

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

Case Number **97 N 1501**]

Steve Douglas, Gartin]

Plaintiff]

VS.]

Estate of Robert V. Zehnder; Delores Jeanne Lynne Zehnder;]
Tamara Ann Zehnder; Markus Bernard Merritt; Alan E. Karsh;]
Larry Fulton; Seymour Joseph; J. Terry Wiggins; Fred Gabler;]
Antonio Troy Ciccarella; Valerie Krogman; Roy G. Olsen;]
Charles T. Hoppin; James C. Demlow; Henry E. Nieto;]
Ronald L. Miller; Judith Cherne; William Hayashi; Theresa Reilly;]
Mike Bestor; Beverly Koenig; Michael Moler; Ted Schnack; Lewis]
Shellenberger; Glenn Moore; Russell Cook; David Farley;]
Robert Tortora; William Killpatrick; Ronald Beckham;]
Raymond Fleeer; Sergeant Leybede (sic); Frank Lastoczy;]
Patricia Holloway; John P. Stone; Elizabeth Kiovsky; Richard]
McCormick; James Allison; Maurice Knaizer; Linda D. Donnelly;]
James Hollaway; Frank A. Loturco; Michelle Lawrence;]

Defendants

continued on Defendants (page 33)

Complaint of Civil Rights Violations pursuant to
42 USC §§1986, 1985, 1983 1981 1979, 1961 & 1962
Criminal Complaint pursuant to 18 U.S.C. §§ 241, 242, 872, 1001, 1621 & 1622,

Comes now the Plaintiff, Steve Douglas, Gartin, who is of proper age, of sound mind, tells the truth and has first hand knowledge of events and actions contained herein, without an attorney and in full possession of all inalienable rights and states:

State of Colorado)
Jefferson County) ss

Ex rel.

Know all men by these presents,

Steve Douglas, Gartin,

with standing to bring this case, being in possession of all his rights and protected by the **Constitution of the united States and Colorado state:** for the people of the **united states of America,** under the **American flag of peace,** without an attorney, ex rel. state:

1) Ex rel.: for the people of the united states defined: "...But it is the manner of enforcement which gives 42 U.S.C. 1983 its unique importance, for the enforcement is placed in the hands of the people." Each citizen, "acts as a private attorney general who takes on the mantle of the sovereign, guarding for all of us the individual liberties enunciated in the constitution." Section 1983 represents a balancing feature in our governmental structure whereby individual citizens are encouraged to police those who are charged with policing us all. Thus, it is of special import that suits brought under this statute be resolved by a determination of truth." Wood v. Breier, 54 F.R.D. 7, (1972).

◆ **Judicial Capacity**

2) *The Constitution of the United States, U.S.C.A., Article III, 1 Note 62* A "controversy" in the constitutional sense must be one that is appropriate for judicial determination, be definite and concrete touching legal relations of parties having adverse legal interests, and be a real and substantial controversy admitting of specific relief through decree of conclusive character.

3) *The Constitution of the United States, U.S.C.A., Article III, 1 Note 64.* Exercise of judicial power under the Constitution depends on existence of case or controversy.

4) *The Constitution of the United States, U.S.C.A., Article III, 1 Note 162.* Judicial power of United States is vested in federal courts and extends to prosecutions for violations of criminal laws of United States.

◆ **Constitutional Court.**

5) *The Constitution of the United States, U.S.C.A., Article III, 1 Note 92.* Constitutional Courts. "constitutional courts" are those recognized and provided for in this section and includes Supreme Court and inferior courts which Congress may from time to time ordain and established under authority conferred thereby.

6) *The Constitution of the United States, U.S.C.A., Article III, 1 Note 114.*
“district court of the United States” without more, means solely courts created by Congress under this article and not territorial courts.

◆ **Case Law**

7) *The Constitution of the United States, U.S.C.A., Article III, 2 Note 131.*
This clause embraces alike civil and criminal cases arising under the Constitution and law: both are equally within the dominion of the judicial powers of the United States, and there is nothing in the grant to justify an assertion that whatever power may be exerted over a civil case may not be exerted as fully over a criminal one.

The following facts establish the rules to be used by the court. Notice that the Federal rules of Civil Procedure are written as limits for litigants in the United States District Court. Also notice that while those rules are intended for use in law cases, they do not limit the litigant in law to using just those rules. Indeed those rules cannot limit the relief of litigants in law.

8) *The Constitution of the United States, U.S.C.A., Article III, 1 Note 54*
Congress possesses the sole right to say what shall be the forms of proceedings, either in equity or at law, in the courts of the United States, and in what cases an appeal shall be allowed or not;
Congressional power to prescribe procedures to be employed by court created pursuant to this article is limited by the Constitution and specifically by Amendment Seven.

9) *The Constitution of the United States, U.S.C.A., Article III, 1 Note 23.*
The Constitution of the United States and Acts of Congress recognize and establish the distinction between law and equity; the remedies in the courts of the United States are, at common law or in equity, not according to the practice of state courts, but according to the principles of common law and equity, as distinguished and defined in that country from which we derive our knowledge of those principles

Distinction between law and equity must be preserved in federal courts under constitutional provision defining judicial power of United States,...Under the Federal Constitution, the distinction between law and equity must be observed. Though, under rule 2, Federal Rules of Civil Procedure, 28 U.S.C.A. all distinctions as to form between actions at law and suits in equity have been abolished, the difference in substance in federal judicial power between law and equity is imbedded in the constitution and remain unaltered.

◆ **Rules**

10) *P.L. 675 Chapter. 445, 54 Stat. 688, (1940)* Congress makes rules for court procedure

11) *P.L. 415 Chapter. 631, 48 Stat. 1064, (1934)*
Section 2 The court may at any time unite the general rules prescribed by it for

cases in equity with those in actions at law so as to secure one form of civil action and procedure or both: Provided, however, That in such union of rules the right of trial by jury as at **common law** and declared by the **seventh amendment to the Constitution** shall be preserved to the parties inviolate.

◆ **Applicable Codes**

- 12.) 42 U.S.C.A. 1986- Defendants each had knowledge of the law and did or witnessed wrongs committed in their presence and neglected to correct and prevent.
- 42 U.S.C.A. 1985- Defendants acted in concert under color of law to deprive Constitutionally guaranteed rights
- 42 U.S.C.A. 1983- Defendants caused damages
- 42 U.S.C.A. 1961 & 1962 – Defendants are involved in R.I.C.O. conspiracy
- R.C. 1979.- Civil damages for criminal acts

The neglects of each of the Defendants violated Statutes that bind officers:

- 18 U.S.C.A. 241- Conspiracy against rights
- 18 U.S.C.A. 242 - Deprivation of rights in color of authority
- 18 U.S.C.A. 872 - Extortion in color of authority
- 18 U.S.C.A. 1621 - Perjury of Oath of Office

The rules of Court show that Defendant’s actions granted no jurisdiction over the Plaintiff in the lower court case.

- F.R.C.P. 19 and 12(b)(7) No joinder of party
- F.R.C.P. 12(b)(6) Failed to State a Claim
- F.R.C.P. 12(b)(1) and (2) Lack’s personam and subject matter jurisdiction

● **Constitutional Controversy**

- 12) *U.S.C.A., The Constitution of the United States, Article III, Case Note 62*

● **Specific Charges against Government Officials by Group**

13.) **Defendant Judicial Officers**, each of them and them all, hereinafter referred to as “Judges”, et al, having a superior knowledge of the law and a high standard of the law confirmed by their oath of office, and witnessing the fraud committed by **Defendant “Attorneys,”** when those Attorneys brought false actions against Plaintiff enumerated herein, in conspiracy with private Citizens, who was not the person named on the complaint; those Defendant **Judges, Attorneys, Troops** and **Citizens**, each of them and all of them in each and every cause of action herein of this action, **KNOWINGLY** caused damages and deprivation and neglected and failed to correct or prevent the wrongs pursuant to Title 42 U.S.C.A., 1986

14.) **Defendant Judges**, each and every one of them and et al, in court rooms they themselves knowingly colored with an Executive Flag, pursuant to *Title 4 U.S.C.A. 1, Part II*, in a “Federal Agency”, *1994 Act to Reorganize the Govt. 63 Statutes at Large, Chapter 288, Sec. 3(b)*,

the term 'Federal Agency' means any executive agency or establishment in the legislative or Judicial branch of government, *Title 5, p.739 section 5721*.

"Agency" means (C) a court of the United States; **took rights from Plaintiff** herein, **Plaintiff's rights and liberty, by means of illegal compulsion or oppressive exaction**, compelling judgments on Plaintiff when Plaintiff was not named on legal process, by color of Defendant's office as Judicial Officer in conspiracy with Defendant Attorney's office as Officer of the Court in the same Bar Association.

Plaintiff relied upon Defendant's veracity and honesty when entering the Bar in lower court cases and was surprised by Secret and Undisclosed Jurisdictions foreign to the Common Law guaranteed to the several States by the United States Constitution.

15.) Defendant Quasi-Military Troops, hereinafter referred to as "Troops", operating under arms in Color of Authority, conferred by Color of Law, and each and every one of them above titled knowingly and willingly acted in concert and conspiracy with Defendant Judges, Attorneys, Legal Assistants, Corporations, and private Citizens in behalf of Defendant "Persons" to deprive constitutionally guaranteed Rights of this Proper Party Injured.

16.) These acts were committed in high knowledge of the Law, evidenced by each and every "Troop's" Oath of Office and exacerbated by presentation and threatened use of dangerous weapons, intimidation, duress, fraud and mayhem; when each and every one of the above titled Defendant Troops went **in disguise** as Police Officers upon the Highways and on the premises of another with the expressed purpose and intent of depriving Plaintiff of constitutionally guaranteed rights at Amendment 1, 2, 4, 5, 6, 7, 8, 9, 10, 13, & 14 of the United States Constitution.

Nature of the Case

17.) This complaint arises from Defendants' knowing, intentional and unlawful **deprivations** of Plaintiff's **Constitutionally guaranteed Rights in Color of Authority and under Color of STATE Law**, in violation of 42 U.S.C. §1983. These deprivations committed **in conspiracy**, by agreement and a meeting of the minds between and among Defendants violates 42 U.S.C. §1985. Each Defendant **witnessing the wrongs** committed, having a **duty to protect and defend the Constitution of the United States**, and having the ability to **prevent or correct** those wrongs did **neglect or refuse to correct or report** said wrongs as required by law, and/or conspired to advance or conceal the **deprivations herein enumerated**, so doing intentionally, willingly and in a high knowledge and responsibility of the law are therefore in unlawful violation of 42 U.S.C. §1986.

18.) The deprivations herein enumerated are exacerbated by Defendant's intentional and knowing **perjury and subornation to perjury**, in violation of 18 U.S.C. §§ 1621 & 1622.

19.) Defendant's actions, in conspiracy, are further aggravated by armed **extortion in Color of Authority** pursuant to 18 U.S.C. §872 and committing perjured testimony and

official documents to the record pursuant to 18 U.S.C. § 1001.

20.) The deprivations of Plaintiff's Constitutionally secured rights enumerated herein in part, subject to amendment, being committed **in Color of Authority and under Color of STATE Law** by actors **sworn to uphold the Constitution of the United States of America and the Colorado Constitution**, the Judicial Canons and the Codes of Professional Responsibility or the Ethical Rules, Canons or 'Considerations' are further aggravated by the **material fact** that these Actors willingly and knowingly joined in **conspiracy** and through a **Meeting of the minds** and a mutual agreement to **deprive Plaintiff of Constitutionally guaranteed Rights** which defines a **conspiracy against rights** pursuant to 18 U.S.C. §§ 241 & 242 and has caused Plaintiff Damages including, but not limited to, false arrest, wrongful detention and incarceration, loss of income and substance, public slander and libel, loss of Family time and consortium, continuing mental anguish, physical harm and pain and associated chronic suffering and such collateral damages to be amended and which continue to accrue and exposed their several professions to scorn and opprobrium.

21.) Defendant's intentional and unlawful actions have caused Plaintiff, Steve Douglas, Gartin grievous damages from which Plaintiff seeks relief from the Honorable Court.

◆ **Memorandum in Brief**

Factual Allegations

22.) As reflected in sworn testimony in the Golden Municipal Court Record **Case No.55239: and Jefferson County Cases 97CO7386-97CO7387 & 97CO7388.**

23.) On or about 18 June, 1996 at 6:30 PM the Golden Police Department was called to come to the facility and take a report of a criminal infliction of child abuse perpetrated by Defendant Markus Bernard Merritt, a convicted interstate felon, known as a "Habitual Offender," registered with a Restraining Order for Domestic Violence and with an Active Arrest Warrant from Arapahoe County Colorado.

24.) The Golden Recreation Center Staff Employee initiating the Emergency call was **Steve Douglas, Gartin,**

25.) he having observed Defendant Markus Bernard Merritt harshly lay hands upon Elijah

Rock, Gartin, a minor who was playing in a secured hazardous area of the facility. The Swimming Pool is 'Off-Limits' to non-Registered and non-Fee Paid individuals. The scene of the physical harm and abuse was in the Swimming Pool area, which is Restricted only to pre-paid clients in swimming apparel.

26.) Defendant Merritt, **a stranger** to the Golden Recreation Center Staff, had initiated an "Emergency" 911 call *prior* to the time he first proceeded into the restricted Swimming Area or initiated any sort of contact with Plaintiff, thus demonstrating the Premeditated Intent to Harrass, Threaten, Molest and Assault this Plaintiff and to Kidnap and Molest Plaintiffs Offspring and Heirs. This action by Defendant Merritt functioned to advance a continuing 'Plan' devised in conspiracy with Defendant Antonio Troy Ciccarelli, Esquire, Junior Attorney of the Lawfirm of Karsh & Fulton, P.C. and a member of the Bethlehem

Lutheran Church congregation; his Senior directing Partners of the Lawfirm, and Tamara Ann Zehnder, another employee of the Legal Department of U S West, Inc., Defendant Officers and Employees of U S West as named and unnamed yet to be discovered and also Bethlehem Lutheran Church Officers, Staff and congregation members, and such other members and employees in association.

27.) This plan; to Forcibly Kidnap and Abduct Elijah Rock, Gartin and April Rose, Gartin and unlawfully Assault, construct an arrest scenario and imprison Plaintiff. This Assault to prevent Plaintiffs exposure of Defendants prior criminal activities to which the Children had been Witness, and in revenge for and defense to Plaintiffs' prior application for an Order of Restraint against Defendant Merritt. This earlier and prior application to Judge Roy G. Olsen stemming from Defendants' prior abuse, assaults and threats to Plaintiff and Plaintiffs Offspring. The dramatically staged phone call had the immediate intent and purpose to falsely 'log-in' an incident report by the Golden Police Department and the Golden Recreation Center, enlisting them as accomplices in the criminal plan. The 'incident', as reported by Defendant Merritt and Defendant Tamara Ann Zehnder, had not yet commenced. Short moments thereafter, Defendant Merritt entered the Plaintiffs area of Employment and recreation, the restricted Swimming Pool area, along with Defendant Tamara Ann Zehnder and initiated the first attempt to Kidnap April Rose, Gartin and Elijah Rock, Gartin. Although Plaintiff was officially off-duty and in Court-ordered Custody Visitation with his offspring during the assault, Plaintiff felt a direct safety responsibility to the patrons, Adult and Minor, of the Pool as an employee of the Golden Recreation Center-City of Golden.

28.) As Plaintiff, the two minor Offspring's Natural Father protested, Defendant Merritt repeatedly attempted to engage Plaintiff to fight with insults, threats about the Children and to Plaintiffs' access to them as guaranteed by the

Court Order. Plaintiff repeatedly declined Defendant Merritts' direct provocations and molestation. Defendant Merritt forcibly grabbed Elijah Rock, Gartin, a minor child not his own, and pushed him into the pools' dressing area; Plaintiff followed.

29.) When less direct provocations to fight with Plaintiff failed, **Defendant Merritt**, a trained professional athlete and violent former Professional football player, pretended to stumble, turned and **forcefully and aggressively grabbed Plaintiff**. Plaintiff again declined to respond violently, as Golden Recreation Center Manager Larry Rock intruded between Plaintiff and the two aggressive perpetrators, Defendants Markus Bernard Merritt and Tamara Ann Zehnder. **Larry Rock**, a trained and responsible manager of the Golden Recreation Center, physically delayed Plaintiff, a fellow Golden City Employee, while Markus Bernard Merritt a man unknown to Larry Rock, kidnapped April Rose and Elijah Rock, Gartin, minor patrons of the Golden Recreation Center.

