

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 17-CV-01177-LTB

DAKOTA TYLER MCGRATH,

Plaintiff,

v.

FORT COLLINS POLICE SERVICES OFFICER NICK RODGERS, in his individual
capacity,

Defendant.

**PLAINTIFF'S RESPONSES TO DEFENDANT'S FIRST SET OF
INTERROGATORIES, REQUESTS FOR PRODUCTION OF
DOCUMENTS, AND REQUESTS FOR ADMISSION**

Plaintiff, Dakota McGrath, by and through counsel, Anthony Viorst of the Viorst Law Offices, P.C., hereby responds to Defendant's First Set of Interrogatories, Requests for Production of Documents, and Requests for Admission as follows:

INTERROGATORIES

1. State the name, address, phone number, and relationship to **YOU** of each person who prepared or assisted in preparing **YOUR** answers to these Discovery Requests. (Do not **IDENTIFY** anyone who simply typed or reproduced the responses.)

RESPONSE: Dakota McGrath, 2721 Bianco Drive, Fort Collins, CO 80525, (970) 689-9103
Laura Tyler, mother, (970) 227-6319

2. Other than **YOUR** counsel of record in the above-captioned matter, please **IDENTIFY** each and every person to whom **YOU** have mentioned, or with whom **YOU** have discussed, either the **INCIDENT** or any of the **ALLEGATIONS IN THE PLEADINGS FILED IN THIS MATTER.**

RESPONSE: None.

EXHIBIT A

3. Please describe with particularity each and every action of every kind and type **YOU** took to minimize, reduce, or mitigate any element of claimed damages, losses, or injuries in this matter, both before, during, and after the **INCIDENT**.

RESPONSE: I filed for disability and food stamps. I went to the maximum allowed physical therapy sessions. I worked with my PCP, Dr. Hampton, to continue any and all care that came up due to the injury after my appointments with the surgeon (Dr. Rusnick) ended.

4. Describe **YOUR** current and past employment since 2005, including: (a) the name, address, and nature of work at **YOUR** present employment or place of self-employment; and (b) the name, address, telephone number, dates of employment, job title, and nature of work for each employer or self-employment **YOU** have had from 10 years before the Incident until today.

RESPONSE: I am withdrawing my claim for lost income, so I respectfully decline to answer this question.

5. **IDENTIFY** all other litigation other than the above-captioned matter, whether civil or criminal, in which **YOU** have been a party, and for each such action state the name of the action, the names of all parties to the action, the date the action was filed, and how each such action was resolved.

RESPONSE:

Case No.	County	Case Name	CaseType	Date Closed	Result
2015C002044	Adams	Elaine Toomey v. Dakota McGrath	Forcible Entry and Detainer	11.17.15	Judgment for possession
2007R000135	Gilpin	People v. Dakota McGrath	Motor Vehicle	08.11.07	Guilty
2005T014979	Jefferson	People v. Dakota McGrath	Driving Under Suspension	12.01.05	Disposition reached
2017CR003104	Larimer	People v. Dakota McGrath	Assault	12.03.17	open Warrant
2017CR002200	Larimer	People v. Dakota McGrath	Drugs	01.23.18	Arrest
2016M002962	Larimer	People v. Dakota McGrath	Assault	02.23.17	Dismissed

2016M002181	Larimer	People v. Dakota McGrath	Criminal Mischief	02.23.17	Dismissed
2016CR001886	Larimer	People v. Dakota McGrath	Assault	09.05.16	Plea - Guilty
2014T003223	Larimer	People v. Dakota McGrath	Driving Under Suspension	10.12.14	Plea - Nolo Contendre Disposition - Guilty
2014M001339	Larimer	People v. Dakota McGrath	Drugs	06.25.14	Disposition
2013T000900	Larimer	People v. Dakota McGrath	Driving Under Suspension	03.12.13	Plea: Not Guilty
2012CR000099	Larimer	People v. Dakota McGrath	Assault	01.19.12	Plea: Guilty
2011T001677	Larimer	People v. Dakota McGrath	Driving Under Suspension	06.17.11	Dismissed by DA
2009T001982	Larimer	People v. Dakota McGrath	Driving Under the Influence	05.16.09	Dismissed
2004T03529	Larimer	People v. Dakota McGrath	Motor Vehicle	07.25.04	Dismissed
2004CR001922	Larimer	People v. Dakota McGrath	Public Peace and Order	10.10.04	Sentence to jail
2003T102133	Larimer	People v. Dakota McGrath	Motor Vehicle	05.08.03	Dismissed
2003M101186	Larimer	People v. Dakota McGrath	Motor vehicle	04.13.13	Plea to lesser charge
2016C032026	Larimer	Kasey Jordan v. McGrath, Dakota	Forcible Entry and Detainer	06.22.16	Failure to appear
2010C004465	Larimer	Capital One Bank v. Dakota McGrath	Money	09.14.15	Satisfaction of Judgment

2006R104638	Larimer	People v. Dakota McGrath	Motor Vehicle	10.09.06	Guilty
2005C105473	Larimer	Kathy Fawcett v. Dakota McGrath	Forcible Entry and Detainer	10.25.05	Writ of Restitution

6. **IDENTIFY** each and every injury - physical, mental, emotional, or any other - that **YOU** attribute to the Incident, and for each such injury describe the location and type of injury; **IDENTIFY** each **HEALTH CARE PROVIDER** who diagnosed the injury, and the date of diagnosis; **IDENTIFY** each person with knowledge of the injury or diagnosis; and **IDENTIFY** every **DOCUMENT** that references or evidences the injury or diagnosis.

