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7  
8  
9

10 UNITED STATES DISTRICT COURT  
11 DISTRICT OF NEVADA  
12

JED MARGOLIN,

Plaintiff,

vs.

NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION,

Defendant.

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

)  
) REPLY TO NASA’S STATUS REPORT (#81)  
)  
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)  
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)  
)  
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)  
)

13  
14

15 Comes now Plaintiff, Jed Margolin (“Margolin”), appearing pro se, and files his Reply to  
16 NASA’s Status Report (#81). NASA asserts that their failure to pay Margolin is due to  
17 Margolin’s alleged failure to provide NASA with his Social Security Number. NASA’s  
18 Courtney Graham (Associate General Counsel for Commercial and Intellectual Property Law in  
19 the Office of General Counsel of NASA) also asserts that she did not know until early January  
20 that the judgment had to be paid from NASA agency funds instead of from the Judgment Fund.  
21

1 Argument

2 A. NASA asserts that their failure to pay Margolin is due to Margolin’s alleged failure to  
3 provide NASA with his Social Security Number. They assert that:

4 On March 1, 2012, NASA requested that Plaintiff provide his social security number so that  
5 NASA could pay him electronically. (Graham Dec, ¶¶ 4-5; Ex A)  
6

7 Margolin received a telephone message on March 1, 2012 from someone identifying herself as  
8 “Judy with the U.S. Attorney’s Office in Reno Nevada.” The following is an attempt to  
9 transcribe the material parts of the message. The full message is being submitted as Exhibit 1 as  
10 an mp3 file so that the Court can hear the message for itself. The following is from “Judy’s”  
11 message.

12 In order for us to make payment, ah, to you our [stumbles a little] budget office needs to have  
13 your, ah, social security number. It’s a requirement. Everybody has to, whenever we make a  
14 judgment payment out, it’s part of the protocol. I’m sorry [indistinct] it may be, seem to be an  
15 invasion of privacy but that’s what they need.  
16

17 {Emphasis added}

18 Then she asks Margolin to call her in the morning and she gives a telephone number.

19  
20 1. The message from the person identifying herself as “Judy” clearly says that she is calling  
21 from the U.S. Attorney’s Office and that it is the U.S. Attorney’ Office budget office who  
22 proposes to pay Margolin. This was a red flag for Margolin because he knew that the law  
23 requires that the judgment be paid by NASA, not by the Department of Justice. Therefore, it was  
24 reasonable for Margolin to believe that the message was from someone pretending to be from the  
25 U.S. Attorney’s Office in an attempt to obtain Margolin’s social security number. This practice is  
26 called “pretexting”. Pretexting is generally defined as obtaining sensitive or personal

1 information through impersonation or other deception, and is generally a crime. Anyone could  
2 have used Pacer to obtain the information that “Judy” had about the case and about Holly Vance  
3 being the person in the U.S. Attorney’s Office handling the case. They could also have gotten the  
4 information from Margolin’s Web site, where he has been blogging the case.

5 In the early morning hours of March 2, 2012 Margolin sent an email to NASA’s Counsel  
6 (Assistant U.S. Attorney Holly A. Vance) and her boss (U.S. Attorney Daniel Bogden). He sent  
7 it with the Windows Mail function “Request Read Receipt.” He received a Read Receipt from  
8 Mr. Bodgen but not from Ms. Vance. NASA has poorly reproduced Margolin’s email so he is  
9 reproducing it here as Exhibit 2 at 16.

10 Margolin received no response to his email, which further confirmed to him that the  
11 message from “Judy” was an attempt at pretexting.

12 Pretexting is a serious problem. This Court has even posted a warning on its own Web  
13 site titled **Identity Thieves Targeting Jury.**

14 A new identity theft scam is being perpetrated on unsuspecting victims.

15

16 In this scam, the scammer calls the residence or office number of the victim and identifies  
17 themselves as an officer or employee of the local court of jurisdiction. The scammer  
18 announces to the victim, that he/she has failed to report for jury duty, and that a bench  
19 warrant was issued against them for their arrest.

20 .

21 .

22 .

23

24 Any reluctance on the victim's part and the scammer will threaten that the failure to provide  
25 the information will result in an immediate execution of the arrest warrant. The scammer  
26 obtains names, social security numbers, dates of birth, and will solicit credit card or bank  
27 account numbers claiming these will be used by their credit bureau to "verify" the victim's  
28 identity.

29 .

30 .

31 .

1 Any person receiving such calls should record the scammer's phone number (if Caller ID is  
2 available) and immediately report the contact to law enforcement officials.

3  
4 The above is a good example of pretexting. It is a serious problem but, as Margolin has  
5 discovered, the U.S. Attorney ignores reports of attempted identity theft. The Court's warning  
6 can be found at <http://www.nvd.uscourts.gov/IdentityTheft.aspx> and is reproduced here as  
7 Exhibit 3 at 20.

8 NASA has characterized Margolin's March 2 email solely as a refusal to provide his  
9 social security number and failed to address the other parts such as his concern that the telephone  
10 message had been an attempt at pretexting.

11  
12 **2.** Margolin's March 2 email to the U.S. Attorney contained two attachments in addition to the  
13 mp3 of the telephone message from "Judy." By an interesting coincidence Margolin had also  
14 received a message on March 1 from the Storey County telephone alert system. The message was  
15 from Storey County Sheriff Gerald Antinoro advising that Storey County residents have been  
16 receiving telephone calls from people saying, in effect, that one of their relatives has been  
17 imprisoned in a foreign country and needs money right away. An mp3 of Sheriff Antinoro's  
18 message is reproduced here as Exhibit 4.

19 **3.** The third attachment to Margolin's March 2 email is a reproduction of the results of a Google  
20 search using the terms: **nasa foia lawsuit**. It is reproduced here as Exhibit 5 at 24. Margolin  
21 noted that:

22 (Note that, today, a Google search using the terms: **nasa foia lawsuit** produces  
23 approximately 200,000 hits and that my article/blog ranks #2 and #3. People are obviously  
24 interested in my article/blog. See attached file.)  
25

1 What does this Google search mean? From [http://www.googleguide.com/google\\_works.html](http://www.googleguide.com/google_works.html), the  
2 essence is that Google has three distinct parts:

- 3 • Googlebot, a web crawler that finds and fetches web pages.
- 4 • The indexer that sorts every word on every page and stores the resulting index of words  
5 in a huge database.
- 6 • The query processor, which compares your search query to the index and recommends  
7 the documents that it considers most relevant.

8  
9 Google has huge server farms and sends its bots (robot programs) to every nook and cranny of  
10 the Internet and indexes every word on every page. When Google did that they found the search  
11 terms **nasa foia lawsuit** on approximately 200,000 web pages. Google further determined that on  
12 March 1 Margolin's article/blog **on this very case** ranked #2 and #3 in relevance.

13 The reason Margolin brought this to NASA's attention was in hopes that, if they knew  
14 that the whole world was watching, they would act decently for a change. They didn't, as is  
15 evident in their Status Report (#81).

16 Google results are very fluid and can change rapidly. In the results of a Google search on  
17 May 31, 2012 for the same search terms (**nasa foia lawsuit**) Margolin's article/blog had dropped  
18 to #4 and #5 from #2 and #3. However, whereas on March 1 the search produced only 200,000  
19 hits, on April 31 the same search produced approximately 1,750,000 hits. See Exhibit 6 at 27.

20 The search terms **nasa foia lawsuit** are very generic. That there are 1,750,000 Web pages  
21 on the subject indicates a great deal of public interest in it. That Margolin's article/blog ranks #4  
22 and #5 on Google's hit list shows that there is a great deal of public interest in this very case.  
23 Indeed, the whole world is watching. And NASA doesn't care how mean, nasty, and dirty they  
24 look.

25

1 **4.** Therefore, although NASA's Status Report (#81) characterizes the Margolin March 2 email  
2 solely as Margolin's refusal to give NASA his social security number, Margolin did not refuse to  
3 give NASA his Social Security Number, he refused to give it to someone claiming to be from the  
4 U.S. Attorney's Office. The U.S. Attorney's Office is not NASA and, because the law says that  
5 NASA is required to pay him, if Margolin had accepted payment from the U.S. Attorney's Office  
6 it would make him a party to the U.S. Attorney's malfeasance.

7  
8 **B.** Margolin wishes to revisit NASA's statement:

9 On March 1, 2012, NASA requested that Plaintiff provide his social security number so that  
10 NASA could pay him electronically. (Graham Dec, ¶¶ 4-5; Ex A).

11  
12 The Graham Declaration actually says:

13  
14 4. 31 CFR Part 208 requires that awards by an agency be paid electronically. In accordance  
15 with that requirement, I attempted to obtain Mr. Margolin's address and electronic funds  
16 transfer ("EFT") information, I also sought to obtain his Taxpayer Identification Number  
17 ("TIN") or Social Security Number ("SSN") to support the issuance of IRS Form 1099-  
18 MISC for the amount of the award, as required by IRS rules.

19  
20 5. Mr. Margolin declined, however, to provide his social security number. Attached as  
21 Exhibit A is a true and correct copy of Mr. Margolin's e-mail in which he refuses to provide  
22 his social security number to NASA.

23  
24 Margolin responds:

25 Ms. Graham says she "attempted to obtain Mr. Margolin's address and electronic funds transfer  
26 ("EFT") information..."

27 **1.** 31 CFR Part 208 contains a large number of exemptions to the rule that payments by a  
28 Federal agency be made by electronic funds transfer. One of them (under § 208.4 **Waivers**) is:

29 (6) Where the agency does not expect to make payments to the same recipient within a one-  
30 year period on a regular, recurring basis and remittance data explaining the purpose of the  
31 payment is not readily available from the recipient's financial institution receiving the  
32 payment by electronic fundstransfer; and

1 This Freedom of Information Act lawsuit is now only a few months shy of three years old. Even  
2 if Margolin were to file another FOIA lawsuit next week it is unlikely that it would be concluded  
3 within a year's time or that it would be a regular occurrence.

4 **2.** There is no evidence that Ms. Graham did anything other than to ask Assistant U.S. Attorney  
5 Vance to obtain Margolin's information, and Ms. Vance turned it over to a confused subordinate.

6 **3.** Ms. Graham already had Margolin's address. It's listed on every motion in this case.

7 **4.** There is no way that Margolin could ever give his bank account information to Ms. Graham  
8 or to Assistant U.S. Attorney Vance. It would require a large amount of trust in their agencies  
9 and in them personally. This is a trust they have shown they are not worthy of. And NASA, as  
10 an agency, is monumentally incompetent and/or corrupt in its accounting practices. In March  
11 2010 Margolin wrote an article about NASA's accounting problems, reproduced here as Exhibit  
12 7 at 30. (This exhibit serves a dual function and will be referred to again shortly.)

13 **5.** Margolin was never told that his Social Security Number was needed in order to comply with  
14 IRS Rules. If this results in a problem with IRS this Court can expect another lawsuit by  
15 Margolin. It will be against NASA and DOJ as well as against Graham and Vance personally.  
16 (And Margolin will have representation this time.)

17  
18 **C.** Ms. Graham makes the statement in her Declaration (#81, Graham Dec, ¶ 2; Ex A):

19 2. In early January 2012, I learned that NASA was responsible for paying \$525.06 in costs  
20 to Plaintiff Jed Margolin in *Margolin v. NASA*, Case No, 3:09-CV-00421-LRH-VPC.

21  
22 This is an extraordinary admission.

23

1 The phrase “Ignorance of the Law is no excuse” is usually applied against non-attorneys. It  
2 applies even more to attorneys. According to the Martindale online directory, Courtney Bailey  
3 Graham is an attorney. See Exhibit 8 at 42.

4 In a Freedom of Information Act action, when the Plaintiff substantially prevails, the  
5 Defendant is taxed costs. The question of who pays (the Agency or the Judgment Fund) is  
6 material. (The “Openness Promotes Effectiveness in our National Government Act of 2007,”  
7 also referred to as the OPEN Government Act of 2007, requires agencies to pay attorney fees to a  
8 prevailing party from agency appropriations rather than the Judgment Fund, 31 U.S.C. 1304.)

9 Yet, Ms. Graham admits she didn’t know that until early January 2012. (Margolin  
10 explained it to NASA in an email dated January 6, 2012. It is reasonable to believe that is how  
11 Ms. Graham found out about it. See #78 at 6)

12 Ms. Graham has represented herself as having special expertise in matters pertaining to  
13 the Freedom of Information Act. Ms. Graham is the responsible employee whom NASA put in  
14 charge of responding to Margolin’s FOIA action. See #42-1 (Graham Declaration) ¶¶ 28-40. Ms.  
15 Graham has shown that her knowledge of Freedom of Information laws is deficient in a material  
16 matter.

17 And this Court gave Ms. Graham’s Declarations substantial deference, when she has now  
18 shown that she deserved none at all.

