

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No.

MICHAEL YOUNG, an individual,  
Plaintiff,

v.

THE CITY OF LOVELAND, A Municipal Corporation; DEREK STEPHENS, individually;  
and in his official capacity as a Loveland Police Officer; and CHRISTOPHER BROWN,  
individually and in his official capacity as a Loveland Police Officer,  
Defendants.

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**CIVIL RIGHTS COMPLAINT WITH REQUEST FOR TRIAL BY JURY**

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Plaintiff Michael Young, by and through his attorneys, the Law Offices of Erik Johnson, P.C., complains against Defendants and requests trial by jury as follows:

**I. INTRODUCTION**

1. This is an action brought by Michael Young ("Plaintiff"), a partially disabled man, to assert and prove violations of his constitutional rights caused by use of unnecessary and excessive force by officers of the Loveland Police Department.

2. On April 25, 2014, Plaintiff, then 43 years old, was stopped by Loveland police in a parking lot while Plaintiff was being driven to police station to turn himself in on a warrant.

3. During the course of this stop, Mr. Young, was assaulted and injured without legal justification. At the time, he was known to be unarmed, injured, recovering from surgery and defenseless.

4. This action is for Constitutional violations and state law personal injuries suffered by Plaintiff as a result of an unreasonable search and seizure, assault, resulting in personal injuries and property damage.

5. Michael Young brings this action for damages under 42 U.S.C. § 1983 because Defendants jointly and severally deprived Plaintiff of his federally-protected right to be free from unreasonable seizure and unreasonable force. U.S. CONST, amends. IV, XIV and as applied through 42 U.S.C. § 1983 and § 1988.

6. As a direct result of the policies, practices, customs and procedures of the City of Loveland ("City") and the City of Loveland Police Department ("LPD") Plaintiff Michael Young was intentionally deprived of his constitutional right to be free from unreasonable searches and seizures guaranteed to him by the Fourth Amendment to the United States Constitution.

7. Defendants Derek Stephens and Christopher Brown, police officers acting in the course and scope of their employment with the City of Loveland, and acting under color of state law, unjustifiably assaulted and injured Michael Young under circumstances where no reasonable police officer would have done so. Under long established law regarding excessive force, Officers Brown and Stephens are not entitled to qualified or other immunity for these actions.

## **II. JURISDICTION AND VENUE**

8. This action is brought pursuant to 42 U.S.C. § 1983 and § 1988 and the Fourth Amendment, to the United States Constitution, made applicable to Defendants through the Fourteenth Amendment to the United States Constitution. This court has jurisdiction over Plaintiff's claim under 28 U.S.C. § 1331 (federal question) and under 28 U.S.C. § 1343(3) (civil rights). This court further has jurisdiction over Plaintiff' state

law claims under 28 U.S.C. § 1367 (supplemental jurisdiction) as those claims form part of the same case or controversy under Article III of the United States Constitution.

9. Statutory notice was provided pursuant to section 24-10-109, C.R.S.

10. Venue lies in the U.S. District of Colorado, the district in which the claim arose, pursuant to 28 U.S.C. § 1391(b).

### III. PARTIES

11. Plaintiff Michael Young resides at 1322 Harter Place, Loveland, CO 80537. He was 43 years old at the time of the assault. The Plaintiff was, at the time, recovering from surgeries on his shoulders, abdomen and groin.

12. Defendant City of Loveland, Colorado (the “City”) is a Colorado Municipal Corporation located in Larimer County, State of Colorado, operating pursuant to the Constitution and the laws of the State of Colorado within the U.S. District of Colorado. The City of Loveland can be served with process through the Mayor, City Manager, City Clerk or Deputy Clerk, at 500 East 3<sup>rd</sup> Street, Loveland, CO 80537.

13. Defendant Derek Stephens (Officer Stephens) is an individual employed as a police officer by the City of Loveland. The acts and omissions complained of herein arise from the conduct of Officer Stephens while he was acting under color of state law and each act and omission was committed pursuant to Officer Stephens’s employment and authority as a police officer with the City of Loveland. Officer Stephens may be served with process at his place of employment, located at 500 East 3<sup>rd</sup> Street, Loveland, CO 80537.

