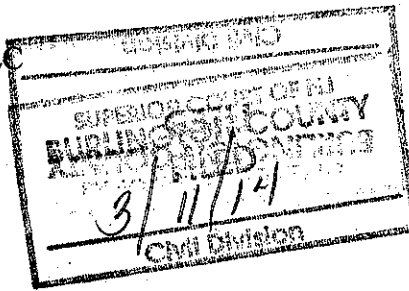


WALTER M. LUERS, ESQ. - 034041999  
LAW OFFICES OF WALTER M. LUERS, LLC  
Suite C202  
23 West Main Street  
Clinton, New Jersey 08809  
Telephone: 908.894.5656  
Attorney for Plaintiff



2014 MAR 11 PM  
RECEIVED  
BY: ODA  
DEPUTY CLERK  
SUPERIOR COURT  
BURLINGTON COUNTY

<p>JOHN PAFF,  Plaintiff,  v.  HAINESPORT TOWNSHIP and LEO F. SELB, JR., in his official capacity as Municipal Clerk and Records Custodian of Hainesport Township,  Defendants.</p>	<p><b>SUPERIOR COURT OF NEW JERSEY</b> <b>LAW DIVISION: BURLINGTON COUNTY</b> <b>DOCKET NO. <u>Bur-L-570-14</u></b> <b>CIVIL ACTION</b> <b>VERIFIED COMPLAINT IN LIEU OF</b> <b>PREROGATIVE WRITS</b></p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Plaintiff John Paff, through his undersigned counsel Law Offices of  
Walter M. Luers, LLC, complaining of the Defendants, alleges as follows:

1. This is an action alleging a violation of the common law right of access.
2. This action is being brought because the Defendants have denied access to the names of all enrollees who are receiving or have received health coverage from Hainesport from January 1, 2011 to Jan. 11, 2014, the type of coverage elected by each individual and the cost on an annual basis to the Township of each type of election.

**THE PARTIES**

3. Plaintiff John Paff is a resident of Franklin Township, New Jersey. His address is P.O. Box 5424 Somerset, NJ 08875.

4. Defendant Hainesport Township is a municipal body corporate and politic of the State of New Jersey and is a political subdivision of the State of New Jersey. Hainesport Township's principal place of business is One Hainesport Centre, Hainesport, New Jersey 08036 and receives mail at P.O. Box 477, Hainesport, New Jersey 08036.

5. Defendant Hainesport Township is a "public agency" as the term is defined by OPRA, *N.J.S.A. 47:1A-1.1*.

6. Defendant Leo F. Selb, Jr. is the Clerk of the Township of Hainesport and is a "Custodian of a government record" as that term is defined by *N.J.S.A. 47:1A-1.1*. Defendant Tuliano maintains an office and works at the principal place of business of the Township of Hainesport.

#### **JURISDICTION AND VENUE**

7. The Court has subject matter jurisdiction of this action pursuant to the common law.

8. Venue is proper in this court pursuant to *R. 4:3-2(a)(2)* because all of the relevant events occurred in Burlington County and the Defendants' principal place of business is located in Burlington County.

#### **FACTUAL ALLEGATIONS**

9. On Jan. 11, 2014, via email, Plaintiff submitted a written request pursuant to New Jersey's common law right of access only to Defendants requesting copies of documents showing: the names of all enrollees who are receiving or have received health coverage from Hainesport from January 1, 2011 to Jan. 11, 2014, the type of coverage elected by each individual and the cost on an annual basis to the Township of

each type of election. In his request, Plaintiff cited as the basis for his request the recent case of *Brewer v. Township of Middletown*, Docket No. MON-L-2848-13, in which the Court held that the names of employees and retirees who are enrolled in a public agency's self-insured health insurance plan are public records.

10. On January 27, 2014, Defendants denied access to the requested documents.

11. The records requested by Plaintiff are "public records" as that term is defined by the common law right of access. Plaintiff has a legitimate private interest and a wholesome public interest in accessing this document. Plaintiff has a strong public interest and legitimate private interest in obtaining the requested documents. Plaintiff submits hundreds of OPRA requests to public agencies at all levels of government. Sometimes he does so to ensure compliance with OPRA or the Open Public Meetings Act or financial disclosure laws. Other times he reads about matters in the press, especially those involving official misconduct or police misconduct, and he files OPRA requests for information. Often Mr. Paff will frequently follow-up such OPRA requests by filing internal affairs complaints, ethics grievances or complaints with the Division of Local Government Services or the Department of Education if warranted.

12. Defendants have no legitimate interest in maintaining the confidentiality of the requested reports. Defendant's interests do not outweigh the Plaintiff's interest in obtaining the documents. And the information requested by Plaintiff is a public record under *Michelson v. Wyatt*, 379 N.J. Super. 611 (App. Div. 2005).

**COUNT I: VIOLATION OF COMMON LAW RIGHT OF ACCESS**

13. Plaintiff repeats and incorporates by reference each and every allegation contained in paragraphs 1-12 of the Plaintiff's complaint as though fully set forth at length herein.

14. Plaintiff has a common law right of access to receive copies of the documents requested by her.

15. Plaintiff has a legitimate private interest and wholesome public interest in the requested records.

16. Defendants have no legitimate interest in maintaining the secrecy of the requested records. Therefore, the Defendants have violated Plaintiff's common law right of access.

**WHEREFORE**, Plaintiff respectfully requests that this Court enter judgment against the Defendants:

A. Ordering Defendants to immediately disclose to Plaintiff the documents requested by him;

B. Awarding Plaintiff costs and reasonable attorneys' fees; and

C. For such other or further relief as this Court deems just and equitable.

**CERTIFICATION PURSUANT TO R. 4:5-1**

I certify that the dispute about which I am suing is not the subject of any other action pending in any other court or a pending arbitration proceeding to the best of my knowledge and belief. Also, to the best of my knowledge and belief no other action of arbitration proceeding is contemplated. Further, other than the parties set forth in this

complaint, I know of no other parties that should be made a part of this lawsuit. In addition, I recognize my continuing obligation 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.

**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 REGARDING TRANSCRIPTS**

This is an appeal from a denial of access to records under the common law right of access and as such there is no transcript of proceedings below.

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to R. 4:25-4, Walter M. Luers, Esq. is designated as trial counsel on behalf of Plaintiff.

Respectfully Submitted,

LAW OFFICES OF WALTER M. LUERS, LLC

DATED: March 10, 2014

By: 

Walter M. Luers, Member  
Suite C202  
23 West Main Street  
Clinton, New Jersey 08809  
Telephone: 908.894.5656