

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

Tammy Thomas	:	
	:	
Plaintiff,	:	Case No. 2:10-cv-139
	:	
vs.	:	Judge Holschuh
	:	
Steven Koebel, et al.,	:	Magistrate Judge King
	:	
Defendants.	:	

**ANSWER OF DEFENDANT VILLAGE OF MIDDLEPORT**

For its Answer, Defendant Village of Middleport responds as follows to the allegations and claims set forth in the Complaint:

**FIRST DEFENSE**

1. Admits the allegations set forth in ¶ 1 to the following extent: (A) that Plaintiff is challenging the lawfulness of her arrest and the force allegedly used to effect that arrest; (B) that Plaintiff was inside her residence when Defendant Koebel arrested her on February 14, 2009; (C) that the criminal charges filed against Plaintiff were ultimately dismissed; (D) that Plaintiff spoke to the Middleport Chief of Police and the Middleport Mayor about her arrest; and (E) that Plaintiff seeks damages. All other allegations and in ¶ 1 are denied.
2. Admits the allegations in ¶¶ 2-7.
3. Admits the allegations in ¶ 8 to the extent that Plaintiff was inside her Middleport, Ohio, residence on February 14, 2009, at about 10:15pm. Middleport denies all other allegations in ¶ 8 for lack of knowledge.
4. Admits the allegations in ¶ 9 to the extent that Defendant Steven Koebel asked for Plaintiff to come outside, that Plaintiff came to the door, that Koebel advised Plaintiff that she was

under arrest, and that Plaintiff refused to exit her residence. All other allegations in ¶ 9 are denied.

5. Admits the allegations in ¶ 10 to the extent that Koebel entered Plaintiff's residence and arrested her. All other allegations in ¶ 10 are denied.
6. Denies the allegations in ¶ 11.
7. Admits the allegations in ¶¶ 12-13.
8. Denies the allegations in ¶ 14.
9. Admits the allegations in ¶ 15.
10. Admits the allegation in ¶ 16 to the extent that Plaintiff (A) was arrested, (B) detained at the Middleport jail, (C) required to post bond, (D) defended against criminal charges, and (E) lost her driving privileges for a period of time. All other allegations in ¶ 16 are denied for lack of knowledge.
11. Denies the allegations in ¶¶ 17-18.
12. Admits the allegations in ¶ 19 only to the extent that Koebel was not disciplined as a result of the events that occurred on February 14, 2009. All other allegations in ¶ 19 are denied.
13. Admits the allegations in ¶ 20 only to the extent that Plaintiff spoke with the Chief of Police and the Mayor about her arrest. All other allegations in ¶ 20 are denied.
14. Denies the allegations in ¶¶ 21 and 28 (the Complaint does not contain ¶¶ 22-27).
15. Admits the allegation in ¶ 29 to the extent that the State of Ohio terminated the prosecution of Plaintiff on charges related to her arrest on February 14, 2009. All other allegations in ¶ 29 are denied.
16. Denies the allegations in ¶ 30.
17. Denies that Plaintiff is entitled to the relief demanded in the "Wherefore" paragraphs.

18. Admits that Plaintiff seeks a jury trial.

SECOND DEFENSE

19. The Complaint fails to state a claim upon which relief may be granted.

THIRD DEFENSE

20. Middleport is not liable for any of Plaintiff's claims for which Defendant Koebel enjoys qualified immunity under federal law.

FOURTH DEFENSE

21. Pursuant to R.C. Chapter 2744, Middleport is immune from liability with respect to Plaintiff's state-law claims.

FIFTH DEFENSE

22. Middleport did not act with deliberate indifference to Plaintiff's constitutional rights and therefore is not liable under 42 U.S.C. § 1983.

SIXTH DEFENSE

23. Plaintiff is not entitled to recover punitive damages or attorneys fees from Middleport.

SEVENTH DEFENSE

24. Plaintiff lacks standing to maintain this action if she has declared bankruptcy since the date of the events giving rise to the claims asserted in her Complaint.

EIGHTH DEFENSE

25. Middleport reserves the right to assert additional defenses as discovery proceeds.

WHEREFORE, having fully answered the Complaint, Defendant Village of Middleport asks that the Complaint be dismissed and that it be awarded the costs of defending against Plaintiff's action.

**JURY DEMAND**

Defendant Village of Middleport requests that Plaintiff's claims be tried to a jury.

/s/ J.Quinn Dorgan  
J.Quinn Dorgan (0076780)

Respectfully submitted,

/s/ W. Charles Curley  
W. Charles Curley (0007447)  
**Weston Hurd LLP**  
88 E. Broad St., Suite 1750  
Columbus, Ohio 43215-3506  
Phone: (614) 280-0200  
Fax: (614) 280-0204  
E-mail: [wcurley@westonhurd.com](mailto:wcurley@westonhurd.com)

/s/ J.Quinn Dorgan  
J.Quinn Dorgan (0076780)  
**Weston Hurd LLP**  
88 E. Broad St., Suite 1750  
Columbus, Ohio 43215-3506  
Phone: (614) 280-0200  
Fax: (614) 280-0204  
E-mail: [jqdorgan@westonhurd.com](mailto:jqdorgan@westonhurd.com)

Attorneys for Defendant Village of Middleport

**CERTIFICATE OF SERVICE**

This is to certify that the foregoing was filed electronically this 23rd day of April, 2010. Notice of this filing will be sent to counsel by operation of the Court's electronic filing system. Parties may also access this filing through the Court's system.

/s/ J.Quinn Dorgan  
J.Quinn Dorgan (0076780)