RESPONSE: See attached spreadsheet.

7. **IDENTIFY** each and every consultation, examination, or treatment **YOU** received from a **HEALTH CARE PROVIDER** for any injury - physical, mental, emotional, or any other - which **YOU** attribute to the Incident. For each such consultation, examination, or treatment, state the name, address, and telephone number of the **HEALTH CARE PROVIDER** who provided same; describe the type of consultation, examination, or treatment provided; state the date(s) of consultation, examination, or treatment; **IDENTIFY** every **DOCUMENT** that references or evidences the consultation, examination, or treatment; **IDENTIFY** every person with knowledge of the consultation, examination, or treatment; and state the charges or costs for each consultation, examination, or treatment.

RESPONSE: See attached spreadsheet.

8. Has any **HEALTH CARE PROVIDER** advised **YOU** that **YOU** may require future or additional treatment for any injury that **YOU** attribute to the Incident? If so, for each such advisement about future treatment, **IDENTIFY** each **HEALTH CARE PROVIDER** providing same; the complaints or injury for which the treatment was advised; and the nature, duration, and estimated cost of the treatment.

RESPONSE: My physician has definitely said that I will need further treatment but my PCP (Dr. Hampton) has talked about how an injury like this may need additional help to fully heal.

9. State **YOUR** income for each year from 2005 to the present, and **IDENTIFY** every **DOCUMENT** reflecting or evidencing such income.

RESPONSE: I am withdrawing my claim for lost income, so I respectfully decline to answer this question.

10. State the total income **YOU** claim to have lost to date as a result of the Incident, how the amount was calculated, and **IDENTIFY** every **DOCUMENT** reflecting or evidencing such loss.

RESPONSE: I am withdrawing my claim for lost income, so I respectfully decline to answer this question.

11. As a result of the **INCIDENT**, have **YOU** been forced to curtail, limit, cut down, or terminate any activity in which **YOU** participated prior to the Incident, and, if so, fully **IDENTIFY** such activity, the amount of time per month devoted to each such activity before the Incident; the amount of time per month devoted to such activity after the Incident; and each and every reason why **YOU** have been unable to devote as much time to each such activity after the Incident as before.

RESPONSE: See attached spreadsheet.

12. If **YOU** claim that Defendant, or any representative of Fort Collins Police Services, made any admission as defined in F.R.E. 801(d)(2), or any statement against interest as defined in F.R.E. 804(b)(3), set forth the admission or statement verbatim or describe it in detail, including date and place made, and **IDENTIFY** every person or **DOCUMENT** bearing evidence of such admission or statement.

RESPONSE: I am not claiming that any admission was made.

13. **IDENTIFY** each and every item of economic (special) damages, including, but not limited to, medical expenses, loss of earnings or earning capacity, and out-of-pocket expenses **YOU** claim in this action. For each, describe the damage; state the date the damage was incurred; state the monetary amount of the damage; **IDENTIFY** every person with knowledge of the damage; and **IDENTIFY** every **DOCUMENT** referencing or evidencing the damage.

RESPONSE: See attached spreadsheet.

14. **IDENTIFY** each and every type of non-economic (general) damages, including, but not limited to, pain and suffering, loss of enjoyment of life, emotional stress, and any permanent impairment or disability **YOU** claim in this action. For each, describe the damage; state the date the damage was incurred; state the monetary amount **YOU** claim for the damage; **IDENTIFY** every person with knowledge of the damage; and **IDENTIFY** every **DOCUMENT** referencing or evidencing the damage.

RESPONSE: See attached spreadsheet.

15. **IDENTIFY** each and every criminal conviction **YOU** have had in the past ten (10) years, and for each such conviction, **IDENTIFY** the crime **YOU** were convicted of; the

date of the conviction; the court in which **YOU** were convicted; and the terms of **YOUR** conviction.

RESPONSE: Please reference my court history, attached.

16. Within 24 hours before 7:00 PM on October 20, 2016, did **YOU** use or take any of the following substances: alcoholic beverage; marijuana; or other drug or medication of any kind (prescription or not)? If so, please state the nature or description of each substance; the quantity of each substance used or taken; the date and time of day when each substance was used or taken; the address where each substance was used or taken; the name, address, and telephone number of each person who was present when each substance was used or taken; and the name, address, and telephone number of any **HEALTH CARE PROVIDER** that prescribed or furnished the substance and the condition for which it was prescribed or furnished.

RESPONSE: I Drank three beers around 6:00 to 7:00 pm, witnessed by Lalo Rodreguez. I took Effexor (medication for depression) around 7:00 am, prescribed by Dr. Hampton. I took Tramadol (50mg) and Baclofin (20mg) around 10:00 am for back spasms, prescribed by Dr. Hampton.

