

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

DOMECO FUGENSCHUH,

Plaintiff,

vs.

BRIAN MINNEHAN, individually and in his official capacity as a law enforcement officer for the Des Moines, Iowa Police Department; RYAN STEINKAMP, individually and in his official capacity as a law enforcement officer for the Des Moines, Iowa Police Department; DANA WINGERT, individually and in his official capacity as Chief of Police for the Des Moines, Iowa Police Department; CITY OF DES MOINES, IOWA,

Defendants.

Case No. _____

PETITION AT LAW and JURY DEMAND

COME NOW the Plaintiff, Domeco Fugenschuh, by and through the undersigned counsel, and for his causes of action, respectfully states the following:

PARTIES

1. Plaintiff Domeco Fugenschuh is a Black United States citizen and was a resident of Des Moines, Polk County, Iowa at all times relevant to the events complained of herein.

2. Defendant Brian Minnehan is believed to be a citizen and resident of Iowa and was employed as a law enforcement officer with the Des Moines, Iowa Police Department at all times relevant to the events complained of herein.

3. Defendant Ryan Steinkamp is believed to be a citizen and resident of Iowa and was employed as a law enforcement officer with the Des Moines, Iowa Police Department at all times relevant to the events complained of herein.

4. Defendant Dana Wingert is believed to be a citizen and resident of Iowa and at all times relevant to the events complained of herein, was employed as the Chief of Police of the City of Des Moines Police Department.

5. Defendant City of Des Moines, Iowa is a municipal corporation organized and authorized to operate under the laws of Iowa and is located at 400 East First Street, Des Moines, Polk County, Iowa. Defendant City is responsible for maintaining and operating the Des Moines Police Department.

JURISDICTION AND VENUE

6. Venue is proper in the District Court for Polk County pursuant to Iowa Code §669.4(1) as the district in which Plaintiff resides and/or in which the acts and omissions complained of occurred.

7. Subject matter jurisdiction of the District Court for Polk County is proper pursuant to Iowa Code § 602.6101.

8. The amount in controversy exceeds the jurisdictional amount.

GENERAL FACTUAL ALLEGATIONS

9. All events complained of herein occurred in Polk County, Iowa.

10. On July 6, 2018, Defendants Steinkamp and Minnehan were on patrol for the Des Moines Police Department in Des Moines, Iowa.

11. Defendants Steinkamp and Minnehan were assigned to the “Summer Enforcement Team.”

12. Officers on the Summer Enforcement Team pretextually stop motorists on a regular basis.

13. Around 11:30pm, Defendants Steinkamp and Minnehan observed Plaintiff driving westbound on Hickman Road.

14. Defendants Steinkamp and Minnehan followed Plaintiff for several blocks and observed that he is Black.

15. Plaintiff made a complete stop at the red light at the corner of 30th Street and Hickman Road and signaled a right-hand turn.

16. The speed limit on 30th Street is 30 MPH.

17. In his car, Plaintiff held up his middle finger.

18. Plaintiff then turned right.

19. There were no vehicles in the intersection at the time Plaintiff turned right.

20. At the time Plaintiff turned right, there was no vehicle approaching so closely as to constitute an immediate hazard.

21. Defendants Steinkamp and Minnehan followed Plaintiff, activated their overhead lights, and pulled Plaintiff over.

22. Plaintiff committed no traffic violation justifying the stop.

23. Defendant Steinkamp approached Plaintiff and immediately—before explaining the reason for the stop and ignoring Plaintiff's questions regarding the reason for the stop—pulled him out of the car and placed him in handcuffs.

24. There was no legitimate reason for Defendant Steinkamp to place Plaintiff in handcuffs.

25. Plaintiff remained calm and did not resist being handcuffed.

26. Defendant Steinkamp told Plaintiff that the reason the officers stopped him was because he had cut another car off. This was false.

27. Defendant Steinkamp walked Plaintiff back to the patrol car and, together with Defendant Minnehan, bent Plaintiff's handcuffed arms up behind his back, forcing him face down on the patrol car.

28. Defendant Steinkamp forced Plaintiff's arms as far as they would go, perpendicular to his body.

29. Plaintiff did nothing to deserve this. He did not resist Defendant Steinkamp's unlawful force.

30. Defendant Minnehan told Plaintiff that "he was going to jail."

31. Defendant Steinkamp the took Plaintiff to the back of the patrol car and proceeded to shove him backwards into the car.

32. Plaintiff was still handcuffed and he fell hard, hitting his head on the car.

33. Defendants Steinkamp and Minnehan ignored Plaintiff's obvious pain and instead hollered at him to get up and sit in the car.

34. Defendants Steinkamp and Minnehan searched Plaintiff's car without probable cause.

35. Defendants Steinkamp and Minnehan falsely alleged that they smelled marijuana to justify the search.

36. Defendants Steinkamp and Minnehan accused Plaintiff of having a scale for weighing drugs. They seized this "scale."

37. Defendants Steinkamp and Minnehan later admitted that the "scale" was only a portable phone charger and placed it back in Plaintiff's vehicle.

38. Defendants Steinkamp and Minnehan charged Plaintiff with Possession of a Controlled Substance (marijuana), in violation of Iowa Code § 124.401(5), and called a paddy wagon to have him transported to jail.

39. Defendants Steinkamp and Minnehan also charged Plaintiff with Turning at Intersection Violation in violation of Iowa Code § 321.311.

