

**IN THE CIRCUIT COURT OF TENNESSEE  
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS**

**SAMUEL BUTLER, by and through his )  
Mother and Next Friend, Artena Butler, )**

**Plaintiff, )**

**MEMPHIS LIGHT, GAS AND WATER, )**

**Defendant. )**

**CIVIL ACTION FILE NO.: CT-2212-19**

**COMPLAINT**

Plaintiff Samuel Butler, by and through his Mother and Next Friend, Artena Butler and his undersigned counsel, hereby files his Complaint for personal injuries resulting from an automobile collision, and shows this Court the following:

**PARTIES, JURISDICTION, VENUE**

1. Plaintiff Samuel Butler, (hereinafter "Plaintiff"), an incapacitated resident citizen of Tennessee.
2. Plaintiff Samuel Butler's Mother and Next Friend, Artena Butler, is a resident citizen of Mississippi.
3. Defendant Memphis Light, Gas and Water (hereinafter "Defendant") is a utility company doing business in Shelby County, in the state of Tennessee.
4. The collision complained of herein occurred in Shelby County, Tennessee on May 8<sup>th</sup>, 2019.
5. Jurisdiction is proper in this Court pursuant to Tennessee Code Annotated § 16-10-101.
6. Venue is proper in this Court pursuant to Tennessee Code Annotated § 20-4-102(a).

## **FACTS**

7. On May 8<sup>th</sup>, 2019, Plaintiff was travelling westbound on Interstate 240 in Memphis, Tennessee. As Plaintiff approached Lamar Avenue on Interstate 240, his vehicle exited the roadway. While his vehicle was in motion, it came in contact with a utility/light pole maintained, owned and/or controlled by Defendant. The subject utility/light pole entered Plaintiff's driver's side window and exited his passenger window, resulting in serious and life-threatening injuries to Plaintiff.

8. At all times relevant hereto, Defendant was responsible for the delivery, placement, and/or installation of the utility/light pole that directly or proximately caused the injuries and damages giving rise to Plaintiff's Complaint.

9. The subject incident caused Plaintiff to sustain significant and life-threatening injuries, for which he is continuing to receive critical medical care.

## **COUNT ONE** **NEGLIGENCE/WANTONNESS**

10. The negligent, reckless, wanton, and unlawful actions of Defendant were direct and proximate causes of the injuries and damages suffered by Plaintiff. For reasons set forth below and pursuant to Tennessee Code Annotated section 9-8-307, Defendant is liable to Plaintiff. Said negligent and wanton actions include, but are not limited to:

- a. Defendant knew, or should have known, that the subject utility/light pole, as it were on the date and time of the subject incident, created a hazardous condition to public safety, including that of Plaintiff, but failed to maintain said utility/light pole in a safe, lawful, and hazard-free fashion;

- b. Defendant failed to exercise due care in its maintenance and control of the subject utility/light pole;
- c. Defendant failed to warn the public of the unsafe, hazardous condition posed by the improper placement of the subject utility/light pole, gravely endangering the lives and well-being of the public, specifically the Plaintiff;
- d. Defendant failed to adhere to pertinent aspects of the City of Memphis, Tennessee's utility supervisory protocols, laws and/or regulations relating to the control and maintenance of its utility/light poles not yet erect and operational; and
- e. Any other acts of negligence and wantonness that may be proven at trial.

11. Defendant owed a duty to Plaintiff and others similarly situated, to maintain a safe and hazard-free roadway, by overseeing the lawful and controlled placement of its utility/light poles intended for erection/operation along Interstate 240.

12. Defendant failed to maintain a safe and hazard-free roadway with the due care exercised by individuals in like or similar circumstances.

13. At all times mentioned herein, Plaintiff acted with reasonable care under the conditions and circumstances then existing.

14. Defendant's actions and/or inactions constituted negligence and wantonness by engaging in inattentiveness and carelessness with respect to the presence of known hazardous conditions along Interstate 240 in Memphis, Tennessee, specifically that which caused the injuries and damages sustained by Plaintiff.