14. Defendant Christopher Brown (Officer Brown) is an individual employed as a police officer by the City of Loveland. The acts and omissions complained of herein arise from the conduct of Officer Brown while he was acting under color of state law and each act and omission was committed pursuant to Officer Brown’s employment and

authority as a police officer with the City of Loveland. Officer Brown may be served with process at his place of employment, located at 500 East 3<sup>rd</sup> Street, Loveland, CO 80537.

#### **IV. STATEMENT OF FACTS**

15. On April 25, 2014, according to LPD reports, Officers Brown and Stephens were assigned to the Loveland Police Department Street Crimes Unit (SCU) working a plain clothes assignment with the Loveland Police Department (LPD) Criminal Investigations Unit (CIU) on a search and arrest warrant at 1322 Harter Place, Loveland, CO.

16. The suspect was Michael Young, who was under investigation for possession of a weapon by previous offender. At approximately 1417 hours the warrant was served on the home. At the time of execution, Michael Young was not home.

17. According to LPD reports, at approximately 1700 hours, LPD received a phone call from Michael Young to report a burglary at his home. He was calling, in part, because his front door was smashed in during the search warrant.

18. Mr. Young's home was in disarray, with drawers emptied, clothing and medications maliciously strewn about his bedroom. He never located all his medications.

19. Mr. Young told LPD dispatch that he was not home when the damaged occurred. During the call, LPD Detective Patrick Musselman spoke to Michael Young on the phone asking him to turn himself in at the police department. Mr. Young told Detective Musselman that he could not turn himself in because he was disabled.

20. Officer Stephens and Officer Brown went back to Mr. Young's house and began surveillance from up the block. At approximately 1715 hours, Alice Young, plaintiff's grandmother, 83 years of age, arrived in her blue Volkswagen.

21. Alice Young spoke with LPD and advised that she would transport Michael Young to

the LPD.

22. Officer Musselman advised Alice Young and Michael Young that they must have two piles of cash of \$250 and \$60 to bond out.

23. Alice Young then began to drive Michael Young to the LPD, but first stopping at the Loveland Albertson's store to get the exact amount of cash for the bond. Officers Brown and Stephens followed in an unmarked SUV. They were in "plain clothes."

24. When Alice Young parked in a parking stall at Albertson's, the police ordered Mr. Young out of the car and to raise his hands. Both officers were pointing fully loaded and AR-15 Assault rifles at Mr. Young.

25. Plaintiff exited the car as commanded.

26. According to the LPD reports, Michael Young was very slow in reacting and reached down grabbing what looked like money. As he opened the door to the car when told to get out, he grabbed a black metal cane. Michael Young was slow in exiting and looked like he was in severe pain. He was told to raise his hands and turn around, and at that same time, Plaintiff raised his hands holding his cane.

27. Michael Young clearly stated he was complying with the orders and that he was disabled. He asked the officers to "take it easy on me;" however, although the officers observed he appeared to be in severe pain, the officers did not listen to him and continued to shout at plaintiff, pointing guns, yelling at least five times to get out of the car and raise his hands after he had complied, causing plaintiff extreme fear.

28. At the same time, Alice Young started to get out of the Volkswagon and the officers continued shouting at her to get back in the car.

29. With the repeated screaming from both officers, after he had complied, unable to raise his arms higher, and continued to shout at his grandmother, plaintiff uttered “fuck off - I am complying with your orders.” He then slowly turned around.

30. Upon hearing plaintiff’s utterance, Officer Stephens charged at plaintiff and shoved him into the side of his grandmother’s car.

31. The officer spun plaintiff around and placed him in handcuffs.

32. The officer searched Mr. Young.

33. From this point forward, the officers knew Mr. Young was unarmed, handcuffed, and posed no threat.

34. The officer twisted and wrenched plaintiff’s arms and wrists.

35. Plaintiff’s face was pressed against the glass window directly in the view of his grandmother, causing pain to his face and ear.

36. Officer Stephens then slammed plaintiff into the car again, smashing his face against the window.

37. The officer then grabbed plaintiff’s arms and pulled them upward, turning him toward the police vehicle and shoving him toward the vehicle.

