

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

CLIFTON A. JACKSON, et al., :
Plaintiff(s), : Case No. 2:17-cv-163
vs. : CHIEF JUDGE SARGUS
OHIO STATE HIGHWAY PATROL, et al., : MAGISTRATE JUDGE JOLSON
Defendant(s). :

PLAINTIFFS' REQUEST FOR LEAVE TO AMEND THEIR COMPLAINT PURSUANT FED.CIV.R. 15 (a); AND LEAVE TO SUPPLEMENT THEIR COMPLAINT TO INCLUDE ADDITIONAL INJURIES WHICH HAVE HAPPENED SINCE THE DATE OF THE PLEADING SOUGHT TO BE SUPPLEMENTED PURSUANT TO FED.CIV.R. 15(d); AND CLASS ACTION STATUS PURSUANT TO FED.CIV.R. 23(a)&(b)(1)(a)(b),(2), and (3)?

Now comes the Plaintiff(s) and respectfully moves this Honorable Court for leave to amend their complaint pursuant to Fed.Civ.R. 15(a); and leave to supplement their complaint to include additional injuries which have happened since the date of the pleading sought to be supplemented pursuant to Fed.Civ.R. 15(d); and class action status pursuant to Fed.Civ.R. 23(a)&(b)(1)(a)(b),(2), and (3).

Plaintiffs' requests to amend, supplement, and obtain class action status is more fully set forth in the attached Memorandum in Support.

Respectfully submitted,



Clifton A. Jackson, et al.,
#A652-163
Lake Erie Correctional Inst.
501 Thompson Road
P.O. Box 8000
Conneaut, Ohio 44030

PLAINTIFF(S) CLASS MEMBERS

MEMORANDUM IN SUPPORT

I. SPECIFIC FACTUAL ALLEGATIONS

Plaintiff(s) asserts that their original complaint stated the deprivations [illegal acts] dates of occurrence for each named Defendant(s), also that each of their actions continue to date, as stated in the body of Claim Numbers 1 through 17, and paragraphs 31 through 47, clearly stating the names of each Defendant, and the injuries their acts caused Plaintiff(s) to suffered, also stating their complaint was a Civil Rights Complaint under Civ.R. 3, and 42 U.S.C. §§1981, 1983, 1985(3), 1986, and 1988(b)(c). Knowing that their claims have merits, and believing that they would not be able to obtain justice from a judge, they invoked their Constitutional Right to Trial by Jury pursuant to Civ.R. 8 and the Sixth Amendment. Which was filed on January 20, 2017, in the Court of Common Pleas for Franklin County, State of Ohio, where Defendant-1 [Ohio State Highway Patrol main branch place of business], which was assigned to Judge - David C. Young, and Civil Case No. 17 CV 000616. The Honorable Judge Young scheduled initial joint disclosure of all witnesses for June 9, 2017, also scheduled supplemental joint disclosure of all witnesses for August 4, 2017. A trial confirmation date was scheduled for August 18, 2017, and dispositive motions scheduled for October 27, 2017, and discovery cut-off deadline scheduled for November 10, 2017, and decisions on motions scheduled for December 22, 2017. Final pre-trial conference/order (or both) for January 9, 2018, and trial assignment scheduled for February 5, 2018. On or about February 23, 2017, United States Attorney, Benjamin C. Glassman filed a "CERTIFICATION OF SCOPE OF EMPLOYMENT" and invoked federal jurisdiction over the complaint and removed the action too THE UNITED STATES DISTRICT COURT, FOR THE SOUTHERN DISTRICT OF OHIO, EASTERN DIVISION, which was assigned Case No. 2:17-cv-00163. Which was also assigned to United States District Judge SARGUS.

Plaintiff(s) are now requesting leave to obtain Class Status, and to amend their complaint to include a detailed description of each Defendant(s)' actions or non-actions

under the color of law which fully supports the Plaintiff(s)' claims 1 through 17, and paragraphs 31 through 47. Also Plaintiff(s) are requesting leave to supplement their complaint with a detail description of each Defendant(s)' actions or non-actions which makes them liable for the injuries pleaded in the body of Claim Numbers 1 through 17, and paragraphs 31 through 47.

AMEND/SUPPLEMENT AS CLAIM NUMBER 1a:

¶31a. Plaintiff(s)' specific factual allegation actions or non-actions of Defendant - Ohio State Highway Patrol by its actions or non-actions in failing to protect Plaintiff(s) from acts of discrimination of racial profiling committed on June 14, 2011, 08:39:17 to 08:51:00. These specific actions were performed under the color of law by Ohio State Highway Patrol's troopers and employees who infringements and encroachments were racially motivated to deprive Plaintiff(s) of constitutional rights, privileges or immunities secured under provisions of the Fourth, Fifth, Eighth, and Fourteenth Amendments to the United States Constitution by allowing its troopers to engage in overt actions in furtherance of implementing policies of the Defendant - Ohio State Highway Patrol in place to discriminate against citizens because of their race on June 14, 2011-June 4, 2012-February 11, 2014-June 22, 2015-February 2, 2017-February 24, 2017-March 1, 2017, and continuing to date "April 11, 2017", also foreseeable and unforeseeable future injuries. Plaintiff(s) seeks to hold Defendant - Ohio State Highway Patrol liable based on their role in supervisory the troopers who allegedly committed constitutional violations when Defendant - Ohio State Highway Patrol implicitly authorized, approved or knowingly acquiesced in the unconstitutional conduct of Defendants Christopher Beyer, Michael Trader, and K-9 Argo (subordinate)." Plaintiff(s) wish to supplement his original claim number 1, to include **Supervisory Liability** as a back up claim in case Plaintiff(s) cannot succeed on their **Respondent Superior** claim. Bellamy v. Bradley, 729 F.2d 416, 421 (6th Cir. 1984). Because Plaintiff(s) have pleaded facts which, if proven, would entitle them to relief, dismissal is inappropriate. See Exhibits A through AAAE, of Plaintiff(s)' Affidavit in Support of Request for Leave to File Appellant's Application for Reopening of Direct Appeal.

AMEND/SUPPLEMENT AS CLAIM NUMBER 2a:

¶32a. Plaintiff(s)' specific factual allegation as to actions of Defendant - Christopher Beyer a State Trooper employed by Defendant - Ohio State Highway Patrol, on June 14, 2011, 08:39:17 to 08:51:00, and in the performance of his official duties his conduct violated clearly established constitutional rights by racial profiling. Defendant - Christopher Beyer specific actions were performed under the color of law and racially motivated and designed to deprive Plaintiff(s) of constitutional rights, privileges or immunities secured under provisions of the Fourth, Fifth, Eighth, and Fourteenth Amendments to the United States Constitution and Laws. Plaintiff(s)' asserts that the traffick stop and investigation into Plaintiff - Clifton A. Jackson's [hereinafter "Plaintiff-1"] presence on Ohio's Turn Pike by Defendant - Christopher Beyer, was the direct result of enforcement of a written or unwritten policy of Racial Profiling being implemented unconstitutionally against United States Citizens traveling on Ohio's Highways and Turn Pike, who happen to be minorities. Plaintiff(s)' asserts that Defendant - Christopher Beyer engaged in overt actions in furtherance of implementing a written or unwritten policies of the Defendant - Ohio State Highway Patrol in place to discriminate against citizens in Ohio because of their race on June 14, 2011-June 4, 2012-February 11, 2014-June 22, 2015-February 2, 2017-February 24, 2017-March 1, 2017, and continuing to date "April 11, 2017", also foreseeable and unforeseeable future injuries by this Defendant (Christopher Beyer). Plaintiff(s)' seek to hold Defendant - Christopher Beyer liable based on his conduct violating clearly established constitutional rights of which a reasonable person would have known. **Christophel v. Kukulinsky**, 61 F.3d 479, 484 (6th Cir. 1995). On June 14, 2011, Defendant - Christopher Beyer being racially motivated and acting on such bias, performed a traffick stop of Plaintiff-1 (an African American) driving East bound on the Ohio Turn Pike, was an unreasonable violation of Plaintiff-1's Fourteenth Amendment right to be free from discrimination on the basis of race. Plaintiff(s) asserts that after being stopped for an alleged traffick violation, and even though Defendant - Christopher Beyer asked Plaintiff

-1 for his drivers license and documents, once Defendant - Christopher Beyer observed Plaintiff-1's drivers license were New York license (Buffalo), he immediately went back to his cruiser without even receiving the requested credentials. On June 14, 2011, 08:42:08 a.m., is the time that Defendant - Christopher Beyer walked back to his cruiser, and it is clear through Plaintiff(s)' star-key-witness [Exhibit A, audio & video of Defendant - Christopher Beyer's cruiser], that he did not possess Plaintiff-1's drivers license nor a rental agreement in his hand. Defendant - Christopher Beyer instead of writing Plaintiff-1 a traffick ticket, and send him on his way, Defendant - Christopher Beyer went on a fish hunt because of Plaintiff-1's race, and called Defendant - Michael Trader to perform and air sniff with Defendant - K-9 Argo. On June 14, 2011, 08:45:30, after calling for Defendants Trader and Argo, Defendant - Christopher Beyer never reviewed or checked LEADS with respect Plaintiff-1's drivers license because he never took the license - - to his cruiser to check. See Exhibit A. Defendant - Christopher Beyer exist his cruiser prior to Defendants Trader's and Argo's arriving, returns to Plaintiff-1's vehicle at 08:45:40 a.m., immediately stated "everything checked out" without ever running a check or review on LEADS of Plaintiff-1, and at that time asked Plaintiff-1 if he would accompany him back to his cruiser! On June 14, 2011, 08:46:10 a.m., Plaintiff-1 while existing his vehicle secured it (locked the vehicle's doors), then believing he had no choice, walked back to Defendant - Christopher Beyer's cruiser with his cell phones and key remote. Prior to Defendant - Christopher Beyer placing Plaintiff-1 in the back of his cruiser, he searched Plaintiff-1 to make sure he had no weapon(s) then secured him in his cruiser's back seat. On June 14, 2011, 08:47:00 a.m., Plaintiff-1 starts a cell phone conversation, at 08:47:55 a.m., Defendants - Michael Trader and K-9 Argo comes into view of Defendant - Christopher Beyer's cruiser video camera and B-Lines straight to Plaintiff-1's vehicle. See Exhibits A and J [Sentencing Hearing Transcript, June 4, 2012, Page 13, Lines 9-10]. Plaintiff(s) asserts that the traffick stop was an unreasonable seizure on June 14, 2011, 08:48:46 to 08:51:00 a.m., in violation of the Fourth Amendment. Plaintiff(s) asserts the first violation occurred when Defendant - Christopher Beyer illegally seized Plaintiff-1-

's key remote to his legally secured vehicle without his consent or a search warrant. Without the required search warrant, Defendant - Christopher Beyer's second violation occurred when Defendant - Christopher Beyer accompany by Defendants Michael Trader and K-9 Argo illegally entered Plaintiff-1's secured vehicle, in which there was a reasonable issue of privacy of his secured vehicle without a search warrant. Plaintiff(s) assert that it does not matter where the evidence was located, in the interior of the vehicle or the trunk of the vehicle, because the evidence was the fruit of a poisonous tree and inadmissible in any proceedings as such under the Fruit of The Poisonous Tree Doctrine, because it was obtained illegally in violation of Plaintiff-1's rights, privileges or immunities secured by the United States Constitution and Laws. Defendant - Christopher Beyer was aware of the fact that Plaintiff-1 had only access to areas inside the interior of the vehicle, and clearly the trunk was not accessible to Plaintiff-1 while secured in the back seat of Defendant - Christopher Beyer's cruiser. For some reason unknown to Plaintiff-1, Defendant - Christopher Beyer kept turning his body mic off and on between 08:39:17 to 08:54:00 a.m.. Defendant - Christopher Beyer after illegally locating the drugs, reapproached Plaintiff-1 once again while still illegally detained in the back of his cruiser, removes Plaintiff-1 from the back of his cruiser, places handcuffs on him, and began searching him again, this time more thoroughly than the first time, while asking him if he would be willing to cooperate? Plaintiff-1 immediately invokes his Fifth Amendment right to remain silent and right to counsel! At 08:55:47 a.m., Defendant - Christopher Beyer realized his body mic was still turned off, turns his mic back on, then asked Plaintiff-1 if he would be willing to cooperate again? Even though Plaintiff-1 had already invoked his right to remain silent and to counsel, so he reinvoked them. At 08:56:00 a.m., Plaintiff-1 once again stated to Defendant - Christopher Beyer "he had nothing to say!" At 08:59:55 a.m., Defendant - Christopher Beyer completed his thorough search of Plaintiff-1's person. At 09:00:45 a.m., Plaintiff-1 was secured, handcuffed, arrested, and replaced in the back of Defendant - Christopher Beyer's cruiser, yet Defendant - Christopher Beyer deliberately left Plaintiff-1's cell phones on the back seat with him, so Defendant - Christopher Beyer

could invade Plaintiff-1's privacy by easesdropping on any and all conversations of Plaintiff-1 at that point and time, through unknown recording or listening devices inside the cruiser under his control. At 09:00:52 a.m., Defendant - Christopher Beyer started celebrating, stating in reference to Plaintiff-1: "Got it, he went pass Plaintiff-1 and said, stop me, and Defendant - Christopher Beyer said ok". Clearly Defendant - Christopher Beyer in his own words during his celebration makes it very clear that the motive behind his pulling over Plaintiff-1 in this case was never about a traffick stop. It was Defendant - Christopher Beyer's personal belief [in his mind only, for Plaintiff-1 and Defendant - Christopher Beyer never had the above-stated conversation, Plaintiff-1 never told Defendant - Christopher Beyer to stop him], and racially motivated. Here, it was very clear in Defendant - Christopher Beyer's own words, but what is missing from Defendant - Christopher Beyer's celebration speech is, Plaintiff-1 is following this moble home a little to close I think I better pull him over and give him a ticket! Plaintiff(s) assert that if it had not been for Defendant - Christopher Beyer making the above statement they would never be able make a prima facie showing that pulling Plaintiff-1 over had nothing to do with a traffick violation, that was just a ruse put in place by Defendant - Christopher Beyer in an attempt to cover-up his racially motivated conduct, at times even turning his body mic off and on to conseal deliberate violations of Plaintiff-1's constitutional rights on June 14, 2011, and continuing to date "April 11, 2017". At 09:01:03 a.m., Defendant - Christopher Beyer turned his body mic back off, which from that point on, Defendant - Christopher Beyer's mic officially remained off the life of the stop. At 09:02:31 a.m., Defendant - Christopher Beyer is clearly and visibly easesdropping in on Plaintiff-1's cell phone conversations. At 09:32:39 a.m., Defendant - Christopher Beyer once again asked Plaintiff-1 where he got on the Turn Pike, even though he was fully aware that Plaintiff-1 had invoked his Fifth Amendment right to remain silent and to counsel. At 09:51:00 a.m., Defendant - Christopher Beyer deliberately turned off the audio & video recording devices prior to reaching the State Trooper's Barracks. Plaintiff(s) assert that as a

direct result of Defendant - Christopher Beyer's conduct on June 14, 2011 through March 1, 2017, and continuing to date "April 11, 2017", being in violation of Plaintiff-1's Fourth, Fifth, and Fourteenth Amendments, and Defendant - Christopher Beyer's racial profiling violated clearly established constitutional rights, privileges or immunities secured under provisions and protections guaranteed by the United States Constitution and Laws. Defendant - Christopher Beyer conspired to cover up his unreasonable infringements and encroachments of Plaintiff-1's Fourth, Fifth, Eighth, and Fourteenth Amendments rights by falsifying his June 14, 2011 Report. See Exhibit B. "This is where Defendant - Christopher Beyer concoct his ruse of events in his report knowing them to be pure fabrication in order to manipulate the information in the report to include events which he personally knew did not occur on June 14, 2011, between 08:39:17 a.m. through 08:51:00 a.m., to-wit: 'He handed me his New York (residence in Buffalo, NY) license. I asked who owned the car and he stated, "My Cousin". I asked where he was coming from. He stated his mom's house near the Detroit area in Beloit, MI. He stated he was visiting his mom as she is sick. He handed me a rental agreement for the vehicle (Renter's name was Latriece Thomas).'" Defendant - Christopher Beyer was so concern about covering up his constitutional violations of Plaintiff-1's Fourth, Fifth, Eighth, and Fourteenth Amendments rights, privileges or immunities secured by the United States Constitution and Laws on June 14, 2011 through March 1, 2017, and continuing to date "April 11, 2017", also any and all foreseeable and unforeseeable future injuries as a result of this Defendant's actions. Defendant - Christopher Beyer committing his acts under the color of law, may have been able to get away with violating Plaintiff-1's constitutional rights had it not been for Plaintiff-1's star-key-witness [Defendant - Christopher Beyer's cruiser audio & video of June 14, 2011]. See Exhibit A [which clearly shows contradictions Defendant - Christopher Beyer's June 14, 2011 Report between 08:39:17 through 08:48:46 a.m., shows not only that he never had Plaintiff-1's drivers license or rental agreement, nor did he attempt to read the rental agreement while standing at the window of Plaintiff-1's vehicle, nor did he possess Plaintiff-1's drivers license while walking back to his cruiser]; Also see Exhibit B [Defendant - Christopher Beyer's Report]. On June 4, 20-

12, Defendant - Christopher Beyer in furtherance of his conspiracy to cover up his infringements and encroachments of Plaintiff-1's constitutional rights, privileges or immunities secured by the United States Constitution and Laws gave knowingly perjured testimony contradicting the clear and convincing prima facie evidence shown by the Plaintiff(s)' star-key-witness [Defendant - Christopher Beyer's cruiser audio & video of June 14, 2011, between 08:39:17 through 08:54:00 a.m.]. Which reveal that Defendant - Christopher Beyer never received or obtained Plaintiff-1's drivers license or rental agreement, nor was there any evidence showing Defendant - Christopher Beyer standing outside of Plaintiff-1's rental vehicle reading the rental agreement prior to returning to his cruiser to run a LEADS check on Plaintiff-1's drivers license while reading over the rental agreement as he testified to at the June 4, 2012, Suppression Hearing. See Exhibit J [June 4, 2012, Suppression Hearing Transcripts (S.H.Tr.), Page 6, Lines 19-20; S.H.Tr., Page 7, Lines 3-25; S.H.Tr., Page 8, Lines 1-22; S.H.Tr., Page 9, Lines 10-11; and S.H.Tr., Page 10, Lines 6-16]. On February 11, 2014, Defendant - Christopher Beyer in furtherance of his conspiracy to cover up his infringements and encroachment of Plaintiff-1's constitutional rights, privileges or immunities secured by the United States Constitution and Laws gave knowingly perjured testimony contradicting the clear and convincing prima facie evidence shown by the Plaintiff(s)' star-key-witness that Defendant - Christopher Beyer never received or obtained Plaintiff-1's drivers license or rental, nor was there any evidence showing Defendant - Beyer standing outside of Plaintiff-1's rental vehicle reading the rental agreement prior to returning to his cruiser to run a LEADS check on Plaintiff-1's drivers license while reading over the rental agreement as he testified to at the February 11, 2014, Jury Trial. See Exhibit A; Exhibit B; also see Exhibit J. Because Plaintiff(s) have been denied a copy of the February 11, 2014, Jury Trial Transcripts, so Plaintiff(s) at this time cannot pin-point the exact location on the record where Defendant - Christopher Beyer committed his perjured testimony during the jury trial, but after the filing of discovery and interrogatories, Plaintiff(s) will give the location of the trial transcrip-

ts. Until then Plaintiff(s) are forced to rely on the record of the Court of Appeals through its June 22, 2015, Decision which was based primarily on Defendant - Christopher Beyer's falsified report of June 14, 2011; the perjured testimony given at the June 4, 2012, Suppression Hearing; and the perjured testimony given at the February 11, 2014, Jury Trial. See Exhibit A; Exhibit B; Exhibit J; and Exhibit AAS [Court of Appeals, Case No. 14CA010555, Decision filed June 22, 2015, Page 10, ¶¶21-22]; Also See Plaintiff-1's Application for Reopening of his Direct Appeal Under App.R. 26(B) Delayed and his Assignment of Errors I Through VI [with its Affidavit In Support of Request for Leave to File Appellant's Application for Reopening of his Direct Appeal Under App.R. 26(B) Delayed and his Assignment of Errors I Through VI - & - Exhibits A Through AAAE]. Plaintiff(s) wish to supplement his original claim number 2, to include the specific factual allegation as to this Defendant's implementing of his Sham Legal Process executed under the color of law with specific design to deprive Plaintiff(s) their rights, privileges or immunities secured by the United States Constitution and Laws because of their race. Because Plaintiff(s) have pleaded facts which, if proven, would entitle them to relief, dismissal is inappropriate. See Exhibits A through AAAE, of Plaintiff-1's Affidavit in Support of Request for Leave to File Appellant's Application for Reopening of Direct Appeal; Also see Exhibits 5a and 5b.

AMEND/SUPPLEMENT AS CLAIM NUMBER 3a:

¶33a. Plaintiff(s)' specific factual allegation as to actions of Defendant - Michael Trader a State Trooper employed by Defendant - Ohio State Highway Patrol, on June 14, 2011, 08:47:55 to 08:51:00 a.m., and in the performance of his official duties his conduct violated clearly established constitutional rights by racial profiling. Defendant - Michael Trader specific actions were performed under the color of law and racially motivated and designed to deprive Plaintiff(s) of constitutional rights, privileges or immunities secured under provisions of the Fourth, Fifth, Eighth, and Fourteenth Amendments to the United States Constitution and Laws. Plaintiff(s) assert that Defendant - Michael Trader's prom-

pt command given to Defendant - K-9 Argo to alert on Plaintiff-1's rental vehicle on June 14, 2011, at 08:48:05 a.m., by tapping two to four times on Plaintiff-1's vehicle were racially motivated, and in acting on such bias, performed an illegal search and seizure of a secured vehicle of Plaintiff-1 without first obtaining a search warrant. Defendant - Michael Trader being fully aware of Defendant - K-9 Argo's being prompt dependent, and the facts relating to a similar case of State of Ohio v. Antwonne Duke, Defendant - Michael Trader and Defendant - K-9 Argo were found not a credible means of detecting the order of cocaine. See Exhibit J [Suppression Hearing Transcript, Page 43, Lines 3-13]. Plaintiff-1 secured his vehicle as he exist it at 08:46:10 a.m., Defendant - Michael Trader and Defendant - K-9 Argo arrived at 08:47:55 a.m., and B-Lines straight for Plaintiff-1's vehicle to perform an air sniff. Plaintiff(s) assert that Defendant - Michael Trader engaged in overt actions in furtherence of implementing a written or unwritten policies of the Defendant - Ohio State Highway Patrol in place to discriminate against citizens in Ohio because of their race on June 14, 2011-June 4, 2012-February 11, 2014-June 22, 2015-February 2, 2017-February 24, 2017-March 1, 2017, and continuing to date "April 11, 2017", also foreseeable and unforeseeable future injuries by this Defendant [Michael Trader]. Plaintiff(s) seek to hold Defendant - Michael Trader liable based on his conduct violating clearly established constitutional rights of which a reasonable person would have known. *Christophel v. Kukulinsky*, 61 F.3d 479, 484 (6th Cir. 1995). What is extremely important to point out concerning this Defendant's conduct is: A.) Defendant - K-9 Argo was extremely high strung the entire time before, during and after the search, extremely paying immediate attention to Defendant - Michael Trader's right hand, which air sniff started at the trunk moving counterclockwise; B.) Defendant - K-9 Argo at no point starting from the trunk of Plaintiff-1's vehicle paid no attention to the lower or mid portion of the vehicle; and C.) Defendant - Michael Trader clearly keeps his right hand above waist level. Clearly Defendant - K-9 Argo began his air sniff search at the trunk area of Plaintiff-1's vehicle and did not alert until and only after being command to do so by Defenda-

nt - Michael Trader's tapping Plaintiff-1's vehicle two to four times as shown by Plaintiff(s)' star-key-witness [Exhibit A, audio & video of Defendant - Christopher Beyer's cruiser recording of June 14, 2011, at 08:48:05 a.m.]. This action of Defendant - Michael Trader was extremely illegal and very important to remember regarding this Defendant's conduct, is the fact that prior to his giving Defendant - K-9 Argo the prompt commands (the tapping of two to four times on Plaintiff-1's vehicle), Defendant - K-9 Argo did not alert on the vehicle! Plaintiff(s) asserts that this is not the first time that the subject concerning Defendant - Michael Trader and his prompting of Defendant - K-9 Argo being brought into question and this form of racial profiling. Plaintiff(s) are just the only ones who wishes to bring it to the Citizens of Ohio's attention. Defendant - Michael Trader "Training Record Support Plaintiff(s) claim number 3a and ¶33a that Defendant - K-9 Argo is Highly Prompt Dependent". Plaintiff(s) asserts that Defendant - Michael Trader's training record support that Defendant - K-9 Argo is highly Prompt Dependent and combined with the above herein claim, have pleaded facts which, if proven, would entitle them to relief, dismissal is inappropriate. See Exhibit AAI. Plaintiff(s) assert that the Report of Steven D. Nicely in the case of Ohio v. Issac Anderson and Ira Lee, Case No. 12CRO-84573, Provided on Sept. 20, 2013; Also see Exhibit AAI, Pages 3-20. Pages 5 through 10, Figures 1 through 5, are pictures of a Video Analysis performed in 2012, which is actually Defendants - Michael Trader and Defendant - K-9 Argo doing the identical search on the same type of vehicle as Plaintiff-1 was driving, the same traffick stop location, identical prompt commands, the identical area on the vehicle was also tapped, and both vehicles were similar in color. At 08:50:30 a.m., Defendant - Michael Trader lingered around Plaintiff-1's vehicle without touching it, until Defendant - Christopher Beyer walked over and illegally unlocked Plaintiff-1's vehicle with the illegally taken Key Remote of Plaintiff-1's without a search warrant or Plaintiff-1's consent. Then Defendant - Michael Trader opened Plaintiff-1's passenger door, and although, superficial nor thorough desire to search the vehicle's interior. See Exhibit A and Exhibit AAI. On June 4, 2012, at the Suppression Hearing Defendant - Michael Trader knowingly gave perjured testimony, by

his testimony given at Page 37, Lines 6 through 13. When giving this testimony, Defendant - Michael Trader deliberately failed to disclose the prompt command he gave to Defendant - K-9 Argo to alert on Plaintiff-1's vehicle, as a direct result of Defendant - Michael Trader's tapping two to four times on Plaintiff-1's vehicle prior to Defendant - K-9 Argo's alerting by scratching Plaintiff-1's vehicle at the same area that Defendant - Michael Trader tapped two to four times in the Ohio v. Anderson, case. Defendant - Michael Trader has no defense to the claims as stated in Claim Number 3, ¶133; Amend/Supplement As Claim Number 3a, ¶133a incorporated herein and made a part of this new filing as if rewritten, when Defendant - Michael Trader confessed to being a co-conspirator in what was Defendant - Christopher Beyer's racially motivated racial profiling occurring on June 14, 2011, 08:39:17 through 08:51:00 a.m., when these Defendants illegally obtained Plaintiff-1's Key Remote without a warrant, and illegally unlocking Plaintiff-1's secured vehicle violating not only Plaintiff-1's constitutional right to privacy, and unreasonable searches and seizures and rights, privileges or immunities secured under provisions of the United States Constitution and Laws because of their race. See Exhibit A and Exhibit J [S.H.Tr. Page 39, Lines 9-11]. On February 11, 2014, Defendant - Michael Trader during trial on direct examination again misrepresented the record regarding illegally inducing probable cause via Defendant - K-9 Argo. Near the close of cross-examination, Defendant - Mark A. Aufdenkampe directly asked why did Defendant - Michael Trader tap the vehicle where Defendant - K-9 Argo allegedly indicated? Defendant - Michael Trader responded by admitting to tapping the vehicle allegedly to get Defendant - K-9 Argo's attention. But in his closing trial testimony Defendant - Michael Trader made it quite clear his racial motivation, by admitting that Defendant - Christopher Beyer was out there doing Defendant - Michael Trader's thing (racial profiling). Defendant - Michael Trader was so concerned about covering up his constitutional violations of Plaintiff-1's Fourth, Fifth, Eighth, and Fourteenth Amendments rights, privileges or immunities secured by the United States Constitution and Laws on June 14, 2011 through March 1, 2017, and continuing to date "Ap-

ril 11, 2017", also any and all foreseeable and unforeseeable future injuries as a result of this Defendant's actions. Defendant - Michael Trader committing his acts under the color of law, may have been able to get away with violating Plaintiff-1's constitutional rights had it not been for Plaintiff(s)' star-key-witness [Exhibit A, audio & video of Defendant - Christopher Beyer's cruiser recording of June 14, 2011, at 08:48:05 a.m.]. See Exhibit A [Which clearly shows Defendant - Michael Trader prompt commands being given to Defendant - K-9 Argo to alert on Plaintiff-1's vehicle]. Because Plaintiff(s) have been denied a copy of the February 11, 2014, Jury Trial Transcripts, so Plaintiff(s) at this time cannot pin-point the exact location on the record where Defendant - Michael Trader committed his perjured testimony during the jury trial, but after the filing of discovery and interrogatories, Plaintiff(s) will give the location of the trial transcripts. Until then Plaintiff(s) are forced to rely on the record of the Court of Appeals through its June 22, 2015, Decision which was based primarily on Defendant - Christopher Beyer's falsified report of June 14, 2011; the perjured testimony given at the June 4, 2012, Suppression Hearing; and the perjured testimony given at the February 11, 2014, Jury Trial. See Exhibit A; Exhibit B; Exhibit J; and Exhibit AAS; Also see Exhibits A through AAAE. Plaintiff(s) wish to supplement their original claim number 3, to include the specific factual allegation as to this Defendant's implementing of his Sham Legal Process executed under the color of law with specific design to deprive Plaintiff(s) of their rights, privileges or immunities secured by the United States Constitution and Laws because of their race. Because Plaintiff(s) have pleaded facts which, if proven, would entitle them to relief, dismissal is inappropriate. See Exhibits A through AAAE, of Plaintiff-1's Affidavit in Support of Request for Leave to File Appellant's Application for Reopening of Direct Appeal; Also see Exhibits 5a and 5b.

