

Respectfully submitted,

Dated: November 15, 2011

Walter M. Luers
Attorney for Plaintiff

PROOF OF SERVICE

On November 15, 2011, I served a copy of the within Notice of Motion, Certification, Statement of Material Facts, Brief and form of Order upon the Defendants in this action by regular mail to their attorney Michael J. Heron, Esq., Lennox, Socey, Formidoni, Brown, Giordano, Cooley & Casey at 3131 Princeton Pike – 1B, Trenton, NJ 08648.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: November 15, 2011

Walter M. Luers
Attorney for Plaintiff

Law Offices of Walter M. Luers, LLC
Suite C203
23 West Main Street
Clinton, New Jersey 08809
Phone: 908-894-5656
Counsel for Plaintiff

JOHN PAFF,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION, CIVIL PART
Plaintiff,	:	CAMDEN COUNTY
	:	DOCKET NO. CAM-L-2865-11
v.	:	
	:	<i>Civil Action</i>
RUNNEMEDE BOARD OF	:	
EDUCATION, et al.,	:	
	:	
Defendants.	:	CERTIFICATION
	:	

I, John Paff, hereby certify as follows:

1. I am the Plaintiff in this action.
2. In response to my records requests dated April 7, 2011 and May 7, 2011, I received redacted minutes of the nonpublic (closed or executive) meetings of the Runnemedede Board of Education (“Board”).
3. Attached as Exhibit 1 is a one-page document, furnished to me by the Board, that purports to explain and justify the redactions made to the nonpublic meeting minutes that are also attached to this Certification.
4. In order to aid the Court and my adversary, I have created the following table that sets forth a) the date and hour of the nonpublic meetings for which redacted minutes were provided, b) the reason Defendant gave for each redaction, as stated in Exhibit 1 and c) the page or pages of Exhibit 2 attached to this Certification that contain the redacted minutes.

Date	Time	Stated Reason for Redaction	Exh. 2
03/24/10	8:25 p.m.	N.J.S.A. 1A-1.1(1)	1
04/28/10	8:24 p.m.	N.J.S.A. 1A-1.1(1)	2-3
05/26/10	7:10 p.m.	N.J.S.A. 1A-1.1(1)	4
05/26/10	8:45 p.m.	N.J.S.A. 1A-1.1(1)	5
06/23/10	8:05 p.m.	N.J.S.A. 1A-1.1(1)	6
07/28/10	7:28 p.m.	N.J.S.A. 1A-1.1(7) & 1.1(12)(b)	7
08/26/10	7:00 p.m.	N.J.S.A. 1A-1.1(1) & 1.1(7)	8
09/22/10	7:40 p.m.	N.J.S.A. 1A-1.1(1) & 1.1(7)	9
12/15/10	8:02 p.m.	N.J.S.A. 1A-1.1(7)	10
02/02/11	7:55 p.m.	N.J.S.A. 1A-1.1(7)	11
02/23/11	7:58 p.m.	N.J.S.A. 1A-1.1(1)	12
02/23/11	8:56 p.m.	N.J.S.A. 1A-1.1(1)	13
03/02/11	8:00 p.m.	N.J.S.A. 1A-1.1(1)	14

5. On October 20, 2010, the Board entered into a “Separation Agreement/Release” with Defendant Kelly Brazelton, who served as the Board’s Business Administrator. The “Separation Agreement/Release” is attached hereto as Exhibit 3.

6. The Agreement called for the Board to give Brazelton a paid leave of absence until April 15, 2011 together with other benefits, including a letter of reference, in exchange for Brazelton providing an irrevocable letter of resignation effective April 15, 2011 and a general release of all claims that she had against the Board and the superintendent of schools.

7. On March 5, 2011, the *Courier Post* published an article entitled “Idled official’s payout riles Runnemedede,” a copy of which, with reader comments, as taken off the Internet, is attached as Exhibit 4.

8. The *Courier Post* article quotes Defendant Brazelton’s attorney as stating that “[t]here was a disagreement between the board and [Brazelton]” that involved “a hostile work environment.” The attorney was also quoted as saying that the disagreement “was resolved” by the Separation Agreement/Release and that “both sides decided to move on.” (Exhibit 4).

9. The *Courier Post* article also quoted Runnemedede Superintendant Nancy Ward as stating that the Settlement Agreement/Release was signed “[i]n order to avoid litigation.” Later

in the article, in response to local citizen Dan Conard's questions, Ward is quoted as saying that Separation Agreement/Release "was the most responsible thing the district could have done. Was it a bitter pill to swallow? It took the board (a while) before they felt it was something they could do, but it makes the most sense." (Exhibit 4).

10. The *Courier Post* article also quoted New Jersey School Boards Association's Mike Yaple as saying that "[n]o school board willingly enters into an agreement like this one . . . [b]ut even though it's not a popular decision, it's the lesser of two evils." The *Courier Post* article also said that Board officials "would not comment on specifics, citing confidentiality." (Exhibit 4).

11. One of the objects of this lawsuit is to determine the facts, circumstances and reasoning behind the Board's decision and to inform the public, especially Runnemede taxpayers, of these findings so that they a) can judge whether the Board's decision to enter into the separation agreement with Brazelton was reasonable and prudent and b) can know of the nature of any claims that Brazelton released since the basis of those claims may expose errors, wrongdoing or negligence on the part of officials who are still in the Board's employ.

12. A true copy of my complaint that sets forth the First Count is attached as Exhibit 5.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: November 14, 2011

John Paff

DOCUMENTS EXEMPT FROM OPRA REQUEST OF JOHN PAFF

Executive Session # 2 minutes dated March 24, 2010 - both redactions pursuant to N.J.S.A. 47:1A-1.1(1)

Executive Session # 1 minutes dated April 28, 2010 - all redactions pursuant to N.J.S.A. 47:1A-1.1(1)

Executive Session # 1 minutes dated May 26, 2010 - all redactions pursuant to N.J.S.A. 47:1A-1.1(1)

Executive Session # 2 minutes dated May 26, 2010 - all redactions pursuant to N.J.S.A. 47:1A-1.1(1)

Executive Session # 1 minutes dated June 23, 2010 - all redactions pursuant to N.J.S.A. 47:1A-1.1(1)

Executive Session # 1 minutes dated July 28, 2010 - all redactions pursuant to N.J.S.A. 47:1A-1.1(7) and N.J.S.A. 47:1A-1.1(12)(b)

Executive Session minutes dated August 26, 2010 - redaction pursuant to N.J.S.A. 47:1A-1.1(1) and N.J.S.A. 47:1A-1.1(7)

Executive Session minutes dated September 22, 2010 - redaction pursuant to N.J.S.A. 47:1A-1.1(1) and N.J.S.A. 47:1A-1.1(7)

Executive Session minutes dated December 15, 2010 - all redactions pursuant to N.J.S.A. 47:1A-1.1(7)

Executive Session minutes dated February 2, 2011 - redaction pursuant to N.J.S.A. 47:1A-1.1(7)

Executive Session # 1 minutes dated February 23, 2011 - redaction pursuant to N.J.S.A. 47:1A-1.1(1)

Executive Session # 2 minutes dated February 23, 2011 – redaction pursuant to N.J.S.A. 47:1A-1.1(1)

Executive Session minutes dated March 2, 2011 – redaction pursuant to N.J.S.A. 47:1A-1.1(1)

BOARD OF EDUCATION
Runnemede, N.J.

EXECUTIVE SESSION #2

MINUTES

March 24, 2010

8:25 p.m.

PRESENT: Mr. Bergman, Mrs. Costello, Mrs. Davidson, Mrs. Frasca, Mrs. Spaulding
Mrs. Spraggins Mrs. Torrillo, Mr. Wark ,Mrs. Kurth

ABSENT:

ALSO PRESENT: Mrs. Ward, Mrs. Brazelton

PERSONNEL MATTERS

Health benefits for the [REDACTED] family were discussed. It was agreed to cover the [REDACTED] family until January 1, 2011 paid for by the board.

CONTRACTUAL MATTERS

Board members wanted to speak about and discuss the budget and cuts being made.

Adjourned on a motion by Mrs. Frasca seconded by Mr. Wark at 9:15 p.m.

Respectfully Submitted,

Kelly A. Brazelton
Board Secretary

BOARD OF EDUCATION
Runnemede, N.J.

EXECUTIVE SESSION #1

MINUTES

April 28, 2010

8:24 p.m.

PRESENT: Mr. Bergman, Mrs. Costello, Mrs. Davidson, Mrs. Spaulding, Mrs. Spraggins, Mrs. Panzarella, Mrs. Torrillo, Mr. Wark, Mrs. Kurth

ABSENT:

ALSO PRESENT: Mrs. Ward, Mrs. Brazelton, Mr. Iannucci, Mr. P. Stern (Board Solicitor), [REDACTED]

STUDENT MATTERS

[REDACTED] addressed the board about the discipline imposed by the BOE at the last meeting. [REDACTED] is asking that all privileges be reinstated for her son especially the dance. [REDACTED] handed out a letter to the BOE (attached) for their consideration.

