

**Jeremy Myers v. Brian Koopman, et. al.**  
**Case overview**

Plaintiffs Jeremy Meyers and Western Salvage, Ltd., first filed suit in 2009 against numerous defendants, including Loveland police officer Brian Koopman, Loveland Chief of Police Luke Hecker, and the City of Loveland itself. Other named defendants included various officers of the Fort Collins police department, the City of Fort Collins, Larimer County, the Larimer County sheriff and district attorney, and the Eighth Judicial District. The plaintiffs alleged the various defendants violated their Fourth and Fourteenth Amendment rights through an alleged (1) unreasonable search and seizure, (2) malicious prosecution, (3) use of excessive force, (4) failure to train and supervise, and (5) a conspiracy. Though the suit was originally filed in state district court, the matter was removed to federal district court on the motion of the Larimer County defendants.

Generally speaking, the claims stemmed from the September 6, 2007, execution of a no-knock search warrant by the Larimer County Sheriff's Office SWAT Team at 1101 North Madison Street in Loveland, seeking evidence of a methamphetamine manufacturing laboratory being operated at the premises. The warrant was obtained by Loveland police officer Brian Koopman, based upon information provided by a confidential informant that a meth lab was being operated there, and based upon knowledge that the owner of the premises (Jeremy Myers) had previously in September 2002, been investigated for and charged with various drug-related criminal offenses following the search of the same premises and discovery of illegal drugs and drug paraphernalia.

During the search, field tests were conducted on apparent chemical substances found on the premises, both of which tested presumptively positive for amphetamine, a component of methamphetamine. Other items seized from the subject premises included a large plastic container with a bilayer fluid, amber colored on the top and red on the bottom, weighing approximately 704.6 grams, which fluid tested presumptively positive for the presence of amphetamine during a field test, and a glass jar containing approximately 987.3 grams of a white crystalline substance partially submersed in an unknown fluid which also tested presumptively positive for the presence of amphetamine during the field test.

Jeremy Meyers turned himself in at the Loveland Police Department the day after the search was conducted, at which time he was placed under arrest based upon the presumptively positive field test results of the substances seized during the search. Myers remained in custody until he posted bond on September 10, 2007, and the Larimer County district attorney filed criminal charges against Myers in state court. However, further laboratory testing by the Colorado Bureau of Investigation of the samples recovered from the raid later revealed that they were not controlled substances. On November 15, 2007, the district attorney dismissed all charges against Myers. Two years later, Myers initiated this lawsuit, making the claims set forth above.

Since initiation of the suite, all other defendants have been dismissed and all claims except one have been dismissed. The only remaining claim at the present time is a Fourth Amendment claim for malicious prosecution against Detective Brian Koopman. In 2012, the federal district court granted a motion filed by Koopman which would have had the effect to dismiss this remaining claim against him, but Myers appealed the decision to the Tenth Circuit Court of Appeals.

The Tenth Circuit Court of Appeals reversed part of that decision and remanded the case for further proceedings in the federal district court on issues raised by Koopman with regard to absolute and qualified immunity to which police officers may be entitled under the Fourth Amendment.

The defense filed a Petition for Writ of Certiorari in the U.S. Supreme Court in February 2014. An Amicus Brief in support of the Petition was filed by the International Municipal Lawyers Association, also urging the Supreme Court to take up what one Supreme Court justice had referred to as an “embarrassing diversity of legal opinion” concerning the extent to which a malicious prosecution claim is actionable against a police officer under the federal civil rights statute. The U.S. Supreme Court denied the Petition in June 2014, declining to resolve this issue.

Accordingly, at the present time, the case is back in the federal district court for resolution of the sole remaining Fourth Amendment claim of malicious prosecution against Detective Koopman. Pursuant to the remand instructions from the 10<sup>th</sup> Circuit Court of Appeals, the federal district court is to hold further proceedings to resolve the issues relating to arguments regarding absolute and qualified immunity. The defense filed a renewed motion for summary judgment to bring these issues back before the court, and the plaintiff filed a motion for a status conference, both of which the federal district court denied as unnecessary, indicating that “the court will address in a written order the issues of absolute and qualified immunity” after considering the “extant arguments” of the parties already before the court. To date, the court has not issued any such further orders. There is no particular timeframe in which the court must resolve these issues.

On October 5, 2016, a status conference was held and the parties were directed to set a trial date. On October 25, 2016, the court conducted a telephonic setting conference and the matter was set for trial March 6, 2017 through March 10, 2017. A Settlement Conference is scheduled for December 8, 2016 at 10:30 a.m.