

**DISTRICT COURT, COUNTY OF ARAPAHOE,
STATE OF COLORADO**

7325 S. Potomac Street, Centennial, CO 80112

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Plaintiffs:

ESTATE OF KILYN LEWIS, by and through its personal representative Pikes Peak Probate Services, Inc., by and through its agent Christopher Marchase; ANNDREC LEWIS, individually and as successor-in-interest to Decedent, Kilyn Lewis; SONSHARAY MONROE, as parent and legal guardian of K.L., JR., a minor child; PORSCHE MATTHEWS, as parent and legal guardian of K.K.E.L., a minor child; LARONDA JONES; and ROBERT LEWIS, JR.

v.

Defendants:

OFFICER MICHAEL DIECK, in his individual and official capacity; and, CITY OF AURORA, COLORADO, a municipality.

▲ COURT USE ONLY ▲

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Case No.:

Courtroom:

COMPLAINT AND JURY DEMAND

Plaintiffs, Estate of Kilyn Lewis, Anndrec Lewis, Sonsharay Monroe, Porsche Matthews, LaRonda Jones, and Robert Lewis, Jr., by and through their attorneys, IRWIN FRALEY, PLLC, and VANGUARD JUSTICE, LLC, submit this Complaint and Jury Demand against Defendants and in support thereof, state and aver the following:

I. JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over this action pursuant to the Constitution of the State of Colorado, Article VI, Section 9.

2. The Court has personal jurisdiction over Defendants pursuant to C.R.S. § 13-1-124 and by virtue of their residence in the State of Colorado and commission of tortious acts in Colorado that caused injury and damages in Colorado to Plaintiffs.

3. Venue is proper in Arapahoe County, Colorado pursuant to C.R.C.P. Rule 98(c) as that is where the fatal shooting of Kilyn Lewis took place.

II. PARTIES

4. At all times relevant to this action, the decedent Kilyn Lewis (“Kilyn”) was a citizen of the United States of America and a resident of and domiciled in the State of Colorado.

5. At all times relevant to this action, Pikes Peak Probate Services, Inc., by and through its agent, Christopher Marchase, was appointed as the personal representative of the Estate of Kilyn Lewis (the “Estate”). Pikes Peak Probate Services,

Inc. is a Colorado corporation with its principal office located at 312 S. Webster Street, Suite 100, Colorado Springs, CO 80903.

6. At all times relevant to this action, Anndrec Lewis (“Anndrec”) was a citizen of the United States and a resident of and domiciled in the State of Colorado, and was the lawful spouse of Kilyn Lewis.

7. At all times relevant to this action, Sonsharay Monroe (“Sonsharay”) was a citizen of the United States and a resident of and domiciled in the State of Colorado. Sonsharay is the natural mother of Kilyn’s son, K.L., Jr., who is also a resident of and maintains a domicile in the State of Colorado.

8. At all times relevant to this action, Porsche Matthews (“Porsche”) was a citizen of the United States and a resident of and domiciled in the State of Colorado. Porsche is the natural mother of Kilyn’s son, K.K.E.L., who is also a resident of and maintains a domicile in the State of Colorado.

9. At all times relevant to this action, LaRonda Jones (“LaRonda”) was a citizen of the United States and a resident of and domiciled in the State of Colorado. LaRonda is Kilyn’s mother.

10. At all times relevant to this action, Robert Lewis, Jr. (“Robert”) was a citizen of the United States and a resident of and domiciled in the State of Colorado. Robert is Kilyn’s father.

11. At all times relevant to this action, Defendant Michael Dieck (“Defendant Dieck”) was a citizen of the United States and a resident of and domiciled in the State

of Colorado. At all times relevant to this action, Defendant Dieck was acting within the course and scope of his official duties and employment and under color of state law in his capacity as a law enforcement officer employed by the Aurora Police Department (“APD”).

12. Defendant, City of Aurora, Colorado (“Defendant Aurora”), was a municipality organized under the laws of the State of Colorado and is responsible for the actions of the Aurora Police Department, a department within the authority and control of the City of Aurora, as well as the employees of the Aurora Police Department.

III. FACTUAL ALLEGATIONS

A. Defendant Michael Dieck Shoots Kilyn Lewis, Who Was Unarmed

13. On May 23, 2024, members of the APD SWAT team and Fugitive Apprehension and Surveillance Team (“FAST”) were attempting to locate and arrest Kilyn pursuant to an arrest warrant for the Denver Police Department.

