

CJ Griffin (031422009)
 PASHMAN STEIN WALDER HAYDEN, P.C.
 21 Main Street
 Court Plaza South, Suite 200
 Hackensack, NJ 07601
 T: 201.488.8200
 F: (201) 488-5556
 cgriffin@pashmanstein.com

*Attorneys for Defendants,
 Shore Investigates LLC; Daniel Shore; Benjamin Shore*

CHERRY HILL TOWNSHIP BOARD OF EDUCATION,	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: CAMDEN COUNTY
Plaintiff,	DOCKET NO.: CAM-L-620-26
v.	
SHORE INVESTIGATES, LLC, DANIEL SHORE, AND BENJAMIN SHORE,	<u>CIVIL ACTION</u>
Defendants.	Order to Show Cause Pursuant to the Uniform Public Expression Protection Act, N.J.S.A. 2A:53A-51

THIS MATTER being brought before the Court by Pashman Stein Walder Hayden, P.C., attorneys for Defendants Shore Investigates LLC; Daniel Shore; and Benjamin Shore (CJ Griffin, Esq., appearing) seeking relief in lieu of an answer or other responsive pleading by way of an application for an Order to Show Cause and hearing pursuant to the Uniform Public Expression Protection Act (UPEPA), N.J.S.A.2A:53A-51, based on the Brief and Certification filed herewith; and it appearing that Plaintiff has notice of this application via eCourts; and the Court having considered the brief and supporting documents, and for good cause shown, and recognizing that UPEPA requires a hearing “as expeditiously as possible,” N.J.S.A. 2A:53A-53(a);

IT IS on this ____ day of _____, 2025, **ORDERED**, that Plaintiff appear and show cause before the Superior Court at the Camden County Courthouse, 101 South 5th Street, Camden, NJ 08103, via Zoom / In-Person, at __:__ a.m./p.m., or as soon thereafter as counsel may be heard, on the ____ day of _____, 2026, as to why an order should not be entered:

- A. Declaring that Defendants have established under N.J.S.A. 2A:53-55(a)(1) that UPEPA applies (Step One) to Plaintiff's claims against them in this action;
- B. Staying the Action pending resolution of the Order to Show Cause and any appeals pursuant to the presumptive stay required by N.J.S.A. 2A:53A-52 (a)(3);
- C. Dismissing the complaint with prejudice pursuant to N.J.S.A. 2A:53-55(a)(3) (Step Two);
- D. Declaring Defendants a prevailing party who are entitled to a mandatory award of reasonable attorneys' fees and costs party pursuant to N.J.S.A. 2A:53A-58.
- E. Granting such other relief as the Court deems equitable and just.

And it is further ORDERED that:

- 1. Service of this Order to Show Cause on counsel of record for Plaintiff through the eCourts electronic system shall be deemed good and sufficient service.
- 2. Plaintiff shall file and serve a written response to this Order to Show Cause on or before _____, 2026.
- 3. The Defendants may file and serve any written reply to Plaintiff's opposition on or before _____, 2026; and
- 4. Discovery is temporarily stayed pending the Order to Show Cause hearing.

Hon. _____, J.S.C.

PASHMAN STEIN WALDER HAYDEN

A Professional Corporation
 Court Plaza South
 21 Main Street, Suite 200
 Hackensack, New Jersey 07601
 Ph: (201) 488-8200
 F: (201) 488-5556
cgriffin@pashmanstein.com
 CJ Griffin (#031422009)

Attorneys for Defendants,

Shore Investigates LLC; Daniel Shore; Benjamin Shore

CHERRY HILL TOWNSHIP BOARD OF
 EDUCATION,

Plaintiff,

v.

SHORE INVESTIGATES, LLC, DANIEL
 SHORE, AND BENJAMIN SHORE,

Defendants.

SUPERIOR COURT OF NEW JERSEY
 LAW DIVISION: CAMDEN COUNTY

DOCKET NO.: CAM-L-620-26

Civil Action

**CERTIFICATION OF
 BENJAMIN SHORE**

I, **Benjamin Shore**, hereby certify as follows:

1. I am a Defendant in this matter and submit this certification in support of Defendants' Order to Show Cause under the Uniform Public Expression Protection Act (UPEPA). I make this certification based upon my personal knowledge of the facts.

About Me and Shore Investigates, LLC

2. I am an investigative journalist and a member of the New Jersey Society of Professional Journalists.

3. In 2025, I founded Shore Investigates, LLC, which publishes *Shore Investigates*—an online news publication that publishes investigative journalism focused on government, law enforcement, and public institutions. *Shore Investigates* is published at www.shoreinvestigates.com and it is free to subscribe.

4. I have a strong commitment to public service and have served in a variety of government roles including through appointments, internships and employment in federal courts and state and federal agencies.

5. I am concerned by the decline in public confidence in public institutions, and I believe greater transparency is one way to help restore that confidence. For that reason, I have taken a strong interest in public records, journalism, and public-facing information tools that make government activity more accessible and understandable to ordinary members of the public. The government works best when it is open to the people.

6. Through journalism, I have used public records to bring to light important information to the public and help what I believe will make our government more accessible to the people and in turn raise confidence in our public institutions.

7. As a journalist and chief editor of *Shore Investigates*, I focus on government transparency and public accountability. My reporting has repeatedly demonstrated the power of the Open Public Records Act (OPRA). Just recently in 2025, I obtained and published body-worn camera footage of a road rage incident involving the Cherry Hill Police Department. Initially, the driver was let off with only a verbal warning after a brief three-minute conversation. But after I released the footage and reported the facts, the police chief publicly acknowledged the incident, corrective action was taken, and the driver was charged with reckless driving and delaying traffic. Recently that driver pled guilty. Through OPRA, my reporting held public officials accountable and helped victims who were turned away by the police get justice.

8. My brother, Daniel Shore, is a reporter and helps with our administrative matters and social media.

9. The bulk of *Shore Investigates* ' articles have been focused on issues happening in Cherry Hill, such as covering a whistleblower lawsuit filed by a Cherry Hill Assistant Principle in September 2025. See Ben Shore, *Fired or Silenced? Cherry Hill Assistant Principal Says Whistleblowing Led to Retaliation*, *Shore Investigates*, Sept. 19, 2025, available at <https://perma.cc/6XQD-JUAF>.

10. Even before publishing *Shore Investigates*, I have worked to provide greater transparency in Cherry Hill Township and throughout the State of New Jersey.

11. In 2020, I co-founded Rise Against Hate (RAH), a national non-profit organization whose mission is to raise awareness about racism and civil rights, investigate racial disparities, and provide public awareness in the law. RAH has accomplished this mission through research, investigations, and providing results and information to the public. RAH has a chapter in Cherry Hill.

12. Among many other research reports, using public records obtained through OPRA, RAH published an investigative study in 2020 that exposed serious racial disparities in the Cherry Hill Township Police Department's use of force and policing of marijuana. See Rise Against hate, *Investigative Spotlight: Cherry Hill Township* (Aug. 2020), available at <https://perma.cc/NTG7-TAWD>. In 2021, RAH published another investigative report exposing gender pay gaps in the wages that Cherry Hill Township pays its employees. See Rise Against Hate, *Cherry Hill Gender Wage Gap Data Analysis* (2021), available at <https://perma.cc/DA4R-4NT7>. This report was also only made possible through OPRA.

13. As recently as 2025, the New Jersey Legislature cited to the work of RAH in an Assembly Bill. See Assembly Bill No. 5964 (as introduced July 24, 2025).

14. I remain active in RAH to this day and committed to ensuring that Cherry Hill residents are kept informed about racial justice issues in the Township and its schools.

About My Tech Platforms

15. In addition to my investigative journalism and research advocacy, I am also a recent law graduate and a skilled programmer. Inspired by my yearslong government service and commitment to helping create a more transparent and accessible government, I have created several free online tools to help the public understand OPRA and to help them file OPRA requests and challenge unlawful denials of access.

16. One such tool is *The Cherry Hills Public Schools OPRA Request Portal*, published at www.chpsopra.com, a free portal that allows members of the public to transmit OPRA requests directly to Cherry Hill Township Board of Education (Cherry Hill BOE). There is no fee charged for using www.chpsopra.com and I have not generated any money from it.

17. This portal is like websites such as OPRAmachine.com, which also allows users to submit OPRA requests directly to public agencies. Indeed, Cherry Hill BOE accepts and fulfills requests from OPRAmachine.com, as I explained in the email attached as Exhibit Z to the complaint. See https://opramachine.com/body/cherry_hill_board_of_education

18. Exhibit X to the complaint is a partial, undated screenshot of the homepage of www.chpsopra.com. But even that partial screenshot clearly says at the top, “This is a free, community created portal to assist with OPRA requests.” Ex. X (emphasis added).

19. As evidenced by Exhibit Z to the complaint, www.chpsopra.com sends a confirmation email to the requestor after every request is submitted. That email states at the bottom “**Created by Benjamin Shore.** Committed to transparency and public access.” Ex. Z (emphasis in original).

20. Moreover, as I also explained in my October 25, 2025 email that is included in Exhibit Z: “At the bottom of every page [of www.chpsopra.com] it states, ‘This is a free, unofficial portal to assist with OPRA requests. Built by Benjamin Shore.’ The same non affiliation language appears in the terms that users must agree to before submitting a request.” Ex. Z (emphasis added).

21. Since I first created www.chpsopra.com, the site has contained disclaimers making clear that it is not an official government portal or website. The current disclaimer has existed since at least January 3, 2026, before Plaintiff filed this lawsuit on February 20, 2026. While the wording of the site’s disclaimers may have varied over time before then, their substance has not: the site has always conveyed in multiple locations that it is unofficial and not affiliated with, endorsed by, or operated by Cherry Hill BOE. Any changes to the “About Us” page were stylistic or design-related only.¹

22. Cherry Hill BOE became aware of www.chpsopra.com because I affirmatively told the District about the portal. Soon after I did so, I began receiving cease-and-desist demands. In response, I attempted in good faith to understand whether Plaintiff claimed that any particular language or feature of the website was improper, and I asked Plaintiff to identify any specific changes it wanted made. Plaintiff did not provide that guidance. Instead, despite my transparency about the portal and my request for clarification, Plaintiff proceeded with this lawsuit.

¹ Cherry Hill BOE’s own cease and desist acknowledges that the site has always contained multiple disclaimers that it is not an official site. See Compl., Ex. AA (“This strong likelihood of confusion exists despite your inclusion of so-called ‘legal disclaimer’ language that is only accessible by navigating through various links or menus of the CHPSOPRA website, or by scrolling to the bottom of the website and reading find print.”). Thus its allegation in Paragraph 53 of the complaint that the website contains no disclaimer is disproven by its own words in Exhibit AA.

23. I chose to call the portal “*The Cherry Hills Public Schools OPRA Request Portal*” because that is the name of the sole public agency to which the OPRA requests will be sent.

24. The portal has coloring in cherry red, a much lighter shade than on the official Cherry Hill Public Schools website, because it is a play on Cherry Hill.

25. The official Cherry Hill Public Schools website has a logo on the top of the page, which features a unique font and a pair of cherries. The logo has conveniently been cut off from the screenshot that Cherry Hill BOE attaches to Exhibit Y of its complaint, but it is screenshotted in Paragraph 51 of the complaint and looks like this:



26. My website portal does not contain that logo, as evidenced by Exhibit X to the complaint. I have no desire to portray my portal as the official Cherry Hill BOE website. That is why it contains multiple disclaimers indicating that it is not an official site and that it is instead a community tool created by me.

27. In addition to www.chpsopra.com, I have also created other free websites for the public to use. The NJ OPRA Portal, published at www.njopraportal.com, is one such website. It allows members of the public to file OPRA requests with more than 1,200 public agencies in New Jersey. The service is free and the website contains educational information about OPRA. As the website clearly states, “There’s no cost, no login, and no hidden agenda. Just a simple way to help people exercise their right to access public information.”

