

# MATTHEW D. HARDIN

ATTORNEY-AT-LAW

324 Logtrac Road · Stanardsville, VA 22973

Phone: (434) 202-4224 · Email: MatthewDHardin@protonmail.com

April 23, 2020

Mark Herring, Esq.  
Attorney General of Virginia  
% Samuel Towell, Esq.  
Deputy Attorney General for Civil Litigation  
Office of the Attorney General  
202 North Ninth Street  
Richmond, VA 23219

Via Email and Overnight U.S. Mail  
Re: Notice per Va. Code § 2.2-3713 (C)

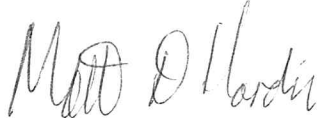
Dear Mr. Towell:

I represent Christopher C. Horner of Albemarle County in connection with a Freedom of Information Act request he made to the Office of the Attorney General on April 2, 2020.

Please find enclosed a petition for a writ of mandamus, which I have not yet filed in the Albemarle County General District Court. Pursuant to Va. Code § 2.2-3713 (C), I intend to file this petition with the Court three working days from your receipt of it. Pursuant to the same section, I intend to seek a hearing on this matter within seven days of filing with the Court.

Please feel free to contact me via email or telephone if you have any questions or if we can resolve this matter before I file the petition with the Court.

Regards,

  
Matthew D. Hardin

PETITION FOR INJUNCTION OR MANDAMUS  
- FREEDOM OF INFORMATION ACT AND AFFIDAVIT FOR GOOD CAUSE  
OR PROTECTION OF SOCIAL SECURITY NUMBERS ACT  
Commonwealth of Virginia Va. Code §§ 2.2-3713, 2.2-3816

Albemarle CITY OR COUNTY General District Court

501 E. Jefferson Street, Suite 138, Charlottesville VA 22902-5110

STREET ADDRESS OF COURT

Christopher C. Horner PETITIONER

V. RESPONDENT

Office of the Attorney General

I, the petitioner, state under oath that:

[X] The following rights and privileges under the Virginia Freedom of Information Act were denied

to me by the respondent:

See Exhibit A

These rights and privileges were denied to me by:

[X] the respondent [ ] who denied me  
these rights and privileges by engaging in the acts set forth in detail in Exhibit A, filed herewith.

I have good cause for filing this petition in that: extensive facts and arguments are set forth in  
Exhibit A, attached hereto, and I have consulted with my attorney.

OR

[ ] The respondent [ ] has engaged, is engaged or  
is about to engage in acts in violation of the Protection of Social Security Numbers

Act by

(DESCRIBE ACTS)

I ask this court to issue:

[X] a writ of mandamus to require the respondent to act as follows:

[ ] an injunction to enjoin (prohibit) the respondent from acting as follows:

In accordance with the relief requested in the Attached Exhibit A.

(DESCRIBE ACTS TO BE REQUIRED OR PROHIBITED)

04/23/2020

DATE

PETITIONER

ALBEMARLE

Commonwealth of Virginia, [ ] City [X] County of

Subscribed and sworn to before me this day by CHRISTOPHER HORNER

04/23/2020

DATE

[ ] CLERK [ ] DEPUTY CLERK [ ] MAGISTRATE

[X] NOTARY PUBLIC: My commission expires: 06/30/2021

Notary Registration No. 7228484

FORM DC-495 MASTER 07/09

HEARING DATE  
AND TIME

CASE NO.

Christopher C. Horner

PETITIONER(S)

1489 Kinross Ln

ADDRESS/LOCATION

Keswick VA 22947

V.

Office of the Attorney General

RESPONDENT(S)

202 North Ninth Street

ADDRESS/LOCATION

Richmond VA 23219

PETITION FOR INJUNCTION OR MANDAMUS  
- FREEDOM OF INFORMATION ACT AND  
AFFIDAVIT FOR GOOD CAUSE  
OR PROTECTION OF SOCIAL SECURITY  
NUMBERS ACT

Matthew D. Hardin

ATTORNEY(S) FOR PETITIONER(S)

DISABILITY  
ACCOMMODATIONS  
for loss of hearing,  
vision, mobility, etc.,  
contact the court ahead  
of time.

