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JONATHAN HAGEL,)	SUPERIOR COURT OF NEW JERSEY
MICHELE DOWNIE,)	LAW DIVISION – MERCER COUNTY
CATHERINE READ,)	DOCKET NO.: MER-L-000890-25
Plaintiffs,		

v.

NEW JERSEY STATE POLICE)	RESPONSE TO LETTER BRIEF IN
)	OPPOSITION TO PLAINTIFF’S
)	ORDER TO SHOW CAUSE
Defendant,)	

To the Honorable Judge Robert T. Lougy,

Your Honor, please accept this response to the Office of Attorney General’s response by letter brief to the Plaintiffs Order to Show Cause.

Defendant stated several points that need to be highlighted to the Court, omitted several points, appears to have erroneously misstated facts and continues to disregard the overall arguments made by the Plaintiffs. Furthermore, key pieces of evidence submitted by the Plaintiffs were not discussed, including the clear sense of urgency displayed, and the Defendant hopes this Court will believe that the museum archives were “temporarily limited” to researchers, historians and members of the public, while also simultaneously they “continue to

enjoy access to the Lindbergh archive.”¹ The sheer defiance, inexcusable violations of Governor Byrne’s Executive Order 110 and willful disregard of what is in the public’s interest can no longer be tolerated by the New Jersey State Police in this matter. This Court has an opportunity to serve justice, the public, history and honor the legacy of former Governor Brendan T. Byrne.

OVERALL ARGUMENT FROM THE PLAINTIFFS

Executive Order 110, signed by Governor Byrne on October 9, 1981 was a direct response to a wrongful death allegation made by Bruno Richard Hauptmann’s widow, Anna Hauptmann filed that same week. The Defendant acknowledges that Governor Byrne “recognized the case’s continued historical significance, the public’s interest...”² and made the entirety of the case file open to the public and subject to inspection and examination. Defendant fails to indicate why this happened, particularly given the fact that this case has been of public interest since March 1, 1932.

Governor Byrne issued Executive Order 110 for three reasons. First, he wanted to ensure complete and total transparency in the wake of the new wrongful death lawsuit being filed by Anna Hauptmann. Second, Governor Byrne did not think Bruno Richard Hauptmann acted alone.³ Lastly, Governor Byrne intended to link the Lindbergh case to the Open Public Records Act (OPRA)⁴. This is evidenced by granting the power of the Superintendent of the New Jersey State Police to ensure application of OPRA exemptions apply while citing OPRA to establish

¹ See Defendant’s Response, dated June 19, 2025, Page 6.

² See Defendant’s Motion Response, dated May 29, 2025.

³ See Plaintiff’s Exhibit P-13 and New Jersey Network Production minutes 5:50-6:20 - <https://www.youtube.com/watch?v=Rjcqke43Kts>, copyright 1989.

⁴ See Plaintiff’s Exhibit P-1, Page 4.

procedures “to insure that there is no risk of damage or mutilation of such files.”⁵ Interpreting the Executive Order’s intention from 1981 to 2025 is easy, simple and painless for this Court to do and clearly forensic DNA would have been conducted in 1981 if the technology existed to accomplish the purposes of the Executive Order. Unfortunately for history, the public and Brendan Byrne’s legacy, such technology did not exist in October 1981.

While presented with these facts from the Plaintiffs, the Defendant simply ignores them and does not address any of these three points. Why is that? Quite simply, the Defendant fails to state any contradictory reasons as to these factual pieces of evidence, because they are factual and truthful and can’t be refuted. EO 110 exists because Governor Byrne intended on linking it to OPRA. Also, he believed Hauptmann did not act alone, and he wanted the public to have a complete and thorough opportunity to see if the State of New Jersey wrongfully executed Bruno Richard Hauptmann. There is only one-way Plaintiffs know of to help answer the later question. That is by applying EO 110 to OPRA and fulfilling Governor Byrne’s purpose of creating it, and compelling the Defendant to allow Plaintiff’s expert(s) to conduct a forensic analysis.

