

DEPARTMENT OF STATE
Washington, D.C. 20520

and

FEDERAL BUREAU OF
INVESTIGATION
Washington, D.C. 20535

and

EXECUTIVE OFFICE OF UNITED
STATES ATTORNEYS
600 E Street, N.W., Room 7100
Washington, D.C. 20530

and

IMMIGRATION AND
NATURALIZATION SERVICE
425 I Street, N.W.
Washington, D.C. 20536

and

UNITED STATES SECRET SERVICE
950 H Street, N. W.
Suite 3000
Washington, D.C. 20001

Defendants

* * * * *

COMPLAINT

This is an action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended, and the Administrative Procedure Act, 5 U.S.C. § 702 et seq., for the expedited processing and disclosure of agency records pertaining to the deaths of Princess Diana and Dodi Fayed, and events and individuals associated with the tragedy, that were improperly withheld from plaintiffs Mohammed Al Fayed and Punch Limited by defendants Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, the United States Departments of Defense, Justice and State, the Federal Bureau of

Investigation, the Executive Office of United States Attorneys, the Immigration and Naturalization Service and the United States Secret Service.

JURISDICTION

1. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the defendants pursuant to 5 U.S.C. §§ 552(a)(4)(B), 702 and 28 U.S.C. § 1331.

VENUE

2. Venue is appropriate under 5 U.S.C. §§ 552(a)(4)(B), 703 and 28 U.S.C. § 1391.

PARTIES

3. Plaintiff Mohammed Al Fayed (“Al Fayed”) is the owner and publisher of *Punch* Limited. He is also the father of Dodi Al Fayed, who perished in the August 31, 1997, automobile crash that claimed the life of Princess Diana. Al Fayed maintains a Web site dedicated to resolving the mysteries surrounding the tragedy at www.alfayed.com.

4. Plaintiff *Punch* Limited (“*Punch*”) is a British political satirical magazine that dates back to 1841. The magazine, which is published 26 times per year, is also available on the Internet at www.punch.co.uk.

5. Defendant Central Intelligence Agency (“CIA”) is an agency within the meaning of 5 U.S.C. § 552 (e) and is in possession and/or control of the records requested by Al Fayed and *Punch* which are the subject of this action.

6. Defendant National Security Agency (“NSA”) is an agency within the meaning of 5 U.S.C. § 552 (e) and is in possession and/or control of the records requested by Al Fayed and *Punch* which are the subject of this action.

7. Defendant Defense Intelligence Agency (“DIA”) is an agency within the meaning of 5 U.S.C. § 552 (e) and is in possession and/or control of the records requested by Al Fayed and *Punch* which are the subject of this action.

8. Defendant Department of Defense (“DoD”) is an agency within the meaning of 5 U.S.C. § 552 (e) and is in possession and/or control of the records requested by Al Fayed and Punch which are the subject of this action.

9. Defendant Department of Justice (“DOJ”) is an agency within the meaning of 5 U.S.C. § 552 (e). It has oversight control and FOIA authority over the Executive Office for United States Attorneys (“EOUSA”) and is in possession and/or control of the records requested by Al Fayed and Punch which are the subject of this action.

10. Defendant Department of State (“DOS”) is an agency within the meaning of 5 U.S.C. § 552 (e) and is in possession and/or control of the records requested by Al Fayed and Punch which are the subject of this action.

11. Defendant Federal Bureau of Investigation (“FBI”) is an agency within the meaning of 5 U.S.C. § 552 (e). It has oversight control and FOIA authority over its field offices in Las Vegas, Los Angeles, Miami, New York City and Washington, D.C., as well as its Legal Attaches in London, United Kingdom, Paris, France and Vienna, Austria and is in possession and/or control of the records requested by Al Fayed and Punch which are the subject of this action.

12. Defendant Immigration & Naturalization Agency (“INS”) is an agency within the meaning of 5 U.S.C. § 552 (e) and is in possession and/or control of the records requested by Al Fayed and Punch which are the subject of this action.

13. Defendant United States Secret Service (“USSS”) is an agency within the meaning of 5 U.S.C. § 552 (e) and is in possession and/or control of the records requested by Al Fayed and Punch which are the subject of this action.

BACKGROUND

The Tragedy

14. On August 31, 1997, at approximately 12:25 A.M. local time, an automobile carrying Diana Francis Spencer, Princess of Wales, and Dodi Al Fayed crashed into the

thirteenth pillar in the tunnel under the Place d'Alma in Paris, France. Princess Diana and Dodi Al Fayed were killed along with the automobile's driver, Henri Paul, a French security officer at the Ritz Hotel. Bodyguard Trevor Rees-Jones was the sole survivor.

The French Investigation

15. Shortly after the tragedy, *Premier Juge d'instruction* Hervé Stephan, a French investigating magistrate, instituted an investigation. On or about January 29, 1999, it was announced that the investigation had ended and concluded that the tragedy was caused by drunk driving by Henri Paul, excessive speed and a dangerous stretch of road. Nine photographers and a press motorcyclist were placed under formal investigation - a step immediately before being formally charged - for manslaughter and failing to render aid to accident victims. On or about September 3, 1999, Judge Stephan dismissed all charges against the photographers and motorcyclist.

16. The decision to formally end the investigation is presently under appeal by Al Fayed, and judicial proceedings are scheduled for September 2001.

Richard Tomlinson

17. Richard Tomlinson, 37, is a former MI6 (British foreign intelligence service) officer who served from September 1991 through April 1995.

18. On or about August 28, 1998, Tomlinson informed investigating magistrate Hervé Stephan that Henri Paul, the chauffeur killed in the tragedy, had been on the MI6 payroll for at least three years. He also revealed that the death crash resembled a MI6 plot to kill Yugoslavian President Slobodan Milosevic in Geneva. A copy of the affidavit Tomlinson provided to Judge Stephan is available at www.alfayed.com/dianaanddodi/tomlinson.html.

19. In or around September 1998, Tomlinson traveled to the United States onboard a Swiss Air Flight in order to appear on a NBC television program to discuss his recent revelations. Upon arrival at John F. Kennedy International Airport in New York, Tomlinson was escorted off the plane by United States government officials and detained

for several hours. He was never permitted to enter the United States, and instead was placed back on a plane to Europe.

20. Upon information and belief, the United States government prevented Tomlinson from entering the United States at the request of MI6 or other British government officials.

Oswald LeWinter

21. Oswald LeWinter (“LeWinter”), 70, has claimed to be a former United States intelligence operative for more than two decades. He has been linked to several high profile controversies here in the United States and Europe, all of which involved allegations of intelligence connections and specifically the CIA. These controversies have included LeWinter providing what apparently turned out to be disinformation regarding “October Surprise”, which involved allegations that individuals associated with Ronald Reagan’s presidential campaign delayed the release of American hostages in Iran in order to defeat President Jimmy Carter; claims by LeWinter that the CIA was involved in the 1986 assassination of former Swedish Prime Minister Olof Palme; his appearance in a 1994 documentary on the bombing of Pan Am Flight 103 entitled The Maltese Double Cross in which LeWinter claimed that the CIA knew that Libya was not responsible for the terrorist attack; and a 1998 attempt, more fully described below, to sell fraudulent CIA documents concerning the deaths of Princess Diana and Dodi Al Fayed.

22. In his book October Surprise (1991), Professor Gary Sick describes LeWinter as an “intelligence operative”, who was a “graduate of University of California at Berkeley and had a master’s degree in English literature from San Francisco State.” “He spoke German and English, but he had also acquired a working knowledge of Hebrew, Persian, and French, and some Urdu.” Sick stated LeWinter “had served with U.S. forces in Vietnam and also claimed long experience with various U.S. and Israeli intelligence agencies.”

23. Upon information and belief, LeWinter previously formally maintained a relationship with the CIA, at least to the extent he provided information to the Agency during the 1970s. The CIA presently maintains in its possession records that confirm a relationship, as well as information pertaining to the fraud attempt described below.

The Effort To Defraud Mohamed Al Fayed

24. In late 1997 or early 1998, Keith Fler ("Fler"), a prominent California attorney, George Williamson ("Williamson"), an independent journalist, Pat Macmillan ("Macmillan") and LeWinter - the latter two are both alleged former CIA agents - participated in an enterprise to sell forged documents purportedly stolen from the CIA that indicated MI6 - the British foreign intelligence agency - had plotted to murder Princess Diana and Dodi Al Fayed. Other individuals who are alleged to have played a role in the scheme include Linda Tumulty, who is tied to the late film producer Alan Francovich, and another former CIA operative named Thompson.