30.) Plaintiff requested of Golden Recreation Center Staff Members and Patrons, direct eyewitnesses to the assault and kidnapping, that the Golden Police be called as Plaintiff followed the victims, Elijah and April, Plaintiffs' natural offspring, into the Golden Recreation Center Parking Lot as they were being Forcibly Kidnapped by Defendant Merritt and Criminally Abducted by Defendant Tamara Ann Zehnder in knowing Contempt of the several and direct orders of the Court.

31.) Defendant Golden Police Training Officer Michael Moler arrived under arms within 30 seconds of the 911 call, indicating that Defendant Merritts' 'Emergency' call was expected and Defendant Moler's response and subsequent actions were **pre-planned in conspiracy**. Three other "Cruisers", containing Glenn Moore, Lewis Shellenberger and Ted Schnack, all Defendant Golden Police Officers under arms, came very short moments thereafter.

32.) Defendant Michael Moler's attention was directed, by Defendant Tamara Ann Zehnder, towards Plaintiff early in the incident, and Defendant Moler immediately and without provocation arrested Plaintiff for the stated reason;

33.) "Obstruction of Justice –No Valid Driver's License," a patently untenable and ridiculous attempt at a justification for Mr. Moler's excessive and inappropriate actions.

34.) Defendant Moler ignored the large, very active black man with the two small frightened white children, those children obviously not his own, in spite of the objections of the obvious and self-identified parent, Plaintiff Steve Douglas, Gartin. Defendant Police Training Officer Moler asked no questions, took no information nor gave other than slight diligence to the immediate circumstances of the incident. By the time Defendant Moler actually knew what was going on, he had committed serious procedural and criminal actions that he needed to conceal.

35.) Plaintiff, Steve Douglas, Gartin, an active Employee of Golden Recreation Center-City of Golden in good standing, was clothed only in a pocketless bathing suit, having only just emerged from the Swimming Pool alongside his Offspring, April Rose and Elijah Rock, Gartin in order to respond to Defendant Merritts and Zehnder's Assaults; Abduction and Kidnappings Defendant Moler's armed action in requiring a Drivers License from a man in a bathing suit and refusing proper self-identification from another City Employee is beyond any directions or standards of proper Police Training as Defendant Moler self-identifies as in which being an Expert Training Officer.

36.) Plaintiff made those and other criminal charges immediately and directly to Defendant Moler concerning the other parties to the incident; including Plaintiff's prior request to Judge Roy G. Olsen's Court for an Order of

Restraint on Defendant Merritt on behalf of the Children and for Plaintiff's safety, and with a plain stating of the circumstances of the incident which Defendant Moler pointedly ignored and failed to investigate. Defendant Officer Moler had an previously planned agenda for the incident which was not to be confused or altered. Defendant Moler loudly and dramatically ordered Plaintiff to 'calm down' when no possible action by Plaintiff warranted any such reaction from Defendant. This verbal admonition from Defendant Moler was a rehearsed sham and pretense used to seem to justify Defendant's treatment of Plaintiff for the onlookers and eyewitnesses.

37.) Plaintiff politely and reservedly informed Michael Moler that he, Michael Moler, was trespassing upon Plaintiff's Civil Rights as secured by the Constitution and was in violation of 42 U.S.C. §1983, et seq. Defendant Moler, agitated and threatening and in a state of mind reckless and heedless of the law and in willful disregard for Plaintiff's Rights and Protections, all known to him, refused to cease the Arrest and stated, "**I'm the Law around here and I'll do as I please!**" Defendant Michael Moler placed **handcuffs** on the totally compliant, non-combative and peaceful Plaintiff and turned Plaintiff over to another Defendant Golden Police Officer named Ted Schnack, and directed him to "stand-by." Defendant Moler's forcible arrest of Plaintiff was an improper retaliation for the embarrassment and the threatened exposure engendered by Plaintiff fully informing him of the law and as an exercise and a demonstration of force under color of law to subdue and threaten the populace.

38.) At that point Defendant Ted Schnack assumed custody of Plaintiff and ordered Plaintiff into the backarea of the Golden Police Department "Cruiser," and proceeded with an extended attempt at directed conversation or interrogation, which Plaintiff politely declined to join. Plaintiff fully informed Defendant Schnack of the deprivation of liberty and trespass upon the

Constitutionally secured Rights of the Plaintiff which he, Officer Schnack, was committing, under arms, in color of authority and color of STATE Law, and in Conspiracy with Officer Moler.

39.) At no time was Plaintiff Advised of his Rights when placed in custody under arrest. At no time was Plaintiff offered or allowed Legal Counsel. At no time did Plaintiff waive his Rights or Protections. At all times Plaintiff requested his Freedom and acknowledgement of his Constitutional Rights and Protections to no avail.

40.) During that short time the N.C.I.C. report came over the "Cruiser" radio from such Defendant Law Enforcement agents and agencies responsible, stating that there was an Active Arrest Warrant for Markus Bernard Merritt and also prior criminal convictions for drugs and violence and open Orders of Restraint.

41.) Plaintiff, Steve Douglas, Gartin, "came up clear" on Defendant Troops' N.C.I.C. check at the time of this unlawful detention in Arrest.

42.) Defendant Golden Police Officers unlawfully arrested Plaintiff in Golden Municipal Case # 55239 without any form of Warrant and without Witnessing any Crime in Commission.

43.) Upon reflection on their improvident behavior, **Defendant Cops and Defendant Citizens conspired and came to a meeting of minds to form a Material Perjury between themselves** and to adjust the Official Incident Report so as to attempt to minimize mistakes made by the arresting officers. This in return for detaining Plaintiff and ignoring the Kidnapping and Abduction of his Offspring by Defendants.

44.) This puerile attempt at a material factual revision and redaction for purposes of **Perjury and Obstruction of Justice** is reflected in the materially different several versions of the event as reported by the each of the several Defendants and they again differently at severally different times, and they again materially different compared and contrasted with the descriptive reports from bystanders, the kidnapped and abducted children themselves and Plaintiffs account and actions, and it all contained in the Courts record, and available for immediate review as sure and certain evidence of Defendants conscious perjuries.

45.) Said unlawful arrest and detention being committed under force of arms aggravates the trespass and assault upon the person of the Plaintiff and has caused damages.

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CLAIMS:

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◆ **CLAIM I - Unlawful Arrest**

Denial of Due Process of Law, Denial of Equal Application of the Law, Denial of Equal Protection of the Law and during a Violent Felony Kidnapping and Abduction of Plaintiffs' Offspring

Claim #1: On or about 18 June 1996 at approximately 6:30 PM Defendant Golden Troops, Michael Moler, Ted Schnack, Lewis Shellenberger and Glenn Moore, did unlawfully ARREST Plaintiff by threatened use of ARMED Force and under "force of arms" in conspiracy with Private Citizens Markus Bernard Merritt and Tamara Ann Zehnder, to deprive Plaintiff of the Constitutionally secured Right to be free from Unlawful Arrest, Search and Seizure.

◆ **CLAIM II – Defendant Golden Police Armed Assault**

in violation of 18 U.S.C. §§241-242 & 42 U.S.C. §1983

Claim 2:

Defendant Golden Troops did unlawfully, knowingly and intentionally subject Plaintiff to an Armed Assault and Acts of War by threatened use of deadly force.

18-8-802. Duty to report use of force by peace officers. (1) (a) A peace officer who, in pursuance of such officer's law enforcement duties, witnesses another peace officer, in pursuance of such other peace officer's law enforcement duties in carrying out an arrest of any person, placing any person under detention, taking any person into custody, booking any person, use physical force which exceeds the degree of physical force permitted must report such use of force to such officer's immediate supervisor. (b) At a minimum, the report required by this section shall include the date, time, and place of the occurrence, the identity, if known, and description of the participants, and a description of the events and the force used. The report shall be made in writing within ten days of the occurrence of the use of such force. (c) **Any peace officer who fails to report** such use of force in the manner prescribed in this subsection (1) commits a class 1 misdemeanor

Plaintiff incorporates Brief and CLAIM I herein as if fully reproduced. The foregoing arrest by Golden Police Officers was accomplished by the threat and presentation of deadly force by way of semi-automatic firearm weapons in force of armed troops disguised as Golden Police Department.

These unlawful actions committed in **color of authority** and in color of STATE Law, knowingly and intentionally and deliberately, heedless and reckless of the law as being fully informed by this Plaintiff concerning the responsibility of each Sworn Law Enforcement Officer to defend and protect the Constitutionally secured Rights of the People to be free from unlawful or Warrantless arrests or searches and seizures.

Said unlawful arrest being committed under force of arms aggravates the **Trespass** and Assault upon the person of the Plaintiff and has caused damages

◆ **CLAIM III – Denial of Due Process and Failure to Correct or Prevent**

by Defendants to Secure Plaintiffs Rights of Due Process and Equal Protection:

CLAIM 3:

Defendant Troops, witnessing the deprivation of Plaintiff's Rights, did fail or neglect to prevent or correct those wrongs when it was within their power and each Defendant Troop had a responsibility and a duty to protect and defend the Constitution.

Plaintiff incorporates CLAIMS I and II herein as if fully reproduced. Defendant Golden Troops did not Witness the commission of any crime by the Plaintiff. Defendant Golden Police did not possess an Arrest Warrant for the Plaintiff. Defendant Golden Police had no Probable Cause to petition a Magistrate for the issuance of an Arrest Warrant. Defendant Golden Police Officers refused and failed and gave slight diligence to investigation of criminal charges made by Plaintiff at the time and place of the incident, with all participants intact and with eyewitnesses immediately available.

Defendant Golden Police Officers knowingly, maliciously, deliberately and intentionally deprived and denied Plaintiff of his Rights to Due Process of Law, Equal Protection of the Law without fear or favor, and the right to be presumed innocent until proven guilty in a Court of Law of proper jurisdiction, in order to conceal their Collusion and their joint and several failures and dilatory neglect to even slightly perform to minimum professional standards in Golden Municipal Case # 55239.

◆ **CLAIM IV - Cruel and Unusual Punishment**

U.S. Constitution - Amendment 8

Plaintiff re-alleges CLAIMS I through III. Defendant Michael Moler's handcuffing of Plaintiff constitutes Cruel & Unusual Punishment as no crime was committed either within or without Defendant Michael Moler's presence or in his knowledge, nor did Defendant Moler have any reason to believe or probable cause to suspect that a crime had been committed that would justify handcuffing Plaintiff. Nor had Plaintiff exhibited any behavior justifying Handcuffing.

Claim 4:

Defendant Troops had no probable cause to believe that Plaintiff was an "escape risk" or any other reason to HandCuff Plaintiff.

Defendant Troops were acting in excess of authority under Color of official title/

Defendant Michael Moler, a Training Officer of Golden Police Department, Inc. of superior knowledge of the law and of Police Procedure, under arms, being fully informed by his own admission in his report of the incident, acted in malice and in full knowledge of the unlawfulness of his actions and in reckless and heedless disregard of his sworn duty pursuant to the United States Constitution and the Law of the Land, which is Due Process of the Common Law.

Defendant Police Training Officer Moler neglected and failed to read or have caused to be read to Plaintiff, his Rights and Protections under the Constitution, a gross neglect and failure and lack of due diligence, reckless and heedless of the law and the Constitutions. Defendant's reckless and heedless disregard of the Plaintiff's Constitutionally secured Rights has caused Plaintiff damages.

◆ **CLAIM V - Denial of Due Process**

No Equal Protection of the Law, Racial Discrimination for gain

Claim 5:

Defendant Troops did unlawfully and maliciously and knowingly deprive Plaintiff of Equal Application of the Law by direct actions recorded in Official Court Documents.

Defendant Troops deprived Plaintiff of equal application of the law based upon 3 distinct class-based animus.

Plaintiff's sex is discriminated against in any and all legal questions in Jefferson County Courts and with the Troops. (proven by official Court Transcripts)

Plaintiff's race was an obvious distinction to Arresting Troops

Plaintiff's religion, defined as Christian Constitutionalist, is discriminated against by Troops and by the Courts.

Plaintiff re-alleges CLAIMS I through IV. Defendant Golden Police Troops; Moler, Schnack Moore and Shellenberger were provided an N.C.I.C. Report by Police Radio from the CBI and FBI, while on site during the incident, that informed them that Defendant **Markus Bernard Merritt**, a Negro felon and Habitual Offender, had an **Active Arrest Warrant from Arapahoe County**.

Neglecting minimum performance standards of Police Procedure and Policy, Golden Police Officers arrested Plaintiff,

◆ **who had no warrants**, instead of Defendant Merritt who had Active Warrants and a prior Criminal Record of serious and violent criminal activity.

Defendant Cops suborned and accepted perjury from their confidential police informant, Defendant Merritt. Slight diligence in the comparison of the various reports contained in the Courts own record in Case No.55239 is sure and certain incontrovertible evidence of such perjury suborned and given between Defendants.

◆ **CLAIM VI: Denial of Due Process,**

Denial of Equal Protection of the Law, Perjury, Employment discrimination

Claim 6:

Defendants enumerated herein did unlawfully, knowingly and intentionally enter into a conspiracy with named Co-Defendants herein to cause Plaintiff's unjustified termination of employment by the City of Golden, Inc. by Theresa Reilly and Beverly Koenig in a meeting of the minds with Mike Bestor and Defendant Police Troops.

Plaintiff re-alleges CLAIMS I through V and incorporates all as if reproduced in full herein. The Staff of the Golden Recreation Center; Defendants Beverly Koenig and such others and for the City of Golden, Defendants Theresa Reilly, Mike Bestor, Russell Cook, each of them and them all, colluded and conspired and in a meeting of minds, with perjurers; Defendants Markus Bernard Merritt and Tamara Ann Zehnder, Robert Victor Zehnder, Delores Jeane Lynne Zehnder, Antonio Troy Ciccarella and his directing lawyers, officers and staff of U S West, Incorporated, Bethlehem Lutheran Church of the

Missouri Synod, and such other named Defendants, **perjured their own oath of office** and/or failed to act to even slight standards of professional performance as they failed and neglected to provide and failed to maintain a safe working environment and work place; and failed to provide true, or

deliberately provided false and misleading, material information to law enforcement authorities regarding the disturbing event involving a Golden Recreation Center Staff Member, Steve Douglas, Gartin, Plaintiff and such other **unauthorized intruders** at the Golden Recreation Center, herein described.

Such actions by all Defendants were knowing, deliberate and for the purpose of the material **obstruction of justice** and the deliberate and knowing denial or deprivation of Plaintiffs' Rights and Protections under the Constitutions.

Said Defendants failures to their fiduciary duty and neglect to secure the Facility, adequately supervise management and staff and procedures, and the perjuries committed by Defendant Golden Recreation Center Staff and Management to deprive Plaintiff of Plaintiffs Constitutionally guaranteed Rights and Protections have caused Plaintiff damages.

◆ **CLAIM VII: Aiding and Abetting a Forcible Kidnapping**
by Color of Authority to Deny Constitutional Rights

Claim 7:

Defendant Attorneys, Karsh & Fulton, P.C., **conspired** together with Citizens Ms. Zehnder and Mr. Merritt to Kidnap both the Plaintiff and heirs, April Rose and Elijah Rock, Gartin. To jail Plaintiff and to sequester the Heirs. William Hayashi and Ronald L. Miller join the conspiracy in order to conceal felonies committed by Golden Police Troops.

On 18 June 1996, Defendants accomplished the object of their design and intent; Plaintiff was unlawfully incarcerated by the Jefferson County Detention Facility.

Plaintiff re-alleges CLAIM I through VI and incorporates all as if reproduced in full herein. The Staff of the Golden Recreation Center, each of them and them all, having a duty and responsibility, egregiously neglected and failed to safeguard a minor white female, April Rose, Gartin, a patron of the Golden Recreation Center, from delivery into the hands of a Convicted Felon. Defendant Merritt, a black man; a man with an outstanding Restraining Order of the Court, an Active Arrest Warrant, and a MultiState Record as an Habitual Offender, a Woman and Child abuser of previous conviction, and a complete stranger to the Staff of the Golden Recreation Center, entered a Restricted Area, forcibly assaulted a Golden Recreation Center Staff Member and stole two children, visibly not his own, from the premises.

