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Attorneys for Defendants Las Vegas Metropolitan Police

Department, Sheriff Joseph Lombardo, Andrew Bauman, Matthew

Kravetz, Supreet Kaur, David Jeong, and Theron Young

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CONNIE SEMPER¹, an individual; ASHLEY
MEDLOCK, an individual; LONICIA BOWIE,
an individual; MICHAEL GREEN, an
individual; CLINTON REECE, an individual;
COREY JOHNSON, an individual; DEMARLO
RILEY, an individual; CORY BASS, an
individual; CARLOS BASS, an individual;
BREANNA NELLUMS, an individual; and
ANTONIO WILLIAMS, an individual,

Plaintiffs,

vs.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, in its official capacity;
ANDREW BAUMAN, individually and in his
capacity as a Las Vegas Metropolitan Police
Department Officer; DAVID JEONG,
individually and in his capacity as a Las Vegas
Metropolitan Police Department Officer;
SUPREET KAUR, individually and in his
capacity as a Las Vegas Metropolitan Police
Department Officer; MATTHEW KRAVETZ,
individually and in his capacity as a Las Vegas
Metropolitan Police Department Officer; and
THERON YOUNG, individually and in his
capacity as a Las Vegas Metropolitan Police
Department Officer,

Defendants.

Case Number:

2:20-cv-01875-JCM-EJY

**LVMPD DEFENDANTS' ANSWER TO
PLAINTIFFS' SECOND AMENDED
COMPLAINT FOR DECLARATORY
RELIEF, INJUNCTIVE RELIEF, AND
DAMAGES PURSUANT TO 42 U.S.C. §
1983 AND NEVADA STATE LAW**

¹ Pursuant to FRCP 25, Ms. Semper has been substituted for Phillip Semper pursuant to this court's order date January 13, 2022, as she is the executrix of his estate.

LVMPD DEFENDANTS' ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT FOR DECLARATORY RELIEF, INJUNCTIVE RELIEF, AND DAMAGES PURSUANT TO 42 U.S.C. § 1983 AND NEVADA STATE LAW

Defendants, the Las Vegas Metropolitan Police Department (the “Department” or “LVMPD”), Sheriff Joseph Lombardo (“Lombardo”), Andrew Bauman (“Bauman”), Matthew Kravetz (“Kravetz”), Supreet Kaur (“Kaur”), David Jeong (“Jeong”), and Theron Young (“Young”), collectively (“LVMPD Defendants”), by and through their attorneys of record, the law firm of Marquis Aurbach, hereby answers Plaintiffs’ Second Amended Complaint [ECF No. 89] as follows:

I. INTRODUCTION

In answering Paragraph 1 of Plaintiffs’ Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

II. JURISDICTION AND VENUE

1. In answering Paragraphs 1 through 4 of Plaintiffs’ Second Amended Complaint, LVMPD Defendants admit the allegations contained therein.

III. PARTIES

A. REPRESENTED PLAINTIFFS

2. In answering Paragraphs 5 through 11 of Plaintiffs’ Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

B. UNREPRESENTED PLAINTIFFS

3. In answering Paragraphs 12 through 15 of Plaintiffs’ Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

C. DEFENDANTS

4. In answering Paragraph 16 of Plaintiffs’ Second Amended Complaint, LVMPD admits that it is a political subdivision of the State of Nevada and denies remaining allegations therein.

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5. In answering Paragraph 17 of Plaintiffs' Second Amended Complaint, LVMPD Defendants admit that Defendant is a police officer with LVMPD but denies the remaining allegations contained therein.

6. In answering Paragraph 18 of Plaintiffs' Second Amended Complaint, LVMPD Defendants admit that Defendant is a police officer with LVMPD but denies the remaining allegations contained therein.

7. In answering Paragraph 19 of Plaintiffs' Second Amended Complaint, LVMPD Defendants admit that Defendant is a police officer with LVMPD but denies the remaining allegations contained therein.

8. In answering Paragraph 20 of Plaintiffs' Second Amended Complaint, LVMPD Defendants admit that Defendant is a police officer with LVMPD but denies the remaining allegations contained therein.

9. In answering Paragraph 21 of Plaintiffs' Second Amended Complaint, LVMPD Defendants admit that Defendant is a police officer with LVMPD but denies the remaining allegations contained therein.

10. In answering Paragraph 22 of Plaintiffs' Second Amended Complaint, LVMPD Defendants admit the allegations contained therein.

