

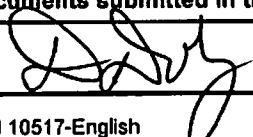


Appendix XII-B1

	<b>CIVIL CASE INFORMATION STATEMENT (CIS)</b>		<b>FOR USE BY CLERK'S OFFICE ONLY</b>		
	Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> <b>Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>,                  if information above the black bar is not completed                  or attorney's signature is not affixed.</b>		PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA CHG/CK NO.	AMOUNT:	
	ATTORNEY / PRO SE NAME Donald M. Doherty, Jr., Esq.		TELEPHONE NUMBER 908-666-1297	COUNTY OF VENUE Mercer	OVERPAYMENT:
	FIRM NAME (if applicable) The Law Office of Donald M. Doherty, Jr.		COUNTY OF FILING Mercer	DOCKET NUMBER (when available) L-74-12	BATCH NUMBER:
OFFICE ADDRESS 125 North Route 73 West Berlin, New Jersey 08091		DOCUMENT TYPE Verified Complaint		REQUESTED DEMAND <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
NAME OF PARTY (e.g., John Doe, Plaintiff) Susan Scoblink-O'Neill, Plaintiff	CAPTION Susan Scoblink-O'Neill, Plaintiff, v. New Jersey Department of Environmental Protection, The State of New Jersey and Paul M. DiMattia, Defendants.				
CASE TYPE NUMBER (See reverse side for listing) 802	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.				
RELATED CASES PENDING? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	IF YES, LIST DOCKET NUMBERS				
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input checked="" type="checkbox"/> NONE <input type="checkbox"/> UNKNOWN				
<b>THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.</b>					
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION					
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input checked="" type="checkbox"/> OTHER (explain) record requester/gov't <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS				
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No					
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION					
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION				
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	IF YES, FOR WHAT LANGUAGE?				
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .					
ATTORNEY SIGNATURE:  12/30/11					



# CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1*

11

## CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

### Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

### Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE - PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE - PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT - OTHER

### Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

### Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

### Centrally Managed Litigation (Track IV)

- |                                  |  |
|----------------------------------|--|
| 280 ZELNORM                      | 290 POMPTON LAKES ENVIRONMENTAL LITIGATION |
| 285 STRYKER TRIDENT HIP IMPLANTS | 291 PELVIC MESH/GYNECARE                   |
| 288 PRUDENTIAL TORT LITIGATION   | 292 PELVIC MESH/BARD                       |
| 289 REGLAN                       | 293 DEPUY ASR HIP IMPLANT LITIGATION       |

### Mass Tort (Track IV)

- |                                       |  |
|---------------------------------------|--|
| 248 CIBA GEIGY                        | 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL |
| 266 HORMONE REPLACEMENT THERAPY (HRT) | 282 FOSAMAX                            |
| 271 ACCUTANE/ISOTRETINOIN             | 284 NUVARING                           |
| 274 RISPERDAL/SEROQUEL/ZYPREXA        | 286 LEVAQUIN                           |
| 278 ZOMETA/AREXIA                     | 287 YAZ/YASMIN/OCELLA                  |
| 279 GADOLINIUM                        | 601 ASBESTOS                           |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category  Putative Class Action  Title 59

**Donald M. Doherty, Jr., Esq.**  
125 North Route 73  
West Berlin, New Jersey 08091  
(609) 336-1297  
Attorney for the Plaintiff

JAN 04 2012

*Dee Regan*

---

Susan Scoblink-O'Neill,  
*Plaintiff,*

v.

New Jersey Department of Environmental Protection,  
The State of New Jersey and Paul M. DiMattia,  
*Defendants.*

---

: NEW JERSEY SUPERIOR COURT  
: MERCER COUNTY CLERK OF SUPERIOR COURT  
: LAW DIVISION  
: DOCKET NO: *L-74-12*  
:  
: CIVIL ACTION  
:  
: VERIFIED COMPLAINT  
: In Lieu of Prerogative Writ  
: (Open Public Records Act)

Plaintiff, Susan O'Neill, complains against the Defendants as follows:

**THE PARTIES**

1. Plaintiff Susan Scoblink-O'Neill is resident of the Borough of Haddon Heights, Camden County, New Jersey.
2. a. Defendant New Jersey Department of Environmental Protection (NJDEP) is a department of the executive branch of the Defendant State of New Jersey.  
b. Defendant Paul M. DiMattia is a records custodian for the NJDEP.

