

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

BRIANA MARIE TYLER,

Plaintiff,

v.

CASE NO.

WALMART, INC., t/a Walmart Supercenter

Serve: CT Corporation System, Registered Agent
4701 Cox Road, Suite 285
Glen Allen, Virginia 23060

Defendant.

COMPLAINT

COMES NOW the Plaintiff, Briana Marie Tyler, (hereinafter referred to as “Plaintiff”), by counsel, and moves this Honorable Court for a judgment and award of execution against the Defendant, Walmart, Inc., t/a Walmart Supercenter (hereinafter referred to as “Walmart”), in the amount of **FIFTY MILLION DOLLARS and 00/100 (\$50,000,000.00)**, together with prejudgment interest from November 22, 2022, as well as her costs expended, and such other and further relief as this Court may deem appropriate, for the reasons more particularly set forth as follows:

PARTIES

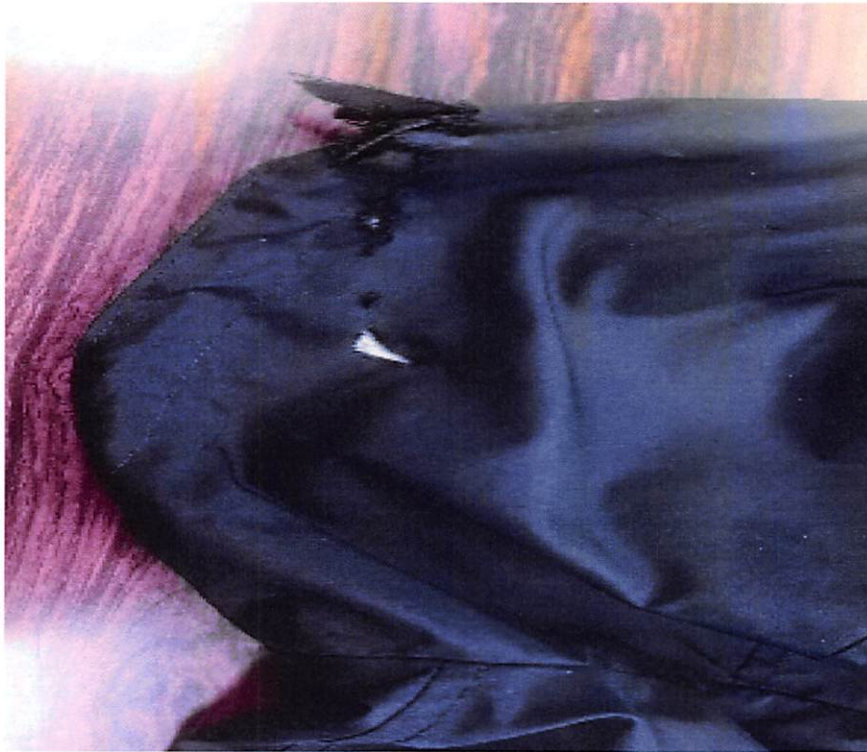
1. The plaintiff, a resident of Virginia Beach, is an individual who at all relevant times was an individual employed by the defendant Walmart.
2. The defendant Walmart is a national corporation headquartered in Bentonville, Arkansas, and owns, runs and operates the Walmart Supercenter located at 1521 Sam's Circle, Chesapeake, Virginia, 23320, (Chesapeake Walmart), and as of October, 2022, reported annual sales in 2021 of **559.151 Billion Dollars**, and reported annual profit of **146.292 Billion Dollars**.

FACTS

3. On November 22, 2022, the plaintiff was beginning her shift at the Chesapeake Walmart, and was standing in the breakroom awaiting shift instructions from team lead Andre Bing (Bing).
4. At this time, Bing entered the breakroom standing in the doorway, and suddenly began firing a 9 mm handgun randomly throughout the breakroom, striking, injuring and murdering co-workers of the plaintiff.
5. Bing, at all times relevant hereto, was an employee of Walmart, having first been employed in 2010.
6. The bullets fired by Bing missed the plaintiff by inches.
7. Bing then exited the breakroom, turning right as he exited, and proceeding down the adjacent hallway.
8. Upon Bing exiting the breakroom, the plaintiff ran as fast as she could out of the breakroom, through the same door in which Bing was standing, and turned left, terrified and seeking to escape the deadly rampage being imposed upon the plaintiff and her colleagues.
9. While running down the hallway, seeking to escape Bing, and eventually entering the retail store area of the Chesapeake Walmart, the plaintiff became aware that Bing was now chasing her and firing his gun at her.
10. The plaintiff was aware of bullets flying near her head, narrowly missing her, which fact was confirmed by video evidence in the possession of Walmart.
11. On November 28, 2022, the plaintiff spoke with Clay Thrasher, an agent of Walmart, who informed her that video surveillance in the possession of Walmart confirmed that Bing followed the plaintiff into the retail section of the Chesapeake Walmart and was

firing his gun at her.

