ELECTRONICALLY FILED

CASE NO. _____

JEFFERSON CIRCUIT COURT
DIVISION _____
JUDGE _____

CHELSEY NAPPER, Individual

-and-

CODY ETHERTON, Individual

-and-

CHELSEY NAPPER, Legal Guardian,
Mother and Next Friend of Minor, Z.F.

-and-

CHELSEY NAPPER, Legal Guardian,
Mother and Next Friend of Minor, B.E.

PLAINTIFFS

vs.

KELLY HANNA GOODLETT
480 Bald Eagles Circle
Mount Washington, KY 40047-6275
In her Official and Individual Capacities

-and- DEFENDANTS

LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT
ex rel. Greg Fischer, in his official capacity as Mayor,
SERVE: Mayor Greg Fisher
Metro Hall
527 West Jefferson Street 4th Floor
Louisville, KY 40202

COMPLAINT

Plaintiffs, by their undersigned attorneys of record, allege as follows:

PARTIES

1. Plaintiff Chelsey Napper was at all times relevant herein a resident of Louisville, Jefferson County, Kentucky.

2. Plaintiff Cody Etherton was at all times relevant herein a resident of Louisville, Jefferson County, Kentucky.

3. Plaintiff, Minor Z.F., was at all times relevant herein a resident of Louisville, Jefferson County, Kentucky.

4. Plaintiff, Minor B.E., was at all times relevant herein a viable fetus under the laws of the Commonwealth of Kentucky and entitled to all pertinent rights, privileges and protections relevant hereto and a resident of Louisville, Jefferson County, Kentucky. See, *e.g., McDonald v. DNA Diagnostics Ctr., Inc.*, No. 3:20-CV-391-CRS, at *11-12 (W.D. Ky. Oct. 30, 2020) ("According to *Mitchell*, a duty arises because negligent conduct creates a foreseeable risk of death to a "person" if the unborn child is viable. See *Baxter v. AHS Samaritan Hosp., LLC*, 328 S.W.3d 687, 693 (Ky. Ct. App. 2010) (citing *Mitchell* in holding child's estate could not bring wrongful death action because he was not viable at time of death)"). See also *Mitchell v. Couch*, 285 S.W.2d 901, 906 (Ky. 1955) (holding that Kentucky's constitutional and statutory provisions that allow for recovery in wrongful death cases also allow the estate of an unborn child to recover if the fetus was viable at the time of injury because a viable fetus is a "person" within the meaning of the constitutional and statutory provisions.)

5. At all times relevant, Defendant Louisville/Jefferson Country Metro Government ("LouMetro") was a municipality existing and organized under the laws of the Commonwealth of Kentucky with the capacity to sue and be sued under Kentucky law. See Ky. Rev. Stat. §82.081. Its principal place of business is located at 527 W. Jefferson Street, 4th Floor, Louisville, KY 40202.

6. Defendant Louisville/Jefferson Country Metro Government has exclusive control over the operation and administration of its Louisville Metro Police Department (LMPD). LouMetro is responsible for the policy, practice, supervision, implementation and conduct of all LMPD matters, including the appointment, training, supervision, and conduct of all LMPD personnel. Furthermore, Defendant Lou Metro was and is responsible for enforcing the rules and Standard Operating Procedures (SOPs) of LMPD and ensuring that LMPD personnel adhere to and honor the SOPs and obey the laws of the United States of America and the Commonwealth of Kentucky.

7. Plaintiffs base all applicable and appropriate claims as to Defendant LouMetro on state law principles of *respondeat superior* and/or other forms of vicarious liability. See, *e.g.*, *City of Lexington v. Yank*, 431 S.W.2d 892 (Ky. Ct. App. 1968).

8. "[T]he standard for establishing a claim against a municipality under a theory of *respondeat superior* is a lower standard than establishing municipal liability under *Monell*." *Lamar v. Beyme*r, No. 5:02-CV-289R, at *25 (W.D. Ky. Oct. 4, 2005).

9. Defendant Detective Kelly Hanna Goodlett was, at all times relevant, an employee of the LMPD working in Jefferson County as on or off duty licensed Kentucky peace officer acting under color of state law and within the scope and course of her official duties and employment as an officer with LMPD. She is sued in her official and individual

capacities.

10. Defendant Goodlett retired from LMPD the day after being indicted (**EXHIBIT ONE)** by Information by an independent, objective federal Grand Jury on the charge that "KELLY GOODLETT knowingly and willfully conspired and agreed with JOSHUA JAYNES, and others known and unknown to the United States, to commit offenses against the United States; specifically (1) to knowingly falsify a warrant affidavit for Breonna Taylor's home, in violation of 18 U.S.C. § 242; and (2) to knowingly engage in misleading conduct toward another person with intent to hinder, delay, and prevent the communication of information to a federal law enforcement officer and judge relating to the commission and possible commission of a federal offense, in violation of 18 U.S.C. § 1512(b)(3)."

11. The entire content of Document 15 "PLEA AGREEMENT" (**EXHIBIT FOUR**) of Kelly Goodlett filed in federal court Case 3:22-cr-0086-RGJ is hereby incorporated by reference, specifically Document 15-1 PageID #52-57 titled "Plea Agreement Addendum – Kelly Goodlett Factual Basis."

12. The "warrant" and "affidavit" referenced in the Goodlett indictment are the Search Warrant and supporting Affidavit at issue in this lawsuit.

13. ""A grand jury indictment, by itself, establishes probable cause to believe that a defendant committed the crime with which he is charged." *United States v. Stone*, 608 F.3d 939, 945 (6th Cir. 2010)." *United States v. Gwathney-Law*, CRIMINAL ACTION No. 1:15-CR-00030-GN

14. On August 23, 2022, Goodlett pleaded guilty as charged in the federal indictment before U.S. District Judge Rebecca Grady Jennings and by doing so admitted the allegations against her in this lawsuit are true.

15. The Defendant Goodlett admitted she conspired with Jaynes and other persons known and unknown to prevent the Plaintiffs from discovering additional facts necessary to support the allegations herein and from timely discovering additional facts that may support additional justiciable allegations and causes of action against the Defendants and other unknown defendants.

16. The guilty plea of Goodlett supports a reasonable inference by this Court that Defendant Goodlett is liable for the misconduct as alleged by the Plaintiffs herein.

17. The full scope of Goodlett's deliberate, reckless and criminal actions in falsifying the Search Warrant at issue here and conspiring with fellow LMPD officer Joshua Jaynes and unknown others to mislead investigators and conceal the truth was unknown to Plaintiffs until she was indicted by a federal grand jury on Thursday, August 4, 2022, after a lengthy FBI investigation with resources and methods known only to and available only to the FBI to which criminal charges Goodlett pleaded guilty on August 23, 2022; therefore, applicable statutes of limitation are tolled by Defendant Goodlett's active concealment and conspiracy to conceal the truth with others known and unknown. See *Lashlee v. Sumner*, 570 F.2d 107, 110 (6th Cir. 1978) ("Deliberate concealment by a defendant of the plaintiff's cause of action will toll the statute of limitations. In *Resthaven Memorial Cemetery v. Volk,* 286 Ky. 291, 150 S.W.2d 908, 912 (1941), it was held that 'when a wrongdoer intentionally conceals his unlawful act the statute of limitations begins to run when the person injured learns of the unlawful act rather than from the time of commission of the act.'") See also *Sneed v. Univ. of Louisville Hosp.,* 600 S.W.3d 221, 229 (Ky. 2020) ("The purpose of the equitable tolling of the statute of limitations due to fraudulent concealment is to prevent a defendant from concealing the plaintiff's cause of action.")

18. "[Q]ualified immunity does not apply if it is determined that [an officer] acted

in bad faith. *Ashby v. City of Louisville*, 841 S.W.2d 184, 188-89 (Ky. 1992). Bad faith 'can be predicated on a violation of a constitutional, statutory, or other clearly established right which a person in the public employee's position presumptively would have known was afforded to a person in the plaintiff's position, *i.e.*, objective unreasonableness; or if the officer or employee willfully or maliciously intended to harm the plaintiff or acted with a corrupt motive.' *Smith v. Nesbitt*, 2003 WL 22462413, at *3-4 (Ky. App. 2003), citing *Yanero v. Davis*, Ky.,65 S.W.3d 510, 523 (Ky. 2001)." *Lamar v. Beymer*, No. 5:02-CV-289R, at *24 (W.D. Ky. Oct. 4, 2005)

19. "[I]t is well-established that a government investigator is liable for violating the Fourth Amendment when he deliberately or recklessly submits false and material information in a warrant affidavit." *Meeks v. Larsen*, 611 F. App'x 277, 9-11 (6th Cir. 2015).

20. By extension and analogy, Defendant Goodlett violated Section Ten of the Kentucky Constitution when she deliberately or recklessly submitted false and material information in the Search Warrant Application and Affidavit at issue here. *LaFollette v. Com*, 915 S.W.2d 747, 748 (Ky. 1996) ("Examination of Section 10 and the Fourth Amendment reflects a pronounced similarity with little textual difference. *Crayton v. Commonwealth*, Ky., 846 S.W.2d 684 (1992). While no requirement exists to follow the decisions of the Supreme Court of the United States as we interpret the Constitution of Kentucky, we certainly shall not ignore either the logic or scholarship of that Court. *Rooker v. Commonwealth*, Ky., 508 S.W.2d 570 (1974). Stated otherwise, Section 10 of the Kentucky Constitution provides no greater protection than does the federal Fourth Amendment. *Estep v. Commonwealth*, Ky., 663 S.W.2d 213 (1983).")

21. "Section Ten of the Kentucky Constitution prohibit[s] unreasonable searches and seizures by police officers." *Adcock v. Commonwealth*, 967 S.W.2d 6, 8 (Ky. 1998).

22. The guilty plea of Goodlett is an admission that she violated the rights of the Plaintiffs under Section Ten of the Kentucky Constitution by subjecting them to a per se unreasonable and unconstitutional seizure the night of March 12-13, 2020, as a result of her conspiracy to falsify the Search Warrant Application with no legitimate basis for probable cause and to falsify the supporting Affidavit and by knowingly allowing the illegal Warrant to issue and they by conspiring to lie to investigators to conceal the truth, all of which resulted in the Plaintiffs being injured at the scene of an arrest based on the Search Warrant lacking probable cause by Goodlett's own admission when pleading guilty to a crime because of her deliberate, reckless and criminal acts.

JURISDICTION AND VENUE

23. Venue is appropriate in Jefferson Circuit Court as (1) all or a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred Louisville, Jefferson County, Kentucky, and (2) Defendant Goodlett was working in the scope and course of her employment by LouMetro when the incidents at issue occurred and (4) money damages are sought which are in excess of the jurisdictional amount necessary to invoke the jurisdiction of the Court.

BACKGROUND

24. All previous paragraphs, allegations, and causes of action set forth are incorporated herein by reference as though fully set forth.

25. This Complaint arises from the stunning and abject failure of the named individual Defendant Louisville Metro Police Department (LMPD) police officer KELLY GOODLETT regarding the procurement of a search warrant ("Search Warrant") for the apartment of a woman named Breonna Taylor. Based on deliberate falsehoods in the completion by Goodlett of an Application for the Search Warrant and an Affidavit in

support of the Search Warrant and misrepresentation of facts supporting probable cause, that Warrant was unlawful. Other LMPD Officers should never have executed that Warrant. As a result of their unlawful raid, Ms. Taylor died and the Plaintiffs suffered physical and emotional injury and legal injury in the form of lost constitutional rights and property damage.

26. This Complaint arises from the stunning and abject failure of named Defendant Louisville/Jefferson County Metro Government ("LouMetro") to properly train and supervise the named individual Defendant Goodlett. LouMetro had ample reason to anticipate that law enforcement exercises such as the botched narcotics raid which was the subject of the Search Warrant are rife with the potential to deprive residents of their constitutional rights. Lou Metro's failure must be redressed with legal and equitable relief under state law.

27. Concerning the actions of Defendant Goodlett, "[i]f the doing of a thing would lead the mind of an ordinarily prudent person under like conditions and circumstances to anticipate or foresee that the thing done would result in an injury to some person, then the person responsible for the act is liable to the person injured as a result of the act." *Illinois Central Rr. Co. v. Cash's Administratrix,* 221 Ky. 655, 662 (Ky. Ct. App. 1927). See also *CSX Transportation, Inc. v. Moody*, 313 S.W.3d 72, 83 (Ky. 2010) ("Thus, a defendant is liable for even the improbable or unexpectedly severe results of its negligence."); *Yankey v. McHatton,* 444 S.W.2d 745 (Ky. Ct. App. 1969) ("It is well settled that a wrongdoer is responsible for all consequences flowing from his wrongful act. Hazelwood v. Hodge, Ky., 357 S.W.2d 711, and Gill v. Cook, Ky., 399 S.W.2d 303. "); and, *Mason v. City of Mt. Sterling,* 122 S.W.3d 500, 507 (Ky. 2004) ("However, it is an 'elementary rule that one is charged with notice of things that are common knowledge and is bound to anticipate the

reasonable and natural consequence of his wrongful act, whether of commission or omission.' *Louisville N.R. Co. v. Vaughn*, 292 Ky. 120,166 S.W.2d 43, 48 (1942).")

28. Defendant LouMetro (by failing to properly train and supervise Defendant Goodlett to lawfully secure a Search Warrant) and Defendant Goodlett (by conspiring to lie and materially falsifying the Search Warrant Application and its supporting Affidavit and lying to investigators and conspiring to conceal the truth for which she pleaded guilty to criminal charges) negligently created the conditions causing injury to the Plaintiffs and therefore are a concurring cause of the Plaintiffs' injuries and violations of their constitutional rights under Kentucky law. *Parker v. Redden*, 421 S.W.2d 586, 595 (Ky. Ct. App. 1967) ("That leaves the question of causation. It has been argued that Mrs. Melton's negligence merely created a *condition* and did not constitute a *cause.* We believe the argument is not valid. Our cases quite clearly establish the proposition that if the consequences that grow out of a negligently created 'condition' are natural and probable (foreseeable), the fact that negligent conduct of another person is involved does not exonerate from liability the person who negligently created the condition — his negligence is a concurring cause.")

29. "Applying the test of what constitutes proximate cause as set forth in *Hines* to this case, did the original negligent act (failure to properly [secure the Search Warrant]) set in force a chain of events which the original negligent actor might have reasonably foreseen would, according to the experience of mankind, lead to the event which happened?" *Tillery v. Louisville Nashville Railroad Co.,* 433 S.W.2d 623, 625 (Ky. Ct. App. 1968). Yes. The original negligent acts of Defendant LouMetro to properly train and supervise Goodlett and Defendant Goodlett's failure to properly secure a lawful Search Warrant set in force the deadly chain of events of the night of March 12-13, 2020, because it was reasonably

foreseeable and even known to these Defendants that armed LMPD officers would be executing the illegal Search Warrant after midnight at an inhabited apartment complex where many people not the targets of the Search Warrant would be asleep. See *Mason v. City of Mt. Sterling*, 122 S.W.3d 500, 507 (Ky. 2004) ("'In a closely built-up residential neighborhood children are as much a part of the natural scene as grasshoppers. Their intrusive appearance upon and around the unenclosed premises of such an area is to be expected.' *Goben v. Sidney Winer Co.*, Ky., 342 S.W.2d 706, 711 (1960).") and See *McWain v. Commonwealth*, No. 2010-CA-002008-MR, at *5 (Ky. Ct. App. Nov. 30, 2012) ("As a matter of law, residential dwellings or buildings are presumptively inhabited.")

30. Although violations of administrative rules and internal operating procedures do not invariably give rise to individual rights capable of vindication through litigation, *cf. American Farm Lines v. Black Ball Freight*, 397 U.S. 532, 538 (1970), LMPD's standard operating procedures are essential to this case. The SOPs that LMPD did adopt, especially those pertaining to the application for and preparation of search warrants, are lawful and binding upon individual police officers for a reason: they serve to protect the public as well as officers themselves from physical and legal injury. Individual police officers' decisions to flout these SOPs, to the point of lying to evade them, can violate constitutionally protected rights enjoyed by the public. By the same token, despite adopting SOPs that do safeguard the public (if only those rules were honored by individual police officers), LouMetro and LMPD failed to adopt the comprehensive and legally compelled set of protocols needed "to train [their] employees to handle recurring situations presenting an obvious potential for [constitutional] violation[s]." *Connick v. Thompson*, 563 U.S. 51, 63 (2011). Both things — prudent SOPs not earning the respect or compliance of individual officers *and* the absence of other internal rules, policies, and procedures designed to prevent readily foreseeable injury

to constitutional rights — can be true at the same time. In this case, unfortunately, both things were indeed true.

31. On the night of March 12-13, 2020, a seizure of the four Plaintiffs occurred in violation of their rights under §10 of the Kentucky Constitution as a direct result of the Defendants' actions. The seizure was a reasonably foreseeable consequence of the Defendants' actions. A young man, his 6½-months pregnant girlfriend, and a five-year-old child asleep in his bed were terrorized and injured physically and emotionally. LMPD officer Brett Hankison (by his own admission under oath at his own state criminal trial) intended to fire five bullets which penetrated the walls of the Plaintiffs' apartment at approximately 1 a.m. on March 13, 2020, pinning them down in fear for their lives. Cody Etherton was hit in the face/eye by flying debris from a bullet coming through a wall in his apartment that almost hit him in the head. Hankison was *only* at the scene that night because of the illegal Search Warrant obtained by Defendant Goodlett., *i.e.*, but for Goodlett, Hankison would not have been present shooting bullets into the Plaintiffs' apartment.

32. Plaintiff Cody Etherton exited his apartment a few minutes after dodging the bullets entering through his wall and was verbally ordered by Hankison and other LMPD officers to go back inside his apartment. For a second time Etherton personally was seized because his freedom of movement was intentionally restrained by armed law enforcement officers. Plaintiff Cody Etherton then retreated into his apartment as so ordered and approached his shattered (by a bullet) back sliding glass door in the family room. Unknown LMPD officers ordered him to show his hands through the falling glass as they pointed red laser gun sights on his torso. For a third time Plaintiff Etherton was personally seized because his freedom of movement was intentionally restrained by armed law enforcement officers. Again, none of those officers would have been present but for the deliberate,

reckless, and criminal actions of Defendant Goodlett.

33. LMPD officers were present at the Plaintiffs' apartment the night of March 12-14, 2020, because of the Search Warrant for the apartment adjacent to theirs. The Warrant was obtained under false pretenses by Defendant Goodlett. LMPD officer Joshua Jaynes' Affidavit in support of the Warrant contained lies, falsehoods and was not truthful according to Goodlett's guilty plea in federal court on August 23, 2022, to a charge of conspiring with Jaynes to violate the Plaintiffs' federal civil rights (which simultaneously violated the Plaintiffs' equivalent state civil rights).

