

ORAL ARGUMENT NOT YET SCHEDULED

No. 14-5030

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

CHIQUITA BRANDS INTERNATIONAL, INC.,
Plaintiff-Appellant,

v.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,
Defendant-Appellee,

and

NATIONAL SECURITY ARCHIVE,
Intervenor-Appellee.

On Appeal from the U.S. District Court for the District of Columbia
(Honorable Richard J. Leon)

**BRIEF FOR INTERVENOR-APPELLEE
NATIONAL SECURITY ARCHIVE**

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CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

A. Parties and Amici

Chiquita Brands International, Inc. was the plaintiff in the district court and is the appellant in this Court.

The United States Securities and Exchange Commission was a defendant in the district court and is an appellee in this Court.

The National Security Archive was an intervenor in the district court and is an intervenor-appellee in this Court.

B. Rulings Under Review

The ruling under review is United States District Judge Richard J. Leon's November 18, 2013 Memorandum Opinion and Order granting the Security and Exchange Commission's motion for summary judgment and denying Chiquita Brands International, Inc.'s motion for summary judgment.

C. Related Cases

This case has not previously been before this Court. Counsel for the National Security Archive are not aware of any related cases.

s/ Michael T. Kirkpatrick _____

Michael T. Kirkpatrick

CORPORATE DISCLOSURE STATEMENT

The National Security Archive is a project of the National Security Archive Fund, Inc. The National Security Archive Fund, Inc. is a not-for-profit corporation established under the laws of the District of Columbia. The National Security Archive Fund, Inc. has no parent corporation and no stock; thus, no publicly held corporation owns ten percent or more of its stock. The Archive's general nature and purpose is to promote research and public education on U.S. governmental and national security decisionmaking and to promote and encourage openness in government and government accountability.

s/ Michael T. Kirkpatrick

Michael T. Kirkpatrick

TABLE OF CONTENTS

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES..... i

CORPORATE DISCLOSURE STATEMENT..... ii

TABLE OF CONTENTS. iii

TABLE OF AUTHORITIES..... v

GLOSSARY. vii

INTRODUCTION..... 1

STATEMENT OF ISSUES..... 2

STATUTORY PROVISION INVOLVED..... 2

STATEMENT OF THE CASE..... 3

SUMMARY OF ARGUMENT..... 7

STANDARD OF REVIEW..... 8

ARGUMENT..... 9

I. By Its Terms, FOIA Exemption 7(B) Applies Only as Needed
to Prevent Unfairness in Trials and Adjudications.. 9

II. Chiquita’s Argument for Expansion of Exemption 7(B) Beyond
Its Text Is Unsupported by Any Authority.. 10

III. The SEC’s Construction of the Statute Does Not Render
Exemption 7(B) Superfluous..... 12

IV. Chiquita Failed to Establish That Release of the Documents
Would Be Unfair.. 15

CONCLUSION. 19

CERTIFICATE OF COMPLIANCE..... 20

CERTIFICATE OF SERVICE. 21

TABLE OF AUTHORITIES

(Authorities on which intervenor-appellee primarily relies are preceded with an *)

CASES

| | |
|---|--------|
| <i>Canadian Commercial Corp. v. Department of Air Force</i> , 514 F.3d 37 (D.C. Cir. 2008). | 15 |
| <i>Department of Air Force v. Rose</i> , 425 U.S. 352 (1976). | 9 |
| <i>EPA v. Mink</i> , 410 U.S. 73 (1973). | 9 |
| <i>Jurewicz v. United States Department of Agriculture</i> , 741 F.3d 1326 (D.C. Cir. 2014). | 8 |
| <i>Morgan v. Department of Justice</i> , 923 F.2d 195 (D.C. Cir. 1991). | 17 |
| <i>NLRB v. Robbins Tire & Rubber Co.</i> , 437 U.S. 214 (1978). | 18 |
| <i>North v. Walsh</i> , 881 F.2d 1088 (D.C. Cir. 1989). | 18 |
| <i>Skilling v. United States</i> , 561 U.S. 358 (2010). | 12 |
| <i>Stonehill v. IRS</i> , 558 F.3d 534 (D.C. Cir. 2009). | 15, 17 |
| <i>United Technologies Corp. v. Department of Defense</i> , 601 F.3d 557 (D.C. Cir. 2010). | 8 |

