

**U.S. District Court - District of Colorado
District of Colorado (Denver)
CIVIL DOCKET FOR CASE #: 1:20-cv-01616-RBJ**

Abay et al v. City of Denver
Assigned to: Judge R. Brooke Jackson
Case in other court: Denver County District Court,
2020CV31927
Cause: 42:1983 Civil Rights Act

Date Filed: 06/04/2020
Jury Demand: Both
Nature of Suit: 440 Civil Rights:
Other
Jurisdiction: Federal Question

Plaintiff

Agazi Abay
*on behalf of himself and other
similarly situated individuals*

represented by **Edward Milo Schwab**
Ascend Counsel LLC
3000 Lawrence Street
Denver, CO 80205
303-888-4407
Email: milo@ascendcounsel.co
ATTORNEY TO BE NOTICED

John Michael Guevara
John M. Guevara, Attorney at Law
2580 17th Street
Suite 210
Denver, CO 80211
303-802-5390
Fax: 303-848-3003
Email: guevara.johnm@gmail.com
TERMINATED: 06/11/2020

Ross I. Ziev
Law Offices of Ross Ziev PC
6795 East Tennessee Avenue
Suite 210
Denver, CO 80224
303-351-2567
Fax: 720-669-6992
Email: ross@helpincolorado.com
ATTORNEY TO BE NOTICED

Plaintiff

Gabriel Thorn
*on behalf of himself and other
similarly situated individuals*

represented by **Edward Milo Schwab**
(See above for address)
ATTORNEY TO BE NOTICED

John Michael Guevara
(See above for address)
TERMINATED: 06/11/2020
ATTORNEY TO BE NOTICED

Ross I. Ziev
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Amy Schneider
*on behalf of herself and other
similarly situated individuals*

represented by **Edward Milo Schwab**
(See above for address)
ATTORNEY TO BE NOTICED

John Michael Guevara
(See above for address)
TERMINATED: 06/11/2020
ATTORNEY TO BE NOTICED

Ross I. Ziev
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Michael McDaniel
*on behalf of himself and other
similarly situated individuals*

represented by **Edward Milo Schwab**
(See above for address)
ATTORNEY TO BE NOTICED

John Michael Guevara
(See above for address)
TERMINATED: 06/11/2020
ATTORNEY TO BE NOTICED

Ross I. Ziev
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

City of Denver

represented by **Conor Daniel Farley**
Denver City and County Attorney's
Office
201 West Colfax Avenue
Denver, CO 80202-5332
720-913-3315
Fax: 720-913-3182
Email: conor.farley@denvergov.org
ATTORNEY TO BE NOTICED

Geoffrey Charles Klingsporn
Denver City Attorney's Office-West
Colfax Avenue
201 West Colfax Avenue
Denver, CO 80202-5332
720-913-8412
Fax: 720-913-3190
Email:
geoffrey.klingsporn@denvergov.org
ATTORNEY TO BE NOTICED

Melanie Bailey Lewis
Denver City Attorney's Office-West
Colfax Avenue
201 West Colfax Avenue
Denver, CO 80202-5332
720-913-3240
Fax: 720-913-3190
Email:
melanie.lewis@denvergov.org
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
06/04/2020	<u>1</u>	NOTICE OF REMOVAL by City of Denver from Denver District Court, Case Number 2020CV31927. (Filing fee \$ 400, Receipt Number 1082-7326259), filed by City of Denver. (Attachments: # <u>1</u> Exhibit A - Complaint, # <u>2</u> Exhibit B - Civil Case Cover Sheet, # <u>3</u> Exhibit C - Summons, # <u>4</u> Exhibit D - Notice of In-Person Status ConferenceHearing, # <u>5</u> Exhibit E - Pre-trial Order, # <u>6</u> Exhibit F - Delay Reduction Order, # <u>7</u> Exhibit G - Register of Actions)(Lewis, Melanie) (Entered: 06/04/2020)