[REDACTED] left at 8:40 p.m.

The Board discussed [REDACTED]'s request and the following was the outcome:

[REDACTED]'s son will have to earn the dance and will not be permitted to attend the 8th grade trip. He will also have to be present and in school on the day of the trip, if he is not he will not be permitted to walk in graduation ceremony. He is also have to no discipline issues or absences up to the date of the dance.

The Board asked [REDACTED] to enter the meeting again, the outcome was discussed with [REDACTED]

[REDACTED] left the meeting

PERSONNEL



Adjourned on a motion by Mrs. Spraggins seconded by Mrs. Spaulding at 9:30 p.m.

Respectfully Submitted,

Kelly A. Brazelton
Board Secretary

BOARD OF EDUCATION
Runnemede, N.J.

EXECUTIVE SESSION #1

MINUTES

May 26, 2010

7:10 p.m.

PRESENT: Mr. Bergman, Mrs. Costello, Mrs. Davidson, Mrs. Panzarella, Mrs. Spaulding Mrs. Spraggins Mrs. Torrillo, Mrs. Kurth

ABSENT: Mr. Wark

ALSO PRESENT: Mrs. Ward, Mrs. Brazelton, Mrs. Fiola CST Coordinator, Ms. Gallagher Principal Downing School

STUDENT MATTERS

The matter of [REDACTED] was discussed. See attached for more information. [REDACTED] the student's mother was asked to join the meeting. Mrs. Ward and Mrs. Gallagher explained the safety plan for her son.

[REDACTED] asked that the Board allow her son to return to school on June 1st and also stated the safety plan is fair and she will make sure it is carried out.

The Board agreed at this time that if the safety plan is followed the student may return June 1st. They also indicated to the student's mother, that the student may not have any more instances of discipline for the rest of the school year.

On a motion by Mrs. Torrillo seconded by Mrs. Davidson adjourned at 7:46pm.

Respectfully Submitted,

Kelly A. Brazelton
Board Secretary

BOARD OF EDUCATION
Runnemede, N.J.

EXECUTIVE SESSION #1

MINUTES

June 23, 2010

8:05 p.m.

PRESENT: Mrs. Davidson, Mrs. Panzarella, Mrs. Spaulding Mrs. Spraggins Mrs. Torrillo, Mr. Wark, Mrs. Kurth

ABSENT: Mr. Bergman, Mrs. Costello

ALSO PRESENT: Mrs. Ward, Mrs. Brazelton,

PERSONNEL MATTERS

New Hires were discussed with the Board. 


Adjourned at 9:10 p.m. on a motion by Mrs. Torrillo seconded by Mrs. Spraggins

Respectfully Submitted,

Kelly A. Brazelton
Board Secretary

BOARD OF EDUCATION
Runnemede, N.J.

EXECUTIVE SESSION #1

MINUTES

July 28, 2010

Start time: 7:28 p.m.

End time: 8:23 pm.

PRESENT: Mrs. Davidson, Mrs. Panzarella, Mrs. Spaulding, Mrs. Spraggins Mr. Bergman, Mr. Wark, Mrs. Kurth, Mrs. Torrillo via speakerphone.

ABSENT: Mrs. Costello

ALSO PRESENT: Mr. Phil Stern, [REDACTED]

PERSONNEL MATTERS

Employees asked to meet with Board of Education; 7 employees were available to meet and [REDACTED]; each employee was asked to speak individually and for 3 minutes each.

Adjourned at 8:23 p.m. on a motion by Mrs. Spaulding seconded by Mrs. Davidson

Respectfully Submitted,

BOARD OF EDUCATION
Runnemede, N.J.

EXECUTIVE SESSION

MINUTES

August 26, 2010

Start time: 7:00 p.m.
End time: 7:50 p.m.

PRESENT: Mr. Bergman, Mrs. Costello, Mrs. Davidson, Mrs. Panzarella, Mrs. Torrillo,
Mrs. Spaulding, Mrs. Spraggins, Mrs. Kurth.

ABSENT: Mr. Wark

ALSO PRESENT: Mr. Phil Stern

PERSONNEL MATTERS



Adjourned at 7:50 p.m. on a motion by Mr. Bergman seconded by Mrs. Spraggins.

Respectfully Submitted,

BOARD OF EDUCATION
Runnemede, N.J.

EXECUTIVE SESSION

MINUTES

September 22, 2010

Start time: 7:40 p.m.

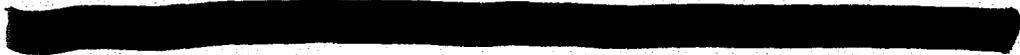
End time: 8:24 p.m.

PRESENT: Mr. Bergman, Mrs. Costello, Mrs. Davidson, Mrs. Panzarella, Mr. Wark,
Mrs. Spaulding, Mrs. Spraggins, Mrs. Kurth.

ABSENT: Mrs. Torrillo

ALSO PRESENT: Mr. Phil Stern

PERSONNEL MATTERS



Adjourned at 8:24 p.m. on a motion by Mrs. Costello seconded by Ms. Panzarella.

Respectfully Submitted,

BOARD OF EDUCATION
Runnemede, N.J.

EXECUTIVE SESSION

MINUTES

December 15, 2010

Start time: 8:02 p.m.

End time: 8:30 p.m.

PRESENT: Mr. Bergman, Mrs. Costello, Mrs. Davidson, Mrs. Spaulding,
Mrs. Spraggins, Mrs. Torrillo, Mr. Wark, Mrs. Kurth

ABSENT: Mrs. Panzarello

ALSO PRESENT: Nancy Ward, Valerie Carmody

LEGAL MATTERS: Discussion of roof litigation for Mary Volz School and
consideration of 

Adjourned at 8:30 p.m. on a motion by Mrs. Torrillo seconded by Mr. Berman.

Respectfully Submitted,

Valerie J. Carmody
Interim Business Administrator/Board Secretary

BOARD OF EDUCATION
Runnemede, N.J.

EXECUTIVE SESSION

MINUTES

February 2, 2011

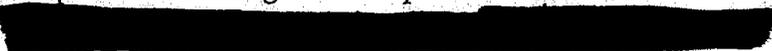
Start time: 7:55 p.m.

End time: 8:59 p.m.

PRESENT: Mr. Bergman, Mrs. Costello, Mrs. Davidson, Mrs. Panzarella, Mrs. Spaulding, Mrs. Torrillo, Mr. Wark, Mrs. Kurth

ABSENT: None.

ALSO PRESENT: Nancy Ward, Valerie Carmody

LEGAL MATTERS: Update on roof litigation was presented for Runnemede School District vs. Alessi. 

Adjourned to public session at 8:59 p.m. on a motion by Mrs. Davidson seconded by Mr. Wark.

Respectfully Submitted,

Valerie J. Carmody
Interim Business Administrator/Board Secretary

BOARD OF EDUCATION
Runnemede, N.J.

EXECUTIVE SESSION I

MINUTES

February 23, 2011

Start time: 7:58 p.m.
End time: 8:49 p.m.

PRESENT: Mr. Bergman, Mrs. Davidson, Mrs. Panzarella, Mrs. Spaulding, Mrs. Torrillo, Mr. Wark, Mrs. Kurth

ABSENT: Mrs. Costello

ALSO PRESENT: Nancy Ward, Valerie Carmody

LEGAL MATTERS: Waiving policy for facility use. Consensus to waive the billing through December 23, 2010, and commence in January through the end of the season at the rate of \$5 per event.

TENTATIVE AGREEMENT: [REDACTED]

Discussed special meeting for budget approval will be held on March 2.

Adjourned to public session at 8:49 p.m. on a motion by Mrs. Davidson seconded by Mrs. Panzarella.

Respectfully Submitted,

Valerie J. Carmody
Interim Business Administrator/Board Secretary

BOARD OF EDUCATION
Runnemede, N.J.

EXECUTIVE SESSION 2

MINUTES

February 23, 2011

Start time: 8:56 p.m.

End time: 9:17 p.m.

PRESENT: Mr. Bergman, Mrs. Davidson, Mrs. Panzarella, Mrs. Spaulding, Mrs. Torrillo, Mr. Wark, Mrs. Kurth

ABSENT: Mrs. Costello

ALSO PRESENT: Nancy Ward, Valerie Carmody

NEGOTIATIONS: 

Adjourned to public session at 8:49 p.m. on a motion by Mrs. Panzarella seconded by Mrs. Torrillo.

Respectfully Submitted,

Valerie J. Carmody
Interim Business Administrator/Board Secretary

BOARD OF EDUCATION
Runnemede, N.J.

