

**FILED**

MAY 28 2010

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE**

Clerk, U. S. District Court  
Eastern District of Tennessee  
At Knoxville

THE OUTLAW MOTORCYCLE CLUB INC.  
MARK LESTER  
KENNETH FOSTER  
BARBARA FOSTER  
WENDY WINE  
JAMES J. PRENETA  
MICHAEL BYRD  
GLORIA SWANSON BYRD  
ROGER JARMAN  
JIMMY D. PITTS  
TINA E. PITTS  
JOHN MCCAMMON  
MARTHA MCCAMMON  
DON KIMBROUGH  
GORDON ENGLE  
DAVID M. HALE  
PLAINTIFFS

NO. 3:10-CV-243

*Phillips/Shirley*

JURY TRIAL DEMANDED

V.

KNOX COUNTY, TN  
CITY OF KNOXVILLE, TN  
KNOX COUNTY SHERIFF JIMMY JONES  
KNOXVILLE POLICE CHIEF STERLING OWENS, IV  
CAPT. DAVID HENDERSON  
SGT. JOHN HOPKINS  
OFFICER V. HILL  
OFFICER N. PLAZA,  
AND,  
UNIDENTIFIED KNOXVILLE POLICE OFFICERS AND  
KNOX COUNTY OFFICERS WHO PARTICIPATED IN  
THE EXECUTION OF SEARCH WARRANTS AT 205  
CLIFTON ROAD, KNOXVILLE, TN, AND 8033 POWELL,  
KNOX, COUNTY, TN ON  
December 31, 2009  
DEFENDANTS

## COMPLAINT

1. This civil law suit arises from the actions of certain city and county employees of Knoxville, Knox County, Tennessee, including the personal participation of the Knoxville Chief of Police and the Knox County Sheriff.
  
2. In the late hours of December 31, 2009, the Knox County Sheriff, Jimmy “JJ” Jones, the Knoxville Police Chief, Sterling Owen, IV, and various members of the Knox County Sheriff’s Department and the Knoxville, Tennessee, Police Department executed a search warrant for the search of a house located in Knoxville, Tennessee.
  
3. A second search of the Plaintiffs’ Kenneth and Barbara Foster’s home was also executed that same night by certain Defendants.
  
4. This suit arose from the unconstitutional manner in which the search warrants were executed, the unreasonable force of the search and handling of the Plaintiffs that night, the unreasonable search and seizure of the Plaintiffs and the items taken that night, the unreasonable destruction of property belonging to the Plaintiffs, and the excessive and unconstitutional manner of the bonds set for the arrest of Plaintiffs Mark Lester and Kenneth Foster.

## JURISDICTION

5. The Defendant's actions raise Federal questions under Title 28 U.S. Code, Sections 1331 and 1343, the Fourth, Eight and Fourteenth Amendments to the United States Constitution and Title 42 U.S. Code, Sections 1983, 1985 and 1986. There are state claims so related to this action within such original jurisdiction that they form part of the same case and controversy under Article III of the United States Constitution and invoke Supplemental Jurisdiction under Title 28 U.S. Code, Section 1367.

### FACTS

6. On December 31, 2009, Defendants, certain employees of the Knox County Tennessee Sheriff's Department, including the Sheriff himself, sought arrest warrants for Plaintiffs Mark Lester and Kenny Foster.

7. The Defendants also sought the issuance of three related Search Warrants for three separate premises located in Knox County.

8. One Search Warrant was for the search of a residence of Plaintiff, Mark Lester, which also served as a clubhouse for the Knoxville Chapter of the Outlaws Motorcycle Club, Inc.

9. One Search Warrant was for a house belonging to Mark Lester.

10. One Search Warrant was for the residence of Plaintiffs, Kenny Foster and wife, Barbara Foster.

11. The Defendants went to Judge Swann, a Knox County Civil Divorce Court Judge, to obtain judicial approval for the issuance of the Search Warrants.

12. The Defendants, also asked Judge Swann to approve and issue Arrest Warrants for Plaintiffs Mark Lester and Kenny Foster.

13. The Defendants knew that Judge Swann would grant and issue the aforementioned Search Warrants where other Judges, more experienced in the legal requests for the issuance of Search Warrants, would not issue such faulty Search Warrants.

14. The Defendants also used Judge Swann to issue Arrest Warrants for Mark Lester and Kenny Foster knowing the Judge would set extremely high and unreasonable bond amounts, thereby causing Mark Lester and Kenny Foster to be held in jail because the cost of obtaining a bond would be too high.

