

**IN THE COURT OF APPEALS OF OHIO  
TENTH APPELLATE DISTRICT**

**THE STATE OF OHIO, on  
relation of the CENTER FOR  
MEDIA AND DEMOCRACY,  
520 University Ave, Suite 305  
Madison, WI 53703**

**and**

**DAVID ARMIK,  
520 University Ave, Suite 305  
Madison, WI 53703**

**Relators,**

**vs.**

**THE OFFICE OF ATTORNEY  
GENERAL DAVID YOST,  
30 E. Broad Street, 14th Floor,  
Columbus, OH 43201,**

**Respondent**

**CASE NO:**

**ORIGINAL ACTION  
MANDAMUS  
(Public Records)**

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**VERIFIED COMPLAINT FOR ORIGINAL  
WRIT OF MANDAMUS**

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**I. INTRODUCTION AND JURISDICTION**

1. This is an original action for a writ of mandamus and ancillary relief, compelling Respondent, Ohio Attorney General David Yost (“Yost”) to comply with the Ohio Public Records Act, Revised Code Section 149.43(B), by granting Relators access to public records in Respondent’s files. This Court has jurisdiction under Article IV, § 3(B)(1)(b), of the Ohio Constitution, and RC §§ 149.43(C) and 2731.02. The records at issue relate to interactions between Respondent and two public policy groups, the Republican Attorneys General Association (RAGA) and the Rule of Law Defense Fund (RLDF).

In violation of its obligations under the Act, the Respondent has failed and refused to make records of his involvement with RAGA and RLDF and their influence on the work of his office available, despite the Relators’ repeated requests beginning March 10, 2020.

## II. PARTIES

2. Relator Center for Media and Democracy (“CMD”) is a nonpartisan anti-corruption watchdog group. It is a non-profit organization incorporated and headquartered in Madison, Wisconsin.

3. Relator David Armiak is Research Director for CMD. He works and resides in Madison, Wisconsin.

4. Respondent David Yost is the Attorney General of the State of Ohio. Respondent Yost, in his official capacity as Attorney General, is the custodian of the records of his office, which is a “public office” within the meaning of Revised Code Section 149.011(A).

## III. FACTS

### **A. The Relators’ Requests Are Denied Completely**

5. On March 10, 2020, the Relators made an online public records request by sending an email through the Respondent’s public website. The request sought “a copy of all records that pertain to the Republican Attorneys General Association (RAGA), Rule of Law Defense Fund, and the RAGA Winter Meeting held February 29 through March 2 from the Office of Attorney General Dave Yost. The scope of

this request includes the Attorney General and Chief of Staff. The scope of this request should include but is not limited to emails, attachments, both sent and received, all draft records, briefing books, memos, notes, minutes, scheduling records, text messages, other correspondence (internal and external) and all other records.” The request used a date range of February 3, 2019, though the date of Respondent’s response.

6. The Respondent replied to the request with an email twenty days later, on March 30, 2020, which stated that the “Ohio Attorney General’s Office has reviewed your request and determined that all information is exempt from disclosure as it is not a record of this office,” citing two Ohio Supreme Court precedents, *State ex rel. Dispatch Printing Co. v. Johnson* and *State ex rel. Fant v. Enright*. No records were produced in response to the Relators’ request.

7. The two cases cited in the Respondent’s March 30 email relate to the most basic definition of the scope of the term “public records” (*i.e.*, that such records “document the organization, functions, policies, decisions, procedures, operations, or other activities of the office”). They shed no light on what it was about the RAGA - and

RLDF-related records sought by the Relators that the Respondent claimed would place them outside those broad, general definitions.

8. On June 10, 2020, the Relators, through an email from Relator Armiak, sent a response to the Respondents' March 30 email. Relators' June 10 response email pointed out the vague general definitions in the cases cited by the Respondents and explained that the records they were seeking were for records that do, in fact, document public functions of the Respondent, including the development of policy, the appearances of David Yost in his official capacity at RAGA and RLDF events discussing legal and policy-focused issues, and interactions with lobbyists and corporate representatives about law- and policy-related issues. Accordingly, the Relators asked that the Respondent reconsider its denial of the requested public records.

