

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Derryl M. Jenkins,

Case No.

Plaintiff,

vs.

COMPLAINT

Richard Walker, George Warzinik,  
Michael Honeycutt, John Trangsrud,  
Shawn Powell, Christopher Tuma, and  
Scott Dahlquist, all in their individual capacity  
as officers 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 Derryl M. Jenkins ("Jenkins") hereby states and alleges as follows:

1. This is an action for money damages for injuries sustained by Jenkins as a result of the use of excessive force in violation of his constitutional rights by the individual defendants. Plaintiff Jenkins also asserts a claim against the City of Minneapolis pursuant to *Monell v. Department of Social Servs.*, 436 U.S. 658 (1978).

2. Jenkins 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. The amount in controversy exceeds \$75,000, excluding interest and costs.

4. Jenkins is, and was at all times material herein, a citizen of the United States and a resident of the State of Minnesota.

5. Defendant Richard Walker (“Walker”), 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 4<sup>th</sup> Precinct of the Minneapolis Police Department.

6. Defendant George Warzinik (“Warzinik”), 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 4<sup>th</sup> Precinct of the Minneapolis Police Department.

7. Defendant Michael Honeycutt (“Honeycutt”), 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 4<sup>th</sup> Precinct of the Minneapolis Police Department.

8. Defendant John Trangsrud (“Trangsrud”), 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 4<sup>th</sup> Precinct of the Minneapolis Police Department.

9. Defendant Shawn Powell (“Powell”), 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 4<sup>th</sup> Precinct of the Minneapolis Police Department.

10. Defendant Christopher Tuma (“Tuma”), 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 4<sup>th</sup> Precinct of the Minneapolis Police Department.

11. Defendant Scott Dahlquist (“Dahlquist”), 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 4<sup>th</sup> Precinct of the Minneapolis Police Department.

12. Defendant City of Minneapolis is a municipality duly incorporated under the laws of the State of Minnesota.

13. In the early morning hours of February 19, 2009, Jenkins was driving from his residence to a friend's house to retrieve some music equipment he had left there and to listen to some music.

14. Shortly after 3:00 a.m. on February 19, 2009, Walker began following Jenkins's vehicle, which was allegedly going 45 mph in a 30 mph zone. This is disputed by Jenkins and Jenkins was never charged with speeding.

15. Walker initiated a traffic stop of Jenkins, and Jenkins promptly pulled his car over. Jenkins felt something about the stop was wrong and called his girlfriend on his cell phone as soon as he was pulled over. Jenkins's call captured audio from this incident on his girlfriend's voice mail.

16. Walker exited his squad car and approached Jenkins's vehicle. Walker attempted to open Jenkins's driver's-side door, but the door was locked.

17. Walker then knocked on Jenkins's window, prompting Jenkins to crack open his car door, at which point Walker pulled the door open and asked for Jenkins's license.

18. Jenkins asked what he did wrong and asked to speak to Walker's supervisor.

19. Walker continued to ask for Jenkins's license and repeatedly motioned with his hand.

20. Jenkins believed Walker's hand motions meant Walker wanted Jenkins to exit the vehicle and he indicated that he had to get his license from his pocket. Jenkins's license was in a cargo pocket close to Jenkins's knee and was difficult to reach while he was sitting down in the vehicle.

21. Walker then reached into Jenkins's car and grabbed Jenkins's cell phone from him and threw it on top of Jenkins's car.

22. Unsure how best to follow Walker's directions, Jenkins then got out of his vehicle. Walker told him to stay in the car and Jenkins responded, "Hold on sir . . ." Walker then grabbed Jenkins, pulled his sweater up over his head, and wrestled him to the ground.

23. Upon information and belief, prior to Walker grabbing Jenkins and pulling his sweater over his head, Jenkins had made no physically aggressive move toward Walker whatsoever.

24. While grappling with Jenkins, Walker called for help on his radio, stating that he was "fighting one."

25. After Walker had Jenkins on the ground and under control, Walker struck Jenkins in the face with his closed right fist.

26. While Walker was wrestling with and holding Jenkins on the ground, Jenkins repeatedly asked, "What did I do wrong?"

27. Walker held Jenkins on the ground until additional officers arrived.

28. While Walker had Jenkins under control and was holding him down, Tuma, Powell, Trangsrud, Honeycutt, Warzinik, and Dahlquist arrived in short order.

