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Attorneys for Plaintiff

GAWKER ENTERTAINMENT, LLC, and
JOHN COOK,

Plaintiffs,

v.

JEFFREY S. CHIESA, in his
official capacity, and the
CUSTODIAN OF RECORDS, Office of
the Governor, State of New
Jersey,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MERCER COUNTY
DOCKET NO.

Civil Action

COMPLAINT IN LIEU OF
PREROGATIVE WRIT

Plaintiffs, by way of complaint against defendants, hereby
aver:

1. Gawker Entertainment, LLC, is a limited liability
company, organized under the laws of New York, with offices at

210 Elizabeth Street, Floor 4, New York, NY 10012. It is an online media company that operates the Gawker.com website, which is devoted to, among other things, news about New York media.

2. John Cook is an adult individual, employed by Gawker Entertainment as a journalist and blogger on Gawker.com. In that position, Cook regularly covers, reports on, and blogs about media news. Cook resides in Brooklyn, New York.

3. Jeffrey Chiesa is an adult individual, and is chief counsel to New Jersey Governor Chris Christie. Chiesa is sued in his official capacity only.

4. The Custodian of Records for the Office of the Governor is the individual responsible under the Open Public Records Act to maintain the Office's government records and to permit their inspection, examination and copying pursuant to that statute. See N.J.S.A. 47:1A-1.1, -5. The custodian is sued in his official capacity.

5. The Office of the Governor is a "public agency" that "ma[kes], maintain[s] or keep[s] on file" government records, and is therefore subject to the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

6. On May 22, 2011, New York magazine reported that Fox News Channel chairman Roger Ailes had "called [Gov.] Christie and encouraged him to jump into the [2012 presidential] race."

The magazine also reported that, during the summer of 2010, Ailes hosted Christie for dinner at his Putnam County, New York, home. On June 5, 2011, Ailes confirmed in an interview with the Daily Beast that he had invited Christie to dinner, but denied urging him to run for president.

7. Cook read the New York magazine article. Accordingly, on May 25, 2011, Cook - in his capacity as a journalist employed by Gawker Entertainment - sent an OPRA request to the Office of the Governor, in which he sought copies of 1) correspondence, electronic and otherwise, between Ailes and Christie or Richard Bagger, Christie's chief of staff; 2) entries in Christie's or Bagger's call logs indicating telephone calls to or from Ailes; 3) written messages for Christie or Bagger indicating calls from Ailes; and 4) entries in Christie's schedule indicating meetings, meals or visits with Ailes. Cook sought these records for the period January 19, 2010, forward. See Exhibit A.

8. By letter of June 14, 2011, issued by Chiesa, the Office of the Governor denied Cook's OPRA request. The letter of denial stated: "Please be advised that the records you are seeking, if they exist, would be exempt from disclosure pursuant to OPRA based upon the executive privilege and well-settled case law. [Citations omitted.] As such, this office will not be providing any records pursuant to your request." See Exhibit B.

9. The documents Cook seeks are "public records" pursuant to OPRA.

10. The documents Cook seeks are not exempt from disclosure on the basis of executive privilege or any principle of "well-settled case law."

11. The purpose of New Jersey's executive privilege is to protect and insulate "the sensitive decisional and consultative responsibilities" of the governor so that he may fully and effectively discharge his constitutional obligations. Correspondence and other records that do not pertain to the discharge of the governor's constitutional obligations as the state's chief executive are not subject to the protection from disclosure afforded by the executive privilege.

12. Defendants' blanket assertion that the privilege applies to the records Cook seeks fails adequately to justify its invocation to deny Cook's request.

13. Defendants have failed to identify, specify, separate or index any of the records Cook seeks. Defendants do not explain why the asserted privilege applies to those records, or how invocation of the privilege serves its purpose.

14. A strong public interest exists in knowing whether the executive in charge of the nation's most-watched cable news channel is acting as a political consultant to a prospective

Republican presidential candidate. As journalists, plaintiffs may properly assert that public interest as a basis for obtaining these records.

15. Plaintiffs' interest in the records sought outweighs any legitimate interest defendant has in claiming privilege or preventing disclosure.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants as follows:

A. Declaring that the records plaintiffs seek are government records under OPRA.

B. Declaring the records plaintiffs seek are not privileged or exempt from disclosure under any principle of law.

C. Ordering defendants to provide the requested records to plaintiffs.

D. Alternatively, requiring defendants to properly and formally invoke any privilege asserted; to identify, specify, separate and/or index the records sought; and to explain how and why the privilege applies to each record.

E. Requiring defendants, if appropriate, to provide the records to the Court for an in camera review and an individualized determination of each one's availability under OPRA.

F. Awarding costs and attorney's fees to plaintiffs pursuant to N.J.S.A. 47:1A-6.

Dated: BARRY, CORRADO, GRASSI & GIBSON, P.C.

FRANK L. CORRADO, ESQUIRE
On behalf of the American Civil
Liberties Union of NJ Foundation

EDWARD BAROCAS, ESQUIRE
JEANNE LOCICERO, ESQUIRE
BOBBY CONNER, ESQUIRE
American Civil Liberties Union of NJ
Foundation

CERTIFICATION

It is hereby certified that there are no other known actions or arbitrations relating to this action and there are no known parties who should be joined with respect to the matter in controversy.

BARRY, CORRADO, GRASSI & GIBSON, P.C.

Dated: By: _____
FRANK L. CORRADO, ESQUIRE

CERTIFICATION PURSUANT TO R. 4:69-4

It is hereby certified that no necessary transcripts exist in this case because the review of administrative actions sought does not involve agency proceedings at which a stenographic record or sound recording was made.

BARRY, CORRADO, GRASSI & GIBSON, P.C.

Dated: By: _____
FRANK L. CORRADO, ESQUIRE

DESIGNATION OF TRIAL COUNSEL

TAKE NOTICE that Frank L. Corrado, Esquire is hereby designated as trial counsel in the above captioned litigation for the firm of Barry & Corrado, pursuant to R. 4:25-1.

BARRY, CORRADO, GRASSI & GIBSON, P.C.

Dated: By: _____
FRANK L. CORRADO, ESQUIRE