

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

OFFICER JOHN DOE POLICE OFFICER	*	CIVIL ACTION NO: 16-742
v.	*	CHIEF JUDGE
	*	BRIAN A. JACKSON
DERAY McKESSON;	*	
BLACK LIVES MATTER;	*	
BLACK LIVES MATTER NETWORK, INC.	*	MAGISTRATE JUDGE
and #BLACKLIVESMATTER	*	RICHARD L. BOURGEOIS, JR.
*****		

**AMENDED COMPLAINT FOR DAMAGES  
POLICE OFFICER HIT IN FACE WITH ROCK**

Now into court, through undersigned counsel, comes **OFFICER JOHN DOE POLICE OFFICER** for all injuries incurred as a result of the actions of defendants in use of force and injury or other causes as follows:

1.

**JURISDICTION**

The jurisdiction of this Honorable Court is invoked Pursuant to 28 USC § 1332 "Diversity Jurisdiction" and accordingly plaintiff specifically avers that his injuries and compensable damages are greater than \$75,000.00 exclusive of interest and costs.

2.

**VENUE**

Venue is proper pursuant to 28 USC § 1391 (b)(D(2) in that the Plaintiff resides in Baton Rouge and was injured in Baton Rouge and the Defendants are foreign persons who reside in another state. A substantial part of the events or omissions giving rise to the claim herein occurred in this district.

3.

Parties

**PLAINTIFF:**

**OFFICER JOHN DOE POLICE OFFICER** (hereafter "OFFICER") is a major who appears as a John Doe for his protection and who during material times herein was a duly commissioned Baton Rouge Police Officer and domiciled in Louisiana and who on July 9,

2016, was ordered to appear and respond to a protest staged and organized by DeRAY McKESSON on behalf of "BLACK LIVES MATTER" a national organization.

**DEFENDANTS:**

**DERAY McKESSON**, is a major, who is domiciled in and a citizen of the State of Maryland and who during material times herein was a leader of the national unincorporated organization that is known as "BLACK LIVES MATTER" and who during all material times in July 2016 while he was in Baton Rouge, Louisiana, was acting on behalf of BLACK LIVES MATTER and who led the protest and violence that accompanied the protest in Baton Rouge Louisiana that took place outside the Baton Rouge Police Department located in front of the former Woman's Hospital on Airline Highway and who is amenable to service through his counsel of record.

**BLACK LIVES MATTER**, is a chapter-based national unincorporated association, which pursuant to 42 USC § 1332(d)(10) is deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized, which is California, and which, as a partnership, is deemed to be a citizen of the state of each of its partners, which is California and Delaware, the domicile of its partners, Black Lives Matter Network, Inc., and #BLACKLIVESMATTER. BLACK LIVES MATTER. BLACK LIVES MATTER has chapters throughout the country and which in July 2016 staged multiple protests including a protest in Baton Rouge, Louisiana, which entailed the blocking of a public highway, looting of a Circle K, throwing of items at police and violence towards police in Baton Rouge, Louisiana, and which as an unincorporated association is amenable to service of process on any member of the association through FRCP 4 and La. C.C.P. art 1264 and the Louisiana Long Arm Statute. DeRay McKesson is a managing member of BLACK LIVES MATTER. As a partnership, BLACK LIVES MATTER is amenable to service of process through a partner. BLACK LIVES MATTER NETWORK, INC., is a partner in BLACK LIVES MATTER.

**BLACK LIVES MATTER NETWORK, INC.**, Is a Delaware Corporation, whose registered agent for service of process is the Corporation Trust Company located at Corporation Trust Center, 1209 Orange St., Wilmington, DE 19801, amenable to service of process through the Louisiana Long Arm Statute on its registered agent for service of process d/b/a as **BLACK LIVES MATTER NETWORK**, d/b/a “Black Lives Matter,” described on the Black Lives Matter Website donation payment receipt as one of two entities that accepts donations made to Black Lives Matter and in the name of “Black Lives Matter” and which describes itself as, “working for the validity of Black life. Patrisse Cullors, Opal Tometi, and Alicia Garza created the infrastructure for this movement project—moving the hashtag from social media to the streets, working to organize communities and (re)build the Black liberation movement.”

