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Attorneys for Defendant and
Counterclaim Plaintiff Jeff Carter

<p>IN THE MATTER OF THE NEW JERSEY STATE FIREMEN’S ASSOCIATION OBLIGATION TO PROVIDE RELIEF APPLICATIONS UNDER THE OPEN PUBLIC RECORDS ACT.</p> <hr/> <p>JEFF CARTER,</p> <p style="padding-left: 100px;">Third Party Plaintiff,</p> <p>v.</p> <p>JOHN DOE,</p> <p style="padding-left: 100px;">Third-Party Defendant.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION – UNION COUNTY</p> <p>DOCKET NO. UNN-L-2932-13</p> <p>CIVIL ACTION</p> <p>VERIFIED ANSWER AND COUNTERCLAIMS OF JEFF CARTER AND THIRD-PARTY COMPLAINT AGAINST JOHN DOE</p>
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Defendant Jeff Carter, by and through his counsel Law Offices of Walter M. Luers, by way of Answer to Plaintiff’s Verified Complaint, hereby responds as follows:

COUNT ONE

1. Admit.
2. Admit.
3. Admit.
4. Admit.
5. Admit.
6. Admit the first sentence of this allegation, and aver that Defendant lacks

information sufficient to admit or deny the second sentence of this allegation.

7. Aver that Defendant lacks information sufficient to admit or deny this allegation because he has not reviewed the relief application.

8. Aver that Defendant lacks information sufficient to admit or deny this allegation because he is not privy to Plaintiff's procedures.

9. Deny.

10. Deny.

11. Admit the first sentence of this allegation, but deny the second sentence.

WHEREFORE, Defendant denies Plaintiff's allegations and demands judgment in his favor dismissing Plaintiff's Verified Complaint with prejudice, awarding Defendant attorneys' fees and costs of suit, and awarding Defendant such other and further relief as the Court may deem just and equitable.

COUNT TWO

12. Defendant repeats and incorporates by reference each and every response to Count One of this Verified Answer as if set forth at length herein.

13. Admit.

14. Admit.

15. Deny.

WHEREFORE, Defendant denies Plaintiff's allegations and demands judgment in his favor dismissing Plaintiff's Verified Complaint with prejudice, awarding Defendant attorneys' fees and costs of suit, and awarding Defendant such other and further relief as the Court may deem just and equitable.

SEPARATE DEFENSES

FIRST SEPARATE DEFENSE

The Verified Complaint fails to state a claim upon which relief can be granted.

SECOND SEPARATE DEFENSE

The Verified Complaint does not raise a justiciable controversy.

THIRD SEPARATE DEFENSE

Defendant breached no duty owing by him to Plaintiff.

FOURTH SEPARATE DEFENSE

Some or all of the documents requested by Defendant are public records subject to disclosure under OPRA.

FIFTH SEPARATE DEFENSE

Some or all of the documents requested by Defendant are public records subject to disclosure under the common law right of access.

SIXTH SEPARATE DEFENSE

Plaintiff has not joined all necessary parties to this action.

WHEREFORE, Defendant denies Plaintiff's allegations and demands judgment in his favor dismissing Plaintiff's Verified Complaint with prejudice, awarding Defendant attorneys' fees and costs of suit, and awarding Defendant such other and further relief as the Court may deem just and equitable.

**COUNTERCLAIMS OF DEFENDANT/
COUNTERCLAIM PLAINTIFF JEFF CARTER**

1. These are counterclaims alleging violations of the Open Public Records Act, *N.J.S.A. 47:1A-1, et seq.* ("OPRA") and the common law right of access for copies of documents showing the amount of relief funds paid to the individual identified by the Plaintiff

only as John Doe. **These counterclaims are limited to disclosure of the checks paid to John Doe for hardship benefits.**

THE PARTIES

2. Defendant Jeff Carter resides in Somerset County and maintains an address for the receipt of mail at P.O. Box 7344, Somerset, New Jersey 08875-7344.

3. Plaintiff New Jersey State Firemen’s Association (“the Association”) is a statutorily created municipal body corporate and public of the State of New Jersey and is a political subdivision of the State of New Jersey. The Association’s principal place of business is 1700 Galloping Hill Road, Kenilworth, New Jersey 07033.

