



**NAILAH K. BYRD**  
**CUYAHOGA COUNTY CLERK OF COURTS**  
1200 Ontario Street  
Cleveland, Ohio 44113

**Court of Common Pleas**

**New Case Electronically Filed:**  
**October 14, 2019 16:37**

By: BRUCE D. TAUBMAN 0001410

Confirmation Nbr. 1841848

ERIC SMITH, ET AL.

CV 19 923270

vs.

**Judge:** STEVEN E. GALL

CLEVELAND BROWNS FOOTBALL CLUB LLC, ET  
AL.

**Pages Filed:** 12

**IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO**

**ERIC SMITH** )  
c/o Taubman Law )  
1826 West 25<sup>th</sup> )  
Cleveland, Ohio 44113 )

**CASE No:**

-and- )

**ATINUCH NAOWARAT** )  
c/o Taubman Law )  
1826 West 25<sup>th</sup> )  
Cleveland, Ohio 44113 )  
Plaintiffs, )

**JUDGE:**

v. )

**CLEVELAND BROWNS FOOTBALL** )  
**CLUB LLC** )  
c/o Statutory Agent )  
CT Corporation System )  
4400 Easton Commons Way )  
Suite 125 )  
Columbus, OH 43219 )

-and- )

**COMPLAINT**

**CLEVELAND BROWNS** )  
76 Lou Groza Blvd. )  
Berea, Ohio 44017 )

(Jury Demanded)

-and- )

**CLEVELAND BROWNS STADIUM** )  
**COMPANY LLC.** )  
c/o statutory agent )  
CT Corporation System )

-and- )

**FIRST ENERGY STADIUM** )  
 100 Alfred Lerner Way )  
 Cleveland, Ohio 44114 )  
 )  
 -and- )  
 )  
**NATIONAL FOOTBALL LEAGUE** )  
**SECURITY** )  
 345 Park Avenue )  
 New York, New York 10154 )  
 )  
 -and- )  
 )  
**BOB SIVIK** )  
 76 Lou Groza Blvd. )  
 Berea, Ohio 44017 )  
 )  
 -and- )  
 )  
**PETER JOHN-BAPTISTE** )  
 76 Lou Groza Blvd. )  
 Berea, Ohio 44017 )  
 )  
 -and- )  
 )  
**JOHN DOE SECURITY** )  
 Name and address unknown )  
 )  
 -and- )  
 )  
**JOHN DOES I-X** )  
 Name and address unknown )

**Defendants.**

Now come the Plaintiffs, Eric Smith and Atinuch Naowarat (“Plaintiffs”) for their complaint against Defendants, Cleveland Browns Football Club LLC, Cleveland Browns, Cleveland Browns Stadium Company LLC, First Energy Stadium, National Football League Security, Bob Sivik, Peter John-Baptiste, John Doe Security Company and John Does I-X, herein after referred to collectively as (“Defendants”) claim, allege, state, and aver by and through their attorney the following:

## NATURE OF THE ACTION

1. This is a lawsuit on the behalf of Plaintiffs individually and jointly who were injured as a result of the Defendants conduct.

2. Defendants are in the business of providing entertainment to the general public through the National Football League Association, specifically the Cleveland Browns Football Company LLC as well as providing stadium security at First Energy Stadium.

3. The damage and harm occurred when the Plaintiff, Eric Smith was falsely identified as the fan who threw his beer on Tennessee Titans player Logan Ryan during the Cleveland Browns home opener on September 8<sup>th</sup>, 2019.

4. The Cleveland Browns on September 10<sup>th</sup>, 2019 announced they would be looking into the incident and on or September 11<sup>th</sup>, 2019 a Cleveland Browns official notified the Plaintiff, Eric Smith that he had been identified as the fan who threw beer on the Titans player and as a result he had been permanently banned.

5. However, the Plaintiff was not at the game on September 8<sup>th</sup>, 2019 and in fact hasn't been to Cleveland Browns game in over nine years.

6. Defendants' gross and inexcusable conduct was a breach of trust, confidence, decency, stewardship and professionalism, Defendants' actions or lack thereof have caused irreparable harm to the Plaintiffs.