38. Plaintiff again told the officer he was disabled and hurt.

39. Plaintiff’s grandmother was on the phone asking Detective Musselman why they were stopped when they were getting cash at the grocery store for the bond.

40. Officer Stephens continued to shove plaintiff toward the vehicle while raising plaintiff’s arms that were in handcuffs. The officer had plaintiff’s cane in one hand, his handcuffed wrists in the other. He taunted the Plaintiff that he could "walk just

fine" as he leveraged Mr. Young forward by wrenching his handcuffed arms.

41. Plaintiff stated he had knee problems that needed surgery.

42. The officer then slammed plaintiff against the police car and tightened the handcuffs to the point they were hurting the plaintiff.

43. Plaintiff cried out in pain when his arms were pulled upward from behind. He told the officer that he just had shoulder surgery and surgery on his stomach and groin, but the officer kept wrenching plaintiff's wrists and shoulders.

44. The officer then slammed plaintiff three times in succession against the car.

45. The officer then stomped on plaintiff's right foot and the kicked Plaintiff's left leg out to spread his legs. Plaintiff's left knee buckled causing injury.

46. The officer then struck plaintiff on the back of the head and neck with a forearm smash as plaintiff's head was against the car. The officer then ground his forearm into plaintiff's neck.

47. The forearm strikes fractured vertebrae in plaintiff's neck.

48. At this time, plaintiff's grandmother could hear plaintiff being slammed into the officers' car and was screaming that plaintiff was hurt.

49. Officer Stephens removed an ice bag from plaintiff's waistband for officer safety. Plaintiff advised that again that he had surgery and that the ice bag was for pain control.

50. According to LPD reports, the officers noticed that Michael Young's movements were dramatically different, with extremely small and slow steps, from the time prior to the arrest.

51. Nonetheless, the officer shoved the plaintiff, bent over, into the small back seat compartment of the unmarked SUV.

52. Officer Stephens and Brown transported Plaintiff back to LPD for booking. During the ride to LPD plaintiff asked if these officers had broken his door. The officers denied this and Plaintiff apologized for his comment at the traffic stop. Officer Stephens accepted the apology and agreed they could all get along from that point forward.

53. The officers did not apologize for slamming plaintiff against the car five times, kicking his leg, taking his cane, wrecking his house, tearing his shoulder tendons, tearing his knee meniscus or fracturing his vertebrae.

54. The officers never explained why he was under surveillance, why he was followed and arrested, or why his house was broken into and ransacked

55. At the LPD, officers took Michael Young from the back seat. They reported his movements were very exaggerated and slow. Officer Brown assisted him as he slid out of the vehicle.

56. Once standing, plaintiff was walking with a limp, previously not seen while at his house. Officer Brown took the handcuffs off of Michael Young allowing him to rest his arms and shoulders.

57. Officer Brown told Plaintiff that normally he requires arrestees to put their hands on their head while being un-cuffed however he would make an exception for him. Mr. Young sat on the booking bench after being un-cuffed. LPD produced an ice pack for Mr. Young after his requested one. With Plaintiff uncomfortable sitting, Officer Brown allowed Michael Young to stand at the booking counter since it was more comfortable to stand.

58. After leaving the LPD, Mr. Young went to the hospital. As he was being wheeled out of the hospital in a wheelchair an officer confronted him and threatened him not to file a complaint or file a lawsuit. He claimed plaintiff was treated gently and it was all on video.

59. Michael Young did file a complaint about being assaulted during the arrest; however, the same officer conducted the investigation and found no misconduct under LPD policy.

60. Plaintiff's charges were eventually dismissed; Plaintiff had committed no crime. The alleged weapon was a small flashlight found on the window sill.

61. At the time of this Complaint, plaintiff's house and property remain damaged. The front door remains splintered, the door jams are broken, the drywall is damaged with texture and paint torn from the wall, and a file cabinet is broken.

62. Plaintiff suffered torn tendons in his shoulders, a torn meniscus in his knee and fractured vertebrae because of the unnecessary and excessive use of force in making the unnecessary stop and arrest.

