

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF TOMPKINS



Index #: 2013-0151 CI2013-05977  
03/14/2013 01:49:00 PM  
VERIFIED REPLY  
Aurora R. Valenti, Tompkins County Clerk

-----X  
In the Matter of,

JENNY STEIN,

Petitioner,

-against-

VILLAGE BOARD OF TRUSTEES OF THE  
VILLAGE OF CAYUGA HEIGHTS,

Respondent,

For a Judgment Pursuant to Article 78  
Of the Civil Practice Law and Rules.  
-----X

Index No. 2013-0151

VERIFIED REPLY IN SUPPORT  
OF VERIFIED PETITION FOR A  
JUDGMENT PURSUANT TO  
CPLR ART. 78

Assigned to:  
Hon. Robert C. Mulvey

Trevor J. DeSane, Esq., as attorney for the Petitioner, Ms. Stein, replies to the  
Respondent's Answer as follows:

**AS A THRESHOLD MATTER:**

1. The Respondent's Answer does not meet the requirements stated in CPLR § 3020(d), specifying by whom verification of a pleading shall be made. CPLR § 3020(d) clearly states: "The verification of a pleading shall be made by the affidavit of the party [ . . . ] except: [ . . . ] 2. if the party is the state, a governmental subdivision, board, commission, or agency, or a public officer in behalf of any of them, the verification may be made by any person acquainted with the facts." Kathryn Supron has attempted to verify the Answer in an individual capacity rather than in her capacity as a public officer. Her verification is entitled "INDIVIDUAL VERIFICATION" and does not reference her public office, that of Mayor of the Village of Cayuga Heights. The Respondent in this matter is the Village Board of Trustees of the Village of Cayuga Heights, not Kathryn Supron. As an individual, Kathryn Supron may not verify the Respondent's Answer.

CPLR 3022 states: “A defectively verified pleading shall be treated as an unverified pleading. Where a pleading is served without a sufficient verification in a case where the adverse party is entitled to a verified pleading, he may treat it as a nullity, provided he gives notice with due diligence to the attorney of the adverse party that he elects so to do.” As required by CPLR § 7804(d), the Petitioner is indeed entitled to a Verified Answer. Since the Answer is an unverified pleading, the Petitioner will treat it as a nullity. Petitioner provides the Respondent with the required notice, both herein, as well as in a separate letter dated March 14, 2013 and submitted to the attorney for the Respondent and filed with this Verified Answer. In anticipation that the Respondent will cure the defect in the Verification of its Answer in a timely manner, as her Reply the Petitioner responds to new matter raised in the remainder of Respondent’s Answer, as follows:

**AS FOR RESPONDENT’S “FIRST AFFIRMATIVE DEFENSE”**

2. The Respondent’s “First Affirmative Defense” is not a valid affirmative defense. It does not allege any new fact or facts that would defeat, or have any relevance whatsoever to, any claim stated in Ms. Stein’s Verified Petition. This alleged “affirmative defense”, consisting of paragraphs “4”, “5”, “6”, “7”, and “8” of the Respondent’s Answer, should therefore be stricken.
3. Moreover, insofar as paragraphs “5”, “6”, “7”, and “8” of the Respondent’s Answer pertain to the parties’ efforts to settle this matter and the terms of a possible settlement, Petitioner objects to their inclusion in Respondent’s Answer. These details bear no relevance to Respondent’s noncompliance with its obligations under the Freedom of Information Law and serve only as a distraction from the substance of this matter. Additionally, they do not constitute an affirmative defense, and as stated above, should therefore be stricken.

4. While maintaining that the details of ongoing settlement discussions are not relevant to the instant proceeding (as stated in paragraph 3 of this Verified Reply), the Petitioner is nonetheless compelled to correct inaccuracies and mischaracterizations made in the Respondent's Answer.

5. The Respondent's attorney, Mr. John Alden Stevens, did indeed write to me offering to provide redacted copies of a subset of the documents requested by Ms. Stein in her August 24, 2012 FOIL request. Said letter was dated February 25, 2013, but was delivered to me via postal mail on Saturday, March 2, 2013. A copy of Mr. Stevens' letter is appended hereto as Exhibit A.

6. On March 4, 2013, I responded to Mr. Stevens indicating Ms. Stein's willingness to accept this offer, provided that the Respondent produce all documents responsive to her request and not merely the subset offered, and that acceptable redactions would be limited to names, physical addresses, email addresses, and telephone numbers only. A copy of my March 4, 2013 letter is appended hereto as Exhibit B.

