

<b>Adams County District Court</b> 1100 Judicial Center Drive Brighton, CO 80601 (303) 659-1161	<p style="text-align: center;">▲ Court Use Only ▲</p>
<b>WILLIAM MONTGOMERY</b> Plaintiff  vs.  <b>BEST BUY STORES, L.P.,</b> <b>JUAN PACHECO &amp; MATTHEW LACKEY.</b> Defendants	
Party Without Attorney:  <b>William Montgomery</b> 2443 S University Blvd # 129 Denver, CO 80210 (970) 412-5463 zoinbergs@gmail.com	Case Number: <b>2024CV132</b>  Division: <b>W</b> Courtroom: <b>507</b>
<b><u>COMBINED MOTION TO RECONSIDER ORDER GRANTING DEF'S MTR ORDER RE COURT FEES &amp; MOTION FOR LEAVE TO FILE AMENDED COMPLAINT</u></b>	

COMES NOW that William Montgomery, proceeding *pro se*, respectfully requests that this Court **RECONSIDER** its May 28, 2025 ORDER granting Defendant's MTR The Order Re Court Fees. As part of its decision to RECONSIDER, Plaintiff respectfully requests that this Court **GRANT** this combined MOTION FOR LEAVE TO FILE AMENDED COMPLAINT (and to which has already been prepared and attached hereto as Exhibit #1). In support thereof, he states as follows:

**C.R.C.P. RULE 121 § 1-15(8) CERTIFICATION**

Plaintiff certifies that he has conferred in good faith with Council for both Defendants concerning the subject matter of this COMBINED MOTION. Both Defendants indicate that they are **opposed** to the relief sought herein.

## ARGUMENT

### I. FOR THE LAST TIME, PLAINTIFF IS NOT A “LAWSUIT SCAMMER”

To begin, this Court claims that “Plaintiff has publicly described these lawsuits as 'free lawsuits' and encouraged others to file similar claims.” *Order Granting Def's MTR at page 3*. Perhaps Judge Wehman was too busy to read, but Plaintiff has directly addressed this exact contention in footnote 8 of his Response to the Defendant's MTR. There, he plainly stated that:

[I]n Defendant Best Buy's MTR, it repeatedly misquotes Plaintiff's use of the phrase “free lawsuit' to indicate that he “files lawsuits for free.” However, Plaintiff's exclusive use of the phrase “free lawsuit” has only ever been to indicate **how overzealous stores like Walmart and Best Buy routinely, flagrantly violate the law**, which essentially allows *anybody* [who happens to know their their rights] the opportunity to simply not show their receipt upon leaving in order to secure a legitimate lawsuit in the matter. In layman's terms, the lawsuits wouldn't even exist if such “Big-Box Bully” stores ***didn't regularly hand them out***.

The reason this footnote bears repeating is because this Court appears to have done what numerous other [kangaroo?] courts have done before it, which is to hastily defame Plaintiff as being some simple-minded, money-grubbing, frothing at the mouth, mentally retarded “lawsuit scammer” with dollar bills in his eyes [right??] – all in order to summarily and tendentiously dismiss his claims as “frivolous” and “vexatious,” *right out of the gate*, without **actually** conducting any proper research into them. This conclusion is painfully evident as shown by the Court's follow up comment that “Plaintiff admitted employing a 'bait-car' strategy designed to provoke store responses.” **Such is blatantly not true, however.** Plaintiff has never admitted to employing a “bait car” strategy designed to provoke store responses . . . **IN LAW-ABIDING CITIZENS**. He has only ever admitted to employing a “bait car” strategy designed to provoke store responses . . . **IN RIGHT-VIOLATING CITIZENS**. Notice the distinction? If this Court didn't so casually and tendentiously generalize, stereotype, and write-off Plaintiff as being some

trifling “lawsuit scammer” who “fakes steals” in order to trigger [actual] shopkeeper's privilege [right??], it'd realize that **all Plaintiff is doing is exercising rights that THE VAST MAJORITY of U.S. citizens have no trouble whatsoever NOT infringing upon.** Being an “auditor” doesn't mean that one has to literally “entrap” in order to catch crime. All Plaintiff does **[and has always done]** is (a) go shopping like any other customer, (b) walk out with items in hand like any other customer, and (c) refuse to answer questions and/or refuse to consent to searches [i.e. refuse to show receipts] like any other customer. **THAT'S IT.** How this Court is unable to comprehend this remarkably simple set of facts is beyond Plaintiff. Instead, this Court's [careless, reckless, malicious?] defamation of him has already, *right out of the gate*, resulted in haughty and unsubstantiated statements like, “Plaintiffs staged attempts to get stopped in retail stores to be able to file 'free lawsuits' is a misuse of the court system.” *Order Granting Def's MTR at page 4.*

