

DISTRICT COURT, DENVER COUNTY, COLORADO 1437 Bannock Street Denver, CO 80202		DATE FILED August 9, 2024 2:58 PM FILING ID: A304CCB7A1C40 CASE NUMBER: 2023CV30724																				
ANGELICA REY, AYL A BERSAGEL, BAILEY ALEXANDER, MARK BESS, WILLIS SMALL, IV, and YEKALO WELDEHIWET, Plaintiffs, BRANDON RAMOS, Defendant.																						
<i>Attorneys for Plaintiffs Alexander, Small, Weldehiwet, and Bess:</i> <table border="0"> <tr> <td>Ciara Anderson # 55259</td> <td>John Lee, #29980</td> </tr> <tr> <td>Crist Whitney # 56608</td> <td>FUICELLI & LEE, PC</td> </tr> <tr> <td>Omeed Azmoudeh, #54099</td> <td>1731 Gilpin Street</td> </tr> <tr> <td>Qusair Mohamedbhai, #35390</td> <td>Denver, CO 80218</td> </tr> <tr> <td>RATHOD MOHAMEDBHAI, LLC</td> <td>(303) 355-7202</td> </tr> <tr> <td>2701 Lawrence St., Suite 100</td> <td>john@coloradoinjurylaw.com</td> </tr> <tr> <td>Denver, CO 80205</td> <td></td> </tr> <tr> <td>(303) 578-4400</td> <td></td> </tr> <tr> <td>ca@rmlawyers.com; cw@rmlawyers.com;</td> <td></td> </tr> <tr> <td>oa@rmlawyers.com; qm@rmlawyers.com</td> <td></td> </tr> </table>		Ciara Anderson # 55259	John Lee, #29980	Crist Whitney # 56608	FUICELLI & LEE, PC	Omeed Azmoudeh, #54099	1731 Gilpin Street	Qusair Mohamedbhai, #35390	Denver, CO 80218	RATHOD MOHAMEDBHAI, LLC	(303) 355-7202	2701 Lawrence St., Suite 100	john@coloradoinjurylaw.com	Denver, CO 80205		(303) 578-4400		ca@rmlawyers.com ; cw@rmlawyers.com ;		oa@rmlawyers.com ; qm@rmlawyers.com		▲ COURT USE ONLY ▲ Case No.: 23CV30724 Consolidated Case Nos.: 23CV31214 24CV30229 Div: 269
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AMENDED COMPLAINT AND JURY DEMAND																						

Plaintiffs Bailey Alexander, Yekalo Weldehiwet, Willis Small IV, by and through their attorneys Ciara Anderson, Crist Whitney, Omeed Azmoudeh, and Qusair Mohamedbhai of RATHOD | MOHAMEDBHAI LLC, and Plaintiff Mark Bess, by and through his attorney John Lee of FUICELLI AND LEE, PC, allege as follows:

INTRODUCTION

“This officer fired into a crowd of more than 100 people and shot [six] of us. We were all struck with a bullet from Officer Ramos’ gun, and it is by the grace of God that all three of us are able to stand here and talk to you today.”

– Plaintiff Bailey Alexander¹

¹ “Denver police officer charged in July LoDo shooting: ‘you do not shoot into a crowd. It is basic,’” Austen Erblat, CBS COLORADO, January 4, 2023 (available at: <https://www.cbsnews.com/colorado/news/denver-police-officer-charged-july-lodo-shooting-brandon-ramos/>).

This case concerns the egregious misconduct Denver Police Department Officer Brandon Ramos committed on July 17, 2022, when he indiscriminately fired his weapon into a crowd of civilians. While Officer Ramos was purportedly aiming at a suspect, he did not strike his target. Instead, his two shots pierced the bodies of six innocent bystanders. This incident was wholly avoidable, unjustifiable, and, according to the Denver District Attorney’s Office, “reckless, unreasonable, and unnecessary.” Officer Ramos’ heedless actions resulted in devastating and life-altering injuries to his victims, the Plaintiffs in this action. Bailey Alexander, Yekalo Weldehiwet, Willis Small IV, and Mark Bess will each bear the resulting scars for the remainder of their lives.