7. On March 11, 2013, Mr. Stevens responded to my letter, stating that the Respondent "agrees to provide the Landowner Consent Agreements or any other correspondence with the names, physical addresses, email addresses and/or telephone numbers redacted." It should be noted that the Respondent's delay of over six months in complying with Ms. Stein's appropriately-constituted FOIL request, and ongoing denial of access to the requested records, is what necessitated the instant proceeding. The terms agreed to by Mr. Stevens in his March 11, 2013 letter are essentially the same terms that were proposed by Ms. Stein on November 16, 2012 and summarily denied by the Respondent on November 26, 2012. A copy of Mr. Stevens' March 11, 2013 letter is appended hereto as Exhibit C.

8. Upon learning of Respondent's agreement to the terms of settlement, I drafted a proposed Stipulation and Order discontinuing the proceeding which I sent to Mr. Stevens on March 12, 2013 along with a cover letter stating that the Stipulation and Order was attached for his review and inviting him to indicate whether this was satisfactory. A copy of my March 12, 2013 letter to Mr. Stevens is appended hereto as Exhibit D. A copy of my draft Stipulation and Order Discontinuing Article 78 Proceeding, sent to Mr. Stevens on March 12, 2013, is appended hereto as Exhibit E.

9. Mr. Stevens replied to my letter and proposed Stipulation and Order on March 12, 2013, stating, "We will need until April 15, 2013 to make these redactions. They need to be done by hand." Mr. Stevens did not indicate any other objections to the terms of the proposed Stipulation and Order. A copy of Mr. Stevens' March 12, 2013 email is appended hereto as Exhibit F.

10. The Landowner Consent Agreements, which will comprise some or possibly all of the documents produced pursuant to any settlement or order, include names and addresses located in the same position on each form. It is reasonable to expect that the permitted redactions could be completed by hand in a matter of seconds per form. Even by a conservative measure, completing this simple task should take a small number of hours, not weeks. This has been demonstrated by the Village's own response in the past. After receiving a similar request for records from Ms. Stein in 2010, the Cayuga Heights Village Clerk provided, within just six days, a large number of documents that were redacted by hand to remove names, addresses, and telephone numbers. A copy of the Village's cover letter accompanying the redacted records dated January 25, 2010 and a sample page from the records disclosed pursuant to said FOIL request, which is representative of the nature of the redactions made, are appended hereto as Exhibit G.

11. Pre-empting my response to Mr. Stevens' March 12 email, he sent me another message by email on the morning of March 13, 2013 stating, "After further review, we cannot agree to the terms of the agreement you sent us." A copy of Mr. Stevens' March 13, 2013 email is appended hereto as Exhibit H. Mr. Stevens included no information to clarify which specific terms of the proposed Stipulation and Order were unacceptable to the Respondent and sent no further communications discussing the terms of a settlement that both parties might find satisfactory. Indeed, Petitioner would have entertained reasonable requests from Mr. Stevens concerning modifications to the proposed stipulation had he asked. I sent a letter to Mr. Stevens on March 13, 2013 indicating Ms. Stein's willingness to continue to pursue a settlement. The letter stated, in part, "I await further clarification of the terms of settlement your client is willing to accept." Mr. Stevens did not reply to this communication. A copy of my March 13, 2013 email to Mr. Stevens is appended hereto as Exhibit I.

12. Furthermore, Paragraph 6 of Respondent's Answer states as an affirmative defense, that my proposed agreement would subject the Village of Cayuga Heights to responsibility for attorney's fees and specific relief not contemplated by Article 78. This is, first and foremost, as stated above, not an affirmative defense. Secondly, this allegation misstates the nature of the clause to which it refers. The Stipulation and Order as proposed, states:

Ms. Stein, as well as her heirs, executors, administrators, trustees, transferees, assigns and successors, shall have the right to commence an action or proceeding in State Supreme Court, County of Tompkins, to enforce the provisions of this Agreement, including injunctive and/or declaratory relief. In the event that such an action or proceeding is commenced, Ms. Stein shall have the right to recover attorney fees and the costs of the proceeding.

This clause is clearly not meant to burden the Respondent with responsibility for attorney's fees and specific relief, as Mr. Stevens claims. Rather, it is meant to provide a remedy for Ms. Stein in the event that the Respondent fails to comply with the terms of an agreed upon settlement and

to provide a disincentive for the Respondent to renege on such agreement. Regardless of the intent of the clause or Mr. Stevens' interpretation of it, he made no attempt to articulate the Respondent's concerns or suggest a revision reflecting those concerns.

