

seq. and R.C. 149.43 speak for themselves. Respondents deny any other allegations in Paragraph 2 of the Complaint.

3. In response to Paragraph 3 of the Complaint, Respondents state that R.C. 2731.02 and R.C. 149.43(C)(1) speak for themselves. Respondents deny any other allegations in Paragraph 3 of the Complaint.
4. In response to Paragraph 4 of the Complaint, Respondents are without sufficient knowledge to admit or deny the statements made in Paragraph 4 of the Complaint. Respondents specifically deny receiving any public records requests from an individual named Louis Kohus. Respondents deny all other allegations for want of knowledge.
5. In response to Paragraph 5 of the Complaint, Respondents specifically admit that the Ohio Department of Public Safety (“DPS”) is a public agency for purposes of R.C. 149.011(A) and further state that the statutes cited in Paragraph 5 speak for themselves. Respondents deny the remaining allegations in Paragraph 5 of the Complaint.
6. In response to Paragraph 6 of the Complaint, Respondents specifically admit Thomas J. Stickrath (“Director Stickrath”) is the current Director of DPS and further state that the statute cited in Paragraph 6 speaks for itself. Respondents deny the remaining allegations in Paragraph 5 of the Complaint.
7. Respondents state that the statutes cited in Paragraph 7 of the Complaint speak for themselves. Respondents specifically admit that the Ohio State Highway Patrol (“OSHP”) is a division of DPS, but deny the remaining allegations in Paragraph 7 of the Complaint.
8. In response to Paragraph 8 of the Complaint, Respondents specifically admit that David W. Dicken (“Superintendent Dicken”) is currently the Superintendent of OSHP and

further state that the statute cited in Paragraph 8 of the Complaint speaks for itself. Respondents deny the remaining allegations in Paragraph 8 of the Complaint.

9. In response to Paragraph 9 of the Complaint, Respondents specifically admit that the Office of the Ohio Attorney General (“AGO”) is a public office as defined in R.C. 149.011(A) and further state that the statutes cited in Paragraph 9 of the Complaint speak for themselves. Respondents deny for want of knowledge the remainder of the allegations contained in Paragraph 9 of the Complaint.
10. In response to Paragraph 10 of the Complaint, Respondents specifically admit that the current Ohio Attorney General is Richard Cordray (“Attorney General Cordray”) and further state that the statutes cited in Paragraph 10 of the Complaint speak for themselves. Respondents deny for want of knowledge the remainder of the allegations contained in Paragraph 10.
11. Respondents need not answer the statements in Paragraphs 11-16 of the Complaint as they are either argumentative or conclusory. Under Ohio Civ. R. 8(A)(1) and Ohio Civ. R. 8(E)(1), a claim should contain a short and plain statement showing that the party is entitled to relief and should be simple, concise and direct. Respondents further state that the statutes cited in Paragraphs 11-16 of the Complaint speak for themselves. Respondents deny for want of knowledge the remainder of the allegations contained in Paragraphs 11-16 of the Complaint.
12. In response to Paragraph 17 of the Complaint, Respondents state that R.C. 149.43 speaks for itself. Respondents specifically deny receiving any public records requests from an individual identified as Louis Kohus. Respondents specifically admit that Director Stickrath and Superintendent Dicken received e-mails and letters from

johnqcitizen@mailworks.org., copies of which are attached to the Complaint as Exhibits B-1, B-2, D-1 and D-2. Respondents admit that some of the e-mail letters were signed by "John Q. Citizen" ("Mr. Citizen"). Respondents deny that the requests from johnqcitizen@mailworks.org or Mr. Citizen constitute "proper public records requests." Respondents deny for want of knowledge the remaining allegations in Paragraph 17 of the Complaint.