40. Plaintiff was booked into jail on those charges.

41. Defendants Steinkamp and Minnehan stated during the stop that they would have let Plaintiff go with a verbal warning if he had not been disrespectful to them.

42. Defendant Minnehan specifically noted that he doesn't usually take people to jail for marijuana possession.

43. On October 10, 2018, the State dismissed the marijuana charge against Plaintiff.

44. On November 7, 2018, a bench trial was held on the Turning at Intersection Violation charge.

45. Defendant Minnehan testified that Plaintiff pulled out in front of another vehicle and the driver of that vehicle had to step on the brakes to avoid a collision.

46. Defendant Steinkamp also testified Plaintiff cut off another driver.

47. Plaintiff disputed Defendants' testimony and asked the court for the police dash camera video of the stop, which would show he did not violate the law.

48. The court informed Mr. Fugenschuh that discovery is not available in simple misdemeanor cases and that the only way he could see the dash camera video was if the prosecution presented it at trial.

49. The prosecution did not present the dash camera video at trial.

50. Based solely on the testimony of Defendants Steinkamp and Minnehan, the Court convicted Plaintiff of the amended charge of Turning at Intersection Violation in violation of Iowa Code § 321.322(1).

51. After he was convicted, Plaintiff obtained the dash camera video.

52. The dash camera video shows that Plaintiff did not violate Iowa Code § 321.322(1).

53. Plaintiff has filed for postconviction relief to vacate his conviction for Turning at Intersection Violation in violation of Iowa Code § 321.322(1).

54. Based on information and belief, neither Defendant Steinkamp nor Defendant Minnehan reported the use of force against Plaintiff.

55. Defendants Steinkamp and Minnehan have a practice of illegally stopping Black motorists. This includes:

- a. Davonte Wiggins, stopped by Ryan Steinkamp and Brian Minnehan on July 18, 2018;
- b. Raphael Webster, stopped by Ryan Steinkamp and Brian Minnehan on July 14, 2018;
- c. Jared Clinton, stopped by Ryan Steinkamp and Brian Minnehan on October 3, 2019.

56. Upon information an belief, multiple complaints have been filed with the Des Moines Police Department due to Defendants Steinkamp and Minnehan for: pretextually stopping other drivers; for unnecessarily arresting other drivers; for racially profiling other drivers; for inappropriately handcuffing other drivers; and for falsely alleging they smelled marijuana.

57. In 2016, 25% of the individuals booked into jail by Defendant Steinkamp were African-American individuals, though African-Americans represent only 11% of the Des Moines population.

58. In 2017, 32% of the individuals booked into jail by Defendant Steinkamp were African-American individuals, though African-Americans represent only 11% of the Des Moines population.

59. In 2018, 46% of the individuals booked into jail by Defendant Steinkamp were African-American individuals, though African-Americans represent only 11% of the Des Moines population.

60. In 2016, 29% of the individuals booked into jail by Defendant Minnehan were African-American individuals, though African-Americans represent only 11% of the Des Moines population.

61. In 2017, 40% of the individuals booked into jail by Defendant Minnehan were African-American individuals, though African-Americans represent only 11% of the Des Moines population.

62. In 2018, 38% of the individuals booked into jail by Defendant Minnehan were African-American individuals, though African-Americans represent only 11% of the Des Moines population.

63. Upon information and belief, the percentage of African-American individuals booked into the Polk County Jail by Des Moines police was 30% in 2014; 30% in 2015; 31% in 2016; 32% in 2017; and 31% in 2018 though African-Americans represented approximately 11% of the Des Moines population.

CAUSES OF ACTION

COUNT 1
UNREASONABLE SEARCH & SEIZURE
CIVIL RIGHTS VIOLATION UNDER 42 U.S.C § 1983
4th AMENDMENT TO THE UNITED STATES CONSTITUTION
(Against Defendants Steinkamp and Minnehan, Individually)

64. Plaintiff incorporates the preceding paragraphs by reference as if each paragraph was set forth here.

65. Defendants Steinkamp and Minnehan are persons for the purpose of a Section 1983 action for damages and this Count is brought against them in their individual capacities.

66. Defendants' actions and omissions were made under the color of authority and law as law enforcement officers for the Des Moines, Iowa Police Department.

67. Defendants violated Plaintiff's clearly established federal constitutional rights by effectuating a warrantless automobile stop without probable cause or reasonable suspicion to do so; extending the stop beyond what was reasonably necessary to resolve the basis of the stop; and searching Plaintiff and his vehicle without reasonable suspicion or probable cause to do so.

68. Defendants demonstrated a deliberate indifference to and reckless disregard of Plaintiff's civil and constitutional rights.

69. Defendants' actions were willful, wanton, unlawful, and in gross disregard of Plaintiff's civil rights, justifying an award of punitive damages.

70. As a direct and proximate result of the Defendants' illegal and unjustified conduct, Plaintiff was injured and is entitled to recover for what he has suffered in the past and will suffer in the future suffer, including:

- a. Deprivation of his constitutional rights;

- b. Humiliation, degradation, public ridicule, loss of personal reputation, and emotional distress;
- c. Actual and Compensatory Damages;
- d. Punitive damages;
- e. All expenses associated with the prosecution of the instant action, including, but not limited to, court costs, anticipated discovery expenses, anticipated expert expenses, and the maximum legally allowable judgment interest; and
- f. Any other expenses allowed by federal or state law, including but not limited to reasonable attorney's fees and costs pursuant to 42 U.S.C. §1988.

