APPENDIX

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APPENDIX A

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

No. 24-2448

AMY HADLEY,

Plaintiff-Appellant,

v.

CITY OF SOUTH BEND, INDIANA, *et al.*,

Defendants-Appellees.

Appeal from the United States District Court for the Northern District of Indiana, South Bend Division.
No. 3:24-cv-00029 — **Damon R. Leichty,** *Judge*.

ARGUED FEBRUARY 26, 2025 —
DECIDED OCTOBER 7, 2025

Before ROVNER, SCUDDER, and KOLAR, *Circuit Judges*.

KOLAR, *Circuit Judge*. Amy Hadley's home was badly damaged when local law enforcement executed a search warrant looking for a fugitive they incorrectly believed was inside her home. When both the

City of South Bend and St. Joseph County declined to pay for the $16,000 in resulting damages, Hadley sued for compensation under the Takings Clause of the Fifth Amendment to the U.S. Constitution. The district court dismissed her complaint, concluding that she failed to state a claim, a decision she now appeals. Because Hadley's arguments for compensation run contrary to our precedent, we affirm.

I. Background

The district court dismissed this case at the pleadings stage, so we accept the following well-pled allegations as true on appeal. *Emerson v. Dart*, 109 F.4th 936, 941 (7th Cir. 2024).

Amy Hadley lives in South Bend, Indiana with her two children. In June 2022, local law enforcement believed a murder suspect, John Parnell Thomas, had (based on his IP address) accessed his Facebook account from within Hadley's home. Officers spent the evening surveilling Hadley's house from afar but saw no sign of Thomas. The following day, however, someone again accessed the same Facebook account from the same IP address. Based on this information, officers obtained a lawful warrant to search Hadley's home for Thomas.

Warrant in hand, more law enforcement gathered outside the home to execute it. Before entering, they demanded Thomas exit, shouting their commands from outside using a bullhorn. Hadley's fifteen-year-old son—the only person in the home—surrendered. Hadley arrived at the scene before officers entered her

home. She professed to have no connection with, or knowledge of, Thomas.

Officers were undeterred. Believing Thomas was in the home and refusing to leave, they entered the house forcefully. They broke windows and launched thirty cannisters of tear gas into the home. The gas destroyed all "porous" items in the house, like clothing and beds (Hadley had to sleep in her car for days until toxic fumes from the gas dissipated). Police also wrecked internal security cameras, punched holes in the walls, ransacked furniture and a closet, and tore down a panel on a wall and a fan in a bathroom.

After the government refused to compensate Hadley for her damages, she sued defendants under 42 U.S.C. §1983 for $16,000. Relevant here, she argued the state officials violated her Fifth and Fourteenth Amendment rights by taking her property (destroying it) "for public use" (while searching for a fugitive) and thus owed her "just compensation." *See* U.S. CONST. amends. V, XIV. Hadley did not challenge the warrant police obtained to search her home, nor did she assert that police executed the warrant "unreasonabl[y]" in violation of the Fourth Amendment. *Id.* amend. IV.

Though Hadley filed suit in Indiana state court, St. Joseph County removed the action to the federal district court in South Bend. After removal, defendants City of South Bend, the South Bend Police Department, St. Joseph County, the St. Joseph Police Department, and the St. Joseph Board of Commissioners moved to dismiss. They principally argued that *Johnson v. Manitowoc County*, 635 F.3d 331 (7th Cir. 2011), forecloses Hadley's claim. The district

court agreed and dismissed her complaint. Hadley appealed.

II. Analysis

Hadley sues via 42 U.S.C. §1983, a procedural vehicle for a plaintiff to seek damages from state officials who violate her constitutional rights. *Graham v. Connor*, 490 U.S. 386, 393–94 (1989). To state a claim under §1983, Hadley must show (among other things) that she was "deprived of a right secured by the Constitution or federal law." *Thurman v. Vill. of Homewood*, 446 F.3d 682, 687 (7th Cir. 2006).

Hadley asserts her Fifth Amendment right to just compensation under the Takings Clause, applicable to the states through the Due Process Clause of the Fourteenth Amendment. The Takings Clause provides: "nor shall private property be taken for public use, without just compensation." U.S. CONST. amend. V. Whether Hadley's §1983 claim survives dismissal turns on whether the Fifth Amendment does in fact entitle her to compensation for the property damage police caused while executing a valid warrant.

The district court, relying on *Johnson*, concluded the Fifth Amendment does not entitle her to compensation and dismissed the complaint. Hadley appeals, urging us to overrule *Johnson* and hold that: "innocent homeowner[s] with no connection to the sought-after suspect[,] whose property the [government] intentionally and severely damage[s] through a military-style assault … to execute a warrant to apprehend [a] suspect … when the property otherwise would not have been damaged" deserve compensation

under the Fifth Amendment. Defendants, for their part, urge the opposite. They ask us to preserve and apply *Johnson* here to reject Hadley's claim.

Because we agree that *Johnson* controls, we affirm. Under *Johnson*, the Fifth Amendment does not require the state to compensate for property damage resulting from police executing a lawful search warrant. That is precisely what happened here: the damage Hadley suffered happened because police executed a lawful search warrant in her home. Hadley cannot escape *Johnson*'s application in this case by arguing there is some other set of facts that should compel us to revisit *Johnson*. We may face difficult questions regarding the application of the Takings Clause in future cases. That does nothing to change the fact that *Johnson's* application to damage caused when local officials execute a valid search warrant is both clear and controlling. Thus, we affirm the district court's order dismissing Hadley's complaint.

We proceed in three steps. First, we explain that *Johnson* controls and requires us to affirm. Second, we explain Hadley's contrary arguments and conclude that they do not cast doubt that *Johnson* controls here. Third, we briefly explain that—even setting *Johnson* aside—we have serious doubts about Hadley's proposed holding.

A. *Johnson*, which addressed facts nearly identical to Hadley's, controls and requires us to affirm.

This Court decided *Johnson* in 2011. There, the plaintiff (Johnson), like Hadley, suffered significant

property damage while police executed a valid warrant.

Johnson owned a trailer and garage on a rural lot in Wisconsin. *Johnson*, 635 F.3d at 332. He rented the property to an individual suspected of murder. *Id.* The police obtained a warrant and searched the trailer for evidence. *Id.* at 333. While executing the warrant, police inflicted extensive damage. *Id.* at 333–34. In the trailer, they damaged the main door, removed wall panels in the bedroom, ripped up carpet in the hallway and bedroom, and cut swatches from a couch. *Id.* In the garage, police searched for blood that might have seeped into cracks in the concrete floor by jackhammering an eight-by-two-foot section of it. *Id.* at 333.

Johnson sued for damages, bringing two claims. First, though he did not challenge the warrant's lawfulness, he argued police acted unreasonably when executing the warrant in violation of the Fourth Amendment. *Id.* at 334–36. Johnson also brought a claim under the Fifth Amendment, urging that police owed him just compensation for the property they destroyed while executing the search warrant. *Id.* at 336.