**BACKGROUND**

3. On September 30, 2011 Plaintiff sought to obtain records regarding environmental issues at the Haddon Heights department of public works. Plaintiff filed an OPRA request with the NJDEP for those records. She specifically identified the property at issue - Glover Avenue, Block 64, Lots 2, 4 & 6.
4. After filing the request, Plaintiff was contacted by NJDEP representatives, who indicated to her that her request was "overbroad".
5. That same day (September 30, 2011), while on the phone with the NJDEP representative, Plaintiff scaled back her request to seek information only about the underground storage tank being removed from the public works property.
6. On October 12, 2011 Plaintiff was notified that the records she sought were available for

access.

7. Plaintiff requested copies of the records.
8. Defendants responded that she would be responsible for a “prep fee” if she wanted copies and she would have to wait 15 to 20 business days for NJDEP personnel to compute the fee and prepare an invoice for her to approve before the copies would be made.
9. Plaintiff sought an explanation of why she was being charged a “prep fee” for the records and why it would take so long.
10. Plaintiff was informed that there were 150 pages of material and that all requests were subject to a charge for preparation relating to the removal of staples, bindings and operating the copier equipment.
11. Plaintiff was given no explanation as to why it would take 3 weeks to merely generate a cost estimate of the 150 copies - not even to make the copies.
12. On November 18, 2011 Plaintiff received a proposed invoice showing there to be 360 copies and a copy cost of \$18.00. The prep fee was less than an hour and was \$27.83 - a sum greater than the cost of the records. Ex. A
13. Plaintiff protested that the estimate was more than double the cost she was originally quoted. Ex. B
14. NJDEP personnel revisited the matter and ultimately determined, contrary to their two prior estimates, that there were not 150 relevant pages nor 360 relevant pages but only 77 relevant pages of documents. Ex. C
15. For those 77 pages, the Defendants sought \$3.85 in copying charges. Ex. C
16. To copy those 77 pages, Defendants demanded a \$4.49 “special service charge”. This sum is for .15 hours worth of effort - 9 minutes!! Ex. C
17. True to their spoken word, Defendants do indeed have a policy to charge every request, no matter how small, a “special service charge”. Ex. D
18. Defendant improperly deem every response to every request an “extraordinary effort” warranting the imposition of a service fee.
19. Plaintiff paid the fees as demanded to obtain copies of the records, as the records were not available from any other source.

**COUNT ONE**  
**VIOLATION OF THE OPEN PUBLIC RECORDS ACT, N.J.S.A. 47:1A-1, et. seq.**

20. The above allegations are herein incorporated by reference.
21. Defendants wrongfully impose service fees and charges upon records requesters in violation of New Jersey' Open Public Records Act.
22. Defendants openly and defiantly have a policy of refusing to release records if the requester objects to service fees.

*Wherefore*, Plaintiff requests judgment as follows:

- A. Compelling Defendants refund the service charge imposed upon her in violation of OPRA;
- B. Enjoining the NJDEP policy and practice of imposing service charges for such routine matters as removing staples, bindings and operating the photocopier;
- C. Awarding counsel fees and costs;
- D. Awarding other such relief as the Court may deem fair, equitable and/or necessary to facilitate the Plaintiff's intentions and the directives of OPRA.

