

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

CASE NO: 0:15-CV-62567

YAKTIEL PEREZ,

Plaintiff,

v.

SEMINOLE TRIBE OF FLORIDA, a federally
recognized Indian Tribe; SEMINOLE POLICE
DEPARTMENT, and ROBERT BETZ,

Defendants.

COMPLAINT

JURISDICTION

1. This action is being filed under the Federal Tort Claims Act ("FTCA") 28 U.S.C. § 2671, and, 28 U.S.C. §§ 1331 and 1346(b), for an action on a monetary claim for injury caused by the negligent or wrongful act or omission of any employee of the government (32 C.F.R. § 750.21).

2. On May 28, 2015, Plaintiffs submitted an Administrative Claim set forth below to the Seminole Tribe of Florida, a federally recognized Indian Tribe ("Seminole").

3. Six months have elapsed, and all conditions precedent to a Federal Tort Claims Act have been met and satisfied.

4. Venue is properly within this District under 28 U.S.C. § 1402(b) as Plaintiff resides and the acts complained of occurred in the Southern District of Florida.

PARTIES

5. Plaintiff is a resident of Broward County, Florida.

6. Both the SEMINOLE TRIBE OF FLORIDA and the SEMINOLE POLICE DEPARTMENT are appropriate defendants under the Federal Tort Claims Act.

7. Defendant ROBERT BETZ is a sworn officer with the SEMINOLE POLICE DEPARTMENT and is being sued in his individual capacity, and as sworn officer of the SEMINOLE POLICE DEPARTMENT.

ALLEGATIONS COMMON TO ALL COUNTS

8. On September 12, 2013, YAKTIEL PEREZ was a passenger in vehicle owned and operated by Edgar D. Perea, on Sheridan Street in the City of Hollywood, Broward County Florida, when the vehicle owned by Defendant SEMINOLE TRIBE OF FLORIDA, under the supervision of Defendant SEMINOLE POLICE DEPARTMENT and driven by Defendant, ROBERT BETZ, negligently and carelessly caused a collision and impact with the vehicle owned and operated by Edgar D. Perea.

9. On or about September 12, 2013, the Defendant, SEMINOLE TRIBE OF FLORIDA owned a motor vehicle to wit: a 2012 Dodge Charger (VIN NUMBER: 2C3CDXATXCH230264).

10. At all times material hereto, Defendant, SEMINOLE POLICE DEPARTMENT, an agency of Seminole Tribe of Florida, maintained possession of the 2012 Dodge Charger for use by its duly sworn personnel.

11. At all times material hereto, Defendant, ROBERT BETZ, was an employee (duly sworn officer) of the SEMINOLE POLICE DEPARTMENT, and agency of SEMINOLE TRIBE OF FLORIDA, and was driving its vehicle with the SEMINOLE POLICE DEPARTMENT'S permission and consent and in the course and scope of his employment as a sworn police officer.

COUNT 1: AS AND FOR A CAUSE OF ACTION FOR NEGLIGENCE AGAINST
ROBERT BETZ, INDIVIDUALLY AND AS AGENT (SWORN OFFICER) OF
SEMINOLE POLICE DEPARTMENT

Plaintiff herein readopts and re-alleges each and every allegation contained in the allegations common to all counts as if same were fully set forth herein and further say:

12. On or about September 12, 2013, the Plaintiff, YAKTIEL PEREZ, was a passenger in a certain motor vehicle, to wit: 2009 BMW 328I, which was traveling in the westbound direction of Sheridan Street, in the City of Hollywood, County of Broward, State of Florida.

13. At said time and place, Defendant, ROBERT BETZ, while acting in the course and scope of his employment with the SEMINOLE POLICE DEPARTMENT, was operating a Dodge Charger vehicle in an eastbound direction on Sheridan Street in the City of Hollywood, County of Broward, State of Florida.

14. At this time and place, it became and was the duty of the Defendant, ROBERT BETZ, to exercise due care and caution in the operation of his motor vehicle having regard for traffic and use of the roadway.

15. At this time and place, the Defendant, ROBERT BETZ, negligently drove his automobile into the, Plaintiff's lane of travel, causing the vehicle in which the Plaintiff was traveling as a passenger to violently collide with the Defendant's vehicle.