Admittedly, the Plaintiffs have no argument in this case under OPRA in the event Governor Murphy or any future New Jersey Governor rescinds Governor Byrne’s Executive Order 110. To that point, not only is there no case law, but it would be extremely unlikely to have any case law on such a unique set of facts given that a state Executive Order would have to open a criminal case to the public and apply OPRA to it like Governor Byrne did. However, this is the only case in New Jersey’s history that has done that. To date, Governor Murphy has not rescinded EO 110, and because Governor’s Byrne’s Executive Order 110 stands as law, and as the only New Jersey Executive Order opening the entirety of a criminal case file to the public;

⁵ See Plaintiff’s Exhibit P-1, Page 4.

logic, common sense, justice and applicability of intentions dictates this matter is ripe for Plaintiffs to compel the State to remedy this ongoing injustice and finally learn whose DNA is on the ransom envelopes.

The letter brief response back to this Court dated June 19, 2025 and submitted by the Defendant fails to address these and other key issues critical to law, justice and transparency.

COUNT I – REBUTTING THE DEFENDANTS ARGUMENTS

DEFENDANT IS INCORRECT REGARDING THE TIMING OF THE ARCHIVES

BEING CLOSED

Defendant had well established and well developed non-written plans in place on how members of the public including researchers and journalists could view, inspect, examine and copy the Lindbergh archives from approximately late 1981 until approximately March or April of 2024. Accordingly, for over forty-two (42) years, the Defendant did not consider, value or care about the last paragraph of EO 110. They did not even care about it after the *Sudhakar* verdict came back in their favor. Instead, they only cared about it after the New York Times published an article on March 5, 2025 exposing the hypocrisy and non-sensical rationale behind not applying EO 110 to OPRA⁶. After the New York Times article was published, the Defendant chose to violate EO 110 for at least fourteen (14) months denying Plaintiffs and many other members of the public access to the Lindbergh archives. There is no other explanation for their closure. Superintendent Patrick Callahan has been the Acting Superintendent since October 31, 2017 and was nominated as the

⁶ [nytimes.com/2024/03/05/nyregion/Charles-lindbergh-baby.html](https://www.nytimes.com/2024/03/05/nyregion/Charles-lindbergh-baby.html)

Superintendent of the New Jersey State Police on May 10, 2018.⁷ This Superintendent has been aware of Plaintiffs and their colleagues actions for years and authorized researchers, historians, authors and members of the public to access the archives in compliance with EO 110, as they had been since 1981 until the Spring of 2024.

There are numerous inaccuracies in Defendant's brief submitted to the Court on June 19, 2025. To begin, Plaintiffs are aware as late as the second week of June 2025 that the archives were still closed to the public in violation of Executive Order 110. If the Court is to believe the date of April 4, 2024, that would mean that the State Police had been in violation of EO 110 for more than fourteen (14) months. We say "if" Your Honor, because friends of the Plaintiffs attempted to make an appointment on March 19, 2024 and were not allowed access. Plaintiffs are aware of media efforts to access the archives before April 4, 2024, and after the New York Times article was published as well that were denied. Regardless, each Plaintiff attempted to make an appointment to conduct research and view the archives over these fourteen (14) or fifteen (15) months and each of them were denied by the Defendant. Furthermore, Plaintiffs are aware of several other individuals who attempted to gain access to the archives over this period including researchers, authors, journalists and members of the public including several who wrote letters marked as Plaintiff's exhibits. Some of Plaintiffs friends have been provided excuses as to why the archives have been closed this whole time including that a "documentary" is being made. That deceitful excuse made no sense given the huge volume of documentaries made about this case over the decades.

⁷ See

https://nj.gov/governor/news/news/562018/approved/20180510b_callahan.shtml#:~:text=I%20am%20honor%20that%20Governor,Superintendent%20on%20October%2031%2C%202017

Defendant did not submit a date to the Court in which the archives were re-opened. This is troubling to the Plaintiffs who are suspicious that as of the date of their Court filing and as of the date of this writing, the archives appear to still be closed in violation of Executive Order 110. On June 20, 2025, Plaintiffs are aware of at least ten (10) members of the public contacting the Defendant in an attempt to schedule an appointment into the archives and none of them were successful. Plaintiffs are also aware of many efforts made to schedule an appointment today, June 23, 2025, only to be told that a request could be completed online and that forms could be emailed by the archivist Mr. Ferrera. Unfortunately, the State Police website does not have an online request form as of the date of this writing, and Mr. Ferrera did not email any of Plaintiffs colleagues back today with any alleged form.