15. The Judge set bonds for Mark Lester and Kenny Foster totaling three million dollars each.

16. In the late hours of December 31, 2009, the Defendants, including the Defendant Knox County Sheriff Jimmy Jones and Chief of Police for the City of Knoxville, Sterling Owen, IV, executed the first Search Warrant being the residence of Mark Lester and being used as the clubhouse of the Outlaws Motorcycle Club, Inc.

17. The Defendants knew that a lot of innocent people would be at the clubhouse at the time it was raided because the Defendants knew a New Years Eve Party was in progress.

18. The Defendants knew there was a party going on because the Knox County Defendant's had an undercover agent posing as an Outlaws Motorcycle Club member, who had associated with the local club members for approximately fourteen months

before the raid, and this “agent” told the Defendants that the Outlaws Motorcycle Club was having a New Years Eve party that night.

19. Prior to the raid, the Defendants contacted the local television networks and newspaper media and invited them to come to the residence and clubhouse to video tape and report on the raid.

20. The Defendants conducted a dynamic raid, using concussion, flash grenades, thrown into the midst of the party, without any knocking or first announcing their presence.

21. The Defendants under the direction of the named Defendants, entered the residence and Club House with great physical force, injuring several Plaintiffs.

22. The Plaintiffs were all forced to the ground with violence and threats and those that did not get on the ground quickly enough were kicked, stomped and slammed to the ground by the Defendants.

23. The attack officers wore swat or camouflage clothing and had hoods over their faces so their identities could not be ascertained while using obscene and vulgar profanity towards the Plaintiffs.

24. After the Plaintiffs were all handcuffed and completely subdued, the Defendants continued to point assault weapons at the heads of the Plaintiffs and threaten to “blow their heads off” if they moved or said anything.

25. The Defendants searched all Plaintiffs that were at the residence, without probable cause.

26. The Plaintiffs were handcuffed with excessive force, stripped of clothing and placed outside, exposed to the cold, wet weather for hours, some barefoot.
27. Most of the Plaintiffs were not arrested, yet subjected to in-custody treatment and forced to suffer physically for hours while the Defendants occupied the residence.
28. The Defendants caused great and unnecessary damage to the residence during the search of the premises.
29. The Defendants searched the vehicles belonging to the Plaintiffs without authority or probable cause.
30. The Defendants broke furniture, destroyed windows and window frames and smashed in doors with a battering ram after they had already secured entry, when all they had to do was open the unlocked doors.
31. The Defendants took every item that had any Outlaw Club reference, including even gravestone markers of Club members who had died.
32. The Defendants took all items of value from the premises and the individual Plaintiffs such as flat screen TV sets, video equipment cash money and jewelry.
33. The Defendants ate the party food belonging to the Plaintiffs, while the Plaintiffs were handcuffed and placed outside in the cold, wet weather.
34. The Defendants allowed and encouraged the news media to come inside the residence and photograph the interior of the building and videotape a press conference held inside the residence.

35. The Defendants gave the news media access to photograph and videotape the Plaintiffs while the Plaintiffs were handcuffed and in guarded custody, knowing full well that most of the Plaintiffs were not even going to be charged with a crime.

36. The Defendant, Jimmy "JJ" Jones slandered the Plaintiffs by telling the news media, "they're a menace to our society, everyone of them, they are all criminals, they've all got criminal records, this is all they have ever done."

37. All the Plaintiffs were invitees to the residence of Mark Lester and had an expectation of privacy in the premises.

38. All the actions of the Defendants were conducted under color of state law.

39. The Defendants entered the residence belonging to Plaintiffs Kenneth and Barbara Foster in an excessive and unreasonable manner, destroying property, entering without knocking or announcing their presence while only having authority to search for one leather vest and Outlaw regalia.

40. The Defendants searched Barbara Foster's purse without probable cause.

41. The Defendants took money from the Foster residence without authority or probable cause.

#### SPECIFIC CAUSES OF ACTION

42. The search warrants executed that night were without probable cause.

43. The Defendants, by bringing the news media with them, and allowing the news media to video record the Plaintiff's and their premises, violated the Plaintiff's Fourth Amendment rights to be free from unreasonable searches and seizures.

