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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

TODD KOLSTAD, Plaintiff, v. CITY OF GLASGOW; VALLEY COUNTY; ROBERT WEBER; TYLER EDWARDS; JOSHUA NOLAN; DOES 1-10; and CORPORATIONS A-J, Defendants.	Cause No. _____ COMPLAINT AND DEMAND FOR JURY TRIAL
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Todd Kolstad, Plaintiff, for his claims against Defendants, alleges as follows:

NATURE OF ACTION

1. This is a civil rights action arising from Defendants' use of excessive force, violation of policies and procedures, assault and batter, and negligence, resulting in serious injury to Plaintiff, on or about December 4, 2021, in Glasgow, Valley County, Montana. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth and Fourteenth Amendments to the United States Constitution, as

well as the laws and Constitution of the State of Montana. Congress enacted the Civil Rights Act in order to protect the rights of Todd and others similarly situated that are guaranteed to all Americans by the Constitution. In this action, Defendants acted unreasonably, in the absence of good faith, and without due care thereby violating Todd's clearly established rights.

JURISDICTION AND VENUE

2. Jurisdiction is proper in this Court under 28 U.S.C. § 1331 because this action arises under the Constitution and law of the United States, and because the Court has supplemental jurisdiction over the state law claims under 18 U.S.C. § 1367.

3. Venue is proper in this Court because the acts and omissions affirmatively alleged herein occurred in Glasgow, Valley County, Montana.

4. Because these claims are not made against the State of Montana or one of its agencies, Mont. Code Ann. § 2-9-301 does not apply and Plaintiff is not required to present his claims to the Department of Administration before filing this Complaint in District Court.

PARTIES

5. Todd brings this action against Defendants for the damages sought herein. Todd is a resident of Valley County, Montana.

6. Defendant, Valley County ("the County"), is a political subdivision of the state of Montana. At all times relevant, the County was responsible under the laws

of agency, vicarious liability and *respondeat superior* for all wrongful, negligent and/or other improper conduct, acts and/or omission of the Valley County Sheriff's Office ("VCSO") and the Valley County Detention Center ("VCDC"), as well as its officers, agents, and employees. VCSO is the County's law enforcement division. VCDC is the County's detention facility.

7. Defendant, the city of Glasgow ("Glasgow"), is a political subdivision of the state of Montana. At all times relevant, the City was responsible under the laws of agency, vicarious liability and *respondeat superior* for all wrongful, negligent and/or other improper conduct, acts and/or omissions of the Glasgow Police Department ("GPD"), as well as its officers, agents, and employees. GPD is the City's law enforcement division.

8. Defendant, Tyler Edwards ("Tyler"), is a police officer with GPD. At all times relevant, Defendant Edwards was acting within the course and scope of his employment. Defendant Edwards is sued in his individual capacity.

9. Defendant, Joshua Nolan ("Nolan"), was a police officer with GPD. At all times relevant, Defendant Nolan was acting within the course and scope of his employment. Defendant Nolan is sued in his individual capacity.

10. Defendant Robert Weber ("Weber") was, at all times pertinent to this action, the Chief of Police of the Glasgow Police Department. Defendant Weber was, at all times pertinent to this action, acting within the course and scope of his employment.

Defendant Weber is sued in his individual capacity, and in his official capacity as the person responsible for establishing the law enforcement policies and procedures of the City of Glasgow.

11. Defendants, Does 1-10, are individuals with identities currently unknown which bear some or all of the liability associated with Plaintiff's claims. It is Plaintiff's belief that these fictitious Defendants participated or assisted in the performance of the wrongful acts and omissions described within this Complaint, although the full extent of their involvement is unknown at this time. Alternatively, these Defendants acted as principles or agents, actual or ostensible of other named Defendants in performing the wrongful acts and omissions described herein, although the full extent of their involvement is currently unknown. Further, one or more of the Doe Defendants were, at all times relevant, responsible for the hiring, screening, training, supervision, rehabilitation and discipline of other Defendants. If and when the names and capacities of these Defendants have been ascertained, appropriate amendments will be sought and accordingly filed.

12. Defendants, Corporations A-J, are entities with identities currently unknown which bear some or all of the liability associated with Plaintiff's claims. It is Plaintiff's belief that these fictitious Defendants participated or assisted in the performance of the wrongful acts and omissions described within this Complaint, although the full extent of their involvement is unknown at this time. Alternatively,

these Defendants acted as principles or agents, actual or ostensible of other named Defendants in performing the wrongful acts and omissions described herein, although the full extent of their involvement is currently unknown. If and when the names and capacities of these Defendants have been ascertained, appropriate amendments will be sought and accordingly filed.