**AS FOR RESPONDENT'S "SECOND AFFIRMATIVE DEFENSE"**

13. Petitioner denies the Respondent's assertion in paragraph 9 of its Answer, which Respondent refers to as its "Second Affirmative Defense." Any statement made in Ms. Stein's Verified Petition that is stated "upon information and belief" is necessarily so because a number of determinations and communications making up the proceeding under consideration were made by the Respondent and because pursuant to CPLR § 3020(d)(3), the Verified Petition was verified by me, as the Petitioner's attorney, and not by the Petitioner. Furthermore, while Mr. Stevens chooses to cite my obvious and inevitable inability to verify determinations and communications made by the Respondent as an affirmative defense, he ignores the Respondent's obligation to file with its Answer "a certified transcript of the record of the proceeding under consideration" pursuant to CPLR § 7804(e). Had Mr. Stevens complied with this requirement, the Court would have in its possession the records necessary to rule on the merits of the Verified Petition. The Respondent should have filed the following documents with its Answer for inclusion in the certified record:

1. Respondent's "Landowner Consent Agreement"
2. Respondent's September 21, 2012 denial of Petitioner's FOIL request
3. Respondent's October 31, 2012 denial of Petitioner's FOIL appeal
4. Respondent's November 26, 2012 denial of Petitioner's FOIL request for redacted records

**AS FOR RESPONDENT'S "THIRD AFFIRMATIVE DEFENSE"**

14. Petitioner denies the Respondent's "Third Affirmative Defense" asserted in paragraph 10 of its Answer. The provision cited by Respondent, New York Public Officers Law § 87(2)(f),

states, "Each agency shall, in accordance with its published rules, make available for public inspection and copying all records, except that such agency may deny access to records or portions thereof that [ . . . ] if disclosed could endanger the life or safety of any person." Public Officers Law §89(4)(b) sheds an important light on what is necessary to meet the very narrow FOIL exceptions contained in § 87(2). It states, "In the event that access to any record is denied pursuant to the provisions of subdivision two of section eighty-seven of this article, the agency involved shall have the burden of proving that such record falls within the provisions of such subdivision two." The burden of proving that an exception to disclosure under FOIL applies rests entirely on the agency, in this case, the Respondent. The Respondent has made certain unsubstantiated claims asserting a danger to the life or safety of persons, but has done nothing more to meet its burden under FOIL. Furthermore, Ms. Stein's repeatedly-stated willingness, going back to November 2012, to accept responsive documents with property owners' names, physical addresses, telephone numbers, and email addresses redacted sufficiently addresses any possible concern Respondent may have about safeguarding the life and safety of persons. Whether full or redacted copies of the requested documents are at issue, the Respondent has failed to supply any substantial evidence to justify invoking the narrow exception to disclosure of public records under FOIL stated in § 87(2)(f).

**AS FOR AFFIDAVIT OF KATHRYN SUPRON SUBMITTED WITH RESPONDENT'S  
ANSWER**

15. Submitted concurrently with Respondent's Answer is an Affidavit made by Kathryn Supron. While this Affidavit consists largely of restatement of allegations offered in previous correspondence from Mayor Supron and Mr. Stevens, Petitioner is compelled to raise an objection to one new matter introduced for the first time in said Affidavit. In her Affidavit, Ms.

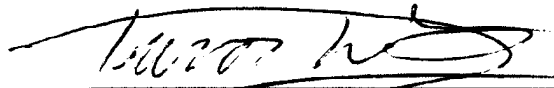
Supron has indicated her intent to carry out redaction of the permission forms personally. She states her intention to redact these documents herself "because of the seriousness of this task." (Affidavit of Kathryn Supron, paragraph 8). Petitioner must point out that any such arrangement is both inappropriate and irregular, given that Village Clerk and Deputy Clerk are the ordinary and official keepers of the Village's records. As professionals who are rightfully relied on to be unbiased in their carrying out of tasks that might otherwise be at risk of being influenced by the personal political interests of elected officials, municipal clerks help ensure transparency. Municipal clerks are trusted to carry out precisely the type of work of great "seriousness," referred to by Mayor Supron in her Affidavit, on a regular basis. Some are even entrusted with the task of overseeing elections. Hence, for the same reason it would be inappropriate for Mayor Supron to personally author meeting minutes or personally make entries in the Village's accounting system, it is inappropriate for her to personally redact permission forms whose contents she may plausibly have a strong personal political interest in suppressing.

16. Furthermore, it is not appropriate that decisions as to what material may be redacted be left to subjective interpretation, as both Mr. Stevens and Mayor Supron suggest in the Answer and accompanying Affidavit, respectively. Rather, redactions ordered by the Court, if any, should be precisely limited to property owners' names, addresses, telephone numbers and email addresses. If any party, and particularly one with a personal political interest such as Mayor Supron, is given sanction to apply subjective standards or vague specifications for redaction, the door is opened to arbitrary and wrongful suppression of agency information that the public has a right to access under FOIL, but which may be politically inconvenient for that party. It is the Petitioner's position that allowing the redaction of "other information which would identify or allow for the identification of the person submitting the form" (as proposed in paragraph 8 of



Respondent's Answer and paragraph 7 of the Affidavit of Kathryn Supron) allows redactions that are too vague and overbroad. The intent of the Freedom of Information Law is clear: "The people's right to know the process of governmental decision-making and to review the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality." Public Officers Law Article 6 § 84.

