



1 **Background**

2 **A.** In an Order dated November 3, 2011 this Court ordered NASA to pay Margolin costs of  
3 \$525.06 . See Exhibit 1 at 7.

4  
5 **B.** In that Order (*id.*) this Court ruled that Margolin had substantially prevailed.

6  
7 **C.** The “Openness Promotes Effectiveness in the National Government Act of 2007,” also  
8 referred to as the OPEN Government Act of 2007 (Public Law 110-175 – December 31, 2007),  
9 amended several procedural aspects of the Freedom of Information Act. Section 4(b) requires  
10 that when a complainant has substantially prevailed the Agency must pay assessed costs from  
11 agency funds. The costs are not to be paid by the Claims and Judgment Fund of the United States  
12 Treasury.

13 SEC. 4. RECOVERY OF ATTORNEY FEES AND LITIGATION COSTS.

14  
15 (a) IN GENERAL.—Section 552(a)(4)(E) of title 5, United States Code, is amended—

16  
17 (1) by inserting “(i)” after “(E)”; and

18  
19 (2) by adding at the end the following:

20  
21 “(ii) For purposes of this subparagraph, a complainant has substantially prevailed  
22 if the complainant has obtained relief through either—

23  
24 “(I) a judicial order, or an enforceable written agreement or consent decree; or

25  
26 “(II) a voluntary or unilateral change in position by the agency, if the  
27 complainant’s claim is not insubstantial.”.

28  
29 (b) LIMITATION.—Notwithstanding section 1304 of title 31, United States Code, no  
30 amounts may be obligated or expended from the Claims and Judgment Fund of the United  
31 States Treasury to pay the costs resulting from fees assessed under section 552(a)(4)(E) of  
32 title 5, United States Code. Any such amounts shall be paid only from funds annually

1 appropriated for any authorized purpose for the Federal agency against which a claim or  
2 judgment has been rendered.  
3

4 **D.** As of the date of this filing NASA has not paid Margolin.

5  
6 **E.** As of the date of this filing it has been approximately 95 days since the Court's Order.

7 NASA's time period for appealing the Court's Order was 60 days. NASA has not done so.  
8

9 **F.** On January 6, 2012 Margolin sent an email to various NASA staff, including General  
10 Counsel Michael C. Wholley and NASA Deputy Administrator Lori Garver. See Exhibit 2 at 10.  
11 In part of that email Margolin reminded NASA that they had not complied with the Court's  
12 Order to pay him \$525.06.

13  
14 **G.** Margolin sent the email of January 6, 2010 using the "Request Read Receipt" feature of  
15 Windows Mail. Margolin received a Read Receipt from several recipients but not from Mr.  
16 Wholley. See Exhibit 3 at 17-20. This shows that NASA's mail server received Margolin's email  
17 but that several recipients refused to acknowledge receiving it. That constitutes bad faith by  
18 NASA.

19  
20 **H.** As of the date of this filing Margolin has not received a reply from NASA, which is further  
21 evidence of bad faith by NASA. (Note that receipt of Margolin's email was acknowledged by  
22 NASA Inspector General Paul K. Martin but he has not responded, either. See Exhibit 3 at 20.)  
23

24 **I.** NASA's refusal to comply with the Court's Order (#73) constitutes Contempt of Court.

1 **J.** According to the National Aeronautics and Space Act Public Law No. 111-314 124 Stat.  
2 3328 (Dec. 18, 2010):

3 SUBCHAPTER II--COORDINATION OF AERONAUTICAL AND SPACE ACTIVITIES

4 NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

5 Sec. 20111. National Aeronautics and Space Administration

6

7 (a) Establishment and Appointment of Administrator.--There is established the National  
8 Aeronautics and Space Administration. The Administration shall be headed by an  
9 Administrator, who shall be appointed from civilian life by the President by and with the  
10 advice and consent of the Senate. Under the supervision and direction of the President, the  
11 Administrator shall be responsible for the exercise of all powers and the discharge of all  
12 duties of the Administration and shall have authority and control over all personnel and  
13 activities thereof.  
14

15 {Emphasis added.}

16 **Conclusion**

17

18 For the foregoing reasons Margolin respectfully requests:

19 The Court hold NASA (in the person of the NASA Administrator) in Contempt for refusing  
20 to comply with the Court's Order (#73).

21

22

Respectfully submitted,

23

/Jed Margolin/

24

Jed Margolin, plaintiff pro se

25

1981 Empire Rd.

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VC Highlands, NV 89521-7430

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775-847-7845

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[jm@jmargolin.com](mailto:jm@jmargolin.com)

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30 Dated: February 6, 2012

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that service of the foregoing MOTION REQUESTING NASA BE HELD IN CONTEMPT has been made by electronic notification through the Court's electronic filing system on February 6, 2012.