IV. FACTUAL ALLEGATIONS

(As to all Represented Plaintiffs unless otherwise noted)

11. In answering Paragraph 23 of Plaintiffs' Second Amended Complaint, LVMPD Defendants admit the allegations contained therein.

D. August 18, 2018, Birthday Party at Rio Hotel and Casino

12. In answering Paragraphs 24 through 25 of Plaintiffs' Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

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1. Represented Plaintiffs' Relationship to Cory Bass

13. In answering Paragraphs 26 through 32 of Plaintiffs' Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

2. Room 2037 at the Rio Hotel and Casino

14. In answering Paragraphs 33 through 35 of Plaintiffs' Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

3. Actions and Policy of Rio Security

15. In answering Paragraphs 36 through 44 of Plaintiffs' Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

E. Defendants' Actions on August 19, 2018

1. LVMPD engages in social media surveillance

16. In answering Paragraphs 45, 53 and 56 of Plaintiffs' Second Amended Complaint, LVMPD Defendants admit the allegations contained therein.

17. In answering Paragraphs 46 through 52, 54, 55, and 57 through 61 of Plaintiffs' Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

2. LVMPD Arrives at the Rio Hotel and Casino

18. In answering Paragraphs 62 through 66 and 68 through 70 of Plaintiffs' Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

19. In answering Paragraph 67 of Plaintiffs' Second Amended Complaint, LVMPD Defendants deny the allegations contained therein.

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3. Rio Security engages with Guests

20. In answering Paragraphs 71 through 84 of Plaintiffs' Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

4. LVMPD enters room 2037

21. In answering Paragraphs 85 through 100, 102 and 103 of Plaintiffs' Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

22. In answering Paragraphs 101, 104 and 105 of Plaintiffs' Second Amended Complaint, LVMPD Defendants deny the allegations contained therein.

5. Facts specific to Phillip Semper

23. In answering Paragraphs 106 through 110 of Plaintiffs' Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

6. Facts specific to Ashley Medlock

24. In answering Paragraphs 111 through 115 of Plaintiffs' Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

7. Facts specific to Lonicia Bowie

25. In answering Paragraphs 116 through 120 of Plaintiffs' Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

8. Facts specific to Michael Green

26. In answering Paragraphs 121 through 125 of Plaintiffs' Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

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9. Facts specific to Clinton Reece

27. In answering Paragraphs 126 through 129 of Plaintiffs' Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

10. Facts specific to Corey Johnson

28. In answering Paragraphs 130 through 133 of Plaintiffs' Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

11. Facts specific to Demarlo Riley

29. In answering Paragraphs 134 through 139 of Plaintiffs' Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

12. Facts specific to multiple Represented Plaintiffs

30. In answering Paragraphs 140 through 152 of Plaintiffs' Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

F. Consequences of August 19, 2018, Incident

13. Charges filed against Semper and Johnson are dismissed due to unconstitutional search and seizure

31. In answering Paragraphs 153 through 176 of Plaintiffs' Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

14. Represented Plaintiffs designated as "gang members" or "gang affiliates" by Defendant LVMPD and the designation is disclosed to media

32. In answering Paragraphs 177 through 181 and 183 through 185 of Plaintiffs' Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

33. In answering Paragraphs 182, 186 and 187 of Plaintiffs' Second Amended Complaint, LVMPD Defendants deny the allegations contained therein.

15. Plaintiffs' Emotional Distress

34. In answering Paragraphs 188 through 195 of Plaintiffs' Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

G. Defendant LVMPD's Policies and Practices

1. "Party Crashers" or Unified Problem Abatement Concept Protocol

35. In answering Paragraphs 196 and 201 through 214 of Plaintiffs' Second Amended Complaint, LVMPD Defendants deny the allegations contained therein.

36. In answering Paragraphs 197 through 200 of Plaintiffs' Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

2. Policies, or Lack Thereof, Related to Assisting Hotel Security

37. In answering Paragraphs 215 through 221 of Plaintiffs' Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

3. LVMPD Gang-Related Policies and Practices

38. In answering Paragraphs 222 through 226, 228, 229, 232 through 272, 274 through 365 of Plaintiffs' Second Amended Complaint, LVMPD Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

39. In answering Paragraphs 227, 230, 231 and 273 of Plaintiffs' Second Amended Complaint, LVMPD Defendants deny the allegations contained therein.

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IV.

CAUSES OF ACTION

A. FIRST CAUSE OF ACTION

**VIOLATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, 28 C.F.R §§ 42.101
et seq. AND 42 U.S.C. § 1983**

(All Represented Plaintiffs and All Defendants)

40. In answering Paragraphs 366 through 378 of Plaintiffs' Second Amended Complaint, LVMPD Defendants deny the allegations contained therein.

