

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JUDICIAL WATCH, INC.,)
425 Third Street, S.W., Suite 800)
Washington, DC 20024,)
)
Plaintiff,)
)
v.)
)
NATIONAL LABOR)
RELATIONS BOARD)
1099 14th Street, N.W.)
Washington, DC 20570)
)
Defendant.)
_____)

Case: 1:11-cv-01470
Assigned To : Collyer, Rosemary M.
Assign. Date : 8/15/2011
Description: FOIA/Privacy Act

COMPLAINT

Plaintiff Judicial Watch, Inc. brings this action against Defendant National Labor Relations Board (“NLRB”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges as follows:

JURISDICTION AND VENUE

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).

PARTIES

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 425 Third Street, S.W., Suite 800, Washington, DC 20024. Plaintiff seeks to promote integrity, transparency, and accountability in government and fidelity to the rule of law. In furtherance of its public interest

mission, Plaintiff regularly requests access to the public records of federal, state, and local government agencies, entities, and offices, and disseminates its findings to the public.

4. Defendant is an agency of the United States Government and is headquartered at 1099 14th Street, N.W., Washington, DC 20570. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On July 14, 2011, Plaintiff submitted a FOIA request to Defendant seeking access to the following:

- a) Records of communications between officials, officers, or employees of the NLRB concerning, regarding or relating to the Boeing Company.
- b) Records of communications between the NLRB and the following entities concerning, regarding, or relating to the Boeing Company:
 - a. The White House;
 - b. The Executive Office of the President;
 - c. The State of Washington;
 - d. The State of Oregon;
 - e. The Boeing Company;
 - f. The International Association of Machinists and Aerospace Workers;
 - g. The AFL-CIO, the SEIU, and/or any additional third party trade union;
 - h. Any additional non-governmental entities.
- c) Records concerning, regarding, or relating to the impact of the Boeing Company's new assembly plant in North Charleston, South Carolina on employment in South Carolina.
- d) Records concerning, regarding, or relating to the decision to file a complaint against the Boeing Company in Case 19-CA-32431.
- e) Records of communications between officials, officers, or employees of the NLRB concerning, regarding, or relating to the decision to file a complaint against the Boeing Company in Case 19-CA-32431.

- f) Records of communications between the NLRB and the following entities concerning, regarding, or relating to the decision to file a complaint against the Boeing Company in Case 19-CA-32431:
- a. The White House;
 - b. The Executive Office of the President;
 - c. The State of Washington;
 - d. The State of Oregon;
 - e. The Boeing Company;
 - f. The International Association of Machinists and Aerospace Workers;
 - g. The AFL-CIO, the SEIU, and/or any additional third party trade union;
 - h. Any additional non-governmental entities.

The timeframe for this request is January 20, 2009 to July 14, 2011.

6. By letter dated July 28, 2011, Defendant acknowledged receipt of Plaintiff's FOIA request on July 14, 2011 and assigned it Tracking Number LR-2011-0727.

7. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant's response to Plaintiff's July 14, 2011 FOIA request was due within twenty working days of July 14, 2011, or by August 11, 2011.

8. As of the date of this Complaint, Defendant has failed to produce any records responsive to Plaintiff's July 14, 2011 FOIA request or demonstrate that responsive records are exempt from production. Nor has it indicated whether or when any responsive records will be produced. In fact, Defendant has failed to respond to Plaintiff's July 14, 2011 FOIA request in any substantive manner.

9. Because Defendant has failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A)(i), Plaintiff is deemed to have exhausted any and all administrative remedies with respect to its July 14, 2011 FOIA request. 5 U.S.C. § 552(a)(6)(C).

COUNT 1
(Violation of FOIA, 5 U.S.C. § 552)

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

11. Defendant is unlawfully withholding records requested by Plaintiff pursuant to 5 U.S.C. § 552.

12. Plaintiff is being irreparably harmed by reason of Defendant's unlawful withholding of requested records, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct a search for any and all responsive records to Plaintiff's July 14, 2011 FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's July 14, 2011 FOIA request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's July 14, 2011 FOIA request and a *Vaughn* index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's July 14, 2011 FOIA request; (4) grant Plaintiff an award of attorneys' 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: August 12, 2011

Respectfully submitted,

JUDICIAL WATCH, INC.



Michael Bekesha
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