

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

OFFICER JOHN DOE POLICE OFFICER	*	CIVIL ACTION NO:
v.	*	DIV:
	*	JUDGE
DeRAY McKESSON; and	*	
BLACK LIVES MATTER	*	MAGISTRATE JUDGE
	*	

COMPLAINT FOR DAMAGES/POLICE OFFICER HIT IN FACE WITH ROCK

Now into court, through undersigned counsel, comes **OFFICER JOHN DOE POLICE OFFICER** for all injuries incurred as a result of the actions of defendants in use of force and injury or other causes as follows:

1.

JURISDICTION

The jurisdiction of this Honorable Court is invoked Pursuant to 28 USC § 1332 "Diversity Jurisdiction" and accordingly plaintiff specifically avers that his injuries and compensable damages are greater than \$75,000.00 exclusive of interest and costs.

2.

VENUE

Venue is proper pursuant to 28 USC § 1391 (b)(D(2) in that the Plaintiff resides in Baton Rouge and was injured in Baton Rouge and the Defendants are foreign persons who reside in another state. A substantial part of the events or omissions giving rise to the claim herein occurred in this district.

3.

Parties

PLAINTIFF:

OFFICER JOHN DOE POLICE OFFICER (hereafter "OFFICER") is a major who appears as a John Doe for his protection and who during material times herein was a duly commissioned Baton Rouge Police Officer who on July 9, 2016, was ordered to appear and respond to a protest staged and organized by DeRAY McKESSON on behalf of

“BLACK LIVES MATTER” a national organization.

DEFENDANTS:

DeRAY McKESSON, is a major, who is a resident of the State of Maryland and who during material times herein was a leader and co-founder of the national unincorporated organization that is known as “BLACK LIVES MATTER” and who during all material times in July 2016 while he was in Baton Rouge Louisiana was acting on behalf of BLACK LIVES MATTER and who lead the protest and violence that accompanied the protest in Baton Rouge Louisiana that took place outside the Baton Rouge Police Department located in the old Woman’s Hospital on Airline Highway and who is amenable to service of process personal at his home in Baltimore, Maryland or where ever he may be found.

BLACK LIVES MATTER, is a national unincorporated association with chapter in many states and which in July 2016 staged a protest, blocking of a public highway, looting of a Circle K, throwing of items stolen and violence towards police in Baton Rouge, Louisiana, and which is amenable to service of process through a managing member. DeRay McKesson is a managing member of BLACK LIVES MATTER.

4.

BLACK LIVES MATTER was created by Alicia Garza, Patrisse Cullors, and Opal Tometi. The leaders of BLACK LIVES MATTER are RASHAD TURNER, JOHNETTA ELZIE and DeRAY McKESSON.

GENERAL ALLEGATIONS

5.

On July 7, 2016, Lakeem Keon Scott shot at passing cars along a Tennessee highway, killing one woman and wounding three others, including a police officer while yelling, “police suck! Black lives matter!”

6.

On July 5, 2016, Alton Sterling was shot and killed by a Baton Rouge Police Officer,

which started a flurry of activity by DEFENDANTS.

7.

On July 7, 2016, 12 police officers in Dallas Texas were shot. Activities of BLACK LIVES MATTER was associate with the shooting.

8.

The shooting in Dallas occurred around 9:00 p.m., on July 7, 2016, at a “Black Lives Matter” protest/riot during which at least one sniper shot twelve (12) police officers that were on duty to keep the peace at the rally. Five officers were killed and seven were seriously injured.

9.

On Saturday, July 9, 2016, **OFFICER JOHN DOE POLICE OFFICER** was a duly commissioned police officer, who was ordered to respond to a protest, march and blocking of a public street organized by Defendants.

10.

By July 9, 2016, Defendants were in Baton Rouge for the purpose of staging a protest. Protests in other cites staged by Defendants resulted in violence and property loss. DEFENDANTS conspired to violate the law by planning to block a public highway.

11.

DEFENDANTS were in Baton Rouge for the purpose of demonstrating, protesting and rioting to incite others to violence against police and other law enforcement officers.

12.

The Defendants announced that they would stage a protest/demonstration at the intersections of Airline Highway and Goodwood Boulevard, which is the location of the Baton Rouge Police Department and which is a known public highway.

13.

The protest was called a demonstration that was organized by the DEFENDANTS.

14.

At all time, DEFENDANTS knew police would be called to clear the public highway of protestors.

15.

Anticipating violence and property loss Baton Rouge Police Department arranged for a front line of officers in riot gear that formed a shield around officers who were to effectuate arrests and removal of Defendants from the public highway.

16.

OFFICER was one of the police officers who was ordered to make arrests.

17.

At the beginning the protest was peaceful until activist began pumping up the crowd. DeRay McKesson was in charge of the protests and he was seen and heard giving orders throughout the day and night of the protests.

18.