15. Defendants actions and/or inactions directly and proximately caused Plaintiff to incur injuries and damages including, but not limited to:

- a. Life-threatening personal injuries;
- b. Past, present, and future pain and suffering;
- c. Disability;
- d. Mental anguish;
- e. Loss of the capacity for the enjoyment of life;
- f. Incidental expenses;
- g. Past, present, and future medical expenses;
- h. Loss of earning capacity, past and future;
- i. Lost wages; and
- j. Permanent injuries.

16. Each of the forgoing acts and omissions constitutes an independent act of negligence on the part of Defendant and one or more or all above-stated acts were the direct and proximate causes of injuries and damages sustained by Plaintiff. Defendant is liable for Plaintiff's physical injuries, pain and suffering, cost of treatment, mental and emotional damages, and all other elements of damages allowed under the laws of the State of Tennessee.

17. Plaintiff is entitled to recover for the injuries and pain and suffering sustained, and all other elements of damages allowed under Tennessee law, including but not limited to all compensatory, general, special, incidental, consequential, punitive, and/or other damages permitted. Plaintiff states his intention to seek all compensatory, special, economic, consequential, general, and all other damages supported by the evidence and permissible under Tennessee law.

**COUNT II**  
**NEGLIGENCE PER SE**

18. The allegations contained in each and every paragraph above are hereby incorporated by reference as if fully set forth verbatim herein.

19. Defendant failed to heed or obey the protocols, laws, and/or regulations set forth by the City of Memphis, Tennessee and/or commission(s) governing Defendant.

20. Defendant had a duty to the public to conduct and operate its business in accordance with the protocols, laws, and/or regulations referenced in Paragraph 16 above.

21. Defendant breached its duty of care while responsible for maintaining a safe and hazard-free public roadway by failing to perform its duties in a safe, responsible, lawful, and prudent manner, thereby placing the lives and well-being of the public in grave danger, specifically the Plaintiff.

22. As a result of Defendant's negligence, actions, and/or inactions, Plaintiff was caused to suffer injuries and damages including, but not limited to:

- a. Life-threatening personal injuries;
- b. Past, present, and future pain and suffering;
- c. Disability;
- d. Mental anguish;
- e. Loss of the capacity for the enjoyment of life;
- f. Incidental expenses;
- g. Past, present, and future medical expenses;
- h. Loss of earning capacity, past and future;
- i. Lost wages; and

j. Permanent injuries.

23. Each of the forgoing acts and omissions constitutes an independent act of negligence on the part of Defendant and one or more or all above-stated acts were the proximate causes of injuries and damages sustained by Plaintiff. Defendant is liable for Plaintiff's physical injuries, pain and suffering, cost of treatment, mental and emotional damages, and all other elements of damages allowed under the laws of the State of Tennessee.

24. Plaintiff is entitled to recover for the injuries and pain and suffering sustained, and all other elements of damages allowed under Tennessee law, including but not limited to all compensatory, general, special, incidental, consequential, punitive, and/or other damages permitted. Plaintiff states his intention to seek all compensatory, special, economic, consequential, general, and all other damages supported by the evidence and permissible under Tennessee law.

**WHEREFORE, Plaintiff prays for a judgment to be awarded to him and against Defendant for the following:**

- a. Medical expenses and lost earning capacity in an amount to be proven through the evidence at the time of trial for the past, present, and future;
- b. All elements of pain and suffering for the past, present, and future;
- c. Mental anguish and emotional distress;
- d. Attorney's fees and cost of litigation in an amount that will be proven through the evidence at the time of trial;
- e. All general, special, economic, compensatory, incidental, consequential, punitive, and all other permissible damages supported by the evidence at trial;
- f. That a jury be impaneled to resolve all factual disputes; and

g. All other losses and recovery as deemed proper by this Court.

**TRIAL BY JURY OF TWELVE (12) IS HEREBY DEMANDED**

Respectfully submitted this, the \_\_\_\_\_ day of May, 2019.

*/s/ J. Curt Tanner* \_\_\_\_\_

J. Curt Tanner

*(registered to practice pending admission)*

Hamilton Jordan

Tennessee Bar No.: 36071

*Attorneys for Plaintiff*

**OF COUNSEL:**

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**SUMMONS AND COMPLAINT WILL BE SERVED VIA PRIVATE PROCESS SERVER**