

No. _____

BRAYAN ALEXANDER PEÑA RIOS, §
WUILMER JOSE RAMIREZ GONZALEZ §
And WILFERD JOSUE MOLINA §
GONZALEZ §

IN THE DISTRICT COURT OF

EL PASO COUNTY, TEXAS

____ JUDICIAL DISTRICT

Plaintiffs,

v.

STEVEN MATTHEW DRISCOLL §

Defendant.

PLAINTIFF’S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, Plaintiffs, **BRAYAN ALEXANDER PEÑA RIOS, WUILMER JOSE RAMIREZ GONZALEZ,** and **WILFERD JOSUE MOLINA GONZALEZ,** and file this, their original petition against **STEVEN MATTHEW DRISCOLL,** and for their causes of action would show the Court as follows:

DISCOVERY CONTROL PLAN

1. Plaintiffs request that the Court enter a Discovery Control Plan and place this case on Level III.

PARTIES

2. Plaintiff Brayan Alexander Peña Rios (“Brayan Peña”) is a Latino man who at all times relevant was a traveler in El Paso, Texas. The last three digits of Plaintiff Brayan Peña’s social security number are 322.

3. Plaintiff Wuilmer Jose Ramirez Gonzalez (“Wuilmer Ramirez”) is a Latino man who at all times relevant was a traveler in El Paso, Texas and is currently a resident of San Antonio, TX. The last three digits of Plaintiff Wuilmer Ramirez’s social security number are 058.
4. Plaintiff Wilferd Josue Molina Gonzalez (“Wilferd Molina”) is a Latino man who at all times relevant was a traveler in El Paso, Texas. The last three digits of Plaintiff Wilferd Molina’s social security number are 946.
5. Defendant Steven Matthew Driscoll is a Texas citizen and resident who may be served with process at Rogelio Sanchez State Jail, 3901 State Jail Road, El Paso, Texas, 79938, or wherever he may be found.

JURISDICTION AND VENUE

6. This Court has jurisdiction over the subject matter and the parties to this case. This Court has subject matter jurisdiction of this cause pursuant to TEX. CONST. Art. V § 8 and TEX. GOV’T CODE § 24.007. This Court also has personal jurisdiction over the Defendant, who is a resident of Texas.
7. All conditions precedent to the filing of this suit have been met or waived.
8. Venue properly lies in El Paso County, Texas under TEX. CIV. PRAC. & REM. CODE § 15.002(1) as the conduct at issue in this suit occurred in El Paso County, Texas.
9. Although the amount in controversy exceeds \$1,000,000, there is a lack of complete diversity because at least one Plaintiff is domiciled in Texas and the Defendant is domiciled in Texas – the state in which this action is brought. Any removal, or consent to removal, of this case to federal court would be improper.

CLAIM FOR RELIEF

10. Under TEX. R. CIV. P. 47(c), Plaintiffs seek monetary relief over \$1,000,000.

FACTUAL BACKGROUND

11. On New Year's Eve, December 31, 2022, Sacred Heart Church in El Paso, Texas served as a refuge for migrants who had recently arrived in the United States. At 10:00 pm that evening, the outside temperature was about 53 degrees Fahrenheit and many women and children were sheltering inside the church. A number of men were standing outside the church and trying to stay warm. Among those men was Plaintiff Brayan Peña.
12. At approximately 10:30 pm, Defendant Steven Matthew Driscoll drove to Sacred Heart Church in a grey Chevrolet truck with a red generator in the bed. The Defendant parked on a street near the church. The Defendant waved to Plaintiff Brayan Peña indicating that Peña should approach the Defendant's vehicle.
13. Plaintiff Brayan Peña was aware that individuals would often drive to Sacred Heart Church with donations and the individuals at the church would help unload the donations from the cars.
14. Upon being waved forward by the Defendant, Plaintiff Brayan Peña approached the Defendant's open driver-side window believing that the Defendant had driven to Sacred Heart Church to deliver donations.
15. As Plaintiff Brayan Peña arrived at the driver's side of Defendant's truck, the Defendant began uttering curse words in an agitated manner.
16. The Defendant pointed a black handgun at Plaintiff Brayan Peña's face. Plaintiff Brayan Peña froze in fear.
17. Convinced he would be shot and killed, Plaintiff Brayan Peña said in Spanish: "No te entiendo. No hablo ingles." – "I don't understand you. I don't speak English."