12. The plaintiff was able to escape the rampaging Bing by running as fast as she could, injuring both of her legs and experiencing acute chest pain while being chased by Bing.
13. Eventually the plaintiff reached the parking lot of the Chesapeake Walmart, and exited the Chesapeake Walmart property with her mother, who had come to pick her up upon receiving a frantic call from the plaintiff.
14. Investigation by law enforcement subsequent to the plaintiff exiting the property revealed that six people were killed by Bing, and multiple others injured. Bing later turned the gun upon himself and killed himself in the breakroom on the night of November 22, 2022.
15. Upon returning to her home immediately after the herein described shooting on November 22, 2022 , the plaintiff examined the jacket that she was wearing, (see picture on the following page) and realized, upon information and belief, that the bullets that she experienced being fired at her earlier that night had missed her literally by inches, and had gone through the hood of her jacket, inches from her head.



16. During plaintiff's employment at the Chesapeake Walmart, it was well known to her that Bing was an individual to be avoided, and one who had a history of disturbing behavior, including, but not limited to:
 - a. threatening and berating co-employees at the Chesapeake Walmart;
 - b. harassing co-employees; and
 - c. threatening to kill co-employees if Bing were ever fired.
17. Upon information and belief, including statements reported publicly from prior and current employees of the Chesapeake Walmart, supervisors of Walmart knew prior to November 22, 2022, of the dangerous and violent propensities of Bing.
18. Upon information and belief, prior to this mass shooting, Bing had been demoted by management for his improper and disturbing interactions with others, but then reinstated as team lead.

19. Bing demonstrated a pattern of disturbing behavior leading up to the shooting, of which Walmart knew or should have known.
20. Bing's behavior prior to the shooting put Walmart on notice that Mr. Bing was violent and could harm others.
21. In fact, many Walmart employees and managers had observed Mr. Bing exhibit bizarre and threatening behavior leading up to the shooting.
22. Upon information and belief, Walmart and its managers were aware of Bing's behavior and threats, but kept employing him anyway.
23. Upon information and belief, Bing was previously disciplined for his bad behavior and harassment of other employees.
24. Upon information and belief, Bing was disciplined leading up to the shooting, making his violent outburst predictable and foreseeable.
25. Despite Bing's long-standing pattern of disturbing and threatening behavior, Walmart did not terminate Bing to keep Walmart customers and employees safe.
26. Despite Bing's long-standing pattern of disturbing and threatening behavior, Walmart continued to permit Mr. Bing access to the breakroom and other common areas.
27. Walmart had a special relationship with Bing as his employer, whereby Walmart could have terminated his employment.
28. The violent and murderous actions of Bing were foreseeable by the defendant.
29. The management and supervisors of the Chesapeake Walmart received complaints from employees, and parents of employees, asking them to remove Bing as an employee, or be removed from a position of leadership, as a result of his violent and dangerous propensities.

30. Despite the knowledge of Walmart supervisors and management, and despite the pleas from employees and parents of employees to remove Bing from his position of leadership, or from employment all together, Walmart did nothing.
31. Walmart's failure to remove Bing from employment, and Walmart's failure to remove Bing from a position of leadership constitutes reckless conduct, gross negligence, negligent hiring, and negligent retention of Bing, for which it is liable.
32. Bing was a dangerous employee who Walmart knew or should have known was dangerous, violent, unstable, and likely to cause injury, including death to others.
33. Bing was a dangerous employee who Walmart knew or should have known was dangerous, violent, unstable, and likely to commit criminal acts, such as the attempted murder of the plaintiff, and the actual murder of plaintiff's co-workers.
34. Walmart had a special relationship with all of its employees, including the plaintiff and her co-workers at the Chesapeake Walmart, and thus had a duty to keep them safe from harm, including murder and attempted murder.
35. There is no causal connection between the attempted murder of the plaintiff by Bing and the conditions under which Walmart required plaintiff's work to be done.
36. The attempted murder of the plaintiff by Bing did not arise out of her employment.
37. The risk of future harm was so grave that discharging Bing was the only reasonable response by Walmart once learning of Bing's violent and dangerous propensities.
38. Walmart showed utter disregard of prudence, amounting to the complete gross neglect and disregard for the safety of others by retaining Bing as an employee,

despite knowing his propensity for violence, including murder and attempted murder, which disregard and neglect is shocking to reasonable people.

