

FILED

DEC 11 2014

SPOKANE COUNTY CLERK

**IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE**

LUCAS T. CASSIDY, a single person,

Plaintiff,

v.

CITY OF SPOKANE; SPOKANE POLICE DEPARTMENT, CHIEF OF POLICE FRANK G. STRAUB, JR., OFFICER JOSEPH DOTSON, OFFICER TODD BELITZ, OFFICER BRADLEY ZOOK, OFFICER B. AITKEN, OFFICER CHIMIANTI, SERGEANT BRAUN;

Defendants.

14204809-7

NO.

SUMMONS [20 DAYS]

TO: CITY OF SPOKANE; SPOKANE POLICE DEPARTMENT, CHIEF OF POLICE FRANK G. STRAUB, JR., OFFICER JOSEPH DOTSON, OFFICER TODD BELITZ, OFFICER BRADLEY ZOOK, OFFICER B. AITKEN, OFFICER CHIMIANTI, SERGEANT BRAUN

AND TO: Their attorneys.

A lawsuit has been started against you in the above-entitled Court by LUCAS T. CASSIDY, plaintiff. Plaintiff's claim is stated in the written complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the complaint by stating your defense in writing, and serve a copy upon the person signing this summons within twenty (20) days after the service of this Summons, excluding the day of service, or within sixty (60) days if this Summons was served outside the State of Washington, or within forty (40) days if this Summons is served through the Insurance Commissioner's

SUMMONS - 1

1 Office, or a Default Judgment may be entered against you without notice. A Default
2 Judgment is one where plaintiff is entitled to what the complaint asks for because you
3 have not responded. If you serve a notice of appearance on the undersigned attorney, you
4 are entitled to notice before a default judgment may be entered.

5 You may demand that the plaintiff file this lawsuit with the Court. If you do so,
6 the demand must be made in writing and must be served upon the plaintiff. Within
7 fourteen (14) days after you serve demand, the plaintiff must file this lawsuit with the
8 Court, or the service on you of this Summons and Complaint will be void.

9 If you wish to seek the advice of an attorney in this matter, you should do so
10 promptly so that your written response, if any, may be served on time.

11 This Summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of
12 the State of Washington.

13 DATED at Spokane, Washington this 11th day of December, 2014

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17 DOUGLAS D. PHELPS, WSBA # 22620
18 Attorney for Plaintiff
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LUCAS T. CASSIDY, a single person,

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CITY OF SPOKANE; SPOKANE POLICE
DEPARTMENT, CHIEF OF POLICE FRANK
G. STRAUB, JR., OFFICER JOSEPH
DOTSON, OFFICER TODD BELITZ,
OFFICER BRADLEY ZOOK, OFFICER B.
AITKEN, OFFICER CHIMIENI,
SERGEANT BRAUN;

Defendants.

14204809-7

NO. _____

COMPLAINT

COMES NOW the Plaintiff, LUCAS T. CASSIDY, by and through his attorney, DOUGLAS D. PHELPS, and for a cause of action against the Defendants above-named alleges as follows:

I. INTRODUCTION

1.1 This is a civil action seeking damages against the Defendants for committing acts under the color of law, depriving the Plaintiff of rights secured by the United States Constitution and the laws of the United States. Defendants Officer Joseph Dotson, Officer Todd Belitz, Officer Bradley Zook, Officer B. Aitken, Officer Chimienti, and Sergeant Braun, while acting in their capacities as employees of the City of Spokane, acted to deprive the Plaintiff of his constitutional rights.

COMPLAINT - 1

PHELPS AND ASSOCIATES, PS
Attorneys at Law
2903 N. Stout Rd.
Spokane, WA 99206-4373
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1 1.2 Additionally, the acts of the City of Spokane, Spokane Police Department,
2 Chief of Police Frank G. Straub, Jr., Officer Joseph Dotson, Officer Todd
3 Belitz, Officer Bradley Zook, Officer B. Aitken, Officer Chimienti, and
4 Sergeant Braun violated the Plaintiff's rights pursuant to the United States
5 Constitution, 42 USC 1983, Washington State Constitution, the Revised Code
6 of Washington, and the common law.