We rejected both claims, devoting the lion's share of our analysis to Johnson's Fourth Amendment claim. *Id.* at 334–36. After finding no Fourth Amendment violation, we turned to Johnson's Fifth Amendment theory. We observed that the police's "actions were taken under the state's police power," rather than the power of eminent domain. *Id.* at 336. For that reason, "[t]he Takings Clause claim [wa]s a non-

starter" because "the Takings Clause does not apply when property is retained or damaged as the result of the government's exercise of its authority pursuant to some power other than the power of eminent domain." *Id.*

It is no surprise that with factual parallels so striking, *Johnson*'s holding bars Hadley's claim. Hadley, like Johnson, suffered extensive personal property damage at the hands of police executing a lawful search warrant. Hadley, like Johnson, does not argue the warrant police secured was invalid or defective. Rather, Hadley, like Johnson, seeks compensation from police under the Fifth Amendment for the damage she suffered. *Johnson*'s application to such facts is plain: the Fifth Amendment does not require a state to compensate a plaintiff for damages sustained while police execute a lawful search warrant. *Id.*

Recognizing that *Johnson* speaks to her claim directly, Hadley attempts to cast doubt on *Johnson*'s application beyond the facts before us. She takes issue principally with *Johnson*'s suggestion that takings under eminent domain are compensable, whereas takings under the police power are not. *Id.* She says this is incompatible with Supreme Court precedent and so urges us to overrule *Johnson*.

B. Hadley presents no grounds to overturn *Johnson*.

If this case presented a claim outside the context of police executing a lawful search warrant, we might need to grapple with more of Hadley's arguments. But it does not. *Johnson* settled the issue here: whether

the Takings Clause applies when police damage property while executing a lawful search warrant. *Johnson* forecloses a takings claim under these circumstances, and Hadley gives us no reason to set that holding aside.

We could end with this straightforward analysis showing *Johnson* controls. Yet Hadley makes some sound observations about our takings analysis in *Johnson*—abbreviated as it was, because Johnson's primary claim arose under the Fourth Amendment—and highlights some issues we may need to grapple with in future cases. Understanding Hadley's argument requires some background. The "police power" refers to a state's general authority "to determine, primarily, what measures are appropriate or needful for the protection of the public morals, the public health, or the public safety." *Mugler v. Kansas*, 123 U.S. 623, 661 (1887). Historically, "eminent domain" referred to a state's power to physically take property by formally condemning it. *Cedar Point Nursery v. Hassid*, 594 U.S. 139, 148 (2021). The prototypical Takings Clause claim arises when a state physically takes land for public use by, for example, condemning a warehouse and using it for military purposes. *United States v. Gen. Motors Corp.*, 323 U.S. 373, 375 (1945).

Though the Supreme Court has at times suggested that the Takings Clause is limited to this more prototypical context, *e.g.*, *Bennis v. Michigan*, 516 U.S. 442, 452 (1996); *United States v. Dow*, 357 U.S. 17, 21 (1958); *United States v. Carmack*, 329 U.S. 230, 236–37 (1946), the Court has also rejected rigid distinctions between "eminent domain" and "police power" actions, *e.g.*, *Lucas v. S.C. Coastal Council*, 505 U.S.

1003, 1023–25 (1992); *Penn. Cent. Transp. Co. v. City of New York*, 438 U.S. 104, 123–28 (1978); *Penn. Coal Co. v. Mahon*, 260 U.S. 393, 415 (1922). More recently, the Court observed that, given "the nearly infinite variety of ways in which government actions or regulations can affect property interests," there is "no magic formula" and "few invariable rules" in deciding "whether a given government interference with property is a taking." *Ark. Game & Fish Comm'n v. United States*, 568 U.S. 23, 31 (2012).

Thus, whether through eminent domain or other measures, a taking can occur through "two distinct classes" of government action: (1) permanent deprivations or destructions of physical property or (2) actions that regulate how a person can use their property, but do not appropriate, physically control, or destroy it. *Yee v. City of Escondido*, 503 U.S. 519, 522–23 (1992). The first is called a "*per se*" taking; the second is called a "regulatory taking." *Cedar Point Nursery*, 594 U.S. at 149. A regulatory taking may occur when the state exercises its police power to regulate how one uses property. *Id.* That said, "[w]henever a regulation results in a physical appropriation of property, a *per se* taking has occurred." *Id.*

One way a government exercises its police power is when it investigates criminal activity. *See id.* at 160–61. But the Court has held the Fifth Amendment does not apply when a government takes property by asserting a "pre-existing limitation upon the landowner's title." *Lucas*, 505 U.S. at 1028–29. These limitations include "traditional common law privileges" like the "privilege to enter property to effect an arrest or enforce the criminal law under certain

circumstances." *Cedar Point*, 594 U.S. at 160–61. As such, "government searches that are consistent with the Fourth Amendment and state law cannot be said to take any property right from landowners." *Id.* at 161.

For example, in *Bennis*, the Court held that lawfully seizing a vehicle through civil forfeiture after a criminal investigation is not a taking under the Fifth Amendment. *Bennis*, 516 U.S. at 452–53. There, the state seized a car after one of the car's owners, the husband, "engaged in sexual activity with a prostitute" inside the car. *Id.* at 443. The Court declined to award compensation to the other owner (the wife) for the auto's seizure because the state lawfully seized the car as an instrumentality of a crime. *Id.* at 452–53. No taking occurred, the Court reasoned, because the state "already lawfully acquired [the car] under the exercise of governmental authority other than the power of eminent domain." *Id.* at 452.

Several of our sister circuits have recently considered whether a taking occurs when a state damages property while exercising its law-enforcement powers. *E.g.*, *Baker v. City of McKinney*, 84 F.4th 378 (5th Cir. 2023) (analyzing whether a taking occurred when police damaged a plaintiff's home during a standoff with an armed fugitive), *cert. denied*, 145 S. Ct. 11 (mem.) (2024); *Slaybaugh v. Rutherford County*, 114 F.4th 593 (6th Cir. 2024) (analyzing whether a taking occurred when police damaged a plaintiff's home while arresting a murder suspect), *cert. denied*, 145 S. Ct. 1959 (2025). A decision from the Ninth Circuit is also forthcoming. *Pena v. City of Los Angeles*, No. 24-2422 (9th Cir. 2025), *oral argument heard* (Jan. 16, 2025)

(raising whether a business owner may bring a takings claim for damage to his shop caused when police sought to apprehend a fugitive). But so far, no circuit to consider this issue has awarded a plaintiff compensation. Nonetheless, two present Justices recently expressed interest in this issue. In their words, whether a taking occurs when law enforcement damages property remains an "open question … that would benefit from further percolation" in the courts of appeals. *Baker*, 145 S. Ct. at 13 (Sotomayor, J., statement respecting denial of certiorari, joined by Gorsuch, J.).

