

IN THE SUREME COURT OF OHIO

STATE OF OHIO, ex rel. WTOL TELEVISION, LLC, et al.)	CASE NO.: 2022-0914
)	
)	
Relators)	<u>ANSWER OF RESPONDENTS</u>
)	<u>CEDAR FAIR, L.P. d.b.a. CEDAR FAIR</u>
vs.)	<u>ENTERTAINMENT CO., RONALD E.</u>
)	<u>GILSON AND RICHARD L. KINZEL</u>
CEDAR FAIR, L.P., d/b/a CEDAR FAIR ENTERTAINMENT COMPANY, et al.)	<u>TO REALTORS COMPLAINT</u>
)	
Respondents.)	
)	
)	
)	

Now comes Respondents, Cedar Fair, L.P., d.b.a. Cedar Fair Entertainment Co., Ronald E. Gilson and Richard L. Kinzel (hereinafter “Cedar Fair, L.P.”), by and through counsel and for its Answer to the Relators’ Complaint state as follows:

INTRODUCTION

1. Respondents are without evidence sufficient to form a belief as to the truth or veracity of the allegations contained in Paragraph 1 of Relators’ Complaint and therefore denies same for want of knowledge.

PARTIES

2. Respondents are without evidence sufficient to form a belief as to the truth or veracity of the allegations contained in Paragraph 2 of Relators’ Complaint and therefore denies same for want of knowledge.

3. Respondents are without evidence sufficient to form a belief as to the truth or veracity of the allegations contained in Paragraph 3 of Relators' Complaint and therefore denies same for want of knowledge.

4. Respondents are without evidence sufficient to form a belief as to the truth or veracity of the allegations contained in Paragraph 4 of Relators' Complaint and therefore denies same for want of knowledge.

5. Respondents admit the allegations contained in Paragraph 5 of Relators' Complaint.

6. Respondents deny, as stated, the allegations contained in Paragraph 6 of Relators' Complaint.

JURISDICTION AND VENUE

7. Respondents admit the allegations contained in Paragraph 7 of Relators' Complaint.

FACTS

8. Respondents deny, as stated, the allegations contained in Paragraph 8 of Relators' Complaint.

9. Respondents deny, as stated, the allegations contained in Paragraph 9 of Relators' Complaint.

10. Respondents are without evidence sufficient to form a belief as to the truth or veracity of the allegations contained in Paragraph 10 of Relators' Complaint and therefore denies same for want of knowledge.

11. Respondents admit that Exhibit B appears to be an email directed to Ron Gilson. Further answering, Respondents deny each and every remaining allegation contained in Paragraph 11 of Relators' Complaint.

12. Respondent admits the allegations contained in Paragraph 12 of Relators' Complaint.
13. Respondents admit the allegations contained in Paragraph 13 of Relators' Complaint.
14. Respondents deny, as stated, the allegations contained in Paragraph 14 of Relators' Complaint.
15. Respondents deny, as stated, the allegations contained in Paragraph 15 of Relators' Complaint.
16. Respondents deny, as stated, the allegations contained in Paragraph 16 of Relators' Complaint.
17. Respondents deny, as stated, the allegations contained in Paragraph 17 of Relators' Complaint.
18. Respondents deny, as stated, the allegations contained in Paragraph 18 of Relators' Complaint.
19. Respondents deny the allegations contained in Paragraph 19 of Relators' Complaint.
20. Respondents deny the allegations contained in Paragraph 20 of Relators' Complaint.
21. Respondents deny, as stated, the allegations contained in Paragraph 21 of Relators' Complaint.
22. Respondents deny, as stated, the allegations contained in Paragraph 22 of Relators' Complaint.
23. Respondents deny the allegations contained in Paragraph 23 of Relators' Complaint.

24. Respondents deny the allegations contained in Paragraph 24 of Relators' Complaint.

25. Respondents deny, as stated, the allegations contained in Paragraph 25 of Relators' Complaint.

26. Respondents deny the allegations contained in Paragraph 26 of Relators' Complaint.

27. Respondents are without evidence sufficient to form a belief as to the truth or veracity of the allegations contained in Paragraph 27 of Relators' Complaint and therefore denies same for want of knowledge.