17. For the reasons stated in this Verified Reply and in Ms. Stein's previously filed Verified Petition, Ms. Stein respectfully asks this Court to grant the relief requested in said Verified Petition, including a judgment pursuant to C.P.L.R. §7806 and such other and further relief as the Court deems necessary, appropriate and equitable.



TREVOR J. DESANE  
Attorney for the Petitioner  
10 River Road Unit 15G  
New York, NY 10044  
(617) 230-8278

Dated: New York, NY  
March 14, 2013

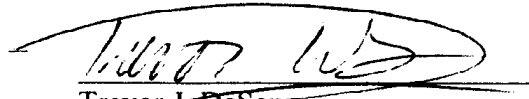
**VERIFICATION**

STATE OF NEW YORK     )  
                                  ) ss:  
COUNTY OF NEW YORK    )

I, TREVOR J. DESANE, an attorney admitted to practice in the courts of the State of New York,  
affirm the following to be true under penalty of perjury:

- 1) I am the attorney of record for Petitioner herein.
- 2) I have read the foregoing Reply and know the content thereof.
- 3) The same is true to my own knowledge, except as to matters therein stated to be  
alleged on information and belief, and as to those matters I believe it to be true.
- 4) Pursuant to New York Civil Practice Law and Rules § 3020(d)(3), this verification is  
made by me and not by the Petitioner because the Petitioner is in Tompkins County and not New  
York County, the county where I have my office.
- 5) The grounds of my belief as to all matters not stated upon my knowledge are as  
follows: review of pertinent records and documents of Respondent Village Board of Trustees of  
the Village of Cayuga Heights and pertinent records of the petitioners, discussions with  
petitioner, and correspondence sent to me by the attorney for the Respondent and/or his office  
staff.

Dated: New York, NY  
March 14, 2013

  
Trevor J. DeSane

# **Exhibit A**

LAW OFFICES OF  
WILLIAMSON, CLUNE & STEVENS

317 NORTH TIOGA STREET  
POST OFFICE BOX 126  
ITHACA, NEW YORK 14851-0126

TELEPHONE (607) 273-3339

ROBERT I. WILLIAMSON  
ROBERT J. CLUNE  
JOHN ALDEN STEVENS  
JOHN H. HANRAHAN, 3d  
JOHN S. MCCAFFREY  
PAUL D. SWEENEY  
ALLAN C. VAN DE MARK

FREDERICK B. BRYANT  
COUNSEL  
(607) 273-3339

February 25, 2013

Trevor J. DeSane, Esq.  
10 River Road, Unit 15G  
New York, New York 10044

Re: Freedom of Information Request of Jenny Stein

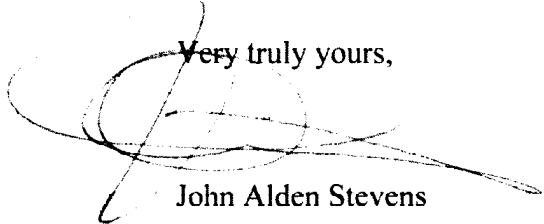
Dear Mr. DeSane:

We have been retained to represent the Village of Cayuga Heights in Stein v. Village Board of Trustees of the Village of Cayuga Heights.

In an effort to resolve this issue, we will provide Ms. Stein with redacted copies of the Landowner Consent Agreement. Because of previous death threats, threats of physical harm made to village officials, and proponents of the deer remediation, we will redact the names, addresses, property locations, or any other parts or details of the said agreement that might identify the landowner or person responding from the Landowner Consent Agreement. Additionally, such unredacted disclosure would constitute an unwarranted invasion of personal privacy.

Please let me know if this satisfactory by March 4, 2013.

Very truly yours,



John Alden Stevens

JAS:jec

# **Exhibit B**



## Stein v. Village Board of Trustees Index # 2013-0151

Trevor tjdlaw <tjdlaw@gmail.com>

Mon, Mar 4, 2013 at 10:55 PM

To: jas@wclaw.net

Dear Mr. Stevens

I am in receipt of your letter dated February 25, 2013. Please see the attached letter for my response. Thank you.

Sincerely,  
Trevor DeSane, Esq.