**FIRST CLAIM FOR RELIEF 42 U.S.C §1983**  
**Excessive Force in violation of the Fourth and Fourteenth Amendments (Against Defendants Stephens, Brown and the City)**

63. Plaintiff hereby incorporates all other paragraphs of this Complaint as if fully set forth herein.

64. 42 U.S.C. § 1983 provides that:  
Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Columbia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the constitution and law shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress . . .

65. Plaintiff in this action is a citizen of the United States and all of the individual Police officer Defendants to this claim are persons for purposes of 42 U.S.C. § 1983.

66. All individual Defendants to this claim, at all times relevant hereto, were acting under the color of state law in their capacity as Loveland police officers and their acts or omissions were conducted within the scope of their official duties or employment.

67. At the time of the complained of events, Plaintiff had a clearly established constitutional right under the Fourth Amendment to be secure in his person from unreasonable seizure through excessive force.

68. Plaintiff also had the clearly established Constitutional right under the Fourteenth Amendment to bodily integrity and to be free from excessive force by law enforcement.

69. Any reasonable police officer knew or should have known of these rights at the time of the complained of conduct as they were clearly established at that time.

70. Defendants Stephens' and Brown's actions and use of force, as described herein, were objectively unreasonable in light of the facts and circumstances confronting them and violated these Fourth Amendment rights of Plaintiff.

71. Defendant officers' actions and use of force, as described herein, were also malicious and/or involved reckless, callous, and deliberate disregard for and indifference to Mr. Young's federally protected rights, feelings and well-being. The force used by these Defendant officers shocks the conscience and violated these Fourteenth Amendment rights of Plaintiff.

72. Defendants Stephens and Brown unlawfully seized Mr. Young by means of objectively unreasonable, excessive and conscious shocking and unnecessary physical force, thereby unreasonably depriving Mr. Young of his freedom.

73. The force used constituted unreasonable excessive force in that it caused serious bodily injury.

74. Defendants engaged in the conduct described by this Complaint willfully, maliciously, in bad

faith, and in reckless disregard of Mr. Young's federally protected constitutional rights.

75. They did so with shocking and willful indifference to Plaintiff's rights and their conscious awareness that they would cause Plaintiff severe physical and emotional injuries.

76. The acts or omissions of all individual Defendants were moving forces behind Plaintiff's injuries.

77. These individual Defendants acted in concert and joint action with each other.

78. The acts or omissions of Defendants as described herein intentionally deprived Plaintiff of his constitutional rights and caused him other damages.

79. These individual Defendants are not entitled to qualified immunity for the complained of conduct.

80. The Defendants to this claim at all times relevant hereto were acting pursuant to municipal/county custom, policy, decision, ordinance, regulation, widespread habit, usage, or practice in their actions pertaining to Plaintiff.

81. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered actual physical and emotional injuries, and other damages and losses as described herein entitling him to compensatory and special damages, in amounts to be determined at trial. As a further result of the Defendants' unlawful conduct, Plaintiff has incurred special damages, including medically related expenses and may continue to incur further medically and other special damages related expenses, in amounts to be established at trial.

82. Upon information and belief, Plaintiff may suffer lost future earnings and impaired earning capacities from the not yet fully ascertained diagnosis and prognosis of his neck, shoulder, knee and emotional injuries, in amounts to be ascertained in trial. Plaintiff is further entitled to attorneys' fees and costs pursuant to 42 U.S.C. §1988, pre-judgment interest and costs as allowable by federal law.

**83.** In addition to compensatory, economic, consequential and special damages, Plaintiff is entitled to punitive damages against each of the individually named Defendants under 42 U.S.C. § 1983,

in that the actions of each of these individual Defendants have been taken maliciously, willfully or with a reckless or wanton disregard of the constitutional rights of Plaintiff.

**SECOND CLAIM FOR RELIEF 42 U.S.C. § 1983**  
**Retaliation in Violation of the First Amendment**  
**(Against Defendants Stephens and Brown)**

84. Plaintiff hereby incorporates all other paragraphs of this Complaint as if fully set forth herein.

85. 42 U.S.C. § 1983 provides that:

Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Columbia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the constitution and law shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress . . .

86. Plaintiff in this action is a citizen of the United States and all of the individual police officer Defendants to this claim are persons for purposes of 42 U.S.C. § 1983.

