

Brian Charles Vaeth
8225 Poplar Mill Road
Nottingham, Maryland 21236
443-604-0610

**IN THE CIRCUIT COURT FOR BALTIMORE CITY
FOR THE STATE OF MARYLAND**

BRIAN CHARLES VAETH
8225 Poplar Mill Road
Nottingham, Maryland 21236
(443) 604-0610

v.

Case No.

MAYOR & CITY COUNCIL OF BALTIMORE
100 N. Holliday Street
City Hall, Room 101
Baltimore, Maryland 21202
(410) 396-3100

MARYLAND PUBLIC INFORMATION ACT REQUEST

Plaintiff, BRIAN CHARLES VAETH, in proper person, pursuant to the Maryland Public Information Act, as codified at General Provisions Article (“GP”), §§ 4- 101 through 4-601, Annotated Code of Maryland, seeks access to any and all records described herein and to cause selected copies to be made of the same.

FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff has filed an action in the United States District Court against Defendants alleging fraud on the court on May 31, 2018. Prior to the filing of that action, Plaintiff requested of Defendants access to information that would be required to be filed, as evidence in the matter. A formal request for that information was sent to Defendants, of which was denied. (Exh. 1) Defendant’s counsel, the Baltimore City Solicitor, of which the fraud is alleged against, advised Plaintiff of several factors affecting the information requested, none of which were immediate concerns of Defendants, but was a hurdle placed by Defendants to restrict Plaintiff access to the requested information and to obstruct justice. Plaintiff

was instructed to narrow his request and to request additional information from the custodian of records for agencies of which the Baltimore City Solicitor's Office was not in possession of. (Exh. 2) All information that Plaintiff seeks access to is in the possession of the Baltimore City Solicitor's Office and therefore, no additional requests needed to be made to those agencies. Plaintiff complied with Defendant's advisement and replied with a more specific request that was narrowed to Defendant's liking. (Exh. 3) Defendants simply stopped responding to Plaintiff. Therefore, this action is absolutely necessary.

Plaintiff has made very serious allegations against the Baltimore City Solicitor's Office. To be sure, such charges should be taken seriously and the appropriate sanctions should be imposed if those allegations are found to be true. Conversely, Plaintiff is subject to sanction if the allegations are false and the requested information is essential in assessing the merits of the complaint. Defendants have complete control over the requested information, as it is in the form of Plaintiff's employment and medical file and Defendants have gone to extraordinary efforts to deny Plaintiff any and all access to the requested information routinely over the past decade. The action filed in the United States District Court seeks to end the Defendant's unconstitutional and unlawful employment discrimination practices and to inform that Court of the Defendant's misconduct. Defendants have failed to answer the complaint. Plaintiff has requested the clerk of the Court to enter a Default Judgment against Defendant, in an effort to compel Defendants to participate in the litigation. If Defendants continue to ignore the complaint, Plaintiff intends to request Leave of the U.S. District Court to file a Motion to Compel Discovery, so this matter can move forward.

The stature of the documents sought in which the allegedly fraudulent representations were made is important. Representations made in an affidavit by a high-ranking officer of the Baltimore City Fire Department were made under oath and had the effect of misleading the US District Court. To allege that false statements were made in these documents is to allege perjury; a particularly serious type of perjury because of the high degree of faith the Court placed in the truth of the Baltimore City Solicitor's representations. In this case, an accusation of perjury forms the basis of the fraud upon the court claim.

In such a case, proof of perjury, though not sufficient to prove fraud upon the court, becomes a necessary element which must be met before going on to meet the additional rigors of proving fraud upon the court. The requested information will sufficiently demonstrate that high standard Plaintiff must overcome to prove his claim.