34. Defendant Goodlett omitted materially important information and deliberately provided false information to Jefferson Circuit Court Judge Mary Shaw and deliberately or recklessly asserted unfounded and speculative opinions and conclusions in the Search Warrant Affidavit. See **(EXHIBIT SIX).**

35. The Warrant was not based on sufficient probable cause and was therefore invalid. Goodlett admitted when pleading guilty before U.S. District Judge Rebecca Jennings to a criminal charge of conspiring to violate the Plaintiffs' federal civil rights (which simultaneously violated Plaintiffs' rights under Section Ten of the Kentucky Constitution), that she knew the Warrant was not accurate and contained false information yet Goodlett said nothing and proceeded to let the night's events unfold knowing the Warrant was to be executed by armed LMPD officers at night in an inhabited apartment complex. See 5th bullet point of **(EXHIBIT SEVEN)** 15-1, page 5 of 6 (PageID# 56).

36. On Tuesday, August 23, 2022, Defendant Goodlett pleaded guilty before District Court Judge Rebecca Grady Jennings to the charge of conspiring to falsify the Search Warrant and to lie and to conceal the truth from and mislead investigators in this matter all

in violation of the federal civil rights of the Plaintiffs.

37. Defendant Louisville Metro Government employed Defendant Goodlett. She should have been trained not to lie when procuring search warrants for a knowingly foreseeable dangerous situation (serving a search warrant at night on a home of suspected drug dealers). "Executing a warrant in a home—particularly a home used in a narcotics conspiracy—is 'the kind of transaction that may give rise to sudden violence.'" *Michigan v. Summers*, 452 U.S. 692, 702 (1981).

38. The Plaintiffs were not targets of any police investigation at all relevant times.

39. Defendants Goodlett received little oversight or supervision by Defendant LouMetro because of the warrior culture and mentality Defendant Louisville/Jefferson County Metro Government and its Louisville Metro Police Department permitted to fester. In this failed program's place, Metro Government never instituted a proper program of training that addressed law enforcement situations with the obvious potential for the deprivation of constitutional rights including but not limited to "[e]xecuting a warrant in a home—particularly a home used in a narcotics conspiracy—[which] is 'the kind of transaction that may give rise to sudden violence.'" *Michigan v. Summers*, 452 U.S. 692, 702 (1981).

40. LMPD officer John Mattingly wrote as much in his 2022 book "12 Seconds in the Dark: A Police Officer's Firsthand Account of the Breonna Taylor Raid":

i. It was different being the boss and not one of the guys, but the next ten years were full of more excellent police work, as well as some frustrating run-ins with ineffective leaders. P. 13

ii. I also had been on long enough to realized that not everyone in a leadership position was a true leader. Some were totally incompetent at their jobs. Pp. 10-11.

iii. The VIPER unit began operations in October of 2012. The unit was

comprised of highly driven alpha males who wanted to be in the middle of the most dangerous part of the city and deal with the most hardened, violent gang members and criminals. P. 16

iv. In police work, it's important not to have the reins too tight on people. P. 17

v. As a unit, VIPER was given a longer leash. P. 18

vi. I would like to think our aggressive unit helped make the difference. P. 18

vii. So needless to say, we were all flabbergasted when the new rules were implemented, and it didn't take long before the disgruntlement set in. P. 19

viii. Shortly after these new guidelines were put in place, we got word of a violent felon with drugs and gunds in a house…. When I asked to do the warrant, I was denied. Being the driven leader that I am, and wanting to actually make a difference and not just a rank, we executed the warrant the following day after persuading a different commander of the necessity. P. 19

ix. In November 2016, I interviewed for and was awarded a sergeant's position in the narcotics unit. We had a rock star crew. I loved them, and they loved me in return and worked their butts off. They loved investigations and search warrants. P. 20

41. Defendant Louisville/Jefferson County Metro Government intentionally cultivated an "us versus them" mentality within the ranks of its Louisville Metro Police Department.

42. Mattingly took this exhortation to heart as evidenced in his book on page 115 where is reproduced an email Mattingly sent to the entire LMPD on 9/22/20 at 2:09 a.m. stating in part "Now go be the Warriors you are, but please be safe!"

43. Mattingly wrote on page 117 of his book "I want the bravest and most capable warrior protecting my family and community. Had I not had a warrior mentality the night I was shot, I would've rolled over and died. … The law-abiding citizens want the police to have a warrior mentality while the criminals would prefer a soft and scared police force they can run amuck (sic)."

44. Just two pages before on 114 Mattingly wrote "I couldn't help but think: had

things gone differently that night, then Breonna would be alive…" "Had things gone differently that night," presumably the Plaintiffs would not have been injured.

45. By "differently" Mattingly means Defendant Goodlett would have followed LMPD SOPs which exist for the safety of the Plaintiffs, the safety of the public and, daresay, even the safety of LMPD officers. By "differently" Mattingly means that the Defendant Goodlett would not have lied to procure the unlawful Search Warrant. Had LMPD officers such as Goodlett not acted in violation of the Kentucky Constitution, LMPD officers would not have been present at the scene the night in question and would not have fired weapons and caused death and the deprivation of constitutional rights.

46. Under the "objective reasonableness" standard as articulated in Kentucky case law, *infra*, and *Graham v. Connor*, 490 U.S. 386 (1989) and as applied in *Torres v. Madrid*, 141 S. Ct. 989 (2021), *Brower ex rel. Estate of Caldwell v. County of Inyo*, 489 U.S. 593 (1989) and *California v. Hodari D*, 499 U.S. 621 (1991), *inter alia,* Plaintiffs were the victims of and injured by unnecessary force in the context of an unreasonable search and seizure by LMPD officers triggered by the unlawful conduct of Defendant Goodlett in violation of Section Ten of the Kentucky Constitution (the state equivalent of the Fourth Amendment to the U.S. Constitution).

47. Separate and apart from the foreseeable unnecessary force unleased because of the unlawful conduct of Defendant Goodlett, the Plaintiffs were also the victims of and injured by Goodlett by the unreasonable search and seizure resulting from the illegal Search Warrant.

48. The Plaintiffs were undoubtedly seized in the context of Section 10 of the Kentucky Constitution (the state equivalent of the federal Fourth Amendment) by the holding of *Torres v. Madrid*, 141 S. Ct. 989 (2021) when Hankison—present only because

of the deliberate, reckless and criminal action of Goodlett—fired bullets into their apartment the night of March 12-13, 2020.

49. "Section 10 of the Kentucky Constitution mandate[s] that no warrant shall be issued without probable cause." *Taylor v. Commonwealth*, 2014-SC-000703-MR, at *9-10 (Ky. May 5, 2016)

50. "A search conducted without a warrant is *per se* unreasonable. *Payton v. New York,* 445 U.S. 573, 586, 100 S.Ct. 1371, 63 L.Ed.2d 639 (1980); see also *Cook v. Commonwealth*, 826 S.W.2d 329, 331 (Ky.1992)." *Lydon v. Commonwealth,* 490 S.W.3d 699, 702 (Ky. Ct. App. 2016).

51. "The law in Kentucky is well-settled that '[a]ll searches without a valid search warrant are unreasonable unless shown to be within one of the exceptions to the rule that a search must rest upon a valid warrant.' *Gallman v. Commonwealth*, 578 S.W.2d 47, 48 (Ky.1979)." *Hawley v. Commonwealth,* 435 S.W.3d 61, 65 (Ky. Ct. App. 2014).

52. "A search is unreasonable, absent a few exceptions, unless it is accompanied by a warrant supported by probable cause." *Townsend v. Commonwealth,* No. 2019-SC-0566-MR, at *3 (Ky. Aug. 26, 2021) (citing *Commonwealth v. Pride*, 302 S.W.3d 43 (Ky. 2010)).

53. Analyzed under the "shock the conscience" standard articulated in *County of Sacramento v. Lewis,* 523 U.S. 833 (1998), *inter alia,* in violation of their substantive due process rights the Plaintiffs were the victims of and injured by LMPD officers triggered by the unlawful conduct of Defendant Goodlett which rises to the level of arbitrary exercise of governmental police power in violation of the Section 2 of the Kentucky Constitution (the state equivalent of the Fourteenth Amendment to the U.S. Constitution).

54. Plaintiffs were the victims of and injured by the failure of Defendant

Louisville/Jefferson County Metro Government (LouMetro), by and through its agency Louisville Metro Police Department (LMPD), to 1) enforce LMPD Standard Operating Procedures (SOPs) **(EXHIBIT THREE)** and 2) properly train and supervise Defendant Goodlett to follow LMPD Standard Operating Procedures (SOP) including but not limited to, SOP 8.1 (and all sub-parts) Chapter: Field Operations, Subject: Search Warrants, and SOPs related to use of deadly force and/or unnecessary force, *inter alia*.

55. Plaintiffs were the victims of and injured by the failure of Defendant Goodlett to 1) intervene and enforce amongst other LMPD officers and 2) individually follow LMPD Standard Operating Procedures (SOP), including but not limited to, SOP 8.1 (and all sub-parts) Chapter: Field Operations, Subject: Search Warrants, and SOPs related to use of deadly force and/or unnecessary force, *inter alia*.

56. Plaintiffs bring suit under the Kentucky Constitution and state law giving rise to claims for, including but not exclusively limited to invasion of privacy, unnecessary force, negligence, negligence per se, assault, trespass, and false imprisonment.

57. The Kentucky Supreme Court looks to the plain language of LMPD Standard Operating Procedures. *See Meinhart v. Louisville Metro Gov't*, 627 S.W.3d 824, 832 (Ky. 2021) ("The officer in that case plainly violated SOP 12.1.9 when he knowingly initiated a high-speed pursuit of a traffic offender. The prohibition on those types of pursuits is clear and mandatory, making it a ministerial duty for officers.").

58. The Search Warrant was served upon the residence of Breonna Taylor at 3003 Springfield Unit 4 (immediately adjacent to Plaintiff's Unit 3) on March 12-13, 2020.

59. Defendant Goodlett admitted when pleading guilty to criminal conspiracy that she knew the content of the Search Warrant Application and Affidavit was false and

misleading.

60. Defendant Goodlett admitted when pleading guilty to conspiring with Jaynes that she knew that no packages were being delivered to Jamarcus Glover at 3003 Springfield Drive Unit #4 despite that claim being made by Jaynes in the Search Warrant A

61. Defendant Goodlett admitted when pleading guilty that she conspired to procure a recklessly false and misleading Search Warrant application and that the Affidavit being presented to Jefferson Circuit Judge Mary Shaw was false in violation of multiple LMPD SOPs. See **(EXHIBIT EIGHT)**.

62. With Defendant Goodlett's knowledge, Jaynes in the Affidavit recklessly alleged a relationship or link between the individuals associated with Elliott Avenue and at least one person residing at 3003 Springfield Unit 4, Breonna Taylor.

63. Supporting the alleged link, with Defendant Goodlett's knowledge, Jaynes recklessly represented as follows in his Affidavit based on personal knowledge from his independent investigation: "Affiant verified through a US Postal Inspector that Jamarcus Glover has been receiving packages at 3003 Springfield Drive #4. Affiant knows through training and experience that it is not uncommon for drug traffickers to receive mail packages at different locations to avoid detection from law enforcement. Affiant believes through training and experience, that Mr. J. Glover may be keeping narcotics and/or proceeds from the sale of narcotics at 3003 Springfield Drive #4 for safe keeping."

64. The core factual claim upon which the Search Warrant Affidavit rested, specifically that Jaynes had "verified through a US Postal Inspector that Jamarcus Glover has been receiving packages at 3003 Springfield Drive #4," was recklessly false and Defendant Goodlett admitted to knowing so.

65. Defendant Goodlett (by her own admission as part of her guilty plea) recklessly failed to verify that information, or any information, through a US Postal Inspector.

66. Defendant Goodlett (by her own admission as part of her guilty plea) had not had any communication with a US Postal Inspector on this subject of Glover receiving packages at 3003 Springfield Drive #4.

67. LMPD SOP 8.1.2 Affidavit Preparation with a Revised Date of 02/24/19 was operative at all times relevant:

Louisville Metro Police Department

Standard Operating Procedures	SOP Number: 8.1 Effective Date: 07/20/03 Prv. Rev. Date: 12/14/18 Revised Date: 02/24/19
Chapter: Field Operations	Accreditation Standards: KACP: 1.3, 1.4, 19.6
Subject: Search Warrants	

8.1.2 AFFIDAVIT PREPARATION (KACP 1.4a)

An affidavit supporting the application for a search warrant is required. The accuracy of the affidavit is vital to the validity of the search warrant; therefore, officers should verify that the information is as complete, accurate, and specific as possible. Officers should use the LMPD Affidavit for Search Warrant form (LMPD #19-0002) and the LMPD Search Warrant form (LMPD #19-0001) when preparing the affidavit and search warrant.

68. Defendant Goodlett had a ministerial duty under LMPD SOP 8.1.2 to "verify that the information [in the affidavit] is as complete, accurate and specific as possible."

69. Defendant Goodlett breached said ministerial duty.

70. "[A] law-enforcement official 'ordinarily receives qualified immunity if he or she relies on a judicially secured warrant.' *Hale v. Kart*, 396 F.3d 721, 725 (6th Cir. 2005). However, if 'the warrant is so lacking in indicia of probable cause, that official belief in the

existence of probable cause is unreasonable.' *Yancey v. Carroll Cnty., Ky.*, 876 F.2d 1238, 1243 (6th Cir. 1989). Moreover, 'an officer cannot rely on a judicial determination of probable cause if that officer knowingly makes false statements and omissions to the judge such that but for these falsities the judge would not have issued the warrant.' *Ibid.*" *Meeks v. Larsen*, 611 F. App'x 277 at 11 (6th Cir. 2015).

71. But for the breach of the ministerial duty in LMPD SOP 8.1.2 by Defendant Goodlett the Plaintiffs would not have been injured the night of March 12-13, 2020, because the LMPD officers Mattingly, Nobles, Cosgrove, James, Campbell, Hoover and Hankison should not and would not have been on the premises of 3003 Springfield Drive Units #3 and #4 triggering an unnecessary gunfight and firing bullets at the Plaintiffs thereby seizing the Plaintiffs and otherwise using unnecessary force, deadly force, trespassing, assaulting, and otherwise violating the Plaintiffs' legal rights under Kentucky law and Section Ten of the Kentucky Constitution, *inter alia.*

72. LMPD SOP 8.1.6 Affidavit Preparation with a Revised Date of 02/24/19 was operative at all times relevant:

Louisville Metro Police Department

<table>
<tr><td rowspan="2">Standard Operating Procedures</td><td>SOP Number: 8.1</td></tr>
<tr><td>Effective Date: 07/20/03
Prv. Rev. Date: 12/14/18
Revised Date: 02/24/19</td></tr>
<tr><td>Chapter: Field Operations</td><td rowspan="2">Accreditation Standards:
KACP: 1.3, 1.4, 19.6</td></tr>
<tr><td>Subject: Search Warrants</td></tr>
</table>

8.1.6 PROBABLE CAUSE

The inclusion of all facts supporting probable cause allows the reviewing judge to accurately assess the likelihood that evidence or contraband will be found on the premises. The initial section of the search warrant affidavit should detail the information that prompted the investigation. The offense should be described in reference to the appropriate KRS, when possible. Officers should not rely solely upon personal opinion, unauthenticated third-party information, or hearsay.

Probable cause may be based on:

- Personal observation/knowledge of the officer.
- The information contained in police reports. This should be detailed in the first section of the probable cause portion of the affidavit and include the report number, narrative, description, and name of the suspect, if known.
- Information from a reliable source (e.g. either named or unnamed informant, victim, witness, or suspect). An officer should state when the information was received and when the reliable source obtained the information. In order to protect confidential informants, an officer may state when the information was obtained in more general terms (e.g. "within the past 48 hours").
- Corroborated information from informants. When sources are used, particularly confidential informants, the reliability of the source, and of the information provided, should be specified.

73. Defendant Goodlett had a ministerial duty under LMPD SOP 8.1.6 to authenticate the third-party information Officer Mattingly relayed to Jaynes and Goodlett from the Shively Police Department that Jaynes—with Goodlett's knowledge—used on the Search Warrant Affidavit and Application.

74. Defendant Goodlett had a ministerial duty under LMPD SOP 8.1.6 to not rely on hearsay information from the Shively Police Department through Officer Mattingly ultimately used—with Goodlett's knowledge—on the Search Warrant Affidavit and Application.

75. Defendant Goodlett knew that Jaynes did not authenticate said third-party information and recklessly relied upon hearsay information in the Search Warrant application and Affidavit.

76. Defendant Goodlett as part of her guilty plea to a federal charge of conspiracy admitted the information in the Search Warrant application and Affidavit was false.

77. Defendant Goodlett breached ministerial duties. These breaches of duty under state law led directly to the issuance of a Search Warrant based on false information

and no probable cause resulting in violation of the Plaintiffs' constitutional rights.

78. Defendant Goodlett admitted when pleading guilty to a federal charge of conspiracy that she knew Jaynes' statements on the Search Warrant affidavit and application were false and that the Search Warrant would be executed by other armed LMPD officers at night upon the home of Breonna Taylor posing a foreseeable danger to others present at the scene such as the Plaintiffs living adjacent on the other side of a common interior wall.

79. Defendant Goodlett is presumed by law to know the apartment complex where the illegal Search Warrant was to be executed at night was inhabited. See *McWain v. Commonwealth*, No. 2010-CA-002008-MR, at *5 (Ky. Ct. App. Nov. 30, 2012) ("As a matter of law, residential dwellings or buildings are presumptively inhabited.") See also *Mason v. City of Mt. Sterling*, 122 S.W.3d 500, 507 (Ky. 2004) ("'In a closely built-up residential neighborhood children are as much a part of the natural scene as grasshoppers. Their intrusive appearance upon and around the unenclosed premises of such an area is to be expected.' *Goben v. Sidney Winer Co.*, Ky., 342 S.W.2d 706, 711 (1960).")

80. Defendant Goodlett knew or should have known that neighbors like the Plaintiffs in the apartment complex would be unreasonably exposed to potential danger posed by armed LMPD officers executing an illegal Search Warrant after midnight as recognized by the Supreme Court of the United States in *Michigan v. Summers*, *supra*.

81. Defendant Goodlett pleaded guilty to a federal charge of conspiring with Jaynes and others known and unknown after the fact to conceal the truth and lie to and mislead investigators related to the events underlying this lawsuit.

82. The Plaintiffs have been prejudiced by the admitted criminal conspiracy by Goodlett with Jaynes, between themselves and with other unknown persons, to lie and

conceal the truth from investigators and interested parties such as the Plaintiffs about the events underlying this lawsuit.

83. The Plaintiffs do not know what other persons have participated in a criminal conspiracy to deprive them of information necessary to properly plead the causes of action alleged herein or other unknown causes of action to which they may be legally entitled to prosecute.