EXECUTIVE SESSION

MINUTES

March 2, 2011

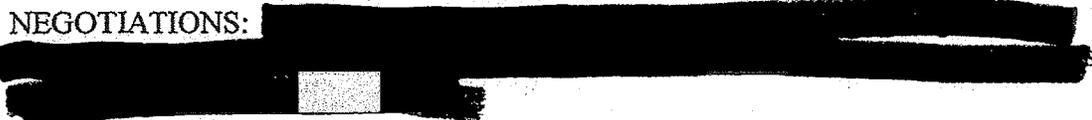
Start time: 8:00 p.m.

End time: 8:42 p.m.

PRESENT: Mrs. Costello, Mrs. Davidson, Mrs. Panzarella, Mrs. Spaulding, Mrs. Torrillo, Mr. Wark, Mrs. Kurth

ABSENT: Mr. Bergman

ALSO PRESENT: Nancy Ward, Valerie Carmody

NEGOTIATIONS: 

Adjourned to public session at 8:42 p.m. on a motion by Mr. Wark seconded by Mrs. Torrillo.

Respectfully Submitted,

Valerie J. Carmody
Interim Business Administrator/Board Secretary

SEPARATION AGREEMENT/RELEASE

This Separation Agreement and Release ("Separation Agreement") is made this 20th day of October, 2010, by and between Ms. Kelly Brazelton ("Ms. Brazelton"), and the Runnemede Borough Board of Education, including the Runnemede Superintendent of Schools, ("Board").

RECITALS

WHEREAS, Ms. Brazelton is an employee of the Board, serving as the School Business Administrator/Board Secretary; and

WHEREAS, the Board and Ms. Brazelton have concluded that, effective at the close of business on April 15, 2011, their employer-employee relationship will terminate; and

WHEREAS, the Board and Ms. Brazelton desire to resolve amicably and in good faith all matters and issues arising out of Ms. Brazelton's employment relationship with the Board;

NOW, THEREFORE, in consideration of the foregoing and in consideration of their respective rights and obligations set forth herein and for other good and sufficient consideration, receipt of which is hereby acknowledged, Ms. Brazelton and the Board agree as follows:

ARTICLE I Separation and Release

1. Separation of Employment – Ms. Brazelton and the Board hereby agree that, effective at the close of business on April 15, 2011, Ms. Brazelton's employment with the Board will, in all respects, cease.

2. Mutual Releases – In return for their obligations pursuant to this Separation Agreement, Ms. Brazelton and the Board, including the Superintendent of Schools, hereby release and discharge each other as well as any and all of their former and current trustees, officers, employees, agents, contractors, representatives,

predecessors, successors and assigns, as well as their heirs, executors and administrators, from liability on or for all claims, demands, causes of action, damages, costs, expenses, accounts, contracts, agreements, promises, compensation and all other liabilities of any kind or nature whatsoever, direct or indirect, known or unknown, which they may have had, now as or may hereafter have for any reason whatsoever on account or arising out of or in consequence of their employment relationship, including, but not limited to:

- A. Any claims or actions under Title VII of the Civil Rights Act of 1964, the Worker Adjustment and Retraining Notification Act, the Public Employee Relations Act the Employee Retirement Income Security Act, the Americans With Disabilities Act, the Family and Medical Leave Act, the National Labor Relations Act, the Fair Labor Standards Act, Section 1981-1988 of Title 42 of the United States Code, the Equal Pay Act of 1963, the Vocational Rehabilitation Act of 1973, the Occupational Safety and Health Act of 1977; the Education Laws and Regulations;
- B. Any other claims or actions under the New Jersey Equal Pay Act, the New Jersey Law Against Discrimination, the New Jersey Wage-Hour and Wage-Payment Laws, the New Jersey Worker Health and Safety Act, the New Jersey Family Leave Act, the New Jersey Conscientious Employee Protection Act;
- C. Any claims arising out the terms and conditions of Ms. Brazelton's employment with the Board, the termination of such employment, and/or any of the events relating directly or indirectly to or surrounding that termination;
- D. Any and all claims related to compensation of any kind, except as set forth in this Separation Agreement;
- E. Any and all claims for damages of any kind;
- F. Any and all claims arising out of the execution of this Separation Agreement;
- G. Any and all claims for attorney's fees, costs, disbursements or the like

which they ever had, or have or hereafter can, shall or may have against each other for, upon or by reason of any act, omission, transaction or occurrence up to and including the effective date of this Separation Agreement.

Ms. Brazelton does not waive or release her right to seek workers' compensation benefits, if relevant, nor does she waive or release her right to seek indemnity pursuant to NJSA 18A:16-6 and/or NJSA 18A:16-6.1 in the event of a claim or accusation by a third

party. Nothing in this release shall be construed as waiving or releasing the Board's right to assert any defenses it may have to such a claim or indemnity.

ARTICLE II
Terms of Settlement

2.1 Separation - Simultaneously upon the execution of this Separation Agreement, Ms. Brazelton shall submit an irrevocable letter of resignation, effective at the close of business on April 15, 2011, terminating any and all employment with the Board.

2.2 Consideration - As consideration for Ms. Brazelton's resignation and Release as set forth herein, the Board agrees to the following:

- a.) Effective September 23, 2010, until the close of business on April 15, 2011, Ms. Brazelton shall be placed on a paid leave of absence. Following Ms. Brazelton's leave, she shall resign from all service with the Board.
- b.) Pursuant to her contract with the Board, Ms. Brazelton shall receive three thousand (\$3,000.00) dollars for waiving her insurance benefits with the Board:
- c.) Pursuant to her contract with the Board, Ms. Brazelton shall receive pro-rated payment for the NJASBO and CCASBO dues.
- d.) In the event Ms. Brazelton places in a comparable, TPAF-eligible position, the Board's obligations set forth in this Agreement shall cease on the date upon which Ms. Brazelton assumes such position, except that if Ms. Brazelton's new position has a lesser salary than that paid by the Board, the Board will make Ms. Brazelton whole for such difference, up to the date of April 15, 2011.

- e.) The Board will provide Ms. Brazelton with a letter of reference, said letter of reference being the only communication/documentation provided to prospective employers.
- f.) The Board will take no action to prevent Ms. Brazelton from receiving Unemployment Benefits, following her resignation, if applicable.

Ms. Brazelton expressly acknowledges and represents that she will neither seek nor be entitled to any further consideration from the Board in connection with this Separation Agreement other than the consideration as detailed in this subsection.

ARTICLE III Miscellaneous

3.1. Entire Agreement – This Separation Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior agreements relating thereto. There are no other understandings or agreements between or among the parties with respect to the subject matter hereof, except as set forth herein, and as set forth in any other documents executed directly or in connection with this Separation Agreement. No condition or provision of this Separation Agreement may be modified, waived or revised in any way except in writing executed by all parties and referring specifically to this Separation Agreement.

3.2. No Admissions – Nothing contained in this Separation Agreement shall be construed to constitute an admission or acknowledgment by any party hereto of any wrongful or improper conduct, nor of any liability to any other party.

3.3. Non-Disparagement – Both parties to this Separation Agreement agree that they will not disparage the other in any communication.

3.3 Binding Effect – This Separation Agreement and all rights and duties set forth herein shall be binding upon and inure to the benefit of the parties hereto, as well as their respective successors and assigns.

3.4 Governing Law and Choice of Forum – This Separation Agreement and its interpretation and performance shall be governed by the laws of the State of New Jersey, without giving effect to its conflicts of law rules.

3.5 Captions – The captions set forth in this Separation Agreement are intended solely for the parties' convenience and ease of reference and are not intended to modify, limit, describe or affect in any way the scope, content or intent of this Separation Agreement.

3.6 Signature in Counterpart – This Separation Agreement may be executed simultaneously in counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument.

3.7 Authorization – The Board hereby represents and warrants that the undersigned officer of the Board is fully authorized to execute this Separation Agreement on the Board's behalf.

3.8 Acknowledgments – The parties to this Separation Agreement acknowledge and agree that they have entered into this Separation Agreement and have executed it without duress or coercion, and have done so with the opportunity to consult counsel. Each party further acknowledges and agrees that no other party has made representations, warranties, promises or agreements not set forth herein and no party relies in any way upon any representation, warranty, statement of fact or opinion, understanding, disclosure or non-disclosure not set forth herein in entering into this Separation Agreement and executing it, no party has been induced in any way, except for the consideration, representations, warranties, statements and covenants recited herein, to enter into this Separation Agreement.

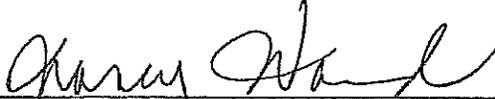
3.9 Construction and Enforcement – The terms of this Separation Agreement are the product of negotiations between the parties, and shall be construed without regard to any presumption or other rule requiring construction against the party causing this Separation Agreement to be drafted.

IN WITNESS WHEREOF, the parties have executed this Separation Agreement on the date above written.