**Washington Post Co. v. United States Department of Justice*,
 863 F.2d 96 (D.C. Cir. 1988). 6, 9, 12, 17

STATUTES

5 U.S.C. § 552(a)(3)(A). 2

5 U.S.C. § 552(b)(3). 15

5 U.S.C. § 552(b)(4). 14

*5 U.S.C. § 552(b)(7)(B). 1, 2, 6, 9

18 U.S.C. § 1905. 15

OTHER AUTHORITIES

Senate Report No. 813, 89th Congress, 1st Sess. 3 (1965). 9

United States Department of Justice, Attorney General’s Memorandum on
 the 1974 Amendments to the Freedom of Information Act (1975),
reprinted in House Committee on Government Operations and
 Senate Committee on the Judiciary, *Freedom of Information Act
 and Amendments of 1974 (P.L. 93-502) Source Book: Legislative
 History, Texts, and Other Documents*, 94th Cong., 1st Sess.,
 (Jt. Comm. Print 1975). 10, 11

GLOSSARY

| | |
|------|---|
| APA | Administrative Procedure Act |
| ATS | Alien Tort Statute |
| FOIA | Freedom of Information Act |
| JA | Joint Appendix |
| SEC | U.S. Securities and Exchange Commission |

INTRODUCTION

This reverse-Freedom of Information Act (FOIA) case was brought by Chiquita Brands International, Inc. (Chiquita) to delay the release of documents related to illegal payments Chiquita made to a terrorist organization in Colombia (the Chiquita Payment Documents). The documents are responsive to two now-consolidated FOIA requests submitted by the National Security Archive (Archive) to the United States Securities and Exchange Commission (SEC) in November 2008. The SEC determined that FOIA requires release of the documents. Chiquita, however, argues that the documents should be withheld under FOIA Exemption 7(B), which protects from disclosure records compiled for law enforcement purposes that, if released, “would deprive a person of a right to a fair trial or an impartial adjudication.” 5 U.S.C. § 552(b)(7)(B). Significantly, Chiquita has abandoned its argument that release of the documents would interfere with its right to a fair trial. Chiquita Br. at 11 n.8. Instead, Chiquita argues only that Exemption 7(B) protects records that would *not* impact the fairness of a trial or adjudication, but which might be the subject of a future discovery request. Because the text of Exemption 7(B) is plain and no authority supports Chiquita’s effort to expand the scope of Exemption 7(B) beyond its text, this Court should affirm the district court’s decision upholding the SEC’s determination that Exemption 7(B) provides no basis to withhold the Chiquita Payment Documents.

STATEMENT OF THE ISSUES

1. Whether FOIA Exemption 7(B), 5 U.S.C. § 552(b)(7)(B), prohibits the release of documents that would not deprive a person of a fair trial or impartial adjudication, but might be the subject of a future discovery request in a case where pretrial discovery has not commenced.
2. If FOIA Exemption 7(B), 5 U.S.C. § 552(b)(7)(B), extends to pre-trial discovery, whether the SEC considered Chiquita's arguments regarding unfairness in discovery.

STATUTORY PROVISION INVOLVED

FOIA, 5 U.S.C. § 552, provides in relevant part:

(a)(3)(A) . . . [E]ach agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person. . . .

(b) This section does not apply to matters that are . . .

(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information . . .

(B) would deprive a person of a right to a fair trial or an impartial adjudication[.]

