

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

Civil Action No. 1:23-cv-

ESTATE OF KEVIN DIZMANG,

Plaintiff,

v.

SEAN REED, a Colorado Springs Police Officer, in his individual capacity,
NICK FISHER, a Colorado Springs Fire Department Paramedic, in his individual capacity,

Defendants.

COMPLAINT AND JURY DEMAND

Plaintiff Estate of Kevin Dizmang, by and through its personal representative Kenda James, and attorneys Kevin Mehr of Mehr Law PLLC, Harry Daniels of the Law Offices of Harry M. Daniels, LLC and Bakari Sellers of the Strom Law Firm, respectfully alleges for this Complaint and Jury Demand as follows:

INTRODUCTION:



1. The above photo shows Kevin Dizmang as he sat unresponsive, handcuffed behind his back, after paramedic Nicholas Fisher tackled him and placed him in a chokehold for nearly two minutes. Members of the Colorado Springs Police Department “Critical Response Team” came into contact with Kevin Dizmang based on a report that he was having a “psychotic breakdown” and was possibly suicidal. As a result of Defendants Reed and Fishers’ physical assault, Kevin Dizmang died.

PARTIES:

2. Decedent Plaintiff, by and through his Estate, Kevin Dizmang, was at all times mentioned a resident of Colorado.
3. Personal Representative Kenda James, daughter and appointed personal representative of Kevin Dizmang’s Estate, pursuant to El Paso County case 23PR30630, is and was at all times a resident of Colorado.

4. Defendant Sean Reed is and was at all times mentioned a police officer employed by the Colorado Springs Police Department (“CSPD”), and a member of the Critical Response Team 3 (“CRT3”).
5. Defendant Nick Fisher is and was at all times mentioned a paramedic, employed by the Colorado Springs Fire Department, and a member of the Critical Response Team 3 (“CRT3”).

JURISDICTION AND VENUE

6. Plaintiff Estate, through its personal representative Kenda James, brings this survival action, pursuant to C.R.S. § 13-21-202.
7. This action arises under the Constitution and laws of the United States and is brought through 42 U.S.C. § 1983, and the Constitution of the State of Colorado through C.R.S. § 13-21-131.
8. Subject-matter jurisdiction is conferred on this Court pursuant to 28 U.S.C. § 1331 because, as is shown more fully in this Complaint, Plaintiffs’ claims arise under the Constitution and laws of the United States.
9. Jurisdiction over Plaintiff’s pendent state law claims is proper under 28 U.S.C. § 1367(a) because they are so related to Plaintiff’s claims arising under federal law that they form part of the same case or controversy.
10. Venue is proper in the United States District Court for the District of Colorado pursuant to both 28 U.S.C. § 1391(b)(1) and (2). Specifically, venue is proper under 28 U.S.C. § 1391(b)(1) because all of the events and omissions alleged herein occurred within the State of Colorado. Venue is also proper under 28 U.S.C. § 1391(b)(2) because at the time of the

events and omissions giving rise to this litigation, all of the Defendants resided in Colorado, the state in which the District of Colorado is located.

RECITATION OF FACTS

11. On November 15th, 2022, members of the Colorado Springs Police Department Crisis Response Unit responded to a call regarding Kevin Dizmang, who was reported to be having psychotic breakdown. Kevin Dizmang was reported, by his family, to be experiencing severe symptoms related to his documented history of PTSD and schizophrenia. Family members were also concerned that Kevin might be under the influence, but could not confirm this fact.
12. As a result of this reported psychotic breakdown, Kevin's family reported that he was damaging some of his own property, notably an RV trailer in which he lived alone, located at 220 Mount View Lane, in Colorado Springs. Importantly, the reporting party, Kevin's ex-wife did not report that Kevin was threatening anyone, damaging anyone else's property, or committing any crimes. Kevin's ex-wife reported believing that Kevin was possibly attempting suicide by walking out into traffic near his home.
13. Mount View Lane, specifically the Cragmor Mobile Home Park, where Kevin lived, is a very busy street, with heavy traffic. Additionally, the call from Kevin's ex-wife was received at 5:03 PM, during rush hour traffic on a Tuesday evening.
14. In response to the call, "CRT3" responded to Kevin's location. CRT3 is a "Crisis Response Team that consists of an [police] officer, a fire department medic, and a case worker." Specifically, CRTs respond to "conduct welfare checks, suicidal people, emotionally disturbed people, and people in crisis." While a police officer is a part of the CRT, their

purpose is to preserve and save lives and prevent people who may be in danger of harming themselves from doing so.