KELLY BRAZELTON

Dated:



WITNESS

Dated:

10/25/10

RUNNEMEDE BOROUGH BOARD OF EDUCATION



BY: COLLEEN KURTH, PRESIDENT

Dated: October 20, 2010

Idled official's payout riles Runnemedede

By BARBARA S. ROTHSCHILD • Courier-Post Staff • March 5, 2011

RUNNEMEDE — Although the school district is paying Business Administrator Kelly Peters Brazelton her full salary to stay home while paying for an interim employee, Runnemedede Superintendent Nancy Ward said it could have cost more not to have a separation agreement.

"New Jersey is a very litigious state," she said. "In order to avoid litigation, which never is a good thing, a separation agreement gives you a certain outcome."

Brazelton, a Deptford resident and the former business administrator for the Somerdale Public School District, began working for Runnemedede schools in August 2008. Her most recent contract, for July 1, 2010, through June 30, is for \$99,465 plus benefits.

But the relationship soured and the district would not comment on specifics, citing confidentiality.

A letter from staff members written to Ward and the school board in July 2010 gave examples of a hostile work environment that they said was "created by the business administrator."

Brazelton could not be reached. Her attorney, Joseph Betley of Mount Laurel, said his client signed the separation agreement in good faith.

"There was a disagreement between the board and Kelly," he said. "It was resolved and both sides decided to move on."

"She disputes any and all allegations regarding a hostile work environment. It was simply Kelly doing her job."

The separation agreement and release, dated Oct. 20, stipulates Brazelton be placed on a paid leave of absence from Sept. 23 to April 15, at which time she would irrevocably resign.

School board President Colleen Kurth said it was much easier to go with a separation agreement than pay more legal fees.

She compared paying Brazelton to paying a teacher out sick while a substitute fills in.

"The job just has to go on," Kurth said.

Interim Business Administrator Valerie Carmody, who retired from the same post in East Greenwich last year, was hired Dec. 1 at \$60 per hour, 24 hours maximum per week. Her contract ends June 30.

New Jersey School Boards Association spokesman Mike Yapple said such separation agreements are infrequent.

"No school board willingly enters into an agreement like this," he insisted. "But even though it's not a popular decision, it's the lesser of two evils."

Residents unhappy about the district's handling of the situation include Dan Conard, a journalism student at Rowan University. Conard writes a blog where he discusses school district and municipal matters. To comment on this topic, he filed Open Public Records Act (OPRA) document requests.

"I just wanted to get it out there so people know what is going on," Conard said.

Ward said she has no quarrel with the student, but believes Brazelton's case is an unusual circumstance.

"It (the separation agreement) was the most responsible thing the district could have done," she insisted. "Was it a bitter pill to swallow? It took the board (a while) before they felt it was something they could do, but it makes the most sense."

Ward said the part-time arrangement with Carmody is working out well and that, as the district improves efficiency, it is unlikely another full-time business administrator will be hired, particularly when Executive County Superintendent Peggy Nicolosi has advised against it.

Among the options being considered are another part-time business administrator or a shared-service agreement with another district.

Ward said she would have preferred the money being expended in this case be spent on educational programs and teachers, particularly this year.

Although voters passed Runnemedede's 2010-11 budget while many others were defeated last April, the district of 853 students in K-8 lost six staffers and streamlined its gifted-and-talented program after state aid was cut.

Ward also defended the decision to keep a maintenance technician/supervisor position created in 2008, noting it has saved at least \$145,000 each year.

Mark Speck of Voorhees earns \$50,000 in the post. Through June 2010, it was filled by Doug McGarry, a former building and grounds supervisor in the Somerdale district. He earned \$60,000 in Runnemedede but had more experience than Speck, Ward said.

Before Brazelton arrived in Runnemedede, the business administrator also served as maintenance supervisor. Ward said that actually cost the district more because it had to pay outside maintenance workers, sometimes for faulty work.

"Many things had been done to the facilities that were not to the board's satisfaction," she said. "That first year with our own maintenance person, we saved \$145,000 because we hired a person who fixed things."

Speck works with vendors, going over bids and quotes, and also does minor repairs that no longer have to be paid for piecemeal. Ward said the position is staying in the 2011-2012 budget, adopted preliminarily on Wednesday.

"He's the guy who's here at 4 a.m. making sure we've got snow plows when we need them," Ward said. "He's dirty and sweaty -- and he's excellent."

Ward said the budget sent to the county includes a \$78 annual tax increase for the owner of a home assessed at the \$97,800 borough average, but does not cut staff or programs.

Kurth hopes to tweak the budget and lower the tax hike before it is introduced to the public on March 23. But she agreed the maintenance supervisor will stay.

"That was an investment on the part of the school district," Kurth said.

Reach Barbara S. Rothschild at (856) 486-2416 or barothschild@camden.gannett.com

--Comments

User Image

amonkeycoulddoit wrote:

The mayor can't hear you because she doesn't even know how to turn on a computer. Not that it was a requirement that the mayor should know how to use one, I think the only requirement is that they have a pulse. And she does, but barely.

3/7/2011 1:24:06 PM

Recommend New Post Reply to this Post Report Abuse

User Image

amonkeycoulddoit wrote:

To sickofpolsnj it does seem that snoopysam has some inside information. And when you say hows that mayors race looking I hope that you don't mean that someone from the disfunctional school board is going to run for mayor or council or some other elected position considering the mess that they made on the school board.

3/7/2011 1:18:32 PM

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amonkeycoulddoit wrote:

If the school board president had listened to staff when the hostile work environment issue started then she might not be in this pickle. She should have spent the money on the legal fees because if everything is true about the hostile environment then they would have won the lawsuit hands down and not had to pay out anything and gotten their legal fees back. Another example of elected officials not capable of doing the job they are in. Lets hope that some people come out of the woodwork to run for school board, people who care about the kids and the taxpayers.

3/7/2011 1:13:09 PM

Recommend New Post Reply to this Post Report Abuse

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amonkeycoulddoit wrote:

The school board is not as inept as the mayor and council. You don't have to be a college graduate or even be able to read or write to get an elected position in Runnemede. The 2 new council members got elected because they are involved in the union and everyone who supports the union came out to vote. And the new mayor must have a lot of friends. But now after the few months they have been in office it is clear to see that they are not able to handle the job. Mayor14 is right that the people of Runnemede voted because they thought they would get something in return for their vote, but it looks like they were wrong. In the upcoming elections for school board and council, vote for the person who will do the best job whether you like them or not. Don't just vote for someone because you are told to.

3/7/2011 1:02:14 PM

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themayor14 wrote:

i am so glad this article was written and it clearly points out how inept the runnemede board of education actually is. the board of education is not elected based on business and education talent . the elections are nothing more than a popularity contest. i don't know how other towns operate but runnemede boro is a total joke when it come to elections be it school board or general elections! i wish everyone would get their heads out of their A\$\$ and truly investigate the school board candidates that are running for election. VOTE WITH YOUR HEAD NOT WITH YOUR HEART!

3/6/2011 9:13:50 PM

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User Image

savetheschools wrote:

Several people are running for the board for four open seats. I signed a petition today for a new woman running. Members are not paid. If you live in Runnemede shopsteward you have until Tuesday to get a petition submitted. I asked and found out there is only 5 people on average at the BOE meetings every month in Runnemede. I hope more people start to go. I plan on it myself. And we all need to go every month not just when we read negative press about our schools. That is the only way we would all stay informed and not rely on the young man submitting OPRA requests. Our town has always been about the kids and it needs to get back that way.

3/6/2011 8:09:36 PM

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Shopsteward wrote:

Why did it take one "young man" sending in OPRA requests to bring all this to light??? Why are you relying upon him to get to the bottom of it?? You say "The other members (except for the one who was just arrested and resigned) are good people and did nothing wrong to the district" and that might be true except for the fact that they allowed that incredible salary and benefits to be given out and even though all kinds of rumors were flying around it took an outsider with OPRA requests to bring this ghastly pimple to a head. Sounds more like none of them are doing their jobs and should be out of office and off the payroll. They should all just resign They arent doing the job that was assigned to them

3/6/2011 3:25:59 PM

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was the local high school teacher mentioned in another post. Runnemede schools are fantastic and maybe the new people running for election will get some answers and make some changes. And maybe the BOE member who was mentioned by employees as being the reason why there could be a possible lawsuit should just resign. I understand admin make good money but they also need to be accountable for their actions and if the BA made a hostile environment and was supported by one BOE member both should be gone...not just the BA.

3/5/2011 3:32:07 PM

Recommend New Post Reply to this Post Report Abuse

User Image

cookmom wrote:

Where is Gov. Christie's veto power?

3/5/2011 3:03:21 PM

Recommend New Post Reply to this Post Report Abuse

User Image

cookmom wrote:

This all happened with a local police officer and a FOP member and local high school teacher and member of the NJEA on the board? The Runnemede Board is looking alot like the DRPA and was this group picked by the new Mayor?

