

September 23, 2020

**VIA HAND-DELIVERY AND
ELECTRONIC MAIL**

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RE: Notice of Claim Pursuant to A.R.S. § 12-821.01
Claimant: Trevonyae Cumpian
Date of Incident: August 29, 2020
Demand: \$2,500,000

Dear Mayor Woods and City Councilmembers,

How many times may the same hyper-aggressive Tempe police officer terrorize a black man on video before Tempe Police Officials stop trying to gaslight the public into excusing his behavior?

Nine months ago, we delivered to you a Notice of Claim on behalf of Ivaughn Oakry. As depicted by Officer Kerzaya's own body cam, that interaction began when the officer barged into the Oakry family's home without a warrant and against Mr. Oakry's specific instruction. Within seconds, Officer Kerzaya drew a TASER on Mr. Oakry in front of his three children and yelled at him to "put your fucking hands behind your back." When back-up officers arrived, Officer Kerzaya ordered them to simultaneously TASE Mr. Oakry while holding his 1-year-old son in his arms.



In response to national outrage over Officer Kerzaya's actions, Tempe Police Chief Sylvia Moir held a press conference. She blamed Mr. Oakry, claiming that Officer Kerzaya's conduct was completely within policy. And she then attempted to shift the blame to those in the community questioning Officer Kerzaya's conduct, calling us "irresponsible."

The City stood behind its Chief's assessment. It took the position that Mr. Oakry's claim had no merit; committed to defending Officer Kerzaya in court; and required Mr. Oakry to file a federal complaint. And rather than addressing the underlying problem (i.e., a man with Kerzaya's temperament and biases being entrusted with the power to legally injure and kill), Tempe PD simply required him to go through some mysterious de-escalation "retraining."

On August 29, 2020 Officer Kerzaya made Tempe the subject of the nation's attention again.

While responding to a complaint of an aggravated assault at a Tempe hotel, Officer Kerzaya was told *twice* that the suspect was a “white male wearing a black shirt and tan pants.” He repeated that exact description into his radio: “white male wearing a black shirt and tan pants.” Then, Officer Kerzaya drew his gun, walked around the hotel, and pointed it at our client, Trevonyae Cumpian – a black hotel employee wearing a white shirt and black pants.

Like far too many black men before him, Mr. Cumpian himself was suddenly forced to de-escalate a volatile situation with an aggressive police officer. He immediately put his hands up, and calmly informed Officer Kerzaya that he worked at the hotel. Officer Kerzaya responded by yelling that he was “responding to someone with a firearm who matches your description” and to “shut the fuck up.” Kerzaya then ordered Mr. Cumpian to get on his knees on the scalding hot concrete and held him there for two minutes as skin literally melted off his knees through his pants.



When Officer Kerzaya's conduct made national news this time, Chief Moir couldn't victim-blame. But she didn't have to. Because the Tempe Officers Association did it for her, issuing a press release indicating that the incident ***“had nothing to do with race.”***

And these public statements were only necessary for a more troubling and systemic reason: Because, despite the best efforts of Tempe PD, Mr. Cumpian couldn't be silenced.

This law firm, with Attorney Benjamin Crump, represents Mr. Cumpian. We are forwarding this Notice of Claim to you today not only because Arizona law requires it, but in hopes that you will finally send a clear message to Officer Kerzaya, your incoming chief, and your police department as a whole about the type of biases, attitudes, protectionist conduct you that is intolerable in our society – particularly in a progressive city like Tempe.

Overview

Trevonyae Cumpian is 28-year-old resident of Gilbert. Known as “Tre” to his friends and family, Mr. Cumpian is a licensed electrician who has worked primarily in the service industry in recent years.

Earlier this year, after learning that he would be expecting the birth of his first child, Tre began search for another job. He was almost immediately hired as a front-desk clerk at the Hawthorn Suites hotel located at Southern Avenue and the Loop 101.

By August 29, 2020, Tre had been working at the Hawthorn Suites for about two months. That day, a little before 5 p.m., Tre’s manager, Shawn Hoover, got into an altercation with a transient who pulled a gun on him near an external door to the hotel. Pursuant to hotel policy, Mr. Hoover called the police. Officer Kerzaya responded.

What followed is captured on Officer Kerzaya’s body-worn camera and need not be repeated here. The following undisputed facts, however are worth noting: (1) that Officer Kerzaya was told that the suspect was a white man wearing a black shirt and tan pants; (2) that Officer Kerzaya repeated this description into his radio; (3) that Mr. Cumpian is a black man who was wearing a white shirt and black pants; (4) that after falsely claiming that Mr. Cumpian fit the description, Officer Kerzaya proceeded to hold Mr. Cumpian at gunpoint for over two minutes; and (5) that after Mr. Cumpian asked for the officer’s name and badge number, Kerzaya told him he would provide it later.

Officer Kerzaya’s body-worn camera also shows what happened after he took his gun of Mr. Cumpian: He reentered the hotel with gun drawn and pointed it at two other black men (both guests of the hotel).

At this point his back-up arrived, and Officer Kerzaya began deliberately deactivated his body camera. So this is where the video footage ended. But it is hardly the end of the story of this case.

