

MATTHEW D. HARDIN

ATTORNEY-AT-LAW

324 Logtrac Road · Stanardsville, VA 22973

Phone: (434) 202-4224 · Email: MatthewDHardin@protonmail.com

March 24, 2020

Marilyn Bentley, Clerk of Court
Circuit Court for Baltimore City
111 North Calvert Street, Room 412
Baltimore, Maryland 21202

Re: *Energy Policy Advocates v. Maryland Office of the Attorney General*

To the Clerk:

Please find enclosed an original (with the signature page bearing my blue-ink signature) and two copies of a new complaint for filing in this matter. Please also find enclosed two checks in payment of the applicable fees. Lastly, I have included a self-addressed, stamped envelope, which I hope you will use to return a file-stamped copy of the complaint to me.

I will have this suit served via a private process server, who informs me he will obtain a copy of the suit from the Clerk's Office.

Please feel free to contact me by phone or email with any questions.

Regards,

A handwritten signature in blue ink that reads "Matthew D. Hardin". The signature is written in a cursive, flowing style.

Matthew D. Hardin

**CIVIL - NON-DOMESTIC CASE INFORMATION REPORT****DIRECTIONS**

Plaintiff: This Information Report must be completed and attached to the complaint filed with the Clerk of Court unless your case is exempted from the requirement by the Chief Judge of the Court of Appeals pursuant to Rule 2-111(a).

Defendant: You must file an Information Report as required by Rule 2-323(h).

THIS INFORMATION REPORT CANNOT BE ACCEPTED AS A PLEADING

FORM FILED BY: ☒ PLAINTIFF ☐ DEFENDANT CASE NUMBER _____ (Clerk to insert)

CASE NAME: Energy Policy Advocates vs. Maryland Office of Attorney General
Plaintiff Defendant

PARTY'S NAME: Energy Policy Advocates **PHONE:** _____

PARTY'S ADDRESS: 170 S. Lincoln St., Ste. 150, Spokane, WA 99201

PARTY'S E-MAIL: _____

If represented by an attorney:

PARTY'S ATTORNEY'S NAME: Matthew D. Hardin **PHONE:** _____

PARTY'S ATTORNEY'S ADDRESS: 324 Logtrac Road, Stanardsville, VA 22973

PARTY'S ATTORNEY'S E-MAIL: MatthewDHardin@gmail.com

JURY DEMAND? ☐ Yes ☒ No

RELATED CASE PENDING? ☐ Yes ☒ No If yes, Case #(s), if known: _____

ANTICIPATED LENGTH OF TRIAL?: 2 hours _____ days

PLEADING TYPE

New Case: ☒ Original ☐ Administrative Appeal ☐ Appeal

Existing Case: ☐ Post-Judgment ☐ Amendment

If filing in an existing case, skip Case Category/ Subcategory section - go to Relief section.

IF NEW CASE: CASE CATEGORY/SUBCATEGORY (Check one box.)**TORTS**

- ☐ Asbestos
- ☐ Assault and Battery
- ☐ Business and Commercial
- ☐ Conspiracy
- ☐ Conversion
- ☐ Defamation
- ☐ False Arrest/Imprisonment
- ☐ Fraud
- ☐ Lead Paint - DOB of Youngest Plt: _____
- ☐ Loss of Consortium
- ☐ Malicious Prosecution
- ☐ Malpractice-Medical
- ☐ Malpractice-Professional
- ☐ Misrepresentation
- ☐ Motor Tort
- ☐ Negligence
- ☐ Nuisance
- ☐ Premises Liability
- ☐ Product Liability
- ☐ Specific Performance
- ☐ Toxic Tort
- ☐ Trespass
- ☐ Wrongful Death

CONTRACT

- ☐ Asbestos
- ☐ Breach
- ☐ Business and Commercial
- ☐ Confessed Judgment
- (Cont'd)
- ☐ Construction
- ☐ Debt
- ☐ Fraud