7. Defendants have not reached out to the Plaintiffs properly for their misconduct and negligence, and have not offered them proper compensation for their injuries.

8. Plaintiffs seek damages, equitable relief, and other remedies from Defendants as a result of their misconduct.

## **JURISDICTION, VENUE, AND PARTIES**

9. This Court has general jurisdiction over the common-law claims asserted herein because money damages are being sought in excess of \$25,000.00

10. Under Ohio Rules of Civil Procedure venue is proper because Cuyahoga County, Ohio is the county in which Cleveland Browns has its principal place of business and because all or part of the claims for relief arose in Cuyahoga County.

11. At all times mentioned herein, Cleveland Browns, Cleveland Browns Football Company LLC, Cleveland Browns Stadium Company LLC, were and are duly organized corporations and/or business associations recognized and doing business under the laws of the State of Ohio, and pursuant thereto, manage and/or operate and/or are tenants of a sports complex that includes First Energy Stadium.

12. At all times mentioned herein, Defendant First Energy Stadium, was and is a duly organized corporation and/or business association recognized and existing under the laws of the State of Ohio, and pursuant thereto, owns and/or operates and/or manages a sports complex that includes First Energy Stadium.

13. At all times mentioned here, Defendant National Football League Security, was and is employed by the Cleveland Browns or working with the Cleveland Browns to provide security as part of the National Football League.

14. At all times mentioned here, Bob Sivik, was an employee of the Cleveland Browns and was acting within the course and scope of his employment.

15. At all times mentioned here, Peter John-Baptiste, was an employee of the Cleveland Browns and was acting within the course and scope of his employment.

16. That said Plaintiffs have not been able to discover the real names and addresses of Defendants JOHN DOE SECURITY and JOHN DOES I-X, despite reasonable efforts. Defendant JOHN DOE SECURITY and JOHN DOES I-X was and is the agent, servant, and employee of each remaining Defendant, and in the performance of duties herein alleged, was acting within the course and scope of said agency and/or employment.

17. At all times relevant to this action, the Cleveland Browns played their home games at First Energy Stadium and were in charge of security, security procedures, reviewing security footage and overall security at First Energy Stadium.

### **FACTUAL ALLEGATIONS**

18. Plaintiffs state that on or about September 8<sup>th</sup>, 2019 the Cleveland Browns hosted the Tennessee Titans for the first game of the 2019 NFL season.

19. Plaintiffs further state that the game was attended by over 67,000 people and started at approximately 1:00 pm on the 8<sup>th</sup> of September, 2019.

20. The game against the Tennessee Titans did not go according to plan, the Browns committed an obscene amount of penalties and turnovers, yet somehow the deficit at the beginning of the fourth quarter was only nine (9) points.

21. Plaintiffs further state as the game was getting out of hand and the crowd was dispensing late in the fourth quarter when Baker Mayfield with 3:11 remaining in the fourth quarter, threw his second interception of the day to Malcom Butler.

22. Plaintiffs further state that Malcom Butler returned the interception for a touchdown “pick six” and as a result a few of the Tennessee Titans players, including Malcom Butler and Logan Ryan leaped into the Cleveland Dog Pound to celebrate. As a result of the celebration Logan Ryan was doused with beer from an unidentified fan.

23. At the same time and place Plaintiff, Eric Smith, was at his home relaxing with his wife and kids before he left around 3:00 pm to DJ a wedding at Ariel International.

24. Plaintiffs further state that on September 9<sup>th</sup>, 2019 at approximately 9:26 am, Tennessee Titan Logan Ryan tweeted “They can pour beer on us because we’re just athletes right? We’re just entertainment & since they purchased a ticket they can act how they want? [@NFL](#) [@NFLPA](#) [@Browns](#) [@Titans](#)”

25. As a direct result of Logan Ryan’s tweet the National Football League Players Association got involved and reached out to Defendant, National Football League Security who then reached out to Defendant, Cleveland Browns.