PARTIES

1. At all times relevant, Bailey Alexander was a resident of and domiciled in the State of Colorado.
2. At all times relevant, Yekalo Weldehiwet was a resident of and domiciled in the State of Colorado.
3. At all times relevant, Willis Small IV was a resident of and domiciled in the State of Colorado.
4. At all times relevant, Mark Bess was a resident of and domiciled in the State of Colorado.
5. At all times relevant, Defendant Officer Brandon Ramos was a resident of and domiciled in the State of Colorado. Defendant Ramos was acting under color of state law in his capacity as a law enforcement officer employed at the Denver Police Department (“DPD”).

JURISDICTION AND VENUE

6. Venue is proper before this Court pursuant to C.R.C.P. 98(c) as all of the events alleged herein occurred in the County of Denver.
7. The Court has jurisdiction over the claims asserted herein pursuant to Colo. Rev. Stat. §§ 13-1-124, 13-21-131, and other applicable law.

FACTUAL ALLEGATIONS

8. On July 17, 2022, Plaintiffs Bailey Alexander, Yekalo Weldehiwet, Willis Small IV, and Mark Bess—then unknown to one another—were enjoying a Saturday evening in Lower Downtown (“LoDo”), one of Denver’s most vibrant and teeming entertainment districts.
9. That night, Yekalo Weldehiwet was on a date with his long-time girlfriend; Bailey Alexander was visiting her favorite food truck; and Mark Bess and Willis Small IV were separately barhopping and socializing with friends.

10. All four were enjoying a lively but otherwise uneventful evening in a safe environment frequented by Denverites.

11. The same evening, several DPD Officers, including Brandon Ramos, Kenneth Rowland, and Megan Lieberman were on patrol in the area.

12. The Officers were assigned to the region to monitor the large and often boisterous crowds of patrons leaving LoDo bars immediately after closing.



Exterior of the Larimer Beer Hall

13. At approximately 1:30 a.m., as the downtown bars let out, all four Plaintiffs converged in a crowd that formed outside the Larimer Beer Hall, located at the intersection of 20th Street and Larimer Street.

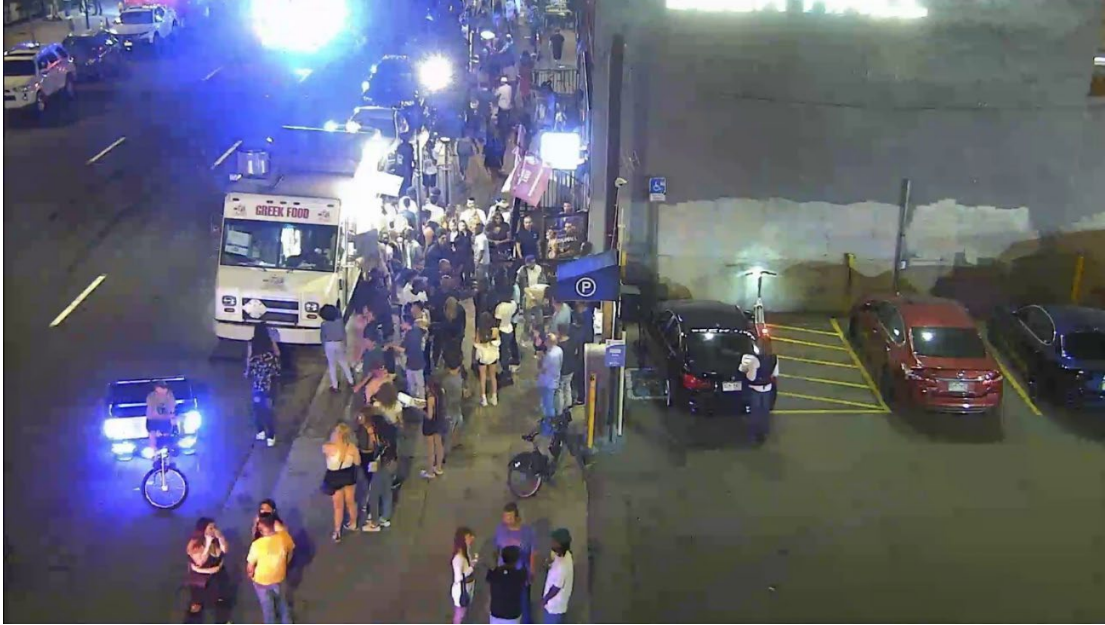


Image of the Crowd Outside the Larimer Beer Hall Prior to the Officers' Arrival Taken from HALO Camera