13. Upon information and belief, each of the Defendants named herein were, at all times relevant, agents, servants, employees, partners, joint venturers, co-conspirators, and/or alter egos of the remaining Defendants, and in engaging in the acts and omissions alleged herein were acting within the course and scope of those relationships. Upon further information and belief, each of the Defendants herein gave consent, aided, and assisted each of the remaining Defendants, and ratified and/or authorized the acts and omissions of each Defendant as alleged herein; thus, each Defendant is jointly and severally liable for the damages caused by each other Defendant. All Defendants jointly engaged in tortious activity thereby resulting in the deprivation of constitutional rights.

GENERAL ALLEGATIONS

14. Plaintiff re-alleges the preceding paragraphs as if fully set forth herein.

15. Plaintiff and his family closed on a home in Glasgow, Montana on or about December 2, 2021.

16. On the evening of December 4, 2021, Plaintiff was at his new home in Glasgow with his wife and daughter.

17. Plaintiff's daughter called 911 and reported that her parents were fighting and that she was scared.

18. Approximately two minutes later, Defendants Nolan and Edwards responded to the domestic disturbance call.

19. Defendant Edwards knocked on the front door and Plaintiff opened the front door and allowed Defendants Edwards and Nolan into his home.

20. Edwards asked Todd where his wife was and Todd led the officers down a hallway towards the bedrooms.

21. Edwards called out for Todd's wife while Nolan spoke with Todd.

22. Nolan told Todd that he (Nolan) needed to conduct a pat search, and Todd informed Nolan he did not have any weapons and raised his hands in the air while holding his cell phone.

23. Nolan grabbed Todd, Turned Todd around, and placed him in handcuffs, all while explaining that he needed to do a pat search.

24. Todd was cooperative and complied with Nolan's orders.

25. Nolan attempted to double lock the handcuffs on Todd, pulled Todd back into another area in the hallway, and pulled Todd again, telling him to "stop moving."

26. Nolan's placement of the handcuffs on Todd was too tight and caused Todd to suffer extreme pain and numbness.
27. Todd repeatedly asked Nolan to re-place the handcuffs because they were hurting him.
28. Nolan ignored Todd's requests and Todd has suffered permanent injuries as a result of the handcuffs being placed incorrectly and too tight.
29. Nolan pulled the handcuffed Todd back again and then forcefully slammed him to the ground causing him to fall on his head and face.
30. Todd complained of pain to his mouth and informed the officer that he was bleeding from his mouth.
31. Nolan and Edwards stood Todd up to his feet, and Todd spit blood as the officers moved him to the front door.
32. Once outside, Nolan left Edwards with Todd, retrieved his patrol car that was parked away from the house, and re-parked it near the front steps of the house.
33. Nolan rejoined Edwards and Todd at the house, and Edwards began to escort Todd down snow-covered steps to the patrol car.
34. Todd slipped and fell after the first step and Edwards and Nolan carried Todd to the patrol car.
35. Nolan transported Todd to the Valley County Jail.

36. Once at the jail, Valley County Sheriff's Deputy Jake Kinder responded to assist Nolan while EMS evaluated Todd.

37. Todd was booked into jail.

38. As a result of the incident, Plaintiff was initially charged with Partner Family Member Assault and Resisting Arrest.

39. Todd is still awaiting trial for the resolution of his criminal charges.

40. Plaintiff suffered injuries as a result of the brutal attack and excessive use of force on him by Defendants.

COUNT I – 42 USC § 1983
All Defendants

41. Plaintiff re-alleges the preceding paragraphs as if fully set forth herein.

42. Defendants' actions set forth above violated 42 USC § 1983 depriving Plaintiff of constitutional rights protected by the Fourth and Fourteenth Amendments to the United States Constitution, including the right to be free from unreasonable seizure, excessive and unreasonable force, and unlawful deadly force, as secured by the Fourth and Fourteenth Amendments.

43. Defendants' wrongful conduct was committed knowingly, maliciously, or with conscious and reckless disregard for the rights and safety of Todd.

44. As a direct and proximate result of Defendants' acts or omissions as set forth above, Todd sustained injuries and damages in an amount to be proven at trial.

45. The Defendants' conduct entitles Todd to an award of punitive damages and penalties allowable under 42 USC § 1983 and Mont. Code Ann. § 27-1-221.

COUNT II – *MONELL* CLAIM

City of Glasgow, Valley County, Chief Robert Weber, and Does 1-10

46. Plaintiff re-alleges the preceding paragraphs as if fully set forth herein.

47. The unconstitutional actions or omissions of Defendants the City of Glasgow, Valley County, Chief Weber, and Does 1-10 described above were taken pursuant to customs, policies, practices, or procedures of Glasgow Police Department, Chief Weber, which were directed, encouraged, allowed, or ratified by the above-named, including but not limited to; the use of excessive force; the tolerance of the use of excessive force; failing to call for backup; escalating situations that did not warrant escalation; failure to use appropriate and generally accepted procedures for apprehending suspects; failing to investigate or evaluate prior complaints or incidents involving excessive force; failing to investigate and discipline violations of constitutional rights; encouraging or tolerating a "code of silence" among law enforcement officers whereby officers refuse to provide adverse information against one another; tolerating or promoting inadequate, deficient and improper procedures for handling, investigating and reviewing complaints of officer misconduct; failing to discipline officers who use excessive force or commit other civil rights violations; tolerating recurring instances of violent and fatal interactions with the public; failing to maintain a process for identifying and deterring excessive use of force or other

civil rights violations; failing to adopt adequate policies to effectively prevent the unnecessary use of excessive force, and failing to adopt adequate policies to effectively prevent unnecessary escalation of incidents.