STATEMENT OF THE CASE

The National Security Archive is a non-profit library that publishes declassified documents related to U.S. national security. JA 191. Since the creation of its Colombia Documentation Project in 2000, the Archive has filed numerous FOIA requests with a variety of federal agencies seeking documents related to the relationship between the United States and Colombia. *Id.* In November 2008, the Archive filed two FOIA requests with the SEC seeking documents related to Chiquita's operations in Colombia, including records related to the investigation that led to Chiquita's 2007 guilty plea for "Engaging in Transactions with a Specially-Designated Global Terrorist." JA 37-40. In that plea, Chiquita acknowledged that, between 1997 and 2004, it paid over \$1.7 million to a paramilitary and drug trafficking group known as the AUC, through Chiquita's Colombian subsidiary, Banadex. JA 364. The documents at issue in this case—the Chiquita Payment Documents—relate to Chiquita's illegal payments to the AUC.

The SEC determined that the Chiquita Payment Documents are responsive to the Archive's request, and it notified Chiquita of the request. JA 44-46. Chiquita used the SEC's administrative process to request confidential treatment of the Chiquita Payment Documents, claiming that multiple FOIA exemptions apply. JA 57-66. The SEC's FOIA office issued a preliminary opinion on December 14, 2012, accepting

in part and denying in part Chiquita's request that certain responsive documents be withheld. JA 101-108. In relevant part, the SEC rejected Chiquita's argument that the Chiquita Payment Documents should be withheld under FOIA Exemption 7(B) based on an assertion that their release would affect the fairness of pretrial discovery in a pending lawsuit to which the Archive is not a party—*In re: Chiquita Brands International, Inc. Alien Tort Statute & Shareholder Derivative Litig.*, No. 0:08-md-01916-KAM (S.D. Fla. filed Feb. 20, 2008) (the ATS case)—by giving plaintiffs in that case access to information outside of the formal discovery process that is stayed pending resolution of an interlocutory appeal. The SEC found that Chiquita had “not shown that the documents at issue would be unavailable under the discovery rules” and had not “provided any reason to believe that providing the documents now would deprive Chiquita of a fair trial.” JA 105. Chiquita provided supplemental arguments in response to the preliminary decision, and the SEC subsequently issued a final decision affirming its preliminary decision on January 18, 2013. JA 111-38.

Chiquita appealed the SEC's decision to the agency's General Counsel, challenging only the part of the decision requiring disclosure of documents relating to Chiquita's payments to terrorist groups, and arguing that Exemption 7(B) bars their release. JA 139-86. The General Counsel considered and rejected the two arguments

advanced by Chiquita: that disclosure of the documents would interfere with discovery in the ATS case, and that pretrial publicity from the release of the documents would compromise judicial fairness. JA 361-65. In relevant part, the General Counsel rejected Chiquita's argument that releasing the documents outside of the discovery process would confer an unfair advantage on plaintiffs in the ATS case, noting that because Chiquita was prepared to produce the documents once discovery commenced, disclosure "could only provide an advantage to plaintiffs by giving them access to documents earlier than they would otherwise get them." JA 362. The General Counsel found that this slight advantage did not render the litigation "unfair." *Id.* With regard to Chiquita's assertion that it would be prejudiced by release of the documents under FOIA because it could not seek a protective order preventing public dissemination of the documents as it might if they were produced in discovery, the General Counsel noted that the only relevant harm from public dissemination would be adverse pretrial publicity. *Id.* The General Counsel found that Chiquita had not met its burden of showing that such publicity would create an unfair trial. *Id.*

Chiquita filed this reverse-FOIA action on April 4, 2013, seeking to prevent disclosure of the Chiquita Payment Documents under Exemption 7(B). JA 5-18. The Archive intervened, and all three parties moved for summary judgment. The district

court granted the SEC's motion for summary judgment on November 18, 2013, which Chiquita now appeals. JA 436-449.

The district court found that Chiquita failed to show that disclosure of the Chiquita Payment Documents "would deprive [Chiquita] of a right to a fair trial or an impartial adjudication." 5 U.S.C. § 552(b)(7)(B). Applying the two-pronged test stated by this Court in *Washington Post Co. v. Department of Justice*, 863 F.2d 96, 102 (D.C. Cir. 1988), the court found that the Chiquita Payment Documents satisfied the first prong because the ATS case is a pending or imminent trial or adjudication. JA 442. The second prong was not met, however, because Chiquita failed to show that it was more probable than not that disclosure of the documents would seriously interfere with the fairness of the proceedings. JA 442.