A. Denver Police Department Officers witness an altercation and follow the suspect into a crowd and open fire.

14. As patrons of the Larimer Beer Hall and a local food truck milled about in front of the bar, an altercation broke out between three men, one whom has now been identified as Jordan Waddy.

15. During that altercation, Mr. Waddy punched an unknown person.

16. Several DPD officers that were on patrol in the immediate vicinity witnessed the altercation and attempted to make contact with Mr. Waddy.

17. Mr. Waddy noticed the officers walking towards him and attempted to avoid them by proceeding into the crowd gathered outside the front doors of the Larimer Beer Hall.

18. Approximately five DPD officers, including Defendant Officer Ramos, proceeded into the street and around the pedestrians gathered on the sidewalk in an attempt to catch up to Mr. Waddy just beyond the food truck.

19. Mr. Waddy attempted to exit the sidewalk between two parked vehicles just beyond the food truck but was stopped by Defendant Officer Ramos and another officer. Mr. Waddy immediately put his hands up, and Defendant Officer Ramos followed him back on the crowded sidewalk.

20. There were approximately fifty pedestrians, including all four Plaintiffs, on the Larimer Street sidewalk with Mr. Waddy in Defendant Officer Ramos' direct line of sight.

21. With Mr. Waddy on the sidewalk in front of Larimer Beer Hall, between the food truck and a car, Officers Rowland and Lieberson were directly across from him, at which time they ordered him to stop.

22. Mr. Waddy complied and stopped walking.

23. Confronted by the officers, in a moment of apparent panic, Mr. Waddy reached into the front pocket of his sweatshirt and grabbed a handgun concealed therein.

24. Mr. Waddy grabbed the handgun from the top of its frame, rather than by its handle, clearly demonstrating his intent to dispense with the weapon, rather than aim or fire it at the officers or anyone else in the crowd.

25. Mr. Waddy threw the gun onto the sidewalk near the food truck.

26. Mr. Waddy then threw his hands into the air in a further attempt to surrender to the officers.

27. At no time did Mr. Waddy pose a physical threat to the officers or people on the sidewalk.

28. Simultaneously, and despite Mr. Waddy's obvious surrender, Officers Rowland and Lieberson opened fire on Mr. Waddy, striking him multiple times.



View from Body-Camera as Officer Rowland Opens Fire

29. At that time, Officers Rowland and Lieberman were facing Mr. Waddy, and the Larimer Beer Hall was directly behind him. However, there were dozens of pedestrians in the immediate vicinity of Mr. Waddy, such that the odds of a bullet directly hitting or ricocheting into a bystander were very high.

30. Officers Rowland and Lieberman fired six total rounds directly at Mr. Waddy (Rowland fired four rounds, and Lieberman fired two), with several shots hitting Mr. Waddy, and several missing him completely.

B. Defendant Officer Ramos Recklessly Fired into the Crowd of Bystanders, Striking and Injuring Plaintiffs.

31. Defendant Officer Ramos, on the sidewalk facing southwest, could only see Mr. Waddy from the side, and could also see that there was a crowd of people on the sidewalk directly behind Mr. Waddy in Officer Ramos' direct line of fire.



Image of Defendant Officer Ramos Taking Aim at Mr. Waddy, a Dense Crowd of Bystanders Directly in His Line-of-Sight

32. At the very same moment, Bailey Alexander and Mark Bess were standing in line at the window of the food truck, Yekalo Weldehiwet and his girlfriend were exiting the Beer Hall into the crowd, and Willis Small IV was walking southward on Larimer just past the food truck.