WHEREFORE, Plaintiff prays for Judgment against the aforementioned

Defendants as follows:

- a. Actual, Compensatory, Consequential, and all other allowable damages against Defendant in an amount yet to be determined;
- b. Compensation for violation of his constitutional rights, mental anguish, and humiliation;
- c. Plaintiff's cost in this action, including reasonable attorney's fees and costs pursuant to 42 U.S.C. § 1988;
- d. Punitive damages; and
- e. Any other relief the Court deems just and equitable.

COUNT 2
UNREASONABLE SEARCH & SEIZURE
CIVIL RIGHTS VIOLATION OF ARTICLE I, § 8 OF THE IOWA CONSTITUTION
(Against Defendants Steinkamp and Minnehan, Individually)

71. Plaintiff incorporates the preceding paragraphs by reference as if each paragraph was set forth here.

72. This Count is alleged against Defendants in their individual capacities.

73. Defendants' actions and omissions were made under the color of authority and law as law enforcement officers for the Des Moines, Iowa Police Department.

74. Defendants violated Plaintiff's clearly established state constitutional rights by effectuating a warrantless automobile stop without probable cause or reasonable suspicion to do so; extending the stop beyond what was reasonably necessary to resolve the basis of the stop; and searching Plaintiff and his vehicle without reasonable suspicion or probable cause to do so.

75. Defendants demonstrated a deliberate indifference to and reckless disregard of Plaintiff's civil and constitutional rights.

76. Defendants' actions were willful, wanton, unlawful, and in gross disregard of Plaintiff's civil rights, justifying an award of punitive damages.

77. Plaintiff hereby requests reasonable attorney fees and costs associated with prosecuting this action as Defendants' violation of his constitutional right was oppressive, conniving, harsh, cruel, and/or tyrannical.

78. As a direct and proximate result of the Defendants' illegal and unjustified conduct, Plaintiff was injured and is entitled to recover for what he has suffered in the past and will suffer in the future suffer, including:

- a. Deprivation of his constitutional rights;
- b. Humiliation, degradation, public ridicule, loss of personal reputation, and emotional distress;
- c. Actual and Compensatory Damages;
- d. Punitive damages;
- e. All expenses associated with the prosecution of the instant action, including, but not limited to, court costs, anticipated discovery expenses, anticipated expert expenses, and the maximum legally allowable judgment interest; and
- f. Any other expenses allowed by federal or state law, including but not limited to reasonable attorney's fees and costs pursuant to 42 U.S.C. §1988.

WHEREFORE, Plaintiff prays for Judgment against the aforementioned Defendants as follows:

- a. Actual, Compensatory, Consequential, and all other allowable damages against Defendant in an amount yet to be determined;
- b. Compensation for violation of his constitutional rights, mental anguish, and humiliation;
- c. Plaintiff's cost in this action, including reasonable attorney's fees and costs;
- d. Punitive damages; and
- e. Any other relief the Court deems just and equitable.

COUNT 3
EXCESSIVE FORCE
CIVIL RIGHTS VIOLATION UNDER 42 U.S.C § 1983
4th AMENDMENT TO THE UNITED STATES CONSTITUTION
(Against Defendant Steinkamp, Individually)

79. Plaintiff incorporates the preceding paragraphs by reference as if each paragraph was set forth here.

80. Defendant Steinkamp is a person for the purpose of a Section 1983 action for damages and this Count is brought against them in his individual capacity.

81. Defendant's actions and omissions were made under the color of authority and law as a law enforcement officer for the Des Moines, Iowa Police Department.

82. The force used by Defendant Steinkamp was excessive and applied maliciously and sadistically for the purpose of causing harm and not in a good faith effort to achieve a legitimate purpose.

83. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

84. Defendant demonstrated a deliberate indifference to and reckless disregard of Plaintiff's civil and constitutional rights.

85. Defendant's actions were willful, wanton, unlawful, and in gross disregard of Plaintiff's civil rights, justifying an award of punitive damages.

86. As a direct and proximate result of the Defendant's illegal and unjustified conduct, Plaintiff was injured and is entitled to recover for what he has suffered in the past and will suffer in the future suffer, including:

- a. Deprivation of his constitutional rights;
- b. Humiliation, degradation, public ridicule, loss of personal reputation, and emotional distress;
- c. Actual and Compensatory Damages;
- d. Punitive damages;
- e. All expenses associated with the prosecution of the instant action, including, but not limited to, court costs, anticipated discovery expenses, anticipated expert expenses, and the maximum legally allowable judgment interest; and
- f. Any other expenses allowed by federal or state law, including but not limited to reasonable attorney's fees and costs pursuant to 42 U.S.C. §1988.

WHEREFORE, Plaintiff prays for Judgment against the aforementioned Defendant as follows:

- a. Actual, Compensatory, Consequential, and all other allowable damages against Defendant in an amount yet to be determined;
- b. Compensation for violation of his constitutional rights, mental anguish, and humiliation;
- c. Plaintiff's cost in this action, including reasonable attorney's fees and costs pursuant to 42 U.S.C. § 1988;
- d. Punitive damages; and
- e. Any other relief the Court deems just and equitable.