Cedar Point Refuses a Request for Safety Records by WKYC

28. Respondents admit the allegations contained in Paragraph 28 of Relators' Complaint.

29. Respondents admit the allegations contained in Paragraph 29 of Relators' Complaint.

30. Respondents admit the allegations contained in Paragraph 30 of Relators' Complaint.

31. Respondents deny, as stated, the allegations contained in Paragraph 31 of Relators' Complaint.

32. Respondents deny the allegations contained in Paragraph 32 of Relators' Complaint.

33. Respondents deny the allegations contained in Paragraph 33 of Relators' Complaint.

CPPD Is Organized, Authorized and Functions Like Ant Ither Ohio Police Department

34. Respondents admit the allegations contained in Paragraph 34 of Relators' Complaint.

35. Respondents admit the allegations contained in Paragraph 35 of Relators' Complaint.

36. Respondents admit the allegations contained in Paragraph 36 of Relators' Complaint.

37. Respondents admit the allegations contained in Paragraph 37 of Relators' Complaint.

38. Respondents admit the allegations contained in Paragraph 38 of Relators' Complaint.

39. Respondents admit the allegations contained in Paragraph 39 of Relators' Complaint.

40. Respondents admit the allegations contained in Paragraph 40 of Relators' Complaint.

41. Respondents admit the allegations contained in Paragraph 41 of Relators' Complaint.

42. Respondents admit the allegations contained in Paragraph 42 of Relators' Complaint.

43. Respondents admit the allegations contained in Paragraph 43 of Relators' Complaint.

44. Respondents admit the allegations contained in Paragraph 44 of Relators' Complaint.

45. Respondents admit the allegations contained in Paragraph 45 of Relators' Complaint.

46. Respondents admit the allegations contained in Paragraph 46 of Relators' Complaint.

47. Respondents deny, as stated, the allegations contained in Paragraph 47 of Relators' Complaint.

48. Respondents deny, as stated, the allegations contained in Paragraph 48 of Relators' Complaint.

49. Respondents deny, as stated, the allegations contained in Paragraph 49 of Relators' Complaint.

50. Respondents deny, as stated, the allegations contained in Paragraph 50 of Relators' Complaint.

51. Respondents deny, as stated, the allegations contained in Paragraph 51 of Relators' Complaint.

52. Respondents are without evidence sufficient to form a belief as to the truth or veracity of the allegations contained in Paragraph 52 of Relators' Complaint and therefore deny same for want of knowledge.

53. Respondents admit that it reported crimes to Sandusky Police Department. Further answering, Respondents deny any and all remaining allegations contained in Paragraph 53 of Relators' Complaint and deny same for want of knowledge.

54. Respondents deny, as stated, the allegations contained in Paragraph 54 of Relators' Complaint.

55. Respondents deny, as stated, the allegations contained in Paragraph 55 of Relators' Complaint.

56. Respondents deny, as stated, the allegations contained in Paragraph 56 of Relators' Complaint.

Cedar Fair and CPPD are Subject to Ohio's Public Records Law

57. This allegation calls for a legal conclusion that does not require an admittance or denial. Further answering, to the extent of this allegation requires a response, Respondents deny the allegations contained in Paragraph 57 of Relators' Complaint.

58. This allegation calls for a legal conclusion that does not require an admittance or denial. Further answering, to the extent of this allegation requires a response, Respondents deny the allegations contained in Paragraph 58 of Relators' Complaint.

59. Respondent denies, as stated, the allegations contained in Paragraph 18 of Relators' Complaint. Further answering, CPPD has security functions that do not involve the public or serve a public function.

60. This allegation calls for a legal conclusion that does not require an admittance or denial. Further answering, to the extent of this allegation requires a response, Respondents deny the allegations contained in Paragraph 60 of Relators' Complaint.

61. This allegation calls for a legal conclusion that does not require an admittance or denial. Further answering, to the extent of this allegation requires a response, Respondents deny the allegations contained in Paragraph 61 of Relators' Complaint.