19 Assistant U.S. Attorney Vance’s conduct is even more inexcusable. Ms. Vance is an  
20 attorney with the Department of Justice. As such she has access to all of DOJ’s knowledge and  
21 experience in FOIA cases. DOJ even has a Web page where, in some of the cases, the Plaintiff  
22 was awarded costs, such as in *Negley v. FBI*, No. 03-2126, 2011 WL 4793143 (D.D.C. Oct. 11,



1 2011) (Kessler, J.). and *Queen Anne's Conservation Assoc. v. Dep't of State*, No. 10-670, 2011  
2 WL 3426038 (D.D.C. Aug. 3, 2011). DOJ's Web page is reproduced here as Exhibit 9 at 44. It  
3 came from <http://www.justice.gov/oip/courtdecisions/costs.html>.

4 Ms. Vance had a duty to inform her client (NASA) that they (NASA) were required to  
5 pay the judgment from agency funds because the judgment would not be paid by the Judgment  
6 Fund. Ms. Vance failed in that duty. As a result she has wasted this Court's time, and Margolin's  
7 time, and has caused Margolin to incur additional expense.

8  
9 **D.** March came and went and April was nearing its end, and still Margolin had not been paid.  
10 Margolin realized that even if the Court granted Margolin's motion to compel NASA to disclose  
11 its assets in Nevada (#74) and NASA complied with the Court's Order it is unlikely that NASA  
12 has assets in the State of Nevada. If NASA does have assets in the State of Nevada, then given  
13 the deceit and obstructionist tactics they have practiced toward Margolin since May 2003, it is  
14 unlikely that NASA would admit to having assets in the State of Nevada. And finally, even if  
15 NASA does have assets in the State of Nevada and is willing to admit to having assets in the  
16 State of Nevada, then given NASA's pervasive and continuing accounting problems it is unlikely  
17 that NASA would be able to tell Margolin where its assets in the State of Nevada are. This where  
18 Exhibit 7 at 30 comes in again. Exhibit 7 is Margolin's March 2010 article **NASA's Continuing**  
19 **Lack of Accounting Controls.**

20 So, Margolin obtained a certified copy of the Judgment (#73) along with a **Clerk's**  
21 **Certification of the Judgment To Be Registered in another District** and filed it in U.S.  
22 District Court for the Middle District of Florida, where it has been assigned Case Number

1 6:12-mc-00047-JA-DAB. See Exhibit 10 at 52. Margolin also moved for a Writ of Execution.  
 2 See Exhibit 11 at 56. Margolin sent NASA's Counsel a copy of his Motion. Even though it  
 3 should be material to her Status Report she failed to mention it. Perhaps she forgot.

4 The reason that Margolin registered his Judgment in the Middle District of Florida is  
 5 because that is where the Kennedy Space Center is. The Space Shuttle Orbiter Atlantis is  
 6 believed to be currently located in Orbiter Processing Facility-1 (OPF-1) at the Kennedy Space  
 7 Center. While NASA might feel it can ignore with impunity an Order of the U.S. District Court  
 8 for the District of Nevada, it will not be able to ignore U.S. Marshals when they come to seize  
 9 the Orbiter Atlantis and sell it at public auction.

10 Margolin believes that by registering the Judgment in U.S. District Court for the Middle  
 11 District of Florida, it is properly the Middle District of Florida that now has jurisdiction over the  
 12 payment of the Judgment. Margolin welcomes the guidance of this Court in the matter.

13 Margolin has incurred additional costs in registering the Judgment in the Florida Court in  
 14 the amount of \$107.99. See Exhibit 12. There will likely be additional costs for the services of  
 15 the U.S. Marshals Service.

Mileage to and from Federal Building in Reno to obtain certified copy of Judgment: 42 miles at \$0.55/mile as per IRS = \$23.10	\$23.10
Cost of Certified Judgment and Clerk's Certification;	\$11.20
Mailing cost to U.S. District Court for the Middle District of Florida;	\$18.95
Mailing cost to serve Assistant U.S. Attorney Holly Vance.	\$ 1.70
Fee to Register the Judgment in the Middle District for Florida	\$46.00
Mileage to and from Post Office in Virginia City 12.8 miles at \$0.55/mile	\$ 7.04
Total	\$107.99

16

17

**Conclusion**

1 For the foregoing reasons Margolin respectfully requests that the Court:

- 2 1. Provide guidance on the issue of the jurisdiction of the Judgment;
- 3 2. Grant him his Motion requesting NASA be held in contempt;
- 4 3. Grant such other relief as the Court may deem fair and proper.

5

6

Respectfully submitted,

7

/Jed Margolin/

8

Jed Margolin, plaintiff pro se

9

1981 Empire Rd.

10

VC Highlands, NV 89521-7430

11

775-847-7845

12

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

13

14 Dated: June 2, 2012

1  
2  
3  
4  
5  
6  
7  
8

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that service of the foregoing REPLY TO NASA’S STATUS REPORT (#81) has been made by electronic notification through the Court's electronic filing system on June 2, 2012.

/Jed Margolin/

Jed Margolin

# Exhibit 1

# Exhibit 1

**Exhibit 1** is an mp3 file of the telephone message Margolin received on March 1, 2012 from someone purporting to be from the U.S. Attorney's Office.

## Exhibit 2

## Exhibit 2

**Jed Margolin**

---

**From:** "Jed Margolin" <jm@jmargolin.com>  
**To:** <Holly.A.Vance@usdoj.gov>  
**Cc:** <daniel.bogden@usdoj.gov>  
**Sent:** Friday, March 02, 2012 12:07 AM  
**Attach:** jm\_judy\_2012\_0301.mp3; jm\_sheriff\_2012\_0301.mp3; jm\_google\_2012\_0301.pdf  
**Subject:** Case: 3:09-cv-00421-LRH-VPC

Dear Ms. Vance.

I received a message today from someone identifying herself as "Judy with the U.S. Attorney's Office in Reno, NV."

In this message:

1. Judy referred to the money that NASA owes me (as a result of the judgment ordered by the Court) as "benefits."
2. She said that your agency's "Budget Office" requires my social security number in order for me to be paid.

Caller ID identified the call as "GSA 775-784-5047."

In Judy's message she asked me to call 775-784-5438.

I have attached an MP3 of the above message.

None of this makes sense because:

1. The Freedom of Information Act requires that this judgment be paid by Agency (NASA) appropriations, not by DOJ.
2. Judy did not know the exact amount, or that interest is due from November 4 to whenever I eventually get paid (if I ever do get paid).
3. Neither of the two telephone numbers is on your Web site.
4. There is no statutory authority for you to demand my social security number. And if you really wanted my social security number you could get it from the FBI.
5. The Court ordered NASA to pay me. The Court did not order me to provide anyone with my social security number.

By an interesting coincidence I also received a message today from the Storey County telephone alert system. The message was from Storey County Sheriff Gerald Antinoro advising that Storey County residents have been receiving telephone calls from people saying, in effect, that one of their relatives has been imprisoned in a foreign country and needs money right away. Sheriff Antinoro advises Storey County residents to investigate carefully before sending money or



giving out their credit card numbers.

I have attached an MP3 of Sheriff Antinoro's message.

That is why I believe that someone has read my article/blog at [www.jmargolin.com/nasa/nasa.htm](http://www.jmargolin.com/nasa/nasa.htm) and is using the information in an attempt to fraudulently obtain my social security number. I believe it is called fraud-by-wire and, in particular, "pretexting."

(Note that, today, a Google search using the terms: **nasa foia lawsuit** produces approximately 200,000 hits and that my article/blog ranks #2 and #3. People are obviously interested in my article/blog. See attached file.)

Since fraud-by-wire is a felony under 18 U.S.C. § 1343 I would like you to find out who this "Judy" person is and prosecute her to the fullest extent of the law.

And tell NASA to pay me.

Sincerely yours,

Jed Margolin

**Jed Margolin**

---

**From:** "Bogden, Daniel (USANV)" <Daniel.Bogden@usdoj.gov>  
**To:** "Jed Margolin" <jm@jmargolin.com>  
**Sent:** Friday, March 02, 2012 8:30 AM  
**Attach:** ATT00230.txt  
**Subject:** Read: Case: 3:09-cv-00421-LRH-VPC

Your message

To: Bogden, Daniel (USANV)  
Subject: Case: 3:09-cv-00421-LRH-VPC  
Sent: Thursday, March 01, 2012 11:07:07 PM (UTC-08:00) Pacific Time (US & Canada)

was read on Friday, March 02, 2012 7:29:26 AM (UTC-08:00) Pacific Time (US & Canada).

## Exhibit 3

## Exhibit 3

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

**Identity Thieves Targeting Jury**

A new identity theft scam is being perpetrated on unsuspecting victims.

In this scam, the scammer calls the residence or office number of the victim and identifies themselves as an officer or employee of the local court of jurisdiction. The scammer announces to the victim, that he/she has failed to report for jury duty, and that a bench warrant was issued against them for their arrest.

The victim's reaction is one of shock and surprise which places them at an immediate disadvantage, and much more susceptible to the scam. The victim will rightly deny knowledge of any such claim; that no jury duty notification was ever received.

The scammer shifts into high gear, reassuring the victim of the possibility this is all "just a misunderstanding" or "some sort of clerical error" that can be straightened out on the phone. All they need to do is "verify" their information with a few simple questions.

Any reluctance on the victim's part and the scammer will threaten that the failure to provide the information will result in an immediate execution of the arrest warrant. The scammer obtains names, social security numbers, dates of birth, and will solicit credit card or bank account numbers claiming these will be used by their credit bureau to "verify" the victim's identity.

Family members who receive these calls are especially vulnerable to coercion. Threats against the victim's career, should he/she be arrested and now have a criminal record, are frightening and persuasive.

Employees and their adult family members must be made aware of this threat to their personal information and identities. Legitimate court employees will never call to solicit information, and would send any official notification by standard mail delivery.

Any person receiving such calls should record the scammer's phone number (if Caller ID is available) and immediately report the contact to law enforcement officials.

James L. Dunlap  
Department Security Officer

---

## Exhibit 4

## Exhibit 4

**Exhibit 4** is an mp3 file of the telephone message Margolin received on March 1, 2012 from the Storey County telephone alert system. The message was from Storey County Sheriff Gerald Antinoro advising that Storey County residents have been receiving telephone calls from people saying, in effect, that one of their relatives has been imprisoned in a foreign country and needs money right away. Sheriff Antinoro advises Storey County residents to investigate carefully before sending money or giving out their credit card numbers.

## Exhibit 5

## Exhibit 5



nasa foia lawsuit

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

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Appendix - 24



[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 ...

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

Jun 22, 2011 – ATI **NASA** Hansen **FOIA lawsuit**.

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## Exhibit 6

## Exhibit 6

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#### [Christopher Horner discusses his NASA FOIA requests and lawsuit ...](#)



[www.youtube.com/watch?v=TGUGU9AV0fg](http://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 »](#)

#### [Climate Science FOI report: CEI and NASA: Lawsuit \(ongoing\)](#)

[climscifo.blogspot.com/2010/07/cei-and-nasa-lawsuit-ongoing.html](http://climscifo.blogspot.com/2010/07/cei-and-nasa-lawsuit-ongoing.html)

Jan 20, 2011 – After an appeal is denied, or a requester is still not satisfied with the response, a **lawsuit** for judicial review can be filed. **NASA** Complaint ...

#### [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 lawsuit](#)

[www.jmargolin.com/nasa/nasa.htm](http://www.jmargolin.com/nasa/nasa.htm)

Jump to [April 23, 2010 - I received NASA's denial of my second FOIA request ...](#):

Appendix for **NASA** Appeal for Second **FOIA** ...

[PDF] <http://www.google.com/search?q=NASA+FOIA+lawsuit&ie=utf-8...>

[www.jmargolin.com/nasa/refs/nasa\\_google\\_2011\\_0420.pdf](http://www.jmargolin.com/nasa/refs/nasa_google_2011_0420.pdf)

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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 ...

#### [NASA Moves to Quash FOIA Lawsuit, CEI Fights for Public Access ...](#)

[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 – Washington, D.C., November 4, 2010 — **NASA** continues to block the right of US citizens to gain access to tax-funded global warming research ...

#### [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 ...

#### [FOIA Suit Seeks NASA's Global Warming Data - The BLT: The Blog ...](#)

[legaltimes.typepad.com/.../foia-suit-seeks-nasas-global-warming-data...](http://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 ...

[With NASA administrator James Hansen being a MGW True ...](#)

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Dec 3, 2009 – With NASA administrator James Hansen being a MGW True Believer and Al Gore alter ego, and the **NASA FOIA lawsuit**? will NASA become a ...

[It Took A Lawsuit To Fet This Footage From NASA ; FOIA.](#)

[camelotforum.com/index.php?option=com\\_kunena...id...](#)

Jellyfish released from a science project and a satellite. Maybe some of the blood found in chemtrails is from the remains of science projects released from the ...

