

Libertarian Party of Central New Jersey

*John Paff, Secretary
P.O. Box 5424
Somerset, NJ 08875-5424
Phone: 732-873-1251
Fax: 908-325-0129
Email: lpsmc@pobox.com
March 24, 2006*

M. Paige Berry, Esq.
Reed Smith LLP
136 Main Street, Suite 250
Princeton, NJ 08540

(via mail and PDF email attachment to mberry@reedsmith.com)

Dear Ms. Berry:

The Libertarian Party of Central New Jersey has created an Open Government Task Force of which I am the chairman. The Task Force's goal, as well as my personal goal, is to bring all local government agencies in our tri-county area (Somerset, Middlesex and Union Counties) into full compliance with the Open Public Meetings Act, Open Public Records Act and other open-government statutes and regulations.

Enclosed is a draft civil complaint. Prior to filing the complaint, however, I wish to provide the Fund with an opportunity to review this matter. It is my hope that the Fund, after review, will agree to adjust its procedure and thus obviate the need for court intervention.

You will note that I have also sent a copy of this letter to the Somerset County Prosecutor's Office in case that office wishes to conduct its own investigation and enforcement proceedings in accordance with N.J.S.A. 10:4-17

I look forward to receiving written communication informing of the Fund's specific position regarding this matter by no later than one week after the Fund's next public meeting.

Thank you for your attention to this matter.



Task Force Chairman

cc. Thomas J. Chirichella, Esq., Assistant Prosecutor, w/ enc.
(via mail and fax)

DRAFT

John Paff
P.O. Box 5424
Somerset, NJ 08875-5424
Phone: 732-873-1251
Fax: 908-325-0129
Plaintiff

JOHN PAFF

Plaintiff

vs.

**SOMERSET COUNTY
JOINT INSURANCE FUND**

Defendant

:
:
Superior Court of New Jersey
Somerset County
:
Law Division
:
Docket no:
:
Civil Action
:
(In Lieu of Prerogative Writs)
:
**VERIFIED COMPLAINT
IN LIEU OF PREROGATIVE WRITS
AND FOR DECLARATORY
AND INJUNCTIVE RELIEF**

1. Plaintiff JOHN PAFF is a resident of Franklin Township, Somerset County, New Jersey, whose address is P.O. Box 5424, Somerset, New Jersey.
2. Defendant SOMERSET COUNTY JOINT INSURANCE FUND (“Fund”) is a “public body” as that term is defined by N.J.S.A. 10:4-8
3. Attached to this Verified Complaint as Exhibit A is Resolution 05-061 which purports fulfill the Fund’s duty, as required by N.J.S.A. 10:4-13, to pass a public resolution prior to excluding the public from its closed session held on December 21, 2005.
4. Attached to this Verified Complaint as Exhibit B are the meeting minutes from the Fund’s December 21, 2005 closed session.

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5. Exhibit A's description of the matters to be discussed outside of public view is too vague to satisfy the requirements of N.J.S.A. 10:4-13(a).

6. Exhibit A's description of the time and circumstances under which the matters discussed outside of public view may be publicly disclosed is too vague to satisfy the requirements of N.J.S.A. 10:4-13(b).

7. Exhibit B are too sparse and vague to satisfy the requirements of N.J.S.A. 10:4-14.

WHEREFORE, Plaintiff requests:

- A. A declaration that Exhibits A and B are insufficient to satisfy the requirements of the Open Public Meetings Act.
- B. Injunctive relief requiring the Defendant Fund's future closed session resolutions and minutes to meet a level of specificity to be established by the Court.
- C. Such other relief as this Court may deem just.
- D. Costs of suit.

CERTIFICATION OF NO OTHER ACTIONS

Pursuant to R.4:5-1, it is hereby stated that the matter in controversy is not the subject of any other action pending in any other court or of a pending arbitration proceeding to the best of my knowledge and belief. Also, to the best of my belief, no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, I know of no other parties that should be joined in the above action. In addition, I recognize the continuing obligation of each party to file and serve on all parties and the Court an amended certification if there

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is a change in the facts stated in this original certification.

