

**IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT**

**YVETTE MASON-SHERMAN, INDIVIDUALLY,
AND ON BEHALF OF THE HEIRS AND
WRONGFUL DEATH BENEFICIARIES OF
CHARLES MCDONALD, JR., DECEASED, and
THE ESTATE OF CHARLES MCDONALD, JR.,
DECEASED**

PLAINTIFFS

V.

CAUSE NO.: 2017-156

**WAYNE PARISH, JIMMY RATLIFF, AND PERFORMANCE
OIL EQUIPMENT, INC.**

DEFENDANTS

**FIRST AMENDED COMPLAINT
(Jury Trial Demanded)**

COME NOW, the Plaintiffs, Yvette Mason-Sherman, Individually, and as Administrator of the Estate of Charles McDonald, Jr., and On Behalf of the Heirs and Wrongful Death Beneficiaries of Charles McDonald, Jr., Deceased, and The Estate of Charles McDonald, Jr., Deceased (hereinafter "Plaintiffs"), by and through their attorneys of record, and file this, their FIRST AMENDED COMPLAINT, and would allege the following:

PARTIES

1. Plaintiff Yvette Mason-Sherman is an adult resident citizen of Mississippi, residing in Hinds County, Mississippi. She brings suit on behalf of the wrongful death beneficiaries of Charles McDonald, Jr., ("Decedent"), for the negligent actions that caused his death.
2. Defendant Wayne Parish ("Defendant Parish") is an adult resident citizen of Mississippi, and can be served with process at his place of employment located at 920 E. McDowell Road, Jackson, MS 39204.

3. Defendant Jimmy Ratliff (“Defendant Ratliff”), is an adult resident citizen of Mississippi, and can be served with process at 137 Delvin Springs Drive, Madison, MS 39110.
4. Defendant Performance Oil Equipment, Inc. (“Defendant POE”) is a domestic corporation qualified to do business within the State of Mississippi, and may be served with process upon its registered agent, Jimmy Ratcliff, located at 920 East McDowell Road, Jackson, MS 39204.

JURISDICTION AND VENUE

5. The Circuit Court of the First Judicial District of Hinds County, Mississippi has exclusive jurisdiction of the parties and the subject matter of this action. No other Court has original jurisdiction of this matter. This civil action arises out of the negligent acts and/or omissions of the Defendants committed in the State of Mississippi against a resident of the State of Mississippi. This Court has jurisdiction over this claim because this is an action at law seeking monetary damages within the jurisdiction of the Circuit Court.
6. Venue is proper in this court pursuant to Miss. Code Ann. §11-11-3, since each of the parties can be found there.

STATEMENT OF FACTS

7. At all pertinent times hereto, Defendant Ratliff was the President of POE. Defendant Parish was the Vice-President of POE.
8. At all pertinent times hereto, the Decedent was a trespasser at POE.
9. On or about July 21, 2016, Plaintiff was transporting Decedent to the Henley-Young Juvenile Justice Center, which is next door to Defendant POE.

10. Upon arrival at the juvenile justice center, Decedent fled Plaintiff's vehicle and ran to POE. Defendant Parish exited the store with a gun and aggressively approached Decedent in the parking lot. Subsequently, an altercation began between Decedent and Defendant Parish. Decedent was shot by Defendant Parish. Decedent suffered multiple gunshot wounds to the upper torso.
11. Decedent was transported to the University of Mississippi Medical Center – Jackson where he was pronounced dead shortly after arrival. Decedent expired on July 21, 2016.
12. At all times pertinent Decedent was a trespasser of the Defendants. As a trespasser, the Defendants owed a duty to Decedent to refrain from causing willful and wanton injury.
13. As a direct and proximate cause of the Defendants' failure to maintain the premises in a reasonably safe manner, Decedent was willfully and wantonly injured. He experienced excruciating pain and expired on July 21, 2016. Plaintiff experienced and continues to experience excruciating pain and suffering as a result of the death of Decedent.
14. Defendants failed to provide adequate security which would have deterred Defendant Parish from exiting the store, in possession of a firearm, posing and ultimately causing harm and the death of Decedent.
15. Defendants, at all times relevant hereto, failed to prevent wanton and willful injury to Decedent on the premises.

16. Defendants owed a duty to Decedent to prevent willful and wanton injury on the premises and to hire adequately trained employees and agents – specifically adequate training in firearms and the use of deadly force.
17. Defendants were the owners, agents, or principals of each other or in a joint venture and were in control of the premises in some form.
18. Defendants, Jimmy Ratliff and Performance Oil Equipment, Inc., negligently hired, trained, and retained Defendant Parish.
19. Defendants negligently entrusted a gun with Defendant Parish to carry and secure the premises.

CAUSES OF ACTION

20. The following actions and/or inactions of the Defendants and its agents constituted negligence and/or breach of duties owing from the Defendants to the Decedent:
 - a. Failure to refrain from willfully or wantonly injuring the Decedent;
 - b. Failure to warn of a known and serious hidden danger;
 - c. Failure to hire adequately trained employees and agents;
 - d. Intentional and negligently inflicting mental and emotional distress; and
 - e. For other acts, inactions, failures, omissions, negligent, intentional and grossly negligent conduct to be shown at trial.
21. The foregoing actions and/or inactions of the Defendants and their agents constituted gross negligence, to-wit; they willfully and wantonly injured Decedent by consciously disregarding a known and hidden danger.

DAMAGES

22. As a direct and proximate result of the concurrent, intentional, willful, unlawful, reckless, wanton, grossly negligent and/or unreasonably dangerous actions of the Defendants, the Decedent expired on July 21, 2016, and on account of the same, the Plaintiff is entitled to recover compensatory and punitive damages. Also, Plaintiff is entitled to recover and hereby request from the Defendants, jointly and severally, all additional damages which she is entitled to recover as a result of the death of Decedent on July 21, 2016.

23. Further, as a direct and proximate result of the concurrent, intentional, willful, unlawful, reckless, wanton, grossly negligent and/or unreasonably dangerous actions of the Defendants, the Plaintiff suffered and experienced excruciating pain, suffering, mental anguish, agony, loss of life, loss of society, and funeral expenses. On account of the same, the Plaintiff is entitled to recover damages.

24. Defendants' negligent acts and omissions were grossly negligent and/or in reckless disregard for the Decedent, Plaintiff, and the public's rights and safety. Therefore, Plaintiff is entitled to an award of punitive damages against the Defendants.

WHEREFORE, PREMISES CONSIDERED, Plaintiff sues and demands a judgment of and from the Defendants for actual and punitive damages together with all costs of this action, inclusive of pre-judgment and post-judgment interest.

Respectfully submitted, this the 17TH day of March, 2017.

YVETTE MASON-SHERMAN, ET AL., PLAINTIFFS

BY: /s/ Carlos E. Moore
Carlos E. Moore, MSB# 100685

Michael S. Carr, MSB# 102138
Attorneys for Plaintiffs

OF COUNSEL:

TUCKER MOORE LAW GROUP, LLP.

306 Branscome Drive
P. O. Box 1487
Grenada, MS 38902-1487
662-227-9940 – phone
662-227-9941 – fax
Email: carlos@carlosmoorelaw.com

OF COUNSEL:

CARR & CALDERÓN, PLLC

303 Cotton Row
P.O. Box 1818
Cleveland, MS, 38732
Phone: (662) 545-4445
Fax: 1 (662) 796-3689
Email: mcarr@carrcalderon.com