7 Officers broke into Plaintiff's house without a warrant, assaulted Plaintiff, and
8 arrested him. Plaintiff suffered injury from the assault and damage to his home
9 during the illegal entry.

10 II. JURISDICTION AND VENUE

11 2.1 This action is brought pursuant to 42 USC Section 1983, alleging that the
12 Defendants acted under the color of law, depriving the Plaintiff of his rights,
13 privileges, and immunities as guaranteed by the Fourth, Fifth, Eighth, and
14 Fourteenth Amendments to the United States Constitution.

15 2.2 This action is brought pursuant to the laws of the State of Washington and the
16 United States of America.

17 2.3 All acts complained of occurred in Spokane County, State of Washington.

18 2.4 The Defendants, City of Spokane and Spokane Police Department, are
19 government entities located in Spokane County, State of Washington.

20 2.5 Defendant Chief of Police Frank G. Straub, Jr. is and was the Chief of the
21 Spokane Police Department. Defendants Officer Joseph Dotson, Officer Todd
22 Belitz, Officer Bradley Zook, Officer B. Aitken, Officer Chimienti, and
23 Sergeant Braun were officers employed by the Spokane Police Department.
24 All Defendants are believed to reside in Spokane County, State of
25 Washington.

26 2.6 The venue is proper in Spokane County, State of Washington.

27 III. PARTIES

28 3.1 The Plaintiff, LUCAS T. CASSIDY, is a resident of the State of

COMPLAINT - 2

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1 Washington, in the United States of America.

2 3.2 The Defendant, City of Spokane, is a city government in Spokane County,
3 State of Washington, United States of America.

4 3.3 The Defendant, Spokane Police Department, is an agency of the City of
5 Spokane in Spokane County, State of Washington, United States of
6 America.

7 3.4 Defendant Chief of Police Frank G. Straub, Jr. is and was the Chief of the
8 Spokane Police Department.

9 3.5 Defendants Officer Joseph Dotson, Officer Todd Belitz, Officer Bradley
10 Zook, Officer B. Aitken, Officer Chimienti, and Sergeant Braun were
11 officers employed by the Spokane Police Department.

12 IV. CAUSE OF ACTION

13 FOR VIOLATION OF PLAINTIFF'S CONSTITUTIONAL RIGHTS

14 UNDER COLOR OF LAW PURSUANT TO 42 USC 1983

15 4.1 On or about October 14, 2012, at approximately 10:33pm, Officers
16 Chimienti and Belitz responded to a reported domestic dispute in the street
17 at I Street and Heroy Avenue.

18 4.2 Nobody was visible in the street upon arrival, so Officers Chimienti and
19 Belitz contacted an unnamed neighbor who stated that the arguing couple
20 had gone into the house on the northeast corner of the intersection, 3634
21 W. Heroy Avenue.

22 4.3 At approximately 10:44pm, Officers Zook and Aitken arrived at the I
23 Street/Heroy Avenue location.

24 4.4 Officer Zook went to 3634 W. Heroy Avenue and observed that it was
25 silent inside. He knocked and received no answer.

26 4.5 Officer Zook then contacted the complainant, Melissa Fiechtney. Ms.
27 Fiechtney related that she had heard screaming and arguing, and that she
28 saw a male standing over a female in the backyard of the 3634 W. Heroy
residence. She was unable to provide a description of either individual, and

1 could not state if they had left the area or entered the 3634 W. Heroy
2 residence.

3 4.6 All officers returned to the 3634 W. Heroy residence and knocked again at
4 the front and back doors.

5 4.7 There was no response to the knock on the door.

6 4.8 Officer Zook found "droppings" of some kind on the back porch.