The blatant word choice by Defendant of “temporary” implies that fourteen (14) months is somehow a short or “temporary” period of time. Over these months, Plaintiffs are aware of at least three (3) researchers working on books related to the archives whose ability to write have been stifled by this fourteen (14) month “temporary” shutdown. In fact, this is an egregious and overtly unreasonable denial of access and is in bad faith in which the Defendant has been willfully violating EO 110 and its OPRA applicability as the only criminal case in New Jersey open to the public by an Executive Order.

In their response back to the Court, the Defendant notes that, “on April 4, 2024, researchers’ access to the Lindbergh files were temporarily limited.”⁸ Plaintiffs argue that the use of the word “temporary” to denote more than fourteen (14) months is an attempt at deception. Defendants do not explain the need for this “temporary” limitation other than adding a new security protocol and “creating/designing a new space,”⁹ yet when numerous members of the public

⁸ See Defendant’s Response, dated June 19, 2025, Page 4.

⁹ See Defendant’s Response, dated June 19, 2025, Page 4.

including Plaintiffs attempted to schedule appointments, nothing of substance was provided by either the Defendant or their archivist, Gregory Ferrera, rather Plaintiffs were told that there were “ongoing research policy revisions.”

Defendants noted that “researchers and the public alike continue to enjoy access to the Lindbergh Archive.”¹⁰ This is simply false and deceitful. Unless the Defendant is indicating that the open access areas available in the museum are the “archives,” then the Defendant is being deceitful. Researchers, journalists and members of the public have not been allowed back into the actual archives for more than fourteen (14) months. Defendant notes that for a “limited time where the Lindbergh archive materials could not be accessed for administrative reasons, but such obstacles no longer exist.”¹¹ Your Honor, fourteen (14) months to come up with new procedures is not a limited time. Moreover, Defendant has submitted no evidence that the archives are open again. They have not provided a date in which they claim they re-opened. They have not provided any type of new guidance or SOP to the Court as of the date of this writing. They are being intentionally deceptive even going so far as to imply that 1,800 people annually may be wishing to tour the archives when they know an extremely small fraction of that number even knows about the archives.¹² Why are they acting in this manner and why did it take Plaintiffs lawsuit to get the Defendant to allegedly re-open up the archives guaranteed to the public by EO 110?

That’s not the entirety though Your Honor. The Defendant continues. They note that, “the Lindbergh Archive remains open to the public and researchers.”¹³ What does “remains open” even mean? On the one hand, they want this Court to believe that the archives are currently open and were only temporarily closed for administrative reasons for over fourteen (14) months, yet on the

¹⁰ See Defendant’s Response, dated June 19, 2025, Page 6.

¹¹ See Defendant’s Response, dated June 19, 2025, Page 6.

¹² See Defendant’s Response, dated June 19, 2025, Page 4.

¹³ See Defendant’s Response, dated June 19, 2025, Page 6.

other hand, they want the Court to believe that the archives remain “open to the public and researchers.”¹⁴ Judge, unless the Defendant wants this Court to believe that the open access museum area should be considered as “the archives,” the Defendant continues to act in bad faith as they have for over three years with Plaintiff and Plaintiff’s friends in a manner to unreasonably deny the public what Governor Byrne envisioned was the public’s right to access. Plaintiffs showed clear images of a portion of the archives, which is a room to the right-hand side of the front desk of the museum where the water leak occurred in March 2022.¹⁵ The very idea that the Defendant would put in writing in an official judicial proceeding that “researchers’ access is no longer limited”¹⁶ has not been proven to be true given that researchers had no access at all for at least fourteen (14) months and therefore, the public’s ability to “access” the archives was not “limited,” rather, it was non-existent and in clear violation of EO 110.