28. I am also developing a public-facing dashboard concerning Cherry Hill Public Schools' legal spending. The dashboard is intended to allow the public to see, in one place, how much the District is spending on legal services, how that spending changes over time, and what categories of matters are generating those costs, such as OPRA matters, special education disputes, and other categories reflected in the District's legal invoices. The dashboard will be free to access and is intended as a public-service transparency tool so that taxpayers and community members can better understand how public funds are being spent. My purpose is to keep the public continuously informed through an organized, easy-to-understand presentation of records that are already subject to public access, in the same way that other news media publish databases. See, e.g., *Asbury Park Press Data Universe*, at www.datauniverse.com. Cherry Hill is my first proof of concept, and if the project is successful, I hope to expand the same kind of free legal-spending dashboard to other public agencies in New Jersey.

29. As evidenced by Exhibit Q to the complaint, I notified the custodian that I intend to regularly file requests for legal invoices for use in the dashboard, and that I would be flexible and willing to accept the information in a way that reduces his workload. I expressly said, "What's the best way we can work together to minimize the burden while also allowing me to obtain the records I need?" My goal is always to work with agencies so that I can obtain data to report to the public but not inconvenience the agency.

30. My goal has also always been to try to amicably resolve things when there are disputes over the records. Even in the few times when I have felt forced to sue because the District would not budge, I have offered to settle those cases such as by agreeing to dismiss the case for a copy of the record and payment of the court filing fee. Yet the complaint seeks to punish me for being cooperative.

31. An example of how I try to avoid litigation and resolve disputes is attached hereto as **Exhibit 1**.² I requested legal invoices, which were redacted in many places. The custodian simply said that “redactions were made to comply with attorney-client privilege along with any personally identifiable information.” I asked for a Vaughn Index, because the redactions seemed overbroad and I could not tell which exemption applied to which exemption. The custodian initially ignored me. After I threatened to sue to challenge the redactions, the custodian agreed to produce a Vaughn Index. But he continued to insist that he had no legal obligation to do so, which simply is not true. Ex. 1. As the Government Records Council explicitly states in its guidance to custodians, “Custodians must identify the legal basis for **each** redaction!! This may be achieved in any number of ways, including but not limited to annotations next to the redaction or a document index.” Government Records Council, Handbook for Records Custodians (Jan. 2025) (emphasis in original).

Retaliation

32. I have not used OPRA with the intention to substantially interrupt the performance of government functions. As evidenced in the emails attached to the complaint and above, I have been very cooperative and have always offered to accommodate requests so it would mean less work for the custodian.

33. The complaint seeks a restraining order because I filed thirteen OPRA requests as part of my reporting for *Shore Investigates* over the course of more than a year—i.e., about one request per a month. It seeks to restrain my brother because he filed a single OPRA request for *Shore Investigates*.

² Exhibit 1 also shows that I was in the process of creating a “custodian OPRA reply and redaction tool,” which would allow custodians to quickly redact and create a redaction index, and that I offered to make Cherry Hill BOE one for **free**. See Ex. 1 at D4.

34. Ultimately, I believe that this lawsuit was filed against us because Cherry Hill BOE is tired of the transparency we bring and the news stories we publish, as well as the fact that we have made it clear that we intend to publish a dashboard of legal spending and future news stories regarding the legal spending, inadequacies in handling OPRA, etc.

35. Since the Cherry Hill BOE filed this lawsuit, the Defendants have not filed an OPRA request out of fear of further retaliation. Our newsroom would like to cover stories including a recent development in the Guy v. Cherry Hill Board of Education, CAM-L-1672-25, which appears to have recently achieved a resolution on or about February 20, 2026. We would ordinarily seek a copy of the settlement agreements and legal bills to estimate the cost to taxpayers, but out of fear of retaliation we are not going to file the request, preventing us from further investigating and publishing the story.

Status of Litigation

36. The complaint seeks a protective order in CAM-L-3910-25. Compl. at p. 16. On March 6, 2026, the Hon. Michael S. Mikulski II, J.S.C., entered an order in my favor, ordering Cherry Hill BOE to remove various redactions they had made to the OPRA requests I had requested. Attached hereto as **Exhibit 2** is a true and accurate copy of the order and decision.

37. In CAM-L-3910-25, I was represented by counsel. Although Cherry Hill BOE paints my similar lawsuit in CAM-L-594-25 as frivolous, clearly it was not. Had I had the benefit of legal counsel in that case, I also would have similarly partially prevailed and obtained an order requiring the removal of certain redactions to which I had objected.

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.

Benjamin Shore
Benjamin Shore

Exhibit 1



Ben Shore <shoreinvestigates@gmail.com>

Re: OPRA Request - [REF: 2A5389F31AE1] - Ben Shore

14 messages

Schimpf, Jason <jschimpf@chclc.org>

Thu, Dec 4, 2025 at 11:09 AM

To: "request-2a5389f31ae1@chpsopra.com" <request-2a5389f31ae1@chpsopra.com>

Cc: Ben Shore <shoreinvestigates@gmail.com>, "Katherine A. Gilfillan" <kag@spsk.com>

Mr. Shore,

Attached is the October legal invoice for SPSK, who has handled the CHPSOPRA dispute. This is all that exists at the moment. Redactions were made to comply with attorney-client privilege along with any personally identifiable information.

Jason Schimpf
 Assistant Superintendent/Business Administrator/Board Secretary
 Cherry Hill Public Schools
 (856) 429-5600 x4328

From: Cherry Hill OPRA Portal <noreply@request.chpsopra.com>**Sent:** Sunday, November 23, 2025 3:00 PM**To:** Schimpf, Jason <jschimpf@chclc.org>**Subject:** OPRA Request - [REF: 2A5389F31AE1] - Ben Shore**CAUTION:** [EXTERNAL EMAIL]

NEW OPRA REQUEST

Request ID: 2cac38bf-d82d-4fb3-80cc-4068ae0282a1

Nov 23, 2025, 2:51:22 PM

Dear Custodian of Records,

This is a request for government records under **New Jersey's Open Public Records Act, N.J.S.A. 47:1A-1 to 47:1A-13**. In the alternative, and to the extent OPRA does not apply, treat this as a request under the common law right of access.

RECORDS REQUESTED:

1. (a) Legal Bills related to the creation of CHPSOPRA.com at present.

FORMAT AND DELIVERY:

Produce records electronically in their native or other machine-readable format, such as PDF, CSV, or XLSX. Please use the "Reply" button to deliver records via email.

RESPONSE TIME:

OPRA requires a response as soon as possible, but not later than **seven business days** after receipt. If any of the requested materials are subject to immediate access under N.J.S.A. 47:1A-5, such as budgets, bills, vouchers, contracts, or minutes, please provide those promptly.

FEES:

Electronic delivery should be provided without charge except for actual media cost when applicable. Do not incur any special service charge or other cost without first sending an itemized written estimate and receiving my approval.

REDACTIONS AND DENIALS:

If you withhold or redact any material, identify each record withheld or redacted, state the specific legal basis for each withholding or redaction with a citation to N.J.S.A. 47:1A-1 to 47:1A-13 or other law, and provide the non-exempt portions that can be reasonably segregated. If no responsive records exist, please provide a certification from the custodian confirming a diligent search and stating that no responsive records were found.

ROLLING PRODUCTION:

If some records can be produced sooner, please provide them on a rolling basis while you complete the remainder.

PREFERRED CONTACT:

Direct questions or requests to narrow this request to me in writing so there is a clear record of any clarification.

HOW TO RESPOND:

To communicate with the requester: Simply click "Reply" to this email. Your response will be securely forwarded to the requester while protecting their privacy.

Reply-To Address: request-2a5389f31ae1@chpsopra.com

Important: Always use the "Reply" button to ensure proper delivery. Do not use any contact information that may appear in the request content.

COMMON LAW REASON:

News media interest in how the district handles OPRA and how tax payer money gets spent. There was considerable discussion and lawyers involved when the creation of the CHPSOPRA portal went into place. I would like to see the legal spending.

CERTIFICATIONS:

I certify that I have NOT been convicted of any indictable offense under the laws of New Jersey, any other state, or the United States.

I certify that these records will NOT be used for commercial purposes.

I certify that I am NOT seeking these records for use in any pending or anticipated legal proceeding.

Thank you for your prompt attention. Please confirm receipt and provide a tracking or reference number.

Sincerely,

Ben Shore

This request was submitted via the Cherry Hill OPRA Request Portal, CHPSOPRA.com. Built by Benjamin Shore.

 **SPSK October 2025.PDF**
500K

Ben Shore <shoreinvestigates@gmail.com>
To: "Schimpf, Jason" <jschimpf@chclc.org>
Cc: "Katherine A. Gilfillan" <kag@spsk.com>

Thu, Dec 4, 2025 at 12:14 PM

Mr. Schimpf,

I confirm receipt. The claims of privilege look too broad. Can I please have a Vaughn index?

Attorney client privilege assertions are subject to in camera review.

Additionally, I am going to build a custodian OPRA reply and redaction tool and if you have any thoughts, I'd love to make one for you for free. Basically, you highlight the area that you're going to redact, and then you choose from a list of exemptions, and then it generates the index as you do the redactions at the same time. If you're comfortable with AI, it can then perform all the preliminary redactions and then you can confirm manually.

Ben
[Quoted text hidden]

Ben Shore <shoreinvestigates@gmail.com>
To: "Schimpf, Jason" <jschimpf@chclc.org>
Cc: "Katherine A. Gilfillan" <kag@spsk.com>

Thu, Dec 11, 2025 at 2:56 PM

Touching base.
[Quoted text hidden]


Ben Shore <shoreinvestigates@gmail.com>
To: "Schimpf, Jason" <jschimpf@chclc.org>
Cc: "Katherine A. Gilfillan" <kag@spsk.com>

Mon, Dec 15, 2025 at 3:58 PM

Touching base.
[Quoted text hidden]

Ben Shore <shoreinvestigates@gmail.com>
To: "Morton, Kwame" <kmorton@chclc.org>, "Winters, Gina" <ginawinters@chclc.org>, "Greenbaum, Adam" <adamgreenbaum@chclc.org>

Mon, Dec 15, 2025 at 4:45 PM

 I will copy and paste into OPRA Pro and the district can spend 5-10k answering the complaint as opposed to just complying with the law and providing a Vaughn Index... I think it's the right thing to reach out before filing a complaint so I do that, but at a certain point, I'm just going to start dragging, dropping, and click file and then we can let it go from there. Happy to show you what it looks like for the plaintiff side, but it's about five minutes of my time and all I

want is the Vaughn index.

Ben

[Quoted text hidden]

Schimpf, Jason <jschimpf@chclc.org>
To: Ben Shore <shoreinvestigates@gmail.com>
Cc: "Katherine A. Gilfillan" <kag@spsk.com>

Tue, Dec 16, 2025 at 4:53 PM

Mr. Shore,

I will have a vaughn index to you shortly.

Jason Schimpf
Assistant Superintendent/Business Administrator/Board Secretary
Cherry Hill Public Schools
(856) 429-5600 x4328

From: Ben Shore <shoreinvestigates@gmail.com>
Sent: Monday, December 15, 2025 3:58 PM
To: Schimpf, Jason <jschimpf@chclc.org>
Cc: Katherine A. Gilfillan <kag@spsk.com>
Subject: Re: OPRA Request - [REF: 2A5389F31AE1] - Ben Shore

[Quoted text hidden]

Ben Shore <shoreinvestigates@gmail.com>
To: "Schimpf, Jason" <jschimpf@chclc.org>
Cc: "Katherine A. Gilfillan" <kag@spsk.com>

Tue, Dec 16, 2025 at 5:01 PM

Thank you, Mr. Schimpf,

Ben

[Quoted text hidden]

Schimpf, Jason <jschimpf@chclc.org>
To: Ben Shore <shoreinvestigates@gmail.com>
Cc: "Katherine A. Gilfillan" <kag@spsk.com>

Thu, Dec 18, 2025 at 3:55 PM

Mr. Shore,

As you know, we are not required to provide a Vaughn index. However, I am awaiting a listing of the reasons for the redactions made to the legal bill. I will provide when received from legal counsel.