13. Respondents deny, for want of knowledge, the allegations contained in Paragraphs 18 through 20 of the Complaint. Paragraphs 18 through 20 do not contain allegations involving Respondents.
14. In response to Paragraph 21 of the Complaint, Respondents specifically deny receiving a request for public records from an individual identified as Louis Kohus. Respondents specifically admit that Director Stickrath received correspondence from "John Q. Citizen" at e-mail address johnqcitizen@mailworks.org, a copy of which is attached to the Complaint as Exhibit B-1. Respondents state that the e-mail speaks for itself and deny the remaining allegations in Paragraph 21 of the Complaint.
15. In response to Paragraph 22 of the Complaint, Respondents specifically deny receiving any public requests from an individual identified as Louis Kohus. Respondents admit Director Stickrath received a letter via ordinary U.S. Mail from "John Q. Citizen," a copy of which is attached to the Complaint as Exhibit B-2. Respondents state that the letter speaks for itself. Respondents admit that Exhibit B-3 attached to the Complaint is an accurate depiction of the United States Postal Service's record of receipt for Tracking Number 7000 0600 0028 8197 7047 and deny the remaining allegations in Paragraph 22 of the Complaint.

16. In response to Paragraph 23 of the Complaint, Respondents specifically admit that on September 29, 2010, Robin R. Matthews, DPS Associate Legal Counsel, sent an e-mail to "johnqcitizen@mailworks.com," a copy of which is attached to the Complaint as Exhibit C-1. Respondents state that the e-mail speaks for itself and deny the remaining allegations in Paragraph 23 of the Complaint.
17. In response to Paragraph 24 of the Complaint, Respondents specifically admit that Ms. Matthews received on September 30, 2010, an e-mail from johnqcitizen@mailworks.org, a copy of which is attached to the Complaint as Exhibit C-2 and Respondents further state that the e-mail speaks for itself. Further, Respondents affirmatively state that, as noted in Ms. Matthews' e-mail, Exhibit C-1, johnqcitizen@mailorks.com - Mr. Citizen - was offered an opportunity to inspect the records on October 4, 2010. On October 4, 2010, an individual, who did not identify himself, inspected records at the Department of Public Safety. Respondents deny the remaining allegations in Paragraph 24 of the Complaint.
18. Respondents deny the allegations in Paragraph 25 of the Complaint and affirmatively state that Respondents gave Mr. Citizen at e-mail address johnqcitizen@mailworks.com the option to redefine his request, so that additional records could be identified and produced. Respondents informed Mr. Citizen at e-mail address johnqcitizen@mailworks.com that those records which Respondent could identify as responsive would be available on October 4, 2010. On October 4, 2010, Respondents provided an unidentified individual with those records that Respondents could identify as responsive to Mr. Citizen's requests.

19. In response to Paragraph 26 of the Complaint, Respondents affirmatively state that in response to Mr. Citizen's (or johnqcitizen@mailworks.com's) request that Director Stickrath "promptly notify [him] when (i.e. date(s) and time)s and where (i.e. specific location(s) the requested public records will be made available for [him] to inspect," Ms. Mathews informed him of a date and time upon which the records would be available, but did not deny availability of the records at other times thereafter. Respondents further state that RC. 149.43(B)(1) speaks for itself and Respondents deny the remaining allegations in Paragraph 26 of the Complaint.
20. In response to Paragraph 27 of the Complaint, Respondents specifically deny receiving any public records requests from an individual identified as Louis Kohus. Respondents specifically admit that on September 15, 2010, Superintendent Dicken received an e-mail from e-mail address johnqcitizenmailworks.org., a copy of which is attached to the Complaint as Exhibit D-1. Respondents state that the email speaks for itself and deny the remaining allegations in Paragraph 27 of the Complaint.
21. In response to Paragraph 28 of the Complaint, Respondents deny having received any public record requests from Louis Kohus. Respondents specifically admit that Superintendent Dicken received a letter via ordinary U.S. Mail from "John Q. Citizen," a copy of which is attached to the Complaint as Exhibits D-2. Respondents state that the letter speaks for itself. Respondents admit that Exhibit D-3 attached to the Complaint is an accurate depiction of the United States Postal Service's record of receipt for Tracking Number 7009 0820 0000 9551 3955 and deny the remaining allegations in Paragraph 28 of the Complaint.

