

IN THE SUPREME COURT OF OHIO

CHARLES DAVID FOOCE

Relator,

v.

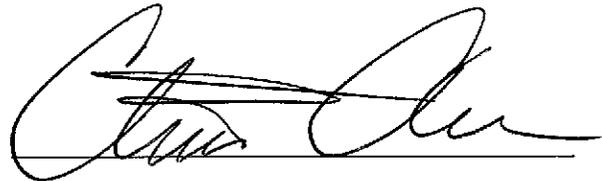
THE OHIO STATE UNIVERSITY,
c/o Kimberly Schumate,
Associate General Counsel
For Employment Matters
1590 North High Street
Suite 500
Columbus, OH 43210.

Respondent.

08-1810

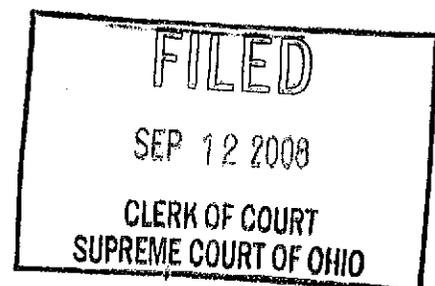
Case No. _____

ORIGINAL ACTION IN
MANDAMUS
(Public Records)



Christopher P. Ore (0083262)
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Counsel for Relator



ORIGINAL ACTION IN MANDAMUS
(PUBLIC RECORDS)

JURISDICTION

1. This is an original action for a writ of mandamus, as well as for ancillary relief, compelling the Respondent to comply with its obligations under the Ohio Public Records Act, R.C. 149.43(B) (“the Act”), to make available to Relator public records, including personnel records, etc., requested by the Relator through undersigned counsel on August 25, 2008.

PARTIES

2. Relator Charles David Fooce (“Fooce”) is a resident of Columbus, Ohio.

3. Respondent the City of Columbus is a State funded, public university that is required by law to maintain public records in an accessible manner so that they can be made available promptly to the public upon request.

FACTS

4. In mid-August 2008, Fooce was informed by Ohio State University’s (the “University”) Human Resources official(s) that his employment was to be terminated upon his return from medical leave. Additionally, throughout Fooce’s tenure as an employee of the University’s School of Medicine, he was discriminated against and retaliated against. While the motive for the retaliation and discrimination is still under investigation by the University, after an internal complaint was filed by Fooce, it appears to stem from Fooce’s request for reasonable accommodations for his disability—a request that was summarily denied.

5. Despite his requests, through counsel, for public records, the Respondent has provided no such information whatsoever to Fooce, and in fact, continues to withhold Fooce’s salary for the month of August, which was to be paid August 29, 2008, a fact made all the more

egregious, given that Respondent knows full well that Fooce's two young daughters rely upon his child support payments which are tied to payment of his salary.

6. On August 25, Relator, through undersigned counsel, made a public records request for personnel records of three employees of the University. A true and accurate copy of the request is attached as Exhibit A.

7. Respondent, though acknowledging receipt of the Request, has refused to provide the documents, resulting in a willful and knowing violation of the Ohio Public Records Act undertaken to frustrate Relator's efforts to obtain pertinent public information related to the employment and disability law matter at hand. In short, the Respondent refuses to produce any records.

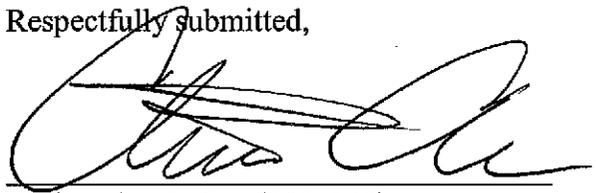
CLAIM FOR RELIEF

8. The above paragraphs are realleged and incorporated herein.

9. The failure and refusal of Respondent to provide the requested documents violates its duties under O.R.C. §149.43 entitling Relator to the issuance of a Writ of Mandamus to compel Respondent to comply with the Ohio Public Records Act.

WHEREFORE, Relator requests that this Court issue a peremptory writ of mandamus directing the Respondent to make available for inspection and copying without further delay the personnel files requested. In the alternative, Relator requests that this Court issue an alternative writ requiring the Respondent to show cause why the peremptory writ requested above should not be issued. Relator further requests the costs of this action including reasonable attorney(s)' fees.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Chris Ore', written over a horizontal line.

Christopher P. Ore (0083262)

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Counsel for the Relator

Exh. A.

August 25, 2008

Dear Human Resources Administrator:

Pursuant to O.R.C. 149.43, I make this request for public records for the personnel files of Dr. John McNaugher Stang, Dr. Linda Stone, and Ms. Mary G. Menkedick Ionno.

Please include each and every component of the personnel files (with the exception of medical records and/or those files explicitly excepted by law). Specifically, the documents sought include, but are not limited to, the following: screenshots from Peoplesoft related the above individuals; résumés; documents used or referred to in determining the qualifications for employment, promotions, transfers, salary, raises, bonuses, pension eligibility, demotion, termination or other disciplinary action; all documents concerning any interview or discussion which the Ohio State University representatives had with the individual at or before the time the individual was hired, promoted, disciplined, demoted, and/or fired; all documents concerning the Ohio State University representatives' offer of a job to the individual; all documents concerning salary, salary grade, compensation, benefits, bonuses, commissions, payroll records, commission records, bonus records, and W-2 forms for every year of employment; all performance evaluations, job performance reviews, and/or merit reviews of the individual during each of the years of his/her employment with Ohio State University representatives; all written descriptions of each position held by the individual during his/her employment at the Ohio State University; all written contracts entered into between the individual and Ohio State University representatives; all documents concerning any oral agreements between the individual and any Ohio State University representatives concerning employment; all documents concerning any exit interview of the individual; any and all severance agreements and/or agreements related to the accessibility of each individual's files and/or work-product and/or computer directories.

Please have the above documents sent to me at:

The Law Offices of Christopher P. Ore
353 Hampton Park North
Westerville, OH 43081

If there is a cost to produce the above documents, please promptly call me at 614.769.3440, informing me of the cost, so that I may make arrangements to pay such a fee.

Sincerely,



Christopher P. Ore, Esq.

AFFIDAVIT IN SUPPORT

I, Christopher P. Ore, solemnly swear that the facts as stated in the accompanying Original Action in Mandamus (Charles David Fooce v. The Ohio State University) are true and accurate to the best of my belief and understanding. Further, I affirm that Exhibit A of the Action is a fair and accurate representation of the original Public Records' Request, which I made on behalf of Relator, by hand-delivery on August 25, 2008 to the Office of Legal Affairs of The Ohio State University.



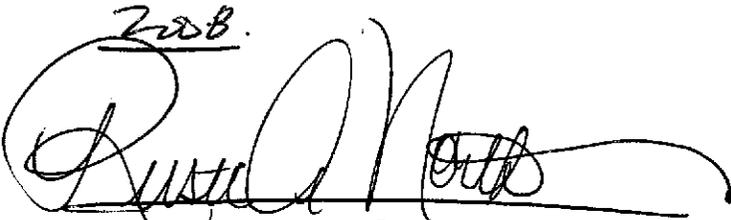
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Phone: 614.769.3440

Counsel for Relator



RUSTI A. NORTH
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES 8/25/10

Sworn to, or affirmed, and
subscribed in my presence this
12th day of September,

2008.

Notary Public

My Commission expires: 08/25/10