

IN THE SUPREME COURT OF OHIO

STATE OF OHIO ex rel.	:	
Schiffbauer, et al.	:	Case No. 2014-0244
	:	
Relator,	:	
	:	ORIGINAL ACTION IN
v.	:	MANDAMUS
	:	
Larry Banaszak, et al.	:	
	:	
Respondent.	:	

RESPONDENTS' ANSWER

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*Counsel for Respondents,
Larry Banaszak and Robert M. Gatti*

First Defense

Now come the Respondents, Robert Gatti and Larry Banaszak, and for their Answer to Relator's complaint hereby states the following:

1. Respondents deny paragraph 1 of the Complaint.
2. Respondents admit paragraphs 2-4.
3. Respondents deny paragraph 5.
4. For their answer to paragraph 6, Respondents admit that Mr. Banaszak received the letter attached as Exhibit A but specifically deny that Exhibit A constitutes a public records request.
5. For their answer to paragraph 7, Respondents admit that Mr. Gatti sent Exhibit B but specifically deny that Exhibit B is a denial of a public records request.
6. Respondents deny paragraphs 8-11 of the Complaint.
7. Respondents deny all other allegations contained in the Complaint not specifically admitted to be true.

Second Defense

8. Relator is estopped from pursuing her claim under the doctrine of legislative acquiescence because the General Assembly has amended R.C. 149.43 several times without altering the test set forth in *Oriana House, Inc. v. Montgomery*, 110 Ohio St. 3d 456, 2006-Ohio-4854.

Third Defense

9. Respondents reasonably and foreseeably relied to their detriment on legal advice provided by an Assistant Ohio Attorney in the Attorney General's Public Records Unit. More specifically, at the Sunshine Law training that the Attorney General

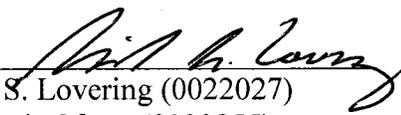
is statutorily required to provide, the Assistant Attorney General informed representatives of the University, in response to specific questions, that the Otterbein University Police Department is not subject to the requirements of R.C. 149.43.

Fifth Defense

10. Relator has failed to state a claim upon which relief can be granted, in part, because Respondents are private individuals employed by a private university.

WHEREFORE, having fully answered the allegations in Relator's Complaint, Respondents respectfully request that the Complaint be dismissed and that Respondents be awarded their costs and fees incurred in defending this action.

Respectfully Submitted,

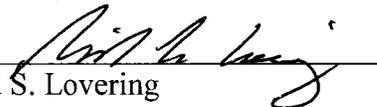

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CERTIFICATE OF SERVICE

A copy of the foregoing *Respondents' Answer* has been sent via the court's electronic filing notification system and by regular U.S. mail, postage pre-paid on April 1, 2015, to:

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