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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

FORUM ON OPEN ACCESS TO GOVERNMENT RECORDS INC.,	§	
Plaintiff,	§	
v.	§	Civil Action No.: 3:25-CV-2034-B
DALLAS COUNTY HISTORICAL FOUNDATION, d/b/a THE SIXTH FLOOR MUSEUM AT DEALEY PLAZA; NATIONAL ARCHIVES AND RECORDS ADMINISTRATION; and BRADFORD P. WILSON, in his official capacity as Archivist of the United States,	§	
Defendants.	§	

PLAINTIFF'S SUPPLEMENTAL COMPLAINT

Plaintiff Forum on Open Access to Government Records, Inc. (the "Forum"), by leave of Court under Federal Rule of Civil Procedure 15(d), files this Supplemental Complaint. Each matter it adds occurred after the First Amended Complaint was filed on August 19, 2026, and most of it after Defendant Dallas County Historical Foundation (the "Museum") filed its second motion to dismiss on October 5, 2026. The Forum gave notice of its intention to seek leave in the parties' Joint Status Report. This pleading supplements, and does not supersede, the First Amended Complaint (Doc. 37), which the Forum incorporates by reference in its entirety. The

First Amended Complaint ends at paragraph 209; the paragraphs below continue the sequence, beginning at paragraph 210.

NATURE OF THE SUPPLEMENT

210. After the First Amended Complaint was filed, the Museum placed two instruments concerning the Zapruder film on the docket: a Non-Exclusive Copyright License Agreement (the "License"), which the Archivist of the United States executed on behalf of Defendant National Archives and Records Administration ("NARA"), and a Covenant Not to Sue (the "Covenant"), which the Museum executed. Through these instruments, the Museum continues to assert—and NARA has now adopted as the basis for its own action—a claim of copyright in frames of the Zapruder film that were published to the public decades before the President John F. Kennedy Assassination Records Collection Act of 1992 (the "JFK Act") was enacted. In doing so NARA, a party to this action, has resolved in the Museum's favor the very questions of ownership, validity, and scope that this Court is asked to decide, although no statute gives NARA authority to decide them. By the License, NARA agreed to furnish the public only "non-commercial grade" research copies of an assassination record, to post the Museum's copyright notice on its own Electronic FOIA Reading Room, and to refrain from using the film "in a manner which is sensational"; and NARA's Catalog now designates its principal archived copies of the film—including the camera original the United States acquired by taking in 1998 and the Forensic Version made from it—"Fully Restricted" on the ground of that asserted copyright. The JFK Act forbids exactly this. No assassination record disclosed to the public before the Act may be withheld or postponed, JFK Act § 5(a)(3); every assassination record must be available to the public for inspection and copying, § 4(b); and those commands take precedence over any other law that would otherwise prohibit disclosure, § 11(a). NARA's own regulations treat a third party's copyright as a matter between the researcher and the copyright owner, not as a ground for restricting its holdings, and the Department of Justice advised

NARA's General Counsel in 1995 that the Act compels NARA to make copyrighted assassination records available for copying whether or not doing so would violate the Copyright Act. The Covenant, for its part, is confined to the Forum's activities as they existed on August 1, 2026—an effective date the Museum assigned to it two months before signing it—and a single research copy; it leaves the Museum's claim standing against the Forum's FOIA requests for anything beyond a single research copy, and against the Forum's publication and advertising of the frames it seeks. The instruments therefore do not resolve this case. They carry the private copyright claim already in suit into the conduct of a federal agency, and they supply the final agency action that the causes of action below challenge.

211. NARA needed no license to perform its statutory duties: to make the Zapruder materials in its holdings available to the public for inspection and copying, JFK Act § 4(b), and to post frequently requested records online, 5 U.S.C. § 552(a)(2)(D). Even if the Museum's copyright in the published frames were valid, 28 U.S.C. § 1498(b) confines the Museum to an action against the United States in the Court of Federal Claims for reasonable compensation; the Museum could not enjoin NARA's reproduction or distribution of the film, and NARA could not lawfully accept a private party's conditions on public access in exchange for relief from a liability Congress had already limited to compensation. The instrument NARA accepted, moreover, bears no signature for the Museum in the copy filed with the Court, and the interest it recites—a renewal registration and a recordation—does not reach the registrations in which the published frames subsist. The unlawfulness lies not in the instrument but in the undertaking: an agency may not, by agreement with a private party, bind itself to furnish the public less than a statute commands. The Forum's claims therefore do not depend on the defects in the instrument. The Forum pleads the License as filed; should the Museum execute, re-execute, or amend it, the claims below apply equally to the instrument in its executed or amended form, because they challenge NARA's acceptance of any private condition on public access to an assassination

record, not the formalities of this one. This Supplemental Complaint accordingly adds: a cause of action against NARA under the Administrative Procedure Act and the JFK Act, to set aside the License and the "Fully Restricted" determination and to compel NARA to make the best available copy of the film available to the public for copying; a cause of action against the Archivist of the United States, in his official capacity, under the First Amendment, because the restriction and the License's notice restrain the publication of public-domain frames and the License conditions use of the film on whether the violence it depicts is "punctuate[d] or emphasize[d]"; an alternative cause of action against the Archivist for non-statutory review of action taken in excess of statutory authority; supplemental allegations in support of the Forum's existing FOIA claim, including the Forum's requests for NARA's highest-resolution reproductions of the film and for their posting in NARA's electronic reading room; and supplemental allegations in support of the Forum's existing copyright causes of action.

SUPPLEMENTAL PARTY

212. Defendant Bradford P. Wilson is the Archivist of the United States and is sued in his official capacity. The Archivist executed the License on October 1, 2026 and is the officer responsible for NARA's determinations concerning public access to the archived copies of the film. His successor in office is automatically substituted under Federal Rule of Civil Procedure 25(d).

JURISDICTION AND VENUE (SUPPLEMENTAL)

213. The Court has subject-matter jurisdiction under 28 U.S.C. § 1331. The JFK Act preserves judicial review of NARA's actions under chapter 7 of title 5, United States Code. JFK Act § 11(c). The United States has waived sovereign immunity for the Forum's claims seeking relief other than money damages against a federal agency or officer. 5 U.S.C. § 702. The Court has already determined that it has subject-matter jurisdiction over the Forum's claims and denied NARA's motion to dismiss in full. Doc. 32 at 13–21, 37–41.

214. Venue remains proper as alleged in the First Amended Complaint. 28 U.S.C. § 1391(e).

SUPPLEMENTAL FACTUAL ALLEGATIONS

A. The instruments executed after the First Amended Complaint

215. On October 1, 2026, the Archivist of the United States executed the License.

216. On October 2, 2026, the Museum signed the Covenant. The copy of the License filed with the Court bears no signature for the Museum. Although the License is framed as an agreement "by and between" the Museum and NARA—in which the Museum, in § 1, "warrants that it is the registered claimant of the copyright in the Zapruder Film" and purports to grant NARA a license—the License bears the signature of the Archivist of the United States alone, dated October 1, 2026. The signature line designated for the Museum is blank; only a date, "10.02.2026," was entered in the Museum's signature block. The Museum signed the Covenant on that same date. Whether or not the Museum has executed or later executes, re-executes, or amends the License, NARA has acted on it, and the allegations below are directed to the License as filed and to any executed or amended version of it.