- ☐ Government
- ☐ Insurance
- ☐ Product Liability
- PROPERTY**
- ☐ Adverse Possession
- ☐ Breach of Lease
- ☐ Detinue
- ☐ Distress/Distrain
- ☐ Ejectment
- ☐ Forcible Entry/Detainer
- ☐ Foreclosure
- ☐ Commercial
- ☐ Residential
- ☐ Currency or Vehicle
- ☐ Deed of Trust
- ☐ Land Installments
- ☐ Lien
- ☐ Mortgage
- ☐ Right of Redemption
- ☐ Statement Condo
- ☐ Forfeiture of Property / Personal Item
- ☐ Fraudulent Conveyance
- ☐ Landlord-Tenant
- ☐ Lis Pendens
- ☐ Mechanic's Lien
- ☐ Ownership
- ☐ Partition/Sale in Lieu
- ☐ Quiet Title
- ☐ Rent Escrow
- ☐ Return of Seized Property
- ☐ Right of Redemption
- ☐ Tenant Holding Over

PUBLIC LAW

- ☐ Attorney Grievance
- ☐ Bond Forfeiture Remission
- ☐ Civil Rights
- ☐ County/Mncpl Code/Ord
- ☐ Election Law
- ☐ Eminent Domain/Condemn.
- ☐ Environment
- ☐ Error Coram Nobis
- ☐ Habeas Corpus
- ☐ Mandamus
- ☐ Prisoner Rights
- ☒ Public Info. Act Records
- ☐ Quarantine/Isolation
- ☐ Writ of Certiorari
- ☐ Constructive Trust
- ☐ Contempt
- ☐ Deposition Notice
- ☐ Dist Ct Mtn Appeal
- ☐ Financial
- ☐ Grand Jury/Petit Jury
- ☐ Miscellaneous
- ☐ Perpetuate Testimony/Evidence
- ☐ Prod. of Documents Req.
- ☐ Receivership
- ☐ Sentence Transfer
- ☐ Set Aside Deed
- ☐ Special Adm. - Atty
- ☐ Subpoena Issue/Quash
- ☐ Trust Established
- ☐ Trustee Substitution/Removal
- ☐ Witness Appearance-Compel

EMPLOYMENT

- ☐ ADA
- ☐ Conspiracy
- ☐ EEO/HR
- ☐ FLSA
- ☐ FMLA
- ☐ Workers' Compensation
- ☐ Wrongful Termination

INDEPENDENT PROCEEDINGS

- ☐ Assumption of Jurisdiction
- ☐ Authorized Sale
- ☐ Attorney Appointment
- ☐ Body Attachment Issuance
- ☐ Commission Issuance

PEACE ORDER

- ☐ Peace Order

EQUITY

- ☐ Declaratory Judgment
- ☐ Equitable Relief
- ☐ Injunctive Relief
- ☐ Mandamus

OTHER

- ☐ Accounting
- ☐ Friendly Suit
- ☐ Grantor in Possession
- ☐ Maryland Insurance Administration
- ☐ Miscellaneous
- ☐ Specific Transaction
- ☐ Structured Settlements

IF NEW OR EXISTING CASE: RELIEF (Check All that Apply)

