

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Jared Sande,
individually and on behalf of all
others similarly situated

Plaintiff,

v.

Todd Axtell, Chief of Police, City
of Saint Paul, in his official
capacity only.

Defendants.

Civil Action No. _____

**COMPLAINT
CLASS ACTION
JURY DEMANDED**

INTRODUCTION

For his Complaint against the Defendants, the Plaintiff, Jared Sande states as follows:

JURISDICTION

1. This action is based on, and seeks redress for, violations of the United States Constitution and Minnesota's common-law, therefore jurisdiction is proper pursuant to 42 U.S.C. §1983; 28 U.S.C. §1367 (supplemental jurisdiction over the state claims)

VENUE

2. Venue is proper in the United States District Court for the District of Minnesota pursuant to 28 U.S.C. §1391.

PARTIES

3. Jared Sande, the Plaintiff, is an adult male of who resides, and at all relevant times has resided in the state of Minnesota.
4. Chief Axtell is sued in his official capacity only and therefore the City of Saint Paul is a defendant. The City of Saint Paul is a municipal corporation under Minnesota Stat. §412.211.

FACTUAL ALLEGATIONS

5. In or around July of 2015, Plaintiff and a passenger were stopped by multiple Saint Paul Police officers in unmarked police vehicles.
6. Plaintiff informed one of the officers that he had a firearm (Springfield Amory model XD40, 40 caliber, serial # US237686) in the door of the vehicle.
7. Plaintiff was licensed to carry a firearm.
8. Plaintiff had no criminal convictions that prohibit him from possessing a firearm.
9. The police officers conducted a search of the vehicle.
10. The police officers found a small amount of marijuana and a digital scale during the search.
11. The passenger, while on the scene, told the police officers that the drugs and the drug scale belonged to him.
12. The police officers, nonetheless, arrested Plaintiff.
13. The police officers seized Plaintiff's license to carry a firearm.
14. The police officers seized Plaintiff's firearm.
15. Plaintiff was released within an hour after an interview with an officer/detective.

16. The police returned Plaintiff's license to carry a firearm to the Plaintiff upon his release.
17. The police refused to return his firearm.
18. The investigation into any criminal activity was closed shortly after Plaintiff was released from custody.
19. Plaintiff made several inquiries into the return of his firearm.
20. In or around December of 2015, the Plaintiff received a letter from the Saint Paul Police Department advising him to retrieve his property from the incident.
21. Plaintiff appeared as directed to retrieve his property but was denied his firearm.
22. Plaintiff has no criminal convictions that would prevent him from possessing a firearm.
23. Plaintiff has no mental defects that would prevent him from possessing a firearm.
24. Plaintiff wrote a letter to the Police Department in April of 2016 asking for his firearm to be returned.
25. The Police Department denied his request.
26. Plaintiff made several other attempts to retrieve his firearm.
27. The Police Department denied each of his requests to return the firearm.
28. The Police Department's most recent denial was on August 22, 2017.
29. In a letter to the Plaintiff, the Defendant, through a subordinate, told the Plaintiff that "[i]t is the decision of the Saint Paul Police Department to deny [his] request."
30. The letter further advised that the "Ramsey County Evidence Retention Policy" required that:

- a. The firearm be sent to the BCA for ballistic testing;
 - b. The firearm must remain in the possession of the Police Department until 7/28/2018.
31. The letter informed Plaintiff that the Saint Paul Police Department sent his firearm to the BCA for testing in July of 2015.
 32. The Saint Paul Police Department does not secure a warrant for the ballistic testing of firearms sent to BCA pursuant to its policy.

