

CIVIL COVER SHEET

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I. PLAINTIFFS Joyce Holly, Individually, and as Next Friend of Chad Holley, a Minor. DEFENDANTS Andrew T. Blomberg In His Individual and Official Capacity. II. BASIS OF JURISDICTION. III. CITIZENSHIP OF PRINCIPAL PARTIES. IV. NATURE OF SUIT. V. ORIGIN. VI. CAUSE OF ACTION. VII. REQUESTED IN COMPLAINT. VIII. RELATED CASE(S) IF ANY.

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

JOYCE HOLLEY, INDIVIDUALLY, AND AS NEXT FRIEND OF CHAD HOLLEY, A MINOR Plaintiffs, v. ANDREW T. BLOMBERG, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY Defendant.

PLAINTIFFS' ORIGINAL COMPLAINT AND JURY DEMAND

Plaintiffs Joyce Holly, Individually, and as Next Friend of Chad Holley, a Minor, (hereinafter referred to collectively as "Plaintiffs" and individually as "Joyce" and "Chad") against Defendant Andrew T. Blomberg ("hereinafter referred to as "Blomberg") for the following reasons:

PARTIES

1.1 Plaintiff Joyce Holly, individually, is the biological mother of Chad Holley, a minor. She is a resident of Houston, Harris County, Texas. 1.2 Plaintiff Joyce Holley, as next friend of Chad Holley, a minor, resides in Houston, Harris County, Texas. 1.3 Defendant Andrew T. Blomberg was at all relevant times herein, an individual and police officer with the City of Houston Police Department and may be served with process at [redacted] or wherever he may be found.

JURISDICTION AND VENUE ALLEGATIONS

2.1 This Court has federal question jurisdiction under 42 U.S.C. §§1982, 1983, 1985 and 1988, as well as under the Fourth, Fifth, Eighth and Fourteenth Amendments to the United States Constitution and federal laws. This case involves the unreasonable arrest, use of excessive force and deprivation of constitutional rights belonging to Chad Holley, a minor, by a state actor and/or under color of state law which included, but is not limited to, deprivation of Chad's liberty and freedom interests from excessive and unreasonable force, unreasonable seizure, violation of due process rights, cruel and unusual use of force, and improper seizure of Chad by defendant. Chad's equal protection rights under the law were also violated.

2.2 Venue is proper in the Southern District of Texas because the events giving rise to the claims asserted herein occurred within this district, more particularly, in Harris County, Texas. All conditions precedent to bring this action have occurred and/or have been performed.

2.3 Defendant Blomberg has actual knowledge of the matters complained of herein because he actually participated in the events and is presently involved in other Harris County litigation involving the events involved in this case. All of the acts and omissions complained of herein against defendant occurred under color of state law.

SIMPLE STATEMENT OF NOTICE ALLEGATIONS

3.1 On or about March 23, 2010, Chad Holley sustained a brutal beating while in the custody of defendant Blomberg. At the time, Blomberg was a Houston police officer who worked out of the Westside Division Tactical and Gang Units. On the date in question, Blomberg participated in the arrest of unarmed Chad Holley, a 15 year old, in the 12300 block of Wellington Park.

3.2 Chad, after being confronted by police officers, lay on the ground, placing his hands behind his head and neck in an obvious position of surrender. Despite the fact that Chad had clearly and unmistakably surrendered to police custody, and as he lay belly down on the ground, defendant Blomberg stomped down on the back of Chad's head and neck with incredible force. Such use of force was traumatic, cruel and unreasonable, especially given the obvious and unconditional surrender of this unarmed minor to an armed police officer. There is no justification or reasonable basis in law, fact, or otherwise to justify defendant Blomberg's brutal attack on Chad after he had surrendered to police officers.