The protest turned into a riot. DEFENDANTS and their membership began to loot a Circle K and one of the items taken was plastic full water bottles, which Defendants began to hurl at the police who were in riot gear and hurl over the line of police in riot gear to strike the police who were behind the protective shield formed by the officers in riot gear. Officers were struck by the full water bottles.

19.

Defendant DeRay McKesson was present during the protest and he did nothing to calm the crowd and, instead, he incited the violence on behalf of the Defendant BLACK LIVES MATTER.

20.

When the Defendants ran out of the water bottles they were throwing at the Baton Rouge City Police, a member of Defendant BLACK LIVES MATTER, under the control and

custody of the DEFENDANTS, then picked up a piece of concrete or similar rock like substance and hurled into the police that were making arrests.

21.

OFFICER was struck fully in the face and immediately knocked down and incapacitated. OFFICER'S injuries include loss of teeth, injury to jaw, injury to brain and head as well as lost wages and other compensable losses.

22.

In the alternative, these DEFENDANTS have similarly attacked other businesses and other persons while protesting/rioting.

23.

Following the violence, DEFENDANTS took credit/blame for the protest and riot.

24.

On Sunday, DeRay McKesson told the New York Times, "The police want protesters to be too afraid to protest." He suggested that he intended to plan more protests.

25.

It was unreasonable for Defendant(s) to use force on OFFICER when he was not threatening any of them and performing lawful duties under color of law.

26.

During the riot, DeRay McKesson was arrested and the status of those charges are unknown.

27.

The following claims for relief are pled collectively and in the alternative.

28.

FIRST CLAIM FOR RELIEF

NEGLIGENCE

The DEFENDANTS knew or should have known that the physical contact and riot

and demonstration that they staged would become violent as other similar riots had become violent and thus DEFENDANTS knew or should have know that violence would result especially after they began assaulting police, they knew or should have known their actions could cause and/or lead to serious personal injury.

29.

Plaintiff seeks relief under La. C.C. arts. 2315 and 2317 of the Louisiana Civil Code, which injuries were occasioned by the intentional and/or negligent acts and/or omissions of the Defendant(s) herein.

30.

RESPONDEAT SUPERIOR

Pursuant to La. C.C. art. 2317, Defendants are liable for the actions of the BLACK LIVES MATTER membership, which caused the injuries herein.

31.

Pursuant to La. C.C. art. 2324, the Defendant are liable in solido for the injuries caused to OFFICER for their intentional actions and for conspiring to incite a riot/protest and other damages.

32.

INJURIES

The Plaintiff suffered acute injury and multiple serious and prolonged injury which include but are not limited to his neck, and face, discomfort, humiliation, pain and suffering, mental and emotional injury, medical and pharmaceutical expenses, and future lost wages.

33.

REQUEST FOR JURY TRIAL

Plaintiff prays for a jury trial on all issues.

Wherefore, Plaintiffs pray that the Defendants be cited to appear and answer and that after resolution of this matter that this Honorable Court enter Judgment in favor of the

Plaintiffs against the defendants with legal interest from the date of demand as follows:

- a. Physical pain and suffering;
- b. Physical injuries;
- c. For emotional and mental distress, pain and suffering, humiliation, embarrassment and loss of employment opportunities;
- d. Medical, hospital and pharmaceutical bills and services past, present, and future;
- e. inconvenience;
- f. Future lost wages;
- g. All litigation expenses; and
- h.. For such other relief that the Court may deem just, equitable, or proper.

Respectfully submitted:

s/ Donna U. Grodner

Donna U. Grodner (20840)
GRODNER & ASSOCIATES
2223 Quail Run, B-1
Baton Rouge, Louisiana 70808
(225) 769-1919 FAX (225) 769-1997
Dgrodner@grodnerlaw.com

Denise A. Vinet (17185)
VINET & DAY, LLC
11817 Bricksome Ave., Ste A
Baton Rouge, Louisiana 70816
(225) 292-7410 FAX (225) 292-4149

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
Officer John Doe Police Officer
(b) County of Residence of First Listed Plaintiff East Baton Rouge Parish
(c) Attorneys Donna U. Grodner 20840, 2223 Quail Run Drive Ste B Baton Rouge, La 70808

DEFENDANTS
DeRay McKesson and Black Lives Matter
County of Residence of First Listed Defendant Baltimore, Md.
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys unknown

II. BASIS OF JURISDICTION
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question
4 Diversity

III. CITIZENSHIP OF PRINCIPAL PARTIES
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country

IV. NATURE OF SUIT
CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES

V. ORIGIN
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District
6 Multidistrict Litigation

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing
La. C.C. art. 2315, et seq.
Brief description of cause: BRPO injured by Black Lives Matter protester during demonstration/looting

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
JUDGE DOCKET NUMBER

DATE 11/07/2016 SIGNATURE OF ATTORNEY OF RECORD /s Donna U. Grodner

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.