

**PHILIP I. BRILLIANT**  
79 Holly Tree Lane  
Toms River, New Jersey 08753  
[Mrpib13@gmail.com](mailto:Mrpib13@gmail.com)  
(732) 597-1580

August 12, 2024

Honorable Presiding Judge  
Superior Court of New Jersey  
100 Hooper Avenue  
Toms River, New Jersey 08753

RE: Philip I. Brilliant vs. Township of Toms River, et. Al.  
Docket No. (TBD)  
Order to Show Cause, Preliminary Injunction & Civil Rights Act  
Violation

Dear Honorable Judge Troncone:

Please find enclosed for Your Honor's consideration:

1. Complaint In Lieu of Prerogative Writ;
2. Order to Show Cause, Preliminary Injunction & Civil Rights Act Violation; and
3. Letter Brief in Support

Thank you for your time and consideration and I am prepared to proceed.

Sincerely,

*s/ Philip I. Brilliant*

Philip I. Brilliant  
Plaintiff, *Pro Se*

c: Township of Toms River  
Mayor Daniel Rodrick  
Council President Craig Coleman  
Council Vice President Lynn O'Toole  
Councilman Justin Lamb, Esq.  
Councilman George Lobman  
Toms River Township Business Administrator Jonathan Salonis  
Toms River Township Attorney/Director of Law Gregory McGuckin, Esq.  
Toms River Township Assistant Attorney Peter Pascarella, Esq.

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PHILIP I. BRILLIANT

Plaintiff,

vs.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION – OCEAN COUNTY  
DOCKET NO.:

**CIVIL ACTION**

TOWNSHIP OF TOMS RIVER,  
COUNCIL PRESIDENT CRAIG COLEMAN,  
COUNCIL VICE PRESIDENT LYNN O'TOOLE  
COUNCILMAN JUSTIN LAMB  
COUNCILMAN GEORGE LOBMAN  
MAYOR DANIEL RODRICK,  
TOMS RIVER ACTING MUNICIPAL CLERK  
STEPHEN HENSEL,  
BUSINESS ADMINISTRATOR JONATHAN SALONIS  
ATTORNEY, PETER PASCARELLA, ESQ. &  
ATTORNEY, GREGORY MCGUCKIN, ESQ.

ORDER TO SHOW CAUSE  
PRELIMINARY INJUNCTION  
CIVIL RIGHTS ACT VIOLATION

Defendants,

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THIS MATTER being brought before the Court by plaintiff, PHILIP I. BRILLIANT, seeking relief by way of preliminary injunction at the return date set forth below pursuant to Rule 4:52, based upon the facts set forth in the verified complaint filed herewith and for good cause shown.

It is on this \_\_\_\_\_ day of AUGUST, 2024, *ORDERED* that defendants, TOWNSHIP OF TOMS RIVER, COUNCIL PRESIDENT CRAIG COLEMAN, COUNCIL VICE PRESIDENT LYNN O'TOOLE, COUNCILMAN JUSTIN LAMB, COUNCILMAN GEORGE LOBMAN, MAYOR DANIEL RODRICK, TOMS RIVER BUSINESS ADMINISTRATOR JONATHAN SALONIS, ATTORNEY GREGORY MCGUCKIN, & ATTORNEY PETER PASCARELLA, TOMS RIVER TWP ACTING CLERK STEPHEN HENSEL, appear and show cause before the Superior Court at the Ocean County Courthouse in Toms River, New Jersey at 9 o'clock in the morning or as soon thereafter as counsel can be

heard, on the \_\_\_\_\_ day of August, 2024, why an order should not be issued preliminarily enjoining and restraining from:

- A. Order the Township of Toms River to stay the Resolution No. 7 on the August 7, 2024 Agenda regarding a Shared Service Agreement with the Ocean County Board of Health to re-open the Toms River Animal Shelter under the management and control of the Ocean County Board of Health;
- B. Order the Township of Toms River to stay the Ordinance first introduced on August 7, 2024 to repeal Ordinance No. 4802-24 regarding the Toms River Animal Shelter lease Agreement with the Ocean County Board of Health;
- C. Order the Township of Toms River to reopen, offer to rehire all staff as of June 6, 2024 and operate the Toms River Animal Shelter;
- D. Order the Township of Toms River place Ordinance No. 4802-24 regarding the Toms River Animal Shelter on ballot for referendum vote;
- E. Order all Defendants to reimburse any and all Court Fees and each to donate \$1,000 to the Toms River Animal Shelter for their violation of the Civil Rights Act; and
- F. For such other relief as the Court shall deem fair and just.

And it is further ORDERED that:

- 1. A copy of this order to show cause, verified complaint, legal memorandum and any supporting affidavits or certifications submitted in support of this application be served upon the defendant(s) within \_\_\_ days of the date hereof, in accordance with Rule 4:4-3 and Rule 4:4-4, this being original process.
- 2. The plaintiff must file with the court proof of service of pleadings on the defendants no later than three (3) days before the return date. Defendants shall file and serve a written response to this order to show cause and the request for entry of injunctive relief and proof of service by \_\_\_\_\_ 2024. The original documents must be filed with the clerk of the Superior Court in the county listed above. A list of these offices is provided. You must send a copy of your opposition directly to Judge Mark A. Troncione, whose address is 206 Courthouse Lane Suite/Room Courtroom 25, Floor 1, Toms River, New Jersey, 08753. You must also send a copy of your opposition papers to the plaintiff's

attorney who name and address appears above, or to the plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file your opposition and pay the required fee of \$175 and serve your opposition on your adversary, if you want the court to hear your opposition to the injunctive relief the plaintiff is seeking.

3. The plaintiff must file and serve any written reply to the defendants' order to show cause opposition by \_\_\_\_\_, 2024. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the chambers of the Judge.
4. If the defendants do not file and serve opposition to this order to show cause, the application will be decided on papers on the return date and relief may be granted by default, provided that the plaintiff files a proof of service and a proposed form of order at least three days prior to the return date.
5. If the plaintiff has not already done so, a proposed form of order addressing the relief sought on the return date must be submitted to the court no later than three (3) days before the return date.
6. Defendants take notice that the plaintiff has filed a lawsuit against you in the Superior Court of New Jersey. The verified complaint attached to the order to show cause states the basis of the lawsuit. If you dispute this complaint, you or your attorney, must file a written answer to the complaint and proof of service within 35 days from the day of service of this order to show cause; not counting the day you received it.

These documents must be filed with the Clerk of the Superior Court in the county listed above. A list of these offices is provided. Include a \$250 filing fee payable to the “Treasurer State of New Jersey.” You must also send a copy of your Answer to the plaintiff’s attorney whose name and address appear above, or to the plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve your Answer (with the fee) or judgement may be entered against you by default. Please note further: if you do not file and serve an Answer within 35 days of this Order, the Court may enter a default against you for the relief plaintiff demands.

7. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.
8. The Court will entertain argument, but not testimony, on the return date of the order to show cause, unless the court and parties are advised to the contrary no later than 2 days before the return date.

