



Jesse Gant, III- Attorney At Law, P.A.
13091 Taconite Court, NE
Blaine, MN 55449
Telephone (763) 780-1668 & Fax Number (763) 792-1788
www.jgant@gantlaw.com

November 4, 2009

MALL OF AMERICA
Attn: Chief Executive Officer
60 E. Broadway
Bloomington, Minnesota 55425

METRO TRANSIT POLICE
Attn: Chief Executive or Chief Operations Officer
2425 Minnehaha Avenue South
Minneapolis, MN 55404

Re: Claim of Kevin J. Phillips against the Metro Transit Police and the Mall of America based upon the conduct of Metro Transit Police Officers at the MOA, claiming assault, battery, false imprisonment, negligence and negligent supervision

(And Request For Surveillance Tape)

Date of Incident: 10/26/09
Approx. Time of Incident: 6:38 p.m. to 6:50 p.m.

Dear Sir/Madam:

My law office has recently been retained by Kevin J. Phillips to represent regarding an incident that took place on October 26, 2009 related to MTP's Officers conduct and the Mall Of America providing the facility for falsely

imprisoning my client, committing unjustifiable and without legal cause, assault, battery, and false imprisonment. He is also making a claim of negligence and negligent supervision.

FACTUAL BACKGROUND

On October 26, 2009, Mr. Phillips arrived at the Mall of America around 6:38 p.m. via light rail train and began walking away from the train with other passengers. Suddenly Mr. Phillips sees a bus he could use and proceeds to his left to cut through the gated area separating the tracks from people. Mr. Phillips then gets in line with other passengers waiting to board the number "539" Bus at Gate C.

Then, out of nowhere without warning, a man wearing a black uniform (who we now reasonably believe were a Metro Transit Police Officer), approaches Mr. Phillips from his left side. Another black uniformed male approaches Mr. Phillips from his right side. Mr. Phillips had no idea who these men were, then, he sees a third male in black uniform approaching him. These three uniformed men, who never identified themselves, then grab Mr. Phillips. They aggressively jostled Mr. Phillips to the hallway of the MOA where they slammed him up against the glass, and were continuously jabbing him with the tazer to his lower back while threatening Mr. Phillips that they were going to use the tazer on him. (This caused Mr. Phillips added stress because he had just been diagnosed with a weak heart and was thinking that if "tazed" it could kill him). Mr. Phillips' legs are then kicked open aggravating his arthritic ankle and a recently scoped groin. Then finally Mr. Phillips was violently handcuffed, hurting his wrists. After Mr. Phillips was handcuffed the three officers lead him through the Mall with many other patrons watching this embarrassing sight, into a holding cell where Mr. Phillips was locked up, while still handcuffed.

The Metro Transit Police ("MTP") Officers who grabbed Mr. Phillips said that they were checking transfer tickets, and that this was why they stopped Mr. Phillips, thinking he did not have a ticket. These Officers never asked Mr. Phillips to show a ticket, they simply pounced on him. All these Officers had to do was ask Mr. Phillips for his ticket and he would have shown it to them. But they did not. **(See, Metro Transit Ticket of Phillips, issued 10/26/09 at 6:14 p.m., attached).**

Understand, Mr. Phillips was in line to wait for the bus, and it was obvious he was not leaving, but just standing there—where the Officers had the opportunity to simply ask to see Mr. Phillips' valid ticket. Instead, without warning these Officers assaulted, battered and falsely imprisoned, not to mention humiliated and embarrassed, Mr. Phillips in front of the many other patrons at the Mall. Had Mr. Phillips boarded the bus, these Officers could have then asked to see Mr. Phillips' ticket, and they would have seen that he had a valid ticket. Mr. Phillips

never resisted these Officers and the video surveillance tape will show this to be true.

The Mall of America and Metro Transit Police seem to have a partnership, joint venture and/or agreement in place whereby the MOA has made its facility available for the MTP Officers to conduct business, including providing the holding cells to imprison individuals, such as Mr. Phillips. Because after the Officers took Mr. Phillips from the bus or transit area outside the Mall's facility, the Transit Officers, (badges #'s 6787 and 8066), **(See, Complaint (citation) from MTP dated 10/26/09 at 18:40 pm, attached)**, marched him handcuffed through the Mall and into a holding office, where Mr. Phillips was then placed in a separate holding cell in the Mall.

Request For All Surveillance Tape/Video: Pursuant to the "Spoilation of Evidence Doctrine":

Please be advised that pursuant to the spoliation of evidence doctrine of the Courts and the preservation of known evidence related to this matter, I am requesting copies of any and all audio, video and/or surveillance tape showing what happened between Mr. Phillips and the three black uniformed men or MTP Officers in question.

For any such recordings or surveillance tape/video I am requesting that you safely preserve the original of this property, evidence, material and/or objects in case litigation is commenced in the future, pursuant to the "spoliation of evidence doctrine".

I am requesting any and all surveillance tape/video from October 26, 2009 from 6:00 p.m. to 7:30 p.m., depicting or recording the interaction between Mr. Phillips and the three black uniformed officers or MTP Officers in the following areas at the Mall of America:

1. All surveillance tape and/or video/audio recordings showing the uniformed officers interacting with Mr. Phillips from the time he is in line waiting to get on the bus in question through to when he is placed in the holding cell.
2. At Gate C at the Mall of America Transit Center where Bus Number 539 appears.
3. In the hallway inside the Mall of America, located between the out doors and the inside of the Mall.
4. Inside the Mall where Mr. Phillips was being lead to the holding cell.

5. In the office of the holding cell where Mr. Phillips was detained and the holding cell itself.

Be advised that if the MOA does not control or have in its possession the surveillance tape or video or audio recording in the Metro Transit Bus Center area showing what took place near the bus between Phillips and the MTP Officers, then we expect that MTP will provide such recordings, if they maintain sole control and possession of such information.

Your promptest reply to submitting the video/audio surveillance tape/video requested would be greatly appreciated; and please contact me to let me know when I can expect these recordings. If your office wishes to resolve this matter before full-blown litigation is commenced please contact my office in the next few business days. If we have not heard from you by then we will be going forward with filing a civil action in this regard.

Again, please preserve the originals of all surveillance tape/video/audio recordings requested and in your respective possessions, pursuant to the "spoliation of evidence doctrine".

Very truly yours,

Jesse Gant, III, Esq.

cc: Kevin J. Phillips