

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION**

LUKE WOODARD)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION FILE NO.
)	4:08-CV-178-HLM
TYLER DURHAM BROWN, and)	
ALTON RABON PAYNE,)	
)	
Defendants.)	

ANSWER TO PLAINTIFF’S COMPLAINT

COME NOW TYLER DURHAM BROWN AND ALTON RABON PAYNE, Defendants in the above-styled civil action, and file this their Answer to Plaintiff’s Complaint as follows:

FIRST DEFENSE

Plaintiff’s Complaint, and each and every paragraph set forth therein, fails to state or set forth claims against the Defendants upon which relief may be granted.

SECOND DEFENSE

For their second defense, Defendants answer and respond to the numbered sections and paragraphs of Plaintiff’s Complaint as follows:

INTRODUCTION

1.

Paragraph 1 of Plaintiff's Complaint purports to be conclusions of law, not allegations of fact upon which these Defendants can either admit or deny. These Defendants specifically deny any and all inferences of liability set forth against them in this paragraph and deny that Plaintiff is entitled to any relief from them .

2.

Paragraph 2 of Plaintiff's Complaint purports to be conclusions of law, not allegations of fact upon which these Defendants can either admit or deny. These Defendants specifically deny any and all inferences of liability set forth against them in this paragraph.

II. JURISDICTION AND VENUE

3.

Paragraph 3 of Plaintiff's Complaint purports to be conclusions of law, not allegations of fact upon which these Defendants can either admit or deny.

4.

In response to the allegations set forth in Paragraph 4 of Plaintiff's Complaint, these Defendants admit only that they reside within the Court's District and Division and that the purported events giving rise to this lawsuit also occurred

within the Court's District and Division. These Defendants can neither admit nor deny the allegation that Plaintiff resides in the District and they hereby put Plaintiff upon strict proof of same.

III. PARTIES

5.

In response to the allegations set forth in Paragraph 5 of Plaintiff's Complaint, Defendants can neither admit nor deny the allegations set forth therein for want of sufficient first-hand information upon which to form a belief as to the truth thereof, and hereby put plaintiff upon strict proof of same.

6.

Defendant Brown admits only that he is a deputy sheriff for the Paulding County Sheriff's Department.

7.

Defendant Payne admits only that he is a deputy sheriff for the Paulding County Sheriff's Department.

IV. FACTUAL BACKGROUND

8.

Defendants admit the allegations set forth in Paragraph 8 of Plaintiff's Complaint.

9.

In response to the allegations set forth in Paragraph 9 of Plaintiff's Complaint, Defendants can neither admit nor deny the allegations set forth therein for want of sufficient first-hand information upon which to form a belief as to the truth thereof, and hereby put plaintiff upon strict proof of same.

10.

In response to the allegations set forth in Paragraph 10 of Plaintiff's Complaint, Defendants can neither admit nor deny the allegations set forth therein for want of sufficient first-hand information upon which to form a belief as to the truth thereof, and hereby put plaintiff upon strict proof of same.

11.

Defendants deny the allegations set forth in Paragraph 11 of Plaintiff's Complaint.

12.

Defendants admit the allegations set forth in Paragraph 12 of Plaintiff's Complaint.

13.

In response to the allegations set forth in Paragraph 13 of Plaintiff's Complaint, Defendants can neither admit nor deny the allegations set forth therein

for want of sufficient first-hand information upon which to form a belief as to the truth thereof, and hereby put plaintiff upon strict proof of same.

14.

Defendants admit the allegations set forth in Paragraph 14 of Plaintiff's Complaint.

15.

Defendants admit the allegations set forth in Paragraph 15 of Plaintiff's Complaint.

16.

Defendants deny the allegations set forth in Paragraph 16 of Plaintiff's Complaint.

17.

Defendants deny the allegations set forth in Paragraph 17 of Plaintiff's Complaint.

18.

Defendants admit the allegations set forth in Paragraph 18 of Plaintiff's Complaint.

19.

Defendants admit the allegations set forth in Paragraph 19 of Plaintiff's Complaint.

20.

Defendants admit the allegations set forth in Paragraph 20 of Plaintiff's Complaint.

21.

Defendants deny the allegations set forth in Paragraph 21 of Plaintiff's Complaint.

22.

Defendants deny the allegations set forth in Paragraph 22 of Plaintiff's Complaint.

23.