JOCELYN GALBAN EVES

NOTARY PUBLIC

COMMONWEALTH OF VIRGINIA

MY COMMISSION EXPIRES JUNE 30, 2021

COMMISSION # 7278484

## VIRGINIA:

**IN THE GENERAL DISTRICT COURT OF THE COUNTY OF ALBEMARLE**

CHRISTOPHER HORNER,

Petitioner,

V.

OFFICE OF THE ATTORNEY GENERAL

Respondent.

CASE NO.: \_\_\_\_\_

SERVE:

Office of the Attorney General  
202 North Ninth Street  
Richmond, Virginia 23219

**Exhibit A**  
**to**

**PETITION FOR WRIT OF MANDAMUS AND INJUNCTIVE RELIEF**

NOW COMES Christopher Horner, by counsel, and alleges the following the following:

- 1) This matter is brought under the Virginia Freedom of Information Act (VFOIA) Virginia Code § 2.2-3713(A) which authorizes this Writ and gives this Court jurisdiction. Venue is proper in this Court pursuant to Va. Code § 2.2-3713(A)(3).
- 2) On April 2, 2020, pursuant to Virginia Code § 2.2-3700 *et. seq.*, Christopher Horner, a citizen and domiciliary of the Commonwealth, sent a VFOIA request by electronic submission to the Office of Attorney General (OAG), a VFOIA-covered institution, requesting certain records reflecting claimed common interest agreements entered into by OAG, signed by one particular official over a ten-month period. **See Exhibit B.**

3) Specifically, Petitioner sought “copies of any common interest agreement(s) entered into by the Office of Attorney General, signed by Paul Kugelman, Jr., from June 1, 2019 through [April 2, 2020].”

4) On April 10, 2020, OAG took “the additional seven work days afforded under Virginia Code Section 2.2-3704(B)(4) to provide a response to this request.” **See Exhibit C.**

5) On April 21, 2020, OAG denied the request, in full, stating in pertinent part:

*The Office has identified approximately four (4) records responsive to your request. These records, in their entirety, constitute attorney-client privileged communications and/or attorney work product. As such, they are exempt from mandatory production pursuant to Virginia Code Sections 2.2-3705.1(2) and/or 2.2-3705.1(3), respectively. The Office respectfully declines to produce these records.*

**See Exhibit D.**

6) As OAG correctly asserted, VFOIA recognizes the Attorney Client Privilege at Va. Code § 2.2-3705.1 (2) and the work-product doctrine at § 2.2-3705.1 (3). Pursuant to those sections, “Written advice of legal counsel to state, regional or local public bodies or the officers or employees of such public bodies, and any other information protected by the attorney-client privilege” and “Legal memoranda and other work product compiled specifically for use in litigation or for use in an active administrative investigation concerning a matter that is properly the subject of a closed meeting under § 2.2-3711” are exempt from production under VFOIA.

7) Petitioner Horner did not request “advice of legal counsel” or “legal memoranda.” Instead, Horner requested only certain described signed contracts to which the Commonwealth of Virginia, and its Attorney General’s Office, were parties.

8) Petitioner only requested signed agreements, not draft or other inchoate records. Thus, the responsive records can only possibly only include contracts to which the Commonwealth is a party. Having entered into contracts to deprive the citizens of Virginia of access to their own records, OAG now wants to keep the citizens from seeing the secrecy contracts as well.

9) Further, Petitioner asserts upon information and belief that the records at issue are all agreements signed between numerous state offices of attorneys general, and are not privileged materials under the Work Product exemption or otherwise.

10) Upon information and belief, Petitioner asserts that the records responsive to Petitioner's request were not prepared specifically for use in litigation or for use in an active administrative investigation concerning a matter that is properly the subject of a closed meeting under Va.

Code § 2.2-3711.

11) Upon information and belief, Petitioner asserts that the records responsive to his request were created as part of a practice among the signatories that has emerged in recent years, in hope of shielding otherwise public records from public-record requests. Despite the Attorney General's insistence that it has signed a contract that protects public records from disclosure to the public, the Attorney General nevertheless now claims that the contract itself is exempt from public inspection.

