

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

Civil Action No.

JOSHUA CONDIOTTI-WADE,

Plaintiff,

v.

COMMERCE CITY, COLORADO, a municipality,
CHRIS DICKEY, in his official and individual capacity,
RYAN SEDGWICK, in his official and individual capacity,

Defendants.

COMPLAINT AND JURY DEMAND

Plaintiff Joshua Condiotti-Wade, by and through his attorneys David A. Lane, Andy McNulty, and Reid Allison of KILLMER, LANE & NEWMAN, LLP, respectfully alleges for his Complaint and Jury Demand as follows:

INTRODUCTION

1. Plaintiff Joshua Condiotti-Wade is an activist who is deeply concerned with the state of policing in our nation. To draw awareness to police brutality and its consequences, he often pickets public buildings with other activists and holds signs that protest abuses of power.

2. On July 28, 2016, Mr. Condiotti-Wade was assaulted by two Commerce City police officers, Defendants Chris Dickey and Ryan Sedgwick, for peacefully protesting police brutality outside an Adams County governmental building in violation of his First and Fourth Amendment rights.

3. This is a civil rights action arising under 42 U.S.C. §§ 1983, 1988 and 28 U.S.C. Section 2201 *et seq.* due to Defendants' violation of Plaintiff's rights guaranteed by the First and Fourth Amendments to the Constitution of the United States.

JURISDICTION AND VENUE

4. This action arises under the Constitution and laws of the United States and the State of Colorado, and is brought pursuant to 42 U.S.C. § 1983.

5. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343.

6. Jurisdiction supporting Plaintiff's claims for attorney's fees and costs is conferred by 42 U.S.C. § 1988.

7. Venue is proper in the District of Colorado pursuant to 28 U.S.C. § 1391(b). All of the events alleged herein occurred within the State of Colorado, and all of the parties were residents at the time of the events giving rise to this litigation.

PARTIES

8. Plaintiff Joshua Condiotti-Wade is a citizen of the United States and was a resident of and domiciled in the State of Colorado during the relevant times described herein.

9. At all times relevant to the allegations of this Complaint, Defendant Chris Dickey was a police officer for Commerce City, Colorado. He is a citizen of the United States and resident of the State of Colorado.

10. At all times relevant to the allegations of this Complaint, Defendant Ryan Sedgwick was a police officer for Commerce City, Colorado. He is a citizen of the United States and resident of the State of Colorado.

11. Defendant Commerce City is a municipality and as such is a proper defendant under § 1983.

12. All Defendants acted under color of state law at all times relevant to this Complaint.

FACTUAL ALLEGATIONS

13. Mr. Condiotti-Wade is a soft-spoken activist.

14. On July 28, 2016, Mr. Condiotti-Wade was picketing on the sidewalk of the Adams County Human Services Building, located at 7190 Colorado Boulevard, Commerce City, Colorado, carrying a sign that read “Fuck Bad Cops” and “Blue Lives Murder.”

15. While carrying his sign, Mr. Condiotti-Wade did not speak loudly or otherwise raise his voice to a level that an ordinary individual passing by would be disturbed.

16. While picketing on the sidewalk, Mr. Condiotti-Wade was approached by Commerce City police officer Chris Dickey.

17. Defendant Dickey informed Mr. Condiotti-Wade and his colleagues that, by carrying their signs on a public sidewalk, they were committing the crimes of disorderly conduct and trespassing.

18. Carrying signs and picketing on public property, particularly on a public sidewalk, is speech activity protected by the First Amendment and clearly not in violation of any law.

19. As Mr. Condiotti-Wade and Defendant Dickey stood on a sidewalk that ran along 72nd Avenue, Defendant Dickey asked Mr. Condiotti-Wade for identification. Mr. Condiotti-Wade asked Defendant Dickey what crime he had committed. Mr.

Condiotti-Wade, knowing that he had committed no crime, that the officer had no reasonable suspicion to believe that he had committed any crime, and that his protest activity was protected by the First Amendment, refused to provide identification to Defendant Dickey.