22. In response to Paragraph 29 of the Complaint, Respondents specifically admit that on September 29, 2010 Robin R. Matthews, DPS Associate Legal Counsel, sent a letter by e-mail to johnqcitizen@mailworks.com, a copy of which is attached to the Complaint as Exhibit E-1. Respondents state that the letter speaks for itself and deny the remaining allegations in Paragraph 29 of the Complaint. Further, Respondents affirmatively state that, as noted in Ms. Matthews' letter, Mr. Citizen was offered an opportunity to inspect the records on October 4, 2010 and on that date, an individual, who did not identify himself, inspected records at the Department of Public Safety.
23. In response to Paragraph 30 of the Complaint, Respondents specifically admit receiving an email with the address of johnqcitizen@mailworks.org, a copy of which is attached to the Complaint as Exhibit E-2 and Respondents further state that the email speaks for itself. Respondents deny the remaining allegations in Paragraph 30 of the Complaint.
24. Respondents deny the allegations in Paragraph 31 of the Complaint and affirmatively state that Respondents gave Mr. Citizen, through the email address johnqcitizen@mailworks.org, the option to redefine his request so that additional records could be identified and produced. On October 4, 2010, Respondents provided those records that Respondents could identify as responsive.
25. In response to Paragraph 32 of the Complaint, Respondents affirmatively state that in response to johnqcitizen@mailworks.org's request that Superintendent Dickens "promptly notify [him] when (i.e. date(s) and time(s) and where (i.e. specific location(s) the requested public records will be made available for [him] to inspect," Ms. Mathews informed him of a time and date upon which the records would be available but did not deny availability of the records at other times thereafter. Respondents further state R.C.

149.43(B)(1) speaks for itself. Respondents deny the remaining allegations in Paragraph 32 of the Complaint.

26. In response to Paragraph 33 of the Complaint, Respondents state that R.C. 2305.14 speaks for itself. The Respondents deny the remaining allegations in Paragraph 33 as conclusory.
27. In response to Paragraph 34 of the Complaint, Respondents specifically deny an individual identified as Louis Kohus made any public records request and Respondents deny the remaining allegations in Paragraph 35.
28. Respondents deny the allegations in Paragraph 35 of the Complaint as they relate to the public records requests made by Mr. Citizen and contained in Exhibits B-1, B-2, D-1, D-2, C-2 and E-2 attached to the Complaint. Respondents deny that Mr. Citizen represented that he was or identified himself as Louis Kohus while requesting records. Respondents deny the allegations contained in Paragraph 35 as to other Respondents herein for want of knowledge.
29. In response to Paragraph 36 of the Complaint, Respondents specifically admit that the emails from johnqcitizen@mailworks.org to Ms. Matthews, copies attached to the Complaint as Exhibits C-2 and E-2, state "I'll see 'the Department' in court." Respondents deny the remaining allegations in Paragraph 36.
30. In response to Paragraph 37 of the Complaint, Respondents specifically deny receiving any public records requests from an individual identified as Louis Kohus. Respondents specifically admit that they must follow the requirements of R.C. 149.43 but specifically deny that they violated that statute. Respondents deny the remaining allegations in Paragraph 37.

