

ELECTRONICALLY FILED

TAMIKA PALMER,
as Administratrix of the ESTATE OF
BREONNA TAYLOR

PLAINTIFF

v.

SUBSTITUTED FIRST AMENDED COMPLAINT

BRETT HANKISON

-and-

MYLES COSGROVE

-and-

JONATHAN MATTINGLY

DEFENDANTS

*** **

INTRODUCTION

1. The primary purpose of this substituted first amended complaint is to assert additional and amended factual allegations to conform to the evidence.

2. On March 12, 2020 Breonna Taylor went to sleep. She was supposed to wake up the next morning. She was supposed to continue her mission and passion of helping those who needed it most. She was supposed to be a key figure in the Louisville community at an unprecedented time in history when women in her field were of the utmost importance. Instead, Breonna was woken up past midnight by banging on her door. These men banging on the door would not announce themselves. These men ignored Breonna’s shouts for them to say who they were. These men had no probable cause or other legal basis to enter and search Breonna’s home. But these men, all in dark plain clothes, did so anyways, breaking down Breonna’s door with guns

drawn. Despite Breonna's significant other trying to protect her, Breonna was gunned down by the men breaking into her home. And while she tried to hang on for her life, she was then shot by another man who was firing blindly through windows. Breonna fought for her life for more than five minutes before finally succumbing to her injuries.

3. Breonna's home should never have had police there in the first place. When the layers are peeled back, the origin of Breonna's home being raided by police starts with a political need to clear out a street for a large real estate development project and finishes with a newly formed, rogue police unit violating all levels of policy, protocol and policing standards. Breonna's death was the culmination of radical political and police conduct. As the factual allegations set forth further herein will confirm, a police unit went on a crusade to target people and homes in a confined area of Elliott Avenue in west Louisville. People needed to be removed and homes needed to be vacated so that a high dollar, legacy-creating real estate development could move forward. One of the primary roadblocks to this unit and the real estate development project was an ex-boyfriend of Breonna Taylor, who rented a home on Elliott Avenue. The police unit's efforts to clean house on Elliott became so outrageous, unlawful, corrupt and reckless that a bogus, no-knock search warrant was obtained for the home of Breonna Taylor, a woman with no criminal history, no drugs in her home, no targets in her home and whose home was more than 10 miles away from Elliott Ave. From there, the named Defendants made error after error, violated policy after policy and committed unlawful act after unlawful act, resulting in Breonna being taken from the Louisville community and from her family far too soon.

4. This action seeks all damages to which the Plaintiff may be entitled as a result of the Defendants' outrageous, reckless, willful, wanton and unlawful conduct.

JURISDICTION AND VENUE

5. Jurisdiction and venue are proper due to the location of the incidents, the claimed damages and the matters in controversy.

PARTIES

6. Plaintiff is the mother of the deceased, Breonna Taylor, and is the duly appointed administratrix of Breonna's estate.

7. Defendants Brett Hankison, Myles Cosgrove, and Jonathan Mattingly were, at all times relevant to this action, employees of Louisville Metro Government who worked as police officers in the Louisville Metro Police Department. They are each sued in their individual capacities and have already been served process in this case.

FACTUAL ALLEGATIONS

8. In order to establish the basis for the causes of action herein, it is necessary to set forth the background and context which led to the unlawful death of Breonna Taylor.

9. On March 13, 2020 Breonna was 26 years old. Breonna's friends, family, coworkers and others whose lives she impacted all describe Breonna's unselfish, kind, warm-hearted and loving nature. Breonna had so much to give to the Louisville community; she had devoted her life to helping people. Breonna was a frontline medical worker in the University of Louisville healthcare system, literally placing the needs of others over her own safety at a time when an unprecedented global health pandemic was making its way into Louisville.

10. On March 13, 2020 Breonna was killed by the Defendants, each of whom broke into her home without probable cause and seeking two individuals who were not there and who hadn't been there.

11. The chronology of events giving rise to this action include the following.

Development plans for Elliott Avenue

12. Over the past several years, the Louisville mayor has widely publicized the investments made under his administration to develop west Louisville.

13. The large-scale projects have primarily failed. The Passport project in west Louisville failed. The Walmart project in west Louisville failed. The Vision Russell project in west Louisville has been in the works for more than 6 years without the originally promised success. Simply put, the Louisville mayor's promise to leave an economic legacy in west Louisville before his term expires remains largely unfulfilled.