06/04/2020	<u>2</u>	NOTICE of Entry of Appearance by Edward Milo Schwab on behalf of All Plaintiffs Attorney Edward Milo Schwab added to party Agazi Abay(pty:pla), Attorney Edward Milo Schwab added to party Michael McDaniel(pty:pla), Attorney Edward Milo Schwab added to party Amy Schneider(pty:pla), Attorney Edward Milo Schwab added to party Gabriel Thorn(pty:pla) (Schwab, Edward) (Entered: 06/04/2020)
06/04/2020	<u>4</u>	Class Action COMPLAINT and Demand for a Jury Trial against City of Denver, filed by Michael McDaniel, Agazi Abay, Amy Schneider, Gabriel Thorn.(cmadr,) (Entered: 06/05/2020)
06/04/2020	5	Case assigned to Judge R. Brooke Jackson and drawn to Magistrate Judge Scott T. Varholak. Text Only Entry (cmadr,) (Entered: 06/05/2020)
06/05/2020	<u>3</u>	NOTICE of Entry of Appearance by Conor Daniel Farley on behalf of City of DenverAttorney Conor Daniel Farley added to party City of Denver(pty:dft) (Farley, Conor) (Entered: 06/05/2020)
06/05/2020	<u>6</u>	Magistrate Judge consent form issued pursuant to 28 U.S.C. 636(c). (cmadr,) (Entered: 06/05/2020)
06/05/2020	<u>7</u>	NOTICE of Entry of Appearance by Ross I. Ziev on behalf of All Plaintiffs Attorney Ross I. Ziev added to party Agazi Abay(pty:pla), Attorney Ross I. Ziev added to party Michael McDaniel(pty:pla), Attorney Ross I. Ziev added to party Amy Schneider(pty:pla), Attorney Ross I. Ziev added to party Gabriel Thorn(pty:pla) (Ziev, Ross) (Entered: 06/05/2020)
06/05/2020	<u>8</u>	NOTICE of Entry of Appearance by Laura Beth Wolf on behalf of Agazi Abay, Michael McDaniel, Amy Schneider, Gabriel ThornAttorney Laura Beth Wolf added to party Agazi Abay(pty:pla), Attorney Laura Beth Wolf added to party Michael McDaniel(pty:pla), Attorney Laura Beth Wolf added to party Amy Schneider(pty:pla), Attorney Laura Beth Wolf added to party Gabriel Thorn(pty:pla) (Wolf, Laura) (Entered: 06/05/2020)
06/05/2020	<u>9</u>	Emergency MOTION for Hearing/Conference <i>to Hear TRO TODAY</i> by Plaintiffs Agazi Abay, Michael McDaniel, Amy Schneider, Gabriel Thorn. (Schwab, Edward) (Entered: 06/05/2020)
06/05/2020	<u>10</u>	MOTION for Temporary Restraining Order by Plaintiffs Agazi Abay, Michael McDaniel, Amy Schneider, Gabriel Thorn. (Wolf, Laura) (Entered: 06/05/2020)

06/05/2020	11	NOTICE of Entry of Appearance by John Michael Guevara on behalf of All Plaintiffs Attorney John Michael Guevara added to party Agazi Abay(pty:pla), Attorney John Michael Guevara added to party Michael McDaniel(pty:pla), Attorney John Michael Guevara added to party Amy Schneider(pty:pla), Attorney John Michael Guevara added to party Gabriel Thorn(pty:pla) (Guevara, John) (Entered: 06/05/2020)
06/05/2020	12	MINUTE ORDER re: 10 MOTION for Temporary Restraining Order filed by Amy Schneider, Agazi Abay, Michael McDaniel, Gabriel Thorn. The Court requests that the defendant submit a response brief immediately. The Court is considering when and how it can hold a hearing via video teleconference. By Judge R. Brooke Jackson on 6/5/2020. Text Only Entry (rbjsec.) (Entered: 06/05/2020)
06/05/2020	13	MINUTE ORDER re: 9 Emergency MOTION for Hearing/Conference <i>to Hear TRO TODAY</i> filed by Amy Schneider, Agazi Abay, Michael McDaniel, Gabriel Thorn and 10 MOTION for Temporary Restraining Order filed by Amy Schneider, Agazi Abay, Michael McDaniel, Gabriel Thorn. A Hearing is set for today, 6/5/2020 at 6:00 PM in Courtroom A 902 before Judge R. Brooke Jackson. The Hearing will be held by video teleconference. The Court's staff will provide the connection information to the parties by separate email. The general public or media may listen to the hearing by dialing Toll Free: 888-204-5984 using Access Code: 7557338#. By Judge R. Brooke Jackson on 6/5/2020. Text Only Entry (rbjsec.) (Entered: 06/05/2020)
06/05/2020	14	COURTROOM MINUTES/MINUTE ENTRY for proceedings held before Judge R. Brooke Jackson: Motion Hearing held on 6/5/2020. Matter is TAKEN UNDER ADVISEMENT, written order to issue. Court Reporter: Sarah Mitchell. (jdyne,) (Entered: 06/05/2020)
06/05/2020	15	NOTICE re 10 MOTION for Temporary Restraining Order of <i>Proposed Temporary Restraining Order</i> by Plaintiffs Agazi Abay, Michael McDaniel, Amy Schneider, Gabriel Thorn (Wolf, Laura) (Entered: 06/05/2020)
06/05/2020	16	ORDER granting in part 10 Motion for TRO by Judge R. Brooke Jackson on 6/5/20.(jdyne,) (Entered: 06/05/2020)

