

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

FILED
ADAMS COUNTY
CLERK OF COURTS

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SHAWN COOLEY et al

PLAINTIFFS,

VS.

JOSEPH E. FOREMAN et al

DEFENDANTS.

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CASE NO. CVH 20230069

Judge Jerry McBride

ORAL HEARING REQUESTED

**DEFENDANT'S RESPONSE TO PLAINTIFFS' MOTION FOR JUDGMENT ON THE
PLEADINGS AS TO DEFENDANTS' COUNTERCLAIMS**

Comes now Defendants, Joseph E. Foreman and Hungry Hustler Records, and requests that this court deny the Motion of the Plaintiff. The Plaintiff is not entitled to immunity for their actions in relation to the counterclaims of the Defendants. A memorandum in support is attached to this Response and incorporated by reference.

Respectfully submitted,

/s/ David Osborne, Jr.
DAVID "D.J." OSBORNE, JR #0096879
Attorney for the Defendant's Joesph E.
Foreman and Hungry Hustler Records

MEMORANDUM IN SUPPORT

The case at hand could readily be considered a rarity for modern courts. A case which involves a department of local Police Officers acting to execute a defective search warrant upon an Adams County resident, Mr. Joeseph Foreman. The investigation into

this reveals that the search warrant was obtained under odd, if not strange, circumstances and contained claims more in line with primetime television than reality. A frightening reality is brought to light in regards to the Adams County Sheriff's Deputies exceeding the scope of their warrant. The documentation clearly reflects the cash amount seized from the Defendant's residence does not equal the amount returned. No charges were brought against Mr. Foreman, the CI, nor any of the Adams County Sheriff's Deputies out of this incident. The event was all but forgotten until the Plaintiffs started a lawsuit in the Adams Court of Common Pleas in 2023.

Factual background

Early on August 21, 2022 Adams County Sheriff's Deputies (hereafter called "Deputies") dispatched to an address on Heather Hollie Lane in Winchester, Ohio. (Exhibit 1 attached to Answer & Counterclaim filed October 27, 2023) The Deputies went to conduct, what Detective Newland describes as, a "knock and talk" with the resident about drug activity. Id. Detective Newland obtained consent to search the residence at Heather Hollie Lane and found four colorless plastic baggies containing large amounts of green leafy vegetation. Id. The Deputies found over 2,000 grams of green leafy vegetation making the resident at Heather Holley Lane guilty of a felony of the third degree. Id.

As a result of the interview, the resident becomes a confidential informant (hereafter called a "CI") with the claim that she was only holding the green leafy vegetation for "Afroman". Id. The CI further claims to have known Afroman for approximately 10 years and has been intimate with him for at least 8 years, but clarified that she has not seen Afroman for approximately a month and has not been at his residence since that time. Id. The CI gave great detail of Afroman's residence indicating an intimate understanding of both layout and the individual's proclivities. Id. These factors led to their

eventual falling out. However, the CI indicated that she saw Mr. Foreman purchase marijuana from dispensaries around the United States. Id. She also claims to have observed large amounts of marijuana around Mr. Foreman's residence. Id. The CI also claimed that Mr. Foreman brought marijuana back to Adams County from out of state. Id.

An action which merits questioning is of one Detective Newland who never followed up with questions and facts in his affidavit as to exactly how the purchase of this marijuana at a dispensary was illegal? Secondly, a question remains how Detective Newland reached the conclusion that from Mr. Foreman's alleged recreational use of marijuana could have indicated drug trafficking and that it was occurring out of this private residence? More troubling still, how did Detective Newland arrive at a legal conclusion of kidnapping when there are no signs, information, or indications of any individual actively being held against their will? When viewed alongside the CI's story it sounds fantastical enough to merit investigation but falls short to establish a legal basis for swift action, especially considering that Detective Newland could have fact checked the story of the CI on multiple levels prior to seeking a search warrant.

Seemingly disregarding due diligence, Detective Newland took the statements from the scorned CI and used the very same CI's testimony as basis for a search warrant. Despite the late hour of the day, surprisingly, Detective Newland met with Adams County Court Judge Roy Gabbert on or around 6:55 pm on August 21, 2024, receiving an expedited warrant. Id. Following the Judge's execution of the search warrant, and giving them three days to execute the warrant, the Deputies were dispatched to 1299 Russellville Road in Winchester, Ohio to execute the warrant which allowed them to search for violations of (1) O.R.C. 2925.11 (Possession of controlled substances), (2) O.R.C. 2925.03 (Trafficking), and (3) O.R.C. 2925.01 (Kidnapping). Id.