Jason Schimpf
Assistant Superintendent/Business Administrator/Board Secretary
Cherry Hill Public Schools
(856) 429-5600 x4328

From: Ben Shore <shoreinvestigates@gmail.com>
Sent: Monday, December 15, 2025 3:58 PM
To: Schimpf, Jason <jschimpf@chclc.org>

Cc: Katherine A. Gilfillan <kag@spsk.com>

Subject: Re: OPRA Request - [REF: 2A5389F31AE1] - Ben Shore

[Quoted text hidden]

Schimpf, Jason <jschimpf@chcl.org>
To: Ben Shore <shoreinvestigates@gmail.com>

Fri, Dec 19, 2025 at 1:38 PM

Mr. Shore,

Please see attached index for the October 2025 Schenck billing redactions.

Jason Schimpf
Assistant Superintendent/Business Administrator/Board Secretary
Cherry Hill Public Schools
(856) 429-5600 x4328

From: Ben Shore <shoreinvestigates@gmail.com>
Sent: Monday, December 15, 2025 3:58 PM
To: Schimpf, Jason <jschimpf@chcl.org>
Cc: Katherine A. Gilfillan <kag@spsk.com>
Subject: Re: OPRA Request - [REF: 2A5389F31AE1] - Ben Shore

[Quoted text hidden]

 **Vaughn Index.pdf**
58K

Ben Shore <shoreinvestigates@gmail.com> Fri, Dec 19, 2025 at 1:54 PM
To: "Schimpf, Jason" <jschimpf@chcl.org>, "Katherine A. Gilfillan" <kag@spsk.com>, "Paul H. Green" <PHG@spsk.com>

Mr. Schimpf,

I confirm receipt. I am concerned more was redacted than you previously advised. This has been a continued pattern that raises questions as to whether in camera review should be conducted for every request. Additionally the index is insufficient it does not contain what personally identifier is at issue to redacted. Is it a business name? Is it a hair color? A pronoun? Without sufficient information I am unsure if the denial was proper. It does not describe with sufficient detail.

Ben

[Quoted text hidden]

Katherine A. Gilfillan <kag@spsk.com> Fri, Dec 19, 2025 at 2:06 PM
To: Ben Shore <shoreinvestigates@gmail.com>
Cc: "Schimpf, Jason" <jschimpf@chcl.org>, "Paul H. Green" <PHG@spsk.com>

Mr. Shore,

The District has complied with its legal obligations. In reality, you are not even entitled to a Vaughn index nor are you entitled to further information to uncover the information redacted. The District has gone above and beyond its obligations under OPRA. Your continued dialogue is neither provided for, nor

countenanced, by OPRA.

Regards,

Kate Gilfillan



Katherine A. Gilfillan
Partner

Schenck, Price, Smith & King, LLP
220 Park Avenue | PO Box 991 | Florham Park, NJ
07932

T: 973-631-7857 F: 973-540-7300

[Email](#) | [Bio](#) | [V-card](#) | [Website](#)

Confidentiality Notice: This message contains information intended for the use of the addressee only, which may be privileged and confidential. If you are not an addressee, any review, distribution, or use of the contents of this message is prohibited. If you have received this message in error, please contact the sender immediately.

[Quoted text hidden]

Ben Shore <shoreinvestigates@gmail.com>
To: "Katherine A. Gilfillan" <kag@spsk.com>
Cc: "Schimpf, Jason" <jschimpf@chclc.org>, "Paul H. Green" <PHG@spsk.com>

Fri, Dec 19, 2025 at 3:38 PM

Hi Kate and Happy Friday,

I've offered multiple times to work together to find ways to make the OPRA process easier. As Mr. Schimpf stated you have no interest in collaborating. I'm always available to try to make the process simply for both parties as the law encourages collaboration.

Of note, your client added new denials on the index never mentioned before. Your client has previously redacted things like "time available to meet."

Your client choose to make OPRA such a difficult process that I worked with a team of software engineers to harness advanced automation and artificial intelligence to file a denial of access in under five minutes. You guys really gave me a big challenge.

Back to work on the interlocutory appeal to the Supreme Court re L594 Fraud. We'll probably get another set of deadlines for the briefing If you wish to update your client on that.

Thanks,

Ben

[Quoted text hidden]

Ben Shore <shoreinvestigates@gmail.com>
 To: "Katherine A. Gilfillan" <kag@spsk.com>
 Cc: "Schimpf, Jason" <jschimpf@chclc.org>, "Paul H. Green" <PHG@spsk.com>

Mon, Dec 22, 2025 at 1:52 PM

Mr. Schimpf or Counsel,

Please confirm your response is final. In the alternative, please consider this a pre-litigation opportunity for resolution.

<https://www.ubalt.edu/about/newsroom/ubalt-law-faculty-learn-about-ai-and-legal-practice.cfm>

"A highlight of the program was a presentation by Benjamin Shore, class of 202[5], who demonstrated the OPRA Litigation Tool, an AI-driven platform designed to streamline public records litigation for attorneys and advocates. His presentation showcased the strength of UBalt Law's learning environment, where faculty and students engage together in innovation."

I do wish to resolve this informally and not take any more of the courts time. It remains unclear why the reasons for denial appeared to have changed between the initial denial and the provided index.

Thanks,
 Ben

[Quoted text hidden]

Schimpf, Jason <jschimpf@chclc.org>
 To: Ben Shore <shoreinvestigates@gmail.com>, "Katherine A. Gilfillan" <kag@spsk.com>
 Cc: "Paul H. Green" <PHG@spsk.com>

Tue, Dec 23, 2025 at 8:35 AM

Mr. Shore,

All redactions were made by legal counsel, and we stand by our original position. I am unclear on what you are referencing when you state that our reasons for denial have changed. As you know, a Vaughn index was provided to you as a courtesy; we are not required to provide one unless ordered by the court.

Jason Schimpf
 Assistant Superintendent/Business Administrator/Board Secretary
 Cherry Hill Public Schools
 (856) 429-5600 x4328

From: Ben Shore <shoreinvestigates@gmail.com>
Sent: Monday, December 22, 2025 1:52 PM
To: Katherine A. Gilfillan <kag@spsk.com>
Cc: Schimpf, Jason <jschimpf@chclc.org>; Paul H. Green <PHG@spsk.com>
Subject: Re: OPRA Request - [REF: 2A5389F31AE1] - Ben Shore

CAUTION: [EXTERNAL EMAIL]

[Quoted text hidden]

Exhibit 2

ORDER PREPARED BY THE COURT

BENJAMIN SHORE, LLC,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION
Plaintiff,	:	CAMDEN COUNTY
	:	
v.	:	
	:	DOCKET NO. CAM-L-3910-25
CHERRY HILL BOARD OF EDUCATION :	:	
& JASON SCHIMPF,	:	
Defendants.	:	CIVIL ACTION
	:	
	:	ORDER

THIS MATTER having come before the Court in a summary action pursuant to the Open Public Records Act (hereinafter “OPRA”) by Donald M. Doherty, Jr., Esquire, appearing virtually on behalf of Plaintiff, against Cherry Hill Board of Education and Jason Schimpf (hereinafter collectively “District” or “Defendant”), represented by Christina Michelson, Esquire, appearing virtually on behalf of Defendants for oral argument on January 30, 2026, and the Court having considered the moving papers and oral argument of both parties, for the reasons stated herein, the Court has come to the following conclusion set forth herein below.

BRIEF BACKGROUND:

On September 17, 2025, Plaintiff requested certain records from Defendant Cherry Hill Board of Education. Specifically, Plaintiff requested production of all OPRA request forms filed by third parties to the District from January 1, 2025, to March 31, 2025. Defendant responded to said request on October 6, 2025, and provided Plaintiff with records that were, per Plaintiff, “redacted of all identification information regarding the party making the request.” Verified Complaint, ¶6. Defendants redacted all information including name, full address, phone number, email address to protect personal identifying information. Id.

Plaintiff, Ben Shore Investigates, LLC, alleges Defendant knowingly and willfully interfered with Plaintiff's right under OPRA and/or unreasonably denied access to the complete records requested. Wherefore, Plaintiffs requests:

1. Directing the release of the records sought without redactions or fewer redactions;
2. Awarding plaintiff counsel fees and costs of suit; and
3. Awarding other such relief as equitable and necessary.

Defendant responded in opposition seeking dismissal of Plaintiff's Verified Complaint stating Defendant properly redacted the records in compliance with OPRA; Plaintiff is not entitled to student records; and Plaintiff is not entitled to attorneys' fees.

ARGUMENT

Plaintiff argues this action should proceed in a summary manner; that Defendant improperly redacted the supplied records; and that an award of counsel fees is appropriate, alleging that Defendant's action was "unreasonable" and that counsel fee award is mandatory; or in the alternative, even if the Court determines that Defendant's actions were not "unreasonable," counsel fees should still be awarded.

In support, Plaintiff cites N.J.S.A. 47:1A-6, which authorizes those "denied access to a government record by the custodian of the record...[to] institute proceedings [that] shall proceed in a summary or expedited manner. N.J.S.A. 47:1A-6.

Plaintiff argued that the redactions were excessive and impermissible. Plaintiff asserts Defendant's redaction of "every name, address, phone number, and email address" to "protect personal identifying information" is a "gross misapplication of the OPRA statute. Plaintiff points out the burden of establishing that a denial of access was justified rests solely with the Records Custodian. N.J.S.A. 47:1A-6; Asbury Park Press v. Monmouth County, 406 N.J. Super. 1, 7

(App. Div. 2009). Plaintiff also states that Defendant's actions were "unreasonable" and that a counsel fee is mandatory.

In response, Defense argued that the produced documents were redacted pursuant to N.J.S.A. 47:1A-1, -9 and amendment signed by Gov. Murphy on June 5, 2024 (S. 2930 (2024)), which outlines what information should be redacted, specifically allowing redaction of "personal identifying information" like personal email addresses, phone numbers, names, etc. to protect privacy of citizens. Defendant also relied upon the seven-factor balancing test of weighing the public's right of access against the individual's expectation of privacy under Doe v. Poritz, N.J. 1, 88 (1995).

Defense argues that Plaintiff's request is overly broad in requesting third-party requests, which "run the gamut from private citizen seeking District information, bid request information, parents seeking student records, etc." Defense Brief in Opposition p.6. Defendant argued that obliging to Plaintiff's broad request without articulating a legitimate need for requested information exposes the public to potential harm including solicitation, blackmail, invasion of privacy, and identity theft. Furthermore, Defendant alleged the redactions are similar to the redactions made in the responsive documents approved by the Court in Benjamin Shore v. Cherry Hill Public Schools and Lynn E. Shugars, Docket CAM-L-594-25.

ANALYSIS

Defendants supplied thirty-three (33) pages of heavily redacted records; Plaintiff argues that in meeting Defendant's burden to justify non-disclosure, the agency must make a 'clear showing' that one of the law's listed exemptions is applicable." North Jersey Media Grp., Inc. v. Twp. of Lyndhurst, 229 N.J. 541, 555 (2017).

Plaintiff asserts that constraints on “personal identifying information” only applies to certain records, and not the type at issue here. Plaintiff asserts that the type exempt from disclosure are limited to:

...personal identifying information received by the Division of Fish and Wildlife in the Department of Environmental Protection in connection with the issuance of any license authorizing hunting with a firearm;....
 ...that portion of any document that discloses the personal identifying information of any person provided to a public agency for the sole purpose of receiving official notifications;...
that portion of any document that requires and would disclose personal identifying information of persons under the age of 18 years, except with respect to the disclosure of driver information by the New Jersey Motor Vehicle Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4) or the disclosure of driver information to any insurer or insurance support organization, or a self-insured entity, or its agents, employees, or contractors, for use in connection with claims investigation activities, antifraud activities, rating, or underwriting, and except with respect to the disclosure of voter information on voter and election records pursuant to section 8 of P.L.2024, c.16 (C.47:1A-5.3)....
personal identifying information disclosed on domestic animal permits, licenses, and registration;...