**#BLACKLIVESMATTER**, d/b/a “Black Lives Matter,” a national unincorporated association, which is domiciled in California, and described on the Black Lives Matter Website donation payment receipt as one of two entities that accepts donations made to Black Lives Matter and in the name of “Black Lives Matter” and which describes itself as, “created in 2012 after Trayvon Martin’s murderer, George Zimmerman, was acquitted for his crime, and dead 17-year old Trayvon was posthumously placed on trial for his own murder. Rooted in the experiences of Black people in the U.S. who actively resist our dehumanization, #BlackLivesMatter is a call to action and a response to the virulent anti-Black racism that permeates our society. It is an affirmation of Black folks’ contributions to this society, our humanity, and our resilience in the face of deadly oppression,” amenable to service of process through La. C.C.P. art 1264 on any one of its members and through a managing member through the Louisiana Long Arm Statute on any one of its founders Alicia Garza, who is domiciled in California, Patrisse Cullors, who is domiciled in California, and Opal Tometi, who is domiciled in New York.

4.

BLACK LIVES MATTER was created by Alicia Garza, Patrisse Cullors, and Opal Tometi. Leaders of BLACK LIVES MATTER are JOHNETTA "Netta" ELZIE and DeRAY McKESSON, both of whom were present in Baton Rouge for the protest.

5.

#### GENERAL ALLEGATIONS

The Baltimore unrest and rioting, in the wake of the death of Freddie Gray, on April 18-24, 2015, outside the Western District police station, resulted in the injury of twenty police officer, 250 arrest, 285-300 business damages, 150 vehicle fires, 60 structure fires, 27 drugstores looted. The protesters chanted the mantra "Black Lives Matter." Black Lives Matter took credit for organizing the protest.

6.

The McKinney, Texas, unrest on June 12, 2015 was had by persons waving "Black Lives Matter" signs burning flags. Black Lives Matter took credit for organizing the protest.

7.

The Ferguson unrest, on August 10-13, 2015, resulted in looting of businesses, vandalization of vehicles and businesses, flag burning, burning of a gas station, broken windows, assault, and burglary. Protesters threw rocks at police. Projectiles were thrown at police including Molotov cocktails. When protests continued through August 18, 2015, the National Guard was called. Black Lives Matter took credit for organizing the protest.

8.

In 2015, DeRay McKesson and two other activists created Mapping Police Violence which is listed as one of the biggest moments in Black Lives Matter's biggest moments of 2015. DeRay McKesson participated in the Ferguson protests/riots.

9.

On April 28, 2015, DeRay McKesson was interviewed by Wolfe Blitzer on Live CNN

about the violence in Baltimore, Maryland, as a Black Lives Matter leader. When confronted with the inexcusable violence, DeRay McKesson justified the violence with a comparison to the deaths of African Americans. DeRay McKesson justified the violence as looking for justice. He was prompted several times to say that he did not condone the violence, but he would not.

10.

DeRay McKesson gave an interview on FOX news with Sean Hannity as a leader of Black Lives Matter protests. During the interview, DeRay McKesson admitted to being participant in multiple Black Lives Matter protests including those in Ferguson, Baltimore, and McKinney Texas. He tweeted and admitted on the Fox News program that he did not work and intended to have Black Lives Matter registered as a 501 (k) as a tax exempt status. DeRay McKesson tweeted that he wanted to convert the movement, Black Lives Matter, into a 501 (k).

11.

DeRay McKesson went on CNN and represented himself as a Ferguson Protest organizer of and activist with the Black Lives Matter movement.

12.

On August 10, 2015, Black Lives Matter held a protest, over the year-old fatal police shooting of Michael Brown, on Interstate 70 in Earth City, Missouri, blocking rush-hour traffic. DeRay McKesson participated in the St. Louis/Earth City protest/riots.

