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13 Attorneys for the Plaintiff

14 MONTANA TWENTY-SECOND JUDICIAL DISTRICT COURT, CARBON COUNTY

15	TIFFANY McKINNEY	Plaintiff,
16	vs.	
17	The CITY OF RED LODGE,	
18	MONTANA,	
19	CHIEF STEVEN HIBLER, individually	
20	and in his official capacity,	
21	OFFICER GREG SROCK, individually	
22	and in his official capacity,	
23	JOHN DOE One, individually and in his	
24	official capacity,	
	JOHN DOE Two individually and in his	
	official capacity, and	
	JOHN DOE Three, individually and in his	
	official capacity,	
	Defendants.	

No. DV 16-
Hon. BLAIR JONES
COMPLAINT and JURY
DEMAND

25 Comes now the Plaintiff, Tiffany McKinney (hereinafter "McKinney") by and
26 through her attorneys, A.W. Kendall, and Raymond G. Kuntz and respectfully
27 complains against the defendants as follows:

- 1 1. All acts complained of in this matter took place in Carbon County, Montana.
- 2 2. Defendant City of Red Lodge is a municipal entity in Carbon County, Montana.
- 3 3. Defendant Hibler is Chief of the Red Lodge Police Department.
- 4 4. Defendant Srock is a police officer employed by the City of Red Lodge.
- 5 5. The City of Bearcreek is a municipal entity in Carbon County, Montana. The
- 6 City of Red Lodge Police Department has no jurisdiction or authority in the City of
- 7 Bearcreek.
- 8 6. Defendants John Doe One, John Doe Two and John Doe Three are unknown
- 9 officers and or executives of the City of Red Lodge who participated in, planned,
- 10 approved or ratified the acts and offenses described herein.
- 11 7. On January 23, 2016 defendant Srock applied for a warrant to search the
- 12 residence of Stacey Palmer and William Michael Evans, Jr. at 112 North First Street
- 13 in Bearcreek Montana. In his sworn application for the warrant Srock falsely
- 14 represented himself to be acting as a reserve deputy for Carbon County.
- 15 8. Neither Srock nor Hibler nor any other officer or executive of the City of Red
- 16 Lodge informed the Carbon County Sheriff or the Carbon County Attorney of the
- 17 warrant application at or before the time it was made.
- 18 9. Srock knew that McKinney does not live in the same house as Palmer and Evans.
- 19 Srock had no probable cause to support a warrant application for McKinney's home
- 20 and knew that he had no legal basis to search McKinney's home.
- 21 10. Srock did not seek and did not obtain a search warrant for McKinney's home.
- 22 11. On or about January 23 or shortly after midnight on January 24, 2016, defendant
- 23 Srock, came, along with the defendant Hibler, to McKinney's home in Bearcreek,
- 24 Montana and demanded entrance into the home. Srock shouted to McKinney, "Search
- 25 Warrant!", and gained entrance without McKinney's consent. Srock was in possession
- 26 of a search warrant at the time. The warrant, however, was not for McKinney's
- 27 residence, but for a separate residence next to hers.

1 12. Because Srock had applied for the warrant earlier in the day, before the Hon. L.
2 Kevin Nichols, Carbon County Justice of the Peace, he knew that he was forcing his
3 way into the wrong house. A true copy of the sworn application for the warrant is
4 attached hereto as Exhibit A and made a part hereof.

5 13. At the time, Srock, Chief Hibler, and several other RLPD officers were in full
6 RLPD uniforms and armed and purported to be acting as peace officers in Bearcreek.

7 14. No official in the Town of Bearcreek had any knowledge of the raid by RLPD
8 and no permission had been given to the Red Lodge Police Department by the Town
9 of Bearcreek.

10 15. No Carbon County Sheriff's Officer personnel were at the scene at the time.

11 16. The Carbon County Sheriff's Office and the Carbon County Attorney's Office
12 had not been advised of the warrant's existence or its execution beforehand.

13 17. Once Srock was inside her house, he arrested McKinney, who was no threat to
14 him or any other officer, by forcing her to her knees on the floor and handcuffing her
15 wrists behind her back. He then accused her of being affiliated with the woman who
16 was leasing the residence which was the intended target of the search warrant. Other
17 than that, he gave no reason for her arrest.

18 18. No one in attendance had search warrant for McKinney's home. No one in
19 attendance had an arrest warrant for Ms. McKinney or anyone else.

20 19. Srock then took McKinney out of her house and while cuffed and in his custody,
21 she fell on the icy ground and sustained injuries.