15. CRT3 consisted of Colorado Springs Police Department Officer Sean Reed, Colorado Springs Fire Department Paramedic Nick Fisher, and licensed clinician Andrea Alban.
16. Upon arrival to Kevin's location, Officer Reed and Paramedic Fisher observed Kevin in the on the sidewalk of Mount View Lane, bent over with his hands on his knees.
17. A few concerned citizens surrounded Kevin, trying to ensure that he did not walk back into traffic on Mount View Lane. However, upon the arrival of CRT3 and the approach of Officer Reed, Kevin walked back into traffic, where he again bent over with his hands on his knees.
18. Upon Officer Reed's approach to Kevin, Kevin immediately said "HELP me," then walked, in an obviously confused manner, further into the road. Kevin repeatedly said "please" to Officer Reed as he ambled in a clearly confused and panicked state, walking in circles in the westbound lane of traffic.
19. Officer Reed then told Kevin "sit down or put your hands behind your back," indicating to Kevin that he intended to handcuff and arrest Kevin. Officer Reed then proceeded to grab Kevin's left arm as he told him to put his hands behind his back. At this point, and throughout the encounter, no officer had any information that Kevin had or was about to engage in any criminal activity. Thus, no probable cause to arrest Kevin existed at any point during this incident.

20. Kevin responded with “I will” as Officer Reed continued to grab his arms and without giving him an opportunity to calm down and comply.
21. As Officer Reed attempted to place Kevin under arrest and in handcuffs, Kevin stepped away multiple times, walking a couple of steps, then bending over and putting his hands on his knees, breathing heavily, returning to the same physical posture he had when Officer Reed arrived to Kevin’s location.
22. As Officer Reed’s tone escalated for Kevin to put his hands behind his back, Kevin walked further away from the road and into a small line of trees, repeatedly stating “no!” and “please don’t” all while breathing heavily and in an obviously stressed and panicked state. At no point did Kevin attempt to flee or take any violent actions against any of the CRT3 personnel.
23. As Kevin stood in the thin tree line, approximately 20 feet from the road, Paramedic Fisher suddenly and violently tackled Kevin, driving him face down into the ground, and landing Kevin on his right side.
24. Once on the ground, Fisher put Kevin into a chokehold while Reed took Kevin’s hands and placed them in handcuffs behind his back. Fisher maintained this chokehold, by wrapping his arms around Kevin’s neck, severely impacting Kevin’s ability to breathe, for approximately 30 seconds, at which point Kevin quit moving at all.
25. Fisher then rolled Kevin face down onto the ground, and placed his hands on the back of Kevin’s neck and driving his body weight downward, pushing Kevin’s neck and face into the ground. At this point, Kevin remained completely motionless.

26. Fisher stayed in this position, with his body weight on Kevin's neck and back for approximately forty-five (45) seconds, and Kevin remained completely unresponsive. After approximately forty-five (45) seconds on laying on top of Kevin while he was unresponsive, Fisher and Reed rolled Kevin into a seated position. At this point Kevin still had a faint pulse, but was clearly struggling to breathe and was totally unresponsive to any questions or commands:



27. A concerned citizen from the mobile home park where Kevin lived, repeatedly asked Kevin to “talk to me,” however Kevin never responded. Officer Reed called for AMR to respond, as Kevin was clearly unresponsive and unconscious, yet he and Fisher left him in handcuffs.

28. Despite being unresponsive and unconscious, Kevin remained handcuffed behind his back for nearly seven (7) minutes before he was loaded onto a stretcher and moved into an ambulance.

29. Once loaded into the ambulance, medical staff began attempting life-saving resuscitation measures, however Kevin never regained consciousness.

30. Kevin was transported to the emergency room at Penrose hospital, where emergency room staff continued to attempt life-saving measures, however they were unsuccessful and Kevin was pronounced dead at 6:16 PM by Dr. Michael Loew.