**Letter 03.04.13 - Stein v. Village Board of Trustees.pdf**

61K

Trevor J. DeSane, Esq.  
10 River Road Unit #15G  
New York, NY 10044

March 4, 2013

John Alden Stevens, Esq.  
Law Offices of Williamson, Clune & Stevens  
317 North Tioga Street  
Ithaca, NY 14851-3339

Re: Stein v. Village Board of Trustees of the Village of Cayuga Heights -  
Index # 2013-0151 Respondent's Settlement Offer

Dear Mr. Stevens:

I am in receipt of your letter dated February 25, 2013, which arrived at my office over the weekend.

As was indicated in Ms. Stein's Verified Petition and her November 16, 2012 response to Respondent Board of Trustees' denial of her FOIL appeal, she is willing to accept original copies, or copies containing certain specified redactions, of the records requested in her original August 24, 2012 FOIL request. The original request was for:

From January 1, 2011 to the present, all communications/correspondence/ memos/emails (including all notes regarding conversations in person or by phone or by video chat) between Village officials/Village appointees/Village employees and any village residents and/or property owners related to the topics of:

- a) Actual or potential sites within and/or around Cayuga Heights for activities related to deer management; and
- b) Permission forms/release forms related to deer management activities, including documents that have been completed and/or signed and submitted by individual residents and property owners."

Whereas the original request included but was not limited to Landowner Consent Agreements, any records produced in response to this request shall include but shall not be limited to Landowner Consent Agreements. Any records that are responsive to the original request shall be provided.

Furthermore, Ms. Stein will accept copies of all documents responsive to this request, including, per the offer in your letter, redacted copies of all Landowner Consent Agreements and other correspondence that grants landowner or resident permission for the use of property in connection with deer management activities. Acceptable redactions will be strictly limited to:

1. The names, physical addresses, email addresses or telephone numbers of residents or landowners on Consent Agreements submitted by said residents or landowners; and

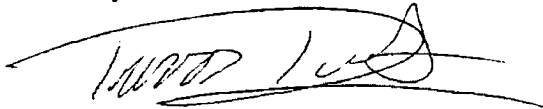
2. The names, physical addresses, email addresses or telephone numbers of residents or landowners on any other correspondence that specifically includes landowner/resident permission for the use of property.

Ms. Stein does not consent to redactions of any other portions of the responsive documents.

Ms. Stein's willingness to accept such redacted copies reflects her effort to resolve this matter as expeditiously as possible. Her acceptance of redacted copies in no way indicates her acceptance of Respondent's interpretation of the Freedom of information Law or Respondent's unsubstantiated claims of potential endangerment to the life or safety of persons.

Please let me know if these conditions of settlement are satisfactory and if the Respondent is willing to provide the requested documents by the close of business on Friday March 8, 2013. If so, I will draft a stipulation of settlement for your consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "Trevor DeSane", with a long horizontal flourish extending to the right.

Trevor DeSane, Esq.



# **Exhibit C**

LAW OFFICES OF  
WILLIAMSON, CLUNE & STEVENS

317 NORTH TIOGA STREET  
POST OFFICE BOX 126  
ITHACA, NEW YORK 14851-0126

TELEPHONE (607) 273-3339

ROBERT I. WILLIAMSON  
ROBERT J. CLUNE  
JOHN ALDEN STEVENS  
JOHN H. HANRAHAN, 3d  
JOHN S. MCCAFFREY  
PAUL D. SWEENEY  
ALLAN C. VAN DE MARK

FREDERICK B. BRYANT  
COUNSEL  
(1911-1991)

March 11, 2013

VIA EMAIL and REGULAR MAIL  
tjdlaw@gmail.com

Trevor J. DeSane, Esq.  
10 River Road, Unit #15G  
New York, New York 10044

Re: Stein v. Village Board of Trustees of the Village of Cayuga Heights  
Index No.: 2013-0515

Dear Mr. DeSane:

The Village of Cayuga Heights agrees to provide the Landowner Consent Agreements or any other correspondence with the names, physical addresses, email addresses and/or telephone numbers redacted.

This will take some time to perform the redaction. I suggest that we contact the clerk/court to adjourn this motion to the next available special term of May 10, 2013.

Please let me know.

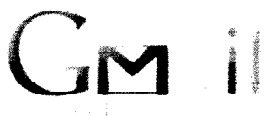
Very truly yours,



John Alden Stevens

JAS:jec

# **Exhibit D**



## Stein v. Village Board of Trustees of the Village of Cayuga Heights - From John Stevens

Trevor tjdlaw <tjdlaw@gmail.com>  
To: jas@wcslaw.net

Tue, Mar 12, 2013 at 1:22 PM

Dear Mr. Stevens:

I am in receipt of your letter dated March 11, 2013. Please see the attached for my response. Thank you.

Sincerely,  
Trevor J. DeSane, Esq.