26. Shortly thereafter the Cleveland Browns did some “research” and released a statement stating, “This individual person’s action is not tolerated in our building as it is not reflective of our fan base or city,” the team said in its statement. “We are currently addressing the situation internally, along with NFL Security, and we believe we have identified the person involved. He will ultimately face an indefinite ban from FirstEnergy Stadium for the unacceptable behavior, which is in clear violation of our Fan Code of Conduct.”

27. On September 11<sup>th</sup>, 2019 at approximately 9:00 am less than 24 hours after the so-called investigation, Bob Sivik Vice President of Sales and Tickets called Eric Smith’s office to inform him that they used footage from multiple security cameras in the stadium to match his face and arm tattoo. Further, this call was heard by Plaintiff’s office staff.

28. Plaintiff states that that he explained to Defendant, Vice President of Sales and Tickets, Bob Sivik, that he hasn’t been to a Cleveland Browns game in over nine (9) years and in fact he was at home relaxing with his family preparing for a wedding beginning at 3:00 pm on the 8<sup>th</sup> of September in which he was performing as the DJ.

29. Plaintiff further states that despite this information, Bob Sivik, was rude, short, and dismissive and was clearly on a mission to resolve this bad press for the Cleveland Browns and nonetheless told the Plaintiff that he was a liar, had been identified by video surveillance tapes and was banned from First Energy Stadium.

30. It wasn't until news got out that they identified the wrong person who was miles away from First Energy Stadium that anyone from the Browns organization reached out again.

31. Plaintiff further states that Defendant, Peter John Baptiste Vice President of Communications reached out to the Plaintiff and apologized stating "our intent was to act swiftly and decisively. Unfortunately, we didn't do enough homework."

32. Further, the Cleveland Browns on September 12<sup>th</sup>, 2019 again misidentified another individual by the name Eric Smith.

33. Plaintiffs states that Defendants' actions or lack thereof have caused him and his wife to experience mental anguish, loss of income, loss of enjoyment and companionship and will continue to cause these maladies into the foreseeable future.

## **CLAIMS FOR RELIEF**

### **COUNT 1** **(Negligence)**

34. Plaintiffs repeat and reallege Paragraphs 1-34, as if fully alleged herein.

35. Plaintiffs state that Defendants are in charge of security, security procedures, identification procedures, follow up procedure, enforcement, and over all security measures at First Energy Stadium.

36. Plaintiffs further state Defendants owed them a duty to exercise a high degree of care with respect to their security, specifically their identification and follow up procedures as it relates to fan disturbances and subsequent enforcement procedures.



37. Plaintiffs state that the Defendants breached their duties and were negligent by failing to maintain, inspect, and monitor their security feeds, procedures, personnel and guidelines when they acted swiftly and without doing their “homework” in improperly identifying the Plaintiff, Eric Smith as the perpetrator who threw beer on the Logan Ryan during the Cleveland Browns home opener on September 8<sup>th</sup>, 2019.

38. Plaintiffs state the Defendants failed to have proper redundancies, safeguards, and procedures in place for identifying individuals who violated Cleveland Browns, First Energy Stadium and National Football League rules of conduct for fans at NFL games.

39. Plaintiffs further state the Defendants acted willfully and/or wantonly with a conscious or reckless disregard for the rights of the Plaintiffs and that their actions or lack thereof caused substantial harm to the Plaintiffs.

40. As a direct result of the Defendants negligence and/or willful and wanton recklessness, Plaintiffs suffered and continue to suffer injuries and emotional distress in an amount to be determined.

**COUNT II**  
**(Defamation)**

41. Plaintiffs repeat and reallege Paragraphs 1-41, as if fully alleged herein.

42. Plaintiff further states that the Defendants made false statements about him and failed to act reasonably in attempting to discover the truth or falsity of the defamatory publication, i.e. that the Plaintiff, Eric Smith threw a beer on a Tennessee Titans player on September 8<sup>th</sup>, 2019 at First Energy Stadium.

43. Plaintiffs further state that the Defendant published/communicated this falsity to a third party and/or should have known that their false accusations would be published or communicated to a third party.

44. Plaintiffs further state that the Defendants failed to act reasonably in attempting to discover the truth or falsity and/or defamatory character of their publication and had no safeguards in place prior to making their declarations a public matter.