With this controversy in hand, Hadley prods us to enter this debate anew. She urges us to abandon *Johnson* because it suggested the Takings Clause categorically does not apply when a government exercises its police powers. She says this distinction does not match recent Supreme Court precedent, which recognizes that a state may impose a taking when it exercises its police power to, for example, regulate a land use. *Yee*, 503 U.S. at 522–23. Because she says *Johnson* impermissibly forecloses any takings claim arising from a state using its police power writ large, she insists that *Johnson* must be overruled.

We see things differently. As noted above, *Johnson* staked our Circuit's position on the specific issue in Hadley's case—whether the Fifth Amendment requires compensation when police damage property while executing a valid search warrant. The answer is no. *Johnson*, 635 F.3d at 336. And, as discussed above, *Johnson*'s application in the law-enforcement context is well supported by precedent from our sister circuits and the Supreme Court. Hadley points us to no authority showing this position is categorically

wrong. Accordingly, we need not decide whether *Johnson* governs outside Hadley's context. "[J]udicial opinions are not statutes," and thus "[i]t is always important to understand opinions in light of their holdings and not take ambiguous statements for all they might be worth." *Vinning-El v. Evans*, 657 F.3d 591, 595 (7th Cir. 2011). We adjudicate the case before us and "general expressions must be read in light of the subject under consideration." *Lewis v. Zatecky*, 993 F.3d 994, 1003 (7th Cir. 2021) (quoting *United States v. Skoien*, 614 F.3d 638, 640 (7th Cir. 2010) (en banc)).

Indeed, *Johnson* itself suggests its holding might not apply outside of the context of law enforcement damaging property while executing a valid warrant. In rejecting Johnson's claim under the Fifth Amendment, *Johnson* relied on *AmeriSource Corporation v. United States*, 525 F.3d 1149 (Fed. Cir. 2008). *Johnson*, 635 F.3d at 336. There, the government had "seized a large quantity" of pharmaceutical drugs from a plaintiff while executing a valid search warrant. *AmeriSource Corp. v. United States*, 75 Fed. Cl. 743, 744 (2007). The plaintiff asked the government to return the drugs before they expired and lost their value, to no avail. *AmeriSource*, 525 F.3d at 1151–52. The Federal Circuit affirmed a decision by the Court of Federal Claims rejecting the plaintiff's takings claim. *Id.* at 1157. The Federal Circuit observed that seizing property for "law enforcement purposes" is "a classic example of the government's exercise of the police power to condemn contraband or noxious goods," which, the court concluded, is not a taking. *Id.* at 1153 (quoting *Acadia Technology, Inc. v. United States*, 458 F.3d 1327, 1332 (Fed. Cir. 2006)). Thus, in context, *Johnson* does not necessarily foreclose takings claims

outside the "classic example" of police power: exercising law-enforcement authority.

Perhaps Hadley's argument means we will have some difficult cases in the future that will require us to consider *Johnson*'s broader application. But this is not one of those cases. The facts of *Johnson* are analogous to those at bar, and its rejection of compensation under the Takings Clause for damages to property during the execution of a lawful search warrant remains good law. Hadley's wholesale critique of *Johnson*, based on the broadest imaginable reading of its language, does not warrant revisiting it.

This is not to say Hadley was without recourse entirely. She could have sued police alleging they violated the Fourth Amendment by executing their search warrant unreasonably. *E.g.*, *Cybernet, LLC v. David*, 954 F.3d 162, 168–69 (4th Cir. 2020) (noting that "excessive or unnecessary destruction of property in the course of a search may violate the Fourth Amendment"). But she did not. And though she would have had to overcome a qualified-immunity defense, that burden is not insurmountable. *San Jose Charter of Hells Angels Motorcycle Club v. City of San Jose*, 402 F.3d 962, 971–75 (9th Cir. 2005) (denying qualified immunity where officers cut down a mailbox, jackhammered a sidewalk, and broke a refrigerator while executing a lawful warrant).

Bringing a claim like Hadley's under the Takings Clause, rather than the Fourth Amendment, highlights deeper doctrinal tensions. Since the Founding, courts have analyzed police searches under the Fourth Amendment—not the Fifth. *See Customer Co.*

v. City of Sacramento, 10 Cal. 4th 368, 386–88 (1995) (observing only two courts had awarded takings compensation to property owners harmed by lawful police actions under state, not federal, constitutional provisions). These two amendments serve distinct purposes. The Fourth Amendment, unlike the Fifth, is the constitutional bulwark against law enforcement invading the sanctity of the home. *Lange v. California*, 594 U.S. 295, 309–10 (2021). The Fifth Amendment involves the government's taking of property and allows for just compensation, something courts can decide with a degree of certainty. *See Knick v. Twp. of Scott*, 588 U.S. 180, 191–94 (2019) (noting just compensation is owed immediately after a taking occurs and explaining methods of obtaining compensation). Both the government's decision to take property and a court's adjudication of the property's value can occur over an extended period, stretching years and allowing for a careful balancing of interests. *E.g.*, *United States v. Commodities Trading Corp.*, 339 U.S. 121, 123–24 (1950) (discussing how to value property taken).

In contrast, the Fourth Amendment does not require certitude. For example, law enforcement must show probable cause—requiring something more than "bare suspicion" but less than "proof of a crime"—to obtain a warrant and invade one's home lawfully. *Rainsberger v. Benner*, 913 F.3d 640, 648–49 (7th Cir. 2019) (Barrett, J.). And we analyze the execution of warrants in terms of reasonableness, eschewing rigid categories and the carefully drawn balancing of interests. *See United States v. Banks*, 540 U.S. 31, 35–36 (2003) (observing in the Fourth Amendment context that "no template is likely to

produce sounder results than examining the totality of circumstances in a given case; it is too hard to invent categories without giving short shrift to details that turn out to be important in a given instance, and without inflating marginal ones").

Nonetheless, Hadley sued under the Fifth Amendment, not the Fourth. And *Johnson* forecloses her claim.

C. We have concerns about Hadley's proposed holding.

As a reminder, Hadley urges us to hold that: "innocent homeowner[s] with no connection to the sought-after suspect[,] whose property the [government] intentionally and severely damage[s] through a military-style assault … to execute a warrant to apprehend [a] suspect … when the property otherwise would not have been damaged" are owed compensation.

Mindful of our decisions' precedential effect on future cases, we have concerns about the administrability of Hadley's proposed holding. It raises difficult questions, not least of which is, how does one determine innocence? For example, must an ancillary criminal proceeding conclude to show innocence before proceeding with a takings claim? Does having "no connection" with a suspect—as Hadley asserted herself—render the landowner "innocent"?

These questions highlight the problems with Hadley's proposed holding. On the one hand, she urges us to impose a bright line: that a taking occurred simply because the government damaged her property. But

on the other hand, her proposed holding rests on fact-bound nuances and subtleties that would be difficult to apply and are unaddressed by our precedent. Regardless, we need not consider Hadley's proposed test further, as we apply *Johnson*'s rule to affirm.

