

**IN UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

FREEDOM WATCH, INC.

Plaintiff,

v.

**DEPARTMENT OF THE NAVY, ET.
AL.**

Defendants.

Civil Action No. 5:13-cv-420-OC-10PRC

**AFFIDAVIT OF LARRY KLAYMAN IN SUPPORT OF PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT AGAINST DEFENDANTS**

My name is Larry Klayman and at all material times I am and was the chairman and general counsel of Freedom Watch, Inc. I am a citizen over 18 years of age and hereby swear, to the best of my knowledge and belief, as follows:

1. On August 1, 2013, Freedom Watch, Inc., served Freedom of Information Act ("FOIA") Requests to the Department of the Navy, Department of the Army, Department of the Air Force, and the Department of Defense. See Attachment 1. Freedom Watch represents the families of several of the deceased servicemen subject to the FOIA requests.
2. Defendants did not timely respond with proper acknowledgement letters, any of the requested documents and records, or with a list of exemptions that would allegedly allow Defendants to not produce the requested documents and records by the statutory deadline of 10 days for expedited FOIA requests, or even 20 days for standard FOIA requests. Both deadlines were missed and ignored by Defendants. To date, Defendants have not fully produced all requested documents and records and, in fact, produced only one compact disc ("CD") containing grossly incomplete and contradictory information which


was already a matter of public record and had been produced to others well before Freedom Watch's FOIA requests. Defendants have thus waived claiming any exemptions to full production.

3. Defendants did not respond to Freedom Watch's request to expedite by the statutory deadline of 10 days for expedited FOIA requests; nor did they respond and produce documents within the standard 20 day period. On information and belief, the requested documents and records number in the thousands. Defendants have thus legally granted Freedom Watch's request for expedited handling for failure to timely respond, and, in any event, have waived any claims to non-production of all requested documents and records.
4. Defendants did not respond to Freedom Watch's request for a full fee waiver by the statutory deadline of 10 days for expedited FOIA requests, nor even by the standard 20 day deadline. Defendants have thus legally granted Freedom Watch's request for a full fee waiver for failure to timely respond. In any event, Freedom Watch, a public interest organization intends to disseminate the requested documents and records on its website at www.freedomwatchusa.org and through other media outlets, as the circumstances of deaths of the Navy Seals, and other special ops servicemen, as well as why and how a Muslim cleric came to damn them to hell at the ramp ceremony when their bodies were shipped back home to the United States, is a matter of extreme public interest. In addition, Freedom Watch's clients need these documents and records for an upcoming Congressional hearing in January 2014 about this tragedy, and thus these documents and records will also be disseminated to the public at this time. Nothing is more important than the lives and the circumstances of the deaths of these national heroes when it comes to the public's and the families' understanding of what caused these deaths and why.

5. After the filing of the Complaint in this lawsuit, the U.S. Central Command, apparently on behalf of the Defendant Department of the Army, merely produced a single CD -- which had already long since been in the public domain -- which contained grossly insufficient documents and records pertaining to the causes for and other information relevant to the deaths of 30 U.S. military servicemen, including 22 Navy Seals (one or more of whom were members of or assigned to Seal Team VI and may have participated in the successful raid against Osama Bin Laden just 3 months earlier), and who were, due to the strange and insufficiently explained circumstances involved, inexplicably shot down -- due an alleged "lucky shot" -- by the Taliban and killed in a helicopter crash in Afghanistan on or about August 6, 2011 during a mission named "Extortion 17." Importantly, Defendants did not claim any exemptions to Plaintiff's FOIA requests nor did they produce a "Vaughn Index" with sufficient identifying information as to the documents Defendants claimed to be exempt.

Sworn to under penalty of perjury.

Dated: December 31, 2013



Larry Klayman
Chairman and General Counsel
Freedom Watch, Inc.