- | | | | |
|--------------------------------------------------|-------------------------------------------------|------------------------------------------------------|-------------------------------------------------|
| <input type="checkbox"/> Abatement | <input type="checkbox"/> Earnings Withholding | <input type="checkbox"/> Judgment-Interest | <input type="checkbox"/> Return of Property |
| <input type="checkbox"/> Administrative Action | <input type="checkbox"/> Enrollment | <input type="checkbox"/> Judgment-Summary | <input type="checkbox"/> Sale of Property |
| <input type="checkbox"/> Appointment of Receiver | <input type="checkbox"/> Expungement | <input type="checkbox"/> Liability | <input type="checkbox"/> Specific Performance |
| <input type="checkbox"/> Arbitration | <input type="checkbox"/> Findings of Fact | <input type="checkbox"/> Oral Examination | <input type="checkbox"/> Writ-Error Coram Nobis |
| <input type="checkbox"/> Asset Determination | <input type="checkbox"/> Foreclosure | <input type="checkbox"/> Order | <input type="checkbox"/> Writ-Execution |
| <input type="checkbox"/> Attachment b/f Judgment | <input type="checkbox"/> Injunction | <input type="checkbox"/> Ownership of Property | <input type="checkbox"/> Writ-Garnish Property |
| <input type="checkbox"/> Cease & Desist Order | <input type="checkbox"/> Judgment-Affidavit | <input type="checkbox"/> Partition of Property | <input type="checkbox"/> Writ-Garnish Wages |
| <input type="checkbox"/> Condemn Bldg | <input type="checkbox"/> Judgment-Attorney Fees | <input type="checkbox"/> Peace Order | <input type="checkbox"/> Writ-Habeas Corpus |
| <input type="checkbox"/> Contempt | <input type="checkbox"/> Judgment-Confessed | <input type="checkbox"/> Possession | <input type="checkbox"/> Writ-Mandamus |
| <input type="checkbox"/> Court Costs/Fees | <input type="checkbox"/> Judgment-Consent | <input type="checkbox"/> Production of Records | <input type="checkbox"/> Writ-Possession |
| <input type="checkbox"/> Damages-Compensatory | <input type="checkbox"/> Judgment-Declaratory | <input type="checkbox"/> Quarantine/Isolation Order | |
| <input type="checkbox"/> Damages-Punitive | <input type="checkbox"/> Judgment-Default | <input type="checkbox"/> Reinstatement of Employment | |

If you indicated **Liability** above, mark one of the following. This information is not an admission and may not be used for any purpose other than Track Assignment.

☐ Liability is conceded. ☐ Liability is not conceded, but is not seriously in dispute. ☐ Liability is seriously in dispute.

MONETARY DAMAGES (Do not include Attorney's Fees, Interest, or Court Costs)

☒ Under \$10,000 ☐ \$10,000 - \$30,000 ☐ \$30,000 - \$100,000 ☐ Over \$100,000

☐ Medical Bills \$ _____ ☐ Wage Loss \$ _____ ☐ Property Damages \$ _____

ALTERNATIVE DISPUTE RESOLUTION INFORMATION

Is this case appropriate for referral to an ADR process under Md. Rule 17-101? (Check all that apply)

A. Mediation	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	C. Settlement Conference	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
B. Arbitration	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	D. Neutral Evaluation	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

SPECIAL REQUIREMENTS

- ☐ If a Spoken Language Interpreter is needed, **check here and attach form CC-DC-041**
- ☐ If you require an accommodation for a disability under the Americans with Disabilities Act, **check here and attach form CC-DC-049**

ESTIMATED LENGTH OF TRIAL

*With the exception of Baltimore County and Baltimore City, please fill in the estimated **LENGTH OF TRIAL**.*

(Case will be tracked accordingly)

- | | |
|---------------------------------------------------|---------------------------------------------------------|
| <input type="checkbox"/> 1/2 day of trial or less | <input type="checkbox"/> 3 days of trial time |
| <input type="checkbox"/> 1 day of trial time | <input type="checkbox"/> More than 3 days of trial time |
| <input type="checkbox"/> 2 days of trial time | |

BUSINESS AND TECHNOLOGY CASE MANAGEMENT PROGRAM

For all jurisdictions, if Business and Technology track designation under Md. Rule 16-308 is requested, attach a duplicate copy of complaint and check one of the tracks below.

