

Howard G. Brown
1344 Lakeridge Drive
Baton Rouge, LA 70802
Phone: (504) 756-1987
Fax: (985) 238-3818

**IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE
DISTRICT OF LOUISIANA**

HOWARD BROWN,	)	
Plaintiff,	)	
V.	)	Case No. 3:22-CV-00264-SDD-RLB
CITY OF CENTRAL,	)	
ET AL.,	)	
Defendants.	)	

MOTION FOR SUMMARY JUDGMENT

COMES NOW, Plaintiff, Howard Brown (“Plaintiff or Brown”), to move this Honorable Court for Summary Judgment pursuant to **FRCP Rule 56**.

I. INTRODUCTION

Plaintiff will show that Defense has failed to file timely documents with the exception of three **(3)** documents on the record: **(1)** the answer to the complaint (**Doc. 7**) filed on June 6, 2022, **(2)** Motion to Dismiss on behalf of Noah Mckneely in his OFFICIAL capacity filed August 11, 2022, and **(3)** Motion to Dismiss on behalf of Darren Sibley in his OFFICIAL capacity filed September 7, 2022. All other filings by the Defense have not been timely. Further, Defense has failed to place even one **(1)** piece of admissible evidence on the record and has relied solely on the words and ramblings of Defense Counsel which is at best second hand knowledge and at worst hearsay. Plaintiff contends that there are no material facts in this case that are in dispute and therefore is entitled to summary judgment in favor of the Plaintiff.

Summary judgment shall be rendered when the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no

genuine issue of material fact and the moving party is entitled to judgment as a matter of law.

Fed. R. Civ. P. 56(c); Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986). Summary judgment is appropriate in any case where the critical evidence is so weak or tenuous on an essential fact that it could not support a judgment in favor of the non-movant. ***Little v. Liquid Air Corp., 37 F.3d 1069, 1076 (5th Cir. 1994).***

Hearsay, conclusory allegations, unsubstantiated assertions, and unsupported speculation are not competent summary judgment evidence. ***Fed. R. Civ. P. 56(e)(1); see, e.g., Eason v. Thaler, 73 F.3d 1322, 1325 (5th Cir. 1996); McIntosh v. Partridge, 540 F.3d 315, 322 (5th Cir. 2008); see also Little, 37 F.3d at 1075*** (noting that a non-movant's burden is “not satisfied with ‘some metaphysical doubt as to the material facts’ ”) (***citing Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp., 475 U.S. 574, 586 (1986).***

Summary judgment is mandated if the non-movant fails to make a showing sufficient to establish the existence of an element essential to their case on which they bear the burden of proof at trial. ***See Celotex, 477 U.S. at 322; Wenner v. Tex. Lottery Comm'n, 123 F.3d 321, 324 (5th Cir. 1997).*** “In such a situation, there can be ‘no genuine issue as to any material fact’ since a complete failure of proof concerning an essential element of the non-moving party's case necessarily renders all other facts immaterial.” ***Id. at 322–23.*** “If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by **Rule 56(c)**, the court may...consider the fact undisputed for purposes of the motion.” ***Fed. R. Civ. P. 56(e)(2).***

The party opposing summary judgment is required to identify specific evidence in the record and to articulate the precise manner in which that evidence supports his or her claim. ***Ragas v. Tenn. Gas Pipeline Co., 136 F.3d 455, 458 (5th Cir. 1998).***

II. JUDICIAL NOTICE

Allegations made in a pro se complaint are held “to a less stringent standard than formal pleadings drafted by lawyers.” *Haines v. Kerner*, 404 U.S. 519, 520 (1972). To hold a pro se plaintiff to strict compliance “would be inequitable” as courts would punish a pro se plaintiff “for lacking the linguistic and analytical skills of a trained lawyer.” *Perez v. United States*, 312 F.3d 191, 194–95 (5th Cir. 2002). To avoid such a result, “courts have adopted the rule that a pro se plaintiff’s pleadings are liberally construed.” *Id.* Even though pleadings by a pro se litigant are held to a less stringent standard, courts must be able to draw the reasonable inference from the pleadings that the defendant is liable for the misconduct alleged. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556 (2007)).