29. Without witnessing Jenkins physically assault Walker and while other officers were restraining and/or striking Jenkins, Tuma admitted in his supplemental report that he executed at least 3 punches to the right side of Jenkins's head. Tuma also admitted that he then used his taser on Jenkins, firing the probes into Jenkins for two cycles of the weapon and then using the taser in drive-stun mode for a third cycle.

30. Without witnessing Jenkins physically assault Walker and while other officers were restraining and/or striking Jenkins, Powell admitted in his supplemental report that he ran up to Jenkins and kicked Jenkins in the torso 3 times. He then performed multiple closed fist strikes to Jenkins's head.

31. Without witnessing Jenkins physically assault Walker and while other officers were restraining and/or striking Jenkins, Trangsrud admitted in his supplemental report that he kicked Jenkins in the lower back and then hit him several times in the back. Trangsrud then grabbed Jenkins's arm and helped handcuff him.

32. Without witnessing Jenkins physically assault Walker and while other officers were restraining and/or striking Jenkins, Honeycutt admitted in his supplemental report that he grabbed Jenkins's arm and delivered several punches to Jenkins's shoulder. Honeycutt had Jenkins's right arm at times during the handcuffing.

33. Without witnessing Jenkins physically assault Walker and while other officers were restraining and/or striking Jenkins, Warzinik admitted in his supplemental report that he kneeled on Jenkins's leg and delivered at least 5 blows to Jenkins's buttocks. Warzinik also held one of Jenkins's arms and helped handcuff him.

34. Upon information and belief, without witnessing Jenkins physically assault Walker and while other officers were restraining and/or striking Jenkins, Dahlquist participated in the beating and/or handcuffing of Jenkins.

35. After a few minutes of defendant officers beating Jenkins, the officers handcuffed him.

36. While the supplemental reports of the defendant officers identify numerous punches to Jenkins's head and upper body and numerous kicks, these reports do not identify the full number or severity of blows to Jenkins's head (including likely kicks to the head), which are evidenced by the squad videotape and the following photographs:



37. Jenkins was beaten so badly that he defecated on himself.

38. Sgt. Christopher Pickhardt arrived on the scene during the incident and, once Jenkins was handcuffed, reviewed video footage of the events and filed a police report wrongly suggesting that the video footage shows Jenkins strike Walker in the mouth.

39. Similarly, upon information and belief, Sgt. Steven Wagner investigated this case starting on 2/19/09 and filed a report stating, "it is clear that the officer suffered demonstrable bodily harm resulting from the assault by the defendant." Sgt. Wagner presented the case to the County attorney for charges.

40. One of the officers on the scene called an ambulance for Jenkins, and he was transported via ambulance to North Memorial Hospital.

41. At North Memorial, Jenkins complained of body pains and right thumb pain and was diagnosed with a "4cm laceration to the left eyebrow [and] orbital contusion."

42. Jenkins received a CT scan to evaluate for facial fractures, which found no fractures but noted, "prominent left facial and preorbital soft tissue swelling/hematoma."

43. Jenkins received seven interrupted 6-0 sutures in his eyebrow.

44. Just a few minutes after the beating, Dahlquist exchanged text messages with another Minneapolis Police Department officer describing the incident with Jenkins as “A GOOD FIGHT.”

45. The force defendants Walker, Tuma, Powell, Trangsrud, Honeycutt, Warzinik, and Dahlquist used on Jenkins was unauthorized, excessive, and constitutionally improper.

46. Upon information and belief, the force defendants Walker, Tuma, Powell, Trangsrud, Honeycutt, Warzinik, and Dahlquist used on Jenkins was malicious and for the very purpose of causing pain and/or injury.

47. Upon information and belief, all of the defendants as well Sgt. Pickhardt and Sgt. Wagner tried to cover up officer misconduct by filing false and misleading police reports in this matter. The reports contain several materially false claims and statements regarding Jenkins’s conduct, including that Jenkins struck Walker and continued resisting arrest even after the initial strikes to his head and body. Walker, Pickhardt, and Wagner also tried to cover officer misconduct by seeking to falsely charge Jenkins with felony assault of a police officer and a DWI based on refusal to submit to chemical testing.

48. Jenkins was charged with Assault in the Fourth Degree (felony) against Walker and with refusal to submit to chemical testing, Third Degree DWI. Additionally, Jenkins had his driver’s license revoked for refusing to submit to chemical testing.