- | | |
|-------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Expedited - Trial within 7 months of Defendant's response | <input type="checkbox"/> Standard - Trial within 18 months of Defendant's response |
|-------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|

EMERGENCY RELIEF REQUESTED

**COMPLEX SCIENCE AND/OR TECHNOLOGICAL CASE
MANAGEMENT PROGRAM (ASTAR)**

*FOR PURPOSES OF POSSIBLE SPECIAL ASSIGNMENT TO ASTAR RESOURCES JUDGES under
Md. Rule 16-302, attach a duplicate copy of complaint and check whether assignment to an ASTAR is requested.*

- ☐ **Expedited** - Trial within 7 months of Defendant's response ☐ **Standard** - Trial within 18 months of Defendant's response

***IF YOU ARE FILING YOUR COMPLAINT IN BALTIMORE CITY, OR BALTIMORE COUNTY,
PLEASE FILL OUT THE APPROPRIATE BOX BELOW.***

CIRCUIT COURT FOR BALTIMORE CITY (CHECK ONLY ONE)

- ☒ Expedited Trial 60 to 120 days from notice. Non-jury matters.
☐ Civil-Short Trial 210 days from first answer.
☐ Civil-Standard Trial 360 days from first answer.
☐ Custom Scheduling order entered by individual judge.
☐ Asbestos Special scheduling order.
☐ Lead Paint Fill in: Birth Date of youngest plaintiff _____ .
☐ Tax Sale Foreclosures Special scheduling order.
☐ Mortgage Foreclosures No scheduling order.

CIRCUIT COURT FOR BALTIMORE COUNTY

- ☒ Expedited (Trial Date-90 days) Attachment Before Judgment, Declaratory Judgment (Simple), Administrative Appeals, District Court Appeals and Jury Trial Prayers, Guardianship, Injunction, Mandamus.
☐ Standard (Trial Date-240 days) Condemnation, Confessed Judgments (Vacated), Contract, Employment Related Cases, Fraud and Misrepresentation, International Tort, Motor Tort, Other Personal Injury, Workers' Compensation Cases.
☐ Extended Standard (Trial Date-345 days) Asbestos, Lender Liability, Professional Malpractice, Serious Motor Tort or Personal Injury Cases (medical expenses and wage loss of \$100,000, expert and out-of-state witnesses (parties), and trial of five or more days), State Insolvency.
☐ Complex (Trial Date-450 days) Class Actions, Designated Toxic Tort, Major Construction Contracts, Major Product Liabilities, Other Complex Cases.

March 24, 2020

Date

324 Logtrac Road

Address

Stanardsville

City

VA

State

22973

Zip Code



Signature of Counsel / Party

Matthew D. Hardin

Printed Name

**IN THE CIRCUIT COURT
FOR BALTIMORE CITY**

ENERGY POLICY ADVOCATES

170 S. Lincoln St.
Suite 150
Spokane, WA 99201

Plaintiff,

v.

**MARYLAND OFFICE
OF THE ATTORNEY GENERAL**

200 Saint Paul Place
Baltimore, Maryland 21202

Defendant.

Civil Case No. _____

COMPLAINT

COMPLAINT

Plaintiff Energy Policy Advocates (“EPA”), by and through their undersigned counsel, and for their complaint against Defendant Maryland Office of the Attorney General (“OAG”), allege as follows:

1. This is an action for equitable and monetary relief arising from Defendant’s refusal to comply with the obligations imposed by the Maryland Public Information Act, Md. Code, GP, §§ 4 – 101 through 4 – 601 (“MPIA”), which requires a governmental custodian of records to permit any person to inspect any public record at any reasonable time, or provide copies of any public record.

BACKGROUND

2. On March 29, 2016, various Attorneys General including Attorney General Brian Frosh, joined by investor and former U.S. Vice President Al Gore, having been briefed immediately beforehand by a plaintiffs' tort lawyer and an activist,¹ hosted a press conference in New York City in which they announced a vigorous effort to pursue a climate change agenda in the Courts.²
3. Through public records including productions by attorneys general in various states, the public has now come to partially understand the genesis of this March 29, 2016 press