4. Defendant Association is a “public agency” as the term is defined by OPRA, *N.J.S.A. 47:1A-1.1*.

5. Non-party John Doe resides in Somerset County. The name and address of John Doe is known to Defendant, but he is not being identified in these papers because the Plaintiff has asserted that the identity of John Doe is confidential under OPRA and the common law right of access, and disclosure of his identity in these papers would moot that issue.

JURISDICTION AND VENUE

6. The Court has subject matter jurisdiction of Defendant’s counterclaims pursuant to *N.J.S.A. 47:1A-6* and the common law.

7. Venue is proper in this court pursuant to *R. 4:3-2(a)(2)* because some of the relevant events occurred in this County, and the public agency, the Defendant, is a municipal agency located within this County.

FACTUAL ALLEGATIONS

8. On July 15, 2013, Defendant transmitted a written OPRA request to Plaintiff requesting, among other things, copies of the checks paid to John Doe representing relief funds or similar benefits.

9. On July 22, 2013, Plaintiff denied access to this request.

10. On August 3, 2013, Defendant repeated his request, but received no further response prior to Plaintiff's lawsuit.

11. The documents requested by Defendant are public records and subject to disclosure. Defendant's OPRA request was a valid OPRA request.

12. Defendant has a strong public interest and legitimate private interest in obtaining the requested documents. Defendant's interest is to criticize the payment of benefits to John Doe, who was the target of an investigation into the viewing of child pornography at the offices of his local Fire District (among other things).

13. Plaintiff's interest in non-disclosure does not outweigh Defendant's interest in disclosure.

COUNTERCLAIM COUNT I: VIOLATION OF OPRA

14. The Defendant repeats and incorporates by reference each and every allegation contained in paragraphs 1-13 of the Defendant's counterclaim allegations as though fully set forth at length herein.

15. The Plaintiff has violated OPRA by not providing copies of the checks showing disbursements of benefits to John Doe.

COUNTERCLAIM COUNT II: VIOLATION OF COMMON LAW RIGHT OF ACCESS

16. Defendant repeats and incorporates by reference each and every allegation contained in paragraphs 1-15 of the Defendant's counterclaim allegations as though fully set forth at length herein.

17. Defendant has a common law right of access to receive copies of the checks showing payment of benefits to John Doe.

18. Defendant has a legitimate private interest and wholesome public interest in the requested records.

19. Plaintiff has no legitimate interest in maintaining the secrecy of these documents. Therefore, the Plaintiff violated Defendant's common law right of access.

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

- A. Ordering Plaintiff to provide copies of all checks paid to John Doe for relief or similar benefits;
- B. Awarding Defendant costs and reasonable attorneys' fees; and
- C. For such other or further relief as this Court deems just and equitable.

THIRD-PARTY COMPLAINT AGAINST JOHN DOE

Defendant Carter, by way of Third Party Complaint against Third Party Defendant John Doe, alleges as follows:

1. Defendant/Third Party Plaintiff Jeff Carter incorporates by reference all of the allegations of his Counterclaims as if they were set forth fully herein.

2. In their Verified Complaint, Plaintiff refers to the party whose identity they seek to withhold as John Doe. John Doe, whose true identity is known to Third-Party Plaintiff Carter,

is a necessary party to this action so that he may assert any privacy interest he may feel he has in disclosure of the documents and information requested by Defendant Carter.

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 or arbitration proceeding is contemplated. Further, 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.

DESIGNATION OF TRIAL COUNSEL

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

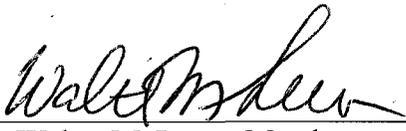
PROOF OF SERVICE

Pursuant to R. 4:6-1, I certify that this Verified Answer was served within the time period allowed by R. 4:6.

Respectfully Submitted,

LAW OFFICE OF WALTER M. LUERS, LLC

DATED: September 16, 2013

By: _____

Walter M. Luers, Member
Suite C203
23 West Main Street
Clinton, New Jersey 08809
Telephone: 908.894.5656

VERIFICATION

Jeff Carter, of full age, certifies as follows:

1. I am the Defendant and Counterclaim Plaintiff in the action captioned “In the Matter of the New Jersey State Firemen’s Association Obligation to Provide Relief Applications Under the Open Public Records Act.” All of the facts stated in the Verified Answer and Counterclaims to which this Verification is attached are true, and as to those facts that are alleged on information and belief, I believe those facts to be true.

2. 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.



Jeff Carter

Dated: September 16, 2013