AUTOPSY:

31. Subsequently, an autopsy was conducted by the El Paso County Coroner's office. Kevin's Death was ruled to be a homicide, specifically that Kevin died as a result of cardio-pulmonary arrest as a result of "physical restraint":

FINAL DIAGNOSIS:

I. Cardiopulmonary arrest in the setting of physical restraint, acute methamphetamine intoxication, COPD and asthma, cardiomegaly, diaphragmatic paralysis, and obesity:

A. Physical restraint:

1. Per provided body camera footage and reports, the decedent became unresponsive while physically restrained in a prone position outdoors with a described "bear hug" hold during a police-involved encounter for possible suicidal behavior/running into traffic.
2. Provided body camera footage reviewed.

OPINION: It is my opinion that Kevin Dizmang, a 63-year-old white male, died as a result of cardiopulmonary arrest in the setting of physical restraint, acute methamphetamine intoxication, COPD and asthma, cardiomegaly, diaphragmatic paralysis, and obesity. This injury was incurred in a police-involved encounter.

Comment: The contribution of physical restraint to the cause of death results in the determination of a manner of homicide.

32. Kevin's autopsy was reviewed and signed off on by five (5) different doctors: Dr. Allison Cooper, Dr. Megan Kliesner, Dr. Jarod Murdoch, Dr. Emily Russell-Knisley, and Dr. Leon Kelly.

EMERGENCY ROOM STATEMENTS OF FISHER

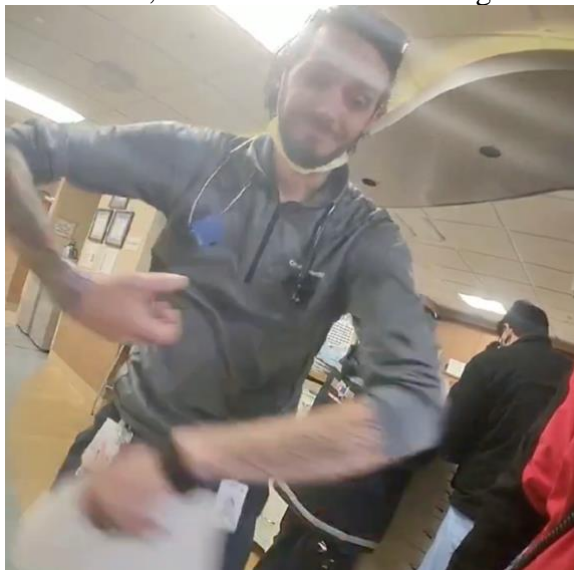
33. As if engaging in an unlawful chokehold against a man clearly in crisis was not enough, Paramedic Fisher had the bravado to brag and laugh about his take down of Kevin with another police officer and a charge nurse at the Penrose Hospital ER, just outside the hospital room Kevin was in, while ER staff was conducting chest compressions in an attempt to save Kevin’s life:



34. The following is an exchange that took place between a currently unknown charge nurse (shown above), paramedic Fisher, and CSPD Officer Cochrane:

- a. Nurse: “He was that big BIG fucker?”
- b. Cochrane laughs.
- c. Nurse, to Cochrane and Fisher: “well you brought him DOWN, you took him DOWN.”
- d. Cochrane and Fisher laugh.

- e. Nurse: “You ARRESTED that boy”
- f. Fisher: “No the cop did. He was chasing him, but then we lost him between this little grove of trees, and so I was like [puts his hands up and shrugs]. So my first time taking someone down with this job [laughs, smirks] I don’t know what I’m supposed to do.”
- g. Nurse: acts out a football tackle, Cochrane and Fisher laugh.



- h. Fisher: “So another clinician told me, she was like ‘go help restrain him,’ so I go to pull drugs out and she was like “no, go help him,” well then I was like “high school football!”
- i. Nurse: “Well good form homie!”
- j. Cochrane: “yeah good form!”

- k. Nurse: “DAMNNNN” as he turns around and looks into Kevin’s room to see that ER staff is actively doing chest compressions on Kevin in an attempt to save his life.

FIRST CLAIM FOR RELIEF

Civil Action for Wrongful Death C.R.S. §13-21-201, et seq.