AMEND/SUPPLEMENT AS CLAIM NUMBER 4a:

¶34a. Plaintiff(s)' specific factual allegation as to actions of Defendant - K-9 Argo a State Trooper Canine employed by the Ohio State Highway Patrol, on June 14, 2011, 08:47:

55 to 08:48:05 a.m., and in the performance of his official duties his conduct violated clearly established constitutional rights, privileges or immunities secured under provisions and protection of the Fourth, Fifth, Eighth, and Fourteenth Amendments of the United States Constitution and Laws. **Ohio v. Anderson, Case No. 12CR084573 (Video recording for 02/08/2012, 12:57:33, L-SP, 135@D10)**. Plaintiff(s) assert that the purpose of Claim Numbers 3, ¶133; Amend/Supplement As Claim Number 3a, ¶133a; Claim Number 4, ¶134; Amend/Supplement As Claim Number 4a, ¶134a is to address the issue of **Racial Profiling** being implemented unconstitutionally on Ohio's Highways and Turn Pike by discriminatory means by racially motivated State Troopers employed by the State of Ohio, who is responsible for making a legal decision if proven to be liable if Defendant - K-9 Argo's response in this incident as a drug detector dog was sufficient to produce probable cause when it is evident that Defendant - K-9 Argo is prompt dependent. Plaintiff(s) assert that their claim against Defendant - K-9 Argo and his partner handler Defendant - Michael Trader are based upon Defendant - Michael Trader's racial profiling discriminating against african americans and other non-white citizens of these United States while traveling through the State of Ohio. Plaintiff(s) are supporting their claims against Defendant - K-9 Argo and Defendant Michael Trader based on an incident report relating to the **Anderson** case, identical to **State v. Jackson, Case No. 11CR083104**. Plaintiff-1 secured his vehicle at 08:46:10 a.m., Defendant - K-9 Argo arrived at 08:47:55 a.m., with his handler and partner Defendant - Michael Trader and B-Lines straight to Plaintiff-1's vehicle. What is extremely important to point out is this Defendant - K-9 Argo's history of being prompt dependent, and the facts relating to a similar case of **State of Ohio v. Antwonne Duke**, Defendant - K-9 Argo and Defendant - Michael Trader were found not a credible means of detecting the odor of cocaine. See Exhibit J [**Suppression Hearing Transcript, Page 43, Lines 3-13**]. Plaintiff-1 secured his vehicle at 08:46:10 a.m., Defendant - K-9 Argo arrived at 08:47:55 a.m., with his handler and partner Defendant - Michael Trader and B-Lines straight to Plaintiff-1's vehicle to perform an air sniff. Plaintiff(s) assert that Defendant - K-9 Argo

received prompt commands from Defendant - Michael Trader to alert on Plaintiff-1's rental vehicle on June 14, 2011, at 08:48:05 a.m., by tapping two to four times on Plaintiff-1's vehicle were racially motivated, and in acting on such bias, performed an illegal search and seizure of a secured vehicle of Plaintiff-1 without first obtaining a search warrant. What is extremely important to point out is: A.) Defendant - K-9 Argo was extremely high strung the entire time before, during and after the search, extremely paying immediate attention to Defendant - Michael Trader's right hand, when air sniff started at the trunk moving counterclockwise; B.) Defendant - K-9 Argo at no point from the trunk of Plaintiff-1's vehicle paid no attention to the lower or mid portion of the vehicle; and C.) Defendant - Michael Trader clearly keeps his right hand above waist level. Clearly Defendant - K-9 Argo began his air sniff at the trunk area of Plaintiff-1's vehicle and did not alert. After it was clear to Defendant - Michael Trader that Defendant - K-9 Argo was not going to alert on his own [because the air sniff was almost completed], Defendant - Michael Trader taps Plaintiff-1's vehicle two to four times as shown by Plaintiff(s)' starkey-witness [Exhibit A, audio & video of Defendant - Christopher Beyer's cruiser recording of June 14, 2011, at 08:48:05 a.m., which also clearly shows Defendant - Michael Trader's prompt commands being given to Defendant - K-9 Argo to alert on Plaintiff-1's vehicle]. Defendant - Michael Trader's tapping was the prompt command which cued Defendant - K-9 Argo to alert on Plaintiff-1's vehicle. Defendant - K-9 Argo and Defendant - Michael Trader training records as a drug detector dog team fully supports the Plaintiff(s) Claim Numbers 3, ¶33; Amend/Supplement As Claim Number 3a, ¶33a; Claim Number 4, ¶34; Amend/Supplement As Claim 4a, ¶34a that Defendant - K-9 Argo is prompt dependant brought about by his poor training by Defendant - Michael Trader. In order for this Honorable Court to understand the magnitude of this form of racial profiling, this Honorable Court must consider both cases Ohio v. Anderson, Case No. 12CR084573's video of 02/08/2012, 12:57:33 p.m.; and State v. Jackson, Case No. 11CR083104's video of 06/14/2011, 08:48:05 a.m.. Defendant - K-9 Argo's claimed trained response (scratching) was most likely caused by Defendant - M-

Michael Trader's actions and not that contraband drug odor. At 08:47:55 when Defendant - K-9 Argo and Defendant - Michael Trader first approached Plaintiff-1's vehicle you can see the dog sniffing the trunk area and its foot being raised. At that point if Defendant - K-9 Argo was truly onto the odor and was not prompt dependent (need of Defendant - Michael Trader's cues), Defendant - K-9 Argo would have remained focused and would not have departed as easily as he did Defendant - Michael Trader's passed by. Defendant - Michael Trader passed Defendant - K-9 Argo and Defendant - K-9 Argo turned and went with Defendant - Michael Trader. If Defendant - K-9 Argo's exhibition of the orienting response was caused by drug odor Defendant - K-9 Argo should not have departed as he did. What should have occurred is that Defendant - K-9 Argo should have struggled leaving the odor. Basically Defendant - Michael Trader should have been jerked back to Defendant - K-9 Argo because Defendant - K-9 Argo would not leave. This did not happen. See Exhibit A. Which also demonstrates Defendant - K-9 Argo was not operating under free operant. At 08:48:05 a.m., Defendant - Michael Trader realizing that they were about to complete the air sniff without alerting on Plaintiff-1's vehicle, changed his body posture and tapped two to four times on Plaintiff-1's vehicle giving Defendant - K-9 Argo prompt command to alert. Plaintiff(s) ~~star-key-witness~~ [Exhibit A] clearly shows Defendant - K-9 Argo scratching at the driver's side rear door area. This further demonstrates that Defendant - K-9 Argo in this incident was not scratching based on the detection of contraband drug odor, but because of Defendant - Michael Trader's prompt command. Plaintiff(s) wish to supplement their original claim number 4, to include the specific factual allegations as to this Defendant's prompt dependency executed under the color of law with specific design to deprive Plaintiff(s) of their rights, privileges or immunities secured by the United States Constitution and Laws because of their race. Because Plaintiff(s) have pleaded facts which, if proven, would entitle them to relief, dismissal is inappropriate. See Exhibits A through AAEE, of Plaintiff-1's Affidavit in Support of Request for Leave to File Appellant's Application for Reopening of Direct Appeal; Also see Exhibits 5a and 5b.

AMEND/SUPPLEMENT AS CLAIM NUMBER 5a:

¶135. Plaintiff's specific factual allegation as to actions of Defendant - Geno Taliano a Special Agent employed by the Drug Enforcement Administration (DEA), on June 14, 2011, 08:54:00 through 11:55:00 a.m., and in the performance of his official duties his conduct violated clearly established constitutional rights by conspiring in racial profiling. Defendant - Geno Taliano specific actions were performed under the color of law and racially motivated and designed to deprive Plaintiff(s) of constitutional rights, privileges or immunities secured under provisions of the Fourth, Fifth, Eighth, and Fourteenth Amendments to the United States Constitution and Laws. Plaintiff(s) assert that questioning Plaintiff-1 after he had invoked his rights to remain silent and to counsel, was the direct result of enforcement of a written or unwritten policy of conspiring to deprive Plaintiff-1 being implemented unconstitutionally against United States Citizens traveling on Ohio's Highways and Turn Pike, who happen to be minorities. Plaintiff(s) assert that Defendant - Geno Taliano engaged in overt actions in furtherance of implementing a written or unwritten policies of the Drug Enforcement Administration (DEA) in place to discriminate against citizens in Ohio because of their race on June 14, 2011-June 15, 2011-June 16, 2011-June 17, 2011-June 4, 2012-February 11, 2014-June 22, 2015-February 2, 2017-February 24, 2017, and continuing to date "April 11, 2017", also foreseeable and unforeseeable future injuries by this Defendant [Geno Taliano]. Plaintiff(s) seek to hold Defendant - Geno Taliano liable based on his conduct violating clearly established constitutional rights of which a reasonable person would have known. Plaintiff(s) wish to supplement their original claim number 5, to include the specific factual allegation as to this Defendant's conspiring in a Sham Legal Process executed under the color of law with specific design to deprive Plaintiff(s) of their rights, privileges or immunities secure by the United States Constitution and Laws because of their race. Because Plaintiff(s) have pleaded facts which, if proven, would entitle them to relief, dismissal is inappropriate.

See Exhibits A through AAAE, of Plaintiff-1's Affidavit in Support of Request for Leave

to File Appellant's Application for Reopening of Direct Appeal; Also see Exhibit 6a.

AMEND/SUPPLEMENT AS CLAIM NUMBER 6a:

¶36a. Plaintiff(s)' specific factual allegation as to actions of Defendant - Caitlin Szczepinski a Special Agent employed by the Drug Enforcement Administration (DEA), on June 14, 2011, 08:54:00 through 11:55:00 a.m., and in the performance of her official duties her conduct violated clearly established constitutional rights by conspiring in racial profiling. Defendant - Caitlin Szczepinski specific actions were performed under the color of law and racially motivated designed to deprive Plaintiff(s) of constitutional rights, privileges or immunities secured under provisions of the Fourth, Fifth, Eighth, and Fourteenth Amendments to the United States Constitution and Laws. Plaintiff(s) assert that questioning Plaintiff-1 after he had invoked his rights to remain silent and to counsel, was the direct result of enforcement of a written or unwritten policy of conspiring to deprive Plaintiff-1 being implemented unconstitutionally against United States Citizens traveling on Ohio's Highways and Turn Pike, who happen to be minorities. Plaintiff(s) assert that Defendant - Caitlin Szczepinski engaged in overt actions in furtherance of implementing a written or unwritten policies of the Drug Enforcement Administration (DEA) in place to discriminate against citizens in Ohio because of their race on June 14, 2011-June 15, 2011-June 16, 2011-June 17, 2011-June 4, 2012-February 11, 2014-June 22, 2015-February 2, 2017-February 24, 2017, and continuing to date "April 11, 2017", also foreseeable and unforeseeable future injuries by this Defendant [Caitlin Szczepinski]. Plaintiff(s) seek to hold Defendant - Caitlin Szczepinski liable based on her conduct violating clearly established constitutional rights of which a reasonable person would have known. Plaintiff(s) wish to supplement their original claim number 6, to include the specific factual allegation as to this Defendant's conspiring in a **Sham Legal Process** executed under the color of law with specific design to deprive Plaintiff(s) of their rights, privileges or immunities secured by the United States Constitution and Laws because of their race. Because Plaintiff(s) have pleaded facts which, if proven, would entitle them to

relief, dismissal is inappropriate. See Exhibits A through AAAE, of Plaintiff-1's Affidavit in Support of Request for Leave to File Appellant's Application for Reopening of Direct Appeal; Also see Exhibit 6a.

AMEND/SUPPLEMENT AS CLAIM NUMBER 7a:

¶37a. Plaintiff(s)' specific factual allegation as to actions or non-actions of Defendant - Dennis P. Will is the Lorain County Prosecutor, by his actions or non-actions in failing to protect Plaintiff(s) from acts of discrimination of Racial Profiling committed on June 14, 2011, 08:39:17 to 08:51:00 a.m.. These specific actions were performed under the color of law by Assistant Lorain County Prosecutors who infringements and encroachments were racially motivated and a part of an ongoing **Sham Legal Process** designed to deprive Plaintiff(s) of constitutional rights, privileges or immunities secured under provisions of the Fourth, Fifth, Eighth, and Fourteenth Amendments to the United States Constitution and Laws by allowing his Assistant Prosecutors to engage in overt actions in furtherance of implementing policies of the Defendant - Ohio State Highway Patrol in place to discriminate against Citizens of Ohio and other States traveling on Ohio's Highways and Turn Pike because of their race on June 14, 2011-June 15, 2011-June 16, 2011-June 17, 2011-June 4, 2012-February 11, 2014-June 22, 2015-February 2, 2017-March 23, 2017, and continuing to date "April 11, 2017", also foreseeable and unforeseeable future injuries by this Defendant (Dennis P. Will). Plaintiff(s) seeks to hold Defendant - Dennis P. Will liable based on his role in supervisory his Assistant Prosecutors who allegedly committed constitutional violations when Defendant - Dennis P. Will implicitly authorized, approved or knowingly acquiesced in the unconstitutional conduct of Co-Conspirators Defendants - Ohio State Highway Patrol; Christopher Beyer; Michael Trader; K-9 Argo; Mary Slanczka; Jennifer Riedthaler; Peter Gauthier; Laura Ann Dezort; Jack W. Bradley; Mark A. Aufdenkampe; Paul A. Griffin; Paul A. Mancino, Jr; Edward Zaleski; and John R. Miraldi (subordinate)." Plaintiff(s) wish to supplement their original claim number 7, to include the specific factual allegation as to this Defendant's being a knowing or unknowing

co-conspirator in the implementing of his Sham Legal Process executed under the color of law with specific design to deprive Plaintiff(s) of their rights, privileges or immunities secured by the United States Constitution and Laws because of their race. Because Plaintiff(s) have pleaded facts which, if proven, would entitle them to relief, dismissal is inappropriate. See Exhibits A through AAAE, of Plaintiff-1's Affidavit in Support of Request for Leave to File Appellant's Application for Reopening of Direct Appeal; Also see Exhibit 7a; and Also see Ohio Rules of Professional Conduct (Proof.Cond.R.) 1.1; 1.2(a)(c)(d)&(e); 1.3; 1.4(a)(1)(2)(3)(4)(5), (B)&(C); 2.1; 3.4(a)(b)(d)&(e); 3.8(a)(b)(c)&(d); 4.1(A)&(B); 5.1(C)(1)&(2); 8.3(A)&(B); 8.4(a)(b)(c)(d)(e)(f)(g)&(h).

AMEND/SUPPLEMENT AS CLAIM NUMBER 8a:

¶38. Plaintiff(s)' specific factual allegation as to actions of Defendant - Mary Slanczka a Lorain County Assistant Prosecutor employed by the County of Lorain, by her actions or non-actions in failing to protect Plaintiff(s) from acts of discrimination of Racial Profiling committed on June 14, 2011, 08:39:17 to 08:51:00 a.m.. These specific actions were performed under the color of law in deliberate acts of infringements and encroachments were racially motivated and a part of an ongoing Sham Legal Process designed to deprive Plaintiff(s) of constitutional rights, privileges or immunities secured under provisions of the Fourth, Fifth, Eighth, and Fourteenth Amendment to the United States Constitution and Laws by her engaging in an overt act in furtherance of implementing policies of the Defendant - Ohio State Highway Patrol in place to discriminate against Citizens of Ohio and other States traveling on Ohio's Highways and Turn Pike because of their race on June 14, 2011-June 15, 2011-June 16, 2011-June 17, 2011-June 4, 2012-February 11, 2014-June 22, 2015-February 2, 2017-March 23, 2017, and continuing to date "April 11, 2017", also foreseeable and unforeseeable future injuries by this Defendant (Mary Slanczka). Plaintiff(s) seeks to hold Defendant - Mary Slanczka liable based on her role as a knowing or unknowing co-conspirator. Plaintiff(s) wish to supplement their original claim number 8, to include the specific factual allegation as to this Defendant - Mary Slanczka. Bec-

ause Plaintiff(s) have pleaded facts which, if proven, would entitle them to relief, dismissal is inappropriate. See Exhibit A through AAAE, of Plaintiff-1's Affidavit in Support of Request for Leave to File Appellant's Application for Reopening of Direct Appeal; Also see Exhibit 7a; and Also see Ohio Rules of Professional Conduct (Prof.Cond.R.) 1.1; 1.2(a)(c)(d)&(e); 1.3; 1.4(a)(1)(2)(3)(4)(5), (B)&(C); 2.1; 3.4(a)(b)(d)&(e); 3.8(a)(b)(c)&(d); 4.1(A)&(B); 5.1(C)(1)&(2); 8.3(A)&(B); 8.4(a)(b)(c)(d)(e)(f)(g)&(h).

AMEND/SUPPLEMENT AS CLAIM NUMBER 9a:

¶39. Plaintiff(s)' specific factual allegation as to actions of Defendant - Jennifer M. Riedthaler a Lorain County Assistant Prosecutor employed by the County of Lorain, by her actions or non-actions in failing to protect Plaintiff(s) from acts of discrimination of Racial Profiling committed on June 14, 2011, 08:39:17 to 08:51:00 a.m.. These specific actions were performed under the color of law in . deliberate acts of infringements and encroachments were racially motivated and a part of an ongoing Sham Legal Process designed to deprive Plaintiff(s) of constitutional rights, privileges or immunities secured under provisions of the Fourth, Fifth, Eighth, and Fourteenth Amendments to the United States Constitution and Laws by her engaging in an overt act in furtherance of implementing policies of the Defendant - Ohio State Highway Patrol in place to discriminate against Citizens of Ohio and other States traveling on Ohio's Highway and Turn Pike because of their race on June 14, 2011-June 15, 2011-June 16, 2011-June 17, 2011-June 4, 2012-February 11, 2014-June 22, 2015-February 2, 2017-March 23, 2017, and continuing to date "April 11, 2017", also foreseeable and unforeseeable future injuries by this Defendant (Jennifer M. Riedthaler). Plaintiff(s) seeks to hold Defendant - Jennifer M. Riedthaler liable based on her role as a knowing or unknowing co-conspirator. Plaintiff(s) wish to supplement their original claim number 9, to include the specific factual allegation as to this Defendant - Jennifer M. Riedthaler. Because Plaintiff(s) have pleaded facts which, if proven, would entitle them to relief, dismissal is inappropriate. See Exhibit A through AAAE, of Plaintiff-1's Affidavit in Support of Request for Leave to File Appellant's Application

for Reopening of Direct Appeal; Also see Exhibit 7a; and Also see Ohio Rules of Professional Conduct (Prof.Cond.R.) 1.1; 1.2(a)(c)(d)&(e); 1.3; 1.4(a)(1)(2)(3)(4)(5), (B)&(C); 2.1; 3.4(a)(b)(d)&(e); 3.8(a)(b)(c)&(d); 4.1(A)&(B); 5.1(C)(1)&(2); 8.3(A)&(B); 8.4(a)(b)(c)(d)(e)(f)(g)&(h).

AMEND/SUPPLEMENT AS CLAIM NUMBER 10a:

¶40a. Plaintiff(s)' specific factual allegation as to actions of Defendant - Peter J. Gauthier a Lorain County Assistant Prosecutor employed by the County of Lorain, by his actions or non-actions in failing to protect Plaintiff(s) from acts of discrimination of Racial Profiling committed on June 14, 2011, 08:39:17 to 08:51:00 a.m.. These specific actions were performed under the color of law in deliberate acts of infringements and encroachments were racially motivated and a part of an ongoing **Sham Legal Process** designed to deprive Plaintiff(s) of constitutional rights, privileges or immunities secured under provisions of the Fourth, Fifth, Eighth, and Fourteenth Amendments to the United States Constitution and Laws by his engaging in an overt act in furtherance of implementing policies of the Defendant - Ohio State Highway Patrol in place to discriminate against Citizens of Ohio and other States traveling on Ohio's Highways and Turn Pike because of their race on June 14, 2011-June 15, 2011-June 16, 2011-June 17, 2011-June 4, 2012-February 11, 2014-June 22, 2015-February 2, 2017-March 23, 2017, and continuing to date "April 11, 2017", also foreseeable and unforeseeable future injuries by this Defendant (Peter J. Gauthier). Plaintiff(s) seeks to hold Defendant - Peter J. Gauthier liable based on his role as a knowing or unknowing co-conspirator. Plaintiff(s) wish to supplement their original claim number 10, to include the specific factual allegation as to this Defendant - Peter J. Gauthier. Because Plaintiff(s) have pleaded facts which, if proven, would entitle them to relief, dismissal is inappropriate. See Exhibit A through AAAE, of Plaintiff-1's Affidavit in Support of Request for Leave to File Appellant's Application for Reopening of Direct Appeal; Also se Exhibit 7a; and Also see Ohio Rules of Professional Conduct (Prof.Cond.R.) 1.1; 1.2(a)(c)(d)&(e); 1.3; 1.4(a)(1)(2)(3)(4)(5), (B)&(C); 2.1; 3.4

(a)(b)(d)&(e); 3.8(a)(b)(c)&(d); 4.1(A)&(B); 5.1(C)(1)&(2); 8.3(A)&(B); 8.4(a)(b)(c)(d)
(e)(f)(g)&(h).

AMEND/SUPPLEMENT AS CLAIM NUMBER 11a:

¶41a. Plaintiff(s)' specific factual allegation as to actions of Defendant - Laura Ann Dezort a Lorain County Assistant Prosecutor employed by the County of Lorain, by her actions or non-actions in failing to protect Plaintiff(s) from acts of discrimination of Racial Profiling committed on June 14, 2011, 08:39:17 to 08:51:00 a.m.. These specific actions were performed under the color of law in deliberate acts of infringement and encroachments were racially motivated and a part of an ongoing Sham Legal Process designed to deprive Plaintiff(s) of constitutional rights, privileges or immunities secured under provisions of the Fourth, Fifth, Eighth, and Fourteenth Amendments to the United States Constitution and Laws by her engaging in an overt act in furtherance of implementing policies of the Defendant - Ohio State Highway Patrol in place to discriminate against Citizens of Ohio and other States traveling on Ohio's Highways and Turn Pike because of their race on June 14, 2011-June 15, 2011-June 16, 2011-June 17, 2011-June 4, 2012-February 11, 2014-June 22, 2015-February 2, 2017-March 23, 2017, and continuing to date "April 11, 2017", also foreseeable and unforeseeable future injuries by this Defendant (Laura Ann Dezort). Plaintiff(s) seeks to hold Defendant - Laura Ann Dezort liable based on her role as a knowing or unknowing co-conspirator. Plaintiff(s) wish to supplement their original claim number 11, to include the specific factual allegation as to this Defendant - Laura Ann Dezort. Because Plaintiff(s) have pleaded facts which, if proven, would entitle them to relief, dismissal is inappropriate. See Exhibit A through AAAE, of Plaintiff-1's Affidavit in Support of Request for Leave to File Appellant's Application for Reopening of Direct Appeal; Also see Exhibit 7a; and Also see Ohio Rules of Professional Conduct (Prof.Cond.R.) 1.1; 1.2(a)(c)(d)&(e); 1.3; 1.4(a)(1)(2)(3)(4)(5), (B)&(C); 2.1; 3.4(a)(b)(d)&(e); 3.8(a)(b)(c)&(d); 4.1(A)&(B); 5.1(C)(1)&(2); 8.3(A)&(B); 8.4(a)(b)(c)(d)(e)(f)(g)&(h).

