

EXHIBIT 1

MCADAM VS WARMUSKERKEN, ET AL

DEPOSITION OF MATTHEW YORK

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1 Ludington, Michigan
 2 September 21, 2011 - 1:27 p.m.
 3 (Deposition Exhibits 1 through 3 marked)
 4 MR. VANDER ARK: This is the date, time and
 5 location scheduled for the deposition of Officer York
 6 pursuant to Notice and for all purposes under the Federal
 7 Rules of Civil Procedure. Officer York, have you given a
 8 deposition before?

9 MR. YORK: I have not.
 10 MR. VANDER ARK: Okay. The court reporter is
 11 going to be taking down everything we say and so it's
 12 important that answers are verbal. Sometimes nods and
 13 shakes of the head are done, but that can't be recorded very
 14 well.

15 MR. YORK: Okay.
 16 MR. VANDER ARK: Also, if I ask you a question and
 17 you don't understand my question, I'd appreciate it if you'd
 18 tell me you don't understand so I can rephrase it so that
 19 when you do answer a question I can assume you understood my
 20 question. Okay?

21 MR. YORK: Okay.
 22 MR. VANDER ARK: All right. By the way, if you
 23 want to take a break anytime, just say you want to take a
 24 break. You don't have to give a reason. Okay?

25 MR. YORK: Okay.

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1 MR. VANDER ARK: All right.
 2 REPORTER: Do you solemnly swear or affirm that
 3 the testimony you are about to give will be the whole truth?
 4 MR. YORK: I do.
 5 MATTHEW YORK
 6 having been called by the Plaintiff and sworn:
 7 EXAMINATION
 8 BY MR. VANDER ARK:
 9 Q Did you review anything in preparation for your deposition?
 10 A Yes, I did.
 11 Q What did you review?
 12 A My report and the video from my in-car camera.
 13 Q Okay. Did you review any reports by Deputy Davila or Deputy
 14 Wilson?
 15 A No, I did not.
 16 Q Did you review or listen to any audio, separate audio tapes,
 17 of dispatch or anything like that?
 18 A No, I didn't.
 19 Q All right. Other than perhaps your counsel, did you talk to
 20 anyone specifically in preparation for your deposition?
 21 A No, I didn't.
 22 Q Okay. I'm going to start with just a very little background
 23 information, Officer York. Are you a resident of Mason
 24 County?
 25 A Yes.

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1 that at all. In fact -- well, he can -- I marked as Exhibit
 2 1 --
 3 MR. VANDER LAAN: Oh.
 4 MR. VANDER ARK: Why don't we do this now
 5 unless --
 6 MR. KOLKEMA: Are we going back to 1?
 7 MR. VANDER ARK: Yes, of York 1. We're not
 8 continuing.
 9 MR. KOLKEMA: Okay.
 10 MR. VANDER ARK: Let's go off just for a moment.
 11 (Off the record)
 12 Q I'm going to hand you what I marked, Officer York, as your
 13 Deposition Exhibit 1.
 14 (Counsel hands exhibit to witness)
 15 Q Can you tell me what that is?
 16 A My police report from that Sunday morning.
 17 Q Okay. It consists of how many pages? Three pages? Four
 18 pages; sorry.
 19 A Four pages.
 20 Q All right. Your counsel just handed you a report. Could
 21 you take a look at that and tell me the difference between
 22 Exhibit 1 and the report your counsel handed you?
 23 (Witness reviews documents)
 24 A I think the only difference is going to be -- we got a new
 25 system. And this (indicating) is on our old system and this

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1 (indicating) is printed on our new system so it just -- it
 2 looks like it just changed up the format a little bit, I
 3 think.
 4 MR. KOLKEMA: When you say "this," can you compare
 5 what you --
 6 THE WITNESS: I'm sorry. The one that we had as
 7 opposed to Exhibit 1.
 8 MR. KOLKEMA: So 1 is the old system or the new?
 9 THE WITNESS: Exhibit 1 would be the old system
 10 and that's probably why you have it 'cause it was printed
 11 out in 2009 when we were using the old system where this one
 12 was printed out yesterday or two days ago so it was printed
 13 off of our new system.
 14 MR. VANDER LAAN: Do you want to make a copy?
 15 MR. VANDER ARK: Well, I'll tell you what. Can we
 16 mark it since he's been describing it on the record and you
 17 can give a copy at some point in time?
 18 MR. KOLKEMA: It's the same thing, but --
 19 MR. VANDER LAAN: This is your department. Can
 20 you make some copies so we --
 21 MR. KOLKEMA: Sure. Oh, yeah; yeah. Is there one
 22 around here?
 23 MR. VANDER LAAN: It's your department. It's your
 24 client.
 25 MR. KOLKEMA: Yeah, I'll do it. Can we do it --

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1 do you want me to do it right now?
 2 MR. FAHLSING: There might be one right behind you
 3 there. I don't know if that works or not.
 4 Q Let me ask this for the purposes right now: Is the
 5 narrative portion of Exhibit Number 1 identical to the
 6 narrative portion of what occurred on July 20, 2009?
 7 MR. VANDER LAAN: Yeah. You know what? This
 8 would be the new system because I asked them to take it out
 9 of service, the taser, and they would have -- they have it
 10 right here. So that would have been -- yeah, 5-6-11.
 11 A As far as my narrative are you asking?
 12 Q Yeah.
 13 A Because there is -- like he said, there is a couple things
 14 that were added that aren't on the Exhibit 1 one, but --
 15 Q All right. Is there anything added on the other one that
 16 Counsel has handed you that you added regarding the events
 17 of July 20, 2009?
 18 A I don't want to say no without being positive.
 19 (Witness reviews document)
 20 A No. There's -- it's the exact same narrative as far as what
 21 I wrote.
 22 Q All right. Counsel asked if in responding to my questions
 23 whether you could review your report. Why don't we stay
 24 with Exhibit 1, if that's okay, if you want to review a
 25 report. I asked you why you stopped Susan McAdam's car that

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1 night.
 2 A My initial traffic -- the reason I stopped her was because
 3 she had no taillights on the vehicle.
 4 Q Okay. What led you to ask her to get out of the car
 5 initially?
 6 A I could immediately smell the odor of intoxicants on her
 7 breath when I was -- when I spoke to her.
 8 Q Okay. Prior to your stop did you know Sue McAdam?
 9 A Not personally, no.
 10 Q Did you know her association with Michael's in general?
 11 A Yes; yes, I did.
 12 Q Okay. Prior to your stop did you know Joe McAdam?
 13 A Yes.
 14 Q Did you have any prior contacts with Joe McAdam?
 15 A Yes, I have.
 16 Q Okay. Can you tell me, were those contacts official --
 17 official capacity contacts?
 18 A Yes.
 19 Q All right. Can you tell me what contacts you had with him
 20 prior to July 20, 2009?
 21 A I can't give specific details on anything that I've done
 22 with him. I know for the most part he's been a complainant
 23 with problems at the bar.
 24 Q Have you ever had an occasion to arrest Joe McAdam?
 25 A No.

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