

Edward S. McGlone III
Clackamas County Counsel
2051 Kaen Road
Oregon City, Or 97045-1819
Telephone: 503-655-8362
Fax: 503-742-5397
e-mail: Edwardmcg@co.clackamas.or.us
OSB No. 82331
Of Attorneys for Defendant Clackamas County Sheriff's Office

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

Robert Ekas, in pro per,

Plaintiff,

v.

Clackamas County Sheriff's
Office, Deputy Marcus Wold,
Deputy Steve Shelley, Sgt. John
Naccarato, and Does 1-10 to be
named in Discovery,

Defendants

Case No. CV 09-831 AC

ANSWER OF CLACKAMAS COUNTY
SHERIFF'S OFFICE

(Jury Trial Requested)

Comes now defendant Clackamas County Sheriff's Office and by way of Answer admits, denies and alleges as follows:

1.

Admits that this court has subject matter jurisdiction over this matter and that venue is proper.

2.

Admits paragraphs 3, 5, 6, and 7.

3.

Admits that at all times alleged in the complaint defendants Wold, Shelly and Naccarato acted under the color of law and within their employment.

4.

Except as admitted above, denies each and every allegation of the complaint in their entirety.

By way of a first affirmative defense, defendant Clackamas County Sheriff's Office alleges:

5.

Plaintiff's complaint fails to state a claim entitling him to recovery against this defendant.

By way of a second affirmative defense, defendant Clackamas County Sheriff's Office alleges:

6.

Plaintiff has failed to properly serve and file this complaint within the applicable statute of limitations.

By way of a third affirmative defense, defendant Clackamas County Sheriff's Office alleges:

7.

Answering defendant is not a proper party to this action.

By way of a fourth affirmative defense, defendant Clackamas County Sheriff's Office alleges:

8.

This court lacks personal jurisdiction over this defendant.

By way of a fifth affirmative defense, defendant Clackamas County Sheriff's Office alleges:

9.

Answering defendant does not believe that plaintiff is stating a state law claim, however, in the event that the court determines that a state law claim has been stated, answering defendant asserts that it is barred by the Oregon Tort Claims Act.

WHEREFORE, defendant Clackamas County Sheriff's Office prays for judgment in its favor and against the plaintiff, and for their costs, disbursements herein as well as an award of attorney fees under 42 USC Section 1988.

Dated this 11th day of August, 2009.

CLACKAMAS COUNTY COUNSEL

/s/ Edward S. McGlone III
Edward S. McGlone III, OSB No. 82331
Assistant County Counsel
OF ATTORNEYS FOR Clackamas County
Sheriff's Office