33. Upon hearing Officers Rowland and Lieberman shoot their weapons, Defendant Officer Ramos fired at least twice in Mr. Waddy's general direction. From this angle, the odds that Defendant Officer Ramos would shoot pedestrians were virtually certain.

34. Neither of Defendant Officer Ramos' shots struck Mr. Waddy.

35. Instead, Officer Ramos struck Bailey Alexander, Yekalo Weldehiwet, Willis Small IV, and Mark Bess.

36. Incredibly, none of the shots fatally injured Plaintiffs.

37. As soon as the shots rang out, the panicked crowd ran from the front of the Beer Hall.

38. Many fled onto Larimer Street while others, including Bailey Alexander and Yekalo Weldehiwet, sought cover behind cars in the adjacent parking lot.

C. Plaintiffs Sustained Serious Injuries as a Result of Officer Ramos' Reckless Misconduct

39. All four of the Plaintiffs were severely injured by the shrapnel of Defendant Officer Ramos' gunfire.

40. Plaintiff Yekalo Weldehiwet suffered a gunshot wound to his right arm.

41. The bullet struck and shattered his humerus.

42. While waiting for an ambulance, Mr. Weldehiwet laid shirtless in the parking lot, audibly retching in significant pain.

43. Mr. Weldehiwet was required to undergo surgery and implementation of multiple metal plates and screws to repair the damage to his right humerus and biceps muscle.

44. Mr. Weldehiwet continues to suffer physical impairment at the site of his injuries to this day.



Bullet Entry Wound to Mr. Weldehiwet's Arm; Screws in Mr. Weldehiwet's arm

45. Plaintiff Bailey Alexander suffered a gunshot wound to her right shoulder and upper right arm. The bullet traveled through Ms. Alexander's shoulder and further into the crowd, likely impacting and lodging into Yekalo Weldehiwet. Ms. Alexander continues to suffer physical impairment at and around the site of her injuries to this day.



Bullet Entry and Exit Wounds to Ms. Alexander's Arm and Back

46. Plaintiff Willis Small IV was struck, either directly or by a ricochet, on the lateral side of his left foot.



Bullet Wound to Mr. Small's Left Foot

47. Plaintiff Mark Bess was struck by a bullet on the upper portion of his chest, causing second-degree burns to the impact area. Mr. Bess had to begin seeing a chiropractor due to the force of being knocked down during the shooting.



48. As the result of Officer Ramos' gunfire, all Plaintiffs have incurred economic damages related to medical care and lost wages, as well as noneconomic damages including pain, suffering, emotional distress, and loss of quality of life.

49. Perhaps worse, Plaintiffs now live in a state of anxiety and fear in public settings, and particularly in crowds. Plaintiffs' emotional injuries and loss of quality of life are substantial.

D. Defendant Officer Ramos Has Been Criminally Indicted for His Willful and Wanton Misconduct

50. On January 4, 2023, a Denver Grand Jury returned an indictment charging Defendant Officer Ramos with:

- a. 2 counts of assault in the second degree, C.R.S. 18-3-203(1)(d), a level four felony;
- b. 6 counts of assault in the third degree, C.R.S. 18-3-204(1)(a), a level one misdemeanor;
- c. 1 count of prohibited use of a weapon, C.R.S. 18-12-106(1)(b), a level one misdemeanor; and
- d. 5 counts of reckless endangerment, C.R.S. 18-3-208, a level three misdemeanor.

51. The Grand Jury determined, in relevant part, that "Only seeing the side of Mr. Waddy, Officer Ramos fired his gun twice. Officer Ramos knew that a large crowd of people including [the Plaintiffs] were behind Mr. Waddy, and that he did not have a clear back drop. At no point did Mr. Waddy turn and face the Officer Ramos with the firearm."