III. Conclusion

For the foregoing reasons, we AFFIRM.

APPENDIX B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

AMY HADLEY, Plaintiffs, v. CITY OF SOUTH BEND *et al.*, Defendants.	CAUSE NO. 3:24-cv-29 DRL-MGG

OPINION AND ORDER

Law enforcement allegedly damaged Amy Hadley's home during execution of a search warrant. When she was not compensated, she sued the City of South Bend, St. Joseph County, the County Board of Commissioners, and police departments for both the City and County on federal and state constitutional takings claims. The defendants ask the court to dismiss all claims under Federal Rule of Civil Procedure 12(b)(6).[1] The court dismisses the federal claims and remands the state claims.

[1] The parties agree that the South Bend Police Department should be dismissed as a party, as it is not a suable entity. *See Sow v. Fortville Police Dep't*, 636 F.3d 293, 300 (7th Cir. 2011). The court thus dismisses the South Bend Police Department as abandoned.

BACKGROUND

The court takes all well-pleaded facts in the complaint as true for the purposes of this motion. In the early afternoon of June 10, 2022, law enforcement officers from the City of South Bend and St. Joseph County surrounded Amy Hadley's South Bend home [1 ¶¶ 24, 29-30]. Ms. Hadley lived there with her teenage daughter and son [*id.* ¶ 23]. The officers had traced a dangerous fugitive's location to Ms. Hadley's home, relying on what they believed to be his Facebook account and IP address [*id.* ¶¶ 25-26]. In reality, the fugitive was not in Ms. Hadley's home [*id.* ¶ 27]. Based on the belief that the fugitive accessed his Facebook account in Ms. Hadley's home, a court issued a warrant authorizing the police to search for the fugitive there [*id.* ¶ 29].

Using a bullhorn, officers ordered all in the house to exit with their hands up [*id.* ¶ 30]. Ms. Hadley's fifteen-year-old son, the only family member at home then, complied [*id.* ¶¶ 23, 31]. Officers recognized that the teenager wasn't the fugitive but took him to the police station [*id.* ¶¶ 31-33]. One officer still believed that the fugitive was active on Facebook in Ms. Hadley's home at the time [*id.* ¶ 34].

Soon thereafter, Ms. Hadley and her nineteen-year-old daughter arrived at the scene after learning about the incident from neighbors [*id.* ¶¶ 35-36]. They notified the officers that they had neither seen nor heard of the fugitive—not even through their security cameras in their home [*id.* ¶¶ 37-38]. After more than an hour of surveillance, and seeing no one else emerge from the house, police began to launch upwards of

thirty tear gas cannisters through the windows [*id.* ¶¶ 40-41]. South Bend SWAT officers next deployed flash-bang grenades and entered the front door to commence a sweep of the home [*id.* ¶ 42]. St. Joseph County deputies conducted their own search [*id.* ¶ 45]. Ultimately, the search revealed that the fugitive was not in Ms. Hadley's house [*id.* ¶ 46]. Though the IP address information proved to be a false lead, the suspect was eventually apprehended at a different location four days later [*id.* ¶ 48].

The damage sustained by Ms. Hadley's home was substantial. The tear gas cannisters shattered windows, dented walls, and destroyed the family's X-Box console [*id.* ¶ 41]. Broken glass covered Ms. Hadley's bed [*id.* ¶ 40]. Nearly every porous object in the house was destroyed by the noxious fumes [¶ 41]. The extensive search resulted in the destruction of security cameras, window curtains, a mirror, storage bins, a bathroom fan fixture, and wall panels [*id.* ¶ 43]. The total damage exceeded $16,000 [*id.* ¶ 63]. The state of the home forced Ms. Hadley and her son to sleep in her car for several nights, and her daughter slept elsewhere [*id.* ¶ 54].

Ms. Hadley sent written demands for compensation to both the City and the County to cover the costs after insurance [*id.* ¶¶ 58-59]. The City refused her demand and directed her to file a claim under the Indiana Tort Claims Act [*id.* ¶ 60]. St. Joseph County did not respond [*id.*]. This suit ensued.

STANDARD

In reviewing a motion to dismiss under Rule 12(b)(6), the court accepts all well-pleaded factual allegations as true and draws all reasonable inferences in the plaintiff's favor. *Reynolds v. CB Sports Bar, Inc.*, 623 F.3d 1143, 1146 (7th Cir. 2010). A complaint must contain a "short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). A "complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). It need not plead "detailed factual allegations." *Id.* A claim must be plausible, not probable. *Indep. Tr. Corp. v. Steward Info. Servs. Corp.*, 665 F.3d 930, 935 (7th Cir. 2012). Evaluating whether a claim is sufficiently plausible to survive a motion to dismiss is "a context-specific task that requires the reviewing court to draw on its judicial experience and common sense." *McCauley v. City of Chi.*, 671 F.3d 611, 616 (7th Cir. 2011) (quotations and citation omitted).

DISCUSSION

Ms. Hadley alleges a violation of her constitutional rights under 42 U.S.C. § 1983. Section 1983 serves as a procedural vehicle for lawsuits "vindicating federal rights elsewhere conferred." *Graham v. Connor*, 490 U.S. 386, 393-94 (1989). To establish a § 1983 claim, Ms. Hadley must show that she was "deprived of a right secured by the Constitution or federal law, by a person acting under color of law." *Thurman v. Vill. of Homewood*, 446 F.3d 682, 687 (7th Cir. 2006). Ms.

Hadley asserts that she and her children endured considerable hardship from law enforcement's search. The question today is whether the Fifth Amendment of the United States Constitution entitles them to compensation.

The Fifth Amendment's takings clause, applied to the states through the Fourteenth Amendment, *Cedar Point Nursery v. Hassid*, 594 U.S. 139, 147 (2021), says "private property [cannot] be taken for public use, without just compensation." U.S. Const. amend. V. A variety of government actions can result in a taking. In the simplest application of the Fifth Amendment, the government commits a taking when it uses the power of eminent domain to acquire title to property. *Cedar Point*, 594 U.S. at 147. Even if title is not taken, the appropriation of real or personal property still requires compensation. *Id*. For Fifth Amendment purposes, the law treats destroyed property as a taking just the same as appropriated property. *Armstrong v. United States*, 364 U.S. 40, 48-49 (1960).

Two categories of non-eminent domain takings have emerged in the law—*per se* physical takings and regulatory takings. Forcing landlords to allow the installation of television cables, granting unionizers access to employers' private premises, and confiscating raisins from farmers have all been held *per se* physical takings. *See Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 441 (1982); *Cedar Point*, 594 U.S. at 162; *Horne v. Dept. of Agric.*, 576 U.S. 351, 361 (2015). The law has also recognized regulatory takings—restrictions that diminish essentially all economic value of private property. *See Penn Cent. Transp. Co. v. New York City*, 438 U.S. 104, 124

(1978). Such takings are premised on the idea that "if regulation goes too far it will be recognized as a taking." *Lucas v. S.C. Coastal Council*, 505 U.S. 1003, 1014 (1992) (quoting *Pa. Coal Co. v. Mahon*, 260 U.S. 393, 415 (1922)).