84. Defendant Goodlett admitted to conspiring to make reckless misrepresentations in the Affidavit that a "no-knock" warrant was required because of how "these drug traffickers operate" and "these drug traffickers" had "a history of attempting to destroy evidence," had "cameras on the location," and had "a history of fleeing from law enforcement."

85. Such reckless indifference to the truth and to LMPD SOPs and to the Plaintiffs' safety and to the public's safety demonstrated by Defendant Goodlett as an officer, agent and employee of LouMetro is "bad faith" under Kentucky law and "truly shocking" according to the Sixth Circuit Court of Appeals in *Epps. v. Lauderdale County*, 45 Fed. Appx. 332, 333 (6th Cir. 2002) ("When executive action is the result of unhurried judgment, the chance for repeated reflection, and uncomplicated by the pulls of competing obligations, then deliberate indifference is truly shocking.")

86. Such reckless indifference to the truth and to LMPD SOPs and to the Plaintiffs' safety and to the public's safety demonstrated by Defendant Goodlett as an officer, agent and employee of LouMetro in support of an intended search and seizure was "objectively unreasonable" and *per se* unreasonable under *Lydon v. Commonwealth*, *inter alia*, as described above.

87. Defendant Goodlett admitted to District Judge Rebecca Grady Jennings when pleading guilty that no reasonable basis in fact existed to support the aforementioned representations in the Affidavit justifying a "no-knock" method of entry and that the representations in the Affidavit were false.

88. Defendant Goodlett had a ministerial duty to conduct independent corroboration and investigation of the facts pursuant to LMPD SOP 8.1.8. Goodlett's breach of duty resulted in injury to the Plaintiffs:

8.1.8 INDEPENDENT INVESTIGATION

Whenever possible, officers should corroborate and verify investigative information, regardless of the initial source. This section should include every investigative step that the officer took after receiving the initial information. Independent investigation may include:

- Surveillance information.
- Record checks (e.g. arrest, utilities, telephone book, Criss-Cross Directory, city and county directories, Probation and Parole, pawn, auto registration, serial number checks, etc.).
- Witness statements.
- Physical evidence, such as fingerprints or DNA.
- Information from other agencies or individual police officers. An officer may show probable cause by coordinating, and corroborating, the knowledge of several officers.
- Strong circumstantial evidence, when combined with one (1) of the above.

89. But for Goodlett's admitted criminal conspiracy to knowingly or recklessly make false and misleading statement in the Search Warrant Affidavit that she had "verified through a US Postal Inspector that Jamarcus Glover has been receiving packages at 3003 Springfield Drive #4," it would have been obvious on the face of the Search Warrant application that no probable cause existed for <u>any</u> of the other LMPD officers to be on the premises of 3003 Springfield Drive the night of March 12-13, 2020.

90. Defendant Goodlett's admitted conspiracy to lie led directly to an objectively unreasonable and *per se* unreasonable seizure of Plaintiffs by the firing of bullets into the Plaintiffs' apartment by Goodlett by and through officer Hankison at approximately at 1 a.m. while Plaintiffs were asleep.

91. But for Defendant Goodlett's admitted conspiracy with Jaynes' to make recklessly false and misleading representations in the Search Warrant Affidavit the Search Warrant would not have issued because no probable cause otherwise existed. *Fernandez v. California*, 571 U.S. 292, 298 (2014) ("The Fourth Amendment prohibits unreasonable searches and seizures and provides that a warrant may not be issued without probable cause…."). See also *Taylor v. Commonwealth*, 2014-SC-000703-MR, at *9-10 (Ky. May 5, 2016) ("Section 10 of the Kentucky Constitution mandate[s] that no warrant shall be issued without probable cause.").

92. Kentucky Constitution Section Ten prohibits unreasonable searches and seizures and provides that a warrant may not be issued without probable cause.

93. Plaintiffs were not merely "innocent bystanders" at the scene of an arrest. Instead, they were direct victims of police actions the night of March 12-13, 2020. *See, e.g., Lewis v. Citgo Petroleum Corp.* 561 F.3d 698 (7th Cir. 2009) ("In evaluating these claims, Illinois courts separate 'bystanders' from 'direct victims.') and *Landol-Rivera v. Cruz Cosme*, 906 F.32d 791 (1st Cir. 1990) ("The Eighth Circuit has held, after *Brower*, that innocent bystanders may bring claims of excessive police force under the Fourth Amendment.")

94. Kentucky law does not afford official immunity to a police officer who directly causes damage to a third party. *See, e.g., City of Brooksville v. Warner*, 533 S.W.3d 688 (Ky. App. 2017), review denied (Dec. 7, 2017) (holding an officer was not entitled to official immunity in suit by a third party who was struck by officer who negligently pursued suspect). *See also Com. v. Shiflet*, 543 Pa. 164 (Pa. 1995) ("Third party bystanders do not give up their right to require reasonable searches and seizures merely due to their presence

at the scene of an arrest (citing *Steagald v. United States*, 451 U.S. 204 (1981)." and *Harper v. Andrews,* 499 F. Supp. 3d 312 (E.D. Tex. 2020) ("An additional party at the location of police action may have their own Fourth Amendment violation claims if they were not merely bystanders but also experienced injury resulting from the officer's conduct toward them.").

95. Plaintiffs had a right to require reasonable searches and seizures by the Defendants under Section Ten of the Kentucky Constitution. They did not give up that right merely due to their presence at the scene of an arrest. *See Steagald v. United States*, 451 U.S. 204 (1981 and *City of Brooksville, supra*.

96. "The *Steagald* Court concluded that to allow police, acting alone and without exigent circumstances, to determine when to search the home of a third party for the subject of an arrest warrant would create a significant potential for abuse. [and held] that the search violated Steagald's Fourth Amendment rights…." *Com. v. Martin,* 423 Pa. Super. 228, 230-31 (Pa. Super. Ct. 1993).

97. By prior videotaped deposition under oath, officer Myles Cosgrove testified at the Hankison trial that execution of search warrants is inherently dangerous. This is the reason why LMPD has adopted so many SOPs related to the execution of search warrants. If SOPs are disregarded or ignored execution of search warrants is less safe:

30

Myles Cosgrove Videotaped Deposition March 01, 2022

Q. And one of the reasons there are so many SOPs concerning the execution of search warrants is because it's inherently dangerous.
A. Yes, it is.
Q. And the SOPs are designed to make it as safe as possible.
A. Correct.
Q. And when they are ignored or disregarded it becomes less safe.
A. Yes.

98. LMPD SOP Number 8.1 with a Revised Date of 2/25/19 governed Search Warrants at all relevant times:

Louisville Metro Police Department

Standard Operating Procedures	SOP Number: 8.1 Effective Date: 07/20/03 Prv. Rev. Date: 12/14/18 Revised Date: 02/24/19
Chapter: Field Operations	Accreditation Standards: KACP: 1.3, 1.4, 19.6
Subject: Search Warrants	

99. Defendant Goodlett had a ministerial duty to adhere to LMPD SOPs including but not limited to SOP Number 8.1 at all relevant times. This breach of state law duty was done in "bad faith" by Goodlett and resulted in violation of Plaintiffs' constitutional rights and is actionable under *Smith v. Nesbit, supra*.

100. Jefferson (County) Circuit Court Judge Mary Shaw signed the Affidavit for Search Warrant at 12:37 p.m., March 12, 2020.

101. Jefferson (County) Circuit Court Judge Mary Shaw authorized the Search Warrant by her signature also dated March 12, 2020.

102. Once signed by Judge Shaw, the Search Warrant was "issued."

THE EVENT

103. All previous paragraphs, allegations, and causes of action set forth are incorporated herein by reference as though fully set forth.

104. On or about March 13, 2020, at approximately 0040 hours or 12:40 a.m., Plaintiffs were asleep in their apartment located at 3003 Springfield Drive Unit 3, Louisville, Kentucky 40214.

105. Plaintiff Minor Z.F. was 5 years old and sleeping in his own bed in his own room.

106. Plaintiff Chelsey Napper was almost seven (7) months pregnant with Plaintiff Minor B.E. and asleep with Plaintiff Cody Etherton in their back bedroom.

107. Plaintiff Cody Etherton was awakened by a loud commotion outside the front of the apartment.

108. Plaintiff Cody Etherton rose from his bed to see what was the matter.

109. As he walked down the hall pieces of drywall flew into his eye as simultaneously, he heard gunshots.

110. Multiple bullets entered the Plaintiffs' apartment from Hankison's gun according to FBI and Kentucky State Police ballistics reports and investigations.

111. One bullet came very near Plaintiff Cody Etherton's head.

112. At least one bullet entered the wall of little Z.F.'s room next to where his head was situated on his pillow as he lay sleeping in his bed.

113. Plaintiff Cody Etherton dropped to the floor.

114. Plaintiff Cody Etherton crawled back to his bedroom to see about the pregnant Plaintiff Chelsey Napper and little Z.F.

115. All Plaintiffs experienced great fear and emotional distress and were subjected to unreasonable risk of death in breach of the Kentucky Supreme Court's admonition that "a police officer's paramount duty is to protect the public [from] unreasonable risks of injury as the police carry out their duties." See *Gonzalez v. Johnson*, 581 S.W.3d 529, 535 (Ky. 2019).

116. Kentucky courts and courts elsewhere embrace the principle articulated in *Gonzalez* of a "paramount duty" to protect the public during the performance of police work. *See, e.g., Jacobs v. Village of Ottawa Hills*, 5 F. App'x 390, 395 (6th Cir. 2001); *Anderson v. Branen*, 17 F.3d 552, 557 (2d Cir. 1994). This principle holds firm in federal cases alleging violations of constitutionally protected individual rights by law enforcement officers. "As a general matter, we have long noted the right of citizens to be free from excessive force by police officers" *Vanderhoef v. Dixon*, 938 F.3d 271, 279 (6th Cir. 2019). "The point of law enforcement is to protect the public." *Mitchell v. McNeil*, 487 F.3d 374, 378 (6th Cir. 2007). "Markedly, this court has emphasized that police officers must take the actions necessary to protect the physical safety of citizens and the overall public order." *Bible Believers v. Wayne County*, 805 F.3d 228, 270 (6th Cir. 2015). Specifically, "**[l]aw enforcement officials have a duty to intervene to protect the constitutional rights of citizens from infringement by other law enforcement officers** [emphasis added]." *Bunkley v. City of Detroit*, 902 F.3d 552, 565 (6th Cir. 2018).

117. The gunfire stopped soon after Cody crawled back to the bedroom.

118. Plaintiff Cody Etherton then heard what he believed to be the police and

mistakenly assumed they were coming to the Plaintiffs' rescue.

119. Plaintiff Cody Etherton very cautiously walked to the front of his apartment.

120. Plaintiff Cody Etherton saw the police through his window and stepped out of his front door clad only in his red gym shorts in which he had been sleeping.

121. After Plaintiff Cody Etherton had taken just a few steps, the police cursed at him, and restrained his movement by ordering him back into his apartment and he complied.

122. Once back in his apartment, Plaintiff Cody Etherton noticed the glass of the sliding glass door at the rear of his apartment was broken and he walked toward it.

123. When Plaintiff Cody Etherton reached the broken sliding glass door—with shards of glass still falling—he recognized the unmistakable red dots of laser gunsights shining on him.

124. Several members of law enforcement—present only because of Goodlett's illegal Search Warrant—were standing outside the back of Plaintiff Cody Etherton's sliding glass door with guns pointed at him—red laser sight dots shining on him—while yelling at Etherton to show them his hands and restraining his movement by threatening him with imminent death by shooting as evidenced by their targeting him with red laser sights/dots.

125. Plaintiff Cody Etherton was again at that very moment unreasonably subjected to risk of death by and because of Defendant Goodlett in direct breach of the *Gonzalez* duty "to protect the public [from] unreasonable risks of injury as the police carry out their duties" recognized by the Kentucky Supreme Court. Breach of this state law duty

resulted in violation of Plaintiffs' constitutional rights and is actionable under Section Ten of the Kentucky Constitution.

126. Plaintiff Cody Etherton instinctively reacted by running away from the sliding glass door back to the bedroom.

127. Plaintiff Cody Etherton heard law enforcement members talking into a radio to be on the lookout for a white male at the rear of the building wearing only red gym shorts.

128. Plaintiff Cody Etherton believes he was the referenced white male wearing only red gym shorts for whom the police were notifying each other to be on the lookout.

129. According to Hankison trial testimony of LMPD Patrol Officer Phillip Renaud, Renaud had his rifle pointed at Etherton through Etherton's broken rear sliding glass door because Renaud and his fellow unknown and unnamed patrol officers (who responded to Hankison's urgent radio call) believed they were at the back of Unit 4 (the apartment of Breonna Taylor apartment immediately adjacent to the Plaintiff's Unit 3):

Officer Phillip Renaud March 01, 2022

OFC RENAUD: At this point -- I guess -- I don't know why we don't have the audio, but I believe at this point we see the broken glass so I'm using the weapon-mounted light on my rifle to attempt to illuminate the area. I was, and I still am, unfamiliar with the layout of this apartment complex so I believed at the time that that

back glass led to the target apartment. So that's what I'm observing and covering.

MR. FINKE: At some point do you ever see anyone come out of that apartment, expose themselves, what -- what do you see?

OFC RENAUD: Yes, at some point there was what I believed to be a shirtless white gentleman that kind of just showed himself from that broken window, at which point I hail him, tell him to show me his hands. He shows them for a second and then ducks back into the apartment for the remainder.

MR. FINKE: At that time did you believe him to be the suspect?

OFC RENAUD: I believed him to be related in some way. I mean, we came onto the scene with limited information so I didn't know what the suspect was supposed to look like or what the target even was.

130. Plaintiff Cody Etherton (the "shirtless white gentleman") retreated to his bedroom where he and the other Plaintiffs hid in fear for almost ninety (90) minutes until, upon information and belief, Sergeants Jason Vance, Chris Lane and Jeremy Ruoff arrived on scene at approximately 0149 hours or 1:49 a.m. to check on the Plaintiffs.

131. Unbeknownst to the Plaintiffs (but known to Goodlett) the police were executing simultaneous search warrants that night at another address on Elliott Avenue and 3003 Springfield Drive Unit 4 adjacent to Plaintiffs' Unit 3.

132. Unbeknownst to the Plaintiffs (but known to Goodlett) the Search Warrant being executed at their apartment complex was illegal and had no factual basis supporting probable cause to issue forth and was a direct violation of Section Ten of the Kentucky Constitution.

133. The occupants of 3003 Springfield Drive Unit 4 the night in question were Breonna Taylor and Kenneth Walker.

134. "To demonstrate that the defendant was negligent a plaintiff must show that (1) the defendant owed the plaintiff a duty of care; (2) the defendant breached that duty of care; (3) a causal connection between the defendant's conduct and the plaintiffs damages; and (4) damages." *Gonzalez v. Johnson*, 581 S.W.3d 529, 532 (Ky. 2019).

135. "In 1980, for example, we adopted the substantial factor test to determine legal causation. Under that test: The actor's negligent conduct is a legal cause of harm to another if (a) his conduct is a substantial factor in bringing about the harm, and (b) there is no rule of law relieving the actor from liability because of the manner in which his negligence has resulted in the harm. Therefore, to establish liability, a jury need only find that a defendant's actions were a substantial factor in bringing about the harm suffered by the plaintiff." *Gonzalez v. Johnson*, 581 S.W.3d 529, 533-34 (Ky. 2019).

136. The Kentucky Supreme Court along with the Sixth Circuit has recognized police officers owe the public a duty of protection and should not subject the public to unreasonable risks of injury as the police carry out their work. Breach of this recognized federal and state law duty by the Defendants resulted in violation of Plaintiffs' constitutional rights and is actionable under Section Ten of the Kentucky Constitution.

137. "We of course do not criticize the actions of the men and women of law enforcement lightly. However, we agree with the reasoning of the Supreme Court of

Tennessee in that "…a police officer's paramount duty is to protect the public. … The general public has a significant interest in not being subjected to unreasonable risks of injury as the police carry out their duties. … **We instead hold that an officer can be the cause-in-fact and legal cause of damages inflicted upon a third party as a result of a negligent [shooting].** [emphasis added]." *Gonzalez v. Johnson*, 581 S.W.3d 529, 535 (Ky. 2019).

138. According to *Gonzalez* and *Jacobs* and *Anderson* and *Vanderhoef* and *Mitchell* and *Steagald* and *City of Brooksville* and *Harper* and *Shiflet, inter alia, supra,* the individual Defendant officer Goodlett is the cause-in-fact and legal cause of damages inflicted upon the Plaintiffs as a result of violence arising from the botched enforcement by other LMPD officers of the unlawfully issued and deliberately manipulated Search Warrant.

139. Kenneth Walker's firing of his gun the night in question is not a superseding cause nor are any of the actions of LMPD officers Hankison, Hoover, James, Mattingly, Nobles, Campbell and Cosgrove. See *Young v. Klutznick*, 652 F.2d 617, 630 (6th Cir. 1981) ("However, '[i]f the intervening cause is one which in ordinary experience is reasonably likely to be anticipated, or one which the defendant has reason to anticipate under the particular circumstances, he may be negligent only for that reason.' In other words, '[f]oreseeable intervening forces are within the scope of the original risk, and hence of the defendant's negligence. The courts are quite generally agreed that intervening causes which fall fairly in this category will not supersede the defendant's responsibility.')

140. Walker's firing of a gun that night was foreseeable by Goodlett because the apartment where the other LMPD officers were attempting to execute the Search Warrant was the target of a narcotics conspiracy investigation and Goodlett was on notice as such. See *Michigan v. Summers*,452 U.S. 692 (1981) ("Executing a warrant in a home—

particularly a home used in a narcotics conspiracy—is "the kind of transaction that may give rise to sudden violence.)"

141. Defendant Goodlett knew Walker had a license to carry a concealed weapon further supporting the foreseeability of his firing of a gun the night of March 12-13, 2020. See 2nd bullet point on **(EXHIBIT SEVEN)** 15-1 page 5 of 6 PageID# 56.

142. Hankison's firing of a gun that night was foreseeable by Goodlett because the apartment where the other LMPD officers were attempting to execute the Search Warrant was the target of a narcotics conspiracy investigation and Goodlett was on notice as such. See *Michigan v. Summers*,452 U.S. 692 (1981) ("Executing a warrant in a home—particularly a home used in a narcotics conspiracy—is "the kind of transaction that may give rise to sudden violence.)"

