

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA, SOUTHERN DIVISION

Alisa Carr and Avery Marshall,

*Plaintiffs,*

v.

Detective Sergeant J. Dylan Thomas in his individual and official capacities, Captain Nazareth Hankins in his individual and official capacities, John Does in their individual and official capacities, Lee County, Lee County Sheriff Brian Estes in his official capacity, Pender County, and Pender County Sheriff Alan Cutler in his official capacity,

*Defendants.*

Case No. \_\_\_\_

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COMPLAINT

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Marie Miller  
IN Attorney No. 34591-53  
INSTITUTE FOR JUSTICE  
3200 N. Central Ave., Suite 2160  
Phoenix, AZ 85012  
480-557-8300 (phone)  
480-557-8305 (fax)  
mmiller@ij.org

Jared McClain  
DC Attorney No. 1720062  
INSTITUTE FOR JUSTICE  
901 N. Glebe Rd. Suite 900  
Arlington, VA 22203  
703-682-9320 (phone)  
703-682-9321 (fax)  
jmccclain@ij.org

*Lead Counsel for Plaintiffs*

Dan Gibson  
NC Bar No. 49222  
DAVIS HARTMAN WRIGHT  
209 Pollock Street  
New Bern, NC 28560  
984-345-3078 (phone)  
984-345-3078 (fax)  
rdg@dhwlegal.com

*Local Civil Rule 83.1(d) Attorney for  
Plaintiffs*

## INTRODUCTION

1. This is a civil-rights lawsuit arising from a SWAT raid of the wrong house.

2. Shortly after midnight on April 10, 2024, an innocent family—Alisa Carr, Avery Marshall, and their two kids—awoke to a terrorizing scene. Officers from the sheriff's offices of Lee County and Pender County stormed into the family's quiet home, shouting profanities, shattering a glass door, busting through a metal door, and detonating flash-bang grenades.

3. Officers made Avery lie face-down, shirtless, on top of the shattered glass with a gun pointed at his head. An officer also stepped on Avery's back, on exposed stitches where Avery had recently undergone back surgery.

4. Officers removed the kids from their bedrooms and threatened them with military-grade firearms. Avery and Alisa begged the officers to stop as they watched officers aim their weapons at the children.

5. An officer handcuffed Avery and yanked him to his feet, reinjuring his back. Officers then interrogated each family member like a criminal, about a person they did not know and had never seen before.

6. Officers also aimed a firearm at Alisa and interrogated her in the cloud of fumes from the flash-bang grenades. She had difficulty breathing and felt heart palpitations, like she had experienced with two prior heart attacks. She pleaded that she could not breathe. Still, officers interrogated her and accused her of lying.

Eventually, someone called an ambulance, which took her to the hospital. She stayed there until the officers finished raiding the house and left the property.

7. Officers ransacked the whole house, damaging the house and furniture.

8. As the officers were leaving, Avery asked them who would pay for the property damage. He was told that he and Alisa would have to pay and that they should consider themselves fortunate that the officers hadn't caused more damage.

9. The raid left the home in disrepair and disarray. The broken front entry leaks when it rains, and mosquitoes and flies also come into the home through the cracks. Mold is growing on the front wall. The officers also damaged a bedroom door, the crawl-space door, furniture, a rug, and insulation.

10. Alisa, Avery, and some of their relatives cleaned the house as much as they could, but Alisa and Avery cannot afford to repair the damaged property, which remains broken. The raid not only caused property damage but also physically injured Alisa and Avery and left the family psychologically scarred. Alisa needed immediate hospitalization, and Avery's back needs surgical repair from the officers' reinjury of it. Everyone in the family gets little sleep at night, reliving the raid, waking at small sounds, and worried that their house is no longer safe and secure.

11. The officers' error was not an honest mistake.

12. Officers were looking for a suspect wanted for breaking into vehicles and stealing property from inside. Based on cell-phone location data, the officers thought the suspect had been in Alisa and Avery's neighborhood, within 52 meters of their address.

13. But the suspect had never been at Alisa and Avery's, and at least five other properties and a public road lie within that 52-meter range.

14. Officers targeted Alisa and Avery's home, alone, because they saw Alisa's car parked there. But Alisa's car had no connection to the suspect. Officers believed that at one time the suspect had been driving a dark SUV and at another time had been riding with his sister in a Nissan passenger car with a certain license plate.

15. Alisa's car is not a dark SUV. Nor is it the Nissan car officers were looking for. Alisa's car is about ten years newer, is a different model, has a different registered owner (Alisa), has a different license plate, is a different color, and has a different vehicle identification number.

16. Still, an officer swore in a probable-cause affidavit that officers surveilling Alisa and Avery's home saw parked there the vehicle in which the suspect had been riding. That statement was false.

17. The officer also failed to mention in his affidavit that, based on the cell-phone location data, the suspect's phone may have been at any of at least five other properties in the neighborhood.

18. Based on the false and misleading information, a judge issued a warrant to search Alisa and Avery's home. Without the warrant that was based on false and misleading information, the raid would not have happened.

19. Since the raid, no one with either county has paid for the damage.

20. Alisa and Avery now assert claims under the North Carolina Constitution, the Constitution of the United States, 42 U.S.C. § 1983, and N.C. Gen. Stat. § 40A-51—for illegal searches and seizures of their persons and property and for the intentional physical occupation and destruction of property for a public use without just compensation.

### **JURISDICTION**

21. Plaintiffs Alisa Carr and Avery Marshall bring this case under the Fourth and Fifth Amendments (applied to the states through the Fourteenth Amendment) of the Constitution of the United States; 42 U.S.C. § 1983; Article 1, Section 19 of the North Carolina Constitution; and N.C. Gen. Stat. § 40A-51.

22. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1367, because Alisa and Avery assert claims under federal laws and their state-law claims are based on the same underlying events.

### **PARTIES**

23. Plaintiffs Alisa Carr and Avery Marshall are North Carolina citizens.

24. Defendant Detective Sergeant J. Dylan Thomas (“Officer Thomas”) is (or was at the time of the underlying events) a law enforcement officer of the Lee County Sheriff’s Office. He is sued in his individual and official capacities.

25. Defendant Captain Nazareth Hankins (“Officer Hankins”) is (or was at the time of the underlying events) a law enforcement officer of the Pender County Sheriff’s Office. He is sued in his individual and official capacities.

26. Defendants John Does are (or were at the time of the underlying events) law enforcement officers of the Pender County Sheriff's Office and/or Lee County Sheriff's Office who, on April 9, 2024, observed or surveilled 680 Messick Road and informed another officer about their observations, or who informed Officer Thomas about those officers' observations, before Officer Thomas applied for a warrant to search the property. They are sued in their individual and official capacities.<sup>1</sup>

27. Defendant Lee County is a municipal corporation in North Carolina.

28. Defendant Lee County Sheriff Brian Estes is the sheriff of Lee County. He is sued in his official capacity.

29. Defendant Pender County is a municipal corporation in North Carolina.

30. Defendant Pender County Sheriff Alan Cutler is the sheriff of Pender County. He is sued in his official capacity.

## **FACTUAL ALLEGATIONS**

### ***A. Alisa and Avery move into their new home.***

31. Alisa Carr is 52 years old and owns the house, which is a manufactured home, at 680 Messick Road in Willard, North Carolina.

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<sup>1</sup> On July 31, 2024, Alisa and Avery's counsel submitted public records requests to Lee County Sheriff's Office and Pender County Sheriff's Office, seeking all recordings, transcripts, and reports of the surveillance of and raid on Alisa and Avery's home. The request also sought the names and badge numbers of all sheriff's office law enforcement officers who were involved in the incident and surveillance. Lee County Sheriff's Office disclosed only the search warrant and inventory of items seized. Pender County Sheriff's Office disclosed nothing. In August 2024, Alisa and Avery's counsel emailed and spoke with Pender County Attorney Trey Thurman about the records request. Mr. Thurman said that counsel would receive responsive documents in short order. When no documents were disclosed or produced, Alisa and Avery's counsel reached out again to Mr. Thurman, on August 29, 2024, and on September 15, 2024, asking for the documents. Mr. Thurman did not respond. Alisa and Avery's counsel again reached out to Mr. Thurman on March 24, 2025, asking for the documents. Mr. Thurman has not responded.