20. In response to Mr. Condiotti-Wade's refusal, Defendant Dickey attempted to forcibly arrest Mr. Condiotti-Wade. As Defendant Dickey's body camera clearly shows, while moving toward Mr. Condiotti-Wade, Defendant Dickey tripped over his own feet and fell flat on his face in front of Mr. Condiotti-Wade. As Defendant Dickey rose from the ground, Mr. Condiotti-Wade observed the anger in Defendant Dickey's eyes and, worried that he could become the next news story about an officer forcibly arresting and beating a citizen, Mr. Condiotti-Wade took off running.

21. During the ensuing chase, Defendant Dickey deployed his taser, striking Mr. Condiotti-Wade's arm. Defendant Ryan Sedgwick, a police officer employed by Commerce City, joined the chase and also fired his taser at Mr. Condiotti-Wade.

22. Defendant Dickey and Officer Sedgwick chased Mr. Condiotti-Wade for less than ten seconds before deploying their tasers.

23. The chase terminated when Defendant Dickey's supervisor, Commander Mark Morgan, arrived on scene and commanded Defendant Dickey and Defendant Sedgwick stop their pursuit of Mr. Condiotti-Wade. After the officers ceased their pursuit of Mr. Condiotti-Wade, Commander Morgan asked Defendant Dickey, "Why are you chasing him?" Defendant Dickey responded, "He's under arrest." Commander Morgan replied, "For what?" Defendant Dickey stated, "For trespassing and for disorderly conduct." Commander Morgan said, "It's not disorderly conduct." Defendant

Dickey responded, “When he's in front of the business yelling fuck everybody—” to which Commander Morgan replied, “That's not—it's public property. Freedom of speech. Relax.” Defendant Dickey then stated, “He refused to give me his ID . . . which he is required to do.” Commander Morgan asked, “For why?” Defendant Dickey responded, “So I can issue him a citation for trespassing.” Commander Morgan then told Defendant Dickey, “It’s not trespassing.” As Defendant Dickey was being chastised by Commander Morgan for his multiple violations of Mr. Condiotti-Wade’s Constitutional rights, he turned off the audio on his body camera so as to cover-up any further evidence that he had violated Mr. Condiotti-Wade’s Constitutional rights.

24. Mr. Condiotti-Wade was not issued a citation or arrested by any officer on July 28, 2016.

25. Because of Defendant Dickey’s and Defendant Sedgwick’s unreasonable use of their tasers, Mr. Condiotti-Wade was forced to go to the Health One North Suburban Medical Center emergency room to have the taser barb removed from his arm.

26. Mr. Condiotti-Wade left the Adams County Human Services Building and ceased carrying his sign at the Adams County Human Services Building because of Defendant Dickey and Defendant Sedgwick’s threats of arrest and use of unreasonable force.

27. After he used excessive force against Mr. Condiotti-Wade, Defendant Dickey told an individual who worked in the Adams County Human Services Building that Mr. Condiotti-Wade, by holding his sign, was causing a disturbance at a public place. Defendant Dickey, even after being informed by his direct supervisor that Mr.

Condiotti-Wade had committed no crime, told the individual that Mr. Condiotti-Wade's actions in carrying his sign amounted to disorderly conduct.

28. By carrying his sign on the public sidewalk outside of the Adams County Human Services Building, in Commerce City, Mr. Condiotti-Wade only wished to exercise his Constitutional right to express his views.

29. Mr. Condiotti-Wade was not breaking any law or engaging in any activity to give police probable cause to stop, detain, or arrest him. Mr. Condiotti-Wade was not carrying a weapon and in no way indicated that he was dangerous or was about to commit a crime.

