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AUG 01 2014

WALTER M. LUERS, ESQ. - 034041999
LAW OFFICE OF WALTER M. LUERS, LLC
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23 West Main Street
Clinton, New Jersey 08809
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Attorney for Plaintiff

Dea. Keegan
DEPUTY CLERK OF SUPERIOR COURT

<p>JOHN PAFF, Plaintiff, v. MOTOR VEHICLE COMMISSION and JOSEPH F. BRUNO in his official capacity as Custodian of Records of the Motor Vehicle Commission, Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MERCER COUNTY DOCKET NO. <u>L1672-14</u> CIVIL ACTION ORDER TO SHOW CAUSE</p>
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THIS MATTER being brought before the Court by Law Offices of Walter M. Luers, LLC, attorney for Plaintiff John Paff, seeking relief by way of summary action pursuant to R. 4:67-1(a), based upon the facts set forth in the verified complaint and supporting papers filed herewith; and the Court having determined that this matter may be commenced by order to show cause as a summary proceeding pursuant to N.J.S.A. 47:1A-6 and for good cause shown,

IT IS on this 1st day of August, 2014 ORDERED that the Defendants Motor Vehicle Commission and Joseph Bruno appear and show cause on the 8th day of October, 2014 before the Honorable Mary C. Jacobson, A.J.S.C., Superior Court, County of Mercer, New Criminal Courthouse, 400 S. Warren Street, Trenton, New Jersey, at 3PM o'clock in the after noon or as soon thereafter as counsel can be heard, why judgment should not be entered:

A. Ordering Defendants to provide Plaintiff with copies of the documents requested by him on June 2, 2014, which were "All OPRA requests submitted to the MVC [Motor Vehicles Commission] between" May 5, 2014 and May 12, 2014;

B. An award of costs of this action and reasonable attorneys' fees;

C. Such other, further and different relief as the Court may deem equitable and just.

And it is further ORDERED that:

1. A copy of this order to show cause, verified complaint and all supporting affidavits or certifications submitted in support of this application be served upon the Defendants personally or by certified mail, return receipt requested, ^{by August 11, 2014} ~~within _____ days of~~

~~the date hereof~~, in accordance with R. 4:4-3 and R. 4:4-4, this being original process.

2. The Plaintiff must file with the Court their proof of service of the pleadings on the Defendants no later than three (3) days before the return date.

2A. The court will conduct a case management conference by

3. Defendants shall file and serve a written answer and opposition papers to this order to show cause and the relief requested in the verified complaint and proof of service of the same by September 19, 2014. The answer and opposition papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the papers must be sent directly to the chambers of Mary C. Jacobson, A.J.S.C. *Telephone on September 2, 2014, at 3 PM. Plaintiff's counsel shall arrange for the conference call. By August 29, 2014,*

4. The Plaintiff must file and serve any written reply to the Defendants' order to show cause opposition by September 26, 2014. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the chambers of the Honorable Mary C. Jacobson, *defendant shall not be the court and plaintiff's counsel as to the attorney who will be representing the Defendants.*

A.J.S.C.

5. If the Defendants do not file and serve opposition to this order to show cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that the Plaintiff files a proof of service and a proposed form of order at least three days prior to the return date.

6. If the Plaintiff has not already done so, a proposed form of order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the Court no later than three (3) days before the return date.

7. Defendants take notice that the Plaintiff has filed a lawsuit against you in the Superior Court of New Jersey. The verified complaint attached to this order to show cause states the basis of the lawsuit. If you dispute this complaint, you, or your attorney, must file a written answer and opposition papers and proof of service before the return date of the order to show cause.

These documents must be filed with the Clerk of the Superior Court in the county listed above. A list of these offices is provided. ~~Include a \$135 filing fee payable to the~~ *No* *to* *bring* *to* *for* *5* *with* *Defendants* *my* "Treasurer, State of New Jersey." You must also send a copy of your answer and opposition papers to the Plaintiff's attorney whose name and address appear above, or to the Plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve your answer and opposition papers (with the fee) or judgment may be entered against you by default.

8. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance you may obtain a referral to an

attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

9. The Court will entertain argument, but not testimony, on the return date of the order to show cause, ~~unless the Court and parties are advised to the contrary no later than _____ days before the return date.~~

Mary C. Jacobson, A.J.S.C.

HON. MARY C. JACOBSON, A.J.S.C.

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Attorney for Plaintiff

CLERK OF SUPERIOR COURT
SUPERIOR COURT OF N.J.
MERCER COUNTY
RECEIVED AND FILED

JUL 29 2014

Sue Regan

SUE REGAN
DEPUTY CLERK OF SUPERIOR COURT

<p>JOHN PAFF, Plaintiff, v. MOTOR VEHICLE COMMISSION and JOSEPH F. BRUNO in his official capacity as Custodian of Records of the Motor Vehicle Commission, Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MERCER COUNTY</p> <p>DOCKET NO. <u>L1672-14</u></p> <p>CIVIL ACTION</p> <p>VERIFIED COMPLAINT</p>
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Plaintiff John Paff through his undersigned counsel Law Offices of Walter M. Luers, LLC, by way of complaint against the Defendants Motor Vehicle Commission and Joseph F. Bruno in his official capacity as Records Custodian of the Motor Vehicle Commission, alleges as follows:

PRELIMINARY STATEMENT

1. This is an action alleging violations of the Open Public Records Act, *N.J.S.A. 47:1A-1, et seq.* ("OPRA") seeking to require disclosure of settlement agreements and unredacted notices of tort claim filed with the Defendants.