25. LeWinter, Macmillan, and other associates apparently forged the documents and planned to misrepresent them as genuine to induce potential buyers to purchase the documents. Along with Williamson, who was also aware that the documents to be sold were not authentic, LeWinter, Macmillan, and their colleagues agreed that a sale of the forged documents to a tabloid newspaper should be arranged. The participants in the scheme anticipated a sale price of over \$1 million.

26. Upon information and belief, at the suggestion of Gaby Leon (phonetic), an individual who allegedly formerly worked for the Argentine Secret Service, Williamson was advised to contact Fler, an entertainment attorney in Los Angeles, for advice on the sale of the documents and to serve as a broker for their sale.

27. In their course of discussions, Fler noted that Al Fayed had offered a reward of up to \$20 million for information concerning the deaths of his son and Princess Diana and he suggested that they should approach Al Fayed in lieu of a tabloid and offer him the information for \$20 million. Fler stated that he knew one of Al Fayed's attorneys in

Washington, D.C. and would make the necessary approaches to him. Upon information and belief, Fler was to receive 5% of any monies obtained through the sale of the alleged CIA documents.

28. On or about March 24, 1998, Fler contacted Douglas Marvin ("Marvin"), Al Fayed's legal representative in Washington. Marvin, in turn, put Fler in contact with John Macnamara ("Macnamara"), Al Fayed's chief of security. In a series of telephone conversations over the first two weeks of April 1998, between Fler and Macnamara, Fler stated that he had been approached by reliable individuals with credible information that the deaths of Dodi Al Fayed and Princess Diana were not accidental but in fact were the product of a carefully planned assassination carried out at the behest of British intelligence with the knowledge and acquiescence of Buckingham Palace. Fler indicated that his immediate contact was Williamson, an investigative reporter, and that several "principals" were also involved.

29. According to Fler, Williamson had connections with CIA sources who had been reliable in the past. Those CIA employees, Fler stated, would be prepared to disclose their information concerning the deaths of Dodi Al Fayed and the Princess, provided that Al Fayed would provide them with the financial security and assistance to "take measures to protect themselves" - a price of \$20 million. Fler indicated that, while it was unlikely that the CIA employees would agree to testify in any manner, they could provide authentic and sufficiently detailed CIA documentary evidence to prove the involvement of British intelligence agencies in the assassination plot. Fler also stated that the CIA sources knew that a CIA operative in Europe had been contacted by someone within the British intelligence agency MI6. The British agent indicated that an assassination team was being compiled and asked for assistance. The CIA employee subsequently cabled for instructions and received in return a telex indicating that the CIA was not to become involved directly but that the agent could give British intelligence the name of a contact with a Mossad-affiliated "K team" operating out of Switzerland.

30. In addition to the telexes from and to the CIA operative, Fler indicated that the CIA sources could and would supply Al Fayed with a relevant intelligence collection report and a medical document indicating that the Princess was pregnant at the time of her death. Fler also indicated that there was a report of the results of an internal CIA investigation into the agency's involvement with the assassination of Dodi Al Fayed and Princess Diana, but that this document could only be obtained through a "seven figure" cash payment.

31. On or about April 8, 1998, Fler requested that Macnamara arrange for the wire transfer of \$25,000 "expense money" so that Al Fayed's representatives and the "principals" could meet in a foreign country to arrange for the inspection of the CIA documents and their subsequent sale to Al Fayed.

32. Given that alleged classified information was being offered for sale, on or about April 13, 1998, Al Fayed's representatives contacted and began cooperating with officials from the FBI and the CIA. From here on, all actions taken by Al Fayed's representatives were done so with the approval and supervision of law enforcement and intelligence officials of the United States government.

33. On or about April 13, 1998, Fler requested that Macnamara send the \$25,000 via wire transfer to the account of Garland and Loman, Inc., a New Mexico company with an affiliate in Juarez, Mexico, at the Western Bank, 201 North Church Street, Las Cruces, New Mexico 88001. Fler explained in a subsequent call to Macnamara that the Western Bank would contact Williamson when the funds were received. The FBI directed Al Fayed's representatives to wire the money from a bank in the District of Columbia so that criminal jurisdiction would lie with the United States Attorney's Office for the District of Columbia. Macnamara was told that at the very least the transmittal and receipt of the funds would constitute wire fraud, even if nothing else came of the intended transaction to sell the documents.

34. On or about April 14, 1998, with the approval of U.S. law enforcement authorities, Marvin ordered the wire transfer of \$25,000 from a NationsBank branch in Washington, D.C. to the Garland & Loman account. FBI, CIA and EOUSA officials were all aware of the ongoing events.

35. Upon information and belief, Williamson traveled to the Garland and Loman premises in New Mexico to withdraw the \$25,000 wire transfer with the intent to use those funds to finance and further the sale of the forged documents to Al Fayed. Williamson subsequently traveled to London, England and disbursed some or all of the \$25,000 to his co-conspirators including, but not limited to, LeWinter.

36. On or about April 14, 1998, following confirmation from Williamson that the \$25,000 wire transfer had been received, Fler informed Macnamara that the meeting to exchange the documents for payment was to take place in Vienna, Austria. Fler stated that in Austria, Al Fayed's representatives would meet with four "principals," who would offer for sale two CIA telexes and a doctor's certificate that Princess Diana was pregnant at the time of her death. Fler emphasized that the internal CIA investigative report on the circumstances of the crash would not, however, be provided at the Vienna meeting because "they" had yet to procure it.

37. With the intent to render the proceeds of the sale difficult or impossible to trace, and in an effort to conceal their source, Fler instructed Macnamara during their conversation on or about April 14, 2000, that he should arrange to have the \$15 million negotiated purchase price (having been reduced from \$20 million) for the documents deposited at the Austrian bank Kredit Anstalt in a Sparbuch, an anonymous, bearer passbook account. Fler stated that the passbook was to be handed over to the "principals" at the Vienna meeting as payment for the documents.

38. On or about April 20, 1998, Macnamara received a telephone call in Austria from Williamson, who stated that he was at the Hilton Hotel, New York City. Williamson confirmed that he dealt regularly with the "principals" supplying the documents and that he

served as their go-between. He also stated that the "principals" would be present in Vienna and that at least one of them, whose identity remains unknown, had traveled from the United States to meet with Al Fayed's representatives. At an initial meeting, Al Fayed's representatives would be shown at least one of the CIA telexes dealing with the assassination of Dodi Fayed and Princess Diana, and that a serving member of the CIA would be on hand to authenticate the document. Additionally, Williamson also stated that the \$25,000 wired by Macnamara had been spent and that "nobody's cheating on you."

39. Following additional negotiations concerning the time, place, and format of the Vienna meeting, Macnamara received two telephone calls from an unknown individual on his mobile phone discussing the mechanics of the document exchange and setting a meeting for April 22, 1998, 2:00 p.m. at the Hotel Ambassador, 1010 Vienna, Neuer Markt 5. Macnamara was to sit on the Kärtner Straße side, where he would be approached by one of the "principals." With the approval of United States and Austrian law enforcement authorities, Macnamara followed the instructions that had been given to him regarding the planned rendezvous.

40. At approximately 2:30 p.m. local time, a man (later identified as LeWinter) approached Macnamara and identified himself as an ex-CIA agent who was in Vienna with six CIA and Mossad agents to deal with "the business." LeWinter spoke to Macnamara for approximately one half hour, briefing him on the provenance of the CIA documents, and indicated that there had been a meeting in London between an MI6 operative named Spelding and a CIA agent named Harrison, who was attached to the United States Embassy in London. At that meeting, Spelding asked Harrison for the CIA's assistance in assassinating Dodi Al Fayed, who had formed a close relationship with Princess Diana. Harrison allegedly cabled CIA headquarters in Langley, Virginia for instructions and was informed via telex that the CIA would not become involved but could refer the British to the Mossad "K team" in Geneva. LeWinter indicated to Macnamara that these two telexes

were for sale, and he also gave a brief description of the CIA investigative report that could be obtained, including a reference in that report to Princess Diana's pregnancy.

41. At the conclusion of their meeting at the Hotel Ambassador, LeWinter provided a telephone number and requested Macnamara to call him there under the name George Mearah at 5:00 p.m. Law enforcement personnel working with Macnamara traced the telephone number to the Hotel Stadt Bamberg, where they confirmed that the hotel had as a guest an American named Oswald LeWinter who matched Mearah's description.