52. Further, "Officer Ramos caused the injuries to [Plaintiffs]. Officer Ramos was not in immediate danger himself when Mr. Waddy began to pull his gun from his hooded jacket while facing Officer Rowland and Officer Lieberman. **Officer Ramos' decision to shoot was not legally justified because it was reckless, unreasonable, and unnecessary** for the purpose of protecting himself or other officers and **he consciously disregarded an unjustifiable risk of injury to the crowd** behind Mr. Waddy," including Plaintiffs.

E. Defendant Officer Ramos Pled Guilty to His Willful and Wanton Misconduct

53. On January 23, 2024, Officer Ramos pled guilty to assault in the third degree, C.R.S. 18-3-204(1)(a).

54. Officer Ramos pled guilty to "knowingly or recklessly caus[ing] bodily injury to another person [] by means of a deadly weapon."

55. As Defendant Ramos admitted in his guilty plea, “knowingly” means “an offense when he/she is aware that his/her conduct is of such nature or that such circumstance exist ... [and] with respect to a result of his/her conduct when he/she is aware that his/her conduct is practically certain to result.”

56. As Defendant Ramos admitted in his guilty plea, “recklessly” means “when he consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists.”

57. As Defendant Ramos admitted in his guilty plea, his knowing and reckless use of a deadly weapon caused bodily injury to Bailey Alexander, Aylsa Bersagel, Angelica Rey, Willis Small, Yekalo Weldehiwet, and Mark Bess.

58. As Defendant Ramos admitted in his guilty plea, his knowing and reckless use of a deadly weapon was unlawful and without legal permission, justification, or authorization.

59. Defendant Ramos’ guilty plea disqualifies him from serving as a peace officer.

F. The City and County of Denver, Including the Denver Police Department, was a Causal Factor in Ramos’ violation

60. The City and County of Denver, including the Denver Police Department (“DPD”), acting through final policymakers (together, “Denver”), engaged in a series of acts and omissions that independently and/or in combination were a causal factor in Officer Ramos’ constitutional violation against Plaintiffs.

61. Denver’s use-of-force policy failed to specifically prohibit lethal force where a peace officer—correctly or incorrectly—perceives a suspect to pose an immediate threat but also recognizes that lethal force is likely to cause serious injury to persons other than the suspect.

62. Instead, Denver’s use-of-force policy ambiguously provides that the use of lethal force in such scenarios is both “authorized” and “prohibited.”

63. Because of that policy, Officer Ramos indiscriminately fired his weapon into a crowd, believing that the lethal force was within policy and the law.

64. Denver also ratified Officer Ramos’ reckless conduct, as evidenced by a series of approbatory public statements as well as the refusal to discipline Officer Ramos.

65. DPD Commander Matt Clark, in a July 20, 2022 press conference, blamed Mr. Waddy for the injuries to bystanders, despite Mr. Waddy firing no shots, indicating that the officers, including Defendant Ramos, did not engage in any misconduct.

66. Commander Clark stated that the officers, including Defendant Ramos, did what they could to prevent violence because “they’re used to individuals fleeing or being compliant and that just didn’t happen in this case,” blaming Mr. Waddy again for the officers’ reckless shooting.

67. Commander Clark stated that officers did everything they could, then contradicted himself by explaining what officers could have done differently, such as “changing positions, changing trajectory of the rounds,” or “limiting the number of rounds fired.”

68. In the same July 20, 2022 press conference, DPD Chief Paul Pazen again blamed Mr. Waddy, rather than the officers, for the injuries to bystanders.

69. Chief Pazen repeatedly stated that “the individuals responsible for the incident dictated the police response,” indicating that Denver approves of Officer Ramos’ indiscriminate shooting.

70. Chief Pazen stressed that “taking an illegal gun off the street is inherently dangerous,” insinuating that the presence of the illegal gun was what ultimately caused injury to the bystanders, not any misconduct by DPD officers.

71. Chief Pazen went a step further and blamed the shooting on the general issue of illegal firearms in Denver and said that addressing the unacceptable amount of gun violence in Denver caused the police response, not any misconduct by DPD officers.