30. Mr. Condiotti-Wade was in a public place, and he was engaged in no criminal activity. The only reasons for attempting to issue Mr. Condiotti-Wade a citation for disorderly conduct were: (1) the display of his "Fuck Bad Cops Blue Lives Murder" sign at a public place in the City of Commerce City and (2) Defendant Dickey's dislike of Mr. Condiotti-Wade's message.

31. Even Defendant Dickey's supervisor, Commanding Officer Mark Morgan expressed "It's not disorderly conduct . . . [t]hat's not—it's public property. Freedom of speech. Relax."

32. Mr. Condiotti-Wade reasonably and correctly believed the parking lot at the Adams County Human Services Building was a public forum on which his First Amendment right to freedom of speech was protected, as corroborated by Commander Mark Morgan's statement to Defendant Dickey that Mr. Condiotti-Wade's activity was "not trespassing."

33. Since the events of July 18, 2016, Mr. Condiotti-Wade has refrained from displaying his sign at the Adams County Human Services Building for fear of arrest, citation, or further excessive force being unlawfully exercised upon him by members of the Commerce City Police Department. Mr. Condiotti-Wade, as would any reasonable person, has been chilled from speaking by the actions of Defendants Dickey and Sedgwick.

Defendant Dickey has a long, demonstrated, and sordid history of using excessive force, and Commerce City was on notice of, and did nothing to correct, Defendant Dickey's abusive practices.

34. In at least five instances between 2011 and 2014, citizens filed complaints against Defendant Dickey for using excessive force either during the course of an arrest or gratuitously without any legal reason for contacting the citizen.

35. In one instance, a citizen complained to Commerce City that Defendant Dickey pulled him from his vehicle and struck him in the neck with a baton during a routine traffic stop.

36. In another instance, a citizen complained that Defendant Dickey gratuitously used a taser against her multiple times and beat her after she escaped from a detox facility.

37. Another citizen complained that Defendant Dickey, upon arrival at the scene of a traffic stop, tased the citizen unjustifiably. Defendant Dickey tased the individual while he was in the vehicle then, after pulling him from the vehicle, tased him again.

38. Defendant Dickey assaulted a woman whose boyfriend ran from the police. The woman complained to Commerce City that Defendant Dickey slammed her on the hood of her car and almost broke her arm.

39. Finally, Defendant Dickey was subject to a complaint of another citizen who he slammed to the ground while the individual was suffering from a medical emergency.

40. Upon information and belief, Defendant Dickey was never reprimanded, suspended, or otherwise disciplined by Commerce City for these uses of excessive force.

41. Not only has Defendant Dickey been the subject of at least five citizen complaints for using excessive force and gratuitously using his taser (for which he has not been disciplined), but he has been a defendant in at least one lawsuit based on his use excessive force (and, particularly, his unreasonable use of his taser) that violated the Fourth Amendment.

42. In the lawsuit against Defendant Dickey it was alleged that, on November 18, 2014, Defendant Dickey pulled over a driver suspected of DWI. The individual, Carl Leadholm, was in the midst of a medical emergency, and was suffering from a diabetic episode. During the stop, Defendant Dickey forcibly removed Mr. Leadholm from his car and tackled him to the ground. After Defendant Dickey and another officer had restrained the suspect on the ground, Defendant Dickey gratuitously: (1) sprayed Mr. Leadholm with OC spray, (2) deployed his baton and struck Mr. Leadholm multiple times, and (3) deployed his taser twice. The second time Defendant Dickey deployed his taser, the suspect was already in handcuffs. Judge Hegarty recounted that, and accepted as true in deciding a motion to dismiss filed by Defendant Dickey, that throughout the arrest, Defendant Dickey “wrenched [Mr. Leadholm's] right hand behind his back causing pain and damage to his hand, fingers, and rotator cuff. These injuries

necessitated two surgeries.” *Leadholm v. City of Commerce City*, 16-CV-02786-MEH, 2017 WL 1862313, at *1-2 (D. Colo. May 9, 2017). Defendant Dickey was not disciplined in any way for his use of force against Mr. Leadholm. Commerce City, and Defendant Dickey, ultimately settled Mr. Leadholm’s claims.

