

105345

SUPERIOR COURT OF WASHINGTON FOR SKAMANIA COUNTY

MARK SETZER,

Plaintiff,

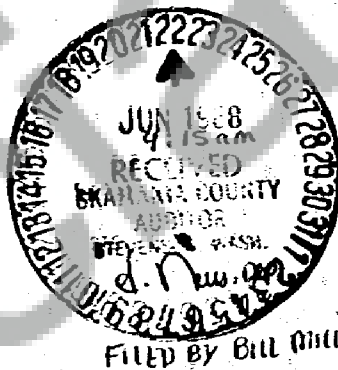
vs

SKAMANIA COUNTY SHERIFF'S
DEPARTMENT; FORMER
SKAMANIA COUNTY SHERIFF
WILLIAM CLOSER; and
SKAMANIA COUNTY DEPUTY
TIM CONVERSE,

Defendants.

NO.

SUMMONS



TO THE DEFENDANTS IN THE ABOVE ENTITLED CAUSE:

Skamania County Sheriff's Department.

A lawsuit has been started against you in the above entitled Court by Plaintiff. Plaintiff's claim is stated in the written Complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the Complaint by stating your defense, in writing, and serve a copy upon the undersigned attorneys for the plaintiff within twenty (20) days after the service of this Summons if served upon you within this state, and within sixty (60) days after service of this Summons if served upon you outside of Washington, excluding the day of service, or a default judgment may be entered against you without notice. A default judgment is one in which Plaintiff is entitled to what he asks for because you have not responded. If you serve a notice of appearance on the undersigned attorney, you are entitled to notice before a default judgment may be entered.

You may demand that the plaintiff file this lawsuit with the court. If you do so, the demand must be in writing and must be served upon Plaintiff's attorneys. Within fourteen (14) days after you serve the demand, the plaintiff must file this lawsuit with the Court, or the service on

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1 you of this Summons and Complaint will be void.

2 If you wish to seek the advice of an attorney in this
3 matter, you should do so promptly so that your written
4 response, if any, may be served on time.

5 This Summons is issued pursuant to Rule 4 of the Superior
6 Court Civil Rules of the State of Washington.

7 DATED this 20 day of June, 1988.

8 John Thomas Day
9 JOHN THOMAS DAY, P.S., INC.
10 BY: JOHN THOS. DAY, #3099
11 Of Attorneys for Plaintiff
12 P. O. Box 401
13 Stevenson, WA 98648
14 (509) 427-5111

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20 JOHN THOMAS DAY P.C.
21 ATTORNEYS-AT-LAW
22 P. O. BOX 401
23 STEVENSON, WASHINGTON 98648
24 (509) 427-5111
25
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4 SUPERIOR COURT OF WASHINGTON FOR SKAMANIA COUNTY

5 MARK SETZER,)
6)
7 Plaintiff,) NO.
8)
9 vs) COMPLAINT
10)
11 SKAMANIA COUNTY SHERIFF'S)
12 DEPARTMENT: FORMER)
13 SKAMANIA COUNTY SHERIFF)
14 WILLIAM CLOSNER; and)
15 SKAMANIA COUNTY DEPUTY)
16 TIM CONVERSE,)
17)
18 Defendants.)
19)
20)

21 Comes now MARK SETZER, Plaintiff in the above entitled
22 action and complains and alleges the following:
23

24 I.

25 PARTY PLAINTIFF

26 Plaintiff, Mark Setzer, is a resident of Skamania
County, Washington.

II.

PARTIES DEFENDANT

The Skamania County Sheriff's Department is a division
of Skamania County, a political subdivision of the State
of Washington. Former Sheriff William Closner and Deputy
Tim Converse are residents of Skamania County, Washington.

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III.

VENUE - JURISDICTION

Venue and jurisdiction of this matter rests with the Superior Court of Skamania County, Washington.

IV.

FACTS

On or about the 14th day of August, 1986, while acting in his official capacity as a Sheriff's Deputy for the Skamania County Sheriff's Department, under the direct supervision of Sheriff Closner, Defendant Converse shot the plaintiff, a minor, in the right chest while conducting a field investigation.

V.

FIDUCIARY RELATIONSHIPS

As a private citizen, being then and there located in Skamania County, Washington, the defendants owed the plaintiff a fiduciary duty to enforce the laws of the State of Washington, protect him from unlawful and unreasonable harm within the normal course of their duties and to treat him in a reasonable, professional and prudent manner according to the professional standards of law enforcement.

LEGAL THEORIES

VI.

ASSAULT

Defendant's actions constituted an actionable assault upon the person of the plaintiff.

1 VII.

2 BATTERY

3 The actions of the defendants constituted an actionable
4 battery against the plaintiff.

5 VIII.

6 ATTEMPTED HOMICIDE

7 The actions of the defendants constituted an attempted
8 homicide which is an actionable tort against the person
9 of the plaintiff.

