

19TH JUDICIAL DISTRICT COURT PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

NO. 717529

SECTION 24

ROBERT BURNS

VERSUS

COL. LAMAR DAVIS, IN HIS OFFICIAL CAPACITY AND
CUSTODIAN OF RECORDS FOR THE LOUISIANA STATE POLICE

FILED: _____

DEPUTY CLERK

ANSWER TO PETITION FOR WRIT OF MANDAMUS

NOW INTO COURT, through undersigned counsel, comes defendant, Col. Lamar Davis, in his official capacity and as custodian of records for the Louisiana State Police, who responds to plaintiff's Petition for Writ of Mandamus as follows:

1.
Denied for lack of sufficient information.
2.
Defendant admits his status and capacity.
3.
Denied for lack of sufficient information.
4.
Denied for lack of sufficient information.
5.
Denied for lack of sufficient information.
6.
Denied for lack of sufficient information.
7.
Denied.
8.
Denied for lack of sufficient information.

9.

Denied for lack of sufficient information

10.

Denied for lack of sufficient information.

11.

Denied for lack of sufficient information. Further answering, defendant affirmatively pleads that the referenced response from LSP then-legal counsel, Faye Morrison, constitutes the best evidence of its own terms and contents.

12.

Denied.

13.

Denied for lack of sufficient information.

14.

Denied for lack of sufficient information.

15.

Denied for lack of sufficient information.

16.

Denied for lack of sufficient information.

17.

Denied for lack of sufficient information.

18.

Denied for lack of sufficient information. Further answering, defendant affirmatively pleads that the referenced response from LSP then-legal counsel Morrison constitutes the best evidence of its own terms and contents.

19.

Denied.

20.

Denied.

21.

Denied.

22.

Denied.

23.

Denied.

24.

Denied for lack of sufficient information.

25.

Denied for lack of sufficient information.

26.

Denied for lack of sufficient information.

27.

Denied for lack of sufficient information.

28.

Denied for lack of sufficient information.

29.

Denied. Further answering, defendant affirmatively pleads that the referenced LSP response constitutes the best evidence of its own terms and contents.

30.

Denied for lack of sufficient information.

31.

Denied for lack of sufficient information.

32.

Denied for lack of sufficient information.

33.

Denied for lack of sufficient information.

34.

Denied for lack of sufficient information.

35.

Denied for lack of sufficient information.

36.

Denied for lack of sufficient information.

37.

Denied for lack of sufficient information.

38.

Denied for lack of sufficient information. Further answering, defendant affirmatively pleads that the referenced cover letter from LSP's new general counsel, Gail Holland, constitutes the best evidence of its own terms and contents.

39.

Denied for lack of sufficient information.

40.

Denied for lack of sufficient information. Further answering, defendant affirmatively pleads that the referenced email from petition constitutes the best evidence of its own terms and contents.

41.

Denied for lack of sufficient information. Further answering, defendant affirmatively pleads that the referenced email from Capt. Manale constitutes the best evidence of its own terms and contents.

42.

Denied for lack of sufficient information.

43.

Denied for lack of sufficient information.

44.

Denied for lack of sufficient information.

45.

Denied for lack of sufficient information.

46.

Denied for lack of sufficient information.

47.

Denied for lack of sufficient information. Further answering, defendant affirmatively pleads that the referenced response of LSP general counsel Holland constitutes the best evidence of its own terms and contents.

48.

Denied for lack of sufficient information.

49.

Denied for lack of sufficient information.

50.

Denied for lack of sufficient information.

51.

Denied for lack of sufficient information.

52.

Denied for lack of sufficient information. Further answering, defendant affirmatively pleads that the referenced LSPC Rule 12.9 constitutes the best evidence of its own terms and contents.

53.

Denied.

54.

Denied as calling for a legal conclusion.

55.

Denied as calling for a legal conclusion.

56.

Denied as calling for a legal conclusion.

57.

Denied as calling for a legal conclusion.

58.

Denied.

59.

Denied.

60.

Defendant denies that petitioner is entitled to the relief requested.

61.

Defendant denies that petitioner is entitled to the relief requested.

AFFIRMATIVE DEFENSES

62.

In further answering, Defendant affirmatively pleads the discretionary immunity afforded by R.S. 9:2798.1.

63.

In further answering, Defendant affirmatively pleads all privileges, immunities, exemptions, exceptions, and limitations provided for and afforded by the Public Records Act, Title 44 (including but not limited to R.S. 44:1, R.S. 44:3, and R.S. 44:4), R.S. 40:2532, R.S. 13:5106, R.S. 13:5112, and any other applicable or relevant statutes, all as permitted by the Louisiana Constitution, Article 12, §10.

64.

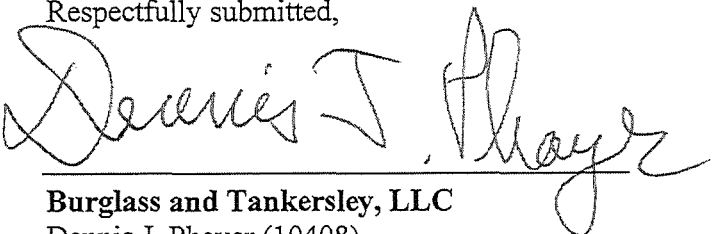
In further answering, Defendant affirmatively pleads the privacy rights of employees as an exception to the normal scope of Title 44, as provided for in the Louisiana Constitution, Article 1, § 5, and as recognized in governing jurisprudence. *See Trahan v. Larivee*, 365 So.2d 294, 298-299 (La. App. 3 Cir. 1978); *Beckett v. Serpas*, 2012-1349 (La. App. 4 Cir. 3/20/13), 112 So.3d 348, 353; *East Bank Consolidated Special Service Fire Protection District v. Crossen*, 2004-0838 (La. App. 5 Cir. 12/28/04) 892 So.2d 666, 670.

65.

In further answering, Defendant affirmatively pleads R.S. 44:3(C) and the right to invoke a contradictory hearing in order to obtain a judicial determination pertaining to compliance with Title 44 and/or constitutional law prior to the Court issuing any ruling on the instant Petition for Writ of Mandamus.

WHEREFORE, defendant, Col Lamar Davis, in his official capacity and as custodian of records for the Louisiana State Police, prays that this Answer be deemed good and sufficient and that after due proceedings are had there be judgement rendered herein in his favor, dismissing plaintiffs' petition with prejudice, at plaintiff's costs, and for all general and equitable relief.

Respectfully submitted,

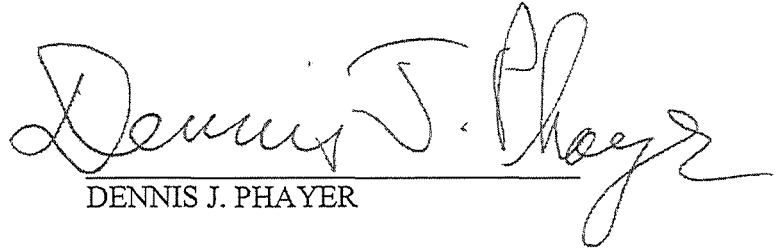


Burglass and Tankersley, LLC
Dennis J. Phayer (10408)
dphayer@burglass.com

5213 Airline Drive
Metairie, LA 70001
Tel: (504) 836-0412
Fax: (504) 287-0452

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing pleadings on all counsel of record in these proceedings by email, facsimile transmission and/or United States Mail, postage prepaid, this 21ST day of April, 2022.


DENNIS J. PHAYER