14. APD officers, including Defendant Dieck, had been surveilling Kilyn for approximately two days prior to the shooting with undercover police vehicles and officers, and were aware of his whereabouts and actions.

15. Because of their lengthy pre-arrest surveillance operations, APD officers, including Defendant Dieck, knew that Kilyn was unarmed.

16. On May 23, 2024, Kilyn made a stop at a nearby gas station and then proceeded to an apartment complex located at 384 S. Ironton, in Aurora, Colorado.

17. APD officers, including Defendant Dieck, were aware this was likely Kilyn's residence.

18. As Mr. Lewis approached the apartment complex, he pulled his vehicle into a covered parking area, front first, with his vehicle pointed north, and Mr. Lewis got out of his vehicle to apparently unload items from the trunk using a wheeled walker.

19. During this time, the surveilling officers were using a drone to update the SWAT officers as to Mr. Lewis' location and actions.

20. Pursuant to the surveilling officers' report that Mr. Lewis had exited his car and was at the trunk area, three SWAT vehicles entered the parking lot from the west, parking to the southwest of Kilyn's vehicle.

21. Defendant Dieck exited from the rear driver's-side of the lead vehicle. Thereafter, Officer Wilson exited from the passenger-side front seat of the first vehicle and came around the front of the hood. Officer Peet exited the driver's seat of the second vehicle, and Officer Fox exited from the passenger seat of the second vehicle and came around the front. According to interviews with the APD SWAT officers, their plan was that Officer Graham, driving the lead vehicle, would remain in the Chevrolet Silverado pickup truck, in case it was necessary to further move it to pin and block Kilyn's vehicle.

22. Two additional APD SWAT officers, Ingersoll and Brady, arrived in their vehicles and approached from the west, as all seven officers contacted Kilyn.

23. Defendant Dieck was the first APD SWAT officer to leave his vehicle and approach Kilyn.

24. The other officers followed quickly thereafter, virtually surrounding Kilyn.

25. As soon as he heard the officers surround him, Kilyn turned so that his back was to his vehicle.

26. As the officers approached Kilyn with their guns drawn, Defendant Dieck commanded to Kilyn to “get on the ground.”

27. One or more additional officers gave Kilyn other, sometimes conflicting commands, including to “show his hands.”

28. Defendant Dieck and the other officers were within approximately 15 feet of Kilyn, with their weapons raised and pointed directly at him.

29. From this time until the shooting, which happened mere seconds later, Kilyn attempted to comply with the conflicting verbal commands being shouted at him.

30. Hearing these conflicting verbal commands, Kilyn turned towards Defendant Dieck and raised his hands while squatting to get on the ground as ordered.

31. Immediately after Kilyn raised his hands and began to bend his knees, Defendant Dieck fired one shot directly at Kilyn, aimed at center mass.

32. Defendant Dieck shot Kilyn in the stomach, causing him to fall to the ground in severe pain, bleeding profusely from the gunshot wound that would eventually kill him.

33. Before fatally shooting Kilyn, Defendant Dieck did not issue any verbal warning that he would shoot, nor did he allow sufficient time for Kilyn to comply with the overlapping and conflicting commands being shouted at him, as Kilyn was attempting to do.

34. A mere seven seconds elapsed between Defendant Dieck's exiting his vehicle and Kilyn being shot.

35. At the time Defendant Dieck fired, Kilyn was not armed with any weapon, nor was Kilyn taking a shooting stance or otherwise bringing his hands into a position that a reasonable officer would perceive as threatening.

36. At the time Defendant Dieck fired, no reasonable officer in Defendant Dieck's position would have perceived Kilyn as posing an imminent threat of harm toward Defendant Dieck or any other person.

37. At the time Defendant Dieck fired, Kilyn was not fleeing or attempting to flee, and he had not attempted to flee at any time during the encounter before Defendant Dieck fired.

38. Defendant Dieck was the only APD SWAT officer on scene that day who was designated to carry the less-lethal option (a 40mm baton launcher), as part of the officers' plan to arrest Kilyn.

39. However, before approaching Kilyn, Defendant Dieck transitioned from the 40mm baton launcher to his pistol, keeping the 40mm launcher around his neck on a sling, where it could be readily accessed, until after the shooting.

