UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 14-20643-CIV-ALTONAGA

MICCOSUKEE TRIBE OF INDIANS
OF FLORIDA,
Plaintiff,

v.

UNITED STATES DEPARTMENT OF
JUSTICE,
Defendant.
_____/

DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Defendant United States Department of Justice and its components listed in the caption of Plaintiff's First Amended Complaint ("DOJ"), pursuant to Rule 56, Federal Rules of Civil Procedure, moves for summary judgment on Plaintiff, Miccosukee Tribe of Indians of Florida's (the "Tribe") claims under the Freedom of Information Act.

INTRODUCTION

The Tribe brought this action against the DOJ Components named in the caption, for injunctive and declaratory relief under the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"). In July of 2012, the Tribe had allegedly issued separate FOIA requests to the following DOJ Components: (1) the Office of the Inspector General ("OIG"), (2) the Executive Office for United States Attorneys ("EOUSA"), (3) the Office of Information Policy ("OIP"), (4) the Office of Professional Responsibility ("OPR"), and (5) the Office of Tribal Justice ("OTJ"). *See* Compl., Ex. 2 - 6 (DE 27-2 – 27-6). The Tribe's FOIA requests to OIG, EOUSA, OIP, and OPR sought records concerning "any Department of Justice investigation, or any other internal inquiry, of

[Guy] Lewis for alleged wrongdoing in his capacity as Director of the Executive Office of U.S. Attorneys" and any disciplinary action taken against Mr. Lewis. *See* Compl., Ex. 2-5 (DE 27-2 – 27-5). The Tribe's FOIA request to OTJ similarly sought "records that detail the alleged professional misconduct that led to Mr. Lewis's termination in 2004," but also sought information regarding OTJ's collaboration with Mr. Lewis and EOUSA, and records related to any complaints against the office of EOUSA from Indian Country, individual Native-Americans or the Native American Indian Tribes. *See* Compl., Ex. 6 (DE 27-6).

According to its First Amended Complaint (DE 27), the information sought by the Tribe is "essential for [] two pending lawsuits filed by the Miccosukee Tribe against Mr. Lewis." First Am. Compl. ¶ 23. The Tribe attached as Composite Exhibit 1 to its First Amended Complaints copies of its complaints from those lawsuits against Mr. Lewis and others. The complaint in *Miccosukee Tribe of Indians v. Cypress*, et al., Case No. 13-35956-CA-40, alleges that the Tribe's former Chairman, Billy Cypress, aided by Mr. Lewis and others, embezzled more than $11 million of the Tribe's funds. The complaint in *Miccosukee Tribe of Indians v. Lewis*, et al., Case No. 12-12816-CA-27, alleges that Mr. Lewis, his law partner and others fraudulently charged the Tribe millions of dollars in excessive legal fees, committed civil theft and legal malpractice, and breached a fiduciary duty owed to the Tribe.

None of the Tribe's claims in the foregoing lawsuits is related to Mr. Lewis's employment by the Department of Justice. Nevertheless, the Tribe's complaint in this action alleges that Mr. Lewis misrepresented to it the reason for his termination from employment with the Department of Justice, which the Tribe believes involved travel malfeasance and theft. First Am. Compl. ¶ 27. The Tribe claims that it hired Mr. Lewis as a result of the foregoing alleged misrepresentation and

that Mr. Lewis continues to use his position as a former Director of the Executive Office of U.S. Attorneys to entice new clients. *Id*. at ¶ 28-29.

In response to the Tribe's FOIA requests, each of the DOJ Components invoked FOIA Exemption 7(C), and issued *Glomar* responses, refusing to confirm or deny the existence of records responsive to the Tribe's request for records concerning any investigation of Guy Lewis. OPR additionally invoked FOIA Exemption 6. OTJ's response further indicated that it had not located any responsive records detailing OTJ's collaboration with Mr. Lewis or EOUSA for the time frame specified in the FOIA request, or records related to any complaints against the office of EOUSA from Indian Country, individual Native-Americans or the Native American Indian Tribes. The DOJ Components' responses to the Tribe's FOIA requests are attached hereto as Composite Exhibit "A."