COUNT I
NEGLIGENT HIRING AND RETENTION

39. Paragraphs 1 through 38 are hereby incorporated by reference.
40. At all relevant times described herein, the defendant Walmart was an employer and supervisor of Bing.
41. Despite being aware that Bing was exhibiting violent tendencies towards co-workers, and despite being aware that Bing was mentally unstable, Walmart did nothing, and allowed Bing to remain as an employee.
42. Walmart had a duty to terminate the employment of Bing as a result of the violent and dangerous propensities and tendencies being displayed by Bing, yet failed to do so, resulting in harm to the plaintiff.
43. Walmart breached that duty by:
- a. employing Bing, who had known propensities for violence, threats, and strange behavior; and
 - b. retaining Bing, and failing to discharge Bing prior to November 22, 2022, who had known propensities for violence, threats, and strange behavior.
44. The plaintiff was physically injured, harmed, and will be physically and emotionally injured and harmed for the rest of her life, as a result of that breach.

COUNT II
RESPONDEAT SUPERIOR LIABILITY

45. Paragraphs 1 through 44 are hereby incorporated by reference.
46. At all times material herein, Bing was an employee, agent or representative of Walmart.

47. At all times material herein, Bing was acting within the scope of the duties of the employment and in the execution of the service for which Bing was engaged, i.e., as team lead for the team in which plaintiff was employed.
48. The attempted murder of the plaintiff was performed while Bing was acting as the team lead for Walmart at the Chesapeake Walmart.
49. As a direct result of the attempted murder of the plaintiff by Bing, the plaintiff was physically and emotionally injured and harmed, and will continue to be harmed for the rest of her life.

COUNT III
GROSS NEGLIGENCE

50. Paragraphs 1 through 49 are hereby incorporated by reference.
51. Walmart's retention of Bing as an employee, the failure to terminate him as an employee prior to November 22, 2022, and the failure to respond to complaints received by Walmart management, constitutes a breach of the duty owed by Walmart to the plaintiff, and constitutes gross negligence.
52. The plaintiff has been harmed by such breaches.
53. As a direct and proximate result of the aforesaid breaches of duty and gross negligence of Walmart, the Plaintiff has endured, and will endure for the rest of her life, the following:
- a. physical injuries to her legs and chest;
 - b. extreme pain and suffering, including both psychological and physical suffering;
 - c. night fright;
 - d. paranoia;
 - e. fear of dark places;


- f. agoraphobia;
- g. fear of being in public places, including, but not limited to, fear of enrolling her 4 year old son in public school, and being at public school with him;
- g. lost present and future wages; and
- h. present and future medical bills.

54. The trauma occasioned to the plaintiff described herein, horrific by nature, is ongoing, and the plaintiff will be dealing with the nightmarish event and injuries that came literally within inches of taking her life, for the rest of her life.

WHEREFORE, for the reasons set forth above, your Plaintiff moves this Honorable Court for a judgment and award of execution against the defendant Walmart in the amount of **FIFTY MILLION DOLLARS and 00/100 (\$50,000,000.00)**, in compensatory damages together with interest from November 22, 2022, to date, as well as her costs expended in these proceedings and such other and further relief as this Court may deem appropriate.

A TRIAL BY JURY IS HEREBY DEMANDED.

BRIANA MARIE TYLER

By  _____
Of Counsel

Mark J. Favaloro, Esquire
Virginia Bar No.: 77672
Favaloro Law
295 Bendix Road, Suite 210
Virginia Beach, Virginia 23452
(757) 390-4370 office
(888) 581-6129 facsimile

COVER SHEET FOR FILING CIVIL ACTIONS

COMMONWEALTH OF VIRGINIA

Case No.