217. On October 5, 2026, the Museum filed the License and the Covenant on the docket as Exhibits B and A, respectively, to the appendix supporting its second motion to dismiss. Doc. 49 at App. 4–12. NARA filed its Answer to the First Amended Complaint the same day. Doc. 46.

218. The License recites that the Museum "owns the copyright to a film authored by Abraham Zapruder on November 22, 1963 having RE 696-871, and being registered as U.S. Copyright Registration Number V3447D594." License, Recitals. V3447D594 is not a copyright registration number; it is the number the Copyright Office assigned to the recordation, on February 2, 2000, of the instrument by which the Zapruder heirs and certain trusts purported to convey an interest to the Museum. The License further recites that NARA "honors the Museum's

copyright to the film in responding to access requests, pursuant to the Copyright Act and NARA's regulations." License, Recitals.

219. Under § 3 of the License, the Museum purports to grant NARA a "limited, non-exclusive license" to "publicly display and allow members of the public to access, view and obtain a digital non-commercial grade copy of any original or duplicate Zapruder Film that is within NARA's possession via NARA's website for research purposes only," conditioned on NARA's display of the notice prescribed in § 4. The License notes that NARA "also refers to such copies as 'reference copies.'" License § 3 & n.1. Section 3 defines the "Zapruder Film" to include "the original film itself, and any and all copies thereof in NARA's holdings, including any and all partial copies, still frames, reproductions interfiled in NARA textual records collections." By its terms, that definition reaches every reproduction of a frame anywhere in NARA's holdings, including frames in the records of other federal agencies. Section 4 requires NARA to place the notice "on any NARA webpage linking to the entire Zapruder Film, including NARA's Electronic FOIA Reading Room." The prescribed notice states that the user is "responsible for complying with all restrictions related to the copying and use of the Zapruder Film, per 36 C.F.R. § 1254.62 and the Copyright Act," including "responsibility for obtaining any necessary permission for use, further duplication, and publication of the Zapruder Film, in whole or in part, from the Museum," and that "[r]esearchers may request a license to reproduce the film or use it for purposes other than scholarly research through the Museum's website." License § 4.

220. Section 5 of the License, titled "Special Conditions," provides that the license "is expressly conditioned upon, and NARA hereby agrees, that NARA on behalf of itself will not, and will not take an affirmative act to encourage others to: (i) use the Zapruder Film in a manner which is sensational; or (ii) other than for historic or scientific inquiry, illustration, or study, punctuate or emphasize the episodes of violence contained in the Zapruder Film, particularly

those parts of the Zapruder Film that depict and follow: the depiction of a bullet striking President John F. Kennedy." Section 6 provides that "[a]ll rights, title, and interest in and to the copyright in the Zapruder Film are expressly retained by the Museum," and that "NARA does not waive any rights or defenses available to Libraries or Archives under the Copyright Act." Section 7 provides that NARA "shall not use or purport to authorize others to use the Zapruder Film, in whole or in part, for advertising, promotion, publicity, or merchandising or any other purpose not expressly provided for in this Agreement." Section 11 provides that "[i]n the event of a material breach of this Agreement by NARA, the License granted herein shall automatically terminate."

221. The Covenant is made by the Museum "for the benefit of" the Forum. In it, the Museum "unconditionally and irrevocably covenant[s] to refrain from" asserting any claim for infringement of its copyrights in the film "relating to the Book and the Websites as they currently exist and any other existing activities of the Forum mentioned in the Amended Complaint" and "any colorable imitations thereof." The Covenant states that the Museum's copyrights "shall remain valid and enforceable against any person or entity not covered by this Covenant." The Museum also "withdraws any objection" to a request by the Forum "to obtain from NARA a single copy of the Zapruder Film … pursuant to the procedures established by NARA solely for the purpose of research and commentary." Although the Museum signed the Covenant on October 2, 2026, the Covenant states that it "is effective as of August 1, 2026," and it defines "the Book" to include only the editions, printings, and formats of the Forum's book "in existence as of the Effective Date." By its terms, therefore, the Covenant is limited to the Forum's activities as they existed on August 1, 2026, and to a single research copy. It does not extend to the articles the Forum has published on its websites since that date; to the Forum's book *Zapruder Frame-Up: Lies Told About the Zapruder Film to Frame Oswald — And How the Sixth Floor Museum and the National Archives Continue the Coverup*, which the Forum published and

offered for sale on October 23, 2026, and every frame of which was published before May 15, 1967; to the Forum's documentary motion picture *The Other Zapruder Film*, which the Forum intends to release for sale to the public on January 14, 2027; to the Forum's podcast, *Intersprocket*; to the Forum's advertising of its publications using frames of the film or its planned merchandise bearing those frames; to reproduction for publication; or to any person other than the Forum. None of those publications was in existence on August 1, 2026, and none is mentioned in the First Amended Complaint. See Doc. 60 at App. 70–74 (Declaration of Andrew Boehm ¶¶ 8–14). The First Amended Complaint also alleges the Forum's intention to publish the first-generation copies it seeks (Doc. 37 ¶ 205); that publication, too, lies outside the Covenant.

222. NARA's National Archives Catalog marks the archived copies of the Zapruder film "Use: Fully Restricted" and states that "the reproduction rights to this film are held by the Sixth Floor Museum at Dealey Plaza in Dallas, Texas." For the Secret Service duplicate of the film (National Archives Identifier 13251, Local Identifier 87.38), the Catalog states that use of the materials is restricted "for the following reason: • Copyright," and names the Museum as the holder of the reproduction rights in that record of the United States Secret Service. Doc. 60 at App. 25–27. The Catalog lists for that same record the identifiers by which assassination records are designated: "Agency File Number: 200.00" and "Record Number: 154-10003-10087." By contrast, the Catalog marks the Federal Bureau of Investigation's holdings of the same film differently. For the item titled "Copies of Abraham Zapruder Film" (National Archives Identifier 6920766, Local Identifier 65-JFK-19), catalogued in Record Group 65 (Records of the Federal Bureau of Investigation) and described as a film of which "[t]he first part . . . is a full copy of the Zapruder film; the second part is a partial copy," the Catalog states "Access: Unrestricted," marks the use of the film "Possibly Restricted," and states only that "[s]ome of this material may be restricted by copyright or other intellectual property rights restrictions." For that record the