42. By arrangement, and with the approval of United States and Austrian authorities, Macnamara met with LeWinter later that afternoon at the Ambassador Hotel. Following further discussions with Macnamara, LeWinter was taken into custody at the Ambassador Hotel by Austrian law enforcement officials. On information and belief, two associates (one of which has apparently been identified as Thompson) of LeWinter who were nearby evaded capture. In fact, it turns out that one of the individuals who assisted LeWinter during his time in Vienna was Karl Koecher, a Czechoslovakian intelligence operative who had infiltrated the CIA as a "sleeper" agent during the 1970s. After more than a decade of spying on the United States, Koecher was arrested and ultimately exchanged in a spy trade for Soviet dissident Anatoly Shcharansky on February 11, 1986. Upon information and belief, Koecher and LeWinter became acquainted while serving in prison together in New York State.

43. LeWinter told Macnamara and the arresting officers that six other CIA and Mossad agents were in the Kärtner Straße and would retaliate for his arrest by murdering Macnamara and Al Fayed.

44. Among the papers found in LeWinter's hotel room were an airmail pouch addressed "U.S. Government Property, Return to Commander USA FAC, Indianapolis IN 46249, and a multiple-use U.S. government messenger envelope with the last noted addressee "U.K. liaison." Inside this envelope were two telexes and a Domestic Intelligence Information Report that appeared on their face to originate within the CIA.

The documents found in LeWinter's room were subsequently determined to be forgeries. Also found in LeWinter's room was a SM Rohner gas pistol with 25 rounds of ammunition and \$10,000 in U.S. currency.

45. On or about October 1, 1998, LeWinter was convicted in an Austrian court of charges of attempted criminal fraud and sentenced to two and a half years imprisonment. On appeal by the Austrian public prosecutor, the Austrian High Court on April 15, 1999, increased LeWinter's sentence to four years imprisonment, citing the "reprehensible way" LeWinter had sought to prey on Al Fayed.

46. Upon information and belief, the Austrian justice ministry sent a request concerning the documents taken from LeWinter's hotel room to the CIA to ascertain their authenticity, and also requested that a United States government expert be sent to testify under oath at LeWinter's trial concerning the documents. The United States government delayed its response for three months, and finally simply replied that the documents were "not authentic" and refused to send any expert to testify under oath.

47. Between April 1998 and the present, Al Fayed's legal representatives in Washington, D.C., including David Kendall and Terrence O'Donnell of the law firm of Williams & Connolly, have repeatedly met and exchanged communications with high level United States government law enforcement and intelligence officials - including, but not limited to, Deputy Directors from the CIA and FBI, Robert McNamara, the CIA's General Counsel, and Wilma Lewis, the U.S. Attorney for the District of Columbia - to secure the prosecution of those involved in the fraud attempt.

48. In order to assist the criminal investigation being conducted by the U.S. Attorney's Office for the District of Columbia, Al Fayed's legal representatives provided the prosecuting attorneys with information in their possession including, but not limited to, copies of telephone transcripts between Macnamara and Fler. It was later subsequently discovered that without permission or knowledge of Al Fayed's representatives, the U.S. Attorney's Office had provided Fler, and perhaps the other alleged conspirators, with

copies of the evidentiary transcripts for their own personal use. Fler used this information, in part, to defeat a civil lawsuit filed against him by Al Fayed in California on July 19, 1999; a lawsuit that had been deliberately delayed in order to cooperate with the U.S. Attorney's Office and not interfere with the supposed ongoing criminal investigation.

48. In recent interviews with LeWinter, including one on April 12, 2000, at Wilhelmshöhe Prison, he has suggested that one or more CIA employees participated in the fraud scheme. He has also stated that the forged CIA documents offered to Al Fayed were based, at least in part, upon an e-mail LeWinter received from a "CIA contact in Langley". According to LeWinter, this information was shared with Macmillan, himself allegedly formerly affiliated with the CIA, who then prepared the documents incorporating the information received from the CIA contact.

49. Although LeWinter is willing to name names, he has requested a grant of immunity from the United States government. Despite this fact being provided to the United States Attorney's Office for the District of Columbia, the FBI and the CIA, upon information and belief, LeWinter has never been questioned by representatives of the United States.

50. Upon information and belief, the CIA's Office of Inspector General was ordered to cease its investigation into the fraud scheme by the CIA's Office of General Counsel. Additionally, the CIA intentionally delayed providing requested information regarding the case to the prosecutors in the U.S. Attorney's Office for the District of Columbia.

51. Although the U.S. Attorney's Office for the District of Columbia has acknowledged that Al Fayed was the victim of criminal conduct, upon information and belief, the office just recently closed the investigation with a recommendation of "no prosecution."

Previous Unsuccessful Efforts To Obtain Information From The United States

Attempt To Subpoena Relevant Records - District of Columbia

52. On January 29, 1999, in order to confirm or deny allegations contained in news stories that United States intelligence agencies were in the possession of information

relevant to the tragedy, Al Fayed's legal representatives filed an Application to the United States District Court for the District of Columbia. The Application requested that the Court issue a subpoena pursuant to 28 U.S.C. § 1782, which permits U.S. discovery in aid of proceedings before a foreign tribunal, to the DIA and CIA.

53. By Order dated February 5, 1999, the Honorable Henry Kennedy granted Al Fayed's Application and ordered that subpoenas requiring the production of documents be issued to both agencies and that discovery proceed in accordance with the Federal Rules of Civil Procedure. Since both the CIA and DIA refused to comply with the subpoenas, a motion was filed to compel compliance on March 31, 1999. Eventually, the DIA was released from its obligation but the CIA continued to refuse to produce any information and on May 13, 1999, it moved to quash the subpoena.

54. On March 29, 2000, Judge Kennedy denied Al Fayed's Motion to Compel, granted the CIA's Motion to Quash and vacated his earlier February 6, 1999 Order. This decision is presently on appeal to the United States Court of Appeals for the District of Columbia. Oral arguments are scheduled for September 6, 2000.

Attempt To Subpoena Relevant Records - Maryland

56. On February 3, 1999, a similar action to that filed in the District of Columbia was attempted in the United States District Court for Maryland requesting the issuance of a subpoena for information held by the NSA. The District Court denied the application on February 4, 1999.

57. The denial was appealed to the United States Court of Appeal for the Fourth Circuit, which affirmed the decision on April 26, 2000.

58. No information was ever obtained as the NSA successfully thwarted this effort.

Intervention By Former Senator George Mitchell

59. On behalf of Al Fayed, former Senator George Mitchell, who recently served as a key negotiator in the Northern Island peace process, was retained in 1999, to facilitate the

transfer of information held by the CIA and DoD components including, but not limited to, the DIA and NSA.

60. An inquiry for information was submitted by letter dated March 29, 1999, by Senator Mitchell to Secretary of Defense William Cohen. By letter dated April 23, 1999, Secretary Cohen informed Senator Mitchell that neither the DIA or NSA “possesses information that would have any bearing on, or would be at all useful to, the pending French judicial inquiry.”

61. Notwithstanding Secretary Cohen’s response, Robert Tyrer (“Tyrer”), the chief of staff to Secretary of Defense William Cohen, reviewed potentially responsive classified records which are in the possession of the DIA and NSA. Tyrer refused to publicly share his findings, but informed Senator Mitchell by letter dated October 4, 1999, that there was no information related to Princess Diana’s death or that Henri Paul was connected with foreign intelligence services.

62. This latter point directly contradicts what attorney-turned journalist Gerald Posner was told by his American intelligence sources, as reported in the September 1999 issue of *Talk* magazine. Posner wrote that:

Paul was in regular contact with the Direction Général de la Sécurité Extérieure (DGSE) - the French equivalent of the CIA - an arrangement not unheard of among security staffers at premier international hotels. (Paul also had less formal relations with the Direction de la Surveillance du Territoire and the Renseignements Généraux, both intelligence gathering divisions of the French national police.) In fact, according to an American law enforcement official and an American intelligence agent, Paul spent the last several hours before the crash with a security officer from the DGSE.” The DGSE is the French intelligence service. This information is additionally supported by former MI6 officer Tomlinson’s allegations that Paul was in the paid employ of MI6.

63. Posner also confirmed in his article that the NSA had secretly intercepted and recorded telephone conversations involving Princess Diana. This past Spring, an active

intelligence asset of the United States government permitted Posner to listen to one of several surveillance tape recordings of Princess Diana in the possession of NSA.