3/5/2011 3:00:42 PM

Recommend New Post Reply to this Post Report Abuse

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sickofpolsnj wrote:

The real truth is the Board of Education member and Brazelton and the unethical situation that THEY created. The questionable contracts and underhanded deals. There is a certain Board Member that hopes that this ends here, well, it doesn't. There is not a Teacher or employee in Runnemede Schools that would defend Brazelton, same goes for Somerdale. And many are willing to bring out MANY of the things that Brazelton did to destroy the district! The ENTIRE Runnemede School Community is thrilled that Brazelton is gone!!!!!! Snoopysam is clearly one of two people, Kelly or the Board Member, should we name names? How's that Mayor's race looking?

3/5/2011 11:42:54 AM

Recommend New Post Reply to this Post Report Abuse

User Image

Shopsteward wrote:

\$99,465 plus benefits????????? How much does she pay for her share of those benefits or are they free to her. Her replacement only works 24 hours a week, are we being told that she got that much money for a part time job????????? What is the matter with the idiots that hired her to begin with..No one should get that kind of money for a part time. That is an awful lot of money for that kind of job We should not be surprised at all. This kind of thing is everywhere in Camden County....Its the NORMAL way of doing business.....

3/5/2011 11:39:22 AM

Recommend New Post Reply to this Post Report Abuse

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lookfar111 wrote:

Yep, same old story, hire someone for \$98,000 when 10 equally qualified people would do it for 60k with a 20 year top out at 75 k. Then a sweetheart adios gift. And the cherry

on top? Another tax increase for the people. God I hate what the democrat machine have done to this once great state.

3/5/2011 11:16:49 AM

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Snoopysam wrote:

sickofpolsnj, you must be on ot those employees that Brazelton held accountable for HER actions. You are right there is so much more to this story and when the real truths come out there will be some employeeyes/administrators/board members hanging their heads in shame. Talk about wasting taxpayer dollars, take a look at some of the lazy, incompetent employees that Brazelton had to deal with.and their HUGE mistakes that had to be corrected which cost the taxpayers thousands upon thousands of dollars!

3/5/2011 9:42:50 AM

Recommend New Post Reply to this Post Report Abuse

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sickofpolsnj wrote:

You are exactly correct! A teacher would never get a sweetheart deal like this! I wonder which Board Member it was that was mentioned in that letter. Did you read the blog that this all came out on, it has way more details than this article.

<http://dansviewrunnemedede.wordpress.com/>

3/5/2011 9:29:34 AM

Recommend New Post Reply to this Post Report Abuse

User Image

sickofpolsnj wrote:

Only thing is Runnemedede never had these issues. Somerdale had the same EXACT issues with Brazelton. Administrators aren't allowed to comment, however, talk to the teachers and employees off record, they will tell you all about Kelly!

3/5/2011 9:27:26 AM

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sickofpolsnj wrote:

There is so much more to this story. I hope the CP will run a follow up. 1. Look into the reationship and hiring surrounding Doug, the maintenance supervisor. 2. Check into Brazelton's past employment, Somerdale Schools. 3. Brazelton is rumored to be hired at the completion of the settlement in Deptford! 4. Look into unethical practices between a Board Member and Brazelton. 5. And, what about the other Board member that was recently charged with a serious crime?

3/5/2011 9:23:15 AM

Recommend New Post Reply to this Post Report Abuse

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icallbullschit wrote:

Once again the government tries to pin their mistakes on an individual when they screw up royally. What the paper fails to report is the other side. Maybe years and years of mismanagement and patronage were uncovered and it became a hostile environment when people got called on their actions and the same old routine was stopped. Maybe the school board realized it would be cheaper to pay one than to pay many for their mistakes. Maybe the school board was willing to pay in order to keep their dirty little secrets covered up. Maybe the resident should look deeper into the actions of the school board and the rest of the administration. Maybe I am wrong, but it seems that the board

got called on some issues and now they are attacking one individual to cover their tracks. They seem to be acting like the GREAT WIZARD OF OZ. Pay no attention to the idiots behind the curtain, we are the all powerful and all knowing school board. Pull back the curtain people, because there are people behind there that are faking their way through and going to wind up costing the district millions. Just saying.

3/5/2011 8:56:42 AM

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cookmom wrote:

School board President Colleen Kurth said it was much easier to go with a separation agreement than pay more legal fees. She compared paying Brazelton to paying a teacher out sick while a substitute fills in. "The job just has to go on," Kurth said. I am confused !A teacher out SICK is NOT the same as a HOSTILE work enviornment! How can a medical condition be compared to a person being accused of a hostile work enviornment?. A teacher would be REQUIRED to use their sick days~ since this is being compared to an illness ~was Brazelton REQUIRED to give up her sick/vacation pay or was that part of the deal?Was she also paid for those days? Wouldn't we all love to be collecting a salary from two towns! As now she is being paid by Runnemde AND a current SCHOOL district where she is currently employed! THIS.... is the waste in our School districts!

3/5/2011 8:35:52 AM

Recommend New Post Reply to this Post Report Abuse

User Image

neocon wrote:

She is part of the "Protected Classes" ... All you need to know is that she is better than you, so just keep moving along! Nothing to see here...

3/5/2011 8:19:12 AM

Recommend New Post Reply to this Post Report Abuse

Law Offices of Walter M. Luers, LLC
105 Belvidere Avenue
P.O. Box 527
Oxford, New Jersey 07863-0527
908-453-2147
Counsel for Plaintiff

JOHN PAFF
Plaintiff,

vs.

RUNNEMEDE BOARD OF
EDUCATION, RECORD
CUSTODIAN OF THE RUNNEMEDE
BOARD OF EDUCATION and
KELLY BRAZELTON,
Defendants

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, CIVIL PART
CAMDEN COUNTY
DOCKET NO. L-2865-11

Civil Action

COMPLAINT

JUN 15 2011
CAMDEN COUNTY SUPERIOR COURT

Plaintiff John Paff, through his counsel Law Offices of Walter M. Luers, LLC and by way of complaint against the Defendants Runnemedede Board of Education and Records Custodian of the Runnemedede Board of Education alleges as follows:

Preliminary Statement

1. This is an action under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., the Senator Byron M. Baer Open Public Meetings Act, N.J.S.A. 10:4-6 et. seq. and the common law right of access seeking to require the Board to a) disclose to the public unredacted executive session meeting minutes and the precise reasons why it entered into a Settlement Agreement/Release with former Business Administrator Kelly Brazelton; b) provide the public, going forward, with greater detail as to the reasons for its nonpublic

(closed or executive) meetings; and c) to record, going forward, more comprehensible minutes of its nonpublic meetings.

Parties

2. Plaintiff John Paff (“Plaintiff”) is an individual who resides in Franklin Township, Somerset County, New Jersey and receives mail at P.O. Box 5424, Somerset, NJ 08875.

3. Defendant Runnemede Board of Education (“Defendant Board”) maintains its offices at 505 W. Third Avenue, Runnemede, New Jersey and is a public body as that term is defined by N.J.S.A. 10:4-8(a).

4. Defendant Record Custodian of the Runnemede Board of Education (“Defendant Custodian”) maintains her offices at 505 W. Third Avenue, Runnemede, New Jersey and is a “Custodian of a government record” as that term is defined by N.J.S.A. 47:1A-1.1.

5. Defendant Kelly Brazelton (“Defendant Brazelton”) is a former Business Administrator of the Defendant Board and is named as a Defendant, in accordance with R.4:28-1(a), to provide her with an opportunity, if she chooses, to seek to protect any confidentiality interest she may allege to have in the records and information this lawsuit seeks to disclose.

Venue

6. Venue is properly laid in Camden County since the cause of action arose in Camden County. R.4:3-2(a).

Factual Allegations

7. On October 10, 2010, Defendant Board entered into a "Separation Agreement/Release" with Defendant Brazelton which provided, among other things, that Brazelton would be on a "paid leave of absence" until April 15, 2011. A copy of the "Separation Agreement/Release" is attached to this Complaint as Exhibit pages 20 through 25.

8. On March 5, 2011, Barbara S. Rothschild, a writer for the Courier Post, published an article entitled "Idled official's payout riles Runnemedede." A copy of the article, taken off the Internet, together with reader comments, is attached to this Verified Complaint as Exhibit pages 26 through 33.

9. The Courier Post article quotes Defendant Brazelton's attorney as stating that "[t]here was a disagreement between the board and [Brazelton]" that involved "a hostile work environment." The attorney was also quoted as saying that the disagreement "was resolved" by the Settlement Agreement/Release and that "both sides decided to move on."

10. The Courier Post article also quoted Runnemedede Superintendant Nancy Ward as stating that the Settlement Agreement/Release was signed "[i]n order to avoid litigation." Later in the article, in response to local citizen Dan Conard's questions, Ward is quoted as saying that Separation Agreement/Release "was the most responsible think the district could have done. Was it a bitter pill to swallow? It took the board (a while) before they felt it was something they could do, but it makes the most sense."