12) OAG's assertion that a contract giving rise to secrecy is itself secret runs afoul of both the text and the intent of VFOIA. The Act provides that "The provisions of this chapter shall be liberally construed to promote an increased awareness by all persons of governmental activities," and "[a]ny exemption from public access to records or meetings shall be narrowly construed."

Va. Code § 2.2-3700. Moreover, the Act provides that "In any action to enforce the provisions of

this chapter, the public body shall bear the burden of proof to establish an exclusion by a preponderance of the evidence.” Va. Code § 2.2-3713 (E). Petitioner is at a loss as to how the Attorney General’s Office can assert it has met its burden of proof to deny access to public records, when the Attorney General claims that contracts providing for such secrecy cannot themselves be produced or entered into evidence.

13) The Attorney General’s Office has interpreted the Attorney Work Product Doctrine and Attorney-Client Privilege in a broad manner inconsistent both with the text of the Virginia Freedom of Information Act and with past decisions of the Virginia Freedom of Information Advisory Council. The Council has made clear that “The work product doctrine relates only to materials prepared in anticipation of or response to litigation. In addition to this temporal requirement, the documents in question must also be created **because** of the litigation.” Virginia Freedom of Information Advisory Council, Advisory Opinion AO-25-03, December 4, 2003, [http://foiacouncil.dls.virginia.gov/ops/03/AO\\_25\\_03.htm](http://foiacouncil.dls.virginia.gov/ops/03/AO_25_03.htm). (emphasis in original). Further, “A public entity cannot use a lawyer as an intermediary to withhold otherwise public documents from the requirements of FOIA.” *Id.*

14) By the very nature of its refusal to release contracts to which the Commonwealth of Virginia is a party, OAG effectively also invokes the common interest privilege to withhold the four purported Common Interest Agreements responsive to Petitioner’s request that, other public records indicate, are neither legally valid or recognizable common interest agreements, nor otherwise privileged.

15) Petitioner states on information and belief that, even to the extent that an Office could contract away the citizens’ right to see such records, which ability Petitioner disputes, the

purported Common Interest Agreements do not assert that the fact or the content of the Agreement is privileged and may not be disclosed.

16) Purported Common Interest Agreements signed by OAG employees all appear to be drafted from the same template. Publicly available examples of executed versions affirm the inapplicability of the work product exemption.

17) Petitioner obtained one such CIA from the District of Columbia Office of Attorney General under the District of Columbia's FOIA, on the same topic and among the same parties, signed by former Deputy Attorney General Rhodes B. Ritenour and Deputy Attorney General John Daniel (available here <https://cei.org/sites/default/files/NY%20Motion%20to%20Dismiss.pdf> (PDF pp. 13-14 of 46, signed by Virginia on PDF page 28 of 46)). As in Virginia, the open-government law for the District of Columbia exempts attorney work product from disclosure. See D.C. Code § 2-534. The disclosure of the Agreement by the DC AG shows that the record is not work product, and its content affirms this.

18) As in Virginia and DC, the open-records law for the State of New York exempts attorney work product from disclosure, and the New York Supreme Court's Appellate Division also confirmed that the purported Common Interest Agreement among these same parties, all drafted using the same standard language, was not a privileged record that the OAG could protect from public disclosure. *CEI v. Attorney General of New York*, Appellate Division, May 3, 2018, opinion available at <https://cei.org/sites/default/files/20180503%20-%20Memo%20and%20Order%20-%20NY%20Supreme%20Court%20Appellate%20Div.pdf>

19) In finding that same claim was without foundation about that record, agreed among the same parties and for similar purposes as any agreement signed by Mr. Kugelman (environment),

and also using the same standard language as this spate of purported common interest agreements use, the Appellate Division wrote, “In her decision, respondent's records appeals officer commented that the ‘agreement reflects the legal theories under which such actions are likely to proceed, and disclosure would reveal those strategies.’ Our review of the Common Interest Agreement reveals no such legal analysis.”

20) On information and belief, these purported common interest agreements entered into by Mr. Kugelman and responsive to Petitioner’s request also contain no such legal analyses.

21) In Virginia, “As a general rule, confidential communications between an attorney and his or her client made in the course of that relationship and concerning the subject matter of the attorney's representation are privileged from disclosure.” *Bergano v. City of Va. Beach*, 821 S.E.2d 319, 322 (2018) (internal citations omitted).