Under FOIA, the Court has jurisdiction to enjoin a federal agency from withholding agency records and to order the production of any agency records improperly withheld from a complainant. As demonstrated below, however, DOJ has not improperly withheld any non-exempt records from Plaintiff. Because there are no material facts in dispute and DOJ is entitled to judgment as a matter of law, summary judgment in DOJ's favor is appropriate.

ARGUMENT

FOIA requires federal agencies to make records and documents publicly available upon request, unless they fall within one of several statutory exemptions. *See* 5 U.S.C. § 552(b). Pursuant to FOIA, a court is authorized to enjoin an agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. *See* 5

U.S.C. § 552(a)(4)(B). FOIA cases should generally be resolved on motions for summary judgment. *Miscavige v. IRS*, 2 F.3d 366, 369 (11th Cir. 1993); *St. Andrews Park, Inc. v. U.S. Dept. of Army Corps of Engineers*, 299 F. Supp. 2d 1264, 1267 (S.D. Fla. 2003). DOJ is entitled to summary judgment in this case because it has not improperly withheld any records from the Tribe.

FOIA Exemptions 6 and 7(C)

In response to the Tribe's FOIA requests for information regarding alleged misconduct by, and DOJ discipline of, Mr. Lewis, the Defendant DOJ Components issued what is known as a *Glomar* response. A *Glomar* response is "an exception to the general rule that agencies must acknowledge the existence of information responsive to a FOIA request and provide specific, non-conclusory justifications for withholding that information." *Roth v. U.S. Dep't of Justice*, 642 F.3d 1161, 1178 (D.C. Cir. 2011). Thus, a *Glomar* response allows an agency to respond to a FOIA request by neither confirming nor denying the existence of any records responsive to the request, on the grounds that "confirming or denying the existence of records would itself 'cause harm cognizable under a[ ] FOIA exception.'" *Id*. (quoting *Wolf v. CIA*, 473 F.3d 370, 374 (D.C. Cir. 2007)). The *Glomar* response is necessary because members of the public may draw adverse inferences from the mere fact that an individual is mentioned in the files of a criminal law enforcement agency. *See Ray v. U.S. Dep't of Justice*, 778 F. Supp. 1212, 1215 (S.D. Fla. 1991).

In support of their *Glomar* responses to the Tribe's requests, each of the DOJ Components named as defendants in this action invoked FOIA Exemption 7(C). OPR additionally invoked FOIA Exemption 6. Exemption 7(C) covers law enforcement records, the disclosure of which "could reasonably be expected to constitute an unwarranted invasion of personal privacy." 5

U.S.C. § 552(b)(7)(C). Exemption 6 covers information about individuals in "personnel and medical files and similar files" when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6).

Where, as here, an agency has invoked a FOIA exemption to deny a request for records, the defendant government agency bears the burden of showing that it properly invoked the FOIA exemption as a basis for the withholding. *See Miccosukee Tribe of Indians of Florida v. United States*, 516 F.3d 1235, 1258 (11th Cir. 2008). Affidavits or declarations may be used to meet the agency's burden so long as they provide an adequate factual basis for the Court's decision. *Id.*; *Del Rio v. Miami Field Office of the FBI*, No. 08-21103, 2009 WL 2762698, at *6 (S.D. Fla. Aug. 27, 2009). The affidavits submitted by an agency are accorded a presumption of good faith. *Del Rio*, 2009 WL 2762698, at *6. In addition, when an agency's *Glomar* response is challenged in an action under FOIA, the agency bears the burden of demonstrating "that acknowledging the mere existence of responsive records would disclose exempt information." *Electronic Privacy Info. Ctr. v. NSA*, 678 F.3d 926, 931 (D.C. Cir. 2012). "In *Glomar* cases, courts may grant summary judgment on the basis of agency affidavits that contain 'reasonable specificity of detail rather than mere conclusory statements, and if they are not called into question by contradictory evidence in the record or by evidence of agency bad faith.'" *Id.* (quoting *Gardels v. CIA*, 689 F.2d 1100, 1105 (D.C. Cir. 1982)). "The supporting affidavit must justify the *Glomar* response based on 'general exemption review standards established in non-*Glomar* cases.'" *Id.* (quoting *Wolf*, 473 F.3d at 374–75).