Catalog states no reason for the restriction and names no holder of rights. NARA thus holds a full copy of the same film under a materially less restrictive designation, and requires no permission of the Museum for it. The same series includes the item titled "Charles Bronson / Marie Muchmore / Abraham Zapruder / Orville Nix Films: Citizen Robert J. W. Hughes Copy" (National Archives Identifier 6920784, Local Identifier 65-JFK-26), a silent film the Catalog describes as containing "footage of the presidential motorcade, street scenes, and the exterior of the Dallas Book Depository." For that record as well the Catalog states "Access: Unrestricted," marks the use "Possibly Restricted," states no reason for the restriction, and names no holder of rights. That series also includes the item titled "Reenactment Shot Through [Abraham] Zapruder Camera" (National Archives Identifier 6920757, Local Identifier 65-JFK-14), a silent film produced on May 24, 1964, which the Catalog marks "Possibly Restricted" and for which it gives the reason "Copyright." That film is not the Zapruder film. On information and belief it was made by officers or employees of the Federal Bureau of Investigation as part of their official duties during the Bureau's investigation of the assassination. "A 'work of the United States Government' is a work prepared by an officer or employee of the United States Government as part of that person's official duties." 17 U.S.C. § 101. "Copyright protection under this title is not available for any work of the United States Government." 17 U.S.C. § 105(a). No copyright asserted in the Zapruder film reaches it, and the camera through which it was exposed confers no authorship on the camera's owner. In each of these records of the Bureau, NARA marked the item "Possibly Restricted" rather than "Fully Restricted," named no holder of rights, and required no party's permission—while marking the Restricted Copies "Fully Restricted," naming the Museum, and requiring the Museum's written permission. The designation of the Museum is thus NARA's own determination, made record by record. As of the date of this pleading, the Catalog marks each of these holdings "Not Yet Available Online." The archived copies so marked include NARA's own reproductions of the film—the "Forensic Version" (National

Archives Identifier 1024554, Local Identifier 541-MISC-1) and the "De-scratched Version" (National Archives Identifier 1029673, Local Identifier 541-MISC-1A)—reproductions made in federal custody, catalogued in Record Group 541 (Records of the Assassination Records Review Board), and not donated records. The Catalog describes the Forensic Version as including "the original 8mm and straight optical blow-ups from 8mm to 35mm, with no attempt at image improvements," made to show "the full 8mm width of the original film strand," the image information "in the interperforated area," and "all edge code information printed on the original film"—that is, NARA's most complete and faithful reproduction of the film. For each of the Forensic Version and the De-scratched Version, the Catalog lists among the archived copies two copies whose designated status is "Reproduction," which the Catalog defines as "[u]sed to create exact copies of the record in form and content," and which it describes as an interpositive and an internegative on Estar film stock. NARA therefore holds, for each of these reproductions, elements whose catalogued purpose is the making of exact copies. In its Answer, NARA "admits that it provides copies of the Zapruder film to researchers who possess permission from the film's copyright holder," Doc. 46 ¶ 63, while denying "that it applies any special rules to the Zapruder film," Doc. 46 ¶ 3. The Forensic Version—which includes, as its Copy 5, the camera-original film, described in the Catalog as "the out-of-camera original 8mm archival copy"—the De-scratched Version, and the Secret Service duplicate are referred to collectively as the "Restricted Copies."

223. NARA's designations for other assassination films in its holdings do not identify the Museum as the source of permission. The President John F. Kennedy Assassination Records Collection includes the Western New England College Collection, a series of moving images relating to the assassination assembled by Richard Edgar Sprague. For the item the Catalog titles "Moving Images Related to the Assassination of President John F. Kennedy," also titled "Film of Dealey Plaza" (National Archives Identifier 625405, Local Identifier JFKG-JFKG-8), and for the

item the Catalog titles "Footage Related to the Assassination of President John F. Kennedy Captured by Malcom Couch for Dallas ABC Affiliate WFAA-TV," also titled "Crowd at Dealey Plaza" (National Archives Identifier 625622, Local Identifier JFKG-JFKG-11), the Catalog states "Access: Unrestricted" and "Use: Fully Restricted," gives the reason as "Copyright," and states: "Researchers must obtain permission for duplication and use of this material from the individuals and/or organizations that originally donated their film to the Western New England College (i.e., Abraham Zapruder, F. M. Bell, Robert Hughes, etc.)." NARA thus directs researchers seeking assassination films to obtain the permission of Abraham Zapruder, who died in 1970, while directing researchers seeking the Zapruder film itself to obtain the permission of the Museum. NARA has not consistently identified the holder of the rights it enforces, and the condition it has imposed on these two records cannot be satisfied by anyone. Both items are silent, and the Catalog marks both "Not Yet Available Online." For the first, the Catalog records that "NARA's Motion Picture Preservation Lab converted the frame rate from 18 to 24 frames per second"—a reproduction NARA itself made of material it treats as subject to a private copyright.

224. NARA's treatment of a film for which it has identified a corporate copyright owner differs again. NARA's cataloging manual offers, as its illustration of a motion picture marked "Restricted - Fully" for the reason "Copyright," with the note "Copyright held by RKO General Inc.," the film *An Eagle Under Sail; Coast Guard Search and Rescue*. The Catalog entry for that film (National Archives Identifier 6821, Local Identifier 26.868), catalogued in Record Group 26 (Records of the U.S. Coast Guard), records in its General Notes "#1 Copyright RKO General Inc (airdate 5/24/80 Newsroom 7 WNAC-TV Boston)," states "Access: Unrestricted," and marks the use of the film "Undetermined." NARA thus named a corporate copyright owner in the record itself and imposed no use restriction on the film at all. Under NARA's published

guidance, where the copyright status of an item "is unknown or cannot be determined, NARA will generally make it available for reproduction with a warning to the user" (paragraph 228).

225. NARA's Catalog treats other films in its holdings that incorporate privately owned copyrighted material differently still. Three motion pictures of the United States Information Agency, catalogued in Record Group 306, incorporate Dr. Martin Luther King, Jr.'s 1963 address at the March on Washington: *The Dream of King's* (National Archives Identifier 48003), which the Catalog describes as featuring "sequences from King's 1963 'I Have a Dream' speech"; *The March – 1963* (National Archives Identifier 47526), whose footage the Catalog describes as culminating "with scenes at the Lincoln Memorial and Martin Luther King, Jr.'s 'I Have a Dream' speech"; and *Nobel Peace Prize 1964: Martin Luther King – 1964* (National Archives Identifier 51615), which the Catalog describes as featuring "his 'I Have a Dream' speech." The Catalog marks each of the three "Access: Unrestricted" and "Use: Possibly Restricted." For the first it gives the reason as "Copyright," stating only that "[s]ome or all of this material may be restricted by copyright or other intellectual property rights restrictions." For the third it gives the reason not as copyright but as "Public Law 101-246." For none of the three does the Catalog name a holder of rights, and for none does NARA condition reproduction on a private party's written permission.

226. NARA has published one of those films. A comment by NARA staff on the Catalog entry for *The March – 1963* states that the film is "On US National Archives YouTube Channel," and gives the address at which it may be viewed. Although the Catalog marks that item "Not Yet Available Online," NARA has published the film on that channel, where any member of the public may view it at no charge. At the point at which Dr. King delivers the address, the published film presents the picture and suppresses the sound, displaying the notice: "The audio has been redacted due to a copyright restriction by Dr. King's family." NARA thus digitized, edited, and published online a film in its holdings that it treats as containing privately

copyrighted material; it published the images of that performance; it identified a private family as the holder of the asserted rights; and it required no member of the public to obtain that family's permission as a condition of access. NARA did so, moreover, for a record of the United States Information Agency—the one category of records for which Congress has directed the Archivist to condition domestic release on the clearance of private rights (paragraph 228). NARA's Catalog marks the Zapruder holdings "Not Yet Available Online" as well. NARA has not published them, will furnish no reproduction of them without the Museum's written permission, and has offered no explanation for the difference.