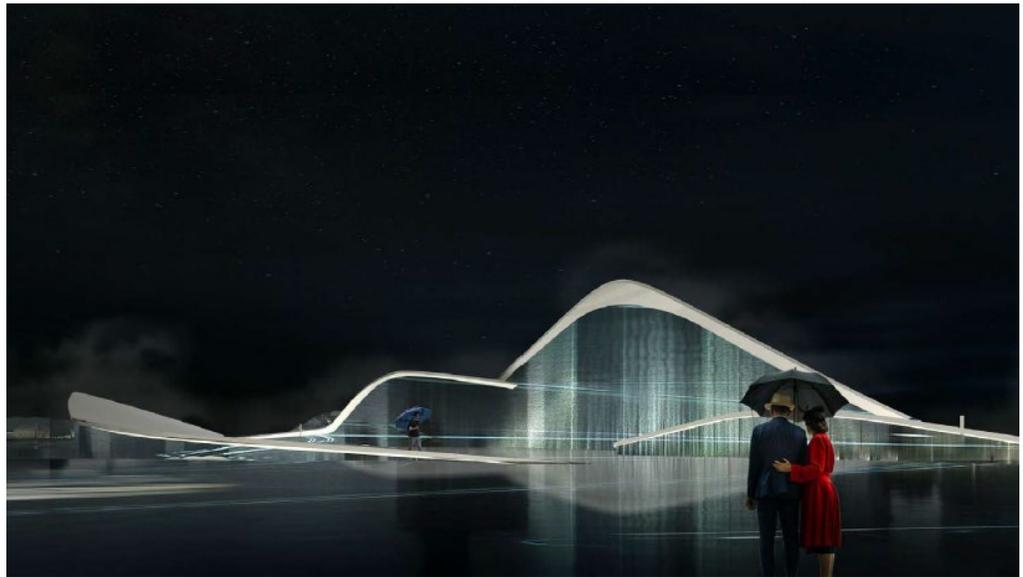
14. One of the last chances to leave a visible legacy in west Louisville is a high investment, high dollar real estate development plan for Elliott Avenue.

15. Over the past few years, purchases have been made of many homes and properties on Elliott Avenue and the surrounding neighborhood by a local housing corporation. Many of these homes, following their purchases, have been scheduled for demolition and/or rehabilitation for developments to proceed.

16. The Elliott real estate development plans have been mostly obscured from the public. But the plans are big. The development, according to plans, will bring in modern, futuristic looking homes, a cafe, an amphitheater, a state-of-the-art fitness center and more.

17. Renderings of the development confirm that, if the finished project looks anywhere close to the plans, it will be a high-dollar and high investment real estate deal.¹

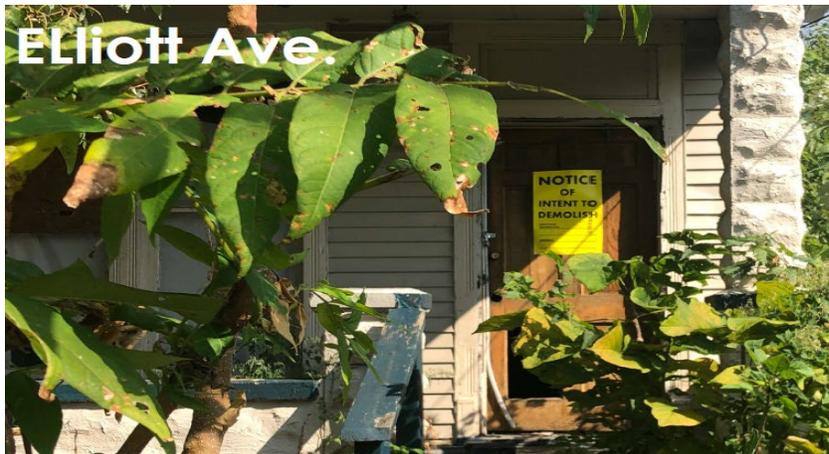
¹ See Exhibit A



Community



18. Renderings of the project also demonstrate the need for current homes on Elliott to be demolished.



19. On a single day in August of 2019, several Elliott Avenue homes were identified to be demolished by the city's contracted demolition service.

20. By November of 2019, architectural renderings from the University of Kentucky showing the plans for the Elliott real estate development were produced.

21. In 2020, over a three-week span (less than a month before Breonna's killing), eight Elliott homes were demolished and cleared by the city's contracted demolition company. For

perspective, this is nearly the total number of homes demolished on Elliott Avenue (9) in the prior 16 years combined.

22. While there is no doubt that gentrification of west Louisville neighborhoods could be a very good thing, the methods employed to do so have been unlawful and unconscionable.

23. In late 2019, a primary remaining obstacle for the Elliott Development was the existence of certain lingering homes and people occupying Elliott Avenue.

24. LMPD formed a dedicated squad which, in part, prioritized targets on Elliott Avenue.

25. This squad, called Place Based Investigations (PBI), was identified to the public as a squad created “to address systemically violent locations and complement LMPD’s existing focused-deterrence strategy. PBI focuses on identifying and disrupting crime place networks. These networks include crime sites, but also places used by offenders that do not typically come to the attention of police. PBI will collaborate with other government and community partners to identify and eliminate violence facilitators.”

26. Upon information and belief, the PBI squad was tasked with focusing on certain areas which needed to be cleared for real estate development projects to proceed.

27. The PBI squad was within the Criminal Interdiction Division (CID) of LMPD. Upon information and belief, CID was directed to devote substantial resources and manpower specifically to Elliott Avenue.

28. One of the primary targets of CID was 2424 Elliott Avenue, along with occupants of the home. Included within these occupants of the home were JG, AW and DC (The Occupants).

29. Upon information and belief, CID members were deliberately misled to believe that, by focusing on 2424 Elliott, along with The Occupants, they were targeting some of

Louisville's largest violent crime and drug rings and that accomplishing the objective was critical towards reducing crime and violence in Louisville.

30. The reality was that The Occupants were not anywhere close to Louisville's versions of Pablo Escobar or Scarface. And they were not violent criminals. They were simply a setback to a large real estate development deal and thus the issue needed to be cleaned up.

Increased efforts to clear 2424 Elliott

31. By the end of 2019, the home at 2424 Elliott and The Occupants remained a large hurdle towards the progression of the Elliott Development. As such, the targeting of the residence and the The Occupants reached a new level.

