



CJ Griffin

Member of the Firm  
 Court Plaza South, East Wing  
 21 Main Street, Suite 200  
 Hackensack, NJ 07601  
 Direct: 201.270.4930  
 Fax: 201.488.5556  
 cgriffin@pashmanstein.com

April 23, 2026

Hon. Michael S. Mikulski II, J.S.C.  
 Superior Court of New Jersey, Law Division  
 Camden County Hall of Justice  
 101 South 5th Street, 4th Floor  
 Camden, NJ 08103-4001

**Re: Cherry Hill Township BOE v. Shore Investigates, et al.**  
 Docket No. CAM-L-620-26

Dear Judge Mikulski:

This firm represents Defendants Shore Investigates LLC, Daniel Shore, and Benjamin Shore (collectively, "Shore Defendants") in the above captioned matter. We write in opposition to Cherry Hill Board of Education's (BOE) motion to consolidate Docket No. CAM-L-620-26 with Docket No. CAM-L-477-26.<sup>1</sup> The motion should be denied. The two cases share neither a common question of law nor a common question of fact. Consolidation would not promote judicial efficiency — rather, it would contaminate two legally and factually distinct proceedings and cause precisely the kind of delay Rule 4:38-1, the Uniform Public Expression Protection Act (UPEPA), and the Open Public Records Act (OPRA) were designed to prevent.

#### **A. The Legal Standard**

Consolidation is governed by Rule 4:38-1, which authorizes a court to consolidate actions involving "a common question of law or fact arising out of the same transaction or series of transactions." A decision "to grant or deny a party's motion to consolidate actions is discretionary." Moraes v. Wesler, 439 N.J. Super. 375, 378 (App. Div. 2015). The court must weigh whether the "prejudice resulting from failure to consolidate is not outweighed by the risk of undue delay or prejudice to the rights of or hardship to parties opposing consolidation." Biber P'ship, P.C. v. Diamond Hill Joint Venture, LLC, 404 N.J. Super. 96, 102 (App. Div. 2008).

#### **B. There are Different Facts Involved**

The BOE's motion rests on the bare assertion that "these lawsuits involve the same parties, arise out of the same facts, and present common questions of law and fact." (Certification of Eric Harrison, Esq., dated February 25, 2026 ("Harrison Cert.") ¶ 7.) The sole factual support offered

---

<sup>1</sup> Per the Court's instruction, this letter addresses the substantive reasons why the motion to consolidate should be denied. The Shore Defendants do not waive their prior arguments that the Court lacks jurisdiction to hear the motion because it was filed in CAM-L-3910-25, in which an appeal has been filed. R. 2:9-1 (trial court has no jurisdiction once a notice of appeal is filed).

April 23, 2026

Page 2

is that "[e]ach of these lawsuits concerns OPRA requests submitted by Benjamin Shore, on his own behalf, or on behalf of his corporation, Shore Investigates, LLC, to the Cherry Hill Township Board of Education for documents and/or surveillance videos." (Harrison Cert. ¶ 6.) That is the sum of the evidentiary basis offered. From this alone, the BOE concludes that "[b]ecause all three matters involve common questions of fact, and consolidation of same would be economic for the parties, the attorneys, and the Court, it is requested that the matters be consolidated for further discovery and trial disposition." (Harrison Cert. ¶ 9.) The mere fact that two cases involve OPRA requests does not establish the required commonality of law or fact arising out of the same transaction or series of transactions under R. 4:38-1.

As a threshold matter, the BOE ignores the fundamental misalignment of parties between the two matters. In CAM-L-477-26, Benjamin Shore is the sole plaintiff and the BOE and Jason Schimpf are the defendants; Shore Investigates, LLC and Daniel Shore are not parties to the lawsuit. In CAM-L-620-26, the alignment is entirely reversed — the BOE is the plaintiff and Shore Investigates, LLC, Daniel Shore, and Benjamin Shore are the collective defendants. Consolidation would require both Benjamin Shore and the BOE to simultaneously occupy plaintiff and defendant roles within a single consolidated proceeding — an inherently unworkable posture that would generate confusion regarding each party's rights, obligations, and applicable legal standards. That confusion is further compounded by the fact that Shore Investigates, LLC and Daniel Shore are parties only to CAM-L-620-26. Dragging them into a consolidated proceeding that includes CAM-L-477-26 — a case to which they have no connection — would expand the scope of litigation beyond any principled basis and cause undue delay.

Finally, there is also different legal representation in this case. Benjamin Shore is pro se in CAM-L-477-26. The terms of this Firm's engagement letter with the Shore Defendants are limited to work in CAM-L-620-26 only. Thus, even if Mr. Harrison's law firm can represent the BOE in both proceedings, there will be two separate sets of arguments, briefs, etc. if the matters are consolidated because Benjamin Shore will need to continue representing himself and this Firm will separately represent the Shore Defendants.

