

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

	X	
	:	
CHICAGO JUSTICE PROJECT,	:	
105 W. Madison Street, Suite 1500	:	
Chicago, IL 60602	:	
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
THE DISTRICT OF COLUMBIA	:	
John A. Wilson Building	:	
1350 Pennsylvania Avenue, N.W.	:	
Washington, D.C. 20004	:	
	:	
Defendant,	:	Case No.: _____
	:	
<u>Serve:</u>	:	
MAYOR MURIEL BOWSER	:	
Executive Office of the Mayor	:	
John A. Wilson Building	:	
1350 Pennsylvania Avenue, N.W.	:	
Washington, D.C. 20004	:	
	:	
<u>Serve:</u>	:	
KARL A. RACINE	:	
Office of the Attorney General	:	
for the District of Columbia	:	
400 6th Street, N.W.	:	
Washington, D.C. 20001	:	
	X	

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF FOR VIOLATION
OF THE DISTRICT OF COLUMBIA FREEDOM OF INFORMATION ACT**

Plaintiff Chicago Justice Project alleges for its Complaint:

NATURE OF THE ACTION

1. Plaintiff Chicago Justice Project (“CJP”) is a non-profit organization dedicated to pursuing data transparency in local justice systems across the country. CJP’s mission is to access

and analyze data from various justice systems to promote evidence-based reforms that will better serve the needs of local communities.

2. CJP brings this action for injunctive and declaratory relief pursuant to the District of Columbia Freedom of Information Act, D.C. Code §§ 2-531, *et seq.* (“FOIA”), to compel production of public records maintained or controlled by the Metropolitan Police Department (“MPD”). MPD has refused to produce certain public records, which CJP requested on September 22, 2021. Additionally, the Mayor’s Office of Legal Counsel (the “Mayor’s Office”) has failed to make a determination on CJP’s appeal, filed February 4, 2022, within the statutorily required time. CJP has, therefore, exhausted all administrative remedies and the only recourse to obtain these important public documents is through this action.

3. D.C. Code § 2-531 provides as follows:

The public policy of the District of Columbia is that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. To that end, provisions of this [Act] shall be construed with the view toward expansion of public access and the minimization of costs and time delays to persons requesting information.

4. The requested records concern the affairs of government and the official acts of those who represent D.C. residents as public officials and employees, namely the actions, policies, and conduct of MPD and its employees, and are therefore subject to FOIA.

5. Under FOIA, all public bodies of the District of Columbia government are required to disclose public records, except for those records or portions of records that are protected from disclosure by the exemptions found at D.C. Code § 2-534. These exemptions are narrow and

should be construed in favor of disclosure, especially when the records at issue pertain to matters of high public interest. *See Barry v. Washington Post Co.*, 529 A.2d 319, 322 (D.C. App. 1987).

6. The records at issue in this action concern serious matters of high public importance. Specifically, the records concern the existence and operation of MPD’s Gang Tracking and Analysis System (“Gang Database”) and other similar databases—systems recently the subjects of significant press coverage and ongoing debate within the D.C. Council.

7. Upon receipt of CJP’s FOIA request, MPD was required under D.C. Code § 2-532(a) to conduct a reasonable search for responsive records and to make such records available to CJP. Rather than conducting a reasonable search, MPD simply denied many of the requests. MPD’s denials of these requests are contrary to the provisions of FOIA, its purpose, and controlling case law interpreting the relevant provisions. *See, e.g., Fraternal Order of Police v. District of Columbia*, 139 A.3d 853 (D.C. 2016).

PARTIES, JURISDICTION, AND VENUE

8. Plaintiff, Chicago Justice Project, is a not-for-profit corporation organized under the laws of the State of Illinois.

9. Defendant, District of Columbia, is the proper governmental entity from whom relief for a violation of FOIA by MPD may be obtained because MPD is a non-suable entity that cannot be named as a defendant. *Fraternal Order of Police*, 997 A.2d at 74–76 (explaining that MPD is not capable of being sued “because it is a noncorporate department within the District government and no statutory provision authorizes suit against it”).

10. Subject matter jurisdiction exists under D.C. Code § 11-921(a)(6), which confers authority on this Court to adjudicate “any civil action or other matter, at law or in equity, brought in the District of Columbia.”