13.

On January 19, 2016, DeRay McKesson was on Stephen Colbert 's t.v. show "The Late Show with Stephen Colbert" during which he admitted to being a leader of Black Lives Matter and to participating in the Ferguson and Baltimore riots.

14.

On July 5, 2016, Alton Sterling was shot and killed by a Baton Rouge Police Officer,

which contributed to a flurry of activity by DEFENDANTS.

15.

Later Thursday night through early Friday morning, July 7-8, 2016, more than 1,000 Black Lives Matter activists marched miles upon miles through midtown Manhattan and up into Harlem blocking public highways over three police killings of black men in three different American cities. 42 protesters were arrested. One police officer was injured.

16.

On July 7, 2016, Lakeem Keon Scott shot at passing cars along a Tennessee highway, killing one woman and wounding three others, including a police officer while yelling, "police suck! Black lives matter!"

17.

On July 7, 2016, during a Black Lives Matter protest, 12 police officers in Dallas Texas were shot. Activities of BLACK LIVES MATTER was associate with the shooting.

18.

The shooting in Dallas occurred around 9:00 p.m., on July 7, 2016, at a "Black Lives Matter" protest/riot during which at least one sniper shot twelve (12) police officers that were on duty to keep the peace at the rally. Five officers were killed and seven were seriously injured.

19.

On July 8, 2016, DeRay McKesson's twitter account was hacked. His conversations specifically showed an intent to use protests to have "martial law" declared nationwide through protests. The tweets were between Johnetta Elzie and DeRay Mckesson, both of whom are leaders of Black Lives Matter.

20.

On Friday, July 8, 2016, Black Lives Matter held a protest in Nashville, Memphis, Knoxville and Chattanooga, Tennessee, blocking traffic on a public highway. There were

six arrests. The violence caused massive transit shutdown, particularly on I-10.

21.

On Friday, July 9, 2016, in a “week-end of Rage” Black Lives Matter protesters in Phoenix turned violent throwing rocks and other objects at police during a rally and shouted “We should shoot you!” to officers.

22.

On Saturday, July 9, 2016, Black Lives Matter protesters took to I-94 freeway in St. Paul, Minnesota, protesting the police shooting of Philando Castile, attacking police officers who tried to clear the road by throwing chunks of concrete, rebar, rocks, bottles, fireworks and Molotov Cocktails. One officer was injured by the fireworks and two were injured by the thrown objects. A total of twenty-one officers from various Minnesota law enforcement agencies were injured and more than 102 protestors were arrested.

23.

On Saturday, July 9, 2016, **OFFICER JOHN DOE POLICE OFFICER** was a duly commissioned police officer, who was ordered to respond to a protest, march and blocking of a public street organized by Defendants.

24.

By July 9, 2016, Defendants were in Baton Rouge for the purpose of staging a protest. DEFENDANTS conspired to violate the law by planning to block a public highway in front of the headquarters of the Baton Rouge Police Department..

25.

Protests in other cities staged by Defendants resulted in violence and property losses. The leadership of Black Lives Matter did nothing to dissuade its membership from past or future violence. Rocks and other items had been thrown during previous Black Lives Matter protest.

26.

DEFENDANTS were in Baton Rouge for the purpose of demonstrating, protesting and rioting to incite others to violence against police and other law enforcement officers.

27.

The Defendants announced that they would stage a protest/demonstration at the intersections of Airline Highway and Goodwood Boulevard, which is the location of the Baton Rouge Police Department and which is a known public highway.

28.

The protest was called a demonstration that was organized by the DEFENDANTS.

29.

At all times material herein, DEFENDANTS knew police would be called to clear the public highway of protestors and the protest was staged in front of the headquarters..

30.

Anticipating violence and property loss, Baton Rouge Police Department arranged for a front line of officers in riot gear that formed a shield around officers who were to effectuate arrests and removal of Defendants from the public highway.