22 20. Srock picked her up and placed her in a locked RLPD patrol car. She went later
23 to the Beartooth Billings Hospital where she was treated for her injuries and for
24 extreme anxiety which was caused by the defendants' actions. Ms. McKinney still
25 suffers from and is being medically treated for anxiety attacks as a result of the
26 defendants' actions.

27 21. Srock and the other RLPD officers then searched the residence the warrant was
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1 intended for and arrested and eventually jailed the two occupants.

2 22. Although no arrest warrant was ever issued and no probable cause statement
3 exists, both occupants were cited, on information and belief, with felony possession of
4 dangerous drugs. Both were released from jail on January 25,2016, and the case
5 against them was dismissed on motion of the Red Lodge City Prosecutor.

6 23. Ms. McKinney fears her former neighbors may retaliate against her, wrongly
7 thinking that she somehow caused their arrest.

8 **COUNT 1: DAMAGES CLAIM FOR VIOLATION OF THE RIGHT TO**
9 **PRIVACY PURSUANT TO ARTICLE II, § 10 OF THE MONTANA**
CONSTITUTION.

10 24. The plaintiff restates and realleges the foregoing paragraphs of the complaint as
11 if fully set forth herein.

12 25. The foregoing acts violate McKinney's right to privacy pursuant to Art. II, § 10
13 of the Montana Constitution. The defendants' violation of McKinney's Constitutional
14 right to privacy has caused McKinney damages.

15 **COUNT 2: DAMAGES CLAIM FOR VIOLATION OF THE RIGHT TO**
16 **BE FREE FROM UNREASONABLE SEARCH AND SEIZURE**
17 **PURSUANT TO ARTICLE II, § 11 OF THE MONTANA**
CONSTITUTION.

18 26. The plaintiff restates and realleges the foregoing paragraphs of the complaint as
19 if fully set forth herein.

20 27. The foregoing acts violate McKinney's right to be free from unreasonable search
21 and seizure pursuant to Art. II, § 11 of the Montana Constitution. The defendants'
22 violation of McKinney's Constitutional right to be free from unreasonable search and
23 seizure has caused McKinney damages.

24 **COUNT 3: DAMAGES CLAIM FOR VIOLATION OF THE RIGHT TO**
25 **DUE PROCESS OF LAW PURSUANT TO ARTICLE II, § 17 OF THE**
MONTANA CONSTITUTION.

26 28. The plaintiff restates and realleges the foregoing paragraphs of the complaint as
27 if fully set forth herein.

1 29. The foregoing acts violate McKinney's right to privacy pursuant to Art. II, § 17
2 of the Montana Constitution. The defendants' violation of McKinney's Constitutional
3 right to due process has caused McKinney damages.

4 **COUNT 4: TORT CLAIM FOR FALSE ARREST PURSUANT TO**
5 **MONTANA STATE LAW.**

6 30. The plaintiff restates and realleges the foregoing paragraphs of the complaint as
7 if fully set forth herein.

8 31. By unlawfully arresting McKinney without a warrant, and without reason to
9 believe she had committed a crime, the officers falsely arrested her. The defendants'
10 false arrest of McKinney has caused her damages.

11 **COUNT 5: TORT CLAIM FOR FALSE IMPRISONMENT PURSUANT**
12 **TO MONTANA STATE LAW.**

13 32. The plaintiff restates and realleges the foregoing paragraphs of the complaint as
14 if fully set forth herein.

15 33. By unlawfully restraining McKinney against her will, the officers falsely
16 imprisoned her. The defendants false imprisonment of McKinney has caused her
17 damages.

18 **COUNT 6: TORT CLAIM FOR ASSAULT AND BATTERY**
19 **PURSUANT TO MONTANA STATE LAW.**

20 34. The plaintiff restates and realleges the foregoing paragraphs of the complaint as
21 if fully set forth herein.

22 35. By their actions the officers intended to, and did, cause a harmful or offensive
23 contact with McKinney.

24 36. The assault and battery committed by the defendants has caused damages to
25 McKinney.

26 **COUNT 7: TORT CLAIM FOR TRESPASS.**

27 37. The plaintiff restates and realleges the foregoing paragraphs of the complaint as
28 if fully set forth herein.

1 38. By their actions the officers intended to, and did, trespass on McKinney's
2 property.

3 39. The trespass by the defendants has caused damages to McKinney.

4 **COUNT 8: NEGLIGENCE.**

5 40. The plaintiff restates and realleges the foregoing paragraphs of the complaint as
6 if fully set forth herein.

7 41. The defendants owed McKinney a duty of care and breached that duty of care
8 by causing McKinney to fall on the ice outside her residence while illegally restrained
9 and in the course of being forcibly removed from her residence against her will. The
10 defendants' breach of their duty of care has proximately caused damages to McKinney
11 including pain, fear, anxiety and emotional distress.