11. Venue is proper because all of the acts and violations alleged occurred within the territory of the District of Columbia.

FACTUAL ALLEGATIONS

I. MPD MAINTAINS A HIGHLY SECRETIVE GANG DATABASE

12. Over the last thirteen years, MPD has built the Gang Database that secretly surveils D.C.’s residents of color, both in-person and on social media. *See* Exhibit (“Ex.”) A at ¶¶ 1–3. Claiming that such a tracking system can predict and prevent violence, MPD has admitted that it uses the Gang Database to determine where and whom to police. *Id.* ¶ 6(f).

13. Merely associating with alleged gang members can land an individual on the Gang Database.¹ *Id.* ¶ 6(b). Thus, the Gang Database, or at least some criteria used to add individuals to the database, is based on the theory that whom you associate with determines if you are a threat to society. *Id.* Such a theory squarely conflicts with the foundational principles of our legal system. *See, e.g., United States v. Robel*, 389 U.S. 258, 265 (1967) (finding that “guilt by association alone, without any need to establish that an individual’s association poses the threat feared by the Government” is an impermissible basis upon which to deny First Amendment rights).

¹ MPD stated that it would remove the “gang associate” category from the database. Ex. A at ¶ 6(b). However, as of March 15, 2022, CJP has not seen any updated policy demonstrating that alleged gang associates are no longer included in the Gang Database.

14. Further, MPD adds individuals to this database without providing any notice to them, without informing them of the basis for their inclusion, and without any public procedure for disputing wrongful allegations of gang affiliation. Ex. A at ¶ 8.

15. Due to this utter lack of due process, the Gang Database is populated almost exclusively with D.C.'s residents of color. *Id.* at ¶ 3. As of January 31, 2022, 94 percent of the individuals in the database were African American or Hispanic. Less than 1 percent were white. *Id.*

II. CJP PROPERLY SUBMITTED A FOIA REQUEST ABOUT THE GANG DATABASE, WHICH WAS RECEIVED BY MPD IN SEPTEMBER 2021

16. On September 22, 2021, CJP submitted a targeted FOIA request to MPD for specific public records relating to the Gang Database and any other similar database that MPD maintains or to which MPD has access. CJP submitted this request via the D.C. FOIA Portal (an online form used by the District of Columbia to process FOIA requests submitted electronically) and via email. Ex. B at 1–6.

17. CJP's FOIA request sought various documents that would show what databases MPD uses, what information about D.C. residents is kept on the database(s), what other entities have access to information in the database(s), and what criteria for gang affiliation are used. CJP was aware of the databases, as they had been the subject of significant news coverage and MPD has acknowledged their existence. *See, e.g.,* Cathy L. Lanier, *Special Order 09-03: Validation of Individuals as Members of a Criminal Gang*, Metropolitan Police Department (June 1, 2009), https://go.mpdconline.com/GO/SO_09_03.pdf; *see also* Chris Gelardi, *Hacked Emails Give*

Unfiltered View into the D.C. Police Gang Database, The Intercept (June 18, 2021, 9:01 AM), <https://theintercept.com/2021/06/18/dc-police-gang-database-hacked-emails/>.

18. On September 22, 2021, MPD acknowledged receiving CJP's FOIA request via email. Ex. C at 1.

III. MPD VIOLATED FOIA'S TIME LIMITS AND SEARCH REQUIREMENTS

19. Under FOIA, MPD was required to "make reasonable efforts to search for the records" in response to CJP's request. D.C. Code § 2-532(a-2).

20. MPD was also required to produce the requested records, or notify CJP of its decision to withhold them, "within 15 days (except Saturdays, Sundays, and legal public holidays) of the receipt of any such [FOIA] request." D.C. Code § 2-532(c). *See also* Ex. C at 1.

21. Fifteen days passed, but MPD did neither. MPD also failed to provide written notice of any "unusual circumstances" that would warrant an extension, pursuant to D.C. Code § 2-532(d)(1).

22. Forty-three business days after CJP submitted its FOIA request, MPD finally responded by denying the FOIA request in its entirety. Ex. D at 1–6. In its denial, MPD provided two justifications for denying CJP's request, each of which is invalid. *Id.* at 5.

