



OFFICE OF THE COUNTY COUNSEL

Hall of Records, Room 535, Newark, New Jersey 07102

973.621.5003 --- 973.621.4599 (Fax)

www.essexcountynj.org

Joseph N. DiVincenzo, Jr.
Essex County Executive

Jerome St. John
Essex County Counsel

August 8, 2024

Charlie Kratovil
opra+request-64931-b83693e3@requests.opramachine.com

Re: OPRA Request No. 12712, “Conforti v. Hanlon, 3:20-cv-08267 and Kim v Hanlon”

Dear Mr. Kratovil,

The OPRA Office of Essex County received your Open Public Records Act (hereafter “OPRA”) request on August 19, 2024. The official Records Custodian, George Seylaz, received your OPRA request on August 19, 2024 and therefore, the deadline for the County’s response to your request concludes on August 28, 2024. Your OPRA request sought access to the following:

“The records requested relate to two federal lawsuits concerning the design of New Jersey’s primary ballots: Conforti v. Hanlon, 3:20-cv-08267 (USDNJ) and Kim v. Hanlon, 3:24-cv-01098 (USDNJ) including its Third Circuit appeal (3d Cir, 24-1594).

Records requested:

1. Documents constituting or evidencing a list of all payments to outside counsel, legal consultants, and other expenses associated with these lawsuits since July 1, 2020. (Note: I am seeking payments related to the legal challenges described above. If you cannot sort in that manner, then I will take a list of all payments. This probably exists in a vendor history/activity report.)
2. Invoices for outside counsel, legal consultants, and other expenses associated with the lawsuits described above since July 1, 2020. (Note: Again, I am only seeking payments related to the legal challenges described above. If you can sort in that manner, then that is all that is needed. Otherwise, I request all invoices.)

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Please produce the list of payments immediately. I understand the invoices may take longer, although they are also "immediate access" documents."

The Office of the Essex County Counsel has produced four (4) pages of responsive records and same are enclosed with this response letter. As of today, there are no records responsive to Point #1 of your request. These records are being provided to you in their properly redacted form, the legal justifications for which are set forth below.

It is well established that OPRA allows a custodian of records to either deny access to or redact that information which is exempt from access, under OPRA or any other law. Truland v. Borough of Madison, GRC Complaint No. 2006-88 (September 2007). Furthermore, OPRA's definition of a "government record" intentionally exempts certain information from disclosure. N.J.S.A. 47:1A-1.1 defines that which constitutes a "government record" subject to public access and also lists that information "which is deemed confidential" as it does not constitute a "government record."

Additionally, OPRA places an express obligation on a public agency's production and disclosure of documents and mandates that...

"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."

N.J.S.A. 47:1A-1, emphasis added.

You will notice that any tax identification numbers, ABA numbers, account numbers, and swift code numbers have been redacted from the records being provided to you. This information was entrusted to Essex County with the expectation that it remain confidential and the disclosure of same would violate reasonable expectations of privacy. Accordingly, same has been lawfully redacted pursuant to N.J.S.A. 47:1A-1.

Lastly, OPRA provides that the term **"government record...shall not include any record within the attorney-client privilege."** N.J.S.A. 47:1A-1.1, emphasis added. Significantly, the attorney-client privilege has long been recognized as one that "may shield documents that otherwise meet the OPRA definition of government record from inspection or production." O'Boyle at 185 citing K.L. v. Evesham Twp. Bd. of Educ., 423 N.J. Super. 337, 352-53, (App. Div. 2011), *certif. denied*, 210 N.J. 108 (2012). The well-established attorney-client privilege protects from disclosure those "confidential communications between a client and his attorney in

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the course of a professional relationship.” O’Boyle v. Borough of Longport, 218 N.J. 168, 185 (2014) citing N.J.S.A. 2A:84A–20 and N.J.R.E. 504. Moreover, the privilege “is not restricted to legal advice” and also protects “consultations with third parties whose presence and advice are necessary to the legal representation.” O’Boyle at 185-86 citing Rivard v. Am. Home Prods., Inc., 391 N.J. Super. 129, 154 (App. Div. 2007) and State v. Davis, 116 N.J. 341, 361(1989). The portion of the enclosed records which contained descriptions of legal services rendered have been lawfully redacted as they represent attorney-client communications which are expressly deemed confidential pursuant to N.J.S.A. 47:1A-1.1 As all responsive documents are enclosed, OPRA Request No. 12712 is now considered closed.