64. Although Senator Mitchell requested that the DoD ensure all responsive records had been located - particularly in light of Posner's statements - upon information and belief, either no such efforts were ever undertaken by the DoD or its components to ensure a complete search had been performed, or information was intentionally withheld. In fact, by letter dated October 13, 1999, Tyrer confirmed that the records he reviewed were retrieved solely through an electronic search of NSA and DIA databases. Upon information and belief, certain record systems are excluded when only electronic searches are conducted.

65. Senator Mitchell also wrote to George Tenet, CIA Director, by letters dated September 2 and 15, 1999, and requested that the CIA initiate a formal inquiry into whether United States intelligence agencies possess information concerning the tragedy. The second letter specifically informed the CIA of Posner's information. The request was denied, although DCI Tenet invited Senator Mitchell to meet with the CIA's General Counsel Robert McNamara.

66. On March 3, 2000, representatives of Al Fayed met with the CIA's Office of General Counsel ("OGC"), and expressed concern that serving officers of the CIA may have played a part in the fraud scheme to sell Al Fayed forged CIA records. A formal inquiry was again requested to investigate these allegations. The OGC subsequently forwarded relevant materials provided by Senator Mitchell to the CIA's Office of Inspector General ("OIG").

67. By letter dated June 16, 2000, Senator Mitchell requested that L. Britt Snider, the CIA's Inspector General, investigate the matter. By letters dated June 16 and 29, 2000, Snider informed Senator Mitchell that the OIG "found no information that would shed light on the automobile accident or the deaths of Lady Diana and Dodi Fayed. Neither did we find any information that would substantiate the claims made by LeWinter concerning

the involvement of CIA employees in fabricating these fraudulent documents.” Upon information and belief, the OIG was prevented from fully investigating the allegations by the CIA’s Office of General Counsel, despite the fact that current or former CIA personnel may have been involved in an illegal scheme to defraud Al Fayed.

Unanswered Questions

68. As with many controversial high-profile events, oftentimes there exists more unanswered questions than those that appear to have been answered. This lawsuit seeks the release of information to answer at least some of those questions including, but not limited to:

- Do agencies of the United States government possess any information regarding the deaths of Princess Diana, Dodi Al Fayed and Henri Paul?
- With all of its forensic and criminal expertise, was the United States government ever requested to lend assistance to the French investigation into the August 31, 1997, tragedy?
- Does the United States possess any satellite imagery of the City of Paris from the night of August 31, 1997, that could be used to determine the movement of vehicles in the area of the tragedy?
- Does the United States possess information, as alleged by Gerald Posner, that Henri Paul was employed by MI6 as reported by Richard Tomlinson to the judge, or any other foreign intelligence service?
- Was Henri Paul meeting his French intelligence handler in the three hours before he returned to the Ritz as claimed by Gerald Posner?
- To what extent did the NSA intercept telephonic communications between Princess Diana and others, the existence of which has been confirmed by Gerald Posner?
- What documents did Defense Secretary William Cohen’s Chief of Staff, Robert Tyrer, review relating to the tragedy, and were the searches conducted to locate these records intentionally narrow?
- What is or has been the CIA’s relationship with Oswald LeWinter, Pat McMillan and the other individuals involved with the plot to defraud Al Fayed of \$20 million dollars?

- Although the documents LeWinter alleged were from the CIA are apparently forgeries, does the information within the documents have any accuracy, as claimed by LeWinter?
- To what extent did the CIA ever investigate Oswald LeWinter's allegations?
- Was the criminal investigation into LeWinter and others for the attempt to defraud Al Fayed over the alleged CIA documents deliberately assigned low priority and then closed by the United States government in an effort to shield the actions of current or former CIA employees from scrutiny or avoid adverse publicity?

COUNT ONE (CIA FOIA REQUEST)

69. Al Fayed and Punch repeat and reallege the allegations contained in paragraphs 1 through 68 above, inclusive.

70. By letter dated July 26, 2000, Al Fayed and Punch, through counsel, submitted a FOIA request for disclosure of all information pertaining to twenty categories of names and events related to the August 31, 1997, deaths of Princess Diana, Dodi Al Fayed and Henri Paul. See Exhibit "1". The request additionally sought expedited processing and a fee waiver. The CIA was specifically instructed to search its Directorate of Operations, Directorate of Intelligence, Directorate of Administration, Directorate of Central Intelligence and its stations in London, United Kingdom and Paris, France.

71. By letter dated August 10, 2000, the CIA assigned Al Fayed and Punch's request reference F-2000-01568 and denied their request for expedited processing.

72. By letter dated August 14, 2000, Al Fayed and Punch submitted additional information concerning Keith Flee, Esq. and Oswald LeWinter, and identified Sharon Durkin, Supervisory Special Investigator, Office of Inspector General, as an individual who likely possesses responsive information. See Exhibit "2".

73. By letter dated August 17, 2000, Al Fayed and Punch added John Leslie Macnamara to the list of individuals on whom information was sought. The CIA was

specifically instructed to add its station in Vienna, Austria to the locations it must search for responsive records.

74. By facsimile transmitted August 28, 2000, the CIA indicated that it can neither confirm nor deny the existence of records relating to individuals listed in items numbered 1 through 6, 8 through 11, 14 through 17 and 21; that it can neither confirm nor deny the existence of records relating to events listed in items numbered 7 through 13 and 20; requested additional information related to the individuals listed in items numbered 8, 10, 12 and 13; and accepted items numbered 2, 18 and 19 for processing.

75. No further relevant correspondence has been received from the CIA.

76. Al Fayed and Punch have exhausted all required administrative remedies with respect to items numbered 2, 18 and 19.

77. Al Fayed and Punch have a legal right under the FOIA to be granted expedited processing, a fee waiver, and to obtain the information they seek, and there is no legal basis for the denial by CIA of said right.

COUNT TWO (NSA FOIA REQUEST)

78. Al Fayed and Punch repeat and reallege the allegations contained in paragraphs 1 through 68 above, inclusive.

79. By letter dated December 15, 1998, Al Fayed, through counsel, submitted a FOIA request for disclosure of all information pertaining to eleven categories of names and events related to the August 31, 1997, deaths of Princess Diana, Dodi Al Fayed and Henri Paul.

80. By letter dated July 29, 1999, the NSA indicated it had referred responsive records to unnamed agencies. Although responsive records were released by the United States Information Agency and the United States Department of State by letters dated August 13, 1999, and November 4, 1999, respectively, upon information and belief, not all responsive records have been processed or released, for which the NSA lawfully bears responsibility.

81. By letter dated July 26, 2000, Al Fayed and Punch, through counsel, submitted a FOIA request for disclosure of all information pertaining to twenty categories of names and events related to the August 31, 1997, deaths of Princess Diana, Dodi Al Fayed and Henri Paul. See Exhibit "1". The request additionally sought expedited processing and a fee waiver.

82. By letter dated August 11, 2000, the NSA denied the requests for expedited processing and a fee waiver, and indicated it had assigned the requests Serial: J9954-00.

83. By letter dated August 17, 2000, Al Fayed and Punch, through counsel, submitted a FOIA request for records pertaining to John Leslie Macnamara, as well as requested a fee waiver and expedited processing. All prior instructions were incorporated into this request.

84. No further response has been received by the NSA.

85. The NSA has failed to comply with the requisite statutory periods that govern compliance under the FOIA. Therefore, the NSA has wrongfully withheld documents from Al Fayed and Punch.

86. Al Fayed and Punch are not required to exhaust administrative remedies as the NSA has not issued a formal determination regarding the documents.

87. Al Fayed and Punch have a legal right under the FOIA to be granted expedited processing, a fee waiver, and to obtain the information they seek, and there is no legal basis for the denial by the NSA of said right.

COUNT THREE (DIA FOIA REQUEST)

88. Al Fayed and Punch repeat and reallege the allegations contained in paragraphs 1 through 68 above, inclusive.

89. By letter dated December 15, 1998, Al Fayed, through counsel, submitted a FOIA request for disclosure of all information pertaining to eleven categories of names and events related to the August 31, 1997, deaths of Princess Diana, Dodi Al Fayed and Henri Paul.

90. By letter dated March 9, 1999, the DIA indicated it had identified 1,667 responsive records, of which 1,038 were referred to unnamed agencies. Although some responsive records have been released by the United States Information Agency, the Department of the Army's Intelligence and Security Command and the United States Department of State, upon information and belief, not all responsive records have been processed or released, for which the DIA lawfully bears responsibility. Upon information and belief, the DIA had assigned case number 0854-98 to this request.