◆ **CLAIM VIII: Aiding and abetting a Forcible Kidnapping**

by Color of Authority and by conspiracy Defendant Golden Community Center Staff and Perpetrators

Plaintiff re-alleges CLAIM I through VII. The **Defendant Staff and Administration** of the Golden Recreation Center, each of them and them all, egregiously neglected and failed to safeguard a minor white male, Elijah Rock, Gartin, a Patron of the Golden Recreation Center Swimming Pool, from kidnapping at the hands of a Convicted Felon. Defendant Markus Bernard Merritt; a man with an outstanding Restraining Order of the Court, an Active Arrest Warrant, and a MultiState Record as an Habitual Offender, a Woman and Child abuser of previous record, and a complete stranger to the Staff of the Golden Recreation Center, entered a 'restricted' area, forcibly assaulted a Golden Recreation Center Staff Member and stole two children, visibly not his own, from the premises. Defendant Merritt has since been accused, has self reported and has had family reported improper personal

behavior with the minor child Elijah Rock; as in sleeping together at the direction of the mother, Defendant Tamara Ann Zehnder.

Claim 8:

On 18 June 1996, at the Golden Community Center, Third Party, Larry Rock did by his own admission and on behalf of Defendant Koenig, Reilly and Bestor did unlawfully conspire with Defendant Merritt to feloniously and illegally kidnap the Gartin Heirs, April Rose and Elijah Rock, Gartin or to aid in the kidnapping by Felon Merritt.

This information was immediately available to the Arresting citizens, they in disguise as Officers of the Law, via N.C.I.C. and Warrants and the Restraining Order Registry. Said failures and neglect and slight diligence to the duty to secure the Facility and the perjuries committed by Defendant Golden Recreation Center Staff and Management and Defendant Golden Police Officers has caused Plaintiff damages.

◆ **CLAIM IX: Aiding and Abetting a Forcible Kidnapping**

by Golden Troops in Color of Authority under Color of Law to Deny Constitutional Rights

Claim 9:

On 18 June 1997, at the Golden Community Center, Defendants Golden Police Troops did unlawfully aid and abet Citizens Zehnder and Merritt to feloniously and illegally kidnap the Gartin Heirs, April Rose and Elijah Rock, Gartin or to aid in the kidnapping by Felon Merritt.

Plaintiff re-alleges CLAIM I through VIII and incorporates all as if reproduced in full herein. The Defendant Staff of the Golden Recreation Center, each of them and them all, egregiously neglected their fiduciary responsibility and failed to safeguard a well known and liked Golden City Employee, Steve Douglas, Gartin, a daily patron of the Golden Recreation Center Swimming Pool, from Assault at the hands of a Convicted Felon, **Defendant Merritt. A complete stranger** to the Staff of the Golden Recreation Center, Defendant Merritt entered a restricted and hazardous area of the facility, **forcibly assaulted** a Staff Member and, by force stole two children, visibly not his own, from the premises.

Defendant **Golden Recreation Center Staff** members and Defendant Golden Police Officers conspired to conceal the true circumstances of their participation in the event to escape and conceal their several and special neglects and failures and slight diligence and to limit the financial and criminal liability exposure of the parties dba, City of Golden to Plaintiff.

Said failures and **neglect** and slight diligence to secure the Facility and the **material and deliberate perjuries** committed by Defendant Golden Recreation Center Staff and Management sufficient to deny Plaintiff his Rights and Protections guaranteed by the Constitutions have caused Plaintiff damages.

◆ **CLAIM X - Denial of Equal Protection and Due Process –**

Denial of access to the courts

Claim 10:

On 18 June 1997, at the Golden Community Center, Defendant Golden Police Troops did unlawfully and knowingly subject Plaintiff, the victim, to a deprivation of the Constitutionally secured Right to Due Process of Law when said Troops did unlawfully kidnap Plaintiff and unlawfully imprison Plaintiff without presentation before a Judge or Magistrate of competent jurisdiction.

Plaintiff re-alleges CLAIM I through IX and incorporates all as if fully reproduced herein. Filed Sheriffs Deputies' Reports and Police Reports confirm that the Plaintiff was unlawfully arrested at approximately 1830 HRS. The Courts were open and yet Defendant "Cops" failed to take Plaintiff before the nearest Magistrate, without delay, as required by law; thus depriving Plaintiff of Equal Protection or Due Process of law in Golden Municipal Case # 55239. Defendants deprivation of Plaintiff's Constitutionally Guaranteed rights under color of state law caused Plaintiff damages.

◆ **CLAIM XI - Sadistic Treatment, Cruel and Unusual Punishment**

for no crime and without Due Process of the Law or Equal Protection of the Law.

Claim 11:

On 18 June 1997, at the Golden Community Center, Defendant Golden Police Troops did unlawfully and knowingly subject Plaintiff, the victim, to assault, battery & cruel and unusual punishment, prior to Judicial Process, and to the deprivation of the Constitutionally secured Right to be free from Torture, when said Troops did unlawfully handcuff Plaintiff and unlawfully imprison Plaintiff without Due Process of Law.

Plaintiff re-alleges CLAIM I through X and incorporates all as if fully reproduced herein. Defendant Cops, each of them and them all, witnessed no crime committed, yet they "paraded" Plaintiff around the Booking Rooms of a secure facility bound unnecessarily tightly in handcuffs for an extended period of time. Plaintiff politely informed Defendants and all the Officials present of the gross deprivation of Plaintiffs Rights, each Officials' Duty to Correct and Fully Informed each Officer of the Law present of his/her responsibility under the Constitution, USC. 42 1986, 1985 & 1983 as well as 18 USC 241 & 242.

Defendant Officers became resentful, angry and resorted to **excessive and abusive force** to throw Plaintiff into a "deeplock" room to prevent and obstruct Plaintiff from informing all Peace Officers present of their Sworn Duty under the U.S.C., the Constitutions and the Law of the Land. All the Sworn Law Enforcement Officers present deliberately and maliciously refused and neglected and failed to correct or prevent serious and permanent injury to Plaintiff.

Such willful and malicious torture being in Color of Authority, and Defendants deprivation of Plaintiff's Constitutionally Guaranteed rights under color of state law caused Plaintiff damages.

◆ **CLAIM XII- Extortion by Torture- Cruel & Unusual Punishment-**

Denial of Due Process or Equal Protection

Claim 12:

On or about 18 June 1996 Defendant Sheriff Deputies did unlawfully and feloniously endeavor to obstruct, impede, hinder and defeat the course of Due Process of law and Justice when Defendant Deputies did knowingly and intentionally and with callous indifference and deliberate disregard for Plaintiff's secured Rights, torture and deprive Plaintiff of basic human necessities in an attempt to extort by collusion and clandestine conspiracy, unalienable Rights secured to Plaintiff by Constitution.

Each and every Deputy witnessing the Deprivations in progress had a duty to protect and correct the Constitutional deprivations each Deputy directly observed. Each Deputy FAILED to Correct or Neglected to Prevent the felonies perpetrated in their Presence and are thus in violation of Federal Laws and Constitution.

Plaintiff re-alleges CLAIM I through CLAIM XI and incorporates all as if fully reproduced herein. Defendant Troops tried for some several hours to Extort a Waiver of Fifth Amendment Rights from Plaintiff by torturous confinement in unnecessary and excessively tight and restrictive handcuffs and other physical discomforts and deprivations of human necessities.

After many hours of this abusive treatment, Defendant Jail Staff finally seemed to give up and shoved Plaintiff into another "deeplock" area where the handcuffs were eventually removed.

Plaintiff's arms and hands were unnecessarily restrained for some six or more hours while already confined within a maximum security facility. Plaintiff has never yet been other than completely compliant, polite and peaceful. Simple confinement in a secured area would have been sufficient for any necessary 'security'..

Defendant Troops maintained that such confinement was a common occurrence with commonly a greater level of affliction to the detainee.

Plaintiff was intrusively searched, further 'interrogated', and threatened by Deputies to extort a waiver of Fifth Amendment Rights and then thrown into the "deeplock" as further and continued torture in order to extort a Waiver or Joinder which Plaintiff would NOT concede. Deeplock is a confinement used for dangerous, mentally confused or assaultive detainees. Plaintiff had exhibited none of these indications at any time, the confinement was for solely for the purposes of extortion and torture.

Plaintiff, still dressed in nothing more than the wet swimming trunks, was held for many hours in 'deeplock' confinement in an injured condition, with no food or water, in deliberately frigid air conditioning, without a bed or blanket, without a toilet and without access to a phone. Plaintiff was denied the most basic human amenities or any Presentment to a Magistrate all night and into the next day in a continuing attempt by Defendants to Extort by Torture a Waiver of Rights or a permissive joinder by speaking Plaintiff's name. Plaintiff refused to waiver or joinder, but did fully inform each Deputy present of his/her Duty under the law and the Constitutions.

All the Defendant Deputies present refused to correct or prevent the wrongs they each witnessed; such wrongs committed in Color of Authority caused Plaintiff damages. Deputies jeered and harassed Plaintiff in his pain and injury and proceeded recklessly and heedlessly of the law and of human rights. Defendants deprivation of Plaintiff's Constitutionally Guaranteed rights under color of state law caused Plaintiff damages.

◆ **CLAIM XIII - Deprivation of Due Process of Law**

Equal Protection of the Law, Extortion

Claim 13:

On 18 June 1997, at the Golden Community Center, Defendant Golden Police Troops did unlawfully and knowingly subject Plaintiff, the victim, to a deprivation of the Constitutionally secured Right to Due Process of Law when said Troops did unlawfully conspire to extort a waiver from Plaintiff by threats, duress, intrigue and FRAUD.

Plaintiff was deprived of all right to Due Process by virtue that Defendant Troops held Plaintiff incommunicado until they had extorted the waiver of Fifth Amendment right to be free from self-incrimination.

Plaintiff re-alleges CLAIM I through CLAIM XII and incorporates all as if fully reproduced herein. Later in the detention process, Defendant Deputies told Plaintiff that Policy of the Jefferson County Detention Center Administration, Defendants Raymond Fler and Ronald Beckham, directed that any, even very limited, access to a GATEWAY TECHNOLOGY telephone, or any other contact with the outside world, or clothes, or food, or warmth, required Plaintiff to relinquish a “waiver” of his rights and Plaintiffs’ ‘voluntary’ submission to certain indignities and assaults and trespasses.

Fearing not to comply with his abusers, armed Defendants named above, Plaintiff provided such accommodations “under duress” and “without prejudice” pursuant to U.C.C. 1-207 & C.R.S. 4-1-207. Upon “compliance”, Plaintiff was, only then, given clothing, toilet facilities, food & water and allowed very limited access to a “Gateway Technology” telephone pursuant to R.I.C.O. statutes 42 USC 1961.

Plaintiff was never presented this so-called authority to ‘require a waiver, etc.’ in writing and further has good reason to believe said Deputies Lied and Perpetrated a FRAUD upon Plaintiff when success in the extortion by physical torture was not immediate. Said FRAUD constituting a deprivation of Constitutionally protected Rights causing Plaintiff damages in Color of Authority.

Defendants deprivation of Plaintiff’s Constitutionally Guaranteed rights under color of state law caused Plaintiff damages.

◆ **CLAIM XIV - Cruel & Unusual Punishment-**

Denial of Due Process of or Equal Protection under the Law, Plaintiff was improperly detained without charges and denied access to a Magistrate or proper Court.

Claim 14:

Defendant Jefferson County Sheriff's Department Detention Facility Staff did unlawfully conspire with Golden Police Troops to falsely imprison Plaintiff and to deprive Plaintiff of the right to be informed of the nature of charges.

Defendant J.C.S.D. Staff and the Golden Police Troops did conspire to unlawfully obstruct justice, failed to report felony crimes committed in their direct knowledge and did neglect to prevent or correct obvious deprivations of Plaintiff's rights to be free from governmental oppression as guaranteed in the Constitution of the United States of America, to which each Public Officer has sworn an Oath to support and defend.

Plaintiff re-alleges CLAIM I through CLAIM XIII and incorporates all as if fully reproduced herein. Plaintiff, Steve Douglas, Gartin was incarcerated and detained for three days with no stated or written Charges, denied counsel or access to counsel, denied access to a Magistrate or proper Court, no bail was made available nor any opportunity to defend against any charges sufficient for this detention and incarceration. Said improper detention and denials and failures and neglects to secure Plaintiffs' Rights and Protections constituting a deprivation of Constitutionally protected Rights causing Plaintiff damages in Color of Authority. Defendant Troops, Judges and Attorneys, and their Civilian accomplices, each of them and them all, maliciously causing deprivation of or failing or neglecting to secure Plaintiff's Constitutionally Guaranteed rights under color of state law, caused Plaintiff damages.

◆ **CLAIM XV- Deprivation of Due Process of Law-**

Denial of Equal Protection under the Law

Claim 15:

Defendant Jefferson County Detention Facility Staff did unlawfully and intentionally **refuse** to provide Plaintiff with a valid warrant, indictment or information or any legal process authorizing Plaintiff's imprisonment. Such denial being contrary to the form and spirit of the Fifth, Sixth and Fourteenth Amendment to the United States Constitution and in repugnance to the Law of the Land – Due Process.

Plaintiff re-alleges CLAIM I through CLAIM XIV and incorporates all as if fully reproduced herein.

Defendant J.C.S.D. Detention Facility Staff, under the direction of Sergeant Leybede and others did refuse to provide official process proving jurisdiction, a crime committed and probable cause to justify Plaintiff's incarceration.

Said acts committed or neglected in Color of Authority caused Plaintiff injuries and damages. Defendants deprivation of Plaintiff's Constitutionally Guaranteed rights under color of state law caused Plaintiff damages.

◆ **CLAIM XVI- Conspiracy to Deprive Plaintiffs’ Right to Due Process**

or Equal Protection of the Law in a Courtroom by “Judicial Officer” Charles T. Hoppin, “Judicial Officer” Roy G. Olsen, “Attorney” Antonio Troy Ciccarelli, “Attorney” William Hayashi and “Judicial Officer” Ronald L. Miller.

Claim 16:

Defendant Ronald L. Miller in conspiracy with William Hayashi, Golden Police Troops and Markus Bernard Merritt did unlawfully and fraudulently bring action before the Golden Municipal Court after the statute of limitations had expired. Said action does not properly name Plaintiff as a party to that action.

Defendant William Hayashi either knew or should have known that such action was a frivolous and fraudulent submission to the court and such action constitutes a gross violation of the Ethical Rules and a knowing deprivation of Plaintiffs right to Due Process of Law.

Plaintiff re-alleges CLAIM I through CLAIM XV and incorporates all as if fully reproduced herein. Defendant Judicial Officers Charles T. Hoppin, Roy G. Olsen, Ronald L. Miller, having superior knowledge of the law and a high standard of the law as confirmed by their oath of office, while under arms, and witnessing the fraud committed by Defendant Attorneys, when those Attorneys brought ex-parte, or unfounded, or malicious or frivolous actions against Plaintiff herein, in conspiracy with private Citizens, who was not the person named on the complaint or action; that Defendant Judge, Attorneys, and Citizens, and all of them , KNOWINGLY caused damages and deprivation and neglected to correct or prevent the wrongs pursuant to Title **42 U.S.C.A., 1986**. Defendants deprivation of Plaintiff’s Constitutionally Guaranteed rights under color of state law caused Plaintiff damages.

◆ **CLAIM XVII: Denial of Due Process**

and Equal Protection of the Law, Obstruction of Justice

Claim 17:

Defendant Ronald Miller did unlawfully conspire with City Attorney William Hayashi and Cheif of Police, Russell Cook to bring false charges against Plaintiff and to continue a malicious prosecution of those false charges under the secret and undisclosed jurisdiction of the Golden Municipal Court; When Plaintiff was NOT Named on any legal process upon which that secret tribunal known as Golden Municipal Court might establish subject matter jurisdiction.

Plaintiff re-alleges CLAIM I through CLAIM XVI and incorporates all as if fully reproduced herein. Defendant Judges, each and every one of them and them all, while under arms and in court rooms they themselves knowingly *colored* with an *Executive Flag*, pursuant to Title 4 U.S.C.A. 1, Part II, in a "Federal Agency," 1994 Act to Reorganize the Govt. 63 Statutes at Large, Chapter 288, Sec. 3 (b), the term "Federal Agency" means any executive agency or establishment in the legislative or Judicial branch of government, Title 5, p. 739 section 5721. “Agency” means (C) a court of the United States; took rights from Plaintiff herein, Plaintiff’s Rights and Liberty, by means of illegal compulsion and oppressive exaction, compelling

judgments on the Plaintiff, when Plaintiff was not named on legal process in any action before the Court, by Color of Defendant Judges’ Office as Judicial Officers in conspiracy with Defendant William Hayashi and the City Attorney 's office as Officers of the Court in the same Bar Association

◆ **CLAIM XVIII- Deprivation of Due Process,**

Denial of Equal Protection, Obstruction of Justice

Claim 18:

On or about July 18, 1996 Plaintiff was denied the Right to Know the Nature of the Charges in the form of a **bill of particulars** by Ronald L. Miller, acting from the Bench in an administrative capacity.

