

1 Jed Margolin, Pro Se
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3 VC Highlands, NV 89521-7430
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10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA
12

JED MARGOLIN,)	Case No. 3:09-cv-00421-LRH-(VPC)
)	
Plaintiff,)	REPLY TO NASA’S RESPONSE (#76) TO
)	MARGOLIN’S MOTION TO COMPEL
vs.)	(#74)
)	
NATIONAL AERONAUTICS AND)	
SPACE ADMINISTRATION,)	
)	
Defendant.)	
_____)	

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15 Comes now Plaintiff, Jed Margolin (“Margolin”), appearing pro se, and files his Reply to
16 NASA’s Response to Motion to Compel NASA to Disclose Assets in the State of Nevada (#76).
17 NASA asserts that they intend to pay Margolin costs awarded to him by the Court, that it took
18 NASA 60 days to decide whether or not to appeal the Court’s award, and that NASA anticipates
19 paying Margolin in March 2012. Margolin replies that NASA’s intention and anticipation do not
20 constitute a promise and that NASA’s delay is dilatory and malicious.

21

1 Argument

2 **A.** NASA asserts that it took them 60 days to decide whether or not to appeal the Court's Order
3 to pay Margolin costs of \$525.06 (#76 at page 2, lines 2-5). NASA's assertion is hardly credible.

4
5 **1.** The fee for filing a Notice of Appeal is \$455.00 which is approximately 87% of the judgment.
6 And unless NASA's Counsel works for free, her time is probably worth more than the remaining
7 \$70.06.

8 **2.** The amount of the Court's award of costs is discretionary. Thus, if NASA had appealed the
9 Court's award it is unlikely that NASA's appeal would have been successful.

10
11 Therefore, NASA's delay is dilatory.

12
13 **B.** NASA asserts that they "intend" to pay Margolin and that they "anticipate" that they will pay
14 him in March 2012. Intentions are not promises. Intentions may change at any time based on
15 events such as "The dog ate my homework." Anticipation is the poor stepchild of Intention.
16 Intention is "The dog ate my homework". Anticipation is "I forgot."

17
18 Therefore, NASA has not even promised to pay Margolin.

19
20 **C.** NASA's Counsel asserts in her Declaration that "It generally takes about eight weeks,
21 however, to process a judgment for payment." (Vance Declaration ¶ 5) Unless NASA's Counsel
22 is also NASA's bookkeeper she is not in a position to personally know how long it takes NASA
23 to process a judgment for payment. If NASA's Counsel obtained this information from a NASA

1 employee she should have named the NASA employee and submitted a Declaration from
2 him/her.

3

4 **D.** NASA had the opportunity to inform Margolin of their intention to pay him in response to his
5 January 6, 2012 email to them (Exhibit 1 and Margolin Declaration ¶¶ 2-7). However, NASA
6 ignored his email (Margolin Declaration ¶ 8). That shows malice.

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8 **E.** NASA has failed to acknowledge the interest they owe Margolin on their delayed payment.

9

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Conclusion

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For the foregoing reasons Margolin respectfully requests that the Court grant him his
Motion to Compel NASA to disclose their assets in the State of Nevada. As an alternative the
Court may consider ordering NASA to file a Declaration by April 1, 2012 stating that NASA has
paid Margolin the Court's judgment (#73) of \$525.06 plus interest from November 4, 2011 and
that Margolin has actually received the payment.

16

Respectfully submitted,

17

/Jed Margolin/

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Jed Margolin, plaintiff pro se
1981 Empire Rd.
VC Highlands, NV 89521-7430
775-847-7845
jm@jmargin.com

Dated: February 25, 2012

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that service of the foregoing REPLY TO NASA'S RESPONSE (#76) TO MARGOLIN'S MOTION TO COMPEL (#74) has been made by electronic notification through the Court's electronic filing system on February 25, 2012.

/Jed Margolin/

Jed Margolin

Exhibit 1

Exhibit 1

Jed Margolin

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) 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

* * *

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 (#64¹). 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

¹Refers to the court’s docket entry number.

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of costs is otherwise unopposed.

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

IT IS SO ORDERED.

DATED this 3rd day of November, 2011.



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE



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[Christopher Horner discusses his **NASA FOIA** requests and **lawsuit** ...](#)www.youtube.com/watch?v=TGUGU9AV0fg

Dec 6, 2009 - 4 min - Uploaded by daemonesk

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

[More videos for **nasa foia lawsuit** »](#)[FOIA Suit Seeks **NASA's** Global Warming Data - ...](#)legaltimes.typepad.com/.../foia-suit-seeks-nasas-global-warming-data...May 27, 2010 – **NASA** has been slapped with a Freedom of Information Act **lawsuit** alleging that the agency has tried to cover up mistakes in data that have ...[nasa lawsuit](#)www.jmargolin.com/nasa/nasa.htmJump to [April 23, 2010 - I received **NASA's** denial of my second FOIA request ...](#): Appendix for **NASA** Appeal for Second **FOIA** ...

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.pdfFile 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.htmlJun 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...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-complaintMay 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 > [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

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

[More results from godlikeproductions.com »](#)

[It Took A Lawsuit To Fet This Footage From NAS...](#)camelotforum.com/index.php?option=com_kunena...id...

2 posts - 2 authors

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

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Exhibit 2

Exhibit 2

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

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

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.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

JED MARGOLIN,

Plaintiff,

vs.

NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION,

Defendant.

Case No. 3:09-cv-00421-LRH-(VPC)

DECLARATION OF JED MARGOLIN

I, Jed Margolin, declare as follows:

1. I am the plaintiff in this case.

2. Exhibit 1 is an accurate reproduction of the email and attachments I sent to various people and entities at NASA on January 6, 2012. Exhibit 1 (pages 10-11) is an accurate reproduction of the results of a Google search I did on January 6, 2012 using the search terms: **nasa foia lawsuit**.

3. I sent the email 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

1 LARC-DL-foia@mail.nasa.gov

2 michael.c.wholley@nasa.gov

3 lori.garver@nasa.gov

4
5 **4.** Paul K. Martin is listed on NASA's Web site as NASA's Inspector General. Michael C.
6 Wholley is listed on NASA's Web site as NASA's General Counsel. Lori Garver is listed on
7 NASA's Web site as NASA's Deputy Administrator.

8
9 **5.** I sent the email using the "Request Read Receipt" feature of Windows Mail.

10
11 **6.** Exhibit 2 is an accurate reproduction of the Read Receipts I received from:

12 miriam.m.brownlam@nasa.gov

13 bob.jacobs@nasa.gov

14 david.s.weaver@nasa.gov

15 Paul.K.Martin@nasa.gov

16
17 **7.** I received no other Read Receipts from the Recipient list in my email.

18
19 **8.** Other than the Read Receipts listed above, I received no response from NASA to my email of
20 January 6, 2012.

21
22 I hereby declare under the penalty of perjury that the foregoing is true and correct to the best of
23 my knowledge and belief.

24
25 Dated: 2-25-2012



Jed Margolin