Plaintiff argued because there is no requirement for an OPRA requester to use email and the form used states any information may be subject to disclosure, requestors have no reasonable expectation of privacy; however, the Court finds the average citizen who use the forms to request information nevertheless and appropriately expects his or her personally identifying information to be provided to any requestor due to a mere disclaimer on the form stating the information may be disclosed. Unsurprisingly, a third-party requestor would expect a certain level of privacy when requesting certain types of information from the government. This is especially so if the requestor, for example, uses his or her personal email address as opposed to a commercial or business email address. Naturally, OPRA exempts several types of personal identifying

information, *i.e.* social security number, credit card number, unlisted telephone number, driver license number, except for use by a government agency in carrying out its functions. N.J.S.A. 47:1A-1.1. Such exceptions are not broad-based but rather based upon a reasonable expectation to protect a person's personal identifying information when utilizing a public service.

The Court disagrees with Plaintiff's blanket assertion that because OPRA form itself informs the applicant that the information on the form may be subject to disclosure under OPRA, there can no expectation of privacy by the requestor, specifically if there is a reasonable expectation of privacy in that particular information.

A public agency has a responsibility and an obligation to safeguard from public access a citizen's personal information with which it has been entrusted when disclosure thereof would violate the citizen's reasonable expectation of privacy; and nothing contained in P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented, shall be construed as affecting in any way the common law right of access to any record, including but not limited to criminal investigatory records of a law enforcement agency. N.J.S.A. 47:1A-1.¹ (emphasis added). The Court finds that Cherry Hill Board of Education is such a public agency entrusted with the aforementioned responsibility.

Lastly, Plaintiff asserts that Defendants' actions were unreasonable, making an award of counsel fee mandatory under OPRA. Plaintiff argues that Defendants created an OPRA exemption arbitrarily and misapplied the balancing test without statutory authority. Even if the Court were to determine Defendants' actions were not "unreasonable," Plaintiff asserts the court should exercise its discretion in awarding fees.

¹ (LexisNexis, Lexis Advance through New Jersey 221st Second Annual Session, L. 2025, c. 176 and J.R. 12)

To determine whether a FOIA plaintiff is “entitled” to attorney fees, there are several nonexclusive factors including: “(1) the public benefit derived from the case; (2) the commercial benefit to the plaintiff; (3) the nature of the plaintiff’s interest in the records; and (4) the reasonableness of the agency’s withholding’ of the requested documents.” Elec. Privacy Info. Ctr. v. NSA, 87 F. Supp. 3d 223, 228 (D.D.C. 2015) (quoting McKinley v. Fed. Hous. Fin. Agency, 739 F.3d 707, 711 (D.C. Cir. 2014). If the fourth factor weighs in favor of nondisclosure, it can be dispositive. Essentially, the plaintiff “is not entitled to fees if the Government’s legal basis for withholding requested records is correct.” Chesapeake Bay Found. v. USDA, 11 F.3d 211, 216 (D.C. Cir. 1993).

Here, the Court finds Defendant’s redactions to have been made in good faith pursuant to OPRA’S command that public agencies have “an obligation to safeguard from public access a citizen’s personal information with which it has been entrusted when disclosure thereof would violate the citizen’s reasonable expectation of privacy[.]” Burnett v. Cty. of Bergen, 198 N.J. 408, 422 (2009). True to its charge, Defendant’s conduct falls within the bounds of reasonableness as the custodian of records.

OPRA specifically provides that a government record shall not include:

...that portion of any document which discloses the social security number, credit card number, debit card number, bank account information, month and day of birth, any personal email address required by a public agency for government applications, services, or programs, any telephone number or driver license number of any person, or, in accordance with section 2 of P.L.2021, c. 371 (C.47:1B-2)...

N.J.S.A. 47:1A-9.

Moreover, OPRA defines personal identifying information as:

As used in this section, “personal identifying information” means information that may be used, alone or in conjunction with any other information, to identify a specific individual. Personal identifying information shall include, **but shall not be limited to**, the following data elements: name, social security number, credit card number, debit card number, bank account information, month and day of birth, any personal email address required by a public agency for government applications, services, or programs, personal telephone number, the street address portion of any person's primary or secondary home address, or driver license number of any person.

Ibid. (emphasis added).

The Court agrees with Defendant that redaction of personal email and home addresses from third-party OPRA requests does not violate OPRA. See Wolosky v. Somerset Cty., No. A-1024-15T4, 2017 N.J. Super. Unpub. LEXIS 781, at 4 (App. Div. Mar. 30, 2017). A governments’ duty to protect citizen’s reasonable privacy interests is “neither a preface nor a preamble.” See Burnett v. County of Bergen, 198 N.J. 408, 422-423 (2009). New Jersey Courts have adopted a seven-factor balancing test to weigh the public’s right of access against the individual’s expectation of privacy. See Burnett, 198 NJ at 427 citing Doe v. Poritz, 142 N.J. 1, 88 (1995).

(1) the type of record requested; (2) the information it does or might contain; (3) the potential for harm in any subsequent nonconsensual disclosure; (4) the injury from disclosure to the relationship in which the record was generated; (5) the adequacy of safeguards to prevent unauthorized disclosure; (6) the degree of need for access; and (7) whether there is an express statutory mandate, articulated public policy, or other recognized public interest militating toward access.

Ibid.

Subsequently, New Jersey Supreme Court held that before an extended analysis of the Doe factors is required, a custodian must present a colorable claim that public access to the records requested would invade a person's objectively reasonable expectation of privacy.

Brennan v. Bergen Cty. Prosecutor's Office, 233 N.J. 330, 342 (2018). The Court finds Defendant to have met the threshold privacy claim to justify the Doe factor analysis.

As to the type of record requested, Plaintiff requested all OPRA request forms submitted to the District and District's responses that denied OPRA requests from January 1, 2025, to March 31, 2025. Defendant provided thirty-three (33) pages of responsive documents to Plaintiff after redacting personal identifying information, although some business email addresses were also redacted.

As to the information it does or might contain, the requests range from general district information, bid information, and parents seeking student records. The Court agrees with Defense that there is no legitimate need to include the requestors' addresses, phone numbers, and personal email addresses to Plaintiff. Additionally, the District's OPRA request form states that the information may be subject to disclosure and it is unlikely that the average OPRA requestor would take the disclaimer to mean they are waiving their privacy interests as to their personal email addresses or home addresses.

Furthermore, the Court finds that Defendant's redactions were reasonable to safeguard against the potential for harm in any subsequent nonconsensual disclosure of an OPRA requestor's email and home address. Potential harm that may befall the public, specifically, risks including solicitation, blackmail, invasion of privacy, identity theft, release of student records, and a general chilling effect of OPRA requests are all objectively reasonable concerns.

As to the injury from disclosure to the relationship in which the record was generated, for the aforesaid reasons, the Court finds this factor to also favor Defendant's conduct. As to the degree of need for access, Plaintiff was provided thirty-three pages with personal identifying information redacted. Plaintiff claims he requires the information for his limited liability

company in a journalistic capacity to report to the public of the affairs in the township. The Court finds it difficult to see the legitimacy in Plaintiff requiring the personal identifying information of the requestors; and even if he had set forth articulable reasons, the potential harm of disclosure to the public surpasses Plaintiff's degree of need for access. Based on the analysis of the Doe factors, the Court finds the Board properly redacted personal identifiers from the third-party OPRA requests.

OPRA does not provide access to records that are exempt from disclosure under "any other statute ... regulation promulgated under the authority of any statute or Executive Order of the Governor; any federal law; federal regulation; or federal order." N.J.S.A. 47:1A-9. The release of student records is governed by the federal Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C.S. 1232g, and the New Jersey Pupil Records Act ("NJPR"), N.J.S.A. 18A:36-19. Both FERPA and the NJPRA set forth guidelines for accessing student records and provide safeguards to ensure the privacy of students and parents.

Access to student records is governed by N.J.A.C. 6A:32-7.5(a). That regulation states that "authorized organizations, agencies or persons as defined in this section shall have access to student records[.]" N.J.A.C. 6A:32-7.5(e) lists 16 categories of authorized persons and organizations that can obtain student records, which includes parents and students. N.J.A.C. §6A:32-7.5(e). If a person or entity does not fall within one of the 16 enumerated categories for "authorized" recipients of student records, then they can only obtain access to student records upon written parental consent or court order. L.R. v. Camden City Pub. Sch. Dist., 452 N.J. Super. 56, 87-88 (App. Div. 2017).

Regarding Plaintiff's request for attorney's fees, OPRA was amended effective September 3, 2024, and provides as follows regarding attorney's fees:

A requestor who prevails in any proceeding may be entitled to a reasonable attorney's fee. While the court or Government Records Council may award a reasonable attorney's fee to a prevailing party in any proceeding, if the public agency has been determined to have unreasonably denied access, acted in bad faith, or knowingly and willfully violated P.L.1963, c. 73 (C.47:1A-1 et seq.), then the court or Government Records Council shall award a reasonable attorney's fee.

N.J.S.A. 47:1A-6.

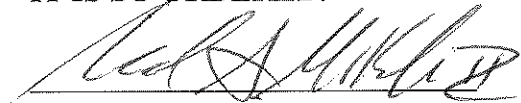
The statute provides that Plaintiff "may be entitled to a reasonable attorney's fee," and shall be awarded where the Court has determined the agency "unreasonably denied access, acted in bad faith, or knowingly and willfully violated the law." Ibid. As stated above, the Court finds Defendant's conduct to be compliant and in good faith with Plaintiff's requests. While the Court does not find there to be a reasonable expectation of privacy in the actual OPRA request forms by a third-party, the Court finds that the third-party requestor does have a reasonable expectation of privacy to the personal identifying information as set forth herein above. **THEREFORE,**

IT IS on this 6th day of March, 2026, **ORDERED** as follows:

1. To the extent Defendant redacted easily identifiable business names and business/commercial email addresses, Defendant shall provide unredacted copies, *i.e.* remove redactions of easily identifiable business names and business/commercial email addresses, of the requested OPRA forms to Plaintiff; accordingly, all personal email addresses shall be redacted;
2. Defendant shall provide Plaintiff with unredacted town/city names of third-party requestor's residence; however, the street address shall remain redacted;
3. Defendant shall provide Plaintiff with unredacted names of third-party requestors;

4. To the extent the records sought pertain to students, the student names shall remain redacted; furthermore, if the requested records for student information is specific to student performance, attendance, well-being, etc. of an individual student, the last name of the third-party requestor shall also be redacted; and
5. Plaintiff's request for attorney's fees is **DENIED**.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Michael S. Mikulski II", written over a horizontal line.

Michael S. Mikulski II, J.S.C.

CHERRY HILL TOWNSHIP BOARD
OF EDUCATION,

Plaintiff,

v.