12 **COUNT 9: VICARIOUS LIABILITY OF THE CITY UNDER**
13 **MONTANA STATE LAW FOR THE TORTS OF THE OFFICERS**
14 **COMMITTED IN THE COURSE AND SCOPE OF THEIR**
15 **EMPLOYMENT.**

16 42. The plaintiff restates and realleges the foregoing paragraphs of the complaint as
17 is fully set forth herein.

18 43. The tortious actions of the officers were taken in the course and scope of their
19 employment with the City of Red Lodge, and the City is therefore vicariously liable
20 under Montana law for damages caused as a result of those tortious actions.

21 **COUNT 10: NEGLIGENT SUPERVISION.**

22 44. The plaintiff restates and realleges the foregoing paragraphs of the complaint as
23 is fully set forth herein.

24 45. The City was negligent in supervising the officers and is directly liable to
25 McKinney for damages caused by the breach of those duties.

26 **WHEREFORE** the plaintiff respectfully requests that the Court award:

- 27 A. Damages for violation of the Constitutional right to privacy;
- 28 B. Damages for violation of the Constitutional right to be free from unreasonable


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- search and seizure;
- C. Damages for violation of the Constitutional right to due process;
- D. Damages for false arrest;
- E. Damages for assault and battery,
- F. Damages for false imprisonment;
- G. Damages for trespass;
- H. Damages for negligence and negligent supervision,
- I. Damages against the City of Red Lodge for the torts of its officers,
- J. Punitive damages,
- K. Attorney fees pursuant to the private attorney general doctrine and costs as provided by law; and
- L. Such other and further relief as the Court may deem appropriate.

JURY DEMAND

The plaintiff hereby demands a trial by jury.

DATED this 5th day of February, 2016.

A.W. KENDALL
ATTORNEY AT LAW

A.W. Kendall

pipes, rolling papers, strainers, water pipes, rolling machines, and stash containers.

1 Methamphetamine, Methamphetamine derivatives, Methamphetamine cutting agents, adulterants
2 or materials, Methamphetamine paraphernalia, including but not limited to pipes, spoons, straws,
3 strainers, tooters, mirrors, razor blades, needles, vials, grinders, stash containers. Cocaine,
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5 4. In support of my assertion as to the existence of probable cause, the following facts
6 are offered, based upon an investigation: On or about January, 18th at approximately 2057,
7 I was dispatched to Beartooth Billings Clinic Emergency Room (2525 Broadway Avenue
8 North / Red Lodge, Montana 59068) regarding a disturbance. After my arrival on scene, I
9 spoke with the involved male (Evans, Williams Michael Jr. DOB – 03/20/1990) while he
10 was waiting for a ride to his residence (112 North First Street / Bearcreek, Montana 59007).
11 Evans stated to Trooper Bullock (MHP badge no. 187) and I that he was cohabitating with a
12 female (Palmer, Stacy DOB – 11/02.1978) in Bearcreek Montana at the above listed address.
13 While waiting for Palmer to retrieve Evans from the Hospital, Evans asked Trooper Bullock
14 and I if we would be able to use information regarding drug use, transactions, distributions,
15 and transports in large amounts. Bullock and I continued to speak with Evans regarding the
16 drug activity and gave several names regarding the activity. The first name that Evans
17 informed us of was Baranko, Aaron Kyle DOB – 03/18/1982. Baranko was placed under
18 arrest on 01/19/2015 at approximately 1937. When I contacted Baranko on this date, he
19 was in immediate possession approximately 17 grams of crystal methamphetamine,
20 a methamphetamine glass blown pipe (commonly referred to as a loker), \$300 in cash, a
21 digital scale used to weigh said methamphetamine (residue on scale), and numerous amounts
22 (100's) of small baggies or jewelers bags. On 01/23/2016 at approximately 2215, Baranko's
23 vehicle was observed parked in front of 112 North First Street / Bearcreek, Montana 59007.
24 Towards the end of Evans's conversation with me, he said that crystal methamphetamine
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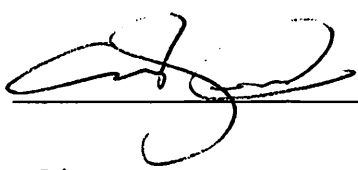
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2 is commonly dropped off at his house (112 North First Street / Bearcreek, Montana 59007)
3 by a local female (Webb, Brandi Lea DOB – 03/06/1996). Evans stated that Webb will drop
4 off crystal methamphetamine to his Bearcreek residence to possess / conceal until she
5 begins to make sales. After said sales are make, Evans stated that she (Webb) will return to
6 the Bearcreek residence to collect the methamphetamine and begin to part it up and sell to
7 drug users in the city of Red Lodge and throughout Carbon County.
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11 On 01/18/2016, Trooper Bullock had given Evans a ride to his residence, as his transport
12 home did not show up to retrieve him from the hospital where the original disturbance
13 call had taken place. After medical direction, Trooper Bullock (also with permission of
14 Evans) had accompanied him into the home to ascertain that another sober responsible
15 party was present to provide care / direct supervision to Evans if need be. While Trooper
16 Bullock was inside of the residence (112 North First Street / Bearcreek Montana 59007) he
17 Observed a longer stemmed (appeared to be) glass pipe on the coffee table, in the living
18 Room to the left and inside of the front door. With Trooper Bullock's training and
19 Experience, he stated that this device appeared to be used for smoking marijuana. Trooper
20 Bullock stated that observing indications of a possible domestic abuse incident, he exited the
21 Residence to obtain a photographic camera. Upon returning to the inside of the residence,
22 Palmer, Stacy had removed and or concealed the pipe from where it was originally located on
23 the coffee table.
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WHEREFORE, your applicant requests that the court issue a search warrant directing a search for and seizure of the above-described property.

