

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FEDERATION FOR AMERICAN
IMMIGRATION REFORM,

Plaintiff,

V.

U. S. DEPARTMENT OF HOMELAND
SECURITY and U.S. CITIZENSHIP AND
IMMIGRATION SERVICES,

Defendants.

Civil Action No. 23-3136 (RDM)

ANSWER

Defendants, the U.S. Department of Homeland Security (“DHS”) and U.S. Citizenship Immigration Services (“USCIS”), hereby answer Plaintiff’s Complaint, ECF No. 1, in this Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”) case. Defendants deny each allegation of the Complaint not expressly admitted in their Answer. Moreover, to the extent that the Complaint refers to or quotes from external documents, statutes, or other sources, Defendants may refer to such materials for their accurate and complete contents; however, Defendants’ references are not intended to be, and should not be construed to be, an admission that the cited materials are: (a) correctly cited or quoted by Plaintiff; (b) relevant to this, or any other, action; or (c) admissible in this, or any other, action. Defendants respond to the separately numbered paragraphs of the Complaint as follows:

JURISDICTION AND VENUE¹

1. The allegations contained in Paragraph 1 consist of legal conclusions to which no response is required. To the extent a response is required, Defendants admit that this Court has jurisdiction subject to the terms and conditions of 5 U.S.C. § 552 and that venue is proper in this District for proper FOIA actions.

PARTIES

2. The allegations in Paragraph 2 consist of Plaintiff's characterization of itself. Defendants lack sufficient information and knowledge to form a belief as to the truth of these allegations. To the extent a response is required, Defendants deny the allegations.

3. DHS admits that it is a federal agency within the meaning of 5 U.S.C. § 552(f)(1). The allegation in the third sentence of Paragraph 3 consists of legal conclusions to which no response is required. To the extent a response is required, DHS denies.

4. USCIS admits that it is a component of DHS but avers that it is headquartered at 5900 Capital Gateway Drive, Camp Springs, MD 20746. USCIS admits that it is a federal agency within the meaning of 5 U.S.C. § 552(f)(1). The allegation in the third sentence of Paragraph 4 consists of legal conclusions to which no response is required. To the extent a response is required, USCIS denies.

STATUTORY FRAMEWORK

5. The allegations in Paragraph 5 consists of Plaintiff's legal conclusions and characterization of a statute to which no response is required. To the extent a response is required, Defendants respectfully refer the Court to the cited authority for a full and accurate

¹ For ease of reference, Defendants refer to Plaintiff's headings and titles, but to the extent those headings could be construed to contain factual allegations, those allegations are denied.

statement of its contents and deny any allegations inconsistent therewith.

6. The allegations in Paragraph 6 consists of Plaintiff's legal conclusions and characterization of a statute to which no response is required. To the extent a response is required, Defendants respectfully refer the Court to the cited authority for a full and accurate statement of its contents and deny any allegations inconsistent therewith.

7. The allegations in Paragraph 7 consists of Plaintiff's legal conclusions and characterization of a judicial decision to which no response is required. To the extent a response is required, Defendants respectfully refer the Court to the cited authority for a full and accurate statement of its contents and deny any allegations inconsistent therewith.

8. The allegations in Paragraph 8 consists of Plaintiff's legal conclusions and characterization of a judicial decision to which no response is required. To the extent a response is required, Defendants respectfully refer the Court to the cited authority for a full and accurate statement of its contents and deny any allegations inconsistent therewith.

9. The allegations in Paragraph 9 consists of Plaintiff's legal conclusions and characterization of a statute and judicial decisions to which no response is required. To the extent a response is required, Defendants respectfully refer the Court to the cited authorities for a full and accurate statement of their contents and deny any allegations inconsistent therewith.

STATEMENT OF FACTS

10. DHS admits that it received Plaintiff's FOIA request dated April 26, 2023, on that same date. DHS avers that the FOIA request is the best evidence of its contents and respectfully refers the Court to the FOIA request for a complete and accurate statement of its contents and denies any inconsistent allegations therein.

11. DHS avers that the FOIA request is the best evidence of its contents and

respectfully refers the Court to the FOIA request for a complete and accurate statement of its contents and denies any inconsistent allegations therein.

12. Admits.

13. DHS denies. DHS avers that it sent Plaintiff a letter via email on June 7, 2023, notifying Plaintiff that it was transferring Plaintiff's FOIA request to USCIS for processing under the FOIA and direct response to Plaintiff.

14. The allegations in Paragraph 14 consists of Plaintiff's legal conclusions to which no response is required. To the extent a response is required, DHS denies the allegations.