B. SECOND CAUSE OF ACTION

**VIOLATION OF PROCEDURAL DUE PROCESS PURSUANT TO THE
FOURTEENTH AMENDMENT THROUGH 42 U.S.C. § 1983**

(All Represented Plaintiffs, Save Semper and All Defendants)

41. In answering Paragraphs 379 through 415 of Plaintiffs' Second Amended Complaint, LVMPD Defendants deny the allegations contained therein.

C. THIRD CAUSE OF ACTION

**VIOLATION OF RIGHT TO ASSOCIATION AND EXPRESSION – DIRECT
PROHIBITION – PURSUANT TO THE FIRST AMENDMENT THROUGH 42 U.S.C. §
1983**

(All Represented Plaintiffs, Save Semper and All Defendants)

42. In answering Paragraphs 416 through 445 of Plaintiffs' Second Amended Complaint, LVMPD Defendants deny the allegations contained therein.

D. FOURTH CAUSE OF ACTION

**VIOLATION OF RIGHT TO ASSOCIATION AND EXPRESSION – CHILLING
EFFECT – PURSUANT TO THE FIRST AMENDMENT THROUGH 42 U.S.C. § 1983**

(All Represented Plaintiffs, Save Semper and All Defendants)

43. In answering Paragraphs 446 through 468 of Plaintiffs' Second Amended Complaint, LVMPD Defendants deny the allegations contained therein.

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E. FIFTH CAUSE OF ACTION

UNREASONABLE SEARCH AND SEIZURE PURSUANT TO THE FOURTH AND

FOURTEENTH AMENDMENTS THROUGH 42 U.S.C. § 1983

(All Represented Plaintiffs and All Defendants, Save LVMPD)

44. In answering Paragraphs 469 through 471 of Plaintiffs’ Second Amended Complaint, LVMPD Defendants deny the allegations contained therein.

F. SIXTH CAUSE OF ACTION

UNREASONABLE SEARCH AND SEIZURE PURSUANT TO THE FOURTH AND

FOURTEENTH AMENDMENTS THROUGH 42 U.S.C. § 1983

(All Represented Plaintiffs and Defendant LVMPD)

45. In answering Paragraphs 472 through 481 of Plaintiffs’ Second Amended Complaint, LVMPD Defendants deny the allegations contained therein.

G. SEVENTH CAUSE OF ACTION

UNLAWFUL DETENTION PURSUANT TO THE FOURTH AND FOURTEENTH

AMENDMENTS THROUGH 42 U.S.C. § 1983

(All Represented Plaintiffs and All Defendants, Save LVMPD)

46. In answering Paragraphs 482 through 484 of Plaintiffs’ Second Amended Complaint, LVMPD Defendants deny the allegations contained therein.

H. EIGHTH CAUSE OF ACTION

UNLAWFUL DETENTION PURSUANT TO THE FOURTH AND FOURTEENTH

AMENDMENTS THROUGH 42 U.S.C. § 1983

(All Represented Plaintiffs and Defendant LVMPD)

47. In answering Paragraphs 485 through 494 of Plaintiffs’ Second Amended Complaint, LVMPD Defendants deny the allegations contained therein.

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I. NINTH CAUSE OF ACTION

**CIVIL CONSPIRACY TO VIOLATE PLAINTIFFS' CIVIL RIGHTS UNDER 42 U.S.C. §
1983 – UNLAWFUL ARREST AND UNREASONABLE SEARCH AND SEIZURE**

(All Represented Plaintiffs and All Defendants)

48. In answering Paragraphs 495 through 500 of Plaintiffs' Second Amended Complaint, LVMPD Defendants deny the allegations contained therein.

J. TENTH CAUSE OF ACTION

**CIVIL CONSPIRACY TO VIOLATE PLAINTIFFS' CIVIL RIGHTS UNDER 42 U.S.C. §
1983 – EQUAL PROTECTION**

(All Represented Plaintiffs and All Defendants)

49. In answering Paragraphs 501 through 504 of Plaintiffs' Second Amended Complaint, LVMPD Defendants deny the allegations contained therein.

AFFIRMATIVE DEFENSES

1. Plaintiffs' suit fails to state a claim for relief as he failed to allege a violation of a right, privilege, or immunity secured by the United States Constitution or by the laws of the United States.