CLAIMS FOR RELIEF

COUNT I

**Violation of the Due Process Clause of the Fifth Amendment to
the United States Constitution
(No Pre-deprivation Hearing or Post Deprivation Hearing)**

33. Plaintiff re-alleges the allegations of the previous paragraphs and incorporates those allegations herein by reference.
34. The Due Process Clause of the Fifth Amendment to the United States Constitution, made applicable to the states by the Fourteenth Amendment to the United States Constitution, makes plain that “nor shall any person be deprived of life, liberty, or property, without due process of law.”
35. It is the Defendant’s policy to take the firearms of private citizens, retain them despite the fact that any criminal investigation has ended without providing a pre-deprivation hearing or a post-deprivation hearing.
36. As an actual and proximate result of Defendant’s conduct, Plaintiff has been injured and suffered damages, which amount shall be determined at trial.

COUNT II

Violation of the Unreasonable Seizure Clause of the Fourth Amendment of United States Constitution

37. Plaintiff re-alleges the allegations of the previous paragraphs and incorporates those allegations herein by reference.
38. The Fourth Amendment to the United States Constitution, made applicable to the states by the Fourteenth Amendment, makes plain that “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.”
39. It is the Defendant’s policy to unreasonably seize and then retain the firearms of private citizens despite the fact that any criminal investigation has ended.
40. It is the Defendant’s policy to conduct a search, or aid and abet a search, of firearms belonging to private citizens without a warrant and despite the fact that any criminal investigation has ended.
41. As an actual and proximate result of Defendant’s conduct, Plaintiff has been injured and suffered damages, which amount shall be determined at trial.

COUNT III

Common-Law Conversion

42. Plaintiff re-alleges the preceding allegations and incorporates those allegations herein by reference.
43. Plaintiff has an interest in his firearms.
44. The Defendant deprived him of that interest.
45. As an actual and proximate result of Defendant’s conduct, Plaintiff has been injured and suffered damages, which amount shall be determined at trial.

COUNT IV
Common-Law Trespass to Chattel

46. Plaintiff re-alleges the preceding allegations and incorporates those allegation herein by reference.
47. Plaintiff has an interest in his firearm.
48. The Defendant, through his policy, intentionally dispossess plaintiff of his property by refusing to return the firearm at the conclusion of any criminal investigation.
49. As an actual and proximate result of Defendant's conduct, Plaintiff has been injured and suffered damages, which amount shall be determined at trial.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for relief against the Defendant as follows:

50. For redress of all loss, harm, and injuries that resulted from the Defendant's unconstitutional acts.
51. For an injunctive relief barring the retention of firearms that are no longer being held as evidence or contraband without a pre-deprivation hearing or post-deprivation hearing.
52. For injunctive relief barring the warrantless search of firearms that are not part of an ongoing criminal investigation.
53. For interest, where appropriate, on damages awarded, including treble damages pursuant to Minn. Stat § 548.05.
54. For cost and attorneys' fees incurred in the prosecution of this action pursuant to, without limitations, 28 U.S.C. §1988 and Minn. Stat. §§363A.29 and 363A.33, Subd. 7.
55. For an opportunity to make amendments to the Complaint to cure any deficiency revealed through motion practice.

56. To certify a class of Plaintiffs to be defined through the discovery process.
57. Award such other relief as the Court deems just and equitable.

Dated: September 25, 2017

Respectfully submitted

/e/ A.L. Brown

A. L. Brown (# 331909)

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ATTORNEYS FOR PLAINTIFF

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
 Jared Sande

(b) County of Residence of First Listed Plaintiff Ramsey
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
 Capitol City Law Group, LLC, A.L. Brown, 413 Wacouta Street, Suite 140, Saint Paul, Minnesota 55101 (651) 705-8580

DEFENDANTS
 Todd Axtell (Chief of Police)

County of Residence of First Listed Defendant Ramsey
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only) [Click here for: Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	IMMIGRATION
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation - Transfer 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 42 U.S.C. § 1983

Brief description of cause:
 Civil action for damages and injunctive relief for policy of retaining firearms in violation of due process.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: 09/25/2017 SIGNATURE OF ATTORNEY OF RECORD: /e/ A.L. Brown

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use
(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the
(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box. Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Saint Paul, MN Police Chief Named in Class Action Alleging Unlawful Seizure of Firearms](#)