32. There are no encumbrances on the home.
33. Avery Marshall is 49 years old and is Alisa's fiancé.
34. Avery's mother owns the land at 680 Messick Road.
35. Alisa and Avery live in Alisa's house at 680 Messick Road with their two children, K.G. (9 years old at the time of the underlying events) and J.C. (16 at the time of the underlying events).
36. The family had lived in the house for less than a year when the events underlying this case happened.
37. The family had lived in another house at the same address before, but that prior house was destroyed by a storm.
38. The family lived in a motel while the new home was being built.
39. The new three-bedroom home was modest but was in great condition (being new), clean, comfortable, and secure.
40. The new house kept out rain and bugs, and it gave each of the kids their own bedroom.

***B. Lee County Sheriff's Office starts investigating Joseph Clark, Jr. for theft.***

41. At the beginning of April 2024, Lee County Sheriff's Office began receiving reports of breaking and entering into vehicles and theft from those vehicles in Lee County.
42. Officers with the Lee County Sheriff's Office obtained camera footage of the suspect breaking into unlocked vehicles on April 8, 2024.

43. The footage also showed that the suspect was driving a dark colored SUV.

44. Harnett County Sheriff's Office received similar reports and provided additional camera footage of the suspect to Lee County Sheriff's Office.

45. In one instance of breaking and entering a vehicle in Harnett County on April 8, 2024, camera equipment was stolen from the vehicle.

46. Officers in part used TLOxp and CellHawk when investigating Joseph Clark, Jr. for the vehicle break-ins and thefts.

47. Officers' research online led them to believe the stolen camera equipment was sold at a certain pawn shop in Fayetteville, North Carolina later in the day on April 8, 2024.

48. The seller was reportedly Joesph Clark, Jr.

49. The officers learned that Joseph Clark, Jr.'s birthday was in October 1983.

50. Officers' further research identified Joseph Clark, Jr.'s cell phone number and a phone carrier of Verizon Wireless.

51. On April 9, 2024, officers from Harnett County Sheriff's Office and at least one officer from Lee County Sheriff's Office (Defendant Officer Thomas) executed a search warrant at a residence in Elizabethtown, North Carolina, which is in Bladen County.



52. During the search, officers recovered various items stolen from vehicles in Lee, Harnett, and Bladen Counties, along with the suspect's clothing worn during the incidents caught on the camera footage officers had obtained.

53. An Apple watch stolen from a vehicle pinged at the residence in Elizabethtown, but officers did not find the Apple watch when they executed the search warrant.

54. During the execution of that warrant at the Elizabethtown residence, the suspect's father told officers that the suspect, Joseph Clark, Jr., was riding with the suspect's sister who drives a gray Nissan passenger car.

55. The father gave the officers a specific license plate number for that vehicle.

56. Later, Officer Thomas wrote in his affidavit that the suspect's father informed officers that the license plate was issued by North Carolina and was VA5234.

57. VA5234 is not the true license plate number for the vehicle described by the suspect's father.

58. Either Officer Thomas incorrectly recorded in his affidavit the license plate alphanumeric number that the suspect's father correctly described, or the suspect's father incorrectly described the license plate number to the officers.

59. On information and belief, the vehicle that the suspect's father described:

- a. was owned and registered to the suspect (Joseph Clark, Jr.), the suspect's father (Joseph Clark), or the suspect's sister;
- b. was a 2007 Nissan Sentra;
- c. had the North Carolina license plate VAJ2394;
- d. had the vehicle identification number 3N1AB61E67L620900;
- e. was a medium-dark gray; and
- f. was Nissan's "magnetic gray metallic" color.

60. Alisa is not the suspect's sister.

61. On information and belief, the suspect's sister is Nakeisha Laquantae Michelle Clark.

62. According to Officer Thomas, location data from Verizon informed the officers that the suspect's phone was at 9200 NC Hwy 50, his residence (based on the sex-offender registry), until approximately 8:00 p.m. on April 9, 2024.

63. According to Officer Thomas, the location data then indicated that the suspect's phone was (at some time after 8 p.m. on April 9, 2024) within 52 meters of 680 Messick Road, Willard, North Carolina.

64. 680 Messick Road is about 30 miles away from the suspect's residence on Hwy 50.

65. The location data indicated that the phone was within 52 meters of the plot of land at 680 Messick Road.

66. Officer Thomas, Officer Hankins, and John Does knew that the location data gave only an approximate location of a cell phone at certain times.

67. Officer Thomas, Officer Hankins, and John Does knew that the location data did not indicate whether Joseph Clark, Jr. possessed the cell phone.

68. Officer Thomas, Officer Hankins, and John Does knew that the location data may be inaccurate.

69. At least five other properties lie within 52 meters of the plot of land at 680 Messick Road.

70. A public road lies within 52 meters of the plot of land at 680 Messick Road.

71. Officer Thomas, Officer Hankins, and John Does knew that at least five other properties and a public road lie within 52 meters of 680 Messick Road.

72. The fact that at least five other properties lie within 52 meters of 680 Messick Road was readily available to officers from Lee County Sheriff's Office and Pender County Sheriff's Office, including Officer Thomas, Officer Hankins, and John Does.

73. Officer Thomas, Officer Hankins, and John Does knew that other properties lying within 52 meters of 680 Messick Road had homes on them.

74. The location data did not indicate whether the cell phone had been on any or all the properties within 52 meters of 680 Messick Road.

75. Officer Thomas, Officer Hankins, and John Does knew that the location data did not indicate whether the cell phone had been on any or all the properties within 52 meters of 680 Messick Road.

76. The location data did not indicate that the cell phone had been on multiple properties within 52 meters of 680 Messick Road.

77. Officer Thomas, Officer Hankins, and John Does knew that the location data did not indicate that the cell phone had been on multiple properties within 52 meters of the plot of land at 680 Messick Road.

78. The location data did not indicate that the cell phone was more likely to be at 680 Messick Road than at any other property or road within 52 meters of 680 Messick Road.

79. Officers from Lee County Sheriff's Office and Pender County Sheriff's Office (including Officer Thomas, Officer Hankins, and John Does) knew that the location data did not indicate that the cell phone was more likely to be at 680 Messick Road than at any other property or road within 52 meters of 680 Messick Road.

80. The location data, alone, did not give any officer probable cause to search any property within 52 meters of 680 Messick Road.

81. Officers from Lee County Sheriff's Office and Pender County Sheriff's Office (including Officer Thomas, Officer Hankins, and John Does) knew that the location data did not inform them whether the suspect's phone was or had ever been at 680 Messick Road.

82. Officers from Lee County Sheriff's Office or Pender County Sheriff's Office could not have obtained a valid warrant to search all the properties having a property line within 52 meters of the plot of land at 680 Messick Road.

83. Officer Thomas, Officer Hankins, and John Does knew or should have known that they could not obtain a valid warrant to search all the properties having a property line within 52 meters of 680 Messick Road.

84. Officer Thomas, Officer Hankins, and John Does knew or should have known that the location data alone did not give them probable cause to search 680 Messick Road or any other property within 52 meters of 680 Messick Road.

85. Officer Thomas, Officer Hankins, and John Does knew that they lacked probable cause to search each property having a property line within 52 meters of the plot of land at 680 Messick Road.

86. On information and belief, the officers did not investigate whether the suspect's phone was on one of the other properties within 52 meters of 680 Messick Road.

***C. Officers surveil Alisa and Avery's home and see no sign of the suspect.***

87. Officers from Pender County Sheriff's Office or Lee County Sheriff's Office began surveilling Alisa and Avery's home because at least one officer had driven passed it and saw Alisa's car parked out front, visible from the street.

88. Officer Hankins was among the officers who saw Alisa's car parked in front of her house.

89. Alisa's car was not the vehicle described by the suspect's father.

90. Alisa's vehicle was not the dark-colored SUV the suspect was seen driving on security footage the day before.

91. No officer with Pender County Sheriff's Office or Lee County Sheriff's Office could have reasonably suspected that Alisa's car was the vehicle described by the suspect's father.

92. The officers who observed Alisa's vehicle could not have reasonably sworn that it was the vehicle described by the suspect's father.

93. The officers who observed Alisa's vehicle could not have reasonably sworn that it was the dark-colored SUV the suspect was seen driving on security footage the day before.

94. Officer Thomas had experience observing and investigating vehicles in North Carolina:

- a. he had over four years of experience as a full-time law-enforcement officer with Lee County Sheriff's Office;
- b. before being promoted to Detective Sergeant, he was a patrol deputy for 3.5 years;
- c. he had conducted numerous hours of surveillance in both urban and rural environments;
- d. he had been involved with the governor's Highway Safety Program events; and
- e. he has lived in Lee County for his entire life.

