

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

| | | |
|---------------------------|---|--------------------------|
| UNITED STATES OF AMERICA, |) | |
| Plaintiff, |) | Civil Action: 16-cv-1070 |
| |) | |
| v. |) | |
| |) | |
| MATTHEW BISSONNETTE, |) | |
| Defendant, |) | |

**DECLARATION OF MATTHEW BISSONNETTE IN SUPPORT OF HIS MOTION TO
VACATE CONSENT DECREE AND ENTER SUMMARY JUDGMENT IN FAVOR OF
DEFENDANT**

MATTHEW BISSONNETTE, declares the following under the penalties of perjury:

1. I am the defendant in the above captioned action. I make this declaration from my personal knowledge and, if called upon to do so, could and would competently testify to the matters set forth herein in a court of law.

2. I set out to write No Easy Day after seeing numerous accounts of the raid that killed Osama Bin Laden coming from within our own government leadership. I believed strongly then – and I still believe – that the men and women who found and killed Bin Laden deserved to have their story told in their own voice, by one of those who risked his life to make the mission a success. This was a team effort that needed to be told as such, which is why I chose to use both a pseudonym and a disguise to tell our story.

3. I wanted to tell our story with the same respect for my commitments that marked my time as a Navy SEAL and sought experienced legal counsel, Kevin Podlaski, to review my obligations to the government. Unfortunately, the advice I got – that I did not need to submit the book for pre-publication review – was wrong.

4. At the time that I hired Mr. Podlaski, I did so with an honest purpose of being informed of the law, to ensure that I was complying with my obligations. To facilitate this, I gave Mr. Podlaski full, correct, and honest disclosures of all material facts known to me, including copies of all applicable agreements (although he was already familiar with these forms, as a former lawyer for

the U.S. Special Operations Command). Every action that I took which Plaintiff alleged was improper was taken because I acted in good faith guided by Mr. Podlaski's professional legal advice.

5. At the time this action commenced, Mr. Podlaski was disputing the facts surrounding his involvement and advice pertaining to the failure of submitting *No Easy Day* for pre-publication review. His false denials undermined my ability to assert the affirmative defense that I had relied in good faith on the advice of counsel. Because I was hampered in my ability to assert this defense, I accepted responsibility for failing to submit the book for review and agreed to the Consent Decree dated August 15, 2016.

6. Subsequent to entering into the Consent Decree, I filed an attorney malpractice suit against Mr. Podlaski and Carson Boxberger, LLP in the U.S. District Court for the Northern District of Indiana Fort Wayne Division under Cause No. 1:15-CV-0334-SLC.

7. The attorney malpractice suit against Mr. Podlaski and Carson Boxberger, LLP was settled on June 29, 2018. In the settlement, Mr. Podlaski admitted his role in the decision to not submit *No Easy Day* for pre-publication review.

8. Annexed hereto as Exhibit "A" is a true and correct copy of the Acknowledgement of Kevin Podlaski.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this the 19th day of August 2020

Matthew Bissonnette

MATTHEW BISSONNETTE

Richard Simpson
June 29, 2018
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“Exhibit A to Settlement Confirmation Letter”

Matthew Bissonnette is a retired Navy SEAL who served 13 consecutive combat deployments. Alongside his fellow SEALs, he participated in the mission resulting in the rescue of Captain Richard Phillips from Somali pirates in 2009, and the mission resulting in the death of Osama Bin Laden in 2011.

After observing that these missions—particularly the Bin Laden mission—were being written about inaccurately, by people who failed to highlight the skill and sacrifice of the SEALs, Mr. Bissonnette decided to write his own book. He did not seek personal recognition or wealth from the book. He used a pseudonym to remain anonymous and he dedicated the proceeds from the book to charities that care for the families of fallen SEALs.

In his search for legal representation to ensure he complied with his obligations of confidentiality, Mr. Bissonnette was referred to Mr. Podlaski who had advised another ex-military author on such issues. Mr. Podlaski is a former Jag Corp officer who had experience in dealing with military confidentiality, military law, and Special Operations issues.

Carson Boxberger, LLP and Kevin Podlaski were honored to represent Mr. Bissonnette and advised him on the legal issues related to his book *No Easy Day*. In reliance on their professional advice, Mr. Bissonnette did not submit *No Easy Day* to the Government before publication. The Government contended that a pre-publication review was required and caused Mr. Bissonnette to forfeit to the Government all the money set aside for the SEAL charities.

Mr. Bissonnette has acknowledged his responsibility for publishing the book without a review by the Government. Carson Boxberger and Kevin Podlaski acknowledge their role in that decision and support Mr. Bissonnette’s efforts to correct the consequences of this unfortunate situation.

Matthew Bissonnette, Carson Boxberger and Kevin Podlaski are anxious to put this matter to rest and Carson Boxberger and Kevin Podlaski wish Mr. Bissonnette much success in his future endeavors. The parties will not comment further on the terms of their settlement.