48. Defendants Glasgow, Valley County, Weber, and Does 1-10 failed to properly screen, retain, review, train, instruct, monitor, supervise, evaluate, investigate, and discipline Deputies and Does 1-10, and in so failing, acted with indifference to Plaintiff's constitutional rights.

49. Defendants Glasgow, Valley County, Chief Weber, and Does 1-10 have approved, tolerated and ratified the unconstitutional conduct of the Officer Defendants by finding their actions in using force against Todd were justified and by failing to sanction or discipline the Officer Defendants.

Commented [MD1]: Not sure if we need to add Valley County Sheriff. I'm not sure if the Sheriff's Office was really involved in the initial incident.

50. The allegations set forth in Count II were the proximate cause of the deprivation of Todd's constitutional rights.

51. The allegations set forth in Count II were done maliciously and with conscious disregard for the safety and rights of Todd.

52. Todd has been damaged by the Defendants' actions in an amount to be proven at trial.

COUNT III – NEGLIGENCE All Defendants

53. Plaintiff re-alleges the preceding paragraphs as if fully set forth herein.

54. Each of the Defendants owed Todd a duty to act with reasonable care.

55. The duties owed by the Officer Defendants include the duty to: refrain from unnecessarily using excessive force; refrain from unnecessarily creating or escalating a situation where the use of excessive force might become necessary; refrain from abusing their authority; act reasonably under the circumstances in accordance with their training and experience; and to refrain from violating Todd's constitutional rights.

56. In addition, Glasgow, Valley County, Chief Weber and Does 1-10 had a duty to use reasonable care to properly screen, investigate the background of, hire, train, supervise, monitor, evaluate, "de-program," and discipline its employees, agent, and law enforcement officers, including the Officer Defendants.

57. Glasgow, Valley County, Chief Weber and Does 1-10, had a duty to make, adopt, enforce and act in conformance with policies, customs, and procedures that are lawful and protective of citizens' constitutional rights.

58. Glasgow, Valley County, Chief Weber and Does 1-10 had a duty to refrain from making, adopting or enforcing policies, procedures, or customs that violate citizens' constitutional rights.

59. The Defendants breached each of their duties set forth above as alleged in this Complaint.

60. The Defendants' breach of their duties caused injuries and damages to Todd in an amount to be proven at trial.

COUNT IV – ASSAULT AND BATTERY
Defendants Nolan and Edwards

61. Plaintiff re-alleges the preceding paragraphs as if fully set forth herein.

62. Defendants Nolan and Edwards intentionally threatened harmful and offensive contact against Todd under circumstances which created a well-founded fear of such harmful and offensive contact and further Defendants Nolan and Edwards did appear to have the present ability to carry out such threat and in fact did carry out such contact when they slammed Todd to the ground causing injuries to his head and face.

63. Defendants Nolan and Edwards did intentionally, wantonly and maliciously attack Todd and the intentional contact was harmful and offensive.

64. As a result of the assault carried out on Todd by the officers, Todd has sustained serious and permanent injuries.

COUNT V – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
Defendants Nolan and Edwards

65. Plaintiff re-alleges the preceding paragraphs as if fully set forth herein.

66. Plaintiff has suffered serious and severe emotional distress as a result of the physical attack that was administered by the Defendants.

67. Plaintiff's serious and severe emotional distress was reasonably foreseeable as a consequence of Defendants' assault and battery.

WHEREFORE, Plaintiff requests the following relief against each and every Defendant, jointly and severally:

- A. All past and future medical expenses;
- B. All past and future physical and mental pain and suffering;
- C. All out-of-pocket expenses;
- D. All past and future wage loss;
- E. Punitive damages under 42 USC § 1983 and Mont. Code Ann. § 27-1-221, in an amount to be proven at trial;
- F. Plaintiff's costs of suit;
- G. Reasonable attorney's fees and costs as allowed under state or federal law; and
- H. Such further relief as the Court may deem just and equitable under the circumstances.

JURY TRIAL DEMAND

Plaintiff demands a trial by jury on all issues appropriate for jury trial.

DATED this ____ day of December, 2023.

SIEFERT & WAGNER, PLLC

By: _____
Nathan G. Wagner
Attorney for Plaintiff