143. In the same way Goodlett cannot rely on any exigent circumstances exception to the Search Warrant requirement under the circumstances presented because she created the exigent circumstances which led to the violation of the Plaintiffs' constitutional rights and the injuries, Goodlett cannot claim Walker's firing of his gun or Hankison's firing of his was not foreseeable because Goodlett in fact created the dangerous situation by violating multiple LMPD SOPs leading up to and culminating in the physical breaking down of the door to the apartment where the armed Walker and Breonna Taylor were waiting to defend themselves against perceived intruders in compliance with Kentucky's "stand your ground" law. See *Turley v. Commonwealth*, 399 S.W.3d 412, 424 (Ky. 2013) ("As further explained below, a straight-forward application of *Kentucky v. King*, —— U.S. ——, 131 S.Ct. 1849, 179 L.Ed.2d 865 (2011), discloses that the Commonwealth may not rely upon the exigent circumstances exception to the warrant requirement under the circumstances presented because Trooper Knight himself created the exigent circumstances which lead to his seizure of the box by illegally

extending the traffic stop, and by illegally insisting upon disclosure of the contents of the box.")

144. Defendant Goodlett owed Plaintiffs a paramount duty to protect the Plaintiffs and not subject Plaintiffs to unreasonable risks of injury as the Defendant and other LMPD officers carried out their police work.

145. Defendant Goodlett's breach of her duty to protect the Plaintiffs and not subject Plaintiffs to unreasonable risks of injury as she and other LMPD officers carried out their police work was a substantial factor in causing the Plaintiffs' injuries. Breach of this recognized state law duty by the Defendants Goodlett resulted in violation of Plaintiffs' constitutional rights and is actionable under Section Ten of the Kentucky Constitution.

146. This factor is crucial: but for the Defendant Goodlett's deliberate breaches of ministerial state law duties by manipulation and falsification of the Application for and Affidavit supporting the Search Warrant no LMPD officers would have been present at the scene the night of March 12-13, 2020. These acts led directly to the physical and constitutional injuries sustained by the Plaintiffs. Breach by Goodlett of these state law ministerial duties resulted in violation of Plaintiffs' constitutional rights and is actionable under Section Ten of the Kentucky Constitution.

147. Defendant LouMetro failed train and supervise Goodlett to not lie when procuring the Search Warrant.

148. Defendant Goodlett created a foreseeable zone of risk or danger to innocent bystanders and neighbors in the apartment complex such as the Plaintiffs, when she procured the illegal Search Warrant **(EXHIBIT TWO)** on 3003 Springfield Drive Unit 4, in breach of the *Gonzalez* "paramount duty" to protect the Plaintiffs and not subject

Plaintiffs to unreasonable risks of injury as the police carried out their work.. Breach of this state law duty resulted in violation of Plaintiffs' constitutional rights and is actionable under Section 10 of the Kentucky Constitution.

149. As a result, Defendant Goodlett owed a duty to exercise reasonable care to avoid harm to such bystanders and neighbors as the Plaintiffs present at the scene of an arrest and breached that *Gonzalez* "paramount duty" by their collective and individual actions in furtherance and outright birth of actions of other LMPD officers the early morning hours of March 13, 2020. Breach of this state law duty resulted in violation of Plaintiffs' constitutional rights and is actionable under Section 10 of the Kentucky Constitution.

150. Goodlett owed the "paramount duty" under *Gonzalez* to exercise reasonable care to avoid harm to such bystanders and neighbors as the Plaintiffs present at the scene of an arrest triggered by her unlawful Search Warrant. She breached that duty by her dishonest preparation of the Warrant. Breach of this state law duty and state law ministerial duty resulted in violation of Plaintiffs' constitutional rights and is actionable under Kentucky law.

151. Defendant Goodlett was the "lead officer" for purposes of LMPD SOP 8.1.17 "Preparation for Search Warrant Execution":

Louisville Metro Police Department

<table>
<tr><td rowspan="2">Standard Operating Procedures</td><td>SOP Number: 8.1</td></tr>
<tr><td>Effective Date: 07/20/03
Prv. Rev. Date: 12/14/18
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KACP: 1.3, 1.4, 19.6</td></tr>
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</table>

8.1.17 PREPARATION FOR SEARCH WARRANT EXECUTION

A commanding officer will be responsible for verifying that the search warrant is valid and that the premise to be searched is the location listed on the warrant. For the purposes of this policy, acting sergeants will be considered commanding officers. The lead officer will complete a Search Warrant Operations Plan form (LMPD #05-0025).

Prior to warrant service, the on-scene commander will act as the Incident Commander (IC) for service of the search warrant and the Incident Command System (ICS) will be implemented and followed. The IC will conduct a briefing with all search team personnel. This briefing will include:

- A review of operations and procedures that the search personnel will follow.
- An analysis of conditions at the premises utilizing maps, charts, and diagrams, when appropriate.
- Tactics and equipment that are to be used in the event of forced entry.
- A pre-planned hospital route.

The IC should also determine if any circumstances have changed that would make executing the search warrant, at that time, undesirable.

152. Goodlett was responsible as "lead officer" under LMPD SOP 8.1.17 for completing a Search Warrant Operations Plan (SWOP) form (LMPD #05-0025). She did not do so. Breach of this state law ministerial duty resulted in violation of Plaintiffs' constitutional rights and is actionable under Kentucky law.

153. Goodlett was responsible as "lead officer" under LMPD SOP 8.1.17 for conducting a briefing with all the LMPD officers serving the Search Warrant upon 3003 Springfield Drive Unit 4.

154. Said briefing was to include a review of the SWOP and procedures that the officers executing the illegal Warrant would follow, an analysis of conditions at the premises utilizing maps, charts and diagrams, tactics and equipment to be used in the event of forced entry, and a pre-planned hospital route.

155. Not a single identified LMPD officer told PIU or testified at the Hankison trial that they received any diagram or other layout of the apartment complex at 3003 Springfield from Goodlett.

156. Defendant Goodlett's failure to inform Hoover, Mattingly, Hankison, Nobles, Cosgrove, Campbell and James that the Plaintiffs' Unit 3 shared a long common

wall with Breonna Taylor's Unit 4 placed the Plaintiffs in grave danger. LMPD SOP 8.1.17 required Goodlett to provide such information prior to the raid. Breach of this state law ministerial duty resulted in violation of Plaintiffs' constitutional rights and is actionable under Kentucky law.

157. The "Summary of Events" Investigative Report compiled by the LMPD SID PIU (**EXHIBIT FIVE**) makes clear that Hankison was "obviously unaware of pertinent information pertaining to the target location. In investigators experience in law enforcement the warrant briefing should have provided a layout of the target location for tactical/safety reasons." Defendant Goodlett as "lead officer" is responsible for Hankison's lack of information.

158. Defendant Goodlett was negligently trained and supervised by LouMetro to properly serve as "lead officer" under SOP 8.1.17 and the breach of that duty by LouMetro was a substantial factor in causing injury to the Plaintiffs.

159. LouMetro acted with deliberate indifference to the internal conflicting goals and policies of LMPD SWAT and CID which resulted in the deadly events of March 12-13, 2020, and which subjected the Plaintiffs to terror and an unreasonable risk of death.

160. LouMetro acted with deliberate indifference to the ongoing and persistent violation of internal LMPD SOPs by CID and Defendant Goodlett that resulted in the deadly events of March 12-13, 2020, and which subjected the Plaintiffs to terror and an unreasonable risk of death in breach of the "paramount duty" under *Gonzalez.*

161. LouMetro allowed such a climate of selective at-will violations of LMPD SOPs to exist and persist that it became the *de facto* policy of LMPD and LouMetro for Defendant Goodlett to selectively follow SOPs and other policies of LMPD and LouMetro.

162. Said *de facto* policy of lax supervision and enforcement of policies and

procedures of LMPD and LouMetro resulted in the issuance of an unlawful Search Warrant that triggered the deadly events of March 12-13, 2020 and subjected the Plaintiffs to terror and an unreasonable risk of death in violation of the "paramount duty" under *Gonzalez* to protect the public from unreasonable risks of injury as the policy carry out their duties.

163. LouMetro by and through its agency LMPD negligently failed to train and monitor adherence by Defendant Goodlett to LMPD SOPs. These failures are evidenced by the actions of Goodlett resulting in a guilty plea to the crime of conspiracy to falsify the Search Warrant application and by LouMetro's admissions against interest in the termination letters of Jaynes, Hankison, Meany, and its Hillard-Heintze Report. This failure constituted a policy, practice, or custom in violation of Section Ten of the Kentucky Constitution.

164. "The Fourth Amendment, made applicable to the States by the Fourteenth, *Kerv. California*, 374 U.S. 23, 30 (1963), provides in pertinent part 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. . . .'" *Soldal v. Cook County*, 506 U.S. 56, 61 (1992). See also *Commonwealth v. Wasson*, 842 S.W.2d 487 (Ky. 1993).

165. "In addition, we have emphasized that 'at the very core' of the Fourth Amendment 'stands the right of a man to retreat into his own home.' *Silverman v. United States*, 365 U.S. 505, 511 (1961). *See also Oliver v. United States*, 466 U.S. 170, 178-179 (1984); *Wyman v. James*, 400 U.S. 309, 316 (1971); *Payton v. New York*, 445 U.S. 573, 601 (1980)." *Soldal*, 506 U.S. at 61.

166. The Kentucky Supreme Court recognizes the right to privacy in one's own home. See *Widdifield v. Commonwealth*, 2013-SC-000663-MR, at *5 (Ky. Sep. 18,

2014) ("This Court has long recognized a heightened privacy interest in one's own residence.")

167. Defendant Goodlett's illegal Search Warrant was unreasonable under Kentucky law because it was not supported by probable cause nor did the Plaintiffs consent nor did exigent circumstances exist thus resulting in a "warrantless" seizure of the Plaintiff's under Section Ten of the Kentucky Constitution. *Commonwealth v. Tipton,* No. 2015-CA-001352-MR, at *11 (Ky. Ct. App. May 26, 2017) ("Pursuant to…Section Ten of the Kentucky Constitution, citizens are protected from unreasonable searches and seizures without a warrant. *Hallum v. Commonwealth,* 219 S.W.3d 216, 221 (Ky.App. 2007). **This right is heightened when it comes to a person's own home** [emphasis added]. *Neal,* 84 S.W.3d at 923. A warrantless search is unreasonable unless it falls within one of the exceptions to the warrant requirement, which include consent to search or the presence of exigent circumstances. *Hallum,* 219 S.W.3d at 221. The government bears the burden of proof to show that its search was legal pursuant to one of these exceptions. *Neal,* 84 S.W.3d at 923; *Commonwealth v. McManus,* 107 S.W.3d 175, 177 (Ky. 2003). Without consent, police may not conduct a warrantless search of a home without both probable cause and exigent circumstances. *King v. Commonwealth,* 386 S.W.3d 119, 122 (Ky. 2012).")

168. The Plaintiffs "have a right not to be shot or shot at unless they are perceived as posing a threat to officers or others." *Ciminillo v. Streicher,* 434 F.3d 461, 468 (6th Cir. 2006).

169. The Plaintiffs were not a threat to the Defendants, the Plaintiffs were unarmed and the Plaintiffs' Unit 3 at 3003 Springfield Drive was not the target of the Search Warrant **(EXHIBIT TWO)**.

170. Brett Hankison fired five (5) shots into the apartment of the Plaintiffs because he was at the scene because of the illegal Warrant obtained by Goodlett.

171. *Torres v. Madrid*, 141 S. Ct. 989, 993-94 (2021) ***defines*** a "seizure" under the Fourth Amendment (and by extension and analogy Kentucky Constitution § 10): "The application of physical force to the body of a person with intent to restrain is a seizure, even if the force does not succeed in subduing the person."

172. Hankison's application—because of Defendant Goodlett's unlawful Search Warrant—of physical force to/toward the bodies of the Plaintiffs was done by his own testimony with intent to restrain:

MR. HANKISON: I removed myself as quickly as possible so I can move to a location where I could actively -- or accurately return fire and stop that threat. It's --

thought that if I could get to that bedroom window I could put rounds through that bedroom window and stop the shooter

MR. HANKISON: I could hear -- now, I -- I didn't want to take my eyes off -- eyes off the target. I wasn't sure if the threat had been stopped or not. I knew

Mattingly down. And that's my characterization of what was taking place as I'm returning fire with my only option to return fire through this window to stop this threat inside.

173. The Plaintiffs explicitly rely upon *Torres* for the proposition that Hankinson's shots through the Plaintiffs' apartment effected an unlawful seizure under Section Ten of the Kentucky Constitution but for the unlawful actions of Defendants

Goodlett and LouMetro compensable under Kentucky law.

174. Because of the unlawful conduct of Defendants LouMetro and Goodlett, the Plaintiffs were victims of unnecessary force used by the LMPD officer Hankison because the illegal Search Warrant placed Hankison and other LMPD officers at the scene unnecessarily thus rendering the force employed "unnecessary" by definition. Ky. Rev. Stat. § 431.025 ("**(3)** No unnecessary force or violence shall be used in making an arrest.")

175. The Plaintiffs were unreasonably or unnecessarily seized under Section Ten of the Kentucky Constitution because of the unlawful actions of Defendants LouMetro and Goodlett. *Simpson v. Commonwealth*, 474 S.W.3d 544, 548 (Ky. 2015) ("Section 10 of the Kentucky Constitution protect citizens from unreasonable searches and seizures by the government. Warrantless searches and seizures inside a home are presumptively unreasonable.").

176. The illegal Search Warrant caused the seizure of the Plaintiffs to be objectively unreasonable under Kentucky law therefore any force used upon the Plaintiffs was similarly unreasonable because it was totally unnecessary.

177. The Defendants' conduct violated the Plaintiffs' clearly established constitutional right against unreasonable seizure under the Section Ten of the Kentucky Constitution. *Brewer v. Commonwealth*, No. 2012-CA-001312-MR, at *6 (Ky. Ct. App. June 21, 2013) ("Likewise, the Kentucky Constitution also protects citizens from unreasonable searches and seizures without a warrant. *See Hallum v. Commonwealth*, 219 S.W.3d 216 (Ky. App. 2007).")

178. Defendant Goodlett as part of her guilty plea to a criminal charge of conspiracy admitted no probable cause existed to support the Search Warrant that

Hankison and the other armed LMPD officers were executing the night of March 12-13, 2020, rendering the Search Warrant illegal and violative of Section Ten of the Kentucky Constitution.

ALLEGED CAUSES OF ACTION

COUNT I
Kentucky Constitution § 10
(Unreasonable Seizure and Unnecessary Force)
Individual Defendant Goodlett

179. All previous paragraphs, allegations, and causes of action clearly set forth are incorporated herein by reference as though fully set forth.

180. Plaintiffs make a claim for violation of § 10 of the Kentucky Constitution.

181. Defendant Goodlett pleaded guilty on August 23, 2022, to the crime of knowingly and willfully conspiring and agreeing with fellow LMPD officer Joshua Jaynes, and others known and unknown to the United States, (1) to knowingly falsifying a warrant affidavit for Breonna Taylor's home (immediately adjoining the Plaintiffs' home) and (2) to knowingly engaging in misleading conduct toward another person with intent to hinder, delay, and prevent the communication of information to a federal law enforcement officer and judge relating to the commission and possible commission of a crime.

182. "[I]t is well-established that a government investigator is liable for violating the [Kentucky Constitution Section Ten] when he deliberately or recklessly submits false and material information in a warrant affidavit." *Meeks v. Larsen*, 611 F. App'x 277, 9-11 (6th Cir. 2015).

183. "[Kentucky Constitution Section Ten's] prohibition against unreasonable seizures protects citizens form excessive force by law enforcement officers." *Latits v. Phillips*, 878 F.3d 541 (6th Cir. 2017) (citing *Pearson v. Callahan*, 555 U.S. 223 (2009)).

See also Torres v. Madrid, No. 19-292 (Mar. 25, 2021).

184. "Section Ten of the Kentucky Constitution prohibit unreasonable searches and seizures by police officers." *Adcock v. Commonwealth*, 967 S.W.2d 6, 8 (Ky. 1998).

185. Defendant Goodlett violated the Plaintiffs' rights under § 10 of the Kentucky Constitution (the state equivalent of the Fourth Amendment) by deliberately and recklessly submitting false and material information in the Search Warrant Affidavit and Application at issue in this case, behavior for which she pleaded guilty to a crime.

186. Defendant Goodlett is responsible for all foreseeable, reasonable, and naturally occurring consequences flowing from her deliberate, reckless, and criminal actions. *Illinois Central Rr. Co. v. Cash's Administratrix*, 221 Ky. 655, 662 (Ky. Ct. App. 1927) ("If the doing of a thing would lead the mind of an ordinarily prudent person under like conditions and circumstances to anticipate or foresee that the thing done would result in an injury to some person, then the person responsible for the act is liable to the person injured as a result of the act."). See also *CSX Transportation, Inc. v. Moody*, 313 S.W.3d 72, 83 (Ky. 2010) ("Thus, a defendant is liable for even the improbable or unexpectedly severe results of its negligence."); *Yankey v. McHatton*, 444 S.W.2d 745 (Ky. Ct. App. 1969) ("It is well settled that a wrongdoer is responsible for all consequences flowing from his wrongful act. *Hazelwood v. Hodge*, Ky., 357 S.W.2d 711, and *Gill v. Cook*, Ky., 399 S.W.2d 303. "); and, *Mason v. City of Mt. Sterling*, 122 S.W.3d 500, 507 (Ky. 2004) ("However, it is an 'elementary rule that one is charged with notice of things that are common knowledge and is bound to anticipate the reasonable and natural consequence of his wrongful act, whether of commission or omission.' *Louisville N.R. Co. v. Vaughn*, 292 Ky. 120,166 S.W.2d 43, 48 (1942).")

187. Because of Goodlett's deliberate, reckless and criminal actions, LMPD

officers were present at the scene of the incident the night of March 12-13, 2020, with no probable cause and present based on an unlawful Search Warrant; ergo they were present unnecessarily and all actions taken by those LMPD officers set in motion by Goodlett including the force directed against the Plaintiffs, were unnecessary actions and force.

188. The use of force directed by LMPD officer Hankison when attempting to effect an arrest, *i.e.*, the firing of five bullets into their apartment, against Plaintiffs was unnecessary. See, *e.g.*, *Torres v. Madrid*, No. 19-292, at *12 (Mar. 25, 2021) ("There is nothing subtle about a bullet….")

189. Ky. Rev. Stat. § 431.025(3) states "No unnecessary force or violence shall be used in making an arrest."

190. Ky. Rev. Stat. § 446.070 allows "A person injured by the violation of any statute may recover from the offender such damages as he sustained by reason of the violation, although a penalty or forfeiture is imposed for such violation." See also *Lawson v. Burnett*, 471 S.W.2d 726, 729 (Ky. Ct. App. 1971) ("The officer may be held responsible in damages to the one he injures if he uses excessive [or unnecessary] force.")

191. Excessive or unnecessary force is evaluated by an objective reasonableness standard. *Graham v. Connor*, 490 U.S. 386 (1989). When police shoot at someone, it constitutes a seizure as defined by *Torres v. Madrid*, No. 19-292, at *13 (Mar. 25, 2021) ("But the conduct of the officers—ordering Torres to stop and then shooting to restrain her movement—satisfies the objective test for a seizure….").