Chiquita could not demonstrate how the disclosure of the documents would lead to unfairness in the ATS case, because Chiquita acknowledged that it would produce the documents if the discovery stay was lifted; the only harm Chiquita mentioned was that it would not be able to seek a protective order to prevent the dissemination of the records to the public. JA 443. Like the SEC's General Counsel,

the district court found that the alleged harm was not sufficient to meet the *Washington Post* standard.¹ *Id.*

Chiquita filed this appeal on January 16, 2014. JA 448.

SUMMARY OF ARGUMENT

FOIA Exemption 7(B) does not apply to the Chiquita Payment Documents because Chiquita does not allege that release of the documents would deprive Chiquita of a fair trial in the ATS case. Rather, Chiquita argues that release of the records to the Archive would confer an unfair advantage on the ATS plaintiffs because they could access the records outside the formal discovery process. Chiquita's argument fails because by its plain language, Exemption 7(B) bars release of documents only where release would result in unfairness at the time of trial or adjudication—that is, during the decision-making phase of a proceeding. Chiquita's effort to vastly expand the scope of Exemption 7(B) is not supported by the text of the statute or any other authority, and would undermine the purposes of FOIA by preventing the release of documents whenever the documents might be of interest to a litigant in a case in which discovery has not commenced, even though it is well-

¹The district court also addressed Chiquita's arguments that disclosure of the Chiquita Payment Documents would unfairly prejudice potential jurors and that disclosure would render a Colombian investigation into the payments unfair. JA 443-44. Chiquita has since abandoned those arguments.

established that the FOIA disclosure regime is distinct from civil discovery, and records may be available under FOIA even when unavailable in discovery. Because Chiquita has failed to demonstrate unfairness sufficient to trigger withholding under Exemption 7(B), the district court's decision should be affirmed.

STANDARD OF REVIEW

In a reverse-FOIA case brought under the Administrative Procedure Act (APA), the Court must uphold the agency's decision to release the requested records unless it is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A); *see, e.g., Jurewicz v. U.S. Dep't of Agric.*, 741 F.3d 1326, 1330 (D.C. Cir. 2014) (citing *United Techs. Corp. v. Dep't of Def.*, 601 F.3d 557, 562 (D.C. Cir. 2010)). "Unlike a typical FOIA case, in which the court would undertake its own analysis of the interests at stake, under this deferential standard of review, the court does not substitute its judgment for that of the [agency], but the [agency] must examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made." *Jurewicz*, 741 F.3d at 1330-31 (internal quotation marks and citations omitted).

ARGUMENT

Congress enacted FOIA “to permit access to official information long shielded unnecessarily from public view.” *EPA v. Mink*, 410 U.S. 73, 80 (1973). FOIA reflects “a general philosophy of full agency disclosure unless information is exempted under clearly delineated statutory language,” *Department of Air Force v. Rose*, 425 U.S. 352, 360-61 (1976) (quoting S. Rep. No. 813, 89th Cong., 1st Sess. 3 (1965)), and requires agency records to be disclosed unless they are subject to one of the limited exemptions provided in 5 U.S.C. § 552(b). The exemptions are construed narrowly and “do not obscure the basic policy that disclosure, not secrecy, is the dominant objective of the Act.” *Id.*

I. By Its Terms, FOIA Exemption 7(B) Applies Only as Needed to Prevent Unfairness in Trials and Adjudications.

FOIA Exemption 7(B) applies to records compiled for law enforcement purposes and the release of which “would deprive a person of a right to a fair trial or an impartial adjudication.” 5 U.S.C. § 552(b)(7)(B). “Congress made the threshold of (7)(B) higher than for most of the other exemptions for law enforcement material . . . requir[ing] that release ‘would’ deprive a person of fair adjudication.” *Wash. Post Co.*, 863 F.2d at 102. Exemption 7(B) applies in a “narrow range of situations” where it is “more probable than not that disclosure of the material sought would seriously

interfere with the fairness” of “a trial or adjudication [that] is pending or truly imminent.” *Id.*

Chiquita has abandoned its claim that release of the Chiquita Payment Documents would deprive it of a fair trial in the ATS case, and Chiquita has not asserted that any other pending or imminent trial or adjudication would be impacted by release of the records.² Thus, Chiquita has made no showing that release of the requested records would interfere with the fairness of a “trial” or “adjudication” as required by the plain language of the statute. Accordingly, as the district court held, the SEC correctly rejected Chiquita’s claim that Exemption 7(B) applies.