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## Exhibit 7

## Exhibit 7

**NASA's Continuing Lack of Accounting Controls**

Jed Margolin

**1.** In 2002 GAO assessed NASA's financial management system as inadequate, but NASA was working on a new financial management system (its third attempt) and expected it to be fully functional in 2008. It hasn't happened even though, for a time, NASA's administrator was an accountant (Sean O'Keefe - December 2001 to February 2005).

**Reference 1** - GAO Testimony Before the Committee on Science, Subcommittee on Space and Aeronautics, House of Representatives, NASA MANAGEMENT CHALLENGES, Human Capital and Other Critical Areas Need to be Addressed, Statement of David M. Walker, Comptroller General of the United States, July 18, 2002. <http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA404576&Location=U2&doc=GetTRDoc.pdf>  
{[Click here for Local Copy](#)}

From page 23 - page 24 (I have underlined what I think is important):

The inadequacy of NASA's financial management system has further impact. Without a more effective financial management system, NASA will likely continue to have difficulty providing relevant, reliable, timely financial data -including cost information- that can be used on a real-time basis by program managers to monitor costs, schedule, and performance. In March 2002, we testified<sup>9</sup> that NASA was unable to provide us with detailed support for amounts obligated against cost limits established by the fiscal year 2000 NASA Authorization Act. This was due, in large part, to NASA's lack of a modern, integrated financial management system.

To its credit, NASA is working toward implementing an integrated financial management system that it expects to be fully operational in fiscal year 2008 at an estimated cost of \$691 million. This is NASA's third attempt toward implementing a new integrated financial management system. The first two efforts were abandoned after 12 years and after spending a reported \$180 million. NASA's current approach focuses on learning from other organizations' successes in implementing similar projects, as opposed to revisiting its own failures. NASA has also abandoned the single product approach that the two prior attempts had as their basic architecture. Instead, the project will be broken down into implementable modules on the basis of the availability of proven software products.

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**2.** In January 2004, the independent auditor -PricewaterhouseCoopers- conducting NASA's audit pursuant to the Chief Financial Officers Act and under the direction of the Office of Inspector General, determined that it could not render an opinion on NASA's financial statements for FY 2003. The disclaimer resulted from NASA's inability to provide the auditor with sufficient evidence to support the financial statements and complete the audit within time frames the Office of Management and Budget established. The disclaimer on the FY 2003 financial statements followed an unqualified<sup>1</sup> FY 2002 audit opinion and a disclaimed audit opinion in FY 2001.

**Reference 2** - Testimony of NASA Inspector General, May 19, 2004  
<http://oig.nasa.gov/congressional/Testimony051904.pdf> {[Click here for Local Copy](#)}

**Before the Government Reform Subcommittee on Government Efficiency and Financial Management  
U.S. House of Representatives, May 19, 2004, NASA Financial Management Statement of The  
Appendix - 30**

**Honorable Robert W. Cobb, Inspector General National Aeronautics and Space Administration.**

From page 2:

**OVERALL SUMMARY**

In January 2004, the independent auditor—PricewaterhouseCoopers—conducting NASA’s audit pursuant to the Chief Financial Officers Act and under the direction of the Office of Inspector General, determined that it could not render an opinion on NASA’s financial statements for FY 2003. The disclaimer resulted from NASA’s inability to provide the auditor with sufficient evidence to support the financial statements and complete the audit within time frames the Office of Management and Budget established.

The disclaimer on the FY 2003 financial statements followed an unqualified<sup>1</sup>-FY 2002 audit opinion and a disclaimed audit opinion in FY 2001. The FY 2002 unqualified opinion was the consequence of a so-called “heroic” effort of the independent auditor PricewaterhouseCoopers. A heroic audit effort occurs where assurance on the financial statements is established through substantially expanded transaction testing rather than the auditor placing reliance on systems of internal control. Such a heroic effort was not possible in FY 2003 because of dependency on a new automated financial management system.

The reports that the independent auditor submitted identified instances of non-compliance with generally accepted accounting practices, material weaknesses in internal controls, and non-compliance with the Federal Financial Management Improvement Act. Many of the weaknesses the audit disclosed resulted from a lack of effective internal control procedures and problems with NASA’s conversion during FY 2003 from 10 separate systems to a new single integrated financial management program (IFMP).

Mr. Cobb’s testimony was in 2004.

An article in the Orlando Sentinel on November 20, 2006 by Michael Cabbage, Sentinel Space Editor, sheds some light on NASA’s accounting problems. Investigators from the Department of Housing and Urban Development were called in to conduct an inquiry into complaints made by career employees in Cobb’s own office. (I wonder why HUD conducted the investigation and not DOJ.)

From the Orlando Sentinel article:

According to the probe, the number of audit reports issued by Cobb's office plummeted from 62 in 2000 to seven during the first half of the 2006 fiscal year. An audit safety team was abolished. Investigations were derailed, witnesses said, including some related to safety and national security.

Investigators found that Cobb lunched, drank, played golf and traveled with former NASA Administrator Sean O’Keefe, another White House appointee. E-mails from Cobb showed he frequently consulted with top NASA officials on investigations, raising questions about his independence.

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Nicknamed "Moose," Cobb came to NASA in April 2002 after 15 months as an ethics lawyer in the Bush White House responsible for vetting financial-disclosure and conflict-of-interest issues for administration nominees who required Senate confirmation. He replaced Roberta Gross, a Clinton appointee, who had been in the job since 1995 and had earned a reputation on Capitol Hill as a competent, independent investigator.

The HUD report discusses Gross' departure from NASA.

Gross had contracted with the accounting firm Price Waterhouse Coopers to do NASA's chief financial audit, investigators wrote. After the White House tapped O'Keefe to succeed longtime NASA Administrator Dan Goldin in December 2001, O'Keefe told Gross he was unhappy with the audit. "Gross subsequently [was] asked to resign," the report said.

Cobb replaced Gross four months after O'Keefe's arrival and canceled the contract with Price Waterhouse Coopers.

HUD investigators heard testimony from other witnesses that suggested O'Keefe's and Cobb's association went beyond the traditional arm's-length relationship between agency heads and inspectors general. E-mail traffic between Cobb, O'Keefe and former NASA General Counsel Paul Pastorek indicated Cobb consulted with them on audits and investigations.

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In one case, Cobb was accused of squelching part of an audit related to the international space station program after conferring with Pastorek. The report notes that investigators found an e-mail where Pastorek wanted to discuss the audit and questioned its analysis and conclusions. Investigators wrote that auditors were told to remove all of the findings from one section, reducing four pages of findings in the draft report to one paragraph in the final version.

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According to witnesses in the HUD report, Cobb told his staff, as well as an outside group, that he had to do some "diving saves" to keep his auditors from embarrassing NASA.

See <http://www.orlandosentinel.com/news/space/orl-nasa-inspector-files7,0,3895863,full.story> {[Click here for Local Copy](#)}

Mr. Cobb protested his innocence.

Despite calls by Senator Jay Rockefeller (D-WV) and Senator Bill Nelson (D-FL) for Cobb to resign, he refused to do so until April 2009.

[http://commerce.senate.gov/public/index.cfm?p=PressRoom&ContentType\\_id=77eb43da-aa94-497d-a73f-5c951ff72372&Group\\_id=505cc3fa-a767-40f4-8ac2-4b8326b44e94&MonthDisplay=4&YearDisplay=2009](http://commerce.senate.gov/public/index.cfm?p=PressRoom&ContentType_id=77eb43da-aa94-497d-a73f-5c951ff72372&Group_id=505cc3fa-a767-40f4-8ac2-4b8326b44e94&MonthDisplay=4&YearDisplay=2009)

#### COMMERCE CHAIRMAN ROCKEFELLER'S STATEMENT ON RESIGNATION OF NASA INSPECTOR GENERAL ROBERT COBB

Jena Longo - Democratic Deputy Communications Director 202.224.7824  
Apr 02 2009

#### COMMERCE CHAIRMAN ROCKEFELLER'S STATEMENT ON RESIGNATION OF NASA INSPECTOR GENERAL ROBERT COBB

WASHINGTON, D.C. – Senator John D (Jay) Rockefeller IV (D-WV), Chairman of the U.S. Committee on Commerce, Science and Transportation, issued the following statement regarding the resignation of NASA



Inspector General Robert Cobb:

“Only a few short weeks ago, Senator McCaskill and I expressed deep concerns to President Obama that the NASA Inspector General, Robert Cobb, had been repeatedly accused of stifling investigations, retaliating against whistleblowers and prioritizing social relationships with top NASA officials over proper federal oversight. I respectfully asked that the President take immediate action to put an end to IG Cobb’s conflict of interest and cronyism and remove him from the system.

“News of Robert Cobb’s resignation is certainly welcome and this is an important step forward. I applaud the White House for taking a zero tolerance approach to lax enforcement and oversight. President Obama is setting the tone from the top and holding all employees who serve the American people accountable for improper conduct and just plain not doing their jobs. The time has come to close the door on this troubling chapter for NASA and a fresh start awaits.”

\*\*\**(SEE ATTACHED LETTER)*\*\*\*

###

If you want to know what it was like to work for Cobb see the Oral Statement made to the Oversight Review of the Investigation of the NASA Inspector General Mr. Robert W. Cobb by Lance G. Carrington , Former Assistant Inspector General for Investigations, NASA Office of Inspector General: <http://legislative.nasa.gov/hearings/2007%20hearings/6-7-07%20carrington.pdf> {*Click here for Local Copy*}

Here is more from the hearings: [http://www.agiweb.org/gap/legis110/nasa\\_hearings.html#june7](http://www.agiweb.org/gap/legis110/nasa_hearings.html#june7)

The reason for including this material here is because the problems Cobb reported in his testimony to Congress in 2004 were problems that he himself created or was complicit in creating.

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**3.** In 2008 NASA was unable to account for capital assets with an acquisition cost of about \$32 Billion (with a net value of about \$18.6 Billion). It was worse than that.

As part of its FY 2007 report on NASA’s financial statement, E&Y, in its “Report on Internal Control,” dated November 13, 2007, identified significant deficiencies that it considered to be material weaknesses under standards established by the American Institute of Certified Public Accountants. E&Y identified material weaknesses in NASA’s controls for financial systems, financial analyses, oversight used to prepare the financial statements, and processes for assuring that PP&E and materials are presented fairly in the financial statements. In addition, E&Y stated that NASA’s financial management systems are not substantially compliant with the Federal Financial Management Improvement Act (FFMIA) of 1996<sup>2</sup> noting that certain subsidiary systems, including all property systems, are not integrated with NASA’s Systems Applications and Products (SAP) Core Financial module. Core Financial—customized off-the-shelf software that serves as the backbone to the IEMP—is used to record accounting transactions including commitments, obligations, and expenditures and to produce NASA’s annual financial statements .

**Reference 3** - Report No. IG-08-032 - <http://oig.nasa.gov/audits/reports/FY08/IG-08-032.pdf> {*Click here for Local Copy*}

September 25, 2008

TO: Chief Financial Officer

Appendix - 33

Chief Information Officer  
Deputy to Chief Information Officer  
Director, Marshall Space Flight Center

FROM: Assistant Inspector General for Auditing

SUBJECT: Final Memorandum on NASA's Development of the Integrated Asset Management – Property, Plant, and Equipment Module to Provide Identified Benefits (Report No. IG-08-032; Assignment No. A-08-001-00)

From page 1:

The Office of Inspector General conducted an audit of NASA's Integrated Asset Management – Property, Plant, and Equipment (IAM/PP&E) module. A component of NASA's Integrated Enterprise Management Program (IEMP), the IAM/PP&E module is an automated asset-management system that performs two main functions: equipment management (logistics) and asset accounting (finance) and was designed to integrate logistics and financial processes to account for and facilitate management of NASA personal property.

From page 2:

#### Executive Summary

We found that NASA adequately defined the IAM/PP&E module project requirements to ensure the six benefits are achieved and that the achievement would be measurable. To determine that the project requirements were adequately defined, we verified that the requirements were crosswalked to each anticipated benefit; we verified that project personnel had reviewed the Federal financial system requirements and could trace the project requirements to the Federal requirements; and we reviewed the project's Performance Measurement Plan to verify that a performance measure could be tied to each of the six identified benefits. We determined that the IAM/PP&E module, as designed, and the corresponding changes in NASA's business processes and controls should help mitigate deficiencies reported as material weaknesses by Ernst and Young (E&Y), the independent public accounting firm that conducted the audit of NASA's financial statements for the past 4 years.

