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ADAMS COUNTY  
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2026 MAR 16 AM 8:06

*Larry Heller*  
CLERK

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

**SHAWN D. COOLEY, et al.**

PLAINTIFFS,

VS.

**JOSEPH EDGAR FOREMAN, et al.**

DEFENDANTS,

\* CASE NO. CVH 2023-0069  
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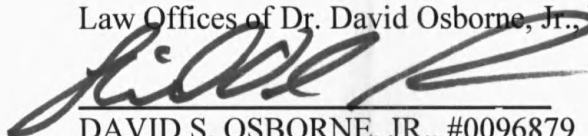
**DEFENDANT JOSEPH EDGAR FOREMAN'S MOTION IN LIMINE TO  
EXCLUDE THE TESTIMONY AND REPORT OF DETECTIVE MICHEAL ROBINSON**

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Comes now the Defendant, Joseph Foreman, by and through his Counsel and requests the exclusion and prohibition on testimony by Detective Michael Robinson and admission of his report. The Defendant was only put on notice of this witness and his report on March 2, 2026 and was provided with a copy of the report on March 10, 2026 after a specific request to the Plaintiff for said report. The entry of the witness and his report have prejudiced the Defendant, and he was denied valuable time to depose the witness about his report and the procedure he followed. The exclusion of the witness and report from being presented at the trial or a short continuance of the trial is proper to cure this discovery violation and allow the Defendant time to fully prepare a defense to the new witness and his report. A memorandum in support is attached hereto and incorporated by reference.

Respectfully submitted,

Law Offices of Dr. David Osborne, Jr., LLC



DAVID S. OSBORNE, JR., #0096879

Attorney for Defendant Joesph E. Foreman

Law Offices of Dr. David Osborne, Jr., LLC

115 West Main Street

West Union, Ohio 45693

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### **MEMORANDUM IN SUPPORT**

In 2023 the Plaintiffs in this case filed a lawsuit against the rapper, Joeseph Foreman (AKA Afroman). The case has progressed and a telephone status hearing was held on February 23, 2026. On March 2, 2026, Plaintiff's served the Defendant with proposed exhibits to be used at trial. Contained in that email was a mention that they also "intend to introduce documents related to the investigation of the alleged \$400 discrepancy." See Exhibit A: Email from Plaintiff Attorney Natalie Gratzner to Defendant's Attorney David Osborne, Jr. The provided exhibits did not contain a copy of the report nor name Detective Micheal Robinson as a witness. This was not learned until March 10, 2026 when Plaintiffs Attorney Robert Klinger emailed Defendants Attorney David Osborne, Jr. the Amended Witness and Exhibit List. See Exhibit B: Email exchange between Attorney Robert Klinger and Attorney David Osborne, Jr. Strangely in his email Attorney Klinger notes that he has added the Detective and that they will play some of the Body Camera footage of Plaintiff Brian Newland counting money during the search of Mr. Foreman's residence. No copy of the report was provided to Attorney Osborne. Attorney Klinger did not reference the report in his email. It was only upon review of the attached exhibit and witness list and a specific email request that Attorney Osborne was provided with a copy of the investigation report of the

Detective. See Exhibit B.

Discovery is a messy process by which a significant amount of evidence is requested and sorted. Each side looks at the evidence differently and builds their case and defense based on their views of the evidence. However, mistakes occur. Sometimes these mistakes have effects on the opposing party. The Plaintiff has committed a discovery violation by failing to put the Defense on notice of a new potential witness and to provide his report in a timely manner that would not prejudice the Defense.

Ohio Supreme Court held that “[a] trial court must inquire into the circumstances surrounding a discovery rule violation and, when deciding whether to impose a sanction, must impose the least severe sanction that is consistent with the purpose of the rules of discovery, applies equally to discovery violations committed by the state and to discovery violations committed by a criminal defendant.”<sup>1</sup> The Supreme Court went further to state that they believe that the “equal and reciprocal treatment of parties” is important when looking at discovery violations.<sup>2</sup> Also that considering sanctions the court shall investigate and impose the least severe sanction that will further purposes of the discovery rules is a critical consideration that must be taken into account in any ... case before a severe sanction is imposed for a discovery violation.<sup>3</sup> The Supreme Court emphasized the three factors that should govern a trial court's exercise of discretion in imposing a sanction for a discovery violation; these are whether the failure to disclose was a willful violation, whether foreknowledge of the undisclosed material would have benefitted the accused in the preparation of a defense, and whether the accused was prejudiced.<sup>4</sup> However, even with a violation the court must look at the least restrictive alternative.

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<sup>1</sup> State v. Woods, 2014-Ohio-4429, ¶ 17 (4<sup>th</sup> Dist.)