87. All individual Defendants to this claim, at all times relevant hereto, were acting under the color of state law in their capacity as Loveland police officers and their acts or omissions were conducted within the scope of their official duties or employment.

88. At the time of the complained of events, Plaintiff the clearly established constitutional right to be free from retaliation for the exercise of protected speech...

89. Any reasonable police officer knew or should have known of this right at the time of the complained of conduct as it was clearly established at that time.

90. Mr. Young exercised his constitutionally protected right to question law enforcement and/or engaged in protected speech related to the constitutional rights of citizens with respect to searches of their property by the police and objectionable police conduct.

91. Retaliatory animus for Mr. Young's exercise of his constitutionally protected right to question

Loveland Police Officers, who appeared from their unmarked vehicle, in plain clothes, without identifying themselves, pointing guns at him, and, regarding the apparent unreasonableness of the officers' repeated commands, scope of their legal authority to command him to turn around directions, raise his arms and search his grandmother's car, disrespect for his grandmother, was a substantially motivating factor in the excessive force used by individual Defendants.

92. The officers' use of excessive force to retaliate, punish, or establish power over plaintiff for his harmless comment is disproportionate and beyond how a reasonable peace officer would react.

93. The excessive force used against Plaintiff in retaliation for his protected conduct would deter a person of ordinary firmness from continuing to engage in the protected conduct.

94. All of these Defendant officers participated in this use of force as a means of retaliation for his protected speech and none of the Defendant officers took reasonable steps to protect Plaintiff from this retaliation for the protected speech. They are each therefore liable for the injuries and damages resulting from the objectively unreasonable and conscience shocking force of each other officer.

95. Defendants engaged in the conduct described by this Complaint willfully, maliciously, in bad faith, and in reckless disregard of Mr. Young's federally protected constitutional rights.

96. The acts or omissions of all individual Defendants were moving forces behind Plaintiff's injuries.

97. These individual Defendants acted in concert and joint action with each other. The acts or omissions of Defendants as described herein intentionally deprived Plaintiff of his constitutional and statutory rights and caused him other damages.

98. Defendants are not entitled to qualified immunity for the complained of conduct.

99. The Defendants to this claim at all times relevant hereto were acting pursuant to municipal/county custom, policy, decision, ordinance, regulation, widespread habit, usage, or practice in their actions pertaining to Plaintiff.

100. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered actual

and emotional injuries, and other damages and losses as described herein entitling him to compensatory and special damages, in amounts to be determined at trial.

101. As a further result of the Defendants' unlawful conduct, Plaintiff has incurred special damages, including medically related expenses and may continue to incur further medically and other special damages related expenses, in amounts to be established at trial.

102. Upon information and belief, Plaintiff may suffer lost future earnings and impaired earnings capacities from the not yet fully ascertained diagnoses of his neck, shoulder, knee and emotional injuries, in amounts to be ascertained in trial. Plaintiff is further entitled to attorneys' fees and costs pursuant to 42 U.S.C. § 1988, pre-judgment interest and costs as allowable by federal law.

103. In addition to compensatory, economic, consequential and special damages, Plaintiff is entitled to punitive damages against each of the individually named Defendants under 42 U.S.C. § 1983, in that the actions of each of these individual Defendants have been taken maliciously, willfully or with a reckless or wanton disregard of the constitutional rights of Plaintiff.

104. The Defendants to this claim at all times relevant hereto were acting under the color of state law.

**THIRD CLAIM FOR RELIEF- Violation of 42 U.S.C. § 1983  
Deliberately Indifferent Policies, Practices, Customs, Training, and Supervision in violation of  
the Fourth, Fourteenth, and First Amendments and in violation of 42 U.S.C. § 1981 (Against  
City and County of Loveland only)**

105. Plaintiff hereby incorporates all other paragraphs of this Complaint as if fully set forth herein.

106. 42 U.S.C. § 1983 provides that:

Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Columbia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the constitution and law shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress . . .

107. Plaintiff in this action is a citizen of the United States and Defendants to this claim are persons for purposes of 42 U.S.C. § 1983.

