

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

THE DAILY CALLER NEWS FOUNDATION,)	
1050 17th Street, N.W., Suite 900,)	
Washington, DC 20036)	
)	Civil Action No.
Plaintiff,)	
)	
v.)	
)	
U.S. DEPARTMENT OF JUSTICE,)	
950 Pennsylvania Avenue, N.W.,)	
Washington, DC 20530-0001,)	
)	
Defendant.)	
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COMPLAINT

Plaintiff The Daily Caller News Foundation brings this action against Defendant U.S. Department of Justice to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552. 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 The Daily Caller News Foundation has its principal place of business at 1050 17th Street, N.W., Suite 900, Washington, DC 20036. Founded in 2011 by Tucker Carlson, a 20-year veteran of print and broadcast media, and Neil Patel, former chief policy adviser to Vice President Dick Cheney, Plaintiff is a 501(c)(3) non-profit organization providing original investigative reporting from a team of professional reporters that operates for the public

benefit. Plaintiff's website reaches approximately three million unique monthly visitors and its content, which is available without charge to any eligible news publisher, is published by The Daily Caller, Yahoo News, Business Insider and a growing host of other media outlets, reaching a combined audience estimated in excess of 30 million readers.

4. Defendant U.S. Department of Justice is an agency of the United States Government. Defendant has possession, custody, and control of records to which Plaintiff seeks access. Defendant is headquartered at 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

STATEMENT OF FACTS

5. On or about June 9, 2017, Plaintiff submitted a FOIA request to the Federal Bureau of Investigation, a component of Defendant, seeking all unclassified memoranda authored by former FBI Director James Comey that contemporaneously memorialized his discussions with President Donald Trump and his aides. The time frame for the request was from November 8, 2016 to May 9, 2017.

6. By letter dated June 16, 2017, the FBI denied Plaintiff's FOIA request, asserting that the records responsive to the request were exempt from disclosure pursuant to FOIA Exemption 7(A).

7. On June 20, 2017, Plaintiff administratively appealed the FBI's June 16, 2017 final determination to the Office of Information Policy, another component of Defendant.

8. By letter dated August 4, 2017, OIP acknowledged receiving Plaintiff's administrative appeal on August 2, 2017.

9. As of the date of this Complaint, OIP has failed to make a determination on Plaintiff's administrative appeal.

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

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

11. Plaintiff is being irreparably harmed by Defendant's violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply with FOIA.

12. To trigger FOIA's administrative exhaustion requirement with respect to Plaintiff's administrative appeal, Defendant was required to make a determination on Plaintiff's administrative appeal within the time limit set by FOIA. Accordingly, Defendant's determination was due on August 30, 2017.

13. Because Defendant failed to make a determination Plaintiff's administrative appeal within the time required by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies. 5 U.S.C. § 552(a)(6)(C)(i).

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct searches for any and all records responsive to Plaintiff's FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's 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 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: September 7, 2017

Respectfully submitted,

/s/ Michael Bekesha _____

Michael Bekesha

D.C. Bar No. 995749

JUDICIAL WATCH, INC.

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Counsel for Plaintiff