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**UNITED STATES DISTRICT COURT**  
**FOR THE NORTHERN DISTRICT OF CALIFORNIA**

THE MARY FERRELL FOUNDATION,  
INC.; JOSIAH THOMPSON; and GARY  
AGUILAR,

Plaintiffs,

v.

JOSEPH R. BIDEN, in his official capacity as  
President of the United States; and  
NATIONAL ARCHIVES AND RECORDS  
ADMINISTRATION,

Defendants.

No. 3:22-cv-06176-RS

**Second Declaration of Lawrence P.  
Schnapf**

**Date: July 13, 2023**

**Time: 1:30 pm**

**Dept: 17<sup>th</sup> Floor, Courtroom 3**

**Judge: Richard Seeborg**

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1. I, Lawrence P. Schnapf, hereby declare as follows. My residence is 55 E. 87<sup>th</sup> Street, apt. 8b/8C, New York, New York 10128. I am an attorney at law duly admitted to practice in New York and New Jersey, and have been admitted *pro hac vice* to the United States District Court for the Northern District of California to serve as co-counsel for the plaintiffs in the above-captioned case.
2. Mary Ferrell Foundation ("MFF") members and researchers, including the undersigned, regularly share and compare information and leads about individuals who might possess information about people who have knowledge about events involving the events surrounding the John F. Kennedy assassination, including, for example, anti-Castro Cuban exiles, organized crime, Lee Harvey Oswald, Jack Ruby, and covert government operations centered in the New Orleans, Miami and Dallas areas during 1963 and thereafter. MFF members and researchers frequently exchange information on internet platforms, weekly podcasts and periodic virtual meetings, annual or semi-annual conferences, along with emails and direct telephone calls.
3. It is not unusual for leads for researchers to begin with reviewing assassination records released by the National Archives ("NARA") that are collected and collated on the MFF website. Indeed, the NARA website itself identifies the MFF website as a research resource on NARA's own JFK Collection website (See attached Exhibit 1, a true and correct screengrab from NARA's site.)
4. Immediately after NARA announces a new release of assassination records that had been previously redacted, researchers scour the documents for names that were previously unknown and then try to contact the individuals.
5. Many of the individuals that researchers contact were never previously interviewed during prior government investigations. On other occasions, researchers may interview individuals about their prior testimony, pursuing lines of questioning that were not followed or topics that government investigators had not examined in previous interviews. This work continues to contribute important information about the circumstances surrounding the assassination of President Kennedy.
6. I have learned from my own FOIA lawsuit that, unfortunately, some agencies such as the FBI and CIA initially adopted policies of not releasing names of individuals discussed in assassination records until these individuals died or 100 years had elapsed since their date of birth. I also have learned from my FOIA lawsuit that NARA had informed the agencies in the past that their postponement requests to continue to redact names of many individuals failed to comply with the standards of the JFK Records Act. Where an agency made broad statements that disclosure of names could result in stigmatization, harassment or violent retribution, NARA rejected these grounds as justification for postponement saying "As the information is concerning events more than 50 years old, it is difficult to imagine

circumstances under which an individual could be harmed by the release of their name in a file in the JFK Collection. NARA also wrote that “The standard set by the JFK Act and the Assassination Records Review Board during their deliberations is a high one: there has to be “clear and convincing evidence” of a “substantial risk of harm” and recommended denial of postponement requests . Email from William Bosanko to redacted name dated 08/21/17. Despite this conclusion, the executive orders of Presidents Trump and Biden allowed the names of many of these individuals to continue to be redacted.

7. As a result, when names have been released, the individuals may have already passed away and the information they possessed about events surrounding the assassination, along with the identities of other individuals who might have possessed relevant information, have been lost to history. On other occasions, when the individuals were still alive, their memories had so faded that they no longer adequately recalled useful information or the veracity of their information became questionable.
8. Just one recent example was that of former CIA employee Donald Heath, who passed away in 2019, but whose name was not released until December 15, 2022. The document containing Mr. Heath’s name confirmed that CIA had tasked the Miami CIA station to interview pro-Castro and anti-Castro activists in Miami the weekend of the assassination to determine if they had been involved in the assassination. The CIA had previously publicly denied that it had conducted such an investigation. Had Mr. Heath’s name been released while he was alive, researchers could have asked him, for example, for more information about this investigation, the names of the individuals who were investigated, the names of others who may have assisted him with this effort, how the results of this investigation were documented and communicated, and where the records of this investigation may have been stored. Because his name was not released until after he died, the knowledge he had will never be known and researchers will not be able to pursue any leads that may have resulted from his interview.
9. I also wish to respond to Defendant’s assertion that Plaintiffs waited too long to file their motion for preliminary injunction and declaratory relief (doc. #59). As Defendants know all too well, Plaintiffs did not sit back on their rights and do nothing for seven months. After Plaintiffs filed their complaint, the case was assigned to a magistrate judge who issued an Initial Case Management Scheduling Order with ADR Deadlines and providing for Initial Case Management Conference set for 1/17/2023. (doc #9). After Defendants filed an appearance (doc #13), Defendants requested the case be assigned to a district judge (doc #14) which resulted in a re-assignment to this Court with Case Management Statement due by 1/5/2023. At this point, Plaintiffs became aware that President Biden would be preparing a new Executive Order which was issued on December 15<sup>th</sup>. Defendants reached out to Plaintiffs to discuss the upcoming CMS. The parties mutually decided it made sense for Plaintiffs to file an amended complaint to incorporate the Biden Order. The Plaintiffs notified that counsel John Robinson would be taking over management of the case. Plaintiffs asked if there was a basis to narrow or resolve some of the issues. Defendants counsel said they would consult with their client. Plaintiffs were subsequently informed



that Defendants had decided to file a motion to dismiss and would wait until the court ruled on the motion before entertaining any settlement conversations. The parties agreed to a stipulation providing for filing the amended complaint by January 5<sup>th</sup> and pushing back the CMC to March 2<sup>nd</sup>. The parties then entered into another stipulation to continue the CMC to June 8<sup>th</sup>. On February 6<sup>th</sup>, Defendants filed their motion to dismiss (doc #23) followed by Plaintiffs opposition memorandum on March 7<sup>th</sup> (doc #33). After Defendants filed their reply brief (doc #40), Plaintiffs came across new evidence and the parties stipulated to Plaintiffs filing a second amended complaint (doc #40). Defendants then filed their Motion to dismiss the second amended complaint on May 1<sup>st</sup> (Doc #46). After filing their opposition to the Defendant's motion to dismiss the second complaint (doc #49), Plaintiffs filed their Motion for Preliminary Injunction and Declaratory Relief on May 25<sup>th</sup>, a little more than a month after the filing of the second amended complaint. Given the motion practice, the time that elapsed between Plaintiffs second amended complaint and its motion for preliminary injunction and declaratory relief is a reasonable and modest period that should not undermine the Plaintiff's assertion of irreparable harm.

I hereby declare the foregoing to be true and correct, except for those matters of which I am informed and believe, which I believe to be true, under penalty of perjury under the laws of the States of California and New York. Signed this 29<sup>th</sup> day of June, 2023 at New York, New York.

By

15/  
Lawrence P. Schnapf

# EXHIBIT 1

[Home](#) > [Research Our Records](#) > [The President John F. Kennedy Assassination Bicentennial Collection](#) > [Barker](#) and in the Collection