95. On information and belief, Officer Hankins had experience observing and investigating vehicles in North Carolina.

96. On information and belief, John Does had experience observing and investigating vehicles in North Carolina.

97. Alisa's vehicle was a 2017 Nissan Altima.

98. Alisa's vehicle was not a 2007 Nissan Sentra.

99. Alisa's vehicle was registered to and owned by Alisa Carr at her home address (680 Messick Road).

100. Alisa's vehicle was not registered to Joseph Clark, Jr.; his father; or his sister.

101. Alisa's vehicle had the license plate number FKE8649.

102. Alisa's vehicle did not have the license plate number VA5234 (the number Officer Thomas wrote in his affidavit as the number given to officers by the suspect's father) or VAJ2394 (the true license plate of the vehicle described by the suspect's father).

103. Alisa's vehicle had the vehicle identification number 1N4AL3AP3HC256285.

104. Alisa's vehicle did not have the vehicle identification number 3N1AB61E67L620900 (the vehicle identification number of the vehicle described by the suspect's father).

105. Alisa's vehicle was Nissan's "brilliant silver" color, a very light silver.

106. Alisa's vehicle was not Nissan's "magnetic gray metallic," a medium-dark gray color.

107. On information and belief, no officer surveilling Alisa and Avery's home on April 9, 2024, took any steps to determine whether Alisa's vehicle, parked outside the house, was the same as the vehicle described by the suspect's father.

108. On information and belief, no officer surveilling Alisa and Avery's home on April 9, 2024, took any steps to investigate whether an occupant of the house owned Alisa's vehicle, parked outside the house.

109. When surveilling Alisa and Avery's home on April 9, 2024, no officer observed the suspect.

110. When surveilling Alisa and Avery's home on April 9, 2024, no officer observed the dark-colored SUV the suspect was seen driving on security footage the day before.

111. When surveilling Alisa and Avery's home on April 9, 2024, no officer observed the vehicle described by the suspect's father.

112. When surveilling Alisa and Avery's home on April 9, 2024, no officer observed any vehicle with which the suspect had been associated.

113. When surveilling Alisa and Avery's home on April 9, 2024, no officer observed any suspicious activity.

114. When surveilling Alisa and Avery's home on April 9, 2024, no officer observed any signs that the suspect was at the home.

115. When surveilling Alisa and Avery's home on April 9, 2024, no officer observed any signs that the suspect had ever been at the home.



116. At most, all the officers observed was that a silver 2017 Nissan sedan was parked in front of the house.

117. On information and belief, the surveilling officers (Defendants Officer Hankins and John Does) informed Officer Thomas about their observations, either directly or through one or more other officers.

***D. Officer Thomas submits a warrant application with critical misstatements and omissions.***

118. Sometime after 8:00 p.m. on April 9, 2024, Officer Thomas applied for a warrant to search Alisa and Avery's home, the premises of 680 Messick Road, and other structures and the vehicles on the property.

119. The only basis on which officers could believe Joseph Clark, Jr. may have been found at Alisa's house was that officers with Lee County Sheriff's Office or Pender County Sheriff's Office believed they had Verizon location data for Joseph Clark, Jr.'s phone placing that phone within 52 meters of the plot of land at 680 Messick Road.

120. On information and belief, no officers of Lee County Sheriff's Office and no officers of Pender County Sheriff's Office took any reasonable steps to ascertain which property within the 52-meter radius could be the property where the cell phone pinged.

121. On information and belief, no officers of Lee County Sheriff's Office and no officers of Pender County Sheriff's Office took any reasonable steps to ascertain whether the cell phone or the suspect were still at any of the properties within 52 meters of 680 Messick Road.

122. On information and belief, no officers of Lee County Sheriff's Office and no officers of Pender County Sheriff's Office had any reason to believe that the suspect was at 680 Messick Road, rather than at any of the other properties within 52 meters of 680 Messick Road, other than their observation that a Nissan sedan was parked in front of the house.

123. The officers' observation of Alisa's vehicle did not give officers any reason to believe the suspect was at 680 Messick Road, rather than at any of the other properties within 52 meters of Messick Road.

124. On information and belief, no officers of Lee County Sheriff's Office and no officers of Pender County Sheriff's Office had ruled out all the other properties lying within 52 meters of 680 Messick Road as possible locations where the suspect was, based on information other than observations of Alisa's vehicle at her address and the Verizon data indicating the suspect's phone had been within 52 meters of 680 Messick Road.

125. Nevertheless, in his probable-cause affidavit, Officer Thomas swore that "Pender County Sheriff's Office drove by 680 Messick Road, and observed the vehicle the suspect's father stated that he was riding in."

126. This statement was false.

127. Again, no officer observed at 680 Messick Road a 2007 Nissan Sentra, a gray Nissan passenger car, or a license plate similar to that of the vehicle described by the suspect's father.

128. Officer Thomas also swore that “[t]he Pender County Sheriff’s Office has been observing the residence and has confirmed the suspect vehicle has not left.”

129. This statement, too, was false.

130. The fact that Alisa’s car had not moved from in front of her house did not give officers probable cause to believe that the suspect, who was associated with a different car, was at Alisa’s house.

131. The officers who observed Alisa’s car (including Officer Hankins) and who surveilled Alisa’s house knew or should have known they could not swear that the vehicle they saw at Alisa’s house was the suspect vehicle, without confirming that it was the same model or year and color, or had the same license plate, or had the same vehicle identification number, or had the same registered owner.

132. On information and belief, officers from Lee County Sheriff’s Office and Pender County Sheriff’s Office had access to registration information about Alisa’s vehicle.

133. On information and belief, officers from Lee County Sheriff’s Office and Pender County Sheriff’s Office had access to registration information about the vehicle described by the suspect’s father.

134. On information and belief, officers from Lee County Sheriff’s Office and Pender County Sheriff’s Office had access to North Carolina Department of Motor Vehicle records on Alisa’s vehicle.

135. On information and belief, officers from Lee County Sheriff's Office and Pender County Sheriff's Office had access to North Carolina Department of Motor Vehicle records on the vehicle described by the suspect's father.

136. On information and belief, officers from Lee County Sheriff's Office (including Officer Thomas) and Pender County Sheriff's Office knew or had access to the following information:

- a. Joseph Clark, Jr.'s sister is not Alisa Carr; Alisa's daughter, J.C; or Avery's mother.
- b. The vehicle the suspect's father described was owned by and registered to Joseph Clark; Joseph Clark, Jr.; or Nakeisha Laquantae Michelle Clark (Joseph Clark, Jr.'s sister).
- c. The vehicle the suspect's father described was a 2007 Nissan Sentra.
- d. The vehicle the suspect's father described has the vehicle identification number 3N1AB61E67L620900.
- e. The true license plate number of the vehicle described by the suspect's father is VAJ2394.
- f. The exterior color of the vehicle the suspect's father described was a medium-dark gray.
- g. The exterior color of the vehicle the suspect's father described was Nissan's "magnetic gray metallic" color.

137. Alisa's car and the vehicle described by the suspect's father are two of the most common types of cars in the United States and in North Carolina. *See, e.g.*, James Mattone, *The Nissan Altima is the most-popular used car in America*, *The Business of Business* (Mar. 28, 2019), <https://perma.cc/2D86-7YTJ>; Edmunds, *Most Popular Car Colors in America*, <https://www.edmunds.com/most-popular-car-colors/>; iSeeCars, *The Most Popular Car Colors in 2023: Gray Wins Big, Silver Loses*, <https://perma.cc/5S3B-MQAN>.

138. The Nissan Altima and the Nissan Sentra are two of the most common sedans.

139. The Nissan Altima was, at least as of 2019, the most popular used car in the United States.

140. The Nissan Sentra was, at least as of 2019, the second-most popular used sedan in the United States.

141. The four most common car colors in the United States and in North Carolina are white, gray, black, and silver.

142. On information and belief, officers from Lee County Sheriff's Office and Pender County Sheriff's Office (including Officer Thomas, Officer Hankins, and John Does) knew or should have known that gray or silver Nissan sedans are one of the most common types of vehicles in North Carolina.

143. Alisa's vehicle was a different color from the vehicle the suspect's father told police the suspect had been riding in.

144. Alisa's vehicle was a different model from the vehicle the suspect's father told police the suspect had been riding in.