9. A true and accurate copy of the Relators' June 10, 2020, email is attached as Exhibit 1 to this Complaint. Exhibit 1 also contains a true and accurate copy of the text of the Respondent's March 30, 2020, email reply, which accurately quotes the Relators' original March 10, 2020, public records request.

10. On July 13, 2020, in another email, the Respondent reiterated to the Relators the denial of the requested records. This time, the Respondent's letter stated, "The Ohio Attorney General's Office reviewed your request and determined that no such email, text, drafts, memo, minutes, or other correspondence records exist with the Attorney General and his Chief of Staff and while we understand your position regarding your request, please note that any other information does not meet the definition of a record as defined by Ohio's Public Records Act." Once again, no records were produced.

11. A true and accurate copy of the Respondent's July 13, 2020, email reiterating the denial of the Relators' requests is attached as Exhibit 2 to this Complaint.

**B. The Respondent Has Withheld Public Records Related to Yost's Interactions with Conservative Pressure Groups.**

12. The Respondent's denial of the Relators' public records requests resulted in the improper withholding of public records.

13. RAGA and the RLDF are extremely influential pressure groups whose shared mission is to advance the interests of their

corporate patrons and other right-wing causes, including the electoral interests of the national Republican party, by leveraging the official powers of state attorney general offices.

14. RAGA is a national political organization that describes itself on its website as providing Republican state attorneys general and attorney general candidates with “assistance with research, message development, and financial support.” According to its website, “RAGA works with attorneys general across the country to support and promote the rule of law, limited government, legal reform, public safety, and the preservation of conservative values,” which include “fighting to protect free enterprise, first principles, and the Constitution.”

15. According to its website, RLDF is a 501(c)(4) “public policy organization ... created in 2014 to provide a forum for Republican attorneys general to study, discuss, and engage on important policy affecting the states and their citizens”; and RLDF “convenes stakeholders around their interests in federal and state legislation and rulemaking, state and multistate policy development, and communication with federal policymakers regarding state interests.”

16. Yost's elected duties are primarily to represent Ohio's legal interests, but it is increasingly part of the public function of Respondent and other state attorneys general to coordinate with each other, join in each other's lawsuits to promote common civil litigation interests across state lines, and teach and learn from each other about policy issues that affect all or most states. RAGA and RLDF coordinate these functions for Republican attorneys general like Yost, and thereby influence—and facilitate private donors' efforts to influence—these public functions.

17. These efforts have included, in recent years, organizing multi-state litigation projects and brief-writing campaigns on such issues as attempting to invalidate the Affordable Care Act, clean air laws, and the expansion of worker overtime protections, some of which Yost and his Republican predecessors have joined, using the resources of their public office and the authority granted to them by the people of Ohio.

18. For example, Yost, in his capacity as Ohio Attorney General, signed a letter to the Senate, along with RAGA's other state attorneys general, presenting legal theories to justify acquitting President Donald Trump after he was impeached by the U.S. House of Representatives.

19. Similarly, Yost signed a letter as “Ohio Attorney General” asking Congress to pass legislation excusing businesses from liability for the spread of COVID-19-related illnesses.

20. Both the impeachment letter and the COVID immunity letter described above were drafted and coordinated with RAGA’s assistance.

21. Yost also authored an amicus brief, joined by 14 other RAGA members, urging a federal judge to dismiss the criminal case against former National Security Adviser Michael Flynn. The amicus brief was filed in Yost’s official capacity as attorney general and signed by Ohio Solicitor General Benjamin Flowers, an employee of Respondent. But the brief was also publicized jointly by the Respondent and RAGA, and upon information and belief, coordinated with other Republican attorneys general with RAGA’s assistance and support.

22. On November 9, 2020, Yost also authored an amicus brief, in his official capacity as attorney general and signed by Solicitor General Flowers, asking the U.S. Supreme Court to prevent Pennsylvania from counting votes cast in the recent presidential election. RAGA and the Respondent again coordinated to publicize the brief jointly.

