

UNITE STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Case No. \_\_\_\_\_

Henry James Holmes,

Plaintiff,

v.

COMPLAINT

Ryan Keyes in his individual  
capacity as an officer of the Minneapolis Police  
Department, Bach Dang in his individual  
capacity as an officer of the Minneapolis Police  
Department and the City of Minneapolis,

JURY TRIAL DEMANDED  
UNDER FRCP 38(b)

Defendants.

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For his Complaint, Plaintiff Henry James Holmes (“Holmes”), hereby states and alleges  
as follows:

1. This is an action for money damages for injuries sustained by Holmes as a result of  
the use of excessive force, unreasonable seizure, and violation of his constitutional  
rights by Defendants.
2. Holmes brings this action pursuant to 42 U.S.C. §§1983 and 1988, the Fourth  
Amendment of the United States Constitution, and 28 U.S.C. §§ 1331 and 1342(3).

The aforementioned statutory and constitutional provisions confer original jurisdiction of this Court over this matter.

3. Holmes, a Black man whose date of birth is July 25, 1950, is and was at all times material herein, a citizen of the United States and a resident of the State of Minnesota.
4. Defendant Ryan Keyes (“Keyes”), upon information and belief, was, at all times material herein, a citizen of the United States and a resident of the State of Minnesota, duly appointed and acting as an officer of the Minneapolis Police Department.
5. Defendant Bach Dang (“Dang”), upon information and belief, was, at all times material herein, a citizen of the United States and a resident of the State of Minnesota, duly appointed and acting as an officer of the Minneapolis Police Department.
6. Defendant City of Minneapolis is a municipality duly incorporated under the laws of the State of Minnesota.
7. On May 19, 2018, at around 3:00 a.m., Holmes was at his residence (314 Hennepin Ave S, Apt 720, Minneapolis, MN) when the police showed up. The police demanded to remove his grandson K.H., whom Holmes was babysitting, in order to give his grandson to the child’s mother.
8. K.H.’s father and Holmes’ son, Cory Holmes, had previously asked Holmes to watch and care for K.H. for the night. When the police arrived in the middle of the night, the child was asleep in the bedroom.

9. Holmes did not want to give his grandson to the mother. He feared for the child's safety and well-being if the child was given to the mother. Holmes was previously told by his son Cory that K.H.'s mother was drunk and violent. She had punched Cory in the face earlier in the night, resulting in a bloody nose.
10. K.H. was left in Holmes' care by K.H.'s father, a custodial parent. Holmes was told by his son that K.H.'s mother was drunk and assaulted him. Holmes was told not to let the mother take the child. Holmes reasonably believed that his grandson would be in danger if he was handed over to his mother. Holmes was protecting K.H. by not turning him over.
11. When Holmes was speaking with one of the officers about the situation, another officer entered the scene and escalated the situation.
12. One of the officers involved asked Holmes whether he wanted to be arrested for deprivation of parental rights. Holmes responded by saying, "Arrest me."
13. Holmes turned around and placed his arms behind his back. Both Defendant officers pulled Holmes' arms further behind his back in an aggressive and harmful manner.
14. Holmes, who was almost 68 at the time of this incident, was not resisting. He was in pain as his arms were being stretched behind his back. Regardless, the two Defendant Officers threw Holmes to the ground. Holmes complained of pain immediately; he had severe shoulder pain.
15. Due to his injuries, Holmes was transported by EMS to Hennepin County Medical Center ("HCMC") where he was evaluated and treated. Holmes continues to suffer

from left shoulder pain to this day which stems to the May 19, 2018, encounter with the police.

16. Any and all of the criminal charges against Holmes were dismissed.
17. The force the Defendant Officers used on Holmes was unauthorized, excessive, and constitutionally improper.
18. The force Defendant Officers used on Holmes was malicious and conducted for the very purpose of causing pain and/or injury.
19. Holmes did not pose an immediate threat to the safety of any of the police officers or others at any time.
20. Holmes did not attempt to evade arrest by flight and did not actively resist arrest.
21. Finally, Defendant officers at the scene were armed with various weapons while Holmes had no weapon.
22. Plaintiff demands a jury trial as to all issues of fact herein.

### **COUNT ONE**

#### **UNREASONABLE SEIZURE BY EXCESSIVE FORCE BY RYAN KEYES**

23. Plaintiff realleges and incorporates by reference each and every allegation contained in each paragraph above as though fully set forth herein.
24. Defendant Keyes violated Plaintiff's Fourth Amendment right to be free from excessive force and unreasonable seizure by physically grabbing and then slamming

Holmes into to the wall and onto the floor even though Holmes was not resisting, fleeing, nor representing a danger to himself or others, nor committing any crime.