(CLERK'S OFFICE USE ONLY)

CHESAPEAKE

Circuit Court

BRIANA MARIE TYLER

v./In re:

WALMART, INC. t/a Walmart Supercenter

PLAINTIFF(S)

DEFENDANT(S)

I, the undersigned ☐ plaintiff ☐ defendant ☒ attorney for ☒ plaintiff ☐ defendant hereby notify the Clerk of Court that I am filing the following civil action. (Please indicate by checking box that most closely identifies the claim being asserted or relief sought.)

GENERAL CIVIL**Subsequent Actions**

- ☐ Claim Impleading Third Party Defendant
☐ Monetary Damages
☐ No Monetary Damages
☐ Counterclaim
☐ Monetary Damages
☐ No Monetary Damages
☐ Cross Claim
☐ Interpleader
☐ Reinstatement (other than divorce or driving privileges)
☐ Removal of Case to Federal Court

Business & Contract

- ☐ Attachment
☐ Confessed Judgment
☐ Contract Action
☐ Contract Specific Performance
☐ Detinue
☐ Garnishment

Property

- ☐ Annexation
☐ Condemnation
☐ Ejectment
☐ Encumber/Sell Real Estate
☐ Enforce Vendor's Lien
☐ Escheatment
☐ Establish Boundaries
☐ Landlord/Tenant
☐ Unlawful Detainer
☐ Mechanics Lien
☐ Partition
☐ Quiet Title
☐ Termination of Mineral Rights

Tort

- ☐ Asbestos Litigation
☐ Compromise Settlement
☐ Intentional Tort
☐ Medical Malpractice
☐ Motor Vehicle Tort
☐ Product Liability
☐ Wrongful Death
☒ Other General Tort Liability

ADMINISTRATIVE LAW

- ☐ Appeal/Judicial Review of Decision of (select one)
☐ ABC Board
☐ Board of Zoning
☐ Compensation Board
☐ DMV License Suspension
☐ Employee Grievance Decision
☐ Employment Commission
☐ Local Government
☐ Marine Resources Commission
☐ School Board
☐ Voter Registration
☐ Other Administrative Appeal

DOMESTIC/FAMILY

- ☐ Adoption
☐ Adoption – Foreign
☐ Adult Protection
☐ Annulment
☐ Annulment – Counterclaim/Responsive Pleading
☐ Child Abuse and Neglect – Unfounded Complaint
☐ Civil Contempt
☐ Divorce (select one)
☐ Complaint – Contested*
☐ Complaint – Uncontested*
☐ Counterclaim/Responsive Pleading
☐ Reinstatement – Custody/Visitation/Support/Equitable Distribution
☐ Separate Maintenance
☐ Separate Maintenance Counterclaim

WRITS

- ☐ Certiorari
☐ Habeas Corpus
☐ Mandamus
☐ Prohibition
☐ Quo Warranto

PROBATE/WILLS AND TRUSTS

- ☐ Accounting
☐ Aid and Guidance
☐ Appointment (select one)
☐ Guardian/Conservator
☐ Standby Guardian/Conservator
☐ Custodian/Successor Custodian (UTMA)
☐ Trust (select one)
☐ Impress/Declare/Create
☐ Reformation
☐ Will (select one)
☐ Construe
☐ Contested

MISCELLANEOUS

- ☐ Amend Death Certificate
☐ Appointment (select one)
☐ Church Trustee
☐ Conservator of Peace
☐ Marriage Celebrant
☐ Approval of Transfer of Structured Settlement
☐ Bond Forfeiture Appeal
☐ Declaratory Judgment
☐ Declare Death
☐ Driving Privileges (select one)
☐ Reinstatement pursuant to § 46.2-427
☐ Restoration – Habitual Offender or 3rd Offense
☐ Expungement
☐ Firearms Rights – Restoration
☐ Forfeiture of Property or Money
☐ Freedom of Information
☐ Injunction
☐ Interdiction
☐ Interrogatory
☐ Judgment Lien-Bill to Enforce
☐ Law Enforcement/Public Official Petition
☐ Name Change
☐ Referendum Elections
☐ Sever Order
☐ Taxes (select one)
☐ Correct Erroneous State/Local
☐ Delinquent
☐ Vehicle Confiscation
☐ Voting Rights – Restoration
☐ Other (please specify)

☒ Damages in the amount of \$ 50,000,000.00 are claimed

DATE

Mark J. Favaloro, Esquire - FAVALORO LAW

PRINT NAME

295 Bendix Road, Suite 210

ADDRESS/TELEPHONE NUMBER OF SIGNATOR

Virginia Beach, VA 23454

EMAIL ADDRESS OF SIGNATOR (OPTIONAL)

*"Contested" divorce means any of the following matters are in dispute: grounds of divorce, spousal support and maintenance, child custody and/or visitation, child support, property distribution or debt allocation. An "Uncontested" divorce is filed on no fault grounds and none of the above issues are in dispute.

