

No. 19CA011563

FILED  
LORAIN COUNTY COURT OF APPEALS  
9<sup>TH</sup> APPELLATE DISTRICT~~BY FAX DATED~~

4-7-20

TOM ORLANDO, CLERK OF COURTS

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IN THE COURT OF APPEALS  
NINTH APPELLATE DISTRICT  
LORAIN COUNTY, OHIO

GIBSON BROS., INC., et al.,

*Plaintiffs-Appellees/Cross-Appellants,*

v.

OBERLIN COLLEGE, et al.,

*Defendants-Appellants/Cross-Appellees.*

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APPEAL FROM THE COMMON PLEAS COURT  
LORAIN COUNTY, OHIO,  
CASE NO. 17CV193761

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**APPELLANTS/CROSS-APPELLEES' MOTION  
TO EXCEED PAGE LIMITATIONS**

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Appellants/Cross-Appellees Oberlin College and Dean Meredith Raimondo, mindful of the page limits imposed by Local Rule 7(E), respectfully seek leave to file an Appellants' Brief of 50 pages to accommodate the diverse, significant, and novel issues raised in this free-speech case, which resulted in what appears to be the largest defamation verdict in Ohio history and a total judgment of over \$30 million.

Extra pages are necessary to accommodate errors occurring at two different phases of the proceeding (summary judgment and at trial), raising significant questions of state and federal constitutional law, Ohio statutory and common law, and civil procedure.

*First*, this appeal challenges certain legal rulings the trial court's summary judgment entry made, including the trial court's rejection of Oberlin College's and Dean

Raimondo's defense that the student speech at issue is protected opinion. *See* 4/22/19 JE. These challenges and this Court's obligation to conduct "an independent examination of the whole record" in free speech cases, *Bose Corp. v. Consumers Union of United States, Inc.*, 466 U.S. 485 (1984) (internal citation omitted), will require consideration of the large summary judgment record—even as to issues (like constitutional actual malice) that proceeded to trial.

*Second*, this appeal will also challenge many rulings that occurred before, during, and after a month-long trial that resulted in 30 volumes of transcripts and hundreds of exhibits. Among other things, Oberlin College and Dean Raimondo dispute the sufficiency of the evidence supporting Plaintiffs' claims; evidentiary rulings that prevented Oberlin and the Dean from introducing evidence explaining why they remained neutral during the student protests; a ruling that told jurors to consider an issue—whether Oberlin and Dean Raimondo acted with constitutional actual malice—again after the jury had found for Oberlin and Dean Raimondo on that issue; jury instructions that allowed Oberlin to be held liable for "facilitating" student speech; an aberrant application of Ohio's statutory non-economic and punitive damages caps; and an attorney fees multiplier that conflicts with recent Ohio Supreme Court guidance.

While Oberlin College and Dean Raimondo are cognizant that a request for more pages should occur only in an exceptional case, this is such a case. This Court already has excused compliance with local rules governing transcripts "under the unique circumstances of this appeal." 11/22/19 Magistrate's Order. Oberlin College and Dean Raimondo respectfully submit that the unique circumstances of this appeal also warrant a relaxation of the 30-page limit imposed by Local Rule 7(E).

Therefore, for good cause, and to enable Appellants to provide this Court with a complete recitation of the governing state and federal law on the many significant issues presented, Oberlin College and Dean Raimondo respectfully request leave to file an Appellants' Brief that is up to 50 pages in length.

Respectfully submitted,

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**PROOF OF SERVICE**

I hereby certify that a copy of the foregoing was served on April 7, 2020, via email, pursuant to App.R. 13(C)(6) of the Appellate Rules of Civil Procedure, upon the following:

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