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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 78-0322
	:	
WILLIAM H. WEBSTER, ET AL.,	:	
	:	
Defendants	:	

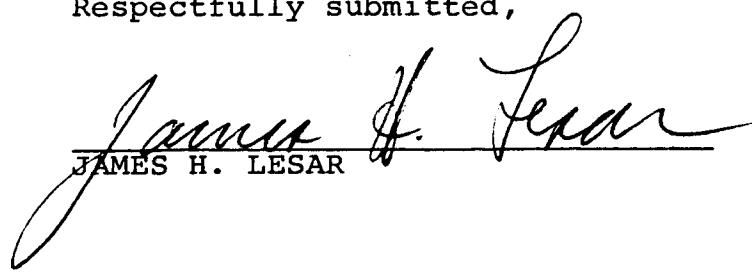
HAROLD WEISBERG,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 78-0420
	:	
FEDERAL BUREAU OF INVESTIGATION,	:	(Consolidated)
ET AL.,	:	
	:	
Defendants	:	

MOTION FOR A PROTECTIVE ORDER

Comes now the plaintiff, Mr. Harold Weisberg, and moves the Court pursuant to Rule 26(c) Federal Rules of Civil Procedure, for a protective order vacating and settting aside interrogatories and request for production of documents addressed to plaintiff.

A Memorandum of Points and Authorities and a proposed Order are attached hereto.

Respectfully submitted,



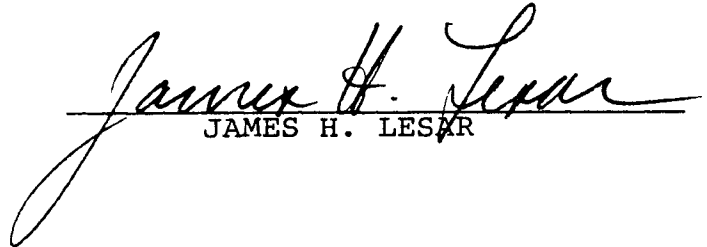
JAMES H. LESAR

1000 Wilson Blvd., Suite 900
Arlington, Va. 22209
Phone: 276-0404

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I have this 17th day of January, 1983, mailed a copy of plaintiff's Motion for a Protective Order to Mr. Henry LaHaie, Civil Division, Room 3338, U.S. Department of Justice, Washington, D.C. 20530.



JAMES H. LESAR

UNITED STATES DISTRICT COURT
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MEMORANDUM OF POINTS AND AUTHORITIES

Defendants have filed interrogatories and a request for production of documents addressed to plaintiff. To the best of plaintiff's counsel's knowledge, this is the first time that this has occurred in a Freedom of Information Act case other than in the context of a motion for attorney's fees in such a case.

This suggests defendants' discovery has an ulterior motive: viz., to further retaliate against plaintiff for prosecuting Freedom of Information Act cases and to drive up the costs of FOIA litigation.

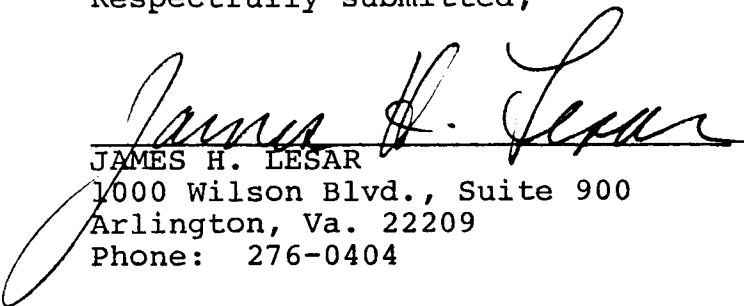
Plaintiff has on many occasions put before this Court facts evincing an FBI vendetta against him. For example, he has adduced evidence showing that the FBI initially refused to respond to any of his FOIA requests; that it sought to "stop" his writing on the assassination of President Kennedy by getting an FBI agent to sue him for libel; that the FBI circulated defamatory memos concerning him falsely alleging communist sympathies; that in violation of promises which the Department of Justice made to Congress and the courts, the FBI has resisted searching for records he has requested on the King and Kennedy assassinations and abruptly rescinded the fee waiver for such records which had been awarded him by the Department of Justice's Office of Information and Privacy Appeals. (As to the latter point, see the attached memorandum by the former director of that office, Mr. Quinlan J. Shea, Jr.)

