

Joel B. Robbins, Esq. (011065)  
Jesse M. Showalter, Esq. (026628)  
**ROBBINS & CURTIN, p.l.l.c.**  
301 East Bethany Home Road, Suite B-100  
Phoenix, Arizona 85012  
Tel: (602) 400-4400  
Fax: (602) 265-0267  
[joel@robbinsandcurtin.com](mailto:joel@robbinsandcurtin.com)  
[jesse@robbinsandcurtin.com](mailto:jesse@robbinsandcurtin.com)  
*Attorneys for Plaintiff*

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF ARIZONA**

Lewis Williams, as Guardian for Memory  
Burns, an incapacitated adult,

Plaintiff,

vs.

City of Globe, a municipality; Jeffrey  
Overton, an individual; Matthew Ortiz, an  
individual; and Natalia Lomahoema, an  
individual,

Defendants.

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

**COMPLAINT**

(Tort – Civil Rights)

(Jury Trial Demanded)

Plaintiff Lewis Williams, as Guardian for Memory Burns, brings this Complaint  
against the City of Globe, Jeffrey Overton, Matthew Ortiz, and Natalia Lomahoema.

**PARTIES**

1. Plaintiff Lewis Williams is a resident of Gila County, Arizona.
2. Memory Burns is a resident of Gila County, Arizona.
3. Memory Burns is an incapacitated adult.
4. On May 21, 2021, Lewis Williams and his wife Jamie Williams were  
appointed as Guardians of Memory Burns by the Gila County Superior Court in Case No.  
S0400GC202100016.

1           5. Defendant City of Globe is a municipality and a political subdivision of the  
2 State of Arizona, organized and existing under the laws of the State of Arizona. It is a “state  
3 actor” as that term is used under the jurisprudence of 42 U.S.C. § 1983.

4           6. Defendant Jeffrey Overton is an individual and, on information and belief, a  
5 resident of Gila County, Arizona.

6           7. At all times alleged herein, Defendant Overton was a police officer employed  
7 by the City of Globe and acting within the course and scope of his employment and under  
8 color of state law. He is a “state actor” as that term is used under the jurisprudence of 42  
9 U.S.C. § 1983.

10          8. Defendant Matthew Ortiz is an individual and, on information and belief, a  
11 resident of Gila County, Arizona.

12          9. At all times alleged herein, Defendant Ortiz was a police officer employed by  
13 the City of Globe and acting within the course and scope of his employment and under color  
14 of state law. He is a “state actor” as that term is used under the jurisprudence of 42 U.S.C. §  
15 1983.

16          10. Defendant Natalia Lomahoema is an individual and, on information and belief,  
17 a resident of Gila County, Arizona.

18          11. At all times alleged herein, Defendant Lomahoema was a police officer  
19 employed by the City of Globe and acting within the course and scope of her employment  
20 and under color of state law. She is a “state actor” as that term is used under the jurisprudence  
21 of 42 U.S.C. § 1983.

22          12. For Plaintiff’s claims under Arizona state law, Defendant City of Globe is  
23 responsible for the conduct of its officers and employees, including Defendants Overton,  
24 Ortiz, and Lomahoema. Defendant City of Globe is liable to Plaintiff under state law for the  
25 conduct of its officers under the theory of *respondeat superior* as well as for its own  
26 negligent acts and omissions.  
27  
28

**JURISDICTION AND VENUE**

13. This Court has jurisdiction over Plaintiff's federal civil rights claims under 28 U.S.C. § 1331 and 28 U.S.C. § 1343.

14. This Court has supplemental jurisdiction over claims arising under the laws of the State of Arizona under 28 U.S.C. § 1367(c).

15. The events giving rise to this action occurred in Gila County, Arizona. Defendant City of Globe is a political subdivision of the State of Arizona, and Defendants Overton, Ortiz, and Lomahoema reside within Gila County, Arizona. Thus, venue is proper in the District of Arizona under 28 U.S.C. § 1391(b).

16. As to Plaintiff's claims under Arizona state law, Plaintiff served a timely notice of claim under A.R.S. § 12-821.01 upon the Defendants on or about March 3, 2021, and a supplemental notice of claim was served on or about March 25, 2021. The notice of claim complied in all ways with the statute, was timely served, and is deemed denied by operation of law.

