

**ORIGINAL**

FILED  
COURT OF CLAIMS  
OF OHIO

IN THE COURT OF CLAIMS OF OHIO

2014 FEB 24 AM 10:40

LYNDSEY HOWELL

Plaintiff

-V-

THE OHIO UNIVERSITY  
POLICE DEPARTMENT

Defendant

:  
:  
: Case Number: 2013-00001  
:  
:  
: Judge: McGrath  
:  
: Magistrate: Shaver  
:  
:

PRE-TRIAL STATEMENT OF PLAINTIFF

I APPEARANCES:

Vincent DePascale, S.Ct. # 0013227  
786 Northwest Boulevard  
Grandview Heights, OH 43212  
641-298-8200

ATTORNEY FOR LYNDSEY HOWELL

Christopher Conomy  
150 East Gay Street, 18<sup>th</sup> floor  
Columbus OH 43215

ATTORNEY FOR DEFENDANT

II TRIAL INFORMATION:

The case is presently scheduled for a Court Trial, before a Judge, commencing on 31 March 2014, at 10:00 a. m.

**ON COMPUTER**

### III ISSUES FOR TRIAL:

On 21 January 2012 Plaintiff was arrested by Officer Eric Hoskinson of the Ohio University Police Department and was handcuffed by Officer Hoskinson.

Immediately upon being handcuffed Ms Howell complained of pain in her hand and ultimate medical treatment showed that her left thumb was fractured.

At the time that Ms Howell's vehicle was stopped by Officer Hoskinson Ms Howell was uninjured. When Officer Hoskinson had completed the handcuffing procedure Ms Howell's left thumb was fractured.

The ancillary facts show that Ms Howell's vehicle was stopped, in a snow storm, because the headlight doors on the car were frozen shut and she did not know her headlights were not lit; Ms Howell was not stopped for erratic driving of any kind or type. Although Ms Howell was charged with drunk driving she was not convicted of that charge in Municipal Court, and was acquitted in the Student Court of all charges.

As a result of having her thumb fractured in the handcuffing procedure, Ms Howell incurred medical expenses in excess of \$5,000.00, has been required to hire a lawyer to represent her in this Court, and has incurred the costs of litigation in amounts as yet undetermined. As a result of having her thumb fractured in the handcuffing procedure, Ms Howell suffered pain in her hand and embarrassment.

#### IV LEGAL ISSUES:

1. Whether the Defendant is liable for the injures, medical expenses, and costs incurred as a result of the fact that Plaintiff's thumb was broken during the handcuffing procedure.
2. Whether Defendant's Counsel is subject to sanctions for his willful failure to participate in the discovery process in this case.

#### V WITNESSES:

Plaintiff expects to call the following persons as witnesses in this case:

1. LT Eric Hoskinson as on Cross-Examination.
2. Andrew Sowers.
3. EMT Ronald Herbert
4. Lyndsey Howell
5. Possible rebuttal witnesses undetermined at this time.

#### VI EXHIBITS:

A: Plaintiff will offer the following exhibits at trial, all of which have previously been provided to the Defense in discovery or received from the Defense in response to requests for discovery.

1. Medical bills incurred by Ms Howell.
2. Medical records from Obleness Hospital, including X-Ray disc.

3. Medical records from Holzer Clinic.
4. Run report from Athens County Emergency Medical Services.
5. Documents from the personnel file of Eric Hoskinson.

B: Plaintiff reserves the right to identify such other documents as may become relevant either by further discovery responses from Defendants or answers at trial by Lt Hoskinson.

VIII PENDING MATTERS:

Plaintiff's Objections to Magistrate's Decision is still pending before the Judge.

IX SETTLEMENT:

No meaningful settlement discussions have occurred.

RESPECTFULLY SUBMITTED,



VINCENT DePASCALE, Trial Attorney  
786 NORTHWEST BOULEVARD  
GRANDVIEW HEIGHTS, OH 43212  
(614) 298-8200 S.Ct. # 0013227  
ATTORNEY FOR LYNDSEY HOWELL

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the forgoing upon Christopher Conomy, Assistant Attorney General as attorney for Defendant, this 20<sup>th</sup> day of February, 2014 , by regular U.S. Mail.

  
VINCENT DEPASCALE  
ATTORNEY FOR LYNDSEY HOWELL