Attachment 1



FREEDOM WATCH

www.FreedomWatchUSA.org

World Headquarters 2775 NW 49th Ave, Suite 205-345, Ocala, Florida 34482

(310) 595-0800 leklayman@gmail.com

Via Mail and Fax

August 1, 2013

Attn: Ms. JoAnne Collins

Department of the Air Force – Headquarters/ICIO (FOIA)
SAF/AII (FOIA)
1000 Air Force Pentagon
Washington, DC 20330-1000

Department of Defense
1400 Defense Pentagon
Washington, DC 203-1400

Re: Freedom of Information Act Request

Dear FOIA and Privacy Act Officer:

Pursuant to the Freedom of Information Act (5 U.S.C. § 552), Freedom Watch requests that the Department of the Air Force produce all correspondence, memoranda, documents, reports, records, statements, audits, lists of names, applications, diskettes, letters, expense logs and receipts, calendar or diary logs, facsimile logs, telephone records call sheets, tape recordings, video/movie recordings, notes, examinations, opinions, folders, files, books, manuals, pamphlets, forms, drawings, charts, photographs, electronic mail, and other documents and things that refer or relate in any way to the deaths of the following U.S. military servicemen who were killed in a helicopter crash in Afghanistan on or about August 6, 2011 concerning a mission named Extortion 17:

A.

- 1) Tech. Sgt. John W. Brown, 33, of Tallahassee, FL.
- 2) Staff Sgt. Andrew W. Harvell, 26, of Long Beach, CA.
- 3) Tech. Sgt. Daniel L. Zerbe, 28, of York, PA.

In addition, Freedom Watch requests all autopsy reports, any and all photographs, X-rays, magnetic resonance images, and all electronic or other recordings of the remains of the above U.S. military servicemen.

B.

Furthermore, Freedom Watch requests any and all information pertaining to the following:

1. Any and all documents that refer or relate in any way to the decision to invite a Muslim cleric to pray at the ramp ceremony in Afghanistan for the above U.S. servicemen.
2. Any and all information that refers or relates to the missing "black box" which may show the reasons for the crash of the subject CH-47D helicopter mission, Extortion 17.
3. Any and all documents that refer or relate to the seven Afghani military servicemen who were originally scheduled to depart with Extortion 17 and whose names are on the official manifest.
4. Any and all documents that refer or relate to the seven Afghani military servicemen who were switched in and substituted immediately prior to departure of Extortion 17 whose names are not on the official manifest.
5. Any and all documents that refer or relate to the decision that seven Afghani military servicemen were substituted out on the flight of Extortion 17.
6. All autopsy reports, any and all photographs, X-rays, magnetic resonance images, remains, and all electronic or other recordings of the remains of the seven Afghani military servicemen who died on the flight of Extortion 17.
7. Any and all documents that refer or relate to the decision to bring the bodies of the dead Afghani military servicemen on Extortion 17 back to the U.S.'s Dover Air Force Base.
8. Any and all documents and things that refer or relate to a flash flood that allegedly washed away Extortion 17's "black box."
9. Any and all documents that refer or relate to the crash report given to the families by the U.S. military that states on May 11, 2011, over 100 Taliban planned to travel to the Tangi Valley with the express intent of shooting down a coalition force aircraft. This is from an interview of TF (redacted) HARC CHIEF opened at 2105 Zulu, 16 August 2011; Declassified on 7 September 2036. See relevant pages attached for identification purposes.
10. Any and all documents and things that refer or relate to the weather in the area of the crash of Extortion 17 on August 6, 2011 and ten (10) days thereafter.
11. Any and all documents that refer or relate to the final decision of the U.S. military to work with the Operational Coordination Group (OCG) made up of the Afghan National Army, the National Director for Security, and the National Police Force.
12. Any and all documents that refer or relate to any final decision to cremate any of the dead servicemen of Extortion 17 as well as the seven Afghan military servicemen who died on Extortion 17, including but not limited to the names and identities of the servicemen who were cremated and the reasons for their cremation.
13. Any and all documents and final decisions that refer or relate to why Admiral Eric Olson abandoned or left Afghanistan on August 8, 2011, two (2) days after the crash of Extortion 17.
14. Any and all documents and final decisions that refer or relate to why General Petraeus abandoned or left Afghanistan on August 16, 2011, ten (10) days after the crash of Extortion 17.
15. Any and all documents and final decisions that refer or relate to why Lieutenant General Joseph L. Votel III abandoned or left Afghanistan immediately after the crash of Extortion 17.