If your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge the decision by the OPRA Office of Essex County to deny access. At your option, you may either institute a proceeding in the Superior Court of New Jersey or file a complaint with the Government Records Council (GRC) by completing the Denial of Access Complaint Form. You may contact the GRC by toll-free telephone at 866-850-0511, by mail at P.O. Box 819, Trenton, NJ, 08625, by e-mail at grc@dca.state.nj.us, or at their web site at www.state.nj.us/grc. The GRC can also answer other questions about the law. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in your County.

Regards,

George Seylaz

George Seylaz

OPRA Custodian of Records

oprarequests@counsel.essexcountynj.org

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**GENOVA
BURNS**
ATTORNEYS-AT-LAW

494 Broad Street
Newark, NJ 07102-3230
Telephone 973-533-0777
Fax 973-814-4045

www.genovaburns.com

County of Essex
ATTN: Christopher J. Durkin, Clerk
465 Dr. Martin Luther King, Jr. Blvd.
Hall of Records - Room 535
Newark, NJ 07102

August 22, 2024
Invoice No.: 521657

INVOICE SUMMARY

For professional services rendered and disbursements through July 31, 2024

Client Matter: 1582.153

RE: Kim v. Hanlon, et al.

Professional Services Rendered: Total Hours	
(2 County Representation)	1.00
½ Hours Billable to Essex County Clerk	.50
Blended Hourly Rate Applied to Attorneys:	\$150.00
Hourly Rate Applied to Paralegals:	\$75.00
Fees for Professional Services Rendered	\$ 75.00
Total Disbursements	<u>\$ 297.55</u>
TOTAL DUE	\$ 372.55
Previous Balance	\$ 39,749.12
TOTAL BALANCE DUE	<u><u>\$ 40,121.67</u></u>

August 22, 2024
Invoice No.: 521657

PROFESSIONAL SERVICES RENDERED

Date	Atty	Description Of Services Rendered	Hours
7/10/24	AJG		.30
7/10/24	AJG		.20
7/17/24	AJG		.10
7/17/24	AJG		.10
7/19/24	AJG		.30
TOTAL HOURS FOR SERVICES			1.00

SUMMARY OF PROFESSIONAL SERVICES

Name	Rate	Hours	Total
Angelo J. Genova	150.00	1.00	150.00
TOTALS		1.00	\$ 150.00

DISBURSEMENTS

Description	Amount	
3/31/24		
3/31/24		
3/31/24		
3/31/24		
3/31/24		
4/10/24		
6/30/24		
TOTAL DISBURSEMENTS		\$ 297.55
TOTAL THIS INVOICE		\$372.55

GENOVA BURNS LLC

August 22, 2024
Invoice No.: 521657

ACCOUNTS RECEIVABLE INVOICES OUTSTANDING

Invoice Number	DATE	Invoice Total	Payments Received	Adjustments Applied	Ending Balance
512127	4/25/24	5,760.00	.00	-2,795.00	2,965.00
512134	4/30/24	34,169.16	.00	-4,682.45	29,486.71
512144	5/02/24	2,082.50	.00	-1,190.00	892.50
512630	5/16/24	9,071.74	.00	-4,207.50	4,864.24
514359	5/01/24	879.16	.00	-351.67	527.49
514365	6/27/24	1,310.68	.00	-320.00	990.68
517193	7/23/24	52.50	.00	-30.00	22.50

Previous Balance \$ 39,749.12

Balance Due This Invoice \$ 372.55

TOTAL BALANCE DUE \$ 40,121.67



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County of Essex
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Hall of Records - Room 535
Newark, NJ 07102

August 22, 2024
Invoice No.: 521657
Client Matter: 851.7

REMITTANCE ADVICE

RE: Kim v. Hanlon, et al.

TOTAL DUE:

372.55

Payments via Wire/ACH are welcomed at:
Citizens Bank
1 Citizens Drive
Riverside, RI 02915
ABA: [REDACTED]

Payments via Check can be mailed to:
Genova Burns LLC
ATTN: Accounts Receivable
494 Broad Street
Newark, NJ 07102-3230

Genova Burns LLC
Operating Account
494 Broad Street
Newark, NJ 07102
Account: [REDACTED]
Swift Code: [REDACTED]

To Pay by Credit/ Debit Card, please click here: [Pay Now](#)

TERMS: DUE UPON RECEIPT