

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 17-cv-02941-CMA-STV

RYAN PARTRIDGE,

Plaintiff,

v.

T. SMITH, in his individual and official capacity;
KARMEN KOGER, in her individual and official capacity;
THOMAS GROFF, in his individual and official capacity;
ROBERT HICKS, in his individual and official capacity;
DAN NEWCOMB, in his individual and official capacity;
CHUCK SISNEROS, in his individual and official capacity;
GREGORY CLEM, in his individual and official capacity;
VILI MAUMAU, in his individual and official capacity;
ANTHONY HOLLONDS, in his individual and official capacity;
LYDIA MITCHELL, in her individual and official capacity,

Defendants.

SHERIFF'S DEFENDANTS' ANSWER TO COMPLAINT AND JURY DEMAND

T. Smith, Karmen Koger, Thomas Groff, Robert Hicks, Dan Newcomb, Chuck Sisneros, Gregory Clem, Vili Maumau, Anthony Hollonds, Lydia Mitchell, the Boulder County Sheriff's Department¹ (the "Sheriff's Defendants"), by and through undersigned counsel, submit their answer to Plaintiff's Complaint and Jury Demand:

¹ The Boulder County Sheriff's Department is not named in the Complaint. For purposes of resolving the dispute about service and properly named parties, counsel for the individual and official capacity agreed at the April 5, 2019, scheduling conference to treat the "Boulder County Sheriff's Department" as the defendant where the Complaint alleges an ADA or Rehabilitation Act claim against Boulder County. (See Courtroom Minutes/Minute Order

INTRODUCTION

1. Sheriff's Defendants respond to Paragraph 1 as follows:

Sheriff's Defendants admit that Plaintiff was incarcerated at the Boulder County Jail and in a cell on December 17, 2016. Sheriff Defendants deny the allegation that they were aware of Plaintiff's history regarding mental illness. Sheriff's Defendants admit records indicate Plaintiff had incidents of self-harm while incarcerated. Sheriff's Defendants admit records indicate Plaintiff was housed alone due to his volatile and assaultive behavior. Sheriff's Defendants admit Plaintiff intentionally damaged both of his eyes with his own fingers. Sheriff's Defendants deny that Plaintiff plucked his eyeballs completely out of his head.

To the extent that a response is required, Sheriff's Defendants deny the allegations concerning the treatment of Plaintiff's alleged psychosis and procedures and processes regarding the forced administration of "anti-psychotic" medications.

The allegation that Defendants "exhibited deliberate indifference to [Plaintiff's] serious medical need for mental health treatment" is a legal conclusion that refers to unspecified defendants and claims that have been dismissed from this lawsuit, and therefore no response is required; to the extent a response is required, Sheriff's Defendants deny the allegation.

Sheriff's Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations and statements concerning Plaintiff's actions, medical and mental health history, how long it had been since Plaintiff cut his fingernails, diagnoses, or thoughts, and therefore deny them.

To the extent a response is required, Sheriff's Defendants deny all remaining allegations and statements in Paragraph 1 not specifically admitted.

2. The Sheriff's Defendants respond to paragraph 2 as follows:

Sheriff's Defendants admit records indicate Plaintiff jumped from the second-tier railing of the Disciplinary module to the floor of the day room below on November 1, 2016. Sheriff's Defendants admit Plaintiff landed on a table. Sheriff's Defendants admit that Plaintiff survived the fall on November 1, 2016. Sheriff's Defendants admit records indicate Plaintiff walked up to the second tier of the Special Management module on December 1, 2016 and deputies were able to talk him back down to the lower level.

Sheriff's Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation regarding Plaintiff's thoughts or intentions while on the second tier of the Disciplinary module on November 1 or December 1, 2016, and therefore deny the allegation.

Sheriff's deny all remaining allegations, statements, characterizations, and opinions in paragraph 2 not specifically admitted.

3. The Sheriff's Defendants respond to paragraph 3 as follows:

Sheriff's Defendants admit Plaintiff was booked into the Boulder County Jail on more than one occasion in 2016. Sheriff's Defendants admit records indicate that a judge ordered that Plaintiff be restored to competency in 2016. Sheriff's Defendants admit Plaintiff participated in a restoration to competency program. Sheriff's Defendants admit records indicate deputies reported opinions that Plaintiff appeared to be suffering from psychosis or the effects of substance abuse in 2016. The Sheriff's Defendants are

without knowledge or information sufficient to form a belief about the truth of the allegation that Plaintiff was “in a deep delusional psychosis” and therefore deny the allegation. Sheriff’s Defendant deny the allegation that Plaintiff reported he was going to gouge his eyes. Sheriff’s Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation that Plaintiff violently banged his head into his toilet, leaving his head and face bloodied and breaking seven teeth and therefore deny it.

Sheriff’s Defendants deny all remaining statements, allegations, characterizations, and opinions in paragraph 3 not specifically admitted.

4. The Sheriff’s Defendants respond to Paragraph 4 as follows:

Sheriff’s Defendant’s deny the allegation that Plaintiff was incarcerated in the Boulder County Jail for ten months. Sheriff’s Defendants deny Plaintiff had ten months of self-mutilation and suicide attempts.

Sheriff Defendant’s admit that Shane McGurk aided in the effort to obtain a court order related to Plaintiff. Sheriff’s Defendants admit a judge entered an Order for Evaluation on December 16, 2016, which included a transport order. Sheriff’s Defendants deny they ignored the order. Sheriff’s Defendants deny Plaintiff plucked out his eyeballs. To the extent required, Sheriff’s Defendants deny all remaining allegations in paragraph 4 not specifically admitted.

5. The Sheriff’s Defendants respond to Paragraph 5 as follows:

The allegation that Defendants exhibited willful and deliberate indifference to Plaintiff’s serious medical needs” is a legal conclusion that refers to unspecified

defendants and claims that have been dismissed from this lawsuit, and therefore no response is required; to the extent a response is required, Sheriff's Defendants deny the allegation.

The allegation that "officers" used excessive force against Plaintiff is a legal conclusion that refers to unspecified defendants and to which no response is required; to the extent a response is required, Sheriff's Defendants deny the allegation.

Sheriff's Defendants deny all remaining allegations, statements, opinions, and mischaracterizations in paragraph 5.

JURISDICTION AND VENUE

6. Sheriff's Defendants admit Plaintiff has brought claims under the federal statute cited. Sheriff's Defendants deny that there is a factual basis to support a claim under 42 U.S.C. § 1983.

7. Sheriff's Defendants admit that Plaintiff has invoked the Court's jurisdiction under the federal statutes cited. Sheriff's Defendants deny there is a factual basis to support awarding Plaintiff attorneys' fees or costs.

8. Defendants admit venue is proper in the United States District Court for the District of Colorado.

PARTIES

9. Sheriff's Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 9 and therefore deny them.

10. The individually named Sheriff's Defendants in their individual capacities admit they were citizens of the United States and residents of Colorado in 2016.

Sheriff's Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph 10 concerning individuals who have been dismissed from this matter and therefore deny it.

11. The individual Sheriff's Defendants admit they were acting within the course and scope of their employment with the Sheriff's Office at all times relevant in the Complaint. Sheriff's Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph 11 concerning individuals who have been dismissed from this matter and therefore deny it. Sheriff's Defendants deny all remaining allegations in Paragraph 11.

12. Paragraph 12 refers to individuals who have been dismissed from this lawsuit, therefore no response to the allegations in paragraph 12 is required.

13. Sheriff's Defendants admit that Plaintiff has invoked the Court's jurisdiction under the federal statutes cited. Sheriff's Defendants deny there is a factual basis to support awarding Plaintiff attorneys' fees or costs.

14. Defendants admit venue is proper in the United States District Court for the District of Colorado.

FACTUAL ALLEGATIONS

15. Sheriff's Defendants admit Plaintiff has been diagnosed with schizophrenia. Sheriff's Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 15, and therefore deny them.