31. Respondents deny the allegations in Paragraph 38 of the Complaint.
32. In response to Paragraph 39 of the Complaint, Respondents specifically deny receiving any public records requests from an individual identified as Louis Kohus. Respondents deny the remaining allegations in Paragraph 39.
33. Respondents deny the allegations in Paragraph 40 and 41 of the Complaint.
34. In response to Paragraph 42 of the Complaint, Respondents specifically deny receiving any public records requests from an individual identified as Louis Kohus. Respondents deny the remaining allegations in Paragraph 42.
35. In response to Paragraph 43 of the Complaint, Respondents specifically deny receiving any public records requests from an individual identified as Louis Kohus. Respondents deny the remaining allegations in Paragraph 43.
36. In response to Paragraph 44 of the Complaint, Respondents specifically deny receiving any public records requests from an individual identified as Louis Kohus. Respondents deny the remaining allegations in Paragraph 44.
37. In response to Paragraph 45 of the Complaint, Respondents specifically deny receiving any public records requests from an individual identified as Louis Kohus. Respondents deny the remaining allegations in Paragraph 45.
38. In response to Paragraph 46 of the Complaint, Respondents specifically deny receiving any public records requests from an individual identified as Louis Kohus. Respondents further state that Ms. Matthews' letters, copies of which are attached to the Complaint as Exhibits C-1 and E-1, speak for themselves. Respondents deny the remaining allegations in Paragraph 46.

39. In response to Paragraph 47 of the Complaint, Respondents specifically deny receiving any public records requests from an individual identified as Louis Kohus. Respondents deny the remaining allegations in Paragraph 47.
40. In response to Paragraph 48 of the Complaint, Respondents deny having received any public records request from an individual named Louis Kohus. Respondents deny Paragraph 48 of the Complaint as utterly incomprehensible.
41. In response to Paragraph 49 of the Complaint, Respondents state that R.C. 149.43(C) speaks for itself. Respondents specifically deny receiving any public records requests from an individual identified as Louis Kohus. Respondents need not answer the allegations in Paragraph 49 of the Complaint as they are either argumentative or conclusory.
42. In response to Paragraph 50 of the Complaint, Respondents state that R.C. 149.43(B)(1) speaks for itself. Respondents specifically deny receiving any public records requests from an individual identified as Louis Kohus. Respondents deny the remaining allegations in Paragraph 50.
43. In response to Paragraph 51 of the Complaint, Respondents state that R.C. 149.43(E)(2) speaks for itself. To the extent any other response is required, it is denied.
44. Respondents deny the allegations in Paragraph 52 of the Complaint.
45. Respondents deny the allegations in Paragraph 53 of the Complaint.
46. In response to Paragraph 54 of the Complaint, Respondents restate their responses to Paragraphs 1 through 53 of the Complaint.
47. In response to Paragraph 55 through 57 of the Complaint, Respondents state that no response is required because the statements in Paragraph 55 through 57 are

argumentative, misstate the law, and are in any case conclusions of law. To the extent a response may be required, Respondent denies the allegations made in these Paragraphs.

48. Respondents deny the allegations as set forth in Paragraph 58 of the Complaint.
49. In response to Paragraph 59 through 61 of the Complaint, Respondents specifically deny receiving any public records requests from an individual identified as Louis Kohus. Respondents deny the remaining allegations of violations in Paragraphs 59 through 61.
50. Respondents deny the allegations in Paragraph 62 of the Complaint. To the extent that the allegations contained in Paragraph 62 of the Complaint are asserted to any of Relator's claims on remedies not contained in R.C. 149.43(C), Respondents deny the allegations in Paragraph 62.
51. Respondents are not required to respond to Paragraph 63 and 64 as they constitute conclusions of law. To the extent that a response could be required, Respondents deny the allegations in Paragraphs 63 and 64.
52. In response to Paragraph 65 of the Complaint, Respondents restate their responses to Paragraphs 1 through 64 of the Complaint.
53. In response to Paragraph 66 of the Complaint, Respondents state that R.C. 149.43(B)(1) speaks for itself. Respondents deny the remaining allegations in Paragraph 66.
54. Respondents deny the allegations in Paragraphs 67 through 69 of the Complaint.
55. In response to Paragraph 70 of the Complaint, Respondents restates Paragraphs 1 through 69 of the Complaint.
56. In response to Paragraph 71 of the Complaint, Respondents state that R.C. 149.43 speaks for itself and that Respondents ODPS and OSHP are "public offices" for purposes of R.C.