THE PARTIES

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

3. Defendant Motor Vehicle Commission ("MVC") a public municipal body corporate and politic and is a division of the State of New Jersey. MVC's principal place of

business is located at 225 East State Street, 9th Floor, East Wing, Trenton, New Jersey. MVC is a "public agency" as the term is defined by OPRA, *N.J.S.A. 47:1A-1.1*.

4. Defendant Joseph F. Bruno is the MVC's Records Custodian. Bruno's principal place of business is 225 East State Street, 9th Floor, East Wing, Trenton, New Jersey. Bruno is a "custodian of a government record" as the term is defined by OPRA, *N.J.S.A. 47:1A-1.1*.

JURISDICTION AND VENUE

5. The Court has subject matter jurisdiction of this action pursuant to *N.J.S.A. 47:1A-6* and the common law.

6. Venue is proper in this County pursuant to *R. 4:3-2(a)(2)* because all of the relevant events occurred in this County, and the public agency, the Defendant, is a state agency.

FACTUAL ALLEGATIONS

7. On June 2, 2014 Plaintiff submitted a written OPRA request to the Defendants requesting copies of "[a]ll OPRA requests submitted to the MVC between 05/05/14 and 05/12/14." Plaintiff's OPRA request was submitted via email in writing. Defendants received Plaintiff's OPRA request.

8. On June 11, 2014, Defendants responded in writing to Plaintiff's OPRA request. Defendants denied access, stating that the requests were confidential under "*Gannett N.J. Partners, LP v. Cnty. of Middlesex*, 379 N.J. Super. 205, 212 (App. Div. 2005)" and because disclosure would give "an advantage to competitors." True and correct copies of Plaintiff's OPRA request and Defendants' response are attached hereto.

9. The documents requested by Plaintiff are public records and subject to disclosure. Plaintiff submitted a valid written OPRA request.

10. 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 if warranted. When Plaintiff receives public records that he believes are of significant public interest, he blogs about them, emails his blog posts to interested persons, and posts about them on social media. From time to time, print media pick up his stories. Most recently, *The Press of Atlantic City* ran a story about a report that was disclosed to Plaintiff after three years of litigation in which a superior officer described how he was required to transport an off-duty officer home after he was found asleep behind the wheel of his car at 2 a.m. and had a "strong odor of an alcoholic beverage."

11. Plaintiff also frequently litigates OPRA cases to gain access to public records and has been the Plaintiff in several published decisions about OPRA, including *Paff v. Monmouth County*, 201 N.J. 5 (2010) (affirming Appellate Division reversal of Trial Court and holding that confidentiality provision in settlement agreement is void); *Paff v. New Jersey State Firemen's Assoc.*, 431 N.J. Super. 278 (App. Div. 2013) (reversing Trial Court and holding in matter of first impression that State Firemen's Association was subject to OPRA); *Paff v. Division of Law*, 412 N.J. Super. 140 (App. Div. 2010) (holding that Administrative Agency Advice letters issued by the Division of Law are privileged); *Paff v. City of East Orange*, 407 N.J. Super. 221 (App. Div. 2009) (affirming GRC holding that Records Custodians have

discretion to regulate methods of submitting OPRA requests); *Paff v. New Jersey Dep't of Labor*, 392 N.J. Super. 334 (App. Div. 2007); *Paff v. New Jersey Dep't of Labor, Board of Review*, 379 N.J. Super. 346 (App. Div. 2005) (reversing GRC and finding in Mr. Paff's favor); *Paff v. Director, Office of Attorney Ethics*, 399 N.J. Super. 632 (Law Div. 2007).

COUNT I – VIOLATION OF N.J.S.A. 47:1A-1, OPEN PUBLIC RECORDS ACT

12. The Plaintiff repeats and incorporates by reference each and every allegation contained in paragraphs 1-11 of the Plaintiff's complaint as though fully set forth at length herein.

13. The Defendant has violated OPRA by not providing copies of the settlement agreements and an unredacted copy of the Giannone notice of tort claim requested by Plaintiff.

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

- A. Ordering Defendants to provide copies of the documents requested by Plaintiff in his June 2, 2014 OPRA request, which were "All OPRA requests submitted to the MVC [Motor Vehicles Commission] between" May 5, 2014 and May 12, 2014;
- 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 or 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.

