

**IN THE
SUPREME COURT OF OHIO**

**State, *ex rel.* Southeast Ohio
Independent News dba The Athens
County Independent,**

Relator,

vs.

**Andrew Chiki, Deputy Service-Safety
Director, City of Athens,
8 East Washington Street.
Athens, OH 45701**

Respondent.

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case no: _____

**Original Action in Mandamus and
Prohibition**

COMPLAINT AND PETITION FOR WRIT OF MANDAMUS

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I. Introduction

This dispute began when the City of Athens wired more than \$700,00.00 dollars to a scammer. How could something like this happen? This is a reasonable question to be asked by the press. Especially in an election year where the city treasurer is running for re-election. And the voters can't be expected to make an informed decision on the re-election without full information about the conduct of the incumbent office holder. The Athens County Independent sought public records so that it could report its findings to the public and let the public—and the voters—make an informed decision about the operation of City of Athens government. Rather than comply with the law, the City of Athens has wrongly denied those requests. Because a functioning democracy depends upon an informed electorate, it is imperative that the City immediately provide the requested information.

II. Nature of this Action

1. This is an action arising under R.C. 149.43, Ohio's Public Records Act.
2. Relator seeks a Writ of Mandamus, statutory damages, and reasonable attorney's fees and costs from Respondent's violation of R.C. 149.43.

III. Parties

3. Relator, Southeast Ohio Independent News ("SEOIN") dba Athens County Independent, is a non-profit news publisher. SEOIN publishes the Athens County Independent. The mission of the Athens County Independent is to empower community engagement through accessible public service journalism. The Athens County Independent is a newspaper of general circulation covering news, events, and politics in Athens County, Ohio.

4. Respondent, Andrew Chiki, Deputy Service-Safety Director, City of Athens

is the public official charged with management of the public records sought.

IV. Jurisdiction and Venue

5. Section 2 of Article IV of the Ohio Constitution provides for original jurisdiction of this court.

6. Venue lies in this forum pursuant to R.C. 149.43(C)(1)(b).

V. Facts

The “incident”

7. The City of Athens (“City”) sought to construct a new fire station. It hired Pepper Construction to complete the project.

8. Sometime in November 2024, the City received an invoice requesting payment for the project. But that email was not from Pepper Construction; rather, the email was sent from an unknown “cyber criminal.”

9. For some unknown reason, the City wired \$721,976.26 of City funds to an account held by the cyber criminals.

10. Subsequently, and again for reasons still unknown, the City learned they had been defrauded.

11. On December 4, 2024, The City filed a civil suit asking the Athens County Court of Common Pleas to freeze the account holding the funds.

The “request”

12. Relator began reporting on the matter on December 4, 2024.

13. That day, to gather information so it could report about the matter to the public, Relator sent an email requesting five different public records. Two of those requests are the subject of this action.

14. On December 4, 2024, Relator emailed Respondent and requested: “All correspondence between Nov. 14 and Nov. 30, 2024, between the city and the unknown individuals purporting to be with Pepper Construction.”

15. On December 4, 2024, Relator emailed Respondent and requested: “All internal city correspondence between Nov. 18 and Dec. 3, 2024, regarding the fraudulent transfer to Republic Bank.”

16. On December 12, 2024, Relator sent an email to several media outlets, including Relator where Respondent denied specific requests.

17. The specific requests that were denied include a request for “all correspondence between Nov. 14 and Nov. 30, 2024, between the city and the unknown individuals purporting to be with Pepper Construction.” Relator claimed that “[t]his information is part of the criminal investigation and is exempt from release per ORC 149(A)(2) at this time.”

18. Additionally a request for “[a]ll internal city correspondence between Nov. 18 and Dec. 3, 2024, regarding the fraudulent transfer to Republic Bank.” That request was also denied, citing the same exemption.

19. The following day, December 13, 2024, Relator objected to Respondent’s denial of their request.

20. Those records have never been provided.

21. The identity of the city employee who sent the funds to the fraudulent account remains unknown, despite the pending election.

VI. Legal Claims

Claim One: Writ of Mandamus directed to Respondent

22. Relator re-alleges all prior paragraphs of the Complaint as if set out here

in full.

23. Respondent's denial of Relators request for emails violates R.C. 149.43.

24. Emails are records when the content of the email documents the organization, policies, decisions, procedures, operations, or other activities of the public office. *State ex rel. Toledo Blade Co. v. Seneca Cty. Bd. Of Commrs.*, 2008-ohio-6253.

25. Upon information and belief, the content of the requested emails relates to the organization, policies, decisions, procedures, operations, or other activities of the public office.

26. Respondent wrongly denied Relator's request based upon an inappropriate application of the confidential law enforcement investigatory records exemption.

27. The records at issue are not subject to any exemption, including any confidential law enforcement investigatory records exemption. No other exemption has been claimed nor applies.

28. Respondent has a clear legal duty to comply with R.C. 149.43(B).

29. There is a presumption of injury based on this failure to comply, pursuant to R.C. 143.49(C)(1).

30. Relator is aggrieved by Respondent's failure to comply with R.C. 149.43(B), making mandamus the appropriate remedy.

Claim Two: Monetary Damages

31. Relator re-alleges all prior paragraphs of the Complaint as if set out here in full.

32. R.C. 143.49(C)(1) provides for monetary damages of \$100 per day, up to \$1000 total.

VII. Prayer for Relief

Wherefore, the Athens County Independent requests the following relief:

- (a) that the court issue a Writ of Mandamus ordering Respondent to produce the requested records;
- (b) an order awarding statutory damages;
- (c) an order awarding Relator its costs and reasonable attorney fees; and
- (d) all other relief that is just and equitable.

Respectfully submitted,



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PRAECIPE FOR SERVICE

TO THE CLERK:

Please issue a Summons along with a copy of this Complaint to the Respondent identified in the caption on page one via Certified Mail, return receipt requested.

A handwritten signature in blue ink, appearing to read 'L. Scott Petroff', is positioned above a horizontal line.

L. Scott Petroff (#0099563)
Attorney at Law LLC