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Honorable Mark A. Troncone, J.S.C

ATLANTIC COUNTY:  
Deputy Clerk of the Superior Court  
Civil Division, Direct Filing  
1201 Bacharach Blvd., First Fl.  
Atlantic City, NJ 08401

LAWYER REFERRAL  
(609) 345-3444  
LEGAL SERVICES  
(609) 348-4200

BERGEN COUNTY:  
Deputy Clerk of the Superior Court  
Case Processing Section, Room 119  
Justice Center, 10 Main St.  
Hackensack, NJ 07601-0769

LAWYER REFERRAL  
(201) 488-0044  
LEGAL SERVICES  
(201) 487-2166

BURLINGTON COUNTY:  
Deputy Clerk of the Superior Court  
Central Processing Office  
Attn: Judicial Intake  
First Fl., Courts Facility  
49 Rancocas Rd.  
Mt. Holly, NJ 08060

LAWYER REFERRAL  
(609) 261-4862  
LEGAL SERVICES  
(609) 261-1088

CAMDEN COUNTY:  
Deputy Clerk of the Superior Court  
Civil Processing Office  
1st Fl., Hall of Records  
101 S. Fifth St.  
Camden, NJ 08103

LAWYER REFERRAL  
(856) 964-4520  
LEGAL SERVICES  
(856) 964-2010

CAPE MAY COUNTY:  
Deputy Clerk of the Superior Court  
9 N. Main Street  
Box DN-209  
Cape May Court House, NJ 08210

LAWYER REFERRAL  
(609) 463-0313  
LEGAL SERVICES  
(609) 465-3001

CUMBERLAND COUNTY:  
Deputy Clerk of the Superior Court  
Civil Case Management Office  
Broad & Fayette Sts., P.O. Box 615  
Bridgeton, NJ 08302

LAWYER REFERRAL  
(856) 692-6207  
LEGAL SERVICES  
(856) 451-0003

ESSEX COUNTY:  
Deputy Clerk of the Superior Court  
50 West Market Street  
Room 131  
Newark, NJ 07102

LAWYER REFERRAL  
(973) 622-6207  
LEGAL SERVICES  
(973) 624-4500

GLOUCESTER COUNTY:  
Deputy Clerk of the Superior Court  
Civil Case Management Office  
Attn: Intake  
First Fl., Court House  
1 North Broad Street, P.O. Box 129  
Woodbury, NJ 08096

LAWYER REFERRAL  
(856) 848-4589  
LEGAL SERVICES  
(856) 848-5360

HUDSON COUNTY: Deputy Clerk of the Superior Court  
Superior Court, Civil Records Dept.  
Brennan Court House-- 1st Floor  
583 Newark Ave.  
Jersey City, NJ 07306

LAWYER REFERRAL  
(201) 798-2727  
LEGAL SERVICES  
(201) 792-6363

HUNTERDON COUNTY:  
Deputy Clerk of the Superior Court  
Civil Division  
65 Park Avenue  
Flemington, NJ 08822

LAWYER REFERRAL  
(908) 735-2611  
LEGAL SERVICES  
(908) 782-7979

MERCER COUNTY:  
Deputy Clerk of the Superior Court  
Local Filing Office, Courthouse  
175 S. Broad Street, P.O. Box 8068  
Trenton, NJ 08650

LAWYER REFERRAL  
(609) 585-6200  
LEGAL SERVICES  
(609) 695-6249

MIDDLESEX COUNTY:  
Deputy Clerk of the Superior Court  
Administration Building  
Third Floor  
1 Kennedy Sq., P.O. Box 2633  
New Brunswick, NJ 08903-2633

LAWYER REFERRAL  
(732) 828-0053  
LEGAL SERVICES  
(732) 249-7600

MONMOUTH COUNTY:  
Deputy Clerk of the Superior Court  
Court House  
71 Monument Park  
P.O. Box 1269  
Freehold, NJ 07728-1269

LAWYER REFERRAL  
(732) 431-5544  
LEGAL SERVICES  
(732) 866-0020

MORRIS COUNTY:  
Deputy Clerk of the Superior Court  
Civil Division  
30 Schuyler Pl., P.O. Box 910  
Morristown, NJ 07960-0910

LAWYER REFERRAL  
(973) 267-5882  
LEGAL SERVICES  
(973) 285-6911

OCEAN COUNTY:  
Deputy Clerk of the Superior Court  
Court House, Room 119  
118 Washington Street  
Toms River, NJ 08754

LAWYER REFERRAL  
(732) 240-3666  
LEGAL SERVICES  
(732) 341-2727

PASSAIC COUNTY:  
Deputy Clerk of the Superior Court  
Civil Division  
Court House  
77 Hamilton St.  
Paterson, NJ 07505

LAWYER REFERRAL  
(973) 278-9223  
LEGAL SERVICES  
(973) 345-7171

SALEM COUNTY:  
Deputy Clerk of the Superior Court  
92 Market St., P.O. Box 18  
Salem, NJ 08079

LAWYER REFERRAL  
(856) 935-5628  
LEGAL SERVICES  
(856) 451-0003

SOMERSET COUNTY:  
Deputy Clerk of the Superior Court  
Civil Division Office  
New Court House, 3rd Fl.  
P.O. Box 3000  
Somerville, NJ 08876

LAWYER REFERRAL  
(908) 685-2323  
LEGAL SERVICES  
(908) 231-0840

SUSSEX COUNTY:  
Deputy Clerk of the Superior Court  
Sussex County Judicial Center  
43-47 High Street  
Newton, NJ 07860

LAWYER REFERRAL  
(973) 267-5882  
LEGAL SERVICES  
(973) 383-7400

UNION COUNTY:  
Deputy Clerk of the Superior Court  
1st Fl., Court House  
2 Broad Street  
Elizabeth, NJ 07207-6073

LAWYER REFERRAL  
(908) 353-4715  
LEGAL SERVICES  
(908) 354-4340

WARREN COUNTY:  
Deputy Clerk of the Superior Court  
Civil Division Office  
Court House  
413 Second Street  
Belvidere, NJ 07823-1500

LAWYER REFERRAL  
(973) 267-5882  
LEGAL SERVICES  
(973) 475-2010

PHILIP I. BRILLIANT

Plaintiff,

vs.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION – OCEAN COUNTY  
DOCKET NO.:

**CIVIL ACTION**

TOWNSHIP OF TOMS RIVER,  
COUNCIL PRESIDENT CRAIG COLEMAN,  
COUNCIL VICE PRESIDENT LYNN O'TOOLE  
COUNCILMAN JUSTIN LAMB  
COUNCILMAN GEORGE LOBMAN  
MAYOR DANIEL RODRICK, TOMS RIVER ACTING MUNICIPAL  
STEPHEN HENSEL,  
BUSINESS ADMINISTRATOR JONATHAN SALONIS  
ATTORNEY, PETER PASCARELLA, ESQ. &  
ATTORNEY, GREGORY MCGUCKIN, ESQ.