16. Sheriff's Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 16 and therefore deny them.

17. Sheriff's Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 17 and therefore deny them.

18. Sheriff's Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 16 and therefore deny them.

19. The Sheriff's Defendants respond to paragraph 19 as follows:

Sheriff's Defendants admit Plaintiff was booked into the Boulder County Jail on February 16, 2016 and again on February 27, 2016. Sheriff's Defendant admit jail records indicate a mental health worker at the Jail, in a report dated February 23, 2016, stated that Plaintiff was acting in a manner inconsistent with previous behavior. Sheriff's Defendants deny the allegation the mental health worker's report describes Plaintiff as more mentally ill than he had been previously. Sheriff's Defendants admit the February 23, 2016 report indicates Plaintiff had been on psychiatric medications in the past according to medical screenings and that Plaintiff indicated he was not interested in psychiatric medication at the time the report was written. Sheriff's Defendants admit Deputy Bryant authored a report on March 22, 2016 concerning his observations and opinions regarding Plaintiff and that the language quoted in paragraph 19 appears in the March 22, 2016 report. Sheriff's Defendants deny that by February of 2016 they knew Plaintiff had a severe mental illness. Sheriff's Defendants deny all remaining allegations in paragraph 19 not specifically admitted.

20. To the extent a response is required, Sheriff's Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph 20 and therefore deny it.

21. The Sheriff's Defendants respond to Paragraph 21 as follows:

Sheriff's Defendants admit records indicate Plaintiff stood in the door of his cell in February 2016. Sheriff's Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation that Plaintiff intentionally banged his head into the toilet in his cell, breaking seven of his own teeth . . . and therefore deny it. Sheriff's Defendants admit jail records indicate that Plaintiff had broken teeth. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in Paragraph 21 not specifically admitted.

22. The allegations in Paragraph 22 refer to claims that have been dismissed and events that occurred outside the Sheriff's Defendants' presence between other individuals and those who have since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit a jail record dated February 25, 2016 records a call a mental health worker purportedly had with Deputy Foster in which Deputy Foster expressed concern regarding Plaintiff's behavior. Sheriff's Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation that Deputy Foster reported that Plaintiff was psychotic, and therefore deny it. Sheriff's Defendants admit the jail record referenced in paragraph 22 indicates the mental health worker placed Plaintiff on house alone status. To the extent a response is required,

Sheriff's Defendants deny all remaining allegations in paragraph 22 not specifically admitted.

23. The allegations in Paragraph 23 refer to claims that have been dismissed and events that occurred outside the Sheriff's Defendants' presence between Plaintiff and other individuals who have since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit a jail record dated February 29, 2019 indicates Plaintiff was behaving inappropriately to a female nurse. Sheriff's Defendants admit the February 29, 2019 record includes statements made to Deputy Berringer by Plaintiff. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 23 not specifically admitted.

24. Sheriff's Defendants admit records indicate Plaintiff was housed in the special management module on March 3, 2016 before he was moved to the Disciplinary module. Sheriff's Defendant's deny the allegation that Plaintiff was housed in the Maximum Module. Sheriff's Defendants deny the allegation that records indicate Plaintiff was housed in the special management or disciplinary modules because of psychotic behavior. Mr. Hollonds admits he was serving Plaintiff lunch on March 3, 2016. Mr. Hollonds admits Plaintiff jammed his tray into the doorway preventing it from closing. Mr. Hollonds admits Plaintiff asked why he was in that cell. Mr. Hollonds admits he attempted to push Plaintiff back into his cell. Mr. Hollonds admits Plaintiff slipped out of his cell and the door closed behind him. Mr. Hollonds admits Plaintiff attempted to push past him. Mr. Hollonds admits he used a straight punch to Plaintiff's face. Mr. Hollonds

admits Plaintiff continued resisting and he wrestled Plaintiff to the ground in order to gain control. Sgt. Groff admits he made the decision to move Plaintiff to a cell in the Disciplinary module following this incident. Sgt. Groff admits Plaintiff became resistive and planted his feet during the move to the Disciplinary module. Sgt. Groff admits deputies pinned him to the Maximum module door and a deputy told him to stop resisting. **Sgt. Groff admits he tased Plaintiff.** Mr. Hollonds and Sheriff's Defendants deny all remaining allegations in paragraph 24 not specifically admitted.

25. The allegations in Paragraph 25 refer to events that occurred outside the Sheriff's Defendants' presence between other deputies, jail staff, and mental health staff and refers to claims and individuals that have since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit records indicate a jail mental health worker recorded her opinions and observations of Plaintiff on March 7, 2016. Sheriff's Defendant's deny the allegation that Ms. Taylor was the mental health worker who recorded these observations and opinions on March 7, 2016. **Sheriff's Defendants admit jail records record the observations and opinions of the mental health worker on March 7, 2016.** **Sheriff's Defendants admit jail records record an encounter between Plaintiff and Dr. Bhargava on March 8, 2016 that indicate Dr. Bhargava prescribed Plaintiff Zyprexa. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in Paragraph 25 not specifically admitted.**

26. Sheriff's Defendants admit records indicate a judge entered an Order Finding Defendant Incompetent to Proceed, and Committing Defendant for In-Patient Restoration to Competency on March 9, 2016 in a criminal matter involving Plaintiff.

27. Sergeant Mau Mau admits Plaintiff's cell was unsanitary and was cleaned during the night shift on March 21, 2016. Sgt. Mau Mau admits Plaintiff was moved to a different cell while a jail trusty inmate sanitized the cell where Plaintiff had been housed. Sgt. Mau Mau admits as deputies returned Plaintiff to his original cell Plaintiff became resistive and non-compliant with directives and prevented his cell door from closing by placing his hands and arms in the doorway. Sgt. Mau Mau admits he instructed Plaintiff to move from the doorway and admits he used a palm-heel strike to Plaintiff's chest. Sgt. Mau Mau admits he told Plaintiff to let go of the door or he would deploy the taser. Sgt. Mau Mau denies the allegation that he used a taser on Plaintiff on March 22, 2016. Sgt. Mau Mau and Sheriff's Defendants deny all remaining allegations in paragraph 27 not specifically admitted.

28. The allegations in Paragraph 28 refer to claims that have been dismissed and events that occurred outside the Sheriff's Defendants' presence between Plaintiff and other individuals who have since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit records indicate deputies became concerned Plaintiff was attempting to remove his eye on March 22, 2016. Sheriff's Defendants admit records indicate deputies called for a restraint chair and opened Plaintiff's cell door in order to place him in the restraint chair. Sheriff's Defendants admit records indicate

Plaintiff was initially compliant as they placed him in the restraint chair. Sheriff's Defendants admit records indicate Plaintiff began to resist deputies as they attempted to secure the restraints. Sheriff's Defendants admit a spit sock was placed on Plaintiff on March 22, 2016 before he began actively spitting on jail staff. Sheriff's Defendants admit Plaintiff spit on deputies through the spit sock. Sgt. Mitchell admits she used a taser on Plaintiff. Sgt. Mitchell and Sheriff's Defendants deny all remaining allegations in Paragraph 28 not specifically admitted.

29. The allegations in Paragraph 29 refer to claims that have been dismissed and events that occurred outside the Sheriff's Defendants' presence between Plaintiff and other individuals including those who have since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendant's admit records indicate a licensed professional counselor, Ann Pallasch, employed with Boulder Crisis Center completed an Emergency Mental Illness Report and Application (M-1) in which she recorded her observations and opinions regarding Plaintiff on March 28, 2016. Sheriff's Defendants admit Jail nurse Dale Greene recorded her observations of Plaintiff in a chart note dated March 22, 2016 to include Plaintiff chanting. Sheriff's Defendants deny Nurse Greene's report contains the word "psychotic". To the extent a response is required, Sheriff's Defendants deny all remaining allegations in Paragraph 29 not specifically admitted.

30. The allegations in Paragraph 30 refer to claims that have been dismissed and events that occurred outside the Sheriff's Defendants' presence between other individuals. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit records indicate Judge Sierra entered an Authorization and Order for Civil Commitment Proceedings dated March 28, 2016.

Sheriff's Defendant's admit the order reflects the judge's findings. Sheriff's Defendants deny all remaining allegations in Paragraph 30 not specifically admitted.

