

IN THE COURT OF CLAIMS OF OHIO

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COURT OF CLAIMS
OF OHIO
2010 DEC 10 PM 2:27

ORIGINAL

Eugene Wrinn, Jr

Plaintiff,

v.

Ohio State Highway Patrol,

Defendant.

) Case No. 2006-05934

) Judge Alan C. Travis

) **MOTION TO USE THE DEPOSITION**
) **TRANSCRIPT OF THOMAS MYERS UNDER**
) **CIVIL RULE 32(A)**

) Cary R. Cooper (0013062)
) Jacqueline M. Boney (0013050)
) Sarah K. Skow (0081468)
) COOPER & WALINSKI, L.P.A.
) 900 Adams Street
) Toledo, Ohio 43604
) Phone: (419) 241-1200
) Fax: (419) 242-5675
) cooper@cooperwalinski.com
) boney@cooperwalinski.com
) skow@cooperwalinski.com

) *Counsel for Plaintiff*

Plaintiff Eugene Wrinn, Jr. ("Wrinn") moves the Court under Civil Rule 32(A)(3)(c) to use the June 5, 2009 deposition of Thomas Myers in lieu of live testimony at the immunity hearing on December 15, 2010. Lt. Thomas Myers (retired) has recently had major surgery, from which he is still suffering complications, and he it would be unduly burdensome for him to travel to Columbus for the December 15, 2010 hearing. A copy of Lt. Thomas Myers' Affidavit is attached as Exhibit 1 hereto. Accordingly, Wrinn moves the Court to accept Lt. Thomas Myers' June 5, 2009 deposition transcript in lieu of his live testimony at the December 15, 2010 evidentiary hearing.

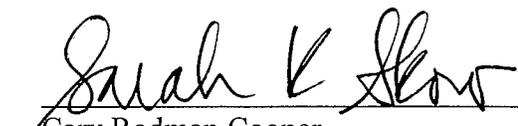
Respectfully submitted,

ON COMPUTER


Cary R. Cooper
Jacqueline M. Boney
Sarah K. Skow
Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served this 9th day of December, 2010 by ordinary U.S. mail, postage prepaid, upon: **James P. Dinsmore**, Assistant Attorney General, Court of Claims Defense Section, 150 East Gay St., 18th Floor, Columbus, Ohio 43215-3130; **Anthony Geiger**, Law Director, CITY OF LIMA, 209 N. Main St., 6th Floor, Lima, Ohio 45901; upon **Todd M. Raskin** and **Carl E. Cormany**, MAZANEC, RASKIN, RYDER & KELLER CO., L.P.A., 100 Franklin's Row, 34305 Solon Road, Cleveland, Ohio 44139; upon **Michael S. Loughry**, MAZANEC, RASKIN, RYDER & KELLER CO., L.P.A., 250 Civic Center Drive, Suite 400, Columbus, Ohio 43215; and upon **Jane M. Lynch** and **Jared A. Wagner**, GREEN & GREEN, LAWYERS, 800 Performance Place, 109 North Main Street, Dayton, Ohio 45402-1290.


Cary Rodman Cooper
Jacqueline M. Boney
Sarah K. Skow
Counsel for Plaintiff

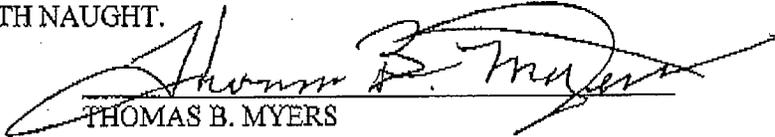
STATE OF OHIO)
)
COUNTY OF ALLEN)

AFFIDAVIT OF THOMAS B. MYERS

Thomas B. Myers, being first duly cautioned and sworn according to law, deposes and states as follows:

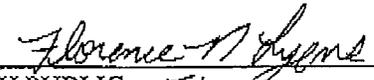
1. I make this affidavit upon my own personal knowledge, and I am competent to testify to the matters stated.
2. It would be an extreme burden upon me to have to travel to Columbus, Ohio, on December 15, 2010, for a court hearing.
3. The reason why it would be a burden for me to travel to Columbus on December 15 is that I have had major surgery on my right foot and still have ongoing problems with the foot which severely limit my mobility. I have a doctor's appointment with regard to my foot scheduled for December 20, 2010.

FURTHER AFFIANT SAYETH NAUGHT.



 THOMAS B. MYERS

SWORN TO BEFORE ME and subscribed in my presence this 9 day of December, 2010.



 NOTARY PUBLIC Florence N Lyons



FLORENCE N. LYONS
 Notary Public, State of Ohio.
 My Commission Expires
 July 7, 2014

Exhibit 1