

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

VIRGINIA INFORMATION TECHNOLOGIES AGENCY)	
Plaintiff,)	
v.)	Case No. CL17005280
WILLIAM H. TURNER,)	
and)	
OFFICE OF THE EXECUTIVE SECRETARY)	
Defendants.)	

**MEMORANDUM IN SUPPORT OF
MOTION FOR INTERPLEADER**

The Virginia Information Technologies Agency (VITA), by counsel, states as follows in support of its Motion for Interpleader (filed December 20, 2017):

SUMMARY

William H. Turner seeks production under the Virginia Freedom of Information Act (FOIA) of the monthly, itemized long distance phone call billing information for the Office of the Executive Secretary of the Supreme Court of Virginia (OES). VITA centrally administers telecommunications billing for many state agencies, including OES, so VITA holds agencies' billing information. Turner claims that VITA must produce such information to him under FOIA. OES, on the other hand, claims that such information is confidential and that OES is the legal custodian, such that VITA may not release it. VITA wishes merely to ascertain and comply with the law and therefore has brought this action seeking relief from the conflicting claims. VITA asks the Court to grant the procedural relief provided for in Va. Code § 8.01-364: ordering the defendants to interplead their claims, restraining them from instituting or prosecuting any proceeding in any Virginia court affecting the information in dispute, and permitting VITA to tender the information under seal and thereafter discharging VITA from liability.

INTERPLEADER GENERALLY

“Whenever any person is or may be exposed to multiple liability through the existence of claims by others to the same property or fund held by him or on his behalf, such person may file a pleading and require such parties to interplead their claims.” Va. Code § 8.01-364(A).

Interpleader is a mechanism to facilitate resolution of conflicting claims. “To maintain an action for interpleader, the petitioner need only assert a real and reasonable fear of exposure to double liability or the vexation of conflicting claims. The petitioner is not required to prove that potential claimants are entitled to the res; rivals prove their rights during the interpleader action.” *Jones v. Caldwell*, 61 Va. Cir. 408, 418 (Winchester 2003) (citations omitted).

Virginia’s interpleader statute, Va. Code § 8.01-364, exists “to provide Virginia with a comprehensive modern statutory method of interpleader comparable to those which exist in most other jurisdictions” and offers a procedure with “greater availability, simplicity, and completeness of remedy” than was available in traditional equitable proceedings. Va. Code Ann. § 8.01-364 (LexisNexis 2015) (Revisers’ Note). Code § 8.01-364(B) provides expressly that interpleader is in addition to, and does not conflict with, remedies provided elsewhere in the Code of Virginia. Code § 8.01-364(C) grants broad authority for a court to hear and determine interpleader cases, and to “make all appropriate orders to enforce its judgment.” Code § 8.01-364(C) also authorizes specific procedural relief – that “the court may enter its order restraining all claimants from instituting or prosecuting any proceeding in any court of the Commonwealth affecting the property involved in the interpleader action until further order of the court.” And Code § 8.01-364(D) permits the person interpleading to “voluntarily pay or tender into court the property claimed,” at which point the court may “order such party discharged from all or part of any liability as between the claimants of such property.”

INTERPLEADER IN THIS CASE

I. This case satisfies the required elements for interpleader.

Based on a few simple facts, which VITA believes are not disputed (or cannot reasonably be disputed), the elements of interpleader are present in this case.

A. VITA holds the information in dispute.

As the executive branch agency responsible for information technology infrastructure, VITA holds (either directly or through vendors managed by VITA) various information created by or concerning other agencies. In this case, the information at issue is long distance phone call billing information. *See* Exhibit 1 (Declaration of Daniel S. Wolf) ¶¶ 3-5.

VITA centrally administers telecommunications billing for many state agencies, including OES, which includes generating monthly bills to agencies for their long distance phone calls. Each bill covers the long distance phone calls made for the previous month (so July 2017 call information is found on the August 2017 bill, and so on). *See id.* (Wolf Decl.) ¶¶ 5-8.

Here, Turner and OES make conflicting claims regarding the OES long distance phone call billing information and whether VITA is required to produce it. *See id.* (Wolf Decl.) ¶¶ 9-10 and Exhibits A-D thereto (which are copies of the same exhibits to VITA's Complaint). OES has asserted that "our office [OES] is the legal custodian of the phone records" and that "many, if not all, of the phone records, are confidential as a matter of law." *Id.* Ex. A. Turner has asserted that VITA must produce the OES long distance billing information to him. *See id.* Ex. C (a letter from Turner asserting that "Just because you [VITA] refer me to the OES to obtain copies of telephone long distance records does not release you of the responsibility to provide them if you have them."). No party to this case disputes that VITA holds the information in dispute, however. Nor could they, given that the telecommunications billing system and long distance

phone call billing information reside at VITA's headquarters. *See* Ex.1 (Wolf Decl.) ¶ 8.

B. The information in dispute is property.

Documents are a kind of property. *See, e.g., Maine v. Adams*, 277 Va. 230, 672 S.E.2d 862 (2009) (deciding an appeal of property claims, quiet title and conversion, to a copy of the Declaration of Independence); *Cattano v. Bragg*, 283 Va. 638, 727 S.E.2d 625 (2012) (affirming a judgment on, among other claims, a claim of conversion concerning corporate documents); BLACK'S LAW DICTIONARY 1411-12 (10th ed. 2014) (defining tangible and intangible personal property) (attached as Exhibit 2). Indeed, any holding that electronically-stored information is not property would strike at the heart of today's increasingly digital world. *See E.I. du Pont de Nemours & Co. v. Kolon Indus.*, no.3:09cv58, 2011 U.S. Dist. LEXIS 113702 at 10-18, 32-33 (E.D. Va. Oct. 3, 2011) (explaining the importance of property claims to intangible property, and concluding "that DuPont has a property right in its confidential information, and that, under Virginia law, confidential information is susceptible of conversion").

Even if there were some basis to question whether electronically-stored information is property, a copy of that information printed for FOIA purposes clearly would be tangible property. Whether electronic or printed, the possibility of creating additional copies of records may be relevant to value but does not somehow transform those records into something other than property. The information in dispute here is property.