145. Alisa's vehicle was from a different year than the vehicle the suspect's father told police the suspect had been riding in.

146. Alisa's vehicle was approximately ten years newer than the vehicle the suspect's father told police the suspect had been riding in.

147. Alisa's vehicle had a license plate number different from that of the vehicle the suspect's father told police the suspect had been riding in.

148. Alisa's vehicle had a license plate number different from the number Officer Thomas wrote in his affidavit as the number given to police by the suspect's father.

149. Alisa's vehicle was owned by and registered to a different person than the registered owner of the vehicle the suspect's father told police the suspect had been riding in.

150. Alisa's vehicle had a vehicle identification number different from that of the vehicle the suspect's father told police the suspect had been riding in.

151. The following information was readily available to or known by officers from Lee County Sheriff's Office and Pender County Sheriff's Office:

- a. The exterior color of Alisa's vehicle was a very-light silver;
- b. The exterior color of Alisa's vehicle was Nissan's "brilliant silver" color;
- c. Alisa's vehicle was a 2017 Nissan Altima;

- d. Alisa's vehicle had the license plate number FKE8649;
- e. Alisa's vehicle had the vehicle identification number 1N4AL3AP3HC256285; and
- f. Alisa's vehicle was registered to Alisa at 680 Messick Road.

152. Officers from Lee County Sheriff's Office and Pender County Sheriff's Office (including Officer Thomas, Officer Hankins, and John Does) knew or should have known that the vehicle parked in front of Alisa's house was not the vehicle described by Joseph Clark's father.

153. Alternatively, officers from Lee County Sheriff's Office and Pender County Sheriff's Office (including Officer Thomas, Officer Hankins, and John Does) knew or should have known they could not reliably state that the vehicle at Alisa's address was the suspect vehicle, without confirming that the vehicle was the same model or year, or had the same license plate, vehicle identification number, or registered owner.

154. Officer Thomas's affidavit did not mention or otherwise indicate that the vehicle officers observed at Alisa's address was Alisa's car, not the vehicle described by the suspect's father.

155. Officer Thomas either:

- a. knew the statement in his affidavit that officers had observed the suspect vehicle at 680 Messick Road was false; or
- b. made that statement based entirely on what Officer Hankins or John Does told him.

156. If Officer Thomas made that statement based entirely on what Officer Hankins or John Does told him,

- a. Officer Thomas did not confirm whether any officer had matched the observed vehicle to the model, year, license plate number, vehicle identification number, or registered owner of the vehicle described by the suspect's father; and
- b. Officer Thomas did not know whether the suspect vehicle had ever been observed at Alisa's address by any officer.

157. If Officer Thomas did not know that his statement about officers observing the suspect vehicle at 680 Messick Road was false, then he recklessly disregarded the truthfulness or falsity of the statement.

158. Officer Thomas's affidavit falsely implied that an officer had matched the license plate of the vehicle described by the suspect's father to the Nissan sedan observed at 680 Messick Road.

159. Nothing in Officer Thomas's affidavit corrected that false implication.

160. Officer Thomas's affidavit did not state that officers identified the car at 680 Messick Road as the suspect vehicle simply because the car was a silver Nissan sedan parked at that address.

161. Officer Thomas's affidavit did not state that the vehicle at issue at 680 Messick Road had a license plate different from the vehicle described by the suspect's father.



162. Officer Thomas's affidavit did not state that the vehicle at issue at 680 Messick Road had a vehicle identification number different from the vehicle described by the suspect's father.

163. Officer Thomas's affidavit did not state that the vehicle at issue at 680 Messick Road was a different year and model from the vehicle described by the suspect's father.

164. Officer Thomas's affidavit did not state that the vehicle at issue at 680 Messick Road was a different color than the vehicle described by the suspect's father.

165. Officer Thomas's affidavit did not state that the vehicle at issue at 680 Messick Road was registered to Alisa Carr.

166. Officer Thomas's affidavit did not state that the vehicle at issue at 680 Messick Road was not registered to the suspect or the suspect's father, sister, or other relative.

167. Officer Thomas's affidavit did not state that Nissan sedans are one of the most common vehicles in America.

168. Officer Thomas's affidavit did not state that the most common vehicle colors in America are white, black, gray, and silver.

169. Officer Thomas's affidavit, by stating that Pender County officers had "observed the vehicle the suspect's father stated that he was riding in" and that the suspect's father had described a car with the North Carolina registration plate VA5234, indicated that Pender County officers confirmed that the vehicle observed

at Alisa's property had that license plate or the true license plate of the vehicle described by the suspect's father.

170. Officer Hankins and John Does either:

- a. knew the Nissan sedan at 680 Messick Road had a license plate different from VA5234 (the number Officer Thomas wrote in his affidavit as the number given to officers by the suspect's father) and different from VAJ2394 (the true license plate of the vehicle described by the suspect's father); or
- b. did not confirm by observation or by talking with other officers that the Nissan sedan at 680 Messick Road had one of those license plate numbers.

171. Officer Thomas's affidavit falsely implied that Pender County officers observed a vehicle at 680 Messick Road that not only was a gray or silver Nissan passenger car but also had more in common with the vehicle described by the suspect's father.

172. Officer Thomas's affidavit falsely implied that an officer had checked to make sure the vehicle at issue at Alisa's property was not only a gray or silver Nissan passenger car but also had more in common with the vehicle described by the suspect's father.

173. A magistrate judge reading Officer Thomas's affidavit would be misled into believing that officers confirmed that the vehicle parked in front of Alisa's house

was the same vehicle described throughout the probable-cause affidavit as the vehicle described by the suspect's father.

174. Given the popularity of gray and silver Nissan sedans, Officer Thomas should have entertained serious doubts that the vehicle at issue at 680 Messick Road was the vehicle described by the suspect's father, without confirming that the two vehicles had the same license plate, model, year, registered owner, or vehicle identification number.

175. A reasonable officer in Officer Thomas's position would have entertained serious doubts that the vehicle at issue at 680 Messick Road was the vehicle described by the suspect's father.

176. Given the popularity of gray and silver Nissan sedans, Officer Hankins and John Does should have entertained serious doubts that the vehicle at issue that they observed at 680 Messick Road was the vehicle described by the suspect's father, without confirming that the two vehicles had the same license plate, model, year, registered owner, or vehicle identification number.

177. Reasonable officers in Officer Hankins's and John Does' positions would have entertained serious doubts that the vehicle at issue that they observed at 680 Messick Road was the vehicle described by the suspect's father.

178. Officer Thomas knew his affidavit implied that officers had confirmed by first-hand observation that the vehicle at issue at Alisa's address had at least the same license plate as the vehicle described by the suspect's father or the license plate

number Officer Thomas wrote in his affidavit, if not also the same vehicle identification number, model, year, or registered owner.

179. Officer Thomas also failed to mention in his affidavit that other properties and a public road lie within 52 meters of 680 Messick Road.

180. Officer Thomas also failed to mention in his affidavit that officers had not investigated whether the suspect or the suspect's phone was at any of those other properties.

181. Officer Thomas's affidavit included an aerial picture of 680 Messick Road and some of the surrounding area.

182. The aerial picture showed other houses in the area.

183. But the aerial picture did not indicate how close those houses were to Alisa's house, what portion of the depicted area is 680 Messick Road, or what portion of the depicted area lies within 52 meters of 680 Messick Road.

184. The aerial picture also did not indicate that at least five other properties lie within 52 meters of 680 Messick Road.

185. The aerial picture did not provide the magistrate with enough information to determine how many other properties lie within 52 meters of 680 Messick Road.

186. Officer Thomas knew that his affidavit did not provide the magistrate with enough information to conclude that at least five other properties lie within 52 meters of 680 Messick Road.

187. Officer Thomas knew that his affidavit implied falsely that no other properties lie within 52 meters of 680 Messick Road.

188. Alternatively, Officer Thomas knew that his affidavit implied falsely that he and other officers had ruled out (based on more than observation of Alisa's vehicle at her address) some or all other properties lying within 52 meters of 680 Messick Road as possible locations where the suspect was.

189. Shortly after midnight on April 10, 2024, a judge issued a warrant to search Alisa and Avery's home, other structures and the vehicles on the property, and the premises of 680 Messick Road.

190. The warrant did not authorize a search of all the property depicted in the aerial picture.

191. If the warrant did authorize a search of all the property depicted in the aerial picture, the warrant was, on its face, obviously overbroad to the extent it authorized a search of properties other than the property at 680 Messick Road.

