

responses and disseminates its findings and the requested records to the American public to inform them about “what their government is up to.”

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, N.W., Washington, DC 20530-0001.

STATEMENT OF FACTS

5. James Comey testified that, as Director of the Federal Bureau of Investigation, he memorialized in writing conversations he had with President Donald Trump.

6. Ex-Director Comey also testified that he has communicated with and has provided those materials to the Special Counsel’s Office.

7. On August 4, 2017, Plaintiff submitted a FOIA request to the Justice Department seeking copies of the communications between ex-Director Comey and the Special Counsel’s Office about the production of those materials to the Special Counsel’s Office. Specifically, Plaintiff asked for “[a]ny and all records of communications between former FBI Director James Comey and Special Counsel Robert Mueller, or members of SC Mueller’s investigative committee, regarding, concerning or relating to the return of memoranda of conversations, memoranda to the file or notes regarding same generated by Comey following conversations with government officials during his tenure as FBI Director.”

8. Plaintiff’s FOIA request was referred to the FBI, a component of Defendant, for processing. By letter dated September 26, 2017, the FBI assigned the request FOIPA Request Number 1385447-000.

9. By letter dated January 19, 2018, the FBI denied Plaintiff's FOIA request. Specifically, the FBI informed Plaintiff that it could "neither confirm nor deny that the specific items you seek exist or do not exist as mere acknowledgment of these items would require the FBI to confirm or refute these assumptions, which could trigger harm under FOIA Exemption (b)(7)(A).

10. By letter dated February 5, 2018, Plaintiff administratively appealed the FBI's adverse determination.

11. By letter dated April 13, 2018, Defendant affirmed the FBI's adverse determination.

12. Because Defendant has denied Plaintiff's administrative appeal, Plaintiff has exhausted all administrative remedies with respect to its August 4, 2017 FOIA request. 5 U.S.C. § 552(a)(6)(A)(ii).

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

13. Plaintiff realleges paragraphs 1 through 12 as if fully stated herein.

14. Defendant is unlawfully withholding records requested by Plaintiff.

15. 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.

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: April 20, 2018

Respectfully submitted,

/s/ Michael Bekesha _____

Michael Bekesha

D.C. Bar No. 995749

JUDICIAL WATCH, INC.

425 Third Street SW, Suite 800

Washington, DC 20024

Phone: (202) 646-5172

Counsel for Plaintiff