However, also from page 2:

We note, however, that the system's contribution to improved financial reporting may be limited by inaccurate data. NASA did not validate approximately 6,300 records of capital assets that have an acquisition value of \$32 billion (and a net value of approximately \$18.6 billion) prior to transferring the data into IAM/PP&E. In addition, NASA has not resolved an operating policy issue involving identifying purchases of controlled equipment, which could bear on the successful operations of the system. However, we did not conduct audit work to address the impact of these issues because E&Y plans to perform tests of the IAM/PP&E module and NASA's corresponding manual controls as part of the fiscal year (FY) 2008 financial statement audit. Accordingly, we made no recommendations for management action. We issued a draft of this memorandum on September 17, 2008, and provided NASA management an opportunity to comment on the draft, but comments were not required and no formal comments were received.

And, from page 2 - page 3

#### Background

As part of its FY 2007 report on NASA's financial statement, E&Y, in its "Report on Internal Control," dated

November 13, 2007, identified significant deficiencies that it considered to be material weaknesses under standards established by the American Institute of Certified Public Accountants. E&Y identified material weaknesses in NASA's controls for financial systems, financial analyses, oversight used to prepare the financial statements, and processes for assuring that PP&E and materials are presented fairly in the financial statements. In addition, E&Y stated that NASA's financial management systems are not substantially compliant with the Federal Financial Management Improvement Act (FFMIA) of 1996,<sup>2</sup> noting that certain subsidiary systems, including all property systems, are not integrated with NASA's Systems Applications and Products (SAP) Core Financial module. Core Financial—customized off-the-shelf software that serves as the backbone to the IEMP—is used to record accounting transactions including commitments, obligations, and expenditures and to produce NASA's annual financial statements.

Therefore, NASA's response to the criticism that it is not following the accounting procedures established by the American Institute of Certified Public Accountants was to **cook the books**.

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**4.** FY 2009 was not much better. From Acting Inspector General Thomas J. Howard:

“Although much progress has been made in developing policies, procedures, and controls to improve NASA's financial processes and systems, challenges remain. Specifically, during FY 2009, NASA management and Ernst & Young LLP (E&Y) continued to identify deficiencies in the Agency's system of internal control, which impair NASA's ability to timely report accurate financial information. The most severe deficiency involves NASA's internal control over legacy property, plant, and equipment (PP&E). As shown in the following table, this deficiency has been reported as a material weakness for several years.”

**Reference 4** - NASA 2009 Management Challenges <http://oig.nasa.gov/NASA2009ManagementChallenges.pdf>  
{[Click here for Local Copy](#)}

Cover Letter:

November 13, 2009

TO: Administrator

FROM: Acting Inspector General

SUBJECT: NASA's Most Serious Management and Performance Challenges

As required by the Reports Consolidation Act of 2000, this memorandum provides our views of the most serious management and performance challenges facing NASA and is to be included in the Agency's Performance and Accountability Report for fiscal year 2009.

In determining whether to report an issue as a challenge, we consider the significance of the issue in relation to the Agency's mission; its susceptibility to fraud, waste, and abuse; whether the underlying problems are systemic; and the Agency's progress in addressing the issue. We provided a draft copy of our views to Agency officials and considered all comments received.

Through various Agency initiatives and by implementing recommendations made by the Office of Inspector General (OIG) and other evaluative bodies, such as the Government Accountability Office, NASA is working to improve Agency programs and operations. However, challenges remain in the following areas:

- Transitioning from the Space Shuttle to the Next Generation of Space Vehicles
- Managing Risk to People, Equipment, and Mission
- Financial Management
- Acquisition and Contracting Processes
- Information Technology Security

During FY 2010, the OIG will continue to conduct work that focuses on NASA's efforts to meet these challenges as part of our overall mission to promote the economy and efficiency of the Agency and to root out fraud, waste, abuse, and mismanagement.

We hope that you find our views helpful. Please contact me if you have questions.

signed

Thomas J. Howard

From page 5 - page 6:

### Financial Management

Over the past year, NASA continued to make progress in improving its internal control over financial reporting by executing its Continuous Monitoring Program (CMP). The CMP assesses and evaluates internal controls, compliance with generally accepted accounting principles, and evidence used to support that balances and activity reported in NASA's financial statements are accurate and complete by requiring Centers to perform a set of control activities. Throughout FY 2009, the CMP has operated as designed. NASA has identified exceptions through the execution of the control activities and has generally tracked and resolved those exceptions in a timely manner.

Although much progress has been made in developing policies, procedures, and controls to improve NASA's financial processes and systems, challenges remain. Specifically, during FY 2009, NASA management and Ernst & Young LLP (E&Y) continued to identify deficiencies in the Agency's system of internal control, which impair NASA's ability to timely report accurate financial information. The most severe deficiency involves NASA's internal control over legacy property, plant, and equipment (PP&E). As shown in the following table, this deficiency has been reported as a material weakness for several years.

Internal Control Deficiencies						
Fiscal Year	2009	2008	2007	2006	2005	
Independent Public Accountant	E&Y	E&Y	E&Y	E&Y	E&Y	
Audit Opinion	Disclaimer	Disclaimer	Disclaimer	Disclaimer	Disclaimer	
Internal Control Deficiencies	Property, Plant, and Equipment	material weakness	material weakness	material weakness	material weakness	
	Financial Statement Preparation Process and Oversight	—	material weakness	material weakness	material weakness	
	Environmental Liability Estimation <sup>1</sup>	significant deficiency	—	—	—	reportable condition
	Federal Financial Management Improvement Act <sup>2</sup>	significant deficiency	—	—	—	—
	Fund Balance with Treasury	—	—	—	—	material weakness

<sup>1</sup>The deficiency cited for Environmental Liability Estimation was included in the Financial Statement Preparation Process and Oversight weakness for FYs 2006–2008.

<sup>2</sup>The deficiency cited for Federal Financial Management Improvement Act was included in the Financial Statement Preparation Process and Oversight weakness for FYs 2005–2008.

The following is especially important. From page 11:

Standards of Ethical Conduct Compliance. There is a great deal of interaction between NASA and the private sector, including both industry and academia. Again, given that approximately 90 percent of NASA's budget is dedicated to contracts and grants, there is great incentive for private sector interests to influence NASA employees. There is also substantial interaction between NASA's scientists and researchers and those working for non-governmental entities, and incentives abound for such acts as sharing information that is sensitive but unclassified. Many NASA employees often seek to pursue financial opportunities in the private sector beyond their Government employment. With the interchange of talented personnel between the public and private sectors, the advent of term appointments, the use of Intergovernmental Personnel Act appointments, and the use of contractors to meet personnel needs, management is challenged to ensure that ethics laws and regulations applicable to each category are identified and followed. It is imperative that NASA employees, as stewards of NASA's mission and budget, are aware of and comply with the applicable ethics laws and regulations.

However, Margolin filed a Freedom of Information Act Request on December 14, 2009. (See [Ref5\\_f2\\_01.pdf](#) and [Ref5\\_f2\\_01a.pdf](#)). One of his requests was

11. Please send me documents relating to a standard of ethics or conduct for NASA contractors.

NASA's tardy response to that item ([Ref6\\_jm\\_nasa\\_foia2\\_response.pdf](#)), received February 16, 2010 was:

Question #11: Procurement Information Circular 08-12 The Federal Acquisition Regulations has internal standards of conduct, which is responsive to your request.

<http://www.hq.nasa.gov/office/procurement/regs/pic08-12.html>

The link to Federal Acquisition Regulations produces an interesting document ([Ref7\\_08-12.pdf](#)):

December 22, 2008

#### CONTRACTOR ETHICS

**PURPOSE:** This Procurement Information Circular (PIC) is issued to call attention to the new contractor ethics requirements and to advise acquisition personnel of their roles and responsibilities in implementing the programs and processing reports of violations under the program.

**BACKGROUND:** Over the past year, two significant FAR rules related to contractor ethics have been issued. In November of 2007, the FAR was revised to require contractors to establish a written code of business ethics and conduct. Furthermore, on December 12, 2008, the Contractor Business Ethics Compliance Program and Disclosure Requirements went into effect, requiring contractors to report criminal violations and overpayments.

Under the fist{sic} rule, contractors are required to:

- Establish a written code of business ethics (FAR 52.203-13)
- Establish an internal control system that facilitates timely discovery of improper conduct in connection with Government contracts and ensures that corrective action is taken.

- Train their employees in business ethics; promote business ethics awareness

The second rule builds upon the first by additionally requiring contractors to:

- Timely disclose any violations of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or a violation of the civil False Claims Act (31 U.S.C. 3729-3733) to the Agency Office of the Inspector General, with a copy to the contracting officer.
- Timely disclose and remit any significant overpayments made by the Government.

Therefore:

1. Contractors have to agree to disclose any violations of specified Federal criminal laws that they commit.
2. Contractors have to come up with their own written code of business ethics.

If NASA requires (allows) Contractors to write their own business ethics code, and there is no standard for judging the adequacy of the Contractor's ethics code, then NASA does not have a business ethics code for its Contractors.

[Reference 4](#) (NASA 2009 Management Challenges) refers to a Standards of Ethical Conduct Compliance for NASA employees. However, NASA employees are working with Contractors who set their own code of ethics.

**5.** As of February 2010 NASA has still failed to get its financial house in order. NASA's auditor refused to sign-off on its latest audit.

**Reference 8** - GAO United States Government Accountability Office Testimony Before the Subcommittee on Space and Aeronautics, Committee on Science and Technology, House of Representatives - **NASA Key Management and Program Challenges**, Statement of Cristina Chaplain, Director Acquisition and Sourcing Management, February 3, 2010 - <http://legislative.nasa.gov/hearings/2-3-10%20CHAPLAIN.pdf> {[Click here for Local Copy](#)}

From page 7:

NASA has continually struggled to put its financial house in order. GAO and others have reported for years on these efforts.<sup>7</sup> In fact, GAO has made a number of recommendations to address NASA's financial management challenges. Moreover, the NASA Inspector General has identified financial management as one of NASA's most serious challenges. In a November 2008 report, the Inspector General found continuing weaknesses in NASA's financial management process and systems, including internal controls over property accounting. It noted that these deficiencies have resulted in disclaimed audits of NASA's financial statements since fiscal year 2003. The disclaimers were largely attributed to data integrity issues and poor internal controls. NASA has made progress in addressing some of these issues, but the recent disclaimer on the fiscal year 2009 audit shows that more work needs to be done.

Here is footnote 7:

<sup>7</sup> GAO, Property Management: NASA's Goal of Increasing Equipment Reutilization May Fall Short without Further Efforts, GAO-09-187 (Washington, D.C.: Jan. 30, 2009); GAO; Business Modernization: NASA Must Consider Agencywide Needs to Reap the Full Benefits of Its Enterprise Management System Modernization Effort, GAO-07-691 (Washington, D.C.: July 20, 2007); and GAO, Financial Management Systems: Additional Efforts Needed to Address Key Causes of Modernization Failures, GAO-06-184 (Washington, D.C.: Mar. 15, 2006).

**6.** NASA Administrator Bolden found it necessary to issue a centerwide communication ordering all NASA personnel to cooperate with OIG investigations and audits.

**Reference 9** - This is from SpaceRef: <http://www.spaceref.com/news/viewsr.rss.html?pid=33246>  
Although the article gives a link to the NASA HQ web site General Bolden's announcement does not seem to be there.

Message from Administrator Charles F. Bolden, Jr. - January 14, 2010 Transparency, Communication and Cooperation

STATUS REPORT

Date Released: Thursday, January 14, 2010

Source: [NASA HQ](#)

Subject: Message from Administrator Charles F. Bolden, Jr. - January 14, 2010 Transparency, Communication and Cooperation

From: Centerwide Announcement

Date: Thursday, January 14, 2010

Message from Administrator Charles F. Bolden, Jr. - January 14, 2010 Transparency, Communication and Cooperation

President Obama has made it clear that he is committed to a more transparent and responsive Federal Government. I believe that NASA should be a leader in implementing that goal. Accordingly, whether we are referring to the Agency's treatment of requests under the Freedom of Information Act, answering questions from Congress or cooperating with our Inspector General in Agency audits or investigations, I expect that we will respond both promptly and thoroughly.

As I know you realize and I hope you appreciate, the NASA Office of Inspector General (OIG) performs a valuable function at the Agency with both its audits and its investigations. I fully support the OIG's efforts to eradicate fraud, waste and abuse, as well as its role in making the Agency more efficient and more effective. While cooperation with OIG audits and investigations is mandated by Federal laws and regulations, NASA employees should readily and fully cooperate whenever an OIG representative seeks access to personnel, facilities, records, reports, databases, or documents because it is the right thing to do. Leadership should also ensure that no unduly burdensome requirements are imposed on OIG auditors or investigators carrying out their important duties. We also need to understand that while OIG personnel generally will state the reason for their requests, they are under no obligation to do so and sometimes cannot do so.

The OIG also serves as the point of contact for NASA employees to report possible criminal activity, fraud, waste, abuse and mismanagement involving Agency funds or employees.

As we begin this new decade, let's renew our commitment to strengthening NASA's traditional values of openness, honesty and transparency.