192. The judge relied on Officer Thomas's false statements and material omissions to conclude that probable cause supported the issuance of the warrant.

193. Officer Thomas and the other officers of Lee County Sheriff's Office and Pender County Sheriff's Office lacked probable cause to search 680 Messick Road, Alisa's house at that address, and the other structures and property at that address.

194. The magistrate did not know, and could not have known from Officer Thomas's affidavit, that officers observed only Alisa's car—not the vehicle described by the suspect's father—at Alisa's address.

195. The magistrate was under the false impression that officers observed at 680 Messick Road the vehicle described by the suspect's father.

196. The magistrate was under the false impression that officers confirmed by observation that at least the license plate of the vehicle observed at Alisa's address matched that of the vehicle described by the suspect's father or matched the license plate number Officer Thomas wrote in his affidavit as the number given by the suspect's father.

197. Without the false and materially misleading statements and material omissions in Officer Thomas's probable-cause affidavit, no magistrate could have found probable cause to issue a warrant to search the premises at 680 Messick Road, Alisa's house, accessory structures at 680 Messick Road, or vehicles at 680 Messick Road.

198. But for Officer Thomas's obtaining the search warrant, officers would not have searched or seized Alisa, Avery, the children, and the property at 680 Messick Road.

199. On information and belief, the officers other than Officer Thomas who executed the search warrant relied on the warrant to search the premises, house, and other property without independently determining whether probable cause supported the warrant or a search or seizure of the property or persons there.

200. On information and belief, some or all of the officers (save Officer Thomas) who executed the search warrant at 680 Messick Road did not read Officer Thomas's probable-cause affidavit or the issued search warrant to determine whether

the magistrate was misled by information they or the affiant knew was false or would have known was false but for their reckless disregard of the truth.

201. Officer Thomas's false statement that Pender County officers observed the suspect vehicle at Alisa's address was not an act of negligence or an innocent mistake.

202. Officer Thomas knew that if he included in his affidavit that:

- a. no officer had confirmed the vehicle at issue at 680 Messick Road matched the license plate of the vehicle described by the suspect's father or the license plate number Officer Thomas wrote in his affidavit as given by the suspect's father,
- b. the Verizon location data placed the suspect's phone at any of at least six properties, including 680 Messick Road or a public road, and
- c. officers had not investigated whether the suspect was at any of the five other properties,

that information would negate probable cause.

***E. Officers execute a nighttime raid on Alisa, Avery, their children, and their home.***

203. At about 1:00 a.m. on April 10, 2024, Officer Thomas, along with Officer Hankins, John Does, and other officers from the sheriff's offices of Lee and Pender counties executed the warrant.

204. All was quiet at the house.

205. The inside of the house was dark.

206. The family was asleep inside.
207. Alisa, Avery, and the children had no connections to Joseph Clark, Jr.
208. Alisa, Avery, and the children had never met, seen, or spoken to Joseph Clark, Jr.
209. Joseph Clark, Jr. was never in Alisa's house.
210. No officer with Lee County Sheriff's Office knew whether Joseph Clark, Jr. had ever been in Alisa's house.
211. No officer with Pender County Sheriff's Office knew whether Joseph Clark, Jr. had ever been in Alisa's house.
212. On information and belief, Joseph Clark, Jr. had never been on the property of 680 Messick Road.
213. No officer with Lee County Sheriff's Office knew whether Joseph Clark, Jr. had ever been on the property of 680 Messick Road.
214. No officer with Pender County Sheriff's Office knew whether Joseph Clark, Jr. had ever been on the property of 680 Messick Road.
215. Joseph Clark, Jr.'s phone was never in Alisa's house.
216. No officer with Lee County Sheriff's Office knew whether Joseph Clark, Jr.'s phone had ever been in Alisa's house.
217. No officer with Pender County Sheriff's Office knew whether Joseph Clark, Jr.'s phone had ever been in Alisa's house.
218. On information and belief, Joseph Clark, Jr.'s phone had never been on the property of 680 Messick Road.



219. No officer with Lee County Sheriff's Office knew whether Joseph Clark, Jr.'s phone had ever been on the property of 680 Messick Road.

220. No officer with Pender County Sheriff's Office knew whether Joseph Clark, Jr.'s phone had ever been on the property of 680 Messick Road.

221. Officers surrounded Alisa and Avery's home.

222. Officers had to walk past Alisa's 2017 Nissan Altima on their way to the front door.

223. On information and belief, before starting the raid, no officer took a closer look at Alisa's car to confirm whether it was the suspect vehicle.

224. Any reasonable officer who looked at Alisa's car would have realized that it was not a 2007 Nissan Sentra.

225. Even without taking a close look at Alisa's car, upon observing that the vehicle parked in front of Alisa's house was not a 2007 Nissan Sentra, any reasonable officer would have realized that there was no longer probable cause to believe that the suspect was at 680 Messick Road.

226. Officers banged on the front door and shouted.

227. One officer shouted at the house while another spoke through a loudspeaker.

228. The officers talked over one another.

229. Jolted awake, Avery went to the front entrance to see what the commotion was about.

230. He thought the house and family were under attack by thieves.

231. Avery peeked through the window blinds by the front door.

232. Upon seeing Avery peek through the blinds, officers broke through the front doors.

233. Before breaking through the front doors, the officers did not give Avery a chance to appreciate who was at the house and to open the door for the officers.

234. Before breaking through the front doors, the officers did not give Avery or any other occupant of the house a reasonable opportunity to become aware of the officers' identity and purpose and to open the door voluntarily.

235. Before breaking through the front doors, the officers did not give Avery or any other occupant of the house adequate notice about who the officers were and why they were at the house.

236. Avery did not refuse the officers' entry to the home.

237. Nor did Alisa or anyone else refuse the officers' entry to the home.

238. The officers did not give Avery or Alisa a reasonable opportunity to consent to the officers' entrance into the home.

239. The officers had not pursued the suspect to 680 Messick Road or Alisa's house at that address.

240. Indeed, officers had been surveilling the house without seeing the suspect at the property.

241. The officers did not need to break the doors, windows, walls, or any other property to gain access into the home.

242. The officers did not believe that the suspect was threatening anyone at Alisa's home.

243. The officers had no reason to believe that anyone at Alisa's home was being held hostage or faced imminent harm.

244. The officers did not observe any disturbances at the home.

245. All was quiet, dark, and peaceful at the home until officers assaulted it in the middle of the night.

246. The officers had every reason to believe that everyone was asleep in the home.

247. The officers were not responding to an active emergency at 680 Messick Road.

248. The officers did not believe the suspect posed an imminent threat to any of the property at 680 Messick Road.

249. When the officers broke into the front entrance, the officers shattered the outer glass storm door and busted the inner metal door, breaking the door frame, as well.

250. Glass shattered across the floor inside the home.

251. Avery was shirtless and wearing only underwear, exposing stitches and wounds from recent back surgery.

252. Officers threw at least two flash-bang grenades into the home.

253. One flash-bang grenade bounced off Avery's chest and detonated nearby, burning the underside of a couch and burning part of a rug.

254. Avery lost his balance when the flash-bang grenade hit him, and he fell to the floor.

255. Noxious fumes from the flash-bang grenades filled the house.

256. Smoke alarms in the house went off, making loud screeching sounds.

257. Officers ordered Avery to remain face-down where he fell when they broke through the door.

258. Avery complied, staying on top of shattered glass.

259. Officers ordered Avery to crawl toward the officers.

260. Avery complied, crawling on top of the shattered glass.

261. Less than one minute had passed between the time officers banged on the front door, shouting, and the time officers ordered Avery to crawl on the glass.

262. More than a dozen officers came onto the property of 680 Messick Road, participating in the raid.

263. An officer went to the bedroom of K.G. (the nine-year-old boy).

264. K.G. was wearing only his underwear.

265. An officer shouted profanities at the boy and aimed a firearm at him.

266. A laser scope light from a firearm shined on K.G.'s face.

267. Seeing this, Avery protested and pleaded that K.G. was only nine years old.

268. But Avery could not get up to protect K.G.

269. To keep Avery on the floor, one officer stepped on Avery's back, on the exposed stitches that Avery had from his back surgery.