22) For Attorney-Client Privilege to attach, a communication must be made “between an attorney and his or her client.” The confidential communication must further be made “in the course of that relationship and concerning” the representation. *Id.* In this case, the Petitioner is not seeking “communications” of any type, much less confidential communications between an attorney and a client in which legal advice was provided. Instead, the Petitioner requests only signed contracts.

23) In Virginia, the Attorney Work Product Doctrine protects “the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation.” *Bergano*, 821 S.E.2d 319 at 322, 323. Virginia courts have accepted that Work Product may be “reflected in ‘interviews, statements, memoranda, correspondence, briefs, mental impressions, personal beliefs, and countless other tangible and intangible ways.’”



*Id.* In this case, the Petitioner is not seeking “mental impressions, conclusions, opinions, or legal theories” of any type, but is only seeking signed contracts into which the Commonwealth of Virginia has entered.

24) No Virginia court has never accepted an assertion that mere contracts are themselves exempt from production as Attorney Work Product or Attorney Client Privilege. In fact, the Supreme Court of Virginia held in *Bergano* that even attorney billing records are not entirely subject to Attorney-Client Privilege or exempt from production under the Work Product Doctrine. If billing records of an attorney may be produced under FOIA, it surely follows that contracts to which the Commonwealth is a party may be produced.

25) Virginia has a strong public policy in favor of disclosing contracts to which the Commonwealth is a party. This policy is reflected in the Virginia Procurement Act at Va. Code § 2.2-4342.

26) Petitioner states on information and belief that purported Common Interest Agreements to which OAG is a signatory, which he has obtained in other jurisdictions and which he believes are similar to the records at issue here, contain standard clauses regarding the Commonwealth’s “Use of Protected Information,” the purported Agreement’s “Purpose,” “Non-disclosure,” “Confidentiality statement,” “Nondisqualification [sic] Agreement,” etc. Petitioner also states on information and belief that the withheld records contain a provision calling for parties who receive open records requests on the subjects described in these agreements to notify the other parties, by which OAG claims to have agreed to withhold responsive records unless the other parties consent to disclosure of Virginia records to Virginia’s citizens. Petitioner also states on

information and belief that the Parties to these agreements signed by Mr. Kugelman have been following these provisions.

27) For example, Petitioner states on information and belief that one of these four purported agreements, which is being withheld in full by OAG, is a “Climate CIA” signed in late 2019 and early 2020. **See Exhibit E.**<sup>1</sup>

28) Petitioner states on information and belief that these purported agreements are not exempt from disclosure by the common interest rule, but also are not valid common interest agreements as understood under Virginia law. The agreements typically do not set forth “legal theories” the signatories intend to advance in some reasonably anticipated litigation, nor do the agreements contemplate specific advice or convey mental impressions. This conclusion is bolstered by the practice of these purported common interest agreements typically asserting some coverage not limited to any specific, reasonably anticipated litigation. Instead, agreements obtained thus far typically purport to cover numerous “common challenges” and “goals,” past cooperation and/or common interests in advocating the Parties’ interests in a topic, and/or lists of categories of environmental concern for which the signatories agreed to share information pertinent to any ensuing investigation or litigation.

29) For example, the purported Common Interest Agreement discussed, *supra*, that several states previously, and unsuccessfully, sought to shield from public scrutiny noted, “The Parties

---

<sup>1</sup> Petitioner states on information and belief that another of these withheld records is plainly not about imminent litigation, but seeks to protect otherwise public records from release to the public involving consideration of filing comments about federal rule makings (see OAG announcement of these comments, purportedly shielded by one such withheld record, at <https://www.oag.state.va.us/media-center/news-releases/1312-october-26-2018-herring-demands-trump-administration-withdraw-its-proposal-to-roll-back-clean-car-standards?highlight=WyJjbGVhbiIsImNhcnMiLCJjbGVhbiBjYXJzIl0=>).

share common legal interests with respect to the following topics: (i) potentially taking legal actions to compel or defend federal measures to limit greenhouse gas emissions, (ii) potentially conducting investigations of representations made by companies to investors, consumers and the public regarding fossil fuels, renewable energy and climate change, (iii) potentially conducting investigations of possible illegal conduct to limit or delay the implementation and deployment of renewable energy technology, (iv) potentially taking legal action to obtain compliance with federal and state laws governing the construction and operation of fossil fuel and renewable energy infrastructure, or (v) contemplating undertaking one or more of these legal actions, including litigation (“Matters of Common Interest”).” As the New York Appellate Division ruled, such language does not set forth a protected common interest but rather confesses there is none.

