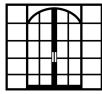


**Miami, Oklahoma**  
**HWY09MH015**

**Request to Withhold Information and Close Board Meeting**  
**Submitted September 27, 2010**

(Number of pages including this cover sheet – 3)



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September 27, 2010

**Sent Via E-Mail/U.S. First Class Mail**

Mr. Gary L. Halbert  
General Counsel  
National Transportation Safety Board  
490 L'Enfant Plaza East, S.W.  
Washington, DC 20594

Re: NTSB Accident No.: HWY09MH015  
Request to Withhold Information and Close Board Meeting

Dear Mr. Halbert:

Pursuant to 49 C.F.R. § 831.6 and 5 U.S.C. 552b(d)(2), I write to request that any information, report or discussion related to the medical history of my client, Donald Creed, be withheld from the public hearing scheduled for tomorrow, September 28, 2010. As you know, earlier today, Judge Kennedy of the District Court for the District of Columbia held that Mr. Creed's medical information was a personal record subject to Exemption 6 of the Freedom of Information Act ("FOIA"), and directed your agency to remove certain documents related to Mr. Creed's medical information from the agency's web site.

In addition to the protection afforded by the Federal Courts, Mr. Creed also makes his written objection to the public disclosure of any of his personal medical records at the public hearing scheduled for tomorrow pursuant to 49 C.F.R. § 831.6(b). He also requests, pursuant to 5 U.S.C. 552b(d)(2) that that portion of tomorrow's meeting involving a discussion of his medical history be closed from the public view. This would include any testimony offered by Dr.

Garber, who has apparently analyzed and reviewed my client's medical information.

Similar to FOIA, the Government in the Sunshine Act provides for protection of "information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy." See 5 U.S.C. § 552b(c)(6). As Judge Kennedy has already ruled that Mr. Creed's medical records and "similar files" are of a personal nature immune from public disclosure, it would appear appropriate in this case for the Board to close that portion of tomorrow's hearing involving a discussion of Mr. Creed's medical records by Dr. Garber or any other witness or Board member.

If you have any questions or would like to discuss this request, please do not hesitate to contact my partner Kim Mann from our DC Office or myself. I look forward to your agency's response to this request as soon as possible.

Very truly yours,

/s/ Timothy W. Wiseman

Timothy W. Wiseman

TWW/kkc

cc: The Honorable Deborah A.P. Hersman  
William Love  
Mark Nebeker  
Kim Mann  
Donald Creed