV – DAVID HOHMAN, SR. v. ALL REMAINING DEFENDANTS

SUPERVISOR LIABILITY

76. Plaintiff repeats and reiterates paragraphs 1 through 75 herein as if fully set forth at length.

77. Defendant Batts (or his successor) as an agent of the Mayor and City of Baltimore and BPD, and as a supervisor of Defendant Torres, had knowledge of and acquiesced in the unlawful conduct of his subordinate, Torres.

78. Defendant Batts (or his successor) as an agent of the Mayor and City of Baltimore and BPD, and as a supervisor of Defendant Torres, had knowledge of Defendant Torres' prior use of deadly force in 2008 in the Stamp shooting.

79. Defendant Batts (or his successor) as an agent of the Mayor and City of Baltimore and BPD, and as a supervisor of Defendant Torres, failed to identify Torres as a member of BPD displaying behavior that might place the public at risk and failed to utilize the Early

Intervention System, that would require supervisory assessment and potential intervention with Torres.

80. Defendant Batts (or his successor) as an agent of the Mayor and City of Baltimore and BPD, and as a supervisor of Defendant Torres, failed to take remedial actions against Torres after the Stamp shooting to reinforce or retrain on him on the use of force in general, de-escalation and tactical alternatives to the use of force, the use of physical and mechanical force, the use of deadly force, and the limitations that govern the use of force and deadly force.
81. As a result of the Remaining Defendants' failure to properly train, supervise and identify Torres as a member of BPD that might place the public, including Hohman, at risk, Torres was permitted to retain his departmentally issued duty weapon and ammunition and engage in and did engage in unlawful conduct, including the shooting of Mr. Hohman.
82. As a direct and proximate result of the Remaining Defendants failure to properly train, supervise and identify Torres as a member of BPD that might place the public, including Hohman, at risk, Mr. Homan has suffered and will continue to suffer embarrassment, humiliation, emotional distress, physical and psychological injury, pain and suffering, and financial harm, some or all of which may be permanent.
83. Furthermore, as a direct and proximate result of Defendants' conduct, Mr. Hohman has incurred attorneys' fees and other costs.

WHEREFORE, the Plaintiff, David Hohman, Sr, respectfully demands judgment in his favor and against The Mayor and City of Baltimore, the Baltimore City Police Department and

Anthony W. Batts, or his successor, in his capacity as Commissioner of the Baltimore City Police Department, joint and severally, in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus costs, interest and all other relief the Court deems just.

COUNT V- DAVID HOHMAN, SR. v. ALL REMAINING DEFENDANTS

NEGLIGENT HIRING, RETENTION AND SUPERVISION

84. Plaintiff repeats and reiterates paragraphs 1 through 83 herein as if fully set forth at length.
85. The Remaining Defendants, as an employer, owed a duty to all people, including Hohman, not to place others at risk through their actions.
86. Despite the prior propensity for violent conduct of their employee (Torres) as set forth herein, the Remaining Defendants were negligent in retaining and improperly supervising Torres and failed to exercise reasonable care in the training (or lack thereof) of Torres after the Stamp incident.
87. The scope of the Remaining Defendants' duty to all people, including Hohman, included the preventing the risk that Torres, using his departmentally issued duty weapon and ammunition, would risk harm to others, including Hohman.
88. As a direct and proximate cause of the Remaining Defendant's actions and inactions, Mr. Homan has suffered and will continue to suffer embarrassment, humiliation, emotional distress, physical and psychological injury, pain and suffering, and financial harm, some or all of which may be permanent.
89. Furthermore, as a direct and proximate result of Defendants' conduct, Mr. Hohman has incurred attorneys' fees and other costs.

WHEREFORE, the Plaintiff, David Hohman, Sr, respectfully demands judgment in his favor and against The Mayor and City of Baltimore, the Baltimore City Police Department and Anthony W. Batts, or his successor, in his capacity as Commissioner of the Baltimore City Police Department, joint and severally, in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus costs, interest and all other relief the Court deems just.

COUNT VI – DAVID HOHMAN, SR. v. ALL REMAINING DEFENDANTS
RESPONDENT SUPERIOR

90. Plaintiff repeats and reiterates paragraphs 1 through 89 herein as if fully set forth at length.
91. At all times relevant to this Complaint, Defendant Torres was employed by Remaining Defendants as a police officer.
92. On April 29, 2014, Defendant Torres was acting within the scope of his employment by wearing his full uniform, carrying his departmentally issued duty weapon and traveling to a court appearance as required by the terms and conditions of his employment by Remaining Defendants.
93. Torres tortious actions of shooting Hohman were done within the scope of his employment, occurred substantially within the authorized time and space limits of his employment by Remaining Defendants, and were actuated, in whole or in part, by a purpose to serve Remaining Defendants.
94. Remaining Defendants, as masters, are legally responsible for the torts of Torres, its servant.

95. Remaining Defendants liability to Plaintiff David Hohman are extend to the reckless and or criminal acts of Torres.

96. As a direct and proximate cause of the actions of Remaining Defendant's employee, Torres, Mr. Homan has suffered and will continue to suffer embarrassment, humiliation, emotional distress, physical and psychological injury, pain and suffering, and financial harm, some or all of which may be permanent.

97. Furthermore, as a direct and proximate result of Defendants' conduct, Mr. Hohman has incurred attorneys' fees and other costs.

WHEREFORE, the Plaintiff, David Hohman, Sr, respectfully demands judgment in his favor and against The Mayor and City of Baltimore, the Baltimore City Police Department and Anthony W. Batts, or his successor, in his capacity as Commissioner of the Baltimore City Police Department, in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus costs, interest and all other relief the Court deems just.

Count VII – PLAINTIFF ASHLEY HOHMAN v. ALL DEFENDANTS LOSS OF

CONSORTIUM

98. Plaintiffs repeat and reiterate paragraphs 1 through 97 herein as if fully set forth at length.

99. As a result of the actions and inactions of all Defendants as set forth herein, Defendant Ashley Hohman, as the lawful wife of Plaintiff David Hohman, Sr., is entitled to compensation for the loss the services, companionship, marital relations and affection from David Hohman, Sr. because of his physical and emotional injuries.

WHEREFORE, the Plaintiff, Ashley Hohman, respectfully demands judgment in her favor and against The Mayor and City of Baltimore, the Baltimore City Police Department Anthony W. Batts, or his successor, in his capacity as Commissioner of the Baltimore City Police Department, and John E. Torres, joint and severally, in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus costs, interest and all other relief the Court deems just.

Respectfully Submitted,

FrancePaskey

A handwritten signature in black ink, appearing to read "Edward A. Paskey", written over a horizontal line.

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VERIFICATION

I verify that the facts in the foregoing document are true and correct, upon my personal knowledge or information and belief. This verification is made subject to the penalties of 18 Pa. C.S.A. § 4904, relating to unsworn falsification to authorities.

Date: 6-23-17



David Hohman, Sr

VERIFICATION

I verify that the facts in the foregoing document are true and correct, upon my personal knowledge or information and belief. This verification is made subject to the penalties of 18 Pa. C.S.A. § 4904, relating to unsworn falsification to authorities.

Date: 6-23-17

Ashley Pavel Hohman

Ashley Hohman