



Legal Document

District Of Columbia District Court
Case No. 1:17-cv-01624

JUDICIAL WATCH, INC. v. U.S. DEPARTMENT OF JUSTICE

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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, NW, Washington, DC 20530-0001.

STATEMENT OF FACTS

5. On June 13, 2017, Plaintiff submitted a FOIA request, by certified mail and through the eFOIPA portal, to the Federal Bureau of Investigation, a component of Defendant, seeking the following:

Any and all non-disclosure agreements pertaining in full or in part to the handling, storage, protection, dissemination, and/or return of classified and/or sensitive information that were signed by or on behalf of former FBI Director James Comey. This request includes, but is not limited to, the following:

- Any and all SF-312 (Classified Information Nondisclosure Agreement) forms
- Any and all FD-857 (Sensitive Information Nondisclosure Agreement) forms
- Any and all FD-597 (Receipt for Property Received/Returned/Released or Seized) forms
- Any and all FD-291 (FBI Employment Agreement) forms
- Any and all Case Briefing Acknowledgement forms

6. By a letter dated June 29, 2017, Defendant acknowledged receiving Plaintiff's FOIA request.

7. As of the date of this Complaint, Defendant 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 Defendant 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)

8. Plaintiff realleges paragraphs 1 through 7 as if fully stated herein.

9. 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.

10. To trigger FOIA's administrative exhaustion requirement, Defendant was required to determine whether to comply with Plaintiff's request within the time limits set by FOIA. Accordingly, Defendant's determination was due on or about July 21, 2017. At a minimum, Defendant was obligated to: (i) gather and review the requested documents; (ii) determine and communicate to Plaintiff the scope of any responsive records Defendant intended to produce or withhold and the reasons for any withholdings; and (iii) inform Plaintiff that it may appeal any adequately specific, adverse determination. *See, e.g., Citizens for Responsibility and Ethics in Washington v. Federal Election Commission*, 711 F.3d 180, 188-89 (D.C. Cir. 2013).

11. Because Defendant failed to determine whether to comply with Plaintiff's request and/or determine whether to comply with Plaintiff's appeal within the time required by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies. 5 U.S.C. § 552(a)(6)(C)(i).

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 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: August 11, 2017

Respectfully submitted,

/s/ James F. Peterson

James F. Peterson

D.C. Bar No. 450171

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