44. The Defendants actions subduing and detaining the Plaintiffs violated the Plaintiff's Fourth Amendment prohibition against excessive force.
45. The Defendants, taking anything of value, even though not listed on the Search Warrant and taking all Outlaw items, and eating the Plaintiff's food violated the Plaintiff's Fourth Amendment rights to be free from unreasonable seizures and constituted criminal theft.
46. The Defendants destroying property without just cause violated the Plaintiff's Fourth Amendment rights to be free from unreasonable searches and seizures.
47. The Defendants searching all the Plaintiffs without probable cause was a violation of those Plaintiff's Fourth Amendment rights to be free from unreasonable searches.
48. The Defendant's search of all the vehicles belonging to the Plaintiffs violated the Plaintiff's Fourth Amendment rights to be free from unreasonable searches.
50. The Defendants failing to knock and announce their presence at the residence of Kenneth and Barbara Foster was a violation of their Fourth Amendment rights to be free from unreasonable searches and seizures.
51. The actions of Knox County Sheriff Jimmy Jones and Knoxville City Police Chief Sterling Owen were personal in nature and, as policy makers for the County and City, their actions make the County and City liable for the listed civil rights violations as well as the Sheriff and Police Chief individually.
52. All the specific causes of action listed above also violated Title 42 United States Code, Section 1983.

53. The Defendants singled out and discriminated against the Plaintiffs and denied them equal protection and rights under the law because the Plaintiffs are associated with a motorcycle club.

54. Those Defendants found not to have violated the Plaintiff's civil rights under the Fourth Amendment and Title 42 United States Code, Section 1983, violated Title 42 United States Code, Section 1986 for failing to act to prevent the other Defendants from violating the Plaintiff's rights under the Fourth Amendment and Title 42 United States Code, Section 1983.

55. The Defendant's actions in seizing the Plaintiffs, handcuffing them and placing them on display for the news media constituted False Imprisonment, holding the Plaintiffs to a False Light, Reckless and Intentional Infliction of Emotional Distress and Invasion of Privacy.

56. The Defendants actions by going to Judge Swann to secure bonds in the amount of three million dollars each against Plaintiffs Mark Lester and Kenny Foster violated their Eight Amendment rights to be free from excessive bonds and caused them to be held in jail without the ability to make a bond.

57. The Defendant's acts of securing unreasonable and excessive bonds were done intentionally and with malice.

58. Because of the Defendant's actions as listed above, the Plaintiffs have been slandered and have suffered humiliation, physical injury, monetary loss, loss of reputation and standing in the community, and emotional damage.

Wherefore, the Plaintiffs make demand for compensation for the injuries they suffered at the hands of the Defendants, for return of the property taken from them by the Defendants, for the loss of reputation and humiliation they suffered, for slander, for the emotional distress they endure, for the damage to their property, for compensatory damages not to exceed \$3,000,000.00 (Three Million Dollars); and for punitive damages not to exceed \$3,000,000.00 (Three Million Dollars) and attorney fees.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Philip Lomonaco". The signature is written in a cursive style with a large, looping initial "P" and "L".

Philip Lomonaco, Attorney for Plaintiffs  
800 South Gay Street, Suite 2610  
Knoxville, TN 37929  
Phone (865) 521-7422  
BPR# 011579

# CIVIL COVER SHEET

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

### I. (a) PLAINTIFFS

Outlaw Motorcycle Club Inc., Mark Lester, Kenneth Foster, Barbara Foster, Wendy Wine, James Preneta, Michael Byrd< Gloria Byrd, Roger Jarman, Jimmy Pitts, Tina Pitts, John McCamon, Martha McCamon, et. al.

(b) County of Residence of First Listed Plaintiff KNOX  
(EXCEPT IN U.S. PLAINTIFF CASES)

### DEFENDANTS

Knox County TN, City of Knoxville TN, Knox County Sheriff Jimmy Jones, Knoxville Police Chief Sterling Owens, Capt. David Henderson, Sgt. John Hopkins, Off. V. Hill, Off. N. Plaza, et. al.

County of Residence of First Listed Defendant KNOX  
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

(c) Attorney's (Firm Name, Address, and Telephone Number)  
Law Offices of A. Philip Lomonaco, A. Philip Lomonaco, 800 S. Gay St., Ste 2610, Knoxville, TN 37929 (865) 521-7422

### II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

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

### III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

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

### IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	

### V. ORIGIN (Place an "X" in One Box Only)

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

### VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
US Code §1331, 1343, the 4th, 8th, and 14th Amendments to US Constitution, Titl 42 US Cod §1983, 1985, 1986  
Brief description of cause:  
4th Amendment violations and State violations

### VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** 6,000,000.00  
CHECK YES only if demanded in complaint:  
**JURY DEMAND:**  Yes  No

### VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE 05/28/2010 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

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