

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

JUDICIAL WATCH, INC., )  
501 School Street, S.W., Suite 700 )  
Washington, DC 20024, )  
)  
Plaintiff, )  
)  
v. )  
)  
U.S. DEPARTMENT OF HOMELAND )  
SECURITY, )  
Mail Stop: 3650 )  
245 Murray Lane, S.W. )  
Washington, DC 20528, )  
)  
Defendant. )  
\_\_\_\_\_ )

Civil Action No.  
Case: 1:10-cv-00301  
Assigned To : Friedman, Paul L.  
Assign. Date : 2/25/2010  
Description: FOIA/Privacy Act

**COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF**

Plaintiff Judicial Watch, Inc. brings this action against Defendant U.S. Department of Homeland Security (“DHS”) 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 501 School Street, S.W., Suite 700, 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 Mail Stop: 3650, 245 Murray Lane, S.W., Washington, DC 20528. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

### **STATEMENT OF FACTS**

5. On January 8, 2010, Plaintiff sent a FOIA request to the U.S. Citizenship and Immigration Services (“CIS”), a component of Defendant, seeking access to the following records:

- a. All CIS records concerning the distribution or allocation of S visas.
- b. All records establishing the legal and/or policy basis of eligibility for S visas.
- c. All statistical records concerning the issuance of S visas.

The time frame for this request is from January 2008 to present.

6. By letter dated January 12, 2010, Defendant acknowledged receipt of Plaintiff’s FOIA request on January 11, 2010.

7. Pursuant to 5 U.S.C. § 552 (a)(6)(A)(i), Defendant was required to respond to Plaintiff’s request within twenty (20) working days of receipt of the request, or by February 16, 2010 (excluding the four business days in which the government was closed due to inclement weather).

8. As of the date of this Complaint, Defendant has failed to produce any records responsive to the request or demonstrate that responsive records are exempt from production.

Nor has it indicated whether or when any responsive records will be produced. In short, Defendant has failed to respond to the request in any 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 January 8, 2010 FOIA request. 5 U.S.C. § 552(a)(6)(C)(i).

**COUNT 1**  
**(Violation of FOIA)**

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

11. Defendant has violated FOIA by failing to produce any and all non-exempt records responsive to Plaintiff's January 8, 2010 request within the time limits required by 5 U.S.C. § 552(a)(6)(A).

12. Plaintiff is being irreparably harmed by reason of Defendant's violation of FOIA, 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) declare Defendant's failure to comply with FOIA to be unlawful; (2) order Defendant to search for and produce any and all non-exempt records responsive to Plaintiff's January 8, 2010 request and a *Vaughn* index of allegedly exempt records responsive to the request by a date certain; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to the 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.

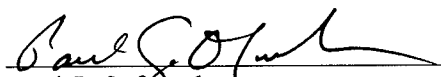
Dated: February 25, 2009

Respectfully submitted,

JUDICIAL WATCH, INC.



David F. Rothstein  
D.C. Bar No. 450035



Paul J. Orfanedes  
D.C. Bar No. 429716  
501 School Street, S.W., Suite 700  
Washington, DC 20024  
(202) 646-5172

*Attorneys for Plaintiff*