62. This allegation calls for a legal conclusion that does not require an admittance or denial. Further answering, to the extent of this allegation requires a response, Respondents deny the allegations contained in Paragraph 62 of Relators' Complaint.

63. This allegation calls for a legal conclusion that does not require an admittance or denial. Further answering, to the extent of this allegation requires a response, Respondents deny the allegations contained in Paragraph 63 of Relators' Complaint.

64. This allegation calls for a legal conclusion that does not require an admittance or denial. Further answering, to the extent of this allegation requires a response, Respondents deny the allegations contained in Paragraph 64 of Relators' Complaint.

65. This allegation calls for a legal conclusion that does not require an admittance or denial. Further answering, to the extent of this allegation requires a response, Respondents deny the allegations contained in Paragraph 65 of Relators' Complaint.

66. This allegation calls for a legal conclusion that does not require an admittance or denial. Further answering, to the extent of this allegation requires a response, Respondents deny the allegations contained in Paragraph 66 of Relators' Complaint.

67. This allegation calls for a legal conclusion that does not require an admittance or denial. Further answering, to the extent of this allegation requires a response, Respondents deny the allegations contained in Paragraph 67 of Relators' Complaint.

68. This allegation calls for a legal conclusion that does not require an admittance or denial. Further answering, to the extent of this allegation requires a response, Respondents deny the allegations contained in Paragraph 68 of Relators' Complaint.

69. This allegation calls for a legal conclusion that does not require an admittance or denial. Further answering, to the extent of this allegation requires a response, Respondents deny the allegations contained in Paragraph 69 of Relators' Complaint.

70. This allegation calls for a legal conclusion that does not require an admittance or denial. Further answering, to the extent of this allegation requires a response, Respondents deny the allegations contained in Paragraph 7 of Relators' Complaint.

71. This allegation calls for a legal conclusion that does not require an admittance or denial. Further answering, to the extent of this allegation requires a response, Respondents deny the allegations contained in Paragraph 71 of Relators' Complaint.

72. Respondents deny the allegations contained in Paragraph 72 of Relators' Complaint.

73. Respondents deny the allegations contained in Paragraph 73 of Relators' Complaint.

XOUNT I – WRIT OF MANDAMUS - WTOL

74. Respondents reallege and reaver each and every admission and denial as set forth in Paragraphs 1 through 73 as if fully rewritten herein.

75. Respondents deny the allegations contained in Paragraph 75 of Relators' Complaint.

76. Respondents deny the allegations contained in Paragraph 76 of Relators' Complaint.

77. Respondents deny, as stated, the allegations contained in Paragraph 77 of Relators' Complaint.

78. Respondents deny, as stated, the allegations contained in Paragraph 78 of Relators' Complaint.

79. Respondents deny the allegations contained in Paragraph 79 of Relators' Complaint.

80. Respondents deny the allegations contained in Paragraph 80 of Relators' Complaint.

81. Respondents deny the allegations contained in Paragraph 81 of Relators' Complaint.

COUNT II – WRIT OF MANDAMUS - WBNS

82. Respondents reallege and reaver each and every admission and denial as set forth in Paragraphs 1 through 81 as if fully rewritten herein.

83. Respondents deny the allegations contained in Paragraph 83 of Relators' Complaint.

84. Respondents deny the allegations contained in Paragraph 84 of Relators' Complaint.

85. Respondents deny, as stated, the allegations contained in Paragraph 85 of Relators' Complaint.

86. Respondents deny, as stated, the allegations contained in Paragraph 86 of Relators' Complaint.

87. Respondents deny the allegations contained in Paragraph 87 of Relators' Complaint.

88. Respondents deny the allegations contained in Paragraph 88 of Relators' Complaint.

89. Respondents deny the allegations contained in Paragraph 89 of Relators' Complaint.

COUNT III – WRIT OF MANDAMUS - WKYC

90. Respondents reallege and reaver each and every admission and denial as set forth in Paragraphs 1 through 89 as if fully rewritten herein.

