

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

JOSHUA HARRIS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:18-cv-01889-SEB-DLP
	)	
DOUGLAS CORRELL, and	)	
THE CITY OF INDIANAPOLIS,	)	
	)	
Defendants.	)	

**Answer to Complaint**

Officer Douglas Correll and the City of Indianapolis (“Defendants”), by counsel, answer Plaintiff’s Complaint as follow:

**I. Nature of Case**

1. This lawsuit seeks money damages against the City of Indianapolis and one of its police officers who maliciously battered and crushed the spleen of an unarmed, non-resisting, young man who had requested the assistance of the police after he had been shot at by an unknown assailant.

**ANSWER:** Defendants deny the allegations contained in paragraph 1 of Plaintiff’s Complaint.

**II. Jurisdiction and Venue**

2. This action is brought pursuant to 42 U.S.C. § 1983 and is premised on violations of the fourth amendment to the United States Constitution.

**ANSWER:** Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 2 of Plaintiff’s Complaint. Therefore, Defendants deny the allegations contained in paragraph 2 of Plaintiff’s Complaint.

3. This Court has original subject matter jurisdiction of the federal questions presented pursuant to 28 U.S.C. §§1331 and 1343.

**ANSWER:** Defendants admit the allegations contained in paragraph 3 of Plaintiff's Complaint.

4. Venue is proper in this Court and Division, pursuant to 28 U.S.C. §1391, because the events giving rise to this action occurred in, and the defendants are residents of, Indianapolis, Indiana, which is located in the Indianapolis Division of the Southern District of Indiana.

**ANSWER:** Defendants admit the allegations contained in paragraph 4 of Plaintiff's Complaint.

### **III. Parties**

5. Plaintiff Joshua Harris is an adult resident of Indiana.

**ANSWER:** Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 5 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 5 of Plaintiff's Complaint.

6. Defendant Douglas Correll is an adult resident of Indiana and a law enforcement officer employed by the City of Indianapolis through its Indianapolis Metropolitan Police Department. Defendant Correll is sued in his individual capacity on plaintiff's federal claims only.

**ANSWER:** Defendants admit that Douglas Correll is an adult resident of Indiana and a law enforcement officer employed by the City of Indianapolis through its Indianapolis Metropolitan Police Department. Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations contained in paragraph 6 of Plaintiff's Complaint. Therefore, Defendants deny those allegations in paragraph 6 of Plaintiff's Complaint.

7. Defendant City of Indianapolis is located in Marion County, Indiana, and is a political subdivision of the State of Indiana. This municipal defendant is sued only on plaintiff's state law claims and only for compensatory, not punitive, damages.

**ANSWER:** Defendants admit that the City of Indianapolis is located in Marion County, Indiana, and is a political subdivision of the State of Indiana. Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations contained in paragraph 7 of Plaintiff's Complaint. Therefore, Defendants deny those allegations in paragraph 7 of Plaintiff's Complaint

#### **IV. Facts**

8. On July 2, 2016, Joshua Harris lived in one half of a duplex located at 3901 Hillside Avenue, Indianapolis, Indiana.

**ANSWER:** Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 8 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 8 of Plaintiff's Complaint.

9. Dexter Smith lived in the other half of the Hillside duplex.

**ANSWER:** Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 9 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 9 of Plaintiff's Complaint.

10. In the early morning hours of that day, shortly before 2:00 a.m., Joshua was inside his house and received an anonymous text message telling him to go outside his home.

**ANSWER:** Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 10 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 10 of Plaintiff's Complaint.

11. Joshua went outside, and as he did, he saw a dark-colored car which he did not recognize speed by, and it appeared someone in the car reached his hand out the window and fired a gun at Joshua.

**ANSWER:** Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 11 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 11 of Plaintiff's Complaint.

12. Joshua then felt what he thought was a bullet hit his shoe.

**ANSWER:** Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 12 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 12 of Plaintiff's Complaint.

13. Dexter Smith heard the shot, leaned his head out an open window from his half of the double, and asked Joshua if he was okay and whether he needed to call the police.

**ANSWER:** Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 13 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 13 of Plaintiff's Complaint.

14. Joshua, believing he had been hit by the bullet, told Dexter to call the police.

**ANSWER:** Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 14 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 14 of Plaintiff's Complaint.

