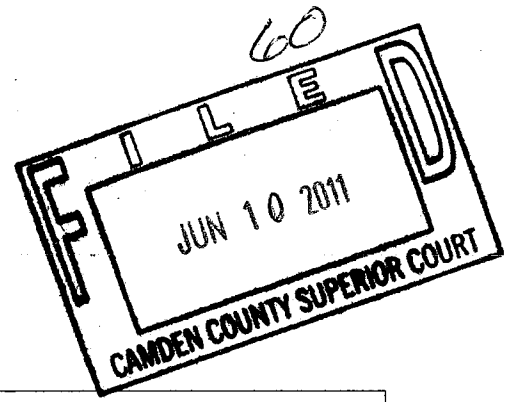


LAW OFFICES OF WALTER M. LUERS, LLC  
105 Belvidere Avenue  
P.O. Box 527  
Oxford, New Jersey 07863  
Telephone: 908.453.2147  
Counsel for Plaintiffs



JOHN P. SCHMIDT and MICHAEL WALTERS,  Plaintiffs,  v.  CITY OF GLOUCESTER CITY, et al.,  Defendants.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION, CAMDEN COUNTY  DOCKET NO.: CAM-L-001287-11  Civil Action  <b>ORDER FOR FINAL JUDGMENT ON DEFENDANTS' COUNTERCLAIMS</b>
--	--

**THIS MATTER** having been opened by motion to the Court by Walter M. Luers, Esq., of Law Offices of Walter M. Luers, LLC, counsel for Plaintiffs, for dismissal of the counterclaims of Defendants City of Gloucester City and Kathy Jentsch pursuant to R. 4:6-2(e) and for payment of reasonable attorneys' fees and taxed costs related to Plaintiffs' motion to dismiss, and the Court having considered the papers submitted by the parties, ~~and having heard oral argument on~~ \_\_\_\_\_, 2011, and for the reasons set forth on the record;

IT IS on this 10 day of June, 2011

**ORDERED** that Defendants City of Gloucester City and Kathy Jentsch's counterclaims are dismissed with prejudice; and it is further

Handwritten initials or a signature in the right margin of the page.

**ORDERED** that Plaintiffs are the prevailing parties on this motion and that Plaintiffs shall submit their motion for attorneys' fees and costs within 20 days after the filing and service of this Order for Final Judgment upon them; and it is further

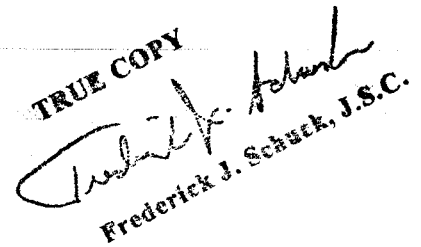
**ORDERED** that Plaintiff shall serve a copy of this Order upon the Defendants within seven days of the date hereof.

  
HON. FREDERICK J. SCHUCK, J.S.C.

Opposed

Unopposed

"Reasons Set Forth on Record"  
6-10-11

TRUE COPY  
  
Frederick J. Schuck, J.S.C.

KEARNEY AND ASSOCIATES, P.C.  
By: *John B. Kearney, Esquire*  
210 White Horse Pike, PO Box 279  
Haddon Heights, New Jersey 08035  
Phone: (856) 547-7733  
Fax: (856) 546-5154

Attorneys for defendant, City of Gloucester City

JOHN P. SCHMIDT and : SUPERIOR COURT OF NEW JERSEY  
MICHAEL WALTERS : LAW DIVISION-CAMDEN COUNTY

Plaintiff(s), :

v. :

CITY OF GLOUCESTER CITY, KATHY JENTSCH in her official capacity as : DOCKET NO.: CAM L-001287-11  
City of Gloucester City Clerk and : (Civil Action)  
Records Custodian, GLOUCESTER :

CITY BOARD OF EDUCATION, :  
MARGARET McDONNELL in her :  
Official capacity as Gloucester City :  
Board of Education Business :  
Administrator and Records :  
Custodian; GLOUCESTER CITY :  
HOUSING AUTHORITY and SUE :  
McELHATTON in her official capacity :

As Gloucester City Housing Authority : DEFENDANTS, CITY OF GLOUCESTER  
Records Custodian, : CITY and KATHY JENTSCH'S ANSWER  
: AND COUNTERCLAIM TO PLAINTIFFS'  
Defendant(s) : COMPLAINT

Defendants, City of Gloucester City and Kathy Jentsch, by way of answer to  
plaintiffs' complaint states:

1. Denied to the answering defendants.
2. Denied.
3. This paragraph does not apply to these answering defendants.
4. This paragraph does not apply to these answering defendants.
5. Plaintiff is left to his proofs.
6. Plaintiff is left to his proofs.

7. Admitted.
8. Admitted.
9. Admitted.
10. Admitted.
11. This paragraph does not apply to these answering defendants.
12. This paragraph does not apply to these answering defendants.
13. This paragraph does not apply to these answering defendants.
14. This paragraph does not apply to these answering defendants.
15. This paragraph does not apply to these answering defendants.
16. This paragraph does not apply to these answering defendants.
17. This paragraph does not apply to these answering defendants.
18. Admitted.
19. Admitted.
20. Plaintiff is left to his proofs.
21. Plaintiff is left to his proofs.
22. Denied.
23. Denied as these defendants have no idea what plaintiffs believe.
24. Plaintiff is left to his proofs.
25. Admitted.
26. Admitted.
27. Admitted.
28. Plaintiffs are left to their proofs.
29. Denied.

