

Cause No. 97285

SHELLEY LYN GOODMAN-HUSKINS
AND RANDY CHARLES HUSKINS
AND [REDACTED]

Plaintiff,

v.

CITY OF ITALY

Defendant

Ellis County - 443rd District Court

IN THE DISTRICT COURT

_____ JUDICIAL DISTRICT

ELLIS COUNTY, TEXAS

**PLAINTIFFS' ORIGINAL PETITION,
PLAINTIFFS' FIRST WRITTEN DISCOVERY TO DEFENDANT, AND
PLAINTIFFS' NOTICE OF ORAL DEPOSITIONS**

Comes Now SHELLEY LYN GOODMAN-HUSKINS AND RANDY CHARLES HUSKINS AND [REDACTED] Plaintiffs, complaining of and about the CITY OF ITALY hereinafter called Defendant, and for cause of action shows unto the Court the following:

A.

Discovery Control Plan; Rule 47 Statement

1. Plaintiffs intend to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.4 and affirmatively pleads that this suit is not governed by the expedited-actions process in Texas Rule of Civil Procedure 169. Plaintiffs seek relief under Rule 47(c)(4) of the Texas Rules of Civil Procedure.

B.

Parties

2. Plaintiffs are residents of Ellis County, Texas

3. Defendant, CITY OF ITALY, is a governmental unit consisting of a municipal corporation organized under the laws of the State of Texas, and may be served with process by serving the Mayor, Jackie D. Cate and/or City of Italy Assistant Secretary, Amber Cunningham and/or the City Administrator, Shawn Holden at 161 West Main Street, Italy, Texas. The position of City Secretary is currently vacant. Citations are requested for this Defendant and service will be completed by a private process server.

C.
Jurisdiction; Venue

4. The Court has continuing jurisdiction over the CITY OF ITALY under the Texas Tort Claims Act (TTCA). This is a claim brought under the TTCA, Texas Civil Practice & Remedies Code Chapter 101. The court has jurisdiction over this claim because the TTCA waives a defendant's sovereign/ governmental immunity for claims involving personal injury and death so caused by a condition or use of tangible personal or real property if the governmental unit would, were it a private person, be liable to the claimant according to Texas law. Tex. Civ. Prac. & Rem. Code § 101.021(2). This claim, as set out more fully below, involves personal injury caused by the negligent release of tangible personal property (i.e. negligent release of body camera recording taken at Plaintiff's residence).

5. At all times material to this cause of action, all of the servants, agents, and employees of Defendant who were in any way connected with the occurrence described in this Petition were acting in the course and scope of their employment or official duties and in furtherance of the duties of their office or employment.

6. The damages and injuries suffered by Plaintiffs as described herein were the

direct and proximate result of the negligence, deliberate indifference, gross negligence and callous disregard of Defendant.

7. No exception to the waiver of immunity applies to reinstate Defendant's sovereign/governmental immunity for this claim.

8. At the time of the incident(s) made the basis of this case, and in the days following thereafter, Defendant received actual notice of the information it is entitled to be given under Section 101.101(a) of the TTCA, sufficient to give Defendant a subjective awareness that its fault produced or contributed to the Plaintiffs' injury. Therefore, the CITY OF ITALY had actual notice of Plaintiffs' claim prior to suit being filed.

D. Facts

9. This lawsuit is based on injuries suffered by Plaintiffs while living in the area where the City of Italy Police Department offered its protection. On the night of November 11, 2016, upon returning home from a football game, Plaintiffs found their home had been broken into and they called 911. Shortly thereafter a CITY OF ITALY police officer arrived with a body camera on and operating and proceeded to investigate within the Plaintiffs' residence.

10. On or about January 11, 2017 at the Italy Police Department at least 5 people were crowded around a CITY OF ITALY computer consisting of Jason Cherry, Chief of Police (now former), Steven Farmer, Mayor (now former), Tina Long, Court Clerk, Amber Cunningham, city employee and Paul Sherrain, City Councilman who were viewing the City of Italy police officer's body camera footage from the night of the burglary at the Plaintiffs' home. This footage was taken inside Plaintiffs' home and the

people on the footage consisted of the Plaintiffs and their daughter (hereinafter "recording").

11. Thereafter, Amber Cunningham, a city employee and other unknown city employees obtained a copy of the said recording and disseminated it further in the CITY OF ITALY.

12. At all times, the individuals mentioned herein above in paragraphs #9, #10 and #11 were the agent, servant and employee of the CITY OF ITALY and were acting within the scope of his/her authority as such agent, servant, and employee. The CITY OF ITALY is liable to Plaintiffs for the negligence of its employee(s).

