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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 ESTATE OF ASHLI BABBITT and
12 AARON BABBITT, individually and
13 on behalf of the ESTATE OF ASHLI
14 BABBITT,

15 Plaintiffs,

16 v.

17 U.S. DEPARTMENT OF JUSTICE
18 950 Pennsylvania Avenue N.W.
19 Washington, D.C. 20530-0001,

20 Defendant.

Case No. '24CV0119 LL JLB

COMPLAINT

21
22 Plaintiffs Estate of Ashli Babbitt and Aaron Babbitt, individually and on behalf
23 of the Estate of Ashli Babbitt, by and through their attorneys of record, bring this
24 Complaint against Defendant U.S. Department of Justice to compel compliance with
25 the Freedom of Information Act, 5 U.S.C. § 552, and allege as follows:

26 **JURISDICTION AND VENUE**

27 1. This Court has jurisdiction over this action pursuant to 5 U.S.C. §
28 552(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

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2 3. Plaintiff Estate of Ashli Babbitt is a decedent’s estate. At the time of her
3 death, Ashli Babbitt was a citizen of the United States and a resident of San Diego,
4 California. On April 16, 2021, Ashli’s husband, Plaintiff Aaron Babbitt, petitioned
5 the Superior Court of California, County of San Diego, for probate of Ashli’s will and
6 for letters of administration of her estate. Letters of administration have been duly
7 issued by the San Diego County Superior Court, most recently on June 12, 2023, are
8 still in effect, and have not expired. The letters of administration authorize Aaron
9 Babbitt to administer Ashli’s estate under the California Independent Administration
10 of Estates Act, Cal. Prob. Code §§ 10400 *et seq.*, with full authority, including
11 authority to commence and maintain this action, pursuant to Cal. Prob. Code § 10553,
12 which power is exercisable without giving notice of proposed action under Cal. Prob.
13 Code §§ 10580 *et seq.*

14 4. Plaintiff Aaron Babbitt is a citizen of the United States and a resident of
15 San Diego, California. Aaron brings this action in his individual capacity and on
16 behalf of the Estate of Ashli Babbitt.

17 5. Defendant U.S. Department of Justice is an agency of the United States
18 Government and is headquartered at 950 Pennsylvania Avenue N.W., Washington,
19 DC 20530-0001. Defendant has possession, custody, and control of records to which
20 Plaintiffs seek access.

STATEMENT OF FACTS

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22 6. On February 27, 2023, Plaintiff Estate of Ashli Babbitt submitted a
23 FOIA request to the Federal Bureau of Investigation (“FBI”), a component of
24 Defendant, seeking access to:

25 All FBI files for Ashli Elizabeth Babbitt. Additional information:
26 “Subject also used the names” Ashli Elizabeth McEntee and Ashli
Elizabeth Pamatian.

27 The request noted that Ms. Babbitt was deceased and included a Form DOJ-361
28

1 Certification of Identity signed and completed by the administrator of Ms. Babbitt's
2 estate, her husband Aaron Babbitt. The Form DOJ-361 authorized the release of any
3 records to Judicial Watch, Inc. A BBC news report about Ms. Babbitt's death also
4 was included with the request. The FBI subsequently assigned the request FOIA No.
5 1585292-000.

6 7. Also, on February 27, 2023, Plaintiff Aaron Babbitt submitted a FOIA
7 request to the FBI seeking access to: "All FBI records, including main and cross-
8 referenced files, related to Aaron Raymond Babbitt." The request included Mr.
9 Babbitt's social security number, date and place of birth, and a Form DOJ-361
10 Certification of Identity signed and completed by Mr. Babbitt authoring the release of
11 records to Judicial Watch, Inc. The FBI subsequently assigned the request FOIA No.
12 1585287-000.

13 8. The FBI denied both requests by letters dated March 28, 2023.

14 9. On March 29, 2023, Plaintiff administratively appealed the FBI's denials
15 to Defendant's Office of Information Policy ("OIP"), the entity charged with
16 considering administrative appeals of adverse FOIA determinations. OIP
17 subsequently assigned the Estate of Ashli Babbitt appeal tracking number A-2023-
18 00975 and assigned the Aaron Babbitt appeal tracking number A-2023-00976.

19 10. By letter dated June 12, 2023, OIP remanded both requests to the FBI for
20 further consideration.

21 11. By letters dated June 14, 2023, the FBI acknowledged receipt of OIP's
22 remands of both appeals.

23 12. As of the date of this Complaint and despite OIP's remands, the FBI has
24 failed to (i) produce the requested records or demonstrate that the requested records
25 are lawfully exempt from production; or (ii) notify Plaintiffs of the scope of any
26 responsive records they intend to produce or withhold and the reasons for any
27 withholdings.

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COUNT I

Violation of FOIA, 5 U.S.C. § 552

13. Plaintiffs reallege all preceding paragraphs as if fully set forth herein.

14. Defendant is in violation of FOIA.

15. Plaintiffs are being irreparably harmed by Defendant's violation of FOIA and will continue to be irreparably harmed unless Defendant is compelled to comply with it.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court: (1) order Defendant to conduct searches for any and all records responsive to Plaintiffs' FOIA requests and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiffs' FOIA requests; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiffs' FOIA requests 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 Plaintiffs' FOIA requests; (4) grant Plaintiffs 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 Plaintiffs any and all further relief to which Plaintiffs may be justly entitled.

Dated: January 17, 2024

Respectfully submitted,

JUDICIAL WATCH, INC.

By: /s/ Robert Patrick Sticht.
ROBERT PATRICK STICHT

Attorneys for Plaintiffs