That said, property rights must sometimes succumb to the state's police power—the power to promote public health, safety, and morals. *Barnes v. Glen Theatre*, 501 U.S. 560, 569 (1991). "As long recognized, some values are enjoyed under an implied limitation and must yield to the police power." *Mahon*, 260 U.S. at 413. The Fifth Amendment does not apply when the government merely asserts a "pre-existing limitation upon the landowner's title." *Lucas*, 505 U.S. at 1028-29. "These background limitations also encompass traditional common law privileges" such as "a privilege to enter property to effect an arrest or enforce the criminal law under certain circumstances." *Cedar Point*, 594 U.S. at 160-61. Indeed, "government searches that are consistent with the Fourth Amendment and state law cannot be said to take any property right from landowners." *Id.* at 161; *see also Bennis v. Michigan*, 516 U.S. 442, 452 (1996) (holding that a forfeiture proceeding that was valid under the Fourth Amendment could not be a taking because the government had "already lawfully acquired [the property] under the exercise of governmental authority other than the power of eminent domain").

Central to today's dispute is *Johnson v. Manitowoc County*, 635 F.3d 331 (7th Cir. 2011). In *Johnson*, police conducted an extensive search of an innocent landlord's property pursuant to a warrant. *Id.* at 333.

Officers jackhammered his garage floor looking for evidence. *Id.* at 333-34. They rendered his trailer home mostly uninhabitable by cutting up walls, carpet, and a couch. *Id.* The landlord, like Ms. Hadley today, did not argue that the warrant or search was invalid, only that the destruction constituted a taking. *Id.* The court held that police searches fall outside the Fifth Amendment's scope: "the Takings Clause does not apply when property is retained or damaged as the result of the government's exercise of its authority pursuant to some power other than the power of eminent domain." *Id.* at 336 (citing *Bennis*, 516 U.S. at 452). Indeed, the court of appeals described the takings claim as a "non-starter." *Id.*

Ms. Hadley asserts that the Fifth Amendment requires the defendants to compensate her for the damage done to her house. The defendants argue that *Johnson* excludes lawful police searches from the constitutional definition of a taking. Ms. Hadley responds that *Johnson* is irrelevant today, having been implicitly abrogated by subsequent Supreme Court jurisprudence. She notes that both before and after *Johnson*, the Supreme Court has held a variety of government actions besides eminent domain to constitute takings. So, the argument goes, *Johnson*'s distinction between eminent domain (requiring compensation) and police powers (not requiring compensation) is no longer the law.

But this court is duty-bound to apply the law, and inviting this court to say the court of appeals has effectively been overruled in *Johnson* sits above its pay grade. That is no less true when Ms. Hadley presents the argument that *Johnson* has been implicitly

abrogated. Some exercises of police power, like granting union organizers access to land and confiscating crops, do indeed implicate the takings clause. *See Cedar Point*, 594 U.S. at 162; *Horne*, 576 U.S. at 367. The law has acknowledged these types of takings since *Johnson*. *See Conyers v. City of Chi.*, 10 F.4th 704, 711 (7th Cir. 2021); *Squires-Cannon v. Forest Preserve Dist. of Cook Cnty.*, 897 F.3d 797, 802 (7th Cir. 2018). But it does not follow that *all* police power actions impacting property rights are compensable simply because some are. *See Cedar Point*, 594 U.S. at 161 ("[G]overnment searches that are consistent with the Fourth Amendment and state law cannot be said to take any property right from landowners.").

Even courts that add the gloss of history and tradition to the analysis, building on the same lens used by the Supreme Court, still hold that damage caused by police in cases like today's is not compensable. *See Baker v. City of McKinney*, 84 F.4th 378, 383-89 (5th Cir. 2023); *see also Tyler v. Hennepin Cnty.*, 598 U.S. 631, 637-44 (2023). Ms. Hadley has not cited any authority for the proposition that damage from lawful police investigations or searches are compensable under the Fifth Amendment (aside from a state tort or other claim). To the contrary, a long tradition counsels that lawful policing activities are not Fifth Amendment takings. *See also* Derek T. Muller, Note, *As Much Upon Tradition as Upon Principle*, 82 Notre Dame L. Rev. 481, 518 (2006) ("consensus among contemporary legal scholars" on this point despite varying rationales). But today the answer is much simpler—the court must follow *Johnson*.

That leaves two Indiana constitutional claims remaining against the defendants based on the taking of property and services without just compensation. *See* Ind. Const. art. I, §§ 12, 21; Ind. Code § 32-24-1-16. Generally, "when all federal claims are dismissed before trial, the district court should relinquish jurisdiction over pendent state-law claims rather than resolving them on the merits." *Wright v. Associated Ins. Cos.*, 29 F.3d 1244, 1251 (7th Cir. 1994); 28 U.S.C. § 1367(c)(3). That said, if "an interpretation of state law that knocks out the plaintiff's state claim is obviously correct, the federal judge should put the plaintiff out of his misery then and there, rather than burdening the state courts with a frivolous case." *Van Harken v. City of Chi.*, 103 F.3d 1346, 1354 (7th Cir. 1997). But the presumption of remand still applies when the state law claims are based on the state constitution. *Id.*

The defendants argue that Ms. Hadley's Indiana takings claims also plainly fail, so they should be dismissed now out of efficiency rather than remanded. Though Indiana takings law largely tracks federal law, *see Indiana v. Kimco of Evansville, Inc.*, 902 N.E.2d 206, 211 (Ind. 2009), Indiana still views its Constitution as an "[i]ndependent and robust" source of constitutional law, *Indiana v. Kratz*, 179 N.E.3d 431, 443 (Ind. 2022). A sound sense of federalism and the evolving nature of jurisprudence in this area favor permitting Indiana courts to decide the scope of Indiana's Constitution.

CONCLUSION

Accordingly, the court GRANTS IN PART the motions to dismiss [9, 17], DISMISSES all claims against the South Bend Police Department, DISMISSES Ms. Hadley's federal takings claims against the remaining defendants, DENIES the motion for oral argument in light of *Johnson* [20], and REMANDS the state law claims to the St. Joseph Circuit Court.

SO ORDERED.

July 18, 2024

s/ Damon R. Leichty
Judge, United States District Court

APPENDIX C

UNITED STATES COURT OF APPEALS
For the Seventh Circuit
Chicago, Illinois 60604

November 7, 2025

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 24-2448

AMY HADLEY, *Plaintiff-Appellant,* *v.*	Appeal from the United States District Court for the Northern District of Indiana, South Bend Division.
CITY OF SOUTH BEND, INDIANA, et al., *Defendants-Appellees.*	No. 3:24-cv-00029 Damon R. Leichty, *Judge*.