43. Based on these multiple citizen complaints, and lawsuit, Defendant Commerce City was on notice of Defendant Dickey’s pattern, custom, and practice of using excessive force yet took no actions to train Defendant Dickey, discipline Defendant Dickey, or otherwise ensure that Defendant Dickey would cease his continuing use of excessive force and improper use of his taser.

Commerce City Police Department had a custom, policy, and practice of using excessive force at the time of Mr. Condiotti-Wade’s assault by Defendants.

44. Defendants Commerce City and Commerce City Police Department have created a public danger through their failure to properly hire, train and supervise their officers and with full knowledge of or deliberate indifference to the widespread officer misconduct. These conditions were known to the department before the defendant officers assaulted Mr. Condiotti-Wade.

45. Upon information and belief, Defendant Commerce City failed to institute policies and procedures within the Police Department pertaining to use of force despite having full knowledge that the Department was plagued by serious internal issues and officer misconduct. Defendant Commerce City’s deliberate indifference thereto gave rise to the conditions which allowed Mr. Condiotti-Wade to be victimized in the fashion complained of herein. Defendant Commerce City knew that the Defendants officers’ conduct and inadequate training was a danger to the public.

46. At the time of Defendant Dickey's use of excessive force against Mr. Condiotti-Wade, and in at least the three years immediately preceding, Commerce City's training was wholly inadequate. A survey prepared for officials at the Colorado Fraternal Order of Police and the Commerce City Fraternal Order of Police (by a number of academics at the Center for Fire, Rescue, and EMS Health Research: National Development and Research Institutes, LLC) that was released on April 28, 2015 concluded, based on interviews with current Commerce City police officers, that "[a] widespread concern with officers at the Commerce City PD is a lack of training and/or modification of training schedules to include in-service academies and Field Training and Evaluation Program (FTEP). Several officers expressed concern that training was a regular occurrence prior to the chief's arrival, but with the implementation of 12-hour shifts, training rarely occurs. The FTEP program was reported to have been modified, resulting in officers who are not as well trained and perceived as a liability to some."

47. Commerce City has created a culture through its indifference to its officers use of force, indifference to citizen complaints filed alleging excessive force by officers, and failure to discipline its officers for unlawful use of force, which condones, tolerates, and ratifies the use of excessive force by its law enforcement officers.

48. Between 2010 and 2014, there were at least 250 complaints filed by citizens against Commerce City Police Officers alleging the use of excessive force. Upon information and belief, no officer was disciplined in connection with these complaints for their use of force (other than those that resulted in criminal charges). In

other words, while officers were disciplined for other policy violations, they were customarily given no discipline for their use of force.

49. In 2006, a Commerce City police officer named Derek Aragon, shot and killed an individual fleeing in his vehicle. The fleeing individual was driving away from the officer when he was fatally shot and was not an immediate danger to any other civilian. The Tenth Circuit held that evidence in the record showed that Officer Aragon used excessive force in violation of the fleeing suspect's Fourth Amendment rights. *Cordova v. Aragon*, 569 F.3d 1183, 1186-88 (10th Cir. 2009).

50. In a lawsuit filed based on a 2006 incident, the plaintiff alleged that Commerce City Police Officers fired nineteen times into a vehicle in a trailer park, killing a suspect who had left a halfway house and also hitting his innocent passenger, Ms. Perrin, in the leg and ear. Ms. Perrin alleged that the Officers had two opportunities to apprehend the suspect when he was on foot and approaching the vehicle, but waited until he entered the vehicle, in which Ms. Perrin was sitting. Ms. Perrin also alleged that five bullets hit mobile homes in the vicinity. *Perrin v. City of Commerce City, Colorado*, 11-cv-01892-CMA-KLM.

