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ATTORNEYS FOR DEFENDANTS

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE DISTRICT OF IDAHO

ELISHA CIMEON JOHNSON, APRIL	)	
HARESCO, and A.J., a minor child, by her	)	
general guardian/or next friend April Haresco,	)	Case No. CV24-00218-REP
	)	
Plaintiffs,	)	
	)	ANSWER TO PLAINTIFFS'
vs.	)	ORIGINAL COMPLAINT FOR
JEREMY ENGBAUM, in his individual	)	RETROSPECTIVE RELIEF AND
capacity; and CITY OF BUHL, IDAHO,	)	MONETARY DAMAGES [Dkt. 1]
	)	
Defendants.	)	
	)	

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COME NOW the Defendants, JEREMY ENGBAUM and CITY OF BUHL, IDAHO, (collectively “Defendants”), by and through their attorney of record, Michael J. Kane of the firm Michael Kane & Associates, PLLC, and for Answer to Plaintiffs’ *Original Complaint for Retrospective Relief and Monetary Damages*, filed April 26, 2024 (Dkt. 1) (hereinafter “Plaintiffs’ Complaint”) allege as follows:

**FIRST DEFENSE**

1. Plaintiffs' Complaint, and each and every count thereof, fail to state a claim against Defendants upon which relief can be granted.

**SECOND DEFENSE**

2. Defendants deny each and every allegation in Plaintiffs' Complaint not specifically and expressly admitted herein.

3. In answer to paragraph 1 of Plaintiffs' Complaint, this is a declaratory statement which requires no response from the Defendants. However, Defendants deny that Plaintiffs' individual rights under the Fourth and Fourteenth Amendments of the United States Constitution were violated.

4. In answer to paragraph 2 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that Mr. Johnson sat patiently in his vehicle for the remainder of the traffic stop and that Officer Potter's question about drugs in the vehicle was inappropriate. As to the remainder of the paragraph, Defendants lack sufficient knowledge and cannot admit or deny.

5. In answer to paragraph 3 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that Officer Potter "slow-walked the stop" and that his question about whether there were any drugs in the vehicle was improper. The remainder of the paragraph contains declaratory statements which require no response.

6. In answer to paragraph 4 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that Officer Potter's conduct was inappropriate such that it would cause concern for Mr. Johnson's well-being.

7. In answer to paragraph 5 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants.

8. In answer to paragraph 6 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants.

9. In answer to paragraph 7 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. Defendants deny that Chief Engbaum put his foot inside the home.

10. In answer to paragraphs 8, 9 and 10 of Plaintiff's Complaint, the video speaks for itself, so no answer is required by these Defendants. Defendants deny that Chief Engbaum had his foot in the Johnson's front door. When attempting to arrest Mr. Johnson, Chief Engbaum was pulled into the entryway of the home by Mr. Johnson who was physically resisting arrest and fighting. The remainder of the paragraphs and the implication of any wrongdoing on the part of Chief Engbaum and Officer Potter is denied.

11. In answer to paragraphs 11 and 12 of Plaintiffs' Complaint, Defendants admit that this Court has the jurisdiction and venue but deny that these Defendants engaged in any wrongdoing or unlawful conduct under federal law.

12. In answer to paragraphs 13-15 of Plaintiffs' Complaint, these are declaratory statements which requires no response from the Defendants. However, Defendants deny that Plaintiffs' individual rights under the Fourth and Fourteenth Amendments of the United States Constitution were violated.

13. In answer to paragraphs 16 and 17 of Plaintiffs' Complaint, Defendants admit that Chief Engbaum was the final policymaker for the City of Buhl Police Department.

14. In answer to paragraphs 18-38 of Plaintiff's Complaint, no allegations are made against these Defendants and therefore no answer is required.

15. In answer to paragraphs 39-46 the video speaks for itself, so no answer is required by these Defendants.

16. In answer to paragraph 47 of Plaintiffs' Complaint, Defendants deny.

17. In answer to paragraphs 48 and 49 of Plaintiffs' Complaint, Defendants lack sufficient knowledge and therefore cannot admit or deny.