**ORDER**

Defendants,

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THIS MATTER having been opened to the Court by Philip I. Brilliant, hereafter Plaintiff, seeking relief by way of summary action pursuant to Rule 4:67-1 and 2(a), based upon the facts set forth in the Verified Complaint and supporting papers filed herewith; and the Court having determined that his matter may be commenced by order to show cause as a summary proceeding and for good cause shown,

IT IS on this \_\_\_\_\_ day of \_\_\_\_\_ 2024

ORDERED that the Defendants appear and show cause on the \_\_\_\_\_ day of \_\_\_\_\_ 2024 before the

Honorable \_\_\_\_\_, J.S.C., Superior Court of New Jersey, Ocean County,

206 Courthouse Lane Suite/Room Courtroom 25, Floor 1, Toms River, New Jersey at

\_\_\_\_\_ o'clock in the \_\_\_\_\_ noon or as soon thereafter counsel can be heard, why

Judgement should not be entered.



Ordering Defendants to:

- A. Order the Township of Toms River to stay the Resolution No. 7 on the August 7, 2024 Agenda regarding a Shared Service Agreement with the Ocean County Board of Health to re-open the Toms River Animal Shelter under the management and control of the Ocean County Board of Health;
- B. Order the Township of Toms River to stay the Ordinance first introduced on August 7, 2024 to repeal Ordinance No. 4802-24 regarding the Toms River Animal Shelter lease Agreement with the Ocean County Board of Health;
- C. Order the Township of Toms River to reopen, offer to rehire all staff as of June 6, 2024 and operate the Toms River Animal Shelter;
- D. Order the Township of Toms River place Ordinance No. 4802-24 regarding the Toms River Animal Shelter on ballot for referendum vote; and,
- E. Order all Defendants to reimburse any and all Court Fees and each to donate \$1,000 to the Toms River Animal Shelter for their violation of the Civil Rights Act.

And it is further

ORDERED that:

1. A copy of this Order to Show Cause, Verified Compliant and all supporting affidavits or certifications submitted in support of this application be served upon the Defendants within \_\_\_\_\_ days of the date hereof via certified mail or personal delivery.
2. The Plaintiff must file with the Court their proof of service of the Pleadings on the Defendants no later than three (3) days before the return date.
3. Defendants shall file and serve a written Answer and opposition papers to this order to show cause and the relief requested in the verified complaint and proof of service of the same by \_\_\_\_\_ 2024. The Answer and opposition papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the papers must be sent directly to the chambers of the Honorable \_\_\_\_\_, J.S.C.

4. The Plaintiff must file and serve any written reply to the Defendants' opposition by \_\_\_\_\_, 2024. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the chambers of the Honorable \_\_\_\_\_, J.S.C.
5. If the Defendants do not file and serve opposition to this Order to Show Cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that the Plaintiff file a proof of service and a proposed form of order at least three days prior to the return date.
6. If the Plaintiff has not already done so, a proposed form of Order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the Court no later than three (3) days before the return date.
7. Defendants take notice that the Plaintiff has filed a lawsuit against you in the Superior Court of New Jersey. The Verified Complaint attached to this Order to Show Cause states the basis of the lawsuit. If you dispute the Complaint, you, or your attorney, must file a written answer and opposition papers and proof of service before the return date of the order to show cause. These documents must be filed with the Clerk of the Superior Court in the county listed above. A directory of these offices is available in the Civil Division Management Office in the county listed above and online at:  
[http://www.judiciary.state.nj.us/prose/10153\\_deptyclerklawref.pdf](http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf). Unless exempt from paying the filing fee, include a \$175 filing fee payable to the "Treasurer State of New

Jersey.” You must also send a copy of your answer and opposition papers to the Plaintiff’s attorney whose name and address appear above, or to the Plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file serve your answer and opposition papers (with the fee) or judgment may be entered against you by default.

8. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance you may obtain a referral to an attorney by calling on of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above.
9. The Court will entertain argument, but not testimony, on the return date of the order to show cause, unless the Court and parties are advised to the contrary no later than \_\_\_\_\_ days before the return date.

\_\_\_\_\_  
Honorable Mark A. Troncone, J.S.C.

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PHILIP I. BRILLIANT

Plaintiff,

vs.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION – OCEAN COUNTY  
DOCKET NO.:

**CIVIL ACTION**

TOWNSHIP OF TOMS RIVER,  
COUNCIL PRESIDENT CRAIG COLEMAN,  
COUNCIL VICE PRESIDENT LYNN O'TOOLE  
COUNCILMAN JUSTIN LAMB  
COUNCILMAN GEORGE LOBMAN  
MAYOR DANIEL RODRICK,  
TOMS RIVER MUNICIPAL CLERK,  
STEPHEN HENSEL,  
BUSINESS ADMINISTRATOR JONATHAN SALONIS  
ATTORNEY, PETER PASCARELLA, ESQ. &  
ATTORNEY, GREGORY MCGUCKIN, ESQ.

**COMPLAINT IN LIEU OF  
PREROGATIVE WRIT**

Defendants,

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Plaintiff, PHILIP I. BRILLIANT, residing at 79 Holly Tree Lane, Toms River, County of Ocean, State of New Jersey, says by way of Complaint against Defendants as follows:

**JURISDICTION**

The court has jurisdiction over this matter pursuant to Rule 4:69-1 and

N.J.S.A. 10:6-2 ( C ) provides in relevant part:

c. Any person who has been deprived of any 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, or whose exercise or enjoyment of those substantive rights, privileges or immunities has been interfered with or attempted to be interfered with, by threats, intimidation or coercion by a person acting under color of law, may bring a civil action for damages and for injunctive or other appropriate relief. The penalty provided in subsection e. of this section shall be applicable to a violation of this subsection.

d. An action brought pursuant to this act may be filed in Superior Court. Upon application of any party, a jury trial shall be directed.

e. Any person who deprives, interferes or attempts to interfere by threats, intimidation or coercion with the exercise or enjoyment by any other person of any 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 is liable for a civil penalty for each violation. The court or jury, as the case may be, shall determine the appropriate amount of the penalty. Any money collected by the court in payment of a civil penalty shall be conveyed to the State Treasurer for deposit into the State General Fund.

f. In addition to any damages, civil penalty, injunction or other appropriate relief awarded in an action brought pursuant to subsection c. of this section, the court may award the prevailing party reasonable attorney's fees and costs.

### **PARTIES**

1. Plaintiff, Philip I. Brilliant is a resident of Toms River Township and a member of the Petitioner's Committee protesting the Ordinance that leases the Toms River Animal Shelter to the Ocean County Board of Health (No. 4802.24).
2. Defendant, Township of Toms River as owner and responsible party for the operation of the Toms River Animal Shelter. Township of Toms River is organized under the Falkner Act.
3. Defendant, Mayor Daniel Rodrick, resident of Toms River, who represented that the Toms River Animal Shelter would not be closed, but directed the closure of the Toms River Animal Shelter on June 6, 2024, forcing the unemployment of all but one employee and no safe alternative for those animals in the shelter at the time or future needs. He also represented on numerous occasions that there was \$1M or \$2M available to operate and maintain the Toms River Animal Shelter, then upon closing stated it was an unbudgeted expense.