7 Concluding it was possibly human blood, he and the other officers decided
8 that they had to forcibly enter the residence, despite the fact that a
9 substantial amount of time had passed since the initial call. Sergeant
10 Braun, who had also responded by this time, agreed with the officers'
11 assessment.

12 4.9 Officer Zook kicked down the back door of the 3634 W. Heroy residence.

13 4.10 Inside the residence officers located LUCAS T. CASSIDY and his
14 girlfriend, Shawna Oquendo, who had both been seated on a sofa in the
15 living room.

16 4.11 Without asking Ms. Oquendo about her welfare, officers ordered LUCAS
17 T. CASSIDY to lie prone on the ground, and he immediately complied.

18 4.12 Officers Dotson, Aitken, Zook, Chimienti and Belitz proceeded to surround
19 LUCAS T. CASSIDY, holding him down, kneeling him in the neck, back,
20 and sides, and handcuffing him.

21 4.13 While holding LUCAS T. CASSIDY down and handcuffing him, Officer
22 Zook struck LUCAS T. CASSIDY in his back, neck, and sides multiple
23 times with his knees.

24 4.14 While holding LUCAS T. CASSIDY down and handcuffing him, Officer
25 Belitz applied a choke hold to LUCAS T. CASSIDY and rendered him
26 unconscious. This choke hold was so severe that it caused blood vessels to
27 burst in LUCAS T. CASSIDY's eyes.

28 4.15 LUCAS T. CASSIDY was falsely arrested and injured during the arrest,
without provocation.

4.16 Defendants Officer Joseph Dotson, Officer Todd Belitz, Officer Bradley

COMPLAINT - 4

1 Zook, Officer B. Aitken, Officer Chimienti, and Sergeant Braun caused
2 injury to LUCAS T. CASSIDY, in violation of his rights under 42 USC
3 1983.

4 4.17 That as a result of the violations to LUCAS T. CASSIDY's rights, LUCAS
5 T. CASSIDY suffered and continues to suffer injury as a result of his
6 assault and arrest.

7 V. CAUSE OF ACTION FOR VIOLATION OF
8 PLAINTIFF'S CONSTITUTIONAL RIGHTS
9 PURSUANT TO THE CONSTITUTION OF THE UNITED STATES AND THE
10 WASHINGTON STATE CONSTITUTION

11 LUCAS T. CASSIDY, Plaintiff, re-alleges paragraphs 4.1 to 4.17 as
12 paragraphs 5.1 to 5.17.

13 5.18 That the illegal entry to the residence of LUCAS T. CASSIDY and the
14 injuries caused to LUCAS T. CASSIDY were violations of his rights
15 pursuant to Article I Section 3, 7, and 14 of the Washington State
16 Constitution and the 4th, 5th, 8th, and 14th Amendments to the Constitution
17 of the United States.

18 5.19 That as a result of the violations to LUCAS T. CASSIDY's Washington
19 State and United States Constitutional Rights, LUCAS T. CASSIDY
20 suffered and continues to suffer injury as a result of his assault and arrest.

21 VI. CAUSE OF ACTION FOR EXCESSIVE FORCE
22 LUCAS T. CASSIDY, Plaintiff, re-alleges paragraphs 4.1 to 4.17 as
23 paragraphs 6.1 to 6.17.

24 6.18 That force used by Defendants in choking, striking, and assaulting LUCAS
25 T. CASSIDY was excessive and other officers present including Sergeant
26 Braun failed to stop or restrain the actions of the attacking officers.

27 6.19 That the assault of LUCAS T. CASSIDY and the injuries caused to him
28 were violations of his rights pursuant to Article I Section 3, 7, and 14 of the

COMPLAINT - 5

1 Washington State Constitution and the 4th, 5th, 8th, and 14th Amendments to
2 the Constitution of the United States.

3 6.20 That as a result of the violations to LUCAS T. CASSIDY's Washington
4 State and United States Constitutional Rights, LUCAS T. CASSIDY
5 suffered and continues to suffer injury as a result of his assault and arrest.

