

**IN THE SUPREME COURT OF OHIO**

STATE OF OHIO, ex rel. WTOL	:	
TELEVISION, LLC, et al.,	:	
	:	CASE NO. 2022-0914
Relators,	:	
	:	
vs.	:	
	:	
CEDAR FAIR, L.P., d/b/a CEDAR	:	<u>ORIGINAL ACTION</u>
FAIR ENTERTAINMENT COMPANY,	:	<u>IN MANDAMUS</u>
et al.,	:	
	:	
Respondents.	:	

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**RELATORS' SUPPLEMENTAL MERIT BRIEF  
IN SUPPORT OF WRIT OF MANDAMUS  
(PURSUANT TO MAY 17, 2023 ENTRY)**

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## INTRODUCTION

WTOL, Television, LLC, WKYC-TV, LLC, and WBNS-TV, Inc. (collectively, “Relators”) are local television news stations in Ohio. Each of them issued a valid public records request to Respondents. Respondents are Ronald E. Gilson, the “Chief” of Cedar Point Police Department (“CPPD”) and Cedar Fair, L.P. d/b/a Cedar Fair Entertainment Company (“Cedar Fair”), which owns and operates Cedar Point amusement park in Sandusky, Ohio (“Cedar Point”). Gilson and Cedar Fair (collectively, “Respondents”) have refused to produce all the documents requested by Relators in violation of Ohio’s public records law.

Relators seek records regarding criminal conduct, public safety, and the CPPD’s law enforcement activities at Cedar Point. After a spate of possible sexual assaults and a severe accident at Cedar Point, Relators sought to learn through their public records requests—and inform their viewers—what the amusement park’s police department was doing in response. But Respondents largely refused even to answer Relators’ requests, let alone produce responsive documents. Finally, during the course of this litigation, Respondents produced some documents to Relators. However, there is very good reason to believe Respondents are still withholding information from Relators that is subject to production under Ohio’s public records law. In late May, Respondents served Relators with a request for additional time to file documents under seal with the Court that they apparently believe are exempt from disclosure under the law. However, neither Respondents’ request for more time nor any additional documents were ever filed with the Court under seal or otherwise. Moreover, Respondents have never articulated precisely why any such records would be exempt from disclosure. Respondents’ refusal to turn over the records requested is unlawful and thus appropriately subject to mandamus.

Relators have a legal right to the requested records because they are “public records.” WTOL and WBNS requested “[c]opies of all reports of sexual misconduct filed with” CPPD, as

well as copies and recordings of witness or suspect statements, investigative notes, recommendations of charges, and photos and videos associated with the reports. WKYC sought “incident and investigative reports from [CPPD] and associated Emergency Medical Services personnel regarding . . . an injury sustained by a female guest near the Top Thrill Dragster ride.” As “routine offense and incident reports,” “witness statements,” and responding officers’ description of crimes and events, these are exactly the type of public records to which this Court has held the public is entitled.

Moreover, because they are entitled to a writ of mandamus and meet the statutory criteria, Relators should recover their statutory damages, court costs, and their reasonable attorney’s fees. Relators properly submitted their requests, Respondents failed to comply with their clear legal obligations to produce the requested records (and initially even refused to respond to Relators’ requests), and there is no factual basis for a statutory reduction in Relators’ damages or fees. Their award is proper under R.C. 149.43.

Accordingly, Relators request a writ of mandamus ordering Respondents to produce documents in response to their lawful public records requests, as well as an award of statutory damages, court costs, and reasonable attorney’s fees.

### **PROCEDURAL POSTURE**

On July 26, 2022, Relators filed a Complaint for Writ of Mandamus in this Court, seeking all of the public records that Respondents had failed to provide and submitting evidence in support of their request. On August 22, 2022, Respondents filed an Answer which denied they were a public office subject to the public records law, ignored their failure to respond to Relators’ requests over the previous several months, and asserted, for the first time, that the records requested were “non-records” or “confidential law enforcement investigatory records.” *See e.g.*, Answer, pp. 11-13, ¶¶1-7, 8, 14. Respondents did not submit any evidence with their Answer.

On November 9, 2022, this court granted an alternative writ and ordered the parties to file briefs and submit evidence in support of their case. Relators timely submitted five volumes of evidence on November 29, 2022 and filed their Merit Brief on December 9, 2022. Respondents filed their Merit Brief on January 13, 2023, and provided affidavits dated several years ago ostensibly in support (and long after the Court’s deadline to submit evidence had passed). Respondents submitted no other evidence in support of their arguments. Relators then filed their Reply Brief on February 9, 2023.

On May 17, 2023, the Court ordered Respondents to file any records they claim to be privileged or confidential law enforcement investigatory records under seal within 10 days of the Entry. The Court further ordered the parties to file supplemental briefs and submit evidence “on whether the records requested by relators—assuming that the Public Records Act applies to respondents—are public records, whether the court should issue a writ of mandamus ordering their production, and whether the court should award statutory damages, court costs, and attorney fees.” The Court qualified that the “briefs shall not readdress whether the Public Records Act applies to respondents.”

On May 26, 2023, Respondents served a Motion for Extension of Time to Provide Documents Under Seal, but that motion was rejected and does not appear on the Court’s docket. Respondents filed no additional evidence with the Court within the time prescribed by the May 17 Entry. Nonetheless, pursuant to that Entry, Relators now file their Supplemental Merit Brief. Per the Court’s order, this Supplemental Merit Brief will not reargue the evidence and authority establishing that Respondents are subject to Ohio’s public records law, but will direct this Court to the facts and law establishing that the records requested are public records, that Respondents

are required to produce them, and that the Relators are entitled to statutory damages, court costs, and attorney's fees.

### **STATEMENT OF FACTS**

Relators adopt and incorporate by reference the Statement of Facts from their initial Merit Brief filed December 9, 2022. However, some facts specifically relevant to this supplemental brief bear emphasis.

Relators are media companies covering the broadcast television markets in Toledo, Columbus, and Cleveland, Ohio. *See* November 29, 2022 Relators' Evidence Submission ("Relator Evidence"), Ex. 2, Affidavit of Brian Dugger, ¶ 2; *id.* at Ex. 3, Affidavit of Bennett Haeberle, ¶ 2; *id.* at Ex. 4, Affidavit of Phil Trexler, ¶ 2.

Respondent Cedar Fair is headquartered in Sandusky, Ohio and operates more than a dozen amusement parks nationwide, including Cedar Point. Complaint, ¶ 5; Answer, ¶ 5. Respondent Gilson is the Director of Security at Cedar Point. *See* Relator Evidence Ex. 2-B, 0993.<sup>1</sup> Gilson oversees CPPD and is referred to as CPPD's "chief." *Id.*

#### **A. Relators Investigate Criminal Misconduct Allegations Through Public Records Requests to Cedar Point**

Over approximately the past five years, at least two dozen complaints of sexual assault, misconduct, and related criminal offenses have been filed by employees of Cedar Point and others. *See* Relator Evidence Ex. 2-A, 0906–91. Many instances of the alleged misconduct have occurred in employee housing provided at Cedar Point and may have been perpetrated by Cedar Point

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<sup>1</sup> Relators' Evidence Submission filed on November 29, 2022 has been numbered to assist the Court in identifying the specific parts of the record cited. Page numbers cited after an exhibit in Relators' Evidence refer to the bates numbers in Relators' submission, which bear the prefix "Relator Evidence."

employees. *See id.* Last year, Relators began investigating these allegations of criminal misconduct at Cedar Point.<sup>2</sup>

**B. WTOL’s Request for Criminal Reports from Cedar Point Police Department Is Rebuffed**

In March 2022, Relator WTOL sought and obtained sexual assault incident reports from the City of Sandusky’s Police Department (“SPD”). Relator Evidence Ex. 2-A, 0905 (seeking documents regarding SPD response to “claims of sexual misconduct at the Cedar Point dormitories”). After receiving these reports, WTOL realized Cedar Fair may have separate or additional reports and other documents not in SPD’s custody, so WTOL followed up with Respondents. Later that same month, WTOL emailed Gilson with a request “[i]n accordance with Ohio Revised Code 149.43” seeking “[c]opies of all reports of sexual misconduct filed with” CPPD in the preceding five years. Relator Evidence Ex. 2-B, 0993–94. WTOL’s request was specific: it sought “all complaints and reports of sexual misconduct such as rape, sexual battery, gross sexual imposition, sexual imposition, menacing, indecent exposure, and voyeurism filed” during the specified period, including “copies and/or recordings of any witness or suspect statements,” “recommendations of charges,” and “photos and/or videos associated with the reports.” *Id.*

WTOL’s reasons for seeking the records from Respondents are legitimate and perhaps obvious: besides being the original source of reports by first responders, the records may contradict or supplement the reports from SPD, or even identify previously unreported criminal offenses at Cedar Point; they may provide new information about or witnesses to the events in question; and

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<sup>2</sup> WTOL documented its receipt and review of criminal reports from the City in its news coverage. *See, e.g.,* Brian Dugger, *Sandusky, Cedar Point in talks over investigation findings* (May 17, 2022), <https://www.wtol.com/article/news/special-reports/11-investigates-cedar-point/sandusky-cedar-point-talk-after-sexual-assault-revelations-by-11-investigates/512-ec8ba55f-024b-41d7-abb7-dcfd0f415493> (accessed Dec. 9, 2022).

they would help WTOL’s audience—the Ohio public—understand what appears to be a pattern of potentially criminal sexual misconduct at Cedar Point’s employee housing.

Two days after WTOL’s request, Gilson acknowledged he received it, but stated that he had “forwarded” it to Respondents’ legal counsel for an “opinion” as to whether CPPD was subject to Ohio’s public records law. Relator Evidence Ex. 2-B, 0993. However, Gilson promised that, if Cedar Point is subject to the law and had responsive documents, it would provide them “within a reasonable time (30-days).” *Id.* And, he promised, “[i]f our counsel believes that we are not required under Ohio law to respond, our legal counsel will provide you with the basis for Cedar Point not responding.” *Id.* Later that day, WTOL replied to Gilson. WTOL reiterated its request for the records, cited apposite Ohio law, and objected to Gilson’s proposed timeframe for potentially producing records subject to Respondents’ self-determination of whether they were subject to Ohio’s public records law. Relator Evidence Ex. 2-C, 0996.

When WTOL heard nothing further from Cedar Point, it employed Frost Brown Todd LLP (“FBT”) as its legal counsel in an effort to persuade Respondents to comply with Ohio law and produce the requested records. *See* Relator Evidence Ex. 1, 0002–3 (¶ 4); *id.* at Ex. 1-A, 0008–0010. On April 15, 2022, FBT sent a letter to Gilson reiterating WTOL’s request and citing legal authority establishing that the records requested were public records. *Id.* Gilson never replied. *Id.* Ultimately, Respondents did not produce records in response to WTOL’s request, nor did they provide the promised explanation of why they thought they were not bound by Ohio law. Relator Evidence Ex. 2, 0899–900 (¶¶ 9-10); Relator Evidence Ex. 1, 0002–3 (¶ 4).

**C. WBNS Requests and Is Refused Criminal Records from Cedar Point Police Department**

More recently, Relator WBNS, a sister station of WTOL, also requested criminal records from CPPD. In June 2022, WBNS emailed Gilson and requested: “[c]opies of all reports of sexual

misconduct filed with, and maintained by, the Cedar Point Police Department” for the same five-year period as WTOL. Relator Evidence Ex. 3-A, 1004–05. WBNS’s June request specified the types of records requested, just as WTOL’s had done, and also sought witness and suspect statements, charging recommendations, and associated photos and videos. *Id.* WBNS never received a response from Gilson or anyone else at Cedar Point, even after several follow-up emails. *Id.* at 1002–04; *see also* Relator Evidence Ex. 3, 0999 (¶¶ 7-9). Respondents refused to produce documents in response to WBNS’s request. *Id.*

#### **D. Cedar Point Refuses WKYC’s Request for Accident Records**

Prior to the current sexual misconduct investigations, Relator WKYC also sought records from Respondents. Last summer, WKYC began investigating an injury suffered by a guest at the Top Thrill Dragster ride at Cedar Point in August 2021. Relator Evidence Ex. 4, 1024 (¶ 3). In conducting its investigation after the incident, WKYC emailed a records request to several contacts at Cedar Point, including the Cedar Point Police Department. In the email, WKYC requested: “All incident and investigative reports from the Cedar Point Police and associated Emergency Medical Services personnel regarding an incident Sunday, Aug. 15, 2021, at Cedar Point Park- specifically an injury sustained by a female guest near the Top Thrill Dragster ride.” Relator Evidence Ex. 4-A, 1030 (identifying the documents requested as “witness statements, investigative notes, recordings and video of the incident, and any other documents stemming from the above incident”). As a member of the public interested in the safety of rollercoasters at one of the country’s most popular amusement parks, WKYC had legitimate and important reasons for seeking the records of the accident in question.

In the days after its initial request, WKYC followed up with Cedar Point. At first, Cedar Point (through its Director of Communications, Tony Clark) denied having documents responsive to the request. *Id.* at 1029–30. Gilson was copied on Clark’s communications with WKYC. *See*

*id.* WKYC questioned Cedar Point’s denials and directed its inquiry specifically at CPPD’s records. *Id.* at 1029. Clark then requested contact information for WKYC’s counsel so that Clark could “connect them with our legal team for further clarification.” *Id.* WKYC provided its counsel’s contact information, and the next day, WKYC’s counsel offered to speak with Clark. *Id.* at 1028. Clark never responded, and Clark, Gilson, and Cedar Point have not produced the records requested in WKYC’s August emails. Relator Evidence Ex. 4, 1025 (¶¶ 6-8).

**E. The City of Sandusky Moves to Rescind Cedar Point’s Police Authority.**

After additional reporting by WTOL about the relationship between the City of Sandusky (the “City”) and Cedar Point, the City decided to reevaluate its relationship with CPPD and moved to rescind CPPD’s police authority in May 2022. By June 13, it appears that the City and CPPD/Cedar Point leadership had met to discuss the issue, because the City wrote to “follow up on” their “CP Police conv[ersation]” after Cedar Point and the City “had discussed developing an interim statement and laying out a timeline for planning the change with both departments.” Relator Evidence Ex. 1-P, 0886. Cedar Fair made the first attempt at this “interim statement” (*id.* at 0884), which it then shared with the City (*id.* at 0884, 0889). The draft discussed fully transitioning CPPD’s duties to SPD. *Id.* at 0889. However, Cedar Point wanted to “discuss how it would be shared before sending out and include CP [Cedar Point] folks in that conversation.” *Id.* at 0884. A week later, Cedar Point provided some edits to the draft and wanted the City to “connect with” other Cedar Fair employees “to discuss the sharing of the statement” soon, since they were aware of the City’s “objective” to share the statement the next day. Relator Evidence Ex. 1-Q, 0891–92.

On June 24, 2022, the City’s communications manager published the final version of the “Joint Statement from Cedar Point & the City of Sandusky.” Relator Evidence Ex. 1-R. According to the statement, “[a]n independent, third-party security review, and conversations with the

Sandusky Police Department and the City of Sandusky that began in July of 2021, have resulted in Cedar Point and the City of Sandusky entering into a new partnership.” *Id.* at 0894. Moreover, CPPD and the City acknowledged CPPD’s status as a police force when they announced their plan for the new partnership:

the policing authorities of the Cedar Point Police Department will be fully transitioned into the Sandusky Police Department’s operation, and the Cedar Point Police Department will focus solely on *security* operations at Cedar Point and its local affiliated properties. Conversely, the Sandusky Police Department will assume all *policing* responsibilities for Cedar Point and its affiliated properties.”