49. On March 30, 2009, the County Attorney dismissed all charges against Jenkins related to this incident, specifying that the dismissal was “[i]n the interests of justice.” Moreover, on June 29, 2009, the revocation of Jenkins’s driver’s license was rescinded.

50. Jenkins never physically threatened any of the defendants in any manner when he was physically assaulted by Walker, Tuma, Powell, Trangsrud, Honeycutt, Warzinik, and Dahlquist.

51. The severity of any potential crime at issue was minor, as Jenkins was pulled over for speeding or, at worst, suspected, but unproven, DWI.

52. Jenkins did not pose an immediate threat to the safety of the defendant officers or others at the time of his beating and arrest.

53. Jenkins did not attempt to evade arrest by flight and did not actively resist arrest.

54. Finally, the defendant officers were armed while Jenkins had no weapon.

55. Following the incident, Jenkins received additional medical attention at North Memorial to have his sutures taken out.

56. Jenkins also sought medical attention for his right thumb at Tria Orthopaedic, where he was diagnosed with “post-traumatic appearing osteoarthritis” in his right thumb and “subluxation [parital dislocation] of the joint and subacute ulnar collateral ligament partial tear.”

57. Since the assault occurred on February 19, 2009, Jenkins has incurred special damages, including medical expenses that exceed \$6,000 to date, as a direct and proximate result of the excessive use of force and violation of his constitutional rights by the defendants.

58. Plaintiff suffered and will continue to suffer mental and emotional injuries from the vicious attack. He has received professional treatment for those injuries. Notably, he has a complete distrust of the police and their wrongful motivations, whether racial or otherwise. His diagnoses related to this injury are Acute Stress Disorder with panic symptoms and aggravation of pre-existing mental disorders, including Post Traumatic Stress Disorder.

59. Upon information and belief, and as demonstrated by the use of force manifesto issued by 4<sup>th</sup> Precinct Lt. Mike Sauro discussing the subject incident, 4<sup>th</sup> Precinct supervisors approved of and encouraged the level of force used against Jenkins, specifically strikes to the head. See Exhibit A. Despite medical and police training evidence to the contrary, in his manifesto, Lt. Sauro flatly rejected the notion that head strikes could constitute deadly force. See id.

60. Upon information and belief, the City of Minneapolis has failed to date to take any disciplinary action against any of the defendant officers as a result of their conduct in this incident.



61. Upon information and belief, only after the video of Plaintiff's beating became public (and caused considerable public outrage) did the City of Minneapolis launch an investigation into officer conduct in this incident.

62. Due to the fact that the City of Minneapolis has historically failed to discipline its police officers for use of excessive force, these officers do not feel constrained from using excessive force, knowing the department will not investigate their actions adequately nor impose negative sanctions on them.

63. The effect of the department's failure to discipline has led other Minneapolis police officers to believe they could (as the defendant officers did) get away with using excessive force.

64. Plaintiff demands a jury trial as to all issues of fact herein.

COUNT ONE

42 U.S.C. § 1983 – FOURTH AMENDMENT VIOLATIONS BY DEFENDANTS WALKER,  
TUMA, POWELL, TRANGSRUD, HONEYCUTT,  
WARZINIK, AND DAHLQUIST

65. Plaintiff realleges the allegations contained in paragraphs 1-64 herein against defendants Walker, Tuma, Powell, Trangsrud, Honeycutt, Warzinik, and Dahlquist.

66. By the actions described above, defendants Walker, Tuma, Powell, Trangsrud, Honeycutt, Warzinik, and Dahlquist, under color of state law, violated and deprived Jenkins of his clearly established and well-settled civil rights to be free from the use of excessive force.

67. Defendants Walker, Tuma, Powell, Trangsrud, Honeycutt, Warzinik, and Dahlquist subjected plaintiff to this deprivation of rights either maliciously or acting with reckless disregard for whether Plaintiff's rights would be violated by these actions.

68. As a direct and proximate result of the acts and omissions of defendants Walker, Tuma, Powell, Trangsrud, Honeycutt, Warzinik, and Dahlquist, Jenkins suffered severe injuries, was forced to endure significant pain and mental suffering, and was thereby damaged in an amount yet

to be determined, but believed to be well in excess of Two-Hundred Fifty Thousand (\$250,000) Dollars.