11. The Courier Post article also quoted New Jersey School Boards Association Mike Yapple as saying that "[n]o school board willingly enters into an agreement like this one . . . [b]ut even though it's not a popular decision, it's the lesser of two evils."

12. The Courier Post article also said that Board officials "would not comment on specifics, citing confidentiality."

13. On April 7, 2011, Plaintiff submitted a records request to the Defendant Board. The request, which is attached to this Complaint as Exhibit Pages 1 and 2, notes that the Board's decision to enter into the Separation Agreement/Release with Brazelton was controversial and matter of legitimate public interest. Among other records, the request asked for were the minutes from Defendant Board's July 28, 2010 and August 26, 2010 nonpublic (i.e. closed or executive) meetings together with the resolutions that, in accordance with N.J.S.A. 10:4-13, authorized those closed meetings.

14. Plaintiff had specifically requested the minutes from the July 28, 2010 and August 26, 2010 nonpublic meetings because an August 26, 2010 weblog entry by local citizen Dan Conard stated that during that meeting, "the board went into executive session [and] no one knows what went on [except the board members]." Conard's weblog, which is attached to this Complaint as Exhibit Page 33, also reported that "at last month's meeting (i.e., the July 28, 2010 meeting) a few staffers went back into the [closed] meeting to bring up their complaints" and that "[t]he rumor was a conflict that some staffers had with their boss, Kelly Brazelton." Reporting on the August 26, 2010 meeting, Conard's weblog reported that the Board's attorney "was not able to discuss in detail about[Brazelton] and

what's going on with her job . . . but was able to say she is on paid leave [but was] not able to comment when or if [Brazelton] is coming back."

15. On April 21, 2011, Defendant's Board attorney responded to Plaintiff's April 7, 2011 request by providing Plaintiff with a) a one-page e-mail, b) a one-page document entitled "Documents Exempt from OPRA Request" followed by twenty-one (21) pages of responsive documents. The response is attached to this Complaint as Exhibit Pages 3 through 25.

16. Among the records disclosed in response to Plaintiff's request were: a) redacted minutes of the Board's July 28, 2010 nonpublic session which took place between 7:28 p.m. and 8:23 p.m. (Exhibit Page 5); b) unredacted minutes from the Board's July 28, 2010 nonpublic meeting that took place between 8:58 p.m. and 10:00 p.m. (Exhibit Page 6) and c) redacted minutes of the Board's August 26, 2010 nonpublic session which took place between 7 p.m. and 7:50 p.m. (Exhibit Page 7).

17. Even though the Board furnished Plaintiff with a "Documents Exempt from OPRA request," that document gave Plaintiff no real sense of what was discussed during the two meeting for which Plaintiff was given redacted minutes. Moreover, the substance of the unredacted minutes from the July 28, 2010, 8:58 p.m. meeting--that lasted over an hour--disclose only that "Mr. Phil Stern addressed the Board of Education about personnel issues."

18. On May 7, 2011, after reviewing the records that were sent to Plaintiff in response to Plaintiff's request, Plaintiff wrote to the Board, both as an individual, and also as the Chairman of the New Jersey Libertarian Party's Open Government Advocacy

Project, to complain about a) the lack of detail of its nonpublic meeting resolutions and b) the lack of comprehensibility of its nonpublic meeting minutes. Plaintiff specifically informed the Board that it was Plaintiff's intent to "sue for declaratory and injunctive relief in accordance with N.J.S.A. 10:4-16 unless Plaintiff receive assurances from the Board--**within a few days after its May 10, 2011 meeting**--that it will work in good faith to improve the amount of information in both its closed session resolutions and minutes." (Emphasis in original.) Plaintiff's May 7, 2011 letter to the Board, with attachments, is attached to this Complaint as Exhibit Pages 35 through 48.

19. On May 9, 2011, Plaintiff received an e-mail from the Superintendent Ward advising Plaintiff that Plaintiff's letter could not be discussed at the May 10, 2011 meeting but would be addressed at the following meeting, which would probably be held on May 25, 2011. Ms. Ward's May 9, 2011 e-mail is attached as Exhibit Pages 51 through 52.

20. In addition to writing to the Board, on May 7, 2011 Plaintiff also submitted another records request that asked for new copies of certain nonpublic meeting minutes "redacted as narrowly as possible, if at all." In the same request, Plaintiff asked that the "specific legal basis" for each redaction be explained in a manner consistent with law. My May 7, 2011 records request is attached to this Complaint as Exhibit Pages 49 through 50.

21. On May 20, 2011, Board Attorney Stern responded to Plaintiff's May 7, 2011 request by providing Plaintiff with a) a one-page e-mail, b) a one-page document entitled "Documents Exempt from OPRA Request of John Paff" followed by twenty-three (23) pages of responsive documents. The response is attached to this Complaint as Exhibit Pages 53 through 77.

22. As of the date of this Complaint, the Board has not responded to Plaintiff's May 7, 2011 letter.

FIRST COUNT
(OPEN PUBLIC RECORDS VIOLATION)

23. Defendant Custodian violated N.J.S.A. 47:1A-5(g) by not providing Plaintiff with a sufficient "specific basis" for the redactions applied to the Board's nonpublic meeting minutes.

24. Defendant Custodian has not met its burden of proving that the redactions applied to the Board's nonpublic meeting minutes are lawful.

WHEREFORE, Plaintiff demands:

A. A declaration that the reasons Defendant Custodian provided for the redactions are insufficient.

B. An order compelling Defendant Custodian to provide a proper privilege log to be filed with the Court and served upon Plaintiff.

C. That the redacted nonpublic minutes furnished to Plaintiff be examined by the Court *in camera*.

D. That, after an *in camera* inspection, either unredacted or more narrowly redacted versions of the minutes, with the redactions fully and properly explained, be provided to me.

E. Costs of this action and a reasonable attorney fee.

F. Any other relief that the Court deems appropriate.

SECOND COUNT
(COMMON LAW RIGHT OF ACCESS)

25. Plaintiff (and the public's) interest in seeing unredacted versions of the minutes that Defendant Custodian provided Plaintiff with exceeds the Board's governmental and Brazleton's personal interests in those minutes remaining redacted.

WHEREFORE, Plaintiff demands:

G. That the redacted nonpublic minutes furnished to Plaintiff be examined by the Court *in camera*.

H. That, after an *in camera* inspection, either unredacted or more narrowly redacted versions of the minutes, with the redactions fully and properly explained, be provided to me.

I. Costs of this action and a reasonable attorney fee.

J. Any other relief that the Court deems appropriate.

THIRD COUNT
(OPEN PUBLIC MEETINGS ACT)

26. The form of resolution that Defendant Board is using to go into nonpublic session is too vague and does not comply with N.J.S.A. 10:4-13.

27. The minutes of the Board's nonpublic sessions are not "reasonably comprehensible" and therefore violate N.J.S.A. 10:4-14.

WHEREFORE, Plaintiff demands:

K. That the Board be compelled to prepare new minutes of the nonpublic meetings it held on March 31, 2010; April 22, 2010; July 28, 2010 (two sessions); August 26, 2010 and September 22, 2010 that will record what occurred at those meetings in a reasonably comprehensible matter or, in the alternative, that the Board be required to disclose other contemporaneous records that will reveal the exact nature of the personnel matters discussed during those nonpublic session, particularly the exact nature of the reasons why the Board entered into the Settlement Agreement/Release with Brazelton.

L. That the Board submit these newly prepared minutes to the Court for an *in camera* review where they will be redacted, only as necessary, and disclosed to me.

M. That Defendant Board be enjoined, going forward, from excluding the public from its meetings unless it first adopts a resolution, in accordance with N.J.S.A. 10:4-13, that contains a level of detail to be prescribed by the Court.

N. That Defendant Board be enjoined, going forward, from recording minutes of its nonpublic sessions that do not contain a level of detail to fixed by the Court.

O. The costs of this action.

P. Any other and further relief that the Court deems just.

DESIGNATION OF TRIAL COUNSEL

Plaintiff hereby designates Walter M. Luers as trial counsel.

CERTIFICATION PURSUANT TO R. 1:38-7(B)

I certify that confidential personal identifiers have been redacted from documents now submitted to the Court, and will be redacted from all documents submitted in the future.

CERTIFICATION PURSUANT TO R. 4:69-4

I certify that no transcript of proceedings below exists, as this is a direct appeal from the agency's denial of access to records.

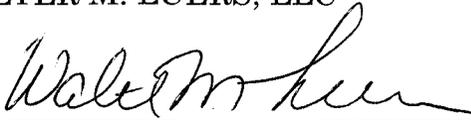
CERTIFICATION OF NO OTHER ACTIONS

Pursuant to R. 4:5-1, it is hereby stated that the matter in controversy is not the subject of any other action pending in any other court or of a pending arbitration proceeding to the best of my knowledge and belief. To the best of my belief, no other action or arbitration proceeding is pending or contemplated. Further, other than the parties set forth in this pleading, I know of no other parties that should be joined in the above action. In addition, I recognize the continuing obligation of each party to file and serve on all parties and the Court an amended certification if there is a change in the facts stated in this original certification.

