

**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 NW, Washington, DC 20530-0001.

### **STATEMENT OF FACTS**

5. On October 1, 2019, Plaintiff submitted a FOIA request, via certified mail, to Defendant seeking access to the following records:

- 1. All emails (whether on .gov or non-.gov email accounts) and text messages sent to or from former Senior Counsel to the Assistant Attorney General Michael K. Atkinson regarding Donald Trump, Hillary Clinton, Anthony Weiner, the Twenty-Fifth Amendment, and/or presidential impeachment.**
- 2. All emails (whether on .gov or non-.gov email accounts) and text messages between former Senior Counsel Atkinson and Representative Adam Schiff or any member of Mr. Schiff’s staff.**
- 3. All travel requests, travel authorizations and expense reports of former Senior Counsel Atkinson.**
- 5. All calendar entries of former Senior Counsel Atkinson.**
- 6. All SF50s and SF52s of former Senior Counsel Atkinson.**

The time frame for the requested records was identified as “January 1, 2016 to May 31, 2018.”

6. The request was sent to Defendant’s FOIA/PA Mail Referral Unit, the component designated by Defendant to receive FOIA requests.

7. According to a U.S. Postal Service records, Defendant received Plaintiff’s FOIA request on October 7, 2019.

8. By letter dated October 15, 2019, Defendant acknowledged receipt of the request and advised Plaintiff that the request had been sent to “the DOJ component(s) you have designated or, based on descriptive information you have provided, to the component(s) most likely to have the records.”

9. 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)**

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

11. Defendant is in violation of FOIA.

12. 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.

13. Plaintiff has no adequate remedy at law.

14. To trigger FOIA’s administrative exhaustion requirement, Defendant was required to make a final determination on Plaintiff’s request by November 20, 2019 at the latest.

15. 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: November 26, 2019

Respectfully submitted,

*/s/ Paul J. Orfanedes*

Paul J. Orfanedes

D.C. Bar No. 429716

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