31. Sheriff's Defendants admit records indicate Plaintiff was transported to the Emergency Department at the Boulder Community Hospital to be placed on a 72-hour mental health hold under the statute cited. Sheriff's Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations regarding Plaintiff's actions at Boulder Community Hospital and therefore deny those allegations.

32. The allegations in Paragraph 32 pertain to claims that have been dismissed and events that occurred outside the Sheriff's Defendants' presence between Plaintiff and other individuals including those who have since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit records indicate jail staff discovered Plaintiff was forcing himself to vomit on March 29, 2016 and called mental health to respond to Plaintiff's cell. Sheriff's Defendants admit records indicate there was a concerning amount of vomit in the sink and on the floor in front of the sink. Sheriff's Defendants admit that records indicate Plaintiff stated he believed his food was being poisoned by the jail, that he was hearing voices, and the phone calls were bothering him. Sheriff's Defendants admit records indicate the mental health worker witnessed Plaintiff forcing himself to vomit. Sheriff's Defendants deny that records indicate the mental health worker characterized Plaintiff's statements as psychotic. Sheriff's Defendants admit the

mental health worker recommended Plaintiff be placed in the restraint chair for his own safety. Sheriff's Defendants admit records indicate deputies put on riot suits. Sheriff Defendants admit records indicate a deputy entered Plaintiff's cell with a shield using it to pin Plaintiff to the wall. Sheriff's Defendants admit records indicate the deputy instructed Plaintiff to get down. Sheriff's Defendants admit that records indicate a spit sock was placed over Plaintiff's head. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 32 not specifically admitted.

33. The allegations in Paragraph 33 pertain to claims that have been dismissed and events that occurred outside the Sheriff's Defendants' presence between Plaintiff and other individuals including those who have since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit records indicate Plaintiff was transferred to the RISE program on May 16, 2016. Sheriff's Defendants admit records indicate Dr. Bhargava entered a chart noted dated June 7, 2016 in which she recorded her observations and opinions of Plaintiff. Sheriff's Defendants deny the allegation that Plaintiff was released on bond on June 7, 2016. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 33 not specifically admitted.

34. Sheriff's Defendants admit records indicate Plaintiff was booked into the Boulder County Jail on September 2, 2016 for violation of a restraining order and again on September 14, 2016 for violation of a protection order.

35. The allegations in Paragraph 35 occurred outside the Sheriff's Defendants' presence between Plaintiff and other individuals. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit records indicate an officer with the Boulder Police Department completed a Boulder County Jail Adult Custody Form on September 14, 2016 in which he noted Plaintiff talked to himself and was using an accent. Sheriff's Defendants deny the language quoted in paragraph 35 appears on the September 14, 2016 custody form. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 35 not specifically admitted.

36. Sheriff's Defendants admit records indicate jail nurse Lenny Rothermund documented that Plaintiff had reported a diagnosis of schizophrenia on September 15, 2016 and requested to speak with mental health. Sheriff's Defendants admit Sgt. Groff is listed as the reviewing officer on the September 15, 2016 report. Sgt. Groff denies he authored the report dated September 15, 2016. Sheriff's Defendants deny all remaining allegations in paragraph 36 not specifically admitted.

37. The allegations in Paragraph 37 pertain to claims that have been dismissed and events that occurred outside the Sheriff's Defendants' presence between Plaintiff and other individuals including those who have since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit records indicate a mental health worker met with Plaintiff on September 16, 2016 and recorded her observations and opinions concerning Plaintiff. Sheriff's Defendants admit the report indicates Plaintiff stated he wanted to

make his mother his puppet. Sheriff's Defendants admit the report indicates Plaintiff reported auditory hallucinations. Sheriff's Defendants admit the report indicates Plaintiff may have some delusions. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 37 not specifically admitted.

38. The allegations in Paragraph 38 refer to claims that have been dismissed and events that occurred outside the Sheriff's Defendants' presence between Plaintiff and other individuals including those who have since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit records indicate a judge entered an Order for Evaluation of In-Custody Defendant and Order to Restore to Competency on September 16, 2016. Sheriff's Defendants admit records indicate deputies recorded their observations of Plaintiff during his court hearing and while in a holding cell. Sheriff's Defendants admit the deputies report indicates Plaintiff yelled that he was not crazy and that he paced while in the holding cell at the Justice Center. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 38 not specifically admitted.

39. The allegations in Paragraph 39 refer to events that occurred outside the Sheriff's Defendants' presence between Plaintiff and an individual who has since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit records indicate Plaintiff submitted an Inmate Request Form to Mental Health to be seen for anxiety on September 17, 2016. Sheriff's Defendants deny that the request form submitted by Plaintiff contained nonsensical

writings. Sheriff's Defendants admit a mental health worker met with Plaintiff on September 20, 2016 and entered a chart note in which she recorded her observations and opinions regarding her encounter with Plaintiff including that he "is completely adverse to taking medications for his [diagnosis] of schizophrenia" and that she felt he "may begin to decompensate if he is not able to eventually talk with his mother as she is all he thinks about." To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 39 not specifically admitted.

40. Sheriff's Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph 40 and therefore deny it.

41. The allegations in Paragraph 41 refer to events that occurred outside the Sheriff's Defendants' presence between Plaintiff and other individuals. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit records indicate the court ordered a mental health evaluation of Plaintiff that was conducted on October 24, 2016 at the Jail by Dr. Ort. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 41 not specifically admitted.

42. The allegations in Paragraph 42 pertain to claims that have been dismissed and events that occurred outside the Sheriff's Defendants' presence between Plaintiff and an individual who has since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit records indicate a mental health staff member recorded her observations and opinions regarding an encounter she had with Plaintiff

on October 29, 2016 including that Plaintiff reported he had not slept the night before and her opinion that he could be starting a manic phase. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 42 not specifically admitted.

43. The allegations in Paragraph 43 refer to claims that have been dismissed and events that occurred outside the Sheriff's Defendants' presence between Plaintiff and a defendant who has since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit records indicate jail staff members authored an incident report on October 30, 2016 in which they noted Plaintiff's behavior as erratic. Sheriff's Defendants admit the report records the encounter between plaintiff and jail staff members on October 30, 2016. Sheriff's Defendants admit records indicate a jail staff member entered a record in the jail management system for Plaintiff regarding "delusional behavior." Sheriff's Defendants deny the allegation that Deputy Mendez is or ever was named as a defendant in this lawsuit. Sheriff's Defendants admit records indicate jail staff members moved Plaintiff to the disciplinary module. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 43 not specifically admitted.

44. Deputy Smith admits he recorded an entry in the jail management system on October 31, 2016 regarding comments Plaintiff made. Deputy Smith admits the quoted language in paragraph 41 appears in the entry he authored. Deputy admits he

noted Plaintiff stated something else that he could not make out. Deputy Smith denies all remaining allegations in paragraph 44 not specifically admitted.

45. The allegations in Paragraph 45 pertain to claims that have been dismissed and events that occurred outside the Sheriff's Defendants' presence between Plaintiff and individuals who have since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants deny the allegation that Plaintiff did not receive mental health treatment. Sheriff's Defendants admit records authored by jail personnel indicate Plaintiff jumped from the second tier of the Disciplinary Module on November 1, 2016 in an attempted suicide. Sheriff's Defendants admit reports indicate Plaintiff hit his head on a metal table then fell on the floor of the day room. Sheriff's Defendants admit records indicate Plaintiff was diagnosed with a compression fracture of L1 lumbar vertebra and left rib fracture. Sheriff's Defendants admit deputies Contreras, Mecca, and Stevens were present in the Disciplinary Module on November 1, 2016. Sheriff's Defendants admit Deputy Contreras's report indicates his observations and opinions regarding Plaintiff's behavior and includes the language quoted in paragraph 45. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 45 not specifically admitted.

46. The allegations in Paragraph 46 pertain to claims that have been dismissed and events that occurred outside the Sheriff's Defendants' presence between Plaintiff and individuals who have since been dismissed from this lawsuit. However, to the extent a response is required,

Sheriff's Defendants deny the allegations in paragraph 46.