(Underline added, italics sic.) *Id.* The statement described this new “security partnership” as “an industry standard” already in place “across many amusement parks, including Cedar Point’s sister park, Kings Island in Cincinnati,” but noted that it would not take place at Cedar Point until 2023. *Id.*

### **LEGAL STANDARD**

“Mandamus is the appropriate remedy to compel compliance with R.C. 149.43, Ohio’s Public Records Act.” *State ex rel. Physicians Commt. for Responsible Medicine v. Ohio State Univ. Bd. of Trustees*, 108 Ohio St.3d 288, 2006-Ohio-903, 843 N.E.2d 174, ¶ 6; *see also* R.C. 149.43(C)(1). Unlike other actions for mandamus, relators in public records mandamus cases are not required to establish the lack of an adequate remedy in the ordinary course of law. *State ex rel. Data Trace Information Servs., L.L.C. v. Cuyahoga Cty. Fiscal Officer*, 131 Ohio St.3d 255, 2012-Ohio-753, 963 N.E.2d 1288, ¶ 25, quoting *State ex rel. Am. Civ. Liberties Union of Ohio, Inc. v. Cuyahoga Cty. Bd. of Commrs.*, 128 Ohio St.3d 256, 2011-Ohio-625, 943 N.E.2d 553, ¶ 24. To be entitled to the writ, a relator must demonstrate by clear and convincing evidence only that he has a clear legal right to the requested relief and that the respondent has a clear legal duty to provide that relief. *State ex rel. Cincinnati Enquirer v. Sage*, 142 Ohio St.3d 392, 2015-Ohio-974, 31 N.E.3d 616, ¶ 10.

This Court “construe[s] R.C. 149.43 liberally in favor of broad access and resolve[s] any doubt in favor of disclosing records.” *State ex rel. Plain Dealer Publishing Co. v. Cleveland*, 106 Ohio St.3d 70, 2005-Ohio-3807, 831 N.E.2d 987, ¶ 20

### **ARGUMENT**

**I. Relators have a legal right to the requested records because they are “public records” and so are entitled to a writ of mandamus requiring Respondents to comply with their legal duty to produce the records.<sup>3</sup>**

The records Relators seek are subject to production under Ohio’s public records law. Therefore, as a public office, Respondents have a clear legal duty to produce them. “Records” include “any document, device, or item . . . received by or coming under the jurisdiction of any public office . . . which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.” R.C. 149.011(G). Relators’ requests meet this definition.

**A. Each of Relators is entitled to a writ of mandamus ordering production of the documents it requested.**

WTOL. The requests from WTOL sought “[c]opies of all reports of sexual misconduct filed with, and maintained by, the Cedar Point Police Department from April 1, 2017 to March 22, 2022” and included “all complaints and reports of sexual misconduct . . . filed within the above time period.” Relator Evidence Ex. 2-B, 0994. All of these are public records. Police reports, such as “routine offense and incident reports,” require “immediate release upon request.” *State ex rel. Kim v. Wachenschwanz*, 93 Ohio St.3d 586, 588, 757 N.E.2d 367 (2001). To the extent Respondents possess reports like those Relators obtained from the City (in compliance with its

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<sup>3</sup> Pursuant to the Court’s May 17, 2023 Entry, Relators do not readdress whether the Public Records Act applies to Respondents, but adopt and incorporate by reference their arguments on that point from their December 9, 2023 Merit Brief and their February 9, 2023 Reply Brief.

public records law obligations, Relator Evidence Ex. 2-A), or any similar types of reports, Respondents should make those documents immediately “available.” R.C. 149.43(B)(1).

WTOL also sought “copies and/or recordings of any witness or suspect statements, oral or written; investigative notes; recommendations of charges, and photos and/or videos associated with the reports provided.” Relator Evidence Ex. 2-B, 994. These, too, are public records that should be produced. *See State ex rel. Collins v. Corbin*, 73 Ohio App.3d 410, 413, 597 N.E.2d 544 (12th Dist.1992), citing *State ex rel. Zuern v. Leis*, 56 Ohio St.3d 20, 564 N.E.2d 81 (1990) (“[W]here such reports consist of witness statements, officers’ description of the offense, and photos of the site where the offense occurred, such police reports are not excepted under R.C. 149.43(A)(4).”).

WBNS. The request by WBNS was coextensive with WTOL’s. Relator Evidence Ex. 3-A, 1005. Respondents should produce those records for the same reasons set forth above with respect to WTOL’s request.

WKYC. WKYC’s request sought “incident and investigative reports from [CPPD] and associated Emergency Medical Services personnel regarding an incident Sunday, Aug. 15, 2021, at Cedar Point Park- specifically an injury sustained by a female guest near the Top Thrill Dragster ride.” Relator Evidence Ex. 4-A, 1030. WKYC’s request specifically identified CPPD and “emergency medical” personnel as the potential custodians of the requested documents. “Routine offense and incident reports” by such personnel “are subject to immediate release upon request.” *State ex rel. Steckman v. Jackson*, 70 Ohio St.3d 420, 435, 639 N.E.2d 83 (1994), *overruled on other grounds by State ex rel. Caster v. Columbus*, 151 Ohio St.3d 425, 2016-Ohio-8394, 89 N.E.3d 598 (2016). If Respondents possess these documents, they should be produced.

As with the other requests, WKYC also sought “any and all witness statements, investigative notes, recordings and video of the incident, and any other documents stemming from the above incident.” Relator Evidence Ex. 4-A, 1030. These are properly considered public records and so should be produced. *Collins*, 73 Ohio App.3d at 413, 597 N.E.2d 544.

**B. Respondents have no defense to their failure to fully comply with the law and produce all requested records.**

Besides the alleged inapplicability of the Public Records Act, which the Court has advised the parties not to address, Respondents have offered only several vague, half-hearted, and inapplicable objections to Relators’ requests. *See Answer* at p. 12. However, “[e]xemptions from disclosure must be strictly construed against the public records custodian, and the custodian has the burden to establish an exemption.” *State ex rel. Youngstown City School Dist. Bd. of Edn. v. Youngstown*, 84 Ohio St.3d 51, 53, 701 N.E.2d 986 (1998), quoting *State ex rel. Gannett Satellite Info. Network, Inc. v. Petro*, 80 Ohio St.3d 261, 266, 685 N.E.2d 1223 (1997). Respondents cannot establish the validity of any of their claimed exemptions.

**1. Many of Respondents’ proffered defenses are inapplicable.**

First, some of Respondents’ defenses simply cannot apply to the facts here. Respondents objected to providing a “list of its employee’s names and birthdates,” but Relators never requested such a list. *Answer* at p. 12, ¶¶ 6, 8. Respondents also contend that Relators failed “to comply with the mandates of Ohio Rev. Code §149.43(B)(8).” *Id.* at ¶ 9. But that Code section restricts public records requests by “a person who is incarcerated,” which Relators are not. Respondents’ claim that they were “not provided a reasonable timeframe to comply with the request” belies the undisputed record. *Answer*, p. 12, ¶ 14. Chief Gilson himself promised to produce the records “within a reasonable time (30-days).” Relator Evidence Ex. 2-B, 993. Relators allowed Respondents several months (for WBNS and WTOL) and nearly a year (for WKYC) to respond

to their requests. More than four months after Relators filed suit, CPPD still had not produced a single record. Relator Evidence Ex. 2, 0899–900, ¶ 10; Ex. 3, 0999, ¶ 9; Ex. 4, 1025, ¶ 8.

**2. Respondents’ belated and partial document production is plainly inadequate and incomplete.**

Cedar Point finally produced some records to Relators’ counsel on January 13, 2023—a month after Relators filed their merit brief in this case. However, that production does not provide a defense to Relators’ claims and their entitlement to all the public records regarding the subjects of their requests that are in Respondents’ possession. Although Respondents have now produced some documents to Relators, including CPPD sexual assault incident reports and some additional agreements between the City and Cedar Fair, they have made no representation as to the completeness of the production. Respondents have not stated whether their production fully complies with Relators’ requests, and whether any responsive documents remain to be produced or may be responsive but are being withheld under a claimed exemption to the public records law. They have not filed an affidavit or provided any other assurance as to the completeness of their production. Further, because Respondents apparently planned to file additional documents under seal with the Court (as set forth in their rejected May 26 Motion for Extension of Time to Provide Documents under Seal), it is clear Respondents still possess public records they have failed to produce to Relators. Absent an order from this Court, there can be no certainty that Respondents have complied with their legal obligations under R.C. 149.43(B).<sup>4</sup>

Indeed, there is good reason to believe that the limited documents Respondents have produced do not constitute full compliance with Relators’ requests. Respondents’ representation about the content of their production does not match Relators’ requests. For example, WTOL

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<sup>4</sup> Respondents’ belated production also does not moot any part of this case, including Relators’ request for damages, costs, and attorney’s fees, as set forth in more detail below in Sections II. and III.

requested “Copies of all reports of sexual misconduct filed with, and maintained by, the Cedar Point Police Department from April 1, 2017 to March 22, 2022.” Relator Evidence Ex. 2-B, 994; *see also id.* at Ex. 3-B, 1005 (WBNS requesting same). Yet Respondents claim to have produced only “any and all incident reports involving sexual misconduct at the dormitories owned and operated by Cedar Point Park, LLC.” Respondents’ Merit Brief at 1, n. 1. Relators’ request was not limited by location; Respondents’ production is. Therefore, it appears that Respondents may still possess responsive documents outside the dormitories that have not been produced to Relators.

Similarly, entire categories of documents requested appear to be missing from Respondents’ production. Again, WTOL sought “copies and/or recordings of any witness or suspect statements, oral or written; investigative notes; recommendations of charges, and photos and/or videos associated with the reports provided.” Relator Evidence Ex. 2-B, 994; *see also id.* at Ex. 3-B, 1005 (WBNS request). Although Respondents have produced some witness and suspect statements as part of the incident reports from the dormitories, they have not confirmed whether these are the full extent of pertinent witness and suspect statements they possess, or whether there are other statements to which Relators might be entitled. Likewise, Respondents have produced a few photographs contained in the incident reports, but no other photos or videos of the incidents in question. Glaringly absent from Respondents’ production is any footage from body-worn cameras by CPPD officers, despite explicit reference in the incident reports to the existence of such footage and no assertion that it is exempt from disclosure. *State ex rel. Cincinnati Enquirer v. Ohio Dep’t of Pub. Safety*, 148 Ohio St.3d 433, 2016-Ohio-7987, 71 N.E.3d 258, ¶ 47 (holding police dashboard camera footage not exempt from disclosure when it duplicated information available in incident reports); *see also* R.C. 149.43(A)(17).

However, Respondents' January 2023 production did include 12 reports about incidents in the relevant timeframe that Relators had not previously obtained from the City of Sandusky and its police department. Assuming the City complied with its public records disclosure obligations in good faith, this gives rise to an inference that Respondents provided police services in response to certain reports of sexual assault without the support of the City and have different and additional records than those possessed by the City and SPD. Similarly, for 17 incident reports relating to Cedar Point that Relators received from the City, there is no corresponding report from CPPD. While it is possible in some cases that CPPD did not generate a report for those incidents, they nonetheless lead to a further inference that Respondents still possess records responsive to Relators' requests that they have not turned over and should be ordered to produce.

Moreover, Respondents have produced no information in response to Relators' requests involving the Top Thrill Dragster accident in 2021. Relator Evidence Ex. 4-A, 1030. Respondents assert only that the "incident was investigated by the Ohio Department of Agriculture" and that it "did not involve a criminal offense and Cedar Point Police Department was not involved." Respondents' Brief at 1, n. 2. But the implication of that assertion is unclear. At the very least, it does not establish the non-existence of public records responsive to WKYC's request for "incident and investigative reports from the Cedar Point Police and associated Emergency Medical Services personnel regarding [the] incident," as well as "witness statements, investigative notes, recordings and video of the incident, and any other documents stemming from the above incident" in CPPD's possession. It is difficult to imagine that the amusement park's police force generated no such documents in responding to a severe injury that led to an investigation by a state agency.

CPPD's delinquent and incomplete production of records also lacks any emails. Paragraph 10 of the 2016 affidavit by Duffield Milkie attached to Respondents' initial merit brief filed in

January 2023 takes the odd position that CPPD “does not use electronic mail . . . to document the organization, functions, policies, decisions, procedures, operations, or other activities.” Yet the City of Sandusky has produced numerous emails which demonstrate Respondents documenting their operations through email. *See* Relator Evidence, Exs. 1-J through Ex. 1-L; Ex. 1-O, 0091. If CPPD has communicated with SPD regarding the topics identified in Relators’ public records requests, there is little doubt they also communicated internally and with others about those same issues, and these communications ought to be produced as long as they are responsive to Relators’ requests.

### **3. Respondents’ remaining defenses fail.**

Respondents’ claim that documents “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” also falls flat. Answer, p. 12, ¶ 11. The latter assertion is legally incorrect under *State ex rel. Schiffbauer v. Banaszak*, 142 Ohio St.3d 535, 2015-Ohio-1854, 33 N.E.3d 52. And the former assertion is irrelevant. If CPPD possesses “incident reports” related to its investigation of the Top Thrill Dragster injury, they are police reports subject to production. *Kim*, 93 Ohio St.3d at 588, 757 N.E.2d 367. Respondents’ assertion about a lack of criminal conduct does not answer the question of whether Respondents have any “incident and investigative reports” from CPPD and associated emergency services personnel about the incident, as requested by WKYC. If they do, regardless of whether they were created as part of the investigation of a crime, they are subject to “immediate release.” *Id.*

Respondents also claim that they are “not obligated to disclose, and release confidential law enforcement investigatory records.” Answer, p. 12, ¶ 15. While that may be true as a general matter under R.C. 149.43(A)(1)(h), that is not what Relators have sought here. Relators seek routine reports, witness statements, related notes, and associated photos and videos. Relator

Evidence Ex. 2-B, Ex. 3-A, Ex. 4-A. These are not “confidential law enforcement investigatory records.” *See State ex rel. Myers v. Meyers*, 169 Ohio St.3d 536, 2022-Ohio-1915, 207 N.E.3d 579, ¶ 47 (“[T]he initial observations by officers and the initial witness statements taken at the physical location close to the time that the incident occurred constitute incident information that may not be regarded as specific investigatory work product.”). Respondents have not offered any specific reason that any specific record encompassed by Relators’ requests is a confidential law enforcement investigatory record. In fact, Respondents never even claimed the requested records were confidential law enforcement investigatory records (or not public records under any other statutory exception) until they filed their Answer in this case.

Finally, Respondents object that they do “not have documents responsive to Relators’ request.” Answer, p. 12, ¶ 10. That assertion was dubious from the outset, given the evidence that CPPD officers are highly involved in the creation of police reports and witness statements on CPPD letterhead. Relator Evidence Ex. 1-I, 0049–53. But it also has proven false, as Respondents have produced at least some items responsive to Relators’ requests. Further, CPPD initially did not state that it had no responsive documents. Rather, at the time of Relators’ requests, it was not certain if it did. Relator Evidence Ex. 2-B, 0993. Despite promising to provide a basis for refusing to produce documents, no such basis ever came. *Id.*; *see also* Ex. 3, 0899, ¶ 9. In any case, this defense is inconsistent with Respondents’ other asserted defenses, and is offered merely as part of Respondents’ scattershot but unmeritorious objections to producing the requested records. It is also inconsistent with Respondents’ recent Motion for Extension of Time to Provide Documents Under Seal, which stated that Respondents’ “counsel ha[d] been unable to obtain complete copies

of the documents for in-camera inspection” and sought until “June 2, 2023, to provide documents under seal.”<sup>5</sup>

The items requested by Relators are plainly “public records” that fall within the scope of Ohio’s Public Records Act and Respondents have no meritorious defense. Therefore, Respondents should be required to produce the documents sought in Relators’ valid public records requests pursuant to R.C. 149.43. A writ of mandamus compelling Respondents to make responsive documents available is warranted.

**II. Relators should recover statutory damages, court costs, and their reasonable attorney’s fees.**

**A. Relators are entitled to statutory damages.**

Because Respondents are a public office under R.C. 149.011, they were required to produce the records sought under R.C. 149.43(B). They refused to do so until six months after Relators filed this action. Even then, Respondents have produced some records to Relators, but their production remains incomplete. *See* Relator Evidence Ex. 2, 0899-900; Ex. 3, 0999; Ex. 4, 1025. Given Respondents’ apparent plan to file additional documents under seal with the Court (with their May 26 Motion for Extension of Time to Provide Documents under Seal), it is clear Respondents still possess records they have refused to produce to Relators. So, because Respondents have failed to comply with their legal obligations, Relators are entitled to statutory damages pursuant to R.C. 149.43(C)(2). *State ex rel. Ware v. Akron*, 164 Ohio St.3d 557, 2021-Ohio-624, 174 N.E.3d 724, ¶ 18 (“[S]tatutory damages are mandatory whenever a public-records custodian fails to comply with her obligation.”).