III. TIMELY RESPONSES

1. The CITY OF CENTRAL (Hereinafter “CITY”) was served process in their CEO’s office (Mayor), David Barrow, on May 18, 2022. **(Doc. 6)**
2. Due to the fact that ROGER LYNN CORCORAN (Hereinafter ‘Corcoran’) and JOHN H. PORCHE (Hereinafter ‘Porche’) are still employed by the CITY, Corcoran and Porche were effectively served in their OFFICIAL CAPACITIES on May 18, 2022 with service to the CITY’s CEO **(Doc 6)**.

a. FRCP Rule 4 Summons

i. (j) Serving a Foreign, State, or Local Government

1. (2) State or Local Government. A state, a municipal corporation, or any other state-created governmental organization that is subject to suit must be served by:

a. (A) delivering a copy of the summons and of the complaint to its chief executive officer

b. “A core tenet of 42 U.S.C. § 1983 jurisprudence is that an official-capacity suit against an individual is really a suit against that official's government entity.” *Banks v. Slay*, 875 F.3d 876, 878 (8th Cir. 2017). “[A]lthough official capacity suits may be a legal fiction, they are a legal fiction with meaning.” *Gillpatrick v. Frakes*, 2018 WL 1955123, at *4 (D. Neb. Apr. 17, 2018).

c. La Rules of Civil Procedure Article 1265. Political Entity; public officer

i. Service of citation or other process on any political subdivision, public corporation, or state, parochial or municipal board or commission is made at its office by personal service upon the chief executive officer thereof, or in his absence upon any employee thereof of suitable age and discretion. A public officer, sued as such, may be served at his office either personally, or in his absence, by service upon any of his employees of suitable age and discretion. If the political entity or public officer has no established office, then service may be made at any place where the chief executive officer of the political entity or the public officer to be served may be found.

3. The CITY answered the complaint (**Doc. 7**) in a timely fashion filing June 8, 2022.
4. The CITY did NOT mention any named Defendants other than the CITY in its answer to the complaint.
 - a. A government employer's entry of appearance is not deemed an entry of appearance by its employees sued in their official capacities. *Gillpatrick v. Frakes*, 2018 WL 1955120, at *3 (D. Neb. Feb. 26, 2018).
5. Porche was served in his individual capacity on July 14, 2022. (**Doc. 14**)
6. Corcoran was served in his individual capacity on July 25, 2022. (**Doc. 32**)
7. NOAH MCKNEELY (Hereinafter 'Mckneely') was served in his INDIVIDUAL and OFFICIAL CAPACITY, in person, on July 29, 2022. (**Doc. 32**)
8. DARREN SIBLEY (Hereinafter 'Sibley') was served in his INDIVIDUAL and OFFICIAL CAPACITY, in person, on August 17, 2022. (**Doc. 38**)
9. The CITY answered Plaintiff's complaint on June 8, 2022 (**Doc. 7**) just inside the 21-day time limit mentioning no other named Defendants and denying all allegations.
10. On August 1, 2022, the first response from any named Defendants appeared on the record via a *Motion to Dismiss* (**Doc. 20**) naming Porche and Corcoran in their OFFICIAL capacities, well beyond the 21-day time limit for answering their summons.
11. Mckneely appears on the record, in his OFFICIAL capacity only, for the first time via a *Motion to Dismiss* (**Doc. 31**) on August 11, 2022, and has yet to respond in his INDIVIDUAL capacity which is well beyond the 21-day time limit for answering his summons served on July 29, 2022.
12. Sibley appears on the record, in his OFFICIAL capacity only, for the first time via a *Motion to Dismiss* on September 7, 2022, and has yet to respond in his INDIVIDUAL capacity

which is well beyond the 21-day limit for answering his summons served on August 17, 2022.

- a. “Acts performed by the same person in two different capacities ‘are generally treated as the transactions of two different legal personages.’ ” *Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 543 n.6, 106 S.Ct. 1326, 89 L.Ed.2d 501 (quoting *F. James & G. Hazard, Civil Procedure § 11.6, p. 594 (3d ed. 1985)*). “An individual acting in his personal capacity is a different legal person than one acting in his official capacity.” *Gillpatrick*, 2018 WL 1955123, at *4.

13. At no time, as of the writing of this motion, has Corcoran answered on the record in his INDIVIDUAL capacity.
14. At no time, as of the writing of this motion, has Porche answered on the record in his INDIVIDUAL capacity.
15. At no time, as of the writing of this motion, has McKneely answered on the record in his INDIVIDUAL capacity.
16. At no time, as of the writing of this motion, has Sibley answered on the record in his INDIVIDUAL capacity.

IV. QUALIFIED IMMUNITY

17. The doctrine of qualified immunity shields government officials from liability for § 1983 claims against them in their individual capacities insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have

known. *42 U.S.C.A. § 1983. Muslow v. City of Shreveport, 491 F. Supp. 3d 172 (W.D. La. 2020).*

18. It is abundantly clear that Defense Counsel does not represent Corcoran, Porche, McKneely, or Sibley in their INDIVIDUAL capacities.
19. Being that Corcoran, Porche, McKneely, and Sibley cannot shield their official capacities with qualified immunity; there are no facts in dispute here that would prevent summary judgment in favor of the Plaintiff.

