

**TOWNSHIP OF RARITAN
COUNTY OF HUNTERDON, NEW JERSEY**

RESOLUTION #20-115

**A RESOLUTION AUTHORIZING THE SETTLEMENT AND
RESOLUTION OF THE COURT'S AWARD OF ATTORNEY'S
FEES AND COSTS OF SUIT IN CONNECTION WITH AN
OPRA CHALLENGE FILED BY MCGUILLCUTTY &
SCHWARTZ, LLC D/B/A TAPINTOFLEMINGTON.NET**

WHEREAS, by way of Order to Show Cause and Verified Complaint filed on October 11, 2019 with the Superior Court of New Jersey, plaintiff McGuillicutty & Schwartz, LLC, d/b/a TAPintoFlemingtonRaritan.net, challenged the Township's response to its Open Public records Act ("OPRA") request seeking police records relating to a motor vehicle stop, which matter was entitled McGuillicutty & Schwartz, LLC, d/b/a TAPintoFlemingtonRaritan.net v. Township of Raritan, et al., Docket No. HNT-L-419-19 (the "OPRA Litigation"); and

WHEREAS, by Consent Order dated November 25, 2019, John Lanza was permitted to intervene in the OPRA Litigation; and

WHEREAS, after the parties have filed legal briefs and a hearing held thereon before the Hon. Yolanda Ciccone, A.J.S.C., on December 13, 2019; and after an *in-camera* review of the requested records, Judge Ciccone issued her decision and Order on February 5, 2020; and

WHEREAS, Judge Ciccone's February 5, 2020 Order released all of the requested documents, with modified redactions, and ordered the Township to release the video and audio recordings requested without redaction; and

WHEREAS, Judge Ciccone's February 5, 2020 Order further found plaintiff to be a prevailing party entitled to attorney's fees and costs of suit pursuant to N.J.S.A. 47:1A-6, and permitted plaintiff to file an application with the Court for same if the parties cannot reach a resolution for same; and

WHEREAS, after the issuance of the February 5, 2020 Order and the Court's direct release of the modified redacted documents, Intervenor John Lanza filed a Motion for a Stay of the Order pending an appeal to be filed with the Appellate Division; and

WHEREAS, by Order dated February 12, 2020, Judge Ciccone partially granted the Intervenor's Motion, staying only the release of the audio and video recordings; and

WHEREAS, after negotiations between counsel for plaintiff and the Township with regard to the Court's award of attorney's fees and costs, it was agreed that the Township would pay plaintiff's attorney the sum of seventeen thousand (\$17,000.00) dollars in full satisfaction of the Judge's February 5, 2020 Order; and

WHEREAS, the parties have agreed to the form of a Consent Order memorializing the resolution between the parties, a copy of which is attached hereto; and

WHEREAS, the Mayor and Township Committee find it to the best interest of the Township to enter in the settlement with the plaintiff with regard to the Court's award of attorney's fees and costs of suit in the OPRA Litigation.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Raritan, County of Hunterdon, State of New Jersey, as follows:

1. The Township is authorized to enter into the settlement with plaintiff in the OPRA Litigation with the payment of seventeen thousand dollars (\$17,000.00) to plaintiff in full satisfaction of the Judge's February 5, 2020 Order.
2. The Township Attorney is hereby authorized to execute and file the Consent Order memorializing the terms of the settlement, in substantially the form attached hereto.
3. The Township Attorney, Administrator, and other appropriate official is authorized to take the necessary action to effectuate the Consent Order and settlement set forth in this Resolution.
4. This Resolution shall take effect immediately.

ATTEST:

**TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF RARITAN**



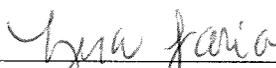
Lisa Fania, RMC
Township Clerk



Jeff Kuhl
Mayor

CERTIFICATION

I, Lisa Fania, Clerk of the Township of Raritan, County of Hunterdon, State of New Jersey, hereby certify the foregoing resolution is a true, complete and accurate copy of a resolution adopted by the Township Committee at a meeting held on May 4, 2020.