4. Council President Craig Coleman, resident of Toms River, responsible for preparing and placing the Ordinance No. 4802-24 on the Agenda and voting in the affirmative to lease the Toms River Animal Shelter to Ocean County Board of Health.
5. Council Vice President, resident of Toms River, an affirmative vote for Ordinance No. 4802-24 to lease the Toms River Animal Shelter to Ocean County Board of Health.
6. Councilman Justin Lamb, resident of Toms River, an affirmative vote for Ordinance No. 4802-24 to lease the Toms River Animal Shelter to Ocean County Board of Health.
7. Councilman George Lobman, resident of Toms River, an affirmative vote for Ordinance No. 4802-24 to lease the Toms River Animal Shelter to Ocean County Board of Health.
8. Business Administrator of the Township of Toms River, Jonathan Salonis, resident of Berkeley Township, who also serves as the Acting Chief Operating Officer, represented to the Ocean County Board of Health that the Township of Toms River did not have the economic ability to operate and maintain the Toms River Animal Shelter and during his budget presentation to the residents of Toms River, Mayor and Council, represented the same. He also participated in the closing of the Toms River Animal Shelter on June 6, 2024 and physically removed animals on June 7, 2024.
9. Township Attorney and Director of the Law Division, Gregory McGuckin, resident of Toms River, advised the Mayor and Council of Toms River Township on their ability to lease the Toms River Animal Shelter to the Ocean County Board of Health, prepared the

draft lease, resolution for the Shared Service Agreement on the August 7, 2024 agenda and Ordinance to repeal Ordinance No. 4802-24. He also failed to reply to multiple correspondences from Plaintiff to meet and discuss an opportunity to reopen the Toms River Animal Shelter at a potential profit, during the period of time (20 days) following the verification of the petition signatures by the Township Clerk. Gregory McGuckin is also a New Jersey Assemblyman representing District 10.

10. Township Assistant Attorney, Peter Pascarella, resident of Toms River, advised the Mayor and Council of Toms River Township on their ability to lease the Toms River Animal Shelter to the Ocean County Board of Health, prepared the draft lease, resolution for the Shared Service Agreement on the August 7, 2024 agenda and Ordinance to repeal Ordinance No. 4802-24. He also failed to reply to multiple correspondences from Plaintiff to meet and discuss an opportunity to reopen the Toms River Animal Shelter at a potential profit, during the period of time (20 days) following the verification of the petition signatures by the Township Clerk.
11. Toms River Municipal Clerk, Stephen Hensel is the Acting Municipal Clerk of Toms River. He is a resident of Toms River. Hensel had failed to take action to place the ordinance on the ballot. He has violated his statutory duties, in particular N.J.S.A. 40:69A-189.

### **FACTUAL BACKGROUND**

12. One of only four municipalities in the State of New Jersey to run its own animal shelter, Toms River Township shelter located on Whitesville Road was officially moved to the current facility on Oak Avenue in March, 2014. Construction started in 2012 and the nearly 8000-square-foot facility was approved by the Council at the time for a cost of \$2

million. (Exhibit A) In addition to sheltering animals, to include dogs, cats, pigs, birds, the facility provided services to the community to include spay and neutering services, rabies clinics, pet licenses as well as animal control services. The shelter provided animal rescue staff, investigating cases of lost pets or abused animals, as well as helped residents who have been displaced and find an emergency shelter for their pets.

13. On Wednesday, January 18, 2024 at a Special Toms River Township Council Meeting, a first reading of an Ordinance (number 11 on the Agenda) was read stating “Ordinance of the Township Council, Township of Toms River, Ocean County, New Jersey, Amending 165-45B of the Township Code to Eliminate the Adoption Fees for Dogs and Cats from the Toms River Animal Shelter.” Asbury Park Press Article of January 25, 2024 states that the fees were eliminated and hours extended to get more dogs and cats adopted as per Mayor Daniel Rodrick. Rodrick stated in this article that the rumors he wants to shut down the animal shelter are false. Instead, he wanted to make it easier on people to adopt animals and that a bequest from an animal shelter supporter has provided enough money to run the facility for a year. In the article, Toms River Township Public Information Officer stated that “Mayor Rodrick is committed to making sure the Toms River shelter is operating efficiently and in the best interest of the animals. His number one goal is to make sure the township finds good homes for every animal in its possession and continues to provide quality care for all animals during their stay in the shelter.” (Exhibit B)

14. On Wednesday, January 31, 2024 at the Toms River Township Council Meeting, a Final reading of an Ordinance (number 14 on the Agenda) was read stating ““Ordinance of the



Township Council, Township of Toms River, Ocean County, New Jersey, Amending 165-45B of the Township Code to Eliminate the Adoption Fees for Dogs and Cats from the Toms River Animal Shelter.” This meeting was held on Zoom, as Council President Coleman and Mayor Daniel Rodrick were concerned about the size of the crowd due to several agenda items. The meeting was ultimately terminated when a Zoom Bomber was unmuted and started an antisemitic rant. No action was taken on the Ordinance, but the meeting minutes were provided. (Exhibit C)

15. On Wednesday, February 14, 2024, at a **Special** Toms River Township Council Meeting, a final reading of an Ordinance (number 8 on the Agenda) was read stating ““Ordinance of the Township Council, Township of Toms River, Ocean County, New Jersey, Amending 165-45B of the Township Code to Eliminate the Adoption Fees for Dogs and Cats from the Toms River Animal Shelter.” The ordinance pass by a vote of 6-1. (Exhibit D)

16. On Wednesday, February 28, 2024 a rally of the residents of Toms River was held to support the Toms River Animal Shelter before the Toms River Township Council Meeting at which time the Mayor stated that he felt that Ocean County could do a better job operating the Animal Shelter and that conditions were poor when his administration took over in January 2024. Mayor Rodrick stated “this is not about money, this is about what’s best for the animals.” He again noted that the township received a \$1M bequest from an animal lover, which is enough to run the shelter “for two years.” (previously stated on January 25 that the money was sufficient for one year) This money would presumably go to the county should it agree to take all of the Toms River homeless

animals. Ocean County Commissioner Gary Quinn said that preliminary discussions were held between lawyers representing the county and the township after Mayor Rodrick reached out to the county about the shelter “six to eight weeks ago.” No agreement has been reached with the township about the shelter, although the health department has “expressed interest.” He stated, “if we did take it over, we would do everything in our power to make sure the people that work there get something at the county. It is difficult to find experienced people for those type of jobs.” Quinn also stated that “the board of health would never consider taking ownership of that building as it “belongs to the taxpayers of Toms River” and they would likely enter into a \$1 a year lease. Contrary to Commissioner Quinn’s statement, Mayor Rodrick stated that they would privatize animal control and eliminate the jobs of “five to six” township employees and shelter employees would be let go as well. Copies of the minutes of the Council Meeting are provided as several questions were raised about the Animal Shelter and Mayor Rodrick stated on the record “he has no plans on closing the shelter and was just looking into maybe having the County take it over.” (Exhibit E)

17. On Wednesday, March 13, 2024 at a **Special** Toms River Township Council Meeting the Animal Shelter was not on the agenda, however several residents addressed the topic, so the minutes are provided. (Exhibit F)