COUNT 4
EXCESSIVE FORCE
CIVIL RIGHTS VIOLATION OF ARTICLE I, § 8 OF THE IOWA CONSTITUTION
(Against Defendant Steinkamp, Individually)

87. Plaintiff incorporates the preceding paragraphs by reference as if each paragraph was set forth here.

88. This Count is alleged against Defendant in his individual capacity.

89. Defendant's actions and omissions were made under the color of authority and law as a law enforcement officer for the Des Moines, Iowa Police Department.

90. The force used by Defendant Steinkamp was excessive and applied maliciously and sadistically for the purpose of causing harm and not in a good faith effort to achieve a legitimate purpose.

91. Defendant demonstrated a deliberate indifference to and reckless disregard of Plaintiff's civil and constitutional rights.

92. Defendant's actions were willful, wanton, unlawful, and in gross disregard of Plaintiff's civil rights, justifying an award of punitive damages.

93. Plaintiff hereby requests reasonable attorney fees and costs associated with prosecuting this action as Defendant's violation of his constitutional right was oppressive, conniving, harsh, cruel, and/or tyrannical.

94. As a direct and proximate result of the Defendant's illegal and unjustified conduct, Plaintiff was injured and is entitled to recover for what he has suffered in the past and will suffer in the future suffer, including:

- a. Deprivation of his constitutional rights;
- b. Humiliation, degradation, public ridicule, loss of personal reputation, and emotional distress;
- c. Actual and Compensatory Damages;

- d. Punitive damages;
- e. All expenses associated with the prosecution of the instant action, including, but not limited to, court costs, anticipated discovery expenses, anticipated expert expenses, and the maximum legally allowable judgment interest; and
- f. Any other expenses allowed by federal or state law, including but not limited to reasonable attorney's fees.

WHEREFORE, Plaintiff prays for Judgment against the aforementioned Defendant as follows:

- a. Actual, Compensatory, Consequential, and all other allowable damages against Defendant in an amount yet to be determined;
- b. Compensation for violation of his constitutional rights, mental anguish, and humiliation;
- c. Plaintiff's cost in this action, including reasonable attorney's fees and costs;
- d. Punitive damages; and
- e. Any other relief the Court deems just and equitable.

COUNT 5
RETALIATION
CIVIL RIGHTS VIOLATION UNDER 42 U.S.C § 1983
1st AMENDMENT TO THE UNITED STATES CONSTITUTION
(Against Defendants Steinkamp and Minnehan, Individually)

95. Plaintiff incorporates the preceding paragraphs by reference as if each paragraph was set forth here.

96. Defendants Steinkamp and Minnehan are persons for the purpose of a Section 1983 action for damages and this Count is brought against them in their individual capacities.

97. Defendants' actions and omissions were made under the color of authority and law as law enforcement officers for the Des Moines, Iowa Police Department.

98. Plaintiff was exercising his First Amendment rights by raising his middle finger in his car and by objecting to the violation of his Fourth Amendment/article I § 8 rights.

99. Defendants violated Plaintiff's clearly established federal constitutional rights by pulling him over, handcuffing him, bending him over the hood of the police vehicle, pushing him down, criminally charging him, and having him transported to jail in retaliation for his exercise of his First Amendment rights.

100. Retaliation was a substantial or motivating factor for Defendants' decision to pull Plaintiff over, handcuff him, bend him over the hood of the police vehicle, push him down, criminally charge him, and have him transported to jail.

101. Defendants would not have taken these actions but for their retaliatory motive.

102. Defendants demonstrated a deliberate indifference to and reckless disregard of Plaintiff's civil and constitutional rights.

103. Defendants' actions were willful, wanton, unlawful, and in gross disregard of Plaintiff's civil rights, justifying an award of punitive damages.

104. As a direct and proximate result of the Defendants' illegal and unjustified conduct, Plaintiff was injured and is entitled to recover for what he has suffered in the past and will suffer in the future suffer, including:

- a. Deprivation of his constitutional rights;
- b. Humiliation, degradation, public ridicule, loss of personal reputation, and emotional distress;
- c. Actual and Compensatory Damages;
- d. Punitive damages;

- e. All expenses associated with the prosecution of the instant action, including, but not limited to, court costs, anticipated discovery expenses, anticipated expert expenses, and the maximum legally allowable judgment interest; and
- f. Any other expenses allowed by federal or state law, including but not limited to reasonable attorney's fees and costs pursuant to 42 U.S.C. §1988.

WHEREFORE, Plaintiff prays for Judgment against the aforementioned Defendants as follows:

- a. Actual, Compensatory, Consequential, and all other allowable damages against Defendants in an amount yet to be determined;
- b. Compensation for violation of his constitutional rights, mental anguish, and humiliation;
- c. Plaintiff's cost in this action, including reasonable attorney's fees and costs pursuant to 42 U.S.C. § 1988;
- d. Injunctive relief enjoining Defendants from committing further constitutional violations;
- e. Punitive damages; and
- f. Any other relief the Court deems just and equitable.

COUNT 6
RETALIATION
CIVIL RIGHTS VIOLATION OF ARTICLE I, § 7 OF THE IOWA CONSTITUTION
(Against Defendants Steinkamp and Minnehan, Individually)

105. Plaintiff incorporates the preceding paragraphs by reference as if each paragraph was set forth here.

106. This Count is alleged against Defendants in their individual capacities.

107. Defendants' actions and omissions were made under the color of authority and law as law enforcement officers for the Des Moines, Iowa Police Department.

108. Plaintiff was exercising his First Amendment rights by raising his middle finger in his car and by objecting to the violation of his Fourth Amendment/article I § 8 rights.