47. The allegations in Paragraph 47 pertain to claims that have been dismissed and events that occurred outside the Sheriff's Defendants' presence between Plaintiff and individuals who have since been dismissed from this lawsuit. However, to the extent a response is required,

Sheriff's Defendants deny the allegations in paragraph 47.

48. The allegations in Paragraph 48 pertain to claims that have been dismissed and events that occurred outside the Sheriff's Defendants' presence between Plaintiff and individuals who have since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit records indicate mental health worker, Amanda Taylor, entered a chart note on November 7, 2016 in which she recorded her observations and opinions regarding her encounter with Plaintiff including that Plaintiff seemed slightly paranoid with fixed delusions. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 48 not specifically admitted.

49. The allegations in Paragraph 49 pertain to claims that have been dismissed and events that occurred outside the Sheriff's Defendants' presence between Plaintiff and individuals who have since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit records indicate jail mental health worker, Pamela Levett, entered a chart note on November 9, 2016 in which she recorded her

observations and opinions regarding an encounter she had with Plaintiff including that Plaintiff reported “he wasn’t trying to kill himself and believed it was to get attention” and her observation that Plaintiff was “more stable and did not present as manic.” Sheriff’s Defendants admit an incident report authored by the jail mental health worker indicates that Plaintiff is being cleared from suicide precautions. Sergeant Groff admits he is listed as the reviewing officer on the incident report but denies that he authored its contents. To the extent a response is required, Sheriff Defendants deny all remaining allegations in paragraph 49 not specifically admitted.

50. The allegations in Paragraph 50 refer to events that occurred outside the Sheriff’s Defendants’ presence between Plaintiff and other individuals. However, the Sheriff’s Defendants respond as follows:

Sheriff’s Defendants admit records indicate Plaintiff was found competent to proceed in November 2016. Sheriff’s Defendants are without knowledge or information sufficient to form a belief as to the truth of the statement concerning the actions of Plaintiff’s parents and attorney and therefore deny it. Sheriff’s Defendants deny the allegation that plaintiff was sentenced to six months of work release. Sheriff’s Defendants deny all remaining allegations in paragraph 50 not specifically admitted.

51. The allegations in Paragraph 51 pertain to claims that have been dismissed and events that occurred outside the Sheriff’s Defendants’ presence between Plaintiff and individuals who have since been dismissed from this lawsuit. However, the Sheriff’s Defendants respond as follows:

Sheriff's Defendants admit records indicate a mental health worker entered a chart note on December 2, 2016 in which she reported a call she received from Plaintiff's mother and her statements of concern for Plaintiff. Sheriff's Defendants admit the record contains the language quoted in paragraph 51. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 51 not specifically admitted.

52. The allegations in Paragraph 52 pertain to claims that have been dismissed and events that occurred outside the Sheriff's Defendants' presence between Plaintiff and individuals who have since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit jail records indicate Plaintiff walked to the second floor of the special management module on December 1, 2016. Sheriff's Defendants admit Plaintiff did not jump from the second tier on December 1, 2016. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 52 not specifically admitted.

53. Sheriff's Defendants admit records indicate Plaintiff's attorney was at the jail to visit him on December 2, 2016. Sheriff's Defendants admit records and video show that Plaintiff hit two deputies on December 2, 2016 while they spoke with him at his cell door. Deputy Hicks admits he witnessed Plaintiff assaulting two deputies on December 2, 2016. Deputy Hicks admits he ran to assist the deputies and used straight punches to Plaintiff's head to gain control of him. Deputies Hicks and Newcomb and Sergeants Groff and Koger admit Plaintiff was non-compliant with deputies' directives

on December 2, 2016. Deputy Newcomb admits he used a straight punch to Plaintiff's torso in an attempt to regain control of Plaintiff as he continued to resist and attempt to assault deputies. Deputy Hicks admits he used hammer-fist blows to Plaintiff's back as he was on the ground and continuing to fight deputies. Sheriff's Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation that Plaintiff was paranoid, delusional, and concerned that deputies were trying to kill him on December 2, 2016 and therefore deny it. Sgts. Groff and Koger admit they tased Plaintiff using the drive-stun feature. Sheriff's Defendants admit Plaintiff was bleeding following the incident. Sheriff's Defendants and Deputies Hicks and Newcomb and Sergeants Groff and Koger deny all remaining allegations in paragraph 53 not specifically admitted.

54. Sheriff's Defendants admit records indicate charges were filed regarding the December 2, 2016 incident and were later dismissed. Sheriff's Defendants admit Plaintiff did not attend court on the charges on December 5, 2016. Sheriff's Defendants deny all remaining allegations in paragraph 54 not specifically admitted.

55. The allegations in Paragraph 55 refer to events that occurred outside the Sheriff's Defendants' presence between Plaintiff and individuals who have been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit records indicate a mental health worker entered a chart note on December 3, 2016 in which she recorded her observations and opinions regarding an encounter she had with Plaintiff including that Plaintiff stated he was angry. Sheriff's Defendants admit the record contains the language quoted in paragraph

55. To the extent a response is required, Sheriff's Defendants deny all remaining allegations not specifically admitted.

56. The allegations in Paragraph 56 refer to events that occurred outside the Sheriff's Defendants' involving individuals who have been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit records indicate a mental health worker entered a chart note in which he recorded a call he had with a judge on December 6, 2016 concerning a competency evaluation of Plaintiff. Sheriff's Defendants are without knowledge or information sufficient to form a belief as to the truth of the statement that the mental health worker attended a court appearance on December 6, 2016 and therefore deny it. Sheriff's Defendants admit records indicate the mental health worker on December 8, 2016 recorded in a chart note an email he sent to CMHI-P admissions in which he requests that "Plaintiff be bumped to the top of the list." To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 56 not specifically admitted.

57. Sheriff's Defendants admit records indicate Plaintiff was in the jail on December 8, 2016. Sheriff's Defendants admit records indicate Plaintiff's father was there to visit him on December 8, 2016. Sheriff's Defendants deny the allegation that Deputies Palmer, Ubias, or Gerhart were or are defendants in this matter. Deputy Sisneros and Sgt. Koger admit a deputy attempted to handcuff Plaintiff through the food port door of his cell. Deputy Sisneros and Sgt. Koger admits after handcuffs were placed on Plaintiff's left wrist he began to resist and attempting to pull his arms back in

his cell. Deputy Sisneros and Sgt. Koger admit Plaintiff ignored commands to stop resisting. Deputy Sisneros admits he used hammer-fist strikes to Plaintiff's right hand as he reached out for deputies restraining his left hand. Sgt. Koger admits she tased Plaintiff with the drive-stun feature on the arm. Sgt. Groff admits he was able to talk Plaintiff into returning the handcuffs through the food port door. Sheriff's Defendants deny all remaining allegations in paragraph 57 not specifically admitted.

58. The allegations in Paragraph 58 refer to events that occurred outside the Sheriff's Defendants' presence and involves individuals who have since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit a mental health worker entered a chart note on December 10, 2016 in which she recorded a call she had with Plaintiff's parents. Sheriff's Defendants admit the quoted words appear in the December 10, 2016 chart note. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 58 not specifically admitted.

59. The allegations in Paragraph 58 refer to events that occurred outside the Sheriff's Defendants' presence between Plaintiff and unspecified individuals. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit records indicate Plaintiff refused to speak with jail staff members at times in December 2016. Sheriff's Defendants admit records indicate Plaintiff failed to wear his suicide smock at times in December 2016. Sheriff's Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation concerning Plaintiff's sleeping habits and therefore deny them. To

the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 59 not specifically admitted.

60. Deputy Clem admits he was performing welfare checks of the inmates in the modules known as Disciplinary, Maximum, and Special Management or DSM. Deputy Clem admits he performed a welfare check of Plaintiff at 8:15 a.m. on December 16, 2016. Sgts. Koger and Groff admit they responded to the Disciplinary Module at Deputy Clem's request. Sgts. Groff and Koger entered Plaintiff's cell to check on him. Sgts. Koger and Groff admit once they entered the cell and removed the blanket from Plaintiff he jumped up and ran at them screaming and swinging his fists. Sgt. Koger admits she used a taser to gain control of Plaintiff after he rushed at them. Deputy Clem admits he used a palm-heel strike to Plaintiff's chest. Sgts. Groff and Koger and Deputy Clem admits Plaintiff was placed in the restraint chair following this incident. Sgts. Groff and Koger and Deputy Clem deny all remaining allegations in paragraph 60 not specifically admitted.