C. Turner and OES make conflicting claims to that property, which exposes VITA to potential liability and vexation.

As the exhibits to the Complaint show, the defendants in this action make conflicting claims to the information in dispute, the OES long distance phone call billing information showing calls made in July – September 2017. Turner has sought and continues to seek copies

of OES long distance phone call billing information for July – September 2017.¹ Turner contends that VITA is required by law to release the records. *See supra* at 3; Ex. 1 (Wolf Decl.) ¶ 9 & Exs. B-D). By contrast, OES takes the position that OES – and not VITA – is the custodian of such records, that the records “contain potentially very sensitive information,” and that “many, if not all, of the phone records, are confidential as a matter of law.” Ex. 1 (Wolf Decl.) ¶ 9 & Ex. A.

VITA faces potential liability with respect to the conflicting claims. *See, e.g.*, Va. Code §§ 2.2-3713(D) & 2.2-3714. VITA also faces vexation, including in handling repetitive requests for the information and in Turner’s frequent, untrue accusations that VITA, its employees, and/or its counsel are engaged in criminal conduct. VITA seeks to act in a legally proper manner, but VITA cannot satisfy both Turner and OES, cannot itself adjudicate how the law applies to the information in dispute, and does not wish to be caught in the middle any more in the defendants’ battle over the information in dispute. Interpleader exists precisely to provide relief to parties, like VITA, that are faced with such situations.

Because the elements of interpleader are present, this motion should be granted and interpleader relief awarded. Turner’s “Motion to Dismiss”² should be denied.

¹ Turner’s responsive filings consist of a binder of variously-titled documents, which will be referred to here by the numbering Turner gave those various parts. His filings set forth his view that his inquiries are beneficial, that OES long distance phone call information may contain some information related to events in a past case between OES and Turner in Accomack General District Court, that a judge of that court violated the judicial canons (*see* part 16), and that there is a conspiracy “to cover up ‘the crime & fraud’ of Judge Vincent [and] OES” (part 12). Why Turner seeks the information, and his various other beliefs, are irrelevant to interpleader. What matters here is only that VITA faces, and cannot itself adjudicate and resolve, conflicting claims by Turner and OES concerning the information in dispute.

² Part 1 of Turner’s responsive filings is labeled “Motion to Dismiss.” That “motion” fails to specify the grounds for dismissal and so should be denied. To the extent the Court nevertheless wishes to consider Turner’s motion, part 7 of his responsive filings appears to provide the
(footnote continued on next page...)

II. The Court should award VITA the procedural relief specifically provided for by the interpleader statute, Va. Code § 8.01-364.

As described above (*see supra* p.2), interpleader is a procedural mechanism that facilitates resolution of conflicting claims and offers relief to third parties facing such situations. The following relief, which is specifically permitted by statute, is appropriate here:

- i) require Turner and OES to interplead their claims (Va. Code § 8.01-364(A));
- ii) restrain all claimants from instituting or prosecuting any proceeding in any court of the Commonwealth affecting the property involved in the interpleader action until further order of the court (Va. Code § 8.01-364(B)); and
- iii) permit VITA to tender to the court the property claimed, and thereupon order VITA discharged from liability (Va. Code § 8.01-364(D)).

A. Turner and OES should be required to interplead their claims, and the case should remain in this Court.

Requiring Turner and OES to interplead their claims simply means requiring them to make in this case whatever claims and arguments they have about the records. Such relief facilitates efficient resolution and finality.

Turner has objected to venue in his responsive filings (part 24), arguing in favor of Accomack. Accomack would be a proper venue, but it is not a mandatory venue. To the contrary, FOIA allows venue in “the general district court or the circuit court of the residence of the aggrieved party *or of the City of Richmond.*” Va. Code § 2.2-3713(A)(3) (emphasis added). Moreover, as VITA’s Complaint stated (¶ 6), this Court is clearly a proper venue for several other reasons. Venue is proper in this Court pursuant to: Va. Code § 8.01-261(1)(b)(2), because

missing content by arguing that “Public documents are neither cash nor property and can’t be interpleaded.” Turner provides no support for this claim, and his “motion” should be denied because, as set forth above, the required elements of interpleader exist here.

OES regularly or systematically conducts affairs or business activity in the City of Richmond; Va. Code § 8.01-262(1), because OES's principal office is located in the City of Richmond; and Va. Code § 8.01-262(4), because OES's claims, an essential part of the basis for this cause of action, arose in the City of Richmond.

To the extent Turner's objection is construed as seeking a discretionary transfer between permissible venues under Va. Code § 8.01-265, his request should be denied because Accomack was not VITA's choice and is not a more convenient forum. As the plaintiff, VITA's choice of forum "should not be lightly defeated." *Norfolk & W. R. Co. v. Williams*, 239 Va. 390, 395, 389 S.E.2d 714, 717 (1990). OES's offices and personnel are in Richmond. VITA's offices and personnel are in the Richmond region (mostly in Chester, although VITA also has offices in the Monroe Building in Richmond). Richmond plainly has a nexus with this action. Any witnesses or evidence needed concerning the information in dispute will come from OES or VITA, and this Court offers easier access to such sources of proof and substantially less inconvenience and lower costs for such witnesses to attend. *See id.* at 392-93, 389 S.E.2d at 715-16 (discussing circumstances ordinarily considered in motions to transfer venue). Transfer is inappropriate.

B. Turner and OES should be enjoined from instituting or prosecuting any other proceeding concerning the information in dispute

The interpleader statute recognizes the burden that litigation can impose on third parties caught in the middle, like VITA, and specifically empowers a court in an interpleader action to "enter its order restraining all claimants from instituting or prosecuting any proceeding in any court of the Commonwealth affecting the property involved in the interpleader action until further order of the court." Va. Code § 8.01-364(C). That relief ensures that the claimants do not further impose on third parties through conflicting or duplicative litigation. That relief also protects the ability of the court to deliver a final and efficient resolution of the matter.