ORDER

Plaintiff-appellant filed a petition for rehearing and for rehearing en banc on October 21, 2025. No judge in regular active service has requested a vote on

the petition for rehearing en banc, and all members of the original panel have voted to deny panel rehearing. It is therefore ordered that the petition for rehearing and for rehearing en banc is DENIED.

APPENDIX D

UNITED STATES DISTRICT COURT
for the
Northern District of Indiana

AMY HADLEY
Plaintiff

v. Civil Action No. 3:24-cv-29

SOUTH BEND CITY OF THE;
SOUTH BEND POLICE DEPARTMENT THE;
ST. JOSEPH COUNTY;
ST. JOSEPH COUNTY POLICE DEPARTMENT THE;
BOARD OF COMMISSIONERS OF ST. JOSEPH COUNTY THE

Defendants

JUDGMENT IN A CIVIL ACTION

The court has ordered that (*check one):*

___ the plaintiff _____ recover from the defendant _____the amount of____ dollars $____, which includes prejudgment interest at the rate of _____% plus post-Judgment interest at the rate of _____% along with costs.

__ the plaintiff recover nothing, the action is dismissed on the merits, and the defendant_____ recover costs from the plaintiff _____.

_X_ Other: The court DISMISSES all claims against the South Bend Police Department, DISMISSES Ms. Hadley's federal takings claims against the remaining defendants, DENIES the motion for oral argument in light of Johnson, and REMANDS the state law claims to the St. Joseph Circuit Court.

This action was (*check one):*

__ tried to a jury with Judge _____ presiding, and the jury has rendered a verdict.

__ tried by Judge _____ without a jury and the above decision was reached.

_X_ decided by Judge Damon R. Leichty on Defendant's Motion to Dismiss.

DATE: 7/22/2024 CHANDA J. BERTA,
CLERK OF COURT

by s/ S. Jarrell
Signature of Clerk or Deputy Clerk

APPENDIX E

STATE OF INDIANA
ST. JOSEPH COUNTY CIRCUIT COURT

Amy Hadley, *Plaintiff*, v. The City of South Bend, the South Bend Police Department, St. Joseph County, the St. Joseph Police Department, and the Board of Commissioners of the County of St. Joseph, *Defendants*.	Case No.___ 71C01-2312-MI-000867

COMPLAINT AND DEMAND FOR JURY TRIAL

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INTRODUCTION

1. This is a civil-rights lawsuit. Plaintiff Amy Hadley seeks just compensation for the intentional commandeering and destruction of her private property for public use, and for the demand of her particular services arising from the same, by the City of South Bend, the South Bend Police Department, St. Joseph County, the St. Joseph County Police Department, and the Board of Commissioners of the County of St. Joseph. She brings claims under the Indiana Constitution and the Constitution of the United States.

2. The relevant constitutional provisions ensure that governments in Indiana do not force some people alone to bear the public burdens which, in all fairness and justice, should be borne by the public as a whole. *See, e.g., Webb v. Baird,* 6 Ind. 13, 17 (1854); *Armstrong v. United States*, 364 U.S. 40, 49 (1960).

3. Amy Hadley is a medical assistant and mother who owns a house on East Calvert Street in South Bend, Indiana.

4. On June 10, 2022, law enforcement officers of the City of South Bend Police Department and St. Joseph County Police Department surrounded Amy's house after misidentifying it as the location where a fugitive was active on social media. Amy and her children had no connection to the fugitive other than the one created by an officer's error in tracking the fugitive's social-media activity.

5. When the police surrounded Amy's house, only her fifteen-year-old son and the family kitten were

home. When Amy's son heard officers ordering anyone inside the house to exit with their hands up, he came out the front door with his hands up in the air, leaving the front door open behind him. Officers immediately knew the boy was not the fugitive, and they did not suspect him of any crime, but they still placed him in two sets of handcuffs and transported him to a police station in a squad car.

6. Soon thereafter, Amy and her daughter arrived down the street from their home. They explained to police that they had never seen or heard of the man the officers said they were looking for. Amy and her daughter also explained that, with their security cameras at the house, they would have known in the fugitive or some other stranger were there. They insisted that nobody (other than their cat) was in the house now that Amy's son was no longer there.

7. Nevertheless, the officers raided and severely damaged Amy's home. They launched dozens of tear gas grenades into the house, destroyed the security cameras, shattered windows, punched holes in walls, ransacked furniture and closets, tore down a panel and fan in a bathroom, and left the home in complete disrepair. Family photos and childhood drawings, clothes, electronics, and furniture were destroyed. With shards of glass in the beds and tear gas filling the house, the home was uninhabitable for days, and Amy and her son slept in her car until fumes dissipated enough to breathe inside the home.

8. The police commandeered Amy's property during the raid, deprived her and her family of the use of her house and other property for days, and left the

property in violation of local ordinances. The police did at least $16,000 in damage to Amy's home and other property.

9. Amy's homeowner's insurance covered only part of the damage caused by the government actors, leaving Amy with thousands of dollars' worth of damage to shoulder herself.

10. Amy repeatedly requested compensation from South Bend and St. Joseph County, including their police departments, to no avail.

11. When the government intentionally or foreseeably commandeers and destroys an innocent person's private property for a public use, the Fifth Amendment to the Constitution of the United States and Article 1, Sections 12 and 21 of the Indiana Constitution require that the government give just compensation for that damage.

12. Likewise, Article 1, Section 21 of the Indiana Constitution requires the government to pay just compensation when it demands a person's particular services.

13. So, while Amy does not challenge the validity of the warrant to search her home for the fugitive, she is entitled to just compensation for the officers' possession of her home and other property, the damage they inflicted on the property, and the home-owner service Amy was required to provide.

JURISDICTION AND VENUE

14. Plaintiff Amy Hadley brings this case under Article 1, Sections 12 and 21 of the Indiana Constitution, Ind. Code § 32-24-1-16, the Fifth and Fourteenth Amendments of the Constitution of the United States, and 42 U.S.C. § 1983.

15. St. Joseph County Circuit Court has jurisdiction under Ind. Code § 33-28-1-2.

16. Venue is proper in St. Joseph County Circuit Court under Rule 75(A) of the Indiana Rules of Trial Procedure.

PARTIES

17. Plaintiff Amy Hadley is an Indiana citizen.

18. Defendant City of South Bend is a municipal corporation in St. Joseph County, Indiana.

19. Defendant South Bend Police Department is an agency of the City of South Bend.

20. Defendant St. Joseph County is a municipal corporation in St. Joseph County, Indiana.

21. Defendant St. Joseph County Police Department is a creature of the Indiana Constitution, Ind. Const. art. 6, § 2, and state statute, Ind. Code § 36-8-10-4.

22. Defendant Board of Commissioners of the County of St. Joseph is the county executive for St. Joseph County. Ind. Code § 36-2-2-2.

FACTUAL ALLEGATIONS

23. Amy Hadley had owned her house on East Calvert Street in South Bend, Indiana, for about a year when the events underlying this case happened on June 10, 2022. Then as now, Amy lived with her daughter, Kayla Hadley (then 19 years old), and her son, Noah Hadley (then 15 years old).