192. "A search conducted without a warrant is *per se* unreasonable. *Payton v. New York*, 445 U.S. 573, 586, 100 S.Ct. 1371, 63 L.Ed.2d 639 (1980); see also *Cook v. Commonwealth*, 826 S.W.2d 329, 331 (Ky.1992)." *Lydon v. Commonwealth*, 490 S.W.3d 699, 702 (Ky. Ct. App. 2016).

193. "A search is unreasonable, absent a few exceptions, unless it is accompanied by a warrant supported by probable cause." *Townsend v. Commonwealth,* No. 2019-SC-0566-MR, at *3 (Ky. Aug. 26, 2021) (citing *Commonwealth v. Pride*, 302 S.W.3d 43 (Ky. 2010)).

194. The Plaintiffs explicitly rely upon *Torres* and *Lydon* and *Townsend, inter alia,* for the proposition that Hankinson's intentional shots through the Plaintiffs' apartment effected an unlawful seizure under Kentucky Constitution § 10 caused by Defendant Goodlett's deliberate, reckless and criminal actions compensable under Kentucky law.

195. Defendant Goodlett pleaded guilty to a federal charge of conspiracy (with Jaynes) to falsify the Search Warrant Application and Affidavit at issue here.

196. Wherefore, as a direct and proximate result of the deliberate, reckless, and criminal actions of Defendant Goodlett and the foreseeable, reasonable, and natural consequences flowing from those deliberate, reckless and criminal actions, Plaintiffs were injured by Defendant Goodlett and have suffered damages in an amount meeting or exceeding the statutory threshold necessary for the jurisdiction of this Court.

COUNT II
KENTUCKY CONSTITUTION § 10 STATE-EQUIVALENT *MONELL* POLICY CLAIM
Against LouMetro

197. All previous paragraphs, allegations, and causes of action clearly set forth are incorporated herein by reference as though fully set forth.

198. "Municipal corporations enjoy no constitutional protection from tort liability." *Bolden v. City of Covington*, 803 S.W.2d 577, 579 (Ky. 1991).

199. A municipal body is liable for constitutional violations under Section Ten of the Kentucky Constitution when execution of its official policy or custom

deprives an individual of rights protected under the Constitution. See, *e.g.*, *Monell*, 436 U.S. at 694-95.

200. Defendant LouMetro violated Kentucky Constitution § 10 by maintaining multiple official policies that endangered the Plaintiffs and the public in breach of its "paramount duty" under *Gonzalez* to safeguard public safety and should be held liable under the same "official policy or custom" standard of *Monell v. New York City Dept. of Social Services*, 436 U.S. 658 (1978) by extension under state law and the Kentucky Constitution.

201. As a matter of official policy, Defendant LouMetro by and through its agency LMPD permits its officers to execute search warrants at night, including on routine searches, regardless of circumstances under LMPD SOP 8.1.9 with a Revised Date of 2/24/19 that was operative at all times relevant:

Louisville Metro Police Department

Standard Operating Procedures	SOP Number: 8.1 Effective Date: 07/20/03 Prv. Rev. Date: 12/14/18 Revised Date: 02/24/19
Chapter: Field Operations	Accreditation Standards: KACP: 1.3, 1.4, 19.6
Subject: Search Warrants	

8.1.9 TIME AND METHOD OF SEARCH

A search warrant may be served at any time of the day or night.

202. LMPD also has a custom, pattern, and practice of executing such nighttime searches that directly and predictably leads to dangerous situations in which the targets of searches mistake police for intruders especially at night

203. Even Officer John Mattingly wrote in his book on page 131: "When serving

warrants, you need the element of surprise."

204. LMPD's Standard Operating Procedures is an official document the purpose of which is to "explain the organization, policies, and procedures" of LMPD. LMPD's Standard Operating Procedures (Feb. 25, 2021), https://louisville-police.org/DocumentCenter/View/615/Standard-Operating-Procedures-PDF. The procedures govern the conduct of all LMPD police officers, who are all instructed to "be familiar with the [Standard Operating Procedures] Manual and adhere to its directives." *Id.*

205. Upon information and belief, pursuant to that official written policy of SOP 8.1.9, LMPD officers routinely execute search warrants at night. See also Brian Patrick Schaefer, *Knocking on the Door: Police Decision Points in Executing Search Warrants* (2015) (Ph.D. dissertation, University of Louisville) ("Schaefer"), https://ir.library.louisville.edu/etd/2095.

206. Upon information and belief, they do so regardless of circumstances, including in cases—such as this one—where the officers themselves have identified the target as posing no threat.

207. Kentucky has a "stand your ground" law, which protects individuals' right to use force to defend themselves against a show of force, "unless the person against whom the force was used is a peace officer . . . who was acting in the performance of his or her official duties and the officer identified himself or herself in accordance with any applicable law, or the person using force knew or reasonably should have known that the person was a peace officer." KRS § 503.085.

208. Breaking down the front door of a residence and entering with weapons constitutes a show of force. Thanks to the right of individuals to "stand their ground" under Kentucky law, there is a particularly high risk that a warrant executed in the middle

of the night, particularly through forcible entry into a residence, will precipitate a dangerous confrontation in which the police are mistaken for intruders. See also *Michigan v. Summers, supra*, ("Executing a search warrant in a home—particularly a home used in a narcotics conspiracy—is 'the kind of transaction that may give rise to sudden violence.')"

209. The inherent danger of executing search warrants at night is well-documented and has been recognized in a report commissioned by the City of Louisville-Jefferson County Metro Government itself. That report, which followed a "top-to-bottom review of [LMPD] policies, practices and procedures," concluded that "[t]he Department needs to make major changes— some immediately." Hillard Heintze, Final Report: Louisville Metro Police Dep't, An Independent and Objective Assessment of the Department's Practices and Procedures (Jan. 27, 2021) ("Hillard Heintze"), https://louisvilleky.gov/sites/default/files/2021-01/hillard-heintze-report.pdf.

210. The report specifically identified SOP 8.1.9 and noted the "inherent danger" of nighttime warrants. Specifically, the report concluded:

> SOP 8.1.9 allows officers to serve a search warrant at any time, day or night. However, nighttime warrants increase risk to both officers and residents, and nighttime conditions make the execution of warrants inherently dangerous. Household members are more likely to be present, and officers have decreased visibility. When officers executing a search warrant suddenly awaken individuals, residents may be confused by the middle- of-the-night entry into their home and react in a defensive manner, as they may not be aware that officers, not a criminal intruder, are entering their premises. *Id.* at 42.

211. As described above, that is precisely what happened to Kenneth Walker and Breonna Taylor in 3003 Springfield Drive Unit #4 immediately adjacent to the Plaintiffs' Unit #3. Had LMPD executed the illegal Search Warrant during daylight hours—or, at the

very least, not in the middle of the night—Walker and Taylor would not have mistaken the police for intruders, thus triggering a gun battle causing injury to the Plaintiffs.

212. LMPD has a *de facto* policy, custom, pattern, and practice of supervisors failing to verify affidavits that form the basis for search warrant requests to judges. This policy, custom, pattern, and practice results in a clear and persistent pattern of the submission for judicial approval of flawed or materially false affidavits—such as the one authorizing the illegal Search Warrant obtained by Defendant Goodlett.

213. In order to receive judicial approval for a search warrant, LMPD officers submit affidavits describing specific facts establishing probable cause for the search requested in the warrant application. LMPD's official policy requires supervisors to approve such affidavits prepared by officers in order to verify that there are sufficient facts to justify a search warrant.

214. Despite this purported official policy, LMPD's *de facto* policy, custom, pattern, and practice is for supervisors like Goodlett's to approve affidavits immediately after they receive them from an officer and with what the aforementioned report commissioned by the City itself characterized as "minimal" review. Hillard Heintze, at 41.

215. The report found that, notwithstanding the official policy, "interviewees described a 'culture of acceptance' within the LMPD in which supervisors seldom queried officers regarding the underlying facts and circumstances necessary to demonstrate probable cause." Hillard Heintze, at 41. The report confirmed this policy, custom, pattern, and practice of "minimal" supervisory review by analyzing a sample of search-warrant affidavits. *Id.*

216. This minimal supervisory review of affidavits has persisted despite LMPD, upon information and belief, being on notice concerning material deficiencies in affidavits.

LMPD was or should have been aware of the "culture of acceptance" and acted with deliberate indifference in failing to enforce the requirement that supervisors substantively review officers' affidavits.

217. As discussed above, and as LMPD has now admitted when it terminated LMPD officer Jaynes (with whom Defendant Goodlett admitting to criminal conspiring), the Affidavit that purportedly supported the Search Warrant here was based on multiple material falsehoods and "sustained untruthfulness" and Goodlett admitted as much when pleading guilty to her crime.

218. That Affidavit by Defendant Goodlett and her co-conspirator Jaynes would not have been submitted for judicial approval had Goodlett's supervisor attempted to verify its assertions and then acted appropriately when the supervisor discovered those assertions were false.

219. The deficiency in training and supervision of Defendant Goodlett by LouMetro and by and through its agency, LMPD, was a substantial factor in causing Goodlett's indifference to Plaintiffs' safety, rights, privileges and immunities under law. *Canton v. Harris*, 489 U.S. 378, 379 (1989).

220. LMPD has a policy, custom, pattern, and practice of failing to adequately train its officers to respond to situations with reasonable force. As a result of this policy, custom, pattern, and practice, officers use excessive or unnecessary force in many situations, including the execution of search warrants. That failure led to the tragic events recounted in this Complaint.

221. Upon information and belief, LMPD's training program fails to provide adequate training to its officers in responding with reasonable (and not excessive or unnecessary) force when they conduct searches. As a result of its failure to adequately

train its officers, there is a clear and consistent pattern of LMPD officers executing search warrants using excessive or unnecessary force thus rendering it an objectively foreseeable, reasonable and natural consequence that would flow from Goodlett's unlawfully procured Search Warrant by which the Plaintiffs were injured, and their constitutional rights violated.

222. For example, in a suit filed against the LouMetro and several LMPD officers, Nashayla Jones and her daughter alleged that in April 2017, twenty-one SWAT team members executed a search warrant of their home. Despite quickly taking Nashayla's husband (the target of the search warrant) into custody, the officers proceeded—among other acts—to fire at Nashayla's autistic son as he walked down the stairs, repeatedly shoot at and ultimately kill her daughter's licensed therapy dog and hold several family members at gunpoint. *See Jones v. Louisville/Jefferson Cnty. Metro Gov't*, 482 F. Supp. 3d 584, 590 (W.D. Ky. 2020). Plaintiffs' excessive force claims survived a motion to dismiss, *id.* at 593-94, and the case is currently pending, *see* Dkt. No. 3:18-cv-00265-RGJ-CHL.

223. As another example, Roy Stucker and Courtney Brown-Porter filed suit against the LouMetro and LMPD officers, alleging that the officers used excessive force in conducting a raid on July 15, 2019. Specifically, they alleged that while Mr. Stucker was painting an apartment that had been vacated by previous tenants, a team of at least 10 officers broke into the house without advance warning and shot through the windows. Am. Compl. ¶¶ 13-16, 41, No. 20-CI- 004077 (Jefferson Cir. Ct., Ky. Nov. 18, 2020). The case is currently pending. *See* Dkt. No. 3:20-cv-00809-GNS-CHL.

224. Similarly, in a suit filed against LouMetro, Michael Despain alleges that on September 18, 2013, dozens of LMPD officers executed a search warrant at his home by

throwing two flash grenades through the windows, which set the furniture on fire. He alleges that the officers then repeatedly kicked, tazed, and stomped on him. *See Despain v. City of Louisville*, No. 3:14CV–P602–DJH, 2015 WL 403158, at *1-2 (W.D. Ky. Jan. 28, 2015). That suit is still pending. *See* Dkt. No. 3:14-cv-00602-CHB-RSE.

225. On information and belief, this failure to adequately train has continued despite LMPD's being on notice of its officers' use of excessive or unnecessary force. LMPD was or should have been aware that its failure to adequately train its officers resulted in those officers using excessive force in policing encounters.

226. LMPD acted with deliberate indifference in failing to adequately train its officers and thus tacitly approving their excessive use of force.

227. LMPD acted with deliberate indifference in failing to adequately train its officers to lawfully procure search warrants and thus tacitly approved the foreseeable, reasonable and natural consequences flowing therefrom.

228. Had LMPD adequately trained its officers in using reasonable force and lawfully obtaining search warrants, they would not have used excessive or unnecessary force against the Plaintiffs and violated their rights under Section Ten of the Kentucky Constitution.

229. Specifically, the failure of LouMetro and LMPD to train Defendant Goodlett in all relevant respects concerning search warrants, adherence to LMPD SOPs, and excessive or unnecessary force is reckless, intentional or grossly negligent with respect to the constitutional rights of persons with whom the police come into contact such as the Plaintiffs. *Canton v. Harris*, 489 U.S. 378, 379 (1989) (citing *Monell*).

230. Such municipal liability exists where a city fails to properly train, supervise, and discipline its employees amounting in a deliberate indifference to one's constitutional

rights. *See City of Canton, Ohio v. Harris*, 489 U.S. 378 (1989); *Pembaur v. Cincinnati*, 475 U.S. 469 (1986); *Leach v. Shelby County Sheriff*, 891 F.2d 1241 (6th Cir. 1989); *Brown v. Chapman*, 814 F.3d 447, 463 (6th Cir. 2016) ("[W]e have interpreted *City of Canton v. Harris* "as recognizing at least two situations in which inadequate training could be found to be the result of deliberate indifference." *Cherrington v. Skeeter*, 344 F.3d 631, 646 (6th Cir.2003). " 'One is failure to provide adequate training in light of foreseeable consequences that could result from the lack of instruction,' as would be the case, for example, if a municipality failed to instruct its officers in the use of deadly force," and a second is " 'where the city fails to act in response to repeated complaints of constitutional violations by its officers.' " *Id.* (quoting *Brown v. Shaner*, 172 F.3d 927, 931 (6th Cir.1999)).") *Brown v. Chapman*, 814 F.3d 447 (6th Cir. 2016); *Cherrington v. Skeeter*, 344 F.3d 631 (6th Cir. 2003); *Russo v. City of Cincinnati*, 953 F.2d 1036 (6th Cir. 1992) *Patzner v. Burkett*, 779 F.2d 1363, 1367 (8th Cir. 1985); *Wellington v. Daniels*, 717 F.2d 932, 936 (4th Cir. 1983).

231. At all times relevant, Defendant LouMetro and by and through its agency LMPD had a duty to properly train, supervise, and discipline their employees and agents such as Defendant Goodlett.

232. Pursuant to *Gonzalez* and *Jacobs* and *Anderson* and *Vanderhoef* and *Mitchell* and *Steagald* and *City of Brooksville* and *Harper* and *Shiflet*, *inter alia, supra*, LouMetro owed a duty to Plaintiffs to not subject them to unreasonable risk of injury while performing police work.

233. Defendant LouMetro breached that duty, in part, by:

a. Improperly training, supervising, authorizing, encouraging or directing officers on proper use of force.
b. Failing to investigate allegations of excessive or unnecessary force.

c. Failing to discipline officers for violations of policy related to excessive or unnecessary force.
d. Improperly training, supervising, authorizing, encouraging or directing officers to obtain search warrants
e. Improperly training, supervising, authorizing, encouraging or directing officers to implement and adhere to LMPD SOP 8.1 Chapter: Field Operations, Subject: Search Warrants and sub-parts thereof
f. Improperly training, supervising, authorizing, encouraging or directing officers in CID and SWAT to resolve conflicting policies and goals and allowing a condition of internal conflicting CID and SWAT policies to persist to the point of death and unreasonable risk of death the Plaintiffs on the night of March 12-13, 2020
g. Failing to train and encourage Defendant Goodlett to intervene and stop fellow LMPD officers from violating—sometimes egregiously—the law and LMPD SOPs.
h. Failing to train Defendant Kelly Goodlett and her co-conspirator LMPD officer Joshua Jaynes that lies, deception and selective processing of investigative information when preparing a Search Warrant and Affidavit for presentation to a sitting judge is not appropriate policing.

234. The unreasonable risk of death to innocent bystanders and others present at the scene of an arrest such as Plaintiffs and other injuries were foreseeable, reasonable and natural consequences that could flow from the lack of instruction, training and supervision of Defendant Goodlett by LouMetro and LMPD. *Brown v. Chapman*, 814 F.3d 447, 463 (6th Cir. 2016). *See also Torres v. Madrid*, No. 19-292 (U.S. Mar. 25, 2021), and *Steagald* and *Michigan v. Summers, supra.*

235. The policy, pattern of practice, or custom of condoned misconduct is tacitly or overtly sanctioned, as evidenced by the conduct of Defendant Goodlett and Defendant LouMetro's failure to train, supervise, investigate, and discipline just a few but not all of the officers involved in this incident of March 12-13, 2020.

236. Defendant LouMetro violated Plaintiffs' constitutional rights.

237. The unconstitutional behavior of Defendant Goodlett was carried out pursuant to a policy, pattern of practice, or custom, whether formal or informal. It

therefore violates the constitutional rights of persons situated such as the Plaintiffs.

238. Defendant LouMetro failed to take sufficient remedial actions to end this policy, pattern of practice, or custom within the LMPD, CID and SWAT, as well as other subgroups such as, but not limited to, the Place Based Investigations unit.

239. Defendant LouMetro has a policy, pattern of practice or custom, whether formal or informal, of failing to prevent or deter fraudulent practices with respect to application for search warrants.

240. In March 2002, criminal charges were brought against Christie Richardson, who had been a police officer with the Louisville Metro Narcotics Unit since 1997, and Detective Mark Watson. The indictment included 450 counts accusing Watson and Richardson of falsifying search warrant affidavits, forging signatures on search warrants, and tampering with drug evidence, among other allegations. Watson pled guilty to all charges. Richardson resigned on March 18, 2002, shortly after being indicted and was ultimately sentenced to 20 years in prison.

241. Despite an egregious failure of LMPD's search warrant practices, policies and procedures, even in the wake of the Richardson-Watson debacle of 450 counts of falsification of search warrant affidavits, Defendant LouMetro had no policies, procedures or training in place to deter or stop Defendant Goodlett from conspiring with fellow LMPD officer Jaynes to falsify the Search Warrant at issue here.

242. The longstanding condoning of misconduct, and the failure to end this policy, pattern of practice, or custom were a proximate cause of the injuries suffered by Plaintiffs.

243. LouMetro paid for, adopted and issued a government report (**EXHIBIT NINE)** "Report") on its public website and by way of public press conference by

LouMetro Mayor Greg Fischer on or about January 28, 2021 (**EXHIBITs TEN and ELEVEN**).

244. Defendant Lou/Metro's Report says in the last paragraph of page 12 with respect to search warrants "Furthermore, the LMPD has not delivered training that supports the policies to the entire Department."