Defendant Miller openly conspired with City Attorney, William Hayashi to deny Plaintiff Constitutionally secured rights.

Plaintiff re-alleges CLAIM I through CLAIM XVII and incorporates all as if fully reproduced herein. Defendant Judicial Officer Ronald L. Miller, having a superior knowledge of the law and a high standard of the law as confirmed by his oath of office, and complicit in and witnessing the frauds committed by Defendant "Attorneys," when those Attorneys deprived Plaintiff of his Constitutionally Guaranteed right to be provided an indictment, a summons, a complaint or Information of the Accusation, and all of them , knowingly caused damages and deprivation and neglected to correct or prevent the wrongs pursuant to Title 42 U.S.C.A., 1986. Defendants provided No indictment - No summons or complaint or Information has been presented, although requested, in deprivation of Plaintiff's Constitutionally Guaranteed rights under color of state law. The deprivation of Constitutionally guaranteed rights caused Plaintiff damages.

◆ **CLAIM XIX- Excessive Bail**

required in denial of Equal Protection of the Law

Claim 19:

Defendant Miller in open Conspiracy with William Hayashi did unlawfully and feloniously deprive Plaintiff of the Constitutionally secured Right to reasonable bail during the untimely "arraignment" on or about July 18, 1996

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Plaintiff re-alleges CLAIM I through CLAIM XVIII and incorporates all as if fully reproduced herein. Defendant Judicial Officer Ronald L. Miller, having superior knowledge of the law and a high standard of the law as confirmed by his oath of office, under arms, complicit in and witnessing the frauds committed by Defendant "Attorneys," when those Attorneys deliberately and maliciously deprived indigent Plaintiff of Plaintiff's Constitutionally Guaranteed right to a reasonable Bail under color of state law, and to further their conspiracy of concealment and cover-up, caused Plaintiff damages.

◆ **CLAIM XX- Deprivation of Constitutional Right to Face Witnesses**

in order to Obstruct Justice and deprive Plaintiff of Due Process of Law.

Claim 20:

On or about 20 June 1996 Charles T. Hoppin, in conspiracy with Tamara Ann Zehnder, Markus Bernard Merritt, Pastor and Delores Zehnder and Antonio Troy Ciccarelli did unlawfully engage in a secret StarChamber tribunal with the specific intent of depriving Plaintiff of the Constitutionally secured right to be free from unlawful imprisonment.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Plaintiff re-alleges CLAIM I through CLAIM XIX and incorporates all as if reproduced in full herein. Defendant Judicial Officer Charles T. Hoppin, having superior knowledge of the law and a high standard of the law as confirmed by his oath of office, and a fiduciary responsibility, under arms and witnessing and complicit in the fraud committed by Defendant "Attorneys, in conspiracy with private Citizens Tamara Ann Zehnder, Markus Bernard Merritt, Robert Victor Zehnder and Delores Jeane Lynne Zehnder, to deprive and deny Plaintiff the right to confront and examine witnesses and evidence against him, that Defendant Judge, Attorneys, and Citizens, and all of them, KNOWINGLY caused damages and deprivation and neglected to correct or prevent the wrongs pursuant to Title 42 U.S.C.A., 1986. Defendants deprivation of Plaintiff's Constitutionally Guaranteed rights under color of state law caused Plaintiff damages.

parte Star Chamber

hearings by Defendant Judicial Officer Charles T. Hoppin

Claim 21:

Defendant Judge Charles T. Hoppin did knowingly, intentionally and unlawfully conduct Ex-Parte StarChamber quasi-judicial proceedings on June 20, 1996 knowing that Plaintiff was accessible to the Court and would be prejudiced by ex-parte proceedings, and that such void proceedings are repugnant to the Judicial Canons and in violation of Plaintiff's right to Due Process of Law..

Plaintiff re-alleges CLAIM I through CLAIM XX and incorporates all as if reproduced in full herein.. Defendant Judicial Officer Charles T. Hoppin, having superior knowledge of the law and a high standard of the law as confirmed by his oath of office, and a fiduciary responsibility, under arms, and witnessing and complicit in the fraud committed by Defendant "Attorneys", in conspiracy with private Citizens, to deprive and deny Plaintiff of the right to confront and examine witnesses and evidence against him, that Defendant Judge Charles T. Hoppin, such Attorneys, and Citizens, and all of them, knowingly caused damages and deprivation and neglected and failed to correct or prevent the wrongs pursuant to Title 42 U.S.C.A., 1986.

Plaintiff was subjected to fraudulent ex-parte Star Chamber **hearings while completely available to the Courts** requirements and convenience. Plaintiff was denied transcripts to examine for further perjury by Defendants, denied orders or judgements generated in the ex-parte hearings, never served such orders and judgements and denied counsel. Judge Charles T. Hoppin in conspiracy with Private

Citizens Tamara Ann Zehnder, Robert Victor Zehnder, Delores Jeanne Lynne Zehnder and Markus Bernard Merritt and Officer of the Court “Attorney” Antonio Troy Ciccarelli, and such other above named Defendants, acted to deny Plaintiff’s Constitutionally Guaranteed rights to Due Process under color of state law causing Plaintiff damages

◆ **CLAIM XXII- Cruel and Unusual Punishment,**

Denial of Due Process and Equal Protection of the Law

Claim 22:

Defendant Jefferson County Detention Facility Staff did unlawfully confine Plaintiff in “Solitary Confinement” without conviction or accusation of any crime worthy of such Punishment. Defendants were fully informed that these actions were a violation of Plaintiff’s Constitutionally secured Rights.

Plaintiff re-alleges CLAIM I through CLAIM XXI and incorporates all as if fully reproduced herein.. Armed Military Troops in disguise as Sheriffs’ Deputies, witnessing no crime, possessing no legal process or authorization for incarceration did unlawfully imprison Plaintiff. Plaintiff informed each and every Deputy of the injuries and each and every Deputy refused or neglected to correct or prevent further injuries.

Said acts committed in Color of Authority caused Plaintiff injuries. Defendants deprivation of

Plaintiff’s Constitutionally Guaranteed rights under color of state law caused Plaintiff damages .

◆ **CLAIM XXIII - Unlawful Service - Unlawful Complaints –**

Defendant Judges in conspiracy with Deputy Sheriff Frank Lastoczy

Claim 23:

On June 20, 1996 Defendant Frank Lastoczy did unlawfully, knowingly and erroneously deliver incomplete and void process to Plaintiff in unlawful custody by Sheriff Ronald L. Beckham.

Plaintiff re-alleges CLAIM I through CLAIM XXII as if fully reproduced herein. Defendant Judicial Officer Charles T. Hoppin, having superior knowledge of the law and a high standard of the law as confirmed by his oath of office, and in a meeting of the minds with Sheriff Frank Lastoczy, knowingly deprived Plaintiff of Plaintiff’s Constitutionally Guaranteed right to Due Process of Law by subjecting Plaintiff

to unlawful service by Deputy Sheriff Frank Lastoczy, while under arms, of unlawful and frivolous complaints and other actions. Defendant Lastoczy, with full and informed knowledge of the requirements of law, failed in providing lawful process to Plaintiff while Plaintiff was held in Torturous conditions of Defendants making. Defendants deprivation of Plaintiff’s Constitutionally Guaranteed rights under color of state law caused Plaintiff damages

◆ **CLAIM XXIV – Perjury and Subornation to Perjury**

to Obstruct Justice

Plaintiff re-alleges CLAIM I through CLAIM XXIII. Defendant Judicial Officer, having superior knowledge of the law and a high standard of the law as confirmed by oath of office, under arms, in a meeting of minds, deprived Plaintiff of Plaintiff's Constitutionally Guaranteed right to due process of law and equal protection of the law by subjecting Plaintiff to Defendant Judges biased prosecution on behalf of Plaintiffs accusers.

Defendant Judges Ronald L. Miller, defiant, reckless and heedless of the law and of the Judicial Canons and Code of Judicial Conduct and of Legislative direction, improperly led and prompted

Claim 24:

On 17 September 1996, Judge Ronald L. Miller did unlawfully conspire with William Hayashi and Judith Cherne to deny and deprive Plaintiff the right to Trial by Jury.

On 17 September 1996, Judge Ronald L. Miller did unlawfully conspire with William Hayashi and Judith Cherne to deny and deprive Plaintiff the right to Subpoena Witnesses.

On 17 September 1996, Judge Ronald L. Miller did unlawfully conspire with William Hayashi and Judith Cherne to deny and deprive Plaintiff the right to present Defense Witnesses.

On 17 September 1996, Judge Ronald L. Miller did unlawfully conspire with William Hayashi and Judith Cherne to extort a Jury Fee, and then denied Plaintiff that right.

prosecution witnesses in subornation of their perjury, improperly formulated and presented questions and prompted Defendant Attorney, William Hayashi, Extorted a Jury Fee from Plaintiff, denied Plaintiffs Right to Trial by Jury, denied Plaintiff the Right to subpoena Defense Witnesses and Evidence and refused Defense Witnesses and other evidence and testimony, and refused to read the information presented, and gave slight diligence to Judicial responsibility, failing to meet the most minimal of Professional standards for judicial probity and conduct on the bench.

Defendants pernicious

and egregious deprivation of Plaintiff's Constitutionally Guaranteed rights under color of state law caused Plaintiff damages

◆ **CLAIM XXV – Malicious and Unfounded Prosecution**

and Subornation to Perjury

Plaintiff re-alleges CLAIM I through CLAIM XXIV and incorporates all as if reproduced fully herein. Defendant Attorney William Hayashi, having superior knowledge of the law and a high standard of the law as confirmed by his oath of office, under arms, deprived Plaintiff of Plaintiff’s Constitutionally Guaranteed right to due process of law and equal

Claim 25:

Defendant Ronald L. Miller, William Hayashi and Michael Moler conspired and colluded with Golden City officials and Golden Community Center Staff to maliciously prosecute Plaintiff for an alleged crime, proven false in trial by the Bench on September 25, 1996.

protection of the law by subjecting Plaintiff to malicious, improper and unfounded prosecution in order to seek to limit the financial liability and further the conspiracy to conceal of Defendants, his employers and associates. Defendant Attorney Hayashi, fully aware of exculpatory evidence, suborned and accepted and presented knowingly obvious perjury from his fellow Defendants; solicited such perjury from

Plaintiff, from witnesses, conspired with the Judge to deny Plaintiff a jury trial, to deny defense subpoenas, to refuse Defense witnesses and other material evidence and testimony, failing to meet the most minimum Professional standards of due diligence and in the performance of his fiduciary trust and public duties. Defendants deprivation of Plaintiff’s Constitutionally Guaranteed rights under color of state law caused Plaintiff damages.

◆ **CLAIM XXVI - False Reporting by Law Enforcement Officers**

and Agencies and Denial of Equal Protection of Law

Claim 27:

Defendant Law Enforcement Reporting Agencies, hereinafter Colorado Bureau of Investigation, CBI, and the Federal Bureau of Investigation, FBI did knowingly and unlawfully make false reports concerning Plaintiff’s unauthorized personal information retained by those agencies. Such acts constituting a violation of Plaintiff’s Constitutionally secured right to the Presumption of Innocence and equal protection of the law.

Plaintiff re-alleges CLAIM I through CLAIM XXV. Defendant Law Enforcement Officers and Law Enforcement Reporting Agencies, specifically the Colorado Bureau of Investigation , and the Federal Bureau of Investigation, having superior knowledge of the law and a high standard of the law as confirmed by their oath of office, maliciously conspired and colluded in a meeting of minds to falsely report the actions and/or ‘criminal’ record of Plaintiff in order to engender an unfounded reputation of violence that would justify wise untenable charges. Plaintiff was reported by charges that had been dropped as unfounded or of

which Plaintiff had been proven innocent in ‘Court’.

Defendants deprivation of Plaintiff’s Constitutionally Guaranteed rights under color of state law and failure in their fiduciary responsibilities and neglect to professional standards and due diligence caused Plaintiff damages.

-----**ACCRUING AND CONTINUING DAMAGES**-----

◆ **CLAIM XXVII – Ex-Parte Star Chamber Temporary Restraining Orders**

by Charles T. Hoppin

Claim 27:

On June 20, 1996 Defendant Judge Charles T. Hoppin, in conspiracy with Tamara Ann Zehnder, Markus Bernard Merritt and Pastor & Delores Zehnder did unlawfully engage in secret StarChamber to the intentional deprivation of Plaintiff's right to defend and protect unalienable rights.

Plaintiff re-alleges CLAIM I through CLAIM XXVI and incorporates all as if fully reproduced herein. Defendant Judicial Officer Charles T. Hoppin, having superior knowledge of the law and a high standard of the law as confirmed by his oath of office, under arms and complicit in and witnessing the fraud committed by Defendant "Attorneys", in conspiracy with private Citizens, to deprive and deny Plaintiff of the right to counsel and to confront and examine witnesses and evidence against him, that Defendant Judge Charles T. Hoppin, such Attorneys, and Citizens, and all of them , knowingly caused damages and

deprivation and neglected and failed to correct or prevent the wrongs pursuant to Title 42 U.S.C.A., 1986.

Plaintiff was subjected to fraudulent Star Chamber ex-parte hearings and such fraudulent orders while Plaintiff was in custody, completely available to the Defendant Judge's requirements and convenience. Further, Plaintiff was given no transcripts, orders, proper service of judgements or Court requirements and was denied access to such orders in gross, heedless and reckless disregard for proper judicial conduct.

Judge Charles T. Hoppin in conspiracy with Private Citizens Tamara Ann Zehnder and Markus Bernard Merritt, Robert Victor Zehnder, Delores Jeane Lynne Zehnder, "Attorney" Antonio Troy Ciccarelli, and such other Defendants, acted to deny Plaintiff's Constitutionally Guaranteed rights to Due Process and Equal Protection under color of state law causing Plaintiff damages.

◆ **CLAIM XXVIII – Ex-Parte Star Chamber Process issued by Charles T. Hoppin**

Claim 28:

Defendant Charles T. Hoppin did, upon knowledge of only one side of the issue, issue Temporary Restraining Orders against Plaintiff, knowing that there was no probable cause to issue an injunction or order of restraint. Such knowing action constituting a violation of Constitutionally secured right to be free from unlawful arrest, which such process is designed to accomplish.

Plaintiff re-alleges CLAIM I through CLAIM XXVII and incorporates all as if fully reproduced herein. Defendant Judicial Officer Charles T. Hoppin, having superior knowledge of the law and a high standard of the law as confirmed by his oath of office, under arms and having a fiduciary responsibility and witnessing the fraud committed by Defendant "Attorneys", in conspiracy with private Citizens, to deprive and deny Plaintiff of the right to be free from unlawful restrictions and illegal process; such Attorneys, and Citizens, and all of them , knowingly and deliberately caused damages and deprivation and neglected and failed to correct or prevent the wrongs pursuant to Title 42 U.S.C.A., 1986.

Plaintiff was subjected to secret Star Chamber ex-parte hearings while completely available to the

Courts requirements and convenience. Petitioner was not allowed, served or given the results of these ex-parte hearings nor was any transcript or record taken from which comparative testimonies could be analyzed for further proofs of perjury by complainants.

Judge James C. Demlow, and such other Defendants in conspiracy with Defendant Private Citizens Tamara Ann Zehnder and Markus Bernard Merritt and Defendant Officer of the Court "Attorney" Antonio Troy Ciccarella, J. Terry Wiggins, the Senior Partners of Karsh & Fulton, P.C. as named above, and such other Defendants, acted knowingly and maliciously and in conspiracy and under arms to deny Plaintiff's Constitutionally Guaranteed rights to Due Process and Equal Protection of the Law under color of state law causing Plaintiff damages.

