

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND, SOUTHERN DIVISION**

Thomas L. Moffett, II, et al.	:	
Plaintiffs	:	
	:	
	:	
v.	:	Civil Action No.
	:	PJM05CV1547
	:	
Computer Sciences Corp., et al	:	
Defendants	:	

AFFIDAVIT OF MARTIN H. FREEMAN

On this 9th day of March, 2007, I hereby affirm that:

1. I am over the age of eighteen years, competent to be a witness, and have personal knowledge of the matters set forth herein.
2. I am one of the attorneys representing the Plaintiffs in the above-captioned case.
3. I have been a practicing civil litigation trial lawyer since 1965, and have tried several hundred civil jury trials to a verdict.
4. Based upon my training and experience and upon the matters and facts set forth in sections II.C. and II.D., and footnotes 2, 4 and 9 of Plaintiffs' Opposition Memorandum to Defendants' Motion for Partial Summary Judgment on Count V of Plaintiffs' First Amended Complaint, it is my good faith opinion, offered as counsel for the Plaintiffs and as an officer of the Court, that Plaintiffs cannot conduct an *ex parte* interview of, and obtain the affidavit of, Anthony Lowe or any other present or former employee of FEMA with personal knowledge of those matters and facts, because (1) they

were employees of FEMA at pertinent times, (2) counsel for FEMA has instructed Plaintiffs' counsel to refrain from speaking with FEMA employees, and (3) the rules of professional conduct preclude such contact. *See* Annotated Model Rules of Professional Conduct Rule 4.2 legal background (1996) (noting that “[i]f the former employee has had extensive exposure to privileged information, ex parte contact may be limited”); ABA Comm. on Ethics and Professional Responsibility, Formal Op. 91-359 (1991) (“With respect to any unrepresented former employee, of course, the potentially-communicating adversary attorney must be careful not to seek to induce the former employee to violate the [attorney-client] privilege.”).

5. Based upon my training and experience, upon the matters and facts set forth in sections II.C. and II.D., and footnotes 2, 4 and 9 of Plaintiffs' Opposition Memorandum to Defendants' Motion for Partial Summary Judgment on Count V of Plaintiffs' First Amended Complaint, and upon newspaper accounts, FEMA press releases, and the contents of Notice #W04016 and #W03057, all of which are discussed in the aforesaid opposition, it is my good faith opinion, offered as counsel for the Plaintiffs and as an officer of the Court, that any dispute by the Defendants concerning these documents can only be resolved through the testimony of the former Federal Insurance Administrator Mr. Lowe and other persons who may have first-hand knowledge of Notice #W04016 and #W03057, the Press Release, and the information reported in the newspapers.

6. Accordingly, based upon my training and experience, it is my opinion, offered in good faith and as an officer of the Court that, in the event that the Court does

not now deny Defendants' Motion for Partial Summary Judgment on Count V of Plaintiffs' First Amended Complaint, entry of an order pursuant to F.R.C.P. 56(f):

- a. permitting Plaintiffs to depose Mr. Lowe and other present or former FEMA employees with personal knowledge of matters and facts set forth in Notice #W04016 and #W03057, the Press Release, and information reported in the newspapers, and
 - b. deferring ruling on the pending motion until the deposition transcripts are obtained and Plaintiffs have an opportunity to supplement their opposition by reference to those transcripts,
- is essential to the fair administration of justice with respect to affording Plaintiffs a full and fair opportunity to oppose the pending motion.

FURTHER AFFIANT SAYETH NOT.

/s/ Martin H. Freeman /s/
Martin H. Freeman