51. Another lawsuit alleged that, in 2007, Adam Launer was arrested by a Commerce City Police Officer, Audie Vigil, without probable cause and without a warrant. The allegations included that while Mr. Launer was handcuffed and laying face down on the ground, Officer Vigil held Mr. Launer in the prone position, sprayed his neck and back with mace or pepper spray, and punched him in the right shoulder. It further alleged that John Doe Officers kicked Mr. Launer in the ribs and used their boot to apply pressure from the handcuffs against his wrists. It was alleged that Mr. Launer

suffered from a partial pneumothorax, rib injuries, bruises and contusions, and burns from the pepper spray or mace. *Launer v. Vigil, et al.*, 08-cv-01384-MSK-MJW.

52. Another lawsuit alleged that, in 2010, unprovoked and without warning, Commerce City Officer Gomez struck Sergio Perez with a heavy flashlight while his partner held Perez from behind, then handcuffed and beat him further. Perez suffered a concussion, loss of a tooth, and lacerations. *Perez v. Gomez*, 05-cv-02241-WDM-BNB.

53. In 2012, Commerce City paid the family of a dog Commerce City Officer Robert Price shot and killed while other officers had it restrained. “Commerce City paid the family \$262,000 for excessive force used against their dog.” *Leadholm*, 2017 WL 1862313, at *6 (referring to *Branson v. Price, et al.*, 13-cv-03090-REB-NYW).

54. In 2011, Commerce City's police union presented Commerce City with a 23-page report urging a review of years of questionable conduct by police officers and alleged mismanagement by senior police officials. Commerce City's city attorney Karen Stevens was the first to review the report. Of the police union's twenty-three pages of allegations, she forwarded only eight incidences to the attention of Timothy Leary, a third-party investigator hired to look into the police union's claims, who also worked as a contractor for Commerce City's insurer, Colorado Intergovernmental Risk Sharing Agency (“CIRSA”). CIRSA would be responsible for payment if Mr. Leary's investigation found wrongdoing that led to lawsuits.

55. In or about January 2013, Troy Smith was named chief of police for Commerce City. After assuming the position, Smith did not institute policies and procedures within the police department pertaining to use of force and/or the recognition of medical emergencies despite knowing about the department's "serious

internal issues and officer misconduct." In June 2015, Smith received a vote of no-confidence from sixty-seven officers who voted in support of the measure; three voted against it. Mike Violette, Executive Director of the Colorado Fraternal Order of Police told a newspaper reporter, "In 2-1/2 years, Troy Smith has managed to destroy a highly respected and much sought after, employment-wise, police department. I'd hate to see what happens in the next 2-1/2 years if changes aren't made." However, Commerce City Mayor Ford reported to the newspaper that the city counsel was "firmly behind" Smith saying, "We know there's a reform need and the chief is moving ahead with these reforms. It takes time for change to take place." Smith was eventually demoted to interim chief before he was removed.

56. On July 18, 2016, ten days prior to Defendants Dickey's and Sedgwick's use of excessive force against Mr. Condiotti-Wade in this matter, Commerce City requested review of its police department by the United States Department of Justice's Community Oriented Policing Division's Technical Assistance Program for Collaborative Reform. In the request, Commerce City officials acknowledged that

[W]ithin the last six months two police officers [including Lord] were criminally charged for their actions while on-duty. In other cases officers have chosen to resign during the internal affairs investigative process after having been found to have engaged in conduct that likely would have resulted in termination. These incidents of misconduct on the part of police officers who are sworn to protect and serve this community have undermined the trust of the community and negatively impacted the credibility of the department and its membership who are committed to providing quality services.

Leadholm, 2017 WL 1862313, at *9-10.

STATEMENT OF CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

**42 U.S.C. § 1983 - First Amendment - Violation Regarding Free Speech
(Against Defendants Dickey and Sedgwick)**

57. All statements of fact set forth previously are hereby incorporated into this claim as though set forth fully herein.

58. Mr. Condiotti-Wade's communication of a message by carrying a sign that read "Fuck Bad Cops" and "Blue Lives Murder" is expressive activity protected by the First Amendment.