15. Dexter made the call, and Joshua waited outside the residence for the police to arrive.

**ANSWER:** Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 15 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 15 of Plaintiff's Complaint.

16. At approximately 2:00 a.m., IMPD Officers Douglas Correll and Linda Roeschlein responded to the 911 call and arrived at Joshua Harris' residence.

**ANSWER:** Defendants admit the allegations contained in paragraph 16 of Plaintiff's Complaint.

17. When the officers arrived, Joshua approached the officers, walking beside them while explaining to them that he believed that someone had shot at him, and that a bullet grazed his shoe.

**ANSWER:** Paragraph 17 is ambiguous. Thus, Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 17 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 17 of Plaintiff's Complaint.

18. At the time of the incident Joshua was 23 years old, slightly built, standing 6 feet tall but weighting only 128 pounds.

**ANSWER:** Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 18 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 18 of Plaintiff's Complaint.

19. Officer Correll is a short but very stocky and muscular man.

**ANSWER:** Paragraph 19 is ambiguous. Thus, Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 19 of

Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 19 of Plaintiff's Complaint.

20. The officers proceeded to walk past Joshua towards his residence.

**ANSWER:** Defendants deny the allegations contained in paragraph 20 of Plaintiff's Complaint.

21. As Officer Correll passed by him, Joshua held his shoe up for Officer Correll to see.

**ANSWER:** Defendants deny the allegations contained in paragraph 21 of Plaintiff's Complaint.

22. Officer Correll told Joshua to "get the fuck out of my face."

**ANSWER:** Defendants deny the allegations contained in paragraph 22 of Plaintiff's Complaint.

23. Both officers proceeded to the side door of Joshua's residence.

**ANSWER:** Paragraph 23 is ambiguous. Thus, Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 23 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 23 of Plaintiff's Complaint.

24. The officers then began to enter Joshua's residence.

**ANSWER:** Paragraph 24 is ambiguous. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 24 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 24 of Plaintiff's Complaint.

25. Joshua advised the officers that they did not have permission to enter his home, holding his arms up and telling the officers they “can’t do that.”

**ANSWER:** Defendants deny the allegations contained in paragraph 25 of Plaintiff’s Complaint.

26. Officer Correll then walked back to where Joshua stood, and punched him twice in the face with his closed fist.

**ANSWER:** Defendants deny the allegations contained in paragraph 26 of Plaintiff’s Complaint.

27. Joshua was stunned and fell to his knees.

**ANSWER:** Defendants deny the allegations contained in paragraph 27 of Plaintiff’s Complaint.

28. Joshua attempted to stand up, and, as he did, Officer Correll grabbed both of Joshua’s shoulders, and kneed Joshua in his abdomen.

**ANSWER:** Defendants deny the allegations contained in paragraph 28 of Plaintiff’s Complaint.

29. The force of Officer Correll’s knee strike crushed Joshua’s spleen against his spine.

**ANSWER:** Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 29 of Plaintiff’s Complaint. Therefore, Defendants deny the allegations contained in paragraph 29 of Plaintiff’s Complaint.

30. Joshua crumpled to the ground and went in and out of consciousness.

**ANSWER:** Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 30 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 30 of Plaintiff's Complaint.

31. Dexter Smith witnessed the incident and tried to tell the officers that Joshua was the victim and was the one for whom he had called the police.

**ANSWER:** Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 31 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 31 of Plaintiff's Complaint.

32. Officer Correll ignored Dexter's pleas and ordered him to go inside his house.

**ANSWER:** Defendants deny the allegations contained in paragraph 32 of Plaintiff's Complaint.

33. Joshua had made no verbal or physical threats to the officers.

**ANSWER:** Defendants deny the allegations contained in paragraph 33 of Plaintiff's Complaint.

34. At no time did Joshua strike or kick or in any way physically harm the officers.

**ANSWER:** Paragraph 34 is ambiguous. Thus, Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 34 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 34 of Plaintiff's Complaint.

35. Joshua had no weapons on his person.

**ANSWER:** Paragraph 35 is ambiguous. Thus, Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 35 of



Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 35 of Plaintiff's Complaint.

36. Joshua was not under the influence of any alcohol or drugs.

**ANSWER:** Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 36 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 36 of Plaintiff's Complaint.