18. In answer to paragraph 50 of Plaintiffs' Complaint, Defendants admit.

19. In answer to paragraph 51 of Plaintiffs' Complaint, Defendants admit that Mr. Johnson questioned Officer Potter asking him if there were any drugs in his vehicle and avoided answering the question. Mr. Johnson did answer Officer Potter's question about firearms immediately. Defendants lack sufficient knowledge as to Mr. Johnson's feelings and therefore cannot admit or deny whether he felt troubled.

20. In answer to paragraph 52 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants.

21. In answer to paragraph 53 of Plaintiffs' Complaint, Defendants lack sufficient knowledge as to Mr. Johnson's feelings and therefore cannot admit or deny whether he felt alarmed, nor can they admit or deny whether Mr. Johnson had extensive training and experience with traffic stops. To the extent the paragraph implies that Officer Potter's questions were inappropriate, Defendants deny.

22. In answer to paragraph 54 of Plaintiffs' Complaint, Defendants deny that Officer Potter's question was improper.

23. In answer to paragraphs 55-57 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants.

24. In answer to paragraphs 58 and 59 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

25. In answer to paragraphs 60 and 61 of Plaintiffs' Complaint, Defendants deny. Officer Potter did not sit idly in his patrol vehicle. Because a driver's license check does not provide registration and insurance information, Officer Potter had to look through the information return on his computer to find this information.

26. In answer to paragraphs 62-64 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Officer Potter had to get his ticket book out of the back of the patrol vehicle because Officer Rothe was in the passenger seat where Officer Potter normally keeps his bag with the ticket book. Defendants deny the implication that it is inappropriate for Officer Potter to have his ticket book in the back of the vehicle.

27. In answer to paragraphs 65 and 66 of Plaintiffs' Complaint, Defendants deny that Officer Potter was slow-walking the stop, that the Buhl Police Department has an unsavory reputation, and that Officer Potter's question about drugs was improper.

28. In answer to paragraphs 67 and 68 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants.

29. In answer to paragraph 69 of Plaintiffs' Complaint, Defendants lack sufficient knowledge as to what Mr. Johnson was thinking and therefore cannot admit or deny.

30. In answer to paragraphs 70-109 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that Chief Engbaum put his foot inside the home and deny footnote 5 referenced in paragraph 103.

31. In answer to paragraph 110 of Plaintiffs' Complaint, Defendants deny.
32. In answer to paragraphs 111-118 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that Chief Engbaum put his foot in the door.
33. In answer to paragraph 119 of Plaintiffs' Complaint, Defendants deny.
34. In answer to paragraphs 120 and 121 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants.
35. In answer to paragraph 122 of Plaintiffs' Complaint, no allegations are made against these Defendants so no answer is required.
36. In answer to paragraphs 123 and 124 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants.
37. In answer to paragraph 125 of Plaintiffs' Complaint, Defendants lack sufficient knowledge as to what Mr. Johnson believe so cannot admit or deny. Defendants deny that the Buhl Police Department's reputation coupled with Chief Engbaum and Officer Potter's conduct created safety concerns.
38. In answer to paragraphs 126-131 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that Chief Engbaum put his hands inside the door as alleged in paragraph 127.
39. In answer to paragraph 132 of Plaintiffs' Complaint, Defendants lack sufficient knowledge and therefore cannot admit or deny.
40. In answer to paragraphs 133-135 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants.

41. In answer to paragraph 136 of Plaintiffs' Complaint, Defendants deny that Chief Engbaum had his foot in the door.

42. In answer to paragraphs 137-139 of Plaintiffs' Complaint, Defendants deny that Chief Engbaum and Officer Potter barged through the front door.

43. In answer to paragraphs 140-141 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that the officers forced their way inside the Johnson's home.