69. Punitive damages are available against defendants Walker, Tuma, Powell, Trangsrud, Honeycutt, Warzinik, and Dahlquist 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.

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

COUNT TWO  
CIVIL RIGHTS VIOLATION BY DEFENDANT CITY OF MINNEAPOLIS

71. Plaintiff realleges the allegations contained in paragraphs 1-70 herein against defendant City of Minneapolis.

72. 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 Walker, Tuma, Powell, Trangsrud, Honeycutt, Warzinik, and Dahlquist to refrain from using unreasonable force.

73. Defendant City of Minneapolis, through the 4<sup>th</sup> Precinct supervisors, including Lt. Mike Sauro, approved and encouraged officers to use head strikes in situations that did not call for deadly force.

74. Before February 19, 2009, defendant City of Minneapolis, with deliberate indifference to the rights of citizens, initiated, tolerated, permitted, failed to correct, promoted, and ratified a custom, pattern and practice on the part of its police personnel, including defendants Walker, Tuma, Powell, Trangsrud, Honeycutt, Warzinik, and Dahlquist, of using excessive force, which is evidenced by Sgt. Pickhardt's and Sgt. Wagner's false police reports.

75. As of February 19, 2009, defendant City of Minneapolis maintained a custom and practice of deliberate indifference to use of excessive force by its officers.

76. Defendant City of Minneapolis, directly or indirectly, under color of state law, approved or ratified the unlawful, malicious, reckless, or wanton conduct of defendants Walker, Tuma, Powell, Trangsrud, Honeycutt, Warzinik, and Dahlquist.

77. As a direct and proximate result of the acts and omissions, systematic flaws, policies and customs of defendant City of Minneapolis, Jenkins suffered injuries, was forced to endure unnecessary pain and mental suffering, and was thereby damaged in an amount yet to be determined by a jury, but believed to be well in excess of Two-Hundred Fifty Thousand (\$250,000) Dollars.

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

WHEREFORE, plaintiff Derryl M. Jenkins prays for judgment against the defendants as follows:

1. As to Count One, a money judgment against defendants Walker, Tuma, Powell, Trangsrud, Honeycutt, Warzinik, and Dahlquist for compensatory damages in an amount in excess of Two Hundred-Fifty Thousand (\$250,000) 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 two, a money judgment against defendant City of Minneapolis for compensatory damages in an amount in excess of Two Hundred-Fifty Thousand (\$250,000) Dollars, together with costs, including reasonable attorney fees, under 42 U.S.C. § 1988 and prejudgment interest;

3. For an order mandating additional training for Minneapolis police officers to counteract previous instruction and for remediation on use of force, including but not limited to reversing the effects of Lt. Mike Sauro's use of force manifesto;
4. For an order mandating additional training for Minneapolis Police Department investigators regarding excessive force and standards for charging victims/suspects; and
5. For such other and further relief as this Court deems just and equitable.

Dated: January 28, 2010

FLYNN, GASKINS & BENNETT, L.L.P.



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Attorneys for Plaintiff

# **EXHIBIT A**

### Use of Force

As a supervisor at the 4<sup>th</sup> Pct. I am writing this in response to the request that supervisors discuss use of force with officers under their command. I will start this discussion by telling you that I have worked for the MPD for thirty five years and have attended many, many training sessions on force and been involved in many, many use of force incidents.

Following is what I have learned about use of force thru training and experience.

First of all, use of force is the most controversial thing we do as police officers. Force is not pretty to the untrained eye whether it is civilians, politicians or police administrators. My understanding is that if my use of force is not sufficient I will die, there are no second place winners in use of force applications.

An officer must assume in his mind that if he or she loses during a confrontation with a suspect, the officer will die. Training techniques on use of force are just that, "training techniques".

When an officer uses force it is in the context of their training and experience. In other words what has been effective in the past for that particular officer. Some officers are comfortable with certain techniques and other officers are not. Many variables come into the equation when using force and these variables are not static, they evolve depending on the officer's experience and other factors.

I personally am not comfortable with many new force techniques because in my training and experience they are just "pretty" and not effective. Real force is not pretty, it is use of force not a beauty pageant. Remember if the technique I use is not effective I die, not the instructor who taught it to me.