17. State the name, address, and telephone number of each person:
- (a) Who witnessed the **INCIDENT** or the events occurring immediately before or after the **INCIDENT**;
 - (b) Who made any statement at the scene of the **INCIDENT** or immediately before or after the **INCIDENT**;
 - (c) Who heard any statements made about the **INCIDENT** by any individual at the scene; and,
 - (d) Who you, or anyone acting on **YOUR** behalf, claim to have knowledge of the **INCIDENT**.

RESPONSE: Nobody on my side witnessed the incident.

18. Is **YOUR** response to each Request for Admission (“RFA”) served with these Interrogatories an unqualified admission? If not, for each response that is not an unqualified admission:

- (a) Set forth individually, as part of **YOUR** answer to this Interrogatory and not within the RFA section, each RFA against which **YOU** raise a qualification or denial as a separate subparagraph under this Interrogatory No. 18;
- (b) **IDENTIFY** the complete basis for the qualification or denial, including, but not limited to, all facts **YOU** contend support the qualification or denial;
- (c) State the names, addresses, and telephone numbers of all persons who have knowledge of those facts;

- (d) **IDENTIFY** each **DOCUMENT** that **YOU** contend supports the qualification or denial; and
- (e) be sure to note any response such as “Please see Plaintiff’s Disclosures” or the like will be deemed incomplete and unacceptable.

RESPONSE:

RFA #1. False Statement. I had earphones in listening to music. At no time did I hear any talking from any officer. I did not have the music so loud to not hear anything else, it was at a decent volume. As the video shows I was walking down an alley, I was not even close to my car.

RFA #2. False Statement. Once again, at no point did the defendant try to motion my attention or peacefully grab my attention. I did not hear any command, further as the video shows there is no curb to sit down on.

RFA #3. False Statement. After the defendant struck my head causing me to be momentarily unconscious, The defendant struck me in the leg multiple times with his metal baton shattering my leg. Then he rolled me on my stomach put handcuffs on me and told me I was under arrest. The only exchange of words was when the K-9 unit officer said “If you don’t cooperate I’ll sick the dog on you.” This was said while I was in handcuffs. I said “ go ahead I’m not afraid of dogs.”

RFA #4. False Statement. The defendant delivered a blow to my upper back and as the baton continued forward it struck my head knocking me out temporarily. While I tried to turn over and get my backpack off my head I felt multiple strikes to my right leg. When I was fully turned over with my hands in front of me was when he mustered all his strength and swung as hard as he could shattering my tibia of my right leg. The X-rays show many fractures that are consistent with multiple blows to different areas.

RFA #5. False Statement. I had to get my backpack off of my head but the video shows that I was fully compliant after I was blindsided by the defendant who clearly was just out to hurt me rather than talk to me.

RFA #6. False Statement. At no time did I resist allowing handcuffs to be put on. I have broad shoulders and a wide back which makes it seem like I have a slight tension in my arms but it is merely the tension of my arms squishing against my back. In any other time that I have been arrested they use double handcuffs for this reason.

RFA #7. False Statement. At no time did I head butt my brother Lalo. He was checked out and didn’t even have a red mark anywhere on his head or face.

RFA #8. True Statement. I had 3 beers, I was still finishing the third beer while Lalo and I were arguing.

RFA #9. False Statement. I was in a bad mood after the EMTs put a ratchet strap over my broken leg but the hospital staff were very kind and I also reciprocated their kindness.

19. **IDENTIFY** all **DOCUMENTS** that support **YOUR** claims and responses to these Discovery Requests, and state the name, address, and telephone number of the person who has possession, custody, or control of each **DOCUMENT**.

RESPONSE: See medical records and bills provided in CRCP 26(a)(1) Disclosures. These are in possession of my attorney, Anthony Viorst, Esq., Viorst Law Offices, 950 South Cherry Street, Suite 300, Denver, CO 80246, (303) 759-3808. Copies of the medical records and bills are provided along with these discovery requests.

20. At any time from October 1, 2005 to the date of these Discovery Requests, apart from the **INCIDENT**, did **YOU** have any interaction with any officer or agent of Fort Collins Police Services? If so, for each such interaction, state: (a) the date the interaction occurred; (b) the approximate street address at which **YOU** were located during the interaction; (c) each officer or agent of Fort Collins Police Services with whom **YOU** interacted; (d) the stated reason each such officer or agent of Fort Collins Police Services gave for his or her interaction with you; (e) the approximate duration of the interaction; and (f) whether any charges were filed against **YOU** as a result of the interaction.

RESPONSE: See my arrest record.

21. At any time from October 1, 2005 to the date of these Discovery Requests, have **YOU** filed or lodged any Internal Affairs complaint with the City of Fort Collins or its employees as to any interaction with any officer or agent of Fort Collins Police Services?

- (a) If so, for each such interaction, state: (a) the date the interaction occurred; (b) the approximate street address at which **YOU** were located during the interaction; (c) each officer or agent of Fort Collins Police Services with whom **YOU** interacted; (d) the stated reason each such officer or agent of Fort Collins Police Services gave for his or her interaction with you; (e) the approximate duration of the interaction; (f) whether any charges were filed against **YOU** as a result of the interaction; and (g) **YOUR** precise reasons for filing or lodging the Internal Affairs complaint.
- (b) If not, state as to each interaction for which **YOU** did not file or lodge an Internal Affairs complaint, **YOUR** specific and complete reasons for not filing or lodging an Internal Affairs complaint on that particular occasion.