II. Chiquita’s Argument for Expansion of Exemption 7(B) Beyond Its Text Is Unsupported by Any Authority.

Unable to show that release of the records would interfere with the fairness of any future trial in the ATS case, Chiquita asserts that Exemption (7)(B) protects against unfairness during discovery regardless of whether disclosure would cause

²As explained in the Attorney General’s Memorandum on the 1974 Amendments to the Freedom of Information Act (1975), *reprinted in* House Committee on Government Operations and Senate Committee on the Judiciary, *Freedom of Information Act and Amendments of 1974 (P.L. 93-502) Source Book: Legislative History, Texts, and Other Documents*, 94th Cong., 1st Sess., 507, 518-19 (Jt. Comm. Print 1975), “trial” applies to proceedings in federal and state courts, and “adjudication” refers to “structured, relatively formal, quasi-judicial administrative determinations in both State and Federal agencies, in which the decision is rendered upon consideration of statutorily or administratively defined standards.”

unfairness at trial. Chiquita claims that its novel and atextual theory is supported by the Attorney General's Memorandum and this Court's decision in *Washington Post*. Chiquita Br. at 19-20. Neither contention is correct.

The Attorney General's Memorandum observes that Exemption 7(B) applies to trials in state and federal courts, and to administrative adjudications. *See* A.G. Memo at 518-19. Thus, it notes that "[t]he provision is obviously aimed at more than just inflammation of jurors . . . since juries do not sit in administrative proceedings." *Id.* at 519. Nothing in the memorandum suggests, however, that Exemption 7(B) applies where release of requested records would not affect the fairness of the decision-making phase of the proceeding, that is, a "trial" in the context of court proceedings, and an "adjudication" in the context of administrative proceedings. Indeed, in discussing the definition of "adjudication" in the exemption, the memorandum states that it "would seem best to interpret the word in this clause to refer to structured, relatively formal, quasi-judicial *determinations*." *Id.* at 518 (emphasis added).

Similarly, nothing in *Washington Post* suggests that Exemption 7(B) applies absent a showing that release of the records would impact the fairness of the decision-making stage of the proceedings. In *Washington Post*, the Court held that Exemption 7(B) can shield documents from disclosure only on a showing "(1) that a trial or

adjudication is pending or truly imminent; and (2) that it is more probable than not that disclosure of the material sought would seriously interfere with the fairness of *those proceedings*.” 863 F.2d at 102 (emphasis added). The second prong of the *Washington Post* test makes clear that the application of Exemption 7(B) requires that the unfairness relate to the *trial or adjudication*. Chiquita argues otherwise by pointing to this Court’s statement that “[i]t may be that disclosure through FOIA would furnish access to a document not available under the discovery rules and thus would confer an unfair advantage on one of the parties.” *Id.*, quoted in Chiquita’s Br. at 21. In making that statement, however, the Court was providing an example of a situation in which disclosure of a record would deprive a party of a fair trial. That releasing a record not available in discovery may sometimes cause a trial to be unfair does not support Chiquita’s argument that Exemption 7(B) applies where release of the records would not affect the fairness of the trial.

III. The SEC’s Construction of the Statute Does Not Render Exemption 7(B) Superfluous.

Chiquita argues that because the SEC referenced the factors used by the Supreme Court in *Skilling v. United States*, 561 U.S. 358, 381-83 (2010), to determine whether pretrial publicity may compromise the constitutional right to a fair trial, the SEC’s construction of Exemption 7(B) must be erroneous because agency action

contrary to a constitutional right can be challenged under the APA, and if the protection of Exemption 7(B) was coextensive with a constitutional right, Exemption 7(B) would be superfluous. Chiquita's argument fails for two reasons.