61. The allegations in Paragraph 61 pertain to events that occurred outside the Sheriff's Defendants' presence and involves individuals who have since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit records indicate Mr. McGurk prepared an affidavit to be filed in the criminal matter regarding Plaintiff's assault of two deputies. Sheriff's Defendants admit records indicate the affidavit contains Mr. McGurk's belief that Plaintiff's condition was serious enough to warrant an evaluation. Sheriff's Defendants deny that records indicate that Mr. McGurk personally appeared in court ten days before

the date of the affidavit. Sheriff's Defendants admit the affidavit contains the language quoted in paragraph 61. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 61 not specifically admitted.

62. Sheriff's Defendants admit an Order for Evaluation was entered on December 16, 2016, which included, in part, the language quoted in the allegation. To the extent that a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 62 not specifically admitted.

63. The allegations in paragraph 63 contain legal conclusions to which no response is required. To the extent a response is required, Sheriff's Defendants deny the allegations.

64. The allegations in Paragraph 64 refer to events that occurred outside the Sheriff's Defendants' presence and involves individuals who have since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation that Mr. McGurk attended court on Plaintiff's behalf on December 6, 2016 and therefore deny it. Sheriff's Defendants deny the allegation that a document titled "Emergency Order" was entered on December 16, 2016. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 64 not specifically admitted.

65. Sheriff's Defendants deny the allegations in paragraph 65.

66. The Sheriff's Defendants respond to paragraph 66 as follows:

Sheriff's Defendants admit records indicate a mental health worker spoke with Plaintiff's parents on the afternoon of December 17, 2017. Sheriff's Defendants admit the record authored by the mental health worker reflects Plaintiff's parents' frustrations. Sheriff's Defendants admit the record indicates Plaintiff's father asked the worker to give Plaintiff medication and the jail mental health worker informed Plaintiff's father that the jail cannot force medications. Sheriff's Defendants admit the record indicates Plaintiff's father "wants [Plaintiff] out for a 72-hour hold" and the mental health worker explained the emergency department would not accept Plaintiff due to his assaultive behavior and that Plaintiff is on a hold for a competency evaluation and the request would have to go through the court. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 66 not specifically admitted.

67. The allegations in Paragraph 67 refer to events that occurred outside the Sheriff's Defendants' presence and involves individuals who have since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit records indicate Plaintiff was referred to a jail medical prescriber on December 17, 2016. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 67 not specifically admitted.

68. To the extent a response is required, Sheriff's Defendants deny the allegation in paragraph 68.

69. Sheriff's Defendants deny a judge entered a document titled "Emergency Order" regarding Plaintiff. The allegations concerning what the December 16, 2016 Order for Evaluation required or permitted are legal conclusions to which no response is

required, and to the extent a response is required, Sheriff's Defendants deny the allegations. Sheriff's Defendants admit records indicate jail staff authored a report on December 17, 2016 in which it was noted that Plaintiff had dried blood on his face that appeared to come from his eyes. Mr. Smith admits he authored a report on December 17, 2016 in which he recorded his conversation with another jail staff member concerning the small amount of blood he noticed on Plaintiff's cheek earlier on December 17, 2016. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 69 not specifically admitted.

70. Mr. Smith admits he noticed a small amount of dried blood on Plaintiff's cheek at approximately 7:45 p.m. on December 17, 2016. Sheriff's Defendants admit that records indicate that deputy Smith was with nurse Dale Greene who also saw the blood. To the extent a response is required, Mr. Smith and Sheriff's Defendants deny all remaining allegations in paragraph 70 not specifically admitted.

71. Sheriff's Defendants admit records indicate Deputy Berringer and other jail staff members authored reports on December 17, 2016 in which they recorded their observations of and involvement with Plaintiff including that Deputy Berringer noticed a small amount of dried blood on Plaintiff's cheek that he believed appeared to be coming from his eyes at approximately 9:00 p.m. Sheriff's Defendants admit records indicate Deputy Berringer's report includes that at 10:00 p.m. he noticed more blood and fluid coming from Plaintiff's eyes and that his eyes appeared to be swollen. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in Paragraph 71 not specifically admitted.

72. Sheriff's Defendants admit records indicate that jail staff members reported Plaintiff's eyes appeared closed and swollen and Plaintiff appeared to have blood on his hands. Sheriff's Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation of whether or not Plaintiff could see and therefore deny it. Sheriff's Defendants admit records authored by jail staff members involved in the incident regarding Plaintiff on December 17, 2016 indicate that Plaintiff was non-compliant with repeated attempts to talk him into allowing medical staff members to assess his eyes. Sheriff's Defendants deny that records indicate Plaintiff was covered in blood. Mr. Smith admits he used a shield to take Plaintiff to the ground. Sgt. Mau Mau admits he used his taser on Plaintiff on December 17, 2016. Mr. Smith, Sgt. Mau Mau, and Sheriff's Defendants deny all remaining allegations in paragraph 72 not specifically admitted.

73. Most of the allegations in Paragraph 73 refer to events that occurred outside the Sheriff's Defendants' presence and involves individuals who have since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit records indicate Plaintiff was removed from his cell on December 17, 2016 so he could receive medical attention. Sheriff's Defendants admit records indicate Deputy Berringer authored a report on December 17, 2016 in which he recorded his observations of and involvement with Plaintiff including the sentence quoted in paragraph 73. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 73 not specifically admitted.

74. To the extent a response is required, Sheriff's Defendants deny the allegation in paragraph 74.

75. Sheriff's Defendants admit records indicate Plaintiff was taken to the medical unit and attempts were made to assess his eyes. Sheriff's Defendants admit the jail nurses made the decision to send Plaintiff to the hospital. Sheriff's Defendants admit Plaintiff was transported to the emergency department of the Boulder Community Hospital. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in Paragraph 75 not specifically admitted.

76. The allegation that Defendants exhibited deliberate indifference to Plaintiffs obvious serious mental health needs is a legal conclusion that refers to unspecified defendants and pertains to claims that have been dismissed from this lawsuit, and therefore no response is required; to the extent a response is required, Sheriff's Defendants deny the allegation. To the extent a further response is required, Sheriff's Defendants deny all remaining allegations in paragraph 76 not specifically admitted.

77. The allegations in Paragraph 77 refer to events that occurred outside the Sheriff's Defendants' presence. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants admit records authored by jail staff indicate Plaintiff was transferred to Denver Health and was taken for surgery at 7:30 a.m. on December 18, 2016. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 76 not specifically admitted.

78. Sheriff's Defendants admit medical records from Denver Health Medical Center reflect Plaintiff's diagnoses by doctors who treated him. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 78 not specifically admitted.

79. To the extent a response is required, Sheriff's Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph 79 and therefore deny it.

80. To the extent a response is required, Sheriff's Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph 80 and therefore deny.

81. The allegations regarding the December 16, 2016 Order for Evaluation are legal conclusions to which no response is required; to the extent a response is required, Sheriff's Defendants deny the allegations. Sheriff's Defendants admit records indicate a jail mental health worker had submitted an affidavit concerning Plaintiff on December 16, 2016. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in paragraph 81 not specifically admitted.

82. The allegations in paragraph 82 consist of speculation to which no response is required. To the extent a response is required, Sheriff's Defendants deny the allegations.

83. The allegations in paragraph 83 consist of legal conclusions to which no response is required. To the extent a response is required, Sheriff's Defendants deny the allegations.