30) Petitioner states on information and belief that the four withheld records in this matter are drafted on the same template as the agreements discussed above, with only slight variations. The instant agreements are similar in scope, substance, and absence of privilege.

31) For all these reasons and others, Petitioner asserts upon information and belief that OAG is improperly withholding records requested by Petitioner, which records are not properly exempt from production under Va. Code § 2.2-3705.1 *et seq.*

32) Under Virginia Code § 2.2-3704 (D), a single instance of denial of the rights and privileges conferred by the Virginia Freedom of Information Act shall be sufficient to invoke the jurisdiction of this Court and seek mandamus and appropriate attorney’s fees.

33) Any denial of a Virginia Freedom of Information request or improper withholding of documents without justification by an enumerated exemption may be reviewed and overturned by a court of appropriate jurisdiction pursuant to Virginia Code § 2.2-3713(A).

**Prayer for Relief**

WHEREFORE, the Petitioner respectfully prays, through counsel, that this Court,

- a) Hold a hearing on this matter within seven days of the filing of the complaint as required by Va. Code § 2.2-3713(C);
- b) Declare that OAG is unlawfully withholding records;
- c) Order OAG to produce responsive records to the Petitioner, subject only to legally allowable withholdings;
- d) Enjoin the OAG from seeking fees pursuant to Va. Code § 2.2-3704(F) unless such fees are required to produce discrete responsive records, and such fees are itemized and reviewable by the Petitioners and the Court;
- e) Order the OAG, pursuant to § 2.2-3713 (D) to pay Petitioner's reasonable costs and fees associated with this instant matter, and,
- f) Order such necessary and proper injunctive relief or any other relief as this Court deems just and proper.

Respectfully submitted this 23rd day of April, 2020,

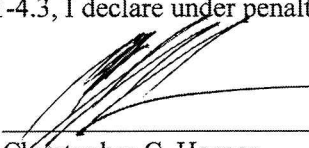
CHRISTOPHER C. HORNER

By Counsel

  
Matthew D. Hardin, VSB#87482  
324 Logtrac Road  
Stanardsville, VA 22973  
Phone: 434-202-4224  
Email: [MatthewDHardin@gmail.com](mailto:MatthewDHardin@gmail.com)

**Affidavit of Good Cause (See Va. Code § 2.2-3713 (A))**

Having reviewed the statements set forth above and having discussed the matters set forth herein with my attorney, pursuant to Va. Code § 8.01-4.3, I declare under penalty of perjury that the foregoing is true and correct.

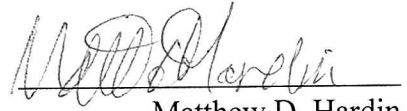
  
\_\_\_\_\_  
Christopher C. Horner

Date: 4/23/2020

## CERTIFICATE OF SERVICE

I hereby certify that, pursuant to Va. Code § 2.2-3713(C), a copy of the Petition for Writ of Mandamus and Injunctive Relief, along with all exhibits thereto, was provided on 4-23-2020 to the Office of the Attorney General by email sent to Samuel T. Towell, Chief of the Civil Litigation Division at the Office of the Attorney General, at STOWELL@OAG.STATE.VA.US, which is his email address provided by the Virginia Department of Human Resource Management.

I further certify that on \_\_\_\_\_ I mailed a copy of this Petition via the United States Postal Service's Overnight Mail, postage prepaid, addressed to Mr. Towell's attention at 202 North Ninth Street, Richmond, Virginia 23219.

  
Matthew D. Hardin

# **Exhibit B**

**April 2, 2020 FOIA Request**

# Attorney General



# Mark R. Herring

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## FOIA Requests

Please use the form below to submit a FOIA Request. If you are unable to run JavaScript in your browser, please email your request to [foia@oag.state.va.us](mailto:foia@oag.state.va.us). Please be as specific as possible when describing your request.