18. A humanitarian aid volunteer who had been walking to the Defendant's truck behind Plaintiff Brayan Peña arrived at the Defendant's vehicle. The Defendant said to the humanitarian aid volunteer "Who the hell are you?" The Defendant pointed the gun towards the volunteer and Plaintiff Brayan Peña ran away from the Defendant. In an attempt to defuse the situation, the volunteer asked the Defendant if he was OK.
19. The Defendant told the volunteer: "I don't have a problem with you. I'm the eyes of America and I'm here to see."
20. The Defendant subsequently drove away from Sacred Heart Church in his truck.
21. Approximately two hours later, the Defendant drove his truck to the vicinity of the Greyhound bus station located at 200 W. San Antonio Ave., El Paso, Texas, 79901.
22. Many migrants were congregated at or around the Greyhound Bus Station where a bus serving as a warming station for women and children was located.
23. The Defendant parked near the warming station and exited his vehicle.
24. The Defendant grabbed his gun from his waistband when he exited the vehicle. Plaintiff Wuilmer Ramirez, who was present at the scene, saw the Defendant get out of his vehicle and walk towards the warming station while holding his gun.
25. Plaintiff Wuilmer Ramirez ran behind a street light pole about six meters away from the Defendant and began yelling to warn others that the Defendant was approaching with a gun. Other individuals who were present also began yelling warnings.
26. While the Defendant walked towards the bus, the Defendant raised his gun and pointed it towards the individuals in the vicinity, including toward Plaintiff Wuilmer Ramirez.
27. The Defendant then turned around and began to walk back towards his vehicle with his gun held up. Plaintiff Wuilmer Ramirez ran from behind the street light pole and hid

behind a car. Plaintiff Wuilmer Ramirez advised the two other individuals who were also hiding behind the car to remain quiet so that the Defendant would not hear them.

28. As the Defendant walked back towards his truck, Plaintiff Wuilmer Ramirez believes that the Defendant saw him hiding behind the car.
29. Plaintiff Wuilmer Ramirez felt terrified. Plaintiff Wuilmer Ramirez's son was with him at the warming station and Plaintiff Wuilmer Ramirez feared for his life and the life of his son.
30. Plaintiff Wilferd Molina first saw the Defendant when the Defendant drove to the warming station. The Defendant drove by Plaintiff Wilferd Molina with his window down and looked right at Plaintiff Wilferd Molina. Plaintiff Wilferd Molina turned his back towards the Defendant as he drove by. Plaintiff Wilferd Molina then saw the Defendant park his vehicle near the warming bus and get out of the vehicle. Plaintiff Wilferd Molina saw the Defendant pull a gun from the area near his hip and walk towards the bus while he pointed the gun at Plaintiff Wilferd Molina and others nearby. Plaintiff Wilferd Molina believed he and others would be killed and he froze in fear. As the Defendant continued to walk towards Plaintiff Wilferd Molina, Plaintiff Wilferd Molina hid behind a car in fear for his life. Plaintiff Wilferd Molina subsequently saw the Defendant return to his vehicle, and drive off.
31. Plaintiffs Wuilmer Ramirez and Wilferd Molina observed many individuals in the vicinity running and attempting to flee. Some of those individuals yelled to the Defendant in Spanish: "No te hacemos nada! Por que tienes pistola?" – "We haven't done anything to you! Why do you have a pistol?"