**COUNT TWO**  
**VIOLATION OF THE NEW JERSEY CIVIL RIGHTS ACT, N.J.S.A. 10:6-1, et. seq.**

22. The above allegations are herein incorporated by reference.
23. By imposing service charges not authorized by OPRA, Defendants have deprived Plaintiff and requesters of substantive due process or equal protection rights, privileges or immunities secured by the Constitution or laws of the United States, or any substantive rights, privileges or immunities secured by the Constitution or laws of this State.
25. By imposing service charges not authorized by OPRA, Defendants have interfered with or attempted to be interfere with substantive due process or equal protection rights, privileges or immunities secured by the Constitution or laws of the United States, or any substantive rights, privileges or immunities secured by the Constitution or laws of this State, by the use of coercion.

*Wherefore*, Plaintiff requests judgment as follows:

- A. Compelling Defendants refund the service charge imposed upon her in violation of OPRA;
- B. Enjoining the NJDEP policy and practice of imposing service charges for such routine matters as removing staples, bindings and operating the photocopier;

- C. Awarding counsel fees and costs;
- D. Awarding nominal and punitive damages against the Defendants as may be appropriate to deter and dissuade such conduct in the future;
- E. Awarding other such relief as the Court may deem fair, equitable and/or necessary to facilitate the Plaintiff's intentions and the directives of OPRA.

**DESIGNATION OF TRIAL COUNSEL**

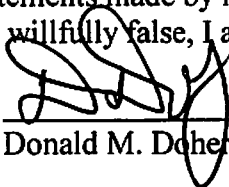
Pursuant to R. 4:5-4, Donald M. Doherty, Jr., Esquire is hereby designated as trial counsel on behalf of the plaintiff.

**CERTIFICATION OF COUNSEL PURSUANT TO RULE 4:5-1**

I, the undersigned, hereby certify the matter in controversy is not the subject of any other action in any court nor a pending arbitration proceeding. I further certify that there are no other parties that should be joined to this action.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: 12/30/11

By:   
Donald M. Doherty, Jr., Esq.

**Verification**

I, Susan Scoblink-O'Neill, am the Plaintiff in the above matter, and do hereby verify the truth of the statements contained in Paragraphs 1-17 and 10. The balance of the allegations are either legal theory or based upon information and belief formulated as a result of my discussions with counsel.

  
\_\_\_\_\_  
By: Susan Scoblink-O'Neill

New Jersey Department of Environmental Protection

**RECORDS PRODUCTION BILLING STATEMENT**

**Rqst Number: 113913**

**Date: 11/18/2011**

**Re: Borough of Haddon heights , Glover Ave.**

**Name:** Susan O'Neill  
**Company:** none  
**Street:** 411 Windsor Ave.  
**City:** Haddon Twp  
**State:** NJ  
**Zip Code:** 08108

**Phone #:** (856) 857-0456

**Fax #:** () -

ITEM	Quantity	Unit Price	Cost
<b>Copies:</b>			
Normal Business Size	360	\$0.05 per page	\$18.00
Maps (Over-Sized: Color)		\$5.00 per page	
Maps (Over-Sized: B&W)		\$3.00 per page	
CDs & DVDs		\$2.00 per Disk	
<b>Service Fees (N.J.A.C. 47:1A-5.c &amp; 47:1A-5.d):</b>			
Extraordinary Time (EOT) Charges		\$71.65 per hr.	
Special Service Charges	.93 hrs	\$29.92 per hr.	\$27.83
<b>Other:</b>			
Shipping Costs UPS	4 lbs		\$8.71
Prepayment Deposit Required		50%	
		<b>Total:</b>	<b>\$54.54</b>

**\* Make check or money order (no cash) payable to: *Treasurer, State of New Jersey***

**Send payment to:** New Jersey Department of Environmental Protection  
 Office of Record Access  
 Mail Code 401-06Q  
 PO Box 420  
 Trenton, NJ 08625-0420

Please identify the OPRA Request Tracking Number on all Checks, Fax or Correspondence. If there are any questions, please call the Office of Record Access at (609) 341-3121 or via email at [records.custodian@dep.state.nj.us](mailto:records.custodian@dep.state.nj.us).