RESPONSE: I filed an Internal Affairs complaint about Officer Cutter and his acting Sergeant around Sept. 2015. The complaint was that officer cutter was in charge of the case in which my car was broken into, and that he was treating me as a criminal rather than a victim of a crime. I had been arrested a few days prior and the officers did not lock the care after illegally searching my car. He was also deralicting his duty as an officer to properly investigating the crime. I had to call his Sergeant 4 times before they would agree to fingerprint my car. Cutter also refused to take statements of witnesses that saw the 2 girls that broke into my car. Cutter refused to take me and the witness to the location that the 2 girls had parked their car that contained my belongings. The entire investigation was dragged down by the Fort Collins Police Dept. refusal to do any proper steps in order to reclaim my belongings.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Produce any and all **DOCUMENTS** utilized in answering these Discovery Requests, including, but not limited to, medical records, business records, employment records, W-2s, and other tax-related information.

RESPONSE: Medical records from the following facilities:

Poudre Valley Hospital

Colorado In Motion PT

Dr. Hampton, Salud Family Health Cetner

Moutnain Crest Mental Health (documents have been requested and will be provided upon receipt)

Heart Centered Counseling (documents have been requested and will be provided upon receipt)

2. Produce any and all **DOCUMENTS** that relate in any way to any of **YOUR** claims against Defendant.

RESPONSE: Medical Records have been provided in Plaintiff's CRCP 26(a)(2) Disclosures and are provided herewith.

Physician Report of Serious Bodily Injury, attached.

3. Produce any and all **DOCUMENTS** that **YOU** intend to use at trial.

RESPONSE: I intend to use all documents previously produced in discovery, as well as those that my attorney has ordered but not yet received, and which will be disclosed by him upon receipt.

4. Produce **YOUR** tax returns and tax records for the years 2005 to the present.

RESPONSE: No, I am withdrawing my lost income claim, so I respectfully decline to produce my tax returns and records.

5. Produce any and all **DOCUMENTS** generated by any **HEALTH CARE PROVIDER** for the time period between January 2000 and today, including, but not limited to, medical records; charts; diagrams; x-rays; narrative reports; notes; histories; psychiatric records; alcohol and drug rehabilitation records; medication lists; prescriptions; bills; statements; and any other **DOCUMENT** generated by any **HEALTH CARE PROVIDER** that relates in any way to **YOUR** physical or mental health.

RESPONSE: Mental health records have been requested and will be provided upon receipt.

6. Produce any and all **DOCUMENTS** identified in **YOUR** answers or responses to these Discovery Requests.

RESPONSE: Attached.

7. Produce any and all **DOCUMENTS** that relate to any damages **YOU** are claiming in this case, including but not limited to any and all **DOCUMENTS** that relate to the computation of damages set forth by **PLAINTIFF** in this case.

RESPONSE: See attached medical bills.

8. Produce any and all video or audio recordings in **YOUR** possession related in any way to the **ALLEGATIONS IN THE PLEADINGS FILED IN THIS MATTER**.

RESPONSE: The videos were prepared by the Fort Collins Police Department, and which has already been produced by defendant's counsel in discovery.

9. Produce any written communications, memoranda, or any notes made by you, other than written materials prepared specifically for **YOUR** attorney, related in any way to the **ALLEGATIONS IN THE PLEADINGS FILED IN THIS MATTER**.

RESPONSE: None.

10. Produce a signed and notarized original of each of the attached authorizations to obtain **YOUR** records of auto insurance, medical payments clause or MPC providers; health insurance, other insurance, workers' compensation, employers, government records, IRS and Social Security Administration. A list includes the following:

- (a) Authorization to Release Medical Records.
- (b) Employment Records Release Authorization.
- (c) Authorization for Release of Insurance **DOCUMENTS** (to include health, auto, and/or MPC records).
- (d) Authorization for Release of Information (Division of Workers Compensation).
- (e) Consent for Release of Information (Social Security Administration).
- (f) Request for Copy of Tax Return (Defendant will cover the cost of the request).

RESPONSE: I am withdrawing my claim for lost income, so I respectfully decline to provide any release other than for medical records.

11. Produce copies of all **DOCUMENTS** evidencing **YOUR** search for employment from the date of the **INCIDENT** to the present, including, but not limited to, any resumes, cover letters, rejection letters, correspondence, applications, notes, calendars, or memoranda.

RESPONSE: I am withdrawing my claim for lost income, so I respectfully decline to answer this question.

12. Produce copies of all **DOCUMENTS YOU** believe contradict, refute, or relate to any position **YOU** understand Defendant to take in this litigation.

RESPONSE: The video which was prepared by the Fort Collins Police Department, and which has already been produced in discovery.

13. If **YOU** are claiming emotional distress as an element of damages in this litigation, produce copies of all medical or mental health records in **YOUR** possession for the past ten (10) years, including, but not limited to, records from all providers or facilities described in these Discovery Requests, and execute the enclosed medical releases so that Defendant can obtain records directly from the providers or facilities. Please execute and provide an original release for each provider so that Defendant may comply with the Health Insurance Portability and Accountability Act (“HIPAA”).

RESPONSE: Mental Health Records Have Been Requested and Will Be Provided upon Receipt. Medical Records Have Been Provided in Crcp 26(a)(1) Disclosures.