37. Shortly thereafter, EMS workers arrived at the scene and transported Joshua to Eskenazi Hospital, where surgeons removed his crushed spleen, part of his pancreas, and part of his small intestines, all due to the blunt trauma caused by Officer Correll.

**ANSWER:** Paragraph 37 is ambiguous. Thus, Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 37 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 37 of Plaintiff's Complaint.

38. Joshua remained in inpatient care at Eskenazi Hospital for over two weeks, finally being discharged on July 18, 2016.

**ANSWER:** Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 38 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 38 of Plaintiff's Complaint.

39. Because of Officer Correll's actions, Joshua Harris has sustained severe and permanent injuries.

**ANSWER:** Defendants deny the allegations contained in paragraph 39 of Plaintiff's Complaint.

40. Because of Officer Correll's actions, Joshua Harris has incurred medical expenses and rehabilitative costs, physical and emotional pain and suffering, reduced quality of life, psychological damage, and attorney fees.

**ANSWER:** Defendants deny the allegations contained in paragraph 40 of Plaintiff's Complaint.

41. Joshua Harris has received ongoing outpatient care for his serious and permanent injuries.

**ANSWER:** Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 41 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 41 of Plaintiff's Complaint.

42. Joshua Harris has experienced and will continue to experience physical pain and suffering, permanent disability, emotional pain and suffering, lost wages, and medical costs and expenses.

**ANSWER:** Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 42 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 42 of Plaintiff's Complaint.

43. Joshua Harris did not threaten or resist Officer Correll, nor did he do anything to justify the force used against him.

**ANSWER:** Defendants deny the allegations contained in paragraph 43 of Plaintiff's Complaint.

44. Officer Correll later lied in his report of the incident, falsely stating that Joshua had raised a clenched fist and attempted to physically block the officer's entrance to the house.

**ANSWER:** Defendants deny the allegations contained in paragraph 44 of Plaintiff's Complaint.

45. Based upon Officer Correll's false report of the incident, the Marion County Prosecutor's Office charged Joshua with the crime of Resisting Law Enforcement.

**ANSWER:** Defendants deny the allegations contained in paragraph 45 of Plaintiff's Complaint.

46. A Marion Superior criminal court jury trial was held on June 7, 2018, and the jury unanimously found Joshua not guilty of the crime of Resisting Law Enforcement.

**ANSWER:** Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 46 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 46 of Plaintiff's Complaint.

47. The force used by Officer Correll against Joshua was unreasonable and excessive.

**ANSWER:** Defendants deny the allegations contained in paragraph 47 of Plaintiff's Complaint.

48. Officer Correll owed Joshua a duty of reasonable care.

**ANSWER:** Paragraph 48 is ambiguous. Thus, Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 48 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 48 of Plaintiff's Complaint.

49. Officer Correll breached his duty of reasonable care to Joshua by battering him and using excessive force.

**ANSWER:** Defendants deny the allegations contained in paragraph 49 of Plaintiff's Complaint.

50. At all times relevant to this suit, Officer Correll was employed by the City of Indianapolis and acted within the course and scope of his employment as an officer of the Indianapolis Metropolitan Police Department.

**ANSWER:** Paragraph 50 is ambiguous. Thus, Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 50 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 50 of Plaintiff's Complaint.

51. At all times relevant to this suit, Officer Correll acted under color of state law.

**ANSWER:** Paragraph 51 is ambiguous. Thus, Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 51 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 51 of Plaintiff's Complaint.

52. Joshua Harris properly served a Notice of Tort Claim on the Defendant City of Indianapolis on December 22, 2016.

**ANSWER:** Defendants admit the allegations contained in paragraph 52 of Plaintiff's Complaint.

## V. Claims

53. The actions of Defendant Correll constituted an unreasonable seizure of Joshua Harris by the use of excessive force, in violation of the fourth amendment to the United States Constitution, actionable pursuant to 42 U.S.C. § 1983.

**ANSWER:** Defendants deny the allegations contained in paragraph 53 of Plaintiff's Complaint.

54. The actions of Defendant Correll constituted an unreasonable seizure of Joshua Harris by an arrest without probable cause, in violation of the fourth amendment to the United States Constitution, actionable pursuant to 42 U.S.C.§1983.