Relators meet the requirements for an award of damages. All Relators “transmit[ted]” their “written request by . . . electronic submission,” i.e., email, to Chief Gilson and Cedar Fair. *See*

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<sup>5</sup> This filing does not appear on the docket because it was rejected by the Clerk.

Relator Evidence Ex. 2-B, Ex. 3-A, Ex. 4-A. All of Relators’ requests “fairly describe the public record or class of public records”: reports of sexual misconduct, emergency reports related to a specific accident on a specific date, witness and suspect statements, and associated photos and videos. R.C. 149.43(C)(2); *see also* Relator Evidence Ex. 2-B, Ex. 3-A, Ex. 4-A at 994, 1005, 1030. Respondents are therefore entitled to \$100 per day that Respondents have failed to comply with their obligations under R.C. 149.43(B) since Relators filed this action. Because this action was filed on July 26, 2022—more than 10 days ago—Relators are entitled to the maximum statutory damages of \$1,000. R.C. 149.43(C)(2).

There is no reason to reduce Relators’ statutory damages under the dual criteria of R.C. 149.43(C)(2)(a) and (b). As to the former, no “well-informed public office or person responsible for” the records would have reasonably believed that Respondents’ conduct “did not constitute a failure to comply with an obligation in accordance with division (B)” of R.C. 149.43 in light of *Schiffbauer*, 142 Ohio St.3d 535, 2015-Ohio-1854, 33 N.E.3d 52. Even if Respondents’ beliefs were reasonable notwithstanding *Schiffbauer*—which they are not—Respondents do not satisfy the latter criterion for a reduction in damages. No “well-informed public office or person responsible for the requested” records reasonably would have believed that Respondents’ conduct “serve[d] the public policy that underlies” their asserted authority to refuse to produce the records. R.C. 149.43(C)(2)(b). That is, Respondents’ basis for refusing to produce the records fundamentally contradicts this Court’s prior holdings, particularly in *Schiffbauer*, is an attempt to restrict access to public records, and so contradicts rather than supports public policy in this regard.

**B. Relators are entitled to court costs.**

If this Court “orders the public office or the person responsible for the public record”—i.e., any of Respondents—“to comply with [R.C. 149.43(B)], the court shall determine and award to the relator all court costs.” R.C. 149.43(C)(3)(a)(i). This provision is mandatory. Thus, if the

Court issues the requested writ, Relators are entitled to an award of court costs and no further findings are required for the award.

Court costs are also mandatory if the Court makes a “a determination described in division (C)(3)(b)(iii) of” R.C. 149.43, i.e., that “the public office . . . acted in bad faith” when it “voluntarily made the public records available to the relator for the first time after the relator commenced the mandamus action, but before the court issued” an order regarding production of the records. R.C. 149.43(C)(3)(a)(ii). As set forth below in Section C., that is precisely what Respondents did here in January 2023—when they produced only some of the requested records after Relators had filed suit—which entitles Relators to recover their court costs.

Relators’ court costs currently total approximately \$130 (the cost of the filing fee and service of the Complaint upon Respondents). Relators request an award of those costs.

**C. Relators are entitled to recover their attorney’s fees.**

The Public Records Act permits the Court to award attorney’s fees to Relators “[i]f the court renders a judgment that orders the public office or the person responsible for the public record to comply with” the law. R.C. 149.43(C)(3)(b). Provided the Court issues the writ of mandamus requested by Relators, that judgment alone will be sufficient to award attorney’s fees. *Id.*

The law also permits an award of attorney’s fees if “[t]he public office or the person responsible for the public records failed to respond affirmatively or negatively to the public records request in accordance with the time allowed under [R.C. 149.43(B)].” R.C. 149.43(C)(3)(b)(i). That was the case with Respondents. Chief Gilson initially acknowledged WTOL’s request, but failed to respond to it “affirmatively or negatively.” In response to the request, he equivocated, at first promising the requested documents within “30-days” if Respondents determined the Public Records Act applied to them. Relator Evidence Ex. 2-B, 0993. If they determined the law did not

apply, he also promised a response with the purported basis for that determination. *Id.* Neither promised response ever came. *Id.* at Ex. 2, 0899.

The failure to respond to WBNS's request is even more stark. WBNS never received any type of response to its lawful request, despite sending four more communications to Respondents in follow-up to the initial request. Relator Evidence Ex. 3, 0999; *see also* Ex. 3-A.

Like WTOL, WKYC received an initial reply from Tony Clark at Cedar Fair, which questioned the obligation to produce documents and simultaneously asserted Cedar Fair had none. Relator Evidence Ex. 4-A, 1029. When WKYC responded by doubting the accuracy of this response, Clark requested "WKYC's legal counsel's contact information" so it could "connect them with [Respondents'] legal team for further clarification." *Id.* WKYC provided the information that same day, and counsel reached out to Clark to discuss the issue, but no one responded. *Id.* at 1028; *see also* Ex. 3, 1025, ¶ 7. Respondents' backtracking on their initial denial that they possessed any responsive records and request to speak to counsel—coupled with their complete failure to follow up on that request—constitutes a lack of "affirmative or negative response" permitting an award of attorney's fees. R.C. 149.43(C)(3)(b)(i). Thus, WKYC also should be entitled to its attorney's fees.

Respondents' partial and belated production of records establishes a second statutory to award Respondents their attorney's fees: "[t]he public office or the person responsible for the public records promised to permit the relator to inspect or receive copies of the public records requested within a specified period of time but failed to fulfill that promise within that specified period of time." R.C. 149.43(C)(3)(b)(ii). Here, Gilson promised to provide the records—or a reason for Respondents' refusal to produce them—within 30 days of WTOL's request. Relator Evidence Ex. 2-B, 993. Gilson failed to fulfill that promise, and Respondents waited until January

2023 to produce materials (and even then produced only some items). Therefore, Relators are entitled to their attorney's fees under R.C. 149.43(C)(3)(b)(ii) as well.

Respondents' production of some records six months after litigation commenced also demonstrates a third reason to award Relators their attorney's fees: "bad faith" by "voluntarily ma[king] the public records available to the relator for the first time after the relator commenced the mandamus action, but before the court issued any order concluding whether or not the public office or person was required to comply with" the Public Records Act. R.C. 149.43(C)(3)(b)(iii). There is no other explanation for Respondents' conduct than disregard for the Ohio Public Records Act and this Court's clear precedent in *Schiffbauer*. Respondents simply flaunted the law and then waited until they were required to respond in litigation in order to produce some of the requested documents in the hope of avoiding an adverse order in this action. This meets the final statutory criteria for an award of attorney's fees.

In support of their request for attorney's fees under R.C. 149.43, Relators have attached as **Exhibit A** to this brief the affidavit of their counsel, Kevin T. Shook. As set forth in Mr. Shook's affidavit (*see* ¶ 6), all the fees reflected in the invoices included with the affidavit as Exhibit A-1 were actually incurred and were necessary to Relators' pursuit of the public records at issue in this matter. Relators have incurred \$80,429.90 in fees seeking to hold Respondents accountable to their duties under the Public Records Act.<sup>6</sup> Based upon Mr. Shook's experience and the proceedings in this litigation, the time spent and fees incurred by Relators in this lawsuit were reasonable and consistent with rates charged by other Ohio practitioners for this type of work and in conformity with Ohio Rule of Professional Conduct 1.5(a). *Id.* at ¶ 10. Although some of the

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<sup>6</sup> As set forth in paragraph 8 of Mr. Shook's affidavit, Relators' total fees incurred include fees for services performed but not yet billed from March 1, 2023 through June 5, 2023.

fees reflected in the invoices attached to Mr. Shook’s affidavit were incurred after Respondents made some public records available to Relators, Respondents have not fully complied with their legal duties and still possess additional public records they should be ordered to produce. *See* R.C. 149.43(C)(4)(b)-(c) (“The fees awarded shall not exceed the total of the reasonable attorney’s fees incurred before the public record was made available to the relator and the fees . . . incurred to produce proof of the reasonableness and amount of the fees. . . .”). Finally, given Respondents’ recalcitrance in producing the requested records, no alternative means could “have been pursued to more effectively and efficiently resolve the dispute,” so there is no basis to reduce the award of attorney’s fees. R.C. 149.43(C)(4)(d). All of Relators’ attorney’s fees are thus appropriate for an award under R.C. 149.43(C)(3)(b).

As with statutory damages, there is no basis to deny Relators their attorney’s fees under R.C. 149.43(C)(3)(c). Such a denial requires two findings: (i) a reasonable belief, based on existing law, that the failure to produce records “did not constitute a failure to comply with an obligation” under R.C. 149.43(B); and (ii) a reasonable belief that the failure to produce records “would serve the public policy that underlies the authority that is asserted as permitting” the denial. R.C. 149.43(C)(3)(c). Neither is present here. As set forth in Relators’ initial merit brief, *Schiffbauer* made clear that Respondents are subject to the Public Records Act and thus provided Relators with a clear legal right to the records sought. Respondents should have been aware of this—the law of the State—particularly given the overwhelming evidence of their performing a “core function of government” in exercising their law enforcement powers. Respondents also never have asserted a precise basis for failing to produce the records, other than the law’s supposed inapplicability to them, so they have no colorable argument that any such basis “would serve the public policy that underlies” it. R.C. 149.43(C)(3)(c)(ii). Regardless, Respondents’ only proffered

basis for refusing to produce the records contradicts this Court's prior holdings, is an attempt to restrict access to public records, and so contradicts public policy. The public policy of the State favors the disclosure of records, and all doubts are resolved in favor of disclosure, so any reason Respondents might assert for failing to produce the records conflicts with public policy. *See generally* R.C. 149.43; *Plain Dealer*, 106 Ohio St.3d 70, 2005-Ohio-3807, 831 N.E.2d 987, at ¶ 20.

An award of attorney's fees to Relators is thus appropriate.

### **III. This case is not moot.**

Respondents have previously argued that they produced some records to Relators, which allegedly mooted Relators' entitlement to a writ of mandamus. Not so. Respondents' indeterminate and belated effort to comply with their obligation to produce public records does not moot Relators' claims for several reasons.

First, Respondents have produced documents despite maintaining that the Public Records Act does not apply to them. Respondents' Merit Brief at 1. But Respondents cannot have it both ways: they cannot maintain the inapplicability of the Public Records Act while also seeking to obviate its application by producing a limited and unquantified set of documents. Thus, there is still a live controversy between the parties, i.e., whether Respondents are subject to the Public Records Act.

Second, while Respondents have now produced some documents to Relators, they have made no representation or assurance as to the completeness of the production. Respondents have not stated whether any responsive documents remain to be produced or may be responsive but are being withheld under a claimed exemption to the public records law. This means the case is not moot. *See State ex rel. Cincinnati Enquirer, Div. of Gannett Satellite Info. Network, Inc. v. Dupuis*, 98 Ohio St.3d 126, 2002-Ohio-7041, 781 N.E.2d 163, ¶ 9 ("Appellees, however, offer no proof

that they have provided this record aside from the bare unverified assertions in their appellate brief. . . . Based on the foregoing, we refuse to dismiss this appeal based on mootness.”); *see also State ex rel. Gibbs v. Concord Twp. Trustees*, 152 Ohio App.3d 387, 2003-Ohio-1586, 787 N.E.2d 1248, ¶ 17 (11th Dist.) (“The allegations in an appellate brief are not considered part of the trial court record; thus, we are unable to determine whether the original demand was reduced or was only partially complied with.”).

Third, even if Respondents’ document production constituted the full extent of materials to which Relators are entitled—which is not the case—Relators’ claims meet the Court’s well-established exceptions to mootness in public record cases. “[A] claim is not moot if it is capable of repetition, yet evading review,” i.e., when “(1) the challenged action is too short in its duration to be fully litigated before its cessation or expiration, and (2) there is a reasonable expectation that the same complaining party will be subject to the same action again.” *State ex rel. Cincinnati Enquirer v. Heath*, 121 Ohio St.3d 165, 2009-Ohio-590, 902 N.E.2d 976, ¶ 11. Here, Respondents withheld records (and continue to withhold records) until after Relators published news stories about Respondents and some of the public pressure from the short-term news cycle regarding their conduct had dissipated. Also, unless and until Respondents complete their contemplated transition of policing duties to SPD sometime this year, they remain a fully functioning police department. Thus, while still a police department, Respondents would likely assert the same immunity from the public records law in response to any future requests and subject Relators to the same conduct all over again, forcing them to file yet another lawsuit to resolve the issue. *State ex rel. Cincinnati Enquirer v. Ohio Dept. of Pub. Safety*, 148 Ohio St.3d 433, 2016-Ohio-7987, 71 N.E.3d 258, ¶ 31 (recognizing “public interest” in requested materials and that lack of resolution would lead “other

media outlets to continue to request” them while agencies continue to withhold them, and holding that claim was thus not moot). For these reasons, the case is not moot.

Fourth, even if Respondents had now fully complied with their obligations, which they have not, Relators’ requests for damages, costs, and attorney’s fees are not moot. This Court has long held that attorney’s fees may be awarded where a custodian of records only complies with a valid public records request after a mandamus lawsuit is filed. *State ex rel. Pennington v. Gundler*, 75 Ohio St.3d 171, 174, 661 N.E.2d 1049 (1996). Respondents should not be allowed to wait and decide to comply with the law only in those instances where the requesting party has the fortitude and resources to file a complaint with this Court. And “statutory damages are mandatory whenever a public records custodian fails to comply with her obligation.” *State ex rel. Ware v. Akron*, 164 Ohio St.3d 557, 2021-Ohio-624, 174 N.E.3d 724, ¶ 18. Accordingly, even if Respondents had now fully produced the requested records—and there is good reason to think otherwise—this Court would still need to determine whether Respondents are subject to the public records law for purposes of determining Relators’ request for statutory damages, costs, and attorney’s fees. *See* Relators’ Merit Brief at 31-33; *see also* R.C. 149.43(C)(2); R.C. 149.43(C)(3)(a).

This case is not moot, and Relators are entitled to statutory damages, costs, and attorney’s fees.

### **CONCLUSION**

Respondents are required to produce or make available public records under R.C. 149.43. Relators requested public records and this Court should issue a writ of mandamus compelling Respondents to produce them. Because Relators also meet the statutory criteria, they are entitled to their statutory damages, court costs, and attorney’s fees.

Respectfully submitted,

/s/ Ryan W. Goellner

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**CERTIFICATE OF SERVICE**

The undersigned counsel certifies, pursuant to S.Ct.Prac.R. 3.11(D), that a copy of the foregoing was served on the following persons via electronic mail on this 6th day of June, 2023.