6 VII. CAUSE OF ACTION FOR ILLEGAL SEARCH AND SEIZURE

7 LUCAS T. CASSIDY, Plaintiff, re-alleges paragraphs 4.1 to 4.17 as
8 paragraphs 7.1 to 7.17.

9 7.18 That the illegal entry to the residence of LUCAS T. CASSIDY and his
10 arrest were violations of his rights pursuant to Article I Section 3, 7, and 14
11 of the Washington State Constitution and the 4th, 5th, 8th, and 14th
12 Amendments to the Constitution of the United States.

13 7.19 That as a result of the violations to LUCAS T. CASSIDY's Washington
14 State and United States Constitutional Rights, LUCAS T. CASSIDY
15 suffered and continues to suffer injury as a result of his assault and arrest.

16 VIII. CAUSE OF ACTION

17 FOR CONSPIRACY TO DEPRIVE PERSON
18 OF EQUAL PROTECTION OF THE LAWS

19 LUCAS T. CASSIDY, Plaintiff, re-alleges paragraphs 4.1 to 4.17 as
20 paragraphs 8.1 to 8.17.

21 8.18 LUCAS T. CASSIDY, Plaintiff, was arrested for assault and for obstructing
22 law enforcement based upon false or misleading information, alleged by
23 Defendants Officer Joseph Dotson, Officer Todd Belitz, Officer Bradley Zook,
24 Officer B. Aitken, Officer Chimienti, and Sergeant Braun of the Spokane
25 Police Department to protect officers from civil suit for unlawful/excessive
26 force and/or violations of LUCAS T. CASSIDY's civil rights.

27 8.19 Defendants conspired among themselves, and perhaps with others currently
28 unknown to this Plaintiff, to deprive Plaintiff of equal protection of the laws

and of equal privileges and immunities under the laws.

8.20 Defendants' actions deprived the Plaintiff, LUCAS T. CASSIDY, of his due process, liberty, privacy, and property interest guaranteed by the Constitution of the United States.

8.21 That as a result of the violations to LUCAS T. CASSIDY's Washington State and United States Constitutional Rights, LUCAS T. CASSIDY suffered and continues to suffer injury as a result of his assault and arrest.

IX. CAUSE OF ACTION PURSUANT
TO AGENCY THEORY

LUCAS T. CASSIDY, Plaintiff, re-alleges paragraphs 4.1 to 4.17 as paragraphs 9.1 to 9.17.

9.18 That the City of Spokane is liable for actions of its agent, Spokane Police Department, on its behalf.

9.19 That as a result of the actions or inactions of the City of Spokane, the Spokane Police Department, Officer Joseph Dotson, Officer Todd Belitz, Officer Bradley Zook, Officer B. Aitken, Officer Chimienti, and Sergeant Braun, LUCAS T. CASSIDY suffered and continues to suffer injury as a result of his assault and arrest.

X. CAUSE OF ACTION PURSUANT
TO DOCTRINE OF RESPONDEAT SUPERIOR

LUCAS T. CASSIDY, Plaintiff, re-alleges paragraphs 4.1 to 4.17 as paragraphs 10.1 to 10.17.

10.18 That Defendants Chief of Police Frank G. Straub, Jr., Spokane Police Department, and City of Spokane are liable for the actions of their employees under the doctrine of Respondeat Superior which resulted in the failure to prevent injury to LUCAS T. CASSIDY.

10.19 That as a result of the actions or inactions of the employees of the Spokane Police Department, City of Spokane, Officer Joseph Dotson, Officer Todd

1 Belitz, Officer Bradley Zook, Officer B. Aitken, Officer Chimienti, and
2 Sergeant Braun, LUCAS T. CASSIDY suffered and continues to suffer
3 injury as a result of his assault and arrest.