V. JUDICIAL ESTOPPEL

20. Defendants' Counsel has filed no less than four **(4)** *Motions to Dismiss*, only two **(2)** of which were timely, all with generally the same arguments as to why Plaintiff's complaint should be dismissed. However, the statements made in these motions **(Documents 20, 29, 31, & 37)** are in stark contradiction to the statements contained in Counsel's Answer to the Complaint which was the first document filed in this case on Defendants' behalf **(Doc. 7)**. Counsel must be placed in judicial estoppel to prevent assuming inconsistent and convenient positions regarding the facts in this case.

- a. Fifth Circuit, has recognized three requirements for applying the doctrine: **(1)** the party's position must be clearly inconsistent with a previous one, **(2)** the court must have accepted the previous position, and **(3)** the non-disclosure of an asset must not have been inadvertent. *In re: Superior Crewboats, Inc., 374 F.3d 330, 335 (5th Cir.2004)*. As to the third element, the Fifth Circuit has elaborated that a non-disclosure is "inadvertent" when the party to be estopped was unaware of the facts giving rise to his claim or there was no

motive for concealment. *See **10 Jethroe v. Omnova Solutions, Inc., 412 F.3d 598, 601 (5th Cir. 2005).*

- b. “The policies underlying the doctrine include preventing internal inconsistency, precluding litigants from playing fast and loose with the courts, and prohibiting parties from deliberately changing positions according to the exigencies of the moment.” *United States v. McCaskey, 9 F.3d 368, 378 (5th Cir.1993).*
- c. Judicial estoppel is a common law doctrine by which a party who has assumed one position in his pleadings may be estopped from assuming an inconsistent position. Generally, the doctrine applies in cases where a party attempts to contradict his own sworn statements in the prior litigation. *USLIFE Corp. v. U.S. Life Ins. Co., 560 F.Supp. 1302, 1304–05 (N.D.Tex.1983).* The purpose of the doctrine is “to prevent parties from ‘playing fast and loose’ with (the courts) to suit the exigencies of self interest.” *Id. at 1305 (citing Scarano v. Central Ry. Co. of New Jersey, 203 F.2d 510, 513 (3d Cir.1953)).*

21. Defense Counsel in his answer (**Doc. 7**), flatly and repeatedly denies ALL, “liability on the part of the City, the City’s Chief, or the City’s Officers. All remaining allegations contained therein are denied, denied as written, and denied for lack of sufficient information to justify a reasonable belief there.”

22. On June 13, 2022, Plaintiff reached out to Defense Counsel, via email, (**Exhibit F**) to share pictures of the unidentified defendants and ask for his help in identifying them.

23. In the same email on June 13, 2022, Plaintiff asked Defense Counsel, “Am I to understand that you solely represent the City and none of the other men at the scene?”

24. Defense Counsel having answered the complaint five (5) days prior responded promptly within 30 minutes stating, "...I will certainly ask the folks with the CITY to help identify the individuals..." **(Exhibit F)**
25. Defense Counsel continued in this same email to say, "As to who I will represent, I suspect I will ultimately be assigned representation of the Officers employed by the City in their **Official Capacities**. However, at this stage, I have **only been assigned to represent the City** as that is the only served named defendant to which I could be assigned."
26. Tuesday, June 28, 2022, **(20 days after answering complaint)** Defense Counsel, after another prompting from Plaintiff, responds in an email stating in part, "As to the John Does, I have asked the City Attorney to look into it with the Chief of Police. I haven't heard back yet. If I don't have a response by the time I return, I will schedule a meeting with the Chief myself to see what information I can provide." **(Exhibit F)**
27. Thursday, July 14, 2022, **(36 days after answering complaint)** after another prompting from Plaintiff, Defense Counsel replies, via email, and states, "Upon my return from being out of town on July 6th, since I had not heard back from the City Attorney, I had my paralegal work to set up an appointment for me with the Chief and officers with the City in this matter. My meeting is tomorrow. After that meeting, I will get back with you with the information I learn." **(Exhibit F)**
28. Monday, July 18, 2022, **(40 days after answering complaint)** Plaintiff receives an email from Counsel stating, "I met with folks from Central on Friday...." **(Exhibit F)**
29. Tuesday, July 19, 2022, Plaintiff responds to previous email thanking Counsel for the information he passed along and included in the response, "You do know that I have a video of the entire encounter, right?" **(Exhibit F)**