16. Any and all documents and final decisions that refer or relate to employing a CH-47D Chinook helicopter, made in the 1960's and last retrofitted in the 1980's, into an active battle zone carrying 30 U.S. military servicemen.
17. Any and all documents and things that refer or relate to the public disclosure by Vice President Biden, Defense Secretary Leon Panetta and others, that SEAL Team VI was responsible for killing Osama Bin Laden.

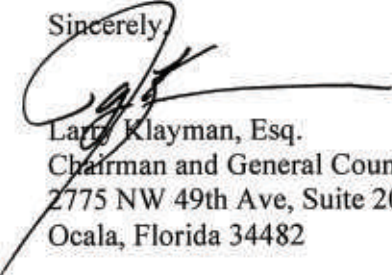
If any responsive record or portion thereof is claimed to be exempt from production under FOIA, sufficient identifying information (with respect to each allegedly exempt record or portion thereof) must be provided to allow the assessment of the propriety of the claimed exemption. *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert denied*, 415 U.S. 977 (1974). Additionally, pursuant to law, any reasonably segregable portion of a responsive record must be provided after redaction of any allegedly exempt material. 5 U.S.C. §552(b).

I request a waiver of all fees for this request under 5. U.S.C. § 552(a)(4)(A)(iii). Here, twenty-two (22) special ops and eight (8) other military servicemen, including members of Navy SEAL Team VI, the group that killed Osama Bin Laden, were killed by the Taliban in likely retaliation. Thus, this is a matter of great public interest to the American people.

I hereby request expedited processing of this request pursuant to 5 U.S.C. §552 (a)(6)(E)(ii)(I), as there is a compelling need for the information and time is truly of the essence in this matter.

I look forward to receiving the requested documents and a full fee waiver within twenty (20) business days.

Sincerely,



Larry Klayman, Esq.
Chairman and General Counsel
2775 NW 49th Ave, Suite 205-345
Ocala, Florida 34482



FREEDOM WATCH

www.FreedomWatchUSA.org

World Headquarters 2775 NW 49th Ave, Suite 205-345, Ocala, Florida 34482

(310) 595-0800

leklayman@gmail.com

Via Mail and Fax

August 1, 2013

Attn: Ms. Robin Patterson
FOIA Contact, Chief of Naval Operations (DNS-36)

Department of the Navy
2000 Navy Pentagon
Washington, DC 20350-2000

Department of Defense
1400 Defense Pentagon
Washington, DC 20301-1400

Re: Freedom of Information Act Request

Dear FOIA and Privacy Act Officer:

Pursuant to the Freedom of Information Act (5 U.S.C. § 552), Freedom Watch requests that the Department of the Navy produce all correspondence, memoranda, documents, reports, records, statements, audits, lists of names, applications, diskettes, letters, expense logs and receipts, calendar or diary logs, facsimile logs, telephone records call sheets, tape recordings, video/movie recordings, notes, examinations, opinions, folders, files, books, manuals, pamphlets, forms, drawings, charts, photographs, electronic mail, and other documents and things that refer or relate in any way to the deaths of the following U.S. military servicemen who were killed in a helicopter crash in Afghanistan on or about August 6, 2011 concerning a mission named Extortion 17:

A.

1. Lt. Cmdr. (SEAL) Jonas B. Kelsall
2. Special Warfare Operator Master Chief Petty Officer (SEAL) Louis J. Langlais
3. Special Warfare Operator Senior Chief Petty Officer (SEAL) Thomas A. Ratzlaff
4. Explosive Ordnance Disposal Technician Senior Chief Petty Officer (Expeditionary Warfare Specialist/Freefall Parachutist) Kraig M. Vickers
5. Special Warfare Operator Chief Petty Officer (SEAL) Brian R. Bill
6. Special Warfare Operator Chief Petty Officer (SEAL) John W. Faas
7. Special Warfare Operator Chief Petty Officer (SEAL) Kevin A. Houston
8. Special Warfare Operator Chief Petty Officer (SEAL) Matthew D. Mason