91. Respondents deny the allegations contained in Paragraph 91 of Relators' Complaint.

92. Respondents deny the allegations contained in Paragraph 92 of Relators' Complaint.

93. Respondents deny, as stated, the allegations contained in Paragraph 93 of Relators' Complaint.

94. Respondents deny, as stated, the allegations contained in Paragraph 94 of Relators' Complaint.

95. Respondents deny the allegations contained in Paragraph 95 of Relators' Complaint.

96. Respondents deny the allegations contained in Paragraph 96 of Relators' Complaint.

97. Respondents deny the allegations contained in Paragraph 97 of Relators' Complaint.

GENERAL DENIAL

Respondent hereby denies any and all allegations not expressly admitted herein.

AFFIRMATIVE DEFENSES

1. Cedar Fair, L.P. is a private entity not subject to Ohio Rev. Code §149.43.
2. Respondent does not receive any funding from a government entity.
3. Employees of Cedar Point's security team are not paid by any government entity.
4. Cedar Fair, L.P. and its amusement parks were not created by any government.

5. Cedar Fair, L.P. and its amusement parks security team do not receive any funding from the government.

6. Cedar Fair, L.P. is not a public office as defined by R.C. § 149.434, and therefore is not required to maintain a list of employee's names and birthdates.

7. Cedar Fair, L.P.'s employees, which includes any member of Cedar Point's security team, are not public employees as defined by R.C. § 149.434.

8. Cedar Fair, L.P. does not have list of its employee's names and birthdates and is not required by law to create a list.

9. Relators' public records request is subject to dismissal for their failure to comply with the mandates of Ohio Rev. Code §149.43(B)(8).

10. Cedar Fair, L.P. does not have documents responsive to Relators' request.

11. Any documents generated by Cedar Point's security team regarding the incident involving the Top Thrill Dragster were not generated in the investigation of a crime and are privileged security documents of a private company.

12. Cedar Fair, L.P., if it is determined to be the functional equivalent of a public office, is not obligated to disclose, or create items that are "non-records."

13. Cedar Fair, L.P., if it is determined to be the functional equivalent of a public office, is not obligated to respond to duplicative requests.

14. Cedar Fair, L.P., if it is determined to be the functional equivalent of a public office, was not provided a reasonable timeframe to comply with request.

15. Cedar Fair, L.P., if it is determined to be the functional equivalent of a public office, is not obligated to disclose, and release confidential law enforcement investigatory records.

16. Cedar Fair, L.P. is a private entity, and its security team is not involved in the prosecution of crimes investigated at its premises. Accordingly, Cedar Fair, L.P., if it is determined to be the functional equivalent of a public office, is unaware of whether documents created during the investigation of a crime are no longer determined to be “confidential law enforcement investigatory records.”

17. The information requested by the Relator is the subject of a pending civil suit and not subject to public disclosure.

WHEREFORE, Respondents pray that this Answer be deemed sufficient and that Relators’ Petition for Writ of Mandamus be dismissed at Relators’ costs, and for all further applicable legal and equitable relief.

Respectfully submitted,

/s/ Justin D. Harris

JUSTIN D. HARRIS (0078252)

HANNAH R. DUSCHL (0100681)

Reminger Co., LPA

154 Columbus Ave.

Sandusky, Ohio 44870

(419) 609-1311

FAX (419) 626-4805

jharris@reminger.com

Counsel for Respondents

CERTIFICATE OF SERVICE

A copy of the foregoing Answer was sent this 22nd day of August 2022, by regular U.S.

mail and/or via e-mail to the following:

Kevin T. Shook
Frost Brown Todd, LLC
One Columbus, Suite 2300
Columbus, Ohio 43215
614-464-1211
614-464-1737 – Fax
kshook@fbtlaw.com

Counsel for Realtor

and

Ryan W. Goeller
Frost Brown Todd, LLC
3300 Great American Tower
301 E. Fourth Street
Cincinnati, Ohio 45202
513-651-6800
513-651-6981 – Fax
rgoellner@fbtlaw.com

/s/ Justin D. Harris
JUSTIN D. HARRIS (0078252)
REMINER CO., L.P.A.