SHORE INVESTIGATES, LLC,
DANIEL SHORE, AND BENJAMIN
SHORE,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: CAMDEN COUNTY

Docket No. CAM-L-620-26

A Civil Action

Brief of In Support of Order to Show Cause Filed Pursuant to the
Uniform Public Expression Protection Act (UPEPA)

CJ Griffin, Esq. (031422009)
Pashman Stein Walder Hayden, P.C.
Court Plaza South
21 Main St., Suite 200
Hackensack, NJ 07601
201-488-8200
cgriffin@pashmanstein.com

Attorneys for Defendants

TABLE OF CONTENTS

PRELIMINARY STATEMENT	1
STATEMENT OF FACTS AND PROCEDURE	3
A. About Defendants.....	3
B. The OPRA Requests	3
C. The Cherry Hill Public Schools OPRA Request Portal.....	5
LEGAL ARGUMENT	6
I. UPEPA’S LEGAL PROCEDURES	6
II. UPEPA STEP ONE: EACH DEFENDANT’S SPEECH IS PROTECTED BY UPEPA	7
A. The Complaint Seeks to Punish Ben Shore for a Communication in a Governmental Proceeding or on an Issue Under Consideration or Review in a Judicial or Governmental Proceeding	8
B. Defendants’ Speech Constituted Exercises of Their Right to Free Speech and Their Right to Petition the Government	9
III. STEP TWO: COUNT ONE OF THE COMPLAINT MUST BE DISMISSED WITH PREJUDICE	16
A. Count One Must be Dismissed as to Daniel Shore	17
B. Count One Against Ben Shore and Shore Investigates Must be Dismissed..	18
IV. STEP TWO: COUNT TWO MUST BE DISMISSED AS TO ALL DEFENDANTS.....	23
A. N.J.S.A. 56:8-227 Clearly Does Not Apply to the Website.....	23
B. The Government Cannot Bring a Claim for Misappropriation of Likeness.....	24
V. DEFENDANTS ARE ENTITLED TO ATTORNEYS’ FEES AND COSTS	24
VI. THE MATTER SHOULD BE STAYED PENDING FINAL DISPOSITION OF THE ORDER TO SHOW CAUSE	25
CONCLUSION	25

TABLE OF AUTHORITIES

Cases

<u>BE & K Const. Co v. NLRB,</u> 536 U.S. 516 (2002)	9
<u>Borough of Duryea v. Guarnieri,</u> 564 U.S. 379 (2011)	10
<u>Burnett v. County of Bergen,</u> 198 N.J. 408 (2009).....	15
<u>Cal. Motor Transp. Co. v. Trucking Unlimited,</u> 404 U.S. 508 (1972)	10
<u>Connick v. Myers,</u> 461 U.S. 138 (1983)	14
<u>Cox Broadcasting Corp. v. Cohn,</u> 420 U.S. 469 (1975)	14
<u>DeMartini v. Town of Gulf Stream,</u> 942 F.3d 1277 (11th Cir. 2019).....	11
<u>Green Party v. Hartz Mountain Indus., Inc.,</u> 164 N.J. 127 (2000).....	9
<u>Handy-Clay v. City of Memphis,</u> 695 F.3d 531 (6th Cir. 2012)	11
<u>Iloh v. Regents of Univ. of California,</u> 312 Cal. Rptr. 3d 674 (Ct. App. 2023)	12
<u>In re Primus,</u> 436 U.S. 412, 437 (1978)	14
<u>Kratovil v. City of New Brunswick,</u> 261 N.J. 1 (2025)	14
<u>Mason v. City of Hoboken,</u> 196 N.J. 51, 66 (2008).....	15, 19, 17
<u>McBurney v. Young,</u> 569 U.S. 221 (2013)	11

<u>McDonald v. Smith,</u> 472 U.S. 479 (1985)	9
<u>Mirabella v. Villard,</u> 853 F.3d 641 (3d Cir. 2017).....	10
<u>Moore v. Shelby Cnty., Kentucky,</u> 233 F. Supp. 3d 569 (E.D. Ky. 2017).....	12
<u>Nat'l Ass'n for Advancement of Colored People v. Button,</u> 371 U.S. 415, 423 (1963)	14
<u>San Diego v. Roe,</u> 543 U.S. 77 (2004).....	14
<u>Scheeler v. Office of Gov.,</u> 448 N.J. Super. 333 (2017).....	12, 17, 19
<u>Senna v. Florimont,</u> 196 N.J. 469 (2008).....	14
<u>Snyder v. Phelps,</u> 562 U.S. 443 (2011)	14
<u>State v. F.E.D.,</u> 469 N.J. Super. 45 (App. Div. 2021).....	13
<u>State v. Hill,</u> 256 N.J. 266 (2024).....	9
<u>State v. Schmid,</u> 84 N.J. 535 (1980)	9
<u>Thomas v. Collins,</u> 323 U.S. 516, (1945).....	10
<u>Time, Inc. v. Hill,</u> 385 U.S. 374 (1967).....	14
<u>Wayte v. United States,</u> 470 U.S. 598 (1985).....	10
<u>Statutes and Constitutions</u>	
<u>N.J. Const. art. I, ¶ 13</u>	9
<u>N.J. Const. art. I, ¶ 6</u>	9

N.J.S.A. 2A:53-55(a).....	6, 7
N.J.S.A. 2A:53A-50(b).....	6, 8
N.J.S.A. 2A:53A-50(c).....	7
N.J.S.A. 2A:53A-52(a)(3)	6
N.J.S.A. 2A:53A-54	6
N.J.S.A. 2A:53A-58	25
N.J.S.A. 2A:53A-59	7
N.J.S.A. 2A:53A-60	7
<u>U.S. Const.</u> amend. I	9

PRELIMINARY STATEMENT

In 2024, the Legislature amended the Open Public Records Act (OPRA), despite overwhelming public opposition. One provision, codified at N.J.S.A. 47:1A-5.1, created a cause of action for agencies to sue people who seek records “with the intent to substantially interrupt the performance of government function[s].” That provision is being weaponized in this case by the Cherry Hill Township Board of Education (“Plaintiff,” “Cherry Hill BOE” or “the BOE”). Defendants Shore Investigates, LLC—publisher of *Shore Investigates*, a digital news publication—as well as Benjamin Shore, and Daniel Shore—who write for the publication—have been targeted because they filed a collective **fourteen requests over a one-year period** (the majority of which relate to public spending) and because they publish a free, online website to make it easier for other residents to file requests with the BOE. The BOE seeks to restrain each of them from filing OPRA requests for a period of one year.

When Governor Murphy signed the OPRA amendments in June 2024, he issued a lengthy signing statement to address the public’s concerns. Among other things, he assured the public there was a tool to defend against these types of lawsuits that seek to punish individuals for filing OPRA requests: the Uniform Public Expression Protection Act (UPEPA), an “anti-SLAPP”¹ law. Murphy explained, “I am confident that this ‘anti-SLAPP’ law will allow individuals to obtain expedited dismissals of any improper lawsuits brought under this new provision of OPRA.”

UPEPA applies to the speech at issue because the complaint seeks to punish Defendants for their petitioning activity (i.e., their OPRA requests and lawsuits), and

¹ A “SLAPP” is a strategic lawsuit against public participation—lawsuits designed to punish individuals for protected First Amendment activity.

communications they had about matters under review in judicial proceedings (i.e., their settlement offers) and communications they had during governmental proceedings (i.e. public comment period). Moreover, Murphy's signing statement makes it abundantly clear that UPEPA is designed to protect requestors from this type of bullying lawsuit. Defendants thus file this Order to Show Cause to seek dismissal of the complaint with prejudice under UPEPA.

Moving to UPEPA's second step, which evaluates the sufficiency of the complaint, there is no doubt that (1) the complaint fails to state a claim upon which relief can be granted or (2) that the Defendants are entitled to judgment as a matter of law. Count One seeks a protective order under N.J.S.A. 47:1A-5.1 to preclude all three Defendants from filing OPRA requests with the BOE for a one-year period. The complaint was not filed in accordance with the procedures required by Section 5.1 of the amendment, and it also fails to allege "clear and convincing evidence" that the Defendants filed their requests with the intent to disrupt agency operations. In fact, the complaint itself details the numerous attempts that Defendants made to be cooperative and to make it easier for the BOE to fulfill their requests.

Prohibiting someone from exercising their right to file records requests, as well as to access the courts, is an extreme remedy. The Legislature intentionally set a very high bar to obtain such a protective order: when OPRA has truly been abused and there is clear and convincing evidence that the person filing the requests has done so with ill intent, solely to disrupt the agency and not for any legitimate purpose. That is not the case here, where Plaintiff targets a news entity with legitimate reasons for its requests, as evidenced in the complaint exhibits. This Court should grant the UPEPA motion and dismiss the complaint with prejudice.

STATEMENT OF FACTS AND PROCEDURE

A. About Defendants

The attached Certification of Benjamin (“Ben”) Shore (“Shore Cert.”) provides information about each Defendant as background information. In short, Ben Shore founded Defendant Shore Investigates LLC, a company which publishes *Shore Investigates*, an online news publication that often publishes news stories about events in Cherry Hill. Shore Cert. ¶3. He also co-founded Rise Against Hate (RAH), a nonprofit organization dedicating to raising awareness about racism and civil rights and informing the public about the law. RAH has a Cherry Hill Chapter and has published research about Cherry Hill Township. *Id.* at ¶¶11-14.

Daniel Shore is Ben’s brother and is a reporter at *Shore Investigates*. *Id.* at ¶8.

B. The OPRA Requests

As a factual basis for the BOE’s position that it is entitled to a protective order under N.J.S.A. 47:1A-5.1, the complaint identifies a total of **fourteen OPRA requests** that were collectively filed by Defendants in a one-year period and **four lawsuits** regarding those requests (one of which has since been successful). As detailed in the chart below, thirteen of the requests were filed by Ben Shore and one was filed by Daniel Shore:

#	<u>Date</u>	<u>Requestor</u>	<u>Records Sought</u>	<u>Lawsuit</u>
1	Jan. 16, 2025	Ben Shore	OPRA Requests submitted from Jan. 1, 2023 – Dec. 31, 2024 and responses to those requests. <u>See</u> Ex. A to Compl.	Lawsuit filed Feb. 24, 2025, Docket No. CAM-L-594-25. <u>See</u> Ex. B to Compl.
2	Feb. 26, 2025	Ben Shore	Security camera video of three minutes of footage from the Feb. 2025 BOE meeting, which would show the BOE’s reaction to Shore’s comments. <u>See</u> Ex. D to Compl.	Lawsuit filed Mar. 9, 2025, Docket No. CAM-L-815-25. <u>See</u> Ex. E to Compl.

3	Mar. 12, 2025	Ben Shore	A single email from one woman to a BOE Employee, as well as the response, with the subject line “Re: Opra meeting” and relating to denying the woman her right to file OPRA requests. <u>See</u> Ex. E to Compl.	None.
4	Aug. 20, 2025	Ben Shore	Security camera video of three minutes of footage from the Feb. 2025 BOE meeting, which would show the BOE’s reaction to Shore’s comments. This time, Shore’s common law interest was discussed at length, unlike in the prior request. <u>See</u> Ex. H to Compl.	None.
5	Aug. 28, 2025	Ben Shore	Legal invoices relating to CAM-L-594-25. <u>See</u> Ex. I to Compl.	None.
6	Sept. 16, 2025	Ben Shore	Legal invoices relating to CAM-L-815-25 from Jan. 1, 2025 to present. <u>See</u> Ex. K to Compl.	None.
7	Sept. 17, 2025	Ben Shore	Insurance policies. <u>See</u> Ex. L to Compl.	None.
8	Sept. 17, 2025	Ben Shore	OPRA requests submitted from Jan. 1, 2025 to March 31, 2025. <u>See</u> Ex. M to Compl.	Lawsuit filed Nov. 19, 2025, CAM-L-3910-25. In this action, the BOE seeks a protective order relating to CAM-L-3910-25, but it has since decided and Shore partially prevailed. <u>See</u> Ex. 2 to Shore Cert.
9	Oct. 22, 2025	Ben Shore	Legal invoices from Paul Green from Sept. 1, 2025 to present. <u>See</u> Ex. O to Compl.	None.
10	Oct. 25, 2025	Daniel Shore	OPRA requests from Jan. 15, 2023-Dec. 15, 2024. <u>See</u> Ex. P to Compl.	None.
11	Nov. 23, 2025	Ben Shore	Legal invoices related to the creation of CHPSOPRA. com. <u>See</u> Ex. R to Compl.	None.

12	Dec. 2, 2025	Ben Shore	Legal invoices relating to the appeal in CAM-L-594-25. <u>See</u> Ex. S to Compl.	None.
13	Jan. 1, 2026	Ben Shore	A copy of a video of the Feb. 2025 meeting. This time, however, Shore sought an “alternative angle” that had been referred to by the BOE’s lawyers in court arguments. The denial letter conceded no alternative angle existed. <u>See</u> Ex. T to Compl.	None.
14	Jan. 9, 2026	Ben Shore	A copy of the security camera video of the Dec. 16, 2025 BOE meeting, limited to the portion of a presentation called “Cherry Hill Tomorrow Project Update.” <u>See</u> Ex. U to Compl.	Lawsuit filed Feb. 10, 2026, Docket No. CAM-L-477-26

C. The Cherry Hill Public Schools OPRA Request Portal

Ben Shore is technologically skilled and has built several online transparency-related websites, including the website that is the subject of this lawsuit, “The Cherry Hill Public Schools OPRA Request Portal” (“the Website”)—www.chpsopra.com. Shore Cert. ¶16 The Website is completely free and allows users to file OPRA requests directly with the Cherry Hill BOE. Id. at ¶17. It also contains helpful information about OPRA, such as what records can be requested, how an agency must respond, and how a requestor can challenge a denial. Ibid.; <https://www.chpsopra.com/>.