Surprise is a fundamental aspect of force. In other words if your first technique fails you and the suspect are now closer to equal. If you and the suspect are equal, you are losing. Losing can turn into your death. I know this might seem melodramatic, but how many officers who have been murdered thought they were going to die when the incident started?

The main reason officers end up injured or murdered by suspects is because the officer did not use enough force, not because the officer used too much force. The suspect ALWAYS determines how much force is used against him, not the officer. If the suspect does not produce his drivers license when requested he then dictates that force be used, not the officer.

Next I would like to discuss a myth that has been perpetuated by use of force experts across the country. That myth is blows to the head are deadly force. Let me make one thing perfectly clear, while blows to the head are not pretty they do not create a high likelihood of death.

**IN MY 35 YEARS AS A MINNEAPOLIS POLICE OFFICER THERE IS NOT ONE DOCUMENTED CASE OF A SUSPECT DYING FROM A BLOW TO THE HEAD BY A MINNEAPOLIS POLICE OFFICER. I have seen suspects struck in the head by police officers with 4 cell flashlights, night sticks, jump boots, fists, gloved fists, sap gloved fists, saps and other items to gain compliance. I must repeat the above phrase just to make it perfectly clear, NOT ONE DOCUMENTED CASE OF A SUSPECT DYING FROM A BLOW TO THE HEAD INFLICTED BY A MINNEAPOLIS POLICE OFFICER IN THE PAST 35 YEARS.**

How can a blow to the head be deadly force if one has not caused death to a suspect in the past 35 years? Actually there are many documented cases in Minneapolis where tazers and hands on/wrestling have resulted in the death of suspects. So in reality these techniques are more deadly than blows to the head. For your information reality is something street cops deal with, not theory. I personally will go with reality every time, since reality can kill me, not theory.

Remember, those who can do and those who can't teach. This relates to the "experts". It is easy to dissect a force incident for several days in the safety of city hall or a newsroom. My retort to all the second guessers/experts is, why don't you throw on one of those blue uniforms and go out and do it yourself if it is so easy. Remember, the "experts" also once said the earth was flat. Let's now get to the force incident which has prompted all this discussion. Unlike some people I have reviewed the involved officer's reports and viewed the video of the Jenkins arrest. What I observed was a controlled use of force by a group of highly trained professional police officers. Let's get the real facts of this case as documented by video and police reports. The Jenkins arrest is a classic drunk driving arrest which turned into an assault on a police officer by Jenkins. Jenkin's driving behavior and the time, 3 AM, raise my suspicions that he has been drinking.

Than if you watch the video you can see Jenkins car lurch ahead approximately three feet after he first stops. This tells me two things. More evidence of drinking and he is thinking of fleeing or actively resisting. The officers walks up to his car. He locks his door and his window is rolled up. More signs of resisting arrest and drunk driving. Finally the officer makes verbal contact with Jenkins and he refuses the request for his driver license multiple times, laced with profanities. More evidence of drunk driving and he is going to resist arrest/harm the officer. At this point the officer should be thinking that soon he is going to be in a physical altercation with this person and if the officer loses he is going to die. All of Jenkins actions are to get the officer off guard so he can assault him.

I have heard people minimize Jenkins behavior as "allegedly speeding". Jenkins is not just a speeder, he is a drunk driver. Drunk drivers are serious dangers to the public, who we are sworn to protect and serve. Drunk drivers kill more people in Minnesota every year than gang members.

One of my friends, retired MPD Off. Mike Calistro just died recently after being struck by a drunk driver who "allegedly went across the median". Disabled MPD Off. Dave Loeffler who just recently died had his leg amputated below the knee by a drunk driver who crashed into his sqd, pinning him between his sqd and a vehicle he had stopped. I am very confident Off. Loeffler would be alive today if that drunk driver had not injured him.

I could go on and on about the major threat to public safety drunk drivers pose but I will not. That is a job for MADD and others. The bottom line is Jenkins was a threat to public safety the night he was arrested. Several independent officers noted the drunken driving behaviors Jenkins showed. The last time I checked drunken driving is a crime and refusal to take a DWI test is a gross misdemeanor. Where are the charges?

Jenkin's physical assault on the officer last over 60 seconds. Anyone who has experience in force situations knows this a very long time. The longer the confrontation goes on the more likelihood the officer will get seriously hurt or killed. The sooner the suspect is searched, cuffed and in the rear of the sqd the safer the suspect is and the safer the officer is.