(against Defendant Fisher and Reed)

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

36. Colorado law prohibits the use of a “chokehold” by a peace officer. C.R.S. §18-1-707(2.5).

A chokehold is defined as “a method by which a person applies sufficient pressure to a person to make breathing difficult or impossible and includes but is not limited to any pressure to the neck, throat, or windpipe that may prevent or hinder breathing or reduce intake of air.” C.R.S. § 18-1-707(2.5)(b)(I). A chokehold also means “applying pressure to person’s neck on either side of the windpipe, but not to the windpipe itself, to stop the flow of blood to the brain via the carotid arteries.” C.R.S. § 18-1-707(2.5)(b)(II). As made clear in the autopsy and video, Defendant Fisher used a chokehold against Plaintiff, at the direction of other members of the CRT, and it caused Plaintiff’s death.

37. Colorado law further prohibits persons in the role of Fisher, a paramedic and member of a team directed by a peace officer, from using force that the peace officer would not be permitted to use. *See* C.R.S. § 18-1-707(5), (6), (7).

38. Plaintiff Estate, brings this Wrongful Death action against both Defendants Reed and Fisher, pursuant to C.R.S. § 13-21-202, and asserts that the conduct of both Defendant Fisher and Reed was willful, wanton and in bad faith.

39. Both Fisher and Reed's actions as herein described, individually and in concert, proximately caused emotional and physical injury to Decedent which proximately resulted in Decedent's death.
40. The conduct and actions of Fisher and Davis were reckless, violations of their duties they owed to Decedent, violations of his civil rights and were willful and wanton. Their conduct is not immune from liability because of any governmental immunity.
41. Plaintiff Estate is entitled to damages and judgment against both Defendants in the maximum amount authorized by law.
42. Plaintiff Estate assert that Defendants Fisher and Reeds' actions constituted a Felonious Killing, pursuant to C.R.S. § 15-11-803(1)(b). Plaintiff asserts that Defendants' actions were the actual and proximate cause of the death of Decedent, and that said actions meet the elements of First Degree Murder, pursuant to C.R.S. § 18-3-102(1)(a), Second Degree Murder, pursuant to C.R.S. § 18-3-103(1), and or Manslaughter pursuant to C.R.S. §18-3-104(1)(a). Plaintiff petitions this court to declare a finding as such, in accordance with C.R.S. § 15-11-803(7)(b). As previously contained herein, Fisher and Reed left Kevin Dizmang in handcuffs, long after he became unresponsive, then later joked and bragged about what Fisher had done, just outside Kevin Dizmang's ER room, while hospital staff was actively attempting life saving measures.
43. Defendants' unjustified and violent seizure and assault upon Kevin Dizmang caused him to experience great physical pain, injury, terror and ultimately his death.

SECOND CLAIM FOR RELIEF

Civil Action for Deprivation of Rights-Unauthorized and Excessive Use of Force, as

Defined in C.R.S. § 18-1-707

Article II Section 7 of the Colorado Constitution- Unauthorized Use of Force

4th Amendment to the U.S. Constitution, pursuant to 42 U.S.C. §1983

(against Defendant Fisher)

44. Plaintiff Estate hereby incorporates all other paragraphs of the Complaint as if fully set forth herein.
45. Plaintiff Estate brings this count against Defendants for the unlawful use of physical force. C.R.S. § 18-1-707(1) permits an officer to use of physical force only “if nonviolent means would be ineffective in effecting an arrest, preventing an escape, or preventing an imminent threat of injury to the peace officer or another person.” In this incident, Defendants’ use of force was not justified in anyway. Kevin Dizmang was killed by this unauthorized use of force.
46. Colorado law prohibits the use of a “chokehold” by a peace officer. C.R.S. §18-1-707(2.5). A chokehold is defined as “a method by which a person applies sufficient pressure to a person to make breathing difficult or impossible and includes but is not limited to any pressure to the neck, throat, or windpipe that may prevent or hinder breathing or reduce intake of air.” C.R.S. § 18-1-707(2.5)(b)(I). A chokehold also means “applying pressure to person’s neck on either side of the windpipe, but not to the windpipe itself, to stop the flow

of blood to the brain via the carotid arteries.” C.R.S. § 18-1-707(2.5)(b)(II). As made clear in the autopsy and video, Defendant Fisher used a chokehold against Plaintiff, at the direction of other members of the CRT, and it caused Plaintiff’s death.

