

IN THE COURT OF CLAIMS OF OHIO

EUGENE WRINN, JR.,

Plaintiff,

-vs-

OHIO STATE HIGHWAY  
PATROL,

Defendant.

**ORIGINAL**

Case No. 2006-05954

2010 APR -7 PM 2:57

FILED  
COURT OF CLAIMS  
OF OHIO

**ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT**

Now comes Defendant, Ohio State Highway Patrol, by and through counsel, and for its answer to Plaintiff's First Amended Complaint states as follows:

**FIRST DEFENSE**

1-2. Defendant is without knowledge or information sufficient so as to form a belief to the truth of the allegations contained in paragraphs 1 and 2 of Plaintiff's First Amended Complaint and therefore denies same.

3-6. Defendant admits the allegations contained in paragraphs 3, 4, 5 and 6 of Plaintiff's First Amended Complaint.

7. Defendant is without knowledge or information sufficient so as to form a belief to the truth of the allegations contained in paragraph 7 of Plaintiff's First Amended Complaint and therefore denies same.

8. In response to paragraph 8 of Plaintiff's First Amended Complaint, Defendant submits that R.C. §2743.02 speaks for itself.

**ON COMPUTER**

9-10. Defendant admits the allegations contained in paragraphs 9 and 10 of Plaintiff's First Amended Complaint.

11. Defendant denies the allegations contained in paragraph 11 of Plaintiff's First Amended Complaint.

12-14. Defendant admits the allegations contained in paragraphs 12, 13, and 14 of Plaintiff's First Amended Complaint.

15. Defendant denies the allegations contained in paragraph 15 of Plaintiff's First Amended Complaint.

16-17. Defendant admits the allegations contained in paragraphs 16 and 17 of Plaintiff's First Amended Complaint.

18. Defendant denies the allegations contained in paragraph 18 of Plaintiff's First Amended Complaint.

19. Defendant is without knowledge or information sufficient so as to form a belief to the truth of the allegations contained in paragraph 19 of Plaintiff's First Amended Complaint and therefore denies same.

20. Defendant admits the allegations contained in paragraph 20 of Plaintiff's First Amended Complaint.

21. Defendant admits the allegations contained in paragraph 21 of Plaintiff's First Amended Complaint to the extent that the OSHP received an anonymous letter that made various allegations regarding Sergeant Johnson, but Defendant denies the remaining allegations in paragraph 21 of Plaintiff's First Amended Complaint.

22. Defendant admits the allegations contained in paragraph 22 of Plaintiff's First Amended Complaint to the extent that OSHP interviewed Jennifer Mengerink in connection

with the anonymous letter and that OSHP suspended Sergeant Johnson for 3 days in December of 2005 as a result of the investigation, but Defendant is without knowledge or information sufficient so as to form a belief to the truth of the remaining allegations contained in paragraph 22 of Plaintiff's First Amended Complaint and therefore denies the same.

23. Defendant denies the allegations contained in paragraph 23 of Plaintiff's First Amended Complaint to the extent that Defendant denies that Sergeant Johnson used excessive, deadly force against Wrinn, but Defendant admits the remaining allegations in paragraph 23 of Plaintiff's First Amended Complaint.

24. Defendant admits the allegations contained in paragraph 24 of Plaintiff's First Amended Complaint to the extent that OSHP did not discipline Sergeant Johnson for the alleged assault on Ms. Mengerink, but Defendant denies or is without knowledge or information sufficient so as to form a belief to the truth of some allegations and therefore denies all remaining allegations contained in paragraph 24 of Plaintiff's First Amended Complaint.

25. Defendant denies the allegations contained in paragraph 25 of Plaintiff's First Amended Complaint to the extent that Defendant denies that Sergeant Johnson was disciplined for failing to follow OSHP policies and procedures in proper use of a taser, but Defendant admits the remaining allegations in paragraph 25 of Plaintiff's First Amended Complaint.