As is clear from his responsive filings, Turner has a lengthy and contentious history with OES, including two prior cases in Accomack General District Court. Turner long has threatened new cases. *E.g.*, Complaint Ex. B. And, after receiving VITA's Motion, Turner partially followed through on his threats, filing a baseless Petition for Mandamus in Accomack General District Court seeking to restrain counsel for OES and VITA from further filings in this case. A copy of that new Petition (filed December 28, 2017) is attached as Exhibit 3. Unless restrained in the way the interpleader statute specifically allows, Turner seems certain to continue manufacturing new litigation.³

VITA should not face an open-ended threat of potential liability and vexation from further litigation. Final resolution of the conflicting claims is needed, this case facilitates such resolution, and, accordingly, this court should enter an order restraining the parties from pursuing other litigation concerning the information in dispute.

Turner's responsive filings (part 9) wrongly assert that VITA is "desperately trying to block my right to petition the government for my grievances" and that "No Motion, Inter-pleader or Prayer can be filed to block my constitutional right to petition." To the contrary, this action facilitates the hearing and final resolution of Turner's grievance – his claim to the information in dispute. Moreover, in the interpleader statute, the General Assembly has specifically empowered courts to bar other litigation. Va. Code § 8.01-364(C). The General Assembly could have excepted FOIA cases from that provision but did not, and courts lack the authority to add

³ It would be improper for this Court to defer to Turner's newly filed case in Accomack General District Court. *See* Ex. 3. This case was filed first and jurisdiction was acquired through service first here. Moreover, although Turner's new Accomack case has some relationship to his dispute with OES over the long distance billing information, Turner's new case seeks to restrain filings in this case rather than presenting the key issue of his and OES's conflicting claims to the information, so Turner's new case would not lead to the authoritative resolution that is needed.

exceptions that the General Assembly has not seen fit to enact. Finally, as the U.S. Supreme Court unanimously held, “there is no constitutional right to obtain all the information provided by FOIA laws,” so an order that temporarily blocks other litigation concerning the information in dispute raises no constitutional concern. *McBurney v. Young*, 569 U.S. 221, 232 (2013) (citing three prior cases).

Turner’s responsive filings (part 18) and his newly filed case in Accomack General District Court assert that the interpleader relief requested by VITA in this case violates Va. Code § 2.2-3703.1. Turner is wrong. Section 2.2-3703.1 clarifies the relationship between FOIA exemptions and discovery in court proceedings; it has no relevance to VITA’s Motion. VITA’s Motion seeks relief specifically authorized by the interpleader statute – relief that assists both Turner and OES by facilitating the efficient resolution of their conflicting claims.

C. The Court should permit VITA to tender to the Court the information in dispute and discharging VITA from further liability upon VITA doing so.

In furtherance of its purposes of facilitating resolution and offering complete, practical relief to third parties facing conflicting claims, the interpleader statute also specifically allows the person interpleading to “pay or tender into court the property claimed,” either voluntarily or pursuant to court order, and then empowers the court to “order such party discharged from all or part of any liability as between the claimants of such property.” Va. Code § 8.01-364(D).

The information in dispute consists of the OES long distance phone call billing information showing calls made in July – September 2017 (the August – October bills). Only the July 2017 call information was available as of the filing of VITA’s Complaint, but August call information is now available too.⁴ VITA stands ready and willing to tender the July and

⁴ In Turner’s responsive filings (*see* parts 7 & 29), he scoffs at the idea that some billing information is not yet available, responding with only an exaggerated and mistaken claim that
(footnote continued on next page...)

August 2017 call information to the Court, thereby facilitating efficient resolution of the conflicting claims by enabling in camera review of two-thirds of the information in dispute. VITA also is willing to commit to tender September call information promptly upon that information becoming available.

Contrary to Turner's unsupported assertions in his responsive filings (part 2), it is proper and appropriate to file the information in dispute under seal. Virginia courts routinely seal information temporarily in FOIA cases, pending a final disposition, at which time the records either will be unsealed or will have been proven exempt, in whole or in part. Indeed, the Supreme Court of Virginia has "held that confidential records requested in a VFOIA case are encouraged to be filed with the trial court for in camera inspection." *Va. Dep't of Corr. v. Surovell*, 290 Va. 255, 269, 776 S.E.2d 579, 586-587 (2015) (discussing *LeMond v. McElroy*, 239 Va. 515, 391 S.E.2d 309 (1990)).⁵ The process of filing documents under seal for in camera review may not be the only way to ensure that a trial court can render an informed decision and that there is an adequate record for appeal, but there appears no better way.

Turner also errs in his descriptions of *Taylor v. Worrell Enters.*, 242 Va. 219, 409 S.E.2d 136 (1991), which does not support his assertion (at part 10 of his responsive filings) that phone

telephones would need to be shut off, or VITA would need to shut down, if there were billing delays. The fact is that there have been billing problems with "TEBS," a new telecommunications billing system that began operations in the summer of 2017. VITA personnel continue to work on those problems. Those problems are not specific to OES and have nothing to do with Turner. Long distance phone billing is only one of many things that VITA does, and the delays in billing do not threaten the ongoing operation of state government.

⁵ *Surovell* was not decided based on records filed under seal, but the Supreme Court has used the in camera process to decide cases. *See, e.g., Am. Tradition Inst. v. Rector & Visitors of the Univ. of Va.*, 287 Va. 330, 344, 756 S.E.2d 435, 442 (2014) ("Based on the record *and our in camera review of the exemplars*, we cannot say that the trial court's judgment that some of the exemplars were not public records and all of the other exemplars satisfied each of the exemption's requirements was plainly wrong or without evidence to support it.") (emphasis added).

call billing records “simply do not have any content” and so are “not subject to ‘in camera’ or ‘sealing.’” To the contrary, the plurality in *Taylor* stated that the Governor’s call metadata had “intrinsic significance apart from the content of the calls themselves” (*id.* at 223, 409 S.E.2d at 139) and specifically rejected the premise “that the data sought are totally devoid of substantive information.” *See id.* at 222, 409 S.E.2d at 138.⁶

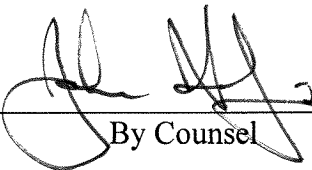
The Court should enter an order allowing VITA to file the information in dispute under seal with the Court and discharging VITA from further liability upon VITA doing so.