72. Denver Mayor at the time of the incident, Michael Hancock, also defended the reckless shooting in a public statement. He expressed surprise that the grand jury found the Defendant Ramos’ actions involved criminal intent because “police officers make split second decisions” that are “rooted in keeping people safe.”

73. These statements are incongruous with the facts described herein, as Officer Ramos did not keep people safe or reduce gun violence by shooting into a crowd without a clear backdrop and injuring six bystanders.

74. Beyond public statements, Denver doubled down on ratifying Officer Ramos’ conduct by refusing to discipline him. More than two years after the shooting and despite *a criminal conviction* for the same conduct, Denver still has not made a finding that Officer Ramos’ criminal conduct violated Denver policy.

75. Rather, Denver allowed Defendant Ramos to resign from the DPD and did so only because the criminal conviction resulted in the loss of Officer Ramos’ POST certification, not because Denver decided that Officer Ramos engaged in any misconduct.

76. Absent the criminal conviction, Denver intended to allow Officer Ramos to return to work without repercussion. After the indiscriminate shooting but before the criminal conviction, Denver had begun training Officer Ramos for a promotion to detective.

77. The ratification, demonstrated by public statements, the failure to discipline, and other approbatory acts, indicating that Officer Ramos indiscriminately shot into a crowd in accordance with Denver’s pre-existing policy, custom, and practice.

78. Denver also failed to train Officer Ramos on the prohibition of shooting indiscriminately into crowds.

79. Officer Ramos could not recall a single instance—not at the Academy, during field training, in the classroom, in any simulations, nor in any other form of training—in which Denver trained him or other officers that shooting into a crowd was prohibited.

80. Nor could Officer Ramos recall a single instance of training in which Denver trained him or other officers on what changes an officer could make in a scenario similar to the incident at issue that would make the use of lethal force in crowded areas less dangerous to bystanders (*i.e.*, changing backdrops, changing trajectory, being aware of other officers' backdrops, or limiting the number of rounds fired).

81. Denver did not provide Officer Ramos with any such training even though, as described below, Denver knows its officers have had a well-documented problem with shooting indiscriminately into crowds.

82. Not to mention, on July 15, 2022, just two days before Officer Ramos fired indiscriminately into a crowd, Denver issued a “Response Plan” to address the “increase in aggravated assaults and firearms related violence” in precisely the same geographic area where the incident at issue occurred. The Response Plan included a recommendation that DPD officers engage in “interruption” (*i.e.*, uses of force) where necessary.

83. Despite knowledge that officers might need to use force on the exact weekend, in the exact place where Officer Ramos would eventually shoot Plaintiffs, Denver did not offer any training or additional guidance as part of the Response Plan on whether DPD officers were prohibited from shooting into crowds or the ways in which officers could use lethal force while limiting the risk to bystanders.

84. That failure to train caused Officer Ramos to believe that shooting indiscriminately into a crowd was the correct form of “interruption” during the incident.

85. Denver also upholds a widespread practice of similar, constitutional violations, sending a clear message to officers, including Officer Ramos, that such misconduct is acceptable and approved.

86. In one weekend of George Floyd protests from May 28, 2020 to May 31, 2020, over twenty protesters' heads and faces were injured from DPD officers indiscriminately firing projectiles into crowds of protesters. By way of only a few examples:

- a. On May 28, 2022, Michael Ackers was struck in the eye when DPD officers indiscriminately fired pepper balls into the crowd. After being fired upon, the protesters, including Mr. Acker, began to retreat. Without any warning, DPD Officer Felkins fired a 40mm round directly at Mr. Acker's head, striking his right eye. No officer was disciplined for shooting Mr. Ackers.