14. Produce copies of any diaries, journals, calendars, or notes kept or maintained by **YOU** from October 1, 2016 to the present relating to **YOUR** daily activities, including, without limitation, any such records maintained on a computer, cell phone, smart phone, personal data assistant, or other electronic device.

RESPONSE: None.

15. Produce all written reports of **YOUR** investigators or other representatives who investigated any aspect of the **INCIDENT**, including any allegedly resulting injury.

RESPONSE: None.

16. Produce all **DOCUMENTS** that mention or embody any criminal charges, lawsuit, administrative matter, or alternative dispute proceeding in which **YOU** were a party or witness identified in response to any of these Discovery Requests.

RESPONSE: The only documents in my possession are those that were previously disclosed by the Defendant.

REQUESTS FOR ADMISSION

1. Admit that, on the night of the **INCIDENT**, **YOU** ignored Defendant’s commands to step away from **YOUR** vehicle and sit down on a curb.

RESPONSE: Denied.

2. Admit that, on the night of the **INCIDENT**, **YOU** walked away from Defendant after he commanded **YOU** to approach him and sit down on a curb.

RESPONSE: Denied.

3. Admit that, on the night of the **INCIDENT**, when Defendant informed **YOU** that **YOU** were under arrest and that force would be used against **YOU** if **YOU** did not comply with Defendant's commands, **YOU** responded, "Do what you have to do."

RESPONSE: Denied.

4. Admit that, on the night of the **INCIDENT**, Defendant delivered a single blow to **YOUR** left scapula consisting of a two-handed straight strike with Defendant's wooden baton, which caused **YOU** to fall to the ground.

RESPONSE: Denied.

5. Admit that, on the night of the **INCIDENT**, **YOU** reached for **YOUR** backpack after Defendant commanded **YOU** to roll over on to **YOUR** stomach.

RESPONSE: Denied.

6. Admit that, on the night of the **INCIDENT**, **YOU** resisted officers' attempts to place **YOU** in handcuffs.

RESPONSE: Denied.

7. Admit that, on the night of the **INCIDENT**, **YOU** head-butted Lalo Rodriguez.

RESPONSE: Denied.

8. Admit that, on the night of the **INCIDENT**, **YOU** drank alcoholic beverages.

RESPONSE: Admitted.

9. Admit that, on the night of the **INCIDENT**, **YOU** refused to comply with hospital personnel's requests to let them examine you.

RESPONSE: Denied.

Dated this 15th day of January, 2018.

THE VIORST LAW OFFICES, P.C.

[Original signature on file at Viorst Law Offices, P.C.]

s/ Anthony Viorst

Anthony Viorst, #18508
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950 South Cherry Street, Suite 300
Denver, CO 80246
Telephone: (303) 759-3808
Facsimile: (303) 333-7127
E-mail: tony@hssspc.com
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of January, 2018, I electronically served the foregoing **PLAINTIFF'S RESPONSES TO DEFENDANT'S FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION OF DOCUMENTS, AND REQUESTS FOR ADMISSION** via email upon the following e-mail address(es):

Matthew J. Hegarty, Esq.
Thomas J. Lyons, Esq.
Hall & Evans, LLC
1001 Seventeenth Street, Suite 300
Denver, CO 80202

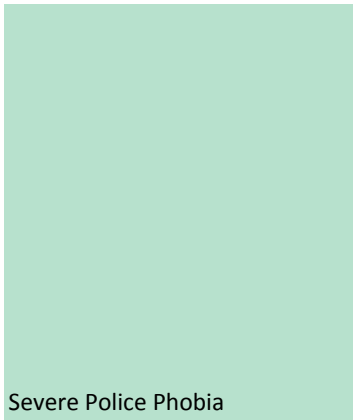
[Original signature on file at Viorst Law Offices, P.C.]