CONCLUSION

The Court should grant this motion for interpleader, order the procedural relief set forth above, and proceed to resolve Turner’s and OES’s conflicting claims concerning the long distance phone call billing information in dispute.

Respectfully submitted,

VIRGINIA INFORMATION TECHNOLOGIES AGENCY



By Counsel

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⁶ Interpretation of *Taylor* and other authorities seems likely to be part of the underlying dispute between OES and Turner. VITA takes no position in that dispute and discusses the case here only to refute Turner’s claim that *Taylor* is a barrier to the procedural relief sought by VITA.

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*Counsel of Record

01276594

CERTIFICATE OF SERVICE

I certify that, on January 4, 2018, I am serving a copy of the foregoing by first-class mail,
with a courtesy copy sent by email, to the following:

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Onley, Virginia 23418
gallery@turnersculpture.com
wht@turnersculpture.com
Pro se

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Counsel for the Office of the Executive Secretary



Joshua D. Heslinga

VIRGINIA:

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VIRGINIA INFORMATION TECHNOLOGIES AGENCY)	
Plaintiff,)	
v.)	Case No. CL17005280
WILLIAM H. TURNER,)	
and)	
OFFICE OF THE EXECUTIVE SECRETARY)	
Defendants.)	

DECLARATION

Pursuant to Va. Code § 8.01-4.3, I, Daniel S. Wolf, declare as follows:

1. I am over the age of 18, competent to offer testimony, and have personal knowledge of the facts in this Declaration.
2. I am employed as the Legal and Legislative Services Manager at the Virginia Information Technologies Agency (VITA). I have been employed by VITA in that position since March 2017. My duties include lead responsibility for handling Virginia Freedom of Information Act (FOIA) requests sent to VITA.
3. VITA is an agency of the Commonwealth of Virginia in the executive branch, headed by the Chief Information Officer (CIO), and falling within the purview of the Governor's Secretary of Technology. *See* Va. Code §§ 2.2-2005 & 2.2-225.
4. VITA has many technology-related roles and responsibilities, which are set forth in Chapter 20.1 of Title 2.2 of the Code of Virginia. One of VITA's core functions is to provide information technology (IT) infrastructure and services to state agencies. Some services are provided or performed by VITA employees. Others are provided through vendors, retained through statewide contracts that VITA obtains, manages, and makes available to public bodies.

5. Although much of VITA's authority and functions are limited to the executive branch and do not extend to legislative, judicial, or independent agencies, there are some VITA services and functions that do extend beyond the executive branch. For example, VITA provides centralized telecommunications billing services to state agencies, including the Office of the Executive Secretary of the Supreme Court of Virginia (OES).

6. VITA receives bills from telecommunications vendors, and VITA's telecommunications billing system (now known as TEBS) aggregates them, turns them into a readable format, and generates monthly bills to the respective agencies for their long distance phone calls. In addition to operating TEBS, VITA staff also work with the telecommunications vendors to identify and resolve billing errors.

7. Each monthly bill covers the long distance phone calls made for the previous month (so July 2017 call information is found on the August 2017 bill, and so on).

8. TEBS operates from servers at VITA's headquarters at 11751 Meadowville Lane, Chester, VA 23836, and the billing information is stored on servers there, where certain VITA personnel have access to it. Agencies also have access to retrieve copies of their billing information on demand.

9. Turner and OES take conflicting positions as to whether VITA holding OES long distance phone call billing information requires VITA to produce it, as the exhibits to VITA's Complaint in this case reflect. Exhibit A to the Complaint, a copy of which is attached to this Declaration, is a true and correct copy of an October 16, 2017, email from Edward Macon at OES, asserting that "our office [OES] is the legal custodian of the phone records you [VITA] produced" and that "many, if not all, of the phone records, are confidential as a matter of law." Exhibits B, C, and D to the Complaint, copies of which are attached to this Declaration, are true

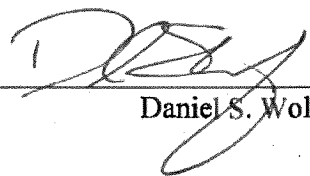
and correct copies of September 2017 and October 2017 letters from Turner asserting that VITA remains obligated to produce the billing information and may not simply refer Turner to OES.

10. To the best of my knowledge, Turner and OES continue to take those conflicting positions – *i.e.*, Turner continues to assert that VITA must produce OES's long distance phone call billing information, and OES continues to assert that VITA may not.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on:

1/3/18



Daniel S. Wolf

01276609

From: Eddie Macon [<mailto:EMacon@vacourts.gov>]
Sent: Monday, October 16, 2017 10:14 AM
To: Wolf, Dan (VITA) <Dan.Wolf@vita.virginia.gov>
Cc: Karl Hade <khade@vacourts.gov>; Kristi S Wright <kswright@vacourts.gov>;
hlockerman@oag.state.va.us; Link, Eric (VITA) <Eric.Link@vita.virginia.gov>
Subject: RE: OES Telephone Records
Importance: High

Dan,

OES did not authorize the release of the telephone records for 2016-2017. Although I believe our office is the legal custodian of the phone records you produced, we were not notified by either VITA or OAG that our phone records were being released. In fact, I had understood from Eric that the records would not be released. Both Eric and the AG's office were aware of our/OES' objections.

I am concerned because I believe many, if not all, of the phone records, are confidential as a matter of law. The records released contain potentially very sensitive information. If you felt you had to release them, I believe we should have been notified in advance, and if necessary, the records should have been proffered for in camera review only pending considerations of our objections (and not provided directly to the requester).

At this point I am not sure what, if anything, can be done to remedy the situation and retrieve the phone records you have already produced. That is something we will need to consider. In the meantime, can you assure me/OES that before any additional records pertaining to OES are released by VITA, that we/OES will be provided with reasonable notice and an opportunity to object?

Please let me know.