Because factual foundations of both cases are fundamentally incompatible, the Court should deny the motion.

### **C. The Legal Issues are Substantially Different**

The legal claims in the two matters are equally divergent. CAM-L-477-26 is a garden variety OPRA case about access to public records. The verified complaint asserts only two counts — a violation of OPRA and a violation of the common-law right of access to public records. Benjamin Shore is the pro se plaintiff and he seeks a single, discrete remedy: production of a specific video clip from one public meeting. To decide the case, the Court will apply OPRA's substantive provisions and determine whether the BOE has met its burden of proving that the claimed security-related exemptions justify withholding the video. If the Court finds the video is

April 23, 2026

Page 3

not subject to OPRA, then the Court will need to apply the common law balancing test set forth in Loigman v. Kimmelman, 102 N.J. 98 (1986), to decide whether to grant access.

CAM-L-620-26 is a fundamentally different action. The BOE is the plaintiff. Count One seeks a protective order under N.J.S.A. 47:1A-5.1, a new provision of law for which there is no appellate guidance. Count Two relates to a website portal and asserts a wholly separate claim under N.J.S.A. 56:8-227 for alleged improper solicitation and unauthorized use of the BOE's likeness for commercial purposes — neither claim exists in CAM-L-477-26 in any form.

Because a UPEPA motion has been filed in CAM-L-620-26, the Court will need to engage in a two-step analysis. First the Court will need to decide whether UPEPA applies because the allegations in the verified complaint (i.e., the filing of 14 OPRA requests; the filing of four lawsuits; negotiations around those requests and lawsuits; and publishing a website portal to help the public file OPRA requests) are (1) communications in or about an issue under consideration in a judicial or governmental proceeding or (2) an exercise of freedom of speech or the press, or petitioning activity, about a matter of public concern. N.J.S.A. 2A:53A-50.

The Court will then need to move to UPEPA's second step. As it relates to the request for a protective order under OPRA, the Court must determine whether, under the UPEPA standards, the BOE has sufficiently pleaded or established that the Shore Defendants had the subjective intent to disrupt agency operations when they filed their OPRA requests. As to Count Two, the Court must determine whether, under the UPEPA standards, the BOE has sufficiently pleaded or established a violation of law pertaining to the OPRA portal website that Benjamin Shore publishes.

UPEPA is a relatively new law and, as the Court has seen from the Shore Defendants' UPEPA brief, the case involves application of numerous First Amendment principles, such as the freedom of speech, the right to petition the government, and the right to engage in newsgathering activity. None of those issues are at stake in CAM-L-477-26.

#### **D. Consolidation Will Cause Delay**

Consolidation would cause the very types of delays that Rule 4:38-1, OPRA, and UPEPA were designed to prevent. See N.J.S.A. 47:1A-6 (requiring OPRA proceedings to be "expedited"); N.J.S.A. 2A:53A-53 (requiring UPEPA hearings to proceed "as expeditiously as possible"). For example, the Court indicated it may hear the Order to Show Cause in CAM-L-477-26 on Monday, April 27, 2026 after the consolidation motion is heard. If the two dockets are consolidated, no party could appeal the Court's decision in CAM-L-477-26 until both dockets are fully resolved—and the Order to Show Cause in CAM-L-620-26 is not scheduled until early June. Assuming the Shore Defendants prevail in CAM-L-620-26, an award of attorneys' fees is mandatory, N.J.S.A. 2A:53A-58, and the BOE would have no right to appeal until a fee application is fully decided. See Mandel, N.J. Appellate Practice, ch. 2:3-1 (GANN, 2025) ("Even if a case is decided and the only issue remaining before the trial court is the amount to be awarded, such as the amount of damages or counsel fees, amount of alimony or amount due on a

April 23, 2026

Page 4



mortgage foreclosure, the judgment is interlocutory.”). Thus, consolidating the matters would slow the right to appeal in CAM-L-477-26 down by months. And if an appeal were taken for both cases, the Appellate Division would be left dealing with the complicated task of deciding a single appeal consisting of two drastically different types of cases.

For all the foregoing reasons, consolidation would not promote judicial efficiency — it would destroy it. The two matters are distinct and share no commonality of parties, questions of law, or facts. Consolidation would only force this Court to simultaneously manage fundamentally incompatible matters with different legal standards, procedures, factual predicates, and parties. Indeed, the very filing of this motion has already caused confusion with respect to the relatively straightforward issue of service — the BOE has not served the motion on counsel of record in CAM-L-620-26, and has not sent the requisite documents to Benjamin Shore as a pro se litigant at his address on file in his pro se matter, CAM-L-477-26. That confusion will only escalate as substantive, legal, and factual matters proceed to adjudication.

In conclusion, the Shore Defendants respectfully request that the Court deny the BOE's motion to consolidate.

Respectfully Submitted,

/s/ CJ Griffin