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*/s Ryan W. Goellner* \_\_\_\_\_

**APPENDIX**

R.C. 149.43 ..... A-1



KeyCite Yellow Flag - Negative Treatment

Unconstitutional or Preempted Negative Treatment Vacated by [State v. Delvallie](#), Ohio App. 8 Dist., Feb. 17, 2022



KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

Baldwin's Ohio Revised Code Annotated  
Title I. State Government  
Chapter 149. Documents, Reports, and Records (Refs & Annos)  
Records Commissions

R.C. § 149.43

149.43 Availability of public records; mandamus action; training of public employees; public records policy; bulk commercial special extraction requests

Effective: September 12, 2022

[Currentness](#)

(A) As used in this section:

(1) “Public record” means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in this state kept by the nonprofit or for-profit entity operating the alternative school pursuant to [section 3313.533 of the Revised Code](#). “Public record” does not mean any of the following:

(a) Medical records;

(b) Records pertaining to probation and parole proceedings, to proceedings related to the imposition of community control sanctions and post-release control sanctions, or to proceedings related to determinations under [section 2967.271 of the Revised Code](#) regarding the release or maintained incarceration of an offender to whom that section applies;

(c) Records pertaining to actions under [section 2151.85 and division \(C\) of section 2919.121 of the Revised Code](#) and to appeals of actions arising under those sections;

(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under [sections 3705.12 to 3705.124 of the Revised Code](#);

(e) Information in a record contained in the putative father registry established by [section 3107.062 of the Revised Code](#), regardless of whether the information is held by the department of job and family services or, pursuant to [section 3111.69 of the Revised Code](#), the office of child support in the department or a child support enforcement agency;

(f) Records specified in [division \(A\) of section 3107.52 of the Revised Code](#);

- (g) Trial preparation records;
- (h) Confidential law enforcement investigatory records;
- (i) Records containing information that is confidential under [section 2710.03](#) or [4112.05 of the Revised Code](#);
- (j) DNA records stored in the DNA database pursuant to [section 109.573 of the Revised Code](#);
- (k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to [division \(E\) of section 5120.21 of the Revised Code](#);
- (l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to [section 5139.05 of the Revised Code](#);
- (m) Intellectual property records;
- (n) Donor profile records;
- (o) Records maintained by the department of job and family services pursuant to [section 3121.894 of the Revised Code](#);
- (p) Designated public service worker residential and familial information;
- (q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in [section 1333.61 of the Revised Code](#);
- (r) Information pertaining to the recreational activities of a person under the age of eighteen;
- (s) In the case of a child fatality review board acting under [sections 307.621 to 307.629 of the Revised Code](#) or a review conducted pursuant to guidelines established by the director of health under [section 3701.70 of the Revised Code](#), records provided to the board or director, statements made by board members during meetings of the board or by persons participating in the director's review, and all work products of the board or director, and in the case of a child fatality review board, child fatality review data submitted by the board to the department of health or a national child death review database, other than the report prepared pursuant to [division \(A\) of section 307.626 of the Revised Code](#);
- (t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to [section 5153.171 of the Revised Code](#) other than the information released under that section;

- (u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of executives of long-term services and supports administers under [section 4751.15 of the Revised Code](#) or contracts under that section with a private or government entity to administer;
- (v) Records the release of which is prohibited by state or federal law;
- (w) Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under [section 150.01 of the Revised Code](#);
- (x) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency;
- (y) Records listed in [section 5101.29 of the Revised Code](#);
- (z) Discharges recorded with a county recorder under [section 317.24 of the Revised Code](#), as specified in division (B)(2) of that section;
- (aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;
- (bb) Records described in [division \(C\) of section 187.04 of the Revised Code](#) that are not designated to be made available to the public as provided in that division;
- (cc) Information and records that are made confidential, privileged, and not subject to disclosure under divisions (B) and (C) of [section 2949.221 of the Revised Code](#);
- (dd) Personal information, as defined in [section 149.45 of the Revised Code](#);
- (ee) The confidential name, address, and other personally identifiable information of a program participant in the address confidentiality program established under [sections 111.41 to 111.47 of the Revised Code](#), including the contents of any application for absent voter's ballots, absent voter's ballot identification envelope statement of voter, or provisional ballot affirmation completed by a program participant who has a confidential voter registration record; records or portions of records pertaining to that program that identify the number of program participants that reside within a precinct, ward, township, municipal corporation, county, or any other geographic area smaller than the state; and any real property confidentiality notice filed under [section 111.431 of the Revised Code](#) and the information described in division (C) of that section. As used in this division, "confidential address" and "program participant" have the meaning defined in [section 111.41 of the Revised Code](#).
- (ff) Orders for active military service of an individual serving or with previous service in the armed forces of the United States, including a reserve component, or the Ohio organized militia, except that, such order becomes a public record on the day that is fifteen years after the published date or effective date of the call to order;

(gg) The name, address, contact information, or other personal information of an individual who is less than eighteen years of age that is included in any record related to a traffic accident involving a school vehicle in which the individual was an occupant at the time of the accident;

(hh) Protected health information, as defined in [45 C.F.R. 160.103](#), that is in a claim for payment for a health care product, service, or procedure, as well as any other health claims data in another document that reveals the identity of an individual who is the subject of the data or could be used to reveal that individual's identity;

(ii) Any depiction by photograph, film, videotape, or printed or digital image under either of the following circumstances:

(i) The depiction is that of a victim of an offense the release of which would be, to a reasonable person of ordinary sensibilities, an offensive and objectionable intrusion into the victim's expectation of bodily privacy and integrity.

(ii) The depiction captures or depicts the victim of a sexually oriented offense, as defined in [section 2950.01 of the Revised Code](#), at the actual occurrence of that offense.

(jj) Restricted portions of a body-worn camera or dashboard camera recording;

(kk) In the case of a fetal-infant mortality review board acting under [sections 3707.70 to 3707.77 of the Revised Code](#), records, documents, reports, or other information presented to the board or a person abstracting such materials on the board's behalf, statements made by review board members during board meetings, all work products of the board, and data submitted by the board to the department of health or a national infant death review database, other than the report prepared pursuant to [section 3707.77 of the Revised Code](#).

(ll) Records, documents, reports, or other information presented to the pregnancy-associated mortality review board established under [section 3738.01 of the Revised Code](#), statements made by board members during board meetings, all work products of the board, and data submitted by the board to the department of health, other than the biennial reports prepared under [section 3738.08 of the Revised Code](#);

(mm) Except as otherwise provided in division (A)(1)(oo) of this section, telephone numbers for a victim, as defined in [section 2930.01 of the Revised Code](#) or a witness to a crime that are listed on any law enforcement record or report.

(nn) A preneed funeral contract, as defined in [section 4717.01 of the Revised Code](#), and contract terms and personally identifying information of a preneed funeral contract, that is contained in a report submitted by or for a funeral home to the board of embalmers and funeral directors under [division \(C\) of section 4717.13](#), [division \(J\) of section 4717.31](#), or [section 4717.41 of the Revised Code](#).

(oo) Telephone numbers for a party to a motor vehicle accident subject to the requirements of [section 5502.11 of the Revised Code](#) that are listed on any law enforcement record or report, except that the telephone numbers described in this division are

not excluded from the definition of “public record” under this division on and after the thirtieth day after the occurrence of the motor vehicle accident.

(pp) Records pertaining to individuals who complete training under [section 5502.703 of the Revised Code](#) to be permitted by a school district board of education or governing body of a community school established under Chapter 3314. of the Revised Code, a STEM school established under Chapter 3326. of the Revised Code, or a chartered nonpublic school to convey deadly weapons or dangerous ordnance into a school safety zone.

A record that is not a public record under division (A)(1) of this section and that, under law, is permanently retained becomes a public record on the day that is seventy-five years after the day on which the record was created, except for any record protected by the attorney-client privilege, a trial preparation record as defined in this section, a statement prohibiting the release of identifying information signed under [section 3107.083 of the Revised Code](#), a denial of release form filed pursuant to [section 3107.46 of the Revised Code](#), or any record that is exempt from release or disclosure under [section 149.433 of the Revised Code](#). If the record is a birth certificate and a biological parent's name redaction request form has been accepted under [section 3107.391 of the Revised Code](#), the name of that parent shall be redacted from the birth certificate before it is released under this paragraph. If any other section of the Revised Code establishes a time period for disclosure of a record that conflicts with the time period specified in this section, the time period in the other section prevails.

(2) “Confidential law enforcement investigatory record” means any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:

(a) The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised;

(b) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity;

(c) Specific confidential investigatory techniques or procedures or specific investigatory work product;

(d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.

(3) “Medical record” means any document or combination of documents, except births, deaths, and the fact of admission to or discharge from a hospital, that pertains to the medical history, diagnosis, prognosis, or medical condition of a patient and that is generated and maintained in the process of medical treatment.

(4) “Trial preparation record” means any record that contains information that is specifically compiled in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding, including the independent thought processes and personal trial preparation of an attorney.

(5) “Intellectual property record” means a record, other than a financial or administrative record, that is produced or collected by or for faculty or staff of a state institution of higher learning in the conduct of or as a result of study or research on an educational,

commercial, scientific, artistic, technical, or scholarly issue, regardless of whether the study or research was sponsored by the institution alone or in conjunction with a governmental body or private concern, and that has not been publicly released, published, or patented.

(6) “Donor profile record” means all records about donors or potential donors to a public institution of higher education except the names and reported addresses of the actual donors and the date, amount, and conditions of the actual donation.

(7) “Designated public service worker” means a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, county or multicounty corrections officer, community-based correctional facility employee, designated Ohio national guard member, protective services worker, youth services employee, firefighter, EMT, medical director or member of a cooperating physician advisory board of an emergency medical service organization, state board of pharmacy employee, investigator of the bureau of criminal identification and investigation, emergency service telecommunicator, forensic mental health provider, mental health evaluation provider, regional psychiatric hospital employee, judge, magistrate, or federal law enforcement officer.

(8) “Designated public service worker residential and familial information” means any information that discloses any of the following about a designated public service worker:

(a) The address of the actual personal residence of a designated public service worker, except for the following information:

(i) The address of the actual personal residence of a prosecuting attorney or judge; and

(ii) The state or political subdivision in which a designated public service worker resides.

(b) Information compiled from referral to or participation in an employee assistance program;

(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a designated public service worker;

(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a designated public service worker by the designated public service worker's employer;

(e) The identity and amount of any charitable or employment benefit deduction made by the designated public service worker's employer from the designated public service worker's compensation, unless the amount of the deduction is required by state or federal law;

(f) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a designated public service worker;

(g) A photograph of a peace officer who holds a position or has an assignment that may include undercover or plain clothes positions or assignments as determined by the peace officer's appointing authority.

(9) As used in divisions (A)(7) and (15) to (17) of this section:

“Peace officer” has the meaning defined in [section 109.71 of the Revised Code](#) and also includes the superintendent and troopers of the state highway patrol; it does not include the sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

“Correctional employee” means any employee of the department of rehabilitation and correction who in the course of performing the employee's job duties has or has had contact with inmates and persons under supervision.

“County or multicounty corrections officer” means any corrections officer employed by any county or multicounty correctional facility.

“Designated Ohio national guard member” means a member of the Ohio national guard who is participating in duties related to remotely piloted aircraft, including, but not limited to, pilots, sensor operators, and mission intelligence personnel, duties related to special forces operations, or duties related to cybersecurity, and is designated by the adjutant general as a designated public service worker for those purposes.

“Protective services worker” means any employee of a county agency who is responsible for child protective services, child support services, or adult protective services.

“Youth services employee” means any employee of the department of youth services who in the course of performing the employee's job duties has or has had contact with children committed to the custody of the department of youth services.

“Firefighter” means any regular, paid or volunteer, member of a lawfully constituted fire department of a municipal corporation, township, fire district, or village.

“EMT” means EMTs-basic, EMTs-I, and paramedics that provide emergency medical services for a public emergency medical service organization. “Emergency medical service organization,” “EMT-basic,” “EMT-I,” and “paramedic” have the meanings defined in [section 4765.01 of the Revised Code](#).

“Investigator of the bureau of criminal identification and investigation” has the meaning defined in [section 2903.11 of the Revised Code](#).

“Emergency service telecommunicator” has the meaning defined in [section 4742.01 of the Revised Code](#).

“Forensic mental health provider” means any employee of a community mental health service provider or local alcohol, drug addiction, and mental health services board who, in the course of the employee's duties, has contact with persons committed to a local alcohol, drug addiction, and mental health services board by a court order pursuant to [section 2945.38](#), [2945.39](#), [2945.40](#), or [2945.402 of the Revised Code](#).

“Mental health evaluation provider” means an individual who, under Chapter 5122. of the Revised Code, examines a respondent who is alleged to be a mentally ill person subject to court order, as defined in [section 5122.01 of the Revised Code](#), and reports to the probate court the respondent's mental condition.

“Regional psychiatric hospital employee” means any employee of the department of mental health and addiction services who, in the course of performing the employee's duties, has contact with patients committed to the department of mental health and addiction services by a court order pursuant to [section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised Code](#).

“Federal law enforcement officer” has the meaning defined in [section 9.88 of the Revised Code](#).

(10) “Information pertaining to the recreational activities of a person under the age of eighteen” means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:

(a) The address or telephone number of a person under the age of eighteen or the address or telephone number of that person's parent, guardian, custodian, or emergency contact person;

(b) The social security number, birth date, or photographic image of a person under the age of eighteen;

(c) Any medical record, history, or information pertaining to a person under the age of eighteen;

(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.

(11) “Community control sanction” has the meaning defined in [section 2929.01 of the Revised Code](#).

(12) “Post-release control sanction” has the meaning defined in [section 2967.01 of the Revised Code](#).

(13) “Redaction” means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a “record” in [section 149.011 of the Revised Code](#).

(14) “Designee,” “elected official,” and “future official” have the meanings defined in [section 109.43 of the Revised Code](#).

(15) “Body-worn camera” means a visual and audio recording device worn on the person of a peace officer while the peace officer is engaged in the performance of the peace officer's duties.

(16) “Dashboard camera” means a visual and audio recording device mounted on a peace officer's vehicle or vessel that is used while the peace officer is engaged in the performance of the peace officer's duties.

(17) “Restricted portions of a body-worn camera or dashboard camera recording” means any visual or audio portion of a body-worn camera or dashboard camera recording that shows, communicates, or discloses any of the following:

- (a) The image or identity of a child or information that could lead to the identification of a child who is a primary subject of the recording when the law enforcement agency knows or has reason to know the person is a child based on the law enforcement agency's records or the content of the recording;
- (b) The death of a person or a deceased person's body, unless the death was caused by a peace officer or, subject to division (H)(1) of this section, the consent of the decedent's executor or administrator has been obtained;
- (c) The death of a peace officer, firefighter, paramedic, or other first responder, occurring while the decedent was engaged in the performance of official duties, unless, subject to division (H)(1) of this section, the consent of the decedent's executor or administrator has been obtained;
- (d) Grievous bodily harm, unless the injury was effected by a peace officer or, subject to division (H)(1) of this section, the consent of the injured person or the injured person's guardian has been obtained;
- (e) An act of severe violence against a person that results in serious physical harm to the person, unless the act and injury was effected by a peace officer or, subject to division (H)(1) of this section, the consent of the injured person or the injured person's guardian has been obtained;
- (f) Grievous bodily harm to a peace officer, firefighter, paramedic, or other first responder, occurring while the injured person was engaged in the performance of official duties, unless, subject to division (H)(1) of this section, the consent of the injured person or the injured person's guardian has been obtained;
- (g) An act of severe violence resulting in serious physical harm against a peace officer, firefighter, paramedic, or other first responder, occurring while the injured person was engaged in the performance of official duties, unless, subject to division (H)(1) of this section, the consent of the injured person or the injured person's guardian has been obtained;
- (h) A person's nude body, unless, subject to division (H)(1) of this section, the person's consent has been obtained;
- (i) Protected health information, the identity of a person in a health care facility who is not the subject of a law enforcement encounter, or any other information in a health care facility that could identify a person who is not the subject of a law enforcement encounter;
- (j) Information that could identify the alleged victim of a sex offense, menacing by stalking, or domestic violence;
- (k) Information, that does not constitute a confidential law enforcement investigatory record, that could identify a person who provides sensitive or confidential information to a law enforcement agency when the disclosure of the person's identity or the information provided could reasonably be expected to threaten or endanger the safety or property of the person or another person;
- (l) Personal information of a person who is not arrested, cited, charged, or issued a written warning by a peace officer;

- (m) Proprietary police contingency plans or tactics that are intended to prevent crime and maintain public order and safety;
- (n) A personal conversation unrelated to work between peace officers or between a peace officer and an employee of a law enforcement agency;
- (o) A conversation between a peace officer and a member of the public that does not concern law enforcement activities;
- (p) The interior of a residence, unless the interior of a residence is the location of an adversarial encounter with, or a use of force by, a peace officer;
- (q) Any portion of the interior of a private business that is not open to the public, unless an adversarial encounter with, or a use of force by, a peace officer occurs in that location.

As used in division (A)(17) of this section:

“Grievous bodily harm” has the same meaning as in [section 5924.120 of the Revised Code](#).

“Health care facility” has the same meaning as in [section 1337.11 of the Revised Code](#).

“Protected health information” has the same meaning as in [45 C.F.R. 160.103](#).

“Law enforcement agency” has the same meaning as in [section 2925.61 of the Revised Code](#).

“Personal information” means any government-issued identification number, date of birth, address, financial information, or criminal justice information from the law enforcement automated data system or similar databases.

“Sex offense” has the same meaning as in [section 2907.10 of the Revised Code](#).