18. On Wednesday, March 27, 2024 at the Toms River Township Council Meeting the first reading (number 8 on the Agenda) of the Ordinance stating “the Township of Toms River, County of Ocean, State of New Jersey, Authorizing the Mayor to Execute and the Township Clerk to Attest to a Lease Agreement Between the Township of Toms River

and the Ocean County Board of Health Authorizing the Leasing of Certain Municipal Property Pursuant to NJSA 40A:12-14(B)” was considered. It should be noted that the Agenda provided did not include this Ordinance Reading and the Ordinance does not state it, is to turn the operation of the Animal Shelter and a lease to the Ocean County Board of Health. All voted yes. During this same meeting there was a Resolution on the Consent Agenda to authorize a contract for A-Academy Termite & Pest Control for Animal Control Services. Both Peter Pascarella and Jonathan Salonis spoke in favor of this contract, though many members of the public spoke about their concerns to privatizing animal control and more importantly the practices of A-Academy Termite & Pest Control. The Resolution was tabled Indefinitely by a vote of 6-1 (Councilman Lamb voted against tabling the motion). (Exhibit G)

19. On Thursday, April 11, 2024 at a **Special** Toms River Township Council Meeting the Animal Shelter was not on the Agenda, however several residents raised concerns during the public comment period. (Exhibit H)
  
20. On Wednesday, April 24, 2024 at the Toms River Township Council Meeting the final reading (number 12 on the Agenda) of the Ordinance stating “the Township of Toms River, County of Ocean, State of New Jersey, Authorizing the Mayor to Execute and the Township Clerk to Attest to a Lease Agreement Between the Township of Toms River and the Ocean County Board of Health Authorizing the Leasing of Certain Municipal Property Pursuant to NJSA 40A:12-14(B)” was considered. Many residents addressed the council and requested they vote no and reconsider this Ordinance and Councilman Thomas Nivison made a motion to table as he just did not have enough information. This

motion failed 4-3, with Councilman Ciccozzi and Councilman Quinlisk joining Councilman Nivison in the vote to table. On the vote to approve the Ordinance Council President Coleman, Council Vice President O'Toole, Councilman Lamb and Councilman Lobman voted in favor. The Asbury Park Press coverage in an April 26, 2024 article depicts the difference between Mayor Rodrick and Councilman Nivison that resulted in an impassionate plea from Councilman Nivison to table the vote. (Exhibit I)

21. On Sunday, April 28, 2024, the residents of Toms River initiated a petition with Committee Members including Plaintiff, Councilman Nivison, Dana Tormollon, Christopher Raimann and Andrea Raimann. This petition is to protest the ordinance that authorizes the lease of the Toms River Township Animal Shelter to the Ocean County Board of Health as approved on April 24, 2024 (NJSA 40:69A-185). The Committee and the voters of the petition “demand that the Animal Shelter Ordinance in its entirety with any changes (whether by amendment or resolution) by the Township Council be submitted to the electorate for a vote at a general or special election, with a question to be put to the voters of Toms River Township in the form of a Referendum.” There was much press coverage of the petition drive and the fact that over 3,079 signatures must be secured and verified within 20 days. (Exhibit J)

22. On Wednesday, May 8, 2024, the Ocean County Board of Health held their monthly meeting and considered Resolution 152(24) “which authorizes in entering into an agreement with the Township of Toms River to assume animal shelter operations.” Daniel E. Regenye, Public Health Coordinator of the Ocean County Health Department read a statement into the record that included the following statements: “The County of Ocean was contacted by the Township several months ago inquiring about taking over

the operations of the Toms River Animal Shelter which then started internal conversations between the County of Ocean and the Health Department as well as amongst staff internally.” “The bottom line is, if the Township wishes to close the shelter and the only alternative is for the Ocean County Health Department to operate it, it is the opinion of this Board that we should step in to make sure this Public Health need is being met.” Dr. Maurice Hill, a voting member of the Board of Health and former Mayor of Toms River Township stated that the Animal Shelter has been around for over 40 years and is 0.4% of the Toms River total budget. Dr. Hill recommended table the resolution and await the outcome of the petition of the residents of Toms River; no second was received on the table motion, though Chairman John “Jack” Mallon stated “the agreement isn’t finalized yet and there is a provision in the resolution that if the signatures are acquired then it will nullify the authorization.” The first person to speak from the public at the meeting was Business Administrator of Toms River Township Jonathan Salonis, who stated “this is a budgetary decision by the township because we don’t have the funds or resources to run an animal shelter. We think the County would do a great job and look forward to leasing the facility to the County.” Councilman David Ciccozzi of Toms River’s Ward 4 stated “there is money in the Township Budget, and there are hundreds of people that oppose this, this is no reflection on the County. We have the signatures to stop this.” Daniel Regenye commented “there is a stipulation in the resolution that states that this approval is contingent upon the non-invalidation of the Toms River Ordinance authorizing the lease agreement so Mr. Ciccozzi you talked about the petition of signatures, that would make it null and void.” Senator Singer, also a Board of Health member stated “let’s make this clear, we did not seek out entering into a lease with Toms

River, they approached us and said they were going to close the shelter unless the Ocean County Health Department took it over.” The Resolution was approved by a vote of 6-1-2, with former Toms River Dr. Mo Hill as the only “no” vote. (Exhibit K)

23. On Tuesday, May 14, 2024 at approximately 2:30PM, Plaintiff presented petitions signed by the residents of Toms River, over 3,079 residents of Toms River to Toms River Township Clerk Michael Cruglio. This petition was presented pursuant to NJSA 40:69A-185 to protest the passage of the Ordinance to lease the Animal Shelter to Ocean County Board of Health for the operation of the same. (Exhibit L)

24. On Wednesday, May 22, 2024, the Toms River Council adopted a \$142.7 million budget that included no municipal purposes tax increases for the fourth straight year, however line item 27-330 stated as “Division of Animal Control, Other Expenses” was increased for 2024 from \$200,000 to \$300,000, whereas the 2023 Audit Trail report for the Animal Shelter reported expenses of \$510,733.12. Business Administrator Jonathan Salonis during his presentation and followed by Mayor Daniel Rodrick stated there was no money to operate the Animal Shelter, though an additional \$100,000 was added to the budget. To be clear, even if the Animal Shelter was transferred to the operation of the Ocean County Board of Health, Animal Control would remain Toms River’s responsibility, but there should not an increase in services since the actual monies spent in 2023 did not exceed \$200,000. (Exhibit M)