9. Special Warfare Operator Chief Petty Officer (SEAL) Stephen M. Mills
10. Explosive Ordnance Disposal Technician Chief Petty Officer (Expeditionary Warfare Specialist/Freefall Parachutist/Diver) Nicholas H. Null
11. Special Warfare Operator Chief Petty Officer (SEAL) Robert J. Reeves
12. Special Warfare Operator Chief Petty Officer (SEAL) Heath M. Robinson
13. Special Warfare Operator Chief Petty Officer 1st Class (SEAL) Darrik C. Benson
14. Special Warfare Operator Chief Petty Officer 1st Class (SEAL/Parachutist) Christopher G. Campbell
15. Information Systems Technician Petty Officer 1st Class (Expeditionary Warfare Specialist/Freefall Parachutist) Jared W. Day
16. Master-at-Arms Petty Officer 1st Class (Expeditionary Warfare Specialist) John Douangdara
17. Cryptologist Technician (Collection) Petty Officer 1st Class (Expeditionary Warfare Specialist) Michael J. Strange
18. Special Warfare Operator Petty Officer 1st Class (SEAL/Enlisted Surface Warfare Specialist)
19. Special Warfare Operator Petty Officer 1st Class (SEAL) Aaron C. Vaughn
20. Special Warfare Operator Petty Officer 1st Class (SEAL) Jason R. Workman
21. Special Warfare Operator Petty Officer 1st Class (SEAL) Jesse D. Pittman
22. Special Warfare Operator Petty Officer 2nd Class (SEAL) Nicholas P. Spehar

In addition, Freedom Watch requests all autopsy reports, any and all photographs, X-rays, magnetic resonance images, and all electronic or other recordations of the remains of the above U.S. military servicemen.

B.

Furthermore, Freedom Watch requests any and all information pertaining to the following:

1. Any and all documents that refer or relate in any way to the decision to invite a Muslim cleric to pray at the ramp ceremony in Afghanistan for the above U.S. servicemen.
2. Any and all information that refers or relates to the missing "black box" which may show the reasons for the crash of the subject CH-47D helicopter mission, Extortion 17.
3. Any and all documents that refer or relate to the seven Afghani military servicemen who were originally scheduled to depart with Extortion 17 and whose names are on the official manifest.
4. Any and all documents that refer or relate to the seven Afghani military servicemen who were switched in and substituted immediately prior to departure of Extortion 17 whose names are not on the official manifest.
5. Any and all documents that refer or relate to the decision that seven Afghani military servicemen were substituted out on the flight of Extortion 17.
6. All autopsy reports, any and all photographs, X-rays, magnetic resonance images, remains, and all electronic or other recordations of the remains of the seven Afghani military servicemen who died on the flight of Extortion 17.

7. Any and all documents that refer or relate to the decision to bring the bodies of the dead Afghani military servicemen on Extortion 17 back to the U.S.'s Dover Air Force Base.
8. Any and all documents and things that refer or relate to a flash flood that allegedly washed away Extortion 17's "black box."
9. Any and all documents that refer or relate to the crash report given to the families by the U.S. military that states on May 11, 2011, over 100 Taliban planned to travel to the Tangi Valley with the express intent of shooting down a coalition force aircraft. This is from an interview of TF (redacted) HARC CHIEF opened at 2105 Zulu, 16 August 2011; Declassified on 7 September 2036. See relevant pages attached for identification purposes.
10. Any and all documents and things that refer or relate to the weather in the area of the crash of Extortion 17 on August 6, 2011 and ten (10) days thereafter.
11. Any and all documents that refer or relate to the final decision of the U.S. military to work with the Operational Coordination Group (OCG) made up of the Afghan National Army, the National Director for Security, and the National Police Force.
12. Any and all documents that refer or relate to any final decision to cremate any of the dead servicemen of Extortion 17 as well as the seven Afghan military servicemen who died on Extortion 17, including but not limited to the names and identities of the servicemen who were cremated and the reasons for their cremation.
13. Any and all documents and final decisions that refer or relate to why Admiral Eric Olson abandoned or left Afghanistan on August 8, 2011, two (2) days after the crash of Extortion 17.
14. Any and all documents and final decisions that refer or relate to why General Petraeus abandoned or left Afghanistan on August 16, 2011, ten (10) days after the crash of Extortion 17.
15. Any and all documents and final decisions that refer or relate to why Lieutenant General Joseph L Votel III abandoned or left Afghanistan immediately after the crash of Extortion 17.
16. Any and all documents and final decisions that refer or relate to employing a CH-47D Chinook helicopter, made in the 1960's and last retrofitted in the 1980's, into an active battle zone carrying 30 U.S. military servicemen.
17. Any and all documents and things that refer or relate to the public disclosure by Vice President Biden, Defense Secretary Leon Panetta and others, that SEAL Team VI was responsible for killing Osama Bin Laden.