45. Plaintiffs further state that these statements had negative effects upon his character by bringing him in ridicule and injuring his trade and profession and causing him to have a “panic attack.”

46. Plaintiff further states that the reputational harm to his character and business is inherent, immediate and foreseeable, irreparable and not able to be resolved without a public apology.

**COUNT III**  
**(Negligent Infliction of Emotional Distress)**

47. Plaintiffs repeat and reallege Paragraphs 1-46, as if fully alleged herein.

48. Plaintiffs state that the negligence and breach of duty owed to them has caused them to experience traumatic emotional distress.

49. Plaintiffs further state that as a direct result of Defendants’ negligence the emotional distress was and is a foreseeable result of the Defendants’ false allegations.

50. Plaintiffs further state that the amount of damages is unascertained at this moment and will be determined at a later date.

**COUNT IV**  
**(False light)**

51. Plaintiffs repeat and reallege Paragraphs 1-50, as if fully alleged herein.

52. Plaintiffs states the Defendants knowingly published and/or communicated or should have known their inflammatory statements would have been

published and or communicated when they called Plaintiff's office to inform him of his actions and subsequent ban as a result of being falsely and inaccurately identified.

53. Plaintiffs further state that the conversation of September 11<sup>th</sup>, 2019 in which he was falsely accused of throwing beer on a Titans players was heard by co-workers, eventually his family and was eventually communicated by the same medium of the original complaint, Twitter.

54. Further, the statements communicated to the Plaintiff, co-workers, family and the general public were false.

55. Plaintiff states that the accusation by the Defendants was highly offensive not only to him but to a reasonable person under similar situations.

56. Plaintiff further states that the Defendant knew they rushed their findings and were reckless and acted in an egregious manner in presenting their accusations against the Plaintiff.

**COUNT V**  
**(LOSS OF CONSORTIUM)**

57. Plaintiffs repeat and reallege Paragraphs 1-57, as if fully alleged herein.

58. That at all times herein mentioned, the Plaintiff, Eric Smith was and is the husband of the Plaintiff, Atinuch Naowarat, and for her complaint states that as a direct and proximate result of Defendants' acts, she has been deprived of the society, comfort, companionship, and consortium of the Plaintiff, Eric Smith.

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment in their favor against Defendants, as follows:

1. That the Court award Plaintiffs compensatory, consequential, and general damages in an amount to be determined in an amount in excess of \$25,000.00;

2. That the Court award Plaintiffs statutory damages, and punitive or exemplary damages, to the fullest extent permitted by law, in an amount to be determined at trial, and based on the amount of the Defendant's reasonable economic value in order to deter actions like this in the future.

3. With regards to all counts alleged, that the Court award Plaintiffs compensatory damages in excess of \$25,000.00, the total amount to be determined at a later date

4. That Defendants be required to make a public retraction.

5. That Plaintiffs be granted the equitable relief sought herein;

6. That the Court award to Plaintiffs the costs and disbursements of the action, along with reasonable attorneys' fees, including fees and expenses; and

7. That the Court grant all such other relief as it deems just and proper.

/s/ Bruce D. Taubman

Bruce D. Taubman

Attorney for Plaintiffs

Ohio Reg. No. 0001410

1826 West 25<sup>th</sup> Street

Cleveland, OH 44113

[brucetaubman@taubmanlaw.net](mailto:brucetaubman@taubmanlaw.net)

Ph: (216) 621-0794

Fx: (216) 621-8886

/s/ Brian M. Taubman

Brian M. Taubman

Attorney for Plaintiffs

Ohio Reg. No. 0084408

1826 West 25<sup>th</sup> Street

Cleveland, OH 44113-1901

[briantaubman@taubmanlaw.net](mailto:briantaubman@taubmanlaw.net)

Ph: (216) 621-0794

Fx: (216) 621-8886

**JURY DEMAND**

A trial by jury is hereby demanded on all issues of the within action.

*/s/ Bruce D. Taubman*  
Bruce D. Taubman  
Attorney for Plaintiffs