

**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)	
HOMELAND SECURITY,)	
Office of the General Counsel)	
Mail Stop 0485)	
245 Murray Lane SW)	
Washington, DC 20528-0485,)	
)	
Defendant.)	
)	

COMPLAINT

Plaintiff Judicial Watch, Inc. brings this action against Defendant U.S. Department of Homeland Security 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 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 U.S. Department of Homeland Security is an agency of the U.S. Government and is headquartered at 245 Murray Lane SW, Washington, DC 20528. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On October 11, 2023, Plaintiff submitted the following FOIA to the Cybersecurity and Information Agency (“CISA”), a component of Defendant, seeking access to the following

All records, including communications, from January 1, 2019 to present, regarding the following subjects:

- Judicial Watch, Inc. (also known as “Judicial Watch” or “JW”)
- Tom Fitton

6. The request, which was submitted via Defendant’s online FOIA portal, secure.release.us,” asked specifically that the search for responsive records include but not be limited to “email accounts and other records management systems utilized by the following former and present CISA officials: Christopher Krebs, Matthew Masterson, Brian Scully, Eric Goldstein, Brandon Wales, Matt Travis, Rob Schaul, Chad Josiah, Pierce Lowary, Alex Zaheer, John Stafford, and Bryan Ware.”

7. By letter dated December 13, 2023, Defendant acknowledged receiving the request on October 11, 2023 and indicated that the request had been assigned tracking number 2024-NPFO-0010.

8. As of the date of this Complaint, CISA has failed to (i) produce the requested records or demonstrate that the requested records are lawfully exempt from production; (ii)

notify Plaintiff of the scope of any responsive records it intends to produce or withhold and the reasons for any withholdings; or (iii) inform 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 it.

12. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make a final determination on Plaintiff's request by November 24, 2023, at the latest. Because Defendant failed to make a final determination on Plaintiff's FOIA 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 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 *Vaughn* indices 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: January 2, 2024

Respectfully submitted,

/s/ Michael Bekesha

Michael Bekesha

DC Bar No. 995749

JUDICIAL WATCH, INC.

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