- 149.43. To the extent that a response is required to the remainder of Paragraph 71, Respondents deny the allegations.
57. In response to Paragraph 72 of the Complaint, Respondents specifically deny receiving any public records requests from an individual identified as Louis Kohus. Respondents deny the remaining allegations in Paragraph 72.
58. Respondents are not required to respond to Paragraphs 73 and 74 of the Complaint as it constitutes prayers for relief and/or conclusions of law. To the extent that any response may be required, Respondents deny the allegations in Paragraphs 73 and 74.
59. In response to Paragraph 75 of the Complaint, Respondents restate their responses to Paragraphs 1 through 74 of the Complaint.
60. In response to Paragraph 76 of the Complaint, Respondents state that R.C. 149.43 (B)(2) speaks for itself and that Respondents ODPS and OSHP are “public offices” for purposes of R.C. 149.43. To the extent that a response is required to the remainder of Paragraph 76, Respondents deny the allegations.
61. Respondents deny the allegations in Paragraphs 77 and 78 of the Complaint.
62. In response to Paragraph 79 of the Complaint, Respondents restate their responses to Paragraphs 1 through 78 of the Complaint.
63. In response to Paragraph 80 of the Complaint, Respondents state that R.C. 149.43 (B)(2) speaks for itself and that Respondents ODPS and OSHP are “public offices” for purposes of R.C. 149.43. Respondents specifically deny receiving any public records requests from an individual identified as Louis Kohus. To the extent that a response is required to the remainder of Paragraph 80, Respondents deny the allegations.
64. Respondents deny the allegations in Paragraphs 81 and 82 of the Complaint.

65. In response to Paragraph 83 of the Complaint, Respondents restate their responses to Paragraphs 1 through 82 of the Complaint.
66. In response to Paragraph 84 of the Complaint, Respondents state that R.C. 149.43 speaks for itself and that Respondents ODPS and OSHP are “public offices” for purposes of R.C. 149.43. Respondents specifically deny receiving any public records requests from an individual identified as Louis Kohus. Respondents deny the remaining allegations in Paragraph 84.
67. In response to Paragraph 85 of the Complaint, Respondents state that R.C. 149.43 speaks for itself and that Respondents ODPS and OSHP are “public offices” for purposes of R.C. 149.43. Respondents deny the remaining allegations in Paragraph 85.
68. In response to Paragraphs 86 through 88 of the Complaint, Respondents specifically deny receiving any public records requests from an individual identified as Louis Kohus. Respondents deny the remaining allegations contained in Paragraphs 86 through 88 of the Complaint.
69. In response to Paragraph 89 of the Complaint, Respondents restate their responses to Paragraphs 1 through 88 of the Complaint.
70. In response to Paragraph 90 of the Complaint, Respondents state that R.C. 149.43(E)(2) speaks for itself. To the extent that a response is required, Respondents deny the remaining allegations in Paragraph 90.
71. Respondents deny the allegations as set forth in Paragraphs 91 through 92 of the Complaint.
72. Respondents are not required to answer Paragraphs 93 through 94 as they ask for prayers for relief or conclusions of law.

73. Respondents deny each and every allegation in this Complaint not otherwise expressly admitted.

FIRST DEFENSE

74. The Supreme Court lacks subject matter jurisdiction to hear Relator's claims of negligence.

SECOND DEFENSE

75. The Supreme Court lacks subject matter jurisdiction to hear Relator's claims regarding alleged violations of R.C. 149.43(E)(2).