3.3 As a result of Blomberg's excessive and unreasonable use of force against this minor, Chad has sustained head, neck and brain injuries. Medical records shortly after the event reveal that Chad sustained grave injuries to his head, eyes, brain and face, as well as experienced associated systems of loss of consciousness and memory impairment. He also suffered a concussion with loss of consciousness, facial and scalp contusions, subconjunctival hemorrhaging and post-concussion syndromes. He also suffers from post-traumatic stress disorder.

3.4 Chad is undergoing psychological and psychiatric care since the beating and he has been found to be suffering from mental deficits, neurological impairment and psychological malfunctions. He is now susceptible to persistent headaches, nausea, dizziness, weakness, insomnia and feelings of nervousness and depression as

documented by medical care providers. Defendant Blomberg's excessive and unreasonable use of force as a state actor are the direct cause of Chad's present medical and physical impediments. Blomberg's conduct exceeds the bounds of reasonable and constitutional exercise of force by a state actor against a suspect who had voluntarily surrendered.

3.5 Because of the injuries sustained by Chad, his mother has also incurred the additional burden of having to care and pay for increased medical and psychological bills to care for her son. She also experiences on a daily basis the mental changes in her son for his continued recovery and mental impairment because of defendant's abusive conduct.

3.6 Blomberg's abusive conduct was captured on videotape documenting the unconstitutional excessiveness of his conduct.

CLAIMS FOR RELIEF

4.1 Relying on the foregoing allegations, and such proof as may be discovered in this case and adduced at trial, Plaintiffs now bring suit against defendant Andrew T. Blomberg, in his individual and official capacities, and for causes of action assert the following: 4.2 Plaintiffs assert that defendant's conduct exceeds the constitutional limits prescribed for the use of force to seize the person of a suspect. Defendant's conduct deprived Chad Holley of his constitutional liberty interests and right to be free from improper, unreasonable and excessive seizure. The defendant's conduct also

constitutes a deprivation of Chad's constitutional rights which is actionable pursuant to 42 U.S.C. §§1983, 1982 and 1988.

4.3 Further, Plaintiffs complain that Chad's constitutional rights to due process and equal treatment under the law were violated by defendant and caused Plaintiffs' damages. Defendant Blomberg, under color of state law, used excessive force to subdue Chad Holley. Blomberg's actions suggest he either lacked adequate training and/or was carrying out his conduct in conformity with an unwritten and de-facto policy and/or practice of the state entity for which he worked.

4.4 Based on information and belief, and pleading alternatively, Plaintiffs also assert that the defendant, in his individual capacity, utilized his own personal equipment, property and/or instruments of force to cause bodily injury and harm to Chad Holley. Derivative Claims: Loss of Consortium

4.5 Plaintiff Joyce Holly asserts that she is entitled to loss of consortium damages, the additional costs for medical, psychological and psychiatric treatment Chad will need up to the age of 21, for which she would be responsible. Plaintiff also sues for her personal loss of consortium damages due to the impairment of Chad's mental faculties to deal with and express love and affection toward his mother. Joyce also has to experience on a daily basis the altered psychological state of her son which causes her mental distress and anguish.

REQUEST FOR ATTORNEY'S FEES

Plaintiffs seek recovery of their attorney's fees in this action under 42 U.S.C. §1988, and as permitted at law.

PRAYER

6.1 For the reasons stated herein, and the proof adduced at trial in this matter, Plaintiffs request this Court empanel a jury of good and honest citizens and, after presentation of evidence, enter a judgment in favor of Plaintiffs and against defendant Blomberg in at least the following particulars:

- 1. actual damages, as permitted at law, totaling between \$1 and \$10 million dollars against defendant Blomberg, individually and in his official capacity; 2. punitive damages, as permitted at law, totaling up to three (3) times actual damages awarded to be just; 3. attorney's fees, as permitted at law; 4. pre- and post-judgment interest; 5. costs of court; and 6. all other relief to which Plaintiffs may be justly entitled.

Respectfully submitted, Benjamin L. Hall, III Federal Bar No. 8787

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