Respectfully submitted,

Dated: June 3, 2011

THE LAW OFFICES OF
WALTER M. LUERS, LLC

By: 

Walter M. Luers, Member
105 Belvidere Avenue
P.O. Box 527
Oxford, New Jersey 07863
Telephone: 908.453.2147
Facsimile: 908.453.2164

Law Offices of Walter M. Luers, LLC
Suite C203
23 West Main Street
Clinton, New Jersey 08809
Phone: 908-894-5656
Counsel for Plaintiff

JOHN PAFF,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION, CIVIL PART
Plaintiff,	:	CAMDEN COUNTY
	:	
	:	DOCKET NO: L-2865-11
v.	:	
	:	<i>Civil Action</i>
RUNNEMEDE BOARD OF	:	
EDUCATION, <i>et al.</i>	:	
	:	
Defendants.	:	RULE 4:46-2(a) STATEMENT OF
	:	UNDISPUTED MATERIAL FACTS
	:	

1. In response to Plaintiff’s records requests dated April 7, 2011 and May 7, 2011, the Runnemedede Board of Education (“Board”) provided Plaintiff with redacted minutes of the Board’s nonpublic (*i.e.*, meeting from which the public was excluded) meetings held on 03/24/10, 04/28/10, 05/26/10 (two sessions), 06/23/10, 07/28/10, 08/26/10, 09/22/10, 12/15/10, 02/02/11, 02/23/11 (two sessions) and 03/02/11. November 14, 2011 Certification of John Exhibit 2 (hereinafter, “Paff Cert.”).

2. The only explanations the Board gave for the redactions to the minutes referred to in ¶ 1 above are contained in a record entitled “Documents Exempt from OPRA Request of John Paff.” Paff Cert., ¶ 1, Exhibit 1.

3. On October 20, 2010, the Board entered into a “Separation Agreement/Release” with Defendant Kelly Brazelton, who served as the Board’s Business Administrator. Paff Cert., ¶ 5, Exhibit 3.

4. The Agreement called for the Board to give Brazelton a paid leave of absence until April 15, 2011 together with other benefits, including a letter of reference, in exchange for Brazelton providing an irrevocable letter of resignation effective April 15, 2011 and a general release of all claims that she had against the Board and the superintendent of schools. Paff Cert., ¶ 6, Exhibit 3.

5. On March 5, 2011, the *Courier Post* published an article entitled “Idled official’s payout riles Runnemedede,” which quoted Defendant Brazelton’s attorney as stating that “[t]here was a disagreement between the board and [Brazelton]” that involved “a hostile work environment.” The attorney was also quoted as saying that the disagreement “was resolved” by the Separation Agreement/Release and that “both sides decided to move on.” The *Courier Post* article also quoted Runnemedede Superintendant Nancy Ward as stating that the Separation Agreement/Release was signed “[i]n order to avoid litigation.” Later in the article, in response to local citizen Dan Conard’s questions, Ward is quoted as saying that the Separation Agreement/Release “was the most responsible thing the district could have done. Was it a bitter pill to swallow? It took the board (a while) before they felt it was something they could do, but it makes the most sense.” The *Courier Post* article also quoted New Jersey School Boards Association’s Mike Yaple as saying that “[n]o school board willingly enters into an agreement like this one . . . [b]ut even though it’s not a popular decision, it’s the lesser of two evils.” The *Courier Post* article also said that Board officials “would not comment on specifics, citing confidentiality.” Paff Cert., ¶¶ 7 – 10 & Exhibit 4.

6. One of the objects of this lawsuit is to determine the facts, circumstances and reasoning behind the Board’s decision and to inform the public, especially Runnemedede taxpayers, of these findings so that they a) can judge whether the Board’s decision to enter into the separation agreement with Brazelton was reasonable and prudent and b) can know of the

nature of any claims that Brazelton released since the basis of those claims may expose errors, wrongdoing or negligence on the part of officials who are still in the Board's employ. Paff Cert.,

¶ 11.

Respectfully submitted,

Dated: November 15, 2011

Walter M. Luers, Esq.
Attorney for Plaintiff

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PROCEDURAL HISTORY

On June 6, 2011, Plaintiff initiated this matter by filing a Complaint in lieu of prerogative writs. On or about June 28, 2011, the Defendants, all represented by the same attorney, filed an “Answer and Jury Demand.” Plaintiff now moves for summary judgment on the First Count of his Complaint. (November 14, 2011 Certification of John Paff ¶ 12, Exhibit 5) (hereinafter, “Paff Cert.”).

STATEMENT OF FACTS

Plaintiff brought this action to learn and to inform the public what motivated Defendant Runnemede Board of the Education (“Board” or “Defendant”) to enter into a document entitled “Separation Agreement/Release” (hereinafter, “Agreement”) with Defendant Kelly Brazelton, who served as the Board’s Business Administrator until she resigned. *Rule 4:46-2(a) Statement of Undisputed Material Facts*, ¶ 3 (hereinafter, “Material Facts”). The Board’s decision to enter into this Agreement conferred significant benefits upon Brazelton, including payment of her full salary to her for approximately six months while she did not work for the Board, essentially giving her a six-month paid vacation. *Material Facts*, ¶ 4. Yet, the Board provided the public with no explanation as to why it entered into the Agreement except to assure the public through statement to the press that since the settlement would avoid litigation, it was the “most responsible thing the district could have done.” *Material Facts*, ¶ 5.

In an attempt to learn the reasons behind the Board’s decision to enter into its agreement with Brazelton, Plaintiff submitted two requests for public records under the Open Public Records Act (“OPRA”), *N.J.S.A. 47:1A-1, et seq.* In response, he received several redacted sets of the Board’s nonpublic (*i.e.*, closed or executive meetings that excluded the

public) meeting minutes from an approximate one-year period covering the time that the agreement was apparently negotiated and signed. *Material Facts*, ¶ 1. The redacted minutes contain multiple redactions that are not explained or justified except for a record entitled “Documents Exempt from OPRA Request of John Paff” that the Board furnished to Plaintiff. *Material Facts*, ¶ 2.

LEGAL ARGUMENT

First, we discuss the standards for summary judgment. Second, we discuss why Defendants violated OPRA when they did not identify the reasons for redacting their executive session meeting minutes and should provide a privilege log to both the Court and Plaintiff. Third, we request that the Court conduct an in camera review of the minutes to determine whether Defendants’ redactions were appropriate.

I. SUMMARY JUDGMENT STANDARD

Summary judgment is appropriate where the pleadings and evidence “show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment or order as a matter of law.” *R.* 4:46–2(c). A determination whether there exists a “genuine issue” of material fact that precludes summary judgment requires the motion judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party. *Brill v. Guardian Life Ins. Co.*, 142 N.J. 520, 540 (1995).

On a motion for summary judgment, the Court must “accept as true all the evidence which supports the position of the party defending against the motion” and must view the facts in the light most favorable to Plaintiff. *Brill*, 142 N.J. at 535; *J.H. v. Mercer County Youth Detention Center*, 396 N.J. Super. 1, 6 (App. Div. 2007); *R. 4:46-2(b)*. “[Summary judgment] is designed to provide a prompt, businesslike and inexpensive method of disposing of any cause which a discriminating search of the merits in the pleadings, depositions and admissions on file, together with the affidavits submitted on the motion clearly shows not to present any genuine issue of material fact requiring disposition at trial.” *Ledley v. William Penn Life Ins. Co.*, 138 N.J. 627, 641-42 (1995) (internal quotation marks and citation omitted).

To successfully oppose a motion for summary judgment, the non-moving party must raise factual issues that are not “immaterial or of an insubstantial nature, a mere scintilla, ‘fanciful, frivolous, gauzy or merely suspicious[.]’” *Judson v. Peoples Bank & Trust Co. of Westfield*, 17 N.J. 67, 75 (1954) (citations omitted). In this case, the nonpublic meeting minutes at issue and the reactions applied to them are documentary and cannot be reasonably disputed. The propriety of the redactions is a question of law that the Court may resolve.

II. ILLEGAL EXECUTIVE SESSION MINUTE REDACTIONS

When a records custodian receives an OPRA request for a document that contains some exempt material, *N.J.S.A. 47:1A-5(g)* requires records custodians to “delete or excise from a copy of the record that portion which the custodian asserts is exempt from access and shall promptly permit access to the remainder of the record.” The same statute requires custodians, when denying access to a record in whole or part, to inform the requestor of “the specific basis” for the denial of access. *Id.*

Beyond stating the “specific basis” for each suppression, the custodian is required to “produce specific reliable evidence sufficient to meet a statutorily recognized basis for confidentiality.” *Courier News v. Hunterdon County Prosecutor’s Office*, 358 N.J. Super. 373, 382-83 (App. Div. 2003). Further, he or she must explain each suppression in a manner that “**without revealing information itself privileged or protected**, will enable other parties to assess the applicability of the privilege or protection.” *Paff v. New Jersey Department of Labor, Board of Review*, 379 N.J. Super. 346, 354-55 (2005) (quoting R. 4:10-2(e)) (emphasis in original).