270. An officer picked up K.G. and took him outside.
271. One officer kicked open the bedroom door of J.C. (the sixteen-year-old girl), putting a hole in the door.
272. J.C. was wearing only a shirt and underwear.
273. An officer pointed a gun at J.C. and ordered her out of her room and to go outside.
274. She complied, walking on shattered glass with bare feet to exit the house.
275. Outside, away from Avery and Alisa and separated from each other, the kids were interrogated by officers.
276. One child was interrogated in a police vehicle.
277. The other child was interrogated outside.
278. The officer accused the kids of lying when they said they did not know Joseph Clark, Jr., the person the officers were looking for.
279. Inside the house, an officer handcuffed Avery's hands behind his back.
280. The officer then yanked Avery to his feet, reinjuring Avery's back.
281. The officer sat Avery in a chair and interrogated him about Joseph Clark, Jr.
282. Avery insisted that the officers had the wrong house; the man they were looking for was not there and had not been there.
283. Avery explained that he did not know the suspect and had never seen him.

284. An officer had aimed a gun at Alisa and ordered her to put her hands in the air and walk toward him.

285. Alisa complied.

286. Alisa was wearing only her nightgown.

287. The fumes from the flash-bang grenades remained in the air.

288. Alisa had trouble breathing and experienced heart palpitations.

289. Alisa recognized these symptoms from when she had two prior heart attacks.

290. Alisa pleaded with officers that she could not breathe.

291. Still, officers interrogated her about the suspect, in the kitchen.

292. Alisa explained that she did not know Joseph Clark, Jr., that she had never seen him before, and that he was not there and had not been there.

293. Officers accused her of lying.

294. Alisa continued to insist that she could not breathe well.

295. Eventually someone on the scene called for an ambulance, which took Alisa to the hospital for treatment.

296. Alisa remained at the hospital until officers left the property.

297. By the time Alisa was taken to the hospital, it would have been clear to any reasonable officer that they were in the wrong house.

298. While Alisa was in the hospital, officers at the house ransacked it.

299. Officers tossed and flipped furniture.

300. One officer threw a chair into another chair, tearing a rug underneath the chairs and breaking a chair leg.

301. In addition to damaging the front doors, J.C.'s bedroom door, the rug, and a chair, the officers damaged:

- a. the front door frame;
- b. the crawl space door;
- c. insulation in the crawl space; and
- d. a sofa, burned by a flash-bang grenade.

302. An officer kicked open a closet door, leaving a footprint on the door.

303. The officers rifled through closets.

304. Officers flipped Alisa and Avery's mattress.

305. Officers searched dresser drawers and bathroom drawers.

306. Officers searched the pockets of Avery's clothing.

307. The officers left the home a mess.

308. The floor in the front room was littered with glass and residue from the flash-bang grenades.

309. One or more officers were bleeding from a cut or cuts in their skin.

310. The cuts were not inflicted by Alisa, Avery, or their kids.

311. The officer's or officers' blood dripped onto the floor and got on a wall and two doors.

312. As the officers searched the house, they tracked broken glass throughout the house.

313. Broken glass was left in beds and dresser drawers.

314. In addition to searching the house, officers searched accessory structures and the vehicles on the property, including Alisa's Nissan Altima.

315. The suspect was not found.

316. Officers found no evidence the suspect had ever been at the property.

317. The suspect was apprehended in another county later on April 10, 2024 or on April 11, 2024.

318. No arrests or prosecutions resulted from the raid of 680 Messick Road.

319. The raid lasted approximately two hours, ending at about 3:00 a.m. on April 10, 2024.

320. As officers departed the home, Avery asked who was going to pay for the property damage.

321. An officer told him Avery and Alisa would have to pay for it.

322. The officer added that Avery should just be glad the officers didn't damage more property, like throwing a couch into the TV.

323. No law enforcement officer or other government agent, agency, or entity paid for the damage at the time.

324. Nor has anyone compensated Alisa for the property damage since.

325. Alisa and Avery cleaned up the glass, blood, and fume residue as much as they could.

326. Some family members helped clean up more of the blood, glass, and fume residue.



327. Alisa and Avery have been unable to afford repairs to the damaged property.

328. The officers had no reason to believe the property at 680 Messick Road would have been damaged or destroyed without the officers destroying or damaging it, themselves.

329. The officers did not believe the property at 680 Messick Road would have been damaged or destroyed without the officers destroying or damaging it, themselves.

330. The officers who executed the warrant at 680 Messick Road were authorized (for purposes of takings claims) to perform the acts that damaged or destroyed Alisa's property.

331. The officers' execution of the search warrant at 680 Messick Road was within the general scope of the officers' duties.

332. The officers' specific acts that destroyed Alisa's property while the officers executed the warrant were within the general scope of the officers' duties.

333. The officers who executed the warrant at 680 Messick Road acted within the normal scope of their duties.

334. The officers' acts that destroyed Alisa's property while the officers executed the search warrant were not explicitly prohibited by any policy maintained by Lee County or Lee County Sheriff's Office

335. The officers' acts that destroyed Alisa's property while the officers executed the search warrant were not explicitly prohibited by any policy maintained by Pender County or Pender County Sheriff's Office.

336. Alisa, Avery, and the children had done nothing morally or legally wrong to prompt the officers' raid of the house.

337. Alisa, Avery, and the children were innocent victims of the officers' flawed investigation.

***F. Lee and Pender Counties condition compensation for the property damage on Alisa and Avery's surrendering all claims based on the raid.***

338. After the raid, Alisa, through her attorneys, sent a letter to Lee County; Lee County Attorney Whitney Parrish; Lee County Sheriff's Office; and the insurer for Lee County and Lee County Sheriff's Office (attention to Virgil Hollingsworth, the attorney authorized to act on behalf of Lee County, Lee County Sheriff's Office, Pender County, and Pender County Sheriff's Office in resolving claims against them).

339. Alisa, through her attorneys, sent a letter also to Pender County; Pender County Manager's Office; Pender County Sheriff's Office; Pender County Attorney Trey Thurman; and the insurer for Pender County and Pender County Sheriff's Office (attention to Virgil Hollingsworth).

340. In her letters, Alisa sought just compensation for the damage to her property for the public purpose of apprehending a suspect.

341. Alisa's letters included an initial estimate of \$10,896.99 for the property damage, along with a breakdown of the costs totaling that amount.

342. Alisa's letters asked for prompt acknowledgement of receipt of the letters and an answer to her claims by November 4, 2024. Her letters stated that a nonresponse by that date would be considered a refusal to provide just compensation to Alisa.

343. On November 6, 2024, Alisa's attorney spoke with Virgil Hollingsworth and received an email from him attaching a letter dated November 4, 2024.

344. Mr. Hollingsworth is a claims representative with Sedgwick, Incorporated, which represents the North Carolina Counties Liability and Property Pool of which Lee County and Pender County are a part.

345. On information and belief, the North Carolina Counties Liability and Property Pool provides liability insurance for Lee and Pender Counties, Lee County Sheriff's Office, Pender County Sheriff's Office, and those entities' officers, including Officer Thomas, Officer Hankins, and John Does.

346. On information and belief, Sedgwick, Incorporated is the insurer of the North Carolina Counties Liability and Property Pool.

347. Mr. Hollingsworth confirmed that he acts on behalf of Lee County and Pender County in the matter concerning Alisa's claims for compensation for the property damage.

348. Mr. Hollingsworth asked for pictures of the property damage and proof that Alisa owns the house at 680 Messick Road.

349. Alisa, through her attorney, provided that proof (the title to the home stating that Alisa is the owner) and pictures of the property damage.

350. Alisa also supplemented her initial property-damage estimate, with the new total of \$11,396.99.

351. Working with Lee and Pender Counties and their sheriff's offices to resolve her claims for just compensation for the property damage, Alisa and Avery agreed to allow an assessor, sent by the government entities' representative and engaged by Sedgwick, onto the property to conduct an estimate of the damage.

352. The assessor inspected the property on January 16, 2025.

353. The assessor estimated the damage totaled \$11,097.49.

354. In early February 2025, Mr. Hollingsworth deducted \$847.91 from that total to arrive at an estimate of \$10,249.58.

355. The counties, their sheriff's offices, and their agents did not pay \$10,249.58 or any other amount in compensation to Alisa.

356. Instead, through their representative, Lee County, Pender County, Lee County Sheriff's Office, and Pender County Sheriff's Office in February 2025 offered to settle Alisa's claim for the amount she had initially estimated, \$10,869.99.