25. By the actions described above, Defendant Keyes, under the color of state law, violated and deprived Holmes of his clearly established and well-settled rights to be free from unreasonable seizures and excessive force.
26. Defendant Keyes subjected Holmes to this deprivation of rights either maliciously or acting with reckless disregard for whether Plaintiff's rights would be violated by these actions.
27. As a direct and proximate result of the actions and omission of Defendant Keyes Holmes suffered serious injury, was forced to endure pain and mental suffering, humiliation, and embarrassment and was thereby damaged in an amount yet to be determined but believed to be well in excess of One-Hundred Thousand Dollars (\$100,000).
28. Punitive damages are available against Defendant Keyes and are hereby Claimed as a matter of federal common law, *Smith v. Wade*, 461 U.S. 30 (1983), and, as such are not subject to the differing pleading standard set forth in Minn. Stat. § 549.20.
29. Plaintiff is entitled to recovery of his costs, including reasonable attorney fees, under 42 U.S.C. § 1988.

**COUNT TWO**

**UNREASONABLE SEIZURE BY EXCESSIVE FORCE BY BACH DANG**

30. Plaintiff realleges and incorporates by reference each and every allegation contained in each paragraph above as though fully set forth herein.
31. Defendant Dang violated Plaintiff's Fourth Amendment right to be free from excessive force and unreasonable seizure by physically grabbing and then slamming Holmes into the wall and onto to the floor even though Holmes was not resisting, fleeing, nor representing a danger to himself or others, nor committing any crime.
32. By the actions described above, Defendant Dang, under the color of state law, violated and deprived Holmes of his clearly established and well-settled rights to be free from unreasonable seizures and excessive force.
33. Defendant Dang subjected Holmes to this deprivation of rights either maliciously or acting with reckless disregard for whether Plaintiff's rights would be violated by these actions.
34. As a direct and proximate result of the actions and omission of Defendant Dang, Holmes suffered serious injury, was forced to endure pain and mental suffering, humiliation, and embarrassment and was thereby damaged in an amount yet to be determined but believed to be well in excess of One-Hundred Thousand Dollars (\$100,000).

35. Punitive damages are available against Defendant Dang and are hereby

Claimed as a matter of federal common law, *Smith v. Wade*, 461 U.S. 30 (1983), and, as such are not subject to the differing pleading standard set forth in Minn. Stat. § 549.20.

36. Plaintiff is entitled to recovery of his costs, including reasonable attorney fees, under 42 U.S.C. § 1988.

### **COUNT THREE**

#### **CIVIL RIGHTS VIOLATION**

#### **BY DEFENDANT CITY OF MINNEAPOLIS**

37. Plaintiff realleges and incorporates by reference each and every allegation contained in each paragraph above as though fully set forth herein.

38. Defendant City of Minneapolis intentionally knowingly, recklessly, or with deliberate indifference to the rights of citizens, failed to supervise, instruct, and train, including through proper discipline, Defendants Keyes and Dang to refrain from performing unreasonable seizures and using excessive force.

39. Before May 15, 2018, Defendant City of Minneapolis, with deliverable indifference to the rights of citizens, initiated, tolerate, permitted, failed to correct, promoted, and ratified a custom, pattern and practice on the part of its police personnel, including Defendants Keyes and Dang of performing unreasonable seizures and using excessive force.

40. As of May 15, 2018, Defendant City of Minneapolis maintained a custom and

practice of deliberate indifference to the performance of unreasonable seizures and use of excessive force by its officers.

41. As a direct result of the acts and omissions, systemic flaws, policies and customs

of Defendant City of Minneapolis, Holmes suffered injuries, was forced to endure unnecessary pain mental suffering, and was thereby damaged in an amount yet to be determined but believed to be well in excess of One Hundred Thousand Dollars (\$100,000.00).

42. Plaintiff is entitled to recovery of his costs, including reasonable attorney fees, under

42 U.S.C. § 1988.

Wherefore, Plaintiff Henry James Holmes, prays for judgment against Defendants

Ryan Keyes, Bach Dang, and the City of Minneapolis as follows:

1. As to Count One, a money judgment for compensatory damages in an amount in

Excess of One Hundred Thousand (\$100,000) Dollars and punitive damages in an amount to be determined by the jury, together with costs, including reasonable attorney fees, under 42 U.S.C. § 1988 and prejudgment interest.

2. As to Count One, a money judgment for compensatory damages in an amount in

Excess of One Hundred Thousand (\$100,000) Dollars and punitive damages in an amount to be determined by the jury, together with costs, including reasonable attorney fees, under 42 U.S.C. § 1988 and prejudgment interest.



3. As to Count Three, a money judgment for compensatory damages in an amount in Excess of One Hundred Thousand (\$100,000) Dollars to be determined by the jury, together with costs, including reasonable attorney fees, under 42 U.S.C. § 1988 and prejudgment interest;
4. For such other and further relief as this Court deems just and equitable.

Dated: 2/07/2022

**MAGNA LAW FIRM**

By:/s/Oliver E. Nelson III

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