AMEND/SUPPLEMENT AS CLAIM NUMBER 12a:

¶42a. Plaintiff(s)' specific factual allegation as to actions of Defendant - Jack W. Bradley an attorney of law in the private practice of law in the State of Ohio, County of Lorain, by his actions or non-actions in failing to protect Plaintiff(s) from acts of discrimination of Racial Profiling committed on June 14, 2011, 08:39:17 to 08:51:00 a.m.. These specific actions were performed under the color of law in deliberate acts of infringements and encroachments were racially motivated and a part of an ongoing **Sham Legal Process** designed to deprive Plaintiff(s) of constitutional rights, privileges or immunities secured under provisions of the Fourth, Fifth, Sixth, and Fourteenth Amendments to the United States Constitution and Laws by his engaging in an overt act in furtherance of implementing policies of the Defendant - Ohio State Highway Patrol in place to discriminate against Citizens of Ohio and other States traveling on Ohio's Highways and Turn Pike because of their race on June 14, 2011-June 15, 2011-June 16, 2011-June 17, 2011-June 4, 2012-February 11, 2014-June 22, 2015-February 2, 2017-February 17, 2017-March 16, 2017, and continuing to date "April 11, 2017", also foreseeable and unforeseeable future injuries by this Defendant (Jack W. Bradley). Plaintiff(s) seeks to hold Defendant - Jack W. Bradley liable based on his role as a knowing or unknowing co-conspirator. Plaintiff(s) wish to supplement their original claim number 12, to include the specific factual allegation as to this Defendant - Jack W. Bradley. Because Plaintiff(s) have pleaded facts which, if proven, would entitle them to relief, dismissal is inappropriate. See Exhibits A through AAE, of Plaintiff-1's Affidavit in Support of Request for Leave to File Appellant's Application for Reopening of Direct Appeal; Also see Exhibits 3a and 3b; and Also see Ohio Rules of Professional Conduct (Prof.Cond.R.) 1.1; 1.2(a)(c)(d)&(e); 1.3; 1.4(a)(1)(2)(3)(4)(5), (B)&(C); 2.1; 3.4(a)(b)(d)&(e); 3.8(a)(b)(c)&(d); 4.1(A)&(B); 5.1(C)(1)&(2); 8.3(A)&(B); 8.4(a)(b)(c)(d)(e)(f)(g)&(h).

AMEND/SUPPLEMENT AS CLAIM NUMBER 13a:

¶43a. Plaintiff(s)' specific factual allegation as to actions of Defendant - Mark A.

Aufdenkampe an attorney of in the private practice of law in the State of Ohio, County of Lorain, by his actions or non-actions in failing to protect Plaintiff(s) from acts of discrimination of Racial Profiling committed on June 14, 2011, 08:39:17 to 08:51:00 a.m.. These specific actions were performed under the color of law in deliberate acts of infringements and encroachments were racially motivated and a part of an ongoing **Sham Legal Process** designed to deprive Plaintiff(s) of constitutional rights, privileges or immunities secured under provisions of the Fourth, Fifth, Sixth, and Fourteenth Amendments to the United States Constitution and Laws by his engaging in an overt act in furtherance of implementing policies of the Defendant - Ohio State Highway Patrol in place to discriminate against Citizens of Ohio and other States traveling on Ohio's Highways and Turn Pike because of their race on June 14, 2011-June 15, 2011-June 16, 2011-June 17, 2011-June 4, 2012-February 11, 2014-June 22, 2015-February 2, 2017-February 8, 2017, and continuing to date "April 11, 2017", also foreseeable and unforeseeable future injuries by this Defendant (Mark A. Aufdenkampe). Plaintiff(s) seeks to hold Defendant - Mark A. Aufdenkampe liable based on his role as a knowing or unknowing co-conspirator. Plaintiff(s) wish to supplement their original claim number 13, to include the specific factual allegation as to this Defendant - Mark A. Aufdenkampe. Because Plaintiff(s) have pleaded facts which, if proven, would entitle them to relief, dismissal is inappropriate. **See Exhibits A through AAAE, of Plaintiff-1's Affidavit in Support of Request for Leave to File Appellant's Application for Reopening of Direct Appeal; Also see Exhibit 1a; and Also see Ohio Rules of Professional Conduct (Prof.Cond.R.) 1.1; 1.2(a)(c)(d)&(e); 1.3; 1.4(a)(1)(2)(3)(4)(5), (B)&(C); 2.1; 3.1(a)(b)(d)&(e); 3.8(a)(b)(c)&(d); 4.1(A)&(B); 5.1(C)(1)&(2); 8.3(A)&(B); 8.4(a)(b)(c)(d)(e)(f)(g)&(h).**

AMEND/SUPPLEMENT AS CLAIM NUMBER 14a:

¶44a. Plaintiff(s)' specific factual allegation as to actions of Defendant - Paul A. Griffin an attorney of law in the private practice of law in the State of Ohio, County of Lorain, by his actions or non-actions in failing to protect Plaintiff(s) from acts of di-

discrimination of Racial Profiling committed on June 14, 2011, 08:39:17 to 08:51:00 a.m.. These specific actions were performed under the color of law in deliberate acts of infringements and encroachments were racially motivated and a part of an ongoing Sham Legal Process designed to deprive Plaintiff(s) of constitutional rights, privileges or immunities secured under provisions of the Fourth, Fifth, Sixth, and Fourteenth Amendments to the United States Constitution and Laws by his engaging in an overt act in furtherance of implementing policies of the Defendant - Ohio State Highway Patrol in place to discriminate against Citizens of Ohio and other States traveling on Ohio's Highways and Turn Pike because of their race on June 14, 2011-June 15, 2011-June 16, 2011-June 17, 2011-June 4, 2012-February 11, 2014-June 22, 2015-February 2, 2017-February 24, 2017-March 2, 2017, and continuing to date "April 11, 2017", also foreseeable and unforeseeable future injuries by this Defendant (Paul A. Griffin). Plaintiff(s) seeks to hold Defendant - Paul A. Griffin liable based on his role as a knowing or unknowing co-conspirator. Plaintiff(s) wish to supplement their original claim number 14, to include the specific factual allegation as to this Defendant - Paul A. Griffin. Because Plaintiff(s) have pleaded facts which, if proven, would entitle them to relief, dismissal is inappropriate. See Exhibits A through AAAE, of Plaintiff-1's Affidavit in Support of Request for Leave to File Appellant's Application for Reopening of Direct Appeal; Also see Exhibits 4a and 4b; and Also see Ohio Rules of Professional Conduct (Prof.Cond.R.) 1.1; 1.2(a)(c)(d)&(e); 1.3; 1.4(a)(1)(2)(3)(4)(5), (B)&(C); 2.1; 3.1(a)(b)(d)&(e); 3.8(a)(b)(c)&(d); 4.1(A)&(B); 5.1(C)(1)&(2); 8.3(A)&(B); 8.4(a)(b)(c)(d)(e)(f)(g)&(H).

AMEND/SUPPLEMENT AS CLAIM NUMBER 15a:

¶45a. Plaintiff(s)' specific factual allegation as to actions of Defendant - Paul A. Mancino, Jr. an attorney of law in the private practice of law in the State of Ohio, County of Cuyahoga, by his actions or non-actions in failing to protect Plaintiff(s) from acts of discrimination of Racial Profiling committed on June 14, 2011, 08:39:17 to 08:51:00 a.m.. These specific actions were performed under the color of law in deliberate acts of

infringements and encroachments were racially motivated and a part of an ongoing Sham Legal Process designed to deprive Plainti(s) of constitutional rights, privileges or immunities secured under provisions of the Fourth, Fifth, Sixth, and Fourteenth Amendments to the United States Constitution and Laws by his engaging in an overt act in furtherance of implementing policies of the Defendant - Ohio State Highway Patrol in place to discriminate against Citizens of Ohio and other States traveling on Ohio's Highways and Turn Pike because of their race on June 14, 2011-June 15, 2011-June 16, 2011-June 17, 2011- June 4, 2012-February 11, 2014-June 22, 2015-February 2, 2017-February 17, 2017-March 15, 2017, and continuing to date "April 11, 2017", also foreseeable and unforeseeable future injuries by this Defendant (Paul A. Mancino, Jr.). Plaintiff(s) seeks to hold Defendant - Paul A. Mancino, Jr. liable based on his role as a knowing or unknowing co-conspirator. Plaintiff(s) wish to supplement their original claim number 15, to include the specific factual allegation as to this Defendant - Paul A. Mancino, Jr.. Because Plaintiff(s) have pleaded facts which, if proven, would entitle them to relief, dismissal is inappropriate. See Exhibits A through AAAE, of Plaintiff-1's Affidavit in Support of Request for Leave to File Appellant's Application for Reopening of Direct Appeal; Also see Exhibits 2a and 2b; and Also see Ohio Rules of Professional Conduct (Prof.Cond.R.) 1.1; 1.2(a)(c)(d)&(e); 1.3; 1.4(a)(1)(2)(3)(4)(5), (B)&(C); 2.1; 3.1(a)(b)(d)&(e); 3.8(a)(b)(c)&(d); 4.1(A)&(B); 5.1(C)(1)&(2); 8.3(A)&(B); 8.4(a)(b)(c)(d)(e)(f)(g)&(h).

AMEND/SUPPLEMENT AS CLAIM NUMBER 16a:

¶146a. Plaintiff(s)' specific factual allegation as to actions of Defendant - Edward Zaleski is a Judge with the Court of Common Pleas for the County of Lorain, State of Ohio, by his actions or non-actions in failing to protect Plaintiff(s) from acts of discrimination of Racial Profiling committed on June 14, 2011, 08:39:17 to 08:51:00 a.m.. These specific actions were performed under the color of law in deliberate acts of infringements and encroachments were racially motivated and a part of an ongoing Sham Legal Process de-

signed to deprive Plaintiff(s) of constitutional rights, privileges or immunities secured under provisions of the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and Laws by his engaging in an overt act in furtherance of implementing policies of the Defendant - Ohio State Highway Patrol in place to discriminate against Citizens of Ohio and other States traveling on Ohio's Highways and Turn Pike because of their race on June 14, 2011-June 15, 2011-June 16, 2011-June 17, 2011-June 4, 2012-February 11, 2014-June 22, 2015-February 2, 2017-March 23, 2017, and continuing to date "April 11, 2017", also foreseeable and unforeseeable future injuries by this Defendant (Edward Zaleski [ret]). Plaintiff(s) seeks to hold Defendant - Edward Zaleski [ret] liable based on his role as a knowing or unknowing co-conspirator. Plaintiff(s) wish to supplement their original claim number 16, to include the specific factual allegation as to this Defendant - Edward Zaleski. Because Plaintiff(s) have pleaded facts which, if proven, would entitle them to relief, dismissal is inappropriate. See Exhibits A through AAEE, of Plaintiff-1's Affidavit in Support of Request for Leave to File Appellant's Application for Reopening of Direct Appeal; Also see Exhibit 7a; and Also see Ohio Rules of Professional Conduct (Prof.Conduct.R.) 1.1; 1.2(a)(c)(d)&(e); 1.3; 1.4(a)(1)(2)(3)(4)(5), (B)&(C); 2.1; 3.1(a)(b)(d)&(e); 3.8(a)(b)(c)&(d); 4.1(A)&(B); 5.1(C)(1)&(2); 8.3(A)&(B); 8.4(a)(b)(c)(d)(e)(f)(g)&(h); Ohio Supreme Court Rules for the Government of the Bar (Gov.Bar.R.), Gov.Bar.R. 1, Section 1(d)&(f); Gov.Bar.R. 3, Section 3(A)(C)&(D); Gov.Bar.R. 4, Section 1 & 2; Gov.Jud. 1, Sections 1 & 2; See also Canon 1, 1.1, 1.2, and 1.3; Canon 2, 2.1, 2.2, 2.4(a)(b)&(c), 2.5(a), 2.6(a)&(b), 2.7, 2.9(A), 2.10(A)(B)&(C), 2.11(a)(1)(5)&(7)(b), 2.12(A); and Canon 3, 3.1 (A)(C)&(D).

AMEND/SUPPLEMENT AS CLAIM NUMBER 17a:

¶47a. Plaintiff(s)' specific factual allegation as to actions of Defendant - John R. Miraldi is a Judge with the Court of Common Pleas for the County of Lorain, State of Ohio, by his actions or non-actions in failing to protect Plaintiff(s) from acts of discrimination

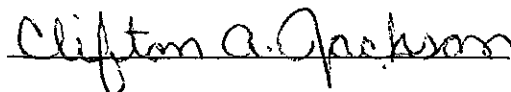
of Racial Profiling committed on June 14, 2011, 08:39:17 to 08:51:00 a.m.. These specific actions were performed under the color of law in deliberate acts of infringements and encroachments were racially motivated and a part of an ongoing Sham Legal Process designed to deprive Plaintiff(s) of constitutional rights, privileges or immunities secured under provisions of the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and Laws by his engaging in an overt act in furtherance of implementing policies of the Defendant - Ohio State Highway Patrol in place to discriminate against Citizens of Ohio and other States traveling on Ohio's Highways and Turn Pike because of their race on June 14, 2011-June 15, 2011-June 16, 2011-June 17, 2011-June 4, 2012-February 11, 2014-June 22, 2015-February 2, 2017-March 23, 2017, and continuing to date "April 11, 2017", also foreseeable and unforeseeable future injuries by this Defendant (John R. Miraldi). Plaintiff(s) seeks to hold Defendant - John R. Miraldi liable based on his role as a knowing or unknowing co-conspirator. Plaintiff(s) wish to supplement their original claim number 17, to include the specific factual allegation as to this Defendant - John R. Miraldi. Because Plaintiff(s) have pleaded facts which, if proven, would entitle them to relief, dismissal is inappropriate. See Exhibits A through AAAE, of Plaintiff-1's Affidavit in Support of Request for Leave to File Appellant's Application for Reopening of Direct Appeal; Also see Exhibit 7a; and Also see Ohio Rules of Professional Conduct (Prof.Con-
d.R.) 1.1; 1.2(a)(c)(d)&(e); 1.3; 1.4(a)(1)(2)(3)(4)(5), (B)&(C); 2.1; 3.1(a)(b)(d)&(e); 3.8(a)(b)(c)&(d); 4.1(A)&(B); 5.1(C)(1)&(2); 8.3(A)&(B); 8.4(a)(b)(c)(d)(e)(f)(g)&(h); Ohio Supreme Court Rules for the Government of the Bar (Gov.Bar.R.), Gov.Bar.R. 1, Section 1(d)&(f); Gov.Bar.R. 3, Section 3(A)(C)&(D); Gov.Bar.R. 4, Section 1 & 2; Gov.Jud. 1, Sections 1 & 2; See also Canon 1, 1.1, 1.2, and 1.3; Canon 2, 2.1, 2.2, 2.4(a)(b)&(c), 2.5(a), 2.6(a)&(b), 2.7, 2.9(A), 2.10(A)(B)&(C), 2.11(a)(1)(5)&(7)(b), 2.12(A); and Canon 3, 3.1(A)(C)&(D).

Plaintiff(s) have completed the necessary requested amendments and supplements requested and have also requested that the Plaintiff(s) be determined a Class Members, and with th-

at being stated, Plaintiff(s) have also included direct amendments to each Claim Numbers 1a through 17a and paragraphs 31a through 47a, which clearly details factual allegations of each Defendant(s) and their continuing actions which has continue to injure Plaintiff(s) to date, April 11, 2017.

WHEREFORE, Plaintiff(s) asserts that they are entitle to their day in Court, and prays that this Honorable Court will proceed to a jury trial as demanded by both parties so that the jury can settle once and for all the controversy between the two parties.

Respectfully submitted,



Clifton A. Jackson #A652-163

PLAINTIFF(S) CLASS MEMBERS

CERTIFICATE OF SERVICE WITH INSTRUCTIONS

Plaintiff(s) hereby certify that due to their indigency the original and one copy of the foregoing Plaintiffs' Request For Leave To Amend Their Complaint Pursuant To Fed.Civ. R. 15(a); And Leave To Supplement Their Complaint To Include Additional Injuries Which Have Happen Since The Date Of The Pleading Sought To Be Supple Pursuant To Fed.Civ.R. 15(d); And Class Action Status Pursuant To Fed.Civ.R. 23(a)&(b)(1)(a)(b), (2), and (3) was sent by regular U.S. Mail to: Office of the Clerk, UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF OHIO, 85 Marconi Boulevard, Columbus, Ohio 43215 this 11th day of April, 2017. Because of the Plaintiff(s) indigency, they are respectfully requesting the Clerk to serve a copy of the foregoing motion on each Defendant and their respective counsel to:

Clifton A. Jackson
Lake Erie Correctional Institution, # A652-163
501 Thompson Road
Conneaut, OH 44030

Alexander Jemison
117 Weaver Street
Buffalo, NY 14206

Amber Powlak
117 Weaver Street
Buffalo, NY 14206

Mason Jackson
117 Weaver Street
Buffalo, NY 14206

Moneh Fuller
117 Weaver Street
Buffalo, NY 14206

Roman Motley
117 Weaver Street
Buffalo, NY 14206

Elijah Fuller
117 Weaver Street
Buffalo, NY 14206

Lorrionna Jackson
117 Weaver Street
Buffalo, NY 14206

April Burns
8900 E Jefferson Avenue, Apt. 304
Detroit, MI 48214
Angel Burns Myles
8900 E Jefferson Avenue, Apt. 304
Detroit, MI 48214

Brenda Jackson
8900 E Jefferson Avenue, Apt. 304
Detroit, MI 48214

Jamel Pittman
8900 E Jefferson Avenue, Apt. 304
Detroit, MI 48214

Ohio State Highway Patrol
1970 W. Broad Street
P.O. Box 182074
Columbus, OH 43218-2074

State Trooper, Christopher Beyer
1970 W. Broad Street
P.O. Box 182074
Columbus, OH 43218-2074

State Trooper, Michael Trader
1970 W. Broad Street
P.O. Box 182074
Columbus, OH 43218-2074

State Trooper, K-9 Argo
1970 W. Broad Street
P.O. Box 182074
Columbus, OH 43218-2074

Jack W. Bradley, Esq.
520 Broadway, 3rd Fl.
Lorain, OH 44052

Mark A. Aufdenkampe, Esq.
33399 Walker Road, Suite A
Avon Lake, OH 44012

Paul A. Mancino, Jr., Esq.
75 Public Square, Suite 1016
Cleveland, OH 44113-2098

Benjamin C. Glassman
United States Attorney
Leah M. Wolfe
Assistant United States Attorney
303 Marconi Blvd., Suite 200
Columbus, OH 43215

Dennis P. Will
Lorain County Prosecutor
The Justice Center, 3rd Fl.
225 Court Street
Elyria, Ohio 44035

Mary Slanczka
Asst. Lorain County Prosecutor
The Justice Center, 3rd Fl.
225 Court Street
Elyria, Ohio 44035

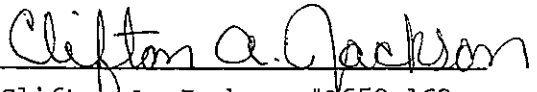
Jennifer M. Riedthaler
Asst. Lorain County Prosecutor
The Justice Center, 3rd Fl.
225 Court Street
Elyria, Ohio 44035

Peter J. Gauthier
Asst. Lorain County Prosecutor
The Justice Center, 3rd Fl.
225 Court Street
Elyria, Ohio 44035

Laura Ann Dezort
Asst. Lorain County Prosecutor
The Justice Center, 3rd Fl.
225 Court Street
Elyria, Ohio 44035

Edward Zaleski
Common Pleas Court Judge [ret]
The Justice Center, 7th Fl.
225 Court Street
Elyria, Ohio 44035

John R. Miraldi
Common Pleas Court Judge
The Justice Center, 7th Fl.
225 Court Street
Elyria, Ohio 44035


Clifton A. Jackson #A652-163

PLAINTIFF(S) CLASS MEMBERS

"Exhibit 1a"



Anspach Meeks Ellenberger LLP
175 S. Third Street, Suite 285
Columbus, OH 43215
t 614 745 8350
f 614 824 1624

February 8, 2017

Clifton A. Jackson #A652-163
Lake Erie Correctional Institution
501 Thompson Road/PO Box 8000
Conneaut, Ohio 44030

Re: Clifton A. Jackson, et al. v. Mark Aufdenkampe, Esq., et al.
Franklin County Case No. 17CV616
Our File No. C20170025

Dear Mr. Jackson:

Enclosed for your records is a service copy of Defendant Mark Aufdenkampe's Answer to Plaintiff's Complaint in connection with the above-captioned matter.

Very truly yours,

A handwritten signature in cursive script that reads "John C. Nemeth".

John C. Nemeth

JCN/ap
Enc.

IN THE COMMON PLEAS COURT OF FRANKLIN COUNTY, OHIO
CIVIL DIVISION

CASE NO. 17CVH-616

CLIFTON A. JACKSON, et al,

Plaintiff(s),

JUDGE DAVID YOUNG

v.

MARK A. AUFDENKAMPE, ESQ., et al.,

Defendant(s).

ANSWER OF DEFENDANT MARK AUFDENKAMPE, ESQ.
TO PLAINTIFF'S COMPLAINT
(WITH JURY DEMAND ENDORSED HEREON)

Now come Defendant Mark A. Aufdenkampe, Esq., by and through his undersigned counsel, and for his Answer to Plaintiff's Complaint makes the following admissions, denials, and sets forth these affirmative defenses.

First Defense

1. There has been an insufficiency of process and/or service of process upon this Defendant.

Second Defense

2. The court lacks personal jurisdiction of this answering Defendant.

Third Defense

3. Further answering, this Defendant specifically denies the allegations contained in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41 and 42 of Plaintiff's Complaint.

4. In response to the allegations contained in paragraph 43 of Plaintiff's Complaint, under claim number 13, this Defendant admits that he is an attorney licensed to practice law in the State of Ohio, but specifically denies each and every allegation throughout the remainder of paragraph 43.
5. Further answering, this Defendant denies the allegations contained in paragraphs 44, 45, 46, 47, 48 and 49 of Plaintiff's Complaint, as well as each and every allegation throughout Plaintiff's Complaint not previously and expressly admitted to be true.

Fourth Defense

6. Plaintiff's Complaint is barred by the applicable statute of limitations.

Fifth Defense

7. Plaintiff's Complaint fails to state a claim upon which relief can be granted.

Sixth Defense

8. Venue is improper in Franklin County, Ohio

Seventh Defense

9. As to all other named Plaintiffs in the Complaint not only is there a failure to state a claim upon which relief can be granted, but there is no prayer for relief in the Complaint, which is otherwise deficient under the Ohio Rules of Civil Procedure.

Eighth Defense

10. Plaintiffs claim in whole or in part is barred under the doctrine of laches, judicial estoppel, waiver and/or estoppel.

Ninth Defense

11. This Defendant reserves the right to further amend his answer and to raise additional affirmative defenses as ongoing investigation and discovery so warrant.

Wherefore, Defendant Mark Aufdenkampe, Esq. demands that the Complaint as to him be dismissed and that he recovers his costs, fees and expenses herein and any further relief deemed appropriate by the Court.

Respectfully submitted,

/s/John C. Nemeth
John C. Nemeth (0005670)
David A. Herd (0059448)
Anspach Meeks and Ellenberger LLP
175 S. Third Street, Suite 285
Columbus, OH 43215
Telephone: (614) 745-8350
jnemeth@anspach.com
dherd@anspach.com
Attorneys for Defendant Mark A.
Aufdenkampe, Esq.

JURY DEMAND

Now comes the Defendant, by and through his undersigned counsel, and hereby demands a jury to hear the within cause.

/s/John C. Nemeth
John C. Nemeth (0005670)
David A. Herd (0059448)

CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing was served by the court's electronic filing system and regular U.S. mail, postage pre-paid up on this 9th day of February 2017 upon:

Clifton A. Jackson #A652-163
Lake Erie Correctional Institution
501 Thompson Road/PO Box 8000

Conneaut, Ohio 44030
Pro Se Plaintiff

/s/John C. Nemeth
John C. Nemeth (0005670)
David A. Herd (0059448)



mark a aufdenkampe



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Mark A. Aufdenkampe, Llc | Facebook

<https://www.facebook.com> > Places > Avon Lake, Ohio > Workplace & Office >

Mark A. Aufdenkampe, Llc, Avon Lake, OH, United States. Mark A. Aufdenkampe, LLC specializes in wills, probate, estate planning, trusts, and more. We...

Mark A Aufdenkampe - Estate Planning Law - 33399 Walker Rd, Avon ...

<https://www.yelp.com> > Professional Services > Lawyers > Estate Planning Law >

Specialties: If you are in need of legal counsel in Avon Lake, OH, don't hesitate to call Mark A Aufdenkampe.

Mark A. Aufdenkampe, LLC in Avon Lake, OH 44012 - cleveland.com

<businessfinder.cleveland.com/mark-a-aufdenkampe-llc-avon-lake-oh.html> >

Mark A. Aufdenkampe, LLC at 33399 Walker Rd A, Avon Lake, OH 44012.

Mark A. Aufdenkampe, LLC Avon Lake, OH 44012 - YP.com

<www.yellowpages.com> > Attorneys near Avon Lake, OH >

Get reviews, hours, directions, coupons and more for Mark A. Aufdenkampe, LLC at 33399 Walker Road, Avon Lake, OH. Search for other Attorneys in Avon ...

Mark Aufdenkampe | LinkedIn

<https://www.linkedin.com/in/mark-aufdenkampe-863818ab>

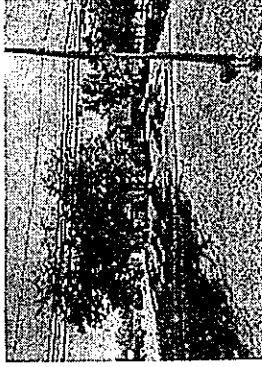
North Ridgeville, Ohio - Attorney - Mark A. Aufdenkampe, LLC

View Mark Aufdenkampe's professional profile on LinkedIn. LinkedIn is the world's largest business network, helping professionals like Mark Aufdenkampe ...

Mark Aufdenkampe Atty, Avon Lake OH 44012 | 440-653-5275

www.b2byellowpages.com > ... > Avon Lake, Ohio Local Services > Attorneys >

Mark Aufdenkampe Atty on Walker Rd is one of 29 Attorneys in Avon Lake OH 44012. Find phone, map, directions, website, coupons, reviews, hours.



Mark A. Aufdenkampe, LLC

Lawyer in Avon Lake, Ohio

Address: 33399 Walker Rd Suite A, Avon Lake, OH 44012

Phone: (440) 653-5275

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**IN THE UNITED DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**CASE NO. 2:17-CV-163
(CHIEF JUDGE EDMUND A. SARGUS, JR.)
MAGISTRATE JUDGE JOLSON**

CLIFTON JACKSON, et al.

Plaintiffs,

vs.

OHIO STATE HIGHWAY PATROL
et al.

Defendants.

SEPARATE ANSWER
OF PAUL MANCINO, JR

*

*

*

1. Now comes defendant, Paul Mancino, Jr., and incorporates by reference the answer that was submitted to the Court of Common Pleas of Franklin County when this case was pending in that court.

2. Defendant incorporates the answer which is attached hereto.

3. In further answering the complaint defendant incorporates by reference the affirmative defenses filed in connection with this case filed on behalf of defendant Paul A. Griffin, my attorney Acacia M. Perko from Reminger Co., LPA.