Deputies executed a search on the residence located at 1299 Russellville Road in Winchester, Ohio. After breaking in the door at the residence they found no one at home; however, Ms. Foreman arrived shortly after the Deputies arrived on the scene. (Exhibit B attached to the Answer & Complaint filed October 27, 2023, which are stills taken from the various Body Camera's worn by the Deputies). The home was dark as the Deputies began their search. Id. During their search they disconnected the security camera system via the cutting of wires. A Deputy took a photo of the Defendant's login information. The Deputies searched the complete home finding neither a basement or dungeon. No evidence of kidnapping or kidnapped persons were found. (Exhibit 1 attached to Answer & Counterclaim filed October 27, 2023) In fact, besides minor suspected marijuana paraphernalia and cash nothing of relevance was found. Id. The CI's whole story was completely discredited showing that she concocted a story to evade her own legal issues.

No charges were brought by the Adams County Prosecutor against the Defendant nor was the CI charged with any crimes. The fact that the CI was not charged is relevant as Detective Newland and the Deputies seek to hide their misdeeds behind qualified immunity saying they were only doing their job. Had this been the case the CI would have been charged out of this incident as the search clearly showed she fabricated the whole story.

Standard of Review

Under the Ohio Rules of Civil Procedure, Rule 12(C), any party may move for a judgment on the pleadings, "After the pleadings are closed but within such time as not to delay the trial." O. R. Civ. Pro. 12(C). The court when assessing a motion for judgment on the pleadings, must construe the material allegations in the complaint, along with all reasonable inferences to be drawn therefrom, in favor of the nonmoving party. Ohio

Manufacturers' Ass'n v. Ohioans for Drug Price Relief Act, 147 Ohio St.3d 42, 2016-Ohio-3038, 59 N.E.3d 1274, ¶ 10. A judgment on the pleadings can only stand if the nonmoving party can prove no set of facts entitling them to relief. Harris Farms, LLC v. Madison Twp. Trs., 2018-Ohio-4123, ¶ 13 (Ct. App.). Much like a 12(B)(6) motion a 12(C) motion seeks to accomplish the same effect.

Legal Analysis

Prior to analysis, the threshold question is under what capacity each party is suing. The Plaintiff goes to great lengths to indicate that the Defendant is suing the wrong person or entity. They do this by noting that the actions which are the subject of this complaint involve the Plaintiffs in their official capacity as Adams County Sheriff's Deputies. This fact was first expressed in the "Complaint for Damages and Injunctive Relief, with Jury Demand Endorsed Hereon" filed with the Adams County Court of Common Pleas on March 13, 2023 by the Plaintiff. The Plaintiff expresses in Paragraphs one through seven that all the Plaintiffs, "at all relevant times, ... has been Deputy with the Adams County Sheriff's Office." (Complaint for Damages and Injunctive Relief, with Jury Demand Endorsed Hereon, page 3) The Complaint goes on to express that the images and etc. of the Deputies were obtained during a search of the Defendant's residence on August 21, 2022. (Id. At page 5) Further, the addresses of the Deputies are not disclosed which is consistent with Ohio Revised Code, section 2921.24, which details that the address of a peace officer may not be disclosed.

If the Deputies have sued under their official capacity they are then waiving their immunity by bringing the suit in their official capacity. If they have not sued under their official capacity then the very problems that the Plaintiff points out with the Defendant's Answer and Counterclaim would equally apply to them. Thus, the Plaintiff is prevented

by estoppel from seeking a dismissal of the complaint against Defendant for the same error committed by the Plaintiff. Yet even this analysis is potentially flawed as it rests on the idea that immunity applies solely upon how the Complaint and Answer are plead. Immunity rests on more than just structure and formality. Immunity takes into account the actions taken by the parties including directives and circumstances surrounding the events in question.

