

In the
Supreme Court of Ohio

STATE OF OHIO, *ex rel.*
ANNA SCHIFFBAUER

Case No. 2014-0244

Relator,

vs.

Original Action in Mandamus

LARRY BANASZAK, et al.

Respondents.

RELATOR'S MOTION TO STRIKE RESPONDENTS'
NOTICE OF SUPPLEMENTAL AUTHORITY

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This Court should strike Respondents' Notice of Supplemental Authority and disregard its contents. The Respondents' "supplemental authority" consists of proposed legislation introduced in the Ohio House of Representatives. It is by definition not "authority."

MEMORANDUM IN SUPPORT

By way of a "Notice of Supplemental Authority" the Respondents attempt to notify this court that legislation is pending in the Ohio Legislature to expressly designate the records of private university police departments as public records pursuant to R.C. 149.43, and make certain residential and familial information contained in those records confidential. But this legislation has not been adopted.

Supreme Court Rules of Practice 16.02(B)(2) provides a definition of "authorities." The term includes: "constitutional provisions; statutes; ordinances; and administrative rules or regulations." Proposed legislation is none of the above. Until it is adopted, it has the same legal effect as water cooler conversation in the General Assembly hall way. Thus, the Notice is improper and this Court should strike it.

In addition, this Court should not accept the Respondents' end run. Respondents previously filed a motion to dismiss, which remains pending. This Court must decide that motion on the sufficiency of the complaint, and not upon any additional facts which Respondents might offer. The existence of the proposed legislation is not "authority." It is at most, a "fact." Respondents have concluded it would be in their interest for the court to consider this fact (although it has nothing to do with the legal argument here) and, knowing they cannot bring it before the court at this stage, have opted for an end run around the Rules of Civil Procedure. This Court should not reward Respondents' disregard for the rules.

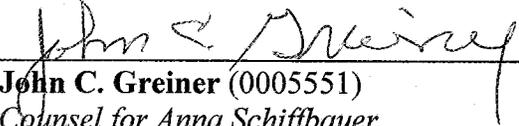
Finally, the information is irrelevant. This Court must decide this case on the law in effect now, not on what the law may be in the future. This is not Dickens' "Christmas Carol" where the ghost of legislation future has a say.

This Court should strike the Notice and disregard its contents entirely.

Respectfully submitted,

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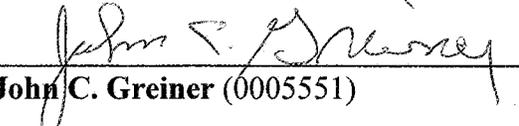

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing *MOTION TO STRIKE RESPONDENTS' NOTICE OF SUPPLEMENTAL AUTHORITY* was served by regular U.S. Mail, postage prepaid, this 17 day of November, 2014, upon the following:

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