108. Plaintiff had the following clearly established rights at the time of the complained of conduct:

- a. the right to be secure in his person from unreasonable seizure through excessive force, under the Fourth Amendment;
- b. the right to bodily integrity and to be free from excessive force by law enforcement under the Fourteenth Amendment;
- c. the right to exercise his constitutional rights of free speech under the First Amendment without retaliation;
- d. the right to be free from discrimination by police under the Equal Protection Clause of the Fourteenth Amendment and under 42 U.S.C. § 1981; and,
- e. the right to be free from malicious prosecution under the Fourth and Fourteenth Amendments.

109. The City acting through the LPD knew or should have known of these rights at the time of the complained of conduct as they were clearly established at that time.

110. The acts or omissions of these Defendants, as described herein, deprived Mr. Young of his constitutional and statutory rights and caused him other damages.

111. The acts or omissions of Defendants as described herein intentionally deprived Plaintiff of his constitutional and statutory rights and caused him other damages.

112. Defendants are not entitled to qualified immunity for the complained of conduct.

113. These Defendants developed and maintained policies, procedures, customs, and/or practices exhibiting deliberate disregard and indifference to the constitutional rights of citizens, which were moving forces behind and proximately caused the violations of Mr. Young's constitutional and federal rights as set forth herein and in the other claims, resulted from a conscious or deliberate choice to follow a course of action from among various available alternatives.

114. Defendant City of Loveland and its Police Department have created and tolerated an atmosphere of lawlessness, and have developed and maintained long-standing, department-wide customs, law enforcement related policies, procedures, customs, practices, and/or failed to properly train and/or supervise its officers in a manner amounting to deliberate indifference to the constitutional rights of Plaintiff and of the public.

115. In light of the duties and responsibilities of those police officers that participate in arrests and preparation of police reports on alleged crimes, the need for specialized training and supervision is so obvious, and the inadequacy of training and/or supervision is so likely to result in the violation of constitutional and federal rights such as those described herein that the failure to provide such specialized training and supervision is deliberately indifferent to those rights.

116. The deliberately indifferent training and supervision provided by the City resulted from a conscious or deliberate choice to follow a course of action from among various alternatives available to the officers and were moving forces in the constitutional and federal violation injuries complained of by Plaintiff.

117. As a direct result of Defendants' unlawful conduct, Plaintiff has suffered actual physical and emotional injuries, and other damages and losses as described herein entitling him to compensatory and special damages, in amounts to be determined at trial.

118. As a further result of the Defendants' unlawful conduct, Plaintiff has incurred special damages, including medically related expenses and may continue to incur further medically or other special damages related expenses, in amounts to be established at trial.

119. Upon information and belief, Plaintiff may suffer lost future earnings and impaired earnings capacities from the not yet fully ascertained prognoses of his neck, shoulder knee and emotional injuries, in amounts to be ascertained in trial. Plaintiff is further entitled to attorneys' fees and

costs pursuant to 42 U.S.C. §1988, pre-judgment interest and costs as allowable by federal law.

120. Finally, Plaintiff seeks appropriate declaratory and injunctive relief pursuant to 42 U.S.C. § 1983 to redress Defendants' above described ongoing deliberate indifference in policies, practices, habits, customs, usages, training and supervision with respect to the rights described herein, and with respect to the ongoing policy and/or practice of the Internal Affairs Bureau of failing to investigate or appropriately handle complaints of the same, which Defendants have no intention for voluntarily correcting despite obvious need and requests for such correction.

**FOURTH CLAIM FOR RELIEF-**  
**Assault & Battery**

121. Plaintiff hereby incorporates all other paragraphs of this Complaint as if fully set forth herein.

122. On or about April 25, 2014, Defendants, after being advised of plaintiff's disabled and painful condition, threatened him with guns, and after they knew he was unarmed and posed no threat, physically slammed him against two cars, physically wrenched his wrists and shoulders to the point of tearing tendons, kicked his legs causing a tear in his knee, beat his neck causing fractures of the vertebrae.

123. Defendants intended to cause an offensive or harmful physical contact with the plaintiff or intended to place the plaintiff in apprehension of such a contact.