**Civil Action Type Codes
(Clerk's Office Use Only)**

Accounting	ACCT	Encumber/Sell Real Estate	RE
Adoption	ADOP	Enforce Vendor's Lien	VEND
Adoption – Foreign	FORA	Escheatment	ESC
Adult Protection	PROT	Establish Boundaries	ESTB
Aid and Guidance	AID	Expungement	XPUN
Amend Death Certificate	ADC	Forfeiture of Property or Money	FORF
Annexation	ANEX	Freedom of Information	FOI
Annulment	ANUL	Garnishment	GARN
Annulment – Counterclaim/Responsive Pleading..	ACRP	Injunction	INJ
Appeal/Judicial Review		Intentional Tort	ITOR
ABC Board	ABC	Interdiction	INTD
Board of Zoning	ZONE	Interpleader	INTP
Compensation Board	ACOM	Interrogatory	INTR
DMV License Suspension	JR	Judgment Lien – Bill to Enforce	LIEN
Employment Commission	EMP	Landlord/Tenant	LT
Employment Grievance Decision	GRV	Law Enforcement/Public Official Petition	LEP
Local Government	GOVT	Mechanics Lien	MECH
Marine Resources	MAR	Medical Malpractice	MED
School Board	JR	Motor Vehicle Tort	MV
Voter Registration	AVOT	Name Change	NC
Other Administrative Appeal	AAPL	Other General Tort Liability	GTOR
Appointment		Partition	PART
Conservator of Peace	COP	Permit, Unconstitutional Grant/Denial by Locality	LUC
Church Trustee	AOCT	Petition – (Miscellaneous)	PET
Custodian/Successor Custodian (UTMA)	UTMA	Product Liability	PROD
Guardian/Conservator	APPT	Quiet Title	QT
Marriage Celebrant	ROMC	Referendum Elections	ELEC
Standby Guardian/Conservator	STND	Reinstatement (Other than divorce or driving privileges)	REIN
Approval of Transfer of Structured Settlement	SS	Removal of Case to Federal Court	REM
Asbestos Litigation	AL	Restore Firearms Rights – Felony	RFRF
Attachment	ATT	Restore Firearms Rights – Review	RFRR
Bond Forfeiture Appeal	BFA	Separate Maintenance	SEP
Child Abuse and Neglect – Unfounded Complaint ..	CAN	Separate Maintenance – Counterclaim/Responsive Pleading	SCRP
Civil Contempt	CCON	Sever Order	SEVR
Claim Impleading Third Party Defendant –		Sex Change	COS
Monetary Damages/No Monetary Damages	CTP	Taxes	
Complaint – (Miscellaneous)	COM	Correct Erroneous State/Local	CTAX
Compromise Settlement	COMP	Delinquent	DTAX
Condemnation	COND	Termination of Mineral Rights	MIN
Confessed Judgment	CJ	Trust – Impress/Declare/Create	TRST
Contract Action	CNTR	Trust – Reformation	REFT
Contract Specific Performance	PERF	Uniform Foreign Country Money Judgments	RFCJ
Counterclaim – Monetary Damages/No Monetary		Unlawful Detainer	UD
Damages	CC	Vehicle Confiscation	VEH
Cross Claim	CROS	Violation – Election Law	VEL
Declaratory Judgment	DECL	Voting Rights – Restoration	VOTE
Declare Death	DDTH	Will Construction	CNST
Detinue	DET	Will Contested	WILL
Divorce		Writs	
Complaint – Contested/Uncontested	DIV	Certiorari	WC
Counterclaim/Responsive Pleading	DCRP	Habeas Corpus	WHC
Reinstatement – Custody/Visitation/Support/ Equitable Distribution	CVS	Mandamus	WM
Driving Privileges		Prohibition	WP
Reinstatement pursuant to § 46.2-427	DRIV	Quo Warranto	WQW
Restoration – 3 rd Offense	REST	Wrongful Death	WD
Ejectment	EJET		