**JURY DEMAND**

17. Plaintiff demands a jury trial.

**FACTUAL ALLEGATIONS COMMON TO ALL COUNTS**

18. On September 25, 2020, at approximately 11:54 p.m., Defendants Overton, Ortiz, and Lomahoema (hereinafter the "Defendant Officers") were dispatched to the Cobre Village Apartments located at 2186 N. Escudilla Drive, Globe, Arizona 85501.

19. The Defendant Officers were responding to a complaint from the occupants of Unit #8 of loud noises, banging sounds, and the possibility of a male and female arguing in Unit #4 below (hereinafter "the Unit").

20. When the Defendant Officers arrived at the scene, they did not see or hear anything to indicate that domestic violence had occurred or was occurring in the Unit.

21. The Defendant Officers were unable to determine if the Unit had one, two, or more occupants.

22. The Defendant Officers had no information that any crime had occurred in the Unit.

23. The Defendant Officers had no information that anyone in the Unit was injured or in need of assistance.

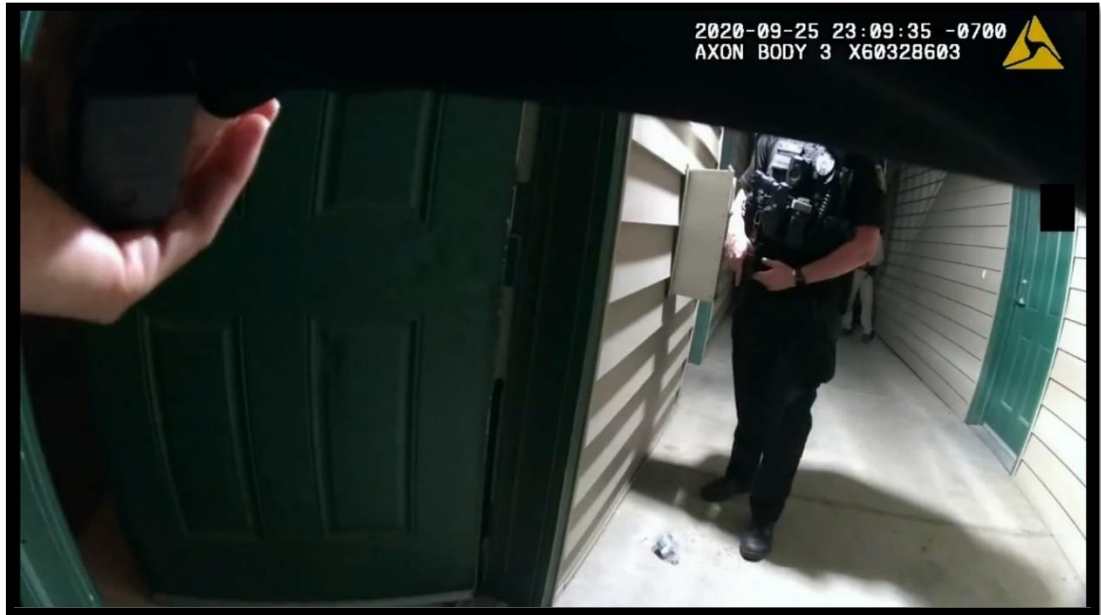
24. The Defendant Officers banged on the door of the Unit and announced that they were Globe Police.

25. Defendants Lomahoema and Ortiz remained at the door while Defendant Overton walked around to the back of the residence.



26. Defendant Overton ordered Defendant Lomahoema to check the door of the Unit to see if it was locked. She determined that the door was not locked.

27. After seeing the shadow of a figure walk briefly by one of the rear windows, Defendant Overton returned to the front of the Unit and ordered Defendant Lomahoema to open the door.



28. After opening the unlocked door, Defendants Ortiz and Lomahoema looked in the Unit.

29. The officers saw and heard nothing to indicate that a crime had been committed or was being committed.

30. The officers saw and heard nothing to indicate that any occupants of the Unit were injured or in need of aid.

31. While Defendants Ortiz and Lomahoema stood outside the open door to the Unit, uniformed Arizona Department of Public Safety Trooper D. Deatherage approached them and provided them with information about the occupant.

32. Trooper Deatherage advised Defendants Lomahoema and Ortiz that the occupant of the Unit was Memory Burns.

33. Trooper Deatherage advised Defendants Lomahoema and Ortiz that Memory Burns was "1016," which is police code for mentally ill.

34. Trooper Deatherage advised Defendants Lomahoema and Ortiz that Memory Burns frequently had arguments with herself in which she used a voice that sounded like a male voice.