◆ **CLAIM XXIX – Wrongful Termination from Employment**

by Golden Recreation Center Defendants to Obstruct Justice and Deny Equal Protection of the Law to Plaintiff

Claim 29:

Defendants Koenig, Reilly and Bestor did unlawfully conspire with Golden Police Troops and Golden City Management to wrongfully terminate Plaintiff's employment with the City of Golden, Inc. and to deprive Plaintiff of the Constitutionally secured right to financial freedom.

Plaintiff re-alleges CLAIM I through XXVIII. The Staff of the Golden Recreation Center, each of them and them all, egregiously neglected their fiduciary responsibilities and neglected and failed to safeguard the civil rights of employee, Plaintiff, Steve Douglas, Gartin, to be free from discrimination in wrongful employment termination and such review. Defendant Golden Recreation Center Staff members and Defendant Golden Police Officers, and such others of the City of Golden and associates, conspired to

conceal the true circumstances of the herein described incident and event to escape and conceal their neglects and failures. Said failures and neglect to secure the Plaintiffs' Civil Rights and the perjuries committed by Defendant Golden Recreation Center Staff and Management, and such others, sufficient to deny Plaintiff his Rights and Protections guaranteed by the Constitutions, have caused Plaintiff damages.

◆ **CLAIM XXX – Ex-Parte Star Chamber Bench Warrants**

by Charles Hoppin

Claim 30:

On or about November 6, 1996 Defendant Judge Charles T. Hoppin or associate Judge James C. Demlow did unlawfully issue bogus Bench warrants based upon the fraudulently conceived Restraining Orders and caused Plaintiff a deprivation of the right to freedom by direct threat of Acts of War by defendant Troops herein.

Plaintiff re-alleges CLAIM I through CLAIM XXIX and incorporates all as if fully reproduced herein. Defendant Judicial Officer Charles T. Hoppin, having superior knowledge of the law and a high standard of the law as confirmed by his oath of office, having a fiduciary responsibility, under arms and complicit in and witnessing the fraud committed by Defendant "Attorneys", in

conspiracy with private Citizens, to deprive and deny Plaintiff of the right to confront and examine witnesses and evidence against him, that Defendant Judge Charles T. Hoppin, such Attorneys, and Citizens, and all of them, knowingly caused damages and deprivation and neglected to correct or prevent the wrongs pursuant to Title 42 U.S.C.A., 1986. Petitioner was not allowed or served the

results of these ex-parte hearings nor was any transcript or record taken from which comparative testimonies could be analyzed for proofs of further Perjury by complainants.

Plaintiff was subjected to fraudulent ex-parte hearings while completely available to the Courts requirements and convenience. Judge Charles T. Hoppin, under arms, in conspiracy with Private Citizens Tamara Ann Zehnder and Markus Bernard Merritt and Officer of the Court “Attorney” Antonio Troy Ciccarelli, and such other Defendants, fraudulently and improperly issued or fraudulently represented that such ‘Bench Warrants’ had been issued and otherwise acted to deny Plaintiff’s Constitutionally Guaranteed rights to Due Process under color of state law causing Plaintiff damages.

◆ **CLAIM XXXI – Ex-Parte Star Chamber Permanent Restraining Orders**
by Charles Hoppin

Claim 31:

Defendant Charles T. Hoppin caused and participated in Ex-parte Star Chamber hearings; denying Plaintiff equal protection of the law and due process of the law and issuing orders based on negligent review and deliberation.

Amendment VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

Plaintiff re-alleges CLAIM I through CLAIM XXX and incorporates all as if fully reproduced herein. Defendant Judicial Officer Charles T. Hoppin, having superior knowledge of the law and a high standard of the law as confirmed by his oath of office, and witnessing the fraud committed by Defendant "Attorneys", in conspiracy with private Citizens, to deprive and deny Plaintiff of the right to confront and examine witnesses and evidence against him, that Defendant Judge Charles T. Hoppin, such Attorneys, and Citizens, and all of them, knowingly caused damages and deprivation and neglected to correct or prevent the wrongs pursuant to Title 42 U.S.C.A., 1986. Plaintiff was subjected to fraudulent ex-parte hearings and Star Chamber judgements of Permanent Restraining Orders while completely available to the Courts requirements and convenience. Petitioner was not allowed the results of these ex-parte hearings by Charles T. Hoppin's order nor was any transcript or record taken from which comparative testimonies could be analyzed for further proofs of perjury by complainants.

Judge Charles T. Hoppin in conspiracy with Defendant Private Citizens Tamara Ann Zehnder and Markus Bernard Merritt and Officer of the Court “Attorney” Antonio Troy Ciccarelli, and such other named Defendants, fraudulently and improperly issued or fraudulently represented that such ‘Permanent Restraining Orders’ had been issued and otherwise acted to deny Plaintiff’s Constitutionally Guaranteed rights to Due Process and Equal Protection under color of state law causing Plaintiff damages.

◆ **CLAIM XXXII – Denial of Equal Protection under the Law,**

Obstruction of Justice ,Denial of Plaintiffs Constitutionally Guaranteed Rights and Protections

Claim 32:

Defendants Henry E. Nieto, et al identified were given Criminal Charges by responsible citizens which they failed and neglected to investigate because the charges were against Law Enforcement Officers and Officers of the Court and Judicial Officers and prominent citizens. The Defendants denied Plaintiff Equal Protection and Application of the Law without fear or favor to rich or poor contrary to their sworn Oaths of Office and the Constitutions.

Plaintiff re-alleges CLAIM I through CLAIM XXXI and incorporates all as if fully reproduced herein. Defendant Sworn Law Enforcement Officers, Sworn Officers of the Court and Sworn Judicial Officers, having superior knowledge of the law and a high standard of the law as confirmed by their oath of office, and a fiduciary responsibility and witnessing the fraud committed by Defendant Judicial Officers, "Attorneys", and Defendant Law Enforcement Officers, and in conspiracy with private Citizens, to deprive and deny Plaintiff of the Constitutionally guaranteed right to the equal protection of the Law, that Defendants, each knowingly and deliberately caused damages and deprivation and neglected and failed to correct or prevent the wrongs pursuant to Title 42 U.S.C.A., 1986.

Plaintiff filed Verified Criminal charges with responsible Defendant Law Enforcement Officers, responsible agencies and departments; Colorado 1st Judicial District Chief Judges Nieto and DuMoulin, Internal Affairs Officers Tortora and Farley- Golden Police Department, Grievance Committee of the Colorado State Supreme Court, Commission on Judicial Conduct, Federal Bureau of Investigation Senior Special Agent Loturco, Jefferson County Sheriffs' Department, Arapahoe County Adult Probation Department, Lakewood Police Department, Aurora Police Department, Governors Office and others named and unnamed which remain uninvestigated and unanswered.

Defendant Attorneys , Judges, and Troops in conspiracy with Defendant Private Citizens Tamara Ann Zehnder, Robert Victor Zehnder, Delores Jeane Lynne Zehnder, such other Zehnder Family and Markus Bernard Merritt and such other sworn Law Enforcement Officers or Officers of the Court; "Attorneys" Antonio Troy Ciccarelli, J. Terry Wiggins, Elizabeth Kiovsy, Maurice Knaizer, Linda Donnelly, John Holloway, and as named above, as Officers of the Court in the same Bar Association.

Defendants gave slight diligence, refused, denied, neglected or failed to secure Plaintiffs Right to Equal Protection under the Law, administered without fear or favor to rich or poor, and otherwise knowingly and deliberately and maliciously acted to Impede, Hinder and by any means Obstruct Justice and deny or deprive Plaintiff of his Constitutionally Guaranteed rights to Due Process under color of state law causing Plaintiff damages.

-----SUMMARY-----

46.) Plaintiff requests trial by jury in this case in order to give justice **to the gravity** of the deprivations of civil liberties complained of herein. The Defendants have demonstrated a flagrant and reckless disregard for the Rights of the People guaranteed by the Constitution of the United States, the Colorado Constitution, the Bill of Rights and the Law of the Land. which is Due Process of Law. Most of the Defendants enumerated herein are Sworn Public Officials, Sworn Officers of the Court, Sworn Judicial Officers, and Sworn Officers of the Law.

47.) The acts and actions committed by these Defendants, in **conspiracy**, shocks the conscience and presents a continuing danger to all Citizens residing in, or passing through, Jefferson County Colorado. The ultimate fact that Defendants are operating **in Color of Authority and under Color of State Law** and in de facto positions of power and prestige aggravates the already unconscionable atrocities against the Rights of the People to Live in the Freedom and Liberty forever secured to the People by our Founding Fathers and guaranteed in writing by the Constitution of the United States and the Bill of Rights.

48.) The most shocking aspect of the Defendant's actions is that the **conspiracy** herein complained of is but one incident in a continuing pattern of organized criminal activity conducted at the highest level of government in Jefferson County; with arrogant impunity and secure in governmental immunities. Official Actors have been involved in similar conspiracies to deprive many other Citizens of unalienable rights for many years under the auspices of **official titles** and under **Color of STATE Law and Municipal Authority**.

49.) Plaintiff has reason to believe through first hand experience and by interviewing many Citizens unlawfully incarcerated in the Jefferson County Detention Facility, Inc. during the past 90 days of unlawful confinement, that Defendant's actions constitute a **major conspiracy** under the **R.I.C.O. Statutes of 42 U.S.C. §§1961 & 1962** and that thousands of innocent Citizens are deprived of their Constitutionally guaranteed rights every year.

50.) The Honorable Judge Matsch in a landmark case called "Baker vs. Bray" in paragraph 3 (b) & (c) ordered the Jefferson County Sheriff and the Board of County Commissioners of the County of Jefferson, to modify their arrest procedures to conform with **Due Process of Law** in order to alleviate the "overcrowding" of the County Jail.

51.) The County Jail is now **"overcrowded" AGAIN** and Plaintiff believes based upon personal research and investigation that the reason behind the overcrowding is the vast number of innocent Citizens who are constantly subjected to sub-human and inhumane Police Arrest Procedures and **unlawful incarceration**, in violation of Constitutional guarantees and the U.S.C. at titles 42 §§ 1986, 1985, 1983 and title 18 at 241, 242, 872, 1001, 1621 and the Due process clauses of the Bill of Rights.

52.) Plaintiff believes, and can prove beyond any shadow of doubt, that Defendants enumerated herein are involved in a **major conspiracy** that has caused grave Deprivations of Plaintiff's Civil Liberties and protected Rights and stands upon the Right of the People to Redress the Government for Grievances as provided by the First Amendment of the Constitution by a Trial by Jury as guaranteed by the Law of the Land - **Due Process!**

God Bless America – Our Land of the Free – Our Home of the Brave

◆ **DAMAGES**

53.) The facts enumerated one (1) through fifty two (52) are incorporated herein as if fully reproduced. Plaintiff states with reasonable expectation, that Defendants unreasonable and deliberate actions as enumerated herein, have wrongfully deprived Plaintiff of 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, and 14th Amendment Rights as enumerated in the Bill of Rights to the Constitution for the united States of America. Said deprivations, being under Color of Law, causing damage to Plaintiff.

Wherefore, Plaintiff requests the following relief:

54. Plaintiffs state with reasonable expectation, that Defendant's unreasonable actions as enumerated herein and proven beyond all doubt by prima facie evidence enumerated in the Court's own record in this instant matter, have wrongfully deprived Plaintiff of 1st, 4th, 5th, 6th, 7th, 8th and 14th Amendments rights as enumerated in the Bill of Rights to the Constitution for the United States of America.

Said deprivation, being under Color of Law, and in conspiracy, causing damage to Plaintiff.

55. Wherefore Plaintiff demands Compensatory Damages severally against all Defendants herein in the amount of Fifty Million Dollars (\$50,000,000.00), per Defendant, per cause of action.

56. Plaintiff herein demands exemplary damages as a deterrent to future damages in the amount of One Hundred Million Dollars (\$100,000,000.00), per each cause of action as enumerated herein against All Defendants severally.

57. Plaintiff demands reparation for costs and reimbursement of all out of pocket expenses incurred as a result of the filing of this action.

58. Plaintiff request relief pursuant to the criminal allegations brought herein.

59. Plaintiff further seeks any other relief which the court of proper jurisdiction deems appropriate under the circumstances and the Constitutional controversy raised herein.

JURY DEMAND

60. Trial by Jury according to the Seventh Amendment known as the Bill of Rights DEMANDED HEREIN.

Right to Amend:

Plaintiff herein reserves the right to Amend Complaint when needed.

Pursuant to 28 U.S.C.A. 1746

(1) and executed "without the United States," I affirm under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, to the best of my belief and informed knowledge.

Steve Douglas, Gartin
P.O. Box 36073
Denver, Colorado 80236-0073

Date

FAX: 739-9824

◆ **Defendants: continued**

Estate of Robert V. Zehnder
5587 South Urban Street
Littleton, Colorado 80127

1. At all pertinent times herein, Defendant, Pastor **Robert Victor Zehnder, now deceased**, was employed as a Chief Executive Officer with the **Bethlehem Lutheran Church & School, Incorporated**. Defendant had knowledge of, conspired in, and neglected to prevent or correct, the intentional and malicious deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, Pastor **Robert Victor Zehnder, now deceased**, was operating within, without, beyond and in excess of the scope of his employment.

Delores Jeanne Lynne Zehnder

2. At all pertinent times herein, Defendant, **Dolores Jean Zehnder**, was employed as a Senior Agent with the **Bethlehem Lutheran Church & School, Incorporated**. Defendant had knowledge of, conspired in, and neglected to prevent or correct, the intentional and malicious deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, Defendant, **Dolores Jean Zehnder**, was operating within, without, beyond and in excess of the scope of her employment.

Tamara Ann Zehnder, criminally impersonating TAMARA A. GARTIN

3. At all pertinent times herein, Defendant, **Tamara Ann Zehnder**, was employed with and by U S West, Incorporated. Defendant had knowledge of, instigated and conspired in, and neglected and failed to prevent or correct; the intentional and malicious deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, **Tamara Ann Zehnder** was operating within, without,

beyond and in excess of the scope of her employment.

◆ **Markus Bernard Merritt**

5587 South Urban Street
Littleton, Colorado 80127

4. At all pertinent times herein, Defendant, **Markus Bernard Merritt**, was engaged as the Legal Director/Advisor by Robert Victor Zehnder and Delores Jeanne Lynne Zehnder and Tamara Ann Zehnder and such Zehnder Family as in mention in probate assignments re: Robert Victor Zehnder Estate and further employed by U S West, Incorporated in such legal capacity. Defendant had knowledge of, instigated and conspired in, actuated and participated in, failed and neglected to prevent or correct, the intentional and malicious deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, **Markus Bernard Merritt**, was operating within, without, beyond and in excess of the scope of his employment.

◆ **Karsh & Fulton, P.C.**

Suite 710 Cherry Tower Office Building
950 South Cherry Street
Denver, Colorado 80222-2665

5. At all pertinent times herein, Defendant, **Alan Karsh**, was employed as a Senior Partner and Attorney at Law of **Karsh & Fulton, P.C.** Defendant had knowledge of, conspired in and/or neglected and failed to prevent or correct, the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, **Alan Karsh**, was operating under color of law within, without, beyond and in excess of the scope of his employment.

6. At all pertinent times herein, Defendant, **Larry Fulton**, was employed as a Senior Partner and

Attorney at Law of **Karsh & Fulton, P.C.** Defendant had knowledge of, conspired in and/or neglected and failed to prevent or correct, the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, **Larry Fulton**, was operating under color of law within, without, beyond and in excess of the scope of his employment.

7. At all pertinent times herein, Defendant, **Seymour Joseph**, was employed as a Partner and Attorney at Law with **Karsh & Fulton, P.C.** Defendant had knowledge of, conspired in and/or neglected and failed to prevent or correct, the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, **Seymour Joseph**, was operating under color of law within, without, beyond and in excess of the scope of his employment.

8. At all pertinent times herein, Defendant, **J. Terry Wiggins**, was employed as a Partner and Attorney at Law of **Karsh & Fulton, P.C.** Defendant had knowledge of, instigated and conspired in, and neglected and failed to prevent or correct the intentional and malicious deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, **J. Terry Wiggins**, was operating under color of law within, without, beyond and in excess of the scope of his employment.

9. At all pertinent times herein, Defendant, **Fred Gabler**, was employed as a Partner and Attorney at Law with **Karsh & Fulton, P.C.** Defendant had knowledge of, conspired in and/or neglected and failed to prevent or correct, the intentional deprivation of

Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, **Fred Gabler**, was operating under color of law within, without, beyond and in excess of the scope of his employment.