First, and contrary to Chiquita's assertion, the SEC did not find that pretrial publicity resulting in a constitutionally unfair trial is the only harm that can trigger Exemption 7(B). Rather, the SEC considered each of Chiquita's assertions of unfairness that might arise from disclosure of the Chiquita Payment Documents. The SEC considered Chiquita's claim that disclosure would cause unfairness by providing plaintiffs "access to documents earlier than they would otherwise get them," and found that although disclosure might provide an advantage, it would not result in an unfair trial. JA 362. The SEC also considered Chiquita's argument "that it would be disadvantaged by not having the opportunity to obtain a protective order preventing public dissemination of these documents" and determined that "the harm it must be seeking to avoid is adverse pretrial publicity that is so severe as to render a trial unfair." *Id.* (internal citation omitted). The SEC then looked to the *Skilling* factors, not because it concluded that adverse pretrial publicity is the only unfairness that can trigger Exemption 7(B), but to evaluate Chiquita's claim that public release of the documents would cause such unfairness. JA 363-64.

Second, even if the protection of Exemption 7(B) were coextensive with the constitutional right to a fair trial, the exemption would not be superfluous because it provides a mechanism for agencies responding to FOIA requests to withhold records that would deprive a person of a right to a fair trial. Absent Exemption 7(B), FOIA's text would require an agency to release requested law enforcement records without considering whether release would result in an unfair trial. Chiquita posits that if the release would compromise a third party's constitutional right to a fair trial, that party could seek to stop the release through an action under the APA. But even if Chiquita is correct that it would be unlawful for an agency to comply with FOIA under those circumstances—a legal theory for which Chiquita provides no authority—it would not be superfluous for Congress to have enacted an exemption to guard against the unconstitutional application of FOIA. Moreover, the exemption provides a means for the agency to withhold records that would deprive a person of a right to a fair trial, even where that person might have no notice that a request for such records has been made and no opportunity to file the type of emergency lawsuit Chiquita suggests.

Indeed, multiple FOIA exemptions take the form of providing an exemption under FOIA to the release of records that agencies are required to keep confidential under some other authority. For example, FOIA Exemption 4, 5 U.S.C. § 552(b)(4), protects trade secrets from disclosure, but trade secrets are also protected by the Trade

Secrets Act. 18 U.S.C. § 1905; *see Canadian Commercial Corp. v. Dep't of Air Force*, 514 F.3d 37, 39 (D.C. Cir. 2008) (holding that the Trade Secrets Act is “at least co-extensive” with FOIA Exemption 4). And FOIA Exemption 3 specifically states that FOIA does not apply to the extent that other statutes forbid disclosure. 5 U.S.C. § 552(b)(3). It would be nonsensical to suggest, and no authority supports the suggestion, that Exemptions 3 and 4 do not mean what they say because they protect from disclosure records also protected by other statutes.

IV. Chiquita Failed to Establish That Release of the Documents Would Be Unfair.

Even if, contrary to its plain language, Exemption 7(B) applied where disclosure would *not* cause unfairness at trial, Chiquita has failed to demonstrate that unfairness would result from disclosure of the Chiquita Payment Documents to the Archive. Chiquita argues that disclosure would benefit the ATS plaintiffs by “allowing them to [] circumvent the court-issued discovery stay” in the ATS case, Chiquita Br. at 27, but it would do no such thing. The documents would not be produced by Chiquita pursuant to a discovery request in the ATS case; they would be released by the government to a third party under FOIA. “The FOIA disclosure regime . . . is distinct from civil discovery.” *Stonehill v. IRS*, 558 F.3d 534, 538 (D.C. Cir. 2009).