First Name: \*

Christopher

Last Name: \*

Horner

Address 1: \*

1489 Kinross Lane

Address 2:

City: \*

Keswick

State: \*

VA

Zip Code: \*

22947

Phone Number: \*

4342967488

Email Address: \*

[chris@chornerlaw.com](mailto:chris@chornerlaw.com)

Subject: \*

Common interest agreements

FOIA Request Information (2824 chars left)

Please provide me copies of any common interest agreement(s) entered into by the Office of Attorney General, signed by Paul Kugelmann, Jr., from June 1, 2019 through today.

✓ I'm not a robot



submit

reset

Powered by [BreezingForms](#)

[Webmaster](#) [Web Policy](#) [FOIA Contact](#) [Contact Information](#)



# **Exhibit C**

April 10, 2020 Letter from Meaghan O'Brien



**COMMONWEALTH of VIRGINIA**  
**Office of the Attorney General**

Mark R. Herring  
Attorney General

202 North Ninth Street  
Richmond, Virginia 23219  
804-786-2071  
FAX 804-786-1991  
Virginia Relay Services  
800-828-1120  
7-1-1

April 10, 2020

**VIA ELECTRONIC MAIL**

Christopher Horner  
1489 Kinross Lane  
Keswick, Virginia 22947  
[chris@chornerlaw.com](mailto:chris@chornerlaw.com)

**Re: Freedom of Information Act request – received April 3, 2020**

Dear Mr. Horner:

The Office of the Attorney General for the Commonwealth of Virginia (hereinafter, "Office") acknowledges receipt of the above-referenced correspondence in which you seek certain information pursuant to the Virginia Freedom of Information Act, Virginia Code Section 2.2-3700, *et seq.* (hereinafter, "FOIA"). Specifically, your request states:

Please provide me copies of any common interest agreement(s) entered into by the Office of Attorney General, signed by Paul Kugelman, Jr., from June 1, 2019 2019 (*sic*) through today [April 3, 2020].

Please be advised that due to the limited availability of public records within the immediate custody and control of the Office and present work demands of personnel to whom this request would be most efficiently assigned, it is practically impossible for the Office to identify, collect, review, and determine within five working days all of the records that may be responsive (if any exist at all) and whether or how it should exercise any discretion available to it under FOIA exemptions that may apply. Accordingly, the Office will take up to the additional seven work days afforded under Virginia Code Section 2.2-3704(B)(4) to provide a response to this request.

Thank you for your attention.

Sincerely,

*M. O'Brien*

Meaghan O'Brien  
FOIA Officer

# **Exhibit D**

April 21, 2020 Letter from Meaghan O'Brien



**COMMONWEALTH of VIRGINIA**  
*Office of the Attorney General*

Mark R. Herring  
Attorney General

202 North Ninth Street  
Richmond, Virginia 23219  
804-786-2071  
FAX 804-786-1991  
Virginia Relay Services  
800-828-1120  
7-1-1

April 21, 2020

**VIA ELECTRONIC MAIL**

Christopher Horner  
1489 Kinross Lane  
Keswick, Virginia 22947  
[chris@chornerlaw.com](mailto:chris@chornerlaw.com)

**Re: Freedom of Information Act request – received April 3, 2020**

Dear Mr. Horner:

The Office of the Attorney General for the Commonwealth of Virginia (hereinafter, "Office") acknowledges receipt of the above-referenced correspondence in which you seek certain information pursuant to the Virginia Freedom of Information Act, Virginia Code Section 2.2-3700, *et seq.* (hereinafter, "FOIA"). Specifically, your request states:

Please provide me copies of any common interest agreement(s) entered into by the Office of Attorney General, signed by Paul Kugelman, Jr., from June 1, 2019 2019 (*sic*) through today [April 3, 2020].

The Office has identified approximately four (4) records responsive to your request. These records, in their entirety, constitute attorney-client privileged communications and/or attorney work product. As such, they are exempt from mandatory production pursuant to Virginia Code Sections 2.2-3705.1(2) and/or 2.2-3705.1(3), respectively. The Office respectfully declines to produce these records.