- b. On May 29, 2020, DPD officers shot Megan Matthews in the head with a projectile while she was participating in a peaceful protest near the Capitol. At the time she was hit, Ms. Matthews was standing on the hill, away from the main area of protesters, handing out water and food. Officers dressed in riot garb pulled into the parking lot and shot at Ms. Matthews, ultimately hitting her in the face. No officer was disciplined for Ms. Matthews' injuries.
- c. On May 30, 2020, Robert Helmick was hit in the shoulder, back of the head, and mouth as he was attempting to leave a protest and DPD officers indiscriminately fired projectiles into the crowd. No officer was disciplined for shooting Mr. Helmick.
- d. On May 30, 2020, Alex Wolfson was suddenly, and without warning, shot in his right eye with a KIP by DPD officers standing on East Colfax Avenue.
- e. On May 30, 2020, DPD officers shot Elisabeth Epps in the face with a KIP without warning. Prior to the curfew, DPD officers shot Ms. Epps with projectiles without a warning. A projectile hit her face, breaking the plastic medical-grade respirator mask she was wearing and wounding her face.
- f. On May 30, 2020, DPD officers shot Youssef Amghar in the arms and legs, then in the chest and then directly in the face, on the corner of Colfax and Lincoln without any warning. At first, the Denver officers shot indiscriminately into the crowd, but after the crowd moved back, they began shooting directly at Mr. Amghar, even though they were standing still with their hands up. The DPD officers shot them approximately 14 times.
- g. On May 30, 2020, Dan Delany peacefully protested in Downtown Denver. Officers indiscriminately shot projectiles, tear gas, and pepper balls into the crowd. He turned and ran, but one officer shot him with a projectile in the back of the head. He was rendered unconscious and left bleeding from the head.

87. In non-protest situations, DPD officers have also shot without a clear background and received either no discipline, or such minimal discipline that it does not discourage behavior.

88. On December 28, 2020, two DPD officers fired shots against a backdrop of bystander vehicle traffic and hit two bystander vehicles, missing their suspect entirely. The police officers were disciplined three years later with only four days of suspension.

89. On August 5, 2023, a DPD officer shot and killed an unarmed black man while bodycam footage showed a woman and young child standing directly behind him. The lucky fact that the woman and child were not injured does not minimize the recklessness of this behavior.

90. Finally, Denver played an additional causal role in Officer Ramos' reckless conduct by, upon information and belief, failing to provide DPD officers, including Officer Ramos, with hollow-point bullets (or other similar types of bullets), which are designed to mushroom and slow

upon impact, reducing potential danger to bystanders. Evidenced by the number of victims with entry and exit wounds, including certain Plaintiffs, Denver did not provide Officer Ramos with such bullets, causing Plaintiffs' injuries.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Excessive Force in Violation of Colorado Constitution, Art. II, § 7 and
C.R.S. § 13-21-131

91. Plaintiffs hereby incorporate all other paragraphs of this Complaint as if set forth herein.

92. Defendant Ramos is, and was at all relevant times, a "peace officer" as defined by C.R.S. § 24-31-901(3) and therefore subject to C.R.S. § 13-21-131.

93. Defendant Ramos, at all relevant times, was acting under color of state law in his capacity as a Denver Police Department law enforcement officer.

94. Under C.R.S. § 13-21-131(4)(a), a public entity must still indemnify a peace officer when the peace officer was convicted of a criminal violation for the conduct from which the claim arises if the peace officer's employer was a causal factor in the violation, through its action or inaction.

95. Denver is a causal factor in the Plaintiffs' injuries by refusing to hold officers accountable for shots fired, not disciplining officers for shooting without a clear backdrop, and allowing an environment which emboldens officers to shoot first and ask questions later, as evidenced by repeated violations described herein.

96. At the time of the incident, Plaintiffs had a protected interest under Colo. Const. Art. II, Section 7 to be secure in their persons against unreasonable searches and seizures, including through the use of excessive force in carrying out a seizure of their persons.

97. Defendant Ramos unlawfully seized each Plaintiff by means of excessive physical force.

98. Defendant Ramos' use of his firearm against the innocent, unarmed, and nonthreatening Plaintiffs was objectively unreasonable under the circumstances.

99. Defendant Ramos' use of force would be considered objectively reasonable only if Plaintiffs' actions presented a threat of severe and imminent injury or death to Defendant Ramos or others.