Chiquita also complains that, if the documents are released to the Archive and become public, the ATS plaintiffs will “gain access to documents not otherwise available except through discovery without complying with their mutual disclosure obligations.” Chiquita Br. at 27. But obtaining a document under FOIA *is* a means other than discovery, and there is nothing unfair or unusual about a litigant gathering information from public sources outside of the formal discovery process. Litigants often consult public records and interview non-party witnesses to gather information outside of formal discovery, and such non-discovery evidence-gathering does not usurp the district court’s authority over discovery or otherwise render the discovery proceedings unfair. Moreover, Chiquita will suffer no prejudice even if the ATS plaintiffs gain access to the documents earlier than they would have under the discovery rules, because Chiquita admits that it will produce the documents in discovery if discovery commences. *See* JA 361-62, 442. And if the ATS case is resolved before discovery begins, the Exemption 7(B) issue will be moot.

Finally, Chiquita complains that disclosure to the Archive could allow the ATS plaintiffs to “gain access to the documents without any of the restrictions” that a court might impose by protective order with regard to documents produced in discovery. Chiquita Br. at 27. Again, because documents produced pursuant to FOIA are not being produced in discovery, but rather under a law that requires public release, the

unavailability of a protective order is not unfair. Indeed, as Chiquita acknowledges, courts cannot impose by protective order restrictions on the use of documents obtained outside the discovery process. Chiquita Br. at 34.

If Chiquita were correct that Exemption 7(B) requires the government to withhold from disclosure under FOIA any law enforcement record that a litigant might eventually seek but is presently unable to obtain through formal discovery, Exemption 7(B) would become a general prohibition on the release of any such record that might later be pertinent in litigation. Such an interpretation would stretch the coverage of Exemption 7(B) far beyond its intended scope. *See Wash. Post Co.*, 863 F.2d at 102 (recognizing that Exemption 7(B) applies only in a “narrow range of situations”).

It is well-established that records may be available through FOIA even when unavailable through discovery. *See, e.g., Stonehill*, 558 F.3d at 538 (“[T]hat a document is exempt from discovery does not necessarily mean it will be exempt from disclosure under FOIA.”); *Morgan v. Dep’t of Justice*, 923 F.2d 195, 198 (D.C. Cir. 1991) (noting that “[t]here are situations in which FOIA will permit access to information that would not be available through discovery” and explaining that the fact that a document was under seal in separate litigation “is, without more, insufficient to justify nondisclosure under the FOIA” (citations omitted)). Likewise,

it has long been settled that a FOIA requester's motivation for making a FOIA request is irrelevant, and a requester's desire to use records in separate litigation does not deprive the requester of its rights to the records under FOIA. *See, e.g., NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 n.23 (1978) (explaining that a FOIA requester's rights are neither "enhanced" nor "diminished by its being a private litigant" with a "particular, litigation-generated need" for the requested documents); *North v. Walsh*, 881 F.2d 1088, 1099 (D.C. Cir. 1989) ("FOIA rights are unaffected by the requester's involvement in other litigation; an individual may therefore obtain under FOIA information that may be useful in non-FOIA litigation, even when the documents sought could not be obtained through discovery.").

Chiquita's reading of Exemption 7(B) is contrary to these well-established FOIA principles. Indeed, Chiquita goes even further, asserting that records can be withheld from a FOIA requester based on the existence of separate litigation in which the parties may eventually seek the same records through discovery, even where the FOIA requester is not itself a party to the other litigation and has no ability to participate in discovery in that case. Chiquita's reading of 7(B) would frustrate the purpose of FOIA by holding FOIA requests hostage to litigation outside the control of the FOIA requester.

CONCLUSION

For the reasons stated above, this Court should affirm the decision of the district court.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the type-face and volume limitations set forth in Federal Rule of Appellate Procedure 32(a)(7)(B) as follows: The type face is fourteen-point Times New Roman font, and the word count is 4,118.

s/ Michael T. Kirkpatrick _____

Michael T. Kirkpatrick

CERTIFICATE OF SERVICE

I certify that on July 16, 2014, I caused the foregoing to be filed with the Clerk of the Court through the Court's ECF system, which will serve notice of the filing on all filers registered in this case.

s/ Michael T. Kirkpatrick

Michael T. Kirkpatrick