91. By letter dated July 26, 2000, Al Fayed and Punch, through counsel, submitted a FOIA request for disclosure of all information pertaining to twenty categories of names and events related to the August 31, 1997, deaths of Princess Diana, Dodi Al Fayed and Henri Paul. See Exhibit "1". The request additionally sought expedited processing and a fee waiver.

92. By letter dated July 31, 2000, the DIA acknowledged receipt of the request and assigned it case number 0495-2000.

93. By letter dated August 4, 2000, the DIA indicated it had identified 1,726 responsive records, of which 1,038 were referred to unnamed agencies. One responsive record was withheld in its entirety pursuant to FOIA Exemption (b)(2).

94. By letter dated August 17, 2000, Al Fayed and Punch, through counsel, submitted a FOIA request for records pertaining to John Leslie Macnamara, as well as requested a fee waiver and expedited processing. All prior instructions were incorporated into this request.

95. By letter dated August 18, 2000, an administrative appeal was submitted challenging the DIA's failure to identify the name(s) of the originating agencies to which 1,038 responsive records had been referred, its refusal to release the three DIA records that contain other agencies' information, at least to the extent DIA information is contained therein, and its refusal to disclose the one document withheld in its entirety.

96. No further response has been received by the DIA.

97. The DIA has failed to comply with the requisite statutory periods that govern compliance under the FOIA. Therefore, the DIA has wrongfully withheld documents from Al Fayed and Punch.

98. Al Fayed and Punch have exhausted their administrative remedies with respect to those 1,038 records that have been referred to other agencies.

99. Al Fayed and Punch have a legal right under the FOIA to be granted expedited processing, a fee waiver, and to obtain the information they seek, and there is no legal basis for the denial by the DIA of said right.

COUNT FOUR (DOD FOIA REQUEST)

100. Al Fayed and Punch repeat and reallege the allegations contained in paragraphs 1 through 68 above, inclusive.

101. By letter dated July 26, 2000, Al Fayed and Punch, through counsel, submitted a FOIA request for disclosure of all information pertaining to twenty categories of names and events related to the August 31, 1997, deaths of Princess Diana, Dodi Al Fayed and Henri Paul. *See* Exhibit "1". The request additionally sought expedited processing and a fee waiver. The DoD was specifically instructed to search its offices on Command, Control, Communications and Intelligence (August 3, 2000), Intelligence Oversight (August 3, 2000), J-2 Joint Staff Intelligence Directorate (August 3, 2000) and Public Affairs (August 3, 2000). The dates in parenthesis indicates the date on which a separate FOIA request was submitted directly to each respective DoD office.

102. By letter dated August 4, 2000, the DoD denied the requests for a fee waiver and expedited processing.

103. By letter dated August 17, 2000, Al Fayed and Punch, through counsel, submitted a FOIA request for records pertaining to John Leslie Macnamara, as well as requested a fee waiver and expedited processing. All prior instructions were incorporated into this request.

104. No further response has been received by the DoD.

105. The DoD has failed to comply with the requisite statutory periods that govern compliance under the FOIA. Therefore, the DoD has wrongfully withheld documents from Al Fayed and Punch.

106. Al Fayed and Punch are not required to exhaust administrative remedies as the DoD has not issued a formal determination regarding the documents.

107. Al Fayed and Punch have a legal right under the FOIA to be granted expedited processing, a fee waiver, and to obtain the information they seek, and there is no legal basis for the denial by the DoD of said right.

COUNT FIVE (DOJ FOIA REQUEST)

108. Al Fayed and Punch repeat and reallege the allegations contained in paragraphs 1 through 68 above, inclusive.

109. By letter dated February 26, 1999, Al Fayed, through counsel, submitted a FOIA request for information relating to Richard Tomlinson.

110. By letter dated July 27, 2000, Al Fayed and Punch, through counsel, submitted a FOIA request for disclosure of all information pertaining to twenty categories of names and events related to the August 31, 1997, deaths of Princess Diana, Dodi Al Fayed and Henri Paul. See Exhibit "1". The request additionally sought expedited processing and a fee waiver. The DOJ was specifically instructed to search the Office of the Attorney General, Office of the Deputy Attorney General, and the Office of the Associate General. Separate requests were also submitted to the Criminal Division on July 28, 2000, the Office of Intelligence Policy and Review on July 31, 2000. The request for expedited processing was also served on the Office of Public Affairs on July 31, 2000.

111. By letter dated August 7, 2000, the DOJ denied the requests for a fee waiver and expedited processing. It also indicated that it would not be able to comply with the twenty-day time limit and exercised its right to an additional ten day period. Al Fayed and *Punch* were invited to narrow the scope of their request in order to speed up processing.

112. By letter dated August 14, 2000, Al Fayed and *Punch* narrowed the time frames to be utilized in the DOJ searches, and submitted additional information concerning Keith Fler, Esq. and Oswald LeWinter, see Exhibit "2".

113. No further response has been received by the DOJ.

114. The DOJ, with respect to the request dated February 26, 1999, and its Criminal Division and Office of Intelligence Policy and Review, with respect to the requests dated July 28 and 31, 2000, have failed to comply with the requisite statutory periods that govern compliance under the FOIA. Therefore, these DOJ components have wrongfully withheld documents from Al Fayed and Punch.

115. Al Fayed and Punch are not required to exhaust administrative remedies with respect to the Criminal Division and Office of Intelligence Policy and Review, or the DOJ with respect to the February 26, 1999, request, as no formal determination has been issued regarding the requested documents, nor do administrative remedies need to be exhausted with respect to any of the DOJ components regarding the request for expedited processing.

116. Al Fayed and Punch have a legal right under the FOIA to receive expedited processing.

COUNT SIX (DOS FOIA REQUEST)

117. Al Fayed and Punch repeat and reallege the allegations contained in paragraphs 1 through 68 above, inclusive.

118. By letter dated July 26, 2000, Al Fayed and Punch, through counsel, submitted a FOIA request for disclosure of all information pertaining to twenty categories of names and events related to the August 31, 1997, deaths of Princess Diana, Dodi Al Fayed and Henri Paul. See Exhibit "1". The request additionally sought expedited processing and a fee waiver. The DOS was specifically instructed to search its Bureau of Diplomatic Security, Bureau of European Affairs, Bureau of Intelligence and Research, Bureau for International Narcotics and Law Enforcement Affairs, its Country Desks for Austria,

France and the United Kingdom, its Division of Intelligence Policy and Coordination, its Office of the Legal Adviser, Office of the United Kingdom, Benelux and Ireland Affairs, Office of Western European Affairs and its Embassies in Austria, France and the United Kingdom.

119. By letter dated August 10, 2000, DOS assigned request number 200002685 to Al Fayed and Punch's request, requested additional information and denied the requests for a fee waiver and expedited processing.

120. By letter dated August 14, 2000, Al Fayed and Punch supplied the requested additional information, and identified Julianne Slifco, Legal Attache, and M. Miles Burden, Assistant Legal Attache, both of whom were based out of the United States Embassy in Vienna, Austria, as individuals who are likely in possession of responsive records.

121. No further response has been received from DOS.

122. Al Fayed and Punch are not required to exhaust administrative remedies with respect to their request for expedited processing.

123. Al Fayed and Punch have a legal right under the FOIA to receive expedited processing.

COUNT SEVEN (FBI FOIA REQUEST)

124. Al Fayed and Punch repeat and reallege the allegations contained in paragraphs 1 through 68 above, inclusive.

125. By letter dated December 15, 1998, Al Fayed, through counsel, submitted a FOIA request for disclosure of all information pertaining to six categories of names and events related to the August 31, 1997, deaths of Princess Diana, Dodi Al Fayed and Henri Paul. No responses have ever been received with respect to Requests No. five and six.

126. By letter dated July 26, 2000, Al Fayed and Punch, through counsel, submitted a FOIA request for disclosure of all information pertaining to twenty categories of names and events related to the August 31, 1997, deaths of Princess Diana, Dodi Al Fayed and Henri Paul. See Exhibit "1". The request additionally sought expedited processing and a

fee waiver. The FBI was specifically instructed to search its Criminal Investigative Services, Investigative Services Division, National Security Division and its field offices in Las Vegas (July 31, 2000), Los Angeles (July 31, 2000), New York City (July 31, 2000) and Washington, D.C. (July 31, 2000), as well as its Legal Attaches in London, United Kingdom (July 26, 2000) and Paris, France (July 26, 2000). The dates in parenthesis indicates the date on which a separate FOIA request was submitted directly to the FBI's field office or Legal Attache.