“Firefighter,” “paramedic,” and “first responder” have the same meanings as in [section 4765.01 of the Revised Code](#).

(B)(1) Upon request by any person and subject to division (B)(8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to the requester at all reasonable times during regular business hours. Subject to division (B)(8) of this section, upon request by any person, a public office or person responsible for public records shall make copies of the requested public record available to the requester at cost and within a reasonable period of time. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the public office or the person responsible for the public record shall make available all of the information within the public record that is not exempt. When making that public record available for public inspection or copying that public record, the public office or the person responsible for the public record shall notify the requester of any redaction or make the redaction plainly visible. A redaction shall be deemed a denial of a request to inspect or copy the redacted information, except if federal or state law authorizes or requires a public office to make the redaction.

(2) To facilitate broader access to public records, a public office or the person responsible for public records shall organize and maintain public records in a manner that they can be made available for inspection or copying in accordance with division (B) of this section. A public office also shall have available a copy of its current records retention schedule at a location readily

available to the public. If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records under this section such that the public office or the person responsible for the requested public record cannot reasonably identify what public records are being requested, the public office or the person responsible for the requested public record may deny the request but shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office's or person's duties.

(3) If a request is ultimately denied, in part or in whole, the public office or the person responsible for the requested public record shall provide the requester with an explanation, including legal authority, setting forth why the request was denied. If the initial request was provided in writing, the explanation also shall be provided to the requester in writing. The explanation shall not preclude the public office or the person responsible for the requested public record from relying upon additional reasons or legal authority in defending an action commenced under division (C) of this section.

(4) Unless specifically required or authorized by state or federal law or in accordance with division (B) of this section, no public office or person responsible for public records may limit or condition the availability of public records by requiring disclosure of the requester's identity or the intended use of the requested public record. Any requirement that the requester disclose the requester's identity or the intended use of the requested public record constitutes a denial of the request.

(5) A public office or person responsible for public records may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but may do so only after disclosing to the requester that a written request is not mandatory, that the requester may decline to reveal the requester's identity or the intended use, and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the public office or person responsible for public records to identify, locate, or deliver the public records sought by the requester.

(6) If any person requests a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require the requester to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the requester under this division. The public office or the person responsible for the public record shall permit the requester to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the requester makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the requester. Nothing in this section requires a public office or person responsible for the public record to allow the requester of a copy of the public record to make the copies of the public record.

(7)(a) Upon a request made in accordance with division (B) of this section and subject to division (B)(6) of this section, a public office or person responsible for public records shall transmit a copy of a public record to any person by United States mail or by any other means of delivery or transmission within a reasonable period of time after receiving the request for the copy. The public office or person responsible for the public record may require the person making the request to pay in advance the cost of postage if the copy is transmitted by United States mail or the cost of delivery if the copy is transmitted other than by United States mail, and to pay in advance the costs incurred for other supplies used in the mailing, delivery, or transmission.

(b) Any public office may adopt a policy and procedures that it will follow in transmitting, within a reasonable period of time after receiving a request, copies of public records by United States mail or by any other means of delivery or transmission

pursuant to division (B)(7) of this section. A public office that adopts a policy and procedures under division (B)(7) of this section shall comply with them in performing its duties under that division.

(c) In any policy and procedures adopted under division (B)(7) of this section:

(i) A public office may limit the number of records requested by a person that the office will physically deliver by United States mail or by another delivery service to ten per month, unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes;

(ii) A public office that chooses to provide some or all of its public records on a web site that is fully accessible to and searchable by members of the public at all times, other than during acts of God outside the public office's control or maintenance, and that charges no fee to search, access, download, or otherwise receive records provided on the web site, may limit to ten per month the number of records requested by a person that the office will deliver in a digital format, unless the requested records are not provided on the web site and unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes.

(iii) For purposes of division (B)(7) of this section, "commercial" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

(8) A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person.

(9)(a) Upon written request made and signed by a journalist, a public office, or person responsible for public records, having custody of the records of the agency employing a specified designated public service worker shall disclose to the journalist the address of the actual personal residence of the designated public service worker and, if the designated public service worker's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the designated public service worker's spouse, former spouse, or child. The request shall include the journalist's name and title and the name and address of the journalist's employer and shall state that disclosure of the information sought would be in the public interest.

(b) Division (B)(9)(a) of this section also applies to journalist requests for:

(i) Customer information maintained by a municipally owned or operated public utility, other than social security numbers and any private financial information such as credit reports, payment methods, credit card numbers, and bank account information;

(ii) Information about minors involved in a school vehicle accident as provided in division (A)(1)(gg) of this section, other than personal information as defined in [section 149.45 of the Revised Code](#).

(c) As used in division (B)(9) of this section, “journalist” means a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.

(10) Upon a request made by a victim, victim's attorney, or victim's representative, as that term is used in [section 2930.02 of the Revised Code](#), a public office or person responsible for public records shall transmit a copy of a depiction of the victim as described in division (A)(1)(ii) of this section to the victim, victim's attorney, or victim's representative.

(C)(1) If a person allegedly is aggrieved by the failure of a public office or the person responsible for public records to promptly prepare a public record and to make it available to the person for inspection in accordance with division (B) of this section or by any other failure of a public office or the person responsible for public records to comply with an obligation in accordance with division (B) of this section, the person allegedly aggrieved may do only one of the following, and not both:

(a) File a complaint with the clerk of the court of claims or the clerk of the court of common pleas under [section 2743.75 of the Revised Code](#);

(b) Commence a mandamus action to obtain a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, that awards court costs and reasonable attorney's fees to the person that instituted the mandamus action, and, if applicable, that includes an order fixing statutory damages under division (C)(2) of this section. The mandamus action may be commenced in the court of common pleas of the county in which division (B) of this section allegedly was not complied with, in the supreme court pursuant to its original jurisdiction under [Section 2 of Article IV, Ohio Constitution](#), or in the court of appeals for the appellate district in which division (B) of this section allegedly was not complied with pursuant to its original jurisdiction under [Section 3 of Article IV, Ohio Constitution](#).

(2) If a requester transmits a written request by hand delivery, electronic submission, or certified mail to inspect or receive copies of any public record in a manner that fairly describes the public record or class of public records to the public office or person responsible for the requested public records, except as otherwise provided in this section, the requester shall be entitled to recover the amount of statutory damages set forth in this division if a court determines that the public office or the person responsible for public records failed to comply with an obligation in accordance with division (B) of this section.

The amount of statutory damages shall be fixed at one hundred dollars for each business day during which the public office or person responsible for the requested public records failed to comply with an obligation in accordance with division (B) of this section, beginning with the day on which the requester files a mandamus action to recover statutory damages, up to a maximum of one thousand dollars. The award of statutory damages shall not be construed as a penalty, but as compensation for injury arising from lost use of the requested information. The existence of this injury shall be conclusively presumed. The award of statutory damages shall be in addition to all other remedies authorized by this section.

The court may reduce an award of statutory damages or not award statutory damages if the court determines both of the following:

(a) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed

public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(b) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(3) In a mandamus action filed under division (C)(1) of this section, the following apply:

(a)(i) If the court orders the public office or the person responsible for the public record to comply with division (B) of this section, the court shall determine and award to the relator all court costs, which shall be construed as remedial and not punitive.

(ii) If the court makes a determination described in division (C)(3)(b)(iii) of this section, the court shall determine and award to the relator all court costs, which shall be construed as remedial and not punitive.

(b) If the court renders a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section or if the court determines any of the following, the court may award reasonable attorney's fees to the relator, subject to division (C)(4) of this section:

(i) The public office or the person responsible for the public records failed to respond affirmatively or negatively to the public records request in accordance with the time allowed under division (B) of this section.

(ii) The public office or the person responsible for the public records promised to permit the relator to inspect or receive copies of the public records requested within a specified period of time but failed to fulfill that promise within that specified period of time.

(iii) The public office or the person responsible for the public records acted in bad faith when the office or person voluntarily made the public records available to the relator for the first time after the relator commenced the mandamus action, but before the court issued any order concluding whether or not the public office or person was required to comply with division (B) of this section. No discovery may be conducted on the issue of the alleged bad faith of the public office or person responsible for the public records. This division shall not be construed as creating a presumption that the public office or the person responsible for the public records acted in bad faith when the office or person voluntarily made the public records available to the relator for the first time after the relator commenced the mandamus action, but before the court issued any order described in this division.

(c) The court shall not award attorney's fees to the relator if the court determines both of the following:

(i) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(ii) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(4) All of the following apply to any award of reasonable attorney's fees awarded under division (C)(3)(b) of this section:

(a) The fees shall be construed as remedial and not punitive.

(b) The fees awarded shall not exceed the total of the reasonable attorney's fees incurred before the public record was made available to the relator and the fees described in division (C)(4)(c) of this section.

(c) Reasonable attorney's fees shall include reasonable fees incurred to produce proof of the reasonableness and amount of the fees and to otherwise litigate entitlement to the fees.

(d) The court may reduce the amount of fees awarded if the court determines that, given the factual circumstances involved with the specific public records request, an alternative means should have been pursued to more effectively and efficiently resolve the dispute that was subject to the mandamus action filed under division (C)(1) of this section.

(5) If the court does not issue a writ of mandamus under division (C) of this section and the court determines at that time that the bringing of the mandamus action was frivolous conduct as defined in [division \(A\) of section 2323.51 of the Revised Code](#), the court may award to the public office all court costs, expenses, and reasonable attorney's fees, as determined by the court.

(D) Chapter 1347. of the Revised Code does not limit the provisions of this section.

(E)(1) To ensure that all employees of public offices are appropriately educated about a public office's obligations under division (B) of this section, all elected officials or their appropriate designees shall attend training approved by the attorney general as provided in [section 109.43 of the Revised Code](#). A future official may satisfy the requirements of this division by attending the training before taking office, provided that the future official may not send a designee in the future official's place.

(2) All public offices shall adopt a public records policy in compliance with this section for responding to public records requests. In adopting a public records policy under this division, a public office may obtain guidance from the model public records policy developed and provided to the public office by the attorney general under [section 109.43 of the Revised Code](#). Except as otherwise provided in this section, the policy may not limit the number of public records that the public office will make available to a single person, may not limit the number of public records that it will make available during a fixed period of time, and may not establish a fixed period of time before it will respond to a request for inspection or copying of public records, unless that period is less than eight hours.

The public office shall distribute the public records policy adopted by the public office under this division to the employee of the public office who is the records custodian or records manager or otherwise has custody of the records of that office. The public office shall require that employee to acknowledge receipt of the copy of the public records policy. The public office shall create a poster that describes its public records policy and shall post the poster in a conspicuous place in the public office and

in all locations where the public office has branch offices. The public office may post its public records policy on the internet web site of the public office if the public office maintains an internet web site. A public office that has established a manual or handbook of its general policies and procedures for all employees of the public office shall include the public records policy of the public office in the manual or handbook.

(F)(1) The bureau of motor vehicles may adopt rules pursuant to Chapter 119. of the Revised Code to reasonably limit the number of bulk commercial special extraction requests made by a person for the same records or for updated records during a calendar year. The rules may include provisions for charges to be made for bulk commercial special extraction requests for the actual cost of the bureau, plus special extraction costs, plus ten per cent. The bureau may charge for expenses for redacting information, the release of which is prohibited by law.

(2) As used in division (F)(1) of this section:

(a) “Actual cost” means the cost of depleted supplies, records storage media costs, actual mailing and alternative delivery costs, or other transmitting costs, and any direct equipment operating and maintenance costs, including actual costs paid to private contractors for copying services.

(b) “Bulk commercial special extraction request” means a request for copies of a record for information in a format other than the format already available, or information that cannot be extracted without examination of all items in a records series, class of records, or database by a person who intends to use or forward the copies for surveys, marketing, solicitation, or resale for commercial purposes. “Bulk commercial special extraction request” does not include a request by a person who gives assurance to the bureau that the person making the request does not intend to use or forward the requested copies for surveys, marketing, solicitation, or resale for commercial purposes.

(c) “Commercial” means profit-seeking production, buying, or selling of any good, service, or other product.

(d) “Special extraction costs” means the cost of the time spent by the lowest paid employee competent to perform the task, the actual amount paid to outside private contractors employed by the bureau, or the actual cost incurred to create computer programs to make the special extraction. “Special extraction costs” include any charges paid to a public agency for computer or records services.

(3) For purposes of divisions (F)(1) and (2) of this section, “surveys, marketing, solicitation, or resale for commercial purposes” shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

(G) A request by a defendant, counsel of a defendant, or any agent of a defendant in a criminal action that public records related to that action be made available under this section shall be considered a demand for discovery pursuant to the Criminal Rules, except to the extent that the Criminal Rules plainly indicate a contrary intent. The defendant, counsel of the defendant, or agent of the defendant making a request under this division shall serve a copy of the request on the prosecuting attorney, director of law, or other chief legal officer responsible for prosecuting the action.

(H)(1) Any portion of a body-worn camera or dashboard camera recording described in divisions (A)(17)(b) to (h) of this section may be released by consent of the subject of the recording or a representative of that person, as specified in those divisions, only if either of the following applies:

(a) The recording will not be used in connection with any probable or pending criminal proceedings;

(b) The recording has been used in connection with a criminal proceeding that was dismissed or for which a judgment has been entered pursuant to [Rule 32 of the Rules of Criminal Procedure](#), and will not be used again in connection with any probable or pending criminal proceedings.

(2) If a public office denies a request to release a restricted portion of a body-worn camera or dashboard camera recording, as defined in division (A)(17) of this section, any person may file a mandamus action pursuant to this section or a complaint with the clerk of the court of claims pursuant to [section 2743.75 of the Revised Code](#), requesting the court to order the release of all or portions of the recording. If the court considering the request determines that the filing articulates by clear and convincing evidence that the public interest in the recording substantially outweighs privacy interests and other interests asserted to deny release, the court shall order the public office to release the recording.

### CREDIT(S)

(2022 H 99, eff. 9-12-22; 2022 H 93, eff. 4-29-22; 2021 H 110, eff. 9-30-21; 2021 S 4, eff. 9-7-21; 2020 S 284, eff. 3-24-21; 2019 H 166, eff. 10-17-19; 2018 H 425, eff. 4-8-19; 2018 H 139, eff. 4-8-19; 2018 H 341, eff. 4-5-19; 2018 S 214, eff. 4-5-19; 2018 S 201, eff. 3-22-19; 2018 S 229, eff. 3-22-19; 2018 H 34, eff. 11-2-18; 2018 H 312, eff. 11-2-18; 2018 H 8, eff. 9-28-18; 2016 H 471, eff. 12-19-16; 2016 H 317, eff. 9-28-16; 2016 S 321, eff. 9-28-16; 2016 H 359, eff. 9-8-16; 2015 H 64, eff. 9-29-15; 2014 H 663, § 1, eff. 3-23-15; 2014 H 663, § 3, eff. 3-23-15 (See Historical and Statutory Notes); 2013 S 23, eff. 3-20-15; 2013 H 59, eff. 9-29-13; 2012 S 314, eff. 9-28-12; 2012 H 487, eff. 9-10-12; 2011 H 64, eff. 10-17-11; 2011 H 153, eff. 9-29-11; 2009 H 1, eff. 10-16-09; 2008 S 248, eff. 4-7-09; 2008 H 214, eff. 5-14-08; 2006 H 9, eff. 9-29-07; 2006 H 141, eff. 3-30-07; 2004 H 303, eff. 10-29-05; 2004 H 431, eff. 7-1-05; 2004 S 222, eff. 4-27-05; 2003 H 6, eff. 2-12-04; 2002 S 258, eff. 4-9-03; 2002 H 490, eff. 1-1-04; 2002 S 180, eff. 4-9-03; 2001 H 196, eff. 11-20-01; 2000 S 180, eff. 3-22-01; 2000 H 448, eff. 10-5-00; 2000 H 640, eff. 9-14-00; 2000 H 539, eff. 6-21-00; 1999 H 471, eff. 7-1-00; 1999 S 78, eff. 12-16-99; 1999 S 55, eff. 10-26-99; 1998 H 421, eff. 5-6-98; 1997 H 352, eff. 1-1-98; 1996 S 277, § 6, eff. 7-1-97; 1996 S 277, § 1, eff. 3-31-97; 1996 H 438, eff. 7-1-97; 1996 S 269, eff. 7-1-96; 1996 H 353, eff. 9-17-96; 1996 H 419, eff. 9-18-96; 1995 H 5, eff. 8-30-95; 1993 H 152, eff. 7-1-93; 1987 S 275; 1985 H 319, H 238; 1984 H 84; 1979 S 62; 130 v H 187)

### Footnotes

1 So in original; should this read “327”?

R.C. § 149.43, OH ST § 149.43

Current through File 132 of the 134th General Assembly (2021-2022) and 2022 Statewide Issue 1 and 2022 Statewide Issue 2.

