

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

JUDICIAL WATCH, INC.,)
425 Third Street SW, Suite 800)
Washington, DC 20024,)
)
Plaintiff,)
) Civil Action No.
v.)
)
U.S. DEPARTMENT OF JUSTICE,)
950 Pennsylvania Avenue NW)
Washington, DC 20530-0001,)
)
Defendant.)
)

COMPLAINT

Plaintiff Judicial Watch, Inc. (“Plaintiff”) brings this action against the U.S. Department of Justice (“Defendant” or “DOJ”) 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 Judicial Watch, Inc. is a not-for-profit, educational organization incorporated under the laws of the District of Columbia and headquartered at 425 Third Street SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote transparency, accountability, and integrity in government and fidelity to the rule of law. As part of its mission, Plaintiff regularly requests records from federal agencies pursuant to the Freedom of Information Act

(“FOIA”). Plaintiff analyzes the 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 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. On May 17, 2019, Plaintiff submitted a FOIA request to Defendant seeking access to the following records:

1. All contracts, agreements, employment application materials, letters of reference, financial disclosure forms, non-disclosure agreements, ethics agreements and other materials related to Nellie Ohr’s hiring and on-boarding as a contractor to provide services to DOJ or any DOJ component.
2. All records reflecting salary payments, bonuses, awards and any other disbursements of funds or other forms of compensation to Nellie Ohr for services she provided as a contractor to DOJ or any DOJ component.
3. All records relating to the termination of any services provided by Nellie Ohr to DOJ or any DOJ component.
4. All records relating to disciplinary actions, letters of reprimand or other forms of censure involving Nellie Ohr in her role as a contractor for DOJ or any DOJ component.

The time frame for the requested records was identified as “January 2009 to the present.” The request was sent to Defendant’s FOIA/PA Mail Referral Unit, the component designated by Defendant to receive FOIA requests.

6. By letter dated June 3, 2019, Defendant acknowledged receipt of Plaintiff’s request and advised Plaintiff that the request had been referred to the Office of Information Policy (“OIP”), a component of Defendant.

7. By letter dated August 29, 2019, OIP acknowledged receipt of Plaintiff's request on August 2, 2019. The request was assigned tracking number DOJ-2019-06230. No effort was made to explain the two-month delay between the FOIA/AP Mail Referral Unit's referral of the request to OIP on June 3, 2019 and OIP's receipt of the request on August 2, 2019.

8. As of the date of this Complaint, Defendant has not: (i) produced the requested records or demonstrated that the requested records are lawfully exempt from production; (ii) notified Plaintiff of the scope of any responsive records they intend to produce or withhold and the reasons for any withholdings; or (iii) informed Plaintiff that it may appeal any adequately specific, adverse determination.

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

9. Plaintiff realleges paragraphs 1 through 8 as if fully stated herein.

10. Defendant is in violation of FOIA.

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 the law.

12. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make a final determination on Plaintiff's request within the time limits set by FOIA. Because the request was sent to the component designated by Defendant to receive FOIA requests, Defendant's determination was due by July 16, 2019 at the latest.

13. Because Defendant failed to make a final determination on Plaintiff's request within the time limits set by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies.

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 the request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's 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 the 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 20, 2019

Respectfully submitted,

/s/ Paul J. Orfanelles
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