If any responsive record or portion thereof is claimed to be exempt from production under FOIA, sufficient identifying information (with respect to each allegedly exempt record or portion thereof) must be provided to allow the assessment of the propriety of the claimed exemption. *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert denied*, 415 U.S. 977 (1974). Additionally, pursuant to law, any reasonably segregable portion of a responsive record must be provided after redaction of any allegedly exempt material. 5 U.S.C. §552(b).

I request a waiver of all fees for this request under 5. U.S.C. § 552(a)(4)(A)(iii). Here, twenty-two (22) special ops and eight (8) other military servicemen, including members of Navy SEAL Team

VI, the group that killed Osama Bin Laden, were killed by the Taliban in likely retaliation. Thus, this is a matter of great public interest to the American people.

I hereby request expedited processing of this request pursuant to 5 U.S.C. §552 (a)(6)(E)(ii)(I), as there is a compelling need for the information and time is truly of the essence in this matter.

I look forward to receiving the requested documents and a full fee waiver within twenty (20) business days.

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Klayman', with a long horizontal flourish extending to the right.

Larry Klayman, Esq.
Chairman and General Counsel
2775 NW 49th Ave, Suite 205-345
Ocala, Florida 34482



FREEDOM WATCH

www.FreedomWatchUSA.org

World Headquarters: 2775 NW 49th Ave, Suite 205-345, Ocala, Florida 34482

(310) 595-0800

lekbyrman@gmail.com

Via Mail and Fax

August 1, 2013

Attn: Ms. Alecia Bolling

Department of the Army – Freedom of Information and Privacy Office
Freedom of Information Act Office Suite 144
7701 Telegraph Road, Room 150
Alexandria, Virginia 22315-39095

Department of Defense
1400 Defense Pentagon
Washington, DC 203-1400

Re: Freedom of Information Act Request

Dear FOIA and Privacy Act Officer:

Pursuant to the Freedom of Information Act (5 U.S.C. § 552), Freedom Watch requests that that the Department of the Army produce all correspondence, memoranda, documents, reports, records, statements, audits, lists of names, applications, diskettes, letters, expense logs and receipts, calendar or diary logs, facsimile logs, telephone records call sheets, tape recordings, video/movie recordings, notes, examinations, opinions, folders, files, books, manuals, pamphlets, forms, drawings, charts, photographs, electronic mail, and other documents and things that refer or relate in any way to the deaths of the following U.S. military servicemen who were killed in a helicopter crash in Afghanistan on or about August 6, 2011 concerning a mission named Extortion 17:

A.

- 1) Chief Warrant Officer David R. Carter, assigned to the 2nd Battalion, 135th Aviation Regiment (General Support Aviation Battalion)
- 2) Chief Warrant Officer Bryan J. Nichols, assigned to the 7th Battalion, 158th Aviation Regiment (General Support Aviation Battalion)
- 3) Staff Sgt. Patrick D. Hamburger, assigned to the 2nd Battalion, 135th Aviation Regiment (General Support Aviation Battalion)
- 4) Sgt. Alexander J. Bennett, assigned to the 7th Battalion, 158th Aviation Regiment (General Support Aviation Battalion)
- 5) Spc. Spencer C. Duncan, assigned to the 7th Battalion, 158th Aviation Regiment (General Support Aviation Battalion)

In addition, Freedom Watch requests all autopsy reports, any and all photographs, X-rays, magnetic resonance images, and all electronic or other recordings of the remains of the above U.S. military servicemen.

B.