31.

OFFICER JOHN DOE was one of the police officers who was ordered to make arrests.

32.

At the beginning, the protest was peaceful until activist began pumping up the crowd. DeRay McKesson was in charge of the protests and he was seen and heard giving orders throughout the day and night of the protests. Protesters in the crowd told the police and Plaintiff that DeRay McKesson was the leader.

33.

Shortly after the protest begin, protestors, in the presence of DeRay McKesson,



began throwing objects at police officers. DeRay McKesson did nothing to stop, quell, or dissuade these actions.

34.

The protest turned into a riot. DEFENDANTS and their membership began to loot a Circle K and one of the items taken was plastic full water bottles, which Defendants began to hurl at the police who were in riot gear and hurl over the line of police in riot gear to strike the police who were behind the protective shield formed by the officers in riot gear. Officers were struck by the full water bottles.

35.

Defendant DeRay McKesson was present during the protest and he did nothing to calm the crowd and, instead, he incited the violence on behalf of the Defendant BLACK LIVES MATTER.

36.

Defendant DeRay McKesson lead protesters down Airline Hwy in an attempt to reach I-12 to block the interstate. The protesters were following DeRay McKesson down Airline Hwy further blocking Airline Hwy, but attempting to reach I-12. OFFICER JOHN DOE's squad managed to block the effort of DeRay McKesson to lead the protesters to I-12. DeRay McKesson knew he was in violation of law and actually live streamed his arrest.

37.

When the Defendants ran out of the water bottles they were throwing at the Baton Rouge City Police, a member of Defendant BLACK LIVES MATTER, under the control and custody of the DEFENDANTS, then picked up a piece of concrete or similar rock like substance and hurled into the police that were making arrests.

38.

OFFICER JOHN DOE was struck fully in the face and immediately knocked down and incapacitated. OFFICER JOHN DOE'S injuries include loss of teeth, injury to jaw,

injury to brain and head as well as lost wages and other compensable losses.

39.

In the alternative, these DEFENDANTS have similarly attacked other businesses and other persons while protesting/rioting. Black Lives Matter leadership ratified all action taken during the protest. DeRay McKesson ratified all action taken during the Baton Rouge protest. And in fact, DeRay McKesson was a lead Plaintiff in a law suit filed in Baton Rouge Federal Court claiming civil rights violations and that the Baton Rouge Police were wrong in enforcing the law and arrest the protesters, who were violating the law..

40.

Following the violence, DEFENDANTS took credit/blame for the protest.

41.

Following the protests in Baton Rouge, on Sunday, DeRay McKesson told the New York Times, "The police want protesters to be too afraid to protest." This statement suggests that DeRay McKesson intends to have more protest and that he ratified the conduct at the prior protest, including violating the law and throwing objects at police from Baton Rouge.

42.

It was unreasonable for Defendant(s) to use force on OFFICER when he was not threatening any of them and performing lawful duties under color of law.

43.

During the riot, DeRay McKesson was arrested along with numerous other protesters for violating the law.

44.

DeRay McKesson, as a leader of Black Lives Matter, incited criminal conduct that cause injury. Black Lives Matter promoted and ratified this conduct.

45.

On July 11, 2016, DeRay McKesson, who represented himself as a leader of the Black Lives Matter movement, gave a statement to CNN about the rioting/protesting in Baton Rouge clearing indicating that he was a leader and organizer.

46.

On July 11, 2016, another Black Lives Matter activist in Portland, Oregon, advocated for violence against police with no objection from Black Lives Matter.

47.

On July 13, 2016, DeRay McKesson meet with President Obama at the Black Lives Matter meeting at the White House. McKesson tweeted that “we are at the @WhiteHouse right now for a 3-hour convening w/ President Obama re: the recent events in #BatonRouge & across the country.”

48.