10. At all pertinent times herein, Defendant, **Antonio Troy Ciccarelli**, was employed as an Attorney at Law with the **Karsh & Fulton, P.C.** Defendant had knowledge of, instigated and conspired in, and neglected and failed to prevent or correct, the intentional and malicious deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, **Antonio Troy Ciccarelli**, was operating under color of law within, without, beyond and in excess of the scope of his employment.

11. At all pertinent times herein, Defendant, **Valerie Krogman**, was employed as a trusted professional paralegal with **Karsh & Fulton, P.C.** Defendant had knowledge of and neglected to prevent or correct, the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, **Valerie Krogman**, was operating within, without, beyond and in excess of the scope of her employment.

◆ **1st Judicial District**

100 Jefferson County Parkway
Golden, Colorado 80401

15. At all pertinent times herein, Defendant, **Henry E. Nieto**, was employed as a Sworn Judicial Officer with the First Judicial District, STATE OF COLORADO. Defendant had direct knowledge that the deprivations were in progress, conspired in and had the power and the duty to prevent or correct the

intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights, causing Plaintiff grievous damages. At all pertinent times herein, **Henry E. Nieto**, was operating under color of law within, without, beyond and in excess of the scope of his employment performing administrative and ministerial functions IN RE: IN RES and EX-parte. At all pertinent times herein, Defendant perjured his Oath of Office by perverting the law and abusing his judicial discretion, thus removing any mantle of qualified immunity against the complaint herein..

12. At all pertinent times herein, Defendant, **Roy G. Olsen**, was employed as a Sworn Judicial Officer with the **Jefferson County District Courts**. Defendant had knowledge of, conspired in and neglected and failed to prevent or correct, the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, **Roy G. Olsen**, was operating under color of law within, without, beyond and in excess of the scope of his employment performing administrative and ministerial functions IN RE: IN RES and EX-parte. At all pertinent times herein, Defendant perjured his Oath of Office by perverting the law and abusing his judicial discretion, thus removing any mantle of qualified immunity against the complaint herein..

13. At all pertinent times herein, Defendant, **Charles T. Hoppin**, was employed as a Sworn Judicial Officer with the **Jefferson County District Courts**. Defendant had knowledge of, conspired in and neglected and failed to prevent or correct, the intentional deprivation of Plaintiffs'

Constitutionally guaranteed Rights. At all pertinent times herein, **Charles T. Hoppin**, was operating under color of law within, without, beyond and in excess of the scope of his employment, performing administrative and ministerial functions IN RE: IN RES and EX-parte. At all pertinent times herein, Defendant perjured his Oath of Office by perverting the law and abusing his judicial discretion, thus removing any mantle of qualified immunity against the complaint herein..

14. At all pertinent times herein, Defendant, **James C. Demlow**, was employed as a Sworn Judicial Officer with the **Jefferson County District Courts**. Defendant had knowledge that the deprivations were in progress, conspired in and had the power and the duty to prevent or correct the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights, causing Plaintiff grievous damages. At all pertinent times herein, **James C. Demlow**, was operating under color of law within, without, beyond and in excess of the scope of his employment performing administrative and ministerial functions IN RE: IN RES and EX-parte. At all pertinent times herein, Defendant perjured his Oath of Office by perverting the law and abusing his judicial discretion, thus removing any mantle of qualified immunity against the complaint herein..

◆ **Golden Municipal Court**

911 10th Street
Golden, Colorado 80401

16. At all pertinent times herein, Defendant, **Ronald L. Miller**, was employed as a Sworn Judicial Officer with the **Golden Municipal Court**. Defendant had knowledge that the

deprivations were in progress, conspired in and had the power and the duty to prevent or correct the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights, causing Plaintiff grievous damages. At all pertinent times herein, **Ronald L. Miller**, was operating under color of law within, without, beyond and in excess of the scope of his employment performing administrative and ministerial functions IN RE: IN RES and EX-parte. At all pertinent times herein, Defendant perjured his Oath of Office by perverting the law and abusing his judicial discretion, thus removing any mantle of qualified immunity against the complaint herein..

17. At all pertinent times herein, Defendant, **Judith Cherne**, was employed as a Clerk of the Court with the **Golden Municipal Court**. Defendant had knowledge of, conspired in and/or neglected and failed to prevent or correct, the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, **Judith Cherne**, was operating within, without, beyond and in excess of the scope of her employment.

City Attorney, City of Golden, Incorporated

911 10th Street
Golden, Colorado 80401

18. At all pertinent times herein, Defendant, **William Hayashi**, was employed as **City Attorney of Golden, Colorado**. Defendant had knowledge that the deprivations were in progress, conspired in and had the power and the duty to prevent or correct the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights, causing Plaintiff grievous damages. At

all pertinent times herein, **William Hayashi**, was operating under color of law within, without, beyond and in excess of the scope of his employment.

City of Golden, Incorporated

911 10th Street
Golden, Colorado 80401

19. At all pertinent times herein, Defendant, **Theresa Reilly**, was employed as a Human Resources Manager for the **City of Golden, Incorporated**. Defendant had knowledge of and neglected and failed to prevent or correct the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, **Theresa Reilly**, was operating under color of authority within, without, beyond and in excess of the scope of her employment.

City of Golden, Incorporated

911 10th Street
Golden, Colorado 80401

20. At all pertinent times herein, Defendant, **Mike Bestor**, was employed as a City Manager for the **City of Golden, Incorporated**. Defendant had knowledge of, conspired in and/or neglected to prevent or correct, the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, **Mike Bestor**, was operating under color of authority within, without, beyond and in excess of the scope of his employment.

◆ **Golden Community Center, Incorporated**

1470 10th Street
Golden, Colorado 80401
Golden Community Center, Inc. Staff includes:

Beverly Koenig, Theresa Reilly, Larry Rock and other Staff employees

responsible for general operation of the facility.

21. At all pertinent times herein, Defendant, **Beverly Koenig**, was employed as a Senior Manager, **Golden Community Center, Incorporated** for the **City of Golden, Incorporated**. Defendant had knowledge of, conspired in and/or neglected to prevent or correct, the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, **Beverly Koenig**, was operating within, without, beyond and in excess of the scope of her employment.

Golden Police Department, Inc.

1470 10th Street
Golden, Colorado 80401

22. At all pertinent times herein, Defendant, **Michael Moler 1465**, was employed as a Sworn Law Enforcement Senior Training Officer with the **Golden Police Department, Inc.** Defendant had knowledge of, conspired in and/or neglected and failed to prevent or correct the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, **Michael Moler 1465**, was operating under color of authority within, without, beyond and in excess of the scope of his employment.

23. At all pertinent times herein, Defendant, **Ted Schnack 2011**, was employed as a Sworn Law Enforcement Officer with the **Golden Police Department, Incorporated**. Defendant had knowledge of, conspired in and/or neglected to prevent or correct, the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, **Ted Schnack 2011**, was operating under color of

authority within, without, beyond and in excess of the scope of his employment.

24. At all pertinent times herein, Defendant, **Lewis Shellenberger 2031**, was employed as a Sworn Law Enforcement Officer with the **Golden Police Department, Inc.** Defendant had knowledge of, conspired in and/or neglected to prevent or correct, the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, **Lewis Shellenberger 2031**, was operating under color of authority within, without, beyond and in excess of the scope of his employment.

25. At all pertinent times herein, Defendant, **Glenn Moore 1470**, was employed as a Sworn Law Enforcement Officer with the **Golden Police Department, Incorporated**. Defendant had knowledge of, conspired in and/or neglected to prevent or correct, the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, **Glenn Moore 1470**, was operating under color of authority within, without, beyond and in excess of the scope of his employment.

26. At all pertinent times herein, Defendant, **Russell Cook**, was employed as the Chief of Police, a Sworn Law Enforcement Officer with the **Golden Police Department, Incorporated**. Defendant had knowledge that the deprivations were in progress, conspired in and had the power and the duty to prevent or correct the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights, causing Plaintiff grievous damages. At all pertinent times herein, **Russell Cook**, was operating under color of authority

within, without, beyond and in excess of the scope of his employment.

27. At all pertinent times herein, Defendant, **Dave Farley**, was employed as a Sworn Law Enforcement Officer with the **Golden Police Department, Incorporated Internal Affairs Investigation**. Defendant had knowledge that the deprivations were in progress, conspired in and had the power and the duty to prevent or correct the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights, causing Plaintiff grievous damages. At all pertinent times herein, **Dave Farley**, was operating under color of authority within, without, beyond and in excess of the scope of his employment.

28 At all pertinent times herein, Defendant, **Robert Tortora**, was employed as a Sworn Law Enforcement Officer with the **Golden Police Department, Incorporated Internal Affairs Investigation**. Defendant had knowledge that the deprivations were in progress, conspired in and had the power and the duty to prevent or correct the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights, causing Plaintiff grievous damages. At all pertinent times herein, **Robert Tortora**, was operating under color of authority within, without, beyond and in excess of the scope of his employment.

29. At all pertinent times herein, Defendant, **William Killpatrick**, was employed as a Sworn Law Enforcement Officer with the **Golden Police Department, Incorporated**. Defendant had knowledge that the deprivations were in progress, conspired in and had the power and the duty to prevent or correct the intentional deprivation of

Plaintiffs' Constitutionally guaranteed Rights, causing Plaintiff grievous damages. At all pertinent times herein, **William Killpatrick**, was operating under color of authority within, without, beyond and in excess of the scope of his employment.

◆ **Jefferson County Sheriffs Department, Incorporated**

Suite 200, 200 Jefferson County Parkway
Golden, Colorado, 80401

30. At all pertinent times herein, Defendant, **Ronald Beckham**, was employed as Jefferson County Sheriff, a Sworn Law Enforcement Officer with the **Jefferson County Sheriffs Department, Incorporated**. Defendant had knowledge that the deprivations were in progress, instigated and conspired in and had the power and the duty to prevent or correct the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights, causing Plaintiff grievous damages. At all pertinent times herein, **Ronald Beckham**, was operating under color of authority within, without, beyond and in excess of the scope of his employment.

31. At all pertinent times herein, Defendant, **Captain Raymond Fleer** was employed as a Sworn Law Enforcement Officer with the **Jefferson County Sheriffs Department, Incorporated, Jefferson County Detention Center**. Defendant had knowledge that the deprivations were in progress, instigated and conspired in and had the power and the duty to prevent or correct the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights, causing Plaintiff grievous damages. **Captain Raymond Fleer**, was operating under color of authority

within, without, beyond and in excess of the scope of his employment.

32. At all pertinent times herein, Defendant, **Sergeant Leybeda (sic)**, was employed as a Sworn Law Enforcement Officer with the **Jefferson County Sheriffs Department, Incorporated** at the **Jefferson County Detention Center, Inc. acting in the capacity of Booking Room Commander**. Defendant had knowledge that the deprivations were in progress, conspired in and had the power and the duty to prevent or correct the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights, causing Plaintiff grievous damages. At all pertinent times herein, **Sergeant Leyba (sic)**, was operating under color of authority within, without, beyond and in excess of the scope of his employment.

33. At all pertinent times herein, Defendant, **Frank Lastoczy**, was employed as a Sworn Law Enforcement Officer with the **Jefferson County Sheriffs Department, Incorporated**. Defendant had knowledge of, conspired in and/or neglected to prevent or correct, the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, **Frank Lastoczy**, was operating under color of authority within, without, beyond and in excess of the scope of his employment.

◆ **Jefferson County Board of Commissioners**

100 Jefferson County Parkway
Golden, Colorado 80401

34. At all pertinent times herein, Defendant, **Patricia Holloway**, was employed as a Jefferson County Commissioner. Defendant had knowledge of, conspired in and/or

neglected to prevent or correct, the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, Patricia Holloway, was operating within, without, beyond and in excess of the scope of her employment.

35. At all pertinent times herein, Defendant, **John P. Stone**, was employed as a Jefferson County Commissioner. Defendant had knowledge of, conspired in and/or neglected to prevent or correct, the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, **John P. Stone**, was operating within, without, beyond and in excess of the scope of his employment.

36. At all pertinent times herein, Defendant, **Elizabeth Kiovsky**, was employed as Senior Attorney at Law with the **U S West, Incorporated**. Defendant had knowledge that the deprivations were in progress, instigated and conspired in and had the power and the duty to prevent or correct the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights, causing Plaintiff grievous damages. At all pertinent times herein, **Elizabeth Kiovsky**, was operating under color of law within, without, beyond and in excess of the scope of her employment.

37. At all pertinent times herein, Defendant, **Richard McCormick**, was employed as an Executive Officer with the **U S West, Incorporated**. Defendant had knowledge of, conspired in and/or neglected to prevent or correct, the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights. At all pertinent times herein, **Richard**

McCormick, was operating under color of law within, without, beyond and in excess of the scope of his employment.

◆ **United States Attorney**

1961 Stout St., Suite. 1100
Denver, CO 80294

38. At all pertinent times herein, Defendant, **James Allison**, was employed as an Attorney at Law with the **U.S. Attorneys' Office**. Defendant had knowledge that the deprivations were in progress, conspired in and had the power and the duty to prevent or correct the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights, causing Plaintiff grievous damages. At all pertinent times herein, **James Allison**, was operating under color of law within, without, beyond and in excess of the scope of his employment.

◆ **Office of the Attorney General (Colorado)**

1525 Sherman St.
Denver, Colorado 80203

39. At all pertinent times herein, Defendant, **Maurice Knaizer**, was employed as an Attorney at Law with the **Colorado State Attorney Generals' Office**. Defendant had knowledge that the deprivations were in progress, conspired in and had the power and the duty to prevent or correct the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights, causing Plaintiff grievous damages. At all pertinent times herein, **Maurice Knaizer**, was operating under color of law within, without, beyond and in excess of the scope of his employment.

◆ **Colorado Supreme Court Grievance Committee**

600 Seventeenth Street Suite 510
Denver, Colorado 80202-5435

40. At all pertinent times herein, Defendant, **Linda D. Donnelly**, was employed as an Attorney at Law with the **Colorado State Supreme Court Grievance Committee**. Defendant had knowledge that the deprivations were in progress, conspired in and had the power and the duty to prevent or correct the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights, causing Plaintiff grievous damages. At all pertinent times herein, **Linda D. Donnelly**, was operating under color of law within, without, beyond and in excess of the scope of her employment.

41. At all pertinent times herein, Defendant, **James Holloway**, was employed as an Attorney at Law with the **Colorado State Supreme Court Grievance Committee**. Defendant had knowledge that the deprivations were in progress, conspired in and had the power and the duty to prevent or correct the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights, causing Plaintiff grievous damages. At all pertinent times herein, **John Holloway**, was operating under color of law within, without, beyond and in excess of the scope of his employment.

Federal Bureau of Investigation

Frank A. Loturco

1929 Stout Street Room 1823
Denver, Colorado 80294-1823

42. At all pertinent times herein, Defendant, **Frank A. Loturco**, was employed as a Sworn Law Enforcement Officer and with a high knowledge of the law with the **Federal Bureau of Investigation**. Defendant had knowledge that the deprivations were in progress and had the power and the duty

to prevent or correct the intentional deprivation of Plaintiffs' Constitutionally guaranteed Rights, causing Plaintiff grievous damages. Defendant knowingly and intentionally neglected and failed to prevent or correct the intentional, malicious and illegal

deprivation of Plaintiffs' Constitutionally guaranteed Rights and Protections. At all pertinent times herein, **Frank A. Loturco**, was operating under color of authority within, without, beyond and in excess of the scope of his employment.

Glossary of Terminology controlling this Document

◆ Definitions of Terms

“person” defined.

In general usage, a human being, though by statute the term may include labor organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers. Scope and delineation of term is necessary for determining those to whom Fourteenth Amendment of the Constitution affords protection since this Amendment expressly applies to "person." Black's Law 6th

"Whoever" includes all persons, agents, and employees; and all officials, public or private. An unincorporated voluntary association does not come within the meaning of the term, "whoever" in an ordinance providing that "whoever" violates certain provisions of the ordinance shall be deemed guilty of a misdemeanor; and such association cannot be convicted for offense-
Bridgeport v. Eagles 97 O. App. 245, 56 0033, 125 NE2d 202.

"Color of Authority" defined. That semblance or presumption of authority sustaining the acts of a public officer which is derived from his apparent title to the office or from a writ or other process in his hands apparently valid and regular.