WHEREFORE, defendant prays that the complaint be dismissed and that he go hence with his cause and reasonable attorney fees.

s/ paul mancino, jr.
PAUL MANCINO, JR. #0015576
Attorney for Defendant
Paul Mancino, Jr.
75 Public Square, #1016
Cleveland, Ohio 44113-2098
(216) 621-1742
(216) 621-8465 (Fax)
E-mail: pmi05@sbcglobal.net

SERVICE

A copy of the foregoing **Separate Answer of Defendant Paul Mancino, Jr.**, has been sent Clifton A. Jackson, #A652-163, 501 Thomson Road, P.O. Box 8000, Conneaut, Ohio 44030, on this 15th day of March, 2017.

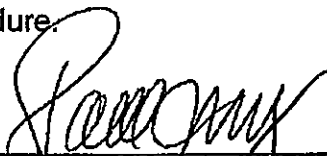
s/paul mancino. jr
PAUL MANCINO, JR. (0015576)
Attorney for Defendant
Paul Mancino, Jr.
E-mail: pmj05@sbcglobal.net

7. Defendant further states that he is not an agent of the state but is involved in the private practice of law in Cuyahoga County, Ohio.

8. Moreover, defendant further states that this matter is improperly venued in Franklin County, Ohio as the undersigned has performed any actions in Franklin County, Ohio and any contact with the defendant was from Cuyahoga County, Ohio.


9. Defendant further reserves the right to raised any additional defenses that may appear during the course of the proceedings.

WHEREFORE defendant prays that the case be dismissed and that the defendant recover his cost together with reasonable attorney fees for this frivolous filing in accordance with Rule 11 of the Ohio Rules of Civil Procedure.


PAUL MANCINO, JR. #0015576
Attorney for Defendant
Paul Mancino, Jr.
75 Public Square, #1016
Cleveland, Ohio 44113-2098
(216) 621-1742

SERVICE

A copy of the foregoing **Separate Answer of Defendant Paul Mancino, Jr.** has been sent Clifton A. Jackson, #A652-163, 501 Thomson Road, P.O. Box 8000, Conneaut, Ohio 44030, on this 17th day of February, 2017.


s/paul mancino, jr
PAUL MANCINO, JR. (0015576)
Attorney for Defendant
Paul Mancino, Jr.

**IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO**

CLIFTON A. JACKSON, ET AL.	)	CASE NO. 17CV000616
)	
Plaintiffs	)	JUDGE DAVID C. YOUNG
)	
vs.)	
	)	<u>NOTICE OF APPEARANCE</u>
OHIO STATE HIGH PATROL, ET AL.	)	<u>LEAVE TO PLEAD</u>
)	
Defendants.)	

Now comes Defendant, Jack W. Bradley, by and through the undersigned counsel, and hereby respectfully notifies the Court and all parties that Anthony B. Giardini of ANTHONY B. GIARDINI CO., L.P.A., 520 Broadway Avenue, Third Floor, Lorain, Ohio 44052, will serve as counsel of record for said Defendant in the within matter. Please direct all future notices, pleadings, and correspondence to said counsel.

In addition, Defendant hereby respectfully moves this Honorable Court for an extension of time in which to plead or otherwise defend, pursuant to Ohio Civil Rule 6(B), until March 23, 2017.

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

CLIFTON A. JACKSON, ET AL.	)	CASE NO. 17CV000616
)	
Plaintiffs	)	JUDGE DAVID C. YOUNG
)	
vs.)	
	)	<u>NOTICE OF APPEARANCE</u>
OHIO STATE HIGH PATROL,	)	<u>LEAVE TO PLEAD</u>
ET AL.)	
)	
Defendants.)	

Now comes Defendant, Jack W. Bradley, by and through the undersigned counsel, and hereby respectfully notifies the Court and all parties that Anthony B. Giardini of ANTHONY B. GIARDINI CO., L.P.A., 520 Broadway Avenue, Third Floor, Lorain, Ohio 44052, will serve as counsel of record for said Defendant in the within matter. Please direct all future notices, pleadings, and correspondence to said counsel.

In addition, Defendant hereby respectfully moves this Honorable Court for an extension of time in which to plead or otherwise defend, pursuant to Ohio Civil Rule 6(B), until March 23, 2017.

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CLIFTON A. JACKSON, ET AL.	)	CASE NO. 2:17-cv-163
)	
Plaintiffs	)	CHIEF JUDGE EDMUND A. SARGUS
	)	MAGISTRATE JUDGE JOLSON
vs.)	
	)	<u>DEFENDANT JACK W.</u>
OHIO STATE HIGH PATROL,	)	<u>BRADLEY'S MOTION</u>
ET AL.	)	<u>TO DISMISS</u>
	)	[RULE 12(B)(6)]
Defendants.)	

Now comes Defendant, Jack W. Bradley, by and through the undersigned counsel, and moves this Honorable Court for an order dismissing the Plaintiffs' Complaint against this Defendant on the grounds that the Complaint fails to state a cause of action upon which relief can be granted as to Defendant Bradley, who is an attorney at law, in private practice, and does not now, nor has he ever held a governmental position. Defendant Bradley could not and did not act under color of law, which is a necessary element of Plaintiffs' Complaint against Defendant Bradley. The Complaint fails to state any operative facts against Bradley, which could form the basis of a claim.

This motion is made pursuant to Rule 12(B)(6) of the Federal Rules of Civil Procedure.

Respectfully submitted,

ANTHONY B. GIARDINI CO., L.P.A.

/s/Anthony B. Giardini

ANTHONY B. GIARDINI, # 0006922
Attorney for Defendant Jack W. Bradley
520 Broadway, Third Floor
Lorain, OH 44052
PH: (440) 246-2665
FX: (440) 246-2670

CERTIFICATE OF SERVICE

A copy of the foregoing Notice of Appearance Leave to Plead was served upon the following by regular U.S. Mail this 17th day of February, 2017:

Clifton A. Jackson, #A652-163
Lake Erie Correctional Institution
501 Thompson Road
P.O. Box 8000
Conneaut, Ohio 44030
Plaintiff

Alexander Jemison
117 Weaver Street
Buffalo, New York 14206
Plaintiff

Amber Powlak
117 Weaver Street
Buffalo, New York 14206
Plaintiff

Mason Jackson
117 Weaver Street
Buffalo, New York 14206
Plaintiff

Moneh Fuller
117 Weaver Street
Buffalo, New York 14206
Plaintiff

Drug Enforcement Administration (DEA)
Special Agent, Geno Taliano
1375 E. 9th Street, Suite 700
Cleveland, Ohio 44114
Defendant

Drug Enforcement Administration (DEA)
Special Agent, Caitlin Szczepinski
1375 E. 9th Street, Suite 700
Cleveland, Ohio 44114
Defendant

Dennis Will, Lorain County Prosecutor
The Justice Center
225 Court Street, Third Floor
Elyria, Ohio 44035
Defendant

Mary Slanczka, Lorain County Asst. Prosecutor
The Justice Center
225 Court Street, Third Floor
Elyria, Ohio 44035
Defendant

Roman Motley
[REDACTED]
Buffalo, New York [REDACTED]
Plaintiff

Elijah Fuller
[REDACTED]
Buffalo, New York [REDACTED]
Plaintiff

Lorrionna Jackson
[REDACTED]
Buffalo, New York [REDACTED]
Plaintiff

April Burns
[REDACTED]
Detroit, Michigan [REDACTED]
Plaintiff

Angel Burns Myles
[REDACTED]
Detroit, Michigan [REDACTED]
Plaintiff

Brenda Jackson
[REDACTED]
Detroit, Michigan [REDACTED]
Plaintiff

Jamel Pittman
[REDACTED]
Detroit, Michigan [REDACTED]
Plaintiff

Ohio State Highway Patrol
1970 W. Broad Street
P.O. Box 182074
Columbus, Ohio 43218-2074
Defendant

Jennifer M. Riedthaler
Lorain County Asst. Prosecutor
The Justice Center
225 Court Street, Third Floor
Elyria, Ohio 44035
Defendant

Peter J. Gauthier
Lorain County Asst. Prosecutor
The Justice Center
225 Court Street, Third Floor
Elyria, Ohio 44035
Defendant

Laura Ann Dezort
Lorain County Asst. Prosecutor
The Justice Center
225 Court Street, Third Floor
Elyria, Ohio 44035
Defendant

Mark A. Aufdenkampe, Esq.
33399 Walker Road, Suite A
Avon Lake, Ohio 44012
Defendant

Paul A. Griffin, Esq.
600 Broadway, 2nd Floor
Lorain, Ohio 44052
Defendant

Paul A. Mancino, Jr., Esq.
75 Public Square, Suite 1016
Cleveland, Ohio 44113-2098
Defendant

The Honorable Edward Zaleski
Judge of the Lorain County
Common Pleas Court
The Justice Center
225 Court Street, 7th Floor
Elyria, Ohio 44035
Defendant

Trooper Christopher Beyer
Ohio State Highway Patrol
1970 W. Broad Street
P.O. Box 182074
Columbus, Ohio 43218-2074
Defendant

Michael Trader
Ohio State Highway Patrol
1970 W. Broad Street
P.O. Box 182074
Columbus, Ohio 43218-2074
Defendant

K-9 Argo
Ohio State Highway Patrol
1970 W. Broad Street
P.O. Box 182074
Columbus, Ohio 43218-2074
Defendant

The Honorable John R. Miraldi
Judge of the Lorain County
Common Pleas Court
The Justice Center
225 Court Street, 7th Floor
Elyria, Ohio 44305
Defendant

/s/Anthony B. Giardina
ANTHONY B. GIARDINA
Attorney for Defendant Jack W. Bradley



Acacia M. Perko
Direct Dial (614) 232-2628
aperko@reminger.com

February 24, 2017

Clifton A. Jackson #A652-163
Lake Erie Correctional Institution
501 Thompson Road / P.O. Box 8000
Conneaut, OH 44030

Amber Powlak

Buffalo, NY

Moneh Fuller

Buffalo, NY

Elijah Fuller

Buffalo, NY

April Burns

Detroit, MI

Brenda Jackson

Detroit, MI

Ohio State Highway Patrol
1970 West Broad Street
P.O. Box 182074
Columbus, OH 43218-2074

State Trooper Michael Trader
1970 West Broad Street
P.O. Box 182074
Columbus, OH 43218-2074

Drug Enforcement Administration (DEA)
Special Agent Geno Taliano
1375 E. 9th Street, Suite 700
Cleveland, OH 44114

Alexander Jemison

Buffalo, NY

Mason Jackson

Buffalo, NY

Roman Motley

Buffalo, NY

Lorrionna Jackson

Buffalo, NY

Angel Burns Myles

Detroit, MI

Jamel Pittman

Detroit, MI

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State Trooper K-9 Argo
1970 West Broad Street
P.O. Box 182074
Columbus, OH 43218-2074

Drug Enforcement Administration (DEA)
Special Agent Caitlin Szczepinski
1375 E. 9th Street, Suite 700
Cleveland, OH 44114



Lorain County Prosecutor, Dennis P. Will
The Justice Center, 3rd Floor
225 Court Street
Elyria, OH 44035

Lorain County Assistant Prosecutor
Mary Slanczka
The Justice Center, 3rd Floor
225 Court Street
Elyria, OH 44035

Lorain County Assistant Prosecutor
Jennifer M. Riedthaler
The Justice Center, 3rd Floor
225 Court Street
Elyria, OH 44035

Lorain County Assistant Prosecutor
Peter J. Gauthier
The Justice Center, 3rd Floor
225 Court Street
Elyria, OH 44035

Lorain County Assistant Prosecutor
Laura Ann Dezort
The Justice Center, 3rd Floor
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Elyria, OH 44035

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520 Broadway, Third Floor
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33399 Walker Road, Ste. A
Avon Lake, OH 44012

Paul A. Mancino, Jr., Esq.
75 Public Square, Suite 1016
Cleveland, OH 44113-2098

Edward Zaleski, Retired Judge
The Justice Center, 7th Floor
225 Court Street
Elyria, OH 44035

John R. Miraldi, Judge
The Justice Center, 7th Floor
225 Court Street
Elyria, OH 44035

Re: Clifton A. Jackson v. Ohio State Highway Patrol, et al.
Franklin County Common Pleas Court, Case No. 17CV-01-616

Dear Parties,

Enclosed please find copies of both my entry of appearance and answer which I have filed with the Court today on behalf of my client, Paul A. Griffin in the above-captioned case.

Very truly yours,

REMINER CO., LPA

Acacia M. Perko
Acacia M. Perko

AMP/sf
Enclosures (2)

CERTIFICATE OF SERVICE

A copy of the foregoing has been forwarded by the Franklin County Clerk of Court's e-file notification service and/or by regular 1st Class U.S. mail on this 24th day of February, 2017 to the following:

Clifton A. Jackson #A652-163
Lake Erie Correctional Institution
501 Thompson Road / P.O. Box 8000
Conneaut, OH 44030

Alexander Jemison
[REDACTED]
Buffalo, NY [REDACTED]

Amber Powlak
[REDACTED]
Buffalo, NY [REDACTED]

Mason Jackson
[REDACTED]
Buffalo, NY [REDACTED]

Moneh Fuller
[REDACTED]
Buffalo, NY [REDACTED]

Roman Motley
[REDACTED]
Buffalo, NY [REDACTED]

Elijah Fuller
[REDACTED]
Buffalo, NY [REDACTED]

Lorrionna Jackson
[REDACTED]
Buffalo, NY [REDACTED]

April Burns
[REDACTED]
Detroit, MI [REDACTED]

Angel Burns Myles
[REDACTED]
Detroit, MI [REDACTED]

Brenda Jackson
[REDACTED]
Detroit, MI [REDACTED]

Jamel Pittman
[REDACTED]
Detroit, MI [REDACTED]

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Drug Enforcement Administration (DEA)
Special Agent Geno Taliano
1375 E. 9th Street, Suite 700

Drug Enforcement Administration (DEA)
Special Agent Caitlin Szczepinski
1375 E. 9th Street, Suite 700



Acacia M. Perko
Direct Dial (614) 232-2628
aperko@reminger.com

March 2, 2017

Clifton A. Jackson #A652-163
Lake Erie Correctional Institution
501 Thompson Road / P.O. Box 8000
Conneaut, OH 44030

Alexander Jemison
[REDACTED]
Buffalo, NY [REDACTED]

Amber Powlak
[REDACTED]
Buffalo, NY [REDACTED]

Mason Jackson
[REDACTED]
Buffalo, NY [REDACTED]

Moneh Fuller
[REDACTED]
Buffalo, NY [REDACTED]

Roman Motley
[REDACTED]
Buffalo, NY [REDACTED]

Elijah Fuller
[REDACTED]
Buffalo, NY [REDACTED]

Lorrionna Jackson
[REDACTED]
Buffalo, NY [REDACTED]

April Burns
[REDACTED]
Detroit, MI [REDACTED]

Angel Burns Myles
[REDACTED]
Detroit, MI [REDACTED]

Brenda Jackson
[REDACTED]
Detroit, MI [REDACTED]

Jamel Pittman
[REDACTED]
Detroit, MI [REDACTED]

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75 Public Square, Suite 1016
Cleveland, OH 44113-2098

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The Justice Center, 7th Floor
225 Court Street
Elyria, OH 44035

John R. Miraldi, Judge
The Justice Center, 7th Floor
225 Court Street
Elyria, OH 44035

Leah H. Wolfe, Esq.
Assistant U.S. Attorney
303 Marconi Blvd., Ste. 200
Columbus, OH 43215

Re: Jackson, et al. v. Ohio State Highway Patrol, et al.
United States District, Southern District of Ohio,
Eastern Division
Case No. 2:17-cv-163
Our File No. 5955-23130C

Gentlepeople:

Enclosed please find copies of the following pleadings which we have caused to be filed with the Court today in the above-captioned case:

1. Notice of Appearance of Counsel on behalf of defendant Paul A. Griffin; and
2. Defendant Paul A. Griffin's Answer and Affirmative Defenses.

Very truly yours,

REMINGER CO., LPA

Acacia M. Perko

Acacia M. Perko

AMP/sf
Enclosures (2)



MIKE DEWINE

★ OHIO ATTORNEY GENERAL ★

Executive Agencies
30 E. Broad St., 26th Floor
Columbus, OH 43215
614-466-2980
614-728-9470 Fax

www.OhioAttorneyGeneral.gov

February 24, 2017

Clifton Jackson
Lake Eire Correctional Institution
501 Thompson Road
P.O. Box 8000
Conneaut, OH 44030

*RE: Clifton Jackson, et al. v. Ohio State Hwy Patrol, et al.
Case No. 2:17-cv-00163*

Dear Mr. Jackson:

Enclosed please find Ohio State Highway Patrol Defendants' Answer to Complaint.

Very truly yours,

MIKE DEWINE
Ohio Attorney General

Morgan A. Linn/smh

MORGAN A. LINN
Assistant Attorney General
(614) 752-4797

MAL/smh
Enclosures

cc: all parties of record

State of Ohio HP-26 10-0157-00 Rev. 09/01/2003	CAD Number: LRP110614000975	INCIDENT NUMBER 11 010115 1080	INCIDENT TYPE Offense
NATURE CODE: 690 Illegal Narcotics or Drugs(Excluding Marijuana)		CLEARANCE CODE: F	COMPLETION DATE: 6/30/2014
GEO CODE: Interstate Route (Turnpike is also IR)		A DEATH OF OFFENDER B PROSECUTION DECLINED C EXTRADITION DECLINED D VICTIM REFUSED TO COOPERATE E JUVENILE / NO CUSTODY F ARREST - ADULT	
Detailed GEO Code: Other		G ARREST - JUVENILE H WARRANT ISSUED I INVESTIGATION PENDING J CLOSED K UNFOUNDED U UNKNOWN Z COLD CASE	
TOD: 00:00		CLEARANCE DATE/TIME 6/14/2011 12:00	
TOA: 00:00		CLEARED BY 0700	
SPECIAL SECTION:			



Ohio State Highway Patrol
Initial Incident Report

REPORT DATE / TIME				INCIDENT OCCURED FROM				INCIDENT OCCURED TO				
MONTH	DAY	YEAR	TIME	MONTH	DAY	YEAR	TIME	MONTH	DAY	YEAR	TIME	
6	14	2011	08:44	6	14	2011	08:44	6	14	2011	12:00	
COUNTY: Lorain County				FIPS Code: (6568) Brownhelm (Township of)								
INCIDENT LOCATION / REF PT. (Street, Apt, City, State, Zip): Ohio Turnpike, MP 135, Vermillion, Ohio - 44089				LATITUDE		LONGITUDE		K9 USED Yes, CSP and Other Answer		TYPE OF SEARCH: Probable Cause		

OFFENSE (OFFENSE CODE)	Count	High Rate	A/C	F/M/A Degree	P	TYPE/CRIMINAL ACTIVITY
(2925.14) Possession of Drugs	1	N	C	F-1	P	(ENTER UP TO 3 FOR EACH OFFENSE) B - BUYING / RECEIVING C - CULTIVATING/MANUFACTURING/PUB D - DISTRIBUTING / SELLING E - EXPLOITING CHILDREN G - OTHER GANG J - JUVENILE GANG N - NO GANG INVOLVED O - OPERATING/PROMOTING/ASSISTING P - POSSESSING / CONCEALING T - TRANSPORTING / TRANSMITTING U - USING / CONSUMING
(2923.24) Possessing Criminal Tools	1	N	C	F-5		
(2925.03) Trafficking In Drugs	1	N	C	F-1	P	

LOCATION OF THE OFFENSE				TARGET TYPE
47	COMMERCIAL LOCATIONS	32 Clothing Store 33 Drug Store 34 Liquor Store 35 Shopping Mall 36 Sporting Goods 37 Grocery / Supermarket 38 Variety / Convenience 39 Department Store 40 Other Retail Store 41 Factory / Mill / Plant 42 Other Building	51 Public Transit Vehicle 52 Other Outside Location	28A Pocket Picking 28B Purse Snatching 28C Shoplifting 28D Theft from building 28E Theft from Coin-Op Machine 28F Theft from Motor Vehicle 28G Motor Vehicle Parts/Access 28H Theft of Motor Vehicle 28H Other
RESIDENTIAL STRUCTURE	15 Auto Shop 16 Financial Institution 17 Barber / Beauty Shop 18 Hotel / Motel 19 Dry Cleaners / Laundry 20 Professional Office 21 Doctor's Office 22 Other Business Office 23 Amusement Center 24 Rental Storage Facility 25 Other Commercial Service	43 Yard 44 Construction Site 45 Lake / Waterway 46 Fields / Woods 47 Street 48 Parking Lot 49 Park / Playground 50 Cemetery	53 Abandoned/Condemned Structure 54 Amusement Park 55 Arena/Stadium/Fairgrounds/Colliseum 56 ATM Machine Separate From Bank 57 Camp/Campground 58 Cargo Container 59 Daycare Facility 60 Dock/Wharf/Freight/Modal Terminal 61 Farm Facility 62 Gambling Facility/Casino/Race Track 63 Military Installation 64 Rest Area 65 Shelter/Misery/Homeless 66 Tribal Lands 67 Library 68 Other Location	28I Reported or Suspected of Using
PUBLIC ACCESS BUILDING	RETAIL 26 Bar 27 Buy / Sell / Trade Shop 28 Restaurant 29 Gas Station 30 Auto Sales Lot 31 Jewelry Store			<input type="checkbox"/> ALCOHOL <input type="checkbox"/> DRUGS <input type="checkbox"/> COMPUTER EQUIP <input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> CARGO THEFT

METHOD OF OPERATION:											
METHOD OF ENTRY		METHOD OF ENTRY - BURGLARY / B&E				METHOD OF ENTRY - MOTOR VEHICLE THEFT					
<input type="checkbox"/> Force <input type="checkbox"/> No Force	No. Promises Entered 0	ENTRY	EXIT	ENTRY	EXIT	ENTRY	EXIT	01 MOTOR RUNNING/ KEYS IN CAR 02 UNLOCKED 03 DUPLICATE KEY USED 04 WINDOW BROKEN 05 TOWED 06 HOT WIRED 07 SLIM JIM/GOAT HANGER 08 TUMBLERS REMOVED 09 COLUMN PEELED 10 IGNITION PEELED			
		1 BASEMENT 2 1ST FLOOR 3 2ND FLOOR 4 OTHER 5 UNKNOWN	1 DOOR 2 WINDOW 3 GARAGE 4 SKYLIGHT 5 OTHER 6 UNKNOWN	1 FRONT 2 SIDE 3 REAR 4 ROOF 5 OTHER 6 UNKNOWN							
TYPE OF WEAPON FORCE:		None									
REQUESTING AGENCY:											

REPORTING OFFICER: Tpr. CHRISTOPHER H BEYER	UNIT NUMBER: 0700	DATE: 6/14/2011
APPROVING OFFICER: Sgt. ANTHONY L DECHOUDENS	UNIT NUMBER: 0696	DATE: 1/19/2014

State of Ohio
HP-26
10-0167-00
Rev. 08/01/2003



Ohio State Highway Patrol Initial Incident Summary

INCIDENT NO. 11 010115 1090	REPORT DATE / TIME 6/14/2011 08:44	PHOTO POUCH NO.
--------------------------------	---------------------------------------	-----------------

Incident Summary

Vehicle was stopped for a traffic violation. A K-9 responded to the scene and subsequently indicated on the vehicle. A probable cause search of the vehicle revealed illegal narcotics in the vehicle. Driver was charged and incarcerated at Lorain County Jail.

Reporting Officer: Tpr. CHRISTOPHER H BEYER	Unit No: 0700	Date: 6/14/2011
Approving Officer: Sgt. ANTHONY L DECHOUDENS	Unit No: 0898	Date: 1/16/2014

State of Ohio
 HP-2450S
 10-0157-50
 Rev. 08/01/2003



Ohio State Highway Patrol
 REPORT OF INVESTIGATION
 Suspect / Arrest Report

INCIDENT NUMBER
 11 010115 1090
 REPORT DATE/TIME
 6/14/2011 05:44

TOTAL SUSPECTS: 1

NO. Adult Juvenile Unknown Business
 CHECK APPROPRIATE CATEGORY 3
 Suspect Arrestee Suspect/Arrestee Runaway Missing Other
 CHARGES FILED
 YES NO

NAME: (Last, First, Middle): Jackson, Clifton, A
 SSN: [REDACTED]
 ALIAS:
 GANG AFFILIATION:
 ADDRESS: 47 Oxford St, Upper Buffalo, NY - 14209
 PHONE #: 7165633782
 EMPLOYER NAME & ADDRESS:
 PHONE #:
 PLACE OF BIRTH: Buffalo
 DRIVER'S LICENSE # & STATE: 171445740 NY
 STATE EMPLOYEE: YES NO
 OCCUPATION/SCHOOL: Collections

AGE / DOB: 42 3/5/1969
 GENDER: M
 RACE: Black, Non-Hispanic Origin
 HEIGHT: 5ft 8in
 WEIGHT: 265
 HAIR: Black
 EYES: Brown
 MARITAL STATUS: Single

ADDITIONAL DESCRIPTION:
 SCARS, MARKS, TATTOOS:
 1) 2) 3) 4) 5)
 RESIDENT CODE: RESIDENT TOURIST MILITARY STUDENT
 OTHER UNKNOWN NOT REPORTED

POTENTIAL INJURIES:
 TYPE WEAPON FORCE USED:

NAME	ADDRESS (St, Apt, City, State, Zip)	PHONE	RELATION

ARREST/OFFENSE DESCRIPTION	ARREST/OFFENSE CODE	COURT	CRIM. DEGREE	DISPOSITION	LARCENY	ARREST/LARCENY TYPE
Possession of Drugs	2926.11	1	F-1	Dismissed		23A POCKET PICKING 23B PURSE SNATCHING 23C SHOP LIFTING 23D THEFT FROM BUILDING 23E THEFT FROM COIN-OP MACHINE 23F THEFT FROM MOTOR VEHICLE 23G MOTOR VEH. PARTS/ACCESSORIES 240 THEFT OF MOTOR VEHICLE 23H OTHER
Trafficking in Drugs	2925.03	1	F-1	Guilty		
Possessing Criminal Tools	2923.24	1	F-5	Reduced		

WARRANT NUMBER	WARRANT DESCRIPTION	WARRANT NUMBER	WARRANT DESCRIPTION
1.		2.	
3.		4.	

ARREST DATE: 01/14/2011
 TIME: 08:44
 ARREST LOCATION (Street, Apt., City, State, Zip): Ohio Turnpike, MP 135, Vermillion OH, 44089
 CITATION NUMBER: Z928922

ARRESTEE ARMED WITH:
 1. None
 2.
 3.