**DEFENDANT IS INCORRECT IN ITS POINT I THAT THE COMPLAINT SHOULD
BE DISMISSED WITH PREJUDICE BECAUSE OPRA IS A RECORDS LAW THAT
DOES NOT CONTEMPLATE TESTING OR MANIPULATION OF RECORDS AS
PART OF GOVERNMENT ACCESS**

Your Honor, Plaintiffs do not seek to broaden or expand OPRA. They merely want this Court to apply the logic, purpose, language and intent of Governor Byrne’s EO 110 to OPRA and allow the Plaintiffs subject matter experts to swab the backs of some documents in a safe, and cost-efficient manner to the State and in the public’s best interest. When EO 110 was signed, forensic

¹⁴ See Defendant’s Response, dated June 19, 2025, Page 6.

¹⁵ See Plaintiff’s Exhibit P-6, Pages 3, 4, and 8 and P-14, Pages 2-3.

¹⁶ See Defendant’s Response, dated June 19, 2025, Page 5.

DNA analysis did not exist. It was not possible for Governor Byrne to order testing to obtain residue from paper in the hopes of retrieving DNA in 1981. Absent and Executive Order, Plaintiffs are not seeking and do not wish legal precedent set in this regard to other OPRA cases.

Plaintiffs agrees with most of the Defendant's position on its Point I. OPRA does not apply to DNA testing as written. However, it does apply as written when applying EO 110 to it. Bearing in mind the purpose of issuing EO 110 (which Defendants do not dispute), Governor Byrne wanted to see if Hauptmann had accomplices, wanted to ensure the State executed the right person and wanted to grant the public full access to the entire files in perpetuity for their ability to conduct inspections and examinations of the archives. By the very logic and nature of issuing EO 110, Governor Byrne envisioned that over the course of time, the public could learn more about the case including who else (if anyone else) may have been involved. That was the point of issuing EO 110. Governor Byrne's goal and purpose can be accomplished quite easily by compelling the Defendant to comply with the Plaintiff's request.

The Defendant argues that Plaintiffs are asking for a novel, "unsupported, and enormous expansion of OPRA."¹⁷ This is simply not true. Plaintiffs do not seek that at all. They merely want the Court to read EO 110 and OPRA and draw logical conclusion that EO 110 was written to incorporate OPRA in anticipation of future examinations for this one specific criminal case which has fascinated historians, journalists, researchers, members of the public and led to changes in American culture and Federal Law. Governor Byrne's EO 110 allows for DNA testing through the language used when applying that language to OPRA.

¹⁷ See Defendant's Response, dated June 19, 2025, Page 12.

**DEFENDANT IS INCORRECT IN ITS POINT II THAT THE GOVERNMENT'S
INTEREST IN PRESERVING THE INTEGRITY OF HISTORICAL ITEMS
OUTWEIGHS ANY INTEREST IN CONDUCTING DNA TESTS UNDER THE
COMMON LAW RIGHT OF ACCESS AND IS INCORRECT THAT PLAINTIFFS ARE
NOT LEGALLY ENTITLED TO THE RELIEF SOUGHT BECAUSE NEITHER OPRA
NOR COMMON LAW CONTEMPLATE DNA TESTING**

The Defendant wants this Court to believe that out of approximately 225,000 documents housed in the New Jersey State Police Museum's Lindbergh archives, forensically swabbing fifteen (15) envelopes and twelve (12) stamps for the possibility of resolving historic dispute and honoring the legacy of Executive Order 110 is not as important as leaving these envelopes in a box. Since Plaintiffs and their colleagues began this quest over three (3) years ago, they have been railroaded by erroneous arguments like this time and again. There is no tangible historical value on the back of stamps and the back of envelopes other than finding out who sent them. The tangible historical value were the contents inside of those envelopes, which were the actual ransom notes themselves.

