

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:09-cv-02802-REB- MEH

JEREMY C. MYERS; and WESTERN SALVAGE LTD.,

Plaintiffs,

v.

BRIAN KOOPMAN, Detective in the Loveland, Colorado Police Department in his official and individual capacity;
LUKE HECKER, Chief of Loveland Police Department, in his official and individual capacity;
DENNIS V. HARRISON, Chief of the Fort Collins Police Department, in his official and individual capacity;
JAMES A. ALDERDEN, Sheriff of Larimer County, Colorado, in his official and individual capacity;
CITY OF LOVELAND, a Colorado municipality;
CITY OF FORT COLLINS, Colorado, a municipality;
LARIMER COUNTY, a County, by and through the
LARIMER COUNTY BOARD OF COUNTY COMMISSIONERS;
LARRY ABRAHAMSON, District Attorney of the Eighth Judicial District in his official capacity; and
EIGHTH JUDICIAL DISTRICT OF COLORADO, a political subdivision of the State of Colorado.

Defendants.

**DEFENDANTS KOOPMAN AND HECKER'S UNOPPOSED MOTION TO STAY
DISCOVERY PENDING RULING ON THEIR MOTION FOR SUMMARY JUDGMENT
BASED UPON QUALIFIED IMMUNITY**

DEFENDANTS Brian Koopman ("Koopman") and Luke Hecker ("Hecker"), by and through their attorneys, WICK & TRAUTWEIN, LLC and THE LOVELAND CITY ATTORNEY'S OFFICE, respectfully move that the Court order stayed all discovery

pending ruling on said Defendants' Motion for Summary Judgment based upon Qualified Immunity. In support hereof, said Defendants state as follows:

D.C. Colo. Civ. 7.1A CERTIFICATION

Undersigned counsel for movants hereby certifies that he has conferred with opposing counsel and is authorized to state that Plaintiffs and Co-Defendants are unopposed to this motion.

1. Koopman and Hecker have filed a motion for summary judgment based upon qualified immunity.

2. Until the threshold issue is resolved, "discovery should not be allowed." *Siegert v. Gilley*, 500 U.S. 227, 231 (1991). "[Q]ualified immunity which shields Government officials 'from liability from civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights,' is both a defense to liability and a limited 'entitlement not to stand trial *or face the other burdens of litigation.*'" *Ashcroft v. Iqbal*, _____ U.S. _____ 129 S.Ct. 1937, 1945-46 (2009)(citing *Harlow v. Fitzgerald*, 457 U.S. 800 (1982)).

3. "The Supreme Court has emphasized the broad protection qualified immunity affords, giving officials a right, not merely to avoid 'standing trial' but also to avoid the burdens of 'such pretrial matters as discovery.'" *Gross v. Pirtle*, 245 F.3d 1151, 1155 (citing *Behrens v. Pelletier*, 516 U.S. 299 (1966) [quoting *Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985)]).

WHEREFORE, Defendants Koopman and Hecker respectfully move the court order all discovery in this matter stayed pending ruling on said Defendants' motion for summary judgment based upon qualified immunity.

DATED the 29th day of April, 2010.

WICK & TRAUTWEIN, LLC

LOVELAND CITY ATTORNEY'S OFFICE

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CERTIFICATE OF SERVICE

I hereby certify that on April 29, 2010, I electronically filed the foregoing **DEFENDANTS KOOPMAN AND HECKER'S UNOPPOSED MOTION TO STAY DISCOVERY PENDING RULING ON THEIR MOTION FOR SUMMARY JUDGMENT BASED UPON QUALIFIED IMMUNITY** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following e-mail addresses:

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