227. NARA has acted on the same premise in this action. In the parties' Joint Status Report, NARA stated that the Museum "has granted a non-exclusive license to NARA allowing NARA to make copies of the Zapruder Film available to members of the public, including Plaintiff," and that "[p]ursuant to that license, NARA is in the process of digitizing and uploading the copies of the Zapruder film in its possession." Doc. 54 at 18. NARA thus treats the Museum's license, rather than the JFK Act, as the source of its authority to make copies of an assassination record available to the public. In its Answer, filed four days after the Archivist executed the License, NARA stated that it "lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 66 regarding any transactions among the Museum and the Zapruder heirs"—the recorded conveyances through which the Museum claims the copyright—and otherwise treated the Forum's allegations concerning the history and conveyance of the asserted copyright as legal conclusions or as background "not . . . relevant to Plaintiff's FOIA cause of action," denying them to the extent a response was required. Doc. 46 ¶¶ 65–67. Yet the same Answer asserts, as an affirmative defense, that the Forum may not compel production of records that are not "readily reproducible." Doc. 46 at 41. NARA has explained under oath what that defense means for this film. In a declaration filed in earlier litigation concerning the film, NARA's declarant swore that "copyrighted motion picture

records in NARA's holdings are not readily reproducible by NARA without consent of the rightsholder," and that "NARA has determined that Exemption 4 of the FOIA permits NARA to refrain from providing NARA-made copies of motion picture records subject to an in-force copyright where the rights holder is known or can be determined." Doc. 60 at App. 48. The same declarant swore that "NARA has treated the Sixth Floor Museum as the rights holder since" the asserted copyright was transferred to the Museum in December 1999; that "[b]ecause the rights' holder for the Zapruder Film is known to NARA staff to be the Sixth Floor Museum in Dallas, Texas, NARA requires permission in writing from the museum to proceed with filling a vendor reproduction order for any requester"; and that, "[b]ecause each version is derived from the original Zapruder Film, NARA understands that the Sixth Floor Museum's copyright over the Zapruder Film applies to all three versions of the Weitzman Film in its possession." Doc. 60 at App. 45–46, 49, 51. On NARA's own account, then, the only thing that makes the film not "readily reproducible" is the absence of the Museum's consent, and NARA has represented to this Court that it is itself "digitizing and uploading the copies of the Zapruder film in its possession." Doc. 54 at 18. NARA has thus declined to take a position before this Court on the Museum's title while treating the Museum's copyright as valid and in force for every purpose that restricts the public's access to the film.

228. NARA's own regulations do not authorize the restriction. NARA's regulations for the Motion Picture, Sound, and Video Research Room provide: "You may use the NARA-furnished recorder or your personal recording device and media to make a copy of unrestricted archival materials in the research room"; that NARA provides "a warning notice on potential copyright claims in unrestricted titles"; and that "[y]ou are responsible for obtaining any needed permission or release from a copyright owner for other than personal use of the copy." 36 C.F.R. § 1254.88(b)–(c). NARA's general copying regulations likewise provide that the researcher is "responsible for obtaining any necessary permission for use, copying, and publication from

copyright holders." 36 C.F.R. § 1254.62. NARA's regulations thus treat a third party's copyright as a matter between the researcher and the copyright owner, not as a ground on which NARA may refuse to reproduce, or to permit copying of, its holdings. NARA's public guidance on the assassination records states that "NARA may make a single fair-use copy of the film and sell it to any researcher," and that only a researcher who "chooses to publish the film" must "obtain permission from the copyright holder." Doc. 60 at App. 23. The same guidance states that "the copyright for the film is owned by the Sixth Floor Museum." Id. NARA's reproduction fees are set by regulation to recover its costs. 44 U.S.C. § 2116(c); 36 C.F.R. pt. 1258. NARA's regulations identify the sources of restrictions on Federal archival records: "Some records are subject to restrictions prescribed by statute, Executive Order, or by restrictions specified in writing in accordance with 44 U.S.C. 2108 by the agency that transferred the records to the National Archives of the United States. All agency-specified restrictions must comply with the FOIA." 36 C.F.R. § 1256.20(b). "The Archivist of the United States imposes all general restrictions in accordance with 5 U.S.C. 552, as amended, and 44 U.S.C. 2107(4), 2108, and 2111," 36 C.F.R. § 1256.42, and NARA's regulations enumerate the general restrictions the Archivist imposes, 36 C.F.R. §§ 1256.46–1256.62, none of which rests on a third party's copyright. Access to records withheld under a general restriction may be given "only to" NARA employees, the creating agency, the donor of donated materials, or the subject of the records. 36 C.F.R. § 1256.44. A private party's copyright is not a statute, an Executive Order, or a restriction specified by a transferring agency; copyright is not among the general restrictions NARA's regulations enumerate and is not an exemption under the Freedom of Information Act; and a copyright owner is not among the persons to whom restricted records may be shown. The general restriction that implements Exemption 4 reaches only "trade secrets and commercial or financial information, obtained from a person, that is privileged or confidential," 36 C.F.R. § 1256.52; frames of a film that were published to the public decades ago are neither privileged nor

confidential. Where NARA's access regulations do address copyright as a condition on the copies NARA furnishes, they do so in a separate subpart that implements a specific statutory command. By section 202 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, Pub. L. No. 101-246, § 202, 104 Stat. 15, 49 (1990) (codified as amended at 22 U.S.C. § 1461(b)(2)(B)), Congress amended section 501 of the United States Information and Educational Exchange Act of 1948 to provide that the Archivist "shall be the official custodian of the material and shall issue necessary regulations to ensure that persons seeking its release in the United States have secured and paid for necessary United States rights and licenses." That command reaches only motion pictures and other material "prepared for dissemination abroad" by the United States Information Agency, and NARA's implementing subpart applies only to audiovisual records "transferred to the National Archives of the United States by the United States Information Agency." 36 C.F.R. §§ 1256.90, 1256.92. Congress thus knew how to direct the Archivist to condition the domestic release of a federal record on the clearance of private rights, and did so, by statute, for one defined category of records. Congress gave NARA no such authority over assassination records. As to those records it commanded the opposite. JFK Act §§ 4(b), 5(a)(3), 11(a). Even for USIA records, NARA furnishes copies to a requester who certifies that the requester "will use the materials sought only for purposes permitted by the Copyright Act of 1976, as amended, including the fair use provisions of 17 U.S.C. 107," without the permission of the copyright owner. 36 C.F.R. § 1256.100(b)(3), (d). The Zapruder film is not a record of the United States Information Agency, and NARA's regulations prescribe no comparable condition for it—much less the stricter condition NARA applies, under which no requester may obtain a reproduction through NARA's vendor process without the Museum's written permission (paragraph 227). Outside that subpart, no statute or regulation authorizes NARA to determine whether a copyright exists, who owns it, what it covers, whether it has been waived, abandoned, or expired, or whether a particular use of a work would infringe it. Congress

committed the registration of copyright claims to the Register of Copyrights, 17 U.S.C. § 410, and the adjudication of copyright disputes to the federal courts, 28 U.S.C. § 1338(a). Neither the JFK Act nor NARA's organic statutes give NARA any role in deciding those questions. Under its own regulations, NARA's role is to give notice that a copyright claim may exist and to leave the researcher and the claimant to resolve it.