2. The LVMPD Defendants did not enact or promulgate any policy, statute, ordinance or custom, policy or procedure which denied or abridged any of the Plaintiffs' constitutional rights.

3. The damage sustained by the Plaintiff, if any, were caused by the acts of third persons who were not agents, servants, or employees of Defendant LVMPD and who were not acting on behalf of Defendant LVMPD in any manner or form, and, as such, Defendant LVMPD is not liable in any manner to the Plaintiff.

4. The complained of acts of the LVMPD Defendants were justified and privileged under the circumstances.

5. At all times mentioned in Plaintiffs' Second Amended Complaint, the LVMPD Defendants acted in good faith belief that their actions were legally justifiable.

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1 6. Plaintiffs' Second Amended Complaint concerns a discretionary function of the
2 LVMPD Defendants for which these Defendants are immune.

3 7. The Plaintiffs' claims of constitutional violations are unsupported in both fact and
4 law, as Plaintiff has not alleged a sufficient basis from which a constitutional interest might arise
5 in conjunction with the alleged actions.

6 8. To the extent Plaintiffs' causes of actions against the LVMPD Defendants sound
7 in negligence, no recovery can be predicated upon 42 USCA § 1983.

8 9. Any injuries allegedly sustained by Plaintiff were the result of his own negligence
9 and/or actions.

10 10. The Plaintiff lacks standing to pursue any claims.

11 11. The LVMPD Defendants are protected by the doctrine of qualified immunity.

12 12. The actions of the LVMPD Defendants if found to be unconstitutional, do not rise
13 to the level of "shocks the conscience."

14 13. Plaintiff cannot recover punitive or exemplary damages because Plaintiff has
15 failed to plead and cannot establish facts sufficient to support allegations of malice, oppression
16 or fraud. Plaintiff is not entitled to recover punitive or exemplary damages herein under any of
17 the claims of relief alleged against the LVMPD Defendants' supervisors, directors or managing
18 agents committed the alleged malicious, fraudulent or oppressive acts, authorized to ratify such
19 wrongful conduct or had advanced knowledge of the unfitness of any employee(s) who allegedly
20 committed the acts and did not employ such person(s) with conscience disregard for the higher
21 safety of others.

22 14. The claims and each of them are barred by Plaintiffs' failure to plead those claims
23 with particularity.

24 15. The claims, and each of them, are barred by the applicable statute of limitation.

25 16. Plaintiffs consented to LVMPD Defendants' search of his person and/or premises.

26 17. Plaintiffs consented to the conduct and/or actions complained of.

27 18. LVMPD Defendants' conduct were supported by probable cause.

28 19. LVMPD Defendants' conduct were supported by reasonable suspicion.

20. LVMPD Defendants did not act with malice.

21. Plaintiffs have suffered no damages, and therefore, is not entitled to relief.

22. Plaintiffs have suffered no harm as a result of LVMPD Defendants' conduct.

23. Pursuant to FRCP 11, as amended, all possible affirmative defenses may not have

been alleged herein, in so far as sufficient facts were not available after a reasonable inquiry upon the filing of LVMPD Defendants Answer to Plaintiffs' Second Amended Complaint; therefore, LVMPD Defendants reserve the right to amend its answer to allege additional affirmative defenses if subsequent investigations so warrant.

PRAYER FOR RELIEF

WHEREFORE, LVMPD Defendants pray for judgment against Plaintiffs as follows:

1. That Plaintiffs take nothing by way of their Second Amended Complaint and that the same be dismissed with prejudice;

2. For an award of reasonable attorney fees and costs of suit; and

3. For any further relief as the Court deems to be just and proper.

Dated this 19th day of July, 2023.

MARQUIS AURBACH

By: /s/ Jackie V. Nichols

Craig R. Anderson, Esq.

Nevada Bar No. 6882

Jackie V. Nichols, Esq.

Nevada Bar No. 14246

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Attorneys for Defendants Las Vegas

Metropolitan Police Department, Sheriff Joseph

Lombardo, Andrew Bauman, Matthew Kravetz,

Supreet Kaur, David Jeong, and Theron Young

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing **LVMPD DEFENDANTS' ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT FOR DECLARATORY RELIEF, INJUNCTIVE RELIEF, AND DAMAGES PURSUANT TO 42 U.S.C. § 1983 AND NEVADA STATE LAW** with the Clerk of the Court for the United States District Court by using the court's CM/ECF system on the 19th day of July, 2023.

☒ I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

☐ I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

N/A

/s/ Krista Busch
An employee of Marquis Aurbach