s/ Michelle Spadavecchia

Legal Assistant

NOTES	PHYSICAL INJURY ATTRIBUTED TO THE INCIDENT	HEALTH CARE PROVIDER WHO DIAGNOSED INJURY	DATE OF DIAGNOSIS	PERSON WITH KNOWLEDGE OF THE INJURY OR DIAGNOSIS	DOCUMENT THAT REFERENCES OR EVIDENCES INJURY	TREATMENT PROVIDED	COST OF TREATMENT
2nd ER visit for injury due to lack of treatment at jail	Shattered tibia and fibia bones of lower right leg	Poudre Valley Hospital Emergency,	10/20/16	Laura Tyler, Fort Collins Police Dept.,	ER report	xrays, consultation	unknown
	Shattered tibia and fibia bones of lower right leg	Poudre Valley Hospital Emergency, Colorado In Motion Physical Therapy- Katie Hall	10/23 plus or minus a day	Laura Tyler,	ER report	xrays, consultation	unknown
	Pain and difficulty walking	ER at Poudre Valley Hospital, Mountain Crest Mental Health Facility Clearview mental health hospital	unknown	Laura Tyler Sarah Breske-therapist Heart Centered Counseling, Laura Tyler,	Treatment report	physical therapy	unknown
	Multiple attempted suicide	Dr. Hampton, Kattie Hall PT	8/25/17 plus or minus 2 days.	Laura Tyler, Dr. Hampton, Kattie Hall PT,	Admission resports from each health facility	consultation,	unknown
	Difficulty standing in place for long periods		unknown	Laura Tyler	Treatment report	physical therapy	unknown
	MENTAL AND EMOTIONAL INJURY ATTRIBUTED TO THE INCIDENT	HEALTH CARE PROVIDER WHO DIAGNOSED INJURY	DATE OF DIAGNOSIS	PERSON WITH KNOWLEDGE OF THE INJURY OR DIAGNOSIS	DOCUMENT THAT REFERENCES OR EVIDENCES INJURY	TREATMENT PROVIDED	COST OF TREATMENT
	Attempted suicide	ER at Poudre Valley Hospital, Mountain Crest Mental Health Facility	8/25/17+or minus 2 days	Sarah Breske-therapist Heart Centered Counseling, Laura Tyler,	Admission documents from each health facility	Sarah Breske-therapist Heart Centered Counseling, Laura Tyler,	unknown
	Increased Depression- affecting employment, physical activity, housing stability, family and personal relationships, participation in sports	Mountain Crest Mental Health Hospital, Clearview Mental Health Facility, Heart Centered Counseling, Dr. Kyle Hampton at Salud Health Clinic	several dates in 2017	Sarah Breske-therapist Heart Centered Counseling, Laura Tyler,	Admission documents and treatment reports from each health facility	therapy, mental health treatment, medication	unknown

Increased Anxiety- significantly affecting employment, social interaction and all activity	Mountain Crest Mental Health Hospital, Clearview Mental Health Facility, Heart Centered Counseling, Dr. Kyle Hampton at Salud Health Clinic	several dates in 2017	Sarah Breske-therapist Heart Centered Counseling, Laura Tyler,	Admission documents and treatment reports from each health facility	therapy, mental health treatment, medication	unknown
Increased Insomnia- affecting employment, well-being, social interactions, ability to concentrate	I was schedualed twice to see Dr. Kukaftka because my PVP Dr. Hampton realized my insomnia was becoming unmanagable. Dr. Kukaftka was my original Dr. that diagnosed my insomnia. As a cruel joke I was unable to sleep the night before both appointments and fell asleep while doing work on the computer for both appointments.	several dates in 2017	Dr Hampton, Serah Breske, Dr. Kukaftka	Admission documents and treatment reports from each health facility	therapy, mental health treatment, medication	unknown
Decreased ability to concentrate- affecting ability to seek employment	None in particular made a diagnosis. I however have brought it to the attention of my PVP Dr. Hampton, Therapist Serah Breske, Psychiatrist Dr. at UC Health walk in clinic, Perscribing doctors of the mental health hospitlals.	several dates in 2017	Sarah Breske-therapist Heart Centered Counseling, Laura Tyler,	Admission documents from each health facility	therapy, mental health treatment, medication	unknown
Nightmares of the time I was tortured while in jail	Sarah Breske	A minimum of once a month where I wake up with a blood preasure of 180/110, Sweating through the sheets and a pulse of 140BPM	Sarah Breske-therapist Heart Centered Counseling, Laura Tyler,	unknown	Anxiety Medication	unknown



Severe Police Phobia

Sarah Breske

Multiple times
in a week
whenever
sirens go by
the house or
police are in
the area. The
area can
include in
traffic, in the
neighborhood,
or in a crowd of
people

unknown

unknown

Anxiety
Medication

unknown

Activities that have been curtailed, limited, cut down or terminated as a result of the incident

ACTIVITY	MONTHLY TIME DOING ACTIVITY BEFORE INCIDENT	MONTHLY TIME DOING ACTIVITY AFTER INCIDENT	REASON WHY LEVEL OF ACTIVITY HAS CHANGED
Hockey	20 hours	2 hours	I can ice skate, but only for 15 minutes before the entire foot and the front shin muscles are burning due to injury
Snowboarding / Sledding	12 hours	0 hours	I no longer have the muscle strength and dexterity to snowboard or sledding at all from the injury
Swimming	20 hours	0 hours	Following my low activity ability that started in a wheelchair and still has not been regained, I gained a lot of weight, I am to asnamed and embarrassed to swim
Golf	16 hours	0 hours	I only have the ability to walk the distance of a par 5 hole. I no longer have the muscle dexterity to keep my balance and all the intricacies of a decent golf swing. I have tried to practice but I am not even able to chip on the practice green
Tennis	14 hours	0 hours	My acheles tendon, ACL, and my entire tibia ach painfully after 20 minutes of just trying to keep a volley so I have had to give it up
Walking	8 hours	2 hours	1 mile is a stressful limit, so I avoid walking any longer than 100 yards due to pain in my ankle, acheles tendon, and the entire foot
Mountain Biking	6 hours	0 hours	Due to the injury I am unable to put the amount of preassure on my leg to mountain bike uphill. I also can not take the impact of the bumps while decending
Camping	48 hours	0 hours	I used to go backpack camping by hiking along a trail using only a map and compass. You have to carry around 80lbs of camping equipment in order to do this. I especially enjoyed survival camping in the dead of winter where I would ice fish and live off small game and fish. Not only am I limited to a mile walk on flat ground, but I don't even have the ability to carry 80lbs on my leg that was injured