25. On May 31, 2024, Toms River Township Clerk issued a letter to the Members of the Township Council and the Committee of Petitioners stating that he has “reviewed each of

the signatures presented to me, spanning over 450 pages. Using the New Jersey Voter Registration System to verify each of the signatures and ensure all who signed are registered to vote in Toms River Township, I can confidently certify that more than 3,079 registered voters have signed the petition.” Previous in the correspondence he stated he had the responsibility to exam and certify the petition in accordance with NJSA 40:69A-187 and that the petition must contain “at least 15% of the total votes cast in the municipality at the last election at which members of the General Assembly were elected. The last such election took place in November 2023, and according to data obtained from the Ocean County Board of Elections, there were a total of 20,523 votes cast. Therefore, the petition required a minimum of 3,079 valid signatures.” He closed the correspondence by stating, “I will present my findings to the Toms River Township Council at the June 26, 2024 regular Council Meeting. The Council will have 20 days from then to take action to repeal this ordinance, or it will be submitted to appear on a ballot as a question for the voters at a future election.” On June 4, 2024, Mayor Daniel Rodrick in an article published in Toms River Shorebeat restated his position, “I didn’t budget for it (speaking of the Animal Shelter). We don’t have the money, and I’m not raising taxes for everyone in town when they’re doing a bad job and the county will do it for free.” The article stated based upon statements of Mayor Rodrick and Business Administrator Salonis that the cost of to operate the shelter is about \$1 million per year, though this is inaccurate. (Exhibit N)

26. On June 6, 2024, the staff of the Toms River Animal Shelter was notified that they are being laid off and animals at the shelter are being transferred to Ocean County. Though the Toms River Township Clerk verified and certified the petition 7 days earlier on May

31, 2024 and on May 8, 2024 at the Ocean County Board of Health meeting, Daniel Regenye commented “there is a stipulation in the resolution that states that this approval is contingent upon the non-invalidation of the Toms River Ordinance authorizing the lease agreement so Mr. Ciccozzi you talked about the petition of signatures, that would make it null and void.” Mayor Rodrick stated the town is moving forward with transferring the shelter to the Ocean County Board of Health through another avenue. In addition to the layoff notification, the shelter is no longer accepting animals and is not accepting donations. The Toms River Animal Shelter not only accepts animals from Toms River, but also surrounding municipalities and is the location used to house K-9 units from the Toms River Police Department when the officers are on leave or as needed. No contingency plan was prepared with any local Shelter, including Ocean County Board of Health. Business Administrator Jonathan Salonis, Assistant Township Attorney Peter Pascarella and Warren “Drew” Chabot, who is stated to be in charge of the shelter and recently has been labeled “Chief of Staff” arrived around 4PM to notify the employees of the impending layoffs. A fourth individual was present, a female who was assumed to be from the Human Resource Department. At that moment, six dogs and 26 cats/kittens were in the shelter and were to be moved to Northern Ocean County Animal Facility on Friday, June 7, 2024 and this task and oversight would be the responsibility of the only employee to remain, David Matthews, the Shelter Manager and Animal Control Officer. Daniel Regenye stated on this day that he had no heard from Toms River on details of any transfer. Mayor Rodrick stated that the recall was specific to the town leasing the shelter, and that he was pursuing different path to give the shelter to Ocean County. “I don’t need a lease to give the shelter to the county. It’s a done



deal,” but no details were provided. He stated the layoffs and closing was necessary so the county could make renovations to the building, adding dog runs and insisted that the transfer would save Toms River \$1 million in annual costs, though the Toms River Patch confirmed the 2023 expenditures of \$518,000. Mayor Rodrick insisted, as he has done since January 1, 2024, the opposition to the transferring the shelter to the county was just a political ploy from people aligned with former Mayor Maurice Hill, as opposed to the insistence of over 3,079 residents of Toms River, staff and volunteers. (Exhibit O)

27. On June 7, 2024, the shelter was emptied of all remaining animals with Business Administrator Salonis physically removing cats from the shelter and placing in volunteer vehicles. Brian Lippai, a spokesperson for the Ocean County Health Department stated, “We didn’t solicit this situation, Toms River came to us.” Mayor Rodrick stated the shelter could be back up and running within a month or two if an agreement is reached with the county to share the space, though the health department stated it would take much longer. As the shelter was closed on June 7, 2024, a volunteer and employee placed signs on the door that the facility was closed and no animals should be left or donations or supplies; these signs were removed by Township Officials and no instructions to the Toms River residents were provided. (Exhibit P)

28. On June 16, 2024, a Toms River Volunteer Fire Unit responded to a fire alarm call from the Toms River Animal Shelter. Upon arrival to discover a faulty alarm due to the lack of airflow in the building, a pile of donations was discovered on the front porch in addition to several kittens in a box. No sign was on the door providing direction to residents, so volunteers placed signs on the door to avoid this incident from being repeated. On Monday, June 17, 2024, the signs placed by volunteers were removed and

replaced with a sign stating the “Animal Shelter is closed for construction.” During this time period, the Toms River Township website directed residents to dial 911 for any animal shelter or control issues. In the first 20 days since the closing of the Toms River Animal Shelter, the Toms River Police Department responded to 109 calls for animal control incidents. (Exhibit Q)

29. On June 21, 2024, Plaintiff wrote a letter to the Toms River Council members and published the letter in the Toms River Patch, as well as mailed a copy to each Council Member and Mayor Rodrick. The letter outlined the past and current situation with the Toms River Animal Shelter and reminded them, that it is them, who sets the Agenda for Township Council meetings, not Mayor Rodrick, so I recommended one ordinance and two resolutions for the June 26, 2024 Council Meeting. As per the Toms River Township Code, Council Members may recommend both ordinances and resolutions to the Council President, Craig Coleman at this time, to be placed on the agenda and considered for approval. Plaintiff’s ordinance was “An Ordinance of the Township of Toms River, County of Ocean, State of New Jersey, Authorizing the Township of Toms River to retain the operation and management of the Toms River Animal Shelter for a period of time of five (5) years, with annual reports to Council and if at any time after two (2) reported cycles the Council deems the operation to be unacceptable, the Council may approve to negotiate a lease to be signed by the Mayor with the Ocean County Board of Health. The five (5) year time period shall be extended by Council six months prior to its expiration to a duration deemed fit at that time.” The two resolutions were as follows: 1) “The Township of Toms River shall reopen the Toms River Animal Shelter within 48 hours of this meeting and reinstate all laid off employees and return to full operation as per the

Township Code and standards set forth by Toms River Township.” 2) “The Township of Toms River shall solicit feedback from the Ocean County Board of Health, employees and volunteers of the Toms River Animal Shelter and the surroundings neighborhoods due to previously documented noise concerns (barking) on improvements and upgrades to the Shelter and report back to the Council by October 1, 2024.” Plaintiff received no response, however Councilman Lobman, Councilman Lamb, Councilman Ciccozzi and Councilman Quinlisk acknowledged they received the letter. (Exhibit R)

30. On June 26, 2024, at the Toms River Council Meeting, Township Clerk Michael Cruglio certified the petition into record in accordance with NJSA 40:69A-185. He stated, as he did of his correspondence of May 31, 2024, “Using the New Jersey Voters Registration System to verify each of the signatures and ensure all who signed are registered to vote in Toms River Township, I further certify that, pursuant to NJSA 40:69A-185, more than 3,079 registered voters, which is equal to 15% of the 20,523 voters of the Township of Toms River who voted at the last preceding general election, have signed the petition in question and that pursuant to the provision of this statute, Toms River Township Council must, within 20 days, take action to repeal this ordinance or it will be submitted to appear on a ballot as a question for the voters at a future election.” At this meeting during public comment, Brian Becker, Founder and Executive Director of Garden State Animal Rescue Center presented a proposal to the Council that would not only include running the shelter, but at a profit for Toms River Township. (Exhibit S)