23. The first justification MPD provided for denying the request was that "it would take MPD employees more than 8 hours to search for and to produce the information" sought. *Id.*

24. Contrary to MPD's claim, FOIA does not allow an agency to deny a request for public information merely because it would take more than eight hours to search for and to produce the records. Rather, FOIA merely limits the amount of time a public body is required to spend "to

reprogram or reformat” any identified records. D.C. Code § 2-532(f)(1). Here, CJP’s request did not ask MPD to reprogram or reformat records. CJP simply asked for “copies of the [requested] public records.” Ex. B at 1. CJP even clarified that the data could be provided in a “format common for databases” where appropriate and was “willing to meet and confer” to “ensure a compatible format and minimize exportation burden.” *Id.* at 2. CJP, therefore, would have welcomed a production of public records in whatever format they already existed.

25. The second justification that MPD provided for denying CJP’s FOIA request was a claim that CJP asked “for substantial research to be performed on behalf of the requester.” Ex. D at 5. This claim is unfounded. Nowhere in the request did CJP ask MPD to perform any research on its behalf. *See* Ex. B at 1–6. CJP simply asserted its right under FOIA to inspect public records. D.C. Code § 2-532(a).

26. Despite MPD’s seemingly final response, on November 30, 2021, MPD sent a second response that provided replies to a handful of CJP’s requests and attached a single, redacted document. Ex. E at 1–8; Ex. F at 1–20. This second response, however, was also deficient.

27. At least one of MPD’s responses was inaccurate. Request A(2) specifically asked for the names of any third-party databases that MPD “has access to” containing information about gang affiliations. Ex. B at 3. In its November 30, 2021, response, MPD responded that Request A(2) was “[n]ot applicable” because “MPD does not have access to any third-party database that contains any data related to the supposed or actual gang affiliation of any person.” Ex. E at 1.

28. Chief of Police Robert J. Contee admitted, however, in a February 3, 2022 letter to D.C. Councilmember Charles Allen that MPD is “allowed to access” the Washington/Baltimore

High Intensity Drug Trafficking Areas (HIDTA) Gang Intelligence System. Ex. A ¶ 13. There is, therefore, a third-party database that MPD “has access to,” contrary to its response to Request A(2).

29. Based on this incorrect answer to Request A(2), MPD then responded “[n]ot applicable” to a number of subsequent requests seeking additional information about the databases it was supposed to identify in Request A(2). *See* Ex. E, responses to Requests B(2), C(3), C(5), D(2), E(2), E(3), G(2), H(2), K(3), J(2). MPD presumably responded in this way based solely on its incorrect response to Request A(2), because if it had conducted a reasonable search, it would have found and produced documents specific to HIDTA.

30. Further, contrary to MPD’s response to Request A(2), it is evident that information from the MPD’s gang database is shared with outside agencies and included in regional gang databases. News articles, published soon after the release of hacked MPD emails, reported that those documents “reveal that at least a dozen outside agencies and law enforcement information-sharing projects have used data from the MPD’s gang database in their own policing efforts...”² Further, MPD’s response to CJP’s FOIA request purports to cover the period of “01/01/1990 to 09/22/2021.” Ex. E at 1. Thus, the MPD’s response to Request A(2), as well MPD’s claims that Requests E(2), G(2), H(2), K(3), and J(2), which all seek information relating to the ability to input or retrieve information from third-party databases, are “not applicable” was inaccurate and appears

² Chris Gelardi, *Hacked Emails Give Unfiltered View into the D.C. Police Gang Database*, *The Intercept* (June 18, 2021, 9:01 AM), <https://theintercept.com/2021/06/18/dc-police-gang-database-hacked-emails/>.

to evidence a failure on the part of the MPD to properly respond to CJP's FOIA and conduct a reasonable search.

31. MPD also failed to fully respond to Request D(1), which sought eleven separate categories of documents related to the procedures and costs associated with its own Gang Database. *See* Ex. E at 2. In fact, the MPD failed to provide any response at all to nine of the eleven categories of documents. The only document provided was a single training PowerPoint, presumably in response to the request for training materials and criteria for assigning gang affiliation in Request D(1)(a-b). Ex. F at 1–20. Given that Chief Contee stated in his February 3 letter that only members who have undergone training on 28 C.F.R. Part 23 can access MPD's database, Ex. A ¶ 6(c), the failure to include any of those training materials in response to Request D(1)(a) indicates that even MPD's response to that request was incomplete. Thus, MPD has either partially denied CJP's request without explanation, in violation of D.C. Code § 2-533(a)(1),³ or has failed to conduct a reasonable search for records responsive to Request (D)(1).