32. On December 30, 2019 CID members obtained and executed search warrants upon The Occupants of 2424 and 2426 Elliott Avenue.

33. Three days later, the PBI squad stopped AW for window tinting on his car.

34. The same day, under the direction and approval of command staff, LMPD had a high-tech surveillance camera installed which was advanced enough to provide 24/7 real-time surveillance footage of 2424 Elliott and other adjacent properties.

35. The following day, the PBI squad arrested JG and DC at 2424 Elliott.

36. The day after that, the PBI squad stopped AW, citing him for not having his driver's license in his possession.

37. Throughout January, CID members maintained constant surveillance upon The Occupants and the Elliott residences.

38. On February 14, 2020 CID members impounded JG's Dodge Charger and executed a sealed search warrant upon the vehicle. During the execution of the warrant, the PBI squad took items from the car which they did not report taking.

39. On February 20, 2020 five houses were demolished on Elliott Avenue.

40. Meanwhile, The Occupants were still residing on Elliott at a home right in the heart of the proposed real estate development deal.

41. Upon information and belief, even more pressure was placed upon CID to do whatever necessary to get the Elliott homes cleared and to get The Occupants away from Elliott Avenue.

42. On March 9, 2020 CID members tried again to apprehend The Occupants. Again, they were unsuccessful; nobody was home and nothing was in the house.

43. Upon information and belief, by March 12, 2020, those in charge had seen enough and had enough of being unable to get 2424 Elliott cleared and The Occupants off the street. Their efforts to clear The Occupants out of the home continued to fail and, as such, directions and actions intensified to a dangerous, reckless and unlawful level on this date.

44. LMPD command staff and CID proceeded with a plan to apprehend The Occupants. This plan was so outrageous that even an effort to apprehend a serial killer or terrorist would likely pale in comparison. LMPD command staff decided to obtain its first five no knock warrants of the entire year for this project, all directed primarily towards the Elliott residence and The Occupants. Command staff spared no resources: they assembled a huge team quarterbacked by an on-scene, deputy police chief and which also included: more than 70 officers from multiple divisions, units and squads; a fully militarized SWAT unit; multiple lieutenants and sergeants; members of the intelligence and tech unit; multiple radio dispatchers on multiple secured channels; high tech surveillance units, patrol officers and multiple ambulance crews. All of this was in an effort to apprehend individuals who were, at most, low level drug dealers. The absurd nature of

these efforts and resources demonstrates just how important the Elliott Development and associated real estate projects truly must have been.

The Five No-Knock Warrants

45. Upon information and belief, CID members were specifically instructed to obtain no knock search warrants for all residences which JG and AW could potentially be occupying the night of March 12, 2020.

46. Upon information and belief, at least five residences were identified and at least five no-knock warrants were obtained. These were the first five no knock warrants obtained by any LMPD member in all of 2020, and all of them targeted JG and AW.

47. The primary warrants targeted Elliott Avenue properties and The Occupants. LMPD members even placed pictures of their targets for all the warrants for all members assigned to the executions to review. Breonna Taylor's picture was not among them

48. In addition to the three Elliott warrants, no knock warrants were also obtained for JG and Walker's residence on Muhammad Ali and for Breonna Taylor's home more than 10 miles away.

49. Upon information and belief, CID sought a search warrant for Breonna Taylor's residence simply because JG and AW had been seen there two months previously, because CID had identified a prior relationship between JG and Breonna and because pressure was coming from command staff to eliminate any possibility that they would strike out on finding JG and AW again.

50. CID had no legal basis to obtain a search warrant for Breonna's home.

51. The affidavit was written with blatant lies and misrepresentations in order to try and meet the probable cause standard for a search warrant of Breonna's home.

52. Specifically, PBI member Josh Jaynes knowingly misrepresented in the affidavit that he had confirmed with the US Postal Inspector that JG had been receiving packages at Breonna's home.

53. Jaynes also represented in the affidavit that Breonna Taylor had a white Chevy Impala which was parked in front of JG's home on several occasions. Jaynes did not represent the incredibly stale nature of this intelligence. Breonna had replaced this Impala in January of 2020 (nearly two months before the affidavit was written) with a Dodge Charger.

The night of March 12, 2020

54. Upon information and belief, CID members were instructed to only execute three of the five no-knock warrants (2424, 2425 and 2426 Elliott Avenue), so long as their targets were present and apprehended.