35. Defendant Overton allegedly did not learn this information until later.

1           36. Defendant Overton spoke to the upstairs neighbors again and heard their  
2 reports of hearing loud noises and arguing from the Unit.

3           37. At this point, none of the Defendant Officers had reason to believe that a crime  
4 had been committed in the Unit.

5           38. At this point, none of the Defendant Officers had reason to believe that anyone  
6 in the Unit was in need of immediate emergency assistance.

7           39. Defendant Overton ordered Defendants Ortiz and Lomahoema to enter the  
8 Unit.

9           40. The Defendant Officers did not have a warrant.

10          41. The Defendant Officers entered the Unit with their guns drawn.

11          42. As they entered the Unit, Defendant Overton yelled to the occupants to come  
12 to the door, or they would be arrested for “obstructing.”

13          43. As the Defendant Officers walked through the Unit, Defendant Lomahoema  
14 repeatedly yelled to “Memory” to come out, indicating that she knew and understood that  
15 Memory was the sole occupant of the residence.

16          44. Defendant Overton never asked Defendant Lomahoema how she knew the  
17 name of the resident of the Unit or why she was yelling “Memory.”

18          45. In the apartment, the Officers saw nothing to indicate that any crime had been  
19 committed or that there was any need for emergency aid, or any other exigent circumstance  
20 that might justify their presence there.

21          46. At 23:16:55, Defendant Overton ordered Defendant Ortiz to open the door to  
22 Memory’s bedroom, which Ortiz did.

23          47. Defendants Overton and Ortiz both pointed their firearms at Memory.

24          48. Defendants Overton and Ortiz gave Memory contradictory orders while  
25 pointing guns at her and shining bright lights in her face: Ortiz ordered Memory to come  
26 out, while Overton ordered her to put her hands on her head.

27          49. Defendant Overton then yelled, “Drop her,” which appears to be an order to  
28 Defendant Ortiz to shoot Memory.

**ROBBINS & CURTIN, P.L.L.C.**  
301 East Bethany Home Road, Suite B-100  
Phoenix, Arizona 85012  
Telephone: (602) 400-4400 ♦ Fax: (602) 265-0267

1           50.     Thankfully, Ortiz did not comply with this order.

2           51.     Memory told the officers that what they were doing is “against the law.”

3           52.     Memory was unarmed in her own home.

4           53.     Memory did not threaten the officers.

5           54.     Memory did not move toward them and did not make any furtive motions.

6           55.     Memory had not committed any crime.

7           56.     Memory told the officers, “Obstruction of justice.”



21  
22           57.     Defendant Overton then yelled, “I will Tase you,” even though he had no right  
23 to be in the Unit, no probable cause to believe a crime had been committed, no right to arrest  
24 Memory, and she posed no threat to him.

25           58.     As Memory said, “Yeah, right,” Defendant Overton Tased Memory.  
26  
27  
28



1           59. Memory fell to the ground screaming, “You’re killing me!” and began calling  
2 for her dad and asked the Defendant Officers, “Why are you killing me?”



3  
4  
5  
6  
7  
8  
9  
10  
11  
12           60. The Defendants handcuffed Memory and Defendant Overton said, “You’re  
13 under arrest for obstructing.”

14  
15  
16           61. There is no crime of “obstructing” under Arizona’s criminal code, and the  
17 Defendant Officers did not have probable cause to believe that Memory had committed any  
18 crime.

19  
20           62. Memory has been diagnosed as Schizophrenic.

21           63. Memory has had multiple contacts with the Globe Police.

22           64. Memory was widely known, including to Globe Police, to be mentally ill and  
23 to have arguments with herself using a deep male voice that sounded as though multiple  
24 people were arguing.  
25  
26  
27  
28



**COUNT I**

**Assault and Battery**

**(Against Defendants City of Globe, Overton, Ortiz, and Lomahoema)**

65. Plaintiff incorporates all preceding paragraphs as if fully set forth herein.

66. At all relevant times, Defendants Overton, Ortiz, and Lomahoema were acting in the course and scope of their employment for Defendant City of Globe.

67. Defendants Overton, Ortiz, and Lomahoema committed the tort of assault when they pointed their service weapons at Memory after illegally entering her home to place her in apprehension of immediate bodily injury.

68. Defendant Overton committed the tort of battery when he used his Taser to cause harmful and offensive contact to Memory.

69. Defendants Overton, Ortiz, and Lomahoema committed the tort of battery when, acting in concert, they put hands on Memory in the course of falsely arresting her.