The Website contains clear indicators that it is not an official website. As evidenced by Exhibit X to the complaint, the Website says that it is a “community created portal.” The bottom of every page states: “This is a free, unofficial portal to assist with OPRA requests. Built by Benjamin Shore.” Ex. Z to Compl. After requestors file a request, they receive an email which states “Created by Benjamin Shore. Committed to transparency and public access.” Ex. Z to Compl. That same non-affiliation language also appears in the terms that

users must agree to before submitting a request. Ibid. The Website does not contain the BOE's official logo. Shore Cert. at ¶¶25-26; Compl. at ¶50.

LEGAL ARGUMENT

I. UPEPA'S LEGAL PROCEDURES

New Jersey's UPEPA is "based on the 2020 uniform act drafted and approved by the Uniform Law Commission[.]" See Sponsor's Statement to S. 2802 (L. 2023 c. 155). UPEPA allows a party to file OTSC to seek dismissal, or partial dismissal, of:

any cause of action asserted in a civil action against a person
based on the person's:

- (1) communication in a legislative, executive, judicial, administrative, or other governmental proceeding;
- (2) communication on an issue under consideration or review in a legislative, executive, judicial, administrative, or other governmental proceeding; or
- (3) exercise of the right of freedom of speech or of the press, the right to assembly or petition, or the right of association, guaranteed by the United State Constitution or the New Jersey Constitution, on a matter of public concern.

[N.J.S.A. 2A:53A-50(b) (emphasis added).]

Once an OTSC is filed, a hearing shall be held "as expeditiously as possible." N.J.S.A. 53A-53(a). There is a presumption that all proceedings shall be stayed while the OTSC is pending. N.J.S.A. 2A:53A-52(a)(3).

In ruling on the OTSC, the court "may consider the pleadings, the [OTSC] application and supporting certifications, briefs, any reply or response to the [OTSC], and any evidence that could be considered in ruling on a motion for summary judgment." N.J.S.A. 2A:53A-54. The court must construe UPEPA "broadly . . . to protect the exercise of the right of freedom of speech and of the press, the right to assembly and petition, and the right of

association, guaranteed by the United State Constitution or the New Jersey Constitution.” N.J.S.A. 2A:53A-59 (emphasis added). “In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact [UPEPA].” N.J.S.A. 2A:53A-60.

A court “shall dismiss with prejudice a cause of action, or part of a cause of action” if two steps are satisfied. N.J.S.A. 2A:53A-55(a) (emphasis added). Step one requires a court to determine that UPEPA applies to the type of speech at issue, and that no exceptions apply.² N.J.S.A. 2A:53A-55(a)(1) and (2). If step one is satisfied, then UPEPA applies and the court moves to step two.

Step two addresses the sufficiency of the complaint and requires the court to find

either:

- (a) the responding party fail[ed] to establish a prima facie case as to each essential element of any cause of action in the complaint; or
- (b) The moving party establishe[d] that:
 - i. The responding party failed to state a cause of action upon which relief can be granted; or
 - ii. There is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law on the cause of action or part of the cause of action.

[N.J.S.A. 2A:53A-55(a)(3) (emphasis added).]

In other words, a court may decide a UPEPA motion based either on a motion to dismiss standard or a motion for summary judgment standard.

II. UPEPA STEP ONE: EACH DEFENDANT’S SPEECH IS PROTECTED BY UPEPA

² The exceptions, N.J.S.A. 2A:53A-50(c) are not relevant in this case.

As detailed further below, the complaint seeks to punish each Defendant for speech that is protected by UPEPA under step one. Once step one is satisfied, Defendants may utilize UPEPA's dismissal procedures in step two.

A. The Complaint Seeks to Punish Ben Shore for a Communication in a Governmental Proceeding or on an Issue Under Consideration or Review in a Judicial or Governmental Proceeding

UPEPA applies when a cause of action, or part of a cause of action, seeks to punish someone for a "communication in" or "communication on" an "issue under consideration or review in a . . . judicial . . . or other governmental proceeding." N.J.S.A. 2A:53A-50(b)(1) and (2). Unlike the provisions relating to free speech and petitioning activity, there is no requirement that the communications pertain to a matter of public concern: any communication that is made "in" a judicial or government proceeding or "on" (i.e., about) an "issue under consideration or review in" a judicial or governmental proceeding falls under UPEPA.

Here, the complaint seeks to punish Ben Shore for communications on issues under consideration or review in a judicial proceeding. Specifically, Paragraphs 40 and 41 of the complaint assert that Ben Shore "has made various and repeated demands for settlement of the aforementioned litigated OPRA matters to the handling attorneys, the Custodian, the Board's General Counsel, and the Board directly." These settlement demands pertained to pending court lawsuits and thus they are protected by UPEPA because they were communications about matters under consideration or review in a judicial proceeding.

Moreover, Paragraph 57 of the complaint asserts that Ben Shore "spoke during the public comment section of the Board's next public meeting held on October 28, 2025 decrying the propriety of the cease and desist letter" the BOE sent him. Compl. ¶57. "At that

same meeting, the Board Solicitor addressed the impropriety of [Ben Shore's] website to ensure that the public was aware of the issues of submitting an OPRA request" through the website. Compl. ¶58. Thus, undoubtedly, the complaint also seeks to punish Ben Shore for a communication he made "in a . . . governmental proceeding," which was also an issue under consideration in that governmental proceeding. N.J.S.A. 2A:53A-50(b)(1) and (2).

Thus, UPEPA applies to those aspects of the complaint.

B. Defendants' Speech Constituted Exercises of Their Right to Free Speech and Their Right to Petition the Government

The First Amendment and the New Jersey Constitution protect the freedom of speech. U.S. Const. amend. I ("Congress shall make no law ... abridging the freedom of speech."); N.J. Const. art. I, ¶ 6 ("No law shall be passed to restrain or abridge the liberty of speech or of the press."). The New Jersey Supreme Court has held that "New Jersey's constitutional protection of free expression is 'more sweeping in scope' than the First Amendment." State v. Hill, 256 N.J. 266, 281 (2024) (quoting State v. Schmid, 84 N.J. 535, 557 (1980)); See also Green Party v. Hartz Mountain Indus., Inc., 164 N.J. 127, 145 (2000) (describing the New Jersey's free speech clause as "broader than practically all others in the nation").

The First Amendment also guarantees "the right of the people . . . to petition the Government for a redress of grievances." Accord N.J. Const. art. I, ¶ 13. "The right to petition is cut from the same cloth as the other guarantees of [the First] Amendment, and is an assurance of a particular freedom of expression." McDonald v. Smith, 472 U.S. 479, 482 (1985). It is "one of the most precious of the liberties safeguarded by the Bill of Rights." BE & K Const. Co v. NLRB, 536 U.S. 516, 524 (2002) (internal quotation marks omitted).

The U.S. Supreme Court:

has said that the right to speak and the right to petition are “cognate rights.” Thomas v. Collins, 323 U.S. 516, 530, (1945); see also Wayte v. United States, 470 U.S. 598, 610, n. 11 (1985). “It was not by accident or coincidence that the rights to freedom in speech and press were coupled in a single guaranty with the rights of the people peaceably to assemble and to petition for redress of grievances.” Thomas, 323 U.S., at 530. Both speech and petition are integral to the democratic process, although not necessarily in the same way. The right to petition allows citizens to express their ideas, hopes, and concerns to their government and their elected representatives, whereas the right to speak fosters the public exchange of ideas that is integral to deliberative democracy as well as to the whole realm of ideas and human affairs. Beyond the political sphere, both speech and petition advance personal expression, although the right to petition is generally concerned with expression directed to the government seeking redress of a grievance.

[Duryea, 564 U.S. at 388.]

As explained below, Plaintiff sued Defendants over their filing of OPRA requests and filing of lawsuits, which is protected petitioning activity. Moreover, Ben Shore is sued for publishing the Website, which is protected speech.

1. The Complaint Seeks to Punish Defendants for Petitioning the Courts for Relief

Among other things, “the Petition Clause protects the right of individuals to appeal to courts and other forums established by the government for resolution of legal disputes.” Borough of Duryea v. Guarnieri, 564 U.S. 379, 387 (2011). “A petition enjoys constitutional protection whether it is addressed . . . to a local government, or to a state or national government.” Mirabella v. Villard, 853 F.3d 641, 654 (3d Cir. 2017). Accord Cal. Motor Transp. Co. v. Trucking Unlimited, 404 U.S. 508, 510 (1972) (“Certainly the right to petition extends to all departments of the Government. The right of access to the courts is indeed but one aspect of the right of petition.”) (emphasis added).

Here, as detailed in the chart above, the complaint seeks to punish Ben Shore and Shore Investigates for filing four OPRA lawsuits against the BOE. See Compl., ¶¶14, 19, 39, 69(a). In its prayer for relief, Plaintiff seeks a protective order denying the relief Defendants seek in CAM-L-3910-25³ and CAM-L-477-26. The inclusion of these lawsuits in the prayer for relief goes far beyond what N.J.S.A. 47:1A-5.1 permits and demonstrates that Plaintiff seeks to punish Defendants for classic petitioning activity that is protected by the First Amendment. Thus, UPEPA applies.

2. Those Sued for Filing OPRA Requests May Utilize UPEPA's Procedures

Although the U.S. Supreme Court has stated, in analyzing whether a citizens-only public records law violates the Privileges and Immunities Clause and the dormant Commerce Clause of the U.S. Constitution, that “there is no constitutional right to obtain all the information provided by [Freedom of Information] laws,” McBurney v. Young, 569 U.S. 221, 232 (2013), courts have distinguished that right to receive documents from the right to request records and have accordingly held that filing a records request is an expressive activity or a petitioning activity that is protected from First Amendment retaliation. See, e.g., DeMartini v. Town of Gulf Stream, 942 F.3d 1277, 1288–89 (11th Cir. 2019) (“[A] citizen's public records requests and lawsuits against the government [challenging denials of those requests] can clearly constitute protected First Amendment activity.”); Handy-Clay v. City of Memphis, 695 F.3d 531, 546 (6th Cir. 2012) (holding plaintiff had engaged in constitutionally protected conduct and established an inference of causation because she was terminated the day after she made records requests with her employer) (emphasis added);

³ This matter recently been resolved in Shore’s favor. Shore Cert., Ex. 2.

Moore v. Shelby Cnty., Kentucky, 233 F. Supp. 3d 569, 573 (E.D. Ky. 2017) (filing records requests was protected First Amendment conduct but allegations did not prove retaliation), vacated, 718 Fed. Appx. 315 (6th Cir. 2017).

After all, UPEPA is to be construed broadly, N.J.S.A. 2A:53A-59, and applied where the government – or anyone else – has filed a SLAPP suit to try to silence those deemed to be thorns in their side by forcing them to spend their money defending themselves against a baseless suit. All individuals have a statutory right to access public records, and almost all the records that Defendants have sought are unequivocally subject to public access. See N.J.S.A. 47:1A-1.1 (requiring legal invoices to be produced); Scheeler v. Office of Gov., 448 N.J. Super. 333 (2017) (finding OPRA requests are subject to OPRA and “access to these records” helps “maximize public knowledge about public affairs”). The act of requesting records is a type of petition because it asks the government to perform an action—to release public records.⁴ That is why Governor Murphy addressed N.J.S.A. 47:1A-5.1 in his signing statement to the 2024 OPRA amendments. See L. 2024, c. 16. In response to public concern that requestors would be targeted by agencies, Murphy wrote:

Another provision that has garnered a significant amount of controversy concerns the ability of public entities to sue requestors. In order to prevent abuse, the bill establishes an extraordinarily high standard for such lawsuits, as the public entity must prove harassment or substantial interruption of government functions by clear and convincing evidence. Some advocacy groups claim that the mere threat of a lawsuit will deter citizens from making requests under OPRA. However, I signed an important law last September that protects individuals

⁴ Courts have held that filing records requests is protected by anti-SLAPP laws because it is “newsgathering activity” and “part and parcel” of reporting news. See, e.g., Iloh v. Regents of Univ. of California, 312 Cal. Rptr. 3d 674, 682 (Ct. App. 2023), reh'g denied (Sept. 11, 2023), review denied (Dec. 13, 2023). Given that the requests at issue were made during the course of newsgathering, there is simply no doubt that UPEPA applies.

from meritless lawsuits intended to intimidate them for exercising their free speech rights. I am confident that this “anti-SLAPP” law will allow individuals to obtain expedited dismissals of any improper lawsuits brought under this new provision of OPRA.

