

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 12-61735-CIV-ZLOCH

BROWARD BULLDOG, INC.,
and DAN CHRISTENSEN,

Plaintiffs,

vs.

O R D E R

U.S. DEPARTMENT OF JUSTICE, and
FEDERAL BUREAU OF INVESTIGATION,

Defendants,

HALIFAX MEDIA HOLDINGS, LLC,
d/b/a The Sarasota Herald Tribune,

Amicus Curiae,

MIAMI HERALD MEDIA COMPANY,
d/b/a The Miami Herald,

Amicus Curiae.

THIS MATTER is before the Court upon Defendants' Motion For Summary Judgment (DE 25), Plaintiffs' Motion To Strike Hardy Declaration Or To Allow Deposition Of Hardy (DE 26), Plaintiffs' Motion For Vaughn Index And In Camera Review (DE 27), Defendants' Motion For Protective Order (DE 33), and Plaintiffs' Motion For Order Compelling Additional Search (DE 46). The Court has carefully reviewed said Motions, the entire court file and is otherwise fully advised in the premises.

By prior Order (DE 45), the Court stayed four of the above-referenced Motions (DE Nos. 25, 26, 27, & 33) pending the resolution of Plaintiffs' anticipated Motion For Order Compelling Additional Search (DE 46). Because the Court will grant

Plaintiffs' Motion For Order Compelling Additional Search (DE 46), at this time, the Court will deny the relief requested by three of the above-referenced Motions (DE Nos. 25, 26, 27) without prejudice, and with leave to refile following Defendants' compliance with the additional search the Court will require, the details of which will be set forth by separate Order.

Due to the additional search the Court will compel, the relief requested including summary judgment (DE 25), striking the Hardy declaration or permitting his deposition (DE 26), and requiring the preparation of a Vaughn index, will be more appropriately addressed, if still sought, following the subsequent search. However, with respect to Plaintiffs' request that the Court review documents in camera (See DE 27), the Court notes that Defendants have so produced the currently located universe of documents, in unredacted form, for the Court's inspection.

Finally, with respect to Defendants' Motion For Protective Order (DE 33) which seeks an order prohibiting discovery, the Court will grant this Motion and no discovery shall take place at this time except as otherwise ordered by the Court. The Court acknowledges that while discovery is not prohibited in FOIA cases, it is often unnecessary and generally limited. Tamayo v. U.S. Dept. of Justice, 544 F. Supp. 2d 1341, 1343 (S.D. Fla. Feb. 13, 2008) ("As a general rule, courts have disallowed discovery in FOIA actions or have permitted discovery, when deemed necessary, only on a limited basis.") (citing Wheeler v. C.I.A., 271 F. Supp. 2d 132, 139 (D.C.C. 2003); Schiller v. I.N.S., 205 F. Supp. 2d 648, 654 (W.D. Tex. Mar. 25, 2002)). Further, such discovery would often

occur after the submission of a motion for summary judgment, or in this case, a renewed motion for summary judgment. Id. (citing Miscavige v. I.R.S., 2 F.3d 366, 369 (11th Cir. 1993); Simmons v. Dep't of Justice, 796 F.2d 709, 711-12 (4th Cir. 1986); Murphy v. F.B.I., 490 F.Supp. 1134, 1136-38 (D.D.C. 1980); Florida Immigrant Advocacy Ctr. v. Nat'l Sec. Agency, 380 F. Supp. 2d 1332, 1341 n.6 (S.D. Fla. June 22, 2005)).

Accordingly, after due consideration, it is

ORDERED AND ADJUDGED as follows:

1. Defendants' Motion For Summary Judgment (DE 25) and Plaintiffs' Motion To Strike Hardy Declaration Or To Allow Deposition Of Hardy (DE 26) be and the same are hereby **DENIED** without prejudice;

2. Plaintiffs' Motion For Vaughn Index And In Camera Review (DE 27) be and the same is hereby **DENIED** in part without prejudice and **DENIED** in part due to mootness as follows:

a. Plaintiffs' request for a Vaughn Index be and the same is hereby **DENIED** without prejudice;

b. Plaintiffs' request for in camera review be and the same is hereby **DENIED** as moot;

3. Defendants' Motion For Protective Order (DE 33) is hereby **GRANTED**; and

4. Plaintiffs' Motion For Order Compelling Additional Search (DE 46) is hereby **GRANTED**. The Court will enter a separate Order

setting forth the details.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 31st day of March, 2014.



WILLIAM J. ZLOCH
United States District Judge

Copies Furnished:

All Counsel of Record