# **EXHIBIT A**

**Affidavit of Kevin T. Shook**

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel.	:	
WTOL TELEVISION, LLC, <i>et al.</i> ,	:	Original Action No. 2022-0914
	:	
Relators,	:	
	:	
v.	:	
	:	<b>AFFIDAVIT OF KEVIN T. SHOOK</b>
CEDAR FAIR, L.P., <i>et al.</i> ,	:	
	:	
Respondents.	:	

STATE OF OHIO                    )  
  ) ss:  
COUNTY OF FRANKLIN        )

Now comes the Affiant, Kevin T. Shook, first being duly sworn and cautioned, and hereby states the following:

1. My name is Kevin T. Shook. I am over eighteen years old, competent to make this Affidavit, and have personal knowledge of the matters declared herein.
2. I am a partner of the law firm Frost Brown Todd LLP, which serves as counsel for Relators (WTOL, Television, LLC, WKYC-TV, LLC, and WBNS-TV, Inc.) in the above-captioned action.
3. This Affidavit is based on my personal knowledge and based on the books and records of Frost Brown Todd LLP.
4. I am familiar with the fees and expenses of Frost Brown Todd incurred by Relators in connection with this action.
5. Frost Brown Todd’s charges for time in this matter are based upon the following hourly rates: Kevin T. Shook (partner), \$435 per hour; Ryan W. Goellner (partner), \$330 per hour; Bradford Higdon (associate), \$290 per hour; Orlando Sonza (summer associate), \$220 per hour;

Molly Fleming (paralegal), \$230 per hour; and Maria Boden (paralegal), \$190 per hour.

6. Attached to this Affidavit as Exhibit A-1 are copies of legal invoices from my firm's computerized billing system which reflect the services performed by me and other attorneys and professionals in my firm, Frost Brown Todd LLP, on behalf of the Relators that are related to this matter. All the fees reflected in Exhibit A-1 were actually incurred and were necessary to pursue the public records that Respondents refused to provide. The only exception to the foregoing statement is 1.6 hours of time for \$528 spent by Ryan Goellner on December 20, 2022 reflected in Bill # 210334584, which was performed in relation to another matter but mistakenly billed to this matter (an error which will be corrected).

7. The legal invoices attached as Exhibit A-1 are dated June 15, 2022 through March 13, 2023. The total fees and costs billed by Frost Brown Todd LLP and set forth on the legal invoices attached as Exhibit A-1, after subtracting the misbilled \$528, are \$74,514.90.

8. In addition, the Relators have incurred fees for legal services provided by Frost Brown Todd LLP after the March 13, 2023 bill and through June 5, 2023, which have not yet been billed. The total of these unbilled legal fees totals \$5,915.

9. Accordingly, Relators' total Frost Brown Todd LLP legal fees and costs in this matter are **\$80,429.90**.

10. Based on my experience and my familiarity with the proceedings in this lawsuit, both the time spent and fees incurred by Relators concerning the matter are reasonable and consistent with rates charged by other Ohio practitioners for this type of work and are in conformity with Ohio Rule of Professional Conduct 1.5(a).

11. In addition, Relators' court costs in this case currently total approximately **\$130** (the cost of the filing fee and service of the Complaint upon Respondents).

12. I affirm, under the penalties for perjury, that the foregoing is true and accurate to the best of my knowledge.

FURTHER AFFIANT SAYETH NAUGHT.

  
Kevin T. Shook

Sworn to before me and subscribed in my presence this 6<sup>th</sup> day of June, 2023.

  
Notary Public

0150568.0756264 4866-1635-1336v1



**Wendy Colon-Rosa**  
Notary Public, State of Ohio  
My Commission Expires 09-17-2024

**EXHIBIT A-1**  
**to**  
**AFFIDAVIT OF KEVIN SHOOK**



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**Tegna Inc.**  
**8350 Broad Street**  
**Suite 2000**  
**Tysons, VA 22102**

Fed # 61-0722001  
June 15, 2022  
Bill # 210287294  
Account # 0150568.0757527

**RE: Cedar Point Police Department Public Records Litigation**

---

For Professional Services Rendered Through May 31, 2022	7,614.50
<b>TOTAL THIS BILL:</b>	<b>7,614.50</b>

All amounts are in USD

Please send remittance information to [AccountsReceivable@FBTLaw.com](mailto:AccountsReceivable@FBTLaw.com)

**Wire Transfer Information:**

Account Name: Frost Brown Todd LLC

Bank Name: US Bank, 425 Walnut Street, Cincinnati, OH 45202

Account Number: 821609195 – Routing Number: 042000013 – Swift Number: USBKUS44IMT

<b>Date</b>	<b>Narrative</b>	<b>Tmkr</b>	<b>Hours</b>	<b>Amount</b>
05/16/22	Review recent WBNS news story re allegations underlying public records request, review filings in action over similar request by Sandusky Register, and strategize approach to [REDACTED]	RWG	1.90	627.00
05/17/22	Draft public records request to City of Sandusky re Cedar Point Police Department.	RWG	0.60	198.00
05/18/22	Research evidence [REDACTED]	KTS	1.10	478.50
05/18/22	Research [REDACTED]	KTS	0.90	391.50
05/18/22	Emails to R. Goellner regarding documentation found in support of mandamus Complaint.	KTS	0.80	348.00
05/18/22	Review and revise public records request to Sandusky Police Department.	KTS	0.80	348.00
05/19/22	Review records re Cedar Point Police Department and prior filings in similar lawsuits, and strategize use of same in current mandamus action.	RWG	0.70	231.00
05/19/22	Research [REDACTED]	KTS	1.80	783.00
05/19/22	Review and analyze Sandusky Police Department reports of sexual assault provided by B. Dugger..	KTS	0.80	348.00

<b>Date</b>	<b>Narrative</b>	<b>Tmkr</b>	<b>Hours</b>	<b>Amount</b>
05/19/22	Search Sandusky Police Department reports for incidents at Cedar Point and collaboration with Cedar Point Police Department.	KTS	0.80	348.00
05/19/22	Conference call with R. Goellner regarding [REDACTED]	KTS	0.70	304.50
05/20/22	Review filings and evidence by Cedar Point in prior public records litigation, various records provided by Sandusky police department, statutes related to same, and review and revise public records request to City of Sandusky based on same.	RWG	1.90	627.00
05/23/22	Review and revise public records requests to Sandusky City Manager and Sandusky Police Department re work and duties of Cedar Point Police Department, and email correspondence with C. Moeser re [REDACTED]	RWG	0.50	165.00
05/23/22	Review communications from R. Goellner regarding [REDACTED]	KTS	0.50	217.50
05/23/22	Final revisions to public records requests to City of Sandusky and Sandusky Police Department.	KTS	0.40	174.00
05/24/22	Review, revise, and transmit public records requests to City of Sandusky City Manager's office and Sandusky police department.	RWG	0.20	66.00
05/24/22	Email correspondence with C. Moeser [REDACTED] review same.	RWG	0.20	66.00
05/24/22	Review and analyze agreement between City of Sandusky and Cedar Point Police Department regarding support for mandamus action.	KTS	0.40	174.00
05/24/22	Review communications with City of Sandusky, Bu. Dugger and R. Goellner regarding public records requests.	KTS	0.30	130.50

Date	Narrative	Tmkr	Hours	Amount
05/25/22	Prepare for telephone conference with B. Heil of City of Sandusky re public records request re Cedar Point Police Department, telephone conference with B. Heil re same, and email correspondence with B. Dugger and C. Moeser re [REDACTED]	RWG	1.30	429.00
05/25/22	Receive legal research assignment from assigning attorney re [REDACTED]	OBS	0.20	44.00
05/25/22	Communications with R. Goellner regarding case strategy.	KTS	0.30	130.50
05/27/22	Begin to draft complaint for mandamus against Cedar Point.	RWG	0.10	33.00
05/31/22	Research and outline mandamus complaint against Cedar Point.	RWG	0.50	165.00
05/31/22	Regarding mandamus action against Cedar Point seeking public records about their private police force. Assigned to research [REDACTED] pursuant to State ex rel. Oriana House, Inc. v. Montgomery, 110 Ohio St.3d 456, 2006-Ohio-4854, 854 N.E.2d 193 or in line with State ex rel. Schiffbauer v. Banaszak, 142 Ohio St.3d 535, 2015-Ohio-1854, 33 N.E.3d 52.	OBS	1.50	330.00
05/31/22	Review email correspondence from B. Heil re responses of city and police department to public records requests re Cedar Point Police Department.	RWG	0.20	66.00
05/31/22	Review City of Sandusky response to public records request.	KTS	0.30	130.50
05/31/22	Communications with R. Goellner regarding strategy for [REDACTED]	KTS	0.30	130.50
05/31/22	Attention to obtaining corporate entities to be named as Plaintiff in mandamus litigation.	KTS	0.30	130.50
<b>Total:</b>			<b>20.30</b>	<b>\$7,614.50</b>

**SUMMARY OF PROFESSIONAL SERVICES**

<b>Name</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
Ryan W. Goellner	8.10	330.00	2,673.00
Kevin T. Shook	10.50	435.00	4,567.50
Orlando B. Sonza	1.70	220.00	374.00
	<u>20.30</u>		<u>7,614.50</u>



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**Tegna Inc.**  
**8350 Broad Street**  
**Suite 2000**  
**Tysons, VA 22102**

Fed # 61-0722001  
July 20, 2022  
Bill # 210297139  
Account # 0150568.0757527

**RE: Cedar Point Police Department Public Records Litigation**

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For Professional Services Rendered Through June 30, 2022	6,348.00
<b>TOTAL THIS BILL:</b>	<b>6,348.00</b>

All amounts are in USD

Please send remittance information to [AccountsReceivable@FBTLaw.com](mailto:AccountsReceivable@FBTLaw.com)

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Bank Name: US Bank, 425 Walnut Street, Cincinnati, OH 45202

Account Number: 821609195 – Routing Number: 042000013 – Swift Number: USBKUS44IMT

<b>Date</b>	<b>Narrative</b>	<b>Tmkr</b>	<b>Hours</b>	<b>Amount</b>
06/01/22	Review documents produced by Sandusky City Manager in response to public records request and email correspondence with B. Heil re same.	RWG	0.80	264.00
06/01/22	Draft complaint for writ of mandamus to compel Cedar Point to produce public records of sexual misconduct complaints.	RWG	1.90	627.00
06/01/22	Email correspondence with C. Moeser re [REDACTED]	RWG	0.20	66.00
06/02/22	Continue to draft complaint for writ of mandamus and affidavits of B. Dugger, B. Haeberle, and P. Trexler in support of same.	RWG	3.10	1,023.00
06/02/22	Communications with R. Goellner and C. Moeser regarding [REDACTED]	KTS	0.20	87.00
06/03/22	Email correspondence with B. Dugger, C. Moeser, and K. Shook re [REDACTED]	RWG	0.50	165.00
06/03/22	Complete draft of mandamus complaint and review and revise same.	RWG	4.40	1,452.00
06/03/22	Communications with R. Goellner and B. Dugger regarding [REDACTED]	KTS	0.20	87.00
06/06/22	Review correspondence from J. Harris to B. Dugger re allegations of trespass in pursuit of story re D. Macur.	RWG	0.10	33.00
06/07/22	Review police reports from B. Dugger, review and revise mandamus complaint based on same, and email correspondence with B. Dugger re [REDACTED]	RWG	0.70	231.00
06/08/22	Email correspondence with B. Heil and city representatives re recent public records request for emails re Cedar Point from B. Dugger and prioritization of same with previous May 24 requests to city and police department.	RWG	0.30	99.00

Date	Narrative	Tmkr	Hours	Amount
06/09/22	Review recent Ohio Supreme Court decision re writ of mandamus to police department to disclose incident reports and email correspondence with B. Dugger re [REDACTED]	RWG	0.40	132.00
06/10/22	Review email correspondence from B. Heil re public records requests to city of Sandusky and draft response to same.	RWG	0.60	198.00
06/13/22	Email correspondence with B. Heil re parameters of prior public records requests for document related to Cedar Point Police Department.	RWG	0.10	33.00
06/14/22	Email correspondence with B. Dugger [REDACTED]	RWG	0.40	132.00
06/16/22	Telephone conference with B. Heil re production of documents in response to public records requests to City of Sandusky.	RWG	0.20	66.00
06/16/22	Communications with R. Goellner regarding [REDACTED]	KTS	0.20	87.00
06/17/22	Telephone conference with B. Heil re status of public records requests; email correspondence with B. Dugger re [REDACTED]; email correspondence with C. Moeser re [REDACTED]	RWG	0.30	99.00
06/20/22	Email correspondence with B. Heil re timeline for production of records in response to prior requests.	RWG	0.10	33.00
06/21/22	Telephone conference with B. Heil re production of documents in response to public records requests and proposed alterations to parameters for several requests, and email correspondence with B. Dugger re [REDACTED]	RWG	0.30	99.00
06/21/22	Emails to and from R. Goellner and B. Dugger regarding [REDACTED]	KTS	0.30	130.50
06/21/22	Communications with R. Goellner regarding communications with [REDACTED]	KTS	0.20	87.00

<b>Date</b>	<b>Narrative</b>	<b>Tmkr</b>	<b>Hours</b>	<b>Amount</b>
06/22/22	Telephone conference and email correspondence with B. Heil re outstanding public record requests to City of Sandusky.	RWG	0.40	132.00
06/22/22	Email correspondence with B. Dugger re [REDACTED] [REDACTED]	RWG	0.10	33.00
06/23/22	Telephone conference and email correspondence with B. Heil re production of documents in response to various public records requests, and email correspondence with B. Dugger and C. Moeser re [REDACTED]	RWG	0.80	264.00
06/24/22	Email correspondence with B. Heil re production of documents in response to June 2 public records request, review documents produced in same, email correspondence with B. Dugger and P. Trexler re [REDACTED] and email correspondence with B. Heil re parameters of production.	RWG	0.90	297.00
06/24/22	Review and analyze City production of documents.	KTS	0.60	261.00
06/24/22	Emails to and from R. Goellner regarding [REDACTED] [REDACTED]	KTS	0.30	130.50
<b>Total:</b>			<b>18.60</b>	<b>\$6,348.00</b>

**SUMMARY OF PROFESSIONAL SERVICES**

<b>Name</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
Ryan W. Goellner	16.60	330.00	5,478.00
Kevin T. Shook	2.00	435.00	870.00
	18.60		6,348.00



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**Tegna Inc.**  
**8350 Broad Street**  
**Suite 2000**  
**Tysons, VA 22102**

Fed # 61-0722001  
August 9, 2022  
Bill # 210300800  
Account # 0150568.0757527

**RE: Cedar Point Police Department Public Records Litigation**

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For Professional Services Rendered Through July 31, 2022	5,943.00
Other Charges Through July 31, 2022	2.30
<b>TOTAL THIS BILL:</b>	<b>5,945.30</b>

All amounts are in USD

Please send remittance information to [AccountsReceivable@FBTLaw.com](mailto:AccountsReceivable@FBTLaw.com)

**Wire Transfer Information:**

Account Name: Frost Brown Todd LLC

Bank Name: US Bank, 425 Walnut Street, Cincinnati, OH 45202

Account Number: 821609195 – Routing Number: 042000013 – Swift Number: USBKUS44IMT