[Governor’s Statement Upon Signing S. 2930 (2nd Reprint), June 5, 2024 (emphasis added).]

Thus, requestors who are sued under N.J.S.A. 47:1A-5.1 are entitled to use UPEPA to defend themselves and seek expedited dismissal, especially when the requests were made during the newsgathering process.⁵ This Court should give weight to the Governor’s signing statement. See State v. F.E.D., 469 N.J. Super. 45, 63 n.16 (App. Div. 2021) (“[A] Governor’s signing statement carries weight because a Governor, in issuing it, exercises his or her role in the legislative process.”), aff’d as modified, 251 N.J. 505 (2022).

3. Ben Shore’s Website Is Protected Speech and Enables Petitioning Activity

Count Two of the complaint seeks to punish Ben Shore for publishing the “Cherry Hill Public Schools OPRA Request Portal” website. As detailed above, the Website is a free tool that allows requestors to submit OPRA requests directly to the BOE—i.e., it enables others to petition the government. Moreover, the website contains editorial content to assist the public in understanding our public records laws. An “About OPRA” section provides explains what OPRA is and the types of records that can be requested, how an agency must respond, what the common law right of access means, and how a requestor can appeal a denial. See <https://www.chpsopra.com/about>. The BOE seeks to punish Ben Shore for the

⁵ This does not mean a requestor would automatically prevail—a decision on the merits takes place in step two of UPEPA. See Uniform Law Commission, Uniform Law and Commentary, § 7, cmt. 2 (“To use [UPEPA], a movant need not prove that the responding party has violated a constitutional right—only that the responding party’s suit arises from the movant’s constitutionally protected activity.”).

Website and establish a prior restraint on his speech, going so far as alleging that it “improperly advertises attorneys to file OPRA appeals against the Plaintiff.” Compl. ¶68. But publishing a Website, including providing information about commonly known attorneys who could help people enforce their statutory rights against the government, is classic free speech activity that is protected by the First Amendment. See, e.g., In re Primus, 436 U.S. 412, 437 (1978) (First Amendment did not allow attorney to be disciplined for making referrals to ACLU); Nat'l Ass'n for Advancement of Colored People v. Button, 371 U.S. 415, 423 (1963) (First Amendment protected right of NAACP to make referrals and solicit clients). Thus, UPEPA applies to the claims relating to the website.

C. The Speech and Petitioning Activity Relates to Matters of Public Concern

UPEPA applies to speech and petitioning activity that relates to matters of public concern. As explained by the U.S. Supreme Court:

Speech deals with matters of public concern when it can “be fairly considered as relating to any matter of political, social, or other concern to the community,” Connick v. Myers, 461 U.S. 138, 146 (1983) or when it “is a subject of legitimate news interest; that is, a subject of general interest and of value and concern to the public,” San Diego v. Roe, 543 U.S. 77, 83–84 (2004) See Cox Broadcasting Corp. v. Cohn, 420 U.S. 469 (1975); Time, Inc. v. Hill, 385 U.S. 374 (1967).

[Snyder v. Phelps, 562 U.S. 443, 453 (2011) (emphasis added).]

Accord Uniform Public Expression Protection Act, Cmt. 9 to §2 (explaining “matter of public concern” also means “public issue” or “public interest”).

Where speech relates to the conduct of public officials, public employees, or public agencies, it automatically is a matter of public concern. Senna v. Florimont, 196 N.J. 469, 496-97 (2008). See also Kratovil v. City of New Brunswick, 261 N.J. 1, 24 (2025) (police

director's address was a matter of public concern because it related to allegation that he was an absentee public official).

Here, the OPRA requests and the corresponding lawsuits relate to matters of public concern because they seek records from the government about government operations. See Geer v. Phoebe Putney Health Sys., Inc., 849 S.E.2d 660, 662 (Ga. 2020) (“[R]equests under the Open Records Act, by their very nature, pertain to public entities and records regarding matters of public interest or concern.”). Moreover, the requests seek legal invoices, insurance policies, and other records that Defendants sought for use in their reporting, such as for use in a dashboard so the public can track Cherry Hill BOE's spending on legal services. Public spending is a matter of public concern—one of OPRA's core goals is to allow the public “to play a watchful role in curbing wasteful government spending and guarding against corruption and misconduct.” Burnett v. County of Bergen, 198 N.J. 408, 414 (2009).

Further, the Website also pertains to a matter of public concern because it educates the public about OPRA, enables them to file public records requests easily, and provides information to assist them in enforcing their statutory rights. See IMS Health Inc. v. Sorrell, 630 F.3d 263, 271–72 (2d Cir. 2010) (concluding the First Amendment protects “[e]ven dry information, devoid of advocacy, political relevance, or artistic expression.”), aff'd, 564 U.S. 552 (2011). OPRA exists to create an “informed citizenry.” Mason, 196 N.J. at 64.

Defendants are thus permitted to utilize UPEPA because the allegations in the complaint relate to free speech or petitioning activities involving matters of public concern, and other allegations seek to punish Defendants for communications made in a governmental proceeding or about a matter under consideration or review in a judicial or governmental proceeding. Thus, this Court should move to UPEPA Step Two.

III. STEP TWO: COUNT ONE OF THE COMPLAINT MUST BE DISMISSED WITH PREJUDICE

In UPEPA's second step, the court evaluates the sufficiency of the complaint. Here, Count One is labeled "N.J.S.A. 47:1A-5.1: Protective Order Under [OPRA]." Pursuant to N.J.S.A. 47:1A-5.1 (a), a public agency may seek a protective order against a requestor where it can prove that the requestor "has sought records with the intent to substantially interrupt the performance of government function." The "public agency shall have the burden of proof by clear and convincing evidence." *Ibid.* (emphasis added). In his signing statement, Governor Murphy explained that to prevent agencies from abusing this provision, "the bill establishes an extraordinarily high standard for such lawsuits, as the public entity must prove harassment or substantial interruption of government functions by clear and convincing evidence." *Governor's Statement, supra* (emphasis added). Indeed, "clear and convincing evidence" is difficult to satisfy and is that which is "so clear, direct and weighty and convincing as to enable [the factfinder] to come to a clear conviction, without hesitancy, of the precise facts in issue." *Crespo v. Crespo*, 408 N.J. 25, 39 (App. Div. 2009).

Procedurally, an agency's complaint must "proceed in a summary or expedited manner," meaning it must be filed with an Order to Show Cause. N.J.S.A. 47:1A-5.1(a). The complaint "shall be accompanied by a declaration of facts by the public agency withholding the records demonstrating that it has complied with [OPRA] and has made a good faith effort to reach an informal resolution of the issues relating to the records requests." *Ibid.*

The claims against each Defendant are analyzed further below but Count One should be dismissed as to all Defendants because the BOE failed to file its action as a summary action, as required by N.J.S.A. 47:1A-5.1. The complaint also fails to include a declaration that the BOE has complied with OPRA and made a good faith effort to reach an informal

resolution regarding the OPRA requests and lawsuits. In fact, the complaint alleges the exact opposite: it seeks to punish Ben Shore’s “numerous and significant attempts to negotiate each request with the Custodian” and his “baseless demands for settlement” regarding the complaints he filed. Compl. ¶56, 47. This makes Count One procedurally defective pursuant to N.J.S.A. 47:1A-5.1(a) and thus subject to dismissal.⁶

A. Count One Must be Dismissed as to Daniel Shore

The sole allegation in the complaint pertaining to Daniel Shore is that he filed a single OPRA request on October 25, 2025 for copies of OPRA requests the BOE had received from January 15, 2023 to December 15, 2024, which overlaps with records Ben Shore previously sought many months earlier. There are no other factual allegations whatsoever to set forth a viable claim, by clear and convincing evidence, that Daniel Shore “sought records with the intent to substantially interrupt the performance of government function.” N.J.S.A. 47:1A-5.1(a). Seeking to enjoin someone from filing future OPRA requests simply because they filed a single OPRA request (for records which are indisputably subject to OPRA—see Scheeler, 448 N.J. Super.) or because they are related to someone that the public agency dislikes is a classic example of a SLAPP suit.

Because the complaint fails to state a claim upon which relief can be granted as to Daniel Shore, or because Daniel Shore is entitled to judgment as a matter of law even if all the facts asserted in the complaint are true, all claims against him must be dismissed with

⁶ It also seeks to punish Ben Shore for complying with the Supreme Court’s instruction that requestors and agencies must cooperate with each other. See Mason v. City of Hoboken, 196 N.J. 51, 66 (2008) (“Various provisions in the statute are designed to foster cooperation among requestors and agencies and reasonably accommodate their interests.”).

prejudice pursuant to UPEPA.⁷

B. Count One Against Ben Shore and Shore Investigates Must be Dismissed

As to Defendants Shore Investigates and Ben Shore, the complaint seeks to punish them for filing a mere thirteen OPRA requests over the course of a full year, as follows:

Five of the requests sought legal invoices, which are indisputably public records and promote accountability. See N.J.S.A. 47:1A-1.1 (stating the attorney-client privilege does not exempt legal invoices from access); N.J.S.A. 47:1A-5(e) (requiring “immediate access” to bills). Although the BOE describes these requests as “repetitive, duplicative, and . . . meant to harass the Board’s regular business operations,” the requests are not duplicative. Each request sought legal invoices for different time periods, different matters, or different attorneys. See Compl., Exs. I, K, O, R, and S.

Moreover, the complaint itself proves that Defendants did not seek these records “with the intent to substantially interrupt the performance of government function.” N.J.S.A. 47:1A-5.1(a). Instead, Defendants sought them to publish a “dashboard that tracks CHPS legal spending so families and taxpayers can clearly see how district funds are used.” Compl., Ex. Q; See also Ex. I (explaining voters have an interest in understanding spending during an election season); Ex. K (same). Defendants were anything but harassing—Ben Shore’s email expressly said he wanted to “work together to minimize the burden [of fulfilling his OPRA requests] while also allowing me to obtain the records I need[.]” Ibid. (emphasis added). In another email, he offered to accept “total dollars paid” so that “no redactions or

⁷ Additionally, because Count One is required by N.J.S.A. 47:1A-5.1 to be adjudicated as a summary action, in which defendants are not entitled to any favorable inferences but in which the court makes findings of facts, we direct the Court to the Certification of Daniel Shore, in which he certifies that he did not file the request with the intent to substantially disrupt agency operations. Ben Shore similarly certifies. Shore Cert. ¶32.

anything would be required,” so that he could report ahead of the election. Compl., Ex. J. This is exactly the type of cooperation that OPRA requires, yet Defendants have deemed it “vexatious” that he “attempts to negotiate each request.” Compl. ¶47.

Two of the thirteen requests sought copies of OPRA requests filed by other people (Compl., Exs. A and O), which are also undeniably public records. Scheeler, 448 N.J. Super. 333. Although Plaintiff claims Shore Investigates acted in bad faith by filing a lawsuit because Ben Shore had lost a similar case (involving a different set of OPRA requests), Shore Investigates partially prevailed in its lawsuit. See Ex. 2 to Shore Cert. Thus, the lawsuit was not frivolous, and Shore Investigates benefited from having counsel, whereas Ben Shore was pro se. Enforcing one’s statutory rights is not proof of an intent to disrupt the functions of government, especially when one is successful.

