

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

HARRISON NEAL,
Plaintiff,

v.

FAIRFAX COUNTY POLICE
DEPARTMENT, et al.,
Defendants.

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Case No. CL-2015-5902

ANSWER AND GROUNDS OF DEFENSE

COME NOW Fairfax County Police Department (FCPD), and Colonel Edwin C. Roessler, Jr. (Chief Roessler) Defendants herein, by counsel, and file this Answer and Grounds of Defense to the Complaint filed herein by the Plaintiff.

Answer

1. The first sentence of ¶ 1 of the Complaint contains a legal conclusion to which no answer is required. The second and third sentences of ¶ 1 of the Complaint are denied. The acronym assigned to the Fairfax County Police Department in the second sentence of ¶ 1 of the Complaint is incorrect. The Defendants are without sufficient information either to admit or deny the allegations of the fourth sentence of ¶ 1 of the Complaint, so those allegations are denied. To the extent that the Defendants are required to answer any other provisions of this paragraph of the Complaint, any allegations contained therein are denied.

2. ¶ 2 of the Complaint contains a legal conclusion to which no answer is required. To the extent that the Defendants are required to answer this paragraph of the Complaint, any allegations contained therein are denied.

3. The Defendants are without sufficient information either to admit or deny the allegations of sentence 4 of ¶ 1 of the Complaint, so those allegations are denied.

4. ¶ 4 of the Complaint is admitted.

5. The first sentence of ¶ 5 of the Complaint is admitted. The second sentence of ¶ 5 of the Complaint is denied.

6. ¶ 6 of the Complaint is denied.

7. ¶ 7 of the Complaint is admitted.

8. The first sentence of ¶ 8 of the Complaint is admitted. The second and third sentences of ¶ 8 of the Complaint are denied.

9. ¶ 9 of the Complaint is admitted.

10. ¶ 10 of the Complaint is admitted.

11. ¶ 11 of the Complaint is admitted.

12. ¶ 12 of the Complaint is denied.

13. ¶ 13 of the Complaint is admitted, except to the extent that the paragraph asserts that the vehicle license plate number that the Plaintiff submitted a request regarding is actually the Plaintiff's vehicle's license plate number. The Defendants are without sufficient information either to admit or deny that allegation, so it is denied.

14. The first and third sentences of ¶ 14 of the Complaint are admitted, except to the extent that the paragraph asserts that the vehicle license plate number that the Plaintiff submitted a request regarding is actually the Plaintiff's vehicle's license plate number. The Defendants are without sufficient information either to admit or deny that allegation, so it is denied. The second sentence of ¶ 14 of the Complaint is denied.

15. The Defendants are without sufficient information either to admit or deny the allegations of ¶ 15 of the Complaint, so those allegations are denied.

16. ¶ 16 of the Complaint contains a legal conclusion to which no answer is required. To the extent that the Defendants are required to answer this paragraph of the Complaint, any allegations contained therein are denied.

17. ¶ 17 of the Complaint contains a legal conclusion to which no answer is required. To the extent that the Defendants are required to answer this paragraph of the Complaint, any allegations contained therein are denied.

18. ¶ 18 of the Complaint contains a legal conclusion to which no answer is required. To the extent that the Defendants are required to answer this paragraph of the Complaint, any allegations contained therein are denied.

19. ¶ 19 of the Complaint contains a legal conclusion to which no answer is required. To the extent that the Defendants are required to answer this paragraph of the Complaint, any allegations contained therein are denied.

20. ¶ 20 of the Complaint contains a legal conclusion to which no answer is required. To the extent that the Defendants are required to answer this paragraph of the Complaint, any allegations contained therein are denied.

21. ¶ 21 of the Complaint contains a legal conclusion to which no answer is required. To the extent that the Defendants are required to answer this paragraph of the Complaint, any allegations contained therein are denied.

22. ¶ 22 of the Complaint contains a legal conclusion to which no answer is required. To the extent that the Defendants are required to answer this paragraph of the Complaint, any allegations contained therein are denied.

23. ¶ 23 of the Complaint is denied.

24. ¶ 24 of the Complaint contains a legal conclusion to which no answer is required.

To the extent that the Defendants are required to answer this paragraph of the Complaint, any allegations contained therein are denied.

25. ¶ 25 of the Complaint contains a legal conclusion to which no answer is required.

To the extent that the Defendants are required to answer this paragraph of the Complaint, any allegations contained therein are denied.

26. ¶ 26 of the Complaint is admitted.

27. ¶ 27 of the Complaint is admitted.

28. ¶ 28 of the Complaint is admitted.

29. ¶ 29 of the Complaint is admitted.

30. ¶ 30 of the Complaint is denied. By way of further answer, the Defendants affirmatively state that the Plaintiff, by counsel, was aware when he filed the Complaint that the State Police did not cease to use its ALPR equipment for “passive” data collection, and that they maintain passive data for a period of 24 hours.

31. The Defendants admit that the FCPD retains ALPR data for 364 days. The remaining allegations contained in ¶ 31 of the Complaint are denied.

32. ¶ 32 of the Complaint is denied. The Plaintiff is referred to in the plural in ¶ 32 of the Complaint, which is incorrect. There is only one plaintiff to the Complaint.

33. ¶ 33 of the Complaint is denied. The Plaintiff is referred to in the plural in ¶ 33 of the Complaint, which is incorrect. There is only one plaintiff to the Complaint.

The Defendants hereby deny any allegations contained in the Complaint that require a substantive response but are not addressed in the above paragraphs. Pursuant to Rule 3:11 of the Rules of the Supreme Court of Virginia, a reply is demanded to the new matters pleaded herein.

Grounds of Defense

The Defendants assert that the actions they have taken with regard to the Plaintiff's allegations are not in violation of the Data Collection and Dissemination Practices Act (Act), and therefore, the Plaintiff is not entitled to the remedy sought in his Complaint. A license plate number is not personal information as defined in the Act, and therefore, the Plaintiff is not an aggrieved person who is entitled to any of the relief that he requests in his Request for Relief.

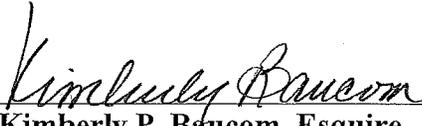
WHEREFORE, the Defendants respectfully requests that the Complaint herein be dismissed with prejudice.

Respectfully submitted,

**FAIRFAX COUNTY POLICE
DEPARTMENT
COLONEL EDWIN C. ROESSLER, JR.
By Counsel**

**DAVID P. BOBZIEN
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By:



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Counsel for FCPD and Colonel Roessler

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of September, 2015, a true copy of the foregoing document was sent via electronic mail and mailed, first-class mail, postage prepaid, to:

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