

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Ernest Flagg,

1. Having insufficient information or knowledge of the allegations of the paragraph and/or sub-paragraphs corresponding hereto, Defendant neither admits nor denies the allegations contained therein and leaves Plaintiff to proof thereof.
2. The allegations of the paragraph corresponding hereto constitute a conclusion of law requiring no response.
3. Having insufficient information or knowledge of the allegations of the paragraph and/or sub-paragraphs corresponding hereto, Defendant neither admits nor denies the allegations contained therein and leaves Plaintiff to proof thereof.
4. Having insufficient information or knowledge of the allegations of the paragraph and/or sub-paragraphs corresponding hereto, Defendant neither admits nor denies the allegations contained therein and leaves Plaintiff to proof thereof.
5. Having insufficient information or knowledge of the allegations of the paragraph and/or sub-paragraphs corresponding hereto, Defendant neither admits nor denies the allegations contained therein and leaves Plaintiff to proof thereof.
6. Having insufficient information or knowledge of the allegations of the paragraph and/or sub-paragraphs corresponding hereto, Defendant neither admits nor denies the allegations contained therein and leaves Plaintiff to proof thereof.
7. Having insufficient information or knowledge of the allegations of the paragraph and/or sub-paragraphs corresponding hereto, Defendant neither admits nor denies the allegations contained therein and leaves Plaintiff to proof thereof.
8. Having insufficient information or knowledge of the allegations of the paragraph and/or sub-paragraphs corresponding hereto, Defendant neither admits nor denies the allegations contained therein and leaves Plaintiff to proof thereof.
9. The allegations of the paragraph corresponding hereto are admitted
10. The allegations of the paragraph corresponding hereto are denied.

General Allegations

1. Having insufficient information or knowledge of the allegations of the paragraph and/or sub-paragraphs corresponding hereto, Defendant neither admits nor denies the

- allegations contained therein and leaves Plaintiff to proof thereof.
2. Having insufficient information or knowledge of the allegations of the paragraph and/or sub-paragraphs corresponding hereto, Defendant neither admits nor denies the allegations contained therein and leaves Plaintiff to proof thereof.
 3. Having insufficient information or knowledge of the allegations of the paragraph and/or sub-paragraphs corresponding hereto, Defendant neither admits nor denies the allegations contained therein and leaves Plaintiff to proof thereof.
 4. Having insufficient information or knowledge of the allegations of the paragraph and/or sub-paragraphs corresponding hereto, Defendant neither admits nor denies the allegations contained therein and leaves Plaintiff to proof thereof.
 5. The allegations of the paragraph corresponding hereto are admitted
 6. Having insufficient information or knowledge of the allegations of the paragraph and/or sub-paragraphs corresponding hereto, Defendant neither admits nor denies the allegations contained therein and leaves Plaintiff to proof thereof.
 7. Having insufficient information or knowledge of the allegations of the paragraph and/or sub-paragraphs corresponding hereto, Defendant neither admits nor denies the allegations contained therein and leaves Plaintiff to proof thereof.
 8. The allegations of the paragraph corresponding hereto are denied.
 9. The allegations of the paragraph corresponding hereto are denied.
 10. Having insufficient information or knowledge of the allegations of the paragraph and/or sub-paragraphs corresponding hereto, Defendant neither admits nor denies the allegations contained therein and leaves Plaintiff to proof thereof.
 11. The allegations of the paragraph corresponding hereto are denied.
 12. Having insufficient information or knowledge of the allegations of the paragraph and/or sub-paragraphs corresponding hereto, Defendant neither admits nor denies the allegations contained therein and leaves Plaintiff to proof thereof.
 13. Having insufficient information or knowledge of the allegations of the paragraph and/or sub-paragraphs corresponding hereto, Defendant neither admits nor denies the

allegations contained therein and leaves Plaintiff to proof thereof.

14. Having insufficient information or knowledge of the allegations of the paragraph and/or sub-paragraphs corresponding hereto, Defendant neither admits nor denies the allegations contained therein and leaves Plaintiff to proof thereof.
15. Having insufficient information or knowledge of the allegations of the paragraph and/or sub-paragraphs corresponding hereto, Defendant neither admits nor denies the allegations contained therein and leaves Plaintiff to proof thereof.
16. Having insufficient information or knowledge of the allegations of the paragraph and/or sub-paragraphs corresponding hereto, Defendant neither admits nor denies the allegations contained therein and leaves Plaintiff to proof thereof.
17. The allegations of the paragraph corresponding hereto are denied.

