

IN THE TWELTH JUDICIAL DISTRICT OF THE STATE OF TENNESSEE
CIRCUIT COURT OF MARION COUNTY,
SITTING AT JASPER

GREG McANALLY, individually,)
And GREG McANALLY as next friend of)
his minor son, NATHAN McANALLY,)
)
and)
)
SANDRA PAPULA, individually, and)
SANDRA PAPULA as next friend of her minor)
son, ZACHARY PAPULA)
)
Plaintiffs,)
)
vs.)
)
ALEX ABELARDO SARMIENTO FIDER,)
and MERCEDES FIDER,)
)
Defendants.)

Case No. _____

JURY DEMANDED

COMPLAINT

Come the Plaintiffs, Greg McAnally individually and as next friend of his minor son Nathan McAnally and for Sandra Papula individually and as next friend of her minor son Zachary Papula, by and through counsel, and would respectfully show unto this Honorable Court the following:

1. Plaintiffs Greg McAnally and his minor son, Nathan McAnally, are citizens and residents of Coffee County, Tennessee.
2. Plaintiffs Sandra Papula and her minor son, Zachary Papula, are citizens and residents of Hamilton County, Tennessee.
3. The Defendants Alex Abelardo Fider and Mercedes Fider are citizens and residents of Rutherford County, Tennessee.

4. The events giving rise to this cause of action occurred in Marion County, Tennessee on or about August 20, 2006.

5. On August 20, 2006 at approximately 12:17 pm, Greg McAnally was driving his Nissan Quest on I-24 E from Tullahoma to the Flea Market in Monteagle. Mr. McAnally was accompanied in the car by his son Nathan McAnally and Nathan's friend Zachary Papula.

6. On I-24E, Mr. McAnally passed a blue Dodge Caravan driven by Mercedes Fider. At that time, Alex Abelardo Fider began gesturing toward Mr. McAnally.

7. As Mr. McAnally entered Marion County and started up the exit ramp at Monteagle, Nathan McAnally and Zachary Papula looked to their left and witnessed the Defendant, Alex Fider, pointing a gun at Mr. McAnally's van. In an apparent act of "Road Rage," the Defendant, Alex Fider, fired multiple bullets at the Plaintiffs. These bullets penetrated Mr. McAnally's van, but, fortuitously, Mr. Fider's gunfire failed to strike the Plaintiffs.

I. ASSAULT

The Plaintiff restates, re-avers, adopts and re-alleges each and every allegation as contained in the previous paragraphs as if same were fully rewritten and restated herein in their entirety and in addition states as follows:

8. The Defendant Mercedes Fider aggressively maneuvered her car up to the side of the McAnally's Nissan Quest.

9. At that time, Mr. Fider brandished a gun, pointed it the McAnally's van and repeatedly fired the gun.

10. The intentional actions of the Defendants caused Greg McAnally, Nathan



McAnally and Zachary Papula to reasonably apprehend an immediate battery, i.e. being shot and potentially killed by Mr. Fider.

II. BATTERY

The Plaintiff restates, re-avers, adopts and re-alleges each and every allegation as contained in the previous paragraphs as if same were fully rewritten and restated herein in their entirety and in addition states as follows:

11. Following Mr. Fider's assault on the Plaintiffs, Mr. Fider intentionally discharged his gun in the direction of the Plaintiffs.

12. The bullets struck Mr. McAnally's van, but the passengers were not struck by the bullets.

13. Mr. Fider's intentional harmful and offensive contact with an object connected to the body of Plaintiffs Greg McAnally, Nathan McAnally and Zachary Papula constitutes a battery on the person of the Plaintiffs.

III. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

The Plaintiff restates, re-avers, adopts and re-alleges each and every allegation as contained in the previous paragraphs as if same were fully rewritten and restated herein in their entirety and in addition states as follows:

14. The Defendant Mercedes Fider intentionally positioned her car for the purpose of allowing the Defendant Alex Fider to intimidate the Plaintiffs.

15. When the Defendant Mercedes Fider reached the McAnally's vehicle, the Defendant Alex Fider intentionally pointed his gun at the Plaintiffs Greg McAnally, Nathan



McAnally and Zachary Papula.

16. The Defendant Alex Fider then intentionally fired his gun into the McAnally's van.

17. Mr. Fider's wrongful, illegal and life-threatening acts are so outrageous that they cannot be tolerated by society at large.

18. As a result of Mr. Fider's "Road Rage" shooting, the Plaintiffs Greg McAnally, Nathan McAnally and Zachary Papula have suffered serious mental injuries.

IV. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

The Plaintiff restates, re-avers, adopts and re-alleges each and every allegation as contained in the previous paragraphs as if same were fully rewritten and restated herein in their entirety and in addition states as follows:

19. The Defendant Mercedes Fider willfully, wantonly and negligently operated her vehicle allowing Mr. Fider to shoot his firearm at the Plaintiffs.

20. The Defendant Alex Fider willfully, wantonly and negligently pointed his firearm at the Plaintiffs and discharged the firearm into Mr. McAnally's van.

21. As a result of the negligence of the Defendants, the Plaintiffs Greg McAnally, Nathan McAnally and Zachary Papula have suffered serious mental injuries.