Defendant failed to address Plaintiff's Exhibit P-17. And why would they? They are aware that there has been significant public interest in this case for over 93 years. Yet the sheer disregard of ignoring dozens of citizens from half the states and residents of several countries, shows callousness and a complete disregard for what the public wants in this matter.¹⁸ How exactly does having these documents sit in a box serve the public interest or to the Defendant's position, how does that serve their interest? How does the public interest not outweigh the State's position to

¹⁸ See Plaintiff's Exhibit P-17, a Petition from members of the public asking for DNA testing to be allowed.

preserve these documents in boxes? In fact, the Defendant chose to ignore every single member of the public who wrote letters and petitioned the Court on behalf of serving justice. The Court cannot ignore the overwhelming support and arguments made by the public from the Plaintiff's supporters.

This Court knows archivists have a balancing act in their normal functions of preserving items of interest for future generations, while also enabling the public to view those items of interest. Plaintiff's forensic experts can very easily and in front of the Defendant, collect forensic samples from these stamps and envelopes with extremely minimal risk to any alterations of the backs of said documents and have asked to do it at the New Jersey State Police Museum at no cost to the Defendant. After reading statements from and reviewing the CV's of Plaintiff's experts (See Plaintiff's Exhibits P-2 – P-5 and P-15 – P-16), the Court should be able to see how simple this process is. That knowledge alone should be enough to rule in favor of the Plaintiff's request.

Plaintiff's do not see any point at all as to why the Defendant cited Michelson v. Wyatt, 379 N.J. Super. 611, 621 (App. Div. 2005) in which they note that the “‘release of a government record is not in the public interest’ when ‘the requested material appears on its face to encompass legislatively recognized confidentiality concerns.’” There are no “‘legislatively recognized confidentiality concerns’” in this case. There aren't any at all in what the Plaintiffs have stated as fact or have argued. Does the Defendant expect this Court to believe that seeking justice and finding truth using modern technology, the type that helped catch Gilgo Beach murder suspect Rex Heuermann¹⁹ is less important than keeping these documents in folders and boxes in a back room?

¹⁹ See: <https://www.dailymail.co.uk/news/article-14810199/charles-lindbergh-kidnapped-baby-case-suspect-lawsuit-ransom-note.html> and also: <https://www.newsday.com/news/new-york/charles-lindbergh-jr-kidnapping-gilgo-beach-forensic-evidence-xsins6dm>

Similarly, Plaintiffs do not understand why Defendant would cite *Romeo*, noting that, allowing the proposed testing could deprive the public of “future access to the records.”²⁰ Nothing could be further from the truth. Every single person who would like to examine and inspect the envelopes and stamps could do so after the Plaintiffs experts conduct their swabs. This mischaracterization of the essence of the Plaintiff’s arguments and the public’s interest point to a very sad effort by the Defendant to distract this Court.

Perhaps most disturbing in the Defendant’s Point II argument is the last sentence. The Defendant state’s that a successful case by the Plaintiff could “jeopardize access to our State’s history.”²¹ How? Ruling in favor of the Plaintiffs does not at all jeopardize access to New Jersey’s history. This is an absurd and patently untrue sentence.

Furthermore, there will be no legal precedence set. The only way precedence could be set in this case after the Court rules in favor of the Plaintiffs would be if Governor Murphy or another Governor issues an Executive Order opening another state criminal case up to the public mirroring the language of OPRA and allowing the public to conduct inspections and examinations of the evidence. No State history will be jeopardized, and no precedence will be set other than that of using 2025 logic and knowledge and applying it to 1981. Instead, siding with the Plaintiffs has the potential to right a historical wrong, confirm that the State correctly convicted and executed the right person, or perhaps find another accomplice in New Jersey’s most famous criminal case.²²

The technology available to conduct forensic DNA analysis was unavailable until the late 1980’s.²³ OPRA in New Jersey has been around for much longer than forensic DNA testing.

²⁰ See: www.smithsonianmag.com/sciencenature/testing-dna-museum-artifacts-unlock-natural-history-worth-potential-damage-180971697

²¹ See Defendant’s Response, dated June 19, 2025, Page 17.

²² See Kamenz Mayor Roland Dantz’ Statement, Plaintiff’s Exhibit - P-31.

²³ See Plaintiff’s Verified Complaint, pages 12-13.