Summary judgment for the federal agency is proper "[i]f the affidavits provide specific information sufficient to place the documents within the exemption category, if this information is

not contradicted in the record, and if there is no evidence in the record of agency bad faith." *Florida Immigrant Advocacy Center v. NSA*, 380 F. Supp. 2d 1332, 1338 (S.D. Fla. 2005)(quoting *Hayden v. NSA*, 608 F.2d 1381, 1384 (D.C. Cir. 1979)), *cert. denied*, 446 U.S. 937 (1980); *see also Inter Ocean Free Zone, Inc. v. U.S. Customs Service*, 982 F. Supp. 867, 871 (S.D. Fla. 1997); *Halperin v. CIA*, 629 F.2d 144, 148 (D.C. Cir. 1980); *Military Audit Project v. Casey*, 656 F.2d 724, 738 (D.C. Cir. 1981).

Government Information Specialist and FOIA Officer for OIG, Deborah M. Waller, has submitted a declaration in support of the *Glomar* responses made by the Defendant DOJ Components, and their invocations of FOIA Exemptions 6 and 7(C). A copy of Ms. Waller's Declaration is attached hereto as Exhibit "B." Ms. Waller's Declaration explains that OIG is the DOJ Component responsible for investigating allegations of criminal wrongdoing and administrative misconduct on the part of Department of Justice employees and for auditing and inspecting the programs and operations of the Department and of non-Department entities that contract with or receive benefits from the Department. *Id*. (citing 28 C.F.R. § 0.29a(b)(2)). Ms. Waller explains that OIG also conducts audits and inspections focusing on broader Department of Justice programs and operations. *Id*. The OIG maintains separate records relating to its investigative, audit and inspection functions. *Id*.

As Ms. Waller's Declaration explains, the Defendant DOJ Components issued *Glomar* responses to the Tribe's requests for records concerning an alleged investigation of Guy Lewis because there has been no public acknowledgment of any wrongdoing or investigation. Furthermore, the acknowledgment of the mere existence of records responsive to the Tribe's request could reasonably be expected to constitute an invasion of Mr. Lewis's personal privacy,

without an overriding public interest to warrant disclosure. *Id.*[1] For these reasons, the Defendant DOJ Components determined that the existence of any such records sought by the Tribe would neither be confirmed nor denied, subject to FOIA Exemptions 6 and 7(C).

FOIA Exemption 7(C) excludes records or information compiled for law enforcement purposes, "but only to the extent that the production of such [materials] ... could reasonably be expected to constitute an unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(7)(C).[2]

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[1] Specifically, Ms. Waller declares that:

> There has been no public acknowledgment of any misconduct by Guy Lewis during his term as Director of EOUSA, or of any investigation into alleged wrongdoing or misconduct. Should any record responsive to Plaintiff's request exist, it would be maintained in a system of records covered by the Privacy Act which prohibits an agency from disclosing any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains. Furthermore, if such records exist, they would be exempt from disclosure pursuant to Exemptions 6 and 7(C).
>
> [I]if any such records exist, they would be maintained in an investigative records system that contains records compiled for law enforcement purposes. The OIG and OPR are vested with the authority to investigate allegations of misconduct by Department employees. Therefore, any records contained in the OIG and OPR's system of records are compiled as part of the OIG and OPR's investigations of Department employees who are alleged to have committed misconduct, which if proven, could result in civil, criminal, or administrative penalties.
>
> As stated in the each of the components' responses to Plaintiff, without the consent of the individual, an official acknowledgement of an investigation involving the individual, or an overriding public interest, acknowledging the existence of any such records could reasonably be expected to constitute an unwarranted invasion of privacy.

Waller Decl. (Ex. B hereto) at ¶¶ 23-25.

[2] Exemption 7(C)'s privacy language is broader than the comparable language in Exemption 6 (discussed below) in two respects. *See United States Dep't of Justice v. Reporters Committee*, 489 U.S. 749, 756 (1989). First, whereas Exemption 6 requires that the invasion of privacy be "clearly unwarranted," the adverb "clearly" is omitted from Exemption 7(C). *Id*. Second, whereas

Ms. Waller's Declaration explains that, if records responsive to the Tribe's FOIA requests exist, they would be maintained in an investigative records system that contains records "compiled for law enforcement purposes" and would be subject to Exemption 7(C). Waller Decl. (Ex. B hereto) at ¶ 24.