127. By facsimile dated July 28, 2000, the FBI acknowledged receipt of Al Fayed and Punch's FOIA request.

128. By letter dated August 4, 2000, the FBI indicated it had assigned Request No. 0927093-000 to its search for records relating to Princess Diana et al.

129. By letter dated August 7, 2000, the FBI's New York City field office declined to process those requests relating to third parties for whom no privacy waiver had been submitted.

130. By letter dated August 7, 2000, the FBI indicated it did not possess any responsive information regarding Henri Paul, for which it had assigned Request No. 0927097-000. It additionally acknowledged that it had only searched for responsive records in the automated indices that are indexed as main files.

131. By letter dated August 7, 2000, the FBI indicated it did not possess any responsive information regarding Emad Dodi Fayed, for which it had assigned Request No. 0927096-000. It additionally acknowledged that it had only searched for responsive records in the automated indices that are indexed as main files.

132. By letters dated August 7, 2000, the FBI declined to process those requests relating to third parties for whom no privacy waiver had been submitted. These requests had been assigned Request Nos. 0927099-000, 0927100-000, 0927102-000 through 0927105-000, 0927107-000, 0927108-000, 0927111-000 and 0927113-000.

133. By letter dated August 14, 2000, Al Fayed and Punch, through counsel, submitted a FOIA request to the FBI's Legal Attaches in Vienna, Austria for disclosure of all information pertaining to twenty categories of names and events related to the August 31, 1997, deaths of Princess Diana, Dodi Al Fayed and Henri Paul. See Exhibit "1". The request additionally sought expedited processing and a fee waiver.

134. By letter dated August 14, 2000, the FBI's Washington Field Office indicated it had failed to locate any responsive records pertaining to Princess Diana, Emad "Dodi" Fayed or Henri Paul, that it possessed records relating to Mohamed Al Fayed but was withholding them pursuant to (j)(2) of the Privacy Act and FOIA Exemption (7)(A), that it had located records responsive to Richard Tomlinson but that FBI Headquarters had assumed processing responsibility and that with respect to any third party requests a privacy waiver would have to be submitted first before processing could begin.

135. By letter dated August 14, 2000, Al Fayed and Punch identified the following FBI employees as individuals who likely possess responsive information: Robert M. Bryant, Deputy Director, Special Agent Paul Timko, Washington Field Office, Special Agent James R. Sobchack, Washington Field Office, Special Agent Armin Showalter, Washington Field Office, Julianne Slifco, Legal Attache, United States Embassy, Vienna, Austria and M. Miles Burden, Assistant Legal Attache, United States Embassy, Vienna, Austria.

136. By letter dated August 15, 2000, Al Fayed and Punch notified the FBI that it had impermissibly narrowed the appropriate search parameters with respect to 0927096-000 (Fayed, Emad Dodi) and 0927097-000 (Paul, Henri). The FBI was specifically instructed to search for any "see references", numbered and lettered subfiles, 1A envelopes, ticklers, enclosures behind files (EBFs), Bulky Exhibits, control files, "JUNE" files, abstracts, search slips including search slips used to process this request, file covers and tapes of electronic surveillance, any "DO NOT FILE" files, SAC safes, special files rooms and the offices and workplaces of any FBI officials who were previously identified in the earlier

letter dated August 14, 2000, as well as any other officials who may potentially maintain responsive records. Finally, all relevant FBI components including, but not limited to, the General Investigative Division, Internal Security, and Congressional Liaison Unit were tasked to be searched for any responsive records. The FBI was requested to re-open the two closed requests, and that if it declined it should consider this a new request.

Additionally, the FBI was requested to reconsider its decision not to search for records concerning third parties without the submission of a privacy waiver.

137. Notwithstanding Al Fayed and Punch's August 15, 2000, request to the FBI for reconsideration, an administrative appeal was filed dated August 15, 2000, challenging the FBI's refusal to process third party requests without submission of a privacy waiver.

138. By letter dated August 15, 2000, the FBI's Los Angeles Field Office declined to process those requests relating to third parties for whom no privacy waiver had been submitted.

139. By letter dated August 16, 2000, the FBI's Los Angeles Field Office indicated that no responsive records were found concerning Princess Diana, Emad Dodi Fayed, Henri Paul or Mohamed Al Fayed. It additionally acknowledged that it had only searched for responsive records in the automated indices that are indexed as main files.

140. By letter dated August 16, 2000, the FBI's Los Angeles Field Office indicated that it possessed records pertaining to Richard Tomlinson, but was withholding them pursuant to (j)(2) of the Privacy Act and FOIA Exemption (7)(A).

141. By letter dated August 16, 2000, Al Fayed, through counsel, submitted a FOIA request to the FBI's field office in North Miami Beach, Florida, for records pertaining to himself. Multiple variations of his name were provided to facilitate a search for responsive records.

142. By letter dated August 16, 2000, the FBI indicated it had assigned Request No. 0927682-000 to its search for records relating to Mohamed Al Fayed et al.

143. By letter dated August 16, 2000, Al Fayed, through counsel, submitted additional information regarding multiple variations of the spelling of his name and relevant FBI file numbers to facilitate a search for responsive records. The FBI was specifically instructed to provide copies of this letter to all of its field offices and Legal Attaches to which requests had been previously submitted.

144. By letter dated August 17, 2000, Al Fayed and Punch, through counsel, appealed the FBI's Washington Field Office's responses in its letter dated August 14, 2000, and challenged the denial of access to responsive records, the refusal to process responsive records by referring them to FBI Headquarters and the refusal to process third party requests without submission of a privacy waiver.

145. By letter dated August 17, 2000, Al Fayed and Punch, through counsel, submitted a FOIA request for records pertaining to John Leslie Macnamara, as well as requested a fee waiver and expedited processing. The FBI was specifically instructed to provide copies of this letter to all of its field offices and Legal Attaches to which requests had been previously submitted.

146. By letter dated August 17, 2000, the FBI's Office of Legal Attache in the United States Embassy in London, United Kingdom, indicated that it "does not maintain closed investigative or administrative files" and referred the FOIA request to FBI Headquarters.

147. By facsimile dated August 18, 2000, the FBI acknowledged receipt of Al Fayed and Punch's FOIA request dated August 17, 2000.

148. By letter dated August 18, 2000, the FBI requested additional information regarding Al Fayed.

149. By letter dated August 22, 2000, the FBI was reminded that the requested information concerning Al Fayed had already been submitted, that it had already processed a request under the same name and located responsive records, but that the information was being provided again.

150. By letter dated August 22, 2000, Al Fayed and Punch notified the FBI's Los Angeles Field Office that it had impermissibly narrowed the appropriate search parameters. The field office was specifically instructed to search for any "see references", informant reports, summaries of informant activity, results of interviews with subjects of investigation, memos concerning whether or not to proceed with an investigation, agent's memos on phone calls made or received, letters requesting information from phone company, credit bureaus, etc., requests from one field office to another, agent's memos on following leads, interviews or record checking, interview logs, requests for mail covers, correlation summaries for field offices, numbered and lettered subfiles, 1A envelopes, ticklers, enclosures behind files (EBFs), Bulky Exhibits, memos about receipt and destruction of bulky exhibits, control files, "JUNE" files, abstracts, search slips including search slips used to process this request, file covers and tapes of electronic surveillance, any "DO NOT FILE" files, SAC safes, special files rooms and the offices and workplaces of any FBI officials who may possibly possess responsive records. The field office was requested to re-open the closed requests, but that if it declined it should consider this a new request. Additionally, the FBI was requested to reconsider its decision not to search for records concerning third parties without the submission of a privacy waiver.

151. Notwithstanding Al Fayed and Punch's August 22, 2000, request to the FBI's Los Angeles Field Office for reconsideration, an administrative appeal was filed by letter dated August 22, 2000, regarding the responses in the letters dated August 15, 2000, and August 16, 2000, and challenging the denial of access to responsive records, the impermissible narrowing of its search parameters, and the refusal to process third party requests without submission of a privacy waiver.

152. Al Fayed has exhausted the required administrative remedies with respect to items five and six of his request dated December 15, 1998. Al Fayed and Punch are not required to exhaust administrative remedies with respect to their requests for expedited processing. Nor do administrative remedies need to be exhausted with respect to the FBI's

field office in Las Vegas or the Legal Attaches in London, United Kingdom and Paris, France, as these offices have not issued a formal determination regarding the requested documents,

.153. Al Fayed and Punch have a legal right under the FOIA to be granted expedited processing, a fee waiver, and to obtain the information they seek, and there is no legal basis for the denial by FBI of said right.