30. (41 days after answering complaint and 4 days after meeting with the ‘folks from

Central’) Counsel promptly replied within 30 minutes stating, “No, I didn’t know that you have a video of everything.” (Exhibit F)

31. Finally, Friday, September 2, 2022, responding to further inquiry from Plaintiff about who Defense Counsel was representing, Counsel stated in part, “...I was assigned to represent the City and the officers in their official capacities.” (Exhibit F)

a. **Rule 1.3 of Louisiana Rules for Professional Conduct**

- i. [1] A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client’s cause or endeavor. A lawyer must also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client’s behalf. A lawyer is not bound, however, to press for every advantage that might be realized for a client. For example, a lawyer may have authority to exercise professional discretion in determining the means by which a matter should be pursued. See Rule 1.2. The lawyer’s duty to act with reasonable diligence does not require the use of offensive tactics or preclude the treating of all persons involved in the legal process with courtesy and respect.
- ii. [2] A lawyer’s work load must be controlled so that each matter can be handled competently.
- iii. [3] Perhaps no professional shortcoming is more widely resented than procrastination. A client’s interests often can be adversely affected by

the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness. A lawyer's duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer's client.

32. When Defense Counsel, without investigating or inquiring into the facts of the case, submitted the answer to the complaint (**Doc. 7**), he was placed in Estoppel from making claims inconsistent with his first claims submitted in the answer.
33. All of Defense Counsel's Motions and Memorandums (**Documents 20, 29, 31 & 37**) contain claims and facts inconsistent with that of the previous claims made in his answer to the complaint (**Doc. 7**).
34. Counsel, failing to interview his clients and investigate the facts, now states that the reason for the stop was a missing license plate. This is patently false. Defendant Porche told Plaintiff, at the beginning of the stop, that it was for speeding, yet denied Plaintiff's request to see the radar.
35. On page 2 ¶ 4 under #5 (**Doc. 7**), Counsel specifically **denies and denied as written** that Porche wrote falsified citations in the name of one, Alexander Ryan Gourney.
36. On Page 2 of Document 7 ¶ 5 under #6, again, Counsel denies that falsified citations were written by Porche in the name of one, Alexander Ryan Gourney.

37. Yet, on page 6 of **Doc. 20-1** Counsel admits, “**Citations were issued** in that name (Referring to one, Alexander Ryan Gourney) as it was the only name the officers were able to determine from the information provided by Plaintiff...”
38. Once again, Counsel has failed to do his due diligence in reading the complaint, and investigation of, and inquiry about the facts surrounding Plaintiff’s Complaint. The complaint clearly states on page 7 line #1 (**Doc 1**), “Plaintiff handed Defendant Porche a notarized document as identification....” While Plaintiff is not proud of the wording in this document, it was nonetheless notarized; thereby identifying Plaintiff by signature and under attested seal by a 3rd party as one, Howard Gary Brown, Jr. on page 11 of the Notice to Officials (**Exhibit D**).
39. Plaintiff admitted that his name was Gary to the State Trooper Alex Nezgodinsky when asked.
40. Plaintiff provided NO documents that contained the name Alexander Ryan Gourney.
41. The name, Ryan Alexander Gourney, came from either a computer that referenced the vehicle’s VIN number (hearsay) or the stolen title that Plaintiff specifically denied the Defendants.
42. Page 8 line 11 (**Doc 1**) states, “Plaintiff later realized that the **title to his automobile was removed** from the compartment under the seat while these events occurred.”
43. The Title supplied here as (**Exhibit C**) clearly shows one, Alexander Ryan Gourney, signing the back of the title as the seller of the automobile.
44. Page 2 ¶ 4 under #5 (**Doc. 7**), Counsel denies and denies as written that the Plaintiff’s property was seized and towed.

45. Counsel denies this allegation again on the same page 2, ¶ 5 under #6, “...allegations contained therein are denied.”
46. Counsel for a third time denies this allegation page 2 ¶ 6 that continues onto page 7, “denied, denied as written, and denied for lack of....”
47. Counsel continues on page 3 last ¶, “All remaining allegations contained therein are **denied, denied as written, and denied** for lack....”
48. Page 4 1st ¶ under #12, “All remaining allegations contained therein are denied, denied as written, and denied for lack of...”
49. Page 4 ¶ 2 under # 13, “Claim 7: Conversions are denied.....All remaining allegation contained therein are denied, denied as written, and denied for lack...”
50. Yet, on page 7 first sentence (**Doc. 20-1**) carried over from page 6, “...the officers then had the **bike towed**.”
51. Proof thereof is (**Exhibit G¹**)
52. Counsel states on page 7, 1st ¶ (**Doc. 7**), “The actions of Chief Corcoran and Officer Porche....**did not violate the law**.”
- a. *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**. ~ Fourth Amendment of the United States Constitution.*

