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The Law Offices of Bud Cummins, PLC
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FOR IMMEDIATE RELEASE

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**Estate of Bryan Malinowski Brings Wrongful Death Action
Against Bureau of Alcohol, Tobacco, Firearms and Explosives
(ATF) and its Agents who Raided His Home and Killed Him**

***Suit alleges unconstitutionally aggressive law enforcement tactics
combined with reckless execution caused Bryan Malinowski's death.***

LITTLE ROCK, AR—Attorneys for Maria “Maer” Malinowski, on her behalf and as personal representative of the estate of her deceased husband, Bryan Malinowski, today filed a federal lawsuit against the United States and various federal agents in the United States District Court for the Eastern District of Arkansas.

The suit names the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and ten individual ATF agents and task force officers (“the agents”) as defendants. The complaint alleges agents chose the most aggressive tactics available to serve a routine search warrant on the Malinowski home in the pre-dawn hours of March 19, 2024, even though no facts or circumstances justified the use of such tactics. According to the complaint, federal agents violated the Malinowskis’ constitutional rights and committed various state law torts when they negligently and recklessly served the search warrant at the Malinowski home. Bryan Malinowski’s death was needless and a direct result of the unreasonable and unconstitutional conduct of the ATF agents, according to the complaint.

The 70-page lawsuit, which seeks both compensatory and punitive damages, includes a second-by-second timeline and damning quotes from interviews of the agents given to Arkansas State Police investigators. Ms. Malinowski, on behalf of herself and her late husband’s estate, brings 13 claims against the ATF and federal agents and task force officers, including four federal constitutional claims against the individual agents (Failure to Knock & Announce, Unlawful Entry, Use of Deadly Force, and Illegal Detention of Maer Malinowski). She also sues the ATF for nine Arkansas-state tort claims under the Federal Tort Claims Act (“FTCA”), including for Wrongful Death, Assault & Battery, Negligence, and False Imprisonment of herself; and for Manslaughter & Negligent Homicide, Battery, Aggravated Assault and Criminal Mischief (all under the Arkansas Victim of Felonies Act).

According to the complaint, Bryan Malinowski was the longtime Director of the Bill and Hillary Clinton National Airport and the highest paid employee of the City of Little Rock,

earning over \$260,000/year. Mr. Malinowski and his wife, Maer, had been married for 25 years and lived in a quiet West Little Rock neighborhood.

As the Complaint explains, several years ago, Bryan's father handed down his gun collection, which sparked Bryan's interest in firearms. He became a gun collector and hobbyist. One of Bryan's interests was attending gun shows on the weekends, where he would set up a table, display his guns and coins collected over the years, and buy, sell, and trade with others.

As an unlicensed seller, Bryan sold firearms at the shows without conducting the background checks or filling out the paperwork required for holders of a Federal Firearm License (FFL). ATF regulations (at that time) provided a safe harbor for collectors and hobbyists who bought and sold firearms without the primary motive of profit and livelihood. Given that Bryan did not rely on gun sales as a means of his livelihood, he considered himself safely within the law's allowance.

Upon learning of Bryan's sales activity, no one within the ATF, administrative or enforcement, ever alerted Bryan to any concern. Rather, agents conducted a covert, months-long investigation which culminated in obtaining a federal search warrant authorizing searches of Bryan's home, cell phone and automobile, in search of financial and other records related to his gun sales.

Nothing in the record suggests—as confirmed through post-event interviews—that agents had any reason to believe Bryan posed a risk of danger to the agents or to the destruction of evidence. Nevertheless, well before dawn on the morning of March 19, 2024, ten carloads of federal and state law enforcement officers assembled in the dark and arrived at the Malinowskis' quiet cul-de-sac in Little Rock. At 6:02:42 a.m., seven ATF agents and task force officers stacked onto the front steps of the Malinowski home and covered up the Malinowskis' video doorbell camera with tape to conceal their presence. Inside the home Bryan laid sleeping in bed next to his wife of 25 years, Maer, and their two small dogs.

Despite knowing that Bryan posed no danger to them, and believing that he would fully cooperate, ATF agents planned for a pre-dawn dynamic entry, approaching the Malinowski home wearing tactical gear, including ballistic vests and tactical helmets, and heavily armed. Agents covered the video doorbell and began knocking at the outside storm door (located a considerable distance from the bedroom). Less than 28 seconds after they started knocking, and in spite of being required to wait a reasonable time under the circumstances to either be admitted or denied entry, the team leader ordered agents to pry open the storm doors and break down the main doors with a battering ram.