Lisa Fania, RMC
Township Clerk

Joseph Sordillo, Esq., Attorney No. 032962004
DIFRANCESCO, BATEMAN, KUNZMAN, DAVIS, LEHRER & FLAUM, P.C.
15 Mountain Boulevard
Warren, New Jersey 07059
(908) 757-7800
Attorneys for Defendant Township of Montclair

MCGUILLICUTTY & SCHWARTZ, LLC
d/b/a TAPINTOFLEMINGTON.NET,

Plaintiff,

vs.

TOWNSHIP OF RARITAN AND LISA
FANIA, IN HER OFFICIAL CAPACITY
AS RECORDS CUSTODIAN FOR THE
TOWNSHIP OF RARITAN,

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
HUNTERDON COUNTY

DOCKET NO. HNT-L-419-19

CIVIL ACTION

**CONSENT ORDER
AWARD OF ATTORNEY'S FEES AND
COSTS OF SUIT**

THIS MATTER having brought before the court by Pashman Stein Walder Hayden, P.C., attorneys for plaintiff McGuillicutty & Schwartz, LLC, d/b/a TAPintoFlemingtonRaritan.net, seeking relief by way of summary action pursuant to R. 4:67-1(a) under the Open Public Records Act, N.J.S.A. 47:1A-1, *et seq.*; and DiFrancesco, Bateman, Kunzman, Davis, Lehrer & Flaum, P.C., attorneys for defendants Township of Raritan and Lisa Fania, in her official capacity as Records Custodian for the Township of Raritan, having filed opposition to same; and Carl Taylor, Esq., attorney for intervenor John Lanza, intervening in the

matter; and the parties having filed briefs with the Court, with a hearing held thereon before the Hon. Yolanda Ciccone, A.J.S.C. on December 13, 2019; and Judge Ciccone issuing an Order dated February 5, 2020, ordering the release of the requested records with modified redactions, and finding plaintiff to be a prevailing party pursuant to N.J.S.A. 47:1A-6; and by Order issued February 12, 2020, Judge Ciccone partially granting intervenor's Motion for a Stay of the February 5, 2020 Order staying the defendants' release of the video and audio materials pending an appeal of same; and the plaintiff and defendants having come to a resolution with regard to the award of attorney's fees; and for good cause having been shown;

IT IS on this _____ day of _____, 2020;

ORDERED that defendants Township of Raritan and Lisa Fania, in her official capacity as Records Custodian for the Township of Raritan agree to pay to Pashman Stein Walder Hayden, P.C., attorneys for plaintiff McGuillicutty & Schwartz, LLC, d/b/a TAPintoFlemingtonRaritan.net, the sum of Seventeen Thousand (\$17,000.00) Dollars in full satisfaction of the award of attorney's fees and costs of suit pursuant to N.J.S.A. 47:1A-6 as set forth in the Court's February 5, 2020 Order; and it is further

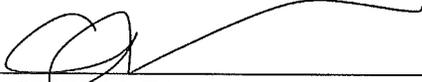
ORDERED that defendants hereby agree to release the video and audio materials to plaintiff upon the expiration of the time period for which an appeal is to be filed pursuant to the stay granted in the February 12, 2020 Order, or upon the final disposition of an appeal of the February 5, 2020 Order filed with the Appellate Division; and it is further

ORDERED that a copy of this Order shall be served upon counsel for all interested parties upon receipt of same from the Court through the entry of same in eCourts.

HON. YOLANDA CICCONE, A.J.S.C.

The undersigned hereby consent to the form
and entry of the within Order.

For the Plaintiff



CJ GRIFFIN, ESQ.
Pashman Stein Walder Hayden, PC

For the Defendants

JOSEPH SORDILLO, ESQ.
DiFrancesco, Bateman, Kunzman,
Davis, Lehrer & Flaum, P.C.