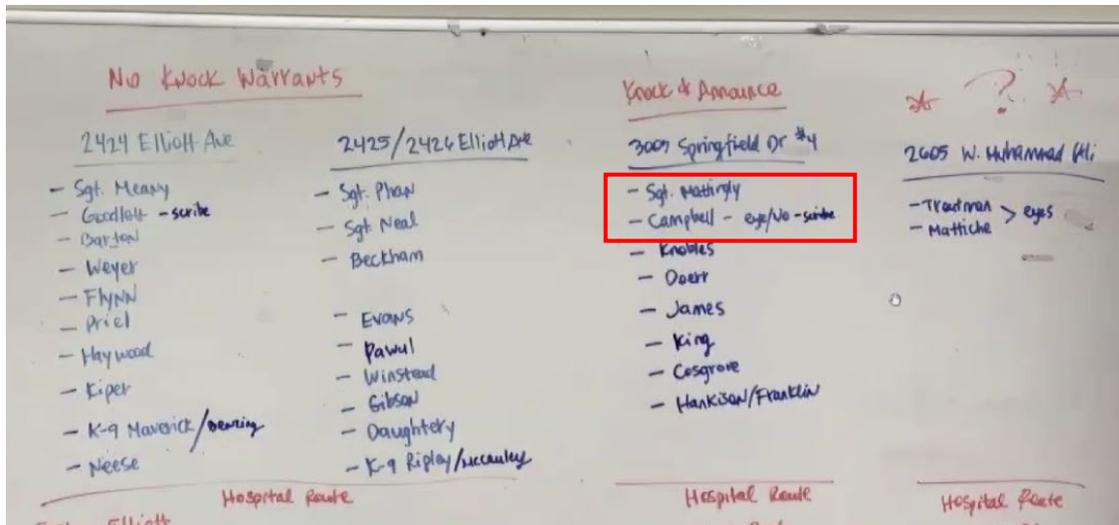
55. More than 60 LMPD members were assigned to the Elliott warrants alone. Because of the importance of cleaning up Elliott for the real estate development project to begin, and because of the prior failures of CID in doing so, LMPD Deputy Chief Chavous was assigned to coordinate the scene of Elliott. There, she was joined by a full SWAT team, more than thirty CID members and patrol officers and several LMPD sergeants. And because of LMPD's high-tech surveillance camera of Elliott, along with body camera of those on scene, the execution of the Elliott warrants could be watched by off-site LMPD members, command staff and even the mayor should he elect to do so.

56. By contrast, only two CID members were originally assigned to each of the warrants at 2605 W. Muhammad Ali and to 3003 Springfield. Their roles were simply to conduct surveillance and, upon information and belief, indicate whether JG or AW were present at those locations.

57. To be clear, CID either was made aware or should have been made aware prior to the execution of the warrants that Breonna Taylor was not a target. Her picture was not included under the list of “targets” on LMPD’s warrant whiteboard. Breonna had no criminal history of any kind. She did not use drugs. She did not own firearms. She was not engaged in any sort of a criminal enterprise. CID had developed little connection between Breonna and JG (and the tenuous connection that was made a result of an unlawfully executed search warrant) which came nowhere close to meeting the threshold for raiding Breonna’s home in the middle of the night.

58. Upon information and belief, Defendant Jonathan Mattingly, along with PBI squad member Mike Campbell, were the two CID members assigned to perform surveillance upon Breonna’s home. Mattingly acknowledges being at the residence prior to the warrant execution. The whiteboard, written by PBI member Kelly Hanna, identifies Mattingly and Campbell as the “eyes.”

59. Additional officers were added in by Hanna in a different marker below Mattingly and Campbell. Upon information and belief, these additions were made following a decision to proceed with the execution of the warrant, which is described further herein. Additionally, the word “scribe” was added to Campbell’s assignment, indicating that it was not the plan prior to this addition for the warrant to be executed and thus no need for a “scribe” to record a warrant execution form.



60. Upon information and belief, Mattingly’s surveillance of Breonna’s home begins before 10 p.m. on March 12.

61. Mattingly’s surveillance at Springfield was poor. If done accurately, he would have confirmed that Breonna arrived home early in the evening with her boyfriend, Kenny Walker; that each of their cars were present in front of the home and that there was nobody else at the home. , Kenny Walker looks nothing like JG or AW. However, upon information and belief, while Mattingly’s surveillance likely identified Breonna’s Dodge Charger and Kenny’s black Chrysler 300 as present at the home, neither he nor CID was aware that these vehicles actually belonged to the two.

62. Coincidentally, AW and JG also drove a Dodge Charger and a black Chrysler 300, albeit different model years.

63. If Mattingly had simply run the tags on Breonna’s and Kenny’s vehicles, it would have been clear that neither of these vehicles belonged to JG or AW.

64. Upon information and belief, while Mattingly was surveilling Breonna’s home, issues arose in relation to the Elliott search warrants. 2424 Elliott was fully occupied with several

individuals, but JG was not one of them. As such, the backup efforts needed to be employed in an effort to locate, search and arrest JG.

65. Upon information and belief, when JG was not identified at Elliott on the evening of March 12, LMPD members falsely believed, based upon poor surveillance or otherwise, that JG was at Breonna's home.

66. Upon information and belief, command staff and CID made the decision shortly after 11 p.m. to execute the warrant on Breonna's home in hopes of apprehending JG.

67. Around 11:12 p.m., PBI sergeant Kyle Meany called for an ambulance and EMS crew to stage for the warrant at Breonna's. Along with this, a CID team was assembled to go to Springfield. Given the importance of apprehending JG, both a lieutenant and a sergeant were assigned to the team.

68. Obviously, JG was not at Breonna's home and had not been there. LMPD members learn this shortly before 11:40 p.m. when they identify JG at a different location.

69. Upon information and belief, LMPD calls off the execution of the search warrant at Breonna's residence after identifying JG elsewhere. The staged EMS unit and assigned LMPD members are cleared, because LMPD command staff and CID had never actually intended to raid Breonna's home unless JG was there.

70. Upon information and belief, JG arrives at Elliott just before midnight.

71. Upon information and belief, LMPD Deputy Chief Lavita Chavous is on site at Elliott coordinating the warrant executions, PBI squad member Kelly Hanna is designated to record the information onto the warrant execution forms, the SWAT team is on scene to make entry and clear the residence, and a large number of CID members are present to search the properties and make any needed arrests.