357. That offer was conditioned on Alisa and Avery giving up all claims, demands, actions, or causes of action they or others have or may have against the sheriffs and their agents, employees, sureties and insurers, past and present, all in both their individual and official capacities, for damages whatsoever sustained and occasioned directly or indirectly by the execution of a search warrant at 680 Messick Road on the morning of April 10, 2024.

358. The final policymakers for Lee County, Pender County, Lee County Sheriff's Office, and Pender County Sheriff's Office, by making the conditional offer to Alisa, denied Alisa's demand for compensation for the damage to her property unless she and Avery released each county and its agents, offices, and officers of all claims and potential claims against them.

359. Alisa and Avery declined the settlement offer.

360. Alisa's attorney explained to Mr. Hollingsworth that Alisa and Avery have claims arising from the raid other than Alisa's takings claims, and that Alisa and Avery were not willing to settle those other claims for Alisa to receive the just compensation to which she is entitled for the taking of her property for a public use.

361. Mr. Hollingsworth communicated that he did not believe the entities he represents would reconsider the conditions placed on their settlement offer.

362. Mr. Hollingsworth stated that it was his clients' position that the damage from the raid was inflicted during the execution of a search warrant, so the officers had done nothing illegal and no just compensation or other compensation was required; the counties had made the settlement offer *in gratis*.

363. As of the date of this filing, the counties, their sheriff's offices, their agents, and their representative(s) have not paid Alisa anything for the property damage.

364. Nor have the counties, their sheriff's offices, their agents, or their representative(s) offered to pay for any of the damage free of the condition that Alisa and Avery waive all claims they may have arising from the incident.

365. The government entities' nonpayment of compensation is an element of Alisa's takings claims.

366. The continuing nonpayment of compensation is an ongoing violation of the Fifth Amendment's just compensation clause and the North Carolina Constitution's just compensation requirement for takings.

***Injuries to Alisa and Avery***

367. Alisa and Avery suffered deprivations of their Fourth Amendment rights to be secure in their persons, houses, papers, and effects.

368. Alisa has suffered a deprivation of her rights to just compensation for the taking of her property for a public use, under the Fifth Amendment and under Article I, Section 19 of the North Carolina Constitution.

369. Alisa suffered the deprivation of her right to use her house while officers commandeered it.

370. Alisa suffered the deprivation of her right to exclude others from her house while officers unlawfully occupied it.

371. Alisa suffered the deprivation of her rights to possess, use, and dispose of the property the officers damaged or destroyed.

372. The deprivation of Alisa's rights to just compensation for the taking of her property is continuing in nature.

373. Alisa and Avery spent time and resources cleaning up, as much as they could, the mess the counties, sheriff's offices, and officers left behind.

374. Alisa and Avery have been unable to afford to make repairs to the home.

375. The property damage caused by the raid includes the following:

- a. shattered front storm door,
- b. dented front metal door,
- c. damaged front door frame,
- d. cracked walls,
- e. burned couch,
- f. burned and ripped rug,
- g. a hole in an interior bedroom door,
- h. a broken chair,
- i. a broken crawl-space door, and
- j. ripped and displaced insulation.

376. Also, since the raid, and because the counties and sheriff's offices did not pay just compensation to Alisa at the time of the raid, promptly after, and anytime since the raid, the house continues to receive more damage from water leaking through the cracked walls and broken door frame where the officers broke into the front entrance.

377. When it rains, water seeps into the house, damaging the walls and flooring.

378. Mold has been growing on the walls at the front of the house from the water seeping into the house when it rains.

379. Mosquitoes and flies come into the home through cracks in the walls and door frame.

380. The property damage to the home totals at least \$11,396.99.

381. Alisa, Avery, and the children were traumatized during the raid.

382. Alisa experienced a panic attack and heart palpitations during the raid, leading to her hospitalization. She has incurred medical bills from that treatment.

383. The stress of the raid and its aftermath contributed to Alisa's suffering a third heart attack, for which she was hospitalized.

384. Avery's back was reinjured by the officers' stepping on his back where he had surgery and yanking him off the floor in handcuffs.

385. Avery has received some treatment for the reinjury, incurring medical bills for that treatment, and will likely need corrective surgery to address the reinjury.

386. Avery sustained damage to his left ear from a flash-bang grenade detonating in close range. He could not hear out of that ear for some time, and since he regained his hearing, he experiences ringing in that ear, caused by the flash-bang grenade.

387. The psychological trauma from the raid is long-lasting. Avery is in therapy to treat the psychological effects of the raid. Alisa was in therapy for a time after the raid to treat its psychological effects, and she anticipates continuing therapy treatment in the near future.

388. Alisa and Avery have trouble sleeping. Whereas they used to sleep soundly, now they wake up frequently from innocuous sounds, worried another wrong-house raid might occur, and reliving the night of April 9, 2024.



389. Avery hardly sleeps at night, keeping watch over the house. He gets his sleep during the day now.

390. Alisa's and Avery's sense of peace, privacy, security, and comfort in their home has been lost because of the raid.

391. Alisa and Avery no longer feel safe in their own home.

392. The visible property damage is a constant reminder of the traumatic assault on their family and home.

393. Alisa's and Avery's trust in their government and police officers has dramatically declined.

394. The damage to the property described above and the injuries alleged above were directly and proximately caused by the SWAT raid.

395. But for Officer Thomas's deliberate or reckless inclusion of materially false information in the warrant affidavit and his deliberate or reckless omission of truthful information from the warrant affidavit, the harms alleged at paragraphs 367–393 would not have taken place.

396. But for Officer Hankins's and John Does' deliberate or reckless transmittal of materially false information to Officer Thomas, the harms alleged at paragraphs 367–393 would not have taken place.

397. But for the counties' and sheriff's offices' failure to promptly pay Alisa just compensation for the property damage, the home would not have received water damage from rain after the raid, mold would not have grown on the wall, and mosquitoes and flies would not have entered the home after the raid.

## CLAIMS

### Count 1

#### **Fourth Amendment and 42 U.S.C. § 1983: Unreasonable search and seizure of persons and property.**

***Brought by Avery and Alisa against Officer Thomas in his individual capacity, Officer Hankins in his individual capacity, and John Does in their individual capacities.***

398. Alisa and Avery incorporate and reallege the allegations in paragraphs 1–397, above.

399. The Fourth Amendment (applicable to the states through the Fourteenth Amendment) protects “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” U.S. Const. amend. IV.

400. The Fourth Amendment also provides that “no Warrants shall issue, but upon probable cause, supported by Oath or affirmation.” U.S. Const. amend. IV.

401. 42 U.S.C. § 1983 provides a cause of action for the deprivation of rights secured by the Fourth and Fourteenth Amendments. It provides: “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State . . . subjects, or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law[.]”

402. A search or seizure of persons, houses, papers, or effects is unreasonable when unsupported by probable cause.

403. An officer violates the Fourth Amendment's Warrant Clause by swearing that the facts presented in his affidavit support probable cause when he knows that suppressed or non-misleading facts destroy probable cause.

404. An officer violates the Fourth Amendment's Warrant Clause by deliberately, or with reckless disregard for the truth, making material false statements in his affidavit.

405. An officer violates the Fourth Amendment's Warrant Clause by omitting from his affidavit material facts with the intent to make the affidavit misleading or with reckless disregard for whether the omitted material facts make the affidavit misleading.

406. Officer Thomas deliberately and with reckless disregard for the truth made material false statements in his affidavit.

407. Officer Thomas deliberately or with reckless disregard for the truth omitted from his affidavit material facts with the intent to make, or with reckless disregard of whether they thereby made, the affidavit misleading.

408. The Fourth Amendment's Warrant Clause is likewise violated when a government agent deliberately or recklessly misrepresents information to another agent, who then innocently or negligently includes the misrepresentations in an affidavit.

409. If Officer Hankins and the John Does who surveilled Alisa's house and car told Officer Thomas that they observed at Alisa's house the vehicle described by the suspect's father, they made that misrepresentation deliberately or recklessly.

410. The Fourth Amendment also imposes on officers executing a search warrant an ongoing duty to ascertain whether they have probable cause to continue the search.

411. Any reasonable officer who participated in the investigation and search should have realized, upon entering the property at 680 Messick Road, that the vehicle parked in front of Alisa's house was not a 2007 Nissan Sentra and did not have the license plate or vehicle identification number associated with the vehicle described by the suspect's father.

412. Upon entering 680 Messick Road and finding an innocent family who did not match the suspect's description and did not know the suspect, any reasonable officer would have known that the SWAT team was at the wrong house.