124. Defendants placed Plaintiff in apprehension of imminent physical contact which was, and appeared to be, harmful and offensive.

125. As a result of the assault and battery upon plaintiff by the Defendants, Plaintiff suffered injuries and damages, including: fractured vertebrae, torn shoulder tendons and torn meniscus in his knee and emotional distress and future medical

expenses, loss of income, loss of earning capacity, fear, anxiety, indignity, disgrace, emotional distress, shock, loss of life enjoyment, impairment of quality of life, loss of earnings, and other economic losses, physical impairment in an amount to be proven at trial.

**126.** As a proximate result of the assault upon Plaintiff by Defendant, Plaintiff suffered the injuries and damages, such as: severe mental anguish and suffering, fear, anxiety, indignity, disgrace, emotional distress, shock, loss of life enjoyment, impairment of quality of life, loss of earnings, and other economic losses.

**FIFTH CLAIM FOR RELIEF-**  
**Intentional Infliction of Emotional Distress**

Plaintiff hereby incorporates all other paragraphs of this Complaint as if fully set forth herein.

127. On or about April 25, 2014, Defendants, after being advised of plaintiff's disabled and painful condition, threatened him with guns, physically slammed him against two cars, physically wrenched his wrists and shoulders to the point of tearing tendons, kicked his legs causing a tear in his knee, beat his neck causing fractures of the vertebrae, repeatedly yelled commands that he had already followed or was unable to follow, verbally abused and lied to his grandmother in his presence, taunted him regarding his ability to walk and threatened him against filing a complaint or this lawsuit in such a manner that that would be regarded as atrocious and intolerable in civilized community.

128. The conduct of Defendants was extreme and outrageous.

129. Defendant acted recklessly or with the intent of causing Plaintiff severe physical injury or severe emotional distress.

130. Defendant's conduct did cause Plaintiff severe physical and emotional distress, and did cause Plaintiff to suffer injuries and damages, including: emotional anxiety and depression, which have impaired Plaintiff in his ability to seek employment, causing loss of income during the past year.

**SIXTH CLAIM FOR RELIEF-**

**Negligence**

131. Plaintiff hereby incorporates all other paragraphs of this Complaint as if fully set forth herein.

132. On April 25, 2014, defendants took Mr. Young into custody having the duty to care for his safety and well-being.

133. Defendants failed to take reasonable care in arresting plaintiff and failed to reasonably account for his physical condition when taking him into custody.

134. As a proximate result of the Defendant's negligence, Plaintiff suffered the injuries and damages, such as: physical injuries, severe mental anguish and suffering, fear, anxiety, indignity, disgrace, emotional distress, shock, loss of life enjoyment, impairment of quality of life, loss of earnings, and other economic losses.

**REQUEST FOR RELIEF**

Plaintiff requests that this Court enter judgment for the Plaintiff and against each of the Defendants and grant:

A. compensatory and consequential damages, including damages for emotional distress, humiliation, loss of enjoyment of life, and other pain and suffering on all claims allowed by law in an amount to be determined at trial;

B. economic losses on all claims allowed by law;

- C. special damages in an amount to be determined at trial;
- D. punitive damages on all claims allowed by law against individual Defendants and in an amount to be determined at trial;
- E. attorneys' fees and the costs associated with this action under 42 U.S.C. § 1988, Including expert witness fees, on all claims allowed by law;
- F. pre- and post-judgment interest at the lawful rate; and,
- G. any further relief that this court deems just and proper, and any other appropriate relief at law and equity.

**PLAINTIFF REQUESTS A TRIAL BY JURY.**

Respectfully submitted this 24th day of April, 2015.

Respectfully submitted,

ERIK A. JOHNSON LAW OFFICES, P.C.