Thank you,

Eddie Macon

Edward M. Macon
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EXHIBIT A

09/15/2017

William H. Turner
P.O. Box 128
Onley, VA 23418

Mr. Dan Wolf
VITA
11751 Meadowville Lane
Chester, VA 23836

Dear Mr. Wolf,

First I politely asked you for the itemized long distance telephone call records of the OES. Instead of providing me with these public records you refer me to the OES. This is not only a secretion of records it is a felony. Then I am informed that you alerted your buddies at the OES that I was attempting to get these records. This is a conspiracy. Now I am told that they want you to dissuade me from getting these records. You have not responded to my continued requests.

Initially I was going to give you the opportunity to simply tell me what was going on, than I was going to subpoena you as a witness. Now it appears that I must cite you for violations of the FOIA as well as the OES for attempting to have you violate my rights as a citizen.

I request again, copies of the itemized long distance phone call records as well as your involvement in the conspiracy to keep me from obtaining these records including dates, method of their contact and notes that you took concerning their attempt to involve you in this unlawful activity.

I will not trouble you for this information again and I will look forward to talking to you on the witness stand in Accomac District Court.

Sincerely,



William H. Turner/rat

09/17/2017

William H. Turner
P.O. Box 128
Onley, VA 23418

Mr. Dan Wolf
VITA
11751 Meadowville Lane
Chester, VA 23836

Dear Mr. Wolf,

Just because you refer me to the OES to obtain copies of telephone long distance records does not release you of the responsibility to provide them if you have them.

Send to me a copy of your job description and salary.

Send to me any document that you have that describes the functions of VITA.

Also I want to remind you that it is illegal for you to conspire with the OES to secrete or destroy documents.

For your information the Supreme Court and the Attorney General say that itemized long distance phone call bills are public records.

Sincerely,



William H. Turner/rat

10/20/2017

William H. Turner
P.O. Box 128
Onley, VA 23418

Mr. Dan Wolf
VITA
11751 Meadowville Lane
Chester, VA 23836

Dear Mr. Wolf,

You say you have sent 20 months, I paid for 20 months. I received 17 months (12+8=17). August is the 8th month, I will assume that you are honest and I have lost July and August of 2017. I will pay twice. Send July and August 2017. A petition will be filed Monday, if you don't understand this message you should contact an attorney.

It is a felony to withhold, alter or conspire about evidence.

OES will also be petitioned if they don't send phone bills. On September 22, 2017 you say you "received a copy of record from OES". This means that they also have a record.

Sincerely,


William H. Turner/rat

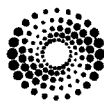
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IER

Black's Law Dictionary[®]

Tenth Edition

Bryan A. Garner
Editor in Chief



THOMSON REUTERS™

Mat # 41372510
Mat # 41513461—deluxe

Exhibit 2

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► **hostile propaganda.** (1909) Propaganda employed by a country to manipulate the people of another country to support or oppose their government. — Also termed *ideological aggression*. See *subversive propaganda*.

"Ideological aggression . . . is the spreading of ideas intentionally and deliberately so as to manipulate by symbols controversial attitudes and positions. It is hostile propaganda indulged in by a state directly or vicariously to incite and influence the people of another state so as to maintain or alter the institutions and policies of that state. The campaign of hostile propaganda may emanate from within or without the territory of the victim state and can be carried on by any means of communications." Ann Van Wynen Thomas & A.J. Thomas, Jr., *The Concept of Aggression in International Law* 84 (1972).

► **subversive propaganda.** (1915) Propaganda calculated to incite a civil war or revolution. • When the instigator is another country, it is termed *hostile propaganda* or *ideological aggression*.

► **war-mongering propaganda.** (1935) Propaganda calculated to produce national support for a war and to encourage the government to declare or join in a war regardless of any legal constraints.

pro parte (proh pahr-tee). [Latin] *Hist.* Partly; in part.

pro parte legitimus, pro parte illegitimus (proh pahr-tee lah-jit-ə-məs, proh pahr-tee il-lə-jit-ə-məs). [Law Latin] *Hist.* Partly legitimate, partly illegitimate. • In Roman and civil law, an illegitimate child could be later legitimated through the marriage of the child's parents. But England did not fully recognize this legitimate status.

pro parte virili (proh pahr-tee və-rī-lī). [Latin "for the share per man"] *Hist.* In equal shares; for one's own proportion.

pro partibus liberandis (proh pahr-ti-bəs lib-ə-ran-dis). [Latin "to free the portions"] (17c) *Hist.* A writ for the partition of lands among coheirs.

propatruus (proh-pay-troo-əs or -pa-troo-əs). [Latin] (16c) *Roman & civil law.* A great-grandfather's brother.

propatruus magnus (proh-pay-troo-əs [or -pa-troo-əs] mag-nəs). [Latin] (17c) *Roman & civil law.* A great-great-uncle on the father's side.

propensity, n. (16c) A natural tendency to behave in a particular way; esp., the fact that a person is prone to a specific type of bad behavior.

pro per., adv. & adj. See PRO PERSONA; PROPRIA PERSONA.

pro per., n. See PRO SE.

proper, adj. 1. Belonging to the natural or essential constitution of; peculiar; distinctive <proper Bavarian traditions>. 2. Of, relating to, or involving the exact or particular part strictly so called <Dallas proper>. 3. Appropriate, suitable, right, fit, or correct; according to the rules <a proper request>. 4. Strictly pertinent or applicable; exact; correct <proper words in proper places>. 5. Conforming to the best ethical or social usage; allowable, right, and becoming <using only proper means>. 6. Thoroughly polite; mindful of what is socially correct <he is very formal and proper>.

proper care. See *reasonable care* under CARE (2).

proper conditional institute. See INSTITUTE (5).

proper evidence. See *admissible evidence* under EVIDENCE.

proper feud. See FEUD (1).

proper improbation. See IMPROBATION.

proper independent advice. See INDEPENDENT ADVICE.

proper law. *Conflict of laws.* The substantive law that, under the principles of conflict of laws, governs a transaction.

proper lookout, n. (1842) The duty of a vehicle operator to exercise caution to avoid collisions with pedestrians or other vehicles.

proper means. *Trade secrets.* Any method of discovering trade secrets that does not violate property-protection statutes or standards of commercial ethics. • Proper means include independent invention, reverse engineering, observing the product in public, and studying published literature. See Restatement (First) of Torts § 757 cmt. f (1939).

