

**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 JUSTICE )  
950 Pennsylvania Ave, N.W. )  
Washington, DC 20530-0001, )  
 )  
Defendant. )  
\_\_\_\_\_ )

Civil Action No.

**Case: 1:10-cv-00248**  
**Assigned To : Friedman, Paul L.**  
**Assign. Date : 2/18/2010**  
**Description: FOIA/Privacy Act**

**COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF**

Plaintiff, Judicial Watch, Inc., brings this action against Defendant U.S. Department of Justice 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 950 Pennsylvania Ave, N.W., Washington, DC 20530-0001. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

#### **STATEMENT OF FACTS**

5. On November 19, 2009, Plaintiff sent a FOIA request to the Office of the Attorney General seeking access to the following:

- A. All records concerning the decision to prosecute Khalid Sheik Mohammed and other conspirators in the September 11, 2001 attacks in the U.S. District Court for the Southern District of New York.
- B. All communications from the Office of the Attorney General regarding the prosecution of Khalid Sheik Mohammed and four accused co-conspirators in the September 11 attacks, including, but not limited to briefings of officers of the state of New York, officials with the Department of State, officials with the Department of Homeland Security, and the White House.

Time Frame: January 2009 - Present

6. By letter dated December 11, 2009, Defendant acknowledged receipt of Plaintiff's FOIA request on November 24, 2009.

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 December 23, 2009.

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 November 19, 2009 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 November 19, 2009 request within the twenty (20) day time period required by 5 U.S.C. § 552(a)(6)(A)(i) and by failing to demonstrate that any withheld records responsive to this same request are exempt from production.

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 November 19, 2009 FOIA 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 18, 2010

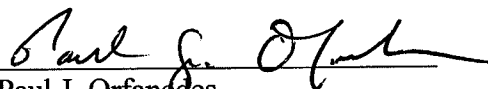
Respectfully submitted,

JUDICIAL WATCH, INC.



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



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

*Attorneys for Plaintiff*