10 IX.

11 NEGLIGENCE

12 The actions of the defendants constituted negligence
13 against the plaintiff.

14 X.

15 SPECIFIC NEGLIGENCE

16 Pursuant to CR 8(e)(2), Plaintiff alleges the following,
17 alternately:

18 XI.

19 That Defendants' actions were caused by the negligence,
20 or gross negligence, of Deputy Converse;

21 XII.

22 That Defendants' actions were caused by the lack of
23 instruction or training, or the poor judgment of Deputy
24 Converse;

25 XIII.

26 That the acts of the defendants were caused by the

1 lack of training guidelines, lack of training provided,
2 or poor supervision by Sheriff Closner,

3 XIV.

4 That the acts of the defendants were caused by the
5 lack of guidelines, lack of policy, lack of training, or
6 poor policy enforcement of the Sheriff's Department of
7 Skamania County.

8 Deputy Converse had a long history of acts of poor
9 judgment known to the Sheriff.

10 XV.

11 BREACH OF FIDUCIARY DUTY

12 Defendants' actions constituted a breach of their
13 fiduciary duty owed to the plaintiff.

14 XVI.

15 LIABILITY

16 Each of the defendants are jointly and severally liable
17 to the plaintiff for each and all of his damages.

18 XVII.

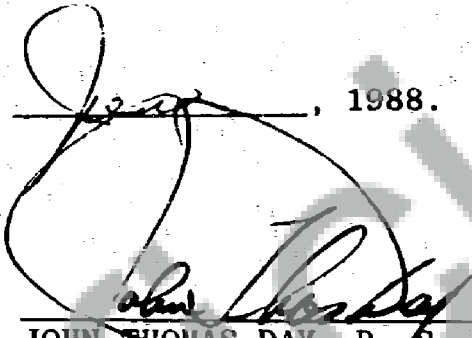
19 DAMAGES

20 As a result of defendants' actions, Plaintiff has
21 suffered in an amount to be determined by a jury at trial.
22 These damages include, but as determined by the jury may
23 not be limited to, medical expenses, future medical expenses,
24 temporary disability, permanent partial disability, pain
25 and suffering, lost wages and lost future wages.

26 //

1 WHEREFORE, Plaintiff prays for judgment in his favor
2 in an amount to be awarded by the jury at trial, plus costs,
3 plus other remedy that the court finds just, lawful and
4 appropriate.

5 DATED this 14 day of June, 1988.

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8 
9 JOHN THOMAS DAY, P. S., INC.
10 BY: JOHN THOS. DAY, #3099
11 Of Attorneys for Plaintiff
12 P. O. Box 401
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SUPERIOR COURT OF WASHINGTON FOR SKAMANIA COUNTY

MARK SETZER,

Plaintiff,

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DEPARTMENT: FORMER
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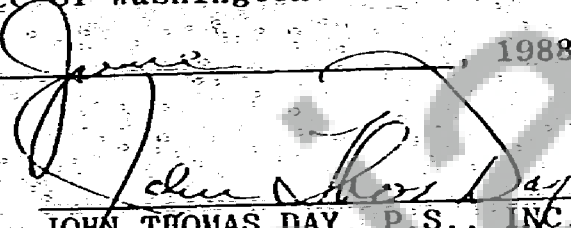
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1 you of this Summons and Complaint will be void.

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7 DATED this 20 day of June, 1988.

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10 BY: JOHN THOS. DAY, #3009
11 Of Attorneys for Plaintiff
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COMPLAINT

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action and complains and alleges the following:

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PARTY PLAINTIFF

Plaintiff, Mark Setzer, is a resident of Skamania
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PARTIES DEFENDANT

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LEGAL THEORIES

VI.

ASSAULT

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VII.

BATTERY

The actions of the defendants constituted an actionable battery against the plaintiff.

VIII.

ATTEMPTED HOMICIDE

The actions of the defendants constituted an attempted homicide which is an actionable tort against the person of the plaintiff.

IX.

NEGLIGENCE

The actions of the defendants constituted negligence against the plaintiff.

X.

SPECIFIC NEGLIGENCE

Pursuant to CR 8(e)(2), Plaintiff alleges the following, alternately:

XI.

That Defendants' actions were caused by the negligence, or gross negligence, of Deputy Converse;

XII.

That Defendants' actions were caused by the lack of instruction or training, or the poor judgment of Deputy Converse;

XIII.

That the acts of the defendants were caused by the

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2 or poor supervision by Sheriff Closner,

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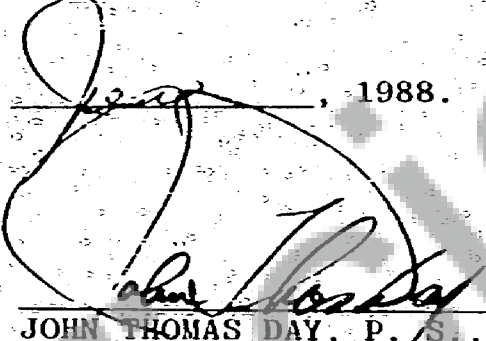
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3 plus other remedy that the court finds just, lawful and
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