"Trade secrets are protected . . . in a manner akin to private property, but only when they are disclosed or used through improper means. Trade secrets do not enjoy the absolute monopoly afforded patented processes, for example, and trade secrets will lose their character as private property when the owner divulges them or when they are discovered through proper means. . . . Thus, it is the employment of improper means to produce the trade secret, rather than mere copy or use, which is the basis of liability." *Chicago Lock Co. v. Fanberg*, 676 F.2d 400, 404 (9th Cir. 1982).

proper party. See PARTY (2).

pro persona (proh par-soh-nə), *adv. & adj.* [Latin] For one's own person; on one's own behalf <a *pro persona* brief>. — Sometimes shortened to *pro per.* See PRO SE.

property. (14c) 1. Collectively, the rights in a valued resource such as land, chattel, or an intangible. • It is common to describe property as a "bundle of rights." These rights include the right to possess and use, the right to exclude, and the right to transfer. — Also termed *bundle of rights*. 2. Any external thing over which the rights of possession, use, and enjoyment are exercised <the airport is city property>.

"Property (from the Lat. *proprius*, meaning belonging to one; one's own) signifies, in a strict sense, one's exclusive right of ownership of a thing." In their strict meanings, therefore, the right of ownership and property are synonymous, each term signifying a bundle or collection of rights. In a secondary meaning, however, the term 'property' is applied to every kind of valuable right and interest that can be made the subject of ownership, and in this sense, since it is the subject of ownership, land is called property. The term, therefore, includes both real and personal property, and it is often thus expressly defined in statutes. The word 'property,' however, may have different meanings, under different circumstances, according to the manner in which it is used." William L. Burdick, *Handbook of the Law of Real Property* 2-3 (1914) (citations omitted).

"In its widest sense, property includes all a person's legal rights, of whatever description. A man's property is all that is *his in law*. This usage, however, is obsolete at the present day, though it is common enough in the older books. . . . In a second and narrower sense, property includes not all a person's rights, but only his proprietary as opposed to his personal rights. The former constitute his estate or property, while the latter constitute his status or personal condition. In this sense a man's land, chattels, shares, and the debts due to him are his property; but not his life or liberty or reputation. . . . In a third application, which is that adopted [here], the term includes not even all proprietary rights, but only those which are both proprietary and *in rem*. The law of property is the law of proprietary rights *in rem*, the law of proprietary rights *in personam* being distinguished from it as the law of obligations. According to this usage a freehold or leasehold estate in land, or a patent or copyright, is property; but a debt or the benefit

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of a contract is not. . . . Finally, in the narrowest use of the term, it includes nothing more than corporeal property — that is to say, the right of ownership in a material object, or that object itself." John Salmond, *Jurisprudence* 423-24 (Glanville L. Williams ed., 10th ed. 1947).

- ▶ **abandoned property.** (1841) Property that the owner voluntarily surrenders, relinquishes, or disclaims. Cf. *lost property*; *mislaid property*.
- ▶ **absolute property.** (16c) Property that one has full and complete title to and control over.
- ▶ **adventitious property.** (18c) 1. *Roman law.* Property coming to a son or daughter from anyone other than the paterfamilias. — Also termed *peculium adventitium*. 2. *Hist.* Property coming to one from a stranger or collateral relative.
- ▶ **ancestral property.** (1838) Property, esp. immovable property, that the present owner has acquired from forebears, esp. when the owner's family has held the property for several generations at least.
- ▶ **appointive property.** (1932) A property interest that is subject to a power of appointment. See **POWER OF APPOINTMENT**.
- ▶ **common property.** (17c) 1. Real property that is held by two or more persons with no right of survivorship. Cf. *joint property*. 2. **COMMON AREA**.
- ▶ **community property.** See **COMMUNITY PROPERTY**.
- ▶ **complete property.** (18c) The entirety of the rights, privileges, powers, and immunities that it is legally possible for a person to have with regard to land or any other thing, apart from those that all other members of society have in the land or thing.
- ▶ **corporeal property.** (18c) 1. The right of ownership in material things. 2. Property that can be perceived, as opposed to incorporeal property. See *tangible property*.
- ▶ **distressed property.** (1927) Property that must be sold because of mortgage foreclosure or because it is part of an insolvent estate.
- ▶ **divisible property.** *Family law.* An asset that a court is statutorily permitted to divide between divorcing spouses. — Also termed *divisible asset*.
- ▶ **domestic-partnership property.** (1975) Property that would be marital property if the domestic partners were married to each other. See **DOMESTIC PARTNERSHIP**; **DOMESTIC-PARTNERSHIP PERIOD**.
- ▶ **dotal property.** (1811) *Civil law.* Separate property that the wife brings to the marriage to assist the husband with the marriage expenses. Cf. *extradotal property*.
- ▶ **exempt property.** See **EXEMPT PROPERTY**.
- ▶ **extradotal property** (ek-strə-doh-təl). (1826) *Civil law.* 1. That portion of a wife's property over which she has complete control. 2. All of a wife's effects that have not been settled on her as dowry; any property that a wife owns apart from her dowry. • In Louisiana, after January 1, 1980, all property acquired by the wife that is not community is neither dotal nor extradotal; it is simply her separate property, as has always been true of the husband. La. Civ. Code art. 2341. — Also termed *paraphernal property*. Cf. *dotal property*.
- ▶ **found property.** (1828) Property that appears to be lost or abandoned because the owner is unknown, and is

recovered by another person. • The finder does not automatically become the property's new owner.