44. In answer to paragraphs 142-145 of Plaintiffs' Complaint, Defendants lack sufficient knowledge and cannot admit or deny. However, Defendants deny that Chief Engbaum barged through the door.

45. In answer to paragraphs 146-147 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that the Officer Potter barged through the front door and that Chief Engbaum "breached the door."

46. In answer to paragraphs 148-150 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny having complete control over Mr. Johnson and that Chief Engbaum "purposely let go" of Mr. Johnson's right arm.

47. In answer to paragraphs 151-152 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants.

48. In answer to paragraph 153 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

49. In answer to paragraphs 154-157 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that Officer Potter was attacking Mr. Johnson.

50. In answer to paragraph 158 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

51. In answer to paragraphs 159-161 of Plaintiffs' Complaint, Defendants deny.

52. In answer to paragraph 162 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

53. In answer to paragraphs 163-168 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants.

54. In answer to paragraph 169 of Plaintiffs' Complaint, Defendants lack sufficient information as to Mr. Johnson's instincts and cannot admit or deny.

55. In answer to paragraphs 170-173 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants.

56. In answer to paragraph 174 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

57. In answer to paragraphs 175-177 of Plaintiffs' Complaint, Defendants deny.

58. In answer to paragraphs 178-182 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants.

59. In answer to paragraphs 183-192 of Plaintiffs' Complaint, Defendants lack sufficient information as to Mr. Johnson's instincts and cannot admit or deny. In addition, no allegations are made against these Defendants and therefore no answer is required. However, Defendants deny that Chief Engbaum wrought violence inside the Johnson's home as alleged in paragraph 191.

60. In answer to paragraphs 193-196 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants.

61. In answer to paragraph 197 of Plaintiffs' Complaint, Defendants lack sufficient information as to Mr. Johnson's charges for the ambulance ride and cannot admit or deny. In addition, no allegations are made against these Defendants and therefore no answer is required.

62. In answer to paragraphs 198 and 199 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants.

63. In answer to paragraph 200 of Plaintiffs' Complaint, Officer Potter's report speaks for itself, so no answer is required by these Defendants.

64. In answer to paragraphs 201 and 202 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants.

65. In answer to paragraph 203 of Plaintiffs' Complaint, Defendants lack sufficient information as to Mr. Johnson's wife and children's feelings and cannot admit or deny. In addition, no allegations are made against these Defendants and therefore no answer is required.

66. In answer to paragraphs 204 and 205 of Plaintiffs' Complaint, Defendants admit that Chief Engbaum and Officer Potter did not sustain significant injuries.

67. In answer to paragraphs 206 and 207 of Plaintiffs' Complaint, Defendants deny.

68. In answer to paragraphs 208-218 of Plaintiffs' Complaint, Defendants lack sufficient information and cannot admit or deny. In addition, no allegations are made against these Defendants and therefore no answer is required.

69. In answer to paragraphs 219-231 of Plaintiffs' Complaint, these documents speak for themselves, so no answer is required by these Defendants.

70. In answer to paragraphs 232- 251 of Plaintiffs' Complaint, Defendants lack sufficient information and cannot admit or deny. In addition, no allegations are made against these Defendants and therefore no answer is required.

71. In answer to paragraph 252 of Plaintiffs' Complaint, Defendants lack sufficient information and cannot admit or deny. In addition, no allegations are made against these Defendants and therefore no answer is required. Defendants deny that they engaged in any wrongdoing.

72. In answer to paragraph 253 of Plaintiffs' Complaint, Defendants deny.

73. In answer to paragraph 254 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

74. In answer to paragraphs 255-276 of Plaintiffs' Complaint, the city council meetings speaks for itself and therefore no answer is required.

75. In answer to paragraphs 277-288 of Plaintiffs' Complaint, Defendants lack sufficient information and cannot admit or deny. In addition, no allegations are made against these Defendants and therefore no answer is required. However, Defendants deny engaging in any wrongdoing.