At any time, Counsel can place on the record the warrant signed by a judge with probable cause supported by Oath or affirmation and describing Plaintiff and his property that

¹¹ Storage Report (Self-authenticating document according to FRE Rule 902)

authorized the loss of property rights. Anything short of hard evidence on the record admits the crime, Counsel's words are just hearsay and a feeble attempt to mislead the court in its search for the truth.

53. Page 6, under Tenth Defense (**Doc. 7**), Counsel states, "...the injuries complained of are a result of, the fault of the Plaintiff and/or other third persons or entities. **In the alternative**, in the event that this Court finds any negligence and/or fault on the part of any of the City..."
54. Page 6, under Eleventh Defense (**Doc. 7**), Counsel mendaciously states, "...plaintiff failed to mitigate any damages..."
55. Counsel has no clear direction on his defense. **First**, there are no crimes committed and no rights violated which equates to no damages.
56. **Next**, the damages were the fault of the Plaintiff.
57. **Finally**, if there were damages caused by the City then we want to claim immunity.
58. Plaintiff cannot decipher nor defend the elusive defense put forth by Counsel; this incoherent drivel that takes a different position with each new sentence and is equivalent to standing in quicksand. No reasonable man can take from these statements a definitive path to a defense.
59. Defense Counsel refers to the above statements as '**discrepancies**' and states the following in reference to said '**discrepancies**,' "These discrepancies have a simple and known explanation to those who are acquainted with posture of the American legal system and are far from an attempt to 'obfuscate, stonewall or mislead the court'."
60. Plaintiff contends that the American legal system is built on truth and justice and in that spirit, Plaintiff would beg to differ on the 'obfuscate, stonewall or mislead the court'
61. Legal argumentation is an excuse for attorneys to use circular and duplicitous arguments using mere opinions instead of actual facts. Discrepancies in language are used to litigate as tactical warfare, distorting the truth, obfuscating from facts, and ultimately used in an attempt to delay the

proceedings, drive the cost of litigation up, harass the Plaintiff, and mislead the court. Precise language is used when searching for the objective truth.

62. Whatever these ‘**discrepancies**’ are they are clearly not facts, which means there cannot be disputed facts that would prevent summary judgment in favor of the Plaintiff.

VI. FEDERAL QUESTIONS

63. Plaintiff has posed this Court two (2) questions that seem to be eerily missing from any of Defense Counsel’s documents.
64. Being that Defense Counsel has failed to respond to the Federal Questions portion of the complaint; there are no disputed facts here that would prevent a summary judgment in favor of the Plaintiff.

VII. CONVERSION

65. Defense Counsel mentions Conversion one (1) time in the answer to the complaint (**Doc. 7**) on page 4 under number 13, “The allegations contained in the section of Plaintiff’s Complaint entitled “Claim 7: **Conversions**” are denied as to any assertion of liability on the part of the City, the City’s Chief, or the City’s Officers. All remaining allegations contained therein are denied, denied as written, and denied for lack of sufficient information to justify a reasonable belief therein.”
66. To establish a claim for conversion, a plaintiff must prove that **(1)** the plaintiff owned or had possession of the property or entitlement to possession; **(2)** the defendant unlawfully and without authorization assumed and exercised control over the property to the exclusion of, or inconsistent with, the plaintiff’s rights as an owner; **(3)** the plaintiff demanded return of the

property; and **(4)** the defendant refused to return the property. *Grand Champion Film Prod., L.L.C. v. Cinemark USA, Inc.*, 257 S.W.3d 478, 485 (Tex. App.—Dallas 2008, no pet.). The plaintiff also must establish it was injured by the conversion. *United Mobile Networks, LP. v. Deaton*, 939 S.W.2d 146, 147 (Tex. 1997) (per curiam); *RPK Capital*, 360 S.W.3d at 699.