**Sorry, but Plaintiff doesn't “stage” anything.** He just refuses to answer questions and/or refuses to consent to searches AFTER HIS SHOPPING EXPERIENCE HAS FULLY CONLCUDED AND HE IS ALREADY AT THE EXIT PASSING BY EMPLOYEES WHO HAVE BEEN STRICTLY AND EXCLUSIVELY “POSTED UP” AT THEM WHO THEREFORE WOULD HAVE NEVER BEEN ABLE TO OBSERVE ANY ACTUALLY SUSPICIOUS SHOPLIFTING BEHAVIOR WHATSOEVER TO EVEN BEGIN TO JUSTIFY ANY DETENTIONS OF PLAINTIFF WITH. Seriously. **How do so many judges and attorneys not get this?** Plaintiff just buys things, leaves, and says “no thanks!” when asked to show his receipt on his way out. He doesn't: “stage attempts to get stopped in retail stores,” “act in a manner that could reasonably be construed as suspicious,” “intentionally create misunderstandings for purposes of his later lawsuits,” “design his conduct to inspire this belief,” “deliberately pursue situations that would result in a false

imprisonment and/or defamation claims,” “enter stores with the intent to and then actually act in a manner intended to provoke store employees into believing he is concealing property of the store, which he knows will lead to being detained,” etc. etc. etc. etc. etc. etc. etc. etc. etc. etc. **Notice how vague and conclusory all these statements are?** They have never, not once, gotten any closer than any other to **actually** describing **exactly what** Plaintiff is doing to [otherwise unreasonably, right?] “provoke” / “instigate” / “trigger” / “cause” / “insert every other conclusory hot word ever used to describe Plaintiff’s behavior here” / etc. etc. etc. his detentions. At this point, because nobody has EVER bothered to ACTUALLY DESCRIBE, with ACTUAL DETAIL, what Plaintiff is ACTUALLY doing, he has no choice but to believe everybody is being, **by definition**, a kangaroo court. Plaintiff just buys things, leaves, and says “no.” He just buys things, leaves, and says “no.” **He just buys things, leaves, and says “no.”** He just buys things, leaves, and says “no.” **HE JUST BUYS THINGS, LEAVES, AND SAYS “NO.”** He just buys things, leaves, and says “no.” **HE JUST BUYS THINGS, LEAVES, AND SAYS “NO.”** He just buys things, leaves, and says “no.” **HE JUST BUYS THINGS, LEAVES, AND SAYS “NO”!!!!!!!!!!!!** **No matter how many times Plaintiff argues this, however, nobody can seem to mentally or emotionally handle integrating it into their wee little brains.** Cognitive dissonance? Maybe. Plaintiff can only hypothesize. Regardless, it is simply **not okay** for this Court to be the next entity in line to LITERALLY DEFAME Plaintiff as being the same old trifling, “steal faking,” “lawsuit scammer.” So just stop. Stop Judge Wehman. You aren’t off to a very good start. So just stop. **Stop and give it up** that Plaintiff doesn’t actually **\*\*DOOOO\*\*** anything that any other customer doesn’t **DOOOO** when going shopping. “Everybody’s a secret shopper technically.” *Ptf’s Deposition at page 85, line 11.* “[T]he whole point of a sting operation is to be **not** different than anybody else.”

*Ptf's Deposition at page 36, line 18.* “People just park their cars, whether they're cops or not.”

*Ptf's Deposition at page 35, line 25.* “I'm just like any other person who parks their car on the road.” *Ptf's Deposition at page 36, line 22.* Therefore, “every car is a bait car on the road.” *Ptf's Deposition at page 36, line 1.* In layman's terms, **everybody who refuses to show their receipt on their way out of a store after shopping is a natural auditor against any overzealous merchant who doesn't know the law and is thus willing to detain them over it.** Seriously. If it weren't for a VERY SELECT FEW “Big-Box Bullies” in town being so paranoid, so overzealous, and so lynchy, neither Plaintiff, nor any other patron in his position, would have standing to sue. **They simply wouldn't be detained, and life would go on.** So just stop. Stop claiming that Plaintiff is “staging” these incidents. Stop victim shaming him for merely having *the intuition* to pick up on the idea [and to which is not really that fantastical of an idea to pick up on anyways if one pays attention to the news] that some supremely lazy merchants out there simply like to “bootstrap” mere refusals to show receipts into detentions that lack shopkeeper's privilege [because they want to avoid paying for real investigations otherwise, like patrolling isles and looking up video footage]. **An entire law review article was written 16 years ago on this subject for crying out loud!** See Victoria S. Salzmann, *Big-Box Bullies Bust Benign Buyer Behavior: WalMart, Get Your Hands Off My Receipt!*, 4 Fla. A&M U. L. Rev. (2009). Anybody with half a brain who reads that article would understand **in an instant** that “without *particularized* facts to reasonably justify a stop, systematic detention of most or all customers may implicate false imprisonment.” *Id.* If this Court hasn't read that article, **it really should.**