59. Mr. Condiotti-Wade's communication did not violate any law.

60. Defendants' threats of arrest directed at, and use of unreasonable force on, Mr. Condiotti-Wade because of his speech constitutes a content-based or viewpoint-based restriction on speech, or both.

61. Defendants' threats of arrest directed at, and use of unreasonable force on, Mr. Condiotti-Wade was a denial of his right to free speech guaranteed by the First Amendment to the Constitution of the United States.

62. By threatening Mr. Condiotti-Wade with arrest and using their tasers on him, Defendants, acting in concert with one another, prevented Mr. Condiotti-Wade from speaking out on a matter of public concern.

63. By threatening Mr. Condiotti-Wade with arrest and using their tasers on him, Defendants chilled Mr. Condiotti-Wade from exercising his First Amendment rights.

64. Mr. Condiotti-Wade was prevented from speaking out on a matter of public concern while standing at a public place in Commerce City, Colorado.

65. The actions of Defendants occurred while each was acting under color of State law.

66. Defendants' conduct violated clearly established rights belonging to Mr. Condiotti-Wade of which reasonable persons in Defendants' position knew or should have known.

67. Mr. Condiotti-Wade was prevented by Defendants from delivering his message in violation of the First Amendment to the United States Constitution.

68. The acts and inactions of Defendants caused Mr. Condiotti-Wade damages in that he suffered physical and mental pain during Defendants Sedgwick and Dickey's unlawful pursuit and use of tasers against him in furtherance of their silencing of his First Amendment protected speech critical of public officials, among other injuries, damages, and losses.

69. Defendants' actions and/or omissions caused, directly and proximately, Mr. Condiotti-Wade to suffer damages.

SECOND CLAIM FOR RELIEF
42 U.S.C. § 1983 - First Amendment - Retaliation for Free Speech/Expression
(Against Defendants Dickey and Sedgwick)

70. All statements of fact set forth previously are hereby incorporated into this claim as though set forth fully herein.

71. Mr. Condiotti-Wade engaged in First Amendment protected activity by carrying and displaying his sign which read "Fuck Bad Cops" and "Blue Lives Murder" at a public place in the City of Commerce City.

72. Mr. Condiotti-Wade's speech and expression was related to matters of public concern and did not violate any law.

73. Defendants Dickey and Sedgwick responded to Mr. Condiotti-Wade's First Amendment-protected activity with retaliation, including but not limited to

attempting to arrest him and using unreasonable excessive force against him, without probable cause to believe that he had engaged in illegal disorderly conduct or trespassing.

74. At all times relevant to this Complaint, Defendants Dickey and Sedgwick were acting under the color of law.

75. Defendants' retaliatory actions were substantially motivated by Mr. Condiotti-Wade's exercise of his First Amendment rights.

76. By unlawfully attempting to arrest Mr. Condiotti-Wade, Defendants sought to punish Plaintiff for exercising his First Amendment rights and to silence his future speech and restrict his freedom of expression, and the future speech and expression of others. Defendants' retaliatory actions would chill a person of ordinary firmness from engaging in such First Amendment-protected activity.

77. Defendants' conduct violated clearly established rights belonging to Mr. Condiotti-Wade of which reasonable persons in Defendants' position knew or should have known.

78. Defendants engaged in this conduct intentionally, knowingly, willfully, wantonly, maliciously, and in reckless disregard of Mr. Condiotti-Wade's constitutional rights.

79. The acts and inactions of Defendants caused Mr. Condiotti-Wade damages in that he suffered physical and mental pain during Defendants Sedgwick and Dickey's unlawful pursuit and use of tasers against him in furtherance of their silencing of his First Amendment protected speech critical of public officials, among other injuries, damages, and losses.

80. Defendants' actions have chilled Mr. Condiotti-Wade from exercising his First Amendment rights and have directly and proximately caused him to suffer damages.