Similarly, FOIA Exemption 6 excludes from the general rule of disclosure "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6). Exemption 6 applies broadly to "detailed Government records on an individual which can be identified as applying to that individual." *United States Dep't of State v. Washington Post Co.*, 456 U.S. 595, 602 (1982) (internal quotations omitted). Clearly, the records at issue here, if any exist, would be records on an individual, Guy Lewis, which could be identified as applying to that individual, and are thus subject to FOIA Exemption 6.

The United States Supreme Court has observed that "the text of the exemption requires the Court to balance the individual's right of privacy against the basic policy of opening agency action to the light of public scrutiny." *United States Dep't of State v. Ray*, 502 U.S. 164, 175 (1991) (internal quotations omitted). The privacy interest protected by Exemption 6 includes an individual's interest in avoiding disclosure of personal matters. *Reporters Committee*, 489 U.S. at 762. The relevant public interest to be balanced against the private interests at stake is the core purpose of FOIA: "to open agency action to the light of public scrutiny." *Id.* at 772 (quoting *Dep't*

Exemption 6 refers to disclosures that "would constitute" an invasion of privacy, Exemption 7(C) encompasses any disclosure that "could reasonably be expected to constitute" such an invasion. *Id*. Thus, the standard for evaluating a threatened invasion of privacy interests resulting from the disclosure of records compiled for law enforcement purposes is somewhat broader than the standard applicable to personnel, medical, and similar files. *Id*.

of Air Force v. Rose, 425 U.S. 352, 372 (1976)).

Although there has been no public acknowledgment of any misconduct by Guy Lewis during his term as Director of EOUSA, or of any investigation into alleged wrongdoing, the Tribe's complaint emphasizes its need for records concerning DOJ's handling of alleged professional misconduct by Mr. Lewis for use in its private litigation against him.[3] The United States Supreme Court has observed, however, that any peculiar interest of the requesting party is irrelevant to evaluating the general public interest to be served by disclosure under FOIA. *See John Doe Agency v. John Doe Corp*., 493 U.S. 146 (1989). *See also as Horowitz v. Peace Corps*, 428 F.3d 271, 278 (D.C. Cir. 2005) (finding that plaintiff's "need to obtain the information for a pending civil suit is irrelevant, as the public interest to be weighed has nothing to do with [his] personal situation").

Although it is plainly evident that the Tribe's need for records responsive to its FOIA request stemmed from its private litigation against Mr. Lewis, the Tribe's complaint also suggests that the release of such records would "allow the public to determine how [DOJ] handles misconduct by employees." First Am. Compl. ¶ 32. In this regard, Plaintiff's allegations closely resemble those of the plaintiffs in *Kimberlin v. Dep't of Justice*, 139 F.3d 944 (D.C.Cir.1998), and *Office of the Capital Collateral Counsel, Northern Region of Florida,* ex rel. *Mordenti v. Department of Justice*, 331 F.3d 799 (11th Cir. 2003).

Kimberlin was decided under FOIA Exemption 7(C). In *Kimberlin*, an Assistant United States Attorney ("AUSA") released confidential information derived from a Drug Enforcement Agency investigation of a United States Senator. The AUSA was investigated by OPR and

[3] The Tribe's FOIA request to OTJ (Exhibit 6 to the Tribe's First Amended Complaint) requested expedited consideration, as it was "in ongoing litigation involving Mr. Lewis and his law firm . . . for professional misconduct while he represented the Tribe" and that the information requested "is critical to the Tribe's case."

eventually sanctioned by DOJ. Subsequently, the plaintiff in *Kimberlin* sought disclosure pursuant to FOIA of all documents related to the OPR investigation of the AUSA. The D.C. Circuit concluded that

> [u]nder these circumstances, we have no doubt that disclosure of the OPR investigative file would occasion an invasion of [the AUSA's] privacy disproportionate to, and therefore "unwarranted" by, such insight as the public would gain into "what the Government is up to."

139 F.3d at 949 (quoting *Reporters Committee*, 489 U.S. at 750). The D.C. Circuit therefore held the documents to be exempt under FOIA Exemption 7(C).

