

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

CLIFTON A. JACKSON, et al., :
Plaintiff(s), : Case No. 2:17-cv-00163
vs. :
OHIO STATE HIGHWAY PATROL, : JUDGE: SARGUS
et al., :
Defendant(s). :

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

Now comes the Plaintiff(s), and gives the following response to Co-Defendant "Mark A. Aufdenkampe's" Answer to Plaintiffs' Complaint and restates Defendant Aufdenkampe's role in the deliberate denial of Plaintiffs' Civil and Constitutional Rights, of which as a direct result of this Defendant's legal malpractice Plaintiffs continue to receive injuries to this date. Plaintiffs makes the following responses to Defendant Aufdenkampe's Nine Affirmative Defenses, to-wit:

First Defense

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

Response to First Defense:

1. Plaintiff asserts that this Defendant was served as a named Defendant at his address as listed in and made a part of the Complaint at the location of 33399 Walker Road, Suite A, Avon Lake, Ohio 44012. This was the address of th-

is Defendant at the time of commission of the legal malpractice as complained of in paragraph 43 and Claim Number 13, at all times related to his acts stated in the original complaint filed with this Court on January 20, 2017.

Second Defense

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

Response to Second Defense

3. Plaintiff asserts that pursuant to Ohio Rules of Civil Procedure, Rule 3(A) and (B), which states in pertinent part:

Civ.R. 3

"(A) Commencement

A civil action is commenced by filing a complaint with the court, if service is obtained within one year from such filing upon a named defendant, or upon an incorrectly named defendant whose name is later corrected pursuant to Civ.R. 15(C), or upon a defendant identified by a fictitious name whose name is later corrected pursuant to Civ.R. 15(D).

"(B) Venue: where proper

Any action may be venued, and decided in any court in any county. When applied to county and municipal courts, "county," as used in this rule, shall be construed, where appropriate, as the territorial limits of those courts. Proper venue lies in any one or more of the following counties:

* * * *

"(4) A county in which a public officer maintains his or her principal office if suit is brought against the officer in the officer's official capacity.

4. Plaintiff asserts that venue is proper against all named co-Defendant(s) by filing the action in the venue where the first named Defendant, who is a public officer main-

tains its principal office if suit is brought against the officer in their official capacity as it was in this case. Therefore, this Court has Subject-Matter-Jurisdiction over this civil action properly filed, personal jurisdiction of this Defendant if necessary can easily be obtained through the Court's power of subpoenas.

Third Defense

5. 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 Plaintiffs' Complaint.

Response to Third Defense

6. Plaintiff asserts that this Defendant being an attorney must re evaluate his understanding of Civil Law, paragraph 1 states the jurisdiction of the Court to hear the claimed Civil Action, paragraphs 2-13 clearly and convincingly list the named plaintiffs a party to the complaint, paragraph 26 is critical to this Defendant, because that is where he is named as a party to the complaint, and last but not least, paragraph 43 is the acts done by this Defendant that validate his actions making him liable.
7. Plaintiff asserts that the fact that this Defendant denies the allegations contained in paragraph 43 does nothing more than places a controversy on the record that must be settle in a jury trial to make a determination where the

truth lies.

8. Plaintiff asserts that, even though this Defendant has been named as a party in this civil action, only paragraphs 1-13, 26, and 43 pertains to him specifically, as will be determined at trial before a jury.

Fourth Defense

9. Plaintiffs' Complaint is barred by the applicable statute of limitations.

Response to Fourth Defense

10. Plaintiffs continue to this date to receiving re-occurring injuries as a direct result of this Defendant's illegal malpractice.

Fifth Defense

11. Plaintiff Complaint fails to state a claim upon which relief can be granted.

Response to Fifth Defense

12. Plaintiff asserts and believes that this Honorable Court is fully aware of the grounds upon which a legal malpractice suit may be brought against this Defendant, and if supported by clear and convincing evidence in a jury trial, legal malpractice clearly states a claim upon which relief can be granted. And Plaintiffs continue to receive injuries as a direct result of this Defendant's actions to date.

Sixth Defense

13. Venue is improper in Franklin County, Ohio.

Response to Sixth Defense

14. Venue is proper in Franklin County, Ohio, because the first named Defendant "Ohio's State Highway Patrol" whose address is 1970 West Broad Street, P.O. Box 182074, Columbus, Ohio 43218-2074. The City of Columbus, is under the jurisdictional venue of Franklin County, Ohio. Because the Ohio State Highway Patrol is a public office and maintained in Franklin County Plaintiffs suit is brought against the Ohio's State Highway Patrol in its official capacity as the first named Defendant in a case involving multiple defendants and multiple claims for relief pursuant to Civ.R. 3(E); See also Claim No. 1 at ¶31; and Civ.R. 3(B)(4).

Seventh Defense

15. 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.

Response to Seventh Defense

16. Plaintiffs asserts that in each claim against each defendant they have with clear and convincing evidence stated the injuries suffered, stated both Civil and Constitutional Right violated by each defendant, and stated the sections of Title 42 U.S.C required [1981 Civil; 1983 Filed by prisoner; 1985 and 1986] and a demand for relief was filed against each defen-

dant separately for compensatory, punitive, or monetary damages in their official or individual capacities, and some defendants in both capacities. See "DEMAND FOR RELIEF", Page 14 of the Complaint.

Eighth Defense

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

Response to Eighth Defense

18. Plaintiffs asserts that the first injuries by these Defendants occurred on June 14, 2011 and these injurious acts of injustice continue to date, as attested too through claims number 1 through claim number 17; and paragraphs 31 through 49.

Ninth Defense

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

Response to Ninth Defense

20. Plaintiffs asserts that this Defendant as well as any of the other Defendants may raise any additional affirmative defenses as they may wish to no avail, because Plaintiffs have placed clear and convincing evidence of a controversy between the parties that can only be settle by the jury. So pray the Plaintiffs.

WHEREFORE, Plaintiffs respectfully requests that their Civil Action proceed forward for the jury pursuant to Civ.R. 8, to settle this controversy between the parties once and for all, so prays the Plaintiffs.

Respectfully submitted,

Clifton A. Jackson

Clifton A. Jackson, et al.,

#A652-163

Lake Erie Correctional Inst.

501 Thompson Road

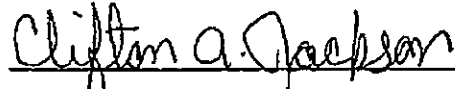
P.O. Box 8000

Conneaut, Ohio 44030

PLAINTIFF(S)

CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing was sent by regular U.S. Mail to John C. Nemeth, counsel for Defendant Mark Aufdenkampe, Esq., at Anspach Meeks and Ellenberger LLP, 175 S. Third Street, Suite 285, Columbus, Ohio 43215 on this 2nd day of March, 2017.



Clifton A. Jackson, et al.,

PLAINTIFF(S)