

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
COVINGTON DIVISION  
CASE NO. 2:23-CV-00066-DCR**

**SEAN DAVIS**

**PLAINTIFF**

**v.**

**CITY OF COVINGTON, *et al.***

**DEFENDANTS**

---

**ANSWER OF DEFENDANTS, CITY OF COVINGTON AND MICHAEL LUSARDI**

---

The Defendants, the City of Covington, Kentucky and Michael Lusardi, by and through counsel, for their Answer to the Amended Complaint (Doc. 4), state as follows:

1. Defendants deny the averments in paragraph 1 of the Amended Complaint.
2. Defendants deny the averments in paragraph 2 of the Amended Complaint.
3. Defendants deny the averments in paragraph 3 of the Amended Complaint for lack of information or knowledge sufficient to form a belief as to their truth or falsity.
4. Defendants admit so much of paragraph 4 of the Amended Complaint that avers that Lusardi was employed as a Covington police officer and that he was acting within the course and scope of his employment with the City at all times referenced in the Amended Complaint, and affirmatively state that all remaining averments therein call for a conclusion of law which Defendants are not required to make and accordingly, no response is required.
5. Defendants admit the averments in paragraph 5 of the Amended Complaint.
6. Defendants admit the averments in paragraph 6 of the Amended Complaint.
7. Defendants deny the averments in paragraph 7 of the Amended Complaint.
8. Defendants deny the averments in paragraph 8 of the Amended Complaint.

9. The averments in paragraph 9 of the Amended Complaint call for a conclusion of law which Defendants are not required to make and accordingly, no response is required.

10. The averments in paragraph 10 of the Amended Complaint call for a conclusion of law which Defendants are not required to make and accordingly, no response is required.

11. Defendants admit so much of paragraph 11 of the Amended Complaint that avers that Lusardi and other Covington police officers were called out to a wooded area near 1564 Water Street on June 9, 2022 but deny all remaining averments therein.

12. Defendants deny the averments in paragraph 12 of the Amended Complaint.

13. Defendants admit so much of paragraph 13 of the Amended Complaint that avers that Plaintiff was handcuffed and briefly detained before being released, but deny all remaining averments therein for lack of information or knowledge sufficient to form a belief as to their truth or falsity.

14. Defendants admit so much of paragraph 14 of the Amended Complaint that avers that Plaintiff was taken to St. Elizabeth Medical Center for treatment of a dog bite injury, but deny all remaining averments therein for lack of information or knowledge sufficient to form a belief as to their truth or falsity.

15. Defendants deny the averments in paragraph 15 of the Amended Complaint.

16. Defendants deny the averments in paragraph 16 of the Amended Complaint.

17. Defendants deny the averments in paragraph 17 of the Amended Complaint.

18. Defendants deny the averments in paragraph 18 of the Amended Complaint.

19. Defendants deny the averments in paragraph 19 of the Amended Complaint.

20. Defendants deny the averments in paragraph 20 of the Amended Complaint.

21. Defendants deny the averments in paragraph 21 of the Amended Complaint.

22. Defendants reiterate their admissions and denials to the averments in paragraphs 1 – 21 as adopted in paragraph 22 of the Amended Complaint.

23. Defendants deny the averments in paragraph 23 of the Amended Complaint.

24. Defendants deny the averments in paragraph 24 of the Amended Complaint.

25. Defendants deny the averments in paragraph 25 of the Amended Complaint.

26. Defendants deny the averments in paragraph 26 of the Amended Complaint.

27. Defendants deny the averments in paragraph 27 of the Amended Complaint.

28. Defendants reiterate their admissions and denials to the averments in paragraphs 1 – 27 as adopted in paragraph 28 of the Amended Complaint.

29. Defendants deny the averments in paragraph 29 of the Amended Complaint.

30. Defendants deny the averments in paragraph 30 of the Amended Complaint.

31. Defendants deny the averments in paragraph 31 of the Amended Complaint.

32. Defendants deny the averments in paragraph 32 of the Amended Complaint.

33. Defendants deny the averments in paragraph 33 of the Amended Complaint.

34. Defendants deny the averments in paragraph 34 of the Amended Complaint.

35. Defendants deny the averments in paragraph 35 of the Amended Complaint.

36. Defendants deny the averments in paragraph 36 of the Amended Complaint.

37. Defendants reiterate their admissions and denials to the averments in paragraphs 1 – 36 as adopted in paragraph 37 of the Amended Complaint.

38. The averments in paragraph 38 of the Amended Complaint call for a conclusion of law which Defendants are not required to make and accordingly, no response is required.

39. Defendants deny the averments in paragraph 39 of the Amended Complaint.

40. Defendants deny the averments in paragraph 40 of the Amended Complaint.

41. Defendants deny the averments in paragraph 41 of the Amended Complaint.

42. Defendants deny the averments in paragraph 42 of the Amended Complaint.

43. Defendants deny the averments in paragraph 43 of the Amended Complaint.

44. Defendants reiterate their admissions and denials to the averments in paragraphs 1 – 43 as adopted in paragraph 44 of the Amended Complaint.