**Count I - Violation of 14th Amendment Right of Access to Courts
Pursuant to Title 42 USC 1983**

18. The allegations of the paragraph corresponding hereto are denied.
19. The allegations of the paragraph corresponding hereto are denied.
20. The allegations of the paragraph and sub-paragraphs corresponding hereto are denied.
21. The allegations of the paragraph corresponding hereto are denied.
22. The allegations of the paragraph corresponding hereto are denied.

Count II - Conspiracy to Violate Constitutional Right of Access to Courts

23. The assertions of the paragraph corresponding hereto require no response.
24. The allegations of the paragraph corresponding hereto are denied.
25. The allegations of the paragraph corresponding hereto are denied.
26. The allegations of the paragraph corresponding hereto are denied.
27. The allegations of the paragraph corresponding hereto are denied.
28. The allegations of the paragraph corresponding hereto are denied.
29. The allegations of the paragraph corresponding hereto constitute a conclusion of law requiring no response.

SPECIAL AND AFFIRMATIVE DEFENSES

1. To the extent it alleges facts and circumstances concerning non-party Al Bowman, Plaintiff's complaint fails to state a claim upon which relief may be granted.
2. To the extent it alleges, in substance, a failure to adequately investigate the death of Tamara Green, Plaintiff's complaint fails to state a claim upon which relief may be granted.
3. Any injury, damages, or loss suffered by Plaintiff was proximately caused by the wrongful conduct of others not employed by or otherwise affiliated with the City of Detroit.
4. Plaintiff has failed to pursue a remedy in state court where the period of limitations will be tolled as a matter of law until one year after Plaintiff, a minor, reaches the age of majority.
5. At all times, Defendant Craig Schwarz acted with good faith and is therefore immune to liability regarding Plaintiff's federal claims.
6. To the extent Plaintiff's damages arise directly from the wrongful death of his mother, Tamara Green, Defendant Craig Schwarz acted after Plaintiff suffered such asserted injuries or damages, Defendant Craig Schwarz' conduct is not causally related to such injuries or damages and, as a result, Plaintiff's complaint fails to state a claim upon which relief may be granted.
7. To the extent Plaintiff's damages arise directly from his inability to pursue a civil money damages remedy against his mother's killer, such damages are wholly speculative and, as a result, Plaintiff's complaint fails to state a claim upon which relief may be granted.
8. Plaintiff has failed to join every legal or equitable claim arising from the incident central to this suit.
9. To the extent Plaintiff alleges Defendant acted in violation of 42 USC 1983, Plaintiff fails to state a claim upon which relief may be granted since 42 USC 1983 is an enabling statute which provides Plaintiff no substantive rights.

RESERVATION OF ADDITIONAL DEFENSES

Defendant Craig Schwartz in the above captioned matter, by and through counsel, reserves the right to assert and file any affirmative and special defense which may become known by discovery proceedings in accordance with the rules and practices of this Court. Further, Defendant Schwartz does not waive any deficiency or omission in any pleadings filed by any other party to this suit regardless of when filed.

DEMAND FOR COMPULSORY JOINDER OF CLAIMS

Defendant Craig Schwartz demands Plaintiff join in this action all claims Plaintiff may have against any Defendant arising from the subject matter of this action and which do not require for adjudication the presence of third parties over whom the court cannot exercise jurisdiction.

Predicated upon the matters presented above, Defendant Craig Schwartz respectfully demands judgment of no cause of action be entered herein, or in the alternative said cause be dismissed, with prejudice, and costs and attorney fees be awarded to Defendants.

Respectfully submitted,

S/John A. Schapka

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DATED: 14 March 2007

I hereby certify that on March 14, 2007, I electronically filed the foregoing papers with the Clerk of the Court using the ECF system which will send notification of such filing to the following: Delecia Coleman, Esquire, Counsel for Plaintiff; and I do hereby certify that I have cause the paper to be sent by electronic mail to the following non-ECF participants: none.

S/ John A. Schapka (P-36731)
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