A



**Donald Doherty**

---

**From:** <Soooson@aol.com>  
**Date:** Sunday, November 20, 2011 9:33 PM  
**To:** <dmd@donalddoherty.com>  
**Subject:** Fwd: Invoice for Copies of OPRA# 113913

---

From: Soooson@aol.com  
To: Paul.DiMattia@dep.state.nj.us  
Sent: 11/20/2011 9:31:06 P.M. Eastern Standard Time  
Subj: Re: Invoice for Copies of OPRA# 113913

Mr. DiMattia,

On September 30th, I filed an OPRA request for information regarding a municipal property owned by the Borough of Haddon Heights - specifically on Glover Ave. block 64 - lots 2,4 & 6.

My original request was for the following "All records that relate to any and all environmental issues from 1/01/2008, to the present. Please supply these records to me via email."

On that same day (9/30), I received a callback from your records department informing me that my request was so broad that I would be subject to an additional filing fee of \$68.65 an hour. In order to avoid this hefty fee, and expedite my request, I agreed to limit my request to only the SRP within those same dates (see addendum).

On October 12, I received an email notification informing me that the records I requested had been identified and were available for access. I was also instructed to call the records access office at 609-341-3121 which I did. At this point I was given 2 options -I could make an appointment to view the documents, or I could order all 150 pages (which I chose ) and wait 15-20 business days for a bill which includes a "prep fee". I was given an "estimate" of approx \$30. At this time I questioned why the estimated cost to fill my OPRA request was so much more then just the cost to copy 150 pages at 5 cents per page (\$7.50). I also questioned why I would have to wait an additional 15-20 business days for an actual bill. This estimate I was told included the cost of the documents, as well as a prep fee, and shipping costs. In response to my questions I received via email a document titled "Explanation of Fees".

At any rate, last Friday (11/19), I finally received an invoice for my OPRA request. To my surprise and dissatisfaction, the billing statement was \$54.54. Somehow, from what I was originally told was identified to be 150 pages of material is now 360 pages. I immediately called the number made available on the invoice. I was told they would look into this and call me back. I did not receive a call, and I am still waiting for an explanation for this bill which is almost double the estimate I was originally given.

Susan O'Neill

In a message dated 11/18/2011 10:00:42 A.M. Eastern Standard Time, Paul.DiMattia@dep.state.nj.us writes:

B-1

12/29/2011

Ms. O'Neill,

Attached below is an invoice for copies you requested. Once payment is received copies will be shipped.

If you choose to come to the DEP to pick up your files please contact, Paul DiMattia, to make arrangements for pick up time. Thank you for your cooperation.

If you have any further questions please contact (609) 341-3121.

Thanks!

Paul M. DiMattia  
Office of Record Access  
609-341-3121  
Paul.DiMattia@dep.state.nj.us

B-2

**Donald Doherty**

---

**From:** <Soooson@aol.com>  
**Date:** Monday, November 21, 2011 11:06 AM  
**To:** <dmd@donalddoherty.com>  
**Attach:** 113913Invoice.rtf  
**Subject:** Fwd: Invoice for Copies of OPRA# 113913

This is unbelievable - 36 business days to finally get this !

---

From: Kristina.Clayton@dep.state.nj.us  
 To: Soooson@aol.com  
 Sent: 11/21/2011 11:00:09 A.M. Eastern Standard Time  
 Subj: Re: Invoice for Copies of OPRA# 113913

Ms. O'Neill,

Our apologies for not being in touch regarding these files on Friday, November 18th, the person who needed to check the files was out. However, this morning I brought the file to be reviewed and had the incorrect files removed from your job. The copies actually total to 77 pages, not the 150 pages that was identified and originally told to you. I have adjusted the bill accordingly to reflect the correct information. I apologize for any inconvenience this has caused you. If you have any further questions please contact the Office of Record Access at (609) 341-3121. Thank you and have a wonderful day.

Kristina Clayton  
 Office of Records Access  
 609-341-3121

>>> <Soooson@aol.com> 11/20/2011 9:31 PM >>>

Mr. DiMattia,

On September 30th, I filed an OPRA request for information regarding a municipal property owned by the Borough of Haddon Heights - specifically on Glover Ave. block 64 - lots 2,4 & 6.