84. The statements in Paragraph 84 refer to unspecified defendants and claims that have since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants deny that records indicate that Plaintiff reported to deputies that he intended to injure his eyes. Sheriff's Defendants admit records indicate that Plaintiff had attempted to injure his eyes in March 2016. Sheriff's Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation that Plaintiff attempted to kill himself twice and therefore deny it. Sheriff's Defendants admit records indicate Plaintiff has claimed he injured his own teeth by hitting his face on a toilet. The allegations concerning the forced administration of "anti-psychotic medications" are legal conclusions to which no response is required, and to the extent a response is required, Sheriff's Defendants deny the allegation. To the extent a response is required, Sheriff's Defendants deny all remaining allegations in Paragraph 84 not specifically admitted.

85. The allegations in Paragraph 85 refer to events that occurred outside the Sheriff's Defendants' presence and involve individuals and claims that have been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

Sheriff's Defendants deny that records indicate that a judge entered a document titled an "Emergency Order" with regard to Plaintiff. The allegations in paragraph 85 regarding the processes and procedures related to the "Order for Evaluation" entered on December 16, 2016 are legal conclusions to which no response is required. To the extent a response is required, Sheriff's Defendants deny the allegations. To the extent a

response is required, Sheriff's Defendants deny all remaining allegations in paragraph 85 not specifically admitted.

86. The statements in Paragraph 86 refer to unspecified defendants and claims that have since been dismissed from this lawsuit. However, the Sheriff's Defendants respond as follows:

The allegations in paragraph 86 concerning the procedures and processes for the forced administration of medications are legal conclusions to which no response is required. To the extent a response is required, Sheriff's Defendants deny the allegations. Sheriff's Defendants deny all remaining allegations in paragraph 86 not specifically admitted.

87. Sheriff's Defendants deny the allegation that Plaintiff was mistreated. The allegation that Sheriff's Defendants were deliberately indifferent is a legal conclusion to which no response is required. To the extent a response is required, Sheriff's Defendants deny the allegation.

88. Sheriff's Defendants admit the jail does not forcibly administer medications to inmates. Sheriff's Defendants admit that jail staff does not personally observe any inmate constantly on a 24-hour basis. Sheriff's Defendant admit a jail mental health worker authored a record on December 22, 2016 in which he recounted a call he had with a Denver Health physician. Sheriff's Defendants deny the remaining allegations in paragraph 88 not specifically admitted.

89. Sheriff's Defendants deny the allegation in paragraph 89.

90. Sheriff's Defendants deny the annual report accessed from the URL in paragraph 90 contains the quoted language.

91. Sheriff's Defendants admit the Boulder Daily Camera article cited in paragraph 91 includes the first two quoted statements attributed to Sgt. Mitchell. Sheriff's Defendants deny the remaining allegations in paragraph 91 not specifically admitted.

92. Sheriff's Defendants admit the JSP Report contains the statements cited in paragraph 92.

STATEMENT OF CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

93. In response to paragraph 93, Sheriff's Defendants incorporate all other paragraphs of this answer as if fully set forth in this paragraph 93.

94-105. The allegations in paragraphs 94-105 pertain to Plaintiff's First Claim for Relief which the Court has dismissed based on qualified immunity therefore no response is required. To the extent paragraphs 93-105 contain allegations against the remaining Sheriff's Defendants that require an answer, **Sheriff's Defendants deny all such allegations either specifically or because they are without knowledge or information sufficient to for a belief as to the truth of these allegations.**

SECOND CLAIM FOR RELIEF

106. In response to paragraph 106, Sheriff's Defendants incorporate all other paragraphs of this answer as if fully set forth in this paragraph 106.

107. The allegations in paragraph 107 consist of legal conclusions to which no response is required. To the extent a response is required, Mr. Hollonds and Sgt. Groff deny the allegation.

108. Mr. Hollonds and Sgt. Groff admit they are persons under the statute cited.

109. Mr. Hollonds admits he used force against Plaintiff on March 3, 2016. Sgt. Groff admits he used force against Plaintiff on March 3, 2016. Mr. Hollonds and Sgt. Groff deny all remaining allegations in paragraph 109 not specifically admitted.

110. The allegations in paragraph 110 consist of legal conclusions to which no response is required. To the extent a response is required, Mr. Hollonds and Sgt. Groff deny the allegations.

111. The allegations in paragraph 111 consist of legal conclusions to which no response is required. To the extent a response is required, Mr. Hollonds and Sgt. Groff deny the allegations. Mr. Hollonds and Sgt. Groff deny the allegations in paragraph 111.

112. The allegations paragraph 112 consist of legal conclusions to which no response is required. To the extent a response is required, Mr. Hollonds and Sgt. Groff deny the allegations.

113. The allegations paragraph 113 consist of legal conclusions to which no response is required. To the extent a response is required, Mr. Hollonds and Sgt. Groff deny the allegations.

114. The allegations paragraph 114 consist of legal conclusions to which no response is required. To the extent a response is required, Mr. Hollonds and Sgt. Groff

deny the allegations. Mr. Hollonds and Sgt. Groff deny that Plaintiff experienced a serious physical injury. Mr. Hollonds and Sgt. Groff are without knowledge and information sufficient to form a belief as to the truth of the allegation that Plaintiff sustained serious emotional injuries and therefore deny the allegation.

THIRD CLAIM FOR RELIEF

115. In response to paragraph 115, Sheriff's Defendants incorporate all other paragraphs of this answer as if fully set forth in this paragraph 115.

116. The allegations in paragraph 116 consist of legal conclusions to which no response is required. To the extent a response is required, Sgt. Mau Mau denies the allegation.

117. Sgt. Mau Mau admits he is a person under the statute cited.

118. Sgt. Mau Mau admits he used force against Plaintiff on March 22, 2016. The remaining allegations in paragraph 118 consist of legal conclusions to which no response is required. To the extent a response is required, Sgt. Mau Mau denies the allegations.

119. The allegations in paragraph 119 consist of legal conclusions to which no response is required. To the extent a response is required, Sgt. Mau Mau denies the allegations.

120. Sgt. Mau Mau denies that he knew that Plaintiff's alleged psychosis allegedly prevented Plaintiff from understanding or complying with orders. The remaining allegations in paragraph 120 consist of legal conclusions to which no response is required. To the extent a response is required, Sgt. Mau Mau denies the

allegations. Sgt. Mau Mau denies all remaining allegations paragraph 120 not specifically admitted.

121. The allegations in paragraph 121 consist of legal conclusions to which no response is required. To the extent a response is required, Sgt. Mau Mau denies the allegations.

122. The allegations in paragraph 122 consist of legal conclusions to which no response is required. To the extent a response is required, Sgt. Mau Mau denies the allegations.

123. Sgt. Mau Mau denies Plaintiff suffered serious physical injuries. Sgt. Mau Mau is without knowledge or information sufficient to form a belief as to the truth of the allegation that Plaintiff sustained serious emotional injuries and therefore denies it. The remaining allegations in paragraph 123 consist of legal conclusions to which no response is required. To the extent a response is required, Sgt. Mau Mau denies the allegations.

FOURTH CLAIM FOR RELIEF

124. In response to paragraph 124, Sheriff's Defendants incorporate all other paragraphs of this answer as if fully set forth in this paragraph 124.

125. The allegations in paragraph 125 consist of legal conclusions to which no response is required. To the extent a response is required, Sgt. Mitchell denies the allegations.

126. Sgt. Mitchell admits she is a person under the statute cited.

127. Sgt. Mitchell admits she used force against Plaintiff on March 22, 2016. The remaining allegations in paragraph 127 consist of legal conclusions to which no response is required. To the extent a response is required, Sgt. Mitchell denies the allegations.

128. The allegations in paragraph 128 consist of legal conclusions to which no response is required. To the extent a response is required, Sgt. Mitchell denies the allegations.

129. Sgt. Mitchell denies that Plaintiff's alleged psychosis allegedly prevented him from understanding or complying with orders. The remaining allegations in paragraph 129 consist of legal conclusions to which no response is required. To the extent a response is required, Sgt. Mitchell denies the allegations. Sgt. Mitchell denies all remaining allegations in paragraph 129 not specifically admitted.

130. The allegations in paragraph 130 consist of legal conclusions to which no response is required. To the extent a response is required, Sgt. Mitchell denies the allegations.