31. On July 8, 2024, Plaintiff wrote to Council President Coleman via email, while copying Mayor Rodrick, Business Administrator Jonathan Salonis, Township Clerk Michael Cruoglio, Township Assistant Attorney Peter Pascarella and each member of the

Petitioner's Committee, asking for a meeting to discuss and negotiate an appropriate outcome that is beneficial to the residents and Mayor/Council, while saving the taxpayers of Toms River the cost of a referendum if it was not necessary. It was evident that based upon the actions of Mayor Rodrick on June 6 and 7 of closing the shelter, the ordinance referendum may not be necessary. I stated the Committee of Petitioners would do all within our power to make the meeting convenient to the Township representatives. Councilman Nivision, a member of the Committee of Petitioners, responded "Count me in." Later that evening, around midnight, Mayor Rodrick responded, including Councilman Lamb and Council Vice President O'Toole, whom were not on the original email, with an inappropriate and inflammatory email that started with "I have absolutely zero interest in meeting with you. You bring nothing to the table. You should probably concentrate on getting a second job and paying back all of the people you screwed out of money when you took your company into bankruptcy; particularly those in our local community." The email went on to discuss history between he and the Plaintiff and then stated "You are bankrupt, delusional low life, and a liar. I have no interest in meeting with you. You don't care about the animals, the only thing you care about is getting your team back into power so that you can be reappointed to the municipal utilities authority, where Mo got you a free health insurance policy for attending one meeting a month. We're already forced to listen to your idiocy at least three or four times at every council meeting. Why would we subject ourselves to anything further? As I said – you bring nothing to the table." It needs to be restated that the original email was addressed to Council President Coleman, who is by Township Code responsible for Council meetings and agenda, however he did not reply to the email. Council Vice President O'Toole did

add her comment, “Haliluja (sp.) the truth prevails.” No other response or action occurred. (Exhibit T)

32. On July 11, 2024, five days prior to the expiration of the period following verification and certification of the petitions by the Township Clerk on June 26, 2024, the Petitioner’s Committee published an update in the Toms River Patch stating the facts and encouraging voters to support the referendum when it appears on the ballot during the next election. (Exhibit U)

33. On July 15, 2024 at 3:00PM, one day prior to the expiration of the period following verification and certification of the petitions by the Township Clerk on June 26, 2024, Council President Coleman called a Special Meeting of the Toms River Council to discuss the purchase of a piece of property in Toms River via Bond and Ordinance, however no item on the short agenda addressed the Animal Shelter. During public comment, Brian Becker of Garden State Animal Rescue once again stated his willing to talk to the Township about his services and a proposal he has provided. He also discussed a Toms River resident’s dog that ran off late at night and after almost 2 weeks was found dead on the side of the Garden State Parkway. He stated, “the resident attempted to reach out to township animal control, but they were off duty over the weekend” and the lost time may have cost the dog his life. Mayor Rodrick responded by stating “the town has 24/7 animal control services, call police department, police department will connect with animal control. Just dial 911.” Brian Becker responded with “based off conversations with multiple residents, this is inaccurate.” (Exhibit V)

34. On July 16, 2024, the 20<sup>th</sup> day since the verification and certification of the petitions by the Township Clerk on June 26, 2024, no action occurred. On July 22, 2024, Plaintiff

sent an email to Township Attorney Gregory McGuckin, with copies to Township Assistant Attorney Peter Pascarella, Council President Craig Coleman, Mayor Daniel Rodrick, the Petitioner's Committee, with blind copies to Jean Mikle of the Asbury Park Press and Karen Wall of the Toms River Patch, requesting an update on the status of the referendum in light of the 20 days passing with no action by Council or the Petitioners Committee. Plaintiff wrote NJSA 40:69A-192 states, " Any ordinance to be voted on by the voters in accordance with section 17-36 or section 17-42 of this act (C.40:69A-185 or C.40:69A-191) shall be submitted at the next general or regular municipal election occurring not less than 40 days after the final date for withdrawal of the petition as provided for in section 17-42 of this act (C.40:69A-191), provided that if no such election is to be held within 90 days the council shall provide for a special election to be held not less than 40 nor more than 60 days from the final date for withdrawal of the petition as provided for in section 17-42 (C.40:69A-191) of this act. The understanding of this section to us is since the general election is greater than 90 days from July 16, 2024 (the 20th day after the June 26, 2024 meeting), then the referendum vote must be between 40 and 60 days, or August 5, 2024 and August 25, 2024. Can you please review and confirm the same and possibly present your findings at the July 24, 2024 Council meeting so that the residents of Toms River Township are aware." No response was received. (Exhibit W)

35. The July 24, 2024 Toms River Council meeting was postponed till August 7 at 3:30PM due to a lack of a quorum as several members of Council, including Councilman Lamb and Mayor Rodrick chose to attend a concert and fireworks at Shelter Cove Park, in Toms River. Since this meeting was postponed and no response from Attorney Gregory

McGuckin, Plaintiff sent a reminder email on July 29, 2024, forwarding the original email and pointing out that the next Council Meeting of August 7 would be after the 40<sup>th</sup> day and the referendum was to be on a ballot. No response was received. (Exhibit X)

36. On August 7, 2024 at 3:30PM, the Toms River Council met, as the rescheduled July 24, 2024 meeting and to add insult to injury, two actions were on the agenda and it should be noted Toms River Township Attorney Gregory McGuckin was not in attendance. First, a resolution stating the following, “Resolution of the Township Council of The Township of Toms River, County of Ocean, State of New Jersey Authorizing the Execution of a Shared Services Agreement for the purpose of re-opening the Toms River Animal Shelter under the management and control of the Ocean County Board of Health.” Was introduced and Councilman Jim Quinlisk quickly stated that this resolution was out of order and out of line, as other action based upon the petitions was required. Councilman Nivison made a motion to table the resolution, though it failed as Council President Coleman, Council Vice President O’Toole, Councilman Lobman and Councilman Lamb voted against the table resolution and then voted to affirm the resolution. No comments were allowed from the public. Immediately following this resolution a first reading of an Ordinance was entered into record stating “Ordinance of the Township Council, Township of Toms River, Ocean County, New Jersey, Repealing Ordinance No. 4802-24 of the Township Code of the Township of Toms River titled “Authorizing the Mayor to Execute and the Township Clerk to attest to a lease Agreement between the Township of Toms River and the Ocean County Board of Health authorizing the leasing of certain municipal property pursuant to NJSA 40A:12-14(B).” No public comment was allowed on this first reading and it passed by a vote of 4-3, with Council President Coleman,

Council Vice President O’Toole, Councilman Lobman and Councilman Lamb voting in favor, based upon notes from the meeting as the official minutes are not yet available. During public comment, Plaintiff addressed Council President Coleman and Township Assistant Attorney Pascarella stating that the 20 day period in time had passed whereas the Council could act on the petitioner’s action and as is the Council custom, no response was provided. (Exhibit Y)

**FIRST COUNT**

37. Mayor Daniel Rodrick, having stated on numerous and multiple occasions of not intending on closing the Toms River Animal Shelter, had no authority to close the shelter, remove the remaining animals and lay off the staff on June 6, 2024. Toms River Township Code Chapter 10-2F (Duties of Mayor) states “Supervise the care and custody of all Township property, institutions and agencies and make recommendations concerning the nature and location of municipal improvements and execute improvements determined by Council.” Council approval was required prior to execution of the closure of the Toms River Animal Shelter, as well as releasing the staff.