"Color" defined. An appearance, semblance, or simulacrum, as distinguished from that which is real. A prima facie or apparent right. Hence, a deceptive appearance; a plausible, assumed exterior, concealing a lack of reality; a disguise or pretext.

"Color of Office" defined. Pretense of official right to do act made by one who has no such right. An act under color of

office is an act of an officer who claims authority to do the act by reason of his office when the office does not confer on him any such authority.

Prejudice means: a Forejudgement; bias; partiality; preconceived opinion. A leaning toward one side of a cause for some reason together than conviction of its justice. Black's Law Dictionary 6th. Any and all presumptions and any and all associations in common.

Mixed War

A war waged on one side by Government and on the other by private persons.

Acts of War

Armed threat of military might.

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◆ Arguments and Statements of

The Defendants in this Incorporated Case #97-N-1501 have presented an 'Affidavit of Warrantless Arrest' as justification for; Armed Assault, Armed Battery, Armed Mayhem, Criminal Trespass, Theft of Property, Destruction of private property, Kidnapping, False Arrest, Unlawful Arrest, Unlawful Imprisonment, Harassment, Invasion of Privacy and a litany of tortious offenses committed in Color of state Law and in Color of Authority and under arms.

Defendant Golden Police Troops did not witness a felony in the commission, nor did they witness a misdemeanor being committed.

Neither did they have a valid or lawful Warrant signed by a Judge or Magistrate.

Neither did they have any probable cause, nor even CLAIM to have probable cause. Neither was there a breach of the Peace committed.

At common law, and under the provisions of Due Process of Law, such an Arrest without a Warrant can not be made. Since the arrest deprived the Plaintiff of his liberty by an act not pursuant to due process of law, the arrest is unlawful. Due Process is not determined by the legislature or local rules and ordinances.

The Defendants claim that the Arrest of the Plaintiff without Warrant was lawful. Defendants claim that they are authorized by statute to make arrests for any violation of laws of the state whether they are a misdemeanor or a felony when committed in their presence.

The facts of this case lead to the conclusion of law that the Defendants did not have any lawful authority to arrest the Plaintiff. The Defendants had no Warrant for the Arrest of the Plaintiff, alleged or not. There was no claim of a felony committed nor of a breach of peace committed. At common law, and under the provisions of Due Process of Law, such an

Law

arrest without a warrant can not be made. Since the arrest deprived the Plaintiff of his liberty by an act not pursuant to due process of law, the arrest is unlawful. Due Process is not determined by the legislature.

It is manifest that it was not left to the legislative power to enact any process which might be devised. The [due process] article is a restraint on the legislative as well as on the executive and judicial powers of government, and cannot be so construed as to leave congress free to make any process "due process of law," by its mere will. *Murray's Lessee v. Hoboken Imp.Co.* 18 How. (59 U.S.) 272, 276 (1855).

The Constitution of Colorado declares that no person shall "be deprived of life, liberty or property without due process of law." The words "due process" do not mean anything which the legislature may see fit to declare to be "due process of law" *State ex rel. v. Billings*, 55 Minn. 466, 474 (1893).

Due process was intended to preserve established fundamental rights by requiring that they can not be deprived except by the established modes of law as existing under the common law. This guarantee that government shall follow a specified and pre-existing rule of conduct, process, or procedure is in itself a right the citizen held at common law, and was claimed by the colonists in early America.

Thus, "it is clear that the common law is the foundation of that which is designated as due process of law" (6 R.C.L. "Const. Law," § 435). The constitution guarantees these pre-existing rights and procedures in the due process provision. What is due process of law may be ascertained by an examination of those settled usages and modes of proceedings existing in the common and statute law of England before the emigration of our ancestors. *Twining v. New Jersey*, 211 U.S. 78, 100 (1908).

The expressions '**due process of law**'

and 'law of the land' have the same meaning. *
* * The 'law' intended by the constitution is the common law that had come down to us from our forefathers, as it existed and was understood and administered when that instrument was framed and adopted. *State v. Doherty*, 60 Maine 504, 509 (1872).

In interpreting what due process of law is, it has been held that "none of our liberties are to be taken away except in accordance with established principles" *Ekern v. McGovern*, 154 Wis. 157, 142 N.W. 595, 620 (1913).

Thus the mode of arrest by which one can be deprived of his liberty is to be determined by the pre-existing common law principles and modes of procedure. A properly constituted Warrant of Arrest is a process at common law by which persons could lawfully be deprived of their liberty. The common law on arrest without warrant recognized only certain specific and well defined cases whereby a citizen could be deprived of his liberty. This cannot be abrogated or changed by the legislature.

The common law drew a distinction between an arrest for misdemeanors, such as that which the Defendants arrested the Plaintiff upon, and arrests for felonies. When a felony was committed an arrest could be made without a warrant, but no arrest could be made for a misdemeanor without a warrant unless it constituted a "breach of the peace."

The Plaintiff made no breach of the peace and thus the Defendants needed a Warrant to make an Arrest.

In determining the law surrounding arrests, the Supreme Court of South Carolina, in the case of *State v. Byrd*, 72 S.C.104, 51 S.E. 542, 544 (1905), affirmed a prior decision of the Court holding that:

At common law, as a general rule, an arrest could not be made without warrant for an offense less than felony, except for a breach of the peace. 3 Cyc. 880; *State v. Sims*, 16 S.C. 486.

The fact that the Defendants believed that the Plaintiff had committed a misdemeanor and had been charged with a violation of a court order did not authorize them to arrest the Plaintiff. In a New York case, the State Supreme Court held that a city alderman or justice of the peace could not, at common law, arrest or cause an arrest for a misdemeanor not amounting to a breach of the peace, without warrant, though happening in his presence. The Supreme Court, in the case of *Butolph v. Blust*, 5 Lansing's Rep. 84, 86 (1871) stated:

At common law an arrest could not be made of a person charged with a misdemeanor except on warrant of a magistrate, unless it involved a breach of the peace, in which case the offender might be arrested by any person present at its commission. (1 Chitty, Criminal Law, 15; *Carpenter v. Mills*, 29 How. Pr. R. 473).

In the very well reasoned and authoritative case of *Ex parte Rhodes*, 202 Ala. 68, 79 So. 462, 464 (1918), the Supreme Court of Alabama related the due process provision to the act of arrests. It asserted that;

"any seizure or arrest of a citizen is not reasonable, or 'due process,' merely because a Legislature has attempted to authorize it. These phrases are limitations upon the power of the Legislature, as well as upon that of the other departments of government, or their officers."

In determining what was 'due process' regarding arrests the Court stated:

It must not be forgotten that there can be no arrest without due Process of law. An arrest without warrant has never been lawful, except in those cases where the public security requires it; and this has only been recognized in felony, and in breaches of the peace committed in the presence of the officer. *Ex parte Rhodes*, 202 Ala. 68, 79 So. 462, 465; citing, *Sarah Way's Case*, 41 Mich. 304, 1 N.W. 1023 (1879), et al. Also cited and affirmed in *Pinkerton v. Verberg*, 78 Mich. 573, 44

N.W. 579, 583 (1889); *State v. Williams*, 45 Ore. 314, 77 Pac. 965, 969, (1904); *Adair v. Williams*, 24 Ariz. 422, 210 Pac. 853, 856 (1922).

The Alabama Supreme Court in the *Rhodes* case went on to say that "the phrase 'due process' must be determined by what it meant at the common law, and when the Constitution was adopted" (p. 469). The Court then cites the case of *Tillman v. Beard*, 121 Mich. 475, 80 N.W. 248 (1899), in stating:

'Officers are justified in arresting without warrant only in cases of felony and breaches of the peace. This is elementary. It is needless to cite authorities.'

At one time in the history of American law and jurisprudence, the concept that no one could be arrested for a misdemeanor except with a proper warrant was so basic and "elementary" that it was not necessary to give any authorities to prove it. Yet this basic concept was found to be too restrictive to the ever-growing oppressive government that has gained power in this country. Thus in order for it to control the liberty of citizens, and to enforce **its oppressive** laws, the corrupt, *de facto* government has gradually undermined a very basic principle of constitutional law.

In the *Pinkerton* case, supra, it was held that a police officer could not arrest a woman, without a warrant, upon mere suspicion that she was upon the street for the purpose of prostitution, even under provisions of the city ordinance allowing such arrests. The fact that she had a reputation of being a "street walker," and that the officer knew of her reputation and believed she was plying her vocation as such, plus the fact she did not give her name to the officer stating "it was none of his business," and that she dared the officer to arrest her, did not cause grounds for the officer to arrest her. The Court said:

If persons can be restrained of their liberty, and assaulted and imprisoned, under such circumstances, without complaint or

warrant, then there is no limit to the power of a police officer.. * * * Any law which would place the keeping and safe conduct of another in the hands of even a conservator of the peace, unless for some breach of the peace committed in his presence, or upon suspicion of felony, would be most oppressive and unjust, and destroy all the rights which our constitution guaranties. These are rights which existed long before our constitution, and we have taken just pride in their maintenance, making them a part of the fundamental law of the land. *Pinkerton v. Verberg*, 78 Mich. 573, 44 N.W. 579, 582-83 (1889); *Larson v. Feeney*, 196 Mich. 1, 162 N.W. 275, 276-77 (1917).

Under the topic of "Arrest" as found in Vol. 2 of *Ruling Case Law*, we find the heading, "Constitutional Requirements as to Warrants," wherein it states:

[T]he fundamental constitutional guaranties of personal liberty protect private individuals in the right of enjoyment of personal freedom without unlawful restraint, and it is universally recognized that no one may be arrested except by due Process of law. (2 R.C.L. 463, § 21).

Here again we find that this principle of arrest only by due process of law was once universally recognized, yet the Defendants have ignored such process in their arrest of the Plaintiff. The law regarding warrantless arrests was also declared by the Supreme Court of Wisconsin in the case of *Radloff v. National Food Stores, Inc.*, 20 Wis.2d 224; 121 N.W.2d 865, 867 (1963) as follows:

In *Stittgen v. Rundle*, (1898), 99 Wis. 78, 80, 74 N.W. 536, this court established the principle that "An arrest without warrant has never been lawful except in those cases where the public security requires it; and this has only been recognized in felony, and in breaches of the peace committed in the presence of the officer." This rule was reaffirmed in *Gunderson v. Stuebing* (1905), 125 Wis. 173, 104 N.W. 149; 1 *American Law Reports*, Annotated, 585.

The *Radloff* case involved a shoplifter

who was stopped and arrested by store employees for taking two cartons of cigarettes. The State Supreme Court said that the employees had the right to stop the shoplifter and recover the goods he had stolen from their employer, and were not negligent *per se* in so doing. However, since the taking of the cigarettes constituted a misdemeanor, the store employees had no right to arrest the shoplifter when they had no warrant to arrest. In the *Gunderson* case, the court explained that arrests without warrants were allowed at common law "only where the ends of justice would be defeated without it," and that it "must be confined to cases of strict public necessity."

Where a person was arrested without warrant and charged with "public drunkenness," which resulted in charges of "resisting arrest," it was held by the Supreme Court of North Carolina that the arrest was illegal as the state failed to make a prima facie case by showing that the defendant's conduct at the time of arrest amounted to either an actual or threatened breach of peace. The court said "it is manifest that mere drunkenness unaccompanied by language or conduct which creates public disorder amounting to a breach of the peace, will not justify arrest without a warrant," and that "not every misdemeanor is a breach of the peace." In a very well-reasoned decision on the subject of arrests, the Court held the following:

It has always been the general rule of the common law that ordinarily an arrest should not be made without warrant and that, subject to well-defined exceptions, an arrest without warrant is deemed unlawful. 4 B1. Comm. 289 et seq.; 6 C.J.S., Arrest, §. 5, p. 579.

This foundation Principle of the common law, designed and intended to protect the people against the abuses of arbitrary arrests, is of ancient origin. It derives from assurances of *Magna Carta* and harmonizes with the spirit of our constitutional precepts that the people should be secure in their persons. Nevertheless,

to this general rule that no man should be taken into custody of the law without the sanction of a warrant or other judicial authority, the processes of the early English common law, in deference to the requirements of public security, worked out a number of exceptions. These exceptions related in the main to cases involving felonies and suspected felonies and to breaches of the Peace (authorities cited). *State v. Mobley*, 240 N.C. 476, 83 S.E.2d 100, 102 (1954).

The overall opinion of the court stressed the principle of the common law as controlling in arrests, thus characterizing as erroneous the view that any offense in the presence of an officer is arrestable without warrant.

In Texas it was held that an arrest without a warrant, for selling in the officer's presence a railroad ticket in violation of a city ordinance prohibiting the selling of such tickets, was unlawful, as the offense charged was not a felony, nor an offense "against the public peace." *M.K. & T. Ry. Co. v. Warner*, 19 Tex. Civ. App. 463 (1898).

Sheriffs, constables and other officers under the executive branch of government had always been recognized as having authority to arrest for felonies committed and for misdemeanors amounting to a breach of peace. But this is the extent of their power to arrest without a warrant, and this constitutional principle is well-grounded in ancient common law safeguards of individual liberty:

In England, under the common law, sheriffs, justices of the peace, coroners, constables, and watchmen were entrusted with special powers as conservators of the peace, with authority to arrest felons and persons reasonably suspected of being felons. * * * Conservators of the peace also had the authority to make arrests without warrants in case of a misdemeanor which involved a breach of the peace committed in the presence of the officer making the arrest. 2 *Ruling Case Law*, p. 446; *Orick v. State*, 105 So. 465, 469 (Miss., 1925); *Graham v. State*, 143 Ga. 440, 85 S.E.

328, 330 (1915); *Kennedy v. State*, 139 Miss. 579, 104 So. 449, 450 (1925); *Wilson v. Town of Mooresville*, 222 N.C. 283, 22 S.W.2d 907, 911 (1942); *People v. McGurn*, 341 Ill. 632, 173 N.E. 754, 756 (1930).

It has been held that constitutional provisions of rights are to be interpreted according to "the common and statute law of England prior to the emigration of our ancestors," and by the law established here before the Constitution was adopted. "Under the common law the powers of state agents were limited and the requirements for an arrest warrant was strictly enforced" *United States v. Tarlowski*, 305 F. Supp. 112, 116 (1969). This procedure for arrest is part of the 'due process of law' provision of the constitution which protects citizens from the arbitrary infringement of their right to personal liberty. Thus, any specific authority for arrests must be based upon the common law procedures that allowed a deprivation of one's liberty. This was so held by the Supreme Court of Michigan as follows:

It has already been decided that no arrest can be lawfully made without warrant, except in the cases existing at common law before our constitution was adopted. *People v. Swift*, 59 Mich. 529, 26 N.W. 694, 698 (1886).

Since liberty cannot be deprived except by the law of the land, or due process of law, no statute or ordinance can constitutionally be enacted which allows arrests without a warrant for any purpose the legislature decides. Due process is a limitation upon the legislature, and thus a legislative statute cannot be the due process by which one can be deprived of his liberty by arrests.

In an article on the law on, "Arrest With and Without a Warrant," written in the *University of Pennsylvania Law Review*, Vol. 75, No. 6, April, 1927, p. 485, numerous authorities were cited in support of the following proposition:

It is usually said that not even a peace officer is privileged to make an arrest without a warrant

for a misdemeanor which does not amount to a breach of the peace, and there are many cases which expressly deny the privilege to arrest for such a misdemeanor (p. 486).

In the Annotation of the *American Law Reports*, vol. 1, p. 585, is found a legal study titled: "Constitutionality of statute or ordinance authorizing an arrest without a warrant," in which the following is stated:

It has been stated that in cases less than a felony an arrest could only be made without warrant, where there was a breach of the peace in the presence of the person arresting (cases cited).

"The limits to the power of arrest by a constable, without process, was well defined at common law.... To prevent the escape of a felon, he had authority to arrest anyone whom he reasonably suspected to have been engaged in the perpetration of a felony. To prevent breaches of the peace, he had the right to arrest any person who was engaged in' or in his presence threatened to engage in' an affray or other breach of the peace. Beyond this, the law did not allow him to exercise the function of determining whether there was a sufficient case of the violation of a law to justify an arrest." Reed, J., in *Newark v. Murphy* (1878) 40 N.J.L. 145.

After this excerpt the law report stated that "the foregoing statement from *Newark v. Murphy* is in accord with the weight of American opinion." Those cases which seemed to deviate from this proposition are those which have upheld arrests for certain acts that were unlawful at common law, such as "streetwalkers."