- ▶ **general property.** Property belonging to a general owner. See *general owner* under **OWNER**. Cf. *special property*.
- ▶ **income property.** (1883) Property that produces income, such as rental property.
- ▶ **incorporeal property.** (18c) 1. An in rem proprietary right that is not classified as corporeal property. • Incorporeal property is traditionally broken down into two classes: (1) *jura in re aliena* (encumbrances), whether over material or immaterial things, examples being leases, mortgages, and servitudes; and (2) *jura in re propria* (full ownership) over immaterial things such as a patent, copyright, or trademark. 2. A legal right in property having no physical existence. • Patent rights, for example, are incorporeal property. — Also termed *incorporeal chattel*; *incorporeal thing*.
- ▶ **intangible property.** (1843) Property that lacks a physical existence. • Examples include stock options and business goodwill. Cf. *tangible property*.
- ▶ **intellectual property.** See **INTELLECTUAL PROPERTY**.
- ▶ **joint property.** (16c) Real or personal property held by two or more persons with a right of survivorship. Cf. *common property*.
- ▶ **like-kind property.** See **LIKE-KIND PROPERTY**.
- ▶ **limited-market property.** See *special-purpose property*.
- ▶ **literary property.** See **LITERARY PROPERTY**.
- ▶ **lost property.** (1810) Property that the owner no longer possesses because of accident, negligence, or carelessness, and that cannot be located by an ordinary, diligent search. Cf. *abandoned property*; *mislaid property*.
- ▶ **marital property.** (1855) Property that is acquired during marriage and that is subject to distribution or division at the time of marital dissolution. • Generally, it is property acquired after the date of the marriage and before a spouse files for separation or divorce. The phrase *marital property* is used in equitable-distribution states and is roughly equivalent to *community property*. — Also termed *marital estate*; *matrimonial property*. See **COMMUNITY PROPERTY**; **EQUITABLE DISTRIBUTION**.
- ▶ **maternal property.** (18c) Property that comes from the mother of a party or some other ascendant of the maternal stock.
- ▶ **matrimonial property.** See *marital property*.
- ▶ **mislaid property.** (1915) Property that has been voluntarily relinquished by the owner with an intent to recover it later — but that cannot now be found. Cf. *abandoned property*; *lost property*.

"A distinction is drawn between lost property and mislaid property. An article is 'mislaid' if it is intentionally put in a certain place for a temporary purpose and then inadvertently left there when the owner goes away. A typical case is the package left on the patron's table in a bank lobby by a depositor who put the package there for a moment while he wrote a check and then departed without remembering to take it with him. There is always a 'clue' to the ownership of property which is obviously *mislaid* rather than *lost*, because of the strong probability that the owner will know where to return for his chattel when he realizes he has gone away without it." Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 310-11 (3d ed. 1982).

- ▶ **mixed property.** (18c) Property with characteristics of both real property and personal property — such as heirlooms and fixtures.
- ▶ **movable property.** See MOVABLE (1).
- ▶ **neutral property.** See NEUTRAL PROPERTY.
- ▶ **nonancestral property.** See *nonancestral estate* under ESTATE (1).
- ▶ **nonexempt property.** See NONEXEMPT ASSETS.
- ▶ **paraphernal property.** See *extradotal property*.
- ▶ **paternal property.** (17c) Property that comes from the father of a party or some other ascendant of the paternal stock.
- ▶ **personal property.** (18c) 1. Any movable or intangible thing that is subject to ownership and not classified as real property. — Also termed *personalty*; *personal estate*; *movable estate*; (in plural) *things personal*. Cf. *real property*. 2. *Tax.* Property not used in a taxpayer's trade or business or held for income production or collection.
- ▶ **private property.** (17c) Property — protected from public appropriation — over which the owner has exclusive and absolute rights.
- ▶ **public property.** (17c) State- or community-owned property not restricted to any one individual's use or possession.
- ▶ **qualified property.** (16c) A temporary or special interest in a thing (such as a right to possess it), subject to being totally extinguished by the occurrence of a specified contingency over which the qualified owner has no control.
- ▶ **qualified-terminable-interest property.** (1982) Property that passes by a QTIP trust from a deceased spouse to the surviving spouse and that (if the executor so elects) qualifies for the marital deduction on condition that the surviving spouse is entitled to receive all income in payments made at least annually for life and that no one has the power to appoint the property to anyone other than the surviving spouse. • The purpose of the marital deduction is to permit deferral of estate taxes until the death of the surviving spouse. But this property is included in the surviving spouse's estate at death, where it is subject to the federal estate tax. — Abbr. QTIP. See *QTIP trust* under TRUST (3).
- ▶ **quasi-community property.** See COMMUNITY PROPERTY.
- ▶ **real property.** (18c) Land and anything growing on, attached to, or erected on it, excluding anything that may be severed without injury to the land. • Real property can be either corporeal (soil and buildings) or incorporeal (easements). — Also termed *realty*; *real estate*. Cf. *personal property* (1).
 "Real estate — or, to use the more formal term, real property — means primarily land, and everything which is naturally a part of the land, or is more or less permanently added to it. Trees, mineral deposits, gas and oil wells are all classed as real property so long as they remain a part of the land, but if the trees are cut down or the minerals extracted they cease to be real property and become personalty. Buildings and improvements of all kinds, which are permanent additions to the land upon which they stand, are a part of the real estate." William J. Grange, *Real Estate: A Practical Guide to Ownership, Transfer, Mortgaging, and Leasing of Real Property* 3 (1937).

"Historically, the line between real and personal property stems from the types of assets administered on death respectively, in the king's and in the church's courts. The king's courts, concerned with the preservation of the feudal structure, dealt with fees simple, fees tail and life estates. Estates for years, gradually evolving out of contracts made by feudally unimportant persons, clearly became interests in land but never fully attained the historical dignity of being 'real property.' The early economic unimportance of money, goods and things other than land permitted the church courts to take over the handling of all such assets on the death of the owner. When the development of trade and of capitalism caused assets of these types to assume great, and sometimes paramount, importance we found ourselves with the two important categories of property, namely 'real' and 'personal' property, each with its set of rules evolved from a different matrix. The pressure of modern society has been strongly for assimilation and the resultant elimination of this line, but this movement is far from complete attainment of its goal." 1 Richard R. Powell, *Powell on Real Property* § 5.04, at 5-7 to 5-8 (Patrick J. Rohan ed., rev. ed. 1998).