IMMUNITY IN GENERAL

The concept of immunity comes down to our modern law from the times of Kings and Queens. History has laid its foundation in the adage "the King can do no wrong." Immunity has gone through many changes throughout history and even today is an ever-changing concept. In Ohio, immunity is governed, among other provisions, by the Political Subdivision Tort Liability Act, which was inscribed in Ohio law under Section 2744 of the Ohio Revised Code. Even with immunity being granted by Ohio Law to certain individuals it is far from absolute and, in fact, depends upon who acted or what act was committed. This bears significance depending on if you are a Police Officer, or a political agency, or a governmental agency. The application and effect of how immunity is understood will impact the following analysis.

IMMUNITY UNDER OHIO LAW

The analysis of Police Officer immunity starts with Section 9.89 of the Ohio Revised Code, which states:

Except for civil actions that arise out of the operation of a motor vehicle and civil actions in which the state is the plaintiff, no officer or employee shall be liable in any civil action that arises under the law of this state for damage or injury caused in the performance of his duties, unless the officer's or employee's actions were manifestly outside the scope of his employment or official responsibilities, or unless the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

This section does not eliminate, limit, or reduce any immunity from civil liability that is conferred upon an officer or employee by any other provision of the Revised Code or by case law. ... O.R.C. Section 9.86.

On its face, the Ohio Revised Code grants a limited immunity to police officers. This immunity is far from absolute because the section requires an analysis of the actions taken by the officer.

Further, Ohio Revised Code section 2744.02 provides immunity to political subdivisions for governmental agencies and officials and their actions. This immunity is not absolute, and the statute provides for five exceptions under which political subdivisions do not get the benefit of immunity. These five exceptions are; (1) negligent operation of a motor vehicle, (2) political subdivisions are liable for injury, death, or loss to person or property caused by the negligent performance of acts by their employees with respect to proprietary functions of the political subdivisions, (3) municipalities failure to keep roads and sidewalks free from nuisances, (4) injury or loss that occurs within or on buildings used for governmental functions and is caused by negligence, and (5) any other situation in which liability is expressly imposed by the Ohio Revised Code. O.R.C. Section 2744.02(B). The Defendant to prevail and proceed with a suit need only show that one of the exceptions of 2744.02 applies. Digiorgio v. City of Cleveland, 2011-Ohio-5878, ¶ 20-27 (Ct. App.). Thus before determining if a police officer/governmental officer has immunity one must look at the circumstances around the event in question.

IMMUNITY FOR INTENTIONAL TORTS

Generally, police officers and governmental employees are liable for their intentional torts or if the employees' actions were manifestly outside the scope of the employees' employment or official responsibilities. Id. at ¶ 37. Thus, if a police officer is outside the scope of his duties or commits an intentional tort, such as theft, he or she may be held

liable and not be shielded by immunity. No immunity exists for willful or wanton behavior by police officers and especially not theft of private citizen property. While immunity may originate with "the King can do no wrong" the law has evolved away from this allowing that intentional torts do not carry immunity. In the end, immunity is a delicate balance between shielding the government and its officers while still providing private citizens a means to hold their government officials and officers accountable for their actions.

IMMUNITY AS APPLIED TO THIS CASE

All questions of immunity start with the conduct and how it measures into the tests provided by the law. The Plaintiff attempts to sidestep these tests by focusing on who is named in the complaint. This sidestep is important as it was the Plaintiff who was the first party to note that the Plaintiffs were law enforcement officers, and it was said officers who brought a suit against a private citizen not the other way around. For these reasons the analysis must be applied to the Deputies for each action taken. Furthermore, issues of fact cannot be dispensed with by a Motion for Judgment on the Pleadings. Issues of fact are for the trier of fact to determine, including did the Deputies act at the required Mens Rea.

DEFENDANTS' COUNTERCLAIM IN COUNT 1 and 2: Conversion by destruction and alteration of property, to wit: Doors, Door Frames, and Trim and Closet.

Defendant's Counterclaim Count 1 and 2 require the greatest amount of analysis. These claims deals with the damage caused by the Officer's execution of the search warrant. The residence located at 1299 Russellville Road, Winchester, Ohio has three entrances. (this has been attempted to be showed by Exhibit B of the Answer & Counterclaim filed October 27, 2023.) First, one at the front of the home, a glass sliding door at the rear and a side entrance through a mudroom. Second, the side entrance

through the mudroom has a door to the outside and then, third, another lockable door to the interior of the house. Deputies broke the side door into the mudroom and then the secondary door into the residence causing unnecessary additional damage to the property. Emphasis added that the extra damage was not necessary as Mrs. Foreman had arrived at the residence and could have let the Deputies inside with a key. Further, Deputies could observe that no one was home and there was no need to execute the warrant under any expeditious conditions.