72. The majority of those on scene at Elliott are wearing body cameras. Additionally, real-time recordings of Elliott are taking place on LMPD's pole camera down the road.

73. Almost immediately upon JG entering the house on Elliott, LMPD members make entry, detain the occupants of the home and bring them outside.

74. Upon information and belief, the warrant was executed on Elliott at approximately midnight on March 13, 2020.

75. Upon information and belief, PBI member Kelly Hanna Goodlett originally identifies the Elliott search time as "12" on the warrant execution form, only to subsequently add a faint "40" later on to give the impression entry was made around the same time as entry to Breonna's.

Copy left at the scene:

8020017041

SEIZE

Officer Serving Warrant J. Jaynes

Officer Recording K. Goodlett

Defendant/Suspect D. Glover

Date of Search 3/13/2020 SS# D. Glover

Time of Search 12:40 Time Exited _____

Officers Present Megan, Benzing, W, Vidayrek, Boer

76. In the filed citation and warrant execution form, Kelly Hanna Goodlett crosses out the original times entirely and replaces them with “0040”:

Filed arrest citation:

REG. STATE	REG. YEAR	REGISTR
Ky	2020	7
VIOLATION DATE	VIOLATION TIME	EXACT LO
3/13/20	12:50	0040
DATE OF ARREST	TIME OF ARREST	MILE
3/13/20	0040	

Copy filed with the clerk:

Officer Recording	Depart
Defendant/Suspect	Address
Glover, Walker, Bowman, Taylor	
Date of Search	DOB
3/13/2020	
Time of Search	Time Exited
12:50 0040	0335

77. Hanna Goodlett also places the names “Walker”, “Crenshaw” and “Taylor” on the warrant execution sheet for 2424 Elliott, despite having full knowledge that none of them were actually present at Elliott.

78. Upon information and belief, after detaining the subjects at Elliott, LMPD members brought them outside and identifies them.

79. In this process, it became apparent to LMPD members that AW and DC were not amongst those present.

80. These two are critical components of the objectives of the evening and towards moving forward with the Elliott Development.

81. Upon information and belief, the decision is made to call the warrant back on for Breonna’s home under a false belief that AW and/or DC are at her home.

82. There was absolutely no legitimate reason or probable cause at this point to believe that AW or DC was at Breonna's home, that Breonna had any evidence or information which were within the scope of the search warrant or that Breonna had any information which otherwise would justify a dynamic entry and search of her home. Neither AW nor DC had ever stayed there, neither had a prior relationship with Breonna and neither looked anything like the her boyfriend, Kenny Walker.

83. Furthermore, upon information and belief, AW was actually at 2605 West Muhammad Ali, for which LMPD had a valid search warrant that could have been executed at any time. As such, it does indeed appear that the Defendants and other LMPD members "hit the wrong house" when they went to Springfield, rather than actually hitting the house in which the target was actually located.

The events on scene and Breonna's death

84. LMPD's decision to reassemble a team to hit Springfield, despite having already apprehended JG, was unreasonable, sloppy, unlawful and without probable cause.

85. Despite this, the Defendants and others jumped at the chance to do so anyways.

86. Several LMPD members, including the Defendant officers, proceeded to Springfield. Their intelligence was poor. They did not know who was in the home with Breonna. They did not know that there was not a rear exit to Breonna's home. They believed that the backside of the building, which is actually apartment 3 (versus apartment 4), was part of Breonna's home. And, upon information and belief, they thought AW (rather than Kenny Walker) was at Breonna's home and that potentially DC was there as well. Upon information and belief, they did not confirm whether an ambulance and EMS crew had returned for staging.

87. Upon arriving at Breonna's home, LMPD members immediately approached her residence without any adequate planning. At a minimum, the group in the stack included Defendant Mattingly, Defendant Cosgrove, Defendant Hankison, Lieutenant Shawn Hoover, PBI member Mike Campbell, Mike King and Tony James.

88. Upon information and belief, LMPD members Josh Doerr, Mike Nobles, Randall Richardson and others were also present on scene.

89. Upon information and belief, there were LMPD members at the scene of Breonna's home who were equipped with a body camera.

90. Upon information and belief, LMPD members in the stack arrived at Breonna's door at around 12:40 a.m. and proceeded to knock several times without once announcing their identity or purpose.

91. Meanwhile, Breonna woke up from her sleep due to the knocking. She begins shouting "who is it" in response to these 12:40 a.m. knocks at her door.

92. The LMPD members do not announce themselves or their purpose.

93. Kenny Walker, who is also in Breonna's home, begins shouting "who is it" in response to these late hour knocks at the door.

94. The LMPD members still do not announce themselves or their purpose.

95. Breonna and Kenny become scared. It's late. There's no good or safe reason for people to be at the home at this hour. There's no good or safe reason for those knocking to not say who they are.

96. Kenny, a licensed firearm carrier, gets his handgun to defend himself and Breonna.

97. While Breonna and Kenny are in the hallway leading to the front of the home, loud bangs sound and the front door begins to come off the hinges, terrifying Breonna and Kenny.

Neither the Defendants nor the other LMPD members who are present have announced themselves. Breonna and Kenny are convinced that the home is being broken into to be burglarized or worse.

98. Kenny, in an attempt to get the intruders to flee, fires a single warning shot towards the ground.

99. In response, the Defendants Hankison, Mattingly and Cosgrove proceed to shoot erratically, recklessly, willfully, wantonly and maliciously from inside the home, outside the home, outside a neighbor's home, outside Breonna's patio door and outside the window to Breonna's sister's room.