----- Forwarded message -----

From: **Jamie E. Corbett** <jec@wcslaw.net>

Date: Mon, Mar 11, 2013 at 1:56 PM

Subject: Stein v. Village Board of Trustees of the Village of Cayuga Heights - From John Stevens

To: tjdlaw@gmail.com

Mr. DeSane,

Please see attached from John Stevens.

Thank you,  
Jamie

Please note new email address: jec@wcslaw.net

\*\*\*\*\*

Jamie E. Corbett, Paralegal  
WILLIAMSON, CLUNE & STEVENS  
317 North Tioga Street  
Ithaca, New York 14850  
Telephone: (607) 273-3339

### 2 attachments



**Correspondence - Stein v. Board of Trustees 03.12.13.pdf**  
52K



**Stipulation and Order - Stein v. Board of Trustees 03.12.13.pdf**  
71K

Trevor J. DeSane, Esq.  
10 River Road Unit #15G  
New York, NY 10044

March 12, 2013

VIA EMAIL (jas@wclaw.net)

John Alden Stevens, Esq.  
Law Offices of Williamson, Clune & Stevens  
317 North Tioga Street  
Ithaca, NY 14851-3339

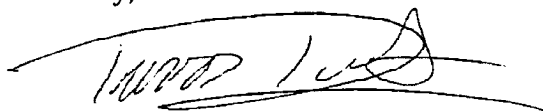
Re: Stein v. Village Board of Trustees of the Village of Cayuga Heights –  
Index # 2013-0151 Respondent's Settlement Offer

Dear Mr. Stevens:

I am in receipt of your e-mail sent March 11, 2013 stating the Respondent's willingness to provide Landowner Consent Agreements and all other documents responsive to Ms. Stein's FOIL request with the names, physical addresses, email addresses, and/or telephone numbers redacted.

I have attached herewith a Stipulation and Order Discontinuing the proceeding, which reflects the parties' mutual willingness to settle on the above terms, for your review. Please let me know if this is satisfactory.

Sincerely,

A handwritten signature in black ink, appearing to read "Trevor J. DeSane", with a long horizontal flourish extending to the right.

Trevor J. DeSane, Esq.

# **Exhibit E**

**WHEREAS**, Respondent denied Ms. Stein's FOIL request on September 21, 2012 and denied her FOIL appeal on October 31, 2012 and denied her request for redacted copies of

documents responsive to her original FOIL request on November 26, 2012; and

**WHEREAS**, Petitioner Jenny Stein commenced the instant proceeding under Article 78 of the Civil Practice Law and Rules on February 11, 2013 seeking judicial review of the Respondent's determination of her FOIL appeal; and

**WHEREAS**, no party to this proceeding is an infant, incompetent person for whom a committee has been appointed or conservatee, and no person not a party has an interest in the subject matter of the proceeding; and

**WHEREAS**, the parties wish to settle this matter without further litigation, and, for that purpose, hereby stipulate and agree to the following terms and conditions:

1. Respondent shall provide Petitioner with copies of all documents responsive to her original FOIL request, as enumerated in the first "Whereas clause" above. The documents produced by Respondent shall include but shall not be limited to all Landowner Consent Agreements and other correspondence that grants landowner or resident permission for the use of property in connection with deer management activities.

2. Respondent may redact certain identifying information from the documents produced.

Acceptable redactions will be strictly limited to:

- (i) The names, physical addresses, email addresses or telephone numbers of residents or landowners on Consent Agreements submitted by said residents or landowners; and
- (ii) The names, physical addresses, email addresses or telephone numbers of residents or landowners on any other correspondence that specifically includes landowner/resident permission for the use of property.

No other portions of responsive documents shall be redacted.

3. Respondent shall provide Ms. Stein with all documents produced pursuant to this Agreement no later than Thursday, March 21, 2013 at 5:00 pm.



4. Ms. Stein, as well as her heirs, executors, administrators, trustees, transferees, assigns and successors, shall have the right to commence an action or proceeding in State Supreme Court, County of Tompkins, to enforce the provisions of this Agreement, including injunctive and/or declaratory relief. In the event that such an action or proceeding is commenced, Ms. Stein shall have the right to recover attorney fees and the costs of the proceeding.
5. Following the execution of this Stipulation by the undersigned attorneys of record for all the parties, this document shall be submitted to the assigned Justice, the Hon. Robert C. Mulvey, J.S.C., for his review, and, by such submission, the parties shall request that this Stipulation be "So Ordered".
6. Once this Stipulation is "So Ordered", Respondent Village Board of Trustees of the Village of Cayuga Heights, pursuant to CPLR 3217(d), shall promptly take the appropriate steps to file the fully executed Stipulation & Order Discontinuing Art. 78 Proceeding with the Tompkins County Clerk, and shall immediately provide Petitioner's counsel with a copy of said document indicating the date of filing.