TPD's Attempted Cover-Up and Subsequent Intimidation Efforts

Before Officer Kerzaya even left the scene, Mr. Cumpian spoke with Mr. Hoover about what happened. Mr. Hoover was outraged. He confronted Officer Kerzaya and demanded his name and badge number, which Officer Kerzaya refused.

The following day, Tempe Police Investigations Commander Kim Hale arrived and spoke with Mr. Hoover. When Mr. Hoover asked for an explanation of what happened, Commander Hale was unforthcoming with information and unapologetic about Officer Kerzaya's behavior. And when Mr. Hoover requested the name and badge number of the officer who had improperly held his employee at gunpoint, Commander Hale refused to provide it – indicating only that he would have an investigator from the Internal Affairs unit follow-up.

A day later, August 31, 2020, Mr. Hoover finally received a call from Sergeant Liliana Duran. Sergeant Duran advised Mr. Hoover that the officer's name was "Aaron Kerzaya." After Mr. Hoover was unable to find any information on any "Aaron Kerzaya," Sergeant Duran finally provided the officer's actual name, Ronald Aaron Kerzaya. Armed with Officer Kerzaya's name, Mr. Hoover was able to discern Tempe PD's likely motivation in the misdirection: Officer Kerzaya is the lead defendant in the multi-million dollar excessive force lawsuit brought by Ivaughn Oakry.

With the lid blown off its efforts to bury Kerzaya's misconduct, Tempe Police leadership was forced to pivot to public acknowledgment. On September 2, 2020, after learning Mr. Cumpian and Mr. Hoover were represented by counsel, Tempe PD issued a press release that Officer Kerzaya had been placed in an "administrative role" and lauding itself for its "thorough and progressive training." It also falsely stated that Chief Moir had "personally spoke[n] with both affected hotel employees" despite the then-Chief never once calling Mr. Cumpian.

While publicly posturing as if it was taking this matter seriously and was interested in accountability and transparency, Tempe officers were privately engaging in retaliatory intimidation tactics aimed at Mr. Cumpian and his employer.

- A matter of mere days after issuing the press release, Tempe Police officers broke down a door of the Hawthorne Suites hotel to arrest the visitor of a hotel guest, causing \$3,000 worth of damage – despite the fact that they had already obtained a key from the front desk.
- That same week, a Tempe Police Officer pulled over Mr. Hoover while he was driving, held him without any cause, and ultimately released him without even requesting his insurance or registration and refusing to tell him why he was being pulled over.
- Last week, a Tempe Police Commander arrived at the hotel unannounced. Speaking only to Mr. Hoover, he did not acknowledge Mr. Cumpian's presence, and lectured Mr.

Hoover and Mr. Cumpian about calling the police in response to trespassers, belittling them and misadvising them on the law.

- Most recently, a Tempe police officer showed up randomly at the hotel at a time when Mr. Cumpian was the only employee present. Wearing full tactical gear, the officer asked Mr. Cumpian a series of questions aimed not at good-faith information gathering, but at intimidation.

Sum Certain Demand

Prior to August 29, 2020, Tre Cumpian's life was not perfect. Beyond the same type of personal challenges we all have, trying to make ends meet in a global pandemic, Tre was black man living in America. It was a reality that caused no shortage of stress and secondary trauma, feeling the deep pain of living in a society that clearly does not value the lives of men and women who look like him.

But, however difficult life could be, Tre was able to lay his head on his pillow at the end of a day of work and fall sleep. And he was able to wake up the next morning, leave the struggles of the day before behind, and work hard to create a better life for his daughter.

That has all changed.

Now, Tre's nights are spent tossing and turning, trying to slow his mind down enough to fall asleep. His waking hours are infiltrated with the stress of realizing that, if he hadn't been successful at de-escalating Ronald Kerzaya's hyper-aggressive state, he could have been the next hashtag. And his one-month old daughter wouldn't have a father.

So, while the City's stated commitment to "reform" is a nice sentiment, it is only part of the equation. Because even if it is followed with real action, there is another step: Repair.

Repair means making right the damage caused by its decision to put Ronald Kerzaya in a position to do what he did. It means providing Tre Cumpian with the resources to pay for the lifetime of expensive PTSD therapies he will require to try to cope with the psychological damage caused. It means sending a message to the police department that this behavior is not acceptable. And it means rejecting the typical playbook that cities employ in these situations – i.e., dragging a survivor's character and reputation through the mud, digging in on qualified immunity and other technical legal defenses, and wearing the victim down through years of litigation – in favor of restoration of an innocent man's dignity.

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As noted above, the figure that we believe will accomplish the foregoing is \$2.5 million. If you have any questions at all, or need any additional information to evaluate this claim, please do not hesitate to contact us.

Very truly yours,

THE PEOPLE'S LAW FIRM, PLC

A handwritten signature in black ink, appearing to read "Benedetto", with a long horizontal flourish extending to the right.

Steve Benedetto

A handwritten signature in black ink, appearing to read "Heather Hamel", with a large, stylized loop at the end.

Heather Hamel