76. In answer to paragraphs 289 and 290 of Plaintiffs' Complaint, Defendants lack sufficient information and cannot admit or deny. Defendants deny that Chief Engbaum unlawfully entered the home and brought violence inside the Johnson home.

77. In answer to paragraphs 291-301 of Plaintiffs' Complaint, Defendants lack sufficient information and cannot admit or deny. In addition, no allegations are made against these Defendants and therefore no answer is required. However, Defendants deny that Chief Engbaum forced his way inside the home, brought violence into the home, and that Defendants engaged in any wrongdoing.

78. In answer to paragraphs 302-308 of Plaintiffs' Complaint, Defendants deny.

79. In answer to paragraphs 309 and 310 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

80. In answer to paragraphs 311 and 312 of Plaintiffs' Complaint, Defendants deny.

81. In answer to paragraphs 313 and 314 of Plaintiffs' Complaint, Defendants admit. However, Defendants deny that they engaged in any wrongdoing.

82. In answer to paragraph 315 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

83. In answer to paragraph 316 of Plaintiffs' Complaint, Defendants deny.

84. In answer to paragraphs 317-321 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required. However, Defendants deny that they engaged in any wrongdoing.

85. In answer to paragraph 322 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that Chief Engbaum put his foot inside the Johnsons' home.

86. In answer to paragraph 323 of Plaintiffs' Complaint, the report speaks for itself, so no answer is required by these Defendants. However, Defendants deny that Chief Engbaum put his foot inside the Johnsons' home.

87. In answer to paragraph 324 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that Chief Engbaum put his foot inside the Johnsons' home.

88. In answer to paragraphs 325 and 326 of Plaintiffs' Complaint, Defendants deny.

89. In answer to paragraph 327 of Plaintiffs' Complaint, Defendants admit that Chief Engbaum did not have a warrant to enter the Johnsons' home.

90. In answer to paragraph 328 of Plaintiffs' Complaint, Defendants deny that a "warrant was necessary" to knock on the Johnsons' front door.

91. In answer to paragraphs 329-330 of Plaintiffs' Complaint, Defendants deny.

92. In answer to paragraph 331 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that Chief Engbaum wrongfully entered the Johnsons' home.

93. In answer to paragraphs 332-335 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

94. In answer to paragraph 336 of Plaintiffs' Complaint, Defendants deny.

95. In answer to paragraphs 337-341 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that Chief Engbaum put his foot inside the Johnsons' home and that he violated the Fourth Amendment.

96. In answer to paragraphs 342-344 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

97. In answer to paragraphs 345-348 of Plaintiffs' Complaint, Defendants deny.

98. In answer to paragraphs 349-351 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

99. In answer to paragraphs 352-355 of Plaintiffs' Complaint, Defendants deny.

100. In answer to paragraph 356 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

101. In answer to paragraph 357 of Plaintiffs' Complaint, Defendants deny.

102. In answer to paragraph 358 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that Chief Engbaum wrongfully entered the Johnsons' home.

103. In answer to paragraph 359 of Plaintiffs' Complaint, the report speaks for itself, so no answer is required by these Defendants. However, Defendants deny that Chief Engbaum wrongfully entered the Johnsons' home.

104. In answer to paragraphs 360-362 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that Chief Engbaum and Officer Potter wrongfully entered the Johnsons' home.

105. In answer to paragraphs 363-368 of Plaintiffs' Complaint, Defendants deny that Chief Engbaum wrongfully entered the Johnsons' home.

106. In answer to paragraph 369 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

107. In answer to paragraph 370 of Plaintiffs' Complaint, Defendants deny.

108. In answer to paragraphs 371-373 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

109. In answer to paragraphs 374-378 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that Chief Engbaum and Officer Potter wrongfully entered the Johnsons' home.

110. In answer to paragraph 379 of Plaintiffs' Complaint, the report speaks for itself, so no answer is required by these Defendants. However, Defendants deny that Chief Engbaum wrongfully entered the Johnsons' home.

111. In answer to paragraphs 380-385 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that Chief Engbaum and Officer Potter wrongfully entered the Johnsons' home and violated Plaintiffs' constitutional rights.

112. In answer to paragraphs 386-388 of Plaintiffs' Complaint, Defendants deny.

113. In answer to paragraph 389 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

114. In answer to paragraph 390 of Plaintiffs' Complaint, Defendants deny.

115. In answer to paragraph 391 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that they wrongfully entered the Johnsons' home and violated Plaintiffs' constitutional rights.

116. In answer to paragraph 392 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

117. In answer to paragraph 393 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that they wrongfully entered the Johnsons' home and violated Plaintiffs' constitutional rights.

118. In answer to paragraph 394 of Plaintiffs' Complaint, Defendants deny.

119. In answer to paragraphs 395-400 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

120. In answer to paragraphs 401 and 402 of Plaintiffs' Complaint, Defendants deny.

121. In answer to paragraph 403 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

122. In answer to paragraph 404 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that they wrongfully entered the Johnsons' home.

123. In answer to paragraph 405 and 406 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

124. In answer to paragraphs 407-408 of Plaintiffs' Complaint, Defendants deny.

125. In answer to paragraph 409 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

126. In answer to paragraph 410 of Plaintiffs' Complaint, Defendants deny. At the time of the incident, Chief Engbaum and Officer Potter had no idea whether Mr. Johnson was armed.

127. In answer to paragraph 411 of Plaintiffs' Complaint, the reports speak for themselves, so no answer is required by these Defendants.

128. In answer to paragraph 412 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that they wrongfully entered the Johnsons' home.

129. In answer to paragraph 413 of Plaintiffs' Complaint, Defendants deny.

130. In answer to paragraph 414 of Plaintiffs' Complaint, the reports speak for themselves, so no answer is required by these Defendants.

131. In answer to paragraph 415 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that they wrongfully entered the Johnsons' home.

132. In answer to paragraphs 416-419 of Plaintiffs' Complaint, Defendants deny.

133. In answer to paragraphs 420 and 421 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

134. In answer to paragraphs 422-426 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required. However, Defendants deny that these "alternatives" were satisfactory given the circumstances.

135. In answer to paragraph 427 of Plaintiffs' Complaint, Defendants deny.

136. In answer to paragraph 428 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

137. In answer to paragraphs 429 and 430 of Plaintiffs' Complaint, Defendants deny.

138. In answer to paragraph 431 of Plaintiffs' Complaint, the Twin Falls County's Lexipol Police Manual speaks for itself, so no answer is required.

139. In answer to paragraph 432 of Plaintiffs' Complaint, Defendants deny.

140. In answer to paragraph 433 of Plaintiffs' Complaint, the Twin Falls County's Lexipol Police Manual speaks for itself, so no answer is required.

141. In answer to paragraph 434 of Plaintiffs' Complaint, Defendants deny.

142. In answer to paragraph 435 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

143. In answer to paragraphs 436-438 of Plaintiffs' Complaint, Defendants deny.

144. In answer to paragraph 439 of Plaintiffs' Complaint, Defendants admit only that a woman holding a child answered the door at the Johnson home.

145. In answer to paragraph 440 of Plaintiffs' Complaint, Defendants deny.

146. In answer to paragraph 441 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

147. In answer to paragraph 442-444 of Plaintiffs' Complaint, Defendants deny.

148. In answer to paragraph 445 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

149. In answer to paragraph 446 of Plaintiffs' Complaint, Defendants deny.

150. In answer to paragraph 447 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants.

151. In answer to paragraph 448 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

152. In answer to paragraphs 449 and 450 of Plaintiffs' Complaint, Defendants deny.

153. In answer to paragraphs 451-455 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants.

154. In answer to paragraphs 456-461 of Plaintiffs' Complaint, Defendants deny.

155. In answer to paragraph 462 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

156. In answer to paragraph 463 of Plaintiffs' Complaint, Defendants deny.

157. In answer to paragraphs 464-473 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required. In addition, the Buhl City Ordinances speak for themselves, so no answer is required.

158. In answer to paragraph 474 of Plaintiffs' Complaint, Defendants admit that Chief Engbaum was the final policymaker for the City of Buhl Police Department.

159. In answer to paragraphs 475-477 of Plaintiffs' Complaint, the Buhl City Ordinances speak for themselves, so no answer is required.

160. In answer to paragraph 478 of Plaintiffs' Complaint, Defendants admit that Chief Engbaum was the final policymaker for the City of Buhl Police Department.

161. In answer to paragraph 479 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. However, Defendants deny that they wrongfully entered the Johnsons' home.

162. In answer to paragraphs 480 and 481 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. Defendants deny that they wrongfully entered the Johnsons' home.

163. In answer to paragraph 482 of Plaintiffs' Complaint, Defendants admit only that Chief Engbaum was acting under color of state law within the scope of his employment as the Chief of Police for the City of Buhl. Defendants deny that they wrongfully entered the Johnsons' home.

164. In answer to paragraphs 483-488 of Plaintiffs' Complaint, Defendants admit only that Chief Engbaum was the final policymaker for the City of Buhl Police Department. Defendants deny that they wrongfully entered the Johnsons' home.

165. In answer to paragraph 489 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

166. In answer to paragraph 490 of Plaintiffs' Complaint, Defendants admit only that Chief Engbaum was the final policymaker for the City of Buhl Police Department. Defendants deny that they wrongfully entered the Johnsons' home.

167. In answer to paragraphs 491-492 of Plaintiffs' Complaint, Defendants deny.

168. In answer to paragraphs 493-497 of Plaintiffs' Complaint, Defendants deny that these other options were satisfactory given the circumstances. Defendants deny that they wrongfully entered the Johnsons' home.

169. In answer to paragraphs 498-502 of Plaintiffs' Complaint, Defendants deny.

170. In answer to paragraph 503 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

171. In answer to paragraph 504 and 505 of Plaintiffs' Complaint, Defendants deny.

172. In answer to paragraphs 506-509 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. Defendants deny that they wrongfully entered the Johnsons' home and violated the Johnsons' constitutional rights.

173. In answer to paragraphs 510-513 of Plaintiffs' Complaint, Defendants admit only that Chief Engbaum was a final policymaker for the City of Buhl Police Department. Defendants deny that they wrongfully entered the Johnsons' home and violated the Johnsons' constitutional rights.

174. In answer to paragraphs 514 and 515 of Plaintiffs' Complaint, the video speaks for itself, so no answer is required by these Defendants. Defendants deny that they wrongfully entered the Johnsons' home and violated the Johnsons' constitutional rights.

175. In answer to paragraphs 516 of Plaintiffs' Complaint, Defendants admit only that Chief Engbaum was a final policymaker for the City of Buhl Police Department. Defendants deny that they wrongfully entered the Johnsons' home and violated the Johnsons' constitutional rights.

176. In answer to paragraph 517 of Plaintiffs' Complaint, no allegations are made against these Defendants and therefore no answer is required.

177. In answer to paragraph 518 of Plaintiffs' Complaint, Defendants admit only that Chief Engbaum was a final policymaker for the City of Buhl Police Department. Defendants deny that they wrongfully entered the Johnsons' home and violated the Johnsons' constitutional rights.

178. In answer to paragraph 519 of Plaintiffs' Complaint, Defendants deny.

179. In answer to paragraph 520 of Plaintiffs' Complaint, Defendants deny that these other options were satisfactory given the circumstances. Defendants deny that they wrongfully entered the Johnsons' home and violated the Johnsons' constitutional rights.

180. In answer to paragraphs 521-525 of Plaintiffs' Complaint, Defendants deny.

### **FIRST AFFIRMATIVE DEFENSE**

181. At no time did there exist between any Defendants, either individually or in concert or with any other person, an agreement, mutual understanding, or meeting of the minds to deprive Plaintiffs of their civil rights or otherwise commit a tort against Plaintiffs.

### **SECOND AFFIRMATIVE DEFENSE**

182. The actions of Defendants do not rise to the level of deprivation of a constitutionally protected right.

### **THIRD AFFIRMATIVE DEFENSE**

183. The damages and injuries sustained by Plaintiffs, if any there were, were directly and proximately caused by the acts and/or omissions of the Plaintiffs or another individual.

### **FOURTH AFFIRMATIVE DEFENSE**

184. These Defendants are immune from liability.

### **FIFTH AFFIRMATIVE DEFENSE**

185. The actions of Defendants do not constitute the deprivation of a right secured by the Constitution that is enforceable under 42 U.S.C. § 1983.

### **SIXTH AFFIRMATIVE DEFENSE**

186. Plaintiffs are not entitled to damages under 42 U.S.C. § 1983.

### **SEVENTH AFFIRMATIVE DEFENSE**

187. Punitive damages are not available against the individual Defendants.

### **EIGHTH AFFIRMATIVE DEFENSE**

188. To the extent that punitive damages are claimed, punitive damages are not available against a public official in his individual capacity because the public official did not engage in conduct exhibiting an actual malicious intent or with recklessness, serious indifference to, or disregard for, the rights of others.

### **NINTH AFFIRMATIVE DEFENSE**

189. To the extent that Defendants are considered a policymaker for official capacity purposes, they are not liable since no governmental policy, custom or practice led to the deprivation of a constitutional right.

### **TENTH AFFIRMATIVE DEFENSE**

190. No action or omission by any policymaker based upon the information known to him or her constituted improper ratification that resulted in the deprivation of a constitutional right.

### **ELEVENTH AFFIRMATIVE DEFENSE**

191. No supervisor, policymaker or governmental entity was deliberately indifferent to the rights of persons regarding the training of employees that resulted in the deprivation of a constitutional right.

**TWELFTH AFFIRMATIVE DEFENSE**

192. No supervisor, policymaker or governmental entity was deliberately indifferent to the rights of persons regarding the supervision, direction, control or discipline of employees that resulted in the deprivation of a constitutional right.

**THIRTEENTH AFFIRMATIVE DEFENSE**

193. To the extent that Plaintiffs seek damages for mental or emotional injury, Plaintiffs are barred for the reason that they suffered no physical injury as a result of any act or omission of these answering Defendants.

**FOURTEENTH AFFIRMATIVE DEFENSE**

194. Plaintiffs' claims are barred by the doctrine of unclean hands.

**FIFTEENTH AFFIRMATIVE DEFENSE**

195. Discovery is continuing and additional affirmative defenses may be discovered. Defendants seek leave to amend and add additional affirmative defenses as they become learned. This will aid the Court and the parties in structuring this lawsuit based upon factual information.

**DEFENDANTS DEMAND A JURY TRIAL**

WHEREFORE, Defendants, above named, having fully answered Plaintiffs' Complaint, pray as follows:

1. Plaintiffs' Complaint be dismissed with prejudice as to these Defendants;
2. Defendants be awarded their costs of suit and attorney's fees herein incurred; and,
3. For such other relief as the Court deems just and equitable in the premises.

DATED this 18th day of June, 2024.

MICHAEL KANE & ASSOCIATES, PLLC

BY: /s/ Michael J. Kane

MICHAEL J. KANE

Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of June, 2024, I electronically filed the foregoing document with the U.S. District Court. Notice will automatically be electronically mailed to the following individuals who are registered with the U.S. District Court's CM/ECF System for this action:

- **Pete Wood, Brian Ertz**  
[petewoodlaw@gmail.com](mailto:petewoodlaw@gmail.com), [brian@ertzlaw.org](mailto:brian@ertzlaw.org)
- **Michael J. Kane**  
[mkane@ktlaw.net](mailto:mkane@ktlaw.net), [kdelisio@ktlaw.net](mailto:kdelisio@ktlaw.net)

/s/ Michael J. Kane.  
MICHAEL J. KANE