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Attorney for Plaintiff

**SUPERIOR COURT OF NEW JERSEY
HUDSON COUNTY: LAW DIVISION**

STACIE PERCELLA,

Plaintiff,

v.

JAMES A. DAVIS, ET AL,

Defendants

DOCKET NO.: HUD L 177 18

CIVIL ACTION

**PLAINTIFF'S CERTIFICATION IN
SUPPORT OF MOTION TO QUASH**

Plaintiff, Stacie Percella, being of full age, certifies as follows:

1. I am the plaintiff in this case. I make this certification in support of my motion to quash the subpoena for records that defendant City of Bayonne served on my cell phone provider, ATT. Exhibit A.

2. During the period June 18th, 2013 to February 6th, 2015, Jimmy Davis sent me lewd text messages while I was volunteering at Jimmy Davis' campaign headquarters where I was the office manager; as well as while I was working as an employee for the Defendant City of Bayonne. I believe he was often drunk when he sent the texts. Most were sent at night when he was in a bar or visiting Atlantic City and inviting me to join him there. One rambling, offensive text was sent at 3:30 AM. There were also texts sent during business hours while Jimmy Davis was sitting at his desk as Mayor and while I was employed by the City of Bayonne and working at the DPW.

3. Jimmy Davis has already publicly admitted to sending these messages, after initially stating: a) that he did not send them, b) that someone had stolen his phone, c) some "vulgar individuals" took his phone and sent the "Sexts" and now it has been termed "playful banter" by his spokesperson Paul Swibinski on May 17, 2017. I have already turned over to my counsel all these "sexting" messages and other texts, although there seems to be an issue of the dates of the texts and some confusion between my counsel and defendant's counsel about the document production of the texts. We are working to resolve this.

4. The defendant City of Bayonne requested that I provide a text log. I contacted my cell phone provider, ATT for help in trying to obtain this record, but I was told, after spending nearly an hour on the phone with a representative, that the messages were too old and it was impossible to provide such a record. Defendant City of Bayonne has subpoenaed nearly 7 years of my phone records from ATT dating Sept. 1, 2009- Dec. 31, 2016.


5. Defendant first issued an even broader subpoena without notifying my counsel in the Federal Court case where these messages have no bearing. My counsel and I only learned about the subpoena when ATT contacted me to inform me of their plans to comply with the subpoena. Upon my counsel's objection, defendant withdrew the subpoena and issued the state court subpoena in the instant case. Defendants now subpoenaed ATT through Superior Court for records with different dates, January 1, 2009- December 31, 2016. This is nothing but a fishing expedition for the defendants to pry into my private life which has no bearing on this case.

6. If defendant wanted to know when Jimmy Davis called me and when I called him, they could/should look at Davis' phone records, which they already have in their possession and admitted into court. There is no reason why the defendant needs these records for this lawsuit, which concerns my termination from employment in December 2016.

7. Defendant should not be permitted to engage in this improper fishing expedition. I consider this a huge invasion of my privacy, and I am asking the court to reject it.

I certify that the above statements are true and correct. If any of the above statements are willfully false, I am subject to punishment.

Dated: 10/28/2019


Stacie Percella
Plaintiff

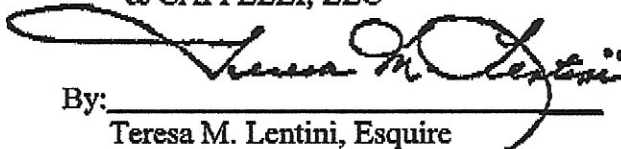
Attorneys for Defendant, City of Bayonne

by the Court or the release is consented to by all parties to this action. In lieu of a personal appearance, records may be sent to:

Teresa M. Lentini, Esquire
FLORIO PERRUCCI STEINHARDT & CAPPELLI, LLC
1010 Kings Highway South, Building 2
Cherry Hill, NJ 08034

Date: October 18, 2019

FLORIO PERRUCCI STEINHARDT
& CAPPELLI, LLC

By: 
Teresa M. Lentini, Esquire

/s/ Michelle M. Smith
Michelle M. Smith, Clerk