FILED
COURT OF CLAIMS
OF OHIO
2009 DEC 22 AM 9: 28

COURT OF CLAIMS OF OHIO

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614. 387.9800 or 1.800.824.8263
www.cco.state.oh.us

Subpoena

COURT'S COPY

Eugene Wrinn, Jr.
Plaintiff

V.

Case Number: 2006-05934

Ohio State Highway Patrol
Defendant

Judge: J. Craig Wright

To: Jennifer Mengerink
215 S. Green Street
Mendon, Ohio 45862-8526
(419) 795-9117

YOU ARE HEREBY COMMANDED TO:

- [x] Attend and give testimony at a (trial) (hearing) (deposition) on the date, time and at the place specified below.
- [ ] Attend to testify and produce documents and/or tangible things at a (trial) (hearing) (deposition) on the date, time and at the place specified below.
- [ ] Produce and permit inspection and copying, on the date and at the time and place specified below, of any designated documents that are in your possession custody or control.
- [ ] Produce and permit inspection and copying, testing or sampling, on the date and at the time and place specified below, of any tangible things that are in your possession, custody or control.
- [ ] Permit entry upon the following described land or other property, for the purposes described in civil 34(a)(3)), on the date and at the time and place specified below.

Description of land or other premises:

DATE: 01/07/2010 TIME: 9:00 a.m. PLACE: Elsass Wallace Evans Schnelle & Co. Courtview Center, 100 S. Main Street Suite 102, Sidney, OH 45369-0499

DESCRIPTION OF ITEMS TO BE PRODUCED:

ON COMPUTER

[redacted]

YOU ARE HEREBY COMMANDED TO SUBPOENA THE ABOVE NAMED PERSON.

WITNESS MY HAND AND SEAL OF SAID COURT THIS 18th DAY OF Dec., 20 09.
CLERK OF THE COURT OF CLAIMS OF OHIO.

BY: _____
~~XXXXXXXXX~~ Attorney

REQUESTING PARTY INFORMATION:

NAME: Cary Rodman Cooper, Esq.

(ATTORNEY FOR:) Plaintiff Eugene Wrinn, Jr.

TELEPHONE NUMBER (419) 241-1200

NOTE: READ ALL INFORMATION ON THIS SUBPOENA.

Civil Rule 45 (C) Protection of persons subject to subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena.

(2) (a) A person commanded to produce under divisions (A)(1)(b)(ii), (iii), (iv), or (v) of this rule need not appear in person at the place of production or inspection unless commanded to attend and give testimony at a deposition, hearing or trial.

(b) Subject to division (D)(2) of this rule, a person commanded to produce under divisions (A)(1)(b)(ii),(iii),(iv), or (v) of this rule may, within fourteen days after service of the subpoena or before the time specified for compliance if such time is less than fourteen days after service, serve upon the party or attorney designated in the subpoena written objections to production. If objection is made, the party serving the subpoena shall not be entitled to production except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena, upon notice to the person commanded to produce, may move at any time for an order to compel the production. An order t compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the production commanded.

(3) On timely motion, the court from which the subpoena was issued shall quash or modify the subpoena, or order appearance or production only under specified conditions, if the subpoena does any of the following:

(a) Fails to allow reasonable time to comply;

(b) Requires disclosure of privileged or otherwise protected matter and no exception or waiver applies;

(c) Requires disclosure of a fact known or opinion held by an expert not retained or specially employed by any party in anticipation of litigation or preparation for trial as described by Civ. R. 26(B)(4), if the fact or opinion does not describe specific events or occurrences in dispute and results from study by that expert that was not made at the request of any party;

(d) Subjects a person to undue burden.

(4) Before filing a motion pursuant to division (C)(3)(d) of this rule, a person resisting discovery under this rule shall attempt to resolve any claim of undue burden through discussions with the issuing attorney. A motion filed pursuant to division (C)(3)(d) of this rule shall be supported by an affidavit of the subpoenaed person or a certificate of that person's attorney of the efforts made to resolve any claim of undue burden.

(5) If a motion is made under division (C)(3)(c) or (C)(3)(d) of this rule, the court shall quash or modify the subpoena unless the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated.

Civil Rule 45 (D) Duties in responding to subpoena.

(1) A person responding to a subpoena to produce documents shall, at the person's option, produce them as they are kept in the usual course of business or organized and labelled to correspond with the categories in the subpoena. A person producing documents pursuant to a subpoena for them shall permit their inspection and copying by all parties present at the time and place set in the subpoena for inspection and copying.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials under Civ. R.26(B)(3) or (4), the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

Civil Rule 45 (E) Sanctions.

Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. A subpoenaed person or that person's attorney who frivolously resists discovery under this rule may be required by the court to pay the reasonable expenses, including reasonable attorney's fees, of the party seeking the discovery. The court from which a subpoena was issued may impose upon a party or attorney in breach of the duty imposed by division (C)(1) of this rule an appropriate sanction, which may include, but is not limited to, lost earnings and reasonable attorney's fees.

RETURN OF SERVICE

I RECEIVED THIS SUBPOENA ON _____, AND SERVED THE PARTY NAMED ON THE REVERSE

HEREOF BY_____ ON _____

I WAS UNABLE TO COMPLETE SERVICE FOR THE FOLLOWING REASON:

_____

_____

_____

Sheriff's Fees

Service _____

Mileage _____

Copy _____

Total _____

_____
Signature of serving party

Circle one: Deputy Sheriff Attorney

Process Server Deputy Clerk

Other _____

COOPER & WALINSKI LPA

A Legal Professional Association

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December 18, 2009

Miles C. Durfey, Clerk
COURT OF CLAIMS OF OHIO
The Ohio Judicial Center
65 S. Front Street, 3rd Floor
Columbus, Ohio 43215

RE: *Eugene Wrinn, Jr. v. Ohio State Highway Patrol*
Court of Claims of Ohio Case No. 2006-05934

Dear Mr. Durfey:

I enclose an original and two copies of a Notice of Deposition. Please file with the Court and return at least one, file-stamped copy to our office in the enclosed, self-addressed, stamped envelope.

Also enclosed is a copy of a Subpoena which will be served by private process server upon the witness identified therein. A receipt of service will be filed with the Court once service has been perfected.

Thank you for your assistance in this matter.

Sincerely,

Cary Rodman Cooper

CRC/lmk
Enclosures

cc: James P. Dinsmore, Esq. w/encl.
Anthony L. Geiger, Esq. w/encl.
Carl E. Carmany, Esq. and Todd M. Raskin, Esq. w/encl.
Michael S. Loughry, Esq. w/encl.
Jane M. Lynch, Esq. w/encl.
Eugene M. Wrinn, Sr. w/encl.