

Supreme Court of Pennsylvania

Court of Common Pleas Civil Cover Sheet

York

County



For Prothonotary Use Only:

Docket No:

12-00000000

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

Commencement of Action:

- Complaint
 Writ of Summons
 Petition
 Transfer from Another Jurisdiction
 Declaration of Taking

Lead Plaintiff's Name:
Liz Evans Scolforo and The York Disptch

Lead Defendant's Name:
The County of York

Are money damages requested? Yes No Dollar Amount Requested: within arbitration limits outside arbitration limits (check one)

Is this a Class Action Suit? Yes No Is this an MDJ Appeal? Yes No

Name of Plaintiff/Appellant's Attorney: Paula Knudsen Burke, PA ID 87607

Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

SECTION B

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- Intentional
 Malicious Prosecution
 Motor Vehicle
 Nuisance
 Premises Liability
 Product Liability (does not include mass tort)
 Slander/Libel/ Defamation
 Other: _____

CONTRACT (do not include Judgments)

- Buyer Plaintiff
 Debt Collection: Credit Card
 Debt Collection: Other _____
 Employment Dispute: Discrimination
 Employment Dispute: Other _____
 Other: _____

CIVIL APPEALS

- Administrative Agencies
 Board of Assessment
 Board of Elections
 Dept. of Transportation
 Statutory Appeal: Other _____
 Zoning Board
 Other: _____

MASS TORT

- Asbestos
 Tobacco
 Toxic Tort - DES
 Toxic Tort - Implant
 Toxic Waste
 Other: _____

REAL PROPERTY

- Ejectment
 Eminent Domain/Condemnation
 Ground Rent
 Landlord/Tenant Dispute
 Mortgage Foreclosure: Residential
 Mortgage Foreclosure: Commercial
 Partition
 Quiet Title
 Other: _____

MISCELLANEOUS

- Common Law/Statutory Arbitration
 Declaratory Judgment
 Mandamus
 Non-Domestic Relations Restraining Order
 Quo Warranto
 Replevin
 Other: Office of Open Records appeal

PROFESSIONAL LIABILITY

- Dental
 Legal
 Medical
 Other Professional: _____

IN THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA

LIZ EVANS SCOLFORO and :
THE YORK DISPATCH :
Petitioners, :
 :
v. : Docket No: 2020-SU-_____
 :
THE COUNTY OF YORK, :
Respondent. :

NOTICE OF APPEAL AND PETITION FOR REVIEW

The York Dispatch, a print and online community newspaper, along with a York Dispatch reporter, Liz Evans Scolforo, (collectively, “Requesters”) petition for review of the final determination of the Office of Open Records (“OOR”) docketed at OOR Docket No: AP 2020-1606 and in support of their petition assert:

JURISDICTION

1. This Court has jurisdiction over this matter pursuant to the Right to Know Law 65 P.S. § 67.1302.
2. The numbered paragraphs below include information required by York R.J.A. Rule 509.1 (Appeals from Determinations Concerning Open Records).

PARTIES

3. The York Dispatch is a print and online community newspaper located at 1891 Loucks Road York, PA 17408. The phone number for the newspaper is: (717) 854-1575.
4. Liz Evans Scolforo is an adult individual who is a reporter with The York Dispatch. Her business address is 1891 Loucks Road, York, PA 17408. Her phone number is: (717) 324-0319.
5. The County of York (“County”) is a third class county in the Commonwealth of Pennsylvania. The county’s address is 28 East Market Street, York, PA 17401. The telephone number is (717) 771-4777. The county’s facsimile number is (717) 771-4341.

DETERMINATION TO BE REVIEWED

6. The Office of Open Records (“OOR”) is a governmental unit established to receive and determine appeals of agency Right to Know Law decisions pursuant to Sections 1101 and 1310 of the Right to Know Law.
7. The October 1, 2020 OOR Final Determination to be reviewed is attached as Exhibit A.
8. A copy of any pertinent correspondence, hearing transcripts, or other documents is attached as Exhibit B. All material provided by the agency has been submitted with the appeal.
9. A copy of Requesters’ October 16, 2020 Petition for Reconsideration is attached as Exhibit C.
10. A copy of the the OOR’s denial of the Petition for Reconsideration, dated October 30, 2020, is attached as Exhibit D.

CONCISE STATEMENT OF RELEVANT FACTS

11. The name, title, address, telephone and facsimile numbers of the agency and any agency official alleged to have acted on a request under the Right to Know Law:

Michéle Pokrifka
York County Solicitor
York County Administrative Center
28 East Market Street
York, Pennsylvania 17401-4341
Phone: (717) 771-4777
Facsimile: (717) 771-4341

12. A description of the records requested:

Requesters sought electronic access to salary records for all York County Prothonotary employees from Jan. 1, 2020, to the date of her request [August 11, 2020], showing name, salary, job title and length of service, including start and end dates.

13. The date of the Right to Know request: August 11, 2020

14. The date of any response: August 14, 2020

15. Prior to filing their request with the County on August 11, 2020, Requesters first sought the records under Pa.R.J.A. 509 from the York County Court of Common Pleas.

16. On July 29, 2020, the court's records email address (no name is signed to the email) responded to Requesters, saying, in part:

Employees in the prothonotary's office are subject to the joint supervision of independently elected officials of county government (the prothonotary and the county commissioners) who are not under the jurisdiction of me, the president judge, nor any other member of the state judiciary regarding hiring, firing, promoting, demoting, disciplining, terminating, or compensating those employees. The court has absolutely no authority over, responsibility for, nor access to any personnel record of any employee in the prothonotary's office. Furthermore, even if we did have access to that information, it would not be a financial record of funds appropriated to the court subject to the RTKL as it pertains to the judiciary. As such, your request to this office remains denied. If you want access to county employee records, which may or may not be subject to disclosure under the RTKL by the keeper of those records, you need to direct that request to the county agency that has access to and control of those records.