V. NEGLIGENCE

The Plaintiff restates, re-avers, adopts and re-alleges each and every allegation as contained in the previous paragraphs as if same were fully rewritten and restated herein in their entirety and in addition states as follows:



22. The Defendant Mercedes Fider willfully, wantonly and negligently operated her vehicle allowing Mr. Fider to shoot his firearm at the Plaintiffs.

23. The Defendant Alex Fider willfully, wantonly and negligently pointed his firearm at the Plaintiffs and discharged the firearm into Mr. McAnally's van.

24. As a result of the negligence of the Defendants, the Plaintiff Greg McAnally incurred damage to his van.

25. Furthermore, the Plaintiffs Greg McAnally, Nathan McAnally and Zachary Papula suffered serious emotional injuries.

VI. DAMAGES

26. As a direct and proximate result of the Defendants' tortious conduct, Plaintiff Greg McAnally suffered an imminent apprehension of serious bodily injury and/or death from which he did and continues to suffer extreme emotional distress, duress, shock fear and anxiety and the loss of the ability to participate in and enjoy the pleasures of life, for all of which he deserves to be compensated.

27. As a direct and proximate result of the Defendants' tortious conduct, Plaintiff Greg McAnally has incurred property damage and shall incur medical expenses for the treatment of said emotional duress incurred in said incident, for all of which he deserves to be compensated.

28. As a direct and proximate result of the Defendants' tortious conduct, Plaintiff Greg McAnally has suffered a loss of services, consortium and unhindered companionship of his minor child, for all of which he deserves to be compensated.

29. As a direct and proximate result of the Defendants' tortious conduct, Plaintiff



Greg McAnally's minor child, Nathan McAnally, suffered an imminent apprehension of serious bodily injury and/or death from which he did and continues to suffer extreme emotional distress, duress, shock fear and anxiety and the loss of the ability to participate in and enjoy the pleasures of life, for all of which he deserves to be compensated.

30. As a direct and proximate result of the Defendants' tortious conduct, Plaintiff Greg McAnally's minor child, Nathan McAnally, has suffered a loss of services, consortium and unhindered companionship of his father, for all of which he deserves to be compensated.

31. As a direct and proximate result of the Defendants' tortious conduct, Plaintiff Sandra Papula's minor child, Zachary Papula, suffered an imminent apprehension of serious bodily injury and/or death from which he did and continues to suffer extreme emotional distress, duress, shock fear and anxiety and the loss of the ability to participate in and enjoy the pleasures of life, for all of which he deserves to be compensated.

32. As a direct and proximate result of the Defendants' tortious conduct, Plaintiff Sandra Papula has suffered a loss of services, consortium and unhindered companionship of her minor child, for all of which she deserves to be compensated.

WHEREFORE, PLAINTIFF PRAYS FOR RELIEF AS FOLLOWS:

1. For a monetary judgment in favor of Plaintiff Greg McAnally against each of the Defendants in the amount of One Hundred Thousand Dollars (\$100,000.00);
2. For a monetary judgment in favor of Plaintiff Greg McAnally, on behalf of his minor son Nathan McAnally, against each of the Defendants in the amount of One Hundred Thousand Dollars (\$100,000.00);
3. For punitive damages in favor of Plaintiff Greg McAnally against each of the



Defendants in the amount of Five Hundred Thousand Dollars (\$1,000,000.00);

4. For punitive damages in favor of Plaintiff Greg McAnally, on behalf of his minor son Nathan McAnally, against each of the Defendants in the amount of Five Hundred Thousand Dollars (\$1,000,000.00);

5. For a monetary judgment in favor of Plaintiff Sandra Papula against each of the Defendants in the amount of One Hundred Thousand Dollars (\$100,000.00);

6. For a monetary judgment in favor of Plaintiff Sandra Papula, on behalf of her minor son Zachary Papula, against each of the Defendants in the amount of One Hundred Thousand Dollars (\$100,000.00);

7. For punitive damages in favor of Plaintiff Sandra Papula against each of the Defendants in the amount of Five Hundred Thousand Dollars (\$1,000,000.00);

8. For punitive damages in favor of Plaintiff Sandra Papula, on behalf of her minor son Zachary Papula, against each of the Defendants in the amount of Five Hundred Thousand Dollars (\$1,000,000.00);

9. For costs of this action to be taxed against Defendants;

10. For any and all further general relief to which the Plaintiffs may be entitled.

Respectfully Submitted,

**HENRY, McCORD, BEAN, MILLER,
GABRIEL, CARTER & LaBAR, P.L.L.C.**

By: 

Clifton N. Miller

BPR#014958

M. Neal Cope

BPR#025327

Post Office Box 538

Tullahoma, Tennessee 37388

(931) 455-9301



ATTORNEYS AT LAW

100 NORTH JACKSON STREET
TULLAHOMA, TENNESSEE

COST BOND

We are sureties for the costs in this cause not to exceed FIVE HUNDRED DOLLARS (\$500.00).

HENRY, McCORD, BEAN, MILLER, GABRIEL & CARTER, P.L.L.C.

BY: 
CLIFTON N. MILLER

F:\CLIFTON\McAnally, Greg\Pleadings\Complaint 031307.doc