67. The mere fact that the Plaintiff was operating the automobile at the time of the stop combined with the possession of title (**Exhibit C²**) satisfies the first element.
68. Element two (**2**) of Conversion is satisfied by **Exhibit G³** that provides a receipt for the automobile seized by the CITY.
69. Element three (**3**) of Conversion is satisfied by **Exhibit E⁴** that details the plethora of times that Plaintiff contacted the CITY about this incident and his good faith efforts to try and resolve this matter.
70. Element four (**4**) of Conversion is satisfied by the fact that we are here in federal court because the CITY has refused to communicate with Plaintiff much less return his property.
71. Since all four (**4**) elements of conversion are satisfied within the sworn record of this court and while Counsel denies this allegation, Plaintiff has proven that Counsel has not been diligent in search of the facts; as his words are riddled with ‘**discrepancies**’ that we now KNOW cannot be facts.
72. There are no disputed facts here that would prevent the grant of summary judgment in favor of the Plaintiff.

² Title to Motorcycle (Self-Authenticating document in accordance with FRE rule 902)

³ Storage Report containing Motorcycle VIN: JH2RC46061M300401 (Self-Authenticating document in accordance with FRE rule 902)

⁴ Plaintiffs attempts to settle

VIII. UNLAWFUL SEIZURE UNDER THE 4TH AMENDMENT – COLOR OF STATE LAW

73. It is a Fact that the CITY seized Plaintiff's automobile⁵ (**Exhibit G**⁶)
74. It is a Fact that the CITY has not placed on record with this court any evidence of a warrant supported by Oath or affirmation and particularly describing Plaintiff's liberty or automobile as things to be seized as is required by the Fourth (4th) Amendment to the United States Constitution.
75. Being that the Fourth Amendment requires evidence of a warrant there are no disputed facts in this matter that would prevent the granting of summary judgment in favor of the Plaintiff.

IX. CONSPIRACY AGAINST RIGHTS

76. Pursuant to Title 18 U.S.C. § 241 All Defendants acting under the orders of policy making Defendant Corcoran while brandishing deadly weapons moved in concert with one another to injure, oppress, threaten, and intimidate Plaintiff in the free exercise and enjoyment of Plaintiff's constitutionally protected inviolable rights.
77. All Defendants, whether knowingly or not, made the presumption or assumption that Plaintiff was an inhabitant of the municipal corporation known as and operating as the CITY OF CENTRAL subject to the corporate by-laws of the CITY OF CENTRAL.

⁵ Motorcycle with VIN: JH2RC46061M300401

⁶ Storage Report containing Motorcycle VIN: JH2RC46061M300401 (Self-Authenticating document in accordance with FRE rule 902)

78. Two or more persons acted in concert to deprive Plaintiff of constitutionally secured rights absent of due process of law and resulting in injury and damages to both personal autonomy and tangible property. **(Exhibit B⁷)**
79. The impact of chilling and deterring Plaintiff's free exercise of constitutionally protected rights constitutes irreparable harm to the Plaintiff.
80. Defense mentions this cause of action by title only in his Answer to the Complaint **(Doc. 7)** and denies the allegation.
81. Again, the defense has placed **zero (0) facts of the record** much less any that would dispute these facts; only the ramblings of Counsel which Plaintiff has proven to be unreliable and contradictory of the facts in the case.
82. There are no material facts in dispute here that would prevent the granting of summary judgment in favor of the Plaintiff.

X. DEPRIVATION OF RIGHTS UNDER COLOR OF LAW

83. Pursuant to Title 18 U.S.C. § 242, Plaintiff suffered actual damages at the hands of municipal employees under the color of law and in the wanton disregard to the inviolable sacred rights of property and personal autonomy of the Plaintiff as secured by the Constitution of the United States and Federal Law.
84. In the absence of due process and with the threat of deadly weapons the Defendants placed Plaintiff under duress and used coercion working under the color of state law, municipal

⁷ Plaintiff's Iphone Video of nearly the entire incident.

codes, and statutes to willfully subject Plaintiff to the deprivation of rights, privileges, and/or immunities secured by the Constitution or laws of the United States.

85. Defense mentions this cause of action by title only in his Answer to the Complaint (**Doc. 7**) and denies the allegation.

86. Defense has placed **zero (0) facts of the record** much less any that would dispute these facts; only the ‘**discrepancies**’ of Counsel which Plaintiff has proven to be unreliable and contradictory of the facts in the case.

87. There are no material facts in dispute here that would prevent the granting of summary judgment in favor of the Plaintiff.

XI. COMMON LAW CONSPIRACY

88. All defendants had **(1)** task to be accomplished; **(2)** had an agreement on the object or course of action, to wit, to deprive Plaintiff of his liberty and property; **(3)** performed, ordered, or allowed one or more unlawful overt acts; and **(4)** caused Plaintiff damages as a direct result of those acts.

89. Defendant Corcoran in malfeasance of office ordered the seizure of Plaintiff’s personal and tangible property.

90. Defendants **chilled, deterred, and arrested** the free movement of Plaintiff in the exercise of his personal autonomy and seized his tangible property void of a warrant and in the absence of due process of law.

