

# - Fax Transmission

**To:** Custodian of Records

**From:** John Paff

**Fax:** 12018234391

**Date:** 10/20/2015

**RE:** Bayonne OPRA request

**Pages:** 5

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**Comments:**

Please see attached two (2) OPRA and common law right of access request2. If all pages don't come through, please contact John Paff at 732-873-1251 or [paff@pobox.com](mailto:paff@pobox.com)

Please note that there are two very similarly formatted requests.

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## OPRA Request

to Bayonne City

Submitted via Fax to 201-823-4391 on 10/20/2015

Please accept this as my request under the Open Public Records Act (OPRA) and the common law right of access. Please send all responses and responsive records to me via e-mail to [paff@pobox.com](mailto:paff@pobox.com). Thank you. John Paff, voice 732-873-1251.

### **Records Requested:**

For the case of Glunk v. City of Bayonne, Case No. 2:15-cv-01908, which the court's computer system shows as having settled on 9/25/2015, I would like the following records:

1. The most recently amended complaint filed by the Plaintiff. If the complaint was not amended, then please provide the original complaint.
2. The agreement that sets forth the terms and amount of settlement, i.e. the "settlement agreement" related to this case.
3. If your agency, in its response to #2 above, provides me with the settlement agreement, then you may ignore this paragraph of my request. Otherwise, after reading the "Statement" below, please send me all informal agreements, draft agreements, correspondence, e-mails etc. related to this case that disclose the settlement amount and/or any other settlement terms. I do not want internal communications between your agency and/or its insurer and/or its attorneys. Rather, I want the informal agreements, draft agreements, correspondence, e-mails etc. exchanged between a) your agency and/or its agents/attorneys/insurers and b) the Plaintiff and/or his or her agents/attorneys/insurers.

### **Statement**

I often encounter situations where, in response to my records request for an agreement memorializing a recent settlement of a lawsuit against a government agency, I am told that the settlement agreement is "not yet available" even though a meeting of the minds has been reached among the parties and the matter has been marked "settled" in the court's records. The typical justification for the denial is that the settlement agreement has not yet been formalized or that it has not received the signatures of all parties.

My practice is to blog about settlements in lawsuits (see <http://njcivilsettlements.blogspot.com/>) against local government officials and employees and then direct newspaper journalists to my blog entries. In some case, the newspapers, having been alerted to a settlement by way of my blog, will publish their own articles on the settlements. I desire this because the newspapers are able to reach wider audiences than my blog. The problem is that the news value of settlements, and thus my chance of having articles about a given settlement published in the regular news media, decreases as time elapses.

I don't think that my (and the public's) right to know the amount and terms of lawsuit settlement should depend on how high of a priority the lawsuit parties' attorneys and

insurers place on getting the settlement agreement reduced to writing and signed by all parties. Accordingly, I am making this request to gain disclosure of any other documents, such as letters and e-mails between the parties and/or their lawyers or insurers, that disclose the agreed upon settlement terms. It seems to me that after a meeting of minds between the lawsuit parties has been reached, there ought to be some sort of documentation, even if it is only an e-mail from your agency's lawyer to plaintiff's lawyer saying "OK, this is to confirm our discussion last Friday where we agreed that our government agency will pay your client \$175,000 in return for a full release with a standard confidentiality agreement." It is this sort of correspondence that I seek.

So, if the formal, signed settlement agreement does not yet exist or is otherwise said to be unavailable, I ask that you immediately reach out to the attorney or insurer who is handling the matter for your agency and obtain and provide me with each document in the attorney's and insurer's possession that meets the criteria of the request below. Then, for each such record to which you deny access, please describe it as precisely as possible so that I can judge for myself whether your denial of it is justified. Also, please consider sending me redacted documents instead of suppressing them in their entirety.

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### **Records Requested:**

For the case of Rios v. City of Bayonne, Case No. 2:12-cv-04716, which the court's computer system shows as having settled on 9/25/2015, I would like the following records:

1. The most recently amended complaint filed by the Plaintiff. If the complaint was not amended, then please provide the original complaint.
2. The agreement that sets forth the terms and amount of settlement, i.e. the "settlement agreement" related to this case.
3. If your agency, in its response to #2 above, provides me with the settlement agreement, then you may ignore this paragraph of my request. Otherwise, after reading the "Statement" below, please send me all informal agreements, draft agreements, correspondence, e-mails etc. related to this case that disclose the settlement amount and/or any other settlement terms. I do not want internal communications between your agency and/or its insurer and/or its attorneys. Rather, I want the informal agreements, draft agreements, correspondence, e-mails etc. exchanged between a) your agency and/or its agents/attorneys/insurers and b) the Plaintiff and/or his or her agents/attorneys/insurers.

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