100. Upon information and belief, the Defendants continued to fire into Breonna's home for a span of multiple minutes.

101. The Defendants continued to fire when it was clear that deadly force was unjustified.

102. Upon information and belief, by the time all was said and done, LMPD members fired dozens upon dozens of gunshots into Breonna's home, adjacent homes and adjacent properties.

103. Breonna, who was unarmed in her hallway, was struck by several rounds of gunfire. She was not killed immediately. Rather, she lived for another five to six minutes before ultimately succumbing to her injuries on the floor of her home.

104. There were no drugs in Breonna's home.

105. Breonna had no drugs or alcohol in her system.

106. Breonna never fired a weapon at anyone or posed any threat to anyone.

107. The Defendants did not have discretion to shoot blindly into Breonna's home in this manner, especially when there was no imminent threat.

108. Breonna was unarmed when she was shot repeatedly.

109. Breonna posed no threat to the officers when she was shot repeatedly.

110. Each of the Defendants acted intentionally, knowingly, unreasonably, maliciously, negligently, recklessly, and in bad faith with deliberate indifference to the safety and rights of Breonna.

111. The Defendant officers failed to use any sound reasonable judgment whatsoever when firing blind shots into multiple homes and causing the wrongful death of Breonna.

112. The Defendants had absolute, certain and imperative duties to announce their presence, give Breonna and Kenny notice that they were peace officers there to serve a warrant, offer to show Breonna and Kenny the warrant and afford the opportunity to be let into the home.

113. Breonna had committed no crime, posed no immediate threat to the safety of the Defendant officers, and did not actively resist or attempt to evade arrest prior to being repeatedly shot and killed by the Defendants.

114. The actions of the Defendants were made in bad faith, were performed with a corrupt motive, were outside the scope of the Defendants' authority, were executed willfully and with the intent to harm, and were in violation of Breonna's constitutional and statutory rights.

115. The Defendants knew or reasonably should have known that their actions would violate Breonna's rights.

116. The Defendants' actions were made with the malicious intention to cause a deprivation of Breonna's constitutional rights.

117. The Defendant officers unlawfully and forcibly entered Breonna's home, causing Breonna and Kenneth to have a reasonable fear of imminent peril of death or great bodily harm.

118. The Defendant officers, under the facts which were present at the time of their entry into Breonna's home, had no lawful right to be in the home.

119. Neither Breonna nor Kenny knew or reasonably should have known that the individuals entering the home were police officers.

120. Defendant Hankison used unlawful and unjustified deadly force by blindly firing multiple rounds into Breonna's home through a patio door and bedroom window which had curtains and blinds completely obscuring the view into the home.

121. Hankison's shots were reckless, willful, wanton, malicious and grossly negligent; they were not directed at anyone posing an immediate threat of danger or serious injury to others. Hankison completely disregarded the potential presence of any innocent persons.

122. One of those innocent persons was Breonna. Upon information and belief, at least one of the fatal shots to Breonna came from a blind shot fired by Defendant Hankison.

123. The Defendant officers continued to use deadly force well after there was no imminent threat to their safety.

124. The actions of Hankison, Mattingly and Cosgrove actions displayed an extreme indifference to the value of human life.

125. The Defendants, in knowingly executing a bogus, dangerous and unjustifiable no knock warrant upon an innocent woman's residence, demonstrated a flagrant disregard and extreme indifference to the value of human life with a subjective awareness that it could result in serious injury or death.

126. The Defendants' decisions to raid Breonna's home were reckless and grossly negligent.

127. The uses of deadly force on Breonna by the Defendants were unreasonable, excessive, and in violation of clearly established law prohibiting assault, battery, gross negligence.

128. The Defendants knew or should have known through their actions that they were executing a warrant which was based upon a false affidavit, for which there was no legitimate probable cause and for which the reasons behind the warrant had nothing to do with Breonna Taylor and much to do with getting a neighborhood street cleared out so that progress could be made towards a high-dollar real estate development.

129. As a direct and proximate result of the conduct of the Defendants, Breonna Taylor suffered physical injury, pain and suffering and emotional trauma when she was shot multiple times and then left to die.

130. As a further direct and proximate result of Breonna's wrongful death, her survivors, next of kin, and/or heirs have suffered permanent damages, including, but not limited to, Breonna's destruction of power to labor and earn income, funeral and burial costs, physical and emotional pain and suffering and any and all other incurred expenses.

131. The Defendants' conduct was grossly negligent, reckless, malicious, willful, wanton, and conducted with a flagrant indifference for the value of human life with a subjective awareness that those within the residence would be seriously injured or killed. As such, punitive damages are necessary against the Defendants.

The Defendants violations of ministerial obligations governing search warrants

132. The Defendants, at all times relevant herein, were required to comply with both LMPD's general Standard Operating Procedures and policies and procedures specific to their units.

133. When assigned to search warrants, each had a ministerial duty to complete (or otherwise sign) and comply with a written operation plan in relation to the execution of each search warrant.

134. Upon information and belief, the Defendants failed to adhere to this duty.

135. The Defendants each had a ministerial duty to assess probable cause and refrain from executing a search warrant if probable cause was lacking.

136. The Defendants did not adhere to this duty.

137. The Defendants each had a ministerial duty to assure that a lead detective was assigned specific to Springfield and to confirm that the lead detective completed a search warrant matrix, a search warrant checklist and an operation plan prior to the execution of the warrant. If these were not completed, these Defendants were required to refrain from executing the warrant.