My original request was for the following "All records that relate to any and all environmental issues from 1/01/2008, to the present. Please supply these records to me via email."

On that same day (9/30), I received a callback from your records department informing me that my request was so broad that I would be subject to an additional filing fee of \$68.65 an hour. In order to avoid this hefty fee, and expedite my request, I agreed to limit my request to only the SRP within those same dates (see addendum).

On October 12, I received an email notification informing me that the records I requested had been identified and were available for access. I was also instructed to call the records access office at 609-341-3121 which I did. At this point I was given 2 options - I could make an appointment to view the documents, or I could order all 150 pages (which I chose) and wait 15-20 business days for a bill which includes a "prep fee". I was given an "estimate" of approx \$30. At this time I questioned why the estimated cost to fill my OPRA request was so much more than just the cost to copy 150 pages at 5 cents per page (\$7.50). I also questioned why I would have to wait an additional 15-20 business days for an actual bill. This estimate I was told included the cost of the documents, as well as a prep fee, and shipping costs. In response to my questions I received via email a document titled

C-1

12/29/2011

"Explanation of Fees".

At any rate, last Friday (11/19), I finally received an invoice for my OPRA request. To my surprise and dissatisfaction, the billing statement was \$54.54. Somehow, from what I was originally told was identified to be 150 pages of material is now 360 pages. I immediately called the number made available on the invoice. I was told they would look into this and call me back. I did not receive a call, and I am still waiting for an explanation for this bill which is almost double the estimate I was originally given.

Susan O'Neill

In a message dated 11/18/2011 10:00:42 A.M. Eastern Standard Time, Paul.DiMattia@dep.state.nj.us writes:

Ms. O'Neill,

Attached below is an invoice for copies you requested. Once payment is received copies will be shipped.

If you choose to come to the DEP to pick up your files please contact, Paul DiMattia, to make arrangements for pick up time. Thank you for your cooperation.

If you have any further questions please contact (609) 341-3121.

Thanks!

Paul M. DiMattia  
Office of Record Access  
609-341-3121  
Paul.DiMattia@dep.state.nj.us

C-2

New Jersey Department of Environmental Protection

**RECORDS PRODUCTION BILLING STATEMENT**

**Rqst Number: 113913**

**Date: 11/18/2011**

**Re: Borough of Haddon heights , Glover Ave.**

**Name:** Susan O'Neill  
**Company:** none  
**Street:** 411 Windsor Ave.  
**City:** Haddon Twp  
**State:** NJ  
**Zip Code:** 08108

**Phone #:** (856) 857-0456

**Fax #:** () -

ITEM	Quantity	Unit Price	Cost
<b>Copies:</b>			
Normal Business Size	77	\$0.05 per page	\$3.85
Maps (Over-Sized: Color)		\$5.00 per page	
Maps (Over-Sized: B&W)		\$3.00 per page	
CDs & DVDs		\$2.00 per Disk	
<b>Service Fees (N.J.A.C. 47:1A-5.c &amp; 47:1A-5.d):</b>			
Extraordinary Time (EOT) Charges		\$71.65 per hr.	
Special Service Charges	0.15 hrs	\$29.92 per hr.	\$4.49
<b>Other:</b>			
Shipping Costs UPS	1 lbs		\$8.10
Prepayment Deposit Required		50%	
		<b>Total:</b>	<b>\$16.44</b>

**\* Make check or money order (no cash) payable to: *Treasurer, State of New Jersey***

**Send payment to:** New Jersey Department of Environmental Protection  
 Office of Record Access  
 Mail Code 401-06Q  
 PO Box 420  
 Trenton, NJ 08625-0420

Please identify the OPRA Request Tracking Number on all Checks, Fax or Correspondence. If there are any questions, please call the Office of Record Access at (609) 341-3121 or via email at [records.custodian@dep.state.nj.us](mailto:records.custodian@dep.state.nj.us).

C-3