- ▶ **scheduled property.** (1841) *Insurance.* Property itemized on a list (usu. attached to an insurance policy) recording property values that provide the basis for insurance payments in the event of a loss under an insurance policy.
 - ▶ **separate property.** See SEPARATE PROPERTY.
 - ▶ **special-design property.** See *special-purpose property*.
 - ▶ **special property.** Property that the holder has only a qualified, temporary, or limited interest in, such as (from a bailee's standpoint) bailed property. Cf. *general property*.
 - ▶ **special-purpose property.** (1921) Property that has a unique design or layout, incorporates special construction materials, or has other features that limit the property's utility for purposes other than the one for which it was built. • Because of the property's specialized nature, the market for the property may be quite limited. — Also termed *limited-market property*; *special-design property*.
 - ▶ **specialty property.** See SPECIALTY (3).
 - ▶ **tangible personal property.** (1843) Corporeal personal property of any kind; personal property that can be seen, weighed, measured, felt, touched, or in any other way perceived by the senses, examples being furniture, cooking utensils, and books.
 - ▶ **tangible property.** (1802) Property that has physical form and characteristics. Cf. *intangible property*.
 - ▶ **terminable property.** (1859) Property (such as a leasehold) whose duration is not perpetual or indefinite but is limited in time or is liable to termination upon the occurrence of some specified event.
 - ▶ **wasting property.** (1853) 1. Property that is consumed in its normal use, such as a wasting asset, a leasehold interest, or a patent right. 2. A right to or an interest in such property.
- property, law of.** See LAW OF PROPERTY.
- property crimes.** See CRIMES AGAINST PROPERTY.
- property-damage insurance.** See *property insurance* under INSURANCE.
- property-disclosure statement.** See DISCLOSURE STATEMENT.
- property dividend.** See *asset dividend* under DIVIDEND.

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**PETITION FOR INJUNCTION OR MANDAMUS
- FREEDOM OF INFORMATION ACT AND AFFIDAVIT FOR GOOD CAUSE
OR PROTECTION OF SOCIAL SECURITY NUMBERS ACT**
Commonwealth of Virginia Va. Code §§ 2.2-3713, 2.2-3816
Accomack County

General District Court
23371 Front Street Accomack, VA 23301
CITY OR COUNTY
STREET ADDRESS OF COURT

William H. Turner
PETITIONER
v. see attached
RESPONDENT

I, the petitioner, state under oath that:
[X] The following rights and privileges under the Virginia Freedom of Information Act were denied to me by the respondent:
by filing a Motion to Stay, et al on 12/22/2017

These rights and privileges were denied to me by: _____ who denied me
[] the respondent [X] see attached
these rights and privileges by: Filing a Motion to stay, et al.

I have good cause for filing this petition in that: it is a violation of the FOIA (2.2-3703.1) to file
Motions to block the FOIA.

OR
[] The respondent [] _____ has engaged, is engaged or
is about to engage in acts in violation of the Protection of Social Security Numbers
Act by: _____
(DESCRIBE ACTS)

I ask this court to issue:
[] a writ of mandamus to require the respondent to act as follows:
[X] an injunction to enjoin (prohibit) the respondent from acting as follows:
prevent the Attorney's from filing any further Motions that violate 2.2-3703.1.
(DESCRIBE ACTS TO BE REQUIRED OR PROHIBITED)

12/28/17
DATE
William H. Turner
PETITIONER

Commonwealth of Virginia, [] City [X] County of Accomack

Subscribed and sworn to before me this day by _____

12/28/17
DATE
H. Clark
CLERK [] DEPUTY CLERK [X] MAGISTRATE
[] NOTARY PUBLIC: My commission expires: _____
Notary Registration No. _____

<p>CASE NO. GV17-2374 William H. Turner PETITIONER(S) 27316 Lankford Highway ADDRESS/LOCATION Onley, VA 23418 v. see attached RESPONDENT(S) ADDRESS/LOCATION</p>	<p>PETITION FOR INJUNCTION OR MANDAMUS - FREEDOM OF INFORMATION ACT AND AFFIDAVIT FOR GOOD CAUSE OR PROTECTION OF SOCIAL SECURITY NUMBERS ACT</p>	<p>Pro Se ATTORNEY(S) FOR PETITIONER(S) Sands Anderson Law Firm ATTORNEY(S) FOR RESPONDENT(S) Office of the Attorney General</p>
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HEARING DATE AND TIME
2/27/18
10:00am

**DISABILITY
ACCOMMODATIONS**
For loss of hearing,
vision, mobility, etc.,
contact the court ahead
of time.

Accomack General District Court
This document received, filed and served on
12/28/17 @ 11:30 am
H. Clark
Clerk

TESTE: _____
Notary Public

12/28/2017

William H. Turner
P.O. Box 128
Onley, VA 23418

Accomack County General District Court
P.O. Box 276
Accomac, VA 23301

ATTACHMENT FOR MANDAMUS

List of Respondent's:

1. Faith Alejandro
 - a. Sands Anderson Law firm
1111 East Main Street
Richmond, VA 23218
2. Karl Hade
 - a. Office of the Executive Secretary of the Supreme Court of Virginia
100 North Ninth Street
Richmond, VA 23219
3. Daniel Wolf
 - a. VITA
11751 Meadowville Lane
Chester, VA 23836

The following is a list of witnesses:

1. Erik Link
 - a. VITA
11751 Meadowville Lane
Chester, VA 23836
2. Edward Macon
 - a. Office of the Executive Secretary of the Supreme Court of Virginia
100 North Ninth Street
Richmond, VA 23219
3. Joshua Heslinga, Esq.
 - a. Office of the Attorney General
202 North Ninth Street
Richmond, VA 23219
4. Andrew McRoberts, Esq.
 - a. Sands Anderson Law Firm
1111 East Main Street
Richmond, VA 23218
5. Robert Drewry, Esq.
 - a. Office of the Executive Secretary of the Supreme Court of Virginia
100 North Ninth Street
Richmond, VA 23218

MANDAMUS

On 12/22/2017 I received a Motion to stay, Et Al, for case number CI-17-5280 as well as an interpleader case in Richmond.

It is against the FOIA to file a Motion that blocks my FOIA rights per 2.2-3703.1.

INJUNCTION

Prevent the respondents from filing any more Motions that block the FOIA and violate 2.2-3703.1.

Sincerely,

William H. Turner/rat

Accomack General District Court
This document received, filed and certified on

12/28/17 @ 11:30 am/pm

TESTE: [Signature] Clerk/Deputy Clerk

Exhibit 3 p.3