14. SEARCH WARRANTS

Before Breonna Taylor's tragic death, the LMPD modified its policies to improve practices for drafting and serving search warrants. Our review identified that the Department does not always follow these policies and protocols, which sometimes resulted in operational practices that did not reflect policy requirements. Furthermore, the LMPD has not delivered training that supports the policies to the entire Department. For example, although the LMPD developed a search warrant training course for detectives, new detectives do not necessarily go through this training block before being tasked to develop an affidavit and execute a search warrant.

245. Section 6 of page 10 of the Report plainly states: "In addition, the Department does not ensure that mandatory supervisory and management training either precedes or follows promotions in a timely manner."

6. SUPERVISION

The LMPD is confronting high levels of attrition at the officer level and the supervisory level for lieutenants and sergeants. The Department has not fully staffed frontline supervisory positions, causing the Department to position patrol officers, who have not been trained for these duties, as acting patrol sergeants responsible for directing a team of officers. In addition, the Department does not ensure that mandatory supervisory and management training either precedes or follows promotions in a timely manner.

246. On page 25 of the Report LouMetro affirms that LouMetro and LMPD knew or should have known that the U.S. Supreme Court ruling in *Graham v. Connor,* 490 U.S. 386 (1989) established the standard for reasonableness regarding us of force by police officers which lays bare evidence of the failure of LouMetro and LMPD to specifically state that standard in its own standard operating procedures by which it trains its officers.

The preceding passage addresses the concept of objective reasonableness; however, it does not specifically state that the application of the standard set by the *Graham v. Connor* U.S. Supreme Court ruling determines reasonableness. We recommend the LMPD add language to the SOP to ensure continuity throughout the procedure. Guidance from the IACP's "National Consensus Policy and Discussion Paper on Use of Force" explains the need for language clarity.

> "The use of commonly employed terms and phrases, even though well intentioned, can cause unexpected and unnecessary consequences for the officer and the agency. For example, phrases like 'officers shall exhaust all means before resorting to the use of deadly force' present obstacles to effective defense of legitimate and justifiable uses of force. Such language in a policy can unintentionally impose burdens on officers above those required by law."[30]

Courts have set a clear standard for determining reasonableness regarding use of force. It only makes sense to have SOPs, whenever applicable, mirror the standard by which officers' behavior will be scrutinized. In its ruling in *Graham v. Connor*,[31] the Supreme Court held that the "'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." The Supreme Court then outlined a non-exhaustive list of factors for determining when an officer's use of force is objectively reasonable:

- The severity of the crime at issue
- Whether the suspect poses an immediate threat to the safety of the officers or others
- Whether the suspect is actively resisting arrest or attempting to evade arrest by flight

Using this objective, reasonable standard could help reduce ambiguity; set realistic performance expectations for officers; and assist with establishing for the police, residents and local government a shared understanding of what it means to be 'reasonable.'

247. With respect to Policy Modifications page 28 of the Report reads "However, the LMPD does not generally provide training to accompany the delivery of the new policy, such as when the Department updated the use-of-force policy." LMPD revised its use-of-force standard operating procedure (SOP) ten (10) times between 2015 and 2020.

Policy Modifications

The LMPD revised its use-of-force SOP 10 times between 2015 and 2020, including revisions in November 2019, June 2020 and September 2020. While this timeframe has seen marked changes in the approach to use of force, officers consistently shared with us that it is difficult to keep up with policy and process changes. When we asked LMPD personnel if they were comfortable with their knowledge of the SOPs, most replied they were not confident in their ability to recall and perform to the LMPD's standards.

Reactive modifications to policies are not good practice, particularly policies involving risk such as use of force. When legal changes require policy modification, training should support the change to help officers understand the modification and reason for it. The LMPD tracks policy changes via PowerDMS, which notifies officers of policy changes and requires they acknowledge receiving, reading and understanding the changes. However, the LMPD does not generally provide training to accompany the delivery of the new policy, such as when the Department updated the use-of-force policy. The LMPD could adopt a policy by which the Department reviews SOPs on a regular basis, establishes a schedule for ongoing policy reviews, and ensures it trains officers on policy changes when appropriate.

35 *LMPD Standard Operating Procedures*, "9.1 Use of Force." Louisville Metro Police Department, Louisville, KY.

248. With respect to training in general, on page 29 LouMetro's own Report states that LMPD's "block training" methodology is the "least effective method for long-term skill retention." Block training is also known to be ineffective; yet it is the method used by LMPD because it is cheap and easy. The deliberate indifference to unconstitutional outcomes against citizens demonstrated by LouMetro's and LMPD's continued adherence to an ineffective method of training its officers—as pointed out by its own Report—supports the Plaintiffs' allegations.

Training

The Connection between Training and Organizational Values

LMPD interviewees and our review revealed that the Department does not clearly link its use of force, firearms, defensive tactics and CEW training to its purpose, mission and/or values statements. Such links help officers understand why the content is relevant to their jobs and the agency's overall goals. Communication and training allow officers to understand the reason for the policy and its connection to the organizational values, thereby avoiding confusion regarding a change in policy, training or agency expectations. These links are especially important to avoid decision errors when an officer must consider a use of force because the misuse of force creates justifiable community concern, as well as significant liability issues.

Most law enforcement training is delivered in blocks, with sessions dedicated to specific subject matter. This is how the LMPD designs and delivers most of its training. This is not a unique approach, as block training is generally the most cost-effective and easiest way to schedule training for law enforcement agencies, which face differing work schedules and the need to backfill those officers' positions to schedule training. However, research shows that block training is the least effective method for long-term skill retention.[36] One study showed significant degradation of officers' skills only 16 weeks after leaving the training academy. Despite the known ineffectiveness of block training, it remains the norm throughout much of the policing profession and within the LMPD. The LMPD should integrate its use-of-force training into a single, multidisciplinary approach in which the trainers responsible for covering firearms and other use-of-force topics, respectively, operate with each other.

249. The Report contains numerous discussions about disparate uses of force against black residents and bias-free policing. For example, page 96 section 2.10 "Bias- Free Policing" of the Report states "…the LMPD has been unsuccessful in understanding and applying implicit bias training concepts into all the organization's operations and culture." This lack of training directly supports Plaintiffs' allegations.

2.10 Bias-Free Policing

Based on interviews and our review of LMPD academy materials and related procedures and policies,[63] the LMPD acknowledges that policing should be free of bias and officers' actions should be based on constitutional and legal standards, regardless of whether the action results in an arrest or citation. Despite these policies, procedures and history of training, the LMPD has been unsuccessful in understanding and applying implicit bias training concepts into all the organization's operations and culture. The climate we observed between community members and LMPD personnel, as well as within the LMPD itself, supports this finding.

250. With respect disparate use of force against black residents, on page 33 the Report found that approximately 50% of use-of-force incidents during the ten years studied occurred against black residents despite them only making up approximately 21% of the Louisville Metro population.

(Louisville Metro Police Department)
An Independent and Objective Assessment

Use of Force Involving Black Residents

Black residents represent approximately 21 percent of the Louisville Metro population but were involved in approximately 50 percent of the use-of-force incidents during the period studied.

251. The individual Defendants in this case intentionally directed force and fired guns toward a black man named Kenneth Walker and a black woman named Breonna Taylor.

252. The Plaintiffs in this case are white and *Torres v. Madrid* and *Steagald, inter alia,* hold they are entitled to the same "zone" of constitutional protections against excessive force being directed at *them* while the police are purposefully directing deadly and/or excessive force at *black persons* in violation of Kentucky Constitution §10.

253. The Kentucky Supreme Court in *Gonzalez v. Johnson*, 581 S.W.3d 529, 532 (Ky. 2019) held that police owe a "paramount duty" to protect the public from unreasonable risk of injury while police conduct their work. The same duty is recognized in *Jacobs* and *Anderson* and *Vanderhoef* and *Mitchell* and *Steagald* and *City of Brooksville* and *Harper* and *Shiflet, inter alia, supra*.

254. This *Gonzalez* recognized duty to protect the public during police work obviously includes a duty to protect white people (and Hispanic and Asian and all other races, colors and creeds) from unreasonable risk of injury while police conduct work against black persons by a "zone of protection" or any other way.

255. LouMetro's finding in its own Report about disparate use of force against black persons (which necessarily implies non-black persons as potential victims of excessive force when they are standing or living next to or near black persons) supports the Plaintiffs' allegations**.**

256. Pages 40-42 of the Report are especially applicable to this lawsuit. That section addresses LouMetro's own findings regarding search and arrest warrants. The top paragraph on page 41 reads "supervisory review was minimal" with respect to search warrants. This finding by LouMetro's own Report directly supports Plaintiffs' allegations of failure to train Jaynes and Goodlett and failure to supervise against Conrad, Burbrink, Phan, Hoover and Huckleberry.

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SOP 8.1.2 – Affidavit Preparation

Officers prepare affidavits describing facts and circumstances that support probable cause to search when seeking a judicial approval for a search warrant. LMPD policy requires supervisory approval for these affidavits. However, interviewees described a "culture of acceptance" within the LMPD in which supervisors seldom queried officers regarding the underlying facts and circumstances necessary to demonstrate probable cause. These interviewees, in addition to our review of a sample of search warrant affidavits, indicated supervisory review was minimal. Supervisors generally approved affidavits immediately after an officer presented their affidavit without performing an in-depth review of the affidavit's content.

257. The Plaintiffs note that LMPD officer Wes Barton recklessly and/or intentionally failed to properly compute the "points" on the Risk Assessment Matrix (RAM) for the (illegal) Search Warrant **(EXHIBIT TWO)** thereby excluding SWAT on the tragic

The Narcotics Unit uses a risk matrix that requires the SWAT team to draft and execute the operations plan when risk factors reach a certain value. However, some personnel believe that at times, Narcotics Unit personnel "undervalued" certain risk factors to avoid involving the SWAT team in the Narcotics Unit's warrant operations. This demonstrates how cultural forces within the LMPD could influence the risk matrix preparation and subsequently jeopardize the goal of reducing the risks associated with warrant execution.

night in question. On page 41 of the Report in the bottom paragraph, LouMetro's own Report concluded that "some personnel believe that at times, Narcotics Unit personnel 'undervalued' certain risk factors to avoid involving the SWAT team in the Narcotics Unit's warrant operations."

258. Page 42 of the Report confirms LouMetro's discovery that competition "games" are being played by Narcotics personnel to seize the most drugs. These "games" prompt Narcotics officers to "cut corners" and to evade or avoid LMPD SOPs when applying for search warrants in the belief that SWAT will slow them down. Such games placed the public in danger in violation of the recognized duty to protect the public during police work. The fact that conflicting policies and goals between departments and units are allowed to exist supports the Plaintiffs' allegations of deliberate indifference, failure to train and failure to supervise as alleged.

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Some of the LMPD personnel we interviewed believe that Narcotics Unit personnel are often driven by competition over who can seize the most drugs. Interviewees expressed concerns that because of this perceived competition, some Narcotics Unit personnel may avoid involving the SWAT team because it could slow down their process of applying for and executing a search warrant. If these perceptions are accurate, this undermines the goal and purpose of the risk matrix in ensuring that when executing high-risk warrants, the SWAT team is available to support LMPD personnel with its experience, training and equipment.

SOP 8.1.13 allows a commanding officer to consult with the SWAT team commander to seek assistance, even if the situation does not meet the matrix requirements. It would be a best practice for the Narcotics Unit and other units to consult the SWAT team commander or designee before drafting and executing any warrant involving premises, buildings and other locations where an officer may encounter an individual, regardless of the risk factors.

The warrants submitted for the commanders' review should assess the completed risk matrix tool used to determine who would serve the warrant and include a description of steps taken to ensure the safety of the search officers, the occupants of the location to be searched and those who reside near the search location and are not the targets of the investigation.

259. LMPD officers Lieutenants Shawn Hoover and Jerry Huckleberry were directly involved in the incident the night of March 12-13, 2020. On page 89 of the Report, LouMetro

states bluntly "The LMPD does not provide formal training for those promoted to the rank of lieutenant." This finding by LouMetro's own Report supports the Plaintiffs' allegations of failure to train herein and proves Lt. Huckleberry was not even trained to supervise and review Goodlett's false Search Warrant. This finding further demonstrates that Lt. Hoover was not even trained to supervise and review Barton's RAM prior to the raid the night of March 12-13, 2020.

> The LMPD does not provide formal training for those promoted to the rank of lieutenant. The position of major, which is the rank after lieutenant, is an appointed position for which the chief recommends personnel from those serving as lieutenants. Subsequently, the mayor approves the chief's selection. However, the LMPD also does not require majors to complete any additional training. Many lieutenants have not received formal training on the fundamental responsibilities associated with the rank of major before receiving a promotion. These positions are critical to instilling the values and vision of the organization, and ensuring they receive adequate training would help these lieutenants and majors achieve this goal.

260. It is a stunning breach by Defendant LouMetro of the "paramount duty" under *Gonzalez* to protect the public—including the Plaintiffs—from unreasonable risk of injury from police while doing their work for Defendant LouMetro by and through its agency LMPD to allow officers such as Lt. Huckleberry and Lt. Hoover to be on the streets of the City of Louisville—especially at 1 a.m. conducting deadly raids—supposedly commanding other LMPD officers (all of whom are carrying deadly weapons) with no formal training and to supervise officers like Defendant Goodlett who are lying and conspiring to falsify search warrant applications and affidavits such as the one at issue in this case.

261. This Hillard Heintze Report is appropriate for judicial notice. *See Campbell v. Nationstar Mortg.*, 611 F. App'x 288, 6 (6th Cir. 2015) ("A court may also consider 'documents incorporated into the complaint by reference and matters of which a court may take judicial notice.' *Tellabs, Inc. v. Major Issues & Rights, Ltd.*, 551 U.s. 308, 322 (2007).")

262. A similar Hillard Heintze Report has been recognized as a government report sufficient to withstand a motion to dismiss. *Hudson v. Ne. Ill. Reg'l Commuter R.R. Corp*., 17

C 5426, at *3-4 (N.D. Ill. Apr. 12, 2018) ("To support the deliberate indifference element of his claim, Hudson points to an assessment of the Metra police force commissioned by Metra and issued in August 2013 by the security consulting firm Hillard Heintze. Doc. 34 at p. 4. …. The report's conclusion that the Metra police needed additional training on the use of force, arrests, searches, and discrimination, together with Hudson's allegation that Metra did not conduct any such training, are sufficient to "raise [Hudson's] right to relief above the speculative level. [emphasis added]" *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). This is not a case where the plaintiff has "add[ed] *Monell* boilerplate allegations" in an effort to "proceed to discovery in the hope of turning up some evidence to support the 'claims' made." *Strauss v. City of Chicago*, 760 F.2d 765, 768 (7th Cir. 1985).)

263. "Furthermore, even though an unnamed local agency originally submitted it, the report bears the Government's stamp of approval through its publication on an official website that, by its terms, is a repository of reports [emphasis added] regarding "unsafe product[s]." *Co. Doe v. Tenenbaum*, 127 F. Supp. 3d 426, 455 (D. Md. 2012)

264. "While the proof shows that Hercules physically prepares the directory, the entire cost of preparation is borne by the government and, indeed, the directory states that it is the property of the government. Even if Hercules prepares the directory, the government pays for it and owns it. This is enough to make the directory an agency record [emphasis added]. *See Forsham v. Harris*,445 U.S. 169, 182, 100 S.Ct. 977, 985, 63 L.Ed.2d 293 (1980); *Ryan v. Department of Justice*,617 F.2d 781, 786 (D.C. Cir. 1980) (applying "indicia of ownership" standard). *Hercules, Inc. v. Marsh*, 839 F.2d 1027, 1029 (4th Cir. 1988)

265. "The Court's authority includes taking judicial notice of government reports [emphasis added]. *Mobil Oil Corp. v. Tennessee Val. Auth.*, 387 F.Supp. 498, 500 fn.1 (N.D. Ala. 1974) (taking judicial notice of Tennessee Valley Authority reports [emphasis added])."

Villanueva v. Biter, No. 1:11-cv-01050-AWI-SAB (PC), at *4 (E.D. Cal. Dec. 6, 2017)

266. "Defendant asserts that the report is publicly available and was "prepared by an independent contractor for the City of Oakland [emphasis added]." (Id. at 3.) Plaintiffs do not oppose judicial notice of the report or otherwise dispute the report's authenticity. Accordingly, the Court grants judicial notice of the report because it is an undisputed matter of public record. [emphasis added] *See Barron v. Reich*, 13 F.3d 1370, 1377 (9th Cir. 1994) (noting that district courts may take judicial notice of "[r]ecords and reports of administrative bodies")." *Bey v. City of Oakland*, Case No.14-cv-01626-JSC, at *19 (N.D. Cal. July 30, 2019)

267. Wherefore, as a direct and proximate cause of LouMetro's official policies, customs, actions or inactions which are supported in whole and in part by admissions against interest in LouMetro's own government Hillard Heintze Report, Plaintiffs have suffered damages in an amount meeting or exceeding the statutory threshold necessary for this Court to exercise jurisdiction over this case.

COUNT III
KENTUCKY CONSTITUTION § 10
(Duty to Intervene)
Defendants Goodlett and LouMetro

268. All previous paragraphs, allegations, and causes of action clearly set forth are incorporated herein by reference as though fully set forth.

269. Plaintiffs bring this claim for violation of Section Ten of the Kentucky Constitution.

270. Defendant Goodlett by virtue of her guilty plea to a criminal charge of conspiracy violated the Plaintiffs' rights under Kentucky Constitution § 10 by conspiring with fellow LMPD officer Jaynes to falsify the Search Warrant and supporting Affidavit.

271. Goodlett violated the Plaintiffs' rights under the Section 10 of the Kentucky Constitution by falsifying the Search Warrant and Affidavit.

272. Defendants Goodlett and LouMetro knew or should have known that Hankison's use of unnecessary force against Plaintiffs was a foreseeable, reasonable, and natural consequence of Goodlett's deliberate, reckless and criminal actions in obtaining the illegal Search Warrant and LouMetro's failure to supervise Goodlett.

273. Because there is an "indisputable nexus between guns and drugs" as the Kentucky Supreme Court has acknowledged. See *Owens v. Com*, 244 S.W.3d 83, 89 (Ky. 2008) (citing *U.S. v. Sakyi*, 160 F.3d 164 (4th Cir. 1998)) ("This 'compelling' concern for officer safety is magnified by the fact that this case, like so many others, involves illegal narcotics, thereby bringing into play '[t]he indisputable nexus between drugs and guns[, which] presumptively creates a reasonable suspicion of danger to the officer [and persons present at an arrest such as the Plaintiffs].'")