06/05/2020	<u>17</u>	Emergency MOTION to Amend/Correct/Modify <u>16</u> Order on Motion for TRO by Defendant City of Denver. (Attachments: # <u>1</u> Exhibit A - Body Camera Policy)(Lewis, Melanie) (Entered: 06/05/2020)
06/06/2020	18	ORDER taking under advisement <u>17</u> Motion to Amend/Correct/Modify. You have not conferred with opposing counsel, and they have not responded. Ideally, you reach agreement. However, if you have continued to try to reach opposing counsel (and there seem to be at least four of them)but cannot, I will rule without their input on or before 6:00 p.m. tonight (Saturday).n by Judge R. Brooke Jackson on 6/6/20. Text Only Entry(rbj) (Entered: 06/06/2020)
06/06/2020	<u>19</u>	NOTICE re <u>17</u> Emergency MOTION to Amend/Correct/Modify <u>16</u> Order on Motion for TRO by Defendant City of Denver (Lewis, Melanie) (Entered: 06/06/2020)
06/06/2020	<u>20</u>	RESPONSE to <u>17</u> Emergency MOTION to Amend/Correct/Modify <u>16</u> Order on Motion for TRO filed by Plaintiffs Agazi Abay, Michael McDaniel, Amy Schneider, Gabriel Thorn. (Wolf, Laura) (Entered: 06/06/2020)
06/06/2020	21	ORDER granting in part and denying in part <u>17</u> Motion to Amend/Correct/Modify. Having reviewed the motion and response, the Court grants the motion to the extent that it requests that officers who may authorize otherwise prohibited force to respond to violence or property destruction that they personally observe are those at the level of lieutenant and above. The Court denies the motion to the extent it requests modification of the body camera language. However, as a matter of common sense, the Court is not requiring that body cameras be activated and draining batteries when nothing is happening in the officer's vicinity. The cameras should be activated and filming any and all acts of confrontation between police officers and others, and if that means increasing the supply of batteries, so be it. by Judge R. Brooke Jackson on 6/6/20. Text Only Entry(rbj) (Entered: 06/06/2020)
06/10/2020	<u>22</u>	NOTICE of Entry of Appearance by Geoffrey Charles Klingsporn on behalf of City of DenverAttorney Geoffrey Charles Klingsporn

		added to party City of Denver(pty:dft) (Klingsporn, Geoffrey) (Entered: 06/10/2020)
06/11/2020	<u>23</u>	MOTION to Withdraw as Attorney by Plaintiffs Agazi Abay, Michael McDaniel, Amy Schneider, Gabriel Thorn. (Wolf, Laura) (Entered: 06/11/2020)
06/11/2020	24	ORDER granting <u>23</u> Motion to Withdraw as Attorney. Attorney John Michael Guevara and Laura Beth Wolf are withdrawn. By Judge R. Brooke Jackson on 6/11/2020. Text Only Entry(rbjsec.) (Entered: 06/11/2020)
06/16/2020	<u>25</u>	Emergency MOTION for Temporary Restraining Order <i>Extension</i> by Plaintiffs Agazi Abay, Michael McDaniel, Amy Schneider, Gabriel Thorn. (Schwab, Edward) (Entered: 06/16/2020)
06/16/2020	<u>26</u>	MOTION to Amend/Correct/Modify <u>16</u> Order on Motion for TRO by Plaintiffs Agazi Abay, Michael McDaniel, Amy Schneider, Gabriel Thorn. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4)(Schwab, Edward) (Entered: 06/16/2020)
06/16/2020	<u>27</u>	MOTION for Preliminary Injunction by Plaintiffs Agazi Abay, Michael McDaniel, Amy Schneider, Gabriel Thorn. (Schwab, Edward) (Entered: 06/16/2020)
06/17/2020	<u>28</u>	RESPONSE to <u>25</u> Emergency MOTION for Temporary Restraining Order <i>Extension</i> , <u>26</u> MOTION to Amend/Correct/Modify <u>16</u> Order on Motion for TRO filed by Defendant City of Denver. (Klingsporn, Geoffrey) (Entered: 06/17/2020)
06/17/2020	29	ORDER denying <u>25</u> Emergency MOTION for Temporary Restraining Order Extension. The Court will not consider further relief until counsel certify that they have conferred, in person or by telephone, and that they have attempted in good faith to reach a stipulated order that reasonably assures that peaceful protesters in the future will be protected against inappropriate police response and that reasonably assures that police officers will be able to take reasonable actions to protect themselves, the public, and property. Further, the Court will not entertain any "emergency" motion that is based on speculation as opposed to hard evidence of misconduct. The parties, if they set aside the extremes on both sides, should be able to reach an agreement that accomplishes mutually desired goals. If the parties, despite their respective statements that they have similar goals, cannot reach an agreement, then they may