40. Defendant Dieck chose to use a lethal weapon, notwithstanding that he was assigned to use a less-than-lethal weapon, when he exited his vehicle and approached Kilyn.

41. Other reasonable options were available to the officers, including Defendant Dieck, to take Kilyn into custody without resorting to use of deadly force.

42. Kilyn was simply holding his cell phone, which was easily visible to the naked eye at the close distance that the officers were to Kilyn, when Defendant Dieck shot him.

IV. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

(Excessive Force in Violation of Colo. Const. Art. II, Section 7)

(By the Estate, through its PR Pikes Peak Probate Services, Inc. and Christopher Marchase and against Defendant Dieck)

43. The Estate hereby incorporates all preceding paragraphs of this Complaint, as though fully set forth herein.

44. Defendant Dieck's lethal use of force against Kilyn was not reasonable.

45. Defendant Dieck's unreasonable lethal use of force against Kilyn deprived Kilyn of his right to be secure in his person against unreasonable searches and seizures, as protected by Colo. Const. Article II, Section 7.

46. As a result, Kilyn suffered extreme pain and suffering and ultimately loss of life.

47. Kilyn's Estate brings this claim, via its PR, for all relief that would have been available to Kilyn had he survived Defendant Dieck's shooting.

48. For its First Claim for Relief, the Estate seeks all available remedies at law and equity, including money damages (including survival and wrongful death damages) and injunctive relief necessary to prevent Defendant Dieck from engaging in similar conduct in the future.

SECOND CLAIM FOR RELIEF

(Interference with Familial Relations in Violation of Colo. Const. Art. II, Section 25)
(By Plaintiffs Sonsharay Monroe, on behalf of K.L., Jr.; Porsche Matthews, on behalf of K.K.E.L.; LaRonda Jones; and Robert Lewis, Jr. (collectively, the “Family Plaintiffs”) against Defendant Dieck)

49. The Family Plaintiffs hereby incorporate all preceding paragraphs of this Complaint, as though fully set forth herein.

50. The Due Process Clause of the Colorado Constitution protects people from actions by the government that deprive them of life, liberty, or property, including but not limited to unwarranted state interference in familial relations.

51. Killing a person’s family member in a manner or under circumstances that are unreasonable or shock the conscience constitutes unwarranted interference with their familial relations.

52. As a result of Defendant Dieck’s unreasonable and conscience-shocking actions that resulted in Kilyn’s death, the Family Plaintiffs no longer have the ability—present or future—to maintain a relationship with Kilyn.

53. Accordingly, Defendant Dieck is liable to the Family Plaintiffs for unconstitutionally interfering with their familial relations with Kilyn.

54. For their Second Claim for Relief, the Family Plaintiffs seek all available remedies at law and equity, including money damages (including survival and wrongful death damages) and injunctive relief necessary to prevent Defendant Dieck from engaging in similar conduct in the future.

THIRD CLAIM FOR RELIEF

(Interference with Right of Association in Violation of Colo. Const. Art. II, Section 5)
(By the Family Plaintiffs against Defendant Dieck)

55. The Family Plaintiffs hereby incorporate all preceding paragraphs of this Complaint, as though fully set forth herein.

56. Section 5 of the Bill of Rights to the Colorado Constitution protects people's right of association, including with their family members.

57. Killing a person's family member in a manner or under circumstances that are unreasonable constitutes an unwarranted interference with people's right of association with their family members.

58. As a result of Defendant Dieck's unreasonable actions that resulted in Kilyn's death, the Family Plaintiffs no longer have the ability—present or future—to associate with Kilyn.

59. Accordingly, Defendant Dieck is liable to the Family Plaintiffs for unconstitutionally interfering with their right of association with Kilyn.

60. For their Third Claim for Relief, the Family Plaintiffs seek all available remedies at law and equity, including money damages (including survival and

wrongful death damages) and injunctive relief necessary to prevent Defendant Dieck from engaging in similar conduct in the future.

FOURTH CLAIM FOR RELIEF

(Common Law Assault Causing Wrongful Death)

(By the Estate, through its PR Pikes Peak Probate Services and Christopher Marchase and against Defendant Dieck)

61. The Estate hereby incorporates all preceding paragraphs of this Complaint, as though fully set forth herein.

62. During his interaction with Kilyn on May 23, 2024, Defendant Dieck intended to cause an offensive or harmful physical contact with the Plaintiff or intended to place the Plaintiff in apprehension of such conduct.