Less than 20 seconds later, at 6:03:46 a.m., gunshots rang out, and Bryan Malinowski crumpled to the ground, shot in the head by an ATF agent following the exchange of gunfire. Having been awakened by the commotion, Bryan had scrambled out of bed and

crept into the dark hallway and used his gun to protect himself and his wife from whom he reasonably believed to be violent intruders. He had no knowledge of any investigation or enforcement concern and was deprived of the reasonable time necessary to discern law enforcement's presence and react in the measured way everyone involved knew he would.

His wife, Maer, did not heed his direction to stay in their bedroom, and instead followed her husband into the dark hallway where she witnessed him being shot in the head.

It was only after the exchange of gunfire that Maer heard a demand to put her hands up and soon learned the men who broke down her front door and shot her husband were federal agents. Bryan Malinowski succumbed to his injuries two days later on March 21, 2024. He was 53 years old.

The Complaint further notes that none of the agents wore body cameras, despite a three-year-old DOJ policy mandating ATF agents wear and activate body-worn cameras during enforcement activity. Despite being equipped, none of the LRPD uniformed officers activated their body cameras, either. The only reason any recording exists is due to the automatic activation of one of the LRPD officer's recording equipment following a brief activation of his patrol car's emergency equipment just prior to the door breach.

The lawsuit also alleges that for several hours after her husband was shot, agents illegally detained Maer Malinowski in a patrol car, refusing her requests to change out of her nightclothes in the freezing morning, to go to a neighbor's home, to follow her husband to the hospital, to check on her dogs, and even to use the bathroom. The suit seeks additional damages for her unconstitutional detention.

Maer Malinowski and the estate are represented by the law offices of Graves Garrett Greim, LLC of Kansas City and the law offices of Bud Cummins, James & Carter, and Deb Riordan, all of Little Rock.

"Today's lawsuit seeks justice for the nightmare I've been living for the last 14 months," **said Maer Malinowski**. "Bryan believed the men who broke into our home were intruders, and he took a bullet to the forehead and ultimately gave his life defending me and our home from people he thought were trying to harm us. While nothing can bring back my husband of 25 years, , today's filing seeks to hold the federal government accountable for what they violently and wrongfully took from me on March 19, 2024."

"As a former federal and state law enforcement officer, prosecutor and police commissioner, my involvement in this case should speak for itself," **said Attorney Nathan Garrett of Graves Garrett Greim LLC**. "There is simply no reasonable debate that the tactics and decision-making of the ATF needlessly resulted in the tragic death of Bryan Malinowski. Without regard for whether Mr. Malinowski was deserving of investigation, his alleged crime was completely unbecoming of the extreme tactics and flawed procedures employed by the agents. There were countless safe and effective ways of approaching what should have been a routine search warrant that would never have

brought about this result. It is as much in defense of our competent law enforcement community as it is in pursuit of justice for Mrs. Malinowski that I agreed to pursue this matter," said Garrett.

"I take great pride in my former service as the United States Attorney in this district," **said former United States Attorney Bud Cummins**. "Throughout my government service, I worked with many highly motivated and talented agents from various agencies who conducted thorough investigations while respecting the rights of every citizen. The facts speak for themselves: the plan was unnecessary, and the execution was illegal. If the government cannot be held accountable in this case, none of us can feel safe in our homes," said Cummins.

CASE INFORMATION

The case is *Maria "Maer" Malinowski v. United States of America, et al.*, pending in the U.S. District Court for the Eastern District of Arkansas.

Attorney Bud Cummins (Law Offices of Bud Cummins, PLC) is a former United States Attorney for the Eastern District of Arkansas. He is licensed in Arkansas and in the District of Columbia. His law practice is based in Little Rock.

Attorney Nathan Garrett (Garrett Graves Greim, LLC) started his career with the Missouri State Highway Patrol and then served the FBI as a Special Agent, and later as a federal prosecutor for the Northern District of Texas and the Western District of Missouri. He co-founded the Kansas City-based firm, Garrett Graves Greim, LLC, in 2007.

Attorneys Paul James and Matt Stauffer (James & Carter, PLC) specialize in personal injury cases. James co-founded his Little Rock-based firm in 1986 and has extensive experience representing clients in a variety of civil rights cases where injuries result from government misconduct. Stauffer is a former state prosecutor in Pulaski County, Arkansas.

Attorney Deb Riordan (Appellate Solutions, PLLC d/b/a Riordan Law Firm) specializes in commercial and personal injury litigation in Arkansas and other states, and has acted as lead appellate counsel on more than 70 appeals in state and federal courts across the country.

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