VERIFICATION

I certify that the foregoing statements made by me are true. I understand that if any of the foregoing statements are willfully false, I am subject to punishment.

Dated: April __, 2006

John Paff
Plaintiff

State of _____

ss.

County of _____

On April __, 2006, John Paff appeared before me, a Notary Public of the State of _____, and affixed his signature above in my presence.

(SEAL)

SOMERSET COUNTY JOINT INSURANCE FUND
CLOSED SESSION

WHEREAS, the Somerset County Joint Insurance Fund (the "Fund") is authorized by N.J.S.A. 40A:10-36 to provide insurance coverage for its members which are desirous thereof; and

WHEREAS, the County of Somerset, Somerset County Park Commission, Raritan Valley Community College, Somerset County Vocational & Technical Schools, Township of Branchburg, Somerset County Library Commission, City of Lambertville, Township of Green Brook, the Township of Raritan, Township of Bridgewater and the Township of Clinton, have all agreed to participate in the Somerset County Joint Insurance Fund;

WHEREAS, it is necessary for the Somerset County Joint Insurance Fund to discuss personnel, legal matters, claim payments, and reserves; and

WHEREAS, N.J.S.A. 10:4-12 permits the Somerset County Joint Insurance Fund to conduct a meeting from which the public is excluded in order to discuss personnel, legal matters, claim payments, and reserves; and

WHEREAS, the time when and the circumstances under which discussion conducted in closed session may be disclosed to the public is when appropriate.

NOW, THEREFORE, BE IT RESOLVED, that the Somerset County Joint Insurance Fund shall forthwith conduct a closed session to discuss the above.

BE IT FURTHER RESOLVED, that the scope of the aforesaid closed session shall be limited to the above matters as stated.

I certify that the foregoing is a true copy of a Resolution passed by the Somerset County Joint Insurance Fund at the meeting duly held on the 21st day of December, 2005.

SOMERSET COUNTY JOINT INSURANCE FUND

By: 

Date: 12/21/05
Motion: Commissioner Brown
 Second: Commissioner Kitchener
 Vote: Unanimous

SOMERSET COUNTY JOINT INSURANCE FUND
FUND COMMISSIONERS' MEETING
Closed Session
December 21, 2005

MINUTES

A closed session of the Commissioners of the Somerset County Joint Insurance Fund was called to order at 9:43 a.m. at The Redwood Inn, located in Bridgewater, New Jersey on Wednesday, December 21st, 2005 to discuss personnel, legal matters, claim payments and reserves.

Personnel and legal matters were discussed.

Meeting was adjourned at 10:07 a.m. to return to Open Session and take action on the above matters.

Respectfully submitted,

/s/ Brian Morgan, Secretary

ReedSmith		Reed Smith LLP
M. Paige Berry		Princeton Forrestal Village
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Email: mberry@reedsmith.com		Princeton, NJ 08540-7839
		609.987.0050
		Fax 609.951.0824

May 25, 2006

VIA E-MAIL AND U.S. MAIL
 John Paff, Secretary
 Libertarian Party of Central New Jersey
 P.O. Box 5425
 Somerset, New Jersey 08875-5424

Re: Somerset County Joint Insurance Fund

Dear Mr. Paff:

As you are aware, we are counsel to the Somerset County Joint Insurance Fund ("Fund"). On March 24, 2006 we received your letter enclosing a draft Civil Complaint against the Fund on which you copied the Somerset County Prosecutor's Office. The Complaint alleges that the Fund's Closed Session Meeting Resolution and Closed Session Meeting Minutes violate the Open Public Meetings Act ("Act").