45. Defendants deny the averments in paragraph 45 of the Amended Complaint.

46. Defendants deny the averments in paragraph 46 of the Amended Complaint for lack of information or knowledge sufficient to form a belief as to their truth or falsity.

47. Defendants deny the averments in paragraph 47 of the Amended Complaint.

48. Defendants deny the averments in paragraph 48 of the Amended Complaint.

49. Defendants deny the averments in paragraph 49 of the Amended Complaint.

50. Defendants deny the averments in paragraph 50 of the Amended Complaint.

51. Defendants deny the averments in paragraph 51 of the Amended Complaint.

52. Defendants deny the averments in paragraph 52 of the Amended Complaint.

53. Defendants reiterate their admissions and denials to the averments in paragraphs 1 – 52 as adopted in paragraph 53 of the Amended Complaint.

54. Defendants deny the averments in paragraph 54 of the Amended Complaint.

55. Defendants deny the averments in paragraph 55 of the Amended Complaint.

56. Defendants deny the averments in paragraph 56 of the Amended Complaint.

57. Defendants deny the averments in paragraph 57 of the Amended Complaint.

58. Defendants deny the averments in paragraph 58 of the Amended Complaint.

59. Defendants deny the averments in paragraph 59 of the Amended Complaint.

**FIRST DEFENSE**

1. The Amended Complaint fails to allege facts sufficient to state a claim against Defendants upon which relief may be granted.

**SECOND DEFENSE**

2. The Defendant, Michael Lusardi, in his individual capacity, is entitled to qualified immunity from suit, from any federal claims asserted therein, and from the liability sought to be imposed by Plaintiff in his Amended Complaint.

**THIRD DEFENSE**

3. The Defendant, Michael Lusardi, in his individual capacity, is entitled to qualified official immunity from suit, from any state law claims asserted therein, and from the liability sought to be imposed by the Plaintiff in his Amended Complaint.

**FOURTH DEFENSE**

4. Plaintiff's claims are barred and/or limited by the provisions of the Kentucky Claims Against Local Government Act, KRS 65.2000 *et seq.*

**FIFTH DEFENSE**

5. At all times referenced in the Amended Complaint, Defendants actions were reasonable, proper, justified, lawful and undertaken without any wrongful intent, impact or effect.

**SIXTH DEFENSE**

6. If the Plaintiff was injured and/or damaged as alleged in his Amended Complaint, his injuries and/or damages were caused solely as a result of his own acts or omissions.

**SEVENTH DEFENSE**

7. Alternatively, if the Plaintiff was injured and/or damaged as alleged in his Amended Complaint, his injuries and/or damages were caused solely as a result of the acts or omissions of a third-party over whom Defendants had no control, and for whose acts or omissions Defendants are neither liable nor responsible to the Plaintiff.

**EIGHTH DEFENSE**

8. Alternatively, if the Plaintiff was injured and/or damaged as alleged in his Amended Complaint, his injuries and/or damages were caused by an intervening, superseding cause outside the realm of knowledge, foreseeability or control of Defendants.

**NINTH DEFENSE**

9. Alternatively, Plaintiff has failed to mitigate his damages.

**TENTH DEFENSE**

10. The imposition of punitive damages against the Defendant would violate his constitutional rights under the due process clause of the Fifth and Fourteenth Amendments, and the excessive fines clause of the Eighth Amendment, to the United States Constitution and similar provisions in the Constitution of the Commonwealth of Kentucky.

**ELEVENTH DEFENSE**

11. To avoid waiver, Defendants assert all affirmative defenses in Civil Rule 8(c) as a bar and/or limitation on Plaintiff's claims.

WHEREFORE, having fully answered, the Defendants, the City of Covington, Kentucky and Michael Lusardi, demand that the Amended Complaint be dismissed with prejudice at the cost of the Plaintiff, for an award of attorney fees incurred in defending this action, for trial by jury, and for any and all other relief to which they may appear to be entitled.

Respectfully submitted,

/s/ Jeffrey C. Mando

Jeffrey C. Mando, Esq. (#43548)

Olivia F. Amlung, Esq. (#97449)

ADAMS LAW, PLLC

40 West Pike Street

Covington, KY 41011

859.394.6200 | 859.392.7200 – Fax

[jmando@adamsattorneys.com](mailto:jmando@adamsattorneys.com)

[oamlung@adamsattorneys.com](mailto:oamlung@adamsattorneys.com)

*Attorney for Defendants, City of Covington  
and Michael Lusardi*

**CERTIFICATE OF SERVICE**

This is to certify that on the 5<sup>th</sup> day of June, 2023, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to: Anita M. Washington, Esq.

/s/ Jeffrey C. Mando

Jeffrey C. Mando, Esq.