

... grounds upon which that motion was
presented when such reappeared as the basis for plaintiff's
objections to defendant's discovery.

Lastly, plaintiff makes much ado about the fact that "he knows of no instance in which the government has sought discovery of an (sic) FOIA plaintiff except in the context of an attorneys fee award." In plaintiff's view, this can only mean that the defendant is attempting to shift the burden of proof in these cases. Contrary to this conjecture, the defendant did not

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*/ For example, the defendant demonstrated in its opposition to plaintiff's motion for a protective order that it undertook discovery so as to enable it to address all the factual bases which supposedly support plaintiff's fourteen claims about the inadequacy of the FBI's search. In this regard, the defendant noted, by way of illustration, that the FBI has twice stated in this litigation that its search encompassed the "June" files in the Dallas and New Orleans Field Offices, but that plaintiff disputes those statements. The defendant thus argued that unless plaintiff is required to list the facts and documents upon which he bases such dispute, it will be unable to address adequately his assertion that the Bureau's search did not include "June" files. The defendant noted that the same can be said for plaintiff's contentions about the FBI's alleged failure to search for records on James P. Hosty, "see" references, etc.

The defendant also pointed out in its opposition to plaintiff's motion for a protective order that its discovery requests could not possibly be burdensome. All that is requested of plaintiff is that he provide the defendant with each and every fact and document upon which he grounds his fourteen disputed issues regarding the adequacy of the search. Such information reposes solely with plaintiff; indeed, it would be impossible for the defendant to speculate on what facts, or upon which of the more than 200,000 pages of records released in these cases, plaintiff relies to support his fourteen assertions.

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Replied
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