32. MPD also responded to two parts of Request J(1) by claiming that the "records do not exist." Ex. E at 6. As more fully described below, however, MPD's own responses and publicly available information show that records sought in CJP's FOIA through Request J(1) do, in fact, exist.

33. With regard to the remaining requests that MPD denied, it once again incorrectly relied on the amount of time required to comply with the request, or inaccurately claimed that

³ § 2-533(a)(1) requires a public body that denies any portion of a FOIA request to state "[t]he specific reasons for the denial, including citations to the particular exemption(s) under § 2-534 relied on as authority for the denial."

CJP's FOIA request asked for "substantial research to be performed and/or for the creation of new records." *Id.* at 7. MPD did not provide a basis for either of these claims.

IV. CJP EXHAUSTED ITS ADMINISTRATIVE REMEDIES

34. On February 4, 2022, in accordance with the instructions provided in MPD's final response and pursuant to D.C. Code § 2-537(a), CJP filed an administrative appeal of MPD's decision to the Mayor's Office. *See* Ex. G at 1–6. In its appeal, CJP challenged each of MPD's withholdings on information and belief that MPD failed to conduct a reasonable search and improperly withheld responsive records. *See id.*

35. The Mayor's Office has ten business days to make a written determination on an appeal of a FOIA response. D.C. Code § 2-537(a). Where the Mayor fails to make a determination within that time period, "the person seeking disclosure may institute proceedings for injunctive or declaratory relief in the Superior Court for the District of Columbia." D.C. Code § 2-537(a)(1).

36. On March 1, 2022, the Mayor's Office sent a copy of the appeal to the leadership of MPD's FOIA Office, seeking a "response to the appeal within five (5) business days" and requesting certain information from MPD in order to adjudicate the appeal. *See* Ex. H at 1. That action by the Mayor's Office, however, was not a determination of the matter but rather a request for information sent to MPD six days *after* the deadline for a determination had passed. Further, upon information and belief, MPD has not responded to the Mayor's Office's email, despite the passing of the deadline set by the Mayor. CJP has therefore exhausted its administrative remedies and is entitled to bring suit in the Superior Court for the District of Columbia to enjoin MPD's improper withholdings of responsive records.

CLAIMS FOR RELIEF

Count I—Violation of FOIA

37. CJP re-alleges and incorporates by reference each and every allegation contained in the foregoing paragraphs as though fully set forth herein.

38. CJP properly requested, pursuant to FOIA, public records prepared, owned, used, in the possession of, accessible by, and/or retained by MPD.

39. MPD is a public body subject to FOIA.

40. MPD was required under D.C. Code § 2-532(a) to conduct a reasonable search for records responsive to CJP's FOIA request and to make requested public records available to CJP. The D.C. Court of Appeals has held that, for an agency to demonstrate that it conducted a reasonable search for requested records, the "agency must show that it made a good faith effort... using methods which can be reasonably expected to produce the information requested." *Fraternal Order of Police v. District of Columbia*, 79 A.3d 347, 360 (D.C. 2013) (internal quotations omitted). MPD violated FOIA by failing to conduct a reasonable search.

41. MPD's claim that it does not have access to any third-party databases in response to Request A(2) is contradicted by Chief Contee's subsequent admission to Councilmember Allen and public reporting based on leaked emails about the Gang Database. MPD's response to that request, therefore, was both inaccurate and evidence of a failure to conduct a reasonable search.

42. MPD then responded "not applicable" to Requests (B)(2), (C)(5), and (E)(3), all of which were seeking additional information about third-party databases that should have been identified in response to Request A(2). MPD has since admitted that it is "allowed to access"

HIDTA’s “Gang Intelligence System.” Thus, the MPD’s responses, claiming that the subsequent requests for information about that third-party database were “not applicable,” suggest that no search—let alone a reasonable one—was undertaken to find responsive documents.

43. Similarly, MPD incorrectly identified as “not applicable” and failed to conduct a reasonable search for records relating to Requests E(2), G(2), H(2), K(3), and J(2), all of which seek information relating to the ability to input or retrieve information from third-party databases that should have been identified in response to Request A(2).