109. Defendants violated Plaintiff's clearly established federal constitutional rights by pulling him over, handcuffing him, bending him over the hood of the police vehicle, pushing him down, criminally charging him, and having him transported to jail in retaliation for his exercise of his First Amendment rights.

110. Retaliation was a substantial or motivating factor for Defendants' decision to pull Plaintiff over, handcuff him, bend him over the hood of the police vehicle, push him down, criminally charge him, and have him transported to jail.

111. Defendants would not have taken these actions but for their retaliatory motive.

112. Defendants demonstrated a deliberate indifference to and reckless disregard of Plaintiff's civil and constitutional rights.

113. Defendants' actions were willful, wanton, unlawful, and in gross disregard of Plaintiff's civil rights, justifying an award of punitive damages.

114. Plaintiff hereby requests reasonable attorney fees and costs associated with prosecuting this action as Defendants' violation of his constitutional rights was oppressive, conniving, harsh, cruel, and/or tyrannical.

115. As a direct and proximate result of the Defendants' illegal and unjustified conduct, Plaintiff was injured and is entitled to recover for what he has suffered in the past and will suffer in the future suffer, including:

- a. Deprivation of his constitutional rights;
- b. Humiliation, degradation, public ridicule, loss of personal reputation, and emotional distress;
- c. Actual and Compensatory Damages;
- d. Punitive damages;

- e. All expenses associated with the prosecution of the instant action, including, but not limited to, court costs, anticipated discovery expenses, anticipated expert expenses, and the maximum legally allowable judgment interest; and
- f. Any other expenses allowed by federal or state law, including but not limited to reasonable attorney's fees and costs.

WHEREFORE, Plaintiff prays for Judgment against the aforementioned Defendants as follows:

- a. Actual, Compensatory, Consequential, and all other allowable damages against Defendants in an amount yet to be determined;
- b. Compensation for violation of his constitutional rights, mental anguish, and humiliation;
- c. Plaintiff's cost in this action, including reasonable attorney's fees and costs;
- d. Injunctive relief enjoining Defendants from committing further constitutional violations;
- e. Punitive damages; and
- f. Any other relief the Court deems just and equitable.

COUNT 7
RACIALLY BIASED POLICING
CIVIL RIGHTS VIOLATION PURSUANT TO 42 U.S.C § 1983
14th AMENDMENT TO THE UNITED STATES CONSTITUTION
(Against Defendants Steinkamp and Minnehan, Individually)

116. Plaintiff incorporates the preceding paragraphs by reference as if each paragraph was set forth here.

117. Defendants Steinkamp and Minnehan are persons for the purpose of a Section 1983 action for damages and this Count is brought against them in their individual capacities.

118. Defendants' actions and omissions were made under the color of authority and law as law enforcement officers for the Des Moines, Iowa Police Department.

119. The actions and omissions of Defendants were undertaken with the intent to discriminate against Plaintiff on account of his race and the color of his skin, denying Plaintiff his Fourteenth Amendment right to equal protection under the law.

120. Defendants singled Plaintiff out for harassment and treated him differently from other similarly situated persons.

121. Defendants' treatment of Plaintiff was intentional, willful, malicious, arbitrary, irrational, motivated by ill-will and racial bias, and exhibited a conscious disregard or reckless indifference to Plaintiff's rights.

122. As a direct and proximate result of the Defendants' illegal and unjustified conduct, Plaintiff was injured and is entitled to recover for what he has suffered in the past and will suffer in the future suffer, including:

- a. Deprivation of his constitutional rights;
- b. Humiliation, degradation, public ridicule, loss of personal reputation, and emotional distress;
- c. Actual and Compensatory Damages;
- d. Punitive damages;
- e. All expenses associated with the prosecution of the instant action, including, but not limited to, court costs, anticipated discovery expenses, anticipated expert expenses, and the maximum legally allowable judgment interest; and
- f. Any other expenses allowed by federal or state law, including but not limited to reasonable attorney's fees and costs pursuant to 42 U.S.C. §1988.

WHEREFORE, Plaintiff prays for Judgment against the aforementioned Defendant as follows:

- a. Actual, Compensatory, Consequential, and all other allowable damages against Defendant in an amount yet to be determined;
- b. Compensation for violation of his constitutional rights, mental anguish, and humiliation;

- c. Plaintiff's cost in this action, including reasonable attorney's fees and costs pursuant to 42 U.S.C. § 1988;
- d. Punitive damages; and
- e. Any other relief the Court deems just and equitable.

COUNT 8
RACIALLY BIASED POLICING
CIVIL RIGHTS VIOLATION OF ARTICLE I, §§ 1 and 6 OF THE IOWA
CONSTITUTION
(Against Defendants Steinkamp and Minnehan, Individually)

123. Plaintiffs replead paragraphs 1 through 153 as if fully set forth herein.

124. This Count is alleged against Defendants in their individual capacities.

125. Defendants' actions and omissions were made under the color of authority and law as law enforcement officers for the Des Moines, Iowa Police Department.

126. The actions and omissions of Defendants were undertaken with the intent to discriminate against Plaintiff on account of his race and the color of his skin, denying Plaintiff his Article I, §§ 1 and 6 right to equal protection under the law.

127. Defendants singled Plaintiff out for harassment and treated him differently from other similarly situated persons.

128. Defendants' treatment of Plaintiff was intentional, willful, malicious, arbitrary, irrational, motivated by ill-will and racial bias, and exhibited a conscious disregard or reckless indifference to Plaintiff's rights.