COUNT EIGHT (EOUSA FOIA REQUEST)

154. Al Fayed and Punch repeat and reallege the allegations contained in paragraphs 1 through 68 above, inclusive.

155. By letter dated July 27, 2000, Al Fayed and Punch, through counsel, submitted a FOIA request for disclosure of all information pertaining to twenty categories of names and events related to the August 31, 1997, deaths of Princess Diana, Dodi Al Fayed and Henri Paul. See Exhibit "1". The request additionally sought expedited processing and a fee waiver. The EOUSA was specifically instructed to search its files within the District of Columbia, Southern District of New York, Central District of California and Eastern District of New York.

156. By letters dated August 8, 2000, the EOUSA indicated it had assigned these requests by categories of "deceased third parties" (00-2565 through 00-2568), "French Inquiry" (00-2569 through 00-2572), "Mohamed Al Fayed" (00-2573 through 00-2576) and "living third parties" (00-2577 through 00-2580). Each category was assigned a number correlating with the District of Columbia, Southern District of New York, Central District of California and Eastern District of New York, respectively.

157. By letter dated August 8, 2000, the EOUSA denied Al Fayed and Punch's request for a fee waiver.

158. By letter dated August 14, 2000, Al Fayed and Punch submitted additional information concerning Keith Fler, Esq. and Oswald LeWinter, see Exhibit "2", and identified Lisa Prager, Assistant U.S. Attorney, Transnational/Major Crimes Section,

District of Columbia, William Blier, Chief, Transnational/Major Crimes Section, District of Columbia, Wilma E. Lewis, United States Attorney, District of Columbia and Rhonda Field, Chief of Staff, Office of the United States Attorney, District of Columbia, as individuals who likely possesses responsive information.

159. By letter dated August 17, 2000, Al Fayed and Punch, through counsel, submitted a FOIA request for records pertaining to John Leslie Macnamara, as well as requested a fee waiver and expedited processing. All prior instructions were incorporated into this request.

160. No further response has been received by the EOUSA.

161. The EOUSA has failed to comply with the requisite statutory periods that govern compliance under the FOIA. Therefore, the EOUSA has wrongfully withheld records from Al Fayed and Punch.

162. Al Fayed and Punch are not required to exhaust administrative remedies as the EOUSA has not issued a formal determination regarding the records.

163. Al Fayed and Punch have a legal right under the FOIA to be granted expedited processing, a fee waiver, and to obtain the information they seek, and there is no legal basis for the denial by the EOUSA of said right.

COUNT NINE (INS FOIA REQUEST)

164. Al Fayed and Punch repeat and reallege the allegations contained in paragraphs 1 through 68 above, inclusive.

165. By letters dated July 27, 2000, Al Fayed and Punch, through counsel, submitted a FOIA request to the INS's headquarters in Washington, D.C. and office in New York City for disclosure of all information pertaining to twenty categories of names and events related to the August 31, 1997, deaths of Princess Diana, Dodi Al Fayed and Henri Paul. See Exhibit "1". The request additionally sought expedited processing and a fee waiver.

166. By letter dated August 3, 2000, the INS's New York office indicated that it had searched for records that relate to the request, had determined that if any records existed

they would be maintained under the jurisdiction of INS headquarters and referred the request to headquarters. The INS New York City office assigned Al Fayed and Punch's request number NYC2000007354. Upon information and belief, no search for responsive records was ever conducted.

167. No further response has been received by the INS.

168. The INS has failed to comply with the requisite statutory periods that govern compliance under the FOIA. Therefore, the INS has wrongfully withheld documents from Al Fayed and Punch.

169. Al Fayed and Punch are not required to exhaust administrative remedies as the INS has not issued a formal determination regarding the documents.

170. Al Fayed and Punch have a legal right under the FOIA to be granted expedited processing, a fee waiver, and to obtain the information they seek, and there is no legal basis for the denial by the INS of said right.

COUNT TEN (USSS FOIA REQUEST)

171. Al Fayed and Punch repeat and reallege the allegations contained in paragraphs 1 through 68 above, inclusive.

172. By letter dated July 31, 2000, Al Fayed and Punch, through counsel, submitted a FOIA request for disclosure of all information pertaining to twenty categories of names and events related to the August 31, 1997, deaths of Princess Diana, Dodi Al Fayed and Henri Paul. See Exhibit "1". The request additionally sought expedited processing and a fee waiver.

173. By letters dated August 25, 2000, the USSS assigned the FOIA requests file numbers 2000515 through 2000521 and 2000525.

174. No other relevant response has been received by the USSS.

175. The USSS has failed to comply with the requisite statutory periods that govern compliance under the FOIA. Therefore, the USSS has wrongfully withheld documents from Al Fayed and Punch.

176. Al Fayed and Punch are not required to exhaust administrative remedies as the USSS has not issued a formal determination regarding the documents.

177. Al Fayed and Punch have a legal right under the FOIA to be granted expedited processing, a fee waiver, and to obtain the information they seek, and there is no legal basis for the denial by the USSS of said right.

COUNT ELEVEN (APA - EXPEDITED PROCESSING)

178. Al Fayed and Punch repeat and reallege the allegations contained in paragraphs 1 through 68 above, inclusive.

179. Requests for expedited processing of all responsive records were submitted to each of the defendant agencies as permitted by statute and internal agency regulation.

180. The CIA, NSA, DoD, DOJ and DOS each denied the request. The DIA, FBI, EOUSA, INS and USSS have failed to timely respond.

181. Al Fayed and Punch have met the requisite requirements as set forth in the respective agency regulations to be entitled to expedited processing of their FOIA requests.

182. By denying Al Fayed and Punch's request for expedited processing, the CIA, NSA, DoD, DOJ and DOS have each violated their respective internal regulations.

183. The DIA, FBI, EOUSA, INS and USSS have failed to comply with the requisite statutory periods that govern compliance under their respective agency regulations. Therefore, these defendants have violated the requirements of their internal regulations.

184. Al Fayed and Punch are not required to exhaust administrative remedies with respect to a denial of a request for expedited processing, nor under circumstances where an agency has failed to issue a formal determination regarding the request.

185. Al Fayed and Punch have a legal right under the respective regulations of the agency defendants to be granted expedited processing, and there is no legal basis for the denial by the CIA, NSA, DIA, DoD, DOJ, DOS, FBI, EOUSA, INS and USSS of said right.

WHEREFORE, plaintiffs Mohammed al Fayed and Punch Limited pray that this Court:

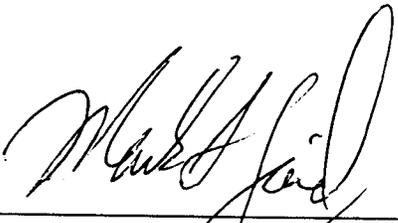
(1) orders the CIA, NSA, DIA, DoD, DOJ, DOS, FBI, EOUSA, INS and USSS to disclose the requested records in their entireties and make copies promptly available to them;

(2) grant expedited processing, or otherwise expedite this action in every way pursuant to 28 U.S.C. § 1657 (a);

(3) award plaintiffs reasonable costs and attorney's fees as provided in 5 U.S.C. § 552 (a)(4)(E) and/or 28 U.S.C. § 2412 (d); and

(4) grant such other relief as the Court may deem just and proper.

Date: August 31, 2000



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(202) 371-6626

Counsel for Plaintiffs

26 July 2000

**REQUESTS SUBMITTED PURSUANT TO THE
FREEDOM OF INFORMATION ACT
BY MOHAMED AL FAYED AND PUNCH MAGAZINE**

Request No. 1:

All records relating to Diana Frances Spencer, Princess of Wales (DOB: July 1, 1961; British citizen), Emad "Dodi" Fayed (aka Imad Mohamed Fayed)(DOB: 1955; Egyptian citizen) and/or Henri Paul (DOB: July 3, 1956; French citizen) all of whom were killed in Paris, France on August 31, 1997. The deaths of these three individuals cannot be in dispute.

Request No. 2:

All records relating to the August 31, 1997, deaths of Emad "Dodi" Fayed (aka Imad Mohamed Fayed), Henri Paul and/or Diana Frances Spencer, Princess of Wales, that occurred in Paris, France.

Request No. 3:

All records relating to the inquiry conducted by investigating French Judge (*Premier Juge d'instruction*) Hervé Stéphan regarding the August 31, 1997, deaths of Emad "Dodi" Fayed (aka Imad Mohamed Fayed), Henri Paul and/or Diana Frances Spencer, Princess of Wales, that occurred in Paris, France.