On August 14, 2016, it was reported that DeRay McKesson, the prominent leader of Black Lives Matter, was asked about his justification for the violent riots that he referred to as protests and made a statement to the UPROXX that the violent actions of the movement’s rioters are justified, since “people take to the streets as a last resort.” “So when I think about anything that happens when people are in the street, I always start by saying, ‘People should not have had to have been there in the first place,’” stated McKesson. These statements were a ratification and justification of the violence.

49.

Late Sunday night, July 10, 2016, Black Lives Matter held a demonstration in Carbondale, Illinois, and marched on the 200 block of East Main Street. A demonstrator jumped on the hood of a vehicle attempting to use the roadway, but the vehicle drove off before stopping a block away. The demonstrators followed the vehicle, surrounded, it and then punched the driver in the face when he exited his vehicle.

50.

Late Saturday night, July 10, 2016, in the wake of the death of Phlando Castile, a black man killed by police during a traffic stop, Black Lives Matter protesters shut down in east - west Interstate 94 in St. Paul, Minnesota. The protest turned violent and resulted in the arrests of 50 protesters for rioting. The protesters threw rocks and fireworks at police injuring 21 police officers, including one who had a brick dropped on him from an overpass. Black Lives Matter requested donations to cover legal fees.

51.

On Monday, July 11, 2016, DeRay McKesson gave an interview to CNN and represented himself as an activist and organizer of Black Lives Matter, and was speaking on behalf of the protesters.

52.

On August 5, 2016, Black Lives Matter protesters chained themselves together at a key route leading to London's Heathrow airport during the busy summer period. They were arrested for blocking a public highway and convicted.

53.

On Tuesday, September 20, 2016, Black Lives Matter protested in Charlotte, North Carolina following a police officer shooting of a black man by shutting down eight-lane Interstate 85 and burning the contents of a tractor-trailer. Black Lives Matter protesters threw fireworks, bottles and clods of dirt at police in riot gear. A man was shot to death during the protest, two other people and six police officers suffered injuries. The rock throwing by protesters damaged squad cars. Protesters looted and set fire to a truck.

54.

On September 28 and 29, 2016, for two nights in a row, in El Cajon, near San Diego, Black Lives Matter demonstrators attacked cars and at least one motorcycle while protesting the death of 38-year-old Ugandan refugee Alfred Olango. The Black Lives

Matter protesters took over the intersection of Broadway and Mollison Avenue and stopped passing vehicles and broke several windows. Protesters were throwing glass bottles.

55.

On September 30, 2016, DeRay McKesson gave a speech as a Key Note Speaker for the Voice of San Diego, at San Diego State University Politifest sponsored by the School of Journalism, where he was introduced as activist leader of BLACK LIVES MATTER and co-founder of Campaign Zero.

56.

On Monday, October 10, 2016, Black Lives Matter staged a protest at Indiana University over the death of Joseph Smedly a former IU student, who went missing in October 2015, but whose body was later found. The protesters created a human blockage in front of the East Third Street Bloomington Police Station blocking cars and yelling at motorists and banging on the hoods of cars shattering a windshield and assaulting at least one vehicle. The protest turned violent resulting in property damages while blocking traffic.

57.

On Wednesday, October 12, 2016, Black Lives Matter protesters repeatedly blocked Southwest 5<sup>th</sup> Avenue in Portland, Oregon, in the wake of the approval of a controversial police contract. A melee erupted when police attempted to remove the protesters who had set up tents outside City Hall.

58.

On October 18, 2016, an article was published in Forges Magazine entitled “Black Lives Matter Activist DeRay McKesson Talks Colin Kaepernick, Progress and the Future,” where in DeRay McKesson gave an interview as a leader of Black Lives Matter and where he was described as the “public face of Black Lives Mater movement.”

59.

The following claims for relief are pled collectively and in the alternative.