¹ See, e.g., "The day after the closed door meeting, on March 30, 2017, Mr. Pawa emailed the Office of the New York Attorney General to ask how he should respond if asked by a reporter from *The Wall Street Journal* whether he attended the closed door meeting with the attorneys general. The Office of the New York Attorney General responded by instructing Mr. Pawa 'to not confirm that you attended or otherwise discuss the event.' Does this reluctance to be open suggest that the attorneys general are trying to hide something from the public?...Should not the attorneys general want to share all information related to the AGs United for Clean Power press conference to ensure the public that the events surrounding the press conference lacked political motivation and were in fact about the pursuit of justice? The attorneys general should want to remove any suspicion of the event being politically charged since it was attended by (1) former Vice President Al Gore, a known climate change policy advocate in the political arena, (2) Mr. Peter Frumhoff, a well-known climate change activist, and (3) Mr. Matthew Pawa, a prominent global warming litigation attorney who attended a meeting two months prior to the press conference at the Rockefeller Family Fund to discuss an "Exxon campaign" seeking to delegitimize Exxon as a political actor. Any request for information about the events surrounding the AGs United for Clean Power press conference should be welcomed by the attorneys general." Order (Kinkeade., J.), *Exxon v. Healey*, C.A. No. 4:16-CVK-469-K (N.D. TX, Mar. 29, 2017), <https://www.mass.gov/files/documents/2017/03/zi/March%252029%252C%25202017%2520Order%2520of%2520the%2520United%2520State%2520Court%2520of%2520Appeals%2520for%2520the%2520Fifth%2520Circuit%2520Transferring%2520Case%2520to%2520Southern%2520District%2520of%2520New%2520York.pdf>, at 7-10.

² See, e.g., "We know that in Washington there are good people who want to do the right thing on climate change but everyone from President Obama on down is under a relentless assault from well funded, highly aggressive and morally vacant forces that are trying to block every step by the federal government to take meaningful action. So today, we're sending a message that, at least some of us – actually a lot of us – in state government are prepared to step into this battle with an unprecedented level of commitment and coordination."; and "So today, in the face of the gridlock in Washington, we are assembling a group of state actors to send the message that we are prepared to step into this breach." New York Attorney General Eric Schneiderman, March 29, 2016, transcript available at <https://climatelitigationwatch.org/wp-content/uploads/2018/08/March-29-2016-AGs-Gore-presser-transcript.pdf>, at 4, 2, respectively.

conference, and subsequent pursuits of attorneys general. Specifically, a private attorney named Matt Pawa, also frustrated by what he perceived as failures of the legislative process,³ approached attorneys general seeking “a single sympathetic state attorney general”⁴ to persuade them to use their law enforcement powers to pursue the targets of his flagging “climate tort” litigation campaign, and assist his preferred policy outcomes.⁵

4. EPA has now come to learn through public records requests that various state actors saw such lawsuits as a means to implement a “sustainable funding stream” for their preferred policies.⁶

THE PLAINTIFF’S REQUEST FOR INFORMATION

5. To obtain further information shedding light on the scheme of various attorneys general, discussed above, on September 16, 2019, EPA e-mailed OAG a request for information, specifically seeking “All correspondence, and any accompanying information, including also any attachments, a) sent to or from or copying (whether as cc: or bcc:) Josh Auerbach and/or Carolyn Quattrocki, that b) includes Pawa anywhere, whether as sent to or from or copying (again whether as cc: or bcc:), or otherwise, including in any attachments, and c) is dated from January 1, 2016 through May 31, 2016, inclusive.”

³ Zoe Carpenter, *The Government May Already Have the Law It Needs to Beat Big Oil*, The Nation (July 15, 2015), <https://www.thenation.com/article/the-government-may-already-have-the-law-it-needs-to-beat-big-oil/> (quoting Pawa, in an article advocating RICO actions against fossil fuel companies: “Legislation is going nowhere, so litigation could potentially play an important role.”) (Last viewed May 16, 2019).

⁴ Climate Accountability Institute, *Establishing Accountability for Climate Change Damages: Lessons from Tobacco Control*, at 11 (Oct. 2012), <http://www.climateaccountability.org/pdf/Climate%20Accountability%20Rpt%20Oct12.pdf>.

⁵ “Equally important was the nearly unanimous agreement on the importance of legal actions, both in wresting potentially useful internal documents from the fossil fuel industry and, more broadly, in maintaining pressure on the industry that could eventually lead to its support for legislative and regulatory responses to global warming.” *Id.* at 27.