91. All defendants directly or indirectly protected, insulated, and authorized agents to act in wanton disregard to the constitutionally protected rights of the Plaintiff, creating a workplace environment at the City of Central Police Department that recklessly and callously deprived Plaintiff of his rights.
92. As a direct result of Defendants' actions Plaintiff suffered deprivation, loss, and actual damages to personal and tangible property.
93. Defense mentions this cause of action by title only in his Answer to the Complaint (**Doc. 7**) and denies the allegation.
94. Defense has placed **zero (0) facts of the record** much less any that would dispute these facts; only the '**discrepancies**' of Counsel which Plaintiff has proven to be unreliable and contradictory of the facts of the case.
95. There are no material facts in dispute here that would prevent the granting of summary judgment in favor of the Plaintiff.

XII. TRESPASS

96. Defendants unlawfully trespassed on Plaintiff's inviolable and exclusive right to enjoy, use, and dispose of property, without warrant or due process of law, and without expressed or implied consent of Plaintiff.
97. Defendants by show of force and deadly weapons worked in concert together to deprive Plaintiff of sacred inviolable rights of property absent of due process of law.
98. Brandishing deadly weapons, one or more Defendants instigated, requested, directed, and/or carried out the arrest and detention of Plaintiff, thereby imposing restraints upon Plaintiff's liberty, in the absence of a warrant and/or due process of law.

99. Defendant **Corcoran** **ordered** the seizure of Plaintiff's tangible property (automobile) while all other defendants worked in concert with the order to trespass upon Plaintiff's property and deprive him of said property.
100. The aforesaid acts of Defendants were beyond the scope of their employment, exceeded their authority, or discretion, and/or were committed wantonly in a culpable or grossly negligent manner causing Plaintiff actual damages.
101. Defense mentions this cause of action by title only in his Answer to the Complaint (**Doc. 7**) and denies the allegation.
102. Defense has placed zero (0) facts of the record much less any that would dispute these facts; only the '**discrepancies**' of Counsel which Plaintiff has proven to be unreliable and contradictory of the facts of the case.
103. There are no material facts in dispute here that would prevent the granting of summary judgment in favor of the Plaintiff.

XIII. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

104. Plaintiff survives on a very humble and meager income relying on family and friends for shelter. Plaintiff is required to move around as to not overstay his welcome at any one place. Plaintiff relied solely on his automobile for mobility between shelters.
105. Plaintiff has had to digest a lifetime's worth of legal knowledge which has caused expenses that weren't scheduled, experienced weight loss, and other symptomologies due to the mental and emotional distress caused by Defendant's negligence.

106. Defendants knew or should have known that forcing Plaintiff to the side of the road, while using the **threat of deadly force**, surrounding Plaintiff in an armed street gang stance, assaulting Plaintiff, **stealing** papers, **seizing** his only mode of transportation, seizing his liberty, and leaving him stranded on the side of the road tens (10s) of miles from his origin or destination is extreme and outrageous conduct.
107. **The policies, customs, and procedures** of the CITY OF CENTRAL, specifically the storing of automobiles without proper authority, under the **direction of Defendant Corcoran**, demonstrates the willful intent to cause severe emotional distress.
108. As a direct result of these actions taken, Plaintiff has suffered and continues to suffer sleep deprivation as well as severe mental and emotional distress combined with a lack of mobility due to the deprivation of property (automobile).
109. Defense mentions this cause of action by title only in his Answer to the Complaint (**Doc. 7**) and denies the allegation.
110. Defense has placed zero (0) facts of the record much less any that would dispute these facts; only the '**discrepancies**' of Counsel which Plaintiff has proven to be unreliable and contradictory of the facts of the case.
111. There are no material facts in dispute here that would prevent the granting of summary judgment in favor of the Plaintiff.

XIV. EMPANELMENT OF GRAND JURY

112. Plaintiff has demanded that a Grand Jury be empaneled to investigate the crimes of Title 18 §§ 241 and 242 respectively, which incorporates by reference absent of any legal or

lawful authority, the assault and deprivation of rights as secured by the United States Constitution.

113. Plaintiff identified, with specificity, the defendants' actions or lack thereof that deprived Plaintiff of a constitutionally secured right, thereby satisfying the first essential element of title 18 § 241.

114. Further, Plaintiff has identified, via falsified citations, the color of law that the deprivation of constitutional rights occurred under satisfying the 2nd necessary element.