129. Plaintiff hereby request reasonable attorney fees and costs associated with prosecuting this action as Defendants' violation of his constitutional right was oppressive, conniving, harsh, cruel, and/or tyrannical.

130. As a direct and proximate result of the Defendants' illegal and unjustified conduct, Plaintiff was injured and is entitled to recover for what he has suffered in the past and will suffer in the future suffer, including:

- a. Deprivation of his constitutional rights;
- b. Humiliation, degradation, public ridicule, loss of personal reputation, and emotional distress;
- c. Actual and Compensatory Damages;
- d. Punitive damages;
- e. All expenses associated with the prosecution of the instant action, including, but not limited to, court costs, anticipated discovery expenses, anticipated expert expenses, and the maximum legally allowable judgment interest; and
- f. Any other expenses allowed by federal or state law, including but not limited to reasonable attorney's fees and costs pursuant to 42 U.S.C. §1988.

WHEREFORE, Plaintiff prays for Judgment against the aforementioned Defendants as follows:

- a. Actual, Compensatory, Consequential, and all other allowable damages against Defendant in an amount yet to be determined;
- b. Compensation for violation of his constitutional rights, mental anguish, and humiliation;
- c. Plaintiff's cost in this action, including reasonable attorney's fees and costs;
- d. Punitive damages; and
- e. Any other relief the Court deems just and equitable.

COUNT 9
CONSPIRACY
CIVIL RIGHTS VIOLATION PURSUANT TO 42 U.S.C §§ 1983 and 1985
4th, 5th & 14th AMENDMENTS TO THE UNITED STATES CONSTITUTION
(Against Defendants Steinkamp and Minnehan, Individually)

131. Plaintiff incorporates the preceding paragraphs by reference as if each paragraph was set forth here.

132. Defendants Steinkamp and Minnehan are persons for the purpose of a Section 1983 action for damages and this Count is brought against them in their individual capacities.

133. Defendants' actions and omissions were made under the color of authority and law as law enforcement officers for the Des Moines, Iowa Police Department.

134. Defendants Steinkamp and Minnehan reached an agreement among themselves to deprive Plaintiff of his constitutional rights.

135. In furtherance of the conspiracy, each of the coconspirators committed overt acts and was an otherwise willful participant in joint activity.

136. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

137. As a direct and proximate result of the Defendants' illegal and unjustified conduct, Plaintiff was injured and is entitled to recover for what he has suffered in the past and will suffer in the future suffer, including:

- a. Deprivation of his constitutional rights;
- b. Humiliation, degradation, public ridicule, loss of personal reputation, and emotional distress;
- c. Actual and Compensatory Damages;
- d. Punitive damages;
- e. All expenses associated with the prosecution of the instant action, including, but not limited to, court costs, anticipated discovery expenses, anticipated expert expenses, and the maximum legally allowable judgment interest; and
- f. Any other expenses allowed by federal or state law, including but not limited to reasonable attorney's fees and costs pursuant to 42 U.S.C. §1988.

WHEREFORE, Plaintiff prays for Judgment against the aforementioned Defendants as follows:

- a. Actual, Compensatory, Consequential, and all other allowable damages against Defendant in an amount yet to be determined;
- b. Compensation for violation of his constitutional rights, mental anguish, and humiliation;
- c. Plaintiff's cost in this action, including reasonable attorney's fees and costs pursuant to 42 U.S.C. § 1988;
- d. Punitive damages; and
- e. Any other relief the Court deems just and equitable.

COUNT 10
CONSPIRACY
CIVIL RIGHTS VIOLATION OF ARTICLE I, §§ 6 & 8 OF THE IOWA CONSTITUTION
(Against Defendants Steinkamp and Minnehan, Individually)

138. Plaintiff incorporates the preceding paragraphs by reference as if each paragraph was set forth here.

139. This Count is alleged against Defendants in their individual capacities.

140. Defendants' actions and omissions were made under the color of authority and law as law enforcement officers for the Des Moines, Iowa Police Department.

141. Defendants Steinkamp and Minnehan reached an agreement among themselves to deprive Plaintiff of his constitutional rights.

142. In furtherance of the conspiracy, each of the coconspirators committed overt acts and was an otherwise willful participant in joint activity.

143. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

144. Plaintiff hereby requests reasonable attorney fees and costs associated with prosecuting this action as Defendants' violation of his constitutional right was oppressive, conniving, harsh, cruel, and/or tyrannical.

145. As a direct and proximate result of the Defendants' illegal and unjustified conduct, Plaintiff was injured and is entitled to recover for what he has suffered in the past and will suffer in the future suffer, including:

- a. Deprivation of his constitutional rights;
- b. Humiliation, degradation, public ridicule, loss of personal reputation, and emotional distress;
- c. Actual and Compensatory Damages;
- d. Punitive damages;
- e. All expenses associated with the prosecution of the instant action, including, but not limited to, court costs, anticipated discovery expenses, anticipated expert expenses, and the maximum legally allowable judgment interest; and
- f. Any other expenses allowed by federal or state law, including but not limited to reasonable attorney's fees and costs pursuant to 42 U.S.C. §1988.

WHEREFORE, Plaintiff prays for Judgment against the aforementioned Defendants as follows:

- a. Actual, Compensatory, Consequential, and all other allowable damages against Defendant in an amount yet to be determined;
- b. Compensation for violation of his constitutional rights, mental anguish, and humiliation;
- c. Plaintiff's cost in this action, including reasonable attorney's fees and costs;
- d. Punitive damages; and
- e. Any other relief the Court deems just and equitable.

COUNT 11
DELIBERATELY INDIFFERENT POLICIES, PRACTICES,
CUSTOMS, TRAINING AND SUPERVISION
CIVIL RIGHTS VIOLATION PURSUANT TO 42 U.S.C § 1983
1st, 4th, 5th & 14th AMENDMENTS TO THE UNITED STATES CONSTITUTION
(Against Defendants Wingert, Individually, and City of Des Moines, Iowa)

146. Plaintiff incorporates the preceding paragraphs by reference as if each paragraph was set forth here.

147. Defendants Wingert and City of Des Moines, Iowa are persons for the purposes of a Section 1983 action for damages.

148. Defendant Wingert's actions and/or omissions were made under the color of authority as the Chief of Police and this Count is made against him in his individual capacity.

149. Defendants Wingert and City of Des Moines, Iowa are responsible for establishing, maintaining, and enforcing the official policies, procedures, patterns, practices, and/or customs of the Des Moines Police Department for traffic stops, detention of citizens, handcuffing, interrogations, vehicle searches, citizen searches, documentation of citizen/police interactions, and racially-neutral enforcement.

150. Defendant City of Des Moines, Iowa is charged with the duty to ensure that its law enforcement officers are properly trained and supervised.

151. As Chief of Police, Defendant Wingert is ultimately responsible for the training and supervision of his deputies.

152. Defendants violated Plaintiff's federal constitutional rights by:

- a. permitting City of Des Moines police officers to violate the constitutional rights of citizens;
- b. ratifying and approving the unlawful stopping, seizure, detaining and searching of citizens;
- c. failing to enforce policies and implement policies preventing the unlawful stopping, seizure, detaining and searching of citizens;
- d. tolerating, encouraging, and permitting collusive statements by involved officers in such situations;
- e. failing to adopt and enforce policies to document citizen interactions that do not result in arrest or citation;
- f. failing to adopt a system to identify, track, and monitor problematic police behavior and patterns of unconstitutional conduct;

- g. failing to take adequate disciplinary measures against City of Des Moines police officers who violate the civil rights of citizens;
- h. failing to train and/or supervise properly Defendants Steinkamp and Minnehan in the constitutional requirements for the stopping, seizing, detaining, and searching of citizens;
- i. failing to implement adequate maintenance training and properly focused maintenance training.
- j. permitting City of Des Moines police officers to violate the constitutional rights of citizens;
- k. ratifying and approving the unlawful use of force against citizens;
- l. failing to enforce policies and implement policies preventing the unlawful use of force against citizens;
- m. failing to train and/or supervise properly City of Des Moines police officers in the constitutional requirements for use of force.

failing to implement adequate maintenance training and properly focused maintenance training.

63. Defendants policies, procedures, customs, and/or practices caused the violations of Plaintiff's constitutional and federal rights as set forth herein and in the other claims and resulted from a conscious or deliberate choice to follow a course of action from among various available alternatives.

153. The need for the aforementioned training and supervision was obvious and it was foreseeable that the inadequacy of Defendants' training and supervision was likely to result in the violation of constitutional rights.

154. Defendants demonstrated a deliberate indifference to and/or reckless disregard of Plaintiff's constitutional rights and those similarly situated to them.

155. Defendants failure to train and supervise Defendants Steinkamp and Minnehan caused the violations of Plaintiff's constitutional and federal rights as set forth

herein and in the other claims and resulted from a conscious or deliberate choice to follow a course of action from among various available alternatives

156. As a direct and proximate result of the Defendants' illegal and unjustified conduct, Plaintiff was injured and is entitled to recover for what he has suffered in the past and will suffer in the future suffer, including:

- a. Deprivation of his constitutional rights;
- b. Humiliation, degradation, public ridicule, loss of personal reputation, and emotional distress;
- c. Actual and Compensatory Damages;
- d. Punitive damages;
- e. All expenses associated with the prosecution of the instant action, including, but not limited to, court costs, anticipated discovery expenses, anticipated expert expenses, and the maximum legally allowable judgment interest; and
- f. Any other expenses allowed by federal or state law, including but not limited to reasonable attorney's fees and costs pursuant to 42 U.S.C. §1988.

WHEREFORE, Plaintiff prays for Judgment against the aforementioned Defendants as follows:

- a. Actual, Compensatory, Consequential, and all other allowable damages against Defendant in an amount yet to be determined;
- b. Compensation for violation of his constitutional rights, mental anguish, and humiliation;
- c. Plaintiff's cost in this action, including reasonable attorney's fees and costs pursuant to 42 U.S.C. § 1988;
- d. Punitive damages; and
- e. Any other relief the Court deems just and equitable.

COUNT 12
DELIBERATELY INDIFFERENT POLICIES, PRACTICES,
CUSTOMS, TRAINING AND SUPERVISION
CIVIL RIGHTS VIOLATION PURSUANT TO
ARTICLE I, §§ 1, 6, & 8 OF THE IOWA CONSTITUTION
(Against Defendants Wingert, Individually, and City of Des Moines, Iowa)

157. Plaintiff incorporates the preceding paragraphs by reference as if each paragraph was set forth here.

158. Defendant Wingert's actions and/or omissions were made under the color of authority as the Chief of Police and this Count is made against him in his individual capacity.