⁶ See, e.g., Proposed Amicus Brief on Behalf of Energy Policy Advocates, *Rhode Island v. Chevron, et al.*, 1st Cir. No. 19-1818, available at <https://govoversight.org/wp-content/uploads/2020/03/filestamped.pdf>.

6. EPA also sought “Calendar entries for Josh Auerbach and Carolyn Quattrocki dated January 1, 2016 through May 31, 2016, inclusive that include Exxon or Pawa.”
7. On October 10, 2019, OAG responded to Plaintiff’s request for information. Although OAG produced 34 pages of records, OAG heavily redacted numerous pages and withheld some unknown number of additional records in full, alleging various privileges applied.
8. These redactions included the To and From parties in one email thread (non-exempt purely factual information); a reference to “California cases [Pawa] mentioned”; the entirety of three-page and two-page e-mail “threads”, including even purely factual information such as parties, date and subject; nearly the entirety of two other threads discussing the above-cited New York briefing, including substantial purely factual information in the agenda already released by numerous other OAGs which contents prove the information is not properly exempt; in three records, the subject and attendees of the briefing of OAG by one of Pawa’s associates; other correspondence inviting OAG attorneys to this press conference and pre-briefing by the private activists and tort lawyer.
9. OAG stated in a letter on that date that “Each [requested item of correspondence] contains emails that relate to multistate coordination or internal deliberations on the subject of climate change that was the topic of a meeting and press conference held by various states’ attorneys general” and that “we are producing some emails, redacting parts of some, and withholding some in their entirety.”
10. OAG’s letter stated that “multiple privileges and protections apply” to the records Plaintiff sought under the PIA. Specifically, OAG enumerated “attorney-client privilege, the work-

product doctrine, the common interest doctrine, and the deliberative process and executive privileges” to support its withholding of “a few internal emails.”

11. OAG further denied Plaintiff’s full access to the calendar entries that they sought. OAG stated that it had “redacted parts of the subject lines and the names of certain attorneys who participated in the meetings.”
12. OAG’s blanket invocation of privileges is overly broad. Communications between an attorney and a client are not privileged by virtue of the relationship alone, but require that communications reflect the provision of legal advice. Further, certain aspects of an attorney-client relationship, particularly fee arrangements, are subject to public disclosure.
13. Despite the tremendous public importance in the release of the requested information, OAG has withheld, and continues to withhold, the requested information in violation of the MPIA, and without specifically describing even how many records are withheld in full or how specific privileges apply to specific records or redactions.

THE PARTIES

14. Plaintiff Energy Policy Advocates (EPA) is a nonprofit organization incorporated in the state of Washington and dedicated to transparency and open government. EPA uses state and federal open records laws to shed light on -- and thereby educate the public on -- private influences on government policymaking and the use of public office. Part of EPA’s effort has been the record request at issue in this matter and similar requests in AG offices nationwide.
15. Defendant OAG is an agency of the State of Maryland and is headed by Brian Frosh, a Constitutional Officer elected pursuant to Article V of the Constitution of Maryland. It is the recipient of the MPIA request, custodian of the information requested, and was responsible

for improperly withholding the information. Its principal office is located at 200 St. Paul Place, Baltimore, MD 21202.

JURISDICTION, VENUE, & DOCKETING

16. This Court has jurisdiction over this matter pursuant to Md. Code, GP § 4-362(a).
17. Venue is proper in this Court pursuant to Md. Code, GP § 4-362(a)(3), because the records at issue are likely located at the Attorney General's Office in the City of Baltimore.
18. Md. Code, GP § 4-362 (c)(1)(i) provides that this case should "take precedence on the docket."