100. Plaintiffs did not present a threat of severe and imminent injury or death to Officer Ramos or others.

101. Defendant Ramos' use of force against Plaintiffs was unnecessary and unwarranted under the circumstances.

102. Defendant Ramos recklessly created the situation giving rise to his excessive use of force.

103. Defendant Ramos' acts and omissions, as described herein, were motivated by malice and/or involved reckless or callous indifference to Plaintiffs' protected rights, and he engaged in these actions and omissions intentionally, willfully, and wantonly, demonstrating deliberate indifference to, and a reckless disregard for, Plaintiffs' constitutionally protected rights.

104. As a direct and proximate cause and consequence of Defendant Ramos' unconstitutional acts and omissions, Plaintiffs suffered injuries, damages, and losses.

105. As a direct result of Defendant Ramos' unlawful actions described here, Plaintiffs suffered actual physical and emotional injuries.

106. Denver's actions and inactions were a causal factor in Defendant Ramos' reckless shooting of Plaintiffs.

SECOND CLAIM FOR RELIEF

Willful and Wanton Battery
Colo. Rev. Stat. § 24-10-118, *et seq.*

107. Plaintiffs hereby incorporate all other paragraphs of this Complaint as if set forth herein.

108. Defendant Ramos' shooting resulted in physical contact with Plaintiffs.

109. Defendant Ramos intended to shoot and knew that his shooting would probably make harmful contact with the crowd of bystanders in his backdrop, including Plaintiffs.

110. Defendant Ramos' shooting of Plaintiffs was harmful to Plaintiffs.

111. Defendant Ramos lacked any adequate justification for shooting into a crowd of bystanders. Neither Mr. Waddy nor Plaintiffs presented a threat of severe and imminent injury or death to Defendant Ramos or others, and any possible justification for Defendant Ramos' shooting is further undermined by Defendant Ramos' reckless creation of a situation giving rise to his perception that shooting was required. Indeed, in his guilty plea, Defendant Ramos admitted that his conduct was unlawful and without justification.

112. Defendant Ramos' conduct was willful and wanton. He consciously disregarded the safety of others when he decided to shoot into a crowd, without justification, injuring Plaintiffs. Indeed, Defendant Ramos pled guilty to knowingly and recklessly causing bodily injury to Plaintiffs, without legal justification, by "consciously disregard[ing] a substantial and unjustifiable risk" that this precise result would occur.

113. Because Defendant Ramos (admittedly) engaged in willful and wanton misconduct, Defendant Ramos does not enjoy statutory immunity under the CGIA, Colo. Rev. Stat. § 24-10-118, *et seq.*, and exemplary damages may be awarded against him.

114. Plaintiffs complied with the notice provisions of the CGIA, Colo. Rev. Stat. § 24-10-109, *et seq.*

115. As a direct and proximate cause and consequence of Defendant Ramos' willful and wanton battery, Plaintiffs suffered injuries, damages, and losses.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in their favor and against the Defendant, and grant:

- (a) Appropriate relief at law and equity;
- (b) Economic losses on all claims allowed by law;
- (c) Compensatory and consequential damages, including damages for emotional distress, humiliation, loss of enjoyment of life, and other pain and suffering on all claims allowed by law in an amount to be determined at trial;
- (d) Exemplary and/or punitive damages on all claims allowed by law in an amount to be determined at trial;
- (e) Attorney's fees and the costs associated with this action, including expert witness fees, on all claims allowed by law;
- (f) Pre- and post-judgment interest at the lawful rate;
- (g) Any further relief that this court deems just and proper, and any other relief as allowed by law.

PLAINTIFFS HEREBY DEMAND A TRIAL TO A JURY

Dated this 9th day of August, 2024.

RATHOD | MOHAMEDBHAI LLC

s/ Omeed M. Azmoudeh

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CERTIFICATE OF SERVICE

I hereby certify that on August 9, 2024, a true and correct copy of the foregoing **AMENDED COMPLAINT AND JURY DEMAND** was filed with the Court and served upon all counsel of record via the Colorado Court E-Filing System.

RATHOD | MOHAMEDBHAI LLC

s/ Dylan Nelson

Dylan Nelson

RATHOD | MOHAMEDBHAI LLC