16. The Defendant, ROBERT BETZ, was then and there guilty of one or more of the following negligent acts or omissions:

- a. Negligently and carelessly operating his motor vehicle without due regard for other vehicles rightfully and lawfully along the way;

- b. Negligently and carelessly operating his motor vehicle without sufficient control for conditions prevailing along said street;
- c. Failing to stop his motor vehicle in time to avoid a collision, where he had ample time to avoid it;
- d. Driving his motor vehicle in disregard of the prevailing road, weather and traffic conditions, so as to constitute a driving hazard;
- e. Negligently deviating from his own lane of travel and into Plaintiff's lane of travel, in violation of Florida Statute § 316.123; and,
- f. Failing to keep a proper lookout for other vehicles along the roadway;

17. As a direct and proximate result of one or more of these aforesaid negligent acts or omissions, Defendant's vehicle violently collided with the Plaintiff's vehicle whereby Plaintiff suffered great and severe personal injuries. These injuries caused the Plaintiff to experience great pain and suffering and lose time from work. The Plaintiff was seriously injured in and about his head, neck, back, body and limbs, and as a direct result thereof, the Plaintiff has in the past suffered and will in the future suffer great pain and anguish of body and mind, and the injuries complained of by him are permanent in nature.

18. That as a further direct and proximate result of the negligence of Defendant, ROBERT BETZ, the Plaintiff, YAKTIEL PEREZ, has in the past undergone and will in the future undergo painful and extensive medical care and treatment, and has in the past and will in the future incur medical bills and expenses attendant to his injuries, as aforesaid.

19. That as a further and direct and proximate result of the negligence of Defendant, ROBERT BETZ, the Plaintiff, YAKTIEL PEREZ, has in the past sustained a loss of earning and will in the future suffer lost earnings capacity.

WHEREFORE, the Plaintiff, YAKTIEL PEREZ, prays for damages against the Defendant, ROBERT BETZ, individually and as agent (sworn officer) of the SEMINOLE POLICE DEPARTMENT, and Agency of the SEMINOLE TRIBE OF FLORIDA, in a sum of money in excess of the jurisdictional amount of Seventy-Five Thousand Dollars (\$75,000.00) plus his attorney fees and costs of this action and any other such relief deemed just and equitable.

COUNT II: AS AND FOR A CAUSE OF ACTION AGAINST SEMINOLE POLICE

DEPARTMENT, AN AGENCY OF SEMINOLE TRIBE OF FLORIDA

FOR VICARIOUS LIABILITY

Plaintiff herein readopts and realleges each and every allegation contained in the allegations common to all counts as if same were fully set forth herein and further say:

20. On or about September 12, 2013, and at the time of the collision with Plaintiff as heretofore described, Defendant, ROBERT BETZ, was acting within the scope of his employment with Defendant SEMINOLE POLICE DEPARTMENT, and agency of SEMINOLE TRIBE OF FLORIDA.

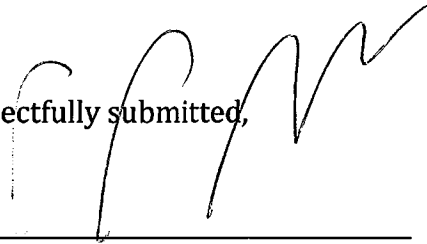
21. That at the time and place aforesaid, Defendant SEMINOLE TRIBE OF FLORIDA owned a motor vehicle, a Dodge Charger, that was operated with its consent and permission by, ROBERT BETZ, a duly sworn officer of its agency, SEMINOLE POLICE DEPARTMENT. Thus Defendant, SEMINOLE TRIBE OF FLORIDA is vicariously liable for officer, ROBERT BETZ'S negligence under Florida's Dangerous Instrumentality Doctrine.

22. Under the Federal Tort Claims Act, Defendants SEMINOLE TRIBE OF FLORIDA and its agency, SEMINOLE POLICE DEPARTMENT are liable for the above described actions of their agent, OFFICER ROBERT BETZ, as he was acting within the scope

and during his employment as a law enforcement officer for the SEMINOLE POLICE DEPARTMENT, an agency of the SEMINOLE TRIBE OF FLORIDA.

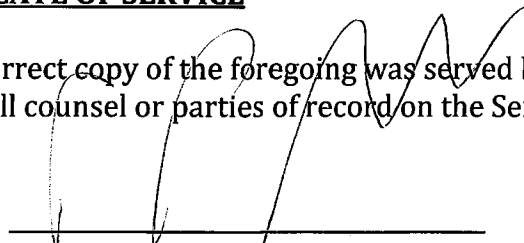
WHEREFORE, Plaintiff respectfully requests this Court to award compensatory damages against SEMINOLE POLICE DEPARTMENT, an agency of SEMINOLE TRIBE OF FLORIDA, based upon the negligent acts of its agent (sworn officer) ROBERT BETZ, in in a sum of money in excess of the jurisdictional amount of Seventy-Five Thousand Dollars (\$75,000.00) plus his attorney fees and costs of this action and any such other relief to be deemed just and equitable.

Respectfully submitted,


By: _____
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail on December 8, 2015 on all counsel or parties of record on the Service List below.



Signature of Filer

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