ARREST DISPOSITION: Stated / Incarcerated
 BAIL: \$0.00

FINGER PRINTED: YES NO
 THUMB PRINTED: YES NO
 DNA TAKEN:
 ITN NUMBER:
 FBI/BCI #:

MULTIPLE ARRESTEE SEQUENTS INDICATOR
 COUNT ARRESTEE MULTIPLE ARRESTEE INDICATOR N/A

ARREST TYPE:
 Complaint Crime In Progress Warrant
 Court Summons/Citation Order Of Protection Other

COURT: COURT DATE: 6/14/2011

JAIL SENTENCE: YEARS: 11.00 DAYS: 0.00

JUVENILE INFORMATION

JUVENILE'S PARENT/GUARDIAN NOTIFIED: YES NO
 DATE/TIME NOTIFIED: NOTIFIED BY:
 JUVENILE DISPOSITION:

PARENT / GUARDIAN NAME & ADDRESS: PHONE: RELATIONSHIP:

PARENT / GUARDIAN NAME & ADDRESS: PHONE: RELATIONSHIP:

DATE OF LAST CONTACT: DATE OF EMANCIPATION: NCIC:

LAST SEEN WEARING:

REPORTING OFFICER: Tpr. CHRISTOPHER H BEYER
 APPROVING OFFICER: Sgt. ANTHONY L DECHOUDENS
 UNIT NUMBER: 0700
 UNIT NUMBER: 0696
 DATE: 6/14/2011
 DATE: 1/16/2014

State of Ohio
 HP-24VEH
 10-0157-50
 Rev. 08/01/2003



Ohio State Highway Patrol
 REPORT OF INVESTIGATION
 Vehicle Report

INCIDENT NUMBER 11 010115 1020
REPORT DATE/TIME 6/14/2011 08:44

VEHICLE INFORMATION									
CHECK CATEGORIES <input type="checkbox"/> Abandoned <input type="checkbox"/> Impounded <input type="checkbox"/> Stolen <input type="checkbox"/> Received <input type="checkbox"/> Recovered <input type="checkbox"/> Used In A Commission of a Crime <input type="checkbox"/> N/A									
LICENSE GSC0641	LIC STATE PA	VEHICLE IDENTIFICATION NUMBER / OAN 4T1BF3EK1AU100634			NCIC NO.	STOLEN OPTION		IS VEHICLE LOCATED <input type="checkbox"/> YES <input type="checkbox"/> NO	VEHICLE NO. 1
VALUE 10000.00	VEH YR. 2010	MAKE Toyota	MODEL Camry	STYLE 4dr	VEHICLE COLOR TOP Silver BOTTOM Silver		TRACK TYPE		
OWNER NAME & ADDRESS (Street, City, State, Zip) Rent A Car Hertz & 19601 Maplewood Ave, , Cleveland, PA - 44135								PHONE 2162678900	
VEH. ASSOC. W/ SUSPECT # 1		VEH. ASSOC. W/ VICTIM #		TOWED BY :		OWNER VERIFIED BY : Registration			
ADDITIONAL DESCRIPTION								DATE TIME NOTIFIED	

REPORTING OFFICER: Tpr. CHRISTOPHER H BEYER	UNIT NUMBER: 0700	DATE: 0/14/2011
APPROVING OFFICER: Sgt. ANTHONY L DECHOUDENS	UNIT NUMBER: 0695	DATE: 1/10/2014

State of Ohio
 HP-34PRO
 10-0157-50
 Rev. 03/01/2003



Ohio State Highway Patrol
 REPORT OF INVESTIGATION
 Property Report

INCIDENT NUMBER 11 010115 1080
REPORT DATE/TIME 6/14/2011 08:44

TYPE PROPERTY LOSS (ENTER CODES BELOW)	1 NONE 2 BURNED	3. COUNTERFEITED / FORGED 4. DESTROYED / DAMAGED / VANDALIZED & SEIZED	5. STOLEN / ETC 6. SEIZED	7. RECOVERED 8. DAMAGED	E EVIDENCE F FOUND	P PHOTO L LOST	U UNKNOWN	
PROPERTY NO. 1 31	LOSS CODE 6	QUANTITY 2.000	PROPERTY VALUE	VICTIM NO. :	SUSPECT NO. : 1	VEHICLE NO. :	VEH LIC STATE :	VEHICLE YEAR :
PROPERTY DESCRIPTION 2 Kilograms of Cocaine						FOUND LOCATION Orange Ouffol bag in trunk		
MAKE / BRAND		MODEL		SERIAL		N.C.I.C. #		
FIREARM	CALIBER	TYPE	BARREL LENGTH	FINISH		N.C.I.C. ENTRY #		
NARCOTICS	DRUG TYPE Weighted Drug	UNIT OF MEASURE Kilograms	DRUG CODE Cocaine/Coca Derivatives		PILL TYPE	PILL SHAPE	PILL COLOR1	PILL COLOR2
PILL MARKING 1					PILL MARKING 2			
NAME & ADDRESS							OWNER PHONE	
EVIDENCE CODE Weighted Drug	EVIDENCE DATE/ TIME 6/14/2011 09:00	EVIDENCE COLLECTED BY (0700) Tpr. CHRISTOPHER H BEYER			EVIDENCE FINAL DISPOSITION Destroyed		OTHER EVIDENCE	
PROPERTY NO. 2 01	LOSS CODE 6	QUANTITY 1262.00	PROPERTY VALUE 1262.00	VICTIM NO. :	SUSPECT NO. : 1	VEHICLE NO. :	VEH LIC STATE :	VEHICLE YEAR :
PROPERTY DESCRIPTION 1,262 in US currency						FOUND LOCATION Left front pocket of Mr. Jackson		
MAKE / BRAND		MODEL		SERIAL		N.C.I.C. #		
FIREARM	CALIBER	TYPE	BARREL LENGTH	FINISH		N.C.I.C. ENTRY #		
NARCOTICS	DRUG TYPE	UNIT OF MEASURE	DRUG CODE		PILL TYPE	PILL SHAPE	PILL COLOR1	PILL COLOR2
PILL MARKING 1					PILL MARKING 2			
NAME & ADDRESS							OWNER PHONE	
EVIDENCE CODE	EVIDENCE DATE/ TIME 6/14/2011 09:00	EVIDENCE COLLECTED BY (0700) Tpr. CHRISTOPHER H BEYER			EVIDENCE FINAL DISPOSITION Turned Over to Other Agency		OTHER EVIDENCE	

PROPERTY CODES	17 COMP.HARDWARE/SOFTWARE	38 BUSES	60 CHEMICALS
EXCHANGE MEDIUMS	18 OFFICE EQUIPMENT	39 TRUCKS	61 CROPS
01 MONEY	19 STEREO EQUIPMENT, TV AND RADIO (NON-VEHICLE)	40 TRAILERS	62 DOCUMENTS/PERSONAL OR BUSINESS
02 CREDIT/DEBIT CARD	20 RECORDINGS	41 WATERCRAFT	63 EXPLOSIVES
03 NEGOTIABLE INSTRUMENTS	21 SPORTS EQUIPMENT (ALL EXCEPT BICYCLES AND FIREARMS)	42 RECREATIONAL VEHICLE	64 FIREARM ACCESSORIES
04 OTHER EXCHANGE MEDIUMS	22 PHOTOGRAPHIC EQUIPMENT	43 OTHER MOTOR VEHICLE	65 FUEL
DOCUMENTS	23 FARM EQUIPMENT	WEAPONS	66 IDENTITY INTANGIBLE
05 NON-NEGOTIABLE INSTRUMENTS	24 HEAVY CONSTRUCTION / INDUSTRIAL EQUIPMENT	44 FIREARM	67 LAW ENFORCEMENT EQUIPMENT
06 PERSONAL (IDENTITY) PAPERS	25 BUILDING SUPPLIES FOR CONSTRUCTION	45 OTHER WEAPONS	68 LAWN/YARD/GARDEN EQUIPMENT
07 OTHER DOCUMENTS	26 TOOLS	STRUCTURES	69 LOGGING EQUIPMENT
VALUABLES	27 VEHICLE PARTS / ACCESSORIES	46 SINGLE OCCUPANCY	70 MEDICAL/MEDICAL LAB EQUIPMENT
08 JEWELRY/PRECIOUS METALS	28 SCHOOL SUPPLIES	47 OTHER DWELLINGS	71 METALS, NON-PRECIOUS
09 ART OBJECTS, ANTIQUES, AND OTHER PRECIOUS ITEMS	29 OTHER EQUIPMENT	48 COMMERCIAL/BUSINESS	72 MUSICAL INSTRUMENTS
10 OTHER VALUABLES	CONSUMABLE ITEMS	49 INDUSTRIAL/MANUFACTURING	73 PORTABLE ELECTRONIC COMMUNICATIONS
PERSONAL EFFECTS	30 ALCOHOL	50 PUBLIC/COMMERCIAL	74 WATERCRAFT
11 CLOTHING FURS	31 DRUGS / NARCOTICS	51 STORAGE	EQUIPMENT/PARTS/ACCESSORIES
12 PURCHASES/HANDBAGS/WALLETS	32 CONSUMABLE GOODS	52 OTHER STRUCTURES	
13 OTHER PERSONAL EFFECTS	ANIMALS	OTHER	
HOUSEHOLD ITEMS	33 LIVE STOCK	63 MERCHANDISE	
14 HOUSEHOLD ITEMS	34 HOUSEHOLD PETS	64 OTHER PROPERTY	
EQUIPMENT	VEHICLES	65 PENDING INVENTORY	
15 DRUG/NARCOTIC EQUIPMENT	35 AIRCRAFT	66 SPECIAL CATEGORIES	
16 GAMBLING EQUIPMENT	36 AUTOMOBILES	67 AIRCRAFT PARTS OR ACCESSORIES	
	37 BICYCLES	68 ARTISTIC SUPPLIES OR ACCESSORIES	
		69 CAMPING/HUNTING/FISHING EQUIPMENT/SUPPLIES	
REPORTING OFFICER: Tpr. CHRISTOPHER H BEYER	UNIT NUMBER: 0700	DATE: 6/14/2011	
APPROVING OFFICER: Sgt. ANTHONY L DECHOUDENS	UNIT NUMBER: 0595	DATE: 1/18/2014	

State of Ohio
 HP-24-VRW
 10-0167-60
 Rev. 03/01/2003



Ohio State Highway Patrol
 REPORT OF INVESTIGATION
 Victim/Reportee/Witness Report

INCIDENT NUMBER 11 010115 1080
REPORT DATE/TIME 01/14/2011 08:44

VICTIM TYPE: <input type="checkbox"/> Individual <input type="checkbox"/> Financial Institution <input type="checkbox"/> Peace Officer (In The Line Of Duty) <input checked="" type="checkbox"/> Society / Public <input type="checkbox"/> Other <input type="checkbox"/> Business <input type="checkbox"/> Government <input type="checkbox"/> Religious Organization <input type="checkbox"/> Unknown <input type="checkbox"/> Trooper <input type="checkbox"/> State Agency	
<input checked="" type="checkbox"/> Victim <input type="checkbox"/> Reportee	<input type="checkbox"/> Witness NAME (Last, First, Middle): Society / Public
ADDRESS (Street, Apt, City, State, Zip): , Vermillion	
OCCUPATION:	
STATE EMPLOYEE: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
SSN:	
RESIDENTIAL STATUS: <input type="checkbox"/> Resident <input type="checkbox"/> Military <input type="checkbox"/> Other <input type="checkbox"/> Tourist	
STATEMENT OBTAINED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
TYPE: <input type="checkbox"/> Written <input type="checkbox"/> Oral <input type="checkbox"/> Taped <input type="checkbox"/> Other	
AGE / DOB	GENDER RACE :
HEIGHT FROM - TO	WEIGHT FROM - TO
HAIR	EYES
EMPLOYER NAME & ADDRESS	
PHONE #:	
VICTIM <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO INJURED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF INJURED, DESCRIBE INJURIES: 1) 2) 3) 4) 5)	VICTIM DECEASED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO VICTIM WITNESS REFERRAL INFO <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO TYPE OF REFERRAL
AGG. ASLT / HOMICIDE CR: 1) 2)	
VICTIM/SUSPECT RELATIONSHIP: 1) Citizen/Society	VICTIM OFFENSE LINK: 1)2025.24 2)2025.03 3)2025.11
JUSTIFIABLE HOMICIDE:	ACTIVITY TYPE
ASSIGNMENT TYPE	LE ORI - OTHER JURISDICTION
My signature verifies that the information on this report is accurate and true X	
DATE:	

REPORTING OFFICER: Tpr. CHRISTOPHER H BEYER	UNIT NUMBER: 0700	DATE: 01/14/2011
APPROVING OFFICER: Sgl. ANTHONY L DECHOUDENS	UNIT NUMBER: 0098	DATE: 1/18/2014

State of Ohio
 HP-24NOT
 10-0157-60
 Rev. 08/01/2003



Ohio State Highway Patrol
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INCIDENT NO: 11 010145 1090	REPORT DATE/TIME 6/14/2011 08:44	PHOTO POUCH NO.
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Tuesday, June 14, 2011 13:30 0700 Tpr. CHRISTOPHER H BEYER

LHP110614000975 06/14/110844 Hours While on patrol on the Ohio Turnpike at milepost 135 EB (Brownhelm twp), I observed a silver 2010 Toyota Camry bearing PA registration GSC 0641. The vehicle was following a mobile home in front of it by 2-3 car lengths away in the right lane at approximately 60-65 mph. At the time I observed the violation I was in the middle lane 300-400 feet behind the vehicle. I initiated a traffic stop of the vehicle at milepost 137 EB and came in contact with the driver and only occupant, Clifton A. Jackson (3-5-69). I advised him of the following too close violation and asked for his license, registration and insurance. He handed me his New York (residence in Buffalo, NY) license. I asked where he was going to. He stated, "Cleveland to his cousin's house". I asked who owned the car and he stated, "My cousin". I asked where he was coming from. He stated his mom's house near the Detroit area in Beloit, MI. He stated he was visiting his mom as she is sick. He handed me a rental agreement for the vehicle (Renters name was Latriece Thomas). I asked when she rented the car for him. He stated, "yesterday actually". Mr. Jackson stated she had the vehicle for a while and then gave it to him. I asked what his girlfriend's name was. He stated, "Latriece Thomas". I asked where he was going in Cleveland. He stated, "Off 480 area, near Stoney Brook or Stoney Point". I then returned to my patrol car. While back at my patrol car I radioed Tpr. Mike Trader and asked that he and his K-9 partner, Argo, come to my location and do a sniff of the vehicle. 0850 Hours Tpr. Trader arrived on scene. I walked back up to the vehicle, where Mr. Jackson was and asked him to come back to my patrol car. After asking him to come back to my patrol car he was hesitant to exit the car and looked around. When he did exit the car he did so slow and deliberately. He took 2 cell phones from his vehicle and brought them with him. Prior to being seated in my car he was voluntarily patted down. He was asked to sit down in the back seat of my patrol car which he did voluntarily. 0851A review of my in car audio/video tape after the stop was over revealed the below cell phone conversation of Mr. Jackson with other person's on speaker phone while the vehicle was being searched. Mr. Jackson was in the back seat of my patrol car when these conversations took place. While sitting in the back seat of my patrol car Mr. Jackson began to speak with a female on the speaker phone from one of his cell phones, which was recorded by the in car audio. He states, "they are about to put the dog on me". She says, "is you serious"? A pause is heard in the conversation followed by the female saying,...."damn". The female asks what am I supposed to do? He then tells the female to call his brother. The female asks Mr. Jackson do you have alot? He states, "no". He tells the female to be quiet they are walking the dog around the car. 0853I assisted in traffic control with Trooper Trader and Argo as they walked around the vehicle as it was parked close to the white line. There was a positive K-9 indication to the vehicle by Argo on the left side of the vehicle. I re-approached my patrol car to speak with Mr. Jackson. As I walked back to my car Mr. Jackson was heard on the in car audio telling the female to be quiet, as I was walking back to the car. I opened the car door and read Mr. Jackson his Miranda Rights. I advised him the K-9 indicated to his vehicle. I asked him if there was any reason the K-9 would indicate to the vehicle. He stated, "no". I asked him if he had used or had any drugs or knew of anyone that had used or had drugs in the car. He stated, "no". I asked if everything in the car was. He hesitated stating, "not everything in the car is mine but there's no drugs in the car". I then asked what in the car was not his. He again retracted his statement and said all the contents inside the car were his. 0855As we began a probable cause search of the car Mr. Jackson began to speak to the female again stating, "hold on babe". He then phones a male speaking to him stating, "whats up bro". Mr. Jackson proceeds to speak to the male regarding the narcotics in the car. The male asks if he stashed it. Mr. Jackson stated, "No it wouldn't fit." The male asks where it's at. Mr. Jackson stated "in the bag". The male states, "You're fucked". Mr. Jackson goes on to state over and over, "he didn't have a reason to stop me". 0859Inside a large orange duffel bag in the trunk I found 2 kilograms of suspected cocaine placed side by side wrapped in black tape and saran wrap. It was in the front zipper portion of the bag. Nothing else was in the front of the bag with it. The center of the bag contained brand new male's dress shirts and blue jeans (tags on still). On the

REPORTING OFFICER: Tpr. CHRISTOPHER H BEYER	UNIT NUMBER: 0700	DATE: 6/14/2011
APPROVING OFFICER: Sgt. ANTHONY L DECHOUDENS	UNIT NUMBER: 0898	DATE: 1/16/2014

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 10-0157-50
 Rev. 06/01/2003



Ohio State Highway Patrol
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right side of the bag with the clothing was two plastic bags containing a silver colored watch that said Breitling on it. The second bag contained a diamond looking necklace, bracelet, and ring. I seized the jewelry. Also found was a black toiletries bag with miscellaneous toiletry products. In the bottom of the bag was a zipper area with 4 boxes of male shoes, some tennis shoes and some Italian dress shoes. I re-approached the patrol car and advised Mr. Jackson he was being placed in handcuffs. He was heard on his cell phone stating to the male he was being arrested. I advised Mr. Jackson to put his arms behind his back in the back seat and not get out of the car. He did not do as instructed immediately. I advised him to not give us any problems as we had a K-9 dog. 0901Mr. Jackson was subsequently placed in handcuffs behind his back and placed under arrest and taken to the front of my patrol car. After being placed in handcuffs he was asked what was up there, referring to the drugs. He stated he didn't want to be disrespectful but didn't want to say anything. A search incident to custodial arrest was done on Mr. Jackson in front of my patrol car, on camera. Inside his left front jeans pocket was \$1,262 dollars of US currency. I asked what type of work he did. Mr. Jackson stated he was a collections agent. It was seized and handed to Trooper Trader. He was later given a state property seizure form, which he later signed and was given a copy of. No illegal narcotics were seized on Mr. Jackson and he was placed in the back seat of the patrol car. After being placed in my car he began a conversation with the male again, speaking about the stop. He placed his cell phone on speaker phone to talk to the other male subject. A further search of the vehicle found no more illegal narcotics. The vehicle was towed from the scene by Rich's Towing to the Middleburg Heights office. L.E.A.D.S. Had been out of service on the initial stop and had since come back into service. I radioed District 10 radio Mr. Jackson's license information and license plate to run. I also asked for a criminal history check be run as well. Prior to leaving the scene Mr. Jackson's two cell phones were seized and placed inside an evidence bag. The cell phones were a Motorola cell phone Serial # 364VLYT9WX and a Samsung cell phone serial # AA1B106AS. Mr. Jackson was taken to the Milan Patrol Post for charges and other forms. D.E.A. Agent Taliano and an assistant came to the post and spoke with Mr. Jackson. He declined to speak with them. Trooper Weaver came to the Milan Patrol Post and assisted with forms and the incident. He took the jewelry to the Crider Jewelers in Perkins Township, where it was inspected. It was found to be all cubic zirconia. It was later released back to Mr. Jackson. The \$1,262 was given to Sergeant Anthony L. Dechoudens and was taken to Key Bank in Milan Ohio. A cashier's check was obtained and subsequently made out to the Ohio Marshall's Service. It was turned over to Agent Taliano and his assistant. Both cell phones were released into Agent Taliano's custody. At 1100 hours, Trooper Trader cut into one of the packages. As he cut into it he found axel grease on it, inside the packaging (tape, seran wrap, axel grease). A N.I.K. test was completed for suspected cocaine, which was of a white powdery substance and the results were positive for cocaine. The narcotics and money were subsequently turned over to Agent Taliano. Mr. Jackson was served with a forfeiture notice for his money. He signed it and I gave him a copy. He was given a copy of his charges for aggravated drug trafficking, possession of cocaine, and criminal tools. He was then transported to the Lorain County Jail. In looking at his criminal history I found it to be 10-20 pages. He has had OVER 10 FELONY DRUG CHARGES 2 OF WHICH WERE FEDERAL CONVICTIONS. HE HAS SPENT NUMEROUS YEARS IN PRISON FOR THESE AND OTHER CRIMINAL OFFENSES. Mr. Jackson was taken to Vermilion Municipal Court for arraignment. His bond was set at 500,000 cash surety. His pre-trial was set for 6-21-11 at 9:15 a.m. As of 7-8-11 no grand jury date set by Lorain County Common Pleas. I received a subpoena from Lorain County Grand Jury to testify on 8-10-11 on this case. I testified for Lorain County Grand Jury on this case on 8-10-11. Mr. Jackson was indicted on all above charges. He has a pre-trial set for 9-19-11. 09/19/2011 Journal Entry DEFENDANT WAIVES STATUTORY TIME FOR SPEEDY TRIAL PURSUANT TO R.C. 2945.71 ET. SEQ. PRE-TRIAL HAD. AT THE DEFENDANT'S REQUEST, PRE-TRIAL IS HEREBY CONTINUED UNTIL: 11/7/11 AT 8:30 A.M. (EMZ)

REPORTING OFFICER: Tpr. CHRISTOPHER H BEYER	UNIT NUMBER: 0700	DATE: 6/14/2011
APPROVING OFFICER: Sgt. ANTHONY L DECHOUDENS	UNIT NUMBER: 0696	DATE: 1/16/2014

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<u>Wednesday, June 15, 2011 11:39</u>		<u>0696 Sgt. ANTHONY L. DECHOUDENS</u>
<p>06/15/11 Case reviewed by Sgt. A.L. DeChoudens. Victim/Witness does not apply. Solvability factor is excellent. Criminal Patrol Point was entered into RIMS. The \$1262 in US currency was taken to the Key Bank in Milan, Ohio and placed on a certified check. The check was made to the US Marshall Service and released to them.</p>		
<u>Saturday, June 18, 2011 16:00</u>		<u>0374 Sgt. BRIAN J GOCKSTETTER</u>
<p>The case was reviewed by Sgt. B.J. Gockstetter.</p>		
<u>Saturday, July 09, 2011 10:30</u>		<u>0374 Sgt. BRIAN J GOCKSTETTER</u>
<p>The case status was reviewed by Sgt. Gockstetter. The following is the Lorain County Common Pleas Court Docket entry: 07/06/2011 TRANSCRIPT TRANSCRIPT FILED. FROM VERMILION MUNICIPAL COURT (4) CRA 1100262A - POSS OF COCAINE CRA 1100262B - AGGRAVATED DRUG TRAFFICKING CRA 1100262C - POSS CRIMINAL TOOLS TRD 1101247 - FOLLOW TOO CLOSE BOND SET AT \$500,000 CASH @ 10%. CASH BOND POSTED BY ANGEL MYLES, 8667 W. PARKWAY ST., DETROIT MI 48239. BAILED. 07/07/2011 N/A Receipt #: 11-0024959 Processed. 07/07/2011 BOND SURCHARGE (IDSF 2937.22) BOND SURCHARGE (IDSF 2937.22) APPLIED The case remains open pending presentation of case to Lorain County Grand Jury. The solvability factor is considered excellent.</p>		
<u>Friday, August 12, 2011 13:11</u>		<u>0696 Sgt. ANTHONY L. DECHOUDENS</u>
<p>08/12/11 Listed is the last court docket entry made by the Lorain County Common Pleas Court: 08/11/2011 INDICTMENT INDICTMENT FILED. SUMMONS W/COPY OF INDICTMENT ISSUED TO LORAIN COUNTY SHERIFF. INDICTMENT FOR TRAFFICKING IN DRUGS, 2925.03(A)(2), F-1 SPECIFICATION ONE, SPECIFICATION TWO; POSSESSION OF DRUGS, 2925(A), F-1 SPECIFICATION ONE, POSSESSING CRIMINAL TOOLS, 2923.24(A), F-5</p>		
<u>Thursday, September 22, 2011 14:52</u>		<u>0696 Sgt. ANTHONY L. DECHOUDENS</u>
<p>09/22/11 Listed below is the last docket entry from the Lorain County Common Pleas Court: DEFENDANT WAIVES STATUTORY TIME FOR SPEEDY TRIAL PURSUANT TO R.C. 2945.71 ET. SEQ. PRE-TRIAL HAD. AT THE DEFENDANT'S REQUEST, PRE-TRIAL IS HEREBY CONTINUED UNTIL: 11/7/11 AT 8:30 A.M. (BMZ) Solvability factor is excellent.</p>		
REPORTING OFFICER: Tpr. CHRISTOPHER H BEYER	UNIT NUMBER: 0700	DATE: 6/14/2011
APPROVING OFFICER: Sgt. ANTHONY L DECHOUDENS	UNIT NUMBER: 0696	DATE: 1/16/2014

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INCIDENT NO: 11 010115 1090	REPORT DATE/TIME 6/14/2011 08:44	PHOTO POUCH NO.
<u>Friday, October 21, 2011 15:16</u>		0696 Sgt. ANTHONY L.
<u>DECHOUDENS</u>		
10/21/11 Listed below is the last docket entry from the Lorain County Common Pleas Court: DEFENDANT WAIVES STATUTORY TIME FOR SPEEDY TRIAL PURSUANT TO R.C. 2945.71 ET. SEQ. PRE-TRIAL HAD. AT THE DEFENDANT'S REQUEST, PRE-TRIAL IS HEREBY CONTINUED UNTIL: 11/7/11 AT 8:30 A.M. (EMZ) Solvability factor is excellent.		
<u>Wednesday, November 16, 2011 15:41</u>		0696 Sgt. ANTHONY L.
<u>DECHOUDENS</u>		
11/16/11 Pre-trial has been rescheduled until 12/12/11 at 1330 hours.		
<u>Tuesday, December 20, 2011 14:03</u>		0696 Sgt. ANTHONY L.
<u>DECHOUDENS</u>		
12/20/11 Listed below is the last court docket entry: DEFENDANT WAIVES STATUTORY TIME FOR SPEEDY TRIAL PURSUANT TO R.C. 2945.71 ET. SEQ. PRE-TRIAL NOT HAD. AT THE DEFENDANT'S REQUEST, PRE-TRIAL IS HEREBY CONTINUED UNTIL: 2/6/2012 AT 1:00 P.M. DEFENDANT'S MOTION TO SUPPRESS TO BE HEARD AT NEXT HEARING. (EMZ)		
<u>Monday, January 23, 2012 11:59</u>		0696 Sgt. ANTHONY L.
<u>DECHOUDENS</u>		
1/23/12 Pre-trial still scheduled for 2/23/12 at 1300 hours.		
<u>Monday, February 20, 2012 15:09</u>		0696 Sgt. ANTHONY L.
<u>DECHOUDENS</u>		
2/20/12 Pre-trial still scheduled for 2/23/12 at 1300 hours.		
<u>Monday, April 23, 2012 08:27</u>		0696 Sgt. ANTHONY L. DECHOUDENS
4/23/12 Listed is the last court docket entry: DUE TO EMERGENCY OF THE COURT, MOTION TO SUPPRESS SET FOR 4/9/12 IS CANCELLED. NEW MOTION TO SUPPRESS HEARING SET FOR 6/4/12 AT 1:30 PM.		
<u>Wednesday, May 16, 2012 13:12</u>		0696 Sgt. ANTHONY L.
<u>DECHOUDENS</u>		
5/16/12 NEW MOTION TO SUPPRESS HEARING SET FOR 6/4/12 AT 1:30 PM.		
REPORTING OFFICER: Tpr. CHRISTOPHER H BEYER	UNIT NUMBER: 0700	DATE: 6/14/2011
APPROVING OFFICER: Sgt. ANTHONY L. DECHOUDENS	UNIT NUMBER: 0696	DATE: 1/16/2014