115. Lastly, Plaintiff, also plead correctly, the mens rea of the Defendants in denying the Plaintiff his Constitutionally secured rights, absent of any legal or lawful authority.

116. Plaintiff identified several officers present that had the ability to use deadly force, and while Defendants' Counsel would like to just ignore or sweep these allegations under the rug, the Plaintiff contends, that two or more persons did go in disguise, and did conspire, **absent of any legal or lawful authority**, to injure, oppress, threaten, and/or intimidate the Plaintiff to the proximate result being injury to the Plaintiff.

117. "Whoever, under color of ANY law, statute, **ordinance**, regulation, or custom willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, immunities secured or protected by the Constitution and/or laws of the United States , and is subjected to different punishments, pains, or penalties on account of such person being an alien by reason of his color or race than are prescribed for the punishment of citizens shall be fined under this title or imprisoned not more than one year, or both;"

XV. CRIMINAL RECORDS

118. Plaintiff has uncovered multiple legal issues for the known defendants at the scene in Central on August 6, 2020.

- a. State Trooper Alex Nezgodinsky, Trooper Alex in the complaint, received disciplinary measures from his employer, LOUISIANA STATE POLICE, in 2018 for taking a lavish 'side trip' to Las Vegas while driving to a law enforcement conference in California. A State Police investigation determined the troopers improperly charged the public for thousands of dollars in overtime while taking a circuitous route to the California conference, including overnight stays at a Las Vegas casino resort and the Grand Canyon.⁸
- b. Assistant Police Chief, Darren Sibley, resigned his position after being arrested for cyberstalking.⁹
- c. Roger Lynn Corcoran has become famous for being the 2nd cop in American History to arrest a Pastor for holding church.¹⁰ "Chief Roger Corcoran issued the warrant "for aggravated assault (RS 14:37) based on video evidence of an incident that occurred on April 19, 2020," Corcoran even participated in the arrest. Adjudicated in this very court under the Honorable Brian Jackson. In a very sly move by Corcoran, the pastor was actually charged with RS 14:37 Aggravated Assault. Whether Corcoran initiated the action or was pressured

⁸ https://www.theadvocate.com/baton_rouge/news/crime_police/article_ad32155c-9be7-11e8-82dc-0f8194da75b5.html

⁹ <https://www.wbrz.com/news/assistant-police-chief-resigns-after-cyberstalking-arrest>

¹⁰ <https://www.the-sun.com/news/715250/coronavirus-pastor-tony-spell-arrested-video-run-protester-over/>

by his superiors, Corcoran with his numerous decades in law enforcement, should have had some inkling of an idea that it might be in violation of constitutional rights. Blindly following edicts placed on paper by knee-jerk reaction politicians is not what experience should mean in law enforcement.

119. Out of the 9 other men at the scene at least three (3) of them have suspect behavior on the record. This certainly denotes policies and customs at the City of Central's Police Department need to be updated and the Officers, including the Chief Policymaker there, Roger Lynn Corcoran, needs additional training in law enforcement.

WHEREFORE, the Plaintiff moves this Honorable Court to enter an order for Summary Judgment in favor of the Plaintiff on all issues with no genuine disputes of material fact as a matter of law and the rules of this Court.

Howard Brown *pro se*

VERIFICATION OF MOTION FOR SUMMARY JUDGMENT

STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

BEFORE ME personally appeared Howard Brown who, being by me first duly sworn and identified in accordance with Louisiana law, deposes and says:

I, Howard Brown, is the named Plaintiff above and state and swear before God, under penalty of perjury, under the laws of the United States, that the following is true and correct to the best of my knowledge:

1. I am over the age of 18 and am competent to testify before this court.
2. I am the Plaintiff in the above-entitled action and I am familiar with the files, records and pleadings in this matter.
3. The facts set forth in this petition are true and correct to the best of my knowledge.

FURTHER THE AFFIANT SAYETH NAUGHT.

Howard Brown, Affiant

SWORN TO and subscribed before me this 19th day of September, 2022.

Notary Public

My commission expires:

CERTIFICATE OF SERVICE

UNDER PENALTY OF PERJURY, I CERTIFY that a copy of the foregoing was provided by regular U.S. mail to J. Scott Thomas 700 North 10th Street, Suite 440 in Baton Rouge, Louisiana 70802 this 19th day of September, 2022.

H. Gary Brown

STATE OF LOUISIANA

EAST BATON ROUGE PARISH

BEFORE ME personally appeared Howard Gary Brown who, being by me first duly sworn and identified in accordance with Louisiana law, did execute the foregoing in my presence this 19th day of September, 2022.

Notary public

My commission expires: