

<p>DISTRICT COURT, DENVER COUNTY</p> <p>1437 Bannock Street Denver, CO 80202</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Plaintiff: DARCEL HARRIS</p> <p>v.</p> <p>Defendants: FLOYD’S 99 BARBERSHOPS, INC.; MICHELLE MACKEY; EMILY FOLKERTS; DOES 1-6</p>	
<p><i>Attorney for Plaintiff</i></p> <p>Ian T. Hicks, Reg. No. 39332 The Law Office of Ian T. Hicks LLC 6000 East Evans Avenue, Building 1, Suite 140 Denver, Colorado, 80222 Telephone: (720) 216-1511 Facsimile: (303) 648-4169 E-mail: ian@ithlaw.com</p>	<p>Case Number:</p> <p>Division:</p>
<p>PLAINTIFFS’ COMPLAINT</p>	

Darcel Harris, (“Darcel”) by and through his undersigned counsel, The Law Office of Ian T. Hicks, LLC, hereby respectfully files his Complaint against the Defendants, as follows:

I. NATURE OF THE CASE

1. “History repeats itself. First as a tragedy, second as a farce.”¹ In 21st century America, being a young African-American means that walking into a barbershop in the middle of the day can get you assaulted for no reason by an employee, accused of being a criminal, and then arrested upon a foundation of false statements tinged with the unmistakable patina of invidious discrimination. This time, however, a videotape captured the truth. Darcel brings this civil action against the two employees who caused his false arrest as well as their employer for vicarious liability.

II. PARTIES, JURISDICTION, AND VENUE

2. Darcel is a natural person and resident of Denver County, Colorado.

3. Michelle Mackey (“Mackey”) is a natural person and upon information and belief a resident of Denver County, Colorado.

4. Emily Folkerts (“Folkerts”) is a natural person and upon information and belief a resident of Denver County, Colorado.

5. Floyd’s 99 Barbershops, Inc., (“Floyds”) is a Colorado corporation that owned and managed a location at 1092 Broadway (the “Location”) where the events giving rise to this action occurred.

6. This Court has personal jurisdiction over each Defendant, because they reside in Colorado and their wrongful acts occurred in Colorado.

7. Venue is proper under C.R.C.P. 98 because the torts and other wrongful acts occurred in Denver County.

¹ Karl Marx.

III. GENERAL ALLEGATIONS

7. In late 2017, Darcel walked into the Location in the middle of the day to obtain a haircut.

8. Darcel was not intoxicated, was under the influence of no medications, and was generally sober as a priest.

9. Yet, due to a severe form of bone cancer in his lower leg, which required extensive surgery and a long recovery period, along with extensive scarring, Darcel walks with a noticeable limp.

10. Upon entering the Location, Darcel was approached by an employee, Mackey.

11. Mackey immediately, upon coming within a few of Darcel, out of nowhere launched an unprovoked physical assault upon him.

12. More specifically, Mackey forcibly shoved Darcel with both hands, for no apparent reason.

13. There were multiple patrons and employees within the immediate vicinity of the assault, and from the time Darcel walked in until he was attacked, those patrons and employees casually carried on their activities without noticing him.

14. Upon being assaulted, Darcel backed up, asked Mackey why she attacked him, and then walked out of the Location.

15. A few minutes later, Darcel was arrested by the Denver Police for, incredibly, assaulting Mackey.

16. Mackey's statements to the Police were riddled with falsehoods and markers of racial discrimination.

17. For example and without limitation, Mackey wrote in her report to the Police that Darcel shoved her for no reason, with both of his hands on her shoulders, and caused her to suffer injuries.

18. Moreover, Mackey stated that Darcel had his "pants at his ankles" even though, in fact, his pants were around his waist the entire time.

19. Mackey also stated that that Darcel walked into the Location yelling and screaming, but of the approximately 10 patrons within Darcel's immediate vicinity, only 1-2 even noticed his presence until he was accosted by Mackey.

20. Darcel was forced to spend approximately a week in jail, and spent months worrying about being tried for a violent crime.

21. However, upon receiving a copy of the surveillance tape from Floyd's several months after the arrest, the District Attorneys' office dismissed the charges, with prejudice, because it demonstrated that Mackey was the aggressor, she assaulted Darcel, and her entire statement was constructed on a series of false statements.

22. Folkerts reiterated Mackey's falsehoods in her statement to the Denver Police. Both Mackey and Folkerts are Caucasian.

23. Mackey also stated that Darcel was drunk or high, yet the body camera footage that has audio shows that the only thing Darcel said or did when being falsely arrested was to ask "what did I do," while showing remarkable composure inconsistent with someone who was noticeably intoxicated. It was Mackey who called the Denver Police to initiate the arrest.

IV. CLAIMS FOR RELIEF

First Claim for Relief – False Imprisonment

Against All Defendants

24. Darcel incorporates by reference the foregoing allegations as if fully set forth herein.

25. Defendants intended to restrict Darcel's freedom of movement.

26. Defendants, directly or indirectly, restricted Darcel's freedom of movement.

27. Darcel was aware that his movement was being restricted.

28. Defendants' wrongful acts caused him to suffer injuries, damages, and losses in an amount to be proven at trial.

Second Claim for Relief – Vicarious Liability Under the Doctrine of Respondeat Superior o

Against Floyd's

57. Darcel incorporates by reference the foregoing allegations as if fully set forth herein.

58. Mackey and Folkerts were employees of Floyd's, acting within the course and scope of their employment, on duty at a Floyd's location, when they engaged in the wrongful acts alleged herein.

59. Mackey and Folkerts were motivated at least in part by a desire to benefit their employer when they engaged in the wrongful conduct alleged herein.

60. Therefore, Floyd's is vicariously liable for the acts of Mackey and Folkerts under the doctrine of respondeat superior.

V. PRAYER FOR RELIEF

Darcel respectfully requests the Court enter judgment in their favor and against the Defendants on all claims, and provide the following and additional further relief:

1. Pre and Post-Judgment Interest;
2. Attorneys' fees as allowed by law or contract;
3. Economic damages;
4. Non-economic damages for emotional distress, annoyance, frustration and mental anguish; and
5. Equitable relief as the Court deems necessary or appropriate.

Filed this 19th day of October, 2018.

Respectfully Submitted,

THE LAW OFFICE OF IAN T.
HICKS LLC

s/ Ian T. Hicks

Ian T. Hicks, Reg. No. 39332
The Law Office of Ian T. Hicks LLC
6000 East Evans Avenue, Building
1, Suite 140
Denver, Colorado, 80222
Telephone: (720) 216-1511
Facsimile: (303) 648-4169
E-mail: ian@ithlaw.com

Plaintiff's Address:

Not available at this time.