*/s/Erik A. Johnson*

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Erik A. Johnson, A.R. 23989  
325 East 7<sup>th</sup> Street  
Loveland, CO 80537  
(970) 481-8876  
lovelandlaw@gmail.com  
ATTORNEYS FOR PLAINTIFF

### CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p><b>I. (a) PLAINTIFFS</b> MICHAEL YOUNG</p> <p><b>(b)</b> County of Residence of First Listed Plaintiff <u>Larimer</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p><b>(c)</b> Attorneys <i>(Firm Name, Address, and Telephone Number)</i> Erik A. Johnson Law Offices, P.C. 325 East 7th Street, Loveland, CO 80537 (970) 481-8876</p>	<p><b>DEFENDANTS</b> CITY OF LOVELAND, CO, CHRISTOPHER BROWN, DEREK STEPHENS</p> <p>County of Residence of First Listed Defendant <u>Larimer</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i></p>
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<p><b>II. BASIS OF JURISDICTION</b> <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <p><i>(For Diversity Cases Only)</i></p> <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;">PTF <input checked="" type="checkbox"/> 1</td> <td style="width:10%;">DEF <input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business In This State</td> <td style="width:10%;">PTF <input checked="" type="checkbox"/> 4</td> <td style="width:10%;">DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input checked="" type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input checked="" type="checkbox"/> 4	DEF <input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6														

**IV. NATURE OF SUIT** *(Place an "X" in One Box Only)*

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157
<p><b>REAL PROPERTY</b></p> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<p><b>CIVIL RIGHTS</b></p> <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 448 Education	<p><b>LABOR</b></p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<p><b>PROPERTY RIGHTS</b></p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
	<p><b>PRISONER PETITIONS</b></p> <p><b>Habeas Corpus:</b></p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <p><b>Other:</b></p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<p><b>SOCIAL SECURITY</b></p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<p><b>TAX SUITS</b></p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	
		<p><b>IMMIGRATION</b></p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

**V. ORIGIN** *(Place an "X" in One Box Only)*

1 Original Proceeding  
  2 Removed from State Court  
  3 Remanded from Appellate Court  
  4 Reinstated or Reopened  
  5 Transferred from another district *(specify)*  
  6 Multidistrict Litigation  
  7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*.  
 42 U.S.C section 1983

Brief description of cause:  AP Docket  
 Use of excessive force during arrest

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23      DEMAND \$3,000,000 or as proven/trial      CHECK YES only if demanded in complaint.      JURY DEMAND:  Yes  No

DATE: 4/25/2015

SIGNATURE OF ATTORNEY OF RECORD  


FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG JUDGE \_\_\_\_\_

AO 440 (Rev. 12/09) Summons in a Civil Action

**UNITED STATES DISTRICT COURT**  
for the  
District of Colorado

MICHAEL S. YOUNG

\_\_\_\_\_  
*Plaintiff*

v.

CHRISTOPHER BROWN, DEREK STEPHENS AND  
THE CITY OF LOVELAND

\_\_\_\_\_  
*Defendant*

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Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)* CHRISTOPHER BROWN

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Erik A. Johnson  
325 East 7th St.  
Loveland, CO 80537  
lovelandlaw@gmail.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

AO 440 (Rev. 12/09) Summons in a Civil Action (Page 2)

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*: \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

**UNITED STATES DISTRICT COURT**  
for the  
District of Colorado

MICHAEL S. YOUNG

\_\_\_\_\_  
*Plaintiff*

v.

CHRISTOPHER BROWN, DEREK STEPHENS AND  
THE CITY OF LOVELAND

\_\_\_\_\_  
*Defendant*

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Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)* DEREK STEPHENS

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Erik A. Johnson  
325 East 7th St.  
Loveland, CO 80537  
lovelandlaw@gmail.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

AO 440 (Rev. 12/09) Summons in a Civil Action (Page 2)

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or

I returned the summons unexecuted because \_\_\_\_\_; or

Other *(specify):* \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

**UNITED STATES DISTRICT COURT**  
for the  
District of Colorado

MICHAEL S. YOUNG

\_\_\_\_\_  
*Plaintiff*

v.

CHRISTOPHER BROWN, DEREK STEPHENS AND  
THE CITY OF LOVELAND

\_\_\_\_\_  
*Defendant*

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Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)* CITY OF LOVELAND, COLORADO

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Erik A. Johnson  
325 East 7th St.  
Loveland, CO 80537  
lovelandlaw@gmail.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

AO 440 (Rev. 12/09) Summons in a Civil Action (Page 2)

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
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I personally served the summons on the individual at *(place)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or

I returned the summons unexecuted because \_\_\_\_\_; or

Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: