

IN THE DISTRICT COURT OF BRYAN COUNTY  
STATE OF OKLAHOMA

TORRI TENNILLE JOHNSTON )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 1.THE CITY OF DURANT )  
 OKLAHOMA, AND )  
 2.FIRST UNITED BANK OF )  
 DURANT OKLAHOMA )  
 )  
 Defendant. )

CASE NO. CJ-2016- 89

FILED  
BRYAN COUNTY, OKLAHOMA  
DISTRICT COURT CLERK

JUN 15 2016

DONNA ALEXANDER  
COURT CLERK  
BY Donna Alexander Deputy

**PETITION**

COMES now the Plaintiff, Torri Tenille Johnston. (Herein after referred to as "Plaintiff Johnston") by and through her undersigned attorney, and for her cause of action over and against the Defendant, the City of Durant Oklahoma (Herein after referred to as "Defendant Durant") and for her cause of action over and against the First United Bank of Durant Oklahoma (Herein after referred to as "Defendant First United") alleges and states as follows:

## **JURISDICTION**

1. That the Plaintiff Johnston is a resident of Bryan County, State of Oklahoma.
2. That the Defendant Durant is an incorporated municipality under the laws of Oklahoma within Bryan County, Sate of Oklahoma.
3. That the Defendant First United is a banking corporation under the laws of the State of Oklahoma, with a branch of the Bank located in Durant, Bryan County Oklahoma.
4. That on or about September 21 2015, the defendant Durant was given notice of the Plaintiff's claim pursuant to Oklahoma Statute. The claim was denied by the passage of 90 days without reply and this lawsuit was file within 180 days after that date.

## **FACTUAL BASIS OF THE CLAIMS**

5. That on or about September 25, 2014, criminal charges were filed against Plaintiff Johnston due to the negligence of the employees of the office of City Clerk for the City of Durant Oklahoma. The employees negligently provided information to the police and district attorney regarding alleged embezzlement of funds from the City of Durant.

5. That on or about May 5<sup>th</sup> 2015, the day of the criminal trial, the employee of the Defendant United Bank, announced to the District Attorney's office which in turn announced to the Court during the process of the trial preparations, that the Bank employee had found what was likely the missing deposit in the possession of the Bank and which had been negligently mishandled and misplaced. The original mishandling of the deposit was a direct cause of the charges being filed against the Plaintiff Johnston.

6. As a result of the information presented to the Court the Matter was dismissed. (See attached Court transcript).

### **CAUSE OF ACTION**

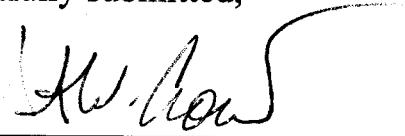
Comes now the Plaintiff and re-alleges and re-states each and every allegation set forth above as if it were specifically pled herein below.

7. That the Defendant's each of them, owed a duty of care to properly and with reasonable care provide accurate information to law enforcement and to reasonably maintain its records and data so that accurate information could be provided to law enforcement so innocent person would not be charged with a crime.

8. The Defendant's each of them breached the aforementioned duty by among other things failing to properly and with reasonable care provide accurate information such accounting records to law enforcement and failing to maintain proper record keeping processes to ensure that proper information was given to law enforcement so that person such as the Plaintiff, were wrongfully charged with a crime.
9. The Defendant's each of them are liable for the acts of their employees under a theory of respondeat superior.
10. That the acts of the Defendant's are in reckless disregard for the rights of the Plaintiff and are so grossly negligent that it rises to the level of malice and thus entitle the Plaintiff to punitive damages.
11. That as a direct result of the negligent acts of the defendant's employees the Plaintiff suffered certain serious and permanent mental injuries including past, present and future pain and suffering, loss of enjoyment of life, loss of reputation and community standing, past present and future emotional pain and suffering and loss of wages and loss of earning capacity, all to the detriment of the plaintiff.

WHEREFORE premises considered the Plaintiff Prays for Judgment in the amount in excess of (\$75,000.00) Seventy Five Thousand Dollars with interest thereon including attorney fees and Court costs and any other relief the Court deems just and proper.

Respectfully submitted,



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Steven W. Crow OBA #15676  
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(405) 843-5005 (fax)  
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JURY TRIAL DEMANDED

ATTORNEY LEIN CLAIMED

IN THE DISTRICT COURT OF BRYAN COUNTY  
STATE OF OKLAHOMA

STATE OF OKLAHOMA, )  
 )  
 Plaintiff, )  
 )  
 VS. ) Case No. CF-2014-607  
 )  
 TORRI TENILLE JOHNSTON, )  
 )  
 Defendant. )

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PARTIAL TRANSCRIPT OF JURY TRIAL  
EXCERPT PORTION REGARDING JUROR DAUGHERTY  
AND RULING OF THE COURT  
HAD ON THE 4TH DAY OF MAY, 2015  
BEFORE THE HONORABLE MARK R. CAMPBELL  
DISTRICT JUDGE  
BRYAN COUNTY COURTHOUSE  
DURANT, OKLAHOMA  
(and a jury)

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APPEARANCES:

MS. WHITNEY PAIGE KERR, Assistant District  
Attorney, 117 North Third Street, Durant, Oklahoma 74701,  
appearing on behalf of the STATE.

MR. JAMES R. GILMARTIN, Attorney at Law, 333 West  
Main Street, Suite 435, Ardmore, Oklahoma 73401, appearing  
on behalf of the DEFENDANT.

REPORTED BY: GENA C. BELCHER, C.S.R.  
Official Court Reporter  
Bryan County Courthouse  
402 West Evergreen Street  
Durant, Oklahoma 74701

**COPY**

1 (A brief recess was had, after which the following  
2 transpired in open court outside the presence and  
3 hearing of the jury:)

4 THE COURT: We're back on the record in  
5 CF-14-607, *State of Oklahoma v. Torri Tenille Johnson*. The  
6 parties are present. Jurors are out of our presence. The  
7 attorneys met with the Court in chambers.

8 Ms. Kerr, does the State have something to offer  
9 at this time?

10 MS. KERR: It does, Your Honor. At this  
11 point in time, Your Honor -- I went out to the hallway to  
12 visit with the witness from the bank, who informed me that  
13 she had done some research over the weekend. The former  
14 investigator in the particular case -- her name is Lisa  
15 Lowry -- and she did not apparently leave any files behind,  
16 but the bank -- Ms. Glenetta Bledsoe has been working  
17 through the case again to sort of re-create the work that  
18 Ms. Lowry had done.

19 During the process, she found an amount of money  
20 in the amount of \$576 that was turned in to the bank that  
21 she believed -- it was sandwiched in apparently with City of  
22 Durant deposits. She believes that that may belong to the  
23 City of Durant. It's not the exact amount in question that  
24 went missing and that's alleged in this case. However, I do  
25 think there is enough of a question that it would be a

1 miscarriage of justice at this point to try the case as a  
2 felony against Ms. Johnston considering that this amount has  
3 been found by the bank. So, at this point in time, the  
4 State would move to dismiss this case against Ms. Johnston.

5 THE COURT: The Court will order this case  
6 dismissed with prejudice to being refiled.

7 Ms. Johnston, the case has been dismissed with  
8 prejudice. You are discharged. Your bond is exonerated and  
9 you're free to leave the courtroom and the courthouse. And  
10 you may be excused.

11 THE DEFENDANT: Thank you.

12 (The Defendant was dismissed, and the following  
13 transpired:)

14 THE COURT: Mr. Gilmartin, you're not  
15 required to wait while I discharge the jurors. You're free  
16 to if you want to, but you are not required to.

17 Same with you, Ms. Kerr.

18 MR. GILMARTIN: I'll wait around. I've never  
19 seen this happen before.

20 THE COURT: Okay.

21 Bring the jurors in.

22 (The jury returned to open court and the following  
23 proceedings transpired within the presence and hearing  
24 of the jury:)

25 THE COURT: All rise.



1 Thank you. Be seated.

2 The record will reflect the jurors are all back in  
3 open court in their assigned seats.

4 Ladies and gentlemen, when we take a break, we are  
5 very often working when you're taking a break, and that's  
6 what we were doing during this break.

7 You may notice that Ms. Johnston, the Defendant,  
8 is not present. That is because I have discharged her and  
9 exonerated her bond. Based on some matters which were not  
10 relevant to -- to you at this point, I have ordered her case  
11 dismissed. And she has been discharged, and you will not be  
12 required to deliberate and reach a verdict in this case.

13 But on behalf of everyone who is involved, I want  
14 to thank you for your service and your patience. The fact  
15 that you've been here today and waited around means a lot to  
16 everybody involved. And because of that, I'm going to  
17 excuse you from any further service on the rest of this jury  
18 term. So unless you're randomly selected for jury service  
19 in the future, this may be the last time you ever  
20 participate as a juror. Even though you didn't get to  
21 actually reach a verdict, everybody involved in this case  
22 and in this system of justice here in Bryan County  
23 appreciates your service. So on behalf of everyone, thank  
24 you.

25 Please leave your juror badges on the table. And

1 if you need notes for work or anything from the Court  
2 Clerk's Office, my Bailiff will show you how to get ahold of  
3 that. You may be excused. Thank you all.

4 \* \* \* \* \*

5 (End of Partial Transcript.)

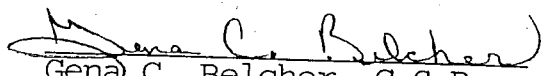
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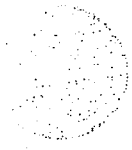
C E R T I F I C A T E

1  
2 I, Gena C. Belcher, a Certified Shorthand Reporter  
3 within and for the State of Oklahoma, do hereby certify that  
4 I was present at the proceedings (partial transcript) had  
5 May 4, 2015; that I recorded in stenotype notes all of said  
6 proceedings; and that I thereafter, aided by computer,  
7 transcribed my notes so taken and reduced same to  
8 typewritten form, and that the foregoing Transcript of  
9 Proceedings is full, true, correct and complete to the best  
10 of my skill and ability.

11 I further certify that I am not an attorney for  
12 nor relative of any of said parties or otherwise interested  
13 in the outcome or event of said action.

14 IN WITNESS WHEREOF, I have hereunto set my hand  
15 and affixed my official seal this 18th day of May, 2016.

17   
18 Gena C. Belcher, C.S.R.  
19 Certificate #01691  
20 Official Court Reporter  
21 Bryan County Courthouse  
22 402 West Evergreen Street  
23 Durant, Oklahoma 74701



21 Gena C. Belcher  
22 State of Oklahoma  
23 Certified Shorthand Reporter  
24 CSS # 1091

24 Certificate Expires 12-31-2016