24. On June 10, 2022, law enforcement officers from South Bend and St. Joseph County surrounded Amy's home.

25. The officers were looking for a fugitive named John Parnell Thomas, who was wanted on multiple warrants. But the officers had been led to Amy's house by a mistake in their investigation.

26. A St. Joseph County officer tried to track what he thought was the fugitive's Facebook account. The officer believed the fugitive had used or was actively using the internet at a certain IP address to access the Facebook account. The officer believed the IP address was associated with Amy's house on East Calvert Street. But there was an error in this chain of information.

27. The fugitive was not in fact at Amy's house. Nor did Amy or her children have any connection to the fugitive other than the one created by the officer's error.

28. Officers surveilled the house on the evening of June 9, 2022. They did not see the fugitive there.

29. Officers again surveilled the house on June 10, shortly after noon. They saw no one enter or exit the house. While officers were surveilling the house on this day, the officer who was trying to track the fugitive's Facebook account believed the fugitive logged into his Facebook account at Amy's house. Then the officer applied to the St. Joseph Superior Court for a warrant to search Amy's house for the fugitive. A judge issued a warrant to search the house for John Parnell Thomas.

30. About an hour after officers began surveilling the house on June 10, more officers surrounded Amy's home. Only the family kitten and Noah were inside. Noah was playing a video game. Officers directed orders at the house through a bullhorn: "Exit the front door with your hands up."

31. Confused and scared, Noah complied, walking out the front door with his hands up. Officers immediately acknowledged, "That's not him" –"him" referring to the fugitive–"That's a kid." Still, officers aimed their guns at 15-year-old Noah as he walked toward them with his hands high in the air:

32. Noah asked officers what was going on and asked to call his mom.

33. Noah clearly posed no threat to the officers, who told Noah he was not suspected of a crime. Still, officers placed Noah in two sets of handcuffs and into the back of a caged squad car. They took him to a police station without allowing him to call his mom.

34. For about 40 more minutes, officers directed orders at the house through a bullhorn. During this time, officers saw nobody entering or exiting the house. Some officers asked each other how sure they were that the fugitive was inside the house. The officer who was trying to track the fugitive's Facebook account believed that the fugitive was active on Facebook at Amy's house during this time, after Noah had been removed and while the officers were

surrounding the house, sure nobody else was entering or exiting.

35. But nobody was inside the house other than the family cat, so the officers' loudspeaker orders merely announced to neighbors that Amy's house was the site of law-enforcement activity. One neighbor called Amy and told her about the commotion. Amy, in turn, relayed the message to Kayla, who was at work. Both headed home.

36. Amy soon arrived at the end of the block, followed by Kayla. They asked officers what was going on:

37. Officers told Amy and Kayla that they were looking for a dangerous suspect. Amy and Kayla asked who it was. The officer talking with them didn't know, so he conferred with another officer and then told Amy and Kayla that the wanted man is known as "J.B." or "JayBee." One officer showed Amy and Kayla a picture of a grown man whom the officers said was the fugitive they were after. The officers said they believed he was inside Amy's home now and last night.

38. Amy and Kayla, flabbergasted, explained they had never seen or heard of the man. They added that they had security cameras in their house that allowed them to see people coming and going; they would have known in the man were there.

39. Kayla asked officers to please be careful, as the family's kitten was inside the house. But the officers had no reason to believe that the fugitive was holding the kitten or anyone else hostage inside the house. Nor had the officers engaged in a hot pursuit of the fugitive and watched him run into Amy's house. Indeed, the officers believed the fugitive was passing the time on Facebook.

40. Amy and Kayla insisted that the officers must have the wrong house. Officers did not see or hear the fugitive inside Amy's house. For more than an hour, the officers surveilled the house and directed orders at it without any indication the fugitive was inside (apart from inaccurate information that the fugitive was using the internet at the house to access Facebook). So, some or all of the officers believed the fugitive was holed up somewhere, using an electronic device to access Facebook. Regardless, officers soon fired tear gas grenades into the house. They started by launching a grenade into Kayla's upstairs room. The grenade shattered the window, filling Kayla's bed with shards of glass and flooding the room with noxious chemical irritants.

41. Officers launched more grenades through the home's other windows, totaling upwards of 30 cannisters of toxic fumes in the modest-sized house. The cannisters left holes and dents in the walls, floors, and

ceilings. Tear gas particles filled grooves in the floors, destroyed the X-Box Noah had been playing, ruined the family's beds, clothes, and other personal property. Nearly everything porous was destroyed.

42. On information and belief, South Bend Special Weapons and Tactics (SWAT) officers next deployed flash-bang grenades inside the house's front door. Officers in gas masks entered the house and continued their destructive search.

43. Among other things, officers destroyed Amy's security cameras, tossed furniture, tore window curtains down, broke a mirror and storage bins, ripped a bathroom fan fixture from the ceiling and a wood panel from the wall, removed drawers, and generally ransacked the whole house.

44. Officers searched every room, the refrigerator, oven, clothes washer and dryer, cupboards, drawers, vents, and closets. One officer crawled through the attic space. Another punched holes in the basement's exterior wall. The fugitive–never having been there–was not found.

45. St. Joseph County police officers conducted another intrusive search of the house:

46. The fugitive was not there, so officers again failed to find him. His absence confirmed to the officers that there was an error in their investigation.

47. As Amy and her family had told police, the fugitive was never in Amy's house.

48. Officers apprehended the fugitive elsewhere about four days later.

49. In total, at least 28 South Bend police officers were dispatched to the scene at Amy's house, some inflicting the damage, some forming a perimeter and preventing anyone other than police officers from approaching Amy's house.

50. On information and belief, at least five St. Joseph officers added to the number of South Bend officers.

51. Police took control of Amy's house and other property for hours, preventing Amy, her children, or anyone other than the officers from occupying, possessing, or using it.

52. Much of Amy's property that the officers possessed and used when searching for the fugitive was destroyed.

53. Police released Noah to Amy at the police station when she went there to pick him up after the raid on her house.

54. Even after police departed from Amy's home and allowed her to return, the house was so flooded with tear gas that Amy and Noah slept in a car in the driveway for a few nights. Kayla slept in other places until the fumes dissipated.

55. The officers used tactics intended to force anyone inside the house out, and the house was so filled with noxious fumes that–on information and belief–no officers entered the house without wearing a gas mask when performing their searches.

56. Amy spent many days trying to clean and put the house back together as much as she could, herself.

57. In the days and weeks after the siege on her home, Amy made phone calls to the South Bend Police Department, St. Joseph County, and St. Joseph County Police Department, asking for information and compensation for the damage. The agencies directed Amy to each other, but she was given no documents or compensation. In short, Amy was given the runaround.

58. Amy's homeowners' insurance covered only part of the costs to repair the damage, leaving Amy with thousands of dollars' worth of damage to shoulder herself.