30. Denied as to a secret meeting. Admitted as to no notice as no meeting took place.
31. Plaintiff is left to his proofs.
32. Plaintiff is left to his proofs.
33. Denied.
34. Denied.
35. Denied.
- 36-44. These paragraphs do not apply to these answering defendants.

#### COUNT I

45. Defendants incorporate paragraphs 1-44 of this answer.
46. Denied.
47. Denied.
48. Denied.

#### COUNT II

49. Defendants incorporate paragraphs 1-48 of this answer.
50. Admitted.
51. Denied.
52. Denied.
53. Denied.
54. Wherefore, Defendants, City of Gloucester City and Kathy Jentsch demands judgment dismissing plaintiffs' complaint.

**COUNT III**

55. Defendants incorporate paragraphs 1-54 of this answer.

56. Admitted.

57. Denied.

58. Denied.

59. Wherefore, Defendants, City of Gloucester City and Kathy Jentsch demands judgment dismissing plaintiffs' complaint.

**COUNT IV**

60-62. These paragraphs do not apply to these answering defendants.

**COUNT V**

63-65. These paragraphs do not apply to these answering defendants.

Wherefore, Defendants, City of Gloucester City and Kathy Jentsch demands judgment dismissing plaintiffs' complaint.

**COUNTERCLAIM**

By way of Counterclaim against Plaintiffs, Defendants, City of Gloucester City and Kathy Jentsch state:

**COUNT I**

1. Between January 1, 2011 and March 1, 2011, Plaintiffs' Walters and Schmidt have filed a total of 154 requests pursuant to the Open Public Records Act with Acting Clerk Jentsch, requiring her to spend close to 26 hours in responding.

2. By law Ms. Jentsch is obligated to provide a response to each and every request within seven days.

3. In December of 2010, when it became apparent that the plaintiffs were undertaking a campaign of harassment via OPRA, the City reached out to the Government Records Council (GCR), the body charged with oversight of OPRA, for advice and direction.

4. In response, the GCR responded that there may be some relief provided in the substantial disruption provision of N.J.S.A. 47:1A-5.g.

5. Further, GCR advised that as OPRA does not contain any provision addressing OPRA harassment the best option to pursue a harassment complaint would be in Court.

Wherefore, Defendant counterclaimants demand judgment declaring that the actions of the plaintiffs constitute a substantial disruption under OPRA and seek the Court's directive in controlling and regulating plaintiffs OPRA requests.

## COUNT II

6. Defendant counterclaimant repeats each and every paragraph of this counterclaim as if set fourth at length herein.

7. The acts of the plaintiffs as aforesaid have no legitimate purpose and are motivated by a desire to dispute the normal efficient functioning of the municipal government and to harass the elected and appointed officials of the City.

Wherefore, the defendant counterclaimants demand judgment declaring that the actions of the plaintiffs as aforesaid constitute harassment and limiting plaintiffs use of OPRA for legitimate purposes.

CERTIFICATION

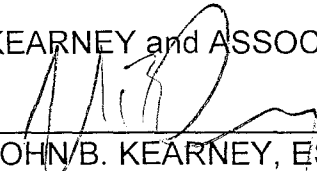
PURSUANT TO R.4:5-1

I hereby certify that the matter in controversy is not the subject of any other action pending in any Court or of any pending arbitration proceeding, and that no other action nor arbitration proceeding is contemplated, and that I know of no other party who should be joined in this action.

I hereby certify that a copy of the within pleading was served upon plaintiff's counsel within the time prescribed by Rule 4:6.

KEARNEY and ASSOCIATES, P.C.

BY:

  
\_\_\_\_\_  
JOHN B. KEARNEY, ESQUIRE  
Attorney for Defendants, City of Gloucester  
City and Kathy Jentsch

Dated:

4.12.11



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\* MEMBERS OF THE NJ AND PA BARS  
# MEMBER OF THE NJ, PA AND FL BARS

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June 3, 2011

Hon. Frederick J. Schuck, J.S.C.  
Camden County Hall of Justice  
Suite 440  
101 S. 5<sup>th</sup> Street  
Camden, NJ 08103

Re: **Schmidt, et al. v. City of Gloucester City, et al.**  
Docket No.: **CAM L-001287-11**

Dear Judge Schuck:

Kindly accept the foregoing in response to Plaintiffs' Motion to Dismiss the Counterclaim of Defendants, City of Gloucester City and Kathy Jentsch.

The City has this date filed a Stipulation of Dismissal of its Counterclaim against Plaintiffs. As such, Plaintiffs' Motion is moot and should be dismissed as same.

The City's Counterclaim was filed under the time constraints imposed by Plaintiffs' Order to Show Cause. On further consideration and research, it is apparent that the harassment count of the Counterclaim is not a cognizable cause of action in a civil court. But, the issue of "substantial disruption" has nowhere been addressed in the context presented here. While prior Government Records Council cases have dealt with the impact of one OPRA request, none have dealt with the impact of numerous requests made in a short period of time. The City's position is that the totality of plaintiffs' actions did cause a substantial disruption to the functions of the Clerk's Office entitling her to some relief from the Court. This may be an issue which comes up in the future, but for now the case is over.

Respectfully submitted,

KEARNEY AND ASSOCIATES, P.C.

BY:

  
John B. Kearney, Esquire

JBK:cas  
Enclosure

cc w.encl: Walter M. Luers, Esq. -via fax  
Salvatore Siciliano, Esq.  
Frank Cavallo, Jr., Esq.