---

TREVOR J. DESANE, ESQ  
Attorney for Petitioner  
10 River Road Unit 15G  
New York, NY 10044  
(617) 230-8278  
tjd38@cornell.edu  
Dated: March 12, 2013

---

JOHN ALDEN STEVENS, ESQ  
Attorney for Respondent  
Law Offices of Williamson Clune & Stevens  
317 North Tioga Street  
Ithaca, NY 14851-3339  
(607) 273-3339  
jas@weslaw.net  
Dated: March \_\_\_\_, 2013

SO ORDERED:

---

HON. ROBERT C. MULVEY, JSC

Dated: March \_\_\_\_, 2013  
Ithaca, New York

# **Exhibit F**



## Stein v. Village Board of Trustees of the Village of Cayuga Heights - From John Stevens

---

**John Stevens** <jas@wcslaw.net>  
To: Trevor tjdlaw <tjdlaw@gmail.com>

Tue, Mar 12, 2013 at 3:44 PM

Dear Mr. DeSane, We will need until April 15, 2013 to make these redactions. They need to be done by hand.  
JAS

**From:** Trevor tjdlaw [mailto:tjdlaw@gmail.com]  
**Sent:** Tuesday, March 12, 2013 1:22 PM  
**To:** jas@wcslaw.net  
**Subject:** Fwd: Stein v. Village Board of Trustees of the Village of Cayuga Heights - From John Stevens

Dear Mr. Stevens:

I am in receipt of your letter dated March 11, 2013. Please see the attached for my response. Thank you.

Sincerely,

Trevor J. DeSane, Esq.

----- Forwarded message -----

**From:** Jamie E. Corbett <jec@wcslaw.net>  
**Date:** Mon, Mar 11, 2013 at 1:56 PM  
**Subject:** Stein v. Village Board of Trustees of the Village of Cayuga Heights - From John Stevens  
**To:** tjdlaw@gmail.com

Mr. DeSane,

Please see attached from John Stevens.

Thank you,  
Jamie

Please note new email address: jec@wcslaw.net  
\*\*\*\*\*

Jamie E. Corbett, Paralegal  
WILLIAMSON, CLUNE & STEVENS  
317 North Tioga Street  
Ithaca, New York 14850  
Telephone: (607) 273-3339

# **Exhibit G**

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**Subject:** FOIL Request of January 19, 2010 - Ready for Pick-Up  
**Date:** Monday, January 25, 2010 4:30:01 PM Eastern Standard Time  
**From:** Norma Manning  
**To:** CayugaDeer.org  
**CC:** Randall Marcus, jaldens@yahoo.com

January 25, 2010

Ms. Jenny Stein  
CayugaDeer.org  
P.O. Box 373  
Ithaca, NY 14851

Dear Jenny,

Pursuant to your Freedom of Information request of January 19, 2010, I offer the following information:

*Item #1 – All records and documents used to derive statistics for deer-vehicle “accidents” and deer-related “incidents” in the Village of Cayuga Heights for the years 2007, 2008 and 2009.*

This information is attached (129 pages).

*Item #2 – “Any documents related to the standards used by the Cayuga heights Police Department to define “accidents” and “incidents” as well as the methods used to collect and compile this information from 2007-2009.”*

As I responded in my correspondence to you of January 20, 2010, there are no documents.

*Item #2 – “Any documents from 2007-2009 pertaining to changes in the standards and definitions used as well as changes to the methods used to collect and compile this information, including correspondence to and from third parties including but not limited to insurance companies.”*

There is one piece of information that comes under that heading.

The total number of copies is 130 at .25/copy. Please bring cash or a check in the amount of \$32.50 for this FOIL request. You can pick the packet up tomorrow morning after the SEQOR meeting.

Sincerely,

Norma R. Manning  
Records Management Officer

## POLICE ACCIDENT REPORT

MV-104A (3/04)

Local Codes
09-2451
SGC125000038

☐ AMENDED REPORT

Accident Date	Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene <input type="checkbox"/>	Left Scene <input type="checkbox"/>	Police Photos <input type="checkbox"/>
Month 12 Day 23 Year 2009	Wednesday	17:54	1	0	0	Accident Reconstructed <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

VEHICLE 1	<input type="checkbox"/> VEHICLE <input type="checkbox"/> BICYCLIST <input type="checkbox"/> PEDESTRIAN <input type="checkbox"/> OTHER P
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VEHICLE 1 - Driver License ID Number	State of Lic. NY	VEHICLE 2 - Driver License ID Number	State of Lic.
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Driver Name - exactly as printed on license	Address (Include Number and Street)	Apt. No.	City or Town	State	Zip Code
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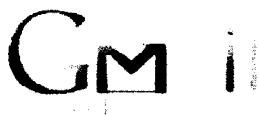
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# **Exhibit H**