15. The allegations in Paragraph 15 consists of Plaintiff's legal conclusions to which no response is required. To the extent a response is required, DHS denies the allegations.

16. The allegations in Paragraph 16 consists of Plaintiff's legal conclusions to which no response is required. To the extent a response is required, DHS denies the allegations.

17. Admit.

18. Admit.

19. USCIS admits only that Plaintiff's FOIA request remains pending as of the date of the filing of the Complaint.

20. Admit.

21. Admit.

22. The allegations contained in Paragraph 22 consist of legal conclusions to which no response is required. To the extent a response is required, USCIS admits only that Plaintiff's FOIA request remains pending as of the date of the filing of the Complaint.

23. The allegations contained in Paragraph 23 consist of legal conclusions to which no response is required. To the extent a response is required, USCIS admits only that Plaintiff's FOIA request remains pending as of the date of the filing of the Complaint.

24. The allegations contained in Paragraph 24 consist of legal conclusions to which no response is required. To the extent a response is required, USCIS denies the allegations.

COUNT I

Violation of FOIA: Failure to Comply with Statutory Deadlines

25. Defendants reallege and incorporate by reference the preceding paragraphs of this Answer as if fully stated herein.

26. The allegations contained in Paragraph 26 consist of legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations.

COUNT II

Violation of FOIA: Unlawful Withholding of Agency Records

27. Defendants reallege and incorporate by reference the preceding paragraphs of this Answer as if fully stated herein.

28. The allegations contained in Paragraph 28 consist of legal conclusions to which no response is required. To the extent a response is required, Defendants admit only that Plaintiff's FOIA request remains pending as of the date of the filing of the Complaint.

29. The allegations contained in Paragraph 29 consist of legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations.

30. The allegations contained in Paragraph 30 consist of legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations.

COUNT III

Violation of FOIA: Failure to Grant News Media Fee Status

31. Defendants reallege and incorporate by reference the preceding paragraphs of this

Answer as if fully stated herein.

32. Defendants aver that the FOIA request is the best evidence of its contents and respectfully refers the Court to the FOIA request for a complete and accurate statement of its contents and denies any inconsistent allegations therein.

33. The allegations contained in Paragraph 33 consist of legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations.

34. The allegations contained in Paragraph 34 consist of legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations.

COUNT IV
Violation of FOIA: Failure to Grant a Fee Waiver

35. Defendants reallege and incorporate by reference the preceding paragraphs of this Answer as if fully stated herein.

36. Defendants aver that the FOIA request is the best evidence of its contents and respectfully refers the Court to the FOIA request for a complete and accurate statement of its contents and denies any inconsistent allegations therein.

37. The allegations contained in Paragraph 37 consist of legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations.

38. The allegations contained in Paragraph 38 consist of legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations.

39. The allegations contained in Paragraph 39 consist of legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations.

The remaining portion of the Complaint contains Plaintiff's request for relief to which no response is required. To the extent a response is required, Defendants deny that Plaintiff is entitled to the relief requested or to any relief whatsoever.

AFFIRMATIVE AND OTHER DEFENSES

Any allegations not specifically admitted, denied, or otherwise responded to are hereby denied. In further response to the Complaint, Defendants raise the following defenses. Defendants respectfully reserves the right to amend, alter, and supplement the defenses contained in this Answer as the facts and circumstances giving rise to the Complaint become known to Defendants throughout the course of this litigation.

FIRST DEFENSE

Plaintiff is not entitled to any information properly withheld pursuant to any FOIA exemption. 5 U.S.C. § 552(b).

SECOND DEFENSE

Defendants have not improperly withheld any records requested by Plaintiff under FOIA.

THIRD DEFENSE

Defendants have exercised due diligence in processing Plaintiff's FOIA request and exceptional circumstances exist that necessitate additional time for Defendants to complete their processing of Plaintiff's FOIA request. *See* 5 U.S.C. § 552(a)(6)(C).

FOURTH DEFENSE

The Court lacks subject matter jurisdiction over any requested relief that exceeds the relief authorized by FOIA.

FIFTH DEFENSE

Plaintiff is neither eligible for nor entitled to attorney's fees or costs.

SIXTH DEFENSE

To the extent that Plaintiff failed to satisfy prerequisites to suit, this Court lacks jurisdiction over any matter as well as over any requests or allegations that are not contained in the FOIA request at issue in this action.

Dated: December 29, 2023
Washington D.C.

Respectfully submitted,

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