Applying the narrower FOIA Exemption 6, the Eleventh Circuit reached a similar conclusion with its balancing analysis in *Mordenti*. The plaintiff in *Mordenti* sought from DOJ records concerning its disciplinary action against an AUSA for misconduct in an unrelated criminal prosecution. *See Mordenti*, 331 F.3d at 799. In that unrelated criminal case, the AUSA had employed a fictitious name for a witness to conceal the witness's potential credibility problems and increase the likelihood of a conviction. *Id*. After the AUSA's conduct came to light, she was disciplined by DOJ and the Florida Bar. *Id*.

Over DOJ's objection, the district court in *Mordenti* ordered DOJ to produce in response to the plaintiff's FOIA request a transcript of a due process hearing where the AUSA spoke freely about the incident and the proposed sanctions, and the DOJ's final decision imposing an unpaid suspension on the AUSA. *Id*. DOJ appealed, and the Eleventh Circuit reversed the district court's decision.

First, the Eleventh Circuit observed that the AUSA's status as a public official did not render her interest in preserving her personal privacy without weight. *Id*. at 803. Indeed, "the fact that an event is not wholly 'private' does not mean that an individual has no interests in

limiting disclosure or dissemination of the information." *Id*. (quoting *Reporters Committee*, 489 U.S. at 770). The court then weighed the AUSA's right to privacy against the public's interest in knowing how DOJ responded to the AUSA's misconduct, and found that the disclosure of the details of DOJ's disciplinary proceedings and final sanction against the AUSA would constitute an invasion of the AUSA's privacy that is excessively disproportionate to the public interest and, therefore, clearly unwarranted.

In this case, unlike *Kimberlin* and *Mordenti*, there has been no public acknowledgment of any alleged misconduct by, or of any disciplinary action taken against, Mr. Lewis for conduct the Tribe alleges occurred more than a decade ago. While Mr. Lewis was arguably a higher ranking official within the Justice Department, a person's privacy interests under FOIA are not diminished by his status as a high-level public official. See *National Archives and Records Administration v. Favish*, 541 U.S. 157, 171 (2004). Under these circumstances, the mere acknowledgement of records responsive to the Tribe's FOIA requests, let alone the release of such records, if any exist, would do little to serve a FOIA public interest, yet would constitute an unwarranted invasion of Mr. Lewis's privacy.[4] In other words, the acknowledgment or disclosure of any such records would not meet FOIA's purposes of allowing the public to know "what the government is up to." *Reporters Committee*, 489 U.S. at 750.

Although the Tribe suggests that disclosure of the information it seeks would allow the public to determine how DOJ handles misconduct by employees, the Tribe's complaint offers only

[4] "Law enforcement officers, interviewees, suspects, witnesses, and other individuals named in investigatory files all have substantial privacy interests in not having their names revealed in connection with the subject matter of a law enforcement investigation because such revelation could result in embarrassment or harassment." *Wichlacz v. U.S. Dep't of Interior*, 938 F. Supp. 325, 330 (E.D. Va. 1996). *See also Franklin v. DOJ*, No. 97-1225, slip op. at 10 (S.D. Fla. June 15, 1998) (magistrate's recommendation) (citing *Wichlacz*), *adopted*, (S.D. Fla. June 26, 1998), *aff'd per curiam*, 189 F.3d 485 (11th Cir. 1999).

its suspicion that Mr. Lewis engaged in travel malfeasance, and that he was investigated and disciplined for it. The Supreme Court has held that the privacy interests protected by FOIA Exemption 7(C) cannot be overcome simply by a requester's bare suspicion of malfeasance. *Favish*, 541 U.S. at 173-74. Doing so, the Court observed, would leave Exemption 7(C) with "little force or content." *Id*. at 173. Accordingly, the Court held that "where there is a privacy interest protected by Exemption 7(C) and the public interest being asserted is to show that responsible officials acted negligently or otherwise improperly in the performance of their duties, the requester must establish more than a bare suspicion in order to obtain disclosure[;] [r]ather, the requester must produce evidence that would warrant a belief by a reasonable person that the alleged Government impropriety might have occurred. *Id*. at 174. The Tribe has made no such showing in this case. For these reasons, the DOJ Components' *Glomar* responses to the Tribe's requests were lawful and appropriate.