Anyways, at this point, if this Court doesn't “get it” by now, it probably never will. As Plaintiff has found, changing statistically frauded peoples' minds is terribly difficult, *if not*

*downright impossible*, to actually do. All Plaintiff can do is try, and if unsuccessful, move on up to a higher judge that isn't so compromised. Plaintiff's argument still stands, however, which is the subject of this MTR, which is that he is **just not** a "lawsuit scammer" who "fakes steals" to get "free money." If he were, and if he really did "stage" events in order to "provoke" detentions to file "free lawsuits" with, **then why hasn't he filed hundreds and hundreds AND HUNDREDS of lawsuits by now from all the *other* merchants that he has shopped at?** Oh yeah, that's right, because they don't detain him for merely refusing to show his receipt to them.

## II. PLAINTIFF'S COMPLAINT INCLUDES CLAIMS AGAINST OFFICERS

Moving on, the second issue at hand is that this Court seems to have forgotten that **Plaintiff filed the instant case against Defendants Juan Pacheco and Matthew Lackey, too.** This is the first time that Plaintiff has sued police officers in state court, too, where qualified immunity does ***NOT*** apply. Moreover, two of Plaintiff's claims for relief in Federal Court **have actually survived qualified immunity**, and are thus, presently moving forward. *See Montgomery v. Lore*, D. Colo Civil Case No. 1:21-cv-02553-PAB-CYC, and *Montgomery v. Cruz*, D. Colo Civil Case No. 1:20-cv-03189-PAB-CYC. These cases contain the same exact claims of "unlawful search and/or seizure" as Plaintiff's claims in the instant case, which thereby ***only supports*** his contention that his claims against Defendants Juan Pacheco and Matthew Lackey are not "frivolous" or "vexatious" in nature. Therefore, there is no reasonable way for this Court to argue that the instant case's claims against *the police* are frivolous **when they are, by definition, claims of first impression.** As far as Plaintiff can tell, he has not found anything in the Colorado Rules Of Civil Procedure that mandates that when *some* claims of a complaint are deemed frivolous, that all *other* claims in the same complaint must now suffer the same fate. As such, in the interests of justice, this Court

should respect that Plaintiff's Complaint, *as a whole*, cannot fairly be “parsed out,” and is thus, not fair to be held, *as a whole*, as “frivolous” or “vexatious.”

### III. THE FACT THAT PRIOR COURTS GOT FACTS WRONG IS IRRELEVANT

The third issue at hand, is that this Court apparently didn't finish reading Plaintiff's Response, and instead simply stopped at the [cherry-picked?] sentence he made – that “prior Courts got several facts **WRONG**” – and ruled on the MTR *right then and there*. Thus, it bears repeating **that this case REALLY DOES present an issue of first impression**. It's not actually relevant that “prior courts got several facts wrong.” Of course, those prior Courts indeed got some *absolutely critical* facts wrong – that (a) Plaintiff didn't *actually* “conceal” anything on his way out of each store, and (b) each store's “receipt checking” policy isn't *actually* compulsory in nature. **The dispositive issue today is that the instant case has an entirely new fact pattern that has *never once* been argued before, period, regardless of prior court rulings**. That is, never before in Plaintiff's litigation history has he **EVER** presented to the Court a set of **absolutely unique and critically important facts** that a merchant unlawfully detained him in a store that (a) has registers regularly located all throughout it, (b) had phased out plastic bag use several years prior, and (c) regularly and customarily emails receipts to its customers in lieu of giving them paper ones [such that merchants can no longer fairly claim that said customers would be “failing to avail themselves” of some purported “escape path” should they be detained for purportedly – but not really – “refusing to show them”]. These are **critically different facts** that dispositively distinguish the instant case FROM LITERALLY ALL PREVIOUS CASES PLAINTIFF HAS EVER FILED AGAINST BOTH WALMART AND BEST BUY.<sup>1</sup> As such,