THE MARYLAND PUBLIC INFORMATION ACT

Enacted in 1970, the PIA was created to “provide the public the right to inspect the records of the State government or of a political subdivision within the State.” Haigley, 128 Md.App. at 207, 736 A.2d at 1191 (quoting *Faulk v. State's Attorney for Harford County*, 299 Md. 493, 506, 474 A.2d 880, 887 (1984)). The PIA provides a general right to information—“[a]ll persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees.” Gen. Prov. § 4–103(a). Accordingly, “[t]o carry out the right set forth in subsection (a) of this section, unless an unwarranted invasion of the privacy of a person in interest would result, this title shall be construed in favor of allowing inspection of a public record.” Gen. Prov. § 4–103(b). Unsurprisingly, the provisions of the statute are to be “liberally construed in order to effectuate the Public Information Act's broad remedial purpose.” Haigley, 128 Md.App. at 208, 736 A.2d at 1192 (internal quotation marks omitted).

There are “well-established general principles governing the interpretation and application of the [PIA which] create a public policy and a general presumption in favor of disclosure of government or public documents.” *Maryland Dep't of State Police v. Maryland State Conference of NAACP Branches*, 430 Md. 179, 190, 59 A.3d 1037, 1043 (2013) (citation and internal quotation marks omitted). Although, the presumption skews heavily the calculus toward disclosure, it may be rebutted. The ability to rebut the presumption is not to be construed liberally, however, because the PIA was established with the overarching purpose of allowing oversight of the government, resulting in a strong practice of disclosure.

The ability to rebut the presumption in favor of disclosure is found in the “exceptions to the general rule favoring disclosure,” which are provided in an enumerated list of the records and type of information that is (or may be) excluded from public disclosure. *Bowen v. Davison*, 135 Md.App. 152, 158, 761 A.2d 1013, 1016 (2000). The custodian of a record requested under the PIA “shall deny

inspection of a public record” if it is privileged, confidential, or the inspection would be contrary to restrictions in other statutes. See Gen. Prov. § 4–301(a) (emphasis added). Under Gen. Prov. § 4–343, “if a custodian believes that inspection of a part of a public record by the applicant would be contrary to the public interest, the custodian may deny inspection by the applicant of that part of the record.” (emphasis added). More relevant to this case, unlike the sections which “list specific records that may be withheld from disclosure, [Gen. Prov. § 4–358] is a ‘catch-all’ provision that allows the custodian to exempt temporarily records in the ‘public interest.’ “ Bowen, 135 Md.App. at 165, 761 A.2d at 1020.

Under Gen. Prov. § 4–358(a), “[w]henver this title authorizes inspection of a public record but the official custodian believes that inspection would cause substantial injury to the public interest, the official custodian may deny inspection temporarily .” (emphasis added). If “after [a] hearing, [a] court finds that inspection of the public record would cause substantial injury to the public interest, the court may issue an appropriate order authorizing the continued denial of inspection.” Gen. Prov. § 4–358(d). It is clear that “[t]he General Assembly did not intend for custodians broadly to claim exemptions.” Cranford v. Montgomery Cnty., 300 Md. 759, 777, 481 A.2d 221, 230 (1984).

As Plaintiff cannot imagine any situation wherein the disclosure of the information requested would be contrary to the public interest, to the contrary, the public has the absolute right to know whether government lawyers are telling the truth in matters before the courts, he respectfully requests the court to order Defendants to produce the requested information.

Respectfully,

Brian Charles Vaeth
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AFFIDAVIT

I, Brian Charles Vaeth, plaintiff in the above captioned matter, hereby certifies that I effected service of process to the resident agent for the Mayor and City Council and the Fire and Police Employees Retirement System of Baltimore City, the Office of the Baltimore City Solicitor, via United States Postal Service certified mail, restricted delivery, return receipt requested on August 2, 2018.

I SOLEMNLY AFFIRM under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief this 2nd day of August 2018.

Respectfully,

Brian Charles Vaeth
8225 Poplar Mill Road
Baltimore, Maryland 21236
(443) 604-0610

CERTIFICATE OF SERVICE

I, Brian Charles Vaeth, hereby certify that a copy of the foregoing complaint has been mailed to counsel for the City of Baltimore via USPS first class, postage prepaid, this 2nd day of August 2018.

Respectfully,

Brian Charles Vaeth
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Nottingham, Maryland 21236
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