**ANSWER:** Defendants deny the allegations contained in paragraph 54 of Plaintiff's Complaint.

55. The actions of Defendant Correll constituted an unreasonable prosecution of Joshua Harris for the falsely charged crime of Resisting Law Enforcement, in violation of the fourth amendment to the United States Constitution, actionable pursuant to 42 U.S.C.§1983.

**ANSWER:** Defendants deny the allegations contained in paragraph 55 of Plaintiff's Complaint.

56. The actions of Defendant Correll constituted a battery of Joshua Harris in contravention of Indiana common law to which the City of Indianapolis is answerable under the Indiana Tort Claims Act, Ind. Code 34-13-3 et seq.

**ANSWER:** Defendants deny the allegations contained in paragraph 56 of Plaintiff's Complaint.

57. The actions of Defendant Correll constituted a false arrest of Joshua Harris in contravention of Indiana common law to which the City of Indianapolis is answerable under the Indiana Tort Claims Act, Ind. Code 34-13-3 et seq.

**ANSWER:** Defendants deny the allegations contained in paragraph 57 of Plaintiff's Complaint.

58. The actions of Defendant Correll constituted negligence in contravention of Indiana common law to which the City of Indianapolis is answerable under the Indiana Tort Claims Act, Ind. Code 34-13-3 et seq.

**ANSWER:** Defendants deny the allegations contained in paragraph 58 of Plaintiff's Complaint.

59. Defendant City of Indianapolis is legally responsible under Indiana state law for its own actions, and, under the doctrine of respondeat superior, for the actions of its employees, including the actions of Officer Correll in battering, falsely arresting, and intentionally and negligently inflicting emotional harm on Joshua Harris.

**ANSWER:** Defendants deny the allegations contained in paragraph 59 of Plaintiff's Complaint.

60. Joshua Harris reserves the right to assert all legal theories of relief which the facts support pursuant to the pleading requirements of Fed. R. Civ. Pro. 8.

**ANSWER:** Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 60 of Plaintiff's Complaint. Therefore, Defendants deny the allegations contained in paragraph 60 of Plaintiff's Complaint.

#### **VI. Jury Trial Requested**

61. Joshua Harris requests a jury trial on his claims.

**ANSWER:** Defendants, by counsel, also respectfully request that all claims be tried before a jury pursuant to Rule 38(b) of the Federal Rules of Civil Procedure.

#### **VII. Relief Requested**

62. Joshua Harris seeks all relief available under the law, including compensatory and punitive damages, attorney fees and costs, and all other appropriate relief.

**ANSWER:** Defendants pray that this Court enter judgment in their favor, that Plaintiff take nothing by way of Plaintiff's Complaint, and for all other appropriate relief.

### Defendants' Affirmative Defenses

1. Plaintiff's Complaint states claims upon which relief may not be granted.
2. Plaintiff's negligence, intentional infliction of emotional damages, and negligent infliction of emotional damages claims are not claims upon which relief may be granted. Indeed, the Indiana Tort Claims Act provides, in pertinent part, that the City and its employees acting within the scope of their employment are not liable if a loss results from the enforcement or failure to enforce the law. Ind. Code § 34-13-3-3(8). "In determining whether Indiana Code § 34-13-3-3(8) provides immunity for a police officer, [courts] first determine whether the officer was acting within the scope of his or her employment when the injury to a plaintiff occurred and, second, whether the officer was engaged in the enforcement of a law . . . ." *Harness v. Schmitt*, 924 N.E.2d 162, 165 (Ind. Ct. App. 2010). Officers are not liable for negligently enforcing or failing to enforce the law. *See Minks v. Pina*, 709 N.E.2d 379, 382 (Ind. Ct. App. 1999). They also are not liable for inflicting emotional distress when enforcing or failing to enforce the law. *See McConnell v. McKillip*, 573 F. Supp. 2d 1090, 1103 (S.D. Ind. 2008).
3. The City of Indianapolis is not liable for the claims Plaintiff has brought under 42 U.S.C. § 1983. "A municipality only may be held liable under § 1983 for constitutional violations caused by the municipality itself through its own policy or custom." *Jenkins v. Bartlett*, 487 F.3d 482, 492 (7th Cir. 2007). "In order to state a § 1983 claim against a municipality, the complaint must allege that an official policy or custom not only caused the constitutional violation, but was 'the moving force' behind it." *Colbert v. City of Chicago*, 851 F.3d 649, 660 (7th Cir. 2017) (quoting *Estate of Sims ex rel. Sims v. Cty. of Bureau*, 506 F.3d 509, 514 (7th Cir. 2007)). Plaintiff cannot establish that action pursuant to the City's official policy caused him injury. The City did not cause the alleged constitutional violations at issue in