138. Upon information and belief, the Defendants did not adhere to this duty.

139. The Defendants were required to have a supervisor: oversee the Springfield search warrant; review the warrant affidavit for probable cause; assure that the investigative measures supporting the need for the warrant were complete; assure that there was complete adherence to organizational policies and procedures in gathering evidence for the search warrant and assure that the search warrant matrix and checklist were complete.

140. Upon information and belief, the Defendants did not adhere to this duty.

141. The Defendant officers had a ministerial duty to refrain from executing the Springfield search warrant unless and until a supervisor approved the operations plan specific to the Springfield search warrant, until all assigned to Springfield were briefed, until all participating in the execution of the Springfield warrant signed and dated the operations plan and until all assigned to Springfield had their required equipment. Additionally, the Defendant officers were

duty bound to have a pre-service meeting specific to the Springfield warrant and to have pre-determined assignments within the search and entry teams.

142. Upon information and belief, the Defendant officers did not adhere to one or more of these duties.

143. The Defendant officers each had the following ministerial duty, which is imposed verbatim under policy: “the officer(s) executing a search warrant must give appropriate notice of his/her identity and purpose **before** entering the premises.” (**emphasis added**). While there is an exception for exigent circumstances, there is no exception for no-knock warrants with relation to the specific unit under which the Defendants were assigned.

144. As such, while discretion was afforded to other LMPD units, such as SWAT, to obtain and execute no knock warrants, no such discretion was afforded to the Defendants at any time relevant herein. Rather, in the absence of exigent circumstances, the Defendants had a ministerial duty to announce themselves and their purpose for being at Springfield prior to entry.

145. The Defendant officers did not adhere to this duty and no exigent circumstances applied.

146. Under the policies governing each of the Defendant officers, discretion is given for dynamic entry (breaking into) the home only if:

- a. The officer has previously announced his/her identity and purpose and reasonably believes either that admittance is being denied or unreasonably delayed or that the premises or vehicle is unoccupied; OR
- b. The officer has probable cause to believe that giving notice would endanger the life or safety of any person or the destruction of evidence is imminent.

147. Neither of these exceptions applied at Breonna's home and, as such, the Defendant officers were duty-bound to refrain from dynamic entry.

148. The Defendants did not adhere to this duty.

149. The Defendants each had a ministerial duty to call off the Springfield warrant's execution if the probable cause listed on the affidavit no longer existed.

150. The Defendant officers did not adhere to this duty.

151. The failure to adhere to each of the aforementioned duties were a substantial factor and direct and proximate cause of Breonna's death and resultant damages.

The Defendants' violations of ministerial obligations governing the use of deadly force

152. The Defendant officers, at all times relevant herein, were under a ministerial duty to refrain from using deadly force unless other reasonable alternatives had been exhausted, would clearly be ineffective, or exigent circumstances existed.

153. The Defendants did not adhere to this duty.

154. The Defendant officers, at all times relevant herein, were under a ministerial duty to refrain from using deadly force unless they had a reasonable belief that the person against whom the force would be used posed an immediate threat of death or serious injury to the officer or to another person.

155. The Defendants did not adhere to this duty.

156. The failure to adhere to each of the aforementioned duties were a substantial factor and direct and proximate cause of Breonna's death and resultant damages.

The aftermath and continued efforts on Elliott

157. Upon information and belief, several LMPD members, including the Defendants, believed that Kenny Walker was actually AG both before and after the shooting.

158. Following the shooting, LMPD members asked Kenny Walker multiple times whether a “white male” was still in the home. Upon information and belief, these officers were alluding to DC, who is a very light skinned black male who could easily be mistaken for a white male and who LMPD members thought, without any reasonable basis for doing so, was at Breonna’s house.

159. Following the shooting, an officer approached Kenny Walker and candidly told him that there had been a big misunderstanding.

160. Upon information and belief, the big misunderstanding was reckless intelligence by LMPD suggesting that two individuals who had been guests inside Breonna’s house were somehow there on that night.

161. Upon information and belief, following the shooting and at a time where it was mandatory and critical under LMPD policy for him to remain present at the scene, Defendant Hankison disappeared for multiple hours.

162. Following the shooting, LMPD members started announcing the address of the shooting as 3007 Springfield Avenue; Breonna’s address is 3003 Springfield.

163. Following the shooting, the Plaintiff was misdirected by LMPD members to the hospital to check on Breonna. Breonna was never transported to the hospital.

164. Even after returning to Breonna’s, the Plaintiff was left in the dark on Breonna’s condition for several hours.

165. While on scene, the Plaintiff specifically asked LMPD for a copy of the Springfield search warrant. LMPD members responded that they couldn't find it and that it must have gotten "lost in the shuffle".

166. LMPD did not file the Springfield warrant with the Elliott and Muhammad Ali warrants. The latter warrants were filed on March 19, 2020. The Springfield warrant was not filed until April 3.

167. None of the filed March 12 no-knock search warrants are on the required AOC or LMPD forms for search warrants and affidavits.

168. Following the death of Breonna Taylor, LMPD's chief immediately announced that there was no body camera footage from the three Defendants, without identifying whether others on scene had body camera. When posed with the question recently, the Louisville mayor repeatedly dodged it.

169. The LMPD incident report regarding Breonna's death did not even identify the manner of entry into her home or that she died. The report literally said she had no injuries.

