

Bond Case Briefs

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PUBLIC RECORDS - NEW JERSEY

Paff v. Galloway Township

Supreme Court of New Jersey - June 20, 2017 - A.3d - 2017 WL 2644470

Records requester filed complaint seeking to compel township to produce requested list of e-mails between township clerk and chief of police under Open Public Records Act (OPRA).

The Superior Court ordered production of requested e-mail log. Township appealed. The Superior Court, Appellate Division, reversed. Records requestor appealed.

The Supreme Court of New Jersey held that:

- The Supreme Court would not give deference to guidance given township clerk by the Government Records Council (GRC) with regard to records request, and
- Electronic fields of information covering “sender,” “recipient,” “date,” and “subject” in e-mails sent by township chief of police and township clerk over a two-week period constituted government records under the OPRA.

Electronically stored information extracted from an e-mail is not the creation of a new record or new information, but rather, is a government record under the Open Public Records Act (OPRA); a document is nothing more than a compilation of information, discrete facts and data, and by OPRA’s language, information in electronic form, even if part of a larger document, is itself a government record.

Supreme Court would not give deference to guidance given township clerk by the Government Records Council (GRC) with regard to records request; that guidance merely stated in boilerplate language that township was not required to create new records in response to a records request, cautioned that its guidance did not constitute legal advice or a final agency decision, and the Open Public Records Act (OPRA) specifically provided that a decision of the GRC shall not have value as precedent for any case initiated in the Superior Court.