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 HP-24NOT
 10-0157-50
 Rev. 03/01/2003



Ohio State Highway Patrol
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INCIDENT NO:	REPORT DATE/TIME	PHOTO POUCH NO.
11 010115 1090	6/14/2011 08:44	
<p><u>Friday, June 01, 2012 15:35</u> <u>0696 Sgt. ANTHONY L DECHOUDENS</u></p> <p>6/1/12NEW MOTION TO SUPPRESS HEARING SET FOR 6/4/12 AT 1:30 PM.</p>		
<p><u>Tuesday, July 17, 2012 14:09</u> <u>0696 Sgt. ANTHONY L DECHOUDENS</u></p> <p>7/17/12MOTION TO SUPPRESS HEARING HAD IN PART. HEARING CONTINUED FOR FURTHER EVIDENCE ON 7/23/12 AT 1:30 P.M.</p>		
<p><u>Sunday, December 16, 2012 10:35</u> <u>1560 Sgt. SCOTT D POWERS</u></p> <p>Case pending new court date.</p>		
<p><u>Saturday, January 05, 2013 09:35</u> <u>1560 Sgt. SCOTT D POWERS</u></p> <p>12/07/2012 FILING SUPPLEMENT TO MOTION TO RECONSIDER MOTION TO SUPPRESS FILED BY DEPT 12/11/2012 N/A Defendant's Motion to Reconsider Motion to Suppress is denied.</p>		
<p><u>Tuesday, April 02, 2013 15:19</u> <u>1560 Sgt. SCOTT D POWERS</u></p> <p>PRE-TRIAL HAD. AT THE DEFENDANT'S REQUEST, PRE-TRIAL IS HEREBY CONTINUED UNTIL: 4-22-13 AT 8:30 A.M. DEFENDANT IS IN FEDERAL CUSTODY. (JRM)</p>		
<p><u>Tuesday, July 09, 2013 15:08</u> <u>0567 Tpr. ELIZABETH A GRABEL</u></p> <p>Case is bound over as of 4/12/13.</p>		
<p><u>Wednesday, August 07, 2013 17:26</u> <u>0567 Tpr. ELIZABETH A GRABEL</u></p> <p>07/22/2013 Bindover Costs Have Been Added To The Cost Bill At LorainCounty Common Pleas Court</p>		
<p><u>Tuesday, September 10, 2013 02:22</u> <u>0321 Sgt. MATTHEW W DAVIS</u></p> <p>From Lorain County Common Pleas Court Docket; 11/19/2013 (JRM) FURTHER PRETRIAL SET FOR 11/25/13 AT 1:30 PM. DEFENSE COUNSEL MADE AN ORAL MOTION TO WITHDRAW AS COUNSEL. MOTION GRANTED. ATTORNEY MARK AUFDENKAMPE IS APPOINTED. 11/19/2013</p>		
REPORTING OFFICER:	Tpr. CHRISTOPHER H BEYER	UNIT NUMBER: 0700
APPROVING OFFICER:	Sgt. ANTHONY L DECHOUDENS	DATE: 6/14/2011
		UNIT NUMBER: 0696
		DATE: 1/16/2014

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INCIDENT NO: 11 010115 1090	REPORT DATE/TIME 6/14/2011 08:44	PHOTO POUCH NO.
REPORTER COURT REPORTER CERTIFICATION FILED 11/26/2013 (JRM) FURTHER PRETRIAL SET FOR 1/6/14 AT 1:30 PM. JURY/ BENCH TRIAL SET FOR 1/28/14 AT 8:30 AM. TRIAL SET FOR 12/17/13 IS CANCELLED. 11/27/2013 (JRM) NEWLY APPOINTED DEFENSE COUNSEL HAS BEEN PROVIDED COPIES OF THE FOLLOWING, SEE JOURNAL.		
<hr/> Thursday, October 17, 2013 03:33 0321 Sgt. MATTHEW W DAVIS		
No New Info on court docket		
<hr/> Wednesday, November 13, 2013 01:30 0321 Sgt. MATTHEW W DAVIS		
Still no new info on court docket.		
<hr/> Thursday, December 05, 2013 02:20 0321 Sgt. MATTHEW W DAVIS		
No new info. Below is the next scheduled court case: FURTHER PRETRIAL SET FOR 1/6/14 AT 1:30 PM. JURY/ BENCH TRIAL SET FOR 1/28/14 AT 8:30 AM. TRIAL SET FOR 12/17/13 IS CANCELLED		
<hr/> Thursday, January 16, 2014 02:30 0321 Sgt. MATTHEW W DAVIS		
From the Court Docket: FURTHER PRETRIAL SET FOR 1-27-14 AT 1:30 P.M. JURY/BENCH TRIAL REMAINS SET FOR 1/28/14 AT 8:30 A.M. (JRM)		
<hr/> Sunday, June 22, 2014 01:15 1736 Sgt. Mamere, Brian C		
There had been no follow-up completed on this case since 01/16/2014. I took over the Case duties as of June 15, 2014 as the case Sergeant.		
This case was completed on 2/13/2014. A two-day Jury trial was completed and the defendant was found guilty by way of Jury. The sentence imposed on the defendant was to serve a Maximum of 11 years in Lorain Correctional Institute and was ordered to pay a maximum fine of \$10,000.00.		

REPORTING OFFICER: Tpr. CHRISTOPHER H BEYER	UNIT NUMBER: 0700	DATE: 6/14/2011
APPROVING OFFICER: Sgt. ANTHONY L DECHOUDENS	UNIT NUMBER: 0696	DATE: 1/18/2014

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

CLIFTON JACKSON, et al.,	:	Case No. 2:17-cv-00163
	:	
Plaintiffs,	:	JUDGE SARGUS
	:	
v.	:	
	:	
OHIO STATE HWY PATROL, et al.,	:	
	:	
Defendants.	:	

DEFENDANTS OHIO STATE HIGHWAY PATROL, TROOPER CHRISTOPHER BEYER, TROOPER MICHAEL TRADER, AND CANINE ARGO'S MOTION FOR JUDGMENT ON THE PLEADINGS, UNDER FED. CIV. R. 12(C)

The Ohio State Highway Patrol, Trooper Christopher Beyer, Sergeant Trooper Michael Trader, and Canine Argo ("OSHP Defendants") respectfully move this Court, pursuant to Fed. Civ. R. 12(c), for judgment on the pleadings. A memorandum in support is attached and further explains Defendants' motion.

Respectfully submitted,

MICHAEL DEWINE
Ohio Attorney General

sl Morgan A. Linn

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Facsimile: (866) 523-8132
morgan.linn@ohioattorneygeneral.gov

Counsel for OSHP Defendants

MEMORANDUM IN SUPPORT

I. INTRODUCTION

Plaintiffs' entire complaint should be dismissed under Federal Civil Rule 12 for the failure to state a claim upon which relief may be granted. Ohio State Highway Patrol ("OSHP") Defendants presently move for judgment on the pleadings, under Fed. R. Civ. P. 12(c). Plaintiffs' lawsuit is time-barred under Ohio's two-year statute of limitations for 42 U.S.C. § 1983 claims. Plaintiff also brings non-cognizable claims and claims that lack specific factual allegations. For these reasons, the OSHP Defendants move this Court for judgment on the pleadings.

II. STATEMENT OF FACTS

This action stems from Plaintiff Clifton Jackson's traffic stop by Tpr. Christopher Beyer on June 14, 2011. ECF Doc. 4, Page ID# 58. The stop led to the eventual search of Plaintiff Jackson's vehicle, which uncovered a large amount of drugs and money. *See* ECF Doc. 6-1, Exhibit A to Answer, Page ID# 88. Plaintiff Jackson was arrested that same day, charged with first degree felony drug possession and trafficking. *See id.* at 89. Plaintiff Jackson's case went to trial, resulting in his conviction on February 13, 2014. *Id.* at 93. The other listed Plaintiffs offer no other specific dates of alleged wrongdoing, so the OSHP Defendants can respond only to the June 14, 2011 date alleged by Plaintiff Jackson.

Plaintiffs signed their civil rights complaint on July 13, 2016, two-and-a-half years after Plaintiff Jackson's criminal conviction, and the complaint was not filed with the Franklin County Court of Common Pleas until January 20, 2017.¹ Doc. 4, Page ID# 53, 67. On February 24,

¹ Plaintiff Clifton Jackson is the only Plaintiff who has signed the complaint. The other Plaintiffs have failed to sign the complaint in compliance with Fed. R. Civ. P. 11(a). Therefore, the complaint must be stricken as to all co-Plaintiffs except Plaintiff Jackson. Further, because no

2017, the federal co-defendants, Geno Taliano and Caitlin Szczepinski, removed the case to the United States District Court for the Southern District of Ohio. Doc. 1.

III. STANDARD OF REVIEW

Pursuant to Federal Rule of Civil Procedure 12(c), a motion for judgment on the pleadings is proper where it is made “[a]fter the pleadings are closed—but early enough to not delay trial.” Fed. R. Civ. P. 12(c). The standard of review for judgment on the pleadings is the same as that for a motion to dismiss under Fed. R. Civ. P. 12(b)(6). *See Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291, 295 (6th Cir. 2008). “For purposes of a motion for judgment on the pleadings, all well-pleaded material allegations of the pleadings of the opposing party must be taken as true, and the motion may be granted only if the moving party is nevertheless clearly entitled to judgment.” *JPMorgan Chase Bank, N.A. v. Winget*, 510 F.3d 577, 581 (6th Cir. 2007).

A plaintiff is required under Fed. R. Civ. P. 8(a)(2) to plead “a short and plain statement of the claim showing that the pleader is entitled to relief.” However, the Supreme Court of the United States has explained that, “once a claim has been stated adequately, it may be supported by showing any set of facts consistent with the allegations in the complaint.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 563 (2007). A plaintiff’s ground for relief “requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.” *Id.* at 555. “Factual allegations must be enough to raise a right to relief above the speculative level[.]” *Id.* Accordingly, a complaint must be dismissed if it does not plead “enough facts to state a claim to relief that is plausible on its face.” *Id.* at 570.

separate allegations have been made involving the other Plaintiffs, the OSHP Defendants shall treat this complaint as though Plaintiff Clifton Jackson is the only proper Plaintiff because, as written, the co-Plaintiffs have no standing to sue because they have not alleged any injury in fact. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992).

When “there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief.” *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1950 (2009). A claim has facial plausibility “when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* at 1949. A complaint that suggests “the mere possibility of misconduct” is insufficient; rather, the complaint must state “a plausible claim for relief.” *Iqbal*, 556 U.S. at 679, *citing Twombly*, 550 U.S. at 556.

IV. ARGUMENT

A. Ohio State Highway Patrol Defendants are entitled to judgment on the pleadings because Plaintiff’s lawsuit is time-barred under the Ohio statute of limitations for tort claims.

Plaintiffs have exceeded the Ohio statute of limitations permitted for them to file their federal civil rights case, so the OSHP Defendants are entitled to judgment on the pleadings under Fed. R. Civ. P. 12(c). There is no federally defined statute of limitations period for Section 1983 actions. However, when a federal law is “deficient in the provisions necessary to furnish suitable remedies,” a federal court should apply the state law of the forum in which it sits as long as it is not “inconsistent with the Constitution and laws of the United States.” 42 U.S.C. § 1988. In Ohio, actions brought pursuant to 42 U.S.C. § 1983 are subject to the two-year general personal injury statute of limitations found in Revised Code Section 2305.10. *Nadra v. Mbah*, 119 Ohio St.3d 305, 312 (2008); *Rodriguez v. City of Cleveland*, 2011 U.S. App. LEXIS 18012 **72-73 (6th Cir. 2012), *citing Trebuckowski v. City of Cleveland*, 319 F.3d 853, 855 (6th Cir. 2003). The two-year statute of limitations begins to run when the plaintiff “knows or has reason to know of the injury which is the basis of his action.” *Nadra*, 119 Ohio St.3d at 312; *McCune v. Grand*

Rapids, 842 F.2d 903, 905 (6th Cir. 1988). A plaintiff knows of his injury when “he should have discovered it through the exercise of reasonable diligence.” *McCune*, 842 F.2d at 905.

Plaintiffs’ complaint states that the start of any alleged civil rights violations began when Plaintiff Clifton Jackson was stopped, searched, and arrested on June 14, 2011. *See* Doc. 4, Page ID # 58. Clearly, Plaintiffs had knowledge of the alleged injury on that date, so the clock for the two-year statute of limitations began to run, meaning that Plaintiffs needed to file their civil rights case on or before June 14, 2013. However, Plaintiffs did not sign the complaint and prepare and date the certificate of service of their complaint until years after, on July 13, 2016. *See* Doc. 4, Page ID # 67-68. The complaint was not filed with the Franklin County Clerk’s office until January 20, 2017. *See* Doc. 4, Page ID # 53. (time-stamp). Under Ohio law, *pro se* prisoners are considered to have filed a pleading on the date that it is filed with the county clerk’s office. *See State ex. rel Tyler v. Alexander*, 52 Ohio St.3d 84, 84-85 (1990)(refusing to adopt the federal “prisoner mailbox rule” and holding that an inmate’s pleading is considered “filed” on the date it is received by the clerk). Therefore, under Ohio law, on its face, the complaint is time-barred by five-and-a-half years. Even with the benefit of the federal “prison mailbox rule,” which permits a relaxed statute of limitations for prisoners filing lawsuits *pro se*, Plaintiffs’ complaint is still time-barred by years.

Under the federal filing standard, a *pro se* prisoner’s complaint is deemed filed when it is handed over to prison officials for mailing to the court. *See Richard v. Ray*, 290 F.3d 810, 812–13 (6th Cir. 2002)(per curiam) (extending *Houston v. Lack*, 487 U.S. 266, 108 S. Ct. 2379, 101 L.Ed.2d 245 (1988)). Courts make an assumption that, “absent contrary evidence, a prisoner [hands over the complaint to be filed] on the date he or she signed the complaint.” *Brand v. Motley*, 526 F.3d 921, 925 (6th Cir. 2008). *See also, e.g., Goins v. Saunders*, 206 Fed. Appx.

497, 498 n. 1 (6th Cir. 2006). But this more relaxed standard does not help Plaintiffs, as the complaint is still time-barred by over five years. Plaintiff Jackson's criminal case, and thus any alleged civil rights violation from the complaint, began with the stop of his vehicle, which was June 14, 2011. See Doc. 6-1, Page ID # 89 (Exhibit A, Report of Investigation). Plaintiff Jackson's case proceeded to trial, with a guilty verdict being returned on February 13, 2014. *Id.* at Page ID # 93. Therefore, assuming Plaintiff Jackson has alleged a proper civil rights violation, which Defendants contend he has not, his statute of limitations in which to file a complaint had run on February 13, 2016, which is five months before Plaintiff Jackson signed the complaint. And no other specific dates of alleged wrongdoing are presented by any co-Plaintiff.

For these reasons, the OSHP Defendants move for judgment on the pleadings based on Plaintiffs' failure to file their lawsuit within the applicable statute of limitations.

B. Plaintiffs' allegations against both the Ohio State Highway Patrol and Canine Argo fail because neither party is a "person" who may be sued in a 42 U.S.C. § 1983 action.

Plaintiffs have sued the Ohio State Highway Patrol, which is a division of the state agency Ohio Department of Public Safety. See Doc. 4. However, a state agency is not a "person" who can be sued under 42 U.S.C. § 1983. *Will v. Mich. Dept. of State Police*, 491 U.S. 58, 71 (1989), citing *Brandon v. Holt*, 469 U.S. 464, 471 (1985). Section 1983 provides a federal cause of action through which an individual whose civil rights have been violated can seek redress against the *person* who, under color of law, committed the violation—neither the State nor its officials acting in their official capacities is a "person" under 42 U.S.C. § 1983. *Will*, 491 U.S. at 71.

Similarly, a dog is not a "person" for purposes of Section 1983 litigation. *Hicks v. City of*

Barberton, No. 5:11-cv-76, 2011 WL 3022089 (N.D. Ohio July 22, 2011), citing *Price v. New Orleans Police Dept.*, No. 09-3241, 2011 WL 1542831, *1 (E.D.La. Mar.18, 2011); See 1. U.S.C. § 1 (defining the word “person” to include “corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals” but not dogs or other animals); *Dye v. Wargo*, 253 F.3d 296, 299 (7th Cir.2001) (plaintiff alleging excessive force at arrest cannot sue police dog as dog is not a proper defendant in Section 1983 litigation); *Banks v. Hall*, 2010 WL 572879, at * 5 (D.N.H. Feb. 5, 2010); *Smith v. P.O. Canine Dogs Chas*, 2004 WL 2202564, at * 6-7 (S.D.N.Y. Sept. 28, 2005) (police dog is not a person under Section 1983); *Fitzgerald v. McKenna*, 1996, WL 715531 at * 7 (S.D.N.Y. Dec. 11, 1996) (denying attempt to maintain Section 1983 action against police dog because “animals lack capacity to be sued”).

C. Plaintiffs have failed to state a plausible claim entitled to relief.

Moreover, assuming Plaintiffs timely filed their complaint and sued proper “persons,” the OSHP Defendants are still entitled to judgment on the pleadings because Plaintiffs have failed to plead any viable legal theory with factual support. Plaintiffs are *pro se* complainants, and although *pro se* pleadings must be liberally construed, *Boag v. MacDougall*, 454 U.S. 364, 364 (1982), a complaint still “must contain either direct or inferential allegations respecting all the material elements to sustain a recovery under some viable legal theory.” *Dotson v. Wilkinson*, 477 F. Supp. 2d 838, 845 (N.D. Ohio 2007), citing *Scheid v. Fanny Farmer Candy Shops, Inc.*, 859 F.2d 434, 436 (6th Cir. 1988). One thing is clear from reading the complaint: “no relief could be granted under any set of facts that could be proved consistent with [Plaintiffs’] allegations,” which means that the legal violations that Plaintiffs have alleged against the OSHP

Defendants do not provide relief. *Sistrunk v. City of Strongsville*, 99 F.3d 194, 197 (6th Cir. 1996).

Plaintiffs have not sufficiently pleaded any of the claims that they bring against the OSHP Defendants. While “detailed factual allegations” are not required under Fed. R. Civ. P. 8(a)(2)’s “short and plain statement” rule, the law “demands more than [Plaintiffs’] unadorned, the-defendant-unlawfully-harmed-me allegation.” *Iqbal*, 556 U.S. at 677-78, quoting *Twombly*, 550 U.S. at 555 (citing to *Papasan v. Allain*, 478 U.S. 265, 286 (1986)). Even “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Iqbal*, 556 U.S. at 678, citing *Twombly*, 550 U.S. at 555. Although a district court “must read all well-pleaded allegations of the complaint as true,” *Weiner v. Klais & Co., Inc.* 108 F.3d 86, 88 (6th Cir. 1997), courts “are not bound to accept as true a legal conclusion couched as a factual allegation.” *Iqbal*, 556 U.S. at 678. Legal conclusions can “provide the framework of the complaint, [yet] they *must be supported by factual allegations.*” *Id.*, (emphasis added). A complaint must state “a plausible claim for relief.” *Iqbal*, 556 U.S. at 679, citing *Twombly*, 550 U.S. at 556.

Plaintiffs’ complaint instead makes broad, generic allegations of federal and state-law violations against *all* Defendants, but has not provided any facts regarding specific conduct of any of the OSHP Defendants. *See* Doc. 4. The Sixth Circuit Court of Appeals “has consistently held that damage claims against government officials arising from alleged violations of constitutional rights must allege, with particularity, facts that demonstrate what *each* defendant did to violate the asserted constitutional right.” *Lanman v. Hinson*, 529 F.3d 673, 684-85 (6th Cir.2008) (emphasis added). Plaintiffs’ complaint fails to properly allege plausible claims of wrongdoing by the OSHP Defendants, even when construing the complaint liberally. Therefore,

the OSHP Defendants are entitled to judgment on the pleadings for Plaintiffs' failure to state a claim upon which relief may be granted.

V. CONCLUSION

For the reasons listed above, The Ohio State Highway Patrol Defendants respectfully move this Court to grant their motion under Fed. R. Civ. P. 12(c).

Respectfully submitted,

MICHAEL DEWINE
Ohio Attorney General

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Counsel for OSHP Defendants

CERTIFICATE OF SERVICE

I certify that on March 1, 2017, I electronically submitted the Ohio State Highway Patrol Defendants' Motion for Judgment on the Pleadings with the Clerk of the Court for the U.S. District Court for the Southern District of Ohio using the CM/ECF system. A copy of this pleading was mailed to Plaintiff Clifton Jackson, at Lake Erie Correctional Institution, 501 Thompson Road, P.O. Box 8000, Conneaut, Ohio 44030; the listed New York Plaintiffs at 117 Weaver Street, Buffalo, New York 14206; and the listed Michigan Plaintiffs at 8900 E. Jefferson Avenue, Apt. 304, Detroit, Michigan 48214.

s/ Morgan A. Linn

Morgan A. Linn
Assistant Attorney General

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION



CLIFTON A. JACKSON, et al.,	:	
	:	CASE NO. 2:17-cv-163
Plaintiffs,	:	
	:	
v.	:	
	:	
OHIO STATE HIGHWAY	:	
PATROL, et al.,	:	CHIEF JUDGE SARGUS
	:	
Defendants.	:	MAGISTRATE JUDGE JOLSON

**DEFENDANT UNITED STATES OF AMERICA'S MOTION TO DISMISS FOR
LACK OF SUBJECT MATTER JURISDICTION**

Defendant United States of America moves to dismiss itself from this action under Federal Rule of Civil Procedure 12(b)(1) because Plaintiffs did not exhaust administrative remedies under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671-2680, before filing the complaint. This Court therefore lacks subject matter jurisdiction over Plaintiffs' state law tort claims. The reasons for this motion are more particularly described in the attached Memorandum in Support.

Respectfully submitted,

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United States Attorney

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MEMORANDUM OF LAW

COPY

I. FACTS AND PROCEDURAL HISTORY

Plaintiffs filed this action in the Franklin County Court of Common Pleas against numerous local officials, state and federal employees, and their respective entities, including DEA agents TFO Geno Taliano and SA Caitlin Szczepinski. Plaintiffs allege intentional infliction of emotional distress, "intentional tort," and [loss of] consortium, as well as "intentional discriminatory prosecution" and various Constitutional violations. Compl., ECF No. 1-1, ¶ 31. Plaintiffs seek compensatory and punitive damages in excess of \$58 million. *Id.* at p. 14.

The United States Attorney for the Southern District of Ohio, Benjamin C. Glassman, certified that TFO Taliano and SA Szczepinski were acting within the scope of their employment with the United States Government at the time of the incident out of which Plaintiffs' claims arose. *See* Certification of Scope of Employment, ECF No. 1-3. Upon that Certification, the United States of America removed Plaintiffs' action from state court to this Court under 28 U.S.C. § 2679(d)(2). Notice of Removal, ECF No. 1. Following removal, the United States filed a Notice of Substitution, substituting it as the sole defendant by operation of law in place of the individual defendants TFO Taliano and SA Szczepinski for the state law tort claims alleged. *See* Notice of Substitution, ECF No. 2.

The United States now moves to dismiss itself from this action under Federal Rule of Civil Procedure 12(b)(1) because Plaintiffs have not exhausted their administrative

remedies for their state law tort claims, which are governed by the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671-2680.



II. LAW AND ARGUMENT

The United States is immune from suit unless Congress specifically waives sovereign immunity in statutory text. *United States v. Bormes*, 133 S.Ct. 12, 16 (2012) (quoting *United States v. Nordic Village, Inc.*, 503 U.S. 30, 33-34 (1992)); *FAA v. Cooper*, 566 U.S. 284, 290 (2012) (collecting cases). “Sovereign immunity is jurisdictional in nature. Indeed, the ‘terms of [the United States]’ consent to be sued in any court define that court’s jurisdiction to entertain the suit.” *FDIC v. Meyer*, 510 U.S. 471, 475 (1994) (quoting *United States v. Sherwood*, 312 U.S. 584, 586 (1941)).¹

The Federal Tort Claims Act is a limited waiver of sovereign immunity for certain state law torts committed by federal employees. 28 U.S.C. § 1346(b); *see also FDIC v. Meyer*, 510 U.S. at 475-476. The FTCA applies to Plaintiffs’ state law tort claims because the individual federal defendants have been certified as acting within the scope of their employment at the time of the events giving rise to Plaintiffs’ claims. Certification of Scope of Employment, ECF No. 1-3. Upon that certification, the action is to be removed to federal district court and “deemed to be an action or proceeding brought against the

¹ The United States Supreme Court has held that the limitations periods in relation to the administrative claim are not jurisdictional. *United States v. Kwai Fun Wong*, 135 S.Ct. 1625, 1629 (2015). These requirements are in 28 U.S.C. § 2401(b). Although it appears that Plaintiffs’ claims would be time barred as they allege a date of June 14, 2011, this motion presents a question of subject matter jurisdiction because it presents an administrative exhaustion issue under 28 U.S.C. § 2675(a), not a question of timeliness under the statute of limitations periods in 28 U.S.C. § 2401(b).



United States” under the FTCA, “and the United States shall be substituted as the party defendant.” 28 U.S.C. § 2679(d)(2); *see also Osborne v. Haley*, 549 U.S. 225, 230 (2007).

One of the conditions of the FTCA’s limited waiver of sovereign immunity is that the claimant must completely exhaust administrative remedies with the agency that gave rise to the claim before filing a complaint in district court. Under 28 U.S.C. § 2675(a):

An action shall not be instituted upon a claim against the United States for money damages for injury or loss of property . . . caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, unless the claimant shall have first presented the claim to the appropriate Federal agency and his claim shall have been finally denied by the agency in writing and sent by certified or registered mail.

A claimant must satisfy both the “presentment” and “final denial” requirements before bringing state law tort claims, or else those claims must be dismissed. *McNeil v. United States*, 508 U.S. 106, 112 (1993) (“The most natural reading of the statute indicates that Congress intended to require complete exhaustion of executive remedies before invocation of the judicial process.”); *see also Lundstrum v. Lyng*, 954 F.2d 1142, 1145 (6th Cir. 1991). It is the plaintiff’s burden to affirmatively allege that he has exhausted administrative remedies. *Joelson v. United States*, 86 F.3d 1413, 1422 (6th Cir. 1996) (“Because [Plaintiff] does not allege that he has filed an administrative claim, he has not satisfied the jurisdictional prerequisite to obtaining judicial review under the Federal Tort Claims Act . . .”).