B. The frames were disclosed to the public before the JFK Act was enacted

229. The JFK Act was enacted on October 26, 1992.

230. The frames of the Zapruder film that the Forum seeks to obtain and to publish were made available and disclosed to the public long before that date. Frames were published in Time, Incorporated's *LIFE* magazine in its issues of 1963 through 1966; six frames were distributed by Time to the Associated Press and United Press International on November 27, 1963; frames were reproduced in the published volumes of the Warren Commission and in the Warren Report; and frames 207 through 212 were released by Time on January 30, 1967. Each such frame was published before May 15, 1967, as alleged in the First Amended Complaint.

231. The Zapruder film and its frames are assassination records within the meaning of the JFK Act, § 3(2), and are in NARA's possession as part of the President John F. Kennedy Assassination Records Collection. NARA admits that the "Zapruder film is held in the President John F. Kennedy Assassination Records Collection at the National Archives." Doc. 46 ¶ 64. The United States acquired the camera-original film by taking under the JFK Act, effective August 1, 1998, with just compensation fixed by an arbitration panel in 1999. Doc. 37 ¶¶ 64–67. The taking did not include the copyright, which the Zapruder family retained and later purported to convey to the Museum.

C. The Forum's further requests to NARA

232. On October 8, 2026, the Forum transmitted to NARA's counsel of record, for forwarding to NARA's FOIA office, a request under the Freedom of Information Act for all

communications between NARA and the Museum from January 1, 2022 to the present, and on October 9, 2026 submitted that request directly to NARA's FOIA office. Doc. 60 at App. 10–15.

233. On October 9, 2026, the Forum submitted to NARA a further FOIA request seeking, among other things, existing digital reproductions of the archived copies of the film (including the copies the Catalog designates by National Archives Identifier 1024554 and 1029673, and the archived copy the Catalog designates Copy 5), records describing those copies and the use restriction appearing in the Catalog, and the instruments between NARA and the Museum. The request also asked that the records be made available for public inspection in an electronic format under 5 U.S.C. § 552(a)(2). Doc. 60 at App. 16–18.

234. On November 2, 2026, the Forum submitted to NARA a further request under the Freedom of Information Act and the JFK Act, seeking the highest-resolution digital reproduction or reproductions of the film that NARA holds or can produce—in whatever form and by whatever name, including any version or element created to implement the Assassination Records Review Board's April 24, 1997 Statement of Policy and Intent—together with records describing those reproductions and the records of NARA's decision to restrict use of the film, and requesting that NARA make the best available copy of the film available under JFK Act § 4(b).

235. On November 4, 2026, the Forum submitted to NARA an additional request under the Freedom of Information Act and the JFK Act. The request seeks digital reproductions of five identified moving image records of the assassination held in Record Group 65 (Records of the Federal Bureau of Investigation) and in Collection JFKG (Western New England College Collection), and of each remaining item in the two series in which those records are catalogued; records describing those items and reflecting the basis for the use restriction designations the Catalog displays for them; the Source and Permissions Contact List by which NARA directs requesters to a rights holder for permission; and records reflecting the number of requests NARA

has received for each item and any prior release of any item to any person. As to each record released, the request asks that NARA make the record available for public inspection in an electronic format and include it in the general index. 5 U.S.C. § 552(a)(2)(D), (E). The request was transmitted to NARA's FOIA offices, with a copy to NARA's counsel of record. These four requests—the requests of October 8, October 9, November 2, and November 4, 2026—are referred to collectively as the "Additional FOIA Requests."

236. As of the date of this pleading, NARA has neither produced the requested records nor made a determination on any of the four Additional FOIA Requests.

NINTH CAUSE OF ACTION
Violation of the Administrative Procedure Act and the JFK Act
(Against NARA — 5 U.S.C. § 706(1), (2); JFK Act §§ 5(a)(3), 4(b), 11(c))

237. The Forum incorporates the preceding paragraphs.

238. NARA's execution of the License on October 1, 2026, and its determination, published in the National Archives Catalog, that the Restricted Copies are "Fully Restricted" and that reproduction rights are "held by the Sixth Floor Museum," are each final agency action. Agency action is final when it "mark[s] the consummation of the agency's decisionmaking process" and is "one by which rights or obligations have been determined, or from which legal consequences will flow." *Bennett v. Spear*, 520 U.S. 154, 177–78 (1997) (internal quotation marks and citations omitted). Neither act is "of a merely tentative or interlocutory nature," *id.* at 178: the License has been executed by the Archivist and is in force, and the designation has been published and is applied to every request for the Restricted Copies. Each determines the conditions on which the public may obtain and copy assassination records, and legal consequences flow from each. In this Circuit, "[a] final agency action is one that imposes an obligation, denies a right, or fixes a legal relationship." *Veldhoen v. U.S. Coast Guard*, 35 F.3d 222, 225 (5th Cir. 1994). Each act denies the public, including the Forum, the right to copy

assassination records that § 4(b) confers, and each fixes the legal relationship among NARA, the Museum, and every member of the public who requests the film. Each is discrete.

239. The JFK Act commands that "[n]o assassination record made available or disclosed to the public prior to the date of enactment of this Act may be withheld, redacted, postponed for public disclosure, or reclassified." JFK Act § 5(a)(3). The frames the Forum seeks were disclosed to the public before October 26, 1992. NARA may not withhold them or postpone their public disclosure. The prohibition is categorical: it is not confined to postponements under § 6 of the Act, it admits no exception for copyright or for any other law, and it is not satisfied by making the frames available only on a private party's conditions. Because each of the Restricted Copies contains the published frames, NARA's restriction of those copies withholds the published frames, and NARA's practice of furnishing any copy of the film only to researchers who have the Museum's permission (paragraph 222) withholds them as well. NARA has described its permission requirement as "a use requirement, not an access restriction." Doc. 60 at App. 54. But § 4(b) makes assassination records available to the public "for inspection and copying," and the only copies NARA allows the public to make without the Museum's permission are self-service copies of reference copies that, in NARA's words, "are all, by definition, lower quality than the original accessioned record because of the method of reproduction." Doc. 60 at App. 46. A condition on copying an assassination record is a condition on its public disclosure.

240. The JFK Act further commands that assassination records "shall be available to the public for inspection and copying at the National Archives." JFK Act § 4(b); see § 2(a)(2) (records "should carry a presumption of immediate disclosure").

241. By executing a License that limits the copies NARA may furnish to non-commercial research copies and requires NARA to notify the public that further duplication and publication require the Museum's permission, and by determining that the Restricted Copies are

"Fully Restricted" on the ground of that party's asserted copyright, NARA has withheld, and has conditioned the public disclosure of, assassination records that were disclosed to the public before the JFK Act's enactment. That action is contrary to JFK Act §§ 5(a)(3) and 4(b), is not in accordance with law, and is in excess of statutory authority. It must be held unlawful and set aside. 5 U.S.C. § 706(2)(A), (C). The JFK Act provides that when the Act requires public disclosure, it takes precedence over any other law, judicial decision, or common-law doctrine that would otherwise prohibit that disclosure, subject to exceptions that do not include the Copyright Act. JFK Act § 11(a). By restricting the distribution of those records on the basis of Title 17, NARA elevated the Copyright Act over the JFK Act's superseding disclosure command, contrary to law. NARA's restriction also departs from NARA's own regulations governing the copying of its holdings (paragraph 228); agency action that departs from the agency's own regulations is not in accordance with law. NARA has also, without statutory authority, vested in a private party the power to decide who may obtain usable copies of a federal record and on what terms: NARA furnishes copies only to researchers who have the Museum's permission (paragraph 222); any use beyond research must be licensed through the Museum's website (paragraph 219); and the Museum's conditions govern NARA's own use of the film (paragraph 220). An agency may not delegate to a private party a governmental power that Congress has conferred on the agency.