## Stein v. Village Board of Trustees of the Village of Cayuga Heights - From John Stevens

John Stevens <jas@wcslaw.net>  
To: Trevor tjdlaw <tjdlaw@gmail.com>

Wed, Mar 13, 2013 at 8:47 AM

Dear Mr. DeSane, After further review, we cannot agree to the terms of the agreement you sent us. JAS

**From:** Trevor tjdlaw [mailto:tjdlaw@gmail.com]  
**Sent:** Tuesday, March 12, 2013 1:22 PM  
**To:** jas@wcslaw.net  
**Subject:** Fwd: Stein v. Village Board of Trustees of the Village of Cayuga Heights - From John Stevens

Dear Mr. Stevens:

I am in receipt of your letter dated March 11, 2013. Please see the attached for my response. Thank you.

Sincerely,

Trevor J. DeSane, Esq.

----- Forwarded message -----

**From:** Jamie E. Corbett <jec@wcslaw.net>  
**Date:** Mon, Mar 11, 2013 at 1:56 PM  
**Subject:** Stein v. Village Board of Trustees of the Village of Cayuga Heights - From John Stevens  
**To:** tjdlaw@gmail.com

Mr. DeSane,

Please see attached from John Stevens.

Thank you,  
Jamie

Please note new email address: jec@wcslaw.net  
\*\*\*\*\*

Jamie E. Corbett, Paralegal  
WILLIAMSON, CLUNE & STEVENS  
317 North Tioga Street  
Ithaca, New York 14850  
Telephone: (607) 273-3339



# **Exhibit I**



## Stein v. Village Board of Trustees of the Village of Cayuga Heights - From John Stevens

Trevor tjdlaw <tjdlaw@gmail.com>  
To: John Stevens <jas@wclaw.net>

Wed, Mar 13, 2013 at 2:05 PM

Dear Mr. Stevens:

I am in receipt of your emails sent March 12, 2013 and this morning. Please see the attached letter for my reply.

Sincerely,  
Trevor J. DeSane, Esq.

On Wed, Mar 13, 2013 at 8:47 AM, John Stevens <jas@wclaw.net> wrote:

Dear Mr. DeSane, After further review, we cannot agree to the terms of the agreement you sent us. JAS

**From:** Trevor tjdlaw [mailto:tjdlaw@gmail.com]

**Sent:** Tuesday, March 12, 2013 1:22 PM

**To:** jas@wclaw.net

**Subject:** Fwd: Stein v. Village Board of Trustees of the Village of Cayuga Heights - From John Stevens

Dear Mr. Stevens:

I am in receipt of your letter dated March 11, 2013. Please see the attached for my response. Thank you.

Sincerely,

Trevor J. DeSane, Esq.

----- Forwarded message -----

**From:** Jamie E. Corbett <jec@wclaw.net>

**Date:** Mon, Mar 11, 2013 at 1:56 PM

**Subject:** Stein v. Village Board of Trustees of the Village of Cayuga Heights - From John Stevens

**To:** tjdlaw@gmail.com

Mr. DeSane,

Please see attached from John Stevens.

Thank you,  
Jamie

Please note new email address: jec@wclaw.net

\*\*\*\*\*

Jamie E. Corbett, Paralegal  
WILLIAMSON, CLUNE & STEVENS  
317 North Tioga Street  
Ithaca, New York 14850  
Telephone: (607) 273-3339



**Correspondence -- Stein v. Board of Trustees 03.13.13.pdf**

51K

Trevor J. DeSane, Esq.  
10 River Road Unit #15G  
New York, NY 10044

March 13, 2013

VIA EMAIL ([jas@wcslaw.net](mailto:jas@wcslaw.net))

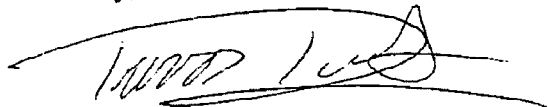
John Alden Stevens, Esq.  
Law Offices of Williamson, Clune & Stevens  
317 North Tioga Street  
Ithaca, NY 14851-3339

Re: Stein v. Village Board of Trustees of the Village of Cayuga Heights –  
Index # 2013-0151 Respondent's Settlement Offer

Dear Mr. Stevens:

I am in receipt of your email message sent March 12, 2013, in which you stated that the Respondent will need until April 15, 2013 to make redactions and your subsequent email, sent this morning, in which you stated that the Respondent cannot agree to the terms of the proposed Stipulation. I await further clarification of the terms of settlement your client is willing to accept.

Sincerely,

A handwritten signature in black ink, appearing to read 'Trevor J. DeSane', with a long horizontal flourish extending to the right.

Trevor J. DeSane, Esq.