		submit their respective proposed orders, and the Court will likely enter the order or a version of it that is the most reasonable. By Judge R. Brooke Jackson on 6/17/2020. Text Only Entry(rbjsec.) (Entered: 06/17/2020)
06/17/2020	30	ORDER denying 26 MOTION to Amend/Correct/Modify 16 Order on Motion for TRO. See the Court's order at ECF No. 29. By Judge R. Brooke Jackson on 6/17/2020.(rbjsec.) (Entered: 06/17/2020)
06/17/2020	31	ORDER denying 27 Motion for Preliminary Injunction. See the Court's order at ECF No. 29. By Judge R. Brooke Jackson on 6/17/2020. Text Only Entry(rbjsec.) (Entered: 06/17/2020)
06/18/2020	32	NOTICE re 29 Order on Motion for TRO,,,, <i>Updated Notice of Conferral Pursuant to ECF No 29</i> by Plaintiffs Agazi Abay, Michael McDaniel, Amy Schneider, Gabriel Thorn (Attachments: # 1 Exhibit Emails regarding conferrals)(Ziev, Ross) (Entered: 06/18/2020)
06/19/2020	33	NOTICE re 29 Order on Motion for TRO,,,, <i>of Stipulated and Disputed Injunctive Relief</i> by Plaintiffs Agazi Abay, Michael McDaniel, Amy Schneider, Gabriel Thorn (Attachments: # 1 Exhibit 1, # 2 Exhibit 2)(Schwab, Edward) (Entered: 06/19/2020)
06/19/2020	34	NOTICE re 29 Order on Motion for TRO,,,, <i>Notice of Submission of Proposed Order</i> by Defendant City of Denver (Attachments: # 1 Exhibit 1 - Proposed Order, # 2 Exhibit 2 - Phelan Declaration)(Lewis, Melanie) (Entered: 06/19/2020)
06/19/2020	35	ORDER: the Court sua sponte extends its temporary restraining order for one week to June 26, 2020, with the proviso that, as to any part of the temporary restraining order that is inconsistent with the points on which the parties have agreed, the parties' agreement will prevail. by Judge R. Brooke Jackson on 6/19/20. (jdyne,) (Entered: 06/19/2020)
06/23/2020	36	MINUTE ORDER: A half-day Evidentiary Hearing Re: Preliminary Injunction is set for 6/25/2020 at 1:30 PM in Courtroom A 902 before Judge R. Brooke Jackson. Due to the COVID-19 pandemic, the hearing will be held by video teleconference. The Court's staff will provide connection instructions to the parties by email prior to the hearing. by Judge R. Brooke Jackson on 6/23/2020. Text Only Entry (rbjsec.) (Entered: 06/23/2020)