32. In the midst of the chaos and panic he created, the Defendant entered his vehicle and drove away.
33. As a result of the Defendant's actions, Plaintiffs were convinced they would be shot and killed. Plaintiffs were terrified and traumatized and suffered anguish and severe emotional distress.
34. Prosecutors from the District Attorney's Office of the 34th Judicial District subsequently charged the Defendant with three counts of aggravated assault with a deadly weapon, one count of unlawfully carrying a weapon with a felony conviction, and one count of evading arrest or detention with a vehicle. Federal prosecutors from the Office of the U.S. Attorney for the Western District of Texas charged the Defendant with one count of felon in possession of a firearm.
35. The Defendant pleaded guilty to one count of aggravated assault with a deadly weapon and one count of unlawfully carrying a weapon with a felony conviction in El Paso district court.

CAUSES OF ACTION

Count I: Civil Assault

36. Plaintiffs incorporate the foregoing paragraphs by reference as if restated fully herein.
37. The Defendant is liable to Plaintiffs for civil assault. The Defendant intentionally, knowingly, or recklessly threatened Plaintiffs with imminent bodily injury and/or unwanted touching. The words and conduct of the Defendant were such that a reasonable person in those same circumstances would consider them to be an objective threat of imminent bodily injury and/or unwanted touching.
38. The Defendant's conduct is a direct and proximate cause of legal damage to Plaintiffs.

39. The Defendant's actions constitute a violation of TEX. PENAL CODE § 22.01(a).

Count II: Intentional Infliction of Emotional Distress

40. Plaintiffs incorporate the foregoing paragraphs by reference as if restated fully herein.

41. The Defendant is liable to Plaintiffs for intentional infliction of emotional distress. Specifically, (1) the Defendant acted intentionally or recklessly; (2) the conduct was extreme and outrageous; (3) the Defendant's actions actually caused Plaintiffs emotional distress; (4) the emotional distress suffered by Plaintiffs was severe.

42. The conduct of the Defendant was so extreme, outrageous, and intolerable that it goes beyond all possible bounds of decency in a civilized society. Not only did the Defendant act with complete disregard for Plaintiffs, but the Defendant did so knowingly. The intentional, extreme and outrageous behavior of the Defendant traumatized Plaintiffs and caused them to suffer severe emotional distress.

43. The Defendant assaulted Plaintiffs by pointing a gun at them while acting in a hostile manner towards them. Threatening others in this manner with severe bodily harm and loss of life is unacceptable and atrocious in a civilized society.

44. By reason of the foregoing, Plaintiffs have suffered damages.

DAMAGES

45. Plaintiffs sue to recover their actual damages, which have accrued, and will accrue in amounts in excess of the jurisdictional minimum of this Court.

46. Plaintiffs suffer and will continue to suffer damages in the form of emotional pain, mental anguish, suffering, loss of enjoyment of life and peace of mind, and other nonpecuniary losses.

47. Plaintiffs are also entitled to reasonable attorneys' fees, expert fees, other litigation expenses, and court costs.

EXEMPLARY DAMAGES

48. The Defendant's actions were malicious and motivated by ill will, spite, evil motive, and purpose to injure Plaintiffs. They are entitled to exemplary damages.

CONDITIONS PRECEDENT

49. All conditions precedent to Plaintiffs' right to recover and the Defendant's liability have been performed or have occurred.

INITIAL DISCLOSURES

50. Under TEX. R. CIV. P. 194, the party named here as the Defendant, who has not previously produced the material required to be disclosed under the Texas Rules of Civil Procedure is to disclose, at or within 30 days after the filing of an original answer, the information and material described in TEX. R. CIV. P. 194.2. The Defendant is hereby notified that any document or other material, including electronically stored information, relevant to any issue in this case shall be preserved in its present form until this litigation is concluded.

JURY DEMAND

51. Plaintiffs respectfully demand that this Court empanel a lawful jury to hear this case, and they have paid the applicable fee under TEX. R. CIV. P. 216.

PRAYER

52. Plaintiffs pray that the Defendant be cited to appear to answer, and that upon final hearing, the Court enter judgment in favor of Plaintiffs against their damages as here alleged, for pre-judgment and post-judgment interest as provided by law, and for such other and further relief as the Court may deem proper.

Dated: December 24, 2024

Respectfully submitted,

By: /s/ Fátima L. Menéndez

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** Pro Hac Vice application forthcoming*

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