159. Defendants Wingert and City of Des Moines, Iowa are responsible for establishing, maintaining, and enforcing the official policies, procedures, patterns, practices, and/or customs of the Des Moines Police Department for traffic stops, detention of citizens, handcuffing, interrogations, vehicle searches, citizen searches, documentation of citizen/police interactions, and racially-neutral enforcement.

160. Defendant City of Des Moines, Iowa is charged with the duty to ensure that its law enforcement officers are properly trained and supervised.

161. As Chief of Police, Defendant Wingert is ultimately responsible for the training and supervision of his deputies.

162. Defendants violated Plaintiff's state constitutional rights by:

- a. permitting City of Des Moines police officers to violate the constitutional rights of citizens;
- b. ratifying and approving the unlawful stopping, seizure, detaining and searching of citizens;
- c. failing to enforce policies and implement policies preventing the unlawful stopping, seizure, detaining and searching of citizens;

- d. tolerating, encouraging, and permitting collusive statements by involved officers in such situations;
- e. failing to adopt and enforce policies to document citizen interactions that do not result in arrest or citation;
- f. failing to adopt a system to identify, track, and monitor problematic police behavior and patterns of unconstitutional conduct;
- g. failing to take adequate disciplinary measures against City of Des Moines police officers who violate the civil rights of citizens;
- h. failing to train and/or supervise properly Defendants Steinkamp and Minnehan in the constitutional requirements for the stopping, seizing, detaining, and searching of citizens;
- i. failing to implement adequate maintenance training and properly focused maintenance training.
- j. permitting City of Des Moines police officers to violate the constitutional rights of citizens;
- k. ratifying and approving the unlawful use of force against citizens;
- l. failing to enforce policies and implement policies preventing the unlawful use of force against citizens;
- m. failing to train and/or supervise properly City of Des Moines police officers in the constitutional requirements for use of force.

63. Defendants policies, procedures, customs, and/or practices caused the violations of Plaintiff's constitutional and federal rights as set forth herein and in the other claims and resulted from a conscious or deliberate choice to follow a course of action from among various available alternatives.

163. The need for the aforementioned training and supervision was obvious and it was foreseeable that the inadequacy of Defendants' training and supervision was likely to result in the violation of constitutional rights.

164. Defendants demonstrated a deliberate indifference to and/or reckless disregard of Plaintiff's constitutional rights and those similarly situated to them.

165. Defendants failure to train and supervise Defendants Steinkamp and Minnehan caused the violations of Plaintiff's constitutional and federal rights as set forth herein and in the other claims and resulted from a conscious or deliberate choice to follow a course of action from among various available alternatives.

166. Plaintiff hereby requests reasonable attorney fees and costs associated with prosecuting this action as Defendants' violation of their constitutional right was oppressive, conniving, harsh, cruel, and/or tyrannical.

167. As a direct and proximate result of the Defendants' illegal and unjustified conduct, Plaintiff was injured and is entitled to recover for what he has suffered in the past and will suffer in the future suffer, including:

- a. Deprivation of his constitutional rights;
- b. Humiliation, degradation, public ridicule, loss of personal reputation, and emotional distress;
- c. Actual and Compensatory Damages;
- d. Punitive damages;
- e. All expenses associated with the prosecution of the instant action, including, but not limited to, court costs, anticipated discovery expenses, anticipated expert expenses, and the maximum legally allowable judgment interest; and
- f. Any other expenses allowed by federal or state law, including but not limited to reasonable attorney's fees and costs pursuant to 42 U.S.C. §1988.

WHEREFORE, Plaintiff prays for Judgment against the aforementioned Defendants as follows:

- a. Actual, Compensatory, Consequential, and all other allowable damages against Defendant in an amount yet to be determined;
- b. Compensation for violation of his constitutional rights, mental anguish, and humiliation;
- c. Plaintiff's cost in this action, including reasonable attorney's fees and costs;

- d. Punitive damages; and
- e. Any other relief the Court deems just and equitable.

COUNT 13
ASSAULT AND BATTERY
(Against Defendant Steinkamp)

168. Plaintiff incorporates the preceding paragraphs by reference as if each paragraph was set forth here.

169. Defendant Steinkamp subjected Plaintiff to contact of an insulting and provoking nature.

170. The actions of Defendant Steinkamp were undertaken without the consent of Plaintiff.

171. The intentional acts of Defendant Steinkamp resulted in bodily contact with Plaintiff that a reasonable person would deem insulting or offensive.

172. As a result of Defendant's acts and omissions, Plaintiff has in the past and will in the future suffer injuries and damages.

173. The actions of Defendant were willful, wanton, unlawful, and in gross disregard of Plaintiff's civil rights, justifying an award of punitive damages.

174. Plaintiff hereby request reasonable attorney fees and costs associated with prosecuting this action as Defendant's behavior was oppressive, conniving, harsh, cruel, and/or tyrannical.

WHEREFORE, Plaintiff respectfully requests judgment against the aforementioned Defendant in an amount which will fully and fairly compensate him for his injuries and damages, including but not limited to compensatory and punitive, for attorney fees, for interest and costs as allowed by law, and such other relief as may be just under the circumstances.

JURY DEMAND

Plaintiff hereby demands a trial by jury in this matter on all counts to which Plaintiff are entitled to a jury.

**PARRISH KRUIDENIER DUNN BOLES GRIBBLE
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