<b>Date</b>	<b>Narrative</b>	<b>Tmkr</b>	<b>Hours</b>	<b>Amount</b>
07/06/22	Email correspondence with B. Heil re document production in response to prior public records requests.	RWG	0.10	33.00
07/08/22	Emails to and from R. Goellner, B. Duggar and C. Moeser regarding [REDACTED]	KTS	0.30	130.50
07/09/22	Email correspondence with C. Moeser and B. Dugger re [REDACTED] and email correspondence with B. Heil re same.	RWG	0.20	66.00
07/11/22	Review and revise draft complaint, affidavits in support of same, and exhibits to same, email correspondence with C. Moeser re [REDACTED] and video conference with K. Shook, C. Moeser, P. Trexler, B. Haerberle, and B. Dugger re [REDACTED]	RWG	2.10	693.00
07/11/22	Email correspondence with B. Heil re production of documents in response to prior public records requests.	RWG	0.10	33.00
07/11/22	Review and analyze draft mandamus complaint.	KTS	0.80	348.00
.				
07/11/22	Conference call with R. Goellner regarding mandamus strategy.	KTS	0.40	174.00
.				
07/11/22	Conference call with Tegna investigation team regarding [REDACTED]	KTS	0.80	348.00
07/12/22	Email correspondence with B. Dugger re [REDACTED] and email correspondence with B. Heil re review and production of documents in response to public records requests to City of Sandusky.	RWG	0.40	132.00
07/13/22	Email correspondence with B. Dugger re [REDACTED]	RWG	0.10	33.00
07/14/22	Email correspondence with C. Moeser re [REDACTED]	RWG	0.10	33.00

Date	Narrative	Tmkr	Hours	Amount
07/18/22	Review and revise complaint for mandamus; various email correspondence with B. Dugger, B. Haeberle, P. Trexler, and C. Moeser re [REDACTED] [REDACTED] review and revise affidavits in support of same.	RWG	2.40	792.00
07/18/22	Email correspondence with B. Heil re city's production of documents in response to prior public records requests.	RWG	0.20	66.00
07/18/22	Research state law authorizing [REDACTED]	KTS	0.60	261.00
07/18/22	Review and revise Mandamus Complaint and affidavits; emails to and from R. Goellner and Tegna investigative team regarding [REDACTED]	KTS	1.30	565.50
07/18/22	Review and revise Mandamus Complaint and affidavits; emails to and from R. Goellner and Tegna investigative team regarding [REDACTED]	KTS	1.50	652.50
07/19/22	Review and revise complaint for mandamus and exhibits in support of same, and various email correspondence with C. Moeser, P. Trexler, and B. Haeberle re [REDACTED]	RWG	0.90	297.00
07/20/22	Review and revise complaint for mandamus against Cedar Point and email correspondence with C. Moeser and journalists re [REDACTED]	RWG	1.20	396.00
07/21/22	Various email correspondence with B. Dugger, B. Haeberle, and P. Trexler re [REDACTED]	RWG	0.20	66.00
07/22/22	Review and compile affidavits and related exhibits for mandamus complaint.	RWG	0.90	297.00
07/23/22	Review and revise affidavit of P. Trexler in support of complaint; email correspondence with P. Trexler re [REDACTED]	RWG	0.20	66.00
07/25/22	Review and revise complaint for mandamus against Cedar Point; compile affidavits and related materials for same; email correspondence with P. Trexler re [REDACTED]	RWG	0.90	297.00
07/27/22	Various email correspondence with B. Haeberle and C. Moeser re [REDACTED]	RWG	0.10	33.00

<b>Date</b>	<b>Narrative</b>	<b>Tmkr</b>	<b>Hours</b>	<b>Amount</b>
07/28/22	Communications with B. Dugger regarding [REDACTED] [REDACTED]	KTS	0.30	130.50
<b>Total:</b>			<b>16.10</b>	<b>\$5,943.00</b>

**SUMMARY OF PROFESSIONAL SERVICES**

<b>Name</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
Ryan W. Goellner	10.10	330.00	3,333.00
Kevin T. Shook	6.00	435.00	2,610.00
	16.10		5,943.00

**SUMMARIZED DISBURSEMENTS**

<b>Description</b>	<b>Qty</b>	<b>Per Unit</b>	<b>Amount</b>
Reproduction	23.00	0.10	2.30
<b>TOTAL</b>			<b>\$2.30</b>



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**Tegna Inc.**  
**8350 Broad Street**  
**Suite 2000**  
**Tysons, VA 22102**

Fed # 61-0722001  
September 12, 2022  
Bill # 210308323  
Account # 0150568.0757527

**RE: Cedar Point Police Department Public Records Litigation**

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For Professional Services Rendered Through August 31, 2022	4,215.00
Other Charges Through August 31, 2022	200.00
<b>TOTAL THIS BILL:</b>	<b>4,415.00</b>
Outstanding Bills (see page 2 for details – if already paid please disregard)	5,945.30
<b>TOTAL AMOUNT DUE:</b>	<b>10,360.30</b>

All amounts are in USD

Please send remittance information to [AccountsReceivable@FBTLaw.com](mailto:AccountsReceivable@FBTLaw.com)

**Wire Transfer Information:**

Account Name: Frost Brown Todd LLC

Bank Name: US Bank, 425 Walnut Street, Cincinnati, OH 45202

Account Number: 821609195 – Routing Number: 042000013 – Swift Number: USBKUS44IMT

**RECAP OF OUTSTANDING BILLS**

<b>Bill Date</b>	<b>Bill Number</b>	<b>Balance</b>
08/09/22	210300800	5,945.30
	<b>TOTAL</b>	<b>\$5,945.30</b>

<b>Date</b>	<b>Narrative</b>	<b>Tmkr</b>	<b>Hours</b>	<b>Amount</b>
08/02/22	Review docket re service of process; review interview [REDACTED] [REDACTED]	RWG	0.60	198.00
08/03/22	Review and analyze C. Overmyer interview.	KTS	0.80	348.00
08/03/22	Revise C. Overmyer affidavit.	KTS	0.40	174.00
08/03/22	E-mail to B. Dugger requesting [REDACTED] [REDACTED]	KTS	0.30	130.50
08/05/22	Review tracking re service of process on Supreme Court website and email correspondence with C. Moeser, B. Dugger, P. Trexler, and B. Haeberle re [REDACTED]	RWG	0.20	66.00
08/05/22	Email correspondence with B. Heil re status of City of Sandusky response to public records requests.	RWG	0.10	33.00
08/09/22	Review filing of returns of service on respondents.	RWG	0.10	33.00
08/09/22	Email correspondence with B. Heil re search and production of email communications in response to public records request to City of Sandusky.	RWG	0.30	99.00
08/17/22	Email correspondence with B. Heil re status of searches for public records re Cedar Point by City of Sandusky.	RWG	0.10	33.00
08/22/22	Review answer to complaint file by Cedar Point and email correspondence with K. Shook and B. Dugger re [REDACTED]	RWG	0.40	132.00
08/22/22	Review, analyze and compare admissions and denials in CPPD Answer to Tegna Complaint allegations.	KTS	1.40	609.00
08/22/22	Conference call with R. Goellner regarding case strategy and next steps following CPPD Answer. E.	KTS	0.40	174.00
08/22/22	Email to Tegna team regarding [REDACTED] [REDACTED]	KTS	0.80	348.00
08/24/22	Email correspondence with B. Heil re status of review of documents in response to public records requests.	RWG	0.20	66.00
08/24/22	Review answer of Cedar Point to complaint for mandamus and email correspondence with B. Dugger, C. Moeser, and K. Shook re [REDACTED]	RWG	0.80	264.00

<b>Date</b>	<b>Narrative</b>	<b>Tmkr</b>	<b>Hours</b>	<b>Amount</b>
08/26/22	Download supplemental document production from City of Sandusky and begin to review same; email correspondence with B. Heil re same; email correspondence with B. Dugger and C. Moeser re [REDACTED]	RWG	0.40	132.00
08/29/22	Review supplemental document production from City of Sandusky.	RWG	0.20	66.00
08/29/22	Review supplemental document production from City of Sandusky on 8/24 in response to public records requests.	RWG	0.50	165.00
08/30/22	Review 2017-2021 Sandusky Police Crime Reports re incidents at Cedar Point [REDACTED] per attorney's request and review.	MAB1	1.50	285.00
08/30/22	Review crime reports produced by City of Sandusky and cross-reference with officer roster for CPPD.	RWG	0.10	33.00
08/30/22	Emails to and from R. Goellner regarding [REDACTED]	KTS	0.60	261.00
08/30/22	Review and analyze Sandusky third production of documents.	KTS	1.30	565.50
<b>Total:</b>			<b>11.50</b>	<b>\$4,215.00</b>

**SUMMARY OF PROFESSIONAL SERVICES**

<b>Name</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
Maria A. Boden	1.50	190.00	285.00
Ryan W. Goellner	4.00	330.00	1,320.00
Kevin T. Shook	6.00	435.00	2,610.00
	11.50		4,215.00

**ITEMIZED DISBURSEMENTS**

<b>Date</b>	<b>Description</b>	<b>Amount</b>
08/08/22	Filing Fees VENDOR: US Bancorp Card Services -; INVOICE#: HOOD0822; DATE: 8/8/2022 Ohio Complaint Filing Fee	100.00
08/08/22	Filing Fees VENDOR: US Bancorp Card Services -; INVOICE#:	100.00

**ITEMIZED DISBURSEMENTS**

<b>Date</b>	<b>Description</b>	<b>Amount</b>
	HOOD0822; DATE: 8/8/2022 Ohio Supreme Court Fee	
	<b>TOTAL</b>	<b>\$200.00</b>



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**Tegna Inc.**  
**8350 Broad Street**  
**Suite 2000**  
**Tysons, VA 22102**

Fed # 61-0722001  
October 13, 2022  
Bill # 210314722  
Account # 0150568.0757527

**RE: Cedar Point Police Department Public Records Litigation**

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For Professional Services Rendered Through September 30, 2022	2,529.00
Other Charges Through September 30, 2022	3.60
<b>TOTAL THIS BILL:</b>	<b>2,532.60</b>
<b>TOTAL AMOUNT DUE:</b>	<b>2,532.60</b>

All amounts are in USD

Please send remittance information to [AccountsReceivable@FBTLaw.com](mailto:AccountsReceivable@FBTLaw.com)

**Wire Transfer Information:**

Account Name: Frost Brown Todd LLC

Bank Name: US Bank, 425 Walnut Street, Cincinnati, OH 45202

Account Number: 821609195 – Routing Number: 042000013 – Swift Number: USBKUS44IMT

<b>Date</b>	<b>Narrative</b>	<b>Tmkr</b>	<b>Hours</b>	<b>Amount</b>
09/02/22	Complete review of August 24 supplemental document production by City of Sandusky and Sandusky Police Department, including review of lengthy email correspondence and department policy manual produced in conjunction with same.	RWG	2.80	924.00
09/16/22	Email correspondence with B. Heil re status of additional production of documents pursuant to public records requests.	RWG	0.10	33.00
09/22/22	Review docket and filings and analyze prior cases to determine possible timing for issuance of alternative writ or other decision.	RWG	0.20	66.00
09/22/22	Communications with R. Goellner regarding [REDACTED]	KTS	0.20	87.00
09/23/22	Email correspondence with B. Heil re final planned document production by City of Sandusky in response to public records requests.	RWG	0.10	33.00
09/26/22	Email correspondence with B. Heil re final supplemental production of documents in response to public records requests; download and begin to review same; research [REDACTED]	RWG	1.50	495.00
09/29/22	Review supplemental document production from City of Sandusky in response to public records requests.	RWG	0.80	264.00
09/30/22	Complete review of documents produced by City of Sandusky in response to public records requests and compile notable documents from same for possible use in support of merit briefing in mandamus action.	RWG	1.90	627.00
<b>Total:</b>			<b>7.60</b>	<b>\$2,529.00</b>

**SUMMARY OF PROFESSIONAL SERVICES**

<b>Name</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
Ryan W. Goellner	7.40	330.00	2,442.00
Kevin T. Shook	0.20	435.00	87.00
	7.60		2,529.00

**SUMMARIZED DISBURSEMENTS**

<b>Description</b>	<b>Qty</b>	<b>Per Unit</b>	<b>Amount</b>
Reproduction	36.00	0.10	3.60
<b>TOTAL</b>			<b>\$3.60</b>



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**Tegna Inc.**  
**8350 Broad Street**  
**Suite 2000**  
**Tysons, VA 22102**

Fed # 61-0722001  
November 14, 2022  
Bill # 210321818  
Account # 0150568.0757527

**RE: Cedar Point Police Department Public Records Litigation**

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For Professional Services Rendered Through October 31, 2022	66.00
<b>TOTAL THIS BILL:</b>	<b>66.00</b>
<b>TOTAL AMOUNT DUE:</b>	<hr/> <b>66.00</b>

All amounts are in USD  
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**Wire Transfer Information:**

Account Name: Frost Brown Todd LLC  
Bank Name: US Bank, 425 Walnut Street, Cincinnati, OH 45202  
Account Number: 821609195 – Routing Number: 042000013 – Swift Number: USBKUS44IMT

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<b>Date</b>	<b>Tmkr</b>	<b>Narrative</b>	<b>Hours</b>	<b>Amount</b>
10/12/22	RWG	Email correspondence with B. Haerberle re [REDACTED] [REDACTED]	0.20	66.00
			<b>Total:</b>	<b>0.20</b>
				<b>\$66.00</b>

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**SUMMARY OF PROFESSIONAL SERVICES**

<b>Name</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
Ryan W. Goellner	<u>0.20</u>	330.00	<u>66.00</u>
	0.20		66.00



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**Tegna Inc.**  
**8350 Broad Street**  
**Suite 2000**  
**Tysons, VA 22102**

Fed # 61-0722001  
December 13, 2022  
Bill # 210329281  
Account # 0150568.0757527

**RE: Cedar Point Police Department Public Records Litigation**

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For Professional Services Rendered Through November 30, 2022	11,528.50
<b>TOTAL THIS BILL:</b>	<b>11,528.50</b>
<b>TOTAL AMOUNT DUE:</b>	<b>11,528.50</b>

All amounts are in USD

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**Wire Transfer Information:**

Account Name: Frost Brown Todd LLP

Bank Name: US Bank, 425 Walnut Street, Cincinnati, OH 45202

Account Number: 821609195 – Routing Number: 042000013 – Swift Number: USBKUS44IMT

<b>Date</b>	<b>Tmkr</b>	<b>Narrative</b>	<b>Hours</b>	<b>Amount</b>
11/09/22	RWG	Review order granting alternative writ and setting briefing schedule and email correspondence with C. Moeser, K. Shook, and all client contacts re [REDACTED] and re [REDACTED]	0.50	165.00
11/09/22	KTS	Review Supreme Court order granting alternative writ of mandamus, setting evidence submission schedule and briefing schedule.	0.20	87.00
11/09/22	KTS	Emails to and from R. Goellner regarding Supreme Court decision granting alternative writ and strategy for submission of evidence.	0.40	174.00
11/15/22	RWG	Review evidence submissions in prior similar cases; review evidence compiled to date.	0.70	231.00
11/16/22	RWG	Review prior evidence materials filed with court, rules for filing same, and examples of evidence filings in actions for writ of mandamus, and compile evidence to file in support of merit brief.	2.10	693.00
11/16/22	KTS	Communicatons with R. Goellner regarding subimssion of evidence.	0.20	87.00
11/18/22	RWG	Review materials produced by City of Sandusky in response to public records request and compile same for evidence filing in support of writ of mandamus; draft affidavit for submission of same; draft notice of filing same; compile prior affidavits re additional evidence submissions.	2.50	825.00
11/21/22	RWG	Review and revise affidavits and evidence for submission to court in 11/29.	0.30	99.00
11/21/22	KTS	Review and revise affidavit in support of write of mandamus.	1.20	522.00
11/21/22	KTS	Email to R. Goellner regarding revisions and strategy for submission of evidence.	0.30	130.50
11/22/22	RWG	Review and revise affidavits for evidence submission in support of merit brief, compile exhibits and evidence for same, and email correspondence with C. Moeser, P. Trrexler, B. Dugger, and B. Haeberle re [REDACTED]	1.70	561.00