Rock Climbing	8 hours	0 hours	I used to go outdoors rock climbing and have all the gear for both assention and top roap repelling. I have tried to rock climb on a easy indoor rock wall and nearly reinjured my leg. Due to the injury I now weigh 285lbs but even if I weighed my former 220 I am no longer able to stand all that weight on one small side of my foot. A foothold is the easy part of a rock climb and I am no longer able to achieve that.
Hiking	8 hours	0 hours	I rarely went for a hike just for the sake of hiking; however I would hike regularly to a mountain swimming hole, a rock face for climbing, a lake for fishing ect. But I did do regular hikes in the foothills with a heavy pack just to stay in shape. I can't even walk on flat ground for more than 1 mile let alone traversing a rocky hill
Social Downtown	20 hours	0 hours	Much of having fun in Ft. Collins or any city is the nightlife or festivals. Since I am only able to stand in place for about 20-30 minutes tops there has been most times that I have to pass it up knowing there will be too much standing for me to be comfortable
Social Mobility	8 hours	0 hours	Many times if you go out or get invited out, your friends are walking a few miles downtown which I am unable to do from my injury. On a few occasions you drink too much to legally drive and your only option is to walk home or catch the Max bus a few miles near your house and walk the rest of the way. Unless I know everything from the transportation, time schedual, and what clubs or bars we are going to I just have to opt out.
Dating	32 hours	0 hours	I am a single guy that is used to dating 1 girl regularly or going on a date about once each weekend. I have 3 monumental obsticals to try to get around in order to do this: 1 I don't have any money so I can't afford, well anything. 2 I don't have any form of transportation, this might be ok in New York city but it dosen't go over well in Colorado. 3 My massive weight gain has left me with zero self confidence, the one thing a girl looks for in every guy, confedince is the 1 think I am lacking in the most.

Dancing

6 hours

0 hours

I have never thought I was a good dancer even though many girls complimented me on being a very good dancer. I don't really enjoy dancing but it's one of the things you must do with a girl when dating in the beginning, middle, and at your merrage so I do it.

#13 ECONOMIC LOSS

DESCRIPTION / DATE	MEDICAL EXPENSES	LOSS OF EARNING OR EARNING CAPACITY	OUT OF POCKET EXPENSES	PERSON WITH KNOWLEDGE OF THIS DAMAGE	DOCUMENT REFERENCING OR EVIDENCING DAMAGE
Living expenses Oct 20, 2016 to present			\$24,000		
Loss of ability to work Oct 20, 2016 to present				Dr. Rusnak Orthopedic and Spinal Center of the Rockies	
Reconstructive surgery to lower right leg Hospital Expenses during surgery Post surgery treatment					
Physical therapy				Colorado In Motion- therapist	
Lost wages	24months of 60hours imes 28 her hour				

#14 NON-ECONOMIC DAMAGE

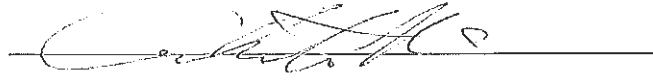
PAIN AND SUFFERING	LOSS OF ENJOYMENT OF LIFE	EMOTIONAL STRESS	ANY PERMANENT IMPAIRMENT OR DISABILITY	MONETARY AMOUNT CLAIMED FOR DAMAGE	PERSON WITH KNOWLEDGE OF THIS DAMAGE
	1,000,000	1,000,000	1,000,000 to be known	1,000,000	6000000

VERIFICATION

I hereby declare under penalty of perjury, under the laws of the State of Colorado, that the foregoing responses to discovery requests are true and correct to the best of my knowledge as of the date of my signing this Verification.

1/19/2018

Date

A handwritten signature in black ink, appearing to be "C. [unclear]", written over a horizontal line.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 17-CV-01177-LTB

DAKOTA TYLER MCGRATH,

Plaintiff,

v.

FORT COLLINS POLICE SERVICES OFFICER NICK RODGERS, in his individual capacity,

Defendant.

**PLAINTIFF'S SUPPLEMENTAL RESPONSES TO DEFENDANT'S
FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION
OF DOCUMENTS, AND REQUESTS FOR ADMISSION**

Plaintiff, Dakota McGrath, by and through counsel, Anthony Viorst of the Viorst Law Offices, P.C., hereby responds to Defendant's First Set of Interrogatories, Requests for Production of Documents, and Requests for Admission as follows:

INTERROGATORIES

1. State the name, address, phone number, and relationship to **YOU** of each person who prepared or assisted in preparing **YOUR** answers to these Discovery Requests. (Do not **IDENTIFY** anyone who simply typed or reproduced the responses.)

RESPONSE: Dakota McGrath, 2721 Bianco Drive, Fort Collins, CO 80525, (970) 689-9103
Laura Tyler, mother, 3620 Haven Court, Fort Collins, CO 80526, (970) 227-6319.

2. Other than **YOUR** counsel of record in the above-captioned matter, please **IDENTIFY** each and every person to whom **YOU** have mentioned, or with whom **YOU** have discussed, either the **INCIDENT** or any of the **ALLEGATIONS IN THE PLEADINGS FILED IN THIS MATTER.**

RESPONSE: Laura Tyler, mother, 3620 Haven Court, Fort Collins, CO 80526, (970) 227-6319.