There was no way OPRA could have contemplated DNA testing. Similarly, as pointed out by the Defendant, there was no way Common Law could have accounted for forensic DNA testing. While it is true that OPRA has been updated several times including most recently in 2024, DNA testing has not been considered by the Legislature. That does not mean that OPRA is inapplicable for the limited scope of this case.

**DEFENDANT IS INCORRECT IN ITS POINT III INDICATING THAT PLAINTIFF’S
PRO BONO ATTORNEY IS NOT ENTITLED TO LEGAL FEES**

As stated by Defendant, to be entitled to legal fees, the Government entity must have “unreasonably denied access, acted in bad faith, or knowingly and willfully violated” OPRA.²⁴ Plaintiffs contend that Defendants committed the first two offenses and based on conversations believe they violated the third point.

As previously noted, common law is not applicable as Governor Byrne’s EO 110 could not have accounted for forensic analysis since the technology did not exist, but because of his rationale behind issuing it, his goals were obvious. Plaintiffs have been working on this case with colleagues for years and Defendant has intentionally stifled Plaintiffs efforts over the past fourteen (14)+ months in an unreasonable manner in bad faith and for no purpose other than to knowingly, intentionally and willfully violate OPRA as it applies to EO 110.

The OPRA updates in 2024 were written specifically for attorneys like the Plaintiff’s attorney to recover from Government agencies who have acted in the manner the Defendant has

²⁴ See, N.J.S.A. 47:1A-6.

acted. For these reasons, Plaintiff's counsel is entitled to reasonable attorney fees for the time worked on this matter.

**COUNT II – WHAT WASN'T REFERENCED BY THE DEFENDANT IN THEIR
REBUTTAL IS PERHAPS MORE IMPORTANT THAN WHAT WAS REFERENCED
DEFENDANT DID NOT ADDRESS THE PUBLIC INTEREST IN THE CASE, REFUTE
ANY PLAINTIFF EXPERT OR THEIR ABILITY TO EXTRACT MATERIAL
WITHOUT DAMAGING THE DOCUMENTS**

Plaintiffs submitted thirty-two (32) exhibits in its case. Almost all of these are direct statements from individuals including Governor Byrne, retired law enforcement, attorneys, authors, researchers, forensic experts, teachers, and even a seven (7) year old boy interested in science. Each one of these statements were completely ignored by the Defendant in their response. Rather than addressing the overwhelming and clear public interest in this case, the Defendant hoped the Court would ignore this critical element and instead focus on inapplicable Common Law and irrelevant case law, rather than analyzing the balancing test cited by Defendant in the *Keddie* and *Loigman* cases.

Perhaps most significant is that the Defendant chose not to dispute any of the three (3) forensic experts the Plaintiffs presented, nor did they submit the CV of their "expert" archivist. Accordingly, the silence from the Defendant demonstrates consent without objections to the Plaintiff's forensic experts and simple techniques they outline in which forensic material can be extracted. This overlook ensures this Court understands that Defendant acknowledges and agrees

with the Plaintiff's experts and their positions. The Plaintiffs look forward to having their expert(s) come to the New Jersey State Police Museum in front of the Defendant and conduct their simple forensic analysis, which will be of no cost to New Jersey taxpayers and will be a significant benefit to the public at large.

DEFENDANT DID NOT REFUTE PLAINTIFFS OVERALL LEGAL ARGUMENT

Plaintiffs did not dispute the overall legal argument as stated above in the first bold heading of this rebuttal, which is also located in Plaintiff's Order to Show Cause Brief beginning on page twenty-two (22).