/Jed Margolin/  
Jed Margolin

# Exhibit 1

# Exhibit 1

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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

JED MARGOLIN,

Plaintiff,

v.

NATIONAL AERONAUTICS AND SPACE  
ADMINISTRATION,

Defendant.

3:09-CV-00421-LRH-VPC

ORDER

Before the court is Plaintiff Jed Margolin’s Motion for Costs (#64<sup>1</sup>). In a prior order (#67), the court determined that, pursuant to 5 U.S.C. § 552(a)(4)(E)(ii), Margolin substantially prevailed to the extent that the filing of this action under the Freedom of Information Act prompted a voluntary or unilateral change in position by NASA, and Margolin is therefore entitled to at least some portion of costs incurred prior to November 5, 2009, when the agency made its supplemental disclosures, but not thereafter. Finding Margolin’s itemization of costs insufficiently detailed, however, the court deferred ruling on the motion for costs pending submission of an affidavit or declaration itemizing litigation costs incurred prior to November 5, 2009. Accordingly, Margolin submitted a supplemental declaration (#68), NASA responded (#69), and Marglin replied (#70).

Upon review of the parties submissions, the court sustains Defendant’s objections. The bill

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<sup>1</sup>Refers to the court’s docket entry number.

1 of costs is otherwise unopposed.

2 IT IS THEREFORE ORDERED that costs are taxed in the amount of \$525.06 and included  
3 in the judgment.

4 IT IS SO ORDERED.

5 DATED this 3rd day of November, 2011.



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LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE

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## Exhibit 2

## Exhibit 2

**Jed Margolin**

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**From:** "Jed Margolin" <jm@jmargolin.com>  
**To:** <hq-foia@nasa.gov>; <miriam.m.brownlam@nasa.gov>; <jessica.l.bowen@nasa.gov>; <david.s.weaver@nasa.gov>; <bob.jacobs@nasa.gov>; <Paul.K.Martin@nasa.gov>; <foiaoig@hq.nasa.gov>; <stella.luna-1@nasa.gov>; <LARC-DL-foia@mail.nasa.gov>; <michael.c.wholley@nasa.gov>; <lori.garver@nasa.gov>  
**Sent:** Friday, January 06, 2012 11:45 AM  
**Attach:** jm\_doc073.pdf; jm\_google\_2012\_0106.pdf  
**Subject:** Re: FOIA Request 10-HQ-F-01398

Dear NASA,

This is directed to all of you individually and as a group.

**A. Regarding FOIA Request 10-HQ-F-01398**

I have not received a response to my email of October 28, 2011. Is NASA planning to respond? Your silence tells me that I have exhausted all of the administrative remedies that NASA has to offer in the matter.

**B. Regarding Case 3:09-cv-00421-LRH-VPC heard in U.S. District Court for the District of Nevada**

In an order dated November 3, 2011 the Court ordered NASA to pay me costs of \$525.06 because I had "substantially prevailed." See attached file: *jm\_doc073.pdf*

The "Openness Promotes Effectiveness in our National Government Act of 2007," also referred to as the OPEN Government Act of 2007, requires agencies to pay attorney fees to a prevailing party from agency appropriations rather than the Judgment Fund, 31 U.S.C. 1304.

It has been more than 60 days since the Court's Order and NASA has not paid me.

1. Does NASA own any assets in the State of Nevada? If you do I will file a Writ of Execution and have U.S. Marshalls seize that asset and sell it at public auction to satisfy the Judgment.
2. If NASA does not own assets in the State of Nevada I will register the Judgment in U.S. District Court for the Southern District of Florida, file a Writ of Execution, and have U.S. Marshalls seize the Space Shuttle Orbiter Atlantis and sell it at public auction to satisfy the judgment.
3. Since NASA is refusing to comply with the Court's Order I will move the Court to cite NASA for contempt. Since the National Aeronautics and Space Act, Pub. Law No. 111-314, 124 Stat. 3328 (Dec. 18, 2010) makes the Administrator ultimately responsible for NASA's actions, it would mean citing General Bolden for Contempt of Court. Is that what you want?

All (or any) of this will get considerable publicity.

Today, a Google search using the terms **nasa foia lawsuit** produces approximately 169,000 hits.

My article/blog ([www.jmargolin.com/nasa/nasa.htm](http://www.jmargolin.com/nasa/nasa.htm)) is number 3 and number 4. See attached file *jm\_google\_2012\_0106.pdf*.

So, what do you want to do?

C. During the above case, Associate General Counsel Courtney B. Graham committed perjury in her affidavit(s). Do any of you care about that?

Regards,

Jed Margolin

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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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Plaintiff,

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LARRY R. HICKS  
9 UNITED STATES DISTRICT JUDGE

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CEI's Horner has sought information in the form of internal emails and notes of discussions from Gavid ...

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January 1, 2010 - Introduction - July 31, 2009 - I file the ...