Thank you for your attention.

Sincerely,

A handwritten signature in cursive script that reads "M O'Brien".

Meaghan O'Brien  
FOIA Officer

# **Exhibit E**

Referenced in Paragraph 27 of Exhibit A

**From:** Hoffmann, David (OAG)  
**To:** "Elaine Meckenstock"; "Gregory Schultz"; "Kugelman, Paul"; "Nick Persampieri"; "Tweedie, Jameson (DOJ)"; "Valerie Edge (De)"; "Jensen, Laura"; "Sauer, Mary"; "Morrisseau, Elizabeth (AG); Gordon, Neil (AG); Schumaker, Kelly (AG); "Lisa Morelli (NJ)"; "Aaron Love"; "Salton, Daniel"; "Demianick, Jennie"; "Craig.Segall@arb.ca.gov"; "Bo Reiley"; "Johnston, Ann R."; "Fischer, Michael J."; "Larson, Jacob [AG]"; "Rottenberg, Daniel"; "James, Jason"; "William Grantham"; "Clay Clarke"; "Amy Beatie"; "Dan Graeve"; "Tom Roan"; "Jonathan Wiener"; "Kavita Lesser"; "Howard, JB"; "Goldstein, Steven"; "Segal, Joshua"; "Megan Herzog"; "Christopher Courchesne"; "Cooper, Bill F"; Kogel-Smucker, Sarah (OAG); Caldwell, Brian (OAG); Hoffmann, David (OAG); "Nelson, Emily C (ATG)"; "Watson, Laura J (ATG)"; "Michael.Myers@ag.ny.gov"; "Costello, Morgan"; "Spiller, Asher"; "Thomas, Blake"; "Crabtree, Taylor"; "Phillip M. Hoos"; "Alison Hoffman"; "Surdo, Peter"; "Tess, Rachel"; "Skip Pruss"; Garrahan Paul; "William Grantham"  
**Cc:** Kogel-Smucker, Sarah (OAG)  
**Subject:** Notice of Public Records Request  
**Date:** Friday, March 20, 2020 9:56:37 AM  
**Attachments:** Clim.CIA(12.11.19).pdf  
3.6.2020 DC OAG Bachmann Goffman Request copy (002).pdf

---

Dear All,

Pursuant to the attached Common Interest Agreement, I am notifying you on behalf of the District of Columbia's Office of the Attorney General that our Office received a public records request (also attached) for the following information:

1. All electronic correspondence, and any accompanying information (see discussion of SEC Data Delivery Standards, *infra*), including also any attachments, a) sent to or from or copying (whether as cc: or bcc:) i) Robyn Bender, ii) David Hoffmann and/or iii) Sarah Kogel-Smucker, that b) includes, anywhere, whether in an email address, in the sent, to, from, cc, bcc fields, or the Subject fields or body of an email or email "thread", including also in any attachments, i) Bachmann, and/or ii) Goffman, and c) is dated from November 1, 2019 through the date you process this request, inclusive;
2. All electronic correspondence, and any accompanying information (see discussion of SEC Data Delivery Standards, *infra*), including also any attachments, a) sent to or from or copying (whether as cc: or bcc:) i) Robyn Bender, ii) David Hoffmann and/or iii) Sarah Kogel-Smucker, that b) was sent from michael.myers@ag.ny.gov, and c) is dated from November 4, 2019 through November 8, 2019, inclusive and November 17, 2019,
3. Any invitation sent or received from michael.myers@ag.ny.gov to participate in a November 18, 2019 telephone call.

At this point in time, we are still going through our internal review, but have not identified any documents responsive to this request that are not otherwise covered by the CIA. At the completion of our review and prior to any disclosure, we will notify you if we identify any documents that we intend to disclose. Please let me know if anyone has any questions or concerns.

**David S. Hoffmann**

*[Working remotely due to COVID-19 emergency]*

Assistant Attorney General

Social Justice Section

Office of the Attorney General  
for the District of Columbia  
441 Fourth Street N.W.  
Suite 650 North  
Washington, D.C. 20001  
O: (202) 442-9889  
C: (216) 778-0561  
F : (202) 715-7768  
[david.hoffmann@dc.gov](mailto:david.hoffmann@dc.gov)