170. After a month of Breonna's death being largely unacknowledged by the mayor, the LMPD and the public, efforts resumed yet again to get JG and AW out of Elliott Avenue so that progress would be made towards the Elliott Development.

- a. On April 11, 2020 the PBI squad made arrests at the Elliott address.
- b. On April 22, 2020 CID obtained another no-knock search warrant on JG, Walker and the Elliott address.
- c. The only six no-knock warrants obtained by LMPD this entire year were all related to JG and AW, neither of whom have a history of violence and neither of whom are local kingpins.
- d. On April 23, 2020 the PBI squad arrested JG again.

- e. On April 24, 2020 the PBI squad stopped AW for a parking violation.
- f. On April 30, 2020 the PBI squad again stopped AW for a parking violation.
- g. Also during this time, Louisville's Codes and Regulations department was tasked with conducting a joint investigation with PBI in efforts associated with the Elliott properties.
- h. City officials then proceeded to send notices to JG's landlord at 2424 Elliott that the public nuisance ordinance has been violated.
- i. Finally, in June of 2020, after a second effort to enforce public nuisance ordinance violations on the owner of 2424 Elliott, the owner agreed to deed the property to the city.

171. The reality is that the Defendants raided Breonna Taylor's home due to a reckless police operation motivated by a need to get a street cleared for a real estate development project. And these Defendants did it so recklessly, dangerously, violently and unjustifiably that Breonna Taylor was taken from this world far too soon.

COUNT I

Battery

- 172. Plaintiff incorporates the preceding paragraphs by reference.
- 173. On March 13, 2020 the Defendants, in intentionally shooting Breonna repeatedly without the privilege or authority to do so, committed battery upon her several times.
- 174. As a result of this conduct, Breonna Taylor suffered harm.
- 175. Plaintiff's damages secondary to the Defendants' conduct include Breonna's physical and emotional pain and suffering, destruction of power to labor and earn income, funeral and burial costs, as well any other damages secondary to the actions of the Defendants.
- 176. The Plaintiff is entitled to punitive damages due to the Defendants' conduct.

COUNT II

Wrongful Death

177. Plaintiff incorporates the preceding paragraphs by reference.

178. The Defendants' actions caused the wrongful death of Breonna Taylor, resulting in damages recoverable under K.R.S. § 411.130 and K.R.S. § 411.133.

179. Plaintiff's damages secondary to the Defendants' conduct include Breonna's physical and emotional pain and suffering, destruction of power to labor and earn income, funeral and burial costs, as well any other damages to which she may be entitled.

180. The Plaintiff is entitled to punitive damages due to the Defendants' conduct.

COUNT III

Excessive Force in Violation of KRS 431.025

181. Plaintiff incorporates the preceding paragraphs by reference.

182. The Defendants each had a statutory duty, pursuant to KRS 431.025(3), to refrain from using unnecessary force upon Breonna.

183. The Defendants used unnecessary force and violence upon Breonna Taylor in violation of KRS 431.025.

184. This statute was enacted to prevent the type of conduct associated with the Defendants.

185. The Defendants were negligent per se.

186. The Defendants' violations of this statute were direct and proximate causes of Breonna Taylor's death and the claimed damages herein.

187. Plaintiff's damages secondary to the Defendants' conduct include Breonna's physical and emotional pain and suffering, destruction of power to labor and earn income, funeral and burial costs, as well any other damages to which she may be entitled.

188. The Plaintiff is entitled to punitive damages due to the Defendants' conduct.

COUNT IV

Negligence and Gross Negligence

189. Plaintiff incorporates the preceding paragraphs by reference.

190. Each of the Defendants breached their respective ministerial duties of reasonable care owed to Breonna Taylor, with said breaches serving as direct and proximate causes of her injuries and damages.

191. These violations of ministerial duties include all those set forth previously in this First Amended Complaint, each of which were a substantial factor and direct and proximate cause of Breonna's death and the resultant damages.

192. Plaintiff's damages secondary to the Defendants' conduct include Breonna's physical and emotional pain and suffering, destruction of power to labor and earn income, funeral and burial costs, as well any other damages to which she may be entitled.

193. The Plaintiff is entitled to punitive damages due to the Defendants' conduct.

JURY DEMAND

194. Plaintiff hereby demands a trial by jury of all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands that this Court award the following:

- a. Compensatory damages in an amount to be shown at trial;
- b. Punitive damages in an amount to be shown at trial;
- c. Costs incurred in this action and reasonable attorney fees;
- d. Prejudgment and post-judgment interest; and
- e. Such other and further relief as the Court may deem just and proper, including the

right to amend this action further in a manner which adds additional parties or facts to conform to additional facts and evidence which may be ascertained through discovery, through release of the federal and state investigative files or otherwise.

Respectfully Submitted,

SAM AGUIAR INJURY LAWYERS, PLLC

/s/ Sam Aguiar _____

Sam Aguiar
Lonita Baker
1201 Story Avenue, Suite 301
Louisville, KY 40206
Telephone: (502) 400-6969
Facsimile: (502) 491-3946
sam@kylawoffice.com
lonita@kylawoffice.com
Counsel for Plaintiff

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that this First Amended Complaint is being electronically filed on July 5, 2020 and distributed electronically to counsel of record on this case, each of whom have registered for receipt through the electronic filing system.

/s/ Sam Aguiar _____

Sam Aguiar