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<sup>1</sup> The last [and first] case against Best Buy involved a situation in which Plaintiff **wasn't even a customer of it**. So this is truly a case of first impression where Plaintiff purchased an item from a merchant that (a) **regularly** utilizes “back registers,” (b) **long ago** phased out “plastic bag use,” and (c) customarily, **regularly** issues “email only”

this case is comprised of **an indisputably new and novel legal argument** that Plaintiff is presenting, *for the very first time*, “in a good faith attempt to establish a new theory of law in Colorado.” See C.R.S. § 13-17-102 (7). This Court **must** understand that Defendant Best Buy now has **absolutely, literally nothing** that it will be able to justify its detention of Plaintiff with. The store won't be able to invoke “shopkeeper's privilege” for its actions, because there is simply nothing left for it to draw any “shopkeeper's privilege” from, nor can Plaintiff be considered to have “failed to avail himself” of some purported “escape path” by way of “refusing to show his receipt,” because, again, he couldn't show one anyways due to him having been emailed one by the store. Most importantly, is that the major retail store chain is **fully aware** that it chose, *itself*, to place registers all throughout its stores, [so no articulable, personalized suspicion to draw any “shopkeeper's privilege” from there], it is **fully aware** that it chose, *itself*, to phase out plastic bag use, [so no articulable, personalized suspicion there to draw any “shopkeeper's privilege” from, either], and it is **fully aware** that it chose, *itself*, to incorporate an “email only” receipt system [that it would know **regularly** puts **all** customers leaving its stores who have that setting enabled in their account in the predicament where they would not be able to show one anyways if asked to do so by the company]. As such, and because these three policy decisions **MADE BY BEST BUY ITSELF** are ones that the store chain is INDISPUTABLY 100% SELF-AWARE OF AT ALL TIMES, **any and all arguments that could possibly be presented by the chain, in any attempt to defend itself in civil litigation with, ARE NOTHING MORE THAN SELF-FULFILLING PROPHECIES.** As in, Best Buy **cannot**, by law and by logic, point to “alternate registers,” “no plastic bag use,” and “no receipt showing,” to supply ANY argued “shopkeeper's privilege” with, **because the chain ITSELF incorporated THESE VERY** receipts to its customers who are then unable to even produce them, if requested to, on their way out of each store.

**POLICIES into its business model, FOR ITS CUSTOMERS' EXCLUSIVE BENEFIT.** The chain simply cannot **consciously** integrate these policies, then whine later if it decides to detain innocent patrons premised on these very policies **THAT IT CHOSE TO INTEGRATE.** Therefore, it was impermissible for this Court to tendentiously conclude that this *brand new* case, with *brand new* facts, and *brand new* legal questions, bears “strong [enough] similarities to previous cases” to be [fairly] considered “frivolous,” **when such is plainly not true.**

#### **IV. PLAINTIFF'S AMENDED COMPLAINT RENDERS THE ORDER MOOT**

The final issue at hand, is that this Court's most recent ORDER granting Defendant's MTR, **will simply be moot.** That is, Plaintiff has attached to this here MTR an Amended Complaint (Exhibit #1), for which he is now simultaneously, respectfully motioning this Court for leave to amend [or rather, replace] his Original Complaint with. This new Amended Complaint includes several more legitimate claims against Best Buy **that have never been presented to any prior Court, by the way,** such as: two claims of independent liability against a security guard independently contracted by the store, as well as a **never before argued** claim that Best Buy has now violated the Colorado Consumer Protection Act. Moreover, this Amended Complaint includes factual details sufficient to overcome [and thus, render moot] Defendants Juan Pacheco's and Matthew Lackey's recently filed MOTION TO DISMISS. Thus, it would be **an absolute miscarriage of justice** for this Court to enforce an ORDER that will soon not even reflect what the revised complaint on file will entail.

#### **CONCLUSION**

WHEREFORE, for the foregoing reasons, Plaintiff respectfully prays that this Court **RECONSIDER** its recent ORDER granting Defendant Best Buy's MTR The Order Re Court Fees.

Then, as part of its decision to **RECONSIDER**, Plaintiff respectfully prays that this Court

**GRANT** his MOTION FOR LEAVE TO FILE AMENDED COMPLAINT, and wherein it shall then accept **EXHIBIT #1** as the new operative complaint in this particular matter.

Respectfully submitted on this, the 11th day of June, 2025.

  
**William Montgomery**

**CERTIFICATE OF SERVICE**

I hereby certify that on this, the 11th day of June, 2025, the foregoing **COMBINED MOTION TO RECONSIDER ORDER GRANTING DEF'S MTR ORDER RE COURT FEES & MOTION FOR LEAVE TO FILE AMENDED COMPLAINT** was filed with the Court, and a true and correct copy of it was electronically sent to the following people:

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