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AUG 19 2016

AUG 15 2016

TRAVIS L. FRANCIS
ASSIGNMENT JUDGE
MIDDLESEX VICINAGE

TRAVIS L. FRANCIS A.J.S.C.
MIDDLESEX VICINAGE

NEW JERSEY FOUNDATION FOR
OPEN GOVERNMENT, INC. and
HEATHER GRIECO
Plaintiffs,

vs.

SPOTSWOOD BOARD OF
EDUCATION and VITA MARINO
Defendants

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, CIVIL PART

MIDDLESEX COUNTY

DOCKET NO. **MID-L- 04615-16**

Civil Action

ORDER TO SHOW CAUSE

THIS MATTER being brought before the Court by Anthony H. Ogozalek, Jr. of the Law Office of Anthony H. Ogozalek, Jr., Attorney for Plaintiffs, seeking relief by way of summary action pursuant to R.4:67-1(a), based on the facts set forth in the Verified Complaint and supporting papers filed herewith; and the Court having determined that this matter may be commenced by order to show cause as a summary proceeding pursuant to N.J.S.A. 47:1A-6 and for good cause shown,

IT IS on this 19th day of August, 2016 ORDERED that Defendant Vita Marino, the Spotswood Board of Education's records custodian, appear and show cause on the 25th day of September, 2016 before the Honorable Travis L. Francis, A.J.S.C., Superior Court, County of Middlesex, 56 Paterson St New Brunswick,

New Jersey at _____ o'clock in the _____ noon or as soon thereafter as Plaintiff can be heard, why judgment should not be entered:

a. Declaring that Custodian Vita Marino violated OPRA by failing to provide Requestor Heather Grieco with timely access to minutes of the forty-one public meetings held between September 17, 2013 and July 21, 2015 as requested in ¶3 of her records request.

b. Declaring that Custodian Vita Marino violated OPRA by failing to provide Requestor Heather Grieco with access to the minutes of the Board's July 21, 2015 public meeting as requested in ¶3 of her records request.

c. Compelling Custodian Vita Marino to disclose to Requestor Heather Grieco the minutes of the Board's July 21, 2015 public meeting.

d. Finding that Requestor Heather Grieco is the prevailing party and ordering the Spotswood Board of Education or Custodian Vita Marino to pay Grieco's costs and a reasonable attorney fee in accordance with N.J.S.A. 47:1A-6.

e. Such other, further and different relief that the Court may deem equitable and just.

And it is further ORDERED that:

1. A copy of this order to show cause, verified complaint and all supporting certifications and briefs submitted in support of this application be served upon the Defendants personally or by certified mail, return receipt requested, within _____ days of the date hereof, in accordance with R.4:4-3 and R.4:4-4, this being original process pursuant to R.4:52-1(b).

IT IS FURTHER ORDERED AS FOLLOWS:

- A. A copy of this order to show cause, verified complaint and all supporting affidavits or certifications submitted in support of this application be served upon the defendant(s) **PERSONALLY OR BY OVERNIGHT DELIVERY WITH SIGNATURE CONFIRMATION ONLY** within seven (7) days of the date hereof, in accordance with Rules 4:4-3 and R. 4:4-4, this being original process. **DELIVERY BY REGULAR MAIL AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED, SHALL NOT CONSTITUTE EFFECTIVE SERVICE.**
- B. The plaintiff must file with the court his/her/its proof of service of the pleadings on the defendant(s) no later than three (3) days before the return date.
- C. Defendant(s) shall file and serve a written answer, an answering affidavit or a motion returnable on the return date to this order to show cause and the relief requested in the verified complaint and proof of service of the same within fifteen (15) days of service. The answer, answering affidavit or a motion, as the case may be, must be filed with the Clerk of the Superior Court in Middlesex County and a courtesy copy of the papers must be sent directly to the chambers of Assignment Judge Francis by hand delivery or overnight carrier.
- D. The plaintiff must file and serve any written reply to the defendant's order to show cause opposition by no later than three (3) days before the return date. The reply papers must be filed with the Clerk of the Superior Court in Middlesex County and a courtesy copy of the reply papers must be sent directly to the chambers of Assignment Judge Francis by hand delivery or overnight carrier.
- E. If the defendant(s) do/does not file and serve opposition to this order to show cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that the plaintiff files a proof of service and a proposed form of order at least three (3) days prior to the return date.
- F. If the plaintiff has not already done so, a proposed form of order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the court no later than three (3) days before the return date.
- G. Defendant(s) take notice that the plaintiff has filed a lawsuit against you in the Superior Court of New Jersey. The verified complaint attached to this order to show cause states the basis of the lawsuit. If you dispute this complaint, you, or your attorney, must file a written answer, an answering affidavit or a motion returnable on the return date to the order to show cause and proof of service before the return date of the order to show cause.

- H. These documents must be filed with the Clerk of the Superior Court in Middlesex County. A directory of these offices is available in the Civil Division Management Office of Middlesex County and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf. Include the appropriate filing fee, if any, payable to the "Treasurer, State of New Jersey." You must also send a copy of your answer, answering affidavit or motion to the plaintiff's attorney whose name and address appear above, or to the plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve your answer, answering affidavit or motion with the appropriate filing fee, if any, or judgment may be entered against you by default.
- I. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office of Middlesex County and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.
- J. The Court will entertain argument, but not testimony, on the return date of the order to show cause, unless the Court is advised by the parties to the contrary no later than three (3) days before the return date or no opposition to the order to show cause is filed.
- K. **ABSENT A SHOWING OF EXCEPTIONAL AND UNFORESEEN CIRCUMSTANCES, THE COURT WILL NOT ENTERTAIN ADJOURNMENT REQUESTS RECEIVED ON THE DAY BEFORE THE RETURN DATE.**

Honorable Travis L. Francis, A.J.S.C.
DEBORAH J. VENEZIA, PJFP

For future reference, please refer to Form 10704 (Order to Show Cause Summary Action), which is available online at <http://www.judiciary.state.nj.us/forms.htm>, for an example of a properly-formatted order to show cause.