26. Defendant admits the allegations contained in paragraph 26 of Plaintiff's First Amended Complaint to the extent that Wrinn was driving his vehicle in Allen County, Ohio on September 16, 2005 around 2:00 a.m., that Wrinn lost control of his vehicle and came to rest facing southbound in a northbound lane, that according to reports Wrinn's vehicle stalled and Wrinn was unable to restart the vehicle in time to avoid being struck head-on by a semi-truck tractor-trailer traveling northbound on I-75, and that neither Sergeant Johnson nor any other

OSHP officer had an opportunity to set up a road block or use other means to stop traffic, but Defendant is without knowledge or information sufficient so as to form a belief to the truth of the remaining allegations contained in paragraph 26 of Plaintiff's First Amended Complaint and therefore denies the same.

27. Defendant admits the allegations contained in paragraph 27 of Plaintiff's First Amended Complaint.

28. Defendant is without knowledge or information sufficient so as to form a belief to the truth of the allegations contained in paragraph 28 of Plaintiff's First Amended Complaint and therefore denies same.

29. Defendant admits the allegations contained in paragraph 29 of Plaintiff's First Amended Complaint to the extent that Sergeant Johnson was the first law enforcement officer to arrive on the scene, that Wrinn was still slumped over in the driver's seat of the vehicle when Sergeant Johnson arrived, and that Wrinn's passengers told Sergeant Johnson that Wrinn was hurt, but Defendant denies the remaining allegations in paragraph 29 of Plaintiff's First Amended Complaint.

30. Defendant admits the allegations contained in paragraph 30 of Plaintiff's First Amended Complaint.

31. Defendant is without knowledge or information sufficient so as to form a belief to the truth of the allegations contained in paragraph 31 of Plaintiff's First Amended Complaint and therefore denies same.

32. Defendant admits the allegations contained in paragraph 32 of Plaintiff's First Amended Complaint to the extent that Wrinn attempted to walk away from the vehicle, but

Defendant denies the remaining allegations contained in paragraph 32 of Plaintiff's First Amended Complaint.

33. Defendant admits the allegations contained in paragraph 33 of Plaintiff's First Amended Complaint to the extent that Wrinn attempted to walk away from Sergeant Johnson, Sergeant Johnson pursued Wrinn when he walked away from him at the accident scene, and that Wrinn never *ran* from Sergeant Johnson or the accident scene, but Defendant denies the remaining allegations contained in paragraph 33 of Plaintiff's First Amended Complaint.

34. Defendant admits the allegations contained in paragraph 34 of Plaintiff's First Amended Complaint to the extent that Sergeant Johnson continued to pursue Wrinn when Wrinn was walking away, Defendant denies that Sergeant Johnson told Wrinn to sit down or he would hit Wrinn, and Defendant is without knowledge or information sufficient so as to form a belief to the truth of the remaining allegations in paragraph 34 of Plaintiff's First Amended Complaint and therefore denies the same.

35. Defendant admits the allegations contained in paragraph 35 of Plaintiff's First Amended Complaint.

36-37. Defendant denies the allegations contained in paragraphs 36 and 37 of Plaintiff's First Amended Complaint.

38. Defendant admits the allegations contained in paragraph 38 of Plaintiff's First Amended Complaint to the extent that Sergeant Johnson never had an opportunity to assess Wrinn's injuries, but Defendant denies the remaining allegations contained in paragraph 38 of Plaintiff's First Amended Complaint.

39. Defendant admits the allegations contained in paragraph 39 of Plaintiff's First Amended Complaint to the extent that Sergeant Johnson struck Wrinn with a flashlight, but

Defendant denies the remaining allegations contained in paragraph 39 of Plaintiff's First Amended Complaint

40. Defendant is without knowledge or information sufficient so as to form a belief to the truth of the allegations contained in paragraph 40 of Plaintiff's First Amended Complaint and therefore denies same.

41. Defendant admits allegations contained in paragraph 41 of Plaintiff's First Amended Complaint to the extent that Wrinn attempted to walk away from Sergeant Johnson after being struck with the flashlight, and that Sergeant Johnson then cycled his taser on Wrinn's back; however, Defendant denies that the taser caused Wrinn to fall to the ground, and Defendant is without knowledge or information sufficient so as to form a belief to the truth of the remaining allegations contained in paragraph 41 of Plaintiff's First Amended Complaint and therefore denies the same.