With best regards for the New Year,

Charles F. Bolden, Jr.

---

Let's see if General Bolden and Deputy Administrator Garver can get NASA's house in order.

Jed Margolin  
Virginia City Highlands, NV  
March 7, 2010



## Exhibit 8

## Exhibit 8

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Courtney Bailey Graham

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## Exhibit 9

## Exhibit 9

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## COURT DECISIONS



### COSTS

Morley v. CIA, No. 03-2545, 2011 WL 6257183 (D.D.C. Dec. 14, 2011) (Leon, J.). Holding: Denying plaintiff's request for attorney's fees and costs on the basis that he does not satisfy the entitlement factors. As a preliminary matter, the court indicates that "[t]he CIA does not contest whether [plaintiff] is eligible to receive attorney's fees," but instead focuses on the entitlement factors. The court denies plaintiff's motion for attorney's fees and costs, concluding that he is not entitled to such an award. In terms of the public benefit, the court determines that "[w]hile the Kennedy assassination is surely a matter of public interest, . . . this litigation has yielded little, if any, public *benefit*— certainly an insufficient amount to support an award of attorney's fees." The court notes that, in response to a remand from the D.C. Circuit, the CIA released the personnel records of the particular CIA officer but finds that, contrary to plaintiff's contention, "[t]his litigation did not . . . lead to the publication of Kennedy-assassination documents." Additionally, "the Kennedy-assassination documents obtained by [plaintiff] through this FOIA litigation are *identical* to documents which were previously released under the President John F. Kennedy Assassination Records Act of 1992 . . . to NARA and were already in the public domain." Accordingly, the court concludes that plaintiff "cannot claim that any of this information 'add[s] to the fund of information that citizens may use in making vital political choices.'" Moreover, the court discounts plaintiff's argument that his use of the "FOIA to sidestep" the copying costs imposed by NARA and "to compel the CIA to search these records" conferred a benefit to the public. Rather, the court finds that "prior to filing this case, 'the public had the benefit of access to all or most of this information'" and, additionally, plaintiff "has already himself benefited by avoiding the copying costs." The court also concludes that "[e]ven if the majority of the documents [plaintiff] received had not been previously public, [his] claims about the supposed public benefit of the documents produced in this litigation are unconvincing as based on nothing more than his own conclusory opinions and factually inaccurate statements." Moreover, the court notes that plaintiff's contention that he should be awarded "attorney's fees based on the documents *withheld* by CIA" undercuts his claim because "those documents were properly withheld under FOIA."

As to the commercial benefit and the nature of plaintiff's interest in the documents, the court concludes that plaintiff "has a sufficient private interest in pursuing these records without attorney's fees" where he "had an interest in obtaining the NARA records 'from the CIA at little or no charge under FOIA' to avoid expending his own time and money to obtain the documents from NARA." With respect to the reasonableness of the CIA's original withholding, the court determines that this "factor also weighs against an award of attorney's fees" because "[t]he CIA has not only relied on reasonable legal interpretations but also acted reasonably throughout this case" by directing plaintiff "to the logical repository of such records – NARA," by asserting the Glomar response in connection with a CIA officer's supposed covert activities, and "for initially contesting [plaintiff's] request to search its operational files." Moreover, although the D.C. Circuit ruled against the CIA as to the last point, "[that] court noted that the CIA relied on the 'only opinion by a circuit court of appeals' to address the relevant FOIA exemption under the CIA Act." Furthermore, the court finds that "there is no indication in the record that the CIA has engaged in any recalcitrant or obdurate behavior."

Citizens for Resp. & Ethics in Wash. v. DOJ, No. 10-750 (D.D.C. Dec. 8, 2011) (Boasberg, J.). Holding: Granting defendant's motion to enter judgment and reducing plaintiff's fee award to \$7,158.13, the amount recovered for work completed before the government's Rule 68 Offer of Judgment. The court grants defendant's motion to enter judgment and reduces plaintiff's attorney fee award on the basis that it "may not recover any attorney fees or costs incurred following its rejection of the Government's Rule 68 Offer of Judgment" where "the amount that [plaintiff] ultimately recovered for its pre-Offer work was less than the amount in the Offer." Rule 68 provides that "[i]f the judgment that the offeree finally obtains is not more favorable than the unaccepted offer, the offeree must pay the costs incurred after the offer was made." First, citing the Supreme Court's decision in *Marek v. Chesny*, the court finds attorney fees are included in the term "costs" under Rule 68. Second, the court determines that the text of the FOIA itself "clearly appears to include 'attorney fees' as one type of 'litigation costs.'" The court observes that "the thrust of Rule 68 [is that] a party who recovers less than it was offered must bear the expense of its erroneous choice." Accordingly, the court reduces the judgment amount to \$7,158.13.

Citizens for Resp. & Ethics in Wash. v. DOJ, No. 10-750, 2011 WL 5830746 (D.D.C. Nov. 21, 2011) (Boasberg, J.). Holding: Awarding plaintiff costs and fees in the amount of \$12,417.50, reducing plaintiff's requested fee award by 37.5

percent to account for any inaccuracies and overbilling that may have been caused by deficient timekeeping practices, and deducting from the award the time spent reviewing the responsive records. The court finds that "[w]hile [plaintiff's] counsel did keep some contemporaneous records, their timekeeping practices fell significantly below what is expected of fee applicants in this Circuit." Although plaintiff "offers no real excuse for its inadequate timekeeping habits," "[t]he Court, nevertheless, does not find a complete disallowance of fees to be warranted – the records here are not so deficient as to prevent opposing counsel or the Court from 'mak[ing] an informed determination as to the merits of the application.'" However, the court reduces plaintiff's fee award "to account for any inaccuracies and overbilling that may have occurred as a result of its unacceptable timekeeping habits." Accordingly, the court concludes that "Defendant's suggestion of a 37.5% reduction is reasonable," which "is based on splitting the 75% difference between billing in quarter-hour versus full-hour increments."

Additionally, the court concludes that plaintiff "should not recover the \$3,325 it claims for reviewing" the records received in response to the FOIA request and the draft *Vaughn* Index. The court comments that "Plaintiff would have had to expend this time had DOJ timely produced the documents without litigation; the cost of reviewing documents produced in response to a FOIA request is simply the price of making such a request." Although the court notes that "courts in this District have concluded that awards of 'fees on fees' should be reduced to exclude the amount of time spent unsuccessfully defending fee requests denied by the court," here, "[b]ecause [plaintiff] prevailed on the major issues raised in the Motion for Attorney Fees – namely, the questions of whether [plaintiff] was eligible for and entitled to fees in the first place – very little of the time expended on fee issues related to the issues on which it did not prevail."

Negley v. FBI, No. 03-2126, 2011 WL 4793143 (D.D.C. Oct. 11, 2011) (Kessler, J.). Holding: Granting plaintiff's motion for an award of attorney's fees; and directing parties to provide additional information in order for the court to determine the proper amount of attorneys' fees as well as attorneys' fees based on the preparation of the fee petition. The court grants plaintiff's motion for an award of attorneys' fees. At the outset, the court notes that the FBI has conceded that plaintiff has "substantially prevailed" with respect to records produced in response a prior opinion by the court. As to FOIA's entitlement factors for fee awards, the court notes that the "first factor 'requires consideration of both the effect of the litigation for which fees are requested and the potential public value of the information sought.'" Under the first factor, the court finds that "[p]laintiff fails to explain or offer any evidence that the documents that he sought about himself and/or his company would in any way 'add to the fund of information that citizens may use in making vital political choices.'" Indeed, plaintiff "does not even discuss the nature of the documents that he has sought and received." However, the court agrees with plaintiff that the public has benefited from the this case, because "this litigation has produced 'extraordinary information regarding how the FBI maintains its records and the baseline methods by which it will search for and respond to FOIA requests, unless a FOIA requester has information to demand otherwise.'" The court finds that "[t]his information is indeed 'valuable' for future FOIA requesters and litigants." Noting that this is the first FOIA attorneys' fees case to "address this anomaly," the court concludes that "[w]hile the disclosures may not be in the traditional form of a document, the information made public in this case resulting from [plaintiff's] FOIA request and subsequent litigation, will enable citizens to more effectively and knowledgeably use the FOIA to obtain information to which they are entitled," and therefore "the public has derived great benefit from the litigation in this case."

With respect to the commercial benefit to plaintiff and the nature of his interest in the records, the court concludes that "given the sparseness of the record and the purely commercial and personal interest of the Plaintiff, factors two and three do not weigh in favor of awarding him attorneys' fees." As to the fourth factor, *i.e.*, the reasonableness of the agency's withholdings, the court notes that it "has made ample findings [in this case] demonstrating Defendant's failure to carry its burden of proving that it had a colorable or reasonable basis for refusing to disclose documents and conduct certain searches." The court concludes that "[t]he FBI's conduct 'was exactly the kind of behavior the fee provision was enacted to combat'" and, accordingly, "the fourth factor weighs in favor of awarding Plaintiff his attorneys' fees and costs." In terms of the amount of attorneys' fees to which plaintiff is entitled, the court orders the parties to make additional submissions to explain their positions and notes that the "[p]arties should be aware that the Court will award attorneys' fees based upon the applicable *Laffey* Matrix rates for any given year." With respect to plaintiff's supplemental request for attorneys' fees based upon the work related to the instant fee petition, the court reduces the figure for billing that is insufficiently detailed. The court directs plaintiff "to submit an explanation for the amount of time devoted to settlement discussions" and finds that the amount of time must be deducted. The court also reduces the final award figure by twenty percent for excessive time spent on drafting the motion for attorneys' fees.

Pinson v. Lappin, No. 10-1844, 2011 WL 3806160 (D.D.C. Aug. 30, 2011) (Howell, J.). Holding: Granting defendant's motion for summary judgment on the basis of its withholdings under Exemption 6; denying plaintiff's claim for declaratory relief; and granting plaintiff's motion for an award of costs. The court grants plaintiff's motion for an award of costs incurred in litigating the instant action, consisting of his postage, copying fees, and partial court filing fee. First, the court finds that "[p]laintiff is eligible for an award of costs because the BOP released the requested records after the filing of and in response to plaintiff's civil complaint." Next, the court considers the four entitlement factors. With respect to the first factor, *i.e.*, "the public benefit derived from the case," the court finds that "[r]elease of lists of names and job titles of BOP staff does not obviously accomplish either of plaintiff's stated goals of demonstrating gender

discrimination or corruption in BOP's procurement process. However, the court notes that "it does not appear that an award of fees, or costs in this instance 'would merely subsidize a matter of [plaintiff's] private concern' or curiosity." As to the second and third factors – the commercial benefit and the nature of plaintiff's interest in the records, "[t]he Court accepts plaintiff's representations that he derives no commercial benefit and that his interest is in writing articles based in part on information obtained from the BOP." With regard to the final factor, which looks to the reasonableness of BOP's withholdings, the court finds that "BOP's response to plaintiff was not reasonable under the circumstances" where it "initially denied plaintiff's FOIA request based upon a mistaken belief that there 'was no method to query a BOP data system,'" only released the information subsequent to the filing of the instant lawsuit, and "relied on two FOIA exemptions to redact information, even though plaintiff had not even requested the redacted information so it was not responsive in the first place." Accordingly, the court determines that "[p]laintiff is entitled to an award equal to his monetary expenditures related to this case to date."

Murray v. Lappin, No. 09-992, 2011 U.S. Dist. LEXIS 86373 (D.D.C. Aug. 5, 2011) (Robinson, Mag.). Holding: Granting summary judgment to BOP based on the adequacy of its search; and denying plaintiff's request for attorney's fees and costs. The court grants summary judgment to BOP "with respect to Plaintiff's claim for reasonable attorney's fees and costs because Plaintiff has failed to allege his legal entitlement to attorney's fees." The court notes that "[t]his Circuit has held that a person who has appeared *pro se* in a FOIA case, is ineligible for an award of fees and costs" and comments that "[a]warding [plaintiff] attorney's fees would . . . defeat the legislative intent of the fee provision set forth in the FOIA."

Moffat v. DOJ, No. 09-12067, 2011 WL 3475440 (D. Mass. Aug. 5, 2011) (Casper, J.). Holding: Granting summary judgment to defendants based on adequacy of their searches and withholdings; denying plaintiff's request for attorney's fees and costs with respect to DEA and ATF, but permitting him leave to file a memorandum regarding his entitlement to fees with respect to his claim against the FBI. The court denies plaintiff's request for attorney fees and costs with regard to DEA and ATF, but allows him leave to file a memorandum addressing the four entitlement factors for fees with respect to his claim against the FBI. First, the court finds that plaintiff "has not substantially prevailed against the DEA or the ATF" because both components "provided [plaintiff] with no records as a result of his administrative FOIA request and with no records as a result of his complaint." However, the court finds that because "[t]he FBI provided [plaintiff] with no records in response to his administrative FOIA request but *did* provide him with records after performing a more thorough search in response to his complaint," "[t]his unilateral change in the FBI's position may be sufficient to establish that [plaintiff] has substantially prevailed."