THIRD CLAIM FOR RELIEF
42 U.S.C. § 1983 – Fourth Amendment Violation – Excessive Force
(Against All Defendants)

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

82. At all relevant times, Defendants Dickey and Sedgwick were acting under the color of state law in their capacities as Commerce City law enforcement officers.

83. At the time when Mr. Condiotti-Wade was unlawfully pursued, fired upon with tasers by Defendants Dickey and Sedgwick, and struck by a taser by Defendant Dickey, Mr. Condiotti-Wade had a clearly established constitutional right under the Fourth Amendment to the United States Constitution to be secure in his person from unreasonable seizure through excessive force.

84. Defendants Dickey and Sedgwick failed to intervene to prevent the use of excessive force against Mr. Condiotti-Wade by one another.

85. Any reasonable law enforcement officer knew or should have known of this clearly established right.

86. Defendants Dickey and Sedgwick engaged in the use of force that was objectively unreasonable in light of the facts and circumstances confronting them, violating Mr. Condiotti-Wade's Fourth Amendment rights.

87. Defendants Dickey and Sedgwick's actions, as described above, were motivated by intent to harm Mr. Condiotti-Wade.

88. Defendants Dickey and Sedgwick's actions, as described herein, were undertaken intentionally, maliciously, willfully, wantonly, and/or in reckless disregard of Plaintiff's federally protected rights.

89. Defendants Dickey and Sedgwick both fired their tasers at Mr. Condiotti-Wade, and a barb from Defendant Dickey's taser created a puncture wound that required medical attention at the Health One North Suburban Medical Center emergency room.

90. The acts and omissions of Defendants Dickey and Sedgwick were the moving force behind and proximate cause of Mr. Condiotti-Wade's injuries.

91. Defendants Dickey and Sedgwick acted pursuant to the custom, policy, and practice of Defendant Commerce City, which condones, tolerates, and ratifies the use of excessive force by its law enforcement officers.

92. Defendants Dickey and Sedgwick used excessive force in accordance with an informal custom and widespread practice of excessive force in Commerce City, although not authorized by written law or express policy, so permanent and well settled as to constitute a custom or usage with the force of law.

93. Defendant Commerce City was aware of its employees' widespread use of excessive force, as detailed above, and failed to properly discipline its employees for uses of excessive force.

94. Defendant Commerce City knew, or should have known, that its employees would fail to use reasonable force, would pursue Mr. Condiotti-Wade in an attempt to unlawfully arrest him, and would fire tasers at and into Mr. Condiotti-Wade during this pursuit, violating Mr. Condiotti-Wade's constitutional rights.

95. Defendant Commerce City's policies, customs, or practices condoning its employees' use of excessive force were the moving force and proximate cause of the violation to Mr. Condiotti-Wade's constitutional rights.

96. Defendant Commerce City's informal customs or policies of excessive force deprived Mr. Condiotti-Wade of the rights, privileges, liberties, and immunities secured by the Constitution of the United States of America, and caused him other damages.

97. The acts and omissions of the individual Defendants and Defendant Commerce City caused Mr. Condiotti-Wade damages, in that he suffered physical and mental pain during the unlawful pursuit, including a puncture wound from a taser barb, among other injuries, damages, and losses.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully request that this Court enter judgment in their favor and against Defendants, and grant:

- (a) Appropriate declaratory and other injunctive and/or equitable relief;
- (b) Compensatory and consequential damages, including damages for emotional distress, loss of reputation, 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;
- (c) All economic losses on all claims allowed by law;
- (d) Punitive damages on all claims allowed by law and in an amount to be determined at trial;
- (e) Attorney's fees and the costs associated with this action, as well as 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 relief as allowed by law.

PLAINTIFF REQUESTS A TRIAL TO A JURY ON ALL ISSUES SO TRIABLE.

Dated this 7th day of June 2018.

KILLMER, LANE & NEWMAN, LLP

s/ Andy McNulty

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