Furthermore, Freedom Watch requests any and all information pertaining to the following:

1. Any and all documents that refer or relate in any way to the decision to invite a Muslim cleric to pray at the ramp ceremony in Afghanistan for the above U.S. servicemen.
2. Any and all information that refers or relates to the missing "black box" which may show the reasons for the crash of the subject CH-47D helicopter mission, Extortion 17.
3. Any and all documents that refer or relate to the seven Afghani military servicemen who were originally scheduled to depart with Extortion 17 and whose names are on the official manifest.
4. Any and all documents that refer or relate to the seven Afghani military servicemen who were switched in and substituted immediately prior to departure of Extortion 17 whose names are not on the official manifest.
5. Any and all documents that refer or relate to the decision that seven Afghani military servicemen were substituted out on the flight of Extortion 17.
6. All autopsy reports, any and all photographs, X-rays, magnetic resonance images, remains, and all electronic or other recordings of the remains of the seven Afghani military servicemen who died on the flight of Extortion 17.
7. Any and all documents that refer or relate to the decision to bring the bodies of the dead Afghani military servicemen on Extortion 17 back to the U.S.'s Dover Air Force Base.
8. Any and all documents and things that refer or relate to a flash flood that allegedly washed away Extortion 17's "black box."
9. Any and all documents that refer or relate to the crash report given to the families by the U.S. military that states on May 11, 2011, over 100 Taliban planned to travel to the Tangi Valley with the express intent of shooting down a coalition force aircraft. This is from an interview of TF (redacted) HARC CHIEF opened at 2105 Zulu, 16 August 2011; Declassified on 7 September 2036. See relevant pages attached for identification purposes.
10. Any and all documents and things that refer or relate to the weather in the area of the crash of Extortion 17 on August 6, 2011 and ten (10) days thereafter.
11. Any and all documents that refer or relate to the final decision of the U.S. military to work with the Operational Coordination Group (OCG) made up of the Afghan National Army, the National Director for Security, and the National Police Force.
12. Any and all documents that refer or relate to any final decision to cremate any of the dead servicemen of Extortion 17 as well as the seven Afghan military servicemen who died on Extortion 17, including but not limited to the names and identities of the servicemen who were cremated and the reasons for their cremation.

13. Any and all documents and final decisions that refer or relate to why Admiral Eric Olson abandoned or left Afghanistan on August 8, 2011, two (2) days after the crash of Extortion 17.
14. Any and all documents and final decisions that refer or relate to why General Petraeus abandoned or left Afghanistan on August 16, 2011, ten (10) days after the crash of Extortion 17.
15. Any and all documents and final decisions that refer or relate to why Lieutenant General Joseph L Votel III abandoned or left Afghanistan immediately after the crash of Extortion 17.
16. Any and all documents and final decisions that refer or relate to employing a CH-47D Chinook helicopter, made in the 1960's and last retrofitted in the 1980's, into an active battle zone carrying 30 U.S. military servicemen.
17. Any and all documents and things that refer or relate to the public disclosure by Vice President Biden, Defense Secretary Leon Panetta and others, that SEAL Team VI was responsible for killing Osama Bin Laden.

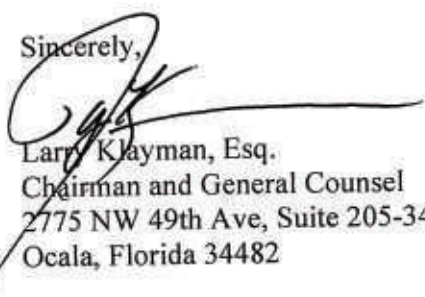
If any responsive record or portion thereof is claimed to be exempt from production under FOIA, sufficient identifying information (with respect to each allegedly exempt record or portion thereof) must be provided to allow the assessment of the propriety of the claimed exemption. *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert denied*, 415 U.S. 977 (1974). Additionally, pursuant to law, any reasonably segregable portion of a responsive record must be provided after redaction of any allegedly exempt material. 5 U.S.C. §552(b).

I request a waiver of all fees for this request under 5. U.S.C. § 552(a)(4)(A)(iii). Here, twenty-two (22) special ops and eight (8) other military servicemen, including members of Navy SEAL Team VI, the group that killed Osama Bin Laden, were killed by the Taliban in likely retaliation. Thus, this is a matter of great public interest to the American people.

I hereby request expedited processing of this request pursuant to 5 U.S.C. §552 (a)(6)(E)(ii)(I), as there is a compelling need for the information and time is truly of the essence in this matter.

I look forward to receiving the requested documents and a full fee waiver within twenty (20) business days.

Sincerely,



Larry Klayman, Esq.
Chairman and General Counsel
2775 NW 49th Ave, Suite 205-345
Ocala, Florida 34482