<b>Date</b>	<b>Tmkr</b>	<b>Narrative</b>	<b>Hours</b>	<b>Amount</b>
11/22/22	KTS	Continue revising R. Goellner affidavit in support of evidence submission.	1.20	522.00
11/23/22	RWG	Outline merit brief in support of request for mandamus and begin to draft introduction and statement of facts for same.	3.70	1,221.00
11/25/22	RWG	Email correspondence with B. Dugger re [REDACTED] [REDACTED]	0.10	33.00
11/28/22	RWG	Email correspondence with B. Haeberle and P. Trexler re [REDACTED] continue to outline and draft merit brief.	2.50	825.00
11/28/22	MSF	Communications with R. Goellner regarding preparation of Table of Contents for Evidence Submission and assistance with exhibits for affidavit.	0.40	92.00
11/28/22	MSF	Prepare Table of Contents to be filed with Evidence Submission.	1.10	253.00
11/28/22	MSF	Organize and prepare exhibits for R. Goellner's affidavit to be filed with Evidence Submission.	1.20	276.00
11/29/22	RWG	Various email correspondence and telephone conferences with P. Trexler and B. Haeberle re [REDACTED] and review, compile, and file evidence re same.	2.80	924.00
11/29/22	MSF	Conferences with R. Goellner regarding revisions to and filing of Evidence Submission.	0.30	69.00
11/29/22	MSF	Prepare bates labeled copies of affidavits and exhibits for R. Goellner, B. Dugger, B. Haeberle and P. Trexler; update Table of Contents to include page numbers for affidavits and exhibits; assist with preparation and filing of Evidence Submission.	3.20	736.00
11/29/22	RWG	Research and draft merit brief, with focus on [REDACTED] [REDACTED]	4.50	1,485.00
11/30/22	RWG	Complete statement of facts and draft argument section of merit brief re [REDACTED] [REDACTED]	4.60	1,518.00
<b>Total:</b>			<b>35.70</b>	<b>\$11,528.50</b>





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**Tegna Inc.**  
**8350 Broad Street**  
**Suite 2000**  
**Tysons, VA 22102**

Fed # 61-0722001  
January 10, 2023  
Bill # 210334584  
Account # 0150568.0757527

**RE: Cedar Point Police Department Public Records Litigation**

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For Professional Services Rendered Through December 31, 2022	14,185.50
<b>TOTAL THIS BILL:</b>	<b>14,185.50</b>
<b>TOTAL AMOUNT DUE:</b>	<b>14,185.50</b>

All amounts are in USD

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**Wire Transfer Information:**

Account Name: Frost Brown Todd LLP

Bank Name: US Bank, 425 Walnut Street, Cincinnati, OH 45202

Account Number: 821609195 – Routing Number: 042000013 – Swift Number: USBKUS44IMT

<b>Date</b>	<b>Tmkr</b>	<b>Narrative</b>	<b>Hours</b>	<b>Amount</b>
12/01/22	RWG	Continue to draft merit brief in support of mandamus, with focus on [REDACTED] [REDACTED]	5.90	1,947.00
12/02/22	RWG	Complete draft of merit brief; review and revise; email correspondence with K. Shook re same.	5.10	1,683.00
12/05/22	BLH	Assess [REDACTED] with R. Goellner.	0.30	87.00
12/05/22	RWG	Review and revise draft of merit brief in support of claim for writ of mandamus.	1.90	627.00
12/05/22	KTS	Review, draft, revise and research draft Brief in Support of Writ of Mandamus.	4.60	2,001.00
12/06/22	RWG	Review and revise merit brief in support of claim for mandamus; email correspondence with C. Moeser, P. Trexler, B. Dugger, and B. Haeberle re [REDACTED] email correspondence with K. Shook re same and re [REDACTED] [REDACTED]	2.80	924.00
12/06/22	MSF	Begin review of Merit Brief in Support of Mandamus and cite check case law and evidence for R. Goellner.	0.70	161.00
12/07/22	BLH	Review filed Complaint and lists of specifically requested public documents; begin researching [REDACTED] [REDACTED]	0.60	174.00
12/07/22	MSF	Review record cites and case law in Merit Brief in Support of Mandamus for R. Goellner.	2.90	667.00
12/08/22	BLH	Continue research re: [REDACTED] [REDACTED]	1.50	435.00
12/08/22	RWG	Review Supreme Court rules for filing briefs and telephone conference with clerk's office re same.	0.40	132.00
12/08/22	MSF	Review and update record cites and case law in Relators' Brief in Support of Writ of Mandamus.	1.70	391.00
12/08/22	RWG	Review and revise merit brief in support of writ of mandamus and various email correspondence with C. Moeser and B. Dugger re [REDACTED]	0.70	231.00

<b>Date</b>	<b>Tmkr</b>	<b>Narrative</b>	<b>Hours</b>	<b>Amount</b>
12/09/22	BLH	Continue research on [REDACTED].	0.50	145.00
12/09/22	MSF	Obtain copies of revised code referenced in Merit Brief in Support of Mandamus and bates label documents for Appendix.	0.70	161.00
12/09/22	MSF	Draft Appendix to be filed with Merit Brief in Support of Mandamus.	0.60	138.00
12/09/22	RWG	Review, revise, file, and serve merit brief in support of writ of mandamus, email correspondence with all counsel re same, and email correspondence with clients re [REDACTED]	4.10	1,353.00
12/09/22	KTS	Review, analyze and approve final brief in support of writ of mandamus.	0.40	174.00
12/12/22	BLH	Research [REDACTED]	0.90	261.00
12/13/22	BLH	Continue researching [REDACTED]	0.90	261.00
12/13/22	BLH	Continue researching [REDACTED]	1.20	348.00
12/14/22	RWG	Review memorandum re [REDACTED]	0.10	33.00
12/14/22	BLH	Proofread [REDACTED]; finalize and send to R. Goellner.	0.30	87.00
12/20/22	RWG	[REDACTED]	1.60	528.00
12/29/22	RWG	Telephone conferences with J. Harris re request for extension of time to file response brief and planned production of documents in response to public records requests; various email correspondence with C. Moeser, B. Dugger, and B. Haeberle re [REDACTED] review and revise memorandum from B. Higdon re [REDACTED]	2.70	891.00

<b>Date</b>	<b>Tmkr</b>	<b>Narrative</b>	<b>Hours</b>	<b>Amount</b>
12/29/22	KTS	Emails to and from R. Goellner regarding [REDACTED] [REDACTED]	0.30	130.50
12/29/22	KTS	Review communications from B. Haeberle and B. Dugger regarding [REDACTED] [REDACTED]	0.20	87.00
12/29/22	BLH	Review follow-up [REDACTED]	0.10	29.00
12/30/22	RWG	Email correspondence with B. Dugger and C. Moeser re [REDACTED] [REDACTED]	0.30	99.00
<b>Total:</b>			<b>44.00</b>	<b>\$14,185.50</b>



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**Tegna Inc.**  
**8350 Broad Street**  
**Suite 2000**  
**Tysons, VA 22102**

Fed # 61-0722001  
February 17, 2023  
Bill # 210343275  
Account # 0150568.0757527

**RE: Cedar Point Police Department Public Records Litigation**

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For Professional Services Rendered Through January 31, 2023	13,980.00
<b>TOTAL THIS BILL:</b>	<b>13,980.00</b>
Outstanding Bills (see page 2 for details – if already paid please disregard)	14,185.50
<b>TOTAL AMOUNT DUE:</b>	<b>28,165.50</b>

All amounts are in USD

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**Wire Transfer Information:**

Account Name: Frost Brown Todd LLP

Bank Name: US Bank, 425 Walnut Street, Cincinnati, OH 45202

Account Number: 821609195 – Routing Number: 042000013 – Swift Number: USBKUS44IMT

**RECAP OF OUTSTANDING BILLS**

<b>Bill Date</b>	<b>Bill Number</b>	<b>Balance</b>
01/10/23	210334584	14,185.50
	<b>TOTAL</b>	<b>\$14,185.50</b>

<b>Date</b>	<b>Tmkr</b>	<b>Narrative</b>	<b>Hours</b>	<b>Amount</b>
01/03/23	BLH	Edit [REDACTED] per R. Goellner's feedback; perform additional research as needed.	1.00	290.00
01/04/23	RWG	Email correspondence with B. Dugger re [REDACTED]	0.20	71.00
01/04/23	BLH	Continue revising [REDACTED] per R. Goellner's comments; perform additional research as needed.	1.20	348.00
01/04/23	KTS	Emails to and from R. Goellner, B. Dugger and C. Moeser regarding [REDACTED]	0.20	93.00
01/05/23	RWG	Review communications with J. Harris re offer to produce requested documents; video conference with C. Moeser, B. Dugger, P. Trexler, L. Geissler, J. Adkins, and K. Shook re [REDACTED]	0.80	284.00
01/05/23	BLH	Finish editing [REDACTED] per R. Goellner's feedback; review and send to R. Goellner.	1.70	493.00
01/05/23	KTS	Research Ohio law regarding [REDACTED]	1.40	651.00
01/05/23	KTS	Conference call with Tegna team regarding C [REDACTED] (.5 hours); conference call with R. Goellner regarding case strategy.	0.20	93.00
01/06/23	RWG	Email correspondence with B. Dugger re [REDACTED]	0.10	35.50
01/09/23	RWG	Email correspondence with J. Harris re production of documents in response to records requests.	0.10	35.50
01/10/23	RWG	Email correspondence with B. Dugger re [REDACTED]	0.10	35.50

<b>Date</b>	<b>Tmkr</b>	<b>Narrative</b>	<b>Hours</b>	<b>Amount</b>
01/13/23	RWG	Review lengthy email correspondence from J. Harris re production of documents from Cedar Point Police Department, intent to file response brief, and request to dismiss litigation; review documents produced in connection with same; email correspondence with clients re [REDACTED]	0.90	319.50
01/13/23	KTS	Review communication from Cedar Point counsel enclosing Cedar Point's production and requesting dismissal.	0.40	186.00
01/14/23	RWG	Email correspondence with J. Harris re service of Respondents' brief; review same; email correspondence with clients re [REDACTED]	0.20	71.00
01/17/23	RWG	Email correspondence with J. Harris re extension of time to respond to merit brief; email correspondence with B. Dugger re [REDACTED]	0.30	106.50
01/17/23	KTS	Communications from R. Goellner and B. Dugger regarding [REDACTED]	0.20	93.00
01/18/23	RWG	Review and analyze documents produced by Cedar Point on 1/13; email correspondence with B. Dugger and various station representatives re [REDACTED] email correspondence with P. Trexler re [REDACTED]	0.90	319.50
01/18/23	KTS	Brief review and analysis of production of documents.	0.50	232.50
01/19/23	RWG	Telephone conference with J. Harris re stipulated extension of time to file reply brief and re issues with production of documents by Cedar Point; draft and file stipulation of time to file reply brief; email correspondence with clients re [REDACTED] and re [REDACTED] [REDACTED] review document production by Cedar Point; review news articles re same.	2.30	816.50
01/19/23	BLH	Email R. Goellner re: [REDACTED]	0.10	29.00
01/20/23	RWG	Email correspondence with J. Harris re issues with and items missing from document production from Cedar Point made on 1/13.	0.10	35.50
01/20/23	BLH	Perform research re: [REDACTED] send legal findings to R. Goellner.	1.60	464.00

<b>Date</b>	<b>Tmkr</b>	<b>Narrative</b>	<b>Hours</b>	<b>Amount</b>
01/24/23	RWG	Review revised memorandum from B. Higdon re [REDACTED]; email correspondence with J. Harris re same and re document production discrepancies and additional document production requests previously identified; review documents previously produced by Cedar Point.	1.80	639.00
01/25/23	RWG	Review records produced by Cedar Point.	0.50	177.50
01/26/23	RWG	Review records and documents produced by Cedar Point; review response to brief in support of writ of mandamus; email correspondence with K. Shook re same.	2.40	852.00
01/26/23	KTS	Research law regarding [REDACTED]	1.20	558.00
01/26/23	KTS	Draft memorandum regarding right to attorneys' fees after production of records.	0.60	279.00
01/26/23	KTS	Communications with R. Goellner regarding [REDACTED]	0.20	93.00
01/27/23	RWG	Review respondents' merit brief; outline reply to same.	0.60	213.00
01/30/23	RWG	Research and draft reply brief in support of writ of mandamus.	5.30	1,881.50
01/30/23	KTS	Emails to and from R. Goellner regarding [REDACTED]	0.40	186.00
01/31/23	RWG	Draft and revise reply brief in support of writ of mandamus; telephone conference with K. Shook re strategy for same [REDACTED]; email correspondence with clients re same.	5.50	1,952.50
01/31/23	KTS	Research caselaw supporting exception to rule [REDACTED]	1.90	883.50
01/31/23	KTS	Draft memorandum outlining arguments and caselaw setting forth exception to mootness rule for purposes of reply brief.	1.60	744.00

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<b>Date</b>	<b>Tmkr</b>	<b>Narrative</b>	<b>Hours</b>	<b>Amount</b>
01/31/23	KTS	Conference call with R. Goellner regarding [REDACTED] [REDACTED]	0.60	279.00
01/31/23	KTS	Review emails to and from R. Goellner regarding [REDACTED] [REDACTED]	0.30	139.50
<b>Total:</b>			<b>37.40</b>	<b>\$13,980.00</b>

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P.O. Box 5716  
Cincinnati, OH 45201-5716  
(513) 651-6800  
Facsimile (513) 651-6981  
www.frostbrowntodd.com

**Tegna Inc.**  
**8350 Broad Street**  
**Suite 2000**  
**Tysons, VA 22102**

Fed # 61-0722001  
March 13, 2023  
Bill # 210348193  
Account # 0150568.0757527

**RE: Cedar Point Police Department Public Records Litigation**

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For Professional Services Rendered Through February 28, 2023	8,955.50
<b>TOTAL THIS BILL:</b>	<b>8,955.50</b>
<b>TOTAL AMOUNT DUE:</b>	<b>8,955.50</b>

All amounts are in USD

Please send remittance information to [AccountsReceivable@FBTLaw.com](mailto:AccountsReceivable@FBTLaw.com)

**Wire Transfer Information:**

Account Name: Frost Brown Todd LLP

Bank Name: US Bank, 425 Walnut Street, Cincinnati, OH 45202

Account Number: 821609195 – Routing Number: 042000013 – Swift Number: USBKUS44IMT

<b>Date</b>	<b>Tmkr</b>	<b>Narrative</b>	<b>Hours</b>	<b>Amount</b>
02/01/23	RWG	Research and draft reply brief in support of writ of mandamus; review and revise same.	4.90	1,739.50
02/01/23	KTS	Begin review and analysis of draft reply brief.	0.50	232.50
02/01/23	KTS	Emails to and from R. Goellner regarding strategy on [REDACTED]	0.40	186.00
02/06/23	RWG	Email correspondence with K. Shook re content of document production by Cedar Point.	0.10	35.50
02/06/23	RWG	Email correspondence with K. Shook re content of document production by Cedar Point.	0.10	35.50
02/06/23	KTS	Review and analyze Cedar Fair Memorandum in Opposition to Mandamus and affidavits.	1.60	744.00
02/06/23	KTS	Draft revisions to mandamus reply brief.	4.40	2,046.00
02/06/23	KTS	Review production in connection with Tegna reply brief.	0.80	372.00
02/07/23	RWG	Review and revise reply brief in support of writ of mandamus.	3.10	1,100.50
02/07/23	KTS	Begin review and analysis of draft reply brief.	0.50	232.50
02/07/23	KTS	Emails to and from R. Goellner regarding strategy on [REDACTED]	0.40	186.00
02/08/23	RWG	Review and revise reply brief; email correspondence with B. Dugger and C. Moeser re [REDACTED]	0.50	177.50
02/08/23	MSF	Review and perform full cite check on Relator's Reply Brief for R. Goellner.	2.30	540.50
02/08/23	MSF	Communications with R. Goellner regarding cite check for Relator's Reply Brief.	0.30	70.50
02/08/23	KTS	Final review and revision of Reply brief in support of mandamus action.	1.10	511.50
02/09/23	RWG	Review, revise, file, and serve reply brief in support of writ of mandamus; email correspondence with B. Haeberle re [REDACTED]	2.10	745.50
<b>Total:</b>			<b>23.10</b>	<b>\$8,955.50</b>