The damage to the closet refers to damage caused when the Deputies attempted to locate a hidden compartment described by the CI. (Exhibit A of the Answer & Counterclaim filed October 27, 2023). In the search warrant Affidavit the CI told Detective Newland that her husband had constructed a hidden compartment in a closet. Id. Deputies caused damage to the Defendant's property when attempting to locate this hidden compartment in his closet. No compartment was found, again showing action based on meritless fabrication shared by the CI. When determining if the Deputies' actions are subject to immunity the facts of the event hold precedence.

There is no debate between either the Plaintiffs or the Defendants that the Plaintiff are law enforcement officers. (There might be some issue with Plaintiff Brian Newland who is no longer with the Adams County Sheriff's Office (hereafter referred to as ACSO); however, at the time of the Plaintiff's Complaint he was an officer at ACSO). There is no debate that a search warrant was issued based upon the Affidavit and representations of Detective Brian Newland. (Exhibit A of the Answer & Counterclaim filed October 27, 2023.) On its face it appears that Ohio Revised Code Section 2711.02 and Section 9.86 would grant the Deputies immunity and the political agency (ACSO). However, that is only if the analysis stops there.

Under Section 9.86 we must complete an analysis to see if the Deputies' actions were manifestly outside the scope of their employment or official responsibilities, or unless the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner. O.R.C. 9.86. The execution of search warrant is within in the official responsibilities of a ACSO Deputy, satisfying the first prong of the analysis. The second prong is harder to determine. The act of breaking down the door to the mudroom could be found to be wanton and/or reckless. These damages were a result of false CI. Additionally, given the information about the house and the presence of Ms. Foreman a jury may ultimately be necessary in order to determine what the officer's behavior might be construed as and meet the exception provided in Section 9.86.

The Plaintiff correctly points out that the Ohio legislature has addressed the issue of the damage to doors in Section 2935.12 of the Ohio Revised Code, which states:

When making an arrest or ... when executing a search warrant, the peace officer, law enforcement officer, ... may break down an outer or inner door or window of a dwelling house or other building, if, **after notice of his intention** to make the arrest or **to execute the warrant or summons, he is refused admittance**, but the law enforcement officer or other authorized individual executing a search warrant shall not enter a house or building not described in the warrant. O.R.C. 2935.12 (emphasis added).

Even here, while the Legislature attempted to codify that officers cannot be held responsible for the damage to entry into a residence they still set for a series of conditions that must be met for this statute to apply. The focus here is whether the officer is relieved of liability after notice has been given and refused? Discovery becomes imperative to determine the course of action taken by the Deputies to make a direct comparison with code to ensure proper procedure. Judgment on the pleadings would not be proper until discovery has been completed by both parties as if the Deputies did not follow the requirements of the statute they will not be provided with immunity.

The final step of the statutory immunity analysis is an examination under Section 2744 of the Ohio Revised Code to determine the liability of the political entity and Officers for the actions of the Deputies. There is no debate that the ACSO would be covered by the immunity provided in section 2744, the Defendant would need to show that an exception applies. The Defendant would apply the exception to the immunity granted by O.R.C. Section 2744.02(B)(2) by showing that the Deputies acted in a negligent manner in the execution of the search warrant. There is enough information contained in the complaint to put the Plaintiff on notice and to provide that immunity would not apply in this scenario. Therefore, even if the Plaintiff were to be considered an extension of the ACSO, and not the Deputies individually, immunity would not apply because an exception exists that the Defendant can use.