47. Colorado law further prohibits persons in the role of Fisher, a paramedic and member of a team directed by a peace officer, from using force that the peace officer would not be permitted to use. *See* C.R.S. § 18-1-707(5), (6), (7).

48. Defendants here were called to conduct a welfare check on Plaintiff and thus had no basis for any level of violent physical force. C.R.S. § 18-1-707(1) codifies when a peace officer may use physical force. Those circumstances are limited to when 1) nonviolent means would be ineffective in effecting an arrest, 2) preventing an escape, or 3) preventing an imminent threat of injury to the peace officer or another person. *Id.* Again, the CRT was called to assist Plaintiff with a potential mental break and did not have any information to believe that he had or was about to engage in any criminal activity. Further, Plaintiff committed no crimes in the presence of the CRT, nor did any circumstances exist to believe that Plaintiff was a danger to any person other than himself. Despite this, Defendants caused Plaintiff’s death through their physical restraint of him, namely a chokehold.

49. This conduct resulted in the unconstitutional search and seizure of Kevin Dizmang, and directly and proximately resulted in his death.

THIRD CLAIM FOR RELIEF

Civil Action for Breach of Duty to Intervene in Unlawful and Excessive Force, in Violation of Article II Section 7 of the Colorado Constitution- Unauthorized Use of Force

4th Amendment to the U.S. Constitution, pursuant to C.R.S. § 18-8-802 and C.R.S. §13-21-

131; and 42 U.S.C. § 1983

(against Defendant Reed)

50. Plaintiff Estate hereby incorporates all other paragraphs of the Complaint as if fully set forth herein.

51. Plaintiff Estate further brings a Breach of Duty to Intervene action against Defendant Fisher, pursuant to C.R.S. § 18-8-802 and C.R.S. § 13-21-121 and 42 U.S.C. § 1983. As alleged herein, Reed not only failed to intervene in Fisher's use of excessive force, which constituted a violation of Article II Section 7 of the Colorado Constitution and the 4th Amendment to the U.S. Constitution but in fact contributed to the physical assault by handcuffing Kevin Dizmang behind his back, and leaving him in that position after he became unresponsive.

52. Kevin Dizmang was damaged and injured by Defendant Reed's intentional failure to intervene and stop the ongoing assault on Kevin Dizmang. As the Directing Peace Officer for CRT3, Officer Reed had the actual authority and duty to order Fisher to stop choking Kevin Dizmang. However he did not do so, but chose instead to contribute to the assault and leave Kevin Dizmang in handcuffs after he became unresponsive as a result of Fisher's physical assault. Defendants directly and proximately caused Kevin Dizmang's unconstitutional search and seizure, and directly and proximately resulted in his death.

WHEREFORE, Plaintiff prays for a judgment against Defendants for such sum that will fairly and adequately compensate Plaintiff for his damages, injunctive relief, punitive damages, and for such other and further relief as the Court deems just and proper under the circumstances, and for his attorneys fees, costs incurred and expended.

Plaintiff requests a jury trial.

/s/ Kevin Mehr

KEVIN MEHR, #49108

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803-252-4800

Dated: February 13, 2024

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.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <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 |

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 (Excludes 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>PERSONAL INJURY</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 type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<p>PERSONAL INJURY</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 <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage 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	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <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
		LABOR	PROPERTY RIGHTS		
		<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management 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 Employee Retirement Income Security Act	<input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <p>SOCIAL SECURITY</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))		
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		FEDERAL TAX SUITS	
<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	<input 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>Habeas Corpus:</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>Other:</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	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609		
		IMMIGRATION			
		<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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 Brief description of cause: _____ AP Docket _____

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service; **OR "AP Docket."**
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

)	
)	
)	
)	
<i>Plaintiff(s)</i>)	
v.)	Civil Action No.
)	
)	
)	
<i>Defendant(s)</i>)	

SUMMONS IN A CIVIL ACTION

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

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:

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

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 \$ _____ .

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. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)
v.

Civil Action No.

Defendant(s)

)
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)
)
)

SUMMONS IN A CIVIL ACTION

To: *(Defendant’s name and address)*

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:

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

Civil Action No. _____

PROOF OF SERVICE

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

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was received by me on *(date)* _____ .

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_____ 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 \$ _____ .

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: