

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

NELDA KELLOM Individually and
as Personal Representative of the Estate
of TERRANCE KELLOM, Deceased,
KEVIN KELLOM Individually,
TERIA KELLOM Individually,
LAWANDA KELLOM Individually,
TERRELL KELLOM Individually,
JANAY WILLIAMS as personal
representative of Terrance Kellom’s
two minor children, son, T.D.K., and
daughter, T.D.K.,

Civil Action No. 17-cv-11084
Hon. SEAN F. COX
Mag. ANTHONY P. PATTI

Plaintiffs,

vs.

UNITED STATES, MITCHELL QUINN,
Immigration and Customs Enforcement
Agent, DARELL FITZGERALD and
TREVA EATON, in their individual and
official capacities as Detroit Police
Officers, the CITY OF DETROIT, and
James E. Craig, in his official capacity,
jointly and severally,

Defendants.

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PLAINTIFF'S FIRST AMENDED COMPLAINT AND JURY DEMAND

NOW COMES Plaintiffs, by and through their attorneys, AYAD LAW, PLLC, and for their First Amended Complaint and Jury Demand, states the following:

INTRODUCTION

1. This is a civil rights and wrongful death action stemming from an incident that occurred in the City of Detroit in the afternoon hour of April 27, 2015. As a direct and proximate result of the actions and inactions of Defendants, Terrance Kellom was deprived of his civil and Constitutional rights and endured physical and emotional pain and suffering, and death. Plaintiffs seek compensatory and punitive damages, reasonable attorney fees, and the costs of this litigation.

2. Plaintiffs seek damages and asserts claims for Defendants' violation of 42 USC §§ 1983 and 1988, the 4th and 14th Amendment to the United States Constitution, under the statutes and common law of the State of Michigan, and under

the Federal Torts Claims Act, all resulting in injury and tragic death of Terrance Kellom on April 27, 2015.

3. At the time of the events alleged in this Complaint, Defendants Mitchell Quinn, Darell Fitzgerald, and Treva Eaton were each acting in their individual and official capacities, within the course and scope of their employment, and under color of State and/or federal law.

JURISDICTION AND VENUE

4. The jurisdiction of the Court is invoked pursuant to the Federal Torts Claims Act, 28 USC § 1346(b) *et seq*; the Civil Rights Act, 42 USC §§ 1983 and 1985 *et seq*; the Judicial Code, §§ 1331 and 1343(a), *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 US 388, 91 S. Ct. 1999 (1971), and the Constitution of the United States.

5. Plaintiff further invokes this Court's supplemental jurisdiction pursuant to 28 USC §1367(a), over any and all state law claims that are related to the claims within the original jurisdiction of this Court as they form part of the same case or controversy.

6. Venue is proper in this District under 28 USC § 1391(b). The parties reside, or at the time the events took place, resided in this judicial district, and the events giving rise to Plaintiff's claims also occurred in this judicial district.

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7. The amount in controversy in this case is well in excess of \$75,000.00, the jurisdictional minimum.

PARTIES

8. Plaintiff, Nelda Kellom, is the mother and Personal Representative of the Estate of Terrance Kellom, Deceased. She files this lawsuit in both her individual capacity and in her representative capacity on behalf of the Estate of Terrance Kellom. At all relevant times herein, Nelda Kellom was a citizen of the United States and resident of Wayne County, Michigan.

9. Plaintiff, Kevin Kellom, is the biological father of Terrance Kellom and resident of the house at which the events which are the subject of this lawsuit took place. He joins this suit in his individual capacity. At all relevant times herein, Kevin Kellom was a citizen of the United States and resident of Wayne County, Michigan.

10. Plaintiff, Teria Kellom, is the younger sister of Terrance Kellom and the daughter of Nelda and Kevin Kellom. She was present and resided in the home in which the shooting and events which are the subject of this lawsuit took place. At all relevant times herein, Teria Kellom was a citizen of the United States and resident of Wayne County, Michigan.

11. Plaintiff, Lawanda Kellom, is the older sister of Terrance Kellom and the daughter of Nelda and Kevin Kellom. At all relevant times herein, Lawanda

Kellom was a citizen of the United States and, upon information and belief, a resident of Wayne County, Michigan.

12. Plaintiff, Terrell Kellom, is the younger brother of Terrance Kellom and son of Nelda and Kevin Kellom. At all relevant times herein, Terrell Kellom was a citizen of the United States and resident of Wayne County, Michigan.

13. Plaintiff, Minor son, T.D.K., is the minor child of Terrance Kellom. He joins this suit through his personal representative and mother, Janay Williams. At all relevant times, T.D.K. (son) was a citizen of the United States and resident of Wayne County, Michigan.

14. Plaintiff, Minor daughter, T.D.K., is the minor child of Terrance Kellom. She joins this suit through her personal representative and mother, Janay Williams. At all relevant times, T.D.K. (daughter) was a citizen of the United States and resident of Wayne County, Michigan.

15. Prior to his death, Terrance Kellom (“Terrance”) was at all times relevant a citizen of the United States of America residing in Wayne County, Michigan and entitled to the protections of the Constitution and laws of the United States of America and the State of Michigan.

16. Terrance’s surviving heirs and his five-year-old son and three-year-old daughter pursuant to the probate laws of the State of Michigan.

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17. Defendant Mitchell Quinn is, at all relevant times, a federal law enforcement agent employed by Immigration and Customs Enforcement, a federal agency organized and existing under the laws of the United States. Defendant Quinn was at all relevant times herein a member of the Detroit Fugitive Apprehension Team who shot and killed Terrance. Defendant Quinn acted in his individual and official capacity, within the course and scope of his employment, as well as under color of State and/or federal law. Defendant Quinn is a former Detroit police officer who, during his tenure, was sued for false arrest and assault. Also, in 2008, Defendant Quinn was criminally charged with assault with a deadly weapon for placing a loaded gun to his ex-wife's head and later suspended from the Detroit Police Department. Six months after that, in September 2008, Immigration and Customs Enforcement (hereinafter "ICE") hired Defendant Quinn.

18. Defendant Officer Darell Fitzgerald is, and at all relevant times herein, a law enforcement officer employed by the City of Detroit who was acting under color of State and/or federal law individually and within the course, scope, and furtherance of his employment with the Detroit Police Department.

19. Defendant Officer Treva Eaton is, and at all relevant times herein, a law enforcement officer employed by the City of Detroit who was acting under color of State and/or federal law individually and within the course, scope, and furtherance of her employment with the Detroit Police Department.

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20. Defendant, James E. Craig, is, at all times herein, the chief of the Detroit Police Department and, as such, was a principal police department policymaker for the City of Detroit, in particular with regard to issues of training, supervision and discipline regarding compliance with the constitutional rights of persons, the use of force, arrest and custodial policies, procedures and practices of officers employed by Defendant City of Detroit, specifically Defendants Eaton and Fitzgerald. Defendant Craig was at all times relevant herein acting in his official capacity.

21. Defendant, City of Detroit, is a municipal corporation, authorized under and created by the laws of the State of Michigan. It is authorized by law to maintain and operate a Police Department.

22. Defendant, United States, is liable for the constitutional violations of the federal actors in its employ pursuant to the Federal Torts Claims Act.

FACTUAL ALLEGATIONS

23. On April 27, 2015, Defendants were participants of the US Marshall Detroit Fugitive Apprehension Team (“DFAT”)

24. The DFAT was a joint venture of multiple police agencies.

25. At approximately 1:00PM, multiple officers in conducting their surveillance of Terrance Kellom arrived at, and set up a perimeter around, a house

located at 9543 Evergreen within the City of Detroit, to arrest Terrance Kellom on an arrest warrant.

26. Upon information and belief, the house located at 9543 Evergreen was owned by Kevin Kellom, Terrance's father.

27. Upon information and belief 9543 Evergreen was not Terrance Kellom's residence.

28. Upon information and belief Terrance Kellom, Kevin Kellom, Teria Kellom, Cheffon Jones, Anthony Coleman, and Yvette Johnson were inside the house at the time officers arrived.

29. Defendant Fitzgerald and an unknown officer knocked on the door of the house while other officers from the DFAT unit were outside of the home. Kevin Kellom answered the door and the officers asked the whereabouts of his son Terrance Kellom.

30. Defendant Fitzgerald demanded to search the house. Keven Kellom and Teria Kellom, who also came to the door, asked Defendant Fitzgerald if they had a warrant, as they did not consent to letting the officers search the house.

31. Defendant Fitzgerald wrongly told Teria and Keven Kellom, and wrongly reported, that he had a search warrant.

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32. In fact, the officers had an arrest warrant for Terrance Kellom, as opposed to a search warrant and had no legal authority to enter the house. *Steagald v. United States*, 451 U.S. 204 (1981).

33. Two other officers of the DFAT unit then entered the house, also without the consent of either Kevin or Teria Kellom, and immediately headed upstairs.

34. Defendant Fitzgerald remained downstairs.

35. The two officers allegedly located Terrance in the attic. Once Terrance was located, they called for backup. Defendant Quinn and Eaton responded to the officers' request for backup.

36. Once Terrance was downstairs in the hallway on the first floor of the house, he was confronted by Defendant Quinn and Defendant Eaton.

37. Terrance was unarmed and had his hands in the air.

38. Without justification or excuse, Defendant Quinn fired several gunshots into Terrance Kellom.

39. Upon information and belief, at least six shots were fired. Terrance was struck by four bullets; in his neck, left shoulder, right thigh, and in the back.

40. This shooting was conducted in the home of Terrance Kellom's father, Kevin Kellom, and witnessed by both Terrance's father and sister, Kevin and Teria Kellom, and other witnesses in the house.

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41. While he lay dying after the shooting, Terrance was handcuffed by the officers.

42. Despite having an opportunity to prevent the shooting, Defendant Eaton waited until all shots were fired before she exclaimed: “Why did you fucking shoot!?” Defendant Quinn then rushed out of the scene.

43. Defendant Quinn falsely claimed that Terrance was wielding a hammer at him which he claimed threatened his life and caused him to fire his weapon.

44. None of the witnesses present in the home saw Terrance Kellom with a hammer. Corroborating this account, Terrance’s fingerprints were not found on a hammer.

45. Although Terrance’s blood was found on a hammer, the Michigan State Police found that “the bloodstaining on the hammer was the result of a bloodstained object(s) contacting it.”

46. None of the Defendants suffered any injuries during their interaction with Terrance Kellom.

47. At all times material and relevant, Defendant Quinn had no justifiable excuse or reason to shoot twenty-year-old Terrance Kellom.

48. Defendants Eaton and Fitzgerald had the duty and opportunity to intervene to protect Terrance and did nothing to assist him or prevent the shooting.

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49. Upon information and belief, to cover-up their misconduct, Defendants provided false and incomplete reports and/or gave false and incomplete versions of the events to certain superiors and the public; most significantly, regarding the possession of a search warrant and that Terrance was wielding a hammer.

50. As a direct and proximate result of Defendants' misconduct, Terrance, his minor children, his family, and his community suffered, *inter alia*, injury, pain and suffering, mental distress, loss of love, affection, society, companionship, consortium and expenses, as well as other injuries as a result of Terrance's death.

CLAIM I

BIVENS CLAIM

As to all Plaintiffs and to Defendants Eaton, Fitzgerald, and Quinn

51. Plaintiffs incorporate by reference the allegations contained in Paragraphs 1 through 50 above as though fully set forth herein.

52. Defendants Quinn, Fitzgerald, and Eaton, acting under color of State and/or federal law, knowingly and individually and/or in concert with each other violated Plaintiffs' Constitutional rights through, *inter alia*, causing the above-described shooting and killing of Terrance Kellom, without legal justification.

53. The actions of Defendants resulting in Terrance Kellom's death without just cause violated his rights under the Fourth and Fourteenth Amendment to the United States Constitution as to Defendants Eaton and Fitzgerald, and to be secure in his person against unreasonable search and seizure, excessive force, and

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the unlawful use of deadly force under the Fourth Amendment to the United States, and caused the injuries set forth above. As well, Plaintiffs with parent-child relations (Nelda and Kevin Kellom, and T.D.K. (minor son) and T.D.K. (minor daughter)) had their rights under the Fourteenth Amendment violated, and all other Plaintiffs had their right to equal protection violated.

54. Defendants' use of unnecessary, unreasonable, outrageous, and excessive force, as described herein, constitutes wanton, willful, reckless, unjustifiable, and malicious conduct warranting the imposition of exemplary punitive damages.

55. At all times relevant, acting under color of State and/or federal law, Defendants were required to obey the laws of the United States including those laws identified and described in the United States Constitution.

56. The aforementioned actions of Defendants were the direct and proximate cause of the constitutional violations set forth above and of the Plaintiffs' injuries.

57. Faced with the circumstances present at the aforementioned time and place, where Terrance Kellom was unarmed, with multiple police inside and outside the home, and surveillance of the location, reasonably prudent law enforcement officers would or should have known that actions such as Defendants' were likely to result in the deadly force described herein, violating Terrance Kellom's clearly

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established, United States Constitution, Fourth Amendment (made applicable to State-actor Defendants by way of the Fourteenth Amendment) liberty interest in bodily integrity as well as protection from unlawful search and seizure, unnecessary force, and excessive force.

58. Plaintiffs seek an award of compensatory damages and punitive damages against Defendants, Eaton, Fitzgerald, and Quinn, under *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 US 388 (1971) as a result of their actions in deprivation of Plaintiffs' Constitutional Rights.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgement in their favor and against Defendants jointly and severally as well as award costs, interest, attorney fees, punitive and exemplary damages so wrongfully incurred, and any other relief as is just and proper.

CLAIM II

42 USC §1983 – EXCESSIVE FORCE AND/OR UNLAWFUL USE OF DEADLY FORCE

As to Plaintiff Terrance Kellom and Defendants Fitzgerald and Eaton

59. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs 1 through 58 as though fully set forth herein.

60. The above-described savage physical and fatal attack on Plaintiff was without legal justification.

61. At all relevant times, Plaintiffs had a clearly established right to liberty protected in the substantive components of the Due Process Clause of the Fourteenth

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Amendment of the United States Constitution, including his right to personal safety and bodily integrity, as well as protection from unlawful search and seizure, unnecessary force, unreasonable force, and excessive force pursuant to the Fourth Amendment of the United States Constitution.

62. At all times relevant, as police officers acting under color of State and/or federal law, Defendants Fitzgerald and Eaton were required to obey the laws of the United States, including those laws identified under the Fourth and Fourteenth Amendments to the United States Constitution.

63. In violation of Plaintiffs' clearly established constitutionally-protected right to be free from punishment and deprivation of life and liberty without due process of law under the Fourth and Fourteenth Amendments, Defendants Fitzgerald and Eaton failed to act to prevent the use of unnecessary, unreasonable, and excessive force against Plaintiff.

WHEREFORE Pursuant to 42 USC §1983, Defendants are liable for all damages allowed under federal law and under State law. To the extent that the damages allowable and/or recoverable under the statutes are deemed insufficient to fully compensate Plaintiff and/or to punish or deter the Defendants, this Court must order additional damages to be allowed so as to satisfy any and all such inadequacies.

64. Plaintiffs demand substantial actual or compensatory damages, and because Defendants acted maliciously, wantonly, or oppressively, punitive damages

plus the costs of this action, attorney fees, and whatever additional relief this Court deems equitable and just.

CLAIM III

§1985 CONSPIRACY BY DEFENDANTS

As to all Plaintiffs and Defendants Eaton and Fitzgerald

65. Plaintiffs incorporate by reference their allegations contained in Paragraphs 1 through 64, above, as though fully set forth herein.

66. Upon Defendants realizing that Terrance Kellom was unjustly murdered, they intentionally conspired with each other and possibly others to cover-up their unlawful and unconstitutional acts by providing false and fictitious information to the authorities and to the media regarding the shooting of Terrance, including falsely claiming that warrants were presented, that Terrance threatened Defendant Quinn with a hammer, and that the discharge of the firearm was the result of a reasonable fear of harm.

67. Defendants acted in concert to cover-up the facts and circumstances of the fatal shooting of Terrance Kellom.

68. As soon as Defendants realized that they had wrongfully killed Terrance, they mutually, either tacitly or overtly, agreed to commence a conspiracy to cover-up the facts of what they had done.

69. Defendants' conspiracy sought to deprive Plaintiff Terrance Kellom and his family of their constitutional rights.

70. At all times herein the aforementioned conspiracy had among its purpose to violate Plaintiffs' constitutional and/or common law rights. As a consequence, Plaintiffs claim a violation of their rights pursuant to 42 USC §§ 1985(2) and (3).

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgement in their favor and against Defendants jointly and severally as well as award costs, interest, attorney fees and punitive damages so wrongfully incurred.

CLAIM IV

BIVENS CONSPIRACY BY DEFENDANTS

As to all Plaintiffs and Defendants Eaton, Fitzgerald, and Quinn

71. Plaintiffs incorporate by reference their allegations contained in Paragraphs 1 through 70, above, as though fully set forth herein.

72. Upon Defendants realizing that Terrance Kellom was unjustly murdered, they intentionally conspired with each other and possibly others to cover-up their unlawful and unconstitutional acts by providing false and fictitious information to the authorities and to the media regarding the shooting of Terrance, including falsely claiming that warrants were presented, that Terrance threatened Defendant Quinn with a hammer, and that the discharge of the firearm was the result of a reasonable fear of harm.

73. Defendants acted in concert to cover-up the facts and circumstances of the fatal shooting of Terrance Kellom.

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74. As soon as Defendants realized that they had wrongfully killed Terrance, they mutually, either tacitly or overtly, agreed to commence a conspiracy to cover-up the facts of what they had done.

75. Defendants' conspiracy sought to deprive Plaintiff Terrance Kellom and his family of their constitutional rights.

76. At all times herein, the aforementioned conspiracy had among its purpose to violate Plaintiffs' constitutional and/or common law rights. As a consequence, Plaintiffs claim a violation of their rights pursuant to *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 US 388, 91 S. Ct. 1999 (1971).

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgement in their favor and against Defendants jointly and severally as well as award costs, interest, attorney fees and punitive damages so wrongfully incurred.

CLAIM V

WRONGFUL DEATH

Michigan Wrongful Death Act, Mich. Comp. Laws §600.2922 *et seq.* (State Supplemental Claim)

As to all Plaintiffs and Defendants Eaton, Fitzgerald, and United States

77. Plaintiffs incorporate by reference the allegations contained in Paragraphs 1 through 76, above, as though fully set forth herein.

78. As a direct and proximate result of Defendants Eaton and Fitzgerald failures in protecting Terrance Kellom life, and of the United States through its agent

Defendant Quinn's use of Excessive Force in shooting the unarmed Terrance Kellom, individually and/or collectively, Plaintiffs' Decedent, Terrance Kellom, suffered his traumatic, painful, untimely, and wrongful death in front of his father and sister.

79. As a direct and proximate result of his wrongful death, the next of kin of Plaintiffs' Decedent, Terrance Kellom, have and will forever suffer those injuries and damages set forth in Michigan's wrongful death statute, including loss of society and companionship.

80. Plaintiff asserts that this Court has jurisdiction to determine damages under the Michigan Wrongful Death Act against Defendants Eaton and Fitzgerald, pursuant to 28 USC §§1331 and 1343(3) and (4), as federal law 42 USC §§1983 and 1988 allows such claims to be raised as a matter of federal law and jurisdiction; as well, it has jurisdiction under 28 USC §1367(a), which provides for supplemental jurisdiction.

81. Plaintiffs assert that that this Court has jurisdiction to determine damages under the Michigan Wrongful Death Act against Defendant United States pursuant to the Federal Torts Claims Act, 28 USC §1346(b) & 2671 *et seq.*, which provides that all federal employees acting within the scope of their employment shall be replaced by the United States as defendant in tort actions such as this.

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WHEREFORE, Plaintiffs pray for judgement against Defendants, jointly and severally, for:

- a. Compensatory damages in an amount that will fully and fairly compensate Terrance Kellom's next-of-kin for their injuries, damages, and loss, including but not limited to loss of society and companionship, including the pain and suffering suffered by Terrance Kellom;
- b. All reasonable funeral and burial expenses;
- c. Costs of suit and reasonable attorney fees; and
- d. All other damages recoverable under Michigan's wrongful death statutes, including all such other relief which the Court deems appropriate.

CLAIM VI

**INTENTIONAL INFLICTION of EMOTIONAL DISTRESS
(State supplemental claim).**

As to all Plaintiffs and Defendants, Eaton, Fitzgerald, and United States

82. Plaintiffs incorporate by reference their allegations contained in Paragraphs 1 through 81, above, as though fully set forth herein.

83. This Court has jurisdiction over the allegations contained in this Count under the equitable doctrine of pendent and supplemental jurisdiction, as the state tort claims alleged in Claim VII arise from the same facts and circumstances underpinning Plaintiff's federal causes of action.

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84. Defendants' actions in assaulting and killing Terrance Kellom, were completely and totally outside the bounds of acceptable behavior for any individual living in a civilized society and, as such, were shocking, extreme and outrageous.

85. Defendants' actions directed at Terrance Kellom were intentional.

86. Specifically, Defendants committed them knowing that Terrance Kellom's family, Plaintiffs Kevin and Teria Kellom, were close by and highly likely to witness all or part of these extreme, shocking and outrageous actions.

87. In the alternative, the actions of the Defendants were so reckless as to deliberately inflict emotional damage on the Plaintiffs immediate family by which means of their shocking, outrageous and extreme behavior directed at Terrance Kellom, Kevin and Teria Kellom witnessed, as previously set forth herein.

88. The actions of the individual Defendants were in avoidance of the Governmental Immunity Act, MCLA §691.1406, *et seq.*

89. As a direct and proximate result of the acts and conduct of the Defendants complained of herein, all Plaintiffs, especially Kevin and Teria Kellom, suffered and continue to suffer emotional and psychological harm, indignity, anxiety, mental anguish, emotional distress, humiliation, embarrassment, outrage, shame, fear, loss of income, damage to reputation, and physical injuries, damages or consequences related to the incident.

CLAIM VII

STEAGALD VIOLATION (State supplemental claim)

As to Plaintiffs Kevin and Teria Kellom and as to all defendants

90. Plaintiffs incorporate by reference their allegations contained in Paragraphs 1 through 89, above, as though fully set forth herein.

91. Upon information and belief, on the date of the incident, Terrance Kellom's official residence was not 9543 Evergreen, but elsewhere, where he lived with his girlfriend, Janay Williams, and their two minor children.

92. The house which Defendants unlawfully entered was the residence of Plaintiffs Kevin Kellom and Teria Kellom.

93. Plaintiffs Kevin Kellom and Teria Kellom had an expectation of privacy in their home under the Fourth Amendment (made applicable to State-actors by the Fourteenth Amendment) which was violated, unlawfully, by officers entering without a proper warrant and without consent in search of his son, Terrance.

94. Plaintiffs Kevin Kellom and Teria Kellom never consented to any Defendants entering and searching the house.

95. Defendant officers had only an *arrest warrant* for Terrance Kellom, as opposed to a search warrant and, therefore, violated Kevin Kellom's right to privacy by entering his home. *Steagald v. United States*, 451 U.S. 204 (1981).

CLAIM VIII

§ 1983 *MONELL* Liability

As to all Plaintiffs, and Defendants Craig, Eaton, Fitzgerald and City of Detroit

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96. Plaintiffs incorporate by reference their allegations contained in Paragraphs 1 through 95, above, as though fully set forth herein.

97. At all times herein the Defendants City of Detroit and Craig, acting in both his official and individual capacities, had established, promulgated, implemented and maintained customs, policies and/or practices, with regard to the Defendant City of Detroit's police department.

98. At all times herein the Defendants City of Detroit and Craig, acting in both his official and individual capacities, failed to properly train, monitor, direct, discipline and/or supervise its officers, and were on notice, through their supervisory officials, that their officers, and specifically the individually named Defendants, would engage in the complained of behavior given the improper training, customs, procedures, practices, and policies of the Detroit Police Department and the lack of supervision and/or discipline imposed.

99. At all times herein Defendants City of Detroit and Craig, acting in both his official and individual capacities, through their agents, servants, or employees, have established a practice, policy, or custom of operating a major law enforcement agency that, among other characteristics:

- (a) was negligently and dangerously undertrained,
- (b) lacked concern for the citizenry of Detroit; and
- (c) lacked leadership from the top in both regards.

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100. More specifically, Defendants Craig and City of Detroit promulgated and acquiesced in policies, customs and practices that authorized and/or permitted inadequate training, monitoring, directing and/or supervision regarding unconstitutional conduct of its officers in general, and these individually named Defendant Officers Eaton and Fitzgerald in particular, to wit Defendants Craig and City of Detroit established, promulgated, implemented and maintained the following customs, policies and/or practices, among others:

- (a) To inadequately train, supervise and discipline those officers and supervisors of officers, with regard to the accurate and proper use of search and arrest warrants;
- (b) To hire and/or retain as officers and supervisors of officers certain persons whom the aforementioned Defendants knew, or should have known, employed excessive and unreasonable force and failed to intervene in situations where excessive force was used and/or to correct the past use if said force by training, discipline and supervision;
- (c) To inadequately train, supervise and discipline those officers and supervisors of officers, whom the aforementioned Defendants knew to employ, condone, participate in, or allow excessive and unreasonable force;

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(d) To affirmatively promote, tolerate, condone and authorize their officers, and particularly their supervisors, to employ a policy of deceit and non-cooperation with anyone attempting to investigate violations of civil rights said policy being enforced by covering-up, tampering with, or planting evidence among other tactics;

(e) To inadequately train, supervise and discipline those officers and supervisors of officers, with regard to the accurate and honest reporting of incidents involving officers and members of the public.

101. Each of the aforementioned practices, policies or customs, which were so pervasive as to have the force of law, was instrumental and a driving force in the violations of rights sustained by Plaintiffs, as set forth herein, to wit:

(a) Terrance Kellom's right to be free from violations of her rights to life and liberty, as secured by the Fourth and Fourteenth Amendments;

(b) Kevin and Teria Kellom's right to privacy and to be free from unlawful searches and seizures, as secured by the Fourth and Fourteenth Amendments.

102. Defendants City of Detroit and Craig were on, or should have been on, notice that each of the aforementioned policies that implicate the failure to train, supervise and discipline Detroit Police Officers (including Defendants Officers Eaton and Fitzgerald), their supervisors and others, was highly likely and probable

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to proximately cause violations of constitutional rights of members of the public, including the killing of Terrance Kellom as a result of the intentional, deliberate, reckless and shocking conduct of their officers causing death to members of the public.

103. As a driving force of the policies, customs and practices established, authorized, promulgated and permitted by Defendants Craig and City of Detroit, Plaintiffs Terrance, Kevin, and Teria Kellom have suffered violations of their rights, as secured by the Fourth and Fourteenth Amendments of the Constitution of the United States, as well as the injuries set forth elsewhere herein.

104. As a direct and proximate result of the acts and conduct of the Defendants complained of herein, Plaintiff Terrance Kellom suffered and and Plaintiffs Kevin and Teria Kellom continue to suffer emotional and psychological harm, indignity, anxiety, mental anguish, emotional distress, humiliation, embarrassment, outrage, shame, fear, loss of income, damage to reputation, denial of constitutional rights, and physical injuries, damages or consequences related to the incident. *Monell v. Department of Social Serv.*, 436 U.S. 658 (1978).

RELIEF REQUESTED

WHEREFORE, Plaintiffs demand the following relief against all Defendants, jointly and severally, for the violation of their rights and decedent's rights as set forth herein:

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- a. A declaration that Defendants violated the federal and State-law-based rights of Plaintiff's decedent;
- b. Compensatory damages for the physical and emotion injuries and pain and suffering experienced by Plaintiff Terrance Kellom and his surviving family member Plaintiffs, and caused by Defendants' unlawful, unconstitutional, and unjustified conduct which caused his death, in an amount determined by a jury to be fair, just and reasonable and in conformity with the evidence at trial;
- c. Compensatory damages for the loss of consortium, emotional suffering, loss of society and companionship, and loss of services suffered by decedent's heirs, in an amount determined by a jury to be proper under common law and the Michigan Wrongful Death Act, Mich. Comp. Laws §600.2922, *et. Seq.*;
- d. Punitive and exemplary damages against the individual Defendants in the amount of \$50 million dollars and to the extend allowable by law;
- e. Attorney fees, pursuant to the Equal Access to Justice Act and state law, as allowed;
- f. The costs, interest, and disbursements of this action; and

g. Such other and further legal and/or equitable relief as appears just and proper to the Court or the jury in its discretion.

REQUEST FOR JURY TRIAL

Plaintiffs, by and through their attorneys, AYAD LAW, PLLC, hereby request a trial by jury in the above-captioned matter on all claims.

Respectfully submitted,

AYAD LAW, PLLC

/s/Nabih H. Ayad
Nabih H. Ayad (P59518)
AYAD LAW, PLLC
645 Griswold St., Ste. 2202
Detroit, MI 48226

Dated: May 5, 2018

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CEERTIFICATE OF SERVICE

I hereby certify that on May 4, 2018, I electronically filed the foregoing paper with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the Court and all parties:

GREGORY B. PADDISON (P75963)
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/s/ Nabih H. Ayad
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Dated: May 5, 2018

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