## **FIRST CLAIM FOR RELIEF**

### **NEGLIGENCE**

The DEFENDANTS knew or should have known that the physical contact and rioting was likely to result when they organized and staged multiple protests in numerous cities on the same weekend. DEFENDANTS knew that BLACK LIVES MATTER protests had in the past become violent and that other police officers had been injured by objects thrown at them by protesters. In numerous past protests, protesters led by BLACK LIVES MATTER had thrown objects at police and that police had been injured; yet, nothing was said or done to dissuade future conduct.

60.

The DEFENDANTS purposely organized and staged protests to violate the laws regarding blocking public highways and ratified the violent conduct of past protests.

61.

Past violence at protests was ratified by DeRay McKesson and BLACK LIVES MATTER.

62.

That injury would result to a police officer during a protest organized and staged by DEFENDANTS was reasonably foreseeable. In the face of this foreseeable risk of injury, DEFENDANTS did nothing to stop protesters from throwing objects at police in past protests/riots, during the Baton Rouge protest/riot, or riots occurring after the Baton Rouge protest/riot.

63.

Plaintiff seeks relief under La. C.C. arts. 2315 and 2317 of the Louisiana Civil Code, which injuries were occasioned by the intentional and/or negligent acts and/or omissions of the Defendant(s) herein.

64.

As a leader of BLACK LIVES MATTER and of the protest in Baton Rouge, DeRay McKesson is liable for the unlawful conduct of the protestors. BLACK LIVES MATTER is liable for the conduct of DeRay McKesson.

65.

DeRay McKesson, the leader of Black Lives Matter, authorized, directed, and ratified specific tortious activity, which would justify holding him responsible for the consequences of that activity.

66.

DeRay McKesson was directing the activity of the protestors to incite lawless actions, including blocking of a public highway and allowing protestor to the throw objects at the police, which justifies holding him liable for the unlawful conduct that cause injuries.

67.

Black Lives Matter is responsible for the actions of its agent and leaders that are undertaken within the scope of their actual or apparent authority. Black Lives Matter is liable for injuries caused by the throwing of objects during their protest which they ratified and condoned.

68.

Black Lives Matter, through its agents, knew the protestor were throwing rocks and breaking the law and did nothing to stop the criminal conduct, which is the same conduct that occurred at their prior protest.

69.

### **RESPONDEAT SUPERIOR**

Pursuant to La. C.C. art. 2317, Defendants are liable for the actions of DeRay McKesson and persons acting with BLACK LIVES MATTER in furtherance of its goals and purpose, which caused the injuries herein.

70.

Pursuant to La. C.C. art. 2324, the Defendants are liable in solido for the action of DeRay McKesson, a leader of Black Lives Matter for his actions that resulted in injuries caused to OFFICER and for their intentional actions, including criminal conduct, and for conspiring to incite a riot/protest and other damages.

71.

### **INJURIES**

The Plaintiff suffered acute injury and multiple serious and prolonged injury which include but are not limited to his neck, and face, discomfort, humiliation, pain and suffering, mental and emotional injury, medical and pharmaceutical expenses, and future lost wages.

72.

### **REQUEST FOR JURY TRIAL**

Plaintiff prays for a jury trial on all issues.

Wherefore, Plaintiffs pray that the Defendants be cited to appear and answer and that after resolution of this matter that this Honorable Court enter Judgment in favor of the Plaintiffs against the defendants with legal interest from the date of demand as follows:

- a. Physical pain and suffering;
- b. Physical injuries;
- c. For emotional and mental distress, pain and suffering, humiliation, embarrassment and loss of employment opportunities;
- d. Medical, hospital and pharmaceutical bills and services past, present, and future;
- e. inconvenience;
- f. Future lost wages;
- g. All litigation expenses; and
- h. For such other relief that the Court may deem just, equitable, or proper.



Respectfully submitted:

s/ Donna U. Grodner  
Donna U. Grodner (20840)  
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CERTIFICATE

I hereby certify that on June 18, 2017, a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to counsel named below by operation of the court's electronic filing system. I also certify that I have mailed by United States Postal Service this filing to the parties marked non-CM/ECF participants:

s/Donna Grodner  
Donna U. Grodner (20840)