Moreover, the complaint again disproves that Defendants filed the requests with the intent to disrupt agency operations. For example, in Exhibit M, Ben Shore explains to the custodian: “I seek these records to inform the public about the District’s handling of public records requests. This is a noncommercial newsgathering request by Shore Investigates, and I intend to analyze and publish the results for the community.” That is the exact type of “maximiz[ing] public knowledge about public affairs” that OPRA is designed to foster. Scheeler, 448 N.J. at 345 (citing Mason, 196 N.J. at 64).

One request sought the BOE’s insurance policies, which are public records and were provided. Compl., ¶27, Ex. L; N.J.S.A. 47:1A-5(e) (requiring contracts to be produced). This request is not duplicative of any other request and Exhibit L demonstrates that it was not sought to disrupt agency operations, but rather “to inform the public about the District’s fiscal responsibility and insurance coverage for litigation expenses. Voters and taxpayers

have a direct interest in understanding what insurance resources are available to offset litigation costs.”

One request sought a single email chain between a woman and the Director of Security, pertaining to actions that “effectively den[ied] [the woman] the opportunity to exercise her right to file an OPRA request.” Compl., ¶20, Ex. E. Ben Shore met the statutory requirements for requesting the email, so as to minimize any burden of searching for it. See N.J.S.A. 47:1A-5(g) (requiring a request for emails to include the account to be searched, a subject matter, and a date). It is legally insufficient to allege that filing a request for a single email chain about a woman being denied her right to file OPRA requests is “clear and convincing evidence” that someone filed the request to intentionally disrupt agency operations. Clearly, Ben Shore filed it because of his stated interest in monitoring the BOE’s compliance with OPRA (which he feels is deficient).

That leaves **four requests for surveillance videos of the BOE’s public meetings**. Compl., Exs. D, H, U, and T. Although the BOE describes these requests as “duplicative,” they are not. Three of the requests (Ex. D and H) pertain to the same February 2025 public meeting, but they differ. The first request simply sought 30 minutes of the video under OPRA. Compl., Ex. D. The second request was made after Shore lost his lawsuit for that video. Ex. H. He tried to craft his request to address the security concerns raised by the BOE but also asserted a lengthy common law interest for the first time. See Gannett Satellite Info. Network v. Twp. of Neptune, 254 N.J. 242, 266 (2023) (urging individuals to detail their common law interest in the records). The third request also related to the February 2025 video, but this time Defendants sought a copy of the “different camera angle” that Plaintiff’s counsel had referred to during a court hearing. Compl. Ex. T. As is evidenced by Ben Shore’s

emails to Plaintiff, he was seeking the video because the video that the BOE places on its website does not contain video of the public comment period and he sought the limited portions that were not visible. Ibid.

The fourth request for video is also different. It seeks footage from a different meeting in December 2025, and to a small portion relating to a presentation the BOE gave to the public. Compl., Ex. U. The common law interest was also explained. Clearly the BOE also recognized the request was different, as it offered to let Ben Shore view the video in person. He ultimately sued to gain a copy of the video. That matter is pending. Ex. W.

The mere filing of two similar, but not identical, lawsuits does not constitute “clear and convincing evidence” that Defendants made the requests (or filed the two lawsuits) with the “intent to substantially disrupt” agency operations as required by N.J.S.A. 47:1A-5.1. As with other requests, Ben Shore was very cooperative. In the both the first and second requests, he sought the last 30 minutes of the February 2025 meeting but also said, “If it’s easier, I only spoke for 3 minutes. If you could just provide the 3 minutes, that would be great!” Compl., Exs. D and H. For the final request, he provided four different proposed options to address the BOE’s security concerns (i.e., cropping the video so that no one would know the full extent of what is recorded and whether there are blind spots, pixelation, and removal of audio and color). Compl., Ex. V. Yet, the BOE seeks to punish him for this cooperation and negotiation. Compl. ¶47.

Ben Shore filed the lawsuits pro se. He did not do so to substantially disrupt agency operations, but because he felt he was entitled to the video (as nearly a dozen other agencies produced videos of their public meetings). Shore Cert. ¶32. Additionally, the second lawsuit seeks video from a different day and a different type of content (i.e., video of a presentation)

and he was offered in-person access, which he felt proved there was no security justification for keeping a copy of the video from him. If Plaintiff believes videos of its public meetings are exempt, its remedy is to simply deny requests for them, which takes seconds. If it believes a lawsuit for the videos is frivolous, it could have utilized Rule 1:4-8.

But what it cannot do is weaponize N.J.S.A. 47:1A-5.1 to try to block Defendants from filing any OPRA requests for a one-year period⁸ or to punish Defendants because they dare filed lawsuits to challenge what they believed were unlawful denials. Defendants have a constitutional right to access the courts and courts may only enter restrictions in extreme circumstances where the litigant has filed frivolous, vexatious and harassing actions, and after the imposition of sanctions did not have a deterrent effect. See Rosenblum v. Borough of Closter, 333 N.J. Super. 385, 392 (App. Div. 2000) (reversing trial court order that prohibited a pro se litigant from filing complaints, where litigant had filed sixteen lawsuits and there was no finding that all were frivolous and that other sanctions had not worked).

In conclusion, the four corners of the complaint and attached documents demonstrate that Defendants Shore Investigates and Ben Shore made a total of only thirteen requests over a twelve-month period; the majority of those requests were valid requests for quintessential public records (i.e., legal invoices, OPRA requests, insurance policies, etc.); Defendants seek the records for reasons that serve OPRA's core purposes, such as publishing a dashboard of legal spending; and the exhibits to the complaint demonstrate significant efforts to be cooperative and to have the requests fulfilled with minimal burden to the custodian (with those cooperative efforts being held against them). Count One should be dismissed with

⁸ Such a restraint would constitute an unlawful prior restraint on newsgathering activities and could only be imposed where strict scrutiny is satisfied. See Journal Pub. Co. v. Mechem, 801 F.2d 1233, 1236 (10th Cir. 1986).

prejudice for failure to state a claim upon which relief can be granted because it does set forth allegations sufficient to establish clear and convincing evidence that Defendants filed their requests with the intent to substantially disrupt agency operations.⁹

IV. STEP TWO: COUNT TWO MUST BE DISMISSED AS TO ALL DEFENDANTS

Count Two is labeled “N.J.S.A. 56:8-227 Solicitation by Nongovernmental Entity and Improper Use of Plaintiff-Public Entity’s Likeness and Appearance for Commercial Purposes.” Compl., p. 12. As discussed below, this count must also be dismissed for failure to state a claim upon which relief can be granted.¹⁰

A. N.J.S.A. 56:8-227 Clearly Does Not Apply to the Website

N.J.S.A. 56:8-227 states:

a. It shall be an unlawful practice and a violation of [N.J.S.A. 56:8-1] et seq. for any person to send a mailing which constitutes a solicitation by a nongovernmental entity for the purchase of or payment for a product or service which could reasonably be interpreted as falsely implying any State government connection, approval, or endorsement through the use of a seal; insignia; citation to a State statute; name of a State agency, department, commission, or program; trade or brand name; or any other term or symbol.

[N.J.S.A. 56:8-227(a) (emphasis added).]

The statute clearly applies only to a “mailing,” not a website like the OPRA portal that Ben Shore created.¹¹ Moreover, the statute applies only where there is a “solicitation . .

⁹ Alternatively, under N.J.S.A. 47:1A-5.1’s summary action standard, see Shore Cert. ¶32.

¹⁰ Count Two also seeks an order requiring Defendants to take down the Website, which would be an unlawful prior restraint on publication.

¹¹ The fact that “mailing” is limited to correspondence sent via a service such as the U.S. Postal Service is evidenced by language that was removed from the bill after a conditional veto. Initially, the bill allowed such a mailing if the person “includes a disclosure letter printed on paper at least eight and one-half inches by 11 inches” that contained disclaimers. See A4834 (as introduced Oct. 19, 2020).

. for the purchase of or payment for a product of service,” which is not applicable here—the Website at issue is completely free, as it expressly states on its homepage (Ex. X) and as Ben Shore pointed out to the BOE. Compl., Ex. Z. Finally, the statute only applies where there is a false implication of a “State government connection.” The Cherry Hill BOE is not a State agency.

Therefore, Count Two fails to state a claim upon which relief can be granted.

B. The Government Cannot Bring a Claim for Misappropriation of Likeness

Assuming Count Two also seeks to bring a separate claim beyond N.J.S.A. 56:8-227, there is no cause of action for “Improper Use of Plaintiff-Public Entity’s Likeness and Appearance for Commercial Purposes.” The closest cause of action is “misappropriation of likeness” or “right of publicity,” but that claim cannot apply to public entities. Instead, the claim can only be brought by a natural person. See Castro v. NYT Television, 370 N.J. Super. 282, 296 (App. Div. 2004) (“The foundation for this tort is recognition that a person has an interest in their name or likeness ‘in the nature of a property right’ . . . Its most common form consists of ‘the appropriation and use of the plaintiff’s name or likeness to advertise the defendant’s business or product.’”) (emphasis added) (internal citations omitted). Moreover, as stated above, there is no commercial purpose here—the Website is completely free to all users.

Accordingly, Count Two fails to state a claim upon which relief can be granted, and it must be dismissed with prejudice.

V. DEFENDANTS ARE ENTITLED TO ATTORNEYS’ FEES AND COSTS

UPEPA expressly provides that if a court determines that UPEPA applies and dismisses any cause of action, or even part of a cause of action, then the court “shall award

court costs, reasonable attorney's fees, and reasonable litigation expenses related to the [OTSC]." N.J.S.A. 2A:53A-58 (emphasis added). Thus, because Defendants should prevail in this action, the Court must award attorneys' fees and costs.

VI. THIS MATTER SHOULD BE STAYED PENDING FINAL DISPOSITION OF THE ORDER TO SHOW CAUSE

The purpose of UPEPA is to expeditiously dismiss frivolous cases before requiring defendants to spend resources on discovery. The Act provides for a presumptive stay of all discovery. N.J.S.A. 2A:53A-52 (a)(3). Defendants believe that this case can be decided as a matter of law without any discovery and that discovery should be stayed through final determination by this Court and possibly by the Appellate Division on an interlocutory appeal as of right.

CONCLUSION

The Court should dismiss the complaint with prejudice, as required by UPEPA. It should also allow Defendants to submit a fee application.

Respectfully Submitted,

/s/ CJ Griffin
CJ Griffin (031422009)

Dated: March 23, 2026

PASHMAN STEIN WALDER HAYDEN

A Professional Corporation
 Court Plaza South
 21 Main Street, Suite 200
 Hackensack, New Jersey 07601
 Ph: (201) 488-8200
 F: (201) 488-5556
cgriffin@pashmanstein.com
 CJ Griffin (#031422009)

Attorneys for Defendants,

Shore Investigates LLC; Daniel Shore; Benjamin Shore

CHERRY HILL TOWNSHIP BOARD OF EDUCATION,	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: CAMDEN COUNTY
Plaintiff,	DOCKET NO.: CAM-L-620-26
v.	<u>Civil Action</u>
SHORE INVESTIGATES, LLC, DANIEL SHORE, AND BENJAMIN SHORE,	PROPOSED ORDER
Defendants.	

THIS MATTER being brought before the Court by Pashman Stein Walder Hayden, P.C., attorneys for Defendants Shore Investigates LLC; Daniel Shore; and Benjamin Shore (CJ Griffin, Esq., appearing) seeking relief by way of an application for an Order to Show Cause and hearing pursuant to the Uniform Public Expression Protection Act (UPEPA), N.J.S.A.2A:53A-51, and the Court having reviewed all the papers and heard oral argument; and for good cause shown

IT IS on this ____ day of _____, 2026, **ORDERED**

1. Defendants have established that under N.J.S.A. 2A:53-55 that UPEPA applies;
2. The complaint is dismissed with prejudice;

3. Pursuant to N.J.S.A. 2A:53A-58, Defendants are prevailing parties entitled to an award of attorney's fees and costs. The parties shall have ____ days to try to settle the amount of attorney's fees owed. If no settlement is reached, Defendants shall file a fee application by _____. Plaintiff shall have 10 days to file an opposition. Defendants shall then have 7 days to file a reply brief.
4. Should Defendants appeal, all discovery continues to be stayed.

SO ORDERED

HON.

☐ Opposed

☐ Unopposed