70. Defendants' actions were not justified.

71. As a result of the assault and battery, Memory Burns sustained injuries, including emotional distress, medical expenses, other economic losses, and general damages.

**COUNT II**

**Negligence**

**(Against Defendant City of Globe)**

72. Plaintiff incorporates all preceding paragraphs as if fully set forth herein.

73. Defendant City of Globe owes a duty of care to members of the public with whom its officers come into contact and/or investigate, including Memory Burns.

74. Defendant City of Globe breached this duty by failing to adequately supervise its officers, including the Defendant Officers.

75. Defendant City of Globe breached this duty by failing to adequately train its officers with respect to dealing with mentally ill subjects, the Fourth Amendment warrant requirement, the seizure of suspects and the use of force.

301 East Bethany Home Road, Suite B-100

Phoenix, Arizona 85012

Telephone: (602) 400-4400 ♦ Fax: (602) 265-0267

77. As a result of Defendant City of Globe's breaches, Memory Burns sustained serious injuries and emotional distress, and she incurred medical expenses, other economic losses, and general damages.

(Against Defendants City of Globe, Overton, Ortiz, and Lomahoema)

81. Defendants' acts resulted in the direct restraint of Memory's liberty and freedom of movement through actual physical force.

83. Memory was aware of the restraint and was harmed by it.

(Against Defendants City of Globe, Overton, Ortiz, and Lomahoema)

85. Defendants unlawfully entered Memory's home and property without justification and without Memory's consent.

86. Defendants' unauthorized presence on Memory's property constitutes trespass.

87. Plaintiff is entitled to damages for trespass.

**COUNT V**

**Invasion of Privacy: Intrusion on Seclusion  
(Against Defendants City of Globe, Overton, Ortiz, and Lomahoema)**

88. Plaintiff incorporates all preceding paragraphs as if fully set forth herein.

89. Defendants intentionally interfered with Memory's privacy by intruding into her home.

90. The intrusion would be highly offensive to a reasonable person.

91. The intrusion caused Memory Burns damages, including emotional and mental distress.

**COUNT VI**

**42 U.S.C. § 1983 – Violation of Fourth Amendment  
Right to be secure in her home from warrantless and unreasonable searches.  
(Against Defendants Overton, Ortiz, and Lomahoema)**

92. Plaintiff incorporates all preceding paragraphs as if fully set forth herein.

93. Memory has a Fourth Amendment right to be secure in her home and free from unlawful searches and seizures.

94. Defendants Overton, Ortiz, and Lomahoema violated Memory's Fourth Amendment right to be secure in her home when they entered and searched and seized her home without probable cause, without a warrant, and without any exigent circumstance to justify the entry.

95. Memory suffered damages as the result of the deprivation of her Fourth Amendment right to be secure in her home.

96. Defendants' actions in entering Memory's home were done knowingly, intentionally, maliciously, or with reckless disregard to her constitutional rights, and Plaintiff is entitled to recover compensatory and punitive damages.

**COUNT VII**

**42 U.S.C. § 1983 – Violation of Fourth Amendment  
Right to be Free of Unlawful Seizures and False Arrest  
(Against Defendants Overton, Ortiz, and Lomahoema)**

97. Plaintiff incorporates all preceding paragraphs as if fully set forth herein.

301 East Bethany Home Road, Suite B-100

Phoenix, Arizona 85012

Telephone: (602) 400-4400 ♦ Fax: (602) 265-0267

101. Defendants' actions in arresting Memory were done knowingly, intentionally, maliciously, or with reckless disregard to Memory's constitutional rights, and Plaintiff is entitled to recover compensatory and punitive damages.

108. Defendants' actions in using excessive force against Memory were done knowingly, intentionally, maliciously, or with reckless disregard to Memory's constitutional rights, and Plaintiff is entitled to recover compensatory and punitive damages.

**COUNT IX**

**42 U.S.C. § 1983 – *Monell* Claim  
(Against Defendant City of Globe)**

109. Plaintiff incorporates all preceding paragraphs as if fully set forth herein.

110. Defendant City of Globe was deliberately indifferent to the proper training and supervision of its employees, including the Defendant Officers, regarding the appropriate use of force.