LEGAL ARGUMENTS

19. The MPIA establishes a general rule that "[a]ll persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees." Md. Code, GP § 4-103(a).
20. The MPIA permits a custodian to deny access to a public record only to the extent provided in the MPIA. Md. Code, GP § 4-201(a)(2).
21. OAG has the burden of sustaining a decision to deny inspection or copies of a public record. Md. Code, GP § 4-362(b)(2).
22. OAG must justify all of its withholdings, and has admitted that it must justify each of its withholdings and redactions in its own publications. The 2015 Office of the Maryland Attorney General's Maryland Public Information Act Manual states " [t]o satisfy the statutory burden, any entity or official withholding a record must put forth evidence sufficient to justify the decision". Maryland Public Information Act Manual §5-2.

23. Records custodians may not rely on generic exemptions, and “the burden of justifying the non-disclosure of even part of a record is squarely cast upon the custodian of the record”. *Blythe v. State*, 161 Md.App. 492, 521 (Md. Ct. Spec. App. 2005) citing *Cranford v. Montgomery County*, 300 Md. 759, 777, 481 A.2d 221 (Md. 1984).
24. In this case, OAG has not met that burden. It has not identified how many records it is withholding, and has offered only the most threadbare and conclusory assertions of privilege, rather than justifying the withholding of discrete records on individualized showings of how lawful exemptions might apply.
25. OAG cannot justify its many withholdings by mere invocation of attorney-client privilege. It is well-established in this State that “only those attorney-client communications pertaining to legal advice and made with the intention of confidentiality are within the ambit of the privilege”. *E. I. Du Pont de Nemours & Co. v. Forma-Pack, Inc.*, 351 Md. 396, 415-416, 718 A.2d 1129,, 1138 (Md. 1998). The mere existence of an attorney-client relationship between the OAG and some party is insufficient to privilege all communications between the two. Moreover, OAG bears the burden of demonstrating that any privilege which once may have attached was not waived by sharing communications with strangers to the attorney-client relationship.
26. Attorney work product shields documents “prepared in anticipation of litigation” from discovery. Maryland Rule 2-402(d). The doctrine protects “the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation.” *Id.*

27. OAG's complete withholding of some unknown number of records with only a conclusory statement that it is not reasonably severable is contrary to the MPIA which requires a custodian allow inspection of any part of the record that is subject to inspection. Md. Code, GP § 4-203(c)(1)(ii). The same holds true for OAG's many broad swathes of redactions.
28. OAG also has not met its burden to prove that public inspection may be denied pursuant to Md. Code, SF&P § 13-210(b). Procurement is defined as "the process of...obtaining... services." Md. Code SF&P 11-101(n)(1)(ii). The services of an attorney are included in the definition of "Services" under Md. Code, SF&P § 11-101(u). If any record at issue reflects OAG attempting to procure the services of an outside attorney, it must establish why Md. Code, SF&P § 13-210(b) does not require disclosure.
29. For all of the reasons specifically set forth heretofore, OAG has violated the MPIA, Md. Code, GP, §§ 4 – 101 through 4 – 601("MPIA") by improperly refusing to disclose the records that are at issue.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff respectfully prays, through counsel, that this Court,

- A. Enter an injunction directing OAG to comply fully with the PIA without further delay and to furnish Plaintiff the public records at issue in this matter, subject only to legally-allowed withholdings;
- B. Alternately, perform an *in camera* review of the information withheld by the Defendant and compel Defendant to release all information for which the Defendant is unable to carry its burden to prove each withholding is privileged and not subject to disclosure; and further,

- C. Enter an Order that OAG is in violation of MPIA for the reasons stated, *supra*;
- D. Enter judgement in Plaintiff's favor for nominal damages;
- E. Award Plaintiff reasonable attorneys' fees and costs as authorized by Md. Code, GP § 4-362(f); and
- F. Order such additional relief as the Court may deem just and proper.

Respectfully submitted this 24th day of March, 2020,

ENERGY POLICY ADVOCATES
By Counsel

A handwritten signature in cursive script, appearing to read "Matthew D. Hardin", is written over a horizontal line.

Matthew D. Hardin (CPF# 2003160003)
324 Logtrac Rd.
Stanardsville, VA 22973
Phone: (434) 202-4224
Email: MatthewDHardin@protonmail.com