63. As a direct and proximate result of Defendant Dieck's assaultive conduct, Kilyn suffered injuries, damages, and losses, including severe psychological distress, pre-death pain and suffering, and loss of life.

64. Defendant Dieck's conduct was willful and wanton.

65. The Estate timely served notice pursuant to § 24-10-109, C.R.S., to Defendant Dieck and his employer, the City of Aurora.

66. For its Fourth Claim for Relief, the Estate seeks all damages that may be available at law or equity, including compensatory damages.

FIFTH CLAIM FOR RELIEF

(Common Law Battery Causing Wrongful Death)

(By the Estate, through its PR Pikes Peak Probate Services and Christopher Marchase and against Defendant Dieck)

67. The Estate hereby incorporates all preceding paragraphs of this Complaint, as though fully set forth herein.

68. During his interaction with Kilyn on May 23, 2024, Defendant Dieck intended to and did cause an offensive or harmful physical contact with Kilyn.

69. As a direct and proximate result of Defendant Dieck's conduct amounting to battery, Kilyn suffered injuries, damages, and losses, including severe psychological distress, pre-death pain and suffering, and loss of life.

70. Defendant Dieck's conduct was willful and wanton.

71. The Estate timely served notice pursuant to § 24-10-109, C.R.S., to Defendant Dieck and his employer, the City of Aurora.

72. For its Fifth Claim for Relief, the Estate seeks all damages that may be available at law or equity, including compensatory damages.

SIXTH CLAIM FOR RELIEF

(Negligence Causing Wrongful Death pursuant to § 13-21-202, C.R.S., *et seq.*)

(By Anndrec Lewis against Defendant Dieck)

73. Plaintiff Anndrec Lewis hereby incorporates all preceding paragraphs of this Complaint, as though fully set forth herein.

74. Defendant Dieck owed Kilyn and Anndrec Lewis a duty of reasonable care in the exercise of his duties as an APD officer.

75. By the conduct described herein, Defendant Dieck breached that duty of care when he unreasonably shot and killed Kilyn.

76. As a direct and proximate result of Defendant Dieck's breach of his duty of care, Anndrec Lewis has suffered injuries, damages, and losses, including pre-death pain and suffering and loss of life.

77. Defendant Dieck's conduct was willful and wanton.

78. The Estate timely served notice pursuant to § 24-10-109, C.R.S., to Defendant Dieck and his employer, the City of Aurora.

79. For their Sixth Claim for Relief, Anndrec Lewis seeks all damages that may be available at law or equity, including compensatory damages.

SEVENTH CLAIM FOR RELIEF

(Respondeat Superior/Vicarious Liability)
(All Plaintiffs against Defendant City of Aurora)

80. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint, as though fully set forth herein.

81. An employer is liable for an employee's tortious and unconstitutional conduct (in the case of an employer whose employee constitutes a state actor).

82. Defendant Dieck was acting in the course and scope of his employment at the time of the unlawful actions alleged herein.

83. At all relevant times, the City of Aurora had the right and ability to control Defendant Dieck's actions within the scope of his employment.

84. As a direct and proximate result of the above unconstitutional and tortious conduct, Plaintiffs have suffered injuries, losses, and damages, including survival and wrongful death damages, including but not limited to for Kilyn's pre-death pain and suffering and loss of life.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in favor of the Plaintiffs and against Defendants and grant the following relief:

- A. Compensation for any and all past and future economic losses;
- B. Compensation for any and all past and future noneconomic losses for pain and suffering, inconvenience, emotional distress, anxiety, loss of enjoyment of life, as well as any physical impairment and disfigurement, and for the loss of love, comfort, society, and companionship;
- C. Compensation for any and all other out-of-pocket expenses sustained or incurred;
- D. Reasonable attorneys' fees;
- E. Costs, expert witness fees, and interest as provided by law; and,
- F. Such further relief as the Court deems just and proper.

JURY DEMAND

Plaintiffs hereby request a trial by jury of all issues to be determined.

Respectfully submitted this 23rd day of May, 2025.

IRWIN FRALEY, PLLC

s/ *Bradley R. Irwin*

Bradley R. Irwin, Esq.

VANGUARD JUSTICE LLC

s/ *Elisabeth L. Owen*

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