

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. LYLE E. FRANK PART 11M

Justice

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INDEX NO. 154792/2022

NEW YORK CIVIL LIBERTIES UNION,

MOTION DATE 06/21/2022

Petitioner,

MOTION SEQ. NO. 001

- v -

NEW YORK STATE OFFICE OF COURT
ADMINISTRATION, LAWRENCE K. MARKS

**DECISION + ORDER ON
MOTION**

Respondent.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 7, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33

were read on this motion to/for ARTICLE 78 (BODY OR OFFICER).

Petitioners move to obtain documents, and other items, which they allege were withheld in violation of the Freedom of Information Law (FOIL). Pursuant to FOIL, petitioners attempted to obtain records and materials in which the Office of Court Administration advises judges how to interpret, analyze, and apply court decisions, statutes, or regulations. Respondents have denied both petitioners initial FOIL request, as well as the administrative appeal of that request. For the reasons set forth below the petition is granted to the extent indicated below.

Respondents contend that the class of documents requested are overly broad and not reasonably searchable as well as protected as intra-agency communications and attorney work-product.

The Court finds that petitioners have sufficiently tailored its request with respect to the documents that it seeks, and while the Court does consider the respondents ability to conduct an efficient search of responsive documents, that is not a dispositive consideration. The Court finds that respondents' inability to search by terms or content of documents is not persuasive. It was

made clear during oral argument that the requested documents are sufficiently specific.

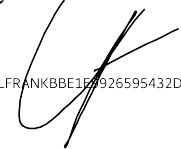
Moreover, the Court will give the respondents 180 days to produce the documents requested,

The Court also finds the remaining arguments of the respondents unavailing. As Judges are not employees of the New York Court System, the communications cannot be considered interagency communications, even where such communications are directed to Judges' Chambers staff, who would receive the communications in order to benefit their role in working for the judge. In addition, the Court does believe that the documents in question are final communications.

Moreover, the Court declines to grant the petitioner attorney's fees as respondents' denial of the FOIL request was not unreasonable; however, the Court does find that the denial was in error after petitioners amended the request. Accordingly, it is hereby

ORDERED that respondents shall produce to petitioners, within 180 days of the date of service of this Order with notice of entry, all documents directed to Judges and/or Judge's Chambers staff from January 1, 2011, until present, in which federal or state court decisions, statutes, regulations, and ordinances are summarized, analyzed, interpreted, construed, explained, clarified, and/or applied; and it is further

ADJUDGED that the portion of the petition that seeks attorneys' fees is denied.


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10/19/2022
DATE

LYLE E. FRANK, J.S.C.

CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION
	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	OTHER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	REFERENCE