In Tiedeman's "*Treatise on the Limitations of Police Power*" (1886) § 33, is found the requirements for a lawful arrest and the exceptions to a warrantless arrest:

- **What constitutes a lawful arrest.** —

As a general proposition, no one can make a lawful arrest for a crime, except an officer who has a warrant issued by a court or

magistrate having the competent authority.

Arrests without a warrant. —

Although it is the general rule of law that there can be no arrest without a warrant of the nature just described, yet there are cases in which the requirement of a warrant would so obstruct the effectual enforcement of the laws, that the ends of justice would be defeated. For public reasons, therefore, in a few cases the personal security of the citizen is subjected to the further liability of being arrested by a police officer or private individual without warrant. But the right thus to arrest without a warrant must be confined to the cases of strict public necessity. The cases are few in number, and may be stated as follows:

1. When a felony is being committed, an arrest may be made without warrant to prevent any further violation of the law.

2. When the felony has been committed, and the officer or private individual is justified, by the facts within his knowledge, in believing that the person arrested has committed the crime.

3. All breaches of the peace, in assaults and batteries, affrays, riots, etc., for the purpose of restoring order immediately.

The rule of the common law, that a peace officer or a private citizen may arrest a felon without a warrant, or on view a breach of the peace, has never been extended to any and all misdemeanors. While there have been some erroneous decisions that have recognized statutes authorizing arrests for misdemeanors that do not constitute a breach of the peace, none are based upon the meaning of due process of law. *Thus* arrests are not lawful where only a misdemeanor occurs unless it is of the nature of a 'breach of peace.'

At the common law an officer had no authority to make an arrest for a misdemeanor though committed in his presence unless it involved a breach of the peace. * * * The right of personal liberty is a very high prerogative right, and to deprive one of that right, without

due process of law, we must find specific authority for doing so. It can not be left to inference or some strained construction of statute or ordinance. *State v. Lutz*, 85 W.Va. 330; 101 S.E. 434, 43 (1919).

The specific authority for arrests is grounded in the ancient settled maxims of law, which no statute can abrogate without violating the 'due process of law' provision of the constitution. Thus a warrant must be obtained for a misdemeanor that is not a 'breach of peace.' The supreme Court of Minnesota has stated on several occasions that even in the case of a felony an "arrest and search should not be made without a warrant unless there is a compelling necessity to do so." *State v. Mastrian*, 285 Minn. 51, 57 (1969). The supreme Court of **Rhode Island** in declaring the requirements at common law for an arrest stated:

That law permitted an officer to arrest without a warrant on reasonable suspicion based on his knowledge that a felony had been committed. * * * In all other cases, except in the case of a misdemeanor amounting to a breach of the peace committed in his presence, an officer had no authority, at common law, to arrest without a warrant (authorities cited) *Kominsky v. Durand*, 64 R.I 387, 12 Atl.2d 652, 654 (1940).

In *American Jurisprudence*, 2d., Vol. 5, under the subject of 'Arrest,' sections 26 and 28, pp. 716, 718, it states:

At common law, a peace officer cannot arrest without warrant for a misdemeanor, although committed in his presence, unless a breach of peace is involved.

At common law, the right to arrest for a misdemeanor committed in the presence of the officer is limited to those offenses which amount to a breach of the peace. The basis for the rule is that arrest without warrant is

permitted, in cases less than felony, not for the apprehension of the offender, but only for the immediate preservation of the public peace; and, accordingly, when the public peace is not menaced, a warrant is necessary. (authorities cited, see also section 22).

In *Corpus Juris Secundum*, Vol. 6A, under the subject of "Arrest," and under the heading of "Arrest or Detention Without Warrant" § 10, p. 17, it is written:

At common law, however, it has always been the rule that, except in cases where the public security has demanded it, arrest without a warrant is deemed to be unlawful.

"Due process of law," which declares that no citizen shall be deprived of any of his rights of life, liberty or property, unless by the law of the land, or the judgment of his peers (Minn. Const., Art. I, Sec. 2 & 7), is the controlling factor in the matter of the arrest made by the Defendants. An arrest is a deprivation of one's liberty and the due process that must be followed in an arrest is that process which existed at common law. To prevent the exercise of arbitrary power at the discretion of government, it was deemed wise to secure the principles already settled in the common law upon this vital point of civil liberty in written constitutions (Cooley, *Const. Lim.* 364 and notes).

Where a Chicago policeman arrested a man for "vagrancy," the officer was found guilty by a jury of false imprisonment. The Supreme Court of Illinois upheld the conviction of the policeman and declared the rule of law regarding arrests without warrants:

Blackstone says:

"The constable hath great original and inherent authority with regard to arrests. He may, without warrant, arrest any one for a breach of the peace committed in his view, and carry him before a justice

of the peace; and in case of felony actually committed, or a dangerous wounding whereby felony is likely to ensue, he may, upon probable suspicion, arrest the felon, and, for that purpose, is authorized (as upon a justice's warrant) to break open doors, and even to kill the felon, if he can not otherwise be taken." 4 Bl. Comm.292.

In all other cases, however, the authorities are uniform, a constable or policeman has no authority to make an arrest without a warrant (authorities cited) *Shanley v. Wells*, 71 Ill. 78, 82 (1873).

In a case for false imprisonment, the Supreme Court of Maine examined the law regarding arrests and held: "The principles which, by the common law, regulate the right to arrest, or cause an arrest, without warrant, have been long settled both in this country and England; and; by these principles, the rights of these parties must be determined." After citing numerous cases involving the authority to arrest, the Court stated:

In many of these cases it seems to have been held that the authority of an officer to arrest for misdemeanor, without warrant, is limited to breaches of the peace or affrays, committed in his presence. *Palmer v. Maine Cent. R. Co.*, 42 Atl. 800, 803, 92 Me. 399 (1899).

In a case involving a state liquor prohibition law, a man, while walking down along a public street, was accosted by a police officer, and asked if he had any liquor on his person. He replied that he did. Thereupon the officer searched him and found a pint bottle of liquor in his inside coat pocket. He was then taken to the police station. The State Supreme Court of Wisconsin said that when the police officer stopped the man he was illegally arrested and was illegally searched, as he had no warrant to do either. The Court said that "it is a serious thing to arrest a citizen, and it is a more serious

thing to search his person" and it must be done "in conformity to the laws of the land." Regarding the law on arrests it held:

At common law arrests for misdemeanors were not permissible without a warrant except for acts committed in the presence of the officer causing a breach of the peace. *Allen v. State*, 183 Wis.323, 197 N.W. 808, 810, 811 (1924).

Thus in order that the citizen's sacred right of liberty be secure and preserved, it has always been fundamental law that arrests without warrant were not deemed lawful, with only a few well-established exceptions of felonies and breaches of peace. The liberty of citizens would never be safe if such principles could be determined and thus abrogated by statute. Therefore these principles surrounding arrests are regarded as fundamental law under our American system of government, as held by the Supreme Court of Michigan:

Under our system we have repeatedly decided, in accordance with constitutional principles as construed everywhere, that no arrest can be made without warrant except in cases of felony, or in cases of breaches of the Peace committed in the presence of the arresting officer. This exception, in cases of breaches of the peace, has only been allowed by reason of the immediate danger to the safety of the community against crimes of violence. *Yerkes v. Smith*, 157 Mich. 557, 122 N.W. 223, 224 (1909), citing: *Robison v. Miner*, 68 Mich. 549, 557-58, 37 N.W. 21, 25 (1888).

In the *Yerkes* case, it was held that the playing of baseball on Sunday did not necessarily involve a breach of peace justifying an arrest, though **it may** cause a breach of peace. The Court said that before a summary arrest can be made for a breach of the peace, not only must overt acts be committed in the presence of the officer, but they must be violent and **dangerous acts of some** sort. In the *Robison* case, the Court **held that a liquor law**

ordinance which allowed arrests without process was unconstitutional because it was not pursuant to due process of law.

Where a man was arrested for public drunkenness, the question arose whether this was an offense for which one could be arrested without a warrant. The Supreme Court of Appeals of Virginia declared the law on arrests:

[T]he common law relating to arrest is the law on that subject in Virginia. At common law a peace officer may arrest without a warrant for a breach of the peace committed in his presence, **but for no other misdemeanor**. *Gallihier v. Commonwealth*, 161 Va. 1014, 170 S.E. 734, 736 (1933), authorities cited.

The common law on arrest is the same in every state, **as due process of law** has the same meaning throughout America. The security of the citizen's liberty in this country is to be more highly regarded than it was in England under the common law. To say it is less regarded is to make a mockery of the Revolution.

In a New Jersey case a man was arrested by two city policemen on orders of their superior to do so, alleging that he was guilty of disorderly conduct, and was taken to a police station and held over night. This was done without any charge or complaint made against the man and without any warrant, the only authority for the arrest was that the officers were told to do so. In a suit for false imprisonment it was held by the Supreme Court of New Jersey that the arrest was without authority and gave the following opinion:

The legal principle underlying this case and the one to be applied to the facts is firmly embodied in the roots of the common law, which has been handed down to us from early times unimpaired, in its full vigor, for the Protection of personal liberty, against illegal arrests. The liberty of the person is too important a matter to the state to be interfered with without the safeguards with which the law

guards such invasions. This court has said:

The limits to the power of arrest by a constable, without process, was well defined at common law. The regard for liberty of the person was so great that the common law did not confer upon a mere conservator of the peace the power to touch the person of the subject, of his own volition, except in those cases when the interests of the public absolutely demanded it. *Collins v. Cody*, 95 N.J. Law 65, 113 Atl. 709, 710 (1920).

In a Pennsylvania case a woman was arrested for causing and procuring to be made, loud and annoying sounds and noises at late hours of the night, in a certain tent near a city street, by beating upon a drum. Upon indictment her counsel moved that the indictment be quashed as she was arrested without affidavit and warrant while she was in a tent upon private property. It was held that the arrest was unlawful as the act was such that summary arrest was not justified and due process required a warrant for such arrest:

It is the undoubted right of every person in this community not to be deprived of liberty without due process of law, and if the defendant has been arrested without due process of law, the indictment against her cannot be sustained. * * * It has long been recognized that arrests without warrant are justified in cases of treason, felony or breach of the peace, in which actual or threatened violence is an essential element: 1 Hale's P.C., 589; 2 Hawkin's P.C., ch. 13, sec. 8; 1 Burns, J., 287; 4 Blackstone, 292; 9 Bacon, Abrid., 468; 1 Chitty Cr. Law, 15; Clark's Criminal Procedure, 39; Russell, Crimes, vol. 3, page 83; 4 Amer. and Eng. Ency. of Law, 902. *Commonwealth v. Krubeck*, 8 Penn. Dist. Rep. 521, 522 (1899).

It must be remembered that, "Not every misdemeanor involves a breach of the peace." *Commonwealth v. Gorman*, 192 N.E. 618, 620. Under the common law, acts that were *malum per se*, that is wrong or unlawful by their nature, were often felonies or breaches of the

peace, and subject to arrest without warrant. But that is not the law for an act that was only *malum prohibitum*, being made unlawful only by statute, and without such enactment were otherwise innocent acts. The law asserts that for such statutory misdemeanors, not amounting to a breach of the peace, there is no authority in an officer to **arrest without a warrant**.

As a general principle, no person can be arrested or taken into custody without warrant. But if a felony, or a breach of the peace, has, in fact, been committed by the person arrested, the arrest may be justified. *Burns v. Erben*, 40 N.Y. 463, 466 (1869); see also *Cunningham v. Baker*, 104 Ala. 160, 16 So. 68, 70 (1894).

While the "search and seizure" provision of the constitution regulates the manner in which warrants can be issued, it is the "due process" clause which protects citizens from unlawful arrests without warrant:

"No person shall be deprived of life, liberty, or property without due process of law." And, under like restrictions in the constitution, it has been held in some states that arrests shall not be made without warrant, except for felonies, and for breaches of the peace committed in the presence of the officer arresting. *North v. People*, 139 Ill. 81, 28 N.E.966, 972 (1891).

Thus, where an arrest is made without warrant, in a case not involving a felony or breach of peace, the **arrest is unlawful**. "Arrest without warrant where a warrant is required, is not due process of law, and arbitrary or despotic power no man possesses under our system of government."

Thus when "a police officer exceeds his powers in making an arrest he becomes a trespasser" and he is liable for false imprisonment. *Muscoe v. Commonwealth*, 86 Va. 443, 10 S.E. 534, 536.

For other authorities on this matter see: 1 Am. Law Rep., Anno., 585, et. seq.; *Com. v. Carey*, 12 Cush. 246 (Mass., 1853); 6A C.J.S.,

'Arrest' § 10, p. 17; Anderson, *A Treatise on the Law of Sheriffs*, Vol. I, § 166 (1941); *Hill v. Day*, 168 Kan. 604, 215 P.2d 219; *Lee v. State*, 45 Tex. Cr. R. 94, 74 S.W. 28 (1903); 22 Mich. Law Review 673, 703-707; *Ulvestad v. Dolphin*, 278 P. 681, 684 (Wash. 1929); *In re Kellam*, 55 Kan. 700, 41 P. 960, 961 (1895); *Pavish v. Meyers*, 225 Pac. 633 (Wash., 1924); *Delafoile v. State*, 54 N.J.L. 381, 24 Atl. 557, 558 (1892); *Giroux v. The State*, 40 Tex. 99, 104 (1874); (1892); *Staker v. U.S.*, 2 F.2d 312, 314 (1925); *Porter v. State*, 52 S.E. 283, 285 (Ga. 1905); *Cave v. Cooley*, 152 P.2d 886 (N.M.).

It is a maxim of law that, "Liberty is more favored than all things" (Dig. 50, 17, 122). Thus the law favors liberty above all things and applies the most liberal interpretation to it. The common law rule regarding the procedure and process for arrest was established in this country. In *Allor v. Wayne Co.*, 43 Mich. 76, 97, 4 N.W. 492, 495-96 (1880), Mr. Justice Campbell says:

The constitution has also provided that no one shall be deprived of liberty without due process of law, and has provided that no warrant shall issue except upon oath or affirmation establishing probable cause. It has been settled for centuries, and the doctrine has been recognized here, that except in cases of reasonable belief of treason or felony, or breach of the peace committed in presence of an officer, there is no due process of law without a warrant issued by a court or magistrate upon a proper showing or finding.

It is thus fundamental that "the due process clause of the Constitution protects the citizen from unlawful arrests." *State v. Quinn*, 97 S.E. 62, 64, (S.C. 1918). By the common law, which is that law due process guarantees, a citizen cannot be summarily arrested when he is found violating a law that is only a misdemeanor. A warrant must first be acquired to arrest such a person pursuant to due process of law. If that which constitutes due process of

law is made to depend upon the will of the legislature as expressed in a statute or charter, then no fundamental principles of law or rights are perpetuated or secured against abrogation.

An arrest is a deprivation of one's liberty. The Colorado State Constitution requires that, "*No person shall . . . be deprived of life, liberty or property without due process of law*" as with (Colorado Constitution. Art. I2 Sec. 7). The procedure for arrest under the common law is what constitutes 'due process' today, as the Minnesota Supreme Court held:

What is due process of law is usually a traditional or historical question. Was it due process of law under the common law, and did it remain such up to the time of adopting the constitution. *C.N. Nelson Lumber Co. v. M'Kinnon*, 61 Minn. 219, 222.

The law is very jealous of the liberty of the citizen. Where the offense is less serious, the greater the formality prescribed for the exercise of the power to deprive the citizen of his liberty. *Porter v. State*, 124 Ga. 297, 52 S.E. 283, 285 (1905). The citizen cannot be summarily deprived of his liberty because of his infraction of some ordinance or statute, unless at common law he was liable to arrest. The misdemeanor statute involved in this case is such that it does not allow the Defendants to arrest the Plaintiff without the formality of a Warrant. Therefore, the Defendants are guilty of false imprisonment for arresting the Plaintiff without authority of law.

The foregoing proves that the common law surrounding arrests was always recognized in this country and is thus a requirement for 'Due process' in depriving the Plaintiff of his liberty. It is the 'law of the land.' As such, these principles are constitutional mandates and cannot be abrogated by mere statutes.

- **Modern Supporting Case Law:**

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Respectfully submitted and stated, *Juris et de jure*, by,

Steve Douglas, Gartin

CONSTITUTIONAL PROVISIONS

Fourth and Fourteenth Amendments....2

COLORADO CONSTITUTION

Art. II. subsec. 7 and 25 2

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Date