131. The allegations in paragraph 131 consist of legal conclusions to which no response is required. To the extent a response is required, Sgt. Mitchell denies the allegations.

132. Sgt. Mitchell denies Plaintiff experienced serious physical injuries. Sgt. Mitchell is without knowledge or information sufficient to form a belief as to the truth of the allegation that Plaintiff sustained serious emotional injuries and therefore denies it. The remaining allegations in paragraph 132 consist of legal conclusions to which no

response is required. To the extent a response is required, Sgt. Mitchell denies the allegations.

FIFTH CLAIM FOR RELIEF

133. In response to paragraph 133, Sheriff's Defendants incorporate all other paragraphs of this answer as if fully set forth in this paragraph 133.

134-143. The allegations in paragraphs 134-143 pertain to Plaintiff's Fifth Claim for Relief which the Court has dismissed based on qualified immunity therefore no response is required. To the extent paragraphs 134-143 contain allegations against the remaining Sheriff's Defendants that require an answer, Sheriff's Defendants deny all such allegations either specifically or because they are without knowledge or information sufficient to for a belief as to the truth of these allegations.

SIXTH CLAIM FOR RELIEF

144. In response to paragraph 144, Sheriff's Defendants incorporate all other paragraphs of this answer as if fully set forth in this paragraph 144.

145. The allegations in paragraph 145 consist of legal conclusions to which no response is required. To the extent a response is required, Sgts. Koger and Groff and Deputies Hicks and Newcomb deny the allegations.

146. Sgts. Koger and Groff and Deputies Hicks and Newcomb admit they are persons under the statute cited.

147. Sgts. Koger and Groff and Deputies Hicks and Newcomb admit they used force against Plaintiff. Sgts. Koger and Groff and Deputies Hicks and Newcomb admit

Plaintiff was not compliant with their orders. Sgts. Koger and Groff and Deputies Hicks and Newcomb deny all remaining allegations in paragraph 147 not specifically admitted.

148. The allegations in paragraph 148 consist of legal conclusions to which no response is required. To the extent a response is required, Sgts. Koger and Groff and Deputies Hicks and Newcomb deny the allegations.

149. Sgts. Koger and Groff and Deputies Hicks and Newcomb deny that they knew that Plaintiff's alleged psychosis allegedly prevented him from understanding or complying with orders. The remaining allegations in paragraph 149 consist of legal conclusions to which no response is required. To the extent a response is required, Sgts. Koger and Groff and Deputies Hicks and Newcomb deny the allegations. Sgts. Koger and Groff and Deputies Hicks and Newcomb deny all remaining allegations in paragraph 149.

150. The allegations in paragraph 150 consist of legal conclusions to which no response is required. To the extent a response is required, Sgts. Koger and Groff and Deputies Hicks and Newcomb deny the allegations.

151. The allegations in paragraph 151 consist of legal conclusions to which no response is required. To the extent a response is required, Sgts. Koger and Groff and Deputies Hicks and Newcomb deny the allegations.

152. The allegations in paragraph 152 consist of legal conclusions to which no response is required. To the extent a response is required, Sgts. Koger and Groff and Deputies Hicks and Newcomb deny the allegations. Sgts. Koger and Groff and Deputies Hicks and Newcomb deny all remaining allegations in paragraph 152.

153. Sgts. Koger and Groff and Deputies Hicks and Newcomb deny Plaintiff experienced serious physical injuries. Sgts. Koger and Groff and Deputies Hicks and Newcomb are without knowledge or information sufficient to form a belief as to the truth of the allegation that Plaintiff sustained serious emotional injuries and therefore deny it. The remaining allegations in paragraph 153 consist of legal conclusions to which no response is required. To the extent a response is required, Sgts. Koger and Groff and Deputies Hicks and Newcomb deny the allegations.

SEVENTH CLAIM FOR RELIEF

154. In response to paragraph 154, Sheriff's Defendants incorporate all other paragraphs of this answer as if fully set forth in this paragraph 154.

155. The allegations in paragraph 155 consist of legal conclusions to which no response is required. To the extent a response is required, Sgts. Koger and Groff and Deputy Sisneros deny the allegations.

156. Sgts. Koger and Groff and Deputy Sisneros admit they are persons under the statute cited.

157. Sgts. Koger and Groff and Deputy Sisneros² admit they used force against Plaintiff. Most of the remaining allegations in paragraph 157 consist of legal conclusions to which no response is required. To the extent a response to those allegations is required, Sgts. Koger and Groff and Deputy Sisneros deny the allegations. Sgts. Koger

² Deputies Palmer, Ubias, and Gerhart were never properly named as Defendants or served with a Summons and are no longer defendants in this case.
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and Groff and Deputy Sisneros deny all remaining allegations in paragraph 157 not specifically admitted.

158. The allegations in paragraph 158 consist of legal conclusions to which no response is required. To the extent a response is required, Sgts. Koger and Groff and Deputy Sisneros deny the allegations.

159. Sgts. Koger and Groff and Deputy Sisneros deny that they knew that Plaintiff's alleged psychosis allegedly prevent him from understanding or complying with orders. The allegations in paragraph 159 consist of legal conclusions to which no response is required. To the extent a response is required, Sgts. Koger and Groff and Deputy Sisneros deny the allegations. Sgts. Koger and Groff and Deputy Sisners deny all remaining allegations in paragraph 159.

160. The allegations in paragraph 160 consist of legal conclusions to which no response is required. To the extent a response is required, Sgts. Koger and Groff and Deputy Sisneros deny the allegations.

161. The allegations in paragraph 161 consist of legal conclusions to which no response is required. To the extent a response is required, Sgts. Koger and Groff and Deputy Sisneros deny the allegations.

162. The allegations in paragraph 162 consist of legal conclusions to which no response is required. To the extent a response is required, Sgts. Koger and Groff and Deputy Sisneros deny the allegations. Sgts. Koger and Groff and Deputy Sisneros deny all remaining allegations in paragraph 162.

163. Sgts. Koger and Groff and Deputy Sisneros deny Plaintiff experienced serious physical injuries. Sgts. Koger and Groff and Deputy Sisneros are without knowledge or information sufficient to form a belief as to the truth of the allegation that Plaintiff sustained serious emotional injuries and therefore deny it. The remaining allegations in paragraph 163 consist of legal conclusions to which no response is required. To the extent a response is required, Sgts. Koger and Groff and Deputy Sisneros deny the allegations.

EIGHTH CLAIM FOR RELIEF

164. In response to paragraph 164, Sheriff's Defendants incorporate all other paragraphs of this answer as if fully set forth in this paragraph 164.

165. The allegations in paragraph 165 consist of legal conclusions to which no response is required. To the extent a response is required, Sgts. Koger and Groff and Deputy Clem deny the allegations.

166. Sgts. Koger and Groff and Deputy Clem admit they are persons under the statute cited.

167. Sgts. Koger and Groff and Deputy Clem admit they used force against Plaintiff. Most of the remaining allegations in paragraph 167 consist of legal conclusions to which no response is required. To the extent a response is required, Sgts. Koger and Groff and Deputy Clem deny the allegations. Sgts. Koger and Groff and Deputy Clem deny all remaining allegations in paragraph 167 not specifically admitted.

168. The allegations in paragraph 168 consist of legal conclusions to which no response is required. To the extent a response is required, Sgts. Koger and Groff and Deputy Clem deny the allegations.

169. Sgts. Koger and Groff and Deputy Clem deny they knew that Plaintiff's alleged psychosis allegedly prevented him from understanding or complying with orders. The remaining allegations in paragraph 169 consist of legal conclusions to which no response is required. To the extent a response is required, Sgts. Koger and Groff and Deputy Clem deny the allegations. Sgts. Koger and Groff and Deputy Clem deny all remaining allegations in paragraph 169.

170. The allegations in paragraph 170 consist of legal conclusions to which no response is required. To the extent a response is required, Sgts. Koger and Groff and Deputy Clem deny the allegations.

171. The allegations in paragraph 171 consist of legal conclusions to which no response is required. To the extent a response is required, Sgts. Koger and Groff and Deputy Clem deny the allegations.