A claimant “presents” an administrative tort claim when the federal agency whose activities gave rise to the claim receives written notification of the incident



accompanied by a claim for money damages in a sum certain. 28 U.S.C. § 2675(a); see also 28 C.F.R. § 14.2. A "Standard Form 95" is the official form on which tort claims are presented. 28 C.F.R. § 14.2(a). The SF-95 need not be used, however, so long as the appropriate federal agency receives the claimant's written notification of an incident accompanied by a claim for money damages in a sum certain. 28 C.F.R.

§ 14.2(a); *Blakely v. United States*, 276 F.3d 853, 864–65 (6th Cir. 2002) (quoting *Lundstrum v. Lyng*, 954 F.2d 1142, 1145 (6th Cir. 1991)). "[A]n administrative claim under the FTCA must be in careful compliance with its terms" and "to be complete, it must include a claim for damages in a sum certain." *Blakely*, 276 F.3d at 865 (citing *Glarnier v. United States Dep't of Veterans Admin.*, 30 F.3d 697, 700 (6th Cir. 1994)).

Once a claimant presents a tort claim to the appropriate federal agency, the "final denial" requirement of Section 2675(a) must be met before the complainant can institute her action. The tort claim must "have been finally denied by the agency in writing and sent by certified or registered mail," or six months must have passed without the agency's decision, in which case the claim may be deemed finally denied. 28 U.S.C. § 2675(a).

Plaintiffs' allegations are not only insufficient to invoke subject matter jurisdiction over their state law tort claims—Plaintiffs in fact *cannot* allege that they exhausted administrative remedies before filing the state court complaint. The DEA has no record that Plaintiffs, Clifton A. Jackson, Alexander Jemison, Amber Powlak, Mason Jackson, Moneh Fuller, Roman Motley, Elijah Fuller, Lorrionna Jackson, April Burns, Angel Burns Myles, Brenda Jackson, or Jamel Pittman presented an administrative tort claim



under any of the Plaintiffs names in this case. See Decl. of DEA Associate Chief Counsel Marcia N. Tiersky, attached hereto as Exhibit I, at ¶¶ 4-5. Thus, because Plaintiffs have failed to present an administrative tort claim, this Court does not have subject matter jurisdiction over the United States.

III. CONCLUSION

For the reasons set forth above, the Court should dismiss the United States from this action for lack of subject matter jurisdiction.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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I hereby certify that on February 24, 2017, I electronically filed the foregoing Motion to Dismiss using the CM/ECF system, and that on the same date I mailed a copy by first class mail via the United States Postal Service to:

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501 Thompson Road
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[REDACTED]
Buffalo, NY [REDACTED]

Amber Powlak
[REDACTED]
Buffalo, NY [REDACTED]

Mason Jackson
[REDACTED]
Buffalo, NY [REDACTED]

Moneh Fuller
[REDACTED]
Buffalo, NY [REDACTED]

Roman Motley
[REDACTED]
Buffalo, NY [REDACTED]

Elijah Fuller
[REDACTED]
Buffalo, NY [REDACTED]

Lorrionna Jackson
[REDACTED]
Buffalo, NY [REDACTED]

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April Burns

[REDACTED]
Detroit, MI [REDACTED]

Angel Burns Myles

[REDACTED]
Detroit, MI [REDACTED]

Brenda Jackson

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Jamel Pittman

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s/Leah M. Wolfe
LEAH M. WOLFE (0093299)
Assistant United States Attorney

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**IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO**

_____)		
)	
CLIFTON A. JACKSON, et al.,)	
)	
)	CASE NO. 17CV-01-616
Plaintiffs,)	
v.)	
)	
OHIO STATE)	
)	
HIGHWAY PATROL, et al.,	)	JUDGE YOUNG
)	
Defendants.)	
_____)		

DECLARATION OF MARCIA N. TIERSKY

I, Marcia N. Tiersky, declare and say:

1. I am Associate Chief Counsel for the Civil Litigation Section of the Office of Chief Counsel of the United States Department of Justice, Drug Enforcement Administration (DEA).

2. As such, I have custody of agency records related to the filing, evaluation and disposition of administrative claims presented to DEA under the Federal Tort Claims Act (FTCA). Agency procedures require that all FTCA claims over \$500 be submitted to this office for review.

3. As a routine business practice, this office maintains an electronic record of each such claim. This system has been in effect for over ten years.

4. On or about February 21, 2017, I searched the records of this office to determine whether a tort claim was presented to DEA by or on behalf of Plaintiffs Clifton A. Jackson, Alexander Jemison, Amber Powlak, Mason Jackson, Monch Fuller, Roman Motley, Elijah

EXHIBIT
1

COPY

Fuller, Lorrionna Jackson, April Burns, Angel Burns Myles, Brenda Jackson, and Jasael Sherman,
arising out of the events described in their Complaint, filed on or about January 20, 2017.

5. There is no record of an FTCA claim having been presented by or on behalf of
any of the Plaintiffs in this case.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the forgoing
statements are true and correct.

Executed in Arlington, Virginia,
February 21, 2017


MARCIA N. TIERSKY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

CLIFTON A JACKSON, *et al*

Plaintiffs,

v.

OHIO STATE HIGHWAY
PATROL, *et al.*

Defendants.

: Case No.: 2:17-cv-163
:
: CHIEF JUDGE SARGUS
: MAGISTRATE JUDGE JOLSON
:
: MOTION TO DISMISS
: DEFENDANTS WILL, SLANCZKA,
: GAUTHIER, DEZORT, ZALESKI
: AND MIRALDI

Come now defendants Dennis Will, Mary Slanczka, Jennifer Riedthaler, Peter Gauthier, Laura Ann Dezort, the Honorable Edward Zaleski (ret) and the Honorable James Miraldi, by and through statutory counsel, and, pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, respectfully request this Court dismiss plaintiff's claims against them. A memorandum in support is filed contemporaneously with this motion.

Respectfully submitted,

DENNIS P. WILL
Prosecuting Attorney

s/Daniel F. Petticord
s/Chris A. Pyanowski
Daniel F. Petticord - #0060009
Chris A. Pyanowski - #0084985
Assistant Prosecuting Attorney
Attorneys for County Defendants
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CERTIFICATE OF SERVICE

I certify that on March 23, 2017, I filed the foregoing *Motion to Dismiss Defendants Will, Slanczka, Gauthier, Dezort, Zaleski and Miraldi*, using the Court's CM/ECF system and I certify that on the same day a copy of the foregoing was sent via regular U.S. Mail to:

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s/Daniel F. Petticord

s/Chris A. Pyanowski

Daniel F. Petticord - #0060009

Chris A. Pyanowski - #0084985

Attorneys for County Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

CLIFTON A JACKSON, <i>et al</i>	:	Case No.: 2:17-cv-163
	:	
Plaintiffs,	:	CHIEF JUDGE SARGUS
	:	MAGISTRATE JUDGE JOLSON
v.	:	
	:	<u>MEMORANDUM IN SUPPORT OF</u>
OHIO STATE HIGHWAY	:	<u>MOTION TO DISMISS</u>
PATROL, <i>et al.</i>	:	<u>DEFENDANTS WILL, SLANCZKA,</u>
	:	<u>GAUTHIER, DEZORT, ZALESKI</u>
Defendants.	:	<u>AND MIRALDI</u>

Introduction

Pro se plaintiff, Clifton Jackson, brings this suit in his own name and ostensibly in the name of eleven other plaintiffs against several defendants, including Dennis Will, Mary Slanczka, Jennifer Riedthaler, Peter Gauthier, Laura Ann Dezort, the Honorable Edward Zaleski (ret) and the Honorable James Miraldi (collectively, “the County Defendants”). Mr. Jackson’s claims appear to arise from a June 2011 traffic stop, his arrest and the ensuing court proceedings.

Although this Court must, for purposes of this motion only, “construe the complaint liberally in the plaintiff’s favor and accept as true all *factual* allegations,” *Gazette v. City of Pontiac*, 41 F.3d 1061, 1064 (6th Cir. 1994)(emphasis added), a complaint must also state a “plausible claim for relief” to survive a motion to dismiss.

Ashcroft v. Iqbal, 129 S. Ct. 1937, 173 L. Ed. 2d 868 (2009). Mr. Jackson's claims against the County Defendants fail as a matter of law for the following reasons: This Court lacks jurisdiction over his challenges to state court decisions under the *Rooker-Feldman* doctrine; Mr. Jackson's claims are barred under *Heck v. Humphrey*; the Judicial Defendants are absolutely immune from suit; and Mr. Jackson fails to sufficiently state a cause of action against any of the County Defendants.

Summary of the allegations

The majority of Mr. Jackson's allegations refer to his arrest and the proceedings in the Lorain County Court of Common Pleas. These allegations do not appear to be primarily directed at any of the County Defendants.

Mr. Jackson alleges that each of the County Defendants participated in a conspiracy to deprive him of his civil rights, such conspiracy apparently arising out of Mr. Jackson's arrest on June 14, 2011. (Doc #: 4, PAGEID #8-10, 12). There are no specific allegations against any County Defendant contained in the complaint. Rather, Mr. Jackson's claim appears to be that all defendants somehow conspired with each other to improperly search his vehicle on the date of his arrest. No other named Plaintiff has brought a single claim in this action or appeared before this Court.

Mr. Jackson alleges that because of this inchoate conspiracy, the County Defendants are liable under 42 U.S.C. §§ 1981, 1983, 1985, 1988. He seeks damages in the amount of twenty nine million, four hundred and eleven thousand, seven hundred sixty four dollars and twenty and a half cents against each defendant in both the defendant's individual and official capacity.

Argument

I. **This Court does not have subject matter jurisdiction over Mr. Jackson's challenges to state court decisions.**

To the extent Mr. Jackson is challenging his conviction and sentence stemming from his 2011 arrest, the *Rooker-Feldman* doctrine bars this Court from reviewing his claims. Because this is an improper invocation of federal jurisdiction, Mr. Jackson's complaint must be dismissed. *Denman v. Leedy*, 479 F.2d 1097, 1098 (6th Cir. 1973).

Under 28 U.S.C. § 1257, final judgments of state courts are entitled to receive full faith and credit from this Court; a United States District Court has no authority to review final judgments of a state court in judicial proceedings. *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 482 (1983); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 415-16 (1923). Put another way:

[L]ower federal courts possess no power whatever to sit in direct review of state court decisions. If the constitutional claims presented to a United States District Court are inextricably intertwined with the state court's denial in a judicial proceeding...then the district court is in essence being called on to review the state-court decision. This the district court may not do.

Feldman, 460 U.S. at 483-84, n. 6.

Here, Mr. Jackson appears to assert that his initial arrest, and hence his conviction, were improper and the result of a vast conspiracy to deprive him of his constitutional rights. He cannot hope to recover the money damages prayed for absent some finding from this Court that the initial detention was improper. This is precisely what § 1257, as interpreted through *Rooker*, *Feldman*, and their progeny, prohibit: "[t]he doctrine divests federal district courts of subject matter jurisdiction in cases

where they are called upon to review state court judgments.” *Johnson v. Ohio Supreme Court*, 156 Fed. Appx. 779, 781 (6th Cir. 2005).

Therefore, this Court does not have jurisdiction to review Mr. Jackson’s implied challenges to decisions made by the state court.

II. Mr. Jackson’s underlying conviction prohibits his challenge to the decisions in the underlying matter.

Mr. Jackson’s claims are based on conduct that occurred during state criminal proceedings against him. He has not alleged his conviction has been invalidated through an appeal within the Ohio court system.

In *Heck v. Humphrey*, 512 U.S. 477, 487, 114 S.Ct. 2364, 129 L.Ed.2d 383 (1994), the Supreme Court held that, if a judgment rendered in favor of a plaintiff would necessarily imply that the criminal conviction or sentence was invalid, then the complaint must be dismissed unless the plaintiff has already succeeded in having the conviction or sentence invalidated. Strong policy considerations support this requirement; specifically, it eliminates “parallel litigation over the issues of probable cause and guilt . . . and it precludes the possibility of the claimant succeeding in the [civil] action after having been convicted in the underlying criminal prosecution, in contravention of a strong judicial policy against the creation of two conflicting resolutions arising out of the same or identical transaction.” *Id.* at 485.

In this case, Mr. Jackson is challenging his 2013 conviction in the Lorain County Common Pleas Court. Under *Heck*, to bring this action, Mr. Jackson must assert that the state court proceedings have been invalidated through a state court appeal; otherwise, his appropriate remedy is to appeal. No such assertion has been made. Because he has not alleged his conviction or his sentence has been invalidated, dismissal is appropriate.

III. Judges Miraldi and Zaleski are absolutely immune from suit for the claims against them.

Assuming, *arguendo*, this Court has jurisdiction to review Mr. Jackson's claims, those claims still fail. Judicial defendants such as Judge Miraldi and Zaleski (the "Judicial Defendants") are absolutely immune from damages in civil lawsuits arising from their judicial acts in cases over which they preside. *Domanick v. Lias*, 2011 U.S. Dist. LEXIS 58199 (N.D. Ohio, June 1, 2011), citing *Mireles v. Waco*, 502 U.S. 9, 9 (1991) and *Barnes v. Winchell*, 105 F.3d 1111, 1115 (6th Cir. 1997). In *Domanick*, the rationale for judicial immunity was explained as the court dismissed a *pro se* lawsuit against a judge: "Judges are provided with this far-reaching protection to ensure that their independent and impartial exercise of judgment is not impaired by the exposure of potential damages." *Domanick*, 2011 U.S. Dist. LEXIS 58199 at *8. This same rationale applies in this case.

Federal law has long held that judges are immune from money damages in connection with "judicial acts," unless there is a "clear absence of all jurisdiction." *Stump v. Sparkman*, 435 U.S. 349, 362 (1978). The absolute judicial immunity of the Judicial Defendants can be overcome in only two situations:

1. If they were acting in the complete absence of all jurisdiction; or
2. If their challenged actions were non-judicial.

Mr. Jackson's allegations fail to support either scenario.

A) The Judicial Defendants had proper jurisdiction to preside over Mr. Jackson's underlying case.

Ohio R.C. 2931.03 states "The Court of common pleas has original jurisdiction of all crimes and offenses, except in cases of minor offenses the exclusive jurisdiction of which is vested in courts inferior to the court of common pleas." Therefore, the Judicial

Defendants had jurisdiction to preside over Mr. Jackson's underlying case, and their immunity cannot be challenged on this point.

B) The Judicial Defendants' actions were judicial acts.

The remaining inquiry is whether the Judicial Defendants actions were "judicial acts" and thus protected by immunity. An act is only considered non-judicial if "it is one not normally performed by a judicial officer or if the parties did not deal with the judge in his official capacity." *King v. Love*, 766 F.2d 962, 965 (6th Cir. 1985)(emphasis added).

Mr. Jackson makes no specific allegations of any specific act undertaken by either Judicial Defendant. Because the Judicial Defendants had jurisdiction to preside over the matter and there is no allegations that either took any action outside their judicial function, the Judicial Defendants are absolutely immune from liability and dismissal is appropriate.

IV. Prosecutor Will and Assistant Prosecutors Slanczka, Riedthaler, Gauthier and Dezort are absolutely immune from suit

Both Prosecutor Will and his Assistant Prosecutors are immune from suit related to their role in the prosecution of Mr. Jackson's underlying matter. The United States Supreme Court has held that prosecutors are considered "quasi-judicial officers" entitled to the absolute immunity granted to judges when their activities are "intimately associated with the judicial phase of the criminal process." *Imbler v. Pachtman*, 424 U.S. 409, 430, 96 S.Ct. 984, 47 L.Ed.2d 128 (1976). To determine whether absolute immunity attaches to a particular prosecutorial activity, the *Imbler* Court adopted a "functional analysis." *Imbler* at 430. This approach requires a court to examine "the nature of the function performed, not the identity of the actor who performed it."

Forrester v. White, 484 U.S. 219, 229, 108 S.Ct. 538, 98 L.Ed.2d 555 (1988). The Supreme Court has recognized that the duties of the prosecutor in his or her role “as advocate for the State involve actions preliminary to the initiation of a prosecution and actions apart from the courtroom.” *Imbler* at 431, fn. 33. Thus, “[i]mmunity extends to ‘the preparation necessary to present a case,’ and this includes the ‘obtaining, reviewing, and evaluation of evidence.’” *Id.*

Here, the allegations against Prosecutor Will and his Assistant Prosecutors are devoid of any specifics. There are no allegations that any defendant operated at all outside of their official functions. Assumedly, and based on other filings presented by Mr. Jackson at various points, his claims are based on the prosecuting attorney’s failure to agree with him that the initial search of his vehicle was unlawful. This is the type of evaluation of a case that falls squarely within a prosecutor’s absolute immunity.

If this Court finds that the prosecutor’s actions are not covered by absolute immunity, then the prosecutor may be entitled to qualified immunity. The Sixth Circuit has held that government officials are entitled to qualified immunity where their actions do not “violate clearly established statutory or constitutional rights of which a reasonable person would have known.” *Greene v. Reeves*, 80 F.3d 1101, 1104 (6th Cir. 1996) (citing *Harlow v. Fitzgerald*, 457 U.S. 800, 818, 102 S. Ct. 2727, 73 L. Ed. 2d 396 (1982)). “Qualified immunity ‘gives ample room for mistaken judgments’ by protecting ‘all but the plainly incompetent or those who knowingly violate the law.’” *Chappell v. City of Cleveland*, 585 F.3d 901 (6th Cir. 2009).

In addition, Prosecutor Will and his Assistant Prosecutors are also shielded from liability under Ohio Rev. Code § 2744.03(A)(7), which provides that a “[p]olitical subdivision, and an employee who is a county prosecuting attorney, city director of law,

village solicitor, or similar chief legal officer of a political subdivision, an assistant of any such person, or a judge of a court of this state is entitled to any defense or immunity available at common law or established by the Revised Code.” See *Tuleta v. Med Mut. of Ohio*, No. 100032, 2014 WL 1327790, at *3-4 (Ohio Ct. App. Mar. 13, 2014) (dismissing complaint against county prosecutors on the ground that they, as well as judicial officers, were absolutely immune from suit under “common law” and Ohio Rev. Code § 2744.03A)(7));

V. Mr. Jackson fails to state a claim for which relief can be granted.

Even if Mr. Jackson’s claims were not barred by the above threshold defenses, his claims would still fail. Mr. Jackson fails to sufficiently state a cause of action against the County Defendants because he does not allege facts that are “enough to raise a right to relief above the speculative level.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007). In addition, the causes of action that are directed at the County Defendants fail on the merits as well.

A. The § 1981 claims fail on the merits.

To establish a § 1981 claim, a plaintiff must show (1) that he/she is a member of a racial minority; (2) that the defendant intended to discriminate against the plaintiff on the basis of race; and (3) that the plaintiff was subjected to discrimination concerning one or more of the activities enumerated in § 1981. *Lauture v. IBM*, 216 F.3d 258 (2d Cir. N.Y. 2000). Mr. Jackson makes no such allegation on any of the three elements.

B. The § 1983 claims fail on the merits.

To recover under § 1983, Mr. Jackson must plead and prove two essential elements: that he was denied a right secured by the Constitution or the laws of the United States, and that the deprivation was permitted by one acting under color of state

law. *Fritz v. Charter Twp. of Cornstock*, 592 F.3d 718, 722 (6th Cir. 2010); *Leach v. Shelby Cnty. Sheriff*, 891 F.2d 1241, 1244 (6th Cir. 1989)(quoting *West v. Atkins*, 487 U.S. 42, 48, 108 S. Ct. 2250, 101 L. Ed. 2d 40 (1988)). As these and other cases make abundantly clear, the plaintiff must have been actually deprived of a *federally* protected right. A § 1983 action does not cover official conduct that violates only state law. *Baker v. McCollan*, 443 U.S. 137, 146 (1979); *Paul v. Davis*, 424 U.S. 693, 697, *rehearing denied*, 425 U.S. 985 (1976). Section 1983 does not even cover state constitutional violations. *Smith v. Sullivan*, 611 F.2d 1039, 1045 (5th Cir. 1980); *Schieb v. Humane Soc. of Huron Valley*, 582 F. Supp. 717, 725 (E.D. Mich. 1984).

Again Mr. Jackson makes no specific allegation of the deprivation of a federally protected right, nor does he allege that such a deprivation occurred under color of law.

C. Mr. Jackson's § 1985 claims fail on the merits.

To recover under § 1985, Mr. Jackson must allege a conspiracy that is based on some racial or otherwise "class-based, invidiously discriminatory animus." *Bray v. Alexandria Women's Health Clinic*, 506 U.S. 263, 268 (1993). Each plaintiff must possess characteristics of a discrete and insular minority, for example, a racial or national origin minority. *Haverstick Enters v. Financial Fed. Credit*, 32 F.3d 989 (6th Cir. 1994), citing *Hicks v. Resolution Trust Corp.*, 970 F.2d 378, 382 (7th Cir. 1992). Mr. Jackson does not, however, allege he belongs to any such protected class.

D. Mr. Jackson's § 1986 claims fail on the merits.

Section 1986 creates a cause of action against those who have knowledge that a § 1985 wrong is about to be committed and the power to prevent it, but fail to do so. *Radvansky v. City of Olmsted Falls*, 395 F.3d 291, 315 (6th Cir. 2005). Since Mr. Jackson has not stated a claim under § 1985, he has also failed to state a claim under §

1986. *Id.*; see also *Amadasu v. Christ Hosp.*, 514 F.3d 504, 507 (6th Cir. 2008) (“Failure to state a claim for relief under § 1985 is fatal to . . . claims brought pursuant to § 1986 because a § 1986 claim is dependent upon a viable § 1985 claim.”).

E. Mr. Jackson’s § 1988 claims fail on the merits.

Before Mr. Jackson can establish a right to an award of attorney’s fees under § 1988, he must first establish that he was the prevailing party in the underlying litigation. *Hensley v. Eckerhart*, 461 U.S. 424 (U.S. 1983). For the obvious reasons, Mr. Jackson has failed to do so.

F. Mr. Jackson’s deliberate infliction of emotional distress claim fails on the merits.

Mr. Jackson alleges that all of the defendants caused him to suffer severe emotional distress.

To state a claim for emotional distress without physical injury, as Mr. Jackson attempts here, he would need to allege the defendants intended to cause him emotional distress; that defendants’ conduct was extreme and outrageous; that defendants proximately caused Plaintiff’s psychic injury; and that he suffered mental anguish of such a severe nature that no reasonable person could be expected to endure it. *Jacob v. Fadel*, 2006-Ohio-5003, 2006 Ohio App. LEXIS 4949.

Mr. Jackson has failed to plead allegations that meet this high standard; he has therefore failed to state a claim.

Conclusion

Based on the foregoing, the County Defendants respectfully request this Court dismiss plaintiff Clifton Jackson’s claims against them with prejudice.

Respectfully submitted,

DENNIS P. WILL
Prosecuting Attorney

s/Daniel F. Petticord

s/Chris A. Pyanowski

Daniel F. Petticord - #0060009

Chris A. Pyanowski - #0084985

Assistant Prosecuting Attorney

Attorneys for County Defendants

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Elyria, Ohio 44035

Phone: (440) 329-5455

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CERTIFICATE OF SERVICE

I certify that on March 23, 2017, I filed the foregoing *Memorandum in Support of Motion to Dismiss Defendants Will, Slanczka, Gauthier, Dezort, Zaleski and Miraldi*, using the Court's CM/ECF system and I certify that on the same day a copy of the foregoing was sent via regular U.S. Mail to:

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Conneaut, OH 44030

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s/Chris A. Pyanowski

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Attorneys for County Defendants

COPY

**IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO**

_____)	
)	
CLIFTON A. JACKSON, et al.,)	
	Plaintiffs,	)	CASE NO. 17CV-01-616
v.)	
)	
OHIO STATE)	
HIGHWAY PATROL, et al.,		)	JUDGE YOUNG
	Defendants.)	
_____)	

DECLARATION OF MARCIA N. TIERSKY

I, Marcia N. Tiersky, declare and say:

1. I am Associate Chief Counsel for the Civil Litigation Section of the Office of Chief Counsel of the United States Department of Justice, Drug Enforcement Administration (DEA).

2. As such, I have custody of agency records related to the filing, evaluation and disposition of administrative claims presented to DEA under the Federal Tort Claims Act (FTCA). Agency procedures require that all FTCA claims over \$500 be submitted to this office for review.

3. As a routine business practice, this office maintains an electronic record of each such claim. This system has been in effect for over ten years.

4. On or about February 21, 2017, I searched the records of this office to determine whether a tort claim was presented to DEA by or on behalf of Plaintiffs Clifton A. Jackson, Alexander Jemison, Amber Powlak, Mason Jackson, Monch Fuller, Roman Motley, Elijah

EXHIBIT
1

COPY

Fuller, Lorrionna Jackson, April Burns, Angel Burns Myles, Brenda Jackson, and Jamel Pittman,
arising out of the events described in their Complaint, filed on or about January 20, 2017.

5. There is no record of an FTCA claim having been presented by or on behalf of
any of the Plaintiffs in this case.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the forgoing
statements are true and correct.

Executed in Arlington, Virginia,
February 21, 2017


MARCIA N. TIERSKY

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

CLIFTON A. JACKSON, <i>et al.</i> ,)	
	)	CASE NO. 2:17-cv-163
<i>Plaintiffs,</i>)	
	)	CHIEF JUDGE EDMUND A.
-vs-	)	SARGUS, JR.
	)	MAGISTRATE JUDGE JOLSON
OHIO STATE HIGHWAY)	
PATROL, <i>et al.</i>,	)	NOTICE OF APPEARANCE OF
	)	COUNSEL
<i>Defendants.</i>)	

NOTICE OF APPEARANCE OF COUNSEL

Please take notice that Acacia M. Perko (0087950) of Reminger Co., L.P.A. hereby enters her appearance as counsel for Defendant Paul A. Griffin in the above captioned matter.

Respectfully submitted,

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CERTIFICATE OF SERVICE:

I certify that on March 2, 2017, I filed the foregoing Answer using the Court's CM/ECF system and I certify that on the same day a copy of the foregoing was sent via regular U.S. Mail to:

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Plaintiff

Moneh Fuller
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Buffalo, NY [REDACTED]
Plaintiff

Elijah Fuller
[REDACTED]
Buffalo, NY [REDACTED]
Plaintiff

April Burns
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Detroit, MI [REDACTED]
Plaintiff

Brenda Jackson
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Detroit, MI [REDACTED]
Plaintiff

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Mason Jackson
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Plaintiff

Roman Motley
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Buffalo, NY [REDACTED]
Plaintiff

Lorrionna Jackson
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/s/ Acacia M. Perko

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Counsel for Defendant, Paul A.

Griffin

IN THE COURT OF COMMON PLEAS,
FRANKLIN COUNTY, OHIO

Clifton A. Jackson, *et al.*

Plaintiffs,

v.

OHIO STATE HIGHWAY PATROL, *et al.*

Defendants.

