

JUDICIAL WATCH, INC.
501 School Street, S.W., Suite 500
Washington, DC 20024,

Plaintiff,

v.

U.S. FOOD AND DRUG
ADMINISTRATION
5600 Fishers Lane
Rockville, MD 20857,

Defendant.

Case: 1:07-cv-00561
Assigned To : Lamberth, Royce C.
Assign. Date : 3/21/2007
Description: Judicial Watch v. USDA

Plaintiff Judicial Watch, Inc. brings this action against Defendant U.S. Food and Drug Administration (“FDA”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges as follows:

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

3. Plaintiff is a non-profit, educational foundation organized under the laws of the District of Columbia and having its principal place of business at 501 School Street, S.W., Suite 500, Washington, DC 20024.

4. Defendant FDA is an agency of the United States Government. Defendant FDA has its principal place of business at 5600 Fishers Lane, Rockville, MD 20857. Defendant FDA has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On August 22, 2006, Plaintiff sent a FOIA request to Defendant FDA seeking access to the following records:

- a. Any and/or all communications and/or correspondence between the FDA and Senator Hillary Rodham Clinton (D-NY) regarding “.75 levonorgestrel,” also sold under the trade name “Plan B.”
- b. Any and/or all communications and/or correspondence between the FDA and any agent and/or representative of Senator Hillary Rodham Clinton (D-NY), and/or the Office of Senator Hillary Rodham Clinton regarding “.75 levonorgestrel,” also sold under the trade name “Plan B.”

6. Defendant FDA acknowledged receipt of Plaintiff’s FOIA request by letter dated August 24, 2006.

7. Defendant FDA was required by 5 U.S.C. § 552(a)(6)(A)(i) to respond to Plaintiff’s FOIA request within twenty (20) business days, or on or about September 20, 2006.

8. As of March 21, 2007, Defendant FDA has failed to produce records responsive to Plaintiff’s request or otherwise respond to the request in any fashion.

COUNT 1 (Violation of FOIA)

9. Plaintiff realleges paragraphs 1 through 8 as if fully stated herein.

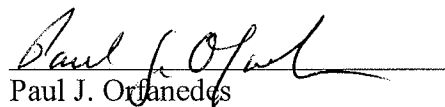
10. Defendant FDA has violated FOIA by failing to produce any and all non-exempt records responsive to Plaintiff's FOIA August 22, 2006 request within the twenty (20) day time period required by 5 U.S.C. § 552(a)(6)(A)(i).

WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare Defendant's failure to comply with FOIA to be unlawful; (2) order Defendant to search for and produce by a date certain any and all non-exempt records responsive to Plaintiff's FOIA request and a *Vaughn* index of responsive records subject to a claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request; (4) grant Plaintiff an award of attorney's fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: March 21, 2007

Respectfully submitted,

JUDICIAL WATCH, INC.



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