172. The allegations in paragraph 172 consist of legal conclusions to which no response is required. To the extent a response is required, Sgts. Koger and Groff and Deputy Clem deny the allegations. Sgt. Koger and Groff and Deputy Clem deny all remaining allegations in paragraph 172.

173. Sgts. Koger and Groff and Deputy Clem deny Plaintiff experienced serious physical injuries. Sgts. Koger and Groff and Deputy Clem are without knowledge or information sufficient to form a belief as to the truth of the allegation that Plaintiff

sustained serious emotional injuries and therefore deny it. The remaining allegations in paragraph 173 consist of legal conclusions to which no response is required. To the extent a response is required, Sgts. Koger and Groff and Deputy Clem deny the allegations.

NINTH CLAIM FOR RELIEF

174. In response to paragraph 174, Sheriff's Defendants incorporate all other paragraphs of this answer as if fully set forth in this paragraph 174.

175. The allegations in paragraph 175 consist of legal conclusions to which no response is required. To the extent a response is required, Sgt. Mau Mau and Mr. Smith deny the allegations.

176. Sgt. Mau Mau and Mr. Smith admit they are persons under the statute cited.

177. Sgt. Mau Mau and Mr. Smith admit they entered Plaintiff's cell and used force against Plaintiff. Most of the remaining allegations in paragraph 177 consist of legal conclusions to which no response is required. To the extent a response is required, Sgt. Mau Mau and Mr. Smith deny the allegations. Sgt. Mau Mau and Mr. Smith deny all remaining allegations in paragraph 177 not specifically admitted.

178. The allegations in paragraph 178 consist of legal conclusions to which no response is required. To the extent a response is required, Sgt. Mau Mau and Mr. Smith deny the allegations.

179. Sgt. Mau Mau and Mr. Smith deny that they knew that Plaintiff's alleged psychosis allegedly prevented him from understanding or complying with orders. The

remaining allegations in paragraph 179 consist of legal conclusions to which no response is required. To the extent a response is required, Sgt. Mau Mau and Mr. Smith deny the allegations. Sgt. Mau Mau and Mr. Smith deny all remaining allegations in paragraph 179.

180. The allegations in paragraph 180 consist of legal conclusions to which no response is required. To the extent a response is required, Sgt. Mau Mau and Mr. Smith deny the allegations.

181. The allegations in paragraph 181 consist of legal conclusions to which no response is required. To the extent a response is required, Sgt. Mau Mau and Mr. Smith deny the allegations.

182. The allegations in paragraph 182 consist of legal conclusions to which no response is required. To the extent a response is required, Sgt. Mau Mau and Mr. Smith deny the allegations. Sgt. Mau Mau and Mr. Smith deny all remaining allegations in paragraph 182.

183. Sgt. Mau Mau and Mr. Smith deny Plaintiff experienced serious physical injury. Sgt. Mau Mau and Mr. Smith are without knowledge and information sufficient to form a belief as to the truth of the allegation that Plaintiff sustained serious emotional injuries and therefore deny it. The remaining allegations in paragraph 183 consist of legal conclusions to which no response is required. To the extent a response is required, Sgt. Mau Mau and Mr. Smith deny the allegations.

TENTH CLAIM FOR RELIEF

184. In response to paragraph 184, Sheriff's Defendants incorporate all other paragraphs of this answer as if fully set forth in this paragraph 184.

185-195. The allegations in paragraphs 185-195 pertain to Plaintiff's Tenth Claim for Relief which the Court has dismissed based on qualified immunity therefore no response is required. To the extent paragraphs 185-195 contain allegations against the remaining Sheriff's Defendants that require an answer, Sheriff's Defendants deny all such allegations either specifically or because they are without knowledge or information sufficient to for a belief as to the truth of these allegations.

ELEVENTH CLAIM FOR RELIEF

196. In response to paragraph 196, the Boulder County Sheriff's Office incorporates all other paragraphs of this answer as if fully set forth in this paragraph 196.

197. The Boulder County Sheriff's Office is without knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 197 and therefore denies them.

198. The allegations in paragraph 198 consist of legal conclusions to which no response is required. To the extent a response is required, the Boulder County Sheriff's Office denies the allegations.

199. The Boulder County Sheriff's Office is without knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 199 and therefore denies them.

200. The Boulder County Sheriff's Office denies the allegations in paragraph 200.

201. The Boulder County Sheriff's Office denies it violated Plaintiff's rights conferred by the ADA.

202. The Boulder County Sheriff's Office denies the allegations in paragraph 202.

203. The Boulder County Sheriff's Office denies the allegations in paragraph 203.

204. The Boulder County Sheriff's Office denies the allegations in paragraph 204.

205. The Boulder County Sheriff's Office denies any inadequate training, supervision, and/or discipline and denies the remaining allegations in paragraph 205.

206. The Boulder County Sheriff's Office denies the allegations in paragraph 206.

207. The Boulder County Sheriff's Office denies any inadequate training or supervision and denies the remaining allegations in paragraph 207.

208. The Boulder County Sheriff's Office denies unlawful conduct and denies the remaining allegations in paragraph 208.

209. The Boulder County Sheriff's Office denies Plaintiff experienced damages and denies the allegations in paragraph 209.

TWELFTH CLAIM FOR RELIEF

210. In response to paragraph 210, the Boulder County Sheriff's Office incorporates all other paragraphs of this answer as if fully set forth in this paragraph 210.

211. The Boulder County Sheriff's Office is without knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 211 and therefore denies them.

212. The Boulder County Sheriff's Office is without knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 212 and therefore denies them.

213. The Boulder County Sheriff's Office is without knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 213 and therefore denies them.

214. The Boulder County Sheriff's Office is without knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 214 and therefore denies them.

215. The Boulder County Sheriff's Office denies any exclusion from participation in, or denial of the benefits of, or discrimination in programs and activities and denies the remaining allegations in paragraph 215.

216. The Boulder County Sheriff's Office denies the allegations in paragraph 216.

217. The Boulder County Sheriff's Office denies it violated the Rehabilitation Act and denies the remaining allegations in paragraph 217.

218. The Boulder County Sheriff's Office denies any illegal conduct and denies the remaining allegations in paragraph 218.

219. The Boulder County Sheriff's Office denies Plaintiff experienced injuries, damages, and loses and denies the remaining allegations in paragraph 219.

THIRTEENTH CLAIM FOR RELIEF

220. In response to paragraph 220, Sheriff's Defendants incorporate all other paragraphs of this answer as if fully set forth in this paragraph 220.

221-226. The allegations in paragraphs 221-226 pertain to Plaintiff's Thirteenth Claim for Relief which the Court has dismissed based on qualified immunity therefore no response is required. To the extent paragraphs 221-226 contain allegations against the remaining Sheriff's Defendants that require an answer, Sheriff's Defendants deny all such allegations either specifically or because they are without knowledge or information sufficient to for a belief as to the truth of these allegations.

In response to the WHEREFORE paragraph and subparagraphs a) through h), Sheriff's Defendants deny that there is a factual basis to support a judgment against the Sheriff's Defendants or to support awarding Plaintiff any of the relief he seeks.

AFFIRMATIVE DEFENSES

1. Plaintiff fails to state a claim upon which relief can be granted against Sheriff's Defendants.
2. **The Sheriff's Defendants conduct was not the actual cause or the proximate cause of any injury, loss, or damages alleged by Plaintiff.**
3. Plaintiff's alleged damages, if any, were caused by Plaintiff's own conduct, not by any conduct of the Sheriff or defendants.
4. Plaintiff's injuries, damages, and losses, if any, were a direct and proximate result of Plaintiff's own acts or conduct or the conduct of a third party, which bars or completely diminishes Plaintiff's right of recovery.
5. Sheriff's Defendants are entitled to qualified immunity.
6. Sheriff's Defendants reserve the right to add additional affirmative defenses.

DEFENDANTS DEMAND A JURY TRIAL ON ALL ISSUES SO TRIABLE.

Dated: April 26, 2019

Respectfully submitted,

BOULDER COUNTY ATTORNEY

By: /s/David Hughes

David Hughes

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