

COLORADO COURT OF APPEALS
STATE OF COLORADO
2 East 14th Avenue
Denver, CO 80203

Appeal from the District Court of Denver County,
Honorable Stephanie Lindquist Scoville
Case No. 2022CV033434

PLAINTIFF/APPELLEE: RUBY JOHNSON
v.

DEFENDANTS/APPELLANTS: GARY STAAB,
an officer of the Denver Police Department, in his
individual capacity, and GREGORY BUSCHY, an
officer of the Denver Police Department, in his
individual capacity.

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Court of Appeals
Case No. 2024CA000683

DEFENDANT-APPELLANT GARY STAAB'S REPLY BRIEF

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28 and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that the brief complies with the applicable word limits set forth in C.A.R. 28(g) because it has 213 words.

I acknowledge that this brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 and C.A.R. 32.

s/ William T. O'Connell, III
William T. O'Connell, III, #34127

TABLE OF CONTENTS

CERTIFICATE OF COMPLIANCE.....	ii
TABLE OF CONTENTS.....	iii
TABLE OF AUTHORITIES	iv
ARGUMENT	1
CONCLUSION	1
PLAINTIFF’S REQUEST FOR ATTORNEY FEES	2
CERTIFICATE OF SERVICE	3

TABLE OF AUTHORITIES

Statutes

C.R.S. § 13-21-131	1
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Rules

C.A.R. 39.1	2
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ARGUMENT

In the interests of judicial economy and efficiency and because Sergeant Gregory Buschy's arguments apply with equal force to Detective Gary Staab, Detective Staab joins, adopts and incorporates by reference Sergeant Buschy's Reply Brief filed October 18, 2024.

CONCLUSION

For the reasons described in Detective Staab's Opening Brief, Sergeant Buschy's Opening Brief and Sergeant Buschy's Reply, the trial court failed to properly instruct the jury that it needed to find Detective Staab intentionally or recklessly made misstatements or omissions in the Affidavit. Moreover, Plaintiff failed to prove her unlawful search and exemplary damages claims and the jury awarded excessive emotional distress damages and exemplary damages. Finally, joint and several liability does not apply and C.R.S. § 13-21-131 violates Detective Staab's equal protection rights.

WHEREFORE, Detective Gary Staab respectfully requests that this Court vacate the judgment against him and render judgment in his favor or alternatively to vacate the judgment and order a new trial.

PLAINTIFF'S REQUEST FOR ATTORNEY FEES

Detective Staab opposes Plaintiff's request for reasonable fees and costs. Plaintiff's request is insufficient under C.A.R. 39.1 because she fails to explain the legal and factual basis for an award of attorney fees. "Mere citation to this rule or to a statute, without more, does not satisfy the legal basis requirement." C.A.R. 39.1.

Dated this 18th day of October 2024.

Respectfully submitted,

WELLS, ANDERSON & RACE, LLC

s/ William T. O'Connell, III

William T. O'Connell, III, #34127

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**ATTORNEYS FOR DEFENDANT -
APPELLANT GARY STAAB**

CERTIFICATE OF SERVICE

I hereby certify that on October 18, 2024, a true and correct copy of the foregoing **DEFENDANT-APPELLANT GARY STAAB'S REPLY BRIEF** was filed with the Clerk of the Court via CCE system which will send notification of such filing to the following:

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