274. Defendant Goodlett had a duty to intervene and protect Plaintiffs but failed to do so in violation of *Putman v. Gerloff*, 639 F.2d 415 (8th Cir. 1981). *Barton v. City of Lincoln Park*, No. 17-1073, at *7 (6th Cir. Mar. 1, 2018) ("the officer may be liable where the officer supervised the offending officer or owed the plaintiff a duty of protection. *Turner v. Scott*, 119 F.3d 425, 429 (6th Cir. 1997). Generally, a police officer will be liable for breaching a duty of protection when "(1) the officer observed or had reason to know that excessive force would be or was being used, and (2) the officer had both the opportunity and the means to prevent the harm from occurring." *Id.* (citing *Anderson v. Branen*, 17 F.3d 552, 557 (2d Cir. 1994)).").

275. Defendant LouMetro had a duty to intervene and protect Plaintiffs but failed to do so by its failure to supervise Goodlett.

276. By knowingly allowing the execution of the illegal Search Warrant by other armed LMPD officers after midnight without SWAT participation, Defendants Goodlett and

LouMetro negligently created a foreseeable zone of risk or danger to innocent bystanders and neighbors in the inhabited apartment complex such as the Plaintiffs, while those other armed LMPD officers were executing the search warrant (**EXHIBIT TWO)** on 3003 Springfield Drive Unit 4.

277. By knowingly procuring a Search Warrant with no probable cause and using false and misleading statements (and by failing to supervise Goodlett), Defendant Goodlett (and LouMetro) negligently created a foreseeable zone of risk or danger to innocent bystanders and neighbors in the inhabited apartment complex such as the Plaintiffs, while other armed LMPD officers were executing the Search Warrant (**EXHIBIT TWO)** on 3003 Springfield Drive Unit 4

278. Defendants Goodlett and LouMetro owed, pursuant to *Gonzalez, inter alia*, a duty to exercise reasonable care to avoid harm to such bystanders and neighbors as the Plaintiffs and had the means to prevent the harm from occurring and breached that duty by her actions and inaction in procuring the unlawful Search Warrant by lies and deception (and LouMetro's failure to supervise Goodlett) thus setting in motion a foreseeable, reasonable and natural set of deadly and injurious events by other LMPD officers executing the Search Warrant in the early morning hours of March 13, 2020. Breach of this state law ministerial duty to follow LMPD SOPs when procuring the Search Warrant (and LouMetro's failure to supervise the same) resulted in violation of Plaintiffs' constitutional rights and is actionable under Kentucky law.

279. Defendants Goodlett and LouMetro knew that excessive or unnecessary force was a foreseeable, reasonable and natural consequence of her deliberate, reckless and criminal actions in obtaining the illegal Search Warrant and that during its execution by other LMPD officers excessive or unnecessary force would be used or the potential for its use existed by

virtue of the high-risk nature of the simultaneous warrants being served the night of March 12-13, 2020, because of SWAT's involvement at other locations and the Supreme Court's acknowledgment in *Michigan v. Summers*, *supra*, that execution of this Search Warrant at a home involved in a narcotics conspiracy was the "kind of transaction that may give rise to sudden violence."

280. Defendants Goodlett and LouMetro had the means and opportunity to prevent the events of March 12-13, 2020, from happening as did her supervisor(s) but for the complete failure and lack of review and supervision of the Search Warrant by Defendant LouMetro by and through its agency LMPD.

281. Wherefore, as a direct and proximate result of the actions or inactions of Defendants Goodlett and LouMetro, Plaintiffs have suffered damages in an amount meeting or exceeding the statutory threshold necessary for this Court to exercise jurisdiction over this case.

COUNT IV
Intentional Torts: Assault, Trespass, False Imprisonment against Goodlett

282. All previous paragraphs, allegations, and causes of action clearly set forth are incorporated herein by reference as though fully set forth.

283. At all times relevant to this lawsuit Defendant Goodlett was an employee, deputy, and/or agent of the municipality LouMetro and was acting within the scope of her employment duties.

284. The actions of the Defendant Goodlett were willful, malicious and in violation of the known rights of Plaintiffs.

285. A person with a firearm is as dangerous as an intoxicated person behind the wheel of an automobile. *Shepherd v. Suburban Motor Freight*, 780 S.W.2d 633, 635 (Ky. Ct. App. 1989) ("Our courts and legislature have recognized that a motor vehicle with an

intoxicated person behind the wheel can be as dangerous as a person with a firearm."). See also *Wyatt v. Com*, 738 S.W.2d 832, 834 (Ky. Ct. App. 1987) ("Furthermore, it is clear that a vehicle may be used in such a manner as to constitute a dangerous instrument.") and *Spivey v. Sheeler*, 514 S.W.2d 667, 672 (Ky. Ct. App. 1974) ("Loaded guns are dangerous instrumentalities….")

286. The deliberate, reckless, and criminal behavior of Defendant Goodlett set in motion foreseeable, reasonable and natural events for which Goodlett is liable. See *General Telephone Company of Kentucky v. Blevins*, 414 S.W.2d 899, 901 (Ky. Ct. App. 1967) ("It is a well-settled rule of the common law that a person who authorizes use of a dangerous instrument or article in such a manner or under such circumstances that he has reason to know that it is likely to produce injury, is responsible for injuries proximately resulting therefrom. See *Shell v. Town of Evarts*, 296 Ky. 602, 178 S.W.2d 32; 38 Am. Jur., Negligence, sec. 85, p. 743.").

287. On March 13, 2020, Defendant Goodlett by and through armed LMPD officer Hankison, *i.e.*, use by Goodlett of Hankison as a dangerous instrument, committed assault and trespass upon Plaintiffs when Hankison—who was only present because of Goodlett—intentionally pointed and fired his loaded gun at Plaintiffs, and inflicted bodily harm by causing drywall fragments, wood splinters and/or broken glass to hit Plaintiff Cody Etherton several times and caused him and other Plaintiffs to fear greatly death or imminent physical harm.

288. On March 13, 2020, Defendant Goodlett by and through the use of Hankison as a dangerous instrument committed assault against Plaintiffs by engaging in a gunfight outside their apartment causing bullets to enter Plaintiffs' apartment and causing all Plaintiffs emotional pain and suffering and great fear of imminent physical injury and violation of their constitutional rights.

289. By and through her usage of Hankison as a dangerous instrument set in motion by her deliberate, reckless and criminal behavior, Goodlett is responsible for the intentional shooting by Hankison of his gun into Plaintiffs' apartment, thus Goodlett caused and is responsible for the unreasonable and unnecessary seizure of the Plaintiffs. *See Torres v. Madrid*, No. 19-292 (U.S. Mar. 25, 2021) and Section Ten of Kentucky Constitution.

290. Defendant Goodlett by and through Hankison committed assault against Plaintiff Cody Etherton by negligently causing other officers to arrive on scene such as Officer Renaud who in turn pointed their rifles with red laser sights at Etherton standing in the broken glass of his own rear sliding class door thereby putting Etherton at unreasonable risk of injury in breach of the "paramount duty" under *Gonzalez* not to subject the public to unreasonable risk of injury while police do their work.

291. By and through Hankison, Goodlett falsely imprisoned Plaintiffs in their apartment for approximately 90 minutes.

292. All Plaintiffs remained cowering and falsely imprisoned for approximately 90 minutes in their apartment after Plaintiff Cody Etherton was initially ordered to go back inside.

293. At all times, Plaintiffs knew that they were imprisoned and seized by LMPD and Hankison and, by extension, Goodlett.

294. Defendant Goodlett, by and through Hankison, acted intentionally and through the intentional assertion of legal authority over Plaintiffs. *See Torres v. Madrid*, No. 19-292 (U.S. Mar. 25, 2021)

295. Defendant Goodlett's extreme and outrageous conduct intentionally or recklessly caused fear and suffering of imminent physical harm or death to all Plaintiffs, unreasonable risk of physical injury specifically to Plaintiff Cody Etherton by laser sighted

rifles, and false imprisonment of all Plaintiffs for approximately 90 minutes.

296. LMPD officer Hankison's extreme and outrageous conduct was a foreseeable, reasonable, and natural consequence of Defendant Goodlett's deliberate, reckless and criminal conduct and she knew or should have known of this consequence when conspiring to falsify the Search Warrant and obtain it under false pretenses with no probable cause.

297. Defendant Goodlett by and through Hankison committed trespass.

298. Defendant Goodlett knew or should have known that the use of unnecessary force by Hankison and other armed LMPD officers the night of March 12-13, 2020, was extrahazardous with an attendant risk of death. *Benton v. Commonwealth*, 2011-SC-000411-MR, at *15 (Ky. Mar. 21, 2013) ("This Court has consistently found that shooting a gun at someone, and in some cases even pointing a gun at another person, is proof of wantonness. *See, e.g., Paulley v. Commonwealth,* 323 S.W.3d 715 (Ky. 2010).")

299. "The next question is whether or not, assuming the defendant's truck cast a stone upon the premises of the plaintiff, thereby causing her personal injury, the act constituted a trespass for which the defendant would be absolutely liable regardless of negligence… In the blasting cases the extrahazardous aspect of the activity imposes upon the actor an absolute responsibility for injuries which must be anticipated. … The rule is thus stated in Restatement of the Law of Torts, Section 166: '[W]here the actor is engaged in an extra-hazardous activity…causing a thing or third person to enter the land…subject[s] the actor to liability….' That rule simply is that where the defendant has exclusive control of the instrumentality causing the injury and in the ordinary course of events the accident would not have happened without the negligence of the defendant, then negligence will be presumed." Randall v. Shelton, 293 S.W.2d 559, 560-562 (Ky. Ct. App. 1956)

300. "It has long been the law that if one voluntarily and recklessly fires into a crowd and kills any person, he is guilty of murder though he had no intention to kill or injure

anyone. *Golliher v. Commonwealth*, 2 Duv. 163, 87 Am. Dec. 493; *Brown v. Commonwealth*, 17 S.W. 220, 13 Ky. Law Rep. 372. The reason for the rule is that such conduct establishes 'general malignity and recklessness of the lives and personal safety of others, which proceed from a heart void of just sense of social duty, and fatally bent on mischief. And whenever the fatal act is committed deliberately or without adequate provocation,' the jury has a right to presume it was done with malice. The rule has been applied where one having reason to believe that it was occupied by persons intentionally discharged a firearm into a dwelling house and killed someone therein. *Washington v. State*, 60 Ala. 10, 31 Am. Rep. 28, 3 Am. Crim. Rep. 171; *State v. Capps*, 134 N.C. 622, 46 S.E. 730; *Russell v. State*, 38 Tex. Cr. R. 590, 44 S.W. 159." *Hill v. Commonwealth*, 239 Ky. 646, 649 (Ky. Ct. App. 1931)

301. Hankison testified at his trial that he intended to direct deadly force at the Plaintiffs:

MS. WHALEY: How many times did you intend to shoot through the doors?
MR. HANKISON: I shot through the doors five times - from -- from here.

MR. MATHEWS: Okay. When you say you intended to fi -- to fire five shots, is that because you later learned that's what you fired and you intended to fire every shot that you did fire?
MR. HANKISON: That's accurate.

302. "Kentucky law allows recovery under trespass in either of three instances: (1) the defendant was engaged in an extra-hazardous activity, (2) the defendant committed an intentional trespass or (3) the defendant committed a negligent trespass." *Rockwell Intern. Corp. v. Wilhite*, 143 S.W.3d 604, 619 (Ky. Ct. App. 2003).

303. Kentucky follows the Restatement (Second) of Torts § 165, which provides:

"One who recklessly or negligently, or as a result of an abnormally dangerous activity, enters land in the possession of another or causes a thing or third person so to enter is subject to liability to the possessor if, but only if, his presence or the presence of the thing or the third person upon the land causes harm to the land, to the possessor, or to a thing or a third person in whose security the possessor has a legally protected interest."

304. Defendant Goodlett, by and through Hankison, recklessly and negligently and as a result of abnormally dangerous or extra-hazardous activity, *i.e.*, unlawfully setting in motion armed LMPD officers after midnight in an inhabited apartment complex, entered the Plaintiffs' "land" or apartment in their possession, and caused Hankison's bullets to enter the Plaintiffs' "land" and Goodlett is subject to liability because by the presence of the bullets penetrating the Plaintiffs' common wall of their "land" or apartment in their possession adjacent to Breonna Taylor's apartment, caused physical harm to the Plaintiffs and their property.

305. Wherefore, as a direct and proximate cause of the actions of Defendant Goodlett, Plaintiffs have suffered damages in an amount meeting or exceeding the statutory threshold necessary for this Court to exercise jurisdiction over this case.

COUNT V
Negligence: Goodlett

306. All previous paragraphs, allegations, and causes of action clearly set forth are incorporated herein by reference as though fully set forth.

307. "In order to state a cause of action based on negligence, a plaintiff must establish a duty on the defendant, a breach of the duty, and a causal connection between the breach of the duty and an injury suffered by the plaintiff. Lewis v. B & R Corporation, 56 S.W.3d 432, 436-37 (Ky. Ct. App. 2001).

308. Goodlett owed a duty to the Plaintiffs to conform to LMPD SOP 8.1.17 and other

LMPD SOPs and her breach of that ministerial duty caused injury to the Plaintiffs. Breach of this state law ministerial duty resulted in injury to the Plaintiffs and violation of Plaintiffs' constitutional rights and is actionable under Kentucky law.

309. Defendant Goodlett was at all relevant times an employee, deputy and/or agent of the municipality LouMetro and LouMetro is a municipality.

310. All acts of Defendant Goodlett alleged herein were conducted within the scope of her employment or duties as an LMPD officer.

311. Because of Goodlett's deliberate, reckless and criminal actions, Hankison made a foreseeable yet unnecessary assault, seizure and trespass upon the Plaintiffs while carrying out an arrest based on Goodlett's illegal warrant and "used excessive force in violation of [Plaintiffs'] [state] constitutional rights, and in doing so, acted in bad faith [under Kentucky state law]." *Lamar v. Beymer*, No. 5:02-CV-289R, at *24-25 (W.D. Ky. Oct. 4, 2005).

312. Because Goodlett acted in "bad faith" by obtaining the illegal Search Warrant and thereby set in motion Hankison's actions and the unnecessary actions of other LMPD officers, she has no qualified immunity for her actions in addition to breaching ministerial duties. See *Lamar v. Beymer*, No. 5:02-CV-289R, at *24 (W.D. Ky. Oct. 4, 2005) ("[I]mmunity does not apply if it is determined that Officer [Goodlett] acted in bad faith. *Ashby v. City of Louisville*, 841 S.W.2d 184, 188-89 (Ky. 1992). Bad faith 'can be predicated on a violation of a constitutional, statutory, or other clearly established right which a person in the public employee's position presumptively would have known was afforded to a person in the plaintiff's position, *i.e.*, objective unreasonableness; or if the officer or employee willfully or maliciously intended to harm the plaintiff or acted with a corrupt motive.' *Smith v. Nesbitt*, 2003 WL 22462413, at *3-4 (Ky. App. 2003), citing, *Yanero v. Davis*, Ky., 65 S.W.3d 510, 523 (Ky. 2001).")

313. Defendant Goodlett acted with "a corrupt motive" as evidenced by her guilty

plea to a crime related to her procurement of the illegal warrant.

314. Defendant Goodlett owed state law duties or ordinary care, a "paramount duty" under *Gonzalez*, and ministerial state law duties to the Plaintiffs and the public under LMPD SOPs.

315. Breach of all those duties by Defendant Goodlett was a substantial factor in injuring the Plaintiffs.

316. Defendant Goodlett's failure to follow Standard Operating Procedures establishes a duty and is evidence of negligence. *See Williams v. St. Claire Medical Center*, 657 S.W.2d 590 (Ky. App. 1983). *See also Ray v. Hardee's Food Systems, Inc.*, 785 S.W.2d 519, 520 (Ky. App. 1990) ("…violation of safety rules may be properly considered in a negligence action….").

317. Defendant Goodlett pleaded guilty to a criminal charge of conspiracy with fellow officer Jaynes to procure a Search Warrant on false and misleading information in violation of multiple LMPD SOPs which is *prima facie* evidence of "bad faith" and *prima facie* evidence of a violation of the Section Ten of the Kentucky Constitution and *prima facie* evidence of negligence under Kentucky law. See *Meeks, supra*.

318. Defendant Goodlett has no qualified immunity under state law.

319. Wherefore, as a direct and proximate cause of the negligent actions of Defendants described herein, Plaintiffs have suffered damages in an amount meeting or exceeding the statutory threshold necessary for this Court to exercise jurisdiction over this case.

COUNT VI
Negligence: LouMetro

320. All previous paragraphs, allegations, and causes of action clearly set forth are incorporated herein by reference as though fully set forth.

321. At all relevant times Defendant LouMetro had a duty to train and supervise Goodlett with respect to LMPD SOPs and a separate duty enforce LMPD SOPs. This breach of state law duty resulted in injury to the Plaintiffs and violation of Plaintiffs' constitutional rights and is actionable under Section Ten of the Kentucky Constitution and Kentucky common law and state law.

322. Defendant LouMetro is liable under the state law theory of respondeat superior for breaches of state law duties resulting in injury to the Plaintiffs and violation of Plaintiffs' constitutional rights by the individual Defendant Goodlett. See *Lamar v. Beymer*, No. 5:02-CV-289R, at *24 (W.D. Ky. Oct. 4, 2005) ("[A] municipality, under the respondent superior doctrine, can be held liable for the actions of a police officer in making an unnecessary assault upon a party in carrying out an arrest.")

323. The presence of its SOPs governing the execution of search warrants indicates that Defendant LouMetro was aware of the heightened danger, to life, limb, and constitutionally protected rights, associated with this law enforcement function. Nevertheless, LouMetro did not train or supervise Goodlett with respect to the proper and legal use of deadly force and procurement of this Search Warrant and with respect to measures that should be adopted to minimize the danger to third parties like the Plaintiffs and minimize the chances of resort to the use of deadly force by other officers which was reasonably foreseeable when armed officers were known by Goodlett to be executing the warrant after midnight in an inhabited apartment complex (the kind of "sudden violence" the U.S. Supreme Court acknowledged in *Michigan v. Summers*, supra).

324. Defendant LouMetro, alone and by and through its agency LMPD, owed a duty of care to Plaintiffs to exercise reasonable care in hiring, retaining, training, and supervising its employees and the *Gonzalez* "paramount duty" under state law duty to protect the public from unreasonable risk of injury while doing police work.

325. Defendant LouMetro, along and by and through its agency LMPD, knew or should have known of the conflicting CID and SWAT internal policies and goals with respect to sanctity of life versus preservation of evidence, including the failure of CID officers, including but not limited to the individual Defendants, to follow LMPD Standard Operating Procedures with respect to procurement of search warrants and the use of excessive or unnecessary force.

326. Defendant LouMetro, alone and by and through its agency LMPD, breached its duty of care to Plaintiffs by failing to properly supervise and train Goodlett to ensure the safety of Plaintiffs and the public in accordance with its *Gonzalez* "paramount duty."