DEFENDANTS' COUNTERCLAIM IN COUNT 3 and 4: Conversion by destruction and alteration of property, and Trespass to Chattels, to wit: Security Cameras

The Defendant's Counterclaim Count 3 and 4 involves the actions of the Plaintiff's in regards to the security camera system present at the residence located at 1299 Russellville Road, Winchester, Ohio. This is, by far, the strangest event that took place during the search of the residence. The Deputies, after identifying a live security system, took steps to disable the system by damaging property, in the form of cutting security system wires. This surveillance system is the one that filmed the beginning of the search. This analysis is straightforward as the search warrant in question allowed the Deputies to search for drugs, kidnap victims, and drug trafficking equipment, but did not include reference to any home security systems. In fact, the Deputies have given no reason why it was necessary to disable the security system and under what authority they had cause to damage property outside of the warrant. No argument can be made that the system

had to be damaged to affect the warrant. Allowing the whole search to be filmed would have worked in the Deputies' favor and their damage of private property casts aspersions on the decision-making of the Deputies.

This likely would be considered an intentional tort of the Deputies and would prevent them from being immune from a civil claim of trespass to chattels and conversion. However, if an analysis of Under Section 9.86 we must completed, the execution of search warrant is within in the official responsibilities of a ACSO Deputy, satisfying the first prong of the analysis. The second prong is also satisfied as a jury could find that damaging the security system, if not an intentional tort, is wanton and/or reckless conduct subjecting the Deputies to liability. This same analysis would apply to the political entity, ACSO, under Section 2744. The Exception provided in Section 2744.02(B)(2) would allow the Defendant, upon a showing that the Deputies were negligent in the destruction of the security system, to pierce the immunity of the political agency. Upon scrutiny, immunity would not apply to either the Deputies or the political agency for the damages caused to the security cameras.

DEFENDANTS' COUNTERCLAIM IN COUNT 5 and 6: Conversion by destruction and alteration of property, and Trespass to Chattels, to wit: \$400 U.S. Currency

These counts are the simplest of the Defendant's counterclaims to see that no immunity applies. These claims are for nothing but plain old theft. The Deputies during their search seized over \$5,000 dollars in assorted United States Currency located around the house. When the seized funds were returned to Mr. Foreman, there was missing the sum of \$400. However, no analysis is really needed because the State of Ohio does not grant officers immunity to steal the property of private citizens.

DEFENDANTS' COUNTERCLAIM IN COUNT 7: Frivolous Conduct Under Rev.

Code Section 2323.51 by Plaintiffs.

Of the Defendant's claims this is the trickiest one to analyze as it has already been proven correct by a prior decision of the court, yet the Plaintiffs are correct in their understanding of the cause of action. Under Ohio Revised Code Section 2323.51, also known as the frivolous conduct statute, a party may seek to collect reasonable attorney fees for frivolous filings. This section provides that,

... Frivolous conduct" means either of the following:

(a) Conduct of an inmate or other party to a civil action, of an inmate who has filed an appeal of the type described in division (A)(1)(b) of this section, or of the inmate's or other party's counsel of record that satisfies any of the following:

(i) It obviously serves merely to harass or maliciously injure another party to the civil action or appeal or is for another improper purpose, including, but not limited to, causing unnecessary delay or a needless increase in the cost of litigation.

(ii) It is not warranted under existing law, cannot be supported by a good faith argument for an extension, modification, or reversal of existing law, or cannot be supported by a good faith argument for the establishment of new law. ... O.R.C. 2323.51(A)(2)(a)(i-ii).

Thus if a Defendant can show that the conduct of another party was frivolous they can collect reasonable attorney fees. While plead early as a Counterclaim, it put the Plaintiff on notice that their stance was not supported by law and that the Defendants would seek to collect some of the costs of the litigation. The frivolous nature of the claims has already been proven.

This is not the first round of Motions seeking to dismiss claims. Previously a Motion to Dismiss and Strike had been filed. This honorable court issued a Decision and Entry Denying in Part and Granting in Part Defendants' Motion to Dismiss on October 10, 2023. In that Decision, the Court dismissed Count 1 (Violation of Ohio Revised Code Chapter 2741 – Unauthorized Used of Individual's Persona) and Count 2 (Invasion of Privacy by

Misappropriation – Restatement of Torts Paragraph 652(C) (1977), by finding that the Plaintiffs could state no set of facts that would prove their claims. The Defendant was correct in regard to claims 1 and 2 of the Plaintiffs complaint when stating that there was no basis in existing law for the claims. Indicating that despite pleading early, and treating it as a cause of action in the counterclaim, the Defendant was not wrong in his assertion that the Plaintiffs had no basis for their claims.