In response to the allegations set forth in Paragraph 23 of Plaintiff's Complaint, Defendants can neither admit nor deny the allegations set forth therein for want of sufficient first-hand information upon which to form a belief as to the truth thereof, and hereby put plaintiff upon strict proof of same.

24.

In response to the allegations set forth in Paragraph 24 of Plaintiff's Complaint, Defendants can neither admit nor deny the allegations set forth therein for want of sufficient first-hand information upon which to form a belief as to the truth thereof, and hereby put plaintiff upon strict proof of same.

25.

In response to the allegations set forth in Paragraph 25 of Plaintiff's Complaint, Defendants can neither admit nor deny the allegations set forth therein for want of sufficient first-hand information upon which to form a belief as to the truth thereof, and hereby put plaintiff upon strict proof of same.

26.

In response to the allegations set forth in Paragraph 26 of Plaintiff's Complaint, Defendants can neither admit nor deny the allegations set forth therein for want of sufficient first-hand information upon which to form a belief as to the truth thereof, and hereby put plaintiff upon strict proof of same.

27.

Defendants admit the allegations set forth in Paragraph 27 of Plaintiff's Complaint.

28.

Defendants admit the allegations set forth in Paragraph 28 of Plaintiff's Complaint.

29.

Defendants deny the allegations set forth in Paragraph 29 of Plaintiff's Complaint.

30.

Defendants deny the allegations set forth in Paragraph 30 of Plaintiff's Complaint.

31.

Defendants admit the allegations set forth in Paragraph 31 of Plaintiff's Complaint.

32.

Defendants deny the allegations set forth in Paragraph 32 of Plaintiff's Complaint.

33.

In response to the allegations set forth in Paragraph 33 of Plaintiff's Complaint, Defendants can neither admit nor deny the allegations set forth therein

for want of sufficient first-hand information upon which to form a belief as to the truth thereof, and hereby put plaintiff upon strict proof of same.

34.

In response to the allegations set forth in Paragraph 34 of Plaintiff's Complaint, Defendants can neither admit nor deny the allegations set forth therein for want of sufficient first-hand information upon which to form a belief as to the truth thereof, and hereby put plaintiff upon strict proof of same.

Count 1 – Violations of the Second, Fourth, and Fourteenth Amendment

35.

Defendants deny the allegations set forth in Paragraphs 35-40 of Plaintiff's Complaint.

Count 2 – Violations of the Fourth Amendment by Defendant Payne

36.

Defendants deny the allegations set forth in Paragraph 41 of Plaintiff's Complaint.

Prayer for Relief

37.

In response to Plaintiff's "Prayer for Relief" as set forth in Paragraphs 42-48, these Defendants deny any and all allegations or inferences of liability set forth

against them therein, and they deny that Plaintiff is entitled to any relief against them whatsoever.

38.

These Defendants deny any and all other allegations set forth against them in Plaintiffs' Complaint not expressly admitted above, and they specifically deny all allegations and inferences of liability set forth against them in Plaintiff's Complaint in its entirety.

THIRD DEFENSE

These Defendants, in their individual capacities, are protected by qualified immunity as to Plaintiffs' constitutional claims brought pursuant to 42 U.S.C. § 1983.

FOURTH DEFENSE

These Defendants, in their individual capacities, are protected by official immunity as to any state tort law claims because, at all relevant times hereto, they were performing discretionary acts as public officers without actual malice.

FIFTH DEFENSE

To the extent that these Defendants are sued in their official capacities, they are entitled to Eleventh Amendment immunity and sovereign immunity.

WHEREFORE, having fully answered, these Defendants pray that judgment be entered in their favor and against the Plaintiff, that Plaintiff take nothing and that Defendants be awarded their costs and attorney's fees incurred in defending this frivolous action.

**TRIAL BY JURY
IS DEMANDED**

This 1st day of December, 2008.

WILLIAMS, MORRIS & BLUM, LLC

/s/ G. Kevin Morris

G. KEVIN MORRIS

Georgia Bar No. 523895

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LUKE WOODARD

Plaintiff,

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**TYLER DURHAM BROWN, and
ALTON RABON PAYNE,**

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within and foregoing ANSWER TO PLAINTIFF'S COMPLAINT upon all parties by electronic filing through the CM/ECF system in accordance with the United States District Court rules to:

John R. Monroe
Attorney at Law
9640 Coleman Road
Roswell, Georgia 30076

This 1st day of December, 2008.

/s/ G. Kevin Morris
G. KEVIN MORRIS
Georgia Bar No. 523895

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