

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – SPECIAL CIVIL PART
ATLANTIC COUNTY**

**NEW JERSEY TURNPIKE
AUTHORITY,**
Plaintiff,

v.

DEVON TYLER BARBER,
Defendant / Counterclaimant.

Docket No.: ATL-DC-007956-25

**LETTER REQUESTING CORRECTION,
CLARIFICATION,**

**AND LIMITED MODIFICATION OF
ORDER
DATED DECEMBER 15, 2025**

Hon. Dean R. Marcolongo, J.S.C.
Superior Court of New Jersey
Law Division – Special Civil Part
Atlantic County

Your Honor:

I respectfully submit this letter to address a **material procedural error** in the Order entered on December 15, 2025 granting Plaintiff's Motion for a Protective Order, and to request **limited corrective relief** consistent with the posture and arguments already before the Court.

I. The Order rests on an incorrect procedural premise

The Order expressly states that Plaintiff's motion was “**unopposed**” and was granted pursuant to **Rule 1:6-2** on that basis. That premise is factually incorrect.

On **December 1, 2025**, Defendant timely filed a comprehensive **Opposition and Cross-Motion** via the Judiciary Electronic Document Submission (JEDS) system (**Transaction ID: SCP20255094975**). The filing included a Notice of Opposition and Cross-Motion, Brief in Opposition, Certification, Exhibits, Proposed Form of Order, and Proof of Service, and was accepted, docketed, and served on Plaintiff's counsel.

Accordingly, Plaintiff's motion was **opposed and fully briefed**, and relief could not properly be granted as an unopposed application under Rule 1:6-2, which applies only in the absence of timely opposition.

II. The procedural error is material, not harmless

Whether a motion is opposed determines the **standard applied** and the **burden borne** by the moving party. Plaintiff sought an extraordinary remedy under **Rule 4:10-3**, which requires a **particularized showing of good cause** supported by competent evidence. Defendant's opposition squarely addressed that burden and demonstrated, *inter alia*, that:

- Discovery sought is within the **broad scope permitted by Rule 4:10-2(a)**;
- Plaintiff failed to submit any sworn certification establishing burden or harm, as required by **R. 1:6-6** and **Capital Health Sys., Inc. v. Horizon**, 230 N.J. 73 (2017);
- The discovery is directly relevant to **authentication and reliability of outsourced electronic evidence** under **N.J.R.E. 901(b)(9)**;
- Notice, mailing, and fee-escalation practices implicate **due process** under **Mathews v. Eldridge**, 424 U.S. 319 (1976); and
- The magnitude of administrative fees raises **proportionality concerns** under **Timbs v. Indiana**, 139 S. Ct. 682 (2019).

Those issues cannot be bypassed by characterizing the motion as unopposed.

III. Limited corrective relief is required

Defendant does not submit this letter to re-argue by default. However, where an order expressly relies on an incorrect procedural assumption, the Court retains inherent authority to correct or clarify the order so that it accurately reflects the record and applies the proper governing Rules.

Accordingly, Defendant respectfully requests that the Court:

1. **Correct or clarify** the December 15, 2025 Order to reflect that Plaintiff's Motion for a Protective Order was **opposed and fully briefed**;
2. **Vacate the finding** that the motion was granted as unopposed pursuant to **Rule 1:6-2**; and
3. **Modify the Order** to reflect that any limitation on discovery must be supported, if at all, by a **particularized good-cause showing under Rule 4:10-3**, after consideration of Defendant's Opposition and Cross-Motion seeking denial of the protective order and an order compelling discovery.

This request is intentionally narrow and procedural. Defendant does not allege improper motive and does not seek sanctions at this time. The relief requested is limited to correcting a material procedural error and restoring the matter to the posture required by the governing Rules and the submissions already before the Court. Absent such clarification, the Order may be read to rest on a procedural ground that is demonstrably inconsistent with the docket.

IV. Preservation of rights

This clarification is necessary to preserve the accuracy of the record and Defendant's ability to seek further relief, including reconsideration or appellate review, should that later become necessary.

Thank you for the Court's time and consideration.

Respectfully submitted,

/s/ Devon Tyler Barber
Devon Tyler Barber
Defendant / Counterclaimant, Pro Se
Atlantic City, New Jersey

Dated: 12/15/2025