13. As a result of these events, Plaintiffs suffered the damages, harms and losses more fully set forth below.

**E.
Causes of Action**

14. The CITY OF ITALY is a governmental unit consisting of a municipal corporation. Defendant acts and acted under color of the statutes, regulations, rules, customs, policies, ordinances, and/or usage of the State of Texas, the CITY OF ITALY and the Italy Police Department. The CITY OF ITALY as a municipality has as governmental functions police protection and control and owed Plaintiffs a high degree of care such as would be used by a cautious, competent, and prudent person under the same or similar circumstances.

15. The CITY OF ITALY and the Italy Police Department owed this level of care to the Plaintiffs and breached this duty in one or more of the following ways:

- a. Disclosing at various times to individuals, not the Plaintiffs, portions/entirety of a recording made in the Plaintiffs' home/ private space by a body camera of the City of Italy (specifically the Italy Police Department) without written authorization from the Plaintiff(s) who is/are the subject of that portion/entirety of the recording. See Texas Occupation Code Section 1701.661(f).
- b. Viewing at various times by individuals, not the Plaintiffs, of portions/entirety of a recording made in the Plaintiffs' home/ private space by a body camera of the CITY OF ITALY (specifically the Italy Police Department) without written authorization from the Plaintiff(s) who is/are the subject of that portion/entirety of the recording. See Texas Occupation Code Section 1701.661 (f).

16. The CITY OF ITALY as a governmental unit provides as a governmental function the Italy Police Department. At the time of Plaintiffs' injuries, the Italy Police Department's employees were operating within the course and scope of their employment with the Italy Police Department and the CITY OF ITALY. These employees were negligent in disclosing and allowing viewing of portions and/or the entirety of a recording made in the Plaintiffs' home/private space by a body camera of the City of Italy and more specifically the Italy Police department without written authorization from the Plaintiff(s) who is/are the subject of that portion or the entirety of the recording. The Defendant would be personally liable to the Plaintiffs under Texas law, as a result of the negligence which proximately caused Plaintiffs' injuries.

F.
Damages

17. As a proximate result of the CITY OF ITALY's negligence, Plaintiffs suffered injuries for which Plaintiffs each seek the following damages:

- a. mental anguish, in the past and in the future;

- b. mental disability and impairment, in the past and in the future; and
- c. loss of earning capacity in the past and future and/or lost profits past and future.

18. Plaintiff seeks unliquidated damages in an amount that is within the jurisdictional limits of the Court. Plaintiff requests that the trier of fact assess the dollar amount of those damages described herein that will make Plaintiff whole.

**G.
Jury Demand**

19. Plaintiff requests a jury trial and tenders the appropriate fee.

**H.
Discovery**

20. Defendant is requested to answer the discovery attached as Exhibit "A" within fifty (50) days from service of this petition.

21. As Exhibit "B," Plaintiffs attach their Notices of Deposition for Defendant's employees at the time of the incident:

- a. Cameron Beckham, former Chief of Police;
- b. Steven Farmer, former Mayor of Italy,
- c. Clarice Crocker, City of Italy employee; and
- d. Amber Cunningham, City of Italy employee.

PRAYER

Wherefore, Premises Considered, Plaintiffs respectfully pray that the Defendant be cited to appear and answer herein, and that upon final hearing of the cause, judgment be entered for the Plaintiffs against Defendant for personal injury damages in an amount within the jurisdictional limits of the Court, together with pre-judgment and post-judgment interest at the maximum rate allowed by law, costs of court, and attorney's fees and such other and further relief to which the Plaintiffs may show themselves justly entitled.

Respectfully Submitted,

BOHACH, SKIBELL, DORSEY & STROUD, P.C.
17110 Dallas Parkway, Suite 212
Dallas, Texas 75248
Tel: (214) 750-6300
Fax: (972) 735-8121

By: Kari Bohach
Kari Bohach
State Bar No. 24075662
Attorney for Plaintiffs

EXHIBIT A

Cause No. _____

SHELLEY LYN GOODMAN-
HUSKINS AND RANDY
CHARLES HUSKINS AND
[REDACTED]

Plaintiff,

v.

CITY OF ITALY

Defendant

IN THE DISTRICT COURT

_____ JUDICIAL DISTRICT

ELLIS COUNTY, TEXAS

PLAINTIFF'S FIRST WRITTEN DISCOVERY TO DEFENDANT

To: CITY OF ITALY

Plaintiffs request that Defendant answer the following Request for Disclosure within fifty (50) days after service.