Despite these requirements, Defendants have done nothing more than provide Plaintiff with confusing and conclusory reasons for its redactions. For example, Defendants explain the redaction of three lines of text under the heading “Personnel” from the Board’s April 28, 2011 meeting minutes (Exhibit 2 at pages 2-3) as “pursuant to *N.J.S.A. 47:1A-1.1(1)*” (Exhibit 1). Yet, *N.J.S.A. 47:1A-1.1* contains no internal, numbered subsections (*i.e.*, citations such as *N.J.S.A. 47:1A-1.1(1)* and *N.J.S.A. 47:1A-1.1(7)* are not valid citations). Accordingly, it is impossible for Plaintiff to know which provision of *N.J.S.A. 47:1A-1.1* Defendants rely upon.

Even if the Plaintiff understood Defendants’ citation to *N.J.S.A. 47:1A-1.1(1)* to relate, for example, to the provision within *N.J.S.A. 47:1A-1.1* that exempts “any record within the attorney-client privilege,” Defendants have still not satisfied their responsibility to provide Plaintiff with the “specific basis” for the redaction because they have not provided any “evidence” that could enable Plaintiff “to assess the applicability of the privilege or protection.” *Paff*, 379 N.J. Super. at 355.

Since Defendants have failed to provide Plaintiff with the “specific basis” for any of the redactions made to the nonpublic meeting minutes, Plaintiff’s request in ¶ A of his complaint for “[a] declaration that the reasons Defendant Custodian provided for the redactions are insufficient” (Paff Cert., ¶ 12, Exhibit 5) should be granted.

To assist the Court and Plaintiff in evaluating Defendants’ claims of privilege, Defendants should be ordered to provide a privilege log. *Paff v. New Jersey Dept. of Labor*, 392 N.J. Super. 334, 341 (App. Div. 2007) described a privilege log as an index that “must provide sufficient information ‘respecting the basis of the privilege-confidentiality-exception claim vis a vis each document.’” The court held that “[a]n accurate index is necessary for substantive review by the requesting party as well as the reviewing court.” *Id.*, quoting *Hartz Mountain Indus., Inc. v. N.J. Sports & Exposition Auth.*, 369 N.J. Super. 175, 185 (App. Div.), *certif. denied*, 182 N.J. 147 (2004).

Accordingly, Plaintiff’s request in ¶ B of his complaint for “[a]n order compelling Defendant Custodian to provide a proper privilege log to be filed with the Court and served upon Plaintiff” should be granted. (Paff Cert. Exh. 5).

III. IN CAMERA REVIEW

Defendants may claim that its nonpublic meeting minutes need to be redacted in order to prevent disclosure of confidential or privileged material. In such a case, “the court is obliged when a claim of confidentiality or privilege is made by the public custodian of the record, to inspect the challenged document *in camera* to determine the viability of the claim.” *MAG Entertainment, LLC v. Division of Alcoholic Beverage Control*, 375 N.J. Super. 534, 551 (App. Div. 2005).

Accordingly, Plaintiff's request in ¶ C of his Complaint for an *in camera* view should be granted. If, as a result of its *in camera* review, the Court finds that the Board improperly redacted matter that ought to have been disclosed, it should grant Plaintiff's request in ¶ D of his Complaint and order disclosure of "either unredacted or more narrowly redacted versions of the minutes, with the redactions fully and properly explained." (Paff Cert. Exh. 5).

IV. CLOSED DISCUSSION DISCLOSING THE REASON OR MOTIVATIONS FOR SETTling WITH BRAZELTON SHOULD NOT BE REDACTED.

Due to the insufficient descriptions Defendants gave for redacting their nonpublic minutes (*see* Point I, *supra*), Plaintiff does not know which, if any, of the redactions have hidden the reasons or motivations for the Board's decision to enter into a settlement agreement with Brazelton. When this Court conducts its *in camera* review of the minutes, it should order full disclosure of material within the minutes that will help the public understand why the Board entered into this settlement agreement.

The fact that a personnel matter involving Brazelton may have been validly discussed in nonpublic session does not mean that the discussion itself should be redacted from the minutes. Indeed, if the redacted discussion dealt with issues that led to the Board's decision to enter into the settlement agreement with Brazelton, the public has a right to the minutes of that discussion.

South Jersey Pub. Co., Inc. v. New Jersey Expressway Authority, 124 N.J. 478, 493-94 (1991) states:

The purpose of the personnel exemption is to facilitate the process by which the public body makes personnel-type decisions, permitting the debate and deliberation to be conducted without public scrutiny or participation. But the exemption is designed to enable the public body to determine the appropriate

action to be taken, not to withhold from the public either the public body's determination or the reasons on which its determination was based. In our view, it would be anomalous to interpret the Open Public Meetings Act, enacted by the Legislature to enhance the public's access to and understanding of the proceedings of governmental bodies, in a manner that foreclosed the public's right to obtain material and information vital to its ability to evaluate the wisdom of governmental action.

Here, the Board decided to give a substantial payout to Brazelton allegedly in order to avoid litigation. There is no way that the public can evaluate the wisdom of the Board entering into the settlement agreement unless it understands the nature of and facts supporting Brazelton's alleged litigation. Further, if the facts which allegedly provided the basis for Brazelton lawsuit against the Board would, if disclosed, reveal errors, negligence or possibly wrongdoing by the Board or any school official, the members of the public have a clear interest in disclosure of those facts so that they can petition their elected officials for redress of or relief from of any such errors, negligence or possibly wrongdoing.

V. ATTORNEY FEES AND COSTS

If the Court's *in camera* review causes it to order disclosure of any material that the Board had redacted, it should also rule that Plaintiff is the prevailing party who is entitled to a reasonable attorney's fee. *N.J.S.A. 47:1A-6, Mason v. City of Hoboken*, 196 N.J. 51, 76 (2008). Further, *R. 4:42-8(a)* provides that "costs shall be allowed as of course to the prevailing party." Therefore, if any previously redacted material is disclosed as a result of this lawsuit, Plaintiff should be awarded reasonable attorneys fees and costs of suit.

Respectfully submitted,

Dated: November 15, 2011

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JOHN PAFF
Plaintiff

:
:
: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION, CIVIL PART
:
: CAMDEN COUNTY
:
: DOCKET NO: L-2865-11

v.

:
:
: *Civil Action*

RUNNEMEDE BOARD OF
EDUCATION, et al
Defendant

:
:
: **ORDER**
:
:

This matter was opened to the Court by the Law Office of Walter M. Luers, LLC (Walter M. Luers, Esq. appearing), attorney for Plaintiff John Paff, by way of Motion for Partial Summary Judgment and the Court having read and considered the opposition filed by Lennox, Socey, Formidoni, Brown, Giordano, Cooley & Casey (Michael J. Heron, Esq. appearing) as well as Plaintiff's reply and after hearing oral argument, it is on the _____ day of _____, 2011:

DECLARED that the reasons Defendant Custodian gave Plaintiff for the redactions to the Board's nonpublic meeting minutes are legally insufficient.

ORDERED that Defendant Board, by no later than _____, 2011, shall file with the Court and serve upon Plaintiff's counsel a privilege log explaining and justifying each redaction that Defendant applied to the nonpublic meeting minutes it disclosed in response to Plaintiff's records requests and this privilege log shall conform to the requirements established by Courier News v. Hunterdon

County Prosecutor's Office, 358 N.J. Super. 373, 382-83 (App. Div. 2003) and Paff v. New Jersey Department of Labor, Board of Review, 379 N.J. Super. 346, 354-55 (2005).

ORDERED that Defendant Board, by no later than _____, 2011, shall file with the Court, under seal for an *in camera* review, unredacted versions of the minutes of its nonpublic meetings held on 03/24/10, 04/28/10, 05/26/10 (two sessions), 06/23/10, 07/28/10, 08/26/10, 09/22/10, 12/15/10, 02/02/11, 02/23/11 (two sessions) and 03/02/11.

ORDERED that the Court's ruling on Plaintiff's status as "prevailing party" and his entitlement to a reasonable attorney's fee and his costs shall abide by the outcome of the Court's *in camera* review of the Defendant Board's nonpublic meeting minutes.

ORDERED that Plaintiff's counsel shall serve a copy of this Order upon Defendants within 7 days of its entry and return.

Francis J. Orlando, Jr., A.J.S.C.

This motion was (check one) Opposed Unopposed

Written / Oral (circle one) findings of fact and conclusions of law were rendered on _____, 2011, or

A statement of reasons why no findings of fact and conclusions of law were made is appended to this order.