

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

FILED

2006 FEB 27 P 4: 53

ALFRED E. EHM, *pro se*

Plaintiff,

v.

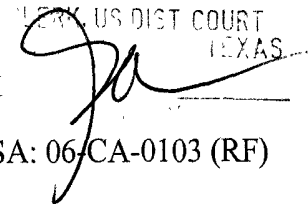
BOARD OF TRUSTEES of the  
METROPOLITAN RAPID TRANSIT  
AUTHORITY OF SAN ANTONIO,

Defendant.

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Civil Action No. SA: 06/CA-0103 (RF)

[Jury Demanded]

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**DEFENDANT'S ORIGINAL ANSWER**

TO THE HONORABLE ROYAL FURGESON:

Now comes the BOARD OF TRUSTEES OF THE METROPOLITAN RAPID TRANSIT AUTHORITY OF SAN ANTONIO ("Board of Trustees"), Defendant in the above-styled and numbered lawsuit, and files this its Original Answer to Plaintiff's Original Complaint. In support thereof, Defendant respectfully states as follows:

1. Upon information and belief, the Board of Trustees admits that this Court has jurisdiction in this cause over all parties.
2. Upon information and belief, the Board of Trustees admits the allegations in paragraph two.
3. The Board of Trustees admits that the Board is composed of the members alleged and that the Board of Trustees is the body with the duty to administer the local Rapid Transit Tax District ("District") and oversee the operations of VIA Metropolitan Transit Authority ("VIA"), which provides rapid mass-transit services to residents of the District. The Board of Trustees denies that it provides rapid mass-transit services to District residents itself. The Board of

Trustees further denies that service of process on it may be had by mailing pleadings to the address set forth. The Board of Trustees directs the Court's attention to its Motion to Dismiss, filed concurrently, which addresses the defects of Plaintiff's attempted service of process on the Board of Trustees.

4. The Board of Trustees admits the allegations in paragraph four.

5. The Board of Trustees admits that this action is brought under 42 U.S.C. § 1983 but denies the remaining allegations in paragraph five.

6. The Board of Trustees admits that this action is brought under 28 U.S.C. § 2201 but denies that Plaintiff has standing to bring this action, as explained further in Defendant's Motion to Dismiss. The Board of Trustees further admits that the Board is composed of eleven members. The Board of Trustees denies the remaining allegations in paragraph six.

7. The Board of Trustees admits that VIA is public entity under Chapter 451 of the Texas Transportation Code but denies the remaining allegations in paragraph seven.

8. The Board of Trustees admits that its individual members took an oath of office. The Board denies the remaining allegations in paragraph eight.

9. The Board of Trustees denies the allegations contained in paragraph nine.

10. The Board of Trustees states that it is without knowledge or information sufficient to form a belief as to the allegations contained in paragraph ten.

11. The Board of Trustees states that it is without knowledge or information sufficient to form a belief as to the allegations contained in paragraph eleven.

12. The Board of Trustees states that it is without knowledge or information sufficient to form a belief as to the allegations contained in paragraph twelve.

13. The Board of Trustees states that it is without knowledge or information sufficient to form a belief as to the allegations contained in paragraph thirteen.

14. The Board of Trustees states that it is without knowledge or information sufficient to form a belief as to the allegations contained in paragraph fourteen.

15. The Board of Trustees states that it is without knowledge or information sufficient to form a belief as to the allegations contained in paragraph fifteen.

16. The Board of Trustees states that it is without knowledge or information sufficient to form a belief as to the allegations contained in paragraph sixteen.

17. The Board of Trustees states that it is without knowledge or information sufficient to form a belief as to the allegations contained in paragraph seventeen.

18. The Board of Trustees denies the allegations in paragraph eighteen.

19. The Board of Trustees denies the allegations in paragraph nineteen.

20. The Board of Trustees denies the allegations in paragraph twenty.

21. In Plaintiff's Original Complaint, Plaintiff fails to state a claim upon which relief can be granted. The Board of Trustees requests, in concert with its Motion to Dismiss pursuant to FED. R. CIV. P. 12(b)(6), filed concurrently herewith, that each of Plaintiff's claims be dismissed with prejudice.

#### **ADDITIONAL DEFENSES**

22. The Board of Trustees further asserts that the Court lacks jurisdiction over Defendant due to ineffective service of process and that dismissal is appropriate under FED. R. CIV. P. 12(b)(2) and (5).

23. The Board of Trustees further asserts that it is not the proper party defendant and that dismissal of all claims against it is appropriate under FED. R. CIV. P. 12(b)(7).

24. The Board of Trustees further asserts that Plaintiff lacks standing to assert claims against the Board of Trustees under 28 U.S.C. § 2201 and that dismissal is therefore appropriate.

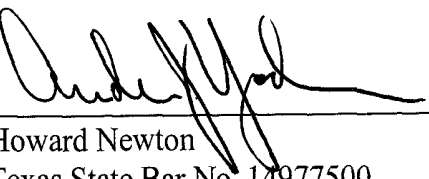
25. The Board of Trustees further asserts that it is not subject to the "one person, one vote" requirement as alleged by Plaintiff and explained further in its Motion to Dismiss, filed concurrently herewith.

**JURY DEMAND**

26. The Board of Trustees demands trial by jury in this action for all issues triable by right.

WHEREFORE, PREMISES CONSIDERED, the Board of Trustees prays that Plaintiff take nothing and that the Court award such other and further relief which the Board of Trustees may be justly entitled to receive.

Respectfully submitted,

By:   
Howard Newton  
Texas State Bar No. 14977500  
Andrew J. Yoder  
Texas State Bar No. 24051552

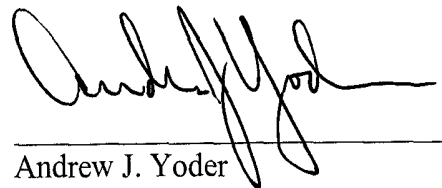
**COX SMITH MATTHEWS INCORPORATED**  
112 E. Pecan Street, Suite 1800  
San Antonio, Texas 78205  
Tel: (210) 554-5500  
Fax: (210) 226-8395

**COUNSEL FOR DEFENDANT,  
BOARD OF TRUSTEES OF THE SAN ANTONIO  
METROPOLITAN TRANSIT AUTHORITY**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **Defendant's Original Answer** was served on Plaintiff, proceeding *pro se*, this 27<sup>th</sup> day of February, 2006, via certified mail, return receipt requested.

Alfred E. Ehm  
170 Carousel Drive  
San Antonio, TX 78227-4712



Andrew J. Yoder