413. The rights that the officers' conduct violated were clearly established at the time. *See, e.g., Miller v. Prince George's County*, 475 F.3d 621, 630, 632 (CA4 2007).

414. Officer Thomas, Officer Hankins, and John Does caused Alisa, Avery, and their property to be unreasonably searched and seized during the execution of the warrant.

## Count 2

### **Fifth Amendment and 42 U.S.C. § 1983: Taking Without Just Compensation.**

***Brought by Alisa against Officer Thomas in his official capacity, Officer Hankins in his official capacity, John Does in their official capacities, Lee County, Lee County Sheriff Brian Estes in his official capacity, Pender County, and Pender County Sheriff Alan Cutler in his official capacity.***

415. Alisa incorporates and realleges the allegations in paragraphs 1–397, above.

416. The Fifth Amendment (applicable to the states through the Fourteenth Amendment) provides that “private property [shall not] be taken for public use, without just compensation.”

417. The Takings Clause, with its just compensation requirement, applies to government action that intentionally or foreseeably destroyed private property for public use.

418. These provisions ensure that government does not force “some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.” *Armstrong v. United States*, 364 U.S. 40, 49 (1960).

419. Occupying or destroying property to apprehend a suspect is a public use of the property, and the cost of apprehending the suspect, “in all fairness and justice,” should be borne by the public as a whole, not by an unlucky and innocent property owner whose property was put to the public use of apprehending that suspect.

420. When, as here, officers on the government's authority intentionally destroy an innocent person's property to apprehend a suspect, a *per se* taking has occurred, for which just compensation is required.

421. When, as here, officers on the government's authority intentionally occupy, inconsistent with the Fourth Amendment or state law, an innocent person's property to apprehend a suspect, a *per se* taking has occurred, for which just compensation is required.

422. The officers of Lee County Sheriff's Office and Pender County Sheriff's Office intentionally commandeered and destroyed Alisa's property for the public use of apprehending a suspect.

423. When property is taken for a public use, the Fifth Amendment requires just compensation, full stop.

424. In other words, when property is taken for a public use, the Fifth Amendment requires just compensation without any strings attached.

425. An offer to compensate an owner for property damage conditioned on giving up all claims arising from the underlying incident does not satisfy the just compensation requirement of the Fifth Amendment.

426. Lee County, Lee County Sheriff's Office, Pender County, and Pender County Sheriff's Office have not provided just compensation to Alisa.

427. Nor has any officer of Lee County, Lee County Sheriff's Office, Pender County, or Pender County Sheriff's Office provided just compensation to Alisa.

428. Under color of law, Defendants Officer Thomas in his official capacity, Officer Hankins in his official capacity, John Does in their official capacities, Lee County, Lee County Sheriff Brian Estes in his official capacity, Pender County, and Pender County Sheriff Alan Cutler in his official capacity failed to compensate Alisa for both the temporary and permanent takings of her property.

429. This constitutional claim is brought under both 42 U.S.C. § 1983 and the Fifth Amendment itself, which is self-executing.

### **Count 3**

#### **Article I, Section 19 of the North Carolina Constitution and N.C. Gen. Stat. § 40A-51: Taking Without Just Compensation.**

***Brought by Alisa against Officer Thomas in his official capacity, Officer Hankins in his official capacity, John Does in their official capacities, Lee County, Lee County Sheriff Brian Estes in his official capacity, Pender County, and Pender County Sheriff Alan Cutler in his official capacity.***

430. Alisa incorporates and realleges the allegations in paragraphs 1–397, above.

431. The North Carolina Supreme Court has “long recognized the existence of a constitutional protection against an uncompensated taking and the fundamental right to just compensation as so grounded in natural law and justice that it is considered an integral part of ‘the law of the land’ within the meaning of Article 1, Section 19 of [the] North Carolina Constitution.” *Kirby v. N.C. DOT*, 786 S.E.2d 919, 924 (N.C. 2016) (cleaned up).

432. This provision is self-executing.

433. N.C. Gen. Stat. § 40A-51 also provides a cause of action to recover just compensation for the taking of private property for a public use.

434. Shortly after the filing of this complaint, Alisa will submit for recording a memorandum of action with the register of deeds in Pender County.

435. Officer Thomas, by obtaining a warrant to search and seize Alisa's property, caused Alisa's property to be taken by Lee and Pender Counties and their sheriff's offices.

436. Officer Hankins and John Does, by deliberately or recklessly misrepresenting their observations to Officer Thomas directly or indirectly and by raiding Alisa's house, caused Alisa's property to be taken by Lee and Pender Counties and their sheriff's offices.

437. The officers' commandeering of Alisa's property and the damage they did to her property were takings for the public use of apprehending a suspect.

438. By intentionally occupying and destroying Alisa's property to capture a suspect, Lee and Pender Counties and their sheriff's offices, through their officers, physically took Alisa's property.

439. When property that is taken for a public use, the North Carolina Constitution requires just compensation, full stop.

440. In other words, when property is taken for a public use, the North Carolina Constitution requires just compensation without any strings attached.

441. An offer to compensate an owner for property damage conditioned on giving up all claims arising from the underlying incident does not satisfy the just



compensation requirement of the North Carolina Constitution or the just compensation requirement of N.C. Gen. Stat. § 40A-51.

442. Lee County, Lee County Sheriff's Office, Pender County, and Pender County Sheriff's Office have not provided just compensation to Alisa.

443. Nor has any officer of Lee County, Lee County Sheriff's Office, Pender County, or Pender County Sheriff's Office provided just compensation to Alisa.

444. Defendants Officer Thomas in his official capacity, Officer Hankins in his official capacity, John Does in their official capacities, Lee County, Lee County Sheriff Brian Estes in his official capacity, Pender County, and Pender County Sheriff Alan Cutler in his official capacity thus violated Alisa's rights under Article I, Section 19 of the North Carolina Constitution.

445. Until such compensation is provided, Defendants' violation is ongoing.

#### **PRAYER FOR RELIEF**

Plaintiffs Alisa Carr and Avery Marshall respectfully request relief as follows:

- A. An award of nominal and compensatory damages against Defendants Officer Thomas in his individual capacity, Officer Hankins in his individual capacity, and John Does in their individual capacities, for the unconstitutional search and seizure of Alisa's and Avery's persons, home, and other property.
- B. An award of just compensation against Officer Thomas in his official capacity, Officer Hankins in his official capacity, John Does in their official capacities, Lee County, Lee County Sheriff Brian Estes in his

official capacity, Pender County, and Pender County Sheriff Alan Cutler in his official capacity, for the property taken from Alisa for a public use.

- C. An award of nominal and compensatory damages against Officer Thomas in his official capacity, Officer Hankins in his official capacity, John Does in their official capacities, Lee County, Lee County Sheriff Brian Estes in his official capacity, Pender County, and Pender County Sheriff Alan Cutler in his official capacity, for Defendants' failure to provide prompt just compensation to Alisa for the taking of her property, resulting in further damage to her property.
- D. A declaration that Alisa's and Avery's rights under the Fourth Amendment (applicable to the states through the Fourteenth Amendment) have been violated.
- E. A declaration that Alisa's rights under the Fifth Amendment (applicable to the states through the Fourteenth Amendment) and Article I, Section 19 of the North Carolina Constitution have been violated.
- F. An award of reasonable attorney's fees and costs under 42 U.S.C. § 1988 against all Defendants.
- G. All further legal and equitable relief as the Court deems just and proper.

Dated: April 1, 2025

Respectfully submitted:

/s/ Marie Miller

Marie Miller  
IN Attorney No. 34591-53  
INSTITUTE FOR JUSTICE  
3200 N. Central Ave., Suite 2160  
Phoenix, AZ 85012  
480-557-8300 (phone)  
480-557-8305 (fax)  
mmiller@ij.org

Jared McClain  
DC Attorney No. 1720062  
INSTITUTE FOR JUSTICE  
901 N. Glebe Rd. Suite 900  
Arlington, VA 22203  
703-682-9320 (phone)  
703-682-9321 (fax)  
jmcclain@ij.org

*Lead Counsel for Plaintiffs*

/s/ Dan Gibson

Dan Gibson  
NC Bar No. 49222  
DAVIS HARTMAN WRIGHT  
209 Pollock Street  
New Bern, NC 28560  
984-345-3078 (phone)  
984-345-3078 (fax)  
rdg@dhwlegal.com

*Local Civil Rule 83.1(d) Attorney for  
Plaintiffs*