44. MPD additionally violated FOIA by wrongfully withholding responsive records. For example, numerous government agencies have requested and/or received data from the Gang Database, including the Department of Youth Rehabilitation Services, U.S. Immigration and Customs Enforcement, and the Federal Bureau of Investigation. *See* Ex. A ¶ 12(b). Yet, MPD failed to provide any of this information in its FOIA response, even though such information is responsive to Requests C(2) and C(4).

45. Further, MPD’s claims that certain documents do not exist is inconsistent with its own responses and other publicly available information. For example, Request J(1)(c) asks for the “aggregate number of individuals believed to be currently associated” with gangs listed in the database. *See* Ex. E at 6. MPD claimed that there were no documents responsive to this request. *Id.* In answer to the immediately preceding request, however, MPD provided a list of the names of all of the gangs identified in the database. Ex. E, Request J(1)(a) at 5. If MPD was able to identify the various gangs listed in the database, an aggregate number of individuals associated with the identified gangs is clearly available in some form. Further, CJP is aware of at least one

spreadsheet listing individuals by identified gang.⁴ MPD's refusal to produce the information, therefore, cannot be because the records do not exist, as MPD claims.⁵

46. MPD's wrongful withholding of responsive records is further demonstrated by its failure to respond to a number of requests regarding the operation of the Gang Database. Specifically, Request D(1) sought eleven categories of documents related to procedures and costs associated with implementation of the database. *See* Ex. B at 3–4. MPD failed to produce any response to ten of those requests or to provide an explanation for why those documents were being withheld as required by D.C. Code § 2-533(a)(1). MPD's only response was to produce a single training PowerPoint, presumably in response to Request (D)(1)(a-b), which asked for training materials and gang affiliation criteria. Ex. E at 3. Given the admission by Chief Contee that members working on the database must be trained on 28 C.F.R. Part 23, Ex. A ¶ 6(c), and the fact that the one document produced in no way includes that training, the MPD's response is deficient and evidences the failure to conduct a reasonable search. MPD has therefore denied or simply failed to respond to the majority of Request J(1) without explanation as required by D.C. Code § 2-533(a)(1), or has otherwise failed to conduct a reasonable search for responsive records.

47. MPD's stated excuse for failing to conduct a reasonable search or produce records responsive to several of CJP's FOIA requests are not supported by the D.C. Code or case law. MPD claimed that responding to Request H would take more than the "reasonable efforts" required

⁴ *See* Chris Gelardi, *Hacked Emails Give Unfiltered View into the D.C. Police Gang Database*, The Intercept (June 18, 2021, 9:01 AM), <https://theintercept.com/2021/06/18/dc-police-gang-database-hacked-emails/>.

⁵ The second request, Request J(1)(b), asked for demographic information about individuals on the gang database over a period of time. It is unlikely that such information is not actually contained in current or prior versions of the gang database. Further, given the inaccuracies in response to the other claim by MPD that no documents exist, it appears—at the very least—that an insufficient search for these documents was conducted.

by D.C. Code § 2-532(a-2). *See* Ex. E at 7. Specifically, MPD claimed that both Request C(6) and Request H(1) required MPD to audit each individual entry in the database and that it would take 10–15 hours, and 100 hours, respectively, to do so.⁶ *Id.* at 3–5. An excuse of this kind has been flatly rejected by the D.C. Court of Appeals. Relying on both the statutory language and legislative history of the D.C. FOIA, the D.C. Court of Appeals has held that “there is nothing in the statute that allows a prospective determination of undue burden to void a FOIA request.” *Fraternal Order of Police v. District of Columbia*, 139 A.3d 853, 863 (D.C. 2016). MPD’s unsupported prospective determination that it would require a large number of hours to search for documents is therefore not a basis for refusing to conduct the search.

48. In justifying its “reasonable efforts” excuse, MPD relied on a mischaracterization of FOIA law. Under FOIA, “a public body shall not be required to expend more than 8 hours of personnel time *to reprogram or reformat records.*” D.C. Code § 2-532(f)(1) (emphasis added). CJP’s requests, however, did not ask MPD to reprogram or reformat records. CJP simply asked for “copies of the [requested] public records.” *See* Ex. B at 1. CJP even clarified that the data could be provided in a “format common for databases” where appropriate and that CJP was “willing to meet and confer” to “ensure a compatible format and minimize exportation burden.” *Id.* at 2. CJP, therefore, would have welcomed a production of public records in whatever format they already existed. MPD’s excuse for not producing the requested records under § 2-532(f)(1) is therefore unjustified.