DESIGNATION OF TRIAL COUNSEL

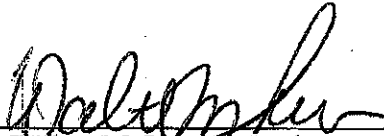
Pursuant to R. 4:25-4, Walter M. Luers, Esq. is designated as trial counsel on behalf of Plaintiff.

Respectfully Submitted,

LAW OFFICES OF WALTER M. LUERS, LLC

DATED: July 25, 2014

By:



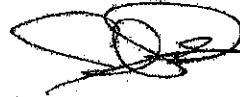
Walter M. Luers, Member
Suite C202
23 West Main Street
Clinton, New Jersey 08809
Telephone: 908.894.5656

VERIFICATION

John Paff, of full age, certifies as follows:

1. I am the Plaintiff in the action captioned "John Paff v. Motor Vehicle Commission, *et al.*" All of the facts stated in the verified complaint 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.



John Paff

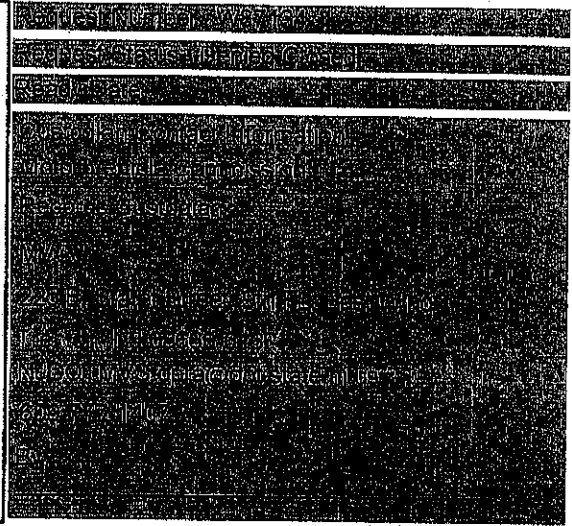
Dated: July 25, 2014

State of New Jersey
Government Records Request
Receipt

Requestor Information

John Paff
 1605 Amwell Rd
 Somerset, NJ 08873
 paff@pobox.com

Request Date: June 2, 2014
 Maximum Authorized Cost:
 Email

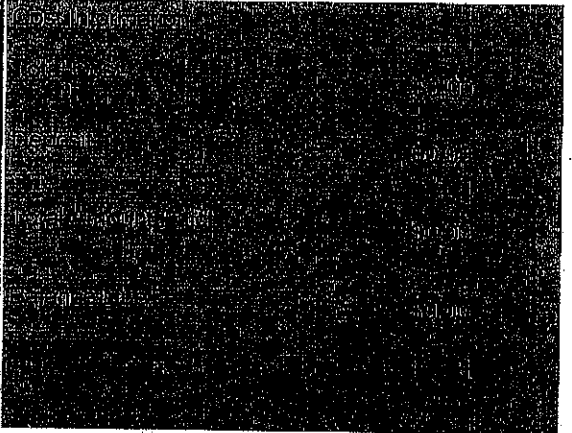


Status of Your Request

Your request for government records (# W87134) from the Motor Vehicle Commission has been reviewed and has been Denied Closed. Detailed information as to the availability of the documents you requested appear below and on following pages as necessary.

The cost and any balance due for this request is shown to the right. Any balance due must be paid in full prior to the release / mailing of the documents.

If you have any questions related to the disposition of this request please contact the Custodian of Records for the Motor Vehicle Commission. The contact information is in the column to the right. Please reference your request number in any contact or correspondence.



Document Detail

Div	Doc #	Doc Name	Redaction Req	Pages	Legal Size	Electronic Media	Other Cost
KLA	W87134	All OPRA requests submitted to the MVC between 05/05/14 and 05/12/14	N		N	N	
Denial: 10.Exception by Case Law (specify) --- Gannett N.J. Partners, LP v. Cnty. of Middlesex, 379 N.J. Super. 205, 212 (App. Div 2005)							

State of New Jersey
Government Records Request
Receipt

June 11, 2014

Dear Mr. Paff:

Please be advised that other entities' OPRA requests are exempt from disclosure under OPRA, as are the responses of government agencies to those OPRA requests. The Appellate Division has recognized that there is an "interest of third parties in protecting the confidentiality of their requests for access to public documents" under OPRA. *Gannett N.J. Partners, LP v. Cnty. of Middlesex*, 379 N.J. Super. 205, 212 (App. Div 2005). For that reason, "OPRA does not authorize a party to make a blanket request for every document a public agency has provided another party in response to an OPRA request," nor does it permit requests that would reveal "the nature and scope of a third party's inquiry to a government agency." *Ibid.* Further, OPRA exempts "information which, if disclosed, would give an advantage to competitors," N.J.S.A. 47:1A-1.1 and *Gannett, supra*.

Thank you for the opportunity to be of assistance.

Very truly yours,
Joseph F. Bruno
MVC Custodian of Records
Office of Legal and Regulatory Affairs

Your request for government records (# W87134) is as follows:

All OPRA requests submitted to the MVC between 05/05/14 and 05/12/14