**DEFENDANT DID NOT DISPUTE THE IMMEDIATE SENSE OF URGENCY RAISED
BY THE PLAINTIFFS**

Plaintiffs respect and appreciate that the Defendant does its best to keep all documents in a temperature-controlled room in which the temperature generally stays between sixty-six (66) and seventy-four (74) degrees Fahrenheit. Plaintiffs also appreciate that the Lindbergh Archive envelopes are protected in acid-free polyester sleeves in acid-free folders and boxes.²⁵ With the level of detail addressed in the Defendant's brief, however, a few things stand out. First, the Defendant neither accepted responsibility for their actions to prevent damage during the water leak in March of 2022, nor did they guarantee those actions won't be repeated. They did not address why documents underneath the water were not moved, why and who decided to place a garbage

²⁵ See Defendant's Response, dated June 19, 2025, Pages 5-6.

can and a garbage bag under the leak, nor did they address how any other documents are maintained other than the envelopes. In fact, they didn't even address whether the roof was fixed or not. Could the envelopes have been exposed to the water leak? Why not address how other documents are stored to ensure this Court understands the lessons learned from this water leak? Plaintiffs do not believe that acid-free polyester folders or boxes will shield and protect paper from water exposure and suspects the Court doesn't think so either.

To this point, the Defendant did not address Plaintiffs point on deterioration of paper either. In fact, by not addressing it, they addressed it by agreeing with Plaintiffs that none of the documents in the archives are in the same condition as they were in nine (9) decades ago and the Defendant knows that. The documents are deteriorating regularly despite very good efforts by the Defendant to preserve them. This was clearly explained in Plaintiff's expert, Colleen Fitzpatrick's statement (See Plaintiff Exhibit P-3) and was not countered by the Defendant.

CONCLUSION

Absent Governor Murphy rescinding Governor Byrne's EO 110, EO 110 is clear. The amount of time dedicated by the State to defend this matter over the past three and a half (3.5) years is troubling, wasteful and purposeless.

The sheer defiance and unfettered disregard of historical truth is a stain on the legacy of Governor Byrne, and a public embarrassment that shuns the very idea of Government transparency.

Plaintiffs began working on this case shortly after they recognized the procedural issues in the *Sudhakar* case and believe that have proven the logic, purpose, and intent of Governor Byrne's Executive Order 110, which was written for transparency and to mirror OPRA.

Executive Orders are created to be followed as law. EO 110 was followed for over four (4) decades. Simply because no one connected the dots with a forensic analysis before the *Sudhakar* case does not mean the plain language and purpose of EO 110 were not clear. They were clear. The same Superintendent has run the Defendant's agency since October 2017. To the Plaintiff's knowledge, during that time, the Defendant received dozens of inquiries about DNA testing without issues. Yet, when the New York Times published an article on March 5, 2024, suddenly, the Defendant began denying the public of their rights under EO 110 cutting off their access to the archives for at least fourteen (14) months. This behavior screams of shady, backhanded, deceitfulness, bad faith, unreasonableness and willfully violates the purpose, nature and intent of EO 110 knowing Governor's Byrne's intent to link his EO to OPRA. This conduct set authors and researchers publication timelines back and blatantly disregarded EO 110.

Accordingly, the Plaintiffs, the public, history, and justice dictate that Plaintiffs be successful in this lawsuit and Plaintiffs demand their expert(s) be permitted to come to the Defendant's museum and conduct a forensic analysis in full view of the Defendant.

Very Sincerely,

Kurt W. Perhach

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Pro Bono Attorney for Plaintiffs

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JONATHAN HAGEL,)	SUPERIOR COURT OF NEW JERSEY
MICHELE DOWNIE,)	LAW DIVISION – MERCER COUNTY
CATHERINE READ,)	DOCKET NO.: 000890-25

Plaintiffs,

v.

NEW JERSEY STATE POLICE)	CIVIL ACTION
Defendant,)	
)	CERTIFICATION OF KURT W.
)	PERHACH

CERTIFICATION OF COUNSEL

I, Kurt W. Perhach, of full age, hereby certifies and says:

1. I am employed as a pharmaceutical attorney for a large multi-national corporation and am a part-time Judge Advocate Lieutenant Colonel in the United States Army Reserves. I am representing the Plaintiffs pro bono on this matter and am not representing any of the organizations I work for.

2. I make this certification in support of the Plaintiff's Order to Show Cause. I have personal knowledge of the facts stated in this certification.

3. I certify that the statements made by me in this certification are true and correct to the best of my knowledge. I understand that if any of my statements are willfully false, I am subject to punishment.

Kurt W. Perhach

Kurt W. Perhach

DATED: June 23, 2025