Queen Anne's Conservation Assoc. v. Dep't of State, No. 10-670, 2011 WL 3426038 (D.D.C. Aug. 3, 2011) (Robinson, Mag.). Holding: Granting, in part, plaintiff's petition for attorney fees and costs. At the outset, the court notes that a stipulation between the parties provides that "'Defendants agree that Plaintiff is entitled to an award of reasonable attorney's fees and costs.'" As to the standard governing the award, the court notes that the circumstances of this case "do not present any novel or complex issues of law." As such, the court indicates that it "will award fees at the U.S. Attorney's Office's *Laffey* matrix rates." Upon reviewing the billing reports submitted by plaintiff, the court finds that the "description of the tasks are not sufficiently detailed to permit determination of reasonableness of hours claimed" and, accordingly, finds that "Plaintiff has failed to present well-documented claims." The court also concludes that plaintiff is not entitled to an award for work performed at the administrative stage of the FOIA request and also "finds no basis for an award of fees after the voluntary dismissal of the action by Plaintiff." Accordingly, the court orders fees and costs to plaintiff, which "shall be determined by (1) the subtraction of all sums claimed for activity during the administrative phase; (2) the subtraction of all sums claimed for activity following Plaintiff's dismissal of this action unrelated to the fee petition, (3) the application of *Laffey* matrix rates to the remaining hours, and (4) a 20 percent reduction of that amount."

Von Grabe v. DHS, No. 10-15002, 2011 WL 2565246 (11th Cir. June 29, 2011) (per curiam). Holding: Affirming the district court's decision that plaintiff was not entitled to litigation costs. The Eleventh Circuit affirms the decision of the district court that plaintiff "was not entitled to recover his costs because he had not substantially prevailed in his lawsuit." The Eleventh Circuit notes that plaintiff "failed to contact the proper FOIA office [as required by the agency's regulations] with his request; [and] moreover, DHS had never refused to provide the requested document."

Margolin v. NASA, No. 09-421, 2011 U.S. Dist. LEXIS 59651 (D. Nev. June 3, 2011) (Hicks, J.). Holding: Deferring plaintiff's motion for litigation costs pending submission of additional information showing costs incurred prior to supplemental release by agency; and denying plaintiff's request for litigation costs related to court's summary judgment ruling because plaintiff did not substantially prevail in that context. The court concludes, "to the extent [that plaintiff] seeks costs based on the court's summary judgment ruling, . . . [he] did not substantially prevail." The court upheld NASA's determinations with respect to "virtually every document." "The fact that the court ordered release [of one, ultimately, non-responsive document] does not alter this conclusion." The court finds that "even though [plaintiff] obtained an order partially in his favor, the relief he obtained was nominal and had little relation to the relief he sought through this lawsuit – namely, the disclosure of documents related to his administrative claim for patent infringement." Additionally, even if plaintiff were eligible for costs, the court determines that he is not entitled to such relief because

"disclosure of the document provides little, if any, public benefit, [because] the document was non-responsive to [plaintiff's] FOIA request and lawsuit, and in retrospect the government had a reasonable and legitimate basis for withholding [it]."

However, the court finds that plaintiff is eligible for some litigation costs as a result of supplemental releases made by NASA in litigation. The court finds that plaintiff "did substantially prevail to the extent that the filing of this lawsuit prompted a voluntary or unilateral change in position by the agency." The court notes that "[i]f not for [plaintiff's] lawsuit, NASA would have rested upon its final decision denying [plaintiff's] administrative appeal of the agency's initial FOIA response." Moreover, "[t]he court further finds that [plaintiff] is entitled to at least some portion of costs incurred prior to November 5, 2009, when NASA made its supplemental disclosures." In terms of the entitlement factors, the court finds that although "[t]he public benefit from disclosure may be small," plaintiff "seems to have had little, if any, commercial benefit resulting from disclosure." Instead, plaintiff's interest "was predominantly personal, and that interest was substantial." Lastly, the court notes that "NASA's initial withholding of the records it later voluntarily disclosed was not based on any asserted reasonable basis in law," but rather its "failure to conduct a thorough search for records responsive to [plaintiff's] request." The court rules that plaintiff "is not entitled to costs of litigation after November 5, 2009, when NASA made its supplemental disclosures."

Tchefuncta Club Estates v. U.S. Army Corps of Eng'ners, No. 10-1637, 2011 WL 2037667 (E.D. La. May 24, 2011) (Africk, J.). Holding: Denying plaintiff's motion for attorney fees and litigation costs. The court denies plaintiff's request for attorney fees and litigation costs, concluding that plaintiff is not eligible for such an award because it "is unable to show a change in position by the agency." The court finds that "the fact that plaintiff received some of its requested documents following a change in circumstances does not evidence a change in position by the agency." Rather, the court notes that "[f]rom the outset, [defendant] has maintained that pursuant to FOIA Exemption 4, prior to the issuance of a permit, it will not release the needs analysis sections which, according to the applicants' objections, contain trade secrets and/or proprietary confidential information," but that upon "issuing of a permit, the application, including the needs analysis section, becomes a public record and FOIA Exemption 4 becomes moot." The court observes that defendant, in fact, followed this procedure – releasing the one company's application once the permit issued, and withholding another company's application where the permit had not been issued.

Von Grabe v. DHS, No. 09-2162, 2010 WL 3516491 (M.D. Fla. Sept. 3, 2010) (Presnell, J.). Litigation costs: Plaintiff cannot recover medical expenses allegedly incurred as a result of the delayed release of the requested document because the "FOIA does not provide for an award of 'damages.'" With respect to plaintiff's request for litigation costs, the court concludes that his "claim is not substantial" because "he never sent a request to the proper office, as identified in DHS's regulations" and so failed to exhaust his administrative remedies. Additionally, the court notes that "[t]here is no evidence of DHS declaring that it would not provide the document."

Knittel v. IRS, No. 07-1213 (W.D. Ten. Aug. 27, 2010) (Breen, J.). Attorney fees/costs: Plaintiff's request for costs is denied on the basis that he "has not substantially prevailed" in this action.

Uhuru v. U.S. Parole Comm'n, No. 09-0566, 2010 WL 3377710 (D.D.C. Aug. 24, 2010) (Leon, J.). Litigation considerations/award of costs: The court concludes that plaintiff is not entitled to costs from USPC because he has not substantially prevailed under the FOIA. The court reasons that "[b]ecause the USPC released the requested records after plaintiff filed his lawsuit, its actions reasonably can be considered 'a voluntary or unilateral change in position by the agency.'" The court then considered whether plaintiff's claim was "insubstantial." The court first determines that since the requested records pertain to plaintiff's parole hearing, "it appears that the public derives no benefit from this case and that the plaintiff derives no commercial benefit." However, the court finds that notwithstanding its delay in responding, "USPC did not withhold records in this case." Based on the foregoing factors, "[t]he Court concludes that plaintiff's claim is insubstantial." Lastly, the court further notes that "to the extent that plaintiff demands an award of costs as a sanction for the USPC's delay in responding to this FOIA request, the FOIA does not recognize such a claim, . . . and plaintiff is not entitled to costs as a remedy for the USPC's untimeliness."

Prison Legal News v. EOUSA, No. 08-1055, 2010 WL 3170824 (D. Col. Aug. 10, 2010) (Krieger, J.). As an initial matter, the court notes that "the parties do not dispute that Prison Legal News is eligible for an award of attorney fees because they obtained relief through a court order." Based on the four-factor analysis, the court determines that plaintiff is also entitled to attorney fees "[b]ecause three of the four factors weigh in favor of an award." In terms of the public benefit, the court find that, despite the fact that "the population to which this information is likely to be disseminated is relatively small," "information about how the BOP responded to the murder may inform the public as to its effectiveness in maintaining security and order inside [a] prison." Regarding the commercial benefit to the plaintiff and its interest in the requested records, the court concludes that "Prison Legal News is a non-profit organization that does not seek to profit or benefit from the disclosure nor to use the information for its own advancement other than to pursue its mission of providing information about the prison system." However, the court notes that "[t]he fourth factor, whether the government had a reasonable basis in law for withholding the records, weighs against an award of attorney fees" where EOUSA "withheld the entirety of [a] video and [] photographs from disclosure based on two FOIA exemptions dealing

with privacy considerations."

The court grants plaintiff's request for forty percent of the total fees incurred in litigating this action ♦ a figure that it represented as commensurate with amount of time it spent litigating the claims on which it prevailed. The court dismisses EOUSA's argument that "Prison Legal News's success was not qualitatively large enough to justify an award based on the hours expended on the case." Instead, the court observes that "the disclosure ordered did not result from the wholesale adoption of either party's position" and, accordingly, grants the award requested by plaintiff because there is "no reasoned way to correlate the fees and costs incurred . . . to the particular information disclosed or not disclosed."

The court significantly reduces plaintiff's award with respect to its request for fees associated with litigating the attorney fee issue. The court reasons that "no substantial time was needed compile or review [plaintiff's work] records," "the legal issues associated with a request for legal fees are neither novel or complicated," and "the attorney fee award request is disproportionate to the entire amount of attorney fees incurred for the entire matter."

White v. Lappin, No. 08-1376, 2010 WL 2947355 (D.D.C. July 29, 2010) (Roberts, J.). Litigation considerations/award of costs: The court concludes that plaintiff is not eligible for or entitled to an award for costs "to cover the portion of the filing fee he has paid, and typewriter ribbon and copy fees" where he "cannot show that the BOP voluntarily or unilaterally changed its position because of the lawsuit." Here, BOP demonstrated that it had "no record" of receiving a request from plaintiff at the time that he filed his complaint and, accordingly, it would have had "no reason to search or produce records [or] . . . to [otherwise] respond." Moreover, the court determines that an award of costs is not warranted by the factors enumerated by the D.C. Circuit in *Davy v. CIA*. "Although plaintiff derives no commercial benefit from these records, it does not appear that the public benefits in any way from their release." The court also notes that once BOP received notice of the request, it "acted promptly" to release certain records to him at no charge and also "promptly provided him 'the opportunity to view all of [his] medical x-ray films'" and "made arrangements for copying the films and sending them to the physician of plaintiff's choice."

Nulankeyutmonen Nkihtaqmikon v. BIA, No. 05-188, 2010 WL 2720961 (D. Me. July 9, 2010) (Woodcock, J.). In a previous order, the court held that plaintiff had substantially prevailed and authorized an award of attorney fees. In the instant decision, the court dismisses the Bureau of Indian Affairs' argument that the attorney fees should be denied or reduced on the basis that its withholdings were reasonable. The court finds that BIA's initial position that it maintained only one document "which Plaintiff already possessed, . . ." was manifestly unreasonable "in light of the cascade of subsequent released documents." Moreover, the court notes "[i]t is difficult to characterize the BIA's shifting and contradictory rationales [before the district and appellate courts] as 'reasonable.'" "The court expressly finds that the BIA's 'withholding of [certain] reports to have been unreasonable'" and that to the extent that it had upheld BIA's redactions, plaintiff "has excluded work on those issues from its bill."

Additionally, the court concludes that plaintiff "substantially prevailed in this FOIA case and to the extent that it did not, [it] has excised the fees attributable to the unsuccessful parts of the case: with one exception." Plaintiff is not entitled to attorney fees with respect to billing entries related to its motion for sanctions which, although raised before the First Circuit, was not "refiled, renewed, or granted." The court permits plaintiff to recover fees incurred at the appellate level despite its failure to comply with Circuit court rules on the issue. The court finds that the appellate work was "fairly confined," comments that it "has a basic understanding" of the appellate arguments and the wins and losses, notes that denying attorney fees for the successful portion of the appeal "seems contrary to FOIA's fee shifting directive," and observes that "BIA has not specifically objected to [plaintiff's] itemization of appellate work."

After the court determines that "law students who while working under the supervision of a clinic attorney . . . may be eligible for attorney fees," it ultimately denies the request for student legal fees because "the student work is superfluous and, to the extent it is not, [plaintiff] has not provided the Court with [a] sufficiently detailed justification" for its reimbursement.

The court rejects "BIA claims that two lawyers should have been sufficient" and does not consider the use of three or, at times, four attorneys "to amount to overstaffing." After scrutinizing fee entries related to the FOIA case and companion litigation, the court disallowed several items that it deemed duplicative, including multiple billing for a single event, intra-clinic conferences and purely supervisory activity. The court also reduces plaintiff's fee request in order to subtract "unproductive, excessive, or otherwise unnecessary time." Lastly, the court reduces plaintiff's attorney fee award for a "notable lack of proper documentation" in its billing records.