DATED this 23 day of January, 2016.

 / PL-4

Sworn to before me this 23 day of Jan, 2016



Approved by

Printed Name: _____
Notary Public for the State of _____

Montana residing at _____.

My Commission expires _____.

LANDLORD: Dixie McLambrell 717 2 Adams Red Lodge, MT
(Name and address of owner or person authorized to act for owner for service of process and receiving notices.)

TENANT: Tiffany McKinney

PREMISES: 142 N. 7th Bearcreek, MT

PREMISES MANAGER: Dixie McLambrell BOX 946 Red Lodge
Name Address 446-2424

PARTIES AGREE THAT each of the general and special terms of this Agreement and of Landlord's Rules and regulations, if any, constitutes an independent condition on Tenant's right to possession of the Premises. Any failure by Tenant to comply with one or more of such terms shall constitute a default hereunder and Landlord may terminate this Agreement and Tenant's right to possession of the Premises in any manner provided by law. 425-0012

Special Terms

PARTIES FURTHER AGREE THAT:

1. The term of this tenancy shall be month to month beginning July 7, 2015
2. Tenant shall pay to Landlord a monthly rental of \$ 450.00 payable in advance without demand on the 7th day of each month. Tenant shall deliver payment to Landlord at Red Lodge, MT. If rent is not received within 5 days of the due date, lessee shall pay a late fee of \$25.
3. Tenant shall pay for all utilities and services supplied to the Premises except garbage pick up - gas and electricity are part of rent
4. Tenant shall not assign this Agreement or sublet or otherwise permit the use of the Premises for any purpose other than as a private dwelling solely for Tenant and his family consisting of:
Tiffany McKinney

5. Tenant acknowledges receipt of the copy of the written statement of the condition of the Premises attached hereto as Exhibit A. Tenant shall deposit with Landlord the sum of \$ 500.00 to secure Tenant's compliance with all the conditions of this Agreement. In the event of a default by Tenant under the conditions of this Agreement, Landlord may deduct the amount necessary from the deposit to compensate Landlord for all tangible loss, injury or deterioration of the leasehold premises caused by Tenant, his family or guests, plus all unpaid rent, and cleaning expenses as allowed by law. Upon termination of the tenancy, Landlord will within 30 days deliver to Tenant a written list of any deductions from the Security Deposit and payment of the balance due to Tenant. Said list and payment will be mailed to the new address of Tenant provided to Landlord prior to moving. If the deposit is insufficient to satisfy the damages, cleaning charges and unpaid rent, Landlord may collect the deficiency from Tenant. The late charge shall be deemed additional rent for the rental and collected as such.

Maintenance Responsibilities: (Watering, mowing, snow removal, etc.)

Repairs must be approved in advance by the manager. The tenant shall maintain the smoke detector in good working order during the tenant's rental period. CO2 detector also

Remarks: Will rent for a minimum of 1 year - will give 30 days notice before moving. - Will pay pet deposit of 300.00 before moving. cat in. Rent may increase a maximum of \$35.00 per month depending on utility usage.

Landlord's signature, agent for landlord Dixie McLambrell Tenant's Signature Tiffany McKinney

Security deposit in the amount of 500.00 received 6/29/15 by DM
Date Initials

Rent in the amount of _____ received _____ by _____

Rental Agreement