⁶ Request C(6) asked for the number of searches conducted in MPD’s gang database; Request H(1) asked for demographic information of individuals in the gang database. Ex. B at 3–5.

49. MPD also improperly claimed that portions of CJP’s FOIA “essentially ask[] for substantial research to be performed and/or for the creation of new records.” *See* Ex. E at 7. The U.S. District Court for the District of Columbia has held, with respect to the federal FOIA, that “sorting a pre-existing database of information to make information intelligible does not involve the creation of a new record.” *National Security Counselors v. Central Intelligence Agency*, 898 F. Supp. 2d 233, 270 (D.D.C. 2012).⁷ Sorting a pre-existing database is precisely what CJP has requested and is entitled to under FOIA.

50. None of MPD’s asserted reasons for withholding public documents relevant to CJP’s request is justified under D.C. Code § 2-534. As a result, CJP is entitled to the issuance of an injunction to enjoin Defendant’s subordinate agency, MPD, from withholding the public records and to compel production of the public records. D.C. Code § 2-537(a)(1). CJP is further entitled to a judicial declaration that the information sought is public information subject to disclosure, that MPD has failed to timely act under FOIA, that MPD violated FOIA by failing and/or refusing to produce the requested public records, and that MPD must provide the requested records to CJP. *See McIntosh v. Washington*, 395 A.2d 744, 748 (D.C. 1978) (“The concept that a court possessing general equity jurisdiction has authority to grant declaratory relief as an incidental power inherent in such jurisdiction is firmly established in our jurisprudence”); *see also Board of Trustees Grand Lodge of Independent Order of Odd Fellows of D.C. v. Carmine’s DC*, 225 A.3d 737, 747 (D.C. 2020).

⁷ The D.C. Court of Appeals “treat[s] case law interpreting the federal FOIA as instructive authority with respect to our own Act.” *Washington Post Co. v. Minority Bus. Opportunity Comm’n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

REQUEST FOR RELIEF

WHEREFORE, CJP respectfully requests that the Court:

- a. Declare that the documents sought by CJP are public records under D.C. Code §§ 2-531, *et seq.*, and must be disclosed;
- b. Declare that the documents sought by CJP are within the control of MPD under D.C. Code §§ 2-531, *et seq.* and must be disclosed;
- c. Declare that MPD has violated FOIA;
- d. Order MPD to expeditiously conduct a reasonable search for all records responsive to CJP's FOIA request, and to demonstrate that it employed search methods reasonably likely to lead to the discovery of responsive records;
- e. Order MPD to produce to CJP, within ten business days or such other time as the Court deems proper, all records responsive to CJP's FOIA request and subject to disclosure under FOIA, and indexes justifying any withholdings or redactions;
- f. Award CJP attorney's fees and costs incurred in relation to this case, pursuant to D.C. Code § 2-537(c); and
- g. Grant CJP any other relief the Court deems just and proper.

Dated: March 15, 2022

Respectfully submitted,

/s/ Jacqueline Kutnik-Bauder

Jacqueline Kutnik-Bauder (D.C. Bar No. 1741174)

Anna Jugo (D.C. Bar No. 1655481)

Carlos A. Andino (D.C. Bar No. 1743066)

WASHINGTON LAWYERS' COMMITTEE

FOR CIVIL RIGHTS AND URBAN AFFAIRS

700 14th Street, N.W., Suite 400

Washington, D.C. 20005

(202) 319-1000

jacqueline_kutnik-bauder@washlaw.org

anna_jugo@washlaw.org

carlos_andino@washlaw.org

/s/ Clare Cavaliero Pincoski

Clare Cavaliero Pincoski (D.C. Bar No. 1029442)

PILLSBURY WINTHROP SHAW PITTMAN LLP

1200 Seventeenth Street, N.W.

Washington, D.C. 20036-3006

(202) 663-8156

clare.pincoski@pillsburylaw.com

Counsel for Plaintiff