4
5 **XI. CAUSE OF ACTION**
6 **FOR NEGLIGENT SUPERVISION**

7 LUCAS T. CASSIDY, Plaintiff, re-alleges paragraphs 4.1 to 4.17 as
8 paragraphs 11.1 to 11.17.

9 11.18 That the City of Spokane, Spokane Police Department, and Police Chief
10 Frank G. Straub, Jr. failed to adequately and fully supervise police officers
11 resulting in the assault and arrest of LUCAS T. CASSIDY.

12 11.19 That as a result of that negligent supervision, LUCAS T. CASSIDY
13 suffered and continues to suffer injury as a result of his assault and arrest.

14 **XII. CAUSE OF ACTION**
15 **FOR NEGLIGENT TRAINING**

16 LUCAS T. CASSIDY, Plaintiff, re-alleges paragraphs 4.1 to 4.17 as
17 paragraphs 12.1 to 12.17.

18 12.18 That the Spokane Police Department, City of Spokane, and Police Chief
19 Frank G. Straub, Jr. failed to adequately and fully train police officers,
20 resulting in the assault and arrest of LUCAS T. CASSIDY.

21 12.19 That as a result of that negligent training, LUCAS T. CASSIDY suffered
22 and continues to suffer injury as a result of his assault and arrest.

23
24 **XIII. RELIEF SOUGHT**

25 LUCAS T. CASSIDY, Plaintiff, re-alleges paragraphs 4.1 to 4.17 as
26 paragraphs 13.1 to 13.17.

27 13.18 WHEREFORE, the Plaintiff prays for judgment against the Defendants,
28 jointly and severally, in an amount that will fairly compensate the Plaintiff

1 for all damages sustained, costs, and reasonable attorneys' fees and costs,
2 interest calculated at the maximum amount allowable by the law, and any
3 other relief the Court deems just, including but not limited to:

4 13.19 Property damage.

5 13.20 Past and future medical expenses.

6 13.21 Past and future loss of earnings.

7 13.22 Permanent and partial impairment of earnings and earning capacity.

8 13.23 Pain and suffering.

9 13.24 Past and future permanent and partial disability.

10 13.25 Loss of enjoyment of life.


11 13.26 Past and future special damages.

12 13.27 Interest calculated at the maximum amount allowable by law, including
13 prejudgment interest.

14 13.28 Attorneys' fees and cost.

15 13.29 Cost and disbursements herein in an amount to be proven at the time of
16 trial.

17 Dated at Spokane, Washington, this 10th day of December, 2014

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21 Douglas D. Phelps, WSBA # 22620
22 Attorney for Plaintiff
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26
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1 STATE OF WASHINGTON)

) ss.

2 County of Spokane)

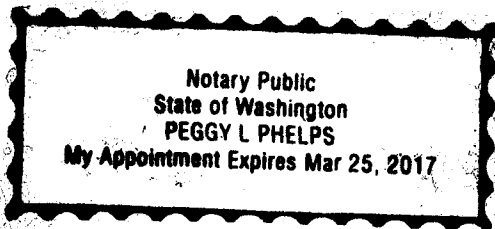
3 LUCAS T. CASSIDY, being first duly sworn on oath, deposes and states:

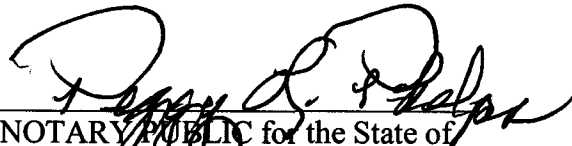
4 I am the named Plaintiff herein, I have read the foregoing Complaint for
5 Damages, I know the contents thereof, and I believe the same to be true and correct.

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7
8 

9 LUCAS T. CASSIDY

10
11 SUBSCRIBED AND SWORN TO before me this 11th day of December 2014




NOTARY PUBLIC for the State of
Washington
Residing at Spokane
My commission expires: 3/25/17