this case. It was not the moving force behind any alleged constitutional violation. It does not have an official policy, practice, or procedure that was the underlying cause of Plaintiff's alleged constitutional violations. It also does not have a wide-spread practice, custom, or usage with the force of law that was the underlying cause of any alleged violations. The City's officials did not use final decision policymaking authority to cause Plaintiff's alleged violations.

4. Officer Correll may not be sued in his individual capacity for state law claims because Plaintiff's Complaint lacks a factual basis supporting any allegation that he committed an act or omission that was criminal, clearly outside the scope of his employment, malicious, willful and wanton, or calculated to benefit him personally. *See* Ind. Code § 34-13-3-5(c).

5. Officer Correll is entitled to qualified immunity. "Qualified immunity shields government officials from liability under Section 1983 'for actions taken while performing discretionary functions, unless their conduct violates clearly established statutory or constitutional rights of which a reasonable person would have known.'" *Estate of Escobedo v. Martin*, 702 F.3d 388, 404 (7th Cir. 2012). Officer Correll's conduct did not violate clearly established statutory or constitutional rights of which a reasonable person would have known at the time that Plaintiff's claims arose. Instead, a reasonably competent officer, objectively viewing the facts and circumstances confronting Officer Correll, could have believed that his actions were objectively reasonable and were within constitutional limits that were clearly established at the time. Furthermore, a reasonable officer could have believed that probable cause existed for Plaintiff's arrest. *See Humphrey v. Staszak*, 148 F.3d 719, 725 (7th Cir.1998).

6. Plaintiff is not entitled to punitive damages because Officer Correll was not motivated by evil motive or intent, and he did not exhibit reckless or callous indifference to Plaintiff's federally protected rights. *See Smith v. Wade*, 461 U.S. 30, 56 (1983). Officer Correll



acted in good faith and had reasonable grounds for believing that any acts he took did not violate any applicable federal or state laws.

7. Plaintiff's right to recovery, if any, is limited under federal and state law. Indeed, Defendants' combined aggregate liability may not exceed the cap identified in Indiana Code § 34-13-3-4. Plaintiff is not entitled to recover punitive damages, attorney's fees, or costs from the City of Indianapolis. Plaintiff is not entitled to recover prejudgment interest. His ability to recover post-judgment interest is also limited by binding law.

8. If Plaintiff has received or does receive payments from any source for the damages sought in this action, those payments constitute satisfaction and must be set-off against any Plaintiff's damages in this litigation.

9. Plaintiff is not entitled to recover damages caused by his failure to mitigate damages.

10. Plaintiff's claims are not alleged with sufficient detail to allow the Defendants to identify all applicable affirmative defenses. However, Plaintiff's claims are barred if they are not ripe. Plaintiff's claims are barred if they are untimely. Plaintiff's claims are barred if Plaintiff lacks standing. Plaintiff's claims are barred if they were waived by actions or inactions. Plaintiff's claims are barred if Plaintiff failed to state a claim upon which relief may be granted. Plaintiff's claims are barred if Defendants are immune from suit under state or federal law. Defendants reserve the right to assert additional affirmative defenses that may be identified during discovery or other stages of this case. Although Plaintiff alleges otherwise, Plaintiff should not be permitted to pursue claims not alleged in his complaint because Defendants have not received notice of those claims and the statute of limitations for those claims has elapsed.

WHEREFORE, Defendants pray that this Court enter judgment in their favor, that Plaintiff take nothing by way of his Complaint, and for all other appropriate relief.

Respectfully submitted,

/s/ Andrew J. Upchurch  
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**CERTIFICATE OF SERVICE**

I certify that the foregoing document was filed electronically on August 13, 2018. The Court's electronic filing system shall provide service on:

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