59. Amy again contacted South Bend and St. Joseph County, including their police departments, this time by letters asserting her claims to monetary compensation for the damage to her property. She specified that her claims are for the taking of her property, to which she is entitled just compensation under the federal and state constitutions. In each letter, she requested an answer by July 7, 2023.

60. Only South Bend responded, and it declined to acknowledge Amy's constitutional claims. Instead, it demanded the completion of an enclosed form for claims under the Indiana Tort Claims Act.

61. Amy replied to the City's letter with one of her own dated August 7, 2023. In that letter, she reiterated that her claims do not arise under the Indiana Tort Claims Act but rather under the state and federal constitutions. She also supplied more information about the underlying incident and preliminary estimates of the damage to her property. She asked for a response to her letter and stated that if she did not receive a response from the City by August 25, 2023 stating otherwise, she will take it to mean "that the City has decided not to reconsider its denial of [her] takings claims and as a refusal to provide just compensation."

62. The City did not respond to Amy's August 7 letter.

INJURIES TO PLAINTIFF

63. South Bend, the South Bend Police Department, St. Joseph County, St. Joseph County Police Department, and the Board of Commissioners of the County of St. Joseph caused at least $16,000 of damage to Amy's property.

64. Defendants also cost Amy the use of her own home and other property during the search and for several days and nights thereafter.

65. Defendants also cost Amy her time and other resources cleaning up the mess the officers caused and left behind.

CLAIMS

Count 1
Article 1, Sections 12 and 21 of the Indiana Constitution; Ind. Code § 32-24-1-16: Private property taken without just compensation.

Brought by Amy against all Defendants.

66. Amy incorporates and realleges the allegations in paragraphs 1 through 65, above.

67. Article 1, Section 12 of the Indiana Constitution provides that "[a]ll courts shall be open; and every person, for injury done to him in his person, property, or reputation, shall have remedy by due course of law. Justice shall be administered freely, and without purchase; completely, and without denial; speedily, and without delay."

68. When government agents intentionally commandeer, damage, or destroy private property to apprehend a fugitive, they have inflicted an injury on the owner in her property. Section 12 guarantees a remedy for that injury.

69. The officers' commandeering of Amy's property and the damage they did to her property were injuries done to her in her property, for which Section 12 guarantees a remedy by due course of law.

70. Article 1, Section 21 of the Indiana Constitution provides that "[n]o person's property shall be taken by law, without just compensation; nor, except

in case of the State, without such compensation first assessed and tendered."

71. When the police intentionally destroy an innocent person's property to apprehend a fugitive, that property has been permanently taken by law.

72. When the police intentionally commandeer an innocent person's home or other property to apprehend a fugitive, the home and other property has been taken by law while the police commandeer it.

73. Through their actions described above, Defendants violated Amy's rights under the Indiana Constitution by failing to provide just compensation for the taking of her property. Until such compensation is provided, Defendants' violation is ongoing.

Count 2

Article 1, Sections 12 and 21 of the Indiana Constitution: Serviced demanded without just compensation.

Brought by Amy against all Defendants.

74. Amy incorporates and realleges the allegations in paragraphs 1 through 65, above.

75. When government agents demand a person's particular services, they have inflicted an injury on the person. Section 12 guarantees a remedy for that injury.

76. The officers' demand for her services as the owner of the property they used was an injury done to

her person, for which Section 12 guarantees a remedy by due course of law.

77. Article 1, Section 21 of the Indiana Constitution provides that "[n]o person's particular services shall be demanded, without just compensation."

78. This clause forbids the government from compelling a person to gratuitously provide particularized services in aid of a public goal, thus "effect[ively] impos[ing] a tax" on a person or class–"clearly in violation of the fundamental law, which provides for a uniform and equal rate of assessment and taxation upon all the citizens." *Webb v. Baird*, 6 Ind. 13, 17 (1854).

79. Article 1, Section 21 applies to action, by agents of any branch of government, that compels a person's particular services for a public purpose. *See, e.g., Webb v. Baird*, 6 Ind. 13, 16 (1854); *Buchman v. State*, 59 Ind. 1 (1877).

80. When the police intentionally commandeer an innocent person's home or other property to apprehend a fugitive, the homeowner has been demanded to provide a particular property-owner service to the government. The homeowner has been compelled to immediately and indeterminately relinquish her exclusive right to possess and to exclude persons from her home or other property, in aid of a public goal.

81. When police intentionally commandeer an innocent person's home or other property to apprehend a fugitive and leave the property in disrepair that violates ordinances or standards of habitability, the homeowner has been demanded to provide a particularized service in bringing the property back into

compliance with the law as a result of the police destruction.

82. These services are particularized to the homeowner, who has exclusive rights to possess, and to permit persons on or exclude persons from, her property.

83. Defendants, through their actions described above, violated Amy's rights under the Indiana Constitution by failing to provide just compensation for her services. Until such compensation is provided, Defendants' violation is ongoing.

Count 3

28 U.S.C. § 1983; Fifth Amendment to the Constitution of the United States: Taking of private property without just compensation.

Brought by Amy against all Defendants.

84. Amy incorporates and realleges the allegations in paragraphs 1 through 65, above.

85. The Fifth Amendment to the Constitution of the United States provides that "private property [shall not] be taken for public use, without just compensation."

86. This requirement has been incorporated against the states through the Fourteenth Amendment. *Chi., Burlington, & Quincy R.R. v. City of Chicago*, 166 U.S. 226 (1897).

87. The Takings Clause, including its Just Compensation provision, applies both to government

action that directly appropriates private property for public use and to government action that intentionally or foreseeably destroys private property for public use. *Pumpelly v. Green Bay & Miss. Canal Co.*, 80 U.S. 166 (1871).

88. These provisions ensure that government does not force "some people alone to bear the 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).

89. Apprehending a dangerous fugitive is in the public interest, and "in all fairness and justice," the cost of apprehending such fugitives should be borne by the public as a whole, not by an unlucky and innocent property owner whose property is put to a public use to serve the public's interest.

90. The Defendants' officers intentionally or foreseeably commandeered and destroyed Amy's private property for the public purpose of apprehending a fugitive.

91. The Defendants, under color of law, failed to compensate Amy for both the temporary and permanent takings of her property.

92. This constitutional claim is brought under both 28 U.S.C. § 1983 and the incorporated Fifth Amendment itself, which is self-executing. *Knick v. Township of Scott*, 139 S. Ct. 2162, 2179 (2019).

PRAYER FOR RELIEF

Plaintiff Amy Hadley respectfully requests relief as follows:

A. Compensatory damages to include costs of repairing and replacing Amy's damaged and destroyed property and compensating her for her services.

B. An award of reasonable attorney's fees and costs under 28 U.S.C. § 1988 and Ind. Code §§ 32-24-1-14, -16 against all Defendants.

C. All further legal and equitable relief as the Court deems just and proper.

Dated: December 15, 2023 Respectfully submitted:

/s/ Marie Miller

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