As the Fund only meets on a monthly basis and the draft Complaint was received two days after the Fund's March 22, 2006 meeting, we immediately advised you that your letter and the draft Complaint would be discussed with the Fund at its next meeting scheduled for April 26, 2006. Further, on April 25, 2006, you and I spoke regarding the allegations that the Fund's Closed Session Resolution and Meeting Minutes violate the Act. The Fund at its April meeting reviewed your letter and draft Complaint and requested counsel to review the Fund's current Closed Session Resolution and Meeting Minutes to determine whether or not any changes to such documents should be made.

The Fund has successfully provided insurance coverage to its public entity members for more than a decade and has never been the subject of any inquiry regarding its compliance with the Act by the New Jersey Department of Banking and Insurance, the Department of Community Affairs or any member of the public other than yourself. While the Fund has been operating consistent with other joint insurance funds and public entities and in compliance with the Act since its formation in 1994, the Fund at its meeting on May 24, 2006 agreed to amend to its Closed Session Resolution and Meeting Minutes to better clarify for the public the subject matter of the issues presented in Closed Session.

Accordingly, effective at its next meeting, the Fund will amend its Closed Session documents as follows:

1. Closed Session Meeting Resolution

Currently, the Fund's Resolution lists the three exceptions provided for in the Act as a basis upon which to move into Closed Session. The Fund will amend its Closed Session Resolution by indicating the specific exception upon which the Fund is relying to go into Closed Session, rather than list all three exceptions. Further, the Fund will provide a short description to support the exceptions. For example, if the Fund moves into Closed Session for workers compensation claim matters, it will list the corresponding claim numbers which will be discussed in Closed session.

2. Closed Session Meeting Minutes

The Fund's current Closed Session Meeting Minutes refer to exceptions provided for in the Act as a basis upon which to move into Closed Session. The Fund will amend its Closed Session Meetings Minutes to state the specific exception listed in its Resolution and provide a brief description of the issue discussed and recommended action, if any. For example, if the Fund moves into Closed Session to discuss the renewal of service provider contracts, the Closed Session Meeting Minutes will refer to the fact that discussion occurred regarding the renewal of service provider contracts. With respect to the claim matters, the Fund will continue to refer only to the claim number and the amount of the claim. For litigation matters, the Fund will list the specific litigation matter.

The Fund essentially operates as an insurance company and as such the Fund must abide by all laws and regulations governing the confidentiality of insurance claim information. The Fund will continue to adhere to its responsibilities as a joint insurance fund regulated by both the New Jersey Department of Banking and Insurance and the Department of Community Affairs and the myriad of laws governing not only joint insurance funds but also insurance claim information as the Fund balances its responsibilities to the Act.

While the Fund believes that its current Resolution and Meeting Minutes will withstand challenge in a court of law, it is hopeful that you and the Libertarian Party of Central New Jersey will recognize the unique nature of the Fund and will recognize the good faith changes the Fund has agreed to implement and not pursue this matter with the courts.

Upon your review of the changes which the Somerset County Joint Insurance Fund will implement, if you have any questions, please do not hesitate to contact me.

Very truly yours,

/s/ M. Paige Berry

MPB:sdb

cc: Jorge Ramos, Investigator
Somerset county Prosecutor's Office
New Jersey Risk Managers and Consultants
Administrator, Somerset County Joint Insurance Fund

Libertarian Party of Central New Jersey

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P.O. Box 5424
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May 27, 2006*

M. Paige Berry, Esq.
Reed Smith LLP
136 Main Street, Suite 250
Princeton, NJ 08540 (via PDF email attachment)

Dear Ms. Berry:

I am in receipt of yours of May 25, 2006. Based on the representations made, I will not file suit at this time. I will, however, request the Fund's N.J.S.A. 10:4-13 resolutions and closed session minutes after a few months have elapsed and reevaluate the matter then.



Task Force Chairman

cc. Thomas J. Chirichella, Esq., Asst. Prosecutor (via fax)