[\[PDF\] http://www.google.com/search?q=\*\*NASA\*\*+FO...](#)[www.jmargolin.com/nasa/refs/nasa\\_google\\_2011\\_0420.pdf](http://www.jmargolin.com/nasa/refs/nasa_google_2011_0420.pdf)File Format: PDF/Adobe Acrobat - [Quick View](#)Apr 20, 2011 – Videos for **NASA FOIA lawsuit** - Report videos. Nov 4, 2010 ... **NASA** Moves to Quash FOIA Lawsuit, CEI Fights for Public. Access. New Court ...[Climate Science FOI report: ATI \*\*NASA\*\* lawsuit](#)[climscifo.blogspot.com/2011/06/ati-nasa-lawsuit.html](http://climscifo.blogspot.com/2011/06/ati-nasa-lawsuit.html)Jun 22, 2011 – On the heels of it's failed appeal to **NASA** on the issue of James Hansen's 'Permission to engage in outside activity' forms, ATI's Christopher ...[NASA Moves to Quash FOIA Lawsuit, CEI Fights...](#)[cei.org/news.../nasa-moves-quash-foia-lawsuit-cei-fights-public-acces...](http://cei.org/news.../nasa-moves-quash-foia-lawsuit-cei-fights-public-acces...)Nov 4, 2010 – **NASA** Moves to Quash **FOIA Lawsuit**, CEI Fights for Public Access. New Court Filing Charges Agency with Concealing Evidence of Climate ...[NASA FOIA Complaint | Competitive Enterprise I...](#)[cei.org/outreach-legal-briefs/nasa-foia-complaint](http://cei.org/outreach-legal-briefs/nasa-foia-complaint)May 27, 2010 – “**NASA** is accountable to the taxpayers and to the public”, and “should not be free to treat its **FOIA** obligations with contempt.” The **lawsuit** arises ...

[ATI NASA Hansen FOIA lawsuit](#)[www.scribd.com](http://www.scribd.com) > [Business/Law](#) > [Court Filings](#)

Jun 22, 2011 – This **lawsuit** seeks to compel **NASA** to respond fully and completely to a **FOIA** request dated January 19, 2011. The request sought information ...

[It Took A Lawsuit To Fet This Footage From NAS...](#)[www.godlikeproductions.com/forum1/message1578854/pg1](http://www.godlikeproductions.com/forum1/message1578854/pg1)

8 posts - 3 authors - Last post: Jul 31, 2011

Godlike Productions is a Conspiracy Forum. Discussion topics include UFOs, Conspiracy, Lunatic Fringe, Politics, Current Events, Secret ...

[EPIC v. DHS Lawsuit -- Body Scanner Radiation Risks :](#)[In a FOIA ...](#) - Jul 10, 2011[Federal Reserve Loses Bloomberg FOIA Lawsuit, Must](#)[Disclose ...](#) - Aug 25, 2009

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2 posts - 2 authors

<http://www.youtube.com/watch?v=tKidCmAYuLg&feature=feedu>.

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## Exhibit 3

## Exhibit 3



**Jed Margolin**

---

**From:** "BROWN-LAM, MIRIAM (HQ-NG000)" <miriam.brown-lam@nasa.gov>  
**To:** "Jed Margolin" <jm@jmargolin.com>  
**Sent:** Friday, January 06, 2012 11:45 AM  
**Attach:** ATT00228.txt  
**Subject:** Read: FOIA Request 10-HQ-F-01398  
Your message was read on Friday, January 06, 2012 7:45:25 PM UTC.

**Jed Margolin**

---

**From:** "Jacobs, Bob (HQ-NA000)" <bob.jacobs@nasa.gov>  
**To:** "Jed Margolin" <jm@jmargolin.com>  
**Sent:** Friday, January 06, 2012 11:46 AM  
**Attach:** ATT00238.txt  
**Subject:** Read: FOIA Request 10-HQ-F-01398  
Your message was read on Friday, January 06, 2012 7:46:41 PM UTC.

**Jed Margolin**

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**From:** "WEAVER, DAVID S. (HQ-NA000)" <david.s.weaver@nasa.gov>  
**To:** "Jed Margolin" <jm@jmargolin.com>  
**Sent:** Friday, January 06, 2012 12:13 PM  
**Attach:** ATT00248.txt  
**Subject:** Read: Re: FOIA Request 10-HQ-F-01398  
Your message was read on Friday, January 06, 2012 8:13:14 PM UTC.

**Jed Margolin**

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**From:** "MARTIN, PAUL K. (HQ-WAH10)" <paul.k.martin@nasa.gov>  
**To:** "Jed Margolin" <jm@jmargolin.com>  
**Sent:** Friday, January 06, 2012 6:06 PM  
**Attach:** ATT00258.txt  
**Subject:** Read: FOIA Request 10-HQ-F-01398  
Your message was read on Saturday, January 07, 2012 2:06:50 AM UTC.