Exhibit B.

STATEMENT OF THE GROUNDS UPON WHICH REQUESTER ASSERTS RECORDS ARE PUBLIC

17. Requesters are seeking the most basic information made public by the Right to Know Law: salaries and related financial information for employees of the York County Prothonotary's office. *See* 65 P.S. § 67.708(b)(6)(ii).

18. The request was appropriately directed to the County of York because the County pays the salary of staff members of that office, and as such, these records document a “transaction or activity” of the County, not of the Prothonotary’s office. *See Pennsylvania Office of Att’y Gen. v. Philadelphia Inquirer*, 127 A.3d 57, 63 (Pa. Cmwlth 2015).

19. The records in this case illustrate county expenditure of funds for employees who are hired and supervised by elected county officials, who work on behalf of county residents and taxpayers and who must be accountable to the public they serve. These employees are paid with county funds, supervised by county row officers and as such, the employees’ basic salary and employment records are public under the RTKL. A holding to the contrary would create a gaping hole in the RTKL for elected county officials and their staff.

20. The OOR erred by finding that the prothonotary is a “judicial agency.” A “judicial agency” is defined in the Right to Know Law as “[a] court of the Commonwealth or any other entity or office of the unified judicial system.” 65 P.S. § 67.102. The “unified judicial system” is defined by the Judicial Code and the Pennsylvania Rules of Judicial Administration. 42 Pa.C.S. § 102; Pa.R.J.A. 102. In pertinent part “system and related personnel” is defined to include the following:

Personnel of the system and related staff. The term includes district attorneys, public defenders, sheriffs and other officers serving process or enforcing orders, registers of wills, prothonotaries, clerks of courts, clerks of the orphans’ court division, coroners, jury commissioners, probation officials, and the personnel of all of the foregoing.

21. The OOR found that because county prothonotaries are “administrative staff” and, as a result, fall within the definition of “personnel of the unified judicial system,” they are considered judicial agencies under the Right to Know Law.

22. Requesters submit that although prothonotaries and their employees are “system and related personnel,” they are excluded from the definition of “personnel of the unified judicial system.” Instead, they are “related staff.” *See Parks Miller v. Cty. of Ctr.*, 643 Pa. 560, 173 A.3d 1162, 1169 (2017).

23. “Related staff” expressly are not “personnel of the system.” 42 Pa.C.S. § 102. As such, and like district attorneys in *Parks Miller*, prothonotaries and their staff cannot be personnel or entities or offices of the unified judicial system, e.g., a judicial agency under the RTKL, Judicial Code or Rules of Judicial Administration.

24. Rather, they are “related staff” “whose function aids the judicial process but who are not supervised by the courts.” *Rosenwald v. Barbieri*, 501 Pa. 563, 462 A.2d 644 (1983).

STATEMENT OF THE GROUNDS STATED BY THE AGENCY FOR DENYING THE REQUEST

25. The County Right to Know Law officer, in denying the requesters' bid for records, wrote that, "Based upon statutory language and case law, the records you are seeking are records of a judicial agency. Under the Pennsylvania Rules of Judicial Administration, court prothonotaries and their employees are personnel of the unified judicial system. Pa. R.J.A. No. 102. *Frazier v. Phila. County Office of the Prothonotary*, 58 A.3d 858, 859, 2012. Further, their records are deemed judicial records."

26. The County also relied on *Grine v. Cty. of Ctr.*, 138 A.3d 88 (Pa. Cmwlth. 2016), in its denial, arguing that it is precluded from granting access to the records in this case.

STATEMENT OF THE RELIEF SOUGHT

WHEREFORE, Petitioners, Liz Evans Scolforo and The York Dispatch, respectfully request that this Honorable Court:

- (a) Reverse the OOR determination of October 1, 2020, or
- (b) In the alternative, allow Petitioners to supplement the record before this Honorable Court, or
- (c) In the alternative, remand the matter back to the OOR for a full evidentiary hearing pursuant to Pa.R.A.P. 1542, including testimony and argument.

Respectfully submitted,



Paula Knudsen Burke
REPORTERS COMMITTEE FOR FREEDOM
OF THE PRESS

PA ID: 87607

PO Box 1328

Lancaster, PA 17608

pknudsen@rcfp.org

Counsel for The York Dispatch and Liz Scolforo

Dated: 10/30/20

VERIFICATION

I, Liz Evans Scoloro, hereby state that the facts above set forth in the Notice of Appeal and Petition for Review are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).


(signature)

Date:

10/30/20

CERTIFICATE OF COMPLIANCE WITH PUBLIC ACCESS POLICY

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Paula Knudsen Burke

Signature: Paula K Burke

10/30/20

Attorney No.: 87607

PROOF OF SERVICE

I hereby certify that I have served the foregoing document, Notice of Appeal and Petition for Review, upon the persons listed on the date and in the manner indicated below, which satisfies the requirements of Pa.R.A.P. 121:

Notification by email with consent from recipients:

Joshua T. Young, Esq.
Appeals Officer
Office of Open Records
333 Market St., 16th Floor
Harrisburg, PA 17101-2234
RA-OpenRecords@pa.gov

Charles Brown, Esq.
Chief Counsel
Office of Open Records
333 Market St., 16th Floor
Harrisburg, PA 17101-2234
charlebrow@pa.gov

Delivery by standard U.S. mail:

Michéle Pokrifka, Esq.
York County Solicitor
York County Administrative Center
28 East Market Street
York, Pennsylvania 17401-4341

Dated: Paula Knudsen Burke
10/30/20

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