06/24/2020	<u>37</u>	STIPULATION for Extension of Time to Answer or Respond to the Complaint by Defendant City of Denver. City of Denver answer due 6/25/2020. (Farley, Conor) (Entered: 06/24/2020)
06/25/2020	<u>38</u>	RESPONSE to <u>27</u> MOTION for Preliminary Injunction filed by Defendant City of Denver. (Attachments: # <u>1</u> Exhibit Exhibit 1 - Emergency-Curfew-Order_2020.05.30, # <u>2</u> Exhibit Exhibit 2 - Extended-Emergency-Curfew_2020.06.01, # <u>3</u> Exhibit Exhibit 3 - Bruning Declaration, # <u>4</u> Exhibit Exhibit 6 - DPD BWC Policy, # <u>5</u> Exhibit Exhibit 7 - Kushdilian Declaration)(Klingsporn, Geoffrey) (Entered: 06/25/2020)
06/25/2020	<u>39</u>	COURTROOM MINUTES for Preliminary Injunction Hearing via Video Teleconference held before Judge R. Brooke Jackson on 6/25/2020. Parties are to submit a signed written stipulation via email to chambers by 10:00 a.m. on Friday, June 26, 2020. Court Reporter: Sarah Mitchell. (ebuch) (Entered: 06/25/2020)
06/26/2020	<u>40</u>	STIPULATION by Defendant City of Denver. (Lewis, Melanie) (Entered: 06/26/2020)
06/26/2020	<u>41</u>	ORDER APPROVING STIPULATION re: <u>39</u> Evidentiary Hearing and <u>40</u> Stipulation. The Court approves the parties' stipulation. In view of the Law Enforcement Integrity Act, to which the parties refer in the stipulation, and the other terms of the stipulation, the Court will not further extend the temporary restraining order or enter a preliminary injunction at this time. The Court retains jurisdiction to consider any future request by the plaintiffs or the defendant that might be viewed as necessary and appropriate. By Judge R. Brooke Jackson on 6/26/2020. (rbjsec,) (Entered: 06/26/2020)
07/09/2020	<u>42</u>	ANSWER to <u>4</u> Complaint by City of Denver.(Lewis, Melanie) (Entered: 07/09/2020)
07/25/2020	<u>43</u>	Partial TRANSCRIPT of Preliminary Injunction - Testimony of Sgt. Havard held on June 25, 2020 before Judge Jackson. Pages: 1-13. NOTICE - REDACTION OF TRANSCRIPTS: Within seven calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to

		<p>redact personal identifiers from the electronic transcript of the court proceeding. If a Notice of Intent to Redact is not filed within the allotted time, this transcript will be made electronically available after 90 days. Please see the Notice of Electronic Availability of Transcripts document at www.cod.uscourts.gov.</p> <p>Transcript may only be viewed at the court public terminal or purchased through the Court Reporter/Transcriber prior to the 90 day deadline for electronic posting on PACER. (smitc,) (Entered: 07/25/2020)</p>
07/27/2020	44	<p>MOTION for Order to Show Cause by Plaintiffs Agazi Abay, Michael McDaniel, Amy Schneider, Gabriel Thorn. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 5, # 5 Exhibit 6, # 6 Exhibit 7, # 7 Exhibit 8, # 8 Exhibit 9, # 9 Exhibit 10, # 10 Exhibit 13, # 11 Exhibit 14, # 12 Exhibit 15, # 13 Exhibit 16, # 14 Exhibit 18, # 15 Exhibit 19)(Schwab, Edward) (Entered: 07/27/2020)</p>
08/17/2020	45	<p>RESPONSE to 44 MOTION for Order to Show Cause filed by Defendant City of Denver. (Klingsporn, Geoffrey) (Entered: 08/17/2020)</p>
08/24/2020	46	<p>Conventionally Submitted Material : 1 Flash Drive. Text Only Entry. (apesa,) (Entered: 08/24/2020)</p>
11/23/2020	47	<p>ORDER re: 44 Motion for Order to Show Cause by Judge R. Brooke Jackson on 11/23/20.(jdyne,) (Entered: 11/23/2020)</p>
12/15/2020	48	<p>RESPONSE to 44 MOTION for Order to Show Cause filed by Defendant City of Denver. (Attachments: # 1 Exhibit A - Conferral Email 7.22.2020, # 2 Exhibit B - Pazen Declaration, # 3 Exhibit C - Conferral Email 7.27.2020, # 4 Exhibit D - Use of Force Report, # 5 Exhibit E - Carroll Declaration)(Lewis, Melanie) (Entered: 12/15/2020)</p>
12/17/2020	49	<p>SUPPLEMENT/AMENDMENT to 48 Response to Motion, by Defendant City of Denver. (Attachments: # 1 Exhibit Exhibit F, # 2 Exhibit Exhibit G)(Lewis, Melanie) (Entered: 12/17/2020)</p>

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