

**4. Carvajal v. DEA, No. 06-2265, 2009 WL 1619209 (D.D.C. June 10, 2009)
(Urbina, J.)**

Re: First-party request

• **Litigation considerations:** Plaintiff has failed to oppose defendants' motion for summary judgment, thus defendants' motion will be treated as conceded.

5. Carson v. U.S. Office of Special Counsel, No. 08-317, 2009 WL 1616763 (E.D. Tenn. June 9, 2009) (Phillips, J.)

Re: Records pertaining to Hatch Act violations, prohibited personnel practices, and other investigations conducted by defendant

• **Adequacy of search:** "[Defendant] has carried its burden of showing that it conducted adequate searches reasonably calculated to uncover relevant information in response to [plaintiff's] FOIA requests. [Defendant] has provided the court a detailed description of the search methodology used to recover relevant information, including a description of its automated case management system."

• **Jurisdiction:** The court lacks authority under the FOIA to order defendant to create new documents that plaintiff believes defendant was required to create.

• **Exemptions 2, 5, 6, & 7(C):** Defendant has shown that its use of these exemptions to withhold information was proper.

WEEK OF JUNE 22

Courts of Appeal

**1. Lahr v. NTSB, No. 06-56717, 2009 WL 1740752 (9th Cir. June 22, 2009)
(Berzon, J.)**

Re: Records related to explosion of TWA flight 800

• **Adequacy of search:** Though plaintiff claims that the documents released to him prove that additional responsive documents exist, he "presents no persuasive evidence . . . that these records now exist and either evaded discovery during the agencies' searches or were purposely and improperly withheld." Plaintiff also "presents no evidence that would undermine the district court's conclusion" that there was no bad faith on the government's part, and his "contentions are too speculative to support the conclusion that the searches were inadequate. Even if [additional] documents did exist when the agencies conducted their searches, the failure to produce or identify a few isolated documents cannot by itself prove the searches inadequate."

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