**SECOND COUNT**

38. Council President Coleman had the responsibility as Council President to take action upon the certification and verification of the Township Clerk on June 26, 2024 on or before July 16, 2024, and he failed to do so in accordance with NJSA 40:69A-192. In accordance with Toms River Township Code 5-8A, “The agenda must be approved prior to the meeting by either the Council President or by four members of the Township Council.”

**THIRD COUNT**



39. Toms River Township Director of Law Department/Township Attorney Gregory McGuckin and Toms River Township Assistant Attorney Peter Pascarella violated NJSA 40:69A-192 by drafting and presenting both the resolution for shared services with Ocean County Board of Health and the ordinance to repeal ordinance No. 4802-24 presented on August 7, 2024. In accordance with Toms River Township Code 5-11B, "Drafting. Ordinances and resolutions shall be drafted by the Township Law Department, any member of Council, Special Counsel or any person designated by Counsel."

#### **FOURTH COUNT**

40. Council President Coleman, Council Vice President O'Toole, Councilman Lobman, and Councilman Lamb unconditionally supported the original ordinance No. 4802.24 to lease the Toms River Animal Shelter and then on August 7, 2024, voted against tabling the resolution for a shared service agreement to Ocean County Health Department, subsequently voting in favor of same and then voting in favor of an ordinance to repeal ordinance No. 4802.24 to lease the Toms River Animal Shelter to Ocean County, all are not in compliance with NJSA 40:69A-192.

#### **FIFTH COUNT**

41. Mayor Daniel Rodrick, Business Administrator Jonathan Salonis and Township Assistant Attorney Peter Pascarella violated NJSA 4:19-15.16a "Rules, regulations concerning training, education qualifications for animal control officers." By their actions to close the Toms River Animal Shelter on June 6, 2024 and by their physical handling and control of the animals that remained on June 6 and 7, 2024, they acted as Animal Control Officers or

proxies. By their actions they not only endangered the welfare of the animals in custody at the time, they contributed to animal cruelty and potentially endangered the welfare of those individuals who took custody of the animals. The lack of preparation for said closure and plans with other agencies, interfered with persons performing their duties as prescribed by NJSA 4:19-15.18.

### **SIXTH COUNT**

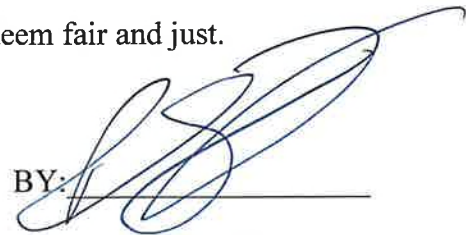
42. Mayor Rodrick, Council President Coleman, Council Vice President O'Toole, Councilman Lamb, Councilman Lobman, Business Administrator Jonathan Salonis, Township Attorney Greg McGuckin and Township Assistant Attorney Peter Pascarella violated the civil rights of the Plaintiff, the Petitioners Committee and the residents of Toms River Township by failing to place the ordinance on the ballot. The defendants engaged in willful acts to intimidate plaintiff, the Petitioners Committee and voters by inappropriate emails, misinformation by Council and Rodrick as to the financial state of the shelter and condition of the shelter, lack of transparency at council meetings, arbitrarily limiting questions and comments at Council Meetings, making inappropriate and intimidating comments to the public and residents at Council Meetings, failing to provide timely agendas as well as scheduling meetings via Zoom and the afternoon to dissuade voters from participating in the referendum process. The Defendants further exacerbated these violations by 1. failing to act within the 20 day statutory period; and 2. seeking to circumvent the law by introducing an new ordinance to transfer the Animal Shelter by a different vehicle, a shared services agreement, to Ocean County. *Tumpson v. Farina*, 218 NJ 450 (2014), states that the "power of citizens to approve or reject at the polls any ordinance through the referendum process constituted a 'substantive right' protected by the Civil Rights Act, such

that a deprivation of the right entitled the citizens to an award of attorney fees under the Act; application of Civil Rights Act was not expressly limited to cases involving discrimination, declaration that the voters had the power of referendum conferred a benefit on entire class of voters, city clerk's failure to file referendum petition to allow a vote on an ordinance gave rise to a cause of action, and nothing in the broad-based language of the Civil Rights Act remotely suggested that the drafters did not intend its remedies to apply to enforcement of the right of referendum. (NJSA 10:6-2(c), 40: 69A-185.)” Since each of the Defendants participated in withholding the rights of referendum to the Plaintiff and all citizens, whether through their actions or lack thereof, they each participated in the violation of civil rights.

WHEREFORE, accordingly Plaintiff seeks judgment as follows:

- a. Order the Township of Toms River to stay the Resolution No. 7 on the August 7, 2024 Agenda regarding a Shared Service Agreement with the Ocean County Board of Health to re-open the Toms River Animal Shelter under the management and control of the Ocean County Board of Health;
- b. Order the Township of Toms River to stay the Ordinance first introduced on August 7, 2024 to repeal Ordinance No. 4802-24 regarding the Toms River Animal Shelter lease Agreement with the Ocean County Board of Health;
- c. Order the Township of Toms River to reopen, offer to rehire all staff as of June 6, 2024 and operate the Toms River Animal Shelter;
- d. Order the Township of Toms River place Ordinance No. 4802-24 regarding the Toms River Animal Shelter on ballot for referendum vote;

- e. Stay the Township of Toms River from introducing any ordinances to transfer the Toms River Animal Shelter out of the operation or control of Toms River until the voters vote on the question.
- f. Order all Defendants to reimburse any and all Court Fees and each to donate a minimum of \$1,000 to the Toms River Animal Shelter for their violation of the Civil Rights Act; and
- g. For such other relief as the Court shall deem fair and just.

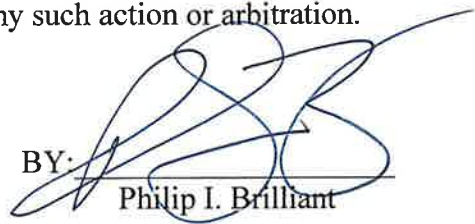
BY:   
Philip I. Brilliant

DATED: August 13, 2024

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

Pursuant to Rule 4:5-1, I hereby certify that the above-captioned matter is not, to my knowledge, the subject of any other action pending in any Court or of a pending arbitration proceeding. At present, I do not contemplate instituting any such action or arbitration.

BY:

A handwritten signature in blue ink, consisting of several loops and flourishes, positioned over the printed name.

Philip I. Brilliant