THIRD DEFENSE

76. Relator has no clear legal right to the relief requested.

FOURTH DEFENSE

77. Relator has failed to state a claim on which relief can be granted.

FIFTH DEFENSE

78. Relator has failed to establish that Respondents have a clear legal duty to provide the relief requested.

SIXTH DEFENSE

79. Relator is not eligible for any award of litigation costs associated with this matter.

SEVENTH DEFENSE

80. Relator is not eligible for an award of attorney fees in this matter.

EIGHTH DEFENSE

81. Relator is not eligible for any award of litigation costs associated with this matter.

NINTH DEFENSE

82. Relator is not entitled to separate awards of statutory damages "for each record."

TENTH DEFENSE

83. Relator is not entitled to non-statutory compensatory damages.

ELEVENTH DEFENSE

84. Relator has an adequate remedy at law as to any claims other than those sought under §149.43(C).

TWELFTH DEFENSE

85. This case is moot.

THIRTEENTH DEFENSE

86. Respondents reserve the right to add additional defenses, including additional affirmative defenses, as may be disclosed during the course of this proceeding.

FOURTEENTH DEFENSE

87. Count Six of the Complaint alleges negligent acts on the part of Respondents. This Court lacks subject matter jurisdiction to hear such a claim. The Court of Claims has exclusive, original jurisdiction to determine whether a state employee is entitled to personal immunity under R.C. 9.86. R.C. 2743.02; *Conley v. Shearer*, 64 Ohio St. 3d 284, 286-287, 1992-Ohio-133. Additionally, the Court of Claims has exclusive, original jurisdiction in all civil suits for money damages against the State of Ohio. R.C. 2743.03(A)(1); *Friedman v. Johnson* (1985), 18 Ohio St.3d 85, 87; *Boggs v. State* (1983), 8 Ohio St.3d 15, 17. Accordingly, this Court should dismiss Count Six of the Complaint.

FIFTEENTH DEFENSE

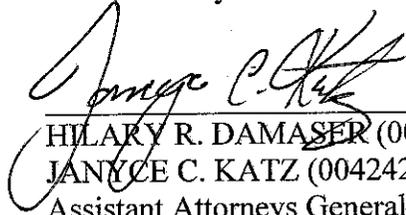
88. Count Seven of Relator's Complaint alleges that Respondents did not post a poster "that describes [the public office's] public records policy" as required by R.C. 149.43(E)(2). However, there is no cause of action set forth to provide private relief from violations of

R.C. 149.43(E)(2). R.C. 149.43(C) sets forth a mandamus cause of action for violations of R.C. 149.43(B) but is silent as to violations of R.C. 149.43(E). Accordingly, this Court should dismiss Count Seven of the Complaint.

WHEREFORE, having answered Relator's Complaint for Writ of Mandamus, Respondents respectfully request that this Court dismiss Relator's Complaint.

Respectfully submitted,

RICHARD CORDRAY (0038034)
Ohio Attorney General



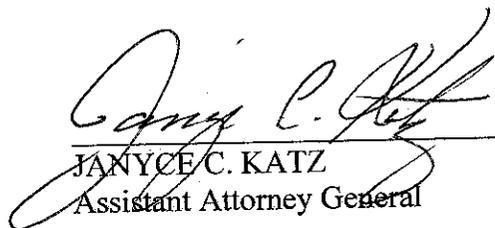
HILARY R. DAMASER (0059190)
JANYCE C. KATZ (0042425)
Assistant Attorneys General
Executive Agencies Section
30 East Broad Street, 26th Floor
Columbus, Ohio 43215-3400
(614) 466-2980
(614) 728-9470
hilary.damaser@ohioattorneygeneral.gov
janyce.katz@ohioattorneygeneral.gov

Attorneys for Respondents
Ohio Department of Public Safety,
Thomas J. Stickrath, Director
Ohio State Highway Patrol,
David W. Dicken, Superintendent

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Answer of Respondents* was sent by U.S. mail the 9th day of November, 2010, to:

Louis M. Kohus
6219 Woodlark Drive
Cincinnati, Ohio 45230



JANYCE C. KATZ
Assistant Attorney General