Calvert v. U.S., No. 08-1659, 2010 WL 2198224 (D.D.C. June 3, 2010) (Urbina, J.). The court holds that "plaintiff, a *pro se* litigant who is not an attorney, cannot recover attorney's fees." Additionally, the court finds that although plaintiff is eligible for costs given that the defendant released the records pursuant to the court's order, he is not entitled to costs because plaintiff sought the records for personal reasons ♦ namely, for "'the specific purpose'" of comparing the agent's signature "'with the signature that appears on [the criminal complaint]' sworn against him."



Robinson v. BOP, No. 09-1443, 2010 WL 1558683 (N.D. Ohio Apr. 19, 2010) (Adams, J.). Plaintiff's request for costs is denied, as it is clear that his lawsuit "did not have a causative effect upon the release of information," since all responsive records were provided to him before he filed his complaint.

Coven v. OPM, No. 07-01831, 2010 WL 1417314 (D. Ariz. Apr. 5, 2010) (Broomfield, J.). As to attorney fees, the court adheres to its prior ruling that, as a pro se litigant, plaintiff is not eligible for an award of fees. As to plaintiff's motion for costs, "[t]here is a complete lack of supporting documentation for plaintiff's cost request. Plaintiff's motion does not include an affidavit or declaration specifying the nature of the litigation costs which he purportedly incurred, and when he incurred those costs. Without such supporting proof, there is no way to determine whether plaintiff's claimed litigation costs were 'reasonably incurred' within the meaning of the relevant statute."

Though the two sides disagree about whether the 2007 FOIA amendments should apply retroactively, this issue is moot because even were the court to accept plaintiff's position that the 2007 FOIA amendments should have retroactive effect, OPM's declaration described that its release to plaintiff was "'due to a change in [its] policy,'" and that "substantially undermines any theory plaintiff might have that the filing of this lawsuit had a substantial causative effect on his ultimate receipt of the requested information." Because the court finds that plaintiff is ineligible for an award of costs, it need not consider his entitlement to such an award.

Batton v. Evers, No. 08-20724, 2010 WL 625988 (5th Cir. Feb. 24, 2010) (Haynes, J.). The issue of plaintiff's entitlement to fees and costs is not yet ripe for review.

Shannahan v. IRS, No. 08-0452 (W.D. Wash. Feb. 11, 2010) (Robart, J.). "[T]he court finds that [plaintiff] has not submitted 'convincing evidence' that this FOIA action caused 'a voluntary or unilateral change in position by the agency.' Notably, [plaintiff] has not shown that the IRS changed its position regarding the Original Documents [i.e. original accounting and ledger records] in the course of this litigation, nor that the IRS released the Original Documents to [plaintiff]. Although the IRS may have cooperated with [plaintiff] in contacting the U.S. Attorney's Office regarding the Original Documents, it does not follow that the IRS's assistance in helping [plaintiff] request and obtain the Original Documents from another agency satisfies the catalyst theory of entitlement." Furthermore, even were he eligible, the court finds that plaintiff would not be entitled to an award of fees. Plaintiff "has shown no meaningful public benefit from disclosure. The Original Documents, in and of themselves, appear to have no public use. These documents are not intended for public dissemination, nor does [plaintiff] suggest that they will have any public effect if disclosed. The court is also not persuaded that this FOIA action vindicates the alleged public interest in promoting cooperation with governmental investigations." Additionally, "the court finds that disclosure of the Original Documents is reasonably likely to result in a commercial benefit to the Entities and that they hold a commercial interest in the documents." This assessment is based upon plaintiff's own declaration submitted to the court. Finally, "the court finds that the IRS's withholding of the records was reasonable." Defendant's "position that the Original Documents were not agency records is colorable in light of its contention that the Original Documents were not under its control at the time of [plaintiff's] FOIA request."

Elkins v. FAA, No. 08-1073, 2010 WL 23319 (D. Or. Jan 4, 2010) (King, J.) (adoption of magistrate's Findings and Recommendation). Plaintiff has not challenged defendant's claim that he is not a prevailing party. Therefore, plaintiff is not entitled to costs.

Coven v. OPM, No. 07-1831, 2009 WL 3174423 (D. Ariz. Sept. 29, 2009) (Broomfield, J.). As a pro se litigant, plaintiff is ineligible for an award of attorney fees. His motion for costs is denied without prejudice as premature because the court has yet to enter final judgment in this case.

Dasta v. Lappin, No. 08-1034, 2009 WL 3069681 (D.D.C. Sept. 25, 2009) (Sullivan, J.). Plaintiff is not entitled to an award of costs incurred in pursuing his case because he has not shown that "his 'claim is not insubstantial.' . . . Plaintiff's interest in and intended use of the information appears to be personal. This is not a case where the public derives some benefit from plaintiff's claim or the BOP's release of the information plaintiff requested."

Talbot v. CIA, No. 07-277, 2009 WL 2970331 (D.D.C. Sept. 16, 2009) (Leon, J.). Plaintiff's motion for costs was denied. The court concludes that this case is governed by the older, more restrictive attorney fees standard that applied before the OPEN Government Act went into effect. Here, plaintiffs were not entitled to recover costs because one plaintiff "actually lost a judgement on the merits" and the other "filed the instant motion for voluntary dismissal without ever obtaining a judgment, or a consent decree, in his favor."

Dasta v. Lappin, No. 08-1034, 2009 WL 3069681 (D.D.C. Sept. 25, 2009) (Sullivan, J.). The court concludes that an award of costs is not merited in this case. BOP's disclosure of the requested information was delayed and BOP "does not explain the delay" thereby precluding the Court from determining whether "its actions were reasonable." The release of records appears to have been made "only after plaintiff filed this action" and plaintiff therefore has demonstrated that he "obtained relief through . . . a voluntary or unilateral change in position by the agency." He fails, however, to establish

that "his 'claim is not insubstantial.'" Plaintiff's "interest in and intended use of the information appears to be personal" and "[t]his is not a case where the public derives some benefit from plaintiff's claim or the BOP's release of the information plaintiff requested."

Sliney v. BOP, No. 07-1425, 2009 WL 1703234 (D.D.C. June 18, 2009) (Friedman, J.). Plaintiff is not entitled to an award of costs because his claim is insubstantial. BOP's initial refusal to release the tapes to plaintiff was reasonable because BOP had not received advance payment from plaintiff.

Pietrangelo v. U.S. Army, No. 07-3124, 2009 WL 1580183 (2d Cir. June 4, 2009) (unpublished disposition) (summary order). "[T]he District Court did not abuse its discretion in concluding that Pietrangelo was not entitled to litigation costs."

Information Network For Responsible Mining (INFORM) v. Bureau of Land Mgmt., No. 06-02269, 2009 WL 1162551 (D. Colo. Apr. 28, 2009) (Kane, J.). Plaintiff may submit a separate request for fees and costs after BLM has complied with the court's orders on further searches and a revised Vaughn index.

Browder v. Fairchild, No. 08-P15, 2009 WL 1158669 (W.D. Ky. Apr. 28, 2009) (Heyburn, J.). Plaintiff is ordered to file a brief with the court setting out his costs and an argument for why the court should order reimbursement of these costs. Defendant will then be ordered to file a response, either agreeing to reimbursement or detailing its reasons for objecting.

## Exhibit 10

## Exhibit 10

AO 451 (Rev. 01/09) Clerk's Certification of a Judgment to be Registered in Another District

FILED  
APR 26 2012

# UNITED STATES DISTRICT COURT

for the  
District of Nevada

2012 APR 26 PM 3:33

U.S. DISTRICT COURT  
DISTRICT OF NEVADA  
CLERK'S OFFICE

Jed Margolin	)
<i>Plaintiff</i>	)
v.	)
National Aeronautics and Space Administration	)
<i>Defendant</i>	)

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

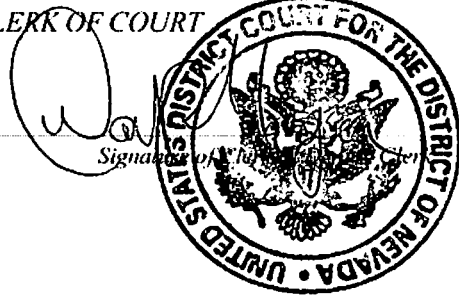
### CLERK'S CERTIFICATION OF A JUDGMENT TO BE REGISTERED IN ANOTHER DISTRICT

I certify that the attached judgment is a copy of a judgment entered by this court on NOVEMBER 4, 2011.

I also certify that, as appears from this court's records, no motion listed in Fed. R. App. P. 4(a)(4)(A) is pending before this court and that no appeal has been filed or, if one was filed, that it is no longer pending.

Date: 4/18/2012

DEPUTY CLERK OF COURT



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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

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

1 of costs is otherwise unopposed.

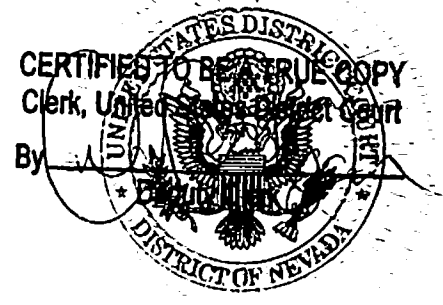
2 IT IS THEREFORE ORDERED that costs are taxed in the amount of \$525.06 and included  
3 in the judgment.

4 IT IS SO ORDERED.

5 DATED this 3rd day of November, 2011.



8 LARRY R. HICKS  
9 UNITED STATES DISTRICT JUDGE



26

# Exhibit 11

# Exhibit 11

FILED  
2012 APR 26 PM 3:05  
U.S. DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO, FL

1 Jed Margolin, Pro Se  
2 1981 Empire Rd.  
3 VC Highlands, NV 89521-7430  
4 Telephone: 775-847-7845  
5 Email: jm@jmargolin.com  
6  
7  
8  
9

10 UNITED STATES DISTRICT COURT  
11 MIDDLE DISTRICT OF FLORIDA  
12

JED MARGOLIN, )  
 ) Case No. 6:12MC47-ORL JEDAB  
 )  
 ) Plaintiff, )  
 ) MOTION FOR WRIT OF EXECUTION;  
 ) PROPOSED WRIT OF EXECUTION.  
 )  
 ) vs. )  
 )  
 ) NATIONAL AERONAUTICS AND )  
 ) SPACE ADMINISTRATION, )  
 )  
 ) Defendant. )  
 )  
 \_\_\_\_\_ )

13  
14

15 Comes now Plaintiff, Jed Margolin ("Margolin"), appearing *pro se*, and files his Motion  
16 for Writ of Execution against the National Aeronautics and Space Administration ("NASA").

17

18 **Background**

19 A. This Motion arises from a Freedom of Information Act action, Case Number 3:09-cv-00421-  
20 LRH-(VPC), heard in U.S. District Court For the District of Nevada. In an Order released  
21 November 4, 2011 the Nevada District Court ordered NASA to pay Margolin costs of \$525.06 .  
22 See Exhibit 1 at 7. The original certified copy of the Order, along with Form AO451 is enclosed  
23 separately.



1 **B.** In that Order (*id.*) the Nevada District Court ruled that Margolin had substantially prevailed.

2

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

10

11 **D.** On January 6, 2012 Margolin sent an email to various NASA staff, including General  
12 Counsel Michael C. Wholley and NASA Deputy Administrator Lori Garver. See Exhibit 2 at 11.  
13 In part of that email Margolin reminded NASA that they had not complied with the Court’s  
14 Order to pay him \$525.06. Margolin sent the email 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 14-17. This shows that NASA’s mail server received Margolin’s email  
17 but that several recipients refused to acknowledge receiving it. Margolin received no response to  
18 his email. That constitutes bad faith by NASA.

19

20 **E.** On February 6, 2012 Margolin filed two motions in U.S. District Court for the District of  
21 Nevada: **Motion to Compel NASA to Disclose Assets in the State of Nevada** (USDC-Nevada  
22 Document 74) and **Motion Requesting NASA Be Held in Contempt** (USDC-Nevada  
23 Document 75).

1 **E.** On February 22, 2012 NASA filed their **Response to Motion to Compel NASA to Disclose**  
2 **Assets in the State of Nevada** (USDC-Nevada Document 76) and **Response to Motion**  
3 **Requesting NASA Be Held in Contempt** (USDC-Nevada Document 77).  
4  
5 In NASA's **Response to Motion to Compel NASA to Disclose Assets in the State of Nevada**  
6 (USDC-Nevada Document 76) they argued:

7           This Court awarded Plaintiff \$525.06 in costs in an order dated November 3, 2011.  
8 (#73). NASA had 60 days to appeal from that order. F.R.A.P. 4(a) (giving federal agency 60  
9 days to file notice of appeal). NASA did not complete its evaluation of whether to appeal  
10 from the judgment awarding Plaintiff costs until early January 2012. (Vance Dec. ¶ 4).  
11 Moreover, the government generally requires at least eight weeks to process a judgment for  
12 payment. (Vance Dec. ¶ 5). Given the 60-day appeal time and the eight-week period to  
13 process the judgment for payment, NASA anticipates that Plaintiff will be paid in March  
14 2012. (Vance Dec. ¶ 6). Because NASA fully intends to pay Plaintiff, there is no need to  
15 require NASA to disclose its Nevada assets.  
16

17 **G.** As of the date of this Motion (Margolin's **Motion For Writ of Execution** with this U.S.  
18 District Court For the Middle District of Florida) it is the end of April 2012 and NASA has not  
19 paid Margolin the Judgment ordered by U.S. District Court For the District of Nevada.

