

Bond Case Briefs

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PUBLIC RECORDS - NEW JERSEY

Gannett Satellite Information Network, LLC v. Township of Neptune

Supreme Court of New Jersey - June 20, 2023 - A.3d - 2023 WL 4066414

Newspaper publisher, which had requested copies of internal affairs file of former township police sergeant pursuant to both common law and Open Public Records Act (OPRA), brought action against township after it denied request, seeking to compel township to disclose records.

The Superior Court determined that records were exempt from disclosure under OPRA, but that publisher was entitled to a redacted version of the records under common law, and awarded publisher attorney's fees. Township appealed and publisher cross-appealed. The Superior Court, Appellate Division, affirmed in part and reversed in part. The Supreme Court granted publisher's petition for certification, limited to question of attorneys' fees.

The Supreme Court held that trial court was not authorized to award publisher attorney fees for prevailing on its common law right to access records claim.

Following its determination that newspaper publisher had a common law right of access to internal affairs file of former township police sergeant convicted of manslaughter, and that township should not have withheld the file, trial court was not authorized to award publisher attorney fees under any exception to American Rule, which provided that each party pay their own fees, even if Open Public Records Act (OPRA) authorized fees for violations of its provisions; Act did not extend to allow fees for common law claims, no other statute or rule provided for fees, the parties did not have a contract providing for fees, and case did not involve fiduciary malfeasance.