42. Defendant admits allegations contained in paragraph 42 of Plaintiff's First Amended Complaint to the extent that Sergeant Johnson delivered knee and elbow strikes to Wrinn causing him to fall to the ground, but Defendant denies that this was a second fall to the ground, and Defendant is without knowledge or information sufficient so as to form a belief to the truth of the remaining allegations contained paragraph 42 of Plaintiff's Amended Complaint and therefore denies the same.

43. Defendant denies the allegations contained in paragraph 43 of Plaintiff's First Amended Complaint.

44. Defendant is without knowledge or information sufficient so as to form a belief to the truth of the allegations contained in paragraph 44 of Plaintiff's First Amended Complaint and therefore denies same.

45. Defendant admits the allegations contained in paragraph 45 of Plaintiff's First Amended Complaint.

46. Defendant is without knowledge or information sufficient so as to form a belief to the truth of the allegations contained in paragraph 46 of Plaintiff's First Amended Complaint and therefore denies same.

47. Defendant admits the allegations contained in paragraph 47 of Plaintiff's First Amended Complaint to the extent that Wrinn never struck Sergeant Johnson. However, as to the rest of the allegations contained in paragraph 47 of Plaintiff's First Amended Complaint, Defendant is without knowledge or information sufficient so as to form a belief to the truth of such allegations and therefore denies same.

48. Defendant denies the allegations contained in paragraph 48 of Plaintiff's First Amended Complaint.

49. Defendant admits the allegations contained in paragraph 49 of Plaintiff's First Amended Complaint.

50-51. Defendant denies the allegations contained in paragraphs 50 and 51 of Plaintiff's First Amended Complaint.

52-53. Defendant is without knowledge or information sufficient so as to form a belief to the truth of the allegations contained in paragraphs 52 and 53 of Plaintiff's First Amended Complaint and therefore denies same.

54-55. Defendant admits the allegations contained in paragraphs 54 and 55 of Plaintiff's First Amended Complaint.

56-60. Defendant is without knowledge or information sufficient so as to form a belief to the truth of the allegations contained in paragraphs 56, 57, 58, 59 and 60 of Plaintiff's First Amended Complaint and therefore denies same.

61. Defendant admits the allegations contained in paragraph 61 of Plaintiff's First Amended Complaint.

62. Defendant reasserts its previous answers as if fully rewritten herein.

63-65. Defendant denies the allegations contained in paragraphs 63, 64, and 65 of Plaintiff's First Amended Complaint.

66. Defendant reasserts his previous answers as if fully rewritten herein.

67. Defendant denies the allegations contained in paragraph 67 of Plaintiff's First Amended Complaint.

68. Defendant is without knowledge or information sufficient so as to form a belief to the truth of the allegations contained in paragraph 68 of Plaintiff's First Amended Complaint and therefore denies same.

69-71. Defendant denies the allegations contained in paragraph 69, 70, and 71 of Plaintiff's First Amended Complaint.

72. Defendant reasserts its answers as if fully rewritten herein.

73-74. Defendant is without knowledge or information sufficient so as to form a belief to the truth of the allegations contained in paragraphs 73 and 74 of Plaintiff's First Amended Complaint and therefore denies same.

75-76. Defendant denies the allegations contained in paragraphs 75 and 76 of Plaintiff's First Amended Complaint.

77. Defendant reasserts its answers as if fully rewritten herein.

78. Defendant admits the allegations contained in paragraph 78 of Plaintiff's First Amended Complaint.

79. Defendant denies the allegations contained in paragraph 79 of Plaintiff's First Amended Complaint.

80-81. Defendant is without knowledge or information sufficient so as to form a belief to the truth of the allegations contained in paragraphs 80 and 81 of Plaintiff's First Amended Complaint and therefore denies same.

