

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ROGER HALL, *et al.*,)
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)
 Plaintiffs,)
)
 v.) Civil Action No. 04-0814 (HHK)
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 CENTRAL INTELLIGENCE AGENCY,) ECF
)
 Defendant)
)
)

PLAINTIFF ACCURACY IN MEDIA'S MOTION FOR STATUTORY FEE WAIVER

Defendant CIA appears to posit, in its motion for a stay or alternatively to dismiss, that the issues herein include plaintiffs' obligation to pay defendant search fees.¹ This is clearly in error, as the FOIA plainly states that "representative of the news media" are excluded from all but reasonable duplication fees.

Government counsel has advised this plaintiff that the CIA opposes this motion.

¹ Response of Plaintiff's Hall & Study Results Solutions, to CIA's Motion to Stay, p. 4:

"When he obtained a court order that the CIA conduct further searches, the CIA withdrew the fee waiver it had previously extended... When he not only committed to pay but tendered a check for \$1,000 in search fees, the CIA declared that it had already conducted the searches amounting to some \$29,000... After a considerable period of time, the CIA returned to Court seeking leave to file a new affidavit declaring that the search fees only came to \$ 10,906. When Hall tendered this sum, having lost a court battle over the fee waiver issue in the meantime, the CIA still refused to conduct a search and has now returned the fee Hall paid. Moreover, the CIA is now claiming that the new request will cost over \$600,000 even though (1) it has previously declared that it had already done the searches, and (2) it has excluded four of the seven categories of requests of documents sought... on the ground that they were at issue in the prior Hall lawsuit. Neither law nor the equities favor rewarding this outrageous behavior by accommodating its desire for further unnecessary delay."

Memorandum of points and authorities

Defendant's motion ignores that Accuracy in Media, Inc. is a plaintiff herein. Defendant CIA has not, and cannot, deny that plaintiff Accuracy in Media, Inc., is a "representative of the news media," and, as such, that it is entitled to a waiver of all fees, except for duplication.²

The Freedom of Information Reform Act of 1986 amends the Freedom of Information Act by providing for reduced fees for certain types of document request made by an entity that qualifies as "an educational... institution" or as a "representative of the news media."
(internal citations omitted)
National Security Archive v. Department of Defense, 880 F.2d 1381, 1382 (D.C. Cir. 1989).

Plaintiffs' FOIA request asks that fees be waived. Thus, there is an administrative record for the Court to review, *de novo*.

Respectfully submitted,

/s/

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² 5 U.S.C. (a)(4)(A)(ii)(II): "**fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media;**"