These matters clearly evince the FBI's persistent and pervasive bad faith in its handling of the Freedom of Information Act lawsuits brought by this plaintiff. The present discovery requests only add to this unsavory picture. There is no need for the FBI or any government agency to seek discovery from an FOIA plaintiff on search issues. It is evident from perusal of the discovery requests submitted by defendants that they intend it to be burdensome. Not only does the discovery sought concern matters which they are required to know themselves, but plaintiff has previously provided some of the information sought through his numerous ap-

appeals (which defendants have steadfastly ignored) and by means of affidavits filed during the course of this litigation.

In short, the discovery sought is not needed by defendants and would be extraordinarily burdensome for plaintiff to provide, particularly given his age and ill health. All the circumstances indicate that defendants are pursuing discovery simply as a means of harrassing plaintiff and driving up the costs of FOIA litigation. This Court should not countenance discovery founded on such improper motives. This Court should vacate the discovery which defendants have attempted to take.

Respectfully submitted,



JAMES H. LESAR
1000 Wilson Blvd., Suite 900
Arlington, Va. 22209
Phone: 276-0404

Attorney for Plaintiff



United States Department of Justice
OFFICE OF THE ASSOCIATE ATTORNEY GENERAL
WASHINGTON, D.C. 20530

MEMORANDUM

March 27, 1980

TO: Robert L. Saloschin, Director
Office of Information Law and Policy

FROM: *QJA* Quinlan J. Shea, Jr., Director
Office of Privacy and Information Appeals

SUBJECT: Freedom of Information Requests of Mr. Harold Weisberg

Reference is made to Mr. Flanders' memorandum to you dated March 4, subject as above.

I have no strong objection to placing this subject on the agenda of the Freedom of Information Committee, although I see no real need to do so. I disagree with many of the assertions in Mr. Flanders' memorandum. I do not agree that the Bureau has searched adequately for "King" records within the scope of Mr. Weisberg's numerous requests. In fact, I am not sure that the Bureau has ever conducted a "search" at all, in the sense I (and, I believe, the FOIA) use that word. It is confusing two totally different matters -- the scope of his requests administratively and the scope of a single lawsuit which we claim is considerably narrower than his administrative requests. Not really touched on in Mr. Flanders' memorandum, but very much involved in this matter, is the issue of what are "duplicate" documents for purposes of the Freedom of Information Act. The Bureau has rejected -- still informally, but very emphatically -- the position I espouse (and with which you agreed in your informal comments on my earlier memorandum to you). Lastly, but very important, is the matter of the scope of the fee waiver granted to Mr. Weisberg. In my view (and as intended by me at the time it was granted), the waiver extends to all records about the King assassination, about the Bureau's investigation of the King assassination (not at all the same thing), about the "security investigation" on Dr. King, and about the

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Bureau's dealings with and attitudes towards its "friends" and its "critics" as they relate to the King case. The key point is that it extends to records by virtue of their subjects and contents, to the extent they can be located with a reasonable effort — and is not determined by where and how the Bureau has filed the records. Although the Bureau has departed from its initial position in both the King and Kennedy cases (that the only relevant records are those filed by the FBI in the main files on those cases and/or the very principal "players"), it has done so very reluctantly and to a very limited, factual extent. I am personally convinced that there are numerous additional records that are factually, logically and historically relevant to the King and Kennedy cases which have not yet been located and processed — largely because the Bureau has "declined" to search for them.

It is perhaps unfortunate that Mr. Weisberg is the principal requester for King and Kennedy records. He has heaped so much vilification on the FBI and the Civil Division — a considerable part of which has been inaccurate and some of which has been unfair — that the processing of his efforts to obtain these records has almost become an "us" against "him" exercise. My view has always been that the two cases are too important to the recent history of this country for that attitude to have any permissible operation.

The problem I have is that, although I know that what the Bureau wants the Committee to approve would contradict or be inconsistent with promises made to Mr. Weisberg by Bureau and Department representatives, and to representations made in court, and to testimony before the Aboureszk Subcommittee, I do not have the time to carry out the extensive research that would be required for me adequately to represent Mr. Weisberg's interests before the Committee, in an effort to avoid the very real blot on the Department's Escutcheon which would result from the approval of the Bureau's position. Accordingly, if this matter is to be placed on the Committee's agenda, I strongly recommend that Mr. Weisberg and his lawyer, Jim Lesar, be invited to attend and participate in the discussions.

cc: Vincent Carvey, Esq.
Civil Division

Inspector Flanders
Federal Bureau of Investigation

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O R D E R

Upon consideration of plaintiff's motion for a protective order, defendants' opposition thereto, and the entire record herein, it is by the Court this _____ day of _____, 1983, hereby

ORDERED, that Defendants' First Set of Written Interrogatories and Defendants' First Request for Production of Documents are VACATED.

UNITED STATES DISTRICT JUDGE