Let's discuss the arriving officer's actions. My experience tells me when an officer gets on the air while fighting with a suspect I better get there quick. I also assume that lower level force techniques such as presence and verbal judo have failed. When I arrive and see the suspect still struggling with the officer I am going to perceive the suspect has not been searched for weapons and is a serious threat to me and other officers at the scene. Because of my perceptions and experience I am going to strike the suspect with hands, feet and batons. Just like the arriving officers did. Jenkins needed to be brought under control immediately. He could be armed with a gun or knife since he has not been searched yet. I am not going to take the chance of being shot or stabbed. The people in city hall and the newsroom can take that chance, I am not going to.

On the video, as soon as Jenkins was under control the force was deescalated by the officers. Remember Jenkins determined how much force was used on him, not the officers. If Jenkins complies with the officer at the start minimal force gets used against him. The only downside to Jenkins's compiling is he gets booked for DWI and does not get any money in a lawsuit against the City.

Let's talk a little about the aftermath of the Jenkins arrest. The incident is now being investigated by the FBI, supposedly to judge the appropriateness of the force used. How much expertise does the FBI have in use of force? My experience tells me very little. I know the FBI used some force in Waco Texas resulting in the over thirty woman and children being burned to death. I know the FBI investigated the 911 terrorists, before September 11<sup>th</sup>. How did that turn out? Ask the relatives of the over 3,000 people that died when the Twin Towers collapsed or ask the relatives of troops currently serving in Afghaniistan. I have no doubt that the one shift at the 4<sup>th</sup> Precinct has more actual experience in use of force than the entire FBI. You get the message? I saw one expert on ethics say the kicking by the officers "seemed odd". Well if he was an experienced street officer he would know they were not kicks, they were stunning blows to gain compliance. I suppose this expert in ethics gained a lot of experience in applied force from his office over at Metro State U.

Than how about the comments by the attorney who has made a real good living representing suspects who have allegedly had excessive force used against them by police officers. This attorney says he is "troubled" by what appears to be kicks to the head, which he says are only justified when there is a severe threat to the officer.

Well he can be troubled no more since there was a severe threat in my professional opinion to the safety of the officers involved. They are trying to control a suspect who has been tazed with no effect, been struck by multiple stunning blows with hands and feet and still continues to fight with officers. Also keep in mind this suspect has not been searched for weapons, such as a knife or gun. That is the classic "severe threat to these officers".

In ending I will repeat that the Jenkins's arrest incident is a classic applied use of force by highly trained professional police officers. Feel free to discuss your thoughts on this with me at any time.

Lt. Mike Sauro, 4<sup>th</sup> Pct.



JS 44 (Rev. 3/99)

## CIVIL COVER SHEET

The JS-44 civil cover sheet and information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## 1. (a) PLAINTIFFS

Derryl M. Jenkins

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Hennepin  
(EXCEPT IN U.S. PLAINTIFF CASES)

## DEFENDANTS

Richard Walker, George Warzinik, Michael Honeycutt, John Trangsrud, Shawn Powell, Christopher Tuma, Scott Dahlquist, and the City of Minneapolis

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Robert Bennett and Ryan O. Vetteson, 612-333-9500  
Flynn Gaskins & Bennett, LLP, 333 South Seventh Street, #2900  
Minneapolis, MN 55402

ATTORNEYS (IF KNOWN)

## II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury  <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth In Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 810 Agriculture <input type="checkbox"/> 820 Other Food & Drug <input type="checkbox"/> 825 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 830 Liquor Laws <input type="checkbox"/> 840 R.R. & Truck <input type="checkbox"/> 850 Airline Regs. <input type="checkbox"/> 860 Occupational Safety/Health <input type="checkbox"/> 890 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl Ret Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW(405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>HABEAS CORPUS:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

## V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify) \_\_\_\_\_
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

(CITE THE U. S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

42 U.S.C. Sections 1983 and 1988. Defendants subjected plaintiff to unreasonable force violating his 4th Amendment rights.

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION  
☐ UNDER F.R.C.P. 23

DEMAND \$  
\$250,000

CHECK YES only if demanded in Complaint  
JURY DEMAND: ☒ YES ☐ NO

## VIII. RELATED CASE(S) (See instructions): IF ANY

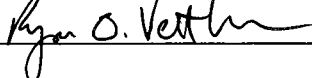
JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

1/29/2010

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_