242. NARA's determination is also arbitrary and capricious. 5 U.S.C. § 706(2)(A). NARA "must examine the relevant data and articulate a satisfactory explanation for its action." *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). An agency action is arbitrary and capricious if the agency "has relied on factors which Congress has not intended it to consider, [or] entirely failed to consider an important aspect of the problem." *State Farm*, 463 U.S. at 43. NARA's determination that the frames are subject to an enforceable copyright held by the Museum, and its resulting "Fully Restricted" designation, runs counter to

the evidence that the frames were published to the public with notice in 1963 through 1967, and fails to consider that the Museum's asserted copyright does not reach those published frames—the very matters placed in issue by the Forum's existing causes of action. No statute authorizes NARA to determine the ownership, validity, or scope of a copyright, and NARA's regulations confine it to providing researchers "a warning notice on potential copyright claims" (paragraph 228). NARA's own Use Statement provides that where the copyright status of an item "is unknown or cannot be determined, NARA will generally make it available for reproduction with a warning to the user that the responsibility for the subsequent use of the materials lies solely with the end user per NARA regulations at 36 C.F.R. 1254.62," and that written permission from the rights holder may be required only "[w]here obvious copyright . . . restrictions apply." Doc. 60 at App. 55. NARA's treatment of the film therefore rests on its own determination that the Museum's copyright in frames published decades ago is "obvious." By stating in its Catalog that "the reproduction rights to this film are held by the Sixth Floor Museum," by stating in its public guidance that "the copyright for the film is owned by the Sixth Floor Museum" (paragraph 228), by determining under oath that copies may be withheld because the film is "subject to an in-force copyright" (paragraph 227), by reciting in the License that the Museum "owns the copyright" to the film, by accepting the Museum's warranty that it is the registered claimant, by defining the "Zapruder Film" in the License to reach every still frame and partial copy in its holdings (paragraph 219), by naming the Museum as rights holder even on a record of the Secret Service (paragraph 222), and by representing to this Court that it makes copies available "[p]ursuant to that license" (paragraph 227), NARA did not give notice of a potential claim. It resolved, in favor of one party, the questions of ownership, validity, and scope that are pending before this Court between that party and the Forum, and it did so while itself a party to this action, four days before the Museum filed the License in support of its motion to dismiss. NARA thereby also took a position contrary to the interest of the United States, which under 28 U.S.C. § 1498(b)

would be the defendant in any action on the asserted copyright (paragraph 243). NARA's restriction also disregards fair use. A fair use "is not an infringement of copyright," 17 U.S.C. § 107, and a federal court has held that the reproduction of Zapruder frames in a published work examining the assassination was fair use, finding that "[t]here is a public interest in having the fullest information available on the murder of President Kennedy." *Time Inc. v. Bernard Geis Assocs.*, 293 F. Supp. 130, 146 (S.D.N.Y. 1968). The agreement under which the United States' acquisition of the film was resolved likewise provides that "[t]he Government's right to use the Film is governed by the copyright laws of the United States, including the doctrine of Fair Use, 17 U.S.C. § 107, and the JFK Records Collection Act of 1992." Doc. 60 at App. 45. NARA nonetheless furnishes copies of the film only to researchers who have the Museum's permission (paragraph 222), and the License limits the copies NARA may furnish to non-commercial research copies (paragraph 219), so that a publisher whose use would be fair cannot obtain from NARA a copy suitable for that use. Whether a particular use is fair is a question for the courts, not for NARA, and NARA's regulations leave it to the researcher (paragraph 228). NARA's reliance is the more arbitrary because the License on which it rests, as filed with the Court, bears no signature for the Museum, the purported licensor: although § 1 of the License frames the Museum as warranting the copyright and granting the license to NARA, the Museum's signature line in the filed copy is blank. NARA's determination is also inconsistent with NARA's own regulations and public guidance (paragraph 228), which permit copying of its holdings and leave copyright permissions to the researcher, and NARA has offered no explanation for the departure. NARA's determination also departs from NARA's own descriptive standard. That standard directs that "Restricted - Fully" be used "if all the archival materials have either a copyright, donor, or other use restriction," and provides that "[i]f 'Restricted - Fully' or 'Restricted - Partly' is selected, then Specific Use Restriction must also be indicated." For the Forensic Version and the De-scratched Version, however, the Catalog records no specific use restriction at all, stating

only that "[u]se of all of these archival materials is restricted" (paragraph 222). NARA thus imposed its most restrictive use designation on its own reproductions of the film without recording the reason its own standard requires. NARA's treatment of the Zapruder holdings is further inconsistent with its treatment of comparable records in its own holdings, and NARA has offered no explanation for the difference. For other assassination films in the same Collection, NARA names a different source of permission (paragraph 223). For a film in which NARA recorded a corporate copyright owner by name, NARA imposed no use restriction at all (paragraph 224). For films incorporating material NARA treats as privately copyrighted, NARA names no holder of rights and requires no permission (paragraph 225), and NARA has published one such film online with only its audio suppressed (paragraph 226). NARA restricts the Zapruder holdings in their entirety, names the Museum, and requires the Museum's written permission before furnishing any reproduction. NARA's determination also departs, without explanation, from the legal interpretation the Department of Justice furnished to NARA's own General Counsel. By memorandum dated October 17, 1995, to NARA's General Counsel, the Department of Justice's Office of Legal Counsel concluded that "section 11(a) of the Records Act compels the Archives to make available to the public for copying all copyrighted materials that are 'assassination records,' whether or not such copying would violate the Copyright Act," and recorded NARA's own interpretation that the Act requires it "to make and distribute copies of copyrighted materials in the Collection upon demand"—an interpretation the Office found "appears to be sound." The copyrighted materials NARA then identified to the Office included "a film, slides." NARA's determination fails on both grounds. The only grounds the License states for NARA's treatment of the film are "the Copyright Act and NARA's regulations," and the Copyright Act is a law that JFK Act § 11(a) subordinates to the Act's disclosure requirements. And although the License recites that NARA "is the official repository of the John F. Kennedy Assassination Records Collection," neither the License nor the "Fully Restricted"

designation reflects any consideration of the JFK Act's disclosure requirements, of the Office of Legal Counsel's 1995 memorandum, or of the Review Board's April 24, 1997 undertaking that the best available copy of the film reach the public at the lowest reasonable price (paragraph 244).