23. In addition, Y ost co-presented a podcast through RLDF in which, in his capacity as Ohio’s attorney general, he presented policies for other states to adopt with respect to election and voting procedures.

24. RAGA and RLDF also raise money by selling access to Republican attorneys general, including Y ost, and their staffs, to private and corporate donors. Some of these donors have direct interests in multi-state litigation and settlements, such as the effort to hold pharmaceutical companies responsible for the ongoing opioid epidemic. Donors to RAGA and RLDF are promised the ability to participate in meetings Y ost and other Republican attorneys general attend, where multi-state litigation strategies are discussed. Donors to RAGA are also promised the ability to post items directly in a shared online platform known as the “Briefing Room,” through which Y ost and other Republican attorneys general can access and comment on shared work product—in some cases, according to RAGA’s donor solicitations, work product authored by the donors themselves for adoption and use by the attorneys general in their official capacities.

25. Although RAGA and RLDF seek to, and do, directly influence the public functions of attorneys general in states including Ohio, upon information and belief, they encourage these attorneys general to cloak their relationship, and the influence of wealthy donors on the use of their public offices, in absolutely secrecy—including by communicating with the attorneys general and their top aides through private or political-campaign-operated email addresses instead of official email addresses, by keeping meeting attendance private, and by instructing or otherwise encouraging the attorneys general and their aides not to include attendance at in-person and virtual RAGA and RLDF functions on their official calendars.

26. Through separate requests, the Relators have obtained Yost's calendar, which contains redactions that correspond to dates on which RAGA and RLDF events were held, some or all on dates when Yost was known to be in the events' vicinity. Such redactions are consistent with the practice advocated by RAGA and RLDF of treating RAGA and RLDF events as secret and not subject to public records requests even when the Respondent's public functions are implicated in the events.

27. Through separate litigation involving other state attorneys general, the Relators have also obtained multiple email communications between RAGA and RLDF and Yost regarding policy discussions implicating the public functions of the Respondent, none of which were produced by the Respondent pursuant to the requests at issue.

28. The information above indicates that the Respondent has deliberately withheld written communications and other records documenting the participation of Yost and his staff in activities of RAGA and RLDF regarding the functions of the Respondent, including efforts by RAGA and RLDF and its donors to direct the Respondent's legal advocacy work in the name of the State of Ohio.

**V. CLAIM FOR RELIEF**

29. The above paragraphs are realleged and incorporated herein.

30. The refusal of Respondent to provide the requested public records violates its duties under Revised Code Section 149.43(B)(1), entitling the Relators to the issuance of a Writ of Mandamus to compel Respondent to comply with the Public Records Act.

WHEREFORE, the Relators request that this Court issue a peremptory writ of mandamus directing the Respondent to provide the requested records without further delay. In the alternative, the Relator requests that this Court issue an alternative writ requiring the Respondent to show cause why the peremptory writ requested should not be issued. The Relator further requests the costs of this action, including reasonable attorneys' fees, pursuant to Revised Code Section 149.43(C)(3). The Relator also requests statutory damages pursuant to Revised Code Section 149.43(C)(2) in the amount of one hundred dollars (\$100.00) for each day during which the Respondent has failed to comply with the statute, beginning on the date of this action.

Respectfully submitted,

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**VERIFICATION**

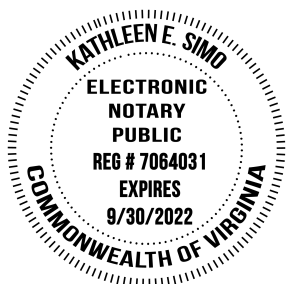
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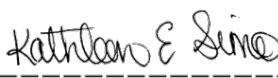
COUNTY OF Prince William County

I, DAVID ARMIK, having been first duly sworn, hereby affirm upon my personal knowledge that I am a Relator and an authorized representative of Relator Center for Media and Democracy, that I am competent to testify as to all matters stated in the foregoing complaint, that I have read the factual allegations contained in the complaint, and that each such fact is true to the best of my knowledge and belief.

  
DAVID ARMIK

Sworn and subscribed before me, a Notary Public, on this 17  
day of November 2020.



  
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My commission expires 09/30/2022