111. The City of Globe has policies, customs, or procedures that were deliberately indifferent to the rights of citizens to be free from excessive force, including the following:

- a. Failing to train its officers regarding the proper use of force, including the use of tasers on non-violent subjects who are not actively resisting arrest;
- b. Failing to train its officers regarding the requirement to obtain a warrant before entering a residence;
- c. Failing to train its officers regarding dealing with mentally ill subjects;
- d. Allowing and encouraging Globe Police Officers to escalate situations by using force that was not reasonable or necessary under the circumstances;
- e. Failing to review uses of force, use of force reports, and failing to adequately monitor, investigate, discipline, and retrain officers involved in excessive force incidents, and, therefore, creating a culture of impunity that encouraged officers to use excessive force;
- f. Failing to monitor and investigate the frequency and extent of officer uses of force; and
- g. Failing to monitor and identify officers who use excessive force.
- h. Hiring and retaining officers that it knows are unfit to be police officers or are not properly trained as police officers.

112. The City of Globe was deliberately indifferent to the Fourth Amendment rights of members of the public, including Memory.

1 113. The City of Globe's unconstitutional policies, customs, and procedures caused  
2 or contributed to the deprivation of Memory's rights under the Fourth Amendment.

3 114. The City of Globe is liable for all damages arising from the constitutional  
4 violations it caused.

5 WHEREFORE, Plaintiff prays for judgment as follows:

6 A. For special damages, including but not limited to current and future medical  
7 fees and expenses, lost wages, and other economic losses;

8 B. For general and compensatory damages, including but not limited to pain and  
9 suffering, emotional distress, and loss of enjoyment of life;

10 C. For punitive damages against Defendants Overton, Ortiz, and Lomahoema;

11 D. For taxable costs and pre- and post-judgment interest to the extent permitted  
12 by law;

13 E. For attorneys' fees and costs under 42 U.S.C. § 1988 to the fullest extent  
14 permitted by law; and

15 F. Such other relief as the Court deems just and proper.

16 RESPECTFULLY SUBMITTED: September 23, 2021

17 **ROBBINS & CURTIN, p.l.l.c.**

18 By: /s/ Jesse M. Showalter  
19 Joel B. Robbins  
20 Jesse M. Showalter  
21 301 E. Bethany Home Road, Suite B-100  
22 Phoenix, Arizona 85012  
23 *Attorneys for Plaintiff*  
24  
25  
26  
27  
28

**ROBBINS & CURTIN, P.L.L.C.**

301 East Bethany Home Road, Suite B-100

Phoenix, Arizona 85012

Telephone: (602) 400-4400 ♦ Fax: (602) 265-0267

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

**Civil Cover Sheet**

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

**The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.**

---

<b>Plaintiff(s):</b> <b>Lewis Williams, as Guardian for Memory Burns, an incapacitated adult</b>	<b>City of Globe ; Jeffrey Overton ; Defendant(s): Matthew Ortiz ; Natalia Lomahoema</b>
County of Residence: Gila	County of Residence: Gila
County Where Claim For Relief Arose: Gila	
 <b>Plaintiff's Atty(s):</b> <b>Joel B. Robbins</b> (Lewis Williams, as Guardian for Memory Burns, an incapacitated adult ) <b>Robbins &amp; Curtin, p.l.l.c.</b> <b>301 E. Bethany Home Road, Suite B-100</b> <b>Phoenix, Arizona 85012</b> <b>602-400-4400</b>	 <b>Defendant's Atty(s):</b> <b>Jim Jellison</b> <b>Jellison Law Offices, PLLC</b> <b>36889 N. Tom Darlington Drive, Suite B7, Box 2800</b> <b>Carefree, Arizona 85377</b> <b>480-659-4244</b>
 <b>Jesse M. Showalter</b> <b>Robbins &amp; Curtin, p.l.l.c.</b> <b>301 E. Bethany Home Road, Suite B-100</b> <b>Phoenix, Arizona 85012</b> <b>602-400-4400</b>	

---

II. Basis of Jurisdiction:                      **3. Federal Question (U.S. not a party)**

III. Citizenship of Principal  
Parties (Diversity Cases Only)

Plaintiff:- N/A  
Defendant:- N/A

IV. Origin :                                      **1. Original Proceeding**

V. Nature of Suit:                            **440 Other Civil Rights**

VI.Cause of Action:                        **42 U.S.C. § 1983; violation of civil rights**



VII. Requested in Complaint

Class Action: **No**

Dollar Demand:

Jury Demand: **Yes**

VIII. This case is not related to another case.

---

**Signature:** s/Jesse M. Showalter

**Date:** 09/23/2021

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, save this form as a PDF and include it as an attachment to your case opening documents.

Revised: 01/2014