243. NARA also failed to consider the limit Congress has placed on the remedy for any government use of a copyrighted work. Even if the Museum held a valid copyright in the frames, 28 U.S.C. § 1498(b) provides that where a copyright "shall be infringed by the United States," the copyright owner's "exclusive action … shall be an action by the copyright owner" against the United States "in the Court of Federal Claims for the recovery of his reasonable and entire compensation as damages for such infringement." The Museum therefore could neither enjoin NARA's reproduction or distribution of the film nor compel NARA to withhold it; its only remedy would be reasonable compensation—in effect, a reasonable license fee. NARA's decision to restrict public access and to condition reproduction on the Museum's permission, rather than to make the records available and leave the Museum to the compensation remedy Congress provided, disregarded that limit. NARA thus treated the Museum's asserted copyright as an absolute barrier to disclosing even the Forensic Version (National Archives Identifier 1024554), its most complete element of the film, rather than as a manageable financial liability for which Congress had already provided the exclusive, compensation-only remedy, and failed to weigh its disclosure obligations against that alternative.

244. NARA also disregarded the declared federal policy under which the film entered the public collection. When the Assassination Records Review Board designated the film an assassination record, it adopted, on April 24, 1997, a Statement of Policy and Intent resolving that "the Review Board will do all in its power to ensure that the best available copy of the Zapruder film shall become available to the public at the lowest reasonable price." NARA's declarant quoted that resolution under oath in earlier litigation concerning the film. Doc. 60 at App. 44–45. NARA's restriction of the best available copy—the camera original and the Forensic Version made directly from it—on the basis of a private copyright claim is contrary to that policy and to the JFK Act's purpose of immediate, maximum public disclosure. Section 4(b) imposes a discrete and mandatory duty: assassination records "shall be available to the public for inspection and copying at the National Archives." A contention that such a duty is discretionary "would fly in the face of [the statute's] text, which uses the imperative 'shall.'" *Bennett*, 520

U.S. at 175. NARA's failure to make the existing best element of the film available for copying, free of the copyright condition and at the cost-based reproduction fee its regulations prescribe, 44 U.S.C. § 2116(c); 36 C.F.R. pt. 1258, is agency action unlawfully withheld that the Court may compel. 5 U.S.C. § 706(1).

245. The Forum has standing. This Court has already found that "the Forum's rights under FOIA are being actively restricted by the Museum's purported copyright interest," and that the Museum's role "as an obstacle to the Forum's FOIA requests" establishes an actual controversy. Doc. 32 at 12. The Forum is a publisher that requires reproductions of the film for its books, a documentary motion picture, a podcast, and related merchandise; NARA's action denies the Forum the reproductions its publishing requires, a concrete and particularized injury that a favorable decision would redress. The Forum has now formally requested those reproductions, including the best available copy of the film, which NARA restricts. The License's authorization of reproductions for non-commercial research use does not extend to the Forum's publication of the frames, and so does not redress the Forum's injury. The Forum's interest also falls within the zone of interests protected by "the statutory provision whose violation forms the legal basis for [its] complaint." *Bennett*, 520 U.S. at 176 (citation and emphasis omitted). Sections 4(b) and 5(a)(3) of the JFK Act protect the public's interest in inspecting and copying assassination records, and the Forum seeks to inspect, copy, and publish them.

246. The Forum is entitled to an order holding unlawful and setting aside NARA's execution of the License, its determination that the Restricted Copies are "Fully Restricted," and its determination that the reproduction rights in them are held by the Museum; to a declaration that NARA lacks authority to determine the existence, ownership, or scope of a copyright in an assassination record as a basis for restricting public access to it; to a declaration that the JFK Act forbids NARA to withhold, or to condition the public disclosure of, the frames published before the Act's enactment; to a declaration that NARA's duties with respect to the film may not be

conditioned on the permission of, or on terms agreed with, the Museum or any other private party, whether under the License as filed or as executed, re-executed, or amended; to an injunction barring NARA from so conditioning public access to and copying of the film; and to an order compelling NARA to make the best available copy of the film available for inspection and copying under JFK Act § 4(b). The duty § 4(b) imposes—to make assassination records available to the public for copying—and the Review Board's policy that the best available copy be provided at the lowest reasonable price are obligations that FOIA does not impose and for which FOIA affords no remedy. The relief sought under this cause is therefore not duplicative of, and is not a substitute for, the production relief sought under FOIA in the Eighth Cause of Action.

TENTH CAUSE OF ACTION
Abridgment of the Freedom of Speech — Publication of Public-Domain Material
(Against Defendant Wilson, in his official capacity — U.S. Const. amend. I)

247. The Forum incorporates the preceding paragraphs.

248. The frames of the Zapruder film that the Forum seeks to reproduce and to publish were published before 1967 (paragraph 230) and are in the public domain, as alleged in the First Amended Complaint—by waiver or abandonment, by expiration of the term secured on publication, or otherwise. The Forum has a right under the First Amendment to reproduce and to publish those public-domain frames.

249. Defendant Wilson's determination that the Restricted Copies are "Fully Restricted," and the License's limitation of NARA's reproductions to non-commercial research copies and its directive that NARA display to the public a notice that further duplication and publication require the Museum's permission, operate to restrain the Forum's reproduction and publication of public-domain material on the basis of a private party's copyright assertion. The License further conditions NARA's own use of the film on content: NARA agreed not to use the film "in a manner which is sensational" or to "punctuate or emphasize the episodes of violence

contained in the Zapruder Film, particularly those parts of the Zapruder Film that depict and follow: the depiction of a bullet striking President John F. Kennedy." License § 5. A condition on the reproduction and use of a public record that turns on the manner in which the violence it depicts is presented is a content-based restriction on speech.

250. By conditioning the Forum's access to and publication of public-domain assassination records on a private party's permission, Defendant Wilson has abridged the Forum's freedom of speech. U.S. Const. amend. I. The Forum is entitled to a declaration that the restriction and the public-copyright notice, as applied to the frames published before 1967, violate the First Amendment, and to an injunction barring Defendant Wilson from enforcing them to prevent the Forum's reproduction and publication of those frames.

ELEVENTH CAUSE OF ACTION (IN THE ALTERNATIVE)
Non-Statutory Review — Action in Excess of Statutory Authority
(Against Defendant Wilson, in his official capacity)

251. The Forum incorporates the preceding paragraphs. This cause is pleaded in the alternative to the Ninth Cause of Action: if the Court concludes that NARA's execution of the License and its "Fully Restricted" determination are not final agency action reviewable under the Administrative Procedure Act, the Forum seeks non-statutory review of those acts as taken in excess of statutory authority.

252. A federal court has jurisdiction of an original suit "to strike down an order of the [agency] made in excess of its delegated powers and contrary to a specific prohibition in the Act." *Leedom v. Kyne*, 358 U.S. 184, 188 (1958). "This Court cannot lightly infer that Congress does not intend judicial protection of rights it confers against agency action taken in excess of delegated powers." *Id.* at 190. In this Circuit, "[a] claim that an agency action is in plain contravention of a statutory mandate . . . may present one of the extraordinary exceptions to the finality requirement," *Veldhoen*, 35 F.3d at 225, and the exception applies "when an agency

exceeds the scope of its delegated authority or violates a clear statutory mandate," *Am. Airlines, Inc. v. Herman*, 176 F.3d 283, 293 (5th Cir. 1999).