The Plaintiff is correct as the Frivolous conduct statute does not create a private cause of action; it is, rather, a Statute that must be invoked by the aggrieved party through a motion to the court. The same action could be accomplished through a Motion under Ohio Civil Rule 11. In both cases the immunities provided under Ohio law do not apply to frivolous conduct. In this circumstance the Plaintiff does not articulate the timing of the courts prior Decision and the filing of the Answer and Counterclaim. This court entered a Decision and Entry Denying in Part and Granting in Part Defendants' Motion to Dismiss on October 10, 2023, which indicated that two claims of the Plaintiff were clearly dismissed with no set of facts to prove them.

The Defendant filed his Answer and Counterclaim on October 27, 2023, a total of 17 days after the Decision was filed. Rather than file a motion with the court it was stated as a claim. The Defendant would seek to have the court convert this Counterclaim to a Motion for sanctions under Ohio Revised Code Section 2323.51 rather than a Counterclaim against the Plaintiffs.

DEFENDANTS' COUNTERCLAIM IN COUNT 8: Illegal Search and Seizure.

Judge Roy Gabbert often says "the Constitution is the blanket of freedom that protects us all." The United States Constitution puts burden upon the States and State actors, such as police officers, to follow the provisions of the Constitution through the

Fourteenth Amendment. It is through the Fourteenth Amendment that the State are required to follow the Fourth Amendment in relation to search and seizures. The Fourth Amendment provides that,

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. U.S. Const. Amend. 4.

Fourth Amendment claims are analyzed based on what the officers knew at the time they made the relevant decisions and executed the warrant. Grant v. Wilson, Nos. 21-5642, 21-5750, 2022 U.S. App. LEXIS 23207, at *20 (6th Cir. Aug. 18, 2022).

In the case at hand, the Plaintiffs go through a great effort to indicate that no allegations have been raised in regard to the Deputies exceeding the scope of the search warrant and also alleging that the Deputies would not have known that the CI was lying to them. This is a red herring that is attempting to overlook the prior counterclaims in relation to the security cameras, which were clearly outside the scope of the Search Warrant. It further ignores the facts contained within the Search Warrant which was attached as Exhibit A to the Answer and Counterclaim filed on October 27, 2023.

Looking at the search warrant one must wonder why Detective Newland thought expeditious action was required. After all, it had been over a month since the CI had last seen the Defendant and admitted they had a falling out. Relying on the CI's accounts draws into question the foundation of any relationship held with the Defendant. Yet another discrepancy is the packaging not matching up with the CI's description of dispensaries. These continual inaccuracies are enough to discredit legitimacy. One example of investigation that might have led de-escalation from the perceived fervor would have been to look at the Adams County Auditor's website and see that the

Defendant's residence does not include a basement. Immediate judgment on this claim is improper as discovery and the face of the search warrant and the Answer and Counterclaim indicates facts upon which the Defendant could prove his case.

DEFENDANTS' COUNTERCLAIM IN COUNT 9: First Amendment Retaliation.

This Counterclaim is dealt with by another Motion. Defendant reserves all rights to raise all First Amendment affirmative defenses and defenses.

DEFENDANTS' COUNTERCLAIM IN COUNT 10: Abuse of Process.

This Counterclaim is dealt with by another Motion.

**DEFENDANTS' COUNTERCLAIM IN COUNT 11: Tortious Interference with a
Business Relationship or Contracts.**

This Counterclaim is dealt with by another Motion.

CONCLUSION

The Plaintiffs are police officers; however, their actions which gave rise to the Counterclaims are not subject to the protections of immunity. The analysis under multiple statutes proves that the Defendant has valid claims to pierce any immunity provided for the Plaintiffs. Therefore, the Motion of the Plaintiffs should be denied.

Respectfully submitted,

/s/ David Osborne, Jr.
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Attorney for the Defendant's Joseph E.
Forman and Hungry Hustler Records

PROOF OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was served upon to following:

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2. **David Moser**, Fishel Downey Albrecht and Riepenhoff, LLP, 7775 Walton Parkway, Suite 200, New Albany, Ohio 43054.
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by regular U.S. mail, hand delivery, **email**, fax, by dropping off in the Attorney box at Adams County Court, or email this 25 day of June , 2024.

Respectfully submitted,

 /s/ David Osborne, Jr.

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