82. Defendant admits the allegations contained in paragraph 82 of Plaintiff's First Amended Complaint to the extent that Sergeant Johnson did not have an opportunity to assess Wrinn's injuries, but Defendant denies the remaining allegations contained in paragraph 82 of Plaintiff's First Amended Complaint.

83-84. Defendant denies the allegations contained in paragraphs 83 and 84 of Plaintiff's First Amended Complaint.

85. Defendant reasserts its answers as if fully rewritten herein.

86-98. Defendant denies the allegations contained in paragraphs 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, and 98 of Plaintiff's First Amended Complaint.

99. Defendant reasserts its answers as if fully rewritten herein.

100-101. Defendant denies the allegations contained in paragraphs 100 and 101 of Plaintiff's First Amended Complaint

102. Defendant admits the allegations contained in paragraph 102 of Plaintiff's First Amended Complaint.

103. Defendant denies the allegations contained in paragraph 103 of Plaintiff's First Amended Complaint

104. Defendant reasserts its answers as if fully rewritten herein.

105-106. Defendant denies the allegations contained in paragraphs 105 and 106 of Plaintiff's First Amended Complaint

107. Defendant admits the allegations contained in paragraph 107 of Plaintiff's First Amended Complaint to the extent that neither Sergeant Johnson nor Trooper Manley had a chance to assess Wrinn's injuries, but Defendant denies all other allegations contained in paragraph 107 of Plaintiff's First Amended Complaint.

108-112. Defendant denies the allegations contained in paragraphs 108, 109, 110, 111 and 112 of Plaintiff's First Amended Complaint.

113. Defendant reasserts his previous answers as if fully rewritten herein.

114-115. In responses to the second paragraph 114 and paragraph 115 of Plaintiff's First Amended Complaint, Defendant states that the Ohio Revised Code Sections speak for themselves.

#### **SECOND DEFENSE**

116. Plaintiff's First Amended Complaint fails to state a claim upon which relief can granted.

#### **THIRD DEFENSE**

117. The claims against Defendant may be barred, in whole or in part, by the applicable statutes of limitation.

#### **FOURTH DEFENSE**

118. The Defendant is immune.

**FIFTH DEFENSE**

119. Plaintiff's damages, if any, were proximately caused by his own wrongful acts and omissions.

**SIXTH DEFENSE**

120. Plaintiff's own negligence caused or contributed to the injuries alleged in the First Amended Complaint and was greater than the alleged negligent conduct of the Defendant which has been specifically denied and accordingly, Plaintiff is barred from recovery.

**SEVENTH DEFENSE**

121. The superseding and intervening acts of others over whom Defendant is not responsible, caused or contributed to the injuries in the First Amended Complaint and were greater than the alleged negligent conduct of the Defendant which has been specifically denied.

**EIGHTH DEFENSE**

122. Plaintiff's claims against Defendant officers are barred because said Defendants acted with privilege, in good faith, and used no more force than necessary.

**NINTH DEFENSE**

123. Defendant specifically denies each and every allegation contained in Plaintiff's First Amended Complaint not specifically herein to be true.

**TENTH DEFENSE**

124. Defendant reserves the right to amend its answer as discovery merits.

WHEREFORE, Defendant respectfully requests that Plaintiff's First Amended Complaint be dismissed in its entirety at Plaintiff's costs and that Defendant be entitled to recover its costs expended herein.

Respectfully submitted,

RICHARD CORDRAY  
Ohio Attorney General



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JAMES P. DINSMORE (0051798)  
ERIC A. WALKER (0040801)  
Assistant Attorneys General  
150 East Gay Street, 18<sup>th</sup> Floor  
Columbus, Ohio 43215  
(614) 466-7447  
COUNSEL FOR DEFENDANT

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing Answer to Plaintiff's First Amended Complaint was served upon the following counsel of record by ordinary U.S. mail, postage prepaid, this 7 day of April, 2010.

Cary Rodman Cooper  
Sarah K. Skow  
Cooper & Walinski, LPA  
900 Adams Street  
Toledo, Ohio 43624  
Counsel for Plaintiff



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JAMES P. DINSMORE  
ERIC A. WALKER  
Assistant Attorney General