

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF SAGINAW**

SHANNON BITTERMAN,
Plaintiff,

Case No.: 13-_____ -CZ
Honorable _____

v.

COMPLAINT

VILLAGE OF OAKLEY,
Defendant

_____/

MR. PHILIP L. ELLISON (P74117)
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COMPLAINT

NOW COMES SHANNON BITTERMAN, by and through counsel, Outside Legal Counsel PLC, and as her complaint states as follows:

PARTIES

1. Plaintiff SHANNON BITTERMAN is a resident of the State of Michigan.
2. Defendant VILLAGE OF OAKLEY is a municipal/governmental entity created under the laws of the State of Michigan.
3. Defendant VILLAGE OF OAKLEY is a public body as that term is defined by Michigan's Freedom of Information Act, MCL 15.232(d)(iii).

JURISDICTION

4. This Court has jurisdiction by statute pursuant to MCL 15.240(1)(b).
5. Venue is proper in this case as Plaintiff resides within this County as well as being the county where the public record or an office of the public body is located. MCL 15.240(4).

GENERAL ALLEGATIONS

6. On March 20, 2013, Plaintiff personally made a Freedom of Information Act request with the FOIA Coordinator for Defendant Village of Oakley.
7. Plaintiff sought a copy of the following record(s)/document(s)/information of 1.) all persons serving as a Village of Oakley police reservist for the past three (3) years, and 2.) the audio recording of the September 13, 2011 Village of Oakley Council/Board of Trustees meeting as recorded by Deputy Clerk Cheryl Bolf.
8. On March 21, 2013, the Village of Oakley denied her request solely citing exemption MCL 15.243(1)(v), the civil litigation exemption

COUNT I
WRONGFUL DENIAL OF REQUESTED RECORDS
(List of Police Reservists)

9. Plaintiff incorporates by reference the previous allegations as if set forth word for word herein.
10. Plaintiff is not in another civil action in which she and the Defendant Village are parties.
11. Defendant Village of Oakley has wrongfully and vindictively withheld records regarding all reservist (i.e. public officials) on the Village of Oakley Policy Department which she is entitled to receive under Michigan's Freedom of Information Act.
12. Plaintiff incurred attorney fees, costs, and disbursements in seeking the rightful fulfillment of her request under Michigan's Freedom of Information Act.

COUNT II
WRONGFUL DENIAL OF REQUESTED RECORDS
(Audio Recording)

13. Plaintiff incorporates by reference the previous allegations as if set forth word for word herein.
14. Plaintiff is not in another civil action in which she and the Defendant Village are parties.
15. Defendant Village of Oakley has wrongfully and vindictively withheld an audio recording of the September 13, 2011 Village of Oakley Council/Board of Trustees meeting as recorded by Village Clerk Cheryl Bolf which Plaintiff is entitled to receive under Michigan's Freedom of Information Act.
16. Plaintiff incurred attorney fees, costs, and disbursements in seeking the rightful fulfillment of her request under Michigan's Freedom of Information Act.


COUNT III
PUNITIVE DAMAGES PURSUANT TO MCL 15.240(7)

17. Plaintiff incorporates by reference the previous allegations as if set forth word for word herein.
18. Michigan law is clear—unless the requester is a specifically named party to a separate lawsuit, the civil litigation exemption does not apply.
19. Because there is no debatable justification involving the civil litigation exemption under Michigan’s Freedom of Information Act and the law and caselaw are clear, Defendant Village of Oakley arbitrarily and capriciously violated this act by refusing to provide copies of public records.
20. The denial of the request is likely retaliation because of the lawsuit initiated by her husband against the Defendant Village of Oakley in relation to ongoing issues with her husband and Chief Robert Reznick.
21. The Court is required to award \$500.00 as punitive damages to Plaintiff, being the person seeking the right to inspect or receive a copy of a public record.

RELIEF REQUESTED

22. WHEREFORE, Plaintiff requests this Court enter an order
 - a. directing Defendant Village of Oakley to immediately fulfill Plaintiff’s FOIA request as submitted on March 20, 2013;
 - b. awarding all reasonable attorney fees, costs, and disbursements;
 - c. awarding \$500.00 as punitive damages; and
 - d. granting all other relief that Court deems equitable and just.

RESPECTFULLY SUBMITTED:



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Date: April 3, 2013