Adequacy of Search by OTJ

As indicated above, the Tribe's FOIA request to OTJ differed slightly from its requests of the other DOJ Components named as defendants. In addition to seeking "records that detail the alleged professional misconduct that led to Mr. Lewis's termination in 2004," the Tribe's request to OTJ sought information regarding OTJ's collaboration with Mr. Lewis and EOUSA, and records related to any complaints against the office of EOUSA from Indian Country, individual Native-Americans or the Native American Indian Tribes. *See* Compl., Ex. 6 (DE 27-6).[5] OTJ did

[5] Specifically, the Tribe's request to OTJ sought:

1. Agency records that detail Office of Tribal Justice collaboration with Mr. Lewis;
2. Agency records that detail Office of Tribal Justice collaboration with the office of EOUSA during the above referenced time frame [2002-2004];
3. Agency records related to any complaints against the office of EOUSA from Indian

not assert a FOIA exemption to these additional aspects of the Tribe's request, but instead informed the Tribe that it had found no responsive records. *See* Letter dated Aug. 29, 2014 from OTJ to Bernardo Roman, attached hereto as Exhibit "C".

"The adequacy of an agency's search for documents requested under FOIA is judged by a reasonableness standard." *Ray*, 908 F.2d at 1558. The search need not be exhaustive. Rather, "the agency must show beyond material doubt . . . that it has conducted a search reasonably calculated to uncover all relevant documents." *Id*. (quotations omitted). This burden can be met by producing affidavits that are "relatively detailed, nonconclusory, and submitted in good faith." *Id*. (quotation omitted). Once the agency meets its burden to show that its search was reasonable, the burden shifts to the requester "to rebut the agency's evidence by showing that the search was not reasonable or was not conducted in good faith." *Id*.

Concerning OTJ's search for records responsive to the non-exempt portions of the Tribe's request, OTJ's Chief of Staff, Jeanne Jacobs, has declared on behalf of OTJ that, contrary to the Tribe's allegation that it sent its FOIA request to OTJ in July of 2012 (First Am. Compl. ¶ 40), OTJ only received the Tribe's request letter on March 5, 2014, as an attachment to the Tribe's complaint in this lawsuit. *See* Aff. of Jeanne Jacobs, attached hereto as Exhibit "D". Nevertheless, Ms. Jacobs indicates in her Affidavit that, upon its receipt of the Tribe's request dated July 18, 2012, OTJ conducted a search for responsive records. *Id*. The search began with an in-person meeting of OTJ staff to ensure the request was clearly understood. *Id.* Following the meeting, OTJ searched shared computer drives and the personal computer drives of staff members

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Country, individual Native-Americans or Native American Indian Tribes during the above referenced time frame [2002-2004];

4. Agency records that detail the alleged professional misconduct that to Mr. Lewis's termination in 2004.

who were present at any time during the specified time frame. *Id.* OTJ searched for records using the following key words: Guy Lewis, EOUSA Executive Director, Misconduct, and Fraud. *Id*. OTJ did not limit its search to computer records, it also searched for responsive records within the physical files in the offices of relevant OTJ staff members, and in the OTJ's file room. *Id*. Despite its search efforts, OTJ found no records in any OTJ electronic or physical files responsive to the non-exempt portion of the Tribe's request. *Id*.

Ms. Jacobs's Affidavit demonstrates that OTJ conducted a search that was reasonably calculated to uncover all relevant documents. The Affidavit is relatively detailed, nonconclusory, and was submitted in good faith. Absent evidence to the contrary, DOJ is entitled to summary judgment in its favor insofar as the adequacy of OTJ's search for responsive records is concerned.

CONCLUSION

Because DOJ has not improperly withheld any documents in response to the Tribe's FOIA requests, the DOJ Components named as Defendants in this action are entitled to summary judgment in their favor.

Respectfully submitted,

Dated: February 19, 2014
Miami, FL

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CERTIFICATE OF SERVICE

I hereby certify that on February 19, 2014, I filed the foregoing document with the Clerk of the Court via CM/ECF.

/s/ Carlos Raurell
Assistant United States Attorney