20  
21 **H.** It is unlikely that NASA has assets in the State of Nevada. If NASA does have assets in the  
22 State of Nevada, then given the deceit and obstructionist tactics they have practiced toward  
23 Margolin since May 2003, it is unlikely that NASA would admit to having assets in the State of  
24 Nevada. And finally, even if NASA does have assets in the State of Nevada and is willing to  
25 admit to having assets in the State of Nevada, then given NASA's pervasive and continuing  
26 accounting problems it is unlikely that NASA would be able to tell Margolin where its assets in  
27 the State of Nevada are.

1 On the other hand, it is publicly known that NASA has assets in the Middle District of Florida.  
2 The Space Shuttle Orbiter Atlantis is believed to be currently located in Orbiter Processing  
3 Facility-1 (OPF-1) at the Kennedy Space Center in Cape Canaveral, Florida. (See Exhibit 4 at  
4 19) However, time is of the essence lest NASA move the Atlantis before it can be seized by U.S.  
5 Marshalls.

6

7

**Conclusion**

8 For the foregoing reasons Margolin respectfully requests that this Court grant his Motion For  
9 Writ of Execution against the National Aeronautics and Space Administration so that NASA's  
10 known assets at the Kennedy Space Center may be seized by U.S. Marshalls and sold at public  
11 auction in order to satisfy NASA's debt.

12

13

Respectfully submitted,

14

/Jed Margolin/

15

Jed Margolin, plaintiff pro se

16

1981 Empire Rd.

17

VC Highlands, NV 89521-7430

18

775-847-7845

19

jm@jmargolin.com

20

21 Dated: April 24, 2012

22

1

**Certificate of Mailing**

2 I hereby certify that a copy of the foregoing MOTION FOR WRIT OF EXECUTION has been  
3 sent by first-class mail to the following addressee on April 24, 2012:

4

5 HOLLY A. VANCE  
6 Assistant United States Attorney  
7 100 West Liberty Street, Suite 600  
8 Reno, NV 89501

9

10 /Jed Margolin/

11

12 Jed Margolin

13

14

# Exhibit 1

# Exhibit 1

AO 451 (Rev. 01/09) Clerk's Certification of a Judgment to be Registered in Another District

# UNITED STATES DISTRICT COURT

for the  
District of Nevada

Jed Margolin	)	
<i>Plaintiff</i>	)	
v.	)	Civil Action No. 3:09-cv-00421-LRH-(VPC)
National Aeronautics and Space Administration	)	
<i>Defendant</i>	)	

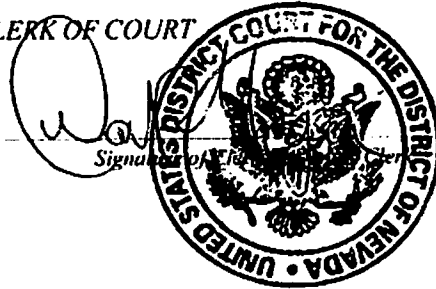
## CLERK'S CERTIFICATION OF A JUDGMENT TO BE REGISTERED IN ANOTHER DISTRICT

I certify that the attached judgment is a copy of a judgment entered by this court on ~~NOVEMBER~~ **NOVEMBER 4, 2011**.

I also certify that, as appears from this court's records, no motion listed in Fed. R. App. P. 4(a)(4)(A) is pending before this court and that no appeal has been filed or, if one was filed, that it is no longer pending.

Date: 4/18/2012

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Case 3:09-cv-00421-LRH-VPC Document 73 Filed 11/04/11 Page 1 of 2

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\*\*\*

JED MARGOLIN,  
Plaintiff,

3:09-CV-00421-LRH-VPC

v.

ORDER

NATIONAL AERONAUTICS AND SPACE  
ADMINISTRATION,  
Defendant.

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

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

1 of costs is otherwise unopposed.

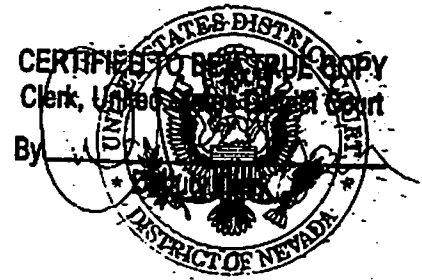
2 IT IS THEREFORE ORDERED that costs are taxed in the amount of \$525.06 and included  
3 in the judgment.

4 IT IS SO ORDERED.

5 DATED this 3rd day of November, 2011.



8 LARRY R. HICKS  
9 UNITED STATES DISTRICT JUDGE





## Exhibit 2

## Exhibit 2

**Jed Margolin**

---

**From:** "Jed Margolin" <jm@jmargin.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>; <foiaog@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

## 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**

---

**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.



## Exhibit 4





## Exhibit 4

{Downloaded April 11, 2012}

<http://www.collectspace.com/ubb/Forum30/HTML/001063.html>

**Robert Pearlman**  
Editor

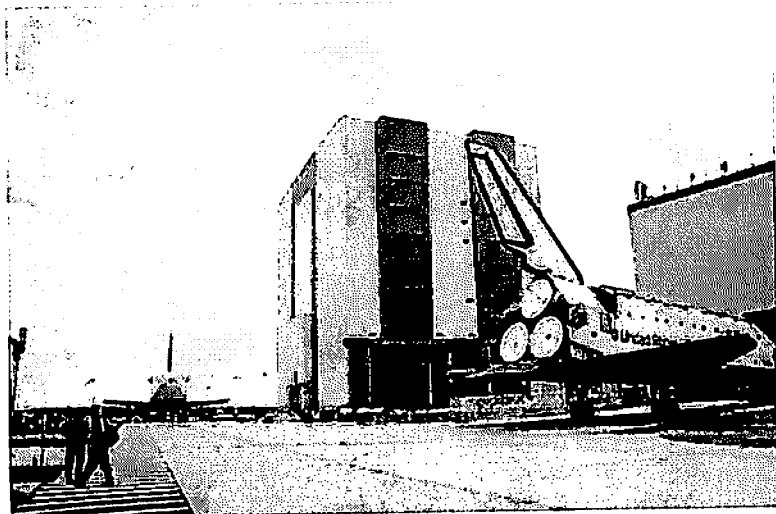
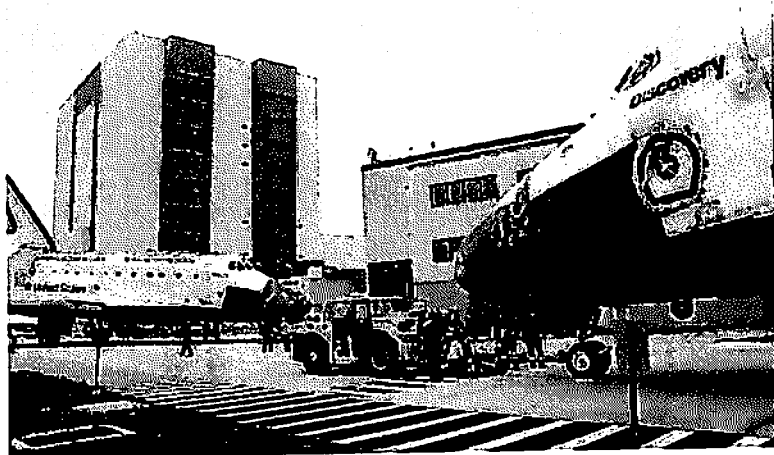
Posts: 23988  
From: Houston, TX  
Registered: Nov 1999

Posted March 09, 2012 05:34 PM    

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On March 9, 2012, Atlantis was towed from the Vehicle Assembly Building (VAB) to Orbiter Processing Facility-1 (OPF-1), where it will continue to be prepared for public display.

On its way to the OPF, Atlantis passed by space shuttle Discovery, which was rolled into the VAB.



Credit: NASA/Jim Grossmann

DC 11  
Rev. 1/09

WRIT OF EXECUTION

United States District Court	Middle District of Florida
TO THE MARSHAL OF: <b>Middle District of Florida</b> <span style="float:right;">6:12 MC 47-ORL-28 DAB</span>	
YOU ARE HEREBY COMMANDED, that of the goods and chattels, lands and tenements in your district belonging to:	
NAME <b>Kennedy Space Center National Aeronautics and Space Administration Cape Canaveral, FL</b>	
you cause to be made and levied as well a certain debt of:	
DOLLAR AMOUNT <b>\$525.06</b>	DOLLAR AMOUNT  AND
in the United States District Court for the _____ District of <b>Nevada</b> , before the Judge of the said Court by the consideration of the same Judge lately recovered against the said,  <b>judgment</b>	
and also the costs that may accrue under this writ. And that you have above listed moneys that the place and date listed below; and that you bring this writ with you.	
PLACE <b>Kennedy Space Center</b>	DISTRICT <b>Middle District of Florida</b>
CITY <b>Cape Canaveral</b>	DATE
Witness the Honorable _____ <b>United States Judge</b>	
DATE	CLERK OF COURT
	(BY) DEPUTY CLERK
RETURN	
DATE RECEIVED	DATE OF EXECUTION OF WRIT
This writ was received and executed.	
U.S. MARSHAL	(BY) DEPUTY MARSHAL

## Exhibit 12

## Exhibit 12

Court Name: District of Nevada  
Division: 3  
Receipt Number: NVRN0001073  
Cashier ID: dmorgan  
Transaction Date: 04/18/2012  
Payer Name: JED MARGOLIN

-----  
ELECTRONIC PRINTING FEE

For: JED MARGOLIN  
Amount: \$0.20

CERTIFICATION OF DOCUMENT

For: JED MARGOLIN  
Case/Party: D-NVX-3-09-CV-000421-001  
Amount: \$11.00

-----  
CREDIT CARD

Amt Tendered: \$11.20

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Total Due: \$11.20  
Total Tendered: \$11.20  
Change Amt: \$0.00

JED MARGOLIN

1981 EMPIRE RD

VC HIGHLANDS, NV 89521

CERTIFIED COPY CASE NO 3:09-CV-421

DOCKET #73

"Only when bank clears the check,  
money order, or verifies credit of  
funds is the fee or debt officially  
paid or discharged. A \$53 fee will  
be charged for a returned check."



EG 426216711 US



Customer Copy  
Label 11-B, March 2004

Post Office To Addressee

**ORIGIN (POSTAL SERVICE USE ONLY)**

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Date Accepted Mo. <b>4</b> Day <b>24</b> Year <b>12</b>	Scheduled Date of Delivery Month <b>4</b> Day <b>24</b>	Return Receipt Fee \$
Time Accepted <b>1230</b> <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	Scheduled Time of Delivery <input type="checkbox"/> Noon <input checked="" type="checkbox"/> 3 PM	COD Fee \$
Flat Rate <input checked="" type="checkbox"/> or Weight lbs. oz.	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Insurance Fee \$
	Int'l Alpha Country Code	Total Postage & Fees \$ <b>1895</b>
		Acceptance Emp. Initials <b>W</b>

**DELIVERY (POSTAL USE ONLY)**

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Mo. Day		<input type="checkbox"/> PM	
Delivery Attempt	Time	<input type="checkbox"/> AM	Employee Signature
Mo. Day		<input type="checkbox"/> PM	
Delivery Date	Time	<input type="checkbox"/> AM	Employee Signature
Mo. Day		<input type="checkbox"/> PM	

**CUSTOMER USE ONLY**

**PAYMENT BY ACCOUNT**  
Express Mail Corporate Acct. No.  **WAIVER OF SIGNATURE (Domestic Mail Only)**  
Additional merchandise insurance is void if customer requests waiver of signature.  
I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.

Federal Agency Acct. No. or Postal Service Acct. No.

**NO DELIVERY**  
 Weekend  Holiday  Mailer Signature

**FROM: (PLEASE PRINT)** PHONE ( **775** ) **847-7845**

Jed Margolin  
1981 Empire Rd.  
VC Highlands, NV 89521-7430

**TO: (PLEASE PRINT)** PHONE ( )

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Product Description	Sale Unit Qty Price	Final Price
ORLANDO FL 32801 Zone-8 Express Mail PO-Add Flat Rate Env 8.00 oz. Label #:EG426216711US Thu 04/26/12 03:00PM - Expected Delivery. Money Back Guarantee Signature Requested		\$18.95

=====  
Issue PVI: \$18.95

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Total: \$20.65

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