327. "[According to] *City of Lexington v. Gray*, 499 S.W.2d 72, 73 (Ky. 1973) citing, *Maggard v. Commonwealth*, 22 S.W.2d 298 (Ky. 1929), … a municipality, under the *respondeat superior* doctrine, can be held liable for the actions of a police officer in making an unnecessary assault upon a party in carrying out an arrest. *Id.* at 74, citing, *Lexington v. Yank*, 431 S.W.2d 892, 894-95 (Ky. 1968)." *Lamar v. Beymer*, No. 5:02 CV-289R, at *24 (W.D. Ky. Oct. 4, 2005).

328. Defendant LouMetro breached its duty of care, in part, by:

a. Improperly training, supervising, authorizing, encouraging, or directing officers on proper use of force.

b. Failing to investigate allegations of excessive or unnecessary force.

c. Failing to prevent falsification of search warrant applications in light of the previous debacle involving former LMPD detectives Watson and Richardson being indicted for hundreds of false search warrants.

d. Failing to discipline officers for violations of policy related to excessive or unnecessary force.

e. Improperly training, supervising, authorizing, encouraging or directing officers like Goodlett to obtain search warrants.

f. Improperly training, supervising, authorizing, encouraging or directing officers to implement and adhere to LMPD SOP 8.1 Chapter: Field

Operations, Subject: Search Warrants and sub- parts thereof.

g. Improperly training, supervising, authorizing, encouraging, or directing officers in CID and SWAT to resolve conflicting policies and goals and allowing a condition of internal conflicting CID and SWAT policies to persist to the point of death and unreasonable risk of death the Plaintiffs on the night of March 12-13, 2020

h. Failing to train and encourage the individual named Defendants to intervene and stop fellow LMPD officers from violating—sometimes egregiously—the law and LMPD SOPs.

i. Failing to train Defendant Kelly Hanna Goodlett that lies, deception and selective processing of investigative information when preparing a Search Warrant and Affidavit for presentation to a sitting judge is not appropriate policing.

329. Wherefore, as a direct and proximate cause of the negligent actions of Defendant LouMetro described herein, Plaintiffs have suffered damages in an amount meeting or exceeding the statutory threshold necessary for this Court to exercise jurisdiction over this case.

COUNT VII
§§ 1, 2, 10, and 14 of the Bill of Rights of the Kentucky Constitution), Right of Privacy and Negligence Per Se against Individual Defendant Goodlett

330. All previous paragraphs, allegations, and causes of action clearly set forth are incorporated herein by reference as though fully set forth.

331. Plaintiffs bring a claim under Ky. Rev. Stat. §446.070 for violation Ky. Rev. Stat. § 431.025 and allege separate claims for violations of §§ 1, 2, 10, and 14 of the Bill of Rights of the Kentucky Constitution.

332. "Section Ten of the Kentucky Constitution prohibit[s] unreasonable searches and seizures by police officers." *Adcock v. Commonwealth*, 967 S.W.2d 6, 8 (Ky. 1998).

333. The Plaintiffs were seized by Defendant Goodlett by and through Hankison in violation of Kentucky Constitution § 10.

334. Defendant Goodlett by and through Hankison as her instrumentality used

excessive force and "bad faith" as defined under Kentucky law when unlawfully seizing the Plaintiffs in violation of Kentucky Constitution § 10.

335. Defendant Goodlett committed "bad faith" when conspiring with Jaynes to procure the Search Warrant without probable case on the basis of false and misleading statements and she pleaded guilty to a criminal charge based on this "bad faith" conduct.

336. Ky. Rev. Stat. § 431.025(3) states "No unnecessary force or violence shall be used in making an arrest."

337. The existence of "an arrest" contemplates the possibility of innocent bystanders and others present at the scene of an arrest while that arrest is being made. Their safety and security is contemplated by the prohibition against "unnecessary force or violence." *See Torres v. Madrid*, No. 19-292 (U.S. Mar. 25, 2021) and the "paramount duty" in *Gonzalez* and *City of Lexington v. Gray*. See also *Lawson v. Burnett*, 471 S.W.2d 726, 729 (Ky. Ct. App. 1971) ("The officer may be held responsible in damages to the one he injures if he uses excessive force.") and *Plummer v. Lake*, No. 2012-CA-001559-MR, at *17 (Ky. Ct. App. Apr. 18, 2014) ("Police officers have a duty to protect the public.") and *Commonwealth v. Wood*, 14 S.W.3d 557, 558-59 (Ky. Ct. App. 2000) ("Thus, in a typical arrest situation…the scope of the search does not exceed that which is necessary to protect society's interest in the safety of police officers (and third persons)").

338. Plaintiffs were subjected by Defendant Goodlett to an unreasonable and unnecessary risk of death and injured physically and emotionally by Goodlett by and through Hankison's foreseeable conduct during his effort to make "an arrest" based on Goodlett's illegal Search Warrant and by Goodlett's deliberate, reckless and criminal conduct when Goodlett criminally conspired to obtain the Search Warrant without probable cause on the basis of false and misleading statements (to which she pleaded guilty to a criminal charge of conspiracy).

339. *Black's Law Dictionary* (10th ed. 2014) defines "warrant" as "[a] writ directing or authorizing someone to do an act, esp. one directing a law enforcer to make an arrest, a search, or a seizure."

340. *Black's* also defines "arrest" as "1. [a] seizure or forcible restraint, esp. by legal authority. 2. The taking or keeping of a person in custody by legal authority, esp. in response to a criminal charge." *Commonwealth v. Tapp*, 497 S.W.3d 239, 243 (Ky. 2016). *See also Torres v. Madrid*, No. 19-292 (Mar. 25, 2021).

341. Ky. Rev. Stat. § 446.070 allows "A person injured by the violation of any statute may recover from the offender such damages as he sustained by reason of the violation, although a penalty or forfeiture is imposed for such violation."

342. Ky. Rev. Stat. §446.070 establishes *negligence per se* against Goodlett by and through Hankison by violation of Ky. Rev. Stat. § 431.025(3).

343. Plaintiffs' right to privacy under the Kentucky Constitution as established and recognized by the Kentucky Supreme Court in *Commonwealth v. Wasson*, 842 S.W.2d 487 (Ky. 1993) was violated by use of excessive or unnecessary force in making an arrest by the shooting of guns into Plaintiffs' inhabited apartment in violation of Ky. Rev. Stat. § 431.025(3) pursuant to *negligence per se* under Ky. Rev. Stat. § 446.070. Said force was unnecessary because no LMPD officers should have been present at all the night of March 12-13, 2020, at the Plaintiffs' home because the Search Warrant prompting the police presence was unlawful, *i.e.*, it was not necessary for the police to be at the Plaintiffs' home the night in question ergo all force used was *per se* unnecessary.

344. Plaintiffs' right to privacy under the Kentucky Constitution as established and recognized by the Kentucky Supreme Court in *Commonwealth v. Wasson*, 842 S.W.2d 487 (Ky. 1993) by Goodlett's unlawful conspiracy to obtain the Search Warrant based on false and

misleading statements with no probable cause.

345. Plaintiffs' rights under §§ 1, 2, 10, and 14 of the Bill of Rights of the Kentucky Constitution were violated by Goodlett by and through Hankison by use of excessive or unnecessary force in making an arrest and unnecessary seizure by the shooting of a gun by Hankison into Plaintiffs' apartment in violation of Ky. Rev. Stat. § 431.025(3) only because of Goodlett's unlawful Search Warrant which caused Hankison to be there in the first place. *See Torres v. Madrid*, No. 19-292 (Mar. 25, 2021).

346. Plaintiffs' rights under §§ 1, 2, 10, and 14 of the Bill of Rights of the Kentucky Constitution were violated by Goodlett's criminal conspiracy to obtain the Search Warrant based on false and misleading statements which resulted in the use of excessive force in making an arrest by the shooting of a gun by Hankison into Plaintiffs' apartment in violation of Ky. Rev. Stat. § 431.025(3) only because of Goodlett's unlawful Search Warrant which caused Hankison to be there in the first place. *See Torres v. Madrid*, No. 19-292 (Mar. 25, 2021)

347. Wherefore, as a direct and proximate result of Defendant Goodlett's actions or inactions, Plaintiffs have suffered damages in an amount meeting or exceeding the statutory threshold necessary for this Court to exercise jurisdiction over this case.

COUNT VIII
Violation of §§ 1, 2, 10, and 14 of the Bill of Rights of the Kentucky Constitution, Right of Privacy, Negligence and *Respondeat Superior* and Negligence Per Se against Municipal Defendant LouMetro

348. All previous paragraphs, allegations, and causes of action clearly set forth are incorporated herein by reference as though fully set forth.

349. Plaintiffs bring a claim under Ky. Rev. Stat. § 446.070 for violation of Ky. Rev. Stat. § 431.025 and separate claims for violations of §§ 1, 2, 10, and 14 of the Bill of Rights of the Kentucky Constitution.

350. "Section Ten of the Kentucky Constitution prohibit[s] unreasonable searches and seizures by police officers." *Adcock v. Commonwealth*, 967 S.W.2d 6, 8 (Ky. 1998).

351. The Plaintiffs were seized by Defendant Goodlett by and through Hankison as the instrumentality in violation of Kentucky Constitution § 10.

352. Defendant Goodlett by and through Hankison as the instrumentality used excessive or unnecessary force and "bad faith" as defined under Kentucky law when unlawfully seizing the Plaintiffs in violation of Kentucky Constitution § 10.

353. Ky. Rev. Stat. § 431.025(3) states "No unnecessary force or violence shall be used in making an arrest."

354. The existence of an arrest contemplates the possibility of innocent bystanders and other being present while that arrest is being made. Their safety and security is contemplated by the prohibition against "unnecessary force or violence." *See Torres v. Madrid*, No. 19-292 (U.S. Mar. 25, 2021) and the "paramount duty" in *Gonzalez* and *City of Lexington v. Gray*. See also *Lawson v. Burnett*, 471 S.W.2d 726, 729 (Ky. Ct. App. 1971) ("The officer may be held responsible in damages to the one he injures if he uses excessive force.") and *Plummer v. Lake*, No. 2012-CA-001559-MR, at *17 (Ky. Ct. App. Apr. 18, 2014) ("Police officers have a duty to protect the public.") and *Commonwealth v. Wood*, 14 S.W.3d 557, 558-59 (Ky. Ct. App. 2000) ("Thus, in a typical arrest situation…the scope of the search does not exceed that which is necessary to protect society's interest in the safety of police officers (and third persons)").

355. Plaintiffs were subjected to an unreasonable risk of death and injured physically and emotionally by LouMetro's failure, alone and by and through its agency LMPD, to train and supervise Goodlett 1) in making an arrest without using excessive or unnecessary force and 2) in obtaining a lawful warrant.

356. *Black's Law Dictionary* (10th ed. 2014) defines "warrant" as "[a] writ directing or authorizing someone to do an act, esp. one directing a law enforcer to make an arrest, a search, or a seizure."

357. *Black's Law Dictionary* (10th ed. 2014) defines "arrest" as "1. [a] seizure or forcible restraint, esp. by legal authority. 2. The taking or keeping of a person in custody by legal authority, esp. in response to a criminal charge." *Commonwealth v. Tapp*, 497 S.W.3d 239, 243 (Ky. 2016). *See also Torres v. Madrid*, No. 19-292 (Mar. 25, 2021).

358. Under the theory of *respondeat superior* Defendant LouMetro is absolutely liable for the negligence per se actions of Goodlett by violation of Ky. Rev. Stat. § 431.025(3) under Ky. Rev. Stat. § 446.070 and absolutely liable for Goodlett's ordinary, wanton, will and gross negligence and Goodlett's violations of the Kentucky Constitution including but not limited to its Section 10.

359. "[T]he standard for establishing a claim against a municipality under a theory of respondeat superior is a lower standard than establishing municipal liability under *Monell*." Lamar v. Beymer, No. 5:02-CV-289R, at *25 (W.D. Ky. Oct. 4, 2005).

360. "[According to] *City of Lexington v. Gray*,499 S.W.2d 72, 73 (Ky. 1973) citing, *Maggard v. Commonwealth*, 22 S.W.2d 298 (Ky. 1929), … a municipality, under the respondeat superior doctrine, can be held liable for the actions of a police officer in making an unnecessary assault upon a party in carrying out an arrest. *Id.* at 74, citing, *Lexington v. Yank*, 431 S.W.2d 892, 894-95 (Ky. 1968)." *Lamar v. Beymer*, No. 5:02 CV-289R, at *24 (W.D. Ky. Oct. 4, 2005).

361. Plaintiffs' right to privacy under the Kentucky Constitution as established and recognized by the Kentucky Supreme Court in *Commonwealth v. Wasson*, 842 S.W.2d 487 (Ky. 1993) was violated by Municipal Defendant LouMetro's failure, alone and by and through its agency LMPD, to train and supervise Goodlett regarding the use of excessive or

unnecessary force and regarding obtaining a lawful Search Warrant and the foreseeable consequences thereof.

362. Plaintiffs' rights under §§ 1, 2, 10, and 14 of the Bill of Rights of the Kentucky Constitution were violated by an agent and employee (Goodlett) of LouMetro and its agency LMPD who 1) used "bad faith" by conspiring to obtain a false Search Warrant with no basis in probable cause and 2) used excessive or unnecessary force and "bad faith" in making an arrest by and through Hankison as the instrumentality who foreseeably shot his LMPD-issued gun into Plaintiffs' apartment in violation of Ky. Rev. Stat. § 431.025(3).

363. Plaintiffs' right to privacy under the Kentucky Constitution as established and recognized by the Kentucky Supreme Court in *Commonwealth v. Wasson*, 842 S.W.2d 487 (Ky. 1993) was violated by Municipal Defendant LouMetro's failure, alone and by and through its agency LMPD, to train and supervise the individual Defendant Goodlett regarding criminally conspiring to procure a Search Warrant without probable cause on the basis of false and misleading statements and the foreseeable consequences thereof in endangering the lives of and injuring the Plaintiffs when another officer on the basis of that illegal Search Warrant made an arrest and seizure by the shooting of his LMPD-issued gun into Plaintiffs' apartment in violation of Ky. Rev. Stat. § 431.025(3).

364. Plaintiffs' rights under §§ 1, 2, 10, and 14 of the Bill of Rights of the Kentucky Constitution were violated by an agent and employee (Goodlett) of LouMetro and its agency LMPD who criminally conspired to procure a Search Warrant without probable cause based on false and misleading statements which was then the basis for another LMPD officer who used excessive force and "bad faith" in making an arrest by the shooting of his LMPD-issued gun into Plaintiffs' apartment in violation of Ky. Rev. Stat. § 431.025(3).

365. Defendant Goodlett was negligent, the Plaintiffs were injured and Defendant

LouMetro is absolutely liable under *respondeat superior*.

366. "In most cases, rather, the employer's liability for the negligence or intentional acts of an employee within the scope of his employment rests upon doctrines of *respondeat superior* or vicarious liability. Unless negligence on the part of an employee is shown, a plaintiff cannot recover against the employer." *Taylor v. O'Neil*, Nos. 2005-CA-001301-MR, 2005-CA-001385-MR, 2005-CA-001438-MR, at *16 (Ky. Ct. App. July 20, 2007)

367. Wherefore, as a direct and proximate result of LouMetro's actions or inactions, Plaintiffs have suffered damages in an amount meeting or exceeding the statutory threshold necessary for this Court to exercise jurisdiction over this case.

COUNT XIV
Punitive Damages against Defendants LouMetro and Goodlett

368. All previous paragraphs, allegations, and causes of action clearly set forth are incorporated herein by reference as though fully set forth.

369. Defendants' conduct, individually and collectively, as set forth herein constitutes gross negligence, oppression, fraud, malice, or common law bad faith, with willful and wanton disregard for the life, health and rights of the Plaintiffs and was such an extreme departure from ordinary care, as to entitle the Plaintiffs to an award of punitive damages against Defendant Goodlett and Defendant LouMetro, jointly and severally, pursuant to KRS 411.184, KRS 411.186 and Kentucky's common law and the counts hereinabove.

370. "Like many states, Kentucky distinguishes ordinary from gross negligence, the former meaning the absence of ordinary care, and the latter meaning the absence of slight care." *Donegan v. Beech Bend Raceway Park, Inc.*, 894 F.2d 205, 207 (6th Cir. 1990). Kentucky defines willful or wanton negligence as 'the entire absence of care for the life, person or property of others.' *Louisville N.R.R. v. George*, 279 Ky. 24, 29, 129 S.W.2d 986, 988-89 (1939). Gross negligence contains 'an element of conscious disregard of the rights or

safety of others, **which deserves extra punishment in tort** [emphasis added].' *Donegan*,894 F.2d at 207." Smith v. Mid-Valley Pipeline Company, Civil Action NO. 3:07-cv-13-KKC, at *4 (E.D. Ky. May 4, 2007).

371. "Municipal corporations enjoy no constitutional protection from tort liability." *Bolden v. City of Covington*, 803 S.W.2d 577, 579 (Ky. 1991).

372. "[T]here is no support for the claim that punitive damages are not permitted against municipal corporations under the common law of Kentucky." *Phelps v. Louisville Water Company*, 103 S.W.3d 46, 57 (Ky. 2003) (JOHNSTONE, Justice, concurring).

PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully request the following:

A. The Court enter a declaratory judgment on behalf of Plaintiffs that Defendant LouMetro's policies, pattern of practices, customs, lack of supervision, failure to train, acts, and omissions, described herein, constituted a violation of Sections 2 and 10 of the Kentucky Constitution and Bill of Rights and Kentucky state law.

B. The Court enter a declaratory judgment on behalf of Plaintiffs that Defendant Goodlett's acts and omissions, described herein, constituted deprivation of Plaintiffs' rights in violation of the Section 2 of the Kentucky Constitution and Bill of Rights and Section 10 of the Kentucky Constitution and Bill of Rights and a violation of Kentucky state law.

C. Plaintiffs seek a trial by jury against all Defendants.

D. Plaintiffs seek damages in an amount sufficient to compensate them for their legal and physical injuries and the violation of their rights under Kentucky state law and the Kentucky Constitution and Bill of Rights.

E. Plaintiffs seek punitive and other exemplary damages against Defendants of an historic amount so as to effect historic change, to punish LouMetro for its astonishing lack of oversight, supervision and training of Defendant Goodlett and deter other Kentucky

municipalities from such egregious violation of citizens' rights under Kentucky state law and the Kentucky Constitution and Bill of Rights and to punish the Defendant Goodlett for her behavior and astonishing disregard for LMPD's Standard Operating Procedures and the safety and lives of the Plaintiffs, the public and even other LMPD officers, behavior which foreseeably resulted in death of one person and injury to the Plaintiffs the night of March 12-13, 2020, and to deter future similar conduct by other police officers in the Commonwealth of Kentucky in Goodlett's position.

F. Grant all other and additional relief to which Plaintiffs may be entitled.

Dated: September 13, 2022

By: */s/Jeffrey A. Sexton*

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