Respectfully Submitted,

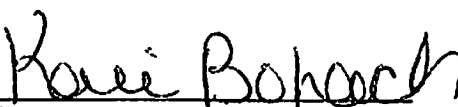
BOHACH, SKIBELL, DORSEY & STROUD, P.C.
17110 Dallas Parkway, Suite 212
Dallas, Texas 75248
Tel: (214) 750-6300
Fax: (972) 735-8121

By: Kari Bohach

Kari Bohach
State Bar No. 24075662
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned certifies that the following discovery requests were affixed to Plaintiffs' Original Petition and personally served upon Defendant by private process server.


Kari Bohach

REQUEST FOR DISCLOSURE

1.
R.194.2(a):

State the correct names of the parties to the lawsuit.

2.
R.194.2(b):

State the name, address, and telephone number of any potential parties.

3.
R.194.2(c):

State the legal theories and, in general, the factual bases for your claims or defenses.

4.
R.194.2(d):

State the amount and any method of calculating economic damages.

5.
R.194.2(e):

State the name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case.

6.

R.194.2(f):

For any testifying expert, state:

1. the expert's name, address, and telephone number;
2. the subject matter on which the expert will testify;
3. the general substance of the expert's mental impressions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to your control, documents reflecting such information;
4. if the expert is retained by, employed by, or otherwise subject to your control:
 - A) produce all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
 - B) produce the expert's current resume and bibliography.

7.

R.194.2(g):

Produce any indemnity and insuring agreements as described in Rule 192.3(f).

8.

R.194.2(h):

Produce any settlement agreements as described in Rule 192.3(g).

9.

R.194.2(i):

Produce any witness statements as described in Rule 192.3(h).

10.

R.194.2(k):

Produce all medical records and bills obtained by virtue of an authorization.

11.

R.194.2(l):

Provide the name, address and telephone number of any person who may be designated as a responsible third party.

EXHIBIT B

Cause No. _____

SHELLEY LYN GOODMAN-HUSKINS
AND RANDY CHARLES HUSKINS
AND [REDACTED]

Plaintiff,

v.

CITY OF ITALY

Defendant

IN THE DISTRICT COURT

_____ JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

**PLAINTIFFS' NOTICE OF INTENTION TO TAKE ORAL/VIDEOTAPED
DEPOSITIONS OF DEFENDANT'S EMPLOYEES AT TIME OF INCIDENT
(SERVED WITH PLAINTIFF'S ORIGINAL PETITION
AND THIS DOCUMENT PERSONALLY SERVED ON DEONENTS, BECKHAM
AND FARMER)**

Please take notice that pursuant to Rule 199 of the Texas Rules of Civil Procedure, Plaintiffs, through their undersigned counsel, intend to take the oral/videotaped deposition(s) of the following individuals.

Schedule of Witnesses

Subject to reaching an agreement regarding an alternate schedule for depositions,
Plaintiff intends to depose the following individuals.

<u>WITNESS</u>	<u>TIME</u>	<u>DATE</u>	<u>PLACE</u>
Cameron Beckham	10:00 a.m.	December 14, 2017	BSDS LAW Group 17110 Dallas Parkway #212 Dallas, Texas 75248
Steven Farmer	1:30 p.m.	December 14, 2017	BSDS Law Group 17110 Dallas Parkway #212 Dallas, Texas 75248

Clarice Crocker 10:00 a.m. December 19, 2017 BSDS Law Group
17110 Dallas Parkway #212
Dallas, Texas 75248

Amber Cunningham 1:30 p.m. December 19, 2017 BSDS Law Group
17110 Dallas Parkway #212
Dallas, Texas 75248

If the scheduled date/time/location of these depositions is objectionable for any reason, within ten (10) days after the prescribed date for filing Defendant's Original Answer, Defendant's attorney is requested to provide Plaintiff's counsel with alternate available dates/ times/location during the following thirty (30) day period when Defendant and his attorney will be available for the above-referenced depositions.

If no agreement is reached as set out above in compliance with Tex. R. Civ. P. 11, the above schedule shall automatically activate on the tenth (10th) day after the prescribed date for filing Defendant's Original Answer. Once activated, this deposition is to begin at the designated date/time/location and will continue from day to day until completed. Each deposition will be taken for all purposes allowed by the Texas Rules of Civil Procedure and the Texas Rules of Evidence.

This deposition, which may be videotaped, will be taken before a certified court reporter and may be used as evidence in the trial of this case. You are invited to attend and participate.

Respectfully Submitted,

BOHACH, SKIBELL, DORSEY & STROUD, P.C.
17110 Dallas Parkway, Suite 212
Dallas, Texas 75248
Tel: (214) 750-6300
Fax: (972) 735-8121

By: Kari Bohach
Kari Bohach
State Bar No. 24075662
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing deposition notice affixed to Plaintiffs' Original Petition and personally served upon Defendant by private process server.

Kari Bohach
Kari Bohach