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)
) JUDGE DAVID C. YOUNG
)
)
) NOTICE OF APPEARANCE OF
) COUNSEL
)
)
)
)

NOTICE OF APPEARANCE OF COUNSEL

Please take notice that Acacia M. Perko (0087950) of Reminger Co., L.P.A. hereby enters her appearance as counsel for Defendant Paul A. Griffin in the above captioned matter.

Respectfully submitted,

/s/ Acacia M. Perko

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CERTIFICATE OF SERVICE

A copy of the foregoing has been forwarded by the Franklin County Clerk of Court's e-file notification service and/or by regular 1st Class U.S. mail on this 24th day of February, 2017 to the following:

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Counsel for Defendant, Paul A. Griffin

**IN THE COURT OF COMMON PLEAS,
FRANKLIN COUNTY, OHIO**

Clifton A. Jackson, et al.

Plaintiffs,

v.

OHIO STATE HIGHWAY PATROL, et al.

Defendants.

) **CASE NO. 17CV-01-616**
)
) **JUDGE DAVID C. YOUNG**
)
)
) **DEFENDANT PAUL A. GRIFFIN'S**
) **ANSWER AND AFFIRMATIVE**
) **DEFENSES**
)
)
)

DEFENDANT PAUL A. GRIFFIN'S ANSWER AND AFFIRMATIVE DEFENSES

Now comes Defendant Paul A. Griffin ("Griffin"), by and through the undersigned counsel and in response to Plaintiffs' Complaint states and avers as follows to each numbered paragraph:

1. Deny.
2. Deny without knowledge.
3. Deny without knowledge.
4. Deny without knowledge.
5. Deny without knowledge.
6. Deny without knowledge.
7. Deny without knowledge.
8. Deny without knowledge.
9. Deny without knowledge.
10. Deny without knowledge.
11. Deny without knowledge.

12. Deny without knowledge.
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26. Deny without knowledge.
27. Admit that Paul A. Griffin is an Attorney at Law, licensed in the state of Ohio. Deny any and all remaining allegations contained in paragraph 27 of Plaintiff's Complaint.
28. Deny without knowledge.
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31. Deny without knowledge.
32. Deny without knowledge.
33. Deny without knowledge.

34. Deny without knowledge.

35. Deny without knowledge.

36. Deny without knowledge.

37. Deny without knowledge.

38. Deny without knowledge.

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41. Deny without knowledge.

42. Deny without knowledge.

43. Deny without knowledge.

44. Deny.

45. Deny without knowledge.

46. Deny without knowledge.

47. Deny without knowledge.

48. Deny without knowledge.

49. Deny without knowledge.

FIRST DEFENSE

50. Plaintiffs' Complaint fails to state a claim against Defendant Griffin upon which relief can be granted pursuant to Ohio Civ. R. 12(B)(6).

SECOND DEFENSE

51. Plaintiffs' Complaint fails for lack of subject matter jurisdiction.

THIRD DEFENSE

52. Plaintiffs' Complaint fails for lack of personal jurisdiction.

FOURTH DEFENSE

53. Plaintiffs' Complaint fails for improper venue.

FIFTH DEFENSE

54. Pursuant to Ohio Civ.R. 12(B)(4) and 12(B)(5) there was insufficiency of process and/or insufficiency of service of process, Summons and Complaint on Defendant Griffin.

SIXTH DEFENSE

55. All or several of the claims set forth by Plaintiffs in the Complaint are barred by the applicable statutes of limitation.

SEVENTH DEFENSE

56. Plaintiffs have failed to join a party pursuant to Ohio Civ. R. 19 or Ohio Civ. R. 19.1 and therefore Plaintiffs' Complaint against Griffin must be dismissed.

EIGHTH DEFENSE

57. Any harm caused by Plaintiff Clifton A. Jackson's convictions was caused by himself and/or his own actions.

NINTH DEFENSE

58. The injuries and damages of which Plaintiffs complain are attributable to one or more persons from whom the Plaintiffs did not seek recovery in this action (O.R.C. §2307.23(C)).

TENTH DEFENSE

59. The injuries and damages as described by Plaintiffs in the Complaint were proximately caused by the acts and/or omissions of persons and/or entities other than Defendant Griffin over whom Griffin had no control, no right to control, no duty to control and in fact did not control, and therefore, Plaintiffs cannot recover from Defendant Griffin.

ELEVENTH DEFENSE

60. Plaintiffs were comparatively negligent with regard to the injuries and damages as described by Plaintiffs in the Complaint; accordingly, Plaintiffs are either barred from recovery against Defendant Griffin or any recovery obtained by Plaintiffs against Defendant Griffin must be reduced by an amount to be determined by the trier of fact.

TWELFTH DEFENSE

61. Plaintiffs failed to minimize or mitigate damages and injuries claimed to have been suffered as a result of the event at issue; accordingly, any recovery by Plaintiffs against Defendant Griffin is either barred or to be reduced by an amount to be determined by the trier of fact.

THIRTEENTH DEFENSE

62. Plaintiffs lack a reasonable good faith basis upon which to bring this claim against Defendant Griffin thereby entitling Defendant Griffin to an award of attorneys' fees and costs against Plaintiffs as provided by R.C. §2323.52.

FOURTEENTH DEFENSE

63. Plaintiffs' claims are barred by the doctrines of collateral estoppel, estoppel, *res judicata*, judicial estoppel, unclean hands, waiver and the statute of limitations.

FIFTEENTH DEFENSE

64. The injuries and damages as described by Plaintiffs in the Complaint were caused by the acts and/or omissions of other individuals and/or entities whose conduct Defendant Griffin had no reason to anticipate, said conduct not being the responsibility of Defendant Griffin.

SIXTEENTH DEFENSE

65. Griffin is entitled to an apportionment of liability to other parties and non-parties to this action pursuant to R.C. 2307.23.

SEVENTEENTH DEFENSE

66. Any damage or injury Plaintiffs may have suffered as alleged in the Complaint was solely and proximately caused by Plaintiffs' own negligence.

EIGHTEENTH DEFENSE

67. Plaintiffs lack the capacity to sue.

NINTEENTH DEFENSE

68. Plaintiffs lack standing to sue.

TWENTIETH DEFENSE

69. Plaintiffs are required to prove any claim for punitive damages by clear and convincing evidence.

TWENTY-FIRST DEFENSE

70. Awarding punitive damages in favor of the Plaintiffs against Defendant Griffin under the facts and circumstances of this case would constitute the imposition of and contravention of the Constitution of the State of Ohio.

TWENTY-SECOND DEFENSE

71. Punitive damages are subject to statutory caps and jurisdictional limitations.

TWENTY-THIRD DEFENSE

72. Punitive damage claims are subject to mandatory statutory bifurcation pursuant to O.R.C. §2315.21(B).

TWENTY-FORTH DEFENSE

73. Defendant Griffin reserves the right to add any additional Affirmative Defenses as the evidence and discovery so disclose.

WHEREFORE, Defendant Griffin requests that Plaintiffs' Complaint be dismissed with prejudice, at Plaintiffs' costs, without delay.

Respectfully submitted,

/s/ Acacia M. Perko

Acacia M. Perko, Esq. (0087950)

REMINGER CO., L.P.A.

200 Civic Center Drive

Suite 800

Columbus, Ohio 43215

Tele: 614.232.2628

Fax: 614.232.2410

Email: aperko@reminger.com

Counsel for Defendant, Paul A. Griffin

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

CLIFTON A. JACKSON, <i>et al.</i> ,)	
	)	CASE NO. 2:17-cv-163
<i>Plaintiffs,</i>)	
	)	CHIEF JUDGE EDMUND A.
-vs-	)	SARGUS, JR.
)	
OHIO STATE HIGHWAY)	
PATROL, <i>et al.</i>,	)	MAGISTRATE JUDGE JOLSON
)	
<i>Defendants.</i>)	

DEFENDANT PAUL A. GRIFFIN'S ANSWER AND AFFIRMATIVE DEFENSES

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THIRD DEFENSE

52. Plaintiffs' Complaint fails for lack of personal jurisdiction.

FOURTH DEFENSE

53. Plaintiffs' Complaint fails for improper venue.

FIFTH DEFENSE

54. Pursuant to Ohio Civ.R. 12(B)(4) and 12(B)(5) there was insufficiency of process and/or insufficiency of service of process, Summons and Complaint on Defendant Griffin.

SIXTH DEFENSE

55. All or several of the claims set forth by Plaintiffs in the Complaint are barred by the applicable statutes of limitation.

SEVENTH DEFENSE

56. Plaintiffs have failed to join a party pursuant to Ohio Civ. R. 19 or Ohio Civ. R. 19.1 and therefore Plaintiffs' Complaint against Griffin must be dismissed.

EIGHTH DEFENSE

57. Any harm caused by Plaintiff Clifton A. Jackson's convictions was caused by himself and/or his own actions.

NINTH DEFENSE

58. The injuries and damages of which Plaintiffs complain are attributable to one or more persons from whom the Plaintiffs did not seek recovery in this action (O.R.C. §2307.23(C)).

TENTH DEFENSE

59. The injuries and damages as described by Plaintiffs in the Complaint were proximately caused by the acts and/or omissions of persons and/or entities other than Defendant Griffin over whom Griffin had no control, no right to control, no duty to control and in fact did not control, and therefore, Plaintiffs cannot recover from Defendant Griffin.

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THIRTEENTH DEFENSE

62. Plaintiffs lack a reasonable good faith basis upon which to bring this claim against Defendant Griffin thereby entitling Defendant Griffin to an award of attorneys' fees and costs against Plaintiffs as provided by R.C. §2323.52.

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63. Plaintiffs' claims are barred by the doctrines of collateral estoppel, estoppel, *res judicata*, judicial estoppel, unclean hands, waiver and the statute of limitations.

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64. The injuries and damages as described by Plaintiffs in the Complaint were caused by the acts and/or omissions of other individuals and/or entities whose conduct Defendant Griffin had no reason to anticipate, said conduct not being the responsibility of Defendant Griffin.

SIXTEENTH DEFENSE

65. Griffin is entitled to an apportionment of liability to other parties and non-parties to this action pursuant to R.C. 2307.23.

SEVENTEENTH DEFENSE

66. Any damage or injury Plaintiffs may have suffered as alleged in the Complaint was solely and proximately caused by Plaintiffs' own negligence.

EIGHTEENTH DEFENSE

67. Plaintiffs lack the capacity to sue.

NINETEENTH DEFENSE

68. Plaintiffs lack standing to sue.

TWENTIETH DEFENSE

69. Plaintiffs are required to prove any claim for punitive damages by clear and convincing evidence.

TWENTY-FIRST DEFENSE

70. Awarding punitive damages in favor of the Plaintiffs against Defendant Griffin under the facts and circumstances of this case would constitute the imposition of and contravention of the Constitution of the State of Ohio.

TWENTY-SECOND DEFENSE

71. Punitive damages are subject to statutory caps and jurisdictional limitations.

TWENTY-THIRD DEFENSE

72. Punitive damage claims are subject to mandatory statutory bifurcation pursuant to O.R.C. §2315.21(B).

TWENTY-FORTH DEFENSE

73. Plaintiff Clifton Jackson is engaged in the unauthorized practice of law by representing Plaintiffs other than himself in violation of O.R.C. 4705.07.

TWENTY-FIFTH DEFENSE

74. Defendant Griffin reserves the right to add any additional Affirmative Defenses as the evidence and discovery so disclose.

WHEREFORE, Defendant Griffin requests that Plaintiffs' Complaint be dismissed with prejudice, at Plaintiffs' costs, without delay.

Respectfully submitted,

/s/ Acacia M. Perko

Acacia M. Perko, Esq. (0087950)

REMINGER CO., L.P.A.

200 Civic Center Drive

Suite 800

Columbus, Ohio 43215

Tele: 614.232.2628

Fax: 614.232.2410

Email: aperko@reminger.com

Counsel for Defendant, Paul A. Griffin

CERTIFICATE OF SERVICE:

I certify that on March 2, 2017, I filed the foregoing Answer using the Court's CM/ECF system and I certify that on the same day a copy of the foregoing was sent via regular U.S. Mail to:

Clifton A. Jackson #A652-163
Lake Erie Correctional Institution
501 Thompson Road / P.O. Box 8000
Conneaut, OH 44030
Plaintiff

Amber Powlak
[REDACTED]
Buffalo, NY [REDACTED]
Plaintiff

Moneh Fuller
[REDACTED]
Buffalo, NY [REDACTED]
Plaintiff

Elijah Fuller
[REDACTED]
Buffalo, NY [REDACTED]
Plaintiff

April Burns
[REDACTED]
Detroit, MI [REDACTED]
Plaintiff

Brenda Jackson
[REDACTED]
Detroit, MI [REDACTED]
Plaintiff

Ohio State Highway Patrol
1970 West Broad Street
P.O. Box 182074
Columbus, OH 43218-2074
Defendant
State Trooper Michael Trader
1970 West Broad Street
P.O. Box 182074

Alexander Jemison
[REDACTED]
Buffalo, NY [REDACTED]
Plaintiff

Mason Jackson
[REDACTED]
Buffalo, NY [REDACTED]
Plaintiff

Roman Motley
[REDACTED]
Buffalo, NY [REDACTED]
Plaintiff

Lorrionna Jackson
[REDACTED]
Buffalo, NY [REDACTED]
Plaintiff

Angel Burns Myles
[REDACTED]
Detroit, MI [REDACTED]
Plaintiff

Jamel Pittman
[REDACTED]
Detroit, MI [REDACTED]
Plaintiff

State Trooper Christopher Beyer
1970 West Broad Street
P.O. Box 182074
Columbus, OH 43218-2074
Defendant
State Trooper K-9 Argo
1970 West Broad Street
P.O. Box 182074

Columbus, OH 43218-2074
Defendant

Drug Enforcement Administration (DEA)
Special Agent Geno Taliano
1375 E. 9th Street, Suite 700
Lorain County Prosecutor
Dennis P. Will, Esq.
The Justice Center, 3rd Floor
225 Court Street
Elyria, OH 44035
Defendant

Leah M. Wolfe
Assistant United States Attorney
303 Marconi Boulevard, Ste 200
Columbus, Ohio 43215
Leah.wolfe@usdoj.gov
*Attorney for United States of America,
substituted party for Special Agent Geno
Taliano and Special Agent Caitlin
Szczplenski*

Lorain County Assistant Prosecutor
Peter J. Gauthier, Esq.
The Justice Center, 3rd Floor
225 Court Street
Elyria, OH 44035
Defendant

Anthony B. Giardini
520 Broadway
Third Floor
Loraine, Ohio 44052
Attorney for Defendant Jack Bradley

Paul A. Mancino, Jr. Attorney at Law
75 Public Square, Suite 1016
Cleveland, OH 44113-2098
Defendant

Columbus, OH 43218-2074
Defendant

Drug Enforcement Administration (DEA)
Special Agent Caitlin Szczplinski
1375 E. 9th Street, Suite 700

Lorain County Assistant Prosecutor
Jennifer M. Riedthaler, Esq.
The Justice Center, 3rd Floor
225 Court Street
Elyria, OH 44035
Defendant

Lorain County Assistant Prosecutor
Laura Ann Dezort, Esq.
The Justice Center, 3rd Floor
225 Court Street
Elyria, OH 44035
Defendant

Edward Zaleski, Retired Judge
The Justice Center, 7th Floor
225 Court Street
Elyria, OH 44035
Defendant

John Nemeth
Anspach Meeks Ellenberger
175 S. Third Street
Columbus, Ohio 432215
*Attorney for Defendant Mark A.
Aufdenkampe*

/s/ Acacia M. Perko
Acacia M. Perko, Esq. (0087950)

*Counsel for Defendant, Paul A.
Griffin*

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CLIFTON JACKSON, et al.,	:	
	:	
Plaintiffs,	:	Case No. 2:17-cv-00163
	:	
v.	:	
	:	
OHIO STATE HWY PATROL, et al.,	:	JUDGE SARGUS
	:	
Defendants.	:	

OHIO STATE HIGHWAY PATROL DEFENDANTS' ANSWER

Pursuant to Fed. Civ. R. 7, 8, and 12, Defendants Ohio State Highway Patrol, Trooper Christopher Beyer, Sergeant Trooper Michael Trader, and Canine Officer Argo (hereinafter "Defendants") issue the following answer to Plaintiffs' complaint.

1. Defendants admit in ¶ 1 of the complaint to this Court's jurisdiction to hear federal civil rights claims as a federal question.
2. There are no allegations in ¶¶ 2-13 of the complaint, but as to the listed Plaintiffs and their physical addresses, Defendants are without sufficient knowledge or information to form a belief as to ¶¶ 2-13 of the complaint, and therefore deny the same.
3. Defendants admit in ¶ 14 of the complaint to the Ohio State Highway Patrol's physical and post office address.
4. Defendants admit in ¶ 15 of the complaint that Trooper Christopher Beyer is an employee of the Ohio State Highway Patrol, but deny that Trooper Beyer's assigned location is 1970 W. Broad Street in Columbus, Ohio.

5. Defendants admit in ¶ 16 of the complaint that Sergeant Michael Trader is an employee of the Ohio State Highway Patrol, but deny that Sergeant Trader's assigned location is 1970 W. Broad Street in Columbus, Ohio.
6. Defendants admit in ¶ 17 of the complaint that canine Argo was a fully commissioned police canine with the Ohio State Highway Patrol, assigned to Sergeant Trader and now retired, but deny that Argo's assigned location is 1970 W. Broad Street in Columbus, Ohio.
7. There are no allegations in ¶¶ 18-30 of the complaint, but as to the listed co-Defendants and their physical addresses, Defendants are without sufficient knowledge or information to form a belief as to ¶¶ 18-30 of the complaint, and therefore deny the same.
8. To the extent that any allegations state a claim upon which relief can be granted in ¶ 31 of the complaint, Defendants deny the allegations entirely.
9. To the extent that any allegations state a claim upon which relief can be granted in ¶ 32 of the complaint, Defendants deny the allegations entirely.
10. To the extent that any allegations state a claim upon which relief can be granted in ¶ 33 of the complaint, Defendants deny the allegations entirely.
11. To the extent that any allegations state a claim upon which relief can be granted in ¶ 34 of the complaint, Defendants deny the allegations entirely.
12. Defendants are without sufficient knowledge or information to form a belief as to the allegations in ¶¶ 35-48 of the complaint, and therefore deny the same.
13. Defendants restate their answers for ¶¶ 1-12 of the complaint.

FIRST AFFIRMATIVE DEFENSE

Plaintiffs' lawsuit is time-barred under Ohio's applicable two-year statute of limitations. According to the Ohio State Highway Patrol's Investigative Report, attached as **Exhibit A**, Plaintiff Jackson's arrest occurred on June 14, 2011, and his criminal case was closed via a criminal jury trial conviction on February 3, 2014.

SECOND AFFIRMATIVE DEFENSE

Defendants are protected by qualified immunity.

THIRD AFFIRMATIVE DEFENSE

Defendants acted in good faith at all relevant times, so punitive damages may not be awarded.

FOURTH AFFIRMATIVE DEFENSE

If Plaintiffs have suffered any harm, injury or damage, which Defendants deny, any harm was caused in whole or in part by Plaintiffs' own actions.

FIFTH AFFIRMATIVE DEFENSE

Defendants raise the defense of waiver.

SIXTH AFFIRMATIVE DEFENSE

Defendants raise the defense of mootness.

SEVENTH AFFIRMATIVE DEFENSE

Defendants raise the defense of collateral estoppel.

EIGHTH AFFIRMATIVE DEFENSE

Defendants raise the defense of the Eleventh Amendment.

NINTH AFFIRMATIVE DEFENSE

Defendants raise the defenses under Ohio R. Civ. P. 12(B).

TENTH AFFIRMATIVE DEFENSE

Defendants reserve the right to assert such additional affirmative defenses as they may become appropriate.

JURY DEMAND

Defendants demand a trial by jury.

Respectfully submitted,

MIKE DEWINE
Ohio Attorney General

s/ Morgan A. Linn

MORGAN A. LINN (0084622)
Assistant Attorney General
c/o Ohio State Highway Patrol
1970 West Broad Street, Suite 531
Columbus, OH 43228
Phone: (614) 752-4797
Facsimile: (866) 523-8132
morgan.linn@ohioattorneygeneral.gov

Counsel for Ohio State Highway Patrol Defendants

CERTIFICATE OF SERVICE

I hereby certify that on February 24, 2017, I submitted **Ohio State Highway Patrol Defendants' Answer** was filed electronically with the Court's e-file system. A copy of this pleading was mailed to Plaintiff Clifton Jackson, at Lake Erie Correctional Institution, 501 Thompson Road, P.O. Box 8000, Conneaut, Ohio 44030; the listed New York Plaintiffs at 117 Weaver Street, Buffalo, New York 14206; and the Michigan Plaintiffs at 8900 E. Jefferson Avenue, Apt. 304, Detroit, Michigan 48214.

s/ Morgan A. Linn

Morgan A. Linn
Assistant Attorney General

Respectfully submitted,

ANTHONY B. GIARDINI CO., L.P.A.

/s/Anthony B. Giardini

ANTHONY B. GIARDINI, # 0006922

Attorney for Defendant Jack W. Bradley

520 Broadway, Third Floor

Lorain, OH 44052

PH: (440) 246-2665

FX: (440) 246-2670

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CLIFTON A. JACKSON, ET AL.	)	CASE NO. 2:17-cv-163
)	
Plaintiffs	)	CHIEF JUDGE EDMUND A. SARGUS
	)	MAGISTRATE JUDGE JOLSON
vs.)	
)	
OHIO STATE HIGH PATROL, ET AL.	)	<u>BRIEF IN SUPPORT OF MOTION TO DISMISS BY DEFENDANT JACK W. BRADLEY</u>
)	
Defendants.)	

I. SUMMARY

Plaintiffs have filed a frivolous Complaint against seventeen individuals, all of whom are judges, prosecutors or police officers, except for the Defendant Bradley and three other lawyers in private practice.

The single claim against Defendant Bradley is found in paragraph 42 of the Complaint.

On its face, paragraph 42 states that Defendant is in the private practice of law, but makes no other allegations of fact, only a conclusory statement of law that Bradley...*acting under the color of law conspired to deprive Plaintiffs of constitutional rights [right to counsel and fair trial]...by engaging in an overt act in furtherance of a conspiracy...*¹

There is no allegation as to who Bradley *conspired* with or what *overt act* he committed to further the *conspiracy*.

In short, Plaintiffs' Complaint, on its face and reading it in a manner most favorable to Plaintiffs, fails to set forth a factual basis for any claim under the Constitutions of the United States or the State of Ohio.

¹ Mark A. Aufdenkampe, Paul A. Griffin and Paul A. Mancino, Jr. were all in private practice at the time of Plaintiffs' Complaint.

II. LAW AND ARGUMENT

The standard for granting a defendant's motion to dismiss a complaint under Rule 12(B)(6) Federal Rules of Civil Procedure, is a high one.

In order to grant Defendant Bradley's motion, the Court must accept the allegations contained in the Complaint as true and also determine that there is no set of facts which Plaintiffs can prove which could result in relief against the moving party. See, *Mitchell v. Lawson Milk Company*, 40 Ohio St.3d 190 522 NE2d 753 (1988).

The Plaintiffs' Complaint provides this Court with no facts, as it relates to the Defendant Bradley, other than Defendant Bradley's name, address, and the fact that he is in the private practice of law. Defendant Bradley admits these facts.

There are *no* other operative facts upon which this Court could provide relief to Plaintiffs against the Defendant Bradley.

Conclusory statements of law are inadequate to serve as a basis for a claim. *Bell Atlanta Corp. v. Twombly* 550 U.S. 544, 107 S. Ct. 1955 (2007)

Moreover, in a claim brought pursuant to 42 U.S.C. Section 1981, 1983, 1985(3); 1986 and 1988(b) and (c), the Plaintiffs must allege and prove that the Defendant Bradley acted under color of law. *Haag v. Cuyahoga County*, 619 F.Supp. 262 (N.D.Ohio 1985); *Ellis v. Bazetta Police Department*, No. 4:05CV638 United States District Court, N.D. Ohio (April 26, 2005)

Plaintiffs did not even allege that Defendant Bradley represented the Plaintiffs.

If this Court takes judicial notice of the court docket in Plaintiff, Clifton Jackson's criminal case (Case No. 11CR083104, Lorain County Court of Common Pleas), it would find that Defendant Bradley represented Clifton Jackson for a short time, as privately retained

counsel, and that Bradley withdrew from representing Jackson with the approval of the Lorain County Court of Common Pleas. There was no objection from Plaintiff Jackson.

Plaintiffs' Complaint is frivolous and devoid of any substance as it relates to Defendant Bradley. It further represents the unauthorized practice of law, in that Plaintiff, Clifton Jackson, signed the Complaint on behalf of eleven (11) other Plaintiffs.

While Plaintiff, Clifton A. Jackson can represent himself, he is not authorized to represent any other parties in any type of legal proceeding.

Since the Plaintiffs have failed to provide this Court with even the most rudimentary allegation of operative facts, the Complaint must be dismissed as to Defendant Bradley.

Respectfully submitted,

ANTHONY B. GIARDINI CO., L.P.A.

/s/Anthony B. Giardini

ANTHONY B. GIARDINI, # 0006922

Attorney for Defendant Jack W. Bradley

520 Broadway, Third Floor

Lorain, OH 44052

PH: (440) 246-2665

FX: (440) 246-2670

CERTIFICATE OF SERVICE

I certify that on March 16, 2017, I filed the foregoing Motion to Dismiss using the Court's CM/ECF system and I certify that on the same day a copy of the foregoing was sent via regular U.S. Mail to those parties not on the Court's CM/ECF system:

Clifton A. Jackson, #A652-163
Lake Erie Correctional Institution
501 Thompson Road
P.O. Box 8000
Conneaut, Ohio 44030
Plaintiff

Alexander Jemison
117 Weaver Street
Buffalo, New York 14206
Plaintiff

Amber Powlak
117 Weaver Street
Buffalo, New York 14206
Plaintiff

Mason Jackson
117 Weaver Street
Buffalo, New York 14206
Plaintiff

Moneh Fuller
117 Weaver Street
Buffalo, New York 14206
Plaintiff

Roman Motley
117 Weaver Street
Buffalo, New York 14206
Plaintiff

Elijah Fuller
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Buffalo, New York 14206
Plaintiff

Lorrionna Jackson
117 Weaver Street
Buffalo, New York 14206
Plaintiff

April Burns
8900 E. Jefferson Avenue, Apt. 304
Detroit, Michigan 48214
Plaintiff

Angel Burns Myles
8900 E. Jefferson Avenue, Apt. 304
Detroit, Michigan 48214
Plaintiff

Brenda Jackson
8900 E. Jefferson Avenue, Apt. 304
Detroit, Michigan 48214
Plaintiff

Jamel Pittman
8900 E. Jefferson Avenue, Apt. 304
Detroit, Michigan 48214
Plaintiff

Mark A. Aufdenkampe, Esq.
33399 Walker Road, Suite A
Avon Lake, Ohio 44012
Defendant

/s/Anthony B. Giardini

ANTHONY B. GIARDINI

Attorney for Defendant Jack W. Bradley