<sup>2</sup> Id. at ¶ 17.

<sup>3</sup> State v. Woods, 2014-Ohio-4429, ¶ 17 (4<sup>th</sup> Dist.)

<sup>4</sup> State v. Woods, 2014-Ohio-4429, ¶ 18 (4<sup>th</sup> Dist.)

In the case at hand, the Plaintiffs have totally failed to even put the Defense on notice that they planned to call Detective Robinson as a witness and present his report until it was too late for the Defense to depose and prepare a defense to the witness. The first prong of the Supreme Court analysis is to determine if a discovery violation took place. The Plaintiff was served with Interrogatories over a year ago and when those were finally supplied to the Defendant, no Detective Robison was listed or disclosed. The first that the Defense knew that Detective Robinson would be a possible witness was March 2, 2026 when the Plaintiffs indicated they planned to introduce evidence of the missing money investigation. Even at that time, the Defense was not made aware of the name of the witness. The name was only disclosed on March 10, 2026 when the Plaintiffs Amended Witness List was provided. The violation does not stop there. Each party is under a continuing duty to turn over evidence to the opposing party. Each party has already made that demand and it is not contested. Yet, Attorney Klingler, rather than sending the report, which had never been provided or disclosed before, required Attorney Osborne to request it in a follow up email. Such actions show that Attorney Klingler did not plan to supplement the Plaintiffs discovery as required. When viewing what occurred the only conclusion that can be reached is that a discovery violation occurred.

Once the first prong of the Supreme Court analysis is completed you must move the second prong; would the foreknowledge of the evidence and witness have benefited the accused in preparation of a defense. The answer is yes it would have benefited in the preparation of a defense to the witness and report. The record clearly shows that every witness disclosed by the Plaintiffs has been deposed and asked extremely in-depth questions. The foreknowledge of Detective Robinson would have allowed the Defendant to depose the Detective and question him in depth about his investigation. Questions about methodology, interviews etc. would have been asked to build a defense to the testimony of the Detective and his investigative report. Thus, the second

prong of the Supreme Court test is met as the foreknowledge would have helped the Defendant prepare a defense.

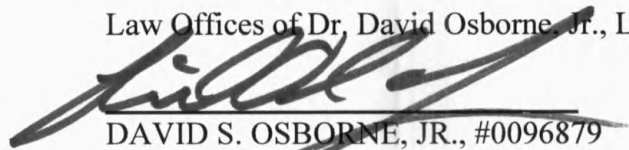
The third and final prong of the Supreme Court's test is if the Defendant was prejudiced by the violation. The Defendant has been prejudiced as without a deposition of the Detective he will not know what the Detective will testify to, with specificity. Further, a witness being on the stand is the wrong place to conduct a deposition and ask open ended questions. This is supposed to take place prior to trial so that valuable court time is not wasted. Further, asking open ended questions on the stand of a new witness could prejudice the Defendant by introducing evidence that would not have otherwise been admitted. Thus, the Defendant was prejudiced by the addition of the new witness and his report.

The final question to answer is what is the least restrictive means to correct the violation? The court could grant a continuance of a short time to allow the Detective to be deposed. This would allow the Defendant to prepare a defense to the Detective's testimony and report. Alternatively, the court could order the exclusion of the Detective's testimony and report. The least restrictive option is within the court's discretion.

WHEREFORE, the Defendant respectfully requests that this Court order the trial continued such that the new witness can be deposed or that the testimony and report of the new witness be excluded from being presented to the jury, and for such other and further relief as the Court deems just and proper.

Respectfully submitted,

Law Offices of Dr. David Osborne, Jr., LLC



DAVID S. OSBORNE, JR., #0096879  
Attorney for Defendant Joseph E. Foreman

**TO THE COURT**

The undersigned hereby certifies that he did use the Artificial Intelligence program Lexis Nexis Protege.

legal research was completed using the AI program.

Respectfully submitted,

Law Offices of Dr. David Osborne, Jr., LLC



DAVID S. OSBORNE, JR., #0096879

Attorney for Joseph Edgar Foreman

**PROOF OF SERVICE**

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

1. **Robert A. Klinger**, Robert A. Klinger Co., LPA, 895 Central Ave. Ste. 300, Cincinnati, Ohio 45202;
2. **Sara McElroy**, Fishel Downey Albrecht and Riepenhoff, LLP, 7775 Walton Parkway, Suite 200, New Albany, Ohio 43054.

by regular U.S. mail, hand delivery, email, fax, by dropping off in the Attorney box at Adams County Court, or email this \_15\_ day of \_March\_, 2026.