Request No. 4:

All records relating to surveillance and/or intelligence gathering activities directed at or originating from Emad "Dodi" Fayed (aka Imad Mohamed Fayed), Diana Frances Spencer, Princess of Wales and/or Henri Paul.

Request No. 5:

All records relating to Mohamed Al Fayed, a resident of London, England and the father of Emad "Dodi" Fayed (aka Imad Mohamed Fayed). An Authorization and Privacy Waiver is enclosed as Exhibit "1A". The original is maintained in my possession.

00 2092

Request No. 6:

All records relating to Trevor Rees-Jones (DOB: 1968; British citizen) including, but not limited to, his book "*The Bodyguard's Story*", and the book's signature after Moira Johnston.

AUG 31 2000

FILED
2000 AUG 31 10 00 AM
FBI - NEW YORK

Request No. 7:

All records relating to an effort in 1997-98 to sell classified or unclassified records, allegedly created by or from the possession of the CIA, pertaining to the deaths of Emad "Dodi" Fayed (aka Imad Mohamed Fayed) and Diana Frances Spencer, Princess of Wales.

Request No. 8:

All records relating to Keith Fleer, an entertainment lawyer in Los Angeles, California, and the effort to sell classified or unclassified records, allegedly created by or from the possession of the CIA, pertaining to the deaths of Emad "Dodi" Fayed (aka Imad Mohamed Fayed) and Diana Frances Spencer, Princess of Wales.

Request No. 9:

All records relating to Karl F. Koecher, a former Czech spy who was arrested, charged, and subsequently exchanged in 1985, by the United States for Soviet dissident Anatoly Shcharansky, and the effort to sell classified or unclassified records, allegedly created by or from the possession of the CIA, pertaining to the deaths of Emad "Dodi" Fayed (aka Imad Mohamed Fayed) and Diana Frances Spencer, Princess of Wales.

Request No. 10:

All records relating to Oswald LeWinter (aka George Mearah) (DOB: approximately 1930; United States citizen) including, but not limited to, his effort to sell classified or unclassified records, allegedly created by or from the possession of the CIA, pertaining to the deaths of Emad "Dodi" Fayed (aka Imad Mohamed Fayed) and Diana Frances Spencer, Princess of Wales. For your information, Mr. LeWinter has been tied to events involving the October Surprise and Iran-Contra scandals and the bombing of Pan Am Flight 103.

Request No. 11:

All records relating to Ricardo Shapp, and the effort to sell classified or unclassified records, allegedly created by or from the possession of the CIA, pertaining to the deaths of Emad "Dodi" Fayed (aka Imad Mohamed Fayed) and Diana Frances Spencer, Princess of Wales.

Request No. 12:

All records relating to George Williamson, a U.S. reporter, and the effort to sell classified or unclassified records, allegedly created by or from the possession of the CIA, pertaining to the deaths of Emad "Dodi" Fayed (aka Imad Mohamed Fayed) and Diana Frances Spencer, Princess of Wales.

Request No. 13:

All records relating to Pat McMillan (aka MacMillan), allegedly a former CIA agent, and the effort to sell classified or unclassified records, allegedly created by or from the possession of the CIA, pertaining to the deaths of Emad "Dodi" Fayed (aka Imad Mohamed Fayed) and Diana Frances Spencer, Princess of Wales.

Request No. 14:

All records relating to Jacques Pettier, an individual believed to reside at 8 Rue du Congres, Asniere-Paris, France.

Request No. 15:

All records relating to Richard John Charles Tomlinson, who was employed by the British intelligence agency MI6 between September 1991 and April 1995. An Authorization and Privacy Waiver is enclosed as Exhibit "1B". The original is maintained in my possession.

Request No. 16:

All records relating to the detention by U.S. government officials of Richard John Charles Tomlinson, who was employed by the British intelligence agency MI6 between September 1991 and April 1995, at John F. Kennedy International Airport after arriving on a Swiss Air flight on or about August 30, 1998. An Authorization and Privacy Waiver is enclosed. The original is maintained in my possession.

Request No. 17:

All records relating to David Shayler, but only to the extent the records pertain to Diana Frances Spencer, Princess of Wales, Emad "Dodi" Fayed (aka Imad Mohamed Fayed) and/or Henri Paul, all of whom were killed in Paris, France on August 31, 1997.

Request No. 18:

All records pertaining to requests received by intermediaries acting on behalf of Mohamed al-Fayed including, but not limited to, former Senator George Mitchell. This request pertains, but is not limited to, Senator Mitchell's letters to the CIA dated September 2 and 15, 1999, and DCI George Tenet's response dated September 30, 1999; Senator Mitchell's letter to Robert S. Tyrer, Chief of Staff, Office of the Secretary of Defense, dated September 17, 1999, and Mr. Tyrer's response dated October 4, 1999; and Secretary of Defense William Cohen's letter to Senator Mitchell dated April 28, 1999.

Request No. 19:

All records pertaining to Mohamed al-Fayed's efforts to obtain records or information relating to the death of his son Emad "Dodi" Fayed (aka Imad Mohamed Fayed) and Diana Frances Spencer, Princess of Wales. In responding to this request, you may exclude those records that were publicly filed as part of the legal proceedings in In re Application of Mohamed Al Fayed, Misc. No. 99-43 (D.D.C.); In re Application of Mohamed Al Fayed, Misc. No. 99-35 (D.Md.); In re Application of Mohamed Al Fayed, Appeal No. 99-1268 (4th Cir.); Mohamed Al Fayed v. Keith Fleer et al., Case No. BC 213751 (Sup. Ct. Los Angeles, Calif); Mohamed Al Fayed v. Keith Fleer et al., Case No. B137378 (Ct. App. 2nd Div. Calif.), except to the extent internal notations or comments have been added.

Request No. 20:

All records pertaining to the review of information provided by the Defense Intelligence Agency and the National Security Agency, pertaining to Emad "Dodi" Fayed (aka Imad Mohamed Fayed), Henri Paul and/or Diana Frances Spencer, Princess of Wales, including that which was deemed responsive to Mohamed Al-Fayed's FOIA requests, by any government officials including, but not limited to, Robert S. Tyrer, Chief of Staff, Office of the Secretary of Defense.

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Firm Listing

POSITION: Member

ADMITTED: 1967, District of Columbia; 1968, New York; 1976, California

LAW-SCHOOL: Washington College of Law of American University (J.D., 1967)

COLLEGE: American University (B.A., 1964)

TEXT: Omicron Delta Kappa (President) Business Editor, American University Law Review. Member, National Moot Court Team. Recipient, Bruce Hughes Award and Alumni Award, Outstanding Leadership and Scholarship. Co-Chair, 1991-1992 and Member, 1983-, UCLA Entertainment Symposium Advisory Committee. Adjunct Professor, University of Southern California Law Center, 1996. (Century City Office)

MEMBER: American Bar Association; Los Angeles Copyright Society (President, 1989); American Film Marketing Association (Member, Seminar Planning Committee).

BORN: February 28, 1943, New York, N.Y.

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FILED

AUG 31 2000

WASHINGTON, D.C.
DISTRICT COURT

OSWALD LE WINTER

Known aliases:

George Mearah
Abraham Razin
John Fishman
Oscar Winter
Razin Le Winter
I. Semit

Thought to have born George Mearah

Date of Birth: 4 February 1931

Place of Birth: La Quenta, California

Last known U.S. address: 31900 Manherim Lane, La Quinto, California 92253

Additional information that may help facilitate searches:

- In November 1997, he represented himself as a former CIA employee describing himself to the CIA as a Counter-Intelligence Director;
- In 1995, he allegedly stood trial in Germany on weapons transfer charges and was found guilty;
- In 1991, he allegedly passed information to the BBC of CIA involvement in the death of the late Prime Minister Aldo Moro of Italy;
- In 1990, he allegedly attended the World Jewish Conference in East Berlin, East Germany, and produced a card describing himself as a former CIA agent;
- In 1989, he was allegedly convicted in Frankfurt, Germany of impersonation of a former CIA officer;
- In 1984, he was allegedly arrested by the German police for drug trafficking.
- In 1983, he allegedly represented himself as a Professor of Psychology at the University of Maryland;
- In 1971, he allegedly obtained false credit by producing a forged New York Police Department badge;
- He had himself listed in Who's Who in East Germany as a CIA agent.