253. Section 5(a)(3) of the JFK Act is a specific and mandatory prohibition: no assassination record disclosed to the public before the Act's enactment may be withheld, redacted, postponed for public disclosure, or reclassified. By executing the License and imposing the "Fully Restricted" designation upon frames disclosed to the public before October 26, 1992, Defendant Wilson acted in excess of his statutory authority and contrary to that specific prohibition. Sections 4(b) and 5(a)(3) confer on members of the public, including the Forum, the right to inspect and copy assassination records, and § 11(c) preserves judicial review to protect that right. NARA's violation of § 5(a)(3) is plain on the face of the statute and does not turn on any interpretation of the JFK Act: NARA restricts the published frames on the basis of a different statute, the Copyright Act, which the JFK Act subordinates to its disclosure requirements, JFK Act § 11(a), and the Department of Justice advised NARA's General Counsel in 1995 that the JFK Act compels NARA to make copyrighted assassination records available for copying (paragraph 242). Defendant Wilson further exceeded his authority by subjecting public access to, and the copying of, federal records—including the camera-original film, which is the property of the United States—to the permission and conditions of a private party (paragraph 241).

254. If NARA's acts are not final agency action, the Forum would be "wholly deprive[d] . . . of a meaningful and adequate means of vindicating its statutory rights." *Bd. of Governors of the Fed. Reserve Sys. v. MCorp Fin., Inc.*, 502 U.S. 32, 43 (1991). There would be "no other means, within [the Forum's] control . . . , to protect and enforce" the rights the JFK Act confers. *Leedom*, 358 U.S. at 190. No administrative proceeding is pending that will culminate in a final order the Forum could later challenge; FOIA does not enforce §§ 4(b) or 5(a)(3) (paragraph 246); and NARA contends that, under FOIA, the film is not readily reproducible

without the rightsholder's consent (paragraph 227). The Forum is therefore entitled to non-statutory review and to an order enjoining and setting aside Defendant Wilson's acts.

SUPPLEMENTAL ALLEGATIONS IN SUPPORT OF THE EIGHTH CAUSE OF ACTION (FOIA)

255. The Forum incorporates the preceding paragraphs and realleges the Eighth Cause of Action.

256. The Forum's October 9, November 2, and November 4, 2026 requests (paragraphs 233–235) are further requests to which NARA owes the duties the Eighth Cause of Action alleges. NARA's duty to make frequently requested records available for public inspection in an electronic format is a continuing duty, independent of any single request. The Reading-Room Provision requires NARA to make available for public inspection, in an electronic format, copies of records that have been "released to any person under paragraph (3)" and that "have been requested 3 or more times," together with "a general index of the records referred to under subparagraph (D)." 5 U.S.C. § 552(a)(2)(D)(i), (ii)(II), (E). The reproductions of the film that NARA has already released are among the most frequently requested records in its holdings, yet NARA's own Catalog marks each archived copy "Not Yet Available Online." As to production under 5 U.S.C. § 552(a)(3), upon the expiration of the period FOIA allows for NARA to respond without a determination, the Forum will be deemed to have exhausted its administrative remedies, 5 U.S.C. § 552(a)(6)(C), and NARA's duty to produce the requested records will be enforceable. The November 2, 2026 request specifically sought the existing digital reproductions of the film that NARA holds, including its highest-resolution scan; upon constructive exhaustion, NARA's duty to produce those reproductions will be enforceable. The existing digital reproductions that the November 2, 2026 request seeks are existing files that are readily reproducible in the form requested, 5 U.S.C. § 552(a)(3)(B), and the Museum has withdrawn any objection to the Forum's obtaining a single copy from NARA (paragraph 221).

This Court has already held that FOIA's remedial provision empowers it to order NARA both to publish records subject to the Reading-Room Provision and to produce records to the Forum. Doc. 32 at 13–21.

SUPPLEMENTAL ALLEGATIONS IN SUPPORT OF THE SECOND, FOURTH, AND FIFTH CAUSES OF ACTION

257. The Forum incorporates the preceding paragraphs and realleges the Second, Fourth, and Fifth Causes of Action.

258. The License and the Covenant confirm that the Museum continues to assert a copyright in the published frames that it does not validly hold. The License recites the film renewal (RE 696-871) and a recordation number (V3447D594) as the whole of the Museum's claimed interest (paragraph 218)—neither of which reaches the registrations in which the published frames subsist, as alleged in the Fourth Cause of Action—and provides that "[a]ll rights, title, and interest in and to the copyright in the Zapruder Film are expressly retained by the Museum" (paragraph 220). The Covenant provides that the Museum's copyrights "shall remain valid and enforceable against any person or entity not covered by this Covenant" (paragraph 221). Together they confirm that the Museum has not relinquished the copyright claims the Second, Fourth, and Fifth Causes of Action allege to be invalid, unenforceable, and expired.

PRAYER FOR RELIEF (SUPPLEMENTAL)

WHEREFORE, in addition to the relief requested in the First Amended Complaint, the Forum respectfully requests that the Court:

A. On the Ninth Cause of Action, hold unlawful and set aside NARA's execution of the License, its determination that the Restricted Copies (National Archives Identifiers 1024554, 1029673, and 13251) are "Fully Restricted," and its determination that the reproduction rights in them are held by the Museum; declare that NARA lacks authority

to determine the existence, ownership, or scope of a copyright in an assassination record as a basis for restricting public access to it; declare that the JFK Act forbids NARA to withhold, or to condition the public disclosure of, the frames of the Zapruder film published before October 26, 1992; declare that NARA's duties under the JFK Act and the Freedom of Information Act with respect to the film may not be conditioned on the permission of, or on terms agreed with, the Museum or any other private party, whether under the License as filed or as executed, re-executed, or amended; enjoin NARA from conditioning public access to, or the copying of, the film on the Museum's permission or on the terms of the License or any executed, re-executed, or amended version of it; and order NARA to make the existing best available copy of the film available to the public for inspection and copying, free of the copyright condition and at NARA's cost-based reproduction fee, as JFK Act § 4(b) requires and as the Assassination Records Review Board's April 24, 1997 Statement of Policy and Intent contemplates;

B. On the Tenth Cause of Action, declare that the "Fully Restricted" designation and the License's public-copyright notice, as applied to the frames published before 1967, abridge the Forum's freedom of speech, and enjoin Defendant Wilson from enforcing them to prevent the Forum's reproduction and publication of those frames;

C. On the Eleventh Cause of Action, in the alternative, hold that Defendant Wilson acted in excess of statutory authority and enjoin and set aside those acts;

D. On the Eighth Cause of Action, as supplemented, order NARA to make the frequently requested reproductions of the film available in its electronic reading room and, upon the Forum's exhaustion of administrative remedies as to its October and November 2026 requests, to produce to the Forum the existing digital reproductions of the film that NARA holds, including the highest-resolution scan, and the other requested records; and, upon ordering production and assessing fees against the United States, issue a written

finding that the circumstances surrounding NARA's withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, 5 U.S.C. § 552(a)(4)(F)(i);

E. Award the Forum its costs and reasonable attorney's fees as allowed by law, including under 5 U.S.C. § 552(a)(4)(E); and

F. Grant such further relief as the Court deems just.

Dated: November 4, 2026

Respectfully submitted,

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