Law Offices of Dr. David Osborne, Jr., LLC



DAVID S. OSBORNE, JR., #0096879

Attorney for Joseph Edgar Foreman

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115 West Main Street

West Union, Ohio 45693

Phone: 1-877-4-DOC-DAVE

Fax: (937) 202-0205

Email: attorneydavidosbornejr@gmail.com





David Osborne, Jr. &lt;attorneydavidosbornejr@gmail.com&gt;

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**Plaintiffs' Exhibits and Witness List****Natalie Gratzner** <nrg@klinglerlaw.com>

Mon, Mar 2, 2026 at 5:13 PM

To: Robert Klingler &lt;rak@klinglerlaw.com&gt;, "attorneydavidosbornejr@gmail.com" &lt;attorneydavidosbornejr@gmail.com&gt;, Sara Lindsey McElroy &lt;smcelroy@fishelldowney.com&gt;, "DDowney@fishelldowney.com" &lt;DDowney@fishelldowney.com&gt;

Counsel,

Please see the attached Plaintiffs' Witness List. Plaintiffs' Exhibits can be accessed at the link below. Plaintiffs reserve their right to supplement these exhibits. We also intend to introduce documents related to the investigation into the alleged \$400 discrepancy. Let me know if there are any issues with accessing the files.

■ Plaintiffs' Exhibits - Cooley v. Foreman

We're assuming you will stipulate that the social media posts and songs at issue in this case were posted on accounts owned or controlled by Mr. Foreman, and that he posted them, or authorized their posting? Please confirm, or let us know if you will not stipulate. Thanks

Best,  
Natalie

**Natalie R. Gratzner, Esq.**  
ROBERT A. KLINGLER CO., L.P.A.  
Centennial III  
895 Central Ave., Suite 300  
Cincinnati, Ohio 45202  
Phone: (513)-665-9500



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**2026.03.02 Plaintiffs' Witness List.pdf**  
281K



David Osborne, Jr. &lt;attorneydavidosbornejr@gmail.com&gt;

## Amended Witness and Exhibit List

3 messages

Robert Klingler &lt;rak@klinglerlaw.com&gt;

Tue, Mar 10, 2026 at 5:08 PM

To: "David Osborne, Jr." &lt;attorneydavidosbornejr@gmail.com&gt;

Cc: Natalie Gratzner &lt;nrg@klinglerlaw.com&gt;, Sara Lindsey McElroy &lt;smcelroy@fisheldowney.com&gt;,"66a2b6d639fa406c8ab6d3eb57553461@lawmail.cosmolex.com"

&lt;66a2b6d639fa406c8ab6d3eb57553461@lawmail.cosmolex.com&gt;

&lt;66a2b6d639fa406c8ab6d3eb57553461@lawmail.cosmolex.com&gt;

DJ,

Attached please find Plaintiffs' Amended List of Witnesses and Exhibits. We added Detective Michael Robinson from the Clermont County Sheriff's Office, his investigative report about the cash discrepancy, and the Brian Newland BWC showing the cash count. Please let us know if you have any questions.

Bob

**Robert A. Klingler**

ROBERT A. KLINGLER CO., L.P.A.

Centennial III

895 Central Ave., Suite 300

Cincinnati, Ohio 45202

Telephone: (513) 665-9500

Fax: (513) 621-3240

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 **2026.03.10 Plaintiffs' Amended Witness and Exhibit List.pdf**  
187K

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**David Osborne, Jr.** <attorneydavidosbornejr@gmail.com>

Tue, Mar 10, 2026 at 5:12 PM

To: Robert Klingler <rak@klinglerlaw.com>

Cc: Natalie Gratzer <nrg@klinglerlaw.com>, Sara Lindsey McElroy <smcelroy@fisheldowney.com>, "66a2b6d639fa406c8ab6d3eb57553461@lawmail.cosmolex.com" <66a2b6d639fa406c8ab6d3eb57553461@lawmail.cosmolex.com>

Bob

I see you added him and the report.

Have you ever disclosed the report to me? I have not seen a copy of the report.

Thanks

Dj

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**Robert Klingler** <rak@klinglerlaw.com>

Tue, Mar 10, 2026 at 5:20 PM

To: "David Osborne, Jr." <attorneydavidosbornejr@gmail.com>

Cc: Natalie Gratzer <nrg@klinglerlaw.com>, "66a2b6d639fa406c8ab6d3eb57553461@lawmail.cosmolex.com" <66a2b6d639fa406c8ab6d3eb57553461@lawmail.cosmolex.com>

DJ.

Here is the report, and the spreadsheet referred to as an attachment.

Bob

**Robert A. Klingler**

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3/15/26, 2:20 PM

Gmail - Amended Witness and Exhibit List

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**2 attachments**



**Clermont County Investigative Report.pdf**  
1370K



**Copy of Adams Co. S.O. \$ Audit.pdf**  
426K