

CIRCUIT COURT OF OREGON  
COUNTY OF MULTNOMAH

CHARLES STUBBS, an individual,	)	Case No.
	)	
Plaintiff,	)	<b>COMPLAINT</b>
	)	
v.	)	<b>CLAIM SUBJECT TO MANDATORY</b>
	)	<b>ARBITRATION</b>
CITY OF PORTLAND, a municipal	)	
corporation,	)	<b>PRAYER AMOUNT: \$10,000</b>
	)	
Defendant.	)	<b>FEE AUTHORITY: ORS 21.160(1)(a)</b>

For his Complaint against Defendant City of Portland ("City"), Plaintiff Charles Stubbs ("Stubbs") alleges as follows:

**INTRODUCTION**

1.

On February 20, 2017, Stubbs participated in a peaceful protest in front of the Edith Green-Wendell Wyatt Federal Building in downtown Portland. During the protest, Portland Police Bureau Officers in full riot gear arrived on the scene and swarmed the protesters. The officers intentionally used excessive force in arresting Stubbs. They knocked him to the ground without warning, causing him injury. Under the Oregon Tort Claims Act, the City of Portland is liable for the Portland Police Officers' tortious battery.

**THE PARTIES**

2.

Stubbs is a citizen and resident of Portland, Oregon.

///

1 3.

2 Defendant City of Portland is a municipal corporation and public body within the  
3 State of Oregon located in Multnomah County.

4 4.

5 The Portland Police Bureau (“PPB”) is an agency of the City. The acts that give  
6 rise to Stubbs’s claims were committed by PPB Officers in the course and scope of their duties  
7 on the public body’s behalf. Under ORS 30.285(1), the City must indemnify its officers and is  
8 therefore liable for the PPB Officers’ torts against Stubbs.

9 5.

10 Notice of this claim was properly given to the City within 180 days of the  
11 incident.

12 **FACTUAL BACKGROUND**

13 6.

14 The City of Portland, Oregon, has a long history of an engaged citizenry and is a  
15 hub for First Amendment activity, with numerous public marches and large public gatherings  
16 each year. Public assemblies enrich the fabric of Portland by providing a means of expression  
17 when people feel unheard through other methods, a beacon of solidarity and connection for  
18 people impacted by the issues subject to protest, a vehicle to spark conversations and debates  
19 about important issues, and an opportunity to form community and connections, leading to  
20 constructive engagement, organizing, and action.

21 7.

22 Portland also has a history of its law enforcement agency—the PPB—clashing,  
23 often violently, with protesters. The PPB has become increasingly militarized in its tactics,  
24 deploying droves of officers wearing tactical dress, including helmets, carrying batons, full-body  
25 riot shields (“riot gear”), and using chemical agents as crowd-control weapons. These crowd-  
26 control weapons include tear gas, pepper-spray bullets, and flash-bangs (which create a loud

1 explosion and a very bright flash of light). On multiple occasions, PPB Officers have, without  
2 warning, deployed chemical agents against protesters, as well as non-protesting bystanders,  
3 members of the press, and patrons of nearby businesses.

4 8.

5 On February 9, 2017, PPB Officers shot and killed Quanice Hayes, an unarmed,  
6 17 year-old black man. A local organization called Don't Shoot Portland organized a protest on  
7 February 20, 2017, in front of the Edith Green-Wendell Wyatt Federal Building ("Federal  
8 Building") in downtown Portland to bring awareness to the PPB's actions and Hayes's death.

9 9.

10 Stubbs attended the protest to show his support for Don't Shoot Portland, and to  
11 video tape and bear witness to the PPB Officers' treatment of protesters. Since the presidential  
12 election in November 2016, Portland had seen an increasing number of protests, coupled with an  
13 increasing number of violent clashes between the PPB Officers and protesters.

14 10.

15 The Don't Shoot Portland protest was scheduled to start at 11:00 a.m. on February  
16 20, 2017. Stubbs arrived shortly after it began. A little after noon, the protesters left the  
17 sidewalk in front of the Federal Building and took to the street, walking onto Southwest Third  
18 Avenue, and blocked traffic. Stubbs remained close to the sidewalk near the Federal Building,  
19 but was in the street with the protesters. At all times, the protesters remained peaceful and  
20 nonviolent.

21 11.

22 Eventually, the PPB Officers announced that the protest was an unlawful  
23 assembly and ordered people onto the sidewalk. Suddenly scores of PPB Officers arrived in full  
24 riot gear ("Riot Officers") and ordered the protesters to move. Stubbs followed police orders and  
25 moved back toward the sidewalk.

26 ///

12.

As Stubbs was complying with the Riot Officers' orders, without warning or announcement, the Riot Officers tackled Stubbs. Stubbs ended up face down next to a bush on the sidewalk. PPB Officers then lifted and dragged Stubbs to the street, where they placed him face down and handcuffed him. The PPB Officers' actions injured Stubbs.

13.

Riot Officers then pulled Stubbs to his feet and arrested him. As the PPB Officers took Stubbs to the police van, Stubbs encountered residual pepper spray that began to trigger an asthma attack. While he was sitting in the PPB van waiting to be transported, Stubbs requested an inhaler, but PPB Officers ignored his request. Stubbs was later charged with disorderly conduct, interfering with a peace officer, and resisting arrest. All criminal charges against Stubbs have been dropped.

#### **FIRST CLAIM FOR RELIEF**

##### **BATTERY**

14.

Stubbs incorporates by reference the allegations above.

15.

When PPB Officers arrested Stubbs, they intentionally used excessive force. As such, the City is liable for battery. Because the PPB Officers' force was excessive, their actions were not privileged under ORS 161.235.

16.

The PPB Officers' excessive use of force caused Stubbs injuries, pain, and suffering. As a result of these injuries, Stubbs has suffered damages in an amount to be determined by a jury not to exceed \$10,000.

///

///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

17  
18  
19  
20  
21  
22  
23  
24  
25  
26

18  
19  
20  
21  
22  
23  
24  
25  
26

19  
20  
21  
22  
23  
24  
25  
26

20  
21  
22  
23  
24  
25  
26

21  
22  
23  
24  
25  
26

22  
23  
24  
25  
26

23

24

25

26

24

25

26

25

26

26

1                   2.       For Plaintiff's second claim for relief, a judgment against the City for  
2 Plaintiff's reasonable attorney fees, costs, and disbursements; and

3                   3.       For such other and further relief as the Court deems just and equitable.

4                   DATED this 8th day of March, 2018.

5                   TONKON TORP LLP

6  
7                   By s/ Edwin C. Perry

8                   Steven M. Wilker, OSB No. 911882

9                   Direct Telephone: 503.802.2040

10                  Direct Fax: 503.972.3740

11                  E-mail: steven.wilker@tonkon.com

12                  Edwin C. Perry, OSB No. 843227

13                  Direct Telephone: 503.802-2026

14                  Facsimile: 503.274-8779

15                  E-mail: ned.perry@tonkon.com

16                  1600 Pioneer Tower

17                  888 SW Fifth Avenue

18                  Portland, OR 97204

19                  *Cooperating Attorneys of the ACLU Foundation*  
20                  *of Oregon*

21                  Mathew W. dos Santos, OSB No. 155766

22                  Telephone: 503.552.2105

23                  Email: [mdossantos@aclu-or.org](mailto:mdossantos@aclu-or.org)

24                  ACLU of Oregon

25                  P.O. Box 40585

26                  Portland, OR 97240

                  Attorneys for Plaintiff

                  Trial Attorney:

                  Edwin C. Perry, OSB No. 843227