4. Describe **YOUR** current and past employment since 2011, including: (a) the name, address, and nature of work at **YOUR** present employment or place of self-employment; and (b) the name, address, telephone number, dates of employment, job title, and nature of work for each employer or self-employment **YOU** have had from 2011 until today.

RESPONSE:

2016 – RK Mechanical, 2150 Centre Avenue, Fort Collins, CO 80526, (970) 492-0149. I worked as an HVAC technician, installing, maintaining and repairing heating, air conditioning, and refrigeration systems.

2015 – Tradesman International, 2478 Metrocentre Blvd., West Palm Beach, FL 33407, (561) 686-5050. I worked as an HVAC technician.

2015 – Design Mechanical, 951 Vallejo Street, Denver, CO 80204, (303) 573-1223. I worked as an HVAC technician.

I don’t currently recall the exact dates of the employment listed above, nor do I currently recall the places I worked prior to 2015, but I will try to obtain this information.

8. Has any **HEALTH CARE PROVIDER** advised **YOU** that **YOU** may require future or additional treatment for any injury that **YOU** attribute to the Incident? If so, for each such advisement about future treatment, **IDENTIFY** each **HEALTH CARE PROVIDER** providing same; the complaints or injury for which the treatment was advised; and the nature, duration, and estimated cost of the treatment.

RESPONSE: My PCP (Dr. Hampton) has talked about how an injury like this may need additional help to fully heal. He works at Salud Family Health Centers and his records have previously been disclosed. This statement was made orally, not in writing.

13. **IDENTIFY** each and every item of economic (special) damages, including, but not limited to, medical expenses, loss of earnings or earning capacity, and out-of-pocket expenses **YOU** claim in this action. For each, describe the damage; state the date the damage was incurred; state the monetary amount of the damage; **IDENTIFY** every person with knowledge of the damage; and **IDENTIFY** every **DOCUMENT** referencing or evidencing the damage.

RESPONSE:

Poudre Valley Hospital	\$22,143.96
Medical Center of the Rockies	\$24,369.25
Dr. Rusnak	\$2,873.00
Colorado in Motion	\$1,495.00
Total	<hr/> \$50,881.21

Documentation supporting these figures is attached to this pleading.

14. **IDENTIFY** each and every type of non-economic (general) damages, including, but not limited to, pain and suffering, loss of enjoyment of life, emotional stress, and any permanent impairment or disability **YOU** claim in this action. For each, describe the damage; state the date the damage was incurred; state the monetary amount **YOU** claim for the damage; **IDENTIFY** every person with knowledge of the damage; and **IDENTIFY** every **DOCUMENT** referencing or evidencing the damage.

RESPONSE: Due to the baton strike that broke my leg, I am seeking noneconomic damages for, among other things, pain and suffering, loss of enjoyment of life, emotional distress, and permanent impairment/disfigurement. These damages are related to the pain and suffering from the baton strike and the subsequent surgery, as well as the functional limitations I now experience on a daily basis. I estimate the value of my noneconomic damages at no less than \$500,000.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Produce any and all **DOCUMENTS** utilized in answering these Discovery Requests, including, but not limited to, medical records, business records, employment records, W-2s, and other tax-related information.

RESPONSE: Medical records from the following facilities:

Poudre Valley Hospital
Medical Center of the Rockies
Colorado In Motion PT
Dr. Hampton, Salud Family Health Cetner

Plaintiff hereby declines to disclose any of his mental health records, as they are not relevant to any matter at issue in this case, and because they are subject to the federal psychotherapist-patient privilege. *See Jaffee v. Redmond*, 518 U.S. 1, 15, 116 S.Ct. 1923, 135 L.Ed.2d 337 (1996); *United States v. Glass*, 133 F.3d 1356 (10th Cir. 1998).

Dated this 6th day of February, 2018.

THE VIORST LAW OFFICES, P.C.

[Original signature on file at Viorst Law Offices, P.C.]

s/ Anthony Viorst

Anthony Viorst, #18508
Viorst Law Offices, PC
950 South Cherry Street, Suite 300
Denver, CO 80246
Telephone: (303) 759-3808
Facsimile: (303) 333-7127
E-mail: tony@hssspc.com
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of February, 2018, I electronically served the foregoing **PLAINTIFF'S SUPPLEMENTAL RESPONSES TO DEFENDANT'S FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION OF DOCUMENTS, AND REQUESTS FOR ADMISSION** via email upon the following e-mail address(es):

Matthew J. Hegarty, Esq.
Thomas J. Lyons, Esq.
Hall & Evans, LLC
1001 Seventeenth Street, Suite 300
Denver, CO 80202

[Original signature on file at Viorst Law Offices, P.C.]

s/ Michelle Spadavecchia

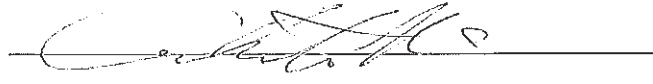
Legal Assistant

VERIFICATION

I hereby declare under penalty of perjury, under the laws of the State of Colorado, that the foregoing responses to discovery requests are true and correct to the best of my knowledge as of the date of my signing this Verification.

02/06/18

Date

A handwritten signature in black ink, appearing to be "C. [unclear]", written over a horizontal line.